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SENATE—*Wednesday, September 15, 1976*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, we thank Thee for this new day and for the world which Thou hast given us for our home. We thank Thee for all that witnesses to Thy creation—for sunshine and rain, for harvest fields and the everlasting hills, for flowers and stately trees, for brooks and lakes and seas and for all living things in the world about us. Help us to absorb something of the beauty and strength of the world and to know that these are gifts of love to us.

Help us to so fashion our lives with beauty and strength that all life may be a symphony of Thy praise. May every experience minister to our growth in the things which pertain to Thy kingdom. May failures quicken better hopes, pain spur us to search for health and healing, unfulfilled desires anchor us closer to Thee. And may our labor be a sacrament of service done in Thy name.

We pray in the name of the Master Workman. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 14, 1976, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Reports."

The PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. The nominations are considered en bloc and, without objection, are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request the President be notified.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Michigan is recognized.

THE UAW-FORD MOTOR CO. STRIKE

Mr. GRIFFIN. Mr. President, I wish to register my deep concern that 160,000 workers of the Ford Motor Co. are on strike in the United States and in Canada.

The lead story in this morning's Washington Post by Robert G. Kaiser reflects several aspects of the situation that are disturbing, to say the least. For example, Mr. Kaiser reports in the second paragraph of the story:

> Neither side made a serious effort to avoid the strike before the deadline. UAW president Leonard Woodcock said today that both "agreed to disagree" Monday, making a strike by more than 160,000 Ford workers in the United States and Canada inevitable.

It disturbs me very much that spokesmen for the two sides are not even meeting at this time and, as I understand it, have no plans to meet during the next few days. This is not only unfortunate but indicates, perhaps, a lack of responsibility on the part of both labor and management. I refer to the responsibilities they have, not only to Ford workers, who will be able to draw strike benefits, but to workers in related industries who will soon be affected if this strike continues.

It is reported that the issues in the dispute are related not so much to basic rates of pay as to fringe benefits. Of course, fringe benefits can be very important.

I would not try—I think it would not be useful—to point the finger of blame at either side. But, as a public official and as a concerned Michigan citizen, I do call on both sides at least to go back to the bargaining table and to continue discussions.

It seems to me that both sides owe that much, not only to the workers and stockholders of the Ford Motor Co. but to many thousands of other people throughout the country who, in one way or another, will soon be affected if this strike is not settled.

I also noted in the Post story this sentence:

> Both sides were conscious of the potential political impact of a strike against the country's No. 2 automaker at the beginning of a presidential campaign.

I, for one, assume—and certainly hope—that there is no political motivation of any kind associated with this strike, even though I realize that both Henry Ford and Leonard Woodcock are supporters of Mr. Carter. While no one should jump to conclusions that this strike is related in any way to the election, it would help to dispel thoughts along that line if the distinguished leaders on both sides of this dispute were to move back quickly to the bargaining table and make a determined effort to settle this strike as soon as possible.

I ask unanimous consent that the Post story to which I referred be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 15, 1976]

FORD CO. IS STRUCK BY UAW—MORE THAN 160,000 WORKERS AFFECTED; NO TALKS NOW SET

(By Robert G. Kaiser)

DETROIT.—The United Auto Workers union went on strike against the Ford Motor Co. at midnight Tuesday. It is the second strike against Ford since 1967, when a walkout lasted 66 days.

Neither side made a serious effort to avoid the strike before the deadline. UAW President Leonard Woodcock said today that both "agreed to disagree" Monday, making a strike by more than 160,000 Ford workers in the United States and Canada inevitable.

Woodcock said the union's negotiating committee would adjourn and not reconvene until Sunday or Monday, barring an unforeseen development. This means the strike will probably last at least that long.

Woodcock and Ford's vice president for labor relations, Sidney F. McKenna, exchanged accusations of blame for the breakdown in negotiations, but both were restrained. Woodcock emphasized the company's failure to meet union demands; McKenna listed the company's offers, which he said would be worth "well over $1 billion" in total pay and benefits over a three-year contract.

McKenna and Woodcock both said they knew how to reach one another and would have no trouble continuing negotiations. Asked what was required to move closer to a settlement, Woodcock replied, "meetings." None is now scheduled.

Both company and union sources expressed doubt that this would be a long walkout.

The UAW said its strike fund now totals a record $175 million, enough to pay $40 to $50 in strike benefits weekly to each striking Ford worker for 16 weeks or more.

Both sides were conscious of the potential political impact of a strike against the country's No. 2 automaker at the beginning of a presidential campaign. The strike will pose an immediate political problem for the Democratic candidate, Jimmy Carter, who is due to make an appearance Wednesday less than a mile from Ford's world headquarters in Dearborn.

Carter will have to decide whether to express support for the strike, and perhaps visit a UAW picket line—gestures that could alienate one of the former Georgia governor's potential supporters from industry, Henry Ford II, the chairman of Ford Motor Co.

A prolonged strike could have repercussions throughout the economy that could frustrate President Ford's desire to run on a strong economic resurgence.

According to well-placed union sources, Ford company negotiators have asked UAW officials not to issue vituperative attacks against the company in the early days of the strike to avoid angering Henry Ford II, the one man who can make final bargaining decisions for the company.

Union officials are now convinced that Henry Ford decided some time ago to take a strike though they don't know why.

The strike comes at a critical moment for the company, another reason why the union doesn't expect it to last long. For the first time in recent memory, Ford has a clear chance this year of taking substantial sales away from its principle competitor, General Motors Corp.

GM is producing a new line of smaller standard-sized cars this year. Ford is sticking with its traditional big cars, hoping that some habitual GM buyers will prefer them to the smaller cars.

Ford has built about 180,000 1977 cars, enough to introduce them next month with a barrage of advertising. Auto industry analysts say a strike of two weeks or less would have no significant impact on Ford's bargaining plans, but a longer walkout could prove disruptive.

Until Monday, basic issues of principle divided the two sides, but a last-minute offer from Ford appeared to remove them.

The principles involved—the union calls them crucial—are new contractual arrangements in two areas: more paid time off for workers and a lump-sum payment to retired workers whose pensions have been eroded by inflation. Until Monday, Ford had not made a counteroffer to either proposal.

But Monday's proposal by the company included expanding time off by 20 to 40 hours per year, and extending dental insurance to retirees. Both fell far short of what the union said is necessary, but both at least indicate Ford's willingness to do something in these areas.

Basic wages are a less serious issue in the talks. Under the old contract, the average wage of a Ford worker was $6.84 an hour, ranging from $6.57 to $9. Ford has offered increases of 43 cents to 82 cents over a three-year contract, plus automatic adjustments to keep pace with the cost of living.

The union's greatest concern is with more paid time off. Ford workers now have 31 to 33 days off with pay per year, but the union has asked for 12 more as a means of spreading the available work among more workers. Union concern for the loss of auto industry jobs in recent years grew sharply during the auto depression of 1974–75.

Now the industry is experiencing a boom, but it appears to require relatively fewer workers than in the past.

Each of the Big Three—GM, Ford and Chrysler Corp.—has announced record profits this year. Ford's first-half profits this year totaled $770 million, compared to $96.5 million in the first half of 1975.

ALLOCATION OF LEADERSHIP TIME

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allotted to me under the leadership provision may be used at any time during the course of the special orders.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Delaware (Mr. BIDEN) is recognized for not to exceed 10 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from California (Mr. CRANSTON) be recognized ahead of Mr. BIDEN.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSING

Mr. CRANSTON. Mr. President, President Ford's failure to lick inflation has dashed the housing hopes of 45 million Americans.

Fifteen percent of the American public—around 32 million people—cannot afford to own their own homes at current prices.

This is middle-class America I am talking about. A middle-income person still cannot afford today's medium priced house of $42,000.

He is priced out of the housing market not only because of the high cost of home construction but also because of the increased cost of utilities, insurance, transportation, and the rapid rise in State and local taxes.

At the other end of the scale, another 13 million Americans live under deplorable housing conditions because the Ford administration—in a self-defeating, unworkable effort to fight inflation—has refused to fund congressional housing programs for low-income families.

In 1968, Congress set a target of 600,000 new units of low- and moderate-income housing every year for the next 10 years—6 million units in all.

By 1972, President Nixon had slowed the rate to 100,000 units a year and by 1973, the program had been brought to a total halt and President Ford has tried to keep this program at a zero level since.

Under strong congressional pressure, President Ford reluctantly signed a bill last month for $100 million for new and rehabilitated housing—a program he vigorously sought to wipe out altogether.

My own State of California has been one of the hardest hit by the Nixon-Ford brand of economics.

The home construction industry in California continues to be in a major depression with an unemployment rate of 23.4 percent last year alone.

Meanwhile, 1.3 million low-income Californians are inadequately housed, living in substandard units—many of which are overcrowded and far too costly.

Tens of thousands of Californians wait in vain to get into Government-financed low-rent housing units that just are not there.

There is a waiting list of 7,400 in San Francisco. A waiting list of 13,000 in San Diego. A waiting list of 47,000 in Los Angeles.

President Ford, we have learned to our sorrow, is an economic disciple of former President Nixon who has outdone his master in increasing unemployment, wrecking our housing programs, and generally undermining the economy.

Only a change of national administration and a change of national housing philosophy can at last revive our hopes that every American can have a decent place to live.

I think we should take very seriously the Housing Act of 1949, which declared as a national goal "a decent home and suitable environment for every American family." According to the 1970 census, 6.9 million American families still live in substandard housing and an additional 6.4 million are paying excessive rents for housing. California has 8 percent of the Nation's eligible low-income-housing families with only 4 percent of the country's low-rent housing available. We must not falter in meeting the goal of the 1949 Housing Act. We still have a difficult task ahead of us.

Inflation and recession over the several years has eroded the ability of Americans of middle and moderate incomes to secure housing. The Congress through various programs has sought to address the needs of this group and continues to seek new and innovative legislative approaches on this front such as FHA, VA, GNMA, FNMA, and the Emergency Homeowners' Relief Act introduced by Senator BROOKE and myself.

Ironically, in the midst of a major housing slump, the Nixon and Ford administrations have relied almost exclusively on restrictive monetary policy to fight inflation. This policy has compounded the rise in mortgage interest rates which directly contributed to inflation. As a further result of this policy available credit went outside the housing market.

While I recognize that securing housing is a problem for those of middle and moderate income, lack of housing for the poor is a disaster. Clearly it is the low income families living in ghettos and poor rural areas whose needs in this respect are greatest and most urgent. The conditions they face have been well documented by the Congress and one research group after another.

A balanced housing policy must distinguish between programs that affect the housing sector in general as contrasted with the special problems of low income households. Today I will address my attention to HUD programs designed to improve the quality of housing for lower income families.

Congress authorized the low rent public housing program in 1936. Today, 40 years after that commitment was made, there are still waiting lists of thousands of families and elderly persons throughout the country. Present programs clearly have not met the rising need for public housing. In 1968, Congress estimated that 600,000 units of low and moderate housing needed to be built every year for the next 10 years, that called for 6 million units in all. By 1972, that rate of 600,000 units a year had been slowed to 100,000 a year and by 1973, the program had been brought to a total halt.

On August 6, 1971, Senators Mondale, Williams, Proxmire, and I released the text of a letter we sent to the then Assistant Secretary of HUD Eugene Gulledge, expressing our concern over the slowing down of public housing production activity. At that time the Senate Appropriations Committee report had observed that the budget request of the administration for fiscal 1972 anticipated the development of only 100,000 new public housing units, which was one-sixth of the production level called for in the 1968 housing goals. At the very time the administration had lowered their sites to 100,000 units there was already a backlog of 200,000 public housing applications at HUD.

The Nixon administration delivered two serious affronts to congressional action in the housing field for low- and moderate-income persons. First was the Nixon imposition of the housing moratorium on all housing production programs in 1973. Then came the failure of the administration to implement programs reinstated by Congress in the Housing and Community Development Act of 1974. These programs include the continuation of, first, the section 202 program for housing the elderly and handicapped; second, the conventional public housing program for low-income people; third, section 235 homeownership programs for low-income people; and fourth, section 236 rental assistance programs for lower income families.

The Nixon administration dragged its heels on all these programs and instead hailed as its "Messiah" for the poor the section 8 leased housing program. But in passing the Housing Act of 1974 Congress again made it clear that, "the leased housing program—section 8—should not be regarded as a replacement for traditional public housing and subsidized housing programs. The leadtime on any new housing program is bound to be many months and there is an urgent need for more housing production now."

It is hard to believe that here in 1976 we are still fighting this same battle with the administration. The section 8 program was supposed to have assisted 400,000 families by September 1976, yet as late as June, only 23,064 or one-twentieth of these families were in homes and all but 1,450 of these were units already in existence.

In the face of this deplorable record Congress acted this year to provide $140 million for conventional public housing of which $50 million was for new construction of desperately needed conventional public housing. What did HUD do? In the budget request for 1977 HUD proposed using the $50 million not for new construction as Congress intended but to use the money to dump defaulted FHA projects which HUD had acquired onto local housing authorities.

A 1975 National Association of Housing and Redevelopment Officials survey of 21 large local housing authorities showed a waiting list for public housing of over 250,000 households, 76,000 elderly households, and 174,000 nonelderly households.

In light of this, $50 million does not seem to me to be an unreasonable amount to spend on new construction of public housing for low-income families. A construction program would have had a positive effect on jobs and the economy. In California for example, 25,000 new units that would have resulted from the 161 applications received would have had an important job impact on a State where the construction industry unemployment rate is 23.4 percent.

During its first 20 years, low-rent public housing was primarily housing for the economically disadvantaged. While its target continues to be low income groups, the program has also become an important means of helping the disabled, elderly and handicapped. Section 202 of the 1959 Housing Act established a direct loan program to promote construction of elderly housing by nonprofit sponsors. This program was terminated by the Republican administration and no units have been built under it since 1973. A Federal judge has held termination of the section 202 program to be an illegal impoundment.

An estimated one-third of the Nation's elderly live in substandard units and/or pay beyond their means for housing. The need for higher production is well documented. This year Congress authorized $2.5 billion in lending authority for the 202 program which can provide 83,000 additional housing starts and twice as many jobs in construction and related industries. Despite this, the administration continues to drag its feet in implementing this program.

Unlike other minorities and ethnic groups, which have benefited from Government low income housing programs for 30 years, the American Indian was not included until 1961.

The Indian program originated when the Oglala-Sioux tribe at Pine Ridge, S. Dak., reminded the new President, John F. Kennedy, of his campaign promise to do something about the shameful housing conditions among the Indians. Indian tribes are now carrying on public housing programs for both reservation and nonreservation Indian tribes in 26 States, including my home State California.

A new method of public housing was devised to serve impoverished Indian populations who could not afford to pay for public housing. The program combined the labor of the Indians in building the houses with land and materials made available by the tribe, and technical assistance from BIA. All these components brought the cost of the house down to an affordable level and kept the subsidy minimal.

The Senate Banking Committee in the housing authorization bill this April earmarked $17.5 million to assist Indian tribes. At hearings on this legislation it was brought to the committee's attention that HUD had failed to implement the provision of the Housing Act of 1974 which excluded Indian public housing from the regular payment of operating subsidies although Congress had specifically exempted them from such payments.

Congress has demanded that HUD implement section 5(C) of the 1974 Housing Act as Congress intended.

235 LOW AND MODERATE HOMEOWNERSHIP PROGRAM

As a result of court action, Secretary Hills announced the resumption of the 235 homeownership program. However, new guidelines which were instituted, targeted the program's benefits to a higher income group than was eligible before Nixon suspended the program in 1973.

Last year there were more than 2 million marriages and over 3 million births in the United States. The majority of young families cannot afford to buy homes today. But with a little financial assistance they could become responsible homeowners. Congress has consistently supported 235 assistance as one of the most effective programs for helping these people.

But this program, too, has been slowly paced by this administration. Even though the administration announced its reactivation last October, there have been relatively few starts. The Banking Committee has also heard testimony that HUD's regulations may be too strict, therefore, making the program inoperable. It also appears that HUD's 5-percent interest rate results in a monthly payment too high for many of those eligible under the program.

SECTION 236 LOW INCOME HOUSING

Congress in 1974 authorized the use of all additional 236 contract authority for the payment of operating subsidies to insure the solvency of section 236 projects which have been faced with increased fuel and utility cost. These subsidies would have insured that tenants, many of whom are on fixed incomes, would not be faced with extraordinary rent increases due to escalating utility costs.

Congress has been informed that there is approximately $125 million in unused contract authority available at HUD to provide operating assistance. Despite this and the new contract authority authorized by Congress, HUD has done nothing to give relief to these low-income tenants.

312 REHABILITATION LOAN PROGRAM

The administration has laid great stress upon the need to preserve existing housing. Neighborhood decline is a serious problem in many of our large cities. Yet the administration has consistently sought to terminate the program Congress has created for this purpose—the

312 rehabilitation program. The administration cited the use of community development block grant funds for rehabilitation as a reason for recommending the termination of the 312 program.

HUD's own annual report said that entitlement cities placed the highest priority on rehabilitation of existing housing. However, cities also reported that community development funds were not adequate for rehabilitation purposes. The high competition for these funds the cities pointed out leaves an insufficient amount for rehabilitation needs.

The community development block grant program is further limited by constitutional restrictions and 24 States prohibit the use of CD funds for housing rehab loans. Many cities in those States would have no rehab funds at all if the 312 program was terminated and many cities in other States that do not participate in the CD program would also be without funds if the 312 program was terminated.

The 312 is a Federal program established specifically for rehabilitation of single family housing and preserving existing neighborhoods. This program has been extremely successful in the San Francisco area where there has been only a 2 percent default rate in the past 10 years. Nationwide the default rate has been around 5 percent.

Given the magnitude of spreading blight and slums that is destroying the value of public and private investment in our cities, it would be penny wise and pound foolish for the administration to cut off the section 312 rehab loan program.

The Congress once again has taken the initiative and extended the 312 program through September 1977 and provided $100 million in authorization.

We could go on and on documenting the harsh facts that since January 1973 this administration has given practically no new housing assistance to the Nation's poor. The record seems to add up to a consistent pattern of inaction, procrastination, and circumvention of everything we in Congress have tried to do. We would be far ahead in the housing game if HUD would just run the programs that are already on the books. There seems to be little concern for human welfare in our so-called "welfare state." The Democrats are continuing their battle to get the administrations commitment to implement presently enacted housing programs and to forge ahead with new initiatives to bring decent housing as a right for all Americans. After 8 years of this struggle we know that only a change in the administration can bring this about.

ORDER OF BUSINESS

The **PRESIDENT** pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

THE FORD ADMINISTRATION RECORD ON HOUSING

Mr. **PROXMIRE**. Mr. President, first, I congratulate the Senator from California for an excellent speech, particularly for pointing out the serious and adverse impact on California, our largest State, for the housing policies of this administration, policies which have not only cost housing but jobs. I think the two of us see that this, without doubt or without any question in my mind, is the best opportunity to provide the growth for our economy. Housing is the one area where we can provide shelter that we need so badly in our society. Last year we produced less than half of what our goals call for. We can do it in the private sector with the discipline of the private sector and, of course, do it in a way that would not be inflationary. We have enormous unemployment. We have unused resources in housing. We have the lumber, we have the steel, we have all the elements that go into building a house, but what we need is a national policy that will do the job.

Mr. President, the statement was made by President Ford recently that one of the top priorities of his administration in the future will be the expansion of homeownership opportunities for Americans. I must say that I was surprised by this announcement, since Nixon and Ford administration policies have managed to raise home prices to the point where, in just a few short years, they have actually reversed the entire post-Depression movement toward expanding American homeownership. As chairman of the Committee on Banking, Housing and Urban Affairs, I have experienced personally the frustration and exasperation that come with trying to make housing progress in the face of constant administration indifference or opposition, and I think it is timely this morning to take a few minutes to review the Ford administration record.

The fact is that President Ford has given us a total debacle in the housing market—the very worst housing years since the Great Depression.

Home prices have skyrocketed. Seventy percent of American households today cannot afford the average new home. The fact is that last year was the worst record, the lowest number of housing starts that we have any record of since they started keeping statistics. Why? Because it costs nearly $50,000. Between 1975 and June 1976 alone, the average new home price leaped from $39,300 to $43,200, and it is still soaring. For the first time since the 1930's home prices are rising faster than family income, in stark contrast to the President's rhetoric about expanding homeownership.

The price increases are not hard to understand when we look at the condition of the home construction market—again the worst since the Depression. In 1975, this country produced only a little over a million housing units, or less than half the 2.6 million set by law as necessary to provide people with decent homes and to keep the supply, and thus prices, within reasonable relation to need.

To the problem with home prices, President Ford has added high interest rates, which hit 10 percent and above in 1975. No wonder people cannot afford to buy a home.

The typical family buying a home has to pay 150 percent in interest for every 100 percent they pay in the cost of that home. It is the money cost that is driving up the cost of shelter in our country for people who want to own a home. Of course, owning a home is one of the most constructive, conservative actions that a family can take. People have a stake in our society. They take more pride in their community and are concerned about stabilizing and making better their community. We should do everything we can to encourage homeownership but, obviously, the policies we are following are not doing it.

And what happens to them when they turn to the rental market instead They find the situation there even worse. Last year our country built only 268,000 apartment units. And this stricken market, to this day, shows no clear sign of recovering. Needless to say, the storage has sent rent levels through the roof.

Not surprisingly, this situation produced construction sector unemployment in June of 17 percent. The construction industry has the greatest unemployment of any area in this country today.

I think we can agree from these figures that the housing opportunities of the American people have fallen to a shamefully low state. It is fair to ask, however, how much of the blame for this crisis can be laid at the doorstep of President Ford.

The answer is, almost all of it. With some help from the Nixon policies and personnel which he embraced as his own when he took office, President Ford can command almost full credit for the situation in which we find ourselves. With almost all of these problems, the fact is that the administration has either brought them on intentionally through its policies pursuing other goals, or, at best, has blindly turned its back on possibilities for solving them.

Let us look at the Ford record of action.

First, the administration has intentionally encouraged the tight money policies which have driven up interest rates, supposedly in the name of fighting inflation. It is ironic that these measures have contributed to the worst housing inflation of recent history.

Beyond this, the administration has fostered the drastic falloff of over 50 percent in housing construction. After working with this problem personally for the past several years, my own belief is that the housing catastrophe has been intentionally induced. The Nixon and Ford administrations have used housing as a scapegoat, building their anti-inflation drive on the joblessness and stagnation in the home construction sector. The intentional nature of the policy is not easy to prove, although the President certainly knows as well as anybody else that high interest rates shut down housing production, and that low housing production raises prices. The clearest sign that the administration has seen the housing depression as a reasonable price to pay for their other economic objectives is their almost invariable refusal to use the tools at their disposal for putting the housing sector back on its feet. Let me cite a few specific examples of the constant footdragging and obstructions which have blocked any effective Federal resuscitation of the housing market.

Use of the Government National Mortgage Association tandem plan has been belated an beset with impediments to its effective implementation. This program, which Congress passed in 1974 to give the President power to stimulate middle-income home construction, has been used by HUD only grudgingly and, even then, has suffered from every opportunity for HUD to load the program with high fees, nonrefundable charges, burdensome Federal processing requirements, arbitrary allocation schemes, and so forth.

Mr. President, here was a program which was very simple. The idea was to reach the problem that confronts people who want to buy a home. Their problem is that they have to borrow money at 8¾ or 9 percent interest. That is just prohibitive; so we provided a program that would enable them to buy a home at 7½ percent interest. The Government can borrow money at 7 percent interest and lend it to them at 7½ percent, with no cost to the Government.

But what the Government has done instead is to provide all kinds of charges, all kinds of delays, all kinds of allocation schemes, all sorts of burdens to clutter up this simple program and administer the program in a way which has not been helpful to do the things the program is designed to do and should have achieved.

All of these have had the effect of either discouraging the interest of lenders and builders in joining the program, or of encouraging them to drop out after they are in. The end result is that the administration avoids actually having to spend the money for housing.

Even with all these problems, the middle-income homeseeker is fortunate compared to the low-income family needing housing. On this score, the administration's record is simply shameful. President Nixon, in 1973, imposed a cruel moratorium on all housing assistance for the poor, and the harsh fact is that since that time, practically nothing more has been done for them. Let me cite some specifics.

First, the section 8 rental program, supposedly the Nation's main housing assistance plan, has not even gotten off the ground. Proposed by Nixon to replace the subsidy programs he had cut, section 8's implementation fell to President Ford. He began by keeping James Lynn as Secretary of Housing and Urban Development, the man who had engineered the whole Nixon housing hiatus. Lynn procrastinated for months on even issuing regulations for section 8, and when the regulations finally came out, they were obviously designed to drive builders and lenders away from dealing with the program.

As a result, 2 years after enactment, section 8 has hardly moved. The money intended to provide 400,000 units had, by July 30, only put 48,000 people into assisted units—or about a tenth of the target. Of these, only 12,000 are newly built or rehabilitated. The administration points constantly to higher figures for "reservations" of section 8 funds, but this term merely means that a very preliminary approval has been given for more projects. Even these "reservation" figures did not start moving along until Congress, earlier this year, threatened to cut section 8 and force HUD to build public housing, if the former did not begin to show some results.

The construction of public housing has been virtually nil since the 1973 freeze. The Nixon and Ford administrations have maligned this time-tested program in favor of section 8, since it enables builders to make a profit on the operation. In fact, however, the conventional public housing program has been one of the best in our history, housing millions of people at low cost. Ironically, in fact, public housing is far less expensive to the taxpayer than section 8, despite President Ford's constant talk about cutting Government spending.

Third, the administration has failed hopelessly at reactivating the only program we have for helping moderate-income people buy their own homes. This section 235 program was frozen by Nixon, but was revised and reopened by current HUD Secretary Carla Hills, with great fanfare, last fall. It was estimated then that the program would assist 50,000 moderate-income homebuyers in the fiscal year which ended in June and another 25,000 in July through September. As of now, however, HUD has closed only 307 of these loans. Not 50,000 or 25,000, but 307 of these loans. That is less than one-half of 1 percent of the target, a simply incredible record. When we say the administration is doing nothing in housing, we mean nothing.

Beyond this, the administration has opposed continuation or expansion of countless other successful, needed programs. President Ford vetoed a bill last year which would have provided for 400,000 middle-income housing units, and 800,000 jobs in the private sector—no boondoggles or make-work jobs, but private sector, permanent jobs, building homes. He has tried to end the section 312 housing rehabilitation loan program, one of the best we have. He has fought a needed reduction in the interest rate for section 202 loans for elderly and handicapped housing, again, one of our most sound, successful, and popular programs.

Again and again, the administration theme is to cut and cut and cut, without regard to who is hurt or what it costs. They fight legislation to give them powers to meet housing needs. When we in Congress pass these measures over their objections, they find ways not to spend the funds by delaying and by loading the programs with redtape so that no one will use them.

Mr. President, I think I have been in the forefront of trying to hold down spending, but here is an area where it is strictly counterproductive. These housing programs, if we can get them moving, will provide not only the kind of jobs we need, but the kind of revenues the Federal Government needs to reduce the deficit and provide a balanced budget.

And then, most galling of all, they are quick to step forward and take credit for providing housing aid. They point proudly to the few belated crumbs of assistance which they have been forced to offer as if these were bold administration initiatives. And, finally, they take credit for money "offered" but which they never actually used, because it was timed wrong or was too encumbered with impediments.

A healthy housing policy offers this country a key to meeting two of our highest objectives. First, it can move us toward our dream, and our legally committed goal, of providing a decent home for every American. Second, and simultaneously, a strong housing production program can drastically cut our national unemployment without greatly adding to inflation or to Government costs. At a very low expense, we can offer low interest loans which stimulate home construction, an industry so depressed that it presents few risks of fostering inflationary overheating. And for every unit built, we can create two jobs. They are good jobs, too, permanent jobs in the private sector working on something the country really needs. The housing authorization bill which the Senate passed this year would have generated 1.2 million jobs—enough to bring the country's unemployment rate down by more than a full percentage point—and many of them would have cost the taxpayer very little.

To continue to pursue the Ford administration no-housing housing policy, in the face of the truly productive alternatives, is sheer folly. By doing so, we lose on all fronts: People are not housed, people cannot find work, and home prices rise faster than ever. I, for one, think it is time to wake up and insist on some changes.

Mr. President, unfortunately the Senator from Illinois (Mr. Stevenson) was unable to be present to make his statement, because he was unavoidably detained chairing the Committee on Committees. I ask unanimous consent that his excellent statement on this subject be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Stevenson

Nowhere is the administration's incompetence more evident than in its management of Federal housing programs and its policies—or rather lack of policies—toward cities and neighborhoods. The administration's mismanagement of the housing programs, combined with its insensitivity to the needs of urban neighborhoods, has left in its wake a trail of families who have lost their homes, vacant and vandalized housing and blighted neighborhoods, all at a huge cost to the American taxpayer.

Let us review the record.

The Nixon administration inherited housing policies, some of which—such as FHA mortgage insurance—had a history stretching back thirty years. Others—the section 235 homeownership and section 236 rental interest subsidy programs—were enacted with bipartisan support in 1968. The administration took these basically sound and viable programs and created monsters out of them.

During the early 1970's, stories began to circulate in many American cities of abuses and scandals associated with the administration of these programs. Speculators would buy run down houses for a pittance—often for a few thousand dollars—and would spend a small amount on cosmetic repairs. They would then sell the houses at a substantial markup, financing them with mortgages insured by FHA. Thus, a house purchased for $5,000 might sell for $15,000 after $1,000 worth of repairs. FHA appraisers who approved the inflated selling price did so either out of sheer incompetence—and that is the charitable interpretation—or through illegal collusive activity for which some are now in jail.

An even more widespread problem was the approval for FHA mortgage insurance of houses with structural defects which should have made them ineligible for FHA insurance under FHA's own guidelines. HUD-FHA officials seemed unable to come to grips with the problems and unwilling even to admit problems existed. For a long time they even refused to admit that FHA appraisers were responsible for determining whether a house met FHA's own minimum property standards, despite the existence of their own regulations which clearly indicated they were.

Meanwhile, unsuspecting buyers, assumed that a house sold with an FHA insured mortgage had some degree of Government approval, purchased homes which they soon found were in need of substantial repairs. In some cases the repairs were so costly that the owners were forced to default on the mortgage. In other cases, owners had no choice but to pay substantial sums of money for repairs or live in unsound and unsafe housing.

Congress attempted to provide some redress to homeowners in the Housing Act of 1974. That legislation provided that anyone who purchased a house with an FHA insured mortgage in an older urban area between 1968–1973 was entitled to be reimbursed for the cost of repairing defects undetected by FHA. Eligible owners were given one year from the date of passage of the act to apply.

The administration fought this proposal every step of the way. It refused to admit that the government, not unsuspecting citizens, should accept the burden of the Government's mistakes. FHA did not promulgate regulations to make the program operative until seven months of the one year application period had elapsed. That is but one example of bad administration and bad faith.

In many cases an inadequate effort was made to determine whether prospective owners had the financial resources to support a mortgage or the knowledge and motivation to shoulder the responsibilities of homeownership. Despite the manifest need, the administration continued to oppose an effective program of homeownership counseling.

In the depth of a recession, HUD refused to work out forebearance agreements which would have allowed homeowners defaulting through circumstances beyond their control to work out a financial plan which would allow them to stay in their homes. HUD apparently preferred to pay off the mortgage itself, take over vacant property subject to vandalism and dispose of it at a great loss rather than work out an arrangement which would allow the owner to keep his house and save the Federal Government money.

Most of these problems were caused by the inability of HUD's central office to either supervise or support its field offices. The field offices were unable or unwilling to oversee the mortgage lenders and fee appraisers and inspectors to whom HUD delegated much of its responsibility.

By the mid 70's, Federal housing programs were in chaos. And by then the high interest rate policies of the administration and the recession made these programs more vital than ever. Default, foreclosure, and acquisition of houses with FHA insured mortgages became a commonplace event in cities across the country. By May of 1974, HUD had a national inventory of 78,000 houses. During fiscal year 1975 the Ford administration incurred a loss of over $500 million upon the disposition of acquired properties; in the 12 month period ending on April 30 of this year, its loss was an astounding $610.4 million, an average loss of over $9,000 on each unit acquired and disposed of. This is hardly a record which testifies to sound management or efficient administration.

But the saga of mismanagement is not over. A GAO report issued last week indicates that HUD still is not adequately caring for the property it has acquired. The GAO concluded: "Many single family properties owned by the Department of Housing and Urban Development in the Chicago area have not been adequately preserved and protected and have deteriorated badly. Many present health and safety hazards and contribute to physical deterioration of neighborhoods and the huge loss the department has suffered on its single family property sales."

The consequences of these mismanaged programs are tragic. Many families have lost their homes. Houses have been left vacant or abandoned. The resultant vandalism and deterioration of these houses has contributed to neighborhood blight and a decline of property values. And all this has been accomplished—if that is the word—at a tremendous cost to the American taxpayer.

Despite its rhetoric about the need to preserve existing neighborhoods, the Ford administration has attempted to kill the section 312 rehabilitation loan program. The 312 program is a modest effort, but it is the only government program whose major focus is on rehabilitation. In that case, as in others, the Ford administration has relied on the community development program as a rationale for abandoning commitments to the quality of urban life.

But community developments funds are not being focused on low and moderate income families and neighborhoods. They are being dribbled away with substantial sums going to middle and upper income areas. In fact, according to a study by the National Association of Housing and Redevelopment officials, a greater percentage of the funds is going to high income census tracts than to low income census tracts—16% of total funds to the high income areas versus 15% to low income areas. The greatest proportion of the funds—49%—are being spent in moderate income areas. Floyd Hyde, who was assistant secretary for community development in the early 1970's when the community development legislation was first proposed, has observed that HUD is administering the program as though the Nixon administration's special revenue sharing proposal had passed.

The record is clear. The Ford-Nixon administration housing policy has created problems rather than solved them. The consequences have been tragic.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the agreement under which the Senator from Illinois (Mr. STEVENSON) was to be recognized be vitiated, and that at this time the distinguished Senator from North Carolina (Mr. MORGAN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

HOUSING IN AMERICA

Mr. MORGAN. Mr. President, there is very little I can add to the statements of our distinguished colleagues, but I do believe that the problem of housing in America warrants the time we are taking this morning to discuss it here on the floor of the Senate.

Two years ago when I was campaigning for the office I now hold, I had the opportunity of traveling back and forth, to and fro in North Carolina for an entire year. During that period of time, I stated over and over again that I considered the matter of adequate housing for all Americans a major problem, if not the major problem in the country.

I said then that every North Carolinian and every American ought to be concerned about this problem because private ownership of homes is and has been since the days of Thomas Jefferson a very precious part of our national heritage, a part of the dreams of every young couple in this Nation.

And, as was so eloquently pointed out by the distinguished Senator from California earlier this morning, this Congress, in 1949, stated that it was the goal of the Government of this country to provide every person in this country with decent housing.

I think, Mr President, if that were not written into the laws of this land that it would be still an inherent right of every American citizen to have an opportunity to own a home at a reasonable price and that he is entitled to reasonable financing for the purchase of such home.

But, as I noted 2 years ago as I traveled around the State, and as I do today, it looks more and more as if the dream of homeownership in the future will be simply that—a dream—an unfulfilled and unattainable dream by a great majority of Americans.

And the present administration has done little or nothing to create hope for the future, little or nothing to offer hope for the 6 families out of 10 who must face the reality that they no longer can afford to purchase their own home.

The present administration has consistently refused to use housing as a counter-recessionary method even though it has been apparent from the very beginning of our Nation's economic crisis that stimulating the housing industry and providing homes for our people would provide a good start back.

When this Congress came to town prepared to deal quickly with the ailing housing industry, it received no cooperation from the administration. We passed a bill as the Senator from Wisconsin has pointed out, and the President promptly vetoed it, and meanwhile Americans continued to see the dream of private homeownership slip away.

I note that already in 1973, the Republican administration had impounded the funds earmarked for section 235 and 236 of the Housing Act.

As we all know, section 235 provided subsidies for mortgages on single family dwellings, and section 236 provides mortgage subsidies for those constructing multifamily rental units. Those programs have been stalled since 1973.

Although a compromise now has been worked out to allow the continuation of 235 programs in a modified form, the red tape and bureaucratic foot dragging of the present administration has resulted in not a single new housing start in my State and only a very few, as pointed out by the Senator from Wisconsin, in the entire Nation.

Section 8 programs, which provide for rental subsidies under HUD are moving at a snail's pace and one is forced to ask if HUD and the present administration actually want the programs to work.

The people in my State understand what this reluctance on the part of the administration to provide more housing has meant. It has meant to them, that there are no homes available in price ranges that they can afford. And in some cases it has meant that they had no jobs.

North Carolina is the center of the Nation's furniture manufacturing industry and the textile industry. When the housing industry is depressed it does not have a ripple effect in North Carolina. As a matter of fact, it creates waves, waves of unemployment and desperation for those who depend upon these industries for their livelihoods.

And these waves have been felt in communities throughout the Nation where industries dependent upon new home construction are located.

The administration has at its fingertips an entire agency supposedly dedicated to meeting the housing needs of the American people. Yet the Department of Housing and Urban Development, for the most part, has failed to do anything other than frustrate those who have sought aid with mind-boggling forms and bureaucratic redtape.

What has the administration done to deal with the problem of a lack of economical housing in our rural areas of America?

What has the administration done to encourage the free enterprise system to venture into constructing homes which can be purchased by middle- and lower-income families?

What has the administration done to stimulate an industry which is a cornerstone of the American economy?

Very little.

And today millions of Americans for the first time find themselves priced out of the housing market. And the rest are literally paying the price which is more than most can reasonably afford to pay.

Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Allen). Under the previous order, the Chair recognizes at this time the distinguished senior Senator from South Dakota (Mr. McGovern) for not to exceed 15 minutes.

TIME TO RECONSIDER KOREA

Mr. McGOVERN. Mr. President, the recent killing of two American officers at the 38th parallel in Korea should lead Congress and the executive branch alike to reexamine the purpose and meaning of our commitment there. As we learned to our sorrow in the last decade, legislative silence gives consent to the abuse of power. In the midst of crisis, in the rush to manufacture national unity for its own sake, a Congress which rubber-stamps a policy becomes responsible for its results.

The one Senate vote which I most regret was the one cast in support of the Gulf of Tonkin Resolution. Already a public critic of our Vietnamese intervention, I did not think that moment was the right time to dissent. I permitted the administration to ease my doubts with a nonbinding promise not to widen the war. As it turned out, that moment, when we were told that we had to rally around in the face of a minor naval engagement, may have been the last moment to turn the tide of escalation.

Hindsight can offer foresight. For my part, I do not intend to repeat the error of Tonkin. I hope the Congress will learn the lesson of that first vote on Vietnam. Fortunately, the recent incident at the 38th parallel did not become the last moment in Korea. But it could have been. Our good fortune is primarily a matter of good luck. The stunning fact is that August 1976 could have been that last moment. We could be engaged today in a full-scale conflict which the Congress did not anticipate less than a month ago, without any chance for the people's representatives to approve or prevent. An American force stationed in Korea long ago, in a period of different global conditions and national assumptions, has become a hostage to hold our country to a course we might not take if we had a free choice.

But we do have the opportunity to choose. Now, after this crisis, before the next confrontation, we must question whether America should continue to stand at the edge of war in Korea. We must face the real implications of our Korean position, review the reasons for our commitment, and on that basis restate or revise our policy.

No one could condone the barbaric North Korean murder of two American officers in the demilitarized zone. It was a provocative inhuman act. But our justifiable anger does not justify keeping some 40,000 troops in Korea because two Americans were killed who would be alive today if our forces were not there. Our troop presence should not be the cause of its own perpetuation. We have seen such twisted logic before, in the Nixon pretense that we kept fighting in Vietnam to free our prisoners of war, when in fact, the war only added to their numbers. They could only be released in peace, not while the war continued.

The relevant question, relative to Korea, is whether our troops should be there, and, beyond that, whether the premises which have inspired and shaped our relationship with South Korea still remain valid after more than a quarter century.

If our vital interests are at stake, then sacrifice and firmness are not only acceptable, but essential. But I do not believe that our sons should die for the sake of a past which is gone, or a present which is wrong, or a policy whose central justification is that it exists. The forces that were sent to Korea a generation ago as a tripwire could trip this generation into another wrong war in another wrong place at another wrong time.

In the 18th century, Europe fought the War of Jenkin's Ear. The Congress should not permit the United States to be drawn into the Poplar Tree war. Nor should we permit the executive branch another episode of threats, which could lead to the death of thousands, over the exact form of a note of apology, when no words can restore lives already lost. Rather this is a time literally to look beyond the tree to the forest—to the larger issue of our Korean involvement as such. As Senators may recall, I have on several earlier occasions called for a reexamination of American policy in Korea. A year ago, speaking at a large Democratic conference in Ames, Iowa, I proposed the phased withdrawal of American troops from Korea.

NEW INTERNATIONAL REALITIES

Any sound reassessment of our posture in Korea must be based on an understanding that many of our fundamental international precepts have become obsolete.

In fact, the post-World War II era in U.S. foreign policy is drawing to a close.

Our crushing experience in Vietnam told us, if nothing else, of the limits of American military power, even against relatively limited foes. It also made the American people more aware of the costs of misguided foreign policy assumptions. Détente with the Soviet Union and China is the beginning of a new awareness that we need not forever live as though the planet were dominated by a cold war. Likewise, the assertive nationalism of developing countries has challenged foreign policy concepts based on great power dominance and small power submission.

More recently, we have begun to see the interdependence of the world and the interrelationship of major global concerns such as fuel and food supplies. These pressing global concerns are becoming enmeshed in the ideological and big-power rivalries which have occupied most of our attention since the end of World War II. And as we ponder the inhumane, self-defeating tactics of assassination, intervention, and secrecy, we have begun the process of searching for a foreign policy that would discipline and guide our power by dependable values.

We have not yet found it; so we are confused. Our conventional foreign policy wisdom is changing, but the vestiges of the old still guide most of our deeds.

After the collapse of the Thieu regime in Vietnam, Secretary Kissinger did say that "we must be very careful of the commitments we make." Obviously that reflects a change from the days when we eagerly joined up with any country that promised to help us encircle the Communist menace—even in the most remote and obscure places on the planet.

But Secretary Kissinger also said that we should "scrupulously honor those commitments that we make." Some 42 formal military commitments, many of obscure origin, remain in force and largely unquestioned. Treaties, executive agreements, arms sales and aid involve us with some 92 nations. Without making any new arrangements, we are still left to "scrupulously honor" an enormous load of cold war baggage—whether or not these commitments are still in the national interest.

A new American foreign policy based on present realities will not emerge full blown. But we need to be careful about its construction.

A first principle must be an elaboration of the one stated by Secretary Kissinger. We must be exceedingly careful not only about any new commitments we might make, but also about the old commitments we keep. Many of our present overseas commitments are in need of review as to their current relevance.

Despite the claims of old line foreign policy proponents, there are few isolationists or neo-isolationists in this country. But Vietnam has taught millions of Americans to question foreign adventures that do not have a demonstrable bearing on our own vital interests. Nor can we be in peace with practices abroad that contradict elemental values we cherish for ourselves. Grandiose abstractions like the domino theory may satisfy an inner circle of strategists; they are no longer enough for a foreign policy which, in a democracy, requires public understanding and support.

At the same time we must deal with nations and with human beings rather than with power blocs or ideological camps. Our postwar world design had the virtue of simplicity. It was them or us; iron curtain or free. Now the world must be understood as more complex. There are no neatly drawn blocs; the array of nations is almost unbelievably diverse; problems such as pollution of the oceans cut across all dividing lines. Some Communist societies may threaten us, others will not. Some of our so-called free world allies are more dangerous to the peace and to our values than some of the countries loosely alined with Moscow or Peking.

All of this suggests that we can be less hysterical about the red scare, and that we can in fact find grounds of common interest with socialist societies. At the same time we should be cautious about arming the free world countries, lest today's ally become tomorrow's adversary, over an issue which ideology scarcely affects. Notwithstanding our defeat there, I believe the United States has a broad interest in good relations with an emerging Vietnam which is determined to steer an independent course in international affairs. On the other hand, I have grave doubts about the accelerated transformation into garrison states of many Latin American countries to whom we have provided arms.

Of course, critics of militarism and interventionism must also take note of this diversity. We know from observation, for example, that for practical purposes China's long tradition of noninvolvement with the rest of the world was not fundamentally changed by the triumph of the revolution in the late 1940's. But we must also be aware that the Russian tradition of foreign entanglement and opportunism also was not significantly changed by the 1917 revolution there. The image of a world communism monolith has caused us to overstate the danger. We must take care not to minimize it now, and to avoid excessive expectations about what détente can accomplish. Any responsible observer must concede that we cannot, just yet, dismantle our alliances and eliminate our defenses; what we must do is choose which of our alliances and defenses conform to the world's realities.

For our own sake, we must make a significant transfer of our attention and resources away from marginal and remote military risks, and toward global challenges which fall outside the military sphere. Though we occupy the first class cabins, the United States and a few other developed countries are in the same boat with the world's poorest societies when it comes to the limits on food, energy, minerals, and clean air and water. Those questions must be at the forefront of our agenda not only because it is the way to a constructive world influence, but also because our own survival is at stake. After a January visit through the villages of Pakistan and the bustees of Dacca and Calcutta, I am pained again by the awesome gap of existence between them and us. There too many live—and die—by bread alone, because there are too many people and there is too little bread. And their condition threatens our own, for the cost of their despair must ultimately be international terror and instability. Morality and prudence alike command the endeavors of development.

Then we have to place foreign policy in proper perspective. Too much of the time we seem to operate on the premise that our society exists so that we can have a foreign policy—so that a few top leaders can conduct grand exploits on a global stage. It seems odd to have to say it, but the purpose of foreign and military policy is, first of all, to protect and serve our own society. And if we break our economy and neglect domestic needs for the sake of an overly ambitious world role, then our foreign policy accomplishes the exact reverse of its purpose. One thinks, for example, of President Ford's fervent plea for another billion dollars to keep Saigon from collapsing, whereas he resisted a federal guarantee for a bond issue to keep our largest American city from collapsing.

Certainly we must afford the legitimate needs of our own defense and the cost of sharing protection with others whose safety is vital to our own. But if it were limited to that, the burden of our military establishment would be many billions of dollars less than it is now. There is neither a need nor a national will to underwrite the spendacious, ubiquitous global designs fashioned in Foggy Bottom and the Pentagon. During the dispute over Angola, Secretary Kissinger again expressed outrage and frustration over congressional interference with his conduct of the nation's foreign policy. But I prefer to believe that Congress was less concerned with conduct than with content. At least in this one case, Congress was declaring that implementing the administration's preferences on the political future of Angola did not fall within the realm of urgent national business. That is a decision Congress has both a right and a responsibility to make. Whether they are couched in terms of ideological evangelism or superpower balancing, such interventions go beyond the fundamental security needs which constitute the very purpose for having a foreign policy at all.

Finally, I sense a yearning in this country to have us reflect in our foreign policy the basic values which most of us see as central to our national identity. As we know from disclosures about the CIA, our leaders have apparently had no qualms about copying the tactics we profess to despise—or even about designing technological advances to make them work better. For the purpose of surrounding and containing the Communists, we have also identified with some of the world's most corrupt and brutal dictatorships. The process has been costly to our ideals at home—indeed, I think the roots of the Watergate political scandal can be found in dirty tricks and in easy association with repression elsewhere in the world. If "anything goes" in advancing "national security" abroad, how easy it is to subvert the Constitution to advance "national security" at home. Now, in a restive, watchful world, those tactics are more and more self-defeating both at home and abroad. Perhaps our act cannot be entirely cleaned up. But, on balance, we would probably be better off if, instead of copying the KGB, we cut loose from the dictators, outlawed all covert operations, and then emphasized the values of our own society. "Liberty and justice for all" and "a decent respect for the opinions of mankind" are potent doctrines if they are really pursued.

That "decent respect" requires recognition that for much of humanity the names of Marx and Lenin, Mao and Chou, Ho Chi Minh and Madame Binh, Castro and Che Guevera, Lumumba and Nyerere evoke the same images of patriotism and high purpose that come to us at the mention of Washington and Adams, Jefferson and Madison. The proper goal for us is not a world molded in the American image, but in President Kennedy's perceptive phrase, "A world made safe for diversity." And this requires both the strength of humility and a measure of restraint. We have values to offer other than firepower and fear. The manipulators of power warn that a foreign policy of principle is not practical. But another decade of expediency over principle and we shall be undone. We should be neither interventionist nor isolationist but internationalists, protecting the legitimate interests of our security and pursuing the indispensable interests of the human community.

It is not hard to state such thoughts. The challenge is in the application. And it is in that sense that I want to examine in some detail our relationship with the Republic of Korea.

Obviously our alliance with South Korea is not the only involvement which would require revision if commonsense principles became rules of conduct. But Korea is a highly prominent, current example of the need for substantial change in foreign policy. Further, because our course there raises immediate dangers, I think we must revise our posture in Korea regardless of what else we do to reform our international role.

ALLIANCE WITH REPRESSION

We are allied in South Korea with a disreputable tyrant, President Park Chung Hee.

Park cites a military threat from the North to justify his excesses in the South. Without belittling the ambitions of North Korea's Premier Kim Il Sung, I suggest that there is also a risk in the South—in the possibility of either an internal revolt against brutal repression, or else of a deliberate effort by Park to force United States involvement in a renewal of the North-South fighting which ended 23 years ago.

This is a classic case. Looking at the assorted collection of dictators we have backed over the years, Park has concluded that there is no need to persuade us that he is virtuous to justify our aid. So long as he declares his rigid anticommunism, that should be enough. And if he can point to a threat next door so much the better.

With that rationale, he has abandoned even the pretense of democratic government. From the time of his narrow reelection in 1971, he has been transforming South Korea into a model of totalitarian rule.

In October of 1972, he declared martial law and promulgated what he calls a new "Yushin" or "revitalization" constitution. It is no constitution at all, but a charter for a police state.

Under that document the president is no longer accountable to the people of Korea. He is chosen by a National Conference for Unification, which he dominates. He in turn chooses the Prime Minister, all members of the State Council, and one-third of the members of the National Assembly. The latter meets but once a year for 90 days, and if it fails to rubberstamp the President's wishes he can simply dissolve it.

He also fashioned a new legal structure. Constitutional questions go from the courts to a constitutional committee whose members are appointed by the President. Citizens are subject to arrest without warrant, and habeas corpus is abolished. The old Korean Constitution ruled out confessions which had been extracted through torture. Even that guarantee is now gone; torture is now an accepted method of gaining evidence for political trials.

But Park did not stop there. Article 53 of the Yushin Constitution provides:

> In case the national security or the public safety and order is seriously threatened or anticipated to be threatened . . . the President . . . shall have the power to take emergency measures which temporarily suspend the freedom and rights of the people . . . and enforce emergency measures with regard to the rights and powers of the executive and judiciary.

Park is the sole judge of "anticipated" threats to public safety. He has the sole power to suspend whatever rights he finds irksome, and to withhold them "temporarily" for as long as he likes. That one article, standing alone, is the writ of dictatorship.

Park's defenders might argue that the people of South Korea chose this course through the referendum of November 29, 1972, when the Yushin Constitution was approved. But that referendum was a fake. Few copies of the Constitution were made available to the public, and the critical portions were printed in Chinese characters which most Koreans cannot read. Critical debate of the Constitution was prohibited under martial law while the full power of the government was employed to propagandize for a favorable vote. To remove any remaining risk of defeat, the voting was carried out in a way that permitted identification of those who voted "no". They had every right to assume that a "no" vote could bring severe reprisals.

Armed with this ersatz constitution, Park promptly had himself reelected to a 6-year term in December of 1972. Since then he has used his emergency powers to abolish political liberties in Korea.

Now in Korea it is a crime, punishable by a term of 15 years in prison, to criticize the Constitution or to call for its revision. It is a crime, punishable by death, for a student to participate in virtually any political activity, except, of course, that which glorifies the present regime. It is even a crime carrying the death penalty for a student to miss classes without an approved excuse. It is a crime for a newspaper to carry editorials which are critical of the Government or to carry news accounts which may reflect unfavorably on the Government. It is a crime for any citizen of Korea to criticize the Government in conversations with foreigners. And with a stroke of the pen the dictator can make it a crime to do or say anything he does not want done or said.

This is no passive oppression. Victims of Park's dragnet include politicians, students, religious leaders, artists, and a former Korean president. In 1973 the candidate who last opposed Park, Kim Dae Jung, was kidnapped from his hotel in Tokyo by Korean agents. His crime was to charge in his 1971 campaign, quite correctly, that Park intended to declare martial law. Some 200 dissidents were put on trial in June of 1974 for violating the emergency decrees. Some were sentenced to death.

Most recently, on August 28 of this year, former candidate Kim Dae Jung, along with former President Yun Po Sun and 16 other opposition leaders, were sentenced to lengthy prison terms for the crime of saying out loud what we all know to be true—that the Park government is corrupt and repressive. Those trials were a direct and ugly denial of the most essential element of political freedom, to think and speak freely, and to take public issue with those in power.

We cannot know what will happen next to those 18 distinguished Korean leaders. But a 2- to 8-year term in one of Park's prisons is not a pleasant thing to contemplate. In the past, prisoners have usually been held incommunicado, so charges of torture cannot be proved. But an investigator for Amnesty International reported on one young prisoner who emerged for his trial with his ears and eyelids missing and his fingers burned together. The Government maintains those were accidental injuries. A prominent Korean intellectual and former member of the National Assembly testified that he was hung upside down and burned with a flame in order to exact a confession.

In short, Park Chung Hee has subjected his countrymen to a cruel dictatorship. If the purpose of our involvement in South Korea is to protect its people from tyranny, then we have already failed. Whatever the sins of the other side, our own client defies the values we claim to advance.

President Park has variously justified his draconian measures by asserting the need for a strengthened hand at home so he can negotiate with the regime of Kim Il Sung in the north, or else by claiming that his country is under the threat of imminent attack. I suggest that both claims are little more than self-serving pretense.

The premise that negotiations abroad require dictatorship at home is patently absurd. As to the military threat, Park's first decisive moves toward one-man rule coincided with a period of relative moderation from the north. From 1967 through 1969 there had been a series of clashes between North and South Korea; by 1971 and 1972 those confrontations had virtually disappeared, as both Koreas manifested more interest in peaceful discussions. Red Cross teams from the two sides met first in September of 1971, and the two governments signed a joint communique favoring negotiations toward reunification in July of 1972. Yet that is precisely the period when Park's police state was born.

Most likely his actions had nothing at all to do with the north—except, perhaps, to the extent that his contacts with Kim Il Sung's regime inspired him to emulate its worst features. Despite his attempts at camouflage, it is plain that Park has moved from ambition for personal power, and from the assumption that he can rule as he likes without losing American support.

THE U.S. RESPONSE

Park is not showing new colors. His fascist hues have been evident from the time he took power through a military coup in 1961. Before that he had distinguished himself as a rising young military officer—but on the wrong side, in the Japanese Imperial Army which occupied and oppressed Korea for 40 years before World War II. When Park took over in 1961, he promptly banned demonstrations, closed newspapers, arrested tens of thousands of his opponents, and created a new system of military courts. He also created the Korean Central Intelligence Agency. But while we have taken our CIA to task for its domestic activities, the KCIA was created for precisely that purpose—an ominous secret police force for Park to use against his countrymen.

The American administration of that period responded forcefully. President Kennedy threatened to cut off all aid. It was that pressure which inspired Park to establish a constitution and accept the nominal Korean democracy which lasted until 1972.

But the Ford administration has reversed the Kennedy precedent. Far from opposing Park's outrages, the administration has embraced him more warmly than before.

The trend in Korea since Park's 1972 martial law declaration is one prominent example of what Congress has had in mind in establishing basic human rights criteria for U.S. aid programs. Under the 1975 amendments the executive branch must now demonstrate that economic aid reaches the neediest people of the recipient country. Even tighter strictures apply in the case of security assistance. Section 502 of the military aid program provides abundant evidence that the Congress is apprehensive about military support for repressive regimes.

Such limitations should not come as a surprise. They became essential when earlier nonbinding enactments were so easily ignored, especially regarding Korea. Human rights language in the 1973 Foreign Assistance Act was interpreted to mean no more than that countries which practice human rights violations should be informed of our concern. At the same time they are assured that the Executive wants to keep the aid tap flowing. On the odd thesis that if we cut aid we will lose our leverage for reform, the administration wants to continue aid and eliminate any incentive for reform.

That is the rubric. But within it the Ford administration has gone well beyond neutrality on Korea's internal condition. There have been dramatic steps to reinforce Park's rule.

In November of 1974, President Ford honored Park with a personal visit to Seoul. He pointedly avoided any contact with or reference to dissident groups.

On May 20, 1975, President Ford told the New York Daily News,

> We have a treaty with South Korea. I think, it is important that we let them, as well as others, know that at least this Administration intends to live up to our obligations.

In August 1975, then Secretary of Defense James Schlesinger followed the President to Korea. While there, the Secretary committed the United States to support—with credits and the development of an enlarged Korean arms industry—a new $3 billion Korean force improvement program, overlapping a $1.5 billion military modernization program begun in 1971.

Both the President and the Secretary of Defense assured Park that there would be no change in the U.S. military presence in Korea. Forty-two thousand Americans are pledged to remain there indefinitely.

Further, U.S. forces are deployed north of Seoul, at or near the demilitarized zone between North and South. Congress has worked out a new War Powers Act which is supposed to prevent future Presidential wars. But the location of our troops in Korea avoids the War Powers Act and guarantees an automatic involvement in any new Korean conflict.

The administration has even implied that we will risk nuclear war for Korea. We have 1,700 tactical nuclear weapons within range, many of them located in South Korea. Secretary Schlesinger suggested that we could very well use them if war broke out; President Ford refused to dismiss this perilous new policy. Park is thus told that we will risk not only our life and treasure on his behalf, but that we are now ready to plunge across the nuclear threshold as well.

The U.S.-ROK Mutual Security Treaty of 1954 provides that in the event of attack each party will "act to meet the common danger in accordance with its constitutional processes."

When that treaty was submitted to Congress, it came with strong assurances from the Eisenhower administration that it would not apply in the event that South Korea attacked the North.

But our deployment and the Ford administration's declarations have wiped out both of those safeguards. No matter how it begins, we are automatically involved in any new Korean conflict. The Ford administration has even destroyed its own freedom of choice.

So the administration has not merely tolerated Park's swing to fascism; American policy has reinforced it and our soldiers are the hostages of that policy if trouble comes. In the process, we are unwittingly playing a role in the death of democracy in Korea.

AN ACCIDENTAL GUARANTEE

It is revealing to reflect upon how we came to this sorry posture.

An ancient and culturally distinct society, Korea was dominated and exploited by Japan from 1905 until the end of the Pacific War in 1945. Then the Soviet Union occupied the portion north of the 38th parallel, and the United States occupied the rest. The two major pawers planned a 5-year trusteeship in preparation for reunification and independence.

In the South there was a shortlived attempt by a Korean newspaper editor, Lyuh Woon Huyn, to establish a national government in Seoul; but U.S. occupiers preferred American-trained Syngman Rhee, who had been in exile in the United States. The Soviet Union objected to his participation in a unified government and negotiations collapsed. A United Nations commission set up to supervise nationwide elections was barred from the North, so, at the age of 73, Rhee was chosen in the South alone, as President of the Republic of Korea established in 1948. The temporary demarcation line became a border. In the same year the Soviet Union installed Kim Il Sung, who has been a member of the resistance against the Japanese, as premier of the Democratic People's Republic of Korea. Both were dictators, and each threatened to reunify the country by force.

We should recall that in the late 1940's there was little real dissent from the view which came to shape our foreign policy for a generation—the spectre of a Communist monolith run by Moscow and bent on global control. Neither Congress nor the press was much inclined to inquire into the basic assumptions of foreign policy.

Even then, and even in the midst of the anti-Communist hysteria inspired by the fall of the Kuomintang in China, we held a benign view of Korea. We recognized that neither side offered much over the other, and we resisted supplying Rhee with the arms with which he wanted to make war on the North. Speaking at the National Press Club in January of 1950, Secretary of State Dean Acheson formally defined the American defense perimeter—the line behind which we would contain communism by meeting any aggression with American force. Ambitious though it was, the perimeter excluded Korea.

Barely 6 months later that policy had turned 180 degrees. We were at war in Korea.

The abrupt shift was defended by our conclusion that the Soviet Union was even more dangerous than we had thought. The assumption was that South Korea was the helpless victim of naked aggression planned and directed from the Kremlin. Our involvement on behalf of Syngman Rhee was justified not as the defense of one group of Koreans against another, but as the defense of the free world against a blatant Soviet attack.

By today's lights that assumption itself is highly dubious. When the attack came, the Soviet Union was boycotting the United Nations Security Council because of its refusal to seat the new government in China. It was the Soviet absence which permitted adoption of the U.S. sponsored Security Council resolution branding North Korea the aggressor and calling for a military response under United Nations auspices and command. It taxes the imagination to suggest that the Soviet Union ordered the Korean war while absenting itself from the Security Council. Days later the Soviet Union returned to the United Nations, with the China question still unsettled.

It is also pertinent that the Soviet Union never entered the Korean war, even when Kim's forces had been pushed back almost to Soviet territory. That refusal has strained relations between the two countries ever since. Is it possible that the Soviet Union would care so little about the outcome of a war it had planned?

In any case, it was a gross distortion, yet one hardly questioned at the time, to portray South Korea as the peace-loving victim. On the contrary, Syngman Rhee was spoiling for a war, and had repeatedly condemned the United States for our refusal to underwrite a northern adventure. For his inauguration in 1948, he had arches constructed to proclaim the slogan, "Today we establish our Republic. Tomorrow we will march northward." There is substantial evidence that

Rhee's armies had conducted regular forays against the North long before the large scale North Korean invasion. And just days before the war began, Rhee wrote to an adviser that he thought,

> Now is the best time for us to mop up the guerrillas in Pyongyang. We will drive Kim Il Sung and his bandits to the remote mountains and make them starve.

Doubtless Rhee believed the mirror image of what Kim believed—that an attack across the 38th parallel would spark a popular uprising which would welcome the invader as liberator. And the context of the war's beginnings suggests something else—that regardless of how the fighting actually began, neither Korean regime was a puppet; that instead both were skillful puppeteers, manipulating the great powers for their own ends.

But it was not the war which created the direct American commitment to South Korea. It was the armistice.

Once the war was underway a great deal happened in a short time. Within weeks the South was nearly defeated; then General MacArthur made his famous Inchon landing and pushed north to the Yalu River bordering China; the Chinese came in and helped Kim's forces take Seoul again; MacArthur, whose misestimation of the Chinese resulted in military catastrophe, now fought publicly with President Truman over, among other things, the use of nuclear weapons; MacArthur was fired and General Ridgeway took over to slog back to essentially the same lines where the war began. All of this took less than 12 months.

But then the war dragged on in this stalemated condition for 2 more years. The negotiations at Panmunjom remained on dead center. Most of the war's casualties took place after the peace talks had begun.

There was but one overriding impediment to peace. It was Syngman Rhee's obstinate refusal to let the war end. Like a later American ally in Vietnam, Rhee was bitterly opposed to the peace discussions. He remained determined to retake the north—with, of course, U.S. Forces doing most of the fighting and paying the bills.

Rhee finally relented. He was doubtless influenced to some extent by the fact that North Korea's troops began engaging South Korean units alone, avoiding attacks on the Americans. By themselves, Rhee's forces were routed.

In the end Rhee agreed to an armistice only after he extracted from the United States both a pledge of large scale American aid and a direct American security guarantee—the Mutual Security Treaty formalized in 1954. We had to bribe our ally to get peace.

Since then the United States has maintained a constant military presence in Korea, at a cost of tens of billions of dollars. We have provided some $12.3 billion in military and economic aid. We are automatically involved should war break out again.

Yet the initial involvement was based on a premise of Soviet direction which now seems mistaken. The direct security commitment was undertaken not because of a considered conviction that South Korea was of vital strategic importance to the United States, but because, to put it bluntly, Syngman Rhee was adept at blackmail. That is the dubious premise upon which our alliance with Korea began.

The 1963 constitution was a source of internal stability in South Korea. But now Park has cancelled the calm. His actions, and the curious administration response, have brought the issue of our relationship to the forefront of the American foreign policy agenda.

A DEGRADING ALLIANCE

In the first instance, Park has undermined the moral foundations of our policy in Korea. Though it may be argued on grounds of international strategy, it is morally bankrupt to underwrite one kind of dictatorship simply because we prefer it to another.

Nor should we minimize the effect. In a world view, our identification with tyranny in Korea and elsewhere blocks out the most fundamental distinctions between our society and the systems we reject. It opens us to the charge that our professed reverence for self-determination and human liberty constitute so much self-serving hypocrisy. I think that nothing damages our international posture more than our tendency to underwrite the most abysmal dictatorships, and then to justify it simply because we think it serves our short term interests.

At the same time, and for many of the same reasons, Park degrades the alliance on practical grounds by making his government harder to defend in a physical sense.

Korea is not, as we often hear, a backward country subscribing to the Confucian ethic of rigid authority and personal submission. It is 90 percent literate, 50 percent urban, and not without democratic values. Its people yearn for the same national identity, independence and unity that other nations seek. Their ruler is sharply at odds with a growing proportion of his own society.

Park won his last arguably legitimate election in 1971 by a narrow margin, despite heavy political use of the Government, against an opponent whose warnings of dictatorial trends fell far short of the ugly reality to follow. Though their votes were futile because of the Assembly's impotence and Park's appointive and emergency powers, the majority in the February 1973 elections repudiated the Government and supported opposition candidates. And today there remains a courageous Korean resistance—despite harsh penalties—to the Yushin Constitution and the emergency decrees.

Park's opponents find Kim Il Sung's regime in the North even more distasteful. Nevertheless, under the guise of strengthening his country, Park is plainly making it more vulnerable. If they oppose both Park and Kim, with how much dedication would Korean democrats fight to defend one against the other? There is no way to predict where these people, in desperation, might eventually turn.

While it is risky to draw too many parallels, we did ultimately learn in Vietnam that it is impossible to defend the indefensible. Even massive American firepower cannot compensate for a leader who abuses and alienates his own people. Indications are unmistakable that Park is becoming increasingly isolated from the Korean populace; a course of events all too familiar from our experience in Southeast Asia.

Further, we must explore the troubling prospect that Park is trying to force us into a posture of supporting him in defiance of our own objectives.

If there has been a consistent thread in the official U.S. policy, it has been our support for peaceful reunification of that divided country. That is why we were encouraged by the glimmerings of North-South détente in 1971 and 1972.

Yet Park, like his predecessor, Syngman Rhee, has sustained his power through anti-North propaganda and incessant assertions that the North is about to attack. A North-South accommodation, while it would serve the aspirations of the Korean people and the interests of the United States, would at the same time tend to undercut Park's grasp in the South. Certainly he is aware that any lessening in tensions would bring with it a reduction in his people's tolerance for repression.

If we look past Park's self-serving interpretation of events, we may find that there was a genuine shift in North Korea's posture in 1971, coinciding generally with the Nixon administration's moves toward détente with China and with the development of substantive agreements with the Soviet Union. Has Park sabotaged that trend? If so, the U.S. policymakers who are solemnly swearing allegiance to Park are being taken for fools—and the country along with them.

KOREA IN CONTEXT

National security is the administration's excuse. But if the United States is not the policeman of the world, why must we be the policeman of the 38th parallel? What specific national interest requires a direct bilateral commitment to the Government of South Korea? Why is a divided Korea—split along the 38th parallel—of vital interest to the United States? Is there a threat so severe to us that we must unilaterally station troops exactly at the site of possible trouble, and participate with our arms, aid, and prestige in Park's mutilation of human rights?

Any modern appraisal of Korea's global importance must account for a more practical and less foreboding understanding of the international military threat than the one we hold in the 1950's. Since then we have seen Communist unity shattered in the bitter division between the Soviet Union and the People's Republic of China. With it has been shattered the image of a monolithic Communist menace.

Obviously that does not mean we have nothing to fear. Certainly the Soviet Union, in particular, is at least a potential threat to its neighbors and to American interests.

But we do have far less to fear than we used to think. Today's world is not hospitable to empires. Even if we had the power to prevent them, we should now be able to recognize that every revolution is not a risk, and that every disturbance of the status quo is not a proxy threat to American safety. Regardless of internal ideology, countries tend to act according to what they perceive as their own interests and in line with their own traditions, and not according to some grand scheme planned elsewhere.

Of course, no one postulates a Korean attack on this country even should Korea be reunified under Communist control. If it had the inclination, it still would not have the power.

Nor is it especially relevant to note that Korea is a point of great power convergence—where China, the Soviet Union, Japan, and the United States Pacific frontier come together. That merely states a geographic fact. What dangers and obligations flow from it?

The United States concern over Korea is clearly indirect. It flows partly from aspirations retained at the end of World War II to be both a Pacific power and, beyond that, a power on the Asian mainland. But it is far more comprehensible, and justifiable, to conclude that our interest in Korea stems from our close association and alliance with Japan.

That relationship is firmly rooted in solid ground. Our interest in the security of Japan is fortified by a mutual commitment to shared values. And the position of Japan is unquestionably important to the future of the Pacific area.

It also makes sense for both countries to continue the present mutual security arrangement. Japan is behind both our conventional and nuclear shield. Japanese military forces are constitutionally limited to the minimum levels required for conventional self-defense. An enlarged Japanese armament program could inflame old fears on the Asian mainland.

But along with the American guarantee, Japan's security has been best served in recent years by increasingly cordial contacts with other major powers in the region. Japan traded extensively with the People's Republic of China even before relations were formalized in 1972. By 1974 the two-way flow exceeded three billion dollars. Because of the expanding interaction, and also because of the historical relationship between the two countries, China is not regarded as a military threat to Japan. A treaty of peace and friendship is under discussion.

Relations between Japan and the Soviet Union are less friendly largely because of disputed claims to islands north of Japan that were occupied by the Soviet Union at the end of World War II. Yet here, again, trade is substantial, and there is a prospect for broadened economic cooperation to develop Siberian oil, gas, and timber resources.

While endorsing a continued American presence in the South, Japan has also cultivated a relationship with Kim Il Sung's government in North Korea. Tokyo supplies no military aid to the Park government and, unlike the United States, has in fact used cuts in economic aid to protest Park's excesses, focusing especially on the 1973 kidnapping of Kim Dae Jung from a Tokyo hotel.

In any event, while Japan is economically linked to South Korea, Japan's security depends not on Korea but on the American security guarantee and on good relations with countries which could pose a threat—China and the Soviet Union.

The status of Korea does make our alliance with Japan more convenient. But it is obviously not a decisive factor. The United States presence in the Pacific and the Asian region includes nearly 130,000 military personnel, exclusive of Korea. We have 78,000 military personnel on Japan and Okinawa. The Pacific Force includes the 7th Naval Fleet consisting of two aircraft carrier task forces with associated attack submarines, several wings of tactical aircraft, strategic bombers, and the greater portion of a U.S. Marine division. Those forces, particularly Naval and Air Force, and not the troops and bases in Korea, make up the weight of our deterrent against the remote risk of a tangible Soviet or Chinese threat to Japan.

And it is a remote risk. Any hostile power must know that aggression against Japan would be the equivalent of an attack on the United States, with all that would entail. Therefore, if such a conflict were to happen, it would most likely be the result not of a deliberate decision, but of escalation from a smaller conflict gone out of control. And in that sense, the danger is heightened by our close association, and that of Japan, with an increasingly militant, unstable, and unpredictable regime in Seoul.

The crucial point is that President Park Chung Hee of Korea is in the process of dramatically upping the American ante should it become necessary to rescue his regime. The American people have tolerated what it has taken until now to deter war. They would not likely tolerate the kind of endless, hopeless Vietnam-style war that could easily follow if Park continues to fertilize his own land for subversion. If it comes to that, our interest will lie in staying out. Our fundamental Pacific security interests, built around our relationship with Japan, simply do not require automatic support for President Park and a permanently divided Korea.

KOREAN SECURITY

Of course, the worst case in Korea need not be the most plausible case.

South Korea, with 33 million people, has a population more than double that of the North. Its gross national product of roughly $13 billion is nearly three times that of North Korea. Park has 633,000 men under arms, and a local defense militia of 2 million respectively as against North Korean forces of 470,000 men. While North Korea has been outspending the South on military capacity, it is also true that over the years since the Korean war, American military aid to South Korea has dwarfed what North Korea has received from outside sources. There are some imbalances in capabilities. South Korea has concentrated on sizable naval forces, including destroyers and destroyer escorts, while North Korea has not built an extensive navy and has deployed smaller ships. North Korea's air forces, with nearly 600 combat aircraft, are larger, but those at Park's disposal are generally more advanced. On the whole, South Korea has amassed a military machine that is formidable indeed. There is a strong deterrent to invasion with or without an assured U.S. involvement.

The deterrent is not made by arms alone. Koreans on both sides of the demilitarized zone have suffered the devastation of fratricidal war. The 1950–53 fighting moved south to Pusan and north to the Yalu River, at one time or another engulfing almost all of the Korean Peninsula. The struggle to recover has been long and painful on both sides.

The war must have also shattered for both sides the illusion that the populace on the other side of the DMZ was anxiously waiting for rescue. At least for the present, despite his rhetorical attempts to exploit divisions in the South, Kim Il Sung must be conscious of the reality that few if any South Koreans would welcome him as a replacement for Park.

Further, Kim must contemplate that while the policy of both the Soviet Union and the People's Republic of China is to favor reunification of Korea under Communist rule, those declarations fall far short of supporting military action to achieve it. Kim did visit China shortly after the collapse of Thieu's forces in Vietnam. But if he went in search of support or encouragement for an attack on South Korea, there is nothing to indicate that he found it. The Chinese entered the last war only when their own border was threatened. The Soviet Union did not enter at all, and, in fact obliged the Chinese to repay the aid supplied for the Chinese effort. Now, in the context of détente, there is even more reason for Kim to believe that if he does start anything he will have to finish it on his own.

Examined more closely, then, the threat to South Korea does not seem to be nearly so immediate as Park—to justify both his dictatorship and his demands for aid—would have us believe.

TOWARD A NEW POLICY IN KOREA

A new approach toward Korea should be guided by several primary American concerns.

Our dominant interest is in avoiding any disruption of our mutual security arrangement with Japan. It is not of vital importance to the United States to maintain any particular government in South Korea. But we do have an interest in avoiding a new Korean conflict that might escalate into an international confrontation which could endanger Japan. Such circumstances could arise, for example, as a consequence of our use of Japanese bases in a new Korean war. Indeed, we can expect that the Japanese would be sensitive to this danger, and that they would therefore resist the use of our bases there in a new Korean war. Therefore, U.S. policy should be to discourage military adventurism on the part of either the North or the South. And should war nevertheless occur, our main interest will be to isolate it and to prevent a great power confrontation.

That, along with an enhanced post-Vietnam understanding of the need to observe our own constitutional rules, gives rise to another interest—in restoring our freedom to make a deliberate, considered decision about any military involvement on behalf of South Korea. If fighting breaks out along the DMZ, both the Executive and the Congress must have sufficient time to determine whether, how, and to what extent the United States should become involved.

Finally, we have a growing interest in avoiding the damage to America's international posture—and to our own internal peace and self-respect—that comes from identifying with dictatorial regimes overseas. Our involvement with such governments can no longer be justified with vague invocations of national security; instead, the United States must seek to stand wherever we can for fundamental human rights and democratic ideals.

The Ford administration's policy toward Korea assumes an irreconcilable conflict among these objectives. It embraces some and rejects the rest. But I think all can, and must, be served, in the following way:

First, each step we take in Korea must be preceded by full and careful consultation with our Japanese ally. We should emphasize that our security relationship with Japan is different in kind from our relationship with Korea, and that cooperation with Japan will remain a major foreign policy interest in East Asia.

Second, we should move as rapidly as possible to redeploy our forces in Korea away from the demilitarized zone, and we should remove all tactical nuclear weapons from South Korea. Present troop deployments are needlessly provocative. They disserve the U.S. Constitution and the War Powers Act, and they allow President Park to hold our troops hostage for his own ends.

Third, we should begin a phased withdrawal of our forces from South Korea. They should be moved out as quickly as that can be accomplished without raising needless fears and dislocations in Japan. It is difficult to see any substantive reason why the withdrawal of our forces could not be completed within a few years at the most. Since the South has numerical superiority over the North in ground forces, there would be no military necessity for American infantry in Korea unless other outside forces—Chinese or Soviet—joined North Korea in an attack on the South. Neither country has troops in North Korea now, and there would be ample time for a United States response should that distant possibility come into being. Meanwhile, the most profound impact of our forces in South Korea is to encourage an adventurous attitude by President Park, and to stand as irrefutable physical evidence of our involvement with his repressive regime.

Fourth, the United States should be exceedingly cautious about supplying additional arms which Park could use in an offensive against the North. With respect to advanced air forces in particular, it is more prudent for the time being to leave open the prospect that if there is clear aggression from the North, we will supplement South Korea's ground defenses with U.S. support in the air.

Fifth, in the context of these steps, the United States should make a determined effort to involve the United Nations in preserving peace in Korea, not as a military force on behalf of either side, but as a neutral, stabilizing influence to help see that the armistice is observed by both sides. Such a role is clearly within the United Nations charter, and it is far more appropriate for the United Nations to assume it than for the United States to presume it. The best peacekeeping force along the DMZ would be one that was truly international, without involving the forces of any of the former combatants.

Sixth, the United States should restore, declare, and seek to implement our original policy after World War II—support for the peaceful reunification of the Korean peninsula and for Korean neutrality in the international sphere. Obviously, we cannot expect to impose reunification procedures upon two hostile regimes. With ultimate reunification as a common aim, however, we can seek an understanding among the Soviet Union, China, Japan, and the United States that Korea will not remain a source of possible confrontation among us. It is a fact of Korean history that the desire for a unified Korea has remained strong despite the Korean conflict of the 1950's. That historical force for reunification should be welcomed by the international community.

Seventh, these steps do not interfere with the United States-South Korea Mutual Security Treaty of 1954. But we should clarify its meaning. The treaty contains no requirement that U.S. Forces be stationed in Korea, nor does it oblige us to remain permanently committed to South Korea no matter what that country does. On the contrary, it explicitly provides that our constitutional processes will be observed in case of war, and that the treaty itself can be nullified upon 1 year's notice by either side.

Our relationship with Korea is demonstrably not of the kind which is so vital to our security that we are forced to ignore Park's offenses against basic human rights. Indeed, as he continues that trend, he is himself undoing both the moral and the practical grounds for our commitment. Therefore, we should place President Park on notice immediately that as far as we are concerned, the Mutual Security Treaty and our aid and support are predicated upon a South Korean government which is worthy of the respect of its own people.

Eighth, and finally, in pursuit of these aims the United States should be willing to undertake continuing direct discussions with officials of North Korea. I have no high hopes that such contacts would produce any significant change in the demeanor or posture of the North Korean Government. But I have even less hope for the practice of responding to governments we find distasteful by pretending they do not exist. It was self-defeating in China, in Cuba, and in Vietnam, and it is also self-defeating in Korea.

This course will return an American decision on war and peace to the American constitutional process. It will help to square our foreign policy in Asia with our ideals. We may not be able to effect the restoration of freedom in South Korea, and we may not be able to shape a future, unified Korean Government in the way we would like. But at least we can end the weakening of our own posture which comes from siding with a Korean despot.

Nearly every commentary on Korea these days suggests that while our policy may need adjustment, this, on the heels of Vietnam, is not the right time.

On the contrary, I think the time for realistic policy change is now.

CONCLUSION

Twelve years ago, in another August, in another election year, a small outbreak of violence in Asia became the occasion of a great commitment in Vietnam. The guns of that August should echo a warning. The mistake of that Congress should inspire prudence in this one. The escalation of that year should provide wisdom for this one.

Unless we see Korea in the cold light of reason instead of the blinding light of anger, if we march in lockstep with the past, acting out of habit rather than thought, then I fear that the first warning against Vietnam which I spoke in the Senate in 1963 will come back to haunt us in the Korea of the 1970's—that this "is a policy of moral debacle and military defeat * * *. The failure of our Vietnam policy should be a signal for every one of us in this Chamber to reexamine the roots of that policy. Part of those roots are here before us today."

Sadly, ominously, I do not have to change a word of that 13-year-old warning about Vietnam to talk about Korea today. We cannot relive the last decade, but we can learn from it. We cannot change the past, but we can save the future. That earlier August in that earlier election year should teach us to demand that the similarities stop here—that this time, following this moment of confrontation, we shall make peace rather than continue toward war.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I join the Senator in expressing concern about the situation in which the United States finds itself involved in South Korea.

The Senator is performing a great service in once again calling attention to the fact that we are here, as in so many other places, allied with a dictatorship against another dictatorship. There are all too many analogies in the situation in Korea to the situation that we formerly faced in Vietnam. The Senator performed a great service in the work he did in making the American people realize the tragedy of our course in Vietnam, and he did much to bring about an end to the American policy there.

There are grave dangers that the same thing can happen all over again in Korea if we do not somehow persuade the South Korean Government to modify its dictatorship and move toward democracy.

If we stay on, forever exposed as we

are to the whims of a war that can be started by either dictator, under present circumstances, we would be swept into that war without any opportunity to deliberate as to whether or not we want to be involved in that war. I believe that we must, as swiftly as we can, extricate ourselves from that situation, first of all by pulling back from the very exposed position we are in.

Second, I think we should serve notice that while we will do our best to enable South Korea to have the capacity to defend herself, we do not intend to stay there forever, subject to the whims of the dictatorship of South Korea. There must be some timetable for us to get out of there if the situation is not changed along the lines we have been discussing.

Mr. McGOVERN. Mr. President, I appreciate the Senator's observation, because it squares exactly with my own view.

I believe that any kind of pullback of American forces there would have to be done systematically. It would have to be done only after a careful consultation with the governments involved, including especially Japan, one of our major interests in the Pacific.

Certainly, there is no valid ground for arguing that American forces need to be right up against the line where these officers were recently killed. If there are forces along the line, they should be South Korean forces. As the Senator knows, they have an army that is considerably larger than the North Korean Army.

If, after a reexamination, it is felt that American forces still need to be involved in Korea, at least they could be pulled back to the base areas; and it seems to me that over a period of a few years they could be disengaged entirely from the ground in South Korea. We might find it in our interest and in theirs to maintain air coverage. We have large naval units in the area, as the Senator knows; and with an effective South Korean ground force, which we have armed and equipped and helped train, surely we should not be committed indefinitely to 35,000 or 40,000 American troops on the ground.

Mr. CRANSTON. I subscribe to every word and thought the Senator expressed in that response to my remarks.

Mr. McGOVERN. I appreciate the Senator's support.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana (Mr. BAYH) is recognized for not to exceed 15 minutes.

THE ENERGY POLICY RESEARCH PROJECT

Mr. BAYH. Mr. President, last month the distinguished Senator from Massachusetts (Mr. KENNEDY) called to the attention of the Senate the fact that the National Science Foundation has been funding research by the energy policy research project at the George Washington University without taking note that the research was receiving approximately equal funding from oil industry groups. The Senator from Massachusetts did a valuable service by raising this issue, and by wisely requesting the General Accounting Office to examine the NSF procedures concerning such grants and the use of the material generated by research funded, in part, by NSF.

I have now received additional materials concerning the operations of the energy policy research project, its sources of funding, and the activities of its director, William A. Johnson. These materials, which I shall discuss in a moment, raise serious questions regarding the validity of Dr. Johnson's research, the manner in which the energy policy research project's materials have been used, and the close ties between Dr. Johnson and Ford administration officials responsible for national energy policy. As I shall detail, this entire issue shows an elaborate web of cooperation between supposedly independent researchers and, on one hand, firms in the oil industry, and, on the other hand, the administration, which persists in adopting positions totally in concert with those of the oil industry.

Before going into the details of my investigation, I would like to set this issue in some perspective. For almost a year now, the issue of vertical divestiture of the oil industry, that is, divorcement of integrated companies along functional lines, has been before the Senate. Last October the Senate defeated by a narrow margin an amendment which would have required vertical divestiture. Since then the Subcommittee on Antitrust and Monopoly has held many days of hearings on a bill which I have introduced, along with several others, S. 2387, the Petroleum Industry Competition Act; the legislation was reported in April by the subcommittee and in June by the full Committee on the Judiciary.

While the Senate has been considering the issue of vertical divestiture the oil industry has waged an aggressive and costly campaign against the legislation. This campaign has involved millions of mailings to oil company employees, retirees, shareholders, and credit card holders. The industry has also taken its message to scores of civic groups, fraternal organizations and anybody else who would listen to the industry arguments. At the same time, the industry has maintained a highly effective public relations campaign, visiting newspaper offices from coast to coast and inundating the media with antidivestiture literature.

The efforts of the industry have borne fruit. Many antidivestiture editorials have appeared throughout the country, and those of us favoring divestiture have found it impossible to match the expensive media blitz of the industry.

In recent months, the industry has placed great stress in its antidivestiture efforts on the research of the Energy Policy Research project at the George Washington University. The research has been cited in Mobil Oil ads; it has been utilized by Exxon as well. Indeed, Dr. Johnson has been quoted as reporting that of the 9,000 copies of the vehemently antidivestiture report prepared by his group and published by the George Washington University, 2,000 copies were purchased by the American Petroleum Institute and 1,000 copies were purchased by Mobil.

Most regrettably, the antidivestiture report of the Energy Policy Research project, entitled "Competition in the Oil Industry," gives no evidence that the research was funded almost equally by the National Science Foundation and oil industry groups. Indeed, the report, on the back of the title page, does acknowledge:

> This paper was written, in part, under a grant by the National Science Foundation, Office of Energy R. & D. Policy.

The fact is that through August 31, 1976, the Energy Policy Research project had received $130,000 from NSF and $125,000 from the oil industry.

The lack of candor in acknowledging the almost equal sources of funding is attributable to Dr. Johnson himself. In April, he mailed copies of the report to Members of Congress with a cover letter that stated:

> For the past year and a half, the Project has been funded *primarily* by the National Science Foundation's Office of Energy Research and Development Policy. (Emphasis added.)

Obviously, Dr. Johnson would like to give his research the most independent aura he can manufacture so as to not dilute its effectiveness. But his bid for independence falls short of the mark. Not only are he and his study team almost as much in debt of the oil industry groups for funding as to the NSF, but also, Dr. Johnson is a former official of the Nixon administration Federal Energy Office who is well known for his strong opposition to Federal price and allocation controls, in addition to his zealous opposition to vertical divestiture.

Dr. Johnson is not an independent researcher. Rather, he is an individual whose research is designed to prove the validity of his strong philosophical beliefs; beliefs that are almost entirely supportive of the oil industry. Dr. Johnson is certainly entitled to those beliefs—I would protect his right in that regard—just as he has the right to conduct research designed to vindicate previously held positions.

But there must be serious questions raised regarding the manner in which the work of the energy policy research project is represented, as well as the propriety of Dr. Johnson's simultaneously accepting money from the oil industry and the Ford administration in addition to giving him tax dollars through the N.S.F.

Let me turn, if I may, to the specific issues that have come to my attention, and, I think, need to be known by the Senate and by the public generally.

SOURCES OF FUNDING

Is this truly a publicly financed research effort, looking without any preconceived ideas for the true answers that are needed in energy policy? Let us look at the record.

From September 1, 1974, through August 31, 1976, the energy policy research project received $130,000 from the National Science Foundation and $125,000 from oil industry groups. The $125,000 was contributed to the George Washington University by oil marketers through two separate accounts, and earmarked for the energy policy research project. The manner of contribution provided the donors with tax deductions for supporting Dr. Johnson's research, placing the Government in the position of indirectly increasing its subsidy of Dr. Johnson's work, and permitting Dr. Johnson's backers to ease significantly the financial pain of supporting research designed to foster their particular interest.

Because the oil firms are able to write off their contributions on their taxes, the taxpayers of this country are really financing most of both ends of this effort.

Of the $125,000, $85,000 was channeled through a grant to the George Washington University in the name of Sing Oil of Thomasville, Ga. Sing Oil guaranteed the grant and directly contributed $15,000 to Dr. Johnson, the remaining $70,000 having come from marketers who—like Sing Oil—share Dr. Johnson's strong opposition to divestiture and Government controls of the oil industry.

Support for the Sing Oil grant is generated largely by a group known as the Independent Oil Marketers Conference, which is committed to providing an additional $35,000 to the energy policy research project in the period of September 1, 1976, through August 31, 1977. The statement of the goals of the Independent Oil Marketers Conference, which I shall append to my statement as exhibit A, makes it clear that the conference shares fully the opposition of the major oil company to oil price controls, allocation of petroleum, entitlements designed to ease the cost squeeze on independent refiners, and divestiture. These are positions which the conference shares not only with the major oil companies, but with Dr. Johnson and with key officials in the Ford administration as well, including the President himself.

The remaining $40,000 of the $125,000 Dr. Johnson has received from the marketers comes from a group known as the Southern Caucus, a group of oil jobbers in the Southern States which have contributed, according to Dr. Johnson, "under essentially the same conditions as the Independent Oil Marketers Conference." This means that the contributors from the Southern Caucus have also secured tax deductions for their contributions by making their checks to the George Washington University with the understanding that the funds will be used by Dr. Johnson.

INFLUENCE ON GOVERNMENT DECISIONMAKING

While conducting his supposedly independent research, Dr. Johnson has worked to influence Government energy policy in several ways.

As he personally claimed in a letter to Robert McGinley, an official of the Independent Oil Marketers Conference, Dr. Johnson has labored vigorously against divestiture legislation. All the time he is conducting a study to try to find an "objective answer" to the impact of divestiture legislation he is lobbying in Congress against the legislation.

In his letter to Mr. McGinley, Dr. Johnson boldly and quite erroneously, took credit for modifications in the Petroleum Industry Competition Act when it was considered by the Antitrust and Monopoly Subcommittee.

In that same letter, which I will append to my statement as exhibit B, Dr. Johnson expressed his unhappiness with the Energy Policy and Conservation Act, and discussed his efforts to influence Government assessment of that act, at the same time, let me reiterate, that he is in charge of conducting a so-called objective study to try to determine the true impact of divestiture. To quote from Dr. Johnson's letter:

> Emphasis (by the Energy Policy Research Project) is also placed on an evaluation of the Energy Policy and Conservation Act, hopefully to provide an input into the Administration's analysis due to be completed by February 15, 1977. Incidentally, I know the person who is heading the interagency task force charged with making this evaluation, as well as several of his staff members. A week ago I talked with him about issues that might be covered in his report.

Needless to say Dr. Johnson was quick to point out the oil industry policy side of those matters that will be covered by this Government study.

Thus Dr. Johnson acknowledges dual efforts to influence energy policy in both the Congress and the executive branch. Regarding his efforts to influence the decisions reached here in the Congress, there is clear violation of the spirit, if not the letter, of prohibitions on lobbying by tax exempt groups. The letter of the law may not be violated. Since it is the George Washington University, and not the energy policy research project, that enjoys tax exempt status and entitles donors to tax deductions for their support of Dr. Johnson's research. But if the letter of the law has not been violated, its spirit has cleraly been abused, and I would suggest that George Washington University be very careful about continued association with this kind of relationship.

Regarding Dr. Johnson's avowed goal of influencing administration policy, that should be an easy task for him. This is because this year Dr. Johnson and an associate received $4,950 from the Treasury Department for what the associate acknowledged to a member of my staff was background work on divestiture statements of Gerald Parsky, Under Secretary of Treasury.

That the Treasury Department paid generously for the fruits of work jointly funded by the National Science Foundation and oil industry groups is a remarkable abuse of tax dollars—a remarkable conflict of interest.

The money received from the Treasury Department was listed by Dr. Johnson in a highly defensive letter sent this past June to the National Science Foundation when initial questions were raised regarding Dr. Johnson's financial support. I will include that letter in the RECORD as exhibit C following my statement.

Dr. Johnson's statement shows that during 1974, 1975 and first part of 1976 he personally received in "direct payments" more than $11,000 for "consulting, speeches, expert testimony, special projects, etc.," from major oil companies and oil industry groups in addition to the industry funding of the Energy Policy Research project. If that does not show a rather consistent degree of cameraderie between Mr. Johnson and the oil company groups, I do not know what else is needed.

USE OF PROJECT MATERIALS

As distasteful as the foregoing is, perhaps the most galling part of this story is the manner in which the antidivestiture publication of the Energy Policy Research project has been used.

As noted above there is nothing in the monograph, "Competition in the Oil Industry," published by the George Washington University to indicate that the research was funded almost equally by the oil industry and the NSF. This has resulted in the report being cited in the following ways:

Kevin Phillips, a syndicated columnist, referred to "a detailed George Washington University analysis funded by the National Science Foundation."

The St. Louis Globe Democrat referred, in an editorial, to "independent research of competition in the oil industry by a study team associated with George Washington University."

The New Haven, Conn., Register, cited the report as " a George Washington University study."

The Jefferson City, Mo., Post Tribune had an editorial reference to " a recent report by an independent research group, the Energy Policy Research project of the George Washington University."

And the Mobil Oil Corp. has used the conclusions of the report in a paid advertisement, offering to provide free copies of the report to the public.

As noted above Mobil purchased 1,000 of the 9,000 copies of the report that were printed, no doubt to fill the requests of those who read its advertisement. And the American Petroleum Institute found the report so supportive of its position that it bought 2,000 copies of the monograph.

It is nothing less than simple deceit to pass off this report to editorial writers and the public at large as an "independent" report.

Those of us who favor divestiture are prepared for an honest debate with divestiture opponents. But we have little recourse to deal with the deliberate misrepresentation of an antidivestiture report almost 50 percent funded by the oil industry and written by an individual who has personally collected thousands of dollars from major oil companies and additional thousands to do the antidivestiture work of the U.S. Treasury Department.

Mr. President, the question of vertical divestiture of the major integrated oil companies is a matter of utmost importance to the American people. The fact that there is not sufficient time to consider this legislation in the waning days of the 94th Congress does not lessen the importance of this issue, nor the fact that it will most certainly be before the 95th Congress early next year. But there is pitifully little hope for a fair and full debate on this issue if the oil industry and the Treasury Department choose to finance and to utilize without proper acknowledgement of its background the work of an individual who does not profess to objectivity and who personally sets the tone for the misrepresentation of his financing, as Dr. Johnson did in the letter accompanying the mailing of his antidivestiture publication to Members of Congress. That letter, in which Dr. Johnson claims that his project is "primarily" funded by the NSF is appended to my statement as exhibit D.

Fortunately there is ample time before the divestiture legislation is voted on next year to unleash the truth of the orchestrated campaign against that legislation. Two months ago I included in the Record a copy of an extensive Washington Star article on the costly and far-reaching public relations effort of the major oil companies to defeat the divestiture legislation.

Now we have the details of the manner in which the energy policy research project has been misused and misrepresented in the antidivestiture fight. I have little doubt that as the months pass we will have still more evidence of the insidious ways in which the industry and other divestiture opponents will work to stop divestiture. But I also have little doubt, Mr. President, that this issue will not go away, that those of us who understand the need for divestiture will press our case, and that, in the end, divestiture legislation will be enacted.

Mr. President, I ask unanimous consent that the exhibits to which I have referred may be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Exhibit A

The Goals of the Independent Oil Marketer's Conference

The Independent Oil Marketers' Conference believes that it is in the best interests of the Nation, as well as the oil industry to minimize government controls over pricing and distribution of oil and, in general, unnecessary government intervention in oil industry operations. This lessening of controls will, in turn, help to achieve four national objectives:

1. An increase in the production of crude oil and refined products.
2. Greater conservation in the use of petroleum.
3. A strengthening of the position of independent petroleum marketers in the industry.
4. Greater support for consumer interests over the long run.

At present, unrealistic price ceilings, the entitlements program, and other government regulations work contrary to the achievement of these objectives. These controls are discouraging domestic production and encouraging imports. They are discouraging conservation and encouraging unnecessary uses of oil. They are also hurting some independents who for various reasons beyond their control are actually being harmed by regulations that are supposed to protect their interests. Finally, these controls are contributing to long-run shortages of oil and higher prices for America's consumers.

It is the view of the Independent Oil Marketers' Conference that the oil industry is reasonably competitive and needs no more than normal government regulations to assure that it remains competitive. Because the industry is reasonably competitive, it is the view of the Independent Oil Marketers' Conference that a free market, subject only to regulations governing most other industries, is the best way of assuring that the industry continues to grow and to provide for its customers' needs.

The Independent Oil Marketers' Conference is also opposed to further extension of government into industry operations. In particular, it is opposed to unreasonable dealer day in court legislation which would lock in inefficient marketers and force consumers to pay higher prices for their oil.

It also questions the wisdom of divorcing producing, refining, transportation and marketing of oil. Such divorcement would be a retrograde step that will discourage investment in the industry. By creating large marketing firms from the integrated oil companies, it would probably lessen, not enhance, competition in the marketing sector of the industry.

Finally, it opposes possible efforts to nationalize any or all parts of the oil industry or to establish a National Energy Mobilization Board, Federal Oil Corporation, Energy Independence Administration, or any other government bodies that would attempt to augment or supplant the private sector.

Historically, the free market has assured adequate supplies of relatively low cost oil in the United States. The Government, by contrast, has brought about shortages and unnecessarily high costs for consumers. The Independent Oil Marketers' Conference urges retention of the free market and rejection of greater government involvement as a solution to the Nation's energy problem.

Exhibit B

The George Washington University,
Energy Policy Research Project
Washington, D.C., June 22, 1976.

Mr. Robert McGinley,
The SICO Company,
Mount Joy, Pa.

Dear Bob: Let me begin by thanking you and, through you, all the members of the Independent Oil Marketers' Conference for your support this year. In this letter I outline what the George Washington University's Energy Policy Research Project has accomplished and hopes to accomplish in the future.

I know you share my frustration over the extension of federal price allocation controls under the Energy Policy and Conservation Act, as well as the continued preoccupation by Congress with breaking up the major oil companies. Still, I believe we have had some successes this past year, particularly with respect to divestiture. Partly as the result of the marketers' testimony before the Senate Anti-Trust and Monopoly Subcommittee, the final draft of the divestiture bill dropped the separation of marketing from refining. Also, the Subcommittee staff report downplayed the notion that divestiture would bring lower costs and is generally supported by independent oilmen. Instead, it has emphasized what I believe to be a weaker and less convincing argument: that breaking up the major oil companies would break up OPEC. Perhaps partly for these reasons, the tide now appears to be running against divestiture; even the New York Times has come out in opposition. It now seems unlikely that the Senate will vote for divestiture. There is, in fact, high probability that the bill will not even be scheduled for a Senate floor vote.

Probably little will now be done by the Congress until after the election. Rather, the critical period will be early 1977. It now appears that horizontal divestiture may be considered by the new Congress. It is also possible that dealer day in court legislation and some restrictions on company-operated stations will also be debated. Perhaps most important, if there is a new President, he will be formulating a position on various energy issues, including antitrust actions, early in the new year. I think it is important that we continue to focus on these issues in order to help influence events.

Nor is the deregulation battle lost. Under the Energy Policy and Conservation Act the President has considerable latitude in changing and even eliminating price and allocation regulations even though this may require a fifteen day period of review by either House of Congress. Also under the Act, several assessments of the program are to be prepared by the Administration in 1977. One will analyze the entire controls program and must be submitted to the Congress by February 15, 1977. Another will examine the treatment of Alaskan crude oil. It must be submitted to the Congress by April 15. At the same time, a new President would also be formulating his policies with respect to price and allocation controls. Particularly if he is of the same party as the Congress, he may actually be able to move substantially toward deregulation under provisions of EPCA without encountering a Congressional veto.

Again, what we do may help to influence events. If we can build a scholarly case against the existing system of controls, we may be able to have an impact on Administration and Congressional deliberations.

For these reasons, the primary focus of our work this coming academic year will continue to be the various anti-trust proposals and the price and allocation controls. We have now published the monograph, *Competition in the Oil Industry*. We have also written and are about to publish two articles concerning the international and financial consequences of vertical divestiture. (All three papers have been or are about to be distributed to the members of the Independent Oil Marketers' Conference.) We plan to continue working on these issues during the coming months.

Perhaps more important, however, is completion of a booklength manuscript on price and allocation controls. This manuscript is now partially written. Finishing it will occupy much of our time during the remainder of this year. This manuscript discusses the origins of price and allocation controls, how they evolved over time, what they are supposed to accomplish, and how effective they have been. Emphasis is placed on contradictions between the controls and several objectives of the government, including greater energy self-sufficiency and protection of the interests of independent oil marketers. Emphasis is also placed on an evaluation of the Energy Policy and Conservation Act, hopefully to provide an input into the Administration's analysis due to be completed by February 15, 1977. Incidentally, I know the person who is heading the interagency task force charged with making this evaluation, as well as several of his staff members. A week ago I talked with him about issues that might be covered in his report.

I have attached a list of papers completed or about to be completed by our project during the past two years. In addition, we have written several memoranda in response to requests by various marketers, or groups of marketers, about particular issues. Among these have been short papers on the gasoline tilt, the distribution of the financial burden of the entitlements program among various classes of oil companies, and regional patterns of gasoline and fuel oil demand. We have also testified before three committees of Congress and have met from time to time with Congressmen during the past twelve months. Finally, Rick Messick and I have given many speeches to a variety of groups about U.S. energy policy, including several jobber organizations. For example, I am now scheduled to address the mid-western governors' Conference in Indianapolis in July and a consumers' conference in October. The subject: What divestiture would do to the American public.

There is much that we can do and hope to accomplish during the coming year. I still have faith that we can influence events for the betterment of our country and, for this reason, hope that the Independent Oil Marketers' Conference will continue its efforts to bring about greater sanity in federal energy policy.

Sincerely yours,

WILLIAM A. JOHNSON.

EXHIBIT C

THE GEORGE WASHINGTON UNIVERSITY,
Washington, D.C., June 21, 1976.
Mr. JAMES PLUMMER,
National Science Foundation,
Washington, D.C.

DEAR JIM: I am writing this letter to you because you have received several inquiries about the GWU Energy Policy Research Project from Congressional staff members. I think it is important to clear up any misunderstandings about the funding of our Project and, in particular, its funding from non-NSF sources. You have my permission to distribute copies of this letter to any interested Congresional staff members if you so choose.

As you know, I left the Federal Energy Office and the Treasury Department in June of 1974. During the summer of 1974 I took on several consulting jobs, some of them extending into the Fall and Winter. On August 1, 1974 I joined the GWU faculty and on September 1, 1974 my NSF grant began. Under the terms of this grant I was allowed to accept support from other sources. In fact, Paul Craig specifically suggested that I not commit myself 100 percent to the NSF in order to give me flexibility.

During the Summer of 1974, the Sing Oil Company of Thomasville, Georgia offered to augment our Project with an unconditional grant paid through the University. Subsequently, the Sing Oil grant was supplemented by additional grants, some as low as $100, from about fifty other oil marketing companies. All of these companies, like Sing Oil, are independent jobbers and dealers. I stress this point because I understand that there have been assertions by some Congressional staff members that these companies have been a "front" for major oil company support. To the contrary, none has represented, operated on behalf of or has otherwise had any ties, other than a customer relationship, with the major oil companies. This group of marketers has now been organized formally, has had several name changes, and currently calls itself the Independent Oil Marketers' Conference.

In 1975, a second group of marketers also contributed to the GWU Project under essentially the same conditions as the Independent Oil Marketers' Conference. This second group, the Southern Caucus, consists of seven state oil jobber organizations affiliated with the National Oil Jobbers Council—North Carolina, South Carolina, Georgia, Florida, Mississippi, Tennessee, and Louisiana. At least one, and possibly three, additional state organizations are expected to join the Southern Caucus this year. Like the fifty members of the Independent Oil Marketers' Conference, all 2,000 plus members of these state organizations are independent oilmen not affiliated, owned, operated or otherwise controlled by the major oil companies.

Both the Independent Oil Marketers' Conference and the Southern Caucus share a deep concern about U.S. regulatory policy, efforts to break up the oil industry, and other measures which supposedly help protect the independent segment of the industry. In the marketers' view, these policies are, in fact, harming the country and endangering the long-run competitive position of many independent oilmen. I share this concern and, for this reason, have had no objections to accepting their support.

In addition, as I have discussed with you from time to time, I have taken on consulting relationships, speaking commitments, and other part-time responsibilities with various other groups, including some major oil companies, during the last two years. About one-fifth of the amounts earned from these other sources were earned during the Summer of 1974, prior to the creation of the project and the beginning of the NSF grant. The work for these various groups consisted of talks to company personnel, consultations with company officers, participation in company seminars or other public forums, and the writing of several short papers on particular topics of mutual interest. In no case have I had a continuing relationship with a particular company, as I have had with the two groups of independent marketers. Parenthetically, all consulting fees from major oil companies were received prior to the current academic year.

Attached to this letter is a complete list of all the monies we have received either through the Project or directly since leaving the government. Of the $280,365 total, less than 2½ percent has come from major oil companies. My reason for pointing this out is that the basis for the most recent rash of Congressional complaints to the NSF about our work appears to be the Project's studies of divestiture, an action which would, of course, have its greatest impact on the major oil companies.

We hope next year to continue our work on price and allocation controls and the international implications of U.S. energy policy. However, I have come increasingly to despair of our getting adequate funding from the NSF. Indeed, because every time we write a report that is somewhat controversial, and contrary to the opinions of certain Congressional staff members, you and others at the NSF are cross-examined about our work and the Project's funding, I have come to question whether the ordeal is worth the bother for you, others at the NSF, and myself. For this reason, I am seriously considering terminating the Energy Policy Research Project when its current funding ends.

I hope this note will be sufficient to explain our past funding and future prospects to those who are interested. Your help and support for our work over the past year is deeply appreciated. I am truly sorry that it has generated so much trouble and inconvenience for you.

Sincerely yours,

WILLIAM A. JOHNSON.

Enclosure.

Sources of funding for William A. Johnson and the Energy Policy Research Project—1974 to present

Grants through the George Washington University (September 1, 1974 through August 31, 1976):	
National Science Foundation	$130,000
Sing Oil (Independent Oil Marketers' Conference)	85,000
Southern Caucus	40,000
Total	255,000
Direct payments for consulting, speeches, expert testimony, special projects, etc.:	
1974	
American Enterprise Institute*	1,500
University of Chicago*	1,500
University of Houston, Energy Institute*	1,500
Shell Oil Co.*	1,000
University of Michigan*	500
University of Houston, Energy Institute	1,000
General Electric	900
Pennsylvania Petroleum Marketers Association	500
American Petroleum Institute-National Oil Jobbers Council	500
Continental Oil Co	750
1975	
University of Houston, Energy Institute	1,740
Association of American Railroads	100
Florida Petroleum Marketers' Association	200
University of Virginia	100
Washington Journalism Center	150
South Carolina Oil Jobbers Association	400
Shell Oil Co	2,000
Villanova University	100
Gulf Oil Co	3,000
Louisiana Oil Marketers' Association	400
Losee and Carson, Attorneys at Law—Navajo Refining	2,000
Georgetown University, Center for Strategic and International Studies	125
1976	
U.S. Treasury Department (shared with R. E. Messick)	4,950
Broward Community College	150
American Petroleum Institute	550
Brookings Institution	250
Total	25,365
Grand total	280,365

* Payments prior to the start of NSF grant.

EXHIBIT D

THE GEORGE WASHINGTON UNIVERSITY,
Washington, D.C., April 28, 1976.

DEAR CONGRESSMAN: I would like to take this opportunity with the publication of the Energy Policy Research Project's first occasional paper to acquaint you with the Project and the work it is doing.

The Project is affiliated with the George Washington University. I am its director and also serve as a research professor in the University's Economic Department. For the past year and a half, the Project has been funded primarily by the National Science Foundation's Office of Energy Research and Development Policy.

Most of the Project's efforts have been devoted to the issues surrounding the Nation's short-term energy problems. Papers have been written, or are in the process of being written, on price controls on oil and natural gas, restrictions of the mining and burning of coal and the petrodollar problem. Work is also being done on the foreign policy implications of U.S. energy policy. Some of the papers will eventually be published in our series. All of them will be used as background material for a book we hope to have completed by next summer on U.S. energy policy.

I have enclosed a copy of the first paper in our series, *Competition in the Oil Industry*, for your review. It discusses the degree of competition in the oil industry and the wisdom of enacting various divestiture and other antitrust proposals. I hope you find it a useful discussion of the issues.

Sincerely,

WILLIAM A. JOHNSON,
Director.

THE NEED FOR A STRONG AND EFFECTIVE HOUSING PROGRAM

Mr. BIDEN. Mr. President, Congress and the American people have established as a national goal, a decent home and suitable living environment for all Americans.

The policies of the Nixon-Ford administration for the past 8 years may insure that we will never attain that goal.

A strong and effective housing program can provide decent, safe housing for all Americans.

A strong and effective housing program can create thousands of jobs.

A strong and effective housing program can provide shelter for those who need it most—the poor, and handicapped and the elderly.

A strong and effective housing program can provide that the average American attain one part of the American dream—to own a home.

For the past 8 years, our housing policy has been neither strong nor effective.

Our housing policy for the past 8 years can be summed up in three words—veto, impoundment, and mismanagement.

I think there are many in Congress familiar with the administration's record on housing could speak for hours on the subject.

However, because of our time constraints today, I want to discuss briefly the administration's policy of veto, impoundment and mismanagement in four areas of concern to me—housing for the elderly, housing as a job-creating device, rural housing, and fair housing.

In all of these areas, the administration has acted to thwart the will of Congress.

And that is one reason why there is so little respect for Government these days.

Sure, there is bureaucracy at HUD, but this bureaucracy is different.

The administration has made a conscious effort not to implement congressional programs and they have used the mechanism of redtape and delay to do it.

First, let us look at how the administration has failed to deal with housing for the elderly.

Congress revived the so-called section 202 program under which funds were made available for loans to construct housing for the elderly and handicapped.

What did the Ford administration do with this money—it refused to spend it—refused to spend it that is, until it realized that some of us would go to court and force them to spend it.

And what was the response—there were many more applications for funds than available money, but with no thanks to the administration.

Second, the administration has also failed to act on the twin goals of stimulating construction to provide jobs and in helping the middle-income person purchase a home.

In 1975, President Ford vetoed a bill which would have allowed a middle-income person to purchase a house with a mortgage subsidized at 6 percent.

It was estimated that this bill would have stimulated construction enough to create 800,000 new jobs—all at the relatively modest cost of $400 million.

It is and was one of the most expensive jobs programs we have got.

Yet the President vetoed the bill.

And then he comes back and has to sign bills creating public service jobs and extending unemployment and he blames Congress for that too.

And unemployment in the construction industry remains at a high level.

Third, mismanagement has characterized the administration's rural housing program.

The Farmers Home Administration has refused to change its system of allocation so that States which need money to make loans can get the money.

For instance, in my State of Delaware, our demand for rural housing loans exceeds the amount allocated by $3 million.

The State of New York, on the other hand has a supply of $25 million over demand.

Yet, on the most recent allocation of rural housing money, Farmers Home only awarded Delaware an additional $1 million, where New York, which could not spend the money it had, got an additional $8.2 million.

When our funds are allocated like that, something is wrong somewhere.

A fourth example of the administration's failure to enforce the laws on the books properly occurs in a critical area—fair housing.

Many of us who oppose busing have argued that one way to attack the problem is to break up housing patterns.

In other words, the Federal Government should act to break down barriers to equal housing.

And we passed a law to do just that, the Fair Housing Act of 1968.

Yet, how has this act been administered?

Very poorly, according to the Commission on Civil Rights.

The Banking Committee, under the able leadership of Senator PROXMIRE, held oversight hearings on this question.

And the answers we got back are shocking.

Civil rights enforcement is an extremely low priority at virtually all the agencies which are to monitor the law.

The regulatory agencies have not found a single case of racial discrimination—and do you know why?

Because they have not been looking for it.

For instance the Federal Deposit Insurance Corporation takes a position that it should not even issue regulations governing the law.

If I were President, I think one of my priorities would be in nominating people to these regulatory agencies people who would make civil rights enforcement a top priority.

Yet, what did President Ford do?

He nominated as Chairman of the Federal Home Loan Bank Board, a former crony in the House of Representatives whose record on civil rights was at best undistinguished.

And when I asked the nominee if civil rights enforcement would be a priority with him, all he would say is that he would uphold the law.

Mr. President, in this day and age of subtle discrimination, lipservice to the law is not enough. Fortunately, we rejected the nomination.

It all adds up, Mr. President, to the failure of this administration to formulate a coherent housing policy and, more importantly, the failure of the administration to implement the housing policy approved by Congress and the American people.

HOUSING

Mr. SPARKMAN. Mr. President, from the perspective of nearly 40 years in the Congress and 23 years as chairman of the Senate Subcommittee on Housing and Urban Affairs, I would like to add a few words to this discussion of the housing policy of the Nixon-Ford administration. My statement will be brief.

Brief, because I am saddened to say there has been no housing policy—no effective housing policy—for almost 4 years now. In January 1973, despite strong protests from the Congress, the President rejected the Nation's existing housing policy and shut down all housing assistance programs administered by the Department of Housing and Urban Development.

Since that time, HUD has been an agency in search of a program. Each year it has published housing goals and each year it has reported its failure to achieve them. It has reorganized its offices and has made countless changes in staff which have had serious consequences on its production efforts. Just last month it announced another major reorganization. A once proud and competent staff, both in the field and headquarters, has deen displaced and demoralized. A once effective housing program has been left in a shambles.

But I do not wish to dwell on the errors of the past, except as they can point to lessons for the future. I think there is a lesson to be learned. It is very simple. We need new leadership for the Nation. We need a new administration that is committed to carrying out an effective housing program.

We know that an effective housing program is badly needed today, not only to provide adequate shelter, but to help put more than half a million unemployed construction workers back to work. We need to return the housing and related manufacturing and service industries to good health, and to put an end to sharply rising rents and house prices that result from permitting resources to remain idle when needs are so great.

Mr. President, in the years between 1934, when the first Federal housing law was passed, and 1968 the Congress enacted a half dozen major housing acts. The most significant of them was the Housing Act of 1949 when the Congress established a national housing policy to provide every American with a decent house in a suitable living environment. We set annual goals for the production and rehabilitation of our housing stock. We created programs to carry out our goals: a low-rent public housing program, a homeownership assistance program, an elderly housing program, a rehabilitation loan program, a rental assistance program, a rural housing program, and others.

In the years before January 1973, our HUD housing programs had assisted in financing 1 million low-rent housing units, nearly 400,000 units for lower income home buyers, and 600,000 units for lower income renters in addition to the 11 million units for middle-income home buyers and nearly 1.7 million units for middle-income renters under the

FHA insurance programs. In the years 1970 and 1971 HUD-assisted starts and rehabilitation reached 400,000 units yearly. At times when mortgage credit was tight, HUD's housing programs played an important role in maintaining employment in the housing industry, and the Nation's momentum in achieving its housing goals.

But since 1973 HUD's housing record has been disastrous. As its housing assistance activities were curtailed, our record for achieving the housing goals declined to a point where we are now more than 50 percent below our target. The administration's "no-housing" policy during these 4 years, 1973–76, has deprived more than 1 million lower-income Americans of adequate housing. As mortgage interest rates climbed and more and more Americans were being priced out of the housing market, housing starts fell to record lows. Last year housing production in the United States reached the lowest level since the 1950's. The recent depression in the housing industry has deprived the Nation of more than 4 million badly needed residential units. It has cost at least 1 million workers their jobs. It has resulted in higher shelter costs at a time when family budgets are already severely strained.

I am particularly disturbed by the administration's mishandling of the homeownership assistance program, familiarly known as section 235. We have learned through the years that homeowner is the most satisfying and least expensive way to house most Americans. The homeownership assistance program was designed to provide help to aspiring home buyers who, except for the high mortgage interest charges of recent years, could afford to buy and to take care of their homes. The Congress anticipated that a homeownership program employing sound underwriting procedures, adequate counseling, and a flexible interest subsidy based on the ability to pay would enable millions of Americans to enjoy the benefits of owning a home. The Congress figured that such a program would more than pay for itself by reducing other Federal assistance measures.

But what the Congress could not anticipate was HUD's roller coaster administration of the program, the early collapse of HUD's management capacity, HUD's abandonment of the program in January 1973, and most recently, HUD's restrictive requirements placed on the program when it was reinstated last year. Because of these restrictions, only 307 section 235 units have been completed since the program was reinstated nearly a year ago. HUD's misadministration, together with Budget Office decisions to eliminate Federal spending for housing, has led to a serious setback for the cause of homeownership in the United States.

As a substitute for homeownership, HUD has come forth with its section 8 rental assistance program, one of the costliest programs ever conceived. The subsidy per year for a section 8 unit is $3,400 compared to an estimated $500 for a section 235 unit, and yet the administration insists on it. I realize we need rental units for most of the low-income families, but the housing needs for lower-income families and middle-income families can largely be met through homeownership.

I remain convinced that the Nation's most effective housing programs are those that assist families to become owners. With a firm commitment, effective administration, and selective counseling, we could go a long way toward meeting the 1949 housing goals through an effective homeownership assistance program.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

NONINVOLVEMENT IN SOUTHERN AFRICA AFFAIRS URGED

Mr. ALLEN. Mr. President, a news item appearing in this morning's Washington Post is of interest, and I ask unanimous consent that at the conclusion of my remarks this news item be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, this article contains an account of a statement issued on behalf of the Tanzanian Government saying that "Secretary of State Kissinger reached Africa tonight"—of course, that was some hours ago—"to be faced with a blunt Tanzanian statement asking the United States to declare that it will support the guerrilla freedom fighters in Rhodesia and Namibia—Southwest Africa—if diplomacy fails to bring quick black-majority rule."

Mr. President, when H.R. 14260, the foreign assistance bill, passed the Senate on last Friday, after having been held up for some weeks because of the threat to add to that bill money for Mozambique, all funds—and there were funds in the bill, some $3.5 million for Mozambique—for Mozambique were stricken from the bill, and an amendment that would have provided some $25 million for Mozambique and other African nations was not introduced, the reason being that Mozambique is a Communist nation with a dictatorship, with a police state, with prison camps, with all of the trappings of a Communist dictatorship, and it is serving as the staging ground for guerrilla activities and guerrilla and subversive and revolutionary activities aimed at the stable Government of Rhodesia.

Mr. President, this Senate has gone on record by the action on the foreign assistance bill as being opposed to any funds coming from the American taxpayer for Mozambique.

I am hopeful that Secretary Kissinger will not yield to the blandishments of these governments in southern Africa that seek a pledge from him as Secretary of State—and I say that I will not feel we are bound by any such pledge—but a pledge from him as Secretary of State that, if efforts to achieve a peaceful solution of the problems in southern Africa fail, then the United States will support revolutionary and guerrilla activities aimed at the overthrow of the Rhodesian Government and, of course, following that, the Government of South Africa.

Mr. President, I think one of the dangers of the Secretary of State's being at large over in Africa conferring with these African governments is that he might possibly yield to their demands that we pledge support of their revolutionary activities.

I was interested some months ago, as to Mozambique, that the Washington Post—in a rare instance when they supported any of my efforts—came out very strongly against aid to Mozambique, as being a Communist nation and as being a nation that was seeking by guerrilla and revolutionary activities to overthrow another government.

The situation is, of course, that this would lead the United States closer to involvement in the affairs of these governments in south Africa, get our own Nation involved in these quarrels, and gradually draw us into this conflict.

I certainly oppose any movement that would create a situation whereby we were supporting any effort to overthrow any government anywhere by violent means.

The United States is supposed to stand for peace throughout the world, for peaceful change in government, if there is to be a change. Certainly, we do not want to get maneuvered into the position where we are supporting efforts to overthrow a government that is stable, that has been our friend, and just yield it up to its rival neighbors and to forces within that state.

Mr. President, I state that, by the action of the Senate, the Senate looks with strong disapproval on any support by the United States of any guerrilla or revolutionary activities.

I am hopeful that the Secretary of State will not be drawn into any such controversy, that he will not yield to any such demands.

I am hopeful he will issue a strong rejection of this demand that has been made by this Government.

I feel that if they get the notion we are going to help them with arms and force, there is no chance for a peaceful solution—and if we are to work for anything, it certainly should be a peaceful solution.

I feel it is a mistake to become involved in any way in the affairs in southern Africa.

EXHIBIT 1

UNITED STATES URGED TO SUPPORT AFRICA REBELS

(By Murrey Marder)

DAR ES SALAAM, TANZANIA, Sept. 14.—Secretary of State Henry A. Kissinger reached Africa tonight to be faced with a blunt Tanzanian statement asking the United States to declare that it will support the guerrilla freedom fighters in Rhodesia and Namibia (Southwest Africa) if diplomacy fails to bring quick black-majority rule.

The unusual Tanzanian government declaration, six pages long and titled "Shuttle Diplomacy: A Positive and the Negative," is said to represent the combined views of the five black African presidents who held a summit conference here last week.

That conference coincided with the conclusion of Kissinger's talk in Zurich with South African Prime Minister John Vorster.

Today's statement expressed suspicion that Kissinger's attempts to induce Vorster to grant early independence to Namibia and to put pressure on Rhodesian Prime Minister Ian Smith to bow to black majority rule will end in "the intransigence of the racists."

The statement asked why, if the United States is sincere in its pledges to support freedom from colonialism in southern Africa, Washington cannot also say "that if a peaceable transfer of power is impossible" the United States "will be on the side of those who fight for freedom?"

Kissinger returning to Africa after his first visit in April, emphasized on his arrival here from Zurich that he launched his African shuttle diplomacy solely at the request of Tanzanian President Julius Nyerere and other black African leaders.

To counter the impression that he has intruded unasked into Africa's racial conflict, Kissinger said: "Every step that has brought us here has been carefully discussed with leaders in Africa and especially with the front-line presidents. Every step we will take in the future will be closely coordinated with the front-line presidents."

"The United States," said Kissinger, "wants nothing for itself except its interest in peace and economic and social progress." He added: "We will do what we are asked to do, we will do nothing that is not requested. . . ."

He was met by about a hundred demonstrators at the airport here chanting "Go Home" and carrying placards with slogans that included: "Down With Shuttle Diplomacy" and "No CIA."

The demonstrators, university students, arrived in two school buses. In this nation, tightly ruled by Nyerere, such events cannot occur without official acquiescence. The demonstrators later moved outside the Hotel Kilimanjaro, where Kissinger and his party are staying.

President Nyerere, whose meetings with Kissinger are to begin Wednesday morning, telephoned Kissinger at the hotel soon after his arrival to welcome him to Dar es Salaam.

The same mixture of point-counterpoint in the Tanzanian positions was reflected in the government statement that was issued about eight hours before Kissinger's arrival.

Publicly, the Tanzanian government has taken a more suspicious view of the Kissinger mission than it is conveying in private, according to American officials. Compared to its stiff public position during the past week, the government's statement on the Kissinger visit today was regarded by specialists as fairly moderate because it conceded some prospects for further diplomacy. The public position of Tanzania as well as Zambia in recent days has been that time has run out for diplomacy.

The summit conference of the Presidents of Tanzania, Mozambique, Zambia, Botswana and Angola last week ended with a public call for the intensification of guerrilla warfare, and make no mention of diplomacy.

Today's statement emphasized that all attempts by the black African leaders to negotiate with Vorster have failed. Now, however, it said, there are two new factors: the existence of a united Zimbabwe People's Army and declared American support for majority rule in Africa, along with America's power to apply political and economic pressure on "the enemies of freedom" in Africa.

On the negative side, the statement said, the United States is locked in a world power struggle against the Communist nations led by the Soviet Union and China. At the same time, the statement added, "the nationalist movement of Rhodesia and Namibia gets support from Communist countries" who provide them with "their arms and some of their training . . ."

The South African and Rhodesian objective, the statement charged, is to label all freedom fighters as Communists with the hope that the United States in the end will do the same. Therefore, the statement warned, it is in the interest of Vorster and Smith "to cooperate with America up to the point where their fundamental interests—the maintenance of their minority rule—is jeopardized."

There was no immediate comment from Kissinger on the statement. He is meeting tonight with Richard Samuel, counselor of the British embassy in Washington, who is coordinating British strategy on the scene with the United States. Before leaving Zurich this morning, Kissinger conferred by telephone with British Foreign Secretary Anthony Crossland on coordinating their diplomacy.

Kissinger also met tonight with his assistant secretary of state for Africa, William E. Schaufele, Jr. who has been taking soundings in black African capitals since the Kissinger-Vorster meeting.

Tanzania's Nyerere is the dominant figure on the black African side of the diplomatic jigsaw puzzle that Kissinger must piece together if his diplomacy is to have any hope of success.

Nyerere is determined that no foreign power will dictate terms to black Africa, although his socialist country relies considerably on aid from China—which Nyerere does not perceive as a threat.

When Kissinger made his first visit to Africa last April, Nyerere made it clear to him that black African nationalists will continue to rely on the Soviet Union and China for arms in the struggle for black rule in Rhodesia and Namibia.

The Chinese and the Soviets support rival factions in the Rhodesian guerrilla war. China backs the Zimbabwe African National Union (ZANU), while the Russians support the Zimbabwe African Peoples' Union (ZAPU). Paradoxically, the United States and the Soviet Union both favor the same leader in the complex Rhodesian nationailst rivalries: Joshua Nkomo, leader of ZAPU.

KOREA

Mr. MORGAN. Mr. President, earlier in the morning, the distinguished Senator from South Dakota made some comments with regard to the Government of South Korea and our possible presence there.

I find these kind of statements are being made with increasing frequency these days. They quite often are reported in the news media, that the administration of President Park in South Korea is repressive and that those who were recently tried there were not given a fair trial.

I do not know what the facts are with regard to these matters, Mr. President. But as I read and understand the Constitution of the United States, the Senate is given a very special role in the conduct of the foreign policy of the country.

As I read the Constitution, the President is charged with the conduct of foreign policy, with the advice and consent of the Senate.

That advice and consent, of course, being given through the approval of treaties and the appointment of Foreign Service officers, and in general, the appropriations required to offer foreign assistance and maintain military forces.

I foresee down the road shortly a serious debate in the Senate as to whether or not we should continue to maintain the presence of troops in South Korea.

I visited there earlier this year. I visited all across the country. I talked with President Park. I visited with the opposition leaders in the Parliament. I also visited with the editor of an opposition newspaper.

I found some of the opposition leaders outwardly critical of the administration of President Park, but at the same time, expressing their support and their concern on the need of the American troops in South Korea.

I do not know what the facts are and I do not know whether the Senate Committee on Foreign Affairs has the facts or not. But, Mr. President, when we debated this question of aid to Angola in the Senate earlier this year, there were no advocates in the Senate from the Foreign Affairs Committee, to my recollection, for the position advocated by the President of the United States.

Mr. GRIFFIN. Will the Senator yield just a moment for a correction?

Mr. MORGAN. I am delighted to yield.

Mr. GRIFFIN. This Senator is a member of the Foreign Relations Committee. I am sure that if the Senator from North Carolina will look back at the record he will find that I was a strong advocate of the position taken by the Secretary of State.

However, I do want to commend the Senator from North Carolina for the statement that he is making now. Although I have not heard all of it, I hope I will be able to associate myself with the points he is about to make.

Mr. MORGAN. I stand to be corrected.

The Senator was present and the Senator did participate in the debates. But even with his participation—and this is no reflection upon the distinguished Senator—when it came to a vote, I had a feeling of total inadequacy as to how to vote on that situation.

What I am saying, Mr. President, when this debate on South Korea comes—and it is coming—I hope that the Members of the Senate will have information on which they can base their vote and not on allegations or accusations which are either unsupported or the basis for which are not known to this Senate.

As I mentioned, as I traveled around South Korea I found generally an air of support for the policies of the United States there. I found an air of freedom there. It is true that they were not allowed to criticize the Government. But, however, I think we should say that the state of the country of South Korea approaches a state of war.

They are only 40 miles from the 38th Parallel where the North Koreans are.

The President's wife has been assassinated in the palace. A number of attempts have been made to assassinate the President. The North Koreans have been caught scaling the wall into the palace.

I am not making any defense, but I am saying this is a crucial issue, because once we withdraw troops from South Korea, where are we going?

Under the Shanghai Agreement, we have, more or less, given up Formosa. We are now renegotiating our bases in the Philippines. I find little hope or encouragement that we will be allowed to maintain any kind of adequate forces in the Philippines.

Through the years, we have insisted that Japan maintain a low profile with regard to weapons. If we leave South Korea, if we have no bases in the Philippines, will Japan then be forced to reach an accommodation with the nations there, and will we then really be forced to come home, as it has been so advocated?

I suggest, Mr. President, and I hope, that the leadership and the chairman of the Foreign Relations Committee establish a task force in this Senate now to make a thorough and full investigation of the conditions as exist in South Korea with regard to the oppression of the Park regime, the need for forces there, and what the future holds, so that when this debate—which is inevitable—comes, we will be able to vote, and have an informed vote.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. GRIFFIN. Is there any further time available, Mr. President?

The PRESIDING OFFICER. There is no further time available.

Mr. GRIFFIN. I ask unanimous consent that I may proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator may proceed for 3 minutes.

Mr. GRIFFIN. I commend the Senator from North Carolina for taking the floor and expressing a viewpoint which, it seems to me, is very important. I particularly welcome it coming from that side of the aisle. It would be extremely unfortunate if our policy toward Korea, or in the Pacific, were in any way to be drawn along partisan lines. I think there may be some hesitation on this side of the aisle to respond to a speech such as the one given by the Senator from South Dakota for the fear that the response would be interpreted as some type of partisan reaction.

There should be no partisan politics when it comes to the national security interests of the United States.

While the Senator from South Dakota is obviously entitled to his view, I must say I strongly subscribe to the concern which the Senator from North Carolina last expressed. While I know it is not the intention of those who advocate it, I am very concerned that to advocate at this time the withdrawal of our troops from Korea only escalates and increases the danger of war.

What must be considered by us is the reaction; what is the thought that goes through the minds of the leaders of North Korea when they read and hear press reports of speeches in this body or elsewhere in this country indicating or advocating the withdrawal of our forces in Korea?

Furthermore, the Senator from North Carolina has been to Korea and I have not. I have no evidence that the overwhelming majority of the people of South Korea want to be governed by the leaders of North Korea. In fact, everything I know is quite the opposite. Those who are quite concerned about majority rule, it seems to me, should be very careful about contributing to a situation that could actually take majority rule away from the people of South Korea if the North Korean leaders should have their way.

The PRESIDING OFFICER (Mr. BUMPERS). The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS PLACED UNDER SUBJECTS ON THE TABLE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the following bills be taken off General Orders and placed under Subjects on the Table:

Order No. 853, S. 2035, a bill to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes;

Order No. 863, S. 3422, a bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes;

Order No. 888, S. 713, a bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor;

Order No. 949, S. 2387, a bill to restore and promote competition in the petroleum industry, and for other purposes; and,

Order No. 1054, H.R. 8401, an act to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.

In doing so, the bills will still be alive and eligible, but I think it would be advisable, in view of the circumstances present, that this transfer, with Senate approval, be made.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

I transmit herewith the Annual Report of the Department of Transportation as required by the Department of Transportation Act of 1966, Public Law 89-670. This report has been prepared in accordance with Section 11 of the Act, and covers Fiscal Year 1975.

GERALD R. FORD.

THE WHITE HOUSE, *September 15, 1976.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:39 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House disagrees to the amendment of the Senate to the amendments of the House to the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JONES of Alabama, Mr. ROBERTS, Mr. WRIGHT, Mr. ROE, Mr. JOHNSON of California, Mr. ANDERSON of California, Mr. BREAUX, Mr. HARSHA, Mr. DON H. CLAUSEN, and Mr. CLEVELAND were appointed managers on the part of the House.

The message also announced that the House has passed the bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13958. An act to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes; and

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28, of the United States Code.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

ENERGY ACTIONS NOS. 6 AND 7 OF THE FEDERAL ENERGY ADMINISTRATION

Two letters from the Administrator of Federal Energy transmitting, pursuant to law, copies of two energy actions (1) No. 6, Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Price Regulations; and (2) No. 7, Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation Regulations (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Department of Agriculture for "Food Stamp Program" for the fiscal year 1977 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

WITHDRAWAL OF A REPORT BY THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service withdrawing the case of an order suspending deportation in case No. A17 547 448 (with an accompanying paper); to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

Senate Resolution 14 adopted by the Senate of the Commonwealth of Kentucky; to the Committee on Finance:

"SENATE RESOLUTION NO. 14

"A concurrent resolution calling on the United States Congress to exempt Kentucky teachers' retirement checks from federal income taxes which would provide for an improved retirement system

"Whereas, the financial security of the 10,803 teachers receiving benefits is now threatened by inflation and the rising cost of living; and

"Whereas, the exemption would increase monthly benefit payments which now average only three hundred and seven dollars per month; and

"Whereas, teachers being historically underpaid, salaries would be significantly enhanced by the exemption.

"Now, therefore, *Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein*:

"Section 1. That the Congress of the United States is hereby called upon to exempt Kentucky teachers' retirement checks from federal income taxes for the improvement of the teachers' retirement system.

"Sec. 2. That the Clerk be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress."

Senate Resolution No. 498 adopted by the Senate of the State of Michigan; to the Committee on Commerce:

"SENATE RESOLUTION NO. 498

"A resolution memorializing the Congress of the United States to restrict prime time television violence

"Whereas, The effect of television upon the attitudes and actions of citizens is well-known; and

"Whereas, We have seen a steady increase in the amount of violence being portrayed on television during prime viewing hours; and

"Whereas, The increase of violence on television is having, and will continue to have a negative effect upon our society and, particularly, our young people; and

"Whereas, The increase of violence on television symbolizes an attitude of irresponsibility on the part of the television broadcasting industry and certainly merits Congressional concern and action; now, therefore, be it

"Resolved by the Senate, That this legislative body hereby memorialize the Congress of the United States to take action to restrict prime time television violence; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, and to each member of the Michigan Congressional Delegation."

Senate Joint Resolutions 58 and 59, adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION NO. 58

"Whereas, Our older citizens receiving old-age, survivors, and disability insurance may not work and earn more than $2,760 per year, but there is no limit on the amount of retirement or other income they may receive; and

"Whereas, As a result older citizens without outside income are penalized for preferring to work and earn income in supplementing their social security income by the so-called 'earnings limitation'; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take such action as is necessary to repeal the social security 'earnings limitation' for those people over the age of 65; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"SENATE JOINT RESOLUTION NO. 59

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to authorize a reduction in the rate that the federal excise tax is imposed on motor vehicle fuel in California if it would enact legislation (a) to increase its motor vehicle fuel tax rate in an amount equal to the reduction and (b) to use that increase in its tax revenues for *projects in accordance with the provisions of California state law and the California Constitution, provided however, that allocation of such revenues to state highway projects shall be made first to* state highway projects included in the California Department of Transportation priority list, as of May 1, 1976, (1) to make state highways safer, (2) to make state highway route segments usable, (3) to close gaps of the planned state highway system, or (4) that constitute an integral part of community development or redevelopment projects; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Senate Joint Resolution No. 61 adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION NO. 61

"Whereas, In a world preoccupied with a myriad of other problems, the transcendent crises of our time, the threat of nuclear war and the annihilation of most of mankind, continue to worsen almost unnoticed; and

"Whereas, The nuclear arms race between the United States and the Soviet Union continues, for all practical purposes, virtually unchecked, in as much as in the past seven years, the number of deliverable warheads on strategic missiles on both sides has increased nearly fourfold and the so-called "cap" on nuclear weapons, established through the SALT talks, sets a new and higher ceiling on the number of weapons; and

"Whereas, France and China are major nuclear powers, yet have refused to sign the Treaty on the Non-Proliferation of Nuclear Weapons; and

"Whereas, Five other countries also sell nuclear materials and knowledge around the world: South Africa, Great Britain, Japan, Canada, and West Germany, and at least three others have the capability of becoming nuclear suppliers: The Netherlands, Italy, and Sweden; and

"Whereas, It is estimated that there will be power reactors operating in at least 30 countries within the next five years and the so-called nonweapon countries will have enough plutonium in the 1980's to produce 50 atomic bombs a week; and

"Whereas, A resolution currently before Congress calls for:

"(a) A 20% verifiable mutual reduction in the number of strategic nuclear delivery vehicles and the number of strategic missile launchers equipped with multiple independently targetable reentry vehicles;

"(b) A comprehensive agreement ending underground nuclear explosions under adequate verification;

"(c) A halt to transfer of nuclear fuel, technology, and equipment to any country which has not accepted the International Atomic Energy Safeguards on all its nuclear programs and which has not become a party to the Treaty on the Non-Proliferation of Nuclear Weapons, upon condition that all major nuclear suppliers agree to a similar halt on such transfers;

"(d) An agreement providing for the processing of all nuclear fuels, transferred from one country to another, in multinational regional nuclear fuel cycle centers which are protected by the strictest possible safeguards; and

"(e) A transfer of weapons grade materials from military to peaceful uses; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to support all efforts to bring nuclear weapons under control, reduce their numbers, and stop their spread; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Assembly Joint Resolution No. 67 adopted by the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION NO. 67

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that the Congress of the United States and the Department of Health, Education, and Welfare adopt the draft prototype

form developed by the National Task Force on Student Financial Aid Problems, with appropriate technical modifications, as the single document to be used for collecting data for need analysis for all federal student aid programs beginning in the 1976–77 processing year or as soon thereafter as feasible; and be it further

"*Resolved,* That the Department of Health, Education, and Welfare and the Office of Education make appropriate changes in the federal appropriations schedules and in their own administrative procedures to permit processing of the basic grant applications to begin by September 15th of each year and for announcements of the SSIG, SEOG, CWSP, and NDSL allocations to be made by November 1st of each year, provided that application deadlines for these programs are not moved up; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Department of Health, Education, and Welfare, and the United States Commissioner of Education."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

S. Res. 548. An original resolution authorizing additional expenditures by the Committee on Armed Services for routine purposes. Referred to the Committee on Rules and Administration.

By Mr. HARRY F. BYRD, from the Committee on Armed Services:

With an amendment:

H.R. 13549. An act to provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of the Home to collect a fee from the members of the Home; by appropriating nonjudicial forfeitures for support of the Home; and by increasing the deductions from pay of enlisted men and warrant officers (title amendment) (Rept. No. 94–1238).

By Mr. STONE, from the Committee on Agriculture and Forestry:

Without amendment:

S. 2440. A bill to amend section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes (Rept. No. 94–1239).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Armed Services:

H.R. 13958. An act to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON:

S. 3818. A bill to amend the Act to February 9, 1821, to restate the charter of the George Washington University. Referred to the Committee on the District of Columbia.

By Mr. MATHIAS (for himself and Mr. Beall):

S. 3819. A bill for the relief of Commander Edward White Rawlins, United States Navy (Retired). Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 3820. A bill to regulate commerce by requiring the labeling of aerosol containers. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON:

S. 3820. A bill to regulate commerce by requiring the labeling of aerosol containers. Referred to the Committee on Commerce.

Mr. PEARSON. Mr. President, today I would like to respond to the possible threat to the atmosphere's ozone layer posed by the continuing use of aerosols containing halocarbons and the resulting impact on public health and the environment. My response is in the form of legislation that would seek to inform the public of the possible effects resulting from the continuing use of such aerosols. The legislation would require manufacturers of aerosols to label their products containing halocarbons suspected of affecting the ozone layer.

Mr. President, I am introducing this bill this late in the session with the recognition that it will not be enacted in this Congress. However, I feel that it is important that the issue now be before the Senate and that hearings be held early in the next Congress.

Considerable scientific evidence now suggests that the release of 2.5 billion pounds of fluorocarbons into the atmosphere is slowly breaking down the stability of the ozone layer. This layer is essential in shielding the Earth's surface from the Sun's ultraviolet rays. This ozone layer decomposition carries with it the threat of cancer, the effects of radiation on the genetic chemicals of farm plants and animals, and the effect of increased amounts of heat to our atmosphere.

The process of decomposition is slow. Despite the seemingly large amount of fluorocarbons, it is estimated that the continued use at present levels for 2 years will reduce the ozone layer by only six-tenths of 1 percent. Sustained use over an extended period of time, however, may seriously jeopardize the stability of the ozone layer.

In the short term, prior to the imposition of an outright ban, there is time to gather the essential information about the impact of fluorocarbons without seriously endangering the environment of our health. This is a view held by the greater proportion of the scientific community.

I am in support of legislation providing for an intensive study of fluorocarbons. In addition, I feel there is more that needs to be done to alert the public about the potential dangers which may result to health and environment through continued use of aerosols.

The labeling requirement I have introduced would have this effect. By requiring manufacturers to label their aerosol products with a warning stating that halocarbons used as propellants in aerosol containers may be harmful to the environment and to health, the public would become more aware of the prevalence of halocarbons in such containers. At least the public would have the choice of using aerosol propellants containing halocarbons and industry would not suffer the economic dislocation caused by an immediate ban of the aerosol products.

The claims of ozone depletion cannot be called a sensationalist environmental ploy. The effects of a decomposition of our ozone are serious to us all. Once again we have been briefed of a problem before it reaches critical proportions. These problems need to be dealt with before the situation becomes irreversible.

I believe this legislation requiring manufacturers to label their aerosol products is a moderate approach that would serve to warn the public of the possible threats of using aerosols.

By Mr. HUGH SCOTT (for himself, Mr. Dole, and Mr. Mathias):

S.J. Res. 212. A joint resolution designating the third week of September of 1977 as "National Rehabilitation Week." Referred to the Committee on the Judiciary.

Mr. HUGH SCOTT. Mr. President, my distinguished colleagues in the Senate Mr. Dole and Mr. Mathias are joining me in introducing a resolution to designate the third week in September of 1977 as "National Rehabilitation Week." My interest in this resolution was prompted by Congressman McDade who has introduced this same bill in the House of Representatives.

Rehabilitation agencies have provided invaluable services to the physically and mentally handicapped, and it is my feeling that benefits can be derived by drawing public attention to self-help programs through a 1-week national observance.

In view of the tremendous contribution which these agencies have made to those in need, I should like to urge prompt consideration of this measure.

I ask unanimous consent that the resolution be printed at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 212

Whereas rehabilitation facilities and agencies offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of such rehabilitative services is to restore disabled individuals to their highest level of independence and thereby help them lead active lives; and

Whereas the majority of Americans are unaware of the limitless possibilities and the invaluableness of modern rehabilitation services and the availability of such services to the American public: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third week of September of 1977 is designated as "National Rehabilitation Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities and to avail themselves of the opportunity to learn about the types of rehabilitative services and the ways in which such services improve the quality of life.

(b) The Chief executives of the several States and of local governments are urged to issue proclamations similar to the proclamation described in subsection (a).

ADDITIONAL COSPONSOR

S. 3782

At the request of Mr. LEAHY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3782, relating to energy needs in rural areas.

SENATE RESOLUTION 546—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF S. 3800

(Referred to the Committee on the Budget.)

Mr. MANSFIELD submitted the following resolution:

S. RES. 546

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3800. Such waiver is necesary because a similar measure passed by the Senate on July 19, 1976, as an amendment to H.R. 366, was deleted by the Conference on H.R. 366 on September 10, 1976, after the House Committee on the Judiciary had ordered reported on September 9th a companion measure. The Senate has passed a Victims of Crime Act five times; therefore, in order to assure that the will of the Senate as previously expressed becomes law in the 94th Congress, a waiver with respect to S. 3800 is necessary so that the two Houses may go to Conference in the event of House passage of a companion measure.

SENATE RESOLUTION 547—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF S. 1302 AND H.R. 13555

(Referred to the Committee on the Budget.)

Mr. ROBERT C. BYRD (for Mr. WILLIAMS) submitted the following resolution:

S. RES. 547

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1302 and H.R. 13555. Such waiver is necessary because the disaster which occurred at the Scotia mine in March, 1976, precipitated an investigation which is still going forward; because of that investigation, timely reporting of S. 1302 and H.R. 13555 was delayed so as to include preliminary results of the Scotia study in Committee consideration of the measure.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from New Jersey (Mr. WILLIAMS), I submit a resolution relating to the consideration of S. 1302 and H.R. 13555, and I ask unanimous consent that it be referred to the Committee on the Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 548—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. STENNIS, from the Committee on Armed Services, reported the following resolution:

S. RES. 548

Resolved, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-Fourth Congress, $5,000 in addition to the amount, and for the same purpose specified in section 134(a) of the Legislative Reorganization Act of 1946, and S. Res. 88, Ninety-Fourth Congress, agreed to April 14, 1975.

AMENDMENTS SUBMITTED FOR PRINTING

EMERGENCY NATURAL GAS ACT AMENDMENTS OF 1976—S. 3422

AMENDMENT NO. 2300

(Ordered to be printed and to lie on the table.)

NATURAL GAS REGULATION AND REFORM

Mr. STEVENSON. Mr. President, the deadlock over natural gas pricing will be continued in this Congress by the Federal Power Commission's recent decision tripling the ceiling price for new natural gas and the plain inability to compromise a 25-year-old impasse in the few weeks remaining of this Congress. But there is one part of the impasse that cannot, and need not, be deferred.

Curtailments of firm contracts for deliveries of natural gas this year will increase almost 30 percent from last year's 2.8 trillion cubic feet to a projected 3.6 trillion cubic feet. Last year, due in part to warm weather and in part to lessened demand caused by the recession, we made it without major difficulties.

Now the economy is recovering somewhat. And after four warm winters, we face the possibility of a colder-than-average winter. This prospect of increased demand in the face of a 30-percent increase in curtailments could mean that some pipelines are forced to curtail their highest priority users during the coldest periods this winter.

That is why I do not believe the Congress can give up on all natural gas legislation this session.

Assuming an average winter, some pipelines are expected to experience firm curtailments as high as 50 percent of their supply.

Consequently, I wrote FPC Chairman Dunham, asking if he believed the FPC had the necessary authority to order allocations between pipelines in the event agreements between pipelines did not avoid curtailment of priority users.

Mr. President, I ask unanimous consent that my letter and Chairman Dunham's reply appear at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. STEVENSON. The Chairman indicates that the Commission's allocation authority over protesting pipelines is of questionable legality and goes on to suggest that in anticipation of a colder-than normal winter, the Commission would welcome and support enactment of standby emergency allocation authority.

Mr. President, today I am submitting with Senators STEVENS and HOLLINGS an amendment in the nature of a substitute to S. 3422, to authorize the FPC to issue regulations for standby emergency natural gas allocations as an insurance policy against the worst case supply situation this winter.

Last year, in anticipation of curtailments totaling 2.8 trillion cubic feet, the administration predicted serious layoffs and interruptions in residential supply. They never materialized. This year, with a projected 30-percent increase in curtailments, the FPC is saying that in the case of an average winter, we will probably experience no serious difficulties. But no one can say for certain what kind of winter it will be.

The authority we propose could be used only if needed. For the last 40 years emergency interconnection authority in the electric utility industry has been regarded as a reasonable exercise of the Government's responsibility to protect the public health, safety, and welfare. Essential users of natural gas deserve the same protection.

The amendment we are submitting continues to place foremost reliance on voluntary agreements between pipeline companies. The bill mandates the FPC to facilitate such voluntary agreements and to emphasize gas conservation. I have no desire to see such authority used except if made necessary by public emergencies.

Only if the Commission finds, despite efforts to encourage voluntary exchange agreements and conservation, that priority users on a given pipeline are faced with imminent curtailment, could it declare a natural gas supply emergency and implement the allocation regulations. That is all this amendment authorizes.

I have no desire to see well-managed pipelines and their customers, including those in my State, punished by the misfortunes and mistakes of others. Any pipeline ordered to supply gas to another pipeline would be compensated for such gas at a rate equal to the highest rate at which natural gas is sold by that pipeline, plus any other losses incurred by the pipeline—such as an increase in per-unit transportation costs as a result of less volume—plus any further amount which the Commission determines is necessary to compensate such company for replacement of the gas. These compensation features are designed to avoid penalizing the contributing pipeline or its customers for the emergency use of its gas. Furthermore, under no circumstance could allocations, if necessary, endanger priority users on a contributing pipeline. The amendment also requires the receiving pipeline to pay for any required interconnections.

The standby emergency allocation authority provided by this amendment expires next April, and the FPC is required to provide the Congress with a report on its operation by next July.

The passage of this amendment is dependent on the support of those who favor deregulation of natural gas prices and those who oppose the FPC's recent decision to triple the controlled ceiling price of natural gas. I hope that Senators on both sides of the pricing question will recognize the need for this limited, nonpricing legislation to prevent supply emergencies in the winter months ahead. Further action on pricing now is not possible and, in any event, would not enlarge supplies of natural gas in time for this winter.

The need to protect homeowners, small businesses and industrial users for whom there is no ready substitute for natural gas is a proposition on which all of us ought to agree.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2300

Strike all after the enacting clause and insert the following: That this Act may be cited as the "Emergency Natural Gas Act Amendments of 1976."

SEC. 2. Section 7(a) of the Natural Gas Act is amended by redesignating existing section 7(a) as section 7(a)(1) and adding the following new paragraph:

"(2)(A) Within 30 days after the date of enactment of the Emergency Natural Gas Act Amendments of 1976, the Commission shall promulgate regulations to authorize Standby Emergency Natural Gas Allocations. The regulations shall provide for emergency allocation of natural gas to natural gas companies transporting such gas in interstate commerce sufficient to continue natural gas deliveries to priority users. The regulations shall—

(i) provide for the identification of any such company projected to have insufficient supply to meet the requirements of its priority users, and any such company projected to have sufficient supply to meet the requirements of its priority users during the period from the date of enactment of this Act until April 1, 1977;

(ii) provide a method for compensating any such company making emergency deliveries pursuant to this paragraph at a rate determined by the Commission to be equal to the highest rate at which natural gas is sold for resale by such company and any other losses incurred by such company as a result of the operation of this paragraph, plus an amount, if any, to be determined by the Commission to provide compensation for such company for increased costs in obtaining replacement natural gas supplies; and

(iii) provide for direct or indirect mandatory interconnections or exchanges between such companies at the expense of those companies receiving emergency deliveries under this paragraph.

(B) Prior to any order implementing a Standby Emergency Natural Gas Allocation pursuant to this paragraph, the Commission shall—

(i) encourage and facilitate voluntary exchange agreements among natural-gas companies transporting natural gas in interstate commerce to assure continued natural-gas deliveries to priority users; and

(ii) direct any natural-gas company transporting natural gas in interstate commerce that is projected to be unable to supply the requirements of its priority users to undertake and implement all practicable natural-gas conservation efforts.

(C) If conservation efforts or voluntary exchange agreements are not sufficient to assure continued natural-gas deliveries to priority users served by any natural-gas company and a natural-gas supply emergency exists within the service area of such company as determined by the Commission in its discretion, the Commission shall by order implement a Standby Emergency Natural Gas Allocation. Such allocation may be implemented by the Commission for a period that does not extend beyond April 1, 1977, for the purpose of continuing deliveries of natural gas to priority users within such service area. To the extent that natural-gas supplies are required to assure continued deliveries to priority users, such natural-gas supplies shall be equitably obtained. No court shall have jurisdiction to grant any injunctive relief against the implementation of the regulation by the Commission pursuant to this paragraph.

(D)(i) The Commission may request such information from any federal agency or any person it determines to be necessary or appropriate to carry out its responsibilities under this paragraph. Any federal agency or any person (whether or not otherwise subject to the jurisdiction of the Commission) shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request;

(ii) As used in this Act, the term "priority user" means a residential or commercial user, hospital, any other person providing services or products vital to public health and safety, and any other person using natural gas for purposes other than boiler fuel for which there is no practicable substitute as determined by the Commission, regardless of whether or not such a person is purchasing natural gas under a firm or interruptible contract.

(iii) The Commission shall submit a report to the Congress by not later than July 1, 1977, which evaluates the operation of the Standby Emergency Gas Allocation Plan, analyzes the employment and economic impacts of conservation efforts, voluntary exchange agreements and implementation of the regulations and provides recommendations for renewal or amendment of the Emergency Natural Gas Act Amendments of 1976.

(E) Except for the requirements of subparagraph (D)(iii), the authority under this paragraph terminates on April 1, 1977.".

Amend the title so as to read: "A bill to regulate commerce by providing the Federal Power Commission limited emergency authority to alleviate natural gas shortages to priority interstate natural gas users until April 1, 1977."

U.S. SENATE,
Washington, D.C., September 13, 1976.

Hon. RICHARD L. DUNHAM,
Chairman, Federal Power Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: I am deeply concerned that according to the FPC's own figures, curtailments of firm commitments for deliveries of natural gas this coming year will increase 30 percent, from 2.8 trillion cubic feet to 3.6 trillion cubic feet. This increase takes on particular significance in view of last year's extremely mild winter and economic recession.

The spectre of a 30 percent curtailment increase in the face of a colder than normal winter and growing economic activity may cause some of the more severely short natural gas pipelines to curtail their highest priority users.

In view of this possibility, I would like to know whether the FPC has the clear authority to order interconnections between jurisdictional pipelines for the purpose of allocating natural gas supplies should such pipelines resist an FPC request to so allocate.

I would also like to know whether, under the circumstances presented by a colder than average winter, the FPC would find limited, 6-month standby emergency allocation authority desirable for the purpose of maintaining supply to priority users on gas-short pipelines should voluntary agreements between pipelines prove insufficient, and whether the FPC would support enactment of such legislation.

Given the lateness of this session, your prompt response is appreciated.

Sincerely,
ADLAI E. STEVENSON.

FEDERAL POWER COMMISSION,
Washington, D.C., September 13, 1976.

Hon. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: This is in response to your letter to me of this date concerning the FPC position on the need for emergency standby legislation to order interconnections.

It is a matter of considerable legal debate whether or not the FPC now has emergency allocation authority, particularly where a threat to life and property is involved. Our authority has never been tested in a non-war situation or general mobilization period; therefore, the extent or limitation on our authority is certainly unclear.

Under the conditions that you state in your letter, a colder than average winter, and for highest priority users, the Federal Power Commission would strongly support legislation clearly granting such authority on a six-month standby basis.

As you point out in your letter, the primary circumstances under which such authority would be needed are impossible to predict for this coming winter heating season. If extraordinary or unforeseen shortages should occur, which we do not now predict, it would seem to us to be eminently desirable to have a clear legal framework if most serious shortages should develop.

We would, of course, be most interested in commenting on the specific provisions and definitions used in any proposed legislation.

Sincerely yours,
RICHARD L. DUNHAM,
Chairman.

INVESTMENT ADVISERS ACT AMENDMENTS OF 1976—S. 2849

AMENDMENT NO. 2301

(Ordered to be printed and to lie on the table.)

Mr. ALLEN. Mr. President, I submit an amendment to S. 2849 for printing. This amendment strikes section 208(e)(4) appearing on page 9. Business, especially small business, has enough burdens and costs inflicted on it by the Federal bureaucracy. These costs, of course, are only passed on to the consumer. If the SEC insists on imposing forms, examinations, and other paperwork on investment advisers, then the SEC ought to bear the cost. Perhaps this might serve as an inducement for the SEC to keep the costs down.

The big investment adviser firms will probably be exempt from examination under sections 2(e)(1) and 2(e)(2) of this legislation. Therefore, they will not have to pay for the examinations, and other paperwork. It is the small, nonestablishment investment adviser that will end up supporting this special interest legislation.

AMENDMENT NO. 2302

(Ordered to be printed and to lie on the table.)

Mr. METCALF submitted an amendment intended to be proposed by him to the bill (S. 2849) to amend the Investment Advisers Act of 1940 to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers, and for other purposes.

AMENDMENTS NOS. 2303, 2304, 2305

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill (S. 2849), supra.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENTS NOS. 2306 AND 2307

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

AMENDMENTS NOS. 2308 THROUGH 2314

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted seven amendments intended to be proposed by him to the bill (S. 1302), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ALCOHOLISM AND NARCOTICS OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. HATHAWAY. Mr. President, last week marked the 56th anniversary of the 19th amendment to the Constitution, which stated that the right to vote cannot be denied or abridged on account of sex. Since that time women have made great strides toward social and economic equality. Women comprise one-third of our work force, and increasingly they are finding their way into professional, managerial, and skilled trade positions.

Progress, however, has not been uniform in all social and legal areas. Many women are still discriminated against and denied needed opportunities or services in several such areas. One group that appears to remain particularly vulnerable and underserved by current Federal programs is the female alcoholic.

Women are thought to comprise between 40 and 50 percent of the nearly 10 million alcoholics in America today. This is a far more serious level of alcoholism than was previously thought to exist among women, but it seems to be due more to better recordkeeping and epidemiological techniques than to any actual increase in incidence.

The female alcoholic is more likely to require research and treatment geared to her special needs than is the woman who has other health problems. Unfortunately, it is in this health field that those needs seem to be least adequately addressed. Almost alone among major health programs in America today, alcoholism and other substance abuse treatment seems to retain a male-oriented bias more suitable to medieval Europe then to 20th century America.

For that reason, the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare, which I chair, will commence hearings on "the Female Alcoholic: Special Problems and Unmet Needs," on the morning of September 29, 1976, in room 4232 of the Dirksen Senate Office Building.

This hearing is intended to be part of a series of hearings on populations underserved by current Federal substance abuse programs, which began early this summer wtih a hearing on the special problems of the elderly. Testimony will be heard, and information sought, in this hearing from female alcoholics who have sought or received treatment for their problem; experts in current research on such concerns as the effects of alcohol on pregnant women, the combined use of alcohol and other legal and illegal drugs, and other special research needs in this area; and Federal Administrator from the National Institute on Alcohol Abuse and Alcoholism. Persons interested in submitting testimony should contact the subcommittee, in room A-605, Senate annex III, 119 D Street NE., Washington, D.C. 20510. The phone number is 202-224-8386.

ENVIRONMENT AND LAND RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. HASKELL. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Environment and Land Resources Subcommittee of the Senate Interior Committee.

The hearing is scheduled for September 24 beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding several bills which are presently before the subcommittee. The measures are first, S. 2708—a bill to designate the "Tom Fitzpatrick" wilderness in Wyoming; second, S. 3613—a bill to designate a segment of the Obed River, Tenn., as a component of the National Wild and Scenic Rivers System; and third, S. 3788—a bill to designate a segment of the Flathead River, Mont., as a component of the National Wild and Scenic Rivers System.

Mr. President, each of these areas have been included in omnibus wild and scenic river or wilderness legislation which has been reported from the House Interior Committee. This hearing should be held before the Senate makes a final determination regarding the House bills.

For further information regarding the hearing you may wish to contact Mr. Thomas Williams of the subcommittee staff on extension 4-9894. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Environment and Land Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

September 16.—House-Senate conference, 10 a.m., room 3110, S. 521, Outer Continental Shelf Lands Act Amendments.

September 17.—Environment and Land Resources Subcommittee, 10 a.m., room 3110, business meeting to consider report on Forest Service preparation of East River Unit Plan.

September 20.—Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing S. 1083, S. 3078, S. 1095, S. 1089, S. 1075, to designate certain lands as wilderness.

September 21.—Joint hearing—Commerce and Interior, 10 a.m., room 3110, hearing, oversight hearing on west coast crude oil surplus.

September 22.—Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

September 23.—Full committee, 10 a.m., room 3110, business meeting pending calendar business.

September 24.—Environment and Land Resources Subcommittee, 10 a.m., room 3110, hearing S. 3613, to include Obed River in Wild and Scenic River System; S. 2708, Tom Fitzpatrick wilderness; S. 3788, to include Flathead River in Wild and Scenic River System.

September 28.—Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, oversight hearing on ERDA long-range plan.

ADDITIONAL STATEMENTS

DIET AND CANCER

Mr. McGOVERN. Mr. President, on July 27 and 28, the Select Committee on Nutrition and Human Needs held hearings on the relationship between diet and the various killer diseases. The hearing on July 28 focused specifically on cancer and diet. Cancer is second only to heart disease as a leading cause of death in the United States, and strong preliminary evidence suggests that nutritional imbalances in the diet contribute to cancer in at least 30 percent of the cases involving men and 50 percent of the cases involving women. For example, the witnesses testified that positive correlations have been found between high fat consumption and breat cancer and colon cancer.

On September 9, at a conference on the origins of human cancer, an Australian scientist reported that women on diets rich in animal fats apparently increase their chances of developing womb cancer. Because these new research findings are germane to our hearing of July 28, and because incidence of cancer of the lining of the uterus of U.S. women was found in a 1975 survey to be the highest among 23 countries, I ask unanimous consent that the report of these new research findings be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FAT INTAKE SEEN INCREASING CANCER RISK

(By Morton Mintz)

COLD SPRING HARBOR, N.Y., Sept. 9.—Women on diets rich in animal fats apparently increase their chances of developing womb cancer, an Australian scientist reported today.

The report is of particular concern to women in the United States, where the incidence of cancer of the lining of the uterus (endometrium) was found in a 1975 survey to be the highest among 23 countries. Daily fat consumption per person in the United States ranks fourth, according to the survey.

In a report praised as "beautiful" and "excellent" by scientists attending a conference at the Cold Spring Harbor Laboratory on the origins of human cancer, Dr. Bruce K. Armstrong of Perth Medical Centre said that "a common mechanism" may explain five "constitutional" factors tied to a high individual risk of endometrial cancer.

The factors are obesity, early onset of puberty, late onset of menopause, onset of a mild case of diabetes, and high blood pressure.

The "common mechanism" appears to be an intake of excessive fat that becomes fatty tissue which produces estrogens, Armstrong said. Such tissue was found in 1972 to be probably an important site for estrogen production.

Armstrong said the excess estrogens either caused endometrial cancer directly, or facilitated the action of other cancer-causing agents, or carcinogens.

Armstrong cited recent studies showing a rate of endometrial cancer five to 14 times higher in post-menopausal women taking estrogen pills for at least six months than in non-user counterparts.

This year, the American Cancer Society estimates, 3,300 American women will die of endometrial cancer, while 27,000 new cases will develop.

Armstrong also cited studies showing a close correlation between endometrial cancer and breast cancer and colon cancer, both of which are suspected of having a cause-effect relationship with fat consumption.

Some of Armstrong's key findings concerned Seventh-Day Adventist women, about half of whom are vegetarians. Among all Seventh-Day Adventist women, according to a 1975 study, the death rate from endometrial cancer is about 40 per cent under that for women generally.

Armstrong disclosed unpublished reports of a study done by himself and others in a town in Western Australia of the menopausal status of 224 Seventh-Day Adventist women who were vegetarians. Matched against them were 184 controls who were not vegetarians.

Among the vegetarians, 69.7 per cent were menopausal by age 50, compared with only 34.8 per cent among the meat-eaters. By age 55, the rates were 86.4 per cent for the vegetarians, and 70.6 per cent for the non-vegetarians.

Moreover, Armstrong said, the vegetarians had significantly lower blood pressure than the non-vegetarians. This finding is consistent with a 1975 study showing that a diet low in animal or saturated fats tends to lessen hypertension.

Armstrong also cited studies dating back to 1958 linking obesity to endometrial cancer, but emphasized a 1973 report which suggested that dietary fat plays a larger role than sugars and starch in causing the disease.

The onset of puberty is partly controlled by dietary factors, according to evidence reported in 1972 and 1976. A 1975 study cited by Armstrong suggested that the age at menarche is influenced more by dietary fat than by total dietary calories.

A positive association between mild adult diabetes and total food intake was reported in 1972, and between the onset of diabetes and obesity in 1975.

In addition to the five "constitutional" factors, other conditions associated with endometrial cancer include previous breast or ovarian cancer, exposure to radiation and a particular glandular disorder.

In the 1975 survey of 23 countries, the rate of endometrial cancer in women in the United States was found to be about 34 per cent 100,000 per year. The lowest rates, about five per 100,000, were found in Japan and Nigeria. The per person daily consumption of fat was listed at about 150 grams in the United States, compared with about 40 in Japan and Nigeria. The countries in which fat consumption was higher, by a small amount, than in the United States were Denmark, New Zealand and Holland.

FORESTRY MANAGEMENT

Mr. STEVENS. Mr. President, as Senators know, the Senate has recently addressed the problem of forestry management in S. 3091. It is extremely important that a bill dealing with this subject gets passed into law this year.

I have recently been contacted by Mr. Robert Urata, president of the Wrangell Joint Central Labor Council of Wrangell, Alaska. His statement, given before the Senate Forestry Subcommittee hearing in Juneau, Alaska, on August 18, 1976, expresses very well the feelings of many Alaskans.

Mr. President, I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF THE WRANGELL JOINT CENTRAL LABOR COUNCIL, WRANGELL, ALASKA

This organization was recently formed for the primary purpose of solving labor's (people) problems in the political, economical, and cultural fields and, in addition, because of the recent trend and mood of the Nation to include environmental, conservational, and ethical values to improve the social well-being of individuals, cities, State, and Nation, resulting in good living for all to eternity.

We would like to read the following resolution for your records:

Whereas this country, the United States of America, is a government primarily controlled and governed by laws made by the U.S. Congress, and,

Whereas laws made years ago are not applicable to the constant changing trend of times, and, many of them being considered out of date, and

Whereas one of the laws, the Organic Act of 1897, is about to drastically change the social well-being of the people residing in the Tongass National Forest and could be detrimental for the majority concerned, and,

Now be it resolved that our Congressman and responsible heads of Government take every effort to make necessary changes in the act as related to the timber industry, as follows:

1. Leave the management of the forest to the professionals.
2. Approve Multiple Use and the Sustained Yield principles by coordinating other peoples interest needs in attaining these goals.
3. Treat each regional forest as a separate entity.
4. Approve Program VIII of the Forest Service RPA Act of 1974.

Be it further resolved that in the event the above is not approved that Alaska be exempted from the Act for a two year moratorium to make a complete study of the problems involved and enact a responsible law that will be fair to all and meet the needs of all the people, the economy and the country. Endorsed by: Local 87 International Longshoremen & Warehousemen Union, Local 1341 United Paperworkers International Union, Local 2362 Lumber Production and Industrial Workers Union AFL–CIO.

To describe the Tongass National Forest as concerns only the timber, we can divide it into two parts. The Commercial forest lands as one and the Non-Commercial Lands, which consist of sub-marginal timber land, muskegs, rock and snow and ice fields, as two. It is estimated that the Commercial forest land consists of 35% of the total area, thus making it approximately 5.6 million acres of the total 16 million acres. The Non-Commercial land balance is 65% or 10.4 million acres.

In support of the resolution we have the following information:

A breakdown proposal of the Tongass National Forest (TNF) distribution of the 16 million acres after deducting 2.5 million acres for Glacier Bay National Monument is as follows:

Net Total Acres of TNF	16,000,000
Withdrawals (Proposed)	
Less: SEACC	−7,200,000
Net Balance	8,800,000
Noncommercial Forest Land 65 percent	−5,720,000
Balance Commercial Forest Land 35 percent	3,080,000
Less: Other Withdrawals (Probably Select CFL)	
Sea-Alaska Native Corp	200,000
S.E. Alaska Native Villages	230,000
State of Alaska Selection	400,000
Current Logged Areas (not ready for rotation)	300,000
	−1,130,000
Net Acres CFL for present economy	1,950,000

In regards to current Native land claims, i.e., Sea Alaska Native Corporation and the eleven native villages, totalling 430,000 acres, there is no doubt in our minds that they will select their acreages in only the Commercial forest lands. If this is the case, then their 430,000 acres can be extended to 1,230,000 by employing the above percentages CFL and Non-CFL. The State claim for 400,000 acres could be extended similarly, adding 740,000 acres of Non-CFL, thus totalling 1,140,000.

With any great amount of withdrawals in the Commercial forest lands, it is believed that this would greatly upset the sustained yield basis of the Forest Service and thus reduce the healthy timber economy that is very much needed in this area. Increased Food Stamps, welfare, and unemployment is not desired by 95% of the people living in the area as long as we can maintain our industry as is.

Another thought is the physical state of the TNF. Presently, the increment of decay exceeds the increment of growth. In fact, we have a dying over-ripe forest. If we desire to give something to our future generations we could burn down the forests and in one hundred years a healthier and more productive forest will return; Similar to Oregon's Tillamook Burn! Another and more sane method is to harvest the timber as presently done with sensible changes instead of locking up 50% of the area and losing valuable timber which will be a loss to all.

Available records of Log Scale sheets reveal that there is presently about 24% defect and cull logs in logs produced. In the future, this will be increased because of the current total area logging which is a method of logging the marginal timber with the best. In addition to the above figure, several percent can be added for the chunks, tops and rotten pieces that are left for decay in the woods.

Today, current logging practices have improved tremendously. Great strides are being made to improve for the fisheries, wildlife, water, scenic values, such as landscape logging, community development and social well-being of people, besides keeping up a healthy economy in the area.

In conclusion, our group desires that your committee consider the foregoing information which is submitted to the best of our knowledge and belief. We understand that conflicting pressures from self interest groups, in most cases the minority, must be reconciled. Please evaluate and give every consideration to balance the economy with ecology and conservation, in proportion to the needs of the people. We believe that all interest can be compatible and your committee can help solve the problem so that we can reduce the anxiety of losing our jobs and have complete harmony and faith in this nation.

Gentlemen, thank you for your time and we request that you make this testimony a part of the Congressional Records.

R. Urata, *President*.

TRIBUTE TO SENATOR STUART SYMINGTON

Mr. FONG. Mr. President, today I salute one of our best-known and most distinguished colleagues, Stuart Symington, the senior Senator from Missouri, who retires next January after 24 years as a Member of this august body.

Few members have come to the U.S. Senate with a broader range of experience in both business and Government. Prior to his election in 1952, Stuart Symington already had attained a brilliant career in business, where he gained fame as one who took over ailing firms and turned them around to become successful and flourishing enterprises. Just prior to entering Government service, in 1945, Symington was president of the Emerson Electric Manufacturing Co. of St. Louis.

He first entered Government service as chairman of the Surplus Property Board, and because of his ability and insight, was chosen to be the Nation's first Secretary of the Air Force when it was established as a separate service under the—military—Unification Act, which he, incidently, helped get through Congress. He subsequently served as chairman of the National Securities Resources Board, then later as administrator of the Reconstruction Finance Corp.

The high regard with which he was held all during his years with the executive branch of the Government is reflected in the fact that he was approved by the Senate six times for high Federal office without a single dissenting vote from either the Democrats or Republicans.

In addition to the wide and varied experience Stuart Symington brought the U.S. Senate 24 years ago, the Senator soon demonstrated his capacity to acquire fresh knowledge and growth. Here in the Senate, he has exercised leadership through his service on the Committees on Armed Services, Foreign Relations, and Aeronautical and Space Sciences. His position on some major issues facing the Nation has changed during his years as a Senator, but as he has put it in his own words, "it isn't that you switch; it's that you learn."

I have known Stuart Symington since my arrival in Washington in 1959, as one of the two statehood Senators from Hawaii. As we both retire from the U.S. Senate at the end of the 94th Congress, I take this opportunity to state that it has been a privilege indeed to have served with such an honorable and worthy man.

On behalf of my wife and myself, I wish Stuart Symington abundant good health and happiness in his retirement. Aloha.

RULES OF PROCEDURE, SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, in accordance with the provisions of the Legislative Reorganization Act of 1970, I now submit for publication in the Record the rules of procedure of the Select Committee on Intelligence. These rules were adopted by the members of the select committee on June 23, 1976, and were amended on July 28, 1976. I ask unanimous consent that they be printed in the Record.

There being no objection, the rules were ordered to be printed in the Record, as follows:

Rules of Procedure

RULE 1. CONVENING OF MEETINGS

1.1 The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be on Wednesday of each week, unless otherwise directed by the Chairman.

1.2 The Chairman shall have authority, upon proper notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3 A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4 In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5 If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1 Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2 It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3 The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4 Except as otherwise provided in these Rules, decisions of the Committee shall be by majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of eight Committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5 A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6 Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1 No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2 In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3 A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

RULE 5. NOMINATIONS

5.1 Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2 Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3 Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4 No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5 The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the Committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or by designated Committee staff members.

RULE 7. SUBPENAS

Subpenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman, Vice Chairman or member issuing the subpenas. Each subpena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2nd Session.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 *Notice.*—Witnesses required to appear before the Committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2 *Oath or Affirmation.*—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 *Interrogation.*—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, Vice Chairman, or the presiding member.

8.4 *Counsel for the Witness.*—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his appearance before the Committee the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 *Statements by Witnesses.*—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his appearance before the Committee.

8.6 *Objections and Rulings.*—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the chair.

8.7 *Inspection and Correction.*—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his expense.

8.8 *Requests to Testify.*—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a Committee member or a member of the Committee staff may tend to affect adversely his reputation, may request to appear personally before the Committee to testify on his own behalf, or may file a sworn statement of facts relevant to the testimony, evidence; or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 *Contempt Procedures.*—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he should not be held in contempt, and agreed, by majority vote of the Committee to forward such recommendation to the Senate.

8.10 *Release of Name of Witness.*—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his appearance before the Committee.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict security precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves. At least one additional security guard shall be posted for surveillance of the secure area where sensitive documents are kept after the last member of the Committee or the Committee staff has left for the day.

9.2. Sensitive or classified docmuents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.2 hereof.

9.3. Each member of the Committee shall at all times have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4. Whenever the Select Committee makes classified material available to any other Committee of the Senate or to any member of the Senate not a member of the Committee, the Clerk of the Committee shall be notified. The Clerk of the Committee shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5. Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearances and a need-to-know, as determined by the Committee, and under the Committee's direction, the Staff Director and Minority Staff Director.

9.6. No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or other materials or other information received by the Committee except as authorized by the Committee in accordance with Section 8 of S. Res. 400 of the 9th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

9.7 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff. No members of the Committee or the Committee staff shall release any such testimony, papers, or other materials, or any information contained in such testimony, papers, or other materials to the public or to any person not a member of the Committe or of the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

RULE 10. STAFF

10.1 For the purpose of these rules, Committee staff means employees of the Committee, employees of the members of the Committee asigned to the Committee, consultants to the Committee, employees of other government agencies detailed to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the committee.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing.

10.3 The Committee staff works for the Committee as a whole, under the general supervision of the Chairman and Vice Chairman of the Committee. Except as otherwise provided by the Committee, the duties of Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the Staff Director. The Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committee.

10.4 The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5 The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during his tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, not to divulge any classified information which comes into his possession while he is a member of the Committee staff or any information which comes into his possession by virtue of his position as a member of the Committee staff to any person not a member of the Committee or the Committee staff, either during his tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.7 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee or in the event of the Committee's termination the Senate of any request for his testimony, either during his tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his possession by virtue of his position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8 The employment of any member of the Committee staff who fails to conform to any of these Rules shall be immediately terminated.

RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2 The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

RULE 12. LEGISLATIVE CALENDAR

12.1 The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2 Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1 No member of the Committee or Committee staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2 When the Chairman and the Vice Chairman approve the foreign travel of a member of the Committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3 No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

STATEMENT OF WILLIAM F. LENKER, CHAIRMAN OF THE NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, the American Legion recently held its 58th National Convention in Seattle, Wash. Pursuant to the mandate of that convention, on September 14, William F. Lenker, chairman of the National Veterans Affairs and Rehabilitation Commission of the American Legion, presented to the Senate Committee on Veterans' Affairs the principal legislative concerns of that commission for the 95th Congress and for the fiscal year 1978. Mr. Lenker was introduced to the committee by Frank Hamilton, chairman of the National Legislative Commission of the Legion.

In his presentation, Mr. Lenker urged the committee to keep veterans programs abreast with inflation, to bring about meaningful pension reform, and to remain vigilant in preserving the integrity and independence of our current veterans programs and VA health care system.

Mr. Lenker's presentation is in keeping with the American Legion's honored tradition of advancing the interests of our Nation's veterans community.

Mr. President, in order to share Mr. Lenker's comments with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM F. LENKER, CHAIRMAN, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Committee:

As Chairman of the National Veterans Affairs and Rehabilitation Commission of The American Legion, it is a pleasure and privilege for me to appear today before this distinguished Committee of the Congress, to place before you the principal legislative concerns of our Organization for the 95th Congress, and for Fiscal Year 1978.

On behalf of our National Commander, William J. Rogers, who is presently overseas, and of all Legionnaires, I wish to express the appreciation of The American Legion for this opportunity.

The American Legion has just completed its 58th National Convention, in Seattle, Washington, and the matters I shall place before you are the results of the deliberations of the Delegates to the Convention, in the field of veterans affairs.

May I say at the outset that The American Legion believes that it will become increasingly important for it to speak with a firm and insistent voice during the years immediately ahead, to insure that the nation, during this time of peace, does not forget its obligations to those who have answered the call to service in time of war.

The need for vigorous action in defense of veterans programs, we believe, is recognized among veterans. It is attested by the fact that at this time our organization has already enrolled a membership strength for 1976, in excess of 2,700,000, and is presently showing a national membership that is at a 20-year high. This is especially significant in light of the rising mortality curve among both veterans of World War I and World War II. We are pleased to note an increasingly heavy enrollment of Vietnam generation veterans. We believe this shows that a marked percentage of these younger veterans do indeed plan to take an active interest in the national welfare, and in veterans benefits, through their association with a veterans organization.

I shall now address myself to the legislative priorities of The American Legion, as we envision them for the coming year. I can tell you that these priorities are basically the same as those that concern us presently. We shall, of course, adjust them to particular needs that become apparent as time moves forward.

VA BUDGET FOR FISCAL YEAR 1978

First, a word about the Budget. The Veterans Administration will operate with outlays for Fiscal Year 1977 in the neighborhood of 20 billion dollars. We consider this amount to be barely adequate to meet the needs of veterans programs. The President has, of course, not yet sent forward his budget recommendations for the next Fiscal Year. When he does so, The American Legion will examine them closely, to ascertain their adequacy. We are concerned, as are all Americans, with continued inflationary pressures, and the impact these pressures will have on veterans programs. In addition to our concern for benefit programs, we are especially anxious that sufficient funds be available to continue the upgrading of the VA medical care program. The President has committed himself to the construction of eight new and replacement VA hospitals. We applaud this commitment. It is essential to the viability of the VA hospital system. We point out that attention must also be given to pay comparability scales, and to the recruitment of top quality professionals into the VA system to guarantee second to none quality of medical care for veterans. The problems of the VA medical care program are complex and interrelated. Constant vigilance is necessary to properly maintain what is now, undoubtedly the finest health care delivery system in the world. The American Legion is determined that it shall remain so, and we firmly believe that is what the American people want for their veterans.

We await with great interest the release of the forthcoming study of the VA medical care program that was mandated by Public Law

93–82, and that is being carried out by the National Academy of Sciences. Section 201 of PL 93–82 authorizes and funds the Academy to "conduct an extensive review and appraisal of personnel and other resource requirements in Veterans Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to ensure the provision to eligible veterans of high quality care in all hospital, medical, domiciliary and nursing home facilities."

This study, which we now understand will become available after January 1, 1977, should be definitive in nature and scope, and will, hopefully provide an objective perspective of the long-range goals and needs of the VA system to meet its Congressional mandate to look to the health of eligible veterans.

ADJUSTMENT OF COMPENSATION RATES

In Resolution No. 109 (Ky.), the Seattle National Convention addressed itself to the matter of the adequacy of compensation rates for the service disabled. Congress has been consistently responsive to the need to adjust these rates in the face of the continuing inflation of recent years. We, of The American Legion, are grateful for this. Care for the service disabled has always been the number one priority of the Legion among all veterans benefit programs. It is our recommendation in Resolution No. 109, that the need for renewed legislation each year could be obviated if the compensation rates were attached to the cost-of-living index, so that it could rise with that index. We acknowledge there are those who believe that the service disabled are treated more generously at the hands of Congress than they would be under a system that responds automatically to cost-of-living increases. Our concern is that the present system makes the service disabled hostage to the press of Congressional legislative business, and results in an undesirable time lag between fluctuations in the cost-of-living index and legislative relief.

PENSION REFORM

Our second legislative priority for the 95th Congress must be pension reform. This Committee is aware that The American Legion has for several years past, petitioned Congress for pension reform. Most will agree that the present pension system is not responsive to the subsistence needs of veterans who are permanently and totally disabled by reason of age or physical disability, or to their survivors. Congress has attempted to alleviate this nagging problem through the enactment of legislation that must be termed stop-gap in nature. Legislation of recent years has not solved the basic problem. This Organization is in receipt of an unending stream of letters, truly pitiful in their expressions, in which the aged veterans of World War I, plead for help. Aged veterans and widows especially, are the prime victims of the raging inflation that has affected the entire American people. It is not necessary for me here to detail the nature of their problem. We have no doubt that Congressmen too, are in receipt of their pleas for relief.

Unquestionably, what is needed is a new pension system that will assure to eligible veterans and their survivors, an annual income, fixed above the poverty level, and rising with it, that will enable them to live out their years with dignity, in reasonable comfort, and above all, not being denied medical attention, medicines, and such other medical ancillary items as will guarantee them some measure of physical comfort, and protection from the diseases and afflictions that accompany advancing years.

This kind of a system is not what veterans have now. Any slight fluctuation in their income from other sources, such as social security benefits, results in a decrease in veterans pension. Under the present system, they experience no relief in the face of continuing inflationary pressures. Frankly, the present system has become anachronistic, and it must be changed. Urgency is added by the fact that the youngest remaining World War I veteran is now 78 years of age. He does not have much time left to know that his Government cares about him, and that his surviving widow will not be forgotten.

The American Legion has chosen to approach this grave problem through Resolution No. 39 (Nebr.), adopted by our Convention last month. In Resolution No. 39, we propose a fundamental solution to the pension problem. Basically, our proposal is to guarantee the pensioner an income floor, fixed above the poverty level, and rising with it. We continue to adhere to the needs test, because we believe the funds available for the pension program should be reserved for those who need pension assistance. What we propose, however, is an abandonment of the present, cumbersome, unresponsive system, and the substitution for it of a relatively simple system that will take into account all sources of income available to the pensioner to sustain him in reasonable comfort and dignity, and to supplement that income with a pension amount that is fair and equitable to his needs.

In the judgment of The American Legion, no matters that will comfort the 95th Congress transcend in importance and urgency, the need for a thoroughgoing pension reform.

We earnestly request this Committee to make pension reform a priority item that will result in a definitive solution to the problem, and in effective relief for pensioners no later than the advent of Fiscal Year 1978.

ADJUSTMENT OF DEPENDENCY AND INDEMNITY COMPENSATION RATES

In Resolution No. 373 (Dist. of Columbia), our Seattle National Convention calls for the affixing of DIC rates to the cost-of-living index, to insure that the survivors of the service-connected deceased will experience prompt relief from inflationary pressures. The approach we suggest to this benefit is similar to that proposed for the compensation rates assigned that will be responsive to the cost factors that affect all families that have lost the breadwinner. And in this category of beneficiaries, there are none more deserving than the survivors of those who have died as a result of service to the nation.

ADJUSTMENT OF VOCATIONAL REHABILITATION AND EDUCATION AND TRAINING ALLOWANCES

It is now two years since there has been upward adjustment in the education and training allowances, provided by Public Law 93–508. Further adjustment in these allowances, as well as in those for vocational rehabilitation are now overdue. If some relief is provided during Fiscal Year 1977, still, in our judgment, continued attention will have to be given by Congress to this benefit program as we approach Fiscal Year 1978. Inflation has abated, but it has not ended. Projections for the economy by economic specialists are conflicting. Experience tells us that inflationary pressure will not end in the immediate future.

Upward adjustment in the education and training allowances is necessary if the vocational rehabilitation and education and training programs are to fulfill the intent of Congress in enacting them into law. The enactment of Public Law 93–508 was not a simple legislative journey, and in view of that fact, we hope for early attention to these programs by the 95th Congress. We, of The American Legion, have addressed the needs of these programs through adoption of Resolution No. 107 (Ky.), by our Seattle National Convention. We commend Resolution No. 107 to the attention of the Committee.

AMENDMENT OF SECTION 1662 OF TITLE 38, UNITED STATES CODE

Section 1662 of title 38, USC, establishes a ten year delimiting date for completion of education or training under the post-Korean Education and Training Program. The enabling legislation for this program provided an eight year delimiting date. Public Law 93–337 extended the delimiting date to ten years. The American Legion supported PL 93–337, as a fair and equitable measure.

Our Seattle National Convention addressed this subject through Resolution No. 106 (Ky.), which was thoroughly debated by the Delegates prior to its adoption. In Resolution No. 106, the Legion points out that the Veterans Education and Training Programs, for veterans of World War II, the Korean and the Vietnam Wars were and are intended to facilitate the transition of the veteran from military to civilian life, and to restore to him the education and trainiing opportunities that wre lost or dened by reason of wartime service. The Legion is committed to a reasonable period of time in which to complete the transition. We believe that ten years is eminently reasonable. With due regard to priorities that must govern our approach to veterans benefits legislation, we cannot accept justification for an education and trainiing program that is unduly extended, or that is open-ended.

We are mindful of the arguments put forth as to the value of an education and training program to the recruitment of the All-Volunteer Armed Forces. We respectfully point out, however, that this was not the reason the Education and Training Programs conceived and established as readjustment programs, and not as gratuitous benefit programs.

We submit that if Congress believes there is merit in a post-service education program as a career incentive for the All-Volunteer Armed Forces, then such a program should be so identified, and so funded. Coincidentally, we see the Veterans Education and Training Programs as a bonafide cost of war, and we believe they should be so identified.

The American Legion opposes any further extension of the delimiting date for education and training, as now provided in Section 1662 of title 38, USC.

There are certain other matters that do not fall directly within the jurisdiction of this Committee, but that do affect veterans affairs, and are of concern to Committee Members in fulfillment of their Congressional duties that we would also like to bring to your attention.

NATIONAL HEALTH INSURANCE

It is not possible for us to make a comprehensive presentation on The American Legion's legislative concerns, without touching on National Health Insurance.

It is our appraisal that the 95th Congress will give early attention to this subject It is of serious concern to The American Legion, because of its probable impact on the VA medical care program.

We, of the Legion, have been studying since 1971, the potential effect of a National Health Insurance program on the VA system. We have, on several occasions communicated our conclusions to the Congress. If national health insurance legislation is taken up by the 95th Congress we shall request to be heard.

The essential point of our position is that any Federal Health Care Act must include a provision, recognizing the VA medical care program as a Federal deliverer of health services to be operated and maintained exclusively for the nation's veterans. In our judgment, the absence of such a provision would create a direct threat to the integrity of the present VA system. Such a development we would consider to be intolerable, and a breach of faith with veterans. We believe it would inevitably lead to an effort to incorporate the VA system with other Federal health care services, and veterans would lose what they now have, a system designed to serve their particular needs.

What we hope for from the Members of the Veterans Affairs Committee is that its Members will support our request for a protective section in a Federal Health Care Act. The loss of the VA system to the nation's veterans would have an absolutely disastrous effect on the entire structure of veterans benefit programs. It would jeopardize the fruits of more than fifty years of effort to develop a comprehensive program of veterans benefits, and the maintenance of the VA as the single agency to administer those programs.

Our National Convention addressed this matter through the medium of Resolution No. 139 (Mass.).

REVIEW AND REAUTHORIZATION OF VETERANS PROGRAMS

In Resolution No. 195 (Colo.), our National Convention considered the effect on veterans programs of measures proposed to cause periodic Congressional review of all Government programs and activities. While The American Legion has no quarrel with this concept, we do not believe it is appropriate, or needed with regard to veterans programs.

Our resolution points out that veterans programs are the subject of constant Congressional oversight through the Veterans Affairs Committees, and that there are not now any inactive or moribund veterans benefit programs.

Veterans benefit programs are a commitment by the nation, through the Congress, to look to the welfare of those who have served the needs of the national defense. All veterans programs are carefully thought out in their conception, and are designed to meet particular and justifiable needs of veterans. There is no need or justification to include them in so-called "sunset legislation."

JURISDICTION OF VETERANS AFFAIRS COMMITTEES OVER VETERANS HEALTH CARE PROGRAMS

In Resolution No. 476, originated within the Convention, the National Convention took note of a proposal now pending within the House of Representatives that would transfer jurisdiction over veterans health care programs from the House Veterans Affairs Committee to a Committee to be established. The American Legion views such an eventuality with alarm. In our judgment, it is absolutely essential to the well-being of veterans programs that Congressional oversight for them be maintained by Committees established for that purpose. In our experience, the Veterans Affairs Committees have been responsive to the needs of veterans, and have provided sympathetic consideration to veterans problems as we have presented them. We do not contemplate with any degree of confidence an action by the House that would result in our depending for consideration of our interests, on a Committee or Committees having jurisdiction over diverse matters. We hope the Members of this Committee will be able to do what is necessary to obviate any such development, should it be proposed in the Senate.

Mr. Chairman and Members of the Committee, we have here presented to you those matters that are of most immediate concern to The American Legion as it awaits the convening of the 95th Congress, and budgetary consideration of the needs of veterans programs for Fiscal Year 1978. There are other legislative matters that we will seek to bring before the Committee during the next Congressional year. Those set forth in this presentation are, in our judgment, those that need earliest attention. Copies of resolutions referred to are appended to the statement.

Once again, we appreciate the interest of the Committee and its Members in hearing our presentation on matters of importance to the nation's veterans.

OZONE STRATOSPHERIC REPORT OF THE NATIONAL ACADEMY OF SCIENCES

Mr. BUMPERS. Mr. President, yesterday, September 13, the National Academy of Sciences released its long-awaited report on the impact of halocarbons on the stratospheric ozone layer. Halocarbons are important constituents of the propellants in spray cans, are used in refrigerators and air-conditioners, and have a variety of other uses:

The report states:

> All the evidence that we examined indicates that the long-term release of F–11 and F–12 at present rates will cause an appreciable reduction in the amount of stratospheric ozone. In more specific terms, it appears that their continuing release at the 1973 production rates would cause the ozone to decrease steadily until a probable reduction of about 6–7.5 percent is reached, with an uncertainty range of at least 2 to 20 percent.

From evidence presented before the Ad Hoc Subcommittee on the Upper Atmosphere, which I chaired, it appears that this ozone reduction would cause an increase of about 14 percent in biologically damaging ultraviolet radiation. Recent results from the National Cancer Institute suggest that a depletion of this magnitude could lead to a 21- to 35-percent increase in skin cancer. Dr. Fitzpatrick, a member of the NAS panel, emphasized both before the subcommittee and at the briefing on the release of the report, that the reduction in ozone would, in all likelihood, also significantly increase the amount of the highly fatal melanoma skin cancer as well.

The report goes on to emphasize that not only would the rate of skin cancer be increased, but that there might well be a significant climatic impact due to the continued release of halocarbons. The report further states that ozone depletion could have a substantial but as yet unquantified deleterious impact on plants, animals, and crops. The report states:

> The impact on industry of the ban on uses of F–11 or F–12 in most types of spray cans would be appreciable. Against a background of a possible, although very small, change in world climate, however, the industrial impact does not loom large.

The report also makes the point that in 1975 74 percent of the halocarbons released into the atmosphere came from spray cans. The panel members argue that regulation should recognize the differences between various uses and their essentiality. They then go on to suggest that spray cans should be the first items regulated, whereas home refrigerators, which release only 0.4 percent of the halocarbons, might never need regulation.

I would like to point out that this is similar to the strategy the Public Works Committee chose in the amendments to the Clean Air Act, S. 3219. The House is presently considering its version of the Clean Air Act amendments, H.R. 10498. The finding by the National Academy study of lack of legislative authority makes it imperative that this Congress enact legislation immediately. The study concludes that regulation of halocarbons is inevitable and recommends that Congress should be the body to decide the nature and timing of the restrictions. We would be derelict not to do so prior to adjournment.

There is one aspect of the report which bothers me greatly. That is the recommendation that up to 2 years is still needed to remove some of the uncertainties as to the magnitude of the depletion. The bill enacted by the Senate provides for a study period followed by regulation starting January 1, 1978. In light of the seriousness of the problem as described by the Academy, I can see no advantage in further delay. By its own admission, waiting 2 years is likely to reduce the uncertainties by only about one-half of what they presently are. The report does not envision the problem's disappearing in that time.

I have always felt that the transition from halocarbon-propelled spray cans to other alternatives can be achieved smoothly provided adequate time is given. To wait 2 years and then provide a transition period would be a serious mistake for several reasons. As is pointed out in the report, a single additional scientific finding, expected within the next few months, could easily double the 7-percent depletion figure to 14 percent. It is also possible that we might discover that for other reasons the upper range 20-percent figure is the more realistic one. If we are to err at all, we should err on the side of caution. Let us make sure that the Clean Air Act amendments with an ozone-protection provision are enacted by this present Congress.

TRIBUTE TO SENATOR PHILIP A. HART

Mr. FONG. Mr. President, I pay tribute today to a man often called the "conscience of the Senate," PHILIP A. HART, the senior Senator from Michigan.

PHILIP HART's reputation as steadfast in his opinions preceded him to Washington. He already had made his name in public service in Michigan through various offices starting from that of a member of the Michigan Corporation and Securities Commission to that of Lieutenant Governor before his eventual election to the U.S. Senate in 1958.

During his three terms in the U.S. Senate, PHILIP HART's reputation as a fighter for causes he believed in has grown continuously. Popular as he is among the voters of Michigan, the Senator has tried to camouflage or downplay his disagreements with what at times may seem the overwhelming majority of his constituents if he thought his position was just. As one example, he persisted in opposing antibusing amendments during the height of the 1972 controversy despite much outraged mail because he felt that such legislation would weaken civil rights.

In addition to his emphasis on civil rights and liberties, his name, of course, is also strongly associated with antitrust environmental and consumer protection issues and legislation. I need not go further into details here, for PHILIP HART's record speaks for itself.

It was my pleasure to have met PHILIP HART soon after my arrival in Washington in 1959 as one of Hawaii's two statehood Senators. Though we sit on opposite sides of the aisle, my respect for him as a person and as a legislator has increased with each meeting, be it on the Senate floor, in committee hearings, or elsewhere.

As he and I leave this august body for retirement with the end of this current session of Congress, I share in the keen disappointment felt by we of the Senate and by the voters in Michigan that PHILIP HART is in failing health.

I take this opportunity to wish PHILIP HART the very best. His courage, I know, will never weaken. My warmest regards go also to his gracious wife, Jane, and to their fine children.

Aloha.

A NEW WASTEWATER TREATMENT PLANT FOR WASHINGTON COUNTY, OREG.

Mr. HATFIELD. Mr. President, on September 10, 1976, the Durham wastewater treatment plant, considered the largest and most advanced facility of its kind in the Pacific Northwest, was dedicated. The project was begun almost 7 years ago and cost a total of $26 million.

The Durham plant will provide Washington County, the fastest growing county in the State of Oregon, with the capability of meeting water quality standards better than any county in the State. Furthermore, it will permit the closure of other smaller plants, thus improving the water treatment process while reducing overall costs.

Mr. Joel Wesselman, the general manager of the Washington County United Sewer Agency, and his colleagues are to be congratulated for their fine work in the development of plans for this plant as well as its construction and operation.

Mr. President, I ask unanimous consent that an article in the Oregon Journal on August 4, 1976, concerning the Durham wastewater treatment plant be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Oregon Journal, Aug. 24, 1976]

DURHAM PLANT MOST ADVANCED FACILITY IN NORTHWEST

(By Pete McConnell)

The Durham wastewater treatment plant, to be dedicated Sept. 10, has faced many roadblocks since plans to build the $26 million facility were adopted by the Washington County Unified Sewerage Agency nearly seven years ago, but it is now considered to be the largest and most advanced treatment facility in the Pacific Northwest.

At the same time, the plant has centralized a scattered system of wastewater management and has enabled the county to provide the advanced levels of treatment necessary to meet water standards set down by the state.

In five years, Washington County has emerged from rags to riches, now having facilities to meet water standards better than any other county in Oregon. In the 1960s, Washington County lagged a distant last, claims Joel Wesselman, USA general manager.

The plant is situated on a 50-acre site adjacent to Fanno Creek near tie Tualatin River. It is operating at a capacity of 20 million gallons per day and is expected to expand to 60 million capacity by 1980. Designed to serve 170,000 persons, it now serves 93,000.

In addition, Durham has assumed the functions of Tigard, Metzger, Fanno Creek, Sherwood, Tualatin and King City plants and is expected shortly to replace plants in Beaverton and Cedar Hills. Eventually, all will be shut down as will five other smaller plants, Wesselman said. Ten more are expected to be abandoned by 1980, leaving Durham, Rock Creek and Forest Grove plants as the three major treatment facilities in Washington County.

The Rock Creek advanced treatment plant, already under construction with a completion date scheduled for 1977, is projected to complement Durham in consolidating treatment in the urbanized areas. Four existing plants would be expanded to serve smaller cities or areas of high industrial concentrations.

According to Wesselman, the Durham tertiary plant will remove more than 97 per cent of organic wastes and 85 per cent of the phosphorus from the sewage before discharge in the Tualatin River.

The new plant will provide secondary treatment when the river's flow is high during the winter months. The effluent from the activated sludge process will receive chemical treatment and filtration before it is chlorinated and discharged into the river. A diffusing system also will mix the plant's effluent with the river's augmented flow.

During the summer months when the river's flow is low, effluent released from the plant will have a high degree of tertiary treatment to aid in the dilution of pollutants from upstream sources.

The 85 per cent reduction in phosphorus is the highest level achieved by a Northwest plant, Wesselman said. Several secondary plants can remove a lesser but substantial amount of organic wastes and phosphorus, including a secondary plant in Salem.

To go along with its functional value, the Durham plant rests in an artistic setting, featuring a small park and a fountain. The rest of the landscaping will be completed in late September.

The Durham plant itself consists of four buildings, the treatment center and settling ponds designed to level the flows to the secondary and tertiary section of the plant.

Sixty-six persons presently are employed at the plant, including six supervisors, 58 operators and maintenance personnel and two lab technicians, most of them transfers from smaller existing plants.

Prior to the Sept. 10 dedication, USA will hold a two-day symposium, Sept. 8 and 9, to examine the problems of implementing wastewater management concepts, and the political, institutional, management and operations aspects of forming and operating regional wastewater agencies in urban and suburban areas.

Dedication has been delayed somewhat due to untimely and unexpected hassles that altered the timetable for the completion of the plant, originally projected to open in 1975.

A delay in awarding funds, contract squabbles and questionable affirmative action statements compounded the task assigned to USA to turn around the physical makeup and quality of sewer services.

In 1966, 26 treatment plants were serving the area, all managements claiming to be autonomous. All the systems drained into the Tualatin River or its tributaries, even though the river suffered extremely low flows in the summer months. As a result, the river became a sewage lagoon with waste remaining untreated.

During the same year, the State Sanitary Authority Commission ordered the county to halt further construction of any new plants in the Tualatin Basin until the chaotic state of the excessive number of plants providing only adequate service could be resolved, beginning with the adoption of a master plan for implementation.

The turning point came in 1970 when county voters approved, by 2 to 1 margins, formation of USA to provide the financial capability for implementation and a $36 million bond issue to finance the initial 10-year capital improvements plan recommended by Stevens, Thompson & Runyan, a Portland engineering firm.

Problems developed at the outset, however, when in 1973 a number of bids for construction of the plant were thrown out by the board of commissioners after the low bidder's qualifications were questioned by a competing contractor. The county, fearful of a lawsuit, ordered a new call for bids.

A second round of bidding was stalled when the Seattle regional office of the Environmental Protection Agency raised questions about the affirmative action statements made by the low bidder of the project, Jelco, Inc., of Salt Lake City, the eventual builders.

And while that was an issue, construction of the plant had already been set back because of delays in federal funding by EPA, which eventually awarded USA approximately $17 million, representing 75 per cent of the funds necessary to finance the project. Bonds purchased by the state, the First National Bank of Oregon and the Bank of California made up the balance.

Because of the delay in construction, EQC once again in 1973 restricted new sewer hookups in Washington County, claiming that existing plants were operating at near capacity.

Construction began in 1974 causing the ban to be lifted and the first phase was completed this spring.

And with completion came neighbor complaints that the plant generated too much noise.

A study by the Department of Environmental Quality last month revealed that the Durham plant has been violating state noise regulations at night and has been found to violate slight noise standards during the day.

The DEQ instructed USA to investigate the noise sources and issue a report to the agency by Sept. 30.

Wesselman said the noise problem is being studied by Nichols Engineering & Research Corp., Belle Mead, N.J., and predicted that a report would be filed and the noise problem corrected before Sept. 30.

Wesselman said the USA is considering development of a natural noise barrier within the plant and will establish a buffer zone west of the facility to abate noise found to be disturbing neighbors.

John Hector, supervisor of the DEQ noise control program, said the plant could be slapped with a maximum fine of $500 a day should it fail to comply with state noise standards.

"The noise problem will be corrected," Wesselman asserted.

EXTENSION OF GENERAL REVENUE SHARING

Mr. GRAVEL. Mr. President, I am most pleased that the Senate has taken prompt and positive action to continue general revenue sharing. In Alaska, the State and Local Fiscal Assistance Act has proven to be a source of funds which have enabled all recipients to either buttress existing services or add a new service for its citizens. The flexibility of the program which has solicited local input has enabled governments to better define and meet pressing local needs.

In a recent survey of selected municipal officials who were asked what impact the elimination of the program would have, the following information was gathered.

The city and borough of Juneau would be forced to cut back on services or raise the tax rate by 1.25 mills.

The city of Fairbanks, feeling the impact of oil development, deeply appreciates the flexibility of the program as opposed to block grants. It was stated that a tax increase of 3.5 mills would be necessary if only present services were to be continued.

The city of Kenai which levies a 16.75-mill tax, as well as a 3-percent sales tax, would be forced to cut back on law enforcement and fire protection or increase the tax levy by 1.5 mills.

Wrangell, with a population of 3,152 would be forced to cut back on police protection and library services or increase the tax levy by 3 mills.

Clearly, the State of Alaska and its municipalities cannot continue to increase taxes and are obligated to continue the delivery of adequate services to their citizens.

Of major importance to Alaska is the inclusion in the Senate bill of a provision that will guarantee the State a 25-percent cost-of-living adjustment in its entitlement. This provision corrects an oversight in the 1972 legislation which failed to provide the cost-of-living adjustment under the five-factor formula used for distribution of Alaska's funds for most of the entitlement periods.

The Senate has shown great sensitivity to the problems of small rural communities in the handling of the audit requirements and reporting and hearing requirements. Governments receiving less than $25,000 per year in revenue sharing entitlements are exempted from the audit requirement. Governments would be exempt from the requirement for publication of planned and actual use reports where the cost of such publication exceeds 5 percent of the previous year's entitlement or if impractical, as provided by the Secretary through regulation. I share the desire of the Senate to encourage public participation in the budgetary process of the State and local governments. However, the Federal Government should not impose a specific participation process. The Senate bill properly balances the objectives of citizen participation and local autonomy.

In the area of nondiscrimination, I feel the Federal Government does have a responsibility to impose certain requirements. Senate passage of the civil rights amendments prohibiting age, handicap, and religious discrimination as well as providing for an award of attorney fees reaffirms the traditional role of the Federal Government as protector of civil rights and promoter of social justice. I am most pleased that the Senate has reaffirmed the high moral standard for civil rights that is the legacy of the civil rights movement of the 1960's.

As a member of the conference committee on revenue sharing, I will work hard to preserve the principles of the Senate bill and allow expeditious action on final congressional passage.

OIL COMPANY DIVESTITURE?

Mr. HANSEN. Mr. President, the International Institute for Economic Research has released a most interesting paper, "Energy and Jobs: A Long Run Analysis."

The introduction by Hendrick S. Houthakker, formerly a member of the President's Council of Economic Advisors, warns that—

> Energy policy is serious business. It is not, as too many politicians appear to believe, merely a matter of being nasty to the oil companies, or of hysteria (as opposed to rational concern) about the environment, or of playing the energy-producing against the energy-consuming states. The recent gasoline panic was the result simply of ill-conceived price controls.

And he agrees with the authors of the study that—

> A more rational policy concerning energy prices, involving decontrol of oil and natural gas, would increase aggregate output and lead to a stronger demand for labor.

The conference report on the tax reform bill takes another whack at the oil industry by increasing foreign taxes and further reducing incentives for independent drillers who have been willing to invest their money in the risky business of drilling for oil and gas.

Also, the oil company divestiture bill which I certainly hope will die a peaceful death when Congress adjourns is another example of the counterproductive efforts of this Congress to achieve energy independence.

Two of my good colleagues, the junior Senator from North Dakota (Mr. Burdick) and the junior Senator from Oklahome (Mr. Bartlett), have recently commented here on the many pitfalls and unexamined issues in divestiture legislation.

Petroleum Today, in an article, "Dismemberment Under Discussion," has brought together "the view of four of the Nation's leading academic experts on the subject of monopoly and the oil industry. These four men are Edward Erickson, North Carolina State University; William A. Johnson, George Washington University; Richard B. Mancke, Tufts University; and Edward Mitchell, University of Michigan. In the following simulated roundtable discussion, the questions are asked by Petroleum Today. The answers are from the testimony of these four economists before the Senate Antitrust and Monopoly Subcommittee in January of 1976."

Mr. President, these four distinguished professors have answered most if not all of the basic issues involved in the debate over oil company divestiture and the question of whether competition really exists in the oil industry.

I hope my colleagues in the Senate will heed what they as well as the Senator from North Dakota (Mr. Burdick) and the Senator from Oklahoma (Mr. Bartlett) have to say about oil company divestiture.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

DISMEMBERMENT UNDER DISCUSSION

Petroleum Today. One of the most important issues being considered in the Congress concerns legislation to break up the vertically integrated oil companies into small, single function companies. Known as divestiture or dismemberment legislation, some of these bills would prevent the oil companies from operating in more than one or two of the four basic functions: exploring and producing, refining, marketing, and transportation. If divestiture legislation should become law, what do you think it will mean to the American public?

Richard B. Mancke. The chief objection to the oil company divestiture legislation is that, though its proponents believe it will have a short run political payoff, in the long run it will make no contribution to solving our real energy problems and thus the public will eventually realize that it has once again been duped and, as a result, there will be further deterioration in public trust in our political institutions.

Edward Erickson. Divestiture will not improve the competitive performance of the U.S. petroleum industry. But divestiture would increase the general level of costs at which this competition occurs.

Petroleum Today. Would this divestiture legislation raise the costs of petroleum products for the American consumer?

William A. Johnson. There would have to be substantial price increases to allow the less efficient members of each segment to survive.

Mancke. If adopted, divestiture is likely to result in higher (rather than lower) fuel prices since oil companies will have higher costs because divestiture eliminates some real integration and financing economies. Because citizens from other regions—especially the Northeast—pay higher petroleum prices and receive none of the rents, they are often angry. The large oil companies are obvious, though inappropriate, targets for this anger.

Edward Mitchell. What consumers would lose in higher prices, no one would gain. Vertical divestiture of the petroleum industry would be a deadweight loss to society.

Petroleum Today. We hear a lot of charges and accusations about monopoly in the oil industry. Is this a justification for dismemberment?

Mancke. The key fact deserving emphasis is that this industry is far less concentrated than most other American manufacturing or mining industries that contain one or more giant firms. The economic structures of the key stages of the oil business are such that the successful exercise of monopoly power is virtually impossible unless the oil companies receive direct governmental assistance. Though these conclusions may surprise laymen and certainly are inconsistent with present popular perceptions, they will be neither surprising nor new to most academic economists who have more than a passing acquaintance with both the oil industry and the field of industrial organization. These experts are nearly unanimous in agreeing that the oil companies possess little or not independent monopoly power.

Erickson. The most significant competitors of any one of the major oil companies are the other majors. And that competition is vigorous, effective, and socially beneficial. It does Americans a disservice to lead them to believe that there are some easy panaceas—such as antitrust action of legislative amputation—to our energy policy problems.

Mancke. Besides the presence of many large firms, there are literally tens of thousands of small companies that presently compete in the American crude oil industry. The role played by small companies is especially crucial in the vital exploration phase.

Petroleum Today. Would divestiture legislation increase competition in the petroleum industry?

MITCHELL. The parade of statistics showing the shares of each market held by the 20 largest companies at each stage would not be changed one iota by vertical divestiture.

ERICKSON. It is not too strong a figure of speech to say that the contribution of divestiture to the effectiveness of competition in the U.S. petroleum industry would be equivalent to the contribution of another ton of salt to the salinity of the oceans.

JOHNSON. The domestic oil industry is likely to become less competitive, not more competitive, because of divestiture. At all four levels, but especially in marketing, the industry would have to become more concentrated if each of its segments is to become independently profitable.

PETROLEUM TODAY. How do oil company profits fit into this discussion?

ERICKSON. Market power shows up as economic profits. The U.S. petroleum industry has not earned the kind of long-run returns on stockholders' equity which are to be expected for firms that enjoy substantial and systematic market power.

MANCKE. Judged by the most common measure—the after-tax rate of return on equity investments—profits of most American oil companies were below the average for all U.S. industrial firms for the ten years prior to 1973.

MITCHELL. An investment of $1,000 in the American international oil companies, or 14 domestic refiners, or two domestic producers whose stock was listed on the major stock exchanges would have left the investor worse off than an investment of $1,000 in the Standard and Poor's 500 Stock Composite Index. Oil company stockholders have not reaped monopoly profits. Indeed, they have fared somewhat worse than the average owner of common stock.

PETROLEUM TODAY. There have been charges that new companies are not able to get into the oil business.

JOHNSON. We did find in a study just completed several obstacles that have impeded entry by potential refiners. However, these barriers were not the result of collusive behavior by existing refiners, but of government regulatory and environmental policies. Yet, even with these hurdles, there has still been significant entry by new firms into refining in recent years.

MITCHELL. The fact that 30 per cent of the larger refiners in 1972 were not in the refining business in 1950 does not suggest "overwhelming" barriers to entry.

PETROLEUM TODAY. If divestiture legislation is passed, what is going to happen to the millions of people who are the owners of these companies? *Petroleum Today* ran a story last year showing that there were more than 14 million direct and indirect shareowners of just the six largest companies.

MITCHELL. The immediate effect of a vertical divestiture would be a reduction in the wealth of the stockholders and bondholders of the affected companies. This would occur for two reasons. First, since the new entities are more risky than the old, potential buyers of their shares and bonds would offer less in the marketplace for any given stream of dividends and interest payments. Stock prices and bond prices would fall. Second, the future stream of earnings would decline because of higher operating costs and thus income growth and prospective dividend and interest payments would be retarded, again lowering the share and bond prices.

MANCKE. Moreover, merely raising the threat of divestiture discourages oil companies from making investments of the magnitude necessary if the United States is to reduce its oil import dependence.

JOHNSON. Litigation would take years. What would happen in the meantime? Few companies would be inclined to invest in the oil industry, particularly in those segments of the industry which they would sell off under a divestiture law. At this most critical period, when expansion of industry capacity is needed to insulate our economy and foreign policy as much as possible from the actions of producing countries, the U.S. would, instead, encourage investment in the oil industry abroad and in non-energy activities in the United States. While the Congress focuses on meting out punishment to the vertically integrated companies, OPEC and the Arab producing nations can only chuckle.

PETROLEUM TODAY. What about OPEC (the Organization of Petroleum Exporting Countries)? What impact would divestiture legislation have on relations between the United States and OPEC?

MANCKE. The available evidence no longer supports the inference that the large international oil companies continue to exercise significant monopoly power in the world crude oil market. The fact that they lack monopoly power explains why, after paying royalties and taxes, most Persian Gulf producers presently retain only 25 cents on each barrel of crude oil sold. This covers their exploration, development, and operating costs but does not permit monopoly profits. Hence, it is fatuous to blame present and near-future international energy problems on the monopolistic practices of the international oil companies.

JOHNSON. Divestiture would probably increase U.S. dependence on foreign oil and therefore U.S. vulnerability to another embargo.

PETROLEUM TODAY. It has been suggested that a compromise might be to divorce pipelines from the oil companies. In other words, pipelines could not be part of an oil company.

MITCHELL. An oil pipeline is among the longer-lived and most specific investments one can make. Once built it can move liquids between point A and point B. That is all it can do. If one builds a pipeline on the basis of a contractual arrangement and later finds the arrangement faulty the error would not be correctible and would prove extremely costly.

JOHNSON. Furthermore, few independent oilmen have complained about discriminatory treatment by major oil company-owned pipelines. And those that have been discriminated against are able to take their complaints to the Interstate Commerce Commission.

PETROLEUM TODAY. Who would benefit from this legislation? Will the so-called "independents" be helped?

JOHNSON. The principal victims of divestiture may well be certain independent segments of the oil industry, the very groups divestiture is supposed to help. Major brand jobbers and major oil company lessees are especially likely to be hard hit by divestiture. They would lose the benefits of credit cards, advertising, and other services provided by major oil company supplies. Most important, they would lose an assured source of supply. Supplier relationships built up over many years and protected by contract at some cost to brand marketers would be destroyed.

PETROLEUM TODAY. What is the trend on this issue among the nations that are allies and trading partners?

MITCHELL. There is a strong movement in some countries for government to encourage the merger of non-integrated companies or to directly merge non-integrated government companies. The Japanese government is pushing ahead with plans for inducing the merger of non-integrated refining and marketing companies. Recently, the West German government through its 40 percent interest in Veba A.G. has merged Deminex (a government sponsored and subsidized group of overseas production companies), Aral A.G. (a large retail marketer), and Gelsenberg A.G. (an integrated oil, petrochemical and nuclear power company) with the old Veba company (a producer-refiner).

PETROLEUM TODAY. Yet, we find a push toward dismemberment among some American political figures.

MANCKE. The American public has quite naturally sought a villain upon which blame for our present energy problems can be placed. The large oil companies offer an inviting target. The fact that there is no evidence that these companies presently possess any monopoly power is of little importance to the oil companies' demagogic accursers.

ERICKSON. There is a tendency, too, in Congress and elsewhere, to respond to the problems of policy and regulatory failures by more regulation and additional ad hoc policies. Such a response only prolongs and worsens the situation and makes ultimate remedy more difficult and costly.

MANCKE. Today many politicians proudly claim to be statesmen-practitioners of a new more realistic, and much more honest politics. Their advocacy of intellectually dishonest, but politically popular, legislation aimed at punishing oil companies raises serious doubts as to the truth of their claims.

ERICKSON. It is important that Congress realize that there are no immediate miracles to be wrought by slaying imaginary dragons of monolopy, and that Congress proceed on a course that is consistent with the principles of how things get done in American society.

VERMONT ENERGY CONSERVATION MONTH

Mr. LEAHY. Mr. President, Gov. Tom Salmon has designated today through October 15 as Vermont Energy Conservation Month. "Use Energy Wisely—It Makes Dollars and Sense," is the theme of the program. Virtually all segments of Vermont's economy will participate in Energy Month activities. Fifteen committees have been formed to coordinate these activities in as many areas, including transportation, manufacturing/industry, agriculture, utilities, financial, government, retail stores, military, building industry, education, petroleum, publicity, and government. The program will also draw on the talents and energies of the chambers of commerce and other civic and professional organizations to help spread the message of energy conservation.

Mr. President, I am very proud of this most recent initiative taken by my State. The fact is that Vermonters have surpassed most of their fellow Americans in curbing wasteful uses of energy. Through personal conservation measures they have reduced consumption of home heating oil and gasoline by percentages way above the national average.

Energy consumption in the residential and commercial sectors accounts for about 35 percent of the total U.S. energy budget. The Office of Emergency Planning in 1972 estimated that some 14 percent of this energy could be conserved "without hardship or inconvenience in daily life." In existing buildings, for example, energy savings could result from better insulation and storm windows, turning down thermostats, and maintenance of home heating and air-conditioning equipment. For the future, improved design standards would produce even greater savings than retrofit.

In the transportation sector, where energy consumption accounts for about 25 percent of the U.S. energy budget, carpooling, improved public transit, and increased use of railroads for moving both freight and passengers all could make significant contributions to an effective energy conservation effort. Total gasoline consumption is currently roughly equivalent to our total imports of oil and petroleum products.

The industrial sector consumes about 40 percent of the U.S. energy budget. Estimates of what percentage of the wasteful use of energy here vary widely, and are as high as 30 percent. Industry groups are already working with the Commerce Department and the FEA in voluntary energy conservation programs, and have set industry-by-industry goals for a 10- to 15-percent reduction in unit energy consumption by 1980.

Both the Energy Policy and Conservation Act and the Federal Nonnuclear Energy Research and Development Act have laid down important principles and set national energy conservation goals. However, voluntary citizen participation and a commitment to energy conservation by all sectors of our economy are the real keys to a successful energy conservation effort. The kind of comprehensive program signified by Vermont Conservation Month is an important part of that national effort.

Mr. President, the Vermont Energy News, a publication of the State energy office, recently contained an excellent editorial on this subject written by Bruce Haskell, deputy director of the office. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Editorial

In the early 1970's, the U.S. became a net importer of energy as opposed to a net exporter of energy. This was forcefully brought home to us all as a result of the Arab Embargo of 1973 with its resultant curtailments of several types of petroleum products; most visible among them, gasoline. The message the Embargo brought was that the days of abundant, unlimited, cheap energy were over and that there is indeed a bottom to the barrel. Nowhere was this message more strongly received than in Vermont, where 80% of homes are heated by oil and mass transit systems are virtually non-existent, making automobile travel a necessity.

Convincing people to conserve energy is not an easy task, especially when it is apparent to all and sundry that present supplies of all types of energy are more than adequate. But a short-term over-supply of energy is not indicative of a solution to the long-term energy problem of the Nation and Vermont. Few people are so altruistic as to deny themselves the amenities that today's energy sources provide in order that the next and succeeding generations will have sufficient supplies of energy. But the cost of energy alone should be incentive enough to convince Vermonters of the wisdom of conservation.

The price of energy marches forward to an ever increasing cadence and will continue to do so. For business and industry, higher energy costs mean cutbacks, deferred expansion programs, fewer jobs. It may mean additional inflation and even recession. Certainly to all consumers it means less money to spend in other areas. It is just plain good business sense to conserve. The less energy used, the less the impact of increased costs.

Reduction of energy usage does not mean a reduction in life styles. It is merely reducing waste—using all you need and needing all you use.

Energy is the motivating force of our Nation and State. Energy and its usage pervades virtually our every endeavor. The future economic growth and prosperity of Vermont and, in fact, the whole New England area, depends on the availability of sufficient, reasonably-priced sources of energy. Many arguments are put forth as to how energy sufficiency may be attained, e.g., development of alternative sources of energy, synthetic fuels and the like. All of these are well and good, but they are a long way from fruition. However, while awaiting the solutions to our long-term energy problems there is something we can do right now to solve our energy problems.

Common sense tells us that a more efficient use of present energy resources can be realized through a strong commitment to conservation not only in government but by the individual citizens of this state. Conservation can be used to hold the energy fort until the cavalry from the scientific community arrives with more lasting solutions to our energy dilemma.

The wealth of energy that nature bestowed upon us has taken billions of years to produce, but we are using it up at a breathtaking pace. Almost 90 percent of our energy needs are currently met from fossil fuels; fuels that, once used, are gone forever.

This is the message that must be delivered to all Vermonters in succeeding months: reduce our energy usage without changing our lifestyles.

The State of Vermont has already introduced its own comprehensive conservation plan to reduce energy usage in State offices. This has taken the form of reduction in lighting and thermal requirements as well as the thermographic analysis (infra-red scanning to determine areas of heat loss and air infiltration) of selected state buildings to determine their thermal efficiency. For those buildings where it is feasible, corrective plans are being developed to improve thermal efficiency.

Conservation of energy is not a solution to the energy problem, but it can give us the time needed to effectuate "permanent solutions". We earnestly solicit your participation in Vermont's. Energy Conservation Month activities and we further urge you to develop programs for energy conservation that will endure beyond the bounds of Energy Conservation Month.

QUYNN'S HARDWARE

Mr. MATHIAS. Mr. President, in these days of rapid change, it is not often a father can show his children anything outside of a museum or the movies that is exactly as it was when he was a child. I think those of us who were fortunate enough to have grown up in a small town in America before World War II, when the pace was leisurely and the pleasures uncomplicated, feel this especially poignantly.

My sense of loss is mitigated to a large extent, however, by an institution in my hometown of Frederick that has been preserved to this day exactly as I remember it from my childhood.

That remarkable, wonderful institution is Quynn's Hardware Store, which has graced East Patrick Street since 1796—some think even longer—and which has been owned and operated in the same way by the same family the entire time.

I spent many happy hours in Quynn's as a boy. It attracts me no less now. It is a source of particular pleasure that the autumn 1976 issue of Maryland magazine has featured Quynn's as its lead story. For my colleagues whom the press of Senate business prevents from enjoying the homely soul-restoring pleasures of Quynn's, I ask unanimous consent to have printed in the Record the Maryland article entitled "Quynn's Hardware: 'You Name It, They've Got It,'" by Constance Stapleton.

There being no objection, the article was ordered to be printed in the Record, as follows:

Quynn's Hardware: "You Name It, They've Got It"

(By Constance Stapleton)

Quynn's Hardware has never been one to put on airs. Like an honest country cousin caring for relations in the big city, the store has been meeting the needs of Frederick for nearly two centuries, available when needed, going its own way, secure in its own character, content to let others catch up to it.

Resisting modernization as easily as it counts the years, Quynn's honest face has been wooing and accommodating Fredericktonians for at least 180 years from its eighteenth-century home at 10 East Patrick Street, a few doors from "the square corner." The mutual love affair is documented by ledgers dating from 1796 to 1939, found in the store's attic and now in the Maryland Historical Society. In the daily entries, delicately written on the palest of parchment, the trends, tastes and habits of Quynn's clientele are faithfully recorded since the store first opened to serve pioneers heading west on the Cumberland Trail.

"If they don't have what you want at Quynn's," local folk will tell you, "they'll get it. Once they get it, they'll deliver it, no matter how small or inexpensive it is." Generous helpings of quality, service and dependability have helped Quynn's outlast all competition through the years until today it is not only the oldest store in town, but the oldest store in Maryland.

Quynn's Hardware Store, the overhead sign proudly proclaims in black print between two anvil designs, "Cutlery, Paints, Bar Iron." QUYNN'S the window letters echo in gold. In recent years, a new card has been added, propped up behind merchandise in the display. "Oldest store in Maryland," it brags discreetly, "180 years in same location, same family. Come in and see us." And that's just documented years. The place may have actually operated even earlier.

Once you find and pass through the friendly red double doors, you find yourself going back time and again. Like a marvelous gypsy caravan or tin peddler's wagon, Quynn's is full of things you've been looking for and articles you didn't know you wanted and suddenly can't live without. Wooden floors sing back as you amble their generous width picking your way past baskets of onion sets, looking at fat green drawers that beg to be pulled open, their square fronts calling out names like alligator belt lace, taper tops, open link, telephone locks. Dozens more of the square drawers are stacked across and up the east wall like building blocks in a neat child's playroom. Open bins full of nails support the worn counter, while old-timey smells wafting from the back rooms make you wonder what additional delights lay beyond.

"May I help you?" asks Phillip "Bunny" Brutto, resplendent in his starched red jacket. After noting your seeming indecision, he reassures, "That's all right. Take your time. Make yourself at home."

"I didn't know stores like this existed anymore," remarks a middle-aged matron who, with her friend, has been introduced to the wonders of Quynn's through a Welcome Wagon card. After receiving a brief oral history of the store and a gift of a Pyrex dish, they continue their perusal of the shelves, their air of wonderment punctuated by comments like: "I didn't know they carried beekeeping supplies," and "Did you notice their macrame string is half what it sells for in craft shops?"

Carl Brown, a man with smiling eyes, wraps the Pyrex dish with brown paper whacked off a roll on the counter, tying it with string that floats down from a metal spool near the ceiling. The store buzzes with the chatter of friends. After eyeing the 12-foot-high ladders tracked along either side of the store, a youngster clambers over boxes to inspect the clippers, scissors and gauges in an old-fashioned curved-glass display case near the cash register.

Friday night is farmer's night in town. "That's when the store is full of regulars who come as far away as Damascus and Dickerson." (Montgomery County) says bookkeeper Lucille "Dutchie" Baumgardner. ("Dutchie" has already retired once, but is back in the shop regularly.) Oldtimers refer to the store as "a loafing place." Their faithful ways are exceeded only by the employees. "At one time," continues Dutchie who has worked at Quynn's for thirty-eight years, "four of us had over two hundred years service between us. Manager Harry D. Stup, who died recently. worked here for sixty-six years. There's one thing we're not and that's computerized." She grins, cocking her head of curly grey hair to one side to gauge your reaction. "We try to personalize our service. We refund money when the customer isn't satisfied and take care of any defective merchandise, even if it means taking a loss.

"We take pride in our reputation," she goes on, sounding like a proud parent talking about her family. "Our job descriptions have never been too specific, so everyone just pitches in and helps wherever they are needed."

The store stretches five rooms to the rear, down to the basement and up two floors to the roof, full of materials needed for the smallest job, equipment to turn antiques into lamps; meat saws, cut to order; plumbing supplies, kerosene, varsol (known locally as Quynn's Cleaner); whiting; oil stovewicks; hoses; honey-making supplies; seed potatoes; bud seed; sash balances; crocks; springs; bud baths; scythes; canning supplies; cocoa shells; ice cream salt . . . the list goes on.

In their busiest moment, employees will stop to chat. They close shop each Wednesday afternoon at 1 p.m. (everyone in town does), pay patrons' parking tickets when they overstay their visits, walk checks to the bank and play practical jokes on customers as well as employees.

"When I first came here to work," Dutchie grins, the blue eyes brimming at the memory, "the fellows sent me around to the other hardware stores to find a sky hook. I never guessed they sent someone ahead to tell them I was coming. Each time I asked for a sky hook, other clerks would ask questions like 'How big a hook do you need?' or 'Where are you going to hang it?' When I came back to find the answers, they all broke out laughing."

The office of Charles Grumbine, the store manager, reflects Quynn's policy of passing savings on to the customer rather than spending it on overhead. Squeezed into a corner near the back door, his simple black chair is drawn up to a three-drawer oak desk lined with worn green ledgers and catalogues. To the right of the thirty-year-old bachelor sits a fat black safe under an old counter desk between a water cooler and a bucket of empty Coke bottles. Dutchie's office upstairs, though more private and containing an antique standup bookkeeper's desk, also contains a back-up supply of mops, shelf brackets, lanterns and bee equipment.

The third-floor attic holds two tons of opinions in the spring, hauled there from the alley below via a pulley outside the wooden door. Years ago, when bar iron requests were more frequent, the store also had a miniature railway. A tiny truck running on a specially built track brought iron from the cutting room to the front door. Since iron prices increased, sending customers to junkyards for better buys, the tracks have been removed, but the truck remains.

The architectural facade of Quynn's has changed little over the years. A photo taken in 1881 shows home-type frames where larger plate glass windows now are. A gigantic horseshoe hung over the door under two separate signs. The top read "Allen G. Quynn" in slanted print while the bottom sign said "Charles Mantz" in square letters. Although it is not known exactly when the business was started or by whom, both Casper Mantz and John Allen Quynn owned considerable property in Frederick. Although Quynn moved to Annapolis, his son Allen, Jr. returned to Frederick in 1788, marrying Casper's daughter, Mary, in 1790. It is believed that some kind of partnership existed as Quynn owned the lot on which the store stands while Mantz owned the store. The 1796 ledger lists Casper's sons Isaac and John as two of the operators. When Allen Quynn, Jr. died in 1799, his wife bought into the business for her sons Casper, Allen and William, and additional Quynns arrived from Annapolis to help in the operation.

In 1851 Allen G. Quynn bought out the other partners and when he died in 1875, it passed on to his two eldest sons Casper and Allen, the latter of whom operated it until his death in 1939. The business was then bought by Mary Quynn, widow of Daniel Hauer, who, in turn, passed it on to her sons William and Allen. The store is now owned by Dr. William G. Quynn (known to employees as Mister Billy), retired professor of French Literature at the University of Maryland, and Mrs. Allen G. Quynn, widow of his late brother, "the admiral."

Ledgers of a hardware store called Shewell's, running from June 1789 to May 1793 (antedating the first known ledger of Quynn), have been uncovered. Showing a more limited inventory and different clientele than Quynn's, it is not known if the two stores operated concurrently or if one firm succeeded the other. By 1796, no matter how many owners were involved, Quynn's was a going concern with its ledgers recording a whopping 10,000 pounds ($30,000) in sales.

At that time, Frederick was a thriving crossroads on the way to Washington. Annapolis, Georgetown and Cumberland. Visitors coming over the mountains, impressed by the handsome brick and stone houses, the rich farms and prosperous industries, usually stayed overnight. Half the buildings in Frederick were inns or taverns and Quynn's carried everything obtainable by sale or barter to meet their needs. Flour was selling for $4.50 a barrel while umbrellas went for $6 and $8. Counterpane spreads sold for $5.50 while a pair of pocket pistols commanded $9 each. A bottle of snuff went for fifty-five cents and hair brooms sixteen cents. Sugar came in loaves. Also listed on the ledgers were silver buckles, quills, shad, tobacco, pills, stirrups, bottled cordial resotrative balsam, sword belts and blades, and leghorn hats.

Books were sold on commission for Matthew Carey of Philadelphia and dealt with geography, religion, spelling, poetry, essays and . . . conspiracy. Two bestsellers concerned Cook's Voyages and Findlay's Western Insurrection.

The large volume of barter (which continued up to the late 1930's and carried on the books as "bill in bar") increased the number of items carried in inventory and included bearskins ($1.50 each); buckskins; labor of all sorts including hauling and teaching; pheasants; logs; rail and herring. Mr. Amelung, whose famous glassworks were nearby, paid his bill in glass and an enormous amount of business was paid in tobacco, leather and flour.

By 1803 the store was handling an even greater variety of goods, with more frivolous books in demand. Fabrics sounded as good as they felt with names like Cambric, Thicksett, India muslin, fustian, Bompazett, green Kersey, oznaburgh, dimity, Baize, Nankeen. Gents' suitings came in four colors; London brown, Navy blue, blued bottle, blued black. Men were also indulged with boot legs, finger rings, hearing trumpets and powder flasks. Also included in the inventory were coffin and beggar's lace, ladies' twist tobacco, whiskey, Merry Andrew cards, Bateman's Drops, Anderson's pills and many medicines.

Accounts in the first ledgers were kept in pounds, shillings and pence; later in both pounds and dollars, until after the War of 1812. By 1824, the accounts were all in dollars, and included trade with German settlements in Georgia where the goods were transported on horseback. By the late 1800's, as stores began to specialize, Quynn's became a hardware store, dropped the name of Mantz and has been known simply as Quynn's to this day.

In its own way, Quynn's has always been ahead of its time. True to itself, never one to come on strongly overpowering the public with heady promises of mosts and bests, it has been a local symbol of integrity; a store for all seasons serving all pocketbooks.

This past year, when Frederick undertook a major do-it-yourself restoration of its downtown, returning the Federal city to the colorful queen it once was, many stores were faced with the expensive task of ripping off plastic fronts, dismantling neon signs and replacing windows. All Quynn's had to do was put on a new coat of paint, sweep off its herringbone brick sidewalk and grin back at Frederick as it has for nearly two centuries.

As Frederick gets to look more like Quynn's, those involved in *Operation: Downtown Action* are finding, like generations before them, everything they need to do the job is at Quynn's.

Peg Pilgrim, co-chairman of ODA, remarks. "If you run out of paint and need a gallon to finish the job, all you have to do is pick up the phone and call them. Chances are they'll have it at your door before you can finish a cup of coffee. You can always depend on Quynn's. With a reputation like that, the advertising takes care of itself."

THE ARVADA CENTER—A COMMUNITY EFFORT

Mr. GARY HART. Mr. President, some time ago I addressed to the attention of the Senate a letter I had received from a constituent describing his loss of confidence and respect for our system of Government. He said that the public's apathy was now turning to cynicism and despair, and the American society was rapidly falling victim to an ineffective and unresponsive Government. People were losing interest in each other and in the problems our Nation must face, primarily because they had lost their confidence in Government, and their belief in themselves as effective participants in the governing process.

I drew my colleagues' attention to his

letter because it reflected a very disturbing sentiment I had detected in my travels throughout my State. It points to a potential threat to our future and the American way of life more drastic than any other source of danger that I can think of.

However, last July 4, I attended a gathering of residents of Arvada, Colo., which heartened me, and which renewed my hope for the future of our country. The gathering was a dedication ceremony for a new cultural center in Arvada which was the product of the hard work and dedication of the citizens of that city who still believe that they can make a difference. The event symbolized the proof that they were right. It is important that we recognize and encourage such dedication, and I offer my congratulations to the members of the Arvada Historical Society and others who on that day shared the well-deserved rewards of their work and enthusiasm.

On that occasion, I heard an address which plainly but powerfully summarized the motivation of the citizens who developed the center, as well as stating the urgent need for citizen involvement in Government. It is as good a presentation of the argument as I have heard.

I ask unanimous consent that this dedication address given by Mrs. Lois C Lindstrom, chairwoman of the Arvada Historical Society Museum Committee, in dedication of the new Arvada Cultural Center on July 4, 1976, be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Lois C. Lindstrom

Honored guests and fellow citizens.

I want to thank two people who have made a tremendous contribution to Arvada—my husband and my daughter. Without Lindy and Linnea I would be nothing. They have supported me in my efforts and carried out much of the work—you will hear more about that.

I would like to pay tribute to the Arvada Historical Society. The efforts made by this dedicated group of people have been outstanding, and I can tell you with great pride that the spirit of the pioneers is alive in Arvada today.

We must pay honor to and give credit to the Arvada City Council of 1973, and Mayor Joe Horan. They gave support and encouragement to citizens of Arvada who felt the need for a cultural center.

Finally we should recognize the Arvada Cultural Center Committee. This Committee was formed in June of 1973 and we should thank these people for the tremendous expenditure of time and effort: Glenna Hess, Kris Kriofske, Helen McKenney, Roy Larson, Krin Parker, Kenneth Glann, Tim Montgomery, Ken Montag, Vesta Miller, Louis Graves, Tom Thomas, Jim Fisher, W. A. Lindstrom, Jerry Kannapin, H. Albert Phibbs, Ilene Larson, Richard Fischback, Rex Lowell, Gail Gilbert, Ralph Ashton, Robert Felker—and above all our architect Harold Carver. I am going to ask these people to stand so that you can thank them.

And I want all the wives, families and young people who helped in any way with this effort to stand too so that you can be recognized.

We did it—We passed the bond issue May 21, 1974. We did it together!

Now listen very carefully because I am going to talk kind of fast . . .

You think I am going to talk to you about dreams—right?

You think I am going to talk to you about people who dream dreams—right?

You think I am going to talk to you about dreams coming true—right?

Wrong!

I'm going to talk to you about work and the kind of directed effort that can make a change in a community.

It was work that made the Arvada Historical Society a viable force in only one year.

It was work that organized the Arvada Cultural Center Committee, and work on the part of that committee to plan a center and carry on the numerous activities necessary to pass a bond election.

It was work on the part of City Council, the Arvada City staff and the Arvada Center Board who had to translate our ideas into concrete form, and it has been work, work, work on the part of our Director, Roy M. Carter, who has made the plans for this dedication today. (Applause.)

Now, when I say work—I don't mean all dressed up, sitting around thinking beautiful thoughts.

I mean two and three meetings a week, I mean building things from used lumber, pasting on mailing stickers, standing in a cramped building and missing the entire Harvest Festival while we blew up balloons that said Arvada Cultural Center, building exhibits, walking door to door handing out leaflets, planning an evening of entertainment to raise funds, making thousands of telephone calls, and typing reams and reams of material at 12:00 o'clock at night!

It was a total effort by many people, and it brought great joy! It was mind boggling, muscle straining, nerve wracking, demanding and fatiguing—and it brought great joy!

We don't usually associate work with joy. Work is what we *have* to do, and joy comes from all the other things. We all find joy in physical activities. We jog, swim, play golf and tennis. We find joy in a trim body. But there is a muscle we forget. It is a big pink and gray muscle, protected by bone that we call our brain. If we could lift off the top of our heads right now and look at that muscle what shape would *it* be in? Best not try to describe it. That brain—the seat of our mind needs exercise too, and The Arvada Center will provide stimulus and activity for your mind.

And what about your spirit? No one has seen a spirit—and yet your spirit IS you. It is that intangible part of you that makes you beautiful in spite of the wart on your nose. This Center will feed your spirit—nourish and enrich it. You will reach your full potential as a person.

This will bring joy!

You need the center—and the Arvada Center needs you! It needs your creativity. You have ideas in your head that could change the face of the world—yes YOU! But ideas have to become Action, and that takes work. This center needs workers, do-ers, participators. Bring your mind, your spirit and your finely tuned muscles to the center.

The Arvada Center cannot function without you!

This is not the place to come when you are all dressed up and don't know where to go—although there will be dress up days like this dedication day. This is the place to come to be stimulated and involved. The Arvada Center is not the place to come to show off your new pair of shoes—and don't you forget it! (display old tennis shoes with hole in toe)

These shoes symbolize the down to earth effort necessary to make this center our center. You can study, learn, sing, paint, dance and act in tennis shoes.

This center is not the director, nor the board, nor city council—it is us. The county commissioners, our Governor and state officials are us. The President of the United States and our national representatives are us. They are not they . . . they are us. They are you and I.

In the eyes of the world you and I are in Washington, D.C., Denver, Golden and Arvada. You and I are passing the laws, setting the policies and making the decisions. Our elected officials were chosen by us through our trust in them. They stand for us—what we believe—what we are.

Since they are us—they need to know about us to truly represent us.

And in view of what I have just said—what have I done about it? Why . . . nothing. I have been kind of busy lately—and that's your excuse too isn't it? I say shame . . . shame on me and shame on you for neglecting our rights. We are first class citizens (we don't have any other kind in this great country) and we have the right and the responsibility to speak out. Your voice is just as important as that of the President of our country . . . more people would probably listen to him. But we must speak out!

You ask "How—what can I do?"

You can write . . . I know you can write. Grab a color crayon and write on a grocery sack or a paper towel. Take your carpenter's pencil and write on an old gasoline bill.

Don't say "I wish someone would . . ." and then go back to your TV program. Don't say "Why don't they . . ." remember they are us.

After you write down your good idea, your criticism or your pat on the back—you might want to copy it—but if not send it in just as it is—go ahead and mail the grocery sack—it might get more attention. If you don't know where to send it, send it to city hall, the courthouse in Golden, the State House in Denver or in care of the President. Write it down and send it in. Someone will see that it gets to the right place.

Once you start writing letters you will be hooked—you will be involved in the process of government. You'll be on your own. Good luck!

Remember: We are them. They are us. Write it down.

In 1776 a man could pay another man to take his place in the Continental Army. He could pay someone to take his place if he didn't really care whether or not the Revolution succeeded or failed. General Washington had a hard time winning the war for us with such a system. In 1976 we pay our elected officials to carry on the affairs of government for us. We have turned the affairs and the responsibility of citizenship over to them. But we must remember that we cannot ever pay anyone (no matter how much we pay) to care as intensely as we do.

You cannot ever pay anyone to do your caring for you.

So on this July 4, 1976 we are going to resolve to care. We are going to accept the responsibilities of first class citizenship.

We begin with joy—working in our new cultural center. We will use this center as a forum, and as we share ideas we will become involved mind, body and spirit in the affairs of our city, county, state and nation.

We are first class citizens and we will act accordingly, and with such spirit the next 200 years will be even better than the first!

Prayer:

God, we thank You for the talents and blessings You have given us. May we fulfill their highest use in the building we dedicate today. Be with the people of this Nation, State and City. With Your Grace, and by Your Grace . . . we will do our part. Amen.

(Prayer omitted because of the length of the program and the extreme heat of the day.)

NATURAL GAS DELIVERY FROM ALASKA

Mr. STEVENS. Mr. President, as the Members of the Senate are well aware, there are three proposals to transport the vast supplies of natural gas on Alaska's North Slope to the rest of the country. One of these lines, the so-called Arctic gas line, would build a line east of the Prudhoe Bay field to the Mackenzie River Delta in Canada and then down to the Midwestern States. One of the arguments the proponents of this line use is that it will make more oil and gas available to the rest of the country.

The truth of the matter is that the Mackenzie River Delta reserves, both of oil, and gas, are virtually unknown. Exploratory drilling in the Mackenzie River Delta has revealed small supplies of natural gas but almost no crude oil. It apears that the Mackenzie River Delta is not rich in petroleum resources. Recently, the Oil Daily ran an article indicating the lack of promise in the Mackenzie River Delta. I recommend that my colleagues read it and see for themselves that the argument that going through the Mackenzie River Delta with Alaska's natural gas would bring more energy to the United States is simply not true.

I ask unanimous consent that the article which appeared in the Oil Daily on September 3, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Oil Daily, Sept. 3, 1976]

AFTER FIVE YEARS OF OPTIMISM: HOPE DIMS FOR CANADA'S MACKENZIE RIVER DELTA AREA

(By Tom Kennedy)

CALGARY.—After five years of "cautious optimism" about the potential of the Mackenzie River Delta, officials of Imperial Oil Ltd. now say "it is unlikely that commercial volumes of crude oil will actually be found" on land in the general area.

Prospects for natural gas supplies from the area appear only marginally better at this time.

The area has been the most intensively probed sector of Canada's frontier region. Overall, some 150 wells have been drilled and more than $500 million spent on exploratory activities there.

Any continuing commitment to explore and develop new reserves of fuel by industry will be contingent on an eventual decision on pipeline proposals now under consideration in Ottawa.

The gloomy overview of the current delta outlook is given by senior Imperial officials here in explaining the company's latest submission on the domestic supply and demand situation to the National Energy Board.

They point out that virtually all the prime land based structures have been drilled by now. These include a string of prospects probed from artificial islands built of gravel in the shallow coastal waters of the Beaufort Sea. All of this activity has yielded only modest showings of oil that is far short of threshold requirements.

Imperial, the largest Canadian petroleum industry entity, is the largest single permit holder in the Delta region, controlling about 11 million acres of prospective lands.

It has pinned its latest hopes for commercial oil on a pair of successful wells taken down at its offshore Adgo location. However, the complex geology revealed by the wells, with multiple structures superimposed on each other, has dashed corporate expectation of some half a billion barrels of recoverable oil there.

Oil found at other locations, including the first delta find made at Atkinson Point on the Tuktoyaktuk Peninsula in 1970, have proved insufficient to qualify, individually or collectively, as commercial prospects.

"We have more or less exhausted land based (oil) prospects and the search must move out to deeper waters," in the Beaufort Sea, according to Imperial's experts. Preparations have commenced to build an island platform in record depths of 25 feet of water compared to the previous operational depths of 6–15 feet.

As Imperial officials see the frontier situation, the exploratory effort "is unavoidably moving to progressively depths out at sea" in the delta, the Arctic Islands and along the east coast shelf.

The technical problems of exploring and developing at greater depths will translate into longer lead times, greater finding costs and still higher charges for future energy supplies when finally delivered to consumers.

"It will be especially tricky and expensive," a company official says, "to get fuel supplies out of the east coast waters." Exploration is now underway beyond the 1,000 feet depth of iceberg infested waters off the coast of Labrador.

All of Canada's frontier areas have proved somewhat disappointing during the past decade of exploration when compared to initial expectations of plentiful oil and gas supplies to be delivered promptly and at relatively low cost.

As the result of the growing delay in tapping frontier sources, Canada's domestic oil supply picture becomes more critical in the near term. Imperial says the timetable for the arrival of frontier oil in meaningful volume, earlier put in the Mid-1980s, is fast receding into the late 1980s or early 1990s.

Secondary and tertiary recovery methods for known conventional deposits will become more important than ever along with equally urgent steps to speed the utilization of heavy oil and oil sands potential, the Imperial experts emphasize.

The Imperial brief submitted to the NEB shows serious doubts that industry will be able to maximize rates of recovery despite the deteriorating oil supply position.

The present revenue sharing arrangements between industry and governments preclude the recovery of very substantial volumes of oil from western Canadian fields, according to the company's computations. Inflation, rising operating costs, controls on wellhead prices, stiff royalties and taxation levels could prevent the production of at least one billion barrels of oil, equal to about two years' output from western Canada, the company's brief said.

According to Imperial officials, production restrictions during the past 18 months, designed to eliminate the export of western Canadian oil to the United States within the next few years, have resulted in significant losses in ultimate recovery because of the nature of reservoir performance.

Imperial is a participant in the controversial $2 billion Syncrude oil sands project, but the company believes that the Athabasca oil sands will make only a minimal contribution to Canada's near term fuel supply. "It is impossible to get conventional financing for this type of development," the company says. "It would either have to be self financing or have some degree of government participation" to build post Syncrude synthetic oil producing facilities."

The Canadian government and those of Alberta and Ontario have acquired a 30% stake in Syncrude to have the project from abandonment because of cost escalations in 1975. The 125,000-barrels-per-day plant is scheduled to go on stream in 1979.

According to Imperial's assessment of the oil sands prospects, subsequent plants would have to obtain much more favorable arrangements in respect to taxes, royalties and the price of the product than Syncrude has managed to negotiate, to be considered at all.

The conditions affecting Canada's future energy supplies will become increasingly sensitive to government actions, an Imperial official said. The degree of reliance on domestic sources and dependence on oil imports, he added, will be determined in the main by governmental economic policies.

Experts believe that the Canadian government should give more thought to the utilization of heavy oil by encouraging its use in domestic refineries and allowing it to be sold to U.S. purchasers outside the shrinking general oil export quota.

AMERICAN EDUCATION

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to a series of articles that recently appeared in the Washington Post.

These articles point out two facts about American education. In the past years we have been experiencing a massive decline in the ability of our students to read and write effectively. This drop is measured in national aptitude tests, and it falls across all lines: economic, racial, social, and even includes private as well as public school students.

There have been indications of this slippage; test score declines have been reported in various areas, colleges have recently begun to require remedial courses for freshmen, and critics have remarked on the semiliteracy of many high school graduates. However, now we are aware of the complete picture and we can see how widespread this problem has become. It is a deplorable failure of national proportions.

This slippage has not been reflected in report cards though. At the same time that test scores have been dropping grade averages have been soaring. In spite of declining aptitude, students have been receiving higher grades so that A's and B's have been awarded for work that would only have received C's a few years ago.

This turnabout is due to a number of factors. I am concerned about the effects of television watching on the school age population. I am concerned about the effects of the decline in family life on student achievement. Also, I feel that in the past few years we have sought to make courses overly attractive, to make them give immediate results. We have glorified the timely and relevant, while beggaring the intellectual content of education.

To deliver excellence, an extra dedication is needed. If our schools are to remain the stairway to a better life for our children, then we must invest in them. We must lead the way in setting high standards for students to reach, we must provide special services for every disadvantaged student, and we must aim every effort and expense on the student and teacher level. We must begin to work on the classroom level once again.

I think we have lost sight of these basic goals, somewhere. We have forgotten what the real business of education is about. I hope that our work this year, and in the years to come, will refocus our programs on the fundamentals, and that our effort will produce not only greater records in student attendance, but greater records in student achievement as well.

Mr. President, I ask unanimous consent that this series of articles be printed **in the RECORD.**

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Aug. 29, 1976]

Three Rs Take a Beating—National Downward Spiral Reflected in Test Scores but Not Report Cards

(By Jack McCurdy and Don Speich)

The reading, writing and computational skills of American students from elementary school through college are in a prolonged and broad-scale decline unequaled in U.S. history.

The downward spiral which affects many other subject areas, began abruptly in the mid-1960s and shows no signs of bottoming out. By most measures, student achievement is below the national average of a decade ago.

There are some indications that the decline—reflected in a wide range of test results and other evidence of academic performance—is growing worse.

Yet in the face of strong evidence that students are doing worse, they are receiving higher and higher grades.

Aspects of this have surfaced over the last few years: There have been scattered reports of falling test scores, perennial critics have continued to bemoan school performance and a few analytical efforts have focused on isolated areas such as reading and writing—all based on fragmentary evidence.

Only recently have the facts become available to reveal the magnitude and disturbing nature of the achievement decline, its pervasiveness and consistency across all academic areas and all segments of American education.

The decline encompasses all ethnic groups, all economic classes and both private and public school students at most achievement levels in all regions of the nation.

Furthermore, there is evidence that college students have been doing progressively worse on examinations required prior to entering graduate schools. This would indicate that there has been a drop in achievement in higher education as well as in elementary and secondary schools.

The only exception to this pattern has been in the reading level of pupils in the first three grades and in the science knowledge of college-bound students and college graduates. Test scores in these areas have either generally risen modestly or held steady over a long period.

At the same time that declining achievement engulfs the nation's schools and colleges, American education is beset with another problem: wholesale grade inflation. From high school through college, "A" and "B" grades have become the common currency for work which probably would have carried a "C" grade 10 years ago.

Thus, the knowledge that students demonstrate on objective tests is declining but the subjective ratings of students by teachers are producing higher grades than at any time on record. Grade inflation has at least partially blinded many to the reality of the achievement decline.

For the most part, educators and those connected with schools and colleges have tried to ignore or discount the significance of the achievement decline. At a national conference of school administrators earlier this year, for example, it was alluded to as the "big lie" being perpetrated against education.

But it has become clear in recent months—partly because of researchers such as David Wiley of the University of Chicago and Frank Armbruster and Paul Bracken at the Hudson Institute in New York—that the decline is real and not, for example, the result of changes in the ethnic or socioeconomic makeup of test-takers.

The evidence of the achievement decline, however, is not limited to results of standardized tests.

Many teachers and college professors have become acutely aware of the shortcomings of students in what they bring to the classroom in the way of knowledge about mathematics, history, the English language and other subjects.

For the last few years the number of incoming freshmen at the University of California found to be lacking in basic composition skills has been growing to the point where between 40 per cent to 65 per cent of them now are required to take remedial, or "bonehead," English classes.

At Stanford University last fall only 24 per cent of the 178 students it admitted with top scores on a standardized national English achievement test were able to pass the university's English placement examination.

The National Assessment of Educational Progress, which surveys the general population, has also found that the writing ability of young people has slipped.

All of which does not mean that the nation's schools and colleges have entered a dark age or that American students have suddenly stopped learning and know less than their counterparts of some golden era many decades ago.

The overall decline on standardized tests represents roughly an average of 5 to 10 fewer correct answers per student on tests of around 75 questions. Obviously, the educational edifice has not collapsed.

What it does mean is that American education appears clearly to be on a dangerous course that could have serious repercussions.

The trend seems to indicate that students are losing their ability to handle more sophisticated language and higher mathematical concepts and ideas that demand some critical thought.

James Gray of the School of Education at the University of California at Berkeley says a loss in the ability to write is a loss in the ability to be educated.

"Writing ability is the one language act that embraces all verbal activity, and verbal activity is at the heart of all learning," he said.

"Writing, in short, is central to the educative process."

The decline in academic achievement has occurred during a period in which the amount of money spent on education annually has outpaced the rate of inflation, the level of teacher salaries has risen, and the average number of students in the nation's classrooms has steadily dropped—even though, overall, there are many more students enrolled in schools than ever before.

The Times examined the scores registered over a 19-year period on the Scholastic Aptitude Test (SAT) and a 10-year span on the American College Testing Program (ACT). One or both of these tests are taken annually by virtually every college-bound high school student in the nation.

Also examined were achievement test scores from 24 states and the District of Columbia, and a variety of school districts in communities throughout the United States, some of them covering a period from the mid-19th century to 1975.

Additionally, results of the Graduate Record Examination—required of most college students prior to admission to graduate school—were examined.

In nearly all cases, the scores on tests measuring reading, writing and mathematical ability rose steadily or held constant up to the mid-1960s (the exact year varies with some tests) and then dropped, signaling the beginning of a year-by-year decline that continues unchecked.

Between the 1963–64 and 1974–75 academic years, the average nationwide SAT verbal and mathematics scores dropped 38 points and 25 points, respectively.

David Wiley, the University of Chicago researcher, estimated that the actual drop is about 50 per cent greater because of changes in the forms of tests used over the years.

The decline can be seen in every region of the country, according to a report by Rex Jackson of the Educational Testing Service, which developed the SAT.

The report shows that between 1971–72 and 1973–74, the sharpest declines in SAT scores were registered in the Northeast, the Plains states and the Far West, although the Midwest, South and Southwest also experienced significant declines.

The Jackson report, moreover, shows that the decline also hit the nation's private schools. Between 1973–74 and 1974–75, for example, the average verbal and mathematics test scores in private high schools dropped respectively by 10 points and 8 points, compared with a public high school decline of 9 and 7 points.

The drop in SAT and ACT scores since the 1960s is paralleled almost exactly by test results of youngsters from grade 4 or 5 upward, showing that the achievement decline is far from limited to the college bound.

The decline in test scores of the elementary and secondary school population as a whole covers all subject areas, but unlike the SAT-ACT results the dropoff also includes science.

One of the best examples of the decline was in Minnesota, where the average score of 11th grade students on a scholastic aptitude test climbed some 16 per cent between 1958 and 1966. It then started to drop and by 1972 had lost about half the 16 per cent gain and was resting back at the 1961 level.

Among the explanations offered for the SAT decline are that the ethnic composition and family income levels of test takers have changed markedly during the period of decline. Proportionately, more minorities from low-income families and fewer white students from middle- to upper-middle-income families (a group which traditionally does better on such examinations) are taking the tests, this argument goes.

The evidence, however, shows that from 1971–72 through 1974–75, a period of substantial score decline, the proportion of minority test takers held fairly constant at 13 per cent, and the income level of test takers rose.

"Negroes and other minorities simply are not numerous enough and have not increased in number rapidly enough to account for the decline in most states," a Hudson Institute report said.

The percentage of school age children who are enrolled in schools has risen greatly over the past several decades and is now at an all-time high.

It has been argued that this means the test scores are being pulled down by youngsters who are typically low achievers and who would not have been in school in the past.

But this kind of enrollment growth peaked about 1968, before the worst of the achievement decline took place.

Officials in some states have raised the possibility that migration from other sections of the nation—from the South, for example, where the quality of schools might be lower—could account for a drop in an individual state's achievement level.

But the decline has affected all regions, including states such as Iowa, where the population is very stable and mobility in and out is low.

The Hudson report summed it up: "Declining academic achievement is not confined to the poor, the immigrants, the Negroes or school districts where these children are found. It is a nationwide event."

Although information pertaining to achievement in the first grade through high school is fairly abundant, there is less available to illuminate the achievement picture in college.

However, results of the Graduate Record Examination during a 9-year period indicate strongly that the decline has invaded the nation's universities and colleges where, unabated, it has continued on through at least the baccalaureate level.

According to interviews with scores of educators across the country—persons who deal with students rather than statistics—today's students are lagging behind yesterday's.

"They don't read as much, they haven't been given enough practice in thinking and composition,'" said Stoddard Melarkey, associate dean of liberal arts at the University of Oregon.

"The net result is when you walk into a classroom you can't expect as much from a student as you could say 15 years ago. That is a fact of professional life."

WARNING: HISTORY AT U. OF MAINE COULD MEAN TERMINAL BOREDOM

Anyone who wants to study history should avoid the University of Maine lest he be bored to death. Rep. Paul Simon (D-Ill.) said yesterday.

Simon, a member of the House Postsecondary Education Subcommittee, said his recommendation was prompted by a recent advertisement seeking a history teacher for the Maine institution.

The ad, he said, asked for someone who can combine "synchronic and diachronic analysis of events in a transcultural and holistic mode."

"The teacher who responds to that ad will undoubtedly be the next dullest teacher of history in Maine—exceeded only by the teacher who wrote that ad," Simon said.

Simon, who is supporting an increase in federal aid to college students, cited the ad as an example of the pedanticism and lack of reality that he said plague higher education.

"If higher education is to receive adequate public and congressional support, it must provide more than scholarly nothingness," he said. "As Maine goes, we hope the nation does not go."

[From The Washington Post, Aug. 30, 1976]

The Erosion of Standards in Education

(By Jack McCurdy and Don Speich)

The drop in U.S. academic achievement has resulted from a shift in social and educational values during the 1960s when schools and colleges reduced the number of basic academic classes, weakened graduation requirements and emphasized electives that were academically less demanding.

At the same time, greater emphasis was placed on vocational education, further diminishing the importance of the academic curriculum.

Basic course requirements in English, history and foreign language, for example, were cut back or eliminated (in colleges alone by 22 per cent since 1967) and replaced by electives or, in the case of high schools, by vocation education classes where enrollment rose fourfold and funding tenfold between 1964 and 1974.

Grades are threatening to become almost meaningless as instructors drop traditional standards of academic quality and, instead, dispense "A" and "B" marks offhandedly to a growing number of students. Consequently, students now are not only able to get through school and college more easily and with less preparation, but with higher grades than before.

At the same time, more high school students have been working part-time, absenteeism rates have climbed and students generally have spent less time in classes—particularly in basic academic subjects—over the last 10 years.

Moreover, in college the number of hours required to obtain a baccalaurate degree has been reduced.

All of these things—curriculum shifts, drops in requirements, grade inflation, rising absenteeism—began in the mid-1960s and swept through the educational system at an unprecedented rate. It was not until the 1970s, however, that they had their sharpest impact on the nation's schools and colleges.

Much of this can be seen as the result of an educational system that became fragmented and confused about its mission and role as it faced repeated demands in the 1960s to justify the wisdom of past educational practices.

Instead of justification, many educators offered almost instantaneous change.

Many educators found academic rigor difficult to defend and substituted the notion that learning should somehow be less painful or, preferably, fun. It was an attitude of "I don't care how bright you are as long as you feel good," says Stanford University admissions dean Fred Hargadon.

In some instances, the rationale behind curriculum changes was based on the concern of educators that many traditional modes of instruction were too rigid or arbitrary, leaving little room for the innovation they felt was necessary to motivate disinterested students. Without flexibility in curriculum, these educators thought, such students would remain untouched by time-worn—but not necessarily time-proven—methods of teaching.

Meanwhile, an enormous highly successful push began to make education in the nation's high schools more a practical means toward a generally low-level occupational end.

A lower keyed but similar attitude crept into much of higher education. If an academic major ultimately led to an available slot in the labor market it was blessed in high places. If not, it was held suspect—if not threatened with extinction—by many outside of education and not a few within it. It was an attitude that rarely produced real change, but even so it gave higher education more of a vocational and less of an academic tone than in the past.

Collectively, these trends served to undermine the rational and intellectual foundations of education, leading some to question the importance of formalized learning in institutions that were confused about it.

A study by David Wiley of the University of Chicago suggests that it was basically external forces that impinged on education to bring about the achievement decline.

One such factor is television and its apparent undermining of youngsters' study habits and time once spent reading.

Another hypothesis involves changes in the family structure, particularly the sharp rise in the number of working mothers since World War II. The number of single-parent families also has jumped. The implication here is that the presence of adults in the household has diminished and attention to schoolwork and academic discipline has suffered as a result.

Possibly linked to that is the growth of violence and disruptions in school and drug and alcohol use among youngsters, which many school officials blame for destroying the atmosphere requisite for learning.

In light of the national controversy over school desegregation, not a few persons have cited busing as a possible reason, implying that learning has been undercut either by mixing children of different ethnic groups or by the dislocation caused by busing to achieve integration.

However, this argument is disputed because the achievement decline has affected all regions of the country, including the South, where there has been extensive desegregation, and the North and the West, where there has been little. And it has affected school districts with desegregation as well as those without, and the public as well as private schools.

Some have tried to blame the financial squeeze that some school districts have experienced in recent years for the achievement decline.

However, the material condition of public education in the United States has improved markedly in virtually every way over the last 10 years.

It is the fundamental and massive shift from basic academic requirements to an array of electives that seems to be the most direct contributor to the achievement decline in schools and colleges.

The shift was fast and pervasive. In colleges and universities across the country, for example, general education requirements dropped 22 per cent between 1967 and 1974, according to a recent study by the Carnegie Council on Policy Studies in Higher Education.

Falling into this category are history and literature survey courses, which, like others, traditionally have been required to assure that students become acquainted with more than the subject area of their academic majors.

Additionally, the study noted, requirements in English, foreign languages and mathematics "declined appreciably."

Results of The Times' investigation indicate that student achievement progressively declined in subject areas where the number of electives increased.

For example, in addition to the general achievement test, the Graduate Record Examination—required of most college students prior to admission to graduate school—offers subtests in a variety of academic specialty areas for college students planning to enter graduate school.

These exams show that in areas where electives have blossomed, such as the social sciences, the scores have dropped sharply. Conversely, in the natural sciences, where there are more requirements and fewer electives, scores have risen.

Between 1965–66 and 1973–74, for instance, scores on the GRE's history subtest dropped 41 points, while in biology they increased 14 points.

In secondary (junior and senior high) schools, the same general trend is evident: away from basic academic courses, toward a burgeoning list of electives with a sharp upswing in vocational educational classes.

Electives are not bad, of course. When used to supplement or enhance knowledge gained in a basic course they provide for a more sound and complete education.

But when they are used in a wholesale manner to replace basic courses, as they increasingly are in college, and are innovative in name but marginal in content, as many are in high school, then their worth at the very least is questionable.

Electives, said William Morgan, assistant superintendent for secondary education in the Sacramento city school system, were necessary because "we had riots in the schools."

"If we didn't get them [students] turned on, we couldn't have blunted the [threats] that were there," he said, adding, "in the process we lost the scope and sequence" of required course work.

Said Stanford University's Fred Hargadon, "I think education in many respects became commercialized in the sense that it began to ask what the customer wanted. And I think at that point it probably began as a whole to lose a little of its own authority because a little bit of its magic was based on the assumption that it would be the educators who somehow through a process of hundreds of thousands of years had determined what might be valuable for somebody to know in going through life."

[From the Washington Post, Aug. 31, 1976]

EDUCATORS LARGELY IGNORING DECLINING STUDENT ACHIEVEMENT

(By Jack McCurdy and Don Speich)

Little is being done at either the national or state level to determine the cause or extent of declining student achievement and rising grade inflation in the nation's schools and colleges.

Noticeably lacking is government-sponsored research into these two phenomena, despite evidence of their existence for years.

Moreover, the relatively few school officials who concede that there is a decline in student achievement channel the blame for it everywhere but within the walls of the nation's high schools and colleges.

Virtually no official recognition of grade inflation has been made in American high schools and although it is widely acknowledged in the country's colleges and universities, such acknowledgement has led to little action at the national and most state levels.

At various points across the country, plans are being made or action has been taken to reinstate academic requirements that were dropped during the last 10 years. And at some colleges and universities, steps are being taken to establish or expand remedial instruction.

By no means, however, do these actions indicate the emergence of a national trend.

Some educators argue that it is not really important that the abilities of American youth to read, write and do mathematics are declining. Such skills, they contend, are not needed nearly as much anymore in a technological society that is depending more on the visual and aural media of television and radio.

Powerful national and educational organizations, furthermore, have chosen not to assume a leadership role in a search for the causes of the decline. Instead, such groups as the National Education Association and the American Association of School Administrators have tended to avoid or downplay the issue or they have sidestepped the decline by stressing current accomplishments of the educational system.

At a recent national school administrators meeting, for example, the focus was on the increasing achievement scores of the first three grades. Little mention was made of the decline in virtually every other grade above the primary level.

In another case, an official of the NEA, the nation's largest teacher organization, dismissed declining achievement scores as insignificant.

"Tests aren't that important and [their results] shouldn't be viewed with that kind of concern," he said.

Apparently, some educators don't think the test results should be viewed at all.

"We have been criticized by some for releasing this information" about declining Scholastic Aptitude Test scores, said Dr. Sidney P. Marland Jr., president of the College Entrance Examination Board that administers the SAT.

"Mindful of the discomfort and even the angry debate that the information has generated, we feel certain that to have withheld this informaiton, and sat upon it with a 'what the public doesn't know can't hurt them' attitude, would have been an act of extreme irresponsibility," he said.

Harold Hodgkinson, director of the National Institute of Education, the educational research arm of the U.S. Department of Health, Education and Welfare, said reports of the decline in student achievement have "been presented as if the schools are going to hell in a hand basket, [that] they can't do anything right [and that] students aren't learning anything. I think it's just not a fair criticism.

"That's not to say for a minute that there are not areas [for] improvement in the schools. But certainly if you compare them to almost any other educational system in the Western world and consider the magnitude of the job that they're asked to do and the fact that the American family has gone through some enormous changes, and that we can't rely on parents to prepare students for schools in terms of values and attitudes, the schools have done, I think, an incredibly good job."

While he acknowledges that college entrance examination scores are down, Hodgkinson doesn't concede that the decline shows students are doing worse in school. Rather, he said, in many subject areas "they are doing better."

Results of The Times' investigation show that the achievement levels of both high school and college students have dropped sharply over the last 10 years in such areas as English, mathematics, history and literature, as reflected in a variety of national and state achievement test scores.

Dr. Alexander Astin, president of the Higher Education Research Institute, said that because "we are pitifully lacking in evidence . . . some very heavy, top-priority national research is needed.

"In other words the people who write the checks for education research and evaluation ought to be very heavily investing in much better information about achievement and knowledge and learning."

For example, although evidence gathered in The Times' investigation shows that massive curriculum shifts away from basic academic subjects are largely responsible for the decline, other factors such as television, changes in family structure and the impact of vocational education could have a bearing. Very little if any research has been done in these areas.

The College Entrance Examination Board has appointed a blue-ribbon panel to "assess various explanations that have been offered for the . . . decline." However, no significant independent research into the causes or extent of the decline is expected from this group, which is slated to make its first report after the first of the year.

There are indications, however, that some school districts and colleges and universities are beginning to recognize the achievement decline for what it is and are doing something about it.

For example, the Bay Area Writing Project, a joint effort by the University of California at Berkeley and several San Francisco Bay Area school districts, is attempting to combat the decline in student writing skills with special training programs for junior high and high school English teachers.

According to the project's co-director, James Gray of Berkeley's education department, selected English teachers attend a special summer session on the Berkeley campus, where they are trained in the techniques of writing instruction and then conduct inservice training programs for other English teachers at various Bay Area schools.

Last month the Los Angeles city school system faced with glaring signs of declining academic performance in high schools—added at a cost of $3 milllion a year a one-semester English course to the secondary (junior and senior high schools) curriculum, returning the district's total English requirement to its level of three years ago.

The city school board had cut course requirements in English as part of a wholesale revision of graduation standards in 1973. (The board also eliminated four courses in mathematics, social studies and science from the secondary curriculum. They have not been restored.)

In a related action last January, the board ordered that, starting in 1979, students must pass a reading proficiency test before graduating. It also approved plans to set up remedial reading classes to help those with reading difficulties. The program is known as Senior High Assessment of Reading Proficiency and goes into effect in 1976–77.

Students entering the tenth grade next month will have the opportunity to take the reading test four times and will be given remedial reading instruction in the event they fail. High school diplomas will not be issued to students who do not pass.

Some states, including Virginia and New York, have imposed reading proficiency requirements for students wishing to graduate from high school.

Within higher education, remedial instruction is expanding or being implemented to deal with the growing number of students deemed deficient in basic skills thought essential to academic success in college.

Among those institutions taking such action are the California State University and Colleges, the University of Oregon, Ohio State University and Dartmouth.

CHINA POLICY IN 1976

Mr. GARN. Mr. President, there are many signs that there is a movement afoot in the State Department to establish diplomatic relations with Communist China after the November elections. It is recognized that such a step would demand in consequence an abrupt termination of our relationship with the Republic of China government on Taiwan.

It seems that this "solution" to the China problem has been the subject of commitment or indication of future commitment by Secretary of State Kissinger in his exchange of diplomatic visits in Peking.

There are no reasons to be either pessimistic or gloomy about the future of the Republic of China on Taiwan. Communists do not have the means or practical capability to launch any effective military operation against the island of Taiwan and, if they do, the compact military establishment of Taiwan is in the position to defend its territory and inflict heavy losses on the potential invaders. It is also true that the U.S. contribution to this defense would be rather minimal on the ground and in the air, but the presence of the U.S. fleet in the waters of the area is very important for both the psychology of mutual security and the interception of enemy craft.

As a matter of record, the Republic of China has a mutual defense treaty with the United States, signed in 1954, which guarantees U.S. assistance and support in case of military attack on its territory, the island of Taiwan. The United States maintained its diplomatic relations with that country on the basis of this treaty and there are no valid reasons to change this condition.

The economic success of Taiwan since 1950 is a story with no parallel for a small nation of 16 million people. The gross national product reached $14.5 billion in 1975 and has a steady growth of over 7 percent annually. The country has a balanced budget of $2.9 billion for 1976–77 with defense and foreign affairs accounting for 43.3 percent of the total. It has a very stable currency and a balance of payments of a positive type for the last 10 years. Foreign reserves of more than $2.3 billion is not what most of the countries the size of Taiwan can show for their credit.

Taiwan is, in reality, one of the most stable and attractive areas for foreign investment. Since 1950 foreign investment in the country totaled $1.5 billion, including $480 million from the United States, $220 million from Japan, and $160 million from Western Europe.

The solid industrial base developed in Taiwan includes such manufactured products as textiles, plastics, electrical and electronic equipment and appliances, processed food, and petrochemicals. The free enterprise methods of production account more than any other factor for the economic and industrial success of Taiwan. In this respect, Taiwan contrasts strongly with the Communist mainland China which cannot compete with Taiwan either in efficiency of manufacturing or in expedition of export and import exchange with the outside world.

Politically, the Repubic of China on Taiwan is the most stable country in domestic and foreign affairs of all the countries in Asia. While Communist China undergoes periodically violent political turbulences and purges, the transition of political power after the death of President Chiang Kai-shek in 1975 was accomplished in a very smooth and quiet manner. The government of Premier Chiang Ching-kuo moves effectively toward the social reforms and social equality to avoid any possible domestic frictions. The standard of life has been doubled in the last two decades with the leval of personal per capita income of over $700 in 1975 and expected to reach $1,300 by 1980.

There were very gloomy expectations when many countries of the world started to move toward recognition of the government in Peking and severance of their diplomatic relations with the Republic of China on Taiwan. It was concluded that such developments would create a diplomatic isolation and grave economic, political, and military security problems. Nothing of that sort really took place and many of the countries which severed their diplomatic contact with the Republic of China are now having second thoughts.

The economic prosperity of Taiwan and its foreign trade have continued to grow and expand. The total two-way foreign trade was over $11 billion annually in recent years and is targeted at $14 billion for 1976. It includes more than 100 trading countries, headed by the United States, Japan, and West Germany. There are no reasons for a change of either the U.S. economic or diplomatic policies toward the Republic of China in the foreseeable future.

Above all, there is no reason to count on the permanence of the Communist regime on the mainland of China. In fact, there is considerable evidence that the Peking government is in the midst of great instability. With the death of Mao Tse-tung, we will get some idea of just how instable things are.

As a help to our understanding of the nature of the Communist regime, and as a suggestion for a proper attitude toward the China question, I would like to include in the RECORD two items. The first is the testimony of Dr. Ray S. Cline of the Georgetown Center for Strategic and International Studies before the Subcommittee on Future Foreign Policy Research and Development of the House Committee on International Relations. Dr. Cline discusses the idea of a "Two China" policy, similar to the approach taken by the United States toward East and West Germany. There has been a great deal of opposition to this idea on the part of both Chinas, of course, but there is no reason why we should not explore it in greater depth than we have to date.

The second item is a series of articles which appeared in World View magazine last May, June, and July. Miriam and Ivan D. London explore the evidence on the ability of the Communist regime in China to actually feed its people. In the blush of friendship accompanying ping-pong diplomacy, and the great opening to China of the Nixon administration, the news media have bent over backward to put mainland China in a favorable light. The absence of beggars and famine has been widely noted.

In the World View series, the Londons challenge this picture, and examine some of the evidence coming out of China which indicates that there is another side to the question. Their articles, of course, go to the heart of the question of the reliability of news coming out of a totalitarian society.

I ask unanimous consent that the Cline testimony and the three articles mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BEFORE THE SUBCOMMITTEE ON FUTURE FOREIGN POLICY RESEARCH AND DEVELOPMENT OF THE HOUSE INTERNATIONAL RELATIONS COMMITTEE

(By Ray S. Cline)

U.S. POLICY TOWARD CHINA

It is a great honor to appear before this distinguished group of Congressmen addressing themelves to the complex questions of future U.S. foreign policy. With your permission, Mr. Chairman, I will make a few brief remarks about one of the most vexing and most crucial issues confronting the United States in its foreign policy, namely our relations with the Republic of China. This is the formal name of the political entity governing the daily lives and welfare of 16 million Nationalist Chinese residents on Taiwan and the adjacent small islands of the Pescadores. The Government of the Republic of China claims the rightful or de jure political responsibility for ruling all of China, although—as the Nationalist Chinese know better than anyone—their de facto control of the territory has been restricted to its present island area since 1949, when the Chinese Communists won physical control of Mainland China after a bitter civil war, (Mao Tse-tung established the Government of the People's Republic of China on 1 October 1949 in Peking).

Let me say at the outset that my view of foreign policy is based on my 30-plus years of government service, more than 10 of which were spent in overseas posts. I had the good fortune some 15 years ago to spend almost five years in Asia, residing in Taiwan, where I learned an enormous respect and admiration for the Chinese people. Their ancient cultural traditions are based mainly on the Confucian virtues of respect for the family and family obligations as the basis of all civilized life, an enlightened humanism as an ethical guide for conduct, and political moderation in governing a self-disciplined society. The Chinese I know have deep confidence in the moral basis of government and international relations; they are extremely self-reliant and are among the most energetic, hardworking, entrepreneurial people in the world.

I am sure this is potentially true of the Chinese people on the Mainland too, but the Government of the Republic of China (Taiwan) has based its policies on developing these characteristics within modern outward-looking, international-trading society with political processes representative of individual voters; whereas the Mao regime has denigrated Confucian ethics, introduced a command economy with total central control, and forced the police controls of an arbitrary dictatorship on the 900 million Chinese people on the Mainland.

Finally, in the way of preliminary explanatory remarks, permit me to give you my views on the proper modalities of U.S. foreign policy. I have studied this subject for many years, both in theory and in practice, and I have written down some of my conclusions in a book published last year under the title World Power Assessment. Hence I can tell you very briefly—by lifting a passage from this book—what I think ought to be our basic approach in international affairs:

"...in thinking about an appropriate strategy for the United States and the strategic balance which we seek in the world, it is essential to return to some positive ideas about which nations of the world are sympathetic toward U.S. purposes and which of them are strong enough to be helpful to the United States.

"A nation must not be mesmerized by the power potential of an adversary. An obsessive preoccupation with hostile governments can lead to error, either through exaggerrated fear of the dangers they present or through anxiety to placate them. The sine qua non is to know what U.S. objectives are and whether or not they can be achieved. This will depend upon our own national power plus that power committed to our side by dependable alliances. Like good friends, good allies must be shown again and again the mutual benefits of free and voluntary association."

In the light of these principles our recent foreign policy attitudes toward Asia leave a good bit to be desired. The main thrust of the policy of Richard Nixon and Dr. Henry Kissinger was to placate our avowed adversaries, the USSR and the People's Republic of China (PRC), by propitiatory concessions, some of them at the expense of our allies and our own worldwide strategic capabilities.

I believe that President Ford has brought our policy back to proper emphasis on candor and straight dealing with our main allies, as well as on our strategic strength, but the credibility of the United States in this regard is still limited. There are still reverberations of the Nixon "shocks" of neglect of Japan's interests while we were secretly fabricating the detente with Mao Tse-tung, reverberations of the harsh and disdainful treatment of our great European allies in the economically and politically stressful years of 1973 and 1974, and the reverberations of the generally secretive and inadequate way of handling commitments and guarantees to such endangered species of nations as South Vietnam, now extinct, Israel, and the Republic of China (Taiwan).

If there is any specific track in our foreign policy today where we seem to me to be walking into a disaster, it is our policy toward China—more specifically our shabby treatment of a loyal, strong, self-reliant ally, the Republic of China, as a device to capture the attention of the Mao regime in Peking.

Our China policy lurched suddenly into a new phase with the Kissinger secret trips to Peking in 1971 and the Nixon TV spectacular visit of February 1972. These contacts with Peking, eagerly sought by Mao because of fear of the Soviet Union, set the stage for improving our relations with Communist China. Basically, improving contacts with China is a good idea. Almost total hostility on both sides had been the rule for more than 20 years; and the future of Mainland China is a critical element in international affairs. The Nixon policy also, however, implied abandonment of our firm, long-established strategic commitment to defend the people and the territory of Taiwan from forcible conquest and subordination under the Communist dictatorship, which none of the people on Taiwan want. Communist China could have had better relations with the United States at any time in the past 20 years if they had been willing to renounce the use of force to recapture Taiwan. This they are still unwilling to do.

The first betrayal of our commitments to Taiwan occurred when the White House torpedoed the earnest efforts by the State Department and other friends of the Nationalist Chinese to maintain a seat for the Republic of China in the United Nations, even while acquiescing in the entry of the People's Republic. I know from my personal observation in the State Department, where I worked at the time, that Secretary of State William Rogers and U.N. Ambassador George Bush made every effort in good faith to save Taiwan's membership in the General Assembly, in which at the time, it was a full member in good standing.

At the crucial moment, however, a duly publicized trip to Peking by the itinerant Dr. Kissinger took place. His presence in Peking in October 1971, at the very time of the close vote on expulsion of Nationalist China from the U.S., signalled to the world that U.S. interest had shifted to the PRC and, despite public policy pronouncements, would be less than resolute than before in protecting the interests of its longtime ally, the Republic of China. The Republic of China was deprived of membership in the U.S. by a very close vote which would probably have gone the other way if Nixon and Kissinger had vigorously supported the two-Chinas policy espoused by Secretary Rogers with their approval at the time.

It was no surprise, then, that the Shanghai Communique in February 1972 somewhat equivocally endorsed the "one China" concept on which Peking based its claim to rule over Taiwan—to be made good in their view by force if necessary. While White House verbal support for "old friends" accompanied these pronouncements, there was no firm and unequivocal restatement by the United States of commitments concerning Taiwan; there has been instead a persistent emphasis from that time forward on the overriding necessity of improving relations with the PRC. Thus for five years U.S. policy has implied without openly saying so that Taiwan ought to be resubordinated to the Mainland in some fashion or other regardless of what the 16 million people there want.

This is the real sticking point in our policy. If our commitments to Taiwan get in the way of our diplomatic surge toward Peking, are we entitled to discontinue our support of Nationalist China and let it become highly vulnerable to pressures that eventually will bring it into line as part of the Mainland dictatorship? Especially we must ask, can we morally justify this step even though its citizens are united in wanting to keep their own democratic society, elected leaders, internationally oriented free-trading economy, and standard of living about three times higher than that in Mainland China? Are nations of 16 million, like Taiwan, of which there are well over 100 among the 150-odd independent political entities in the world, playthings to be tossed about to suit the convenience of the great powers?

I discussed these very issues with Jack Kennedy and Dean Rusk when they were the primary architects of U.S. policy. To their credit, both of these great men based their position on the moral principles of loyalty to an ally, commitment to freedom of political choice for small nations as well as large ones, and the prevention of the use of military force to settle political disputes. The United States even in those days would have been pleased to have better relations with the Mao regime, although we deplored its policies—particularly its policy of arming and aiding North Vietnam to destroy the anti-Communist regime in South Vietnam. Regardless of the diplomatic gains that might have been made from improved relations with Peking, or the troubles that might have been avoided, no leader in that day was willing to take the step of selling the Nationalist Chinese into subjugation to the Mao regime as the price of detente.

As a result of this view, also held by President Eisenhower in his day, the United States has always maintained diplomatic relations with the Government of the Republic of China and honored a Mutual Defense Treaty (of 1954) guaranteeing U.S. assistance in case of military attack. On these ties to Taiwan have hinged the stability and peace of Northeast Asia, where remarkable strides toward economic and politcial strength have been made by the major country in the area allied with the United States, i.e., Japan. It is hard to see how the United States can gain by disrupting this stability. Not only does the Republic of China have a modern society firmly linked with the international trading countries essential to U.S. well-being and security, but it has an expanding Gross National Product of about $15 billion and a foreign trade of about $12 billion, more than all of Mainland China. It also maintains well-trained and equipped armed forces with a total strength of about 500,000, a major contribution to the security of the East Asian island chain stretching from Japan to Indonesia, on which depend U.S. strategic defense of the West Pacific and protection of the vital shipping lanes on the periphery of all of Asia.

Despite these facts there now appears to be a quiet but concerted move by State Department officials trying to redeem Dr. Kissinger's implicit promises to Mao and the recently deceased Premier Chou En-lai, by Sinologists anxious to be admitted to the ancient seats of Chinese culture on the Mainland, and by journalists who are hoping to get posted to Peking if they write friendly stories on the PRC, to extend diplomatic recognition to the PRC and withdraw it from the Republic of China (Taiwan).

The political chaos in Communist China surrounding the struggle for succession to the power wielded by the senescent Mao Tse-tung would seem to any reasonable observer to argue that nothing can be gained by recognizing at this moment a regime whose leaders and policies in a few months may be entirely different; they are certainly unknown. In the heedless rush to recognition, however, the very uncertainties are used as arguments for acting quickly while Mao is alive, if he is. The aim is presumably to forestall greater enmity than now exists in Peking toward the United States, which is now classed as a superpower enemy to be destroyed in due time, but a failing, weakening superpower which the PRC hopes to exploit diplomatically to its advantage in its more urgent and deadly conflict with the other superpower, the USSR.

To this credit, President Ford has not succumbed to steady pressure to move on to early diplomatic recognition of the PRC. This bow to Peking is the kind of over-eager concession which we made to buy goodwill in our detente policy toward the USSR. As I have observed elsewhere, this detente policy has shown little return in the hoped for form of restraints on Soviet weapons building, stabilizing influences on the turbulent Mideast, or Soviet abstention from wars of so-called "national liberation" with Soviet arms in Vietnam and Angola. Full diplomatic relations with the PRC is hard to justify on general principle in view of the price Peking demands of severing relations with Taiwan; it makes especially little sense just now in view of the confused leadership struggle going on in Mainland China.

Worse, it forebodes great trouble in East Asia if we pay the price demanded by the Peking regime for the privilege of establishing the diplomatic relations with the PRC which it needs much worse than we do. The price Peking has always demanded is abolishing diplomatic relations with the Republic of China. This is the cost to us of making this extravagant detente gift of recognition of the PRC, which insists we bow to its concept of its rightful rule in every area once considered Chinese. The trouble will come from the damage we do, not only to a loyal ally of great strategic importance in East Asia, but also to our credibility as a responsible partner in international affairs.

In many ways Taiwan is the Israel of the Far East, a nation beleaguered by intolerant enemies and ultimately dependent on strategic support from the United States to resist the pressures of the much larger hostile forces nearby. Like the Israelis, the Chinese Nationalists are united politically in their determination to defend themselves and maintain an independent status regardless of the pressures on them. It is impossible for me to see how Israel, or Japan, or Indonesia, or any other nation could rely on U.S. guarantees of a solemn treaty nature if we are willing to abrogate them on demand of another power with whom we want to curry favor.

The only pseudo-respectable argument I hear for proceeding to abolish diplomatic relations with Taiwan is that it would not make any difference anyway. The people who make this case claim that we can recognize Taiwan as being only a province of the PRC, and hence unilaterally cancel the U.S. Mutual Defense Treaty of 1954; they go on to say Taiwan is so resolute and strong that it could survive anyway with some sort of informal security assurance from the United States. This argument, if not deceptively disingenuous is downright erroneous. The United States cannot give any kind of credible security assurance to a Taiwan which we have just formally recognized to be legally a province, a subordinate part of another state. If we withdraw formal recognition of Taiwan as an independent political entity, despite the fact it is now a state in every normal meaning of the word, we will invite a chain of similar opportunistic capitulations to Peking. This would make Taiwan the only country of any consequence in the world to be denied formal diplomatic ties to the main members of the international community of nations. It would be disgraceful to do this solely to satisfy the rival political claims of another state. Further, we would run a grave risk of fatally undermining the political and economic hope for the future of the hard-working people of the Republic of China who have in 25 years created in Taiwan a stable island of tranquillity and friendliness toward the United States amid the stormy political seas of East Asia.

What then is the right model for U.S. foreign policy with respect to the two states that call themselves China? It is so plain that only a fascination with Meternichean diplomatic games-playing can confuse the issue. We should return to the position adopted for a brief time in 1971 by Secretary of State Rogers.

It is basically a two-China position, proposing fair treatment for both the Republic of China and the PRC. This position called for accepting the reality that the PRC has de facto control of the Mainland territory of China and offering to extend full diplomatic recognition to it on a de facto basis without subscribing to its de jure claim to be the rightful rulers of all territory that is called Chinese. This is a gesture of willingness to conduct cordial diplomatic relations with the Peking regime despite the fact its political system is based on internal controls we disapprove of.

At the same time to be fair we should also announce, coolly but firmly, that the United States does not permit any other government, certainly not the government of the PRC, to dictate our decisions on international relations with other states. We should say flatly that the United States will maintain full diplomatic relations and our Mutual Defense Treaty with the Republic of China (Taiwan). Our ground in principle for this stand is that the Government of the Republic of China is full de facto control of the territory and population of Taiwan and the Pescadores just as much as or more than the PRC is in de facto control of the Mainland. Accordingly, U.S. policy should urge that the Republic of China (Taiwan) should be formally recognized by all other nations as an independent state, a political entity with full sovereignty. We would not by these acts be endorsing the de jure claims of any state to be the eventual rightful regime for all China, but we would be facing facts as they exist today.

This solution is similar to the German model, whereby we have extended diplomatic relations to East Germany, a rigidly Communist state, while maintaining full diplomatic relations and defense treaty guarantees with our ally, West Germany. This is the only realistic basis compatible with our moral and political principles for dealing with the China problem for the foreseeable future. If the Chinese Communists are so rigid in their politics and ideology as to spurn this solution, it is their loss. This model is the only one that promises stability and order in East Asia. It is the only one compatible with U.S. strategic interests and moral and political concepts. I strongly recommend it to this Committee and our nation as the equitable way out of an evolving trend toward a disastrous pro-Peking one-China policy.

THE OTHER CHINA—HUNGER: PART I

THE THREE RED FLAGS OF DEATH

(By Miriam London and Ivan D. London)

Beyond the bland facade of China's great open cities and the green abundance of its showplace communes lies a vast country *in obscuro*—a China through the looking glass. In this, some say imaginary, country, people do not converse in *People's Daily* platitudes, but use a distractingly earthy language, enriched with sly puns and ancient proverbs; young men sing melancholy songs and brood over lovers and lost illusions; sons and daughters esteem their families above the Party; there are thieves, pickpockets, and prostitutes; village cadres keep "one eye open and one eye shut" to sidelines business activities; women quarrel hysterically over their woks in communal kitchens; speculators slip in and out of towns buying and selling ration coupons; underground factories operate; farmers lavish care on their private plots while neglecting the collective lands; and massive numbers of the Chinese peasantry, immemorially patient and industrious, labor daily under hardship and deprivation for three meals of rice gruel and sweet potatoes a day.

In this China there has been a major famine, and beggars still roam from disaster areas in the North into the more fortunate South. . . . And here we must pause, deferring to the reader's possible surprise or perplexity. For however disconcertingly the "reality" of China has tended to dissolve, only to rematerialize and redissolve, during the restless era of Maoist communism, one premise has been taken as invariant by many observers: the famine-ravaged land of the past is gone. After centuries of recurrent misery the problem of feeding the myriad descendants of the Middle Kingdom—at whatever cost—has been solved.

Hunger in contemporary China—the elusive China that has become the humble doppelgänger of the People's Republic—is, nevertheless, the subject of this paper. Toward the evidence adduced below the reader's indulgence is accordingly entreated. For can he be certain on which side of the looking glass he stands?

In 1958 a visionary Mao Tse-tung prepared for the instant transformation of a "poor and blank" China into the utopia of Communist dreams. In Peking that year the *People's Daily* declared rapturously: "The Greek mythology of ancient times was only a tale, a dream, an ideal. Today, in the era of Mao Tse-tung, heaven is here on earth." In the countryside not only would agricultural miracles be performed, but within the newly organized communes a sociopsychological transmutation of the peasant would occur, with collective facilities displacing private lives and personal cares. Money would become unimportant, food (served in common mess halls) and clothing would be free, and the peasants would no longer be bent in rapt servitude to the capricious soil, bound to the wheel of the seasons, but would be liberated for other diverse activities enhancing communal well-being.

Alas. The vast experiment—one year later to be criticized for its "departure from reality" by Defense Minister P'eng Teh Huai, at the cost of his dismissal and later vilification—seemed horribly and mistakenly to have adopted the blueprint of another, subterranean mythical region. The Great Leap Forward, part of the triumphal procession of the Three Red Flags movement, led directly into the Three Years of Natural Disasters (1960–62)—to cite the widely accepted official euphemism. Heaven and the Soviet Union were blamed by the authorities for the national misery following the Leap; the former for visiting allegedly unprecedented drought and other calamities upon the land, the latter for mercilessly exacting its pound of flesh in repayment of debts for previous "big-brotherly" aid. The sad truth is, however, that only planned human intervention could and did manage such a thoroughgoing, nationwide disaster. In every province misguided Party zeal and amateurism prevailed over both agricultural science and old peasants' wisdom. Indiscriminate application of the methods of intensive cultivation (deep plowing, close planting, and heavy fertilization) under the supervision of inexperienced young cadres, produced catastrophic crop failures even in the normally fertile rice paddies of South China. Ill-conceived projects, undertaken to irrigate the dry wheat-growing plains in North China in order to convert them into high-yielding rice paddies, led to fatal alkalinization of large areas of arable land. Within the commune itself the psychological dislocation of the peasantry induced a physical slowdown. Along with his personal belongings, the newly regimented peasant seemed to have shed also his feeling of personal responsibility. Control had been mysteriously assumed by a suprafarmer; things were presumably to be done for him anyway, whether he exerted himself or not. In the beginning, at least, many a peasant appeared to be a bewildered spectator at his own metamorphosis, his incentive and common sense equally suspended. The peasant, however, soon saw what was coming, long before the central authorities—beguiled by falsely inflated reports of bumper harvests from complaint cadres below—read the signs of disaster.

Serious researchers have not sought to minimize the gravity of China's economic collapse in the early sixties, but few have described it as other than severe "economic depression" with attendant "food shortages." Yet the tattered red banners of the failed campaign fluttered grotesquely over something more elemental and tragic. What the Chinese peasant saw in 1958 was the approaching specter of famine.

Was there famine in China during the years 1960–62?

In the August 10, 1962, issue of *China News Analysis* the noted authority on China, L. La Dany, ventured a "realistic estimate" of fifty million deaths from starvation and deficiency diseases within that period. The estimate was based on letters received from the mainland and on refugee reports. Elsewhere he cited an additional telling statistic: The number of food parcels mailed by Hong Kong residents to relatives inside China rose from 870,000 in 1959 to 3.7 million in 1961.

Our research over a ten-year period indicates widespread hunger during those critical three years, ranging from acute food shortage to what La Dany calls "real, black famine." The situation was far worse in the countryside than in the cities, particularly the major cities, which were supplied at the cost of the countryside. It was also worse and more prolonged in the North than in the South.

The following excerpts are a sampling from our interviews conducted annually from 1965 to 1975 with persons who shortly before had fled or legally emigrated from China. It should be pointed out that several of the statements recorded below were made spontaneously during the course of the interview, particularly in 1965–68 when our research was focused on topics unrelated to famine. The cumulative impact of such unsolicited material led us later to inquire systematically into the nature and scope of hunger in China.

The order of presentation begins with the South of China and follows an irregular line North and West.

A peasant from Kwangtung:

At the beginning in the commune it was very different from now. Things were assigned then to members—free medicine, food, haircuts. Then later, nothing. . . . I was very happy at first because everything was free and I got $6 JMP in addition. Even free clothing. They said it was the Three Red Flags, great progress. Send satellites, great progress. Satellites are very fast, aren't they? I think it meant you had to work fast. It was just like in the army; you were ordered to work—any time of the night even, you had to go. When you went to work, you had food to eat. The farming plan, according to the commune, was to plant "small" so there'd be "high productivity," a big harvest. So, many people worked on a small piece of land, leaving a lot of land untilled. Then we were supposed to plant like this: "a sky full of stars" (meaning rice plants all close together); "a pair of dragons setting out to sea" (pairs of rows closer together instead of all equidistant); "ants starting to move" (close spacing within each row). We used all the fertilizer on a small piece of land. But there was no "high productivity" as the slogan said. There were many plants, no doubt, and very tall. But no yield. It just couldn't work; it had to change. . . .

Actually many of us didn't like the idea, but we couldn't help it. The plan came from "above." They said, "Plow deep three feet underground and each *mou* will yield 10,000 catties." Before, the water level in the paddy used to be above the ankle, now it went above the knee. But deep down the soil is no good, too compact. Only 4–5 inches on the surface are good. It wasn't correct, but we couldn't help it. We got orders. Even "sending satellites," we didn't like that, but it was no use. We were worried, but what could we do? No one spoke out; you'd be severely criticized if you did. . . . So there came a time when there was no oil, no food. Everyone had to go hungry. . . . No one ever dared say famine. The "above" asked people to use sugarcane waste for food, to eat sweet potato leaves, also some wild plants on the mountainside. People squeezed oil out of rice husks. No one ever mentioned the word! That was how we got through that time. It's not that people actually died of hunger. Just some people swelled up and got sick and died of the sickness. During those years there were very few births.

A peasant from Kwangtung (Waiyeung County):

The worst time was 1959–62, with 1960 worst of all. I was very young at the time—about 11–12 years old. It was terrible for me—I would search everywhere for any blade of grass or leaf to eat. I also ate live crickets. People got only 1.7 taels of rice a day. They ate things like mountain aspen leaves and young banana stems. In my large brigade there were about 2,000 people, and almost half of them died. It was like this: Someone dies in the morning, I carry him to the mountain to bury him. In the afternoon someone else will take me to the mountain for burial.

An itinerant herb-medicine healer and temporary worker from Kwangtung:

During the Great Leap Forward in 1958 Chairman Mao ordered that people should get three meals a day. After a few months there was little rice left, so people ate gruel. When there was no more rice, some had to eat cassava, a starchy tuber, which is poisonous if eaten alone in quantity. In my native village about thirty persons died of poisoning from eating cassava. There were many cases of beriberi. Later I was sent to a large brigade in the countryside where about 80 persons had starved to death. . . . The causes of the famine were very complicated. . . . The central authorities' agricultural research had done something wrong; they'd ignored the traditional and historical way of sowing. "Central" thought that one seed becomes one plant, which gives many seeds. So they ordered people to plant seeds without much interspacing. It was too crowded, too close together, and the plants died. But the lower cadres reported a good harvest to "Central," saying the plan really worked. "Central" then asked for the grain. So the lower cadres sent them reserve grain, but even this was insufficient, so they counted in the grain from the next harvest, to be sent later. For example, if this year "Central" demands 100, but there's only 70, then you owe 30. Next year it's another 100, leaving 40. In that way the famine intensified.

A student from Hainan Island (Kwangtung):

Between 1959 and 1962 conditions in the villages were critical. There was a lack of basic foods. At the end of 1959 rice distribution was 2 taels a day for an adult, half that for a child. But the new year, 1960, brought worse: No more rice was distributed, and the peasants had to dig for roots in the mountains. The best foods we had were things like sweet potato leaves and pumpkin leaves. There were repeated rumors in 1960 that human meat was being sold on the black market in Haikou City. . . . In 1965, when I was sent to the villages for three months as a member of a Socialist Education Work Team, I discovered that the campaign to "recall bitter [memories]" did not make the peasants think of the remote past [before Liberation] but of their sufferings during the recent Three Red Flags movement.

A student from Kwangtung (Chungshan County):

[In 1961–62] like the other [middle school students] I could afford only two meals a day. I ate no breakfast. There were four classes in the morning session. By 9 A.M. we were all so hungry we had to drink water to ease the hunger pains. It does help. I want to point out that I myself could stand the hunger. But many others, especially the girls, could not. Some became so hungry they cried. Some local students went home, because even though there was no rice in the house, they might still manage to find a few sweet potatoes to eat. Truancy was common.

A medical assistant from Kwangtung (Yunfu County):

[In 1959] the communes had already run into trouble, and there was universal famine. Hunger caused a prevalence of edema and also fatal enteritis in children. The entire staff of our Health Station was ordered to conduct a survey in the villages in order to round up the critically ill among the great numbers of people afflicted and give them better food. So people with light cases tried to "requalify" for better food. No one was ever cured. . . . At the time I thought the government had withheld food supplies to barter for machinery with Soviet Russia or to pay back Soviet loans. For Chou En-lai had once said something about the entire nation's trying to overcome difficulties for three years in order to pay back all debts. But later on I thought differently. There were other causes: First, the high degree of centralization in the communes reduced the available manpower [for agriculture]. Everybody's working together for the public and not for himself was inefficient. Second, the lower cadres blew up production figures in order to show how meritorious they were, and the higher echelons exacted taxes according to the padded figures. And, third, there was too much extravagance in the early days of the commune when rice was eaten three times a day without cheaper foodstuffs being used. A great shortage was felt in less than six months. . . . The famine ended in 1962. According to the county commune statistics, several tens of thousands of people had died. All the older people passed away.

A peasant from Fukien (Changlo County):

The commune started in 1958, followed by three years of famine. I'll never forget those dates in a thousand years: 1959–61! Many people swelled up from hunger. The cause of the famine was very simple. First, the cadres went from house to house to remove all stored grain. Then they set up public mess halls (7–8 cooks in the smaller one, 10 in the larger). When food was ready, they beat a gong or raised a flag. As much was wasted in the mess hall as was eaten—it was a public mess hall, after all. And because there was no individual farming, very little was collected from the fields. For example, sweet potatoes *that* big [demonstrates with cupped hands] were left in the fields! So we quickly went through everything until we were all sure it couldn't go on. The public mess lasted only about half a year, and then people were made to eat at home again, and control was restored by issuing everybody a fixed measure of rice—3 taels a day. Only that, nothing else. . . . In our own small brigade no one starved to death. Only, about six girls under twelve years of age were sold by their parents to better-off small brigades near the coast for sweet potatoes and rice. That is, they were "married off," but actually sold. The worst-off in our commune was the Lingnan Small Brigade, which was in the same large brigade as ours. In 1960 more than 60 people died there of hunger. It all had to do with their cadres, who were much stricter. Generally, if the cadres were more humane, they'd release more from the stockpiles intended for next year's seeding. A more understanding cadre would also give people permission to plant outside the field, that is, to *k'ai huang* ["open up the wilderness," i.e., plow up virgin land]. Or they'd permit people to leave the village to try to make a living elsewhere. But in Lingnan people were never allowed to do this. Where would they go if they were allowed to leave? They'd just drift. They'd go where they heard conditions were better. Poor as the situation was in Fukien, we were better off because Fukien is close to Kinmen [Quemoy] and Matsu [Nationalist-held islands]. Other provinces were worse off—like the part of Kiangsu north of the Yangtze River, or parts of Shantung. But worst of all in all China was Anhwei! People from Anhwei drifted even into Fukien Province. I felt it had to be the worst because I saw hundreds and hundreds of Anhwei beggars in three cities in Fukien—our own county seat, Foochow, and Nanping. They hung around eateries, hoping for leftovers. It's widely known that people in Anhwei stole food meant for hogs—plant roots, Chinese pumpkins. A large percentage of Anhwei drifts *every* year. Probably it's because of the Hwai River—it floods whenever there's heavy rain. And parts of the province are constantly in a state of drought.

A worker from Amoy (Fukien):

In 1961, when the three-year famine was already under way, the Communist Central Committee issued an order requiring [city] people to go into the mountains and farms to reinforce agricultural production. It took this opportunity to force all those people with a "history"—political undesirables—to work on the farm. I was one of the sacrifices. We lived with the peasants and ate about the same food—watery rice gruel. . . . The disaster was nationwide. It was not natural, but man-made—the inevitable result of the commune. For example, take a young man and a weak old one. No matter how they worked, they got the same recompense. So no one worked. Furthermore, the peasants were forced to practice overclose planting. There was growth, but no yield.

A peasant from Fukien (Lienchiang County):

On the coast where we were it was a little better during the famine, because people could get some fish to eat and our commune issued some dried sweet potatoes for relief. But in the villages near the mountains people were more starved, and many swelled up and died. . . . In our village we ate everything edible. We peeled bark off the iron tree [*cycas revoluta*], soaked the inside white pith in water, chopped it into little pieces, and boiled it. . . . The worst place I heard of was Ningteh County in Fukien. There were a lot of refugees from Ningteh in our village. Many people just wandered into different places. But I heard that in many places people were too weak even to go get relief food.

A peddler and petty speculator from Fukien:

It was very bad in 1960. I myself knew of more than 100 people who died of hunger within Liewenchiang City limits. We lived on wild plants because we were given so little rice—we had to cook it into a thin gruel. We ate sweet potato dregs when we could find them. . . . I heard this was all because China owed money to the Soviet Union and had to pay off the debt in farm products. Beautiful white rice was sent off to the Soviet Union, and we Chinese had nothing to eat. Another reason was the commune, where much food was wasted and the peasants didn't work hard. But mostly for the first reason.

A doctor of Western medicine from Mang City (Yunnan):

Around the time of the famine in 1962 hepatitis was common not only in Yunnan but all over the country. Newspapers and broadcasts constantly urged people to be careful about what they ate. Conditions in Yunnan then were no worse than elsewhere, but they were bad enough. I remember that, when our doctors or cadres had to go to Kunming—a five-day journey—they would come back with the story that all the way there and back they couldn't find in any restaurant a single dish of vegetables or other *ts'ai* [main dishes to eat with rice], only a cooked mixture of rice with sweet potatoes or pumpkins. In Kunming City itself the situation was no better. There was just no food. We were urged to collect something called "little ball water-weeds" [a form of algae, possibly nostoc, which is, in fact, predominantly carbohydrate] and put them in a tank, where they grow very fast. Almost 100 percent protein—a substitute for *ts'ai*. Tasteless! But every family and cadre member was urged to grow it.

A construction worker from Yunnan (Hsüanwei County):

The hardest years in China were 1960 and 1961, when many people starved to death. People ate wild plants when they ran out of food. The older people bore the hunger worst, and a large number swelled up and died. At that time I was still in my home village. I would steal things from the fields and eat my loot up on the mountain. Then I'd take back anything left over to my *po mu* [an aunt who had adopted him].

A peasant woman from Chekiang (Yiwu County):

I was only thirteen in 1960 during the famine. That year I stopped going to primary school, and my parents sent me instead to chop wood on the mountainside about 23 kilometers away, near a relative's house. They sent me because, if they had gone off themselves to the mountains for firewood, they'd have forfeited their *k'ou liang* [individual grain allotment] for work in the brigade. At that time the *k'ou liang* was not rice, but only some corn, turnips, and sweet potatoes. For 42 days during the hours I was out on the mountainside I had nothing at all to eat. So each day by the time I got back to my relative's house I had terrible pains in my stomach and would stuff it with any scraps of food I had. I boiled some of the grasses I'd picked in the mountains to get rid of the bad smell and then steamed them together with some corn. My relatives had not even enough food for themselves; I had to bring my own *k'ou liang* with me from home. Since that time I've always had trouble with my stomach.

During the first year of famine your body could still take it, but after two years people became too weak to work and production fell off. In 1960 around eight out of 100 or so people in my small brigade died after swelling up. There was no meat during those years. Even if some dead pig turned up, it was very expensive. But people would try any way they could to get money to buy a small piece—even if it meant selling everything they had. At least, if you died tomorrow, you'd die on a full stomach. A neighbor, an old man, heard once there was meat in the marketplace. So he went there and saw a crowd buying meat from a booth and eating it on the spot. People didn't know where the meat was from; they thought probably from some wild animal. It was delicious. It was only when someone found a human finger joint and nail that they realized what they were eating. . . . I heard many stories of cannibalism practiced in secret. Children were warned about being kidnapped and butchered. In any case, children were not permitted out alone, because they were so starved they'd grab anything they saw to eat. If they stole from the fields, the family could be fined five to ten days' worth of *k'ou liang*.

A lot of people from our village went to the county seat to beg for food. Not young people between 18 and 30, because they didn't want to lose face. It was mostly old people and young children. They begged for leftovers at little restaurants where cooked noodles were sold. At these places there were also a lot of beggars from Anhwei Province, especially in 1960–61. The local people hated the Anhwei beggars, because there'd be no food left for them if the Anhwei beggars got at it first. I heard of local beggars beating an Anhwei man to death just for this.

Most of the restaurant customers were travelers from the outside, like engineers and professors, who were pretty well paid. There were leftovers sometimes, because noodles on the countryside were cooked with so little oil and had no taste. The travelers were just eating to fill their stomachs, so sometimes they couldn't finish. But more often what happened was that a lot of dirty hands would grab the bowl before the person who ordered it could even start eating. In that case he just didn't feel like eating at all.

A student from Kiangsu:

During the big famine in 1960–62 the Party asked the people to eat "Leap Forward flour," which consisted of corncobs, corn silk, rice husks, and wheat husks ground together. This flour was described as highly nutritious and rich in vitamins. The peasants quipped that the vitamins would keep the Party alive, not them. [The characters used to transliterate the sound "vitamin" into Chinese—wei-t'a-ming—literally read "sustain his life." Hence, the peasants' quip: It will sustain him, not me.] . . . Many people got edema and died on such food. In our small brigade back home about 10 per cent of the people died that way.

A People's Liberation Army soldier from Shantung:

I remember the famine, although I was only seven in 1960. Many died of hunger then. I remember myself eating tree leaves and chaff. My grandmother didn't let me go outside as I pleased. She told me a story about cannibalism to frighten me. I can't recall the details . . . In Tsinan City there are always plenty of beggars from northern Shantung, but during those years there were more than ever. Why all the beggars? Because in districts like Tehchow, Hweimin, and Liaocheng much of the land is alkaline. It's because of the Yellow River . . . And the peasants don't want to work.

A People's Liberation Army officer from Shantung:

On my first leave home in 1959 I found life very hard. The Great Leap had destroyed the general standard of living. But people still survived. When I went home again in 1961, I learned that my grandmother and uncle had starved to death. That year I saw trees stripped of bark for food . . . The military forces were also affected by food shortage; in 1961–62 the amount of food provided was decreased and substitutes were introduced. But conditions were better than for the civilian population.

A geological worker from Chengtu (Szechwan):

I was assigned to Szechwan after the Cultural Revolution, but I couldn't leave right away for my post, because it took longer there to bring the violent struggles under control. In 1970–71 I heard talk in Szechwan about the difficult times there ten years before. The circumstances were like this: a conversation started among friends about how many people had been killed during the Cultural Revolution in Szechwan. (This was in confidence, of course! And we hoped none of the cadre would ever learn of this. The government didn't want people to talk about deaths.) Well, it was estimated that a shockingly large number had died. Then someone thought to compare this with the number of people who'd died of starvation ten years before. That figure was also very shocking. In some places, they said, the number approached five figures. Jungching County was especially mentioned. Finally, the death rate became so alarming that, perhaps to avoid any political consequences, military storehouses were opened, and frozen food was released to the populace. There were frozen pigs in lengthwise halves. The chop on the rumps showed that the pigs had been placed into frozen storage in 1954, maybe as part of war preparation . . . Jung County had also suffered badly. According to one person who had lived there, the population was 800,000 in 1960, but so many died during those difficult times that by 1970 the population had still not been restored to that level. In that county there was said to have been cannibalism.

An athlete from Tientsin:

The paradox of food scarcity in a great agricultural country like China troubled me. The Party blamed the terrible shortages in 1960–62 on natural causes, but in my mind I felt they must be due to Party policy. . . . Athletes, high-level intellectuals, and the military were much better off. I received a generous sum of food every month. But the monthly ration of most people in the city barely lasted half a month. And when my friends and I traveled just outside the city, we saw people digging for roots and collecting edible plant material—tree leaves, bark, and wild grasses. They had to do this to supplement their meager rations. I felt the Party was so callous. It claimed success for the Three Red Flags movement at the same time that deep suffering was widespread among the people. Foreigners just don't understand the extent of this suffering. . . . As a student at the Athletic College I was often asked to participate in welcoming foreigners at the airport. My healthy, robust, and cheerful appearance was meant to give foreigners the impression of well-fed, happy youth. In fact, quite the opposite was true for most young people.

An Indonesian Chinese student from Lanchow (Kansu):

When I first entered China in 1960 [as one of a group of young Indonesian-born Chinese "returning" to the homeland], I stayed in Canton around a half a year. During that time all our activities were organized—visits to different places, even picnics. I couldn't go about by myself. So, in Canton, I didn't know anything about the disaster in the whole country. When our group was sent to Nanning in Kwangsi, we still weren't allowed to go about alone, so I still wasn't clear about conditions in Kwangsi, even at the end of 1961. Then I was assigned to a middle school in Kweilin, Kwangsi. Living together with my schoolmates, I began to understand the situation more. It was only then that I learned there had been a disaster in 1960. On the streets of Kweilin I saw a lot of beggars; mostly they seemed over 40 years old. Once when I was eating in a small overseas Chinese restaurant, just after my bowl was filled with rice, one of the beggars who were standing around seized it. I felt very bad. I couldn't understand why there were so many beggars, so I asked my teacher. He said that most of the beggars were of bad class background. He kept on talking on the subject of class background, but didn't explain any further. . . . In 1964, when I was transferred north to Lanchow in Kansu, I found the situation much worse. There were more beggars in Lanchow in 1964 than there had been in Kweilin during 1961–63. These beggars had their children with them and begged for food or money at the railroad station.

In Lanchow, if a beggar saw any food at all, he'd seize it. When the cadres saw beggars seize food from people, they'd beat them up. I thought this was too much, and I often defended the beggars, saying they took the food only because they couldn't stand the hunger. If a worker's food was seized, generally he wouldn't bother about it; he'd just let the beggar have it. The workers' attitude toward the beggars was better. But the cadres couldn't understand why the beggars didn't go back to their villages to work. . . . Later I found out that conditions in Lanchow were actually the best in Kansu; the rest of the province was even worse. . . . People in Lanchow told me that the famine had started toward the end of 1959; things began to improve only in 1964. During the great famine some people ate a kind of clay called "Goddess of Mercy" clay, which was eatable but really indigestible. Your belly would swell up after eating it. As a result, many died in Kansu. . . . I didn't hear any talk, however, of cannibalism.

A Russian worker from Harbin (Heilungkiang):

Nineteen sixty-one was a terrible year. People starved to death in Harbin by the thousands. Black markets flourished. With food in short supply, special restaurants were opened, which charged exorbitant prices so that a lot of money hoarded by the Chinese was forced out of hiding.

A Russian miller from Sinkiang:

After 1958 there was hunger. Many died of starvation. I myself suffered from lack of food, but, as a miller, I was a little better off. . . . It's interesting. The Communists blamed everything on the drought; but before, even in years of drought, there was plenty to eat. So everyone understood it wasn't because of the weather. It was the authorities who were responsible for the famine. . . . Many Chinese fled into Sinkiang from other famine areas [in Tsinghai and elsewhere]; they had been deceived into thinking there was food there. [In 1962] Uighurs fled into the Soviet Union.

A Russian beekeeper from Sinkiang:

In 1958 the Communist authorities took such strange measures. For example, they herded all the cattle together without any care, so most perished. As a result of mismanagement there was massive loss. . . . We Russians survived by fishing and hunting, but otherwise there was nothing to eat. It was better in the cities than in the countryside. . . . The Communists defended this terrible situation by saying: We are building a better life. You should have patience.

Both the geographical range and the grotesquerie of human suffering during 1960–62 in China are extended in other accounts of individual experience published over a period of years in Hong Kong. In March, 1961, La Dany, known for his cautious assessment of data, printed many details of several eyewitness stories, including that of a Chinese woman from Mukden (Shenyang) in Liaoning Province, who revealed the following: "In August, 1960, a local paper reported that a man was executed in Mukden. The charge was that he had eaten six children of others. Although the paper reported to the effect that he was insane, it was widely said among the citizens that he was not insane, but sober and simply hungry. There are mothers who easily become overwrought when their children cry for more food to eat and strangle their own children. The frequency of this kind of tragic incident has lately increased in Mukden."

In 1970 a profile sketch by La Dany of a young man from a small town north of the Hwai River in Anhwei—a remote area from which people rarely escape to Hong Kong—contained this paragraph: "During the Great Leap, in 1958–59, orders were given that the [young man's] native district, a wheat-growing region, was to be turned into rice paddy fields. As there was not enough water, hundreds of thousands of people were ordered to dig canals to transform the dry region into a wet one. Normally the water is let lie in the paddy field for a few days and is then changed. The authorities did not realize that the soil in that region would not hold water even for a few days. The rice plants died and famine followed. Whole villages were depopulated. He himself was away at school, but his whole family died of starvation. . . ."

One year later La Dany published the detailed reminiscences of a thirty-one-year-old refugee, for whom "the real watershed in the history of these twenty years [in China] was the famine in 1961–62. (This apparently shook him more than anything else and made a lasting impression)." The following is excerpted from the man's account:

"At the time [during the famine] I was already a cadre [member] of the State and I had to travel on business in various provinces. I had not enough food for myself and my belly swelled. My monthly ration was 28 catties of food, but much of this was of inferior quality. I was then in Ts'unyi in Kweichow . . . In the streets weary old people could be seen leaning against the walls, holding small baskets containing the roots of wild plants. Soon we too stopped working and went to the hills in search of something edible. Ts'unyi is a small place with a population only about 300,000. There used to be dead bodies in the street. Once I saw two totally exhausted young boys in the street. A kindly policeman saw them and took them into a little inn to offer them something to eat. One of the boys ate slowly. The other had arrived at the stage of starvation at which he could no longer eat anything."

The July and August, 1974, issues of *China Monthly*, a Chinese-language journal published by the Union Research Institute in Hong Kong, contained two installments of an article on beggars in China by Chai Yu-kuei, a young researcher. In the first installment the following appeared:

I grew up in Canton. When I was a little boy, as I remember, Canton seemed to be a city without beggars. The first time I ever saw beggars was in 1960. . . .

Hordes of hunger-stricken people from Kwangtung Province swarmed into Canton like locusts. Countless peasants, young and old, male and female, looking pale and thin, were all over town, in the main streets and back alleys, wailing and begging for food. Although sympathetic to their plight, the residents of Canton, who themselves had barely enough to eat, could not give much help to these poor peasants.

My family was better off than the average citizen of Canton. As an 8th-grade technical worker, my father earned a monthly wage of $130 JMP, the highest possible for a worker. But the whole of my father's monthly wage could buy only thirty catties of rice on the black market. Luckily, we had many relatives in Hong Kong, who sent us large quantities of rice, flour, sugar, oil, and other foodstuffs every month. Even with this help, I was often hungry. Since I was the eldest child and cherished most by my parents, they often took me to a restaurant for a good meal so that I would have better nutrition during my growing years. This restaurant, I recall, was a more expensive one, but it had one good feature: you could eat all you wanted. Every time we went there, our table was always surrounded by beggars, who never for a moment took their eyes off our food. Sometimes, even when I was not particularly hungry, I would order extra bowls of rice and, when the waiter's back was turned, would dump food into the containers held out by the beggars. My parents would merely shake their heads and sigh in sympathy.

Probably because of Canton's proximity to Hong Kong and Macao, making it a port of entry to foreign visitors, the authorities deemed it necessary to control beggars in the city, as a matter of face. The police and garrison troops would often round up the beggars and put them in detention houses in order to send them back to their native villages. There happened to be one such detention house near my home. On my way to and from school I often saw groups of feeble beggars being led to the detention house and bodies being removed on stretchers from the same house, destined for the cremation grounds on Teng Feng Road. Even as a young boy, my heart grew heavy at the sight of this.

I diligently searched, without success, for starving people or beggars to photograph," declared Edgar Snow in *The Other Side of the River*. During his 1960 sojourn in China he had not seen, he asserted, any evidence of "old-time famine," merely "food shortage," which was "nothing new." In addition to his own eyesight, he cited as supportive evidence an emphatic but curious statement by Gilbert Etienne in *Le Monde* (December 12, 1961), paraphrased by Snow as follows:

While noting signs of possible malnutrition such as "ballooning stomachs," "thin breasts," and "meagre bodies" of the "Asian norm" [!], Mr. Etienne wrote: "It may be said at the outset—and it is one of the rare points where we have the pretension to be categorical—that it is false to speak of 'general famine.' . . ."

In a 1962 "diary" a grandmotherly Anna Louise Strong assured her readers that, despite "great hardships in many areas," there were "no wholesale casualties . . . no scattering of starving people to beg and die along the roads . . ." In fact, there was something rather salutary emerging from adversity: "The three years' struggle tightened the commune organization by eliminating waste, correcting mistakes, and increasing both local initiatives and collective strength."

Miss Strong, however, went on to confide that in the "worst time" in 1960–61 people she knew in the cities of Tientsin and Kaifeng "lost as much as 30 pounds in weight and some even went to hospital for nutritional deficiencies and were treated by the physician's order for special foods." Honest after her fashion, she also noted the "most serious" case of "food shortage" that she had personally witnessed—in Liaoning Province, where the commune, she relates, made "'carbohydrate cake' which seems to have been a ground mixture of cornstalks, sorghum stalks, leaves, and tender bark with edible roots and some grain added. It may have actually added nourishment beyond the grain content, but its main function seemed to be to keep the stomach full and still the hunger pangs. The people slept as much as possible, rising once a day for a full meal to do house and farmyard chores, and thus kept in fair condition on little food."

Whatever the mass of contrary evidence to which it has been exposed, human reason clings, hopefully, to this rather cozy tableau of a Chinese village dreaming through the hungry hours. A white-haired foreign lady presides over the scene and, with matronly meticulousness, jots down a rustic recipe.

Even this strange human scene, however, dwindles to a pinpoint and is gone as one withdraws to that high plateau where policy is formulated and proclamations are made. In the 1962 communiqué of the Tenth Plenary Session of the Eighth Central Committee of the Communist Party of China a single phrase—"the temporary difficulties encountered by the Chinese people"—encompasses the agony of China under the Three Red Flags.

The phrase slips easily and credibly into the historical record. All else is suspect and belongs to that vanished China where every year, during the Seventh Moon, Hell opens its gates and multitudes of hungry ghosts swarm ravening over the land of the living.

The Other China—Hunger: Part II

THE CASE OF THE MISSING BEGGARS

(By Miriam London and Ivan D. London)

"It's nothing new in Chinese history to impress the foreigner for the sake of the country's face," said a young escaper last year in Hong Kong, who by no means intended to denigrate his country. "When people from other countries came to the ancient capital of Ch'ang An in the Tang Dynasty, it was so gorgeously decorated, those foreigners were astounded. . . . If the rulers today desire not to let foreigners see anyone wearing patched clothes, that can easily be arranged. And if they want to show foreigners trees in Peking with silk hanging from the branches, that is also possible."

Visitors from afar viewing today what B. Michael Frolic describes as "the peaceful blues and grays and whites of Chinese cities" would certainly smile at the thought of brocades waving in the breeze. Aside from the exquisite dishes served at guest banquet tables—if the guests are important enough to rate the exquisite—there are no wondrous luxuries to report. Instead, many visitors note something quite plain in aspect, but a great miracle for China, nonetheless—an apparent equalization of living standards on a low but secure level and the elimination of outright hunger. The often-cited proof of this quiet but enormous achievement is the total absence of beggars.

By beggars we do not mean that small scattering of "professionals" and mentally or physically damaged unfortunates who can be found in many a flourishing metropolis worldwide, although even these, curiously, are almost never seen in the large Chinese cities normally open to foreigners—notably Peking, Shanghai, and Canton. We refer, instead, to those beggars whom the Chinese describe as *t'ao huang*—literally "in flight from famine (or disaster)"—peasants driven in large numbers from ancestral regions devastated by flood, drought, or insect plague, and forced temporarily to roam the land and beg for their daily food.

The phenomenon of *t'ao huang* was not a fluke in Chinese history, but a common aftermath of recurring natural calamities. In *The History of Salvaging Natural Disaster in China* (1958) Teng Yün-t'e states that over a period of 2,142 years, from 206 B.C. to A.D. 1936, 1,035 droughts and 1,037 floods were recorded. On the average one province has been hard hit every year.

There is no indication that Heaven has relented since the establishment of the People's Republic in 1949, nor has the present regime, for all its determined effort, been able to set up effective terrestrial defenses. The Party has, in fact, managed inadvertently to add to natural damage through excess zeal unsupported by expertise: During the Great Leap Forward bungled irrigation projects made the water table rise in the North China plain, ruining large areas where wheat once grew.

Since the 1960–62 period of "natural disasters" mention of flood or drought has seldom surfaced in the national press, except in a context of militant optimism—that is, in feature stories describing the heroic reversal of some local catastrophe (thus revealed) by ideologically primed cadres and "class comrades." As in the Soviet Union, negative events as such are not major news, and the precise extent of damage or loss of life and property entailed is not publicly reported. Partial information does come through to Hong Kong, however, from official local sources. L. La Dany has listed and collated numerous details on natural disasters obtained from monitored provincial radio broadcasts. For example, from Honan and Anhwei alone—the two provinces most frequently mentioned as perennial disaster areas by Chinese emigrants and escapers—the following more recent information has accumulated: Flood or drought occurred in Anhwei during 1968, 1969, 1970, 1972, 1973, 1975; in Honan during 1968, 1969, 1970, 1972, 1975.

Against this background the remark of a young Chinese emigrant, interviewed in Hong Kong last year, does not seem exaggerated: "A classmate of mine in Shanghai always traveled through the eastern part of Honan, near Shantung and Anhwei, whenever he took a train home. Each time his train passed through Honan he found disaster there—either flood or drought."

On January 24, 1975, *China News Analysis* stated that, despite the continued deployment of millions into water control projects, ". . . security against natural disasters is still far away. A whole series of reports containing casual references to such events could be collected. The disasters in Hupei in 1972 were widely publicized in the province. In the same year, 1972, the Hwai River burst its banks. There was a flood in the region of Nanking in the same year and many houses collapsed. In 1973 drought was reported in the region of the Hwai River; there was serious flooding in Kiangsi and in the region of Nanning, the capital of Kwangsi Province. Last year the *People's Daily* mentioned flooding in Kiangsu Province and the neighboring province of Shantung. Kiangsu Province itself reported eight million *mou* (1.3 million acres) flooded. There was also a big flood along the Yangtze and Han Rivers in Hupei, and in Sinkiang drought threatened the livestock. This sad list is not complete. . . ."

In the past such natural adversity brought great human misery. Is it possible that China, which emerged impoverished from the crisis years of 1959–62, has since prospered enough to absorb these constant blows and provide effective relief for the victimized populations?

Given the "black curtain of statistical secrecy" that has been lowered over the Chinese economy since 1960, Western economists' varying estimates of China's ability to feed itself have been admittedly speculative. However, no matter how the "probable" figures for grain production and population are tested against variously estimated inputs, such as acreage sown to different crops and the increased use of chemical fertilizers, high yield seed and mechanization, the end result falls gloomily short of abundance. The question seems rather to be whether or not China is making it. At best, China appears to have been running very hard in order to stand still. In 1971 Chu-yuan Cheng, assessing the first two decades of Chinese economy under Communist control, concluded that "in terms of per capita food grain availability, the 1968 figure was the same as that of 1955; in other words, on a per capita basis, Chinese grain production during the past thirteen years achieved no growth at all." Nai-ruenn Chen and Walter Galenson, in their analysis of the range estimates of food availability in 1965 as compared with 1957—the most optimistic of which reflects no growth on a per capita basis—showed that even the higher estimates imply a low daily caloric intake of only 2,000 per capita. Finding this datum too bleak to accept, Chen and Galenson concluded hopefully that "from what is generally known of the Chinese food situation" the Chinese peasants must be "enjoying an adequate diet in 1965." In 1973 Alexander Eckstein wrote that, ". . . while farm production [in China] increased by about 30 to 55 per cent . . . between 1950 and 1970, population rose by an estimated 45 per cent. This would suggest that food supply may have lagged behind population growth, or at best kept slightly ahead of it." This conclusion, however, he added in a footnote, "is not borne out by the visual observation of all those who have visited China in recent years, including myself. Food seems abundant in all cities of China accessible to foreigners. . . ."

Despite the close agreement in the findings of the respected economists cited above, it is interesting that, in two cases, the statistical data—avowedly speculative as they are—appear to bow to contradictory "general" impressions and "visual observation." And yet, as will be seen, the contradiction may only be a function of arbitrary limits set on knowledge.

According to Chen and Galenson, in 1957, at the end of the first Five Year Plan, the Chinese people were close to the "traditional" margin of subsistence. On December 19 of that year a *People's Daily* editorial reported that in the early autumn of 1957, 110,000 people had fled into the cities from villages in Shantung, Honan, Anhwei, and Kiangsu, despite government efforts to prevent the exodus and to turn back those already in the cities. Some of these people, the editorial stated, came from areas struck by natural disasters. The four provinces mentioned are, in fact, known to all Chinese for recurrent devastation in the regions of the Hwai or Yellow Rivers.

At a time, therefore, statistically comparable in terms of per capita consumption to the mid-sixties and early seventies, we find an allusion to flight from disaster in the official Peking press. The same issue of *People's Daily* further reported that on December 18, 1957, the Party Central Committee and Cabinet issued a joint "Instruction on the Halting of the Outflow from the Villages," directing that a stop be put to mass exodus in the four provinces named and also Hopei. It accordingly ordered the setting up of "Exhorting and Impeding Stations" along railway lines, highways, at river ports, and communication points between adjacent provinces. In the cities the police were directed to gather into camps all who had entered illegally.

Although more ambiguous and elusive, references to flight from disaster continued to appear in the Chinese media during the sixties and seventies. For example, on September 2, 1968, the Anhwei People's Broadcasting Station revealed (as reported in *China News Analysis*) that "the Hwai River . . . had overflowed both banks. When the water receded . . . it was found that many farmers had emigrated to other regions. This was attributed to the incitement of the class enemy." On April 20, 1970, the Hupei People's Broadcasting Station issued what La Dany described as a "mystifying report" about a commune on the upper course of the Yangtze, in which "almost all the inhabitants, and even the Party branch, consisted of persons transferred from other places. No hint was given of what had happened to the original inhabitants of the locality, whether they had been removed elsewhere or perished in the floods [of 1969]." On June 4, 1972, the same provincial radio station referred again—in the context of "sabotage" by "class enemies"—to peasants abandoning the fields, at a time coincident with widespread drought in Hupei.

Persons who have left China during the past ten years also consistently report regular defections of peasants from infertile regions in the North, where the annual harvest is normally insufficient to sustain the population for more than half a year. Repeated official exhortations in a number of provinces to "consume food grain sparingly" support the impression of food shortage between harvests.

Thus, a careful examination of Chinese sources alone suggests that somewhere, periodically, there are populations in distress. If Western analysts' calculations are, indeed, more accurate than they imagine, China's bare-subsistence economy has little or no slack to provide for adequate relief. Again, the authorities' constant emphasis on "self-aid," "self-reliance," and "not waiting for relief from the State" are remarkably confirmatory.

In an article published in the Hong Kong

Overseas Chinese Daily [*Wah Kiu Yat Poo*] in 1974 Chai Yu-Kuei states, on the basis of his own past observation in China: " . . . the plain fact is that even in years of bumper harvests, there is not enough to feed all the people in the country. How can there be effective relief measures in bad years?"

If this is true, where are these people whom China, presumably, cannot feed? Or has speculative inference conjured up phantoms, to be readily dispelled by a visit to the People's Republic?

For the foreigner, the answer still lies at th end of a vicarious journey—and the process of discovery may duplicate that of many Chinese themselves.

Learning to "know reality" is not simple even for the insider. It is quite possible, particularly for young students, to live cheerfully ignorant, sheltered lives within the great privileged cities of China. Approved channels of information stop at provincial borders, and only Dame Rumor roams freely—frequent passenger without travel permit on the trains between Canton, Shanghai, and Peking. The very young, however, tend to be insular and more neatly ideologized. During the worst years of economic collapse, when even Canton, for example, was under the shadow of famine, there were young people made to believe that the peasant beggars who suddenly appeared in the city were lazy "class enemies" deserving no pity, as the school authorities explained. "Under socialism beggars could not possibly exist," one young Cantonese has said—and so they did not.

One day, not long after the desperate crisis of the early sixties had eased, a sensitive young Chinese traveled on official business to the mountain city of Hoyuan in Kwangtung Province. In his responsiveness to natural beauty, he might have been a young mandarin of a century ago, arriving to absorb the serenity and "mind-cleansing fragrance" of a mountain sojourn. He stayed, however, not at an ordinary inn, but at a County Party Committee guesthouse for out-of-town cadres. He was pleasantly accommodated. His first breakfast at the guesthouse included a "bowl of steamed rice and a side dish of four or five slices of fat pork on some tender green cabbage." Favorably impressed, he proceeded to complete his official business and then do some sight-seeing. He even joined a queue before a solitary, little shop selling popsicles and ice cream. Later he dined at an exclusive dining hall for visiting cadres, where, upon presenting the necessary coupons, he was served several dishes accompanied by rice and steamed buns. With a feeling of well-being he continued to wander about until sunset and came across some peasants on the outskirts of town.

"A few young peasants were loitering around the railroad station, offering clothes and other articles to travelers in exchange for food coupons. A peasant who looked about thirty years old began to pester me to 'buy' a pair of new blue cotton trousers for a 3-catty [3 x 1.1 lbs.] provincial food coupon. I finally told him that it was wrong to do such things. His only response was to lift his own patched trousers, revealing legs swollen from malnutrition. With a start, I also looked up for the first time into his pale and puffy face. The new trousers, he began to explain, had belonged to his older brother, who had died of edema a month before. His brother had saved them for three years, without wearing them once. I could not bear to listen any longer, nor could I meet his eyes. Thrusting a 5-catty coupon at him, I said, 'Stop spreading such rumors! The sort of thing you're saying just can't happen. Go back to your work and behave!' "

The speaker, however, was already in psychological retreat from his own words. Eventually, the pleasurable impressions of Hoyuan in its mountain freshness receded to the back of his mind as he "realized that, in reality, it was a poor place." (From an account by Huang Chai-chun, a colleague of the authors, published in the *Chung Pao Weekly*, Hong Kong, July 17, 1970.)

In 1964 a young Cantonese Ping-Pong player, on his way north to a match, suffered a more immediate shock as his train passed through Honan Province in the aftermath of a serious flood:

"I'd known about floods, but had been persuaded there was relief. Through the Party's concern such problems were supposed to be solved. But as our train went through Honan, I saw corpses and people in flight from disaster everywhere. There were half-naked people along the tracks begging for food. The train passengers—mostly Party cadre—were moved to pity and threw food out the windows. Groups of people fought over the food. . . . On our way back home through this area, the window shades were ordered drawn, and we weren't permitted to look outside. . . . Afterward, Party officials forbade us to talk about what we had seen."

It is interesting to couple the above scene with the implications of a statement published in *China News Analysis* on September 6, 1963: "It is widely believed abroad that the government provides food to suffering areas. In fact, regions which had a bad harvest in autumn 1962 have lived in misery throughout the winter, even when other regions in the same province were less short of food. To quote an example, Sui-hsi County in Kwangtung Province was encouraged 'to organize the masses for self-relief' . . . ."

In 1966–68 the impressions of a comparative handful of travelers were to be multiplied into the millions. Red Guards from every part of China packed the trains and flocked to the open roads during the so-called great "linkups"—journeys undertaken for the "exchange of revolutionary experience." They were not the only masses on the move. Taking advantage of the chaos and breakdown of control in many towns, where the security police themselves were frequently embattled, destitute peasants left ungrateful fields to wander abroad and beg for sustenance.

A former Red Guard from Canton relates the following:

"At the beginning of the Cultural Revolution in June, 1966, beggars were a rare sight in Canton. But by mid-1967 beggars were swarming into the city from provinces to the north—Honan, Hupei, Hunan. The majority were young, but many came in families. They slept in the streets and sneaked into tea houses and small restaurants, where they ate leftovers. But soon it got to the point where beggars entered restaurants openly. They'd sit or stand opposite you while you were eating and also took away your food before you had finished. We Kwantung people are clean, and those beggars soon learned we couldn't eat from a bowl once they'd touched it. Several times when my friends and I had a snack in some eatery, our food was grabbed halfway through the meal. If the beggars were older and had little children with them, we'd let them; we even bought more bread, rice, or noddles for them. But we felt it wasn't right when a healthy-looking young fellow took our food away. I wondered about those outsiders. Though they were in rags, they were big, husky fellows with ruddy faces—in fact, they looked better than we Cantonese. So we stopped being polite after a while and gave them a lesson. We asked them why they didn't go back home and work. They said it was because the land was poor and there was no food there. At that time, I didn't believe them, but later I visited some of those places and found out that what they'd said was true.

"When I went through Hunan and Hupei on linkups, I saw the most beggars in Chuchow and in Hanyang. Chuchow is a railroad junction and very dirty. It was really a beggar's world. You just couldn't go anywhere to eat, because there were more beggars than customers in the restaurants. They were in rags and smelled bad. We Cantonese couldn't even sit down in such places. So we stayed only a few hours.

"I avoided going to Honan because everyone warned me there were far more beggars there than anywhere else. Honan is probably the worst off of any province because of natural disasters. Some of my friends who did go to Honan didn't dare stay. They jumped right back on the train and left."

In 1967 a fourteen-year-old girl also traveled from Canton to nearby provinces;

"The first time I went with a propaganda team—you know, it puts on shows—because my girl friend was the team leader. She asked me to help arrange musicals. But I really wanted to go to see the world. My greatest impression was—I was so surprised to see that socialism, while it's good in Canton, doesn't work at all well in Hunan! Everything was still so desolate there. In many areas there was no place to eat. I stopped once at a private home, and I just couldn't believe the poverty I saw. That family had nothing . . . I was told about many natural disasters there—flood and drought and insects. I also picked up an old Hunan folk song and arranged it into a musical show. . . . I had another surprise—I saw beggars at Shaokuan [northern Kwangtung]! At first I didn't realize they were beggars, because I'd always been told beggars are a product of capitalist society.

While our team was eating, one boy about my age hung around and watched. I asked him why. He said he was hungry. He came from Hunan and was a beggar in Shaokuan. His father had died of hunger, and his mother had hanged herself. With his older brother he left his deserted village and hopped a train, but somehow they got separated in a crowd. How strange—that old Hunan song was about the feelings of a wanderer, cold and hungry, without a friend or relative. It really fit the description of that beggar boy. . . . Another time, on the way to Fukien, I was really surprised by the backwardness of Swatow and Changchow, which are important cities. Swatow, which is called "little Canton," doesn't come anywhere near Canton. Even sugarcane was scarce there and very expensive. . . . There were lots of beggars along the way on this trip, but they didn't beg from us, because they knew they couldn't get anything. We had few leftovers, because we had to use rice coupons to buy food. But after we finished eating, beggars nearby would come up to lick every bowl clean and chew over any leftover bones."

"It wasn't that I was altogether surprised by living conditions I saw during the linkups," explains a former Red Guard from Fukien, "because I'd had a bad time myself during the famine [1960–62]. But I thought such conditions didn't exist anymore. So I was, in a way, surprised to see how poorly peasants were still living in the border areas I visited of Szechwan, Hunan, and Kweichow. It was bad also in Anhwei and northern Kiangsu. The Anhwei peasants have food enough for only half a year; they go begging the other half."

In his 1974 article on beggars witnessed during the linkups (published in Chinese in the *China Monthly*, Hong Kong), Chai Yukuei points up a phenomenon mentioned by others coming from China, namely, that groups of peasants have temporarily left their calamity-stricken villages to go begging with the permission of the commune cadres. One document reproduced by Chai translates as follows:

Chen X, native of X Brigade, X Commune, Sinsiang County, Honan Province, male, age 55, personal social background: poor peasant; position: Chairman of the Poor and Lower-Middle Peasants Association of X Brigade, X Commune. Because our commune has suffered from a locust plague, permission is hereby granted to the bearer of this letter to lead [poor and] lower-middle peasants from X Brigade to seek relief elsewhere. It is hoped that, during their travels, revolutionary comrades in other regions will provide them with food and shelter in the spirit of promoting class fraternity and of mutual help and cooperation.

With revolutionary salute,

[Poor and] Lower-Middle Peasant Association of X Brigade, X Commune, Sinsiang County, Honan Province —Day —Month, 1967.

The bearer of the above, a beggar whom Chai met while traveling through Mao Tse-tung's native province of Hunan, was accompanied by two sons. He produced photographs of two other sons—one a "proud soldier in the People's Liberation Army" and the second a Red Guard in the famed Tsinghua University Chingkangshan Rebel Faction. For the good fortune of these two children he was full of gratitude to Chairman Mao. As for his own lot, he could only weep in resignation: "With only hoes and waterwheels, how can you fight mother nature? . . . We cannot blame the government for everything."

The decision to release peasants periodically for *t'ao huang* appears to have been strictly local, forced by hopeless agricultural conditions. How often peasants simply take off by themselves; whether all of these regularly return for the next harvest is not clear. A university student, taking a Yangtze River boat to Shanghai one day in the mid-sixties, observed a curious incident. When the boat drew near Chiuchiang in Kiangsi, a group of about forty ragged people came aboard. They had no tickets, and there were no places for them; they were simply herded onto the boat. One or two persons among them seemed to be in control of the group, giving various instructions. On inquiring from one of these "leaders," the student learned that these were peasants from Anhwei who had gone off (*t'ao huang*) to Kiangsi, where food was more sufficient. The "leaders" were village cadre members from Anhwei who had been sent to bring them back. The student reasoned that this must have been one group of many, picked up possibly after complaint from Kiangsi.

In 1968 a Canton middle-school student encountered beggars from Honan on his doorstep:

"They went around knocking at doors and asking in Mandarin for some cooked rice [*fan*] to eat. Whenever we young people were home, we'd give them some. Once I asked a group of beggars at the door why they'd come to Canton to beg. They said that for the last two years there'd been poor harvests in Honan. Their monthly grain allotment was not enough for even half a month. If they ate that food then and there, soon there would be nothing left and they would starve to death. So they hoarded the grain and left the province to beg. When they returned to do the spring sowing, they would depend on the hoarded food. . . . Once I saw a family, around seven members in all, begging on the street. They said there was disaster all over Honan. When they left the village, they had already been living on edible grass and wild fruit for three months. About twenty-five of the three hundred or so people in the village had died from hunger. The government did try to help, but the relief grain was only nine catties, not enough. The village head told them there was no solution except to leave (*t'ao huang*) and come back around March. . . . I ask the reason for the poor harvests, and they told me it was drought and locust plague. The locusts came down just like rain, they said, blacking out the sun. And when they left—like a gust of wind—everything growing in the fields had been devoured. I was fascinated, but it was so hard to believe at first. When I was a little boy, I used to go up the mountain to catch grasshoppers for our birds to play with. It was so hard to catch even one! How could there be so many and so big?!"

The contrast between the well-off major cities and impoverished villages of China, evident from much of the foregoing material, is intensely felt and vividly illustrated by Chai Yu-kuei. Upon describing a fourteen-year-old boy encountered on a train from Sian in Shensi, who was "already a four-year veteran as a beggar," he writes: "When I was ten years old, I was only a spoiled mama's boy nagging my mother to buy me popsicles. But at the same age this boy was alone against the world, begging for leftover food to survive. While I continued my schooling all the way to the university, he was begging his way from North China to the Southwest with a broken bowl in his hands! Why such inequality? Was I really more intelligent? No, the only difference between us was our place of birth. I was lucky enough to have been born in a large city; he was born in a poor village."

Stereotypic images fuse momentarily as one realizes that this oddly familiar expression of pain and guilt over unearned privilege does not issue from some haven of unrestrained capitalism, but from the People's Republic, where, allegedly, a more equal distribution of basic necessities has taken place and brutal contrasts have been eliminated.

Afflicted with what his fellow Red Guards called "bourgeois humanitarianism," Chai made a veritable survey of the beggar world on his linkups across China. One day, in Kweichow Province, after he and his friends had overeaten ("because food was so cheap" there) and drunk a good deal of *mao-tai* liquor to counter the cold, they came across a shivering young beggar at the Kweiyang Railroad Station.

"I felt [at that moment] overfed and overdressed. Quietly I bought him a bagful of steamed buns. The sight of this half-naked beggar touched many other passengers, who also offered him food. The young beggar in turn divided the food among fellow beggars at the station, and all of them started to eat heartily. . . . Perhaps this was the first time he had eaten his fill, or perhaps he just wanted to show his gratitude, but the young beggar began to dance and sing: 'Gazing up at the North Star/I think of Chairman Mao in my heart. . . .' "

With the gradual restoration of order by the military after the Cultural Revolution, both Red Guards and beggars began to retreat from public view. A peasant from Changlo County in Fukien has described Anhwei beggars as still "living in the village primary school in 1968–69" and "walking on their knees in the street, crying aloud in Anhwei dialect, which nobody understood." Another peasant, however, from Lienchiang County noted seeing no more Anhwei beggars after 1970.

The connection between the degree of local control and the presence or absence of beggars was intriguingly perceived by a traveling speculator from China, interviewed by La Dany in 1971. This shrewd man could size up the "political atmosphere" of a city by a "quick look" around the railroad station: "If everything in the railway station is very orderly and quiet, you know that very strict discipline has been imposed on the city; but if you see people standing or walking idly, some selling little things, others looking like businessmen [private dealers] coming from other places, and if there are pickpockets and beggars, then you know that discpline in the city is lax."

The "police action" to reverse exodus from the villages, announced nineteen years ago in *People's Daily*, has continued to operate fairly effectively, even in chaotic times, to preserve the immaculateness of Peking and Shanghai. In Canton it is demonstrable, however, that despite strict control and police roundups before the spring and autumn trade fairs, beggars have not altogether vanished in a flurry of rags.

"From 1969 to 1975," reports a young woman who recently escaped to Hong Kong, "I still saw some beggars in Canton, but no longer in groups, only individually—so they were a smaller target. They were still mostly from the countryside and outside provinces. They scavenged for food in the streets, but if they ran into the police or worker patrols, they would be (immediately) arrested and put into a detention house."

How does one know that there really are beggars in Canton's famed Sand River Detention House [*Sha Ho Shou Jung So*]? Because many of the thousands of young "illegals" who successfully reach Hong Kong every year were caught during earlier escape attempts and temporarily confined in *Sha Ho*, where they found them, along with other extinct denizens of Canton society—petty thieves, speculators, pickpockets, prostitutes. The beggars, moreover, were conspicuous as "willing" longer-term residents, refusing to cooperate with procedures to return them to their hungry villages.

A well-educated young Cantonese relates the following:

"After I failed in my first escape attempt [in 1971], I was confined in a rather large cell at Sha Ho, with about forty people inside. The man who slept beside me was a beggar from Honan, but I learned this only later. At the time he seemed to be a mute. All of us in the detention house were interrogated about our legal place of residence [*hu k' ou*], so that we could eventually be returned there. But this man was illiterate and evidently deaf and dumb.

"The worker patrols beat him with their long poles (painted red and white—we call them 'big chopsticks' and burned him with cigarette butts, but he still couldn't say a thing. He was generally abused in the cell, but I treated him decently and we struck up a sort of friendship. Finally, after three months, he suddenly spoke to me. He told me that he had begged his way from Honan down to Canton after a poor harvest in his home village. He had to pretend for four months to be mute, because he would have found nothing to eat if he had returned home then. Now that the new harvest was probably in, he could disclose his *hu k'ou*. . . . In the detention house we got only three taels [3.3 ozs.] of rice twice a day and all of us were dizzy from hunger. But for this man it was comparative plenty."

A few years earlier Chai Yu-kuei had met such a beggar, wandering far from his native place to beg until the following harvest. Only the women and small children of his village had remained behind, with barely enough to tide them over. The beggar complained to the emphathetic Chai and his companions about being expelled from Canton by worker patrols just before a trade fair: "Comrades, you have been to school and know a lot. Tell me who is right or wrong. They can have their trade fair, and we beggars wouldn't bother them. Why did they chase us away? . . ."

"His question," said Chai, "was hard to answer. . . . We told him there was no justice in this world where might makes right. The Canton workers were told to get the beggars out, and they had to be harsh. Many foreigners would come to Canton for the fair, and the sight of beggars would make China lose face. . . . The more we tried to explain, the more confused he seemed. . . . Then he mumbled, 'But of all my ancestors and relatives—who has *not* gone out begging? So what does that have to do with losing face? Anyway, don't we always say we're not afraid of foreigners? Why should we be afraid to let them see us begging?'

"We looked at one another in silence. The young beggar's question had gone beyond what we could answer in the open."

Perhaps the foreign visitor to the new Middle Kingdom can hazard a reply.

The Other China—How Do We Know China? Let Us Count the Ways

(By Miriam London and Ivan D. London)

On April 7, 1976, a *New York Times* editorial expressed an evidently startled reaction to recent rioting in Peking, for "China had seemed to be so orderly, so completely controlled in recent years. . . ." The same day's mail brought to our address the February, 1976, issue of *Letters from Asia*, published in Hong Kong. The "letter" on China noted widespread strikes and disorders in 1974 and disruptive "factionalism" at all Party levels. The key line was: ". . . 1975 was a highly agitated year in Chinese politics."

Having been broken in the traces of contemporary sinology, we are now accustomed to such moments of schizophrenia. Indeed, in our preceding two articles we have ourselves begun to render, in seeming schizoid fashion, a darkly shaded image of China in opposition to the prevailing evenly sunlit one. The irreconcilability of these images is astonishing. According to the commonly accepted one, China has finally and remarkably banished hunger by achieving sufficient production and equal distribution of food. According to the other, China has struggled in vain since 1949 to solve the unending food problem and at terrible cost; the major cities are more or less adequately supplied, while many peasants continue to go hungry.

Which image is the serious general reader to choose? And, more important, how would he know what to believe? The problem of "how to know" does not not start with the reader, but with the scholar, or "expert." It is to him we may now turn expectantly, for the ways in which he goes about learning to know China affect the general knowledge.

His problems are not simple. China is not open to free inquiry, and information often flows from official sources in a murky blend of the esoteric, enigmatic, and the unreliable. He himself comes to his task with certain predispositions, which reflect theoretical, ideological, and cultural biases, even temperamental inclinations. The possibilities for different scholars to go awry in mulitple directors are evident right off. In a sinological setting the proverbial blind men assemble to describe the elephant. Consensus about any aspect of China is, therefore, no guarantee of correctness; it may only indicate membership in a particular society of the blind.

Happily, despite the odds, many specialists on China manage to augment some aspect of knowledge; a few make major contributions; others, trapped by their own predispositions, wind up brilliantly wrong.

A talent for creative error is often honed by overadherence to a particular theory and methodology, for the latter tend to predetermine findings by selecting for attention those data they can best handle. In the process they direct attention away from data they cannot subserve and shape recalcitrant data to a more comfortable fit.

The study of China is further complicated by a fundamental anomaly: the Western mind trying to comprehend something outside its experience. There are at least two aspects to the problem. The first and lesser one originates from reducing a complex unknown to a convenient abstraction. Because we view China from a distance, losing sight of contradictory detail, we come to think of one generalized China. But China is a generic designation sheltering many Chinas both in and out of synchrony with each other. Geographical particularism is pronounced, and the past, despite all the changes wrought by the revolution, continues to exist in the present.

For example, the people of Kwangtung Province not only still exhibit deep feelings of separateness and a superiority over the North—meaning all China north of Kwangtung—but are now further set apart by a unique circumstance: the close presence and influence of Hong Kong. In a sense, Kwantung has become a satellite of that brilliant city; and the glow in the night sky, toward which the young escapers swim, extends across the province. Hong Kong, or "K City"—in current escapers' jargon—has heightened perception of an alternative missing elsewhere in China, becoming at once the locus and notion of freedom. It has even affected the way some young Cantonese talk: When close friends meet and part, it is the fashion now to say—instead of the traditional "Take care"—"See you in K City."

Assuredly this is not the China of the isolated interior, where the sky begins and stops at the outskirts of a village and where Mao himself seems to many simple peasants merely a remote emperor of still another dynasty.

A second aspect of the problem of comprehending Chinese experience is truly troublesome and involves Western thoughtways. Because we value logical construction in thought, we seek coherent explanations, in terms that make sense to us, for whatever mystifies us about China. We may be wide of the mark, but logic grows like a weed from a scant data-base. The final outgrowth is an all-encompassing theory with extrapolations that go well beyond the data at hand. This is the power of the Western mode—and the occupational characteristic of the Western scholar—but, in a novel context, also its danger. China, after all, is not physics.

Consider this example. A popular theory of agricultural productivity in China involves the notion that peasants have incentive to work harder toward communal production because they share in the resultant increase. Logical enough. In 1973, however, we elicited the reactions of recently escaped peasants from different provinces to this idea. The following are the responses of three peasants as they appear in the unedited interview protocols:

1. *A peasant from Chekiang Province:*

[Some correspondents who have visited China have been told by brigade leaders that peasants have incentive to work harder because they share in the surplus. Do you think working harder can improve your lot?] Impossible! [He laughs.]

[Why?] You just become more tired—that's the only result you'll see. Because what the land produces has to go to meet so many requirements. Actually, what each person gets is too little to make a difference. . . . I can understand why a brigade leader would say that. He was talking to a foreigner and he didn't want the brigade or the country to lose face.

2. *A peasant from Fukien Province:*

[Some people say peasants get more if they work harder and the harvest is greater. Is this true?] Yes.

[So the peasants work harder?] Yes.

[Do peasants prefer to work harder on the private plot or on the commune land?] On the private plot.

[Why?] Because, after all the deductions [by the State, enumerated in preceding responses] a peasant would have little left over from work on the commune fields.

3. *A peasant from Kwangtung Province:*

[Some foreigners who have visited communes say that peasants want to work harder on the brigade land because the more they work, the more they get. Is this so?] It depends on which production brigade. For example, suppose in my brigade I get higher pay a day, then work will have more attraction. Say I get $1.50 [JMP] a day in my brigade. But in your brigade you get only 20–30c [JMP] a day. Then people in my brigade would vie with each other to work. People would refuse to take time off and they'd argue—why was he assigned work and not me? But in your brigade people would say: Better to chop firewood than work in the fields.

It is already evident from the brief excerpts cited that new factors queer what had seemed a simple, logical view. These are, namely, the effects of State grain levies and the monetary value of the work point; and the peasant's consequent stress on the private plot. When asked routinely which vegetables were of better quality, those grown on the collective land or on his private plot, the normally phlegmatic peasant from Kwangtung above seemed flabbergasted by such an obvious question. "Of course, those you plant by yourself!" he replied. "It's different to work on collective land! When you work on your own, you put your whole heart in it. . . . You take better care. But when you work on the collective land, you think things like, well—just pour some water on those vegetables over there."

The peasant's view also makes sense, the difference being that his logic is situationally rooted. Why have most scholars passed him by?

A look at the scholar's main sources of data on contemporary China is pertinent here.

Since field conditions for research as understood in the West are ruled out, direct access to the country is limited mainly to travel as permitted by the Chinese authorities. Travel notes are thus inevitably impressionistic, their value depending on the observer's background and perspicacity. Expertise may result in a "practiced eye," but some nonexperts have a true knack for capturing the "feel" of a place or spotting the telling feature in a mass of detail.

Not many have the flair, of course. An American actress, sometimes referred to in Hong Kong as "foolish sister," saw on her famed journey little but happy conformity, and singing and dancing children—the Chinese replay of "Thank you, Comrade Stalin, for our happy childhood." Amateur and professional theatre are an important and time-filling part of the China tour. Recently, a West German broadcaster performed an interesting experiment: he merely excised all the "song and dance" sequences from a routine documentary film he had received on the People's Republic. The shorn film seemed quiet and sad.

The real pitfall of "learning by seeing" China is that most travelers are unaware of the great investment and ingenuity that go into the creation of facades to impress the foreigner. In the extreme these take the form of showplaces which, from experience with like practice in the Soviet Union, must be termed Potemkin villages—so-called after the favorite of Catherine the Great who built idyllic facades along the provincial route his sovereign was to travel.

Potemkin villages are generally effective, partly because the end results are more credible to the outsider than the stage-managing required to produce them. It is hard to believe, for example, the degree of artifice involved in Chinese preparations for Richard Nixon's first visit in 1972, but these were manifest to great numbers of the population, whose cooperation was needed. Stories of the "complete show" arranged for the foreigners spread through several provinces with sometimes wistfully comic results. A peasant who was still in Fukien at the time related after his escape one year later that "it became a kind of fad—wherever Nixon and a large party of journalists went to visit everyone had to stop using [ration] coupons in the shops. So people whose job it was to procure goods for local stores all flocked to the city on Nixon's route nearest to them. The procurer of goods from our country [Changlo] went to Shanghai, thinking this was his chance to get as much as he could to sell in Changlo. He also wanted to take a look at the Americans. But when he got there, he found that . . . all visitors from the countryside were put into Mao Tse-tung Thought Study Classes. He found people in those classes from all over the country. So he could neither get the goods nor see the Americans."

A former Foochow resident adds other pieces to the picture. From friends in Shanghai he learned that a few days before Nixon's arrival Shanghai became off-limits to all visitors except those with special permits. All municipal government organs, factories, schools, and street committees organized study groups. . . . Specific regulations [were issued] as to who would or would not be allowed out on the streets. Those who were given freedom of movement were mostly Communist Party or Youth League members of the best class background with better education and cultured appearance. . . . In those few days Shanghai department stores were stocked full of merchandise, from daily necessities to supplementary foods. Even carp could be found, reasonably priced, at fish markets. Some of my friends were assigned to 'buy' fish. . . . Workers were sent to stores or markets to buy ducks, chicken, fish, pork, and eggs [in open view] . . . and then hand their purchases over to the local residents' committees, who would [later] return the merchandise. Then they would play the game over in some other spot. . . ."

Canton made similar preparations in 1972. According to a young Cantonese, "one of the stops on the itinerary of a visiting American cultural group was the Haichu Market (on Haichu Road in the Yueh Hsiu District), the largest meat market in Canton. On the day the visitors were to arrive, large quantities of chickens, ducks, geese, fish, eggs, pork, etc. were trucked to the market by the export corporation, which specializes in exporting food to Hong Kong and foreign countries. At the time, meat was in short supply in Canton and each resident was allowed to buy only $1.50 [JMP] worth of meat a month. . . . But when the Americans arrived, they found the market bustling and saw smiling people leaving it carrying chickens, ducks, and meat. . . . After the Americans had left, these people—who were actually special personnel given money to pretend to buy—brought their food purhases back to the market, so that it could be trucked back to the export corporation. The food was, in fact, destined for Hong Kong. . . ."

Such accounts, however consistent, evoke uneasiness in the outsider. His own experience accepts the thriving marketplace and rejects the shadowy stagehands creeping back to remove the props.

Other kinds of Potemkin villages succeed because the visitor himself willingly cooperates in the deception. He may be a sophisticate who wishes to believe in a more ordered, simpler world—in a "system," at least, which resolves the messy dilemma of human cross-purposes, so trying to him back home. Unfortunately, this has not much to do with China.

The scholar's major source of data is and must be the mass of published materials originating in China. If he is after primary data, however, he has quite a job cut out for himself.

From the Western viewpoint data must be apolitical in order to be objective. But in China data can never be bald: politics is always "in command." A consequence of this purposeful bias is that straightforward reading yields devious information. Experience and skill are required to read between the lines and extract the code embedded in the language. Analysis based on meticulous study of the materials available over a period of time can sift the probably true from the spurious, while adding surely to knowledge.

An illustration of some analytic techniques involved is provided by the February 7, 1976, issue of *China News Analysis* (*CNA*). Reporting a 1975 year-end headline in the *People's Daily*—Our Country's Agriculture Has Once Again Had an Overall Bumper Harvest—*CNA* comments:

The impression given is that every province of China has had an excellent harvest—an impossibility in such a vast country, with such divergent geographical and climatic conditions.

This is however the impression received in the Western world by people who read headlines only and not small print and in this way the myth about the miracles of China has filled the world. . . .

The small print shows a different state of things: "This year [1975] 20 of the provinces, cities [i.e., the counties under the jurisdiction of Peking, Shanghai, and Tientsin], and autonomous areas had bumper harvests." . . .

A bit of arithmetic further shows that, excluding the three cities, 17 out of 26 provinces and autonomous areas were therefore purported to have fared well. Of the 17, only 9 provinces were actually listed by name.

Kiangsu Province was named as one of the best-producing provinces. But in August, 1975, the Kiangsu People's Broadcasting Station, monitored by *CNA*, had spoken of dangerous conditions in the province, because of torrential rains, and reported floods in two counties. In December the same station had revealed that "autumn sowing of wheat has been difficult on account of uninterrupted rains."

In the unlisted provinces of Hupei, Kwangsi, and Anhui provincial radio had indicated serious water damage to crops during 1975. One report mentioned 200,000 *mou* (1 *mou* = about 1/6 acre) of flooded land in Anhui. According to another report, the Anhui Provincial Party Committee said that "35 million *mou* sown for autumn crops were menaced by continuous rains and ordered an emergency harvest lest the crops rot."

In August foreign travellers learnt that the rail link between Peking and Canton had been cut by floods since the beginning of August. Later the foreign office spokesman admitted that serious flooding had occurred in Honan province.

CNA finally concludes: "All that one knows is that one does not know how agricultural production in China fared in 1975."

The quest for precise information exemplified above is to a degree a theoretical and proceeds as far as resources permit. But the scholar inspired by a particular theory tends not to press too hard for data that may confound it. If the theory yields certain consistencies, it is said to constitute explanation, thus obviating any search for data beyond the minimal.

Even at his most conscientious and insightful the scholar working with published materials at a distance needs some way of touching down to the human scene. He has to remind himself that, when he speaks of China, he is always speaking of the Chinese, not of theoretical constructions on a grand scale that somehow operate apart from them. It is here that people with Chinese life experience must be drawn into the research process.

Since involvement of Chinese in research is impossible within the People's Republic, it has to take place beyond its borders, wherever refugees and legal emigrants are found. The process referred to is the systematic interview.

There has been growing acceptance in sinology of the refugee as a research resource. He is more, however, than a supplier of additional information. Through him the texture of life can be restored to data extracted from impersonal sources, and the facts of daily existence get to be seen through Chinese eyes, invested with Chinese meanings, even summoned into being because he perceives them to be there. In this way the wholesale use of logic to generate data is brought under control, and theory has to withstand severer tests than mere rationality and consistency with a scattering of data preselected by outsiders as important.

The value of these face-to-face encounters depends on the interviewer's art and a willingness to allow the individual before him to break through the format of the interview and escape entrapment within some predetermined category. The uniqueness of individual experience is important in contributing understanding and is not merely the disposable wrapper of some deeper generality. Unfortunately, it is a Western scholarly habit to favor determination of the general and to dismiss the unique—the essence of the person—as a deviation somehow from an abstractly projected norm. As we shall see, such a predilection underlies some of the uneasiness that scholars feel about the refugee interview.

There are two reasons commonly offered for rejecting the refugee as a serious research asset: He is unrepresentative and necessarily biased *because* he escaped. The first objection is ostensibly grounded on statistical notions; the second has to do with the quality of evidence.

These are by now stereotyped objections, that seem reasonable enough. But do they stand up under empirically based analysis?

In declaring refugees to be unrepresentative, the objector usually assumes that for everyone who has escaped there are tens of thousands who have not made the effort, presumably because they are content to live within the system. Refugees are therefore to be viewed as an aberrant minuscule of the whole population. The assumption errs in assigning equiprobabilities of escape to people apart from geography and other factors. It is based, further, on too simplistic a notion of what motivates a person to leave his family and native land. People do not just decide to pack up their ideological discontent and cross the border. The decision to escape is a personally focused one in which ideological alienation may play no role whatever, except in retrospecitve invention. Even the malcontent tend to leave only when life has brought them to an impasse without possibility of a tolerable resolution.

"On the mainland, my value was equal to 5 cents out of a dollar," said a refugee last year in Hong Kong who had been hounded in Canton because of his father's Kuomintang background. "In Hong Kong I'm valued at 100 cents, so why shouldn't I have risked it? If the political authorities [back home] had made me feel worth 90 cents, I might not have escaped."

People who are not out of ideological harmony with their surroundings may also reach an impasse. A Kwangtung peasant of favored poor-peasant background, interviewed in 1974 in Hong Kong, was basically sympathetic toward the Communist program and considered that life in his commune was better of late than during previous years. As his thirtieth birthday neared, however, he began to take stock of himself: He was still unmarried and "couldn't even clear 10 cents [in cash] a year," since he earned only "30–40¢ in a workday." Progress was slow indeed. "Water seeks a lower level," he explained through an adage, "but people look to a higher level." He decided to escape to Hong Kong before he became too old.

The idea of representativeness is also confused with the statistical concept of a "representative sample." Refugees who do not "constitute a representative sample" seem stranded beyond the bourn of scientific respectability.

Technically, a representative sample doesn't represent anything; it is a sample randomly selected from a homogeneous population in the statistical sense. It is then hoped that knowledge gained from study of that sample can, with a stipulated degree of confidence, be extrapolated to the larger population from which it was randomly drawn. If heterogeneity is entertained—and the Chinese are a heterogeneous people—the representative sample must also be stratified—a risky business in the absence of empirical information on the nature of the heterogeneity.

It is doubtful that all scholars who object to refugees as unrepresentative have the statistics of sampling in mind. Some probably mean, rather, that these people in the flesh cannot possibly correspond to any of the Chinese, whom they have conceptualized as abstract units peopling an abstract landscape called China.

Actually, it is time for this whole academic pack of cards to go flying into the air. The fact is that there is no way to constitute a representative sample outside of China, nor is one necessary in order to gain data and understanding.

There is a less mechanistic way of proceeding, which has been utilized in the social and psychological sciences: this is exploration of individuals *in depth* over a sufficient *range* of experiences. The lack of a representative sample, for instance, did not prevent Freud from acquiring generalized insights into ordinary as well as neurotic behavior. For him the important thing was work in depth with troubled persons and coverage of a sufficient range of the neuroses.

This method also confronts and significantly transforms the problem of "bias," which is commonly held to disqualify the Chinese refugee as a proper research subject. Oddly enough, the same scholars who reject the refugee because he is "biased" are not deterred by the patent bias of the impersonal materials they rely upon for data. Nor are they deterred by their own theoretical and cultural biases. They assume, or hope, that their methods cope with these. The bias of an individual is, of course, different from that of a document, and the notion has become semantically confused so as to mean either "prejudice" or "deviation from some norm," but often both at once. Even if we accept such definitions, uncritically for the moment, there is no reason why all "scientific" method should buckle before the problem.

The danger lies in deciding what the bias is in advance. The scholar who discounts the refugee as deviant from some norm presumes to know already what that norm is—an act of conscience. But "bias" is not a deviation from some ineffable "truth" known in advance. It is the mark of a valid experience, an inseparable feature of any individual case study and part of the whole data pool. Rather than seek to expel it as a pollutant, method must encompass it and proceed differently to adjust for error.

Generalization becomes possible as the details of numerous in-depth individual interviews accumulate and begin to mesh in unsuspected ways. The Chinese refugee, like any person, is always a subtle and varied amalgam of what is unique to him (his "bias") and what he shares in common with others (his compatriots back home). In endless ways he continues to resonate within the context of his past.

The persistence of past context in the present is sometimes strikingly illustrated. A fisherman from Hainan Island responded to a routine question about his class background back home by sticking one thumb in the air—the sign for "No. 1." "The very best!" he said. "Poor peasant!" The fisherman was still occupying his proud niche in the Maoist social hierarchy—but the interview took place in Taipei.

The building up of sufficient context to permit understanding by the outsider is one of the advantages of the "in-depth" approach. It is close to the ways in which we gain insight in everyday life and is the substance of literary art. A British film of some years ago, *Brief Encounter*, begins with an apparently uneventful scene at a railway station, as a stranger might glimpse it between a cup of coffee and a dash for the train. A man and woman exchange a few words, are interrupted; the man leaves to take his train home. A long flashback ensues culminating in the same scene at the station. The few words spoken are now locked in tension, the trivial interruption is cruel, an anguished woman watches her lover walk off forever. The viewer no longer stands outside the scene.

Correction for factual and analytic error in the "in-depth" interviewing method proceeds through constant crosschecking of minute detail within the data being gathered and against the available documentary evidence. The method has its limitations, like all methods, and must operate in concert with other traditional research procedures for optimal results. There are necessarily many collaborative ways of learning to know China—that vast and complex country. This is one of them.

NATIONAL REHABILITATION WEEK

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join the distinguished Senator from Pennsylvania in cosponsoring a resolution which designates the third week in September of this year as "National Rehabilitation Week."

EXPANSION OF REHABILITATION SERVICES

In the recent years, impressive steps have been taken to expand the quality of rehabilitation projects for the mentally and physically disabled. The range of services offered through rehabilitation agencies grows increasingly broader as new ideas and techniques are developed and incorporated into the curriculum. Even the very concept of rehabilitation is changing. Where once the term applied almost singularly to vocational rehabilitation, there are now programs termed social rehabilitation, developmental rehabilitation, and there may be others of which I am unaware.

However, as I look at the purpose and general thrust of rehabilitation programs, I still see the main function of rehabilitation as being of a vocational nature. I am firmly convinced that the answer to a large proportion of problems facing both the individual and society lies in gainful, productive employment.

This is true for the disabled as well as for the nondisabled individual. The self-esteem that comes from holding a job and fulfilling its responsibilities is rehabilitative therapy which heals much more than vocational ailments. There is a certain confidence that one acquires when engaged in productivity, which reinforces feelings of self-worth.

Therefore, I am pleased with the vocational rehabilitation programs presently being offered to disabled citizens. As I study the statistics, I note that in 1965, 134,859 persons were rehabilitated during that year. By 1974, this figure had risen to 361,138, marking an increase of 37 percent in the number of persons who were successfully rehabilitated under Federal programs during those years.

REHABILITATION ACT OF 1973

In the Rehabilitation Act of 1973, Congress placed a new emphasis on the rehabilitation of the severely disabled. This legislation gave priority to the severely disabled for rehabilitation services. Since that law was implemented, the number of severely disabled who were rehabilitated has increased steadily.

In 1974, 31.6 percent of those rehabilitated were severely disabled; in 1975, 35.7 percent of the total were severely disabled; and in 1976, the figure was 40.5 percent of the total number. To me, these figures indicate that services provided by rehabilitation are reaching those that need it most, rather than concentrating attention on the mildly disabled, as had been done in the past.

After the conscious effort Congress made through the Rehabilitation Act of 1973 to focus on the severely disabled, it is hardly surprising that the total number of all persons rehabilitated has decreased. The number was down 10 percent in 1975, and 6 percent in 1976. Pure economics could have warned us this would happen. HEW reports that case service is 50 percent more costly for rehabilitating the severely disabled person over the mildly disabled person.

But again, the point is that the help is going to those who need it the most. As a member of the Budget Committee, I realize that the Congress sets the budget priorities. I think that as we move toward more responsible fiscal policies, as we have in the past 2 years, it will be easier to assign higher budget priorities for handicapped people. Only then will we begin to get funds in the amounts comparable to the authorization levels which Congress has adopted, and which have raised the hopes of disabled persons so high.

CONCLUSION

Through occupational training centers workshops, and evaluation centers, rehabilitation projects are preparing the disabled for gainful employment. The figures given earlier are testimony to the success of rehabilitation programs, and to the individuals in the programs. This fruitfulness is reason alone to proclaim a national rehabilitation week, in tribute to achievements that have been made by the disabled. In addition, such a proclamation will call attention to the fact that although large strides have been made, still more work remains in the area of vocational rehabiliation. Also, encouragement needs to be given to the employers to hire those who have successfully been rehabilitated. For all these reasons, I urge the Senate to act favorably, and quickly, on this resolution.

BUSINESS-GOVERNMENT RELATIONSHIPS VITAL

Mr. BELLMON. Mr. President, Government today has no harsher critic than private business, and frequently with good reason.

The growth of the Federal Government in recent years, accompanied by a frightening trend toward control, overregulation and endless redtape, has placed enormous burdens on business.

Yet there are vitally important roles for both business and Government in our free enterprise system. This theme was expressed quite eloquently in a recent speech by H. R. Sharbaugh, chairman of Sun Co., before the First Annual Management Meeting of the American Institute of Chemical Engineers.

This speech, stressing the need for improved relationships between Government and business in dealing with the issues of economic growth, jobs, inflation, and an improving quality of life, is worthy of the attention of all who are engaged in the process of public policy formulation.

Mr. President, I especially applaud Mr. Sharbaugh's strong position against "compromising with corruption." As he says, everyone in business does not make such compromises nor tolerate those who do.

Mr. President, I ask unanimous consent that Mr. Sharbaugh's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY H. R. SHARBAUGH

Our nation is at a crucial decision point. Following a period of indirection brought on by a succession of severe shocks, we face a national election in which we will choose a president and a new Congress. Both presidential candidates say they will reexamine the role of government and reappraise its impact on American society. At the same time, many in business are seeking a new relationship with government. And the public is looking to both government and business for new approaches to pressing national problems, and for a new commitment to openness and high ethical standards.

At this turning point, we face some very hard and basic questions.

How can we best assure balanced qualitative and quantitative economic growth?

How can we best direct the advances of technology to the pressure points of economic and social problems today?

How can we best provide enough new and meaningful jobs?

How can we best control inflation?

How can we best achieve equality of opportunity for all?

How can we, as one nation, best help to formulate effective approaches to dealing with crucial international issues—international issues that are so closely inter-related with domestic issues today?

How we answer these questions will be shaped in an important way by future relationships and levels of understanding between two of our major institutions—government and business.

On balance, the govern-business interface today reflects an adversary relationship marked by high levels of disagreement and frustration and mistrust on both sides. Government has been tightening the regulatory screws, and pressing on business non-economic goals and direction. Business has become increasingly apprehensive, and less than enthusiastic in responding to new government initiatives. The processes for public policy formulation have been weakened. And the nation today is without definitive policies in major areas such as energy development and conservation.

This situation reflects in many ways the sharp divisions between the American people and their institutions today. We have been through a very devisive decade, marked by discord in many areas of our national life. Our present state of mind reflects an amalgamation of the destructive, disheartening war in Vietnam; the jolting shock of Watergate; corruption in government and business; the impact of the changing mores of the nation; high-rates of inflation; and the recent, deep economic recession.

These social, economic and political earthquakes have opened tremendous gaps between people and institutions. Those gaps reflect loss of faith, declining credibility, a sense of betrayal, and citizen frustration relative to a keenly felt inability to control or really influence public policy. Frequently, these feelings have led to scapegoating—the search for something or someone on which to pin the blame for our problems. We in the petroleum industry experienced this in the sharp criticisms directed at us for the fuel shortages occurring during the Arab oil embargo. Similarly, government and other institutions are taking the heat of citizen frustration in other areas.

Government-business relationships have moved a far distance from where they were in the early days of our country's history. The essence of that movement was expressed succinctly by university historian and author Arthur Johnson in an essay written for the Bicentennial American Issues Forum earlier this year. He wrote:

"Clearly, the free, private enterprise of the nineteenth Century has undergone substantial change in the past 75 years. While privately owned enterprise has continued to flourish, it is not free in the sense of businessmen making decisions without reference to money rates controlled by the Federal Reserve System, taxation controlled by Congress, or to a host of Federal and State regulatory agencies with jurisdiction over specific areas of business ranging from labor conditions to smoke emission."

Without question, a good deal of this government regulation is necessary in an increasingly diverse and complex economy. Some laws are necessary, for example, to assure effective competition, to establish the ground rules for various types of economic activity, and to protect the public interest in such areas as health and safety.

But just as unquestionably, government involvement in the economy has moved beyond these areas into others where the rationale for regulation is open to sharp question. Direct price and market controls in my industry are a case in point, and there are many other examples.

In summing up the present state of affairs, it is beyond argument today that a goodly share of government regulation is self-defeating, that it is tremendously and unnecessarily costly, and that it is weakening investment and other incentives that are vital to the healthy functioning of the productive enterprise system.

Thus is posed the dilemma that business and government—operating under charters derived from the consent of those being served—face today: Some regulation of the economy is in the best interests of people and society, but much of today's regulation works to the long-run disadvantage of people and society. Our joint task then is to redefine and renew the relationships of government and business, and to do so in ways that will strengthen our nation and benefit its citizens.

I want to emphasize as strongly as I can that this is not just a philosophical issue to be debated leisurely. The building of a more productive interface between government and business is essential to continuing national economic and social progress. We have in the United States a diverse and complex economy, which is highly sensitive to policy change. It cannot and does not function effectively in a continuing climate of policy uncertainty and threatening legislation. Rather, it requires rational policies that are accepted and supported by the public, administered justly by the government, and, where they affect the economy, implemented efficiently by business.

Because of the vital importance of this interface, renewal must begin with a re-identification of where the real public interest lies. I submit that it does not lie in the detailed regulation—someone has called it "economistic thumbsucking"—that is exemplified in the growth of the Federal Register from less than 3,500 pages in 1937 to over 60,000 pages in 1975. Those numbers are perhaps not significant in themselves. But what is significant are the millions of words of complex, detailed regulatory proposals and orders that they represent—proposals and orders which reach into every nook and cranny of our productive economy.

In dealing with this regulatory problem, it seems to me that the public is not in front of government. Public sentiment is running ahead of government efforts to slow the expansion of bureaucracy and to control new spending programs. And in this sense, the public is today identifying where its interests lie in the vital government-business interface.

Very simply, the public interest lies not in government's seeking to regulate and restrain the innovative forces in the economy, but in government's providing the climate of freedom and reward that will permit and encourage new ideas to flourish and compete. Government is good at rule-making, at preventing, at limiting, at fixing parameters. And its role properly is to establish the ground rules under which the economic game is to be played.

Businesses—and individuals—are good at conceiving, creating, initiating, performing and producing. And their role properly is to bring together and coordinate and manage diverse resources in the efficient production of goods and services.

In the broad view then, government and business have complementary rather than adversary roles.

In regard to building more productive relationships between these two institutions, I want to share several specific thoughts with you. These thoughts relate primarily to business opportunities and business obligations in this rebuilding process.

We must begin by being realists about the future. Our economy is not going to revert to the conditions of 200 years ago, and there is no point in attempting to describe it in those terms. It is neither rational nor realistic to expect that there will be any appreciable lessening of regulation in terms of areas of government involvement. Rather, I expect that there will be increased areas of government involvement in the economy in the future. There can be a different focus for that involvement, however, and it is on shaping a new focus that we must concentrate our efforts.

The new focus that I foresee would require gradual withdrawal of government from direct, detailed regulation of economic activity, and concentration on the role of policy development and coordination, economic umpiring, and protection of the public interest.

This new focus must recognize that government involvement in economic affairs should only follow a demonstration of need. Regulation based on inference, or conjecture, or surmise serves no purpose, but simply hamstrings the private economy. A corollary to this is that when a need for government involvement is demonstrated, it should be *informed* involvement. It is surely in the public interest that regulators understand what they are regulating. Farmers understand the milk business, and oil men know about the petroleum business. And if these industries are to be regulated, then the public is best served when the knowledge and expertise of experienced people is utilized—and utilized without the implication that the public interest is somehow being compromised because the regulators understand what they are regulating. Such use of knowledgeable people will help avoid false starts and the issuance of orders which must be endlessly revised and reinterpreted. And it will save all of us very substantial amounts of money.

Next, we must put our own house in order. And we must begin by redefining the ethical base of business.

I am sure that you were saddened, as I was, to read in recent months the reports of unethical and illegal business behavior. But those actions are fact, and must be faced. I feel that there is not now, nor has there ever been, any justification for compromising with corruption. I do not accept the notion that unethical practices in business should be tolerated because "everyone does it." Everyone doesn't do it. We don't do it. And we will not defend through silence those who do.

At the same time, we must recognize that standards of conduct vary. What is improper or illegal in the United States may be proper and legal in some other countries. It is not the role of American multi-nationals to impose American standards on other nations, just as we would not want others to impose their standards on us. So business conduct in other countries must be based on standards in those countries.

Next, we must practice the self-reliance we have so long preached as an integral part of the private enterprise system. We haven't always done so. C. Jackson Grayson, during the period he headed the Price Commission a few years ago, wrote of "numerous instances in which business turned to government to seek forms of assistance which would reduce competition."

Bluntly, there is no place in private business for those who are unwilling to meet the test of the market—those who are unwilling to stand or fall on the basis of their own performance in commercial ventures, and who, accordingly, seek advantage through government intervention. Surely with the resources available to us in the private sector, we can manage our business affairs independently, adjusting and adapting to changing circumstances.

At the same time, we must recognize the value of joint government-industry activity in areas involving long-term technology development as a prerequisite to commercial operations. And we must help develop the mechanisms under which such joint action can be undertaken in the public interest.

A case in point in my own industry is the developmet of synthetic fuel from oil shale. Little progress has been made in this development effort to date due to the tremendous capital requirements and the high levels of risk involved in what will be the initial commercial ventures.

For example, the technology for producing synthetic oil from shale has so far been demonstrated only at the pilot plant or semi-works level. The scale-up to new—and yet to be designed—commercial size units carries with it a high level of technological risk. In addition, there is a very high degree of operational risk since these facilities will be made up of enormous, complex, closely coupled units. Capital costs are virtually out of sight, with present estimates running beyond $20,000 per daily barrel of output. And it is presently anticipated that the required sell- significantly exceed current market values of ing price of the synthetic product would conventional liquid hydrocarbons.

In combination, these considerations preclude full funding of shale oil development projects by private firms. And it is not an indictment of the private enterprise system to frankly say so. At the same time, the public interest requires that a start be made now on development of our shale oil resources as an integral part of an accelerated domestic energy development program.

It seems to me that this is precisely the kind of problem which can be effectively approached as a joint endeavor. Joint funding by government and industry of a number of modest demonstration operating modules could identify successful technologies. Such modules could then be acquired by the private partner, under previously agreed upon terms, and form the base for a truly commercial productive venture—whenever such a venture makes economic sense.

We have, in fact, recommended this approach to Congressional committees studying the synthetic fuel problem.

Next, we must appraise government initiatives on their merits; we must not make judgments on the basis of the ideology of the past. A case in point is the current discussion about introducing some form of planning into the economy. Our system is not amenable to comprehensive centralized planning, for the market itself is a superb allocator of resources. But this does not necessarily mean that the nation could not benefit from some formalized planning, which is simply an effort to quantify anticipated alternative futures. I would be surprised if a government-business dialogue on planning did not surface some areas where additional planning by each in its own arena would be beneficial to all.

Our society is changing and adapting to new conditions, and we cannot afford to limit our opportunities for more productive relationships by adhering to ideologies that were shaped under vastly different circumstances in the past.

Next, in working our new relationships with government, we must avoid the pitfall of looking at the future only in terms of the past and the present. No policy should be formulated, no plan developed, and no program implemented simply on the basis of presently perceived conditions and capabilities. The potential for powerful new ideas, new conceptual approaches to problems, and new technologies will be even greater in the future. Accordingly, all of our planning should incorporate the flexibility that will permit adjustment and adaptation to new developments and new opportunities as they occur. Our vision of tomorrow should neither be clouded by the constraints of today nor fixed by legislative presumptions of what will occur in the future.

This brings me to a concluding point which is perhaps the most important of all. I feel strongly that achieving the new level of government-business cooperation that I have been talking about requires, above all, a new level of perception by each of a traditional concern of the other. Specifically, the public is asking—indeed, imploring— business to more fully consider human values and human needs in its future planning. And business, in turn, is asking the public—government—to more fully consider the essentiality of savings and investment to an expanding economy that will be capable of meeting human needs in the years to come.

In recognizing these concerns, we must all recognize one other. That is, we must steadfastly pursue every activity that will help to assure equality of opportunity for all, while at the same time realistically facing the fact that it is not possible to assure equality of results. For widespread acceptance of the latter notion could undermine and ultimately destroy the nation as we know it, by eroding economic productivity and weakening individual liberty.

In closing, I will try to distill what I have been saying this morning into four brief thoughts that I would like to leave with you.

One, government and industry increasingly share growing responsibilities for the achievement of public interest goals. Each has a vital contribution to make. And to enable each to make that contribution, we must build new levels of understanding and coordination between government and business.

Two, we in business, in fulfilling our role, must put our own house in order. We must stand firmly against unethical business practices, and we must operate within the private enterprise concept without seeking special advantage from government.

Three, we must be receptive to government initiatives, responding from the base of objective appraisal rather than simply from ideology that is deeply rooted in the conditions of the past. And, particularly, we must recognize human wants and aspirations as the over-riding input to strategic and operational planning.

Four, we must work to shift the focus of government involvement in the economy away from direct, detailed regulation and toward policy formulation and coordination—the establishing of the rules of the game. And we must demand—I repeat, demand—the shaping of an economic environment that encourages the savings and investment that are crucial to fulfilling human expectations in the future.

This Bicentennial year provides a unique opportunity for all of us, as individuals and as members of organizations such as this one, to move beyond the frustrations of the recent past and to begin to rebuild the trust and confidence that are essential to more productive relationships in the future.

In that effort, I stand with Thomas Jefferson, who said some 200 years ago:

"My confidence in my countrymen generally leaves me without much fear for the future."

A TRIBUTE TO THE AMERICAN REVOLUTION BICENTENNIAL

Mr. WILLIAMS. Mr. President, the last meeting of the Board of the American Revolution Bicentennial Administration takes place today. Now that the fireworks and festivities are over and the Bicentennial Administration has begun to wind down, it is fitting to reflect on the observance of our Nation's 200th anniversary and on ARBA's role in it.

The legislation that established ARBA envisaged the Bicentennial celebration as a grassroots effort. Local and State governments, citizens groups, and individuals would develop programs and projects. ARBA woud help coordinate, facilitate, and provide modest funding for these projects.

One of the most successful grassroots programs was the Bicentennial communities program; 12,566 localities throughout the Nation were designated by ARBA as Bicentennial communities. In order to receive this designation the communities organized their own Bicentennial programs, which included at least one major project of lasting historical value. I am pleased to say that my own State of New Jersey ranked fifth in the Nation in number of Bicentennial communities. This widespread participation in the Bicentennial observance is the best indication of its success.

The States also sponsored notable Bicentennial projects. Many of these were aided by ARBA grants, made possible through the sale of commemorative medals and other items. An important project in New Jersey to receive such assistance had an ethnic theme. It encompassed ethnic festivals and the publication of an ethnic history of the State. Particularly noteworthy is a celebration still to be held at the end of this year. "The Festival of the Ten Crucial Days," December 25 through January 3, 1977, will be the largest Bicentennial event in New Jersey.

This tremendous endeavor is being undertaken by our State agency, the New Jersey American Revolution Bicentennial Commission, and is strongly endorsed by ARBA. It will commemorate the crossing of the Delaware and the battles of Trenton and Princeton. Over 1,500 "troops" have volunteered to participate in the activities depicting patriots, Britons, and Hessians.

Operation Sail and the Smithsonian Folklife Festival were two of the most memorable national events of this past year. Those who witnessed the arrival of the tall ships will not soon forget this spectacular tribute to our Nation's birth. The folklife festival attracted performing groups from many foreign nations and sparked new interest in our own colorful heritage. The support of ARBA again was instrumental to these projects.

Mr. President, I take this opportunity to commend the American Revolution Bicentennial Administration for its important contributions to the success of our Bicentennial celebration. ARBA's efforts will be evident well beyond 1976 in the many enduring projects begun across the country under ARBA's auspices. I wish to commend John W. Warner, ARBA's Administrator, whose able leadership has helped to make the Bicentennial a memorable experience for all Americans.

I wish to pay special tribute to the leadership of New Jersey's State commission. Under the chairmanship of former Gov. Robert Meyner, the commission has planned and carried out many fine commemorative projects. The untiring work of all members of the commission, particularly its executive director, Walter Peters, and deputy director, Stephen Richer, has led New Jersey through a truly inspiring Bicentennial observance.

JOHN WARNER

Mr. TOWER. Mr. President, the American Revolution Bicentennial Administration is an unusual child of Congress. Having fulfilled its limited obligation, it will simply cease to exist. It leaves behind it colorful memories of bolts of bunting, miles of flags, galaxies of Bicentennial stars, and tons of leaflets on the historic sites of a picturesque and simpler past.

John W. Warner, who served for almost a year and a half as its Administrator, has enjoyed the singular experience of charting the celebrations of the Nation's 200th birthday. There will be no other like him for another 100 years, when another individual will make a similar effort to turn a riotous and extravagant celebration into an opportunity to remember and appreciate the qualities and accomplishments of this Nation.

Mr. Warner has done his job extremely well. He steered the course of this event with the same expertise and native ability that made him such an admirable Secretary of the Navy. Through it all, he remembered that it was primairly the people's celebration. He encouraged spontaneity and variety to enrich the formal and organized activities and constructions of a nation approaching its maturity through the stress of troubled times.

To paraphrase Mr. Warner himself, Mr. and Mrs. America were encouraged to participate at every level. He thought that preferable to experiencing the extravaganza from the seclusion of a living room in which the only clamorous celebrant was a television set.

The undertaking initially seemed almost too great for a nation still testing the limits of individual freedoms and given to strident expression of the same. Many were apprehensive. Some will leave behind a legacy to that distant generation of our Tricentennial in the form of an admonition: "Go. It was all more exciting and safer and better organized way back in 1976 than we had expected, and there was much we might have done that we didn't."

I can still hear the wondering comments of newsmen after the fireworks were spent and the crowds were making their tired ways home in swarms of surprisingly congenial traffic. "The people have been so warm," they said. "What a spirit of cameraderie we have seen," they said. "There have been so few 'incidents,'" they marveled. Our civility and forbearance amazed even ourselves.

I am sure that Mr. Warner departs with insights of this very unique year that all of us would profit from the sharing. In behalf of all those who benefited in various ways from his efforts as Administrator of the Bicentennial Administration, I would like to express a warm thanks for the many pleasant and poignant moments and best wishes for a rewarding future.

SALUTE TO JOHN W. WARNER

Mr. HANSEN. Mr. President, 200 years ago, when the founders of this great Nation first drafted the Declaration of Independence, Wyoming was but a portion of a great expanse of hostile and unexplored land lying west of the Mississippi River.

This vast wilderness was dominated by the great herds of bison, elk, antelope, deer, and the many forms of wildlife roaming within the frontier domain. Gradually, as the East became crowded, unbearably for some, the frontier began beckoning to the hardy and the strong adventurers willing to follow its call.

Pioneers began moving west, expanding this new and budding nation, adding to its land holdings, and increasing its borders. Eventually, there explorers, fur trappers, and pioneers found the rolling hills, plush meadows, and lofty mountains of Wyoming.

John Colter could be said to be the first white man to see Wyoming, when he discovered the region later to become this Nation's first national park, Yellowstone.

But he would not be the last.

A major route to the gold fields of California, the rich valley of Willamette in Oregon, and the great salt plains passed through Wyoming, the Oregon Trail. The people who traveled that trail brought with them the spirit in which this great country was founded; freedom, liberty, and the pursuit of a dream that every man, woman, and child should always have the opportunity to pursue.

In this, our Bicentennial, it has become important for us to rededicate ourselves to this spirit and this dream.

Through the many forms of our Bicentennial celebration, this spirit has been rekindled, and many people have again dedicated themselves to the ideals and principles upon which our Nation was founded. A good measure of the success of the Bicentennial can be seen in the hard work of the American Revolution Bicentennial Administration, and in particular, Mr. John W. Warner, Administrator of ARBA.

Mr. Warner has proven himself in the past 2 years to be a loyal and able leader in heading the celebration of our 200th birthday.

The American Revolution Bicentennial Administration, under the leadership of Mr. Warner, has given the people of this Nation a pride of country which can only be matched by the pride of its founders 200 years ago.

We owe a great debt of thanks to Mr. Warner and his administration for the heritage and history that has been recreated in this once-in-a-lifetime celebration.

JOHN WARNER

Mr. STEVENS. Mr. President, on March 13, 1974, the Senate unanimously confirmed the nomination of John W. Warner as the first Administrator of the American Revolution Bicentennial Administration. The confidence the Senate placed in Administrator Warner at that time was well deserved, for Mr. Warner has proven to be as able an Administrator for the ARBA as he was Secretary of the Navy.

Since the time John Warner took the oath of office, he has provided the dynamic leadership so necessary for the successful completion of our Bicentennial celebration. It was exceedingly important to renew the faith and confidence in our Nation's birthright, and to have a successful Bicentennial celebration was an important ingredient in that restoration of faith. A great many people looked forward to this year's celebration and it can safely be said that our birthday celebration has been extremely successful. A great deal of that success can be traced directly back to John Warner.

In an address to Indiana State University in May of 1974, John stated:

> The success of our Bicentennial must be measured by the number of participants, not the number of spectators.

And I, like John Warner at that time, am happy to say that the number of participants in this Nation's Bicentennial celebration numbers in the millions, a glowing tribute to the encouragement and leadership of John Warner.

Mr. President, it is my understanding that the American Revolution Bicentennial Administration's last board meeting is being held today. I want to take this opportunity to extend to John Warner the congratulations he well deserves for his outstanding leadership.

JOHN W. WARNER

Mr. BROOKE. Mr. President, I appreciate this opportunity to commend publicly John W. Warner, the Administrator of the American Revolution Bicentennial Administration. As chairman of the American Revolution Bicentennial Administration Board, I have worked very closely with Mr. Warner over the past 2 years. And this association has demonstrated once again what I have known for a long time: John Warner is an outstanding public servant.

Under his leadership, ARBA coordinated the national Bicentennial effort. And as we all witnessed this past summer, the commemoration of our Nation's 200th anniversary was a stunning success. In large measure, John Warner's zeal, skill, and dedication were the propelling forces behind this success.

In recognition of his efforts, Congresswoman LINDY BOGGS and I, in our capacities as chairwoman and vice chairman of the Joint Committee on Arrangements for the Commemoration of the Bicentennial, have recommended that John Warner receive the Presidential Medal of Freedom.

Mr. President, on the date of our last ARBA board meeting, I am pleased to join my colleagues in saluting Administrator John Warner and his fine American Revolution Bicentennial Administration staff.

TRIBUTE TO JOHN W. WARNER

Mr. PELL. Mr. President, for the past 2 years, thousands of our countrymen have been involved in a monumental effort to bring forth a fitting celebration of our Nation's Bicentennial and reflection of our Nation's history.

As in the production of a fine tapestry, many hands and hearts have combined talents to produce a work that commemorates the past and creates a lasting thing of beauty for the future.

As in any workshop there must be a master to coordinate and direct the labors of the artisans. John W. Warner, the Administrator of the American Revolution Bicentennial Administration, has been a most diligent, creative, and competent master.

In his capacity as national director of our Bicentennial celebration, John Warner traveled over 250,000 miles, visited every State and territory, addressed hundreds of thousands of Americans and gave official recognition to more than 50,000 programs, projects, and events.

Through his able leadership Americans from all backgrounds and regions, united in spirit, shared with their fellow Americans and people of the world a year-long festival of events, reveling in the rich blend of cultures, traditions, and values whose combination make the fabric of our Nation.

Many of the projects undertaken this year in honor of our Bicentennial will preserve this spirit of '76 for generations and centuries to come.

John Warner is to be congratulated for producing a masterpiece to be known hereafter as America's Bicentennial.

JOHN W. WARNER, ADMINISTRATOR OF THE AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Mr. HUGH SCOTT. Mr. President, July 4, 1976, and the events surrounding this great day will be remembered and cherished by all. Whether in Valley Forge, Philadelphia, the Harbor of New York, our Nation's Capital, small town or major metropolis, this celebration will serve as a benchmark for all thoughtful Americans as a time of renewal and rededication to the principles which make us free.

It is a pleasure to salute the individual who orchestrated one of the most meaningful events of our time—Mr. John W. Warner, Administrator of the American Revolution Bicentennial Administration. As Mr. Warner leaves this post and the Bicentennial curtain begins its descent, I applaud his able leadership, inspiration, and dynamic spirit as the master of ceremonies of our 200th anniversary.

This great celebration fostered perhaps the most massive volunteer effort in the history of peacetime America. Its success is due to each and every participating citizen and the direction and purpose provided by Mr. John W. Warner, who made it work.

May the spirit of our Bicentennial remain with us always—thanks to John Warner it will. I wish him continued success in the promising future.

A TRIBUTE TO JOHN W. WARNER AND THE AMERICAN REVOLUTION BICENTENNIAL

Mr. MANSFIELD. Mr. President, I rise to pay a tribute to Mr. John W. Warner, the Administrator of the American Revolution Bicentennial Administration. Mr. Warner has served his country superbly in this capacity. His efforts in initiating meaningful commemorative programs and activities throughout the United States, resulted in a rekindling of American commitment to the ideals of the Founding Fathers.

America, I am certain, will be a prouder Nation at the end of its Bicentennial Year, and I hope that Mr. Warner's efforts will have lasting benefits to us all. As a member of the Congressional Joint Committee on Arrangements for Commemoration of the Bicentennial, I am especially pleased to have observed Mr. Warner's activities and the fruits of his work. He and his fine staff are to be congratulated for planning such an outstanding celebration for America and its people.

As we look forward to the third century of American independence, I can only hope that the spirit that crossed America during this Bicentennial Year, largely as a result of the zeal and enthusiasm of John W. Warner, will remain among us and thereby strengthen the fiber of democracy in our great country.

H.R. 8532—THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT

Mr. KENNEDY. Mr. President, the Senate passed the Hart-Scott-Rodino Antitrust Improvements Act (H.R. 8532) on September 8, 1976, by a vote of 69 to 18. This represents the second Senate passage this Congress of this important consumer bill.

This free enterprise, procompetition measure has been fought tooth and nail—by deception and by outright falsehoods—by the business roundtable and other business groups, with the Bristol-Myers Co. leading the charge.

Let me reiterate one point repeatedly made by the sponsors of this legislation: Only those companies who deliberately disregard the antitrust laws need fear this bill. And, Mr. President, that is why some of the trade associations and the companies they represent are engaged in a campaign of distortion and misrepresentation against the antitrust bill.

Mr. President, I respect the right of Bristol-Myers to lobby strongly in opposition to this bill. But I object to the deliberate misrepresentations of Bristol-Myers in a last-ditch effort to play upon the emotions of the House with respect to the contingency fee issue, and to kill the Senate-passed bill. Bristol-Myers' letter of September 7, 1976, which has been sent to many, if not all, Members of the House, states:

> The House bill prohibited contingent fees. The so-called Senate "compromise" modifies the House bill and reinstates contingent fees! The Senate "compromise" bill permits private lawyers hired by State attorneys general (which is the usual practice) to get $300 and $400 per hour. This is unconscionable.

Mr. President, I ask unanimous consent that the full text of the letter from Bristol-Myers be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, it is public knowledge that the Senate bill expressly and unequivocally prohibits the use of percentage contingency fees; that is, fees calculated as a proportion—such as one-third or one-half—of the ultimate damages recovered. This prohibition was adopted after extended debate by the Senate in June, and is contained in the bill passed by the Senate on September 8, 1976. Not only has this prohibition been in the Senate bill since June, but its parameters were explained in a floor statement by the principal sponsor of the bill Mr. PHILIP A. HART, on September 8:

> Section 4G(1)(A) prohibits the use of percentage contingency fees in parens patriae cases filed under Section 4C. This prohibition is to be imposed by the court in awarding attorney's fees under subsection 4C(d)(1) and in approving dismissals and compromises under subsection 4C(c).
>
> Section 4G(1)(B) makes explicit the prohibition of other contingency fees unless such fees are determined by the court after a litigated judgment under subsection 4C(d)(1) or, if a case is settled, by the court under subsection 4C(d)(1) and 4C(c).
>
> The standards to be used by the court in determining a reasonable attorney's fee are as set forth in the Senate Report No. 94–803. These provisions are included to assure both the reasonableness of the fees and that the bulk of the State recovery would be distributed to consumers—not lawyers.

What the Senate bill does permit, Mr. President, is a fee—a "reasonable" fee—determined by the court. Such fee can be contingent on success, but I submit that a reasonable hourly fee contingent on success is a far cry from a percentage contingency fee of one-third or one-half of the damages awarded. A reasonable fee contingent on success, Mr. President, means that parens patriae actions can be filed which will result in plaintiff's counsel receiving nothing if the case is lost.

This very provision, Mr. President, was included in the bill, because of the strong arguments of companies like Bristol-Myers that parens patriae could be abused by the States and used to harass business through the filing of frivolous suits. I ask my colleagues to judge, Mr. President, what stronger deterrent to the filing of frivolous suits can exist than counsel's knowing if he loses he will not receive a fee?

Moreover, Mr. President, States cannot contract to pay counsel "$300 and $400 per hour." Whatever fees counsel will get under the bill will be "determined"—not merely "approved"—by the court, and they must be based primarily on a reasonable hourly fee. As Bristol-Myers well knows, the $300 and $400 per hour fees were paid in cases under circumstances which did not prohibit percentage contingency fees.

In conclusion, Mr. President, I stand by the Senate action and believe it to be highly responsible, as well as responsive to the legitimate concerns expressed by the responsible businesses which oppose the Senate bill. I rise to make this statement out of a strong conviction that the type of lobbying going on with respect to this bill, epitomized by the Bristol-Myers letter, should not and cannot be condoned by responsible legislators regardless of their views of the merit of the legislation.

EXHIBIT 1

BRISTOL-MYERS CO.,
Washington, D.C., September 7, 1976.

DEAR CONGRESSMAN: Shortly the House will vote on the final passage of H.R. 8532, the Antitrust Improvement Act.

You will recall that the House recently joined its *parens patriae* bill with its CID and premerger notification bills. The House bill prohibited contingent fees. The so-called Senate "compromise" modifies the House bill and reinstates contingent fees!

The Senate "compromise" bill permits private lawyers hired by State attorneys general (which is the usual practice) to get $300 and $400 per hour. This is unconscionable.

Furthermore, court approval is no assurance that such fees will be reasonable. In the tetracycline settlements, the courts approved in virtually every state more money for the plaintiffs' attorneys than was actually returned to consumers.

I do hope you will seek to correct this windfall to private plaintiff attorneys which may prove so tempting as to actually stir up litigation.

Very truly yours,
WILLIAM G. GREIF.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3664, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Idaho (Mr. CHURCH).

(Mr. CHURCH's amendment No. 2292 is printed in yesterday's RECORD at page 30333.

The PRESIDING OFFICER. The time for debate on this amendment is limited to 1 hour to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from Texas (Mr. TOWER), with the vote thereon to immediately follow. Who yields time?

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a quorum call be ordered without the time being taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I ask unanimous consent that Mr. Howard Nell and Mr. Clifford Alexander of the staff of the Committee on Banking, Housing, and Urban Affairs be granted the privilege of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the time start running at this point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, the amendment offered yesterday by Mr. CHURCH to S. 3664 is enormously broad and substantively intricate. It possesses implications far beyond the scope of what has been thoughtfully considered by the Banking Committee.

There has been neither hearings nor debate on this issue. The vast majority of the Members of this body have not even had an opportunity to carefully consider the proposal.

Mr. President, the Senate appears to be once again embarked on a course of legislating first and asking questions later. This is not a proper way to legislate.

Before I proceed to critically analyze the contents of this amendment I would like to emphasize its serious nature. I have just received letters from the Chairman of the Securities and Exchange Commission, Mr. Hills, and the Secretary of Commerce Mr. Richardson. They both voice strong opposition to the amendment. Mr. Richardson states as follows:

> This is in response to your request for comments on an amendment proposed by Senator Church to S. 3664, Senator Proxmire's bill dealing with improper corporate payments abroad. In my capacity as Chairman of the President's Task Force on Questionable Corporate Payments Abroad, I must oppose the Church amendment for the following reasons:
>
> Its disclosure requirements are both too broad and too narrow. They are too broad in the class of payments required to be disclosed—American corporations would have to disclose payments made for virtually all services rendered for the corporation outside the U.S., as well as payments made in connection with business with foreign governments. This sweeping disclosure, in my judgment, could create a serious paperwork burden for both American business and for the Securities and Exchange Commission, vastly disproportionate to the goals of those of us who have sought disclosure as a means to end the questionable corporate payments problem. The Church amendment's disclosure requirements are too narrow in that they apply only to SEC regulated firms, which constitute approximately one third of U.S. firms engaged in international commerce.
>
> The treble damages provision of the Church amendment is redundant with current law—namely, section 2(c) of the Clayton Act.
>
> The foreign policy analysis required annually by the Secretary of State is unnecessary and inappropriate. Public disclosure of

such an analysis could itself have a substantial deleterious effect upon the foreign policy of this country.

The amendment's exhortation that the President make every feasible effort to obtain appropriate international agreements to end inappropriate payment practices in international commerce is unnecessary. The Administration already has underway the most vigorous possible efforts in this regard.

The Church amendment could have a sweeping effect on the conduct of international business by U.S. firms and upon this nation's foreign relations. Despite this fact, no hearings have yet been held on Senator Church's amendment in its current or previous form. It would seem unwise in the extreme, to adopt such legislation without a more deliberate exercise of legislative process.

It is my understanding that the Chairman of the SEC is forwarding a letter regarding the broad grant of discretion which would be given the SEC by this legislation. It remains my feeling, that the SEC, while playing a vital role in deterring improper corporate payments, cannot and should not bear the full burden of resolving the important public and foreign policy issues inherent in this problem.

Further, Mr. President, I wish to read into the Record the comments of Mr. Rod Hills, the Chairman of the Securities and Exchange Commission:

Dear Senator Tower: Thank you for providing us an opportunity to express our views on an amendment to S. 3664 which Senator Church introduced yesterday on the floor of the Senate. Although we were not provided in advance with the actual text of Senator Church's proposal, we understand that it would amend the Securities Exchange Act of 1934 to impose upon issuers of securities comprehensive recordkeeping and disclosure requirements relating to contributions, payments, gifts, commissions or things of value to commercial agents and foreign officials, as well as payments made in the context of a political contribution to a foreign government.

That such an amendment which impacts so significantly on the Commission's work should be considered at this time and in a manner inconsistent with the careful approach of the Senate Committee on Banking, Housing and Urban Affairs in its consideration of S. 3664 is a matter of gravest concern.

As you are aware, the Commission, over the past two years, has been engaged in an effective and wide ranging program to meet the problems presented by questionable and illegal corporate payments and practices both at home and abroad. To date, these efforts have resulted in the institution of over a score of enforcement actions and the voluntary disclosure of questionable or illegal practices by over 200 other companies.

Actions initiated by the Commission in its enforcement and voluntary disclosure programs have been complemented by the Auditing Standards Executive Committee of the American Institute of Certified Public Accountants' circulation of an exposure draft regarding "Illegal Acts by Clients." Similarly, at the Commission's request, the New York Stock Exchange recently sought comments from its membership on a proposed amendment to its listing policies which would require a form of outside audit committee as a condition of listing on the Exchange.

Through these initiatives a problem which, by any measure, was sufficiently widespread to be a matter of deep concern is steadily being overcome. In the long run, the lessons to be learned from this experience and the new mechanisms of corporate accountability which have resulted in the judgment of the Commission serve to strengthen the quality of corporate management, public confidence in the business community and the integrity of our Nation's capital markets.

As we advised the Senate Committee on Banking, Housing and Urban Affairs during its consideration of S. 3664, the Commission's authority to deal with the problem under its existing legislation and disclosure requirements appeared to be adequate in terms of the objectives of the federal securities laws. Nonetheless, we recognized that limited-purpose legislation in this area was desirable in order to demonstrate a clear congressional policy with respect to a controversial problem.

We also recognized, as the proposed legislation progressed through Committee sessions, a strong desire on the part of the members of the Committee to absolutely proscribe certain types of payments. As reported from the Committee, S. 3664 embodies a response to both the Commission and the Committee's principal objectives.

The amendment currently proposed by Senator Church seeks to confer upon the Commission specific authority to require more detailed disclosures of classes of corporate payments beyond those absolutely proscribed by the existing provisions of S. 3664. The Commission's record of action indicates that extensive corporate disclosures of matters of importance to investors in this area have already been made pursuant to existing requirements embodied in the Securities Exchange Act that issuers disclose to the Commission and to the public all material information concerning the activities of companies registered under the Act. Indeed, Section 13(a) of the Securities Exchange Act—which Senator Church's proposal seeks to amend to require more detailed disclosures of corporate payments abroad—already authorizes the Commission, by rule, to require the disclosure of additional information.

Accordingly, it is our view that Senator Church's proposal would significantly depart from the traditional flexibility of the federal securities laws. Although apparently conferring some discretion on the Commission, we believe the proposal would in fact deny the Commission a portion of the necessary flexibility to vary disclosure requirements which fit the precise circumstances involved in given cases. The Commission is concerned that any specific requirements with respect to disclosure of information concerning foreign payments could either prove inadequate to deal with varying circumstances and devices, or could, perhaps, prove unnecessarily over inclusive. In particular, any overall requirement that every issuer must identify the recipients of payments not already required by existing disclosure provisions or proscribed Sections 2 and 3 of S. 3664, would be of questionable benefit to investors or of but peripheral interest to them.

Since the submission on May 12, 1976 of our report to Senator Proxmire on Questionable and Illegal Corporate Payments and Practices, we have not changed our view that American business has the resolve and capacity to correct the problems we have uncovered. We believe that if Congress seeks to take an initiative in this area, new legislation should be directed toward promoting a congressional policy directed at the new and better governance of American companies and that legislation should not stifle their capacity for self correction. While the Commission is sympathetic with the underlying objectives of Senator Church's proposal, we believe that the enactment of the legislative proposals set forth in the May 12 report represents the appropriate vehicle for this expression of congressional policy. Moreover, should Congress determine that policy consideration unrelated to the objectives of the federal securities laws warrant further legislative action in this area, we would urge that such legislation be considered separately from amendments to the securities laws.

For these reasons, should the Congress deem it appropriate to enact Senator Church's proposal as part of S. 3664, the Commission would be constrained to urge that the President veto the legislation.

I believe the concerns raised by these gentlemen should not be taken lightly.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous consent request?

Mr. TOWER. I yield for that purpose.

Mr. PERCY. Mr. President, I ask unanimous consent that Dr. Charles Meissner, of the staff of the Committee on Foreign Relations, have access to the floor during the debate and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Will the distinguished Senator yield for 2 or 3 minutes so I may comment on Chairman Hills' letter?

Mr. TOWER. I am delighted to yield for that purpose.

Mr. PERCY. Mr. President, may I first say that I have just seen this letter, but on first reading and after listening to the distinguished Senator from Texas, I concur with it.

I also wish to bring to the attention of the Senate the fact, as I have commented before, that Chairman Hills has done an absolutely outstanding job in this field. He has used the authority and power as Chairman of SEC in an extraordinary measure to move into an area that has been revealed by the Church Subcommittee on Multinational Corporations of the Committee on Foreign Relations. I have the privilege of serving as the ranking Republican on this subcommittee. I am sure Senator Church would feel that Chairman Hills has done an outstanding job within the scope and authority that he has.

This has been a very unpleasant task for both Senator Church and myself to carry on this work for several years. But it has been absolutely essential and necessary. I think it shows the strength of our system, that we not only reveal this but also have immediate followthrough by the regulatory agency and Congress.

While I oppose the Church amendment, I fully support the Proxmire bill. I think it has been well thought through. It has had hearings. Perhaps Senator Church is surprised that I would oppose his amendment. Part of it embraces and covers an amendment that Senator Church sponsored and I was his principal cosponsor on the Foreign Assistance Act. This amendment I felt was sound and good as it applies to U.S. arms sales. I do not consider arms as normal commercial traffic. But the present pending Church amendment I regretfully oppose.

The broad applications of the original Church-Percy amendment in the foreign assistance bill requires a tremendous reporting burden which I simply do not feel can and should be imposed.

I think that for the second part, a private right to action which allows a competitor to sue for loss of business if a bribe or illegal payment is made, opens U.S. firms to legal harassment which does not guarantee enforcement, but will guarantee high prices to consumers as these legal costs are passed on. Most of the businessmen with whom I have been in contact think that the private right of action will bring these harassment suits, which are more cheaply settled than fought in court, resulting in much higher business cost. I know Senator Church has tried to include language in this section which would moderate the number of suits, but I do feel the most important thing is that at this stage there have been no public hearings on the Church amendment as it relates to the Proxmire bill. The third section requires a report from the State Department. The State Department, it is my understanding, objects to this concept in that a report publicly sensitizes the issue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. Will the Senator yield me 2 additional minutes?

Mr. TOWER. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. PERCY. I am loath to support the amendment, because of the lack of hearings. I will vote against it and if it is incorporated in the bill, I regretfully would have to oppose the bill itself. And I hope to be able to support the Proxmire bill.

I hope that we will have hearings on Senator Church's concept. He has been in the forefront and is a leader in this field of trying to root out corruption. I just feel that the pending amendment goes too far and we are not sure how we can measure the consequences of it and it is too far-sweeping and wide-sweeping to have incorporated without adequate hearings on it. Certainly, it should be aired. I think the Senate should also consider suggestions that have been put forth by such industry leaders as Harvey Kapnick and Arthur Anderson and examine the new regulations of the New York Stock Exchange.

I do wish to commend Senator Church for what he has accomplished and done in focusing our attention on it, and possibly by putting the amendment down he makes the Proxmire bill look a little bit milder. The Proxmire bill is a very good, tough bill as it stands. I think it will move us forward. It will be supported by the SEC.

I feel confident that the Proxmire bill will be signed by the President. But we are fairly certain, with the Chairman of the SEC saying he would recommend to the President that the whole thing would go down the drain, that is the whole bill would be vetoed, if the Church amendment is incorporated.

For these reasons, I will support the Proxmire bill, but respectfully oppose the Church amendment.

Mr. TOWER. I thank the distinguished Senator from Illinois for his comments.

We have been informed by the Department of State that they are in opposition to the Church amendment. We have no letter from them. Mr. Kissinger is a little hard to find these days. We do have an official position from the State Department that they are in opposition to the Church amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

First of all, it does not surprise me that the State Department opposes the amendment. In all the months that we have investigated the practices of multimillion-dollar bribes and payoffs all over the world, we have yet to find any evidence of State Department concern or State Department initiative taken at any time to deal with the problem. When these bribes were finally exposed, they delayed for months even taking token action.

So I really do not think the State Department wants any legislation in this field. I believe their attitude fairly could be characterized as one of indifference or perhaps benign neglect.

Mr. President, this problem is so serious and so widespread that if we are going to legislate a remedy, it must be a remedy that is commensurate with the problem. I take nothing from the efforts made by the Committee on Banking, Housing and Urban Affairs in bringing this bill to the floor of the Senate. But what does the bill do, and how can it possibly be commensurate with the problem? The bill simply makes bribes abroad illegal. I am wholly in accord with that objective, though all of us recognize the difficulty of detecting or proving bribery abroad. It is tough enough to do here at home. Then Senator Proxmire's bill makes certain changes in the internal accounting system of corporations. Mr. President, if this bill were really sufficient to provide a remedy for this immense amount of corruption that we have uncovered abroad in connection with the sale of arms and the sale of oil and the sale of other commodities by large companies, we could be sure that this place would be buzzing with lobbyists. They are not concerned about this bill. They have no reason to be concerned about it. That is why these corridors are not filled with the lobbyists of any companies coming here to tell us that we must not pass this bill.

This bill has the approval of the SEC, and it is a cause of no particular worry to the companies. That, I suggest, is the best proof of its inadequacy.

If we want to get to the root of this problem, we must require these companies to disclose publicly the fees and commissions they pay to their agents abroad. The Senate already has approved that principle in connection with the Arms Sales Act, so that the amendment I propose today is no new or novel departure. It simply would apply similar reporting requirements to businesses subject to the jurisdiction of the Securities and Exchange Commission.

It has been said by the distinguished Senator from Texas (Mr. Tower), and by my colleague on the subcommittee, the distinguished Senator from Illinois (Mr. Percy), that neither can support the amendment because it would impose too large a burden upon these big companies. They would have to furnish a vast amount of information to the Securities and Exchange Commission, out of all proportion to the need.

Mr. President, I reject that argument, and I cite the language of the amendment itself, which reads in part as follows:

> . . . such information and documents (and such copies thereof), as the Commission shall deem necessary or appropriate to provide a complete accounting of any contribution, payment, gift, commission, or thing of value, as defined by the Commission, not already reported pursuant to provisions of sections 22 or 38 of the Arms Export Control Act . . .

The language of the amendment clearly gives to the Securities and Exchange Commission the discretion necessary to eliminate the need to report minutiae.

What we are seeking here is a full accounting of substantial fees paid to agents in connection with their sale efforts abroad. Only if we require this information to be lodged with the Government and made public will it be made possible really to deal with the terrible abuses and corruption that has been uncovered by the investigation of my subcommittee during the past 2 years. This I am certain of.

I know that the reporting requirement is objectionable to these big companies precisely because it would be effective. If the law made it mandatory, subject to penalty, to list all such fees paid to foreign agents, then we can be sure that any questionable fee, where the amount was out of proportion to the services that might be accepted, would alert the Government, alert the appropriate committees of Congress, and alert the press that possible bribery was involved.

That is why they do not want this reporting requirement. Reporting is the teeth that would make this reform bill effective. Without this amendment, I think we are engaging in pure tokenism.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. HARRY F. BYRD, JR. Mr. President, some months ago, the Senator from Virginia introduced legislation dealing with the question of the bribing of foreign officials.

When the tax reform legislation was before the Committee on Finance, the committee adopted the proposal which I introduced in the form of a bill. Then it was approved by the Senate and the substance of it was approved by the conferees.

The proposal which I introduced would require any payments made by a corporation to foreign officials or agents of foreign governments—it would require that corporation to report that fact to the Department of the Treasury. Then the Department of the Treasury would determine whether it was an illegal payment or a bribe.

I have not been able to be here for the entire discussion, so I may have missed some of the key points, but as I listened to the able Senator from Idaho just a few minutes ago, I thought that much of what he has discussed is embodied, as I visualize it, in the Byrd amendment, which is a part of the tax reform legislation; namely, the requirement that each company or corporation making payments to foreign officials or agents of foreign governments report that to the Secretary of the Treasury. Is that a basic part of the Senator's amendment?

Mr. CHURCH. I think that both the Senator from Virginia and the Senator from Idaho are trying to reach the same problem. The amendment that I have offered goes somewhat further than the Senator's amendment, though I certainly approve of his. My amendment calls for public disclosure of direct and indirect payments to Government officials and of all substantial fees and commissions paid to foreign agents. There will be no public disclosure where the President finds that such might seriously impair the national security interests of the United States. In most instances, though, the disclosures would be public and, thus, subject to the perusal of Congress, the various departments of the Government, and the press, and the public at large.

The second difference, I suggest—though I am not familiar with the actual wording of the Senator's amendment—is that this amendment attempts to reach the ultimate recipient. We found that, so often, where large companies were engaged in multimillion-dollar bribery, they did it through dummy corporations of various kinds, making it extremely difficult to trace the money. Unless a corporation is required to enter into arrangements to determine where the money was ultimately destined and, second, to report who ultimately got the money, the money is virtually untraceable. These dummy corporations throw up a protective screen; therefore, a reporting requirement that does not go beyond the initial recipient to the ultimate recipient is one that is not likely to be effective.

Mr. HARRY F. BYRD, JR. I think that the Byrd amendment would take care of that point. Besides a disclosure provision in the Byrd amendment, it also uses the tax laws to penalize those companies and those corporations which make illegal payments or bribes to foreign officials, so that proposal is a rather strong one.

It is stronger than President Ford has recommended insofar as his public statements are concerned. I think it should be an effective one in getting at the problem which the Senator from Idaho wishes to get at, and the Senator from Wisconsin, as well as the Senator from Virginia.

I have taken a keen interest in this question of attempted bribery of foreign officials, because I think it reflects adversely on our Nation. It is a wrong way to do business.

If the American businessmen will collectively say, "We will not submit to this," they can bring about a much better business climate and cut out these bribes.

The legislation I introduced and the Senate approved and the amendment offered by the Senator from Idaho would encourage just such action on the part of various businessmen.

What concerns me about the amendment of the Senator from Idaho is whether it goes unnecessarily far, I do not say at the moment that it does, but I am concerned that it goes unnecessarily far in redtape and possible harassment of business, and would require a heavy increase in the number of Federal employees as well as drive up business costs.

In any case, the Senator from Idaho and the Senator from Virginia are trying to accomplish the same purpose.

I am persuaded to the view that the legislation already adopted by the Senate in the tax reform measure takes care, to a great degree, of the problem with which the Senator from Idaho is so deeply concerned.

Mr. CHURCH. I thank the Senator and I commend him for his work. I view this amendment as supplemental to his. I think it has a broader scope and would only reinforce what he, himself, is trying to accomplish.

Mr. PROXMIRE. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. PROXMIRE. As the Senator knows, I support his amendment; I enthusiastically support the amendment. I think it is a very helpful supplement to the bill that is before us.

Also, I want to emphasize what I said yesterday, that nobody in the Congress, the House or the Senate, has done nearly as much as the Senator from Idaho has done to create the atmosphere in which we can pass legislation like this and act effectively against this problem. I think that undoubtedly, also, his action has stimulated the SEC and other agencies to act. I think he has been the leader in this area.

Let me also say to the Senator from Idaho that, although I think his amendment is a good amendment and I shall support it, I do not think it is quite right to say that the bill without his amendment is the toothless tiger which the Senator from Idaho describes. No. 1, it does make it a policy of this country that it is against the law, illegal, to pay a bribe to a foreign official. There is no question about it, we do not have it now. The bill makes it illegal. I think that is a good deterrent.

I do not know of any businessmen who want to violate the law of the United States. I think this is going to be a good deterrent.

No. 2, it leaves a far more effective paper trial. It requires that the businessmen of the country must be responsible to set up an accounting system that will inform them of what happens to their assets so that, if a bribe is paid, they will know.

It makes it a crime to create a slush fund for this purpose or to phony up their books in this way or use dummy corporations in this way. It uses the very carefully developed language of the SEC in order to achieve that.

So I think this bill is an effective means of deterring bribes. It is not as good as it could be, if we could add the amendment of the Senator from Idaho. But I think it is a very good proposal, a step in the right direction, and I hope it is not downgraded.

Mr. CHURCH. May I say to the Senator that I really had not intended to describe the bill as a toothless tiger. I would like the bill to be a saber-toothed tiger. As it comes to the Senate it has got one big saber tooth. I would like to add the other one. For everyone knows that the saber-toothed tiger, with only one saber tooth——

Mr. PROXMIRE. It is better than no tiger at all.

Mr. CHURCH. It is better than no tiger at all. But let us do it right and see that this tiger has both saber teeth, and we can do that if we pass this amendment.

Mr. PROXMIRE. In the passage of this bill, we have had assistance from a number of facets of our society interested in corporate activity, including the accounting profession, business leaders, and most particularly, the Securities and Exchange Commission. I have already referred to the contributions of the Commission in this process. I now wish to discuss an amendment to S. 3664 that the Commission has proposed.

Sections 2 and 3 of the bill reflect the proscriptions of certain types of foreign payments. The Commission noted that because the bill contains an absolute provision against certain foreign payments, an argument might be made that the legislation reflects congressional concern for the Commission's interpretation of the "materiality" standard for determining the disclosure obligation established by other sections of the Federal securities laws. To alleviate this specific problem, the Commission suggested an express disclaimer in the legislation that the bill would not affect the ability of the Commission or private parties to induce disclosure of material facts to investors or others under other provisions of the Federal securities laws.

I think that the Commission's careful articulation of the factors to be considered in determining the obligation to disclose certain facts regarding questionable or illegal corporate payments and practices, contained in the comprehensive report submitted to my committee in May of this year, clearly indicates that it is proceeding in a thoughtful and responsive manner in this area, and I note that the general standard for "materiality" subsequently adopted by the Supreme Court in *TSC* v. *Northway*, 44 U.S.L.W. 4852 (June 14, 1976), comports with the definition advanced by the Commission as amicus curiae. As the Commission itself notes, it was not the intention of the draftsmen of S. 3664, or of my committee in approving that bill, in any way to question or diminish the work of the Commission over the years in giving content to the concept of materiality. Because I think that the bill and its legislative history are clear in this regard, I consider it unnecessary to encumber the legislation to the specific language proposed by the Commission.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I would like to note that the saber-toothed tiger is now extinct [laughter] and I cannot imagine my distinguished progressive and liberal friend from Idaho characterizing a bill that he advocates as a saber-toothed tiger. It really is Neanderthal politics. We will not get into that. I have been accused of that.

Mr. President, I would like to just reemphasize a few points. The proposal of the Senator from Idaho, it should be understood, clearly understood, is not limited to transactions between U.S. concerns and foreign governments. It would also require the reporting of legitimate payments, fees, commissions made by U.S. publicly held corporations to private foreign firms. A sweeping disclosure of this nature is totally unwarranted and without justification. As the Secretary of Commerce points out, it would place an enormous paperwork burden on American industry.

Beyond that I might note it places American businesses at a competitive disadvantage.

This is a provision for disclosure, not prohibition. The committee bill prescribes that no bribes be paid. It imposes a criminal prohibition on the payment of bribes. This bill is one that requires the disclosure of a great amount of information that, under normal circumstances, would be considered proprietary.

It could also result in the embarrassment not only of foreign governments, but private foreign firms to the extent that they would not want to trade with American firms having to operate under these disclosure provisions.

Now is no time for us to impose inhibitions on the ability of the United States to do business abroad. We have a balance-of-payments problem, and we must remain competitive in the international marketplaces.

I point out further there is also a provision in this amendment that requires foreign policy analysis and annual reporting of the disclosed transaction. This appears to me to be a serious and direct interference in the affairs of other countries, perhaps even in the domestic affairs of other countries. I do not believe it is appropriate to put the U.S. Government in the position of annually commenting on the moral fiber of another country and then giving the report wide circulation.

This provision is, in my view, extremely dangerous and it deserves very careful consideration by not only the Senate Banking Committee but by the Committee on Foreign Relations as well. In addition, I believe we should obtain detailed comment and testimony from the Department of State on the potential adverse impact it might have on the conduct of American diplomacy.

I hope the Senate will not rush into consideration of this matter now. I hope the amendment will not be adopted. I think if the amendment is adopted it will sound the death knell for what we are really trying to do, and that is to specifically proscribe bribery. This is a matter of some urgency that must be dealt with. But because, as Secretary Richardson states, this amendment is too broad, and, at the same time, too narrow; it jeopardizes enactment of this legislation so that we will end up with nothing if the Church amendment is added.

I might also note that Secretary Richardson said it is too narrow and that it applies only to publicly held corporations that do only one-third of our business abroad. What about the other two-thirds? They are not even brought under the scope of the Church amendment. So, in effect, what you do is you impose an unfair competitive disadvantage on publicly held firms that may be competing abroad with privately held firms or firms that are not subject to the regulations of the Securities and Exchange Commission. It might be discriminating in favor of one American firm against another American firm.

So I hope the Senate will reject this amendment and adopt the bill that has been proposed by the distinguished chairman of the Banking Committee and myself in its present form without any debilitating amendments of this kind.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I think we have debated this extensively. I would simply reply to the arguments of my distinguished friends from Texas by saying that, we really need not be concerned that the amendment would impose an undue burden on business.

First of all, these publicly held corporations subjected to SEC control are, for the most part, very large, and they will have no great difficulty complying.

Second, they do not have to reveal a massive amount of minutia, for the amendment clearly gives the SEC the authority, the discretion to limit the reporting requirement to substantial fees.

If we do not take this course, I just suggest to the Senator we have failed to learn what was so clearly revealed in hearings, namely, in most cases these fees are paid to intermediaries. In order to determine whether or not the money has been used to bribe foreign officials it is necessary to identify the ultimate recipients. Unless you do that then the reporting requirement is going to be rather meaningless.

This amendment, Mr. President, for the first time establishes an adequate reporting requirement. That ought to be the purpose of the legislation, and it is a requirement not unlike that which we already have approved in connection with the Arms Sales Act. I know I am repeating myself. But then I do think the argument made against the amendment on this particular ground is unfounded.

Finally, Mr. President, the argument made by my good friend John Tower that the Secretary of State would be required by this amendment to report annually to the public an analysis of this general problem does not alarm me at all. The report is to be made to the Congress of the United States, not to the world. Specifically, it is to be made to the two committees having to do with foreign relations, the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. That is where such a report ought to go.

The reason why this provision is contained in the amendment is to try to build a fire under the State Department and get it involved, get it interested, make it face up to what is going on, to the adverse impact, indeed sometimes disastrous impact, that the widespread corrupt practices can have on the foreign policy of the United States.

So, all in all, I am persuaded, Mr. President, that this is an excellent amendment, and I hope the Senate adopts it.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield myself 1 minute.

Mr. President, the amendment states, page 4, line 4:

> Each statement filed under this subsection shall be made available for examination and copying by the public, except to the extent the President determines that the disclosure of information contained in a particular statement will severely impair the conduct of the United States foreign policy, and transmits to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report stating that such a determination has been made and summarizing the information which is subject to the determination.
>
> If such a determination is made, a notation to that effect shall be entered in that part of the statement which is made to the public.

I find that wording a little bit ambiguous. It occurs to me this does not proscribe the publication of this information once the President has made his determination of impairment of the conduct of foreign policy, but simply requires that a notation be made on the information that it does indeed impair American foreign policy.

I think there are other serious faults in this amendment. But I think that one alone is worth commenting upon at the moment.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. TOWER. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Did the committee consider, in essence, what is now the Church amendment and, if so, what was the attitude?

Mr. TOWER. The committee did consider similar legislation, but only held a brief hearing. At the hearing only members of the SEC testified on it. There was no testimony from the Departments of State or Commerce, or from private industry of any kind. Of course, the committee did not act on that legislation.

Mr. HARRY F. BYRD, JR. Did the committee members indicate by a vote as to the attitude toward that amendment?

Mr. TOWER. A similar position was rejected in committee by a rather substantial vote. I think it was 11 to 3, or something like that.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MANSFIELD. Will the Senator yield?

Mr. TOWER. I yield 1 minute to the Senator from Montana.

ITEMS PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, this has been cleared on the other side.

Mr. President, I ask unanimous consent that the following pieces of legislation be taken out from general orders under rule VIII and transferred to subjects on the table: Calendar No. 707, S. 1624; Calendar No. 751, Senate Resolution 68; Calendar No. 779, S. 2837; Calendar No. 970, S. 2715; Calendar No. 989, H.R. 10138; Calendar No. 1063, S. 3737.

I believe that is it for the moment.

Mr. ALLEN. Reserving the right to object, would the distinguished majority leader give a little more explanation on just what is being done?

Mr. MANSFIELD. Yes. The first one, Calendar No. 707, a bill to promote the free flow of commerce among the several States, and for other purposes.

Mr. ALLEN. I am familiar with that bill. I would like to object, if the distinguished majority leader does not object to my interposing an objection.

Mr. MANSFIELD. Does the Senator wish to object to this request?

Mr. ALLEN. As to this particular one. Is this putting the bill in the position where it can be called up more easily?

Mr. MANSFIELD. No. It goes back under subjects on the table.

Mr. ALLEN. I see.

Then it would take a motion to get them off the table?

Mr. MANSFIELD. A motion to call them up, as it would under general orders.

Mr. ALLEN. I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

[Later the following occurred:]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1092, Senate Resolution 495, be taken off General Orders and be placed under Subjects on the Table.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The Senate continued with the consideration of the bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I have just seen the letter from Elliot Richardson, Secretary of Commerce, and again I find myself in agreement.

First, he makes the statement that American corporations would have to disclose payments made for virtually all services rendered for the corporation outside the United States. This seems a very incongruous situation, when the Congress of the United States creates paperwork at the very time we have a Commission actively working to try to correct unnecessary governmental burdens. All of this has to be passed on to the consumer. To require a corporation such as Caterpillar—that virtually does all its business through agents abroad—to report and file paperwork, to require them to go through all these procedures, serves no earthly good whatever.

In my own experience in 110 or 112 countries in which I did business, in only five we do business directly. All the others were through agents. I certify on a Bible and in blood that at no time in 25 years of business experience did our company ever have to pay 1 single cent to anyone to get business. We did have agents. We felt it in the best interest of the country to have people who were nationals abroad engage in business as partners with us and sell products abroad.

I have just recently had a recertification from the chief executive of the company that in all the searching they have done they never found a single party where questionable payments were involved.

Why should that company be required to file all these reports? Why then impose that load on the companies that are regulated by SEC? Even more pertinent is the statement by the Secretary of Commerce that this amendment applies only to SEC-regulated firms which constitute approximately one-third of of the U.S. firms engaged in international commerce.

What about the other two-thirds then?

It is for these reasons that I feel this amendment simply does a disservice to the bill. I have a feeling that if it is tacked on this bill, the Proxmire bill goes down the drain. I do not want to see that happen. I think that bill can stand on its own feet, will be supported, and I trust will be signed by the President.

Why encumber the bill with something on which we have had no hearings, to which the administration is firmly opposed and independent regulatory agencies are firmly opposed?

Having spent 2 years now on these kind of matters in the Multinational Subcommittee, I cannot see very little that is good in this amendment. The cost and the burden involved is great, and not commensurate at all with what would be gained.

I do feel that many companies in our country have really faced up to this issue, are cleaning house from top to bottom on this issue of questionable payments. Outside boards are now getting very militant on this issue in companies. Directors are not going to serve on company boards where they feel they are not being given proper information. We have outstanding accounting firms, for instance Arthur Anderson headed by Harvey Kalsnick, who by the way has taken a leadership position in this field, pushing to clean up practices within the industry. We have the New York Stock Exchange now coming out with their new regulations requiring outside oversight in these matters, outside independent auditors, outside select committees to select the auditors.

I think all of these things mean we are going in the right direction.

Certainly, I say that Senator CHURCH has done a noble job in getting this whole trend going. I just tend to think it is a question of overkill now.

Let us let these other forces move. Let us let the criminal penalties be involved. This is a very tough thing that auditors are now asking for. It is a criminal offense under the Proxmire bill if a company misleads their own auditors.

We have gone so far. We are on the verge of really legislating action. Let us act responsively and responsibly. Let us not just do something for the sake of doing it and have it vetoed because of sound principles which I fully support.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho has 6 minutes.

Mr. CHURCH. Mr. President, I ask unanimous consent retroactively that Mr. Ira Nordlicht, who has been sitting next to me throughout this debate, be granted privilege of the floor to sit beside me throughout the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I would be remiss if I did not say to the distinguished Senator from Illinois how much I appreciate the support he has given me as the ranking Republican member of the Subcommittee on Multinational Corporations.

The course of this entire investigation has not been easy for any of us on that committee. It has not been easy to disclose practices that have been of great embarrassment to American companies and that have caused very great controversy, very great difficulties, and political crises abroad.

And yet it was a job which had to be done if we are going to root out and eliminate these corrupt practices in the future.

I just want him to know how much I appreciate the support he has given me through many, many months.

I would close the debate, Mr. President, by saying once more that I really cannot find the argument that this amendment would be overly burdensome a very persuasive one, because the language of the amendment subjects the scope of the reporting requirement to the discretion of the commission in order to eliminate any unnecessary reporting that would not be relevant.

I simply cannot accept that argument as a persuasive one. But I do know, based upon our hearings, that unless we have a reporting requirement that covers all fees and commissions that are paid to foreign agents, we will not have an effective means for dealing with this problem. It is not that most of these fees and commissions are not perfectly legal, perfectly proper, and pay for services rendered. But unless all of the fees and commissions are reportable, it will not be possible to find those that are suspect because of their size. Unless the reporting requirements obligate the corporation to identify the ultimate recipient, then dummy corporations will continue to be used as shields to conceal these practices.

For these two reasons, the amendment really is indispensable, in my judgment, to a truly effective bill designed to adequately correct the serious problem of corruption in our business practices abroad.

The PRESIDING OFFICER (Mr. Morgan). Who yields time?

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Idaho is prepared to yield back the remainder of his time.

Mr. CHURCH. I yield back the remainder of my time.

Mr. PERCY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The motion is not in order.

Under the previous order of the Senate, there is to be a vote on this amendment after the time for debate has expired. Therefore, the motion is not in order. The yeas and nays have been ordered. All time has been yielded back. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from New Hampshire (Mr. Durkin), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock) and the Senator from New York (Mr. Buckley) are necessarily absent.

The result was announced—yeas 29, nays 58, as follows:

[Rollcall Vote No. 592 Leg.]

YEAS—29

Bayh
Burdick
Byrd, Robert C.
Church
Clark
Culver
Eagleton
Gravel
Hart, Gary
Haskell
Hatfield
Hollings
Huddleston
Inouye
Jackson
Leahy
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Muskie
Nelson
Pearson
Proxmire
Ribicoff
Symington
Talmadge
Weicker

NAYS—58

Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brooke
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Case
Chiles
Cranston
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hathaway
Helms
Hruska
Javits
Johnston
Kennedy
Laxalt
Long
McClellan
McClure
McIntyre
Morgan
Nunn
Packwood
Pastore
Pell
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Williams
Young

NOT VOTING—13

Abourezk
Beall
Brock
Buckley
Durkin
Hart, Philip A.
Hartke
Humphrey
McGee
Mondale
Montoya
Moss
Tunney

So Mr. Church's amendment (No. 2292) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, the revelations during the last year and a half of foreign bribes by scores of U.S. companies is a most unfortunate chapter in the history of American business. We are all aware that the "bribery scandals" have done great damage to this country's relations with foreign nations. The companies who paid the bribes, and those companies' stockholders have also suffered.

The problems and the harm are well documented in the hearing records of the Banking Committee and the Subcommittee on Multinational Corporations. No one expected at the beginning of these hearings that corruption of such magnitude and at such high levels would be documented. No one expected that such disregard for good ethics and good business practices existed in the conduct of American overseas business.

In the past 12 months, persons in every walk of life, including many in the administration, have expressed indignation about the bribery problem. But moral exhortation alone is not enough. The antibribery legislation which is before us today rejects the confused, pious position of the administration that would leave the door wide open for more corrupt payments in the future. It meets the abuses uncovered in a direct and unequivocal manner. S. 3664 announces to the world that we do care about the conduct of our citizens and corporations in foreign countries.

Corporate bribery has been shown to be widespread and multinational in nature. Bribes seem to have become a total way of life for some of the companies and people involved.

But S. 3664 channels this country's efforts at those problems that have had the greatest adverse impact on our own policies and citizens. It only reaches our own companies and citizens. And it makes illegal those bribes that corrupt foreign public officials and that erode the integrity of the disclosure system of the Federal securities laws. In so doing the bill avoids those delicate foreign policy and jurisdictional concerns that could have arisen if we were to interfere with the laws of foreign countries.

Rather than create foreign policy problems, this bill will solve them. Rather than raise concerns in the minds of our friends abroad, this bill will alleviate them. S. 3664, is clearly the best solution to the problem, and I am pleased to support it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. TOWER. May we have order, please?

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. PROXMIRE. Mr. President, I intend to make a unanimous-consent request in connection with the final passage of this bill, and I wish to explain why.

I think the Senate is going to approve this bill by a big margin. The Committee on Banking, Housing and Urban Affairs approved it unanimously. It is a bill that we clearly need.

I think every Member of the Senate is aware of the very pernicious effect on our country and American business of bribery overseas. This is a good, strong bill. However, this bill may not go anywhere unless we can attach it to a bill which has passed the House of Representatives. If we pass it in its present form it will go over to the House of Representatives, and they will have to get a rule, have hearings, and it will be delayed.

It is now September 15. We hope and expect to be out of here in 2 weeks.

For that reason, Mr. President, I wish to attach this bill to a bill which has passed the House of Representatives and has been polled out by the Committee on Banking, Housing and Urban Affairs. It is a bill which simply provides for the extension of time on two studies by the Securities and Exchange Commission. It is a bill which is noncontroversial but a bill that has passed the House of Representatives.

If I can attach this bill, on which we are about to act in the Senate, to the bill that has passed the House of Representatives, it will mean we can go directly to conference with the conference committee representatives in the House of Representatives and have an excellent chance of enacting this into law by passing the House of Representatives and the Senate and having the President sign it.

So I hope Senators will agree to what I am about to propose.

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of H.R. 12346 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PROXMIRE. Mr. President, may I ask my good friend from Texas to reconsider that objection? He also favors this bill. He said so. I know he does. I think he can understand that if we do not take this procedure we are going to have great difficulty enacting this bill into law.

Mr. TOWER. I do not necessarily agree with my distinguished colleague from Wisconsin that the House of Representatives will be slovenly in such an important matter as this. I am sure they are as concerned about the proscription on bribery as we are. I am hopeful that they will carefully consider this measure before the end of the session.

Therefore, Mr. President, I reiterate my objection.

Mr. PROXMIRE. May I just ask the Senator to reconsider that? I agree the House of Representatives is not going to be slovenly. But it is one thing to be laggard and something else to recognize that with only a few days remaining and with the problem of getting this bill through a committee in the House of Representatives, through the Rules Committee in the House of Representatives, and then acted on by the House of Representatives, it is unlikely. If we are really sincere about acting on bribery, a bill which I think is going to be overwhelmingly approved by the Senate, I do hope he will reconsider that objection.

Mr. TOWER. I think it is important to test the sincerity of the House of Representatives. I have reconsidered my objection of the consent request propounded by my distinguished friend from Wisconsin, and I still object.

The PRESIDING OFFICER. Objection is heard.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from New Hampshire (Mr. Durkin), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), and the Senator from New York (Mr. Buckley) are necessarily absent.

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 593 Leg.]

YEAS—86

Allen
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—14

Abourezk
Baker
Beall
Buckley
Durkin
Hart, Philip A.
Hartke
Humphrey
McGee
Mondale
Montoya
Moss
Stennis
Tunney

So the bill (S. 3664) was passed, as follows:

S. 3664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13(b) of the Securities Exchange Act (15 U.S.C. 78m(b)), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3) It shall be unlawful for any person, directly or indirectly, to falsify, or cause to be falsified, any book, record, account, or document, made or required to be made for any accounting purpose, of any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15 (d) of this title.

"(4) It shall be unlawful for any person, directly or indirectly—

"(A) to make, or cause to be made, a materially false or misleading statement, or

"(B) to omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading to an accountant in connection with any examination or audit of an issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or in connection with any examination or audit of an issuer with respect to an offering registered or to be registered under the Securities Act of 1933.".

Sec. 2. The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"PAYMENTS TO OFFICIALS

"Sec. 30A. It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

"(1) any person who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

"(A) to use his influence with a foreign government or instrumentality, or

"(B) to fail to perform his official functions, to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality;

"(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

"(A) to use its or his influence with a foreign government or instrumentality thereof, or

"(B) to fail to perform its or his official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual official, or party—

"(A) to use his or its influence with a foreign government or instrumentality, or

"(B) to fail to perform his or its official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.".

PAYMENTS TO OFFICIALS

SEC. 3. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authoritze the payment of, any money, or to offer, give, or promise to give or authorize the giving of, anything of value to—

(1) any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

(A) to use his influence with a foreign government or instrumentality, or

(B) to fail to perform his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

(B) to fail to perform its or his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

(3) any individual, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official or party—

(A) to use his or its influence with a foreign government or instrumentality, or

(B) to fail to perform his or its official functions,

to assist such concern in obtaining or retaining business for or with, directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(b) Any person who willfully violates this section shall upon conviction be fined not more than $10,000, or imprisoned not more than two years, or both.

(c) As used in this section—

(1) the term "domestic concern" means an individual who is a citizen or national of the United States, or any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States, which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States; and

(2) the term "interstate commerce" means trade, commerce, transportation or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof, and such term includes the intrastate use of a telephone or other interstate means of communication or any other interstate instrumentality.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARMER-TO-CONSUMER DIRECT MARKETING ACT—CONFERENCE REPORT

Mr. McGOVERN. Mr. President, I submit a report of the committee of conference on H.R. 10339 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Hathaway). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 13, 1976, beginning at page 30170.

Mr. McGOVERN. Mr. President, this conference report is signed by all of the conferees and has been cleared on both sides of the aisle.

H.R. 10339 is directed toward the encouragement of the direct marketing of agricultural commodities from farmers to consumers.

SUMMARY OF MAJOR PROVISIONS OF H.R. 10339 AS AGREED TO BY THE CONFERENCE COMMITTEE

The bill, as agreed to by the conferees—

First, requires the Secretary of Agriculture to carry out a program to facilitate the direct marketing of food commodities from farmers to consumers, for their mutual benefit, under which there would be: a nationwide survey of existing direct marketing operations; an allocation of funds to the State departments of agriculture and the Extension Service of the USDA, to provide assistance for direct marketing within the respective States; and an annual report by the Secretary on activities carried out under the act to further direct marketing;

Second, defines "direct marketing from farmers to consumers" to mean the marketing of agricultural commodities at any marketplace established for the purpose of enabling farmers to sell their agricultural commodities directly to individual consumers in a manner calculated to lower the cost and increase the quality while providing increased financial returns for farmers;

Third, authorizes the appropriation of funds in the amount of $1.5 million for each of the fiscal years 1977 and 1978; and

Fourth, directs the payment of 80 percent of the cost of transporting hay—not to exceed $50 per ton—from areas in which hay is in plentiful supply to the affected emergency areas under the emergency hay program.

DIRECT MARKETING PROGRAM

A program of direct marketing contains the promise of substantial economic benefits to the Nation. The program will aid smaller farmers, whose farms are interspersed with urban concentrations throughout the more populated areas of the country, to stay in business. The program will make it possible for more consumers to purchase fresh, field-ripened produce, often at lower prices than are otherwise available. Although the bill places primary reliance upon private individuals and groups to take initiatives toward new methods of direct marketing, on an economically self-sustaining basis, it encourages flexibility and innovation in those instances where direct marketing appears to be feasible and beneficial. Furthermore, the successful operation of a direct food marketing facility within a town or city can have beneficial side effects, among which is attracting people into the downtown shopping district and thus stimulating retail trade.

HAY TRANSPORTATION ASSISTANCE

The drought in the northern plains States, especially my home State of South Dakota and the States of Minnesota, and Wisconsin, has confronted farmers in this area with an extremely serious situation. These farmers have had to live with this situation for the past 3 years.

Under the present hay transportation assistance program being conducted under section 305 of the Disaster Relief Act, the Government is providing up to two-thirds of the actual cost to transport hay—not to exceed $27 per ton—to drought-affected areas in Minnesota, North Dakota, South Dakota, and Wisconsin. The committee of conference agreed to a provision requiring the Secretary of Agriculture to pay 80 percent of the cost of transporting hay—not to exceed $50 per ton—from areas in which hay is in plentiful supply to disaster or emergency areas where farmers or ranchers are located. Except for the increase in the transportation assistance, the new section of the bill does not affect the existing program.

This compromise by the conferees will hopefully alleviate some of the burden on farmers in the drought-stricken areas. The provision does not go as far as the original amendment to the direct marketing bill pased by the Senate, but it is a step in the right direction. It is a provision that we should adopt.

Mr. BELLMON. Mr. President, I wish to inform my colleagues regarding the budget implications of the emergency hay program which has been changed substantially in the conference on this bill. Senators will recall that the formula for this disaster relief program which was in the Senate-passed version had previously been estimated by the CBO at a cost of approximately $53 million. As a conferee and as one who has previously been involved in Government-sponsored emergency relief to farmers, I was very concerned by the nature of the previous formula since it appeared to be open ended and might have cost substantially more than the CBO estimate. I believe the new formula which raised the transportation subsidy for hay from two-thirds of the total transportation cost to 80 percent with a maximum of $50 per ton is a better approach to this program.

I wish to insert into the RECORD the new cost estimates of this changed approach and I am pleased that the new cost estimates are substantially below our previous levels.

The USDA has estimated the cost of the increase from two-thirds to 80 percent to be about $5.6 million. The CBO, using slightly different assumptions, has costed the increase at $15.8 million. I suspect that the true cost is somewhere in between.

The important point is that the second concurrent resolution of the congressional budget which was passed earlier this afternoon does contain room for this program.

I ask unanimous consent that the attached estimates from the CBO and the USDA be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—COST OF HAY TRANSPORTATION ASSISTANCE, FISCAL YEAR 1977

[In thousands]

State	Requirements					
	Number of animals as of July 1, 1976	Number after liquidation	Number needing hay	Number to receive hay	Tonnage required	Cost—$4 per ton subsidy
Dairy cows:					(3T/head)	
Minnesota	870	870.0	43.50	43.500	130.500	$522.000
South Dakota	155	155.0	7.75	7.750	23.250	[1]100.000
Wisconsin	1,810	1,810.0	90.50	90.500	271.500	1,086.000
Total	2,835	2,835.0	141.75	141.750	425.250	1,708.000
Replacement heifers:					(1.5T/head)	
Minnesota	387	387.0	19.35	19.350	29.025	116.100
South Dakota	45	45.0	2.25	2.250	3.375	13.500
Wisconsin	713	713.0	35.65	35.650	53.475	213.300
Total	1,145	1,145.0	57.25	57.250	85.875	343.500
Beef cattle:					(1.8T/head)	
Minnesota	3,044	2,739.6	684.90	650.650	1,171.170	4,684.680
South Dakota	4,750	2,375.0	1,187.50	1,068.750	1,923.750	7,695.000
Wisconsin	2,077	2,077.0	207.70	197.315	355.167	1,420.668
Total	9,871	7,191.6	2,080.10	1,916.715	3,450.087	13,800.348
All cattle:						
Minnesota	4,301	3,996.6	747.75	713.500	1,330.695	5,322.780
South Dakota	4,950	2,575.0	1,197.50	1,078.750	1,950.375	7,808.500
Wisconsin	4,600	4,600.0	333.85	323.465	680.142	2,720.568
Total	13,851	11,171.6	2,279.10	2,115.715	3,961.212	15,851.848

[1] Rounded upward to reflect the greater dependence on hay in South Dakota.

USDA ESTIMATE—EMERGENCY HAY PROGRAM AS OF AUG. 25 1976

	Average payment per ton	Tons approved times average payment per ton	Projected to June 15 1977	Less 25 percent for hay on hand dropouts etc
Minnesota	9.20	$1,663,400	$8,317,000	$6,237,750
South Dakota	16.17	4,110,020	20,550,130	15,412,590
Wisconsin	15.14	1,703,370	8,516,885	6,387,660
North Dakota	9.00	11,565	57,825	43,370
Total payment:				
At 66⅔ percent				$28,081,370
At 80 percent				33,697,644
Added cost				5,616,274

Mr. McGOVERN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HUMPHREY together with an attachment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, I am happy to support the passage of H.R. 10339, the Farmer-to-Consumer Direct Marketing Act.

As the sponsor of the Senate bill, S. 2610, I believe this bill will be an important and timely measure for our consumers and producers.

Increasingly, our consumers have been looking for the opportunity to purchase the fresh farm produce and commodities which this bill would encourage. Also, we have the opportunity of encouraging many small producers to stay in business by offering them encouragement which could yield substantial economic returns.

There are economic benefits to be obtained on the part of both producer and consumer via the direct farmer to consumer marketing approach. Certainly, the quality of the product can be substantially improved, and there also should be savings realized by the consumer in this approach.

This bill offers our consumers the opportunity to get more for their money. And it also offers the hope to purchasers that they will obtain a more nutritious product at a time when consumers want to get the most wholesome and natural food available.

The purpose of my bill is to encourage the marketing of agricultural commodities at market prices such as roadside stands, city markets, and vehicles used for house to house marketing of agricultural commodities for the purpose of enabling farmers to sell agricultural commodities either individually or through a farmers organization directly representing the producers of the commodities.

A survey is to be carried out under the bill by the Economic Research Service of the Department of Agriculture which would examine the existing methods of direct marketing, the volume of business conducted through the various direct marketing methods and the impact of the various approaches upon the financial returns to farmers.

The bill which I have introduced would also provide funds through the Secretary of Agriculture to enable the State Departments of Agriculture and the Extension Service of the United States Department of Agriculture to conduct activities to encourage and facilitate direct marketing from farmers to consumers within the states. There are a number of additional features of my bill which were dropped by the House of Representatives in order to secure widespread support for the approach. I am pleased at the widespread support which has been generated for this approach among both consumer and farm organizations.

The bill also includes an important provision to help our livestock producers beset by the drought in much of the upper Midwest.

The Department of Agriculture would increase its present hay transportation subsidy from the present two-thirds of the cost, up to $27 per ton, to 80 percent of the cost or $50 per ton, whichever is smaller.

Hay prices have escalated sharply as farmers have gone far outside their usual purchasing areas in neighboring States.

This measure is designed to enable our livestock producers to maintain their foundation herds and stay in business.

I urge approval of this bill as an important measure for consumers and farmers while also helping to meet our drought emergency.

Our commissioner of agriculture estimates that crop losses in Minnesota this year may be $1.5 billion.

This serious loss will mean that many Minnesota farmers will be hurt since 69 of 87 counties have been declared emergency areas.

Yesterday, I sent a letter to the Federal Crop Insurance Corporation outlining my concern that insurance payments this year could exceed revenue available to the FCIC.

Mr. President, I ask unanimous consent that the letter be included at this point in the RECORD.

The letter is as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 13, 1976.

Mr. WARREN E. DIRKS,
Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. DIRKS: It has recently come to my attention that Federal crop insurance payments for this year for all crops could run as high as $150 million. As much as $75 to $80 million of this amount would be handled by the St. Paul and Des Moines offices alone.

It is my understanding that the crop insurance premiums are presently running at about $90 million per year. With the capital reserve fund, originally set at $100 million, drawn down to around $40 million, it would appear likely that there will not be adequate funds to meet the payouts to be made.

The Congress has annually provided $12 million in recent years toward the administrative costs of the program. In addition, $7.8 million was drawn from the capital reserve in FY 1976 to complete the administrative funding requirements.

It would thus appear likely that the crop insurance payments for this year may exceed the total revenues which you will have available. I would appreciate your analysis of the situation and your recommendations as to what can and should be done if the picture I have received is accurate. I would hope that you will give this matter priority attention so that if additional funding is required, the Congress can act on this matter before adjournment.

Sincerely,

HUBERT H. HUMPHREY.

Mr. McGOVERN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER PLACING SENATE RESOLUTION 476 AND H.R. 6852 UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 918, Senate Resolution 476, and Calendar No. 935, H.R. 6852 be taken from General Orders under rule VIII and placed on subjects on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY LOCATOR TRANSMITTER ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 8228, and that H.R. 8228 be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8228) to amend the Federal Aviation Act of 1958 relating to emergency locator transmitters, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 8228 be stricken and that there be substituted therefor the text of S. 910, as reported from the Committee on Commerce with an amendment in the nature of a substitute.

Mr. TOWER. Mr. President, reserving the right to object, and I do not intend to object, but I had better check.

Mr. MANSFIELD. Mr. President, I withhold the request and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I renew my unanimous-consent request that all after the enacting clause of H.R. 8228 be stricken and that there be substituted therefor the text of S. 910, as reported from the Committee on Commerce with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 8228) was passed, as follows:

That this Act may be cited as the "Emergency Locator Transmitter Act of 1976".

SEC. 2. (a) Section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended to read as follows:

"EMERGENCY LOCATOR TRANSMITTERS

"(d) The Administrator shall establish reasonable rules and regulations governing the installation and operation of emergency locator transmitters or other devices that serve the purpose of locating aircraft that terminate flight as a result of an accident.".

(b)(1) Section 601 of such Act is further amended by redesignating subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such redesignated subsection (e) shall be redesignated accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading
"Sec. 601. General safety powers and duties."
is amended by striking out
"(d) Aviation fuel standards."
and inserting in lieu thereof the following:
"(d) Emergency locator transmitters.
"(e) Aviation fuel standards.".

The title was amended so as to read:

A bill to amend the Federal Aviation Act of 1958 relating to emergency locator transmitters, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1142, S. 910, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 15 minutes.

The motion was agreed to; and at 1:08

p.m. the Senate recessed until 1:23 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HELMS).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 139

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that upon the disposition of the treaties today, the Senate proceed with the consideration of the congressional budget revision measure, Senate Concurrent Resolution 139.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 14846

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the budget review measure, the Senate proceed to the consideration of the military construction measure, H.R. 14846, an act to authorize certain construction at military installations, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—VOTE ON TREATIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on all of the treaties at this time with one show of hands.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CUSTOMS CONVENTION ON CONTAINERS, 1972, AND INTERNATIONAL CONVENTION FOR SAFE CONTAINERS

THE AGREEMENT ON THE CONSERVATION OF POLAR BEARS

THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

THE 1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

THE FIFTH INTERNATIONAL TIN AGREEMENT

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 having arrived, the Senate will now proceed to vote in executive session on the Customs Convention on Containers, 1972, and International Convention for Safe Containers; the Agreement on the Conservation of Polar Bears; the Convention for the Conservation of Antarctic Seals; the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, with one vote to count for the four treaties. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. There will be a separate vote on the tin agreement following the vote on the first four treaties.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, although I support ratification of the three treaties for protection of certain marine mammals, I wish to call to the attention of my colleagues an article by Ed Kozicky and Bob Henderson in the current issue of Sports Afield which illustrates the danger of allowing the treaty making power of the Federal Government to be used o establish Federal jurisdiction over new areas of wildlife management.

In the case of endangered species and certain other narrow areas the imposition of Federal control may be justified, but we would do a grave disservice to the cause of sound wildlife management if we allow the careful balance of Federal, State, and local interests to be upset by international politics or the internal problems of foreign countries.

I fear that the treaty making power of the Federal Government will prove to be the least appropriate legal instrument for regulation of resident fish, game, and wildlife. The Sports Afield article describes how the common crow became an internationally protected animal and the difficulties this is causing sportsmen, landowners, and State wildlife officials. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EVERYBODY'S CONFUSED BUT ME

(By Ed Kozicky and Bob Henderson)

Are crows a protected species? Can you shoot them? When? Where? Here are some answers.

The Reverend Henry Ward Beecher once observed: "If men had wings and bore black feathers, few of them would be clever enough to be crows." Amen, Reverend. We've seen crows outsmart a lot of men. And now, through beady-eyed foreign diplomacy, Mr. Crow has even managed to confuse his legal status within some states. What happened, and how? The truth, or as close as we could get to the truth, lies at the end of a long, tangled trail. There has been a variety of explanations from officialdom but none from the silent crow, just smugness.

It all started south of the border. Mexican wildlife officials have been struggling for years to obtain jurisdiction over various species of wildlife, and funds for enforcement and management. One of the most significant pieces of legislation for wildlife conservation in Mexico was a 1936 treaty between the United States and the United Mexican States for the protection of migratory birds and game mammals. This treaty covered only eight families of migratory nongame birds, but contained a proviso that other *families* could be included from time to time by mutual agreement between the United States and the United Mexican States. Mexican wildlife officials were anxious to enlarge the scope of the international treaty—which apparently is an easier approach than trying to gain jurisdiction over various species of wildlife through the Mexican legislature. Also, U.S. wildlife officials have always tried to help their Mexican wildlife counterparts to manage their wildlife resources. So when the North American Wildlife and Natural Resources Conference was scheduled for Mexico City in March 1972, the stage was set for some highlevel diplomatic high jinks that would cause common crows to chuckle in a thousand roosts.

About ten days prior to the convention, a delegation of U.S. wildlife officials descended on Mexico City with instructions from their chiefs to work out an agreement with the Mexican wildlife officials that would enlarge the scope of the 1936 treaty. The chiefs would be coming to Mexico City for the convention, and they wanted something big and splashy to signify progress in behalf of international wildlife conservation. We're not sure how, but Mr. Crow was managing to use U.S. officials in the name of progress and international amity—which is cunning diplomacy at its best, and the sort of thing we'd expect from Mr. Crow.

The advance U.S. and Mexican wildlife delegations went to work in Mexico City to broaden the treaty. All went well until the Mexicans suggested including the game-bird families, such as those of quail and turkeys, and the family *Corvidae* which includes crows, jays, magpies and ravens. Then they encountered a stickler in the 1936 treaty with Mexico. In practice this treaty was applied only to families of birds whereas our Migratory Bird Treaty with Canada dealt with individual species as well as families of birds. The U.S. negotiators knew a furor would be created back home if they agreed to include any family of resident game birds such as quail or turkeys. And they were well aware of the crow's excellent population status, sporting value and depredations to both agricultural crops and livestock. But although they persuaded the Mexicans not to include families of nonmigratory game birds, the U.S. negotiators claim that they could not sway Mexican officials to exclude the common crow from the family *Corvidae*. Mexicans, by nature, have great respect for official documents. The official treaty in 1936 set a precedent of considering only families of birds, and that's the way it was going to be. Somehow, the common crow had outwitted us again. (How else can one explain why we signed a treaty with Canada on migratory birds in 1916 that dealt with individual species and one with Mexico that implied only entire families of birds?)

A compromise had to be reached; the North American Wildlife Conference was about to start, and the chiefs were coming from Washington. So all families containing game birds such as quail and turkeys were dropped, but the family *Corvidae* was included, along with 31 other families of birds, in the 1972 amendment to the treaty. The compromise had its rewards for the U.S. negotiators. They now obtained federal jurisdiction over the family *Corvidae*, which included the Hawaiian crow—an endangered species in Hawaii—and the white-necked raven, which is a threatened species and migrates back and forth across the border. By contrast, our national crow population is in good shape, hasn't changed appreciably in the past ten years and doesn't even winter in Mexico. The common crow had become an international ward, not through any plight of his own, but by riding on the coattails of his relatives. Leave it to Mr. Crow.

At the moment, there's considerable talk in state wildlife agencies and the Fish and Wildlife Service about getting the common crow excluded from the rest of the family *Corvidae* in the treaty with Mexico. However, that could be a tough job. In addition to the diverse wildlife officials from the two countries, their respective State Departments are involved—and the whole thing could be smothered by protocol and striped trousers. And last, but by no means least, there's the ingenuity of the common crow to reckon with. You never know what he'll do. He could end up with Kissinger's job.

Under the current Mexican treaty, the crow enjoys the following protection:

1. Common crows may be taken, possessed, transported, exported, or imported only in accordance with such laws or regulations as may be prescribed by a state.

2. Except in the states of Hawaii and Alaska where no crows shall be taken, states may—by statutes or regulations—prescribe a hunting season on the common crow.. Such state statutes or regulations may set forth the methods of taking, the bag and possession limits, the dates and the duration of the hunting season and such other regulations as may be deemed appropriate subject to the following limitations for each state:

a. Crows may not be hunted from aircraft.

b. The hunting season or seasons on crows shall not exceed a total of 124 days during a calendar year.

c. Hunting shall not be permitted during the peak crow nesting period within a state.

d. Crows may be taken only by firearms, bow and arrow and falconry.

When all of this broke on the various state wildlife officials in 1973, there was much consternation, debate and ridicule . . . but the treaty stood. The state officials reacted in one of three different ways: 1) they did not implement the federal hunting regulations for crows, 2) they issued standing depredation orders on crows, or 3) they went through the painful process of gaining legal jurisdiction over the crow in their states—in some cases having its classified as a game bird, thus complying with the new federal regulations on the common crow.

In those states that have not implemented the federal regulations on common crows, it's felt that the U.S. Fish and Wildlife Service is obligated to get the common crow excluded from the treaty with Mexico. After all, there is nothing in the treaty with Mexico that prohibits the consideration of individual species of birds.

There is also the feeling that the U.S. Fish and Wildlife Service is usurping state rights to manage wildlife. If the state falls into line with regulations on the common crow, what next? The sportsman who hunts crows in such states is not going to be harassed by the state's conservation officers, but if he violates any of the basic regulations protecting the common crow under the Mexican treaty, he may draw the attention of any U.S. game-management agents within the state. So far, however, there have been no arrests by U.S. game-management agents for illegal crow hunting.

Second, there are the states that have issued Standing Depredation Orders on crows.

The stickler within this approach is that the state must have documentation on file showing that such crow depredations or concentrations are serious enough and occur often enough, to warrant year-round control in the whole state or that part of the state where such taking is permitted. There is no explanation by the U.S. Fish and Wildlife Service as to what the documentation should be. A Standing Depredation Order means crows can be shot when committing, or about to commit, depredations on ornamental or shade trees, livestock or agricultural crops, or are concentrated in such numbers as to constitute a health hazard. For sportsmen in such states, it appears absolutely necessary that the landowner himself assure the hunter that crows are pests and that he wants their numbers reduced. In parts of the prairie Midwest where winter roosts build to incalculable numbers, it's no problem to find such farmers or ranchers. Typical of these great hot spots for crow depredation problems is Stafford County, Kansas. (If you want more information, write to the County Extension Director, County Courthouse, St. John, Kan. 67576.)

A few states have gone the third route, establishing jurisdiction over the common crow. This isn't as simple as it sounds. Can you imagine confronting a farmer legislature with a proposal to make the crow *a game bird?* But once this is accomplished, as it has been in Nebraska, the state wildlife agency can establish a season or seasons which comply with the Mexican treaty. The crow hunter in this state has no problem; all he has to do is to check on the crow season and go hunting.

But nationally, all is confusion. Hunters are confused, wildlife officials are confused, regulations vary widely from state to state and the hunter must check with each state for the official word about when and how he can hunt.

Now you can blame this muddle on the feds if you want to or on Mexican officialdom. But you'll notice that the common crow isn't confused. He's the only one in this whole project who knows what he's doing, and that ought to tell us something.

THE CUSTOMS CONVENTION ON CONTAINERS, 1972, AND INTERNATIONAL CONVENTION FOR SAFE CONTAINERS

The resolution of ratification of Executive X was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Customs Convention on Containers, 1972, as corrected by a Process-Verbal of Rectification issued on April 29, 1974, and the International Convention for Safe Containers, both signed at Geneva on December 5, 1972 (Ex. X, 93–1).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive X, 93d Congress, 1st session.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote 'yea".

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The yeas and nays resulted—yeas 88, nays 0, as follows:

[Rollcall Vote No. 594 Ex.]

YEAS—88

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Abourezk
Beall
Buckley
Durkin
Griffin
Hart, Philip A.
Hartke
Humphrey
Mondale
Montoya
Moss
Tunney

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

THE AGREEMENT ON THE CONSERVATION OF POLAR BEARS

The resolution of ratification of Executive I is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973 (Ex. I, 94-1).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive I, 94th Congress, 1st session.

The yeas and nays have been ordered and the clerk will call the roll .

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The yeas and nays resulted—yeas 88, nays 0, as follows:

[Rollcall Vote No. 595 Ex.]

YEAS—88

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Abourezk
Beall
Buckley
Durkin
Griffin
Hart, Philip A.
Hartke
Humphrey
Mondale
Montoya
Moss
Tunney

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

THE RATIFICATION OF THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

The resolution of ratification of Executive K is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Convention for the Conservation of Antarctic Seals, with Annex, done at London, June 1, 1972, (Ex. K, 994-1).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive K, 94th Congress, 1st session.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The yeas and nays resulted—yeas 88, nays 0, as follows:

[Rollcall Vote No. 596 Ex.]

YEAS—88

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Abourezk
Beall
Buckley
Durkin
Griffin
Hart, Philip A.
Hartke
Humphrey
Mondale
Montoya
Moss
Tunney

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

THE 1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The resolution of ratification of Executive M was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, which Protocol was signed at Washington on May 7, 1976 (Ex. M, 94-2).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive M, 94th Congress, second session.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Michigan (Mr. GRIFFIN), are necessarily absent.

The yeas and nays resulted—yeas 88, nays 0, as follows:

[Rollcall Vote No. 597 Ex.]

YEAS—88

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Abourezk
Beall
Buckley
Durkin
Griffin
Hart, Philip A.
Hartke
Humphrey
Mondale
Montoya
Moss
Tunney

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

THE FIFTH INTERNATIONAL TIN AGREEMENT

Under the previous order, the Senate will now proceed to vote on the Fifth International Tin Agreement. The clerk will state the resolution of ratification.

The resolution of ratification of Executive J was read as follows:

> *Resolved,* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Fifth International Tin Agreement, 1976, formulated by a conference of governments which met in Geneva, Switzerland, on June 21, 1975, open for signature at the United Nations Headquarters from July 1, 1975, through April 30, 1976, and signed by the United States on March 11, 1976 (Ex. J. 94–2).

Mr. FANNIN. Mr. President, I intend to vote against ratification of the Fifth International Tin Agreement. I do not believe that the best interests of our country will be served by participating in the tin agreement.

The United States will be contributing $115,000 annually for administrative expenses of the International Tin Council and we will have a voice, as a consumer of tin, in the decisions made by the council. But, by the admission of five Federal agencies, the United States will not benefit industrially or economically by membership in the tin agreement. Of the five agencies, only the State Department is optimistic about benefits we can accrue from belonging to the council and these are intangible benefits. The Department hopes that the producer nations, which are developing nations, will be more open to the international policies of the United States if we join the agreement.

The United States did not join the first four tin agreements because of our belief in the effectiveness of the free market mechanism to regulate supply and demand. To establish a commodity agreement which places arbitrary and artificial levels on supplies and prices of tin does not make good economic sense. The facts are that worldwide consumption of tin is decreasing and has been doing so since 1938.

The tin agreements seem to be an effort to place artificial supports under an increasingly unused commodity. In the United States, the largest tin consumer, demand for the metal has been declining steadily over the past 10 years. Increasingly innovative technology has replaced old methods of electroplating tin plate and has substituted other materials for the traditional uses of tin. In my opinion, if the demand for tin is reduced, the supply should follow in that direction.

The Fifth International Tin Agreement does not attempt to reconcile tin production and stockpiles with market forces. Instead, it attempts to control tin production and prices artificially. This situation can only distort reality. Agreement or no agreement, producer nations eventually must face the declining demand for tin. The longer they continue to rely on the controlled returns on their product, the longer it will be before they become actively involved in developing alternative sources of export earnings.

The history of the tin agreements is evidence that the producer nations benefit more than the consumer nations. Although tin prices have achieved a range of stability, it is the floor prices which have been maintained while the ceiling prices have been exceeded. Without the agreements tin prices could have been lower. The producer nations realize higher returns when the floor price is protected.

According to an August 30, 1976, GAO report, "The Fifth International Tin Agreement—Issues and Possible Implications," the United States is not dependent on regulated tin imports because of our tin stockpile which will satisfy our domestic needs for 4 years. This stockpile is in excess of our strategic needs. The report went on to state:

> Should unfavorable consequences materialize, the Government and tin consumers may experience costs in the form of (1) a contribution to the buffer stock, (2) the interest cost of carrying tin that would otherwise be sold from the U.S. stockpile, and (3) higher prices.

Mr. President, I cannot support U.S. membership in the tin agreement. It is not a precedent I would like to see established in the area of negotiated commodity agreements. The burdens of membership and the anticipated unfavorable consequences far outweigh any hope for improved relations the United States might obtain from the tin producers.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification of Executive J, 94th Congress, 2d session.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), and the Senator from Michigan (Mr. Griffin) are necessarily absent.

The yeas and nays resulted—yeas 71, nays 17, as follows:

[Rollcall Vote No. 598 Ex.]

YEAS—71

Allen
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Weicker
Williams
Young

NAYS—17

Bartlett
Byrd, Harry F., Jr.
Byrd, Robert C.
Curtis
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
McClure
Randolph
Scott, William L.
Symington
Talmadge
Thurmond
Tower

NOT VOTING—12

Abourezk
Baker
Beall
Buckley
Griffin
Hart, Philip A.
Hartke
Humphrey
Mondale
Montoya
Moss
Tunney

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. Fannin). The Senate will now return to legislative session to consider the conference report on Senate Concurrent Resolution 139.

REVISED CONGRESSIONAL BUDGET, 1977—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 139 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Fannin). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the United States Government for the fiscal year 1977, having met, after full and free conference, have been unable to agree, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MUSKIE. Mr. President, I yield to the distinguished majority whip, the Senator from West Virginia.

ORDER FOR BILL TO BE PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1125, Senate Resolution 512, a resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of, be transferred to the Calendar of Subjects on the Table.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

REVISED CONGRESSIONAL BUDGET, 1977—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the joint explanatory statement of managers of the committee of conference on the budget resolution be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 139 and ask for its immediate consideration.

Mr. President, the matter before the Senate is the final adoption of the Federal budget for fiscal year 1977. Incorporated in this second concurrent resolution on the budget before us are the binding spending ceilings and revenue floor within which Congress and the Federal Government must operate for the next 12 months. No legislation which would cause the spending ceiling contained in this budget to be exceeded or the revenue floor to be breached will be in order in either House.

The priorities expressed in this budget resolution are the priorities established by Congress for the entire Federal budget for the coming fiscal year.

The adoption of this budget resolution marks the end of the first full budget cycle under full implementation of the new Congressional Budget and Impoundment Control Act. Mr. President, with this budget Congress has confounded its critics. We have met the timetable of the Budget Act. We have stayed within the goals of the first concurrent resolution because there was no sound reason to change those goals and because we exercised the restraint necessary to stay within them.

In fact, due to the discipline Congress has imposed upon itself in the spending process this summer, this binding second resolution actually reduces the spending levels contemplated when the target budget resolution was adopted last May.

The only goal of the first budget resolution which has not been met or exceeded is that for tax expenditure reduction. And even in this case we have finally come remarkably close. The target resolution of last spring called for tax expenditure reduction in the amount of $2 billion. The actual amount agreed upon by the House and Senate conference on the revenue bill which will come before the Senate this week is a reduction of $1.6 billion. Even though we failed to meet the $2 billion target, however, it is fair to say, as most commentators have already noted, that it was the existence of the budget process and the pressure of the tax expenditure reduction target we set last spring which strongly influenced the unprecedented tax expenditure reduction which the revenue bill actually contains.

Taking into account the $1.6 billion in tax expenditure reductions contained in the revenue bill, which will increase tax collections by the same amount, and the recently reported $400 million increase in unemployment compensation taxes which is expected to be enacted shortly, we are able to set a revenue floor in this budget resolution identical to the revenue floor contained in last spring's target resolution.

The combination of congressionally achieved savings in the spending totals of the spring target resolution and the about-to-be-enacted congressional increase in tax collections means that we are able in this binding budget resolution to reduce the deficit contemplated in the target resolution of last spring. Let me underscore that. The deficit proposed in this budget resolution is lower than the deficit contemplated in the target resolution of last spring. Through the congressional budget process and congressional adherence to it, we have cut the deficit this year.

And let there be no question about it. Had it not been for the congressional budget process, Federal spending and the Federal deficit for the 2 years during which we have been operating under the congressional budget would have been higher by a range of at least $15 to $30 billion.

Mr. President, Congress has designed a new budget system that works. It works well. It has exceeded our most hopeful epectations. It is a monumental and unprecedented achievement in which Congress and the entire Nation can justly take pride.

We have shown that in budgeting, as in other areas of our national life, we can be masters of our own fate. We can make and enforce the hard choices necessary to achieve fiscal discipline and a balanced budget in the foreseeable future. We have shown we can design and pursue a fiscal plan to restore vigor to our economy. A fiscal plan with the lowest possible deficit for the shortest period of time. Congress has done so in the face of the worst economic conditions since the Great Depression 40 years ago.

So let us be proud of our achievement. We have met our goal. We have made our system work. Let us rededicate ourselves to continuing the course we have set, painful as it sometimes may be. Let us continue that course because it works, because it is right, and because we owe no less to the American people and ourselves.

Now Mr. President, there is a technical matter I want to clarify before describing the contents of the conference report and the statement of managers under consideration today. Under the parliamentary rules originally designed to deal with appropriation and spending bills, we face an anomalous situation in the case of this budget resolution that because we have actually produced a lower deficit as a result of the conference than either House passed in their respective versions of the budget resolution, the conference report before the Senate on this budget resolution is a conference report in technical disagreement. The disagreement is not over substance. It is a parliamentary technicality. It occurs because the Parliamentarians of the two Houses have ruled that, even on technical matters, a conference report on a budget resolution must, in all its particulars, remain within the range established by the action of the two Houses. Thus, where numbers are even slightly below or above the range for a particular item in the budget resolution passed by either House, the conference must report in disagreement. That is what has happened here in the case of the deficit number. The House budget resolution projected a deficit for the coming fiscal year of $50.7 billion. The Senate resolution projected a deficit of $50.8 billion. The result of the conference is a reduction in spending which produces a deficit of $50.6 billion. The $50.6 billion figure produced by the conference is $200 million less than was contemplated by either House when they passed their budget resolutions. No other figure produced by the conference is outside the range established by the two Houses in their separate action on their respective budget resolutions.

Under these circumstances relating to the lowered deficit projection, the conference has reported in technical disagreement, and it is the intention of the conferees of both Houses to urge adoption of the substitute resolution described in the statement of managers accompanying this conference report in disagreement. That conference substitute describes the agreement reached in the conference which, but for this technicality regarding the lower deficit figure, would have been reported as a conference report in agreement.

So, when the Senate votes today, we will first be voting to confirm the conference report in disagreement. A second vote will then occur to recede to the original House amendment to the Senate budget resolution, with an amendment which is spelled out in the statement of managers accompanying the conference report and incorporates the actual, total agreement of the conferees. Other than this two-step procedure, this consideration of the conference report can proceed as if it had been reported in agreement.

With this understanding of the parliamentary situation, Mr. President, let me describe some of the highlights of the conference report.

In May, with our first concurrent resolution, we adopted congressional budget targets which differed from the President's proposal, especially because of a greater emphasis on jobs and economic recovery.

Congress has met its targets almost to the dollar. Our economic recovery appears to be on track, although last week I did discuss some danger signs which could dictate a different fiscal policy if they persist. The budget resolution we adopt today sets a binding ceiling for spending and a binding floor for revenues. Based on Congress success to date with the new budget process, I have every expectation that we will live within the congressional budget.

This budget represents more than the success of a new process, however important that may be.

It represents 9 billion tax dollars saved from what would have been spent if last year's policies had simply been continued into fiscal 1977.

The budget deficit projected in this resolution is only $3.3 billion above the deficit estimated by the President in his "mid-session review" of the budget issued in July. And that difference is more than accounted for by spending for temporary job creating programs which the congressional budget includes and the President's budget denies.

It represents a commitment to 1.5-million new jobs—the majority in the private sector due to economic recovery and the rest in the form of public works and public service employment as America continues to struggle toward recovery.

The recommended conference substitute contains aggregate budget totals for fiscal year 1977 as follows:

For revenues, the conferees agreed on a level of $362.5 billion. This is the same as the House resolution and $500 million above the Senate resolution.

In order to reach this revenue floor, the concurrent resolution provides that legislation shall be enacted to decrease fiscal 1977 revenues on a net basis by $15.3 billion under the level of revenues that otherwise would be collected according to current law. This revenue floor assumes full year extension of the temporary tax reductions first enacted in 1975. It also assumes a net increase of $1.6 billion in revenues from elimination or modification of tax expenditures—the tax conference result—and an increase in unemployment compensation taxes of $400 million.

For budget authority, the conferees agreed on a level of $451.55 billion. This is $1.03 billion below the House and $4.05 billion above the Senate.

For outlays, the conferees agreed on a level of $413.1 billion. This is $140 million below the House and $300 million above the Senate.

For the deficit, the conferees agreed on a level of $50.6 billion. This is $140 million below the House and $200 million below the Senate.

For the public debt, the conferees agreed on a level of $700 billion. This is the same as the House and $1 billion below the Senate.

I am pleased to note that both the budget authority and outlay levels agreed to by the conferees are lower than the targets contained in the first budget resolution. I am also pleased to note that, given the conference agreement on the Tax Reform Act, we have been able to hold to a revenue floor of $362.5 billion—the same as the first budget resolution. This means that the deficit we now project, $50.6 billion, is $200 million lower than projected in the congressional budget last spring and, in fact, lower than the second concurrent resolution figure of either House. It is for this reason that the managers report in technical disagreement.

Mr. President, regarding the aggregate totals, the only significant difference between the House and Senate versions of the second budget resolution occurred in the budget authority category, where the Senate-passed level was slightly more than $5 billion below the level passed by the House—$447.5 billion compared to $452.6 billion. The conference compromise results in an increase of slightly more than $4 billion over the Senate-passed budget authority level, and a decrease of slightly more than $1 billion from the House-passed level. Two billion dollars of the increase from the Senate level has to do with timing, however, not substance. In function 450, community and regional development, both the House and Senate assumed full funding of the Public Works Employment Act which was recently passed over the President's veto. The Senate resolution assumed that $2 billion of the budget authority to fund this act would be appropriated in the transition quarter, whereas the House resolution assumed that all of these funds would be appropriated in fiscal 1977 which, of course, begins just a few weeks from now on October 1.

The conferees adopted the House approach, but stipulated that should this extra $2 billion be appropriated in time to be charged to the transition quarter, the corresponding reduction in fiscal 1977 should be treated as savings and not used for any other purpose. When this item—which is solely a timing question—is removed, the difference between the two bodies is only $3 billion in budget authority, on which the House came down $1 billion and the Senate went up $2 billion. This $2 billion increase, which does not affect fiscal 1977 outlays, is due to the conferees' judgment that additional Government National Mortgage Association emergency mortgage purchase assistance funds may be needed to stimulate the housing industry. This possible requirement was strongly pressed by the House conferees, and the Senate conferees acceded to inclusion of a portion of the amount in the original House resolution.

Mr. President, let me take a moment to go over some of the other assumptions in the conference agreement.

Senator CRANSTON has asked me to explain how funding for the pending earthquake research and development program might fit into this budget resolution. This program falls into two budget functions and the total cost is estimated to be less than $50 million in fiscal 1977. As I have repeatedly stated, the Budget Committee is not a line-item committee, but we must make some assumptions leading to each functional total so we can set the functional ceilings rounded generally to the nearest tenth of a billion dollars. To answer Senator CRANSTON, and any other Senator who is concerned about a specific program, I can say, regardless of the Budget Committee's assumptions, no program will "bust the budget" merely because of the rounding in the budget resolution.

In function 300, natural resources, environment and energy, the total amounts provided in this conference report are little changed from those in the Senate resolution. The conferees did accept the Senate position that the total does assume the full $5 billion for EPA construction grants in fiscal year 1977 as contained in S. 2710 which is soon to be considered in conference. This $5 billion in budget authority will permit continuation of the pace of this major environmental program and will prevent any State from completely exhausting funds available for fiscal year 1977.

The conference agreement does not assume any budget authority for the project guarantees authorized in the Nuclear Fuel Assurance Act. As indicated in the statement of managers accompanying the report, it is very difficult at this time to assess the likelihood of any funding for these programs. As the report indicates, any subsequent appropriation action on programs in the Nuclear Fuel Assurance Act will result in budget authority and, if enacted for fiscal year 1977, may require a third budget resolution.

In function 550, health, the conference report provided ceilings for health of $40.5 billion in budget authority and $38.9 billion in outlays.

Implicit in the allocations to committees found on page 10 of the statement of managers are assumptions of budget authority for medicare at $23.1 billion, with $21.850 billion in outlays. For medicaid both budget authority and outlays are $10.1 billion. This assumes a reduction from the current law of $100 million based on anticipated initiatives to control fraud and abuse. It is our hope that those savings attributable to that cause can be tremendously enlarged in the years ahead. The assumptions for remaining controllable programs in the health function are $7.3 billion in budget authority and $6.950 billion in outlays.

In function 600, income security, the conference agreement assumes the enactment of two bills affecting unemployment compensation programs. One of these, H.R. 10210, already passed by the House, would add $400 million in revenues to the unemployment insurance trust funds in fiscal 1977. The other would extend the special unemployment assistance—SUA—program beyond its current expiration date of March 31, 1977. The Conference agreement also assumes the enactment of legislation passed by the House (H.R. 8911), amending the Supplemental Security Income—SSI—program, as well as legislation to repeal the so-called 1 percent kicker in Federal retirement programs, which the Senate passed on September 8.

Otherwise, the report of the managers is self-explanatory.

Mr. President, there is still work to do on this budget. There are six appropriations yet to be enacted before the fiscal year begins on October 1. There are some important savings such as stockpile sales and elimination of the 1 percent kicker which are essential to this budget if some high priority items are not to be squeezed out. But most of our budget work is now done for fiscal 1977—before the fiscal year begins and in the order contemplated under the Budget Act. We have a proven instrument with which we can now begin to address the Nation's priorities for fiscal 1978 and beyond.

Mr. President, let me take a few moments to express my personal gratitude to the members of the Budget Committee whose efforts have meant everything to the success of this budget process during the past 2 years. I believe it is fair to say that never in my 18 years' experience in the Senate have I seen a spirit of bipartisan cooperation such as we have achieved in the Senate Budget Committee to make this system work. We have had our disagreements. They have been strong. They have been argued with vehemence. They have sometimes split the committee on individual issues. But never have they split the committee support for the budget process and its nearly unanimous support for the budget resolutions ultimately reported by the committee for the consideration of the Senate.

I have previously expressed my great gratitude and admiration for Senator Henry Bellmon, ranking Republican member of the committee. His statesmanship has been unparalleled in my experience. And I wish as well to express my appreciation and admiration for the efforts of the other members of the committee and its truly excellent staff who have contributed so unselfishly of their time, energy, and imagination to make this process successful.

We have been working with a process which had been untried in order to achieve an objective which had never been met: control of the Federal budget and establishment of sound national priorities within it. We have not yet fully met all of the goals Congress intends this process should achieve, but we are soundly on our way. We have made some mistakes and we have learned some important lessons. But I believe Congress has learned as well, and the pending tax bill demonstrates it, that if sometimes our reach has exceeded our grasp, the budget process has so far proved a powerful instrument and influence in congressional spending and tax decisions. My fellow members of the Budget Committee deserve a great share of the credit for that success.

So, too, do the chairmen and members of other standing committees, whose cooperation and adherence to the budget process have been indispensable. Particularly important has been the stunning success of the Appropriations Committee under the leadership of our friend and colleague Senator John McClellan in meeting a timetable for appropriations which many people believed could never be met. We also recognize the great efforts of the Senate authorizing committees whose almost universal adherence to the May 15 reporting deadline for new authorizations helped the Appropriations Committee meet its timetable and kept the budget process on track.

Mr. President, no one can know what the future will hold. Under the Budget Act, the terms of many members of the House Budget Committee will expire this coming January, including that of its Chairman, Brock Adams. Likewise, most members of the Senate Budget Committee under the law must make a choice as to whether to continue membership on this new committee or keep their membership on other committees on which they have served for a much longer time. It is reasonable to anticipate that many members of the present Senate Budget Committee, all of whom are holding important positions on other Senate committees and subcommittees, will have to elect to stay with those previous assignments and turn the task of the budget process over to new hands. But I am confident, based on these 2 years of experience in both houses, that the budget process has taken hold. We have learned that the shoe of fiscal responsibility surely can pinch and hurt some of each Senator's own important projects and interests. But surely we have come to recognize as well that the anarchy of uncontrolled spending, runaway inflation, and bottomless deficits not only jeopardize those same programs even more, but rightly shook the confidence of the American people in their government and their economy. Through the budget process, we have begun to restore that confidence. We have substituted a sound fiscal plan for haphazard chaos.

The budget process is now too well established to be dependent on any single set of Senators or Members of the House. It is a part of our congressional institution. I am proud to have been selected by the Senate to help lead that effort. I am hopeful we can continue to merit your confidence and support as, with some new faces, the Senate Budget Committee continues its work next year.

Let me finally take this opportunity to speak of my extreme admiration for a Member of Congress who has been instrumental and indispensable in the work the budget process has achieved. Congressman Brock Adams, chairman of the House Budget Committee, undertook a task more formidable than even that faced by the Senate Budget Committee 2 years ago. Limited in tenure to a maximum of 4 years out of each 10, the House Budget Committee members had to shape from the Budget Act a system which was workable in the House and strong and flexible enough to be passed on to a whole new committee in the next Congress. It is a tribute to the industry and ingeniousness of Brock Adams that he has met that challenge. The House and Senate have pursued different courses on many procedural questions under the Budget Act, each course designed to meet the particular needs of that House. And yet, throughout it all, we have successfully met on every essential common area required by the Budget Act. We have achieved a common set of views as to an appropriate and effective way to conduct our conferences and produce our conference reports and enforce the discipline of the budget process in our respective Houses. Throughout it all, Brock Adams' stature and influence as an effective, innovative, dynamic leader of the budget process has not only earned the deserved admiration of his House, but also deserves the respect of our own as well. I commend my fellow chairman's efforts. I will keenly feel his absence next year. But I am confident that his achievement in the House in successfully implementing the budget process will not only be his monument as a Member of the House, but also will endure to the benefit of the entire Congress and the American people.

Exhibit 1

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the United States Government for the fiscal year 1977, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that the deficit figure in the substitute language agreed to by the conferees is less than either the House or the Senate provision.

It is the intention of the conferees that the managers on the part of the Senate will offer a motion in the Senate to recede and concur in the House amendment to the Senate-passed resolution with an amendment (in the nature of a substitute) consisting of the language agreed to in conference, and that upon the adoption of such amendment in the Senate the managers on the part of the House will offer a motion in the House to concur therein.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers:

The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows: That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

The appropriate level of total new budget authority is $451,550,000,000;

(3) the appropriate level of total budget outlays is $413,100,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,600,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October

1, 1976, the appropriate level of new buget authority and the estimated budget outlays for each major functional category is as follows:

(1) National Defense (050):

(A) New budget authority, $112,100,000,000.

(B) Outlays, $100,650,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,900,000,000.

(B) Outlays, $6,900,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,600,000,000.

(B) Outlays, $4,500,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $18,200,000,000.

(B) Outlays, $16,200,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,100,000,000.

(B) Outlays, $2,200,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,400,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,550,000,000.

(B) Outlays, $9,050,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $24,000,000,000.

(B) Outlays, $22,200,000,000.

(9) Health (550):

(A) New budget authority, $40,500,000,000.

(B) Outlays, $38,900,000,000.

(10) Income Security (600):

(A) New budget authority, $155,900,000,000.

(B) Outlays, $137,200,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,300,000,000.

(B) Outlays, $19,500,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,500,000,000.

(B) Outlays, $3,600,000,000.

(13) General Government (800):

(A) New budget authority, $3,600,000,000.

(B) Outlays, $3,500,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,600,000,000.

(B) Outlays, $7,700,000,000.

(15) Interest (900):

(A) New budget authority, $39,600,000,000.

(B) Outlays, $39,600,000,000.

(16) Allowances:

(A) New budget authority, $700,000,000.

(B) Outlays, $800,000,000.

(17) Undistributed Offsetting Receipts (950):

(A New budget authority, —$16,800,000,000.

(B) Outlays, —$16,800,000,000.

BUDGET AGGREGATES

Revenues.—The House resolution provided for Federal revenues in the amount of $362.500 billion; and to achieve that level it provided that revenues should be decreased by $15.300 billion. The Senate resolution provided for Federal revenues in the amount of $362.0 billion; and to achieve that level it provided that revenues should be decreased by $15.8 billion.

The conference substitute provides for Federal revenues in the amount of $362.5 billion; and to achieve that level it provides that revenues should be decreased by $15.3 billion. This revenue level assumes a full fiscal year extension of the temporary tax reductions, first enacted in 1975, at a cost of $17.3 billion, partially offset by a net increase of $1.6 billion in revenues from elimination or modification of tax expenditures, and an increase in unemployment compensation taxes of $400 million to reflect an increase in the taxable wage base effective January 1, 1977.

Budget authority.—The House resolution provided for total new budget authority in the amount of $452.583 billion. The Senate resolution provided for new budget authority in the amount of $447.5 billion. The conference substitute provides for total new budget authority in the amount of $451.55 billion.

Outlays.—The House resolution provided for total outlays in the amount of $413.240 billion. The Senate resolution provided for outlays in the amount of $412.8 billion. The conference substitute provides for total outlays in the amount of $413.1 billion.

Deficit.—The House resolution provided for a budget deficit in the amount of $50.740 billion. The Senate resolution provided for a deficit in the amount of $50.8 billion. The conference substitute provides for a budget deficit in the amount of $50.6 billion.

Public Debt.—The House resolution provided for a public debt level of $700.000 billion. The Senate resolution provided for a public debt level of $701.0 billion. The conference substitute provides for a public debt level of $700.0 billion.

ECONOMIC OBJECTIVES AND ASSUMPTIONS

The fiscal policy contained in the conference report reaffirms the budget priorities in the first budget resolution. Enactment of the legislation assumed in the totals, together with a supportive monetary policy, will move the nation closer to full economic recovery. The economic assumptions underlying the revenue and spending ceilings contained in the conference report are as follows:

[Dollars in billions; calendar years]

Item	1976	1977
Gross national product:		
Current dollars	$1,692	$1,885
Constant (1972) dollars	1,265	1,338
Incomes:		
Personal income	1,382	1,542
Wages and salaries	893	995
Corporate profits	153	177
Unemployment rate:		
Calendar year average	7.5	6.5
End of year	7.2	6.2
Consumer Price Index	5.7	5.3
Interest rate, 3-mo Treasury bills	5.3	5.8

050: NATIONAL DEFENSE

The Senate resolution provided budget authority of $112.1 billion and outlays of $100.7 billion. The House amendment provided budget authority of $112.086 billion and outlays of $100.606 billion.

The conference agreement provides budget authority of $112.1 billion and outlays of $100.65 billion.

These amounts assume achievement of nearly all the proposed sales of materials from the strategic stockpile and absorption in amounts for pay raises in line with past experience.

150: INTERNATIONAL AFFAIRS

The Senate resolution provided budget authority of $9.1 billion and outlays of $6.9 billion. The House amendment provided budget authority of $8.770 billion and outlays of $6.763 billion.

The conference agreement provides budget authority of $8.9 billion and outlays of $6.9 billion.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The Senate resolution provided budget authority of $4.6 billion and outlays of $4.5 billion. The House amendment provided budget authority of $4.595 billion and outlays of $4.505 billion.

The conference agreement provides budget authority of $4.6 billion and outlays of $4.5 billion.

300: NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

The Senate resolution provided budget authority of $18.2 billion and outlays of $16.0 billion. The House amendment provided budget authority of $17.923 billion and outlays of $16.227 billion.

The conference agreement provides budget authority of $18.2 billion and outlays of $16.2 billion.

The conferees, without prejudice, have not assumed any budget authority in this function for the proposed Nuclear Fuel Assurance Act because the budgetary impact of this bill is impossible to determine at this time. Should the authorization and subsequent appropriation be adopted, they will result in budget authority and the Budget Committees would consider the possibility of a Third Budget Resolution to cover this requirement, taking account of the total budgetary situation at that time.

350: AGRICULTURE

The Senate resolution provided budget authority of $1.6 billion and outlays of $2.0 billion. The House amendment provided budget authority of $2,317 billion and outlays of $2,239 billion.

The conference agreement provides budget authority of $2.1 billion and outlays of $2.2 billion.

The increase over the Senate level in budget authority in the conference substitute was provided for net realized losses of the Commodity Credit Corporation and the increase over the Senate level in outlays was provided for the short-term export credits program.

400: COMMERCE AND TRANSPORTATION

The Senate Resolution provided budget authority of $15.2 billion and outlays of $17.4 billion. The House amendment provided budget authority of $17,699 billion and outlays of $16.984 billion.

The conference agreement provides budget authority of $17.2 billion and outlays of $17.4 billion. The managers assume that these totals include $2 billion in budget authority for the Emergency Mortgage Purchase Assistance program of the Government National Mortgage Association, and $0.5 billion in both budget authority and outlays for an additional payment to the Postal Service.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The Senate resolution provided $7.5 billion in budget authority and $9.0 billion in outlays. The House amendment provided $9.584 billion in budget authority and $9.078 billion in outlays.

The conference agreement provides $9.55 billion in budget authority and $9.05 billion in outlays. It assumes that the Public Works Employment Act will be fully funded in Fiscal Year 1977. Should the pending Public Works Employment Appropriation bill be enacted during the Transition Quarter, $2.0 billion in budget authority assumed for fiscal 1977 in this budget resolution would not be required since it would have been charged to the Transition Quarter. If this occurs, the conferees believe that the $2.0 billion in budget authority should not be used for any other purpose in Fiscal Year 1977.

500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

The Senate resolution provided budget authority of $24.0 billion and outlays of $22.3 billion. The House amendment provided budget authority of $23.884 billion and outlays of $22.187 billion.

The conference agreement provides budget authority of $24.0 billion and outlays of $22.2 billion.

550: HEALTH

The Senate resolution provided budget authority of $40.5 billion and outlays of $38.8 billion. The House amendment provided budget authority of $40.527 billion and outlays of $38.960 billion.

The conference agreement provides budget authority of $40.5 billion and outlays of $38.9 billion.

600: INCOME SECURITY

The Senate resolution provided $156.2 billion in budget authority and $137.3 billion in outlays. The House amendment provided budget authority of $155.872 billion and outlays of $137.000 billion.

The conference agreement provides $155.9 billion in budget authority and $137.2 billion in outlays.

It provides $0.2 billion in outlays over the amounts in the House resolution due to a re-estimate of current policy costs for unemployment compensation. The estimates assume elimination of the one percent kicker. They also assume enactment of the Supplemental Security Income (SSI) Amendments (H.R. 8911) and the extension of Special Unemployment Assistance (SUA).

700: VETERANS BENEFITS AND SERVICES

The Senate resolution provided budget authority of $20.3 billion and outlays of $19.5 billion. The House amendment provided budget authority of $20.323 billion and outlays of $19.539 billion.

The conference agreement provides budget authority of $20.3 billion and outlays of $19.5 billion.

750: LAW ENFORCEMENT AND JUSTICE

The Senate resolution provided budget authority of $3.5 billion and outlays of $3.6 billion. The House amendment provided budget authority of $3.490 billion and outlays of $3.571 billion.

The conference agreement provides budget authority of $3.5 billion and outlays of $3.6 billion.

800: GENERAL GOVERNMENT

The Senate resolution provided budget authority of $3.6 billion and outlays of $3.5 billion. The House amendment provided budget authority of $3.556 billion and outlays of $3.534 billion.

The conference agreement provides budget authority of $3.6 billion and outlays of $3.5 billion.

850: REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

The Senate resolution provided budget authority of $7.6 billion and outlays of $7.7 billion. The House amendment provided budget authority of $7.617 billion and outlays of $7.657 billion.

The conference agreement provides budget authority of $7.6 billion and outlays of $7.7 billion.

900: INTEREST

The Senate resolution provided budget authority of $39.6 billion and outlays of $39.6 billion. The House amendment provided budget authority of $40.400 billion and outlays of $40.400 billion.

The conference agreement provides budget authority of $39.6 billion and outlays of $39.6 billion.

ALLOWANCES

The Senate resolution provided budget authority of $0.7 billion and outlays of $0.8 billion. The House amendment provided budget authority of $0.860 billion and outlays of $0.910 billion.

The agreement assumes absorption in amounts for pay raises in line with past experience.

950: UNDISPUTED OFFSETTING RECEIPTS

The Senate resolution provided budget authority of —$16.8 billion and outlays of —$16.8 billion. The House amendment provided budget authority of —$16.920 billion and outlays of —$16.920 billion.

The conference agreement provides budget authority of —$16.8 billion and outlays of —$16.8 billion.

[In billions of dollars]

	Senate	House	Conference
Fiscal year 1977 budget authority:			
050 National defense	112.1	112.086	112.1
150 International affairs	9.1	8.770	8.9
250 General science, space and technology	4.6	4.595	4.6
300 Natural resources, environment and energy	18.2	17.923	18.2
350 Agriculture	1.6	2.317	2.1
400 Commerce and transportation	15.2	17.699	17.2
450 Community and regional development	7.5	9.584	9.55
500 Education, training, employment and social services	24.0	23.884	24.0
550 Health	40.5	40.527	40.5
600 Income security	156.2	155.872	155.9
700 Veterans' benefits and services	20.3	20.323	20.3
750 Law enforcement and justice	3.5	3.490	3.5
800 General government	3.6	3.556	3.6
850 Revenue sharing and general purpose fiscal assistance	7.6	7.617	7.6
900 Interest	39.6	40.400	39.6
Allowances	.7	.860	.7
950 Undistributed offsetting receipts	−16.8	−16.920	−16.8
Total	447.5	452.583	451.55

	Senate	House	Conference
Fiscal year 1977 outlays:			
050 National defense	100.7	100.606	100.65
150 International affairs	6.9	6.763	6.9
250 General science, space and technology	4.5	4.505	4.5
300 Natural resources, environment and energy	16.0	16.227	16.2
350 Agriculture	2.0	2.239	2.2
400 Commerce and transportation	17.4	16.984	17.4
450 Community and regional development	9.0	9.078	9.05
500 Education, training, employment and social services	22.3	22.187	22.2
550 Health	38.8	38.960	38.9
600 Income security	137.3	137.000	137.2
700 Veterans' benefits and services	19.5	19.539	19.5
750 Law enforcement and justice	3.6	3.571	3.6
800 General government	3.5	3.534	3.5
850 Revenue sharing and general purpose fiscal assistance	7.7	7.657	7.7
900 Interest	39.6	40.400	39.6
Allowances	.8	.910	.8
950 Undistributed offsetting receipts	−16.8	−16.920	−16.8
Total	412.8	413.240	413.1

ALLOCATIONS OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEE

Pursuant to section 302 of the Congressional Budget Act, the conferees make the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays for fiscal year 1977 among the committees of the respective Houses:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlement programs requiring appropriation action [1]	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	295.1	277.8		
Aeronautical and Space Sciences		(2)		
Agriculture and Forestry	1.5	.2	8.1	8.5
Armed Services	−.5	−.6	8.4	8.4
Banking, Housing and Urban Affairs	3.6	−.9	.1	.1
Commerce	1.0	.1	.2	.2
District of Columbia	(3)	(3)		
Finance	172.6	168.7	35.7	29.1
Foreign Relations	7.1	6.7	.1	.1
Government Operations	(2)	(2)		
Interior and Insular Affairs	.8	.7	.1	(4)

Committee	Direct spending jurisdiction		Entitlement program requiring appropriation action [1]	
	Budget authority	Outlays	Budget authority	Outlays
Judiciary	(4)	(5)	.3	.3
Labor and Public Welfare	3.7	3.9	2.6	2.5
Post Office and Civil Service	20.8	13.6	(6)	(6)
Public Works	3.6	1.0	.2	.1
Rules and Administration	(4)	(2)		
Veterans' Affairs	1.0	.4	14.6	13.8
Joint Committee on Atomic Energy	(6)	(6)		
Not allocated to committees	−58.7	58.6		
Total	451.55	413.1	70.3	63.1

[1] These amounts are included as part of the direct spending jurisdiction of the Appropriations Committee.

[2] Less than $5,000,000.

[3] Less than $50,000,000.

[3] Less than $45,000,000.

[5] Less than $30,000,000.

[6] Less than $500,000.

Note: Details may not add to totals due to rounding.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a)

[In millions of dollars]

		Budget authority	New entitlement authority	Outlays
Agriculture Committee:				
300	Natural resources, environment and energy	122		114
350	Agriculture	93		61
450	Community and regional development	137		(1)
600	Income security	12		−4
850	Revenue sharing and general purpose fiscal assistance	37		37
	Total	400		207
Appropriations Committee:				
050	National defense	113, 327		102, 203
150	International affairs	6, 846		7, 490
250	General science, space, and technology	4, 599		4, 500
300	Natural resources, environment, and energy	19, 890		17, 051
350	Agriculture	2, 059		2, 192
400	Commerce and transportation	12, 002		18, 385
450	Community and regional development	9, 285		8, 920
500	Education, training, employment, and social services	23, 474		22, 236
550	Health	23, 438		23, 198
600	Income security	45, 245		35, 463
700	Veteran's benefits and services	19, 837		19, 595
750	Law enforcement and justice	3, 504		3, 611
800	General government	6, 780		6, 716
850	Revenue sharing and general purpose fiscal assistance	399		458
	Allowances	700		800
	Total	291, 388		272, 820
Armed Services Committee:				
050	National defense	−861	(75)	−860
400	Commerce and transportation	(1)		(1)
700	Veterans benefits and services	(1)		(1)
800	General government	(1)		(1)
	Total	−861	(75)	−860
Banking, Currency and Housing Committee:				
050	National defense			(1)
150	International affairs	2, 647		
400	Commerce and transportation	870		−900
450	Community and regional development	28		31
500	Education, training, employment, and social services			7
550	Health			(1)
600	Income security	6		−3
700	Veterans benefits and services			−9
800	General government	4		3
900	Interest	8		8
	Total	3, 561		−863
District of Columbia Committee:				
450	Community and regional development	1		1
750	Law enforcement and justice	6		6
850	Revenue sharing and general purpose fiscal assistance	40		40
	Total	47		47
Education and Labor Committee:				
500	Education, training, employment, and social services	24	(468)	1
600	Income security	3		3
	Total	27	(468)	4
Government Operations Committee:				
800	General government	1		1
850	Revenue sharing and general purpose fiscal assistance	8, 316	(4, 991)	8, 359
	Total	8, 317	(4, 991)	8, 360
House Administration Committee:				
250	General science, space and technology	(1)		(1)
500	Education, training, employment, and social services	4		4
800	General government	35		
	Total	40		4
Interior and Insular Affairs Committee:				
300	Natural resources, environment and energy	119		36
450	Community and regional development	242		238
800	General government	2		2
850	Revenue sharing and general purpose fiscal assistance	179		179
	Total	543		456
International Relations Committee:				
050	National defense	6, 916		6, 588
150	International affairs	81		84
400	Commerce and transportation	4		5
600	Income security	119		82
	Total	7, 120		6, 758
Interstate and Foreign Commerce Committee:				
500	Commerce and transportation	13		13
550	Health	2		2
600	Income security	3, 670		3, 887
850	Revenue sharing and general purpose fiscal assistance	4		1
	Total	3, 689		3, 902
Judiciary Committee:				
300	Natural resources, environment and energy	(1)		(1)
600	Income security	17	(2)	4
750	Law enforcement and justice		(4)	−6
800	General government	23		23
	Total	40	(6)	20
Merchant Marine and Fisheries Committee:				
150	International affairs	2		2
300	Natural resources, environment, and energy	105		93
400	Commerce and transportation	327		−37
850	Revenue sharing and general purpose fiscal assistance	4		4
	Total	439		63
Post Office and Civil Service Committee:				
400	Commerce and transportation	5		5
550	Health			−68
600	Income security	16, 603	(−39)	9, 434
800	General government	4, 194		4, 194
	Total	20, 802	(−39)	13, 564
Public Works and Transportation Committee:				
300	Natural resources, environment, and energy	34		976
400	Commerce and transportation	4, 048		−2
450	Community and regional development	29		33
	Total	4, 110		1, 007
Science and Technology Committee:				
250	General science, space, and technology	3		3
300	Natural resources, environment, and energy	16		15
	Total	19		17
Small Business Committee:				
450	Community and regional development	1		1
Veterans' Affairs Committee:				
700	Veterans' benefits and services	975	(1, 397)	426
Ways and Means Committee:				
500	Education, training, employment, and social services	546		
550	Health	23, 100		21, 810
600	Income security	96, 787	(182)	94, 895
800	General government	4		4
850	Revenue sharing and general purpose fiscal assistance	344		344
900	Interest	43, 696		43, 696
	Total	164, 477	(182)	160, 749
Unassigned:				
050	National defense	−7. 232		−7, 282
150	International affairs	−677		−677
250	General science, space, and technology	−2		−2
300	Natural resources, environment and energy	−2, 086		−2, 086
350	Agriculture	−53		−53
400	Commerce and transportation	−69		−69
450	Community and regional development	−173		−173
500	Education, training, employment, and social services	−48		−48
550	Health	−6, 040		−6, 040
600	Income security	−6, 561		−6, 561
700	Veterans benefits and services	−513		−513
750	Law enforcement and justice	−9		−9
800	General government	−7, 443		−7, 443
850	Revenue sharing and general purpose fiscal assistance	−1, 723		−1, 723
900	Interest	−4, 104		−4, 104
950	Undistributed offsetting receipts	−16, 800		−16, 800
	Total	−53, 583		−53, 583
Joint Atomic Energy Committee:				
300	Natural resources, environment, and energy	(1)		(1)
450	Community and regional development			(1)
	Total	(1)		(1)

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[1] Less than $500,000.

Note: Detail may not add to totals due to rounding.

BROCK ADAMS,
THOMAS P. O'NEILL,
THOMAS L. ASHLEY,
PARREN J. MITCHELL,
JAMES G. O'HARA,
OMAR BURLESON,
ROBERT N. GIAIMO,
NEAL SMITH,
R. L. LEGGETT,
Managers on the Part of the House.
EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRANK E. MOSS,
ERNEST F. HOLLINGS,
ALAN CRANSTON,
HENRY BELLMON,
J. GLENN BEALL, JR.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

Mr. McINTYRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. McINTYRE. Mr. President, I ask unanimous consent that two members of my staff, Margaret Scheer and Elizabeth Weber, have the privilege of the floor during the consideration of the military construction authorization act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield to my good friend and colleague on the committee, Senator BELLMON.

Mr. BELLMON. I thank the distinguished chairman.

Mr. President, I join Senator MUSKIE in the conclusions he has just presented to the Senate regarding the actions of the conference committee and the success of the budget process thus far. He has given a complete and thorough explanation, and I will not repeat what he has said.

I wish to take a little different approach, but before I do that, I express the complete respect and admiration I feel for Senator MUSKIE after working with him in this effort for the last 2 years. He has been entirely fair and extremely visionary in his approach to the conduct of the Budget Committee's work, and he has given fully of his great talents and his abilities in making this process work.

I feel that the success we have enjoyed so far in our new efforts to establish a meaningful way and a successful way of bringing on fiscal responsibility in Congress is due to the leadership and dedication that Senator MUSKIE has given to this process, and I again express the satisfaction I have had in working with him in this effort.

Mr. President, as a former Governor of Oklahoma, a State whose constitution mandates a balanced budget, I would like to see, as much as any other Member, Federal spending held in line with our income.

In checking the vote on the second concurrent resolution, I find that 21 Members of the Senate who are generally identified as fiscal conservatives voted against the resolution. I feel that it is logical to assume that many of those Members desire a balanced budget, and I certainly join them in this feeling. I believe that many Members of the Senate other than those 21 also desire to see a balanced budget, and I have asked the staff of the Budget Committee, particularly the minority members, to determine what steps could have been taken to bring the Federal budget for fiscal year 1977 into balance. I have asked them to do this on three bases:

First. If we were to balance the budget by raising revenues, which taxes could be raised and by what amounts to produce the $50.6 billion in net revenues needed, in order to get revenues in line with our expenditures.

Second. If we were to balance the budget by cutting spending, which areas of spending could be cut, excluding the "entitlement" programs mandated by law and not including defense. The reason I left out defense is that many of the Members who voted against the second concurrent resolution are those who favor a strong national defense posture.

Third. Which areas of spending would need to be cut if the defense budget bore its proportion of the cuts.

The results of the Budget Committee staff's work are set out in the following three tables.

Mr. President, I ask unanimous consent to have the tables printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—BALANCING THE BUDGET BY RAISING TAXES

	Billions
Fiscal year 1977 outlays	$413.1
Revenues under existing law (including Tax Reform Act of 1976)	—362.5
Additional revenue needed to balance budget	50.6

	Existing law (billions)	Tax increase (billions)	Percentage increase	Total tax (billions)
Source of additional tax revenue:				
Individual income tax	$160.9	$33.7	21	$194.6
Corporate income tax	57.8	10.5	18	68.3
Social insurance and other taxes	143.8	6.4	5	150.2
Total	362.5	50.6	14	413.1

Impact of tax increase on various income categories of taxpayers:

Annual adjusted gross income:	Average annual additional tax per taxpayer
0 to $5,000	$100
$5,000 to $10,000	320
$10,000 to $15,000	520
$15,000 to $20,000	900
Over $20,000	3,200

TABLE II. *Balancing the budget by cutting all non-entitlement programs except national defense assume FY 77 budget to be balanced at present level of tax revenue (no tax increases)*

(Billions of dollars)

Revenues	$362.5
Less:	
"Entitlements" mandated by present law:	
Interest expense	39.6
Social security	84.6
Railroad retirement	3.7
Federal emplyoment and disability	9.9
Unemployment compensation	15.2
Medicare	21.8
Medicaid	10.1
Agricultural (price supports, farm income stabilization)	1.2
Veterans benefits and services (compensation, pensions, readjustment benefits, health care, etc.)	19.5
Total "entitlements"	—205.5
Add:	
Undistributed off-setting receipts	+16.8
Dollars available for all "nonentitlement" activities of the Federal Government	173.8
Less:	
National defense funded at congressionally approved level	—100.65
Total available for all nondefense activities	73.15

Summary: to balance the FY 77 Budget without raising taxes and without cutting national defense, activities and programs which cost $123.75 billion must be cut to $73.15 billion! Attached is a list of the necessary cuts in non-Defense programs.

NECESSARY CUTS—ASSUME CUT ALL NONDEFENSE PROGRAMS ON AN EQUAL PRO RATA BASIS

[In billions of dollars]

	Actual fiscal year 1977 level	Budget balance level	Amount of cut
International affairs (security assistance, economic assistance, Food-for-Peace, EXIM Bank)	6.9	4.1	2.8
General science and space	4.5	2.7	1.8
Natural resources, environment and energy	16.2	9.6	6.6
Agriculture research and services	1.4	.8	.6
Highways, air, rail and mass transit	12.8	7.6	5.2
Postal Service and other commerce/transportation	4.6	2.7	1.9
Community and regional development (urban renewal, public works/countercyclical assistance, community development bloc grants)	9.05	5.3	3.75
Education, CETA training and other employment	17.9	10.6	7.3
Social services (public assistance)	4.3	2.5	1.8
Health research and other services	7.0	4.1	2.9
Food stamps	5.5	3.2	2.3
AFDC	6.2	3.7	2.5
Child nutrition, other food programs	3.2	1.9	1.3
Supplemental security income (SSI)	5.7	3.4	2.3
Other income security programs	2.9	1.7	1.2
Law enforcement and justice	3.6	2.1	1.5
IRS, GSA, legislative and other general government	3.5	2.1	1.4
Revenue sharing and general fiscal assistance	7.7	4.55	3.15
Allowances, civilian agencies pay increases	.8	.5	.3
Total	123.75	73.15	50.6

TABLE III.—*Balancing the fiscal year 1977 budget by cutting all "non-entitlement" programs including national defense*

[Billions of dollars]

Revenues	$362.5
Less:	
"Entitlements" mandated by present law:	
Interest expense	$39.6
Social security	84.6
Railroad retirement	3.7
Federal employment and disability	9.9
Unemployment compensation	15.2
Medicare	21.8
Medicaid	10.1

Agriculture (price supports, farm income stabilization)	1.2
Veterans benefits and services (compensation, pensions, readjustment benefits, health care, etc.)	19.5
Total "entitlements"	−205.5
Add:	
Undistributed offsetting receipts	+16.8
Dollars available for all "nonentitlement" activities of the Federal Government	173.8

SUMMARY

To balance the FY 77 Budget without raising taxes and without cutting "Entitlement" programs, activities and programs which cost $224.4 billion must be cut to $173.8 billion. Attached is a list of the necessary cuts in these "non-Entitlement" programs.

NECESSARY CUTS—ASSUME CUT ALL NONENTITLEMENT PROGRAMS ON AN EQUAL PRO RATA BASIS

[In billions of dollars]

	Actual fiscal year 1977 level	Budget balance level	Amount of cut
National defense	100.65	77.95	22.7
International affairs (security assistance, economic assistance, food-for-peace, Eximbank)	6.9	5.3	1.6
General science and space	4.5	3.5	1.0
Natural resources, environment, and energy	16.2	12.5	3.7
Agriculture research and services	1.4	1.1	.3
Highways, air, rail, and mass transit	12.8	9.9	2.9
Postal Service and other commerce/transportation	4.6	3.5	1.1
Community and regional development (urban renewal, public works/countercyclical assistance, community development bloc grants)	9.05	7.0	2.05
Education, CETA training and other services	17.9	13.9	4.0
Social services (public assistance)	4.3	3.3	1.0
Health research and other services	7.0	5.4	1.6
Food stamps	5.5	4.3	1.2
AFDC	6.2	4.8	1.4
Child nutrition, other food programs	3.2	2.5	.7
Supplemental security income (SSI)	5.7	4.4	1.3
Other income security programs	2.9	2.25	.65
Law enforcement and justice	3.6	2.8	.8
IRS, GSA, legislative and other general government	3.5	2.7	.8
Revenue sharing and general fiscal assistance	7.7	6.0	1.7
Allowances, civilian agencies pay increases	.8	.7	.1
Total	224.4	173.8	50.6

Mr. BELLMON. Mr. President, table I shows how we might try to balance the budget by raising revenues to match the expected level of fiscal year 1977 spending. Assume for a moment that $50.6 billion is the needed additional revenue. Assuming that this additional revenue would be raised in the same proportion as existing revenue sources, individual income taxes would be increased by $33.7 billion, $10.5 billion would come from additional corporate tax collections, and $6.4 billion would be raised through other miscellaneous indirect business taxes. Note the impact on individual taxpayers. Using a broad assumption regarding pro rata burden on income categories, the average taxpayer in the $5,000 to $10,000 adjusted gross income category would see his taxes go up by $320. Similarly, a taxpayer in the $10,000 to $15,000 bracket would see his taxes go up $520 and those in the $15,000 to $20,000 adjusted gross income barcket would be hit by an additional $900 tax burden. Higher income taxpayers would be affected similarly.

All we are saying here is that, in order to balance the budget, we would need an additional $50.6 billion of revenue. In order to get that revenue, the lowest income taxpayers would see their taxes go up by $320 per year, and those in the $15,000 to $20,000 bracket, which includes a very large number of American taxpayers, would have to pay almost a thousand dollars more in taxes.

Finally, after adding the pain of this tax burden on all taxpayers, we find that we really have not balanced the budget after all.

This analysis severely understates the cost that attempting to achieve a balanced budget quickly through increased taxes would impose on our Nation's economy. We have not included in this analysis the increased product prices or reduced output from corporate or other business enterprise that the corporate and business taxes would cause.

In other words, as taxes go up and our citizens have less to buy with, our producers have less to produce with. Therefore, costs rise, there is less money to spend, and the total tax system produces less revenue. The direct tax cost and price impact would be a heavy burden for all consumers to bear. Further, increased taxes reduce the income available for consumers to spend or the corporations to invest. Thus, the policy would foster unemployment and lead to the increased expenditures and reduction of tax revenue which unemployment entails. President Hoover in 1931 thought the key to economic recovery was a balanced budget—Roosevelt initially promised the same. But history has demonstrated that the economy is too complex and interrelated to jump at such a simple solution. Let us take a look at what happens if we try to cut spending, since we are clearly in trouble by trying to balance the budget by raising taxes.

Table II shows how we might cut all the programs equally, except the entitlement programs, which are mandated by law.

The Budget Committee cannot cut the entitlement programs. This requires an actual direction by Congress. We simply have to provide the funds to pay the costs. These programs are mandated by law and the assumption I have made here assumes that they will be funded.

Table II also assumes that national defense programs are funded at congressionally approved levels.

Forty-one percent is the average amount that we would have to cut the nonmandated so-called entitlement programs. In other words, every program where cuts are possible would need to be cut by almost 50 percent.

I wonder where we should start. Shall we cut education 41 percent or health research 41 percent? Shall we cut transportation or highways 41 percent? I urge my colleagues to look over the list attached to table II.

Table III is the same as table II except national defense bears its pro rata share of the cut which amounts to a cut of $22.7 billion if we try to balance the budget in this way. Where would that money come from in defense? Military procurement? Operations and maintenance? Defense R. & D.? Certainly such a cut would be totally unacceptable to most Senators who voted against the second concurrent resolution.

Mr. President, last week when the Senate considered the second concurrent budget resolution, 23 Members of the Senate voted against that resolution. In conversation, I find that many of those votes were cast by Members who objected to the $50.6 billion deficit. While I realize they have not had the advantage of careful study of the budget process which Members of the Budget Committee are able to make, I believe the above information will be helpful to them as they decide how to vote on this conference committee report.

The plain implication is that unless Congress changes the laws so that spending reductions could be spread across the total spectrum of Government, cuts that would need to be made in order to balance the budget would be so precipitous as to work intolerable hardships upon millions of American citizens. If the cut in spending were spread across the defense function, this Nation's ability to provide for its security would be reduced below levels which reason dictates.

The desire for a balanced budget is an objective which Members of the Senate should strive to obtain. However, reaching this objective can come only after the economy is restored to a high level of health. The objective of the Budget Committee is to foster economic recovery so that the Treasury receipts will rise and so that outlays for recession related programs will diminish. Following this path should give the country a healthy and sustained economic recovery, making possible a balanced budget before the end of this decade or early in the 1980's.

To change Government policy abruptly in order to achieve a balanced budget in fiscal year 1977 would likely set back the economy's recovery so that the danger of a more prolonged deficit plus incalculable suffering would be the net result.

Mr. President, the desire for a balanced budget remains strong throughout the country. The resolution before us anticipates no new spending initiatives and if this policy is adhered to, we will have set a course which will bring expenditures and outlays into balance at an early time.

Mr. President, again, I express my support for the report of the conference committee which is before us. I feel this represents the very best conclusions they could have reached under the circumstances. I know that this result would not have been possible without the leadership both of Senator MUSKIE and of Chairman BROCK ADAMS on the House side. I feel that the entire Senate owes these chairmen, as well as the members of the committee, a debt of gratitude for the dedicated service they have rendered to the Senate by bringing us so close to the figures that we started out with when the budget process began, and the tremendous amount of work they have done to remind the Senate, from time to time, of the actions we need to take to stay within the spending ceilings that were established within our first concurrent resolution.

Mr. MUSKIE. Mr. President, I thank my good friend from Oklahoma. I particularly appreciate the tables and explanation that he has put into the Record. Although based on certain assumptions which others might seek to change, I think that they portray the difficulties involved in undertaking to bring the budget into balance.

I noted his emphasis on the point that even if revenues were to be raised by the amounts indicated or spending cut by the amounts indicated, the economic consequences might put us in almost as difficult a situation after we had raised the revenues or cut the spending as we would be before we started. I think the debates of the last 2 weeks demonstrate that point pretty well.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Utah (Mr. Moss.)

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Moss

I am pleased to support the Conference Report on the Second Concurrent Budget Resolution.

I want to pay tribute to our Chairman, the ranking Republican member and the other members of the Budget Committee who have worked so diligently to make the budget process function effectively. The leadership exhibited by our Chairman, Senator Muskie and Senator Bellmon, the ranking Republican member has been outstanding. And we have been supported by an excellent staff whose dedication and performance has been superb.

Adoption of this Resolution will mark another key step in affirming Congressional control over the Federal budget. As my colleagues know, the Resolution will establish binding ceilings on spending and a floor on revenues which become applicable to all subsequent legislation affecting the fiscal year. This year the process has been fully implemented for the first time. Thus, the resolution covers expenditures in total and by major budget function such as defense, agriculture, general government, etc. And the resolution includes a breakout of total expenditures—a crosswalk—among the Congressional Committees with jurisdiction over new budget authority. The net effect of the crosswalk is to provide Congress with a way of judging the consistency of the appropriations and other spending legislation.

My statement of September 8 discussed in detail the Second Resolution so I will not repeat it this time. Instead, I want to highlight some of the more important aspects of this resolution.

The primary goal of this budget is to maintain the economic recovery, at reduced rates of inflation, that began in the spring of 1975. To do this the resolution:

Provides a budget designed to bring unemployment down close to 6% by the end of 1977. Achievement of this objective will add 1.5 million jobs to the U.S. economy in fiscal 1977, 700,000 of which are expected to be in the private sector.

Rejects any increase in social security taxes not already mandated by existing law. Such a tax increase as proposed by the Administration would lead to an increase in prices and bring additional and unnecessary inflation in 1977 thus posing new problems to an economy which is not fully recovered.

Accords energy a high priority. The amounts included in the energy function include funds for major Congressional initiatives in solar energy research, fossil fuel development, synthetic fuels, energy conservation, and energy research related to automobiles.

Provides for extension of the 1975 tax reduction.

Provides for enactment of tax reform legislation which would result in a net increase of $1.6 billion fiscal year 1977 revenues.

Includes cost-of-living increases in veterans benefits and rejects the President's proposal for cut-backs in veterans programs.

Assumes budget economies—savings—in a number of functional areas. For example, savings of $200 million in the Medicaid program in fiscal 1977 are anticipated through initiatives to control fraud and abuse.

Provides increased support for State and local governments primarily through revenue sharing and grants. It also provides for increased payments to States and local governments derived from mineral and timbering receipts.

Avoids actions that would unnecessarily increase inflation. For example, it defers implementing any major new spending programs and as already mentioned it rejects the President's proposal for increasing social security taxes which would add to prices and to inflation.

Provides for a reduction of nearly one fourth of the deficit in fiscal 1977 compared to 1976. The deficit is the direct result of revenue losses and unemployment costs of an economy that is operating far below its potential. Afterall each 1% increase in the unemployment rate will cost the Federal treasury $19.5 billion in fiscal 1977. And if we had full employment—an average unemployment rate of 4% in 1977—we would have a budget surplus instead of a deficit.

This resolution builds on the success of the budget process which was implemented last year. That action, as my colleagues know, enabled the Congress to set a spending ceiling and to remain well within it. Moreover, through the process, Congress has been able to turn the economy around. While the economy has turned around as indicated by the fact that the nation's jobless rate has fallen from a high of 8.9 percent in May 1975 to 7.9 percent last month. There has been a big increase in employment in the same period. Nonetheless, there are still too many people out of work and unemployment remains a significant national problem. Unemployment not only entails great human costs for the jobless and their families but it also means major budget costs too.

I support the resolution not because it precisely squares with my own views in every detail. In fact I would have preferred a lower spending level and a smaller deficit but despite my personal preferences, I support this Conference Report as the best result attainable. I believe that it offers a means to meet the nation's current needs and to continue the economic recovery. These actions together with increasing fiscal responsibility will enable us to continue moving toward a balanced budget. As a member of the Committee on the Budget that is a personal goal of mine.

The economy stands at a critical juncture on the recovery path toward full employment and economic prosperity. Congress should continue to monitor the recovery with great care and stand ready to take additional actions if experience proves them necessary. For example, we must continue to be concerned about inflation. Inflation has improved, having dropped from an annual rate of over 12% at the end of 1974 to less than 5% in July of this year. But it continues to be a matter of concern so we must continue to focus our efforts toward achieving a full and complete economic recovery in a way which does not rekindle inflation.

The activities of the Congress this year show continued progress on many fronts and I think it important that we continue the spending discipline that the Congress has shown thus far under the new Congressional budget process. The success of the first full year of the process—fiscal 1976 where we set a spending ceiling and remained well below it—shows that at long last we have an effective system for controlling the nation's budget. Budget control is not automatic. No process will ever do for us what we are unwilling to do for ourselves. Success in the management of the nation's affairs will come only if we continue to exercise the same kind of restraint and discipline in the future. It will be difficult but it is necessary.

It is important to continue the emphasis on budget discipline. However, recent experience serves to remind us that economic conditions have at least as much influence on the deficit as decisions on spending or taxes. Both budget discipline and high employment are needed to balance the budget. The goal of this resolution "to maintain economic recovery" is consistent with both needs and I urge adoption of the Conference Report.

Mr. BELLMON. Mr. President, much has been said in recent weeks regarding the success of the new congressional budget process. While 2 years is probably not an adequate length of time for the process to fully prove itself or to become so firmly implanted in Senate procedures as to assure its survival, clearly Congress has come a long way in the right direction.

A major element in the success of the budget process thus far has been the effective work of the Senate Budget Committee staff. This staff, which even today has not reached its full complement, has proved to be one of the ablest and most dedicated on Capitol Hill. The minority and majority have worked together in close harmony to the mutual benefit of all concerned.

As the ranking minority member, I would particularly like to pay tribute to Mr. Robert S. Boyd, the minority staff director. Coming as he did from the private sector less than 2 years ago, Mr. Boyd has demonstrated an amazing ability to apply his considerable talents to governmental budget problems. He has quickly grasped the intricacies of the Federal budget. His counsel and guidance has proven invaluable to minority members of the committee. In addition, his ability to assemble a highly effective minority staff has made it possible for a broad range of facts to be considered as committee decisions are made.

Mr. President, it would be wrong for me to call attention to Mr. Boyd's contributions without giving full credit to the majority staff director, Mr. Doug Bennet. As a member of other Senate committees, I fully appreciate the equanimity with which Mr. Bennet has approached his great responsibilities and the fair treatment he has given the minority on all matters that have come before us. The services of both Mr. Bennet and Mr. Boyd and their associates have provided the invaluable support which Budget Committee members have needed to successfully meet the responsibilities which are placed upon this committee by the passage of the Budget Control Act.

Undoubtedly, many changes in the makeup of the Senate Budget Committee will occur between now and the beginning of the work on the first concurrent resolution for fiscal year 1978. The maintenance of the contributions from both the minority and the majority staff of the Budget Committee will be of immense importance in assuring the continued success of the new Senate budget process.

Mr. MUSKIE. Mr. President, in order to bring this matter to a head, I move that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MUSKIE. Mr. President, I shall put another motion, then I shall call for a quorum, in the hope that we can get sufficient attendance to get the yeas and nays.

Mr. President, I move that the Senate recede from its disagreement to the House amendment and concur therein, with an amendment which I send to the desk.

The amendment is as follows:

UP Amendment No. 460

In lieu of the language proposed to be inserted by the House, insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

The appropriate level of total new budget authority is $451,550,000,000;

(3) the appropriate level of total budget outlays is $413,100,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,600,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category is as follows:

(1) National Defense (050):

(A) New budget authority, $112,100,000,000.

(B) Outlays, $100,650,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,900,000,000.

(B) Outlays, $6,900,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,600,000,000.

(B) Outlays, $4,500,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $18,200,000,000.

(B) Outlays, $16,200,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,100,000,000.

(B) Outlays, $2,200,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,400,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,550,000 000.

(B) Outlays, $9,050,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $24,000,000,000.

(B) Outlays, $22,200,000,000.

(9) Health (550):

(A) New budget authority, $40,500,000,000.

(B) Outlays, $38,900,000,000.

(10) Income Security (600):

(A) New budget authority, $155,900,000,000.

(B) Outlays, $137,200,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,300,000,000.

(B) Outlays, $19,500,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,500,000,000.

(B) Outlays, $3,600,000,000.

(13) General Government (800):

(A) New budget authority, $3,600,000,000.

(B) Outlays, $3,500,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,600,000,000.

(B) Outlays, $7,700,000,000.

(15) Interest (900):

(A) New budget authority, $39,600,000,000.

(B) Outlays, $39,600,000,000.

(16) Allowances:

(A) New budget authority, $700,000,000.

(B) Outlays, $800,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$16,800,000,000.

(B) Outlays, —$16,800,000,000.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The result was announced—yeas 66, nays 20, as follows:

[Rollcall Vote No. 599 Leg.]

YEAS—66

Allen
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Weicker
Williams
Young

NAYS—20

Bartlett
Byrd, Harry F., Jr.
Curtis
Dole
Fannin
Garn
Hansen
Hatfield
Helms
Hruska
Laxalt
Leahy
McClure
Packwood
Proxmire
Roth
Scott, William L.
Taft
Thurmond
Tower

NOT VOTING—14

Abourezk
Baker
Beall
Buckley
Goldwater
Griffin
Hart, Philip A.
Hartke
Humphrey
Mathias
Mondale
Montoya
Moss
Tunney

So the motion was agreed to.

MILITARY CONSTRUCTION AUTHORIZATION, 1977

The PRESIDING OFFICER (Mr. Garn). Under the previous order, the Senate will proceed to the consideration of the military construction authorization bill, Calendar No. 1170, H.R. 14846, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14846) to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill (H.R. 14846) which had been reported from the Committee on Armed Services with amendments as follows:

On page 42, beginning with line 8, insert the following:

BASE REALIGNMENTS

Sec. 612. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated in this Act may be used to effect or implement—

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever occurs later; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a

military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies;

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) the Secretary of Defense or the Secretary of the military department concerned complies with all terms, conditions and requirements of the National Environmental Policy Act; and then

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military department concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section, the term "military installation means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(c) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(d) This section shall not apply to any closure or reduction if the President certifies to Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

On page 44, line 20, strike "Sec. 512." and insert "Sec. 613.";

On page 45, line 3, strike "Sec. 613." and insert "Sec. 614.";

On page 45, line 15, strike "Sec. 614." and insert "Sec. 615.";

Mr. STENNIS. Mr. President, let me state that I asked for the floor for the benefit of the Senator from Missouri, who is really handling this bill, and has an amendment the committee put in.

I wish the leadership would ask some of their men to notify the Senator from Missouri.

I yield now to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, that will be done, may I say to the distinguished chairman of the committee, and I thank the Senator for yielding.

EDUCATION AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2657.

The PRESIDING OFFICER (Mr. GARN) laid before the Senate a message from the House of Representatives insisting on its amendment to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate disagree to the amendment of the House; agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. PELL, RANDOLPH, WILLIAMS, KENNEDY, MONDALE, EAGLETON, CRANSTON, HATHAWAY, BEALL, JAVITS, SCHWEIKER, STAFFORD, and TAFT conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION AU-

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Messrs. HUMPHREY, KENNEDY, WILLIAMS, and CRANSTON be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION AUTHORIZATION, 1977

The Senate continued with the consideration of the bill (H.R. 14846) to authorize certain construction at military installations, and for other purposes.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that my staff assistant, Mr. Jim Smith, be given the privilege of the floor during the consideration of this measure, and also, in behalf of the Senator from Texas, Mr. Will Ball.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, the military construction authorization bill which is before the Senate is essentially the same bill vetoed by the President on July 2, 1976.

The only difference is a revision to the language of section 612 pertaining to base realinements.

The President vetoed the original military construction bill for one reason—he did not like section 612. The House overrode his veto, but by a vote of 51 to 42 the veto was sustained in the Senate.

Despite this setback, we remain convinced that legislation to formalize base realinement procedures is essential and will serve to improve the management by the Department of Defense in this important area that affects so many lives each year.

Concerning the difference between the base realinement provision before us and the on vetoed by the President, we have made this provision effective for 1 year rather than 5 years. We have removed the requirement for a minimum study period of 9 months and the version before us has no time constraint on the study period. This section 612 pertains to exactly the same bases that the previous section applied to. This section 612 prescribes the same sequence of events—first, a public notification of possible base realinements, then a study period, followed by a decision announcement and a waiting period. In this bill the waiting period is reduced from 90 to 60 days.

Mr. President, this is an extremely important bill. It represents $3.3 billion in construction authority for which funds have already been appropriated; $3.3 billion is 10 percent of the Federal construction effort, 3 percent of the national construction effort, and will mean jobs for 3 percent of the construction industry which is already struggling with unemployment in excess of 17 percent.

I do not know if the President will veto this bill again or not. We have accommodated his most serious objections with changes to section 612. We are not trying to usurp his prerogatives. We remain convinced that formalizing current base realinement procedures is necessary and proper.

Mr. McGOVERN. Mr. President, will the Senator yield to me?

Mr. SYMINGTON. I am glad to yield to the able senior Senator from South Dakota.

Mr. McGOVERN. Mr. President, on the point that the Senator just alluded to with regard to the economic realinements that are required when a base is closed, I would like the Senator to know that the reason why I voted last time to uphold the veto of the President was that it did not seem to me that the committee was really offering any other alternative except to keep these bases operating.

The argument was made, "If you keep them closed, people are going to be thrown out of work."

Now, it is no secret that all of us are under pressure around here to fight for the preservation of a base that is going to be closed in our State, even though it is clear that the base is not needed for defense reasons. So the reason why I voted to uphold the veto was not that what was needed was simply legislation denying the right to keep open a base, but legislation to work for a smooth transition in those communities where they are about to lose an installation.

For 13 years in the Senate I have been trying to raise that point. The first year I was here, I introduced a measure called the Economic Conversion Act, which was designed to provide precisely this kind of assistance to communities faced with the loss of a base.

Mr. President, as I say, this problem has concerned me for 13 years, and is one which I raised last July when the President's veto of this military construction bill was considered by the Senate:

How can we avoid or abate the sharp local economic hardships that are bound to accompany military base realinements?

First, let me say that I do not argue with the fact that there have been and still are military bases which are clearly excessive to the defense requirements of this country. Keeping them open past their military usefulness wastes millions of dollars which could instead be directed toward more urgent and necessary priorities, in and out of the military budget. But the serious economic impact that base closures and curtailments have on the local communities are not to be ignored. That is why I have been pressing the Congress for 13 years to adopt legislation which would help the communities absorb the shock of military installation reductions.

It seems to me that if we are to take such actions which would effect severe economic disruption and dislocation on a community then we should be prepared to offer some systematic, alternative planning to provide new employment opportunities to replace those lost and new productive uses for the facilities which have become surplus to the Pentagon's needs.

Further, such planning needs to begin at the earliest possible moment. Under current procedures, economic adjustment efforts seldom begin until a community is already suffering the consequences of the realinement. So what does take place is not planning in any sense; it is about as effective as delivering flowers to an invalid on his deathbed.

If economic adjustment planning is to work at all, it cannot be treated as an afterthought. It must be brought into the whole process at the outset, from the moment an installation is designated for possible closure. This would assure that whenever a final decision calling for realinement is made by the Pentagon, the adjustment programs and plans will be ready to go so that the transition can begin on a smooth and immediate course.

Conversion planners should be in on the project from its inception, preparing for the time when such operation will be terminated.

Since my first year in the Senate, I have been sponsoring legislation to provide the machinery under which we can begin to make commonsense moves to escape this kind of economic trouble. Currently pending before the Armed Services Committee is S. 1745, a bill I introduced with Senator MATHIAS in May 1975. This legislation would do just what I have been talking about—provide early planning assistance to communities adversely affected by base reductions. Yet, until now, S. 1745 seemed destined to the same fate as that of past conversion proposals which languished under the sort of logic that says there is no need to buy an umbrella when the sun is shining. When bases were not being closed or curtailed no one saw any need for conversion planning; when the cutbacks came, it was always too late.

On this point I have to say that the executive branch has been substantially more farsighted than the Congress. With few exceptions, nearly every provision of the first conversion legislation I introduced in 1963 has since been adopted by the executive branch. There is operating now a President's Economic Adjustment Committee representing 19 Federal departments and agencies. This committee can assure that whenever a realignment takes place, the most appropriate Federal programs will be available promptly, to help offset the local economic loss.

The principal operational and coordinating agency in these efforts is the Office of Economic Adjustment in the Department of Defense. That office is the contact point for congressional delegations and community leaders who want to develop new enterprise.

When that route is chosen, the results can be highly impressive. A report released by the Economic Adjustment Committee this January includes an analysis of 22 major defense cutbacks, in which facilities were converted to such enterprises as private industry, aviation, education, housing, and many others. Some 45,429 civilian jobs were lost as a result of those 22 base closures. But after the conversion, there were 46,667 people employed on the bases, and another 25,759 new offbase jobs related to the conversion activity. Those 22 communities achieved a net gain in employment when their bases were closed.

This experience represents only a small measure of what could be accomplished if some teeth were put into conversion planning. But the Department of Defense has been reluctant to give the Office of Economic Adjustment any clout. The Pentagon ties the hands of OEA by giving it very short notice of proposed realinements and further handicaps the office by making it wait for a request from an impacted community for help.

As I have already mentioned, plans for adjustment must be formulated at the earliest practical time, and in coordination with State and local officials. If such work is begun early, by the time a community is ready for help, the preliminary recommendations will be already in hand, assuring the speediest possible transition.

Pentagon officials stress that the Office of Economic Adjustment is only a temporary office. Although this temporary office has been functioning for well over 10 years now, DOD opposes any congressional moves to authorize the Office to carry out its business. They argue that a legislative mandate would prohibit the President or the Secretary of Defense from destroying this office if it was deemed unnecessary. That is what worries me.

I understand, of course, that economic adjustment planning is a big endeavor. It involves work well beyond what must be done by the Defense Department. So I am not wed to the idea that OEA be the source of the work that must go forward whenever a base is closed or curtailed. My main concern is that the work gets done, and done early, with the cooperation from and involvement by all agencies, departments, and officials down the line.

I am worried that the Pentagon's opposition to economic adjustment language in the military construction bill indicates that OEA's life is on the line. I hope that this so-called temporary office will not be viewed as unnecessary and be abolished before another permanent office can be set up, and I intend to write Secretary of Defense Rumsfeld expressing that concern.

I was pleased to see, in its report accompanying this bill, that the Armed Services Committee does recognize the existence of these problems and the need to take a serious look into the possibilities of legislation to implement economic adjustment planning. Through in-depth hearings we can explore this perplexing set of problems as well as the whole issue of community relations with military installations. I think we will find that there is no reason why the closure or reduction of a base must be seen as an economic blow, rather, that with sound planning and aggressive recovery efforts, it can become a solid opportunity for economic growth.

So I think it is very important to take note of the fact that the Senator and his colleagues on the Armed Services Committee, in their report, included this language, and I would like to ask the Senator to verify my understanding of the language that it is a commitment to support more investigation and hearings into the possibility of conversion actions. This is what the language says:

> The entire issue of economic adjustment planning requires in-depth study and hearings to develop legislation that properly sets out the Federal responsibility with regard to alternative uses of facilities and the retraining of the work force affected by major Department of Defense realignment action.

Without asking the Senator in any way to commit himself to my particular bill, I do want him to know that I have legislation pending, S. 1745, cosponsored by Senator MATHIAS, Senator KENNEDY, and other Senators, that calls for precisely that kind of economic conversion capability, and I would hope that what this report is saying to the Senate is that we need some hearings, we need some investigation into this whole question of what happens to a town or a community when we have one of these defense realinements.

Do I understand properly that the committee is putting itself on the record in favor of that kind of investigation and hearings?

Mr. SYMINGTON. Yes; I believe the Senator has correctly analyzed it.

My problem in recommending the part of the bill which the distinguished Senator from South Dakota objected to was that in a year when the chairman was ill and I was acting chairman, I thought that the Defense Department did some unfortunate things in at least two States which frankly had a political twist to them. In one case that situation was rectified later on by the Department of Defense, and in the other case it was not.

I have just completed a full day's hearing on the decision that planned to take a base out of my State. To me it is most unfortunate for the people, schoolchildren, wives, friends, and the economy of the situation. It does not appear justified from the standpoint of either national security or the taxpayer. I wish the RECORD to show, as I leave the Senate, that in the 24 years I have been in the Senate as a member of the Committee on Armed Services there has not been a single increase or addition of any base in my State. In fact, there have been several bases that have been taken out of my State. And up until this particular situation I never objected to taking out of a base because it was justified and, therefore, I thought it was in the interest of the country.

The able Senator and I had discussed this before he had objected to the previous amendment which resulted in a veto by the President. Where we differed was in the actual results of what has been going on which I thought we protected the people who were affected, the children, the wives, the small townspeople, and the people whose families were there for generations. We had one case where a father, grandfather, and so forth, had worked there and there never had been a strike in a particular situation, and that base was arbitrarily taken out. That should all be at least looked at before the decision is made.

Mr. McGOVERN. Yes.

Mr. SYMINGTON. However, I agree with the Senator in the position he takes with respect to this language.

Mr. McGOVERN. I am sure the Senator is doubtless right that there have been cases where defense installations or military contracts have been reduced or terminated for reasons that are not entirely objective. Doubtless there have been political factors in some cases. But I think the Senator would also agree that almost any Member of this Senate who learns that there is going to be a base closed in his State automatically is going to have to fight for it without regard to the defense merits. He is going to have to fight for it because there are jobs involved and the economic impact on his community is going to be severe in the loss of an installation unless we have some kind of alternative use in mind.

All I am pleading for here today is that the committee stick with the language in its report in which they go on record as saying that we need hearings and we need investigation into this whole matter of how we are going to ease the transition from surplus military installations to other needs of our society. That is the only assurance I am asking.

Mr. SYMINGTON. I thank the Senator.

Mr. McGOVERN. I thank the Senator for yielding.

Mr. TOWER addressed the Chair.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SYMINGTON. I will yield to the ranking Republican member of the Subcommittee on Military Construction.

At this time I express my appreciation for his invariably constructive assistance as we worked out this bill together.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. SYMINGTON. I am glad to yield to my able friend and distinguished Senator from South Carolina, the ranking member on the Committee on Armed Services.

Mr. THURMOND. Mr. President, I think we have a good bill here, and I hope the Senate will pass it promptly.

I take this opportunity to commend the able and distinguished Senator from Missouri for the great work he has done as chairman of the Military Construction Subcommittee of the Committee on Armed Services. For years and years he has served in this capacity and uniformly has done an outstanding job.

I also commend the able Senator from Texas, the minority ranking member on the subcommittee, for the outstanding work that he has done here.

I feel we have been very fortunate to have these two able Senators to handle this particular bill, and I feel that this bill is one of great importance to our Nation.

Mr. President, I also wish to commend our very able staff member who assisted with this bill, Mr. Jim Smith. He has rendered the Senators outstanding assistance as usual.

Mr. SYMINGTON. Mr. President, I thank the able Senator from South Carolina very much for his kind remarks, and I yield to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I am strongly in support of the bill as reported by the committee. I add my commendation to that of Senator THURMOND of the Senator from Missouri, who has done a good job on this measure.

I was one of those who voted to override the veto because I thought that our original language was right. I think under the circumstances this is the best compromise we can arrive at.

The construction funds authorized by this bill are needed by the Department of Defense for a great many necessary projects around the world.

The compromise base closure language worked out in the committee incorporates some modified provisions which will serve to give Congress improved and assured access to information from the executive branch regarding proposals to close or substantially reduce military installations. The Members of this body have a special obligation to provide information to constituents whose lives are affected by decisions made by the Federal Government in Washington. In my own State of Texas, there currently are proposals affecting two major military bases, Webb Air Force Base and the Naval Air Station at Corpus Christi, that are under study in the Department of Defense. I have a commitment to the citizens of Big Spring, Corpus Christi, and the surrounding areas, to assist them in obtaining full and timely information on all matters which will bear on the final decisions to be made in each of these cases.

Many information requirements are already being met by DOD concerning base change proposals, and I hope that the Department of Defense will recognize this fact and recommend that the President sign the bill.

I call particular attention to the economic planning language in the committee report calling for better coordination among all Federal agencies and departments in looking for alternative uses for defense installations which become excess to the needs of our Armed Forces. There is a recognized need for some major improvements in this area, and I join my colleagues on the committee in hoping that these words will be taken seriously throughout the executive branch.

I urge passage of this bill as reported by the Armed Services Committee.

Again I thank my colleague from Missouri.

Mr. SYMINGTON. Mr. President, I ask for the yeas and nays on this bill which is $3,300,000,000.

The PRESIDING OFFICER (Mr. GOLDWATER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SYMINGTON. Mr. President, I yield to the able Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join in expressing the appreciation of the people of my State to the Senator from Missouri, the Senator from Mississippi, the Senator from Washington, Senator JACKSON, and the other members of the Committee on Armed Services in fashioning this particular proposal which has been included in this legislation. I think the people who will be impacted or affected by any plan by the Defense Department to terminate any facility will benefit from this particular proposal. It is the right thing to do. It is sound from a cost-effectiveness point of view. It requires the detailed financial analysis which any sound business judgment would require. This proposal is especially important when you consider the magnitude of base closures, the types of facilities which have been included in the most recent announcement, and other announcements which would have an impact on thousands and thousands of individuals and cost tens or hundreds of millions of dollars.

It does seem to me that the argument which had been used in the past to the effect that the Defense Department was already following these procedures was an empty argument. I can state that quite clearly from my own visits and meetings with the rest of our congressional delegation, the Secretary of the Army, and Defense Department officials affecting a particular base in my own State.

The proposal also requires hard and disciplined thinking about the strategic and military impact of a base realinement. Again I think all of us would agree that such consideration should be included in any kind of decisionmaking by the Defense Department. Although they have stated that this is and has been their policy in the past, I must say from my own personal experience in meeting with a series of different defense officials, with some certain exceptions, I do not really think they have made that particular case—even on military grounds.

The people who have worked in many instances for years for the Defense Department are entitled to that kind of consideration. As one who has worked closely with the Committee on Armed Services I think we were not requesting something which is either unjust or unfair, but we are basically trying to serve the interests of the people who are going to be very dramatically impacted and affected.

I thank the members of the Armed Services Committee for the inclusion of this language. I think it strengthens the legislation. It gives assurances that many of us have been trying to seek.

The second point is that I commend again the chairman of the committee, the Senator from Missouri, and the Senator from South Dakota, the Senator from Iowa, and the other members of the committee in stressing the importance of economic conversion. I think both of these issues really go hand in glove.

We probably have seen a greater termination of defense facilities in my State over a period of years than in any other State in the country.

The Watertown Arsenal was closed about 11 years ago. If one travels into Watertown, Mass., he will still see those large brick buildings, with shattered windows, empty land, completely underutilized, in a community that sees a constantly receding tax base, as a result of very unimaginative, very unresponsive provisions by the Defense Department.

If one travels again to the Boston Navy Shipyard, which was closed more recently, he will see a similar situation. This is duplicated in instance after instance. To the credit of the Defense Department, some progress is being made in regard to Westover Air Force Base. At the old Springfield Armory there has been some tie-in with the university in that area, although it is still seriously underutilized. At least there have been some marginal efforts but not of the magnitude or of the importance that the members of the Armed Services Committee are attempting to consider.

I just want to be sure, as a responsible official, that when we get the information which is required under this provision, especially on economic impact of the termination of the facility, with all that implies, that we not only consider costs to one agency of Government, the Defense Department, but also consider costs to HEW in terms of medicaid and food stamps and welfare payments. We should be able to get the total economic impact, the total military impact, and the impact on the people in the local community.

We will not be able to develop important and difficult economic conversion proposals without the kinds of economic analysis and military analysis which are included in this statute.

This has been an extremely important inclusion in the legislation. Combined with what I understand will be the serious effort by the Armed Services Committee in reviewing the whole concept of economic conversion, and how that can be best effected in terms of local communities, I think we are really meeting our responsibilities to human beings as well as to the defense posture of the United States. These kinds of assurances are very heartening to the people of my State.

I again thank the chairman of the committee, the Senator from Missouri, and the other members of the committee for the efforts they have made. A significant amount of time and patience have been devoted by those members to trying to fashion this proposal. It is one that I support wholeheartedly, and I commend those who were so hopeful in achieving its purpose.

Mr. SYMINGTON. I thank the able senior Senator from Massachusetts. I say to him that his efforts have been of great aid to his State.

I will never forget the testimony of some of the people who were thrown out of work as a result of the decisions that were made as to some of those military installations, particularly the naval yard. It is a lasting memory with me that I shall not forget.

I hope that the people of this country and the Members of the Senate next year—I will not be a Member then—will realize that the only source of taxation in our system is income, including profits. As I watch the steady progress of unemployment and watch the billions upon billions upon billions of dollars being expended around the world under the guise, in my opinion, in many cases, of national security, I wonder whether we are following the unfortunate example of the British in the 1930's, when they decided to try to buy peace. In my opinion, you cannot buy peace.

Also, in order to arm properly, unless you destroy your economy, you have to do your best to maintain employment in your own country.

I thank the Senator for what he has said. Although he and the Senator from South Dakota and the Senator from Iowa and I did not agree on this bill, I think it is a better bill now as a result of the way it has been reworded after the President's veto, and I hope that this time he signs it.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield to the distinguished Senator from New Hampshire.

Mr. McINTYRE. Mr. President, before proceeding to call up an amendment that Senator Durkin and I have planned to offer, I associate myself with the remarks of the senior Senator from Massachusetts in which he commended the chairman of this committee and the members of the Military Construction Subcommittee.

I believe the Record will show that I am a cosponsor of what was originally the amendment offered by the distinguished Senator from Maine (Mr. Muskie). I recall when the order came down to close the very yard that I shall discuss in my amendment. I believe it was in 1964. The economic adjustment that a town or a community or a whole area goes through is beyond belief.

So I am happy to praise the distinguished chairman of this subcommittee.

Mr. SYMINGTON. I thank the Senator.

Mr. McINTYRE. Mr. President, I have an amendment at the desk in which the junior Senator from New Hampshire joins me.

The PRESIDING OFFICER. The amendment will not be in order until the committee amendments are disposed of.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The Senator may offer his amendment.

UP AMENDMENT NO. 461

Mr. McINTYRE. Mr. President, on behalf of my junior colleague, Senator Durkin, I call up an amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. McIntyre), for himself and Mr. Durkin, proposes an unprinted amendment numbered 461.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

Sec. . (a) Section 106(b) of title 4 of the United States Code is amended to read as follows:

"(b) Subsection (a) shall not apply with respect to income received during any period by any individual from transactions occurring, or services performed, in a Federal area located within any State if during such period such individual is not a resident or domiciliary of such State or of any other State which imposes a tax on the income of individuals."

(b) The amendment made by subsection (a) shall apply with respect to income received from transactions occurring or services performed after December 31, 1975.

Mr. McINTYRE. Mr. President, this is a simple amendment designed to rectify an unjust situation that has existed in my State since 1969.

The Portsmouth Naval Shipyard is located on two islands that were once under the jurisdiction of the State of Maine. However, over 100 years ago, Maine ceded these lands to the Federal Government. Prior to 1940, a State which ceded lands to the Federal Government could tax income derived from these lands only if the jurisdiction to tax was specifically reserved. Maine did not specifically reserve this power of taxation.

In 1940, the Congress passed the Buck Act. In effect, this statute grants back to the States that power to tax income derived from the lands they ceded to the Federal Government. Our problem arises because the Buck Act has been used to justify a tax which it was not intended to cover. That is the taxation of income of nonresident workers at the Portsmouth Naval Shipyard by the State of Maine.

Neither the House nor the Senate Committee report on the Buck Act refers specifically to the income tax. All of the discussion contained in these reports centers on the sections dealing with sales and use taxes. The narrow problem which the law sought to correct is made clear. The report of the House Ways and

Means Committee states that the passage of the bill "would merely remove any doubt which now exists concerning the authority of the State to require retailers located within the State and off the Federal area to report and pay the tax on the gross receipts from their sales in which delivery is made to a Federal area."

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the following background material on this problem: The House Ways and Means and Senate Finance Committee reports on the Buck Act; Morse against Johnson, the case decided by the Supreme Court of Maine; and a memorandum prepared by my legislative staff on the legality of the Maine tax.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE REPORT

GENERAL STATEMENT

The purpose of H.R. 6687 is to provide for uniformity in the administration of State sales and use taxes within as well as without Federal areas. It proposes to authorize the levy of State taxes with respect to or measured by sales or purchases of tangible personal property on Federal areas. The taxes would in the vast majority of cases be paid to the State by sellers whose places of business are located off the Federal areas and who make sales of property to be delivered in such areas.

The application of such taxes to the gross receipts of a retailer from sales in which delivery is made to an area over which it is asserted the United States possesses exclusive jurisdiction is being vigorously contested even though the retailer's place of business is located off the Federal area and the negotiations leading to the sale are conducted and the contract of sale is executed at the retailer's place of business. Despite the existence of these facts, which are generally sufficient to give rise to liability for the tax, and which, insofar as the theory of the tax is concerned, should, in the opinion of your committee, be sufficient to impose tax liability, exemption from the tax is asserted upon the ground that title to the property sold passes on the Federal area and, accordingly, the sale occurs on land over which the State lacks authority.

Passage of this bill will clearly establish the authority of the State to impose its sales tax with respect to sales completed by delivery on Federal areas, and except insofar as the State tax might be a prohibited burden upon the United States would not, with the exception hereinafter noted, impose any duty upon any person residing or located upon the Federal area. Such action would merely remove any doubt which now exists concerning the authority of the State to require retailers located within the State and off the Federal areas to report and pay the tax on the gross receipts from their sales in which delivery is made to a Federal area. A minor problem presented with respect to the application of State sales taxes on Federal areas involves the responsibility for such taxes of post exchanges, ship-service stores, commissaries, licensed traders, and others similar agencies operating on Federal areas.

Congress, in the amendment of section 10 of the Hayden-Cartwright Act, provided for the application of motor-vehicle fuel taxes with respect to the sales or distributions of such agencies. It would appear therefore to be entirely proper to provide for the application of sales taxes with respect to the retail sales of tangible personal property of such agencies.

The States have been extremely generous in granting to the United States exclusive jurisdiction over Federal areas in order that any conflicts between the authority of the United States and a State might be avoided. It would appear to be an equally sound policy for the United States to prevent the avoidance of State sales taxes with respect to sales on Federal areas by specifically authorizing except insofar as the taxes may constitute a burden upon the United States, the application of such taxes on those areas.

The Treasury Department has no objection to the enactment of this bill, as indicated by the following letter from that Department:

TREASURY DEPARTMENT,
Washington, July 12, 1939.

Hon. R. L. DOUGHTON,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Further reference is made to your request of June 20, 1939, for a report on H.R. 6687 (76th Cong., 1st sess.), a bill to authorize the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measured by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchasers, or use thereof occurring in United States national parks, military and other reservations or sites over which the United States Government may have jurisdiction.

The bill provides that all taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by sales, purchases, or use of tangible personal property, or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof may be levied and collected in the same manner and to the same extent with respect to transactions occurring in whole or in part within United States national parks, military and other reservations or other sites located within the external boundaries of such State, Territory, or the District of Columbia as with respect to transactions occurring elsewhere within the territorial boundaries of said State, Territory, or the District of Columbia.

It appears that the bill merely attempts and purports to provide for uniformity in the administration of State sales and use taxes within as well as without the Federal areas above described. There is no design to permit taxation within such Federal areas as would be constitutionally denied the States as applied to transactions outside such areas. The justification for the proposed bill lies in the uncertainty and confusion existing in the matter of the extent of retained control and jurisdiction by the several States in areas at one time or another ceded to the United States.

Enactment of the proposed bill would not affect the activities of this Department. The Treasury Department has no objection to the passage of H.R. 6687.

In the event that further correspondence relative to this matter is necessary, please refer to IR: GC: A-331519.

Very truly yours,

HERBERT E. GASTON,
Acting Secretary of the Treasury.

SENATE REPORT

The purpose of the bill is to provide that State sales and use taxes shall apply with respect to transactions in Federal areas in the same manner and to the same extent as with respect to transactions outside such areas. At the present time exemption from such taxes is claimed on the ground that the Federal Government has exclusive jurisdiction over such areas. Such an exemption may be claimed in the following types of cases: First, where the seller's place of business is within the Federal area and a transaction occurs there, and, second, where the seller's place of business is outside the Federal area but delivery is made in Federal area and payment received there. This bill will remove the right to claim an exemption because of the exclusive Federal jurisdiction over the area in both of these situations. The bill will not affect any right to claim an exemption from such taxes on any ground other than that the Federal Government has exclusive jurisdiction over the area where the transaction occurred. This bill will not permit the collection of a State sales tax with respect to purchases made by the Federal Government in the exercise of an essential governmental function, such as, for example, purchases of supplies for the exclusive use of a department of the Federal Government.

Additional information with respect to the bill is contained in the report of the Ways and Means Committee which accompanied it in the House of Representatives, which is as follows:

[H. Rept. No. 1267, 76th Cong., 1st Sess.]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6687) authorizing the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measure by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof occurring in United States national parks, military and other reservations, or sites over which the United States Government may have jurisdiction, having considered the same, report it back to the House without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of H.R. 6687 is to provide for uniformity in the administration of State sales and use taxes within as well as without Federal areas. It proposes to authorize the levy of State taxes with respect to or measured by sales or purchases of tangible personal property on Federal areas. The taxes would in the vast majority of cases be paid to the State by sellers whose places of business are located off the Federal areas and who make sales of property to be delivered in such areas.

The application of such taxes to the gross receipts of a retailer from sales in which delivery is made to an area over which it is asserted the United States possesses exclusive jurisdiction is being vigorously contested even though the retailer's place of business is located off the Federal area and the negotiations leading to the sale are conducted and the contract of sale is executed at the retailer's place of business. Despite the existence of these facts, which are generally sufficient to give rise to liability for the tax, and which, insofar as the theory of the tax is concerned, should, in the opinion of your committee, be sufficient to inmpose tax liability, exemption from the tax is asserted upon the ground that title to the property sold passes on the Federal area and, accordingly, the sale occurs on land over which the State lacks authority.

Passage of this bill will clearly establish the authority of the State to impose its sales tax with respect to sales completed by delivery on Federal areas, and except insofar as the State tax might be a prohibited burden upon the United States would not, with the exception hereinafter noted, impose any duty upon any person residing or located upon the Federal area. Such action would merely remove any doubt which now exists concerning the authority of the State to require retailers located within the State and off the Federal areas to report and pay the tax on the gross receipts from their sales in which delivery is made to a Federal area. A minor problem presented with respect to the application of State sales taxes on Federal areas involves the responsibility for such taxes of post exchanges, ship-service stores, commissaries, licensed traders, and other similar agencies operating on Federal areas.

Congress, in the amendment of section 10 of the Hayden-Cartwright Act, provided for the application of motor-vehicle fuel taxes with respect to the sales or distributions of such agencies. It would appear, therefore, to be entirely proper to provide for the application of sales taxes with respect to the retail sales of tangible personal property of such agencies.

The States have been extremely generous in granting to the United States exclusive jurisdiction over Federal areas in order that any conflicts between the authority of the United States and a State might be avoided. It would appear to be an equally sound policy for the United States to prevent the avoidance of State sales tax with respect to sales on Federal areas by specifically authorizing, except insofar as the taxes may constitute a burden upon the United States, the application of such taxes on those areas.

The Treasury Department has no objection to the enactment of this bill, as indicated by the following letter from that Department:

TREASURY DEPARTMENT,
Washington, July 12, 1939.

Hon. R. L. DOUGHTON,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Further reference is made to your request of June 20, 1939, for a report on H.R. 6687 (76th Cong., 1st sess.), a bill to authorize the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measured by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof occurring in United States national parks, military and other reservations or sites over which the United States Government may have jurisdiction.

The bill provides that all taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by sales, purchases, or use of tangible personal property, or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof may be levied and collected in the same manner and to the same extent with respect to transactions occurring in whole or in part within United States national parks, military and other reservations or other sites located within the external boundaries of such State, Territory, or the District of Columbia as with respect to transactions occurring elsewhere within the territorial boundaries of said State, Territory, or the District of Columbia.

It appears that the bill merely attempts and purports to provide for uniformity in the administration of State sales and use taxes within as well as without the Federal areas above described. There is no design to permit taxation within such Federal areas as would be constitutionally denied the States as applied to transactions outside such areas. The justification for the proposed bill lies in the uncertainty and confusion existing in the matter of the extent of retained control and jurisdiction by the several States in areas at one time or another ceded to the United States.

Enactment of the proposed bill would not affect the activities of this Department. The Treasury Department has no objection to the passage of H.R. 6687.

In the event that further correspondence relative to this matter is necessary, please refer to IR : GC : A-331519.

Very truly yours,
HERBERT E. GASTON,
Acting Secretary of the Treasury.

[Supreme Judicial Court of Maine,
Oct. 18, 1971]

JESSE S. AND MARGARET R. MORSE AGAINST ERNEST H. JOHNSON, TAX ASSESSOR, STATE OF MAINE

Nonresident employee of naval shipyard located on area ceded by state to federal government and his wife filed petition for refund of state income tax. The State Tax Assessor denied the petition and the petitioners perfected an appeal to the Supreme Court, Kennebec County, which reported the issues. The Supreme Judicial Court, Archibald, J., held that federal statute granting state right to levy and collect a tax measured by income or earnings of any party receiving income from any transactions occurring or service performed in area ceded by state to federal government was an effective recession to state of right to levy and collect income taxes from nonresidents at naval shipyard and state had authority to assess such taxes even though state had not retained right to tax income from such area when it ceded land to federal government.

Remanded.

1. Taxation.

Federal statute granting states right to levy and collect a tax measured by income or earnings of any party receiving income from transactions occurring or services performed in area ceded by state to federal government was an effective recession to state of the right to levy and collect income taxes from nonresidents employed at naval shipyard located on area ceded by state to federal government and state could levy such tax even though it had not retained right to tax when it ceded area to federal government. 36 M.R.S.A. § 5101 et seq.; 4 U.S.C.A. §§ 105–110, 106.

2. Constitutional Law—Taxation

Nonresident employee of naval shipyard located on area ceded by state to federal government received sufficient benefit from state to justify imposition of income tax and imposition of such tax, therefore, did not deny due process or equal protection. 36 M.R.S.A. § 5101 et seq.; U.S.C.A. Const. Amend 14, § 1.

3. Commerce

Imposition of state income tax on nonresident employee of naval shipyard located on area which had been ceded to federal government by state did not constitute an unconstitutional burden on interstate commerce. 36 M.R.S.A. §§ 5101 et seq., 5128, 5140.

Patrick L. J. Veilleux, Kittery, Clyde Coolidge, Somersworth, N. H., Douglas R. Gray, Portsmouth, N. H., for plaintiffs.

Jerome S. Matus, Craig R. Nelson, Asst. Attys. Gen., Augusta, for defendant.

Before Dufresne, C. J., and Webber, Weatherbee, Pomeroy, Wernick and Archibald, JJ.

Archibald, Justice.

This case arose as an appeal to the Superior Court under M.R.C.P., Rule 80B from a decision of the State Tax Assessor denying the Plaintiffs' petition for a tax refund, and was reported to this Court on an agreed statement of facts. There are three issues:

(1) May the State of Maine levy and collect an income tax from nonresident employees of the Portsmouth Naval Shipyard, an area ceded by Maine to the federal government?

(2) Does the Maine Income Tax Law violate Plaintiffs' constitutional rights under the Fourteenth Amendment by taking property without returning benefits?

(3) Does the Maine Income Tax Law constitute an undue burden on interstate commerce?

The Plaintiffs, husband and wife, are residents of New Hampshire, the husband being employed at the Portsmouth Naval Shipyard, located in Kittery, Maine. They filed a joint Maine income tax return for 1969,[1] paid the assessed tax, and seasonably filed a claim for a refund, which was denied. They subsequently perfected an appeal to the Superior Court and the issues were reported to this Court. M.R.C.P., Rule 72.

The Portsmouth Naval Shipyard (Seavey Island) was ceded to the federal government by act of the Maine legislature on January 10, 1863 (P.L. 1863, ch. 205), reserving only the right to serve civil and criminal process within the ceded territory.

On July 30, 1947, the Congress enacted what is commonly known as the Buck Act (4 U.S.C.A. §§ 105–110), § 106 of which purported to grant jurisdiction to the states to levy and collect income taxes from persons receiving income on federal reservations within the geographic boundaries of the taxing state.

On Jauary 1, 1969, 36 M.R.S.A. § 5101 et seq. (Maine Income Tax Law) became effective and is the authority under which the tax assessor levied and collected the tax here in dispute. (See note 1, supra.)

When Maine ceded Seavey Island to the federal government, it reserved no authority to tax incomes earned thereon. The question to be decided is whether the Buck Act is a recession of that authority.

The Buck Act (4 U.S.C.A. § 106) provides:

"(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area."

I

[1] Plaintiffs urge that the Buck Act should be construed to mean that it is an effective authority to tax income only if the State had retained such right when it ceded the land to the federal government; and since such right was not retained, Maine has no right to collect an income tax from the Plaintiffs. We do not agree. If the Court accepted Plaintiffs' argument, it would, in effect, be saying that the Buck Act is only effective to grant a right already possessed by the States which had reserved the power to tax when ceding Seavey Island. In such case, the Act would be redundant. The provisions of the Buck Act give to the States a means whereby they may enact comprehensive income tax laws without being thwarted in that effort by past state cession acts, which in most cases did not contain any reservation of the right to tax incomes.

The Plaintiffs' argument leads to the illogical situation which could result from a ceding of an area within Maine in 1971, for example, with a reservation of the right to levy an income tax on nonresident employees thereon while the State would not have the right to so levy on nonresidents similarly employed in an area ceded prior to 1969, because the right to tax income had not been reserved.

The precise issue was presented to and answered by the Supreme Court of Pennsylvania in Kiker v. City of Philadelphia (1943), 346 Pa. 624, 31 A.2d 289, a case where the facts are parallel to the instant case. There, a Philadelphia ordinance imposed an income tax upon nonresident employees of the Philadelphia Naval Yard, an area ceded by Pennsylvania to the federal government, without reserving the right to tax incomes. However, the Court held the Buck Act to be an effective grant, or recession of that right. The Court stated, and we adopt its language, that:

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[1] 36 M.R.S.A. § 5111 imposes an income tax "on the taxable income of every nonresident individual which is derived from sources within this State." This is known as the Maine Income Tax Law. 36 M.R.S.A. § 5101 et seq., effective January 1, 1969, as to corporations, and July 1, 1969, as to all other taxpayers.

> "It follows, therefore, that the Commonwealth of Pennsylvania, when it consented to the purchase of League Island by the national government and ceded jurisdiction over it, could have reserved to itself the right to tax in such area, even though the territory was acquired for use as a dockyard * * *. There can be no logical objection on constitutional grounds if the same result is accomplished by a *recession* to the State of the right to tax * * *." Id. at 293–294 (emphasis added).

The congressional intent to recede to the States a right not previously reserved seems clear and unequivocal. See also Howard v. Commissioners of Sinking Fund (Ky 1953), 344 U.S. 624, 73 S.Ct. 465, 97 L.Ed. 617 (dissent based on grounds not material to the issue at hand) where Mr. Justice Minton, speaking for the Court, stated:

> "Even though the Ordnance Plant is within the boundaries of the City of Louisville pursuant to the annexation, exclusive jurisdiction over the area still remains with the United States, except as modified by statute. * * * Within this jurisdiction, the right to tax income paid to employees of the Government who worked at the Ordnance Plant was granted by 4 U.S.C. §§ 105–110 * * * known as the Buck Act.

* * * * *

> "Thus the right is specifically granted * * * to levy and collect a tax measured by the income or earnings of any party 'receiving income from transactions occurring or services performed in such area * * * to the same extent and with the same effect as though such area was not a Federal area.' In other words, Kentucky was free to tax earnings just as if the Federal Government were not there."

The Buck Act, supra, is an effective recession to Maine of the right to levy and collect income taxes from nonresidents at the Portsmouth Naval Shipyard.

II

[2] The Plaintiffs argue that 36 M.R.S.A. § 5101 et seq., is unconstitutional as applied to them in that it violates § 1 of the Fourteenth Amendment of the United States Constitution. In essence, they are urging that the State of Maine has no constitutional right to tax their income without conferring benefits upon them, which is tantamount to saying that no nonresident who earns income within the State is liable to taxation under the provisions of the Maine Income Tax Law. We do not give this Act such a limited construction.

Maine is bordered by the Canadian Provinces of New Brunswick and Quebec and by the State of New Hampshire. Under the Plaintiffs' reasoning, it would be possible for countless numbers of persons to enjoy the right to work in Maine without incurring any liability for sharing the cost of government. We would, in effect, be allowing such persons free use of our court systems, highways, police and fire protection, not to mention many other costly state sponsored pubic services.[2] Government cannot properly fucntion without the support of those who derive benefits from it.

Plaintiffs base their argument upon the contention that they derive *no benefit* from the State sufficient to warrant their contribution to its operation. This problem was answered in *Kiker*, supra. The Court stated at 294–295 of 31 A.2d:

> "It is clear that in classifying persons for taxation an obligation on the part of the taxing power to make available some benefit to them must exist. We are satisfied * * * that such obligation does exist * * *. Plaintiff may at all times use the streets, bridges and other facilities * * * and also has the benefit of protection of its police and fire departments when engaging in business or pleasure * * * as well as many other advantages. * * *"

The Plaintiffs' constitutional rights are not infringed. They receive a sufficient benefit from the State to justify the imposition of this tax.

III

[3] In advancing their final argument the Plaintiffs seek to draw an analogy from those cases involving a tax on interstate carriage of persons and those dealing with a tax on the profits of foreign corporations doing business within a given state, which have been held to be an unconstitutional burden on interstate commerce. These cases are not analogous to the facts before us since the Maine Income Tax Law seeks to tax only that portion of income "derived from sources within this State * * *." 36 M.R.S.A. § 5140. Furthermore, § 5128 provides for a tax reduction when a taxpayer is subject to an income tax in another state, "on that portion of the taxpayer's income which is subjected to tax in both jurisdictions * * *." The Plaintiffs' taxable income was produced solely from an area within the taxing jurisdiction of Maine and cannot be considered as any burden, directly or indirectly, on interstate commerce. Arnold v. Berra (Mo. 1963), 366 S.W.2d 321. See also *Kiker*, supra, and Shaffer v. Carter (1920), 252 U.S. 37, 40 S.Ct. 221, 64 L. Ed. 445.

The order which, by agreement, brought the case before us stipulated that this Court should "render such decision as the rights of the parties require." Accordingly, the entry is

Remanded to the Superior Court for entry of an order denying the appeal.

All Justices concurring.

THE LEGALITY OF THE MAINE TAX

THE POWER TO TAX

The principle that a State must have jurisdiction to tax before it may constitutionally do so was established in *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819), where the Supreme Court explained that the right to tax is: "an incident of sovereignty, and is coextensive with that to which it is an incident. All subjects over which the sovereign power of a state extends, are objects of taxation; but those over which it does not extend, are, upon the soundest principles, exempt from taxation. This proposition may almost be pronounced self-evident." (at 429)

Maine does not have jurisdiction to tax on the two islands which comprise the Portsmouth Naval Shipyard because jurisdiction over them was ceded by the State to the federal government over 100 years ago. On February 2, 1822 the State legislature ceded jurisdiction over Dennet's Island as follows: (1822 Maine Laws 146)

> "That there be and hereby is ceded to the United States the jurisdiction over Dennet's Island, (so called) on the East side of Piscataqua River, within the State of Maine, now belonging to the United States, and occupied as a Navy Yard: Provided, however, that this State shall have concurrent Jurisdiction with the United States, over said Island, so far as that all civil and criminal processes, issued under the authority of this State, may be executed on any part of said Island, or in any building erected on the same. * * *"

On January 10, 1863 the State legislature ceded jurisdiction over Seavey Island as follows: (1863 Maine Laws 205)

> "Jurisdiction is hereby granted and ceded to the United States of America over such portion of Seavey Island in the town of Kittery, as may be purchased for the purpose of using the same as a part of the navy yard located in that town, and consent is hereby given to the purchase of the same by the United States; provided always that this State shall retain and does retain concurrent jurisdiction with the United States in and over all lands hereby ceded so far as that all Civil and all criminal processes issuing under the authority of this state may be executed on said lands and in any buildings thereon, or to be erected thereon in the same way and manner as if jurisdiction had not been granted as aforesaid. * * *"

The effect of such a cession of jurisdiction on the State's taxing power is clear:

> "Except when, and then only to the extent that, the taxing power reserved to the State, territory ceded to the United States by a State . . . is removed from the jurisdiction of the States for taxing purposes. . . ." (84 Corpus Juris Secundum, Taxation Section 12)

Except to the extent that it is specifically reserved, the State gives up the power to tax.

The Supreme Court has specifically interpreted an act of cession in three different cases. In *Standard Oil Co.* v. *California*, 291 U.S. 242 (1934), the act was substantially identical with the Maine Acts—the State had retained concurrent jurisdiction to serve civil and criminal processes of the state on the land which had been ceded to the United States. The Supreme Court held that the State could not tax transactions which took place on this land, because the power to tax had not been specifically reserved.

In *Collins* v. *Yosemite Park Co.*, 304 U.S. 518 (1938), the State reserved the right to tax in the act of cession to the United States for use of the land as a national park. Subsequently, the State sought to levy an excise tax and a licensing fee. The Supreme Court upheld the tax, because the power to tax had been specifically reserved in the act of cession. But the Court held that the State could not charge a licensing fee because the power to do so had not been reserved.

The Supreme Court has also held that the power to tax is not reserved by implication. In *Surplus Trading Co.* v. *Cook*, 281 U.S. 647 (1930), the Court held that land ceded by a State to the United States for use as an Army station comes within the exclusive jurisdiction of the federal government, according to Article 1, section 8, clause 17 of the Constitution. In that case, the State claimed that the act of cession contained an implied reservation of the taxing power, but the Court specifically rejected that contention.

THE BUCK ACT

The Constitutional provision referred to in the Surplus Trading Co., case reads as follows:

> "The Congress shall have power * * * To exercise exclusive legislation in all cases whatsoever, over such district as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

Congress in 1940 enacted the Buck Act (4 U.S.C. 105–110) which watered down the exclusive effect of that provision. This statute allows for taxation by States within Federal areas in the following way:

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[2] We are mindful of the large numbers of nonresidents who find lucrative employment in various Maine enterprises devoted to recreation, lumbering and agriculture, all of which benefit directly from the efforts of the Inland Fish and Game, Sea and Shore Fisheries, Forestry and Agricultural Departments.

"No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area." (4 U.S.C. 106)

It is clear from the legislative history of the Buck Act that it was never intended to permit one state to tax the income of nonresidents who work in a federal area, jurisdiction over which has been ceded to the federal government.

Neither the House or Senate Committee Report on the bill refers specifically to the income tax provision. All of the discussion contained in these reports is centered on the sections concerning sale and use taxes. And the narrow problem which the law sought to correct is made clear. The Report of the House Ways and Means Committee states that passage of the bill "would merely remove any doubt which now exists concerning the authority of the State to require retailers located *within* the State and *off* the Federal areas to report and pay the tax on the gross receipts from their sales in which delivery is made to a Federal area." (76th Congress, 1st Session, 1939, House Reports, Vol. 6, No. 1267, p. 2) (emphasis added).

Further, the Report states that it would appear to be a "sound policy for the United States to prevent the avoidance of State sales taxes with respect to sales on Federal areas by specifically authorizing . . . the application of such taxes on those areas." (Id.)

The situation which the Buck Act was intended to correct—as is evident from the Committee Reports and the Senate hearings—was this: attempts by persons who resided or did business in a particular State to escape liability for that State's use, sales, or income tax by claiming that their business was transacted or their income earned in the federal area, which was under the exclusive jurisdiction of the United States.

That situation is very different from the one at the Portsmouth Naval Shipyard. The only basis upon which Maine might be able to tax these New Hampshire residents is if Maine has jurisdiction over the two islands. We do not have a situation where the New Hampshire residents are seeking to deny an obligation which is otherwise rightfully placed upon them.

The Report on the Buck Act of the Senate Committee on Finance states that:

"This bill will remove the right to claim an exemption because of the exclusive Federal jurisdiction over the area . . ." (76th Congress, 1st Session, 1939, Senate Reports, Vol. 8, no. 1028, p. 1).

That is not the claim in this case. These New Hampshire residents would not deny the validity of a New Hampshire State income tax levied upon their earnings at the Shipyard. That would be the situation covered by the Buck Act. That argument might be applied to Maine residents who claimed exemption from the tax by working in the federal area. That is the situation covered by the Buck Act.

The distinction is crucial. It is reflected in the qualifying phrase in the statute, "having jurisdiction to levy such a tax." Maine has jurisdiction to levy such a tax on the income of Maine residents, by virtue of their residence in the State. The Buck Act is intended to prevent these persons from claiming the protection of exclusive federal jurisdiction over the Shipyard. But the State of Maine has no jurisdiction to levy such a tax on New Hampshire residents.

Two cases in which the Buck Act was relied on to sustain state taxation within Federal areas are clearly distinguishable. In *Howard v. Commissioners,* 344 U.S. 624 (1953), the United States acquired land in Kentucky for a Naval ordnance plant by condemnation. Although the state consented to the condemnation, there never was a cession of jurisdiction. Subsequently, the city of Louisville Kentucky, sought to annex the plant to the city, and to tax the income of all employees. The court sustained both actions, on the authority of the Buck Act.

In 1956, in *Offutt Housing Co. v. Sarpy County,* 351 U.S. 253, the Air Force leased land on one of its bases in Nebraska to a private person, who constructed housing for military and civilian personnel. The state sought to tax his interest in the land. Although the court said that the situation fell within the purview of Article 1, section 8, clause 17 of the Constitution, there is no evidence that jurisdiction over the base had ever been ceded to the Federal Government. Moreover, the statute which gave the Secretary of War authority to lease the land specifically provided that the lessee's interest was subject to State or local taxation.

RATIONALE OF TAXATION OF NONRESIDENTS

In addition to a purely technical analysis of the legal effect of the Acts of Cession, in order to determine whether Maine may constitutionally tax the income of New Hampshire residents in this situation, it is vital to understand the constitutional basis for taxation of non-residents by a state. The Supreme Court, in a long line of cases, has made it clear that a non-resident becomes subject to the taxing power of the state because he enjoys the opportunities, benefits, and protections which the state provides.

In *Shaffer v. Carter,* 252 U.S. 37 (1920), the Supreme Court held that a state may constitutionally tax the income of a non-resident, to the extent that it is earned within the State. The reasoning of the court in that case is crucial:

"In our system of government the States have general dominion, and saving as restricted by particular provisions of the Federal Constitution, complete dominion over all persons, property, and business transactions within their borders; they assume and perform the duty of preserving and protecting all such persons, property, and business, and, in consequence, have the power normally pertaining to governments to resort to all reasonable forms of taxation in order to defray the governmental expenses. . . .

"That the State, from whose laws property and business and industry derive the protection and security without which production and gainful occupation would be impossible, is debarred from exacting a share of those gains in the form of income taxes for the support of the government, is a proposition so wholly inconsistent with fundamental principles as to be refuted by its mere statement." (at 50)

This thought has been developed in a series of cases which deal with the taxation of our of state corporations which do business in the state. In *Wisconsin v. J. C. Penney Co.,* 311 U.S. 435 (1940), the Court summarized its reasoning in this area:

"A state is free to pursue its own fiscal policies, unembarrassed by the Constitution, if by the practical operation of a tax the state has exerted its power in relation to opportunities which it has given, to protection which it has afforded, to benefits which it has conferred by the fact of being an orderly, civilized society." (at 444)

The court upheld the tax in that case because: "the incidence of the tax as well as its measure is tied to the earnings which the State of Wisconsin has made possible, insofar as government is the prerequisite for the fruits of civilization for which, as Mr. Justice Holmes was fond of saying, we pay taxes." (at 446)

Mr. Justice Frankfurter laid down the test in the *Penney* case, which has been repeated in several more recent decisions.

"The simple but controlling question is whether the state has given anything for which it can ask return." (at 444)

What, then, has Maine given to the New Hampshire residents who work at the Portsmouth Naval Shipyard, for which the State is asking return? The answer is clear: Nothing. The federal government provides police and fire protection, sanitation services, snow removal, and all other like services. The Navy also maintains a hospital and a prison on the islands. Postal service does not even come through Maine, but rather from Portsmouth, New Hampshire.

The fact that the State of Maine exists does not enhance the quality of working at the Shipyard one bit.

It is apparent that the attempt by the State of Maine to tax the income of New Hampshire residents who work at the Shipyard is entirely incompatible with this long established principle.

Mr. McINTYRE. The situation which the Buck Act was intended to correct was this: Attempts by persons who resided or did business in a particular State to escape liability for the State's use, sales or income tax by claiming that their business was transacted or their income earned in the Federal area, which was under the exclusive jurisdiction of the United States.

That situation is very different from the one at Portsmouth Naval Shipyard. The only basis on which Maine might be able to tax these nonresidents—and I might say there are something like 3,744 New Hampshire citizens that are being subjected to this—as if Maine had jurisdiction over these two islands. We do not deny the validity of taxation by a State of nonresidents who earn their income in the taxing State. This situation is well settled through appropriate legislation and litigation. What we address ourselves to is the use of the Buck Act to cover a situation it was not intended to reach: the taxation of nonresidents from a State that has no income tax who earn their income in the Federal enclave.

The use of the Buck Act is particularly unjust in the case of New Hampshire residents working at the shipyard. These workers receive absolutely nothing from the State of Maine. The Federal Government provides police and fire protection, sanitation and snow removal, and all other types of services at the shipyard. The Navy also maintains a medical clinic on the island.

Therefore, what our amendment seeks to do is to confine the Buck Act to Congress' original intention. The act would still authorize taxation of the State's residents who work in a Federal enclave which was once part of the State. This amendment would clarify the Buck Act by prohibiting a State's taxation of residents from another State which has no income tax and who work in the Federal enclave. This is what the Buck Act intended to do, and is the only fair, just, and logical resolution. Our purpose is to cure an obvious injustice not intended by the law.

Mr. SYMINGTON. Mr. President, I

have listened intently to the statement of the distinguished senior Senator from New Hampshire. As he knows, we have had a considerable problem with this bill and have reached an agreement with the House.

Mr. DURKIN. Will the Senator yield?

Mr. SYMINGTON. I shall yield in just a moment.

We believe that the President will sign this bill. I hope that the able Senator and his distinguished junior colleague will be willing to wait until next year, when he, as a member of the Committee on Armed Services, can bring it up and we can get into it thoroughly and then discuss it in conference with the House and decide whether or not it can be passed, instead of bringing it up at this late hour.

Mr. McINTYRE. Mr. President, of course, I have every consideration for my distinguished colleague from Missouri, but I do not think this is going to help us up there in New Hampshire with these 3,744 people, who are very upset at this very unfair taxation.

At this time, I ask the distinguished Senator from Missouri to yield to the distinguished junior Senator from New Hampshire.

Mr. SYMINGTON. I am glad to yield to the able junior Senator from New Hampshire.

Mr. DURKIN. I thank the Senators.

Mr. President, the problem I see with waiting is that almost 3,800 people, residents of the State of New Hampshire, feel that they are being imposed upon and that the Buck Act is costing them "bucks"—at least, the current interpretation of the Buck Act is. It is a rather serious injustice to a substantial number of people in the State of New Hampshire.

The amendment that Senator McIntyre and I are talking about does not have wide application. It has been drafted so that it takes into consideration the problems of the Portsmouth Naval Shipyard, but it exempts nonresident workers from a State income tax when—and there have to be two considerations which greatly narrow the effect. One is that they work in a Federal enclave, such as the Portsmouth Naval Shipyard. I think we have to remember that these workers in Portsmouth, N.H., or what we call the Portsmouth, N.H., shipyard, are involved in a very, very serious part of our defense effort, the building of submarines. These people are a very important part of our national defense effort. They are hard-working citizens and they feel they are being put upon by the Maine tax .

The second exception is that they reside in a State which does not have a State income tax. The people of New Hampshire are quite proud of the fact that the State of New Hampshire does not have a State income tax and we anticipate that the State of New Hampshire will not need a State income tax. For that reason, it really only applies there. I cannot think of another State where it applies. As the Senator knows, the State of New Hampshire does not have a State income tax; Maine does. There is some dispute on the whole boundary question as between Maine and the State of New Hampshire. It has recently been to the Supreme Court.

These workers have to pay the Maine State income tax. The Maine State income tax was just increased and the Maine tax averages from 0 to 12 percent on earned income. The GS-13, for example, would pay $46.80 every 2 weeks to the State of Maine. It is withheld and goes directly to the Maine State treasury.

We do not argue that the State of Maine is a beautiful State, but these people receive no benefits from the State of Maine, notwithstanding the fact that they contribute substantially to the tax revenues of Maine. It is really taxation without representation. It is a very inequitable tax.

To see where the double standard applies, if one of those workers wanted to go hunting or go fishing in Maine, even though they are taxed in Maine, they would get no benefits if they were to apply for a Maine hunting license. They would have to pay the Maine out-of-State license fee, which is approximately $85. So there is a dual standard here and it is penalizing the people of New Hampshire. The Maine resident pays a nominal fee of $10 for the same hunting license.

They are not entitled to any social benefits, any welfare benefits from the State of Maine. They all must come from the government of the State of New Hampshire.

These people have made many sacrifices. They have operated under a closure order. They have done an excellent job. The shipyard is much more efficient. As I say, these are, really, the unsung heroes of our defense effort, especially our naval capability. I do not think that this body or the House really intended to penalize these 3,745 people, who are residents of the State of New Hampshire.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. DURKIN. Yes.

Mr. SYMINGTON. May I say that I am impressed by the position taken by the distinguished Senator. But it is a tax matter. It has not been discussed before either in the committee here or in the House. We are anxious to get this bill through, and I hope he would agree that we take it up in committee, especially as the Senator's senior colleague is on the committee, and study it thoroughly next year.

Mr. DURKIN. Well, I do not think that would solve the problem. That might solve someone's problem, but I do not think it would solve the problem of 3,800 people, you know, residents of the State of New Hampshire who have been in contact with Senator McIntyre and myself on this very important issue.

Mr. STENNIS. Mr. President, will the Senator yield to me for a very brief statement? I am totally in sympathy with the problem so forcibly presented here by the two Senators from New Hampshire.

Senator McIntyre is a very active and a very valuable member of our committee, and we certainly will go a long ways in trying to meet this situation.

I do think though, Mr. President, this being a tax matter with which none of us is familiar that we need some counsel and advice from the so-called tax experts on it.

No. 2, this bill in the dying days of our session has been through both Houses and to the President; it was vetoed, and then it is back here now just on that single point. We are going to strongly urge the President to sign this bill now with the amendment worked out by the committee, by the Senator from Missouri and others, if adopted, and which I believe it will be by an overwhelming vote, so it would be of concern to us and, perhaps, we can do something about it or the Finance Committee, either one, next year.

I hope that under those circumstances—the Senators have made a start here on their case which is all in the Record—they will accede to the request of the Senator from Missouri. I favor the position he has taken as the manager of the bill. I thank the Chair.

Mr. MUSKIE. Mr. President, will the Senator yield just briefly?

Mr. SYMINGTON. I would be glad to yield to the able senior Senator from Maine.

Mr. MUSKIE. Mr. President, I am not going to belabor this issue. The proposal takes me by surprise. I have not had an opportunity to brief myself on the legal background or the questions that are associated with this proposal.

I know that as a member of the Government Operations Committee years ago I was involved in a subcommittee dealing with all of the rights of citizenship and the burdens of citizenship on government bases, not only services but taxes. It is a mixed picture on every base I learned at that time. In Maine we have military bases in the northern part, we have military bases in the central part, and all of the personnel on those bases pay the Maine State tax, so far as I know. This issue has gone to the Maine supreme court, and the court has upheld the application of the tax. That is not to say that the final and ultimate word has been spoken on this issue.

As long as there are citizens moving across State borders to work in States other than their own, whether on Government installations or otherwise, these kinds of questions are going to be raised. I am sure there may be Maine citizens from time to time, whose cause I would be espousing, who may be in a reverse situation somewhere at some time. But this is not the place to try to resolve that complex of questions. I would not undertake to try to offer the wisdom of Solomon in solving such questions at this point. So I would support the Senator from Mississippi in his observation that this is not the vehicle for trying to deal with the problem.

Mr. HATHAWAY. Mr. President, will the Senator from Missouri yield to me for just a minute or two?

Mr. SYMINGTON. I am glad to yield.

Mr. HATHAWAY. I certainly would be remiss as a Senator from Maine if I did not say I am interested in this matter, and I concur with my senior colleague that the matter is complicated. I could involve other States. Other States do not have a State income tax for their employees working in similar situations as the ones from New Hampshire working in Kittery, and certainly the matter is complicated enough so that we should have the opportunity of hearings so that we can see what the State of Maine taxing authorities have to say, what the State of New Hampshire has to say, what others who are interested and knowledgeable about this matter would have to say, before we vote on a matter as complicated and with so many interests as this particular one. I thank the Senator from Missouri.

Mr. TOWER. Mr. President, will the Senator from Missouri yield for a question?

Mr. SYMINGTON. I am glad to yield.

Mr. TOWER. I do not believe any hearings have been held on this measure; is that correct?

Mr. SYMINGTON. That is correct, to the best of my knowledge.

Mr. TOWER. I must say I am completely at a loss to see what the thrust of the amendment is because I have not had an opportunity to study it. It appears to me on the face of it that it is not germane to the bill we are acting on now, and I hope the distinguished Senators from New Hampshire would reconsider offering the amendment at this time and let us have a further look at it.

Mr. McINTYRE. Mr. President, I can understand my colleagues saying they are taken by surprise. But back in Maine and in New Hampshire this issue has been heard at various and sundry times. I think I would like to get a resolution of it. I think the Junior Senator would, too. We hear about it as we visit our State. So I would be prepared to ask for the yeas and nays on this amendment up or down. Does the Senator plan any particular motion?

Mr. SYMINGTON. Mr. President, I move to table the amendment.

Mr. McINTYRE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri to lay on the table the amendment of the Senator from New Hampshire. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney), are necessarily absent.

I also announce that the Senator from Idaho (Mr. Church), is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Maryland (Mr. Mathias), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Hruska), would vote "yea."

The result was announced—yeas 65, nays 19, as follows:

[Rollcall Vote No. 600 Leg.]

YEAS—65

Allen
Bartlett
Bellmon
Bentsen
Brock
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Clark
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
McClellan
McClure
McGee
McGovern
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—19

Bayh
Biden
Brooke
Byrd, Robert C.
Case
Cranston
Durkin
Gravel
Laxalt
Mansfield
McIntyre
Metcalf
Morgan
Pastore
Pell
Proxmire
Ribicoff
Scott,
  William L.
Williams

NOT VOTING—16

Abourezk
Baker
Beall
Buckley
Church
Griffin
Hart, Philip A.
Hartke
Hruska
Humphrey
Mathias
Mondale
Montoya
Moss
Tunney
Weicker

So the motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, the Senate bill before us is not a new piece of legislation. It is exactly the same bill that was agreed to by both Houses of Congress earlier this year which the President vetoed, with the exception of some minor revisions to the section on base realinements.

Mr. President, this is an important bill, and it must be acted on by the Senate at the earliest possible time. It contains authority for $3.3 billion in military construction projects for nearly every State and many countries, including over $1 billion to operate and maintain military family housing. Unless we get this legislation, military installations around the world will suffer.

Regarding the base realinement provision, I think the committee amendment is the best possible amendment that can be offered without more detailed hearings and investigation. This provision, which generally formalizes current Defense Department procedures, will, I feel, improve the current base realinement practices of the Defense Department.

I would urge my colleagues to support the committee position on this bill.

Mr. MUSKIE. Mr. President, I support the military construction authorization bill, H.R. 14846, as reported from the Armed Services Committee and congratulate Chairman Stennis and his committee for their patience and diligence in successfully reporting this bill and the attached base realinement provision. I appreciate particularly the efforts of Senator Symington, the distinguished chairman of the Military Construction Subcommittee.

The construction projects in the bill which the committee reported represent a continued commitment to priority defense needs throughout the country including projects at Brunswick and Kittery, Maine, and it is crucial that we move forward with these projects. As importantly, however, for many people in Maine and ultimately for the integrity of our defense operation, Senator Symington has sought in this bill to lend some order and structure to the process through which base realinement decisions are reached. It has been a privilege to work with him toward that goal and I congratulate him on the provision in this bill as reported. It represents a major step toward protecting local communities from the dramatic impact of sudden base realinement actions.

As the committee report indicates the provision which the committee accepted is similar to an amendment which I had introduced with Senators McGovern, Kennedy, Hathaway, Case, Durkin, Sparkman, McIntyre, Allen, Eagleton, Williams, Bayh, Stevenson, Humphrey, Mathias, Mondale, and Philip A. Hart, and I recommend its adoption to my colleagues. I will work with the committee for more through treatment of this issue in the next Congress.

The need to structure and reorganize the process through which the Department of Defense reaches and implements base closure announcements is clear to everyone who has been associated with a major action. Clearer and more regular communication is necessary for Congress to appropriately fulfill its oversight responsibilities and insure that these major decisions reflect our real strategic needs in the most cost effective manner. And clearer and broader communication and cooperation is clearly necessary to assure local government officials and local businessmen the opportunity to fully review the proposed action and its potential impact and potential judgment alternatives.

The situation confronting the people of Aroostook County, Maine, following the Air Force announcement of a proposed 85-percent reduction of Loring Air Force Base is an example of the need for a more open and ordered process. The people of Aroostook learned of the Air Force proposal on March 10 of this year, but still do not have a clear explanation of the rationale for this approach and have received mixed, but generally counterproductive advice regarding potential adjustment activity.

When the Air Force announced the proposal in March they recognized the potential adverse impact on Aroostook County, but pointed with pride to the successful conversion efforts at Presque Isle Air Force Base and Dow Field in Bangor. When the draft EIS became available early this month the Air Force confessed explicitly that:

> Since the base will continue in operation as a military installation development projects cannot be designed around the use of land and facilities currently at the base.

No suggestions have been made by the Air Force for other specific adjustment actions despite the further admission that:

> Local government units in the town of Limestone will be thrown into disorder and future activities severely constrained due to losses in local population and losses in manpower and financial resources for governmental functions.

The base closure provision in this bill is a modest attempt to improve the uncertainties and hardships imposed on local communities in the process. It will not and does not purport to halt base closures, but it does shift some of the burden for dealing with the process from local officials to Federal agencies and helps assure that information for effective oversight and appropriate action will be available to the public and Congress.

I am disappointed that administration officials have as yet been unwilling to support this proposal. It is clear that the President's prerogatives are preserved. The provision applies only to major actions and even then provides a structure for decisonmaking and review which is similar to that already required under existing administrative and legal requirements and imposes little in the way of new requirements on military departments. I hope that the President will override the minor administrative concerns of Pentagon bureaucrats and recognize the opportunity to remove tremendous burdens of suspicion and uncertainty from individuals in affected communities and demonstrate the willingness of the Federal Government to accommodate its administrative procedures, when appropriate to local community problems.

I urge my colleagues to support this provision and look forward to support on the House side and reconsideration by President Ford. This legislation and the attached base closure provision is too important to sacrifice to the wishes of Pentagon planners for unfettered discretion in these matters which affect our national security and the lives of so many people.

Mr. President, I had the opportunity this afternoon to examine Secretary of the Air Force Thomas Reed regarding a proposed major reduction at Loring Air Force Base in Maine. I ask unanimous consent that the text of my comments and questions to Secretary Reed be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDMUND S. MUSKIE AT HEARING OF THE MILITARY CONSTRUCTION SUBCOMMITTEE OF THE SENATE ARMED SERVICES COMMITTEE

I want to thank you, Mr. Chairman, for the opportunity to participate in today's hearing. I am well aware of your deep concerns over the way the military is approaching its base closure and cutback decisions. I know you are particularly concerned about the Air Force's most recent announcements of base closure and reduction candidates. Your support in bringing these concerns to the Armed Services Committee and to the full Senate was crucial in the successful adoption of the base closure amendments to the Military Construction bill. I want to thank you again for your leadership in that effort. I look forward to enactment of that legislation.

Mr. Secretary, the people of Maine and the Maine Congressional delegation share many of the same concerns regarding the proposed reduction at Loring Air Force Base that Senator Symington expressed to me and I am sure to you regarding the closure of Richards-Gebaur Air Force Base in Missouri.

Loring Air Force Base was constructed at about the time I first became involved in public life in Maine. Since that time I have always understood and have been reassured by Air Force officials that the facility is crucial to our strategic bomber mission and will remain vital to our national defense as long as strategic bombers are an element in our nuclear triad. Personal reassurances in this regard were given me by the Base Commander just before the surprising announcement in March that Loring was a candidate for reduction: I have yet to hear the strategic importance of Loring challenged. In fact, during hearings on the matter in Limestone this May, the Base Commander, Colonel Morton, again confirmed the strategic importance of Loring. The very proposel to reduce Loring recognizes, and I quote, that "The strategic bomber and tanker forces located at Loring are in a geographic region which provides operational flexibility for employment in an Emergency Warfare Operations and conventional role." And further in a statement of operational utility, again I quote, "Loring Air Force Base provides major advantages to the employment of Single Integrated Option Plans committed forces and is strategically located for tanker operations." Colonel Reed, Director of Aerospace Programs, testified before the House Appropriations Subcommittee in 1975 that "One of the most valuable bases from the deployment standpoint against Russia is Loring, Maine." In February of this year, one month before the announced reduction, Air Force officials testifying before a House Appropriations Subcommittee listed Loring as a projected base for B-52's and KC-135's through at least 1981.

The Air Force proposel to reduce Loring purports to accomodate the recognized strategic value of Loring by retaining the facility at 15% of current levels as a Forward Operating Base. But the logic of this approach from the standpoint of either cost-savings or strategic planning escapes me completely. And I am even more baffled after having reviewed the document presented to us as a "Draft Environmental Impact Statement."

I know that you were new on the scene as Secretary of the Air Force at the time this proposal was initiated and I do not know your involvement in this decision. But I must tell you quite frankly, Mr. Secretary, that I am embarassed to tell the people of Maine that this is the way the Air Force makes vital decisions regarding the management of our strategic forces.

Allow me to quickly outline the substance of the Air Force rationale as it is presented in this document.

The stated goal of the Air Force is to achieve cost-savings, particularly in support and headquarters manpower, without diminishing strategic capabilities. That is an admirable goal. But the approach bears little apparent relationship to the stated goal. The approach reflects a preference for support considerations over strategic capabilities with less cost savings than might otherwise have been achieved, and the conversion of one of the most strategic bases in the country into a cost-ineffective forward operating base.

The Air Force begins by asserting that Loring is a prime candidate for realignment because it is a "single mission" SAC base. I would challenge this starting point on several grounds. My own understanding is that in the final analysis our entire defense establishment has a single mission—the defense of the vital interests of the United States. Loring is ideally suited for this ultimate mission. I would point out that the criterion is Air Force defined and self-serving. The only logical starting point for base realignment decisions is from the definition of our defense goals and the strategic requirements for meeting those goals. From that perspective Loring Air Force Base would be one of the last bases considered for reduction.

Even accepting the single mission criterion as a starting point, it should be clear that Loring is not a single mission SAC base. And if there was any question about that before the realignment proposal was announced there should be none now. Actions already taken or proposed would expand the variety of missions performed from Loring. A Fighter Interceptor Squadron was assigned to Loring in April of this year—one month after the proposed action was announced. And the very realignment proposal relies on the future use of Loring by reserve forces manning C-135 tankers.

Loring is, in fact, now a triple mission base with a strategic nuclear attack force, air defense fighter interceptors and aerial refueling, not only for bombers of the SIOP (Strategic) mission, but also for combat and transport aircraft performing other missions such as long range logistics support.

Proceeding from that erroneous beginning the Air Force first concedes that among single mission SAC bases Loring is strategically the most important and not the best candidate for cost-savings since greater savings could be achieved elsewhere. But, and here the process turns 180 degrees from the stated goal, other bases provide important support services, and still others support the support bases. The apparent conclusion is, "Why not reduce Loring to mothballs in case the Air Force ever has to perform its strategic mission and thereby preserve our support bases."

It is particularly ironic that the Air Force argues that snow and other cold weather conditions make Loring flight line operations unduly expensive when in fact the Air Force proposal relies on maintaining the flight line operations at Loring as a Forward Operating Base.

I might point out as well that your own draft EIS recognizes, Mr. Secretary, that this proposal not only throws the local community into disorder, but also holds no hope of mitigation through use of land and facilities since the base will continue in operation at a reduced level.

I could challenge the approach and the content of the "Draft Environmental Statement" further, Mr. Secretary, by pointing out factual errors and internal inconsistencies. But that is not my purpose here today. My purpose is much more basic and goes more to the heart of this matter.

On September 3, the Air Force presented these documents to the Maine delegation in Congress and to the Maine people. The documents purport to represent the decision-making process of the Air Force. This so-called process leads to the suggestion that Loring be reduced by 85%. Maine people have been asked to frame their comments to the proposed action in response to these documents.

I find this situation unacceptable. These assembled papers are not worthy of the people affected. The presentation is inadequate as even a draft EIS. It does not, I suspect reflect the actual decision-making process in the Air Force and it would be a misservice to the people of Maine to ask that they respond to it.

If this shabby analysis does, in fact, reflect the Air Force approach to this issue then it reflects a disservice not only to Maine, but to the country.

Our strategic interests deserve more careful analysis and our taxpayers deserve more careful planning.

The most appropriate course for the Air Force would be to start the entire process over and reconsider cost-saving alternatives based on our actual defense priorities. The minimum acceptable course, I believe, is to rewrite the draft EIS and present the people of Maine with a legitimate document to which they can meaningfully respond.

I urge you, Mr. Secretary, to personally review the EIS. Reconsider the approach and content of this document, and if you remain convinced that Loring is the most appropriate candidate for this type of action then present the people of Maine with a document which at least reflects your decision-making process and which gives a fair and complete analysis of the alternatives.

Specific questions to which I would draw your attention are:

1. Why were reductions at other Air Force installations not considered as alternatives to Loring. Several bases less strategic than Loring have been preserved as multi-mission bases. Why were reductions at those bases not considered as alternatives to Loring? It appears from the draft EIS that only full closures were considered as alternatives.

2. The Draft EIS cites Loring as an expensive flight line operation, but it is the flight line operation at Loring which is being preserved. Is such an approach a legitimate cost-saving analysis?

3. It is clear that the Air Force recognizes Loring as a strategically valuable base. But this reduction will surely make Loring one of the most cost-ineffective operations in the U.S. by reducing the total function, but retaining the most expensive flight line operation. Are you not concerned that under these circumstances this vital facility will be extremely vulnerable to future cost-cutting efforts? Would it not be more appropriate to reduce less strategic facilities and strengthen Loring?

4. The capital investment at Loring Air Force Base is far larger than at alternative candidates. Would it not be most cost-effective to utilize existing investments to capacity and avoid unnecessary expenditures elsewhere? Military planning must be a flexible process and to increase capital investment in a strategic facility would limit funding available elsewhere.

Mr. KENNEDY. Mr. President, I strongly support the base realinement provisions of the military construction authorization bill. These provisions are necessary to bring some order to the decisionmaking process used by the Department of Defense in implementing base realinements.

These provisions do two things. First, they mandate a complete study of all factors involved in base realinements and detailed justification for any Department of Defense decision on base closures or major reductions. This detailed justification has to include cost-saving, local economic impact data, and the military rationale for the decision.

Second, these provisions insure that Congress has access to that information and can exercise appropriate review of base realinement decisions.

The Congress and the American people have the right to get a justification for an executive decision which affects the lives of hundreds of individuals and the well-being of entire communities. People have a right to know that these bureaucratic decisions are not being made arbitrarily or for political reasons.

Too often in the past, base closures have simply happened and have never been explained. In view of our efforts to provide more responsible government that procedure is unconscionable and unacceptable. The narrow viewpoint of the past which took into account a small saving to the Defense Department and ignored the larger social and economic costs is inadequate for the present.

In the past, base closings and reductions have been made without a sufficient study of social or economic impact. Little effort was made to explain these decisions on military grounds.

Saving money has turned out to be a very costly experience if these decisions are to be justified as cost saving measures, it seems reasonable to assume that we should know what we are saving and what we are spending. The very least we can offer the people whom we represent is a realistic and honest statement of the fact.

If these decisions are justifiable on military and strategic grounds, and made in the national interest on the basis of sound Government policy, we have to prepare local communities for the impact of these decisions. And the best way to begin any honest dialog is with the facts.

In my own State of Massachusetts, for example, base closings have produced major dislocations in which over 15,000 persons were left unemployed; yet I have never been able to ascertain the exact military or economic justifications for these closures. Studies have shown that any savings realized by the realinements in Massachusetts have merely been passed along to the Departments of Labor, and Health, Education, and Welfare agencies in the form of increased costs, not to mention the costs in terms of human suffering. The people of Massachusetts still want to know why. And I feel these questions should be answered. The least the people of Massachusetts deserve is some explanation, some justification for these closings. This amendment insures that these will be forthcoming in the future.

These provisions provide a 60-day waiting period so that Congress will have an opportunity to review major base realinement decisions. The Secretary of Defense claims that this amendment thus attempts "to limit the powers of the President regarding the management of military bases." To say that this section limits the prerogative of the President in this area is to deny the prerogatives of Congress in reviewing decisions of departments in the executive branch, rather than limiting the President's power, this amendment merely asserts a constitutional obligation of Congress. A congressional review of base closings takes no more power away from the President than a congressional review of any executive branch program. And, a congressional review of base realinements is essential to insure that the decision is justified on the basis of fact.

The 60-day delay to allow for congressional review was also objectionable to the administration, because it would supposedly cause a budgetary drain on the defense dollar. On the one hand we are told that we should be confident that the procedures outlined in the base realinement provisions are already being followed by the Department of Defense. In his veto message to Congress, President Ford said that—

> The current procedures whereby base closures and reductions are effected, . . . include compliance with NEPA and adequately take into account all other relevant considerations, and afford extensive opportunity for public and congressional involvement . . .

On the other hand the administration seems to be arguing that following these procedures would be too costly—that the procedures are too arbitrary. If there is logic in this argument, it escapes me. What is arbitrary about justifying Department of Defense decisions on the basis of facts and allowing for congressional reviews? We are not talking about keeping bases open unnecessarily. We are talking about good management principles whereby decisions are implemented on the basis of fact and study. It seems to me that we should not be deciding what we have done after the fact, we ought to consider what we are doing before the decision is made. To allow 60 days for congressional review of facts which justify Department of Defense decisions can hardly be called unreasonable or unnecessary. This is especially true when one considers the impact in human terms of these decisions. To provide a period of 60 days to prepare a local community to prepare for economic adjustment seems to be a minimum requirement of good government and hardly arbitrary.

There have been too many cases in which poor planning and hasty decisions by the military have produced severe consequences. This amendment attempts to deal with that reality. The process of study provided for in the amendment insures that there will be community input into whatever decision is made; that money saved by the Department of Defense in closing bases will not just be taken out of the pockets of other State and Federal agencies; the decision will be based on military necessity. And that Congress will be able to review any realinement decisions and protect the public from ones which seem to be arbitrary and political as have so many in the past.

I appreciate the efforts of the Armed Services Committee, particularly the distinguished leadership of Senator STENNIS, in the attempt to draft these base realinement provisions.

My distinguished colleague from Missouri, Senator SYMINGTON, has provided invaluable assistance in working out the details of the provision. Senator SYMINGTON's capable and effective leadership was responsible for the committee's action—action which included revised base realinement provisions in the bill, and which reemphasized our conviction that this codification of base realinement procedures is necessary to improve the management of the Defense Department. Those persons who will be affected by these decisions are fortunate to have Senator SYMINGTON representing them.

Senator JACKSON has offered the consistent and strong support that was necessary to reach a suitable compromise on this provision. The people of Massachusetts and the people of this Nation are indebted to the leadership Senator JACKSON has demonstrated.

Mr. HATHAWAY. Mr. President, I rise in support of H.R. 14846, the military construction authorization bill for fiscal year 1977. In particular, I wish to commend the committee for its efforts to establish a rational procedure to govern base realinements. Members of the committee have been most accommodating in their treatment of the amendment which Senator MUSKIE and I, together with the support of many of our colleagues, offered during committee deliberations on the bill.

While the committee did not accept the economic adjustment provisions of our amendment—provisions which would have required the executive branch and the Department of Defense to take early steps toward base conversion so as to mitigate the effect of base reductions, realinements, or closures—I am, nevertheless, quite willing to accept the committee's decision, as noted at the end of its report, to recommend to the President that he "examine this situation and establish or designate a single agency with authority and responsibility to insure optimum impact assistance and to develop alternative uses for excess facilities involving appropriate executive agencies and departments."

I want to stress that this amendment, section 612 of the bill, is designed to promote good management practices and equitable treatment of those involved with proposed changes in the status of a military base. Just because the Government may have the power to close or reduce a base without consideration for the havoc such drastic actions wreak in the "unofficial" but vital community of supporting services and people dependent upon that base is no reason for the Government to follow that course. Restraint in such matters must be the byword, because whatever the inconvenience to the Government that results from such restraint, it is usually more than repaid by a more thoughtful, considerate, and dignified treatment of the people directly affected by the actions of the Government.

Section 612, in short, codifies the procedures now generally in use for base realinements and enhances their value by giving them the uniformity and force of law. This section goes a long way toward answering the questions and putting to rest the doubts which have been raised by those of us who are immediately concerned with a possible realinement such as the one proposed for Loring AFB in Aroostook County, Maine. Now, at last, the terms of section 612 promise us that we shall be treated in accordance with the same process as everyone else and, within that process, there is time and opportunity in which to be informed of realinement proposals, to be heard, to examine the Department's reasoning and in general to be certain, as Congress must, that the people are well provided in their defense and their tax moneys well spent therefor.

Section 612, of course, does not address the merits of the proposal for Loring AFB or any other facility. But it does allow all concerned parties to focus on the merits of the issue, secure in the knowledge that the order of procedure is fixed and the interests of all protected.

Mr. BROOKE. Mr. President, once again I wish to state my support for section 612 of the military construction authorization bill—the base realinement provision.

I will not repeat all the reasons for supporting this provision, but simply want to underscore one important area. It is the provision requiring the expiration of at least 60 days following the end of a base realinement study and the issuance of a decision and rationale for the decision, before any action may be implemented. It is during this period that the Congress—the elected representatives of the people—will have an opportunity to examine that rationale to assure ourselves, and the people, that the decision is rational and in the national interest.

I believe congressional review is essential. It is essential to assure those individuals whose lives and fortunes will be affected by a base closure or realinement that the Pentagon's decisions are based on the data collected and analysis completed, and not on a predetermined or politically motivated course. Vital decisions affecting peoples lives must be made in the open and with full opportunity for impartial review. This assurance of equitable decisions made in the national interest will render difficult and unpleasant conclusions easier to live with and more palatable to accept.

Mr. President, I urge each of my colleagues to support passage of H.R. 14846 with section 612 intact.

Mr. SYMINGTON. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. May we have order, please?

Mr. MANSFIELD. Mr. President, this will be the last vote today. It is anticipated that when we get through with the pending business, we lay down S. 12, in which I believe the distinguished Senator from Delaware has a vital interest, if I am not mistaken.

That, in turn, hopefully will be followed by the tax reform conference report tomorrow.

That, I believe, is enough for a starter as to what the business will be on tomorrow.

The PRESIDING OFFICER. The yeas and nays have been ordered——

Mr. STENNIS. Will the Senator yield 2 minutes?

Mr. SYMINGTON. I yield.

Mr. STENNIS. Mr. President, I will only take a few moments. The only reason I speak now is there is a constitutional question involved in this new part of the military construction bill. The President vetoed the former bill, as former Presidents have vetoed similar provisions. But this is an attempt by the committee, all working together, including people who are not members of the committee, to work out a mild regulation for the time being with due reference to the constitutional prerogatives of the President of the United States.

Mr. NELSON. Mr. President, may we have order?

Mr. SYMINGTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I believe I do have to say something for the RECORD.

We recognize the constitutional question. We are only trying to put in a reasonable regulation of this very troublesome matter. We must always recognize that the President of the United States has the power and the responsibility to control these military bases. Of course, we do change the number of civilian employees, the number of uniformed men, but we do have to recognize that the President does have the authority, since he is the Commander in Chief as well as the head of the executive department.

This is a special plea. I hope the President of the United States will sign this bill after the House has passed it.

Mr. MANSFIELD. Will the Senator yield?

Mr. STENNIS. I yield.

Mr. MANSFIELD. I believe it should be pointed out that the authority of the Defense Department can act in reverse.

For example, about 15 years ago the Air Force and the Department of Defense, without asking the people of Montana whether they wanted it or not, put in the most modern air base in the United States at Glasgow. Seven years later they closed down that base, again without consulting the people of Montana, the people of Valley County, or the people in the northern part of the State.

While the President does not have the power, I think we ought to recognize that that power should be used equitably and justly and not harshly as was the case in the beginning, in the opening up and closing down of the Glasgow base, the most modern base in the United States.

Mr. STENNIS. Mr. President, I just make the plea which I have made. We will recognize this matter if it comes up again.

I thank the Senator from Missouri for the way in which he has worked on this matter.

The PRESIDING OFFICER. The Chair will ask if this is to be a 10-minute vote.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that this be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Michigan (Mr. Philip Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Idaho (Mr. Church) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Maryland (Mr. Mathias), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting the Senator from Nebraska (Mr. Hruska) would vote "yea."

The result was announced—yeas 82, nays 2, as follows:

[Rollcall Vote No. 601 Leg.]

YEAS—82

Allen
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—2

Hatfield
Proxmire

NOT VOTING—16

Abourezk
Baker
Beall
Buckley
Church
Griffin
Hart, Philip A.
Hartke
Hruska
Humphrey
Mathias
Mondale
Montoya
Moss
Tunney
Weicker

So the bill (H.R. 14846), as amended, was passed.

Mr. SYMINGTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. Ford). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

ORDER TO POSTPONE CONSIDERATION OF S. 3730

Mr. SYMINGTON. Mr. President, I ask unanimous consent to indefinitely postpone consideration of the Senate bill, S. 3730.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL WATER POLLUTION CONTROL AUTHORIZATIONS

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2710.

The PRESIDING OFFICER (Mr. Ford) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendments of the House to the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Randolph, Mr. Muskie, Mr. Burdick, Mr. Culver, Mr. Gary Hart, Mr. Buckley, Mr. Baker, and Mr. Stafford conferees on the part of the Senate.

SMITH COLLEGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1104, with the understanding that no action thereon will be taken today.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1386) for the relief of Smith College, Northampton, Massachusetts.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

ORDER FOR TRIBUTES TO SENATOR MANSFIELD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of legislative business, each Senator may be recognized for not to exceed 5 minutes for the purpose of delivering expressions of tribute to the distinguished majority leader upon his impending retirement at the close of this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for the control of this time by Mr. Hugh Scott and myself be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think I should explain the reason for vitiating the previous order.

So many Senators have requested time that there is no need for control of it, especially in view of the fact that legislative business will have been completed, and it will be up to each Senator then to get recognition from the Chair.

ORDER TO HOLD H.R. 15319 AT THE DESK

Mr. BURDICK. Mr. President, I ask unanimous consent that the message from the House of Representatives (H.R. 15319), to approve certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code be held at the desk until further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, September 17, 1976, after the two leaders or their designees have been recognized under the standing order, Messrs. Kennedy, Abourezk, Cranston, and Inouye be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:15 a.m. tomorrow, rather than 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM THURSDAY UNTIL 9:30 A.M., FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 9:30 a.m. on Friday, September 17, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on September 22 and 23, concerning legislation on which final action is expected before adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENT AND LAND RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet on Friday, September 17, 1976.

Mr. McCLURE. Mr. President, that is in executive session, is it not?

Mr. ROBERT C. BYRD. In executive session.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 11321 AND TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this request has been cleared with Mr. Long and with the other side of the aisle, that on next Thursday, September 23, 1976, some time during the day the leadership be authorized to proceed to the consideration of H.R. 11321, Calendar No. 1107, an act to suspend until July 1, 1978, the duty on certain elbow prosthesis if imported for charitable therapeutic use, and that there be a time limitation thereon of 30 minutes on the bill to be equally divided between Mr. Long and Mr. Curtis, 1 hour on the amendment by Mr. Buckley to be equally divided and controlled in accordance with the usual form, and that no other amendment be in order to that bill.

Mr. ALLEN. Mr. President, reserving the right to object, I had a colloquy with the distinguished chairman of the Committee on Finance in the Chamber yesterday and asked if there were a bill to be considered that he give me an opportunity to offer an innocuous amendment, and he stated that there was, and I believe this would be the ideal time.

Will the distinguished Senator provide in his unanimous-consent request that the Senator from Alabama be allowed to offer an amendment and to have 1 hour thereon?

Mr. ROBERT C. BYRD. There will be another bill, may I say to the distinguished Senator. I have been assured by the distinguished chairman of the Committee on Finance (Mr. Long) that there will be another bill on which Senators may offer amendments.

Mr. ALLEN. Will the Senator bear my request in mind then?

Mr. ROBERT C. BYRD. Yes, indeed.

Mr. ALLEN. I withdraw my objection.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I did not finish my request.

I ask unanimous consent that the time limit on Calendar No. 1107 be 30 minutes, to be equally divided between Mr. Long and Mr. Curtis; that there be one amendment only, that amendment by Mr. Buckley, to be under a time limit of 1 hour; that there be a time limit of 10 minutes on any debatable motion or appeal or point of order, if such is submitted to the Senate for its discussion.

The PRESIDING OFFICER (Mr. Johnston). Without objection, it is so ordered.

ORDERS FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF H.R. 1386 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators on tomorrow there be a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate resume consideration of H.R. 1386, an act for the relief of Smith College.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF TAX REFORM CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, upon the disposition of the act for the relief of Smith College, it be in order to proceed to the consideration of the tax reform conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 13555, FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is called up and made the pending business before the Senate, there be a time limitation for debate of 4 hours on H.R. 13555, an act to amend the Federal Metal and Nonmetallic Mine Safety Act; that the time be equally divided between the majority leader and the minority leader or their designees; that there be a time limit on any amendment thereto of 2 hours, a time limitation on any amendment to an amendment of 1 hour, a time limitation on any debatable motion or appeal of 20 minutes, a time limitation on any point of order of 30 minutes, and that the agreement be in the usual form.

Mr. FORD. Mr. President, reserving the right to object——

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I must object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, is it in order to make a statement as to the possibility of the objection of the Senator from Kentucky to this time agreement?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. Mr. President, I am much concerned about this piece of legislation. We need to proceed in consideration of this legislation, but I am extremely concerned about transferring the mine safety to the Department of Labor and leaving the training of the inspectors in the Interior and sending the health problem to HEW—the health portion of that.

We in the Senate are trying to combine efforts of the committees so that we will not be so fragmented, and here is a bill that I think should be debated fully, based on the fact that we are fragmenting the coverage that we want for our mine operations to three separate agencies. In my opinion, it creates a greater hardship on those who are trying to comply with the law.

I agree with the Senator from North Carolina that we should debate this issue fully and that we should make an effort to combine this program into one agency.

I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from Kentucky.

ORDER FOR RECOGNITION OF MR. MANSFIELD AND MR. ALLEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow Mr. Mansfield be recognized for not to exceed 15 minutes, at the conclusion of the other special orders, and that following Mr. Mansfield's order, Mr. Allen be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at 10:15 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes: Mr. Humphrey, Mr. Kennedy, Mr. Williams, Mr. Cranston, Mr. Mansfield, and Mr. Allen.

There will then be a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will resume consideration of H.R. 1386, an act for the relief of Smith College; and I assume there will be rollcall votes in addition thereto.

At some point during the afternoon, the tax reform conference report is expected to be called up, and other measures cleared for action may be called up tomorrow. Other conference reports also may be called up tomorrow.

At the conclusion of legislative business, Senators will have not to exceed 5 minutes each, under the order previously entered, for the expression of tributes to Mr. MANSFIELD in view of his retirement at the close of this Congress.

I believe that about sums up the program for tomorrow.

ADJOURNMENT UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:15 a.m. tomorrow.

The motion was agreed to; and at 5:29 p.m. the Senate adjourned until tomorrow, Thursday, September 16, 1976, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 15, 1976:

Department of State

Jack B. Olson, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

National Center for Productivity and Quality of Working Life

The following-named persons to be members of the board of directors of the National Center for Productivity and Quality of Working Life for a term coterminous with the term of the president (new positions):

Bess Myerson, of New York.
Berkeley G. Burrell, of the District of Columbia.
Wayne L. Horvitz, of the District of Columbia.
Gaylord Freeman, of Illinois.
Herbert S. Richey, of Ohio.
Robert A. Georgine, of Maryland.
J. Lane Kirkland, of the District of Columbia.
John T. Dunlop, of Massachusetts.

In the Army

The following-named officer as permanent professor of Earth, Space and Graphic Sciences, U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 and 4333:

Galloway, Gerald E., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be lieutenant colonel

McCarty, Garland E., [redacted].
Miyazawa, Kunio, [redacted].

To be major

Berry, Walter L., Jr., [redacted].
Gonzalez, William E., [redacted].
Pawlak, Wallace W, [redacted].

To be captain

Behuniak, Thomas E., [redacted].
Bowman, Larry L., [redacted].
Burch, Gary R., [redacted].
Cain, James R., [redacted].
Cairns, Richard W., [redacted].
Clements, Thomas I., [redacted].
Cruden, John C., [redacted].
Dewitt, Ralph O., Jr. [redacted].
Edwards, John T., [redacted].
Edwards, Kermit C., [redacted].
Gallivan, Richard A., [redacted].
Gibb, Steven P., [redacted].
Gunderson, Ronald B., [redacted].
Godfrey, Edith M., [redacted].
Haugen, Lawrence A., [redacted].
Hoedebecke, Edward L., [redacted].
Hopkins, Richard W., [redacted].
Imonen, Robb E., [redacted].
Laperna, Maria A., [redacted].
Luedtke, Paul J., [redacted].
MacKay, Dewey C., II, [redacted].
McNanus, James D., [redacted].
Miller, John G., [redacted].
Mizell, Doris M., [redacted].
Moushegian, Vahan, [redacted].
Pesetski, Judith R., [redacted].
Ridgway, Robert L., [redacted].
Rosenblatt, James H., [redacted].
Sanchez, Desi J., [redacted].
Schiffner, Lois A., [redacted].
Schwabe, Charles L., [redacted].
Scott, Wanda J., [redacted].
Taylor, Daniel E., [redacted].
Taylor, Thomas W., [redacted].
Toelle, Jean F. P., [redacted].
Tromey, Thomas N., [redacted].
Wakefield, Charles W., [redacted].
Whang, Raymond Soo Chul, [redacted].
Wing, Dennis J., [redacted].
Yamamoto, James R., Jr., [redacted].
Yeager, Charles F., [redacted].

To be first lieutenant

Addison, Christina M., [redacted].
Aull, Janice I., [redacted].
Bailey, Stephen M., Jr., [redacted].
Baird, Marianne, [redacted].
Baylor, Michael R., [redacted].
Blazier, Colleen D., [redacted].
Bratton, Barbara I. C., [redacted].
Capen, Charles V., [redacted].
Chatelain, John C., [redacted].
Davis, Richard C., Jr., [redacted].
Fournier, John S., [redacted].
Funk, Margaret A., [redacted].
Garefino, Margaret G., [redacted].
Gautreaux, Douglas D., [redacted].
Haggard, Albert L., [redacted].
Hahn, Timothy H., [redacted].
Hammiller, Mary C., [redacted].
Heger, Mary J., [redacted].
Hennessee, Phylliss J., [redacted].
Hepler, Ernest L., Jr., [redacted].
Hutchison, Janet M., [redacted].
Jenke, Ralph K., [redacted].
Johnson, William B., [redacted].
Kelly, Barbara A., [redacted].
Kristensen, Kathleen A., [redacted].
Kudia, Theresa M., [redacted].
Laureano, Julia W., [redacted].
Livingston, David J., [redacted].
Long, James D., [redacted].
Loughhead, Maria I., [redacted].
MacGhee, Bonnie, [redacted].
Markiewicz, Lynnda, [redacted].
McClelland, Gail K., [redacted].
McLaren, Mary E., [redacted].
McMenis, James E., [redacted].
Miller, Arnold D., [redacted].
Moore, Joseph W., [redacted].
Mucha, Joy A., [redacted].
O'Neal, John R., [redacted].
Orrecchia, Paul M., [redacted].
Reams, Robert R., [redacted].
Robertson, Kathryn E., [redacted].
Robison, Gary D., [redacted].
Schneider, Gail M., [redacted].
Stoecker, Willeford J., [redacted].
Stogner, William W., [redacted].
Sutton, Karen A., [redacted].
Torgerson, Kimron R., [redacted].
Turner, Barbara S., [redacted].
Tyler, Patricia H., [redacted].
Volk, Joseph W., [redacted].
Watson, Eileen K., [redacted].
Williams, Barbara L. G., [redacted].

To be second lieutenant

Altena, Janet L., [redacted].
Astle, Frederick J., [redacted].
Belich, Joseph M., [redacted].
Bishop, Harold L., [redacted].
Clinch, Richard L., [redacted].
Cox, Archie R., [redacted].
Coxen, Ronald E., [redacted].
Daniels, Delois, [redacted].
Davis, Mary C., [redacted].
Derstine, Henry W., [redacted].
Douglass, Dale A., [redacted].
Fishell, Royce A., [redacted].
Hagemeister, Brian, [redacted].
Herrington, Lawrence D., [redacted].
Hetzel, Carol A., [redacted].
Hoppa, Patricia A., [redacted].
Hundley, David P., [redacted].
Hyman, Kenneth L., [redacted].
Jensen, Richard G., [redacted].
Pollard, Monica N., [redacted].
Rank, Deborah J., [redacted].
Romanauskas, Vincent S., [redacted].
Senglar, Mary A., [redacted].
Smith, Charlene, [redacted].
Thomas, Steven C., [redacted].
Volk, Maribeth C., [redacted].
Von Miller, Katherine T., [redacted].
Wolfe, Roberta E., [redacted].

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be first lieutenant

Heard, David L., [redacted].
Hotchko, George J., Jr., [redacted].
Jolissaint, Stephen L., [redacted].
Key, Thomas S., [redacted].
Shekitka, Jan N., [redacted].

To be second lieutenant

Brewner, Eric A., [redacted].
Burgess, Lawrence P., [redacted].
Coffey, James A., [redacted].
Cuthbertson, Rand J., [redacted].
Gillogly, Scott D., [redacted].
Greenman, Peter H., [redacted].
Harrington, Gerald R., [redacted].
Thompson, Ian M., [redacted].
Vincent, Dale S., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1976:

Department of State

Julius L. Katz, of Maryland, to be an Assistant Secretary of State.

Davis Eugene Boster, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

Francois M. Dickman, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

T. Frank Crigler, of Arizona, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Charles A. James, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Niger.

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Ronald D. Palmer, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, September 15, 1976*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. O'NEILL) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 15, 1976.

I hereby designate the Honorable THOMAS P. O'NEILL, JR., to act as Speaker pro tempore for today.

CARL ALBERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend Edward G. Latch, D.D., offered the following prayer:

It is to freedom that you have been called. Only be careful that freedom does not become mere opportunity for your lower nature. You should be free to serve one another in love.—Galatians 5: 13 (Phillips).

O God, who art the source of our strength and the refuge of those who put their trust in You, sustain us with Your spirit and steady us with Your grace lest we allow differences and disagreements to hide Your face from us. Within the shadow of our concerns stands Your love waiting to cross the threshold of our need. As we pray may we receive strength for the work of these hours and love for the living of these days.

We pray for our country, our leaders, and our people. Remove from within us all harsh misunderstandings and hostile ill will which are the seeds of strain and strife. Make us ready to welcome every effort for cooperation and every endeavor to strengthen our relationship with each other. Open the door of opportunity and give us the courage to walk through it to a greater life together under the banner of free men.

In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on September 14, 1976, the President approved and signed a bill of the House of the following title:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13367. An act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13367) entitled "An act to extend and amend the State and Local Fiscal Assistance Act of 1972," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. GRAVEL, Mr. HATHAWAY, Mr. FANNIN, Mr. HANSEN, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 828. An act to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes;

S. 2135. An act to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; and

S. 2946. An act to amend the act of July 2, 1940, as amended, to remove the limit on appropriations.

RULE PERMITTING RECONSIDERATION OF H.R. 12112 SYNFUELS IS A TRAVESTY

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I take this time to advise the House that the Committee on Rules has just granted a rule on H.R. 12112, which will permit consideration for a second time of the synthetic fuel program.

Mr. Speaker, I think this is a travesty. The House already soundly defeated virtually identical legislation on December 11 of last year by a resounding vote of 263 to 140.

Since that time four committees have considered this legislation and have come out with four different versions of it.

Mr. Speaker, there is a tremendous coalition of opposition from both parties to this legislation; and it promises an extensive fight on the floor of the House at a time when we are planning to adjourn.

Mr. Speaker, the GAO confirmed in a recent report that this legislation is unsound from economic, environmental, and energy priority points of view. It is special interest legislation to subsidize the large energy companies in demonstration of obsolete technology when new technology, which I firmly support, is going to come into being before the obsolete plants can be built.

Mr. Speaker, key ERDA-financed studies with respect to the size of the plants that are needed to do the environmental and socioeconomic studies that are supposedly the purpose of this legislation have not been completed. Those studies are critical to a sound determination on this legislation since they may well show that the second-generation plants can obtain all the information sought and save the taxpayers this multibillion-dollar exposure.

Mr. Speaker, I think it is a travesty to put the House through this matter again, and my intention is to oppose the rule on this legislation.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 14238, LEGISLATIVE BRANCH APPROPRIATION ACT, 1977

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 14238, making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE BUDGET RESOLUTION CONFERENCE

(Mr. ADAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADAMS. Mr. Speaker, the conferees on the second budget resolution for fiscal year 1977 (S. Con. Res. 139) filed their report this past Saturday. The resolution, as Members know, would establish a revenue floor and spending ceilings for the upcoming fiscal year. The conference has been completed and the report is available to Members.

Both the Senate and House are due to act on the resolution this week to meet the timetable set forth in the Budget Act. The Senate has the conference papers and must act and return the papers before the House can act. Senator Muskie, chairman of the Senate Budget Committee, is scheduling it for action and has indicated the Senate will act on the conference report sometime today or early tomorrow. The House is prepared to act as soon as the Senate sends over the papers.

We will bring up the report as soon as it is available, which I now expect to be on Thursday afternoon.

I believe the report is a reasonable compromise between the House and Senate positions and that it should be approved by the House.

REQUEST TO MEET AT 10 O'CLOCK TOMORROW

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I appreciate the request made by the gentleman from California (Mr. McFall) and I think many Members would think it was a good idea to come in at 10 a.m. on Thursday. Are we going to not be in session on Friday as a result of coming in early tomorrow?

Mr. McFALL. If the gentleman will yield, I cannot give a definite answer to the gentleman on that question. However, I can tell the gentleman and the rest of the Members of the House what we intend to do today and tomorrow.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman give us that program now?

Mr. McFALL. Certainly.

Today we are going to start with the Clean Air Act Amendments of 1976 and go through with that to a conclusion. That may mean that we would finish it early and it may mean we will finish it late. But we intend to finish the Clean Air Act today.

Tomorrow if we come in at 10 o'clock, we would do first the veto override on the electric car bill, which is required under the rules. Then we would go to the tax reform conference report. We would then do the antitrust bill conference report. Then we would do the second budget resolution, Senate Concurrent Resolution 139.

As everyone knows in the House there is an important dinner tomorrow night that a number of Members will be attending, and it will be necessary for us to finish those by a reasonable time tomorrow evening.

For the balance of the week we have H.R. 15069, the national forest timber management law with an open rule and 1 hour of debate. We already have a rule on that.

Then H.R. 15377, the Export Administration Act amendments.

Then the synthetic fuels bill. The last two are subject to a rule being granted on them.

I am unable to say at this time what the schedule might be for Friday. I think we would have to consult with the minority leader and determine what rules are granted and which of these three bills that would be available for action on Friday would be taken up by the House, and in what way.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker pro tempore, it seems on the basis of what my colleague, the gentleman from California, has said, and on the basis of the listing of these additional pieces of legislation, that there will in fact be a Friday session. Is that correct?

Mr. McFALL. No; I cannot say that definitely, because I am not sure which of those three bills will be ready to go and whether or not the committees will want to take them up. I would think that they would, but I tried to get that information yesterday concerning the desire of the committees to take up the bills, and I have not yet had that information. So I would say to the gentleman that it looks like we have plenty of work to do on Friday, but it has not yet been decided for sure what the schedule will be on Friday.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, it is, then, pretty definite that the synthetic fuels bill will be up on Friday?

Mr. McFALL. No; it is not definite that the synthetic fuels bill will be up on Friday, because that would be within the discretion of the chairman of that committee. I will have to tell the gentleman that I should have that information sometime early this afternoon. This decision should be made sometime early this afternoon, I hope to advise the gentleman and the House, and we hope early enough so that Members who would like to be out of here on Friday could make plans for whatever they have to do on Friday.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I think that is part of the concern of many people.

Mr. McFALL. That is right.

Mr. ROUSSELOT. I have heard that Members on the gentleman's side are concerned. Are we or are we not going to have a Friday session?

Mr. McFALL. The concern of Members on this side is equal to the concern of the gentleman and the Members on his side, and I think it would be fair to all Members if we would make this decision sometime early this afternoon so all Members would know.

Mr. ROUSSELOT. Further reserving the right to object, several Members have been led to believe that there would be no Friday session. Can we be assured there will be no Friday session, if we start early on Thursday?

Mr. McFALL. I cannot give him that assurance, but I would ask the gentleman to make up his mind so we can go ahead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. OTTINGER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

IN SUPPORT OF THE SUBPENA OF DANIEL SCHORR

(Mr. MILFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILFORD. Mr. Speaker, I applaud the Committee on Standards of Official Conduct for its action today in subpenaing Mr. Daniel Schorr. As I have said previously in these Chambers and in testimony before the committee, Mr. Schorr must be asked to identify his source for the leak of the House Select Committee on Intelligence secret report before the committee can give a satisfactory report to Members of the House.

The committee and committee staff have done a thorough job in searching for the person, or persons, who leaked the report to Mr. Schorr. From the information gathered through the public hearings, many of us have formed our own opinions. From my understanding, certain members of the committee have also come to a conclusion involving the guilty party, or parties.

What we need now is proof. But, where do we go for such proof?

Not so long ago, many of Mr. Schorr's colleagues searched for proof of the "smoking gun" in matters involving breaches of conduct by Government officials. Today, the House Committee on Standards of Official Conduct has the only witness who can provide eyewitness testimony as to whose hand held the smoking gun when this secret report was published.

I ask my colleagues, who, besides Congress, will demand the unmasking of the culprit holding the smoking gun in this instance? Mr. Schorr's colleagues appear to be deeply involved in defending his conduct, rather than finding the smoking gun they were so fond of recently. It does not seem to matter that Mr. Schorr's actions, as well as those of his accomplice, were in direct violation of the will of the people of the United States, as expressed through the action of this House.

When I appeared before the committee this past July, I went over my reasons for calling Mr. Schorr to testify. I shall not reiterate them here.

I simply wish to thank the committee for taking an action that, quite frankly, I feared would never come about.

I applaud the members of the committee for taking this controversial action in an attempt finally to get to the bottom of their investigation.

PROPOSED CHANGE IN NOTICE QUORUM PROCEDURE

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, all of us are concerned to find ways for the House to avoid wasting time.

The "notice-quorum" procedure was adopted with this objective in mind, but it has not worked very well. Members have no incentive to appear and record their presence, so that in some cases a live quorum has to be called in addition to the notice quorum. This results in the waste of nearly 30 minutes, instead of 15.

I should like to suggest that the usefulness of the notice-quorum device would be greatly enhanced if the names of those 100 Members who appear and record their presence were to be printed in the RECORD. This would provide the incentive for appearing that is now lacking.

I urge the leadership to consider taking this step administratively, although I realize there may be a technical obstacle to doing so, in that under rule XXIII the proceedings under the notice-quorum call are "vacated" when 100 Members appear.

If this does not prove to be possible under the rules, then at the appropriate time I will seek to have the rules amended to achieve the desired objective.

HELSINKI FINAL ACT

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Prikupets family:

BIOGRAPHY FROM SOVIET JEWRY ACTION GROUP

Mr. Prikupets is consumed with sorrow: he hasn't seen his wife and daughter since last year. Worse yet, they are without the means of paying for an exit visa (which is why he contacted me).

Mr. Prikupets is 43 years of age, and his wife is 42 years old. The daughter, named Cecila, is 17 years. Cannot speak English.

Mrs. Prikupets claims that her delay in leaving is the result of a long list of emigration applicants before her.

Your participation in this program could mean so much to a humble man—so broken by Soviet cruelty.

That this man should have to spend so much time away from his family, makes a bitter joke out of the Helsinki accords.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us what they are.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Florida.

Mr. PEPPER. I thank the gentleman for yielding.

They are H.R. 14932, the Rail Amendments of 1976; H.R. 12112, loan guarantees for demonstration of new energy technologies; House Resolution 1540, Select Committee on Assassinations; S. 22, copyright law revision; H.R. 15377, extending the Export Administration Act; H.R. 13350, Energy Research and Development Administration authorization; and H.R. 13950, Surface Mining Control and Reclamation Act of 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. OTTINGER. Mr. Speaker, reserving the right to object, there are two things. First of all, if the gentleman takes out the Synthetic Fuels Act, I will not object; otherwise I shall.

Second, if a unanimous-consent request again is made to come in at 10 o'clock tomorrow, I will not object.

The SPEAKER pro tempore. Does the gentleman from Florida intend to modify his request?

Mr. PEPPER. Mr. Speaker, I ask unanimous consent to modify my request to eliminate the bill mentioned by the gentleman if he will give us the number again.

Mr. OTTINGER. It is H.R. 12112, synthetic fuels loan guarantees.

Mr. PEPPER. Mr. Speaker, I ask unanimous consent to modify my request to eliminate the bill mentioned by the gentleman from New York, H.R. 12112.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, I object.

Mr. PEPPER. Does the gentleman object to all of the bills I mentioned?

Mr. ROUSSELOT. No. The gentleman just read the list too fast. I object to the strip mining bill.

Mr. PEPPER. Yes. Mr. Speaker, I modify my request to eliminate the strip mining bill from the request.

The SPEAKER pro tempore. Is there objection then to the modified request?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman now tell us the bills he is eliminating from his request?

Mr. PEPPER. I am eliminating the bill mentioned by the gentleman from New York, H.R. 12112, and the strip mining bill (H.R. 13950). Those would be the two I am eliminating.

Mr. ROUSSELOT. And they will both be removed from the gentleman's request?

Mr. PEPPER. They will be removed on account of the objections of the two gentlemen.

Mr. ROUSSELOT. I thank the gentleman from Florida.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the request of the gentleman from Florida as modified is agreed to.

There was no objection.

HOUR OF MEETING TOMORROW

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. MCFALL)?

There was no objection.

GRANTING OF RULES ON SYNTHETIC FUEL AND STRIP MINING BILLS

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, I listened with great interest to the remarks of the gentleman from New York (Mr. OTTINGER) relative to the granting of a rule for the synthetic fuels bill. The gentleman from New York (Mr. OTTINGER) certainly has his own personal reservations and I cannot argue with those reservations.

However, I was absolutely astounded and amazed when the gentleman from New York claimed that this bill has been on the floor twice but that the gentleman from New York did not bring to the attention of the Members that the strip mining bill will be on the floor for the third time in 2 years.

I am sure he will object to that rule also.

ELECTION AS MEMBER OF COMMITTEE ON HOUSE ADMINISTRATION

Mr. McFALL. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1541

Resolution designating membership on a standing committee of the House

Resolved, That EDWARD W. PATTISON, of New York be, and he is hereby, elected a member of the Committee on House Administration.

Mr. McFALL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. WAXMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 729]

Allen
Andrews, N.C.
Archer
AuCoin
Badillo
Baucus
Beard, R.I.
Bergland
Biaggi
Bowen
Buchanan
Burke, Mass.
Carter
Chisholm
Clausen, Don H.
Collins, Ill.
D'Amours
Dellums
Diggs
Downing, Va.
English
Evans, Colo.
Fenwick
Fish
Ford, Mich.
Ford, Tenn.
Green
Hansen
Harris
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Howe
Jarman
Jones, Ala.
Jones, Okla.
Karth
Kemp
Krueger
LaFalce
McCollister
McKinney
Matsunaga
Melcher
Neal
Nolan
Nowak
O'Hara
Peyser
Pressler
Rangel
Riegle
Rinaldo
Risenhoover
Sarbanes
Steed
Steelman
Steiger, Ariz.
Stephens
Thompson
Vander Jagt
Wilson, C. H.
Wilson, Tex.
Zeferetti

The SPEAKER pro tempore (Mr. McFall). On this rollcall 364 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 94-612)

The SPEAKER pro tempore (Mr. McFall) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation, the Committee on Interstate and Foreign Commerce, and the Committee on Merchant Marine and Fisheries, and ordered to be printed with illustrations:

To the Congress of the United States:

I transmit herewith the Annual Report of the Department of Transportation as required by the Department of Transportation Act of 1966, Public Law 89-670. This report has been prepared in accordance with Section 11 of the Act, and covers Fiscal Year 1975.

Gerald R. Ford.

The White House, *September 15, 1976.*

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, I was unable to be present for the opening of the session of the House of Representatives of Monday, September 13, 1976, because I was speaking to a senior citizens conference in Chicago. As a result, I was absent for the vote on rollcall No. 716, an amendment to the Defense Officer Personnel Act prohibiting retiring military officers of high rank to accept employment with a military contractor for 3 years following retirement.

Had I been present, I would have voted "yes" on the amendment.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY DURING 5-MINUTE RULE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit today during the 5-minute rule for the purpose of hearings only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, do I understand, then, that the gentleman has assured us that the purpose of the committee's meeting is only for hearings?

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I can certainly give that assurance to the gentleman from California. I would add that I would like to have unlimited consent, but knowing that an objection would be made, I have made this restricted request to sit for specific hearings only during the 5-minute rule today.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's willingness to abide by that suggestion, and I withdraw my reservation of objection.

Mr. FLYNT. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET THIS AFTERNOON DURING 5-MINUTE RULE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce be permitted to meet this afternoon during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, has the gentleman consulted the minority members of the committee? I realize that one subcommittee member of the minority is out of town.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, this session has been scheduled for several months. It is on the Franchise Protection Act.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I will ask the gentleman, is this a bill that is going to be scheduled for debate in the House? I thought that the Committee on Rules had completed its consideration of rules for bringing out more bills. How is this bill going to be heard?

Mr. MURPHY of New York. This bill could, of course, come up on the floor in some other way rather than by a rule from the Committee on Rules.

Mr. BROYHILL. Mr. Speaker, has the gentleman gotten unanimous consent on this bill?

Mr. MURPHY of New York. There is some discussion, of course, on all the legislation that comes from our committee, as the gentleman well knows, but I believe there is great sentiment for this legislation.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman describe a little more in detail the bill that the subcommittee will be considering?

Mr. MURPHY of New York. This is the Franchise Protection Act. It would to a certain degree protect a person who has a franchise with a national chain so that as long as he was proceeding within reasonable performance of his agreement, he would not suffer a termination of his lease.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, does this relate to the problems to which soft drink bottlers have written Members of Congress?

Mr. MURPHY of New York. No. That legislation will be up next week for consideration on the floor.

Mr. ROUSSELOT. Mr. Speaker, there seems to be some concern from several committee members who are not sure what this bill is. Other Members including this Member want to understand what the urgency is. We cannot understand how Members of this subcommittee can possibly be marking up a bill. When all the Members of the full Commerce Committee are here on the floor working on H.R. 10498, the Clean Air Act amendments. Is it strictly a hearing?

Mr. MURPHY of New York. No this is a markup.

Mr. ROUSSELOT. And what is the bill number?

Mr. MURPHY of New York. It is the Franchise Protection Act (H.R. 8349).

Mr. ROUSSELOT. If the gentleman could further enlighten us, is it not this subcommittee that is now before us which has the Clean Air Act amendments?

Mr. MURPHY of New York. It is the Subcommittee on Consumer Protection.

Mr. ROUSSELOT. Since most of the members of the committee are here for the consideration of this Clean Air Act, is it not going to be difficult to get a quorum?

Mr. MURPHY of New York. I do not anticipate that difficulty.

Mr. ROUSSELOT. Mr. Speaker, I feel somewhat constrained to object unless we can hear from more members of the committee.

Mr. MURPHY of New York. Some members of the minority are engaged in running for higher public office at the present time.

Mr. ROUSSELOT. Yes, I understand that; but as the gentleman knows, that one gentleman is not the only member of the committee. There are several others.

Mr. MURPHY of New York. However, he is 50 percent of the minority.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, the bill has a number of somewhat technical amendments that need to be gone through this afternoon, if possible.

Of course, ultimately, as with other bills before our subcommittee, the bill could be stopped or altered in the full committee. However, it is just a problem really of working out some very difficult technical matters that are not highly controversial, as I understand. I have a few of the amendments myself.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the concern I have is that the participants in this bill now on the floor are members of the gentleman's subcommittee. I cannot conceive that the gentleman would even want to consider absenting himself from the floor during the discussion of this important issue.

Why is it so critical that the subcommittee meet this afternoon and cannot meet tomorrow morning, say, at 9 o'clock before we meet in the House?

Mr. MURPHY of New York. The full committee has scheduled some very pressing business on energy and on other matters. Therefore, this afternoon seems to be one of the critical times between now and adjournment to move this bill.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, if the gentleman will assure me that no business will be conducted without a quorum and that there will be no attempt to move the bill without a quorum of the subcommittee, I will be glad to withdraw my reservation of objection.

Mr. MURPHY of New York. Mr. Speaker, I assure the gentleman that we will not move any legislation without a quorum.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. McFALL). Is there objection to the request of the gentleman from New York?

There was no objection.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10498, with Mr. ROUSH in the Chair.

The CHAIRMAN. When the Committee rose on Friday, September 10, 1976, title II had been considered as having been read and open to amendment at any point.

Pending at that time was the amendment of the gentleman from Michigan (Mr. DINGELL) and a substitute amendment offered by the gentleman from California (Mr. WAXMAN).

Mr. ROGERS. Mr. Chairman, I rise to make a unanimous-consent request.

Since we have had some debate on the Waxman-Maguire amendment and on the Dingell amendment, we have talked to the authors of these amendments; and they are agreeable to limiting the time. I think this would be helpful to the consideration of this clean air bill.

Therefore, Mr. Chairman, I ask unanimous consent that the debate on this one section, section 203, and the Waxman amendment and the Dingell amendment and all amendments thereto be concluded at 1:20 p.m., and that I be allowed to reserve for myself the last 10 minutes to speak.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WAXMAN. Mr. Chairman, reserving the right to object, is it the intention of the gentleman from Florida (Mr. ROGERS) to limit the debate and then proceed to vote on my amendment and, should that amendment not succeed, immediately go to a vote on the amendment offered by the gentleman from Michigan (Mr. DINGELL)?

Mr. ROGERS. If the gentleman will yield, that is what we would want to do, have the debate, and come to a vote right away on the Waxman-Maguire amendment, and, depending on the action there, then vote on the Dingell amendment immediately thereafter.

Mr. WAXMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SATTERFIELD. Mr. Chairman, reserving the right to object, do I understand that the unanimous consent request essentially provides that the remaining Members who wish to address themselves to this provision would have until 10 minutes past 1 to do so, in other words a total of 20 minutes?

Mr. ROGERS. Yes. We understood, since we had already had debate on the matter before, that the authors of the amendments would be agreeable to this if the Members would.

Mr. SATTERFIELD. Mr. Chairman, further reserving the right to object, I know we have had some of the debate but some of us were seeking recognition when the gentleman from Florida (Mr. ROGERS) moved to rise on Friday last at 12 o'clock noon. I wonder if the Chairman might consider changing his unanimous-consent request to 30 minutes?

Mr. ROGERS. Mr. Chairman, I have no objection to that, 30 minutes. So there would be a total of 40 minutes, and the last 10 minutes would be reserved for me.

Mr. MAGUIRE. Mr. Chairman, further reserving the right to object, I would like to ask the distinguished chairman of the committee a question in view of the fact that there are two very important amendments presently before the House, each with two cosponsors. Rather than having us squeezed into 30 seconds because many people will want to speak, could we perhaps reserve 5 minutes for each of the cosponsors? Is that possible within the framework of the gentleman's unanimous-consent request?

Mr. ROGERS. I would think other Members would want to speak on the bill since the authors have spoken already.

Mr. MAGUIRE. I would say that I think we should be able to refresh the memories of Members on these amendments, especially those who were not here during the debate last Friday.

Mr. ROGERS. If the gentleman will yield, I would say that the authors of the amendments have already spoken on their amendments. But I do think that the Members need to be refreshed, so we are asking that the authors still be allowed to speak on the amendments even though they have spoken before.

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, as I understand it, the chairman in his request has specifically asked for 10 minutes for himself.

Mr. ROGERS. That is correct.

Mr. WAXMAN. Mr. Chairman, I have no objection to that but I do feel since the debate was heard last week, that the authors of the amendments that will in fact be voted on, and I understand the chairman does not support either of the amendments we are going to vote on, that we should have the opportunity to refresh the memories of the Members.

Mr. ROGERS. I would agree with that. I think their memories need to be refreshed.

So, Mr. Chairman, I would ask unanimous consent that I may be permitted to modify my unanimous-consent request that the authors of the Dingell amendment have 5 minutes in order to do that and that the authors of the Waxman-Maguire amendment have 5 minutes in which to do that.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SATTERFIELD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on the so-called Dingell-Broyhill amendment and the Waxman-Maguire amendment, and all amendments thereto, and on section 203(b) end at 1:20 o'clock p.m. with the last 10 minutes being reserved by the gentleman from Florida (Mr. ROGERS).

The CHAIRMAN. May the Chair suggest to the gentleman from Michigan that because the entire title is open to amendment at any point, he limit his request to the pending amendments.

Mr. DINGELL. My unanimous-consent request is to the two pending amendments and to section 203.

The CHAIRMAN. Permit the Chair to state to the gentleman from Michigan that the Chair has some difficulty with that portion of the request because he is limiting debate on a section when the entire title is open to amendment. If the gentleman could limit his request to his amendment and the substitute, and amendments thereto, it would make the limitation of time more manageable.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on the Dingell-Broyhill amendment and the Waxman-Maguire amendment, the two amendments now pending, and all amendments thereto terminate at 20 minutes after 1.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SATTERFIELD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ROGERS. Mr. Chairman, I move that all debate on the Waxman-Maguire amendment and on the Dingell amendment terminate at 1:25, and that the last 10 minutes be reserved for the chairman.

The CHAIRMAN. The Chair will state to the gentleman that he cannot reserve time under a motion. That can be done only by a unanimous-consent request.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that all debate on the Waxman-Maguire amendment and on the Dingell amendment end at 1:25, and that the last 10 minutes be reserved for the chairman of the subcommittee.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WAXMAN. Reserving the right to object, Mr. Chairman, am I to understand that the request is the same request we had earlier, with reservation of time only for the chairman?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

The gentleman is correct, and the time has been extended until 1:25.

Mr. WAXMAN. Mr. Chairman, I then request that the authors of the amendments to be voted on have an opportunity to have some time reserved for them.

Mr. ROGERS. If the gentleman would yield further, I think the gentleman will get time. If the gentleman will look at who is standing, I do not think there will be any problem, and I would hope that we could move forward.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SATTERFIELD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Dingell amendment, but I feel there are certain things that ought to be brought to the attention of this House which up to this moment in the debate have been absolutely ignored. As I mentioned last week, we make a terrible mistake in this kind of legislation by attempting to set the achievement of certain requirements by a date certain, not knowing whether the scientific data on which decisions must be made or the technology which is absolutely essential to achievement will be available.

We set a deadline in 1970 with respect to motor vehicle emissions, and I think we made a mistake. We never have been able to make it work. In attempting this, we are overlooking, one salient fact, that since 1967 when we first started talking about motor vehicle emissions, not one single development has occurred in this country with respect to the one thing which is producing the pollution: The internal combustion engine. Instead, like Rube Goldberg, we have spent those 8 years doing nothing more nor less than hanging gadgets on the exhaust system in an attempt to treat the pollution after it has been produced.

Why has this occurred? First, it has occurred because before we can develop a major alteration in engines, we have been told time and again, that a period of 3 years for that development must be provided. I am not talking about 3 model years, because design of a model year must begin a year and one-half before it reaches the market. I am talking about 3 full uninterrupted years for development.

Second, there has to be some expectation on the part of those who must provide the risk capital to develop that alternative engine if it is to be developed. There must exist a reasonable possibility that it will be utilized.

We have not provded that kind of opportunity for development.

There is another aspect of this situation which is important. By requiring things to be done by a time certain we have created a climate which resulted in a decision by manufacturers not to attempt to alter an alternative to the internal combustion engine. The result was that in the late 1960's a decision was made to plan on use of the catalyst. As a result, because of certain properties of the catalyst, a decision was made to produce vehicles which could operate on lower octane gasoline. In order to accommodate that development they had to reduce the compression ratio of engines or retard the spark, to do those things in other words which resulted in inefficient engines. That is where the mileage economy loss has occurred.

We have heard a gerat deal about the fact that vehicles with a catalyst produce an 11-percent increase in mileage, but what is not said is that this does not begin to make up for the mileage loss previously suffered as a result of inefficient engines.

Mr. Chairman, I noted a statement made the other day that it has been claimed by someone that we can achieve emission reductions and increased mileage at the same time. That may be possible, but not so long as we are producing inefficient engines, or as long as we are limited to the use of low octane fuel. As long as we have that requirement we are doomed to have inefficient engines.

The argument has been made that we might be able to compensate for mileage loss by reducing the weight of the motor vehicles. It is a fact that a reduction of 500 pounds will result in a mileage increase on the order of about 1.5 miles per gallon in fuel economy. On that basis if we were to reduce the weight of the average vehicle today to bring it in compliance of requirements we have written into the energy legislation, of 28 miles per gallon by 1985, we would have to reduce that motor vehicle to a 2-wheel motor scooter, and I am not sure we could comply then.

The Members of the House do not possess the timely information necessary to make the decisions we are attempting to make in this bill. We do not have the expertise to do it. We ought to set the goal and then leave it to experts to ascertain how those goals will be implemented.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, the gentleman makes a very revealing statement and one we should have recognized a long time ago, that through regulation in our efforts to clean up the pollution we have driven capital into the development of inefficient engines.

During discussion of the automotive propulsion bill it was disclosed that because of these regulations the industry has moved this capital, some $4 billion, into cleaning up the engine and not into what they should have been and that is designing a brand new engine that is not only efficient but also clean.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to use the few minutes I have available to me to answer some of the points that were raised last week in opposition to the Waxman-Maguire amendment.

We were told that the Waxman-Maguire amendment will cost the American people $28 billion from 1977 to 1985. The National Academy of Sciences has estimated the air pollution costs the American people between $2.5 and $10 billion per year in terms of illness and in terms of loss of productivity and in terms of damage to crops and materials.

Assuming the average damage figure of $6.3 billion per year, of savings to be obtained by moving toward adoption of statutory standards that would amount to $65.7 billion. Thus, even if the Waxman-Maguire amendment costs $28 billion, which is very doubtful, the price is still far less than the economic toll currently exacted by automobile pollution.

Last year we heard cries and observed tears—and I believe they were crocodile tears—for the auto industry. Now we are faced with a strike at Ford Motor Co. and I expect to hear someone raise the question of how can we burden the auto industry further by asking them to come up to the emission standards this Congress passed in 1970 and come up to them by the time of the deadline we set.

The strike will be over, hopefully, soon. That should be no reason for legislating on clean air standards for the next 10 years.

Mr. Chairman, I asked the Congressional Research Service to give me an evaluation of the cost impact of meeting emission standards. They responded that—

> Although automobile emission control requirements have increased automobile prices noticeably, these increases are relatively small in comparison to the costs of other options.
>
> Second, the emission control-related cost increases are by no means the most significant factor affecting auto sales and employment.

In other words, it would not adversely affect the growth or profitability of the auto manufacturers, or the job security of the automobile labor force.

I think it is important to understand these points when we hear these cries that we are going to cripple the automobile industry.

Lastly, when we talk about air quality, the gentleman from Michigan (Mr. DINGELL) charges that adopting a tougher amendment would have no effect on improving air quality; specifically, that 31 air quality control regions throughout the country will remain out of compliance with the ambient standards, no matter which schedule is adopted.

I would like to respond to that. Although it is correct that 31 regions would remain above the standards, regardless of which amendment is adopted, what this statistic conveniently ignores is that the frequency of the violations and their intensity would be much greater under the Dingell proposal.

Mr. Chairman, the impact of the Dingell amendment on health, by virtue of these very differences on frequency and intensity of air pollution episodes under the gentleman's amendment is outlined in the committee report.

Of particular importance is the result of the Dingell amendment on NO$_x$ control. Stated simply, in 1990 there would be 200,000 more excess attacks of respiratory disease in children under DINGELL than WAXMAN; in the year 2000, there would be 500,000 more such excess attacks.

I think that is the difference in health effects between these amendments.

I wish to question the underlying assumption under the Dingell proposal that the cost of the automobile will increase for emission control requirements, would therefore deter the purchase of cars and thus result in loss of jobs and adverse impact on the economy. I think the attitude of the public in buying new cars is not exclusively tied to the variable of price, but is a function of the health of the economy, particularly in the consumer's confidence in the economy generally.

Last year was a record year for the sale of automobiles and it was a record year even though the cost of cars had increased; so if we want to talk about a slight increase, as the CRS has indicated would result from auto pollution standards being met, this is not going to have an adverse effect on the sale of automobiles in this country. It is not going to have an adverse effect on the automobile industry and the economy so credited to it.

What we have in the Dingell amendment is a freezing of the current standards for 3 years, and I want to remind all that tougher standards are now being met by 10 percent of the domestic auto manufacturers in the country in the State of California.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, this amendment does not freeze the auto emission standards. The amendment requires auto emission standards. The amendment requires auto emission standards to reach exactly the same levels in all cases in 1985 except NO$_x$, which would be fixed by the Administrator of EPA administratively.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, under the current law, by 1977 the automobile manufacturers have to meet statutory standards required by the act to protect the public health. Nobody is asking them to meet the current law timetable, even though I might point out that Russell Train, head of the EPA, indicated in his testimony that if it was not for sulfuric acid, which turned out not to be a problem, they would be able to meet those standards. Under my proposal we delay those ultimate standards to 1981.

The gentleman from Michigan (Mr. DINGELL) would freeze the present standards beyond 1981 to 1985 for HC and CO. The NO$_x$ standard, however, could be waived beyond that date.

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I favor the adoption of the Dingell-Train amendment believing that the emission control guidelines suggested here strike a reasonable and realistic balance between continued air quality improvement and increased automobile fuel efficiency.

In setting new auto emission control standards, several factors must be considered: The availability of fuel, the ability of the automobile industry to reach the new standards, and the general effect of the new schedule on our economy. We must continue to improve the quality of the air we breathe, but we must also be reasonable in our manner of obtaining our goal of clean air.

In establishing a 5-year extension of present emission control standards and allowing stricter standards to be phased in gradually beginning in 1980, the Dingell-Train amendment sets a reasonable course. With this schedule, auto manufacturers will be provided adequate notice of expected performance and afforded that time needed to develop and perfect the proper pollution control devices. This approach will avoid large scale job dislocation within the auto industry.

An unjustifiably stringent auto emission control schedule could work another hardship upon an ailing auto industry, the economy, and national goal of energy self-sufficiency. This increase of air pollution control devices mounted in each auto in order to comply with more stringent emission standards will create higher auto prices and result in higher auto maintenance costs to the American consumer. The immediate waste of significant amounts of fuel due to overly stringent standards will also result in increased depletion of national energy supplies causing further economic hardship.

In April, an analysis of the major pending emission control proposals was made. This analysis was prepared through the cooperation of the Department of Transportation, Environmental Protection Agency, and Federal Energy Administration in response to a request by Congressman DINGELL to the Economic Policy Board. Looking carefully at the fuel consumption and air quality figures arrived at in this analysis my support of the Dingell approach has strengthened. The analysis shows the emission control schedule suggested by DINGELL to be fuel efficient in that over the years it will bring about increased annual automobile gasoline consumption savings and reasonable increases in air quality benefits.

I urge adoption of the Dingell-Train amendment in view of the reasonableness of the air quality goals set.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that debate on the Waxman-Maguire amendment and the Dingell amendment, and all amendments thereto, conclude at 1:30, with votes to be taken at that time; and that the last 10 minutes be reserved for myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 30 seconds each.

The Chair recognizes the gentleman from California (Mr. KREBS).

(By unanimous consent, Mr. KREBS yielded his time to Mr. WAXMAN).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in strong support to the amendment to H.R. 10498, Clean Air Act amendments, by my good colleague from Michigan, Mr. DINGELL. Before us today is legislation which hopes to wisely guide our Nation to a sound environmental policy that is a realistic one. The Dingell amendment seeks to provide us with this type of policy.

I have been completely dissatisfied with the amount of time it has taken to bring this bill to the floor. Along with 36 other Members of this body, I signed a letter on June 16 requesting that the bill be immediately scheduled for floor consideration. Today, 2½ months later, we are reviewing this bill.

We are already at a stage where it is completely infeasible for the automobile industry to comply with the stringent demands it faces for the 1978 model year automobiles. Technical designs are already underway, and because of the delay in the passage of this legislation, the industry does not know how to adequately prepare for the nonexistent emission standards, nor does it have the capability to submit the data for the 1978 models to the EPA, as is required by law. We cannot expect the automotive industry to plan on one standard, and then be forced to redesign and retool for a totally different one. Our auto manufacturers need our guidance, and they need it in both a reasonable and timely fashion.

The automotive industry must be able to continue planning for the 1978 model year. They must be able to depend upon established information and perform the normal 50,000 mile EPA certification test.

In order to accomplish this task, we must adopt the Dingell-Broyhill amendment.

This amendment, which freezes our current emission standards through 1979, provide for a change to the current California standards in 1980–81, and allow for the full 90-percent reduction for carbon monoxide and hydrocarbons while the nitrogen oxide standards would be established by the EPA in 1982, has the support of the Environmental Protection Agency. This agency realizes the need to demand only reasonable compliance from the automobile industry, and any refinement in standards at this extremely late date can only create havoc within an industry that is responsible for virtually millions of jobs throughout the steel, rubber, glass, electrical, transportation, and automotive industries. As we are all very well aware, this amendment never received complete consideration within the Interstate and Foreign Commerce Committee, and we must act to provide realistic emission standards here today.

We have substantial reason to accept this amendment. A study performed by the Department of Transportation, the Environmental Protection Agency, and the Federal Energy Administration clearly show that the Dingell-Broyhill-Train amendment is the most fuel and cost efficient of all of the proposals. If we do not accept this amendment, we will pay a very high energy and monetary cost. The current bill would cost us 67,000 barrels of gasoline per day, and our experience in recent years proves that we must conserve every gallon of fuel that we can. We know that auto emission controls will mean higher prices on all cars. Accounting for inflation, the current bill would cost American consumers nearly $30 billion more than the amendment before us, and the amendment prepared by Congressman WAXMAN will cost us $41 billion more than the Dingell amendment.

Our automobiles are already cleaner and more fuel efficient. Statistics indicate that our environment has been improving in recent years, and the trend is accelerating. We must now present ourselves with the question of do we have to achieve our absolute standards as quickly as is envisioned in this bill, and can we realistically afford to do so? I believe that the answer is clearly "No." We must give credit to the experts who study this problem, the EPA, and agree with Mr. Train that the Dingell amendment is the only truly reasonable policy we can follow. Health experts who have studied the legislation, most notably Prof. S. Fred Singer of the Department of Environmental Sciences at the University of Virginia, have concluded that our stricter standards as presently designed will provide us with a negative cost-benefit ratio, if we do not adopt careful policies.

Mr. DINGELL summed up our situation in a very clear manner before this body on August 4, when he said that we have a "strong desire to clean up the air of the Nation. But Members of Congress must not consider auto emission control in isolation from considerations of fuel economy consumer cost and the health of the Nation's economy." We have seen the auto industry stage a partial recovery from the devastating effects of our recent recession. If we do not accept a reasonable policy, such as the one proposed within the Dingell amendment, we will send this industry right back into periods of declining returns and high unemployment. States that are very dependent upon the automobile industry, such as Michigan, will have a very significant portion of its economic base destroyed, and certainly the limited benefits provided by this bill are not worth such a high cost.

I ask my colleagues to consider certain factors in a reasonable fashion. I ask my colleagues to support employment, not unemployment. I ask my colleagues to support fuel efficiency, not fuel waste. I ask my colleagues to support programs of limited cost, not programs of extreme cost to the consumers of our Nation. I ask my colleagues to vote in favor of the Dingell-Broyhill amendment.

(By unanimous consent, Mr. TRAXLER yielded his time to Mr. DINGELL).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, I rise in opposition to both the Dingell amendment and to the Waxman-Maguire amendment.

I feel the approach embodied in the committee amendment is a sound compromise between the need for continuing to improve the quality of our air and the need for having a workable system that our auto manufacturers can comply with.

(By unanimous consent, Mr. YATES yielded his time to Mr. WAXMAN).

(By unanimous consent, Mr. NEDZI yielded his time to Mr. WRIGHT).

(By unanimous consent, Mr. MOFFETT yielded his time to Mr. MAGUIRE).

Mr. MOFFETT. Mr. Chairman, I rise in strong support of the Waxman-Maguire substitute amendment. This amendment would require compliance with the full statutory standards in 1981. In the interim, it would require nationwide implementation of the 1976 and 1977 California standards.

This will be the fourth extension given for compliance with the statutory guidelines since Congress mandated that the three major tailpipe pollutants be reduced 90 percent by 1975. This amendment, then, would delay the original compliance date by 6 years. But some Members are arguing that this is not enough, that the guidelines should be extended even further. Let us examine their justification for doing so.

A major argument is that adoption of one proposal over another will have no major effect on the health of the American people. According to the National Academy of Sciences, pollution caused by auto emissions is responsible for 4,000 deaths a year and 4 million days of illness a year, costing the country at least $10 billion a year. The major tailpipe pollutants cause heart and respiratory diseases, lung and breast cancer, headaches, nausea, dizziness, and vision impairment. They further damage trees, crops and vegetation, and rubber and synthetic materials. While the guidelines will not provide a total cure for pollution-related diseases, any delay in implementation will affect the amount of damage. For instance, if the NO_x standard is frozen at 2 grams instead of the 0.4 grams as in the Waxman-Maguire amendment, there will be an additional 200,000 attacks of lower respiratory disease in children by 1990. Mr. Chairman, I for one am unwilling to contribute to that.

A second argument is that the Waxman-Maguire amendment is too costly to consumers. A recent FEA-sponsored survey revealed most respondents would prefer to pay increased costs than suffer the effects of pollution, even though the question overstated the cost involved. According to a CRS report, auto emissions controls would be responsible for only a small percentage of total car price increases. And the cost, estimated in the range of $44 to $203, would be substantially offset by savings in fuel and maintenance. The Volvo produced in California provides a good example. The auto emission controls, which cost approximately $50 per car, have an increased fuel economy of 10 percent. Thus, pollution controls can represent a savings for consumers.

We also are told that the Waxman-Maguire amendment is unfair to the automotive industry, since the technology needed to implement the guidelines without necessitating increased costs or increased fuel penalties is lacking. However, according to a 1974 EPA report—

> It is technically feasible to achieve any of the currently legislated emission standards.

The National Academy of Sciences also disagrees. It states the targets can be met by 1978, three years before the Waxman-Maguire amendment would require compliance. We have repeatedly given the automotive industry additional time to begin production of cars which would meet the statutory guidelines. At this point and with expert testimony stating both the worth and capability of compliance, it will take more than industry pleas to convince me to vote for even further extensions than needed.

The industry has had ample time to achieve the technology called for. But I do not blame it for asking for extensions. When Congress repeatedly grants delays, what incentive does an industry have for working to meet the standards? Progress will be made only if it knows that Congress will not be persuaded to delay implementation every time a deadline draws near. This will also make other industries take congressional mandates more seriously by showing that a failure to develop needed technologies by the date required will not automotically result in an additional extension.

Not only will the Dingell-Broyhill amendment and committee bill fail to provide incentives for the automotive and other industries; it will also fail to provide incentives for States working to meet clean air standards by improving air quality. My own State has levels of pollution second only to Los Angeles. It is just now beginning the steps necessary to combat the problem, by developing a transportation control plan to reduce ambient levels of carbon monoxide and hydrocarbons. Even with this plan, the State may not be successful not only because Federal standards are not being adhered to but because of the significant amount of pollution which drifts into Connecticut from other States. Those States working towards strict air standards will be further penalized in the area of industrial growth and economic development, since industries might well be tempted to move to areas where standards are less rigorous.

We should be setting an example, aiding States in their efforts instead of showing them how to delay and postpone.

At the present time, emissions levels of hydrocarbons and carbon monoxide in the 1976 model year are still almost four times higher than the levels set in the statutory standards. Nitrogen oxide emissions are nearly 8 times higher than the level recommended by Congress in 1970. The Congress had to act in 1970 because the industry had failed to set their own standards, based on "technical and economic feasibility," which the Clean Air Act Amendments of 1965, called for. The deadlines for compliance have been extended in 1973, 1974, and 1975. It is time, then, that the Congress provide the automotive industry with the needed motivation to achieve the technology that will protect our citizens from disease, increase fuel economy and comply with the law.

Mr. Chairman, I do not know how many Members of this body have small children. But I am tired of seeing my 7-year-old daughter coughing and choking from air pollution. How much longer will we defend the auto manufacturers? How much longer will we reward their intransigence? How much longer will some in this House ignore the damage to health that is being done? The manufacturers will do nothing out of the kindness of their hearts. We must not once again allow enormous delays in compliance.

I ask unanimous consent that I be allowed to insert in the RECORD at this point an editorial from the Litchfield, Conn., Engineer on this matter.

WRITE NOW FOR CLEAN AIR

The U.S. Environmental Protection Agency has awarded a $976,000 grant to Connecticut to support an air pollution control program. After those killing days recently, more of us should be aware of the need.

The funds can be used for monitoring, enforcement, staffing, planning or research.

The House of Representatives is presently debating the clean air act amendments passed in a weakened state by the Senate. While they retained the air deterioration provisions, the Senate did water down the auto standards.

Sixth District Cong. Toby Moffett's office advised that the man to write to is Rep. Paul Rogers, chairman of the House Commerce Sub-Committee on Health and the Environment. Writers should specify support of the Waxman-Maguire amendment which basically puts back the tough auto standards taken out by the Senate. It would require compliance by 1981, with interim compliance to the California standards.

Air pollution alerts, such as those issued recently by the State Department of Environmental Protection, indicate that air pollution is "not a fringe environmental issue, but is a serious life-and-death hazard, especially for those who have respiratory problems," Moffett said.

We are second only to Los Angeles in our dangerous smog levels, but California is doing something about it. Our state legislature is still in the primitive stages of politicism and ignorance.

The National Academy of Sciences reports that auto pollution kills 4,000 a year and accounts for worker absences totalling four million days a year. These are statistics that don't even reflect the anxiety and agony of those who are ill or elderly, whose lives are shortened by the filth in our air. The Academy blames the auto emissions for causing and aggravating fatal cases of bronchitis, emphysema and asthma. Of the total hazard, one-tenth to one-fourth can definitely be traced to auto exhaust fumes.

Moffett has joined with other House members "to fight efforts by the automobile industry to again delay implementation of stricter air pollution standards first established by the Clean Air Act of 1970." As noted before, we haven't caught up to that yet, in Connecticut.

National legislation is the best way to go since considerable of our pollutants drive in from elsewhere (but stop kidding yourself, as we have also reported before, we've had days when the air was dangerous to health and the wind wasn't blowing from New York and New Jersey). There is no one to blame but ourselves . . . inaction is our legacy.

The legislation reported by Moffett would require car makers to meet emission standards equal to those now in effect in California . . . "the technology is there," the congressman said, adding "in California, the manufacturers have met the standards without any significant loss of fuel economy."

Moffett said that the 1970 law originally required that the tougher pollution standards be met by 1975, but a "massive and expensive lobbying effort" by the car manufacturers has won several delays.

"And the manufacturers have used these delays to drag their feet on researching alternatives," he noted.

"If we fail to make them meet the standards of the 1970 act," Moffett said, "we will send them a message that says they have more to gain by playing politics than by doing research to clean up the air."

"We will be saying that Congress showed concern for auto industry pressures, but has contempt for the lungs of children."

He pointed out that a National Academy of Sciences study has attributed 4,000 deaths directly to auto emissions each year. Air pollution has resulted in an estimated $10 billion yearly in added health costs, crop losses and decreased property values.

"The 1970 standards that we are now trying to enforce were not developed whimsically or impulsively," Moffett noted. "They were not developed without consultation with the auto industry and scientific community."

"So there is no reason to continue this industry-inspired retreat," Moffett said. "There is no reason to believe that the automobile companies would have tried to clean up the air voluntarily. We need to keep the tough federal standards to get the job done."

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I rise in opposition to both the Dingell and Waxman amendments.

The deadlines and standards set for autos in the committee will have been attacked as too strict—Dingell amendment—or too lenient—Waxman amendment.

We need to consider the reasons why we have deadlines and standards. They are there as an incentive for research and development of new technology.

Now we cannot "order" new technology; we cannot bring it into existence by passing a law, as the gentleman from Virginia (Mr. SATTERFIELD) has forcefully argued. But though we cannot order technological change, we can establish conditions in which technological change is more likely rather than less likely. This is what the committee provision seeks to do.

The need for standards that encourage or force technology is clear from a statement of EPA Administrator Russell Train at the hearings: "I have heard that the mere fact that I wrote a letter to the Congress suggesting a 2 NO_x standard instead of the statutory four-tenths had the result of killing off R. & D. on how to meet a higher, tighter NO_x standard. I would suspect it is probably true because the deadlines and the statutory standards are in these for the purpose of forcing technology."

When it was pointed out that Ford Motor Co. had canceled orders for what it considered "the carburetor of the future" when the 1976 NO_x standards was postponed administratively, Mr. Train expressed concern and stated:

> I am reasonably sure that given competitive and other reasons, the automobile industry isn't going to be doing things that it doesn't have to in terms of meeting regulatory standards.

So standards must be strict enuogh to force technological change, and the Dingell amendment completely fails in this respect.

But we must realize that we are dealing with predictions and uncertainties here, with developing evidence. We are on frontiers of scientific and medical knowledge. There is necessarily a judgmental element as to how far to force technology. We must act, we can't wait for perfect knowledge, but we must act carefully in light of our tentative knowledge.

The committee has recognized this in our provisions granting extensions to smelters, for example, and in the provisions granting variances and extensions. The bill only demands what is reasonable. The Waxman amendment is not in this spirit, however; it is too strict and would put so much pressure on the auto companies that they would necessarily forego more basic technological change to the internal combustion engine in favor of hanging gimmicks on the exhaust pipe.

I wish to make one further point against the Dingel amendment that I don't think has been brought out in argument, and that is this:

The greatest direct cause of dirty air is the automobile. If we adopt the Dingell amendment and relax the auto emission standards then we must increase reliance on indirect source controls, additional restrictions on existing stationary sources, parking restrictions, even gas rationing. This would be an unfair shifting of the burden of pollution control from auto manufacturers, the direct polluters, to States and localities and shopping centers. This is simply unfair.

The provision in the committee bill is balanced and fair, and I hope it will be sustained over the Dingell and Maguire amendments.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I rise in support of the Waxman-Maguire amendment.

Mr. Chairman, over the last year and a half, my colleagues on the Health and the Environment Subcommittee and I have had to make hard and demanding choices between competing values—between the need to protect our environment and the need to achieve energy independence. Neither of these issues can be solved at the expense of the other if we are to continue to enjoy the quality of life we have all come to expect.

Of particular concern is the question of auto emission standards. At first, I was advised by some of the Nation's preeminent automotive engineers that by tightening automotive emission standards too much, too quickly, we would increase automobile energy consumption by at least 10 to 15 percent. I felt that this was too great a fuel penalty to pay at a time when energy independence is so important.

Since that time, however, the California Air Resources Board has produced startling hard evidence concerning an almost pollution free automobile which was developed by Volvo in conjunction with Engelhard Industries.

This four-cylinder car not only meets but, in fact, exceeds the 1977 emission standards set by the Clean Air Act of 1970—and also improves gas mileage. Such an impressive technological breakthrough cannot be ignored. I believe strongly that Detroit can—and must—achieve similar results.

In addition to the reduction in emissions and the improvement in fuel economy, there are two other reasons why this breakthrough is so significant:

For the first time industry has produced a catalytic converter capable of meeting the 50,000-mile performance standard set by the Clean Air Act.

The additional cost to the consumer is estimated by the California Air Resources Board to be between $25 and $50. This is hardly too great a one shot price to ask the consumer to pay for a cleaner environment with the added kicker of slightly improved fuel economy to boot.

For those of my colleagues who support a further delay in meeting statutory auto emission standards, I ask them to consider these facts. In 1975, according to the President's Council on Environmental Quality, some 14 cities exceed the carbon monoxide ambient air standards an average of 16 percent of the time. This represents a total of 2,000 pollution days a year. These figures range from as few as 5 days a year in Minneapolis to a startling 344 days a year in New York City. Chicago has 170 pollution days; Los Angeles, 143 days; Denver, 118 days; Boston, 113 days; and Seattle, 107 days.

Also, 12 cities did not meet or barely met the annual ambient nitrogen oxide, NO$_x$ standard in 1975. The Council on Environmental Quality found that the NO$_x$ standards for 1975 was exceeded by 66 percent in Los Angeles, by 33 percent in Chicago, and by 21 percent in New York City.

According to the Washington Council of Governments the ambient air quality for photochemical oxidants in the Washington metropolitan area was exceeded on 24 days in 1974, by 60 days in 1975 and by 56 days to date in 1976. The overwhelming amount of pollution in our Nation's Capital comes from automobiles.

Each day that the air quality is unacceptable, people who have lower respiratory diseases such as emphysema, bronchitis, and asthma experience extreme discomfort and perhaps more importantly the entire population becomes becomes more susceptible to influenza and pneumonia.

In addition people with heart conditions and hypertension are much more likely to suffer the serious consequences of their conditions.

The Waxman-Maguire amendment time schedule gives Detroit more than ample time to iron out any bugs that may still remain in the Volvo system.

In 1979 and 1980, cars in the 49 States would be required to meet emission standards which will be in effect in California in 1977. Finally, in 1981, some 4 years later than envisioned by the Clean Air Act Amendments of 1973, the original auto emission goals of the 1970 Clean Air Act would be achieved. I urge you to join me in supporting the Waxman-Maguire amendment so that we can achieve a cleaner environment without incurring a fuel penalty.

I include the following:

DATA ON GAS MILEAGE FOR VOLVOS

All cars tested are of the 240 Volvo series, 130 cubic inch engines, 4 cylinders, manual transmisison. Figures are given in terms of miles per gallon (m/p/g) during a combined City/Highway cycle of driving. Figures for Volvo mileage were supplied by EPA. The California Air Resources Board supplied mileage for the new three-way catalyst Volvo.

Volvo sold in the 49 States for 1976 *with no catalyst;* 20 m/p/g.

Volvo sold in California for 1976, *two-way catalyst;* 21 m/p/g.

Volvo tested by California Air Resources Board, *three-way catalyst;* 21.6 m/p/g.

It is clear that in the case of Volvo, when proper technology was applied, cleaner emission standards resulted in higher fuel economy.

(By unanimous consent, Mr. SCHEUER yielded his time to Mr. MAGUIRE.)

(By unanimous consent, Mr. MOSS yielded his time to Mr. WAXMAN.)

(By unanimous consent, Mr. TREEN yielded his time to Mr. BROYHILL.)

(By unanimous consent, Mr. ROSTENKOWSKI yielded his time to Mr. WRIGHT.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, my purpose in seeking this time is to try to get some reliable information on which all of us can depend as to the question of energy conservation as between these two proposals before us.

Many Members, I am convinced, have become thoroughly confused as a result of the grossly disagreeing statements which have been made. We are told on the one hand that the Dingell amendment would result in conserving energy that otherwise would be wasted, and, on the other hand, we are assured that the committee bill would itself result in a saving of energy. These statements which have been offered on presumptive authority are as far apart as perhaps 1 billion gallons of gasoline a year.

Since energy is our greatest long-range problem and since transportation consumes some 35 percent of all the energy used in this country, I would like to ask some questions of the author of the amendment and of the manager of the bill to see if there is any basis on which we can get some reliable information. To that end, Mr. Chairman, I have a preferential motion at the desk.

PREFERENTIAL MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. WRIGHT moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Texas (Mr. WRIGHT) is recognized for 5 minutes in support of his preferential motion.

Mr. WRIGHT. Mr. Chairman, in view of the extreme importance of energy conservation to the entire Nation and to its future, I would like to ask the author of the amendment, the gentleman from Michigan (Mr. DINGELL), upon what he bases his contention that his amendment, if adopted, would result in a conservation of petroleum and of energy.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I have submitted to the House in the minority views filed by a number of us on the committee a study which was prepared by the Department of Transportation, the EPA, and the FEA in which they said that the loss of fuel under the committee bill is 67,000 barrels of oil a day.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman.

Does the gentleman from Florida (Mr. ROGERS) desire to respond to that?

Mr. ROGERS. Certainly, Mr. Chairman, if the gentleman will yield.

Mr. WRIGHT. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I believe we should analyze the report of the FEA, the EPA, and DOT which the gentleman from Michigan (Mr. DINGELL) mentioned and go over it thoroughly.

If we take the worst case and assume under the Dingell amendment 2.0 NO$_x$ from now on, they say in the very worst case, with no new technology, making no improvements in existing engine efficiencies and doing nothing more, we might assume there may be by 1980 and 1985 16,000 barrels of oil which would be lost, and that is less than one-tenth of 1 percent of current national demand. Now, that is assuming that nothing is done. From 1985 to 1995, it would be 67,000 barrels, as the gentleman pointed out, but that is on a worst-case basis. Even assuming that, it is only three-tenths of 1 percent of total demand for oil at that time—I repeat—three-tenths of 1 percent.

What has the history been, though? All of the projections of the automobile companies have proven untrue. When in the past they have said "we are going to have all these penalties," it has not happened. Let me just give the Members this example:

Let us take General Motors as a good example. In 1974 they said they could only get a 13-percent increase in mileage if we made them achieve tighter emission standards. We have had a 50-percent reduction in emission standards since 1974. And do the Members know what the mileage of the Oldsmobile "98" has gone up to? It is up to 21 miles per gallon, an improvement of 100 percent, not 13 percent. It has gone up by 100 percent.

Now, I can use figures and take the worst case, projecting a 2.0 NO_x and assuming no improved technology, and I can come up with a different figure. But if we look at the experience, we find out that EPA has said the chart for 1982 shows no fuel loss at all beyond the figures on the DOT, EPA, and FEA chart for 1982.

Mr. WRIGHT. I thank the gentleman.

Mr. DINGELL. If the gentleman will yield further, the most recent document is the report by the Federal Task Force on Motor Vehicle Goals Beyond 1980. They point out that there is a potential loss of something on the order of 12 percent under the figures that would be in the committee bill.

Furthermore, they have pointed out that the standards in the committee bill are far too stringent, and they even go further and they say there is a paucity of data to justify the level of emission standards in the committee bill.

Mr. Chairman, this is an irresponsibly drawn bill.

If the gentlemen will vote for the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) and me, they will get the best mix of economy, consumer costs, and clean air.

Mr. ROGERS. Mr. Chairman, will the gentleman yield for a correction.

Mr. WRIGHT. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, here again they take the worst case.

This report also says that there will be no fuel loss if a few things are done which we can do.

Volvo has already met the standard and has a 10-percent fuel increase.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I think what I would like to take this opportunity to do is to observe that this debate that we are having today between members of the committee who have been working on this bill emphasizes the fact that we really do not know for sure where we are and that we are very ill-advised in attempting to try to legislate technology.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. McCORMACK. Mr. Chairman, I oppose the motion.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the motion.

The CHAIRMAN. Is the gentleman on the committee?

Mr. McCORMACK. No. I am not; but I rise in opposition to the motion.

The CHAIRMAN. For what purpose does the gentleman from Florida (Mr. ROGERS) seek recognition?

Mr. McCORMACK. Mr. Chairman, I have a point of order.

Mr. ROGERS. Mr. Chairman, I wish to speak with respect to this motion.

POINT OF ORDER

Mr. McCORMACK. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman from Washington will state his point of order.

Mr. McCORMACK. Mr. Chairman, there is a motion on the floor. I rise in opposition to it.

As I understand, under the rules, one Member is allowed 5 minutes to speak in opposition to a motion like this.

The CHAIRMAN. The Chair will state that what the gentleman says is absolutely true.

However, the Chair recognizes the gentleman from Florida (Mr. ROGERS) who is on his feet, if he seeks recognition in opposition to the preferential motion.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the motion.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) is recognized for 5 minutes in opposition to the preferential motion.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to answer some of the points raised about fuel economy questions by our colleague, the gentleman from Texas (Mr. WRIGHT), who wanted to hear from the authors of the amendment, but evidently did not feel that he wanted to hear from the authors of the Waxman-Maguire amendment.

Even if we accepted the figures of the gentleman from Michigan (Mr. DINGELL), which I do not accept for 1 minute, they have to be placed in some kind of context.

The United States currently consumes 17 million barrels of oil per day. The 120,000 figure that the gentleman from Michigan (Mr. DINGELL) gives us is seven-tenths of 1 percent of daily oil consumption in the United States.

To say that it is negligible is an understatement. To say that the history of emission standards leads to lesser fuel economy is just not true. We have looked at it; we do know from past experience what the case has been and we can therefore project into the future.

Mr. ROGERS. Mr. Chairman, I agree with the gentleman. I think he is entirely right.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the gentleman from California (Mr. WAXMAN) pointed out how negligible the amount is, even assuming the figures of the gentleman from Michigan (Mr. DINGELL) are correct.

I would like to point out again that that is the worst case, that figure of 121,000 barrels per day. It is a 5-percent fuel loss.

The three-agency study which the gentleman from Michigan cites has a range of outcomes, and as the gentleman from Florida (Mr. ROGERS) pointed out a minute ago, these range to no difference whatsoever in fuel economy between these proposals.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

If I could just speak for a few minutes, we do not have much time left, and I have not had an opportunity to speak at all on any of these motions, which I oppose.

Mr. Chairman, I oppose the preferential motion. I oppose the Waxman-Maguire amendment, and I certainly oppose the Dingell amendment.

Mr. Chairman, this is a bill that is not an energy bill. It does not have energy as its main purpose.

This is a health bill for the American people.

Mr. Chairman, do we realize that we have had eight alerts here in the city of Washington this year? We are now under one. Do the Members know that there are people in this city, and Members' families are even involved, who are affected by these conditions?

I happen to know them. I will not name them. They cannot go out in the air right now. I know a Member who has a daughter whose nose bleeds and bled during this last air alert. And here we are talking about one-tenth of 1 percent of some gasoline. Let us put this in a proper perspective.

This is a health bill to protect the American people. This is going to be a very critical vote, and I want all of the Members to know that, the issue is whether we want clean air and protection of health or whether we have no concern for that. That is what this vote is going to come down to and we might as well admit it.

Two weeks ago during that 7-day alert, 20 percent of this Nation was under that air alert. It was out West. It was in the Middle West. It was in the East here around Virginia and all over. People are affected by it.

What we have, as the Members know, are two systems of setting standards. California does it and they do it with stricter requirements than the Federal Government. They are already 4 years beyond what the Dingell amendment would even think about imposing. California went to 9, 9 and 2, in 1975, 10 percent of Detroit's production, 10 percent, met that standard.

Do you know what has happened since 1974? At that time Ford Motor said, "Well, if you make us do this maybe we would get about a 3-percent increase in mileage if you make us do all these things to clean up the air."

General Motors said, "Maybe we will get 13 percent."

Do you know what they have gotten? They have gotten up to a 50-percent increase, and in some instances, more than a 100-percent increase in milage.

When the manufacturers yell, "Oh, no, don't make us do this," do you know what they are really concerned about? That we might make them go to a 0.4 NO_x.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

The CHAIRMAN. The Chair will state to the gentleman from Florida that on a preferential motion, that unanimous-consent request is not in order.

The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

The preferential motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS) for the balance of the time.

Mr. BROYHILL. Mr. Chairman, did the Chair not mean to recognize the gentleman from North Carolina?

The CHAIRMAN. The Chair will state to the gentleman from North Carolina that the Chair is operating under the limitation which was imposed by the unanimous-consent request. There are two key points that come into play at this time, the limitation of the time and the reservation of time to the gentleman from Florida (Mr. ROGERS) of the last 10 minutes. The gentleman from Florida will not get the full 10 minutes because the time will have expired at 1:30.

The Chair again recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, what we are seeing is that California has already moved far ahead of us. We are falling far behind them. In fact, Volvo has already met the 0.4 and lower on a 3,500-pound car. Already they have met it and we are not to ask our cars from Detroit to meet it for 10 years—10 years.

We have been talking about all of these reports. I have the report here that anybody can get, that has just been published, a study by the Department of Transportation, EPA, ERDA, Federal Energy, and the National Science Foundation, and it shows that if we do not go to 0.4 but if we leave it at 0.2, as the Dingell amendment would, then we are going to have an additional 600,000 cases of respiratory disease a year just in children by the year 2000.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the gentleman said my amendment would close it at 0.2. It allows the administrator to fix it according to his interpretation. The gentleman is in error. The gentleman chose the worst case that I had.

Mr. ROGERS. Mr. Chairman, I refuse to yield further. The gentleman is wrong; the gentleman is wrong.

Let me just finally conclude by saying this: The National Academy of Sciences has told us we should be doing something about this. So has the AMA. It is feasible to do it. I urge that both amendments be rejected.

Mr. HAGEDORN. Mr. Chairman, I rise in behalf of the Dingell amendment modifying the automobile emission standards set by the Clean Air Act. Last December, the Congress imposed strict new fuel economy standards upon the manufacturers of automobiles beginning in 1978. Aside from the fact that no one knew exactly how to go about achieving them on a fleetwide basis, compliance with these standards was certain to prove costly to both consumers and car manufacturers. Not satisfied with placing this one dilemma before the industry, the proposal now before us would establish rigid automobile emission standards, standards which are also technologically unfeasible. I have observed this Congress attempt to circumvent the laws of economics on many occasions; now they are attempting again to amend our physical laws and force the development of nonexistent technology.

While the problem of air pollution is an extremely complex one, the arguments on behalf of the Dingell amendment are relatively clear: energy and employment. Compared to the committee bill, the Dingell amendment would produce an approximate savings of 1 billion gallons of gas per year over the life of the standards, or 67,000 barrels of gas per day. I do not believe that our Nation's current energy position is so strong that we can afford to expend that much energy for what are highly dubious environmental benefits.

According to studies done by the Environmental Protection Agency, levels of hydrocarbon and carbon monoxide will be no lower under the Dingell standards than under either the committee standards or the stricter Waxman standards. While nitrogen oxides' levels would be reduced slightly more under the committee standards, it is difficult to see how any reasonable cost-benefit analysis would have this factor outweigh the costs of the committee standards.

In addition to increased fuel consumption, the committee standards would absolutely necessitate increased consumer purchase and maintenance costs. Taken together, the Department of Transportation has estimated that the total savings to the consumer of the Dingell amendment will be at least $22 billion. Again, I do not believe that our country is able to waste resources of this magnitude for what are at best minor environmental gains. Even the most fervent environmentalists give lipservice to the need to strike a balance between ecological concerns, and other social and economic concerns. In my opinion, this is mere rhetoric to those who are unable to draw their balancing line near the Dingell standards. While a 5-year deferral would have drawn substantial congressional support, the Dingell amendment makes an admirable effort to draw up exactly the sort of compromise that the environmentalists always speak about.

Almost 1 out of every 6 employees in the United States has a direct stake in the automobile industry. There is no way that Congress can impose substantial costs upon this industry, deter its consumers from making new purchases, and create general uncertainty about standards from year to year without exacting a cost from these employees. Our Nation has already experienced the chain reaction of unemployment that occurs when the auto industry suffers. The industry has reduced polluting emissions more than 80 percent in the past 8 years; under the Dingell amendment, it will continue to make progress toward cleaning our air. But, there is a law of diminishing returns and that point seems to have been reached. To mandate the achievement of a completely pristine environment is going to require the subordination of other social goals that the American public considers equally important. I believe that the Dingell amendment best permits our country to make progress on all of these goals.

Mr. KEMP. Mr. Chairman, I support the Dingell-Broyhill amendment. This amendment would maintain the present interim standards on automobile emissions through 1981. It is supported in doing this by the Environmental Protection Agency—EPA—and I concur.

The administration, EPA, and most others have recognized for nearly 20 months that the automobile industry could not possibly meet the emission standards for 1978 models set by Congress in the Clean Air Act. Somehow, this message did not register fully with the committee when it considered the bill now before us.

In 1970, Congress set 1975 and 1976 auto emission deadlines to provide adequate lead time for developing new emission control technology. EPA granted a 1-year extension under authority of the act and then set interim 1975 standards.

In 1974, Congress delayed final standards until 1977 for hydrocarbons and carbon monoxide and until 1978 for nitrous oxide. It then reaffirmed EPA's interim standards.

EPA thereafter suspended the 1977 deadline as studies suggested that the newly developed controls were emitting potentially dangerous levels of sulphuric acid mists. It does not do any good to control one form of pollution and health hazard—the hydrocarbon, carbon monoxide and nitrous oxide emissions—to have them replaced by another form of pollution and health hazard—the sulphuric acid emissions. In lieu of a final compliance deadline, EPA set interim emissions standards equal to the 49-State standards already in effect.

The administration requested a 5-year moratorium be established for meeting final standards and that present interim standards be maintained through 1981. The administration also proposed giving EPA discretionary authority to delete the nitrous oxide requirement pending an energy impact and cost analysis.

The Dingell-Broyhill amendment translates into the following emission standards:

[In g.p.m.]

Years	Hydrocarbons	Carbon monoxide	Oxides of nitrogen
1977, 1978, 1979	1.5	15.0	2
1980, 1981	.9	9.0	2
1982 and subsequent years	.41	3.4	(1)

(1) Administratively established.

This amendment is reasonable.

It is environmentally sound, and it would not be endorsed by EPA if it were not.

It is energy efficient, and it would not be endorsed by the Federal Energy Administration if it were not.

It is consumer-oriented, and it would not be endorsed by the American Automobile Association, the Recreational Vehicle Institution and other similar organizations if it were not.

It is protective of jobs, and it would not be endorsed by the International Union of Electrical Workers, and many other labor groups if it were not.

And, it is strict enough to keep us on the right track in furthering the battle against air pollution.

The delay in revising the emission standards has left the automobile manufacturers in Detroit and elsewhere helpless to plan intelligently. They have had to resort to multiple planning schedules with a separate plan to fit each possible guess of what Congress might do. If the revisions go the wrong way, the industry may have to adopt costly temporary technology. If anyone is wondering who will pay for all this delay and indecision, it is neither Detroit nor Congress, it is the consumer.

The debate on this legislation has been heated. Supporters of the Dingell-Broyhill amendment have been accused of giving in to Detroit, sacrificing environmental quality in the process. If that is true, I wonder how the opponents of the amendment reconcile the position of EPA in support of the amendment with the fantastic EPA record in fighting all forms of pollution?

It is crucial not to forget that great progress has been made and is continuing to be made in cleaning up the air. Gains have been made in cleaning up the mostly stationary sources of particulate matter and sulphates. Particulates are the most dangerous common air pollutant. Most environmental experts are already saying that pollution from stationary sources will be under almost complete control by the end of the decade under existing standards.

The fact is, Mr. Chairman, that industry and government are already breaking the back of air pollution in America. This progress will continue as better pollution control equipment and techniques come on stream and as emission controlled automobiles replace older, dirtier ones.

There is another major benefit to be derived from enacting the Dingell-Broyhill amendment too.

It is estimated the Dingell-Broyhill standards will result in the saving of a billion gallons of gasoline over the committee's language. Here is a way to energy conservation that overshadows most of the schemes proposed. That gasoline savings also translates into significant dollar savings to the consumers. It means they will buy about $500 million less gasoline.

Mr. Chairman, these are the many reasons why the Dingell-Broyhill amendment should be adopted and enacted. I urge it.

Mr. LENT. Mr. Chairman, I want to urge my colleagues to reject the pending amendments and give their support to section 203 as it was reported by the Committee on Interstate and Foreign Commerce.

There is merit in both the Dingell and Waxman approaches to controlling auto emissions, but I believe that the committee proposal strikes the best practicable balance between the needs for energy conservation, environmental protection, and economic recovery.

We have, in the past half dozen years, reduced auto emission levels by more than 80 percent. It is obvious that progless toward achieving the objective of 90-percent reduction will be more difficult. But I believe that the automobile industry can improve fuel efficiency and reduce emission levels. It has done so in the past, and the future health of our citizens depends on the industry's continuing to do so.

A recent study of the efforts of auto pollution on law enforcement officers in the metropolitan New York-New Jersey area proves rather conclusively that auto emissions—particularly carbon monoxide—are harmful to health, causing and aggravating respiratory illness, high blood pressure, heart disease, and cardiovascular abnormalities.

In short, the committee bill is technologically feasible; it will not keep the auto industry from meeting congressionally mandated fuel economy standards; and its impact on the price of new automobiles will not be excessive. It ties the industry into the safe environmental future of our country, and it does so in a way which will in all likelihood not damage the recovery of the industry which is now underway and which is so vital to the Nation's economic health.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment. H.R. 10498, the Clean Air Act Amendments of 1976, as reported by the House Committee on Interstate and Foreign Commerce, is a prime example of the "no growth" position which is being pushed hard by the very same advocates who complain vigorously about the problems of unemployment. Section 108 of this bill would, as the Wall Street Journal stated in their Review & Outlook column on July 26, bring about a "significant deterioration" in local economies.

It is difficult to understand how these advocates can support a policy of "no growth" and at the same time express so much concern about the problems of unemployment. Implementation of the proposals in the Clean Air Act amendments presently under consideration would bring a stop to activity in the private sector of business which provides so much of the long-range permanent employment in this country.

Under the original Clean Air Act of 1970, ambient air quality standards of two levels were established to insure the health and welfare of the Nation's citizens. They include substantial margins of safety between the actual levels of pollution which would endanger health, and the minimum pollution level standards. We have been successful under the act, Mr. Chairman, in cleaning up our environment and achieving the degree of health and welfare that was our objective when the Clean Air Act became law 6 years ago.

The authors of the new proposed amendments, however, want more than to simply protect the country's health and welfare. In H.R. 10498, they call for a third, pristine, level for ambient air quality standards—a level in which no "significant deterioration" of air quality could take place.

Further, no "nondegradation" standards would be imposed on the other two levels already established by the 1970 act. In practical terms they seek to legislate an unrealistically pure and undefiled environment in return for a "no growth" economy.

A series of studies has been made by industrial and Government agencies to assess the potential impact of a policy to prevent such significant deterioration of air quality, which is the intent of section 108 of the bill now before us. The conclusions reached by these studies are generally universal—the cost to the economy would be enormous while the return in terms of substantial improvements in air quality would be minimal.

One large electrical equipment supplier reported that increased capital requirements for production equipment in the electrical industry could range from $107 to $127 billion from 1981–90, and total production costs could be increased by $170 to $250 billion as a result of significant deterioration and best available control technology provisions in the proposed Clean Air Act amendments.

Studies by a group of electric utility consultants concluded that compliance with the present Clean Air Act alone, without the pending nondeterioration amendments, will require expenditures of $37 to $54 billion for the electric industry, and will cost each American household an average of $1,500. Enactment of section 108 would add an additional $8.7 to $18.6 billion in utility costs and from $299 to $673 per household during the same period.

The Federal Energy Administration has estimated that capital costs for the oil industry which would be needed to achieve compliance with section 108 could reach anywhere from $6 to $17 billion for the period 1980 to 1990. Meanwhile, the Environmental Protection Agency says that total costs for nondeterioration compliance will be $11.5 billion.

The advocates of section 108 tell us that nondeterioration is vitally needed in order to protect the pristine quality of many areas of our country. Guarding the health and welfare of the Nation's citizens apparently is not enough. More stringent and protective standards are needed, they say, and should be imposed no matter the cost.

At a time when capital funds for needed capital expansion and job creation are at a premium in our economy, it is difficult for me to see the reason in applying such stringent, restrictive, and unrealistic measures. A more prudent approach would be to drop section 108 and permit present, already adequate laws in this area to continue. Short of that, I think Congressman CHAPPELL's approach to defer the implementation of section 108 pending further cost-benefit studies should have been adopted. Here follows the editorial from the Wall Street Journal, July 26, 1976, which describes by imaginative analogy the negative aspects of a "no growth" policy and "no significant deterioration" of air quality rulings:

SENATOR MUSKIE'S NO-GROWTH BILL

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight on the grounds that this is what Congress seemed to have intended when it passed the law.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no relation to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air quality could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, wants to write into the law what the federal courts have already said is in the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureaucrats the power to decide what the standard should be in northeastern Utah and what is should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit, Senator Muskie's bill is an unnecessary nontariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plently of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

There are many other sections of this bill which are of concern to me. The auto emission standards section is one of them. Again, on the basis of studies performed by the Environmental Protection Agency, as well as other groups, it has been found that the high costs associated with complying with the standards required under this section would not be worth the resulting benefit to the environment. Accordingly, I intend to support the Dingell-Broyhill amendment to this section which offers a more sound approach.

Mr. Speaker, no one is against clean air and a healthy environment—we are all interested in protecting the health and well-being of our citizens. We should also be interested in safeguarding the jobs and economic health of our citizens—something that the bill before us tends to disregard. For these reasons, Mr. Chairman, I would urge my colleagues to carefully consider the important economic arguments on this legislation before voting to rob billions from the private sector and cripple the economy.

Mr. ANDERSON of California. Mr. Chairman, I rise in strong support of my colleague from California, Mr. WAXMAN, in his Waxman-Maguire amendment.

Mr. Chairman, in 1970, when the Clean Air Act became law, the Congress mandated, and I for one expected, that emissions of the "gunk" from our cars would—by this year—be reduced 90 percent from their uncontrolled levels.

Now, because of extensions, 1978 we are told is the year for compliance with the full statutory standards.

Then, adding insult to injury, the Congress is caught between a rock and a hard place with the committee bill and Mr. DINGELL's proposal. Both would freeze the current Federal standards until 1980—yet another extension.

I am certain the people of southern California are sick and tired of living with extensions, while breathing dirty air. Especially when the technology to meet and beat the statutory standards has been proven and demonstrated.

For example, California's Air Resources Board tells us that most manufacturers have already certified a majority of their 1977 cars for sale in California. Even though California has substantially tightened its standards over 1976 requirements, the 1977 autos show between a 4 to 5 percent fuel economy improvement.

Seems to me that tighter emission standards and fuel economy improvements can go hand-in-hand, contrary to what the gentleman from Dearborn, Mich., Mr. DINGELL says.

Yes, since the passage of the Air Quality Act in 1967, and the 1970 Clean Air Act we have made significant progress in our fight against air pollution. But, our cars still constitute the single largest contributor of nitrogen oxides, carbon monoxide and organic gases to our air. And, the big mix of nitrogen oxides, hydrocarbons and sunlight creates what everyone hates—smog.

The technology is there. It is not a mystery. In fact, a foreign manufacturer will be marketing an automobile this fall that meets these standards, and gets 10 percent better fuel economy as well. Moreover, the increased cost of the pollution control equipment responsible for this breakthrough is only $50 dollars. Further, Ford Motors, Mr. DINGELL's territory, has announced plans to use a similar control system, based on a "three-way" catalyst, on 1978 Pintos sold in California.

All we are asking is compliance with standards that are proven effective, and in effect in our State of California today. Then, in 1981 the full statutory standards will be implemented. Certainly, this is a reasonable compromise between America's need for clean air, and the time the car companies need to implement proper systems.

Mr. GUDE. Mr. Chairman, clean air is a legacy that we must leave for our children and their children's children. We cannot continue the disgraceful attitude our Nation has taken toward its air in the past. Support of the Dingell amendment before the House at the present time would be an approval of continued deterioration of air quality throughout the United States.

Although this amendment will reduce emissions between now and 1981 for nitrogen oxides and 1982 for hydrocarbons and carbon monoxide to the levels called for in the committee bill through 1979, it leaves future controls to the whimsy of the Administrator of the Environmental Protection Agency. I cannot understand why automobile manufacturers support this amendment, since it will give them absolutely no guidelines against which to aim for future emissions controls.

The Congress is often criticized for its lack of advance initiative to industry on new guidelines, especially when consideration of the legislation is prolonged. Now we are discussing doing exactly that—enacting legislation that does not provide any guidelines. Such guidelines, if enacted today, should be met easily by the manufacturers, since they will have 5 years in which to experiment with the means of reaching them.

Another criticism of the Congress has been that too much power is left in the hands of administration officials. Again, we are proposing to do just that—the Administrator of EPA, whoever he may be, would be empowered to set emissions control levels at whatever level he wishes, even with no advance warning to the automobile manufacturers. What if we had an Administrator appointed in 1980 who firmly believed in zero emissions for all automobiles, beginning immediately upon termination of the levels proposed in this amendment, in 1981 and 1982? What would the auto manufacturers do then? This amendment does not provide for any congressional oversight of the Administrator's decision so prompt action by the Congress may well not be forthcoming.

The levels established in either the committee language or the other proposal we will be discussing sound much more reasonable to me. These provide a target toward which to aim. They provide a promise of cleaner air sooner. With such projects as the Volvo three-way catalytic converter that has been tested in California, there are serious indications that technology will be capable of meeting the strictest requirements. In addition, this new converter has caused an increase in fuel mileage capability, even will drastically reducing emissions.

One of the "selling points" of this amendment is that the EPA air quality regions would not achieve or fail to achieve a favorable status as a result of the amendment's proposed emissions levels. What is ignored in this "selling point" is the fact that the absolute quality of air in each region is disregarded, in favor of the relative quality. Anyone can see that higher emissions levels will result in more polluted air.

The Congress cannot take the step backward that this amendment proposes. We must take it upon ourselves to see that our constituents are guaranteed the cleanest air possible in as short a time as possible. We owe it to the continued health of the American economy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) as a substitute for the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

A quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to Rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. Pending at the time the point of order of no quorum was made was a demand by the gentleman from California for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 75, noes 313, not voting 42, as follows:

[Roll No. 730]

AYES—75

Abzug
Addabbo
Ambro
Anderson, Calif.
Bingham
Bonker
Brademas
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Conyers
Corman
Daniels, N.J.
Danielson
Dellums
Downey, N.Y.
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fenwick
Fisher
Fraser
Gude
Harrington
Harris
Hawkins
Hechler, W. Va.
Holtzman
Howard
Johnson, Calif.
Koch
Krebs
Lehman
Long Md.
McCloskey
Maguire
Metcalfe
Meyner
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Moss
Mottl
Nix
Ottinger
Patterson, Calif.
Pepper
Rangel
Rees
Richmond
Rodino
Rosenthal
Roybal
St Germain
Scheuer
Solarz
Stark
Studds
Thompson
Tsongas
Udall
Van Deerlin
Vanik
Waxman
Weaver
Wilson, C. H.
Wirth
Wolff
Yates

NOES—313

Abdnor
Adams
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Fary
Fascell
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Ford, Mich.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Hayes, Ind.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller, Ohio
Mills
Mink
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Riegle
Roberts
Robinson
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Ullman
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NOT VOTING—42

Allen
Anderson, Ill.
AuCoin
Beard, R.I.
Bergland
Biaggi
Bowen
Carter
Chisholm
Collins, Ill.
Esch
Evans, Colo.
Evins, Tenn.
Foley
Ford, Tenn.
Green
Hansen
Harsha
Hébert
Heinz
Helstoski
Hinshaw
Howe
Karth
McCollister
Matsunaga
Mosher
Neal
Nolan
Nowak
O'Neill
Peyser
Rinaldo
Risenhoover
Roe
Sarbanes
Staggers
Steelman
Symington
Vander Jagt
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Helstoski for, with Mr. Bowen against.

Mr. Roe for, with Mr. Bergland against.

Mr. Biaggi for, with Mr. Ford of Tennessee against.

Mrs. Collins of Illinois for, with Mr. Howe against.

Mrs. Chisholm for, with Mr. Hébert against.

Mr. Beard of Rhode Island for, Mr. O'Neill against.

Mr. Zeferetti for, Mr. Vander Jagt against.

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 169, answered "present" 1, not voting 36, as follows:

[Roll No. 731]

AYES—224

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bell
Bevill
Blanchard
Boggs
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Eshleman
Evans, Ind.
Evins, Tenn.
Fary
Findley
Flood
Flowers
Flynt
Ford, Mich.
Fountain
Frenzel
Frey
Fuqua
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Harsha
Hayes, Ind.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nowak
Oberstar
O'Brien
O'Hara
Passman
Paul
Pickle
Pike
Poage
Pressler
Quillen
Randall
Regula
Rhodes
Riegle
Roberts
Robinson
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Ullman
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOES—169

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Badillo
Baucus
Bedell
Bennett
Biester
Bingham
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Carney
Clay
Cohen
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Dellums
Derrick
Dodd
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Forsythe
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Gude
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Howard
Hughes
Jeffords
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Keys
Koch
Krebs
Leggett
Lehman
Lent
Long, Md.
Lundine
McClory
McCloskey
McFall
McHugh
McKinney
Madden
Maguire
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mosher
Moss
Mottl
Nix
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Reuss
Richmond
Rodino
Roe
Rogers
Rosenthal
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
Spellman
Stanton, James V.
Stark
Stokes
Studds
Sullivan
Symington
Thompson
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler
Yates

ANSWERED "PRESENT"—1

Young, Alaska

NOT VOTING—36

Allen
AuCoin
Beard, R.I.
Bergland
Biaggi
Bowen
Carter
Chisholm
Collins, Ill.
Downey, N.Y.
Esch
Evans, Colo.
Ford, Tenn.
Green
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howe
Karth
LaFalce
McCollister
Matsunaga
Morgan
Neal
Nolan
O'Neill
Peyser
Rinaldo
Risenhoover
Staggers
Steelman
Vander Jagt
Young, Ga.
Zeferetti

The Clerk anounced the following pairs:

On this vote:

Mr. Bowen for, with Mr. O'Neill against.

Mr. Beard of Rhode Island for, with Mr. AuCoin against.

Mr. Hébert for, with Ms. Chisholm against.

Mr. Vander Jagt for, with Mr. Zeferetti against.

Mr. Esch for, with Mr. Young of Alaska against.

Mr. LaFalce for, with Mr. Helstoski against.

Mr. Carter for, with Mrs. Collins of Illinois against.

Mr. Hansen for, with Mr. Biaggi against.

Mr. Steelman for, with Mr. Ford of Tennessee against.

Mr. McCollister for, with Mr. Bergland against.

Mr. YOUNG of Alaska. Mr. Chairman, on this vote I am recorded as voting "no." I have a live pair with the gentleman from Michigan (Mr. ESCH). If he had been present, he would have voted "aye." Therefore I withdraw my vote and vote "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the chairman of the committee and other Members. Section 204 of the amendments is a complex section, one which underwent almost total change from the version originally proposed by the subcommittee. Because of this fact and the fact that virtually unanimous agreement at the committee markup precluded all but the most congratulatory debate, some of the language in section 204 on the truck emissions standards needs further elucidation and clarification.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished chairman.

Mr. ROGERS. I am certain the House would welcome any further explanation.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. ECKHART, I yield to the gentleman from New York.

Mr. MURPHY of New York. Perhaps the gentleman could expand on the language in section 204 concerning technology, and I quote: "Reasonably expected to be available," relating to the administrative setting of standards prior to 1985.

Mr. ECKHARDT. In my view, the proposed statutory language provides sufficient guidance to the Administrator in directing him to set revised standards if the need for them should arise. We want the Administrator in determining the technology "reasonably expected to be available" to look forward to the progress of the trucking industry and its likely innovations which will probably occur in the pollution control technology between the time he is making such determination and the date of implementation.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding.

I would like also to point out that on page 225 of the report there is a correct statement to the effect that if the Administrator grants a revision from target levels for heavy-duty vehicles or engines and motorcycles, that revision would remain in effect for 3 model years. However, two paragraphs later in the report it is stated that these revised standards "need not remain constant during the 3-year revision period."

What we want to make clear to the Administrator is that the committee intended that these revisions would remain constant for the 3-year period. We intended to establish an orderly process which would allow for 5-year leadtime for any revisions, and a 3-year production period before the institution of any other revision. This consistent regulatory process would encourage a more effective and efficient emission reductions program.

Accordingly, it was the committee's view that if target revisions proved necessary, industry would have the opportunity to devote itself to the achievement of substantial emissions reductions implemented at 3-year intervals rather than be vulnerable to frequent retooling and certification procedures which, in our view, might achieve only marginal improvements and cause severe dislocation.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

It is clear that the committee intended that if revisions are necessary, such revisions would remain in effect and would be held constant for the 3-year period.

Mr. ECKHARDT. In the first full paragraph on page 226 of the report, it states the assembly-line production test required will be effective not later than 1958. This is a typographical mistake, since the reference cannot be to such an early date. In fact, the amendments do not specify an "effective date" but instead state the regulations requiring and specifying these tests will be "promulgated by December 31, 1977?" Of course, given this deadline for promulgation, the production line testing would be effective not later than 1985. I might comment further on this provision of the legislation. We view this effort as a key component of the national effort to reduce emissions. As stated in the report, prototype testing cannot guarantee compliance with the law, and in the interests of the public health we felt strongly that this provision was necessary and long overdue.

Mr. SHARP. We have mandated an effort by the Administrator to make renewed efforts to determine, on a pollutant-by-pollutant basis, the effect of air pollution on the public health and welfare. As we continue to press industry to develop and use effective emissions reductive technologies, we must insure that those efforts are targeted at the most important present or potential health hazards.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Chairman, indeed, the structure of this provision will allow the results of such studies to be available to the Administrator at the point at which revisions in target reductions or administrative revisions for standards are permitted. I think those of us involved in drafting this section would agree that these studies, aside from their obvious inherent value, are integral to the structure of section 204. Perhaps Mr. MURPHY could clarify for me the intent of the section regarding the cost-effectiveness studies mandated and explained on page 227 of the report.

Mr. MURPHY of New York. I am glad you asked. The language of section 204 does not limit this study to the vehicles and engines covered by this section, but extends this study to our efforts to control air pollution generally. We expect autos', trucks', and motorcycles' emissions standards to be evaluated and compared for cost effectiveness in the area of pollution control, along with the cost effectiveness of other types of pollution control devices and plans. This kind of study is intended to help the Congress evaluate the relative efficiency of various programs in our efforts to clean the air even while we continue to instruct the Administrator to pursue a vigorous and reasonable long-term strategy for reducing the emissions from vehicles and engines covered by this section.

Mr. ECKHARDT. It is always important to recognize the governmental responsibility to continue to provide oversight of our actions and evaluate the need for regulation as well as the effectiveness of the mechanisms we choose even as we clearly establish the responsibilities of industry to assure vigorous efforts to reduce the harmful or potentially harmful effects of its products or processes. But we want this section to be a clear and positive statement to the trucking industry: Congress means business. The industry must not retard their development of pollution control devices on the theory the level of emissions controls is going to be set at the level of the least efficient and most technologically backward manufacturer anyway. The Administrator of EPA and the Congress simply are not going to rush in to change the law every time the industry cries "We can't do it, we can't do it." They can do it. They have said so. Now we are answering the industry with the clear direction and encouragement to do it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I gather that the colloquy that has just taken place is meant to assure that we are trying in this legislation to achieve standards of air quality that will be improved over time and will not have a deleterious effect on public health, with full consideration of the need to maintain a stable trucking industry with reference to employment. Is that correct?

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for an additional half minute.)

Mr. ECKHARDT. Mr. Chairman, the gentleman has stated it correctly. We also, of course, want the rules to remain in effect for a sufficient time to permit compliance.

Mr. BROWN of Ohio. So that there is not an economic disruption in the process of bringing out new models and the employment that goes with the production of new models.

Mr. ECKHARDT. Precisely.

AMENDMENT OFFERED BY MR. KOCH

Mr. KOCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOCH: Page 302, after line 7, insert:

CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

SEC. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

"ESTABLISHMENT OF STANDARDS

"SEC. 241. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. Such study shall characterize and quantify interior levels of carbon monoxide in such buses and vehicles and determine its effects upon the passengers. The study shall review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) Not later than one year after the enactment of this part, the Administrator shall issue proposed standards setting forth the levels of carbon monoxide in the passenger areas of schoolbuses which are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses.

"(c) Pursuant to the requirements of section 307(d), the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of schoolbuses establishing the levels of carbon monoxide in such areas which are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses. Such standards shall be revised from time to time.

"COMPLIANCE

"SEC. 242. (a) Each State shall submit to the Secretary of Transportation an implementation plan which shall include such measures as may be required, under regulations promulgated by the Secretary, to prevent, in the case of any schoolbus, a violation of the standards established under section 241(c) to the extent that such violation is attributable to carbon monoxide from such schoolbus. Such measures shall be required to be implemented as expeditiously as practicable (but not later than three years after approval of the plan). Such measures shall include adequate monitoring and, not less frequently than twice during any 12-month period, inspection of such schoolbuses. Such measures shall apply to schoolbuses manufactured before the effective date of this part (buses in use) as well as to schoolbuses manufactured on or after such date.

"(b) The Secretary shall approve the plan submitted by the State under subsection (a) if such plan meets the requirements of subsection (a). Such plan shall be approved or disapproved in the same manner as plans approved or disapproved by the Administrator under section 110.

"(c) No schoolbus may be registered, or otherwise authorized to operate, by a State after the date 31 months after the date of enactment of this section unless such bus is in compliance with a plan approved under this section. The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction whenever any person fails to comply with this subsection. Any action under this subsection may be brought in the appropriate district court of the United States, and such court shall have jurisdiction to restrain such violation and to require compliance.

"DEFINITIONS

"SEC. 243. For purposes of this part, the term—

"(1) 'person' has the meaning provided by section 302(e);

"(2) 'passenger' includes the driver of a schoolbus;

"(3) 'bus' means any passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver.

"(4) 'schoolbus' means a bus which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools;

"(5) 'motor vehicle' means any self-propelled vehicle designated for transporting persons on a street or highway; and

"(6) 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including, but not limited to, taxicabs, and police vehicles.

"STATE LAW

"SEC. 244. Nothing in this part shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement applicable to the presence of carbon monoxide in the passenger areas of schoolbuses except that if any such requirement is in effect pursuant to this part no such State or political subdivision may adopt or enforce any such requirement which is less stringent than the requirement in effect pursuant to this part.".

(b) Each State shall adopt and submit a plan for the purpose of meeting the requirements of section 242 of the Clean Air Act not later than 27 months after enactment of this section. Not later than 4 months after submission of such plan, the Secretary of Transportation shall approve such plan or disapprove such plan.

Amend the table of contents on page 153 to insert the following item after the item relating to section 219:

"Sec. 220. Carbon monoxide standards for schoolbus passenger areas."

Mr. KOCH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

POINT OF ORDER

Mr. BROYHILL. Mr. Chairman, I have a point of order against the amendment.

The CHAIRMAN. The gentleman from North Carolina will state the point of order.

Mr. BROYHILL. Mr. Chairman, this amendment would impose a number of additional duties on the Environmental Protection Agency and the Administrator of that Agency and also on the Secretary of the Department of Transportation.

Mr. Chairman, there is nothing in this act pertaining to authority of any agency of the Federal Government to prescribe standards for buses or to prescribe standards for school buses.

Mr. Chairman, this amendment would impose a number of entirely additional duties on the Administrator of the Environmental Protection Agency, including to prescribe standards for emissions of carbon monoxide for certain vehicles that are presently in operation. The bill includes authority to prescribe standards for new vehicles, not for those vehicles that are on the road and in operation.

In addition, Mr. Chairman, the amendment would require the Secretary of the Department of Transportation to prevent the operation of vehicles that are presently on the road. There is no such authority presently in the bill to provide that kind of authority to any agency of the Federal Government.

In addition, Mr. Chairman, the effect of this amendment would be the overturning of certain State laws and regulations pertaining to the operation of school buses. There is no such authority found anywhere else in other parts of the bill.

So, Mr. Chairman, my point of order is that since the amendment does impose significant new duties and requirements, not only on the Administrator of the Environmental Protection Agency, but also on the Secretary of the Department of Transportation that are not included in this title or included anywhere else in the bill as written, I make the point of order that the amendment is not germane to the bill as written.

The CHAIRMAN. Does the gentleman from New York (Mr. KOCH) wish to be heard on the point of order?

Mr. KOCH. I do, Mr. Chairman.

Mr. Chairman, first, as I understand the gentleman, it is just a colloquy on the imposition of standards on heavy duty vehicles that is already in the bill.

Second, I have a memorandum prepared by the Library of Congress and I will just briefly recite from it, if I may:

H.R. 10498 amends the Clean Air Act in several respects. Title I of the bill contains 15 sections dealing with amendments relating primarily to statutory sources. Title II has 19 sections relating primarily to mobile sources. And title III has 17 sections of miscellaneous amendments (e.g., redesignation of air quality control regions, fine particulate study, and study and report concerning economic approaches to controlling air pollution). When a bill provides for numerous changes of various sections in existing law, amendments to the bill are sometimes held to be germane where the amendments modify sections of the law not dealt with in the bill.

The principle is stated clearly in the headnote to VIII Cannon's *Precedents* § 2938, as follows: "Where a bill proposes to amend an existing law in several particulars, no arbitrary rule can be laid down either admitting or excluding further amendments to the law not proposed in the pending bill, but the question of the germaneness of such amendments must be determined in each instance on the merits of the case presented." In the instance discussed in VIII Cannon's *Precedents* § 2938, a bill for the establishment of a veterans' bureau in the Treasury Department was under consideration in the Committee of the Whole House on the State of the Union. The bill proposed to amend severally a number of sections of the war risk insurance law. One Member proposed to amend the law in a manner not provided for by the pending bill, and another Member made the point of order that the amendment was not in order because not germane to the bill. The Chairman of the Committee, Representative Sydney Anderson, of Minnesota, in ruling on the point of order, noted:

"The next question that arises is whether or not any amendment to section 401 of the war risk insurance act,"

There are other precedents which I could cite, Mr. Chairman, but I will stop at this point.

The CHAIRMAN. Does the gentleman from Florida desire to be heard on the point of order?

Mr. ROGERS. I do, Mr. Chairman.

Mr. Chairman, I rise to speak against the point of order, because section 204 applies to heavy duty vehicles, including buses. Incidentally, section 210 applies to existing vehicles and requires inspection and maintenance, and the enforcement of the Department of Transportation goes to emission standards.

Mr. BROYHILL. Mr. Chairman, may I be heard further?

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina.

Mr. BROYHILL. Section 204 would apply to new vehicles, not to those vehicles which are presently in operation and on the highway. In addition, Mr. Chairman, there is no authority in either of these sections to give authority to the Secretary of the Department of Transportation to overturn State laws and regulations with respect to the operation of vehicles that are presently on license and in operation on State highways.

The CHAIRMAN. The Chair is prepared to rule on the point of order made by the gentleman from North Carolina (Mr. BROYHILL).

The gentleman from New York (Mr. KOCH) has offered an amendment which has as its title, "Carbon Monoxide Standards for School Bus Passenger Areas." The Chair would like to first point to the title of the bill itself:

This Act, together with the following table of contents, may be cited as the Clean Air Act Amendments of 1976.

Then, the Chair would point to title II, and would emphasize and point out the practical nature and the general nature of title II, which is at this point open to amendment at any point. It is entitled, "Amendments Relating Primarily to Mobile Sources." An examination of the table of contents within the title itself indicates that "mobile sources" being regulated by title II are of many, many sorts, and very diverse including amendments to the Clean Air Act mentioned by the gentleman from Florida and other changes in that law.

It is the opinion of the Chair that the gentleman's amendment as a new section is germane to the title as a whole and that it does not escape nor go beyond the purview of title II. The Chair, therefore, overrules the point of order.

The Chair recognizes the gentleman from New York (Mr. KOCH) for 5 minutes in support of this amendment.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I was unavoidably detained for the last vote. Had I been present, I would have voted against the Dingell amendment. I think my philosophy on the issue is shown simply by my vote on the Waxman-Maguire amendment.

I thank the gentleman for yielding to me.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have looked over the amendment here, and we see no objection to it. It is simply saying that at the appropriate period of time they could set a standard for schoolbuses where children are concerned, as to what the air quality is within that bus. I think it is not inappropriate, and I would support the amendment.

Mr. KOCH. If I may just very briefly describe the proposal, I shall continue briefly. First, may I say that this is an amendment that relates to buses, not to busing. It is an amendment one could support no matter how one stands on that other relatively controversial issue. This is not a controversial issue.

What we have here is an amendment I have discussed with the distinguished chairman of the subcommittee (Mr. Rogers) and with the gentleman from Kentucky (Mr. Carter), who is also supportive of it. It is a proposal, an amendment, which would do the following:

There is no question but that there are serious problems with respect to high levels of carbon monoxide in schoolbuses. There is a whole history relating to children who have become ill as a result of carbon monoxide poisoning. The reason that occurs is generally a defect in construction. It occurs as a result of the very gas emissions coming from the vehicle, coming back into the bus.

Last year, there were 21 million children in this country who were bused over 2 billion miles in 310,000 vehicles. What my amendment does is to ask both the EPA and the Department of Transportation to come up with standards. Because this is a complicated situation and we want to be sure that we have a study first, there is a 34-month period before the program becomes mandatory.

And then what will be required is an inspection to see whether or not those buses are safe for children, insofar as carbon monoxide poisoning is concerned.

Today we already have standards for the cockpits of airplanes. Because of potential carbon monoxide poisoning they are tested regularly for the internal air of the cockpit to protect the operator of the plane.

Should we not give that same protection to the 21 million schoolchildren who ride to school in the morning?

I urge the Members to support this amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, this sounds like a most excellent amendment. Can the gentleman tell us, so that we can support it, what evidence we have of damage to children from carbon monoxide?

Mr. KOCH. Yes. Let me give the Members two cases, one 10 years ago, and one relatively recent.

In Shelby County, Ala., on October 3, 1966, the schoolbus arrived at school. After the children debarked from the bus, the driver noticed two small children unconscious in the rear of the bus. The children, it was noted, were suffering from overexposure to carbon monoxide.

In the last 6 months I and my staff have examined 35 buses, and found that in 93 of the 105 tests taken, significant levels of carbon monoxide were found.

But aside from that, I sent this proposal to every State in the Union, to the State departments of transportation, to the environmental agencies; and with one exception, every one that responded—there were a large number of responses, and I have inserted them in the Record on April 1, 1976, H2727 and July 27, 1976, H7829—agreed that there was a need for this amendment.

Mrs. FENWICK. If the gentleman will yield further, there is evidence of children having suffered in the two cases the gentleman mentioned?

Mr. KOCH. Yes. A multiple number of cases in this area.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from North Carolina (Mr. Broyhill).

The CHAIRMAN. The time of the gentleman from New York (Mr. Koch) has expired.

(On request of Mr. Broyhill and by unanimous consent, Mr. Koch was allowed to proceed for 2 additional minutes.)

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, my concern about this amendment is not what the gentleman is attempting to do, but the way the amendment is written.

For example, the Department of Transportation at the present time has jurisdiction over and ample authority over the setting of standards for new schoolbuses, and they have already a great deal of expertise in this field. So my concern is of having an entirely different agency becoming involved in this area. We are going to have a certain amount of confusion as we attempt to implement a program like this in the States, with two different agencies involved, the EPA on the one hand, and the DOT on the other.

Mr. Chairman, would the gentleman be agreeable if we used this amendment, at least to permit us to work out some amendments to it, as we go to conference?

Mr. KOCH. Of course, because I know that our goal is the same, and I would hope the amendments the gentleman would work out would better the bill. I do not claim that this is a perfect bill. I have yet to see a perfect bill.

Mr. BROYHILL. If the gentleman will yield further, I have another question.

Of course, as the gentleman knows, the individual States do have programs by which they regulate the operation of their schoolbuses, and I wonder if the gentleman would object to making it that the intent here is to permit States to implement any program along this line, rather than having one of the agencies of the Federal Government implementing these particular standards.

Mr. KOCH. I refer the gentleman to page 4 of the amendment. It specifically says:

> Nothing in this part shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement applicable to the presence of carbon monoxide in the passenger areas of school buses . . .

This is not an attempt to prevent the States from doing a better job.

The CHAIRMAN. The time of the gentleman from New York (Mr. Koch) has again expired.

(On request of Mr. Gilman and by unanimous consent, Mr. Koch was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. Koch). I think it is a very important provision. I believe it is a timely provision, and I intend to support it.

Mr. Chairman, I urge my colleagues also to support the amendment.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I am delighted to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I have a question concerning the fact that this would result in regulating school buses. Does that relate to the design and specification of the exhaust system of a bus?

I ask the question because generally the problem arises from a malfunction after a bus is a few years old. The fault in the system comes usually from a gasket, an exhaust pipe, a tailpipe, a muffler, or some other part that will eventually malfunction. The point is then that when that happens, we have the problem of the exhaust system leaking and allowing the exhaust gas to reach the interior space of the bus.

Mr. KOCH. Mr. Chairman, may I just explain to the gentleman what this amendment is intended to accomplish? At the moment there are no standards anywhere in the country so far as I know with respect to the concentrations of carbon monoxide gas that may reach inside a bus or the interior space of a bus.

This amendment requires EPA and DOT to come up with standards with respect to acceptable levels of carbon monoxide in the interior of schoolbuses. It also requires the States to enforce the promulgated standards and it requires that the vehicles be tested twice a year to see whether or not those standards have been met.

The CHAIRMAN. The time of the gentleman from New York (Mr. Koch) has again expired.

(On request of Mr. Miller of Ohio and by unanimous consent, Mr. Koch was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Ohio. Mr. Chairman, if the gentleman will yield further, the amendment does not necessarily relate to the original design specification of the system, but it is a testing system? Am

I correct in stating that is what the amendment would do; it would set up a method by which the buses could be examined from time to time?

Mr. KOCH. Mr. Chairman, it does more than set up a method for examination of the schoolbuses. It sets up a program, and it requires that EPA and DOT, working together, set up standards that these vehicles must meet to make certain that the carbon monoxide levels within the interior of the bus do not reach an unacceptable level.

Mr. MILLER of Ohio. Mr. Chairman, to clarify the record, could the gentleman tell us this: Referring to the tests the gentleman spoke of that were made on the inside of these buses, how many of these buses tested were new? What age were the buses? Were they 1 year old, 2 years old, 5 years old?

Mr. KOCH. I could not give the gentleman the ages of the buses. The tests I and my staff took with respect to 35 vehicles included some buses that were relatively new. Most of them had been used for a number of years.

However, whether a bus is new or old, the children riding in that bus have a right to a safe journey.

Mr. MILLER of Ohio. Mr. Chairman, I am not objecting to that, I am simply trying to clear up the record as to what the intent of the amendment is.

Mr. KOCH. The intent is to set the standards and provide for their enforcement.

Mr. MILLER of Ohio. Mr. Chairman, I support the amendment.

Mr. KOCH. Mr. Chairman, I thank the gentleman very much, and at this point I would like to elaborate on my amendment to the Clean Air Act. The amendment has gone through many revisions and in order to keep our colleagues up to date, I will briefly describe the amendment as it will be offered.

The amendment requires that the Administrator of EPA, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide in the interior of schoolbuses and other sustained-use motor vehicles. The study shall include an analysis of the sources and levels of carbon monoxide in the interior of such buses and vehicles and determine its effect upon the passengers. The study shall review available methods of testing and monitoring and shall analyze the relative cost effectiveness of strategies for attaining and maintaining the standards to be promulgated by the Secretary. Within 1 year the Administrator shall report to the Congress respecting the results of the study.

Three months after the results of the study are reported to Congress, the Administrator of EPA shall issue proposed standards applicable to carbon monoxide in the passenger area of schoolbuses, which in the judgment of the Administrator are a prerequisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of buses.

One hundred and eighty days after the issuance of proposed standards, the Administrator shall issue final standards. This will provide a 6-month period of review which will be done pursuant to the requirements of section 307(d) of the Clean Air Act. Such final standards shall be reviewed from time to time.

No later than 9 months after issuance of the final standards, each State shall submit to the Secretary of Transportation an implementation plan which shall include such measures as may be required under regulations promulgated by the Secretary, to prevent the operation of any schoolbus which is in violation of the standards established by the Administrator of EPA pursuant to this bill, when such violation is attributable to such schoolbus. It is not the intent of this legislation to prohibit the operation of schoolbuses where the level of ambient air is so high as to cause the violation of the standards.

If a schoolbus is operating in a city where the carbon monoxide level of the ambient air itself is so high as to constitute a violation of the Secretary's carbon monoxide standards, then of course the bus itself is not at fault for the unsafe carbon monoxide concentration. However, if the carbon monoxide concentration in the bus is not directly attributable to ambient air but rather attributable to a malfunction in the bus, such as a faulty seal, then, of course, the bus ought not be permitted to be in operation. I want to make it clear that the intent of this bill is to protect our schoolchildren from those buses which themselves are by emission or construction contributing to an unsafe level of carbon monoxide.

The implementation plan, at a minimum, must consist of inspection of schoolbuses not less frequently than twice yearly and shall include methods of monitoring that the Secretary deems appropriate. As I understand it, the monitoring of carbon monoxide can currently be accomplished by relatively inexpensive detector tabs, which have been tested by the FAA, as well as by very expensive meters. It is the intent of the legislation that the Secretary determine by means of the initial study, which forms of monitoring are most practicable and effective.

Each State's implementation plan ought to be instituted as soon as possible, and it is hoped that the Secretary can promulgate a timetable which will call for a rapid phase-in of the program. Total implementation must be complete by the date 3 years after the date of approval of the plan. The Secretary of Transportation will have 4 months to approve or disapprove the implementation plan.

Thirty-four months after the enactment of this bill, no schoolbus in this country will be permitted to be registered or otherwise permitted to operate unless such bus is in compliance with a plan approved under this legislation. The Secretary will be given the power to commence permanent or temporary injunctions to insure compliance. Those States that believe that their school children should be subject to more stringent standards than those issued by the Administrator of EPA will be permitted to include these more stringent standards in their implementation program.

Mr. Speaker, before I conclude my remarks, I wanted to address the coverage of this legislation. Originally, it had been my intent to provide for a study and an implementation plan for schoolbuses, police cars, taxies, long-haul trucks, public ground transportation, and other sustained-use motor vehicles. However, the implementation portion of my amendment did meet much opposition. In order to protect the study portion of the legislation and the schoolbus inspection system, I agreed to limit the State implementation plans to the inspection and maintenance of schoolbuses.

However, I want to be emphatic about the fact that all the other classes of sustained-use vehicles are still contained in the study portion of my amendment, and that the EPA, in conjunction with the Department of Transportation, shall concerned about these other classes of sustained-use vehicles can be assured make recommendations concerning all sustained-use vehicles. Those who are that when the study is released during the next Congress, I will actively work for additional legislation to broaden the scope of the State implementation plan and bring under this legislation all classes of vehicles that are deemed appropriate. For the time being, I do believe this amendment is an important step in the right direction by providing for an in-depth examination of the problem and the immediate protection of our Nation's school children.

It is unconscionable that we continually subject youngsters, police officers, and other members of society to detrimental concentrations of carbon monoxide especially since the method to detect the gas and the technology to correct the matter are readily available.

The cosponsors of the amendment are:

BELLA S. ABZUG, JOSEPH P. ADDABBO, HERMAN BADILLO, CARDISS COLLINS, JAMES C. CORMAN, DOMINICK V. DANIELS, THOMAS J. DOWNEY, ROBERT F. DRINAN, DON EDWARDS, BENJAMIN A. GILMAN, GILBERT GUDE, MICHAEL HARRINGTON, HENRY HELSTOSKI, JOHN KREBS, CLARENCE D. LONG, MIKE MCCORMACK, MATTHEW F. MCHUGH, ANDREW MAGUIRE, PATSY T. MINK, JOE MOAKLEY.

ANTHONY TOBY MOFFETT, JOHN M. MURPHY, RONALD M. MOTTL, ROBERT N. C. NIX, RICHARD L. OTTINGER, JERRY M. PATTERSON, MATTHEW J. RINALDO, ROBERT A. ROE, BENJAMIN S. ROSENTHAL, EDWARD R. ROYBAL, JAMES H. SCHEUER, GLADYS NOON SPELLMAN, FORTNEY H. STARK, HENRY A. WAXMAN, JAMES WEAVER, CHARLES H. WILSON, TIMOTHY E. WIRTH, ANTONIO BORJA WON PAT, and SIDNEY R. YATES.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. KOCH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SATTERFIELD

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SATTERFIELD: Page 286, strike out line 19 and all that follows down through line 24 on page 290, and insert in lieu thereof the following: "Air Act (42 U.S.C. 1857c–5(a)(2)(G)) is hereby repealed.

"(b) Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)) is amended by adding at the end thereof the following new paragraph:

" '(8) (A) No implementation plan, or any amendment or revision thereof, shall be required under any provision of this Act to include any provision respecting the annual inspection and maintenance of motor vehicles registered in such State and no implementation plan promulgated by the Administrator shall include any such provisions.

" '(B) Any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any measures referred to in subparagraph (A) which are included in such plan.

" '(C) Nothing in this paragraph shall prevent the Administrator from approving any measures referred to in subparagraph (A) if such measures are adopted and submitted by a State as part of an implementation plan.' "

Page 291, strike out line 13 and all that follows down through line 2 on page 292.

Mr. SATTERFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SATTERFIELD. Mr. Chairman, the objective of this section of the bill is the inspection of motor vehicle emissions, and it relates to vehicles in the hands of the ultimate owner. I do not question that this is a desirable objective. Indeed, our subcommittee through the years has felt the need for a quick, accurate, easy-to-apply means for testing the level of exhaust pollutants.

Unfortunately, that device does not exist. Under existing law, any State in this Union which wishes, may vote whatever kind of motor vehicle emission inspection system it sees fit; and I have no quarrel with that.

However, this section would mandate or force such an inspection system upon certain States whether they want it or not.

I find particularly objectionable the mechanism this section would employ to enforce that inspection. It would require the States to incorporate as a part of the inspection certain prohibitions dealing with registration and operation of vehicles which fail to pass the inspection.

Mr. Chairman, that is the key provision. The determination as to registration and the licensing of motor vehicles, however, enactment of law relating thereto rests in the sound and sole jurisdiction of State legislatures. This, then, would raise a very serious constitutional question, because it would precipitate a confrontation between an implementation plan approved by the Administrator and the action of the people of a State, acting through their elected State representatives.

Mr. Chairman, it seems to me that there is another reason why this provision should be viewed with a jaundiced eye. It would establish the maximum levels for carbon monoxide and hydrocarbons for three separate groups of motor vehicles with increasing stringency over a period of 3 years. Motor vehicles of model years of 1968 and 1969 are the first group. The second consists of model years of 1970 through 1974. The third consists of motor vehicles of the model year of 1975 and thereafter.

The question in my mind is, Why this grouping? The question in my mind is, Why have these particular levels been set; and Why are these levels set on a progressive basis so that the required level is more stringent in the second year than the first, and more stringent in the third year than the second?

I wonder why that progression with respect to automobiles in being and why we would expect such an automobile to pass a higher, more stringent standard after it becomes a year older in each case.

Obviously, this requirement will impose great expense upon owners who will have to retrofit their vehicles. Further, there is no relationship whatsoever between the levels of emissions in this section and the levels which have been established under the Clean Air Act, even as it would be amended here. Apparently there is none.

The fault I find with this section lies in the fact that there was no testimony on it whatsoever, no evidence presented to our subcommittee indicating that there is any need for this legislation.

Mr. Chairman, my amendment is simple. It would say that those States which want to have a vehicle emission inspection program may incorporate it in their implementation plans, but that the Administrator cannot require them to do so. It also provides that in the event the Administrator attempts to promulgate such inspections in his own plan, having disapproved the State plan, the State can remove it. In other words, he cannot impose this kind of requirement upon a State.

This amendment is reasonable, and I urge the Committee to accept it.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I dislike opposing the amendment of the gentleman from Virginia (Mr. SATTERFIELD), but I think the evidence has been overwhelming before the committee that this amendment should not be approved.

As a matter of fact, over 50 percent of many of the present models have been found not to be in compliance after only 8,000 miles.

Inspection really is necessary. We are not asking that this be done except in those areas where the primary standards are exceeded. In other words, where there is a real health problem, then we would expect something to be done.

The approach in this bill, as a matter of fact, has already been tacitly approved by the U.S. Court of Appeals in the District of Columbia case that went up before it.

Therefore, Mr. Chairman, I urge that the amendment be defeated.

Mr. SCHEUER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I was the author of this section of the bill that would be stricken from the bill by the amendment of the gentleman from Virginia (Mr. SATTERFIELD). Therefore, I rise in strong opposition to the amendment.

The purpose of this program which mandates the establishment of a vehicle inspection program in 29 mass transportation control areas is to put some practical blood and guts meaning in our requirement that vehicles have antipollution devices installed in their manufacture. There is no greater exercise of futility on Earth than to require that vehicles have antipollution devices installed in the manufacturing process than to do nothing to make sure the antipollution devices are functioning properly. Not only does that increase pollution, but also it has severe energy penalties.

The cost of this program is minimal both to the State and to the car user. Two-thirds of the cost of establishing these programs in the States is absorbed by the Federal Government and one-half of their operational costs are absorbed by the Federal Government. In addition to that, there are MDTA funds for training the inspectors and the mechanics who will be doing the actual testings.

There are 43 States that already have annual mandatory safety inspection programs. For these States where a carowner must bring his car in annually for a safety inspection, the cost of having the vehicle inspected for the antipollution effect is approximately $5 a year. For those seven States where there is no such vehicle safety inspection requirement, then the cost would be about $10.

The most that would be required in any 1 year for the carowner to do is not, as the gentleman from Virginia (Mr. SATTERFIELD) stated, to retrofit his vehicle. We do not expect a carowner to take his car apart and put it together again. We do not expect he has to be an expert in mechanical work. The maximum expense this program requires is simply for a car to have a complete tuneup once a year. That will let the owner off the hook for that year. The next time if, at the end of the year, his car is still in violation, he would again need a major tuneup and adjustment of his car. We do not impose any major retrofitting operation.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I want to compliment the gentleman from New York on his proposal. New Jersey has had experience with this kind of a program. We know it works. We know it is effective. I think the gentleman's proposal ought to be kept in the bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. Mr. Chairman, I appreciate the gentleman from New Jersey rising on this matter because this proposal is in effect a model of the New Jersey program. The environment officials from the State of New Jersey support it. The New York City Environmental Protection Administration supports it. The New York State Environmental Protection Administration supports it. The national environmental administration supports it. The national Federal Energy Administration supports it. Indeed there are some industry groups that support it. The Automotive Service Industry Association supports it. The Automotive Service Council supports it, in addition to such good-governent groups as Friends of the Earth and the Center for Automotive Safety.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman from New York for yielding to me.

This may have already been brought up in the discussion, I am not sure, but I think it would be important to state to the committee the areas that would be affected under the terms of this.

Mr. SCHEUER. Yes, only 29 mass transportation control plans areas, major metropolitan areas, would be affected, so that rural areas and most suburban areas would not be. It is only the 29 crisis city areas in our country that are covered.

Mr. JONES of North Carolina. I thank the gentleman.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. I thank the gentleman for yielding, and the question I have is in regard to work being done, what is the situation we face in adopting the bill as it now stands, in relation to an individual performing work on his own car. Can he satisfactorily perform the work in his own right?

Mr. SCHEUER. Absolutely, absolutely, and the bill sets a maximum that an owner who does his own work can be required to spend in any 1 year. I believe—correct me if I am wrong—that it is $50 and a maximum of $75 if he has the work done commercially.

Mr. MYERS of Pennsylvania. He would have to pay for inspections, but he could do the work on his own?

Mr. SCHEUER. Absolutely, and a different maximum is set in the bill for owners who do their own work as against owners who have their work done commercially. We eliminated all of the pre-68 hay burners. Likewise we do not cover one or two models of cars that are intrinsically polluting in their basic design, because it would have imposed on the owner an enormous expense that could have been characterized as a retrofit requirement, and rather than impose that kind of burden on the very small number of owners who have bought a few post-1968 cars that were intrinsically polluting, we just eliminated these few and the pre-1965 cars from coverage of the bill.

We are trying to get to the bulk of the cars on the road, and in effect we are saying to those owners who have had by law antipollution devices installed on their cars, for goodness sake, keep your car in reasonable and proper working order, and you will meet all of the standards of this bill.

Mr. MYERS. of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. SCHEUER. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. I thank the gentleman for yielding.

In relationship to the individual doing his own work, how does the gentleman envision that in fact to be put in practice? Would one have to sign some sort of statement that he had in fact done a full tuneup, or how can that be accomplished?

Mr. SCHEUER. This is up to the States to do. I am sure they will be able to manage it. I assume the States now provide that carowners can do their own work to meet the annual safety inspection standards that 43 States impose. We are not trying to take over legitimate State functions.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, is it the gentleman's intent that we provide the protection for the individual to do his own work? In other words, as we accomplish this, is it the intent of Congress to provide the ability for the owner to do his own work?

Mr. SCHEUER. Without any question. Let me revert again to the experience of New Jersey.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. Let me say again in connection with the experience of the State of New Jersey where they have had an ongoing experience for about 2½ years, the EPA has found that there has been a 14-percent reduction in emissions in New Jersey as a result of their mandatory vehicle inspection and maintenance program. However, the EPA told us if surrounding States had had such a vehicle inspection requirement New Jersey would not be polluted by foreign fumes blown in by the winds from surrounding States like Pennsylvania, New York, Connecticut, Delaware, and so forth. In that region there would be a 55- to a 65-percentage reduction in pollutants in the air rather than the 14 percent that New Jersey was able to achieve acting on her own.

This indicates that pollution because of air currents, and so forth, is a national problem, beyond the effective reach of the States, and we have devised a simple, inexpensive, fair, national solution.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I should like to address a question, if I might, to the sponsor. As I read the amendment, it not only wipes out of the bill the Scheuer proposal which the committee included in the bill, but also it would, if I read it correctly, disallow EPA from making any requirements with respect to vehicle inspection and maintenance in States. Is that a correct reading of the amendment?

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. I thank the gentleman for yielding.

The only application that the amendment has with respect to EPA is to say that they cannot require a State implementation plan, or where the EPA promotes that plan itself, turn the State down if it cannot put it in there. So the State has the right to take it out.

Mr. MAGUIRE. All right; so the answer is "Yes." Not only does it wipe out the Scheuer plan, but it also changes current law so that EPA is no longer able, as they are presently, to require that a State have a program on vehicle maintenance and inspection. Is that right?

Mr. SATTERFIELD. I do not agree with the gentleman's conclusion that they have a right under existing law to require that today.

Mr. MAGUIRE. Maybe we could ask the chairman to clarify that. I yield to the gentleman from Florida for that purpose.

Mr. ROGERS. Mr. Chairman, it would be my impression under section 110 that they would have that present right.

Mr. MAGUIRE. I thank the chairman.

Mr. SATTERFIELD. Mr. Chairman, if the gentleman will yield further, I think what this is all about is that Congress has not really addressed the problem. I do not object to the inspection. I just do not think we should make the inspection.

Mr. MAGUIRE. I take it the gentleman agrees that inspection and maintenance to cut emission of pollutants and to save fuel is desirable.

Mr. SATTERFIELD. But not by the Federal Government under the Clean Air Act. And the requirements in this particular provision will not really do it at all.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, one point I did not cover is that the equipment to be used is comparatively inexpensive. It would cost about $2,000 per machine to the gas station and it would be recoverable out of profits from the inspection fee in less than 1 year.

The problem addressed by the gentleman from Virginia, which is not covered, is that according to the Washington Metropolitan Council of Governments, the ambient air quality in the Washington Metropolitan Area was exceeded on 24 days in 1974 and on 65 days in 1975, and already on 65 days, in this unfinished year of 1976.

What we are finding is that there is an enormous increase in automobiles driven in the metropolitan area. We do not have industrial sources of pollution in Washington to speak of. The pollution comes primarily from the automobiles. Because the metropolitan area in Washington would cover some parts of Maryland and Virginia and Washington, D.C., we need a national answer.

I am sorry it is going to cause some folks a mite of inconvenience, and expense, but remember we are breathing in this capital today air that is being polluted by Virginia drivers in Virginia. That is why we need a national answer to a national problem.

Mr. MAGUIRE. If the gentleman would permit me to clarify a point, this is national in scope but it is limited to the metropolitan areas. It does not cover all of the United States.

Mr. SCHEUER. It is only related to the problem metropolitan areas. I know the citizens of the gentleman's State of Virginia will be proud to stand up straight and tall and pay the 5 bucks a year to alleviate the national problem they help cause.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, granting everything the gentleman says may be a fact, I would like to ask the gentleman under the bill as it is now drawn what guarantee do we have that if the Administrator of EPA says if my State or the State of the gentleman or any other State legislature has to change its laws with respect to registration of vehicles and licensing of automotive vehicles, and then if the administrators at the State levels say they are not going to do that, then what?

Mr. MAGUIRE. If I could clarify my point, under the law the States have the first opportunity to develop plans.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, there is no requirement under this section that the State do it.

Mr. SATTERFIELD. If the gentleman will yield further, then it will not function otherwise, and that is exactly what the Administrator of the EPA is attempting to do.

Mr. ROGERS. I would disagree with the gentleman. I think that would not be required at all.

Mr. GUDE. Mr. Chairman, I rise in opposition to the amendment and I move to strike the requisite number of words.

Mr. Chairman, certainly I rise in opposition to this amendment. If anyone has experienced the Washington area air in the last several days, I think he is going to vote against this amendment. Auto emissions are the primary reason we have had an air pollution alert in the Washington, D.C. area this week. This alert, the eighth of the year, eclipses the number of alerts called during any year in the past. As has been so well pointed out Washington air receives most of its pollution from the auto and we must begin to bring the polluting auto to heel. If the present trend continues I imagine we are just going to have one continual alert from June to October. I hope this amendment is defeated. We have to bring auto emissions under control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 248, line 22, strike out the quotation marks and period at the end, and after line 22, insert:

"(h) (1) The Administrator may not deny, on the basis of any provision of this Act (other than section 111 or section 112), an application for Federal financial assistance under any other provision of law for construction of a sewage treatment plant (with a specified capacity level), except as otherwise provided in paragraph (2).

"(2) The prohibition contained in paragraph (1) shall not apply if the Administrator determines that the effects of the sewage treatment plant (with such capacity level) would (A) cause or contribute to air pollution which exceeds the national ambient air quality standard for any air pollutant after the attainment date required for such standard in the applicable implementation plan or (B) violate any requirement of an applicable implementation plan. The Administrator shall, within 30 days after the determination under the first sentence of this paragraph, notify the State of such determination and provide opportunity for the State to revise the implementation plan accordingly. If, at any time after a determination under the first sentence of this paragraph, the applicable implementation plan is revised and approved under section 110 (a) (3) so as to assure that the effects of such plant will not cause or contribute to such pollution or violate any such requirement, the Administrator may not deny any such application on the basis of any provision of this Act (other than section 111 or section 112).

"(3) In making the determination referred to in paragraph (2) (A) of this subsection, the Administrator must apply the assumptions specified in subsections (a) (1) and (2)."

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, the amendment I have sent to the desk is designed to clarify and restrict EPA's authority to use the Clean Air Act as a basis for limiting or withholding sewage treatment plant grants. The Federal Water Pollution Control Act requires each federally funded wastewater treatment facility to have adequate reserve capacity. EPA is using the Clean Air Act to avoid that requirement, in certan cases. My amendment would proscribe such action except in two very specific circumstances. The amendment is designed to prevent repetition of a situation which occured in Ocean County, N.J. 2 years ago.

In 1974, the Ocean County Sewage Authority requested Federal funds to construct a sewage treatment plant. In response, EPA drafted an environmental impact statement which predicted the effects construction of such a plant would have on the environment. One of the results, EPA concluded, would be the stimulus of residential construction in the county. This increase in construction, EPA declared, would cause the population in Ocean County to grow to 322,000 by 1990. Along with this inevitable population growth, EPA said, would come increases in air pollution. These increases, however, would not have violated either the primary or the secondary air quality standards. Nonetheless, EPA refused to fund construction of the treatment plant unless the county agreed to build a plant with a nominal reserve capacity. A plant with far less capacity than originally requested was ultimately constructed.

This amendment will do several things. First, it will only allow EPA to act if the projected air quality effects, both direct and indirect, will violate either a national ambient air quality standard or a provision of the State implementation plan. In making this determination, EPA will be required to assume that automobile emissions were reduced according to their original deadlines. In this way residential development will not be penalized for the inability of the automobile industry to decrease their pollution as rapidly as the 1970 amendments required. Second, if EPA does determine that either of these violations will occur, they must first look to amendment of the State implementation plan for the solution. EPA may condition a portion of the grant upon amendment of the implementation plan. They may condition the portion that will be used to build that part of the plant's reserve capacity that EPA demonstrates will permit the growth-induced pollution. If the amendments to the implementation plan are made, then EPA will not be able to limit the funding due to clean air considerations.

Mr. Chairman, this amendment permits local officials, rather than Federal officials to decide how much residential development there will be in their community. The number of homes that can be built in a town depends directly on the capacity of the local sewage treatment plant. The people who decide the capacity of the plant are also deciding how much new housing is going to be available in the area. This decision must be made by local officials. In submitting plans for a sewage treatment plant, local officials are indicating how much residential growth the community expects. If EPA determines there will be serious air quality problems, then the proper step is to permit local and State officials to devise plans to alleviate those problems. But EPA has not done this. Instead, in the name of clean air, they have used their power over sewage treatment plant grants to decide how many persons will be able to live in an area.

The key ingredient in H.R. 10498 is balance. Balance between economic and environmental considerations. Balance between Federal and State and local decisionmaking. The Clean Air Act requires the Federal Government to set air quality standards and for State and local governments to plan how to meet these standards. EPA is supposed to oversee this process and grant approval to those plans it decides are practicable. Only if State and local officials fail to come up with workable plans may EPA step in. My amendment will extend this process to that gray area where air and water quality considerations overlap. If air quality will be jeopardized in the course of meeting water quality goals, then State and local officials must be allowed to devise a plan to reconcile the two. These officials are best able to judge the housing needs of their areas and they must be given flexibility to meet them.

The implications of failing to act on this matter are great. Congress has ordered a cleanup of our Nation's waters under the auspices of the Federal Water Pollution Control Act. A key part of that act provides effort to end a major source of pollution in our waterways. This body as well as the Senate has acted on legislation which authorizes approximately $5 billion for this purpose in fiscal year 1977. As of June 30, 1976, some 22,000 projects have been funded under this program and applications for nearly 900 more projects are pending.

It is a well-known fact that the housing needs of our country are not presently being met. The residential construction industry has still not recovered from the effects of the recent recession. The business of deciding how much housing should be built in a community and where it should be located, is not within the province of a Federal agency. My amendment affirms that principle and the principle of balance which is prevalent throughout H.R. 10498. I urge the adoption of my amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I would like to ask my esteemed colleague on the Health and Environment Subcommittee a few questions about his amendment. How could the Administrator take air quality considerations into account when considering an application for sewage treatment grant?

Mr. FLORIO. Basically my amendment is a prohibition against air quality effects being used as the basis for withholding or limiting sewage treatment grants. There are two exceptions to this prohibition. One is where the projected effects will cause or contribute to a national ambient air quality standard being exceeded. The other is where the projected effects will violate a provision of the State implementation plan. In making these determinations, the Administrator will have to apply the assumptions which section 201 of H.R. 10498 makes applicable to all indirect sources.

Mr. ROGERS. By the term "air quality effects" in your amendment, do you mean to include only the direct emissions from the sewage treatment plant?

Mr. FLORIO. No. The term "effects" includes indirect effects also. Thus, the term includes pollution arising from any development or related transportation activities which the Administrator determines will occur if the plant is constructed with a specified capacity. The Administrator should, in preparing the EIS statement on the grant application, provide a full and adequate explanation of the basis for any such determination.

Mr. ROGERS. If the Administrator, after applying the assumptions applicable to indirect sources, determines that these effects of the proposed sewage treatment plant would cause, or contribute to, levels exceeding a national ambient air standard or would violate a provision of the implementation plan, what action could he take?

Mr. FLORIO. In such a case, the Administrator would be required to invite the State to revise its implementation plan. The revision would have to assure that, even if the sewage treatment plant were constructed with full reserve capacity requested and were so operated, this would not prevent attainment or maintenance of the national ambient air quality standards. A portion of the grant could be withheld and conditions imposed until the State revises its plan accordingly and until such revision is approved under section 110(a) (3) of the act. Under this amendment, the amount of the grant which may be imposed would be limited to that amount and those conditions which are necessary to assure that the air quality effects of the sewage treatment plant with full reserve capacity will not violate any implementation plan requirement and will not cause, or contribute to, air pollution which exceeds any national ambient air quality standard. If the implementation plan is so revised and the revision is approved, then the Administrator could not deny any part of the grant due to air quality considerations.

Mr. ROGERS. One final question. Would your amendment in any way affect the terms or conditions of a sewage treatment facility construction grant under the Federal Water Pollution Control Act or other legislation?

Mr. FLORIO. No. This amendment does not affect or change those acts. It only prohbits the Administrator from using the Clean Air Act as a basis for limiting the size of a sewage treatment plant construction grant, except in certain extreme circumstances.

Mr. ROGERS. I thank the gentleman from New Jersey for his answers. I think his amendment is a carefully balanced measure, which both prevents arbitrary action by the Administrator while permitting appropriate controls on air pollution. On this basis I can certainly support the amendment. And I commend the gentleman for his work on the subcommittee and on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHEUER: Page 278, strike out line 6 and all that follows down through line 13, and insert in lieu thereof the following:

"(4) In the case of nonmilitary supersonic aircraft or nonmilitary supersonic aircraft engines manufactured before January 1, 1979, regulations under this section shall contain emission standards which reflect the degree of emission limitation achievable through the application of the best system of emission reduction which the Administrator determines to be available upon the effective date of such standards. In the case of any such aircraft or engine manufactured on or after January 1, 1979, such regulations shall contain emission standards which require a level of emission reduction for each air pollutant which is no less stringent than the level permitted under the least stringent standard for such pollutant applicable to any class or category of subsonic aircraft or aircraft engines. Any regulations under this section applicable to nonmilitary supersonic aircraft or nonmilitary supersonic aircraft engines which were promulgated before the date of enactment of this paragraph shall be revised (after fulfillment of the procedural requirements contained in paragraph (3)) in accordance with the requirements of this paragraph. Such revised regulations shall take effect not later than the date 6 months after the date of enactment of this paragraph.

Page 278, after line 13, insert:

(c) Section 232 of such Act is amended by adding the following new subsections at the end thereof:

"(c) No certificate referred to in this section may be issued to any nonmilitary supersonic aircraft or aircraft engine manufactured on or after January 1, 1979, unless the Administrator determines that such aircraft or engine complies with applicable emission standards without an increase in the noise level above the noise level which such aircraft or engine would exhibit but for the application of such standards.

"(d) Nothing in this title shall be construed to affect or impair any right, privilege, or authority respecting air pollution which may be exercised under State or local law by the owner or operator of any airport or airport facility."

(d) Upon the date 18 months after the date of enactment of this Act, the Secretary of Transportation may not permit any nonmilitary supersonic aircraft to land in the United States unless such aircraft has been certified by the Secretary to be in compliance with the emission standards promulgated as required in section 231(a) (4) of the Clean Air Act.

Mr. SCHEUER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SCHEUER. Mr. Chairman, my amendment to section 205 on "Aircraft Emission Standards," would require the EPA Administrator to repromulgate the supersonic aircraft emissions standards that he issued on August 16 of this year. In a press release issued on that date, EPA admitted that under the regulations just promulgated "* * * the new emission levels will still be about four times higher than comparable subsonic engines meeting EPA standards in 1980,". Such regulations permitting excessive emission levels are unacceptable, especially to those who live in and around airports which will be servicing SST's.

In repromulgating the emission standards for nonmilitary supersonic aircraft and aircraft engines, the EPA Administrator, under my amendment, would be required to take into consideration the best available retrofit technology for the reduction of emission pollutants.

In addition, this amendment would prohibit:

First, any nonmilitary aircraft or aircraft engine manufactured after January 1, 1979, from emitting pollutants at a level greater than allowed under the least stringent standards set for subsonic aircraft, and

Second, nonmilitary supersonic aircraft from landing in the United States, 18 months after enactment, unless the Secretary of Transportation can certify that such aircraft are in compliance with the emission standards set forth in EPA regulations promulgated pursuant to the Clean Air Act amendments.

Currently, the Supersonic Transport Concorde emits two-thirds more nitrogen oxides and one-third more carbon monoxide than our worst subsonic polluters—the 707's and the DC8's. Such high-emission levels are unacceptable. They endanger the health and safety of persons living in the vicinity of airports where the concentration of exhaust emissions tends to be highest. Since it is unlikely that more than 16 of the current generation of SST's will be produced, it is not unreasonable to require that they be retrofitted. EPA has stated that the retrofit technology to reduce air pollutants from supersonic aircraft would not be radically different from retrofit technology being developed for subsonic aircraft.

While we cannot require supersonic aircraft which are currently in operation or which will be in operation prior to January 1, 1979, to meet the emission levels of our worst subsonic aircraft without being unduly discriminatory, we should require that those aircraft be retrofitted with the best available technology to reduce their emissions to a reasonable level.

At the same time, we must take every precaution to insure that future generations of SST's will not emit air and noise pollutants and further endanger the quality of our environment. This can be done simply by requiring that second generation supersonic transports meet the emission standards which the Environmental Protection Agency has established for subsonic aircraft as of January 1, 1979.

The Federal Aviation Administration's final environmental impact statement on the Concorde addressed the question of reducing supersonic aircraft pollution. That report was based on two major U.S. studies: One, by the Department of Transportation's climatic impact assessment program—CIAP—entitled "Reported Findings: The Effects of Stratospheric Pollution by Aircraft," December 1974 and another published by the National Academy of Sciences and prepared by the Climatic Impact Committee of the National Research Council, National Academies of Science and Engineering—NAS—entitled "Environmental Impact of Stratospheric Flight: Biological and Climatic Effect of Aircraft Emissions in the Stratosphere" published in 1975. Both reports were in general agreement as to the nature of the health and climatic effects of stratospheric flight.

These reports indicate that exhaust gases from supersonic flight in the stratosphere react so as to decrease the ozone layer, permitting more ultraviolet radiation to reach the Earth's surface. Since there is strong evidence linking exposure to ultraviolet radiation and skin cancer, both the CIAP and NAS studies conclude that we can expect an increase in nonmelanoma and melanoma skin cancer as a result of the reduction in the ozone layer.

Both the CIAP and the NAS studies discuss the climatic effects from increased supersonic flights. These climatic changes follow three paths:

> (1) Sulfur dioxide gases in the engine exhaust are oxidized in the stratosphere to form a persistent aerosol layer of micron-sized particles of sulfuric acid. This aerosol layer tends to return a portion of the incoming solar radiation to space, thus decreasing the heat energy available to warm the earth's surface and thereby causing a net cooling of the earth's surface.
>
> (2) Water vapor from the engine exhaust also builds up in the stratosphere and through the "greenhouse effect" traps some of the infrared radiation which would otherwise escape from the earth's surface and the troposphere. This causes a net warming of the earth's surface.
>
> (3) Loss of ozone tends to produce a surface cooling effect. . . .

While the report goes on to say that, "each of the effects is small" and may "cause a slight warming or cooling" of the Earth's atmosphere, it should be remembered that scientists have stated that only a few degrees increase in the Earth's temperature would cause the melting of the polar icecaps and that during the ice age the Earth's temperature only decreased by a few degrees. Scientists, such as Stephen Schneider of the National Center for Atmospheric Research and author of "The Genesis Strategy, Climate and Global Survival," have testified before the Environment and the Atmosphere Subcommittee on which I serve, that our Earth's manmade pollutants will affect the climate and that we will see a general cooling of the Earth's atmosphere. It is very possible that the addition of a loosely regulated fleet of supersonic aircraft could speed up this cooling effect.

Why should we run the risk of increasing the incidence of skin cancers and changing the earth's climate, especially when the harmful effects of the supersonic transport's exhaust could be minimized or even eliminated?

Finally, my amendment would prohibit any nonmilitary supersonic aircraft from landing in the United States unless the Secretary of Transportation can certify that such aircraft are in compliance with the emission standards set forth in EPA regulations, promulgated pursuant to the Clean Air Act amendments.

We can no longer ignore our responsibility to protect our environment. Our legacy to our children and our grandchildren should be a world which is as good as, if not better than, the one in which we live. We have the technological ability to insure that "white elephants" like the SST do not damage our environment. I urge all my colleagues to support my amendment to require that this technology be put to work to protect our environment.

I include the following:

DATA

The data for carbon monoxide (CO), total hydrogen chlorides (THC) and nitrogen oxide (NOx) are given in terms of pounds of polluants per thousand pound—thrust hours/cycle which are the EPA criteria:

Type	THC	CO	NO_x
Concorde's currently produced	17.2	69.3	9.0
Concorde's to be produced after Jan. 1, 1980 (current design)	3.9	30.1	9.0
Concorde's to be produced after Jan. 1, 1984 (newly certified)	1.0	7.8	5.0
707/DC-8, current emissions	34.0	41.0	3.8
707/DC-8 effective Jan. 1, 1979 newly manufactured engines	.8	4.3	3.0
707/DC-8 effective Jan. 1, 1984 newly certified engines	.4	3.0	3.0

[From Environmental News, Aug. 16, 1976]

EPA SETS FINAL AIR POLLUTION EMISSION STANDARDS FOR SUPERSONIC AIRCRAFT

Environmental Protection Agency Administrator Russell E. Train today set standards to limit air pollution emissions from supersonic (SST) aircraft.

"These standards," said Train, "will contribute to the maintenance of air quality in and around large metropolitan air terminals handling international traffic."

The standards will apply to modified engines of the type powering the present Concorde manufactured after January 1, 1980, and by more advanced engines for later generation SSTs certified after January 1, 1984.

For the Concorde, carbon monoxide emissions will be reduced about 58 percent, hydrocarbons about 77 percent while nitrogen oxides will remain about the same as from the current engines. The smoke standard will require a slight reduction from that characteristic of the current engines.

For engines developed and certified after January 1, 1984, the carbon monoxide emissions will be reduced about 88 percent, hydrocarbons about 94 percent and nitrogen oxides about 44 percent from current Concorde-type engines.

Since the new emission levels will still be about four times higher than comparable subsonic engines meeting EPA standards in 1980, the preamble to the regulations recommends that modified ground operating procedures be employed with SST aircraft to reduce engine operation on the ground.

EPA estimates that the most probable development cost to the industry for meeting the 1980 standards is $10 million plus an operational cost penalty of $5 per hour per aircraft due to increased maintenance.

The new standards will apply to aircraft of foreign registry until such time as the International Civil Aviation Organization has promulgated standards for at least equal stringency. At that time, consideration will be given to applicability of ICAO standards to aircraft of foreign registry, while the EPA standards will continue to apply to aircraft of United States registry. The EPA is participating in the work of ICAO towards international aircraft emissions standards.

EPA is continuing its investigation of the need and feasbility of controlling cruise emissions in the upper atmosphere. The Agency intends to consider additional rulemaking for such control from both subsonic and supersonic aircraft if it is determined to be necessary to aid in the preservation of the ozone layer. EPA is cooperating with the Federal Aviation Administration in their High Altitude Pollution Program which is studying this problem.

EPA's standards for SST emissions differ from its proposals regarding SST noise. The Clean Air Act requires the effective date and the stringency of aircraft emission standards to be dependent on available and future technology, giving appropriate consideration to the cost of compliance within the developmental period. The Noise Control Act, on the other hand, requires only that EPA's proposed noise standards be based on what is necessary to protect the public health and welfare, without regard to time, technology or cost.

EPA PARAMETER

[Pounds of pollutant/1,000 pound-thrust hours/ landing-takeoff cycle]

Pollutant	SST (NME) 1980	Subsonic (NME) 1979	SST (NCE) 1984	Subsonic (NCE) 1981
Hydrocarbons	3.9	0.8	1.0	0.4
Carbon monoxide	30.1	4.3	7.8	3.0
Oxides of nitrogen	9.0	3.0	5.0	3.0

Note: NME: Newly manufactured engines. NCE: Newly certified engines.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. I thank the gentleman for yielding.

Mr. Chairman, I would like to add a word of support to the gentleman's amendment.

Some 2 years ago, the EPA promulgated regulations for emissions for supersonic aircraft. By law, they were to have either revised or issued regulations within 90 days after that date. They failed to do so. They were in defiance of law. Eventually, this spring, I told Mr. Train, by letter, that I would take him to court unless he issued the regulations called for by existing law. The gentleman from New York has pointed out that the regulations have now been issued. But they are a complete capitulation. They do not even reflect the standards earlier proposed. I think the gentleman's amendment is essential if we are going to have any kind of meaningful standards in the future.

Mr. ROGERS. Mr. Chairman, I rise in reluctant opposition to the amendment.

I know the intense concern and interest of the gentleman from New York, but I do feel the EPA has already issued emission standards at this time for the SST. I think it would be well for us to look into this, and I assure the gentleman I cetrainly will cooperate with him in looking into this to see how far they may be off goal, if such is the case. But I think it would be well for us to look at that before we adopt the gentleman's amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, I rise in agreement with the gentleman from Florida. I think this is a question that is going to have to be answered after the test period that is presently being conducted by the Secretary and after we can analyze all of the data that will be gathered as a result of this study. There have been no hearings as to what the exact effect of this is. It may be that this will be just fine. But I am concerned that this is just a backdoor way of barring the SST when those who are opposed to the SST, for their reasons, would not have been able to have it barred as a result of a direct vote.

Mr. MILFORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the proposed amendment.

First, let me state that I can only marvel at the creativity of some of my colleagues.

Even though Congress has voted time and again to allow the Concorde to land in the United States, we are still being bombarded by wild schemes to keep the Concorde out of the country.

Let us make no mistake about the real intent of this proposal. The amendment is supposedly concerned with the pollution level of the Concorde.

In reality it is aimed at circumventing the will of Congress.

This body has already considered the pollution level of the Concorde, as well as its noise emissions, fuel efficiency, operating expenses, and international implications.

After very careful and lengthy deliberations, we decided to allow the Concorde a chance to prove itself.

We did this not because we wanted friendly pats on the back from the British and French, and certainly not because we wanted to inflict any undue hardships on our own citizens.

We did it because we had carefully considered the issues and decided that a trial period was necessary in order to prove or disprove many of the allegations concerning the Concorde.

Air pollution was just one of many issues, and, I might add, one of lesser significance.

We already have data on the Concorde that shows its pollution index around the airport is virtually insignificant.

In fact, Secretary Coleman, in his decision to allow the Concorde to land in the United States, stated that the effect of the proposed level of operations on the air quality was negligible and insignificant for the purposes of his decision.

The major issue concerning Concorde is, and has been all along, noise.

We all know that, and we faced up to it time and again in our considerations of Concorde.

And, every time, we voted to give the aircraft a chance.

It would be absurd for us to keep voting on this major issue of noise let alone each and every minor issue associated with Concorde.

Let us wait until we have the data in on all of the issues so that we can make a decision on Concorde based on fact and not on hysteria.

The Concorde is approximately halfway through its 16-month trial period.

It makes much more sense to continue with this orderly trial program than to write hasty, premature legislation.

Let us look at what this amendment is trying to do.

It directs the Administrator of the EPA to promulgate certain standards which must be complied with in 18 months.

And, yet, the Administrator of the EPA has stated:

> There is an approximate 8–10 year lag between the identification of current and available technology and the application of that technology.
>
> As a result, new aircraft designs utilizing current and available technology would not be installed in operational service until at least 1982.

Thus, if the technology were available it would take 8–10 years, not 18 months to bring that technology into operational service.

And that is if the technology were available.

Unfortunately, it is not.

We have environmental standards for subsonic aircraft and available technology to make subsonic aircraft more environmentally acceptable.

But, contrary to this amendment, these standards and this technology are not readily adaptable to supersonic aircraft.

Like it or not, we must face the fact that the design requirements of supersonic flight are radically different than those of subsonic.

We cannot simply press a magical switch to convert our subsonic technology into the design of supersonic aircraft.

Instead, we need to move ahead and develop the necessary technology that will allow supersonic aircraft to be more environmentally acceptable.

The sooner we get to work in this area, the sooner we will have quiet clean supersonic transports.

I have always believed that we could have supersonic transports that are environmentally acceptable.

Just because we now have only the technology for the supersonic aspects and not the environmental aspects does not mean that we should throw up our hands and quit.

Almost all new technology is accompanied by a certain degree of risk and a substantial public concern.

But the innovation that allows for new technology also enables control of its environmental consequences.

There is no doubt in my mind that this Nation's commitment to protection of the environmental will insure that supersonic transportation, if given a fair and reasonable chance, will be environmentally acceptable.

We must, of course, be willing to do our share.

Passing an amendment such as this is not doing our share.

It is a step backward in time.

We would be throwing away an important technology because we have not yet perfected it.

In addition, we would be making a mockery of our previous deliberations and votes on Concorde which considered not only the air quality question but numerous other problems concerning supersonic travel.

This amendment would not only override these previous votes, it would kill the Concorde.

There is no way that the British and French could meet the requirements contained in the amendment.

We have seen that it would take 8 to 10 years to retrofit if the technology were available, and yet the amendment allows only 18 months.

To make matters worse, there is virtually no technology currently available in this area.

Thus, passage of the amendment would achieve, through a circuitous method, what the opponents of Concorde have been unable to achieve—denial of Concorde flights into the United States.

I, for one, would rather meet head on the issue of whether to grant Concorde landing permission.

Rather than obscuring the main issue in a multitude of amendments and debates, let us assess the hard data we get from the Concorde trial program.

Then, let us make a rational, objective decision based on all of the data and facts.

Until the proper time arrives for that decision, we should remain patient and refrain from passing any legislation that would thwart the orderly and fair program we have instituted for the Concorde.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHEUER).

The amendment was rejected.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to have a colloquy with the chairman of the subcommittee. I must congratulate the gentleman for the splendid job he has done on this bill.

Mr. Chairman, there are a couple of questions which I feel need clarification on title I of this bill. I had intended to raise these questions last Thursday night but I refrained from doing so, because of the lateness of the hour. The first question I would like to ask pertains to section 102 of the bill. Under that provision, the Administrator is authorized to regulate any air pollutant which, in his judgment, contributes to air pollution which may reasonably be anticipated to endanger public health or welfare. It is my understanding that under this section, the Administrator would be authorized to control any radioactive materials or gases being emitted into the ambient air if the resulting air pollution may reasonably be anticipated to endanger public health. Is that understanding shared by the chairman of the subcommittee and chief sponsor of the provision?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Yes, that most certainly is my understanding.

Mr. OTTINGER. And this provision would overrule any contrary legislative history under the 1970 act?

Mr. ROGERS. Yes, it would.

Mr. OTTINGER. Good. That is as it should be. Now, for my second question. Under section 107 of the bill, the Administrator may regulate any activity which in the Administrator's judgment may reasonably be anticipated to endanger public health or welfare by endangering the stratosphere. The National Academy of Sciences has recently reported about the threat that fluorocarbons pose to the world climate and agriculture directly by altering the heat absorbing characteristics of the stratosphere. In light of this report, I want to make sure that the committee's language is broad enough to authorize regulation of fluorocarbon aerosol sprays because of this risk. Is this also the chairman's view?

Mr. ROGERS. Yes, it is. At pages 82 and 83 of the committee report this is made clear. Even if there is no threat to an element of the stratosphere, but a function that the stratosphere performs would in some way be endangered or altered, this could be a basis for regulatory action.

Mr. OTTINGER. One final question. Since the committee issued its report, the Supreme Court decided the Hancock case on Federal facilities. I want to make sure the committee bill will overturn the Hancock decision and require Federal facilities to comply with all substantive and procedural requirements and will subject them to all sanctions the same as any non-Federal source.

Mr. ROGERS. Yes, section 113 of the committee bill will have just such an effect.

AMENDMENT OFFERED BY MR. WHALEN

Mr. WHALEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHALEN: Page 293, strike out lines 6 through 18 and insert in lieu thereof the following:

"SEC. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b) (1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than 18 months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b) (2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b) (2) which are detrimental. The analysis required under clause (C) shall include a discussion of the measures referred to in subsection 202(a) (5) (pertaining to fill pipe standards) and 202(a) (6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b) (2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause such independent marketers to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of greater than 50 percent of its stock.

Mr. WHALEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WHALEN. Mr. Chairman, the amendment I offer would do four things. First, it provides a 2-year delay in implementation of stage II vapor recovery regulations on independent gasoline marketers.

Second, during this first year, the Federal Trade Commission will complete an economic analysis of the stage II program effects on independent gas dealers.

Third, the EPA Administrator is required to incorporate the FTC data in a report to the Congress containing stage II recommendations within 6 months of completion of the FTC study.

Fourth, Congress then has 6 months to act on the EPA recommendations.

Mr. Chairman, there are several reasons why this amendment is needed and deserves support.

First, implementation of stage II equipment is estimated to cost $7,000 to $8,000 per station. Independent dealers and their trade association, the Society of Independent Gasoline Marketers of America—SIGMA—have asserted that they simply cannot obtain the funds necessary to comply with stage II. In many cases, stage II costs would equal or exceed the net worth of these dealers, forcing them out of business.

Second, even where the independents could succeed in raising the money, they may be unable to pass the costs through to the consumer without risking their ability to compete on prices with the major oil companies. I think all of us realize that the independents not only lack the large marketing structure of the majors, but their profit margin will not allow price alterations to cover the added costs of stage II.

Third, EPA has indicated that it does not oppose the Whalen amendment. Moreover, I have received a copy of a memorandum from Mr. John Bonine, Associate General Counsel of the EPA Air Quality and Noise Control Division, to Mr. Roger Strelow, Assistant Administrator for Air and Waste Management at EPA. In this communication Mr. Bonine states that my amendment confirms the general course EPA is currently pursuing with vapor recovery—one of a three-phase compliance schedule for each of the three classes of marketers—classed according to annual gasoline sales. This memorandum will be inserted in the Record following my remarks.

Mr. Chairman, it would be a serious blow to our economy if the price we had to pay for applying the stage II regulations to independent marketers were the loss of, or serious damage to, the independent segment of the gasoline marketing industry. Competition in the petroleum industry generally should be encouraged rather than needlessly damaged or snuffed out by a byproduct of regulatory programs, environmental or otherwise.

On the other hand, we want to be sure of all facts before we act. My amendment is designed to require the FTC study and EPA report to the Congress on the program and its economic effects before the regulations can be implemented.

I urge the adoption of this amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I have studied the gentleman's amendment, and I commend him for bringing to the House's attention an important problem. In the bill reported by the committee, we included provisions dealing with a portion of this problem. However, the gentleman from Ohio has drafted his amendment based upon information that developed after the committee reported its bill. I am sympathetic with the purposes of the amendment. I would like to be assured that I understand certain of its features. Do I correctly understand that the 2-year delay in implementing stage II while the studies and reports are prepared and submitted would apply only to independent gasoline marketers?

Mr. WHALEN. That is correct; the amendment would require the delay only as to small business independent marketers as defined by the final subsection of the amendment itself.

Mr. ROGERS. I notice that in that definition the Administrator is empowered to determine affiliations with refiners for the purpose of the coverage of the amendment. I would like to understand the purpose of this provision.

Mr. WHALEN. The amendment is intended to affect true independents for that reason the definition excludes those marketers who, for example, are owned, controlled by, under common control with, or affiliated with, refiners. However, it gives the administrator discretion to define by regulation those affiliations that are sufficient to render the marketer not to be an independent.

The amendment does provide that an independent marketer may have a supply contract with a refiner or may carry the refiner's trademark, trade name, service mark, or other identifying symbol.

Mr. ROGERS. Do I understand that any marketer owned, controlled by, under common control with, or affiliated as the gentleman has just described with any refiner with more than 65,000 barrels per day of capacity is not an independent small business marketer within the meaning of this definition?

Mr. WHALEN. That is correct. The definition excludes any refiner whose refineries, taken together, have capacity exceeding 65,000 barrels per day, regardless of where those refineries are located, whether in or out of the United States.

Mr. ROGERS. Also, as I understand it, the basis upon which EPA is authorized to give relief to independent marketers is a finding by the Administrator that the application of the stage II regulations to the independents will substantially damage their ability to compete.

Mr. WHALEN. That is correct. The amendment would work as follows: the EPA report to the congressional committees would include EPA's recommendations as to what, if any, steps to take in light of the FTC and EPA studies and reports. The EPA report and recommendations would lie before Congress for 6 months to give the Congress the opportunity to act if it saw fit. Thereafter, EPA could act to provide the relief described in the amendment on a finding that application of stage II controls to independent marketers without that relief would substantially impede the ability of independent marketers to compete. Absent further action by the Congress or any such finding by EPA, the stage II regulations would be applied to independent marketers according to the phase-in schedule provided by section 324(a) of the act as it would be amended by my amendment.

Mr. ROGERS. Mr. Chairman, with that understanding, I fully support the proposed amendment and urge its adoption by the House.

Mr. WHALEN. Mr. Chairman, I appreciate the support of the gentleman from Florida (Mr. Rogers).

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I ask this question of the gentleman from Ohio (Mr. Whalen): How is the small oil jobber who is affiliated with a major brand treated under the terms of the gentleman's amendment?

Mr. WHALEN. This, I think, would be determined by the way in which this affiliation takes place.

As the amendment reads, the third criterion, if the jobber is connected "by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner."

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Whalen) has expired.

(On request of Mr. Broyhill and by unanimous consent, Mr. Whalen was allowed to proceed for 2 additional minutes.)

Mr. WHALEN. To continue, Mr. Chairman, I say that there would have to be a direct connection. If the jobber, for example, is merely marketing the product and does not have over 50 percent ownership in the refining company, it would come under the purview of this amendment.

Mr. BROYHILL. In other words, the old jobber who may only have a franchise arrangement would be granted the 2-year exemption; is that correct?

Mr. WHALEN. That is correct.

Mr. BROYHILL. Is that the understanding of the gentleman from Florida (Mr. Rogers)?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, as I understand it, if they are strictly independent, that is so. That is the distinguishing factor.

Mr. WHALEN. That is correct.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am not sure that I fully understood this colloquy, and I am very much concerned about the small independent gas station dealer who is affiliated with a major company. We found that FEA regulations for example were directed at equalizing startup between the smaller oil supplying companies and the major companies.

However, what the regulations failed to take into account was that some of the big oil refining companies were selling to independents, and the independents were falling under the same provisions which were designed to penalize the big companies as compared to the little companies. Actually, the independent dealer was even weaker than the position of the small independent oil company the regulations were designed to protect. He was just a gas station owner, and because he sold the product of the big company, he was falling into the same category as the big company.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WHALEN) has again expired.

(By unanimous consent, Mr. WHALEN was allowed to proceed for 3 additional minutes.)

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, does the gentleman understand what I am saying?

Mr. WHALEN. Yes; I understand.

In this instance, that particular independent business person would fall under the provisions of this amendment and therefore would be excluded from the implementation of stage II.

Mrs. FENWICK. Even though he only sells the product of one very big oil company?

Mr. WHALEN. That is correct.

Let me just read the provisions of the amendment as it defines an independent:

A marketer shall not be considered as an independent—

And I stress the words "shall not be considered"—

if such person is a refiner.

In this instance, that small businessman is not a refiner unless that person controls, is controlled by, or is under common control with, a refiner, or is otherwise directly or indirectly affiliated—as determined under the regulations of the administrator—with a refiner.

Therefore, if that individual owns the station and simply markets the product, that is the situation.

Mrs. FENWICK. He might be under contract or he might be renting a station owned by the big company. That is very common in my State.

Mr. WHALEN. Under those provisions, then, he is controlled by the large company.

Mrs. FENWICK. Yes; he is.

Mr. WHALEN. That company would, in turn, make that investment for him, as required.

Mrs. FENWICK. Would it require the big company to make that investment for him?

Mr. WHALEN. That would be my understanding.

Mrs. FENWICK. Is that what this amendment does?

Mr. WHALEN. This amendment would exempt those who would be classified as independent.

Where this person simply has a rental agreement with a major oil producer, the major oil producer provides a station, provides the pumps, and so forth, and therefore would be required to provide the recovery facilities as well.

Mrs. FENWICK. That is the problem.

Mr. FLORIO. Mr. Chairman, if the gentleman would yield, there is a provision in this bill relating to this and which addresses the problem of the gentlewoman from New Jersey (Mrs. FENWICK). In fact, there is a provision which precludes the passing on of those costs to the actual independent entrepreneur. In fact I believe the regulations say the major producer shall pay for the major part and there is another provision in the bill which I inserted which does prohibit the passing on.

Mr. WHALEN. I thank the gentleman from New Jersey for his clarification.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. WHALEN. Mr. Chairman, I urge adoption of the amendment.

Mr. ICHORD. Mr. Chairman, I rise today in strong support of Congressman WHALEN's amendment that would delay implementation of the EPA's stage II vapor recovery regulations on independent gasoline marketers for two years pending an economic impact analysis by the Federal Trade Commission of the effect of stage II implementation on independent gas dealers. Since the passage of the 1970 amendments to the Clean Air Act, EPA has implemented a number of regulations to control pollution emanating from stationary sources. As part of this plan, EPA determined in 1973 the need for control of hydrocarbon vapors issuing from gasoline marketing and subsequently launched stage I of a vapor recovery program designed to control vapors arising from the transfer of gasoline from the delivery tanker to service station underground storage tanks. The stage I regulations were confined to specific areas of the country suffering from deteriorating air quality. The EPA, however, is now ready to launch stage II of their vapor recovery program which by some estimates will affect some 37,000 service stations many of which are owned by small businessmen. The stage II phase to control gasoline vapors during the actual car refueling process involves the installation of expensive equipment ranging from perhaps $5,000 to $8,000 per station which many small independent marketers simply cannot afford and at the same time maintain a competitive position with the major oil companies. Indeed, the Radian Corp. estimated that compliance with the EPA's stage II phase could cost the average jobber in excess of 28 percent of his entire net worth.

Faced with this potentially disastrous impact on marketers I believe that it is only rational that these stage II regulations be delayed for the small gasoline marketer in order that Congress might be fully apprised of the economic impact of this regulation on this Nation's small retail gasoline stations. Surely in enacting the Clean Air Act and in setting our goals to provide clean, healthy air for the citizens of this Nation, Congress did not intend in the effort to force a number of small businesses out of existence purely due to their inability to pay for an EPA regulation. I fully agree that we must be sensitive to our environment for it is a fragile thing that needs to be protected. But we must also be sensitive to the small business of this Nation which over the years has suffered disproportionately from the costs of implementing a plethora of federal rules and regulations which have made no attempt to distinguish between the disparate impact of these rules on large and small business.

We have the opportunity today by adopting this amendment to study the effects of this sweeping regulation and to determine with the perspective of this study the costs and benefits of implementation of stage II on the small independent gasoline marketing sector. I believe the amendment is fair, rational and responsible, and I hope my colleagues will join me in insuring adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WHALEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 302, immediately after line 7, insert the following new section:

"SEC. 221. Section 110 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"'(g)(1) No toll or other charge for the use of a bridge located entirely within the city of New York may be included as part of an applicable implementation plan. All such tolls and charges on bridges located entirely within New York City previousy so included shall be void upon the date of enactment of this subsection, and the Administrator shall not approve (or promulgate) any applicable implementation plan providing for any such toll or charge on any bridge located entirely within such city.

"'(2) If the Administrator determines that the applicable implementation plan will fail to meet the requirements of subsection (a)(2) by reason of the prohibition contained in paragraph (1) of this subsection, he shall order that such plan be revised (as provided in subsection (a)(2)(H)) to meet such requirements.'."

Ms. HOLTZMAN. Mr. Chairman, this amendment is offered on behalf of a number of my colleagues from New York, Representatives CHISHOLM, SCHEUER, SOLARZ, ZEFERETTI, ADDABBO, BIAGGI, DE-

Laney, Murphy, Rangel, Rosenthal, Richmond, and Wolff.

The amendment seeks to prohibit the imposition of tolls on the presently toll-free bridges across the East and Harlem Rivers in New York City.

Our concern in this amendment is not with the Clean Air Act itself, which we believe to be of vital importance in assuring a livable environment to New Yorkers and all Americans. We are concerned, rather, with an ill-considered and potentially damaging action taken under color of authority contained in the act by New York City, New York State, and the U.S. Environmental Protection Agency.

In 1973, the city and the State proposed, and EPA approved, a transportation control measure that called for placing tolls on 13 currently free bridges across the East and Harlem Rivers. Now EPA and the Federal courts have ordered the city and State to implement that unwise and unproductive strategy.

My colleagues and I oppose the tolls strategy for several reasons. First, the only available information fails to demonstrate that tolls would make any substantial contribution to cleaning up New York's air. Indeed, it seems likely that traffic congestion in the area of toll plazas will increase pollution on the Brooklyn, Queens, and Bronx sides of the bridges. In addition, tolls would constitute an unfair tax on residents of the outlying boroughs who wish to take advantage of Manhattan's shopping, entertainment, and cultural attractions. Finally, tolls would divide the city and discourge business in Manhattan, thus damaging New York's already troubled economy.

My amendment would simply eliminate the strategy calling for bridge tolls in New York City. It would not affect the Clean Air Act nationally; nor would it affect any other portion of New York's clean air plan. It would also not in any way interfere with the very important effort to reduce air pollution in New York; first, because tolls would make no measurable contribution to that effort; and second, because the amendment requires the State to revise its clean air plan, if such revision is necessary in order to meet pollution reduction standards.

Mr. ROGERS. Would my colleague yield?

Ms. HOLTZMAN. I am happy to yield to the chairman of the subcommittee.

Mr. ROGERS. I believe that the bill in its present form—without Congresswoman Holtzman's amendment—may offer New York City some relief from the EPA and court orders to impose tolls.

The gentlewoman, her colleagues and I have discussed section 202 of the bill which adds a new section 123 to the Clean Air Act. This section would permit the Environmental Protection Administrator to extend the date by which a State must implement a strategy contained in a transportation control plan, if implementation of that strategy would: First, "Cause, or contribute to, a failure to meet basic transportation needs"; second, "Be infeasible"; or third, "Otherwise cause seriously disruptive and widespread economic or social effects."

The Congresswoman, her colleagues from Brooklyn, Administrator Train, and I have corresponded about the applicability of this section to the tolls situation in New York, which she may wish to insert at this point in the Record.

Ms. HOLTZMAN. The chairman of the subcommittee is correct. My colleagues and I had sought his and Administrator Train's advise as to whether section 123 would provide a way to save New York from the consequences of this tolls plan. We have received written replies from both Chairman Rogers and Mr. Train. I will seek unanimous consent to insert at this point the Brooklyn delegation's letter to Chairman Rogers and the responses from the chairman and Mr. Train.

The letters from Mr. Rogers and Mr. Train follows:

House of Representatives,
Washington, D.C., June 16, 1976.

Hon. Paul G. Rogers,
Chairman, Subcommittee on Health and the Environment, Rayburn H.O.B., Washington, D.C.

Dear Mr. Chairman: The City of New York is under Federal Court and Environmental Protection Agency orders to implement certain measures contained in its transportation control plan. One of these measures calls for the charging of tolls on currently free bridges across the East and Harlem Rivers.

As strong supporters of clean air legislation, we deplore the City's laxity in taking action to implement its pollution control plan generally. We are convinced, however, that the specific tolls strategy is unwise economically and environmentally unjustifiable. We believe, therefore, that the city should not be forced to implement this strategy.

H.R. 10498, as reported, has a provision which we believe may offer New York some relief in this matter. Under the proposed new section 123 of the Clean Air Act, as added by section 202 of the bill, the Environmental Protection Administrator may grant up to a 10-year extension for any measure contained in a transportation control plan, if he finds that such measure's implementation would "be infeasible" or "otherwise cause seriously disruptive and widespread economic or social effects." The tolls measure would seem to qualify for an extension under each of these criteria.

The 13 bridges across the East and Harlem Rivers link the primarily residential boroughs of Brooklyn, Queens, and the Bronx, with Manhattan, the city's business, cultural and entertainment center. More than 300 million vehicle trips take place each year across these bridges—the great majority by city residents. Cutting these links will have very serious economic and social consequences for New York.

The impact of the tolls will, of course, depend on the amount of toll charged and the hours at which tolls are in effect. Although the tolls plan does not specify the amount or hours, some consequences can be predicted with reasonable certainty.

If tolls are imposed around the clock, seven days a week, they will reduce traffic into Manhattan, with the severity of the reduction depending on the amount of toll. The persons most likely to be discouraged by tolls are not those commuting to work—changing jobs is not that easy—but rather those coming to shop, going to the theater, or spending a day in Manhattan. Many of these people will stop taking advantage of Manhattan's attractions or come less frequently. As a result, our department stores, entertainment industry, specialty shops, restaurants, and cultural institutions will suffer. Unemployment—already at 12%—will increase, and city tax revenues, which come from these businesses, will drop. In the middle of a severe fiscal crisis, our city simply cannot afford to sustain further damage to its economic base.

It is important to understand that mass transit will not help to mitigate these consequences. From many places in Brooklyn, the Bronx, and Queens, a subway and bus trip to Manhattan can mean a ride of up to 1½ hours, costing two or three $.50 fares. In addition, travel at night can be dangerous. Many daytime shoppers, large low-income families visiting museums or friends, and moviegoing couples will either stay at home or go to the suburbs. In this context, we should note that the tolls were initially proposed (in 1973) in conjunction with the promise of improved mass transit. Since then, however, mass transit has deteriorated steadily, the fare has risen, and further fare increases are threatened.

The psychological effect on the tolls is likely to be equally destructive. Tolls will divide the city. Middle class families in the outlying boroughs are likely to wonder why they should endure New York's problems in order to have no easier access to Manhattan than do residents of New Jersey and Long Island. The result is likely to be increased flight from the city.

Even if tolls are imposed only at rush hours the effects would still be damaging. For the reasons mentioned earlier, any reduction in rush hour traffic will come primarily from those who shop or otherwise bring business into Manhattan, rather than those who work there. Even a small cut in total rush hour traffic may mean a large reduction in this consumer traffic. In addition, New York has seen far too many employers leave the city, taking away thousands of jobs, because their employees are unwilling to pay the price of working in Manhattan. A toll will increase that price (by $300 or more annually per employee who drives) and thus may add considerably to the loss of jobs. Surely we in New York need to attract rather than discourage employers.

In light of the city's economic situation, the foregoing would certainly seem to constitute "seriously disruptive and widespread economic or social effects" within the meaning of H.R. 10498. For New York now, increased flight of business and the middle class to the suburbs, shrinking tax revenues and high unemployment are consequences which must be avoided.

In view of the city's present economic condition, grave questions also exist about the feasibility of the tolls plan. Construction of toll plazas will be a massive and costly job. The city's ability to borrow the estimated $33 million needed for construction (an estimate which seems unreasonably low) is highly dubious since it cannot any longer borrow to raise capital and is cutting back drastically on essential services. In addition, it is not even clear that there is sufficient room on the narrow, congested approaches to some of the bridges to build toll plazas of satisfactory size.

Balanced against the damage tolls would do to our city and the difficulty of constructing toll plazas, is the likelihood that the tolls will produce little or no environmental benefit. In September, the EPA regional office in New York prepared a lengthy set of responses to questions we submitted about the tolls plan. Prior to our requests, no such information existed.

The EPA response claimed that the tolls' environmental benefits would come from (1) reduced diversion of traffic from currently tolled bridges to the free bridges; and (2) an overall reduction in rush hour traffic. With regard to the first claim, however, EPA's figures show reductions in carbon monoxide and hydrocarbons only on or around the free bridges—where no people live. In addition, EPA does not take into account traffic and pollution at currently tolled crossings which will increase as cars are no longer diverted away. (In this connection, it is significant to note that the U.S. Department of Transportation has advised EPA and New York City that Federal law bars the imposition of tolls on three of the bridges and on one lane of a fourth. Thus, diversion of traffic will continue and may even be aggravated. This situation also casts further doubt on the toll plan's feasibility.)

With regard to the possibility of an overall reduction in traffic, EPA projects a 3.5% decrease in rush hour bridge traffic—equivalent to less than a 1% decrease in rush hour traffic throughout Manhattan. Significantly, no estimate is given for reductions in pollutants—only traffic. EPA also acknowledges that pollution will increase around the toll plazas, and it makes no estimate of the effect of toll plaza traffic on surrounding streets. Finally, EPA projects no environmental benefit for tolls at non-rush hours, because its chief concern is the much higher level of pollution caused by rush hour traffic.

For these reasons implementation of the tolls strategy for New York City should qualify for an extension under the proposed section 123. Although information does not exist to allow us to measure the exact extent of damage the tolls will cause, their infeasibility and seriously disruptive economic and social consequences can be predicted with sufficient certainty, we believe, to meet the requirements of this section.

We would be most grateful for your opinion of this provision's applicability to the tolls situation as we have described it, and whether if an extension were granted for the tolls strategy, it would remove the basis for the existing EPA and Federal court enforcement orders. In addition, we most respectfully request that you seek from Administrator Train his view of this matter, specifically with regard to his intentions if New York should seek an extension for the tolls strategy and if he should find, after a public hearing on the question, that the situation is as we have described it.

Sincerely,

ELIZABETH HOLTZMAN,
SHIRLEY CHISHOLM,
FREDERICK W. RICHMOND,
JAMES H. SCHEUER,
STEPHEN J. SOLARZ,
LEO C. ZEFERETTI,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 17, 1976.

Hon. ELIZABETH HOLTZMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR COLLEAGUE: This is in regard to your letter of June 16, 1976, concerning section 202 of the "Clean Air Act Amendments of 1976" (H.R. 10498) and its impact on the New York State Implementation. Particularly, your question was whether under the Committee's language, the Administrator would be authorized to grant an administrative extension delaying implementation of the New York City bridge toll strategy.

In my view, the Administrator would be authorized to grant such an extension, if the City and State can produce evidence to substantiate the arguments contained in your letter. Once such an administrative extension were granted, the plan would in effect be revised and the City or State could apply to the Court for revision of the Court's order.

The actual decision of whether or not to exercise the authority contained in section 202 of the bill rests, of course, with the Administrator. However, under the particular facts you describe, if the Governor applies for an extension of the bridge toll measures and if the requisite proof were adduced to make the statutory showings, I believe the Administrator would grant the extensions. It is difficult for me to imagine any set of circumstances which would make denial of an extension in the public interest in this case if the facts are as you allege. Moreover, I would agree that the financial condition of the City is a legitimate consideration in determining whether the bridge tolls called for in the State's plan can feasibly be implemented or would cause seriously disruptive effects if implemented as scheduled.

I will be pleased to transmit your letter and a copy of this response to Administrator Train to ascertain his reaction to your concerns. If I can be of further assistance, please let me know.

Sincerely,

PAUL G. ROGERS,
Member of Congress.
Chairman, Subcommittee on Health and the Environment.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., July 15, 1976.

Hon. PAUL G. ROGERS,
Chairman, Subcommittee on Health and the Environment, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter dated June 17, 1976, requesting the Agency's review and comment on an exchange of correspondence between yourself and members of the New York City delegation concerning the bridge toll requirements of the New York State Implementation Plan.

The State of New York submitted a transportation control plan (including a measure to place tolls on certain bridges across the East and Harlem Rivers) to EPA on April 17, 1973. After inviting the public to comment on this plan, the Agency approved the plan on June 22, 1973. None of the measures contained in the plan were promulgated by EPA. Rather, they were submitted to EPA for approval by the State of New York with the knowledge and acquiescence of the City of New York. After initially submitting these measures the State and City of New York have neither amended their plan so as to mitigate any hardship that they now allege that the plan would impose nor implemented all of the measures within the plan itself. Therefore, the Agency issued compliance orders, in part, concerning bridge toll measures, to the State of New York on September 27, 1975. Subsequently the Federal District Court for the Southern District of New York was directed by the Second Circuit Court of Appeals to take "such further measures as are necessary to insure enforcement" of the bridge tolls and three other measures. At present, the District Court is considering constitutional and other challenges to enforcement of the measures, and a ruling on these matters is expected shortly.

During this time period the House Committee on Interstate and Foreign Commerce has approved its version of the 1976 Clean Air Amendments. Section 202 of the House bill would create a new section 123 in the Clean Air Act. EPA's General Counsel has indicated that section 123(a) would grant the Administrator the authority to extend a compliance date for a transportation control measure in any State Implementation Plan provided certain conditions are met. Section 123(b) outlines these conditions. Among other things, in order to extend the compliance date of a measure to not later than January 1, 1980, the Administrator must find, after notice and opportunity for public hearing that the implementation of that measure on the required date would cause or contribute to a failure to meet basic transportation needs of the area, would be infeasible, or would otherwise cause seriously disruptive and widespread economic or social effects. Also, no extension can be granted unless all requirements of the applicable implementation plan which are required to be implemented as of the date of the application for such an extension have actually been implemented. In order to obtain an extension to not later than January 1, 1985, the State Implementation Plan must, among other things, be revised within one year to include comprehensive measures to establish, expand or improve public transportation to meet basic transportation needs.

While EPA is unable to comment on the eventual outcome of any specific request for an extension of the compliance date of a transportation control measure, the Agency certainly would give every possible consideration to a request for an extension of bridge toll regulations provided that the requirements of section 123(b) are met. At present there are no reliable studies on the possible traffic disruption or other adverse impacts that the imposition of tolls on the specified New York City bridges might produce. It is for this reason that as a part of the Agency's compliance order issued on September 27, 1975, a study of "potential traffic disruptions or negative environmental impacts" was required. Since the likely effects of tolling the currently free bridges across the East and Harlem Rivers cannot confidently be predicted without further study, it would be impossible to comment accurately on the conditions alleged in the letter you received from members of the New York Congressional delegation.

As evidenced by Clean Air Act amendments developed by EPA and proposed by the Administration, allowing extensions of transportation controls in cases of severe economic or social disruption, we share your Subcommittee's concern that relief be provided in appropriate cases. If consequences of the type envisioned in the letter you received are shown to be reasonably foreseeable, they would satisfy the requirements of "seriously disruptive and widespread economic or social effects" and infeasibility within the meaning of section 123. Thus, if all other statutory requirements were met, we would certainly expect to afford any authorized relief.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

I am pleased to note that they both agree that if the tolls are likely to produce the economic and social damage to New York City which my colleagues and I outlined in our letter of June 16 and which we believe would result, any implementation order should be delayed at least until 1980.

Specifically, Chairman ROGERS' letter states, in relevant part:

> Under the particular facts you describe, if the Governor applies for an extension of the bridge toll measures and if the requisite proof were adduced to make the statutory showings, I believe the Administrator would grant the extensions. It is difficult for me to imagine any set of circumstances which would make denial of an extension in the public interest in this case if the facts are as you allege.

Administrator Train's reply states:

> If consequences of the type envisioned in the letter . . . are shown to be reasonably foreseeable, they would satisfy the requirements of seriously disruptive and widespread economic or social effects, and infeasibility within the meaning of section 123. Thus if all other statutory requirements are met, we would expect to afford any authorized relief.

I am deeply grateful to Chairman ROGERS for furnishing these assurances.

Mr. Chairman, I would be pleased to

withdraw my amendment if I could obtain certain additional clarifications from the gentleman from Florida with respect to the impact of section 123 on the imposition of tolls.

Mr. ROGERS. Mr. Chairman, if the gentlewoman from New York will yield, I will be more than happy to try to respond to my distinguished colleague.

Ms. HOLTZMAN. I thank the gentleman and I will yield to the gentleman.

My first question is whether the Administrator of the Environmental Protection Agency must take into account, in considering whether to grant an extension for a particular strategy, the effectiveness of that strategy in improving air quality for the area concerned?

Mr. ROGERS. The Administrator would have to consider the environmental benefits, if any, to be gained from a particular strategy.

Ms. HOLTZMAN. And, in your opinion, if New York makes a showing of reasonably foreseeable harmful economic or social consequences resulting from the tolls, such as reductions in persons using Manhattan's business and cultural attractions or increases in the departure of employers and the middle class to the suburbs, the Administrator should grant an extension for the tolls strategy under section 123?

Mr. ROGERS. That is the intent of the section.

Ms. HOLTZMAN. If I may address one final question to the very able chairman of the subcommittee. As the gentleman knows, I have also introduced my amendment in the form of a bill. My concern is that if I withdraw this amendment now, and if an extension should not be granted for the tolls strategy, this or the next Congress may not have an opportunity to consider my bill to save New York from the tolls. I would request, therefore, the gentleman's assurances that if this should be the case, he will take my bill up before his subcommittee.

Mr. ROGERS. I am happy to assure the gentlewoman that, should it become necessary, her bill to stop the tolls will be considered.

Ms. HOLTZMAN. Mr. Chairman, based on the assurances I have received from the chairman of the subcommittee, I request unanimous consent to withdraw my amendment. I also wish to express again my gratitude and that of my colleagues to the gentleman for his responsiveness to the needs of our city on this very important matter, and for his distinguished leadership on environmental legislation.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER: Page 297, line 12, after "(a)" insert "(1)".

Page 297, strike out line 19 and all that follows down through line 4 on page 298 and substitute: "with altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effort of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made."

Page 298, strike out line 5 and all that follows down through line 17 and insert in lieu thereof the following:

"(b)(1)(A) Upon submission of any new motor vehicle or motor vehicle engine to the Administrator for purposes of obtaining a certificate of conformity under section 206 (a)(1), the manufacturer shall submit to the Administrator instructions providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes. If the Administrator does not disapprove such instructions on or before the issuance of the certificate of conformity for the vehicle or engine, such instructions shall be treated as approved for purposes of this section.

"(B) In the case of any model year beginning after the date of enactment of this section, instructions respecting vehicles or engines manufactured during such model year which have been approved by the Administrator, shall be included in the instructions required under section 207(c)(3) and shall, not later than the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, be made available to any person upon request.

"(C) In the case of any model year beginning before the date of enactment of this section, instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator not later than 6 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 8 months after such date of enactment, such instructions shall be treated as approved for purposes of this section.

"(D) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than 60 days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(2) Any violation by a manufacturer of paragraph (1) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205."

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I also ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, a situation now exists in Denver and other high-altitude areas of the country where the letter of the Clean Air Act is being obeyed, but its spirit is being violated. The automobile emission control devices currently in use are designed for maximum efficiency at sea level. When used at high altitudes, these devices produce a fuel mixture that is excessively rich, causing a car to emit up to twice the amount of pollutants as a well-tuned car at sea level. For high altitude cities such as Denver, which Mr. WIRTH and I represent, this results in gasoline waste and more pollution than the cars would emit without the devices.

I find it ironic that our high-altitude areas are forced by the Federal Government to accept more pollutants in the air than they would otherwise have. It is impossible for high-altitude areas to meet Federal ambient air standards if the devices required to help meet those standards actually cause twice the pollution, simply because they cannot be adjusted to the proper setting for the higher altitudes.

Unsatisfactory emission control performance can be corrected, but auto dealers are prohibited from making such adjustments by the antitampering provision of the Clean Air Act, which carries a $10,000 penalty for its violation. Dealers are only permitted to make adjustments within manufacturer's specifications, which do not compensate for high altitude. The dealer's hands are tied. The only way dealers could make such adjustments would be to run long mileage tests and submit the results to the Environmental Protection Agency—EPA—for possible approval—an impossible task for small businessmen.

Moreover, auto dealers, who are probably best able to satisfactorily adjust emission control devices, are the only ones that are singled out and prevented from doing so. Service stations and garages, as well as the individual carowner, are all permitted to adjust emission control devices. In many cases, these adjustments are done in a less than satisfactory manner. The individual carowner, in particular, often relies on one of the many do-it-yourself kits on the market, for which there is absolutely no standardization.

The auto dealer's situation could be solved, however, by the manufacturer. Manufacturers can develop high-altitude modifications for certified vehicles of earlier model-year designations and get approval from EPA for such modifications relatively easily. In the vast majority of cases, the only change that is needed to allow a vehicle to meet emission standards at high altitudes is a change in carburetor and ignition calibrations.

The fact that there is a procedure by which the manufacturer can readily obtain approval for high-altitude modifications for earlier model-year cars, however, does not mean the manufacturer will elect to make such modifications. Auto dealers in the Denver area have requested this assistance, citing the tremendous good will and public welfare of such help, but to no avail. The realization that the manufacturer can offer such modifications but has chosen not to—disregarding that such refusal greatly increases the pollution at high altitudes and results in the burning of additional gasoline which we can ill-afford—was the impetus behind the Schroeder-Wirth high-altitude amendment. The Schroeder-Wirth amendment was offered in the full Interstate and Foreign Commerce Commitee by Mr. Wirth on March 16, 1976. The amendment was unanimously adopted.

In its present form, the Schroeder-Wirth amendment provides:

First. Any adjustment or alteration of emission control equipment would not be considered a violation of the antitampering provision, as long as such adjustments or alternations would not adversely affect emissions performance of the vehicle.

Second. Adjustments or alterations would not be considered as adversely affecting performance of the vehicle if the adjustments or alterations are performed in accordance with manufacturer's instructions approved by EPA, or with instructions promulgated by EPA, to permit better fuel economy in high-altitude areas

Third. The manufacturer of any motor vehicle or engine made after model year 1968 would be required to publish and make generally available to the public the instructions necessary to make appropriate altitude adjustments to emission control systems on that vehicle.

Fourth. If a manufacturer has failed to submit approvable instructions within 6 months after the date of enactment of the amendment, or 6 months after the date on which a class or category of motor vehicles first becomes available to the general public, whichever last occurs, EPA would be required to promulgate regulations within 18 months after the date of enactment to carry out this provision.

Representative WIRTH and I would like to amend our original amendment to correct some oversights in the language of that amendment. We would like to make the following changes:

The four provisions enumerated below correspond to the four provisions of the original amendment as outlined above:

First. Allow an increase in one or more pollutants by reason of alterations or adjustments made to reduce emissions of one or more other pollutants if the aggregate effect of such adjustments or alterations will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made. This change is necessary, as nitrogen oxide emissions are inadvertently increased due to changes in combustion when the emission control devices are adjusted to decrease carbon monoxide—CO—and hydrocarbon—HO—emissions.

Second. This provision will remain unchanged, except that the language referring to instructions promulgated by EPA will be removed.

Third. This provision will remain unchanged.

However, I would like to clarify what is expected of the manufacturer under this provision. The instructions that are to be provided by the manufacturer will be instructions to improve the emissions performance of vehicles operated at an altitude other than that for which the vehicle is adjusted by altering or adjusting the existing components, parts, and emission devices on said vehicle, or replacing minor components or parts. For example, instructions promulgated by the manufacturer would most likely deal with changes in the size of the main carburetor jet, adjustment of the choke, changing of the spring in the power valve, changes in the ignition timing, and changing the idle adjustment screw. While these examples are by no means all-inclusive, they are indicative of the types of adjustments for which the manufacturer will be expected to provide instructions. It is not the intent of this language to require that the manufacturer redesign, retool, or produce any components, parts, or emission control devices on said vehicle.

Fourth. Make a distinction between vehicles already on the road on the date of enactment of the amendment and new vehicles coming onto the market after the date of enactment of the amendment.

For vehicles already on the road, altitude adjustment instructions shall be submitted by the manufacturer to the Administrator of EPA within 6 months after the date of enactment of the amendment. EPA is given a maximum of 8 months after the date of enactment to disapprove such instructions—that is, if the manufacturer submits instructions to EPA 5 months after the date of enactment, EPA would then have 3 months to disapprove the instructions; if the instructions were submitted 6 months after the date of enactment, EPA would then have 2 months to disapprove the instructions. If EPA does not specifically disapprove the instructions, they shall be considered to be approved under the provisions of the amendment.

For new vehicles, the manufacturer shall submit the altitude adjustment instructions to EPA for approval at the same time the manufacturer applies for certification of that vehicle or engine. If EPA does not disapprove the instructions on or before the issuance of the certificate of conformity for the vehicle or engine, the instruction shall be considerd to be approved under the provisions of the amendment.

Remove EPA's responsibility for providing altitude adjustment instructions if the manufacturer does not do so. It is our desire to ensure that the responsibility for providing these instructions will remain with the manufacturer, and not be passed on to EPA. EPA does not have the resources to promulgate such instructions, whereas the manufacturer does. If the original wording of the amendment were to remain, I am afraid we would be creating a giant loophole for the manufacturer to legally shirk this responsibility.

I would also like to point out that Representative WIRTH and I are aware that EPA has issued regulations which, beginning with model year 1977, will allow the manufacturers to ship only cars that will meet the air quality standards at their designated place of sale. These EPA regulations, however, will do nothing to solve the emission problems of cars already on the road, or of 1977 and later model-year cars which are sold in a low-altitude area and are then driven to a high-altitude area, or vice-versa. Our amendment will enable dealers to improve emission control performance on any car built after 1968, which will assist the average car-owner who may not be driving the latest-model car, as well as the person who purchases a 1977 or later model-year car and then finds it necessary to use the car at an altitude other than that for which it is adjusted.

In sum, pollution resulting from improperly adjusted emission control devices is a very real and serious problem to the people who live in our high-altitude areas. Our amendment would greatly improve the air pollution situation in the urban areas of the Rocky Mountain States, and has been endorsed by both environmental and business groups, as well as by Denver Mayor William H. McNichols and Colorado Governor Richard D. Lamm.

We ask for your support of these changes in the Schroeder-Wirth amendment.

Mr. ROGERS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentlewoman for yielding.

We have looked the amendments over on this side, and the amendments are reasonable. We would urge their adoption.

Mr. BROYHILL. Mr. Chairman, would the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentlewoman for yielding.

Would the gentlewoman clarify for us as to when this section would be applicable? Would it be applicable only to 1978 models?

Mrs. SCHROEDER. The amendment distinguishes between automobiles that have not yet been certified, which would be 1978 models and earlier models. The manufacturers will come up with instructions as to how to adjust earlier models than those that have been certified. That will be the cut-off date.

Mr. BROYHILL. If the gentlewoman will yield further, in other words, those automobiles that are presently in production, is the gentlewoman saying, may have some different instructions or standards than those automobiles that would be manufactured in future years, such as after 1978?

Mrs. SCHROEDER. That is right. I believe, if I understand the gentleman's question, there would be printed instructions as to what one might do to perfect cars that are already manufactured or being manufactured. However, in the future, the amendment would require different requirements.

Mr. BROYHILL. That would apply to 1978 models?

Mrs. SCHROEDER. That is right as per the instructions. There was a lot of concern by manufacturers that the amendment would require retroactive kits and things like that for cars already manufactured. We do not want that.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Colorado.

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to Title II? If not, the Clerk will read Title III.

The Clerk read as follows:

TITLE III—MISCELLANEOUS AMENDMENTS

REDESIGNATION OF AIR QUALITY CONTROL REGIONS

SEC. 301. Section 107 of the Clean Air Act (42 U.S.C. 1857c–2) (relating to air quality control regions) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State.

"(2) In the case of an air quality control region in a State, or part of such a region, which the Administrator finds may significantly affect air pollution concentrations in another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.

"(3) No compliance date extension granted under section 119 (relating to coal conversion) shall cease to be effective by reason of the regional limitation provided in section 119(c)(2)(D) if the violation of such limitation is due solely to a redesignation of a region under this subsection.".

CONSULTATION

SEC. 302. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) as amended by sections 101, 103, 105, 201, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"CONSULTATION WITH LOCAL GOVERNMENTS, REGIONAL AGENCIES, AND COUNCILS OF GOVERNMENTS

"SEC. 125. (a) An applicable implementation plan under section 110 shall provide a satisfactory process for consultation with general purpose units of local government, regional agencies, and councils of governments prior to the adoption of any transportation controls or any measure referred to in the last clause of section 110(a)(2)(B) or in section 110(a)(2)(I) (pertaining to indirect sources) or 110(a)(2)(J) (pertaining to prevention of significant deterioration) adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1976 as part of such plan. No such process shall be deemed satisfactory unless it meets the requirements of regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than nine months after the date of the enactment of this section. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this section.

"(b) For purposes of section 307 or any other provision of law relating to judicial review, only a general purpose unit of local government, regional agency, council of government, or State adversely affected by action of the Administrator approving or promulgating any portion of a plan referred to in this section may petition for review of such action or may intervene in any such action on the basis of a violation of the requirements of this section.".

(b) Section 110(c)(1) of such Act (42 U.S.C. 1857c–5) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, any portion of a plan relating to any measure described in the first sentence of section 125 (a) or the consultation process required under section 125 shall not be required to be promulgated before the date eight months after such date required for submission.".

DELEGATION TO LOCAL GOVERNMENT UNDER FEDERAL PLAN

SEC. 303. Section 110(c) of the Clean Air Act (42 U.S.C. 1857c–5(c)), is amended by adding the following new paragraph at the end thereof:

"(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the responsibility to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from enforcing any applicable provision of a plan promulgated under this subsection.".

EMPLOYMENT EFFECTS

SEC. 304. The Clean Air Act (42 U.S.C. 1857 and following), as amended by section 201 (a) of this Act, is further amended by adding the following new section at the end thereof:

"EMPLOYMENT EFFECTS

"SEC. 319. (a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any requirements under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such requirements.

"(b) Any employee, or any representative of such employee, who is discharged or laid-off, threatened with discharge or layoff, or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed or proposed to be imposed under this Act, including any requirement applicable to Federal facilities and any requirement imposed by a State or political subdivision thereof, may request the Administrator to conduct a full investigation of the matter. Any such request shall be reduced to writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice. At such hearings, the Administrator shall require the parties, including the employer involved, to present information relating to the actual or potential effect of such requirements on employment and the detailed reasons or justification therefor. If the Administrator determines that there are no reasonable grounds for conducting a public hearing he shall notify (in writing) the party requesting such hearing of such a determination and the reasons therefor. If the Administrator does convene such a hearing, the hearing shall be on the record. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such requirements on employment and on the alleged actual or potential discharge, layoff, or other adverse effect on employment, and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

"(c) In connection with any investigation or public hearing conducted under subsection (b) of this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner, or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Nothing in this section shall be construed to require or authorize the Administrator, the States or political subdivisions thereof, to modify or withdraw any requirement imposed or proposed to be imposed under this Act.".

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 305. (a) Section 307 of the Clean Air Act (42 U.S.C. 1857h–5) is amended by adding the following new subsection at the end thereof:

"(d)(1) This subsection applies to—

"(A) the promulgation or revision of any national ambient air quality standard under section 109,

"(B) the approving or disapproving of any State implementation plan (or any revision thereof) under section 110 or 111(d),

"(C) the promulgation or revision of an implementation plan by the Administrator under section 110(c),

"(D) the promulgation or revision of any standard of performance under section 111 or emission standard under section 112,

"(E) the promulgation or revision of any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(F) the promulgation or revision of any aircraft emission standard under section 231,

"(G) promulgation or revision of regulations pertaining to compliance date extensions for coal conversion under section 119 (but not including orders granting or denying any compliance date extensions),

"(H) promulgation or revision of regulations pertaining to compliance date extensions for stationary sources under section 121 (but not including orders granting or denying any compliance date extensions),

"(I) promulgation or revision of regulations authorizing compliance date extensions for transportation control measures under section 123 (but not including orders granting or denying such extensions),

"(J) promulgation or revision of regulations requiring indirect source review programs under section 124,

"(K) promulgation or revision of regulations under subtitle B of title I (relating to stratosphere and ozone protection),

"(L) promulgation or revision of regulations under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(M) promulgation or revision of regulations establishing emission standards under section 202 and test procedures for new motor vehicles or engines under section 206, the granting or denying of a suspension under section 202, the revision of a standard under section 202(a)(3)(B), the making of a determination under section 202(b)(6), and the promulgation of any regulation under 202(a)(5) or 202(a)(6),

"(N) the approval or disapproval of any application for a State program grant and any deobligation of grant funds under section 105,

"(O) promulgation or revision of regulations establishing railroad emission standards under section 235,

"(P) promulgation or revision of regulations establishing a schedule of rates of excess emission fees under section 122(b),

"(Q) promulgation or revision of any regulations promulgated under section 207,

"(R) action of the Administrator under section 127;

"(S) action of the Administrator under section 122(b)(2) (unless such action is taken on the basis of the record of the hearing at which the extension under section 121 is granted), and

"(T) such other actions as the Administrator may determine.

The provisions of section 553 through 557 and section 706 of title 5 of the United States Code shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies. This subsection shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5 of the United States Code.

"(2) Not later than the date of proposal of any action to which this subsection applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be simultaneously established in the appropriate regional office of the Environmental Protection Agency.

"(3) In the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the Federal Register, as provided under section 553(b) of title 5, United States Code, shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment (hereinafter referred to as the 'comment period'). The notice of proposed rulemaking shall also state the docket number, the location or locations of the docket, and the times it will be open to public inspection. The statement of basis and purpose shall include a summary of—

"(A) the factual data on which the proposed rule is based;

"(B) the methodology used in obtaining the data, in analyzing the data, and in reasoning from the data to the proposed rule; and

"(C) the major steps of reasoning leading to the proposed rule (including an articulation of the major legal interpretations, policy considerations, and evaluations of competing risks included in the chain of reasoning).

The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by advisory committees and other bodies (including the Scientific Review Committee established under section 109(d) and the National Academy of Sciences), and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

"(4)(A) The rulemaking docket required under paragraph (2) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays expenses, including personnel costs to do the copying.

"(B)(i) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(ii) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(5)(A) In promulgating a rule to which this subsection applies (i) the Administrator shall allow any person to submit written comments, data, or documentary information; (ii) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (iii) a transcript shall be kept of any oral presentation; and (iv) during any such oral presentation, the Administrator shall include an opportunity for cross-examination as provided in subparagraph (B).

"(B)(i) During any such oral presentation, the Administrator shall include an opportunity for cross-examination on any matter shown to be a disputed issue of material fact to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issues involved, the number of participants and the nature of their interests, and any need for expedition, including that for meeting any statutory deadline for promulgation of the rule involved.

"(ii) If only a single interested person seeks the opportunity for cross-examination or if the Administrator determines that all persons in a class who seek to avail themselves of such an opportunity share an identity of interest, the Administrator shall, upon the making of such a showing, afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination with respect to any such issue to the same extent that cross-examination is permitted under section 556 of title 5, United States Code, taking into account the need for expedition as provided in (i) above.

"(iii) If all persons and classes of persons seeking to avail themselves of an opportunity to engage in cross-examination cannot agree upon one or more classes which, in the discretion of the Administrator, reasonably afford representation of various interests and classes of persons potentially affected by the rule, the Administrator may deny cross-examination.

"(C) Any determination respecting the procedure provided for in subparagraph (A) or (B) may be held grounds for invalidating the Administrator's action only if such determination is arbitrary or capricious.

"(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(7)(A) The record for judicial review shall consist exclusively of the material referred to in paragraph (3), clause (i) of paragraph (4)(B), and subparagraphs (A) and (B) of paragraph (6).

"(B) Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit. Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

"(8) The sole forum for challenging procedural determinations made by the Administrator under this subsection shall be in the United States court of appeals for the appropriate circuit (as provided in subsection (b)) at the time of the substantive review of the rule. No interlocutory appeals shall be permitted with respect to such procedural determinations. In reviewing alleged procedural errors, the court may invalidate the rule only if the errors were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.

"(9) In the case of review of any action of the Administrator to which this subsection applies, such action shall be affirmed by the court unless the court finds that it is not supported by substantial evidence in the rulemaking record (as defined in paragraph (7)(A)) taken as a whole. In addition, the court may reverse any such action found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or

"(D) without observance of procedure required by law.

"(10) Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months, after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

"(11) The requirements of this subsection shall take effect with respect to any rule the proposal of which occurs after date of enactment of the Clean Air Act Amendments of 1976.".

(b) Section 105 of such Act (42 U.S.C. 1857c) is amended by adding the following new subsection at the end thereof:

"(e) No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for a public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected).".

(c)(1) The first sentence of section 307 (b)(1) of such Act (42 U.S.C. 1857h–5(b) (1)) is amended by striking out "111" and inserting in lieu thereof "111(b), any finding of the Administrator under section 111 (i)(7)(A), any regulation promulgated under section 111(d)(1), 121, 122, 123, 124 (c), 125, 126(a), 152(f)(3), 154, 160, 207, or 302(1)"; by inserting "or required to be prescribed under section 202(a)(3)(A) with respect to vehicles or engines manufactured during or after model year 1983" after "202 (b)(1)"; by inserting "or under section 202 (a)(3)(B)" after "202(b)(5)"; and by inserting "or under section 235" after "231".

(2) The second sentence of section 307 (b)(1) of such Act is amended (A) by inserting after "(C)" the following: ", or his action under section 121 (other than the promulgation of regulations)," and (B) by inserting after "thereunder," the following: "his action in imposing a fee under section 122, his action under section 127(b), his action in approving any plan or making any designation or redesignation under section 160,".

(3) The last sentence of section 307(b)(1) of such Act is amended to read as follows: "Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that such date if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise. No determination of the Administrator under section 122 with respect to the imposition or reduction of a fee shall be reversed by the court unless such determination is unsupported by substantial evidence on the record.".

(4) Section 307(b)(1) of such Act is further amended by inserting the following after the second sentence thereof: "Notwithstanding the preceding sentence a petition for review of any action referred to in such sentence may be filed only in the United States Court of Appeals for the District of Columbia if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

(d)(1) Clause (iii) of section 114(a) of such Act (42 U.S.C. 1857c–9(a)(iii)), relating to inspection, monitoring, and entry, is amended by striking out "or 303" and inserting in lieu thereof the following: ", 111(f), 121 (including determining whether to grant, deny, approve, or disapprove a compliance date extension under section 121), 112, 124, 126, 160, or 303 or subtitle B of title I".

(2) Section 114(a)(1) of such Act is amended by striking out "the owner or operator of any emission source" and inserting in lieu thereof "any person subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 208)".

EMPLOYEE PROTECTION

SEC. 306. Title III of the Clean Air Act (42 U.S.C. 1857g and following), relating to general provisions, is amended by adding at the end thereof the following new section:

"EMPLOYEE PROTECTION

"SEC. 317. (a) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under any applicable implementation plan,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief perscribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not ehter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(e) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(f) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act.".

NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

SEC. 307. Section 114(a)(2) of the Clean Air Act (42 U.S.C. 1857c–9(a)(2)) is amended by adding at the end thereof the following: "In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of a compliance date extension under section 119, before carrying out an entry, inspection, or monitoring under this paragraph with respect to such standard, limitation, or other requirement, the Administrator (or his representative) shall provide the State air pollution control agency with reasonable prior notice of such action, including a statement of the reasons for such action. The Administrator shall, upon a showing by the State agency that such an action will be detrimental to the administration of the State's program of enforcement, take such showing into consideration in determining whether to take such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation or other requirement which is not part of an applicable implementation plan.".

EMERGENCY POWERS

SEC. 308. Section 303 of the Clean Air Act (42 U.S.C. 1857h–1) is amended to read as follows:

"EMERGENCY POWERS

"SEC. 303. (a) Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may in order to protect the health of such persons, commence a civil action for appropriate relief, including a restraining order or permanent or temporary injunction. If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are or may be affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day during which such violation occurs or failure to comply continues.".

INTERSTATE POLLUTION ABATEMENT

SEC. 309. (a) Section 110(a)(2)(E) of the Clean Air Act (42 U.S.C. 1857c–5) is amended to read as follows:

"(E) it contains provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard after the attainment date for such standard or interfere with measures required to be included in the applicable implementation plan for any other State to prevent significant deterioration of air quality, and (ii) insuring compliance with the requirements of section 126;".

(b) Title I of such Act, as amended by sections 101, 103, 105, 201, 202, and 302 of this Act, is further amended by adding at the end thereof the following new section:

"INTERSTATE POLLUTION ABATEMENT

"SEC. 126. (a) Not later than nine months after date of enactment of this section, the Administrator shall promulgate regulations establishing a procedure for abating interstate air pollution in accordance with the requirements of this section.

"(b) Regulations promulgated under subsection (a) shall require each applicable implementation plan—

"(1) to require each major proposed new (or modified) source which may significantly contribute to air pollution in any air quality control region outside the State in which such source intends to locate (or make such modification) to obtain a permit to construct from the State of intended location at least ninety days prior to the date of commencement of construction,

"(2) to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(3) to review and identify all major existing stationary sources (within the meaning of section 121(a)(3)) which may have the impact described in paragraph (1) and to provide notice to all nearby States of the identity of such sources not later than eighteen months after date of enactment of this section.

"(c) Regulations under subsection (a) shall authorize any State or political subdivision to petition the Administrator for a finding that any major source would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i). Within sixty days after receipt of any petition under this subsection, the Administrator shall provide opportunity for a public hearing and shall grant or deny the petition.

"(d) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State (1) for any major proposed new (or modified) source with respect to which a petition has been granted under subsection (c) to operate more than sixty days after such petition has been granted, or (2) for any major existing source to operate more than six months after such petition has been granted with respect to it, except that the Administrator may permit the continued operation of such source beyond the expiration of such six-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirement contained in section 110(a)(2)(E)(i) as expeditiously as practicable.".

INTERAGENCY COOPERATION ON PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 310. Title I of the Clean Air Act as amended by sections 107 and 108 is further amended by adding the following new subtitle at the end thereof:

"Subtitle D—Prevention of Environmental Cancer and Heart and Lung Disease

"PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

"SEC. 170. (a) Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the 'Task Force'). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

"(b) The Task Force shall—

"(1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

"(2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

"(3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

"(4) coordinate research and control efforts by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

"(5) report to Congress, not later than January 31 of each year, on the problems and progress in carrying out this section.".

CIVIL LITIGATION

SEC. 311. (a) Section 305 of the Clean Air Act (42 U.S.C. 1857h–3) is amended to read as follows:

"CIVIL LITIGATION

"SEC. 305. (a) Except as otherwise provided in subsection (b), in any civil action under this Act (including any civil action brought by any person with respect to action taken by the Administrator under this Act), the Administrator shall have excusive authority to commence or defend, and supervise the litigation of, such action and any appeal of such action in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

"(b)(1) If the Administrator makes a written request to the Attorney General, within the ten-day period which begins on the date of the entry of the judgment in any civil action in which the Administrator represented himself pursuant to subsection (a), to represent himself through any of the attorneys of the Environmental Protection Agency designated by him for such purpose before the Supreme Court in such action, he may do so, if—

"(A) the Attorney General concurs with such request;

"(B) the Attorney General, within the sixty-day period which begins on the date of the entry of such judgment refuses to appeal or file a petition for writ of certiorari with respect to civil action, in which case he shall give written notification to the Administrator of the reasons for such refusal within such sixty-day period; or

"(C) the Attorney General fails to take any action with respect to the Administrator's request within the time required pursuant to law (subject to subsection (c)).

"(2) In any case where the Attorney General represents the Administrator before the Supreme Court in any civil action in which the Administrator represented himself pursuant to subsection (a), the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to such action, unless the Administrator concurs.

"(3) For purposes of this subsection (with respect to representation before the Supreme Court), the term 'Attorney General' includes the Solicitor General.

"(4) The provisions of this section shall apply notwithstanding any other provision of law.

"(c) If, prior to the expiration of any period referred to in subsection (b)(1), any right of the Administrator to commence, defend, or intervene in, any such action or appeal may be extinguished due to any procedural requirement of any court with respect to the time in which any pleadings, notice of appeal, or other acts pertaining to such action or appeal may be taken, the Attorney General shall have one-half of the time required to comply with any such procedural requirement of the court (including any extension of such time granted by the court) for the purpose of commencing, defending, or intervening in the civil action pursuant to subsection (a) or for the purpose of refusing to appeal or file a petition for writ of certiorari and the written notification or failing to take any action pursuant to subsection (b)(1)(B) or (C).".

(b) Section 113(b) of such Act is amended by adding the following at the end thereof: "In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.".

(c) Section 307 of such Act, as amended by sections 305 and 115 of this Act, is further amended by adding the following new subsection at the end thereof:

"(e) In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) whenever it determines that such award is appropriate.".

(d) The amendment made by this section shall not apply to any civil action commenced before the date of enactment of this Act.

FINE PARTICULATE STUDY

SEC. 312. (a) Title III of the Clean Air Act, as amended by sections 306, 201, 304, and 211 (a) of this Act, is further amended by adding the following new section at the end thereof:

"FINE PARTICULATE STUDY

"SEC. 321. Not later than eighteen months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the hazards to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter.".

AIR QUALITY MONITORING BY ENVIRONMENTAL PROTECTION AGENCY

SEC. 313. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 211(a), and 312 of this Act, is further amended by adding the following new section at the end thereof:

"AIR QUALITY MONITORING

"SEC. 322. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976 and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quality monitoring system throughout the United States which—

"(1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index,

"(2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan,

"(3) provides for daily analysis and reporting of air quality based upon such uniform air quality index. and

"(4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air quality monitoring system required under any applicable implementation plan under section 110 shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations.".

CERTAIN MINOR AND TECHNICAL AND CONFORMING AMENDMENTS

SEC. 314. (a) Section 203(a)(2) of the Clean Air Act (42 U.S.C. 1857f–2(a)(2)) is amended by inserting the following before the semicolon: "or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 206(c)".

(b) The second sentence of section 205 of such Act (42 U.S.C. 1857f–4) is amended by striking out "(2)" and inserting in lieu thereof "(3)".

(c) Section 302(d) of such Act (42 U.S.C. 1857h(d)) is amended by inserting before the period at the end thereof the following: "and includes the Commonwealth of the Nothern Mariana Islands".

(d) Section 203(b)(3) (42 U.S.C. 1857f–2(b)(3)) is amended by striking out "subsection (a)" the second time it appears and inserting in lieu thereof "section 202" and by striking out "country of export" in each place it appears and inserting in lieu thereof "country which is to receive such vehicle or engine".

RESEARCH NOT AUTHORIZED

SEC. 315. Nothing in this Act shall be construed to authorize the appropriation of any amount for research under the Clean Air Act.

STUDY AND REPORT CONCERNING ECONOMIC APPROACHES TO CONTROLLING AIR POLLUTION

SEC. 316. Title III of the Clean Air Act is amended by inserting the following new section after section 313:

ECONOMIC CONTROLS STUDY

"SEC. 313A. (a) The Council on Environmental Quality (hereinafter in this section referred to as 'the Council') shall undertake a study and assessment of economic measures for the control of air pollution which could.

"(1) strengthen the effectiveness of existing methods of controlling air pollution,

"(2) provide incentives to abate air pollution to a greater degree than is required by existing provisions of this Act (and regulations thereunder), and

"(3) serve as the primary incentive for controlling air pollution problems not addressed by any provision of this Act (or any regulation thereunder).

"(b) The study of measures referred to in paragraph (1) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

"(c) The study of measures referred to in paragraph (2) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficiently extensive to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

"(A) interfering with the effectiveness of existing methods of control, or

"(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

"(d) The study of the measures referred to in paragraph (3) of subsection (a) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

"(e) In conducting the study under this section, a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

"(f) Not later than two years after the date of the enactment of this section, the Council shall conclude the study and assessment under this section and submit a report containing the results thereof to the President and to the Congress. Interim reports on specific pollution problems and solutions recommended shall be made available to the President and the Congress by the Council whenever available.".

LOSS OF PAY PROHIBITED IN CERTAIN CASES

SEC. 317. Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5) as amended by sections 103 and 201 of this Act is further amended by adding the following new paragraph at the end thereof:

"(7) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of section 121 (relating to compliance date extensions), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania: Page 331, line 24, strike out the closing quotation marks and period and insert:

"(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease.".

Renumber succeeding sections accordingly.

POINT OF ORDER

Mr. BROYHILL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman wish to be heard on his point of order?

Mr. BROYHILL. Mr. Chairman, I have heard the amendment. I do not have a copy before me, but as I heard the amendment, this amendment would apply not to the standards and regulations that are being promulgated by the Administrator of EPA, that is in regard to the ambient air quality standards, but it would apply to agricultural products such as tobacco. Thus I make the point of order that the amendment is not germane to the title or to the bill as written in that it imposes additional duties and functions on the Administrator and directs him to make regulations on certain products which are not within the purview of this bill and also products which are generally thought to be under the jurisdiction of other committees.

The CHAIRMAN. Does the gentleman from Pennsylvania wish to be heard on the point of order?

Mr. MYERS of Pennsylvania. Yes, Mr. Chairman.

We have a copy of the amendment and a copy was delivered and should be available at both desks for reading.

This amendment deals with the section of the bill which mandates a comprehensive study, and I read from the section of the bill numbered section 170 which indicates as follows:

> Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease . . .

On page 331 the bill goes on and some of the directions to the task force are stated in this way:

> The Task Force shall—
>
> (1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

Paragraph (2) indicates once again as follows, that the task force shall:

> (2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

Also paragraph (3) of the bill says that the task force shall:

> (3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

Also paragraph (4) once again mentions appropriate studies and says they shall be made to evaluate environmentally related cancer and heart and lung diseases.

Last week when we discussed the bill before the House I brought up the fact that there appears to be a relationship between the use of tobacco and habits such as smoking and the interrelationship of environmental pollutants with the incidence of cancer. I see no way in which a comprehensive study could be made without the outright assumption by the Congress at this point that there is an interrelationship because of the fact that there appear to be statistics showing some relationship, and I do not think this amendment directs the task force to do anything other than to be as comprehensive as possible and not to ignore this facet and thus prejudice the outcome by not accepting the scientific data which indicates that there truly is an interrelated significance here.

The CHAIRMAN (Mr. Roush). The Chair is prepared to rule.

A point of order has been made against an amendment offered by the gentleman from Pennsylvania (Mr. MYERS). The amendment inserts the following language:

> (c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease.

The section which this seeks to amend is entitled "Prevention of Environmental Cancer and Heart and Lung Disease." This section imposes upon a task force a duty to make certain general findings.

It occurs to the Chair that the amendment is a specific proposition which is germane to a more general requirement imposed within the bill itself and that it is within the categories of findings which must be made by the task force.

Therefore, the Chair is constrained to overrule the point of order and does overrule the point of order.

The gentleman from Pennsylvania (Mr. MYERS) is recognized for 5 minutes.

Mr. BROYHILL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Pennsylvania (Mr. MYERS) is recognized for 5 minutes in support of his amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I have looked at the amendment. I see no problem with it, and I urge its adoption.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman from Florida.

I would like to state briefly the intent of the amendment. Since the gentleman asked for the quorum call and increased our numbers vastly, I think we should go over the amendment briefly.

The amendment deals with the section of the bill requiring a study as to the relationship between environmental pollutions and the incidence of cancer and heart and lung disease. There is significant scientific evidence that relationships do exist between personal health habits such as smoking and other pollutants in relation to the incidence of cancer. This amendment simply adds to that task force as a mandate the requirement that they take this into consideration and to inform the Congress of the relationship which they find exists.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I am not sure that the gentleman understood me.

As far as I am concerned, we are agreeable to accept the gentleman's amendment. I would suggest that he ask unanimous consent to revise and extend his remarks if he would like us to accept the amendment.

Mr. MYERS of Pennsylvania. Mr. Chairman, I will do that. I will just mention briefly that the American Cancer Society has made by phone an endorsement of this amendment.

Mr. ROGERS. Mr. Chairman, I thank the gentleman so much. We accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MYERS).

The amendment was agreed to.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have an amendment which simply underlines that the committee did not intend to depart from either present law or present EPA regulations, which permit States to redesignate Indian lands over which they already have assumed jurisdiction in accordance with general Federal law. It is my understanding that sovereign relationships between States and Indian tribes may be altered only by treaty or by express legislation of the Congress. My amendment simply clarifies that this bill does not change those State-Indian relationships as spelled out in current EPA regulations. Can the gentleman from Florida explain whether current EPA regulations with respect to redesignation of Indian lands under the new section 160 of the act would be changed by this legislation?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I have looked over the gentleman's amendment and I do not believe it is necessary. He is completely correct in his contention that the committee bill does not alter existing State-Indian relationships under the Clean Air Act. To the extent that States already have assumed jurisdiction over Indian lands under other Federal legislation, they may redesignate them in the same manner as other lands. Neither existing EPA regulations under the Clean Air Act of 1970 nor this bill increase or decrease any State's authority over Indian lands. That would have to be accomplished by other, more explicit legislation. So the gentleman is entirely correct—the committee did not intend to alter either existing Indian-State relationships or existing EPA regulations with respect to redesignation of Indian lands. Therefore, his amendment is not necessary.

Mr. WAXMAN. With the gentleman's clarification, I will not offer my amendment. The policy it reflects is clearly contained in the committee bill. I thank the gentleman.

Mr. ROGERS. I thank the gentleman for his contribution.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 332, strike line 1 and all thereafter through and including line 17 on page 334, and insert in lieu thereof the following heading:

"COSTS OF LITIGATION"

Page 334, line 18, delete "(b)" where it first appears and insert in lieu thereof: "Sec. 311. (a)".

Page 335, line 1, redesignate "(c)" as "(b)".

Page 335, line 8, redesignate "(d)" as "(c)".

Make the necessary conforming changes in the table of contents.

Mr. BUTLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, I offer to section 311 of H.R. 10498 an amendment that is simple in its form, but important in its effect.

In brief, I propose to delete from the bill a provision which would divest the Department of Justice of its current authority to represent EPA in civil litigation arising under the Clean Air Act and transfer that authority to EPA.

Not only does section 311 confer exclusive authority upon EPA with respect to lower courts, but it provides for the dilution of the screening function of the Solicitor General by allowing EPA to represent itself before the Supreme Court if: First, the Attorney General agrees; and second, the Attorney General refuses to appeal or file a petition for a writ of certiorari within a time certain; or the Attorney General fails to take any action upon the request of the Administration.

I would like to emphasize at the outset that the civil litigation portion of section 311 was not sought by EPA and is opposed by the Administration and, in particular, the Department of Justice.

The committee report which accompanies H.R. 10498 attempts to provide justification for overturning the present law by citing several alleged problems arising from representation of EPA by the Department of Justice. It is highly regrettable that the relevant portion of the report was neither submitted to the Department of Justice for its comments nor scrutinized in the RECORD before the Subcommittee on Health and the Environment. For, had this been done, it could have at the very least prevented the inclusion of several serious factual errors. Indeed, if the shaky arguments on which diverstiture is bottomed had been advanced at a time when they could have been effectively refuted, it might have made my offering of this amendment unnecessary.

The previously unchallenged allegations of problems due to Department of Justice representation were thoroughly demolished in a lengthy letter of July 21, 1976 to the chairman of the committee, the honorable HARLEY O. STAGGERS, from Peter R. Taft, Assistant Attorney General, Land and Natural Resources Division. Time will not permit, nor would any useful purpose be served, by my engaging in a repetitive point-by-point refutation of the report's allegations. Suffice it to say that the letter from the Department of Justice is highly persuasive.

Nevertheless, I feel constrained to make a couple of points about this entire question. The most frequent criticism voiced by proponents of section 311 is that EPA attorneys have the special expertise required to litigate Clean Air Act cases while Department of Justice attorneys do not. Indeed, in conjunction with that complaint, it is often asserted that the basic preparation for cases is done by EPA. In point of fact, the papers are sometimes prepared by EPA attorneys exclusively, sometimes by Justice attorneys exclusively, but usually jointly. Further, since the Land and Natural Resources Division's 128 attorneys of the Department of Justice handle litigation under the National Environmental Policy Act for all executive agencies, the Department of Justice has a broader and more diverse litigation experience in the environmental field than does EPA. Also, the 19 attorneys in the Pollution Control Section of the Land and Natural Resources Division, which handles EPA litigation, routinely review EPA briefs on technical issues in the same manner as independent counsel for industry or environmental groups.

It bears remembering that EPA is not the sole agency in the pollution control field and that the interlock of the various pollution control laws argues in favor of common enforcement in the Department of Justice.

I might add that with respect to the intrusion upon the screening and litigating authority of the Solicitor General, the Chief Justice has stated, in commenting upon a similar proposal, that the Justices were unanimous in their belief that it would be unwise to dilute the authority of the Solicitor General as to Supreme Court jurisdiction in cases arising within the executive branch and independent agencies.

Under existing law, civil litigation of the Environmental Protection Agency with respect to the Clean Air Act is controlled by the Justice Department. That is section 305 of the present Clean Air Act.

Section 311 of the legislation before the House places control of civil litigation with respect to the Clean Air Act to which EPA is a party in the hands of the Administrator of EPA. Section 311 also dilutes the control of the Solicitor General over Clean Air Act litigation before the Supreme Court.

The amendment which I offer would strike the above portions of section 311 and retain existing law insofar as control of EPA civil and appellate litigation with respect to the Clean Air Act is concerned.

The Justice Department is the Agency which is charged with the responsibility of supervising Federal litigation. It is important to retain the Justice Department's authority in this area for several reasons.

First, it is important that there be a body in the Federal Government with responsibility for overseeing all Federal litigation. Cases involving one regulatory agency can often impact on other agencies when common issues of law are involved. The General Counsel of EPA is not in the best position to recognize how and when cases involving his agency impact on others. The Attorney General is in a better position to judge how an issue will impact on the rest of the Federal Government. It also bears remembering that EPA is not the sole agency in the pollution control field and that the interlock of the various pollution control laws argues in favor of common enforcement.

Second, I fear that this provision will result in a wasteful duplication of resources and efforts. The Justice Department has a national network of U.S. attorneys, all skilled in the intricacies of Federal court litigation. No agency, including the Environmental Protection Agency, can hope to duplicate the litigation expertise, experience, and local presence of the Justice Department without significant allocation of resources. Please consider also the desirability of maintaining a division of responsibility between EPA attorneys who are dealing with the problems of administering regulations and statutes within EPA's jurisdiction, and Department of Justice attorneys functioning within their area of experience by conducting litigation in the Federal court system.

I emphasize, Mr. Chairman, that neither the Department of Justice nor the Administrator of the EPA has requested the changes effected by the bill, and I respectfully ask that my amendment be accepted.

AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BUTLER

Mr. PREYER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. BUTLER: Page 332, strike out line 1 and all that follows down through line 10 on page 335 and insert in lieu thereof the following:

CIVIL LITIGATION

SEC. 311. Section 305 of the Clean Air Act (42 U.S.C. 1857h-3) is amended to read as follows:

"CIVIL LITIGATION

"SEC. 305. (a) Except as otherwise provided in subsection (b), in any civil action under this Act (including any civil action brought by any person with respect to action taken by the Administrator under this Act), the Administrator shall have exclusive authority to commence or defend, and supervise the litigation of, such action and any appeal of such action in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

"(b)(1) Notwithstanding subsection (a) the Attorney General shall have exclusive authority to determine whether or not an appeal shall be made from the decision of any court in an action in which the Administrator represented himself pursuant to subsection (a).

"(2) The authority of the Administrator under subsection (a) shall not apply in the case of actions before the Supreme Court.

"(3) In any case where the Attorney General represents the Administrator before the Supreme Court in any civil action in which the Administrator represented himself pursuant to subsection (a), the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to such action, unless the Administrator concurs.

"(4) For purposes of this subsection (with respect to representation before the Supreme Court), the term 'Attorney General' includes the Solicitor General.

"(c) The provisions of this section shall apply notwithstanding any other provision of law."

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Chairman, I think the amendment offered by the gentleman from Virginia (Mr. BUTLER), has merit, but I think it goes too far. One of the knotty problems in the law these days is how to maintain and how to keep the benefits of channeling litigation through a central focus like the Department of Justice or the Solicitor General, and yet provide some better way of handling the complicated questions of fact, the complicated questions of building a record in the court of original jurisdiction where they are dealing with technical and scientific facts of great complexity. To understand particulates and NOx, and all of the rest of these things requires absorption of these ideas for a period of several years. Just handing a brief to someone and saying, "Go and try it," is not a very good way to deal with it.

My amendment attempts to resolve this problem in a way that is increasingly being pursued by a number of other regulatory and executive agencies.

What my amendment says is that the Solicitor General and the Justice Department remain in charge of the litigation in the Supreme Court, and to decide—that is the Justice Department and the Solicitor General—what litigation to appeal and whether or not to appeal. That is where the really important part of a centralized and channeling force is felt. But the EPA would represent itself in the court of original jurisdiction. If Justice decides it is all right to appeal, then EPA can represent itself in the Court of Appeals. Justice could intervene at any time at that level. But the complicated questions of fact at the lower level and the building of a record where these complex, technical matters are involved, would be the responsibility of EPA in the lower court.

The report, if you study this, does state a number of instances where the system we now have is not working effectively. There are cases where a technical argument was omitted by the Department of Justice on an appeal and the Court sent the case back on the basis that this technical argument was not considered. Well, it would have been considered if EPA attorneys had been listened to.

There are a number of instances in which the system as we now have it is not working effectively and I would urge, Mr. Chairman, that my amendment offered as a substitute for the amendment offered by the gentleman from Virginia (Mr. BUTLER) be adopted and it will give us, I believe, the best of both worlds.

Mr. ROGERS. Mr. Chairman, would the gentleman yield?

Mr. PREYER. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I commend the gentleman from North Carolina (Mr. PREYER) for suggesting this compromise. I think it is reasonable. This section is concerned only with civil litigation. It is not criminal litigation. I think the gentleman's amendment, by allowing the Solicitor General and the Department of Justice to pass on EPA appeals is reasonable. One of the reasons EPA needs to have its attorneys represent them in the District Court a lot of the time is most lawyers today are not simply knowledgeable in many instances in these very technical and complex cases, and we have had too many instances of that happening. Also there are ample precedents of other agencies being unable to handle litigation like this, and on page 275 of the report they are listed:

Federal Trade Commission, National Labor Relations Board, Equal Employment Opportunity Commission, Securities and Exchange Commission, Secretary of Transportation, Consumer Product Safety Commission, Federal Communications Commission, Federal Maritime Commission, Nuclear Regulatory Commission, Secretary of Agriculture, Interstate Commerce Commission and Secretary of Labor.

So, Mr. Chairman, this is not an unusual amendment. It is quite normal in fact. This makes sense.

I commend the gentleman from North Carolina for offering the substitute and would hope that the substitute amendment would be adopted.

Again I thank the gentleman for yielding.

Mr. FLORIO. It is my recollection that in the committee we did have extensive testimony with respect to the fact that Justice Departments were in fact, because of the specialized nature of the law, already relying upon EPA personnel, and that really what we are doing by adopting the gentleman's substitute amendment—which I commend and urge the Committee to support—is to cut back on the duplication that already exists in many areas. Is my recollection correct?

Mr. PREYER. The gentleman is correct. The duplicative effort is a substantial one, the way it operates at the moment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BUTLER, and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

Just for the purpose of clarifying in my mind exactly what the gentleman's amendment undertakes to do, the gentleman is telling us and representing to us that what his amendment does is take out of section 311 that portion of it which gives the Administrator of EPA control at the appellate level and returning it to the Department of Justice? Otherwise the amendment remains intact; is that correct?

Mr. PREYER. The gentleman is correct.

Mr. BUTLER. The provision with reference to the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to the appellate court action, is that traditional, or does this plow new ground?

Mr. PREYER. No. This is a provision that is in the Federal Trade Commission and I think in a number of other commissions. It is an effort, of course, to prevent the Solicitor General from giving away a case once it is in the Supreme Court. The Solicitor General has the sole authority as to whether or not to appeal it to the Supreme Court.

Mr. BUTLER. If the gentleman would yield further, so that if we adopt the gentleman's substitute amendment, we will in effect be approving—depending upon one's point of view—and strengthening the position of the Environmental Protection Agency with reference to the Solicitor General, or—depending upon my point of view, somewhat emasculating the Solicitor General even at the appellate level and completely at the lower trial level; is that correct?

Mr. PREYER. I would say that is correct. If one considers that provision, which is something additional, that one cannot compromise a suit, cannot give it away, wthout the concurrence of the Environmental Protection Agency in the Supreme Court, that would be an additional prohibition on the Solicitor General.

Mr. BUTLER. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUTCHINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I tend to favor the amendment offered by the gentleman from Virginia (Mr. BUTLER) and tend to oppose the substitute amendment offered by the gentleman from North Carolina

(Mr. PREYER). I am disturbed about the concept of permitting the regulatory agencies which I think we will all concede are pretty much run by the bureaucracy—to decide themselves what lawsuits they are going to start, and giving them the power to conduct those lawsuits. It seems to me as though a good balance in our government would demand that we let the Department of Justice decide what lawsuits are going to be started. It is within the system of checks and balances. Admittedly, of course, the Department of Justice also is in the executive branch of Government, but it is certainly independent of the other agencies and departments of governments. It seems to me it would be a better policy to permit the Department of Justice to decide what lawsuits are going to be started and to carry them through. The Environmental Protection Agency is one of these modern agencies that seems to be regulating everything and everybody, and to give them this additional tool of deciding within their own bureaucracy whether there is going to be litigation started, and proceed against perceived alleged violators of some of our rules and regulations is bad policy.

Admittedly EPA operates in a very technical field. The violator probably does not know he is in violation either, because it is so technical. And to permit the technicians to take the thing and to pursue legal proceedings in district court just does not seem to me to be good policy. The Justice Department should decide that.

So I hope the House will not adopt the substitute and will vote for the amendment offered by the gentleman from Virginia.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am troubled by the bill and I must confess it is mainly on account of a curious thing that happened just this morning. We in the subcommittee were proceeding with a regulatory agency which had initiated a 4-year investigation of a certain industry in this country. Most of the businesses are small. There is only one big business of this particular kind in the whole country. The agency had done this on the basis of, to their knowledge, six or maybe at most a dozen, consumer complaints. In the last year the agency had spent $480,000, which included the cost of bringing consultants to hearings and paying their expenses from the State of California to Washington, an enormous expense to the taxpayers and the consumers. The complaints of the consumers did not validate the need for this regulatory agency's activities.

At the same time that this investigation was proceeding, I was a consumer director, begging this particular agency for aid in pursuing interstate frauds which I could not control at the State level. Hundreds of consumers were defrauded and there was no way of getting this particular agency to move.

I do think there is some element that develops in these independent agencies when they have this kind of power. I really do not know what we are going to do, Mr. Chairman, but I am troubled by the provisions of the bill, coming so closely on the heels of this morning's experience.

Mr. MOSS. Mr. Chairman, I rise in support of the substitute amendment offered by the gentleman from North Carolina (Mr. PREYER).

Mr. Chairman, this Congress has already in some instance, a rather significant instance, acted to do precisely this in the Securities and Exchange Commission Act rewrite what was adopted last year. I happened to have spent some 4 years working on that act and was the principal author of the legislation. But we in recent hearings in the Committee on Interstate and Foreign Commerce have given considerable attention to the ability of the agencies to move promptly in courts of original jurisdiction to enforce their orders and to protect the consumer interest they were mandated to protect by the Congress.

We determined, as the very distinguished gentleman from North Carolina stated—and I might add he was a distinguished Federal judge before becoming a Member of this House—that the important questions, particularly the questions of action could best be handled by these agencies.

When we created the Commission on Consumer Product Safety, we granted this authority to that agency. When we rewrote the Federal Trade Commission Act in the previous Congress, we granted this authority to that agency. There are good, solid precedents for this and there are many instances where failure to have it has impeded the ability of the agencies to carry out their mandates.

Now, my subcommittee is currently engaged in a comprehensive review of the regulatory agencies, the nine which are within the jurisdiction of the Committee on Interstate and Foreign Commerce. One of the recommendations we will be making is that all of them have this right, because in the instances where we have given it we have created a more responsive and responsible commission, one better able to discharge its commitments to the American consuming public and better able to protect in the long run the interests of American business, because of prolonged litigation or inactivity, paralysis in many instances, in the agencies when they try to channel everything through the Department of Justice, which results in delays frequently. It also results in cases being handled by persons who have the least competence to handle them initially. So I strongly urge that the compromise put forward by the gentleman from North Carolina be adopted by the committee. I commend it to the House.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize we have been some little time on this bill and I will try not to take too much time.

Mr. Chairman, I rise in opposition to the substitute amendment for the amendment which I have offered. It takes me awhile to understand exactly how things work here, but I think I begin to get the picture now. Of course, the point which is raised by my amendment goes to the question of whether we will have agency control of civil litigation or Department of Justice control of civil litigation.

It was also put in the bill that appellate jurisdiction would be under the control of the agency so that we could come in here and offer an amendment in the nature of a substitute and call it a compromise. It is no compromise at all.

Mr. MOSS. Mr. Chairman, will the gentleman yield, because I think the gentleman puts into question the good faith of a very major committee of this House and I think the words ill become him. Would the gentleman consider his words? I do not ask they be taken down, but they are highly objectionable.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I did not yield to the gentleman from California, but I will yield to the gentleman from North Carolina. Go ahead.

Mr. BROYHILL. Mr. Chairman, I know of no compromise on this particular section that I have agreed to. I certainly would not have agreed to this substitute that would have been accepted without a major recommendation from the gentleman from Virginia on this section.

Mr. BUTLER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I would not deliberately disturb the gentleman from California, but I notice the speed with which the gentleman was projected from his chair. I must have touched a nerve and I am, indeed, sorry for that; but I insist the representations made that this is a compromise are inaccurate. It is not a compromise at all. It is an advance position from which we now retreat, because it puts us in a position where we are faced with the amendment of the gentleman from North Carolina (Mr. PREYER) versus my amendment and we do not get a chance to come to the issue. The issue has been before the House on several occasions that I have been here and on the occasions when we have had it flatly before the floor of this House, as with Consumer Products Safety Commission, the House being given an opportunity to vote on it voted to strike the power over civil litigation.

My purpose in offering this amendment was to bring the question purely to the floor of the House and when the gentleman offers a substitute amendment which clearly goes to an excessive part of the bill dealing with the power of the Solicitor General, then it emasculates the issue and I think that is wrong, because we want to know the will of this House.

Therefore, I submit that the thing to do is to reject the Preyer amendment, because it does not really meet the issue here and then adopt my amendment, which would take us back to the law as it presently is.

Mr. Chairman, we talk about overregulation. We talk about the growing power of the Federal agencies. There is not a person in this House who has not written home and said the agencies are getting too powerful. There is not a district in this land that does not stand by the side and say, "Hold, enough, they have gone too far."

Yet this is one opportunity to keep control where it belongs, in the Department of Justice.

If we expand the power of this agency to continuously harass, at their whim, the American taxpayer and the American people without regard to what other agencies are doing, without regard to what happens to the litigation in the Federal courts, then we are making a serious mistake and we are trespassing on all the people of our districts. I insist that we have had a tradition in this country—and an appropriate tradition—that the Department of Justice controls litigation. Now, we have more and more agencies with their lawyers trespassing one upon another.

It is the responsibility of the Department of Justice to decide what to litigate and what is not important to litigate. When they get to court—I think the gentleman from North Carolina would affirm this—it is important to have a local presence, a district attorney who is there and who understands the area; who has worked with the judge; who has the confidence of the judge. That is what this is all about. One hires lawyers to litigate. One does not hire lawyers because they are experts in that area, but for litigation expertise.

There is backup within the Department of Justice. It has 128 lawyers dealing with the whole environmental area. They have the expertise within the Department of Justice and will work closely with each agency, but when we make the decision about litigation, about where we are going with this matter, then we ought to have some continuity.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent Mr. BUTLER was allowed to proceed for 1 additional minute.)

Mr. BUTLER. I just want to insist, Mr. Chairman, that the appropriate thing to do is to continue the policy we have had in the past, and not continue to purposely and continously erode the power of the Department of Justice. We are adding agencies. As we add agencies, we need continuity and the overall policy of one agency dealing with litigation. That is the responsibility of the Department of Justice. This thing is like being nibbled to death by a duck. It is the wrong way to go about it.

I was pleased with the candor of the gentleman from North Carolina in telling us that is the direction we are trying to go. I am telling the Members that in my judgment, and in the judgment of Members of this House who are lawyers and with whom I have discussed it, we make a serious mistake to continue in this direction.

I urge the Members to reject the Preyer amendment and adopt my amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the last word, and I rise in support of the substitute amendment.

Mr. Chairman, the committee has gone over this many times, and the House has considered this before. We have authorized agencies to represent themselves in many instances where we think it is necessary to protect the public; that is, on health and consumer issues. The Department of Justice has so much to do that it cannot handle all of the cases that are necessary. In fact, I think the gentleman from Virginia (Mr. BUTLER) probably even supported the Special Prosecutor's Office which was not under the exact control of the Attorney General, or even of the President of the United States.

Considering some of the happenings in the Department of Justice, I am not sure that we want to concentrate every legal action under the Attorney General alone. That is why we have built up independent agencies with some expertise so that they can look after their own fields. Certainly, I think they ought to work in conjunction with the Justice Department, and we say that appeal to the appellate level of the Supreme Court ought to be controlled by the Department.

There are so many district attorneys who are so busy now, and not even doing all that we ought to be doing against crime, in the criminal field, that certainly we ought to be able to do something in the civil field where we have the expertise in those agencies to be effective.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the prior speaker raised some questions as to the rationality of the division, the present appellate approach with the Justice Department controlling, and at the trial level with the agency controlling there.

It seems to me to be my recollection that at the committee level when we discussed this matter, the argument was raised that the trial level is the determiner of the factual situation and is in the area of the facts. We are suggesting, therefore, that it is the agencies' attorneys, with the expertise at that level, who should control. At the appellate level, where we deal with matters of law, that is where the Justice Department should control.

It seems to me that if that is the approach of our committee—and I believe it is—it is rational and is more than justification for the gentleman's amendment.

Mr. ROGERS. I thank the gentleman. I agree with him wholeheartedly.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I just want to make the point that this was not presented as a political compromise. I have not discussed it with the gentleman from North Carolina (Mr. BROYHILL) or with any other Member on the minority side. The point I was trying to make was that this was a compromise between two goods.

It is a "good" to have litigation channeled through a single source, through the Attorney General. It is also good to have expertise brought to bear at the trial level. This is a compromise to try to get the best out of the "goods."

Mr. ROGERS. I thank the gentleman. He has great judgment in the law and has given careful thought to writing this amendment and this entire bill. His career as a U.S. district judge is certainly helpful to us in making a judgment here.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding.

Would the gentleman say that it is fair to characterize what the gentleman from North Carolina said that he is trying to make the best of a bad deal?

Mr. ROGERS. Certainly not. We can go ahead and vote down the gentleman's amendment or we can try to do what we thought might be helpful to the gentleman's concerns. But evidently the gentleman does not want any support in that regard.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. PREYER) as a substitute for the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BUTLER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

At the time the point of no quorum was made, the gentleman from Virginia (Mr. BUTLER) had requested a recorded vote.

Mr. BUTLER. Mr. Chairman, if I may tentatively withdraw my request for a recorded vote, I would ask for a division at this time.

The question was taken; and on a division (demanded by Mr. BUTLER) there were—ayes 35, noes 24.

RECORDED VOTE

Mr. BUTLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 231, noes 156, not voting 43, as follows:

[Roll No. 732]

AYES—231

Abzug
Addabbo
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bedell
Bell
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
de la Garza
Delaney
Dellums
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fountain
Fraser
Fuqua
Giaimo
Gibbons
Gilman
Gonzalez
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
McCloskey
McDade
McFall
McHugh
McKay
Madden
Maguire
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Rangel
Rees
Reuss
Richmond
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—156

Abdnor
Adams
Alexander
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Bennett
Bevill
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Dent
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Fenwick
Flowers
Flynt
Frenzel
Frey
Gaydos
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harsha
Hightower
Hillis
Holland
Holt
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Levitas
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCormack
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
O'Hara
Paul
Pettis
Poage
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Symms
Talcott
Taylor, Mo.
Thone
Thornton
Treen
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—43

Allen
AuCoin
Beard, R.I.
Beard, Tenn.
Bergland
Bolling
Bowen
Carter
Chappell
Chisholm
Clancy
Collins, Ill.
Conlan
Daniels, N.J.
Esch
Evans, Colo.
Findley
Ford, Tenn.
Forsythe
Green
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howe
Johnson, Colo.
Krueger
McCollister
Matsunaga
Neal
Nolan
Passman
Peyser
Riegle
Rinaldo
Risenhoover
Roncalio
Russo
Steelman
Stuckey
Teague
Vander Jagt

The Clerk announced the following pairs:

On this vote:

Mr. Dominick V. Daniels for, with Mr. Chappell against.

Mrs. Chisholm for, with Mr. Hébert against.

Mrs. Collins of Illinois for, with Mr. Teague against.

Mr. Helstoski for, with Mr. Bowen against.

Mr. Riegle for, with Mr. Vander Jagt against.

Mr. Bergland for, with Mr. Beard of Tennessee against.

Mr. Beard of Rhode Island for, with Mr. Hansen against.

Mr. AuCoin for, with Mr. Clancy against.

Mr. Ford of Tennessee for, with Mr. Carter against.

Messrs. DENT, ADAMS, and THONE changed their vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Butler), as amended.

The amendment, as amended, was agreed to.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have an amendment which simply underlines that the committee did not intend to depart from either present law or present EPA regulations, which permit States to redesignate Indian lands over which they already have assumed jurisdiction in accordance with general Federal law. It is my understanding that sovereign relationships between States and Indian tribes may be altered only by treaty or by express legislation of the Congress. My amendment simply clarifies that this bill does not change those State-Indian relationships as spelled out in current EPA regulations. Can the gentleman from Florida explain whether current EPA regulations with respect to redesignation of Indian lands under the new section 160 of the act would be changed by this legislation?

Mr. ROGERS. I have looked over the gentleman's amendment, which I include for printing at this point, and I do not believe it is necessary. He is completely correct in his contention that the committee bill does not alter existing State-Indian relationships under the Clean Air Act. To the extent that States already have assumed jurisdiction over Indian lands under other Federal legislation, they may redesignate them in the same manner as other lands. Neither existing EPA regulations under the Clean Air Act of 1970, or this bill increases or decreases any State's authority over Indian lands. That would have to be accomplished by other, more explicit legislation.

Under existing law and regulations, Indian tribes which have sovereign jurisdiction over their lands retain the authority to determine the air quality which will prevail over these lands by selecting the applicable air quality classification. The regulations expressly leave untouched the delegations of authority which have or have not been made by the Federal Government to the States. As EPA has explained:

> The extent of states' authority over Reservations varies from state to state. The Agency does not intend by these regulations to either increase or decrease any states' authority over Indian Reservations. (Brief for the Respondent, filed in *Sierra Club* v. *EPA*, No. 74-2063 *et al.*, U.S. Court of Appeals for the District of Columbia Circuit.)

The amendment referred to follows:

AMENDMENT TO SECTION 314 OF H.R. 10498, AS REPORTED, WHERE IT AMENDS SECTION 302(d) OF THE CLEAN AIR ACT AMENDMENDMENTS OF 1970

Page 338, line 6, insert before the quotation marks the following: "and, for the purposes of Sec. 160(c) (3), Indian governing tribal bodies".

So the gentleman is entirely correct—the committee did not intend to alter either existing Indian-State relationships or existing EPA regulations with respect to redesignation of Indian lands. Therefore, his amendment is not necessary.

Mr. MELCHER. With the gentleman's clarification, I will not offer my amendment. The policy it reflects is clearly contained in the committee bill. I thank the gentleman.

Mr. ROGERS. I thank the gentleman for his contribution.

AMENDMENT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moore: Page 341, after line 17, add the following new section:

"RULE REVIEW

"Sec. 318. (a) Any rule or regulation prescribed by the Administrator pursuant to the Clean Air Act may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Administrator. The Administrator shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within said 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on our rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

Make the necessary conforming changes in the table of contents.

Mr. MOORE. Mr. Chairman, I offer this amendment along with the gentleman from Georgia (Mr. Levitas). This is the same amendment I offered in committee and, unfortunately, was not successful. This is the legislative veto amendment, the same one that the House of Representatives adopted in this Congress nine times so far and rejected only once.

I point out that one time it was rejected there was no recorded vote.

The Library of Congress tells us that this same provision exists in existing law some 19 different places, going back as far as 1946. Four times previously when this House adopted this amendment it has done so in relation to powers given the Environmental Protection Agency. This will be the fifth time. In other words, we have already done this four times, as concerns this Agency, on similar powers as under this bill.

As a matter of fact, I point out that in section 155 of this bill, a very similar power is given to the Congress, as far as section 154 of the bill only is concerned, as we are doing for the whole bill under this amendment.

The arguments I made on August 23, 1976, when I offered this same amendment and it passed on the Toxic Substances Control Act are still valid, and I do not think they need to be repeated at length today. I simply state that this amendment represents badly needed reform in controlling the powers of the bureaucracy.

I know our constituents have great support for this amendment, and evidently this House has, by adopting it nine times. Some may argue that this amendment will not work. I point out to those Members that it is working and it has been working since 1946.

Some may say it is unconstitutional. I simply answer by saying that Justice White of the U.S. Supreme Court, in the case of Buckley against Valeo, has said in his opinion that it is not.

I also point out that it has not been challenged successfully in the entire time it has existed since 1946 in the other 19 laws. This matter is in the courts. Let the courts decide the constitutionality, and let us continue to press on with bureaucratic reform by passing this amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the distinguished Chairman, the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, I am inclined to accept the amendment. I must say that I do not know how effective it is going to be, because I think as a matter of fact we have the right to turn down any regulation we want anytime we want to. We can pass a bill and prevent it. I do not know how many regulations have been turned down by this process, but I am willing to accept the amendment.

Mr. MOORE. I thank the Chairman.

I will add that some may say that we do not have the time to pass on regulations, but we do it ayway. We are constantly answering the requests of our constituents concerning objectionable regulation. We are constantly taking up time in committee hearings on these problems, and time after time we try to pass laws to overturn regulations.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman's amendment is a good amendment, and I would urge that we accept it. I for one, as a member of the conference, would be willing to fight for this amendment. I am wondering what the attitude of the conference would be in respect to this amendment. Would the gentleman be interested in giving us that information? He might ask those who might be members of the conference what their attitude might be.

Mr. MOORE. I would assume that if the chairman of the subcommittee accepts the amendment as he has, he would support it in the conference, and I would certainly appreciate that support. Otherwise, it could be somewhat misleading to the House to accept it.

The fact remains that after considering all of these arguments, the bureaucracy is still turning out 10 times the laws the Congress is. They must be checked. There is no better solution. Therefore, I urge the adoption of the amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I might say that we have had a very good example of this sort of thing yesterday, when we acted pursuant to legislative veto on legislation already existing and turned down regulations proposed by the GSA in regard to Presidential recordings.

I spend a lot of time talking about these matters with my constituents, and I can assure the gentleman that there is overwhelming support for this kind of an amendment.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Georgia (Mr. Levitas) who has offered this amendment with me and who has supported it in the past.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Louisiana and underscore what the gentleman from California has just said.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(On request of Mr. Levitas and by unanimous consent, Mr. Moore was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. If the gentleman will yield further, I would like to respond to the question posed by the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. Rogers) who said he wondered how effective this might be.

I would like to point out that on yesterday afternoon this House adopted a one-House legislative veto resolution vetoeing GSA regulations under authority of a bill passed by the Congress of the United States and signed by President Ford.

We have in fact already used this power. We should provide for its use again. I think there is no more appropriate legislation and there is no agency more deserving of having this veto applied to it than the Environmental Protection Agency and this bill. Their track record of arbitrary rules and regulations which have exceeded congressional intent is such that this legislative veto provision is needed and will make EPA more responsive to the public.

I would like to make this observation now along the lines of the statement of the gentleman from North Carolina (Mr. Broyhill): that when this bill gets into the conference committee I would state that if this provision is taken out, if the House conferees do not stand firm, the House should think long and hard as to whether we ought to agree with a conference report that does not have this congressional veto provision in it. It is a provision that has now been overwhelmingly adopted 10 times by the House of Representatives. It is time that House conferees stand behind and insist on the House position on this provision.

Mr. Chairman, I commend the gentleman for his action.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I would hope that the two gentlemen would be persuasive enough with the President so that he would not veto the bill because of this provision, as he has done with a prior bill. I am not sure we want to do away with clean air just to make it a little easier to pass the bill. This might make it easier to pass the bill in both

Houses rather than taking the chance that one House might turn it down.

Mr. Chairman, a lot of this is a charade in a way, as the gentleman must admit, but I am willing to go along with it.

Mr. MOORE. Mr. Chairman, I will vote to override the veto on the prior bill.

Mr. ROGERS. Mr. Chairman, I am encouraged by that statement.

Mr. LEVITAS. Mr. Chairman, will the gentelman yield further?

Mr. MOORE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to respond to my dear friend, the gentleman from Florida (Mr. Rogers), by saying this: That this is a very important amendment, and it has substantial bipartisan support. If this House is given the opportunity, I am sure it can sustain its position even by overriding a veto by the President. Republicans and Democrats in Congress support this congressional veto. The people of America support it. It is time that the President did. If he does not, then we should override his veto.

However, I am sure that the Members of this House will be watching carefully the House conferees and their support for this congressional veto.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. Moore).

The amendment was agreed to.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have two or three points which I wanted to make, and I choose to do so at this time.

First, I want to express my complete and unbounded admiration for the skill with which the chairman of the subcommittee has handled this bill on the floor. I commend the gentleman not only for the work which he has done on the floor under difficult circumstances over a considerable period of time but for the way in which he has handled this bill in the subcommittee and in the committee for a period of several months.

I have had occasion to watch very closely the progress of this bill as it was formulated in the committee. I had a substitute bill myself which I felt in some respects was superior. However, I think that the bill which the gentleman from Florida (Mr. Rogers) has brought to the floor with the assistance of his colleagues on the committee is probably the best bill that could have been tailored to suit the requirements of the time and the sentiments of this House. I think the gentleman from Florida should receive recognition for the way in which he has handled this matter.

The second point that I wish to make stems from my own knowledge as chairman of the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology. Some portions of this bill were jointly referred to both of our committees. I particularly cite section 107, the ozone protection section, which is included in this bill.

Again I want to pay tribute to the subcommittee chairman for the very close cooperation which he and the subcommittee staff demonstrated in working jointly with my own subcommittee and the Committee on Science and Technology to bring this particular section to the floor as a part of this bill.

I might say that since this particular section was drafted and included in the bill, we have seen a report from the National Academy of Sciences which has fully demonstrated the need for this section and which closely follows in its recommendations the legislative provisions of this particular section of the Clean Air Act.

I might also mention that the chairman of the subcommittee has in his spirit of cooperation allowed to be inserted in the bill with his approval language taken from a bill already passed by the House which would authorize the funds for research and development involving the Clean Air Act, a subject again within the jurisdiction of the Science and Technology Committee.

Mr. Chairman, I am looking forward to having this section brought to conference with the other body and to final passage despite the parliamentary difficulties which were encountered when it was sent to the other body as a separate piece of legislation.

For all these reasons, Mr. Chairman, I want to give commendation and to extend congratulations to the gentleman from Florida (Mr. Rogers) and to express my hope that we can continue to have this same high degree of cooperation as this bill goes to the other body and to conference in the near future.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I am very grateful to the gentleman from California (Mr. Brown) for his kind remarks about the work that the committee has done.

We did enjoy working with him and with his committee in trying to work out this legislation. It was a pleasure to work with him, and I think this is a good example of how committees can work together to try to bring out legislation which is effective.

Mr. Chairman, I thank the gentleman for his generous comments.

Mr. BROWN of California. And I thank the gentleman from Florida, Mr. Chairman.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 326, line 16, insert "(a)" after 308.

Page 327, after line 18, insert:

"(b) Section 313 of the Clean Air Act (42 U.S.C. 1857j–2) is amended by striking out 'and' at the end of clause (9) and adding after clause (10): 'and' (11)(A) the status of plan provisions developed by States as required under section 110(a)(2)(F)(v), and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 303) by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 110(a)(2)(F)(v), and an evaluation of their effectiveness in reducing pollution; and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action."

Mr. MILLER of California. Mr. Chairman, just quickly, the amendment I offer, I believe, is noncontroversial.

What it would do is this: Under existing law the EPA has the power to declare air-quality emergencies. It has had a number of them in the Washington, D.C., area.

The question that arises is, What is the result of this declaration?

Mr. Chairman, the purpose of the amendment is to ask that the EPA report to the Congress when these emergencies have been declared, where they have been declared, and what the result is of that declaration, what actions have been taken or have not been taken, and why.

Mr. Chairman, I think this amendment is very important because it appears that the emergencies mislead the public if, in fact, nothing is done after the initial statement. I think this amendment will give the committee additional oversight.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I think the amendment is beneficial. It is helpful and it is a good idea. We ought to know what has happened in these emergencies.

Therefore, Mr. Chairman, I would urge adoption of the amendment.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, could the gentleman from California (Mr. Miller) tell us what would happen in this instance: If the EPA, under his amendment and/or present law, declared an alert and that alert was in conflict with a local jurisdiction, say, a pollution control board in a county; who would resolve the difference as to whether there was a legitimate alert or not?

Mr. MILLER of California. If the gentleman will yield, as I understand it, the delegation is to the local board. It is not something which the EPA does. The local board out in California, the regional board, makes that determination.

What I want to know is what the result of making that kind of determination is.

Do they have plans? Do they implement efforts to cut down on the smog? Or is it simply a public relations job?

Mr. ROUSSELOT. Could the gentleman tell us further what constitutes an alert? Is there a difference between what the gentleman's language provides and our present law?

Mr. MILLER of California. Existing law would cover that. All I want to know is after they take those steps then what follows? I think we need some accountability when those steps are taken.

Mr. ROGERS. Mr. Chairman, would the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, as I understand what this says, I believe, that if there is an alert then let us know and advise us what happens so as to give the Congress more information.

Mr. ROUSSELOT. That would be information already available to the EPA but not necessarily to the Congress?

Mr. MILLER of California. If the gentleman will yield, it appears that the information is not pulled together to deliver to the Congress so as to see whether or not the provisions of law are working in try to cut down on the smog.

Mr. ROUSSELOT. I appreciate the gentleman's comments and explanation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct some questions to the chairman of the committee, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I will be happy to join the gentleman if he will yield to me.

Mr. MYERS of Pennsylvania. Last week the gentleman from Kentucky (Mr. CARTER) offered an amendment which was adopted by the House that deleted from the bill section 115. The title of section 115 is:

> Expansion Or New Construction In Air Quality Control Regions Exceeding National Ambient Air Quality Standard.

I would like to ask the opinion of the gentleman from Florida of what the status of those regions is now if the bill is passed as now constituted?

Mr. ROGERS. They may not exceed the primary standards. That was knocked out by the House after the Rooney amendment was defeated. The Rooney amendment would have given equal treatment to building of new facilities and expansion of existing facilities, and would have allowed some increase even though they would have to attain the standards, that is in an area where they had already reached the primary standards.

So both the Rooney amendment and section 115 of the bill are out and current law prevails.

In the other body there is a provision and we would go to conference on that provision.

Mr. MYERS of Pennsylvania. Does that mean that if we pass the bill as it now stands, if in the conference it is not adjusted in any way, that in fact a region that now exceeds national air quality standards this would prohibit expansion and new construction regardless of how clean the plants are that were going to be placed in operation? This would be true even if they came up to the best available technology?

Mr. ROGERS. No. I do not believe it means that at all. What it does mean is that they are not going to be able to exceed the health standards for air pollution. So that if you have a plant that does not pollute, I see no reason why that could not come in because it is not polluting or having any effect in the area.

Mr. MYERS of Pennsylvania. But if the air quality standard is exceeded, even if the plant embodies the best available technology, and the plant still would have some pollution, would this bill lock out the expansion there?

Mr. ROGERS. If the health level already is exceeded, and they want to have a new plant come in, then you have got to cut down on some of the pollution in the existing area.

Mr. MYERS of Pennsylvania. So essentially that would mean if you have a dirty plant you could cut down on that and expand with a cleaner facility? But the problem as I see it for our region, as I tried to express last week, is this: There are some corporations and some industries who have done a relatively good job in the past. They are down to the point where they do not have a big trade-off available to them so that it appears what is going to occur is that the dirty industries or the dirty plants can go ahead and have something to trade off and expand, whereas a relatively good actor in the environmental field is going to be somewhat crippled by this proposal.

Mr. ROGERS. They can get someone else to cut down. As the committee tried to recommend, we could have the automobiles do it, but many Members voted against having the automobile cut down and to allow it to continue to pollute.

Mr. MYERS of Pennsylvania. Will the gentleman respond to this situation: Is it possible that some of these corporations could in fact get relief through the courts, which is being done now for compliance schedules? What I am concerned is that Congress would have an opportunity to have a hand in what goes on here. It seems to me that what we are going to be faced with in the face of economic pressures is courts taking over some of the jurisdiction where we had an opportunity to deal with.

Mr. ROGERS. If the gentleman would yield further and permit me to say this, I do not share that feeling. In fact, it is very clear what is permitted and what is not—more so than ever before.

Mr. MYERS of Pennsylvania. I thank the gentleman for his comments.

Mr. Chairman, I wish to once again express my great concern for the industrial areas which now admittedly have air quality that is not desirable but which does not want to have a wrecked economy as a result of this bill. My major concern is with that particular aspect of the bill. I plan to vote against it because I feel it is important not to further shackle the economy in those areas. I believe the Rooney amendment would have provided for expansion in an environmentally sound manner.

Mr. KOCH. Mr. Chairman, I will cast an "aye" vote on final passage of H.R. 10498, the Clean Air Act Amendments of 1976. However, I want to be certain that my vote is not interpreted as a vote in favor of the Dingell amendment on auto emissions which is now a part of this bill. I voted against that amendment this afternoon and supported both the Maguire-Waxman position as well as the committee position in opposition to the Dingell amendment. It is my hope that the House conferees will accede to the Senate version on the issue of auto emission standards. I truly hope that the conference bill ultimately to come again before this House will make it easier for me to support this legislation by providing more stringent emission standards.

Mr. BEDELL. Mr. Chairman, the choices we are being asked to make during consideration of H.R. 10498, the Clean Air Act Amendments of 1976, are among the most important we will make in this Congress. The issues involved in the clean air debate are complex. They defy simple solution. And they have far-reaching implications. In fashioning this clean air bill, we must thoroughly and objectively assess the myriad of issues involved—economic, environmental, health, employment—and attempt to arrive at constructive and fair legislation which is truly in the best interest of the entire country.

The Clean Air Act of 1970 established detailed deadlines for the reduction of industrial and auto emission in order "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." This is a noble objective, and anyone who spent some time in this city a week or so ago and endured some of the worst air pollution in this city's history can attest to the need for effective clean air legislation.

There can be little doubt that air pollution presents some significant dangers to the public health and the environment. And auto emissions are a prime contributor to this problem. The National Academy of Sciences has estimated that more than 4,000 Americans die and more than 4 million workdays are lost due to illness caused by automobile pollution each year. These by themselves are frightening statistics. But the dimensions of the problems extend far beyond the streets of our congested cities. In recent years, increasing concern has been expressed about the adverse effects of air pollution on food crops and the environment. Air pollution is clearly not exclusively an urban phenomenon.

Several of my distinguished colleagues have outlined in considerable detail the dangers to health and environment presented by air pollution. I will not rehash their statements now. I would, however, like to take a brief moment to address three other aspects of the automobile pollution question—energy savings, technological feasibility, and economic impact—which I believe need further clarification.

Let us first take the area of auto emission standards and fuel economy. It has been clearly established that reducing auto emissions does not necessarily cause corresponding fuel penalties. In fact, the National Academy of Sciences has stated that a "significant improvement in fuel economy can be achieved by changes that are independent of the level of emissions." An EPA report corroborates this assertion, stating that "there is no inherent relationship between exhaust emission standards and fuel economy." And, in addition, it is significant that with improved efficiency of the catalytic converter, fuel economy for 1975 averaged 20 percent better than 1974, and 30 percent better in 1976 over 1974.

At this point, some might interject their observation that improvement in air quality without fuel loss will perhaps mean additional costs to the consumer and will in turn exacerbate the inflationary spiral and unemployment rate. My research casts considerable doubt on this contention. In fact, there are numerous studies which show that meeting the proposed clean air standards will not significantly increase the cost of new cars or appreciably change the costs of present emission control systems. Consider the following statement, made in March 1975 by Russell Train, Administrator of the Environmental Protection Agency, when standards were delayed for a year due to a possible sulfuric acid mist problem that did not materialize:

> There is even more agreement as to the impact of emission standards set at the current California levels. GM estimated the sticker price increase at about $23 over that of the current national system. The increase was set by Ford at $50 (presumably once again with an adjustment for inflation), by the National Academy of Science at about $40 and by my own staff at about $40. Both price increases and reductions in fuel economy that might result from tighter emission standards could in theory be expected to affect new car sales adversely. However, a study by my staff indicates that even at statutory levels the impact on sales would be on the order of a 1 percent reduction.

Once we have satisfied our concerns about the loss of fuel economy and about possible increased costs, we can legitimately ask if what we are asking the automobile industry to do is technically feasible. The answer is revealing and worthy of careful reflection. Not only can we meet these standards, but without them we might lack the necessary incentives to continue to expand our research and development on emission equipment. Again, the words of EPA Administrator Russell Train:

> The report of the National Academy of Sciences, given a fair reading, indicates that the technology to meet the statutory standards is available. My own staff reached the same result . . . I thus find that catalyst technology exists and could be applied to meet the statutory HC and CO emission levels on a very large proporation of automobiles by 1977.

So where do we go from here? I suggest that we take a long hard look at the environmental concerns we have, the economic concerns, our energy concerns, and the state of our technology, and then compare the three proposals currently pending before this body which address the problem of air pollution and automobiles. I hope that the decision we reach will truly be in the best interest of our Nation, and will be one that we can live with today and our children tomorrow.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of this important amendment offered by the gentleman from New York (Mr. KOCH), an amendment which designates carbon monoxide standards for the interior of schoolbuses and other motor vehicles which are used as police patrol cars and taxis. As a cosponsor of this amendment offered to the Clean Air Act, I cannot stress highly enough the need for careful, responsible action to protect the innocent victims, very often children, of carbon monoxide overexposure.

Significant levels of carbon monoxide have been found in vehicles which are used to transport children to and from school, and I believe that very often this is due simply to the disregard, or the lack of knowledge that many people have about the dangers in high levels of carbon monoxide. It is unfair, and inhuman, to subject children and public safety officers to faulty and oftentimes fatal conditions which cause carbon monoxide overexposure. This amendment requires that the Administrator of EPA work with the Secretary of Transportation to study the problem of interior carbon monoxide levels in schoolbuses and sustained use motor vehicles. In addition to this study, the bill provides for an analysis of the effect of this noxious gas on passengers and for suggested standards for adoption by the Secretary. The result of the study will be made available to the Congress within a year's time.

Accordingly, I urge my colleagues to support this worthy amendment which will protect our schoolchildren and entitle them to breathe air which is life-sustaining and clean, rather than subject them to high levels of poisonous carbon monoxide which takes so many lives every year. It is not too much to ask that we, as legislators, do everything in our power to enhance the safety of our children.

Are there further amendments to title III? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, pursuant to House Resolution 1430, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT WITH INSTRUCTIONS OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROYHILL. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. BROYHILL moves to recommit the bill H.R. 10498 to the Committee on Interstate and Foreign Commerce with instructions to report the same back to the House with the following amendments: Page 201, line 17, delete the words "90 percent of."
>
> Page 203, after line 2, insert:
>
> "(F) With respect to periods of exposure other than annual periods, the maximum allowable increases permitted for each such period of exposure, under subparagraphs (A), (B), and (C) may be exceeded during 3 percent of the number of such periods which occur during an annual period."
>
> Page 209, line 11, reword section "(E)" to read:
>
> "(E) For the purpose of this subtitle, the term 'major stationary source' means any stationary source which emits, or has the design capacity to emit, 250 tons per year or more of sulfur oxides or particulates and which is included in a list promulgated by the Administrator."
>
> Page 303, after line 9, insert:
>
> VARIANCES AND WAIVERS FOR CONSTRUCTION OR MODIFICATION OF CERTAIN SOURCES
>
> SEC. 301A. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act is further amended by adding the following new section at the end thereof:
>
> "VARIANCES AND WAIVERS FOR CONSTRUCTION OR MODIFICATION OF CERTAIN SOURCES
>
> "SEC. 325. (a) Nothing in section 110(a) shall be construed to provide that an applicable implementation plan must prohibit the construction or modification (within the meaning of section 111(a)(4)) of any new major stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant if a waiver of such prohibition is granted under subsection (b) or a variance from such prohibition is issued under subsection (c). Nothing in this section shall be construed to require nonmajor sources to obtain a waiver or variance under this section and nothing in this section shall be construed to authorize any waiver of or variance from, any new source standard of performance or emission limitation under an applicable implementation plan.
>
> "(b)(1) A waiver for purposes of subsection (a) may be granted under this subsection for the construction of a new major stationary source of particulate matter, sul-

fur dioxide, or carbon monoxide or for a modification of a major stationary source of any such pollutant, under the terms and conditions provided in paragraph (2).

"(2) A waiver under this subsection may be granted by the State in which such source is located or by the Administrator (with the consent of the Governor of such State) if, after notice and public hearing, the owner or operator of the proposed new or modified major stationary source—

"(A) demonstrates that all existing stationary sources owned or operated by him are—

"(i) in compliance with all provisions of applicable implementation plans under this Act; or

"(ii) in compliance with (I) approved schedules and timetables for compliance under applicable implementation plans, (II) compliance orders issued under section 113 before enactment of this section, cr (III) compliance date extensions issued under this Act; and

"(iii) in compliance with all other requirements under this Act; and

"(B) presents such air quality modeling data and such other information as is necessary (in accordance with regulations of the Administrator) to demonstrate—

"(i) that emissions of particulate matter, sulfur dioxide, or carbon monoxide air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) the issuance of the waiver will not, by itself or in combination with other waivers or variances under this section, cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant; and

"(C) demonstrates that—

"(i) the issuance of such waiver will not result in an increase in emissions of any air pollutant for which national ambient air quality standards have not been promulgated (or an air pollutant which is transformed in the atmosphere into an air pollutant for which such a standard has not been promulgated), or

"(ii) any such increase will not cause (or materially contribute to) a significant risk to public health.

In any case in which a waiver under this subsection is granted by the State, such waiver shall take effect upon a determination by the Administrator that the requirements of this subsection have been met.

"(c)(1) A variance for purposes of subsection (a) may be issued for the construction of a new major stationary source of a pollutant or for the modification of a major stationary source of any pollutant under the terms and conditions provided in paragraph (2).

"(2) A variance for purposes of subsection (a) may be issued under this subsection for construction of a new major stationary source or for modification of a major stationary source by the State in which such source is located or by the Administrator (with the consent of the Governor of such State) if, after notice and opportunity for public hearing—

"(A) the owner or operator of the proposed new or modified major stationary source demonstrates—

"(i) compliance with the requirements of subsection (b)(2)(A) and (C);

"(ii) that the proposed new or modified major stationary source will comply with emission limitations requiring use of the best available control technology for that source (as defined by the State in which the proposed new source is to be located) which limitations shall be at least as stringent as the new source standards of performance applicable to such category of sources under section 111;

"(iii) that in the case of construction of a new source, alternative locations which would not necessitate a variance under this subsection are not reasonably available to that source (taking costs and other appropriate factors into account), and

"(B) the State (or the Administrator, as the case may be) demonstrates that—

"(i) the State is implementing each requirement of the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to the date of enactment of this section and by any compliance date extension variance, or exemption under any other section of this Act);

"(ii) it is not feasible to revise the applicable implementation plan so as to permit such construction or modification without delaying the attainment of any primary national ambient air quality standard beyond the primary standard attainment date or interfering with the maintenance of any national ambient air quality standard;

"(iii) the State has, to the maximum extent feasible, utilized the provisions of section 126 to abate interstate pollution which affects air quality in such air quality control region;

"(iv) the applicable implementation plan for such air quality control region includes (or a revision has been submitted to include) emission limitations for the air pollutant with respect to which the national standard is being exceeded which limitations require at least maximum feasible emission reduction from all major existing stationary sources of such pollutant in such air quality control region and compliance schedules (including increments of progress) which require achievement of such reduction at least as expeditiously as practicable and which are adequate for the purposes of carrying out the requirements of this clause and clauses (v) and (vi) of this subparagraph;

"(v) the issuance of the variance will not, by itself or in combination with other waivers or variances under this subsection, cause or materially contribute to any significant increase in the frequency, duration, or intensity of air pollution levels in excess of any national ambient air quality standard or otherwise significantly exacerbate any such excess levels; and

"(vi) the granting of any such variance will not cause or contribute to delaying the attainment of, or to preventing the maintenance of, any national ambient air quality standard for such pollutant beyond the date such attainment would have occurred under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension, or exemption under any other section of this Act), or beyond January 1, 1982, whichever date occurs earlier.

Clause (vi) shall not be construed to prohibit the issuance of a variance in a region where it cannot be demonstrated that the applicable implementation plan is adequate to attain and maintain each national ambient air quality standard by January 1, 1982 if it is demonstrated that such plan would have been adequate within the meaning of the previous phrase but for the issuance of one or more compliance date extensions under section 121 of this Act.

In any case in which a variance under this subsection is issued by the State, such variance shall take effect upon a determination by the Administrator that the requirements of this subsection have been met.

"(d) In the case of an application for a variance under subsection (c) submitted to the Administrator, not later than 180 days after date of receipt of the complete application (as determined in accordance with regulations of the Administrator), the Administrator shall act to grant or deny any such application.

"(e)(1) For the purpose of this section, the term 'major stationary source' has the same meaning as provided by section 121(a)(3).

"(2) For the purposes of this section, the term 'maximum feasible emission reduction' means with respect to any air pollutant emitted from a particular existing source, a standard which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any non-air quality health and environmental impact and energy requirements, and the remaining useful life of that category or sources) the Administrator determines has been adequately demonstrated for that category of sources. A State may, in determining the date by which a particular source must comply with such a standard, take into account the source's remaining useful life and the remaining useful life of any emission control equipment timely installed and operated by such source pursuant to any other requirement of this Act.

"(3) For the purpose of this section the term 'significantly exacerbate' includes, but is not limited to, cumulative total actual emissions from all existing stationary and mobile sources owned or operated in a region in which a variance is sought by the person applying for such variance, which total emissions (when considered together with the emissions from any proposed new sources or modifications for which variances are sought) are at any time in excess of 115 percent, or after January 1, 1982, 100 percent of the total cumulative emissions allowable from such existing sources (not including such proposed new sources or modifications) at such time under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to that date of enactment of this section and by any compliance date extension, or exemption under any other section of this Act).

"(4)(A) A variance under subsection (c) may only be issued with respect to a proposed new source or modification located in an air quality control region in which the national ambient air quality standard for the air pollutant for which the variance is sought is being exceeded as of the date of enactment of this section.

"(B) Notwithstanding subparagraph (A), a variance under subsection (c) may be issued with respect to any air quality control region—

"(i) for which there is insufficient data available as of the date of enactment to determine whether any national ambient air quality standard is being exceeded in that region; and

"(ii) for which the Administrator subsequently determines any such standard is being exceeded when sufficient data first becomes available for such a determination.

"(f)(1) For the purpose of carrying out the study described in paragraph (2), there is hereby established a joint Federal-State Committee on Sources, Fate, and Control of Atmospheric Pollutants which shall comprise—

"(A) the Chairman of the Council on Environmental Quality, who shall serve as Chairman of the Committee;

"(B) the Administrator of the National Oceanic and Atmospheric Administration;

"(C) the Administrator of the Environmental Protection Agency; and

"(D) ten Governors or their designees, each from a State within one of the ten Environmental Protection Agency Regions, which State contains one or more air quality control regions in which a national ambient air quality standard for photochemical smog or for total suspended particulates is being exceeded at the time of enactment of this subsection.

"(2) The Committee shall conduct a study of the sources, both man-made and natural, of all pollutants regulated under this Act, including precursors of photochemical oxidants, and within two years after enactment of this section shall report to Congress on matters including, but not limited to—

"(A) the extent to which measurements of ozone are an appropriate index to photochemical oxidant concentrations, especially concentrations of those oxidants associated with adverse health effects;

"(B) the relative extent to which oxides of nitrogen, hydrocarbons, and other pollutants contribute to the formation of photochemical oxidants and to measured levels of photochemical oxidants;

"(C) the extent to which reductions in man-made emissions of hydrocarbons is an appropriate means of achieving the national primary ambient air quality standard for photochemical oxidants;

"(D) the availability of field techniques for measurement of photochemical oxidants and their precursors and the reliability and precision of such techniques;

"(E) the extent to which man-made and natural emissions of particulate matter contribute to concentrations exceeding national ambient air quality standards for total suspended particulates;

"(F) the availability of field techniques for distinguishing between man-made and natural particulates in the ambient air;

"(G) the extent to which failure to attain the national ambient air quality standards for photochemical oxidants and total suspended particulates can be attributed to natural pollutants; and

"(H) Such other matters related to the long-range transport of man-made pollutants or to natural background pollution as the Committee may deem appropriate."

(b) Section 113(b)(4) of such Act, as amended by section 103 of this Act, is further amended by inserting "or 127(c)(2)(A)(ii)" before the period at the end thereof.

Mr. BROYHILL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the motion to recommit and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Speaker, reserving the right to object, I do not even have a copy of the motion to recommit. I do not know what is in it.

Mr. BROYHILL. Mr. Speaker, I withdraw my request.

The SPEAKER. The Clerk will read.

The Clerk continued the reading of the motion to recommit.

Mr. BROYHILL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ROGERS. Mr. Speaker, reserving the right to object, I want to say we now have copies, so we are beginning to know what is in the motion to recommit. I do not object at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Mr. Speaker, we are still trying to get some of our amendments to this act adopted so we can make it more workable, at least in the opinion of some of those of us who oppose the bill as presently written.

As the Members recall, we did have considerable debate on the so-called Chappell amendment. The House has endorsed this concept that is contained in section 108, that is the concept of nondegradation of the air quality in certain regions of the country. I still have concerns over the way that section is written but I recognize that the House has acted. So this motion to recommit does not propose to do any violence to that general concept.

What we do offer here are certain changes to the concept so that in our opinion we would make it more workable. There are three changes we are offering in the section 108 that was debated so long several days ago.

First. We would delete the 90-percent ceiling for the classification system. In other words, we would replace it by saying that no area can exceed 100 percent of the national air standards, just as the EPA regulations presently read.

Second. We would change the definition of "major source" in this section from 100 tons per annum to 250 tons per annum. Now the effect of this definition of "major source" is to determine which sources are going to have to come into compliance with a complicated permit system.

Under our investigation, we found that under the present definition of 100 tons per annum we are going to include a lot of hospitals, junior high schools, and consolidated high schools that were never meant to be under the purview of this particular part of the bill; so what we are making sure is, that that part of the bill does apply to major sources, such as major utilities and major polluting sources such as that.

The third change that we make in section 108 is this, that we would permit a 3-percent variance in the application of the 3-hour standards and the present 24-hour standards in class 2 areas. What this means is that with respect to the 24-hour standards is that on 3-percent of the days of the year the standard could be exceeded. That is only 11 days per year, and as we all know, because of certain meteorological conditions, this variance is needed.

Now, the other change that we make is that we do put in the Rooney amendment, which was voted on earlier last week. The Rooney amendment would permit up to 1982 a variance in the air standard up to 115 percent. After 1982, these areas would have to come into compliance.

Now, Mr. Speaker, the purpose of these amendments is to permit sufficient flexibility to permit future growth and expansion in the two areas of the country that are covered by this bill, the so-called nonattainment areas and those areas subject to section 108, the nondegradation areas. We are not proposing to compromise the total objectives, the long-range objectives and goals of the Clean Air Act, but we want some assurance that we are going to have some flexibility in the administration of this act and that we will have some opportunity for growth, so that jobs can be provided in these areas of the country.

Our concern is that with the way the present bill is written, that it is going to be administered in such an inflexible way that we are going to have to close industries or not permit industries to expand or to say that new industry cannot come in to provide jobs for the high school graduating classes of the future.

Mr. Speaker, I would urge that the motion to recommit be adopted so that we can have some assurance of a more flexible administration of this new policy.

Mr. ROGERS. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, as one might expect in a motion to recommit with instructions, we are now being asked to vote upon issues we have already made judgments upon and have taken votes, not only here on the floor of the House, but in the committee, too.

Now, here is another effort to make us consider these issues again.

Let me express my extreme concern that anyone would vote for this motion to recommit. It would, in effect, destroy the purpose and intent of the McKay amendment, which this House adopted, allowing a 3-percent variance in class I SO_2 increments, so that there is flexibility.

As a matter of fact, what it would do is, it would destroy the whole purpose of the act by saying we could have up to 263 days of the year—think of that—no matter what our standards are, we can have 263 days of the year over and above all the increments specified in the bill.

Second, it takes away from the Governor this discretion that we built in.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. Mr. Speaker, I cannot yield. The gentleman has spoken and I must correct some mistaken notions for the House. The gentleman is not correct, and if the gentleman would permit, I will continue.

It also takes away from the Governor this discretion that we built in. We want him to have it. This is one of the points of the new bill, in giving a State a little more authority. This would be taken away in this motion to recommit.

Third, this would permit pollution beyond the health standards. The gentleman from Kentucky (Mr. CARTER), who unfortunately cannot be here today because of an illness in the family, would be right by my side, speaking strongly against this, because he spoke out against it and voted against the provision being included in this motion.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I would like to read from the CONGRESSIONAL RECORD and quote Dr. CARTER's own words:

> I have argued all night that we should stay by our primary and secondary ambient standards but some people who have been in positions of power tonight have catered to special industries, in this case an industry that is known for the way and the manner in which it pollutes the air throughout the East and which causes poor health.

He also said that very evening:

> Mr. Chairman, of course I realize there are many noxious substances emitted by automobiles, no question about it, and by humans since the Earth began. I regret that very much, but this very amendment would permit the continuance of the hazards which have gone with the steel mills over the years. This is one of the areas in which we are unbalanced. We are not following the primary and secondary standards which I have advocated from the word go.

These are his words. I join with the chairman of the subcommittee in opposing this motion to recommit.

Mr. ROGERS. Let me say this, that we have had a long process here and Members have been most patient with us. I just want to say that the staff has done really on outstanding job. I have not seen a staff which has worked harder on both sides of the aisle. They have done a magnificent job, and I want to commend them. I especially want to commend Jeff Schwartz, majority counsel; Steve Connally, of the Health Subcommittee staff; Bob Maher and Linda Ritchie of my personal staff, and Tom Greene, minority counsel, for their hard and excellent work. I also want to commend the Chairman of the Committee of the Whole, who put up with us.

So, I would say in conclusion that if we adopt the motion to recommit, we have perverted the whole intent of the law, and it would be destroyed.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I certainly respect the gentleman from North Carolina and his intentions always. I think he is a fine gentleman, and serves his constituents and the Nation well.

But, I believe at this time that I certainly am with the subcommittee chairman in saying that we ought to continue with the bill we have worked on for many, many days here. This motion would wreck many of the things we have debated and come to a conclusion on.

I want to congratulate the chairman of the subcommittee and all the members of the committee. I think this is a good bill. We ought to vote down the motion to recommit and vote for the bill.

Mr. ROGERS. I thank the gentleman, and I urge the Members of the House to vote "no" on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BROYHILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 117, nays 272, answered "present" 1, not voting 40, as follows:

[Roll No. 733]

YEAS—117

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Beard, Tenn.
Bevill
Breaux
Brinkley
Broyhill
Buchanan
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Eshleman
Flowers
Flynt
Fountain
Frey
Ginn
Goldwater
Goodling
Grassley
Hagedorn
Hall, Tex.
Hammerschmidt
Hefner
Henderson
Hightower
Holt
Hubbard
Hutchinson
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Latta
Levitas
Lloyd, Tenn.
Lott
McCormack
McDonald
McEwen
Mahon
Mann
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Nichols
Passman
Paul
Poage
Quillen
Randall
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Steiger, Ariz.
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Young, Alaska
Young, Fla.

NAYS—272

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Clausen, Don H.
Clay
Cleveland
Cohen
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fraser
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Gonzalez
Gradison
Gude
Guyer
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Hughes
Hungate
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Natcher
Nedzi
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—40

Allen
AuCoin
Beard, R.I.
Bergland
Bowen
Carter
Chisholm
Collins, Ill.
Conlan
Erlenborn
Esch
Evans, Colo.
Ford, Tenn.
Forsythe
Giaimo
Green
Haley
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howe
Ichord
Karth
Landrum
McCollister
Matsunaga
Murphy, N.Y.
Neal
Nolan
Peyser
Riegle
Rinaldo
Risenhoover
Russo
Steelman
Stephens
Stuckey
Vander Jagt

The Clerk announced the following pairs:

Mr. Evans of Colorado with Mr. Bowen.
Mr. AuCoin with Mr. Hébert.
Mr. Bergland with Mr. Landrum.
Mr. Beard of Rhode Island with Mr. Heinz.
Mr. Giaimo with Mr. Esch.
Mr. Helstoski with Mr. Conlan.
Mr. Murphy of New York with Mr. Rinaldo.
Mr. Neal with Mr. Hansen.
Mr. Russo with Mr. Carter.
Mr. Risenhoover with Mr. McCollister.
Mr. Nolan with Mr. Erlenborn.
Mr. Riegle with Mr. Peyser.
Mr. Green with Mr. Forsythe.
Mr. Howe with Mr. Stuckey.
Mr. Ichord with Mr. Matsunaga.
Mrs. Chisholm with Mr. Karth.
Mrs. Collins of Illinois with Mr. Ford of Tennessee.
Mr. Vander Jagt with Mr. Stephens.

Messrs. PASSMAN, LATTA, and WHITE changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ROGERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 324, nays 68, answered "present" 1, not voting 37, as follows:

[Roll No. 734]

YEAS—324

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Baldus
Baucus
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Clausen, Don H.
Clay
Cleveland
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kelly
Keys
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—68

Abdnor
Archer
Ashbrook
Bauman
Beard, Tenn.
Breaux
Broyhill
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Evins, Tenn.
Goodling
Hall, Tex.
Hammerschmidt
Henderson
Holt
Hubbard
Hutchinson
Ichord
Jones, Tenn.
Kazen
Kemp
Ketchum
Kindness
Krueger
Lloyd, Tenn.
Lott
McDonald
McEwen
Maguire
Mahon
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Pa.
Ottinger
Paul
Poage
Quillen
Randall
Rhodes
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Shuster
Snyder
Steiger, Ariz.
Symms
Taylor, Mo.
Treen
Waggonner
Waxman
Whitten
Young, Tex.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—37

Allen
AuCoin
Beard, R.I.
Bergland
Bowen
Carter
Chisholm
Collins, Ill.
Conlan
Erlenborn
Esch
Evans, Colo.
Ford, Tenn.
Forsythe
Green
Haley
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howe
Karth
Landrum
McCollister
Matsunaga
Neal
Nolan
Peyser
Riegle
Rinaldo
Risenhoover
Russo
Steelman
Stephens
Stuckey
Vander Jagt

The Clerk announced the following pairs:

Mr. Evans of Colorado with Mr. Bowen.
Mr. AuCoin with Mr. Hébert.
Mr. Bergland with Mr. Landrum.
Mr. Beard of Rhode Island with Mr. Conlan.
Mr. Helstoski with Mr. Hansen.
Mr. Neal with Mr. McCollister.
Mr. Russo with Mr. Rinaldo.
Mr. Risenhoover with Mr. Erlenborn.
Mr. Nolan with Mr. Carter.
Mr. Riegle with Mr. Steelman.
Mr. Esch with Mr. Stuckey.
Mr. Green with Mr. Matsunaga.
Mrs. Chisholm with Mr. Peyser.
Mr. Vander Jagt with Mr. Howe.
Mrs. Collins of Illinois with Mr. Ford of Tennessee.
Mr. Forsythe with Mr. Stephens.
Mr. Heinz with Mr. Haley.
Mr. Allen with Mr. Karth.

Mr. MOFFETT changed his vote from "nay" to "yea."

Messrs. RHODES, BUTLER, YOUNG of Texas, and KEMP changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill, H.R. 10498, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

REQUEST FOR CONSIDERATION OF S. 3219

Mr. ROGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3219) to amend the Clean Air Act, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 14232, MAKING APPROPRIATIONS FOR DEPARTMENTS OF LABOR, HEW, AND RELATED AGENCIES

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 14232) making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1977, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1555)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 68 to the bill (H.R. 14232) "making appropriations for the Departments of Labor and Health, Education, and Welfare, and Related Agencies for the fiscal year ending September 30, 1977, and for other purposes," having met, after further full and free conference, have been unable to agree.

DANIEL J. FLOOD,
NEAL SMITH,
EDWARD J. PATTEN,
DAVID R. OBEY,
EDWARD R. ROYBAL,
JOSEPH D. EARLY,
GEORGE MAHON,
ROBERT H. MICHEL,
GARNER E. SHRIVER,
SILVIO O. CONTE,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
BIRCH BAYH,
LAWTON CHILES,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,

Clifford P. Case,
Hiram L. Fong,
Ted Stevens,
Richard S. Schweiker,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 68 to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

General provisions

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion as follows:

Restore the matter stricken by said amendment amended to read as follows:

"Sec. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

Section 209 of the House bill contained a prohibition against the use of funds contained in this Act to pay for or to promote or encourage abortions. The Senate bill deleted this provision.

Having met in further conference, agreement has been reached on the issue of whether or not Federal funds may be used to finance abortions. Most certainly, this is a difficult, emotionally-charged issue—one which many believe should be dealt with by the appropriate legislative committees.

Nevertheless, in an effort to resolve this issue and avoid further delay in meeting the vital needs addressed by programs in this bill, a majority of the Conferees have agreed to a modification of the House bill language.

It is the intent of the Conferees to limit the financing of abortions under the Medicaid program to instances where the performance of an abortion is deemed by a physician to be of medical necessity and to prohibit payment for abortions as a method of family planning, or for emotional or social convenience. It is not our intent to preclude payment for abortions when the life of the woman is clearly endangered, as in the case of multiple sclerosis or renal disease, if the pregnancy were carried to term. Nor is it the intent of the Conferees to prohibit medical procedures necessary for the termination of an ectopic pregnancy or for the treatment of rape or incest victims; nor is it intended to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Furthermore, the proposed language would not interfere with or limit Federal aid to medical schools conducting research into, or teaching of, abortion procedures for therapeutic purposes.

The Congress is aware that there are three cases related to this issue to be heard by the Supreme Court this fall, and wishes to make clear that the Congress in its action upon this particular appropriations bill does not intend to prejudge any constitutional questions involved in those cases.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Daniel J. Flood,
Neal Smith,
Edward J. Patten,
David R. Obey,
Edward R. Roybal,
Joseph D. Early,
George Mahon,
Robert H. Michel,
Garner E. Shriver,
Silvio O. Conte,
Elford A. Cederberg,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings,
Thomas F. Eagleton,
Birch Bayh,
Lawton Chiles,
John L. McClellan,
Edward W. Brooke,
Clifford P. Case,
Hiram L. Fong,
Ted Stevens,
Dick Schweiker,
Milton R. Young,
Managers on the Part of the Senate.

REQUEST FOR PERMISSION TO CONSIDER CONFERENCE REPORT ON H.R. 14232 ON FRIDAY, SEPTEMBER 17, 1976

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that it be in order to consider in the House on Friday, September 17, 1976, the conference report on H.R. 14232, making appropriations for the Departments of Labor, Health, Education, and Welfare and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, could I ask the gentleman from Pennsylvania if it is his intention to bring up the conference report on Friday? This does include the Hyde amendment, which is the subject of some interest.

Mr. FLOOD. It is just a conference report. Actually, we get the Hyde amendment, which is Senate amendment No. 68 in disagreement.

Mr. BAUMAN. It will be brought up on Friday?

Mr. FLOOD. As I understand, yes. That is my purpose in making the request.

Mr. ROUSSELOT. Further reserving the right to object, my understanding is that this was originally scheduled for Monday. Can the gentleman tell us why we have moved it up?

Mr. FLOOD. I did not know it was originally scheduled for Monday. I did not know that.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CLANCY. Mr. Speaker, reserving the right to object, would the chairman advise us as to why this matter was decided to be brought up on Friday?

Mr. FLOOD. I do not know. I talked to the leadership on both sides.

Mr. CLANCY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 13035, SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976

Mr. BREAUX (on behalf of Mrs. Sullivan) filed the following conference report and statement on the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966:

Conference Report (H. Rept. No. 94–1556)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Sea Grant Program Improvement Act of 1976".

Sec. 2. Amendment to the National Sea Grant College and Program Act of 1966.

Title II of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE II—NATIONAL SEA GRANT PROGRAM

"Sec. 201. Short Title.

"This title may be cited as the 'National Sea Grant Program Act'.

"Sec. 202. Declaration of Policy.

"(a) Findings.—The Congress finds and declares the following:

"(1) The vitality of the Nation and the quality of life of its citizens depend increasingly on the understanding, assessment, development, utilization, and conservation of ocean and coastal resources. These resources supply food, energy, and minerals and contribute to human health, the quality of the environment, national security, and the enhancement of commerce.

"(2) The understanding, assessment, development, utilization, and conservation of such resources require a broad commitment and an intense involvement on the part of the Federal Government in continuing partnership with State and local governments, private industry, universities, organizations, and individuals concerned with or affected by ocean and coastal resources.

"(3) The National Oceanic and Atmospheric Administration, through the national sea grant program, offers the most suitable locus and means for such commitment and involvement through the promotion of activities that will result in greater such understanding, assessment, development, utilization, and conservation. Continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

(b) Objective.—The objective of this title is to increase the understanding, assessment, development, utilization, and conservation of the Nation's ocean and coastal resources by providing assistance to promote a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques.

"(c) Purpose.—It is the purpose of the Congress to achieve the objective of this title by extending and strengthening the national sea grant program, initially established in 1966, to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources.

"SEC. 203. DEFINITIONS.

"As used in this title—

"(1) The term 'Administration' means the National Oceanic and Atmospheric Administration.

"(2) The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

"(3) The term 'Director' means the Director of the national sea grant program, appointed pursuant to section 204(b).

"(4) The term 'field related to ocean and coastal resources' means any discipline or field (including marine science (and the physical, natural, and biological sciences, and engineering, included therein), marine technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean and coastal resources.

"(5) The term 'includes' and variants thereof should be read as if the phrase 'but is not limited to' were also set forth.

"(6) The term 'marine environment' means the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf.

"(7) The term 'ocean and costal resource' means any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living résource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

"(8) The term 'panel' means the sea grant review panel established under section 209.

"(9) The term 'person' means any individual; any public or private corporation, partnership, or other association or entity (including any sea grant college, sea grant regional consortium, institution of higher education, institute, or laboratory); or any State, political subdivision of a State, or agency or officer thereof.

"(10) The term 'sea grant college' means any public or private institution of higher education which is designated as such by the Secretary under section 207.

"(11) The term 'sea grant program' means any program which—

"(A) is administered by any sea grant college, sea grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

"(B) includes two or more projects involving one or more of the following activities in fields related to ocean and coastal resources:

"(i) research,

"(ii) education,

"(iii) training, or

"(iv) advisory services.

"(12) The term 'sea grant regional consortium' means any association or other alliance which is designated as such by the Secretary under section 207.

"(13) The term 'Secretary' means the Secretary of Commerce.

"(14) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

"SEC. 204. NATIONAL SEA GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall maintain, within the Administration, a program to be known as the national sea grant program. The national sea grant program shall consist of the financial assistance and other activities provided for in this title. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.

"(b) DIRECTOR.—(1) The Secretary shall appoint a Director of the national sea grant program who shall be a qualified individual who has—

"(A) knowledge or expertise in fields related to ocean and coastal resources; and

"(B) appropriate administrative experience.

"(2) The Director shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

"(c) DUTIES.—The Director shall administer the national sea grant program subject to the supervision of the Secretary and the Administrator. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

"(1) apply the long-range planning guidelines and the priorities established by the Secretary under subsection (a);

"(2) advise the Administrator with respect to the expertise and capabilities which are available within or through the national sea grant program, and provide (as directed by the Administrator) those which are or could be of use to other offices and activities within the Administration;

"(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 205 and 206 to assure that the objective set forth in section 202(b) is implemented;

"(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national sea grant program, on a cooperative or other basis;

"(5) advise the Secretary on the designation of sea grant colleges and sea grant regional consortia and, in appropriate cases, if any, on the termination or suspension of any such designation; and

"(6) encourage the formation and growth of sea grant programs.

"(d) POWERS.—To carry out the provisions of this title, the Secretary may—

"(1) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with the civil service laws; except that five positions may be established without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but the pay rates for such positions may not exceed the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

"(2) make appointments with respect to temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

"(3) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other services, offices, and programs in the Administration, any information of research, educational, training, and other value in fields related to ocean and coastal resources and with respect to ocean and coastal resources, without regard to section 501 of title 44, United States Code;

"(4) enter into contracts, cooperative agreements, and other transactions without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);

"(5) accept donations and voluntary and uncompensated services, notwithstanding section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b)); and

"(6) issue such rules and regulations as may be necessary and appropriate.

"SEC. 205. CONTRACTS AND GRANTS.

"(a) IN GENERAL.—The Secretary may make grants and enter into contracts under this subsection to assist any sea grant program or project if the Secretary finds that such program or project will—

"(1) implement the objective set forth in section 202(b); and

"(2) be responsive to the needs or problems of individual States or regions.

The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the sea grant program or project involved.

"(b) SPECIAL GRANTS.—The Secretary may make special grants under this subsection to implement the objective set forth in section 202(b). The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection unless the Secretary finds that—

"(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a);

"(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

"(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) or section 206.

The total amount which may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 1 percent of the total funds appropriated for such year pursuant to section 212.

"(c) ELIGIBILITY AND PROCEDURE.—Any person may apply to the Secretary for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received.

"(d) TERMS AND CONDITIONS.—(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2), (3), and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

"(2) No payment under any grant or contract under this section may be applied to—

"(A) the purchase or rental of any land; or

"(B) the purchase, rental, construction, preservation, or repair of any building, dock, or vessel:

except that payment under any such grant or contract may, if approved by the Secretary, be applied to the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under any sea grant program or project.

"(3) The total amount which may be obligated for payment pursuant to grants made to, and contracts entered into with, persons under this section within any one State in any fiscal year shall not exceed an amount equal to 15 percent of the total funds appropriated for such year pursuant to section 212.

"(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for 3 years after the completion of such a program or project. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to such grants and contracts.

"SEC. 206. NATIONAL PROJECTS.

"(a) IN GENERAL.—The Secretary shall identify specific national needs and problems with respect to ocean and coastal resources. The Secretary may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

"(b) ELIGIBILITY AND PROCEDURE.—Any person may apply to the Secretary for a grant or contract under this section. In addition, the Secretary may invite applications with respect to specific national needs or problems identified under subsection (a). Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 205(d) (2) and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

"(c) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated pursuant to this subsection shall remain available until expended. The amounts obligated to be expended for the purposes set forth in subsection (a) shall not, in any fiscal year, exceed an amount equal to 10 percent of the sums appropriated for such year pursuant to section 212.

"SEC. 207. SEA GRANT COLLEGES AND SEA GRANT REGIONAL CONSORTIA.

"(a) DESIGNATION.—(1) The Secretary may designate—

"(A) any institution of higher education as a sea grant college; and

"(B) any association or other alliance of two or more persons (other than individuals) as a sea grant regional consortium.

"(2) No institution of higher education may be designated as a sea grant college unless the Secretary finds that such institution—

"(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to ocean and coastal resources and has received financial assistance under section 205 of this title or under section 204(c) of the National Sea Grant College and Program Act of 1966;

"(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2); and

"(C) meets such other qualifications as the Secretary deems necessary or appropriate.

The designation of any institution as a sea grant college under the authority of such Act of 1966 shall, if such designation is in effect on the day before the date of the enactment of the Sea Grant Program Improvement Act of 1976, be considered to be a designation made under paragraph (1) so long as such institution complies with subparagraphs (B) and (C).

"(3) No association or other alliance of two or more persons may be designated as a sea grant regional consortium unless the Secretary finds that such association or alliance—

"(A) is established for the purpose of sharing expertise, research, educational facilities, or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to ocean and coastal resources;

"(B) will encourage and follow a regional approach to solving problems or meeting needs relating to ocean and coastal resources, in cooperation with appropriate sea grant colleges, sea grant programs, and other persons in the region;

"(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2); and

"(D) meets such other qualifications as the Secretary deems necessary or appropriate.

"(b) REGULATIONS.—The Secretary shall by regulation prescribe—

"(1) the qualifications required to be met under paragraphs (2)(C) and (3)(D) of subsection (a); and

"(2) guidelines relating to the activities and responsibilities of sea grant colleges and sea grant regional consortia.

"(c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a).

"SEC. 208. SEA GRANT FELLOWSHIPS.

"(a) IN GENERAL.—The Secretary shall support a sea grant fellowship program to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education in fields related to ocean and coastal resources. Such fellowships shall be awarded pursuant to guidelines established by the Secretary. Sea grant fellowships may only be awarded by sea grant colleges, sea grant regional consortia, institutions of higher education, and professional associations and institutes.

"(b) LIMITATION ON TOTAL FELLOWSHIP GRANTS.—The total amount which may be provided for grants under the sea grant fellowship program during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year pursuant to section 212.

"SEC. 209. SEA GRANT REVIEW PANEL.

"(a) ESTABLISHMENT.—There shall be established an independent committee to be known as the sea grant review panel. The panel shall, on the 60th day after the date of the enactment of the Sea Grant Program Improvement Act of 1976, supersede the sea grant advisory panel in existence before such date of enactment.

"(b) DUTIES.—The panel shall take such steps as may be necessary to review, and shall advise the Secretary, the Administrator, and the Director with respect to—

"(1) applications or proposals for, and performance under, grants and contracts awarded under sections 205 and 206;

"(2) the sea grant fellowship program;

"(3) the designation and operation of sea grant colleges and sea grant regional consortia, and the operation of sea grant programs;

"(4) the formulation and application of the planning guidelines and priorities under section 204(a) and (c)(1); and

"(5) such other matters as the Secretary refers to the panel for review and advice.

The Secretary shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

"(c) MEMBERSHIP, TERMS, AND POWERS.—(1) The panel shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the panel. Not less than five of the voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals, who, by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is (A) the director of a sea grant college, sea grant regional consortium, or sea grant program; (B) an applicant for, or beneficiary (as determined by the Secretary) of, any grant or contract under section 205 or 206; or (C) a full-time officer or employee of the United States.

"(2) The term of office of a voting member of the panel shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

"(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be appointed as a voting member after serving one full term as such a member. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office, or until 90 days after such date, whichever is earlier.

"(4) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

"(5) Voting members of the panel shall—

"(A) receive compensation at the daily rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

"(B) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

"(6) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Director.

"(7) The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).

"SEC. 210. INTERAGENCY COOPERATION.

"Each department, agency, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to ocean and coastal resources—

(1) may, upon a written request from the Secretary, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Secretary deems necessary to carry out any provision of this title;

(2) shall, upon a written request from the

Secretary, furnish any available data or other information which the Secretary deems necessary to carry out any provision of this title; and

(3) shall cooperate with the Administration and duly authorized officials thereof.

"Sec. 211. Annual Report and Evaluation.

"(a) Annual Report.—The Secretary shall submit to the Congress and the President, not later than February 15 of each year, a report on the activities of, and the outlook for, the national sea grant program.

"(b) Evaluation.—The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, in the Executive Office of the President, shall have the opportunity to review each report prepared pursuant to subsection (a). Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national sea grant program. Such material shall be transmitted to the Secretary not later than February 1 of each year, and the Secretary shall cause it to be published as a separate section in the annual report submitted pursuant to subsection (a).

"Sec. 212. Authorization for Appropriations.

"There is authorized to be appropriated for purposes of carrying out the provisions of this title (other than section 206) not to exceed $50,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.".

Sec. 3. International Cooperation Assistance.

(a) In General.—The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") may enter into contracts and make grants under this section to—

(1) enhance the research and development capability of developing foreign nations with respect to ocean and coastal resources, as such term is defined in section 203 of the National Sea Grant Program Act; and

(2) promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources.

(b) Eligibility and Procedure.—Any sea grant college and sea grant regional consortium (as defined in section 203 of the National Sea Grant Program Act) and any institution of higher education, laboratory, or institute (if such institution, laboratory, or institute is located within any State (as defined in such section 203)) may apply for and receive financial assistance under this section. Each grant or contract under this section shall be made pursuant to such requirements as the Secretary shall, after consultation with the Secretary of State, by regulation prescribe. Application shall be made in such form, and with such content and other submissions, as may be so required. Before approving any application for a grant or contract under this section, the Secretary shall consult with the Secretary of State. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 205(d) (2) and (4) of the National Sea Grant Program Act and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(c) Authorization for Appropriations.—There is authorized to be appropriated for purposes of carrying out this section not to exceed $3,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.

Sec. 4. Conforming and Miscellaneous Provisions.

(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(65) Administrator, National Oceanic and Atmospheric Administration.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(109) Deputy Administrator, National Oceanic and Atmospheric Administration.

"(110) Associate Administrator, National Oceanic and Atmospheric Administration.".

(c)(1) Section 2(d) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090) is amended by striking out "Level V" and "(5 U.S.C. 5316)" and inserting in lieu thereof "Level IV" and "(5 U.S.C. 5315)", respectively.

(2) The individual serving as the Associate Administrator of the National Oceanic and Atmospheric Administration (pursuant to section 2(d) of Reorganization Plan Numbered 4 of 1970) on the date of the enactment of this Act shall continue as the Associate Administrator, notwithstanding the provisions of paragraph (1).

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

Leonor K. Sullivan,
Thomas N. Downing,
Paul G. Rogers,
John M. Murphy,
John Breaux,
Philip E. Ruppe,
Charles A. Mosher,
Managers on the Part of the House.

Warren G. Magnuson,
Ernest F. Hollings,
Ted Stevens,
Claiborne Pell,
Alan Cranston,
Jacob K. Javits,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendments struck out all of the House bill after the enacting clause and inserted a substitute text and provided a new title for the House bill. The House disagreed to the Senate amendments.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate to the text of the House bill, with an amendment which is a substitute for both the text of the House bill and the Senate amendment to the text of the House bill. The committee of conference also recommends that the House recede from its disagreement to the amendment of the Senate to the title of the House bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to improve and strengthen the national sea grant program and to increase the understanding, assessment, development, utilization, and conservation of ocean and coastal resources upon which the quality of life of the major portion of this Nation's population is increasingly dependent.

Both the House bill and the Senate amendment extended the operation of the national sea grant program in the National Oceanic and Atmospheric Administration by authorizing appropriations for an additional period of time. The House bill authorized appropriations for one additional fiscal year, through September 30, 1977, essentially as an interim extension. The Committee on Merchant Marine and Fisheries of the House of Representatives determined to conduct a comprehensive review of the entire program in the 95th Congress before authorizing any longer term extension. The Senate amendment authorized appropriations for three additional fiscal years, through September 30, 1978. This was a result of the investigations and conclusions reached by the Senate Committees on Labor and Public Welfare and on Commerce in regard to the program. The conferees adopted some of the changes included in the Senate amendment, but followed the House bill in limiting the extension of the program to only one additional fiscal year. During this period the Committees can continue their review of the program, with special attention paid to the implementation of the changes included in the conference substitute and the effect of these changes.

At present, the national sea grant program is limited to providing financial assistance primarily for programs or projects designed to meet the needs of individual States and localities. Both the House bill and the Senate amendment authorized the national sea grant program, directly in the case of the House bill and indirectly in the case of the Senate amendment, to assist national projects which are responsive to national needs or problems. This provision is included in the conference substitute in a form which represents an amalgam of the two provisions.

The Senate amendment made a number of substantive and technical changes in the Act which created the national sea grant program (the National Sea Grant Program and College Act of 1966) and set them forth as a single amendment to that Act. The House bill did not include a comparable provision, although certain of these changes were set forth in the House bill in the form of separate amendments to the 1966 Act. The conference substitute follows the Senate amendment in this regard, but with some significant changes to the substance of the Senate amendment:

Contracts and grants are to be made consistent with the objective of this title, and subject to terms and conditions which incorporate changes suggested by the House conferees which clarify the Senate amendment.

Sea grant colleges and sea grant regional consortia are to be designated pursuant to specific findings made, and regulations promulgated by, the Secretary of Commerce. The authority of the Secretary to suspend or terminate such a designation is retained in the same form as proposed by the Senate.

The Senate amendment established a sea grant fellowship program as a means to encourage and recognize the efforts of qualified graduates and undergraduates in fields related to ocean and coastal resources. The conference substitute follows this provision.

The Senate amendment contained a provision establishing an independent sea grant review panel to provide improved review of the national sea grant program and to enhance the information available for congressional oversight. The conference substitute includes this provision but with modifications which reflect the desires and concerns of the House conferees to focus and clarify the duties of the panel in a more appropriate manner, and to establish criteria for membership.

Title II of the Senate amendment provided for an annual report and evaluation to be prepared with respect to the National Oceanic and Atmospheric Administration, which necessarily would include a discussion of the national sea grant program. Since the conferees did not adopt most of the provisions of title II of the Senate amendment, the conference substitute has been narrowed to provide for an annual report and evaluation only with respect to the national sea grant program. This provision of the conference substitute reflects the view of the conferees that the Congress should be provided with the kind of information and evaluation that will assist it in the performance of its oversight and policymaking responsibilities.

Both the 1966 Act and the Senate amendment contained provisions to facilitate better utilization of the national sea grant program through interagency cooperation. The conference substitute includes such a provision.

The other changes in the national sea grant program which are included in the conference substitute are set forth in the section-by-section discussion portion of this statement of managers.

Both the House bill and the Senate amendment directed the United States to provide assistance to developing foreign nations to increase the capabilities of such nations in the management and utilization of ocean and coastal resources. This provision is included in the conference substitute in a form which represents an amalgam of the two provisions.

The Senate amendment included a title II which set forth a program for a national marine science and technology policy within the National Oceanic and Atmospheric Administration under an Associate Administrator and a new Office of Marine Resources, Science, and Technology. The House bill contained no comparable provision. The conference substitute follows the House bill in this regard, with the Senate conferees having agreed to recede from their position. The conferees agreed, however, that there is a pressing need to define and set forth in precise detail a national ocean policy for the United States. It is the intent of the conferees to proceed towards this goal within their respective committees during the next Congress.

The Congress has noted with dismay the worsening financial condition of the national sea grant program. Essentially level funding over the past half decade has not only drastically reduced the program's buying power, but has prevented the program from progressing as rapidly as was originally envisioned toward one of its most important goals: the formation of a strong coastal and Great Lakes network of centers of excellence in marine research, education, training, and advisory services.

In light of the changes made in this legislation, the conferees would now encourage the program's managers to give serious consideration to the possibilities of slow and careful augmentation of the network, so long as this action seems justified according to the guidelines and criteria called for by the conference substitute and in keeping with responsible program management and the funds available to the program.

SECTION-BY-SECTION DISCUSSION

Section 1. Short title

The first section of the conference substitute follows the Senate amendment in providing that the short title of this legislation is the "Sea Grant Program Improvement Act of 1976."

Section 2. Amendment to the National Sea Grant College and Program Act of 1966

This section follows the House bill or the Senate amendment, or both, in amending the National Sea Grant College and Program Act of 1966 (which is title II of the Marine Resources and Engineering Act of 1966) as follows:

Section 201 provides that the short title of this legislation is the "National Sea Grant Program Act".

Section 202 sets forth the findings of Congress and the objective and purpose of the title. The national sea grant program, initially established in 1966, shall be extended and strengthened to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources through federal support to sea grant colleges, sea grant regional consortia, and other institutions, through the National Oceanic and Atmospheric Administration (NOAA). Education, training, research or advisory services activities should not be funded under the national sea grant program unless they are responsive to State, local, regional, or national needs or problems.

Section 203, the Definitions section, follows the House bill or the Senate amendment, or both, by adding new definitions to the title or by modifying definitions used in the Act of 1966. The terms "Administration" and "Administrator" are added to reflect changes made by the transfer of the National Sea Grant Program (under Reorganization Plan Numbered Four of 1970) from the National Science Foundation to the National Oceanic and Atmospheric Administration.

The term "marine environment" follows the House bill and the Senate amendment. The term is meant to include the coastal zone, as defined in the Coastal Zone Management Act of 1972; the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf. The term "outer Continental Shelf" as used in this definition is intended to have the same meaning as in section 2(a) of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331(a)).

The term "ocean and coastal resource" means any living, non-living, manmade, tangible, intangible, actual, or potential resource which is located in, derived from, or traceable to the marine environment. Specific examples of those resources which are meant to be included are enumerated.

The term "Director" means the Director of the national sea grant program appointed pursuant to section 204(b) of this title.

The term "field related to ocean and coastal resources" follows the Senate amendment to include any discipline or field "which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean or coastal resources".

The section defines "person" to mean any individual, any public or private corporation, partnership, or other association or entity (including any sea grant college, sea grant regional consortium, institution of higher education, institute, or laboratory); or any State, political subdivision of a State, or agency or officer thereof.

The definition of the term "panel" means the sea grant review panel established in section 209 of this title.

The terms "sea grant college" and "sea grant regional consortium" mean those colleges and association or alliances of persons which are designated as such pursuant to section 207 of this title.

The section defines the term "sea grant program" to reflect the specific activities to be conducted pursuant to this title. Such a program must be administered by a sea grant college, sea grant regional consortium, other institution of higher education, institute, laboratory or State or local agency, and it must include two or more projects involving research, education, training, or advisory services in fields related to ocean and coastal resources.

Section 204 directs the Secretary of Commerce to maintain a national sea grant program within NOAA to be administered by a Director appointed by the Secretary. The qualifications of the Director are set forth as well as specific duties. The Director shall—(1) apply long-range guidelines and implement priorities established by the Secretary; (2) advise the NOAA Administrator of program expertise and capabilities beneficial to other offices of NOAA; (3) assure that Federally-funded sea grant projects comply with the objective of this title; (4) encourage the sharing of program expertise and capabilities with other Federal agencies; (5) advise the Secretary on the designation (or termination or suspension of such designation) of sea grant colleges and sea grant regional consortia; and (6) encourage the formation and growth of sea grant programs.

The section also grants certain powers which are necessary to carry out the title.

The Act of 1966 as amended, by declaring that "the Secretary, in carrying out his functions under this title, has the same powers and authority as has the National Science Foundation under the National Science Foundation Act of 1950", provides that the sea grant program may employ "such technical and professional personnel" as the Secretary "may deem necessary", without regard to the civil service laws. The conference substitute restricts this power to create excepted (i.e. non-civil service) positions by limiting to 5 the number thereof. The present authority to publish or arrange for publication of information, which is also based in the Science Foundation Act, is included in the conference substitute but with the modification that such information shall be disseminated by the sea grant program "in cooperation with" the other entities within NOAA (such as the National Marine Fisheries Service and the Coastal Zone Management Office).

Section 205 authorizes the Secretary to make grants and enter into contracts to assist any sea grant program or project found to implement objectives and be responsive to needs and problems of individual states or regions through grants or contracts not exceeding 66⅔% of the cost of the program or project involved. Special grants of up to 100% may be made, from up to 1% of funds appropriated, for purposes unable to be achieved through matching grants. Certain terms and conditions are listed in this section which follow the House bill and the Senate amendment. No financial assistance can be provided by the Secretary if the proceeds "will be applied to the purchase or rental of any land or to the purchase, rental, construction, preservation, or repair of any building, dock, or vessel." An exception to this prohibition is provided to allow funds to be used for the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under a sea grant program. The exceptions relating to stationary habitats, buoys, platforms, and similar devices is included in present law so that the one additional exception provided for in this conference substitute pertains to the rental of research vessels. This provision follows the House bill and the Senate amendment.

When the original Act was enacted in 1966, it was thought that funds for the purchase of ship time could be drawn from other sources within the National Science Foundation. Because of Federal funding constraints imposed upon the scientific community during recent years, many of the former sources of research grants are no longer in a position to be able to assist sea grant programs. Therefore, this flexibility is being given to the Secretary so that sea grant programs or projects can utilize funds for the purchase of ship time to accomplish specific scientific objectives related to such programs or projects.

No one State can receive, under such contracts and grants, more than 15 percent of the funds appropriated to the National Sea Grant Program in a particular fiscal year. An additional condition set forth in this section relates to the manner and form of recordkeeping by grant recipients. This auditing language is rather standard in recent statutes to inform those persons receiving grants of requirements imposed upon them for government auditing purposes.

Section 206 follows the House bill and the Senate amendment by authorizing the Secretary to make grants up to 100 percent of the total cost of projects if such projects address specific national needs or problems with respect to ocean and coastal resources. The Secretary is directed to identify specific national needs and problems related to ocean and coastal resources. It is anticipated that the Secretary will carry out this function on a continuing basis so that the program can shift in direction as national needs change. Specific terms and conditions are set forth in this section which are consistent with some of the requirements imposed upon contract and grant recipients under section 205. This national project provision is authorized on an experimental basis for one year, so that the responsible Committees of the Congress can closely evaluate its effectiveness and value. The appropriations authorization is kept separate from the authorization for all of the other activities because the conferees do not want the major program funds eroded, and they want the two programs dealt with separately on their respective merits. While $5 million is authorized to be appropriated for national projects, an additional restriction mandates that the Secretary cannot obligate to be expended for national projects an amount equal to more than 10 percent of funds appropriated under section 212.

Section 207 follows the House bill and the Senate amendment by authorizing the Secretary of Commerce to designate "sea grant colleges" throughout the United States. This power was given to the Secretary previously in the Act of 1966, and it is being extended in this legislation. Subsection (a)(1)(B) follows the Senate amendment by authorizing the Secretary to designate a "sea grant regional consortium". Any association or other alliance of two or more persons (as defined in section 203) can be designated as a consortium if it is established for the purpose of sharing expertise, research, educational facilities, or training facilities, and other capabilities in order to facilitate research, education, training and advisory services, in any field related to ocean and coastal resources. The Secretary must also find that such consortium will encourage and follow a regional approach to solving problems or meeting needs relating to ocean and coastal resources. While the sea grant regional consortium can be designated as such based on a finding that it will provide one or more of the services enumerated in the legislation (i.e., research, education, training, or advisory services) it is essential that it be required to provide all four services as soon as is practical after designation. Each sea grant college must maintain a balanced program of research, education, training, and advisory services in fields related to ocean and coastal resources. The conferees intend that designation as a sea grant college or sea grant regional consortium shall not entitle such entity to preferential treatment beyond the recognition of capabilities required for such designation. It is expected that the National Sea Grant Program will be administered in a manner which will provide an equal opportunity for participation of all qualified applicants.

The Secretary is required to promulgate regulations setting forth the qualifications required to be met by sea grant colleges and sea grant regional consortia as well as the duties of such colleges and consortia after designation. Section 207(c) permits the Secretary to suspend or terminate such designation for cause.

Section 208 requires the Secretary to support a sea grant fellowship program to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education. This education must be in fields related to ocean and coastal resources. Such assistance shall be awarded by sea grant colleges, sea grant regional consortia, and other suitable institutions of higher education, pursuant to guidelines issued by the Secretary. The total amount of funds which may be obligated for such fellowships during any fiscal year cannot exceed 5 percent of the total funds appropriated pursuant to section 212 for such year. This provision follows the Senate amendment.

Section 209 establishes a statutory sea grant review panel which, on the 60th day after the day on which this legislation is enacted, will supersede the sea grant advisory panel currently in existence. Specific duties of the panel are set forth in subsection (b); these are not meant to be exclusive. This panel shall review and advise the Secretary on grant proposals and projects; the fellowship program; the designation and operation of sea grant colleges, sea grant regional consortia, and the operation of sea grant programs, and such other matters as the Secretary refers to the panel. The conferees do not expect the panel to review all proposals and applications for grants and contracts, but review a cross-section of such proposals and applications. Subsection (c) provides for the organization of the panel, outlining the membership, terms of office, and powers and sets forth some prohibitions concerning membership. The panel shall consist of 15 voting members appointed by the Secretary, plus the Director as a non-voting member. No less than five members shall be qualified, in marine science, and the remaining members shall be qualified in education, extension services, state government, industry, economics, planning or other activity appropriate to ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is a director of a sea grant college, sea grant regional consortium, or sea grant program; a Federal employee; an applicant for, or beneficiary (as determined by the Secretary) of any grant or contract under section 205 or 206. The Secretary, in determining beneficiary, shall consider all possible conflicts of interest which might prejudice a voting member's actions on the panel. The panel is required to meet biannually; it may meet at other times at the call of the Chairman, upon the request of a majority of the voting members, or upon the request of the Director.

Section 210 follows the Senate amendment by placing certain requirements upon departments, agencies, or other instrumentalities of the Federal Government engaged in, concerned with, or which have authority over matters relating to ocean and coastal resources. Such departments, agencies, or instrumentalities must cooperate with NOAA and its duly authorized officials and may provide personnel, services, and facilities to NOAA to assist in achieving the objective of this title. Such departments, agencies or instrumentalities are required to provide available data or other information which the Secretary deems necessary to carry out this title. This section is intended to stimulate cooperation and coordination within NOAA as well as throughout the Executive Branch.

Section 211 follows the Senate amendment in requiring the Secretary to transmit an annual report to the Congress and the President by February 15 of each year. This report should comprehensively cover all of the activities of the national sea grant program for the preceding fiscal year and it should project future activities and objectives of such program. The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, in the Executive Office of the President, shall be given an opportunity to review each report to be submitted. In addition, such Directors may submit their own comments, recommendations and independent evaluations of the national sea grant program. These OMB and OSTP views shall be transmitted to the Secretary not later than February 1 of each year and the Secretary shall publish such views as a separate section in the annual report. The conferees feel that the Directors can provide valuable opinions to assist the Congress in its oversight responsibilities.

Section 212 authorizes appropriations for the implementation of the activities and programs of the National Sea Grant Program (other than section 206 of this title). The level and duration of authorizations follows the House bill by providing $50 million for one fiscal year (FY 1977).

Section 3. International cooperation assistance

The Secretary may enter into grants and contracts with any sea grant college, sea grant regional consortium, institution of higher education, laboratory, or institute within the United States, to enhance research and development capabilities of developing foreign nations and promote the international exchange of information and data with respect to ocean and coastal resources. $3,000,000 is authorized for FY 1977. The conferees intend that the term "developing foreign nation" include any foreign nation other than a foreign nation which is ineligible for designation (under section 502 (b) of the Trade Act of 1974 (19 U.S.C. 2462 (b)) as a beneficiary developing country under title V of such Act.

The conferees envision that this provision will be utilized by sea grant colleges, sea grant regional consortia, institutions of higher education, laboratories, and institutes in this Nation to encourage the research and development of, and technology transfer to, developing countries in respect to ocean and coastal resources. The purpose is to enhance scientific cooperation between developing foreign nations and their institutions of higher education, institutes, and laboratories with those of the United States. The conferees intend that the Secretary delegate the administrative functions of this program to the Administrator of NOAA.

Section 4. Conforming and miscellaneous provisions

This section follows the Senate amendment.

Subsection (a) adds the Administrator of NOAA to the statutory list of Federal officials at Level III of the Executive Pay Schedule.

Subsection (b) and (c) adds the Deputy and the Associate Administrator of NOAA to the list of executives compensated at Level IV of the Executive Pay Schedule.

LEONOR K. SULLIVAN,
THOMAS N. DOWNING,
PAUL G. ROGERS,
JOHN M. MURPHY,
JOHN BREAUX,
PHILIP E. RUPPE,
CHARLES A. MOSHER,
Managers on the Part of the House.

WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
TED STEVENS,
CLAIBORNE PELL,
ALAN CRANSTON,
JACOB K. JAVITS,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 12112, TO PROVIDE ADDITIONAL ASSISTANCE TO ERDA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 94–1557) to accompany the privileged resolution (H. Res. 1545) providing for the consideration of the bill

(H.R. 12112) to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration, which was referred to the House Calendar and ordered printed.

PERMISSION FOR SUBCOMMITTEE ON FOSSIL FUELS TO MEET THURSDAY, SEPTEMBER 16, 1976, DURING 5-MINUTE RULE

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fossil Fuels may meet tomorrow morning, September 16, 1976, during debate under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that it will be for hearing purposes only?

Mr. HECHLER of West Virginia. For hearing purposes only; no markup.

Mr. ROUSSELOT. I appreciate the gentleman's response.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 366, PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976

Mr. EILBERG. Mr. Speaker, I call up the conference report on the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement see Proceeding of the House of September 10, 1976.)

Mr. EILBERG (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Public Safety Benefits Act has had a long and sometimes confusing legislative history.

Despite the fact that various versions of this legislation have overwhelmingly passed both bodies in the 92d and 93d Congresses, we were not able to secure final approval of this legislation during those Congresses.

In the 92d Congress a conference report was filed resolving the differences between House and Senate versions, but the adjournment of that Congress prevented House consideration of the conference report.

In the 93d Congress, after House and Senate approval of this legislation, an impasse was reached and a conference meeting was not even held. The critical issue that could not be resolved last Congress related to the scope of coverage to be provided by this legislation. I am gratified that this was not a problem for the conferees this Congress and I am particularly pleased by the provisions contained in the conference report which we present to the House today.

In particular, the primary obstacle in earlier Congresses was the more restrictive coverage provided to public safety officers by the Senate bills. The Senate, until this year, continuously insisted on restricting coverage to those deaths which were the result of a criminal act or an apparent criminal act.

The House bills, on the other hand, in all three Congresses provided for a more expansive coverage which would include most "line of duty" deaths, such as those which occur while apprehending criminal suspects.

This year the Senate agreed as to the need for broader coverage and approved a floor amendment to the House-passed bill (H.R. 366) removing the criminal act restriction.

The conference agreement conforms with the Senate provision and authorizes payment of a $50,000 death benefit to the survivors of public safety officers who die in the line of duty.

The managers felt that all acts which are performed by public safety officers to protect the lives and property of our citizenry should be within the scope of this legislation. The managers on both sides further believed that the concept of line of duty is well defined and that this type of coverage would greatly facilitate the administration of this act of LEAA.

With regard to occupational coverage, the conference agreement authorizes payment of the death benefit to the survivors of both law enforcement officers and firemen. My colleagues will recall that, in an effort to expedite consideration of this legislation, your Judiciary Committee processed separate bills on this subject—H.R. 365 for firemen and H.R. 366 for law enforcement officers.

The Senate provided coverage to both categories of public safety officers in its substitute amendment to H.R. 366, and this combined coverage was retained by the conference committee.

One additional matter that should be discussed is the effective date for the death benefits authorized by the legislation.

Under the provisions of the House bill, benefits were authorized for deaths occurring from injuries sustained on or after October 11, 1972.

The Senate version, on the other hand, was prospective in nature.

The conference agreement conforms to the Senate amendment and the retroactive provision is not included in the conference report.

We had been led to believe that a Presidential veto was very likely if the retroactive provision was retained by the conferees, and it was the judgment of the managers on the part of the House that this provision had to be sacrificed in order to avoid such a possibility.

Personally, I had great difficulty in compromising the House position on retroactivity. My colleagues may remember that I successfully resisted attempts to eliminate the retroactive provision from the bill on the floor of the House on two occasions.

Nevertheless, in order to reach a conference agreement and to insure approval of this urgently needed legislation, it was necessary to agree to prospective coverage.

Finally, the conferees considered two provisions in the Senate substitute amendment which were not in the House bill. One provision would have established a group life insurance program for public safety officers, while the other would have authorized Federal funds to compensate the victims of violent crime.

The Senate conferees agreed to drop both of these provisions from the conference report.

Mr. Speaker, the managers for the House and Senate and the members of their respective legislative committees have worked long and hard to produce this legislation and I strongly urge my colleagues to approve this conference report.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to express my support for the gentleman's statement. I am delighted to be a party to the conference committee. I urge every Member to support the bill.

Mr. EILBERG. Mr. Speaker, I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I rise in support of the conference report. I commend the gentleman from Pennsylvania (Mr. Eilberg) for the excellent work he has done over an extended period of time, and I also commend the gentleman from New York (Mr. Fish) for the work he has done.

Mr. Speaker, this is indeed a proud moment for this Congress. We are about to complete action on a piece of legislation with profound importance for the law enforcement and firefighting communities, namely the bill which will provide a $50,000 lump sum death benefit payment for the surviving dependents of those men killed in the line of duty. Adoption of this conference report will culminate several years of intense efforts on my part and on the parts of my distinguished colleagues, Mr. Eilberg and Mr. Rodino.

I am generally pleased with this report, particularly for its acceptance of the House passed version which maintains the language allowing for the death benefit payment to be provided to those law enforcement personnel and firefighters who die as a direct and proximate result of injuries sustained in the line of duty. The Senate passed version sought to limit coverage to those instances where a criminal act is involved. This arbitrary restriction would have severely limited the ability of widows and survivors to obtain these benefits.

Despite my own personal objections to the deletion of the retroactive date contained in the House-passed version, I feel we are achieving the greater good in that we are enhancing the bill's prospects of being signed by the President and enacted into law. The members of our law enforcement and firefighting communities have waited patiently for final action to be completed on this legislation. While waiting, they have seen a sharp increase in the number of their colleagues killed in the line of duty. They have heard promises about this legislation. Our passage of this conference report today can transform these promises into reality.

As I speak in support of this conference report, I recall vividly my own 23 years as a member of the New York City Police Force. I remember the many funerals I have attended of friends and colleagues in the department who were killed in the line of duty. The imprint of the expressions on the faces of grief-stricken widows and survivors of these men is deeply ingrained in my memory. Oftentimes their sorrow was compounded by a genuine fear for their future economic survival. I recall the public officials and community leaders in attendance at these funerals who responded to the situation with crocodile tears and nothing more. We, as Members of Congress, have an opportunity to demonstrate our support for the work of the law-enforcement and fire-fighting communities by passing this legislation which will guarantee that their survivors will not have to suffer the indignity of poverty if they should be killed.

I am also pleased that the conference report extends eligibility to the following members of the law enforcement community—police, correction, probation, parole, and court officers as well as officers related to juvenile delinquency programs. It is also my understanding that the members of auxiliary police forces will be included. The members of auxiliary police forces also face danger daily in their work providing assistance to the regular law enforcement departments. Just last September, one of the 5,000 members of the New York City Auxiliary Police Force was brutally murdered in Central Park. Coverage for these individuals will be an important recognition of the invaluable services they provide to communities.

Since the time I entered Congress in 1968, I have fought for the passage of this kind of legislation. In the past 15 years, this Nation has witnessed a 300-percent increase in the number of law enforcement officers killed in the line of duty. The number of firefighters killed in the line of duty has also increased. To say the jobs of these men are hazardous is almost a cruel understatement. To fail to provide for their widows and survivors would be an even crueler neglect.

As a former law enforcement officer and as a Member of this Congress, I am very proud today. We are one step closer to enacting this important bill into law. Let us demonstrate to the law enforcement and firefighting communities that we are in full support of their efforts and will not be party to the abandonment of their survivors in the event they are killed.

It would certainly be nice to think that the situation in our Nation will improve sufficiently to eliminate the threat on the lives of law-enforcement personnel and firefighters. This unfortunately is only hopeful thinking. We must be realistic and deal with the situation as it is. I strongly urge adoption of this conference report this afternoon.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

I, too, rise to compliment the gentleman from Pennsylvania (Mr. EILBERG) for the very able conference report that has been presented to us. I, too, disagree with the effective date for death benefits, but I strongly applaud the thrust of this legislation in order to include both firemen and law enforcement officers.

Mr. Speaker, while I very strongly object to the effective date for death benefits, I strongly applaud the thrust and coverage of this legislation to include firemen and law enforcement officers.

The House bill provided that death benefits of $50,000 shall apply with respect to any eligible public safety officer who dies as a direct or proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The conference substitute conforms to the Senate amendment.

This action will be a tough financial blow to recent victims and their families, in addition to their irreplaceable loss of their loved one. What will their solace be? The threat of a Presidential veto was wrong and ill-advised.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague from Pennsylvania (Mr. EILBERG), in support of the conference report on H.R. 366. As you will recall, this House passed separate bills in April of this year providing for a $50,000 death benefit for survivors of policemen and firemen killed as a result of their hazardous duties. This House has passed similar legislation in the two previous Congresses, however, we were never successful in obtaining final passage by both Houses and thus enact this concept into law.

During this Congress, both the House and Senate passed its own version of such bills and after working out the differences between the approaches taken by each House, we are submitting a conference report which, I believe, to be the best possible resolution of this matter.

The text of the bill which your managers are reporting today, in fact combines two bills which this House originally passed. Thus, the conference report is in agreement with the substance, if not the form of previous House action, with respect to the occupations covered, that of law enforcement officers and firemen. The scope of coverage is slightly liberalized to cover deaths which occur in the line of duty, rather than the more restrictive "hazardous duty" concept which was contained in the House bills. There are also two relatively minor changes in the original House bills in the definition of law enforcement officers and in the application of dependency tests for those eligible to receive benefits. Your conferees accepted the Senate provision providing for benefits only prospectively from the date of enactment, rather than retroactively as contained in the House bills.

I believe that the text agreed to by your conferees fairly reflects the collective will of the Congress. It will provide benefits to the survivors of those special members of our society who daily risk their lives to protect the lives and property of others—a concept which our committee has worked on for over 5 years. It should be enacted into law, and I urge my colleagues' favorable vote to accept this conference report.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), who, over the last two Congresses, during the time this bill has been before us, has been one of the forces in favor of this legislation and who has worked very hard toward this end.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, this is an extremely important measure for our public safety officers and for our firemen. For two sessions, in both the 93d and 94th Congress, we have labored long and hard to have this measure brought before the House and the Senate and approved by both Houses.

I wish to commend the gentleman from Pennsylvania (Mr. EILBERG) and the gentleman from New York (Mr. FISH) who have worked so diligently on this legislation so that this conference report could come before us for consideration at this time.

The conference report accompanying H.R. 366, the Public Safety Officers Act of 1976, a report that combines the best features of H.R. 366, the Public Safety Officer's Benefits Act of 1976, and H.R. 365, the Firefighters Benefits Act—measures that overwhelmingly passed the House on March 30—provide a significant benefit for the families of police and firemen killed in the line of duty.

Since 1961, more than 1,200 public safety officers have died in the line of duty and that statistic does not include those officers who were seriously injured in the performance of their duty. A similar grim roll of our firefighters discloses that since 1963, 985 courageous professional firefighters have succumbed to the flames of smoke-filled buildings.

Mr. Speaker, these grim figures and tragic events speak for themselves. They represent the courage and dedication of brave men who daily put their very lives on the line to protect the communities of our Nation. This legislation is not any giveaway program. No one wants to collect a survivors death benefit, but for the surviving dependents, particularly in those communities where such benefits are inadequate or nonexistent, this $50,000 death benefit will be of some comfort.

Mr. Speaker, for the first time in many years, this Congress has an opportunity to provide meaningful assistance to the survivors of policemen and firemen. Let us not turn our backs on these brave men and women who so tirelessly and unselfishly dedicate their lives in the protection of the safety of our communities.

My one reservation is that it is unfortunate that we are not able to make this measure retroactive as we sought to do earlier in this body. Just this past week, for example, a courageous New York City police officer, Brian Murray, met with his death while trying to disassemble a bomb that was connected with an act of terrorism involved in the hijacking of a TWA airplane by the Croatian nationalists.

I urge my colleagues to join in support of this important measure so that we can provide for the families of our public safety officers who give so much in protecting all of us and our families.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I, too, regret very much that this legislation is not being made retroactive. This feature of the conference report is not to my satisfaction or to the satisfaction of other Members from other districts, because since the time this legislation was first reported out of the Committee on the Judiciary, officers have been killed and their families placed on the public charge because of the absence of such legislation.

However, in view of the long and difficult effort that it took to get this legislation to this stage, I think we must settle for the substance and the prospective value of the bill and yield to the difficulties of getting it made retroactive.

Mr. Speaker, I, therefore, strongly support the conference report.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his pertinent remarks.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, the conference report before us returns an old friend to us for our consideration. This legislation has been kicked around for at least 6 or 7 years. Let me tell the Members the reason why we have not reached this point heretofore. The reason is because it embodies a singularly bad idea.

This bill has been characterized by Members on both sides of the aisle in the harshest of terms. I want the Members to know that we have perhaps had our day in court; we have had a vote and lost. But, once again, this calls upon us, I think, to exercise some responsibility.

We are giving away $50,000 not to the police officer—he has to die before the money is paid—but, rather, to his survivors, persons for whom the Federal Government has no responsibility. These are State and local police officers.

The precedent that is established here is a bad one. This is nothing short of and nothing less than a simple giveaway, and it has been characterized by Members on both sides of the aisle as irresponsible legislation.

Mr. Speaker, I do not approve of all that transpires in this Chamber, but this bill is one that is singularly bad. I urge a no vote, and I fervently hope that the President vetoes it.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I want to commend the gentleman in the well for the statement that he has just made. As the gentleman stated, we are asking the Federal Government to borrow money which we do not have to assume the responsibilities of local units of government and State governments.

It is the responsibility of State governments, it is the responsibility of local governments to enforce the overwhelming body of criminal laws in this country.

I fear that this is one of many steps toward the establishment eventually of a national police force, which I do not want to see established in this country.

If we start paying the bills, we are going to start being responsible for the police forces.

Mr. Speaker, I commend the gentleman.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, the beneficiaries of this bill are worthy. The principle is bad. The precedent is even worse.

I commend the gentleman from California (Mr. WIGGINS) for the stand he has taken and join him in asking the Members to turn down this conference report.

Mr. WIGGINS. Mr. Speaker, having spoken harshly about the bill, I want finally to compliment our subcommittee chairman for his successful effort finally, and also for his effort in cutting away two abominable provisions which the Senate sought to attach to an already burdened piece of legislation.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I take this time only to pose a question to the gentleman in the well or to the chairman of the subcommittee.

That question is this: Am I correct that the benefit payable under this legislation would be payable even though the death occurred as a result of the gross negligence of the individual involved?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, that is absolutely incorrect. If the individual involved is grossly negligent and that is the cause of his death, there would be no benefits that would flow to his next of kin.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, section 702 says as follows:

> No benefit shall be paid under this part—
>
> (1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;
>
> (2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or
>
> (3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

Are those not the only disentitling factors?

Mr. SARBANES. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. SARBANES. Mr. Speaker, before any payment can be considered, the person has to come within the limitation of having acted within the line of duty.

A person grossly negligent in exercising his responsibility would fall outside of the umbrella of the act since his action was not within the line of duty, and therefore his next of kin would not be paid.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, is the gentleman telling me that if the person is within the geographic area of his employment, if he is working or acting during the hours of his employment, and he does things, even though negligently, within the scope of his employment, that he is not acting in the line of duty?

Mr. SARBANES. I think the phrase "line of duty" is a work of art. It is not defined precisely as the gentleman is defining it.

However, that is correct. That is what I am saying to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. To establish the legislative history, is the gentleman saying, then, that negligent conduct in the line of duty precludes benefits? Is that right?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, the term "line of duty" I think is fully defined in the report, and I will read it at this point, for the purposes of legislative history.

> The term "line of duty," as used in this bill—

Referring to the Senate bill—

> means that the officer's death must have occurred when the officer is performing duties authorized or required by law, acting in his official capacity as a law enforcement officer or fireman.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, it says nothing about whether or not his death resulted because of his own negligence.

Mr. EILBERG. As the gentleman from Maryland (Mr. SARBANES) said, there would be no coverage in that case.

Mr. WIGGINS. Mr. Speaker, I think the legislative history is now clear.

Mr. BROWN of Michigan. That may be so, but I think the language of the report should be in the law and whether in the report or in the law, I respectfully suggest it does not dispose of my questions in view of the response I have received.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from California (Mr. WIGGINS) who just spoke in the well.

He has been a very vigorous opponent of this legislation from the outset, and he has fought a very clean fight. He is a worthy opponent.

However, I would like to respond very briefly to some of his comments by saying that this is, in fact, good legislation. It affects the morale of public safety officers presently employed to know that provisions have been made for their families in the event of death in the line of duty.

Experts who testified in hearings before us indicated that this legislation would aid in the recruitment of officers.

I would like to say there is, indeed, a responsibility on the part of the Federal Government because the States have been unable or unwilling to assume the responsibility. We are dealing with the subject of crime which has been recognized as a national condition. Finally, the cost involved is relatively small and the benefits are huge.

I strongly urge that every Member vote in favor of the conference report.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I had not intended to speak on this subject until I heard some of the comments that have been made against this particular measure.

Mr. Speaker, I have been known to vote against one or two of the bills that have meandered around this Chamber but I do not believe that this is one that I should vote against. I think it is a question of value and what we can expect of law enforcement. I would submit that LEAA ought to be known as the Law Enforcement Electronic Administration Act. We have given policemen all over the country two-way, four-way, and six-way radios. We have made sleuths out of them with electronics wonders. We have provided them with television cameras so that they could scan drunks and tape their antics. We have given them every possible thing that they could need. But this is the first time we have ever had a proposal to spend even a small amount to aid their families when an officer is killed. I believe it is all a question of value and a question of comparison. I see no reason why the Federal Government should not give some help to the bereaved family of an officer if we can spend all of the money we have on the LEAA.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. Speaker, I rise in strong support of the conference report. I want to compliment the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG), as well as the ranking minority member, the gentleman from New York (Mr. FISH), for their extraordinary efforts with respect to this legislation.

As has been pointed out, this measure has indeed been carried around the legislative halls for a number of years and I am pleased that that has come to an end today and that we are about to approve an extremely important and valuable bill on the floor of this House.

This legislation is long overdue, Mr. Speaker, for the benefit of those policemen, law enforcement officers and firemen who daily risk their lives. Any look at the statistical tables will clearly show us that they are engaged in the most dangerous occupation in the country.

It is all well and good to say that these benefits ought to be provided by other levels of government. The fact of the matter is that they have not been so provided. So that the beneficiaries of this legislation who have been termed, even by its opponents, as being worthy, ought not be left without any recompense for the loss of the wage earner in the family. This legislation provides benefits for the families of those people who daily assume the risks of protecting us. I am pleased that the conference report is now before us. I look forward to its enactment into law so that it can provide compensation to those families of the men and women who have served without such benefits for too long a time.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I wonder if I can have the attention of my good colleague, the gentleman from Maryland (Mr. SARBANES).

Would the gentleman from Maryland also now suggest that, in the name of equity, we ought to provide $50,000 life insurance protection for each person in the military?

Mr. SARBANES. Mr. Speaker, if the gentleman will yield, I think that all of them are covered by very good insurance programs.

Mr. ROUSSELOT. Not to the tune of $50,000.

Mr. SARBANES. They are covered by the Federal Government on insurance.

Mr. ROUSSELOT. I repeat, not to the tune of $50,000.

Mr. SARBANES. If the gentleman from California is suggesting that the coverage provided for them in view of the risk involved is inadequate, I will be willing to take a look at it, as to whether we should institute another program in its place so as to cover that problem.

In this instance we will be making payments to the beneficiaries of these officers, something which has not existed with respect to policemen, law enforcement officers, and firefighters who are people who run far greater risks in terms of loss of life than is the case of the other group.

Mr. ROUSSELOT. I understand the present benefits that are provided for the military and I support that program. Does the gentleman now wish to say that we should also do the same in the name of equity for the military that is a minimum amount of $50,000?

Mr. SARBANES. This gentleman has not had the opportunity to examine fully the benfits that flow to the military. If the gentleman from California is suggesting that that should be done, perhaps it should be done. The bill that is before us deals with law enforcement officers and firefighters. The case that was made on their behalf before the subcommittee and in the full committee was fully documented and I think is an extremely strong case; therefore, I support the legislation. I have not had the opportunity to hear the same testimony with respect to the military, although I do know that there is a benefit arrangement already in place with respect to the military which contrasts sharply with this situation in which there is no benefit arrangement in place.

Mr. ROUSSELOT. I understand the benefits that are now in place for the military. That is not my point.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FISH. I yield the gentleman from California 1 additional minute.

The SPEAKER pro tempore. The gentleman is recognized for 1 additional minute.

Mr. ROUSSELOT. I understand the benefits that we have voted for our military personnel. I have supported those programs. My point was that in the name of equity is the gentleman prepared to move the dollar amount of life insurance for the military to $50,000? What about other Federal employees who are engaged in hazardous occupations? Does this legislation selectively provide for one group and avoid many others who are deserving?

Mr. EILBERG. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. I thank the gentleman for yielding.

For the purpose of the record, benefits received by the military presently include a gratuity equal to 6 months' pay, which may range from $800 to $3,000; insurance in one of the following amounts: $5,000, $10,000, or $15,000; Veterans' Administration payments to survivors of between $184 and $460 a month, post exchange, commissary, and medical facilities for the remainder of life for the widow and the survivors of the veteran involved.

I might say finally that if these benefits are not considered adequate, certainly I and, I am sure, other members of the subcommittee would be prepared to review the need and be prepared to support legislation before the committee of jurisdiction and on the floor.

Mr. RAILSBACK. Mr. Speaker, I am happy to concur with my colleague from New York (Mr. FISH) and the other managers of the part of this House in support of the conference report on H.R. 366 to establish a $50,000 death benefit to the survivors of police and firemen killed in the line of duty.

In each of the past two Congresses, I have been pleased to introduce similar legislation to provide some security for the survivors of our police and firemen who daily risk their lives to protect us and our property. Few of them have adequate resources available to provide their loved ones with appropriate insurance or other survivors' benefits should anything happen to them. Many public safety officers who are killed in the line of duty are young with small children. Often, they have not served long enough for their pension rights to vest. It is therefore, most appropriate, that we provide this benefit for their survivors which will, in some way, repay for the sacrifices made by these brave men and women.

I am most pleased that we were able to resolve our differences with the other body and urge my colleagues to accept the conference report so this most worthy program which the Congress has considered for these many years, can become law.

Mr. MINISH. Mr. Speaker, I rise in strong support of the conference report on the Public Safety Officers' Benefits Act of 1976. As a long-time sponsor of this meritorious legislation I am pleased to see that it has come this close to final enactment. As many of my colleagues are aware, this same measure passed the House in both the 92d and the 93d Congress but never was sent to the President for signature.

The conference agreement before us now provides a $50,000 death benefit to the survivors of public safety officers, including both law enforcement officers and firemen, who die in the line of duty. Benefits would be effective with enactment rather than retroactive to October 11, 1972 as in the House bill. The 1972 date was the time at which the House first passed this bill. I am disappointed that it was not included in the final version, but I nevertheless believe this legislation merits the support of all Members of the House.

Passage of this bill today by an overwhelming margin would serve as a partial and long overdue payment for the tremendous debt we owe policemen and firemen for the protection they so selflessly provide for all citizens. It would also emphasize the Nation's determination to support its dedicated law enforcement officials in deeds, as well as in words.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I urge an aye vote on the conference report.

Mr. EILBERG. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present; and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 71, not voting 69, as follows:

[Roll No. 735]

YEAS—290

Abzug
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clay
Cochran
Conte
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniels, N.J.
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Flowers
Flynt
Foley
Ford, Mich.
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman

Ginn
Goldwater
Gonzalez
Goodling
Grassley
Gude
Guyer
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Hubbard
Hungate
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCloskey
McCormack
McDade
McFall
McKinney
Madigan
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nowak
Oberstar

Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Roberts
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Runnels
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—71

Abdnor
Adams
Archer
Armstrong
Ashley
Bolling
Bonker
Brown, Mich.
Brown, Ohio
Burleson, Tex.
Burlison, Mo.
Butler
Clawson, Del
Cleveland
Cohen
Collins, Tex.
Conable
Conyers
Cornell
Daniel, R. W.
Dellums
Dingell
Duncan, Oreg.
Edwards, Calif.

Eshleman
Fountain
Fraser
Frenzel
Gradison
Hagedorn
Hall, Tex.
Harrington
Holtzman
Hughes
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Kindness
McClory
McDonald
McEwen
McHugh
McKay
Mahon
Martin
Michel
Mikva

Milford
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Pattison, N.Y.
Paul
Poage
Quie
Robinson
Rousselot
Roybal
Satterfield
Schulze
Sebelius
Shuster
Stark
Taylor, Mo.
Taylor, N.C.
Teague
Treen
Waggonner
Whitten
Wiggins

NOT VOTING—69

Allen
AuCoin
Beard, R.I.
Bergland
Bingham
Bowen
Broomfield
Burton, Phillip
Carter
Chisholm
Collins, Ill.
Conlan
Crane
Danielson
Diggs
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Findley
Florio
Ford, Tenn.
Forsythe
Green

Haley
Hansen
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Horton
Howard
Howe
Hutchinson
Jones, Ala.
Kemp
Landrum
McCollister
Madden
Maguire
Mann
Matsunaga
Metcalfe
Moss
Neal
Nolan

Passman
Peyser
Rees
Riegle
Rinaldo
Risenhoover
Roe
Russo
Santini
Schneebeli
Sikes
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Vander Jagt
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Bowen for, with Mr. AuCoin against.

Mr. Phillip Burton for, with Mr. Hébert against.

Mrs. Chisholm for, with Mr. Landrum against.

Mr. Russo for, with Mr. Moss against.

Mr. Roe for, with Mr. Rees against.

Mr. Matsunaga for, with Mr. Stephens against.

Mr. Florio for, with Mr. Danielson against.

Until further notice:

Mr. Beard of Rhode Island with Mr. Broomfield.

Mr. Haley with Mr. Evins of Tennessee.

Mr. Neal with Mr. Conlan.

Mr. Bergland with Mr. Erlenborn.

Mr. Helstoski with Mr. Forsythe.

Mr. Howard with Mr. Green.

Mr. Nolan with Mr. Findley.

Mr. Bingham with Mr. Carter.

Mr. Jones of Alabama with Mr. Hansen.

Mr. Diggs with Mr. Young of Alaska.

Mr. Henderson with Mr. Crane.

Mr. Passman with Mr. Heinz.

Mr. Ford of Tennessee with Mr. Vander Jagt.

Mr. Maguire with Mr. Esch.

Mr. Mann with Mr. Rinaldo.

Mr. Stuckey with Mr. Hawkins.

Mr. Sikes with Mr. Riegle.

Mr. Risenhoover with Mr. Symms.

Mr. Allen with Mr. Kemp.

Mrs. Collins of Illinois with Mr. Schneebeli.

Mr. Evans of Colorado with Mr. Peyser.

Mr. Howe with Mr. Horton.

Mrs. Sullivan with Mr. Hutchinson.

Mr. Santini with Mr. Steelman.

Mr. James V. Stanton with Mr. Steiger of Arizona.

Mr. Madden with Mr. McCollister.

Mrs. **BOGGS**, Messrs. **ROBERTS** and **SOLARZ** changed their vote from "nay" to "yea."

Mr. **BOLLING** changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **EILBERG**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 366 just agreed to.

The **SPEAKER**. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MAKING IN ORDER CONSIDERATION ON THURSDAY, SEPTEMBER 16, 1976, OF SENATE AMENDMENT NO. 68 TO CONFERENCE REPORT ON H.R. 14232

Mr. **FLOOD**. Mr. Speaker, I ask unanimous consent that it may be in order in the House on Thursday, September 16, 1976, to consider a conference report on Senate amendment numbered 68 to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for fiscal year ending September 30, 1977, and for other purposes.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NATIONAL FOREST MANAGEMENT ACT OF 1976

Mr. **BOLLING**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1534 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1534

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said amendment for failure to comply with clause 5 of rule XXI and section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 15069, it shall be in order in the House to take from the Speaker's table the bill S. 3091 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 15069 as passed by the House.

The **SPEAKER** pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. **BOLLING**. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, the waivers in this rule are necessary because the bill would be in violation of the Budget Act if enacted prior to October 1. It is a 2-hour open rule, providing that the amendment in the nature of a substitute be considered as an original bill.

Mr. Speaker, I am not aware of any controversy at all concerning the rule, and I, therefore, reserve the balance of my time.

Mr. **QUILLEN**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the able gentleman from Missouri (Mr. BOLLING) explained, there is no controversy on the rule.

Mr. Speaker, I rise in support of the rule, and of the bill it makes in order for consideration, H.R. 15069, the National Forest Management Act of 1976. The rule provides for 2 hours of general debate, and any germane amendments may be offered during the amending process.

H.R. 15069 establishes a sound timber management policy for the National Forest System. Such a comprehensive national timber management policy is especially required at this time because of the so-called Monongahela court decision, and other similar Federal Court decisions which have followed. These decisions have virtually halted the National Forest System timber sales programs in parts of the country, and additional court cases are now pending throughout most of the United States.

The "Monongahela" decisions were based on a strict and literal interpretation of the Organic Act of 1897 which clearly states that only dead, old, and very large trees which have been individually marked can be cut and sold.

The court itself recognized in its decision that the 1897 act stood in need of major revision when it stated that the Organic Act might well be an anachronism no longer serving the public interest. The court, however, further stated that revision of this outdated statute was beyond the authority of the courts, and rested with the Congress. The courts have, in effect, invited the Congress to revise the antiquated 1897 act, and H.R. 15069 is a responsible congressional response to this situation.

A strict interpretation of the 1897 Organic Act effectively blocks modern forestry and timber management practices, and invalidates scores of laws passed since the 19th century. Application of the "Monongahela" decisions throughout the United States will have a disastrous impact on the timber industry. A crisis already exists where the court decisions have taken effect, and the Forest Service has estimated that in the absence of congressional action, the supply of timber from the national forests would be reduced by 75 percent in the short term, and by 50 percent over the rest of the century.

H.R. 15069 eliminates the outdated provisions of the 1897 Organic Act, replacing it with language which allows the Secretary of Agriculture a measure of flexibility to sell timber from the national forests within the guidelines of the Multiple-Use Sustained-Yield Act of 1960. The bill also contains certain amendments to the Forests and Rangeland Renewable Resources Planning Act designed to improve the management of the National Forest System and upgrade congressional oversight. H.R. 15069 further provides that funds credited to timber purchasers for construction of roads and for reforestation will be included as receipts for the amount paid to the States for public schools and public roads, correcting an inequity which has resulted in reduced payments to the States in recent years.

Mr. Speaker, I urge adoption of the rule and passage of the bill.

Mr. **BOLLING**. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **ROUSSELOT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 0, not voting 95, as follows:

[Roll No. 736]

YEAS—335

Abdnor
Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Clancy
Clausen, Don H.
Clawson, Del

Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Hubbard
Hughes
Hungate
Hyde

Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Mahon
Martin
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike

Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—95

Allen
Annunzio
AuCoin
Beard, R.I.
Beard, Tenn.
Bergland

Bingham
Boggs
Bowen
Broomfield
Carter
Cederberg

Chappell
Chisholm
Collins, Ill.
Conyers
Crane
Daniels, N.J.

Diggs
Eckhardt
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Florio
Ford, Tenn.
Forsythe
Green
Haley
Hansen
Hawkins
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Horton
Howard
Howe
Hutchinson
Jeffords
Jenrette

Jones, Ala.
Karth
Kemp
Landrum
Long, Md.
McCollister
Madden
Madigan
Maguire
Mann
Mathis
Matsunaga
Metcalfe
Mills
Mitchell, Md.
Mosher
Moss
Neal
Nix
Nolan
Passman
Peyser
Rangel
Rees
Riegle
Rinaldo
Risenhoover

Roe
Rosenthal
Russo
Ryan
Schneebeli
Sikes
Sisk
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Teague
Ullman
Vander Jagt
Vigorito
Waxman
Whitten
Yates
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Bowen with Mr. Allen.
Mrs. Boggs with Mr. Emery.
Mr. Hébert with Mr. Hansen.
Mr. Florio with Mr. James V. Stanton.
Mr. Matsunaga with Mr. Bingham.
Mr. Hawkins with Mr. Schneebeli.
Mr. Beard of Rhode Island with Mrs. Collins of Illinois.
Mr. Annunzio with Mr. Young of Alaska.
Mr. AuCoin with Mr. Heinz.
Mr. Rangel with Mr. Erlenborn.
Mr. Russo with Mr. Steelman.
Mr. Teague with Mr. Broomfield.
Mr. Sikes with Passman.
Mr. Vigorito with Mr. Conyers.
Mr. Waxman with Mr. Horton.
Mr. Young of Georgia with Mr. Esch.
Mr. Mitchell of Maryland with Mr. Howe.
Mr. Moss with Mr. Crane.
Mr. Neal with Mr. Evins of Tennessee.
Mr. Nolan with Mr. Jeffords.
Mr. Eckhardt with Mr. Carter.
Mr. Dominick V. Daniels with Mr. Kemp.
Mrs. Chisholm with Mr. Cederberg.
Mr. Nix with Mr. Karth.
Mr. Chappell with Mr. Ford of Tennessee.
Mr. Yates with Mr. Jenrette.
Mr. Bergland with Mr. Madden.
Mr. Diggs with Mr. Eshleman.
Mr. Evans of Colorado with Mr. Landrum.
Mr. Green with Mr. Forsythe.
Mr. Haley with Mr. Stuckey.
Mr. Mathis with Mr. Hutchinson.
Mr. Howard with Mr. Stephens.
Mr. Henderson with Mr. J. William Stanton.
Mr. Helstoski with Mr. Jones of Alabama.
Mr. Hefner with Mr. Peyser.
Mr. Maguire with Mr. Madigan.
Mr. Sisk with Mr. McCollister.
Mr. Ryan with Mr. Steiger of Arizona.
Mr. Roe with Mr. Vander Jagt.
Mr. Long of Maryland with Mrs. Sullivan.
Mr. Whitten with Mr. Riegle.
Mr. Risenhoover with Mr. Rees.
Mr. Ullman with Mr. Rinaldo.
Mr. Rosenthal with Mr. Mills.
Mr. Metcalfe with Mr. Mosher.
Mr. Mann with Mr. Beard of Tennessee.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15069, with Mr. MINETA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 1 hour, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 1 hour.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I bring before the committee today one of the most important pieces of legislation to come before the Agriculture Committee in this Congress. It is the product of over 6 months of work by the Committee on Agriculture. That work began with public hearings held last March at which well over 100 individuals and organizations testified or submitted statements. The Subcommittee on Forests, chaired by the late Representative Jerry Litton, and the full committee devoted nearly 2 weeks to development and markup of this bill. It was ordered reported just 2 weeks ago by a rollcall vote of 37 to 1. It is a monument to the hard work of Congressman Litton and I only regret that his tragic death last month prevents his appearance before this committee today.

As you are perhaps aware, three recent Federal Court decisions have effectively halted the timber sale program of the U.S. Forest Service in all or part of six States. Six additional cases are presently pending around the country and, if Congress does not act very soon, there will shortly be a nationwide sawtimber shortage of crisis proportions.

I might briefly sketch the background of this legislation. The National Forest System consists of 155 national forests, encompassing 187 million areas. They presently contain about half of the national reserve of standing softwood sawtimber and a smaller percentage of the hardwood timber. Timber sales by the Forest Service return between $400 and $600 million to the Federal Treasury each year. Also, by statute, 25 percent of the moneys received from each national forest must be paid over to the States in which such forest is located to be expended for public schools and public roads. Many communities, particularly in the West, rely heavily upon these revenues.

The national forests are managed by the Forest Service of the Department of Agriculture on a multiple use principle with due regard for protection of watershed, wilderness, wildlife, range and recreation, as well as timber production. For nearly 70 years, the Forest Service has relied upon the Organic Act of 1897 for authority to sell timber from national forest lands. In 1973, a Federal district court in West Virginia enjoined the

Forest Service from awarding contracts for three timber sales in the Monongahela National Forest in West Virginia. The contracts provided for clear cutting, a timber cutting procedure widely employed by the Forest Service in which all trees in a stand are cut and new stand is planted. The district court held that this practice violated the Organic Act, because that act authorizes the cutting only of dead, physiologically mature; that is, old or large trees.

There was some evidence that the Forest Service may not have been sufficiently discriminating in its use of the clear-cutting method. Therefore, in 1974, partly in response to the West Virginia decision, the Congress enacted the Forest and Rangeland Renewable Resources Planning Act which requires the Forest Service to establish long-range plans for each unit of the national forest which take due account of the environment and all the multiple uses of the national forests. The idea was to prevent overconcentration upon timber production.

In the meanwhile, the Forest Service had appealed the decision of the West Virginia court to the U.S. Court of Appeals for the Fourth Circuit. Last fall, the Court of Appeals affirmed the decision of the district court and held that the Forest Service was forbidden by the Organic Act of 1897 to sell trees which were not dead, physiologically mature, or of large growth. The Court of Appeals recognized that the statute might be outdated and that its decision might have serious consequences. However, the court pointed out that changing the law is the province of Congress, not the courts.

The Forest Service has complied with the decision of the Court of Appeals in the Fourth Circuit and, as a result, the timber harvest has been reduced by 90 percent. Since last fall, there have been eight additional cases filed around the country. Only two have been decided, one in Alaska and one in Texas; and both those courts agreed with the decision of the Fourth Circuit. The Alaska case is particularly noteworthy because the court enjoined further cutting of timber which had already been sold. The prognosis on the other cases is not good.

Nationwide application of the Monongahela decision will have a catastrophic effect on a large sector of the U.S. economy. The evidence before the committee made it abundantly clear that the Nation's demands for timber and wood fiber cannot be met by private forest lands. And it is clear, also, that unless there is prompt action by Congress, Monongahela will be the law of the land within a very short time.

This bill has three basic parts. It is designed, first and foremost, to afford relief from the narrow interpretation which the courts have applied to the 1897 act. However, the committee deemed it important to provide at the same time for modern scientific management of the national forests under appropriate environmental safeguards.

Mr. FOLEY. Mr. Chairman, this evening I am going to ask the distinguished gentleman from Montana (Mr. Melcher), who was the acting chairman of the subcommittee, to explain to the committee the specific provisions of this bill that go beyond the additional matter of removing from the statute the outdated limitations in the timber sale program. The gentleman from Montana (Mr. Melcher) will have an opportunity to do that very shortly.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, in the Organic Act with respect to the specific provisions of the bill for species, I wonder if the chairman could discuss briefly those measures that the gentleman admitted are necessary, those matters that affect a pine forest from seed to tree; in other words, the protection of hard wood trees, is that included in the bill?

Mr. FOLEY. Yes. There are provisions in the bill and I would be glad to explain those to the Committee.

I think, perhaps, if the gentlewoman would not mind, we could have a general discussion first of the provisions of the bill that deal with changes in the present Organic Act and the Renewable Resources Planning Act: but there are provisions that do deal with an attempt to provide reasonable species protection in the national forests.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman from Washington.

Mr. SYMMS. Mr. Chairman, I rise in support of this legislation. I would like to thank the chairman of the Committee on Agriculture for the gentleman's leadership in making it possible to have this timely bill before the House.

Mr. Chairman, I would like to praise the gentleman from Montana (Mr. Melcher) for the good job the gentleman did in chairing our committee.

I would just say, Mr. Chairman, there are some amendments that will be offered tomorrow and I think it would be wise if the Committee would vote these amendments down. We have considered all these amendments. We have deliberated all this for a quite lengthy period of time this year. We have taken it all into consideration. I would encourage the Committee to accept this bill in its present form without any amendments.

Mr. SYMMS. Mr. Chairman, I would like to say to the gentlewoman from New Jersey that there is a specific section in the bill which directs the Secretary, in so far as practical, to take steps to preserve the diversity of trees similar to that existing at the time of harvest. This would allow for what I think the gentlewoman is fearful of, and would protect basically and essentially the species, as much as practical.

I think, overall, that this is a good piece of legislation. It pays heed to both sides of the argument. I am sure that we will get into this tomorrow in the amendment process, but this will be the first time that there has been any guidelines in statutory law which actually lays down the guidelines for the Forest Service with respect to the clear cutting issue, or what we refer to as intensive forestry practice in some areas. This bill is a practical tool for forest management and sets the guidelines with respect to what can and cannot be done.

It provides for protection and long-term good management for our national forest system. It also provides for additional effort and input with respect to developing stand improvement and reforestation, which is much more important if we are to continue to produce the wood fiber we should from our national forest system.

Mr. Chairman, I reserve the balance of my time.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, enacting legislation that has a twofold objective—that of protecting our forest environment from abuse and harm, and providing laws that result in productive management of our national forests—is a difficult task at best. It is an awesome responsibility. Not only must we insure the quality of the environment, we must also make certain our national forests are utilized in the wisest manner for the most people.

This issue is of utmost importance and concern to my congressional district and the Nation as a whole. I speak as a person who has lived all his life amidst the magnificent splendor of the California redwoods. I am proud to say that on State and private forests, California maintains one of the most stringent forest practices acts in the Nation. To be able to stand in the forest and behold this gift of nature is an experience beyond description. Our national forests are, and must continue to be, a constant reminder of how this Nation and the world should work together. We all have the same needs—housing, jobs, food, and fulfillment of our spiritual and personal beliefs. What is more important is that America has the ability to make these needs a reality.

For what we have at stake is the future of this Nation's most precious and vital natural resources. We are deciding right now whether this country will have an adequate and perpetual supply of trees for homes, wood and paper products, and thousands of jobs, as well as protection for the recreational, wildlife, watershed, and esthetic benefits of our Federal lands.

For the past 6 months, the House Agriculture Committee has been committed to this challenge. It sought the advice and testimony of hundreds of professionals and concerned citizens from a wide spectrum of interests. Foresters, environmentalists, conservationists, and consumers presented their views. Leaders in housing, transportation, and labor spoke out.

Through extensive research and debate, the Forests Subcommittee developed the National Forest Management Act of 1976, H.R. 15069.

H.R. 15069 provides solutions to the complexities of sound forest management in a balanced manner. It corrects the very real threat of recent court interpretations that upheld an outdated 1897 act that has halted scientific forest management on national forests. Known as the Monongahela decision, it impacts timber harvesting. Without this remedial legislation, all 155 of our national forests could face the same restrictions and limitations on the established allowable cut under a sustained yield program.

In my State alone, the implications of such a court decision would mean a 60-percent reduction in timber sales, affecting California's construction, forest products, furniture and other related industries. It would also result in a $16 million reduction in payments to the counties for roads and schools through lost tax revenues.

Nationally, there are over 1.2 million workers employed in the forest products industry. At least 130,000 of them owe their jobs directly to the supply of trees from the national forests.

The bill sets forth efficient and productive policies that protect all the resources of our lands—water, wildlife, recreation, and timber. It enables our forests to be managed by professional foresters who are aware of the necessity of the wisest and fullest utilization of the bountiful and renewable resources they are entrusted with.

H.R. 15069 is legislation for the present, as well as the future. Current projections for the beginning of the 21st century, and that's only 24 years away, are that the demand for wood in this country will double, and our need for recreational opportunities will probably triple. If there is any question in your mind as to whether this legislation is needed now, think what will happen if we do not act.

National forests today provide 15 percent of all the wood fiber consumed in the United States annually. That means we have about the same dependency on these Federal lands as we had on Arab oil when the 1973 embargo was imposed. Moreover, 50 percent of this country's softwood sawtimber stands on national forest land.

But that is where the comparison must stop, because we have the potential and ability to not only insure the availability of this natural resource, we can broaden and expand the world's only renewable resource.

I urge your support for H.R. 15069 in its present form. As I mentioned earlier, the House Agriculture Committee worked on this bill for 6 months. The House Interior Committee recommended this version without any additions. Prescriptive legislation that hinders sound forest management was proposed and considered by both Senate and House committees during markup sessions. Such recommendations were rejected by the committees which recognized them as a silvicultural strait jacket that could reduce timber harvesting by 50 to 60 percent.

Your vote is necessary to guarantee sound and productive legislation that protects our environment, as well as the Nation's supply of wood fiber which supports employment and vital economic activities.

The renewable resource program, the national forest system resource planning, the forest development road and transportation system plan, the organic act amendments, and the payments-in-lieu-of-taxes provisions will make significant contributions to the practice of forestry and the production of forest products.

I want to thank the committee chairmen and members of the Agriculture Committee for the time and consideration they gave me in my appearances before the committee.

I urge all House Members to vote for H.R. 15069 as reported.

Mr. FOLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Montana (Mr. MELCHER), the acting chairman of the subcommittee.

Mr. MELCHER. Mr. Chairman, H.R. 15069 eliminates a restrictive provision of the Organic Act which precipitated the Monongahela line of cases. That provision is supplanted by language which affords the Secretary considerably more flexibility to sell timber from the national forests so long as he remains within the parameters of the Multiple-Use Sustained-Yield Act of 1960.

This amendment also validates all timber sales made pursuant to the Organic Act prior to enactment. In addition, the bill contains a number of amendments to the Forest and Range Land Renewable Resources Planning Act and other laws designed to improve the management of the national forest system and to facilitate congressional oversight. For example, H.R. 15069 would amend section 5 of the Forest and Range Land Renewable Resources Planning Act to require by September 30, 1985, integrated land management plans for all 155 national forests which incorporate specific, environmentally sound, silivicultural standards contained in the bill. These standards include the so-called Church subcommittee guidelines on allowable harvest levels, harvesting limitations and clearcutting, which the Forest Service has observed since 1972. Opportunity for public involvement in Forest Service planning would be required, and all facets of the plan for each forest unit would have to be assembled in one document. Timber harvesting practices would have to conform to such plans.

H.R. 15069 mandates closer congressional oversight of Forest Service renewable resources programs by terminating all existing authorizations for such programs at the end of fiscal year 1980. It authorizes annual appropriations of $200 million for reforestation and directs the Forest Service to eliminate within 8 years the huge backlog of national forest lands requiring such treatment.

In addition to the reforestation that would be covered under the $200 million authorization, the language of the bill specifies that this could include thinning and other processes or other practices that the Forest Service finds necessary for better timber stands. This bill will prevent return to the public domain without the consent of the Congress of any land now or hereafter reserved or withdrawn from the public domain as national forests. The present boundaries will become statutory on our national forests.

It will also limit the duration of timber sale contracts generally to 10 years, in the discretion of the Secretary of Agriculture, to extend the period under certain circumstances.

H.R. 15069 will require that amounts credited to timber purchases for construction of roads and amounts deposited under the Knudson-Vandenberg Act for reforestation be included as receipts from the national forests for purposes of calculation of the amounts which must be paid to the State for public schools and public roads, 25 percent of such receipts. This will correct a longstanding injustice under which the Forest Service has reduced the receipts from the national forests by allowing liberal purchaser credits for road construction.

Mr. Chairman, I do not want to conclude my remarks on the bill without also mentioning that the bill directs that the Forest Service must protect watersheds, must keep environmental concerns uppermost in their policies and their planning, must protect streams, must protect wildlife habitat, and must preserve esthetic values in planning all of the timber sales in any of the units of the national forest. In addition, wildlife habitat is to be enhanced and protected by requiring the continuation of diverse species of trees in our national forests. This is a provision that is especially recommended by wildlife protectionists and wildlife enthusiasts all across our country.

Mr. Chairman, I find that H.R. 15069 solves the basic problems that confront us in our national forests at this time. It takes care of what needs to be done. It moves prudently and wisely. I think it is about as far as we can go in developing legislation in this session of Congress, and I hope the House will accept it wholeheartedly.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman in the well, the chairman, and all of the members of the Committee on Agriculture for bringing this bill to the floor. I do support all of the provisions of the same, with the exception that I am concerned with the provision on page 31 of the bill which abolishes the National Forest Reservation Commission and transfers all power of the Commission to the Secretary of Agriculture.

I would say to the gentleman in the well that I, along with the gentleman from Mississippi (Mr. LOTT), serve on the National Forest Reservation Commission. The National Forest Reservation Commission consists of the Secretary of the Army or his alternate, the Chief of Army Engineers, the Secretary of the Interior, the Secretary of Agriculture, and two Members of the House and two Members of the Senate. Therefore, the Commission does have a majority of congressional Members serving on it.

The duties of the Commission are to establish purchase boundaries for the national forest system and also to approve each individual purchase and exchange.

I have no objection to the abolition of the Commission. I find it very difficult to attend the meetings of the Commission because they usually conflict with my duties in the House. But I think that the Congress would be making a serious mistake if it abolishes the Commission without setting up some type of oversight procedures that the Congress can police the actions of the Department of Agriculture.

Therefore, I would state to the gentleman in the well that I have placed in the RECORD for printing tomorrow an amendment—I will give the gentleman a copy of the same—which goes ahead and abolishes the Commission but sets up procedures identical to what is used by the Committee on Armed Services in reviewing each individual purchase and exchange.

Mr. Chairman, I hope that the members of the committee will accept this amendment because I believe it would be a step backward if he did away with congressional oversight and transferred all of these powers to the Secretary of Agriculture.

Mr. MELCHER. Mr. Chairman, I thank the gentleman from Missouri for his remarks. I am sure that the committee members will want to review very carefully his amendment for possible inclusion in the bill.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I am delighted to yield to my colleague, the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, on page 23 of the bill, in section 6(5) it states: "permit the application of silvicultural systems * * *."

Would the gentleman define "silvicultural systems" for us?

Mr. MELCHER. Perhaps the chairman of the committee can answer that question.

Mr. FOLEY. Mr. Chairman, I want to be sure I understand the gentleman's reference. Will the gentleman repeat his question?

Mr. WEAVER. In section 6(5), on page 23 of the bill, it says: "permit the application of silvicultural systems * * *."

There is no definition of that term in the bill, and I wonder if a definition of "silvicultural systems" could be given to us.

Mr. MELCHER. Mr. Chairman, to what line is the gentleman referring?

Mr. WEAVER. Line 8, page 23.

Mr. FOLEY. Mr. Chairman, will the gentleman from Montana yield?

Mr. MELCHER. I yield to the chairman of the committee.

Mr. FOLEY. Mr. Chairman, it is true that there is no specific definition of "silvicultural systems" contained in the bill. The intent of the bill, as the chairman of the committee understands it, is to cover any variety of silvicultural practices, and specifically it could include, for example, clearcutting.

The CHAIRMAN. The time of the gentleman from Montana (Mr. MELCHER) has expired.

Mr. FOLEY. Mr. Chairman, I yield 4 additional minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I yield to the chairman of the committee to complete his remarks.

Mr. FOLEY. I believe I had completed my remarks, Mr. Chairman.

Mr. MELCHER. Mr. Chairman, if I might add to the remarks of the committee chairman, in answer to the question asked by the gentleman from Oregon (Mr WEAVER), the intent of the bill is that the silvicultural systems developed in the plan must meet the criteria that are listed in paragraph (5)—including subparagraphs (1), (2), (3), (4), (5), and (6).

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, does the term, "silvicultural system," mean any management practice?

Mr. MELCHER. Specifically, to answer the gentleman's question, it means that plans developed in accordance with this section shall "permit the application of silvicultural systems only if"—and then the conditions follow—meaning that the silvicultural system that the Secretary recommends in the plan has to meet the criteria set forth in the act. The term, "silvicultural systems," is used there generally.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I would just like to try to clarify this. Yes, it means management practices. That is exactly what the term silvicultural systems means. But as the gentleman from Montana (Mr. MELCHER) has said, whatever silvicultural practices are included in the plan must meet the criteria stated in the bill.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, the question I have then is, if "silvicultural systems" means any management practices, would the bill as written now mean that if the system did not meet the criteria listed following paragraph (5), the management practice would be different? What would the management practice be then? What could be done by the Forest Service in managing the forests?

I ask that because they could not apply the silvicultural system if the criteria were not met.

Mr. MELCHER. Mr. Chairman, it means that before they can have a timber sale, they must have developed a plan that has met these criteria. The management practices in the plan must be developed along these lines. There are no timber sales without an approved plan, and the approved plan must contain this criteria.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Idaho.

Mr. SYMMS. For the clarification of the record, Mr. Chairman, the committee staff has prepared a glossary of terms for us.

I would like to put this in the RECORD for the clarification of the record. The definition reads as follows:

> Silviculture—the science and art of cultivating forest crops.
>
> Silvicultural system—a process whereby the crops constituting forests are tended, harvested, and replaced, resulting in the production of crops of distinctive form. Conveniently, systems are classified according to the method of carrying out the fellings that remove the mature crop with a view of regeneration and the type of crop produced thereby.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, I still have a question. For instance, in subsection (5)(iii), on line 20, there is this statement:

> There is assurance that tree regeneration can occur either by natural or artificial means . . .

If that assurance is not there, then there can be no application of silviculture in it, and therefore, we would have no management whatsoever under this bill.

Mr. Chairman, I feel that we should clarify this. Otherwise some timberlands may receive no management at all. That is my concern.

Mr. MELCHER. At what line is that?

Mr. WEAVER. As I say, the bill presently reads: "permit the application of silvicultural systems only if—"

As I said, as an example, it reads only if "there is assurance that tree regeneration can occur either by natural or artificial means," et cetera.

The CHAIRMAN. The time of the gentleman from Montana (Mr. MELCHER) has expired.

Mr. SYMMS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, one of the most positive things occurring in the Nation today is the increasing awareness of our responsibility to protect the forest environment from misuse, and the search for balanced legislation that will result in sound management of our national forests and continued employment opportunities for our people.

The bill before us provides legislative remedy to recent court interpretations of an 1897 act that prevents current productive forest management practices. H.R. 15069 allows our national forests to be managed on the basis of efficient and beneficial policies that consider all forest values—water, wildlife, recreation, and timber. It permits professional forest managers to make the disciplined judgments that are essential for the wisest and fullest utilization of the multiple resources this country has been gifted with.

Moreover, H.R. 15069 is a positive, job-saving bill that enables the timber resources of the national forests to be managed so they can contribute their share towards meeting the Nation's increasing demand for paper and wood products, while enhancing all nontimber environmental values. It is a bill that is environmentally, as well as economically sound.

The importance of our national forests, in terms of jobs and the economy cannot be dealt with lightly. The national forests supply 15 percent of all the timber consumed in the United States annually. That is about the same as this Nation's dependency on Arab oil at the time of the 1973 embargo. The national forests represent 18 percent of the total U.S. commercial timberlands and contain more than 50 percent of our total inventory of standing softwood timber. When you consider that from softwood timber come lumber and plywood for homebuilding and construction, and literally thousands of other paper and wood products, the

50 percent figure represents a tremendously valuable asset. About 27 percent of this Nation's softwood sawtimber needs come from the national forests.

There are 1.2 million people directly employed in the wood products, pulp and paper industry in this country. Some 180,000 of these men and women owe their jobs to the timber supply available from the national forests.

The sale of Federal timber provides about $400 million to the National Treasury. One-fourth of this money is returned to the counties where national forests are located. These moneys are used for schools and roads. Many of these counties have a low tax base and depend on these funds for a significant portion of their annual budgets.

Any significant reduction in the timber supply available will affect thousands and thousands of workers in the forest products industry, as well as thousands more in allied fields such as transportation and construction. Not only would the unemployment figures leap, but so would price increases for wood and wood end products. If the national forests are closed down, as they now are threatened because of recent court rulings, shortages would result for all wood-based products, regardless of whether these forests directly supply the raw material for manufacture. Affected would be housing, paper and paper products, packaging, cardboard, and tissue products. It has been estimated that the immediate result of widespread reduction would see price increases of 25 to 30 percent on all wood items.

H.R. 15069 clarifies the authority of the Forest Service to make timber harvesting decisions in national forests. The authority to decide what trees should be harvested was lost by the Forest Service in four States involving nine national forests, as a result of an August 1975 court ruling, known as the Monongahela decision. The Monongahela decision has halted all new timber harvesting in the two Virginias and Carolinas. And the decision is spreading. Judges in Texas and Alaska have issued decisions patterned after the 1975 ruling, impacting timber sales on national forests in those States. The court in northern Georgia may well rule within a few days in a similar manner.

The court rulings were based on a narrow interpretation of the 1897 Organic Act, which held that only "dead, mature and large" timber may be sold from the national forests. This strict interpretation effectively outlaws modern, scientific forestry and ignores dozens of laws passed since. Enacted 3 years before the first forestry school opened in this country, it does not acknowledge the 70 some years of silvicultural advancement in this country.

If this ban were applied to all 155 national forests, the supply of timber from these Federal forests would be reduced by 75 percent in the short-term, and 50 percent over the rest of the century, according to the U.S. Forest Service.

A look at several individual States, and what would happen if the Monongahela decision was to spread, speaks for itself. It is estimated that in California, the result would be a 60-percent reduction in timber sales in the State which would leave California construction, furniture and other related industries 720 million board feet short of raw material, and would mean a reduction in payments to the counties for roads and schools of $16 million. The Western Timber Association reports that the loss of this timber would force many small companies into bankruptcies and would result in a significant loss of jobs, disrupted local economies, community instability, and increased costs for lumber, plywood, and other forest products.

The threat of mills shutting down is not an empty one. When the initial Monongahela decision was issued, four small mills were shut down immediately in western North Carolina, and have remained closed. But complete shutdown often is not the most damaging result. The biggest impact is on the mills struggling to stay open there. In western North Carolina and Virginia, mills have reduced their work capacity from two and three different full-time shifts to one shift providing 20 to 30 hours a week of work. In North Carolina alone, there are 300 small timber operators experiencing the impact of the Monongahela decision.

In testimony before the House Subcommittee on Forests, Guy R. Martin, Alaska's Commissioner of Natural Resources said it was possible that in southeastern Alaska, where the Tongass National Forest is located, 3,500 workers could be unemployed as an immediate result of the Monongahela decision isued there. That is 17 percent of the total labor force in that area. By December 31, 1976, according to Mr. Martin, as the ripple effect takes hold, a total of 6,000 jobs, or 28 percent of the labor force in southeast Alaska could be idle. And there is no other labor market to absorb these people.

Other testimony at the hearings pointed out that in Oregon and the State of Washington, plywood and veneer mills employ 24,000 and 6,000 people respectively. If timber supply was reduced, the future of at least 125,000 family members, counting secondary employment dependent on the wood industry, are in jeopardy.

The Commerce Department has issued a study on the impact Monongahela decision would have if applied nationally and found that the U.S. softwood industry employs about 350,000 workers, with almost 200,000 of them working in the 12 Western States. These States would lose about 27,000 jobs under the harvest restrictions imposed by prevailing court rulings, and would peak to 32,000 by 1977.

In legislating policies that govern our national forests, it is essential that the results are beneficial to all, not just a few. H.R. 15069 authorizes our Federal timber lands to be made far more productive in growing trees, while giving full protection to all environment values, by providing for management that uses the most modern and scientific methods known.

H.R. 15069 would insure that direction for national forest land management activities is provided through the land use planning process which requires full consideration for the protection and enhancement of watershed, wildlife, recreation, and other multiple use values. Forest Service timber goal levels, as well as the goals for other national forest resource outputs and users, are subject to periodic congressional review as part of the process established by the Forest and Rangeland Renewable Resources Planning Act. This law, as well as H.R. 15069 mandates extensive public involvement in the national forest land resources planning process, in addition to that already required by the National Environmental Policy Act.

By the year 2000, the demand for wood will double, and the demand for recreational opportunities should triple. This will place enormous pressures on all national forest lands. This bill assures the making of wise and prudent decisions concerning our forests. It solves the problems created by the Monongahela decision. It takes timber growing out of the courts and puts it back where it belongs, in the forests.

What we have at stake here is tens of thousands of jobs in the wood and paper producing industries, their suppliers, distributors, and the construction trades. Housing shortages for low- and middle-income families, and increases in the cost of living for people who can least afford price hikes for basic wood and paper products. The loss of timber sale receipt revenues for counties that are dependent on such moneys for the majority of their budgets.

This legislation provides a national policy that will enable the Forest Service to manage national forest resource to best serve the multiple requirements of all people of this country. It does away with obscure and archaic laws, while it carries out the provisions of the National Environmental Policy Act, the Resources Planning Act, and other bills passed by Congress in recent years.

We are aware of the need to protect our national forests from misuse and abuse, and we are aware of the need for legislation that authorizes sound management. We are fortunate that this need can be met in a sound and balanced manner.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I would like to thank the gentleman for yielding and for the very fine statement the gentleman has made as well as for the work that the gentleman has put in on this bill.

I believe, Mr. Chairman, that this bill could aptly be named a "jobs bill" as well as a forestry bill because we are talking about doing a better job in providing tools for our U.S. Forest Service in order to do a better job. We are not only doing something for the mill workers of America and the foresters of America, but we are doing something for all of the people who work in wood products all across this country and all those people who live in houses, which includes most of us. So this is a major "jobs bill" as well as a conservation measure of a renewable natural resource.

Mr. FOLEY. I yield 5 minutes to the distinguished gentleman from California (Mr. BROWN), a member of the committee.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from Washington for yielding me this time.

First of all, Mr. Chairman, I believe I must express my own grave reservations with regard to the scheduling of the matter. To schedule this bill, without notice, at this late hour, is a handicap and a serious handicap to the many people who have very strong interests in this bill and who, if they had known it was to be scheduled this evening, would have been here to express their views and to participate in the general debate.

I understand the exigencies which were thought to require this. But I feel that it is a disservice to the Members of this House and I am compelled to express my feelings in that regard.

With regard to the legislation itself, I was a member of the Subcommittee on Forests of the Committee on Agriculture and I participated fully and faithfully in the hearings and in the markup within the subcommittee and also within the full committee where a good deal of the work took place. It is not my position that this bill includes bad provisions, that it is in itself bad legislation. It includes many extremely good provisions which have been explained by the distinguished chairman of the full committee, the gentleman from Washington (Mr. FOLEY), and the acting chairman of the subcommittee, the gentleman from Montana (Mr. MELCHER). I commend those provisions and support them fully.

The weakness of this bill, on which I should like to elaborate briefly, is in what it fails to include. I want to preface my explanation of what is not in the bill and what it fails to include by a general statement, which I am sure everyone will concur in, as to the very high importance of the national forests and in fact all of the Nation's timberland, whether in private or public ownership, not only to the economy of this country but to the actual physical well-being of this country. Many prior civilizations throughout history have fallen because they failed to protect their forest resources, and they failed because the destruction of the forest resources had a ripple effect, a cascading effect, which led to the failure of many other resources—to the failure of their agricultural resources and water resources and of their resources of fish and wildlife. This recognition of the importance of the forests has existed throughout the history of this country and more specifically for the last 100 years as we have sought to develop a legislative structure for protecting those forests. Inherent in that legislative structure has always been the concept of multiple-use and sustained yield from the days of the Organic Act of 1897 on through a whole series of legislation up to the present time. The problem with that existing background of legislation is that it did not make clear what in practice the concept of multiple-use and sustained yield meant when we get right down to practicing it within the forests.

I have a whip notice here which comments about the narrow interpretations given by the courts to the Organic Act of 1897. The courts did not make any narrow interpretations; they precisely interpreted what the language says: That we do not cut trees unless they are individually marked and are physiologically mature, dead, or large. The Forest Service was not doing that, incidentally, a classic example of how a great and beneficent bureaucracy, I might say, can deliberately fail to read the clear language of a legislative act. Of course, what they did was to allow the kind of silviculture practices, including clearcutting eastern hardwood forests, which led to the lawsuits resulting in the Monongahela and other decisions.

The fact of the matter is that there are two contending forces at work here, and it is these two contending forces that dictate the shape of this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

Would my friend and esteemed colleague on both the subcommittee and the full committee, the gentleman from California, not agree that the subcommittee took adequate time, as did the full committee, for consideration of the various amendments that were offered, including many important amendments that were offered by the gentleman from California (Mr. BROWN)?

Mr. BROWN of California. I will say in response to the gentleman's question that I have nothing but praise for the conduct of the chairman and the acting subcommittee chairman, the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for his comments. If he would yield further, I should like to say that the proposals that were made by the gentleman from California were meritorious proposals and deserved our very serious consideration. Some of the amendments were accepted and improved the bill. As for those that were not accepted, there was no question that the proposals had merit, but regretfully we found it necessary not to accept them at this time.

Mr. BROWN of California. I recognize the validity of the gentleman's point. We have an honest difference of opinion as to what is necessary in order to protect the integrity of the forests and, in my opinion, to insure the full productivity of the forests. I am not seeking to curtail the production of wood from the forests. I think the production can be enhanced, as a matter of fact, by the sound practices which I advocate, which will be included in some of the amendments I will offer tomorrow.

I want in the brief time I have here—and this is a subject that deserves much more time—to emphasize the two conflicting forces at work in shaping this bill. One is the feeling of environmentalists that the Forest Service was deliberately disregarding not only the clear wording of the law but also the integrity of sound forestry management by its practices. The clear-cutting of hardwood forests is an example, and the failure to protect the stream beds and the fish and other wildlife, for example in Alaska and Tongass cases, and other practices of that sort.

On the other hand the timber industry have severe problems with the Forest Service for over-protecting the forests through their failure to increase allowable cuts of timber which could be harvested, particularly from old stands of softwood timber in the West. They objected to the Forest Service interpretation of sustained yield, even flow, which did not allow for increases in production. These two forces have shaped this bill.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FOLEY. Mr. Chairman, I yield the gentleman from California (Mr. BROWN) 2 additional minutes.

Mr. BROWN of California. Mr. Chairman, in the process of shaping this bill it was the lumber industry, the timber industry which came out on top, because what we have in this bill is a failure to set forth the sound principles and the sound management concepts required to protect the Forestry Service, not in some of its abuses of sound practies, such as overly large clear-cutting, but in their dedication to the concept of a sustained yield, even flow principle. Within that principle it is quite possible to increase the allowable cut on an annual or 5-or-10-year basis. This has been taking place, as a matter of fact. The calculations of allowable cut have been increased year after year but the cut was not increasing fast enough for the timber industry. Hence they wanted stricken from this bill any language that would reinforce the Forest Service in their commitment to that principle, and, in effect they have achieved that.

It is going to be my main purpose in the amendments I will offer tomorrow to seek to restore in specific terms a national commitment to the concept of sustained yield, even flow, calculated in such a fashion as to optimize the production of timber from the national forests. I will explain this in greater detail, I hope, tomorrow, if we have an opportunity, when I discuss the specific amendments which I plan to offer at that time, but this is the essential conflict which has developed over this bill. I want it to be clearly spread out in the record so we will be able to discuss it on its merits and with a clear understanding of what is involved.

Again I wish to express my appreciation to the chairman of the committee and to the members who have given me far more time and consideration than I may deserve as the sole objector to this bill when it was reported out of the committee.

Mr. SYMMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado, a member of the committee, the able lawyer from Fort Collins, Mr. JOHNSON.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding.

Mr. FOLEY. Mr. Chairman, will the gentleman from Colorado yield, and I will give him the time I use.

Mr. JOHNSON of Colorado. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I take the time for just a few moments and I hope this does not sound like a mutual exchange of compliments, but among others the gentleman from California (Mr. Brown) has devoted a great deal of attention, as the gentleman from Montana (Mr. Melcher) stated a moment ago, to this bill and has made very positive contributions to the legislation, as have other members of the committee.

I would like to have, if I may, the attention of the distinguished gentlewoman from New Jersey (Mrs. Fenwick), who inquired earlier about the possible problem of protecting a variety of hardwood species, particularly in the eastern national forests.

I want to refer the gentlewoman's attention to page 26 of the bill, line 6, which states:

> "(i) Within the multiple use objectives of a land management plan adopted pursuant to this section, the Secretary shall, insofar as practicable, take steps to preserve the diversity of tree species similar to that which is existing at the time of harvest in the region controlled by the unit plan.

Mr. Chairman, the purpose of that section is, so far as practicable, to encourage the Forest Service to develop plans which preserve the variety of tree species.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for that explanation.

Mr. JOHNSON of Colorado, Mr. Chairman, it is unfortunate tonight as we debate this most important bill that there are only a handful of Members present. As I look around the room, there are less than half a dozen individuals present who have not been in the battle. I have counted the number, and there are about six Members who did not practice in this battle all the way through the beginning of hearings in the subcommittee, in the markup in the subcommittee and in the full committee markup; so I guess we are speaking for the record, but I think the record should be established. I do not intend to take very much time, but I want to make it quite clear that the gentleman from Missouri (Mr. Litton) who unfortunately was involved in that fatal accident with his whole family, was the chairman of this subcommittee and the gentleman's place then was subsequently taken by the able gentleman from Montana. As the gentleman from Montana has demonstrated time and again, this is a bill that has been gone through line by line, word by word, page by page. I do not know of any committee, with the exception of the Subcommittee on Public Lands that the gentleman from Montana chairs, with particular respect to the Bureau of Land Management Act, that went into more detail and considered all possible aspects including all of the different ramifications that arise with something as complicated and controversial as this as we did in considering this particular bill.

Mr. Chairman, I think the gentleman from California (Mr. Brown) will acknowledge that and certainly the gentleman from Oregon (Mr. Weaver) will acknowledge that.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. SYMMS. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. JOHNSON of Colorado. Mr. Chairman, this was a bill that considered all points of view and I must say that the gentleman from California in his summary of the disputes and the various arguments that were presented in behalf of various environmental groups and the forestry product people was very accurate; but, when he said that the bill came out on the side of the harvesters of timber, rather than the environmental groups, that is where I depart from the gentleman, because I have reached a different conclusion, as have the members of the subcommittee and the members of the full committee by a wide majority.

Mr. Chairman, I would like to point out that the amendments to be offered tomorrow are restrictive and do not take into account the way the trees grow. Trees do not grow the same in Colorado as they grow in Oregon. They do not grow the same way in Montana, or Idaho, or Utah, or New Mexico as they grow in the Southeastern portion of the country. To try to place restrictions that apply only to areas along the coastlines of the United States, or to disregard the problems that we have in the interior portions of the country, is not wise and it is not well-drawn legislation. That is our problem with this whole bill. I suggest we look through section 6, those who have not read the bill, because section 6 is the guts of the bill. We have to understand that section 6 keeps referring to the problems of multiple use, protection of outdoor recreation, rain, timber, watershed, wildlife, fish, and wilderness, which involve again the argument that the only plan of timber harvesting that these elements have ever considered are these to be considered by a multiplicity of terms. They have to be made public and made a matter of public debate and then made the subject of renewed appraisal.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman I wonder if the gentleman would not agree that section 6, which he has described, refers to the process of preparing plans, not to the process of harvesting trees; and that section 12, on page 32, eliminates the restrictive language of the Organic Act which is really the heart and purpose of this bill.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. SYMMS. Mr. Chairman, I yield 3 additional minutes to the gentleman from Colorado.

Mr. BROWN of California. I am pointing out to the gentleman that it was the so-called restrictive language of the Organic Act which is abolished, and substituted with the language of section 12, which in effect says to the Forest Service that they may go ahead and cut trees almost in any way they want to. Of course, they have to prepare the plans, as the gentleman points out.

The plans are good. I agree with the gentleman that the language contained in that section referring to the plans is excellent, but we have seen already that the Forest Service did not even abide by clear language of the law. What assurance do we have that the plans are going to be any more confining than the clear language of the law?

Mr. JOHNSON of Colorado. I thank the gentleman for his comment. I think there is validity to his point, although it is not totally valid. I think the plans as outlined are restrictive and they are complete. I would point out to the gentleman and to the audience beyond this body—wherever they are—that the Forest Service is in an impossible position. There are those people in this country who believe trees should not be harvested whatsoever; fires should not be put out; that the natural process should be allowed to take place.

In my area, in two of the national forests that are in my area, we are having a destruction of the forests by the bark beetle. The Forest Service, bowing to certain pressure, has decided that rather than harvest that timber, because of the problems that arise when they allow timber harvesting contracts, that they have allowed the bark beetle to move in and destroy the timber. Ultimately, a forest fire will burn out all of this area because the timber is old, it is weak; it can either be burned out and die, or it can be harvested.

Now, we have chosen that because of certain environmental, certain consumer pressures that have developed throughout the country from people who are uninformed who, if we say that we are cutting down trees, will say, "That is a terrible thing."

But, we have our choice: Either cut them down or let them die. The amendments that are being offered and the amendments the gentleman from California offers which, while they may be pertinent and may be exactly what is necessary along the coastlines of the country, do not apply and are too restrictive for the other areas of the country. We have to, in effect, leave certain discretion with our Forest Service.

The CHAIRMAN. The time of the gentleman from Colorado has again expired.

Mr. SYMMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Colorado.

Mr. JOHNSON of Colorado. If the Forest Service abuses its discretion and goes further than the restrictive guidelines that are laid down, then there are procedures which can be taken to correct that. There can be just as great an error committed by us trying to legislate too restrictively as there can be on the part of the Forest Service.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I agree with everything the gentleman has said, particularly the fact that we have various growing conditions in various parts of our country. Intermountain areas are different from my area in Oregon. I ask the gentleman, what happens when the trees are gone in the intermountain areas? What happens to the economy at that time?

Mr. JOHNSON of Colorado. Well, the timbering business in my area is not a major economic factor, so it is not from the point of view, necessarily, of the economy of the area that I am commenting.

Mr. WEAVER. But what will happen when the trees are gone?

Mr. JOHNSON of Colorado. They have to be replanted and have to grow again. In some cases, it takes 100 years. I do not see any great advantage to restricting their harvesting and letting the bark beetle take over and letting fires eliminate the whole area.

What we need is proper timber management, and that is what the bill addresses itself to, timber management, which we have to have.

Mr. WEAVER. We are agreed on that. Does the gentleman want sustained yield forestry?

Mr. JOHNSON of Colorado. But the gentleman's definition of sustained yield is not what we need in the inner mountain area.

Mr. WEAVER. Would the gentleman explain what is needed to perform sustained yields in the inner mountain area?

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California (Mr. Don H. Clausen).

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson) has expired.

Mr. SYMMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Colorado (Mr. Johnson).

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, there have been indications that there would be a lesser commitment to the principle of multiple use and sustained yield. Does the gentleman in his heart believe for 1 minute that it is in the enlightened self-interest of those involved in the forest products industry to not have a sustained yield program with the multiple-use concept that everyone familiar with this program thinks is needed?

Mr. JOHNSON of Colorado. The gentleman is making a valid point. It would be destructive of the forest industry to harvest all of the trees and not have anything left to harvest and process. It would be destructive of our national interest and destructive of the economy in those areas.

Mr. DON H. CLAUSEN. Mr. Chairman, I am certainly glad the gentleman made the point of all of the variables that exist in the species of the various trees in the country.

Mr. JOHNSON of Colorado. We have different species in our own area. We have the lodgepole pine that should be clearcut. We have other areas that should not be clearcut, depending upon when the last forest fire took place.

We cannot legislate for the inner mountain area because if we were going to write a bill for the Roosevelt National Forest it would not apply to other national forests because they have different problems. Different trees grow at different altitudes. To try to make a specific piece of legislation does not make any sense because of the facts I have mentioned.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. I thank the gentleman for yielding.

Do I understand that one of the impacts of the potential Weaver amendment will be to possibly shut down small sawmills?

Mr. JOHNSON of Colorado. I suppose that is a possibility. I do not know that anyone can say that as a hard and fast rule.

Mr. ROUSSELOT. But that is apt to be an effect?

Mr. JOHNSON of Colorado. I think that is a possibility.

Mr. ROUSSELOT. So it will put the little guy out of business?

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson) has again expired.

Mr. SYMMS. Mr. Chairman, I yield 1 additional minute to the gentleman from Colorado (Mr. Johnson).

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. ROUSSELOT. So it could happen that it would put the small sawmills out of business. And even though that might not be the effect in the district of the gentleman from Oregon, there are many places in the country where that could be the impact.

Mr. JOHNSON of Colorado. I do not think we ought to leave that impression, if the gentleman from California will desist for a moment, because the Forest Service program requires that they allow small operators a certain amount of cut. In Colorado there is a constant argument between the small operators and the large operators, and the Forest Service once again is caught in the middle. I think they do about as good a job as they possibly can.

I do not know that the gentleman from Oregon is going to destroy the small timber operator in my area.

Mr. ROUSSELOT. I did not mean to imply it would destroy the small timber operator.

Mr. JOHNSON of Colorado. But I do think it might affect amendments that are offered that the Forest Service is so restricted in its application of the silvicultural system, which we know that we have been.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson) has again expired.

Mr. SYMMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Colorado (Mr. Johnson).

Mr. JOHNSON of Colorado. Mr. Chairman, I represent an area in Colorado that is renowned—a university which is renowned for its studies in forestry, and there is no question but the proper silviculture management of the forests in this country will increase the yield enormously.

I think the result of the gentleman's amendments will have just the opposite effect of what they are talking about. They will restrict the yields. They will not take into account the varying factors of the growth and harvest.

Mr. Chairman, I think that the committee and the subcommittee have considered all of these things again and again and again, and I urge the Committee to adopt the bill basically as it is presently written.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Colorado for yielding, and I share his point of view.

I will just say to the gentleman from California (Mr. Rousselot) that in my own district right at the present time we have a sawmill that is being closed at McCall, Idaho, and the property there is being closed. It is not a small company that is closing that mill; it is owned by one of the largest timber companies in the country. They are closing that sawmill because of the withdrawal of land for other uses, for recreational use and other uses in the multiple-use program.

The fact is that as timber gets more and more mature, then the sustained yield has to be lower because the trees are older. What we have then is old trees rotting and dying and falling on the ground if we follow that procedure.

I think the flexible idea is that occasionally we should harvest the crop when it is ripe, just like we do with sugar beets, wheat, corn, or tomatoes. We do not pick them all at different times. We continually keep harvesting the crop.

We are harvesting the trees at different times in the growth cycle. Sometimes we harvest the crop in 20 years, sometimes in 40 years, sometimes in 50 years, and sometimes in 120 years. As in the area served by the gentleman from Colorado (Mr. Johnson), the inter-mountain region, it may take 120 years for the trees to mature.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson) has expired.

Mr. SYMMS. Mr. Chairman, I yield 1 additional minute to the gentleman from Colorado (Mr. Johnson).

Will the gentleman yield further?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho..

Mr. SYMMS. Mr. Chairman, to continue, at the tail end of the growth cycle, the growth slows down considerably, so if we are locked into an inflexible guideline by prescription from the Congress, then we are not allowing the forest professionals to practice forestry in the forests; we are instead doing it here in the Congress. This is the wrong place to practice forestry.

We need to allow these professional foresters the opportunity to use a little flexibility, and maybe then they can go in and cut so they can get a new stand of timber growing, a new variety which grows faster. That is the real way to accomplish these objectives.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, if that is true, then, this could have an impact and result in the shutting down of a small sawmill?

Mr. SYMMS. It costs jobs, and that is what we are talking about.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, the gentleman has just said that he would like to see professional foresters practicing forestry. The Weaver amendment will incorporate into law the present practice of the U.S. Forest Service. That is the practice that has been developed by the Forest Service, and that is part of their policy today. It will not decrease the allowable cut, and that is from information according to the chief of the U.S. Forest Service.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. WEAVER), a member of the subcommittee.

Mr. WEAVER. Mr. Chairman, to continue along the line of what I was just saying, the sustained yield amendment that I will be offering will simply incorporate into law the present practice of the Forest Service. It will not decrease the allowable yield.

If the gentleman from California (Mr. ROUSSELOT) will listen to what I say, I emphasize that it will not decrease the allowable harvest, and that is according to information from the chief of the Forest Service. So this cannot run anyone out of business.

But I will say, Mr. Chairman, that I know what is putting the mills out of business and what has put the mills out of business. I can give the Members a specific example.

In August 1959 the Georgia Pacific Corp. purchased one of the largest single privately owned growth holdings in the United States of America, and then they said that they would cut on a long-term basis. They proceeded to cut in 8 years, and they cut that entire holding out. It was one of the largest stands of old growth in the world. Then they closed their mill and threw 3,000 people out of work.

Mr. Chairman, I can say right now that many of these companies have harvested their private lands and are closing their mills today, and if we allow them to go in and harvest at an accelerated rate in the public forests, when that public forest timber is gone, there will be no more, and the people now employed in the forest industry will not have jobs. I know that then in my district the property tax base will vanish, and that will leave our people bereft.

Mr. Chairman, it is essential to pass a forestry bill this year. We need full production for all our multiple uses. The district I represent is the largest timber-producing district in the United States. I know how important it is, and I can say that my people know how important it is. It is essential to pass this bill.

In order to enact the bill, I think it would be wise for the House to bring it closer to the Senate bill, the one which passed the Senate 90 to nothing.

Mr. Chairman, the amendment that I will offer tomorrow will, of course, be language that is in the present Senate bill, and that, therefore, will make the enactment into law of this legislation much more likely and much more speedy.

I would say, Mr. Chairman, that the Senate bill is a compromise bill. It was between the two forces which the gentleman from California described. The Senate bill was a compromise bill in the best sense of the word. It was a balanced bill. It considered all of the multiple uses of our forests.

Mr. Chairman, when the House works its will, I would hope that all Members will be able to support the final enactment of this bill and go on to other things.

Mr. SYMMS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to ask the gentleman from Oregon (Mr. WEAVER) a question or two.

Is it not true that in the gentleman's district the growth cycle or the period of turnaround on the growth of a stand of timber is 50 or 60 years or something like that?

Mr. WEAVER. If the gentleman will yield, no. The Forest Service uses a period of 90 years for the growth cycle.

Mr. SYMMS. Are most of the companies in the district of the gentleman from Oregon (Mr. WEAVER) buying up the national forests or are there some companies which own large stands themselves?

Mr. WEAVER. They must rely more and more on the national forests because they have cut off their own lands so rapidly.

Mr. SYMMS. Mr. Chairman, I appreciaet the gentleman's concern for his own district, but there is a problem here in other areas where the growth cycle is slower. The slowdown we are talking about becomes longer and longer, and we get this overcap in the forests where we have a slower growth.

I think that would concern the gentleman's district also, but is that not a problem with respect to jobs and so forth?

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, I am very concerned about the intermountain area, and the language that we propose will allow the Forest Service to make their own determination.

Mr. SYMMS. What is the biggest timber company in the gentleman's district? Which company cuts the most timber in the gentleman's district?

Mr. WEAVER. A company called Weyerhaeuser has the most land in my district.

Mr. SYMMS. Do they use their own lands or National Forest lands?

Mr. WEAVER. Weyerhaeuser uses only their own timber in my district.

Mr. SYMMS. Mr. Chairman, I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very much concerned about the repeated reference to sustained yield and the failure to define this term. It is an extremely complex kind of subject. It involves the determination of what the proper cutting site for various species of trees is and what kind of production can be achieved to get the maximum amount of timber out of a forest. Very honestly, it is an inexact science.

However, Mr. Chairman, as I indicated in my earlier introductory remarks, the commitment to this concept of sustained yield has existed through every act that this Congress has passed. I mentioned specifically the Sustained Yield Forest Management Act of 1944, the Agricultural Act of 1956, the Multiple Use Sustained Yield Act of 1960; and I would like to cite a definition of "sustained yield" contained in that last-named act.

The language is as follows and this is the definition of sustained yield of the several products and services:

> The achievement and maintenance in perpetuity of a high level annual or regular, periodic output of the various renewable resources of the national forests without impairment of the land.

Mr. Chairman, it is this definition which the Forest Service has attempted to follow faithfully over the years, and they have interpreted that requirement to maintain in perpetuity a high level annual yield as meaning that they cannot allow these massive cuts which would produce a huge amount of timber in a particular year, but in following years or in the following 10-year period, which is more customary, there would be no timber there to cut since we have a 60-, 80-, or 100-year cycle. One could cut heavily for 20 years, but then he would have 80 years in which he could not cut anything.

Mr. Chairman, this is the problem referred by the gentleman from Oregon (Mr. WEAVER) which has existed in the past on private forest land where large operators would come in and cut down an entire forest and then would leave the communities without an economic base.

If the gentleman from California is concerned about the welfare of small business and small communities then he should be concerned about the destruction of the economic base, by the cutting, in huge amounts, of these virgin forests, which is what the industry would like to do.

There must be a reasonable compromise here.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, the gentleman from California (Mr. BROWN) is making an extremely valuable point but the gentleman has not acknowledged the problem that arises when forests have been burned out. They all start at the same level of trees and grow for 30, 40 or 50 years, and then they are all still at the same level. We cannot, under the bill, harvest them until they reach a certain point. So there is not any way you can harvest mature trees because of their growth pattern, one at a time, they have to be harvested as they come to maturity and then they have to be allowed to grow again.

Mr. BROWN of California. Mr. Chairman, the gentleman from Colorado makes a sound point and I want to compliment the gentleman on his objectivity and fairness. I have been impressed by that throughout our deliberations on this bill. Yet, I think the gentleman comes to the wrong conclusion in certain instances and I think this may be one of those cases.

Mr. FOLEY. Mr. Chairman, if the gentleman from Idaho does not have further requests for time, I would like to yield 1 minute to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would like to remind my colleagues of the greatest achievement of the 94th Congress and the lesson it provides us this evening.

In 1974, we enacted a national budget structure, which this Congress has used to curb long-term deficit spending. This budget policy was designed to provide a balance between preserving our national resources and meeting vital national needs.

That approach should be applied to the legislation before us this evening. We must avoid long-term "deficit forestry." Permitting overcutting now almost certainly assures a "boom/bust" forestry cycle, which on the upside overuses vital national resources and on the downside causes severe economic dislocations to communities whose citizens rely heavily on the national forests.

The cycle also strikes at the people in our cities who depend upon forest resources for a decent standard of living.

To avoid "deficit forestry" on a major portion of our public lands, I urge my colleagues to support my amendment.

Let me first explain why I am offering a "sustained-yield" amendment and then explain how my amendment differs from that in the Senate bill.

I represent the First District in Montana, a leading forest district in the Nation in terms of national forest land. Out of the 16.7 million acres of national forests in Montana, the First District has 14.7 million acres or 90 percent of Montana's national forests. Thus I am deeply concerned about our forests, private and public. Their importance to our State is vital.

The national forest timberland in Montana represents two-thirds of all the commercial forest land in Montana. Thus what occurs on the national forests has a significant impact in our State.

The issue of sustained yield is not complex. There are some fundamental commonsense considerations.

A tree is both the factory and the product. The annual growth is added each year to the tree trunk which is the factory. When the tree is ready for harvest the entire tree is cut. It is not like an orchard where the fruit is picked. Nor is it like a ranch where the breeding stock is retained.

The forest is a long-term proposition. It takes from 5 to 15 decades, depending on the tree species, for it to reach a size that captures the optimum growth and value for the time the tree crop is grown.

What we do in this decade, thus determines the forest for the future 5 to 15 decades ahead. A good example of this is Georgia, a State far removed from Montana. It, too, is a large forest State with 25 million acres of forest land. They have been planting from 2 to 3 million acres of trees a year in that State since 1960. It is now estimated that 10 years from now as much as one-third of the wood harvested in Georgia will come from these planted forests.

In Montana, the situation is different. It takes longer to grow trees to a useful size. This has not been solely due to a lower level of planting. The Montana forests do not have the history of being completely cut over. Our forests are still half older, almost exclusively coniferous trees. We face a different set of conditions. If we overcut our Montana forests it will take far longer to return them to productivity.

Sustained yield requires that we plan ahead for a longer time frame than is true in agriculture or in livestock production.

In its fundamental terms "sustained yield" is a conservative system of forest management.

Sustained yield means that the harvest will be matched by growth. Sustained yield means that we will not cut more than we can grow on the land.

Sustained yield seeks to prevent waste. It is commonsense forestry.

In Montana we are now, on private and public lands, cutting 1.8 billion board feet a year on a sawtimber basis but growing only 1.5 billion board feet.

On a cubic-foot basis, which covers all kinds of wood, the harvest of timber has risen from 100 million cubic feet in 1952 to nearly 300 million cubic feet.

In Montana most of the major timber firms are multistate corporations with headquarters outside Montana. Three of the largest firms, St. Regis, Burlington Northern and U.S. Plywood, are also the major landowners with 75 percent of the private forestland.

For the past 20 years the cutting rate on industry lands has been above growth rates. The saw timber cut-growth gap has widened rather than narrowed. For farm and other owners the growth rate is above the cutting rates. This is also true on the other public lands.

For the national forests the rate of timber harvest has risen over the past 20 years and the growth rate is above the harvest rate. Sustained yield is a reality on the national forests and it is not a reality on industry lands. Of course, it is a matter for each private owner to decide. However, the farmers and ranchers, like the Forest Service are growing more timber than they are cutting. We are getting sustained yield in Montana on most of the lands in the State as measured by the relation between timber growth and cut. Why then is the forest products industry calling for no "sustained yield" for the national forests?

The overall State deficit in growth—caused by cutting in excess of growth—can be traced directly to the fact that on the lands of the forest industry, owned mainly by multistate corporations not headquartered in Montana, the cut is well above the growth.

Real protection of mills, real protection of jobs, real protection of towns, real protection of water, real protection of soil, and real protection of wildlife are all tied directly to conservative conservation, to sustaining the yield of the forest.

All of the data shows that the growth rate on the national forests and on the other forest lands, despite a growth in excess of cut, can be increased. It can be doubled by more intensive management. Considering all classes of land, private and public, in Montana, we have 23 million acres of forest, but only 12.5 million are classed as commercial. There are 9 million acres in parks and wilderness, marginal and lands "forested" but clearly noncommercial. Of note is that the 12.5 million acres we have that is called "commercial" is rated the equal of most of the forest land in the Nation. Only Oregon and Washington rank ahead of Montana in the inherent productivity of their forested land.

We have at least six distinct species or grouping of trees in Montana that have commercial significance. Our Douglas-fir is the second ranking species in volume—8 billion cubic feet but it is No. 1 in rate of harvest. Lodgepole pine is No. 1 in volume, 10 billion cubic feet, but ranks last in percent harvested. The other species rank about even in volume—about 2 billion cubic feet each, but the harvest of Ponderosa pine is twice as heavy as the harvest of lodgepole pine and the harvest of spruce and larch are double the harvest of lodgepole pine.

Some will want to say that the forests of the West are old, decadent, and overmature. For Montana this is not the prevailing fact.

Out of our 12.5 million acres of commercial forest land, 4.5 million acres are in pole size stands and another 1.8 million acres are in seedling and sapling stands. Roughly 50 percent of our forests are in young stands. The Forest Service pointed out in a 1975 report—

> The real significance of these stands lies in their relatively fast rates of growth and their potential for providing future harvests.

On the older forests a rate of removal in excess of current growth is generally desirable because of high mortality and low growth rates.

My amendment, which is identical in basic concept with the Senate bill, seeks to provide the underpinning that should apply to our national forests "sustained yield." However, it does this by meeting the issues that we face in a realistic manner. Specifically it would authorize computing the sustained yield by species. This would permit recognition of the need to rapidly convert our lodgepole pine, which is a short-lived species and suffering heavy mortality, into faster growing stands with a high level of sustained yield.

There is nothing new about this concept. The current Forest Service policy is to compute the sustained yield by species, and to define it by national forest. This permits prompt and realistic attention to the need to harvest timber which is truly in danger of being lost, while at the same time encouraging the management of the forest for those species and conditions essential to achieving effective multiple-use.

The argument is made that since the national forests are now on evenflow sustained yield that we should let that policy stand by silence. There are several very good reasons why Congress should spell out more effectively what the policy is.

In the first place since across this land in our national forests the rate of timber growth on a multiple-use basis can be doubled. I think that we in the Congress should say that is what the policy ought to be. We should say to the policy and budget planners in Government that we want a sufficient supply of the raw materials and services that these forest lands can supply to Americans in perpetuity—and on a perpetual basis at a high level. This is what sustained yield is really all about.

Second, we should say that we want waste to be avoided. We want rational management, timely action, and commonsense to be used so that we can have all the benefits of the interest from our public forests while increasing their "capital value." The sustained yield language I bring you has this effect.

Third, we should say that we want "forests for the future," we want permanence and vitality to our communities. The way this Nation has grown is because we had an abundance of natural resources. This policy aims to keep that growth and keep that vitality, by renewing our renewable resources.

Fourth, we want our forests to be used but not abused. The sustained yield policy meets this test.

Finally, with such a policy the people who want homes, the farmer and rancher who needs wood, the people in our cities who depend on wood for the myriad of materials it provides will have a reasonable supply at decent prices. The sustained yield policy will provide this.

The Committee on Agriculture has sought to address a real problem. It has made a commendable effort. It has brought us a useful bill. It is argued that we should enact the bill as brought to us and leave the decision on such an important matter as "sustained yield" for our forests to the conferees.

Clearly the forest products industry position is that it wants the conferees to drop sustained yield. Its omission in our bill, or the defeat of this sustained yield amendment, will complicate the conference and place any bill in jeopardy.

There is a crisis that we confront. Already in four Eastern States timber harvesting has been drastically curtailed due to the courts' interpretation of the 1897 Forest Service authority.

The impact, nationally is small because the amount of national forests in these four States is small. But this is no comfort to the people in the affected areas.

There is a similar decision in Texas. It too has a small national impact but a larger local impact.

We have a decision in Alaska. It too has a small national impact but a large local impact.

Add them all together, plus the additional litigation that is pending, and we do have the likelihood that before the next Congress convenes the impacts will be more widespread and more significant. I do not think we should delay.

I think that many of the issues in the two bills that differ can be resolved in conference. Some are highly technical and complex and deserve the careful attention of the members of the committee, rather than efforts to revise and change the bill on the floor.

There is one issue, however, that is not complex. It is one where we need not be technical experts to give guidance to the Secretary of Agriculture. We are being importuned on the issue from a lot of organizations that are not professional foresters. Now, the NAACP and others are hardly qualified to give professional forestry advice. The Sierra Club and other "conservation groups", who are not professionals, urge that we take a different tack and write all sorts of forest prescriptions into this bill on the floor.

A vote for the Baucus-Metcalf amendment is a vote for sane and safe forest resource management. It says: Grow as much timber as can be grown to meet the needs of our people. Grow as much timber as can be grown respecting the capacity of the land to produce. Cut no more timber than the amount we can grow. Provide a continuous supply of timber for the use and necessities of the people of the United States in perpetuity.

AMENDMENT TO BE PREPARED BY CONGRESSMAN BAUCUS

LIMITATION ON TIMBER REMOVAL

(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be *harvested* from such forest annually in perpetuity on a sustained-yield *growth basis for each tree species*. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. (New language)

(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

Mr. Chairman, I have a question to ask the gentleman, the chairman of the committee (Mr. FOLEY), on page 25, line 11 of the bill, which refers to the fact that the Secretary of Agriculture shall not engage in contracts for the sale of timber for more than 10 years unless, in his discretion, the result of a period longer than 10 years will result in better utilization of timber "consistent with the Multiple-Use Sustained-Yield Act of 1960."

My question of the chairman is whether it is the committee's intention that a contract for a period of time of more than 10 years can result when the Forest Service engages in contracts for the salvaging of diseased timber, or insect ridden timber, or wind thrown timber?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Montana.

Mr. Chairman, if the gentleman would yield, I would say that I have discussed this previously with the gentleman and am happy to have the opportunity to make a statement for the RECORD. That statement is that this section which authorizes the Secretary to use his discretion to extend timber sales beyond the statutory 10-year period provided in the bill, is intended by the committee as giving the Secretary discretionary authority to act only for the best interest of the forest resources and only if he makes a finding that better utilization of forest resources will in fact occur, consistent with the principles announced in the Multiple-Use Sustained-Yield Act of 1960. We would further expect that the Secretary would use this authority carefully based on the individual system in the area and only on a case-by-case basis.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FOLEY. I yield 1 additional minute to the gentleman from Montana.

Mr. BAUCUS. Mr. Chairman, as I understand the gentleman then, salvage sales include those sales where timber could be salvaged because it has been damaged by insects, wind thrown, or by some other natural disaster?

Mr. FOLEY. That is correct; that could be such a sale.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I am very glad to have that explanation by the chairman of the committee. I am very much interested in this program of insect ridden and diseased timber. It is a very successful program and one that has worked well in Montana, largely under the leadership of a Minnesota-based company. It is a program that I have followed for some years and I am very impressed with the very positive conservation program under way there. I appreciate that assurance from the chairman.

Mr. FOLEY. That is the intent of the committee.

Mr. BAUCUS. I thank the gentleman from Minnesota.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. Mr. Chairman, I yield 2 additional minutes to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to my colleague from Montana.

Mr. MELCHER. I thank the gentleman for yielding. I do not want to lose track of the fact that the section of the bill deals also with the intent of the committee that a competitive situation be allowed in timber sales, so that the time for the timber sales is not so long that it does not allow smaller companies who might want to bid to have an opportunity to bid. The term "allowed" under the language is discretionary with the Secretary, but I think it is the clear intent of the committee that the Secretary take into consideration the competitive angle and provide ample opportunity for smaller companies to bid on contracts, and particularly in determining the length of time involved in the proposed contract sale.

Mr. BAUCUS. I thank my colleague, the gentleman from Montana, for that clarification. I yield back the remainder of my time.

Mr. FOLEY. Mr. Chairman, I should like to agree with the interpretation of the gentleman from Montana, (Mr. MELCHER) which is very clear. The gentleman from Montana, Mr. MELCHER'S, statement regarding this matter is one that I share.

Mr. SYMMS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I should like to address a question or two, if I may, to the gentleman from Oregon and the gentleman from Washington. In reference to the definitions of "multiple use" and "sustained yield" to which the gentleman from California referred so movingly, as I understand it, on page 22 of the bill, line 4, the definition of the terms "multiple use" and "sustained yield" as provided in the act of 1960 are determinant here in the bill; is that not correct? If I may have the attention of the gentleman from Oregon (Mr. WEAVER) first, I will pose the question again. I am sorry. As I understand it, one of the objections of the gentleman from California (Mr. BROWN) to the bill as it now stands is that it did not contain the very valuable definition of the term "sustained yield" as described in the multiple use and sustained yield section of the 1960 act. I have looked them up, and they are referred to specifically on page 22, line 4, of the bill as being the dominant definitions that ought to be used in implementing this bill. So, therefore, why is it not satisfactory?

Mr. WEAVER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Oregon.

Mrs. WEAVER. I thank the gentlewoman for yielding.

There are various ways in determining sustained yield. The amendment that we intend to offer will incorporate the U.S. Forest Service policy of sustained yield.

Mrs. FENWICK. So, in other words, the amendment contemplated by the gentleman from California (Mr. BROWN) is not based on the definitions to which he referred?

Mr. WEAVER. If the gentlewoman would yield further, it is a further refinement of "sustained yield."

Mrs. FENWICK. I would just like to pursue this, because it says "regular periodic growth." Suppose it is a specific growth. The only forests that I have seen where they are used for commercial purposes are in Denmark. Certain sections of the forest in this very large forest beach require a 60-year cycle, but they have to harvest when that time comes. Suppose they have a stand that is mature. It must be harvested, and they cannot delay it on any ground other than sound management of that particular type of tree.

Mr. WEAVER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, of the forests in my district, almost all of them are very old growth forests. That is the thing. We could not possibly harvest them in that way. The question is whether to harvest them on a 50-year or a 60-year cycle or on a 20-year or 30-year cycle.

Mrs. FENWICK. But according to the debate here this afternoon it seems to me there are very differing conditions.

Mr. SYMMS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I commend the chairman of the committee, the gentleman from Washington (Mr. FOLEY), and other members of the Agriculture Committee for bringing this bill before the House.

Mr. Chairman, the first land purchased for National Forests in the East was in Curtis Creek in what is now the Pisgah National Forest located in my district in North Carolina. From this original tract bought in 1912, the eastern national forests have grown to over 23 million acres of which 1,430,000 acres are in North Carolina.

The ban on the sale of timber on the national forests in North Carolina affects all sales of timber not under contract. This includes large sales, salvage sales of timber under insect attack, small sales, such as fence posts to small landowners, and so forth.

The injunction on timber cutting imposed by the Circuit Court of Appeals has been extended to forests in 6 States, one of which is North Carolina, and not to the other 44 States in our Nation. These restrictions are having an adverse economic effect not only for the timber industry in North Carolina but also other industries dependent upon lumber.

Section 13 of this legislation would increase the payments to states and counties from the gross receipts from the sale of timber cut in national forests within their boundaries in lieu of property taxes. Income for these counties would, in effect, be cut off if these restrictions on timber harvesting continue. Already we have small lumber mills in western North Carolina which have closed because of the court decision and subsequent order by the Chief of the Forest Service, thereby adding to the unemployment problem in our mountain counties.

In the western North Carolina area that I represent, 20 percent of the commercial timberland is in national forest ownership. But, nearly 33 percent of the large sawtimber used in making furniture and many other products is on national forest land. In many local areas, over half of the sawtimber is on national forest land. So, when this supply is taken off the market, many people stand to suffer. In fact, stumpage costs in western North Carolina have doubled since the ban was imposed, and in the Asheville area retail lumber costs have increased more than 20 percent since the first of the year.

Timber sales contracts already in effect will continue until they terminate which will provide some cutting for the next year. After that the projected annual cut of national forest timber in North Carolina will drop from 55 to 60 million board feet per year in recent years to zero.

Those hardest hit have been and will be the approximately 300 small timber operators who depend on small sales of national forest timber for their livelihoods. Contrary to what some think—that giant timber companies have the major stake in this ruling—most timber sold in all nine national forests affected by the court decision was sold to small- and medium-sized firms and it is the small logger and mill operator and their employees and families who will suffer most.

I have supported the multiple-use concept of our national forests and timber harvesting of mature trees is one of the uses. I am not saying that reform is not needed, especially guidelines concerning clearcutting practices. As I stated in a letter I wrote to the Chief of the Forest Service several years ago—

> After studying and observing timber harvesting practices and use in Western North Carolina, I strongly recommend the banning of clearcutting. I know that scientists say that the procedure is scientifically sound that it rids the area of undesirable trees and that, through seeding, desirable timber can be produced and can be made to grow faster than in areas where selective cutting has been done. On the other hand, clearcutting promotes erosion and is offensive to conservation-minded people, and, in my opinion, it is a threat to the entire timber harvesting program.

The time has come when environmental quality must be considered along with production goals.

Hopefully this legislation can be enacted to bring immediate relief to North Carolina and the other States affected and determine regulations and guidelines for future timber harvesting on national forests in our Nation.

Mr. SYMMS. Mr. Chairman, I would like to reserve 16 minutes of my time and yield back the remaining part.

Mr. FOLEY. Mr. Chairman, I would like to reserve 14 minutes remaining on this side.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having resumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, had come to no resolution thereon.

CONTRACTING-OUT POLICIES

(Mr. KAZEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KAZEN. Mr. Speaker, I rise to offer and to urge support for a firm statement by the Congress that would require careful examination of a proposal to reduce those commercial-industrial functions of the Federal Government now performed by Federal employees. At issue, to use a term familiar to my colleagues, is extension of contracting-out policies. The question we face is whether we want the computers of the Office of Management and Budget to determine policy, or whether we want to be sure that human factors are adequately considered.

This is not a new question. We have long established that the Congress believes that private interests should perform all possible services. The yardstick was established long ago—it was President Abraham Lincoln who provided the dictum that—and I quote—"Government exists to do for the people those things which they cannot do for themselves." But there is a legitimate question of whether the OMB, in all its wisdom, can achieve its own goal if it expands the contracting-out procedures.

The OMB contention is that many jobs can be performed as well by private contractors who would provide such services as building maintenance, security guard protection of Government properties, operation of cafeterias, even such specialized work as film processing, and major overhauls of our aircraft, particularly the B–52's and C–5's. To buttress the argument that money could be saved by contracting out, OMB has directed Government agencies to introduce a new figure into calculations of costs. It has said that computations must add 24.7 percent to payroll projections to cover retirement costs, whereas past calculations have included 7 percent for this element of the computation.

I respectfully suggest that OMB, with its mathematical input into its computers, has disregarded the human factor. Not only does it pay no heed to the number of faithful employees whose years of Federal service would end with contracting out, but there has been no calculations of the costs if some of those people join the tragic numbers of unemployed. There is no consideration of the costs to the taxpayers in unemployment compensation, food stamps, welfare assistance or other public burdens that come when people are out of work.

I cannot say that private services cannot meet the functional needs, but I can inform the House that I have talked with military base commanders, with administrators of Government buildings, and every one of them has told me that contracted-out services are not only less efficient, but are more expensive.

In my work on the Armed Services Committee, I have frequently been surprised at how often the cost overrun problem develops in private contracting. I am moved to wonder whether we would face a whole new wave of such problems if air-conditioning breakdowns occur, or cafeteria service in government buildings is inadequate, or security protection of major Government installations proves inadequate.

I therefore offer this concurrent resolution, expressing the sense of the Congress that OMB should defer implementation of regulations proposed in Federal Register Document 76–24760 until the national rate of unemployment falls below 6 percent and until the Congress can determine the whole range of effects of increased contracting-out.

ADMINISTRATION DECEPTION ON PALM OIL

(Mr. POAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. POAGE. Mr. Speaker, it was my privilege this morning to sit in on a meeting of the subcommittee of the Committee on Banking and Currency which was presided over by my colleague, the gentleman from Texas (Mr. GONZALEZ), in respect to palm oil. Our colleague, the gentleman from Georgia (Mr. MATHIS), made an excellent presentation on that subject.

Under the unanimous consent granted, I include in the RECORD at this point the comments by our colleague, the gentleman from Georgia (Mr. MATHIS):

ADMINISTRATION DECEPTION ON PALM OIL

(Statement of Congressman
DAWSON MATHIS)

Mr. Chairman, I want to thank you for the opportunity to testify here today on the subject of palm oil development loans by the international financial institutions.

The House Agriculture Subcommittee on Oilseeds and Rice, which I chair, has dealt with this issue extensively. The Subcommittee conducted public hearings in Washington on March 18 and in Memphis, Tennessee, on May 15. We received testimony from almost fifty witnesses, including Members of Congress, Administration officials, farm organizations, industry representatives, and others. On July 29 the Subcommittee unanimously reported two resolutions urging the Administration to oppose further palm oil loans and to negotiate voluntary restraints on exports of palm oil to the United States. One of these resolutions, H. Res. 1399 is also pending in this Subcommittee. The Senate has already passed two similar resolutions.

Of all the persons who testified before the Oilseeds and Rice Subcommittee, only one felt there might be any need for the U.S. to continue subsidizing foreign palm oil production. Unfortunately, this person represented the Treasury Department, which is the agency charged with making and executing U.S. policy in this area. Despite the almost universally held view in this country that the U.S. taxpayer should not subsidize his own competition, the Administration has stubbornly refused to budge on the palm oil issue, leaving American farmers and processors to sink or swim in a flood of imported palm oil.

Furthermore, the Administration has deliberately tried to deceive the American public by opposing further loans in public pronouncements and doing just the opposite in private. For example, on July 29 the Department of Agriculture, which has endorsed 31 of 32 palm oil development loans made since 1966, announced that "the U.S. government no longer will support loans by international money-lending institutions to develop more palm oil production for international export trade purposes." In August an official of USDA affirmed the new Administration policy in a speech to the American Soybean Association, but he added one exception. He said that there were several small palm oil projects in the pipeline and that "We do not intend to oppose these projects since their impact on future vegetable oil production will be minimal and a lot of work has already gone into the projects." In a letter to me explaining the new Administration policy, the Secretary of the Treasury also spoke of several small projects in the pipeline that would be approved.

Privately, it it known that the proposed loans are not small. Individually, the loans are larger than most of the other 33 loans made over the last ten years. With a total value of $72 million, the five loans expected to be approved over the next year are extremely large when compared with the $305 million in loans made over a ten year period.

Mr. Chairman, to document the wide gap between Administration rhetoric and reality, I request that the statements of the Department of Agriculture and the Secretary of the Treasury and the list of the so-called "small pipeline loans" be made a part of the record. It should be noted that according to the Treasury Dept., the $165 million in loans to Malaysia and Indonesia, although in the pipeline, will not receive U.S. approval.

The Administration has attempted to downplay the impact of palm oil on the domestic oils and fats industry, but the fact is that palm oil is expected to capture an increasingly larger share of the domestic market and the export market. Further palm oil development loans will mean that the U.S. fats and oils industry will lose markets to foreign palm oil developers. For example, 70% of the World Bank financed production will enter international trade where it will displace U.S. products. By 1985, palm oil is expected to have almost 23% of the world market for edible oils. In my judgment, there is no reason why the U.S. taxpayer should be required to subsidize the destruction of the domestic industry.

Mr. Chairman, because the Administration has proved insensitive to the needs of American farmers and processors, I urge this Subcommittee to take legislative action to mandate the opposition of the U.S. government to palm oil development loans by the World Bank and the other international lending agencies.

U.S. TO STOP FUNDS FOR PALM OIL DEVELOPMENT

WASHINGTON, July 29.—Assistant Secretary of Agriculture Richard E. Bell said today the U.S. government no longer will support loans by international money-lending institutions to develop more palm oil production for international export trade purposes.

This firms up an interim policy position tentatively established last March. Mr. Bell believes the U.S. position will effectively dry up funding from lending institutions which the U.S. supports. This will cut the amount of palm oil that would be produced in absence of the U.S. action. No exact estimates of the cut have been made.

Palm oil imports into the U.S. are slowing, may total about a billion pounds this year. Government officials believe a tariff or direct limitations on palm oil imports would encourage palm oil producers to compete with U.S. soybean producers in the big European market. Such limitations would thereby be self-defeating, according to such views.

THE SECRETARY OF THE TREASURY,
Washington, D.C., August 10, 1976.

Hon. DAWSON MATHIS,
U.S. House of Representatives,
Washington, D.C.

DEAR DAWSON: In view of the interest that has been expressed by the Congress concerning the position which the Executive Branch will take on future proposals by the World Bank and the other international development lending institutions with regard to financing palm oil projects, I though you would be interested in the recent action taken by the National Advisory Council (NAC) on that matter.

The position adopted by the NAC provides that:

1. Loans for palm oil projects intended primarily to produce oil for domestic consumption in the borrowing country will be approved.

2. Loans for palm oil projects in countries with established palm oil industries capable of obtaining commercial financing will not be approved.

3. Loans for palm oil projects that are currently being prepared for Executive Board consideration and intended to produce palm oil for export will be approved if the projects are viable.

4. The US should convince the IFI managements to find alternatives to palm oil export projects when developing new projects for Executive Board consideration.

5. The NAC should review, as necessary, these guidelines for USG approval of IFI financing of palm oil projects.

These guidelines are well conceived and represent a solid interagency consensus based on extensive consideration and careful study of the world supply and demand situation in vegetable oils to 1985. They reflect a new and more cautious approach to financing palm oil projects. While we will not approve some projects, the guidelines will permit several small projects now in the pipeline in the various development banks to go forward, when these projects are finally presented to their respective Executive Boards over the next 12 to 18 months, if they are viable proposals. Implementation of these guidelines will serve to discourage additional IFI financing of palm oil projects for export and encourage these institutions to find alternatives to palm oil export projects.

With best regards,

Sincerely yours,

WILLIAM E. SIMON.

PALM OIL PROJECTS PRESENTLY BEING PREPARED FOR BOARD CONSIDERATION

Bank	Country	Project	Amount in millions of U.S. dollars	Tentative time of board consideration
IDA	Papua New Guinea	Agricultural Development IV planting oil palms	12	October 1976.
IBRD	Ivory Coast	First phase oil palm and coconuts including related industry	20	September 1976.
ADB	Indonesia	Smallholder development—oil palm estates and processing	15	January 1977.
IBRD	do	Smallholder/Nucleus estates	80	March 1977.
IBRD	Cameroon	Socapalm II—Oil Palm Estates	20	Do.
IDA	Zaire	Rehabilitation and extension of oil palm plantations	10	June 1977.
IBRD	Cameroon	Camdev V—oil palm estates and plantations, rubber	10	August 1977.
ADB	Malaysia	Miri/Bintulu Land Development—oil palm planting and processing	(1)	Do.
IBRD	Nigeria	Not Available	(1)	September 1977.
IBRD	Indonesia	Smallholder development	70	Do.
Total			237	

[1] Not available.

Source: Monthly Operational Summaries.

THE PROBLEM OF REIMBURSING "PHYSICIAN EXTENDERS" UNDER MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 30 minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, the Congress, in the Social Security Act Amendements of 1972 (P.L. 92-603, section 222(G)) directed the Social Security Administration to study how and when medicare reimbursement for services provided by assistants to physicians is appropriate.

I am concerned about a special group of these, "physical extenders," those professionals who are trained to provide medical diagnosis and treatment under the supervision of a physician. They work primarily in the field of primary health care and most locate in medically underserved areas of inner cities and rural counties.

I am also concerned about this study because in the 4 years since it was authorized, it has produced not even preliminary results and the need for answers is imminent.

Today, hundreds of "extender" clinics are temporarily supported by grants from the Appalachian Regional Commission, the Public Health Service, and State governments, such as Tennesseee and North Carolina, Arizona, and New Mexico to provide primary health care in otherwise medically underserved areas. Oftentimes in these clinics physicians are not physically present. Because of this these clinics are not now eligible for medicare reimbursement. The fact is—they cannot financially survive without reimbursement for services to their medicare patents. Medicare patients account for 10 to 15 percent of their registrants, in many areas, and in some for as much as 30 percent of their visits.

Again today, through the Bureau of Health Manpower, National Institutes of Health, we are spending in excess of $15 million per year to train more extenders. Already, the training programs are finding that jobs for the new extenders are limited to grant programs, because their services are not reimbursable.

The medicare—social security study involves temporary "experimental" reimbursement for services provided by physician extenders. We are told that extenders are permitted to self-select into the study—thus offering the clinics an interim solution to the reimbursement problem.

At this point in the RECORD, I would like to include a copy of a letter from an Appalachian clinic that employes an extender and sought to be included in the study. They were turned down because the extender graduated in the wrong class. Apparently, this arbitrary turndown is not unique. Very few of the 107 extender clinics supported by the Appalachian Commission are included in the social security study. None of the North Carolina clinics are included.

The letter follows:

ST. CHARLES COMMUNITY HEALTH,
CLINIC,
St. Charles, Va., August 24, 1976.

Senator HARRY BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: We understand that legislation has been introduced into the House and Senate that will require Medicare to reimburse nurse practitioners, physician assistants, and other "physician extenders" for services rendered to Medicare beneficiaries. The Senate Bill is S. 3644. The passage of this legislation is crucial to the future success of small, community-owned, primary care clinics in rural Virginia such as the St. Charles Community Health Clinic. We provide a valuable service to a population comprised mainly of retired working men and their families who live on fixed incomes. We try to keep them healthy and out of the hospital.

The St. Charles Health Council employs a Family Nurse Practitioner (FNP); Polly McClanahan, R.N.; who has been seeing patients at the clinic since January. Ms. McClanahan is certified in Virginia as a Family Nurse Practitioner by the Joint Boards of Medicine and Nursing. As a FNP she practices medicine according to written protocols and under the supervision of a private physician in Jonesville. She screens, diagnoses, and treats patients according to her protocols, consults via the telephone with the physician when she has questions, and makes appropriate referrals to other physicians and services. She is accepted as the "little woman doctor" in the community and is able to see fifteen to twenty patients a day by herself.

The St. Charles Community Health Clinic maintains a single fee schedule and charges appropriate fees for the services that the FNP provides. The supervising physician and the FNP receive a set salary from the Health Council.

The Virginia Medicaid program and the UMWA Health and Retirement Funds reimburse the physician for the services their beneficiaries receive; and the physician reimburses the clinic. Although the FNP sees Medicare patients, Medicare will not reimburse the physician for services provided by the FNP unless the physician is physically present when the FNP is providing the services. We must schedule *all* our Medicare patients for the few hours each week that the physician spends at the clinic.

On one hand, we will not deny Medicare patients services at the community clinic they helped to build. These people are old, disabled, chronically ill, and without transportation. They do not have the financial resources to pay for the care they receive at the clinic without the help of Medicare. However, if the clinic does not receive reimbursement for the growing number of older patients we see, then we will never become self-sufficient and consequently unable to offer medical care to anyone.

A study has been authorized in 1972 by the Social Security Administration to determine if and how physician extenders should be reimbursed. We have been patient and tried to participate in the study, but our FNP is ineligible because she completed her training program three months after the study's arbitrary cut-off date. We have now been informed that due to the complexity of the research design and the cost of conducting the study that valid results will not be available until 1980. We cannot wait that long!

This pending legislation is crucial to the future solvency and viability of the clinic. As you know, the people of St. Charles have financed, built, equipped, and staffed the clinic. The clinic did not receive any Federal help until July 1976. The grant that we have received is to offset deficit expenses for the first few years until we become self-sufficient. However, we will never become self-sufficient unless we receive payment for the services we provide. The Federal government encourages the development of primary care clinics managed by local communities, but at the same time a Federally funded health program discourages the delivery of care to the old and poor.

We ask for your help in supporting this legislation. But more importantly, we ask that you join with your colleagues in the Senate in co-sponsorship of S. 3644. The St. Charles Community Health Clinic is not an isolated clinic in Southwest Virginia. Residents in Ewing, Rose Hill, Dungannon, Ft. Blackmore, Hurley, Dickenson County, Washington County have organized and begun to develop similar programs.

We would appreciate it if you would consider our request and inform us of your decision. We are not asking for more money. We want to deliver quality health care to the people in Southwest Virginia and we want to pay our own way!

Sincerely,

Nancy Raybin,
Administrator.
Linda Alsup,
President.

With so many exclusions, the study cannot possibly be an interim solution.

According to public information from SSA final study results will not be available until 1979 or 1980. Most of the clinic grants will terminate before then.

Apparently some others within the Social Security Administration share my concern about this delay. I have just recently learned of plans to contract this fall for an evaluation of data for purposes of producing a preliminary report by December 1977. Even this is 6 years from the date of the law asking for this information, and 2 years from the date that GAO recommended that Congress press for early results.

This whole area requires a thorough investigation at the highest levels within the Department to answer the question raised by this situation. A full report should be made to the Ways and Means Committee in the next 10 days, giving the full and complete detail about this study, including answers to the following questions:

1. What is the current status of the study authorized by P.L. 92-603, the 1972 Amendments to the Social Security Act, concerning experimental Medicare reimbursement for physician extenders?

2. When will the study be completed? When was it started? When will you have any, even preliminary, results? How much has been spent on the study from 1972 through June 30, 1976? What is the budget for FY 1977, FY 1978 and FY 1979 for this study?

3. Why, after four years, are the available results confined to information on location of physician extenders? What was the cost of obtaining these data?

4. Is the design for the analysis of data from the reimbursement phase of this study complete? If so, please submit copy. If not, why not?

Is the contractor for this reimbursement analysis phase selected?

Does the study have any more phases? If so, what are they?

5. Please submit a list of the names and locations of extenders participating in the study.

How many and what percentage of them are in rural areas?

How many extenders did you contact in developing the list of participants?

On what grounds were extenders eliminated from participating in the study?

Why did so many extenders voluntarily choose not to participate?

6. What requirements are imposed on participating extenders in order that they may receive reimbursement under the constraints of this study?

What information must be submitted to your office?

How long does it take an extender to complete these forms?

7. One of the purposes of the study mandated by P.L. 92-603 is "to determine under what circumstances payment for services would be most appropriate." How will this question be addressed?

Does the study design include information on whether use of extenders reduces overall costs to the Medicare system, such as reduced hospitalization?

Are you or the research managers familiar with the published studies of Dr. Runyan of the University of Tennessee Medical School concerning reduced health care costs through reduced hospitalizations by using extenders?

I believe a Mr. Mendenhall, Ph. D., of University of Southern California, is the chief contractor on this study. Is he aware of the cost savings effected by use of extenders at UCLA Medical Center as published in the Fogarty International Library Series?

Why isn't the study oriented towards overall savings to the health care system, by use of practitioners, not just the method of payment for practitioners? Isn't that the important question?

8. Are you aware that Medicare beneficiaries constitute as much as 12 percent of the registrant population and 25 percent of the total visits to rural clinics?

This study which has seriously run amok is being cited as the reason why we should not amend the Medicare law to reimburse "extenders."

On the contrary, this study has produced nothing in 4 years, even when its finished in 7, 8, or 9 years, it will not have answered the key questions concerning reimbursement of extenders. This study is no reason to delay legislation to allow this reimbursement. I strongly recommend passage of H.R. 14630 as soon as possible.

I include the following:

ATTACHMENT

"(G) to determine under what circumstances payment for services would be appropriate and the most appropriate equitable, and noninflationary methods and amounts of reimbursements under health care programs established by the Social Security Act for services, which are performed independently by an assistant to a physician, including a nurse practitioner (whether or not performed in the office of or at a place at which such physician is physically present), and—

"(i) which such assistant is legally authorized to perform by the State or political subdivision wherein such services are performed, and

"(ii) for which such physician assumes full legal and ethical responsibility as to the necessity, propriety, and quality thereof;"

REPORT TO THE CONGRESS: PROGRESS AND PROBLEMS IN TRAINING AND USE OF ASSISTANTS TO PRIMARY CARE PHYSICIANS—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(By the Comptroller General of the United States)

* * * * *

REIMBURSEMENT FOR SERVICES

HRA and IHS provide financial assistance for training physician extenders, but SSA is not providing reimbursement for extender services under part B of the Medicare Program, which provides for payment of physicians' services on a reasonable charge, fee-for-service basis. According to SSA, part B of Medicare does not allow payment for services traditionally performed by physicians unless they are the kinds commonly furnished as a necessary adjunct to the physician's personal in-office services. SSA may reimburse institutions, however, for physician extender services under part A of Medicare as it does for the services of any salaried employee of a hospital or extended-care facility.[1]

In 1965, when the Medicare legislation was enacted, there were few, if any, physician extenders working, and no allowance was made for their reimbursement.

The issue of reimbursement came to a head on May 10, 1971, when an SSA official in Boston wrote to a New England Medicare coordinator that

"The question of whether payment may be made for the services of physician assistants who are physician employees depends—on whether they meet the requirements of Section 1861(S)(2)(A) of the [Social Security] Law which provides coverage of services 'furnished as incident to a physician's professional services of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physician's bills'."

The letter concluded that "Some of the services physician assistants would perform would not presently meet the 'commonly furnished in physicians' offices' requirement."

SSA regulations specify that services to be covered under section 1861(S)(2)(A) of the Social Security Act must be of kinds that are "commonly furnished" as a necessary adjunct to the physicians' personal in-office services. Thus, according to the Medicare law, the performance by a physician extender of services traditionally reserved to physicians cannot be covered under part B of Medicare even though all other requirements have been met.

Responding to this problem, the Congress in the Social Security Amendments of 1972 provided that a study be made to determine (1) under what circumstances payments to physician extenders would be appropriate, (2) what payment methods would be the most appropriate, equitable, and noninflationary, and (3) how large the reimbursements should be that are paid under health programs authorized by the Social Security Act. A contract covering the first phase of this study—designing a data collection, evaluation, and analysis initiative—was let in February 1974. The study itself began in December 1974.

According to an official of SSA's Bureau of Health Insurance, letters have been sent to third-party carriers asking them to review bills submitted by doctors employing physician extenders. This official advised us that insufficient audit capability exists, however, to review every bill submitted by a physician employing an extender. Consequently, SSA is probably unknowingly reimbursing physicians for services rendered by extenders under part B of Medicare.

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[1] In commenting on our draft report, HEW said there may be exceptions when reimbursement would not be provided under part A of Medicare. (See app. I.)

We contacted a number of health insurance carriers to determine their practices regarding reimbursement for physician extender services. The private carriers were reimbursing for physician extender services if:

The extender was employed by and under the supervision of a physician,

Extenders were legally recognized in the State, and

The fee was in accordance with "reasonable and customary" charges.

MALPRACTICE CLAIMS AND INSURANCE

With one exception, we found no evidence of any malpractice claims filed against physician extender graduates or their employing physicians for work performed by an extender. The only instance of any such claim we observed involved a physician associate student at Duke University who was assisting a physician in the university's hospital. The malpractice claim resulted from an act that took place in September 1971, and at the time of our visit, the case had not yet come to trial.

According to physician extenders, employing physicians, and insurance companies, malpractice insurance is available to extenders. An exception was in California, where, because of legal uncertainties, the availability of malpractice insurance at the time of our review was in doubt.

Of the 306 physician extenders responding to our question on this point, 297 had some sort of malpractice coverage, either through individual coverage, under a rider of the employing physician's policy, or under the umbrella coverage of the employing institution. In some instances, nurse practitioners were covered by the same policy that protected them when they practiced solely as registered nurses.

CONCLUSIONS

Physician extenders have generally improved the accessibility and quantity of medical care provided in their employers' practices. The expense of their salaries and additional malpractice insurance premiums has apparently not inhibited their employment.

Fees charged by practices employing physician extenders are based on the services provided, not on the person providing the service. Thus, the same fee is charged whether the services are provided by a physician or an extender.

The issue of reimbursing for physician extender services needs to be resolved. HEW should conduct the study required by the Social Security Amendments of 1972 in an expeditious manner and use the results as they become available to resolve this matter.

RECOMMENDATION TO THE SECRETARY, HEW

We recommend that the Secretary of HEW insure that the study required by the Social Security Amendments of 1972 is conducted expeditiously and use the results as they become available to resolve the problems concerning the reimbursement for services provided by physician extenders under the Social Security Act.

CARRYOVER BASIS PROVISIONS RELATING TO ESTATE AND GIFT TAX PROVISIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes.

Mr. CONABLE. Mr. Speaker, tomorrow the House will consider the conference report on H.R. 10612, the Tax Reform Act of 1976. The conference report represents a balanced package of needed changes in the income tax laws and I shall support it.

The conferees also agreed to a package of provisions which would provide needed reform of the estate and gift tax laws. Since some of the matters in the package were outside both versions of the tax reform bill, these have been reported in technical disagreement and will be brought to the floor under a motion by our chairman to recede and concur in the Senate amendment with an amendment. The amendment contains all the estate and gift tax provisions agreed to by the conferees including one relating to the carryover basis of property transferred at death. I believe this provision is, at best, ill advised and plan to offer a substitute motion and an amendment which would delete this carryover basis provision. I will be able to offer the substitute only if the House defeats the previous question on the Ullman motion. I urge the Members to vote against the previous question on the Ullman motion so that I may offer my substitute.

The deletion of the carryover basis provision is essential if we are to avoid the imposition of a new tax on a group of taxpayers heretofore untaxed. In order to illustrate the impact of this new tax on the heirs of modest estates, I have prepared two examples which are listed below. I urge all Members to study them carefully. I will provide a fuller explanation of the carryover basis provision during debate on the conference report on H.R. 10612:

How Carryover Basis Could Adversely Affect the Widow of a Small Businessman

In the following example, the husband owned a small grocery store and a home. After his death, his wife decides to sell both and move into an apartment. Due to the carryover basis provision, she must pay a capital gains tax of $7,190 on both the grocery store and home property. The carryover basis provision also causes the minimum tax provision in H.R. 10612 to come into play, so that she must pay an additional $2,250 tax on the excluded part of capital gains. If there were no carryover basis provision, she would not have to pay these additional taxes. Carryover basis thus may simply amount to the imposition of new taxes on middle Americans. The intended granting of estate tax relief under H.R. 10612 by increasing exemption levels, the marital deduction, etc., may be undermined.

Faced with the prospect of paying a combined total of almost $9,500 in taxes, she may well decide not to sell either property. Others in a similar situation may also decide not to sell property they otherwise would; the carryover basis could thus have significant "lock-in" effect, causing economic dislocations.

Property	Basis (under H.R. 10612)	Fair market value 1988
Home	$25,000	$45,000
Grocery store	35,000	65,000
Personal and household effects	2,000	6,000
Automobile	3,000	2,000
Insurance	-----	12,000
Total	65,000	130,000

*Assume husband dies in 1987 with adjusted gross estate of $120,000 and that he takes advantage of the marital deduction.

* Assume surviving widow, age 60, sells grocery store and home in 1988 for $110,000 and moves into an apartment.

*Assume she has other income for 1988 equal to the exemption and allowable deductions.

Tax on husband's estate under either current law or H.R. 10612	$0
Income tax paid by widow without carryover basis provision	0
Income tax paid by widow with carryover basis provision (tax on capital gains)	7,190
Minimum tax	2,250
Total increase in taxes because of carryover basis provision	9,440

Assume a Congressman and his spouse now own a residence in the Washington area and also a residence (principal) in his home district. The Washington area home has a basis of $60,000 as stepped-up by the formula provided in the bill. From 1977 to 1981 it appreciates at the rate of 5 percent per year and in 1981 has a value of approximately $76,500. The Congressman dies in 1981, and his spouse sells the house in the Washington area for $76,500 and moves back to the residence in the home district. Assume also that the Congressman's total estate will not be subject to any estate tax under present law or under the new estate tax provisions in H.R. 10612.

Current law	
Spouse's basis	$76,500
Selling price	76,500
Gain subject to tax	0
H.R. 10612 with carryover basis	
Spouse's basis	$60,000
Selling price	76,500
Gain subject to tax	16,500

With the carryover basis provision, a Congressman's spouse would be subject to income tax in a situation where there is no tax under either current law or H.R. 10612 without the carryover basis provision.

H.R. 12112 TRIGGERS OFF-BUDGET DIRECT LOANS TO SPECIAL INTERESTS BY FEDERAL FINANCING BANK TO BUILD BILLION-DOLLAR SYNFUELS PLANTS: INCREASES PUBLIC DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAYES) is recognized for 10 minutes.

Mr. HAYES of Indiana. Mr. Speaker, President Ford, in his July 22, 1976, message to Congress on "must" legislation urged passage of a loan guarantee bill (H.R. 12112) for synthetic fuels to finance the construction of commercial sized coal gasification and oil shale plants. ERDA contends that this bill is needed to "increase the confidence of the financial community" so that 100 or more of these plants will be built by the end of this century. Today, the Rules Committee reported a complicated resolution to consider H.R. 12112. That bill authorizes $3.5 billion in loan guarantees for these plants. At the same time, the Rules Committee refused to report out a strip mine bill.

LIKELIHOOD OF PARTICIPATION BY PRIVATE SECTOR QUESTIONED

An August 30, 1976, staff report of the Senate Budget Committee calls into question ERDA's claim that there will be any participation by the private sector in this program.

That report points out that the Federal Financing Bank Act of 1973, 12 U.S.C. 2281–2296, authorizes the Federal Financing Bank, FFB, to purchase "any obligation guaranteed" by a Federal agency. This is confirmed by the appendix to the President's budget for fiscal year 1977 which states on page 915 that—

> The FFB has become the vehicle through which most Federal agencies finance their programs involving the sale or placement of credit market instruments, including "guaranteed obligations."

Some examples of FFB loans are summarized in the FFB's August 10, 1976 news release for July 16–30, 1976, as follows:

> The Federal Financing Bank made the following loans to utility companies guaranteed by the Rural Electrification Administration:

Date	Borrower	Amount	Maturity	Interest rate [1]
7–20	South Mississippi Electric Power Assn	$5,950,000	7–24–78	7.043%
7–26	Murraysville Telephone Co	400,000	7–26–78	7.063%
7–30	Southern Illinois Power	1,725,000	7–30–78	6.925%
7–30	Big Rivers Electric Corp	1,188,000	12–31–10	8.188%

[1] Interest payments on the above REA loans are made on a quarterly basis.

The Senate report states that, in fact, when the FFB purchases a guaranteed obligation, "the Federal Government," not the "financial community," becomes the "direct lender." The report stresses that by using the FFB, "a Federal agency can finance a very large guaranteed loan much more cheaply and easily than if funds had come from private lenders."

SCIENCE COMMITTEE REPORT ON H.R. 12112 PROVIDES FOR USE OF FFB

The report of the House Committee on Science and Technology indicates that language was included in H.R. 12112, at the request of ERDA officials, to insure that the FFB could purchase synthetic fuel guarantees and lend money directly to the borrower—House Report 94–1170, part I, page 32.

HOW WILL THIS WORK?

A special interest energy corporation, like WESCO, which is controlled by Texas Eastern Transmission Corp. and Pacific Lighting and wants to build a plant on Navajo Indian lands in New Mexico costing over $1 billion, will be able under H.R. 12112, through the FFB, to reduce its money costs substantially and thus artificially reduce its project's costs which will be recovered through rates paid by its customers in southern California. WESCO, with an ERDA guarantee in hand, can go directly, or through ERDA, to the FFB and get its money—not just the amount covered by the guarantee, but all the money that WESCO needs to borrow to build the project. The Senate report quite properly notes:

> This undercuts the argument that partial guarantees force the private sector to bear some risks inherent in a proposed project and therefore to carry out its own evaluation of the project's merits.

This is, in essence, a windfall for WESCO whose only interest in H.R. 12112 is to build a plant to produce gas commercially, not information.

WHERE DOES THE FFB GET ITS MONEY?

The Bank's policy since June 1975, is to borrow all funds from the Treasury. It matches the terms and conditions of its borrowings from the Treasury with the terms and conditions of its loans. The Bank then lends this money at one-eighth of 1 percent above the new issue curve of marketable U.S. Treasury securities. This rate is below the market rate.

All of this is "off budget." Indeed, this activity shows up only in one place—the "Public Debt"—that very debt that we, in Congress, are being required to increase annually; for example, Public Law 94–334 of June 30, 1976. Thus, if we enact H.R. 12112, Congress will undoubtedly be asked to turn around and increase the "public debt limit" next year by $3.5 billion for this program.

SWEETHEART GOVERNMENT LOAN FOR SPECIAL INTERESTS

Mr. Speaker, H.R. 12112 is a tool by which the administration can circumvent the budget and provide "sweetheart" loans for the special interests, like WESCO and the big oil corporations. I think this is an outrageous subterfuge and an affront to the Nation's taxpayers who cannot obtain such deals.

If the administration insists on providing a direct loan to WESCO, and others, let it be done by ERDA directly through its loan authority in section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974, rather than through the charade of an ERDA guarantee and FFB loan.

FFB LOANS WILL NOT PROVIDE DATA TO FINANCIAL COMMUNITY

This result is not designed to "increase the confidence of the financial community" in later synthetic fuels plants which are not subsidized by the Federal Treasury. If the FFB provides the money, there will be little participation by the financial community, except possibly as consultants in the preparation of notes, and so forth, leading up to the loan. Furthermore, by further reducing the interest rate for money for the project below that charged in the private sector for a federally guaranteed obligation, ERDA provides an additional subsidy to the project and further distorts the true project costs.

DEFEAT H.R. 12112 AND KEEP PUBLIC DEBT DOWN

Mr. Speaker, this is the danger in trying to run a complicated bill like this through the House late in the 94th Congress. These delicate little loopholes that one can drive a truck through often do not show up until it is too late. How many more ERDA-inspired loopholes are there in H.R. 12112? I fear that there are many.

Clearly, this recycled bill should be defeated again and reexamined so that we do not increase the public debt limit in order to bail out WESCO and the oil giants.

DEAUTHORIZATION OF LAFAYETTE LAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

Mr. FITHIAN. Mr. Speaker, within the next 2 weeks, the Public Works and Transportation Committee will send the Water Resources Development Act of 1976 to the House floor for final passage. When this legislation comes before the House, I will offer an amendment to deauthorize the Lafayette Lake project which is located in the Second District of Indiana.

On May 11, 1976, I sponsored H.R. 13689 and subsequently reintroduced it with additional cosponsors (H.R. 13689 and H.R. 14899). This bill sought to deauthorize this public works project. Since the Public Works and Transportation Committee did not have time to consider deauthorization bills, I will offer my original bill as an amendment when the omnibus bill reaches the floor.

There are several compelling reasons to deauthorize this project:

First. The State of Indiana has withdrawn support and indicated that State financial assistance will not be forthcoming. No local cooperation, therefore, is possible;

Second. The people in the community now substantially oppose the construction of the reservoir, and all the State and county elected officials oppose the project;

Third. The cost of the project has dramatically risen from $26 million in 1963 to $107 million in 1976, and the actual cost-benefit ratio is decisively negative; and

Fourth. Deauthorization will permit State and local authorities to pursue alternatives such as a State park/recreation area or other use. Several alternatives are closed to them until after the corps project is removed from authorized status. Homeowners are presently prevented from acquiring building permits if they are in the area authorized for the project.

In late April of this year, I announced my withdrawal of support for this project. I request that this statement be reprinted in part, for the benefit of my colleagues in the House:

Statement on Lafayette Lake by Congressman Floyd Fithian

> For almost two decades, controversy over the proposed Lafayette Lake project has divided this community. We have reached the point where we can and must lay this conflict aside.
>
> I made a decision 13 months ago to actively seek funding for Lafayette Lake. At that time the State of Indiana fully supported the project, as did both United States Senators. Promised benefits of the lake, as described by the Corps of Engineers, con-

siderably overshadowed estimated costs, resulting in a $1.70 return for each dollar invested. And I believed that a majority of citizens of this community supported the project, or would support it once they became fully acquainted with it and developed an opinion.

In the past year conditions have changed. The state withdrew its support last week. After changes in the lake design and due to continuing inflation, the benefit to cost ratio plunged to an unacceptable level. And during the past eight months it has become increasingly clear that we have not developed the broad base of community support that such a project should have.

These factors have led me to the conclusion that the only responsible action open to me as your Congressman is to request that Congress halt funding for Lafayette Lake and de-authorize the project.

At every opportunity since 1969, I have stated my belief that the worst possible development on the issue of Lafayette Lake would be for the community to be kept in doubt, agonizing over whether or not the lake would be built. No decision and indecision were—and still are—the worst of all alternatives in looking at this matter. I felt that my decisive action in Congress to move the project forward would settle the controversy. It didn't. Obviously, feelings on both sides of this issue are held deeply and firmly.

Those who believe that the flood control and recreational benefits which would be provided by the lake outweigh the disadvantages of the project are sincere in their beliefs. I have counted myself among that number for some time. Objections based on the cost of the project, environmental considerations and fears about loss of property also have been strongly advanced by sincere individuals.

But, quite simply, Lafayette Lake now cannot be built, given the new circumstances. Prolonging the fight over this is useless and would be irresponsible on my part.

Three key factors brought me to the conclusion that we will not have Lafayette Lake, each with real weight and validity. First, economic aspects of the project have deteriorated significantly. Second, public sentiment against the lake has grown, and the fears and anxieties of people who perceive Lafayette Lake as a real threat cannot be overlooked. Finally, withdrawal of state support made any further progress toward construction virtually impossible, as I outlined in my statement last week.

In looking at the cost of the project, it's important to note that Lafayette Lake, if built today, would cost four times as much as it would have cost if it had been built when it was first planned. On Friday I met with Col. James Ellis of the U.S. Army Corps of Engineers and two of his assistants. We carefully went over all aspects of the project's economic status, and his explanation of cost figures disturbed me greatly.

The current estimate of the cost of this project is $107 million, or $17 million more than the estimates at the time of our hearings in Lafayette last year. This is all the more discouraging when coupled with the fact that the price tag of $17 million more is for a lake one-third smaller than we discussed at the hearings. At this high cost figure, the benefits to cost ratio at different levels of interest is: 3.25 per cent interest = 1.31:1, 6⅛ per cent interest =.72:1; 8 per cent interest =.53:1. This means that only by using the statutory 3¼ per cent interest rate on money used to construct this project is this project economically feasible.

If the project were being authorized now, instead of in 1965, the Corps would use a 6⅛ per cent interest rate, meaning that the total cost of the project would outweigh the total benefits brought about during the reservoir's estimated 100 year life-span. But figured at the true rate of interest—that is, the 8 per cent rate that it actually would cost the government to borrow the money to build the project—the lake would return approximately 53 cents for every dollar invested in building it.

When these figures were presented to me Friday in Warsaw, I was greatly disillusioned. The Corps has just concluded its planning for the project, and to those of us who have looked upon Lafayette Lake as a good investment of money, the brand new figures are devastating. Clearly, it is not a good investment of tax dollars, so I cannot any longer support the project on its economic merits.

One further factor is worth considering in examining the economic aspects of the project. According to the Engineering News Record—the official publication used to compute probable future construction costs—an estimated construction cost increase of 8 percent each year can be expected. Using this figure as a basis for projection, the estimated cost of Lafayette Lake, if delayed one more year before starting construction, would increase to $117 million; if delayed two years, it would be $126 million; and if delayed three more years, $136 million.

These figures should remove all doubts about the future of this project. In addition, they tell the real story of what all too often kills worthwhile projects: delay. Economic aspects for Lafayette Lake were bright indeed in the earlier planning stages. It could have been built in 1963 for about $26 million, and as recently as 1970 it could have been constructed for $54 million. In 1971, the best opportunity for Lafayette Lake passed by; that year, federal funds were available, state approval was assured, engineering plans were complete and the costs still were low. No longer is this the case.

It is true that some of the benefits of the project also have increased in value. But crops downstream which would be saved as a result of Lafayette Lakes flood control benefits have not increased in value nearly as rapidly as land values in the "take area" have increased. Lafayette Lake, already economically infeasible, continues to be a worse investment with each year it is further delayed.

I cannot agree with those who urge that this project merely be put on the shelf until the situation involving state withdrawal from support might change. Delay conditioned on the hope of a change in the state's position would lead us to an even more costly project, for the economics of this problem will not change. Even if there someday is a reversal of the state position, there can be no reversal of the economic facts which show that this lake is just too expensive for any further consideration of its future.

In light of these compelling economic arguments and given my genuine concern about wasteful federal spending, I cannot in good conscience press for construction of Lafayette Lake. Accordingly, I informed the Corps of Engineers last Friday, after their economic briefing, that I would oppose any further funding for this project.

A second and crucial factor among the considerations which brought me to this conclusion was the lack of community consensus behind this project, which I had believed would develop. Despite widespread publicity about this project's flood control and recreational benefits, many people remain fearful about construction of the lake and feel threatened by the changes it would bring. After a year of intense public discussion, a great many people remain deeply troubled by prospects of construction of this lake. As their representative, I must recognize that concern and respond to it.

The position of the State of Indiana is the third element of my decision to oppose further progress for Lafayette Lake. This position was outlined in my statement last week and clarified by Governor Bowen's telegram to the Corps on Friday. This constitutes an abrupt reversal of the state's long-standing position of support for Lafayette Lake. That support was reaffirmed in a letter on June 2, 1975, when Joe Cloud, director of the state Department of Natural Resources, wrote to the District Engineer in Louisville: "This is to advise you that subject to appropriate funding by the Congress of the United States and the Indiana General Assembly, it is the intention of the Department of Natural Resources, acting for the State of Indiana, to participate as the non-federal sponsor . . ." And as recently as April 19—just one week ago—Governor Bowen's executive assistant, Bill Watt, reportedly told the Corps that "the state has a commitment to the project and it stands by it."

But the state has indicated clearly that it no longer will support the Lafayette Lake project. Without state backing, no project of this nature can proceed. It would therefore be senseless for me to push this project on the federal level. Not one more dime of federal money should go to this project, which will never see the light of day.

My decision to attempt to kill this project is final and irrevocable. I shall put my best effort forward to get the job done. Ending funding for this project may not be as easy as it might appear, however. This project is strongly supported by anotaher member of the Indiana Congressional delegation who is on the committee which determines funding for public works projects, and the Lafayette Lake project already represents considerable federal expenditure of time and effort. However, I believe we can and must cut off federal funding for Lafayette Lake, and the idea of the project must be put behind us.

Accordingly, I will meet tomorrow morning with Congressman Joe Evins, chairman of the Public Work Subcommittee of the House Appropriations Committee, in his Washington Office. I will urge that no funding for Lafayette Lake be included in the 1977 federal budget. In my official correspondence with the subcommittee, I will cite all three major factors militating against the project, and I will attempt to make the strongest case possible in favor of subcommittee action to remove from President Ford's budget the $1.3 million now proposed for Lafayette Lake. Should I fail at the subcommittee level, I will take this fight against Lafayette Lake to the full committee, and then, if necessary, to the floor of the House of Representatives.

Killing funding for Lafayette Lake, however, will not permanently end this controversy immediately, nor effectively kill the project. Only Congressional action through de-authorization of the project can ultimately end the project. This cannot be done by either the State of Indiana or by the Corps of Engineers.

I pledge to you today that I will make every possible effort necessary to de-authorize the Lafayette Lake project. I must caution you, however, that this is a difficult and arduous task. It is easy for those who are unaware of the complicated procedures or careless with the facts to say "de-authorize immediately," or "I'll de-authorize it if I am elected." This is hollow rhetoric and should be recognized as such by reasonable people. The actual process is quite complicated.

The end of hopes for Lafayette Lake and the recreational benefits it would have provided for this area leaves us with a problem which has faced the Lafayette community for some time; a great shortage of recreational opportunities for our citizens. I firmly believe that we must pursue some program of providing more recreation for the people in this region, and I stand ready to cooperate fully with those who now will have the responsibility of working toward this goal.

I would hope that those who have opposed this particular plan for recreational development will not now forget their responsibilities, if elected officials, or their moral obligation, if private citizens, to press forward with efforts to remedy our recreational plight. They will have full cooperation from me.

No feasible alternative exists for the flood control benefits which Lafayette Lake would have provided. We all hope that we will not see serious floods in the future which might have been materially reduced by the approximately two feet of flood control capability which would have been ours, had Lafayette Lake been built.

This has been a difficult decision for me. It was necessitated by the fact that this project, unlike some other areas in which I'm working such as Lafayette's railroad relocation program, does not enjoy broad-based community support. Unlike the opportunity we missed in 1971, when the lake's benefits far outweighed the cost, the inflationary spiral has passed us by and this project is economically infeasible. And, finally, it has failed to maintain the necessary state support.

Lafayette Lake is dead. Let us waste no more energy in bereavement for its passing, but let us move forward to meet the other challenges facing our community.

The time has come for Tippecanoe County to unite, to lay aside the differences arising from this project, which have afflicted the citizens of this community for so long. We cannot tolerate the luxury of bemoaning or gloating over the demise of Lafayette Lake.

I ask the people of Tippecanoe County to join me now in this effort to put this project behind us, whether they have supported or opposed the lake in the past. Then, together, we can work for the betterment of our community without the rancor and division which have characterized this struggle for so long.

RELIVING A HISTORIC JOURNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, during this Bicentennial Year, every community that had a role in the American Revolution is competing for the spotlight.

One Bicentennial event does stand out. The Hartford Courant, a newspaper that serves the State of Connecticut, sponsored a re-creation of an historic ride in 1776 from Philadelphia to Hartford.

The 205-mile ride was to present a freshly printed copy of the Declaration of Independence to the Courant, which printed its first edition in 1764.

The man who recreated this event was Maj. Everett Kandarian, a member of the First Company, Governor's Horse Guard. His ride was followed by thousands of Connecticut residents, and I want to join them in expressing my admiration for the re-creation of this historic event.

Kandarian 'Swell' But Hoarse After Six Days in the Saddle

(By Gerald Demeusy)

With a triumphant charge of 500 yards up Broad Street to The Courant, the postrider, Maj. Everett Kandarian of the First Company, Governor's Horse Guard, Sunday ended his historic trip from Philadelphia.

Presentation of a copy of the Declaration of Indepencence re-enacted a similar scene two centuries ago when a colonial postrider arrived from Philadelphia with a copy of the Declaration that was published in a July 1776 Courant.

Kandarian said he was somewhat tired but "feeling swell" when the ride had ended. He said three military horses he rotated during the six-day ride also were in good shape.

I will admit I'm kind of hoarse, though," he said.

He explained that between blowing his postrider horn and shouting "happy birthday" to people along the way, he must have overtaxed his vocal cords.

Kandarian was greeted by an estimated 5,000 persons as he rode the final leg of his journey from Cromwell to Hartford Sunday morning. The heaviest reception awaited him at the Wethersfield green on Marsh Street, where he paused 10 minutes to make his final switch of mounts.

Hundreds of well-wishers were on hand to applaud Kandarian as he rode into the green. They mobbed him for pictures, autographs and Courant reprints of the Declaration of Independence. Many congratulated him with a pat on the back or a shake of the hand.

Hartford Avenue in Wethersfield resembled a parade route with men, women and children lining the curb to exchange greetings with the postrider as he passed. Adding to the holiday atmosphere were flags unfurled from residences and a sprinkling of men and women attired in colonial dress.

Intersections along the way were jammed with crowds and many motorists armed with cameras made repeated runs past Kandarian to get pictures or movie footage of him and his horse. Kandarian was almost constantly followed by running youngsters and boys and girls on bicycles. Two horse riders accompanied him from the Wethersfield Green to Asylum Street.

Kandarian crossed the Wethersfield-Hartford line exactly on schedule at 9:45 a.m. Again on Wethersfield Avenue, there were hundreds of people along the roadside, waiting for a glimpse of the postrider.

Kandarian was photographed thousands of times by camera bugs who tripped their shutters through car windows, atop cars, from porches and any other vantage point they could find.

Kandarian halted several times to give his autograph. Many asked him to sign the front page of Sunday's Courant, which included the Declaration of Independence. One woman asked that he sign with a quill pen she produced. On Wethersfield Avenue, a thoughtful resident waited with a bucket of water for Kandarian's horse.

Kandarian's face lit up with a grin as he approached the Old State House on Main Street. What he saw was an honor guard of the First Company, Governor's Foot Guard, lined up on the west side of the street.

"Present arms," came the order from Commandant William Lehmann, his sword flashing in the midmorning sunlight as he brought it up in salute to the passing rider.

Kandarian returned a salute from the tip of his black tricornered hat, then brought his horse behind two Hartford police cruisers to turn down Asylum Street.

Kandarian arrived at the corner of Farmington Avenue and Broad Street at 10:20 a.m., the exact moment he had targeted when planning the marathon journey from Philadelphia. He had to mark time for a few minutes, however, because the Independence Day celebration at The Courant ran slightly late and was not ready for his dramatic arrival.

When he galloped to The Courant on Broad Street Kandarian was astride his favorite mount, Tas-Tee's Graham, one of the three Morgan horses he used on the long ride north. He was seated in a restored 18th century saddle with gold breastplate, once owned by the chief of the U.S. Ordnance Department and presented to Kandarian by the Daughters of the American Revolution a decade ago.

2,000 Cheer for Postrider, Pomp, Oratory

(By Carol Giacomo)

Along with thoughtful musings about this country's origins, music, colonial musket fire and 1,000 free balloons, nearly 2,800 persons celebrated the Bicentennial at The Courant Sunday morning and greeted the postrider after his 5½-day journey from Philadelphia.

The 205-mile ride of Maj. Everett Kandarian ended about 11 a.m. when, still on horseback, he presented a copy of the Declaration of Independence to Courant President Edmund W. Downes—a re-enactment of an event 200 years ago when the newspaper received a copy of the historic document to print as news.

Kandarian, commandant of the First Company, Governor's Horse Guard, was cheered on his arrival by the crowd, which encircled the roped-off area in front of The Courant at 285 Broad St., and was greeted by a round of musket fire from the colonial-garbed Putnam Phalanx.

After handing copies of the Declaration to Gov. Grasso and Mayor Athanson from his leather pouch, he was besieged by spectators who wanted his autograph.

Kandarian's only immediate request was for water—and someone quickly handed him a full glass.

He said that during the unusual journey, which followed Rt. 1, the old post road, he often reflected on American men who fought and died in wars for this country and this kept him going "even when my back was sore."

"That's what all this is about," he said, "the men who died in those wars."

The meaning of the Declaration of Independence was discussed by several speakers who addressed the crowd before Kandarian arrived.

Mrs. Grasso warned that the document "has no meaning unless each of us participates in the process of deriving the consent of the governed."

"The idea of freedom demands constant practice or it loses its meaning and fades into the shadows," she said.

She called for a "rededication to the principles which our ancestors dreamed of, fought for, died to establish and persevered to strengthen."

Downes, commenting on the newspaper's founding in 1764, 12 years before the United States declared its independence, said: "We are proud that our roots go back even earlier than our nation's do and that we have been able to report events in our country's life as news. This we will continue to do in the future."

Downes hailed freedom of the press as "one of the most important rights" provided by the Constitution and stressed that the public, not the press, is the beneficiary of that right.

"The press is simply the means by which the public is informed," he said, "so when the press raises a hue and cry about attacks on the freedom of the press, we are protecting the right of each of us to have a free press and be meaningful citizens."

The importance of a free press was emphasized by Athanson, who said a free people must know the truth through a free press to "really be free."

"When Maj. Kandarian comes here this morning, he's bringing the truth of 200 years ago to us today," Athanson said. "He's giving us a lesson that we can't rest on our laurels or be apathetic . . . if this nation will endure another 200 years."

The proceedings were not all solemn, however.

Remarking on the ethnic diversity of the American people, Charles L. Towne, Courant associate editor and editorial page editor, told the crowd that Italian-descendant Mrs. Grasso's connection to Christopher Columbus, America's discoverer, was "all well and good." * * *

STRENGTHENING THE FOREST SERVICE'S ROLE IN COMBATING DUTCH ELM DISEASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, when H.R. 15069, the National Forest Timber Management Reform Act, comes to the floor, I intend to offer an amendment directing the Secretary of Agriculture to conduct a study of the incidence of Dutch elm disease and to evaluate methods for controlling the spread of the disease. The amendment would also direct the Secretary to prepare and submit to the President and the Congress a report detailing the following: study results and recommendations; plans for further disease control research; and an action plan, including a program of outreach and public information about the disease.

My amendment would strengthen ongoing Forest Service efforts with respect to Dutch elm disease control, the Agency's Dutch elm research unit in Delaware, Ohio has supplied useful data on the nature of the disease. However, I believe that greater coordination with State and local disease control efforts is necessary—particularly in urban areas. In addition, I feel that the Forest Service needs to take a more active role in encouraging State and local authorities to deal with the problem. Since virtually all States are affected by the disease, isolated efforts by local communities, in and of themselves, will not prove to be effective in halting the spread of the disease.

At this point, I would like to include with my remarks a series of 1974 case studies of Dutch elm disease. Since this report was prepared by the Forest Service, St. Paul and other Minnesota communities have experienced a sharp increase in the incidence of the disease. Our amendment would provide for an updating of the 1974 survey:

The report follows:

SYRACUSE, NEW YORK

DED was first found in the city limits in 1951. During the initial buildup period, 1951 to 1957, a minimum sanitation effort was undertaken and almost 2,800 trees were lost. A maximum sanitation effort was undertaken for the period 1958–1964. Although the total number of trees lost to the disease during that period was about 4,400 elms, the disease was stabilized since a sharp increase did not occur in any one year. Both insecticide use and sanitation of living trees were practiced. However, elm logs were stored and used by private citizens creating a reservoir for beetle buildup and increased spread of the disease. The effectiveness of the programs was therefore nullified in parts of the city. Even under these circumstances, the total losses in 1964 were approximately one-third less than they were in 1957.

In 1965 to 1967, adequate sanitation funds were not provided due to the recognized spread of DED by root graphs, and subsequently sanitation was discontinued. A marked rise in the incidence of the disease occurred with approximately a threefold increase in infected trees during this 3-year period as compared to the previous 7-year period.

In Syracuse, through sanitaion alone, DED losses were held at a tolerable level for a 14-year period. Other cities that did not practice sanitation during this period of time lost virtually all their elms during the same period.

MADISON, WISCONSIN

From 1957 to 1974, the number of elm trees lost within city limits increased sharply. However, although average losses were about 3,000 elms annually during the period 1971 to 1974, this is only about 0.07 percent of the total elms in the city. Madison has had an intensive control program since 1958. It consists of: (1) the use of insecticide to control the beetles, (2) tree removal, (3) use of soil sterilants to control root grafts, (4) recycling of the elm wood for sawmills as well as pulp mills, and recently, (5) experimental use of fungicide against the disease. An elm replacement program has also been underway. From the information available to date, the sanitation program has proven effective, although costs associated with conducting the program continue to rise.

GREEN BAY, WISCONSIN

Dutch elm disease has been present since 1963. Since that time, a total of 12 percent of the street trees have become infected. The control program consists of surveys to identify infected trees and subsequent removal. Infected trees identified on private property are also removed. Soil sterilants are used to control spread of the disease through root graphs.

ST. PAUL, MINNESOTA

Since its discovery in 1961, the total losses due to DED through 1973 amounted to 1.8 percent of the total elms in the city. Tree losses have increased in recent years, but the average annual percentage of the total elm population was approximately 0.5 percent per year between 1971 and 1973. The city control program consists of two phases: (1) scouting and removal of positively confirmed infected trees, and (2) sanitation pruning to increase tree vigor and reduce susceptible sites for bark beetle feeding. A tree replacement program is underway using tree varieties not susceptible to the disease. The city program, which is supported totally by non-Federal funds, cost approximately $0.87 per capita in 1973.

EAU CLAIRE, WISCONSIN

From 1970 to 1974, the number of Dutch elm disease infected trees increased from 8 to 88 infected trees. Of the estimated 73,000 elm trees in the city, 195 were identified as being infected with the disease, and were removed during this period. In addition to the survey and removal of infected trees, tree injections with fungicides and soil sterilants are being used in the control program.

COLORADO

Dutch elm disease was first found in Denver in 1948. Removal of the infected trees appeared to arrest the disease. However, since that period, annual incidence of DED varies from less than 1 to over 14 percent loss. Under this State-wide, State-sponsored program, these losses are being reduced and slowed down through sanitation, and in a few cases, through the use of preventative insecticide sprays.

STATEMENT BY SENATOR CLAIBORNE PELL ON PROPOSED BASE AGREEMENT WITH TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I insert at this point in the RECORD the text of a most thoughtful statement by the distinguished junior Senator from Rhode Island, the Honorable CLAIBORNE PELL, on the subject of the base agreement with Turkey proposed by the Ford administration.

Senator PELL's statement was made at a hearing today, September 15, 1976, of the Senate Committee on Foreign Relations.

The statement follows:

STATEMENT BY SENATOR CLAIBORNE PELL ON DEFENSE COOPERATION AGREEMENT WITH TURKEY

I can think of no worse time to be contemplating further entangling the United States in base and military assistance arrangements with Turkey than now when tension between Greece and Turkey in the Aegean is mounting, when there are no signs of movement toward a Cyprus settlement, and when negotiations are also underway for a defense agreement with Greece.

Moreover, I believe the whole concept that the United States should be pressured to make the equivalent of a 4 year rent agreement with a NATO ally to help us defend that ally is wrong. It is a poor precedent to set and dangerous path to follow. And, if followed, we can all see the logical extension whereunder the United States would find itself paying the equivalent of rent to other NATO allies for the American installations used for the common defense. If this becomes the attitude of NATO, if it becomes the view of our NATO allies, that we should not only help to defend them, but also pay for that privilege as well, then I believe the original NATO concept has been distorted and our national interest harmed.

In any case, this Committee and the Senate as a whole ought to consider the Turkish agreement only in the broader context of the situation in the Aegean, Greek-Turkish relations generally, and American interests in the eastern Mediterranean.

To act on the Turkish agreement alone only risks souring United States-Greek relations, increasing opposition in Greece to defining a new defense relationship with the U.S. and NATO, and imbedding the notion in Greek public opinion that there is an American tilt toward Turkey—and we hardly need more evidence of that! Greece is understandably concerned about Turkish intentions in the Aegean and the role of the United States in building up Turkish military capabilities which might be used against Greece.

Also, proceeding with the consideration of an agreement with Turkey at this time would remove any Turkish incentive to move on Cyprus by conveying the impression that the Congress has become conditioned to Turkey's intransigence and condones that country's continued use of American supplied arms to occupy Cyprus in violation of American law.

Since the Congressional embargo of military assistance to Turkey, this Congress has acted twice to restore assistance to Turkey in the hope of fostering a Cyprus settlement—once in October, 1975, regarding pipeline aid and commercial sales and again this past June when $156 million in sales and MAP grant aid were authorized in fiscal year 1976 and $175 million for fiscal year 1977—yet (1) no progress has been achieved toward a Cyprus settlement! Now, despite this deplorable record of no Turkish response to conciliatory gestures by the U.S. and despite the situation in the Aegean, the Administration proposes to *increase* the level of sales and grant aid to an average of $250 million annually under the four-year agreement. This is pure Alice in Wonderland!

I am mindful of the Administration's arguments about the need to conclude an agreement in order to ensure the continued use of intelligence collection facilities in Turkey. My impression is, however, that while these sites add a measure of confidence to our intelligence collection efforts, this benefit does not balance the negative results that would flow for this treaty, including the precedents set, the risks involved in contributing to an arms race in the Aegean and the costs incurred in pledging $1 billion in grant aid and credits over 4 years.

I would also like to observe that the substantive inadvisability of beginning action now on the Turkish agreement is compounded by the procedural reality that the prospects of final Senate action on the Turkish agreement this year are practically nil. Early Senate consideration of this agreement is certainly in Turkey's interest, but I fail to see how United States interests are served.

All told, I believe that further consideration of the agreement with Turkey should be suspended until the Administration has decided whether this is the path we wish to follow with all our NATO allies, has concluded a similar agreement with Greece and until prospects for a peaceful settlement of Greek-Turkish differences in the Aegean and on Cyprus are improved. Otherwise, the U.S. must be prepared to accept a share of responsibility for continued threats to peace in those areas.

In conclusion, I am informed that missiles, originally supplied by the U.S. to Turkey for NATO defense purposes, have been moved by Turkish authorities from the Turkey-Soviet border to the Turkish coast opposite the Greek Islands in the Aegean. I understand these missiles are the second generation Pershing type and have been installed in triangular shape mounds, 45 yards to a side, behind hills at various points in the Turkish coast.

Would you be kind enough to ascertain for the Record whether or not this is correct or whether, in fact, any American supplied missiles have been so moved?

PERSONAL VIEWS ON H.R. 10612, TAX REFORM ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 20 minutes.

Mr. VANIK. Mr. Speaker, the recently completed work on the Tax Reform Act (H.R. 10612) by the House-Senate conference committee has resulted in a sweet and sour mixture in which some loopholes are closed or tightened while others are created or expanded.

Of course, compromise and a certain "give and take" attitude is a must in a conference committee. Each confreee has an obligation to recognize the necessity of reconciliation between the two Chambers.

Nevertheless, no one should pretend that this bill is all good—or all bad. There are provisions in this bill, which, if the parliamentary situation would permit, I would move to strike. There are provisions in this bill which tax reformers must place on their lists of future loopholes to be closed. The task of tax reform remains an unfinished task—a challenge to the next Congress and to the will of the American people.

Therefore, I would like to discuss at this point those provisions which cause me the most concern and which I believe must be reworked in the next Congress.

TAX BILL SUPPORTS NEW BUDGET PROCESS

I would like to say, first, that the bill is basically good news. By closing or tightening a number of major loopholes, it raises $1.6 billion from many who have been escaping all or most of their tax obligation. It raises this revenue from the wealthiest in our society—from those most able to support the burden of operating our society. This revenue gain is especially important, because it enables the tax-writing committees to comply with the directions of the budget committees, thus insuring the first-year success of the new and vitally important congressional effort to manage the Federal budget and thereby the direction of the economy.

TAX SHELTERS—REGULATED BUT NOT ELIMINATED

Perhaps more than any other aspect of our revenue laws, the area of tax shelters has served to perpetuate a system in which those individuals best able to pay a fair share and least in need of assistance from the Federal Government have been able to manipulate the Internal Revenue Code to avoid paying their share of taxes. The House version of the Tax Reform Act made great progress in closing many of these loopholes through "limitations on artificial losses"—LAL. Basically, the LAL method deferred deductions from shelters until those ventures actually generated taxable income. By applying this approach, in such favorite tax shelter areas as oil and gas, farming, real estate, movies, equipment leasing, and sports franchises, LAL was designed to pick up $463 million in fiscal 1977.

By abandoning the LAL approach in favor of compromise provisions, the conference committee rejected the most comprehensive and effective system of cracking down on sheltered income that has yet been formulated. By turning its back on LAL, the conference decided not to deal directly with the inequities of the loopholes. It chose instead to adopt a piecemeal approach and to allow glaring defects in our tax system to continue to exist.

ESTATE TAX CHANGE—GIVEAWAY TO THE WEALTHIEST FEW

The biggest disappointments to me in the tax bill are the provisions relating to the estate tax law. Seldom have so many given away so much to so few wealthy individuals. This title of the bill could be called the Landed Gentry and Hunt Club Member's Relief Act.

The revenue effects of the estate and gift provisions are considerable: by fiscal 1981, they will account for a loss of approximately $1.4 billion a year. In terms of affecting the revenue gains attributable to the rest of the Tax Reform Act, in fiscal 1978 the gain without the estate and gift provisions amounts to about $1.7 billion; with estate and gift included, the gain drops to only $986 million. Almost this entire $800 million in tax relief will go to only the wealthiest 2 or 3 percent of the population. This is one of the most unconscionable tax giveaways ever enacted by the Congress. This giveaway—perpetrated in the name of the small farmer and small businessman—has made it very difficult for me to sign the conference report. The harm of this single title almost outshines the good of the rest of the bill.

Prior to the conference of the tax bill, the Ways and Means Committee had worked for months to develop a bill to deal with the very real problems that can face small farmers and small businessmen, when, because of the continuing rate of inflation, they find that their family property has become subject to the rather steep tax rates imposed by the estate tax law. At one time, the Ways and Means bill included a split credit—providing for a generally higher estate tax exemption for everyone plus an additional credit for family farms and small businesses. Such a bill would have met the stated need of those who were agitating for estate tax relief. Instead, the conference committee has approved a bill which provides for an eventual estate tax exemption of $175,000 for everyone—small farmer and small businessman as well as gentleman farmer, race horse breeder, and wealthy individuals who have accumulated large estates.

In the discussions on the Federal estate tax which was revised in this so-called Tax Reform Act, it was argued that the $60,000 Federal estate tax exemption was not changed since 1942, although the cost of living index had increased by 249.2 percent to the present.

The tax bill is more than generous. In certain categories, in the case of an estate being left to a spouse the combination of marital deduction and a one time gift to a spouse can exempt an estate of $525,625 from Federal estate taxation. The new exemption constitutes an increase of the tax exemption at the rate of 438 percent—almost double the increase in the in the cost of living since 1942.

We must make note of this tax advantage for less than 3 percent of our adult population and take steps to bring the dependency exemption, which affects almost all of our 85 million taxpayers, in line with the escalating cost of living. The dependency exemption affects every family in America. In 1941 the dependency exemption was $750. Today it remains at $750, plus a temporary $35 tax credit, which makes the exemption approximately $860 per dependent.

If the dependency exemption was increased to reflect the cost of living since 1941, it would be $1,867 per dependent today. If the dependency exemption were increased to the same extent and in the same percentage as the estate tax in this bill, it would be fixed at $2,625 per dependent.

It should be a matter of priority in the new Congress to adjust the dependency exemption to the cost of living. It should be established in a more responsible relationship to the cost of supporting a dependent. The farms and small businesses of America which are continued in the same family ownership through relaxed estate taxes are important. But it is even more important to preserve family life and family responsibility through a tax structure which recognizes the sacrifices of a taxpayer to support a dependent.

The changes made by the conference committee actually will reduce from 157,000 to 45,000 the number of estates subject to Federal taxes. Data from the Internal Revenue Service reveals how few taxpayers pay any estate tax under the current law. For example, in 1975, some 84 million individual tax returns were filed—only 215,918 estate tax returns were filed. In my own State of Ohio, for example, some 4.3 million individual returns were filed but only 10,817 estate tax returns were filed. As for the "small farmer argument," in Wyoming, only 340 estate tax returns were filed in 1975—an imperceptible fraction of the 150,889 returns filed in that farming and ranching State in 1975.

In addition to the increase in the size of an estate exempt from taxation, other changes provide relief for heirs. For example, up to $250,000 can be given to a series of grandchildren without being subject to estate tax. Because of these "liberalizations," it is possible for an estate of $525,000 to utilize the marital deduction and other benefits to avoid taxation. In this case, it would be possible for the surviving spouse to remarry and repeat the process.

Tomorrow, an effort will be made to strike from the estate tax provisions the carryover basis on capital assets. If this effort succeeds the Treasury will lost $36 million in fiscal 1979, $93 million in fiscal 1980, and $162 million in 1981. In later years the loss would exceed $1.1 billion per year.

If this change is made—I will vote against the conference report, which already discriminates too much in favor of those with large estates.

In addition to these two general areas of LAL and estate and gift legislation, there are many individual items in the Tax Reform Act which, in my opinion, favor a narrow special interest at the expense of the public interest. For example, in the treatment of the expense of installing certain pollution control facilities, the conferees have in effect granted a double benefit to industry. Companies that install equipment to control pollution in older buildings—those in existence on January 1, 1969—will be able to write off their costs over a 5-year period, and in addition take advantage of a special 5-percent investment credit for those facilities put in service after December 31, 1976. The revenue impact of this one provision amounts to a $10 million loss in fiscal 1979, a $95 million loss in fiscal 1980, and a $199 million loss in fiscal year 1981. Particularly for the new facilities, this provides an enormous public subsidy to corporations to do what they have budgeted and planned to do to meet their social responsibilities.

The conference committee also increased the capital loss offset allowable against ordinary income, from the present $1,000 annual limitation to $2,000 in 1977 and $3,000 in 1978 and thereafter. It is obvious that the primary beneficiary of this change is not the small investor but rather the high-bracket taxpayer, since taxpayers with smaller incomes are not likely to be in a position to engage in capital transactions generating such high losses. The prior provisions on deduction of capital losses against ordinary income were more than adequate for most small income taxpayers. The new proposal will amount to a revenue loss of $175 million in fiscal 1977 alone.

Among the most wasteful and inequitable tax subsidies are the provisions granting tax relief to multinational corporations for their export income. Prior law permitted companies to defer taxation of up to 50 percent of the export profits allocated to a Domestic International Sales Corporation—DISC.

Other DISC provisions resulted in effectively deferring Federal tax on nearly 100 percent of export profits.

The entire rational for having DISC benefits was based on a world economy functioning on fixed exchange rates. Since 1971, with the introduction of flexible exchange rates, DISC tax benefits have become a windfall for large exporters: of the 4.162 DISC's, 23—or 0.5 percent of all DISC's—all gross receipts of $250 million or more accounted for 39 percent of all DISC net income. DISC is a giveaway to the Nation's largest corporations to encourage them to do what they already want to do—export.

The conferees did cut down on DISC benefits by allowing the tax breaks only on exports exceeding 67 percent of the annual average export level during 1972 and 1975. The export profits of large multinational corporations hardly need this tax subsidy: Their profits from export sales are 17.3 percent before taxes, more than double the profit rate from domestic sales. DISC remains a costly giveaway which can no longer be justified as being an essential tax subsidy.

Another example of an industry receiving an unwarranted double benefit is in the case of investment credit for certain vessels. The conferees have agreed to give owners of ships used in U.S. waters a 5-percent investment tax credit on vessels financed with money from capital construction funds—CCF—funds which are already tax free. These CCF's are special accounts which provide tax benefits to shipbuilders: Shipping earnings can be deposited tax free in these accounts, and then used to build additional vessels.

When these funds are used to finance ship construction, there is no tax basis in the purchased vessel to the extent of the withdrawal. By granting tax-free profits, and then a 5-percent investment credit for expenditures out of those untaxed profits, the shipping industry is the beneficiary of an incredible double benefit. Moreover, this provision selectively overturns the general tax concept of "basis" which underlies the allowance of the investment credit.

The railroad and airline industries were given special bonuses: Both will be permitted to take investment credits up to 100 percent of tax liability in 1977 and 1978, despite objection by the Treasury Department that this action is a major change in investment credit policy. The result of this treatment is that a railroad or airline company can effectively offset their entire tax by purchasing equipment. Even without this windfall these industries are escaping their share of the tax burden. For example in 1974, the approximate effective U.S. tax rate of worldwide income was as follows for typical airline and railroad operations: Southern Pacific Co., 13.8 percent; Sante Fe Industries, 14.5 percent; United Airlines, 8.5 percent; Delta Airlines, 8.6 percent; and Northwest Airlines, 5.2 percent. The investment credit provisions for those industries will mean a loss of $61 million in fiscal 1977, a $121 million loss in fiscal 1978, and a $63 million loss in fiscal 1981.

As if the railroads did not receive enough special consideration already, another Senate amendment adopted by the conferees benefits just two railroads, the Florida East Coast Railroad and the Kansas City Southern Railroad, the only privately owned railroads using concrete ties. The provision allows the immediate deduction of the costs of installing concrete railroad ties, but not to exceed the replacement cost of wood ties. Although the revenue loss is said to be negligible, all the benefits from this provision of the Tax Reform Act are going to just two companies—thus by providing relief to a special few, the bill's status as a public interest Tax Reform Act is tarnished.

The conference committee also agreed to give companies an extra percentage point of investment credit, that is, 11 percent, where an amount equal to the extra point is contributed to an Employee Stock Ownership Plan—ESOP. This rises to 11.5 percent if employees agree to match that extra half point out of their own expense. However, ESOP's are restricted to corporate employees, and it is not altogether certain that ESOP's can really provide a source of new capital and serve as an effective incentive to increase productivity.

Since ESOP's are tied to the employer corporation, there is an added risk to the employee's future security when his retirement fund is invested substantially with his employer or in other violative corporate stocks. Having witnessed a stock market that recently moved 400 points the 4 months, I question the social wisdom of using tax subsidies to stake middle- and lower-income pension hopes on the bulls and bears of the stock market.

The conferees even saw fit to include an item in the Tax Reform Act entitled "Tax Treatment of Large Cigars," which in effect changes the applicable tax system from the current bracket method to an ad valorem tax of 8½ percent of the wholesale price. Meanwhile, the present maximum tax of $20 per thousand of cigars retailing for 20 cents or more apiece would be retained. The effect of this one item is a loss of $7 million each year in fiscal 1977, 1978, and 1981.

The publishing industry will be allowed to continue deducting their prepublication expenses until Internal Revenue Service formulates new, prospective regulations. This provision benefits those publishers who have been using this type of tax accounting method with regard to prepublication expenditures: A 1973 IRS ruling stated that such expenses had to be capitalized, but that ruling was suspended. The conferees permitted the publishers' prior practices to continue, despite the Treasury Department's argument that the tax treatment of these prepublication expenses should not depend upon the particular past practice of an individual publisher, but rather upon sound tax rules of general application. This one amendment could mean reductions in tax liability of several hundred million dollars for a narrow class of taxpayers, who have taken these fast writeoffs in the past.

Other items in the Tax Reform Act are objectionable, not because they have a negative revenue effect, but rather because they set a bad precedent for future action. One example is the item providing that "qualifying distributions" of private foundations will include contributions to a separate organization, which would then use the funds for charitable, civic, or community activities. The defect here is that the foundation loses control over the method in which its funds are being spent; in short, the foundation's accountability is removed when it no longer has the ability to directly control the purposes for which its money is being used.

A Senate amendment dealing with outdoor advertising displays was adopted by the conferees, and this item permits a taxpayer to treat replacement property as "like kind" even though it is not the same type of real property as the outdoor advertising display. Thus, in the case of an involuntary conversion, the taxpayer will not recognize any taxable gain, even though he has acquired an entirely different type of real property. While there is no immediate revenue effect, I feel that it is bad precedent to allow such an expansion in the treatment of involuntary conversions.

Another provision will allow insurance companies to consolidate their life insurance operations with casualty insurance operations. While the current law permits noninsurance companies like ITT to file a consolidated return and thus offset casualty insurance losses against other business income, this new provision extends the concept and means that the Treasury Department will be partly financing the losses of casualty companies which are affiliated with life insurance companies. Many large insurers have recently entered into the casualty business, and with the Treasury subsidizing their startup losses, they will be able to undercut the smaller unaffiliated companies who cannot offset their losses in this way.

Finally, the conference committee retained a number of provisions which appear to be technical changes of broad application but in fact provide special tax breaks to single, unidentified taxpayers or narrow groups of unidentified taxpayers. There is, for example, an amendment described as "allowing divisive 'D' reoragnizations without triggering excess deductions accounts recapture" which in fact benefits only the huge King Ranch in Texas. While specially tailored and disguised giveaways to the Montgomery, Ala., Coca-Cola Bottling Co., the Freeport Minerals Co., and Superior Oil Co., among others, were deleted from the omnibus tax bill, still another unwarranted, private giveaway benefiting Pittsburgh Plate Glass Co. was retained.

It is, to say the least, clear that even meritorious provisions for the relief of single or small groups of taxpayers have no place in an omnibus tax reform bill, expecially when such provisions are disguised as technical changes in Federal tax law of broad application. The American people are demanding fair and open treatment of all taxpayers. These actions mock that demand.

The spirit of reform means that tax equity is carried out for the interests of the public at large; this is what the American people expect when they hear promises of streamlining the tax system. Our responsibility as public servants is to uphold the integrity of the governmental process in all forms, and when that process serves the interests of a privileged few at the expense of the many, our conscience should demand that we remedy the situation. The Tax Reform Act, in many respects, goes a long way in closing opportunities for abuse; nevertheless, the task is far from complete. The next Congress must strive to correct those defects which still remain in our tax system, and to bring us closer to the goal of achieving a truly equitable tax law.

REVISION OF GIFT AND ESTATE TAXES LONG OVERDUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. MILLS) is recognized for 10 minutes.

Mr. MILLS. Mr. Speaker, the long overdue revisions in the estate and gift tax laws were taken up in the recent conference on the Tax Reform Act of 1976 (H.R. 10612). Since the House did not include estate and gift taxes as a part of H.R. 10612, the revisions agreed to in conference must be taken back to the House in technical disagreement. The conference amendment is substantially the same as H.R. 14844, the bill recently reported by the Ways and Means Committee.

I had wanted, during the period of my chairmanship, to overhaul the estate and gift tax, but for one reason or another, this is a task I was not able to achieve. The amendment agreed to by the conferees is in most respects in accord with the revision of the estate and gift tax law I would have sought and I intend to vote for the amendment and urge you to do so too.

However, I believe one feature of this conference amendment is an especially important tax reform. I am referring to the carryover basis provision. The passage of this provision is probably the most important of the tax reforms that remain to be done. I tried to bring a provision of this type out of the Ways and Means Committee in 1963 but the Congress was not yet ready for this change. In fact I believe this provision was modeled on that earlier draft.

Let me tell you why I believe the carryover basis provision in this bill is so important to our Federal tax system.

Under present law, when a taxpayer sells stock which has appreciated in value, he must pay income tax on the gain. But if that taxpayer holds the stock until he dies, the income escapes tax forever. For example, assume that a taxpayer bought $5 million worth of stock, and the stock is now worth $15 million. If he sells the stock, he will have to pay a capital gains tax on the $10 million increase in value and, perhaps, a minimum tax. But if he holds the stock until death, neither he nor his heirs will ever have to pay income tax on this $10 million increase in value.

What this means is that the existing law discriminates heavily in favor of persons who pass on large amounts of appreciated property to others. It discriminates both against persons whose estates are accumulated out of salaries, wages and out of dividends or interest, all taxed at ordinary income tax rates each year as the income is earned.

At the present time, approximately $15 billion of unrealized appreciation passes through estates each year and escapes income tax because of this loophole. Of this $15 billion, over 65 percent goes through estates of over $500,000.

In addition to the inequity in treatment of taxpayers, the present law treatment has adverse economic consequences for the flow of capital, because of its "lock-in" effect. The step-up in basis under present law is a strong incentive for taxpayers to hold appreciated property until death, in order to take advantage of the tax loophole. As a result, large amounts of capital are "locked in," in the sense that taxpayers, especially the elderly, are reluctant to sell their assets and to pay an income tax on their gains. By providing a carryover basis, Congress would actually begin to free up billions of dollars for future investment, dollars that are now frozen because of the step-up in basis at death. As a result if this change is made, investment decisions can be based on economic considerations, not tax consequences.

I would like to answer briefly some of the arguments I have heard against the carryover basis. One is that it will hurt farmers and small business. This conference amendment, however, affords substantial tax relief for farmers and small business. I might add that this relief is premised on the argument which has been made to me, and to many other members, that estate tax policy should not force farmers and small businessmen to sell out in order to pay the estate tax. If the heirs of the farmer keep the farm in the family, carryover basis will not affect them. They may continue to defer paying tax on the capital gain until the farm is sold. I might also add that because of the liquidity provisions adopted, this should minimize any pressure which the estate tax might otherwise put on the heirs of the farmer to sell his farm.

Another argument that has been made is that a carryover basis results in the imposition of a double tax. This simply is not true, and those that make the argument certainly have not taken the time to read the conference amendment. The conference amendment allows the basis of an asset to be increased by the amount of the estate tax attributable to the appreciation in the asset. This means that the carryover basis provision is drafted in a way which prevents a double tax from being imposed.

This adjustment is very important because it prevents the combined effect of the estate tax, and any capital gains tax which may be paid by the heirs of the decedent if they sell the inherited property. This will keep the tax from rising to an unreasonable level. The basis adjustment means that if the heirs sell the property immediately after they receive it, the tax burden will be essentially the same as it would have been had the decedent sold the asset just before he dies. There is, therefore, no double taxation.

I would also point out that a provision in the conference agreement under which each estate is given a minimum basis of $60,000, means that this carryover provision will only affect a relatively small number of estates, perhaps 6 to 7 percent of all estates, at the very most. In fact, it is my understanding that the large estates of over $1 million account for much of the untaxed appreciation—so clearly any additional revenue raised by the carryover basis will come mostly from the very large estates.

Finally, the idea of a carryover basis is not a new one as some have contended. In fact, it is the same rule that presently applies for lifetime gifts. In the case of gifts, the basis of appreciated property in the hands of the donor has been carried over to the donee since 1921.

I would like to see this one additional tax reform adopted while I am still a Member of Congress. If we are to have a fair tax system this reform must come sooner or later. It will be an important affirmative step that all of us who believe in tax reform can take at this time. I strongly urge you to vote for the conference amendment dealing with long overdue revision of the estate and gift tax laws.

SUPPLEMENTARY ITALIAN RELIEF FUNDS NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Wolff) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, I am today seeking approval of $25 million in immediate emergency aid to the earthquake victims of Northern Italy. When the Congress authorized an initial $25 million last May, it was intended that this money go directly to the victims in the form of emergency aid.

However, for reasons both excellent and unfortunately bureaucratic, the great bulk of the initial $25 million has instead been earmarked for long-range construction projects to rebuild schools, and to construct all-new housing projects for the elderly.

Certainly, both schools and elderly housing centers are a valuable and useful contribution to the shattered areas of Italy. But, Mr. Speaker, the new tremors which shook the victims again last night have raised the question of how the victims are meeting their transitional needs—their day-to-day needs which neither the short-range emergency efforts of the home country, nor the long-range efforts of the United States, are designed to meet.

In introducing my emergency aid resolution last May I asked for $50 million, because I feared that meaningful relief could hardly be carried out for less than that amount. Today, I am seeking an additional $25 million so that the $50 million total U.S.-aid figure can be achieved.

Officials of the AID program in charge of our Italian relief effort have told my office that the original $25 million authorization simply was not adequate for the type of aid that Congress intended.

Consequently, I hope that we will have learned our lesson here, and that we will heed the lesson before it is too late and act swiftly to approve an amount which will fund a relief operation which really meets the needs of the people who are still suffering.

Long term aid to rebuild schools and to construct residential centers is obviously necessary, and is a commendable use of U.S. assistance. But the Italian people have day-to-day needs which are not being met and I urge adoption of my resolution so that the Italian people can get the help they need today.

I now present for the Record a copy of my bill to amend the Foreign Assistance Act to aid the people of Italy:

H.R. 15581

A bill to amend the Foreign Assistance Act of 1961 to authorize the appropriation of $25,000,000 for relief and rehabilitation of the people who have been victimized by the earthquakes in Italy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 495B(a) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the first sentence the following new sentence: "In addition to amounts otherwise available and to the amount authorized by the preceding sentence, there is authorized to be appropriated $25,000,000 to furnish assistance under this chapter for the immediate relief and rehabilitation of the people who have been victimized by earthquakes in Italy.".

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am most pleased to rise this afternoon in tribute to a truly outstanding American—Mr. John Warner of Virginia. I have known John for several years, both as a close and personal friend and in a professional capacity. His abilities first came to my attention when he served as Secretary of the Navy. I was highly pleased that he was chosen by the President in 1974 to serve as Administrator of the American Revolution Bicentennial Administration.

Under John Warner's leadership, ARBA was molded into a highly efficient and successful organization of which we can all be proud. I personally feel that it was John Warner's dynamism and personal attention to the minute details of our Bicentennial celebration that led to the meaningful activities held throughout this great Nation of ours in 1976. There is no doubt that it was the guiding hand of John Warner that helped to rekindle the Spirit of 1776 in all Americans.

Mr. Speaker, I join with others in urging President Ford to award John Warner the Presidential Medal of Freedom. He is most deserving of this high award and it would be an appropriate way of saying, "Thank you, John, for a job well done."

THE GRAVEL-KOCH RELIGIOUS DISCRIMINATION PROVISION SHOULD BE ADOPTED BY CONFERENCE ON REVENUE-SHARING BILL

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday the Senate passed the Fiscal Assistance Amendments of 1976 by a vote of 80 to 4. I was particularly pleased to note that the Senate version of the revenue sharing bill included the Gravel-Koch amendment which removed the ambiguity surrounding the religious discrimination provision which is contained in the House-passed version of the legislation. I want to take this opportunity to commend the Senate on its action and impress upon my colleagues in the House that the Senate language on religious discrimination is clear and unambiguous in its intent and should be the language adopted by the conferees on the revenue sharing bill.

Last week, in my Record statement of September 8—29274—I made it clear that the House-passed Jordan antidiscrimination provision was ambiguous, could be tied up in the courts for years, and perhaps lead to the most worthwhile of religious organizations being denied revenue sharing funds. As legislative history will show, that is not the outcome the House intended, but it may nonetheless be the effect of what was done.

The House passed H.R. 13367, the Fiscal Assistance Amendments of 1976, on June 10. Prior to that vote I was alerted to a problem in the bill by the Catholic Charities of the Archdiocese of New York. It was their concern that the result of the religion provision of the Representative Jordan antidiscrimination amendment to the bill, reported out of committee and included in the legislation on the House floor, would eliminate church-related schools, homes for the aging and child-care institutions from revenue sharing funds or any other public support presently available. Barbara Jordan and I had a colloquy on the floor in which I raised this issue. I have included that colloquy in the Record.

At that time I believed that Congresswoman Jordan's explanation disposed of the dilemma. However, the Catholic Charities insisted that the House religious discrimination provision would go further than existing civil rights law by prohibiting activities of religious organizations which are currently permissible. I believed at the time that the concern of Catholic Charities and other religious organizations was unfounded.

However, I did decide to investigate the matter further. The Congressional Research Service provided me with a memorandum which they prepared while the Senate Finance Committee was considering the legislation. In that memorandum, it was stated that the Jordan amendment was, in fact, ambiguous on the issue and could be interpreted to have the effect the various religious organizations thought it might. I then contacted the Department of Justice raising the problem and received a letter from J. Stanley Pottinger, a copy of which I have enclosed in the Record, which supports the memorandum of the Congressional Research Service in its statement that the Jordan amendment is indeed ambiguous, and "could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by title VI of the Civil Rights Act of 1964."

It now seems clear that the Jordan amendment is ambiguous and that the Catholic Charities representatives were correct in their belief that the provision could be much more broadly construed than Representative Jordan intended. The Catholic Charities were correct and fortunately they persisted and I am pleased that I pursued the matter further.

In order to deal with the problem, in my Record statement of last week, I proposed an amendment which removes the ambiguity so as to permit those activities heretofore conducted by religious organizations to continue unimpeded. At the same time the amendment makes the enforcement provisions of the general revenue sharing legislation available to enforce relevant sections of the existing civil rights laws. That amendment, with a few minor revisions, was offered on the Senate floor by Senator Gravel of Alaska and passed by a vote of 59 to 16.

The Gravel-Koch amendment to the fiscal assistance amendments of 1976 reads as follows:

(Based on Senate Finance Committee's Bill)

Insert, after the first full sentence of Section 122(a) the following sentence:

Any prohibitions against discrimination on the basis of religion or any exemption from such prohibitions, as provided in the Civil Rights Act of 1964 (78 Stat. 241) or Title VIII of the Civil Rights Act of 1968, (32 Stat. 73) shall also apply to any such program or activity.

The purpose of this amendment is to incorporate in the Revenue Sharing Act the prohibitions against discrimination on the grounds of religion contained in the Civil Rights Act of 1964, and the Civil Rights Act of 1968.

The kinds of religious discrimination in employment, education, and housing which are prohibited by the Civil Rights Act of 1964 and 1968 should, in my view, also be prohibited in programs or activities receiving Federal assistance under the Revenue Sharing Act. The amendment is careful to avoid any inference that we seek to prohibit the kinds of activities which are now permitted under existing civil rights legislation. In my judgment therefore, the purpose of this provision is in accord with the other civil rights provisions of H.R. 13367—that is to secure broader coverage and more effective enforcement of existing rights, rather than to bring about substantive changes in the kinds of rights now protected by Federal civil rights law. I urge the Members of the House conference on the revenue sharing bill to adopt the Gravel-Koch amendment now in the Senate bill.

THE CASE FOR CLEARCUTTING

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, one of the most controversial issues concerning forest management practices is the procedure known as clearcutting. Clearcutting is a professional forestry method of harvesting timber that involves removal of all trees within a given area. Esthetically, clearcutting is not pretty to look at. But what must be kept in mind is what good, or harm clearcutting has on the environment and wildlife, and its great usefulness in bringing about regeneration of trees.

One of the best articles I have read on this emotional topic appears in Field and Stream magazine, in its July 1976 issue, by Jim Bashline, the Northeast editor. Mr. Bashline is a lifelong hunter and, according to himself, an "incurable woods rambler."

I would like to submit for the Record this article that presents the overall picture.

The Case for Clearcutting

(By Jim Bashline, Northeast Editor)

"Every reform, however necessary, will by weak minds be carried to an excess which will itself need reforming."—*Samuel Taylor Coleridge*

The man who penned "The Rhyme of the Ancient Mariner" and depicted an albatross about the neck as the ultimate symbolic curse, is metaphorically useful in the clearcutting issue now raging. Ecologists, real and self-proclaimed, are making a good try at turning clearcutting into the forester's albatross. They are having some success. But as with most environmental issues, the answers are not black and white or—the pun is almost unavoidable—clearcut.

Professional foresters, woods workers, builders, and all wood-related industries are crying foul at the recent 4th U.S. Circuit Court Decision that upheld the Organic Act of 1897. The Act stated that the law shall permit the selling of only "dead, matured, or large" trees and that the government must "mark and designate" each tree before it may be cut. Since this law applied to national forests only, it, like some of the now-silly "blue laws" in various states, was promptly forgotten. That was seventy-eight years ago and many of our national forests didn't amount to much then, particularly in the East. They had already been cut once and the lifetime or more needed to grow marketable trees was too far in the future to worry about. Besides, private forests were quite capable of supplying all the wood we thought we'd ever need. But a skyrocketing population, two world wars, and a spate of industrial growth unlike any the world had ever seen changed the picture in a hurry.

West Virginia's Monongahela National Forest is the piece of real estate that the current controversy is revolving around. Once known as the "brush patch," this forest of mostly hardwood species was cut to the bare bones around the turn of the century. It is important to note this, since many preservationists are prone to suggest that the Monongahela is a "virgin" forest. Nothing could be further from the truth. Most of the area is second-growth timber and some is third-growth. A small amount of cutting was done there during the thirties, but it was insignificant as far as national production was concerned. In 1939, for example, a mere 2½ million board feet were removed. In 1963, 35½ million board feet were tallied. Clearcutting as a harvest technique increased slowly until the peak year of 1969 was reached when 6,339 acres were clearcut. From that point on, the amount of clearcutting actually decreased.

In the overall picture, the Monongahela forest is not too important as a wood producer. We would survive if another stick of wood was never cut on it. The problem is, the court ruling could bring all useful and economically sound clearcutting to a halt across the rest of the United States. That is important to the economy of the nation. Ten billion dollars in hard cash would be the pay-envelope loss. In addition, the prime game habitat produced by clearcutting would be diminished.

I grew up in north-central Pennsylvania and had a daily look out of the bathroom window at the dynamic changes that took place on the Allegheny Plateau over a thirty-year period. Long before I was born, the immense pine and hemlock forests of the East had been removed. It was a woodcutting operation the likes of which will never be seen again. Huge forest blocks, hundreds of miles long, containing trees up to 7 feet on the stump, were cut by hard-muscled lumberjacks. They did it with blood, sweat, tears, and crosscut saws. They took all the trees! It was clearcutting carried to the absolute extreme.

For the next fifteen years, nothing much grew there except fire cherry, blackberry briars, and, here and there, an occasional hardwood seedling. The pine and hemlock did not come back. (Forest managers today wonder what might have happened if smaller blocks of pine and hemlock had been cut and the in-between areas allowed to seed themselves with the cones of the still-standing adult trees.)

In the place of the conifers came the maples, birches, black cherry, oak, and beech. Along with these browse-producing trees grew the now famous Pennsylvania deer herd and a bountiful crop of small game. The cornucopia of animals that fed on and found shelter among the small hardwood trees and resulting ground cover didn't exist in the climax forest of pine and hemlock. There was no sunlight on the forest floor to give life to the smaller, food-producing plants, these animals needed.

Today, many of those hardwood stands are mature or close to it. If a good biological balance between available browse and a continued supply of hardwood lumber is the goal, then deer and wood must be cropped simultaneously.

It was, quite simply, an accidental happening that turned much of the East into prime deer country. It was definitely not by design. The pine was cut and the hardwood came. It's that simple. By intelligent forest planning and regulated game harvests, similar bargains can be struck today .

Intelligent clearcut management of Western and Southern forests is no less beneficial to game. It took some years of convincing, but Southern foresters have proven to many skeptical hunters that small block cutting of fast growing pine species creates a continued mix of even-age stands that produces a pile of game. The executive director of the conservation department of a traditional Southern "quail state" told me that he wished all of the hunting land in his state were managed by the paper companies. "Quail hunting has expanded because of clearcutting techniques," he said, "and they've even come around to leaving small strips of large mast trees for squirrels and turkeys."

The Western situation is generally the same. While elevations are steeper and the problem of building roads is considerably more complex, the even-age management of certain species such as the Douglas fir is enormously beneficial to elk and mule and whitetail deer.

It is a popular misconception of the latter-day outdoor evangelists that man is an intruder on nature's state. We have evolved as all living things have evolved, and we deserve our place in the chain of life. If we manage our forests, waters, and wildlife in a wise manner, all species benefit. If we leap back and forth from sound husbandry to total preservationism, we will ultimately be the losers.

Clearcutting forests is only one of the management tools available to us. No intelligent person would deny that a continued supply of wood and wood fiber is vital to our nation's well-being. In spite of what some anti-tree-cutting advocates say, it is not the intention of the lumber and paper companies in the United States to denude the landscape. If that had been their goal, they could have done it a long time ago. Today's forest managers are a much more enlightened group than the woodcutters of a century ago, although there are still some bad-apple companies that cut wood as if there were no tomorrow.

The responsible corporations are bound to cut down trees in an intelligent manner. (This doesn't always mean the most immediately profitable manner.) On some tracts the practice of clearcutting, which means taking everything that stands on a given plot, may be the best way. But if another cutting cannot be made in thirty-five years on the acreage in question, the forest managers on the spot may say no to clearcutting. Now, thirty-five years is a long time to wait for the next sale, but that's the way forest management goes. It's a long-term proposition, but it's exactly like waiting for any other crop to ripen. Operating a tree farm is not an undertaking for the impatient man.

There are a lot of impatient people in the United States at the present time who don't believe that timber companies should cut any trees—even those that belong to them! They argue that aesthetically, the trees are more valuable to look at than to utilize. They enhance the American landscape and should be allowed to grow to their fullest and die of old age. (Yes, trees do die of old age.) Well, I agree partially. There are some individual groves of giant sequoias and redwoods and other species that should *never* be cut. There are some other areas where the topography of the land and the unstable soil structures should prevent a cutting from ever being made. Most timber companies agree with this thinking and have set aside certain tracts that will forever be off limits to the chainsaw. On the other hand, there are vast plots that have been planted and cultivated for over seventy-five years. The trees on these lands are crops to be cut.

Anyone would be a fool not to admit that a recently cut forest, particularly a clearcut job, is unsightly. But if we are patient, two or three years of growing time will produce a green covering of young, healthy trees. That's the beauty of the tree business. If given a little intelligent help from man, the wood resource will replace itself in one or, in some cases, half a lifetime. I can't think of any other natural resource (other than wildlife) that does the same.

There are strong movements by anti-tree-cutters to bring heavy pressure on the federal government to stop cutting of any kind on our national and state forests. The trees that are cut on these public tracts are not given away, not by a long shot! The timber companies pay and, in some cases, pay dearly for them. The contracts are doled out on a competitive-bid basis and the requirements are very strict. The government closely supervises the operations and makes sure that the work is done neatly. In fact, a government logging operation is more closely supervised than most other public projects. A logging operation is there for the world to see. A sloppy job cannot be hidden in a mountain of paperwork, as is the case with many federal endeavors.

The populations of ground-nesting birds and game animals, usually increase in areas that have been logged; the chief reason being that large, mature trees do not permit the sunlight to reach the forest floor so that small trees, bushes, and shrubs can flourish. It's from these smaller species that wild game receives most of its dinner fare. There is no way that an elk can eat a mature Douglas fir or a whitetail deer can chew up a hard maple that is 30 inches across the stump! Rabbits, grouse, quail, and most other small animals also require the lower growth for their food and protection.

Fish, in some streams, have been detrimentally affected by intensive logging operations and sawmill pollution. I haven't talked with a forest manager who doesn't admit this. Nor do they deny that the conservationists have a legitimate case here. But they are working, and working hard, to correct these problems. The companies that produce paper have been pressed from without and within to clean up their factory discharges, and solid progress is being made. The ledger indicates to me that the paper companies have done a better job in this area than have most municipalities.

I recently spent two weeks driving and walking across the backcountry of the northern Idaho panhandle and western Montana. This is timber country, and the future of the trees out that way is presided over by a trio consisting of the federal government, Boise Cascade, and the St. Regis Company. John Quader, a forester for Boise Cascade at McCall, Idaho, showed me tracts in all stages of development. Some had been cut 30 years ago, some last year, and some were just about to be cut. He was proud of his job and proud that the company was listening to his recommendations.

"There are some locations here in northern Idaho that should never be clearcut and they never will be," John said. "The soil is just too thin to permit it. We'd have all of the topsoil right in the nearest river as soon as the job was finished. Sure, Boise pays my salary, but I live here and so do the rest of the employees, and we care about the countryside."

Glenn Youngblood, PR director for Boise Cascade, echoed similar feelings. "We not only *want* to do a job of informing the public about the business of growing trees, we *have* to do it. It's a responsibility to the area and to me personally. We never turn down a request to take anyone on a tour of our operations. We don't want to hide anything. But believe me, it's real tough when the traditional 'little old lady in sneakers' asks you why you are cutting all of these beautiful trees. She's taking notes on a pad that was made from wood pulp, probably lives in a wooden house, and consumes hundreds of pounds of wood and wood products each year . . . and she asks why?"

Sparky Hileman, Glenn's counterpart at the St. Regis operation in Libby, Montana, voiced the same thoughts. "I've hunted and fished in Montana all of my life and I love this country. The early days of logging were pretty rough and tumble and a lot of mistakes were made, but we learned that if we were going to stay in business we had to farm the forest wisely and put back as much or more than we took out."

With very few exceptions the vast holdings of private wood producers across the United States are open to the public. Hunting, fishing, hiking, and camping are all compatible recreations in tree-growing areas. (In some areas, permits must be issued, but few restrictions are imposed.) In the Pacific States of Washington and Oregon, many of the best steelhead and salmon streams are on timber company land, and the fisherman is permitted to enjoy his sport with complete freedom. Many of the best hunting areas in the West, Northeast, and South are on paper company land. Again, most of it is open to the hunter, hiker, or backpacker. A number of corporations provide parking areas and detailed maps for outdoorsmen. In some states, without this open-door policy, there would be precious little land for the non-land-owning sportsman to walk on.

I don't own a single share of paper or timber company stock and probably never will. And I'll be one of the first to shout if I think that any corporation is doing bad things to my country. But the wood industry is doing a far better job of harvesting a renewable resource than most people are giving it credit for. Professional foresters like to see trees growing just as you and I do . . . in fact, they like it even more. The forester who puts a lifetime into mother-henning a certain stand of young trees knows that he may not live to see them reach maturity. But he knows that they will. He also knows that another forester, as yet unborn, will supervise the harvesting and start another crop growing toward eventual maturity.

In managing trees, wildlife, and human beings, the survival of the species is the goal. Intelligent politicians build good records by passing laws that are designed for the broad spectrum of their constituents. Hasty, emotion-inspired legislation that pleases small minorities usually proves to be of little value. Long-range planning of forest resources and a continued supply of healthy game stocks must be approached with the same sort of "big picture" thinking.

As a lifelong hunter and incurable woods rambler, I have long been convinced that wildlife is closely keyed to plant succession. Animal populations respond automatically to changing forests—and all forests are constantly changing. As the forest structure changes, the number and kind of wildlife present follows a predictable pattern. This is an irrefutable biological and historical fact. Mosses, grasses, and latent soil nutrients give rise to the insects that attract the birds, which, by their droppings, sow the seeds of blackberry briars and other hardy scrubs. The resulting low cover attracts rabbits, mice, moles, and weasels. As the brush develops into head-high cover, the grouse, quail, deer, towhees, and sparrows fill in the voids. In the final stages turkeys, squirrels, raccoons, and tree-nesting birds appear. At last, the towering canopy of the climax forest shuts out the sunlight and the low browse disappears. Most ground game is now gone and the mature forest has become what some oldtimers used to call "woodpecker woods."

Before human beings in quantity began to speed up the inexorable cycle, fire, storms, disease, or an infestation of insects were the triggering mechanisms. Today, responsible clearcutting accomplishes the same results. A legal insistence on selective cutting only on all national forests will result in reduced populations of animals and ground-nesting birds, plus skyrocketing prices of wood products. As a hunter and wood user (which all of us are), I cannot help but believe that properly managed clearcutting is a much better alternative.

JOBS AND THE NATIONAL FOREST MANAGEMENT ACT

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, H.R. 15069, the National Forest Management

Act of 1976 is a jobs bill. It is a bill that strikes a reasonable balance between the jobs of thousands of workers dependent upon the continued proper use of our national forests and valid environmental concerns.

In this regard I would like to call the attention of the House to a letter I received this morning from Mr. Andrew J. Biemiller, director, department of legislation, AFL–CIO, stating the AFL–CIO's whole-hearted support for H.R. 15069, and urging prompt passage by the House of this bill without any crippling amendments.

Mr. Biemiller's letter follows:

> AMERICAN FEDERATION OF LABOR
> AND CONGRESS OF INDUSTRIAL
> ORGANIZATIONS,
> *Washington, D.C., September 14, 1976.*
>
> Hon. WILLIAM C. WAMPLER,
> *U.S. House of Representatives,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN WAMPLER: The AFL–CIO welcomes this opportunity to state its wholehearted support for H.R. 15069, the National Forest Management Act of 1976. In the aftermath of the disastrous Monongahela Court Decision, the need for remedial legislation that strikes a balance between valid environmental concerns and the jobs of thousands of workers dependent upon the continued proper use of the National forests has become a priority item for Congressional action.
>
> In our opinion H.R. 15069 strikes this balance. It not only remedies the immediate dilemma of the Court Decision but incorporates the very clear guidelines on clearcutting. Furthermore, the long overdue reforestation provisions in the bill will go far toward guaranteeing the future life of our National Forests.
>
> The American construction and housing industries are only now slowly emerging from the worst recession since the 1930's. Unemployment in the construction trades is still twice the national average. These industries depend upon a continuous and adequate flow of timber and wood products.
>
> We respectfully urge prompt House approval for H.R. 15069, without any crippling amendments. We believe the bill is a fair compromise to avoid past abuses, yet still maintain an adequate flow of timber to meet the nation's needs.
>
> Sincerely yours,
> ANDREW J. BIEMILLER,
> *Director, Department of Legislation.*

ADMINISTRATION'S ARMS CONTROL IMPACT STATEMENTS SUBMITTED TO CONGRESS ARE VIRTUALLY USELESS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, last year Congress amended the Arms Control and Disarmament Agency Act to require the Agency to submit arms control impact statements to Congress setting forth the arms control impact of new weapons systems. The House Committee on International Relations and Senate Committee on Foreign Relations have established a procedure to evaluate the impact statements submitted to them.

According to various accounts published early this year, the executive branch has prepared about 25 arms control impact statements to be submitted to Congress as early as April 1, 1976, but it was not until the second week in August that Congress finally received 16 such statements—11 on Department of Defense programs and 5 on ERDA programs.

The executive branch has just released in unclassified form the 11 arms control impact statements on new U.S. weapons. When the Congress adopted the idea of impact statements over a year ago, such statements were expected to be useful in providing the Congress and the public with a feel for the arms control impact of new military technology that the Congress was being asked to fund.

Unfortunately, the impact statements drawn up by the administration are virtually useless, for two reasons. First, they are provided to us after rather than before we have had to consider the Defense authorization and Defense appropriations bills. Therefore, the Congress was not provided any guidance on the arms control impact of new weapons programs at the time we were asked to approve the new weapons. Second, the impact statements do not give us any substantive discussion of the arms control impacts of the weapons they purport to assess. That should be obvious by the impact statements I am now putting into the CONGRESSIONAL RECORD. These statements are obviously insufficient and are not responsive to the congressional will or intent of the legislation.

Arms control impact statements should attempt to answer such questions as the following:

First. If this weapons system is built and deployed first by the United States and then by its potential rivals, will U.S. national security be enhanced, degraded, or unchanged? Why or why not?

Second. Will the development of this weapons system tend to provoke the development of new weapons systems in the Soviet Union? Of new weapons systems anywhere else in the world? Why or why not?

Third. Will the development of this weapons system make any present arms control negotiation harder or easier to successfully conclude? Why or why not?

Fourth. Will the testing of this weapons system preclude the future arms control agreement verification of this system?

Fifth. Once deployed, will this weapons system be "countable" by the other side's national technical means of verification? Or would an agreement featuring onsite inspection be needed to verify any future agreement concerning this weapons system?

Sixth. Does this weapons system lend itself to crisis stability? Why or why not?

Seventh. Does this weapons system replace another weapons system in our arsenal? If so, does it save money? Or does it increase crisis stability? Or decrease the chance of accidental war? Or permit the easier verification of an arms control pact?

Eighth. Will this new weapons system enhance arms control negotiations as a bargaining chip? Why or why not?

Ninth. Will this new weapons system create pressure on potential rival states to also adopt this new technology? Why or why not?

Tenth. Will this new weapons technology tend to multiply or to retard the number of nuclear weapons available to both sides in wartime and crises?

Eleventh. Will the adoption of this new weapons technology abrogate or undermine any previous arms control treaties, executive agreements, or understandings with any other country? Why or why not?

Twelfth. Is this new military technology a novelty or a follow-on of other military technology? Does it introduce new military technologies into the arms race? If so what are these and what are their implications?

Thirteenth. If fully deployed, what new number of nuclear weapons will be created because of this development if all other factors remain equal?

Fourteenth. If the Soviet Union were introducing this new technology, what would be the likely U.S. counteraction?

Fifteenth. What are the majority and minority opinions to each of the questions above?

This sampling of questions is far from exhaustive. It is illustrative of the kinds of questions that ought to be considered if the executive branch is to truly do its job in informing Congress of the arms control impact of new military technologies. The reports that we have been given are clearly an insult to our intelligence and do not begin to assess the arms control impact of our major new weapons systems.

Let me give just one example: One impact statement discusses the sea-launched cruise missile SLCM, with just two sentences. It states that—

> SLCM's as a class are not limited by the SALT I Interim Agreement; they are, however, under active consideration in the SALT II negotiations. The SLCM development program requested in the current budget will proceed with full cognizance of any agreement reached in SALT II.

One would not get the impression from this that the SLCM involves any serious arms control impacts. The report could, but does not, state that strategic cruise missiles are a great multiplier of the number of nuclear weapons that might be carried aboard U.S. vessels. It does not indicate that, once they are fully flight tested, it might be too late to get an arms control agreement on such cruise missiles that can be verified by so-called national means of verification. It does not tell us that such cruise missiles may make future SALT limits impossible to negotiate because verification of the amounts of cruise missiles may be impossible short of complete onsite inspection. Nor does the report indicate the relative costs of such cruise missiles versus other strategic systems. The report omits the impact of cruise missile technology on crisis stability or the chances of accidental war. The report does not cite where in the development of cruise missiles, the United States stands relative to the U.S.S.R. Nor does it even lay out some of the pros or cons of including cruise missiles in the SALT II agreements.

In their present form these "arms control impact statements" have little worth. They do not comply with either the spirit or the letter of the law requiring the administration to supply arms control impact statements to the Congress. These statements make a mockery of the idea of an impact statement. Why they were originally classified secret or confidential is a mystery. Certainly it has nothing to do with military secrets. More likely it results from an understandable reluctance to reveal how lacking in substance these statements are.

Following these remarks are the administration's arms control impact statements for 11 weapons systems which are now declassified. I urge each Member of the Congress to evaluate them for himself and then to urge the administration to produce meaningful analysis of each of the weapons systems which are described there in so cursory a fashion.

The material follows:

[Arms Control Impact Information]

SYSTEM TITLE: SEA-LAUNCHED CRUISE MISSILE (SLCM)

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit R–1, line 73, Program Element 6336IN.

Program description: The sea-launched cruise missile (Tomahawk) is a long-range cruise missile with both nuclear-armed and conventional-armed applications. The Tomahawk will be capable of launch from a variety of mobile platforms, including submarines, surface ships, aircraft, and land vehicles. The conventional-armed version of the Tomahawk, identical in external physical appearance to the nuclear-armed version, is being developed to provide the Navy with a longer-range, greater-lethality anti-ship missile. Both the nuclear-armed and conventional-armed versions are planned to achieve an Initial Operational Capability in early 1980. Final inventory objectives have not been established.

Relevant arms control policy and/or negotiations and implications: Cruise missiles as a class are not limited by the SALT ONE Interim Agreement; they are, however, under active consideration in SALT TWO negotiations. The SLCM development program requested in the current budget will proceed with full cognizance of any agreements reached in SALT TWO.

SYSTEM TITLE: AIR-LAUNCHED CRUISE MISSILE (ALCM)

Sponsoring military service: Air Force.

DOD FY 1977 budget entry: Exhibit R–1, Line 61, Program Element 64361F.

Program description: The ALCM is a subsonic, air-to-ground missile primarily designed to be carried internally or externally and launched from the B–52. The ALCM is designed to be interchangeable with the Short-Range Attack Missile (SRAM) on the SRAM rotary launcher and to carry a nuclear warhead. The ALCM is in advanced development to demonstrate feasibility and to provide cost and performance data. The first flight was accomplished in March 1976 and a full guided flight is scheduled in late 1976. The quantity of ALCMs to be deployed has not been determined, although a procurement of 700 missiles is being studied.

Relevant arms control policy and/or negotiations and implications: Cruise missiles as a class are not limited by the SALT ONE Interim Agreement; they are, however, under active consideration in the SALT TWO negotiations. The ALCM development program requested in the current budget will proceed with full cognizance of any agreement reached in SALT TWO.

ARMS CONTROL IMPACT INFORMATION

System title: Trident weapons system.

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit R–1, line 89 and 161, Program elements 6456ON & 64353N and exhibit P1, appropriation 1611N, lines 5 & 6 and appropriation 1507N, lines 3 & 4.

Program description: The Trident system, of which the Trident submarine and Trident-1 (C–4) missile are a part, is designed to provide an undersea missile system to maintain a credible strategic deterrent. The Trident submarine design provides for 24 missile launch tubes, larger than those in existing SSBNs. Initially Trident SSBNs will be outfitted with the Trident-1 (C–4) missile, with the first deployment scheduled for 1979; procurement of 11 Trident SSBNs is programmed through FY 1981. Long-range planning continues procurement beyond FY 1981 at a rate of three Trident submarines every two years. The ultimate Trident force level cannot reasonably be determined at this time. The Trident-1 (C–4) missile is a new technology strategic weapon under development which will be capable of carrying a full payload of multiple independently targetable re-entry vehicles (MIRVs) to a range of 4,000 nautical miles. The Trident-1 missile will be deployed in the 11 Trident submarines (264 launchers) programmed through FY 1981 and in 10 Poseidon SSBNs (160 launchers). Operational availability date (OAD) of the missile is September 1979. Backfit of the Poseidon SSBNs will be accomplished in 1979–1982.

Relevant arms control policy and/or negotiations and implications: The program is consistent with all US international obligations and arms control policies. As a strategic offensive arms system, the Trident Program is encompassed by strategic arms limitation negotiations. Modern ballistic submarines and their associated launchers are subject to the terms of the SALT ONE Interim Agreement. However, since the Interim Agreement expires in October 1977 and the first Trident submarine is not scheduled to commence sea trials until 1978, the program will not be affected by or affect other systems limited by the provisions of the Interim Agreement. If a SALT TWO Agreement along the lines of the Vladivostok understanding is reached, each Trident launcher will be counted in the 2400 aggregate of strategic nuclear delivery systems and the 1320 MIRV ceiling. However, SALT TWO is not expected to include a separate limit on the number of SSBNs permitted each side.

SYSTEM TITLE: CAPTOR

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit P–1, Appropriation 1507N, Line 46.

Program description: CAPTOR (enCAPsulated TORpedo) is a deep-water non-nuclear anti-submarine mine which may be delivered by submarines, surface ships, and aircraft. The concept of operation is that the CAPTOR mine will be planted in deep-water depth SLOC's (Sea Lines of Communication) and choke points. When a valid submerged target is detected and classified, a specially modified MK 46 torpedo is released to attack the target. CAPTOR is one of an entire new generation of mines designed to provide the U.S. with a highly effective, countermeasures-resistant, world-wide and relatively inexpensive mine warfare capability. A planned CAPTOR inventory objective of weapons will provide sufficient weapons to allow flexibility in countering any enemy submarine capability.

Relevant arms control policy and/or negotiations and implications: The CAPTOR program is consistent with all current U.S. international obligations and arms control policies. It meets the requirements of the 1908 Hague Convention ["Laying of Automatic Submarine Contact Mines" (Hague VIII)]. The Treaty on the Prohibition of the Employment of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and Ocean Floor and in the Subsoil Thereof (Seabed Treaty) is not relevant to this program since it does not have a nuclear capability.

SYSTEM TITLE: MARV (MANEUVERING REENTRY VEHICLE)

Sponsoring military services: Navy and Air Force.

DOD FY 1977 budget item: Navy, PE 64363N (Trident), Air Force, PE 63311F (ABRES).

Program description: MaRV's have two distinct applications. One is for evading defensive missiles, the other is for improving overall missile systems accuracy. The preponderance of U.S. efforts are devoted to the first application in two programs: The Navy Mk–500 and the Air Force (ABRES) Advanced MaRV. Lesser effort is devoted to the more difficult task of MaRV for accuracy in the Air Force (ABRES) program. The Mk–500 MaRV evader being developed by the Navy for the Trident I missile is a hedge against simple proliferated ballistic missile defense (e.g., upgraded SAM's). It uses preprogrammed high-g maneuvers to vary from a ballistic path and evade interceptors. The Mk–500 MaRV is less accurate than the ballistic RV which it could replace. The Advanced MaRV under development by the Air Force is designed also for evasion of ballistic missile defenses but its object is to demonstrate technology for evading advanced (Sprint-type) interceptors without accuracy degradation. Program efforts to date have involved concept studies by three contractors. Program efforts for MaRV with improved accuracy are limited to the development of terminal sensing technology. This is a much more difficult problem than simple evasion. Flight tests would not occur for at least 4–5 years.

Relevant arms control policy and/or negotiations and implications: All MaRV Efforts involve only advanced development or technology programs. No decisons have been made on full scale development or production for any MaRV. MaRV's are not restricted by existing agreements or by a SALT TWO treaty based on the Vladivostok understanding. Any MaRV's on strategic missiles would be counted under the 2400 aggregate limit and the 1320 MIRV limit if associated with MIRV systems.

SYSTEM TITLE: B–1 BOMBER

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Exhibit P–1, Appropriation 3010F, Lines 1 and 2, and Exhibit R–1, Line 39, Program Element 64215F.

Program description: The B–1 is being developed to provide for modernization of the bomber portion of the strategic forces. The prime mission of the B–1 is nuclear deterrence. The B–1 will be able to carry out a variety of military operations at conflict levels below full strategic nuclear retaliation. The B–1 program calls for a total buy of 244 aircraft, four committed to RDT&E, and 241 planned for the operational inventory (including one RDT&E aircraft converted to operational status). The FY 1977 RDT&E program is designed to continue a level of testing to verify that the B–1 can perform as expected and is ready for a production contract. This includes continued flight testing on aircraft 1, 2, and 3 and continuation of aircraft 4 fabrication.

Relevant arms control policy and/or negotiations and implications: The B–1 program is consistent with all present US international obligations and arms control policies; the Interim Agreement on Offensive Arms established in SALT ONE did not impose limitations on bombers. A SALT TWO agreement, based on the Vladivostok understanding in November 1974, will place an equal aggregate ceiling on the number of strategic nuclear delivery vehicle systems; these would include heavy bombers, ICBM launchers, and SLBM launchers. B–1's would be included in this aggregate. Within the ceiling, each side would be free to determine the mix of systems, except for the bans on additional fixed ICBM launcher construction. However, the programmed B–1 force would not violate the aggregate limit of 2400 systems or have any adverse impact on other US strategic weapons systems in complying with the 2400 aggregate. The B–1 program represents force modernization, which is specifically permitted under SALT ONE and under the Vladivostok understanding.

SYSTEM TITLE MK12A

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 64, Program Element 11213F.

Program Description: The MK12A research and development program involves modifications to the MK12 reentry vehicle by incorporating advances in warhead technoolgy and component minaturization techniques internally while retaining its external configuration, thus retaining the same aerodynamic and radar signature characteristics of the MK12. The new warhead improves the yield of the MK12. The MK12A reentry vehicles would replace the present MK12's on the Minuteman III ICBM's, and could be deployed on M–X and/or Trident II. FY 1977 activity includes flight testing to verify that operational flight characteristics duplicate those of the MK12.

Relevant arms control policy and/or negotiations and implications: The MK12A program is consistent with all current U.S. international obligations and all proposed SALT II limitations. The SALT I Interim Agreement imposed no limitation on qualitative factors or on research, development, and testing. SALT II is not expected to constrain ICBM RDT&E either.

SYSTEM TITLE: IMPROVED MINUTEMAN GUIDANCE

Sponsoring Military Service: Air Force.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 64, Program Element 11213F (Minuteman Squadrons).

Program description: Guidance improvements for the Minuteman III are intended to improve weapon system accuracy. The operational systems development program involves changes only to the computer software of the present guidance set. These software changes are primarily better mathematical modeling of the inflight performance of the inertial platform and accelerometers, and improved calibration routines for the gyroscopes and accelerometers prior to launch. Planned FY 1977 activity includes flight testing and performance analysis. Validation and verification of software for deployment will also be accomplished.

Relevant arms control policy and/or negotiations and implications: The improved Minuteman Guidance program is fully consistent with all current U.S. international obligations and all proposed SALT II limitations. The intended improvements to Minuteman Guidance represent a refinement of inherent capability in keeping with the SALT I Interim Agreement which established limitations on ICBM silo size and the mix of light and heavy missile launchers, but imposed no limitations on qualitative factors or on research, development, and testing.

SYSTEM TITLE: ADVANCED ICBM TECHNOLOGY/M–X

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Exhibit R–1, Line 54, Program Element 63305F.

Program description: The Advanced ICBM Technology Development Program will lead to the development of new technology to ensure the availability of an option for the modernization of US ICBM forces in the 1980s and beyond. Technology is being developed to assure a new missile weapons system (M–X) capable of deployment in existing silos, an air mobile basing mode or a ground mobile basing mode. The M–X is expected to be a large throw-weight, MIRVed ICBM. FY 1977 funding is associated with the advanced ICBM technology program. Initial funding for M–X engineering development is planned for FY 1978. The major areas of effort in FY 1977 are the development of missile and basing subsystems, system integration and extensive system/subsystem testing to support the full-scale development decision.

Relevant arms control policy and/or negotiations and implications. The M–X program is consistent with all US international obligations and all currently proposed SALT TWO limitations. In particular, it is consistent with all SALT ONE provisions and the unilateral US statement on missile size. The SALT ONE Interim Agreement established limitations on ICBM silo size and the mix of light and heavy missile launchers, but imposed no limitation on qualitative factors or on research, development, and testing. If the Vladivostok understanding results in a SALT TWO agreement, a deployed MIRVed M–X would be counted in the aggregate of strategic nuclear delivery systems and in the ceiling on MIRV launchers. Its size and weight, as well as other relevant design factors, would be in accordance with any SALT TWO limitations.

SYSTEM TITLE: PERSHING II ADVANCED TECHNOLOGY DEVELOPMENT

Sponsoring military service: Army.

DOD FY 1977 budget items: Exhibit R–1, Line 41, Program Element 63311A.

Program description: The Army's Pershing II advanced technology program, currently in the advanced development phase, uses the latest available technology to combine a new Radar Area Correlation Terminal Guidance System with the currently fielded Pershing IA propulsion and ground support equipment to achieve greatly improved missile accuracy. This accuracy, along with low yield specialized warhead options, to include a low yield earth penetrator, will allow the Pershing II to be used to attack critical targets within the theater of operations while keeping collateral damage to a minimum. The purpose of the Pershing II advanced technology development program is to provide the European theater with a land mobile surface-to-surface missile system that incorporates high accuracy and immediate responsiveness with operational factors of survivability and penetrability.

Relevant arms control policy and/or negotiations and implications. Introduction of the Pershing II would not violate any present international arms control obligation of the U.S. and would not have a significant quantitative impact from an arms control viewpoint because they would be replacements for current Pershing IA components.

SYSTEM TITLE XM 753 PROJECTILE

Sponsoring military service: Army.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 89, Program, Element 64603A (Nuclear Munitions).

Program description: The Improved 8-inch Nuclear Projectile (XM 753) development program is part of an Army nuclear munitions program currently in the engineering development phase. The objective of the XM 753 program is to develop a modern 8-inch nuclear projectile which incorporates the latest technology to replace the current M422 projectile. ERDA is providing the warhead (W79) for the XM 753 in accordance with the Joint AEC/DOD agreement of March 1953. Related development projects are a family of non-nuclear 8-inch projectiles and the 8-inch howitzer, self-propelled (MIIOAIEI). The XM 753 projectile, compared to the current round, will provide a substantial increase in combat effectiveness with a significant reduction of the area exposed to collateral damage. In addition, the W79 warhead design significantly enhances safety, security, and command and control.

Relevant arms control policy and/or negotiations and implications: Introduction of the XM 753 projectile would be consistent with all present U.S. international arms control obligations and policies.

The Threshold Test Ban Treaty (TTBT) and the Mutual and Balanced Force Reductions (MBFR) negotiations do not appear to be relevant to the XM 753 program. The TTBT does not affect further underground testing of the W79 warhead because the yield from such an explosion would be well below the 150 kt limit established by the TTBT. In MBFR negotiations [deleted]. In any case, neither MBFR proposal would prevent replacement and improvement of the round.

CONFERENCE REPORT ON H.R. 14238

Mr. SHIPLEY submitted the following conference report and statement on the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1559)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14238) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 42, 43, 51, and 67.

That the House recede from its disagreement to the amendments of the Senate numbered 40, 41, 44, 45, 47, 49, 50, 52, 53, 54, 55, 61, 62, 64, 65, 66, 68, 70, 71, 72, 73, 74, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, and 88, and agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$66,978,000"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,942,000"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$92,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 46, 48, 56, 57, 58, 59, 60, 79, 89, 90, and 91.

GEORGE E. SHIPLEY,
ROBERT N. GIAIMO,
JOSEPH P. ADDABBO
(except as to amendment 91),
JOHN J. MCFALL,
SIDNEY R. YATES,
FRANK E. EVANS,
EDWARD R. ROYBAL,
J. EDWARD ROUSH.
GEORGE MAHON,
LAWRENCE COUGHLIN,
ELFORD A. CEDERBERG,
RALPH S. REGULA,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
JOHN L. MCCLELLAN,
WALTER D. HUDDLESTON,
JOHN O. PASTORE
(except as to amendment 91),
DICK SCHWEIKER,
CHARLES MCC. MATHIAS, Jr.
(except as to amendment 91),
MILTON R. YOUNG,
TED STEVENS
(except as to amendment 91),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14238) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

Senate

Amendments Nos. 1 through 39: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 1 through 39.

TITLE II

Amendment No. 40: Changes title number as proposed by the Senate.

House of Representatives

Compensation of Members

Amendments Nos. 41 through 44: Provide that no funds in this or any other act may be used to provide further cost-of-living salary increases to Members of the House of Representatives, Senators, Federal Judges, and certain executive positions; but does not preclude increases which may be proposed by the President pursuant to recommendations of the Commission on Executive, Legislative, and Judicial Salaries.

TITLE III

Amendment No. 45: Changes title number as proposed by the Senate.

Joint items

American Indian Policy Review Commission

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that not to exceed $100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

Capitol Police Board

Amendment No. 47: Appropriates $1,618,860 as proposed by the Senate instead of $1,400,400 as proposed by the House.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that $109,230 is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

Education of Pages

Amendment No. 49: Appropriates $180,200 as proposed by the Senate instead of $178,600 as proposed by the House.

TITLE IV

Amendment No. 50: Changes title number as proposed by the Senate.

Office of Technology Assessment

Amendment No. 51: Appropriates $6,624,000 as proposed by the House instead of $8,000,000 as proposed by the Senate. The conferees have determined to fund the Office of Technology Assessment at an amount that is level with the fiscal year 1976 allowance reflecting salary increases. The conferees are aware that much discussion within the Congress surrounds the conduct of OTA's business; some comments are complimentary and some are highly critical. It is incumbent upon the OTA, as a young organization, to prove its worth to the Congress. In reviewing OTA's record to date, the conferees note that three of the program areas within OTA have especially sound plans, have produced and will continue to produce a majority of the materials emanating from OTA, and have been especially successful in identifying and responding to Congressional needs. Taken together, the energy, oceans and transportation programs form the core of Chairman Teague's response to the staff report of the House Commission on Information and Facilities, producing sixteen of the twenty reports described. The conferees expect that ongoing projects in these programs will receive full budgetary support.

The conferees have serious reservations, however, with a number of the other studies and feel that the level of funding allowed will give the organization an opportunity to take a critical look at its operation, its priorities and the quality of its projects' content. Nonproductive and underproductive areas, and those areas not responding to a clear and compelling Congressional need should be pared. The conferees hope the OTA will be able to resolve its weaknesses and will be closely monitoring OTA's performance and its ability to respond to its legislative mandate by producing materials that the Congress can use.

TITLE V

Amendment No. 52: Changes title number as proposed by the Senate.

TITLE VI

Amendment No. 53: Changes title number as proposed by the Senate.

Architect of the Capitol

Capitol Buildings

Amendment No. 54: Appropriates $5,853,900 as proposed by the Senate instead of $5,725,900 as proposed by the House.

Amendment No. 55: Reappropriates not to exceed $193,500 of the unobligated balance under this head for fiscal year 1975, and continued available until June 30, 1976 as proposed by the Senate instead of $147,500 as proposed by the House.

Restoration of West Central Front of Capitol

Amendment No. 56: Reported in disagreement. The managers on the part of the House will offer a motion to insist on its disagreement to the amendment of the Senate.

Senate Office Buildings

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $10,408,000, and reappropriating not to exceed $120,000 of the unobligated balance of the appropriation under this head for fiscal year 1975 and continued available until June 30, 1976.

Senate Garage

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $139,500.

Modification and Enlargement, Capitol Power Plant

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $12,000,000 and increasing by such additional amount the limit of cost authorized by Public Law 93-50 for the project.

Automatic Elevator Operators

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate reducing the number of elevator operator positions on automatic elevators in the Capitol Building, the Senate Office Buildings, and House Office Buildings with the proviso that such provision shall not be applicable to present incumbents.

TITLE VII

Amendment No. 61: Changes title number as proposed by the Senate.

TITLE VIII

Amendment No. 62: Changes title number as proposed by the Senate.

Library of Congress

Salaries and Expenses

Amendment No. 63: Appropriates $66,978,000 instead of $66,589,400 as proposed by the House and $67,591,000 as proposed by the Senate.

The conference action includes 6 additional computer positions and $427,262 for the rental of automatic data processing equipment. The conferees are agreed that every effort should be made to utilize existing computer facilities currently available within the legislative branch prior to entering into contracts for outside services.

Copyright Office

Amendments Nos. 64 and 65: Appropriate $9,408,300 as proposed by the Senate instead of $8,277,300 as proposed by the House and provide that $1,683,000 of the appropriation shall be available only upon enactment into law of S. 22 or equivalent legislation as proposed by the Senate instead of $552,000 as proposed by the House.

National Commission on New Technological Uses of Copyrighted Works

Amendment No. 66: Deletes contingency language proposed by the House and stricken by the Senate as S. 3187 has been enacted as Public Law 94-314.

Congressional Research Service

Amendment No. 67: Appropriates $19,293,200 for salaries and expenses as proposed by the House instead of $19,900,000 as proposed by the Senate.

Books for the Blind and Physically Handicapped

Amendment No. 68: Appropriates $21,729,000 for salaries and expenses as proposed by the Senate instead of $20,800,800 as proposed by the House.

Furniture and Furnishings

Amendment No. 69: Appropriates $2,942,000 instead of $2,909,700 as proposed by the House and $3,087,000 as proposed by the Senate. The increase of $32,300 over the House allowance is to provide furniture and equipment to support 35 additional positions, including $23,100 and 25 positions for copyright revision activities. The conferees are agreed that the funds required for support of copyright revision activities shall be expended only upon the enactment of S. 22 or equivalent legislation.

Administrative Provisions

Amendments Nos. 70 through 74: Change section numbers as proposed by the Senate.

Amendment No. 75: Increases limitation on amount of appropriations available for expenses of attendance at meetings to not to exceed $92,000 instead of $88,500 as proposed by the House and $95,500 as proposed by the Senate. The increase of $3,500 over the House allowance consists of $1,000 for the National Commission on New Technological Uses of Copyrighted Works and $2,500 for copyright revision activities. The conferees are agreed that no funds are to be used for the expenses of attendance at meetings in connection with copyright revision activities prior to the enactment of S. 22 or equivalent legislation.

Amendments Nos. 76 through 78: Change section numbers as proposed by the Senate.

TITLE IX

Copyright Royalty Commission

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting a new title and language appropriating $268,000 for salaries and expenses which shall be available only upon enactment into law of S. 22 or equivalent legislation.

TITLE X

Amendment No. 80: Changes title number as proposed by the Senate.

TITLE XI

Amendment No. 81: Changes title number as proposed by the Senate.

TITLE XII

Amendment No. 82: Changes title number as proposed by the Senate.

TITLE XIII

Amendment No. 83: Changes title number as proposed by the Senate.

General Provisions

Amendments Nos. 84 through 87: Change section numbers as proposed by the Senate.

Amendment No. 88: Deletes words "Senate and" relating to pay of pages proposed by the House and stricken by the Senate.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which is a Senate housekeeping item related to the pay of Senate pages.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to include the House detail of the Capitol Police force in the proposal of the Senate creating a new rank of private first class and certain salary increases as follows:

"SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate and Sergeant at Arms of the House may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate or Clerk of the House who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum: *Provided*, That the Sergeant at Arms of the House may fix the compensation of seven detectives, police force at not to exceed $14,946 per annum each in lieu of not to exceed $13, 992 per annum each; nineteen technicians, police force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight plainclothesmen, police force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K-9 officers, police force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each.

"(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Cost of Living Adjustments

Amendment numbered 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment eliminating the so-called 1 percent kicker for cost-of-living adjustments in annuities of Federal and military retirees and establishing a new method of computing adjustments: and providing that the effective dates of the semiannual cost-of-living adjustments will be March 1 and September 1 instead of March 1 and October 1 as proposed by the Senate, and making technical changes in cross references to other legislation. The amended language agreed to by the conferees follows:

"COST OF LIVING ADJUSTMENTS

"SEC. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out '1 percent plus'.

"(b) The amendment made by subsection (a) shall apply to any increase in annuities after the date of enactment of this Act.

"(c)(1) Section 8340(b) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"'(b)(1) The Commission shall—

"'(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"'(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"'(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"'(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest one-tenth of 1 percent, or

"'(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest one-tenth of 1 percent.'.

"(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

"(d)(1) Section 1401a(b) of title 10, United States Code, is amended to read as follows:

"'(b)(1) The Secretary of Defense shall—

"'(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"'(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"'(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"'(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"'(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.'.

"(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

"(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), is amended to read as follows:

"'(b)(1) The Secretary shall—

"'(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"'(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"'(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"'(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"'(B) effective September 1 of such year, in the case of an increase under pargraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest 1/10 of 1 percent.'.

"(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this Act."

The managers on the part of the Senate will move to recede and concur in the amendment of the House to the amendment of the Senate.

Conversion.—The language as agreed to by the conferees puts the new system of calculating cost-of-living increases into effect immediately. This is necessary to keep a further accumulation of benefits in excess of actual price changes to be built into the base for future payments.

The conference agreement provides that any cost-of-living change since the last increase calculated under the old system will be included in the first payment under the new system. Thus, if the 3 percent minimum were triggered in August under the former system, then after a three-month waiting period increases would have been made effective January 1, 1977. Increased checks would have been mailed by February 1. Under the conversion provision, the full Consumer Price Index change since the last base month (December, 1975) and the level as of December 1976 will be used to calculate the first adjustment under the new system. The conferees thus anticipate the next cost-of-living adjustment to be made effective March 1, 1977, with increased checks in the mail by April 1, 1977. Thus, while there will be a delay of two months in the initial adjustment, there will be a full compensation since the cost-of-living calculation will be extended from October to December. Regular semi-annual adjustments will commence effective September 1, 1977.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the 1977 budget estimates (as amended), and the House and Senate bills for 1977 follows:

New budget (obligational) authority, fiscal year 1976	$993, 048, 403
Budget estimates of new (obligational) authority (as amended), fiscal year 1977	992, 290, 765
House bill, fiscal year 1977	780, 310, 950
Senate bill, fiscal year 1977	[1] 971, 141, 285
Conference agreement	[1] 943, 400, 485
Conference agreement compared with:	
New Budget (obligational) authority, fiscal year 1976	+10, 352, 082
Budget estimates of new (obligational) authority (as amended), fiscal year 1977	−48, 890, 280
House bill, fiscal year 1977	+163, 089, 535
Senate bill, fiscal year 1977	−27, 740, 800

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[1] Includes $147,993,375 for Senate items not considered by the House. Conforming to long practice, funds exclusively for operations and activities of the Senate—including two items jurisdictionally under the Architect of the Capitol—are left for decision and insertion by that body.

George E. Shipley,
Robert N. Giaimo,
Joseph P. Addabbo
(except as to amendment 91),
John J. McFall,
Sidney R. Yates,
Frank E. Evans,
Edward R. Roybal,
J. Edward Roush,
George Mahon,
Lawrence Coughlin,
Elford A. Cederberg,
Ralph S. Regula,
Managers on the Part of the House.

Ernest F. Hollings,
John L. McClellan,
Walter D. Huddleston,
John O. Pastore
(except as to amendment 91),
Dick Schweiker,
Charles McC. Mathias, Jr.
(except as to amendment 91),
Milton R. Young,
Ted Stevens
(except as to amendment 91),
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Adams, for Thursday afternoon, September 16, and Friday, September 17, 1976, on account of official business in his district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Myers of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. Duncan of Tennessee, for 30 minutes, today.

Mr. Conable, for 5 minutes, today.

Mr. Railsback, for 5 minutes, today.

(The following Members (at the request of Mr. Weaver) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Hayes of Indiana, for 10 minutes, today.

Mr. Fithian, for 5 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Fraser, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Vanik, for 20 minutes, today.

Mr. Mills, for 10 minutes, today.

Mr. Wolff, for 5 minutes, today.

Mr. Montgomery, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Richmond, prior to the vote on the Holtzman amendment in the Committee of the Whole on H.R. 10498, on today.

Mr. Rousselot preceding the vote on the Dingell amendment in the Committee of the Whole today.

Mr. Gude to extend remarks prior to vote on Dingell amendment, H.R. 10498.

Ms. Holtzman to include extraneous material in colloquy with Mr. Rogers on Clean Air Act.

(The following Members (at the request of Mr. Myers of Pennsylvania) and to include extraneous matter:)

Mr. Sarasin.

Mr. Anderson of Illinois in two instances.

Mr. Abdnor.

Mr. Ketchum.

Mr. McKinney.

Mr. Gilman in two instances.

Mr. Rousselot in two instances.

Mr. Vander Jagt in two instances.

Mr. Paul.

Mr. Del Clawson.

Mr. Whitehurst.

Mr. Derwinski.

Mr. Winn.

Mr. Ashbrook in two instances.

Mr. Heinz.

Mr. Collins of Texas in two instances.

Mr. Miller of Ohio in four instances.

(The following Members (at the request of Mr. Weaver) and to include extraneous matter:)

Mr. Richmond.

Mr. Russo in two instances.

Mr. Corman.

Mr. Milford.

Mr. Nedzi in two instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Weaver in two instances.

Mr. Wirth.

Mr. Ginn.

Mr. Delaney.

Mr. Fraser.

Mr. Reuss.

Mr. Baucus.

Mr. Sisk.

Mr. Rangel.

Mr. Boland.

Mr. Fisher in 11 instances.

Mr. Moorhead of Pennsylvania.

Mr. Patterson of California in five instances.

Mr. Ottinger in two instances.

Mr. McDonald in four instances.

Mr. Stokes in two instances.

Mr. Ambro.

Mr. Brinkley.

Mr. Carney.

Mr. Alexander.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 828. An act to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2135. An act to authorize the construction and maintenance of the Gen. Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

S. 2946. An act to amend the act of July 2, 1940, as amended, to remove the limit on appropriations; to the Committee on Merchant Marine and Fisheries.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code; and

H.R. 9811. An act to designate the Veterans' Administration hospital in Madison, Wisconsin, as the "William S. Middleton Memorial Veterans' Hospital," and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 327. An act to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes; and

S. 3283. An act to authorize various Federal reclamation projects and programs, and for other purposes.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Thursday, September 16, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4024. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Agriculture for "Agricultural Marketing Service, Marketing Services" for fiscal year 1977 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes; to the Committee on Appropriations.

4025. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during July 1976 to Communist countries; to the Committee on Banking, Currency and Housing.

4026. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report on "What Can Be Done to Improve the Management of Money and Staff? District of Columbia Public Schools," pursuant to section 736(b)(3) of Public Law 93-198; to the Committee on the District of Columbia.

4027. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1-151, to amend the District of Columbia Code and Regulations to enact a statute providing for the creation and governance of condominiums and regulating the offering of condominium units, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4028. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Edward E. Masters and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4029. A letter from the Secretary of Commerce, trnsmitting the annual report on the relative cost of shipbuilding in the various coastal districts of the United States, pursuant to section 213(c) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H.R. 14535. A bill to amend the Immigration and Nationality Act, and for other purposes; with amendments (Rept. No. 94-1553). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 4580. A bill to amend the Organic Act of Guam to provide for the reorganization of the judicial system of Guam, and for other purposes; with an amendment (Rept. No. 94-1554). Referred to the Committee of the Whole House on the State of the Union.

Mr. DRINAN: Committee on the Judiciary. H.R. 15460. A bill to allow the awarding of attorney's fees in certain civil rights cases (Rept. No. 94-1558). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee of conference. Conference report on H.R. 14232 (Rept. No. 94-1555). Ordered to be printed.

Mrs. SULLIVAN: Committee of conference. Conference report on H.R. 13035 (Rept. No. 94-1556). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1545. A resolution providing for the consideration of H.R. 12112. A bill to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration (Rept. No. 94-1557). Referred to the House Calendar.

Mr. SHIPLEY: Committee of conference. Conference report on H.R. 14238 (Rept. No. 94-1559). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 4345. A bill to amend the act entitled "An Act to authorize the sale of certain public lands in Alaska to the Catholic Bishop of Northern Alaska for use as a mission school", approved August 8, 1953; with amendments (Rept. No. 94-1560). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13101. A bill to provide for consideration of the comparative productive potential of irrigable lands in determining nonexcess acreage under Federal reclamation laws; with amendments (Rept. No. 94-1561). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15446. A bill to designate certain lands as wilderness; with an amendment (Rept. No. 94-1562). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.J. Res. 915. Joint Resolution to authorize the placement of the bell known as the American Legion's Freedom Bell in the District of Columbia on land of the national park system, and for other purposes; with amendments (Rept. No. 94-1563). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1548. A resolution providing for the consideration of H.R. 14932. A bill to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act (Rept. No. 94-1564). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1549. A resolution providing for the consideration of H.R. 15377. A bill to amend the Export Administration Act of 1969 (Rept. No. 9-1565). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. H. Res. 1540. Resolution creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of any others the select committee shall determine (Rept. No. 94-1566). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1550. A resolution providing for the consideration of S. 22. An act for the general revision of the copyright law, title 17 of the United States Code, and for other purposes (Rept. No. 94-1567). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 10645. A bill for the relief of Lilia Araujo (Rept. No. 94-1551). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11809. A bill for the relief of Ljudevit Previc; with an amendment (Rept. No. 94-1552). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 15566. A bill to amend section 8(b) of the Soil Conservation and Domestic Allotment Act with respect to the election of county and local committees; to the Committee on Agriculture.

By Ms. BURKE of California (for herself, Mr. Corman, Mr. Drinan, Mr. Simon, and Mr. Stark):

H.R. 15567. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Mr. FINDLEY (for himself, Mr. Vigorito, and Mr. Waggonner):

H.R. 15568. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HECHLER of West Virginia:

H.R. 15569. A bill to authorize the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JONES of Alabama (for himself and Mr. Staggers):

H.R. 15570. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. MIKVA (for himself and Mr. Ottinger):

H.R. 15571. A bill to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. Koch, Mr. Bedell, Mr. John L. Burton, Mr. Carney, Ms. Chisholm, Mr. Downey of New York, Mr. Fascell, Mr. Flood, Mr. Ford of Tennessee, Mr. Gude, Mr. Hechler of West Virginia, Mr. Howard, Mr. Jeffords, Ms. Keys, Mr. LaFalce, Mr. Miller of California, Mr. Mottl, Mr. Oberstar, Mr. St Germain, Mr. Stokes, Mr. Studds, and Mr. Charles Wilson of Texas):

H.R. 15572. A bill to amend chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act), to permit awards of reasonable attorneys' fees and other expenses for public participation in proceedings before Federal agencies and for other purposes; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 15573. A bill to provide for a study of the area which was the site of the 1964–65 World's Fair in New York and to include appropriate parts of such area in the Gateway National Recreation Area; to the Committee on Interior and Insular Affairs.

By Mr. BEDELL (for himself, Mr. Krebs, Mr. Harkin, Mr. Burgener, Mr. Mezvinsky, Mr. Cornell, Mr. Runnels, Mr. Baucus, Mr. Abdnor, Mr. Traxler, Mr. Grassley, Mr. Blouin, Mr. Roncalio, and Ms. Keys):

H.R. 15574. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976; to the Committee on Ways and Means.

By Mr. HANNAFORD:

H.R. 15575. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 15576. A bill to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities as a condition of certification under the medicare, medicaid, and Veterans' Administration programs, and to authorize loans and grants to assist such facilities in purchasing and installing such systems; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce, and Veterans' Affairs.

By Mr. HUGHES (for himself, Mr. Bedell, Mr. Downey of New York, Mr. Edgar, Mrs. Fenwick, Mr. Flood, Mr. Hannaford, Ms. Holtzman, Mr. Howard, Mrs. Meyner, Mr. Neal, Mr. Ottinger, Mr. Roe, Mrs. Spellman, Mr. Simon, Mr. Solarz, Mr. Thompson, Mr. Charles Wilson of Texas, and Mr. Wolff):

H.R. 15577. A bill to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, to regulate the management of hazardous waste, and to reclaim waters damaged by sludge and sewage; to the Committee on Interstate and Foreign Commerce.

By Mr. LONG of Louisiana:

H.R. 15578. A bill to provide for the study of certain lands in Louisiana to determine their suitability for designation as wilderness; to the Committee on Interior and Insular Affairs.

By Mrs. MINK:

H.R. 15579. A bill to amend the Foreign Assistance Act of 1961 to provide in certain instances for the use of available space on military aircraft of the United States to transport equipment and supplies to foreign countries affected by natural disasters; to the Committee on International Relations.

By Mr. RANDALL:

H.R. 15580. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. WOLFF:

H.R. 15581. A bill to amend the Foreign Assistance Act of 1961 to authorize the appropriation of $25,000,000 for relief and rehabilitation of the people who have been victimized by the earthquakes in Italy; to the Committee on International Relations.

By Mr. WRIGHT:

H.R. 15582. A bill to name the Federal office in Bluefield, W. Va., the Elizabeth Kee Federal Building; to the Committee on Public Works and Transportation.

By Mr. MAHON:

H.J. Res. 1096. A resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes; to the Committee on Appropriations.

By Mr. HARRINGTON (for himself and Mrs. Keys):

H.J. Res. 1097. A resolution with respect to the promotion and use of infant formula in developing nations as it relates to basic nutrition in such nations; to the Committee on International Relations.

By Mrs. MINK:

H.J. Res. 1098. A resolution establishing the Hawaiian native claims settlement study commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KAZEN:

H. Con. Res. 749. A resolution expressing the sense of Congress that the Director of the Office of Management and Budget should defer implementation of proposed new regulations regarding the provision of service to the Government by private contractors until the Congress has had an opportunity to review such proposed regulations; to the Committee on Post Office and Civil Service.

By Mr. LEHMAN:

H. Con. Res. 750. A resolution disapproving certain proposed sales to Saudi Arabia of defense articles and services; to the Committee on International Relations.

By Mr. ANDERSON of Illinois (for himself, Mr. Frenzel, Mr. Butler, Mr. Cleveland, Mr. Conable, Mrs. Fenwick, and Mr. Steiger of Wisconsin):

H. Res. 1542. A resolution expressing the sense of the House that the resignation of a Member, officer, or employee of the House under investigation by the Committee on Standards of Official Conduct does not affect the committee's jurisdiction over said investigation or authority to report thereon, and authorizing and directing the committee to complete its investigation of a Member and to report its findings and recommendations to the House; to the Committee on Rules.

By Mr. MICHEL (for himself, Mr. O'Neill, Mr. McFall, Mr. Rhodes, Mr. Metcalfe, Mr. Murphy of Illinois, Mr. Russo, Mr. Derwinski, Mr. Fary, Mr. Hyde, Mrs. Collins of Illinois, Mr. Rostenkowski, Mr. Yates, Mr. Mikva, and Mr. Annunzio):

H. Res. 1543. A resolution accepting a portrait of Leslie C. Arends of the State of Illinois; to the Committe on House Administration.

By Mr. MICHEL (for himself, Mr. Crane, Mr. McClory, Mr. Erlenborn, Mr. Hall of Illinois, Mr. Anderson of Illinois, Mr. O'Brien, Mr. Railsback, Mr. Findley, Mr. Madigan, Mr. Shipley, Mr. Price, and Mr. Simon):

H. Res. 1544. A resolution accepting a portrait of Leslie C. Arends of the State of Illinois; to the Committee on House Administration.

Mr. BINGHAM:

H. Res. 1546. A resolution directing the Committee on International Relations to conduct hearings to determine the nature and extent of any U.S. involvement in the hostilities in Northern Ireland; to the Committee on Rules.

By Mr. McDONALD:

H. Res. 1547. A resolution to disapprove the continuation of the President's authority to waive the freedom of emigration requirements for the granting of most-favored-nation status to Romania; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

463. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the time limitation on veterans' educational benefits, which was referred to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 15583. A bill for the relief of Duane G. Wegner; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 15584. A bill for the relief of Comdr. Edward White Rawlins, U.S. Navy (retired); to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 15

By Mr. ANDERSON of Illinois:

On page 39, after line 5, insert the following new section and redesignate the succeeding section accordingly:

"HOUSE RULE CHANGE

"Sec. 17. Rule XXXII, clause 1 of the Rules of the House of Representatives is amended by striking the word 'ex-Members' as it first appears, through the word 'consideration' and substituting in lieu thereof the following: 'the Parliamentarian, elected officers, and elected minority employees of the House (other than Members), clerks of committees when business from their committee is under consideration; and ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers, and former elected minority employees of the House, subject to the provisions of clause 3 of this rule'.

"Rule XXXII is further amended by adding the following new clause:

" '3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto on making declaration, on honor, in a register to be kept for that purpose, that they do not have any direct personal or pecuniary interest in any legislative measure coming up for consideration in the House, or that they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative measure before the House or any of its committees. The Doorkeeper shall be held responsible to the House for the execution of this rule.'."

H.R. 12112

By Mr. BROWN of Ohio.

(Amendment to Interstate and Foreign Commerce Substitute.)

Page 107, line 20, strike out "(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels;".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 2 commercial-sized demonstration facilities for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $1,800,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(i) of this paragraph) may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978."

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Strike out title II.

Strike out title III.

Page 126, strike out lines 11 through 13 and insert in lieu thereof the following:

"(v) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purposes of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term "person" shall include the borrower.

Page 107, line 20, strike out "(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels;".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 1 commercial-sized demonstration facility for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $900,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(i) of this paragraph (may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978."

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and(iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 124, line 11, strike out "(1)".

Page 124, strike out line 14 and all that follows thereafter down through line 31.

By Mr. DINGELL:

(Amendments offered to the amendment recommended by the Committee on Interstate and Foreign Commerce to amendment in the nature of a substitute offered by Mr. Teague.)

(Page and line references to Union Calendar bill No. 674)

Page 108, line 36, strike out "(s) and (v)" and insert in lieu thereof "and (u)".

Page 109, line 37, strike out "(y), and (z)" and insert in lieu thereof "and (y)".

Page 123, beginning on line 6, strike out "The Secretary of the Treasury" and all that follows down through "such notes or obligations." on line 11.

Page 123, line 13, strike out "All redemptions," and all that follows down through line 15.

Page 124, strike out line 32 and all that follows down through line 8 on page 125.

Page 125, line 9, strike out "(t)(1)" and insert in lieu thereof "(s)(1)".

Page 126, line 6, strike out "(u)" and insert in lieu thereof "(t)".

Page 126, line 11, strike out "(v)" and insert in lieu thereof "(u)".

Page 126, line 14, strike out "(w)" and insert in lieu thereof "(v)".

Page 126, line 23, strike out "(x)" and insert in lieu thereof "(w)".

Page 126, line 32, strike out "(y)" and insert in lieu thereof "(x)".

Page 127, line 1, strike out "(z)(1)(A)" and insert in lieu thereof "(y)(1)(A)".

By Mr. GOLDWATER:

On page 30 (which is part of the Science and Technology Committee amendment), line 10, after "facility", insert: ", not assisted under paragraph (5)(A) of this subsection,".

On page 27908 of the August 26, 1976 Congressional Record (Mr. Teague's substitute), in subsection (b)(1), in the proviso at the bottom of the second column, after "modular facility", insert: ", not assisted under paragraph (5)(A) of this subsection,".

By Mr. McKINNEY:

(Amendment to the Teague substitute amendment.)

On page 27912 of the Congressional Record of August 26, 1976, strike Section 18(r) and insert therein the following new Section 18(r):

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *except in the event of a default as defined under subsection (g) of this section*." (Note.—Proposed changes are italicized.)

By Mr. OTTINGER:

(Amendment to amendment by Mr. Teague.)

On page 27908 of the Congressional Record of August 26, 1976, at the end of subsection (b)(1) add a new sentence as follows:

"Notwithstanding any other provisions of this section, no obligation guaranteed under this section or under the Geothermal Energy Research Development and Demonstration Act of 1974, which is amended by this section, shall be purchased pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281–2296), and the Administrator shall not sell such obligation to the Federal Financing Bank, without specific authorization enacted after the date of enactment of this section, and the provisions of said Act shall not be applicable to such obligations."

By Mr. MOSS:

(Amendment to amendment by Mr. Teague.)

On page 27912 of the Congressional Record of August 26, 1976, strike subsection (u) and insert therein the following:

"(u) The provisos in the third sentence of section 17 of this Act shall not apply to information obtained by the Administrator for the purpose of carrying out this section."

H.R. 15069

By Mr. FRASER:

Page 35, add immediately after line 20 the following section:

"PLAN FOR CONTROL OF DUTCH ELM DISEASE

"SEC. 14. The Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, shall conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease. The Secretary shall prepare and submit to the President and both Houses of the Congress on or before March 1, 1977 a report which includes—

"(A) the results of such study

"(B) plans for further research into the control of Dutch elm disease

"(C) an action plan which includes a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease."

By Mr. BROWN of California:

Page 22, strike out line 24 and all that follows through page 23, line 7.

Page 23, line 19, insert "and" immediately after the comma.

Page 23, strike out line 20 and all that follows through page 24, line 6.

Page 24, line 7, strike out "(vi)" and insert in lieu thereof "(iii)".

Page 29, line 11, strike out "and".

Page 29, line 7, strike out both periods and the quotation marks at the end of such line and insert in lieu thereof "; and", and insert immediately after such line the following new paragraph:

"(3) within two years after the date of the enactment of this subsection, promulgate regulations to ensure—

"(A) that clearcutting (including seed tree cutting, shelterwood cutting, and other cutting designed to regenerate an even-aged stand of timber) will be used as a cutting method on National Forest System lands only where—

"(i) clearcutting is determined to be the optimum method to meet the objectives and requirements of the relevant land management plan;

"(ii) a multidisciplinary review has been completed by the team described in subsection (f)(3) of this section and the potential environmental, biological, esthetic, engineering, and economic impacts on each sale area have been assessed by such team, as well as the impact of the sale on nontimber resources and the consistency of the sale with the multiple use of the general area;

"(iii) clearcut blocks, patches, and strips are shaped, spaced, and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be clearcut in one harvest operation, including provisions which permit the established limits to be exceeded after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal; except that such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions, such as fire, insect or disease attack, or windstorm; and

"(v) clearcutting is carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regenertaion of the timber resource; and

"(B) that positive action is taken to perpetuate habitats and populations of the native species of plants and animals found in the national forests, and special attention is devoted to the maintenance and the enhancement of the habitats and populations of native plants and animals whose habitats and populations are diminishing."

Page 35, add immediately after line 20 the following new section:

"SUSTAINED YIELD AND MARGINAL LANDS

"SEC. 14. (a) Within two years after the date of the enactment of this Act, the Secretary shall promulgate regulations to insure—

"(1) that the National Forest System, as such term is defined under section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, will continue to produce adequate and continuous supplies of wood, water, wildlife, wilderness, forage, and recreation by—

"(A) limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitations. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. Nothing in this subparagraph shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe; and

"(B) establishing guidelines to assure that, based on periodic surveys of the productivity of lands for commercial timber production, such production is not a management goal where the estimated cost to the United States will exceed the estimated economic return to the United States; except (1) that the estimated cost of production will include only direct timber production costs, including a prorated share of the access costs for timber harvest, (2) that such restrictions do not apply to salvage of dead or diseased trees, and (3) that such restrictions are not intended to impede the reforestation of lands for multiple use purposes or to impede the cutting of timber specifically for the improvement of fish and wildlife habitat; and

"(2) that commercial timber production is a management activity only on lands where—

"(A) soil, slope, or other watershed conditions will not be irreversibly damaged;

"(B) assurance is given that such lands can be adequately restocked within five years after harvest; and

"(C) protection is provided from changes in water temperatures, blockages of water courses, and deposits of sediment, for streams, stream banks, shorelines, lakes, wetlands, and other bodies of water where harvests could seriously and adversely affect water conditions or fish habitat.

"(b) The first sentence of section 3 of the Act entitled (An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes", approved June 9, 1930 (46 Stat. 527; 16 U.S.C. 576(b)), is amended by—

"(1) striking out 'or' immediately before (3)"; and

"(2) striking out the colon and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: ', or (4) protecting and improving the future productivity of the renewable resources of the national-forest land on a sale area, including sale-area improvement operations, maintenance and construction, reforestation, and forest habitat management.' "

Page 29, line 17, strike out the quotation marks and the period at the end of such line, and insert immediately after such line the following new subsection:

"(m) the Secretary shall—

"(1) take affirmative action to perpetuate habitats (including old growth, dens, and snags) and populations of the native species of plants and wildlife located in the national forests as presently distributed and shall give priority to the preservation of such habitats and populations which are diminishing; and

"(2) prior to taking any actions in a national forest significantly affecting fish or wildlife populations or habitat, including the award of any timber sale or road construction contract, request an opinion concerning the projected effects of such action on populations and habitats of fish and wildlife (a) from all agencies or departments which administer fish or game programs for the State in which such action is to take place and (b) from the United States Fish and Wildlife Service. If any such agency or department or such Service reports to the Secretary that such action may result in a significant loss of population or habitats of any specie of fish or wildlife, the Secretary shall determine what mitigation or enhancement measures may be available and shall use such measures if such action is taken. If significant loss of such population or habitat cannot be avoided through mitigation or enhancement measures, such action shall not be taken."

Page 17, line 2, strike "new subsections (d) and (e)" and insert in lieu thereof the following: "new subsections (d), (e) and (f)".

Page 19, line 22, insert the following new subsection:

"(f) The Secretary shall present to Congress in 1978 a five year program for research into timber harvesting methods for the mixed hardwood forests east of the 100th meridian which result in the maintenance of a general canopy for regenerating hardwood species in a manner that benefits regrowth and provides for the other multiple uses of the forest. The sum of 20 million dollars is authorized to conduct this research. As the results of the research are disclosed, the Forest Service shall incorporate them into its management plans for national forests east of the 100th meridian that contain mixed hardwoods as the preferred harvest method in areas where clearcutting might be applied as a timber harvesting technique, provided that clearcutting may be preferred where required to improve multiple forest uses. In the interim, while such research is being carried out and the results of such research are being incorporated into timber management plans, the Forest Service shall, in preference to clearcutting in the eastern mixed hardwood forests, maintain a general canopy over the harvest area by the utilization of harvest methods including, but not limited to, shelterwood cutting, except that clearcutting shall be preferred wherever multiple uses of the forest would be improved. Those trees providing the canopy shall not be subject to a final harvest until the regenerating stand with which they are associated has attained multiple use objectives established for the sale area except that such canopy trees may be harvested whenever stand health is imperiled."

Page 29, line 17, strike out the quotation marks and the period at the end of such line, and insert immediately after such line the following new subsection:

"(m) The Secretary shall, in the administration of the national forests, give full consideration to all systems of siliviculture, including uneven-aged as well as even-aged management, provided that uneven-aged forest management primarily implemented by selection cutting and group selection cutting shall be administered in the eastern mixed hardwood forests in critical zones and in the major portion of the general forest zone. The size of clearcuts to be utilized in the remainder of the general forest zone shall be as small as feasible in accordance with multiple use objectives."

Page 30, line 22, strike "ten" and insert in lieu thereof "two", and in line 24, insert immediately after the period the following:

"The contract shall contain specifications developed by the Secretary (A) for road construction, road maintenance, and continuing stabilization of adjacent areas which may be affected by road construction and road operations, and (B) for roads that are not incorporated into the forest development road system, specifications for road closing as the contract is terminated by the purchaser of the roadway and for stabilization of surrounding areas which have been disturbed by the construction and operation of the road. Such final road closing specification shall include, but not be limited to, revegetation and other stabilization of the abandoned roadway within a two year period to protect the various resources. The Secretary shall annually inventory and submit to the Congress a report organized on a national forest basis and containing information —

"(1) specifying the roads which have not been closed according to contract provisions within two years after termination of the contracts and the reasons for such failure to be closed; and

"(2) specifying the roads which, even though closed according to contract provisions, are creating problems related to soil, water, and other resources."

Page 31, line 1, strike out "later", and immediately after "determined" insert the following: "during the life of the contract".

Page 31, line 2, insert immediately after the first period the following: "Contract provisions pertaining to specifications for road construction, road maintenance, and revegetation shall apply up until the road is closed according to contract provisions or is incorporated into the forest development road system for the area to which the contract applies."

By Mr. ICHORD:

Page 31, add a period at the end of line 20, and strike out line 21 and all that follows down through line 9 on page 32 and insert in lieu thereof the following:

The provisions of subsection (b) of this section shall apply in lieu of the functions exercised by such Commission prior to the date of enactment of this section.

"(b) For purposes of providing information that will aid Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not enter into any land purchase or exchange relating to the National Forest System until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate. Such report shall contain at least the following:

"(1) guidelines utilized by the Secretary in determining that the land should be acquired;

"(2) the location and size of the land;

"(3) the purchase price of the land and the criteria used by the Secretary in determining such price; and

"(4) the person from whom the land is being acquired."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 14, 1976, page 30280:

HOUSE BILLS

H.R. 15251. August 24, 1976. Post Office and Civil Service. Prohibits carriers of Federal employee health benefits plans from reducing benefits or excluding any class of provider of health services unless the Civil Service Commission gives notice of and conducts hearings relative to the proposed change within prescribed time limits.

H.R. 15252. August 24, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15253. August 24, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15254. August 25, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to develop a river system management plan for the Upper Mississippi River, in the format of the "Great River Study."

H.R. 15255. August 25, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a study of the feasibility and suitability of establishing a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio.

H.R. 15256. August 25, 1976. Interior and Insular Affairs. Establishes Lake Clark National Park, Alaska.

H.R. 15257. August 25, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the programs of Medicare, Medicaid, and grants to States for Social Services of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

States that the Commission is to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization control in such care.

Provides for the issuance of regulations to correct deficiencies in the provision of such health care.

H.R. 15258. August 25, 1976. Ways and Means. Amends the Social Security Act by reducing from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits under the Old-Age, Survivors, and Disability Insurance program.

H.R. 15259. August 25, 1976. Interstate and Foreign Commerce. Establishes a program of financial and technical assistance for the development of resource recovery systems in the Environmental Protection Agency. Directs the Administrator of the Environmental Protection Agency to regulate wastes which are hazardous to health.

Establishes criteria for approval and implementation of State and regional discarded materials plans. Creates a nonprofit corporation to assist in stimulating the market for resource recovery facilities.

H.R. 15260. August 25, 1976. Judiciary. Prohibits unauthorized persons from placing or coercing the placement for permanent care or adoption of a child for compensation under circumstances which result in the child's transportation in interstate or foreign commerce.

H.R. 15261. August 25, 1976. Agriculture. Authorizes the Secretary of Agriculture to carry out operations to control incipient or emergency outbreaks of range caterpillars.

H.R. 15262. August 25, 1976. Merchant Marine and Fisheries; Ways and Means. Prohibits the importation of fish or fish products produced by any foreign nation which (1) is engaged in the killing or capturing of whales, (2) is not a member of the International Whaling Commission, (3) violates certain Commission regulations, and (4) transfers equipment for the killing or capturing of whales to any other enterprise which engages in certain activities concerning the killing or capturing of whales within ten years of such transfer.

Sets forth procedures for implementation of such prohibitions by the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of State.

H.R. 15263. August 25, 1976. Judiciary. Sets forth grounds and procedures for the removal of Federal judges and justices. Establishes a Council on Judicial Tenure to receive and investigate complaints concerning a Federal Justice or Judge. Makes it the duty of the Judicial Conference of the United States to sit as a court to hear any case relating to the removal, censure, or involuntary retirement of Federal judges or justices.

Directs the Supreme Court to review orders of the Judicial Conference upon the petition of an aggrieved justice or judge.

H.R. 15264. August 25, 1976. Judiciary. Requires that a three judge Federal district court review sentences imposed in specified felonies involving physical violence or the use of a firearm. Directs such court to impose a more severe sentence if the court determines it is warranted by the circumstances of the particular case.

H.R. 15265. August 25, 1976. Government Operations. Establishes within the Department of Health, Education, and Welfare, the Office of Inspector General. Requires that the Office promote economy and efficiency and detect fraud and abuse in the programs and operations of the Department.

Requires the Office to report its findings and activities to the Secretary and Congress at least quarterly.

H.R. 15266. August 25, 1976. Public Works and Transportation. Authorizes construction of the projects for Noncannah Creek and Horn Lake Creek, in Mississippi and Tennessee.

H.R. 15267. August 25, 1976. Public Works and Transportation. Modifies the navigation project for the Guadalupe River in Texas to authorize construction of a channel for the Gulf Intracoastal Waterway.

H.R. 15268. August 25, 1976. Interstate and Foreign Commerce. Authorizes the Federal Communications Commission to regulate rates for the use of communication space on poles, ducts, conduits, and other rights-of-way. Allows any State to regulate, or continue to regulate, such rates, terms, and conditions if standards meet or exceed those promulgated by the Commission.

H.R. 15269. August 25, 1976. International Relations. Prohibits foreign assistance to any nation which is subject to an air traffic suspension order for air piracy under the aviation Act of 1958.

Imposes criminal penalties for violation of this Act and allows civil enforcement by any person.

H.R. 15270. August 25, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to establish a minimum one-year period with respect to a Presidential suspension of the right of air carriers to engage in transportation to or from countries which are determined to be aiding or abetting aircraft hijackers or with other countries which engage in transportation with such a country. Sets forth criminal penalties for violation of such a suspension order.

H.R. 15271. August 25, 1976. Public Works and Transportation: Interstate and Foreign Commerce. Amends the Interstate Commerce Act to establish time limitations during which common or contract carriers are required to acknowledge receipt of, and dispose of, claims alleging loss or damage to property transported by such carrier. Establishes civil penalties for failure to meet such time limitations.

H.R. 15272. August 25, 1976. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to revise interagency coordination requirements with respect to fish and wildlife conservation for approval of federally assisted projects for impoundment, control, or diversion of waters. Repeals exemptions from such procedures for water impoundment projects where the impoundment has a maximum surface area of less than ten acres, or for programs for land management. Permits a citizen to bring a civil action in a district court of the United States against persons violating this Act or regulations issued thereunder or against any Federal deparment for failure to perform its duties under this Act.

H.R. 15273. August 25, 1976. Atomic Energy. Sets forth United States policy with respect to nonproliferation of nuclear explosive devices. Specifies procedures for (1) implementation of international agreements for nuclear material transfer and safeguards, (2) initiation of safeguards training programs, (3) participation in international cooperation programs, (4) export and production of special nuclear material, and (5) Congressional oversight of such nonproliferation activities. Authorizes additional, and revises present, nuclear safeguard functions of the Nuclear Commission.

H.R. 15274. August 25, 1976. Atomic Energy. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities must be approved by affected States prior to application for Federal Power Commission approval.

Authorizes States to adopt safety standards which are more stringent than Federal requirements.

H.R. 15275. August 25, 1976. Atomic Energy. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities shall be subject to State disapproval for a 90 day period following notification of the affected States.

H.R. 15276. August 25, 1976. District of Columbia. Stipulates that the compensation of officers and members of the United States Park Police shall be adjusted in accordance with the Federal Civil Service pay comparability system.

Directs the Secretary of the Interior to report on the feasibility and desirability of enacting as part of the United States Code those provisions relating to the Park Police which presently are compiled in the District of Columbia Code.

H.R. 15277. August 25, 1976. Judiciary. Declares a certain individual exempt from procedures for granting immigrant status and to be within the definition of an immediate relative of a United States citizen, under the Immigration and Nationality Act.

H.R. 15278. August 25, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 15279. August 25, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from the purchase of specified land by the Bureau of Reclamation in 1964.

H.R. 15280. August 26, 1976. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 15281. August 26, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 15282. August 26, 1976. Interior and Insular Affairs. Establishes the George W. Norris Home National Historic Site, Nebraska.

H.R. 15283. August 26, 1976. Education and Labor. Directs the Commissioner on Aging to establish a program to make supplemental food available to older persons determined to be nutritional risks because of inadequate nutrition and inadequate income. Directs the Commissioner to establish a program to make medical services and medical supplies available to older persons determined to be in special need of such services and supplies because of their medical condition and inadequate income.

H.R. 15284. August 26, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce.

Requires the Federal Communications Commission to make specified findings in connection with Commission action authorizing specialized carriers.

H.R. 15285. August 26, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 15286. August 26, 1976. Judiciary. Amends the Immigration and Nationality Act to permit the approval of more than two orphan petitions for one petitioner on behalf of an alien child if the petitioner establishes that the adoption of such alien orphan will be conducted in accordance with applicable State and local standards and procedures.

H.R. 15287. August 26, 1976. Education and Labor. Directs the Secretary of the Interior to enter into contracts to provide money to meet the general operating costs of public elementary and secondary schools which are located on or near Indian reservations and which are educating Indian children.

H.R. 15288. August 26, 1976. Judiciary. Prohibits economic coercion by business enterprises or their representatives based upon religion, race, national origin, sex, or lawful support or dealings with foreign countries.

H.R. 15289. August 26, 1976. Merchant Marine and Fisheries. Stipulates that the African elephant shall be deemed to be added to the endangered species list of the Endangered Species Act of 1973. Directs the Secretary of the Interior to specify the portion of the range of the African elephant in which it is endangered.

H.R. 15290. August 26, 1976. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 15291. August 26, 1976. Ways and Means. Entitles taxpayers, under the Internal Revenue Code, to elect to take a deduction with respect to the amortization of any qualified school or hospital property, which was purchased from a tax-exempt organization, based on a period of 180 months.

H.R. 15292. August 26, 1976. Agriculture. Directs the Secretary of Agriculture to study the effects of palm oil imports upon domestic processors of vegetable oils and to study methods of regulating the importation of palm oils in order to protect domestic producers of agricultural commodities, and to assure an ample supply of palm oil for domestic processors and consumers.

H.R. 15293. August 26, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct the flood control project on the Chehalis River in Washington.

H.R. 15294. August 26, 1976. Public Works and Transportation. Modifies the project for navigation improvement of the Grays Harbor and Chehalis and Hoquiam Rivers in Washington to authorize additional work recommended by the Chief of Engineers.

H.R. 15295. August 26, 1976. Banking, Currency and Housing. Requires the Emergency Loan Board to terminate any loan guarantee made to any enterprise under the Emergency Loan Guarantee Act within 90 days of the enactment of this act.

H.R. 15296. August 26, 1976. Agriculture. Amends the Federal Noxious Weed Act of 1974 to include in the definition of "noxious weed" under such act the water weeds hydrilla and hyacinth.

H.R. 15297. August 26, 1976. Agriculture. Authorizes the Secretary of Agriculture to carry out measures or operations to eradicate, suppress, or to prevent or retard the spread of the water weeds hydrilla and hyacinth.

H.R. 15298. August 26, 1976. Public Works and Transportation. Amends the River and Harbor Act of 1958 to include the water weed hydrilla in the water weed control and eradication program authorized under such act.

H.R. 15299. August 26, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction for certain property improvements assigned to prevent or reduce shoreline erosion caused by high water levels in the Great Lakes, and which are of a type approved by the Chief of Engineers of the Army.

H.R. 15300. August 26, 1976. Ways and Means. Amends the program of supplemental security income for the aged, blind, and disabled of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to pay the cost of returning recipients of such benefits to their homelands.

EXTENSIONS OF REMARKS

UNCLE SAM

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. VANDER JAGT. Mr. Speaker, it is a very distinct honor and pleasure for me to place in the RECORD the following poem written in celebration of the Bicentennial by a distinguished gentleman from my congressional district who celebrates his own 100th birthday on November 27. Mr. Guy Crawford, a leading citizen of Hesperia, Mich., pays this fine tribute to our Nation and does himself honor in the process:

UNCLE SAM

(By Guy W. Crawford)

We have an old uncle, a kindly old gent
Who gives us no trouble, if we keep up the rent.
Unk is proud of striped trousers, a coat . . . like that,
And of hair on his chin, and a tall silk hat.
Well, who is this uncle we never did see?
Why, he's just a blueprint of you or me.

Oh, he's as strong as a lion, or as meek as a lamb,
This uncle of ours, our own Uncle Sam.

From ocean to ocean and then far out beyond,
From lake to gulf and far south of big pond . . .
A good-sized piece ventures north, we are told,
Where we pump out more oil and search for some gold.
Yes, as strong as a lion or as meek as a lamb—
That is our uncle, our dear "Uncle Sam".
But if that is true, then where does he stay?
Why, in each nook and corner of our U.S. of A.
Some of Unk's kin are as poor as a church mouse,
Other-some live in a big White House.
Unk's flag has many parts made one by me and you . . .
Thirteen stripes, fifty white stars, on a field of blue.
So, with the help of God and a will to do
We forge ahead with our red, white, and blue.
Pledge allegiance to this flag (with hand o'er heart)
That from this pledge we never more shall part.
To this cause Unk enlists his nephews and nieces
Who help when there's trouble and pick up the pieces.

Although Unk does a lot of checking and screening,
Sometimes we think he should do more house cleaning.
Like why license a traffic that takes lives every day?
Why destroy the unborn who will never laugh and play?
Well, now, how did uncle get about at the start.
Why by hitching an ox or a mule to a two-wheeled cart.
We are told he tried this with the old "Ship of State"
Which got him there early, well . . . sometimes late.
Next came the Lincoln with which he really scored,
But Sam gets there today with a brand new Ford.
By auto, rail, sub, ship, or a plane miles up in the air
We now have ways to get from here to there.
Our "Uncle Sam" has been around for two hundred years,
Now it's time, I think, to give three rousing cheers.
Look back, my friends, that's a lot of years, to be exact, ten score,
"Happy Birthday" to you Uncle Sam, and we wish you many more!

FARMER HELPS SEND KIDS TO NEW YORK

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. WEAVER. Mr. Speaker, I would like to pay tribute today to the young people of Oregon, who, with the help and encouragement of Mr. Edgar Grimes, a Harrisburg, Oreg., dairy farmer, have been responsible for Oregon's reputation for clean highways.

For this reason I am printing in the CONGRESSIONAL RECORD an article from the August 17, 1976, issue of the Albany Democrat-Herald on Mr. Grimes and his youngsters who have contributed in their own way to keep America beautiful.

The article follows:

FARMER HELPS SEND KIDS TO NEW YORK

(By Connie Petty)

HARRISBURG.—Dairy farmer Edgar Grimes says he likes to give credit where credit is due.

That's why he's helped send 29 Oregon youths—12 from mid-valley towns—to the Keep America Beautiful convention in New York City, N.Y. over the last six years to collect national awards in antilitter contests.

Grimes has spent $43,000 of his own money to finance delegates to conventions and for his other antilitter efforts—and now needs at least $3,000 for this year's delegation.

Because four more children are invited to the Keep America Beautiful fall meeting—not to receive awards, but to represent Oregon youths who Grimes says are the ones responsible for Oregon's reputation of having the cleanest highways in the nation.

Grimes has been involved with youngsters and litter pickups since 1970. As a member of two groups hoping for a pure environment—Stop Oregon Litter and Vandalism (SOLV) and Keep Oregon Green and Clean—Grimes has helped organize cleanup campaigns and awarded prizes of ice cream cones to kids who helped.

To support Keep Oregon Green he has sold cows valued at $43,000.

Back in 1964, Grimes lost $50,000 worth of dairy cows that died because of internal bleeding caused by bits of broken glass in their hay.

Motorists driving along the highway would throw glass bottles into Grimes' fields. When the hay was baled so was the glass, and the cows died after eating it.

Grimes conducted a one-man, six-year crusade to cut down littering. And in 1969, the state legislature stiffened penalties by raising littering fines from $11 to $500—or 500 hours of labor by picking up roadside litter.

About this time, Grimes' story was told in a national news story, and he was invited to appear on the "To Tell the Truth" television show and attend Keep America Beautiful's convention.

But Grimes refused to take credit for Oregon's cleaner environment. He said Oregon's children were responsible, and the next year said he would bring youth winner to the awards ceremony only if they could attend the agency's annual convention, too.

In 1974, when a Lebanon scout troop and Diane Wenger's sixth graders at Harrisburg won national awards, Grimes was not notified soon enough for delegates to attend.

But this year, after two more of her classes entered the contest, Mrs. Wenger and two students are invited to the convention.

In July, Mrs. Wenger's sixth graders honored Oregon state police Supt. Holly Holcomb, slain by an assassin last spring, by planting a dogwood tree at the capitol grounds in Salem.

When Keep America Beautiful executive vice president Roger W. Rogers heard of their deed, he invited Grimes to bring Oregon youths to this fal''s convention.

Grimes asked three mid-valley schools who won local antilitter contests this year to select the delegates, and they are Michelle Oakerman, daughter of Mr. and Mrs. Dale Oakerman; Jason Anderson, son of Mr. and Mrs. Ed Anderson, both of Harrisburg; Janelle Shields of Fairmount Grade School, daughter of Mr. and Mrs. William Shields of Albany; and Bobby Ashley of Maple School, son of Mr. and Mrs. David Ashley of Springfield.

Mrs. Holly Holcomb will attend as a special guest, and Mrs. Wenger because of her antilitter group leadership, Grimes says.

Grimes says the delegation needs at least $3,000—but he's down to only 20 cows now, and so he's found another way to get some money: He will set aside 20 cents from each 30-cent bale of straw and 50 cents from each bushel of wheat seed sold on his farm this summer. The delegation will have 10,000 bales and 20,000 bushels at its disposal, and the kids and their friends are helping sell the produce.

The straw, by the way, is another environmental issue Grimes has faced up to. A few years ago, he might have burned the stubble after harvest—but smoke puts pollution in the air, so Grimes has switched to baling the stuff.

Straw can be used for livestock feed and bedding, mulching gardens and flower beds—and Grimes even suggests bales be stacked around the yard into shapes and used as lawn furniture.

But the thing that worries Grimes now is his obligation to help send kids to the Keep America Beautiful convention. He thinks there may be winners, since 18 groups filled out contest applications.

Another cow or two may still go to the butcher's chopping block.

BARBARA JORDAN: "PROFESSIONAL POLITICIAN"

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. PICKLE. Mr. Speaker, I would have to say not many House Members are known nationwide. On top of this, it is only a small number publicitywise, who bring credit to the body as a whole. This is not to say we do not have many good people, for we do, but that our image, in a collective sense, does sometimes suffer.

So, Mr. Speaker, I think it is well that we recognize that the honorable representative from Houston, BARBARA JORDAN, meets both standards. She is a national figure, and she brings honor to this House.

Recently, a reporter of the Cox newspapers was asked to interview Representative JORDAN. The Austin, Tex., newspaper, the American-Statesman, ran this interview plus a story. I want to include this in the RECORD as an example of the attention and respect given to the Congresswoman from Houston:

BARBARA JORDAN: "PROFESSIONAL POLITICIAN"

(By Robert Schwab)

WASHINGTON.—Barbara Jordan. The name is deceptively simple, the person behind it deceptively complex.

Jordan, a U.S. representative from Houston, calls herself "just a politician, a professional politician." Which means professionally she has to be many things to a great many people.

As her national reputation broadens (first by the Nixon impeachment hearings, then her resounding address at this summer's Democratic convention), her audience increases. Yet she says her concern is for her district. "I don't feel any pressures to become the national . . . whatever," she says.

Jordan sounds believable. Watching her on the House floor, she seems serious about what she says is her major function: Being a Washington surrogate for the people who voted for her.

And, despite the difficulty of finding fault with the Houston orator, she invites it. She is both candid and calculating, gracious and grating, manipulative and masterly.

During her keynote address to the Democrats, she quoted Abraham Lincoln: "As I would not be a slave, so I would not be a master."

Although there is no doubt she deeply felt the sense of the words as she quoted them, there also is no doubt, in a different sense, that Barbara Jordan intends very much to be a master—of her own political future.

A case in point:

Long before the national convention, Jordan began dieting and exercising.

Her diet was simple. "I ate less."

Her exercise was more complex. Each morning she rose and hooked up a contraption of ropes to a door knob in her apartment. Then she strapped herself into the ropes and, she says, "flailed" about with her arms and legs.

The scene is hardly congruous with the image of a dignified representative often mentioned as a potential vice president, Supreme Court justice or cabinet member.

Yet the scene provides a clue to the person behind the image Jordan offers to her public.

Battling the very human problem of being overweight is a challenge to Jordan. Planning the victory over herself in time for a nationally televised speech is indicative of her calculated view of the future.

She achieved her personal goal. She is trimmer and the speech for the second time cast Barbara Jordan into the national limelight.

But the light faded and Jordan went back to her seat on the House floor, back to her job of representing.

She sits in the House chamber for hours. Despite her reputation for oratory, she rarely speaks there. Other representatives approach her, check out her position, check out the progress of the current debate.

It's part of Jordan's grand strategy.

Politicking is an art, she says. "If a person studies the art of being a politician, one sort of develops a sense of where the power points are, of how one must move to be effective to get things done for the people represented by the politician."

The current trend is to criticize politicians, Jordan says. In her convention speech, she admitted her party's politicians have made mistakes and must correct them.

Before she granted an interview with The Austin American-Statesman, she determined that questions to be asked would concern topics she was interested in addressing.

Jordan doesn't like to waste time either. Neither was she above a trick to further assure herself of her control of the situation.

Only minutes before the interview was to start, she revealed it was to be a joint session with other questioners involved.

Such is a very political talent. An exercise in contradiction.

JORDAN: NATIONAL ISSUES CROSS RACIAL LINES

(By Robert Schwab)

WASHINGTON.—Houston's U.S. Rep. Barbara Jordan dislikes being identified as a representative for any one political group, yet is concerned about specific issues that she often does not have an opportunity to speak about.

She agreed to the following interview after learning that the questions would generally pertain to current topics of black interest.

Question: Congressman Andrew Young of Georgia has said there are no more specifically black issues. Do you agree? Whether or not, which are the biggest issues you will be concerned with in the next Congress if re-elected?

Jordan: It's difficult to carve out an issue that you can identify specifically as a black issue because the issues which will be occupying the attention of the next Congress are issues which cut across racial lines.

You know unemployment is a big one. Yes, blacks suffer in a greater degree, a proportionately greater degree than others, unemployment statistics reveal. Inflation? It's not a black issue, but it hits blacks a little worse than it does other people in the country. Welfare reform. Those are issues the Congress will face, issues the country must face. They defy racial identity, but we do know they will impact significantly on black people.

Question: What general reaction do you perceive among African blacks to the events in southern Africa?

Jordan: The congressional black caucus has had very high on its agenda American-African relations and tried for quite some time to get Henry Kissinger to go to Africa and help establish some sense of an African interest in what was occurring in Africa.

Henry Kissinger did go. The consequence was not all that positive and the black caucus took an interest in what appeared to be some overstatement and overpromising by Secretary Kissinger. . . . For blacks, in America, the relation of this country with the continent of Africa has high priority . . . because we feel that there is some spillover in the way America treats black Africans. This is still—the whole developing relationship between this country and Africa—is still in the process of evolution. But we would hope that there be some cooperative relationship formed with the African nations rather than an effort on the part of this country to dictate or subsume economic or social development under some American aegis.

Question: Jesse Jackson, the Chicago black leader has called for a return to basic values among blacks, a call to discipline and self-help. Do you join him? And how do you implement such a call?

Jordan: I agree with Jesse Jackson's call for self-pride, discipline, obedience to authority. He talks about parental authority, familial authority. Sure, I agree with that. How do we implement it other than talk about it? I'm not sure. I do agree that we have to get back to the family as the initial unit to help develop this feeling of respect for yourself and others and for some obedience to authority. I think the family unit has to be the place of beginning, then we fan out into the other institutions which are well known to us (such as) the church, the schools.

Question: Many of your more conservative Texas colleagues would argue that the government has fanned into the family unit and is desirous of interfering too much with it. Do you agree?

Jordan: I would say that is not so. Legislation which deals with child and family life has been grossly misinterpreted by some of my colleagues. There is no desire on the part of the government as an institution to interfere with the basic family life and the role of the parents in child development. I just state that categorically and I know it's an issue and that people get very upset about it. But, I just say that's an erroneous interpretation.

Question: Recent discussion of Jesse Jackson's ideas has also included a theory that growth of a black middle class has deflated the civil rights movement because those joining it are beginning to forget those who remain poor. What's your reaction?

Jordan: There is a growth of middle-class blacks. Their number is expanding. I don't think the differences are as sharp as some would lead you to believe. It is a matter . . . we all realize that we're kind of in this together. All blacks are in the race together and we know that what affects one does have repercussion effect on the other. Even though there may be a little distance in there, it is not a sharp cleavage. Let's say in the vernacular, if the chips were down, middle class, lower class and under-class blacks would, I think, unite together in a concerted way.

Question: You called in your keynote speech for a national community. Racial violence in this country continues to get in the way of that. What's your reaction?

Jordan: Of course, I wish they (acts of violence) would not occur. I think it, perhaps, is a function of lack of respect for oneself and others, (thinking) back to what I talked about and the thrust of what Mr. Jackson is saying. It's born out of frustration and a sense of futility and what is immediately available for attack. When blacks attack blacks, the risk is perceived as somehow less . . . (than when violence occurs) black on white. I fear that that is the case.

Question: How do you achieve the national community you desire?

Jordan: We don't start with a national community, as I phrased it in the keynote speech. You have to first develop a sense of local community, which then fans out to state, and ultimately to a national community.

We have to start in a neighborhood. People who live next door to each other have to develop a sense of some common interest in the development of their neighborhood. That interest is on a social front, an economic front, a political front, acting in concert to achieve some immediate result, cadres of people within the community acting in a common sense and in common direction.

All right, let's get more specific than that. Talk about crime, black on black, that's certainly a present and rather prevailing kind of problem. The Law Enforcement Assistance Administration Act, LEAA, has funds in it for the development of community law enforcement entities. If a community can band together to do some self-policing, we might see a dramatic reduction in local crime whether it is black on black or black on white. If these local cadres are successful in a self-policing effort, they may develop some techniques which can be used to implement crime control in a larger sense. If we can build just these kinds of real interest groups throughout the nation, I think we would find a strain of commonality in the problems we're seeking to solve, whether we're talking about crime or any other problem. This could ultimately evolve into a sense of national community.

Question: You made it clear after your keynote speech your national community at that time did not include you as a first female vice-presidential nominee. Why didn't you think the country was ready for that?

Jordan: Whenever that occurs—and it will occur—that will be a bold and a daring political move because no one knows how the public will react to it. We really don't know. Someone is going to have to be the first to try it. It'll be a matter of forgetting about all the reservations that people have about how the American public will perceive a woman at the top of the ticket and just do it.

THE HIDE COST OF SHOES

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. BYRON. Mr. Speaker, one of Maryland's largest shoe manufacturing centers is located in my congressional district. These manufacturers, and consumers all over our Nation, are growing increasingly concerned about the high cost of shoes resulting from uncontrolled imports of shoes from low-wage nations and uncontrolled exports of American hides to these countries.

I am quite familiar with the problem since my family once owned a tannery in Williamsport, Md., and trade relief must come soon to aid these manufacturers or only the very rich will be able to afford new shoes. I am submitting a recent lead editorial from the Frederick News which outlines the ramificiations of this problem, and I hope other Members will read it and then join with me in support of the American shoe industry.

HIDE COST OF SHOES

When baby needs a new pair of shoes—or anyone else in the family—there may be reasons for the higher costs.

The Frederick area, one of Maryland's largest shoe manufacturing centers with plants at Thurmont, Emmitsburg, Middletown and bordering Pennsylvania communities, is vitally concerned about the domestic shoe market and its current dilemma because of unbounded importation of shoes.

But there is another problem causing the shoe industry to have its ups and downs in the United States, and that is the sharp rise in shoe prices caused by the increased demand for the American hide supply which also remains unprotected from foreign buyers.

President Ford, by rejecting the footwear industry's and the International Trade Commission's request for relief from imports for the domestic industry, has in effect declared the United States to be the only wide open market for shoes from low wage nations in the world.

The result has been that the demand for more and more of America's hide supply has soared from overseas. The monopolistic buying practices of Japan, for example, have drastically reduced the hide supply available to other producers. The end result has been enormous increases in hide prices that will probably equal $5 or $6 a pair for both domestic and imported leather shoes.

President Mark Richardson of the American Footwear Industry Association said hide prices for branded cow hides, the type in greatest demand, have risen from 8.5 cents per pound since January of 1975 to 39 cents per pound last April, 1976.

This translates, Richardson said, into a price increase of over $3.50 a pair for children's shoes, over $10 a pair for women's boots, and from $5 to $6 a pair for men's shoes.

Though many American consumers have already written their congressmen to protest higher shoe prices, many others are only now becoming aware of the critical situation and are starting a campaign so that Congress can give the rising cost of shoes the proverbial boot.

NEUBERGER MUSEUM COLLEGE AT PURCHASE, SUNY, HOSTS SEVENTH ANNUAL EXHIBITION BY WESTCHESTER'S HANDICAPPED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. OTTINGER. Mr. Speaker, Jeffrey Hoffeld, director of the Neuberger Museum, announced today that the seventh annual exhibition of art by handicapped residents of Westchester County will open on Sunday, October 10 at the Neuberger Museum, SUNY, College at Purchase. Over 100 original works—including paintings, drawings, sculpture, ceramics, collage and needlework—will be shown for 1 month at the new museum designed by Philip Johnson. Following its stay at the Neuberger, the show will tour five other public locations throughout Westchester County. The final exhibition site will be the county courthouse in White Plains in June 1977.

In addition to individual entries, agencies that serve the handicapped have cooperated in making this special exhibition possible. Included in the show are artists from the Westchester Lighthouse; Westchester Association for Retarded Children, White Plains and Yonkers; United Cerebral Palsy of Westchester; Muscular Dystrophy Association; Opengate, Somers; Sarah Neuman Nursing Home, Mamaroneck; Extended Care Facilities of New Rochelle and White Plains; Burke Rehabilitation Center, White Plains; New York State School for the Deaf, White Plains; BUDS—Building Youthful Diverse Skills, New Rochelle; Margaret Chapman School, Hawthorne; and Southern Westchester Community Services of Harlem Valley Psychiatric Center, New Rochelle.

The coordinators of the exhibition, Mrs. Jackie Sheinberg and Mrs. Betty Lynn Steinweg of the Neuberger Museum's Docent Council, expressed the hope that "the public will visit the exhibition and appreciate the creative accomplishments attained by handicapped citizens. They are truly remarkable." Responsibility for the success of the exhibition is shared with the Westchester County Office of the Handicapped and the Mamaroneck Artists Guild under the direction of Mrs. Ada Kera-Friedman and Mrs. Leona Monnie, president.

Ten prize winning entries will be selected by three judges and cash awards will be presented by the Council for the Arts in Westchester. The three judges are Mr. Matthew O'Connell, director of the Office of the Handicapped of Westchester, who is handicapped and wheelchair-bound; Harriet Weissman, director of the museum gallery, White Plains Public Library; and Shirley Hollis, program specialist, Rye Association for the Handicapped.

THE DEATH OF MAO TSE-TUNG

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. PAUL. Mr. Speaker, for many years now there has been virtual censorship in America about the true facts regarding oppression in Communist China. We are seeing this once again in the press coverage of the death of Mao Tse-tung. He is portrayed as a great leader and a shrewd politician—which indeed he was—but this completely overlooks the monstrous tyranny he exercised over the Chinese people.

There is no doubt that China is a very different place today than it was in 1949, but to equate change with progress would be a serious error. We simply cannot judge Mao Tse-tung outside a moral context. We cannot praise him for bringing industrial development to China while ignoring the millions of Chinese who were put to death for opposing communism and the millions more who live, but in abject slavery.

It is true that Chinese values are different from those in America and the West, but it is foolish to believe that the Chinese people do not have the same yearning for freedom that we have. This fact is confirmed by the untold thousands who have risked their lives to escape Communist totalitarianism for the liberty of Hong Kong.

We are asked to be "realists" and overlook such unpleasantries because we need the support of Communist China as a balance to the growing military power of the Soviet Union. This is a foolish and shortsighted policy which simply repeats America's past error of treating all of our enemy's enemies as our friends. This policy has probably done more to destroy our credibility as a champion of freedom in the world than any other thing.

Americans pride themselves for having broken with the balance-of-power politics of Europe and established a foreign policy which not only upholds American interests, but is moral as well. This is a tradition which is as old as the country itself and which survives today in spite of Henry Kissinger's efforts to destroy it.

It is unfortunate that our foreign policy has been so mismanaged that the American people now seem to equate a moral foreign policy with an interventionist foreign policy. The two are not at all synonymous. A condemnation of Communist tyranny ought not to imply the threat of U.S. intervention. Nor should it imply support for every petty dictatorship in the world which pays lip service to anticommunism.

America must remain forthright in a

universal opposition to tyranny. This is why we must recognize Mao Tse-tung for what he was: perhaps the most oppressive dictator who ever lived. We should not be afraid to say so and we should make it clear to his successor that so long as the Chinese people remain slaves, they can expect no support from the United States.

FIGHTING CRIME

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. ASHBROOK. Mr. Speaker, crime is a growth industry in this country. Each year the crime rate goes only one way—up. Millions of people are afraid to leave their homes at night or, in some places, even during the daylight hours.

I serve on the Crime Subcommittee of the House Judiciary Committee. Now the uninitiated might think that this subcommittee would be interested in this rising crime that threatens us all, but is it? The answer is a resounding no.

For the large part of these two sessions of the 94th Congress that subcommittee has considered various proposals to limit the rights of law-abiding Americans to own firearms. Little consideration has been given to how to control criminals and bring crime under control.

First of all the present Congress, the liberal majority, is hesistant to get involved in the crime issue. Why? Because it has been the liberals who have blamed the rise in crime on everyone but the criminal, the decline in standards, and the leniency of the court system. Liberalism has meant a go soft attitude on crime. The liberal judge has often allowed the criminal back on the street before the paperwork has been completed by the arresting officer.

When one looks at past crime statistics, a number of points stand out. One is that there is what can be called a criminal class. There are a lot of repeat offenders in the United States.

Based on Federal crime reports, 65 percent of those arrested between 1970 and 1974 were repeat offenders. Fifty-nine percent of those who were acquitted or had their cases dismissed were arrested for other acts of crime.

I could go on and discuss breakdowns by crimes and the percentage done by repeat offenders. I could discuss the increases by category of crimes committed, but I think the picture is clear.

Action is needed, but the present majority in Congress seems unwilling to act.

I have supported and introduced legislation in the present Congress to require mandatory sentences for criminals using a firearm in the commission of a crime. This is the kind of criminal control that is necessary. It would tell the hoodlum that he is going to serve a mandatory sentence.

I have also introduced legislation to allow capital punishment for serious crimes.

I have introduced comprehensive antiterrorist legislation to stop bombings, hijackings, kidnapings, and other terrorist acts. This is one area where the Federal Government has a clear responsibility but the liberals close their eyes to doing anything about the problem.

The criminal must be taken off the streets. The citizen has the right to be protected against the criminal. This is one of the basic responsibilities of Government.

ALL IN A DAY'S WORK

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. SISK. Mr. Speaker, on July 16, the Nation was shocked by the news that a schoolbus carrying 26 children and a driver had simply disappeared on the outskirts of the small town of Chowchilla, Calif. We all know the details of that story now.

The news media carried a running account of the search effort and the eventual recovery of the children and the driver. The press was filled with stories about the courage of Ed Ray, the resourceful busdriver, who managed to keep the children calm and to dig his way out of the buried trailer, leading the children to safety.

What we have not heard, however, is the behind-the-scenes account of the communications effort that went into reporting that story. While the press did a superb job of keeping us informed, their diligent efforts would have been greatly impeded had it not been for the efficiency of the hard-working men and women of the Pacific Telephone Co.

Chowchilla is a town of approximately 4,500 people. The telephone system, obviously, is designed to serve that size population. As the story broke of the mass kidnapping, this quiet community was inundated with more than 250 newspeople from local, State, national, and international news organizations.

During the early morning hours of July 16, Pacific Telephone sent in a crew of 30—installers, splicers, and other personnel. Their first priority, of course, was to get in extra lines for the FBI, the Madera County sheriff's office, and the California Highway Patrol. Next, they went to work running lines into a fire station garage which was set up as a "press room." A new temporary 26-pair cable and three coin phones were installed during the early morning hours. By noon, a new 100-pair cable had been installed, and by early afternoon, 14 more coin phones were trucked in. By midafternoon, some 60 private line press phones, plus the coin phones were in constant use. The following day a portable microwave transmitter was brought in to handle direct links from Chowchilla to the national television networks.

Amidst all the excitement and confusion the telephone system worked smoothly. Newspeople on the scene, dependent on the telephone lines to get their story out, were keenly aware of the crucial importance of this efficiently operating system. The Pacific Telephone Co. received many compliments for the service they provided in Chowchilla. Typical of some of the comments was a statement by a reporter with some 33 years' experience who stated that he had never worked on a big story where telephone service had been installed so quickly.

For the men and women who coordinated and carried out this difficult assignment it was, naturally, nice to hear such pleasant remarks. However, it was a job they believed was expected of them. It was the kind of service people have come to expect because it is the kind of service delivered by Pacific Telephone. For the men and women of Pacific Telephone, it was all in a day's work, regardless of how long or arduous that day might get.

SISTER ROSE BENIGNA CELEBRATES HER 100TH BIRTHDAY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. BOLAND. Mr. Speaker, on September 18, the greater Springfield, Mass., area will record a truly noteworthy event. Sister Rose Benigna, S.S.J., who resides at Mont Marie, motherhouse of the Sisters of St. Joseph in Holyoke, will celebrate her 100th birthday. Sister Rose will thus become the first centenarian in the history of the sisterhood of St. Joseph.

Sister Rose entered the convent in 1902. She spent most of her religious life as a teacher at Cathedral High School in Springfield, Mass., teaching three generations of students in the period 1909–53. In addition to her teaching duties, she had been trained as a nurse at Springfield's Mercy Hospital before entering the convent at age 29. She did a great deal of nursing during her years of active service as well as music and vocal training.

The many friends and former students of Sister Rose will gather together this Saturday, September 18 at Mont Marie to join her in celebrating this wonderful event. I know that President and Mrs. Ford have sent their congratulations as well. I would just like to add my own to what I am sure will be a host of other messages.

Sister Rose's career impresses most of all, because of its constant devotion for those entrusted to her care. Her own longevity is a marvel indeed, but more marvelous and blessed by far is the sustaining love she has exhibited for her charges, both as teacher and nurse. This kind of devotion to others is badly needed in the world and there can be no more important vocations than those dual roles which Sister Rose has played. I express my personal congratulations to this holy lady and wish her continued enjoyment of the fruits of her long labors.

A "SUSTAINED-YIELD" AMENDMENT TO THE RENEWABLE RESOURCES PLANNING ACT

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. BAUCUS. Mr. Speaker, the House of Representatives will soon consider H.R. 15069, amendments to the Forest and Rangeland Renewable Resources Planning Act of 1974. Our national forest timber management laws need revision, both to improve the environmental safeguards within the current act and to eliminate some of the harsh effects of the recent Monogahela decision prohibiting clearcutting in many national forests.

As I explained in a letter to the members of the House Agriculture Committee, I think that H.R. 15069 addresses many of the crucial issues. For example, I think that the bill's emphasis on reforestation, even if partially duplicative with existing law, is well placed. However, there are three important aspects of forest resource management that are missing from H.R. 15069. These include: An adequate management process, an overall policy on sustained-yield timber removal, and a removal of "backdoor" spending authority. The Senate bill, S. 3091, details an adequate process for sound resource management and remedies many of the problems in the House bill. Thus, I welcome attempts to bring H.R. 15069 into closer conformance with S. 3091.

The composite Weaver/Brown amendment, however, while intended to bring the House bill into conformance with the Senate bill, does not accomplish that goal. It is far more complicated in structure than either the House or the Senate bill and contains provisions that are not in either bill, going well beyond the Senate bill in some respects. If this amendment passes, it will complicate, not simplify, the job of a conference committee that will be fighting against the clock to get a bill passed this session.

For these reasons, I am introducing one short amendment that remedies the major defect in H.R. 15069: A failure to establish a sustained-yield requirement. While the Senate bill is preferable in several other ways, these subsidiary issues are best left to a conference committee once this primary environmental safeguard is included in the House bill. My amendment, which is substantially the same as the Senate's sustained-yield section, is as follows:

LIMITATION ON TIMBER REMOVAL

(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be harvested from such forest annually in perpetuity on a sustained-yield growth basis for each tree species. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. (New language)

(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

The need for a sustained-yield provision is clear. While the process for determining what is a sustained yield for any given forest may be complex, the concept itself is simple. We must not allow timber cutting today which will either reduce future levels of timber harvest or damage the environment. Cutting too many trees today, even if these trees are replaced at potential growth levels, can lead to the future destruction of local communities dependent on employment in the timber industry and the destruction of scenery, wildlife habitat, soil, and water. This is the heart of the difference between the House and Senate bills.

My amendment is identical to the Senate's sustained-yield provision with the addition of a requirement that forests be managed on a sustained-yield growth basis for each tree species. This language was inserted to give the Forest Service the flexibility they need to manage the forests in an ecologically sound manner and to prevent catastrophes before they occur.

In summary, I think that the Senate bill provides many necessary safeguards lacking in the House bill. But the Weaver/Brown composite amendment is not the best way to bridge the gap. We should amend the House bill by adding a flexible, sound sustained-yield provision and allow the conference committee to resolve all subsidiary questions. I think that this is the shortest, best route to an economically and environmentally sound forest management bill.

These are the three questions most often asked about my sustained-yield amendment:

WHY NOT H.R. 15069 UNAMENDED?

First, H.R. 15069 lacks an overall policy for timber removal. While the bill requires that stands of trees "shall generally have reached the culmination of mean annual increment of net growth prior to harvest," there is no overall policy or a sustained-yield requirement. My amendment corrects this omission.

Second, the bill fails to detail an adequate process for sound resource management. This process can be provided by incorporating selected portions of S. 3091 into the House bill. In particular, it should mandate the early adoption of regulations setting out the process for development land management plans which reflect differences in geographic areas and forest type and are updated based on adequate research. Within each geographic area of forest type, some size limits should be designed for clearcutting. And the management process should include adequate public hearings prior to preparation of plans, broad public advisory boards, and a committee of scientists to assure an inter-disciplinary approach. These omissions, and others which I mentioned to members of the House Agriculture Committee, can be adequately resolved in a conference with the Senate as long as the basis for discussion and negotiation is the presence of a sustained-yield requirement in each bill.

WHY NOT THE WEAVER/BROWN COMPOSITE AMENDMENT?

The Weaver/Brown composite amendment takes bits and pieces from the House and Senate bills and adds in new provisions that are in neither bill and, in fact, go far beyond the Senate bill in their application. Some of these provisions are unwise even if our sole interest is protecting environmental values rather than promoting the multiple use of our forests. Working through the proposed amendments, as presented in the Weaver/Brown Dear Colleague letter of September 9, I have the following observations:

Section 13(a)(1)(i) is the sustained-yield provision verbatim from the Senate bill. This is the key environmental and economic amendment needed by the House bill, but it lacks the flexibility of a sustained-yield growth basis for each tree species as proposed in my own amendment. If we focus on this sustained-yield provision and change it slightly to allow the sustained-yield to be based on an analysis of each tree species, the House bill will be a workable vehicle for a conference.

Section (13)(a)(1)(ii): This section goes far beyond the marginal lands provision added to the Senate bill by Senator Bumpers. The Senate language only provides guides to curb subsequent investments in intensive tree production on harvested lands where reforestation or other intensive management techniques will not pay their own way. The Senate provision does not prevent timber sales or intensive management as part of an overall multi-purpose forest management plan. The Weaver/Brown proposal, on the other hand, would prohibit timber sales on a sale-by-sale basis when the cost to make the sale exceeds the income derived from that sale. This would totally preclude using timber sales as one tool in effective overall management when the sale itself could not be justified on a break-even basis. The Senate language can be the basis for modification in a conference, but this amendment goes beyond what is called for to secure effective forest management.

Section (13)(a)(2): This is not a "marginal lands" section as described in the Weaver/Brown letter. Rather, it is a three-part subsection dealing with commercial timber production on lands that might possibly be damaged by harvesting. Part (i) is already found in section 5(f)(5)(ii) of H.R. 15069 but in a somewhat different form. It is not removed there. Part (ii) replaces the 5-year restocking standards in (f)(5)(iii), which is removed. Part (iii) replaces (f)(5)(iii), which deals with soil and water protection. The result is that the present section 5(f), which sets criteria for the application of silvicultural systems, is abbreviated to three criteria by moving 3 to a new "commercial timber production" section and leaving 3 in the present "silvicultural systems" section of H.R. 15069. This will make reconciling the form of the House and Senate bills even more difficult than it is at present without adding any necessary enviromental safeguards.

Section 13(a)(3): These are clearcutting standards that are similar to the Church guidelines in S. 3091. In many ways, they are similar to various management practices that are in section 5 (f) of the House bill. While I think that the clearcutting standards in S. 3091 are preferable to those in H.R. 15069, this method of revision is a disjointed approach that takes bits and pieces of each bill and meshes with neither. The subject could be worked out in conference.

Section 13(a)(4): This language requires positive action to perpetuate habitats and populations of "native" species and the "maintenance" of habitats of species that are "diminishing." This language goes well beyond both the Senate bill and existing law. For example, the comprehensive Endangered Species Act (P.L. 93-205) speaks of "species which are in danger of extinction through all or a significant portion of their range" and defines a threatened species as one "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." This is comprehensive and dynamic guidance for forest managers, but the Weaver/Brown amendment is both static and unworkable. For example, I do not think I could convince any conservationist in Montana that the pheasant should be deported back to China.

Section 13(b) proposes a broadening amendment to the Knutson-Vandenberg Act similar to that in the Senate bill. While it might be useful to set aside a portion of these collections for habitat improvement, I think that this entire program should be brought within the discipline of the appropriations process. Under current law, under both the House and Senate bills, and under the Weaver/Brown revisions, there is "backdoor" financing. The funds should be made available "when appropriated by Congress" and brought into conformance with our new congressional budget process. While the House bill does not eliminate this "backdoor" funding, it at least terminates all authorizations in fiscal year 1980 except those provided under the $200 million reforestation limit. This at least gives us a fixed time period to begin considering the question of "permanent appropriations."

WHY MY SUSTAINED-YIELD AMENDMENT?

The fundamental policy that gave rise to the creation of the national forests and to their maintenance is the concept of "conservative forestry"—cutting that will not exceed perpetual growth. This is the basis of my sustained-yield amendment: avoiding the "deficit forestry" that will lead to overcutting now and higher prices and unemployed workers in the future.

There is no danger that sustained-yield management will cause problems with our current timber supply. Even the Senate bill (S. 3091), which lacks my language requiring a determination based on the growth of each tree species, is flexible enough to meet the needs of our current timber harvest. As can be seen in the Senate report language—appended to this fact sheet—the Senate chose among deficit harvesting, sustained-yield harvesting, and mature-aged tree harvesting when establishing a management policy. In choosing sustained yield over either faster or slower harvesting policies, the Senate clearly indicated that "allowable timber harvest levels can be increased where justified by management practices" and that harvests can vary annually and increase over a decade.

In fact, it is highly unlikely that a sustained-yield policy will lead to cutbacks in tree harvesting. As can be clearly seen from the table indicating our current national forest timber situation—appended to this fact sheet—cutting in the national forests in the South, in the North, and in the Rocky Mountains does not exceed growth. The overall pattern in the United States is undercutting. The only area of the country where cut exceeds the sustained-yield level is the Pacific area. Even more important, the level of cutting does not begin to approach the potential cut in any of the regions. To argue that the safeguards of sustained-yield should be sacrificed is illogical.

While I feel that the Senate report is correct that a sustained-yield policy will not interfere with an adequate timber harvest, I think that the Senate sustained-yield language, as proposed in the House by Weaver and Brown, requires one major change. I propose that, by basing our sustained yield on a growth basis for each tree species, we can allow the Forest Service to modify its overall policies to meet regional and local conditions. This means that the Forest Service will not be "locked in" to policies which promote waste of valuable resources or impede intensive forestry. For example, the Chief of the Forest Service has testified that in Montana we have specific problems with a major species, the lodgepole pine. He is concerned that, because this tree goes quickly from maturity to decadence, the Senate language may be unduly strict and prohibit the Forest Service from allowing these trees to be harvested at the best time. By providing that the Forest Service consider each situation on a species-by-species basis, I am suggesting that Congress place into law the current Forest Service practice. Under my language, the Forest Service will be authorized to consider one cutting rate for a species such as the lodgepole pine and another for Douglas fir or ponderosa pine.

My sustained-yield amendment will allow the Forest Service to respond intelligently to local conditions while still maintaining an overall policy which insures that our children's forest resources are as bountiful as our own.

I include the following:

THE CURRENT NATIONAL FOREST TIMBER SITUATION

	North	South	Mountain	Pacific	United States
National forest acres (millions)	10.5	10.8	34.7	30.9	86.9
Actual volume cut (million cubic feet)	9	14	16	45	25
Actual growth	38	55	23	27	30
Undercut	−29	−41	−7		−5
Overcut				18	
Potential cut	66	70	65	88	[1]73

[1] Average.

SENATE REPORT EXPLANATION FOR ITS SUSTAINED-YIELD POLICY (P. 27)

In amending S. 3091, the Committee considered various suggestions about the sustained yield levels appropriate for the various resources on the National Forests. The 1897 Organic Act and the Multiple-Use Sustained-Yield Act of 1960 outline the purposes for which the National Forests may be established and shall be managed. The 1960 Act defines multiple use and sustained yield in terms of all renewable resources of the National Forests.

The Committee considered three alternative policies for establishing timber harvest levels—

The first policy would permit a rapid and significant increase in annual harvest levels now, despite the fact that this would lead to a decline in harvest levels in the future. This increase would come from currently mature timber, most of which is on Western National Forests.

The second policy would substantially reduce the annual harvest levels now and stress managing trees to an age when they reach physiological maturity.

The third policy would establish a harvest level at the quantity which can be removed in perpetuity on a sustained yield basis, as provided in the 1960 Act.

The rapid, widespread cutting of currently mature trees may well be an advisable practice on privately-held lands where the basic management objective is maximizing short-term economic returns. The Committee believes, however, that such practices are incompatible with the management of the National Forests, where decisions must be based on the numerous public values of the forest, in addition to economic returns.

The Committee also recognized that a system of harvest designed to concentrate attention on developing mature stands of large trees could fill a desire for supplies of such material but would reduce yields and affect other values.

The Committee concluded that managing the timber resource on a sustained yield basis is the most advisable means of guaranteeing a continuous flow of timber and related resources to meet the needs of the American people as called for by the 1897 and 1960 Acts. This approach also provides the best assurance that the other forest resources will not be subjected to sudden potentially adverse changes or disruptions.

The approach adopted by the Committee (1) means that allowable timber harvest levels can be increased where justified by management practices, (2) specifically permits the annual harvest to vary, and (3) permits the planned output over a decade to increase.

Indeed, the Committee expects that the allowable harvest will increase if the intensified management programs called for by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by S. 3091, are implemented.

THE NO-WIN WAR AGAINST TERRORISM REACHES THE DUNKIRK STAGE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. McDONALD. Mr. Speaker, on June 9 of this year I spoke to my colleagues about the no-win war that we were supposedly waging against terrorism. Our intelligence community has been fighting with one hand tied behind its back against an international terrorist apparatus supported and supplied by the Soviet Union and its Eastern European satellites, Communist Cuba, Red China, and Libya.

We have now reached the "Dunkirk stage" in the war. Attorney General Edward Levi, after surrendering one piece of high ground after another, has ordered the total evacuation of an area of major importance in gathering intelligence on international terrorism.

The Socialist Workers Party is the American section of the Trotskyist-Communist Fourth International whose national sections have been carrying out terrorist activities in Latin American countries, England and Ireland, France, Spain, and the Middle East. For the past few weeks, I have been placing in the CONGRESSIONAL RECORD sections of an extensive report on Trotskyism and terrorism. This report details the relationships between the Socialist Workers Party and foreign terrorist groups.

Much of the information used in the reports came from secret internal documents of the Socialist Workers Party and its parent Fourth International. My sources of information within this subversive revolutionary movement are, of course, limited. However, it was recently revealed that the Federal Bureau of Investigation has 66 informants currently working in the Socialist Workers Party and its youth arm, the Young Socialist Alliance.

It is apparent that with this coverage the FBI must have substantially more information on international terrorism than I could obtain.

This morning's newspapers report that Attorney General Levi has ordered the FBI to end its surveillance and informant program in the Socialist Workers Party. I am outraged by this dangerous action of the Attorney General, which I consider a dereliction of duty. The FBI has the responsibility to develop information concerning terrorist groups as part of its duty to protect the American people. The Attorney General's action has crippled the FBI's ability to perform that duty.

My reports to the Congress on Trotskyism and terrorism have revealed the following facts:

First. The Socialist Workers Party is the American section of the Fourth International.

Second. Since 1969, the Fourth International has officially endorsed international terrorism as the best revolutionary tactic at this time. Fourth International planning for terrorist operations dates at least to 1962 when Trotskyist cadres were sent to Cuba from Argentina for terrorist training.

Third: Although the Socialist Workers Party has argued that terrorism is not a productive tactic under present conditions, it does state that terrorism may be useful for its revolutionary aims in the future. Leading SWP officials including Peter Camejo, now their candidate for President of the United States, and Mary-Alice Waters have plainly stated this position during SWP internal discussions.

Fourth. Leading Trotskyite promoters of international terrorism have visited the United States a number of times in the past 10 years to attend closed meetings of the SWP and YSA. Among them were members of the Fourth International international executive committee including Ernest Mandel of Belgium, Livio Maitan of Italy, and Charles Michaloux of France. While in this country, these individuals held talks and private discussions with SWP members to argue in favor of the terrorism-now tactic.

Fifth. An SWP splinter group, the Internationalist Tendency, supports the terrorism-now tactic of the Fourth International leadership. While the SWP expelled most members of this faction in 1974 on a technical charge of violating party discipline—not for promoting the immediate commencement of terrorist violence—some remained within the SWP and about two dozen have been reinstated on direct orders from the Fourth International.

Sixth. The internal documents and discussion materials of the Socialist Workers Party provide valuable information on current activities of the international terrorist groups with which they collaborate. Among those groups are the Palestine Liberation Organization—the Lebanese and Israeli Fourth International sections are actively engaged in operations on behalf of the terrorist PLO; the Basque terrorist E.T.A.—the Spanish section of the Fourth International has merged its party with a terrorist E.T.A. faction; the major Argentinian terrorist organization, the ERP was until recently a section of the Fourth International, and after a factional split an ERP group remained within the International; the official and provisional wings of the Irish Republican Army, IRA, have been in contact with the Fourth International; in addition, a small, Trotskyite terrorist "urban guerrilla" group called Saor Eire receives both support and manpower from the British Fourth International section. Detailed information on all of these terrorist groups has been available as a result of surveillance and the penetration of the SWP by informants.

Attorney General Levi's order to end all FBI monitoring of this valuable source of information on international terrorism comes on the heels of a Civil Service Commission decision to delete all questions concerning subversive activities from Federal job application forms.

Mr. Speaker, legitimate government has two responsibilities above all others. One is the protection of the public from foreign enemies. The second is protection of the public from crime and internal violence. While our Government is expanding, illegitimately in every other field, it is failing to do its job in its two main areas of responsibility. I ask my colleagues to join with me in calling upon President Ford to ask for the resignation of Attorney General Edward Levi. The Attorney General has failed to carry out his responsibilities and has interfered with the FBI's ability to carry out its duties.

CLEVELAND HOUSING ORGANIZATION MARKS 11 YEARS OF SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. STOKES. Mr. Speaker, on September 18, 1976, one of the Nation's oldest private community-based housing organizations will celebrate its 10th anniversary of service to citizens of Cleveland's Hough area.

Housing Our People Economically, Inc.—HOPE—was conceived in 1965, in response to the great demand for decent housing in that neighborhood. Two local religious leaders, Rev. Walter Grevatt of Hough Avenue United Church of Christ, and Father Albert Koklowski, of Our Lady of Fatima Parish, were HOPE's principal organizers, along with Mr. Archie Lewis, Ms. Willa Wright, the late Pearl Crawford, Mr. Bob Flood, and Mr. Robert McCall.

Mr. Speaker, Reverend Grevatt and Father Koklowski used local talent to organize a staff whose goals would be the building of new dwellings and the rehabilitation of existing structures. They also planned to aid tenants in their social needs.

In 1965, workers built a single family house at 6516 Hough Avenue and named it "HOPE House" and used it as the organizations original offices.

Until mid-1966, Mr. Speaker, only single family homes were rehabilitated. Then in June of that year, President Lyndon Johnson announced a new Federal rent subsidy program, and HOPE's Belvidere apartments were selected as one of its original 12 projects. The 21 units of Belvidere were completed in March of 1967 and HUD Secretary Robert Weaver termed the endeavor "a modest but extremely significant start" for the rent supplement program.

Mr. Speaker, since then this active organization has rehabilitated two additional major apartment complexes. They have also rehabilitated 16 one- and two-family houses in Hough and constructed the new Blainewood townhouse complex. In 1970, HOPE completed the first renovation of a commercial office building in the area in the past 15 years.

During the past decade, HOPE has worked hard to serve the citizens of Hough. And Mr. Speaker, their task has not been easy. Hough is a high-crime, low-income neighborhood where people live more often by economic necessity rather than choice. This pioneering organization has created hope for what was once a decaying neighborhood.

At this time, Mr. Speaker, I would like to call upon my colleagues in the U.S. House of Representatives to join me in extending our anniversary congratulations to Housing Our People Economically. They have done much to make the inner city a place where people can live in decency and safety and with self-respect.

ROBERT HAYDEN, POET: A QUIET CRAFTSMAN OF WORDS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. NEDZI. Mr. Speaker, I am pleased to note that there appears to be an increasing interest in Washington and elsewhere about an interesting, talented, but not widely known poet, Robert Hayden.

This fall Mr. Hayden will assume his duties as the new consultant in poetry at the Library of Congress. His selection has been well-received by those familiar with his work. And, at long last, wider recognition is certain to come to him in the months ahead.

The Detroit Free Press magazine, September 12, 1976, carried an excellent feature story on the poet and the man. Under leave to extend my remarks in the RECORD, the article follows:

AFTER A LIFETIME OF QUIETLY CRAFTING WORDS, ACCLAIM COMES TO ROBERT HAYDEN

(By Jo Thomas)

(Born in Detroit's Paradise Valley, educated in Michigan, Hayden at 63 has reached the pinnacle of success for an American poet—appointment as poetry consultant to the Library of Congress.)

Sunflowers grew along St. Antoine Street in Detroit's Paradise Valley 50 years ago, towering above the small boy who ran errands for folks like Miss Jackie and Stack o' Diamonds' Eula Mae, dazzled by their rouged faces and their perfume.

"No roses there in summer," he would write many years after, "oh, never roses except when people died," but in those days he was only a bookish child with bad eyes, and he was writing stories about the words in his spelling class.

Later, the great aunts who "sold their parlor chairs to go to Billy Kersands' ministrel show" and Uncle Jed, who brawled and loved, "a Bible over his headlong heart," would make their way forever out of their fragile world into his poetry. But as a child he lay in the blueblack cold and listened to the sounds of his foster father stoking a fire on winter Sundays when the coal wagon was parked and he could warm the hands that would crack and bleed in the frost. An anonymous black child in a neighborhood known only to itself, a poet whose brilliance would be ignored in his own country for most of his life.

Not until 1966—when he was 53—would a commercial publisher agree to print his work. That same year, he would finally win international acclaim—in Africa—with the award of the Grand Prize for Poetry at the First World Festival of Negro Arts in Dakar, Senegal.

Now, at the age of 63, Robert Hayden is recognized as a major American poet. He lives in a comfortable frame house in Ann Arbor and teaches at the University of Michigan. This fall he will assume his duties as poetry consultant to the Library of Congress. It is the highest honor an American poet can receive—tantamount to being poet laureate in England—and Hayden is the first black to receive it.

He shoulders it all like an old coat—not caring for its belated glamour but hoping it will be useful. He is still writing about Paradise Valley, that scruffler's paradise of ironies, as he once described it, and he needs more time to work.

"One of the compensations of old age—for me, there are few. I don't love old age—is that I know what I want to do," said Hayden as he paused from packing up the books he is taking with him to Washington, D.C.

"I'm at the age people think your creative powers are gone," he said. "My mind is working better. As I've grown older and thought about the life I've lived, I've come to understand it. One of the ways of relieving the pain of it, for me, is to write."

Hayden was born in 1913 at Beacon and Beaubien strees, before Hudson's Warehouse moved onto that spot. His mother gave him up for adoption—although she stayed in touch with him—and he had to steel himself against both the sacrifices and the recriminations of his adoptive parents, the Haydens.

The Hayden family moved from Beacon to St. Antoine to Montcalm and back to St. Antoine. "We were always moving and always coming back to St. Antoine. I didn't think of it as a ghetto. It's where we were. Later, they called it a slum. But it was not an armed camp—it was a neighborhood."

"When people would ask me where I came from, it wasn't the ghetto. It was the old lower east side of Detroit. We just thought of one another as people. There were people you loved and people you knew."

The violence and the chaos swirled around him, like the pandemonium of "the old woman across the way . . . whipping the boy again and shouting to the neighborhood her goodness and his wrongs."

"Many people I knew were . . . eliminated," Hayden said. Like the singer in his poem, "Queen of Sunday," lying on her pillow of sweet gardenias: "Satan sweet-talked her, four bullets hushed her."

"Older people told us you don't have to live like this. An education is something in your head, and they can't take it away from you."

"When I was accepted at Detroit City College—that was the old Wayne State—various people in the neighborhood would come up and put a quarter in my hand. An old lady at the Second Baptist Church gave me a $5 bill, she was so happy I was going to school."

"I grew up in the Second Baptist Church," he explained. "I participated in the plays and wrote for the church paper," breathing in the fear of hellfire and damnation and knowing that "you had to pay for your sins—and almost everything was a sin."

Later, in a poem called "Witch Doctor," he would write of the evangelist who dined alone, surrounded by reflections of himself, and—after sleep and benzedrine—went out watched by mousy neighbors "half afraid of him and half admiring his outrageous flair" while his mother, "priestess in gold lame," warmed up the congregation: "He's God's dictaphone of all redeeming truth . . . oh, he's the holyweight champeen who's come to give the knockout lick to your bad luck."

It was forbidden at home in those days, but he made his way also into the 60-watt world where women wore ostrich feathers and beaded satin, and blues singer Bessie Smith shone her golden smile and sang.

"Bessie and Ma Rainey and the Whitman Sisters—I knew all of them, and I would sneak off and go and see them. Some members of my family went with me . . . The singers were respected and loved, but people had an ambivalent attitude about them. They were—worldly."

Today Hayden is also, by some measures, a worldy man. His walls are lined with volumes of music, art and literature, the works of Colette, Dylan Thomas, Henry James. His wife Erma has taught and composed music, and her piano competes for space in the family's crowded parlor. During their man years in the South, during the years when they refused to "sneak down an alley to go to a movie" because they could not—would not—adjust to segregation, her friends from the North, the dancers, the musicians, kept them in touch with the world.

Hayden had made a brief and brilliant poetic debut at the University of Michigan, where he was a teaching fellow, twice winning the prestigious Hopwood Award and studying under W. H. Auden. Then he went to Fisk University in Nashville, Tenn., to teach English for a year and ended up staying 23.

"At first, I had a completely negative feeling about the South. But as I lived there, I found some positive elements. The honesty. You knew what you had to fight against. And there were Southern people of both races that were trying to end segregation. Quietly. They were not engaged in heroics, but they were there. And then there was the beauty of the South, and for Afro-Americans living there, that was home."

Hayden's poem "Middle Passage," used many voices to tell how Afro-Americans arrived in the South on dark ships, "shuttles in the rocking loom of history," misfortune following in their wake like sharks. But on this voyage, as in the actual Amistad mutiny, the slaves rose up, armed with machetes and marlinspikes, "as though the very air, the night itself were striking us."

In the South of Hayden's poetry, the past is "adored and unforgiven," the swan-white antelbellum mansions "symbol houses where the brutal dream lives out its lengthy dying," and the eyes of the hapless rawboned gas station attendant "revile us as the enemy, as menace to the shambling innocents who are the thankless guardians of his heritage."

The title poem for Hayden's book *A Ballad of Remembrance*, published in London in 1962, came out of his first trip to the deep South, to New Orleans, the "down-South arcane city with death in its jaws like gold teeth."

"It was in the early days, and I didn't read often. I went to a bond rally, and I read "Middle Passage." Mark Van Doren and I met for the first time. He was a great and warm and humane person, and he was outraged that he and I could not move freely together."

Hayden dedicated "Ballad" to Van Doren and his own "troubled generous friends held in the fist of that schizoid city like flowers." But it's a poem of fascination, not bitterness, with the "Afro angels, black saints balanced upon the switchblades of that air," with their "death's-heads of cocaine roses and real violets."

"In the 1960s," Hayden said, "when it was fashionable to be bitter, people would read 'Ballad' and I would try to explain. Then I got mad. If you read carefully—and I write carefully—you don't have to question me about anything."

Hayden contends he has been socially conscious all along, but he was criticized in the 1960s for not writing more explicitly about the civil rights movement. Certainly, his work is devoid of the rhetoric of outrage which, in those years, became as predictable and poetic as a bottle of beer.

"I offended some people. But I didn't want to be a poet restricted to a particular subject or a particular audience . . . If you're any good, you *are* aware. To be worthy of the name poet, you must be a total human being and respond to whatever is human. There is what I call the burden of consciousness. You can't shut things out. I can't."

Hayden's poetry has as many layers of meaning as a conversation with a coquette, full of symbols and contradictions and surprises, sometimes catching the truth by its shadow and sometimes in its mirror image.

"I see things as symbolic, and I think of my poems as a way of coming to grips with reality," said Hayden. "All the great prophets of the world have spoken in poetic terms. The only way to explain great truths is to express them in metaphorical terms."

For many years, whatever was in Hayden's poetry was largely ignored, except in Europe, where his work was available in anthologies and in a few, slim, privately printed editions. There were only occasional bouquets: a survivor of a German concentration camp told Hayden she had clung to his poems in that sea of violence and insanity. At home, Hayden had to be content with assurances from his colleagues that he had a good underground reputation. "I wish it would surface," he used to say.

"I was in limbo," he says of that period, and he found himself riddled with uncertainties.

"I used to think that having to work so hard—I used to wonder if I were really a poet. It's an occupational disease among poets. You wake up one morning and think, 'Oh, what a fake I am.'"

"I discovered that all the poets I admired had worked awfully hard . . . Spontaneity is an effect, not a technique. Many poems by Yeats seem as if he just wrote them down on the spot. But he revised them over and over again."

Searching for an example from his own work, Hayden went upstairs to his study and came back carrying last April's issue of the "Michigan Alumnus," with a basketball photo on the cover and inside a collection of work by faculty poets, including one by Hayden, "Astronauts."

"When I watched the astronauts one night, something struck me as being very poignant. After I watched for an hour or so, I went upstairs and wrote quickly, four or five pages, a poem. I really wanted to work on that poem."

It took Hayden two years.

"There was that moment," he explained. "Something got me started. But poetry is a way of knowledge. To be a poet one must *know* something. It's not a matter of freely expressing oneself, but a way to work toward the truth. I wanted to know what the facts were when they were standing on the moon itself. I didn't want to write a vague, general poem, Certain things I had to find out."

Hayden has been, for many years, a Baha'i, and he said his faith "has had a profound influence" on his work.

"I have a certain vision of life. Since in the Baha'i faith we emphasize the oneness of mankind and the unity of all religions, and we see the necessity for a world consciousness, I can write of the astronauts and of Paradise Valley. They're human. And as an Afro-American, I've had certain experiences, but I have the vision of the oneness of mankind."

"I have a great belief in America as a kind of microcosm. All the races and all the cultures seem to meet in this country. That is something very valuable for the American poet. One can see the great diversity and the things that bind us and make us one."

Slowly, fame caught up with Hayden's talent and vision. The U.S. publication of his *Selected Poems* in 1966 brought him more time to spare from his teaching duties at Fisk, and in 1968 he was invited to come back to the University of Michigan, first as a visiting professor and then as a professor of English.

He is hoping that a year's sabbatical from his teaching duties while at the Library of Congress will give him even more time to write.

"I've got a long way to go. I'm not satisfied. I'm not living in the past. I want to do new work."

He intends to bring out a new Paradise Valley poem and is also writing about John Brown for a forthcoming exhibit at the Detroit Institute of Arts. He has been writing a poem about Matthew Henson, a black merchant seaman who went to the North Pole with Admiral Peary's 1908–09 expedition and was the first man to arrive at the top of the world.

"It's really been giving me hell," said Hayden. "I've been reading for four years, trying to get the feel of the north and the Eskimos and the expedition. The Eskimos loved Henson. He's a legend among Eskimos to this day Matthew Henson has become symbolic to me. It's a spiritual quest. That's all I can say."

In his Ann Arbor home, this quiet man who has been immersed in so many worlds—and outwardly shows so little of it—this genteel professional man who was familiar with the dusty zinnias and elephant ears of Paradise Valley and the red dirt of the South, who captures images as some might catch birds, is as enigmatic as his genius.

Even he cannot explain his gift or exactly what transmutes his hard work into poetry:

"You're dealing with unknowns. It's still a mystery, and a thing of the spirit. It combines everything and grows out of everything you are—it's not entirely cerebral. It's on a line between the known and the unknown."

That, of course, is of no consequence to the growing number of people who have become aware of his work. Although *Angle of Ascent*, a collection of some new and older poems, is available in paperback from Liveright, many of his older books are out of print and have been in such demand that all the copies at the Detroit Public Library—where as a child Hayden used to stack up fines—have been stolen, except those on the reference shelves.

"Things have a way of taking a wry twist," said Robert Hayden.

IN MEMORIAM FOR GRACE SUTTON

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. OTTINGER. Mr. Speaker, on August 16, the White Plains community was deeply saddened by the passing of Grace Sutton. Grace was an extraordinary woman who earned the respect and love of those around her in a way that very few are able to do. She was a "doer"—a hard worker who never complained about any task, all the while leaving her warm and gentle touch on every project and activity she undertook. To have known and worked with Grace was a privilege and an honor that will long be remembered.

Grace had a deep attachment and concern for every child she worked with, spending endless hours trying to find ways in which to better the educational opportunities for all of "her" children—those in the White Plains public schools, the White Plains Child Day Care Association, and the Sunday and nursery schools at Church in the Highlands. She also gave tirelessly of herself to the patients at Burke Foundation, the women of the YWCA, and her many friends at "Highlands," never too busy to listen to or help anyone who needed her.

A memorial service was recently held at Church in the Highlands to celebrate Grace's life—her joys, her contributions to the community, and the bonds of friendship which she held. Although she will be missed, we should all rejoice in Grace's accomplishments and try to adhere to her philosophy of "living to serve" those around us.

THE CENTENNIAL OF AMERICAN FORESTRY: IN HONOR OF NEW YORK'S DR. FRANKLIN HOUGH

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. RICHMOND. Mr. Speaker, President Theodore Roosevelt, credited with establishing our system of national forests in 1907, may not have succeeded in such an important forestland conservation victory had it not been for the efforts of a New Yorker, Dr. Franklin Benjamin Hough.

It has been 100 year since Dr. Hough became Chief of the Division of Forestry in the Department of Agriculture, and it is fitting that his pioneering efforts to build forestry into a full-fledged scientific discipline be commemorated. Accordingly, the Forest Service has written a fact sheet on Dr. Hough, and as a member of the Agriculture Committee, which oversees our national forests, I would like to share Dr. Hough's story with my colleagues at this time:

SUMMARY FACT SHEET ON CENTENNIAL OF AMERICAN FORESTRY, AUGUST 30, 1976

Franklin Benjamin Hough, a physician of New York State with very broad scientific interest, was the first forestry agent of the United States Government, and the first Chief of the Division of Forestry in the Department of Agriculture, forerunner of the present Forest Service. He was appointed on August 30, 1876.

Gifford Pinchot, who was the first Chief of the Forest Service, called Hough, "perhaps the chief pioneer in forestry in the United States."

Hough did a prodigious job in gathering and compiling singlehandedly existing forestry knowledge. It was through his efforts that the office was first established. He himself had stimulated the prestigious American Association for the Advancement of Science to formally petition Congress and the President to set up the forestry office three years earlier.

Hough compiled three pioneer reports on forest conditions, practices and marketing in this country and abroad, for which he was highly praised by the leading scientists of his time. He was among the first to urge Congress to take control of timber harvesting on the public domain, through a leasing system safeguarded by inspection agents, as was already then being done in Canada. He urged establishment of forestry schools, experiment stations, and tree nurseries in various parts of the country. He also suggested that the States retain and manage forest lands which had reverted for nonpayment of taxes, which many States later did.

Hough was a member of the original commission to recommend creation of the Adirondack State Forest Reserve in New York, first State forest reserve in the Nation.

After the Civil War, the Nation's forests were suffering from rapidly increasing reckless exploitation, often followed by severely destructive fires. Through his experience as director of the New York State Census, and personal observation in the Adirondacks close to his home, Hough became alarmed over the extensive damage to the forests, and felt it his duty to alert the people to this threat to their future timber supplies and the beauty of the natural landscape.

Besides his call to the Nation's scientists and his reports as forestry agent, Hough was very active in the leadership of the new American Forestry Association and the American Forestry Congress; also as writer and publisher of the American Journal of Forestry and writer of the first comprehensive book on forestry published in the United States, called "The Elements of Forestry."

Hough's efforts were instrumental in leading to the Act of 1891 which provided for setting aside the first Federal forest reserves by Presidential proclamation. The reserves came under Forest Service management in 1905 and were renamed National Forests in 1907. They now total 187 million acres in size. For more than 70 years, these forestlands have been managed for the use and enjoyment of the American people. At this time, 100 years after his warning was heeded by the Congress, the President and the Nation, we pause to honor this wise and far-seeing, conscientious public servant.

TRIBUTE TO JOHN W. WARNER

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. WHITEHURST. Mr. Speaker, as this Bicentennial Year draws to a close, it seems to me that it is only fitting that due credit be given my good friend and fellow Virginian, the Honorable John W. Warner, Administrator of the American Revolution Bicentennial Administration, for his outstanding efforts, which were a major factor in the success of our 200th birthday celebration.

John Warner brought to the job of Administrator of ARBA the same dedication to the service of our country that he showed in his tenure as Secretary of the Navy. He traveled many hundreds of thousands of miles, to every State and territory in our Nation, carrying the message of the Bicentennial. I had the opportunity of hearing him speak a number of times, and I can attest to the eloquence with which he presented the story of the ARBA, inspiring people everywhere to participate, so that the celebration of 200 years of freedom for this great Nation of ours might be a beacon not only for ourselves but for all the world.

I think that our Bicentennial celebration has been a dramatic success, and I believe that it has rekindled our faith in the strength of this Nation and the ideals that made it great. I note that NATO's Secretary-General, Joseph Luns, stated in Norfolk, Va., earlier this week that the United States has again found its sense of national purpose, which was missing for awhile, and there is no doubt that that sense of purpose has been reawakened as a result of the Bicentennial observance of 1976—and for that, great credit goes to John Warner. He deserves the gratitude of us all.

TWO WRONG CHOICES AND A WAY OUT

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. DEL CLAWSON. Mr. Speaker, the September 20 issue of Business Week calls attention to some factors usually ignored in discussions of methods to reduce unemployment in this country. It provides a broader view of our choices and I commend it to the attention of my colleagues at this point in the RECORD:

TWO WRONG CHOICES AND A WAY OUT

(By John Cobbs)

No matter what the campaign orators say, the U.S. cannot whip its economy up to levels where it will provide a job for everyone who wants to work without touching off an explosive inflation. The only times in the past 45 years when the annual average of unemployment has gone below the magic level of 3% were during World War II and in 1952 and 1953, when the nation was mobilized for the Korean War.

From the end of the Korean War to the inauguration of John F. Kennedy in 1961, unemployment ranged from an average of 4.1% a year to 6.8%, and the highest yearly increase in the consumer price index was 3.3%. In the first four years of the Kennedy-Johnson era, unemployment stayed above 5%, and price changes were less than 1.5% a year. Then the deficit spending of the Vietnam War and the rapid growth of the world economy shifted the relationship between unemployment and prices to a new—more inflationary—level. In 1969, with unemployment at 3.5%, prices shot up 6.1%. In 1974, with 5.6% out of work, inflation hit the shocking rate of 12.2%. It took 8.5% unemployment in 1975 to get inflation down to 7%. And this year with unemployment around 7.5%, prices are still rising at a 4% rate.

Clearly, something has given the U.S. economy a built-in bias toward inflation. The terms of the trade-off between unemployment and inflation have worsened. The Phillips curve, which economists use to chart that trade-off, has shifted upward.

A BETTER MATCH

If political candidates and the economists who advise them find this a totally unacceptable situation, the answer is not to plunge ahead making promises that cannot be kept or pretending that double-digit inflation is more bearable than 6% unemployment. Economics does not say that the nation has no choice but to maintain a pool of unemployed to keep prices under restraining pressure. It says simply that if the U.S. uses the familiar devices of federal spending and easy money to drive the economy to higher levels it will touch off a violent inflation. The answer to the unemployment problem—and to the plight of the decaying cities—must provide for restructuring the U.S. job market and upgrading the bottom of the U.S. labor force. The object must be to get a better match between the people who are looking for work and the jobs that are looking for workers.

The starting point should be a look at the people who are now unemployed—who they are, where they are, and what they can do. It might turn out that the kind of jobs the economy creates as it expands are not jobs the unemployed can fill. In that case, unemployment would continue while the competition for already-employed workers is stepped up.

On a seasonally adjusted basis, unemployment last July came to 7.4 million, or 7.8% of the labor force. But 1.6 million of this group were under the age of 20, and the unemployment rate for them was 18.1%. Of all the unemployed, only half had lost their previous jobs. New entrants accounted for 10.7%, and re-entrants, mainly women coming back into the labor force after taking time off for family reasons, were 24.9%. The reamining 12.9% had quit their old jobs without having a new one in sight.

The July unemployment rate for white males 20 years and over was 5.7% and for white females 6.9%. For blacks, the rates jumped to 10.3% and 11.7%. And for blacks 16 to 19 years old—male and female—unemployment came to 34.1%.

The picture that emerges is not one of massive unemployment spread evenly across the country. Instead, it shows pockets of unemployment defined in terms of age, industry, or region. The basic pool of experienced workers available to take jobs in a growing economy probably numbers less than 5 million. And since 40% of the unemployed have been out of work less than five weeks, the time it ordinarily takes to switch jobs, the real slack in the labor market amounts to less than 3 million workers.

If this analysis is correct, it suggests that a very modest expansion would soak up the available supply of seasoned workers. To push unemployment to still lower levels must mean opening up jobs for the young, the unskilled, and the disadvantaged. And this is where the inflationary slant of the Phillips curve puts a prohibitive price on the trade-off.

With a minimum wage of $2.30 an hour and average earnings for nonagricultural workers of $4.85. U.S. industry can no longer provide unskilled, unproductive jobs without driving up its cost structure. Mechanization has eliminated the sweeping and shoveling jobs that used to be available to the unskilled. Any worker who comes into a plant today has to be able to produce at least as much as he earns, and he earns a good deal.

UPGRADING

The lesson for policymakers is clear: The U.S. cannot achieve a significant reduction in its unemployment rate by stimulating the economy into an inflationary frenzy. It must let the economy grow at the rate determined by the growth of productivity and capital availability—3% to 5% a year in real terms—and begin the slow, difficult task of upgrading the bottom end of the labor force.

The U.S. has never had much luck with programs designed to train unskilled workers and to move people out of decaying areas. But that is at least partly due to the fact that it never tried very hard. The big push has always been on stimulating the economy and forcing the absorption of minorities through affirmative action.

Instead of trying to choose between two unacceptable alternatives—unemployment and inflation—the nation should see what it can do to change the terms of the trade-off.

THE NEED FOR TOXIC SUBSTANCES CONTROL LEGISLATION: TOXIC CHEMICAL PCB LINKED TO HUMAN LIVER CANCER

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. MURPHY of New York. Mr. Speaker, a leading Japanese scientist has recently linked the chemical polychlorinated biphenyls—PCB's—with human liver cancer. In a presentation to an international cancer conference, Dr. Tjkeshi Hirayama reported that individuals in Japan who ate rice contaminated with PCB's have developed liver cancer at rates 6 to 16 times greater than that normally expected. Tragically, liver cancer is always fatal.

Although PCB's have been used for over 45 years, it is only in the last few years that we have discovered that they are an enduring environmental poison. Unfortunately, the discovery came after thousands of tons of PCB's had been dumped into our environment. Parts of the Great Lakes and the Hudson River have been contaminated by the poisonous chemical, and recent tests of 67 nursing mothers in the United States indicated that 65 of them had PCB's in their milk. The implications are extremely serious.

The House has recently passed toxic substances control legislation which would ban the use of PCB's in the United States. Equally important, it contains authorities for testing and premarket notification which should enable us to prevent future PCB-like incidents from occurring. As the experience with PCB's indicates, we cannot afford to wait until after there has been widespread human or environmental exposure to a toxic chemical before we bother to find out if the chemical is safe. We must begin testing and evaluating chemicals before they go onto the market if we are to protect our people and the environment from the disastrous effects of poisonous chemicals.

Mr. Speaker, for the information of my colleagues, I am inserting in the RECORD a Washington Post article of September 13, 1976, which provides details on the link between PCB's and human liver cancer:

[From the Washington Post, Sept. 13, 1976]

INDUSTRIAL CHEMICAL PCB IS LINKED TO LIVER CANCER

(By Morton Mintz)

COLD SPRING HARBOR, N.Y., Sept. 12.—A toxic industrial chemical that recently was found in the milk of 65 of 67 tested American nursing mothers was linked to liver cancer in humans today by a leading Japanese scientist.

The chemical, polychlorinated biphenyls (PCBs), is believed to be present in the fatty tissue of nearly every person in the United States, Japan and possibly other industrialized countries.

The association of PCBs with human liver cancer—which is always fatal generally within a year—developed from an episode in which about 1,000 persons in Yusho, Japan, over a period of a few weeks in 1968, ate rice oil accidentally contaminated with a total of 0.5 to 6.0 grams of PCBs.

Varying but apparently extremely high amounts of PCBs persisted in some of the victims' bodies. Many still report fatigue, headaches, fever, coughs, numbness in the limbs, severe skin eruptions, and digestive and menstrual disorders. Some infants born to victims had PCBs in their tissues at birth, and also had severe skin discolorations.

PCBs, extremely stable chemicals, are used in electrical equipment, paints, printing ink, adhesives and other products. They have been used widely for 45 years but were not regarded as environmental contaminants until 1966.

Dr. Tjkeshi Hirayama, a specialist in tracing the causes of human disease at the National Cancer Center Research Institute in Tokyo, told an international conference on cancer at Cold Spring Harbor Laboratory that five of the Yusho victims died of liver cancer within five years after eating the contaminated cooking oil. This figures out to a rate of 500 per 100,000, compared with the expected rate of 31 per 100,000.

Hirayama, in an interview later, said that the association between PCBs and liver cancer was definite in two cases and possible or probable in the remaining three. The two definite cases alone translate into a rate six times higher than normal, while all five cases translate into a 16-fold higher incidence, he said.

Hirayama's presentation, followed a report by pathologist James R. Allen of the University of Wisconsin, who warned that "any level" of human exposure to PCBs, "may be injurious to human health."

The Yusho rates—reinforced by data on brain changes in monkeys and other adverse effects in animals cited by Allen—suggest a "high possibility" that PCBs caused the liver cancers, Hirayama said.

As for the hundreds of millions of persons who have ingested much smaller amounts of PCBs, mainly in their food, Hirayama said, "I am concerned about the implications for people everywhere . . . There is no question the problem is serious."

Although Hirayama previously had reported the liver cancer risk calculations in Japan, they came as a surprise to several attending scientists who specialize in causes of environmental cancer.

Hirayama's disclosure "is one of the most worrisome sets of data that we have recently seen," said one of those scientists, Dr. Irving J. Selikoff of the Mount Sinai School of Medicine in New York City.

The Environmental Protection Agency recently reported that PCBs had been found in tests of milk of mothers who live in 10 states. EPA and Department of Health, Education and Welfare officials have set Sept. 23 for a meeting with obstetricians and pediatricians about how to advise mothers about breast feeding.

The concentration of PCBs in the mothers' milk fat was highest, 10.6 parts per million, in a Michigan woman, while it averaged 1.4 ppm in 18 Virginia women. Overall, the average was 1.7 ppm.

The temporary maximums allowed by the Food and Drug Administration is 0.2 ppm for infant and junior food, but is 2.5 ppm for cow's milk on grocer's shelves.

In recent studies reported by pathologist Allen, female monkeys that consumed PCBs at a rate of 2.5 ppm had much higher concentrations—up to 16 ppm—in their milk fat. Exposed to this "severe toxicity," Allen said, their breast-fed infants developed skin discoloration, acne, loss of eyelashes, and swelling and congestion of the eyelids.

The infants improved when weaned from milk containing PCBs, but, Allen said, a 1976 study showed that "behavioral and learning deficits" had persisted for at least a year and may still continue.

Allen recalled that the first indication that PCBs may be linked to cancer came from a Japanese study of mice in 1972. In a study of rats reported in 1975, 92 per cent of PCB-fed rats developed apparently malignant liver growths.

Not yet knowing of Hirayama's calculations of the human liver cancer increase at Yusho, Allen based his concern that PCBs may be carcinogens on animal data, saying, "There are only suggestions that a higher incidence of cancer occurs in persons exposed to PCB."

KUDOS TO JOHN WARNER: A JOB WELL DONE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. PICKLE. Mr. Speaker, for the last few years Americans have been making a countdown until the 200th birthday of this country on July 4, 1976. In Washington and across the country, groups have discussed and planned for appropriate ways to mark this meaningful time. We all knew that to accomplish this task successfully would require strong leadership.

I think that we found that leadership when John W. Warner was sworn in as Administrator of the American Revolution Bicentennial Administration—ARBA—in April 1974, by then Vice President Ford. When he took his oath, John Warner did so with seriousness and deep humility. He also pledged to visit every State, a pledge which he kept. He has done that and more. His abilities as an administrator have piloted us through a memorable and momentous celebration. As we ponder his impending retirement, we should be mindful of his contributions.

I think Americans should be very grateful to Mr. Warner and his ARBA staff for the excellent job they have done. ARBA has been instrumental in reminding us that we must reevaluate our rich heritage and promise ourselves to continue our progress following the glorious model left us by the signers of the declaration and the framers of the Constitution.

That Mr. Warner has admirably succeeded in this most formidable job, should come as little surprise to those who know his background.

A native of the Nation's Capital, Warner was graduated from Washington and Lee and received a law degree from the University of Virginia. During World War II, he quit high school to join the Navy and was a Marine Corps officer in the Korean conflict. After 3 years as Under Secretary of Navy, Warner was named as Secretary of Navy in May 1972. He served in that post with great distinction until his appointment as the chief of ARBA.

Mr. Speaker, these are the public facts of his background which are well known to most Americans. But to those of us who know him personally, it is very heartening to know that John Warner is a warm and personable citizen and that he is just as friendly and inspirational whether he is in Washington, Texas, or Washington, D.C. These traits have gained him the admiration and respect of millions of Americans he has met in the last 2 years.

Wr. Warner visited my hometown of Austin, Tex., in the fall of 1974 when we unfurled our Bicentennial flag. One would shrink from incredulity upon examining his incessant travel schedule. Of the more than 13,000 communities across this Nation which chose to mark the Bicentennial by individual efforts, there are very few, if any, that John Warner has not visited.

As we near the official close of this 200th year, it is well that we reflect upon all the parades, the fireworks, and the pageants and ask, "What does it mean?" I think that the outpouring of the more than 90 percent of our population which participated through their hometowns in special celebrations means that there is a genuine rejuvenation of pride in the country and in respect for our basic institutions. I feel certain that we will continue this trend and march forward toward even more democracy and freedom.

POLISH-AMERICANS IN CLEVELAND HONOR OUTSTANDING CITIZEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. STOKES. Mr. Speaker, on Saturday, September 18, the Polish-Americans, Inc., of Cleveland will honor Mr. John Michael Markuszka, their past president, as the Polish Man of the Year. Mr. Markuszka has been a representative of the Polish community for many years and is one of Cleveland's most politically active citizens.

Mr. Speaker, the organization was formed for the purpose of uniting members of Polish descent to promote the social and political views and interests of the Cleveland Polish community and, in general, advance the interests of Americans of Polish descent.

It is most fitting that this fine organization should select Mr. Markuszka for this award in that he has held a number of important and influential offices. He served as president of the 15th Ward Democratic Club for many years and also as president of the 15th Ward Precinct Committeemen. He is a member and outgoing president of the Cuyahoga Cosmopolitan Democratic League and sat on advisory committees of Lt. Gov. Richard Celeste and former Governor Gilligan. He is presently chairman of the United Auto Workers CAP Council of Local 32 and writes a column for the union newspaper called the Right Angle. He is presently employed at White Motor Co.

Mr. Speaker, as you can well see, John Markuszka is a committed citizen, tirelessly dedicated to public service. At this time, I would like to call upon you and my colleagues in the U.S. House of Representatives to join with me in congratulating John M. Markuszka. As Polish Citizen of the Year, he will uphold his proud, ethnic heritage. And in doing so, he will immeasurably enrich the life of his community and the entire city of Cleveland.

RENEWABLE ENERGY RESOURCES

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. SARASIN. Mr. Speaker, an unnoticed provision within the synthetic fuel loan guarantee legislation, H.R. 12112, is the support mandated for renewable energy technologies such as biomass, solar, ocean thermal gradient, or solid waste conversion. This kind of financial support, loan guarantees for commercial demonstration, is necessary to gather sufficient financial and technical information to allow the marketplace to decide on the capability and viability of these new energy sources.

I would like to bring to the attention of all my colleagues the testimony of Mr. D. Bruce Wiesley of American Can Co. before the Committee on Science and Technology in which he discusses these renewable technologies while focusing upon solid waste conversion.

Only with this loan guarantee mechanism contained within H.R. 12112 will we be able to demonstrate in various parts of the country these environmentally sound technologies. America needs cheaper domestic energy; Connecticut and New England certainly do. If we fail to enact H.R. 12112, we will once again lose an opportunity to become less dependent on foreign oil. This type of commercial demonstration and experimentation is what we need now in order to allow the marketplace to perform its proper function.

The testimony follows:

STATEMENT OF D. BRUCE WIESLEY, SENIOR VICE PRESIDENT, AMERICAN CAN CO.

Mr. Chairman, my name is Bruce Wiesley. I am a Senior Vice President at the American Can Company.

I am pleased to appear before the House Science and Technology Committee to support enactment of H.R. 12112. We at American Can believe this measure introduced by Chairman Teague is of vital importance to our nation. Last fall I spoke in favor of a similar measure before the Subcommittee on Energy Research, Development and Demonstration chaired by Representative McCormack. At that time, I was accompanied by our investment banker and our bond counsel. Today I hope to summarize what the three of us said back in October and to share with you the benefit of these intervening six months of experience.

We support the establishment of a federal loan guarantee program to stimulate the availability of capital funding for demonstrating the commercial feasibility of energy recovery systems that can transform waste into synthetic fuel and recyclable materials. By conserving the energy available in waste, these energy recovery systems would reduce our nation's need for imported energy by more than one million barrels of oil a day.

I am sure you are familiar with the concept of recovering energy-from-waste. You may not realize, however, the enormous amount of energy available from this renewable resource.

The U.S. Bureau of Mines estimates that 330 million tons of residential and commercial waste were generated in the United States in 1975. Of this total, 243 million tons were regularly collected presenting municipalities, regions, and private operators with serious disposal problems.

If all available waste (some 243 million tons per year) were converted into fuel through a process similar to that used in the Union Electric project, our country would conserve the equivalent of about 219 million barrels of low sulfur residual fuel oil.

Looking at the other side of resource recovery, waste offers another opportunity to conserve energy in that it takes substantially less energy to recycle materials than it does to manufacture them new. With available technology and equipment it is possible to recover ferrous metals, aluminum, newsprint, and corrugated paper and glass from municipal solid waste. If all 243 million tons of municipal refuse were processed yearly, the recovery of resources that could be used in substitution of virgin materials to produce new products would save the equivalent of more than 292 million barrels per year of low sulfur residual fuel oil.

Therefore, the total energy available from waste either in the form of fuel or indirect fuel savings from recycled material is equal to 510 million barrels of oil per year.

There is an easy way to remember the energy value in waste. For every ton of urban waste there is an equivalent BTU value of 2.1 barrels of oil in recovered fuel and other materials. Therefore, if 55% of the total waste generated were recovered, a reasonable goal for today's technology, the Nation would save more than 1.1 million barrels of oil a day or between 25–35% of the total savings set by President Ford as the Nation's energy independence goal!

Waste not only represents an enormous, mostly untapped potential energy source, it also is a surprisingly cheap source of energy. In each geographic area where an energy-from-waste facility has been built, is under construction, or is under consideration, the selling price of the waste derived fuel is equal to or less than the cost of the equivalent amount in BTUs of oil and coal.

It is also worth noting that energy-from-waste systems generate 6 million BTUs for every 1 million BTUs consumed. In other words, energy-from-waste offers a favorable energy efficiency ratio of 6 units of energy savings for every unit of energy consumed.

Energy-from-waste facilities not only would contribute significantly and efficiently to meeting our nation's energy needs, but they would also provide an environmentally sound answer to the growing national problem of solid waste disposal.

The U.S. Bureau of Mines estimated that the total waste generated in the United States will reach 420 million tons by 1980, up 25% from the 1975 total. As this volume of waste increases so also does the cost to municipalities of its disposal in dollars and environmental degradation. Methods such as landfill currently used to cope with the mounting volume of solid waste present municipalities with escalating costs. As urban areas naturally expand in size, landfill constitutes the misuse of an increasingly scarce and valuable resource—undeveloped land. Energy-from-waste facilities will bring stability to waste disposal costs and will minimize the need to dump refuse in ever more distant and environmentally restricted landfill sites.

Mr. Chairman, there are a very limited number of energy-from-waste projects now in existence or under construction which indicate that the technology is sufficiently advanced to warrant demonstration of commercial scale feasibility throughout the nation. I am sure you are familiar with the

Union Electric Company project in St. Louis which has proven this concept in that one urban setting. Our own company is currently constructing a project in Milwaukee under which we will process 1,200 tons a day of Milwaukee's refuse under a long-term contract. From this waste, we will generate annually approximately 150,000 tons of a supplemental boiler fuel which the Wisconsin Electric Power Company has agreed to use at its Oak Creek, Wisconsin plant. This amount of refuse-derived-fuel, the energy equivalent of 75,000–94,000 tons of coal, will provide approximately 225 million killowatt-hours per year for the Milwaukee area. Yet, communities differ widely in terms of waste stream, waste collection, waste disposal needs, alternative fuel availability, as well as environmental, financial, political, social, and other considerations. Before energy-from-waste can become a significant reality on a national scale demonstration projects must be constructed in a wide range of community settings across the country.

The capital required to produce energy-from-waste equal to 1.1 million barrels of oil per day is substantial. We estimate that 280 to 350 facilities would have to be constructed across the country to generate this amount of energy. At an average basic system cost in today's dollars of nearly 20 million dollars, the total funding requirements for such facilities would come to 5 to 7 billion dollars. Although a capital cost of 5 to 7 billion dollars for facilities capable of generating energy equal to 1.1 million barrels of oil per day would appear to be a cost effective long-term energy investment from the standpoint of national interest, neither industry nor municipalities can begin to provide this level of capital until the commercial feasibility of the concept has been adequately demonstrated throughout the country.

Over the next five years we believe that 30 to 50 such demonstration systems at a capital cost of about 1 billion dollars could come on-stream if the federal government would provide appropriate support. From such demonstration facilities we hope to prove the feasibility of energy-from-waste systems so that some day in the ultimate commercialization phase of this technology it may be possible to tap more than 55% of this valuable renewable resource and, perhaps, eventually permit as many as 800 regions in the country to take advantage of this new energy technology at an aggregate capital investment of some 16 billion dollars.

What we said last fall was that the money required to finance the 1 billion dollar demonstration phase of energy-from-waste projects is just not available without some form of federal support. That conclusion still holds firm. We believe that the most effective form of federal support would be guarantees of private loans which put the financial strength or credit of the United States behind bonds purchased by private investors.

Our investment advisers confirm this view. They also note that many of our nation's municipalities currently face severe financial burdens which place severe restrictions on their ability or willingness to finance new construction. Our investment banker advises us that some municipalities no longer have sufficient credit standing to raise any meaningful amounts of long-term debt. In other cases, because of a reduced credit standing, some municipalities can raise long-term money under today's market conditions only at discouragingly high costs. Still others may need to husband their borrowing abilities to finance only the most pressing local needs.

Industry also is not in a position to finance the initial demonstration phase without help. American Can Company is one of the largest concerns in the energy-from-waste business. Even if we could supply systems for 20% of the available market, the capital required to build those facilities would represent an increase of approximately 50% in our present capital plans. This is simply impossible.

Our Milwaukee project is an exceptional case. There we are putting our own money on the line. American Can Company's decision to finance the Milwaukee project was based on our need to establish credibility in the market place and to demonstrate confidence in our system. But we can not undertake projects again that require the full faith and credit of the American Can Company because our financial strength won't permit it.

So, even though we have the technology and the management know-how—the machines and the men—if you will—the industry just doesn't have the money. Even though the technology has advanced to the point where demonstration of commercial feasibility is warranted, and we can see that these systems appear to support themselves, they're just not as attractive as other business opportunities. Consequently, although rapid development of this technology would clearly serve the national interest, these systems cannot command priority treatment when the capital budget of a company is drawn up.

That is the essence of the case we presented in support of loan guarantee legislation last fall, and that is essentially where we are today. This opinion is shared by many others in the resource recovery industry. I can assure you that without some assistance such as federal loan guarantees private industry cannot provide the investment needed in this new field.

I believe that in this country today we are literally burying the answer to our energy needs. We are *ignoring* the renewable resources in municipal wastes. It is a shame that the one obstacle to lessening our dependence on foreign fuels and alleviating our waste disposal problem is money.

Although federal loan guarantees will attract sufficient private capital to finance the construction of the necessary demonstration facilities, I hasten to add that unlike grants or price supports, such guarantees will not require cash outlays by the government. Merely by lending the weight of its financial strength to demonstration projects, the federal government could directly foster its goals at virtually no cost except in the unusual circumstance that a project defaulted. It should be noted that private industry will assume the full responsibility and risk for the operations of the systems. Furthermore, the very slight chance of a default of an energy-from-waste system would be further minimized by the participation of the financial community in overseeing and underwriting the various projects that are undertaken.

Without federal loan guarantees for demonstration projects, we believe that the development of the business of energy recovery from waste would take place over a period of 30 to 40 years. If the federal government is interested in developing new energy and material sources, however, and timing is a critical factor, it can substantially accelerate the pace of this development by enactment of H.R. 12112.

We specifically endorse H.R. 12112 and S. 2869 and urge Congress to adopt legislation that would incorporate the objectives I've outlined and get this program underway.

We urge you to make one addition to the proposed legislation. We would suggest that you give serious consideration to earmarking a minimum level of the proposed funds for loan guarantee support for waste and other renewable energy sources. In October, we suggested 1 billion dollars as the amount needed over a five year period. We still believe that this amount is required for a national system of demonstration projects. We are submitting for the record, as an addendum to my testimony, suggested language to this effect for your consideration.

Thank you for your attention, I will be pleased to answer any questions you may have.

FLUSHING MEADOW SHOULD BE PART OF GATEWAY NATIONAL PARK

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. ROSENTHAL. Mr. Speaker, I am today introducing legislation which would expand Gateway National Recreation Area to include Flushing Meadow-Corona Park. The outstanding location and facilities of Flushing Meadow, which served as the site of the first United Nations headquarters and of two World's Fairs, would make it a valuable addition to the Gateway urban park system.

Congress took a monumental step in 1972 toward providing city residents with adequate park facilities when it established the Gateway National Recreation Area. The number of visitors quickly doubled, and Gateway is on its way to becoming the most utilized recreation area in the federal park system.

Gateway is an enormous asset to the New York-New Jersey area, and its unique character gives it "national significance." Its beaches, which currently draw 8 million visitors annually, are expected ultimately to draw 30 million. Expansion of the Gateway system would accommodate the recreational and cultural needs of additional city dwellers and expand the extent of facilities available to the public.

Flushing Meadow-Corona Park, the city's largest park, provides 40,000 New Yorkers every weekend with a variety of cultural and recreational opportunities. It is connected geologically to Gateway by a series of terminal moraine links. These could serve as bicycle trails or walking paths between the two areas. It is located in the geographic and population center of New York City. Modern transportation facilities made the site accessible to more than 100 million visitors during the two historic World's Fairs.

Inclusion of Flushing Meadow in any Gateway expansion has been called vital to improving access to the national parklands for millions of New Yorkers and has been endorsed by the Department of the Interior.

An August 1976 study of urban parks by the National Park Service and the Interior Department's Bureau of Outdoor Recreation found that—

> Population of northern Queens, the Bronx and lower Westchester will never realistically be able to utilize the [existing] facilities of Gateway National Recreation Area because of the lack of adequate transportation.

It declared this problem could be solved only with the addition of other park areas, notably Flushing Meadow. The Interior Department report concluded that Flushing Meadow's accessibility by existing public transportation would enable it to add "potentially very significant recreational resources for millions of inner-city residents as soon as development takes place."

Flushing Meadow, originally a serene basin, had become a refuse dump by the time F. Scott Fitzgerald referred to it in "The Great Gatsby" as "The Valley of Ashes." Fitzgerald described it as—

> A fantastic farm where ashes grow like wheat and ridges and hills and grotesque gardens.

The 1939 World's Fair marked the emergence of the area as a flourishing parkland. The meadow was restored, two lakes and a boat basin were constructed, new approaches to the park were built and trees, grass, and shrubs were planted on what was once a vast urban wasteland. Improvements to the area costing $59 million were viewed by the fair's planners as a long-term investment. The site was selected for its potential as a park. City officials and fair planners kept in mind the permanent contribution which the fair could make to New York City after 1939.

After the fair closed, the city building at Flushing Meadow became the assembly hall for annual United Nations meetings from 1946 through 1950. This historic structure is now the New York City Pavilian and continues to attract thousands of visitors. In the late 1940's city officials improved the grounds and transportation facilities. Its convenient location, colorful history, and outstanding facilities led to its selection as the site for the 1964 World's Fair. During the planning and construction of this fair, pools, fountains, utilities, plantings, and some buildings were included as permanent features of the park. Robert Moses, president of the World's Fair Corp., stated:

> It is my firm conviction that in many ways, Flushing Meadow or Corona-Flushing Meadow, will turn out in time to be the best planned and most patronized park in New York.

Flushing Meadow has since grown into a vital recreational and cultural center for the surrounding community. Its 1,258 acres contain one of the few marinas in the city and two large lakes, one of which is used for boating. In addition to its natural assets, the park includes the Gertrude Ederle Swimming Pool in honor of the first woman to swim the English Channel, soccer fields, baseball/softball diamonds, and playgrounds. New York City is currently in the process of designing a 5-acre playground especially for the handicapped. For passive recreation, the park includes a wildlife refuge, the Queens Zoo and the Queens Botanical Gardens.

The World's Fair buildings which remain are being utilized for cultural activities. The Singer Bowl, now named the Louis Armstrong Stadium, is the site of many concerts and sporting events. The New York City Pavilion contains the Queens Museum, which is the only art museum in the borough, a giant panorama of the city and an indoor skating rink. The New York State Pavilion is the site of an outdoor skating rink and the Queens Playhouse. The hall of science is the third most heavily-visited science museum in the Nation and a very popular museum in New York. Monuments from the two World's Fairs located throughout the park remind visitors that this area is indeed a landmark, enjoyed by millions over the years.

New York City today lacks sufficient funds to develop the park fully. As a result, Flushing Meadow's potential as a major recreational, cultural, and educational center has not yet been realized.

Flushing Meadow is an essential addition to the Gateway system. While transportation to other Gateway areas has posed real problems for the elderly and the handicapped, for example, Flushing Meadow is easily accessible and provides special facilities for these persons.

The concept of urban recreation areas emerged to fulfill the growing needs of city residents for accessible recreational and cultural facilities. These areas, which represent a departure from the traditional Federal idea of national parks, allow millions of urban dwellers the enjoyment of open spaces in a protected natural environment. Too many of our national parks are remote preserves, inaccessible to Americans of modest means, the handicapped, the elderly and families without cars.

I am pleased to learn of the National Park Service endorsement for expansion of Gateway National Park to include Flushing Meadow and I look forward to working with the Service and its parent Department of the Interior to turn this dream into reality.

National Park Service expertise and funds would insure continued enjoyment of Flushing Meadow Park's facilities by a diverse urban population. Its multitude of indoor attractions could enable the park to be used year-round, and become the central cultural and educational station of the Gateway system.

FIGHT FLU BUG

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. DERWINSKI. Mr. Speaker, one of the debates that continues is over the need for the swine flu inoculation program. I direct the attention of the Members to an editorial in the West Suburban Press serving Cook and Du Page Counties, Ill., which comments on the history of previous epidemics. While it does not directly discuss the value of the swine flu program, it does carry a logical conclusion on behalf of preventive steps one should take to acquire protection from possibly disastrous diseases.

The editorial follows:

FIGHT FLU BUG

In World War I, thousands of persons lost their lives in a flu epidemic.

In 1964, an epidemic of German measles (rubella) swept the country, leaving more than 20,000 cases of newborn infants with heart defects, mental retardation, blindness, hearing loss and even death.

For all of the history of mankind scourges such as the Black Plague and others have wiped out massive portions of the population of a nation.

Today modern medicine hopefully has ended such epidemics and widespread crippling and death. Immunization is relatively easy, economical and comparatively painless.

This year another flu epidemic is predicted. But you can be protected. All of the preventive medicine in the world is worthless unless you cooperate and use it.

Surely a person carrying an umbrella is smart enough to put it up when the rain starts. Will you seek protection from disease, or will you remain exposed?

CONGRESSMAN BROCK ADAMS ON WELFARE REFORM

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. REUSS. Mr. Speaker, the September-October 1976 issue of Challenge contains an article by my colleague, Congressman BROCK ADAMS of Washington, on the issue of welfare reform. He outlines a federally managed incomes policy, designed to provide improved benefits and to restore the incentive to work. I want to share his thoughtful suggestions with my colleagues, and the text of his article follows:

WELFARE, POVERTY, AND JOBS: A PRACTICAL APPROACH

(By BROCK ADAMS)

There are two philosophical poles in the ongoing debate about income assistance programs. One might be expressed as follows: Market forces should settle the distribution of income from labor and capital; people would get what they deserved, and efficiency would be maximized. The other would run like this: The market is a technical process that operates in a social context; because it lacks any inherent moral quality, it should not be the primary force that decides final family income. Both viewpoints have fueled the 1976 congressional review of the food stamp program and the 1970–72 battle over the proposed Family Assistance Plan.

At the first extreme are those who assume that, by and large, the poor cause their own poverty and can cure it, given a thriving labor market and appropriate education and training programs. They tend to view the distribution of income that results from the operation of the marketplace as righteous and efficient.

This outlook, which has dominated American public welfare, has caused a concentration of public aid upon groups who for acceptable reasons are not expected to participate in the labor force—groups such as the aged, blind, and disabled, and mothers of children. The policy of limiting help to the helpless has been intended to protect employables from the temptation of something for nothing.

But limiting most aid to those outside the labor force has led, in a perverse way, to erosion of market rewards. The ironic result is an officially sanctioned policy of income reversals; the "working poor" are asked to contribute—through taxes—multiple categorical types of benefits to some of the nonworking poor that may exceed the wages of many workers who are ineligible for aid. This aspect of public aid, if continued or expanded, will destroy the market reward structure instead of building upon it.

At the other pole of the debate the market reward structure is also ignored, but for different reasons. The advocates of this position distrust the idea of linking personal income closely to personal efforts and behavior.

Spokesmen for this position generally ignore the average person's concern about family responsibility for children and about labor force participation. It seems doubtful that a viewpoint so offensive to widely shared values can ever win acceptance as a basis for improving public aid programs.

I believe there will be a protracted debate about welfare, poverty, and jobs in the next two years. But if the outcome of this debate is to be more productive than the most recent such exercise—consideration of the Family Assistance Plan—there must be some retreat from the polar points and the development of a practical alternative. If progress toward a fairer income support system is to be achieved, we must acknowledge that: (1) there *are* serious unemployment and poverty problems unrelated to individual characteristics; (2) individual behavior can and should greatly affect individual income; and (3) real and very difficult technical problems require compromise among competing public policy goals. In short, we must renounce the unrealistic extremes, face the harsh complexity of the problem, and agree on a set of public policy goals that will cause improvement and are attainable.

My hope is that we will emerge with a cash program that is financed and administered by the federal government, that covers all poor and near-poor groups in the population, that provides a basic income floor at perhaps 75 percent of the poverty line, and that contains financial work incentives which encourage recipients to build upon the floor. Such a program should supplant several of our major current federal programs and coordinate well with those that remain.

I believe this outcome is conceivable—even likely—because of increasing awareness of the problems that have been created by the absence of such a plan. Let me comment on a few of these problems.

The U.S. economy has suffered high unemployment and price inflation for more than three years. Our economic woes caught us with no safety net to catch the workers who have had to bear the burden of the problems facing the economy. So for three years we have thrashed about trying to soften the blow for the unemployed and for those whose real wages have fallen due to rising prices. We have passed legislation to provide temporary tax relief, public works, public service employment, and extended unemployment insurance—stretching these programs beyond their best uses. Yet the number of persons below the poverty line rose by 1.3 million persons between 1973 and 1974 alone.

The saddest commentary is that, should the economy falter again, we would be equally unprepared. In the process, then as now, some people would be well protected against income losses and income inadequacies. Indeed, some would find that their tax-free unemployment insurance (UI) benefits, plus other benefits such as food stamps, exceeded their former net wages. Others would find, then as now, that their unemployment was not covered by UI or that their benefits ended before a job was found. Employed workers would still find that some of the unemployed were receiving special public service jobs at wage rates higher than their own. Low-wage workers devastated by price hikes would have only the food stamp program for relief. And the total cost of these stop-gap measures would easily exceed the cost of a well-designed income supplement program, despite doing a poor job of providing help to all who need it.

Our federal cash welfare programs aid only the aged, disabled, blind, and mothers with dependent children and no husband. (Twenty-eight states cover families headed by unemployed men under the aid of families with dependent children [AFDC] program if the men have had a recent attachment to the labor force.) Even in a more robust economy, however, need does not follow such neat categories. For example, in prerecession 1971, 53 percent of all poor children lived in male-headed families. By 1974 there were still almost as many children living in poor male-headed families as in poor female-headed families (47 percent versus 53 percent). Even more devastating, 39 percent of the nation's poor children living in families with a male head in 1974 were poor despite the full-time work of their fathers. Thus, wages for the working poor seem to be as inadequate for men as for women with family responsibilities, and their employment prospects may be no better. Despite this, men with full-time jobs are barred from federal cash supplements for their poor children. For the most part, only food stamps are available to such families.

In my own city of Seattle, the value of AFDC cash benefits, food stamps, and the average Medicaid expenditure for a nonworking woman and three children is $6,084 per year tax-free. Adjusting for taxes and work expenses, this package is worth about $7,500 in gross wages. Many of my constituents with families earn less than this, yet pay the taxes to finance benefits for others. Their resentment is understandable.

Thus, a new welfare plan is needed to cover all the poor. This requires us to concede certain obvious limitations of the present labor market: for example, wage levels will never be "adequate" for all family sizes, and there will never be a perfect match between those supplying and those demanding jobs. We must also recognize the difficulties created by basing eligibility for general income assistance on rigid definitions of who is employable. Employability is not a fixed attribute, but rather an ever-changing status both as to location and time of life. In their concepts of employability, public programs have lagged behind private organizations. Private personnel managers rely on regular adjustment of hiring standards, depending on how slack or tight the local market is, rather than on categorical exclusion of certain groups. In particular, it is anachronistic to design programs as if women raising children alone were unemployable. Of all ever-married women currently living without husbands, 62 percent of those with children under 18 worked in 1974.

Furthermore, we must appraise the likely accomplishments of employment training programs more soberly. We can expect such programs to upgrade the skills of some workers and to open up the labor market for others. We cannot expect such programs substantially to alter the distribution of income from earnings among the total work force.

Our system of welfare by category offers financial incentives for household units to constitute themselves so as to qualify for aid. Some empirical support has been found for the theory that higher welfare benefits for women and children have themselves created more female headed families. Welfare can be a much more predictable and stable source of income than jobs in the secondary labor market; once on welfare, a woman may be reluctant to marry or remarry.

The failure to coordinate income-scaled benefit programs has caused economic distortions in the form of work disincentives. When recipients go to work, and when their earnings rise, income-tested benefits are reduced, sharply in some programs, modestly in others. The number of programs based on need increased substantially in the 1960s, and along with them the probability that poor families would participate in one or more. Since each program takes its share of increased income, a family enrolled in several programs, may realize little net gain in total income from working more. In some circumstances, recipients actually lose more than a dollar in benefits for each extra wage dollar earned.

Data from experiments, cross-sectional analyses, and program operations suggest that work effort is impaired by high rates of benefit reduction for earnings, as well as by high benefit levels themselves. As shown in the upper section of Table 1, a Seattle woman with three childen, participating in the AFDC, food stamp, and school lunch programs, raises her total income and benefits by only 23 percent of the extra $1,000 she earns from increasing her wages from $4,000 to $5,000. This is a 77 percent tax rate.

As has recently been demonstrated, however, it is possible to make matters worse. This example of poorly conceived tinkering was President Ford's package of legislative and administrative proposals affecting personal income taxes and several public welfare programs as contained in his Fiscal Year 1977 Budget. The President proposed to concentrate aid more heavily on the officially poor, and tax relief more heavily on families earning $8,000 to $10,000. The result would be a squeeze on near-poor families, income reversals, and less incentive for many families to work than current law offers.

This can be seen in the lower section of Table 1, which compares the President's proposals with current law. Under the President's proposals, a female-headed family in Seattle participating in the AFDC, food stamp, and school lunch programs would have a higher total income if the woman did not work than if she earned $6,000. By contrast, under current law this family would have $1,948 more in income and benefits if the woman worked for $6,000 rather than not at all. Similar results would obtain in many other places, although the numbers would vary as programs vary by state.

One of the most serious consequences we suffer due to the absence of a universal income program has been the distortion of social insurance programs to overcome coverage gaps. Stretching these programs to help the needy has lessened their capacity to meet their original objectives and has caused inefficiency and excessive cost. Because there is no program to cover 60-year-old widows without recent work experience, or 62-year-old men in declining health, the retirement age for Social Security has been lowered steadily. The danger of this course is now apparent, because it hastens the declining ratio of workers to beneficiaries and if continued will put in question the future financial soundness of the system as benefits paid retirees outstrip contributions made by workers.

Similarly, because of the lack of any other mechanism for assisting the long-term unemployed, UI benefits have been extended to 52 and 65 weeks. Especially in combination with food stamps, UI benefits can replace a high proportion of the net (after-tax, after-work expense) wages of the unemployed. And, in most states, taking a part-time job or a different full-time job is discouraged by the dollar-for-dollar reduction in UI benefits that results from such earnings.

There is speculation, though little hard evidence, that extended unemployment benefits delay a search for work. This is particularly troublesome with respect to workers in declining industries, who should be searching actively for retraining programs or new jobs. In short, unemployment insurance is a poor vehicle for dealing with long-term unemployment. Yet the pressure to distort social insurance programs will continue until alternative measures are adopted to meet broader needs.

Another threat to maximum work effort and a barrier to consistent welfare policy is the sudden surge of interest in in-kind programs, each having separate purposes, program rules, and administrative structures. We have a multitude of food, health, child care, and higher education programs, and a variety of housing subsidies. Despite the fact that many such programs are simply substitutes for cash, new in-kind programs are under consideration—housing allowances, transportation stamps, fuel stamps, and clothing allowances. If enacted on a national level, each such program would have some relationship to income, and the problems of large combined benefit packages and small net financial gain from work would be multiplied and applied to a larger share of the labor force.

A more sensible approach is available, worked out in great detail. In 1974 the Joint Economic Committee Subcommittee on Fiscal Policy completed an exhaustive study of welfare problems and reform proposals. Based on this study, the Subcommittee recommended that AFDC and food stamps be replaced with a program of need-related grants and rebatable tax credits to be administered through the national tax system by the Internal Revenue Service. This plan—known variously as ABLE or the Griffiths plan, after the Subcommittee chairman, former Representative Martha Griffiths—has been introduced in both Houses of Congress.

The need-related grants would be based on family size and income. The $225 per person tax credits would replace the current personal exemptions and would be rebatable when they exceeded tax liability. Together, the grants and tax credits would provide an income floor for penniless families. Grants would be reduced gradually by 50 cents for each earned dollar for working families. Families are exempt from the income tax so long as they receive grants. In the original Subcommittee plan, families with earnings of $6,000-plus are out of the grant range and would receive benefits in the form of tax relief.

Table 2 describes how the plan works, using the example of four families of four persons at different earnings levels. Family 1, having no earnings, gets $2,700 in need-tested allowances, $900 in rebated tax credits, and it pays no income tax. Family 2 earns $3,000, so its income-tested allowances are reduced, but it still gets the full $900 in rebated tax credits and pays no income tax. Family 3, earning over $5,700, is just at the point of ineligibility for the allowances. It is now entering the range of income tax liability, but since it is just at the ineligibility point for allowances, no income tax is due. Its $900 benefit consists of the four tax credits. Finally, Family 4 begins to use its tax credits to offset its income tax liability. It receives a net rebate of $70. The employer would eliminate the wage-earner's withholding, and the family would collect a small year-end rebate.

In the traditional way of analyzing these programs, the Griffiths plan includes one income-tested component and one universal, non-income-tested component.

The tax credit is perhaps the most unusual aspect of the plan. Since the credit would apply to *all* taxpayers, it would help blur the line between low-income persons and the rest of society. Moreover, the tax credit seems fairer than the personal exemption, since it would be worth a constant amount ($225 in the original bill), while the value of the exemption depends upon the taxpayer's tax bracket.

This two-pronged approach offers greater flexibility than either a simple grant program or the much more costly plan which would rely exclusively on larger tax credits. When it seems necessary to raise benefit levels, benefits could be targeted as desired. Grants could be raised, thereby concentrating added funds on the poor and near-poor. Alternatively, tax credits could be raised, thereby helping both the poor *and* inflation-squeezed workers who are pushed into higher tax brackets by rising wages. Or, both allowances and credits could be raised.

The tax credit would also simplify program administration. The IRS would not have to deal with many modest-income workers on a monthly basis because their benefits—largely tax relief—could be handled through adjustments in the regular tax withholding system. Less tax money would be withheld and their weekly take-home paychecks would be larger. This plan thus offers an automatic mechanism for reaching people who have traditionally been reluctant to become involved in "welfare."

The Subcommittee devoted great attention to coordinating its plan with other programs and tax systems in order to keep benefit levels from combined programs under control and to keep work profitable. These important provisions are detailed in *Income Security for Americans*, the concluding volume in the Subcommittee's series.

Because of the close tie-in with the tax system, federal administration—and more particularly, IRS administration—is essential. States could not administer portions of the federal income tax. Moreover, since people move rather frequently, state administration would require the establishment of complex mechanisms and relationships between states. Further, states do not have access to most federal income records, and these records make the job of automatic income checking much easier. Then consider the expanded caseload, because of higher benefits in some states and because of broadened coverage—including nonaged single persons and childless couples, and working men and their families—in all states. Existing state machinery could not handle this volume.

Finally there is the requirement for monthly reporting of income for grant recipients. Most welfare recipients now are *not* checked regarding their income or family status more frequently than every six months, and the six-month verifications are often only perfunctory. Analyses of the current AFDC methods of reporting income and other family circumstances have revealed that requiring monthly reporting and promptly adjusting benefits could save as much as $1 billion a year in welfare costs. But it could take years for this to be administratively feasible in most states.

Federal management would relieve states of a considerable financial and administrative burden. It would allow them to concentrate on the provision of social services and on administering supplementary benefits to a far smaller caseload. Case-by-case administration for hardship cases or optional supplementary cases at the state level then becomes reasonable and practical. This provides for distinct roles for each government in a new federal/state partnership to aid the needy in a fairer and more socially constructive way.

In my judgment, this is the best available approach. It structures permanent tax relief for workers with modest income in a way that facilitates overhaul of public welfare programs. If such a plan had been in place in the last several years, we could have shared the burden of fighting inflation and a recession more equitably.

One of the most significant factors in the cost and coverage of a new program is the basic benefit level, varying by family size, for persons with no other income. Indeed, high basic benefit levels have been the most important objective of many would-be proponents of a national income support plan, who assume that the principal problem to be solved is basic income support for a multitude of people with zero income throughout the year. But this view of the problem ignores the facts. The task of a federal program should be to provide sufficiently high benefits so that, in combination with other income, total income is adequate. For truly special cases, state and local governments could provide additional amounts on a case-by-case basis. It is important, however, that benefits be set high enough to eliminate AFDC and food stamps, in order to build a simpler system.

The most critical factor determining costs and potential caseloads is the rate at which benefits are reduced as income rises. A low rate (25 percent) extends aid close to average income levels, raising costs and the number of eligibles. However, the low rate makes work profitable: benefits are reduced by only 25 cents for each earned dollar. By contrast, a 75 percent rate concentrates aid on low-income groups, thereby reducing costs and caseloads. Assuming a basic benefit of $4,000 for a family of four, the price we would pay for such a policy is less adequate supplementation for the working poor ($1,000 in benefits for a family earning $4,000, as opposed to $3,000 with a 25 percent rate and $2,000 with a 50 percent rate).

Moreover, each added earned dollar raises total income by only 25 cents; each $1 reduction in earnings costs a worker only 25 cents, since the program makes up the income loss at a 75 percent rate. After balancing these conflicting factors—costs, caseloads, equity, work incentives, adequacy of supplementation—many reformers, including the Subcommittee on Fiscal Policy, choose a 50 percent rate. This seems a reasonable maximum, especially since other tax and transfer programs also would take a portion of earnings.

A welfare reform plan that meets the criteria and overcomes the problems noted above would add between $8 and $15 billion to net federal outlays, depending on the benefit levels chosen and the proportion devoted to tax credits of total benefits. The program could be implemented in stages, thereby moderating the fiscal impact in each initial year. Clearly, passage of such a plan would enable the nation to withstand pressure to expand old programs whose primary purposes are similar, or to commence new ones. From my experience as Chairman of the House Budget Committee, I believe the new program would save money compared to the cost of continuing the present course of ad hoc expansion of individual programs, since there is constant demand to increase each aid program every year. It would also provide financial assistance to state and local governments and reduce the constant pressure to increase state grant-in-aid programs.

This type of plan is not interchangeable with a jobs program. In fact, a general income supplement plan is essential if a jobs program is to avoid luring large numbers of workers into the public sector. Supplementing the wages of workers with low and modest incomes is cheaper than providing them with public jobs, is less disruptive to the private economy, and is more practical administratively. Special public service jobs should be reserved for persons with long-term difficulties in the labor market.

This approach also recognizes the role "welfare reform" must play in any plan that attacks overall unemployment. Simply expanding the economy will never reduce unemployment to low levels; we must deal with structural unemployment and the situation of part-time workers, as well as with those who are usually part of the work force but are unemployed due to economic conditions.

Over one-third of the federal budget for fiscal year 1977 will be devoted to income security programs. With some reorientation and a comparatively modest investment on top of this projected $139 billion, we could provide basic income supplementation for citizens and improved income supplementation for all workers of low and modest income. We could also start to administer properly this large group of presently open-ended, "uncontrollable" federal programs.

OUR CORRECTIONAL FACILITIES: STILL NO CHANGE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. RANGEL. Mr. Speaker, 5 years ago this month the Attica Correctional Facility in New York State erupted in violence. After all the smoke had settled, 39 people were killed and over 80 others were wounded. Much talk was heard about the need for reform of our correctional institutions, special commissions were appointed to investigate what changes should be implemented so that future situations like that which occurred at Attica would be avoided. Five years later, however nothing has changed.

Equal treatment under the law is one of the fundamental principles upon which our legal system is based. However the reality of the situation is that justice is a function of one's financial station in life. Clearly many inmates become frustrated and bitter when they realize that if they had the financial resources available to them they would not have been given the heavy sentence by the court or that their parole application would not have been denied. This hopelessness is further exacerbated by the inmates feeling that their grievances about conditions within the prison are not being adequately met. Based on these two factors alone, I think it is quite apparent that our correctional facilities still remain ripe for the violence that occurred at Attica.

In Wednesday's New York Times, the former chairman of the New York State Special Commission on Attica, Robert B. McKay, addresses himself to the growing number of problems that still remain at Attica and other institutions generally. I would hope that my colleagues would review Mr. McKay's comments, as they speak very positively for immediate action to correct the problems that exist.

Mr. McKay's column follows:

AVOIDING FURTHER ATTICAS

(By Robert B. McKay)

"Forty-three citizens of New York died at Attica Correctional Facility between September 9 and 13, 1971. Thirty-nine of that number were killed and more than 80 others were wounded by gunfire during the 15 minutes it took the State Police to retake the prison on September 13. With the exception of Indian massacres in the late 19th century, the State Police assault which ended the four-day prison uprising was the bloodiest one-day encounter between Americans since the Civil War."

With these words the New York State Special Commission on Attica began its fact-finding report about the tragic events at Attica five years ago. The story of those four days is more than history; it has become a symbol of the failures of the American corrections system.

The lesson of Attica has been imperfectly learned—at Attica, in New York State, and throughout the criminal justice system.

As a result of public indifference, most American prisons have been constructed in remote places where they do not offend the eyes of law-abiding citizens by reminding us of our failures in preventing or dealing with crime. Moreover, as inmate populations approach 50 percent black and ethnic minority group members, racism becomes endemic.

Difficult as are the problems of overcrowding and racism, the inmates at Attica had an even more serious complaint. Their sense of justice was deeply outraged by the disparities they perceived in sentencing practices and parole procedures.

When inmates in adjacent cells discover unexplained (because inexplicable) differences in sentences and parole decisions, they become convinced that the system is not fair.

When the perception of unfairness is coupled with standing grievances about visiting privileges, food, recreational activities, lack of effective educational or vocational training, and difficulty in securing work release, the resulting mix of frustration and grievance is explosive.

What has happened since? What lessons have been learned?

Attica Correctional Facility has changed—somewhat. The gymnasium that had been promised for more than a decade was finally completed. Visiting arrangements are better (not good, just better); food service and medical care are improved; and the commissary and library are better stocked.

There are some black and Spanish-speaking correction officers, although not enough. Recruitment of minority correction officers is difficult because most find it neessary to live in Buffalo or Rochester rather than in the surrounding not-very-friendly rural area.

The inmate population was reduced for a time from the more than 2,200 at the time of the uprising to a more manageable number, but the pressures on the New York State system (a statewide increase of nearly 4,000 in the last 18 months) has forced the number up to almost what it was before.

Tension is high again. On July 11 there was an episode not very different than the one that triggered the 1971 uprising. This time luck prevailed, and the brief episode of violence did not escalate into a major disaster.

Changes in the New York State system have also taken place. There is now a reasonably good working relationship between the Department of Correctional Services, which has operational responsibility, and the Commission on Corrections, which has investigative and reporting responsibilities. But once again the fuse is short. As prison population rises drastically, adequate space is lacking for new inmates. Governor Carey has announced a new prison-construction program, but that takes more time than may be available before another holocaust.

The news across the nation is also mixed. Some progress has been made in alerting the public to problems and needs of the criminal justice system. However, just when it seems that more enlightened views may be taking hold to reduce disparity in sentencing, bring rationality into the parole process, provide human prison conditions and effective help for ex-offenders, new problems beset the system.

The prison population in the United States, now more than 250,000, is the highest it has ever been; and the jail population has risen to about the same figure. As crime rates continue to rise (a 10 percent increase in serious crimes from 1974 to 1975), politicians all-to-often respond to public concern by demanding more severe penalties and harsher conditions of confinement.

Those of us who experienced Attica even second-hand were radicalized by what we learned. We were, and are, convinced that the responsibility for avoiding further Atticas rest upon an informed public. The criminal-justice system is too important to be left to the criminals and their keepers.

THE DEDUCTION OF REAL PROPERTY TAXES IN CASE OF INDIVIDUALS WHO RENT THEIR PRINCIPAL RESIDENCE

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. PATTERSON of California. Mr. Speaker, I would like to bring to the attention of my colleagues some very valuable information I have received from responses to a questionnaire that I presented to my constituents. I recently cosponsored H.R. 13778, "The Deduction of Real Property Taxes in Case of Individuals Who Rent Their Principal Residence." This bill would recognize renters as the "real" property taxpayers and allow them the same tax advantages homeowners receive. As you know, present income tax law allows homeowners to deduct the amount of local property taxes they pay each year from their Federal income tax. But the law is different for renters. Their landlord gets a tax bill from the local government, then passes it along to them in their rent. Yet, the landlord gets the tax break not the the renter.

Under my bill each renter would be told when they get their lease, what part of the amount of their lease goes for property taxes. At the end of the year, they would deduct the amount they paid in property taxes from their Federal income tax. For example: If 20 percent of your $3,000 per year lease is for property taxes, your deduction would be $600. If your tax is 25 percent of your adjusted gross income, you would actually save $150 in Federal income taxes a year. A savings which at this time only homeowners are able to realize.

The issue has been raised that this legislation will be unfair to landlords. Although the landlord would no longer have the property tax deduction, the bill also provides that the landlord would no longer have to include rent used to pay taxes as income, so this new system would be fair to all.

In analyzing the questionnaires, over 96 percent of the constituents that replied were in favor of the bill, with comments ranging from, "it is about time," to, "a sorely needed piece of legislation." Many people also expressed to me their desire to buy homes, but were unable to because of high interest rates and high down payment requirements. There is a great deal of need for legislation that will alter the present mortgage system. Presently, young people are unable to purchase homes because of the initial high investment required. I would suggest a plan that would allow people to buy homes when they are at the low-income producing stage of their life, provide a schedule of payment based on their income and provide protection to them when they become older and on a fixed income.

The mobile homeowners that responded to my questionnaire were concerned that this bill would not apply to them. They can be assured that I will look into this matter and, if necessary, incorporate additional legislation to provide coverage to them.

I would respectfully request that all my colleagues look into the plight of the renter, because it is both very real and very extensive. This bill, H.R. 13778, would ease their predicament and provide needed relief. Unless we enact some curative legislation, and soon, the renter-property taxpayers will completely lose their faith in governmental leaders to legislate fair and equitable taxation.

FOOD AND DRUGS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. HAMILTON. Mr. Speaker, almost every time people turn around there is another scare over impure and unsafe drugs, food, or cosmetics. Because of these scares people are worrying more about the food they eat and the drugs they take. After reading another story about an unsafe food additive, a constituent commented to me, "Isn't anything safe to eat anymore?"

Red dye No. 2, a widely used food dye, has been banned, and so have several animal feed additives and the vinyl chloride used in aerosol cans. Under consideration is a ban on one form of birth control pill. Cyclamates have not been permitted on the market since 1969, but they are still being studied by the National Cancer Institute. About 6,500 prescription drugs have been removed from the market. Fluorocarbons, which are used in spray propellants, are suspected of destroying the ozone layer of the atmosphere, thereby raising the fear of increased skin cancer. Just this week the Government announced that it was considering a ban on two food colorings, one used for the red in maraschino cherries and the other for the black used in licorice.

Despite the scares, most of the experts believe that the food and drug supplies in this country are safer now than they have ever been before. The hazards are small, even infinitesimal, compared with the risks of drugs several years ago. Even so, things like bacterial contamination of food causes illness in more than 2 million persons a year.

Regulating the safety of food and drugs is the task of the Food and Drug Administration—FDA. More than 75 million Americans take some type of drug regularly and the FDA seeks to insure that every prescription is safe. Cosmetics and medical devices are also under its jurisdiction. To perform its function, the FDA has a staff of about 6,400 employees, who oversee more than one-half million businesses with $200 billion of output in the food, drug, and cosmetic industries—industries in which 20 cents out of every consumer dollar is spent.

The FDA confronts agonizingly difficult judgments on the extent to which it should regulate and when and how it should remove products from the market. One dilemma is whether Government must make people's decisions for them, or whether, in some areas at least, consumers can be given enough information to make the choice. A public policy that provides information to people can reduce the need for extensive regulation. When the risk is great, however, a firm regulatory posture will still be necessary.

Another dilemma is under what circumstances the FDA should be authorized to remove a suspect product from a market summarily, without any hearing. Today the FDA can withdraw approval of a human drug only after a hearing and this is so even if the FDA believes that the drug is unsafe. The FDA can act immediately to withdraw approval of a drug, if, in the sole judgment of the Secretary of Health, Education, and Welfare, it represents an "imminent hazard" to health. (This exception is not available for food additives.) The FDA can thus deal promptly with many health hazards, like deadly botulism, but it does not act summarily in cases like DES in animal feed because it does not believe DES poses an imminent hazard.

In trying to protect the health of people against impure and unsafe food and drugs, the FDA undoubtedly acts under intense pressures. Thousands of new products flood the markets each year, and must be checked. Substantial sums of money are invested in food, drug, and cosmetic products, and the producers of them are naturally pushing hard to get those products on the market as quickly as possible. The amount of testing that must be done, the difficulty of scientific judgments on the safety of a drug or food, decisions about the reliability of the complex data supporting the safety of a given product, and the necessity of providing accurate information about the safety and the effectiveness of a product to everyone are among the formidable responsibilities of the FDA.

There are probably more calls for reform of the FDA than for any other Federal agency. The FDA is criticized for its failure to be a strong protector of the public health, and for acting only after pressure from Congress, public interest groups, or the news media. It is accused of being slow, indecisive, unwilling to act, biased toward, or even dominated by industry, and of not following through on investigations. The extent of the influence exercised by the drug industry in forcing approval of new drugs is often an issue raised repeatedly in congressional hearings. The FDA's harshest critics claim that it allows people to be exposed to unnecessary risks, and that people are misled into believing that the FDA protects them much more than it really does.

As might be expected, a number of proposals are under consideration in the Congress to dramatically change the FDA. Recognizing the vast current jurisdiction of the FDA, one proposal is to split the FDA into two agencies, one for drugs and medical devices and the other for food and cosmetics. Other proposals would strengthen the power of the FDA to determine the requirements for the approval of a new drug, and permit the conditional release of a drug, allowing the FDA to withdraw the product from the market if it finds there is a serious risk of harm.

The next time you eat or use a drug, just remember the effort that goes into insuring that the food is pure and the drug is safe and effective. This is one area where most people might prefer more rather than less Government regulation.

SISK SPLITS WITH CARTER OVER PROPOSITION 14

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. KETCHUM. Mr. Speaker, Democratic Presidential nominee Jimmy Carter has finally signaled what he will do for our American farmers. In Iowa I noticed he was going to help our small farmers "once and for all" on grain embargoes. Three hours later he changed his mind. Then he went to California and said to Cesar Chavez;

> I support . . . Proposition 14.

This position frankly scares me and a lot of other elected officials and small farmers. Virtually every State legislator of both parties in my State, including the speaker of the California Assembly, Mr. McCarthy, and our distinguished colleague Mr. SISK are opposed to this farm policy.

If this proposition is the position of Mr. Carter, I fear for agriculture in America. Proposition 14 legalizes trespassing on private property by nonemployee union organizers. In fact, this proposition will allow private property rights to be abridged up to three times a day with the farmer being powerless to limit entry onto his property.

I commend my distinguished colleague Mr. SISK for taking this action to disassociate himself from Mr. Carter and his most recent attempt to ruin American agriculture.

Mr. Speaker, I commend my colleagues to the article which appeared on September 7, 1976, in the Fresno Bee:

SISK SPLITS WITH CARTER OVER PROPOSITION 14

(By George L. Baker)

WASHINGTON.—Saying it was the only thing he could do in "good conscience," REP. B. F. Sisk resigned today from an agricultural committee for Jimmy Carter after the Democratic nominee endorsed Prop. 14.

Sisk, who opposes the Cesar Chavez-backed initiative, said in a statement issued by his office here that he regretted taking the action. But that Carter's frequent change of position left him no other choice.

The Democrat is hiking in the Sierra and could not be reached for direct comment following this weekend's endorsement of the farmer-opposed proposition by Carter, Sens. John V. Tunney and Alan Cranston and Gov. Brown.

Sisk, a Fresno Democrat, was co-chairman of the western regional Carter-Mondale Farm Committee, which was trying to drum up support for the Democrats among farmers.

His administrative assistant, Tony Coelho, said in response to a question that Sisk "will endorse and vote for Mr. Carter, but will not beat the bushes for Mr. Carter."

Apparently miffed that Carter had "misled" him, Sisk sent a telegram to him today informing him of his decision.

Before Sisk joined the committee and after a recent interview in the Los Angeles Times, Carter through his chief farm adviser, Bobby Smith, had told Sisk that the Democratic presidential candidate would take no position on the proposition.

Speaking for Sisk, Coelho said in response to a question, "Mr. Carter, in this issue either did not know his position or he changed his position three times. I think he does not have the total facts, and he wavered, depending on who talked to him last."

Before Sisk joined the committee, he specifically asked Smith what Carter would do on the ballot initiative and Smith told him the former Georgia governor would take no position.

Two weeks ago, when Carter said in an interview that he could accept passage of Prop. 14 under certain conditions, Sisk again asked the Carter camp about his specific position.

He was assured by both Smith and Carter's top aide on issues, Stuart Eizenstat, that Carter would take no position, Coelho said.

Further, according to Coelho, Sisk was told that Carter would not address the United Farm Workers convention in Fresno this past weekend by telephone. Instead, the Fresno Democrat was told that Carter would send a telegram, telling the farm workers that he had no position on 14.

But Carter, after all the state's top Democrats lined up behind the proposition, told Chavez by telephone Sunday that he was backing the proposal.

"Mr. Sisk regrets to have to withdraw from the committee, but he feels that in good conscience, it is the only decision Mr. Carter leaves him with," Sisk's statement said.

Sisk said he tried to avoid embarrassing Carter by insuring before he joined the committee that the Democratic presidential hopeful would avoid taking a stand on the proposition.

The Fresno Democrat opposed passage of the proposition, which would freeze into the Constitution the right of farmworkers to determine their farm union by secret ballot along with other UFW favored rules and regulations. In 1972, Sisk opposed the farmer-backed Prop. 22, which would have made it all but impossible for farm unions to organize farm workers.

"He feels the legislative process and particularly federal legislation, should be used to deal with farm labor problems," Coelho said.

Sisk's Fresno colleague, freshman John Krebs, said he disagreed with Carter's position but that he would still support him.

"This is one issue, an important issue, to a lot of people in the San Joaquin Valley," Krebs said. "I simply do not believe in picking a candidate on one issue. I try not to do that."

At the same time, there were some indications that other members of Carter's farm committee might be having second thoughts about their roles in light of his position on Prop. 14.

Western co-chairman, Rep. Thomas Foley of Washington, chairman of the House Agriculture Committee, and national co-chairman, Rep. Bob Bergland of Minnesota, were said to be miffed with Carter's position.

ETHICS COMMITTEE SHOULD REPORT ON HAYS INVESTIGATION

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing a resolution which expresses the sense of the House that the resignation of a Member or employee of the House under investigation by the Committee on Standards of Official Conduct does not discharge that committee from its jurisdiction over that matter or its authority to report on it. My resolution further authorizes and directs the Committee on Standards of Official Conduct to complete its investigation into the Hays matter and report back its findings and recommendations to the House.

Mr. Speaker, the Committee on Standards of Official Conduct voted 12 to 0 on September 1 to drop its investigation of Representative Wayne Hays and not to issue a final report on the grounds that it lost jurisdiction over the matter with the resignation of Representative Hays on that day. Mr. Speaker, I think this interpretation of the committee's jurisdiction and responsibility is sadly mistaken and the precedent which it could establish should not go unchallenged. The House rule governing this matter is quite explicit. Clause 4(e) of House rule X says the Committee on Standards of Official Conduct is authorized to investigate any alleged violation, by a Member, officer or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer or employee in the performance of his duties or the discharge of his responsibilities, "and after notice and hearing, to recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances." In other words, once a committee majority has agreed to undertake an investigation on its own initiative or on receipt of a properly filed complaint, the committee has the unquestionable authority to report back to the House on that investigation.

Clause 4(e)(2) of rule X states that no resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made, and no investigation of such conduct shall be undertaken unless approved by the affirmative vote of a majority of the members of the committee. Put another way, once a committee majority approves an investigation into the conduct of a Member, officer or employee, that same committee majority can report back by resolution, report or recommendation on its investigation into the official conduct of that Member, officer, or employee. The subsequent resignation of a Member, officer, or employee in no way alters that authority since the only concern of the committee is the official conduct of that person in the performance of his duties or discharge of his responsibilities. Obviously, the committee would not have any jurisdiction over any misconduct which takes place after the resignation of the Member, officer, or employee. And obviously, the committee could no longer report a resolution of expulsion after the person under investigation had resigned. But the precedents of the House indicate that a resolution of censure is still in order, even after the resignation of a Member:

> A member having resigned, and expulsion therefore not being proposed, the House adopted a resolution censuring his conduct. (Hind's Precedents, II, 1239).

But even leaving aside the question of punishment, the fact remains that the Committee on Standards of Official Conduct does have authority to simply report on any investigation it undertakes into alleged misconduct of a Member while performing his duties. The House and the public should be entitled to the facts and findings of any such investigation, regardless of whether the Member resigns during the course of that investigation. Moreover, the committee is authorized under clause 4(e)(1)(A) "to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers and employees of the House." Such recommendations would clearly be in order in connection with any investigation undertaken by the committee since any findings of misconduct would often suggest the need for administrative actions and new enforcement devices to prevent the recurrence of such misconduct.

Mr. Speaker, the dropping of the Hays investigation by the Committee on Standards of Official Conduct is not only without justification on jurisdictional grounds; it constitutes a complete abdication of this body's responsibility to police itself, to uncover official misconduct wherever it exists, and to do everything possible to insure that it does not happen again.

Just 2 years ago last month a President resigned under the real threat of impeachment and removal from office as a result of the Congress' vigorous and successful efforts to uncover and make public official wrongdoing by our Nation's highest elected official. Despite that resignation on August 9, 1974, the House Judiciary Committee issued its final report on August 20, and that same day this House voted 412 to 3 to accept and have printed in the Record and as a public document that impeachment report. I do not recall anyone suggesting that the American people were not entitled to the full facts of that impeachment inquiry because the President had resigned. We all recognized the need to make that final chapter in the long Watergate drama a part of the public and historic record. We all realized that if we were to learn and benefit from the mistakes that had been made, the full facts of the case had to be laid before the American people and this Congress as a constant reminder of the need for eternal vigilance in preserving our freedoms.

Our distinguished majority leader, who offered that resolution accepting the Judiciary Committee report and ordering that it be printed, termed his resolution "the official culmination of 7 months work by the House Judiciary Committee and writes a final chapter in a momentous proceeding in the history of the House of Representatives." He rightfully praised the work of the Judiciary Committee and said:

> We are just pleased, now, that all America knows these things, too. We are happy that all America was party to this most important

chapter in American life, and that our citizens, young and old alike, could learn the lessons inherent in the proceedings.

Mr. Speaker, I could not agree more with the sentiments of the majority leader and I think they apply with equal force to any investigation into wrongdoing in this body. The American people have a right to know the full facts of any investigation we conduct of ourselves so that they can learn the lessons inherent in what has taken place.

The New York Times, in an editorial of September 5, 1976, entitled, "Farewell to Hays," noted the decision of our ethics committee to drop its investigation and not issue a report, and posed the question, "are there not still a few larger lessons to be learned?" The editorial went on to observe that the decision not to file a report on the "committee's 3-month investigation of Mr. Hays' misuse of office," would spare eyestrain "and a good deal of embarrassment as well." And the editorial concluded:

> And the American people will be spared the ordeal of reading about years of administrative abuses and thus give up the opportunity to press their representatives for reform. Once again, the people are expected to rely on the House to clean its own house—behind closed doors. The way it made Wayne Hays "Mayor of Capitol Hill."

Mr. Speaker, I would hope that this House will have the same good sense it had 2 years ago in completing the final chapter on administrative abuses and making that book available to the public. If we do less, we will be guilty of the type of "coverup" and "stonewalling" which characterized that earlier incident. While there is no comparison between the two incidents in terms of magnitude or gravity, there is nevertheless a need for treating both in the same evenhanded and openhanded manner. It is especially critical that we demonstrate to the American people that we do not have a double standard when it comes to dealing with wrongdoing in the Congress. To leave things as they now stand will only contribute to that perception and further damage our credibility and standing with the public. I would therefore strongly urge the Committee on Standards of Official Conduct to reconsider its vote to shelve the Hays investigation and report on the grounds that it not only has the authority to complete but the clear obligation to this House and the American people. Failing such a move by the committee to complete its work and file a report, I intend to press my resolution in any way permitted under the rules and precedents of the House.

At this point in the Record, Mr. Speaker, I include the text of my resolution, the New York Times editorial to which I referred, and a Washington Star editorial of September 13:

H. RES. 1542

Whereas the Committee on Standards of Official Conduct voted 11 to 0 on June 2, 1976, to conduct a full investigation into allegations of official misconduct against Representative Wayne L. Hays; and

Whereas the House of Representatives voted 400 to 0 on June 10, 1976, to authorize the Committee on Standards of Official Conduct to draw directly on the contingent fund of the House for all expenses in connection with its investigation and to require the committee to report "all funds expended in such investigation every sixty days in the Congressional Record;" and

Whereas the Committee on Standards of Official Conduct is authorized under clause 4(e) (1) of rule X of the Rules of the House of Representatives, "to recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate" in connection with any investigation it undertakes into allegations of official misconduct against a Member, officer, or employee of the House; and

Whereas the Committee on Standards of Official Conduct voted 12 to 0 on September 1, 1976, to drop of its investigation of Representative Hays and not to issue a final report on the investigation on the grounds that the committee lost its jurisdiction over the matter upon the resignation of Representative Hays from the House of Representatives, effective September 1, 1976; and

Whereas clause 4(e) (2) (A) of rule X of the Rules of the House of Representatives prohibits the Committee on Standards of Official Conduct from making any report relating to the official conduct of a Member without the approval of a majority of the members of the committee: Now, therefore be it

Resolved, That it is the sense of the House that the Committee on Standards of Official Conduct does have authority to complete and to report on any investigation it undertakes pursuant to clause 4(e) of rule X of the Rules of the House of Representatives and that the subsequent resignation of any Member, officer or employee of the House under investigation by the committee in no way discharges the committee from its jurisdiction over or its authority to report on such investigation; and be it further

Resolved, That, clause 4(e) (2) (A) of rule X of the Rules of the House of Representatives to the contrary notwithstanding, the Committee on Standards of Official Conduct be and it is hereby authorized and directed to complete its investigation into the allegations of misconduct against Representative Wayne L. Hays and to report back to the House its findings and recommendations thereon, not later than the sine die adjournment of the Ninety-fourth Congress.

[From the New York Times, Sept. 5, 1976]

FAREWELL TO HAYS

Wayne Hays resigned from the House of Representatives and, in short order, the House ethics committee voted unanimously to terminate its investigation, announced it would issue no report and moved on to new business.

Granted, Mr. Hays is gone and the Justice Department is working on those aspects of the case that could have criminal implications, are there not still a few larger lessons to be learned? Mr. Hays was, after all, chairman of the House Administration Committee which is responsible for the millions of dollars required to run the institution as well as for the thousands of people employed by it. And, as chairman of the Democratic National Congressional Committee, he could decide how and when to dole out money to Democrats in need. His colleagues gave Mr. Hays a virtual monopoly on plums and thumbscrews.

There is solid agreement on Capitol Hill that no one should ever again be given Wayne Hays' opportunities to misuse power, but there seems to be only a limited appetite for learning the lessons necessary to insure that the abuses will not recur in some form or another. Although he steadfastly rebuffed Mr. Hays' entreaties to make a deal to drop the investigation prior to the resignation, Chairman John J. Flynt of the ethics committee announced immediately afterward that no report would be filed on the committee's three-month investigation of Mr. Hays' misuse of office, thus sparing eyestrain all around and a good deal of embarrassment as well.

And the American people will be spared the ordeal of reading about years of administrative abuses and thus give up the opportunity to press their representatives for reform. Once again, the people are expected to rely on the House to clean its own house—behind closed doors. The way it made Wayne Hays "Mayor of Capitol Hill."

[From the Washington Star, Sept. 13, 1976]

ETHICS AND POLITICS

If anyone's wondering why the House Ethics Committee was so anxious to get rid of the Wayne Hays hot potato, a clue might be found in the nearness of the November elections.

Let Gov. Jimmy Carter talk about Republican "cheating, lying, leaving the White House in disgrace" during the Nixon administration. But let's not have any investigation of congressional—which is to say, Democratic—hanky panky hitting the front pages of newspapers and the television tubes between now and November 2.

Sure, Wayne Hays lied. Sure, he left the House in disgrace. Sure, there are allegations that he cheated the taxpayers by putting a girl friend on the public payroll so she would be handy for sex.

But what the heck? Congressional boys will be boys. There's no reason to get excited over a little congressional lying and cheating. Lying and cheating on Capitol Hill is different from lying and cheating at the White House.

Besides, the Ethics Committee—according to the Ethics Committee—has no jurisdiction to investigate a former member of Congress, which is what Mr. Hays became when he resigned. It doesn't matter that what the Ethics Committee was supposed to investigate happened while Mr. Hays was a member of Congress. No sir, once he quit, everything was wiped out—or brushed under the rug, some might say.

What about the alleged travel expenses padding by House members that the Ethics Committee presumably was going to investigate, or at least should have investigated, while it was looking into the Hays matter?

Well, what's a few thousand dollars in travel expense chiseling compared to a few hundred dollars worth of window valances built for Clarence Kelley by FBI employees?

Yes sir, Governor Carter was on the right track when he said he would have fired Mr. Kelley because "the director of the FBI ought to be purer than Caesar's wife." But don't let it be said that there are any members of Congress who ought to be returned to whatever it was they were doing before they got to Capitol Hill.

But perhaps one shouldn't be too critical of the House Ethics Committee. It's working hard to get CBS correspondent Daniel Schorr and whoever leaked a classified House report to Mr. Schorr.

Investigating disgraceful activities among congressmen obviously would have been too much for the committee that only lately has shown any life. House leaders could, of course, assign the job to some other committee since the Ethics Committee can't do it or isn't up to it. But that won't happen either. Better just to let Mr. Carter talk about lying, cheating, disgraceful Republicans.

THE NEED FOR DEVELOPING ALTERNATE ENERGY SOURCES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. GILMAN. Mr. Speaker, as a member of the House Republican Task Force on Energy, I would like to address myself to the serious problem many Americans are facing due to the unprecedented, all-pervasive energy shortage. Solutions to this problem are indeed challenging and will be highly beneficial to all Americans in the long run, but solutions to a problem of this magnitude require years of research and demand capital, labor, and investments which transcend time and money. I believe that one of the most viable and readily accessible solutions to the shortage of gasoline and oil, for which Americans will spend $35 billion next year, lies in the exploration and utilization of alternate sources of energy; solar energy being one of the most economically and environmentally sound alternate energy sources.

It is time that Americans realize that we are no longer faced with simply an energy "shortage" or an energy "crunch," but rather that we are witnessing a full-scale energy crisis, the severity of which is still, to a large extent unknown. It is customary for Americans to speak euphemistically about those facts of life they wish not to recognize, those facts of life which threaten many of the comfortable and accepted aspects of life Americans have come to know. For nearly 3 years we have managed to downplay what is perhaps the most serious problem which has ever faced the American public. In reality we have been waging a war against an enemy we cannot truly name, or outwit, and the battle assumes far greater proportions than Americans have realized, or are willing to realize. To a certain extent, we are fighting ourselves, fighting the reality that demands a lessening of our economic, cultural, and social dependence upon once-thought inexhaustible, readily accessible and inexpensive fuels. That reality demands recognition of the fact that our dependence upon the largest automobile, industry, transportation, things so basic as hot water and heating must be re-evaluated and recognized, not as comforts to be taken for granted, but rather, as necessities for which we pay a high price.

America has often been compared to a spoiled child. We are heir to vast natural resources and we enjoy a geography which permits and encourages wide scale, progressive trade and industry. Our technologies have been nurtured in an atmosphere of tolerance for Yankee ingenuity and a high premium has always been placed on cleverness and inventiveness. Throughout our history we have been watched enviously and cautiously by sibling nations and we have always proved to them that our ingenious utilization of resources and natural wealth have paid off. Indeed, we have amazed and often shocked the world by what we know, by what we can do, and have done.

The time has come, however, for America to assert, once again, her unique capacity for independence. It is possible that America might stumble as she embarks upon a course of energy independence. Perhaps it is inevitable. But stumbling did not discourage political independence, or economic and cultural independence.

It is possible that one of the barriers to energy independence has been our own willingness to accept the notion of "alternative." Wood satisfied Americans for a period of roughly 60 years and the conversion to coal for industry, transportation, and residential needs was slow in coming. Acceptance of oil as a substitute for coal required another 60 years. Presently, however, we are not afforded the luxury of three score years to determine another single, monopolistic replacement for oil. We must accept the reality and viability of alternatives, rather than to seek a solitary replacement for presently employed, drastically dwindling fuel sources. Use of a combination of such energy alternatives is indeed a healthy and more satisfactory method of survival in the long run.

One such alternate energy source is solar energy, a truly inexhaustible and permanent energy. In many ways the most primitive of all energy sources, the sun, can be utilized to service our most sophisticated technologies as well as providing us with many necessary, basic heating and cooling functions. In an article which appeared recently in the Washington Post, Barry Commoner noted that—

> Contrary to the myth that solar technologies are only distant and exotic hopes, most of them have been tried out and are known to work.

The author further comments that—

> Solar energy is renewable, and its costs, rather than rising, are ready to become economically competitive as its technologies are brought into wider use. All that is involved is a national commitment to invest enough capital to bring down the costs of solar energy so that it can begin to offset the continuing rise in the prices of other forms of energy.

This national commitment of which Mr. Commoner speaks is both desirable and necessary. ERDA predicts that solar energy "could supply as much as 25 percent of the Nation's future energy needs by 2020 if costs of collecting and using solar energy can be reduced substantially." By 1985, ERDA anticipates a contribution of 0.8 percent to the total U.S. energy requirement, and a figure of 7 percent has been set for solar energy contribution by 2000. Setting research and development goals, the Energy Research and Development Administration is working to "stimulate and work with industry to develop and introduce, at an early date, economically competitive and environmentally acceptable solar energy systems to meet a significant fraction of the national requirements."

To date, the "expeditious commercialization" intended by ERDA has been subject to acceptance by Congress, public and private industry and by the American public. It is encouraging to note a yearly increase in the Federal energy research and development budget: the House has appropriated for fiscal year 1977 a total of $345 million for the Energy Research and Development Administration, $80 million of which has been authorized for solar energy heating and cooling research and development. Budget authority for the Solar Energy Research Institute—SERI—for fiscal year 1977 is $2.5 million, whereas 2 years ago no funding was available for such an institution whose existence was made possible by serious commitment to the solar energy endeavor by Congress. SERI was established under the terms of Public Law 93-473 and was designed to perform "such research, development and related functions" as as are determined by ERDA to support the national solar energy program.

In addition, steps have been taken to initiate practical implementation of solar energy in housing. HUD has authorized the construction of 300 houses which are designated as solar heating and cooling experiments. Residences in Santa Fe, N. Mex., and Buffalo, N.Y., exhibit the diverse geographies in which solar heating can be employed to service the needs of homeowners. Commercial use of solar heating and cooling includes the installation of systems in buildings in Alberquerque, N. Mex., the community center at Nambe, N. Mex., and an office and laboratory at Las Cruces, where the State University of New Mexico is located. In New Hampshire, the General Services Administration building in Manchester is heated by solar energy. Tax credits have been suggested for homeowners who choose to install and utilize solar energy heating and cooling systems.

Accordingly, I urge my colleagues to look favorably upon proposals which facilitate the implementation of alternate energy sources, whether they be solar heating and cooling, the harnessing and utilization of wind energy, or the utilization of natural steam and other geothermal energy. Research and development in these areas can only prove beneficial: Such energy is "clean" energy, and will not contribute further to the serious damage the environment has already sustained. Moreover, experimentation with different energy forms will create new and interesting jobs, helping, in part, to alleviate the problem of unemployment. Most importantly, however, further research into alternate energy sources will satisfy the demand for energy and will enable Americans to be once again free from the political, economic and social restraints that have bound us for 3 years now in our dependence upon foreign energy sources .

CLEAN AIR ACT AMENDMENTS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. ROUSSELOT. Mr. Speaker, H.R. 10498, the Clean Air Act Amendments of 1976, as reported by the House Committee on Interstate and Foreign Commerce, is a prime example of the "no growth" position which is being pushed hard by the very same advocates who complain vigorously about the problems of unemployment. Section 108 of this bill would, as the Wall Street Journal stated in their Review and Outlook column on July 26, bring about a significant deterioration in local economiies.

It is difficult to understand how these advocates can support a policy of "no growth" and at the same time express so much concern about the problems of unemployment. Implementation of the proposals in the Clean Air Act amendments presently under consideration would bring a stop to activity in the private sector of business which provides so much of the long-range permanent employment in this country.

Under the original Clean Air Act of 1970, ambient air quality standards of two levels were established to insure the health and welfare of the Nation's citizens. They include substantial margins of safety between the actual levels of pollution which would endanger health, and the minimum pollution level standards. We have been successful under the act, Mr. Speaker, in cleaning up our environment and achieving the degree of health and welfare that was our objective when the Clean Air Act became law 6 years ago.

The authors of the new proposed amendments, however, want more than to simply protect the country's health and welfare. In H.R. 10498, they call for a third, pristine, level for ambient air quality standards—a level in which no significant deterioration of air quality could take place.

Further, no nondegradation standards would be imposed on the other two levels already established by the 1970 Act. In practical terms they seek to legislate an unrealistically pure and undefiled environment in return for a "no growth" economy.

A series of studies has been made by industrial and government agencies to assess the potential impact of a policy to prevent such significant deterioration of air quality, which is the intent of section 108 of the bill now before us. The conclusions reached by these studies are generally universal—the cost to the economy would be enormous while the return in terms of substantial improvements in air quality would be minimal.

One large electrical equipment supplier reported that increased capital requirements for production equipment in the electrical industry could range from $107 to $127 billion from 1981–90, and total production costs could be increased by $170 to $250 billion as a result of significant deterioration and best available control technology provisions in the proposed Clean Air Act amendments.

Studies by a group of electric utility consultants concluded that compliance with the present Clean Air Act alone, without the pending non-deterioration amendments, will require expenditures of $37 to $54 billion for the electric industry, and will cost each American household an average of $1,500. Enactment of section 108 would add an additional $8.7 to $18.6 billion in utility costs and from $299 to $673 per household during the same period.

The Federal Energy Administration has estimated that capital costs for the oil industry which would be needed to achieve compliance with section 108 could reach anywhere from $6 to $17 billion for the period 1980 to 1990. Meanwhile, the Environmental Protection Agency says that total costs for nondeterioration compliance will be $11.5 billion.

The advocates of section 108 tell us that nondeterioration is vitally needed in order to protect the pristine quality of many areas of our country. Guarding the health and welfare of the Nation's citizens apparently is not enough. More stringent and protective standards are needed, they say, and should be imposed no matter the cost.

At a time when capital funds for needed capital expansion and job creation are at a premium in our economy, it is difficult for me to see the reason in applying such stringent, restrictive and unrealistic measures. A more prudent approach would be to drop section 108 and permit present, already adequate laws in this area to continue. Short of that, I think Congressman CHAPPELL's approach to defer the implementation of section 108 pending further cost-benefit studies should have been adopted. Here follows the editorial from the Wall Street Journal, July 26, 1976, which describes by imaginative analogy the negative aspects of a "no growth" policy and "no significant deterioration" of air quality rulings:

SENATOR MUSKIE'S NO-GROWTH BILL

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight, on the grounds that this is what Congress seemed to have intended when it passed the law.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no relation to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air quality could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, wants to write into the law what the federal courts have already said is the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureucrats the power to decide what the standard should be in northeastern Utah and what it should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit. Senator Muskie's bill is an unnecessary nontariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plenty of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

There are many other sections of this bill which are of concern to me. The auto emission standards section is one of them. Again, on the basis of studies performed by the Environmental Protection Agency, as well as other groups, it has been found that the high costs associated with complying with the standards required under this section would not be worth the resulting benefit to the environment. Accordingly, I intend to support the Dingell-Broyhill amendment to this section which offers a more sound approach.

Mr. Speaker, no one is against clean air and a healthy environment—we are all interested in protecting the health and well-being of our citizens. We should also be interested in safeguarding the jobs and economic health of our citizens—something that the bill before us tends to disregard. For these reasons, Mr. Speaker, I would urge my colleagues to carefully consider the important economic arguments on this legislation before voting to rob billions from the private sector and cripple the economy.

"MOSE" REECE PASSES

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. MILFORD. Mr. Speaker, the city of Dallas has lost a great friend.

Mr. Frank D. "Mose" Reece, an assistant managing editor of the Dallas Morning News died recently at his home at the age of 51.

Though I did not know "Mose" Reece personally, I have heard of his expertise in journalism, sports, and living. I guess the best tribute than can be paid such a man is what his colleagues have said about him in the newspaper he devoted himself to for 20 years.

I share these remarks with my colleagues:

[From the Dallas Morning News, Aug. 31, 1976]

News Editor Frank Reece Dies at 51

Frank D. Reece, 51, of 13760 Heartside, an assistant managing editor of The Dallas Morning News and a long time Dallas newspaperman, died Monday afternoon in his home.

A native of Oklahoma City, Reece had been an employe of The News since January, 1956, when he left the Daily Oklahoman. He had worked at The News sports desk and was widely known for his golf writing.

Reece was an avid golfer and tennis player and remained active in both sports until his death.

In June, 1966, Reece was transferred to the universal desk of The News, where his main responsibilities included copy editing. The veteran newsman was selected senior news editor in November, 1969, and played a major role in news selection and production responsibility.

Reece was named an assistant managing editor in January, 1974.

During his career with The News, Reece attended several international seminars with other American journalists on fact-finding and goodwill tours.

"Mose" Reece: A Man of Few, Yet Many Words

(By Harless Wade)

Words seem lost in a sea of memories.

Frank Reece is dead.

Those words, telling us that our friend had died at his home, reached The News about 5 p.m. Monday.

There is no way to destroy the memories of Frank Reece.

Yet, as impossible as it seems, those words ended a 20-year friendship with this man we fondly called "Mose" or "Mo" or "Indian."

The world has lost a man. Journalism has lost an expert. And, while he was a modest person, "Mose" would have liked this simple description, because he had intense pride in being a man and a precise journalist.

He was not a complicated individual. He loved life and he lived it to the fullest of his 51 years. He carried a big "needle" which he applied often, yet accepted even a bigger one if he became the target.

Less than 48 hours ago we swapped barbs with him about a recent illness.

When Reece returned to his editor's desk, following a hospital stay of several days for tests, we greeted him:

"What's it like being an old, over-the-hill man?"

He leaned back in his chair, removed his granny glasses, gave us his smile and fired back:

Listen, fat boy, I'm so washed out that I can still beat you on the golf course today, tomorrow or 10 years from now."

He probably would have, too. But, there will be no tramping along the fairways, as we did hundreds of times. There will be no more partnerships in our annual trip to Commerce, Texas, for a 54-hole tournament.

During recent months, Reece had toured Ecuador and Ethiopia on behalf of The News.

Reece was a Methodist and had been active in the Golf Writers and Texas Sports Writers Associations. He also was a veteran of World War II.

He is survived by his wife, Joan; a son, Evan Reece; a daughter, Leslie Reece; a sister and a brother.

Funeral services were pending late Monday with Rhoton-Weiland-Merritt Funeral Home in Carrollton.

Sports was a way of life for Frank, who cherished competition as though it were part of the Indian heritage he received from his mother, who was born in Oklahoma Indian Territory.

He was a fierce competitor, one who excelled at almost any endeavor—pool, table tennis, crossword puzzles or flipping pennies to a line.

His office colleagues, his wife Joan, son Evan and daughter Leslie, had cause to be proud of his skills.

Frank came to The News Jan. 11, 1956. He reached the sports desk exactly eight months and one day before this writer. For the next 10 years we worked only a desk apart, sharing a love for golf and games.

While sports was his first love, he accepted a promotion to the universal desk in the summer of '66. In less than eight years, he advanced through the ranks of editing and was named an assistant managing editor on Jan. 2, 1974, a post he held at death.

From his editor's desk, he was scornful of anyone or anything that was inefficient. It mattered not whether you were a prize-winning writer or a cub reporter; he was quick to bring his wrath down when the situation demanded it. He earned your respect.

One of his peeves centered around sports terminology. When a reporter used the word "runner-up" he would bark: "It's runners-up, runners-up."

A veteran of the World War II Air Corps, Frank met and married Joan in Oklahoma City. She is a native of England. After a stay in Oklahoma City, where he was born and educated at Oklahoma City University, he moved his family to Dallas, a city he came to love.

No more and no less, perhaps, than those in his fraternity who came to love him.

THE VALLEY

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. CORMAN. Mr. Speaker, John D. Weaver, the west coast editor of Travel and Leisure magazine, is a close and respected friend of many years.

Recently, he published an article on the San Fernando Valley where the 21st Congressional District lies. This colorful and descriptive feature remedies the misimpression that the valley is a "flat, cheerless jumble of tract houses, real estate offices, discount stores, and service stations." Mr. Weaver depicts the valley as it truly is—an attractive, vibrant, and civic-minded area.

As Hollywood has its movie stars and New York its skyscrapers, the valley has its natural and scenic beauty, the Santa Monica mountains.

I commend this article as excellent reading to my colleagues:

The Valley

(By John D. Weaver)

After living for twenty-five years on the southern slopes of the Santa Monica Mountains, looking out over metropolitan Los Angeles from the Civic Center to the sea, my wife and I moved to the other side of the mountains, where we enjoy a magnificent view of the San Fernando Valley. We are only six miles from our old place, but if we had gone to live among naked savages in some Stone Age jungle, our Beverly Hills friends would hardly have been more astonished. We had moved to The Valley.

It was as foreign to us as to our friends. We had written it off as a flat, cheerless jumble of tract houses, real estate offices, discount stores, used car lots, pet hospitals, franchise food outlets, supermarkets and service stations. Now we're discovering its stately homes, its attractive shopping centers and its diverse cuisine. Cheek-by-jowl with the taco stands and pizza parlors we've found some of Southern California's finest restaurants.

We've also had fun exploring The Valley's proliferation of eating places that owe more to Walt Disney than to Brillat-Savarin. We've eaten at a turn of the century London pub, a Scottish country home, an English railway station and a Chicago cabaret of the 1920s. The most amusing put-on is the 94th Aero Squadron in Van Nuys, alongside the airport. When you drive up to the phony French farmhouse supposedly taken over by American fliers in 1918, you half-expect to see Colleen Moore weeping over an empty chair in the officers' mess. It's Lilac Time revisited.

Pilgrims who come from far places to have a look at Hollywood find that it has now made the San Fernando Valley its home. Columbia has left its historic acreage in Gower Gulch, site of the first Hollywood motion picture studio, and moved in with the new corporate owners of Warner Bros. Universal's 420-acre amusement park is one of the film industry's most active studios. Its tours offer outlanders a chance to ride around the back lots, visit sound stages, watch stunt men at work, observe the parting of the Red Sea and come face to face with the mechanical shark featured in *Jaws*. On a clear day you can see Telly Savalas.

Nowhere on The Valley side of the Santa Monica Mountains are there curbside card tables where hawkers sit beneath umbrellas peddling guides to the movie stars' homes. But it was here in an oak-shaded canyon that Gable and Lombard once shared a pastoral privacy; and it is here that Jack Oakie shows up at Northridge parties and (whenever they are in town) Bob Hope relaxes at his Toluca Lake spread and Shirley McLaine hides out on a secluded knoll in the hills of Encino.

The Valley is where Walt Disney built his better mousetrap, where Johnny Carson holds forth at NBC Studios, where commuters travel freeways patrolled from a helicopter by Francis Gary Powers, the recycled U–2 pilot. With a population around 1,250,000, it would rank as the country's sixth largest city of it were free. It isn't.

After some political shenanigans, fictionalized in the movie *Chinatown*, water was brought to The Valley in 1913, and two years later—as had already happened to the sober, God-fearing town of Hollywood—it was gobbled up by the city of Los Angeles. Sprawled across some 220 square miles, it is broken into more than two dozen different communities, one of which is named for a British peer brought up by apes who called him Tarzan ("White Skin").

Burbank and San Fernando ("The Mission City") have held onto their independence, but the rest of The Valley is a municipal stepchild of Los Angeles. Such communities as Tarzana, Encino, North Hollywood, Van Nuys, Sherman Oaks, Studio City, Woodland Hills and Northridge are represented in City Hall by an undertaker, an insurance salesman, a tax lawyer, an economist, a former fireman and a saxophonist who once played for Benny Goodman and the Dorsey brothers. The area they represent is more populous than Boston (and nearly five times as large), but it has no theater, no symphony orchestra, no art museum.

Boston had been a bustling seaport for almost 140 years before civilized man first laid eyes on this valley of the *encinos* (oaks). Anyone setting out to explore it today would do well to follow the path taken by the Spaniards. They camped in what is now downtown Los Angeles, rode west past the black pits of *brea* (tar), still bubbling today behind the County Museum of Art, and followed an Indian trail north through the canyon which was to become Sepulveda Boulevard. On Saturday, August 5, 1769, they came upon "a very pleasant and spacious valley," where they were greeted by 200 or so friendly, docile Indian villagers.

"Each of them brought some food with which to regale us," noted one of the expedition's diarists, "and we reciprocated with beads and ribbons."

Today when you head north on the same canyon, taking either Sepulveda Boulevard or the San Diego Freeway, and turn off Mulholland Drive (it was named for the city engineer who brought Owens River water to Los Angeles), you get some idea of how magnificent The Valley must have been before it was civilized. When you descend to its floor you are greeted by friendly natives who are still eager to ply you with food in exchange for credit card beads and ribbons.

Before sampling The Valley's fare, however, I'd suggest a leisurely spin along Mulholland Drive. Much of it has been savaged by bulldozers, but wildlife still huddles precariously in what is left of the chaparral, sharing it with the likes of Marlon Brando and Charlton Heston.

In the late afternoon, when a deepening purple stain spreads across the San Gabriel and Santa Susana Mountains to the north, you may have to brake suddenly to avoid a frightened mule deer or a foraging coyote.

"It used to be so beautiful," elderly Angelenos recall, and if you're of a mind to listen, they'll tell you stories of Sunday excursions in the late Twenties and early Thirties, when families used to drive out to The Valley to stock up on fresh eggs, tomatoes, corn, squash and watermelons. Today a produce stand on Hayvenhurt near the westbound traffic offramp of the Ventura Freeway survives as a reminder of The Valley's agricultural past.

It has been industrialized (automobiles and aerospace), but two-thirds of its 607,000 workers aren't manufacturing anything. They're busy selling goods and services (including those of government). In a single block of Ventura Boulevard, The Valley's main east-west artery, the burghers of Sherman Oaks can sign up for karate lessons, get fitted for a wig, sit through a double feature, shoot pool, enroll in a school for travel agents, sell their old Persian rugs, buy a piece of Indian jewelry and eat a hot dog while their Little League shortstop works out in one of the batting cages operated by the proprietor of Flooky's Burger Basket.

At the end of World War I, when Edgar Rice Burroughs followed Tarzan of the Apes to Hollywood, he was able to pick up his 540-acre Tarzana ranch for $125,000, the price he would have to pay for one of the finer three-bedroom-and-pool homes in today's Tarzana (population: 70,000). Despite development, Tarzana still has its share of The Valley's 20,000 horses. Most of them are stabled farther west, out Calabasas way, but it is not at all unusual in many areas to pass straight-backed young riders, jeans fashionably patched and long hair flying, loping gaily along the roadside.

The Valley's explosive growth dates from the end of World War II, when acres of new tract homes were taken over by civilian soldiers who had passed through Los Angeles on their way to the South Pacific and decided to settle down within its palm-shaded borders once the fighting was over. They spent the years of the Eisenhower Presidency fencing in backyards where ranchers used to harvest lima beans and walnuts.

In the 1960s, when the middle-aged warriors began to make good, they bundled their families off to Brentwood and Pacific Palisades, leaving The Valley to young couples who had just married, not-so-young mothers whose marriages had broken up and old folks who had retired. Valley parks became a meeting ground for diaper rash, visitation rights and hardening of the arteries.

The Valley is a patchwork of small communities, each with its own chamber of commerce, where you can pick up maps and brochures. Each community also has its own shopping center. None is more charming than Encino's or more impressive than Canoga Park's Topanga Plaza. For an afternoon browsing, however, nothing beats a leisurely drive along Ventura Boulevard, especially if you like to poke about in antique shops.

On this side of the Santa Monica Mountains, we find, it is hotter in summer and colder in winter (we've been reintroduced to frost), but for us The Valley's climatic shortcomings have been offset by its old-fashioned, small town friendliness. At the Beverly Hills branch of the Bank of America, I used to risk a coronary racing to cash a check before the big glass doors closed at three o'clock. Our Valley branch, I was delighted to discover, has rear-window service from 9 to 10 each weekday morning and from 3 to 5 in the afternoon. The last time I recall seeing anybody go to the back of a bank to cash a check was when Calvin Coolidge was President and my father was wearing plus fours. The bank was on Main Street in a northern Virginia town of 2,400.

"The pace is more leisurely on this side of the mountains," says Dorothy Denny, publisher of the *San Fernando Valley* magazine, who defected from the south side of the Santa Monicas some years ago. "I'd never go back."

Nor would we, not on this lovely evening when deer are grazing just outside our fence, secured from harm by a local ordinance forbidding the firing of a gun within the city's limits. Hunters used to be permitted to stalk them with bows and arrows, but our friend, the late City Councilman Bob Stevenson, put a stop to that. Now they are so much a part of our daily life that neighborhood dogs no longer bark at them. They live in peace with us and we with them. In The Valley, we both have found, it is still possible to search out a quiet place where we can be left alone.

A GERMAN-AMERICAN PATRIOT

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. DELANEY. Mr. Speaker—

> The object of my greatest ambition is to render . . . all the services in my power and to deserve the title of a citizen of America by fighting for the cause of liberty . . .

These were the words of the man who would become drillmaster and inspector general of our Continental Army as he offered his services to Gen. George Washington. This Friday, September 17, marks the 146th anniversary of his birth in 1730 and it is only fitting that we join our fellow Americans of German descent in celebrating the dedication and accomplishments of our countryman.

Baron Friedrich Wilhelm August Heinrich Ferdinand von Steuben joined the cause of liberty in February 1778 in the midst of our Continental Army's most desperate winter at Valley Forge. He broke with the tradition that leading troops in drill was beneath the dignity of an officer and a gentleman. Selecting a model company of 100, he personally trained them in marching, in the manual of arms, in deploying into columns, and in loading precisely on command. Then he used this cadre to instruct others and soon created an urgently needed American corps of sergeants—perhaps the most remarkable achievement in rapid military training in the history of the world. Through it all, he maintained the respect and admiration of his men. One anecdote relates that when a company von Steuben was drilling failed to execute a proper maneuver, the Baron:

> . . . began to swear in German, then in French, and then in both languages together. When he had exhausted his artillery of foreign oaths, he called to his aides, "My dear Walker and my dear Duponceau, come and swear for me in English. These fellows won't do what I bid them."

A good-natured smile went through the ranks and the maneuver was properly performed. Until von Steuben became inspector general, the Continental Army lost from 5,000 to 8,000 men a year, but 12 months after he took over, that number was reduced to an incredible 3. The Americans came out of Valley Forge under von Steuben's leadership with a strength in morale and discipline, and a tactical expertise, that they had never before so proudly manifested.

And when General Washington relinquished his own command in December 1783, he deliberately made it his last official act to write a letter to the Baron commending his invaluable services to the United States.

Mr. Speaker, Steuben became an American citizen by act of the New York Legislature in July 1786. After his retirement and until his death in 1794, he made his residence in New York and was one of the most popular figures in both the city and the State. In 1787, he was actually elected a regent of New York University.

I am privileged to have in my congressional district many members of the Steuben Society of America and this coming Saturday they will be holding their 19th annual Steuben Day Parade. The society, like its namesake, has a long and illustrious history of outstanding contributions to our country. I salute them as I salute the memory of Baron von Steuben—a heartfelt "prosit" to all our German-American friends.

THE ECONOMIC WAR AT SEA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. McDONALD. Mr. Speaker, during the last several decades, observers in the West have watched the Soviet fishing fleet grow from small coastal fleets to a worldwide operation which has decimated traditional western fishing waters. We have watched their merchant marine grow to a top position and cut into traditional western freight and passenger line routes and undercut western shipping. Concurrently, we have watched their navy rise to contend with the U.S. Navy for the No. 1 spot. The U.S.S.R. is now a top maritime power and is proceeding ruthlessly to consolidate its position. Mr. Thomas W. Harrelson recently wrote an article in the Kings Pointer for summer 1976 which outlines in an excellent fashion the struggle for control of the seas from a merchant marine point of view. I commend it to the attention of my colleagues:

THE ECONOMIC WAR AT SEA

(By Thomas W. Harrelson)

A deadly war is being waged on the oceans of the world. It is a war in which the guns of our beleaguered Navy are useless, a war more difficult for the layman to understand than Angola or even Vietnam, a war which could be deadlier than any attack yet mounted against the United States, yet a war which a majority of our citizens do not know is underway. This war consists of an economic attack by the Soviet Union aimed at the jugular of the "free world"—our international trade.

The primary industrial nations of the free world (the United States, the European Economic Community, and Japan) depend on world trade not only to maintain their present standard of living but for their very survival. None of these major industrial nations is self-sufficient in raw materials. Japan is essentially a factory, importing all raw materials, processing them with labor and capital, and exporting the finished product. Western Europe depleted the majority of its resources rapidly after the industrial revolution began and now depends on imports to sustain its economy. The United States, a country rich in raw materials for approximately its first 170 years, is now a raw materials deficient nation. The 1973 report of the National Commission on Materials Policy indicates, that the United States must import 100% of its tin, rubber, platinum, mica, strontium, cobalt, asbestos, chromium; over 75% of its tantalum, aluminum, manganese, fluorine, titanium, nickel; and the list continues ad infinitum. We even import 35% of our iron ore and, unless forceful action is taken today, by 1985 we will be dependent on imports for 50% of our oil. It is estimated that, just in the area of primary mineral supplies, we will need to import $100-billion worth before the year 2,000 (and that figure is in 1971 dollars).

On the other side, the Soviet Union is larger than any other nation and is self-sufficient in all but two commodities, tin and rubber. It will be many decades before Russia reaches the present depletion position of the United States.

In broad brush summary, the United States has become an island nation while the Soviet Union remains a continental nation.

THE BATTLEGROUND, THE OPPONENTS, THE STRATEGY

Essentially, this economic war is being fought on the shipping lanes of the entire world, with the concentrated action on the lanes between the resource-poor industrial island nations and the resource-rich developing nations. The primary opponents in the war are the market economy nations of the West (headed by the United States) and the COMECON nations (headed by Russia).

As for the strategy, it apparently was during the administration of Nikita Khrushchev that the Soviet Union began to appreciate the message Marx and Lenin tried to convey—that capitlaism is its own worst enemy. Lenin said of capitalists that ". . . they will fight each other to sell us goods cheaper and sell them quicker . . ." Alexander Solzhenitsyn stated in Washington on June 30, 1975, that ". . . something which is almost incomprehensible to the human mind is the West's fantastic greed for profit and gain . . ."

The question before the Russians was how best to use this theory. Looking at the United States, they saw a raw materials deficient nation dependent upon ocean transportation to import raw materials and export manufactured goods. In such a simplistic presentation, the obvious answer was on two batlegrounds (the oceans and the raw material producing countries) and with two strategies (seapower and economic regionalism).

The role of the Soviet Union in fomenting economic regionalism among the raw material producers of the Third World is too complex to be discussed within the confines of this paper. The concern here is with seapower as a weapon in economic war.

Seapower does not derive from naval military forces alone. It is inextricably tied to the quantity and quality of the merchant marine fleet. It is merchant vessels which carry 98% of the imports and exports around the world. It is only the national flag merchant vessels which can be relied upon to maintain stable and reasonable charges for the carriage of national products, to carry supplies to troops in battle overseas, to reduce a nation's balance of payments, to insure independence from the political vagaries of foreign flag controlled vessels, and to act as an instrument of influence building. A nation dependent upon world trade without a merchant fleet is at the mercy of those foreign countries carrying its products. The Soviet Union has recognized these basic tenets of seapower, which apparently the United States has forgotten.

Russia had two alternative uses of seapower—military vessels, to interdict lines of supply, and merchant vessels, to control the lines of supply.

With the first alternative out of the question, the second was the obvious choice. All the Soviets had to do was build a merchant fleet, introduce it into Western trade routes, and charge lower freight rates. The capitalistic greed factor would shift cargo from Western vessels to Soviet vessels to take advantage of lower transportation charges. The Western fleets would be driven into bankruptcy, leaving the island nations at the mercy of the survivor fleet—the Soviet Union's. In effect, we would be paying them to vanquish us!

THE IMPLEMENTATION

In 1950 the United States had about 1900 vessels totaling 22 million gross tons and carrying 39% of U.S. trade. The Soviet Union had 525 vessels (including 84 American lend lease vessels) of 2.5 million tons and carried about 72% of its trade. By 1973 the United States fleet had dropped to about 1,000 ships of 12 million tons, while the Soviet fleet had increased to 2100 vessels totaling about 15 million tons. The United States fleet carried about 5% of our trade in 1973, while the Soviet fleet carried in excess of 50% of its rapidly expanding trade, although an exact figure is not available.

In the early Sixties the Soviets began their slow penetration of the Western trading patterns, but very few Westerners foresaw what was happening. In 1966, Captain J. W. Clark, the president of Delta Steamship Line, stated that "The United States of America and the free countries of the Western Hemisphere are today confronted with the prospect of . . . partial or total economic isolation . . . The sinister intrusion of the communists in the traditional trading patterns of the free nations of the Western Hemisphere, motivated by political considerations, and coupled with the tremendous expansion of communist flag shipping with the ultimate goal of dominating the world's sea-lanes, offers to the nations of the Western Hemisphere a disturbing threat to their collective security."[1]

No heed was paid to the warning and perhaps it was not stated publicly enough. Also we were distracted by such crises as the Cuban missile confrontation, Vietnam, the Middle East, the oil embargo, and now Angola.

Former Soviet Maritime Minister Viktor Bakayev set an expansionary goal of one million tons annually until 1980, when Russia would have 23 million deadweight tons of shipping. This would appear to be a firm goal, as the five year plan that ended in 1975 called for a 40% increase in tonnage. This fleet is modern, with an average age of 10 years versus the United States average of 20 years, and technologically sound, as the emphasis is being put on container ships, roll-on roll-off ships, and bargeships. By this year the Russians were expected to have containerships with a collective capacity of 33,000 containers. Their share of the world RO–RO tonnage rose from 2% to 10% in only two years and vessels now under construction for the Soviets account for 31% of the world's RO–RO new buildings. In late 1975 Russia purchased the shipbuilding plans for the technologically modern "Seabee" barge-carrying ship from Lykes Brothers Steamship company in the United States.

The Soviets have placed more and more tonnage in the crosstrades (i.e., their vessels are carrying cargoes between two foreign nations rather than carrying their own trade) and it is paying off handsomely. The National Maritime Council of the United States computes that, for every dollar paid to a national flag line, 71¢ remains in the nation, while 29¢ goes to foreign nations. For every freight dollar paid to a foreign flag vessel the reverse is true, with 71¢ going to the foreign nation and only 29¢ remaining in the cargo exporting nation.

THE CURRENT STATUS

In 1974 and early 1975 Western shipowners started to feel the impact of the Soviet intrusion. In testimony before the Senate Commerce Committee's Merchant Marine Sub-Committee in April 1975 Edward Heine, president of United States Lines, acted as spokesman for the American Institute of Merchant Shipping (AIMS), an association representing the majority of American flag shipowners, Mr. Heine related the actions of the Soviets.

In 1970 the Far Eastern Shipping Company (FESCO), which is the largest division of the centrally controlled Soviet merchant fleet, did not have a single container-ship. By April 1975 they had a sailing every other day from the West Coast of the United States on six different trade routes to the Far East, without calling at any Russian ports. Their rates between the USA and Japan were 10% to 40% below those of the national flag carriers. For example, on electrical commodities, the national flag rate was $49.50 but FESCO charged $43.50. The national flag lines dropped their rates to $45 and FESCO countered with a rate of $38.25.

In early 1975 FESCO and the Philippines announced a joint venture to enter the trades between the Philippines, Europe and Japan with 15% lower rates, and between the Philippines and the United States with 10% lower rates.

In 1970 Polish Ocean Lines had no sailings between Europe and the United States. By 1975 they offered 10,000 containers annually in 18 different vessels and ". . . monopolize even the carriage of U.S. mail . . ."[2] with rates up to 40% below national carriers.

In 1970 the Baltic Atlantic Lines (Russian) had no sailings between the United States and Europe. By 1975 they operated 12 vessels with weekly sailings from both the Atlantic and Gulf Coasts of the United States.

Mr. Heine went on to point out that, if such practices were allowed to continue, many of the present national carriers would be forced out of business, jobs would be affected, and some shippers would have to pay high rates to subsidize those cargoes being carried as cut-rate loss leaders by the predatory carriers.

The February 1976 issue of American Maritime Officer reports that FESCO now operates about 250 vessels in the Pacific area with 18 extending their voyages into the U.S. Gulf. FESCO announced in January 1976 that it would begin service to the U.S. East

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[1] J. W. Clark, Economic Regionalism and the Americas, Hauser Press, New Orleans, 1966.

[2] Heine testimony before Congress, April 11, 1975.

Coast with five vessels of about 15,000 DWT each and all built within the past five years. It is further reported that in the North Europe to Great Lakes service the Soviets are cutting rates by 25%, on the North Europe to West Coast South America service by 30%, and North Europe to Australia by 40%.

In Dutch ports the COMECON vessels are handling over one million tons of cargo a month, an amount equal to 75% of the cargo handled by Dutch vessels in their own ports. These fleets have already captured 35% of the trade between Northern Europe and the Mediterranean.[3] Further, the Russians are now handling almost 15% of the trade between Germany and the United States.[4]

Capitalistic greed continues to be the Soviets' ally. The British Shippers Council (an association of exporters) recently stated that they felt ". . . the first loyalty of the individual shipper is to his company and to the promotion and preservation of its overseas markets."[5] By thus taking the short-range view of lower freight rates today, the shipper is leaving himself at the mercy of the surviving fleet, which then will be in position to quickly boost rates when its competition has been vanquished.

DEFENSE AND COUNTERATTACK

Whether deliberately planned or not, the end result of the Soviet policies on the oceans of the world could be the elimination of free world shipping to such an extent that the non-communist nations would be at the mercy of the Soviet Union.

Yoshiya Arihoshi, the chairman of Nippon Yusan Kaisha, told a recent *Seatrade* conference in Hong Kong that: "The basic principle that the sea-borne trade should be free and unobstructed is being abused and exploited by the Russians. Any reasonable person will agree that it is time that we, shipping men of the free world, should take immediate steps to protect ourselves."[6]

In a free market economy, what steps can be taken to defend against economic attack? Obviously detente with the communist world must be pursued, but it should be tempered with reality and hard bargaining.

The problem must be defined, the American people educated to the danger, and action taken. Long-range solutions are needed and some suggestions are the gathering of related agencies under a central department of international transportation, establishment by Congress of a national maritime policy and goals to achieve same, a similar national policy on third world relations.

But these are *long term* measures and the immediate problem will not wait for their implementation. Some short range actions should include: appointment of an "Advisor to the President for Maritime Affairs" at cabinet level rank with a seat on the National Security Council; a maritime "plank" in the platforms of both political parties; a cargo preference law requiring 40% of all cargo to be transported in U.S. flag vessels; a policy encouraging bilateral shipping agreements; variable CDS rates to meet world conditions; a permanent 10% investment tax credit; overhaul of our tax laws to provide incentive for U.S. flag vessels; a maritime service reserve program for federal and state maritime academy graduates; an expanded mission for Kings Point.

A war is being waged on the oceans of the world—an economic war. It is hoped that thought about the COMECON objectives and that the reader will take such action as is available to him to stem the "red tide."

Our values, our desires, and perhaps our very lives, depend upon secure sea transpor-
the points presented here will engender
tation. We cannot afford to lose the war; we must take considered, forceful action to reverse the tide and we must take such actions soon.

FOOTNOTES

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[3] Seatrade, January 1976, p. 85.

[4] U.S. News and World Report, January 26, 1976, p. 49.

[5] International Transport Journal, January 30, 1976.

[6] Container News, January 1976.

TRIBUTE TO HON. WILLIAM L. HUNGATE OF MISSOURI

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. EVINS of Tennessee. Mr. Speaker, permit me to take this means of paying a brief but sincere tribute to our colleague, William L. Hungate of Missouri, who, at the end of this term, is retiring from the Congress.

Many friends of Bill Hungate regret that he has elected not to be reelected this year. The Congress, Missouri, and the Nation will miss him immensely.

No doubt there will be other learned and scholarly Members in the future of this body. No doubt there will be new Members who bring with them personal qualities to be admired. But, Mr. Speaker, there wil not be another Bill Hungate.

The gentleman from Missouri has added lustre to the Congress.

His wit has relieved the tedium of our discourse.

His charm has enhanced our sense of fellowship.

Congressman Hungate has been a Member of the House of Representatives since 1965. During this period he has shown himself to be not only a workhorse but, in the best sense, a showhorse as well—an example of the best that the Congress has to offer. He is able, talented, genial, and skilled legislator.

Two years ago Bill Hungate demonstrated to the whole Nation on television those qualities which we in the Congress have come to admire in him.

During that dark hour when the Judiciary Committee was deciding on the impeachment of a President—a painful but necessary action under the Constitution which later was obviated by the resignation of Richard M. Nixon—Congressman Hungate gave us touches of his humanity and humor which made that episode bearable for the Congress and the Nation.

It is on the Judiciary Committee that our colleague Bill Hungate has made his greatest contribution to the work of the Congress. He has helped demonstrate anew that our Constitution is a viable, living, workable document. As chairman of the Subcommittee on Criminal Justice, Bill Hungate has served well our Nation.

He has also made a valuable contribution through his work on the Committee on Small Business. As chairman of the Subcommittee on Activities of Regulatory Agencies, a position he has filled with distinction, he has had oversight over our regulators.

I am told that Congressman Hungate intends to return to the practice of law in his hometown of Troy, Mo. I have no doubt that Troy can use a lawyer of his talents—however, I hope the judges there are prepared for his brilliance, his wit and his persuasive powers.

He tells us he is going to play his piano "in another house." Like that other famous piano player from Missouri he will be leaving this town with a song in his heart and an audience in his pocket—an audience that would like many more encores. What is there about the State of Missouri that produces these great high-spirited piano players and statesmen?

Mr. Speaker, as I look back upon my own service in the Congress I shall always remember with pleasure my association with Bill Hungate. I am sure I speak for all my colleagues on both sides of the aisle when I wish Bill Hungate good health, success, and happiness in his future endeavors.

TV VIOLENCE

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. RUSSO. Mr. Speaker, the subject of violence on our Nation's television screens has been the topic of serious scholarly scrutiny by psychologists, sociologists, media experts, and other interested parties. Most informed observers believe that television has a substantial impact on viewers, especially the younger generation. Far too often, the national press reports serious crimes that have remarkable similarity to fictional crimes committed on television. In addition, the gratuitous use of mayhem to entertain 210 million Americans often serves to desensitize us in our own perception of violence.

As a new member of the Communications Subcommittee I regret that I was unable to attend and participate in the public hearings on television violence last month in Los Angeles. Although I have limited expertise and experience in this field, I am most interested in the relationship between televised violence and aberrant social behavior. I hope to pursue this interest in the subcommittee.

I am pleased that the National Citizen's Committee for Broadcasting has been studying this issue with the help of Mr. Roger Wagner of Bi Associates and the computerized monitoring techniques for measuring incidence of violence. Former Federal Communications Commissioner Nicholas Johnson has made some cogent comments on this matter in the most recent issue of Media Watch. Mr. Speaker, I would like to share these views with my colleagues:

NCCB Monitors Advertiser Support of TV Program Violence in Prime Time

(By Nicholas Johnson)

We especially urge . . . independent research groups to undertake regular analyses of television program content for the purposes of ascertaining whether a reduction in televised violence is being carried through . . . —Presidential Commission on the Causes and Prevention of Violence (Eisenhower Commission, 1969).

To monitor and publish the violence ratings . . . might be to have the writers, producers, networks, stations, and advertisers much more aware of what it is they are writing, producing, buying, and showing, and it would, it seems to me, be very useful *to the Congress to know whether a particular network or station or advertiser or producer is producing extremely violent programs. I think it could have a saluatary effect.*—Dr. Jesse L. Steinfeld, Surgeon General of the United States in Testimony before the United States Senate (1972).

There is little that can or need be added to the research and rhetoric of the last 25 year regarding violence on television.

There is a great deal yet to be added by way of restraints and results.

The National Citizens Committee for Broadcasting's profiles of television violence hold out the greatest likelihood to date of producing those results.

The National Citizens Committee for Broadcasting, in cooperation with BI Associates, is now prepared to release a specialized series of reports on prime time television violence. These reports are designed to meet the growing need for clear, continuing and accurate information on television violence by advertisers, broadcasters, program producers, government agencies and the public. A unique aspect of these reports is our ability to produce profiles and summaries on a regular basis and for any specified number of weeks. Most major studies of television violence have involved only a single test week or a minimal number of weeks. Additionally, most studies have been released many months after the data has been gathered, making it difficult for industry groups or the public to act on the information in a timely manner. The NCCB reports, however, are available three working days after the close of each week.

Six monitors are employed in the prime time study. All monitors work under controlled conditions and direct supervision. All monitors have worked previously in the BI spot monitoring program before beginning training in the violence project. All material on violence is gathered during the actual airing of the program, with each monitor preparing signed monitor sheets of all recorded data. Each monitor then key punches the data for computer entry.

The monitors were carefully trained with the assistance of research specialists Dr. Nancy Signorielli and Michael F. Eleey. The training took place over a two week period. In the first week, Dr. Signorielli conducted two on-the-site training sessions with the monitors, instructing them in the basic definition of violence to be employed. As stated earlier, our model for the definition of violence is similar to that developed by Dr. George Gerbner and his associates at the Annenberg School of Communications at the University of Pennsylvania in his ongoing analyses of television drama. It must be pointed out, however, that the Gerbner studies involve much more in-depth, off-the-air analysis from videotaped material. The live, off-the-air monitoring of the NCCB technique required adaptation of Gerbner's methodology to our unique circumstances. Dr. Signorielli and Mr. Eleey, who have been involved with the development of the Gerbner studies since their inception, acted as independent consultants in this process, and it must be pointed out the NCCB project cannot be considered a duplication, extension or association of the Gerbner studies.

What these profiles provide, quite simply, is a current, regular monitoring and computer printout of incidents of violence in prime time network television. This enables us to make available a ranking of advertisers, shows, and networks from least to most violent. We anticipate that this information will make it possible for advertisers, ad agencies, networks, producers, shareholders, viewers and consumers—whoever may be interested—to take whatever action they think most appropriate based upon the best factual information available.

Without this information any effort to deal with the impact of television violence upon crime and violence in America becomes little more than hand wringing by critics and good intentions by industry. With these profiles we now know, for the first time, who—by name of advertiser, network and program—is responsible for the problem.

PRIOR RESEARCH RESULTS

The Surgeon General of the United States, Jesse L. Steinfield, testified before the Senate in 1972: "There comes a time when the data are sufficient to justify action. That time has come."

There have been by now literally hundreds of studies documenting the adverse impact of televised violence. Television encourages more violent behavior in children immediately after watching violent programs. It encourages more violent behavior in their later years. It desensitizes the audience to the cruelty of real violence in society, making confrontation and combat an acceptable model of social behavior. For heavy viewers, it encourages withdrawal, distrust, insecurity, and unwarranted fear of crime in one's own life—the preliminary stages of a frightened, totalitarian society.

One of the most dramatic consequences of televised violence is the reenactment of crimes. There are, by now, dozens of instances in which a crime shown on television one night is reported on the police blotter the next.

Television has become a College of Criminal Instruction. If only college credit were offered, it could become a back alley "open university," with its courses in how to commit arson, rape, murder, burglary, and other forms of human depravity.

Recent examples of crimes copied from TV have included a nine-year-old's use of ground glass in the family stew, a seventeen-year-old's reenactment of a televised rape and murder by bludgeoning the victim's head and then slashing her throat, and the nine-to-fifteen-year-old's real life re-run of the "Born Innocent" rape scene.

GOVERNMENT AND CITIZEN CONCERN

Government has been studying the problem since Senator Estes Kefauver's hearings in 1952. Senator Dodd held hearings in the early 1960's. The Eisenhower Commission studied the impact of television upon violence in the late 1960's. By 1971 NIMH could publish a bibliography of some 550 research works on the subject. The Surgeon General's Report, undertaken at Senator Pastore's urging, came out in the early 1970's. Representative Lionel Van Deerlin, who heads the House Communications Subcommittee, will be holding violence hearings August 16–18 in Los Angeles, exploring the extent to which network executives are instructing producers to insert gratuitous violence in scripts to increase ratings.

The outcry has involved dozens of private groups as well. Educators, psychologists and psychiatrists, pediatricians, and most recently, the American Medical Association, have called for action. Doctors see the impact of TV violence on youth as a significant health hazard. Religious leaders of virtually every denomination have spoken out. The academic, research and foundation communities are involved. Most major magazines and newspapers in the country have written about the issue.

THE NCCB ROLE

In March of this year the NCCB helped publicize, through its newsletter, *Media Watch,* a report of some year-old data regarding the advertisers most associated with violence in television programming. As it happened, McDonalds sponsored the most violence in that particular study.

Based on the reaction to that report—by McDonalds, advertising agencies, other advertisers, our members and other consumers—we drew two conclusions. (1) Making such data available is a constructive role for a media reform organization like the NCCB. (2) To do the job adequately we needed much more highly refined techniques.

ADVERTISER RESPONSE

An advertiser must be responsible for the conduct of its sales force. If a door-to-door salesperson broke into your home by violent means to make a sales pitch you would likely hold the manufacturer criminally responsible. In television selling it is the program that is the salesperson, entering your home only to empty out its satchel of product commercials all over your livingroom rug. If that program gains entry by means of violence—all too common as a cheap gimmick for getting audience attention—the manufacturer must, and will, be held accountable for it.

We are heartened at the heightened sensitivity of advertisers and ad agencies to the problems of televised violence. General Foods—one of the nation's largest TV advertisers—has gone on record with its opposition to violence, J. Walter Thompson—one of the world's largest and most prestigious ad agencies—has publicly advised its clients to avoid violent programming.

It is in that spirit that NCCB offers its report.

We are not trying to subject this country's broadcasting industry to unnecessary government regulation, bankruptcy, censorship, nationalization, or harassment. We are trying to provide it every incentive to offer us more of the potential that broadcasting could fulfill.

We know there are responsible broadcasters who are concerned about the problems created by television violence. To them we say, "If you sincerely want to be able to evaluate the programs offered you on the basis of their violence, here is a service that makes that possible."

To the responsible advertisers and ad agencies we say, "If you want to know how you stack up, here are the facts."

PUBLIC PARTICIPATION

And to the outraged public—shareholders, consumers and viewers—we say, "If you want to know who's paying for that violent programming your child is watching, here are their products, names and addresses."

CENSORSHIP

Finally, a word about censorship. We are advocating neither the abolition of all violence from American television, nor censorship of any kind, public or governmental. An "X" rating on a movie doesn't prevent anyone from producing or viewing "X" rated movies. Our ranking of the violence in TV programs, and by advertisers, will not prevent all advertisers from having their commercials appear in such programs or prevent viewers from seeing them. We do not believe that television should be limited to a pollyanna view of the world—even for children. Violence may be necessary to an occasional television program of significant artistic value; it may be essential to an understanding of the day's news events.

CONCLUSION

What we do believe is that there can no longer be any doubt that there is more violence in American television than there needs to be, for either artistic or commercial purposes. There is no longer doubt that it is doing us grave injury as a people. Information about its location, extent, and sponsorship can, we believe, be a constructive service to all who care about this national tragedy.

SEPTEMBER NEWSLETTER

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. AMBRO. Mr. Speaker, several times during each session of this Congress I have sent newsletters to my constituents in New York's Third Congressional District on Long Island. I have found the newsletter an invaluable device for reporting to these people on my activities in Washington and for soliciting their views and opinions on pressing national matters.

I am inserting in this RECORD a copy of the newsletter I am sending this month. I trust some of the ideas developed in this report will also be of interest to my colleagues and will provide some thoughts for more effective communication with those we have been elected to serve.

The newsletter follows:

CONGRESSMAN JEROME A. AMBRO REPORTS FROM WASHINGTON

DEAR FRIEND: Big government, big spending, big programs—we are all upset by these. But this is a big country, and getting bigger and the way to bring government, spending and programs in line with reason, prudence and our ability to pay is to assure a healthy economy that will generate jobs for the millions who are without work, who want to work and who, by their unemployed status, drain the Treasury of billions of dollars in lost tax revenue and additional billions in the the outlay of unemployment compensation and other dollars to pay for the staples of life.

Beyond this, each of us as citizens of this nation falls into groups which have an interest in one or another federal expenditure—from defense contracts that keep tens of thousands employed in this Congressional District to Social Security which contributes to the sustenance of hundreds of thousands.

The accounting that follows vividly points up the federal role in the economy of the 3rd Congressional District and its effects on the lives of our citizens.

I remain, as always,

Very Truly Yours,

JEROME A. AMBRO,
U.S. Congressman.

FEDERAL CASH FLOW FAVORS DISTRICT

The federal government has returned more than $1.162-billion in direct payments to the Third Congressional District since January 1975.

Most of the money—more than a billion dollars—was paid in contracts to the district's business community. Additional millions were channeled to the district through a variety of federal programs, particularly revenue sharing and agency grants.

We've been notified about $1,162,803,296 in federal payments. That figure does NOT include the hundreds of millions of dollars paid to the district in federal aid to school districts, Social Security checks, veterans pension and disability payments.

About $1,131-billion was awarded in business contracts, most of it to more than a dozen of the district's mature, high-technology aerospace and electronics industries.

The City of Glen Cove, Oyster Bay and Huntington Towns and numerous villages received $17,399,719 in federal grants during 1976, a more than three-fold increase over the $5,788,580 awarded during all of 1975.

Towns in the district received $5,680,060 in revenue sharing payments during the past 20 months, while villages added another $1,472,360 to the total.

The Department of Health, Education and Welfare gave town governments an additional $1,246,000, most of it for mental health research, hospital improvement grants, day care centers in Glen Cove and higher education work-study programs.

APPOINTEES

Those students from the Third Congressional District appointed to the service academies were:

MERCHANT MARINE ACADEMY

Jay Mayes, Glen Cove; Stephen G. McDonald and Stephan C. Bishop, Plainview; John T. Abbate, Massapequa; John Fitzgerald and Paul F. Dery, Northport.

WEST POINT

Christian Bobka, East Northport; Jay A. Harris, Melville.

NAVAL ACADEMY

Paul Zohorsky, Locust Valley; Eric J. Forde, Farmingdale; Michael R. Ales, Greenlawn; John B. Graham, Huntington Station; Edward N. Settle, East Northport.

Two other students were appointed and later declined admission.

INVESTMENT CASH KEY TO RECOVERY

Citing the need for increasing the supply of investment capital, Irving Shapiro, chairman of the DuPont corporation, told a gathering of House Freshmen that restoring vitality to American business holds the promise of sound economic recovery for the nation's workers and consumers.

At the invitation of Freshman Chairman Ambro, Shapiro held a briefing for the first-termers on the intricacies of "capital formation," the various methods used to raise money for investment in new plants and equipment. The session was part of the Economic Primer Series sponsored by the Freshmen Caucus.

During the meeting, Congressman Ambro and Shapiro discussed the relationship between raising investment capital and broad-based economic recovery. The DuPont chairman explained that a shortage of capital means slower business expansion, resulting in fewer jobs and greater inflation. Shapiro suggested to the Freshmen that the federal government encourage the formation of investment capital to spur a still-ailing U.S. economy.

ACADEMIES SELECT 15 FROM DISTRICT

Each student who scored the highest in Congressman Ambro's competitive system for nominations to the U.S. military academies has been appointed to the school of his choice. In addition, half of all his nominees were admitted to the highly-competitive academies.

"This appointment rate says a great deal about the quality of education we Long Islanders have worked so hard to sustain in our school systems," Ambro remarked. "Since the academies use the 'whole man score' in making appointments, these admissions demonstrate not only the fine scholastic calibre of Long Island schools, but also the comprehensive nature of their athletic and extracurricular programs."

Third Congressional District vacancies for the Air Force Academy were filled by his predecessor for 1976, however, Congressman Ambro will nominate 10 students for the 1977 vacancy at the Colorado Springs school. Of the 30 students Ambro nominated this year for Annapolis, West Point and the Merchant Marine Academy, 15 were appointed, including the student scoring the highest in the Designation Exam for each school.

In announcing the appointments, Congressman Ambro asked that all those interested in applying for nominations contact his Washington office immediately in writing. His office is at 1313 Longworth H.O.B., Washington, D.C. 20515.

All applications for the class entering the military academies in 1977 are accepted on a non-partisan basis and are processed for everyone who meets the basic qualifications. Applicants are required by Congressman Ambro to take the Civil Service Designation Examination. This is the most objective criteria that can be found in nominating students.

LAWMAKING'S ONLY PART OF THE JOB

In addition to drafting legislation, voting on proposed laws and serving on numerous committees and subcommittees, a large part of a Congressman's job is ironing out difficulties that constituents encounter with the federal government.

Not all of these attempts to move the bureaucracy and cut through red tape are fruitful. Some startling success, however, is frequently achieved in keeping the government responsive to the public's interest.

During the past 20 months, Congressman Ambro personally has replied to letters from more than 10,000 residents of the Third Congressional District. Many of those people have received several responses.

Over 1500 constituents have visited his Washington offices and met either with Congressman Ambro or key staff aides.

In addition, the Long Island lawmaker receives more than 600 pieces of legislative mail monthly and about 80 requests for government publications or other documents, such as testimony, bills and reports.

Congressman Ambro's staff receives an average of 40 new requests for help, each month from residents who face problems with the bureaucracy. Most of the Congressional troubleshooting is aimed at rules and regulations of agencies such as Health, Education and Welfare, the U.S. Treasury, Labor or State Departments, the branches of the armed services, Social Security or Veterans Administration.

The following are some typical examples of how a Congressman can help his constituents: Recently, Congressman Ambro prevented the forced relocation of a Melville firm that ran into problems getting fair treatment from the U.S. Small Business Administration. The SBA agreed with Ambro's argument that existing regulations hurt the Melville company's competitive position. The firm was subsequently allowed to compete freely and eventually won the contract, preserving jobs on Long Island.

A Syosset retiree who failed to receive four consecutive Social Security checks, was unable to straighten out the mess and finally wrote to Congressman Ambro. After a two-month go-around with the Social Security Administration, that agency admitted its procedural error and the man received all overdue payments.

The Huntington Station widow of a veteran who died of service-connected disabilities was unable to get entitlement benefits from the Veterans Administration for herself and her four young children. Congressman Ambro's caseworker for veterans affairs, a retired Navy Chief, convinced the VA that the widow was entitled to immediate benefits and two weeks later she received her check.

SPENDING CUTS BEGIN WITH OFFICE BUDGET

Despite the lavish increases in Congressional staff budgets and other allowances approved by a single, powerful committee chairman 18 months ago, Congressman Ambro has not used his full entitlement in any one of his nine separate office accounts. In fact, the cost of running Ambro's office is running more than $68,632, less than the amount authorized.

Congressman Ambro's greatest economies have been in staff size, office telephone usage, the purchase and leasing of office equipment, use of postage and staff travel allowance.

During his first 18 months in office, Ambro saved the U.S. Treasury $41,897 in salaries for his Washington and Long Island staffs. Although authorized 18 full-time staff members, Congressman Ambro has meshed a 13-member full-time staff with two part-time workers and several volunteer interns to realize significant savings in salaries and benefits.

The Long Island Congressman and his staff have used less than half of their telephone allowance. Each Congressional office is permitted 125,000 message units annually, but last year the Ambro staff used only 44,527, a net savings of 80,473 units. Telephone usage this year is at the same level as last year.

Under existing regulations, his staff is allowed 12 business trips per Congress between Washington and the District. The staff has only taken five in a year and a half.

In 1975, the Congressional offices saved $492 of the $1,140 annual postage allowance. Only $176 of this year's allowance has been used.

Progress Report

SEWER HEARING

Congressman Ambro will bring the House Subcommittee on Investigations and Review to Long Island Sept. 24th for a public hearing on the financially-troubled Southwest Sewer Project. Ambro, who has been leading the four-month-old Congressional probe of the undertaking, wants to determine why costs have increased from the original estimates of $267-million for the project to present projections of $1.4-billion; to determine whether the project will do more good in terms of water quality than harm; and to determine whether the federal government should review its national program generally, and bail out this project in particular.

INVENTIONS AMENDMENT OK'D

The House passed an amendment introduced by Congressman Ambro which will permit national labs, such as the Brookhaven Laboratories in Upton, L.I., to use 1% of their annual budgets for inventions that were not specified in original spending plans. The amendment will not increase funding for the labs but will allow Brookhaven to use $300,000 of existing appropriations for promising projects that are discovered during the fiscal period. At present, scientists and engineers are using "Rube Goldberg type devices" made of rubber bands and paper clips to develop these ideas, Ambro said.

FINANCIAL DISCLOSURE

"One integral part of any program to restore faith in the soundness of our government institutions must be tougher financial disclosure laws," Congressman Ambro said during testimony before a Judiciary subcommittee considering legislation that will require annual public financial disclosure statements by Congressmen, Senators and many appointed federal officials. He urged the panel to promptly report the bill to the House floor, pointing out that as Huntington Town Supervisor he imposed the first municipal disclosure requirement in the State.

GI BILL EXTENSION

Congressmen Ambro and Toby Moffett, of Connecticut, triggered a meeting of the House Democratic Caucus to consider legislation extending GI Bill benefits to former servicemen who were discharged more than 10 years ago. The Caucus failed to get a quorum, however, in large part because of stalling tactics by the powerful Southern bloc which opposes the extension . . . Ambro pledged to continue pressuring the Caucus until a quorum is obtained and a vote taken on the legislation.

RISING HEALTH CARE COSTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. HAMILTON. Mr. Speaker, every family is worried about the constantly rising cost of health care. Time and time again, in group after group, I encounter anxious parents wondering how they can continue to provide quality health care for their families.

Over the past 25 years health care costs have increased dramatically—from $12 billion in 1950 to $118.5 billion in 1975, a figure which averages out to $2,188 for an average family of four.

Even more disturbing is to note that the end of this upward spiral is not in sight. If nothing is done to alter current trends, estimates are that the national health bill will exceed $133 billion by the end of this year and reach a staggering total of $252 billion by 1981—an increase of 113.5 percent in the next 5 years. And despite all this extra money being spent there is no evidence, according to the President's Council on Wage and Price Stability, that there will be a corresponding improvement in the Nation's health care. Higher costs are not presently translating into better health care.

Much of the increase in health care costs can be attributed to general price inflation. Hospital payrolls, construction costs and the cost of materials from bandages to more sophisticated laboratory equipment have been subject to general price inflation. Inflation, however, does not fully explain the cost increases because prices are rising much faster in the health field than in other sectors of the economy. During the first 6 months of this year the price of medical services increased almost twice as fast as the general rate of inflation.

What fuels this inflation? How have costs in the health care field gotten out of control and what can be done to bring them back in line? Obviously the emphasis needs to be on reducing costs and making health care delivery more efficient, but how?

At the heart of the problem is a health care system that is not structured to deliver services in the most efficient manner. The market for health care services is unlike any other market. Its capacity to spend money on apparently worthwhile projects without the usual restraints on costs is almost without limit. There are simply few, if any, direct incentives on patients, hospitals, or doctors to reduce costs. Most of the payments made to hospitals and physicians pass through third parties—insurance companies and the Government—rather than being made directly by the consumers who use the health services. At present insurance companies and the Federal, State, and local governments pay 67 percent of all health care expenses—92 percent of all hospital bills and 65 percent of all doctor bills. Under such a system patients who are not directly paying the bills have little incentive to act economically.

Similarly, the doctors and hospitals who provide the services have little incentive to hold down costs. By and large, within certain limits, all the costs incurred by a hospital and most of those incurred by a doctor in treating a patient will be reimbursed. Consumers frequently lack information on which to judge the prices and the quality of health care. When they have a health problem they want to get well, and finacial considerations are secondary. Moreover, the health care industry is labor intensive and it must also deal with many technological improvements even before there is sufficient evidence of their efficiency or effectiveness.

A number of steps to limit the rise of health care costs are under consideration. Most importantly, a new spirit of cost consciousness must come into the entire health care system. The capacity of the health care system must be limited to that which can be properly and fully used. Nothing is more expensive than an empty hospital, or highly trained health professionals without work to do. Incentives and penalties must be devised to assure that services are provided efficiently. Costs would be restrained if insurance policies were changed to encourage patients to seek less costly forms of health care. The broader use of modest deductibles would also give consumers more of a financial interest in controlling cost and help deter demand for unnecessary and costly forms of health care. Medical services must be reviewed to assure that treatment is necessary and reasonable in cost. Unnecessary equipment and facilities must be eliminated, and tough priorities set for the development of needed facilities and services. Vigorous action by the executive branch and close scrutiny by the Congress are needed to eliminate the fraud and abuse prevalent in Federal health programs.

There are no simple solutions to rising health care costs. Legislation in the field has often ignored the cost aspects of health care. But we can no longer ignore these staggering costs. Policy must now focus on providing higher quality health care at significantly lower costs. For no matter how health care costs are financed, it is the people who ultimately pay the bills either through increased taxes, higher insurance premiums, direct payments or through higher costs of goods and services to cover employee health plans.

A LIMIT ON ADS FOR KIDS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. WIRTH. Mr. Speaker, for the last 2 years, Members of this Congress have discussed the issue of advertising on television and what is sold to the children of this country. Each year the average child sees 5,000 advertisements for something to eat—most of which products are recommended against by doctors and dentists.

Further discussion of this issue is ably outlined in the following article by Ellen Goodman. It cites a first step, taken by the FTC, toward curbing the abuses of television advertising, and their impact on children. I urge my colleagues' attention to this thoughtful analysis:

[From the Washington Post, Sept. 15, 1976]

A Limit on Ads for Kids

(By Ellen Goodman)

Boston.—Well, they won't be popping Spidermen in kindergarten anymore.

The Federal Trade Commission, which moves with all the speed of the continental drift, has finally worked out a consent order that stops the Hudson Pharmaceutical Corporation from pushing Spiderman vitamins to their favorite short consumers: kids.

The drug company had spent $1 million selling children on "delicious and chewable superhero" vitamins, suggesting that they were potions destined to make kids leap tall buildings at a single bound. Now, however, there is a ruling that not only gets the spider-medicine off the tube, but sets a long overdue precedent for advertising to children. The commission actually published their startling recognition that children are more susceptible to advertising than grown-ups. (The commissioners must have finally met a kid somewhere after all these years.)

The pivotal phrase in the FTC complaint is: "Children are unqualified by age or experience to decide for themselves whether or not they need or should use" this product. Implicit in that phrase is the view that kids are equally unqualified to decide on any other product being advertised.

This is a great change from the notion that the Captain Kangaroo set were on their own, or Miniconsumers Beware. That was an attitude prevalent five years ago when ACT (Action for Children's Television), the national consumer group, first filed against vitamin ads. The current order comes from the petition ACT filed last October. The FTC doesn't ban all vitamin ads, and it doesn't affect the request of 17 state attorneys general that they rule out all over-the-counter drug ads between 6 a.m. and 9 p.m. But perhaps that will come. We now have a small string of victories that indicate changing attitudes toward children's television advertising.

As ACT president Peggy Charren said, "This ruling said that children perceive advertising messages differently than adults." This doesn't come as a shock to any of us, but it is the first solid federal agency "admission"; she plans to take that idea and run with it.

Currently there are two kinds of products advertised to children: toys and food. The toy ads generate the "gimmes" for the most expensive products. In a new study, ACT shows that a full half of the Christmas ads are for toys in the over $12 bracket.

In the food division, they are overwhelmingly advertising junk food, fast food and both. The children's shows are dominated by sugar-coated cereals, candy, drinks, and cookies—with the ever-present Ronald McDonald. Of all the food ads, more than 71 per cent hype highly sugared products.

ACT is now protesting one of these commercials, the one for Milky Way that urges, "At Home, At Play, At Rest, All Day: Milky Way." That pitches a rate of consumption that would give Spiderman cavities. "No one would really mind ads to children for things that are good for them," says Charren. "Encourage them to eat too many bananas."

The basic problem is advertising to children under the age of nine or 10 at all. The smaller the child, the more vulnerable. A preschooler hasn't the "age or experience" to discriminate what is good for him from what is rotten. They can't tell a well-made toy from a disaster until it is reduced to plastic smithereens. It is intrinsically unfair, "in itself an unfair practice" (as the FTC said of Spiderman vitamins) to try and sell them, to manipulate kids into a pressure group singing, "I want that, Mommy."

But if the agencies aren't going to ban ads from TV for kids altogether, they have the obligation to monitor and protect them far more effectively than they have. The Spiderman decision should be followed by a string of decisions banning the "empty calorie" breakfasts and snack foods, and the dolls and toys that are three-day wonders.

There is after all something worse than taking candy from a baby. It's selling candy to a baby. And sugared cereals. And overpriced toys. And teeny-weeny Spidermen.

SPRINKLER SYSTEMS: A LIFE INSURANCE POLICY FOR INSTITUTIONALIZED AMERICANS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. HEINZ. Mr. Speaker, today I introduce legislation which will dramatically improve nursing home safety standards. My legislation requires adequate sprinkler systems in skilled nursing and intermediate care facilities as a condition of certification under medicare and medicaid and the Veterans' Administration programs. This legislation which is urgently recommended in a forthcoming report authored by my Subcommittee on Health and Long-Term Care of the House Select Committee on Aging will also provide direct financial assistance to qualified private and public nursing and intermediate care facilities who are otherwise unable to underwrite or obtain loans for such purposes.

My distinguished colleague Representative CLAUDE PEPPER of Florida has already introduced similar legislation, H.R. 14406. My legislation differs from his in four basic respects:

First. It permits the Secretary of Health, Education, and Welfare to replace these sprinkler requirements with functionally equivalent safeguards for facilities which because of their unique structural properties or small size, would be under unreasonable hardship if they complied completely with these provisions;

Second. It creates a special grant program for public and private nonprofit organizations who serve rural or underserved populations and who cannot afford to pay the interest on loans;

Third. Extends coverage to the Veterans' Administration as well as medicare and medicaid facilities; and

Fourth. It tailors the loan program to existing prime interest rates which vary from region to region.

The need for such legislation has been established—in a joint hearing of the Senate and House Aging Subcommittee on Long-Term Care on June 3, 1976—by the General Accounting Office, the National Fire Protection Association, and local authorities and nursing home personnel and administrators in Chicago, Ill., and elsewhere. In that hearing, representatives of these agencies testified concerning the results of two tragic nursing home fires in the Chicago area which cost the lives of 31 elderly people in January and February of this year. Both nursing homes, the Windcrest Skilled Nursing Facility in which 23 persons lost their lives, and the Cermack Intermediate Care Facility in which 8 persons lost their lives, were in compliance with the current life safety code and were of relatively new, fire-resistive construction.

Yet despite quick action by local fire departments and the nursing home staff, a lethal environment was created for those residents. Coincidentally, as if fate had underlined the lesson of these fires, another fire in Niles, Ill., in February in a 300-bed skilled nursing facility, protected by sprinklers, resulted in no deaths or injuries to the 224 residents.

NEED FOR SPRINKLERS ESTABLISHED

The GAO report, released on June 3 stated unequivocally that sprinkler systems would have greatly reduced the loss of life and have been effective in controlling the fires in the Wincrest and Cermack facilities. It was not fire or failure to evacuate persons which was the cause of these fatalities, but rather exposure for a few seconds to the toxic byproducts of fire and smoke. The report also reviewed past House and Senate attempts to solutions which have not been fully successful because of administrative delays and loopholes in the life safety standards.

On the other hand, the GAO, the NFPA, and other experts testified and cited evidence and opinions that automatic sprinklers were the single most effective measure to control incipient fires and provide the greatest "safety to life protection feature available in the fire protection field." GAO states unequivocally that automatic sprinkler systems put out fires and save lives whereas other features of the fire code, for example resistive walls, do not insure against multiple deaths due to fire, smoke, and fire byproducts.

While one agency, the Illinois Division of Fire Enforcement, believes the "single most important fire safety improvement" is automatic door closers which trigger at the first whiff of smoke, other testimony and evidence gathered mitigates against Federal requirements.

Perhaps most dramatically, the GAO, witnesses from the homes, and fire safety personnel stated under questioning that in the case of these two fires, certain fire safety procedures, most notably those aimed at evacuation of residents, could well have led to loss of additional lives.

The most effective response to these fires would have been an automatic response, which contained no margin for error in human judgment, or lack of training of nursing home personnel. This automatic response is provided by a sprinkler system, strategically placed, and in combination with other fire detection or protective features, such as smoke detectors, which are already required by law.

The strong case made for the requirement that all nursing facilities, regardless of construction type, can be fully protected with an automatic sprinkler system, calls for a definitive legislative response. Both the 1967 and 1973 editions of the life safety code which currently define a certified medicare or medicaid facility compliance with fire and safety requirements do not require automatic sprinklers. The 1967 edition contains a waiver for buildings of fire resistive or noncombustible construction, and the 1973 code exempts all buildings of fire resistive or noncombustible construction less than three stories in height.

Yet over the past several years, for example in 1972 and again in 1974, the House Government Operations Committee of which I was a member, made specific recommendations to mandate automatic sprinklers for all nursing homes regardless of type or construction.

The legislative result of the committee recommendations was a provision in Public Law 93-204 amending section 232 of the National Housing Act which authorized the Secretary of HUD to insure loans made to nursing facilities for the purchase and installation of fire safety equipment.

REMOVING THE BARRIERS TO FULL AND SWIFT COMPLIANCE

Given the provisions of that statute, one might have thought that the problems of purchasing and installing automatic sprinklers would have been solved. But as GAO, HEW, and HUD testified in that June 3 hearing, the Federal loan insurance failed because of the bureaucratic redtape involved in applying for the loan, and the problems of coordinating interagency administrative procedures between HEW and HUD, both of which were involved in the loan guarantee program. It took 2 years to make the HEW-HUD program operative, even at its current ineffective level.

Since the time that the program has been operational, only four applications were accepted by HEW. These subsequently were withdrawn because of the length of time required to process them. To make matters worse the tightness of the private money market over the past several years inhibited the issuance of guaranteed loans by private lenders at the prevailing interest rates for the sums required to purchase and install automatic sprinklers.

Some barriers to nursing homes seeking loans for this purpose may have been lowered as the economy and the general lending market have improved. However, such relatively small institutions as nursing homes are still at a disadvantage in competing for loan money. This fact coupled with the urgent and one time need to bring the estimated 50 percent of our 16,500 skilled nursing facilities and intermediate care facilities who do not now have adequate sprinkler systems up to compliance with this new requirement, compels Congress to consider a financing program which would swiftly and effectively promote installation of these services.

To successfully implement this estimated $65 per person per year life insurance policy for our nursing home residents which would be amortized over about a 20-year period, I believe we need to provide a complement to the loan programs in private market, and complement existing Federal HUD-HEW loan guarantee program, with a system of direct governmental loans. Under my legislation this direct loan program would provide loans to any private or public skilled nursing or intermediate care facility that could not obtain money from private lenders. This system of direct loans would operate under the aegis of HEW, but would be governed by interest requirements that key it to existing prime rediscount rates. These rates are designed expressly to insure equitable financing and are sensitive to fluctuations and differences in the prime rate. They would permit facilities which otherwise would not obtain loans in the private market, to borrow sufficient funds to underwrite such projects.

It should be also noted that requirements covering reasonable cost reimbursement under medicare and reasonable cost-related reimbursement under medicaid already permit nursing homes to include in their reimbursement rate the cost of purchasing any installation of life safety equipment. Many nursing home facilities have already used these provisions to amortize the cost of sprinkler and other fire safety equipment. The key to the program's success however, is the infusion of recoverable funds for swift purchase and installation of automatic sprinklers.

To insure the best and most responsive mix of loans and other financial arrangements to underwrite this major effort—estimated by my subcommittee's forthcoming report to cost between $256,000,000 and $476,000,000—careful study of the provisions contained in this bill in further hearings by the appropriate legislative committees. A pluralistic approach involving both public and private, Federal and State capitalization is the soundest way to finance this effort. I believe my bill fosters such an approach.

To make this a possibility for all institutions the bill also contains a grant provision that would apply to about 5 percent of all nursing homes with less than 5 percent of all nursing home beds. There are homes which by virtue of their special locations in rural and underserved areas and their acceptance of populations of indigent minorities, have severely limited financial resources. For these few, identifiable facilities, eligible under the criteria set forth in the legislation, direct grants are the only realistically feasible form of aid. One such example of this type of facility is the Stephen Smith Nursing Home and Geriatric Center in Philadelphia which is nationally known as a pioneering organization in the care of black Americans. Stephen Smith has had great difficulty in obtaining loans and other funds for life safety and other building improvements, because of its small endowment, and limited cash assets. This institution renders unselfish service to residents and their families who are in a poor position to pay for their own care.

Such institutions are, generally, less able to devote precious resources and staff to preparing extensive loan and grant applications.

When Government determines life safety and other care standards are necessary, it has a responsibility to reach out to the people who care for that small portion of our older Americans who are frail and dependent, and who cannot pay for or subsidize the cost of upgrading the place where they reside. The most tangible form of outreach in this case are simple direct grants based on clearcut eligibility criteria with application forms that do not require the hiring of a fundraiser to interpret the guidelines.

In summary, Mr. Speaker, the joint House-Senate Aging Committee hearings, past congressional initiatives, and my subcommittee's forthcoming report, have demonstrated that sprinklers, while not a complete answer, provide the greatest safety to life feature of any single fire protection device. We cannot rely on better management even in the best homes to prevent multiple deaths, because of the human factors and potential for miscalculation involved. The best way to prevent such tragedies as the Chicago fires and a subsequent fire in Roanoke, Va., is to require automatic sprinkler systems for all certified nursing and intermediate care facilities and provide means for them to comply with the requirements with all deliberate speed.

HISTORY OF SLOVAKS IN THE MAHONING VALLEY, 1876–1976

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. CARNEY. Mr. Speaker, the Slovak Bicentennial Committee of Youngstown and Mahoning County has recently published a "History of the Slovak People of the Mahoning Valley." Since America's Bicentennial celebration coincides with the centennial celebration of the arrival of the Slovaks in the Mahoning Valley, Ohio, the Slovaks welcomed the opportunity to share their rich ethnic heritage with their fellow Americans.

The first Slovak immigrants arrived in the Mahoning Valley during the 1870's, with little money in their pockets, but with a wealth of spirit and determination. The came from a European society where they had to struggle for their identity, their freedom, and their very survival through centuries of political turmoil. Most of the Slovak immigrants had been farmers who loved the soil.

A deeply religious people, the Slovaks soon founded 13 churches encompassing five Christian denominations. In 1890, the first National Slovak Society was formed, and in 1900, the first Slovak newspaper was published. Believing in the old adage, "a sound mind in a sound body," the Slovaks quickly formed Sokol gymnastic and athletic groups which stressed liberty, equality, fraternity, and morality. These Sokol gymnastic and athletic clubs now number around 50,000 members throughout the United States.

Today, in the Mahoning County area, there are approximately 304,000 people, of whom over 25,000 are of Czechoslovakian descent. From Maj. Jan Polerecky, who served in our Revolutionary War, to Astronaut Eugene Cernan, who reached the Moon, the Slovak people have made many significant contributions to our country—

> One of the early pioneers was Jan Jurco, who arrived in Youngstown on February 17, 1880, seeking new opportunity in this new land. The fare cost him one hundred gold pieces, which was worth approximately forty dollars. When he arrived, there were six Slovak men and four Slovak families. . . . Mr. Jurco worked as a blast furnace feeder for the Brown Bonnell Company, earning one dollar and twenty-five cents for twelve hours work a day. After working for six years, he had earned enough money to send for his wife.

"The History of Slovak People of the Mahoning Valley," is the story of many individuals like Jan Jurco, who endured many hardships in the steel mills, saved their money in order to bring their families to America, and joined together in fraternal, social, and political groups. Partly in response to the bias against foreigners, Slovaks tended to band together even more to keep their pride and customs intact.

> Only through hard work and determination have the Slovak people emerged to conquer the resentments and prejudices and become a dynamic force in American politics and culture. Their achievements are a living monument to the heroic courage of the stalwart sons and daughters of Slovakia and their unceasing fight for justice, truth, and liberty.

"The History of the Slovak People of the Mahoning Valley" contains a chronology of the important dates and events in the lives of Slovaks from the time they arrived in the valley until 1976, when the Bicentennial memorial to Young, Hillman, and Shehy was dedicated in Youngstown. This monument contains a brief history of the Slovak people of Mahoning County, which is to be opened in the year 2076.

A chapter devoted to religion discusses the vital role played by Slovak Catholic priests, and provides a brief history of the Slovak churches in the Mahoning Valley, followed by a chapter which discusses Slovak fraternal organizations.

The Slovak people are noted for their beautiful folksongs and folk dances, their popular art, and their colorful costumes. Slovak folk music means as much to contemporary Slovak-Americans as it did to their ancestors hundreds of years ago. The Slovak nation has more than 50,000 folksongs. On festive occasions, Slovak women still wear their traditional, handmade, embroidered costumes and "babushkas," or brightly colored head kerchiefs.

Slovaks in the Mahoning Valley have also excelled in sports, particularly baseball, boasting a host of outstanding baseball players, such as: Andy Kosco, Joe and George Hura, George Shuba, John Kucab, George Uhle, Joe Kuhel, and Jack Kralick, and many others. Other outstanding athletes include football player, baseball player, and highly successful coach John Knapick, Steve "Bushel" Olenick, who played baseball and later made a successful career in Ohio State and Mahoning County politics, as well as outstanding football players, such as Andy Cvercko, Green Bay Packers, and Bob Babich, San Diego Chargers and Cleveland Browns.

The final chapter is devoted to a representative sample of the Slovak individuals and families from all walks of life—business and professional people, politicians, civic leaders, clergymen, artists, and workers—who have made important contributions to our community. I would like to take this opportunity to salute each and every one of them.

Mr. Speaker, I would also like to take this opportunity to commend the officers of the Slovak Bicentennial Committee of the Mahoning Valley: Judge John J. Leskovyansky, general chairman; cochairmen Rev. Paul G. Jamnicky, Stephen Olenick, Joseph Hallas, Steve Bacon, Ann Sarosy; corresponding secretary, Julia Krupa Murphy; recording secretary, Susan Panik Wrynn; treasurer, John Olejar; financial secretary, Ann Morris; Steven Hruska and Genevieve Novicky, who composed this interesting and informative history, and the members of the five major committees who worked long and hard to assure the full participation of the Slovak community in our Nation's Bicentennial festivities. The committee members are as follows:

Banquet committee: Steve Olenick, Chairman; Mary E. Magda, William Repasky, Dr. Nicholas Sopkovich, Co-Chairmen. Committee members: Helen Hovanec Polaski, Mary Kukura, Agnes Yuhas, Helen Bobala, Anna Dama, Anna Morris, Mary A. Slivka, Veronica Vanish, Julia G. Phillips, Helen Sapara, Margaret Boda, Mary Kopsic, Helen Strucky, Margaret Bobeck, Dorothy Babnic, Irene Henchar, Anne Martinko, Robert Ruman, Agatha Fabiny.

History and research: Steve Hruska and Genevieve Novicky, Co-Chairmen, Committee members: Mary B. Burns, Mary Toth, Margaret Ladd, Mary H. Babnic, Joseph Barolak, Charles M. Terek, Anna Chapella, Susan Pallo and Mary E. Magda.

Booth displays: Julia Murphy, Chairman; Veronica Vanish, Co-Chairman General Booth Display; Leonard Friedman, Chairman, Main Hall Booth Display. Committee members: Mary Kukura, Agnes Yuhas, Mary A. Slivka, Anna Dama, Anne Morris, Mary E. Magda, Julia G. Phillips, Helen Sapara, Margaret Bosa, Mary Kopsic, Helen Strucky, Mary Toth, Mary H. Babnic, Robert Ruman and Andrew Babinchak.

Parade and floats: Anne Sarosy, Chairman; Martin Miklas, Co-Chairman. Committee members: Irene Henchar, Sherll Henchar, Anne Martinko, Dorothy Babnic, Robert Ruman, John Sarosy, Martha Sarosy, Sandra Sarosy Duve, Steve Hruska and George Vanish (Sokol Float).

Publicity: Judge John J. Leskovyansky, Chairman (English); Rev. Paul Jamnicky, Chairman (Slovak). Committee members: Carl Oravec, Mary B. Burns, Mary H. Babnic, Larry Poracky.

In the preface to this history of the Slovak people of the Mahoning Valley, the authors quote from P. O. Hviezdoslav, one of the greatest Slovak poets, who said:

> Not the one who in pleasure and delight planned to live, but the one who was creating and created, can say he lived.

This proverb exemplifies the zeal and aspirations of the Slovak people who settled in the Mahoning Valley.

Mr. Speaker, Slovak Americans are proud of their heritage, and rightly so. The Mahoning County area is known for its diverse ethnic groups, and I, personally, am proud of all the ethnic groups which comprise my congressional district.

HISTORY OF THE CUSTOMS SERVICE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. BRINKLEY. Mr. Speaker, a longtime friend of mine, a ninth generation native of my hometown of Columbus, Ga., and a dedicated official of the U.S. Customs Service, recently shared with me his Bicentennial review of the illustrious history of the Customs Service.

His name is Billy Tuggle and he is currently on duty in New Orleans as a senior special agent, having chosen law enforcement as a career and joined the Service in 1965. Mr. Speaker, I think my colleagues will find Mr. Tuggle's views of great interest and will be impressed by his historic perspective, which I place in the RECORD:

SLIDELL, LA.,
August 2, 1976.

MR. JACK BRINKLEY,
Rayburn House Office Building,
Washington, D.C.

DEAR JACK: I am a ninth generation Georgian from Columbus and have chosen law enforcement as a career, the same as my father, uncle and grandfather. I joined U. S. Customs on February 12, 1965, and am presently assigned to the New Orleans office as a Senior Special Agent. I am writing you this letter to provide you some history of the U. S. Customs Service and ask your support of Customs in our efforts to prevent fraud and smuggling of all contraband. This great nation is enjoying its two hundredth year in 1976, so let us go back to the beginning.

After declaring its independence in 1776, this struggling, young nation was on the brink of bankruptcy. There were times the national treasury did not have funds to pay even the smallest obligations. Each state adopted a different tariff law and appointed its own collector of customs to collect tariffs imposed on neighboring states.

In response to the urgent need for revenue and to end the confusion and inequities resulting from individual state tariffs, the First Congress passed and President George Washington signed the Tariff Act of July 4, 1789, establishing a tariff and the machinery for collecting duties. The press of the day hailed the event as the "Second Declaration of Independence." Four weeks later, on July 31, 1789, the original Customs districts and ports of entry were established by the Fifth Act of Congress. For nearly one hundred twenty-five years, Customs collections were virtually the only source of income for the Government.

Customs dollars made possible a period of unprecedented national growth and development: the opening of the West; the purchase of Louisiana and Oregon Territories, Florida, and Alaska; the building of the National Road from Cumberland, Maryland, to Wheeling, West Virginia; and the Transcontinental Railroad.

Revenue collected by Customs also built the U.S. Military and Naval Academies; the City of Washington, D.C.; and some of the famous ships of naval history, including The Constitution, more commonly known as Old Ironside.

Debts incurred during the War of Independence, the War of 1812, and the Mexican War in 1848 were all paid largely by Customs receipts.

By 1835 Customs revenue had reduced the national debt to zero! Thus, collectors of customs and the customhouse, once symbols of colonial oppression, became instruments of freedom and growth for the new Republic.

It is interesting to note that Customs was the parent or forerunner of a number of Federal agencies. Customs officers were designated as pension agents and directed to pay military pensions (forerunner of the Veterans Administration) to obtain statistics on imports and exports (Bureau of the Census); to supervise the revenue cutters (now the Coast Guard); to collect hospital dues for the relief of sick and disabled seamen (later the Public Health Service); to establish standard weights and measures (National Bureau of Standards); and to prevent illegal aliens from crossing the border (now the Immigration and Naturalization Service).

A number of organizational and name changes have occurred since 1789. In 1875, Customs became a division within the Treasury Department, and in 1927 a bureau. On August 1, 1973, the Bureau of Customs officially became the United States Customs Service and remains a major branch of the Department of the Treasury.

The mission of the United States Customs Service is to assess and collect customs duties on imported merchandise, to prevent fraud and smuggling, and to control carriers, persons and articles entering and departing the U.S. The mission is performed in accordance with the Tariff Act of 1930 and other statutes and regulations.

Today, in addition to our own laws, we are responsible for enforcing over four hundred provisions of law on behalf of more than forty Federal agencies. Many of these statutes relate to environmental issues and quality of life—such as motor vehicle safety and emission control of imported vehicles, water pollution, pesticide control, and protection of endangered species of wildlife. Other laws safeguard American agriculture, business, and public health.

Customs has monitored U.S. land and sea borders for nearly as long as the country has had defined borders. We are presently serving at two hundred and ninety ports of entry throughout the United States, Puerto Rico, and the Virgin Islands, keeping watch over an estimated ninety-six thousand miles of land and sea borders.

Changing laws, changing patterns of trade and commerce, and changing methods of smuggling are always a challenge and demand unprecedented flexibility on the part of the Customs Service to insure our operations keep pace with these changes. Ports of entry are consolidated and new ones established to meet the requirements of containerized cargo and international airports moving inland.

The laws under which millions of people and tons of merchandise are processed by Customs have gone largely unchanged since the Nineteenth Century. Indeed, some of the regulations still enforced by Customs officers are requirements of the Navigation Act of 1799.

In keeping with efforts to improve the quality of government service to the consumer, the Customs Modernization and Simplification Act of 1975 was introduced to Congress. This vital legislation has enabled Customs to cope with Twentieth Century conditions in handling passengers and merchandise, to better use our resources, and in general, improve the quality of the service we provide to the American people.

The Customs workload has increased three hundred percent over the last twenty years while its work force has grown by only fifty percent. The legislation is targeted at increasing the productivity and flexibility of the Service to meet the demands of increasing world trade and travel by instituting modern, automated business procedures in merchandise, passenger and revenue processing, and establishing up-to-date auditing techniques.

There are a number of programs established to help Customs accomplish its mission: AMPS/EIS (Automated Merchandise Processing System/Early Implementation System); ABIS (Automated Bond Information System); DABA (Duty Assessment by Account); and many other tools are being used and developed.

In the enforcement area, Customs has a number of aids to help us accomplish our mission. TECS (Treasury Enforcement Communications System) is a computer system conceived by Customs in 1969 and 1970 at which time it was named CADPIN (Customs Automated Processing Intelligence Network) that was designed for terminals at all the ports of entry, giving the inspector or agent instant response of intelligence concerning smuggling suspects. The system was later changed to include Secret Service, IRS and BATF as users thus the name was changed to TECS. A new system CAPIS (Customs Accelerated Passenger Inspection System) has been added to expedite the increasing number of international travelers arriving by air. The system CAPIS utilizes the resources of TECS to insure a comprehensive enforcement effort.

TECS is also the system for programs such as CEIS (Customs Enforcement Information System). This system features a microfiche capability and automatic index in TECS. CLEAR (Customs Law Enforcement Activities Reporting System) provides statistical information on arrests and seizures made by Customs officers. VVPS (Vessel Violation Profile System) gives Customs officers nationwide access through TECS to vessel related violations information. PAIRS (Private Aircraft Inspection Reporting System) provides Customs officers with information to assist in determining illegal penetration of U.S. borders by aircraft.

Sector Communications provides radio contact for Customs officers whether they are in a vehicle, boat, aircraft, or on foot. The radio system began in the early seventies just along the Mexican border; now there is coverage on the Gulf Coast, Atlantic Seaboard and most of the Canadian Border. In 1975 communications within Customs has been further enhanced with the addition of a complete communications center at Headquarters in Washington, D.C. This center provides twenty-four hour administrative teletype, facsimile, secure teletype and secure voice service between Headquarters, regions, districts, and selected ports throughout the continental United States.

Detector dogs are an integral part of the Customs narcotics interdiction effort, and certainly the most unique. First used on a wide scale in 1970, the dogs are able to detect marijuana, hashish, cocaine, and heroin in vehicles, mail, unaccompanied baggage and cargo. A dog and his handler can check five hundred packages in thirty minutes; it would take a mail examiner several days to inspect as many parcels. Along the border, a dog can thoroughly inspect a vehicle in about two minutes; the same examination by an inspector would take at least twenty minutes. During fiscal year 1975, the trained dog teams increased to one hundred five and contributed directly to the seizure of forty thousand pounds of marijuana, nineteen thousand pounds of hashish, thirty-nine pounds of cocaine, nineteen pounds of heroin and 1.5 million units of dangerous drugs.

These are a few of the programs and aids that Customs has to use in accomplishing our mission. If this letter has sparked your interest to find out more about Customs, you can receive more information such as number of personnel, budget, projected programs, seizures and arrests, duties collected, number of persons cleared by Customs annually, number of entries processed and many other interesting facts about what Customs is doing. I would suggest you contact the Office of Investigations at Customs Headquarters in Washington and I am sure that office will obtain any information regarding Customs you may desire.

I wish to thank you for reading this somewhat lengthy letter and giving me the opportunity to expound on Customs.

Sincerely,

BILLY R. TUGGLE.

INTRODUCING H.R. 15566

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. ABDNOR. Mr. Speaker, today I am introducing legislation to correct a problem which has been the subject of a great deal of controversy in my State, as I am sure it has been in other farm States. The bill, H.R. 15566, would amend section 8(b) of the Soil Conservation and Domestic Allotment Act with respect to the election of county and local committees.

For some time now it has been evident that the procedure for selecting USDA's Agricultural Conservation and Stabilization Service—ASCS—county and community committees could be improved.

The Agriculture and Consumer Protection Act of 1973 has resulted in a reduction of work for ASCS. In many counties it has been difficult to interest farmers in serving on a community committee which has little to do. Further, as an economy and administrative efficiency move, USDA has attempted to persuade all counties to go to a one-community system under which there is only one community committee which also serves as the county committee.

In some counties, however, interest in preserving multiple community committees remains high. My bill is designed to accommodate the wishes of the local farmers in either case.

H.R. 15566 provides that each county committee shall be given the discretion as to whether or not community committees are selected. The county committee would also decide whether to appoint or to provide for the election of the community committees. The intent is to keep as much of the decisionmaking authority at the local level as possible.

Each county committeeman would be elected directly by all farm program participants in the county. To insure fair representation of each area, the county would be divided into three districts containing approximately equal numbers of farmers. One county committeeman would be elected from each district.

This measure will provide the most democratic possible means for selecting county committees; that is, direct election. At the same time it will effect a cost savings to the Federal Government by eliminating the need for and expense of caucuses of community committees, which currently serve as the forums for selection of the county committees in those counties which have not yet gone to a one-community county system. Per diem and travel allowances would also be eliminated for those serving on community committees.

Again, the intent of this measure is to preserve the local option to determine ASCS committee structure. The cost savings which will accrue is an added benefit at a time when we owe it to the taxpayers and to the fight against inflation to save every dollar we can. At the same time, the pay and travel allowances of the county committees will remain unaffected. Those who are dedicated enough to wish to serve on community committees will certainly not be dissuaded from doing so simply by the lack of monetary reward.

Obviously, with Congress drawing close to adjournment, H.R. 15566 will not be enacted this year. However, I urge my colleagues and all those interested in the ASCS committee system to lend it their consideration. I believe it offers a fair and reasonable solution to a problem which, hopefully, can be resolved early in the next Congress.

CONTROLLING DUTCH ELM DISEASE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. FRASER. Mr. Speaker, since Dutch elm disease, DED, was first discovered shortly after its introduction in Ohio and New York in the early 1930's, severe and widespread losses of American elms have occurred throughout the country. The streets of many villages and towns, once lined with these majestic elm trees, are now denuded and only portions of the elm stumps remain. The disease has now spread to more than 40 States, from the east coast to Oregon and from the Canadian Provinces to the gulf coast.

The older cities and smaller town areas of Minnesota all have large inventories of elms. There are, for instance, 3 million elms in the Twin Cities metropolitan area. These elms comprise approximately 95 percent of the total number of trees in that area.

Dutch elm disease is at the present particularly rampant in the entire Midwest, including the Twin Cities. In 1974, 9,700 elm trees were lost to DED in the metropolitan area. In 1975, over 27,000 were found to be diseased; 1976 losses are expected to be around 50,000. The disease has reached monumental proportions.

The rapid spread of DED during the last year has aroused great concern within Minnesota State government, within cities throughout the State and by the general public. It has become obvious to all who have studied the problem that unless a greatly expanded program for control of the disease and replacement of trees is mounted during the next few years, many cities throughout Minnesota will be largely denuded of these shade trees. Such an expanded control program will require the joint efforts of all levels of government, if it is to have any chance of success.

The experience of hundreds of other cities proves that if no control measures are used, almost all elms may die in a short while, leaving naked cities, reduced property values and requiring the immediate expenditure of millions of dollars in removal cost.

A number of American cities have kept elm losses down through an effective control program. Evanston, Ill., still has 75 percent of its original elms. Control efforts in some other cities have, however, been less successful. Syracuse, N.Y., was able to keep its elm losses under 2 percent until 1965, after which financial problems resulted in less money being made available for the control program. In the following 3 years, tree losses increased to more than 15 percent per year. Other cities, like Champaign-Urbana, Ill., were unprepared for DED control and lost almost all their elms in the mid-1950's. There are now 20 trees left in Champaign-Urbana.

A good control program is clearly a necessity from an ecological point of view. Diseased trees must be brought down as quickly as possible. Adjacent healthy trees should be injected to prevent further infections, and dead branches should be removed so that possible beetle breeding sites are destroyed. A good control program would also spread the cost of removal and replacement over enough years to provide for a healthy transfer of elm trees to a multivariety urban-type forest.

Long-term cost considerations also point in favor of an adequate control program. When compared to the very real cost of doing nothing, proper control measures ranging in price from $150 to $400 for removing a large elm, are not excessively costly. It is estimated for instance that a large elm can be kept healthy for 40 to 50 years for the same amount it would cost to remove the tree if dead. Furthermore, when a mature tree dies, the municipality or private owner will be faced with the added cost of replanting a new small tree. In addition, far greater economic costs will result from loss of shade trees which improve the landscape, cut heating and air-conditioning costs, and serve to reduce air and noise pollution.

The Minnesota Department of Agriculture recently increased its level of service to local government for control programs as authorized under Minnesota's newly enacted shade tree law. Under the grant-in-aid program $303,000 has been made available to local communities in an effort to assist residential property owners in tree removal cost. A total of $250,000 has been granted to Twin Cities government agencies for improvement of existing, and construction of a new, wood waste processing equipment.

The department is also sponsoring a media campaign to increase citizen's awareness of shade tree disease. Television and radio will be used to increase the interest in disease control by the general public. The department will maximize the impact of this interest by assisting citizens and community service groups in implementing local disease control programs.

The department also continues its laboratory services to local communities. In furthering its research role, the department has initiated a project monitoring the incidence of the disease throughout Minnesota to determine patterns of distribution.

Despite these efforts at the State and local level, certain major problems still need to be overcome before an optimum control program can be conducted in Minnesota. The State's 1976 DED control directives, along with 1978–79 program proposals is an accurate reflection of the widespread concern for developing an accelerated and improved control program. A description of major program directives and proposals formulated by the Minnesota Department of Agriculture follows:

MINNESOTA DEPARTMENT OF AGRICULTURE 1976–79 SHADE TREE DISEASE CONTROL PROGRAM

REGULATORY

I. A. Take available legal action against those municipalities who persistently fail to provide adequate control measures—

In 1976 the Department shall take available legal action against those municipalities who continually fail to respond to administrative orders to provide adequate control measures. This will necessitate an effective system of surveillance by the Department. Legal action will always remain a last resort measure and will be limited to municipalities with gross violations and who have exhibited bad faith.

B. Condition grant funds upon sanitary removal and disposal—

No municipality will be eligible for grant funds from the state unless they have complied with all removal and disposal regulations. The subsidy to the municipality will be used as an incentive to properly remove and dispose of diseased trees. Variances will be allowed only where the municipality can show that circumstances made it impossible to comply with the state's regulations. The municipality's burden of proof will be heavy.

II. Urge all State agencies responsible for State owned property to provide adequate control when the State property lies adjacent to a municipal control area—

It is most difficult for the Department to enforce control programs in municipalities when adjacent state property is being negsume the responsibility of disease control on sume the responsibility of disease control on these lands immediately.

STATE SERVICES

III. Develop an information system which will improve reporting from municipalities, data storage and handling, and data analysis—

The effort will be continued to simplify reporting procedures for municipalities. Data will be computerized for ease in compilation and storage. Electronic data processing will greatly improve the efficiency of data analysis and significantly reduce the factor of human error. It has also been proposed that existing survey methods be improved by conducting aerial photography surveys.

IV. Continued need for shade tree disease control training—

To meet the needs for training local tree inspectors and their staffs, the University of Minnesota Extension Service will write and publish bulletins, offer short courses and seminars, and conduct field classes in the areas where diseases can be observed first-hand. This part of the training program requires rather intensive instruction with very small groups of people. Because so many people are involved in one way or another, courses will have to be offered in different parts of the state. In the implementation of this training program, it is anticipated that the Extension Service will draw heavily from and utilize the resources of numerous agencies and groups such as the Department of Natural Resources, Soil and Water Conservation Districts, the Department of Agriculture, etc.

V. Increase research which is supportive of the Agriculture Department's immediate decisionmaking needs—

The Department will work more closely with the University of Minnesota to coordinate research activities with the Department's decision-making needs. Departmental policy concerning the biological aspects of control needs the direct technical support from University researchers.

VI. Develop a long range plan for public education in shade tree disease—

If public education in shade tree disease control is to be effective, it must educate and motivate people in the long term. A piecemeal approach to public education is likely to be expensive and ineffective in sustaining public interest over the long term. To effectively conduct the public education program, qualified staff must be assigned to the task. It is as necessary that public relations on diseased trees be handled by professionals, as it is that the diagnosis of trees is professionally done. Such a public information officer would be responsible for maintaining a community outreach program to provide DED information to the public, and would enable tree inspectors to devote more time to their field work.

VII. Examine the needs for the replacement of shade trees and identify State actions which will aid local replacement programs—

The Department will determine in 1976 the replacement rate for the metropolitan and rural areas. It will attempt to identify local needs in shade tree replacement and increase technical assistance accordingly.

As the only practical way in which actual disease control can be effectively carried out is through strong local programs, it is essential that local units of government be given sufficient support from other levels of government. Only through the cooperation of all involved jurisdictions, through increased technical and financial support, and supported by a highly motivated public, will the future of DED control in Minnesota remain bright. Without a program that is adequately maintained, Minnesota's cities and towns will suffer the tragic fate visited upon the cities and towns of Iowa, Illinois, Nebraska and other states where great shade trees have been largely eliminated.

FOREST MANAGEMENT BILL

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. WEAVER. Mr. Speaker, the forest management bill, H.R. 15069, will be coming to the House soon. I urge favorable action on the bill and on a package of amendments to be offered by me and the gentleman from California (Mr. Brown).

Attached is some pertinent material on the forest management bill.

Amendment to H.R. 15069, as Reported, Offered by Mr. Weaver of Oregon

Page 35, add immediately after line 20 the following new section:

SUSTAINED YIELD AND MARGINAL LANDS

Sec. 14. (a) Within two years after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations to ensure—

(1) that the National Forest System, as such term is defined under section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, will continue to produce adequate and continuous supplies of wood, water, wildlife, wilderness, forage, and recreation by—

(A) limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitations. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. Nothing in this subparagraph shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe; and

(B) establishing guidelines to assure that, based on periodic surveys of the productivity of lands for commercial timber production, such production is not a management goal where the estimated cost to the United States will exceed the estimated economic return to the United States; except (1) that the estimated cost of production will include only direct timber production costs, including a prorated share of the access costs for timber harvest, (2) that such restrictions do not apply to salvage of dead or diseased trees, and (3) that such restrictions are not intended to impede the reforestation of lands for multiple use purpose or to impede the cutting of timber specifically for the improvement of fish and wildlife habitat; and

(2) that commercial timber production is a management activity only on lands where—

(A) soil, slope, or other watershed conditions will not be irreversibly damaged;

(B) assurance is given that such lands can be adequately restocked within five years after harvest; and

(C) protection is provided from changes in water temperatures, blockages of water courses, and deposits of sediment, for streams, stream banks, shorelines, lakes, wetlands, and other bodies of water where harvests could seriously and adversely affect water conditions or fish habitat.

(b) The first sentence of section 3 of the Act entitled "An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes", approved June 9, 1930 (46 Stat. 527; 16 U.S.C. 576(b)), is amended by—

(1) striking out "or" immediately before "(3)"; and

(2) striking out the colon and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the national-forest land on a sale area, including sale-area improvement operations, maintenance and construction, reforestation, and forest habitat management."

Amendment to H.R. 15069, as Reported, Offered by Mr. Brown of California

Page 29, line 11, strike out "and".

Page 29, line 17, strike out both periods and the quotation marks at the end of such line and insert in lieu thereof "; and", and insert immediately after such line the following new paragraph:

"(3) within two years after the date of the enactment of this subsection, promulgate regulations to ensure—

"(A) that clearcutting (including seed tree cutting, shelterwood cutting, and other cutting designed to regenerate an even-aged stand of timber) will be used as a cutting method on National Forest System lands only where—

"(i) clearcutting is determined to be the optimum method to meet the objectives and requirements of the relevant land management plan;

"(ii) a multidisciplinary review has been completed by the team described in subsection (f)(3) of this section and the potential environmental, biological, esthetic, engineering, and economic impacts on each sale area have been assessed by such team, as well as the impact of the sale on nontimber resources and the consistency of the sale with the multiple use of the general area;

"(iii) clearcut blocks, patches, and strips are shaped, spaced, and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be clearcut in one harvest operation, including provisions which permit the established limits to be exceeded after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal; except that such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions, such as fire, insect or disease attack, or windstorm; and

"(v) clearcutting is carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource; and

"(B) that positive action is taken to perpetuate habitats and populations of the native species of plants and animals found in the national forests, and special attention is devoted to the maintenance and the enhancement of the habitats and populations of native plants and animals whose habitats and populations are diminishing."

Washington, D.C.

Attention: Pete Sorenson.
Hon. James Weaver,
U.S. House of Representatives, Washington, D.C.

UAW strongly supports your sustained yield amendment to H.R. 15069. House adoption of the amendment would significantly improve H.R. 15069 from a conservation standpoint. It would also conform the House bill to the Senate-passed measure, thereby enhancing the prospects for speedy final action on this important measure by Congress. Your amendment should be adopted by the House.

Dick Warden,
Legislative Director.

National Rifle Association of America, Institute for Legislative Action,
Washington, D.C., September 15, 1976.
Hon. James Weaver,
U.S. House of Representatives

Dear Congressman Weaver: The National Rifle Association of America appreciates your request for our comments regarding your proposed amendment to H.R. 15069, and welcomes this opportunity to make our views know on this vital legislation.

The NRA has, for many years, supported the principles of multiple use and sustained yield in the management of our renewable natural resources, with particular concern for the area of wildlife management. We have also endorsed and supported the full implementation of the Forest and Rangeland Renewable Resource Planning Act of 1974. We have been concerned about the impact which recent restrictive court decisions may have upon wildlife and other multiple-use values, and are pleased to see the Congress undertaking the National Forest Management Act of 1976 to resolve these issues.

So far as we are concerned, both S. 3091 and H.R. 15069 represent a substantial improvement over the current situation, both in resolving the problems created by the court decisions and in further clarifying and improving the legislative instructions for the management of our renewable natural resources. Members of the Agriculture and Interior Committees in both the House and the Senate deserve our commendation for their diligent and productive efforts in bringing out two good bills despite substantial controversy and the complexity of this issue.

Each bill has its relative advantages in different areas, and, hopefully, the House-Senate conference will agree upon a bill containing the best elements of both. However, time is running out for the 94th Congress, and substantial differences remain between the two bills. The NRA believes that a National Forest Management Act is urgently needed, and encourages only those amendments which will tend to resolve, rather than intensify, the differences.

The language in your amendment tends to bring the language of H.R. 15069 more in line with S. 3091, which should aid the conference by eliminating some differences. More importantly, while H.R. 15069 represents an improvement over the present situation, we feel that the added protection for wildlife and other values contained in the Senate bill and your amendment is highly desirable.

The NRA feels that the emphasis should be on total forest management rather than timber management alone, and believes that the language in your amendment provides better protection for wildlife and other values without unduly restricting timber production.

For these and other reasons, the National Rifle Association of America supports your amendment, both in the interest of sound multiple use management of our national forests, and as a device for reducing House-Senate differences.

Sincerely,

Richard L. Corrigan,
Director, Governmental Affairs Division.

National Wildlife Federation,
Washington, D.C., September 15, 1976.
Hon. James Weaver,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Weaver: Thank you for your letter of September 10, 1976, requesting our comments on the amendments to H.R. 15069, the National Forest Management Act, that you intend to offer on the House Floor.

This is to advise you that the National Wildlife Federation fully supports the proposed amendments. We find them to be in complete accord with the principles outlined in the April 16, 1976, letter a group of conservation organizations, including the Federation, sent to Senators Talmadge and Jackson in response to an invitation to comment on S. 3091 and S. 2926.

Your amendments, if adopted, will bring the language of H.R. 15069 into closer alignment with S. 3091. In our judgment, such a move will strengthen the bill from an environmental standpoint.

We wish you success in your endeavor.

Sincerely,

Thomas L. Kimball,
Executive Vice President.

Sustained Yield Vital

Though we differ with Rep. Jim Weaver on some things, we're 100 per cent behind him on his stand that any new forestry legislation should support a sustained yield policy for the National Forests.

Sustained yield—that is, a harvest, rate that can be sustained indefinitely with only minor ups and downs within specific periods, and no more timber being cut than can be grown—is essential to the long-range well being of the National Forests.

Outfits like Weyerhaeuser can, if they wish, experiment with their own timber holdings, cutting them far in excess of the normal replacement rate in the expectation that the replacement rate can be sharply increased by improved forestry techniques.

But that's private land, not public forests. And the public forests are far, far more than mere timber farms. They are dedicated to a multitude of uses, including recreation, watershed protection, wildlife, livestock forage in addition to timber.

The improved forestry practices, which enable Weyerhaeuser and others to "bet on the come," are still not adequately proven, particularly for low-site (poor growing conditions) land to allow such gambles on public lands.

Multiple use, sustained yield, the greatest good for the greatest number in the long run—these old statements of Forest Service ideals have lost none of their importance.

Any forestry bill that ultimately clears the Congress without these considerations will be doing the National Forests of America, and their owners, the American people, an immense disservice.—E.A.

International Woodworkers
of America,
August 26, 1976.

This union represents 50,000 U.S. members who work in logging, lumber, plywood and other wood manufacturing operations. We are, of course, very interested in the forestry legislation now before the Agriculture Committee designed to ease the clearcutting restrictions imposed by the Monongahela court decision and to promote better forest management practices in our National Forests.

We note that the Senate-passed bill (S. 3091) carries in it a provision requiring the U.S. Forest Service to harvest timber according to the principle of sustained yield. In other words, timber removal is limited to a quantity not greater than the quantity which that National Forest can produce in perpetuity on a sustained yield basis.

We are all too familiar with the arguments put forth by some of the forest corporations that advocate accelerated harvest and the rapid liquidation of old growth timber, but our union has long taken the position that our forests should not be overcut. Sustained yield forestry is the only way we can ensure future stability for workers and communities dependent on the forest products industry.

Forest products corporations in the west have overcut their private lands and are now trying to fill the projected shortfall with an increase in the harvest rate in National Forests. We must not compound the error made by the forest corporations on their private lands by neglecting the principle of sustained yield in National Forests.

Our members know the value of abiding by the principle of sustained yield forestry and I hope that you too will see its merits and add such a provision to the House Bill now before your committee.

Respectfully yours,

Keith W. Johnson,
International President.

THE SALARIES OF PUBLIC OFFICIALS: IN EFFECT, A DISSENT

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. NEDZI. Mr. Speaker, the veteran Detroit Free Press columnist, Judd Arnett, is probably the most-read writer in Michigan.

Mr. Arnett does not hesitate to swim against the tide of public opinion. He did it again the other day in a column dealing with the salaries of public officials.

Mr. Arnett's observations deserve a wider audience and, under leave to extend my remarks in the Record, are set forth below:

[From the Detroit Free Press, Sept. 12, 1976]

Mayor's Salary Outrage You? Better Give It a Second Thought

(By Judd Arnett)

The salary of Detroit's Mayor Young has been increased to $49,382 and any day now the letters-to-the-editor columns of our daily newspapers will be full of the outrage of hopping mad taxpayers.

You can depend on this, to borrow a phrase from Jimmy Carter, for throughout the length and breadth of this marvelous land there is the feeling that politicians make too much money and receive far too many fringe benefits.

When you think about it, this is a rather strange attitude in a country where long ago the ceiling blew off what used to be called "our sense of values."

On the day when Mr. Young announced acceptance of his raise (he was entitled to $51,353 but took $49,382), the Detroit Pistons signed their No. 1 collegiate draft choice for a reported $125,000. There is no assurance that this young man will be able to withstand the rigors of the NBA, wherein competition has a way of denying the brilliance of a rookie's press clippings, but the kid will get the money for at least one season. Thereafter, if he makes the grade, he will receive additional compensation—perhaps as much as $250,000 a year if he turns out to be a bona fide star.

One doubts if there will be any letters to the editors protesting the open-handedness of Piston management, but ol' Coleman is going to catch hell. Once more—you can depend on it.

This town, which is frequently described by scribes eager for a fee as either dead or on the verge of it, is full of executives, entrepreneurs, entertainers, athletes, hustlers and various others who make more than $49,382 a year, yet rarely does a protest against them appear in the public prints.

In the automobile industry, as an example, it is not uncommon for the head honchos to earn upwards of $300,000 per annum, leaving those with salaries and bonuses of $50,000 in the middle-management range, at best.

To continue this a bit further, the Detroit Lions have a gimpy-legged quarterback who gets more than $100,000; and the Tigers, who seem destined to finish in the cellar of the Eastern Division of the Ameican League for the third straight year, are paying a designated hitter with an acute weakness for the outside curve ball $115,000.

Again, you hear little complaint about all of this, whereas Mr. Young is going to suffer Hail Columbia in spades, so finally you ask yourself the simple question—"Why?"

There seems to be the feeling, which amounts to a gross misunderstanding, that the public does not pay for the largesse of industry, sports, entertainment or enterprise in general, whereas the salaries of the politicians are assessments direct upon the common purse. This, of course, is akin to believing that money from Washington is free once it has been transferred to states or communities.

The salaries and fringe benefits of auto executives are reflected in the price of cars; ticket prices at sporting events carry the costs of the athletes; in support of every line of endeavor, the public must pay the freight. If our sense of values extended to all facets of daily life, the cost of living would be dramatically reduced. But we seem to reserve the vast bulk of our displeasure for the politicians.

In effect, Coleman Young is the chief executive officer of a billion dollar corporation with upwards of 25,000 employes. The argument may be advanced without immediate rebuttal that he is not doing a good job, that the company is going broke, so to speak, under his management. But if so, he is subject to recall by his employers and beyond that his contract will expire in less than two years. Meanwhile, on the basis of all logical comparison, he is working mighty cheap, even when you throw in the Manoogian Mansion and other prerequisites.

The truth is that many of our politicians are not overpaid. We send someone to Congress in the anticipation that he or she will help pass essential legislation, look after the myriad interests of the home district, keep the country out of war, assist in the distribution of $400 billion, and maintain two places of residence—then complain because the going salary is $44,600 plus side benefits. In today's market, for a worthy congressperson, that is peanuts.

The response may be that "They ran for the office" or "They asked for the job, didn't they?", but this does not improve the breed of public servants. Somehow, what we must get back to is the conviction that there is no calling more noble than service in government.

Enough of our Founding Fathers thought this to risk hanging and by some magic the tradition must be revived. Meanwhile, a little honest compassion might help, starting with your sense of values. Honestly, now, all things considered, how much do you think being mayor of Detroit should be worth to an individual aside from Coleman Young who yearns to serve the public but has no other means of support?

TRIBUTE TO MR. AND MRS. PAUL DEBOLT

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. RUSSO. Mr. Speaker, sometimes you wonder if anything can last 50 years. At the shattering speed at which we move in the 20th century, today's neighborhood store becomes tomorrow's multilevel shopping arcade. We all have a heightened sense of change since we live in a period that has witnessed people moving from cranking up a 10-horsepower engine to fly to the Moon.

How satisfying, then, to note the durable and stable touchstones in our culture and the people who maintain them. Of necessity, in fact, we must pay tribute to those who, despite being buffeted by change, have managed to achieve something as simple and as complex as a marriage that endures one-half of a century. We need to take note if we are not to be swept away by cynicism and a loss of our essential values and aspirations.

It is with special joy that I congratulate an Illinois couple, Mr. and Mrs. Paul DeBolt, who on September 24 will have been married 50 years.

How could you begin to understand or summarize all those years of two people together, loving, sharing, giving, and caring? But I know on September 21 at the reception in their honor there will be many an anecdote recounted and memories recalled of this marriage; of those early days when Paul was studying at Northwestern; of the three boys growing up—now married with children of their own—and of the "new" members of the family, the three daughters-in-law, and seven grandchildren; of the Army service, when Capt. Paul DeBolt received a special commendation for services rendered as an executive officer, finance branch, in the Special Services Division of the Army Service Forces.

Perhaps they will even, once more, tell of that fateful introduction back in the summer of 1926 when Mrs. Mame E. Perry, aunt of young Blanche Ruth Hutchinson, introduced her niece to another young person working at Northwestern University that summer, Paul DeBolt.

Paul and Blanche were married on September 24, 1926, in Crown Point, Ind. Mr. DeBolt received a diploma in commerce from Northwestern in June 1928 and in 1934 passed the University of Illinois certified public accountant examination. His entire career has been in the accounting field for various corporations, public accounting firms and in 1952 he formed his own practice, except for 10 months as a special agent for the Federal Bureau of Investigation in 1934 and his 2 years of service in World War II.

Mrs. DeBolt attended Hyde Park High School in Chicago and became a member of the Alpha Beta Gamma sorority, which would during her marriage bring many lifelong friends. To her role as wife and mother, this fine lady brought warmth and gentleness and commitment. The DeBolt sons are a testament to this commitment and to the love that their parents have for them and for each other. Robert, Richard, and William DeBolt will probably have many stories of their own to tell at the reception about their firsthand observances of the senior DeBolts.

I think that it is interesting to note that this all-American family's roots extend far, into America's history. The ancestors of Blanche arrived from England in 1675 and settled in Salem, Mass. On her mother's side, she is related to Mathew Thornton, the last signer of the Declaration of Independence, as well as Commodore Perry.

Paul's ancestors in this country came from France with the Marquis de LaFayette, during the Revolutionary War. One of the three brothers, Niclous, was killed in the Battle of the Brandywine. The remaining two, George and Henry, were the beginning of the DeBolt family in America. Paul is of the sixth generation of George DeBolt.

Today, I know my colleagues join with me in congratulating Paul and Blanche DeBolt on their golden wedding anniversary. The course of true love does not run smooth, the sages tell us, and we have the DeBolts to demonstrate that, smooth or not, your love can grow and your marriage prosper. I wish for them continuing happiness.

WHAT CONSTITUTES GREATNESS?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. McDONALD. Mr. Speaker, there appears to be a tendency to refer to those whose actions have large-scale effects as "great" people, regardless of what the large-scale effects may be.

For example, our news media insist upon referring to the late Mao Tse-tung as "great" without pointing out that he was, in fact, the "greatest" mass murderer of a century noted for its mass murderers. For details, see SISS report, "The Human Cost of Communism in China," 1971.

For the record, I will insert two additional items of information about Chairman Mao and his policies, taken from China report, July 1976. The Soviet source is, of course, tainted. I note that it claims that 2 million Chinese were killed during the traumatic process of establishing communes. Perhaps so low a figure is employed because Soviet writers hate to think that Mao exceeded Stalin in the mass murder department. The same process cost at least 5 million human lives under Stalin.

In any case, by all estimates, including the admissions of Chairman Mao himself, it would appear that Mao Tse-tung was responsible for the deaths of more human beings than any other person in the entire history of the world.

Our information media have been diligent about overlooking the outstanding fact about Chairman Mao—that he is the "greatest" mass murderer in the history of the human race.

The articles follow:

TASS: MAOIST KILLED 28 MILLION

Reviewing a book published in Moscow, the Soviet news agency Tass disclosed that 28 million Chinese have perished as a result of "repressions by the Maoist regime."

The book, entitled "Mao Tse-tung," and written by Fedor Burlatski, asserts that 25 million Chinese were "liquidated" during the Cultural Revolution of the late 1960s, two million during the establishment of communes, and one million in the period of the campaign against national minorities.

The Soviet book does not mention the deaths caused by natural calamities, failure of plans and forced labor.

FIFTY MILLION CHINESE DIED DURING 1960–62 FAMINE

Fifty million Chinese died during the 1960–62 famine following the failure of the "great leap forward" on the Chinese mainland.

The figure was given by Worldview, a monthly journal of the Council of Religion and International Affairs.

In the article, entitled "The Other China: Hunger," Ivan D. London, professor of psychology at Brooklyn College of the City University of New York, and his wife Miriam, a research associate in Soviet and Chinese studies, wrote that even the Peking leaders admitted this fact at the 10th plenary session of the Eighth Central Committee of the Chinese Communist Party in 1962.

The Londons based their findings upon a series of interviews made by them with Chinese escapees in Hong Kong, Taiwan, and the United States.

The 50-million death figure was first ventured in August 1962 by an authority on China in Hongkong, Father L. La Dany, in China News Analysis.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because I was absent from the Chamber, I missed some rollcall votes on August 23, 24, and 26.

Had I been present and voting, I would have voted in the following manner:

AUGUST 23

"Yea" on rollcall No. 640.
"Yea" on rollcall No. 641.
"No" on rollcall No. 643.
"Yea" on rollcall No. 644.

AUGUST 24

"Yea" on rollcall No. 646.

AUGUST 25

"Yea" on rollcall No. 667.

SENATE—*Thursday, September 16, 1976*

The Senate met at 10:15 a.m. and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Reverend Robert T. Casey, pastor, Culmore United Methodist Church, Falls Church, Va., offered the following prayer:

We give thanks, our Father,

That, in the midst of change when old and familiar foundations seem fragile and crumbling and new ones uncertain, You are constant, ever seeking our good;

That, when the ways to go are diverse and the right way unclear, You stand as the one by whom we may measure our ideals and our ideas;

That, when the right is plain but the courage to pursue it is lacking, You are the source of strength through whom we may become bold.

Grant that in all our deliberations we may be mindful of Your love for us in our needs and for all of Your children in theirs. May our compassion for them be like Your compassion for us, seeking not selfish ends but ways by which life for each may be abundant. For this give us insight, imagination, and integrity that we may rightly perceive, pursue, and carry out the needed tasks.

And if for some reason we yet may fail, assure us of Your continued mercy. Set us again in the ways of truth. And for this and all Your kindness we give You praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 16, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR. thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 15, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS OMNIBUS HEALTH CARE ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 1169.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2735) to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans Omnibus Health Care Act of 1976".

TITLE I—GENERAL VETERANS HEALTH CARE AND DEPARTMENT OF MEDICINE AND SURGERY AMENDMENTS

SEC. 101. Section 111 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "pursuant to the provisions of this section" after "President"; and

(2) inserting at the end of such section the following new subsection:

"(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veteran's Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and, based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

"(2) In no event shall payment be provided under this section—

"(A) unless the person claiming reimbursement has been determined, based on an annual declaration and certification by such person, to be unable to defray the expenses of such travel (except with respect to a veteran receiving benefits for or in connection with a service-connected disability under this title);

"(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

"(C) in excess of the actual expense incurred by such person as certified in writing by such person.

"(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

"(A)(i) Depreciation of original vehicle costs;

"(ii) gasoline and oil costs;

"(iii) maintenance, accessories, parts, and tire costs;

"(iv) insurance costs; and

"(v) State and Federal taxes.

"(B) The availability of and time required for public transportation.

"(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

"(4) Before determining rates under this section, and not later than sixty days after the date of the enactment of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall publish in the Federal Register and submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section. The justification provided under this paragraph shall specify the extent to which and the full reasons why the proposed rates would differ from the rates in effect under sections 5702 and 5704 of title 5 for employees of the United States traveling on official business.".

SEC. 102. Section 601 of title 38, United States Code, is amended by—

(1) amending paragraph (5) by striking out in clause (B) all after "training" and inserting in lieu thereof "for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and";

(2) amending paragraph (6) to read as follows: "(6) The term 'medical services' includes, in addition to medical examination, treatment, and rehabilitative services—

"(A)(i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612 (f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services (including the maintenance of patient drug profiles, patient drug monitoring, and drug utilization education) as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

"(B) such—

"(i) consultation, professional counseling, and training, and

"(ii) mental health services in connection with the treatment of (I) the service-connected disability of a veteran pursuant to section 612(a), or the readjustment problem of a veteran pursuant to section 612A, of this title, and (II) in the discretion of the Administrator, other disabilities related to the mental health of a veteran pursuant to section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, necessary expenses of travel and subsistence of such family member or individual in the case of a veteran who is receiving care for a service-connected disability or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.";

(3) amending paragraph (7) to read as follows:

"(7) The term 'domiciliary care' includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title."; and

(4) inserting at the end of such section the following new paragraph:

"(8) The term 'rehabilitative services' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore the physical, mental, and psychological functioning of an ill or disabled person.".

Sec. 103. (a) Subchapter I of chapter 17 of title 38, United States Code, is amended by inserting after section 602 the following new section:

"§ 603. Presumption relating to internment as prisoner of war

"For the purposes of this chapter, the disability of any veteran who was for more than six months a prisoner of war, as provided in section 312(c) of this title, shall be deemed to have been incurred in the active military, naval, or air service if such disability, on the basis of sound medical judgment, could be attributable to or aggravated by the internment of such veteran as a prisoner of war unless the Administrator finds, on the basis of clear and convincing evidence, that the disability was not attributable to or aggravated by such internment.".

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting

"603. Presumption relating to interment as prisoner of war."

below

"602. Presumption relating to psychosis.".

Sec. 104. (a) Section 612 of title 38, United States Code, is amended by—

(1) inserting after the first sentence of subsection (a) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations (or reimbursement for an appropriate portion of the cost thereof) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavoratory and sanitary facilities, and the cost of which does not exceed the cost of the average period of hospitalization under section 610 of this title, as determined annually by the Administrator).";

(2) inserting in clause (4) of subsection (b) "(A)" after "disability" and inserting before the semicolon a comma and "or (B) for which such veteran is receiving treatment (not including routine dental care)";

(3) striking out "or" at the end of such clause (4); redesignating clause (5) as clause (6); and inserting after clause (4) in subsection (b) the following new clause (5):

"(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment; or";

(4) striking out "may also furnish" in subsection (f) and inserting in lieu thereof a comma and "within the limits of Veterans' Administration facilities, may furnish";

(5) inserting in clause (1)(A) of subsection (f) "(to the extent that facilities are available)" after "or" the first place it appears;

(6) inserting before the semicolon at the end of clause (1)(B) of subsection (f) "(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds (i) that a longer period is required by virtue of the disability being treated, and (ii) with respect to private facilities for which the Administrator contracts, that alternative Federal reimbursement is not reasonably available to defray substantially the costs of such treatment)";

(7) striking out "80" and inserting in lieu thereof "50" in clause (2) of subsection (f);

(8) inserting at the end of subsection (f) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations (or reimbursement for an appropriate portion of the cost thereof) as are of a minor nature and are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities)."; and

(9) inserting at the end thereof the following new subsection:

"(i) Not later than ninety days after the date of enactment of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, except in the case of medical emergencies which pose a serious threat to life or health:

"(1) To any veteran for a service-connected disability.

"(2) To any veteran described in subsection (f)(2) of this section.

"(3) To any veteran with a disability rated as service-connected or eligible, by reason of section 612A of this title, for outpatient mental health services under section 612(f)(1)(B) of this title.

"(4) To any veteran being furnished medical services under subsection (g) of this section.".

(b) Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator shall report to the Congress on the results of the regulations prescribed to carry out the amendment made by subsection (a)(9) of this section.

Sec. 105. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 612 the following new section:

"§612A. Eligibility for readjustment professional counseling

"(a) The Administrator may furnish initial readjustment professional counseling (including a general mental and psychological assessment in connection therewith), and travel and incidental expenses pursuant to the provisions of section 111 of this title, for any veteran who served after August 4, 1964, and who requests assistance with readjustment problems within a period not to exceed four years after the date of such veterans' discharge or release from service, or two years after the date of the enactment of this section, whichever is later.

"(b) If, on the basis of initial counseling furnished under subsection (a) of this section, it is determined that the provision of mental health services is necessary to facilitate the successful readjustment of the veteran, such veteran shall be furnished such services on an outpatient basis as a part of medical services provided under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such services, the counseling furnished under subsection (a) of this section shall be deemed to have been furnished as a part of hospital care. Any hospital care and other medical services deemed necessary as a result of such initial counseling shall be furnished in accordance with the eligibility criteria otherwise set forth in this chapter (including section 611(b) thereof), and where a particular veteran is not eligible for necessary care or services, the Administrator shall provide referral services to assure, to the maximum extent practicable, that such care or services are provided from sources outside the Veterans' Administration.

"(c) The Chief Medical Director shall provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and shall make maximum utilization of the services of paraprofessionals, voluntary (without compensation) workers, and veteran students (under section 1685 of this title) in initial intake and screening activities.

"(d) The Administrator, in cooperation with the Secretary of Defense, shall take appropriate action, as provided in section 241 of this title, to ensure that all veterans eligible for assistance under this section are advised of their eligibility for such assistance and are encouraged to take full advantage thereof.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"612A. Eligibility for readjustment professional counseling."

below

"612. Eligibility for medical treatment.".

Sec. 106. Subsection (a) of section 613 of title 38, United States Code, is amended by amending clause (2) to read as follows:

"(2) the widow or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability,".

Sec. 107. (a) Section 618 of title 38, United States Code, is amended by—

(1) striking out "The" in the first sentence and inserting in lieu thereof "(a) In providing rehabilitative services under this chapter, the";

(2) striking out "hospitals and domiciliaries' and inserting in lieu thereof "health care facilities"; and

(3) inserting below subsection (a) (as redesignated by clause (1) of this subsection) the following new subsections:

"(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into arrangements with private industry or other sources outside the Veterans' Administration to provide for therapeutic work for remuneration for patients and members in Veterans' Administration health care facilities.

"(2) Nothwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such arrangements.

"(c) (1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter called the 'fund') for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

"(2) All funds received by the Veterans' Administration under arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall pay out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

"(3) In connection with the establishment and operation of the fund, the Administrator shall transfer to the fund not to exceed $2,000,000 from funds appropriated for the medical care of veterans. Any balance in the fund at the end of each fiscal year in excess of the estimated requirements for the ensuing two fiscal years shall be credited to that medical care appropriation.

"(4) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and wage rates) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

"(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

"(e) The Administrator shall prescribe regulations to insure that the priorities set forth in section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.".

(b) (1) The Administrator is authorized to settle claims made by the Veterans' Administration against any private nonprofit corporation organized under the laws of any State, for the use of Veterans' Administration facilities and personnel in work projects as a part of a therapeutic or rehabilitation program for patients and members in Veterans' Administration health care facilities, and to execute a binding release of all claims by the United States against any such corporation, in such amounts, and upon such terms and conditions as the Administrator deems appropriate.

(2) For the purposes of this subsection, notwithstanding section 484 of title 31, or any other provision of law, the Administrator may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Administrator and such corporation.

SEC. 108. Section 620 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "and except as provided in subsection (e)" after "subsection (b)";

(2) striking out "40 per centum" and inserting in lieu thereof "45 per centum" in clause (ii) of subsection (a);

(3) inserting before the period at the end of clause (ii) of subsection (a) a comma and "or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care";

(4) amending the first sentence of subsection (d) by—

(A) inserting "(1)" after "care" the first time it appears in such sentence; and

(B) inserting after "disability" a comma and "or (2) in the discretion of the Administrator in accordance with the priorities described in section 612(i), for a non-service-connected disability,"; and (5) inserting at the end thereof the following new subsection:

"(e) For the purposes of this section, the term 'nursing home care' includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe. The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a) (ii) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care (as defined in section 101(28) of this title).".

SEC. 109. (a) Subchapter V of chapter 17 of title 38, United States Code, is amended by—

(1) striking out the semicolon and all thereafter in section 641 and inserting in lieu thereof a period and the following new sentences: "No payment shall be made with respect to any veteran under this section in excess of one-half of the cost of the veteran's care in such State home. For the purposes of this section and consistent with the limitation in the preceding sentence, the Administrator shall apply the definition of nursing home care set forth in section 5031 (5) of this title with respect to determining the rate of per diem payable for any veteran receiving care in a State home in any State described in such section."; and

(2) amending section 642 by inserting at the end of subsection (a) the following new sentence: "No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.".

(b) Subchapter III of chapter 81 of title 38, United States Code, is amended by—

(1) amending section 5031 by—

(A) redesignating paragraphs (a), (b), (c), and (d) as (1), (2), (3), and (4), respectively, and inserting after "buildings" the second place it appears in paragraph (3) (as so redesignated) "(including buildings not presently used for providing nursing home care)"; and

(B) inserting at the end thereof the following new paragraph:

"(5) The term 'nursing home care' shall be deemed to include domiciliary care provided in any State in which no Veterans' Administration hospital or domiciliary facility is located.".

(2) Section 5034 is amended by—

(A) striking out "subchapter" the first place it appears and inserting in lieu thereof "section or any amendment to it with respect to such amendment"; and

(B) inserting at the end thereof the following new clause:

"(3) General standards for the furnishing of nursing home care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620 (b) of this title, except that facilities constructed with assistance received under this subchapter pursuant to the definition in section 5031(5) of this title shall meet such standards as the Administrator shall prescribe. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to ensure that such facility meets such standards.".

(3) Section 5035 is amended by—

(A) inserting at the end of clause (4) of subsection (a) "subject to the provisions of subsection (c) (1) of this section,"; and

(B) redesignating subsection (c) as paragraph (2) and inserting above such redesignated paragraph the following:

"(c) (1) The Administrator shall waive requirements set forth in subsection (a) (4) of this section in the case of an application from any State described in section 5031 (5) of this title to the extent that such State provides reasonable assurance that the portion of the facility constructed with assistance received under this subchapter will be used principally for veterans and that not more than such proportion as the Administrator shall deem reasonable (not more than 50 per centum) of the bed occupancy at any one time will consist of patients who are not receiving care as veterans.".

SEC. 110. (a) Chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following new subchapter:

"Subchapter VII—Preventive Health Care Program

"§ 660. Purpose

"The purpose of this subchapter is to provide for a preventive health care program under which the Administrator (1) shall attempt to ensure the best possible health care for veterans with service-connected disabilities by furnishing them feasible and appropriate preventive health care services, and (2) may, in connection therewith, carry out a pilot program (including research) on a geographical or other basis to determine the cost-effectiveness and medical advantages of furnishing preventive health care services to veterans with service-connected disabilities.

"§ 661. Definition

"For purposes of this subchapter, the term 'preventive health care services' may include, but is not limited to, periodic medical and dental examinations; patient health education (including nutrition education); maintenance of drug use profiles, patient drug monitoring, and drug utilization education; mental health preventive services (including family counseling); substance (including tobacco) abues prevention measures; immunizations against infectious disease; prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature; genetic counseling concerning inheritance of genetically deterimned diseases; routine vision testing and eye care services; periodic reexamination of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and such other medical services as may be necessary for providing effective and economical preventive health care.

"§ 662. Preventive health care services; pilot program

"(a) (1) The Administrator, in accordance with regulations which the Administrator shall prescribe, may furnish, on an inpatient, outpatient, or ambulatory basis, nationally or geograhpically, such preventive health care services as the Administrator determines are feasible and appropriate to any veteran in connection with the treatment of a service-connected disability under this chapter and to any veteran described in section 612(f) (2) of this title.

"(2) In connection with preventive health care services furnished under paragraph (1) of this subsection, the Administrator, in accordance with regulations which the Adminstrator shall prescribe, may institute appropriate controls and carry out followup studies (including research) to demonstrate the medical advantages and cost-effectiveness of furnishing such preventive health care services.

"(b) (1) The Administrator shall provide for the planning, design, and conduct of a health maintenance pilot program to demonstrate the medical advantages and cost-effectiveness of furnishing, in accordance with the priorities specified in section 612(i) of this title, comprehensive preventive health care services to veterans with service-connected disabilities. Such pilot program shall be undertaken as a controlled scientifically valid study involving not to exceed 10,000 veterans (including control groups) and shall be initiated on October 1, 1977.

"(2) The Administrator may not furnish comprehensive preventive health care services under paragraph (1) of this subsection after the last day of the tenth fiscal year following the fiscal year in which the pilot program is initiated.

"(c) In carrying out the preventive health care program provided for in this subchapter, the Administrator shall emphasize the utilization of interdisciplinary health care teams composed, to the maximum extent feasible, of various professional and paraprofessional personnel, such as public health nurses, psychologists, optometrists, technicians, physician assistants, and expanded-function dental auxiliaries.

"(d) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of the Veterans' Administration personnel granted immunity under such section.

"§ 663. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following:

"SUBCHAPTER VII—PREVENTIVE HEALTH CARE PROGRAM

"660. Purpose.
"661. Definition.
"662. Preventive health care services; pilot program.
"663. Reports".

(c) Except with respect to the pilot program provided for in subsection (b) of section 662 (as amended by subsection (a) of this section) of title 38, United States Code, the amendments made by subsection (a) of this section shall be effective, with respect to services furnished, on and after January 1, 1977.

SEC. 111. Subsection (e) of section 1903 of title 38, United States Code, is amended by—

(1) striking out "or member of the Armed Forces" and inserting such language after "title" in paragraph (1); and

(2) inserting at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation.".

SEC. 112. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended by—

(1) amending subsection (b) of section 4106 to read as follows:

"(b) (1) Appointments under section 4104 (1) of this title shall be for a probationary period of two years, and the record of each person serving under any such appointment shall be reviewed periodically by a board composed of employees appointed under this chapter, whose grades are comparable to or higher than the grade of the employee being reviewed, selected in accordance with regulations which the Administrator shall prescribe. If such board finds any probationary employee not fully qualified and satisfactory for reasons relating to professional competence or performance, such employee's probationary appointment may be terminated, such employee may be reassigned, or such employee may be subject to other nondisciplinary action consistent with continuing the employment of such employee in a capacity in which such employee can effectively function, in accordance with the procedures prescribed in paragraphs (2) and (3) of this subsection.

"(2) When it is proposed to take any action described in the second sentence of paragraph (1) of this subsection with respect to a probationary employee, such employee shall be entitled, before any such action is taken, to (A) a statement in writing of the reasons therefor and of any proposed finding with respect to professional competence or performance, (B) an opportunity to reply orally or in writing, or both, and (C) the assistance of any person of the employee's choice (not at Government expense) with regard to such reply.

"(3) If a board recommends that any action described in the second sentence of paragraph (1) of this subsection be taken, any such action shall be taken in accordance with the procedures prescribed in section 4110(e) of this title.

"(4) When it is proposed to take disciplinary action against a probationary employee on grounds which constitute misconduct or would result in stigma, such employee shall be entitled, before any such action is taken, to the disciplinary board procedures prescribed in section 4110 of this title.";

(2) amending section 4110 to read as follows:

"§ 4110. Disciplinary boards

(a) When it is proposed to take disciplinary action for such cause (including inaptitude, ineffectiveness, or misconduct) as will promote the efficiency of the service against any person appointed under section 4104(1) of this title who has completed the probationary period provided for in section 4106(b) of this title, or when it is proposed to take disciplinary action on grounds which constitute misconduct or would result in stigma against an employee appointed under (or identified in) section 4104(1) of this title who has not completed such probationary period (including part-time, temporary full-time, and intermittent employees appointed under section 4114(a) of this title and serving in positions identified in such section 4104(1), or a resident or intern appointed under section 4114(b) of this title), the Chief Medical Director shall cause to be appointed a disciplinary board. Such board shall hear and review charges on the basis of which disciplinary action is proposed and make findings and recommendations thereon, and shall operate in accordance with regulations which the Administrator shall prescribe pursuant to the provisions of this section. No disciplinary action shall be taken against any such employee until a final agency decision on such proposed action has been made.

"(b) Each such board shall consist of not less than three nor more than five employees appointed under this chapter, whose grades are comparable to or higher than the grade of the employee charged, and a majority of whom are of the same profession as such employee. The members of the board shall be selected by the Chief Medical Director in accordance with regulations which the Administrator shall prescribe.

"(c) The Chief Medical Director shall appoint the chairman of the board who shall be a member of the same profession as the employee charged. A member of the board shall be elected as secretary by a majority of the board. The chairman and secretary shall have authority to administer oaths to persons testifying before the board. The Chief Medical Director may designate or appoint one or more investigators to assist the board in the collection of evidence, and counsel may be designated to represent the Veterans' Administration.

"(d) Any employee answering to charges before a disciplinary board shall be entitled to (1) specification of charges, (2) a full hearing with opportunity to produce supportive witnesses and confront and cross-examine available witnesses, and (3) representation by a person of the employee's choice (not at Government expense) throughout the procedure prescribed in this section.

"(e) If a disciplinary board determines that any charge is sustained, it shall recommend to the Chief Medical Director such disciplinary action as it deems appropriate with respect to such charge, which may include, but is not limited to, reprimand, suspension without pay, reassignment, reduction in grade, and separation. The Chief Medical Director shall either (1) approve the findings and recommendation of the board, (2) approve such findings and recommendation with modification of the recommendation or exception to any finding, or (3) disagree with such findings and recommendation, as to such charge. The Chief Medical Director shall make a final decision in writing on the matter under consideration (stating the reasons for such decision, for any modification of or disagreement with any board recommendation, and for any exception to any board finding), shall provide the employee with such written decision, and shall take appropriate action to effectuate such decision. In the event the Chief Medical Director proposes to take exception to a finding or modify a recommendation of the board, the Chief Medical Director may refer the matter to the board for reconsideration; if after such reconsideration by the board, the Chief Medical Director continues to take exception to any of its findings or to disagree with its recommendation, or both, the Chief Medical Director may make an independent review of the record before making a final decision under this section. The decision of the Chief Medical Director shall be the final agency decision.

"(f) The Chief Medical Director may, as disciplinary action under subsection (e) of this section, order the reassignment of any employee charged under this section. The Chief Medical Director may also reassign an employee for the good of the service and such reassignment shall not, in itself, entitle such employee to the disciplinary board procedures prescribed in this section. When such a reassignment for the good of the service would result in the reduction in grade, salary, or relative standing in the Department of Medicine and Surgery of an employee who has completed the probationary period prescribed by section 4106(b) of this title, such employee shall be entitled, before any such reassignment is effectuated, to the disciplinary board procedures prescribed in this section. When an employee alleges that a reassignment proposed for the good of the service is disciplinary in nature, the employee shall be entitled, before any such reassignment is effectuated, to attempt to sustain such allegation through the procedures prescribed by the Administrator to determine employee grievances. If such allegation is sustained in such grievance procedure, the employee shall be entitled, before any such disciplinary action is taken, to the disciplinary board procedures prescribed in this section. For the purposes of this section, the term 'reassignment' means the transfer of an employee from one duty station to another or from one set of responsibilities to another, within the Department of Medicine and Surgery."; and

(3) amending subsection (b) of section 4114 by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting below paragraph (1) the following new paragraph (2):

"(2) In order to carry out the purposes of paragraph (1) of this subsection, the Chief Medical Director shall cause to be appointed, in accordance with regulations which the Administrator shall prescribe, House Staff Review Committees to review periodically the academic and professional performance and progress of persons appointed under paragraph (1) of this subsection. When it is proposed to take any action, such as reduction in grade, suspension without pay, or separation, with respect to a person appointed under such paragraph for reasons relating to professional or academic competence or performance, such person shall be entitled, before any such action is taken, to (A) a statement in writing of the reasons therefor and of any proposed finding with respect to professional or academic competence or performance, and (B) an opportunity to reply orally or in writing, or both, to the House Staff Review Committee. When it is proposed to take any such action with respect to a person appointed under paragraph (1) of this subsection on grounds which constitute misconduct or would result in stigma, such person shall be entitled, before any such action is effectuated, to the disciplinary board procedures prescribed in section 4110 of this title.".

(b) The amendment made by subsection (a) of this section with respect to the period of probationary service under section 4106 of title 38, United States Code, shall become effective as to probationary employees—

(1) one hundred and eighty days after the date of enactment of this Act, for those who on such enactment date have served eighteen months or more of their probationary period; or

(2) upon such enactment date for those who, on such date, have served less than eighteen months of their probationary period.

SEC. 113. Subchapter 1 of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting at the end of section 4107 thereof the following new subsection:

"(g) When the Administrator finds such action to be necessary in order to obtain or retain the services of health care personnel to provide hospital care and medical services for veterans, the Administrator, notwithstanding any other provision of law, shall increase, on a nationwide basis, the minimum or maximum rates of basic pay authorized under this chapter or title 5 for one or more grades or for one or more medical, dental, or health care fields within the grades, to (1) provide rates of basic pay commensurate with competitive pay practices in the same occupation or in order to achieve internal alignment of rates of basic pay within the Department of Medicine and Surgery, or (2) meet staffing requirements at Veterans' Administration facilities. Any such increase in the minimum rate of basic pay for any grade may not exceed the maximum rate prescribed pursuant to law for such grade. Any such increase in the maximum rate of basic pay for any grade may not exceed in corresponding amount, the rate provided for in the statutory range for that grade, subject to the limitation on the rate of basic pay fixed by administrative action set forth in section 5363 of title 5. "; and

(2) inserting "(which may be established retroactively based on changes in such customary amount and terms)" after "pay" in subsection (b)(1) of section 4114.

SEC. 114. Subchapter I of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting in section 4102 "a Podiatric Service, an Optometric Service," after "Dental Service,";

(2) striking out "and a Director of Optometry, appointed by the Administrator." and inserting in lieu thereof "a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services." in clause (7) of subsection (a) of section 4103;

(3) amending section 4104 by—

(A) inserting "podiatrists, optometrists," after "dentists," in clause (1); and

(B) striking out "optometrists," in clause (2);

(4) redesignating clauses (5), (6), (7), and (8) in subsection (a) of section 4105 as clauses (6), (7), (8), and (9), respectively, and inserting after clause (4) the following new clause:

"(5) Podiatrist—

"hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;";

(5) inserting "podiatrists, optometrists," after "dentists," in subsections (a) and (c) and inserting "podiatrist, optometrist," after "dentist," in subsection (e) of section 4106;

(6) amending section 4107 by—

(A)(i) inserting in the SECTION 4103 SCHEDULE in subsection (a)

"Director of Podiatric Service, $36,338 minimum to $46,026 maximum."

immediately below

"Director of Nursing Service, $42,066 minimum to $47,674 maximum.";

(ii) striking out "Director of Optometry" and inserting in lieu thereof "Director of Optometric Service" in such schedule in such subsection; and

(B) inserting immediately below the NURSE SCHEDULE in paragraph (1) of subsection (b) the following new schedule:

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $31,309 minimum to $40,705 maximum.

"Senior grade, $26,861 minimum to $34,916 maximum.

"Intermediate grade, $22,906 minimum to $29,782 maximum.

"Full grade, $19,386 minimum to $25,200 maximum.

"Associate grade, $16,255 minimum to $21,133 maximum.";

(7) inserting "podiatrists, optometrists," after "dentists," and "podiatrist, optometrist," after "dentist," each place those words appear in the language preceding clause (1) and in subclause (B) of clause (6) of subsection (a) of section 4108;

(8) inserting "podiatric, optometric," after "dental," in subsection (a) of section 4112;

(9) inserting "podiatrists, optometrists," after "dentists," in section 4113;

(10) amending section 4114 by—

(A) inserting "podiatrists, optometrists," after "dentists," each place such term appears in paragraphs (1) (A) and (B) and (3) (A) and (B) of subsection (a); and

(B) striking out "or dentist" and inserting in lieu thereof a comma and "dentist, podiatrist, or optometrist" in the language preceding clause (1) of subsection (d) and in clause (1) of such subsection;

(11) inserting "podiatrist, optometrist," after "dentist," each place such word appears in subsection (a) of section 4116; and

(12) amending section 4117 by—

(A) striking out "medical schools," and inserting in lieu thereof "schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing,"; and

(B) inserting "podiatrists, optometrists," after "dentists,".

SEC. 115. (a) Chapter 73 of title 38, United States Code, is amended by inserting at the end thereof the following new subchapter:

"Subchapter III—Protection of Patient Rights

"§ 4131. Informed consent

"The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

"§ 4132. Confidentiality of certain medical records

"(a) Record of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsection (e) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator pursuant to section 4134 of this title.

"(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

"(C) If authorized by an appropriate order of a United States court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4134 of this title.

"(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

"(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

"(e) The prohibitions of this section shall not prevent any interchange of records—

"(1) within and among those facilities of the Veterans' Administration furnishing health care to veterans, or

"(2) between such facilities and the Armed Forces.

"(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

"Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.

"§ 4134. Coordination; reports

"(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

"(1) human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93–348; 88 Stat. 348), and

"(2)(A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare, and, as appropriate, the Director of the Office of Drug Abuse Policy (or any successor authority), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

"(b) Not later than sixty days after the date of enactment of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

"4131. Informed consent.
"4132. Confidentiality of certain medical records.
"4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities.
"4134. Coordination; reports.".

(c) The following provisions of law are superseded by the provisions of the amendments to chapter 73 of title 38, United States Code, made by subsection (a) of this section:

(1) Paragraph (2) of subsection (b) of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4581(b)(2)), as added by section 121 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93–282; 88 Stat. 130).

(2) Paragraph (2) of subsection (b) of section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174(b) (2)), as amended by section 6(a) of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (Public Law 94–237; 90 Stat. 244–5).

(3) Subsection (h) of section 408 of such 1972 Act (21 U.S.C. 1175(h)), as amended by section 303(b)(2)(B) of such 1974 Act (88 Stat. 137).

(4) Subsection (h) of section 333 of such 1970 Act (42 U.S.C. 4582(h)), as amended by section 122(a) of such 1974 Act (88 Stat. 131).

(5) Subsection (b) of section 121 of such 1970 Act (88 Stat. 131).

(6) Subsection (b) of section 6 of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (90 Stat. 245).

(7) Subsection (c) of section 303 of such 1974 Act (88 Stat. 139).

(8) Subsection (c) of section 122 of such 1974 Act (88 Stat. 133).

SEC. 116. (a) Subsection (a) of section 4118 of title 38, United States Code, is amended by—

(1) inserting "in professional or administrative positions or clinical research positions in the career development program" after "dentists" in paragraph (1); and

(2) inserting "professional and administrative" after "of" in paragraph (3).

(b) Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669) is amended by striking out "October 11, 1976" and inserting in lieu thereof "June 30, 1977, or the expiration date of the authority contained in section 313 of title 37, United States Code, to provide special pay to physician medical officers in the uniformed services, whichever is later".

SEC. 117. Section 4123 is amended by adding at the end thereof the following new sentence: "Any new proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.".

SEC. 118. Chapter 75 of title 38, United States Code, is amended by—

(1) amending section 4204 by—

(A) inserting "(a)" before "To"; and

(B) inserting at the end thereof the following new subsection:

"(b) Without regard to fiscal year limitations, obligations may be incurred against anticipated budgetary resources of the Service revolving fund in such amounts and for such periods as the Administrator may determine to be necessary to maintain and continue operations without incurring overobligations at any time during the fiscal year."; and

(2) amending section 4206 by—

(A) striking out "year" the first place it appears in the first sentence and the second place it appears in the second sentence and inserting in lieu thereof "five fiscal years"; and

(B) inserting at the end thereof the following new sentence: "In determining estimated requirements, the Service may provide for such capital improvements to canteen facilities, including those which are constructed and become a part of the building or structure, as may be approved by the Director of the Office of Management and Budget and included in the budget required to be submitted to Congress pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).".

SEC. 119. Subsection (a)(3) of section 5001 of title 38, United States Code, is amended by striking out "eight thousand beds in the fiscal year ending June 30, 1974," and inserting in lieu thereof "ten thousand beds in fiscal year 1980".

SEC. 120. (a) Subchapter IV of chapter 81 of title 38, United States Code, is amended by—

(1) adding at the end of subsection (b) of section 5052 the following new sentence: "Such term also means emergency room medical resources which the Administrator determines are necessary for the treatment of veterans whose eligibility for medical services has been established under section 612(a) or 612(f)(1)(B) or (2) in medical emergencies which pose a serious threat to life or health but which would be unduly costly and duplicative to provide directly in a Veterans' Administration facility.";

(2) inserting at the end of section 5053 the following new subsection:

"(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is entitled to hospital or medical insurance benefits under subchapter XVIII of chapter 7 of title 42, such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

"(1) rates prescribed by the Secretary of Health, Education, and Welfare, after consultation with the Administrator, and

"(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.";

(3) amending section 5056 by—

(A) amending the catchline to read as follows:

"§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974"; and

(B) striking out "title IX" and inserting in lieu thereof "part F of title XVI"; and

(4) inserting at the end of such subchapter the following new sections:

"§ 5058. Coordination with programs carried out under title XI of the Social Security Act

"(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, attempt to coordinate the Professional Standards Review program carried out under part B of title XI of the Social Security Act and the comparable programs carried out by the Department of Medicine and Surgery to assess the quality of patient care in Veterans' Administration health care facilities. Such coordination shall include sharing of information with regard to norms of health care services developed on a regional and national base and arrangements for joint membership on entities established by the Department of Medicine and Surgery and entities established under such Act.

"(b) Not later than one year after the date of enactment of this section, and annually thereafter, the Chief Medical Director shall report to the Congress on the effectiveness of such coordination in improving the evaluation of the quality of patient care provided by the Department of Medicine and Surgery and in achieving the purposes of the program carried out under such Act.

"§ 5059. Reports on coordination with other programs

"Not later than three months after the end of each fiscal year, the Chief Medical Director, through the Administrator, shall report to the Congress on all activities (and the results thereof) in which the Chief Medical Director or a designee, as a representative of the Veterans' Administration, has participated, as a result of a statutory requirement or otherwise, in an advisory or coordinating capacity with respect to programs carried out by other departments, agencies, or instrumentalities of the executive branch.".

(b) The table of sections at the beginning of such chapter is amended by—

(1) striking out

"5056. Coordination with programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965."

and inserting in lieu thereof

"5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.";

and

(2) inserting at the end thereof

"5058. Coordination with programs carried out under title XI of the Social Security Act.

"5059. Reports on coordination with other programs.".

SEC. 121. Chapter 82 of title 38, United States Code, is amended by—

(1) redesignating subsections (e) and (f) of section 5070 as subsections (f) and (g), respectively, and inserting the following new subsection (e):

"(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.";

(2) inserting at the end of section 5070 the following new subsection:

"(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.";

(3) striking out paragraph (1) of subsection (a) of section 5073 and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(4) striking out "subsections (a)(1) and" and inserting in lieu thereof "section 5070 (e) of this title and subsection" in section 5073(b)(2).

SEC. 122. (a) The Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration shall carry out or provide for a study to determine the short-range and long-range direction of the hospital and medical program carried out under title 38, United States Code, for eligible veterans and persons with reference to the increasing average age of the eligible veteran population. Not later than twelve months after the date of enactment of this Act, the Chief Medical Director, through the Administrator of Veterans' Affairs, shall submit to the appropriate Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of such study, including, but not limited to, specific plans for—

(1) adjusting the number of Veterans' Administration hospital, nursing home, intermediate care, and domiciliary beds;

(2) adjusting the program for contracting for such nursing home care (including intermediate and personal care) in community facilities;

(3) expanding alternatives to institutional care, including provision of home health (including homemaker and special nutrition) services;

(4) emphasizing treatment programs particularly suited to meeting the health care needs of an aging population;

(5) emphasizing education and training of health care personnel specializing in the treatment of elderly persons and diseases and infirmities characteristic of an aging population;

(6) emphasizing biomedical and health

services research designed to ameliorate geriatric care problems; and

(7) meeting the special architectural, transportation, and environmental needs of an aging population.

(b) Not later than ninety days after the date of enactment of this Act, the Administrator shall take all appropriate steps to ensure that, to the maximum extent feasible, each individual eligible for new or expanded care and services as a result of the amendments made by this Act is personally notified, in a clear and simple manner, about such new or expanded eligibility and the way to secure such care and services, and shall send copies of all such notifications forms to the appropriate committees of the House of Representatives and the Senate, along with a description of how such forms were distributed.

TITLE II—VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION AMENDMENTS

SEC. 201. This title may be cited as the "Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1976".

SEC. 202. Paragraph (1) of section 601 of title 38, United States Code, is amended by inserting "(including alcoholism and drug dependence)" after "disease".

SEC. 203. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 620A. Treatment and rehabilitation for alcoholism

"(a) The Congress hereby finds and declares that alcoholism and alcohol abuse are among the most pervasive untreated diseases and disabilities afflicting the Nation, including the veteran population, and that the onset of alcoholism and alcohol abuse often occurs during military service.

"(b) In order to meet the situation described in subsection (a) of this section, the Administrator, in carrying out the responsibilities to furnish hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, shall carry out specialized medical programs providing inpatient treatment (including treatment of the symptoms of detoxification), outpatient treatment and rehabilitative services on a nationwide basis to eligible veterans suffering from the disability of alcoholism or alcohol abuse. In carrying out such specialized medical programs, the Administrator (1) shall utilize the most efficacious available treatment and rehabilitation modalities (stressing the utilization in such programs of counselors who are recovered alcoholics, half-way houses, and encounter-style therapeutic communities) extending beyond the detoxification period and designed to provide for the full recovery of the patient and the restoration of such patient to society as a productive, self-sufficient citizen, and (2) may utilize private half-way-house facilities for which the Administrator contracts in accordance with regulations which the Administrator shall prescribe. Under the circumstances described in the last sentence of section 672(b) of this title, the Administrator shall arrange for the provision of treatment and rehabilitative services, at Veterans' Administration expense, in approved community facilities for which the Administrator contracts to veterans suffering from the disability of alcoholism or alcohol abuse.

"(c) The Administrator shall submit annually (as a part of the annual report submitted pursuant to section 214 of this title) a full report on the programs carried out under this section, including the same type of information specified in section 677 of this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"620A. Treatment and rehabilitation for alcoholism."

below

"620. Transfers for nursing home care.".

SEC. 204. (a) Chapter 17 of title 38, United States Code (as amended by section 110 of this Act), is amended by inserting at the end thereof the following new subchapter:

"Subchapter VIII—Special Medical Treatment and Rehabilitative Services for Drug Dependence or Drug Abuse Disabilities

"§ 671. Definition

"As used in this subchapter and notwithstanding any other provision of this title, the term 'veteran' includes (except as otherwise provided in section 3103 of this title) a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"§ 672. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities

"(a) The Administrator shall furnish to any veteran with a drug dependence or drug abuse disabiilty such special medical treatment and rehabilitative services and such hospital, nursing home, and domiciliary care (hereinafter in this subchapter collectively referred to as treatment and rehabilitative services) as the Administrator finds to be reasonably necessary to bring about the veteran's recovery and rehabilitation from such disability.

"(b) Such treatment and rehabilitative services—

"(1) shall (A) include, but not be limited to, in addition to those services described in section 601 of this title, individual counseling and referral services and crisis intervention, and (B) be provided in hospital, domiciliary, outpatient, and half-way-house and other community-based facilities (including satellite facilities located in areas where large numbers of veterans eligible for treatment and rehabilitative services under this subchapter reside) over which the Administrator has direct jurisdiction; and

"(2) may be provided in private half-way-house facilities for which the Administrator contracts in accordance with such regulations as the Administrator shall prescribe.

If the Administrator determines that it is essential to the successful treatment and rehabilitation of a veteran receiving initial evaluation or treatment under this subchapter or section 620A of this title that treatment and rehabilitative services (involving the furnishing of medication) be furnished in the same program to a member of the veteran's immediate family who is suffering from a drug or alcohol abuse or dependence disability, then the Administrator shall offer the veteran the provision of, and provide if requested, like treatment and services, at Veterans' Administration expense (up to costs deemed reasonable by the Administrator), in a community facility, approved by the Administrator, for which the Administrator contracts and at which such family member has been accepted for treatment (not at Veterans' Administration expense) with the veteran.

"(c) In providing for treatment and rehabilitative services under this subchapter to any veteran, the Administrator shall offer alternative modalities of treatment based upon the individual needs of such veteran.

"(d) In contracting for treatment and rehabilitative services in facilities outside the Veterans' Administration pursuant to this subchapter, the Administrator shall, wherever feasible, give priority to community-based, multiple-modality, treatment and rehabilitation programs which employ peer group veterans and stress outreach efforts to identify and counsel veterans eligible for treatment and rehabilitative services under this subchapter.

"(e) The Administrator shall, upon receipt of application for treatment and rehabilitative services under this subchapter by any veteran who has been discharged or released from a period of active military, naval, or air service, with other than an honorable or general discharge—

"(1) advise such veteran of the right to apply to the appropriate military, naval, or air service for a review of the nature of such discharge or release for the purpose of correcting the nature of such discharge and thus removing any ineligibility to the receipt of benefits under this title or any other law;

"(2) advise such veteran of the policy of the Armed Forces with respect to review of the nature of any discharge received in connection with drug use or possession; and

"(3) advise such veteran of all program benefits under this title and any other law to which such veteran is entitled or would be entitled with a general or honorable discharge.

The Administrator shall offer and, if requested, provide to any veteran within the purview of this subsection such assistance as may be necessary to facilitate the process of preparing and filing an application for a review of the nature of such veteran's discharge or release from a period of active military, naval, or air service.

"(f)(1) The Administrator shall also provide for treatment and rehabilitative services in the case of any veteran eligible therefor under this subchapter who has been charged with, or convicted of, a criminal offense by any court of competent jurisdiction in the United States, who is not confined and who is not required to participate in the treatment and rehabilitation program by any such court.

"(2) The Administrator may also provide for treatment and rehabilitative services to any veteran eligible therefor under this subchapter who is under the jurisdiction of a court of competent jurisdiction as the result of having been charged with, or having been convicted of, a criminal offense and who is required to participate in a treatment and rehabilitation program by such court, but such services may be provided only under such conditions as the Administrator determines will ensure that the participation of such veteran in the program in question will not impair the voluntary nature of the treatment and rehabilitative services being provided to other patients in such program.

"§ 673. Outreach and counseling

"(a) The Administrator shall utilize all available resources of the Veterans' Administration, including the use of peer-group veterans, in seeking out and counseling toward treatment and rehabilitation of all veterans, especially veterans who served after August 4, 1964, eligible for treatment and rehabilitative services under this subchapter.

"(b) The Administrator shall take affirmative steps, in consultation with the Secretary of Labor and the Chairman of the Civil Service Commission, to (1) urge all Federal agencies, private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans provided treatment and rehabilitative services under this subchapter and under section 620A of this title who have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"§ 674. Audits by Comptroller General

"(a) The Comptroller General of the United States, or any duly authorized representative thereof, shall have access for the purpose of audit and examination to any books, accounts, records, reports, files, and all other things or property of facilities outside the Veterans' Administration that are pertinent to payments received pursuant to contracts entered into under this subchapter.

"(b) The Comptroller General shall carry out the responsibilities under this section in such a way as to comply with the provisions set forth in section 4132 of this title with respect to medical confidentiality.

"§ 675. Budget requests

"For fiscal year 1977, and for each fiscal year thereafter, there shall be included in the budget required to be submitted to Congress pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), a separate line item showing the estimated expenditures by the Veterans' Administration under this subchapter and under section 620A of this title during such fiscal year for the treatment and rehabilitation of eligible veterans.

"§ 676. Treatment of members of the Armed Forces by the Veterans' Administration

"(a) Any member of the active military, naval, or air service who is determined by the Secretary of the military department concerned to have a drug dependence or drug abuse disability, may, pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, and subject to the provisions of the Act of March 4, 1915, as amended (31 U.S.C. 686), be transferred to any Veterans' Administration facility within the last thirty days of such member's tour of duty and be provided treatment and rehabilitative services under this subchapter as if such member were a veteran.

"(b) The Administrator shall from time to time make a report to the Secretary concerned as to the progress of the treatment of any member transferred pursuant to the provisions of this section, and the Administrator shall release such member to the Secretary concerned when the Administrator finds that the drug abuse disability of such member is stabilized, or certifies that (1) such member refuses to comply with the terms and conditions of the treatment prescribed, or (2) the treatment which could otherwise be provided will be of no further benefit to such member.

"(c) No member of the active military, naval, or air service shall be transferred to any Veterans' Administration facility pursuant to subsection (a) of this section unless such member requests such transfer in writing for a specified period of time within such member's tour of duty. No such member thereafter transferred shall be retained for treatment by the Administator beyond such specified period of time within such member's tour of duty unless the member requests in writing treatment for a further specified period of time and such request is approved by the Secretary concerned and the Administrator.

"§ 677. Reports

"Not later than six months after the date of the enactment of this section and thereafter on May 1 of each year, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report (covering the period since any prior report under this section) on the implementation of this subchapter and section 620A of this title separately with respect to alcoholism and alcohol abuse, on the one hand, and to drug dependency and abuse on the other, and an evaluation of the effectiveness of alternate treatment and rehabilitation programs provided hereunder and under such section 620A, including (1) the number of veterans and servicemen provided treatment and/or rehabilitative services, (2) the average duration of such treatment and/or services, (3) the estimated percentage of successful rehabilitation and enduring recovery cases, (4) an analysis of successful and unsuccessful rehabilitation experience, (5) a description of outreach, information dissemination, and job development and placement efforts, (6) a full accounting of payments to, and an evaluation of services and programs provided in, facilities outside the Veterans' Administration, (7) experience under the medical confidentiality provisions in section 4132 of this title, (8) plans for new program directions, and (9) such recommendations for legislation as the Administrator deems appropriate.".

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER VIII—SPECIAL MEDICAL TREATMENT AND REHABILITATIVE SERVICES FOR DRUG DEPENDENCE OR DRUG ABUSE DISABILITIES

"671. Definition.
"672. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities.
"673. Outreach and counseling.
"674. Audits by Comptroller General.
"675. Budget requests.
"676. Treatment of members of the Armed Forces by the Veterans' Administration.
"677. Reports.".

TITLE III—MEDICAL TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. This title may be cited as the "Veterans Medical Technical and Conforming Amendments of 1976".

SEC. 302. Chapter 17 of title 38, United States Code, is amended as follows:

(a) The title of such chapter is amended by inserting "NURSING HOME," before "DOMICILIARY".

(b) Section 601 is amended by—

(1) striking out "and exclusive" in clause (A) of paragraph (4);

(2)(A) inserting after "contracts" in clause (C) of paragraph (4) "when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required";

(B) redesignating subclauses (ii) and (iii) of such clause (C) as subclauses (iv) and (v), respectively;

(C) striking out subclause (i) of such clause (C) and inserting in lieu thereof the following subclauses: "(i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph;"; and

(D) striking out "clause (iii)" where the term appears in subclause (v) (as so redesignated) of such clause (C) and inserting in lieu thereof "subclause (v)"; and

(3) striking out in subclause (ii) of clause (A) of paragraph (5) "for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation" and inserting in lieu thereof "pursuant to the provisions of section 111 of this title".

(c) The subchapter heading at the beginning of subchapter II of such chapter is amended by inserting a comma and "Nursing Home," after "Hospital".

(d) Section 610 is amended by—

(1) inserting a comma and "nursing home," after "hospital" in the catchline of such section;

(2) inserting "or nursing home" after "hospital" in subsection (a)(1)(B);

(3) striking out "of any war or of service after January 31, 1955," and the comma after "domiciliary care" in subsection (b)(2); and

(4) striking out "and exclusive" in subsection (d).

(e)(1) The catchline of section 611 is amended by striking out "Hospitalization" and inserting in lieu thereof "Care".

(2) Subsection (b) of section 611 is amended by inserting "or medical services" after "hospital care".

(f) Section 612 is amended by—

(1) striking out "Indian wars" and inserting in lieu thereof "Indian Wars" in subsection (e);

(2) striking out "granted" and inserting in lieu thereof "furnished" in subsection (f)(1)(B); and

(3) inserting after "Administrator" in subsection (g) a comma and "within the limits of Veterans' Administration facilities,".

(g) Section 616 is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

(h) Subsection (a) of section 620 is amended by—

(1) striking out "and exclusive" in clause (1) and in the last sentence of such subsection; and

(2) striking out "from time to time" and inserting in lieu thereof "annually" in clause (ii).

(i) The subchapter heading at the beginning of subchapter III of such chapter is amended by inserting "and Nursing Home" after "Hospital".

(j) Clauses (1) through (3) of section 621 are amended by inserting a comma and "nursing home," after "hospital" each time it appears.

(k) Subsection (a) of section 622 is amended by striking out "610(a)(1)" and inserting in lieu thereof "610(a)(1)(B)", and by striking out "632(b)" and inserting in lieu thereof "632(a)(2)".

(l) Subsection (c) of section 624 is amended by striking out "of any war" after "veteran".

(m) Section 627 is amended by striking out "1958" and inserting in lieu thereof "1957".

(n) Subsection (a)(1) of section 628 is amended by striking out "they" and inserting in lieu thereof "delay".

(o) Section 641 is amended by striking out "of any war or of service after January 31, 1955".

(p) Section 643 is amended by striking out "of any war" after "veteran".

SEC. 303. (a) The table of chapters and parts at the beginning of title 38, United States Code, and the table of chapters at the beginning of part II of such title are each amended by inserting in the title of chapter 17 "NURSING HOME," after "HOSPITAL".

(b) The table of sections at the beginning of chapter 17 of such title is amended by—

(1) inserting in the heading of subchapter II a comma and "NURSING HOME" after "HOSPITAL";

(2) inserting in the item relating to section 610 a comma and "nursing home" after "hospital";

(3) inserting in the heading of subchapter III "AND NURSING HOME" after "HOSPITAL"; and

(4) striking out "Hospitalization" and inserting in lieu thereof "Care" in the item relating to section 611.

SEC. 304. Chapter 23 of title 38, United States Code, is amended by inserting in subsection (a) of section 903 a comma and "nursing home," after "hospital", and by striking out "611" and inserting in lieu thereof "611(a)" in such subsection.

SEC. 305. Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(a)(1) The second sentence of subsection (a) of section 4101 is amended to read as follows: "The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.".

(2) Subsection (b) of section 4101 is amended by striking out "to provide a complete medical and hospital service for the medical care and treatment of veterans".

(3) Section 4101 is further amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection (c):

"(c) (1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

"(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b) (2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, providing utilization of scientific advances, and information clearinghouse activities).

"(3) (A) With the approval of the Administrator, any contract for research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph:

"(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

"(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

"(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

"(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

"(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

"(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

"(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

"(i) funds obligated for the performance of the contract concerned;

"(ii) funds available for research or development or both, and not otherwise obligated; or

"(iii) funds appropriated for those payments.

"(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

"(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

"(G) The authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

"(H) As used in this section, the term 'contractor' includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

"(4) Funds appropriated to carry out this subsection shall remain available until expended.".

(b) Chapter 39 of title 38, United States Code, is amended by—

(1) striking out in the table of sections

"1904. Research and development; coordination with other Federal programs."

and inserting in lieu thereof:

"1904. Research and development.";

(2) amending the catchline of section 1904 to read as follows:

"§ 1904. Research and development";

and

(3) amending subsection (a) of section 1904 by striking out "prosthetic and orthopedic appliance research under section 216 and medical research" and inserting in lieu thereof "medical and prosthetic research".

(c) Chapter 3 of title 38, United States Code, is amended by—

(1) striking out section 216 in its entirety; and

(2) amending the table of sections at the beginning thereof by striking out

"216. Research by the Administrator; indemnification of contractors.".

(d) Section 4103 of such title is amended by—

(1) inserting "upon the recommendation of the Chief Medical Director" after "Administrator" in paragraphs (2) and (3) of subsection (a);

(2) striking out "recommendations" and inserting in lieu thereof "recommendation" in subsection (a) (4);

(3) inserting "or whose appointment or reappointment, is extended" after "reappointed" in subsection (b) (3); and

(4) inserting "or for any period not exceeding two years" in subsection (c) before the period at the end of the second sentence.

(e) Subsection (a) (6) (as redesignated by section 114(4) of this Act) of section 4105 of title 38, United States Code, is amended by inserting "hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and" before "be".

(f) Subsection (b) of section 4108 is amended by striking out "pursuant to" after "agreement" and inserting in lieu thereof "as referred to in".

(g) Subsection (b) of section 4114 is amended by amending paragraph (3) (as redesignated by section 112(a) (3) of this Act) to read as follows:

"(3) For the purposes of this title, the term 'internship' shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term 'intern' shall mean a person serving an internship.".

SEC. 306. Chapter 81 of title 38, United States Code, is amended as follows:

(a) Section 5001 is amended by—

(1) striking out "and exclusive" in the first sentence of subsection (a) (2), and striking out "turberculosis" and inserting in lieu thereof "tuberculous" in such sentence; and

(2) striking out "and exclusive" in the first sentence of subsection (a) (3).

(b) Subchapter III of such chapter is amended by striking out "war" each time it appears in paragraph (a) of section 5031, section 5032, paragraph (1) of section 5034, paragraphs (4) of subsections (a) and (b) of section 5035, and section 5036.

(c) Section 5053 is amended by—

(1) striking out "paragraphs" and inserting in lieu thereof "clauses" in the first sentence of subsection (a); and

(2) inserting "health care" after "Veterans' Administration" each place it appears in clauses (1) and (2) of subsection (a) and in subsection (c).

(d) Subsection (b) of section 5054 is amended by inserting the "before surrounding medical community" the second place it appears.

(e) The second sentence of subsection (a) of section 5055 is amended by striking out "for Research and Education in Medicine" and inserting in lieu thereof "charged with administration of the Department of Medicine and Surgery medical research program".

SEC. 307. Subchapter II of chapter 82 of title 38, United States Code, is amended by striking out "subchapter IV of chapter 81 of" in subsection (a) of section 5083.

SEC. 308. Chapter 85 of title 38, United States Code, is amended as follows:

(a) The first sentence of subsection (b) of section 5202 is amended by inserting "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as a veteran)." in the first sentence.

(b) Subsection (a) of section 5220 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title," after "(admitted as a veteran)".

(c) Section 5221 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as such)".

SEC. 309. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 4101, clause (1) of section 4104, subsection (b) of section 4105, subsection (f) of section 4106, subsection (f) of section 4107, the language preceding clause (1) in subsection (a) and clause (6)(B) in subsection (a) of section 4108, and section 4117, are each amended by striking out "physicians'" and inserting in lieu thereof "physician".

(2) Clause (1) of section 4104, clause (8) of subsection (a) and subsection (b) of section 4105, subsection (f) of section 4107, and the language preceding clause (1) in subsection (a) and subclause (B) of clause (6) of subsection (a) of section 4108 are each amended by striking out "expanded-duty" each place it appears and inserting in lieu thereof "expanded-function".

(3) Subsection (b) of section 4101 is further amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(4 Clause (8) of subsection (a) of section 4105 is further amended by striking out "Physicians'" and inserting in lieu thereof "Physician".

(5) Section 4113 is amended by striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries".

(6) Section 4114 is amended by—

(A) inserting "physician assistants, expanded-function dental auxiliaries," after "nurses," in clauses (A) and (B) of subsection (a)(1);

(B) striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries" in the first sentence of subsection (a)(3)(A);

(C) striking out "nurses and interns, and" and inserting in lieu thereof "nurses, physician assistants, expanded-function dental auxiliaries, and interns," in subsection (a)(3)(B); and

(D) striking out "dentist's assistant" and inserting in lieu thereof "expanded-function dental auxiliary" in the first sentence of subsection (e).

(7) Subsection (a) of section 4116 is amended by striking out "physicians' assistant, dentists' assistant" each time those terms appear and inserting in lieu thereof "physician assistant, expanded-function dental auxiliary".

(8) Section 4117 is amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(b) Subchapter I of chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4106 is amended by—

(A) inserting "rate of basic" after "minimum" in the second sentence of subsection (c); and

(B) striking out "level and salary" and "and salary" and inserting in lieu thereof "and annual rate of basic pay" each place those words appear in subsection (e).

(2) Section 4107 is amended by—

(A) striking out "per annum full-pay scale or ranges" and inserting in lieu thereof "annual rates or ranges of rates of basic pay" in subsection (a);

(B) striking out "per annum full-pay ranges" and inserting in lieu thereof "annual ranges of rates of basic pay" in the first sentence of subsection (b)(1);

(C) inserting "facility" after "domiciliary" each place it appears in subsection (c); and

(D) amending subsection (e) by—

(i) striking out "basic compensation" and inserting in lieu thereof "rate of basic pay" in paragraph (1);

(ii) striking out "basic hourly rate" and "basic hourly rate of pay" and inserting in lieu thereof "hourly rate of basic pay" in paragraphs (2), (3), (5), (6), and (7);

(iii) striking out "compensation" each time it appears in paragraphs (1), (2), (3), (6), and (9) and inserting in lieu thereof "pay";

(iv) amending the first sentence of paragraph (4) to read as follows: "A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service."; and

(v) striking out "compensated" and inserting in lieu thereof "paid" in paragraph (8).

(3) Subsection (a) of section 4112 is amended by striking out "compensation" and inserting in lieu thereof "pay" in the last sentence of such subsection.

(c) Chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4103 is amended by—

(A) striking out "individuals" and inserting in lieu thereof "persons" in the second sentence of subsection (a)(4);

(B) striking out "and employees" in subsection (a)(8); and

(C) striking out "An individual" and inserting in lieu thereof "A person" in the third sentence of subsection (c).

(2) Subsection (a) of section 4105 is amended by striking out "employees" and inserting in lieu thereof "personnel" in clause (7).

(3) Section 4107 is amended by—

(A) striking out "individual" and inserting in lieu thereof "person" in the first sentence of subsection (c);

(B) striking out "employee's" and inserting in lieu thereof "nurse's", and striking out "work" and inserting in lieu thereof "service", in paragraph (2) of subsection (e); and

(C) striking out "duty" and inserting in lieu thereof "service" in paragraph (7) of subsection (e).

(4) Clause (1) of subsection (a) of section 4108 is amended by striking out "individual" and inserting in lieu thereof "person".

(5) Section 4113 is amended by—

(A) striking out "of employees" and inserting in lieu thereof a comma and "of persons"; and

(B) striking out "paragraph (1) of section 4104" and inserting in lieu thereof "section 4104(1),".

(6) Subsection (d)(2) of section 4114 is amended by striking out "individual" and inserting in lieu thereof "person".

(7) Subsection (b) of section 4122 is amended by striking out "individuals" each time it appears and inserting in lieu thereof "persons".

SEC. 310. (a) Chapter 17 of title 38, United States Code, is amended as follows:

(1) Section 610 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "he" and inserting in lieu thereof "such veteran" in subsections (a)(1)(B), (b)(2), and (c); and

(C) striking out "he" and inserting in lieu thereof "such person" in subsection (b)(1).

(2) Section 611 is amended by—

(A) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (a); and

(B) striking out "he" and "him" each place those words appear in subsection (b) and inserting in lieu thereof "the Administrator";

(3) Section 612 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "him" and "he" each place those words appear in subsection (d) and inserting in lieu thereof "the Administrator";

(C) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (g); and

(D) striking out "his" each place it appears in the second sentence of subsection (h) and inserting in lieu thereof "such veteran's".

(4) Section 613 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Secretary" in subsection (b)(1); and

(B) striking out "he" each place it appears and inserting in lieu thereof "the Administrator" in subsection (b)(2).

(5) Section 614 is amended by—

(A) striking out "his" and inserting in lieu thereof "such veteran's" in subsection (a); and

(B) striking out "he" in subsection (b).

(6) Section 619 is amended by striking out "him" and inserting in lieu thereof "such veteran".

(7) The first sentence of subsection (b) of section 620 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(8) Paragraphs (1) and (3) of section 621 are amended by striking out "he" each place it appears and inserting in lieu thereof "the Administrator".

(9) Subsection (b) of section 622 is amended by striking out "his" and inserting in lieu thereof "such veteran's".

(10) Section 623 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (c) of section 624 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(12) Section 626 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) Subsection (a) of section 628 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of such subsection; and

(B) striking out "his" and inserting in lieu thereof "such veteran's" in paragraph (2)(D)(ii) of such subsection.

(14) The second sentence of subsection (d) of section 632 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(15) Section 633 is amended by striking out "he" and inserting in lieu thereof "the President", and by striking out "his".

(16) Subsection (a) of section 642 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 3301 of title 38, United States Code, is amended by—

(1) striking out "his" and inserting "of a claimant" after "representative" in subsection (b)(1), and striking out "himself" and inserting in lieu thereof "the claimant" in such subsection;

(2) striking our "in his" and inserting in lieu thereof "as a matter of" in subsection (d); and

(3) striking out "his" and inserting in lieu thereof "the Administrator's" in subsection (e).

(c) Chapter 73 of title 38, United States Code, is amended as follows:

(1) Section 4101 is amended by—

(A) striking out "servicemen" and inserting in lieu thereof "members of the armed forces" in subsection (b); and

(B) striking out "his" and "he" and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively, in subsection (d)(2) (as redesignated by section 305(a)(3) of this Act).

(2) Section 4103 is amended by—

(A) striking out the period at the end of the first sentence and inserting in lieu thereof a comma, and striking out "He" in the second sentence and inserting in lieu thereof "and who", in paragraphs (1), (2), and (3) of subsection (a); and

(B) striking out "his" and "he" and inserting in lieu thereof "such person's" and "such person", respectively, in the third sentence of subsection (c).

(3) Section 4104 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) Section 4107 is amended by—

(A) striking out "he" each place it appears in subsection (b)(2) and inserting in lieu thereof "such person"; and

(B) striking out "he" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in subsection (c).

(5) Subsection (a) of section 4108 is amended by—

(A) striking out "his" and inserting in lieu thereof "such person's" in clause (2);

(B) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (3);

(C) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (4);

(D) striking out "his" each place it appears and "him" in clause (5) and inserting in lieu thereof "such person's" and "such person", respectively; and

(E) striking out "his" each place it appears and inserting in lieu thereof "such person's" in clause (6).

(6) The first sentence of subsection (b) of section 4112 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(7) Section 4114 is amended by—

(A) striking out "he" each place it appears in the third and fifth sentences in subsection (b)(4) (as redesignated by section 112 (a)(3) of this Act) and inserting in lieu thereof "such recipient";

(B) striking out "he" and "his" each place those words appear in the last sentence of subsection (b)(4) (as so redesignated) and inserting in lieu thereof "such person" and "such person's", respectively;

(C) striking out "he" and inserting in lieu thereof "the person" in subsection (d)(1); and

(D) striking out "his" and "he" and inserting in lieu thereof "such person's" and "the person", respectively, in subsection (d)(2).

(8) Section 4116 is amended by—

(A) striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "such person's";

(B) striking out "his" and "him" and inserting in lieu thereof "such person's" and "such person", respectively, in subsection (b);

(C) striking out "his" each place it appears in subsection (c) and inserting in lieu thereof "such person's"; and

(D) striking out "he" and "his" each place those words appear in subsection (e) and inserting in lieu thereof "the Administrator" and "such person's", respectively.

(9) Subsection (a) of section 4121 is amended by striking out "his" and "he" each place those words appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively.

(10) Section 4122 is amended by striking out "he" and inserting in lieu thereof "the Chief Medical Director" in subsections (b) and (c).

(d) Chapter 75 of title 38, United States Code, is amended by striking out "he" each place it appears in clauses (3), (9), (10), and (11) of section 4202 and inserting in lieu thereof "the Administrator".

(e) Chapter 81 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 5001 is amended by striking out "him" and "his" and inserting in lieu thereof "the Administrator" and "the Chief Medical Director's", respectively.

(2) Section 5002 is amended by—

(A) striking out "he" each place it appears and inserting in lieu thereof "the President"; and

(B) striking out "his opinion" and inserting in lieu thereof "the opinion of the President such is".

(3) Paragraphs (2) and (3) of subsection (b) of section 5004 are amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) The second sentence of section 5005 is amended by striking out "He" and inserting in lieu thereof "The President".

(5) The first sentence of section 5007 is amended by striking out "his" and inserting in lieu thereof "the Administrator's".

(6) Subsection (c) of section 5011 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(7) Section 5012 is amended by—

(A) striking out "his" in the first and fourth sentences of subsection (a) and inserting in lieu thereof "the Administrator's";

(B) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (b); and

(C) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (c).

(8) Section 5013 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(9) Section 5014 is amended by—

(A) striking out "he" each place it appears in the first and fourth sentences and inserting in lieu thereof "the Administrator"; and

(B) striking out "his" in the first sentence and inserting in lieu thereof "the Administrator's".

(10) Subsection (b) of section 5035 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (a) of section 5053 is amended by strikng out "he" and inserting in lieu thereof "the Administrator".

(12) The second sentence of subsection (b) of section 5054 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) The first sentence of subsection (a) of section 5055 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(f) Chapter 82 of title 38, United States Code, is amended as follows:

(1) The second sentence of subsection (f) (as redesignated by section 121(1) of this Act) of section 5070 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(2) Section 5071 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(3) Section 5073 is amended by—

(A) striking out "he" each place it appears in subsection (b) and inserting in lieu thereof "the Administrator"; and

(B) striking out "he" each place it appears in subsection (c) and inserting in lieu thereof "the Administrator".

(4) Subsection (b) of section 5083 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(5) Subsection (b) of section 5093 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(6) Section 5096 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

SEC. 311. Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code, shall become effective on October 1, 1976, or on the date of enactment, whichever is later.

Mr. CRANSTON. Mr. President, H.R. 2735, the Veterans Omnibus Health Care Act of 1976, as reported from Committee, represents the culmination of more than 2 years of planning, development, and consideration by the Committee on Veterans' Affairs, and is the major piece of veterans' health care legislation to be considered by this body during the 94th Congress.

INTRODUCTION

I originally introduced this legislation as S. 2908 on February 2 of this year. The Subcommittee on Health and Hospitals, which I am privileged to chair, conducted 2 days of hearings on S. 2908, H.R. 2735, and related legislation on February 18 and 19, 1976. Submitting testimony to the subcommittee at that time were Veterans' Administration Chief Medical Director John D. Chase and other officials of the VA's Department of Medicine and Surgery, representatives of veterans' service organizations, professional groups, and labor unions, and health care and academic experts.

In executive session on May 25, 1976, the subcommittee unanimously ordered S. 2908 favorably reported to the full committee, with an amendment in the nature of a substitute. The Committee on Veterans' Affairs, in executive session on June 16, 1976, approved one amendment to the substitute amendment, and then unanimously voted to report S. 2908 as reported from the subcommittee. The bill was reported on September 3, 1976 (Rept. No. 94–1206). On September 13, the full committee again convened in executive session, and ordered reported H.R. 2735 with an amendment substituting the text of S. 2908 as reported for the text of the House bill. This was done to expedite House consideration of the measure.

Mr. President, committee consideration of this long and complex bill was greatly facilitated by the excellent cooperation and support of the full Committee Chairman, Mr. HARTKE, the distinguished ranking minority member of the subcommittee, Mr. THURMOND, and the ranking minority member of the full committee, Mr. HANSEN. Through their outstanding efforts on behalf of this legislation, we on the Veterans' Affairs Committee have been able to continue our long-standing tradition of bipartisan cooperation on all legislation affecting the health and well-being of the Nation's disabled veterans.

SERVICE-CONNECTED CARE

Mr. President, the committee bill is more than anything else a reflection of our genuine concern over the directions in which VA health care programs have moved during the past decade and promise to move during the decade to come. The committee is convinced that 1976 marks an important juncture in the history of the VA's Department of Medicine and Surgery.

Ten years ago, Mr. President, in response to the large number of casualties resulting from the buildup of American troops in Indochina, Congress embarked on an extraordinary program for the expansion and improvement of VA health care facilities. Between 1969 and 1976, expenditures for VA health care programs tripled, from $1.5 to $4.5 billion annually, and 40,000 new health care personnel were added.

Today, largely because of the unprecedented growth which has occurred in the system since the height of the Indochina war, the VA confronts a new series of challenges. Rapid growth has generated substantial administrative problems, and has raised questions about the VA's physical capacity to provide quality care to the enormous number of newly eligible veterans who need such care. Furthermore, with inflation eroding the purchasing power of the Federal dollar and with the new and increasingly important imperative of keeping overall Federal expenditures within congressionally established targets and limits, continued growth in the VA health care appropriations is no longer feasible on the scale of the last decade.

Our efforts in 1976, therefore, Mr. President, must concentrate on consolidating the impressive growth that has already occurred, while insuring that existing resources are used efficiently. It is time to take a penetrating look at priorities within the VA's enormous system of hospitals and health care facilities. It is our task, this year, to allocate VA resources so that funds are expended first for the benefit of veterans with the strongest claim to treatment in its facilities.

PURPOSES OF THE COMMITTEE BILL

Mr. President, H.R. 2735 as reported seeks to achieve this result in three important ways. First, the committee bill contains a number of provisions designed to shape a new direction in veterans' health care by refocusing existing resources to benefit veterans suffering from service-connected disabilities. Much of the tremendous growth in expenditures for health care during the past decade has benefited veterans with non-service-connected disabilities. The committee bill represents a return to the basic principle on which the VA system of hospitals and health care facilities was founded—that veterans suffering from disabilities incurred during periods of military service should receive priority attention in the furnishing of health care benefits at Federal expense.

For example, the bill contains provisions that would give service-connected veterans priority for outpatient and ambulatory care services, and would distinguish between service-connected and non-service-connected veterans for purposes of beneficiary travel reimbursement, eligibility for certain home modifications under the home health services program, and eligibility for family counseling on an outpatient basis.

A second and closely related purpose of H.R. 2735 as reported is to promote long-term cost savings by permitting timely identification of disease symptoms and medical intervention in the early stages of disease. The bill contains authority for three new programs designed to identify and treat veterans with service-connected disabilities or conditions which began during military service and for which early detection and treatment may forestall the onset of chronic illness. They are an innovative new program in preventive health care, including a comprehensive pilot program in health maintenance; a readjustment professional counseling program for veterans suffering from societal readjustment problems after military service; and a major new treatment and rehabilitation program for veterans suffering from alcoholism or drug abuse.

The third principal purpose of the committee bill is to resolve some of the longstanding legal and medical problems which have in some respects prevented full and satisfactory implementation of existing health care programs. For example, provisions in the bill would clarify the VA's operational authority with respect to the highly successful compensated work-therapy program; extend special pay salary supplementation to clinical researchers, whom the Chief Medical Director had chosen to exclude administratively from the special pay program much to the detriment of the VA's ongoing medical research effort; enhance the recruitment of optometrists and podiatrists, two categories of health care professionals whom D.M. & S. has never fully utilized; update and expand the procedural protections afforded employees of D.M. & S.; clarify the rights of patients and research subjects treated in VA health care facilities; and encourage the formulation of short-range and long-range plans for the treatment of the growing numbers of elderly veterans seeking care in VA facilities. The reported bill also extends until September 30, 1977, the VA's authority to enter into special pay agreements of up to 4 years in duration with D.M. & S. physicians and dentists. This extension, supported by the administration, would provide authority for the VA to enter into new special pay agreements after October 11, 1976, the present expiration date, and would bring the VA special pay program into the same time cycle as the military special pay program. Since 95 percent of all eligible VA physicians and researchers have already entered into multiyear special pay agreements, no extension legislation is needed to continue their eligibility for the so-called bonus for up to 3 more years.

Mr. President, more specifically the reported bill contains the following provisions:

SUMMARY OF PROVISIONS

Mr. President, the committee bill as reported has three titles: General substantive amendments; drug and alcohol treatment and rehabilitation amendments; and technical and conforming amendments.

Title I: General Veterans Health Care and Department of Medicine and Surgery Amendments.—This title contains general substantive amendments to chapters 17, 73, 81, and 82 of title 38, United States Code. Included in title I of the bill are provisions that would:

First. Require periodic reexaminations of VA beneficiary travel reimbursement rates, and reduce expenditures for such travel by, first, requiring persons receiving care for non-service-connected conditions, as a precondition for the receipt of travel reimbursement, to declare and certify their inability to defray the expenses of travel, and second, generally limiting reimbursement to the cost of travel by public transportation.

Second. Authorize limited mental health services under specified circumstances, consultation, professional counseling, and training, on an outpatient basis, for the family members of a veteran who is receiving outpatient care, when essential to the effective treatment and rehabilitation of the veteran.

Third. Establish a new program to provide outpatient readjustment professional counseling for veterans and, where indicated, followup mental health services for veterans, and their family members, when necessary, to assist with readjustment problems arising within 4 years of discharge, or 2 years after enactment, whichever is later.

Fourth. Provide total VA health care benefits for any veteran with a service-connected disability rated at 50 percent or more—lowered from 80 percent under present law and expanded to include preventive health care in the nature of a health maintenance organization.

Fifth. Establish a system of priorities for outpatient care stressing priority treatment for veterans requiring treatment for service-connected disabilities, those with less-than-50-percent-rated service-connected disabilities, those with 50-percent-or-more-rated service-connected disabilities, and those with major non-service-connected disabilities.

Sixth. Establish a new program in preventive health care for veterans being treated for service-connected disabilities and in connection with the treatment of veterans with service-connected disabilities rated at 50 percent or more, to commence on January 1, 1977; authorize the establishment of a small pilot program for other veterans with service-connected disabilities to demonstrate the medical advantages and cost-effectiveness of furnishing comprehensive, health maintenance, preventive health care services to veterans; and authorize the VA, as part of national immunization programs administered by HEW, to provide immunization against infectious diseases to veterans otherwise receiving treatment at VA health care facilities, and to process malpractice or negligence claims arising from such immunizations in accordance with regular VA procedures.

Seventh. Provide statutory authorization for the Department of Medicine and Surgery's compensated work-therapy program by allowing for arrangements with private industry and non-profit corporations to supply work projects for patient-workers, with remuneration at rates of pay not less than those specified in the Fair Labor Standards Act, and by establishing a revolving fund to receive and disburse funds in connection with such work.

Eighth. Make a series of changes in the VA's authority to provide outpatient care to veterans seeking treatment for non-service-connected disabilities, including provisions to limit non-service-connected outpatient care to care provided in VA facilities; to limit the duration of outpatient care provided to veterans to complete treatment incident to hospital care; to limit the provision of outpatient care to "obviate" the need for hospital admission; and to permit followup outpatient dental services for the treatment of nonservice-connected dental disabilities begun during hospitalization.

Ninth. Permit the transfer of veterans who have received maximum hospital benefits to intermediate care facilities, at VA expense, and at lower rates of reimbursement than the rates authorized for nursing home care; increase permissible reimbursement rates for contract community nursing home care; and authorize discretionary direct admission to contract community nursing homes of veterans in need of nursing home care for non-service-connected disabilities, in accordance with the new statutory priorities for veterans with service-connected disabilities.

Tenth. Clarify the authority to provide home health services, including certain home improvements and structural alterations for veterans with service-connected or non-service-connected disabilities, as required for the effective and economical treatment of the disability, and limit expenditures for such purposes.

Eleventh. Provide a presumption of service connection, for treatment purposes only, for any disability which could be attributable to internment for more than 6 months as a prisoner of war.

Twelfth. Extend CHAMPVA coverage to the widow or surviving children of a veteran who, at the time of death, suffered from a total and permanent service-connected disability.

Thirteenth. Authorize the acquisition and subsequent sale, assignment, or automobiles needed for special driver training courses in the VA's automobile and adaptive equipment program, and credit any proceeds therefrom to the applicable VA appropriation.

Fourteenth. Shorten the probationary period for title 38 employees from 3 to 2 years, and establish statutory procedural protections to govern adverse or disciplinary and certain nondisciplinary actions with respect to all title 38 employees.

Fifteenth. Extend until September 30, 1977, the VA's authority under Public Law 94–123 to enter into new special pay agreements with physicians and dentists in the Department of Medicine and Surgery; and provide that clinical researchers who are otherwise eligible for special pay be entitled to receive special pay on the same terms and under the same conditions as other physicians and dentists in D.M. & S.

Sixteenth. Assist in the recruitment and retention of nonphysician personnel by authorizing the VA to increase, on a nationwide basis, the minimum or maximum rates of basic pay for any category of title 5 health professional when such entry grade pay adjustment is necessary for purposes of salary comparability, internal salary alinement, or staffing requirements.

Seventeenth. Provide for the employment of optometrists and podiatrists under the title 38 personnel system, at rates of basic pay specified by statute in a new pay schedule in title 38.

Eighteenth. Provide, in a new subchapter of chapter 73 of title 38 entitled "Protection of Patient Rights," standards for obtaining the informed consent of all patients and research subjects, and provisions, generally incorporating existing provisions of law set forth elsewhere, to guarantee the confidentiality of certain patient medical records and proscribe discrimination against alcohol or drug abusers in admission to VA health care facilities.

Nineteenth. Provide for improved efficiency in the budgeting, bookkeeping, and operations of the veterans canteen service.

Twentieth. Require the VA in accordance with present D.M. & S. plans, to establish and operate a minumum of 10,000 nursing home care beds by fiscal year 1980.

Twenty-first. Provide for mechanisms to improve coordination and communication with other Federal and community health care, quality assessment, financial reimbursement, and planning programs; and include "emergency room medical resources," under specified circumstances, in the definition of "specialized medical resources" which may be the subject of sharing agreements under chapter 81 of title 38.

Twenty-second. Encourage the construction of State home facilities in States which are not now served by VA residential health care facilities and establish minimum quality standards for State veterans home facilities receiving financial support from the VA.

Twenty-third. Require the Chief Medical Director to prepare a report on long-range adjustments that should be made in the VA health care program to accommodate the growing number of elderly veterans.

TITLE II: VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION AMENDMENTS

Mr. President, this title provides for the establishment of comprehensive treatment and rehabilitation programs for veterans suffering from alcoholism or alcohol-related disabilities, drug dependence, or drug abuse. Included in title II are provisions that would:

First. Establish comprehensive programs for the treatment and rehabilitation of veterans suffering from alcohol- and drug-related disabilities, utilizing a broad range of treatment modalities and professional, paraprofessional, and lay personnel.

Second. Provide authority to establish and contract with halfway houses for the rehabilitation of veterans with alcohol or drug abuse problems.

Third. Authorize the treatment, at VA expense, of a veteran who suffers from, and who has a close family member who suffers from, an alcohol or drug problem, in a community facility where both the veteran and the family member can receive treatment together. The cost of treating the family member would not be borne by the VA.

Fourth. Make eligible for comprehensive drug abuse treatment and rehabilitation veterans with undesirable discharges and, in most cases, bad conduct discharges, and facilitate the procedures under which veterans with less-than-honorable discharges can apply to have their discharges upgraded.

Fifth. Require that the VA take affirmative steps to seek out veterans eligible for drug abuse treatment and rehabilitation, counsel such veterans with respect to their eligibility for special drug treatment programs, and increase employment and training opportunities for veterans who receive treatment for drug and alcohol problems in VA health care facilities.

Sixth. Provide procedures for the treatment in VA facilities of active-duty service personnel suffering from drug dependence if placement in a VA facility is voluntarily requested during the last 30 days of active duty.

Seventh. Require line items in the accrual budget for, and annual reports by the Administrator on the implementation of, the new drug and alcohol treatment programs.

TITLE III: MEDICAL TECHNICAL AND CONFORMING AMENDMENTS

Mr. President, title III contains amendments of a technical, perfecting, or conforming nature. Included are provisions that would:

First. Consolidate and clarify the language authorizing biomedical, prosthetic, and health care services research.

Second. Eliminate those remaining distinctions between peace-time and war-time military service, for purposes of eligibility for certain minor health care benefits, in order to conform to decisions made with respect to eligibility for hospital care, outpatient care, and nursing home care in the Veterans Health Care Expansion Act of 1973, Public Law 93–82.

Third. Clarify the VA's authority to contract for hospital care and medical services with respect to treatment for the service-connected and non-service-connected disabilities of eligible veterans.

Fourth. Change all references from "physician's assistants" or "physicians' assistants" in title 38 to "physician assistants," and change all references from "dentists' assistant" or "expanded-duty dental auxiliaries" to "expanded-function dental auxiliaries."

Fifth. Change all references from "pay," "compensation," or "wages" to a standardized reference to "rate of basic pay."

Sixth. Eliminate all pronouns and nouns which are discriminatory on the basis of gender—for example, change all references from "his" to "such person's," and so forth.

Mr. President, the first full-year cost of this bill is $36.5 million. I am sure my colleagues will agree this is a most reasonable and prudent figure given the many important provisions in H.R. 2735 as reported.

ADDED PROCEDURAL PROTECTIONS FOR TITLE 38 PERSONNEL

Mr. President, one particular provision in the reported bill—section 112—has been the subject of considerable misunderstanding. That is the provision providing due process protections for 36,000 title 38 employees in the VA Department of Medicine and Surgery. These are essentially nurses, physicians, and dentists. Because of the misunderstanding regarding the effect of these provisions we have made technical and clarifying changes in the draft language in order to effectuate the committee's intention as clearly as possible. We have also devoted great effort to explaining these provisions in the committee report on pages 99 through 113. I commend that material—which will appear at the end of my statement—to my colleagues if they have any questions regarding the effect and intent of this provision.

Specifically, let me note that I am thoroughly convinced that this section of the bill is a highly beneficial one for D.M. & S. title 38 employees. It has the support of the American Nurses Association, representing the vast majority of the 26,000 VA registered nurses, by far the largest group of employees affected, of the American Federation of Government Employees, the largest Federal employees union, and the Physicians National Housestaff Association. It is supported by the VA and the administration.

Mr. President, I ask unanimous consent that letters and telegrams of support from these verious employee groups, as well as a circular from the Chief Medical Director indicating his and the administration's support for this section of the committee bill, be printed in the RECORD at this point.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[Telegram]

Senator ALAN CRANSTON,
Senate Office Building,
Capitol Hill, D.C.

Largest association of professional health care employees support revised section 4110 S. 2908, veterans health bill.

ANNE ZIMMERMAN,
President, American Nurses Association.

JULY 30, 1976.

Mr. KENNETH HUBBS,
Stars and Stripes,
Washington, D.C.

DEAR MR. HUBBS: Pursuant to our recent discussion we have carefully reviewed S2908, and given the uniqueness of federal employment, we believe that the proposed statutory due process procedures will afford DM&S personnel greater protection against arbitrary disciplinary action (including transfers) then they currently enjoy. We therefore support the enactment of the revised section 4110.

As an Association we have been in close contact with Senator Cranston's office and are pleased to note the careful consideration that has been accorded our suggestions regarding S2908 and other bills.

Sincerely,

WAYNE L. EMERSON, Ed. D.,
Director, Economic and General Welfare Department.

S. 2908. VETERANS OMNIBUS HEALTH CARE ACT OF 1976

To SNA Executive Directors.
From Washington Office.

It has come to our attention that some misinformation is being circulated to VA nurses concerning certain provisions of S. 2908, "Veterans Omnibus Health Care Act of 1976." This bill was introduced by Sen. Alan Cranston early in February and hearings were held later that month. ANA was asked to comment on the bill and we submitted a statement to the Subcommittee on Health and Hospitals of the Committee on Veterans Affairs on March 3, 1976, expressing our basic support for the bill and offering certain suggestions.

The provision in question has to do with Sec. 4110. Disciplinary Boards and concerns the Chief Medical Director's authority to reassign health care professional employees—physicians, nurses, and dentists—for the "good of the service." The information being circulated incorrectly suggests that this authority is new when, in fact, existing VA regulations (MP-5, Part II, Chapter 9, paragraph 9) already permit involuntary reassignment. Under the existing regulations, the Chief Medical Director has virtually unfettered authority to dismiss an employee if he/she fails to accept the transfer, and the regulations provide no redress at all for the employee.

The Cranston bill seeks to narrow this existing authority and give to the employee more procedural protection and due process in the following ways:

A. When reassignment of a VA physician, nurse or dentist results in a reduction in grade, salary, or relative standing, or is ordered as a disciplinary or punitive measure, such employee would be entitled to complete due process, including the right to a full hearing, the right to be represented by counsel, and the right to remain at the current duty station until completion of the appeal procedure.

B. When an employee alleges that a transfer for the good of the service is disciplinary in nature, the employee would be entitled to the procedures to resolve employee grievances. If allegation is sustained through the grievance procedure, the employee would be entitled to complete due process described above.

It is important to point out that many other provisions of this section, and the bill, have many positive feasures that the VA nurse should be able to support.

The bill:

Reduces employee probationary period from three to two years.

Establishes a Disciplinary Board, the majority of whose members would be of the same profession as the employee charged.

Provides that the chairman of the board shall be of the same profession as the employee charged.

Provides important new rights for probationary employees and employees serving in training positions.

Accords full due process to any employee answering charges before a disciplinary board.

Establishes comprehensive new drug and alcohol programs for veterans.

Expands mental health and home health services.

Authorizes readjustment professional counseling for certain veterans.

Provides new authority for a preventive health care program in the VA.

Reinforces patients' rights, and insures confidentiality of records.

ANA did not presume to respond to all aspects of this very comprehensive bill. Rather, we focused on those sections that would provide the most benefit to veterans from expanded quality care, and that would most concern the approximately 24,000 VA registered nurses who are an integral part of the health delivery team. Although not all of our suggestions were incorporated some were, and we can support S. 2908 in its present form as an important step in helping to resolve some of the apparent inequities of health delivery to veterans.

Please share this information with your VA nurse constituents, and we hope it will be helpful to you in dealing with any other inquiries on this matter.

JULY 29, 1976.

Mr. HAROLD B. "MAC" MCLEOD,
AFGE National Vice President,
Pleasant Hill, Calif.

DEAR MAC: This is in further reference to S. 2908 and will serve as our response to your letter (HBM/wk/L-1665) dated July 22, 1976 of this subject.

Senator Cranston, the principal sponsor of the now controversial legislation, has written a very clear and concise summary of the contents of this Bill to the editor of the *Stars and Stripes*. His letter explains the purpose and effect of S. 2908 as we understand it, and is the basis for AFGE's decision to endorse and support it. A copy of the letter from Senator Cranston is attached for your review.

Our staff is carefully considering the objections raised to the proposed legislation by Local 1666, through your office. However, as of this date, we believe S. 2908 to be in the interest of the VA employees and worthy of our continuous support.

Sincerely and fraternally,

THOMAS S. SWAIN,
Executive Vice President.

EXCERPTS FROM THE STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, TO THE SUBCOMMITTEE ON HEALTH AND HOSPITALS OF THE SENATE VETERANS' AFFAIRS COMMITTEE ON S. 2908, THE VETERANS OMNIBUS HEALTH CARE ACT OF 1976, FEBRUARY 25, 1976

We are pleased to have this opportunity to submit our testimony for the record on this most important piece of legislation, S. 2908, entitled the "Veterans' Omnibus Health Care Act of 1976." We are grateful to note that in addition to you, Mr. Chairman, the cosponsors of this Bill are the distinguished Chairman of the Committee on Veterans' Affairs, Senator Hartke, and the ranking majority member of the Subcommittee on Health and Hospitals, Senator Randolph.

The American Federation of Government Employees (hereinafter AFGE) knows better than any other union the personnel, staffing and program problems of the Veterans' Administration (hereinafter VA). Of the 200,000 employees in the VA, of whom approximately 168,000 are in the Department of Medicine and Surgery, our union alone represents approximately 90,000 VA employees under exclusive recognition units, as governed by the provisions of E.O. 11491, "Labor-Management Relations in the Federal Service."

Therefore, we wish to state emphatically that we endorse S. 2908 and that we stand ready to do all that is necessary to secure its passage. We, as much as any other organization, want to see a strengthening and continuing improvement of the quality of hospital and medical services within VA and in each community that they're involved with throughout this great country. At the same time, we want and expect to see *all* VA employees treated justly and paid decent wages. . . .

With regard to due process protections for Department of Medicine and Surgery employees, we would like to again cite your forthright remarks, Mr. Chairman:

". . . the employment rights of title 38 employees and other health care employees in the Department of Medicine and Surgery are set out in chapter 73 of title 38 and the regulations prescribed thereunder. *Many of the provisions on employees' rights date back to the original establishment of the Department . . . in 1946* (emphasis added). Obviously, there have been many significant advances in employee relations since then, and judicial notions of employees due process rights have expanded greatly. *It is time, I believe, to make the changes in chapter 73 necessary to reflect the development of statutory and judicial law since the provisions were drafted 30 years ago* (emphasis added). Section 114 of S. 2908 would amend chapter 73 to establish statutory due process protections to govern adverse or disciplinary actions with respect to all title 38 employees, including those who have not completed their period of probationary service. In large part, these procedures resemble those now afforded by regulation. I believe . . . that title 38 should clearly provide Department . . . employees the statutory right to receive the benefit of the procedures guaranteed by the Constitution prior to the institution of any adverse or disciplinary action. Section 114 of S. 2908 would also shorten the probationary period for title 38 employees—physicians, dentists, registered nurses, physician assistants, and expanded-duty dental auxiliaries—from 3 years to 2 years. Department employees appointed under the Civil Service's General Schedule serve a 1-year probationary period. This, I believe, is long enough in the vast majority of cases to enable the Department and the employee to evaluate the relative merits of continued service. Nevertheless, the Department has insisted that it requires the flexibility of a longer period for its major professional employees—physicians, dentists, and registered nurses. We have compromised, therefore, and shortened the probationary period to 2 years—a period short enough to be fair to title 38 employees, and long enough to avoid serious disruption of the Department's personnel evaluation program."

That all these above-mentioned provisions and recommended changes are badly needed in the areas of pay and employee rights is an understatement. . . . We heartily endorse these provisions as being both farsighted and long overdue. We know our VA membership looks forward to the day these provisions on pay and due process become effective. Let us hope for a quick realization of these deserved expectations.

August 18, 1976.

Hon. Alan Cranston,
Chairman, Subcommittee on Health and Hospitals, U.S. Senate, Washington, D.C.

Dear Senator Cranston: For the record, the Physicians National Housestaff Association wishes to express its endorsement of S. 2908, the Veterans Omnibus Health Care Act of 1976.

We feel strongly that this is a progressive bill that addresses not only the quality of the programs that the V.A. has to offer, but greatly enhances the rights of employees, including physicians. I am particularly gratified by the inclusion of interns and residents under the due process provisions of the bill.

We appreciate your energetic efforts to obtain due process rights in behalf of all V.A. employees.

Sincerely,
Daniel M. Asimus, M.D.,
President.

August 16, 1976.

To Directors, VA Hospitals, Domiciliary, Outpatient Clinics, and Regional Offices with Outpatient Clinics.

Subject: Proposed Changes in Procedures for Disciplinary Actions Against Title 38 Employees.

1. It is a matter of considerable priority to set the record straight on the proposed revision of Section 4110 of Title 38 by Section 114 of S. 2908, in view of the extensive misinformation that has been published and otherwise disseminated concerning it.

2. It was apparent from comments at recent Directors' conferences that the facts have become obscured by the furore caused by misinterpretations of the intent of the proposed revision, as well as specifics of the proposal, per se.

3. It was for this reason that I sent you on July 16, 1976, copies of the July 14, 1976, letter from Senator Cranston to the President, National Association of VA Physicians. I commend that letter to you again for understanding of this problem.

4. Additionally, however, let me elaborate on the position of the Department of Medicine and Surgery on the proposed changes for disciplinary actions against Title 38 employees.

5. I cannot state too strongly my conviction that Section 114 of S. 2908 not only does not abolish employee due process rights that now exist, and does not pose a threat to the rights of all Federal employees, as has been alleged and published, but instead greatly enhances the due process rights of Title 38 employees, and is a significant advance in protecting all Federal employee rights.

6. This conclusion is inescapable to anyone who has read the language of Section 114 of the bill and compared it with existing law (Sec. 4110 of Title 38) and regulations (VA Manual MP-5, Part II, Chapter 8). Even a cursory analysis of the language of the bill reveals a significant expansion of employees' rights under the bill. There are additional changes proposed which would codify existing case law, or make some regulatory provisions statutory.

7. It is because the proposed changes thus enhance employee rights that the Department favors the enactment of Section 114.

8. Comparison of the present procedural protections and those that would be offered under the proposed legislation is useful. Under current law and regulation, a Title 38 employee against whom disciplinary action is proposed, is entitled to the following procedural protections:

(a) Notice of proposed action

(b) Specific charges

(c) A hearing prior to the taking of action

(d) A hearing board composed of a majority of members of the same profession as the charged employee

(e) Representation by counsel of his own choosing and at his own expense

(f) The right to call upon witnesses willing to testify (all VA employees are required to testify if called)

(g) The right to cross-examine agency witnesses

(h) The right to have a stenographer present, or a mechanical verbatim record of the hearing made

(i) The right of appeal to the Administrator.

9. If the proposed Section 114 of S. 2908 becomes law, the employee would retain all of the rights listed above which he now has except (i), the right of appeal to the Administrator.

10. In addition to continuing these rights, the proposed revision extends the following additional rights to the employee:

(a) A grievance on any transfer or reassignment of any title 38 employee, alleged to be disciplinary in nature, which must be resolved prior to the transfer or reassignment. The grievance process would include a full, trial-type hearing for any employee who requests one.

(b) A full Section 4110 hearing on any transfer or reassignment determined by a grievance committee to be disciplinary in nature, prior to the implementation of the transfer or reassignment.

(c) A full Section 4110 hearing for a probationary employee against whom disciplinary action is proposed on the ground of misconduct.

(d) A full Section 4110 hearing for any resident or intern appointed under 38 U.S.C. 4114(b) when it is proposed to take disciplinary action against such resident or intern on the ground of misconduct.

(e) A reduction of the probationary period for Title 38 employees from 3 to 2 years.

11. The only proposed revision that could be viewed as restricting the rights of employees is the removal of the right of the employee to appeal a decision of the Chief Medical Director to the Administrator. This was done in the belief that the interest of both the employee and the agency in having disciplinary actions resolved expeditiously is more compelling than is the preservation of a step in the administrative process that has seldom been useful to the employee. The facts are that such reversals by the Administrator of decisions by me or my predecessors have been extremely rare.

12. Subsection (e) of the proposed legislation is being judged by some as expanding the power of the Chief Medical Director with regard to the action he may take on the findings and recommendations of disciplinary boards, and with regard to the penalties that can be imposed. I am told by agency lawyers that the proposed revision does not expand the Chief Medical Director's powers.

13. Neither would the law be changed with regard to the action the Chief Medical Director could take on the findings and recommendations of a disciplinary board. The changes, I believe, merely state the existing options of the Chief Medical Director more clearly than present law.

14. In meeting the medical needs of the Department of Medicine and Surgery in the past four fiscal years, only one employee has been transferred for the good of the service. Although it has been reported that there were eight such directed transfers, seven of these were directed only after the employee had been afforded appropriate procedural protection under 38 U.S.C. 4110.

15. In summary, the proposed changes patently improve the due process rights of Title 38 employees, and constitute no new threat to them or other Federal employees.

16. This information is provided for your personal enlightenment, and for further distribution to interested Title 38 employees or other interested parties, at your discretion.

John D. Chase, M.D.,
Chief Medical Director.

Mr. CRANSTON. Mr. President, section 112 of the committee bill adds or continues to guarantee the following rights and protections for title 38 employees:

First. A reduction of the probationary period for title 38 employees from 3 to 2 years.

Second. A full, trial-type disciplinary board hearing, prior to the imposition of disciplinary action, for any permanent title 38 employee against whom disciplinary action is proposed for such cause as will promote the efficiency of the service.

Third. A full disciplinary board hearing for a probationary employee against whom disciplinary action is proposed on the ground of misconduct or on grounds that would stigmatize the employee.

Fourth. A full disciplinary board hearing for any probationary employee, resident, intern, part-time employee, temporary full-time employee, or intermittent employee when it is proposed to take disciplinary action against such employee on the ground of misconduct or on grounds that would stigmatize the employee.

Fifth. A requirement that the chief medical director provide a written explanation for a final decision in a disciplinary board proceeding and that such explanation must include reasons for any disagreement with, exception to, or modification of any finding or recommendation of a disciplinary board on any charge.

Sixth. A requirement that the chief medical director exercise his authority to disagree with, take exception to, or modify the findings or recommendations of a disciplinary board only after the board has sustained a charge against an employee, and only with respect to a particular sustained charge; the chief medical director would be required to accept the board's decision to exonerate an employee with respect to a particular charge or all charges if that occurs.

Seventh. A full, disciplinary board hearing on any reassignment which is ordered for avowed or actual disciplinary reasons or which would result in a reduction in grade, salary, or relative professional standing of the employee. The hearing would have to take place prior to the implementation of any proposed reassignment.

Eighth. A right to file a grievance challenging any proposed reassignment "for the good of the service" of a title 38 employee, alleged to be disciplinary in nature, which must be resolved prior to the transfer or reassignment. The grievance process would include a full, trial-type hearing for any employee who requests one.

Ninth. A full, disciplinary board hearing on any reassignment proposed "for the good of the service" which is determined by a grievance committee to be disciplinary in nature, prior to the implementation of any reassignment.

Mr. President, the committee report—No. 94–1206—explains the provisions of the reported bill in great detail. I ask unanimous consent, Mr. President, that relevant portions of the committee report be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

CONCLUSION

Mr. CRANSTON. Mr. President, this bill is the most comprehensive veterans health care measure ever reported by the Senate Committee on Veterans' Affairs. As I mentioned earlier, the fact that it was reported unanimously by the Subcommittee on Health and Hospitals and then unanimously by the full committee is due to the fine efforts of the committee chairman and our ranking subcommittee and committee minority members, as well as the subcommittee's ranking majority members, as well as the subcommittee's ranking majority member, Mr. RANDOLPH, the subcommittee's member from Florida, Mr. STONE, and New Hampshire, Mr. DURKIN, and the full committee members from Vermont, Mr. STAFFORD, and Georgia, Mr. TALMADGE. We also are grateful for the cosponsorship of the Senator from Washington, Mr. JACKSON.

Let me add a final word of thanks to the staff members—Guy McMichael Burns, Jonathan Steinberg, Larry White, Louise Ringwalt, Dr. David Upton, Dr. Charles Clark, Harold Carter, and Jim McCrae—who worked so very long and hard on this most complex registration.

We are also extremely grateful to many members of the VA's Department of Medicine and Surgery and Office of the General Counsel for their cooperation in providing us with excellent technical assistance and information. I wish to stress, Mr. President, that the vast bulk of the provisions in this bill are acceptable to the administration.

Mr. President, ever since we introduced this legislation more than 7 months ago, we have made every effort to keep the House Committee on Veterans' Affairs fully appraised, during markups and as the bill was prepared for reporting, of our progress on the committee bill. Although time is short in this session of Congress, I am hopeful that our constant communications with the House committee have substantially narrowed the potential areas of disagreement between this body and the other body and that we will be able to move ahead expeditiously to enact this legislation before adjournment of this Congress.

Mr. President, I also ask unanimous consent that the statement of the chairman of the Committee on Veterans' Affairs, Mr. HARTKE, who is necessarily absent, on H.R. 2735 be printed in the RECORD at the conclusion of my remarks after all insertions.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

EXHIBIT 1

EXCERPTS FROM SENATE REPORT No. 94–1206, "VETERANS OMNIBUS HEALTH CARE ACT OF 1976"

BACKGROUND

1976: A Critical Year for the VA Health Care System

The Committee is convinced that 1976 marks an important juncture in the history of the Department of Medicine and Surgery (DM&S).

Fourteen years ago, before the build-up of American troops in Southeast Asia, DM&S spent $1.17 billion on medical programs, and employed 130,352 persons in medical and health care capacities. By 1969, after 6 war years, expenditures for medical programs had risen less than $400 million, to $1.55 billion, and only 1,345 additional employees had been added to the Department's rolls—and this despite a war producing high casualty rates and far more veterans with chronic and permanent injuries than the Korean conflict.

It was clear in 1969 that the ability of the VA hospital system to cope with the demands of veterans of the Vietnam era would be seriously compromised without a substantial infusion of money and personnel to improve the comprehensiveness and the quality of care available in VA health care facilities. Congress therefore embarked on a 7-year period of providing for the sustained growth of the VA health care system. From fiscal year 1969 to 1976, DM&S's health care appropriations tripled . . ., and 43,000 new health care personnel were added . . . Today, the VA health care system has virtually caught up with the demands of the Indochina War era, and has made the difficult transition from wartime to peacetime after the longest involvement of the United States in a war during the twentieth century.

With that task largely completed, the VA health care system now confronts a new series of challenges. The rapid growth in funding and beneficiaries over the past 7 years has generated substantial administrative problems and raised questions about the VA's physical capacity to provide quality care to the enormous number of newly-eligible veterans. Furthermore, with inflation eroding the purchasing power of the Federal dollar and with the new and increasingly important imperative of keeping overall Federal expenditures within Congressionally-established targets and limits, continued substantial growth in VA health care appropriations is no longer as feasible as it was 7 years ago.

The Committee believes that in 1976 Congressional efforts should concentrate on consolidating the impressive growth that has already occurred and ensuring the efficient utilization of resources that already exist. It is time to take a searching look at present priorities within this enormous system of hospitals, outpatient clinics, and other facilities, and, where necessary, to establish clear priorities for the allocation of VA resources in order to redirect care and expenditures for the benefit of veterans with the strongest claim to treatment in VA health care facilities.

Growth in Expenditures for Non-Service-Connected Care

The expanded capacity of the VA health care system during the past 7 years and the concomitant liberalization of eligibility requirements for inpatient care and outpatient services over the same period have primarily benefited veterans whose disabilities are non-service-connected. The most dramatic example of the increase in expenditures for non-service-connected care has occurred in the provision of outpatient services. In fiscal year 1970, the VA expended $162,150,000 on outpatient staff visits, more than 60 percent of which supported care for service-connected veterans. By fiscal year 1976, expenditures for outpatient staff visits had more than tripled, to $501,132,000, and the proportion of that sum spent on service-connected disabilities had dropped to 44 percent. In other words, the VA increased its expenditures on outpatient staff services by $338,982,000 in 6 years; almost two-thirds of this increase went to the treatment of non-service-connected disabilities.

In 1973, eligibility for outpatient care benefits was broadly expanded to permit the treatment of any veteran suffering from a non-service-connected disability for whom outpatient treatment would "obviate the need" for hospital admission. (38 U.S.C. 612 (f)(1)(A), as added by section 103(a) of Pub. L. 93–82). This significant liberalization led to the sudden surge in the number of non-service-connected outpatient staff visits between 1973 and 1976. In fiscal year 1973, the year before enactment of the liberalizing "obviate" clause, there were 3,491,635 outpatient staff visits for the treatment of non-service-connected disabilities. By fiscal year 1975, the first full year after enactment of the new law, the number of such visits had jumped to 5,728,316, an increase of more than 64 percent in 2 years. There were 1,365,827 "obviate" visits that year, accounting for roughly one-quarter of all non-service-connected visits and almost two-thirds of the increase over 1973.

The result of the enormous increase in the number of outpatient visits during the last 3 years has been serious overcrowding and long waiting lines at virtually every outpatient facility in the VA health care system. The Committee is concerned that, in its laudable efforts to cope under trying physical circumstances with the growing demand for outpatient services, the VA has not been sufficiently sensitive to the special needs of veterans seeking treatment for service-connected conditions. In many respects, service-connected care has suffered as the amount and proportion of resources devoted to the care of veterans with non-service-connected conditions has increased substantially.

Although this is particularly true of outpatient services, it is also true in many other areas of the VA medical program where the level of expenditures for non-service-connected veterans has all but overwhelmed the level for the service-connected. Expenditures for inpatient hospital care, beneficiary travel to and from VA health care facilities, placement of veterans in VA and community nursing homes, home health services, and many other medical and medically-related programs have grown substantially over the amounts expended a half-decade ago, and in each instance the better part of the increase has gone to veterans with non-service-connected conditions.

The VA hospital system, since its establishment more than 50 years ago, has had as its primary mission the provision of first-class medical care to service-connected veterans. Its secondary mission has been to provide care for non-service-connected veterans, but only to the extent that facilities are available so as to bring about a patient population size which would promote efficient utilization of resources. As funding for the VA's medical program grows increasingly tight, it is imperative that funds be spent first for the benefit of those with the strongest claim to treatment. Service-connected veterans should not be forced to compete with non-service-connected veterans for scarce VA medical resources. The principal purpose of S. 2908, as reported, is to redirect care and expenditures to the system's primary beneficiaries—veterans with service-connected disabilities—so as to ensure that their health care needs are met first.

DISCUSSION

Reordering health care priorities to stress the needs of veterans with service-connected disabilities

Statutory Outpatient Care Priorities

On January 5, 1976, the Deputy Chief Medical Director of the Department of Medicine and Surgery distributed a circular (No. 10-76-2) entitled "Identification of Records of Veterans Who Have a Service-Connected Disability." The first paragraphs of the circular stated, in pertinent part:

"Prompt attention to providing care to all veterans is a goal that we continually strive to meet. It is recognized, however, that because of limited facilities there are instances during peak workload hours that require the establishment of priorities. The service-connected veteran has, historically and factually, been considered as being entitled to the first priority for care when it has been necessary to formalize procedures.

"It has been brought to our attention during recent months that too often under the patient care workload we manage today, we fail to properly identify those veterans with service-connected disabilities so that priority attention may be provided to them."

On August 3, 1976, over a month after this bill was ordered reported, the Chief Medical Director went considerably further by prescribing Interim Issue 10-76-21 to amend the DM&S manual to establish "Priorities for Admission to Outpatient Treatment". This document is reprinted in the Appendices to this report. The priorities established in this new DM&S regulation in many respects derive from the priorities which were first proposed in S. 2908 as introduced on February 2 and as reported.

To assist DM&S with this important task of facilitating outpatient treatment for service-connected veterans, several provisions in the Committee bill are designed to ensure that funds for outpatient care are spent first for the benefit of veterans with service-connected disabilities and, then, as funds and facilities are available, for other veterans in need of such care.

One of the most important of these provisions is contained in section 104(a)(9) of the Committee bill. This provision would add a new subsection (i) to section 612 of title 38, in order to establish—for the first time—a statutory hierarchy of priorities for outpatient medical care eligibility. Veterans seeking treatment for a service-connected disability would be accorded the highest priority. Next priority would go to veterans with service-connected disabilities rated at 50 percent or more. Third on the priority list would be veterans with service-connected disabilities rated at less than 50 percent and veterans eligible for outpatient mental health services as the result of initial readjustment counseling under section 612A of title 38 (as added by section 105 of the Committee bill). Four in priority would be veterans with permanent catastrophic injuries who receive an aid and attendance or permanently housebound allowance for their non-service-connected disability under section 612(g).

Last in priority would be all other veterans eligible for outpatient medical services under section 612(f)(1). Even here, the Committee bill establishes priorities among categories of non-service-connected veterans. Under section 104(a)(5) of the Committee bill, veterans seeking outpatient treatment in preparation for hospitalization under section 612(f)(1)(A), or to complete treatment after hospital care has been rendered under section 612(f)(1)(B), receive priority over veterans seeking treatment to "obviate the need for hospital admission" under section 612(f)(1)(A), since the bill provides that the latter category of veterans would receive care only "to the extent that facilities are available" once all other eligible veterans have been served.

The Committee recognizes that in certain instances application of these statutory priorities may raise practical and equitable problems. The Committee stresses, therefore, that under no circumstances should these priorities be interpreted to bar emergency treatment for the medical emergencies of non-service-connected veterans who do not fall within the four delineated priority categories. The Committee bill is explicit on this point: The statutory priorities do not apply "in the case of medical emergencies which pose a serious threat to life or health." (Section 104(a)(9).) Nevertheless, the Committee recognizes that difficult cases will inevitably arise under any such standard, especially in such a complex and sensitive area.

In resolving such cases, the Committee expects the following general principles to be applied. First, the purpose of establishing priorities is to ensure that care is provided first to those who, as a matter of national policy, have a primary claim to attention, and this purpose would clearly be defeated if exceptions to the priority scheme were made routinely or as a matter of course. Second, the ultimate determination of eligibility for immediate care should be made by the physicians who examine the veteran, and should be based on their sound medical judgment as to whether the denial of immediate care would pose a serious threat to the veteran's life or health. Third, it is not the intent of the Committee bill to remove the eligibility for outpatient care of veterans seeking outpatient services for non-service-connected conditions, but merely to bring about a more efficient and effective method of scheduling the time at which such services will be furnished to them.

In order to assist the Committee and the Congress in reviewing the effectiveness of these new priorities, the Chief Medical Director should establish a system to permit appropriate monitoring and evaluation of the implementation of the new statutory priorities.

It is the Committee's intention that the institution of a priority system will encourage the development of positive steps to reduce overcrowding and shorten waiting times in VA health care facilities. Chief among these steps is the effective implementation of an efficient centralized scheduling system and the assignment, to the maximum extent possible, of clinic appointments to all veterans (service-connected as well as non-service-connected) who need outpatient treatment. (Such a scheduling system is part of the new VA policies in Interim Issue 10-76-21, *supra*.) Combined with centralized scheduling should be an effective effort to inform and educate veterans on the need to schedule appointments and to restrict visits to the outpatient area of the facility (except in emergency cases) to those situations when an appointment has been made in advance.

The Committee wishes to express its concern over one additional problem with respect to the statutory priorities. Under the proposed statutory scheme, five categories of veterans would receive priority for outpatient medical services. One of these categories involves veterans who are receiving increased pension or compensation as the result of a catastrophically disabling injury and who are seeking treatment for disabilites not adjudged to be service-connected. (Veterans with readjustment problems diagnosed under new section 612A of title 38 are certainly experiencing service-connected difficulties although perhaps not strictly "disabilities" as that term is defined in title 38.) Some have suggested that priority treatment be extended to other categories of non-service-connected veterans. Except as described more fully below, the Committee does not agree for the following reasons. First, as indicated above, the establishment of a priority system does not itself cut back any veteran's eligibility for outpatient care. No veteran who is otherwise entitled to medical services on an outpatient basis would be refused those services on the basis of the statutory priorities. For bona fide medical emergencies, immediate care would still be available, and for the treatment of all other disabilities care authorized to be provided would be provided pursuant to an appointment schedule or similar priority-assigning mechanism. Second, the purpose of a priority system would be defeated if too many categories of veterans were entitled to priority care.

The Committee believes that one exception to the above discussion should be made to take into account the special needs of lower-income veterans with catastrophic disabilities who, because of incomes which exceed the maximum income limitation, are not eligible for pension or aid and attendance under section 612(g). These non-service-connected veterans have modest incomes averaging less than $7,000 a year—enough to disqualify them from receiving pension and aid and attendance as described in section 612(g) (and thereby from receiving priority attention for outpatient services under the Committee bill), but obviously generally far less than they need to cope with the high costs of treatment for catastrophic injury. The Committee therefore intends that these veterans should be accorded priority for outpatient care over all other eligible non-service-connected veterans who are not included in the statutory priority scheme.

Expanding Automatic Outpatient Care Eligibility for Service-Connected Veterans

Closely related to the provisions in the Committee bill establishing priorities for outpatient care is a provision (contained in section 104(a)(7) of the bill) to extend the eligibility for total VA outpatient care for any disability to veterans with disabilities rated at 50 percent or more—as of June 30, 1976, approximately 488,000 veterans. Under current law, in section 612(f)(2) of title 38, only veterans rated at 80 percent or more—175,248 as of July 1, 1976—are eligible for this full range of outpatient services.

This proposed expansion of section 612(f)(2) to approximately 300,000 very seriously service-connected disabled veterans is really part and parcel of the new statutory priority hierarchy, since the greater number of veterans with serious service-connected disabilities who will be made eligible for total outpatient services because of this amendment will necessarily expand the number of service-connected veterans who will receive priority treatment over non-service-connected veterans.

Refocusing Fee-Basis Outpatient Care

Just as significant as the rapid growth in outpatient staff visits during the past decade is the exceptional growth and size of the fee-basis program. Neither the statute nor VA regulations distinguish very carefully between fee-basis outpatient care eligibility for service-connected and for non-service-connected veterans. As competition continues to increase for relatively limited resources in the VA system, it is imperative that such distinctions be drawn. The Committee bill provides a first step in that direction.

Under current law, section 601(4) of title 38 defines the term "Veterans' Administration facilities". Section 302(b) (2) and (3) of the Committee bill amends clause (4) to make clear that the VA may contract for fee-basis service only when VA or other Federal hospitals or clinics "are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the particular type of care or services required". The effect of this new language is to limit the authorization of fee-basis service—for service-connected or non-service-connected disabilities—to those situations when regular VA hospitals and clinics (or other Federal facilities) are genuinely unable to provide the needed services themselves.

In addition to this general limitation on fee-basis service, the Committee bill, by section 104(a)(4), applies to the provision of fee-basis services to veterans for the treatment of non-service-connected disabilities a specific limitation—"within the limits of Veterans' Administration facilities". This phrase as to fee care for service-connected disabilities now appears in section 612(a). The addition of this phrase to 612(f) overrides a strained VA interpretation as to its present authority to authorize fee care for non-service-connected disabilities. (The term "Veterans' Administration facility" is specifically defined in present section 601(4) to include fee care only for service-connected disabilities. Since this term (which provides an authorization as well as a limitation) does not presently appear in section 612(f), which provides for outpatient treatment for veterans with non-service-connected disabilities, the VA has, in anomalous fashion, interpreted this absence to mean that fee-basis treatment is authorized under all circumstances for non-service-connected disabilities.) Apparently recognizing the extent to which this statutory construction, although perhaps literally correct, strains common sense and could not have been intended by Congress, the VA has not broadly utilized such interpretation to provide contract care to non-service-connected veterans.

Thus, section 302(b)(2) of the Committee bill amends the definition of "Veterans' Administration facility" so as to limit fee-basis or contract care to seven specific categories of veterans, as follows:

1. Veterans requiring inpatient or outpatient treatment for a service-connected disability;

2. Those requiring inpatient or outpatient treatment for a disability which led to discharge from the Armed Forces;

3. Those requiring outpatient care who have service-connected disabilities rated at 50 percent or more, under section 612(f)(2) (as amended by section 104(a)(7) of the Committee bill);

4. Those requiring post-hospital outpatient care disabilities—whether or not service-connected—under section 612(f)(1)(B) for up to 12 months after hospitalization, except that such 12-month period may be extended to the extent necessary to treat the particular condition being treated and if other Federal reimbursement is not reasonably available to defray substantially the cost of such services);

5. Those requiring hospitalization for treatment of a disability for which the VA is not capable of caring within the resources available in its own health care facilities;

6. Women veterans; and

7. Veterans residing in Alaska, Hawaii, or an American territory or possession.

In no circumstances, other than these seven specific ones, would fee-basis outpatient or hospital care generally be authorized. A patient seeking outpatient care for a non-service-connected disability, for example, would not be eligible for care on a fee-basis if care were needed solely to obviate the need for hospital admission, or to prepare the veteran for hospitalization.

Beneficiary Travel

Under current law (section 111 of title 38) a VA beneficiary may pay his or her own expenses of travel by personally owned conveyance and be reimbursed on a mileage basis—under present VA regulations at 8 cents per mile. Although this reimbursement rate is considerably below the 11 to 16 cents per mile paid to Federal employees who use their own vehicles in situations deemed to be "advantageous to the Government", the total cost of this VA beneficiary travel reimbursement in fiscal year 1975 still amounted to $44 million, and the cost was budgeted at $50 million in fiscal year 1976.

Concerned by the rapid increase in the cost of the beneficiary travel reimbursement program and by a decision by the Office of Management and Budget—reflected in the medical care, holding beneficiary travel reimbursement expenditures to $50 million—that further cost increases would have to be absorbed within the VA's medical program budget, several hospitals in the VA system, over the last year instituted a new reimbursement policy, under which all veterans would receive reimbursement only for the cost of public transportation to and from the VA facility.

Neither the statutory reimbursement policy contained in section 111, nor that administrative policy (of providing, in certain areas, bus-fare reimbursement only) makes any distinction between veterans seeking care for service-connected and those for non-service-connected disabilities.

Section 101 of the Committee bill proposes a new statutory policy to make that distinction very clearly. On July 26, after this bill had been ordered reported, DM&S implemented a new policy substantially in line with the new policy and procedure established in the Committee bill. (That document is set forth in the Appendices to this report.) It is thus widely understood that beneficiary travel reimbursement costs must be brought under control, especially since continued growth would likely be at the expense of more vital aspects of the VA's medical care program.

Under section 101 of the Committee bill, veterans being treated for non-service-connetced conditions would be entitled to reimbursement (even at the reduced public transportation rates specified in the bill) only if they were determined to be unable to defray the expenses of travel out of personal funds. The determination of inability to pay would be made annually, and would be based on an annual declaration and certification of such inability.

Unlike the oath of inability to defray the expenses of necessary hospital care, which, under section 622 of title 38, is by law conclusively presumed to be sufficient evidence of inability to pay, the declaration and certification procedure, established by the Committee bill as to beneficiary travel, would permit the VA to investigate the financial circumstances of veteran-applicants, and would subject veterans who make untruthful statements concerning their finances to criminal sanctions (under 18 U.S.C. 1001). (Veterans applying for beneficiary travel reimbursement should thus be advised orally and in writing of the consequences of any knowingly false statements.)

A veteran being treated for a service-connected disability or for a non-service-connected disability if otherwise rated as 50-percent-or-more-service-connected disabled, or being examined in connection with a disability compensation claim would retain automatic eligibility for beneficiary travel reimbursement.

Moreover, under the bill, veterans eligible for travel reimbursement would be paid only for the cost of commuting to VA facilities by public transportation (unless public transportation costs exceed the costs of travel by privately owned vehicle, in which case veterans would be reimbursed for the latter costs). Thus, if a veteran traveled by car, he or she would still be entitled to the public-transportation-cost reimbursement. Exception to the public-transportation-cost reimbursement rule would be made in only two circumstances: If public transportation were not reasonably accessible, or if travel by public transportation would be medically inadvisable. In such cases, reimbursement for the full cost of travel by privately owned vehicle would be authorized.

It is believed that this revised policy and procedure will yield a savings of at least $10.18 million in fiscal year 1977.

Home Health Services Home Modifications

Under section 601(6) of title 38, as amended in 1973 by Public Law 93–82, veterans are eligible for "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a veteran." Under the home health services program, the VA is presently authorized to make necessary improvements to the home of a hospitalized veteran in order to permit that veteran to leave the hospital and to receive treatment at home. Examples of home improvements are the construction of temporary ramps to permit access to the house by wheelchair, electrical adjustments to permit the operation of dialysis equipment, and the installation of air-conditioning equipment or winterizing insulation.

No distinction is now made in law between the kinds of home health services available to a veteran being treated for a service-connected disability and those services available to a non-service-connected veteran. An additional problem has arisen because of the restrictive definition of "home health services" which the VA, in a series of recent General Counsel Opinions, has adopted. The VA has held that it has no authority to expend medical care funds to make permanent improvements to the realty or structural alterations in the home of a veteran, and has therefore refused to pay for two of the most commonly needed home improvements—widening bathroom doors to permit the entry of a wheelchair, and constructing driveways, paths, and ramps to facilitate wheelchair access from automobile to home and from room to room within a home—even though some of these improvements would cost far less than many other "services" (such as drilling a well for a kidney dialysis patient) provided as home health care, often for non-service-connected disabilities. The result of this kind of distinction can be that veterans with minimal financial resources—particularly those confined to wheelchairs as the result of paralyzing spinal cord injuries—remain in VA hospital beds, at considerable expense to the Federal Government and despite the well-established social and psychological imperative to discharge such patients from in-hospital status before their dependence on hospital routine interferes with their therapeutic and rehabilitative progress.

The Committee bill is designed to improve the home health services program in two ways. First, it would distinguish for the first time between services available to service-connected and non-service-connected veterans. For certain veterans suffering from a non-service-connected condition, the VA would be authorized (under section 104(a)(8) of the Committee bill) to furnish home health services necessary or appropriate for the effective and economical treatment of the condition, but only to the extent that any improvements or structural alterations made to the veteran's realty or home are "of a minor nature" and only when necessary to assure the continuation of treatment or to provide access to the home or to lavatory facilities. Only certain veterans would be eligible for home health services for non-service-connected disabilities, as part of the outpatient "medical services" to be furnished under section 612(f) of title 38. Under the definition, as revised by the bill, of "medical services" in section 601 of title 38, only those veterans in need of post-hospital care or with service-connected disabilities rated at 50 percent or more would be eligible for home health services for the treatment of a non-service-connected disability—and then only for home improvements "of a minor nature". The original Congressional intent was to include within home health care eligibility only those non-service-connected veterans who had been hospitalized, and (although the Committee is not aware that the VA has applied the present home health authority to extend to pre-hospital and obviate-hospitalization outpatient care) the Committee bill thus provides that limitation expressly.

By improvements or alterations of a "minor nature", the Committee means those costing $500 or less in the case of any one veteran, and the Committee intends that this limit be strictly applied. For covered improvements costing more than $500, the veteran would pay the remaining cost from other sources.

For veterans receiving treatment for a service-connected disability, however, the Committee bill proposes that a broader range of home health services be available. Under section 104(a)(1) of the Committee bill, home health services would be authorized for the treatment of service-connected disabilities when "necessary or appropriate for the effective and economical treatment of such disability". As in the case of a non-service-connected veteran, covered home improvements and alterations would be those necessary to assure the continuation of treatment or access to home or lavatory facilities, but home improvements would not have to be of a "minor nature". Instead, the Committee bill limits the cost of such improvements or alterations for the treatment of a service-connected disability to the cost of the average period of hospitalization in VA hospitals, as determined annually by the Administrator. In fiscal year 1976, the average hospital stay was 26 days, and the average cost per day was $87.86. The cost of the average period of hospitalization, therefore, was approximately $2,284 in that year. In the future, the average length of stay will probably continue to decline and the average cost per patient day to increase; the cost of the average period of hospitalization will probably remain in the vicinity of $2,500 to $3,000. This figure—as determined precisely by the Administrator on an annual basis—would be the maximum which the VA could spend on improvements or alterations for treatment of a service-connected condition of any particular veteran; as in the case of a non-service-connected veteran, the veteran could pay any amount over the maximum figure from other sources.

The second improvement over existing law made by the Committee bill is the clarification in the kinds of projects which the VA would be authorized to support under the home health service program. The artificial distinction of whether the alteration is a permanent improvement to the leasehold would no longer be in any way appropriate. Instead, the bill specifically authorizes improvements and alterations to provide access to the home or to essential lavatory and sanitary facilities, such as wheelchair ramps, improved paths and driveways, and construction to widen bathroom doors and install grip bars or other functional features therein. . . .

Outpatient Family Counseling

Physicians, particularly psychiatrists, in the VA health care system have repeatedly stressed that the effective treatment of a veteran is often not possible unless family members are also available for treatment and counseling. Total care of a physically or emotionally disabled veteran may require that members of the veteran's family be fully oriented on the philosophy, goals, and achievements of the veteran's treatment or rehabilitation program. This is particularly important to the treatment of veterans suffering from alcohol- or drug-related conditions.

Necessary involvement of family members is presently authorized under section 601(5) of title 38, but (due to an oversight in Public Law 93–82), only when the veteran is receiving hospital care. For veterans receiving medical services on an outpatient basis, there is no statutory authority for such mental health services or counseling for family members. As a result, it is frequently difficult to provide effective treatment and rehabilitation—especially mental health care—for a veteran being treated on an outpatient basis.

In correcting this situation, the Committee has been very much aware of the VA's financial, personnel, and physical resources, and the Committee bill thus places a limit on the services which can be provided to family members incident to outpatient services provided to veterans by distinguishing between services provided in connection with treatment of service-connected and non-service-connected disabilities in order to ensure that scarce funds are expended first for the care of the service-connected.

Section 102(2) of the Committee bill would amend section 601(6) of title 38—the definition of "medical services" for which veterans are eligible on an outpatient basis under section 612 of title 38—to authorize a range of family services when essential to the effective treatment and rehabilitation of the veteran. (The VA's existing authority to provide such services to the family members of inpatient veterans would continue unaffected; the reference to family mental health services now contained in section 601(6) would not be affected by the clarifying amendments made in section 102(1) of the Committee bill.) The nature of the services available under the Committee bill to family members of veterans treated on an outpatient basis, however, would in several respects be significantly different from the services available to inpatient family members.

First, the family members of a veteran treated for physical conditions (in other words, medical or dental conditions other than mental health conditions) would be entitled to such consultation, professional counseling, and training as may be essential to the effective treatment of the veteran. Such services would be available to the family members of non-service-connected as well as service-connected veterans.

Second, the family members of a veteran receiving treatment for a service-connected mental health condition would be entitled to mental health services (including psychiatric consultations and other outpatient professional services) in addition to the consultation, counseling, and training described above. The same would be true for family members of a veteran receiving followup mental health services for a readjustment problem after initial readjustment professional counseling under the new section 612A added to title 38 by section 105 of the Committee bill.

Third, the family members of a veteran suffering from a non-service-connected mental health condition would have limited eligibility for the same range of outpatient mental health services, but only (1) in the discretion of the Administrator, (2) if the veteran is receiving outpatient mental health care to complete treatment incident to care formerly received as an inpatient, and (3) if family services were commenced prior to the veteran's discharge as an inpatient.

New health care programs

Introduction

After the period of unprecedented growth and expansion for the Department of Medicine and Surgery over the past 7 years, consolidation of the budgetary and other gains must proceed along two lines.

First, steps must be taken to ensure that existing resources are expended in the first instance for the benefit of those with a primary claim to attention—veterans with service-connected disabilities. This is the first principal purpose of the Committee bill, as described in detail above.

Second, new medical programs must be designed to promote long-term cost savings through timely identification of disease symptoms and medical intervention in the early stages of disease. The Committee bill contains authority for three such new programs, each designed to identify and treat veterans with service-connected disabilities, or conditions which for many veterans began during service and for which early detection and treatment may forestall the onset of chronic illness.

Preventive Health Care Program

One of the major new departures in VA health care proposed in the Committee bill is contained in section 110 of the reported bill. The new subchapter which would be added to chapter 17 by that section would expand the scope of health care offered by the Veterans' Administration to certain veterans to include preventive health care services. These services would be available, as feasible and appropriate, for all veterans suffering from a service-connected disability rated at 50 percent or more, and to any veteran in connection with treatment for a service-connected disability (that is, as part of a hospitalization or outpatient visit for that purpose). It is estimated that approximately 488,000 veterans have service-connected disabilities rated at 50 percent or more and that 2.2 million have some service-connected disability.

Currently, health care in the Veterans' Administration is generally defined by statutory language as services to treat an already existing disease or disability (except for a specific program for sickle cell screening and counseling in subchapter VI of chapter 17). This definition follows the traditional practice in the medical community of treating identified disease and alleviating existing pain. However, within the past decade or so, more and more thought has been given to shifting the emphasis in medical care toward the prevention of illness or disease. Many public health experts believe that such an emphasis would significantly improve health in the long run, and might also result in significant long-term cost savings for individual patients and for the Nation as a whole.

The Committee bill, by authorizing the VA to provide only such preventive health care services as "are feasible and appropriate" and "necessary for providing effective and economical preventive health care" on a national or geographic basis, vests discretion in the Chief Medical Director in establishing the nature and mix of services to be furnished in the program, the schedule for phasing in various services, and the identification of those facilities best equipped to provide them. Under the new subchapter, at least one preventive health care service would be required to be offered to each veteran made eligible for such services.

The reported bill authorizes the VA to institute appropriate controls and carry out followup studies, which may include research, to demonstrate the medical advantages and cost-effectiveness of furnishing such preventive health care services. Research would seem to be a particularly important aspect of this new program since the VA is in an almost ideal situation to make a major contribution to knowledge in this field.

Among those preventive health services which the legislation suggests may be included are:

First: Periodic medical and dental examinations.—This does not mean an annual physical—a costly procedure which experience has shown does not ensure freedom from serious illness. Rather, the Committee envisions, as one type of program at selected locations, preventive services packages geared to age groups as suggested in a report to the National Conference on Preventive Medicine by a prestigious task force, headed by Dr. Lester Breslow, Dean of the School of Public Health at the University of California at Los Angeles, who presented impressive testimony on the value of a preventive health program to eligible veterans. This task force recommended a pattern of routine physicals for individuals during the following life periods: Two from ages 18 through 20, three from ages 31 through 40; four in the next decade; and five between ages 51 and 60. Annual physicals are recommended for those over age 60, with the nature of the tests included changing at specific ages. The task force also noted that above the age of 35, additional screening measures should be performed, such as screening for hypertension, cholesterol level, cancer, glaucoma, kidney disease, emphysema, and cardiac problems among others. The Committee believes that the VA is in an excellent position to implement this kind of program at selected hospitals and that this can be integrated at reasonable cost, with other health care visits made by disabled veterans.

Second: Patient education.—As medical science has conquered some of the serious and widespread diseases of previous generations, such as diphtheria, typhoid, and tuberculosis, today's citizen is more susceptible to other major diseases, such as cancer and heart disease, as well as chronic diseases which are aggravated either by personal habits such as smoking, overeating, lack of exercise, alcohol abuse and drug abuse, or by environmental hazards, such as noise or pollutants. With a modest investment in health education programs, many experts believe substantial progress can be made toward the control of these diseases. In addition, counseling as to diet and personal health habits should be an integral part of every patient contact with a health specialist. Patient education (including nutrition education) programs should be an integral part of a preventive health program and can achieve health benefits at a minimal cost.

Third: Maintenance of drug use profiles, patient drug monitoring, and drug utilization education.—Where clinical pharmacy services of this scope have been utilized, studies indicate that medication error rates have decreased substantially, that inappropriate drug utilization has been reduced, that adverse drug reactions have been averted, and that substantial dollar savings have been realized. Including these clinical pharmacy services in a preventive health program is important if the program is to deal with the high incidence of adverse drug reactions and interactions.

Drugs are responsible for approximately 10 percent of total health care expenditures in the United States. In fiscal year 1976, the VA spent approximately $160 million on drugs and medicines. The effect of adverse drug reactions on the recovery of the veteran patient, as well as the possibility of long-term injury or disability resulting from improper prescription or utilization of drugs, requires greater focus in the provision of VA health care services. Recent surveys of community hospitals have indicated that the incidence of adverse drug reactions is substantial. It is estimated by initial studies that from 3 to 6 percent of all admissions to tertiary-care hospitals are due to adverse drugs reactions, and that a minimum of 15 to 18 percent of patients at those hospitals suffer an adverse reaction subsequent to their admission. Since these adverse reactions may well on the average double the patient's hospital stay, the unnecessary costs involved are overwhelming.

As the number and complexity of available prescription and non-prescription drug products increases, and the use, abuse, misuse, and overuse of drugs continues to rise, the need for improved pharmacy services becomes more urgent.

In recognition of the complexity of prescription drug management, the health community has developed a relatively new professional—the clinical pharmacist. Clinical pharmacy training prepares the pharmacist for greater responsibility in direct relationships with the patient in drug abuse, toxicity, and nonprescription drug advice as well as in closer working relationships with physicians, dentists, and other health professionals. The specialized training of the clinical pharmacist is designed to enable that professional to relieve a great many of the demands made upon physicians, freeing the physician for duties most appropriately performed by such a highly trained professional.

A study, carried out in 1972, entitled "An Application of Clinical Pharmacy Services in Extended Care Facilities," evaluated the impact of clinical pharmacy services of drug therapy in skilled nursing facilities. Three 91- to 99-bed facilities in Los Angeles County, which met a set of predefined criteria, were randomly selected for the study. A pharmacist with clinical training and experience was appointed to provide optimal pharmaceutical services and care in order to bring about more safe and rational use of drugs in these facilities. Pre-study and post-study evaluations were conducted and data were analyzed by expert consultants. The results of the study were as follows:

1. The medication error rate was reduced by 50 percent.

2. Drug utilization was reduced by 20 percent through discontinuation of unnecessary and inappropriate drugs.

3. Sixty or more clinically significant adverse drug reactions were detected and/or prevented.

4. A cost-saving of $80,000 a year was projected in the three facilities studied.

5. The pharmacist functioning in this capacity was well received by the patients, physicians, administrators, and especially by the nurses.

A similar study is proposed for the VA outpatient clinic in Los Angeles. The objective is to evaluate the quality of patient care and cost effectiveness of drug therapy through monitoring and evaluating drug therapy of ambulatory care patients by clinically-trained pharmacists.

Preliminary data for that walk-in clinic indicated that 30 to 40 percent of VA patients who visited there were considered to be prescription drug-related. The main reasons for visits to the clinic by this group of patients were:

1. Refill or renewal of prescriptions.

2. Request for drug information or counseling because the patients were confused in taking their prescribed medications or complained of some undesirable responses.

3. Seeking new treatment or new medications.

A clinically trained pharmacist was appointed to counsel this group of patients and to review their drug utilization from October 1, 1974, to December 31, 1974. This study concluded that 27 percent of patients complied with the prescribed medication directions; 39 percent over-utilized medications; 31 percent underutilized medications; 7 percent had inappropriate prescribed dosing percent had inappropriate prescribed dosing intervals; 7 percent had possible or probable prescribed drug interactions; 17 percent had possible or probable adverse drug reactions; and 23 percent had inappropriate combinations of drugs or duplications.

These findings indicate the dimensions of the demand that can be made upon one VA facility by veterans with drug-related problems. In the Committee's view, this problem can be substantially corrected by greater emphasis on comprehensive clinical pharmacy services within a preventive health program, and such services should be implemented at a number of facilities on a pilot basis to test their cost-effectiveness and total health care impact.

Fourth: Routine vision testing and eye care services.—These services are important not only for early detection of eye disease, but also for detecting other illnesses, such as diabetes or cholesterol imbalance. Furthermore, since the average veteran is now an older veteran—14 million are World War II veterans with a median age of 55, and 1 million are World War I veterans of at least 75 years of age—preventive vision services could improve daily living for many veterans. These services can be provided very effectively by an optometrist—a professional much underutilized by the VA. The Committee does not envision the provision of eye glasses or contact lenses as part of this service.

Other Preventive Health Care Services

Of course, a total preventive health care program should also include immunizations, prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature, genetic counseling, and early intervention in mental illness, including family counseling.

Use of Paraprofessional Personnel

The Committee bill directs that interdisciplinary health care teams be utilized, to the maximum extent feasible, in carrying out preventive health care programs. In a system as large as the VA, which is generally not bound by the restrictions of State licensing laws, an opportunity exists to implement a major program of this nature, utilizing paraprofessionals in new roles and in ways which can reduce the demands made upon the more highly trained professional. Legislation recently enacted as Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, enables the VA to hire physician assistants and expanded-function dental auxiliaries on a competitive basis with the community. The Committee expects such personnel to play a substantial role in the new preventive health care programs.

Cost

The Congressional Budget Office estimates the costs of the preventive health care program for service-connected veterans at $3.01 million during fiscal year 1977 (beginning on January 1, 1977), based on the provision of three selected preventive services to each eligible, participating veteran plus hospitalization costs based on a rate of 1 percent detection of morbidity based on the three screening tests. The three services envisioned would be electrocardiograms and hypertension screening for the detection and early diagnosis of heart disease and other cardiac conditions, tonometry for glaucoma detection, and a proctoscopic examination for detection and early treatment of rectal cancer and other colonic disorders. The cost of providing these three simple services would be $8.25 per veteran. The projected first year cost of $3.01 million would be made up of $1.36 million for the preventive health services, and $1.65 million for induced hospitalization.

Comprehensive Health Maintenance Pilot Program

In addition to authorizing a preventive health care program for the approximately 500,000 veterans with a service-connected disability rated at 50 percent or more and for veterans being treated for service-connected disabilities, the Committee bill would mandate the VA to carry out an experimental health maintenance pilot program in comprehensive health care services, including a research component. Such services would be furnished to service-connected veterans in accordance with the priorities for outpatient services specified in the proposed section 612 (i) in a VA hospital on an inpatient or outpatient basis.

The reported bill directs that the pilot program be undertaken as a controlled, scientifically valid study of the provision of such HMO-type service to no more than 10,000 veterans (including control groups), and limits the pilot program to a 10-year period.

The Congressional Budget Office estimates that the cost of providing health care under an HMO-type configuration would be $600 per year per individual. With 5,000 individuals in the control group and 5,000 in the HMO, the costs are estimated at $3.5 million the first year, increasing to $4.29 million the fifth year, when inflation is taken into account. This estimate includes $500,000 a year to cover the costs of generating, maintaining and analyzing the data developed in the pilot program.

The reported bill requires the VA, in carrying out the preventive health care program as well as the comprehensive health care pilot program, to emphasize the utilization of interdisciplinary health care teams composed, to the maximum extent feasible, of various professional and paraprofessional personnel.

The findings from such a program should have broad application to health care programs not only in the Veterans' Administration, but also in the medical community at large. In view of the inevitability of some form of national health insurance insurance program in the next few years, the experience gained from a preventive health program operating on a scale of sufficient size, as is possible in the Veterans' Administration, should provide a good estimate of the achievable benefits of many preventive health measures.

Lead time for planning

To provide the necesssary lead time for planning the basic preventive health care program and designing the pilot program, the Committee bill postpones the effective date of the preventive health care service program until January 1, 1977, and the implementation date of the pilot program until October 1, 1977.

Readjustment professional counseling

Section 105 of the Committee bill would establish a new program to provide initial readjustment professional counseling for veterans discharged since the beginning of the Vietnam era (August 5, 1964) to assist with psychological readjustment problems, generally those arising within 4 years of discharge from active military duty.

Initial Counseling

Under section 105 of the Committee bill, the Administrator is to provide an in-house program of initial professional counseling for any eligible veteran who served in the Armed Forces after the beginning of the Vietnam era, who generally meets the eligibility requirements of chapter 17, and who requests assistance with readjustment problems within 4 years from the date of his or her discharge or release from active duty. In connection with this counseling, the VA would also make a general mental and psychological assessment of the veteran. Veterans discharged 2 or more years prior to the enactment date of the reported bill would have 2 years from that enactment date within which to apply for counseling under this section.

In providing counseling services under this section, the Chief Medical Director would be required to make maximum use of paraprofessional and voluntary workers, as well as veteran GI bill students under the veteran-student services work-study program, to assist in initial intake and screening. The Committee believes that much of the initial intake and screening can be effectively provided by trained paraprofessional personnel and volunteer workers who become especially sensitive to the readjustment needs and problems of returning and returned veterans. Use of highly trained psychiatric personnel should be limited to those cases identified by the screening process as needing such highly professional services.

Followup Mental Health and Other Services

If the initial counseling indicates that followup mental health services are necessary to facilitate the successful readjustment of the veteran, the Committee bill provides for such services to be furnished on an outpatient basis as a part of medical services provided under the conditions specified in section 612(f)(1)(B) of title 38—post hospitalization. No financial need would need to be shown for the initial counseling, but the regular eligibility criteria under section 612(f)(1)(B)—including inability to defray expenses—would apply in the case of needed readjustment mental health services, except that the provision of the initial counseling period would be deemed by law to satisfy the requirement for a prior period of hospitalization under that statutory provision.

Veterans who, on the basis of the initial counseling, are determined to be in need of hospital care or medical services other than mental health services for a readjustment problem, would be eligible to receive the needed care in VA facilities only if otherwise meeting chapter 17 eligibility requirements; if not, they would be referred to non-VA facilities.

Readjustment Problems

The purpose of this readjustment counseling provision is to make fully available—and to encourage and facilitate the use of—the resources of the VA's health care system to those returning veterans who feel the need for professional counseling to help them in their readjustment to civilian life. According to testimony from a panel of psychologists and veterans' counselors at the February hearings, veterans of the Vietnam era have suffered significantly as the result of society's indifference and, in some cases, overt hostility to the sacrifices they made during their periods of military service. Large numbers of returning Vietnam veterans have experienced guilt, bewilderment, alienation, pessimism, tension, restlessness, and other symptoms of low-grade readjustment problems. These problems frequently result in family difficulties, unemployment, alcohol or drug dependence, arrest records, and other forms of social and economic dislocation. Testimony at the February hearings on S. 2908 and related legislation indicated that the readjustment problems facing returning Vietnam veterans have been particularly acute. This view had also been expressed in the Congressional testimony of distinguished psychiatrists since 1969. Their conclusions were echoed in a 1972 study on the psychosocial problems of Vietnam veterans:

"The psychological and social problems of the Vietnam veteran probably exceed those of any previous conflict; yet many of the very factors which help to keep psychiatric casualties low in Vietnam ironically seem to compound the readjustment difficulties of the veteran when he returns."

The Committee construes a "readjustment problem", as that term is used in this section, to be a low-grade motivational or behavioral impairment which interferes with a veteran's normal interpersonal relations, job or educational performance, or overall ability to cope reasonably effectively with his or her daily life problems. A readjustment problem does not necessarily amount to a definable psychiatric illness or mental health problem requiring extended professional services (including psychiatric consultations) but could become one in the absence of early detection and counseling and followup care where necessary.

In the sensitive field of readjustment counseling, it is essential that services be available and accessible, on an outpatient basis, and that all unnecessary barriers to help be removed. The Committee bill is designed to achieve this result. A veteran recently discharged from active duty should know that such help is available, and that a request for readjustment counseling will be speedily honored, with a minimum of red tape, and, most importantly, without the need for prior hospitalization. Such prior hospitalization is in fact a requirement under present statutory criteria unless—as is extremely unlikely under the present law—a condition is adjudicated to be service-connected, or outpatient care is deemed necessary "to obviate the need" of hospitalization. The Committee doubts that any fair application of the "obviate" criterion would lead to its use extensively in a psychiatric context and certainly not in the context of low-grade readjustment problems which have not developed into any form of identifiable psychiatric illness. In a June 21 response to a written question submitted by the Subcommittee Chairman for the hearing record, the Chief Medical Director seemed to concede as much, by saying:

"It is neither efficient nor humane to hospitalize a veteran for a psychiatric condition if it can be avoided. Mental health professionals are confronted with a professional and ethical issue since it is accepted medical practice to avoid hospitalization unless absolutely necessary because the patient cannot function and/or may be dangerous to himself or others. Treatment must either be withheld entirely or hospitalization unnecessarily provided. In our judgment, for the psychiatric patient "obviate" should mean timely therapeutic intervention that would reduce the likelihood of further deterioration of controls that, if not treated, would be likely to result in eventual though not immediate hospitalization."

The Committee believes that the last sentence of the above quotation aptly illustrates the point made above about the general inapplicability to general mental health problems of the "obviate" criterion on any fair reading of the law and legislative history.

Outreach

Under the Committee bill, the Administrator, acting in coordination with the Secretary of Defense, would also be responsible for notifying all veterans eligible for readjustment professional counseling under the new section 612A of their eligibility for such services.

Cost

Preliminary Committee estimates are that 5 percent of the more than 7 million veterans who served in the Armed Forces after August 4, 1964 (the beginning of the Vietnam era), would request readjustment counseling, as would 5 percent of those veterans discharged in subsequent years. Thus, it is expected that about 354,400 current veterans would seek this counseling (204,500 in the coming fiscal year and 131,300 in fiscal year 1978), with an additional 25,000 annually in subsequent years. The average number of visits per veteran would be between 2 and 3.

The use of paraprofessional personnel mandated by the reported bill would reduce the costs of the counseling program. In addition, the more restrictive authorization of reimbursement for beneficiary travel would apply to veterans seeking readjustment counseling and would keep travel costs to a minimum. Thus, projected annual costs for this program beyond the initial 2 years are estimated at around $1 million for counseling and $2 to $3 million for followup mental health care. The cost of followup mental health services would be to provide new staff at certain sites to ensure outpatient mental health care capacity to meet the demand for services generated by the initial counseling.

The Committee notes that it may be necessary to give the VA a period of leadtime, such as for the preventive health care program (January 1, 1977), before this amendment to title 38 becomes effective, in order to permit necessary planning and the training of the necessary personnel, particularly volunteer and lay personnel.

Drug and Alcohol Treatment and Rehabilitation

Neither drug addiction nor alcoholism are new problems to the Veterans' Administration. For years, the VA has treated the medical consequences of both drug abuse and alcohol abuse in its hospitals. Furthermore, the VA has long recognized alcoholism as a treatable condition. Alcoholism treatment units have been established at 73 VA medical facilities, and almost 100,000 veterans received treatment for alcoholism and alcohol-related problems in fiscal year 1976. The Department of Medicine and Surgery, according to the VA's planning document of November 14, 1974, planned to activate an additional 32 alcohol dependence treatment programs during fiscal year 1976. However, the VA has activated only two of these programs.

There are 53 VA special drug treatment units operating now, with a capacity to treat approximately 29,500 patients annually and an average per-unit funding level of $216,000. The problem of drug abuse continues to grow. Admissions for drug dependence treatment increased 35 percent for the first 6 months of fiscal year 1976 as compared to the same period for fiscal year 1975. The VA expects to meet this increased need within existing program locations but with increased resources.

Approximately $96 million was included in the fiscal year 1977 medical care appropriation for substance abuse treatment programs.

Despite the recent—although not sufficient—growth of the VA programs for treatment of drug and alcohol abuse, the VA is still limited in several ways from responding fully to the needs of the veteran addicted to drugs or alcohol.

Title II of the Committee bill would provide for comprehensive treatment and rehabilitation programs for veterans suffering from alcohol or drug addiction. The provisions of title II are comparable to legislation passed by the Senate during the 92d (S. 2108) and 93d (S. 284) Congresses. The Senate was unable to reach an agreement with the House in either of those Congresses. The Committee bill reflects some changes which have been made to meet concerns expressed by the House Committee on Veterans' Affairs as well as the Veterans' Administration with regard to those bills.

The Committee bill would provide the VA with the legislative authority necessary to initiate a comprehensive program for the treatment and rehabilitation of veterans suffering from alcohol or drug dependence or physical disabilities related to the excessive use of alcohol or addictive drugs.

Defined as "Disability"

First, the Committee bill would make it clear that alcoholism and drug dependence are legal disabilities for the purposes of hospital care and medical service eligibility under title 38. This is achieved in secton 202 of the Committee bill by amending the statutory definition of "disability" in section 601(1) of title 38 to refer specifically to alcoholism and drug dependence as disabilities for which treatment in VA facilities is authorized.

Drug Abuse Treatment Program Eligibility Broadened

Second, the Committee bill would broaden eligibility for drug abuse treatment and rehabilitation services to include veterans who, because of the nature of their active duty dscharges, would not otherwise qualify for hospital care or medical services under title 38. Under section 101(2) of title 38, the VA does not have general authority to treat drug dependent veterans—or any veteran for that matter—with less than an honorable or general discharge. (A veteran with such a "bad" discharge can be made eligible for chapter 17 health care services if he applies for and receives an adjudication that his discharge was under "conditions other than dishonorable," but the adjudication process takes many months and seldom results in a finding favorable to the veteran.)

The result of this situation has been that many thousands of veterans who have become drug addicted while in the service, primarily in Southeast Asia, and who were given a pre-amnesty-program undesirable discharge, have been denied the treatment and rehabilitative services they need to cope with this tragic disability. Under the eligibility for the drug abuse treatment program provided for in section 204 of the Committee bill, veterans with undesirable discharges and most with bad conduct discharges would be automatically eligible for drug abuse treatment and rehabilitative services—except for a very few with bad conduct discharges given by general courts martial.

Alcoholism

In the case of alcohol treatment programs, the legislation stresses the use of recovered alcoholic counselors, halfway houses, and alternative treatment modalities, in a comprehensive program ranging from detoxification to recovery. In addition, the Administrator is authorized to provide half-way house facilities directly or by contract with other Government or approved private facilities.

In a September, 1975, report to Congress on the quality of the alcohol treatment programs provided in VA facilities, the Comptroller General of the United States found that the serious lack of DM&S staff and funds to operate alcoholism treatment and rehabilitation programs constituted a major problem. In addition, the limitations—which the Committee bill would remove—on providing outpatient counseling to the patient's family were found to pose serious handicaps to staff in trying to rehabilitate a veteran. Other findings of the study were that some of the largest major metropolitan areas—where there are large numbers of veterans—lacked any VA alcohol treatment capacity. In addition, the study found that the availability of VA alcoholism services was not adequately publicized.

There is an extraordinary and increasing prevalence of alcohol-related admissions to the VA hospital system—officially estimated by the VA at one out of every ten admissions in fiscal year 1975, making alcoholism the most common of all listed admission diagnoses. But even more revealing are the results of a comparison between a 1970 and a 1973 census in VA health care facilities which included a special question to determine which bed-occupants patients were defined alcoholics or problem drinkers. Here are the startling results:

1. The proportion of defined alcoholics and problem drinkers increased from 1 out of every 5 patients in 1970 to 1 out of every 4 patients in 1973.
2. Almost 25 percent of Vietnam-era veterans in the 1973 patient census were diagnosed as defined alcoholics or problem drinkers, as compared to 13 percent in the 1970 census.
3. Within the 35–44 age group, 35.2 percent of all hospitalized veterans were defined alcoholics or problem drinkers in 1973, as compared to 26 percent in 1970.

To meet what DM&S has called the "rapid, constant increase in that portion of the VA hospital census which represents problem cases of drinking and alcoholism," the VA plans to establish 46 more Alcohol-Dependence Treatment Programs "as soon as funds are available."

In view of these data and the cruel hardship alcoholism can work on veterans and their family members, it is imperative, in the Committee's view, that VA programs be expanded to face up to the virtually epidemic proportions of alcoholism among veterans and that these programs comprehensively treat the symptoms of alcoholism and aim to rehabilitate veterans suffering from this disability.

Drug abuse

For veterans suffering from drug-related disabilities, the Committee bill would set up special treatment and rehabilitation programs to seek out and counsel addicted veterans and provide them with help in obtaining review and correction of less than honorable discharges by the military. The scope of drug treatment and rehabilitation programs would by statute be required to include individual counseling, referral services, and crisis intervention, and the VA would be required to offer alternative modalities of treatment based upon the individual needs of the veteran.

The Committee bill would also require the VA to provide treatment and rehabilitative services for any eligible veteran who has been charged with or convicted of a criminal offense, but who is not confined and is not required to participate in the program by a court. Also, such treatment and services are authorized in the case of a veteran who is under court jurisdiction as a result of a charge or conviction for a criminal offense and who is required to participate in a treatment program by the court, but the services may be provided only under conditions which will insure that the voluntary nature of the program with regard to other participating veterans would not be impaired.

Success in treatment and rehabilitation of an addicted veteran can be heightened if the veteran is in the work force and involved in a satisfying and fulfilling job. In order to assist recovered veteran addicts in finding productive employment, the Committee bill would direct the VA to carry out a program with other Federal agencies to promote the Federal employment of recovered drug addicts (as well as alcoholics), and to cooperate with and assist the Secretary of Labor in placing these veterans with private employers.

In addition, the Committee bill would provide procedures for the treatment of active duty service personnel suffering from drug dependence in VA health care facilities if they voluntarily, in writing, request such treatment. This transfer from the Armed Forces to a VA facility would be limited to the last 30 days of a tour of duty. The purpose of requiring a written voluntary request is to preserve the fundamental voluntary basis of VA drug treatment programs. If a headstart can be achieved on the voluntary treatment of service personnel in a VA program, that should be and would be permissible under the Committee bill.

The Committee is aware that in some cases the problems of a veteran who suffers from alcoholism or drug addiction are aggravated by the existence of a close family member who suffers from the same addiction. In such cases, successful treatment programs can often be achieved only if treatment is provided to both the veteran and the family member in one program. Since treatment of a non-veteran family member in a VA facility raises numerous difficult questions, the Committee bill would add a new authority to title 38 providing for the VA, when essential to the successful treatment and rehabilitation of a veteran, to furnish treatment and rehabilitative services to the veteran, at VA expense (limited to reasonable costs determined by DM&S), in a community facility approved by DM&S where the veteran's family member is enrolled and where both can be treated together. In such cases, the VA would not cover any of the costs of treatment of the member of the veteran's family.

Other general veterans health care and department of medicine and surgery amendments

Introduction

The third principal purpose of the Committee bill is to resolve some of the longstanding legal and medical problems now confronting the Department of Medicine and Surgery. Administrative experience during the past several years has revealed the need in several contexts to modify or clarify DM&S's statutory authority under title 38 in order to ensure the more effective and efficient management of existing medical programs and health care operations. The Committee bill contains several important provisions designed to achieve this purpose.

Recruitment and Retention of Health Care Personnel

No factor bears more directly on the quality of patient care provided in VA health care facilities than the qualifications and professional skills of the health care personnel in the Department of Medicine and Surgery. Health care on such an enormous scale requires a large staff of highly trained health care professionals. The Department of Medicine and Surgery employs approximately 10,000 physicians, 1,000 dentists, 25,000 registered nurses, 32,000 licensed practical and vocational nurses and nursing aides, and more than 100,000 other health care and administrative personnel.

The Committee bill contains several provisions designed to enhance the VA's ability to recruit and retain the quantity and quality of health care personnel necessary to the effective maintenance of the DM&S health care system.

Special Pay Program Extended

Section 122(a) of the Committee bill would extend for an additional 11½ months the VA's authority under Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, to enter into agreements for payments of up to $13,500 annually in special pay to eligible physicians and dentists in the Department of Medicine and Surgery.

The most acute recruitment and retention problem faced by DM&S involves the physicians and dentists who work in VA health care facilities. The greatest single barrier to successful recruitment and retention is the inadequacy of statutory rates of basic pay for these professionals in light of the ceiling imposed by statute on all Federal Executive Schedule V employees and the resulting disparity between earnings in the VA and potential earnings in other public-sector or private practices. The result has been an exodus of experienced physicians from the VA system—an exodus which reached crisis proportions in 1975 when 300 full-time physicians resigned because they considered their salaries inadequate.

To provide temporary relief from this recruitment and retention emergency, Congress enacted last year's pay comparability law authorizing the VA to enter into agreements with physicians and dentists under which physicians and dentists receive annual special pay in return for completion of 1 to 4 years of service in DM&S. The law, enacted on October 22, 1975, and effective as of October 12, 1975, is due to expire on October 11, 1976.

To date, more than 10 months after enactment, the law has proven highly successful in halting the drain of qualified physicians and dentists from DM&S. According to the Department's report of April 30, 1976, required by the new law, on the implementation of the special pay program, 97.1 percent of all full-time physicians and 97.9 percent of all full-time dentists have signed special pay agreements for the maximum of 4 years of service, promising a major degree of retention stability for the near future. (The report is printed as Committee Print No. 36 of May 6, 1976.) The report concluded:

". . . [E]xperience [with the special pay program] so far has been good. The first quarter of FY 1976 was a very favorable recruiting period, probably related to the imminence of the pay bill. Further, full time staff was added thereafter and by March 31, 1976, the number of [full-time], physicians on duty, 5,815, was a new high. Loss rates during the six months following the enactment of the pay bill were less than during a comparable period one year earlier. The rate for the period January through March alone was the lowest for any equivalent quarter during the year since 1968."

The Committee has also solicited and received reports from various VA hospitals which are similarly encouraging.

Because of the proven usefulness of the special pay program in attracting and retaining well-qualified physicians and dentists, the Committee believes that the VA's authority to enter into special pay agreements (for up to 4 years of service per agreement) with DM&S doctors should be extended beyond the October 11 expiration date. Section 122(a) would extend this authority for an additional 11½ months, to September 30, 1977, the date to which the authority has been extended for the special pay program for military physicians under section 313 of title 37, United States Code. That authority, which was at one point due to expire on September 30, 1976, was extended for an additional year by section 305 of Public Law 94–361 (July 14, 1976).

Special Pay for Clinical Researchers

The Department of Medicine and Surgery employs approximately 150 full-time physicians and dentists as clinical researchers in the Research and Education Career Development Program. In addition to performing their medical research responsibilities, these physicians and dentists hold staff positions at VA hospitals and devote at least one-quarter and frequently one-half of their time to direct patient care.

Under section 4118(a)(3) of title 38, as added by Public Law 94–123, last year's physician and dentist pay comparability law, the Chief Medical Director may deem categories of physicians and dentists ineligible for special pay when he makes a finding that there is "no significant recruitment and retention problem" with respect to such categories. In October, 1975, the Chief Medical Director, consistent with his prior public statements as to his intentions if a special pay law were enacted, exercised this statutory authority to exclude 248 physicians and dentists from eligibility for special pay. This amounted to approximately 4 percent of DM&S's 6,200 full-time physicians and dentists. Included were all 150 clinical researchers—the largest single group excluded administratively from special pay.

In the 10 months since the Chief Medical Director's decision to exclude clinical researchers, about one-eighth of the physicians and dentists holding clinical research positions resigned those positions and accepted other positions in DM&S in order to qualify for special pay. This rate of turnover among clinical researchers has impaired the continuity of the VA's medical research effort. In addition, the number of physicians and dentists applying for clinical research positions has declined abruptly, dropping by 30 percent for the prestigious second- and third-level research positions. Discussions with researchers in the field indicate that the exclusion from special pay was an important factor in this decline. Although at present there are more qualified new applicants than clinical research positions to fill, the decline already noted, particularly as to the most senior clinical researchers, means that the VA is losing its most experienced investigators during their most productive years. Many of the VA's finest staff doctors, chiefs of services, and hospital administrators have been initially recruited through these clinical research programs. These downward trends, if continued, pose a serious threat of a setback in the VA clinical research program from which it may take years to recover.

Further clouding the research picture is the fact that the exclusion of clinical researchers from special pay comes after 2 years of real-dollar decline in the size of the VA medical research budget. Between fiscal years 1974 and 1976, the research budget grew approximately 6.6 percent, from $91.4 million to $97.4 million; during that same period, inflation cut the purchasing power of the research dollar by more than 30 percent, for a sizeable net *reduction* in research funds of more than 20 percent during that 2-year period.

The research program, in short, has experienced two serious blows in the past year. The Administration had proposed in January a cut-back budget for the third year in a row (although Congress, on the recommendation of this Committee, appropriated $4.2 million more than was requested for fiscal year 1977), and researchers have been asked to accept salaries lower by $7,000 to $10,000 (the amount of special pay they are required to forego because of their exclusion from the special pay program) than the amount they could earn by resigning their research positions. The result has been, according to the February 18 testimony of the VA's Assistant Chief Medical Director for Research and Education, "a significant loss of morale" among clinical researchers.

Need for continuing a strong VA research program.—A strong research program is essential to the VA health care system, for at least three reasons:

First, clinical research provides direct benefits for patients in VA hospitals. The basic biomedical and prosthetic research conducted in the VA has saved lives, reduced pain and suffering, shortened recovery times, and, in general, made hospital stays more comfortable and more successful. The VA medical research program has provided information leading to the virtual disappearance of tuberculosis as a major medical problem, has contributed to the rational drug treatment of major psychiatric illness, and is pioneering in the prevention and treatment of significant high blood pressure. Less obvious but highly significant is the indirect contribution to patient care through such scientific advances as the development of radio-immunoassays for body components and the discovery of the role of glucagon, a natural antagonist of insulin, in diabetes. Overall VA research has become a major factor in improving the detection, prevention, and treatment of disease.

Furthermore, each researcher devotes a significant portion of his or her time to direct patient care, meaning that the program pays an immediate patient care dividend. It also pays a long-term patient care dividend, since 40 percent of the young VA clinical research investigators remain in DM&S as clinicians when they complete the special research career development training program, and another 40 percent contninue to serve the VA as faculty members of affiliated medical schools. These clinician-investigators and their scientist colleagues contribute to the quality of practice in VA facilities beyond their direct contribution to patient care. They create the atmosphere of questing minds and stimulating ideas that makes for progressive medical and dental care, that welcomes new advances but is cautious in evaluating them, and that is prepared for changing patterns of health care.

Second, the availability of research facilities and support money has consistently been shown to be an important factor in the recruitment and retention of physicians, and any reduction in the size or quality of the DM&S's research effort would have an immediate adverse impact on the VA's ability to recruit new physicians and retain the physicians already on board.

And third, the DM&S research program has been an important part of the affiliation process between VA hospitals and medical schools, which in turn has been one of the major contributing factors to the improvement in VA patient care during the past three decades. Slippage in the quality of the DM&S research program or in the commitment of the VA to a continuing viable program of biomedical research could jeopardize some of the VA's major academic affiliations.

It is essential that Congress continue to demonstrate its firm resolve to keep the VA research program on strong footing. Now that the fiscal year 1977 research budget has been strengthened somewhat, the Committee believes that one further step is needed to ensure that VA clinical researchers continue to be among the best in American medicine. Research positions in the Department of Medicine and Surgery have traditionally been prestigious, and have been filled by dentists in the VA system. The Committee believes it is counterproductive and inequitable with respect to the medical research program and damaging to the quality of care in VA hospitals to create a financial disincentive for service as a clinical researcher by excluding researchers from eligibility for special pay.

Section 122(b) of the Committee bill therefore would amend section 4118 of title 38 to mandate the payment of special pay to all physician and dentist clinical researchers who are otherwise eligible for special pay. This would technically be done by authorizing, under subsection (a)(1) of section 4118, the payment of special pay to physicians or dentists serving in "professional or administrative positions or clinical research positions in the career development program", and then limiting the categories of physicians and dentists which may be excluded from special pay by the Chief Medical Director, under subsection (a)(3) of section 4118, to those serving in "professional and administrative positions" only—the clear result being that the Chief Medical Director is not authorized to exclude clinical researchers pursuant to this subsection (a)(3) discretionary administrative authority.

The Committee believes that this provision will make a major contribution to the restoration of morale among DM&S's clinical researchers and the continuation of the research program's vital role in the improvement of health care for all veterans.

Recruitment and Retention of Optometrists and Podiatrists

The Department of Medicine and Surgery currently employs only 8 full-time optometrists and 20 full-time podiatrists. By any conceivable measure, these numbers are not enough to meet the demand for optometric and podiatric services in the VA health care system. Recent surveys of the DM&S patient population, for example, reveal that two-thirds of all veterans screened required some type of optometric service; because of the paucity of trained optometrists, however, less than 1 in 10 veterans received such services. Although optometrists outnumber ophthalmologists by a ratio of 2 to 1 in the United States, there are 6 full-time VA ophthalmologists for every full-time VA optometrist. This clearly implies that highly-trained ophthalmologists are performing the functions that could more effectively and inexpensively be done by optometrists. Similarly, although there are approximately three podiatrists for every 100,000 American citizens, the VA employs only 1.6 podiatrists for every 100,000 hospitalized veterans.

It is clear to the Committee that the numbers of optometrists and podiatrists employed by DM&S are substantially below the numbers indicated by the size, age, and demographic characteristics of the VA patient population.

The Committee identified several barriers which may have deterred or prevented the hiring of more optometrists and podiatrists in DM&S. Chief among these are the absence of Optometric and Podiatric Services in Central Office to coordinate recruitment and retention efforts and enhance the professional status of these personnel; the lack of continuing medical education opportunities for optometrists and podiatrists; and, most importantly, noncompetitive salaries, particularly at the mid- and advanced-career levels.

Under current law, optometrists and podiatrists are paid in accordance with the General Schedule for Federal civil service employees under title 5, United States Code. The normal starting salary for optometrists and podiatrists in the VA is $13,482 (GS–9, step 1), with advancement to a normal career salary of $21,113 (GS–11, step 10)—well below the average salary of $30,000 for optometrists and $32,000 for podiatrists in private practice. The unfortunate result of these below-average salaries has been that virtually every VA optometrist and podiatrist operates a small private practice in the evenings or on weekends in order to supplement their full-time VA salary—a circumstance which, in the Committee's view, is neither fully consistent with their professional stature as full-time members of the VA health care team nor fully conducive to high-quality patient care.

Section 113(b) of the Committee bill would amend chapter 73 of title 38 in order to enhance the recruitment and retention of optometrists and podiatrists in DM&S. Full Optometric and Podiatric Services would be created in Central Office, each headed by a Director responsible to the Chief Medical Director for the operation of his or her Service. Optometrists and podiatrists (as were physician assistants and expanded-function dental auxiliaries in the 1975 Public Law 94–123) would also be removed from the Federal civil service system under title 5, placed in the title 38 pay and personnel system, paid in accordance with a new "Clinical Podiatrist and Optometrist Schedule" to be added to section 4107 of title 38, and generally made part of the DM&S title 38 personnel system subject to the rules and procedures of chapter 73 of title 38 and implementing regulations thereunder. Under the new pay schedule, salaries would range from $16,255 to $37,800, amounts substantially more in line with comparable non-VA starting and career salaries for these health professionals.

The Committee strongly believes that increased utilization of optometrists and podiatrists by DM&S would be cost-efficient and would significantly expand the scope of the health care program. The addition of optometrists and podiatrists in significant numbers would free ophthalmologists and orthopedic surgeons to perform the diagnostic and surgical procedures for which they specially trained, and would thus result in a higher quality of health care for more veterans at a lower cost.

It is hoped that making optometrists and podiatrists part of the title 38 system will enhance their opportunities for greater professional status, more appropriate pay and working conditions, and professional and academic associations with institutions of higher learning.

Recruitment and Retention of Other Non-physician Personnel

The starting salaries of health care employees in the VA health care system (other than physicians, dentists, nurses, physician assistants, and expanded-function dental auxiliaries) are fixed by Civil Service Commission pay and job standards. These salaries are in some cases several thousand dollars below those offered employees for comparable positions in non-VA facilities. This differential between VA and non-VA starting salaries is one of the most important non-physician recruiting problems facing the Department of Medicine and Surgery.

To assist the DM&S in recruiting qualified non-physician personnel, section 113(a) of the Committee bill authorizes the Administrator of Veterans' Affairs to adjust the minimum and maximum salaries within grade, on a nationwide basis, for any category of health care personnel (except physicians) when such an adjustment is deemed necessary to aid in the recruitment of such personnel. Under the new subsection (g) to be added to section 4107 of title 38, adjustment could be ordered only for one of three specific purposes: (1) To provide pay "commensurate with competitive pay practices in the same occupation", (2) to achieve "internal alignment of rates of basic pay" in the Department of Medicine and Surgery, and (3) to attract or retain certain shortage category personnel for employment at VA health care facilities.

This provision is virtually identical to one contained in section 4(d)(3) of the Senate-passed version of legislation (S. 1711) enacted last year as Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975. The provision was deleted from the pay comparability bill before enactment.

The following example best explains the assistance subsection (g) is designed to provide to DM&S: Assume a person who enters the VA at GS–3, or $7,102 a year. Were the Administrator to determine (1) that, on a nationwide basis, persons in that category of personnel in non-VA facilities generally started at higher salaries than VA personnel in that category, and (2) that the salary differential had generated a recruitment problem for the VA, then he could raise the starting salary for persons in that category from $7,192 to as much as $9,235, the maximum salary under GS–3, step 10. The new subsection (g), in short, would give the Administrator considerable flexibility within grades, where necessary, to adjust VA starting pay and to make VA salaries more competitive with those offered by other health care facilities.

In order to allow for in-grade promotions after appropriate service, subsection (g) also allows the Administrator to permit incremental salary increases for each step comparable to those in the adjusted schedule. For example, the salary at GS–3, step 1, is $7,102. At GS–3, step 2, it is $7,339, an increase of $237. If the Administrator adjusted the entry grade salary to the maximum permitted under GS–3 ($9,235), then personnel in that category would start at that level; their first salary increase would be raised by $237 to $9,472. Step-to-step increments, in short, would be preserved.

The Committee believes that subsection (g) offers a valuable health care personnel recruitment tool for the Department of Medicine and Surgery.

Procedural Protections for Department of Medicine and Surgery Employees

The VA employs 136,000 health care personnel in its more than 500 health care facilities in the United States. About 100,000 of them—primarily licensed practical and vocational nurses, nursing assistants, and other nursing support personnel (32,000); medical technologists (2,200); medical technicians (8,000); pharmacists (1,200); psychologists (1,000); social workers (2,300); and therapists and therapy assistants (2,900)—are civil service employees, whose rates of pay and conditions of employment are established by Civil Service law and regulations. The remaining 36,000—primarily physicians (10,000), nurses (25,000), and dentists (1,000)—are title 38 personnel, whose rates of pay and conditions of employment are set out in chapter 73 of title 38 and the regulations and manual provisions prescribed thereunder.

Many of the statutory provisions relating to the conditions of employment of title 38 personnel date back to the original establishment of DM&S in 1946. In the succeeding 30 years, there have been many significant advances in employee relations, and legislative and judicial approaches to employee due process protections have expanded significantly. Yet chapter 73 of title 38 has not been comprehensively revised to reflect these advances, and as a result the statutory and regulatory employment rights possessed by title 38 personnel have, in certain respects, lagged considerably behind those of other Federal employees.

Section 112(a) of the Committee bill would amend chapter 73 to revise and expand the statutory procedural protections governing personnel actions with respect to all title 38 employees, including those who have not completed the prescribed period of probationary service, those serving in temporary part-time, and intermittent positions, and those serving in training (intern or resident) positions. The amendments are designed to reflect the development of statutory and case law in this area since the current provisions in chapter 73 were enacted three decades ago, and to provide title 38 personnel with procedural protections which compare favorably to those now provided to civil service employees, and which are consistent with the special professional qualifications of such personnel and the mission of the Department of Medicine and Surgery.

Because there has been considerable misunderstanding about the scope and effect of these provisions, every effort has been made to draft the statutory language in the clearest possible terms to carry out the Committee's intent and to explain the Committee's purposes and the legislative effect fully in this report.

The significant changes in current law that would be made by these amendments are the following:

1. The period of probationary service would be shortened.—There is almost universal agreement that some period of probationary service is necessary in order to allow employer and employee to evaluate the suitability of the employment relationship. Civil Service regulations (5 C.F.R. §§ 315.801, 315.802(a)) prescribe a probationary period of 1 year for career or career-conditional appointments to the competitive service, and the Federal Personnel Manual justifies the necessity for a period of probationary service in these terms:

"[The probationary period is] a final and highly significant step in the examining process. It provides the final indispensable test, that of actual performance on the job, which no preliminary testing methods can approach in validity. During the probationary period, the employee's conduct and performance in the actual duties of his position may be observed, and he may be separated from the service without undue formality if circumstances warrant. . . .

"Properly used, the probationary period affords an opportunity for fostering the interest of the probationer as well as of the service. The probationary period is for most appointees the first contact with the Federal service. Intelligent and considerate treatment during the probationary period will often have a lasting effect on the career of the employee and will often save for useful and efficient Federal service employees who would otherwise be separated, or retained in positions in which they had little prospect of success." (F.P.M., Chapter 315, Subchapter 8, § 8–1.)

In contrast to the 1-year probationary period served by civil service employees, title 38 employees are required by law to serve in probationary status for three years (section 4106(b)). This longer period of probationary service has usually been justified by reference to the unique nature of the health care setting. Professional performance by a physician, dentist, or nurse requires the ability to work closely with other members of the health care team and to make rapid decisions under extraordinary pressure in situations where a patient's life hangs in the balance; these are personal and professional attributes which, it is argued, cannot adequately be evaluated in a single year's time. A recent analysis (in a related context) of the distinction between hospital service and other forms of employment is found in an opinion by the Ninth United States Circuit Court of Appeals:

". . . A hospital staff is highly interdependent, both in the sense that one doctor depends upon the professional skill of the other doctors and in the sense that the collegial nature of the body makes tolerable working relationships an absolute prerequisite to effective staff performance. The necessity for a health working relationship is a function of the nature of the work to be done. Incompatible workers on farms, ranches or in certain types of factories can function reasonably well. . . . Effective performance by physicians on the staff of a hospital, whose tasks require a high degree of cooperation, concentration, creativity, and the constant exercise of professional judgment, requires a greater degree of compatibility. The hospital must recognize this necessity." (*Stretten* v. *Wadsworth Veterans Hospital*, C.A. No. 75–2309 (9th Cir.), May 18, 1976; footnotes deleted.)

The Committee agrees that, given the distinctive personal and professional qualifications which a title 38 employee must possess, a period of intial evaluation longer than 1 year continues to be reasonable at this time. The Committee believes, however, that the 3-year probationary period provided under current law is longer than neçessary and results in needless apprehension and uncertainty.

The Committee bill, therefore, would shorten the period of probationary service for title 38 employees to 2 years. This is long enough to permit careful and effective evaluation of title 38 employees, yet short enough to reduce substantially the sense of apprehension and uncertainty which frequently accompanies an extended period of conditional employment.

2. The rights of employees who have not completed the period of probationary service and who are subject to adverse or stigmatizing personnel action would be significantly expanded.—Under title 38 (section 4106(b)), the extent of the VA's authority in taking actions against probationary employees is unclear, as are the procedural protections which should apply under such circumstances. The statute provides a single remedy—separation from the service—for any probationer who is not found fully qualified or satisfactory, and entitles the probationer to only very minimal procedural protection in connection with reviews of performance and qualifications.

Although the courts have uniformly sustained terminations of nontenured title 38 appointments without full, formal, adversarial procedures (*Stretten* v. *Wadsworth Veterans Hospital, supra; Kenneth* v. *Schmoll*, 482 F. 2d 90 (10 Cir. 1973); *Suess* v. *Pugh*, 245 F. Supp. 661 (N.D.W.Va. 1965)), the case law clearly recognizes that actions which contravene any employee's "liberty" right in his reputation or professional integrity by stigmatizing him and hence foreclosing the likelihood of future employment may not be taken without notice and an opportunity to be heard. (See *Wisconsin* v. *Constantineau*, 400 U.S. 433 (1971); *Board of Regents* v. *Roth*, 408 U.S. 564 (1972); *Goss* v. *Lopez*, 419 U.S. 565 (1975).) "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him" (*Wisconsin* v. *Constantineau, supra*, at 437), or where "the State . . . impose[s] on him a stigma or other disability that foreclose[s] his freedom to take advantage of other employment opportunities" (*Board of Regents* v. *Roth, supra*, at 573), then due process under the Constitution requires that a hearing be held "to provide the person an opportunity to clear his name" (*id.*). (See *Heaphe* v. *United States Treasury*, 354 F. Supp. 396 (S.D.N.Y. 1973); *Casey* v. *Roudebush and Hampton*, Unpub. D. Md., Civ. No. T74–1295, June 20, 1975.) If, however, the action "simply points up a clash of personalities and, perhaps, a difference of opinion as to how the hospital could best be run" (*Suess* v. *Pugh, supra*, at 666), then the action may be taken with only informal procedures, without affording a probationary employee (who has no due-process-protected "property" right in his job) the benefit of an adversarial hearing on the merits of the action.

It should be noted, however, that, "mere proof . . . that [an employee's] . . . record of non-retention in one job, taken alone, might make him somewhat less attractive to some other employers, would hardly establish the kind of foreclosure of opportunities amounting to a deprivation of 'liberty'." *Board of Regents* v. *Roth, supra*, at 574, fn. 14. This construction of liberty set out in *Roth* has been followed in *Russell* v. *Hodges*, 470 F. 2d 212, 216 (2d Cir. 1972) where the court said in referring to stigma: "The court [in the *Roth* case] made clear that by the latter phrase it meant something more than the disadvantage inevitably entailed when a person 'simply is not rehired in one job but remains as free as before to seek another.' " It should be stressed that the issue of stigma, including the extent of foreclosure of future employment, must be determined on the facts of each individual case; and that, in questionable cases, it would seem appropriate for the agency to resolve any doubt in favor of providing a full, trial-type hearing prior to the effectuation of action against a probationary employee.

In order to embody the above state of the case law as to probationary employees, to forestall costly future litigation, and to provide additional protections against stigmatizing personnel actions, the Committee bill would amend existing law in three important respects.

First, the Committee bill would guarantee substantial procedural rights for any probationer against whom action is proposed to be taken. Such probationer would be entitled, before any action is taken, to a written statement of reasons for the proposed action, an opportunity to reply (orally, or in writing, or both), assistance by a personally-selected representative in the preparation of a reply, and review, as a matter of right, by the Chief Medical Director. None of these protections is currently provided under chapter 73 or VA regulations.

Second, the Committee bill would require a full, trial-type hearing for any probationer subject to an adverse personnel action on grounds constituting misconduct or which would result in stigmatizing the employee. This represents a codification of rights established by the case law. (It would, in fact, expand somewhat the protections afforded to employees, since it would include "misconduct" as a ground requiring a hearing; the case law has established that a hearing is required only when personnel action would have a stigmatizing effect on the employee, as would be the case with many but not all charges of misconduct. The Committee believes that the administrative process would be simplified by affording a full hearing in both of these contexts, thereby eliminating costly and difficult legal arguments, on a case-by-case basis, as to whether a particular charge of misconduct is or is not stigmatizing.)

Third, the Committee bill would permit action short of termination of the appointment to be taken against probationers whose competence or performance is not found fully satisfactory by a specially-constituted reviewing board. The reference in present law to the single sanction of separation has raised a doubt about the agency's authority to take lesser actions, such as warning, counseling, or reassignment. Such a doubt could confront the agency with the unfortunate choice between condoning the less than acceptable performance or resorting to the drastic sanction of termination. By authorizing a more flexible response in such situations, the Committee bill would enhance the likelihood that title 38 employees would be given a second chance when circumstances permit.

Fourth, the Committee bill specifies that only when the review board recommends that action be taken (such as termination of the probationary appointment, reassignment, warning, or other such nondisciplinary action) against the probationer, may any such action be taken by the Department of Medicine and Surgery. If the board does not recommend that such action be taken against a particular probationer after reviewing his or her performance record, that would be the agency's final decision on the matter, and would not be subject to modification, reversal, or review by the Chief Medical Director or any other agency official or board.

3. The statutory rights of all title 38 employees against whom disciplinary action is proposed would be revised and expanded beyond the substantial protections already afforded them.—Under current law (section 4110), disciplinary action is proposed by specifically constituted disciplinary boards. Employees made to appear before such boards are afforded by the statute the right to prior notice and fair hearing, the right to be represented by counsel before the board, and the right to appeal adverse board decisions to the Administrator, all before final action is taken. These rights remain intact under the Committee bill.

By contrast, a Civil Service employee is entitled to only limited procedural protections prior to the taking of an adverse action under chapter 75 of title 5, United States Code, including (under section 7501(b) of that title) only notice of the action; a copy of the charges with reasons in writing for the proposed action; opportunity to file a written answer to the charges, to file affidavits in support of the answer, and to have a reasonable time in which to prepare the answer; and a written agency decision at the earliest practical date. The right to a hearing, let alone a prior hearing, is not guaranteed, and is provided only if specified in the regulations of the employing agency.

Under section 112(a)(2) of the Committee bill, existing section 4120 of title 38 would be extensively rewritten to achieve several important results, while securing all rights presently afforded by the section.

First, the cause for which disciplinary action could be taken against title 38 employees would be made to conform to the cause for which adverse action may be taken against Civil Service employees—"such cause as will promote the efficiency of the service" (5 U.S.C. 7501(a)). A well-developed body of case law has defined and given substance to this statutory term. In the words of the Federal Personnel Manual:

"A just and substantial cause is necessary for an adverse action and the action must be determined on the merits of each individual case. . . . In every case the agency's action should be based on the conclusion that the adverse action is warranted (i.e., the agency has a just cause for the action taken) and that the agency can establish, or 'prove,' the facts which support its reason for action. (F.P.M. Supplement 752–1, Subchapter S3, § S3–1.b (July 2, 1974).)

The Committee believes that two purposes are served by the proposed adoption in the title 38 context of the "cause" standard from title 5: Equity, through the application of the same standard to all VA health care employees, and greater precision, through uniform use of a term with a well-established common law meaning.

The Committee emphasizes that the new ground for taking disciplinary action against title 38 employees is meant to clarify the existing grounds, not to supplement or broaden them. In the Committee's view, the three grounds for disciplinary action under current law—inaptitude, inefficiency (which has been construed by the VA to mean "ineffectiveness"), and misconduct—may constitute legitimate "cause" for disciplinary action but only insofar as it is found that such action would "promote the efficiency of the service." Thus, a clear job-related context is established for any disciplinary action proposed against a title 38 employee. By changing the performance reference, as a permissible cause which would promote the efficiency of the service, from "inefficiency" to "ineffectiveness," the Committee seeks merely to choose a more apt term and to codify agency regulations in this respect.

A second result achieved by the rewritten section 4110 would be a considerable broadening of the number of title 38 employees to whom the full, prior, trial-type hearing protections of the section would apply in whole or in part. Under current law and regulations, the section applies to only those personnel appointed to positions in DM&S under section 4104(1) of title 38 (under current law, physicians, dentists, nurses, physician assistants, and expanded-duty dental auxiliaries) who have completed their 3-year periods of probationary service—about 20,000 of the 31,400 permanent, full-time title 38 employees (plus an undetermined number who will acquire these protections earlier after the 2-year probationary period provided for in the committee bill). Under the revised section 4110 in the Committee bill, permanent title 38 employees would continue to be protected against all forms of summary disciplinary action, while similar protection would be provided for the first time to probationers, house staff members, and temporary full-time, part-time, and intermittent title 38 employees charged with misconduct or other charges which would stigmatize them. Approximately 27,400 title 38 employees (11,500 probationers, 800 interns, 6,500 residents, and 8,600 temporary employees) would thus be made eligible for the protections in section 4110.

TABLE 5.—TITLE 38 EMPLOYMENT BY FULL-TIME, PART-TIME, AND PROBATIONARY STATUS, FISCAL YEAR 1976

-	Full-time probationary	Full-time nonprobationary	Part time	Total
Physicians	1,480	4,355	3,225	9,060
Dentists	262	590	16	868
Nurses	9,736	14,993	1,672	26,401
Physician assistants	[1] 149	----------	53	202
Total	[2] 11,478	[2] 19,878	4,966	36,531

[1] Not broken down into probationary and nonprobationary status.

[2] Exclusive of physician assistants.

Note: Figures on full-time and part-time employment are as of June 30, 1976; figures on probationary employment are as of Feb. 14, 1976. All data are supplied by the Department of Medicine and Surgery.

The Committee stresses that the protections afforded to the non-full-time DM&S employees in the case of proposed disciplinary action on the basis of charges of misconduct or other reasons which would stigmatize the employee in question are not intended in any way to restrict the right of the agency to terminate or not renew an appointment of such employee for other reasons. In other words, where the employee's appointment is terminated or not renewed with no reference to an act of misconduct or a reason which would stigmatize the employee, no section 4110 hearing would be required by the Committee bill.

Third, the rewritten section 4110 in the Committee bill makes several changes in the statutory provisions for selection and composition of disciplinary boards. For the most part, these changes codify rules and procedures in existing VA regulations and manual provisions, and serve merely to reflect statutorily the procedural refinements adopted administratively since the statute's enactment 30 years ago. One statutory change adds a requirement that a majority of the board be of the same profession as the employee charged (a requirement now imposed by manual provision, MP–5, part II, chapter 8, section C, paragraph 3.a.; the statute (section 4110(a)) currently imposes this requirement only with regard to dentists). Another specifies that appointment of the chairman of the board shall be made by the Chief Medical Director, and election of the board secretary by a majority of the board members (under current law (section 4110(b)), the Administrator (delegated to the Chief Medical Director by regulation) appoints both the chairman and secretary). The Committee bill also adds a requirement that the board members be of comparable or higher grade—under section 4103 or 4107—than the employee charged (under current law (section 4110(a)), board members shall be "senior in grade").

A fourth and significant result of the Committee bill's rewritten version of section 4110 is to expand the statutory rights of employees appearing before a disciplinary board, and to revise the procedures under which the agency reviews the recommendations of the board. Under the revised section 4110(d), an employee answering to charges before a disciplinary board would statutorily be entitled to the following protections before any disciplinary action is taken: Specification of charges; a full, trial-type hearing with opportunity to produce and cross-examine witnesses at the hearing; and representation by a person of the employee's choice throughout the disciplinary board proceeding. Of these rights, current law (section 4110(c)) guarantees only the right to counsel, although all the other procedural rights are provided by regulation (MP–5, part II, chapter 8, section C, paragraph 4.c).

Existing section 4110(d) as supplemented by VA regulations (MP–5, part II, chapter 8, section C, paragraph 5) defines the procedures under which the agency reviews and acts upon the recommendations of a disciplinary board. Under the Committee bill, a revised section 4110(e) would be substituted for section 4110(d), and would make two substantive changes in the statute.

First, the revised provision would require that the employee be provided with a written explanation for any disagreement with, exception to, or modification of any finding or recommendation of the disciplinary board on any charge. The Committee regards the absence of such a requirement as a serious defect of current law and regulation, and considers its addition to section 4110 a most significant procedural guarantee. A written statement of reasons for any agency action is widely recognized by judicial and academic authorities as a significant administrative mechanism which "tends to require the agency to focus on the values served by its decision, hence releasing the clutch of unconscious preference and irrelevant prejudice." (*Childs* v. *United States Board of Parole,* 511 F. 2d 1270, 1287 (D.C. Cir. 1974) (Leventhal, J., concurring)). Professor Kenneth Davis, a leading authority on administrative procedure, has written:

> The reasons [for such a requirement] have to do with facilitating judicial review, . . . assuring more careful administrative consideration, helping parties plan their cases for [administrative] rehearings and judicial review, and keeping agencies within their jurisdiction. (*Administrative Law Text*) (3d ed. 1972), ¶ 16.03 at p. 320)

The Committee is also firmly convinced that the findings or recommendations for disciplinary action of a disciplinary board on any charge found to be sustained by the board should not be altered without a full written explanation being provided to the charged employee. The effect of requiring the agency to justify in writing any deviation from the findings and recommendations of the disciplinary board will be, the Committee believes, to afford a strong presumption of correctness to the findings and recommendations of this disciplinary board.

It should be noted in this regard that the Committee bill retains the requirement from present law that only when the disciplinary board sustains a charge against the employee may the reviewing officer, here the Chief Medical Director, modify any board recommendation for disciplinary action; nor may the Chief Medical Director take exception to any board finding except with respect to a sustained charge. If the board totally exonerates the employee on a charge, then the Chief Medical Director must accept the board's decision as his own on that charge. The bill clarifies the Chief Medical Director's authority to take exception to board findings of fact underlying a charge sustained by the board.

The second substantive change that would be made by the Committee bill in the review procedure is the substitution in the statute of the Chief Medical Director for the Administrator of Veterans' Affairs as the reviewing officer. Under current law, a disciplinary board can make its recommendations either to the Administrator directly (section 4110 (d)), or, if the Administrator chooses to delegate that authority to the Chief Medical Director, to the Chief Medical Director (section 4110(e)). (Under VA regulations (MP–5, part II, chapter 8, section C, paragraph 5.b.), the Administrator has delegated primary decisionmaking authority to the Chief Medical Director; if the disciplinary action recommended by the Chief Medical Director is more severe than an admonishment—in other words, a reprimand, suspension, demotion, or separation—then the employee may appeal as a matter of right to the Administrator (paragraph 5.c.).) In practice, the Chief Medical Director's decision has operated as the final agency decision, since the Administrator virtually always ratifies the decision of the Chief Medical Director. Legally, however, such an employee who seeks injunctive or other judicial relief against an agency disciplinary action must first file an appeal with the Administrator in order to satisfy the threshold jurisdictional requirement of exhaustion of administrative remedies. This final administrative appeal may take months to resolve; will seldom, if ever, serve any substantive purpose, since the Administrator will almost always approve the Chief Medical Director's findings with no modification; and thus unnecessarily delays the employee's access to the courts.

The Committee bill would, first of all, codify the VA regulation making the Chief Medical Director the primary decisionmaker, so that the Chief Medical Director would exercise that authority statutorily rather than through delegation from the Administrator. The Committee bill would also make the Chief Medical Director's decision the final agency decision, eliminating the appeal to the Administrator. By removing this ineffective and time-consuming step from the review process, the Committee intends to facilitate judicial review of agency decisions (for employees who desire such review) by ensuring that access to the courts is not delayed or precluded by an employee's failure to exhaust all administrative remedies. In this regard, the comments of Chief Medical Director John D. Chase in recent letter to the Chairman of this Committee's Subcommittee on Health and Hospitals are appropriate:

> ". . . [T]he interest of both the employee and the agency in having disciplinary actions resolved expeditiously is more compelling than is the preservation of a step in the administrative process that has seldom been useful to the employee except for the purpose of exhausting his administrative remedies prior to filing an action in the courts. The decision to delete this step was made only after consideration was given to the frequency of reversal of decisions of the Chief Medical Director by the Administrator. The facts are that such reversals of decisions of my predecessors or of my decisions have been extremely rare." (Letter from Chief Medical Director Chase to Senator Alan Cranston, July 20, 1976, p. 1.)

Finally, the Committee believes that the Chief Medical Director should properly, as the head of the Department of Medicine and Surgery and as part of his statutory responsibility to manage the day-to-day affairs of the Department, make the final agency decision on such critical DM&S personnel actions.

4. The agency's authority to reassign title 38 employees for disciplinary or non-disciplinary reasons would be limited by statute; and the procedural rights of employees whom the agency proposes to reassign would be substantially broadened.

Federal employees are generally subject to reassignment between duty stations as a condition of employment. Civil Service regulations (5 C.F.R. 335.102), for example, authorize employee reassignment as part of an agency's internal placement authority, and a series of recent court cases—*Pauley* v. *United States,* 419 F. 2d 1061 (7th Cir. 1969); *Burton* v. *United States,* 404 F. 2d 365 (Ct. Cl. 1968); *Urbina* v. *U.S.* 180 Ct. Cl. 194 (1967); *Madison* v. *United States,* 174 Ct. Cl. 985 (1966); *Kletschka* v. *Driver,* 411 F. 2d 436 (2d Cir. 1969) (passim)—has clearly established that Federal agencies may reassign their employees between stations, and that employees are obliged to accept such reassignments as a condition of their employment in the Federal service, or be subject to separation for refusal to do so.

Two Forms of Reassignments

Reassignments can take either of two forms. First, employees may be reassigned because their services are needed at another duty station. These reassignments, known generically as reassignments "for the good of the service", may be ordered under VA manual provisions whenever "necessary to meet the needs of the medical program" (MP–5, part II, chapter 9, paragraph 9). They are nondisciplinary in nature. Court cases have uniformly sustained the authority of Federal agencies to order such nondisciplinary reassignments when necessary to promote efficiency and good management: "We recognize," the United States Court of Claims has held, "that agencies have power to effect geographical reassignment of employees, except as self-limited." (*Burton* v. *United States,* 404 F. 2d 365 (Ct. Cl. 1968).)

The other kind of reassignment is the so-called "disciplinary reassignment", which results in reduction in pay, grade, or relative standing or which is proposed for the purpose of disciplining an employee for unsatisfactory job performance, misconduct, or for "such cause as will promote the efficiency of the service".

The distinction between the two kinds of reassignments is an important one, because the procedural protections which have been afforded to employees whom an agency proposes to reassign are quite different in each of these contexts. A series of recent cases—*Kletschka* v. *Driver,* 411 F. 2d 436 (2d Cir. 1969); *Gilbert* v. *Johnson,* Civ. No. 16424 (N.D. Ga., June 16, 1972), *subsequent court order appealed on other grounds and vacated and remanded,* 490 F. 2d 827 (5th Cir. 1974), *on remand,* Civ. No. 16424 (N.D. Ga., July 2, 1976); *Motto* v. *General Services Administration,* 335 F. Supp. 694 (E.D. La. 1971)—has held that a Federal agency employee may not be subjected to a disciplinary reassignment unless the agency affords the employe a hearing and all the procedural rights associated with any proposed disciplinary action. In other words, an agency may not avoid affording the procedural safeguards attaching to disciplinary actions by cloaking a reassignment, intended to discipline an employee, in non-disciplinary terms. An employee who is reassigned for a legitimate good-of-the-service reason, by contrast, must (unless agency regulations specify to the contrary) accept reassignment, and is entitled only to the procedural protections provided in agency regulations. See *Kletschka, supra; Burton, supra.*

Civil Service regulations distinguish between types of reassignment in terms of the different procedural rights which must be afforded in each case. Under Civil Service regulations (5 C.F.R. chapter 771), a civil service employee whom the employing agency proposes to reassign for the good of the service may file a formal grievance with the agency to protest the reassignment. The Civil Service grievance process, while not guaranteeing a hearing on the reassignment, affords the employee several procedural protections, such as specification of the reasons for the reassignment and resolution of the grievance by a fair, impartial, and objective examiner. If, however, the reassignment is disciplinary in nature or results in reduction in rank or salary then Civil Service law would classify the reassignment as an adverse action, which entitles the employee to a considerable range of procedural protections, including advance written notice of reasons for the action, the right to answer in writing and in person, and the right to appeal an adverse action, after it is taken, to the Civil Service Commission (FPM Supplement 752-1, Subchapter S1; 5 C.F.R. 752.302.).

Title 38 regulations, on the other hand, do not distinguish between the two kinds of reassignments. The VA's reassignment authority is contained in MP-5, part II, chapter 9, paragraph 9, which reads in its entirety as follows:

"9. FAILURE TO ACCEPT TRANSFER

"Physicians, dentists, or nurses are expected to accept transfers as a part of their employment obligations. Failure to accept a transfer determined necessary to meet the needs of the medical program may result in separation upon decision of the Chief Medical Director. When it has been decided that the employee is to be separated, the field station head will inform him in writing of this decision. The employee will be given a period of notice of not less than 30 calendar days."

In the Committee's view, this regulation, adopted in 1964 and not revised since then, is defective in three respects. First, it does not distinguish between reassignments for the good of the service and disciplinary reassignments. Second, it very clearly does not reflect recent case law defining the due process rights of Federal employees who are ordered reassigned for disciplinary reasons. And third, it gives the agency virtually unfettered power to order reassignments for the good of the service, and affords title 38 employees no procedural rights with which to challenge such a reassignment within the agency; the grievance process may not be invoked because, under VA regulations now in effect (MP-5, part II, chapter 8, section B, paragraph 4.h.), a reassignment for the good of the service is not subject to adjudication by grievance.

In short, title 38 employees lag considerably behind other Federal civilian employees in the protections provided under current law and regulations against the arbitrary exercise of the reassignment authority. The Committee believes that the VA's 36,000 title 38 employees deserve at least the same protections against arbitrary reassignment as the 100,000 civil service employees in VA health care facilities with whom they work. A major purpose of the Committee bill, therefore, is to give title 38 employees significant new protections against the arbitrary exercise of the agency's authority to reassign for disciplinary purposes.

Disciplinary Reassignments

Under a new section 4110(f) which would be added to title 38 by the Committee bill, any title 38 employee whom the VA proposes to reassign for an asserted disciplinary reason, or proposes to reassign in such a way as to produce reduction in rank, grade, or standing, would be statutorily entitled, prior to the taking of any action, to a full, trial-type hearing at which the agency would bear the burden of proving the validity of disciplinary charges in order to justify the proposed reassignment action. The employee would be entitled to specification of the charges, the opportunity to produce and cross-examine witnesses, and representation by personally-selected counsel. As with any proposed disciplinary action, the reassignment would be stayed pending the outcome of the hearing proceeding and the internal agency review process.

The Committee bill thus embodies all of the protections guaranteed by applicable case law to guard against arbitrarily-ordered disciplinary or demotional reassignments, and also requires many protections—most notably the right to a full hearing prior to the proposed reassignment—which are not afforded as a matter of statutory or regulatory right to civil service employees under adverse action procedures.

Reassignments for the Good of the Service

The Committee bill also provides significant new protections for employees whom the VA proposes to reassign "for the good of the service". Under the new section 4110(f), any title 38 employee ordered so reassigned would be entitled, as a matter of statutory right, to file a grievance with the VA whenever he or she suspects that a reassignment ostensibly "for the good of the service" has actually been proposed for disciplinary reasons. Applicable VA procedures entitle an employee filing a grievance to receive, upon request, a full range of procedural rights and protections, all of which the employee could invoke once such a reassignment is deemed a grievable employment issue. The ultimate grievance protection under VA regulations would be the right to a full hearing on the nature of the reassignment if less formal procedures fail to produce a resolution satisfactory to the employee. In a VA grievance hearing, the employee has the right to present his or her case to an impartial hearing committee, to be represented by counsel, to cross-examine witnesses, and to appeal an adverse finding to the Chief Medical Director.

None of these procedural rights is provided under current law or DM&S regulation because under VA manual provisions a reassignment is not a grievable issue. By extending to title 38 employees whose reassignments have been proposed "for the good of the service" at least those protections presently afforded in the grievance process, the Committee bill is providing a protection which is similar to a procedure already available, under Civil Service regulations, to the majority of VA health care personnel and other Federal civilian employees.

As an added protection, the Committee bill would require that a proposed reassignment "for the good of the service" be held in abeyance pending resolution of the grievance process, so that a title 38 employee could not actually be reassigned until the final agency appeal is exhausted. This protection is not provided to other Federal employees under Civil Service regulations. If, under the new section 4110(f), the agency sustains an employee's grievance and rules that a reassignment purportedly "for the good of the service" is in fact disciplinary in nature, then the employee would be entitled to a full hearing on charges which would justify the proposed disciplinary reassignment; since the disciplinary reassignment would clearly be stayed pending the outcome of the hearing, all procedures preceding the hearing must be afforded prior to the taking of any action.

The procedural protections provided under the Committee bill to title 38 employees whom the VA proposes to reassign "for the good of the service" are predicated in large part on the protections now available in other contexts under the VA's grievance process (MP-5, part II, chapter 8, sections B ("Grievances") and C ("Hearings")). Under the new section 4110(f), employees would be entitled to "the procedures prescribed by the Administrator to determine employee grievances." In the Committee's view, this provision incorporating, as a matter of law with respect to such proposed reassignments, those protections now afforded in the present grievance procedures, would prohibit any administrative changes in the VA's manual provision defining grievance procedures which could have an adverse impact on the rights of a title 38 employee whom the agency proposes to reassign "for the good of the service". If, therefore, the agency proposes any change in the grievance procedure as it would apply in such circumstances to such proposed reassignments—whether designed to clarify an employee's existing rights under the grievance process or to provide new rights or protections—such proposed change should be published for comment from affected employee groups and the public and be fully discussed with the Committee prior to implementation to ensure that no rights are lost.

"For the Good of the Service" Defined

The term "reassignment for the good of the service" as used in the Committee bill and in this report refers to reassignments ordered under either of two circumstances, and two circumstances only. First, an employee may be reassigned "for the good of the service" when, because of a personnel shortage or an unmet demand for a particular patient service, the employee's services are needed at another duty station or in another capacity at the same duty station.

The Committee notes that temporary reassignment may be ordered to meet emergency situations, and that employees detailed temporarily are entitled to return to their permanent duty station when the detail period expires. The Committee expects that the agency's authority to reassign employees permanently "for the good of the service" will be circumscribed by the availability of the less-obtrusive temporary detail authority, and that permanent reassignment will be ordered only when temporary details cannot resolve a placement problem satisfactorily. The Committee also notes that a permanent reassignment must be devoid of any element of punishment or discipline; that, if such an element is present, the reassignment must be preceded by a full hearing and associated procedural rights; and that, if the employee suspects that a disciplinary or punitive intent underlies the agency's reassignment decision, he or she is entitled to file a grievance and have the reassignment stayed pending the resolution of the full grievance procedure, as described above.

The second circumstance pursuant to which an employee may be reassigned "for the good of the service" would be one where the employee, for reasons related not to his or her competence or job performance, but to personality and ability to get along with fellow workers, simply is unable to function effectively at the assigned duty station. In a personnel system as large as the VA's, situations will inevitably arise where one employee cannot get along with one or more fellow employees for personal reasons which neither reflect adversely on that employee's professional competence nor reduce in any way his or her potential contribution to the mission of the Department of Medicine and Surgery. Frequently, new disputes or a fresh start at another facility can reduce unpleasant friction between employees before it can have an adverse effect on patient care, and can restore the usefulness of an employee whose contribution has been impaired because of strained relations at a former duty station.

The Committee firmly believes that the effective functioning of the VA medical and hospital program is served by providing a non-disciplinary method of resolving these occasional personality problems. The Committee recognizes that decisions in an area as sensitive as this can be extremely difficult, and that the line between disciplinary and non-disciplinary reassignments in this area is not always perceptible. Nevertheless, the Committee has concluded that providing a non-stigmatizing, non-disciplinary method of resolution is preferable to the two alternatives—either permitting the personality conflict to fester to the point where staff performance and patient care are badly damaged, or requiring a disciplinary proceeding and a formal disciplinary action in each such case. The Committee reiterates that all the protections of the grievance process would, under the Committee bill, be available to any employee who suspected that a reassignment proposed for personality reasons was in fact disciplinary or punitive in nature and that such a reassignment would be staved by the filing of a grievance and could not be effectuated until the full agency process had been completed in connection with such proposed reassignment.

Only in the two circumstances described above—when an employee's services are needed at another duty station to resolve a personnel shortage, or when personality friction threatens to reduce an employee's effectiveness—would the VA be permitted to reassign a title 38 employee "for the good of the service", without benefit of a prior, full hearing on the ground for the reassignment—and even in those situations, the employee would be entitled to the grievance process hearing and other rights to try to demonstrate that the proposed reassignment was in fact disciplinary in nature. In all other circumstances when DM&S proposes to reassign a title 38 employee, the employee would be entitled to the disciplinary board procedural protections described in the new section 4110, and such an employee could be reassigned only if, after the full hearing and review by the Chief Medical Director, the agency determined that the reassignment was for "such cause as will promote the efficiency of the service" as that phrase has been strictly construed by the courts.

The Committee also intends that the timing of any proposed reassignments must take fully into account the personal needs and situation of the affected employee. Where reassignment is proposed to fill an emergency need at another duty station, every effort should be made to find an employee who will voluntarily accept such a reassignment before such a reassignment—even a temporary one—is directed for an unwilling employee. And in the case of personality disputes, all actions short of reassignment, such as counseling, transfer within the duty station, and so forth, should be exhausted before resort to reassignment to another duty station is made, and every effort should be made to ensure that the new arrangement is as compatible as possible with the needs and preferences of the employee.

Finally, the Committee stresses that the provisions in the Committee bill relating to reassignment of title 38 employees do not create any new authority to reassign employees. Rather, the provisions sharply limit the agency's summary authority to order reassignments by providing employees with concrete statutory protections against the arbitrary or unjustified exercise of that authority; conform the rights of title 38 employees to those possessed by civil service employees, and in some instances provide additional rights; and codify protections now embodied in case law and regulations, so that title 38 reflects accurately the rights of employees and the duties of the agency.

STATEMENT OF SENATOR VANCE HARTKE, CHAIRMAN, SENATE COMMITTEE ON VETERANS' AFFAIRS, ON THE VETERANS OMNIBUS HEALTH CARE ACT OF 1976

As Chairman of the Committee on Veterans' Affairs I rise to urge adoption of H.R. 2735, the proposed Veterans Omnibus Health Care Act of 1976 which represents the culmination of 2 years of planning, development, and consideration by the Committee on Veterans' Affairs and its Subcommittee on Health and Hospitals. I joined with Senator Cranston, my distinguished and hard working colleague who chairs the Subcommittee on Health and Hospitals, in introducing S. 2908 on February 2, 1976. The Subcommittee conducted 2 days of hearings on S. 2908, H.R. 2735, and related legislation on February 18 and 19, 1976. Submitting testimony to the Subcommittee at that time were Chief Medical Director John D. Chase and other representatives of the Veterans' Administration's Department of Medicine and Surgery, and representatives of veterans' organizations, professional groups, labor unions, and other concerned parties.

The Committee is convinced that 1976 marks an important juncture in the history of the Department of Medicine and Surgery (DM&S).

Fourteen years ago, before the build-up of American troops in Southeast Asia, DM&S spent $1.17 billion on medical programs, and employed 130,352 persons in medical and health care capacities. By 1969, after 6 war years, expenditures for medical programs had risen less than $400 million, to $1.55 billion, and only 1,345 additional employees had been added to the Department's rolls despite a war producing high casualty rates and far more veterans with chronic and permanent injuries than the Korean conflict.

By the time I took over the Chairmanship of the newly created Senate Committee on Veterans' Affairs in January of 1971, it was clear that the ability of the VA hospital system to cope with the demands of veterans of the Vietnam era would be seriously compromised without a substantial infusion of money and personnel to improve the comprehensiveness and the quality of care available in VA health care facilities. Congress therefore embarked on a period of providing for the sustained growth of the VA health care system. From fiscal year 1966 to 1976, DM&S's health care appropriations tripled and 50,000 new health care personnel were added. Today, the VA health care system has virtually caught up with the demands of the Indochina War era, and has made the difficult transition from wartime to peacetime after the longest involvement of the United States in a war during the twentieth century.

With that task largely completed, the VA health care system now confronts a new series of challenges. The rapid growth in funding and beneficiaries over the past 7 years has generated substantial administrative problems and raised questions about the VA's physical capacity to provide quality care to the enormous number of newly-eligible veterans. Furthermore, with inflation eroding the purchasing power of the Federal dollar and with the new and increasingly important imperative of keeping overall Federal expenditures within Congressionally-established targets and limits, continued substantial growth in VA health care appropriations is no longer as feasible as it was 7 years ago.

The Committee believes that in 1976 Congressional efforts should concentrate on consolidating the impressive growth that has already occurred and ensuring the efficient utilization of resources that already exist. It is time to take a searching look at present priorities within this enormous system of hospitals, outpatient clinics, and other facilities, and, where necessary, to establish clear priorities for the allocation of VA resources in order to redirect care and expenditures for the benefit of veterans with the strongest claim to treatment in VA health care facilities.

Thus, the basic purpose of H.R. 2735, as reported, is to improve, in two fundamental ways, the quality and efficiency of health care provided to ill or disabled veterans in the Veterans' Administration's health care system.

First, the Committee bill is designed to shape a new direction in veterans health care by taking steps to control the growth in the VA medical and hospital program and to emphasize improved and more comprehensive treatment, through the refocusing of existing resources, for veterans suffering from service-connected disabilities. The growth in expenditures for outpatient care, beneficiary travel, and other medical and hospital benefits during the past decade has primarily benefited veterans with non-service-connected disabilities. The Committee bill represents a return to the basic principle on which the VA system of hospitals and health care facilities was founded—that veterans suffering from disabilities incurred during periods of military service to this country should have first call on Federal health care services and should receive priority attention in the VA system.

Second, the Committee bill is designed to establish important new medical programs primarily for the treatment of veterans with serious service-connected or service-related disabilities. These include (1) a pioneering, cost-effective program in preventive health care for seriously disabled service-connected veterans; (2) a comprehensive treatment and rehabilitation program for veterans suffering from alcoholism, drug dependence, or the effects of drug abuse; and (3) a program of readjustment professional counseling to assist recently discharged veterans suffering from psychosocial readjustment problems.

H.R. 2735 as reported has three titles: General substantive amendments; drug and alcohol treatment and rehabilitation amendments; and technical and conforming amendments. Included in title I of the bill are provisions that would:

One, require periodic reexaminations of VA beneficiary travel reimbursement rates, and reduce expenditures for such travel by (a) requiring persons receiving care for non-service-connected conditions, as a precondition for the receipt of travel reimbursement, to declare and certify their inability to defray the expenses of travel, and (b) generally limiting reimbursement to the cost of travel by public transportation.

Two, authorize limited mental health services (under specified circumstances), consultation, professional counseling, and training, on an outpatient basis, for the family members of a veteran who is receiving outpatient care, when essential to the effective treatment and rehabilitation of the veteran.

Three, establish a new program to provide outpatient readjustment professional counseling for veterans and, where indicated, followup mental health services for veterans (and their family members, when necessary) to assist with readjustment problems arising within 4 years of discharge, or 2 years after enactment, whichever is later.

Four, provide total VA health care benefits for any veteran with a service-connected disability rated at 50 percent or more—lowered from 80 percent under present law and expanded to include preventive health care in the nature of a health maintenance organization.

Five, establish a system of priorities for outpatient care stressing priority treatment for veterans requiring treatment for service-connected disabilities, those with less-than-50-percent-rated service-connected disabilities, those with 50-percent-or-more-rated service-connected disabilities, and those with major non-service-connected disabilities.

Six, establish a new program in preventive health care for veterans being treated for service-connected disabilities and in connection with the treatment of veterans with service-connected disabilities rated at 50 percent or more, to commence January 1, 1977; authorize the establishment of a small pilot program for other veterans with service-connected disabilities to demonstrate the medical advantages and cost-effectiveness of furnishing comprehensive, health maintenance, preventive health care services to veterans; and authorize, as part of national immunization programs administered by

HEW, the VA to provide immunization against infectious diseases to veterans otherwise receiving treatment at VA health care facilities, and to process malpractice or negligence claims arising from such immunizations in accordance with regular VA procedures.

Seven, provide statutory authorization for the Department of Medicine and Surgery's compensated work-therapy program by allowing for arrangement with private industry and nonprofit corporations to supply work projects for patient-workers, with remuneration at rates of pay not less than those specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and by establishing a revolving fund to receive and disburse funds in connection with such work.

Eight, make a series of changes in the VA's authority to provide outpatient care to veterans seeking treatment for non-service-connected disabilities, including provisions to limit non-service-connected outpatient care to care provided in VA facilities; to limit the duration of outpatient care provided to veterans to complete treatment incident to hospital care; to limit the provisions of outpatient care to "obviate" the need for hospital admission; and to permit followup outpatient dental services for the treatment of non-service-connected dental disabilities begun during hospitalization.

Nine, permit the transfer of veterans who have received maximum hospital benefits to intermediate care facilities, at VA expense, and at lower rates of reimbusement than the rates authorized for nursing home care; increase permissible reimbursement rates for contract community nursing home care; and authorize discretionary direct admission to contract community nursing homes of veterans in need of nursing home care for non-service-connected disabilities, in accordance with the new statutory priorities for veterans with service-connected disabilities.

Ten, clarify the authority to provide home health services (including certain home improvements and structural alterations) for veterans with service-connected or non-service-connected disabilities, as required for the effective and economical treatment of the disability, and limit expenditures for such purposes.

Eleven, provide a presumption of service connection, for treatment purposes only, for any disability which could be attributable to internment for more than 6 months as a prisoner of war.

Twelve, extend CHAMPVA coverage to the widow or surviving children of a veteran who, at the time of death, suffered from a total and permanent service-connected disability.

Thirteen, authorize the acquisition and subsequent sale, assignment, or transfer of automobiles needed for special driver training courses in the VA's automobile and adaptive equipment program, and credit any proceeds therefrom to the applicable VA appropriation.

Fourteen, shorten the probationary period for title 38 employees from 3 to 2 years, and establish statutory procedural protections to govern adverse or disciplinary and certain nondisciplinary actions with respect to all title 38 employees.

Fifteen, extend until September 30, 1977, the VA's authority under Public Law 94–123 to enter into agreements for the payment of special pay to physicians and dentists in the Department of Medicine and Surgery; and provide that clinical researchers who are otherwise eligible for special pay be entitled to receive special pay on the same terms and under the same conditions as other physicians and dentists in DM&S.

Sixteen, assist in the recruitment and retention of non-physician personnel by authorizing the VA to increase, on a nationwide basis, the minimum or maximum rates of basic pay for any category of title 5 health professional when such entry-grade pay adjustment is necessary for purposes of salary comparability, internal salary alignment, or staffing requirements.

Seventeen, provide for the employment of optometrists and podiatrists under the title 38 personnel system, at rates of basic pay specified by statute in a new pay schedule in title 38.

Eighteen, provide, in a new subchapter of chapter 73 of title 38 entitled "Protection of Patient Rights", standards for obtaining the informed consent of all patients and research subjects, and provisions (generally incorporating existing provisions of law set forth elsewhere) to guarantee the confidentiality of certain patient medical records and proscribe discrimination against alcohol or drug abusers in admission to VA health care facilities.

Nineteen, provide for improved efficiency in the budgeting, bookkeeping, and operations of the Veterans Canteen Service.

Twenty, require the VA, in accordance with present DM&S plans, to establish and operate a minimum of 10,000 nursing home care beds by fiscal year 1980.

Twenty-one, provide for mechanisms to improve coordination and communication with other Federal and community health care, quality assessment, financial reimbursement, and planning programs; and include "emergency room medical resources" (under specified circumstances) in the definition of "specialized medical resources" which may be the subject of sharing agreements under chapter 81 of title 38.

Twenty-two, encourage the construction of State home facilities in States which are not now served by VA residential health care facilities, and establish minimum quality standards for State veterans home facilities receiving financial support from the VA.

Twenty-three, require the Chief Medical Director to prepare a report on long-range adjustments that should be made in the VA health care program to accommodate the growing number of elderly veterans.

Title II provides for the establishment of comprehensive treatment and rehabilitation programs for veterans suffering from alcoholism or alcohol-related disabilities, drug dependence, or drug abuse. Included in title II are provisions that would:

One, establish comprehensive programs for the treatment and rehabilitation of veterans suffering from alcohol- and drug-related disabilities, utilizing a broad range of treatment modalities and professional, paraprofessional, and lay personnel.

Two, provide authority to establish and contract with half-way houses for the rehabilitation of veterans with alcohol or drug abuse problems.

Three, authorize the treatment, at VA expense, of a veteran who suffers from, and who has a close family member who suffers from, an alcohol or drug abuse problem, in a community facility where both the veteran and (not at VA expense) the family member can receive treatment together.

Four, make eligible for comprehensive drug abuse treatment and rehabilitation veterans with undesirable discharges and (in most cases) bad conduct discharges, and facilitate the procedures under which veterans with less-than-honorable discharges can apply to have their discharges upgraded.

Five, require that the VA take affirmative steps to seek out veterans eligible for drug abuse treatment and rehabilitation, counsel such veterans with respect to their eligibility for special drug treatment programs, and increase employment and training opportunities for veterans who receive treatment for drug and alcohol problems in VA health care facilities.

Six, provide procedures for the treatment in VA facilities of active-duty service personnel suffering from drug dependence if placement in a VA facility is voluntarily requested during the last 30 days of active duty.

Seven, require annual reports by the Administrator on the implementation of the new drug and alcohol treatment programs.

Title III contains amendments of technical, perfecting, or conforming nature. Included are provisions that would:

One, consolidate and clarify the language authorizing biomedical, prosthetic, and health care services research.

Two, eliminate those remaining distinctions between peace-time and war-time military service, for purposes of eligibility for certain minor health care benefits, in order to conform to decisions made with respect to eligibility for hospital care, outpatient care, and nursing home care in the Veterans Health Care Expansion Act of 1973, Public Law 93–82.

Three, clarify the VA's authority to contract for hospital care and medical services with respect to treatment for the service-connected and non-service-connected disabilities of eligible veterans.

Four, change all references from "physician's assistants" or "physicians' assistants" in title 38 to "physician assistants", and change all references from "dentists' assistant" or "expanded-duty dental auxiliaries" to "expanded-function dental auxiliaries".

Five, change all references from "pay", "compensation", or "wages" to a standardized reference to "rate of basic pay".

Six, eliminate all pronouns and nouns which are discriminatory on the basis of gender—for example, change all references from "his' to "such person's", and so forth.

Mr. THURMOND. Mr. President, the "Veterans' Omnibus Health Care Act of 1976" (H.R. 2735) represents the culmination of several years of effort by the Veterans' Affairs Committee and its Subcommittee on Health and Hospitals to give new direction to the VA health care system. This act effectively redirects primary emphasis within this system of health care to the needs of veterans with service-connected disabilities. H.R. 2735 also introduces three new programs designed to treat veterans with serious service-connected or service-related disabilities.

This measure is in keeping with a continuing commitment by the committee to update our VA health care program and to provide greater quality care for our Nation's veterans.

It should also be emphasized that this act does not depart from the decades-old principle of maintaining the veterans hospital system for the care of our Nation's veterans.

Mr. President, I support H.R. 2735 and urge my colleagues to do likewise.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2735) was read the third time, and passed.

The title was amended so as to read:

An Act to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes.

S. 2908 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in view of the passage of H.R. 2735, that Calendar No. 1140, S. 2908, be put under "Subjects on the Table."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RETIREMENT OF ROBERT McCORMICK

Mr. MANSFIELD. Mr. President, it has come to my attention that, in his usual retiring and quiet manner, an old friend, Bob McCormick, of NBC, is retired or will be retiring shortly. Bob McCormick has been a good, all around newsman. He has made an excellent reputation as a TV and radio reporter. I remember him for the fine study he made of the Blackfoot Indian Nation in northwestern Montana some years ago. I esteem him as a friend.

It is with regret that I note his retirement. But, as it must, it comes to all of us at some time or another. I just want the record to show my high admiration, deep respect, and affection for this man who has been around us so long and who has performed so effectively and well.

JOHN W. WARNER

Mr. MANSFIELD. Mr. President, I would like to say a few words about John W. Warner who was sworn in as the first Administrator of the American Revolution Bicentennial Administration on September 11, 1974. He has done an excellent job in a very demanding capacity, and is personally and in large part responsible for the success which the Government has achieved in celebrating the 200th year of our independence.

I believe John Warner was the right man for the right job at the right time, and I extend to him my personal thanks and, I am sure, I speak for the Senate as a whole in so saying.

RIGHT-TO-FOOD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1133, Senate Concurrent Resolution 138.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

> Calendar No. 1133, S. Con. Res. 138 expressing the sense of the Congress reaffirming the right of every person to food and calling for United States foreign and domestic policies designed to combat hunger and improve nutrition.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUMPHREY. Mr. President, I am pleased to call up the right-to-food resolution,, Senate Concurrent Resolution 138.

The resolution is similar to Senate Concurrent Resolution 66 which was introduced by Senator MARK HATFIELD, and which I cosponsored. Senator HATFIELD deserves great credit for initiating this resolution and securing its passage.

This measure reflects the concerns, compassion and dedication of many of our people in urging this country to dedicate its best efforts to the elimination of hunger throughout the world.

I am encouraged at the number of church groups and other organizations which expressed their support for this legislation. This outpouring of sentiment reflects the spirit of sharing in the best traditions of this country.

The initial impetus for this resolution came in the summer of 1975 through the efforts of Bread for the World, an interdenominational Christian citizens' movement concerned with public policy and hunger. Since then support for a resolution of this type has come from religious leaders of Catholic, Protestant, Jewish, and Orthodox faiths.

Senate Concurrent Resolution 138, is an appropriate follow-up to the agreements outlined at the World Food Conference of November, 1974 which stated:

> That within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition.

The resolution expresses the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; that the need to combat hunger at home and abroad should be a fundamental objective of U.S. policy; and that the United States should expand and emphasize its support of self-help development efforts in countries most seriously affected by hunger and malnutrition.

The resolution specifically recognizes that:

> An estimated four hundred and sixty million persons, almost half of them young children were estimated to be malnourished in 1974.
>
> Nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients.
>
> Most hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food.
>
> The demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than 15 years.
>
> Recognized authorities currently estimate that by 1985 the developing countries will experience an annual food deficit of 85 million tons.
>
> It is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability.

The present resolution represents the latest expression of the committee's concern with the world food problem. In spite of widespreead attention during the past 2 years, the world food outlook is just as precarious as before.

Moreover, because of the world's growing demand for food, production must be expanded each year just to stay even. Concurrently, world fertilizer production, which is still lagging short of goals, must be increased. The developing nations themselves still have much to do in changing policies which have imposed constraints on the expansion of their agricultural output.

This resolution does not commit the United States to any new programs or expenditures. Its primary objective is to reaffirm a principle which derives from our own heritage—that all people have the right to a nutritionally adequate diet. It lays down guidelines which the committee believes would lead to the realization of that right by all. It urges that greater attention be given to the development and integration of domestic and international food and nutrition policies designed to be linked to the self-help efforts of the poor and hungry themselves. The committee hopes that this resolution will lead to revitalized efforts in both the executive and legislative branches at the development of a coordinated attack on the world hunger problem.

I urge adoption of this resolution as a declaration of principle by this Nation in dealing with hunger throughout the world.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1200), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the resolution is to express the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; that the need to combat hunger at home and abroad should be a fundamental U.S. policy; and that the United States should expand and emphasize its support of self-help development efforts in countries most seriously affected by hunger and malnutrition.

MAJOR PROVISIONS

The whereas clauses of the resolution are introduced by a reference to the inalienable right of all people to life, liberty, and the pursuit of happiness and to the inclusion of right to food provisions in the Universal Declaration of Human Rights and the World Food Conference Declaration. The following points are made in other whereas clauses:

An estimated four hundred and sixty million persons, almost half of them young children were estimated to be malnourished in 1974.

Nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients.

Most hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food.

The demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than 15 years.

Recognized authorities currently estimate that by 1985 the developing countries will experience an annual food deficit of 85 million tons.

It is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability.

The resolution recalls the U.S. sponsored objective adopted by the World Food Conference of 1974 which stated:

> that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition.

In furtherance of this objective the resolution notes the repeated urgings of the international community for industrialized nations to increase the level of their official development assistance and it cites the need for expanded self-help efforts by the developing countries.

BACKGROUND AND COMMITTEE ACTION

The Committee on Foreign Relations has a long record of concern over the world food situation, dating at least from the early 1950's when foreign aid funds were earmarked for food. Since the Foreign Assistance Act of 1973 the Committee has taken a leading role in directing the emphasis of U.S. assistance programs toward the poorest, most hungry and malnourished of the world's population. The initiative and consistent interest of Committee members played an important part in the World Food Conference in 1974 in Rome. The passage of the International Development and Food Assistance Act of 1975 was another of the Committee's efforts to enhance U.S. efforts directed at the world food problem. In addition to authorizing increased funds for bilateral U.S. food and nutrition programs, the 1975 Act provided new guidelines for the overseas operations of the Public Law 480 programs. These were designed to help meet urgent food needs abroad and to promote agricultural production in poor countries. The Act also contained an innovative new section which provides a means for enlisting American land and sea grant colleges and other eligible institutions of higher education in the fight against hunger and famine. Finally, the 1975 Act provided for U.S. participation in the International Fund for Agricultural Development.

The present resolution represents the latest expression of the Committee's concern with the world food problem. In spite of widespread attention during the past two years, the world food outlook is just as precarious as before. Immediate interest and concern in the problem has decreased, however, because of record U.S. production last year and the prospects of good crops again this year. This lessening of interest is unfortunate since despite these good crops the world's food stock will increase only slightly even if there is favorable weather in the months ahead. Moreover, because of the world's growing demand for food, production must be expanded each year just to stay even. Concurrently, world fertilizer production, which is still lagging short of goals, must be increased. The developing nations themselves still have much to do in changing policies which have imposed constraints on the expansion of their agricultural output.

In adopting this resolution the Committee is joining the efforts of the many private individuals and groups in this country and abroad who would remind us that hunger and malnutrition are growing, not diminishing, problems. The initial impetus for this resolution came in the summer of 1975 through the efforts of Bread for the World, an interdenominational Christian citizens' movement concerned with public policy and hunger. Since then support for a resolution of this type has come from religious leaders of Catholic, Protestant, Jewish, and Orthodox faiths.

This resolution does not commit the United States to any new programs or expenditures. Its primary objective is to reaffirm a principle which derives from our own heritage—that all people have the right to a nutritionally adequate diet. It lays down generalized guidelines which the Committee believe would lead to the realization of that right by all. It urges that greater attention be given to the development and integration of domestic and international food and nutrition policies designed to be linked to the self-help efforts of the poor and hungry themselves. The Committee hopes that this resolution will lead to revitalized efforts in both the Executive and legislative branches at the development of a coordinated attack on the world hunger problem.

The resolution in its present form was developed by Senator Humphrey from an earlier resolution introduced in the Senate by Senator Hatfield. This resolution was considered by the Committee on Foreign Relations on August 26, 1976. Following discussion it was ordered reported by a unanimous voice vote.

This resolution does not authorize the appropriation of any funds.

Mr. HATFIELD. Mr. President, I am very pleased that the Senate is prepared to take action on Senate Concurrent Resolution 138, the right-to-food resolution. Since this resolution is very similar to one I introduced earlier in this session of the Congress, Senate Concurrent Resolution 66, I want to strongly express my support for the version which has now been reported out of the Senate Committee on Foreign Relations. I want to thank my colleague from Minnesota, Senator HUMPHREY, for his excellent leadership in this matter and for allowing me to be associated with him in the Senate action.

The revisions in the language of the resolution which came out of the hearings held in the House Subcommittee on International Resources, Food, and Energy do not in any way diminish the force of the resolution and the importance of its prompt passage. Since my attendance at the Rome conference on world food problems 2 years ago and as a result of becoming increasingly aware of the needs of starving people around the world, I have been anxious that Congress acknowledge in a definite way the severe problems of world hunger. It is my hope that this resolution will not be filed away with other such documents, but will become a very active force in our national policies. I am sure that the thousands of people who expressed to me their support for the resolution will be expecting the Congress and the executive branch to be guided by the positions expressed in this resolution.

There is a great danger that we will become accustomed to the crisis of world hunger and assume that it has been solved or is no longer of such great importance. In passing this resolution today, the Senate can take a significant step in keeping these needs before us.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 138) with its preamble is as follows:

Whereas in this Bicentennial year we reaffirm our national commitment to the inalienable right of all to life, liberty, and the pursuit of happiness, none of which can be realized without food to adequately sustain and nourish life, and we recall that the right to food and freedom from hunger was set forth in the Universal Declaration of Human Rights and in the World Food Conference Declaration of 1974; and

Whereas the report entitled "The Assessment of the World Food Situation", prepared for the 1974 World Food Conference, estimated that four hundred and sixty million persons, almost half of them young children, are malnourished; and

Whereas nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients; and

Whereas most of this hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food; and

Whereas the demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than fifteen years; and

Whereas the Food and Agriculture Organization, and other recognized authorities, currently estimate that by 1985 the developing countries will experience an annual food deficit of eighty-five million tons; and

Whereas it is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability; and

Whereas the United States proposed, and all nations at the World Food Conference of 1974 accepted, the bold objective "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas the international community has repeatedly urged the industrialized nations to increase their official development assistance to seven-tenths of 1 per centum of their total national production (GNP); and

Whereas the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries: Now, therefore, be it

Resolved by the Senate (*the House of Representatives concurring*), That it is the sense of Congress that—

(1) the United States reaffirms the right of every person in this country and throughout the world to food and a nutritionally adequate diet; and

(2) the need to combat hunger shall be a fundamental point of reference in the formulation and implementation of United States policy in all areas which bear on hunger including international trade, monetary arrangements, and foreign assistance; and

(3) in the United States, we should seek to improve food assistance programs for all those who are in need, to insure that all eligible recipients have the opportunity to receive a nutritionally adequate diet, and to reduce unemployment and insure a level of economic decency for everyone; and

(4) the United States should expand and emphasize its assistance for self-help development among the world's poorest people, especially in countries seriously affected by hunger and malnutrition, with particular emphasis on increasing food production and encouraging more equitable patterns of food distribution and economic growth; and such assistance, in order to be effective, should be coordinated with expanded efforts by international organizations, donor nations and the recipient countries to provide a nutritionally adequate diet for all.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

RETIREMENT OF ROBERT McCORMICK

Mr. GRIFFIN. Mr. President, it is typical of MIKE MANSFIELD, I think, that on the last day of his service in this Senate Chamber as a Member, he has spoken—not of his own retirement—but about the retirement of a friend.

I wish to associate myself with the remarks made by the distinguished majority leader concerning Bob McCormick.

I, too, have had the privilege of knowing Bob, not only as a distinguished journalist but as a friend. He is a fine and good man who will be missed by many on Capitol Hill who enjoyed his good humor and his commonsense approach to matters big and small. He is a squareshooter who always tried to report the news objectively as he saw it. I join in wishing him many happy retirement years.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. GRIFFIN. Yes, I yield.

Mr. HUMPHREY. I appreciate the courtesy of the Senator from Michigan.

Mr. HUMPHREY. Mr. President, I wish to join in the salute to Bob McCormick. I have been in the Senate for many years, and during those years I have gotten to know Bob McCormick. I hold him in the highest regard. He has always been a fair and honorable man. He has surely lent and given honor to professional journalism by his professional competence, and he is fully deserving of all of the joys of retirement. I hope those years of retirement will be as pleasing and as exciting to him as the years of his journalism in covering the Senate of the United States. I wish him well.

Mr. GRIFFIN. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. I thank the Senator for yielding.

I am delighted at this present moment when a tribute is being paid and the retirement noted of our friend Bob McCormick.

I first met Bob in the 1940's when he was working for Collier's magazine—possibly I met him earlier than that. I was in Washington then in the Office of Facts and Figures, OWI.

We became friends then. We had a reunion when I returned to the Senate and found him covering the Senate on Capitol Hill.

He has been a wonderful newsman through a brilliant career, and I hope he will continue to be an observer of the political and governmental scene and do some of the more long-term writing I know he has been yearning to do.

I thank the Senator.

RETIREMENT OF MIKE MANSFIELD

Mr. GRIFFIN. Mr. President, I find it necessary to leave in the early afternoon on another trip to Michigan, and will not be present during the period later in the day which has been set aside for tributes to MIKE MANSFIELD. Accordingly, I am going to assert a leadership prerogative and speak now.

Along with so many of my colleagues, I have mixed emotions as I contemplate the imminent departure of MIKE MANSFIELD from the Senate. I feel deep regret and sorrow over the void his absence will leave. But I also feel delight and good will, in knowing that now he can spend time with family and friends whose company he has sacrificed for the good of the country he loves and has served so well.

MIKE, who has been called the "gentle persuader" in his career, leaves an unparalleled legacy. His term of leadership has been longer, his tenure has encompassed more critical decisions for our country, and from my vantage point, I believe his dedication to principle above partisanship has been greater than any man ever to call the Senate home.

MIKE's leadership embraces qualities, now too rare, which have made him one of the most beloved and respected Members to sit in this Chamber—wisdom, intellectual insight, courtesy, courage, humility, vision, gentility, stability, dependability. Were all our public figures Mike Mansfields, there would be no need to restore public trust in government.

He has said that he considers his greatest legacies: Enactment of the 18-year-old vote and initiating the investigation of our intelligence agencies. We in the Senate certainly appreciate those contributions—but those are only two of many initiatives for which the Senate and the country are indebted to him.

Throughout his career—he has not only been a miner, a teacher, and a statesman but also served in all three branches of the military service—MIKE has demonstrated that you need not speak long and loud to be effective.

Endeavoring to follow his example, I shall be brief. Let me conclude by noting that MIKE once remarked: "When I am gone, I want to be forgotten."

No way, MIKE, no way. Forever, yours will be a tough act to follow. We all thank you. We all shall miss you, but we wish you and Maureen Godspeed for many happy retirement years.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Bob Turner of my staff be granted privilege of the floor during consideration of legislation today, and that on tomorrow James Hill of my staff be granted privilege of the floor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER OF BUSINESS

The **PRESIDING OFFICER.** Under the previous order, the Senator from Minnesota (Mr. HUMPHREY) is recognized for not to exceed 15 minutes.

PRESIDENTIAL CAMPAIGN ISSUES

Mr. HUMPHREY. Mr. President, I am very happy to see some of my colleagues here today because in the few moments that are set aside this morning for discussion I want to address myself to some of the issues that have been outlined in the current Presidential campaign discussions between the President, Mr. Ford, and the Democratic candidate, Mr. Carter.

Last evening, it was my privilege, as I am sure it was of millions of Americans, to see on television, as they did this morning, some of the portions of the speech of President Ford at the University of Michigan.

I am sure he was enthusiastically received by the people of Michigan and by the students and others at the university. But I thought it might be well to just comment a little bit on the nature of the address as well as some of the issues that I see in the campaign, particularly concentrating on the subject of employment and unemployment.

I was much interested in what the President had to say in his speech and I shall read from it.

Speaking of the American people, he said:

> They will demand specifics, not smiles; performance, not promises.

Then the President said:

> It is time we thought of new ways to make Government a capable servant and not a meddling master. Let's get down to cases. Let's talk about jobs.

A little bit later he said:

> Let's put America, all of America, to work.

A little bit later he said:

> My goal is home ownership for every American family.

Somewhat later he spoke of health care for the American people. Then he directed his attention to the field of education, quality education for the young people of America.

He once again referred to the expansion of our national parks and ended up with a rather strong statement on the curtailment of crime.

Mr. President, I say the greatest issue in America today is the crisis of confidence. Whom can we believe? Whom can we trust? Who is telling the truth?

I do not for a single moment deny that the President of the United States believes people ought to go to work. I am sure he believes that people ought to have a place to live. Hopefully, a good place. I am sure that he, like all of us, would like to see people well and healthy, not sick. I am confident that all of us feel we would like to see a great diminution and reduction of crime in all of its forms.

That, I understand.

But, Mr. President, the record of this administration confirms a political and economic policy which just does not sustain or support the claims that were made in the speech of last night.

As a matter of fact, there is what I would call a credibility gap here, between the rhetoric and the performance, as wide as the Grand Canyon, since we are going to talk about national parks.

I saw that my friend, the Senator from Massachusetts was here. I was hoping to yield to him. Is he returning?

The PRESIDING OFFICER. Under the previous order, he is the next speaker.

Mr. HUMPHREY. Mr. President, let me just start out on the issue of jobs and employment because that is a matter that people are giving attention to. What do we see in the record?

We see that in 1961, when John Kennedy became President of the United States, the unemployment rate was 6.7 percent—almost 7 percent. In less than 8 years, he and Lyndon Johnson brought it down to 3.6 percent—that includes adult unemployment and youth unemployment.

In 1968, there were about 2,800,000 workers who were jobless in this country. More important, Mr. President, 14 million Americans had worked their way out of poverty.

The way one wages war on poverty is to have jobs for people to earn a living. When that unemployment rate went down to 3.6 percent, 14 million wage earners or potential wage earners who were in the poverty class at one time worked their way out. That is the answer to poverty—jobs, just like the answer to rural development is farm income.

In 1968 there were 2.8 million workers who were jobless, but by 1975, after several years of Republican administration, the official unemployment rate had been pushed up to 8.9 percent. That is according to their count. And yet it is generally acknowledged, and it has been so tabulated in the respective committees of the Congress, that the real unemployment rate was about 12 percent. But anyway, it was the highest level since the Great Depression on the basis of the official statistics of the Bureau of Labor Statistics.

We had double-digit levels of unemployment in State after State and city after city. We had many cities with 12-percent, 14-percent, 15-percent, or 16-percent unemployment. The number of jobless Americans had climbed to over 8 million by official count, 5.2 million more than when Richard Nixon took office.

All during this time we have heard about this wonderful private enterprise prosperity that we have been having.

Today's unemployment rate is an astonishing—and I should say an astounding—7.9 percent. It has risen in each of the last 3 months, portending another disastrous spate of high unemployment for our Nation's working people.

Also, may I say that every percentage point of that unemployment eats into the Federal budget and denies the State, local, and Federal governments much-needed revenue. Every 1 percent of unemployment costs the Federal Government in revenue $14 billion, under current tax schedules. It costs the Federal Government under current social programs approximately $4 billion for every 1 percent, and costs State and local governments last year $27 billion of lost revenues.

The income production and employment loss to this Nation as a result of Republican economic mismanagement since 1969 is staggering. Two recessions have thrown a total of 57 million Americans out of work at one time or another. Two recessions have already cut more than $500 billion from the paychecks of American workers. Two recessions have wiped out the income gains made by working families during the 1960's. In fact, the Nixon-Ford team has given working Americans lean times and a nearly impossible task of making ends meet.

The truth is that the purchasing power of the worker's pay envelope today is just about what it was in 1965. They have been on an economic treadmill. The last 8 years are an indictment of the go slow, trickle down economics, of an administration that would like to have you believe that if you have raised the interest rates it is not a cost factor.

Mr. President, I sat Tuesday night with people in the construction business—not workers but contractors—and every one of them said to me, "Mr. HUMPHREY, why is it that you men in Congress cannot understand that when the Federal Reserve Board and the Department of the Treasury raise interest rates it increases the cost of construction? "

One of the men who was one of the top officials of the American Contractors Association said, "Mr. HUMPHREY, the one thing that has raised the cost of building more than anything else is high interest rates."

He pointed out that if, perchance, you could build a house for $25,000 and get a 30-year mortgage, and you had a 6-percent interest, that house could cost about $50,000. But if you built the same house—you could not build a doghouse today for $25,000 but we are using this as a theoretical example—under current interest rate policies it would cost $74,000. That is what the average family would have to pay. That is the cost to them of Republican high interest rate economics.

If you build a home in my part of the country, where the average price home costs over $42,000—by the time you finish paying for that home in 30 years it will cost you about $114,000.

I have not yet heard this administration raise its voice about interest rates. They are always worried about a worker getting a little increase in pay. If the farmer looks as if he will get a little extra money for his cotton, his corn, his soybeans or his wheat they set an embargo on it because they want to push the price down. But if the banking structure of this country, the financial giants of America, which are the main buddies of the Republican administration—they do have a buddy system, you know—if they make a killing in the marketplace, if they set their rates, which they do—that is considered what they call "free enterprise." There is no intervention on the part of Government to do anything about that.

Mr. President, the fact still remains that we have high unemployment. I was interested in what Mr. Ford had to say. He said:

> Today, 88 million Americans are gainfully employed.

Of course they are. Today there are 215 million Americans. A few years ago there were 200 million. A few years before that there were 175 million. Eighty-eight million Americans barely reflects the growth in population plus the fact that in many, many families in this country two breadwinners have to go out and find a job.

Why do women enter the labor force in ever increasing numbers in America? Many of them because they want to, to be sure. Many of them because they feel a sense of independence and they would like to have some of thir own income, to be sure. But many a mother who would like to be home with her children enters the labor market simply to be able to pay the bills. That is a known fact. We are seeing many social difficulties because of those known facts. Fully 70 percent of the women in the labor force are, single, widowed, divorced, or married to husbands earning less than $10,000 a year. Most women work to make ends meet.

> My immediate goal is 2.5 million new jobs every year with emphasis on our youth, especially the minorities.

Oh, Mr. President, youth unemployment in this country is a calamity. This administration has been frozen in the ice of its own indifference about youth unemployment.

By the way, Mr. President, I am delighted to see the press galleries filled. If there was some little piddly issue around here that did not amount to a pimple on the back of a gnat or the nose of a nit they would have 40 or 50 correspondents up there in the press gallery. But when you want to talk economics, when you want to talk about the well-being of the people, when you try to set the record straight, they are gone.

They have to have some little investigation.

Rather, let them investigate what is going on in this economy because some day they may be without a job, too.

Mr. President, I think it is important that we note not only that there has been a rise in youth unemployment, but that it has reached the proportions of a naional disaster. Black youth unemployment in the major cities of this country, according to the National Urban League, a highly respected organization, is over 60 percent. White youth unemployment in the major cities of America runs at approximately 30 percent. And it gets worse every month.

Does anybody dispute my remark? Is anybody prepared to stand up here and say that youth unemployment has not gotten worse month by month?

You know they do not dare, because the facts speak for themselves. And I am delighted that the President realizes now that there is a problem. It is a little late.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUMPHREY. Will the Senator from California yield me 1 minute to conclude?

Mr. CRANSTON. I do not have the floor.

The **PRESIDING OFFICER.** Under the previous order, the Senator from Massachusetts is to be recognized next. He is not here at this time. Then the Senator from New Jersey is to be recognized, after which the Senator from California is to be recognized.

The Chair will recognize the Senator from California; if he wishes to yield time he may do so.

Mr. **CRANSTON.** I thank the Chair, and I yield the Senator from Minnesota such time as he may require.

Mr. **HUMPHREY.** Mr. President, there is not any doubt that the issues just stated are the issues we face. I hope this campaign will be based on those issues. They involve legitimate differences of view on how we deal with employment, housing, education, inflation, crime, and there are many others we need to deal with, including the problems in our cities, and rural development.

But let me just say this: One of the issues the President focused on was housing. Mr. President, the President has had the Department of Housing and Urban Development, HUD, in chains. Every time that we tried to get something out of there, there were impoundments, reservations, or bureaucratic paralysis.

The housing program in this country is far less than it ought to be. There is not a housing recession. Mr. President, there is a housing depression. Approximately 17 percent of the building trades workers of this country are unemployed. Our total number of housing starts is running between 1.4 million and 1.5 million, which is 1 million below what it ought to be. The average family cannot afford to buy a home today, because housing is priced out of the market. The Boston Globe only recently ran a feature front page article saying that 8 out of 10 people in Boston could not afford to buy homes.

This administration comes along now, in the middle of September, and says, through its President, "We are going to do something about housing."

They had a chance to do something about housing. The Senator from Wisconsin (Mr. PROXMIRE) brought a bill to this floor, and it was passed, known as the Emergency Housing Act, and it was vetoed by the President of the United States. We were unable to muster the two-thirds necessary in this body to override that veto, but let it be clear that that housing bill, presented by a responsible and indeed a moderate Senator in terms of his economic philosophy, would have stimulated the housing industry by a modest interest subsidy that would have seen to it that building tradesmen went to work and families had a chance to own homes.

Mr. President, in just 2 months the American people will elect a President and Vice President and a new Congress. They will decide on the kind of America they want for themselves and their families for the next 4 years and beyond.

It is time to set forth in clear terms, what 8 years of Republican administrations have given working Americans. And when this is done, Americans will decide that they want to restore majority rule to our land, government that is truly of, by, and for the people.

I am confident that they will clearly and decisively reject continuation of the tired and ineffectual leadership to which we have been subjected under 8 long years of Republican control of the executive branch of Government.

They will elect two able Democratic leaders—two friends of working Americans—Gov. Jimmy Carter and Senator WALTER MONDALE—as our next President and Vice President.

The time is at hand to go beyond the Republican rhetoric and examine the Republican record.

As I said earlier, John Kennedy inherited an unemployment rate of 6.7 percent, but in 8 years, he and Lyndon Johnson brought it down to 3.6 percent.

In 1968, there were 2.8 million workers who were jobless. But by 1975, under the Republican administration, the "official" unemployment rate had been pushed to 8.9 percent, the highest since the Great Depression, and to double-digit levels in State after State and city after city. The number of jobless Americans had climbed to over 8 million, 5.2 million more than when Richard Nixon took office.

Today's unemployment rate is an astounding 7.9 percent, and it has risen in each of the last 3 months, portending another disastrous spate of high unemployment for our Nation's working people.

To reiterate, the income, production, and employment loss to America as a result of Republican economic mismanagement since 1969 is staggering:

Two recessions have thrown a total of 57 million Americans out of work.

Two recessions have already cut more than $500 billion from the paychecks of American workers.

Two recessions have wiped out the income gains made by working families during the 1960's.

The Nixon-Ford team has given working Americans lean times and the nearly impossible task of making ends meet.

The last 8 years are an indictment of "go slow"—"trickle down" economics. These policies did not work for Hoover, they failed Eisenhower, they never worked for Nixon, yet Gerald Ford apparently still believes in this thoroughly discredited 19th century economic philosophy.

In the 1960's, when Democratic leaders were doing their best to promote social and economic progress in our Nation, the rate of inflation was a mere 2.2 percent. But in the last 5 years, the inflation rate has averaged 6.8 percent. It reached as high as 12 percent. We have experienced the highest levels of inflation since World War II and the highest interest rates since the Civil War.

During the first 7 years of Nixon-Ford economic mismanagement, consumer prices rose a total of 54.7 percent, four times the 12.8-percent rise recorded during the first 7 years under Presidents Kennedy and Johnson.

Despite all their talk about controlling inflation, after 8 years of the Nixon-Ford administrations, it now costs $1.55 to buy the same consumer items which cost only $1 in 1968. It is no wonder they had to bring back the $2 bill.

This record Republican inflation has eroded paychecks as never before. In fact, workers' paychecks are not actually worth about the same as in 1965 because of inflation.

Republicans make much of the claim that their party is more hospitable to business than the Democratic Party. They raise the specter of "antibusiness Democrats."

But the record shows that business has done much better under Democrats than Republicans. During the Nixon-Ford years of 1968–75, corporate profits after taxes rose a total of 55 percent. Since the consumer price index rose by exactly the same amount, real business profits did not grow at all under this administration.

By contrast, under Kennedy and Johnson business after-tax profits grew a total of 74 percent. The low consumer price inflation of 12.8 percent those years gave businesses a real growth in profits of more than 61 percent.

Let us set the record straight. It is the Republican and not the Democratic Party that is antibusiness.

In the Democratic sixties—1961 through 1968—the economy grew at a healthy yearly rate of 4.8 percent. In the Republican seventies—1969 to 1976—the economy expanded at an anemic 2.3 percent annual rate, less than one-half the rate of the 1960's.

Can there by any doubt about which party is best for the Nation's economy?

The dismal record of Republican economic mismanagement stands in stark contrast to the record of stable prosperity for all segments of our society achieved under Democratic leadership in the 1960's.

But this Republican performance should come as no great surprise. As a minority party, the major part of their experience has been in opposing the will of the majority.

President Ford first said "no" to jobs on December 30, 1974, when he pocket vetoed the Energy Transportation Security Act of 1974, a bill that would have created an estimated 41,000 jobs annually over a 10-year period.

In fact, Mr. Ford has vetoed a series of bills which held the potential of creating or sustaining more than 3.5 million job opportunities. Only the actions of the Democratic Congress restored some of those jobs and held the net job loss to 2.1 million.

Mr. Ford vetoed the Emergency Employment Appropriations Act which could have created as many as 900,000 jobs, and he did this when more than 8.2 million Americans were unemployed.

Mr. Ford vetoed the Emergency Middle Income Housing Act, thereby denying as many as 800,000 jobs.

Mr. Ford vetoed the Public Works Employment Act of 1975 which would have created up to 800,000 new jobs.

Mr. Ford vetoed the Public Works Employment Act of 1976 in July, when the level of unemployment stood at 7.5 percent and more than 7 million Americans were unemployed. This bill would have created as many as 325,000 new jobs. In the same month, he vetoed a military construction bill which would have created or sustained some 272,000 jobs.

Republicans would like the American people to forget our economic ills—but the American people. remember the Nixon-Ford years all too well.

And they will remember some of the things that Gerald Ford said but perhaps wishes the people would forget.

On February 9, 1974, Gerald Ford said:

> The country as a whole is not going to have a recession.

Yet, within a few short months the whole country was in the grips of the worst recession since the Great Depression. The consequences of that recession inevitably will remain with us, measured in terms of economic imbalance and human suffering.

On August 28, 1974, Gerald Ford said:

> Public enemy No. 1 is inflation. If we take care of inflation . . . most of our other domestic problems will be solved. We won't have high unemployment.

But we were left not only with nearly 11 million Americans unemployed, but also with a 6-percent inflation rate.

On August 19, 1975, Gerald Ford said:

> Housing is beginning to go, and that is going to end the unemployment in the construction trades.

But, as I noted earlier, his housing policy has left housing starts essentially flat at about a 1.4-million annual rate since late last year. Unemployment in the construction industry is at 17.1 percent.

On August 25, 1975, Gerald Ford said:

> I am optimistic . . . for the specific improvement of job opportunities for young people, the minorities.

But his economic policies have left almost 20 percent of our young people unemployed and 40 percent of our young minorities unemployed—and these underestimate the problems of our major cities which I pointed out in prior remarks.

In his acceptance speech in Kansas City, Gerald Ford said that "inflation has been cut in half." That is fine. But, what he forgot to say is that inflation still is roaring along at the rate of 6 percent, and that is nearly three times faster than prices rose in the Democratic 1960's.

In his Kansas City speech, Gerald Ford said that "almost 4 million Americans have found new jobs or got their old jobs back." That is fine too. But what he forgot to say is that today more than 9 million Americans who want to work are without work.

He forgot to say that in the last 2 months, one-half million Americans have been added to our unemployment rolls. And he forgot to say that more of our citizens have been out of work and still are out of work than at any other time since the Great Depression of the 1930's.

In his acceptance speech in August, Gerald Ford said that "production is up, purchases are up." That is good. But, what he forgot to say is that the latest Republican recession will cost our economy $1 trillion in goods not produced and dollars that never will be found in any pay envelope. That is a loss of $4,651 for every man, woman, and child in America in 1980. This is money thrown down the drain because of Republican economic mismanagement.

The Democratic Party can achieve what the Republicans have failed to do—we have met the goal of full employment and price stability before and we can do it again.

We are committed "to the support of legislation which will make every responsible effort to reduce adult unemployment to 3 percent within 4 years."

We are committed to "stable economic growth with moderate interest rates" and "a comprehensive anti-inflation policy * * * to insure price stability."

We are committed to solving "the special problems faced by young people, especially minorities, entering the labor force * * * regardless of the state of the economy."

We are committed to stopping the endless talk about tax reform and to a "complete overhaul of the present tax system."

We have shown the successes that Democratic economic policies have achieved. We have shown what Democratic policies can do for this Nation. We have always believed no challenge is too great for America.

Therefore, we must muster our strength, our courage, our imagination, our great energy. We can become whatever we want to be.

America is a young country with its future before it. The American people are builders. They are restless. They are energetic. They are idealists who want to put their ideals to the test.

America looks to new leaders who can make our country both dynamic and just; who have a sense of compassion, but also a dedication to individual initiative—leaders who can inspire and are inspired by our history, but who sense that our greatness is in the future. Governor Carter and Senator MONDALE are those leaders.

And with hard work and these leaders, America's best days—America's great days—have only just begun.

Mr. GRIFFIN. Mr. President, would the Senator from California consider the possibility of giving me a few minutes? I think we can get him some additional time later.

Mr. CRANSTON. Of course.

Mr. GRIFFIN. I thank the Senator very much.

Mr. President, my delightful friend from Minnesota, whom I love, and who is respected and revered by everyone in this body and beyond, has done his usual good job of giving a political speech. It is a speech that many have heard over and over again, and I suppose that may be one reason why there are not many in the Press Gallery to listen.

I cannot, however, sit here without making a point or two.

The Senator from Minnesota has talked about housing. The President, in his speech last night at Ann Arbor—and I was there—certainly did emphasize his concern about housing. I will say that while he did get a lot of cheers from Michigan students, but I might admit there were also quite a few in the audience who disagreed with him, and made their disagreement apparent. He did not speak before a managed or controlled audience, by any means, but I think it was obvious that those who supported him far outnumbered the few who disagreed with him.

As Democrats and Republicans, we do have our differences about how to help those who want to become homeowners. President Ford has a program, which he announced.

I would like to mention one way that would be the wrong way to go to achieve the objective of more homeownership. I refer to a proposal of Governor Carter, who is calling for so-called tax reform, has advocated repeal of the income tax deduction for interest paid on home mortages.

That particular tax deduction, for interest on home mortgages, I might say, has proved to be one of the strongest incentives this country has ever had to stimulate homeownership. To abolish that incentive certainly would be the wrong way to go, in my view.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial discussing Mr. Carter's views on that point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Detroit News, Aug. 31, 1976]

CARTER TO SOAK HOME OWNERS, TOO?

If they have followed Jimmy Carter's campaign statements carefully, home owners and those who dream of owning homes must be wondering by now—with serious misgivings—what a Carter administration would hold in store for them.

The current federal income tax law allows home owners to deduct property taxes and home-mortgage interest. Without this relief, many home owners, already staggering under the heavy costs of buying and maintaining homes, would be crushed.

Some of Carter's remarks on the subject of mortgage interest and property-tax deductions raise the prospect of a federal income-taxing policy that could knock home ownership in America on its ear.

This is a discouraging prospect for more reasons than one. Home ownership may very well be the single most important stabilizing influence in American society. Families that own a substantial tangible part of America will be more inclined to respect the right of others and uphold the law. They have something of their own to protect.

Typically, Carter has been on all sides of the question of whether the government should take away the tax "loopholes" enjoyed by home owners. Nobody knows for sure what side he would be on if elected president.

On Feb. 23, Carter took part in a forum sponsored in Boston by the League of Women Voters Education Fund. Asked if he favored repeal of interest and property tax deductions on homes, he said that "along with the elimination of hundreds of other tax incentives, those would be among those that I would like to do away with."

Subsequently, according to a summary issued by the respected and dependable Common Cause organization:

The Wall Street Journal quoted Carter as saying he did not advocate doing away with the tax deduction for home-mortgage interest. That, he said, was one "incentive I would consider modifying . . . if I change the deduction it would be increased and not decreased."

The Baltimore Sun reported that Carter expressed concern over the fact that the mortgage interest deduction, which costs the federal government $10 billion a year, applies to second homes, vacation homes and summer homes.

The Atlanta Journal and Constitution reported that Carter said the elimination of exemptions for interest paid on home mortgages would have to be tied with other changes to insure that middle income home owners would be more than compensated.

We also find a story in the New York Times reporting that Carter said his consideration of eliminating the mortgage-interest deductions was but one facet of a "sweeping tax reform" that would result in a progressive but lower tax rate and would shift the tax burden of the country to those "who can best afford it."

The ambiguities and contradictions in these statements are self-evident.

Carter says property taxes and mortgage interest are among the tax breaks he'd like to abolish. But wait. He says he would not abolish the tax break on mortgage interest—but would, if anything, increase that deduction. Again, if these deductions were eliminated, home owners would be compensated in some fashion—just how, he doesn't say. Ah well, in any event he would soak the rich.

All this must be confusing and frightening to the many citizens who are holding onto their homes by their fingernails and who would fall into bankruptcy except for the relief which the income tax law now gives the home owner. They deserve straighter, clearer, more consistent answers on this critical issue from a man who wants to control their destiny for the next four years.

Mr. GRIFFIN. My friend from Minnesota also talked about the good of full employment. While it is true as he pointed out, that under the administrations of Presidents John Kennedy and Lyndon Johnson the unemployment rate did drop from 6.7 to 3.6 percent, it must be pointed out, unfortunately, that the principal reason why it dropped was that we were engaged as a nation in an escalating war in Vietnam—a war which eventually involved more than 500,000 of our boys.

I think that historical fact must be mentioned in order to put this argument in some perspective. It is easy for a President to have high employment and low unemployment when our boys are marching off to war. No problem; no trick at all.

It is more challenging—more of a problem—I suggest, for a President, while the country moves toward full employment while maintaining peace and restraining inflation. That is what President Ford is doing.

During the Johnson administration, we were not only engaged in a war in Vietnam that escalated to those proportions, but of course we also pursued the guns-and-butter—Great Society—spend-and-elect policies of Lyndon Johnson which generated a wave of inflation that engulfed not only the United States but the whole world—a wave of inflation from which we are still trying to recover.

So, I suggest Mr. President, there is another side to the case presented by my good friend from Minnesota. I ask unanimous consent that the full text of the President's speech delivered at Ann Arbor last night be printed in the Record at this point, and I thank the Senator from California very much for giving me time to respond.

There being no objection, the speech was ordered to be printed in the Record, as follows:

REMARKS OF THE PRESIDENT AT THE UNIVERSITY OF MICHIGAN, CRISLER ARENA, SEPTEMBER 15, 1976

The President. President Flemming, Senator Griffin, Congressman Esch, Congressman Vander Jagt, Michigan students, faculty and guests:

President Flemming, I am deeply grateful for the opportunity to be on this great campus. I am proud of you as the President of the University of Michigan, and I am equally proud of the great record of my alma mater.

I am deeply indebted to Senator Bob Griffin, an outstanding United States Senator who has been my close personal friend and loyal supporter from the very beginning of my political career.

I am delighted to have on the platform with me your effective and able Congressman Marv Esch, who will be the next United States Senator from Michigan.

It is great to be back at the University of Michigan, the home of the number one Wolverines. After what you did to Wisconsin, I will tell you one thing—I would rather run against Jimmy Carter than Harlan Huckleby any day of the week.

I am reminded of another Michigan football game that I attended in 1948. I had just won my first Republican nomination. Then, as now, I faced a tough challenge.

My mind wasn't on politics that Saturday afternoon. It wasn't even on football. I was on my honeymoon.

Betty and I were married the day before and tonight I would like to introduce you to my bride, Betty Ford.

Mrs. Ford. I see we are back here in Michigan, but this time not on our honeymoon.

The President. That was some years ago, but as has been indicated, Michigan and Ford have been winners ever since.

I have come home to Michigan to share with you my views of America in 1976 and my hopes for America in the next four years, and beyond.

During the last two years, in the aftermath of a difficult war and a painful ordeal of economic adversity and political crisis, we reached a critical turning point in America's history.

Throughout most of your lives, America has faced turmoil. Some of our most beloved leaders have been assassinated. There was a war we could not either win or end. There were destructive riots on our streets and on our campuses. We suffered runaway inflation and the worst recession in 40 years. We were betrayed by corruption at the highest levels of our Government.

Fortunately, the skies are far brighter. My Administration has restored trust in the White House. My Administration has turned the economy around. We are in the midst of a growing prosperity. We have peace and the capability and the will to keep it.

Through all of this, we found in ourselves a basic strength which has proven mightier than our armaments, more precious than our great store of national wealth and as enduring as our Constitution.

As I said on taking the oath of office as President two years ago, "Our long national nightmare is over." In the last two years, the United States of America has made an incredible comeback, and we are not through yet.

In 200 years as a free people, much has changed in our nation, but America's basic goals remain the same:

Americans want a job with good future.

Americans want homes and decent neighborhoods and schools where our children can get a quality education.

Americans want physical security, safety against war and crime, safety against pollution in the water we drink and in the air we breathe.

We want medical and hospital care when we are sick at costs that will not wipe out our savings.

We want the time and opportunity to enlarge our experience through recreation and travel.

We Americans are proud people. We cherish our inalienable rights; the right to speak our minds—the right to choose the men and women who enact and enforce our laws—the right to stand equal before the law regardless of sex, age, race or religion—the right as a farmer, businessman, worker and consumer to bargain freely in the economic marketplace—the right to worship as we choose.

It all adds up to the great "American dream."

These are the goals which every politician, every citizen, has for America. They are not some mystic vision of the future. They are the continuing agenda for action.

So, the question in this campaign of 1976 is not who has the better vision of America. The question is who will act to make that vision a reality.

The American people are ready for the truth, simply spoken, about what Government can do for them and what it cannot and what it should not do. They will demand performance, not promises; specifics, not smiles.

There are some in this political year who claim that more Government, more spending, more taxes and more control on our lives will solve our problems.

More Government is not the solution. Better Government is.

It is time we thought of new ways to make Government a capable servant and not a meddling master.

Let's get down to cases.

Let's talk about jobs.

Today, 88 million Americans are gainfully employed—more than ever before in American history. But, that is not good enough.

My immediate goal is two and a half million new jobs every year with emphasis on youth, especially the minority. I don't mean the demeaning, dead-end jobs paid for out of the Federal Treasury but permanent jobs with a future generated by the demands of a healthy economy.

Can we do it? We have done it.

We proved once and for all that you can cut inflation in half and add four million new jobs in just 17 months. We did it with tax cuts that allowed Americans to spend more of their own money. We did it with tax incentives that encouraged job production. We did it by letting our free economic system do what it does better than any other system in the world—produce.

But, I won't be satisfied until every American who wants a job can find a job.

I am particularly concerned that there are too many young Americans who cannot find a good job or get the training and the experience they need to find a job.

Americans have long since recognized the importance of assuring that every high school graduate who is willing, able and qualified be able to go to college. We have done so through grants, loans and scholarships.

I believe we can apply the same principle to create a program for young people who choose not to go to college, but want a job at which they can learn a trade, a craft or practical business skills.

It can be done. Let's put America—all of America—to work.

Once a good job is secured, it is an American tradition to put some of these earnings toward a family home, but nowadays, with interest rates too high, down payments too high and even monthly payments too high—home ownership is not within the reach of many Americans, particularly young Americans beginning a career or marriage.

My goal is home ownership for every American family that wants to own a home and is willing to work and save for it.

Here is how I will meet that goal: First—I will continue to pursue economic policies, including tight control of unnecessary Federal spending which will hold inflation down, reduce interest rates, cut your taxes, increasing your purchasing power and making more funds available for home mortgages.

Second—it is time we did something more about the down payment requirements, which so many people can't afford. I will recommend changes in the FHA loans to reduce down payments on lower and middle priced homes by up to 50 percent.

Third—I will direct the Department of Housing and Urban Development to accelerate implementation of a new Federal guarantee program to lower monthly payments in the early years of home ownership and gradually increase them as the family income goes up.

A good job; a good home. Now let's talk about the good health we must have to appreciate both. My goal is an America where health care is not only the best in the world but is both accessible and affordable. But raising Federal taxes by $70 billion a year for Government-dominated health insurance program is not the way to do it. That path leads to more bureaucracy, more fraud, more taxes and second-class medical care.

That is what I am against. Here is what I am for:

As our first priority, I have recommended protection against the cost of a catastrophic or prolonged illness for the aged and the disabled—insuring that never again will they have to pay more than $750 a year for medical care. People should not have to go broke to get well.

Next, I proposed to the Congress last spring a major reform in Federal health programs. We should combine 16 overlapping and confused Federal health programs, including the scandal-ridden Medicaid program, into one $10 billion program that distributes the Federal funds more equitably among the States and insures that those who need these services get first-class care.

It is sad but true, America is still awaiting action by the Congress on this urgently needed legislation.

Now, let's turn to an area of special concern to this audience—education.

One of the most urgent problems is to create a climate in every classroom where teachers can teach and students can learn.

Quality education for every American is my Administration's goal. Major reforms are necessary in the relationship between the national, State and local units of Government, so that teachers can spend their time teaching instead of filling out Federal forms. Federal aid is necessary but Federal aggravation must stop.

Nine months ago I proposed to the Congress that we replace 24 paper shuffling educational bureaucracies with a single Federal program which would provide $3 billion 300 million in direct aid to elementary and secondary schools throughout this country.

The Congress has not acted. Once again this Congress has shown itself to be sitting dead in the water and, I might add, addicted to the status quo. The American people deserve better representation than that, and they will demand it on November 2.

We must insure that low income students have access to higher education.

We must also find ways through the tax system to ease the burden on families who choose to send their children to nonpublic schools and to help families cope with the expenses of a college education. In this Administration the education needs of America's middle income families will neither be forgotten nor forsaken.

Education is the key to a better life. The prevention of crime is essential to making our lives secure.

The Constitution demands that we insure domestic tranquillity and that is what I called for in my crime message to the Congress about a year ago. Most crimes are committed by hardened career criminals who know no other life than the life of crime. The place for those people is not on our streets but in the jails. The rights of the law-abiding society, the rights of the innocent victims of crime must be fully protected.

Finally, we must give Americans the chance to enjoy America. I have outlined a $1 billion 500 million program to expand and to improve our national park system over the next ten years. This means more national parks, more recreation areas, more wildlife sanctuaries, more urban parks and historic sites. Let's make this America's Bicentennial birthday gift to all of our future generations.

Today, America enjoys the most precious gift of all. We are at peace. No Americans are in combat anywhere on the earth and none are being drafted, and I will keep it that way.

We will be as strong as we need to be to keep the peace, to deter aggression and to protect our national security.

But if our foreign policy is to have public support, it must represent the moral values of the American people.

What is more moral than peace with freedom and security in the United States?

As the leader of the free world, America has a special responsibility to explore new paths to peace for all mankind. It is a responsibility we have not shirked. We have been a force for peace in the Middle East, not only in promoting new agreements, but in building a structure for a more lasting peace.

We have worked for peace with the Soviet Union, not only in resolving our many conflicts, but in building a world where nuclear armaments are brought under control.

We are working for peace in Europe where the armies of two major coalitions confront each other.

We will continue to build our relationship with the People's Republic of China, which contributes importantly to peace and stability—throughout the world.

Now, in the face of a new challenge, we are on a mission for peace in southern Africa.

This is the first Administration in America's history to develop a comprehensive, affirmative African policy. This policy has won respect and trust on that troubled continent.

At my discretion, Secretary Kissinger is now engaged in an intensive effort to help all the parties, black and white, involved in the mounting crisis in southern Africa, to find a peaceful and just solution to their many and complex differences.

The African parties in the very grave and complicated problems of Namibia and Rhodesia have encouraged us to help them in the search for peace and justice. We are also backed in our efforts by our European allies with traditional bonds to the African Continent. In particular, we are working in close collaboration with the United Kingdom which has historical and legal responsibilities on Rhodesia.

Success will depend fundamentally on the cooperation of the parties directly concerned. We will not and we cannot impose solutions, but will depend upon the goodwill and determined efforts of the African parties themselves to achieve negotiated settlements.

We seek no special advantage for ourselves in these negotiations. We share with the people of Africa these fundamental objectives: a peaceful outcome; a future of majority rule and minority rights; a prospect of widening human dignity and economic progress; and a unified and independent Africa free from outside intervention or threat.

The tortuous path that leads to these goals is not an easy one. The risks are great. But America's interests and America's moral purpose summon our efforts.

Despite the rigors of a great national election, I have persisted in carrying out this new policy toward Africa—not because it is expedient—but because it is right.

I pledge to you that under my Administration, American foreign policy will serve the interests of our country and our people—it will be true to our great heritage of the past, fulfill our purposes in the present, and contribute to our best vision of the future.

It is not enough for anyone to say "trust me." Trust must be earned.

Trust is not having to guess what a candidate means.

Trust is leveling with the people before the election about what you are going to do after the election.

Trust is not being all things to all people, but being the same thing to all people.

Trust is not cleverly shading words so that each separate audience can hear what it wants to hear, but saying plainly and simply what you mean—and meaning what you say.

I am proud of the maturity of the American people, who demand more honesty, truthfulness and candor of their representatives.

The American people, particularly its young people, cannot be expected to take pride—or even participate—in a system of government that is defiled and dishonored—whether in the White House or in the halls of the Congress.

Personal integrity is not too much to ask of public servants. We should accept nothing less.

As we enter the last seven weeks of this national election, a new poll indicates that as many as 65 million Americans will not vote in November.

Some people have said that they are not excited about any of this year's candidates. Let them be excited about America.

Let them be excited about their own capacity to grow and change—about our nation's capacity to grow and change—and even about the evolution, with their help, of the candidate of their choice.

In this year of 1976, I stand before you as the last President of America's first 200 years. But with your help, I also intend to be the first President of America's new generation of freedom.

Working together we can build an America that does not merely celebrate history, but writes it—that offers limited government and unlimited opportunity—that concerns itself with the quality of life—that proves individual liberty is still the key to mutual achievement and national progress.

And when the history of this great era is written, future generations will look back at America in 1976 and say—yes—they were two hundred years old—but they had really only just begun.

Thank you very much.

Mr. CRANSTON. Mr. President, before yielding again to the Senator from Minnesota, I ask unanimous consent that Babette Polzer, of my staff, have the privilege of the floor throughout this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I am, as always, amused, and indeed somewhat impressed, by the rebuttal our distinguished Republican friends make to the charges of unemployment. There is no one, may I say, for whom I have greater affection and respect than the distinguished acting minority leader; and that is not just a polite political phrase, it is an expression of true sentiment.

Mr. President, let us take the argument made by the Senator from Michigan that unemployment was reduced during the 1960's because we were involved in a war.

What if that were the case? With unemployment being brought down to 3.6 percent, according to the economic theory of the Hoover-Nixon-Ford philosophy, we would have high inflation, because every time we try to do something here that will reduce unemployment, whatever proposal is made, they send up their warning signals on inflation. Indeed, the air is filled with all kinds of signals telling us, "You have got to be careful, now; if you start reducing this unemployment too fast, it is going to trigger wild inflation."

Of course, this philosophy defies all reason and experience. For example, the inflation rate was as high as 12 percent and unemployment was up to almost 10 percent a few months ago. What happened when unemployment came down to 7½ percent? Inflation came down to 6 percent.

But despite the evidence they go blindly on their way. They are something like the old French kings. They never learn anything and they never forget anything. They simply go on and on and on.

Now let us take a look at the 1960's. Unemployment was brought down to 3.6 percent. But the inflation rate during that entire period was an average of 2.2 percent.

If full employment—and that 3.6 is really full employment—means high inflation then what is the empirical evidence? The only irrefutable evidence we have is that when we have a Republican administration in office we never get full employment. They never had it. They have never had it, Mr. President, not since 1928. But if we were even to approach full employment they would do something to prevent it in the false fear that it would bring inflation.

We have had 4 percent unemployment before Vietnam, and we had 1.6 percent inflation. I state on this floor that what this administration has been doing, and they have been doing it quite effectively, is brainwashing the American people into believing that if we bring down the unemployment rate to a manageable figure of say 4 percent, or 3 percent adult, that it will bring wild inflation. They repeat it and repeat it and repeat it exactly as the old geographers used to repeat that the world was flat until Christopher Columbus found out that you did not fall off the edge.

I want some good Republican economist to come around here and tell us why it was possible to bring unemployment down below 4 percent, including youth unemployment, and have an average rate of inflation of only 2.2 percent and why it was when we had unemployment up to 10 and 12 percent we also had inflation that went to 12 percent. The only administration in the history of the world—that is a big statement but I repeat it—the only administration in the history of the world that was able to get high unemployment and high inflation at the same time was this miracle Republican administration. They did it.

Up until then everybody knew if we had unemployment we had deflation. It was automatic. During the Great Depression they had high unemployment but low prices. During the Republican "recession," they call it that because they want to kind of keep it moderate—you know they are very moderate folks—they had high unemployment, but they did not want to leave anything out so they gave us high inflation too. Never before in history has anyone been able to produce the twin monsters of high unemployment and high inflation in one birth—like Siamese twins.

Today the inflation rate is running about 6.5 to 7 percent. The unemployment rate is close to 8 percent at 7.9 percent. And the interesting thing is when that unemployment rate went from 7.3 percent back up to 7.9 percent the inflation rate also went up. But these good friends of ours down at the White House and in the administration are not going to let facts stand in the way of their prejudice—no way. Despite the fact that the facts show that as the unemployment rate comes down the inflation rate comes down, as the unemployment rate goes up the inflation rate goes up, they will repeat, time after time, that if you reduce unemployment you are going to have roaring inflation.

They really enjoy a little unemployment because it seems to loosen up what they call the labor market.

So I want to point out these facts to my good friend from Michigan. Despite his charges about how we reduced that unemployment rate, the facts are clearly on our side. The unemployment rate was reduced at the same time that inflation was held in check. Oh, I remember when they first came into power, Mr. Nixon said, "Oh, I am going to inherit big inflation." We would have thought that after 7 or 8 years they would get that under control, but they have only made it worse—much worse. What is their prophecy for the American people? Their prophecy, not in the campaign speeches but in the Council of Economic Advisers, and their prediction is that unemployment will be 7 percent at the end of this year, and I think that is a very optimistic one. Their prediction is that they will get unemployment down to 6 percent by 1980, and I say that that is an unconscionable figure, and I say that it costs too much to keep a Republican administration in power. The Nation cannot afford leaders who are going to have 6 percent and 7 percent unemployment and who are going to continue to have 6 and 7 percent inflation, if they are lucky.

My colleague from California has a lot to say and I see our colleague is here from New Jersey. I ask unanimous consent that the time allocated to the majority leader be transferred to Senator CRANSTON.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. CRANSTON. I thank the Senator from Minnesota very much.

UNEMPLOYMENT AND THE RECORD

Mr. CRANSTON. Mr. President, today or tomorrow, the Senate will likely take up the conference report on H.R. 12987, the Emergency Jobs Programs Extension Act of 1976. I take special pride and pleasure in this measure since it represents the culmination of efforts by many of us over a period of almost a year to create a meaningful and effective public service employment program that will best suit our Nation's human and fiscal needs.

But, Mr. President, because of the administration's resistance to improving the program and its only grudging support of maintaining even the status quo, the Nation's unemployment needs will not be fully met by this measure—or by any other measure which we can pass and get signed into law this Congress.

The unemployment figures are well known and discouraging. During August, the national rate of unemployment continued its pattern of monthly increases rising to 7.9 percent—the highest figure so far this year. August was the third straight month that the jobless rate climbed above those of February, March, and April. The rate dropped to 7.3 percent in May—obviously only a temporary improvement. For 26 straight months we have been receiving only vetoes and veto threats regarding congressional job creation measures while more than 7 million people have been jobless.

The unemployment rates among the States are equally discouraging. The most recent available State data from the Bureau of Labor Statistics shows that during June the unemployment rate rose in 46 of the 50 States. In 39 States, the unemployment rate was 6 percent or higher. In 14 of the States—including the most populous: New York, New Jersey, 4 out of 6 New England States, Michigan, Florida, and California—the rate was higher than the 7.5 percent national average. The California rate was a terrible 9.2 percent in June. And it got worse. More recent data is available from the California Employment Development Department. It shows that the unemployment rate there for August was 9.9 percent—meaning 876,900 Californians were officially out of work. That does not include probably another 100,000 discouraged job seekers and part-time workers unable to find full-time work.

In some California communities the jobless situation is at a critical stage: San Francisco-Oakland had a rate in August of 11.5 percent; Los Angeles-Long Beach, 9.1 percent; San Diego, 11.7 percent; Sacramento, 10.6 percent; Fresno, 9.5 percent; Stockton, 11.3 percent; and both Modesto and Santa Rosa had rates of 13.3 percent. Indeed, not one of the areas reporting in California had less than the 7.9 percent national rate of unemployment during August.

It is more than shocking, or disgraceful, or any of the other adjectives that we call upon when attempting to describe these levels of unemployment. It is simply tragic—a tragedy of human misery and hopelessness, of families beset by severe privation and unfair sacrifice.

On May 12, in comments before the Economic Club of Detroit, President Ford said:

> I have done a good job, and I am proud of it. . . I have turned a lot of bad things around, and we are going in the right direction. . . Everything that is supposed to be going up is going up, and everything that is supposed to be going down is going down.

Mr. President, when the Ford administration took office on August 9, 1974, the unemployment rate that month was 5.5 percent and there were 4,987,000 people out of work. I remember clearly how worried we all were that unemployment would get worse. It did. In May of 1975, the unemployment rate hit 8.9 percent.

But I question whether even now we are going in the right direction. The rate of unemployment is almost 50 percent higher today than it was in August of 1974 and there are 2,519,000 more people looking for jobs. And most distressingly, unemployment is going up again.

Among those 7,506,000 persons out of work in August, 2,792,000 were heads of households. More than 2.3 million people had been unemployed for 15 weeks or more. In fact, the average duration of official unemployment last month was 15.5 weeks.

The teenage unemployment rate was 19.7 percent; among minority group teenagers, it was 40.2 percent.

But the mere recitation of double digit numbers cannot adequately portray the debilitating effects of unemployment. Obviously when a primary wage earner is out of work—those men and women who provide the main source of support for the family—the human and economic distress is multiplied many times over.

Household head unemployment is not a problem for men only. The number of households headed by women has increased greatly in recent years. One out of every eight families in the Nation is headed by women—more than 7 million family units. More than 9 million children are members of those famly units. The unemployment rate for this segment of the work force reached 11.1 percent in August. The result is, Mr. President, that one out of every three families with female household heads is living at or below the poverty level.

But, Mr. President, sometimes the national unemployment rate does not reflect all of the harsh realities. We do not even include in the unemployment rate calculations those persons who have looked for jobs—long and hard—who have been unsuccessful, and have given up looking in hopelessness and despair. According to the Bureau of Labor Statistics, there were 905,000 "discouraged jobseekers" during the second quarter whose number was not even counted as "in the labor force." And what about those persons seeking to make a living working in part-time jobs because no full-time positions are available? The statistical experts do not even venture an official guess at this number.

This is why the new jobs bill before Congress adopted my proposal to establish a Commission on Employment and Unemployment Statistics to make an objective in-depth study of this entire field and recommend necessary revisions to the Congress and the President within 18 months.

In submitting his budget proposal for fiscal year 1977, President Ford called for a phasedown—and then a total phaseout—of the current public service employment program conducted under title VI of the Comprehensive Employment and Training Act of 1973, as amended. That is the legislation Congress enacted as an emergency measure to combat temporary joblessness in 1974 when national unemployment was only—imagine saying "only"—6.7 percent. Currently, about 310,000 annualized public service jobs are funded through the CETA program, about 260,000 under title VI.

However, Mr. President, the administration did not prevail in its effort to cut off the program. Congress enacted an emergency supplemental appropriations measure in April with funds to insure continuation of the present program level through December 1976. Meanwhile, Congress worked on legislation to extend the program further.

Earlier this year, the administration indicated that any extension of public service employment programs, let alone any expansion, would be unacceptable. But just as with the President's prior on-again off-again position on public service employment, Mr. Ford now finds that he can accept a proposal first unveiled in Congress last February—without eliciting any cheers from the White House.

So, now the "Gerry come lately" administration says it will sign our new proposal in H.R. 12987 to extend the current title VI program through fiscal year 1977 and to expand the public service jobs program by targeting job openings on the neediest and adding new provisions to respond effectively to all past charges about the program's effectiveness.

Realistically, Mr. President, we face a hard battle for appropriations necessary to expand the program. But how can we be satisfied with just 260,000 jobs? The President has already indicated that he will fight us every step of the way despite the fact that the expansion we seek of a total of 500,000 jobs under title VI of CETA is within the ceilings set by the Second Concurrent Budget Resolution.

Mr. President, on Labor Day, President Ford forecast that full employment would be achieved "with the help of the dynamic American labor force." He further noted that America's greatest natural resource is its people:

> Americans who get up early every day and go home tired every night, quietly creating a better life for their families and fellow citizens.

How very, very sad that more than seven and a half million of our fellow citizens are being wasted, with no opportunity to share their talents and skills, with no opportunity to share in this "better life."

One segment of our society, Mr. President, is suffering particularly unfairly—our Vietnam-era veterans. The unemployment situation among Vietnam-era veterans is a matter of special concern to me.

A little more than 2 months after President Ford assumed office, in remarks he made during the Veterans' Day Ceremonies at Arlington National Cemetery, he expressed concern with the "plight of the young veteran without a job, especially if he is a disabled member or one of a minority group." He stated also that "important progress" was being made in this area.

But the record does not bear this out. While Mr. Ford was expressing his concern, unemployment in 1974 leaped to 10.9 percent for young Vietnam-era veterans, aged 20 to 24. And in 1975—the first full year under the Ford administration—unemployment among young Vietnam-era veterans nearly doubled to 19.8 percent. That was 62 percent higher than the previous high of the Nixon administration in 1971.

The statistics are even more alarming among young minority group Vietnam-era veterans. In 1971, their unemployment rate was 17.5 percent. In 1974, it climbed to 21 percent, and during 1975, it was a devastating 31 percent. President Ford may call that "important progress." I do not. I call it breaking faith with the men and women who have served in the Nation's Armed Forces. The Federal Government has a commitment to maximize efforts to provide job opportunities for these young individuals who have sacrificed years of their lives in service to our country.

Mr. President, the 1976 Employment and Training Report of the President noted that:

> The severe downturn in the Nation's economy had a serious impact on the job market situation of Vietnam-era veterans during fiscal 1975. Employment growth was dampened and unemployment reached record levels. And, unlike most other worker groups, veterans failed to show improvement in the first half of fiscal 1976, as their jobless rate in the October–December quarter actually exceeded the recession peak. Those veterans in their twenties were particularly affected.

Yet the Ford administration has responded with indifference and apathy.

In December 1974, Congress enacted, over the veto of President Ford, the "Vietnam Era Veterans Readjustment Assistance Act of 1974," which I coauthored. We wrote into that law—Public Law 93–508—important provisions to help our newest generation of veterans find jobs and advance their careers. The 1974 act requires generally that those companies with Federal contracts institute "affirmative action" plans for the hiring and advancement of qualified Vietnam-era and disabled veterans.

Mr. President, the proposed final regulations for the implementation of this program were not issued until June of this year. And the regulations took effect on July 28, 1976—18 months after becoming law.

Mr. President, the 1974 act—which as I said we passed over the President's veto—further ordered the Secretary of Labor to develop specific performance standards for the "priority services" which must be given to veterans by all federally funded State employment offices. For years, the law has required that State employment services "promptly place" an eligible veteran in a satisfactory job or job training opportunity or give him some other form of specific assistance such as counseling or job development.

Nevertheless, veterans are just not getting this priority. Although over 10 percent more Vietnam-era veterans sought assistance from State employment agencies during the first 9 months of fiscal year 1976, as compared with the similar period in fiscal year 1975, the percentage of veterans who were counseled dropped 15 percent, the percentage of overall job placements skidded 18 percent, and the percentage of veterans placed in a job of 3 days or more duration declined nearly 15 percent. In sum, according to the Labor Department's own figures, veterans seeking employment assistance at State offices receive less counseling, less testing, and are less likely to be enrolled in a training program, than nonveterans. It was to remedy just this situation that we amended the law in 1974 to require "definitive performance standards" on the part of the State employment service agencies. Yet, here again, 20 months later, the Department of Labor regulations to carry out the law are not yet operative.

Mr. President, last year the General Accounting Office reported that on-job-training slots specifically developed for veterans were going unfilled because neither the VA nor the Department of Labor had any established procedures to recontact employers and to refer eligible veterans. One out of every four approved employers contacted by GAO investigators said that they needed on-job trainees and would have accepted one or more qualified veterans had they been referred to them. But, in fact, they never got such referrals. Over 65 percent of the employers contacted who had developed on-job training slots for veterans to begin with, had no veterans in training at the time of the GAO survey. Established procedures to recontact employers and refer eligible veterans are still nonexistent. Valuable training slots go unfilled in the face of staggering unemployment rates for veterans. Is this more "Ford progress"?

Our new jobs bill contains a provision requiring prime sponsors to do what the administration has not—to utilize these GI bill supported job opportunities.

Additionally, Mr. President, the 1974 GI bill amendments also required the Federal Government itself to carry out affirmative action plans to hire, place, and advance in employment, disabled veterans. Yet, the report on implementation of this statutory requirement last year showed that 16 Federal agencies had failed even to submit plans for the hiring of disabled veterans at the time they were due. Four other Federal agencies had submitted plans which were disapproved by the Civil Service Commission. This year, five Federal agency plans were disapproved or incomplete and one has yet to be submitted.

Mr. President, there were 479,000 Vietnam-era veterans unemployed during the second quarter of this year. The unemployment rate for 20- to 24-year-old veterans during the second quarter of 1976 was 16.3 percent; this compares with the unemployment rate for nonveterans of the same age group of 10.7 percent. Among minority group veterans of the same age group unemployment averaged 27.7 percent during the second quarter of 1976. The rate of minority group nonveterans in the same category was 18.6 percent.

Overall unemployment among Vietnam veterans looks, on the basis of July and August figures, as though it will be even worse during the third quarter.

In conclusion, Mr. President, the recent enactment of the Local Public Works Capital Development and Investment Act—over a Presidential veto—is the first major jobs creation measure to become law since December 1974. From that time until this, we have been forced to accept the administration's "wait and see" mentality—waiting much too long to see much too little.

In his July 6 veto message on the public works bill, President Ford defended his economic policy by saying:

> I believe that the steady improvements in the economy over the last half year, on both the unemployment and inflation fronts, bear witness to its esesntial wisdom. I intend to continue this basic approach because it is working.

Mr. President, at a time when the administration's malimplementation of laws already on the books is marked by inefficiency and ineptitude, and at a time when there is an unwillingness on the President's part to accept even a modest expansion of a public service jobs program in the face of sustained and now rising high rates of unemployment, I question the "essential wisdom" of the President's economic policy. When what he calls "steady improvements" are in reality neither steady nor improvements, how can the Nation afford to continue President Ford's "basic approach?"

JOBS AND THE ECONOMY

Mr. WILLIAMS. Mr. President, the Senator from Minnesota has made an analysis and statement in which I concur. I have followed the work of the Senator and the Joint Economic Committee for as long as he has been on that committee, and it seems to me that their contribution, if heeded, would have made our situation greatly different from the continuing inflation and continuing tragically high unemployment that we have today in this country. As a matter of fact, it seems to me that, if the administration had heeded the findings and conclusions of the joint committee, perhaps the administration's position today would be more tenable.

Mr. President, in light of intolerably high and persistent joblessness for millions of Americans, there can be little doubt that a sharp change in economic policy is absolutely imperative.

Our Nation cannot be expected to tolerate a continuation of the faulty and faltering economic policies that have characterized the past 8 years under President Nixon and President Ford.

Particularly over the past 2½ years, a recalcitrant Ford administration has stone-walled every significant effort by Congress to help put Americans back to work.

At the outset, the administration failed to recognize in mid-1974 the early warning signs of a devastating recession.

And they failed to heed the alarms from many quarters, including Congress.

On the contrary, President Ford chose to proclaim inflation—not joblessness—as public enemy No. 1, and in October of 1974, he launched a program to slow down an already faltering economy.

The results were predictable and tragic.

Unemployment rose from 5.4 percent when Mr. Ford took office in August to 8.9 percent in just 9 months—the most rapid rise to the highest level since the Great Depression of the 1930's.

Congress responded instantly to the epidemic of joblessness, enacting an emergency public service jobs program and appropriating $2.5 billion to provide more than 260,000 persons the jobs that could not otherwise be found.

President Ford signed the bill and the appropriation—but that was his last concession to the reasonable proposition that the best remedy for joblessness is jobs.

Since then, there has been an unbroken skein of Presidential vetoes for every major congressional effort to help American workers—willing, able, and seeking work—to find employment.

I know that the President yesterday, no doubt with good heart and in good conscience, said that he will not be satisfied until every person who wants a job is on a job. The record, of course, confirms completely that this is not going to happen without effort, without a national effort, without a contribution of effort from our National Government. Certainly, inaction never will bring people back to jobs in any reasonable time. It does take effort, and the absolute enemy is the negative effort of vetoing those measures and those ideas that are advanced to put people back on the job.

Mr. President, there is a propensity in the administration to invest its full attention in the charts that display the classic traditional economic indicators—never looking beyond those charts into the trenches of human existence to explore, record, comprehend, or be moved by the flesh-and-blood tragedies that joblessness inflicts.

The President, of course, does not have the opportunities, which those of us who are not in that office have, to be very close to the scene, as we observe the lives of those who are jobless and hear their plight. Those of us who do not have to be surrounded with aides and assistants and Secret Service and who are on the campaign trail see many people every weekend, and we get the flesh and blood stories of unemployment.

The last one I heard was this past Saturday, when I talked to a man 36 years of age who has been out of work most of the last year, except for 6 weeks of temporary employment. He operates one of the major pieces of heavy equipment in construction. He has three children, and his wife is ill; she is in a wheelchair. All our programs mean nothing to him, because he knows they are not working for him. He knows it because they have been vetoed and have not been permitted to produce what they are supposed to produce. He took a dim view of the public works bill because he thought it was Government employment. I explained to him that it was not.

What impressed me was that this man was choked up because, in order to stay alive—having run out of unemployment insurance—he is now struggling with the necessity of whether to sell his house in order to become sufficiently destitute to obtain welfare.

When you see an able-bodied man who only wants to work his machine on a job that is building America—who is choked up because he has not had any way for more than a year to keep his family going—it tells you that things have to be done, and it takes an effort. It is never just going to happen because of the good will of wanting everybody to be on the job.

It is such human misfortunes that have motivated Congress to work relentlessly to convert cold, calculated, statistical considerations into humane, compassionate, and dignifying programs to provide jobs for those who are willing, able, and seeking work.

The economic waste of productive human resources has to be considered a senseless, as well as inhuman happening.

The economy is operating with only 75 percent of its industrial capacity being utilized—this, when our people need so much in housing, in efforts to make our communities safer, to make our communities healthier. We have a whole range of opportunities to fill the gap above that 75 percent figure and put our capacity to work.

Still, the Ford administration doggedly insists that the economy is prepared to provide the necessary jobs, if only the jobless wait long enough.

The Senator from Minnesota described the long wait that the administration economists say they are willing to accept. I think the figure was that we have it down to 6 percent unemployed by 1980. Six percent seems to be a small percentage figure, but translate that into 6 million human beings, 6 million families. It is a national tragedy that should convince anybody in our positions, where we can do something, that we must not accept that kind of human tragedy.

The President vetoes public works projects, arguing that it would take too long to crank them up to provide jobs.

Yet, he proposes, as his major remedy, tax credits to encourage plant expansions that have not even been planned by plant managers.

Mr. President, in our hearings on full employment legislation, we documented a reality that an administration refuses to accept—full employment would save American taxpayers billions of dollars.

The most telling evidence we received was based upon a technical analysis prepared in October 1975, by the Office of Income Security Policy of the Department of Health, Education, and Welfare.

The staff of the Labor and Public Welfare Committee, after adjusting caseload estimates to reflect actual experience, concluded that, with an unemployment rate of 5 percent instead of 7.5 percent, public outlays in fiscal year 1976 for unemployment compensation, medicaid, general assistance, food stamps, and aid to families with dependent children would have been $12.73 billion lower.

At the same time, tax collections on the earnings of the additional 2.5 million employed workers would have been nearly $27 billion.

Together, nearly $40 billion of the taxpayer's burden would have been erased if the administration had accepted those steps that would have put those people back on the job.

Mr. President, this is part of just 1 year's cost to the Nation of the Federal economic policies—or lack thereof—which, over the past 8 years, have dragged us through the worst economic minefield in 40 years.

The economics alone should carry us to the conclusion that effort, positive effort is needed. It will not correct itself; and the absolute enemy has been the negative effort, the denial of effort, the veto.

So let us hope there are better days ahead. If I were an unemployed worker, I would look at the statements that are being made at this time of year and match the eloquence of the conclusion with what the past shows has been done to work toward what everybody agrees is the goal; that is, that anybody who wants to work ought to have a job.

This is a period of testing, and I am sure that, increasingly, words and promises and analyses will be matched with the record and history that we can test them by.

Mr. President, may I address a remark to the majority leader?

Mr. MANSFIELD. Yes.

Mr. WILLIAMS. I know that there are others who have been scheduled to speak to unemployment here this morning.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time taken out of my time, if I have any.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, how much time is left, and to whom is it allocated?

The PRESIDING OFFICER. The Senator from New Jersey has until 11:36, which is about 8 minutes. The Senator from Massachusetts has 15 minutes, and the Senator from Alabama has 15 minutes.

Mr. MANSFIELD. I thank the Chair.

HALLMARKS OF THE LAST TWO ADMINISTRATIONS

Mr. KENNEDY. Mr. President, I have just returned from my home State of Massachusetts where there are more than 220,000 men and women receiving unemployment compensation. Another 70,000 have exhausted all unemployment compensation since January and are surviving entirely on welfare payments. Across the Nation, that situation is multiplied fifty-fold.

Those depressing statistics reflect a consistently irresponsible abdication of national leadership from this administration and its predecessor in economic policymaking.

Economic policies that produce welfare instead of work are the hallmark of this administration and its predecessor.

In my State and across this Nation, for every seven industrial plants operating at full capacity, there are three whose doors are closed. Instead of the sound of productive enterprise, there is silence, a silence that means lost production, lost earnings and lost revenues.

Those are the hallmarks of this administration and its predecessor. When the President should be leading the effort to put American workers back on the job, he is out leading us nowhere.

Instead of jobs and policies to provide those jobs, we have an administration that proposed a budget with nearly 8 percent unemployment for the entire year. Instead of an effective national commitment to the men and women who seek an opportunity to make their own way on the job, we have an administration that has forced the largest expansion in welfare payments in history. Men and women who want to work have not been given that chance.

They were not given that chance when the President vetoed the Emergency Housing Act a year ago.

They were not given that chance when the President vetoed the Emergency Public Works Act in February of this year.

And they still would not have any chance had we not overridden the President's second veto of a bare-bones job creation program 2 months ago.

At every congressional initiative to make jobs our No. 1 priority, we have an administration that wipes out that effort with a veto.

The line of Presidential abdication of economic leadership runs uninterrupted from the moratoriums and impoundments and high interest rates of Richard Nixon to the rescissions and vetoes and high interest rates of President Ford.

We can see the effects of those policies in the continued stagnation of our home building industry. In 1972, 2.6 million new housing starts were recorded. Within 2 years, it had dipped to less than 1 million and it still remains at under 1.4 million. Those 1.2 million housing starts that will not be registered this year translate into 2.4 million jobs that will not be available.

We can see the effects of those policies in the construction industry where plans for vital public facilities continue to gather dust. Commercial and industrial construction accounted for 1 million square-feet of building in 1972. This year it is down to barely half that total. And that translates into lost jobs as well.

We can see the effects of those policies on the balance sheet of the national budget as well. During the past 8 years, there was a total budget deficit of $173 billion, nearly three times the deficit of the previous 8 years. At no time in our history has any administration produced deficits of this magnitude.

Yet if the level of employment today were at the same level it was when the Republican administrations began in 1969, there would be no budget deficit this year. There would be a surplus.

For every percentage point of unemployment one can add $2 billion in Federal unemployment and welfare payments and one can subtract $14 billion in taxes that will never be paid. And for every percentage point of unemployment, one can count 1 million Americans whose frustrations and resentments are tearing at themselves, their families, and their communities.

We have attempted to reverse that sad tale. We have approved public works bills that would have produced 500,000 jobs. We have proposed public service jobs to employ 1 million workers in a targeted fashion so that the offsets in reduced welfare payments and increased taxes will cover 44 percent of the public service jobs programs. We proposed deeper tax cuts while the President was still asking for tax increases, and we have endorsed every effort to place a new priority on jobs.

Yet, the rhetoric and the actions of this administration continue to add men and women to the unemployment rolls. They continue to cost us jobs, revenues and vital resources. We cannot afford that loss or that lack of leadership. Nor can the American people. When the administration is not concerned with jobs, then it has failed in its responsibility to the American people and the American economy.

There is only one adequate answer to the failure of policy that this Nation has experienced. It is to replace that policy with one committed to full employment.

No single program is sufficient to achieve that goal, but there are a variety of mechanisms which have not been used, mechanisms which could substantially and quickly produce a decline in the unemployment rate, an increase in jobs, an increase in tax revenues, and a decrease in welfare payments.

The full employment legislation pioneered by the distinguished chairman of the Joint Economic Committee would place the Nation on a sure path toward that goal. The recent amendments refine and hone the concept of the original bill.

Among the actions that could yield substantial new jobs are policies to promote a revival of our housing industry with lower interest rates and more adequate funding for Federal housing subsidy programs.

In addition, the approval of the emergency public works appropriation and its signing into law, including the funds for countercyclical revenue sharing, can begin to impact on the numbers of unemployed.

Let me urge as well, as a key element of a policy of full employment, a targeted program of public service jobs. The conference committee considering the extension of the CETA title VI program has taken a major step in this direction by accepting the provisions of the Senate bill, which I sponsored on the floor and in the conference committee.

These provisions will require that additional jobs beyond the current level of some 300,000, including job slots made vacant through attrition, will be targeted on the most needy, those men and women who have exhausted unemployment insurance benefits. Those long-term unemployed from households with limited income, and those receiving welfare.

The result of this proposal will be to focus attention on those with the greatest need to be helped, to spread available resources equitably among the largest number of potential jobholders, and to insure the greatest offset in reduced Federal and State expenditures for unemployment insurance, welfare payments, and food stamps. When combined with additional tax revenues generated by the newly employed workers, the net cost of the program will be reduced sharply.

In fact, the congressional budget office has estimated that this program will produce a reduction in the total cost of employing these workers of 40 cents for every dollar expended.

This concept could be expanded tomorrow, and it should be, to permit an additional 1 million unemployed to be given the opportunity for worthwhile public service. It is clear that this administration would be unwilling to make that commitment to take 1 million of the current 8 million unemployed off the jobless rolls and permit them to do worthwhile work. I am hopeful that a new administration will make that commitment. It is a commitment to the basic right of men and women in this country for decent work at decent salaries.

The alternative to a commitment to full employment is to permit the current stagnation in our economy to continue. The alternative is to witness predictions of improvement and gleeful analyses of rosy futures when unemployment rates drop from 8.3 to 7.6 percent. And the alternative is to witness the strange silence when that rate creeps back up again to 7.9 percent.

Eight million Americans without work. Perhaps 2 million more who have dropped out of the work force from despair. Those are the results of the abdication of national economic leadership which considers jobs as an afterthought in its list of priorities.

The alternative to the jobs program we are recommending is to continue paying out rising sums for income maintenance without productive work and without any improvement in public services. The alternative is to watch fiscal pressures mount on local communities and local governments, pressures which force the purging of teachers, and policemen and firemen. And so the final consequence of the administration alternative is increased teacher-pupil ratios, and poorer education. The consequence of the administration alternative is fewer policemen on the beat, and less protection against crime. The consequence of the administration alternative—as we saw so tragically here in the District of Columbia recently—is fewer fire stations open and less protection of our homes and businesses.

Those are the consequences of this administration's failure to address the crisis of unemployment and they are unacceptable.

We are not fulfilling our most basic responsibilities to the American people if we fail to adopt meaningful steps to move the country toward full employment.

Thomas Jefferson wrote: "the care of human life and happiness and not their destruction is the first and only legitimate object of good government."

This administration's abdication of leadership in reducing unemployment has violated that precept. It is time to adopt a course of conduct that preserves human life and happiness. It is time to adopt a cause that promises full employment and delivers on that promise.

Mr. President, we also must consider, beyond the statistics and figures which I have mentioned here and which have been discussed this morning, the real human dimension of these figures.

Having just spent the last 10 days in traveling around my State of Massachusetts in a very intensive way, I can remember very well the woman who came up to me in White's Restaurant in Fall River and said she had been unemployed for some 12 weeks; her husband's take-home pay was $96; she had 5 children and how was she going to pay for those 5 children on $96? "What can you do, Senator? What can you do to get me a job?"

Or the young student who was working in the East Boston Shipyard, Bethlehem, who had been working there for only 7 days, and who had received his layoff slip the afternoon I was there. He wanted to work all during the fall session, so he could continue his education in Swarthmore College. He had been accepted there, he had worked his way through school. He was in his final term. He pointed out he had been hired for 7 days and was now being laid off. And in that period of time he had not even earned enough to pay for his work clothes and his union dues. What sense of hope was there for him and for his opportunity for a continued education?

These are not figures or statistics we are talking about. They are human beings. They involve individuals who want to work, who have skills to work, and who want to provide for their families; and the failure to take the human dimension into consideration is really the greatest tragedy of all.

We often talk about the cost in dollars and cents, both here on the floor of the Senate and in the committee rooms. We hear high administration officials talk about the problem of what it is going to cost to put people on job rolls rather than welfare rolls. Tragically, we usually fail to mention the extraordinary loss to human dignity, individual happiness and contentment, and family survival when we talk only about these statistics.

So, it seems to me, Mr. President, we ought to get about the business of this insuring a sound economic program for the Nation.

The most successful social program we can have in our Nation is a sound economy. We will not have the resources to meet our other human needs unless we get people back on the job rolls. There is an extremely important responsibility at the national level to meet this goal. We have seen it done at other times in our history. It was done during the period of the 1930's with bold fiscal and monetary policy. It was done again by Harry Truman in the period of 1945, 1946, and 1947 when millions of men and women were coming out of the Armed Forces of our country and going back to work in the plants and factories.

It was done in the early 1960's, when we began with a 7.5-percent unemployment rate, and were able to bring it down to 3 percent, at a time when we had an increase in the consumer price index of only 1 or 2 percent a year. We had economic growth and price stability, too. We were getting people off the unemployment rolls, off the welfare rolls and onto the job rolls. That is because we had bold national economic leadership.

There are complex issues we must tackle in meeting the challenges of unemployment and underemployment in our society today. But they can be met by using the instruments of power which exist in the executive branch and by working closely in Congress to help the economy achieve its real potential. That is the challenge which continues to exist today and which has gone unmet because of the chronic maladministration of our economic and fiscal policies in recent years. That is why the proposals which have been put forward by the chairman of the Joint Economic Committee are so compelling for our Nation's interests today.

I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Morgan). The Senator from Alabama is recognized for 15 minutes.

Mr. ALLEN. I thank the Chair.

THE SO-CALLED COMPROMISE ON THE ANTITRUST BILL

Mr. ALLEN. Mr. President, I ask unanimous consent that at the conclusion of my remarks there be printed in the Record, and in the following order, an editorial appearing in the Washington Post this morning; second, a letter dated September 10, 1976, signed by 11 House Members, a "Dear Colleague" letter going to all of the House Members; and, finally, a letter dated September 14, 1976, to the Honorable Robert McClory, a Member of the House of Representatives, from the senior Senator from Nebraska (Mr. Hruska), the distinguished Senator from South Carolina (Mr. Thurmond), and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. ALLEN. Mr. President, the Washington Post editorial to which I referred predictably contains errors of omission and commission and then downright misstatements. I will discuss at least two of these in the time that has been allotted to me.

In the first place, this editorial speaks of a compromise that was reached between several Senators and Representatives to do the work of the conference with respect to the antitrust bill. "Their compromise version of the bill went first to the Senate where," they say, "Mr. Allen predictably filibustered it again."

Mr. President, there was no compromise. There were no Members of the Senate who had authority to represent the Senate; there were only three Members who were strong supporters of this legislation, and they had no authority to represent the Senate as a body. As a matter of fact, if the writer of the Washington Post editorial had bothered to read the Congressional Record of September 2, 1976 he would have read speeches by Mr. McClory and Mr. Railsback to the effect that there was no compromise, and that the position suggested by those Members of the House who did submit their proposal, that suggestion by those Members of the House was completely disregarded by the Senate Members in drafting their amendment to the antitrust bill.

As a matter of fact, the Members of the House, in their letter which I have asked to be printed in the Record, refer to this compromise as a counterfeit compromise, because the House Members said that their position was—and these positions had been approved by overwhelming majorities there in the House—that the bill must contain not treble damages in parens patriae cases, but that it must be single damages if the defendant acted in good faith.

Next, the House prohibition against contingent fees for attorneys in stirring up this type litigation must be eliminated. The Washington Post speaks of this contingency fee basis having been ruled out by the Senate version. We have only to refer to the letter of the House Members to see that the contingency fees have not been ruled out by the Senate provisions.

They say, and I will read from the letter, that it is obvious that the Senate ban is no ban at all.

Mr. President, the Washington Post says that the House—and they are going to act on this matter today, I believe—must take the Senate version or else the bill is killed. That is just a misstatement, Mr. President.

The letter that Mr. Hruska, Mr. Thurmond, and I have written, which has wide distribution in the House, is to the effect that if the House will amend the Senate amendment on the antitrust legislation, H.R. 8532, and return to the House provisions, which the House Members demanded, and which the three Members from the Senate supporting this legislation ignored, ignored their demand and palmed this amendment off as being a compromise—which it was not—but if they will return to the House provision and send it back over here to the Senate, as far as Senator Hruska, Senator Thurmond, and myself are concerned, there would be no further discussion; and we are making that proposal.

So it is not a case of the bill being dead if it is amended over there in the House, but there will be no extended discussion if it comes back to the Senate.

Mr. President, I wish to comment briefly on the inaccuracies in this Washington Post editorial. I point out that if they will just go to the House provision on these two points and not seek to palm off as a compromise something that was not a compromise, and that was not agreed on by the House, then we would have no difficulty whatsoever in seeing the passage of this bill.

Even if extended discussion were resorted to here in the Senate—and there is no indication whatsoever that it would be; the three of us have stated unequivocally there will be no further discussion if they will just go back to the House language in these particulars—but even if there were an extended discussion, with what we are doing here in the Senate now, there is no speedup. We are moving at a leisurely pace. We come in at 10:15, have some general talk, and adjourn about 5 or 6.

So there is no logjam of legislation. I predict we are going to be looking for things to do here in the Senate. Yet they say they cannot amend this bill over there in the House because if they amend it, it would kill it. That is scare tactics certainly are not justified by the facts.

I resent the Washington Post presenting this false picture of the situation and referring to a compromise which was not a compromise and which was alluded to by the House Members as a counterfeit compromise.

The Washington Post in a very long editorial takes no note of the fact that the House Members say it was not a compromise. They just baldly say that there was.

So this type of inaccuracy, when we are considering important legislation, is certainly not serving the public interest. Trying to stampede the House into taking action that the Washington Post wants the House Members to take certainly is use of methods that I do not approve of.

They owe a duty to the public to state the facts as they are, not to misstate the situation.

If they will return to the position demanded by the House, if they will merely do that, and send the bill back to the Senate for agreement, I suggest it would be agreed to in 30 minutes' time.

Yet the Washington Post contends if they amend it in the slightest particular, the bill is dead. The bill would not be dead, and the Washington Post knows it.

If they do not know it, they have not bothered to check into the facts.

So I resent this type of action by the media. I am not surprised that they are critical of me, but when I am stating if they do amend it, as it should be amended, and that there will be no discussion over here, I think it is a little bit unfair for them to say that if there is just the slightest bit of amendment to the bill over in the House, the bill is dead.

The bill will not be dead. There is plenty of life in it, if it will just be amended as the House has been insisting all along and as they have demanded by separate votes on these two issues.

So we are not asking the House to do anything that they have not already done before, and that that the House Members have not agreed to do in overwhelming separate votes.

But I hope that the Members of the House will follow the suggestion of Mr. McClory. He asked Senator Hruska, Senator Thurmond, and me to give them this letter that we would not discuss the matter further if they amended the bill in these particulars.

The letter has been written, those assurances have been made, and if we want to get the bill in the shape that the House has demanded all along, if they will amend it over in the House, the Senate will quickly agree to it, or quickly act on it, so far as the Senator from Alabama and those associated with him in this endeavor are concerned.

I am hopeful that later on in the day the House will accede to the request of these 11 House Members.

On these two matters—the treble damages and the contingency fees for attorneys that would cause stirring up these suits of harassment—if the House provisions are gone back to, the Senate, I feel sure, will accept it.

Certainly, Mr. Hruska and Mr. Thurmond and I will not do anything to prevent the Senate acting on the amendments if these two amendments—and these two amendments only—are added in the House.

Mr. President, I yield back the remainder of my time.

EXHIBIT 1

PENALTIES FOR PRICE FIXING

The antitrust bill is once again in peril. That's to be expected. The subject is complex, time is running out, and the opposition is fierce. It's coming mainly from people like Sen. James Allen (D-Ala.) and Sen. Roman Hruska (R-Neb.), who favor competition in principle but find that, in practice, a little of it goes a long way. The bill has attracted their attention for the very good reason that it would make price-fixing much more dangerous—particularly in consumers' goods.

The bill now hangs on one take-it-or-leave-it vote in the House, within the next day or so. If the House passes the bill as it stands, it will go directly to the President's desk. If the House changes the bill in any respect, however minor, it will be dead. The reason is the intemperate and intransigent opposition in the Senate, where a small number of members, led by Mr. Allen, have promised to filibuster it once again.

They filibustered the bill on its original passage. The filibuster was broken, but that took much time and effort. The House moved the legislation along in somewhat different form, as usual, and normally there would have been a conference to reconcile the differences. But that would have given Sen. Allen &. Co. two more opportunities to filibuster, once on the naming of the conferees and again on their report. Majority Leader Mike Mansfield made it clear to the bill's sponsors that the Senate could afford the time to break one filibuster but not two. It is the old story. The approaching end of the session strengthens every dilatory and obstructive tactic.

Several senators and representatives met informally last month to do the work of a conference. Their compromise version of the bill went first to the Senate where Mr. Allen predictably filibustered it again. The filibuster was broken, and the bill passed, by large majorities. Now the bill goes to the House. Since any amendment at all would send it back to the Senate and further extended discussion by Mr. Allen and his friends, the practical choice is between the bill in its present form and nothing. The bill has been greatly refined over the past half-year of debate, and would constitute a valuable addition to national economic policy.

It contains a number of improvements in the administration of the antitrust laws. But its largest contribution would be an altogether new method of assessing damages. Consider the dozens of commodities—gasoline, milk, bread, soda pop—that everybody buys continually in small quantities. A conspiracy to fix prices might add only a fraction of a cent to the price, yet bring millions of dollars to the perpetrators. Under present law, the public has no practical way to recover damages. Who keeps the receipts for a year's purchases of bread? Even if a suspicious customer began collecting receipts, they would never add up enough money to justify a long and difficult lawsuit. The conspirators would risk being convicted of a crime, but it would be almost impossible to make them return the proceeds of this crime to consumers. The antitrust bill changes that. It would permit a state to hire a lawyer and sue in behalf of its citizens, assessing damages by economic estimation. If the conspiracy had raised the price of soda by half a cent per can, the damages would be computed simply by multiplying the number of cans sold, during the life of the conspiracy, by half a cent. Full restitution would suddenly become a real possibility.

The bill has been narrowed considerably in recent months to meet some of the objections to its original language. Some antitrust violations are less precisely defined than others. The new assessment procedure would be limited to cases of price-fixing, the clearest of antitrust offenses. Many businessmen also feared the effects of contingent fees in which the lawyer takes a percentage of the damages as his fees. Fees running up to a third or a half of the damages would act as a bait, they argue, to create a whole new legal industry and generate a flood of dubious suits. In response to this objection, the managers of the bill have explicitly ruled out fees based on a share of proceeds.

Stronger antitrust enforcement is a weapon against inflation. The bill deserves the votes of those congressmen who believe in open markets and greater competition in the American economy.

EXHIBIT 2

SEPTEMBER 10, 1976.

DEAR COLLEAGUE: Very shortly you will be asked to vote on a motion to concur in the Senate substitute amendment on the antitrust bill, H.R. 8532. We vigorously object to this procedure because it deprives the House of the opportunity to amend the Senate amendment to reinstate the House position on two critical issues. Under the present parliamentary situation, further House amendments can only be made in order under a resolution reported from the Rules Committee.

We are more than displeased with the way this bill was handled. Having been denied the conference which the House requested, the House "conferees" were requested by Senate managers to draft a compromise proposal which both Houses could accept. The House conferees prepared such a proposal, but Senate managers changed the proposal over objections of the House conferees and then apparently sold the counterfeit compromise to the Senate as something "the House" had agreed to.

When Mr. McClory and Mr. Railsback protested that no House member, to their knowledge, had agreed to the provisions of the Senate substitute (see *Congressional Record*, September 2, 1976, pages 28936 and 29032), certain Senators expressed their dismay. Thereupon, the Senate floor manager of the bill assured his colleagues that the substitute contained "the provisions we were advised could be accepted on the House floor without going to conference". *Congressional Record*, September 7, 1976, page 29147. Apparently, someone winked at the Senate's deletion of two very important safeguards in the House parens patriae title concerning contingency fees and the aggregation of damages. At this critical juncture, we were never consulted.

First, it should be recalled that by a record vote of 217–167, the House, on March 18, 1976, rejected an attempt to water down the absolute ban on contingency fees for private attorneys. The Senate substitute would ban only "percentage" contingency fees but would permit other arrangements. It is obvious that the Senate ban is no ban at all. The fee arrangement could be expressed as "$100 an hour if plaintiff prevails, $0 an hour if plaintiff loses", perhaps with a proviso that the total not exceed a certain percentage.

Second, it should be recalled that by a record vote of 220–171, the House agreed to an amendment limiting the aggregation of treble damages to cases of wilful price-fixing and also agreed to provide only single damages where the violation was in good faith. The Senate substitute drops both of these provisions.

We believe that these two issues are the two most significant issues in the entire bill. The motion to concur would contradict the House position on both counts.

We do not believe that the House has changed its mind. We believe that the House should have an opportunity to adhere to its position. In order to do this, it will be necessary to vote in favor of a motion to refer the matter to the Rules Committee for a rule permitting the House to amend the Senate amendment.

On that vote, we ask your support.

Sincerely,

Edward Hutchinson, Robert McClory, Tom Railsback, Charles E. Wiggins, Hamilton Fish, Jr., Carlos J. Moorhead, Bill Cohen, M. Caldwell Butler, Henry J. Hyde, Thomas N. Kindness, and John M. Ashbrook.

EXHIBIT 3

SEPTEMBER 14, 1976.

Re: H.R. 8532—the Antitrust Amendments Bill.

Hon. ROBERT MCCLORY,
House of Representatives,
Washington, D.C.

DEAR MR. MCCLORY: We are hopeful that the House will amend the Senate Amendment to the House Amendment to the Senate Amendment to H.R. 8532, the Antitrust Amendments Bill, by striking out the Senate Amendment's provisions on trebls damages in parens patriae proceedings and on contingency fees and inserting in lieu thereof the provisions contained in the bill as passed by the House, allowing only single damages where the defendent acted in good faith and using the House language on contingency fees.

From statements which you and Mr. Railsback made in the House, the Members of the House who consulted with Senate Members on a so-called compromise insisted that any compromise reached should contain these provisions as passed by the House. Since the Senate Amendment to the House Amendment to the Senate Amendment did not contain the House language on these two points it is understandable that the House would not wish to accept the provisions of the bill which is now before the House for action.

In an effort to shape the bill in a manner to correspond with the House position on these two points, we wish to assure you that if the House does strike the Senate language and sends the bill back to the Senate, so amended, we will not debate the matter further and will urge the Senate to bring the bill to a vote as finally amended by the House in the manner set forth above.

It is our judgment that the bill, amended as suggested, would encounter no further difficulty in coming to a vote in the Senate and we would work in good faith to see that such result ensues.

Respectfully submitted,

ROMAN L. HRUSKA,
STROM THURMOND,
JAMES B. ALLEN,
U.S. Senators.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

REFERRAL OF S. 3662

Mr. **WILLIAMS**. Mr. President, I ask unanimous consent that when the Committee on Labor and Public Welfare reports S. 3662, the Railway Retirement Act amendments, the bill be referred to the Committee on Finance until September 24, 1976.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORTS

Mr. **WILLIAMS**. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have until midnight Friday, to file the report on S. 3662, a bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes, and the report on Senate Joint Resolution 213, to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL AGREEMENT WITH POLISH PEOPLE'S REPUBLIC— MESSAGE FROM THE PRESIDENT

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States which was referred jointly, pursuant to law, to the Committee on Commerce and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94–265; 16 U.S.C. 1801), I transmit herewith a governing international fishery agreement between the United States and the Polish People's Republic, signed at Warsaw on August 2, 1976.

This Agreement is significant because it is the first to be negotiated in accordance with that legislation. I recommend the Congress give favorable consideration to this Agreement at an early date. I further recommend that, in the event 60 calendar days of continuous session as required by the legislation are not available before March 1, 1977, the Congress consider issuance of a joint resolution in order to bring this Agreement into force by that date.

GERALD R. FORD.

THE WHITE HOUSE, *September 16, 1976.*

MESSAGES FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

The message also announced that the House has passed the bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 9811) to designate the Veterans' Administration hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital," and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 327. An act to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

S. 3283. An act to authorize various Federal reclamation projects and programs, and for other purposes.

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

H.R. 9811. An act to designate the Veterans' as the "William S. Middleton Memorial Veterans' Hospital", and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:38 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, and that the House recedes from its disagreement to the amendment of the Senate numbered 35 and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 751) making corrections in the enrollment of H.R. 10612.

At 5:38 p.m., a message from the House of Representatives by Mr. Berry announced that, on reconsideration by the House and two-thirds of the Members agreeing, the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, was passed, the objections of the President notwithstanding.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 522) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

The message also announced that the House insists upon its amendments to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. EDWARDS of California, Mr. CONYERS, Mr. MANN, Mr. DANIELSON, Ms. JORDAN, Ms. HOLTZMAN, Mr. MAZZOLI, Mr. HUGHES, Mr. HUTCHINSON, Mr. MCCLORY, Mr. WIGGINS, and Mr. Butler were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendment to the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Haley, Mr. Taylor of North Carolina, Mr. Meeds, Mr. Stephens, Mr. Risenhoover, Mr. Young of Alaska, and Mr. Johnson of Colorado were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Brooks, Mr. Fountain, Mr. Fuqua, Mr. Mezvinsky, Ms. Jordan, Mr. John Burton, Mr. Drinan, Mr. Horton, Mr. Wydler, and Mr. Brown of Ohio were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 14846) to authorize certain construction at military installations, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendments of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The **PRESIDING OFFICER** laid before the Senate the following letters, which were referred as indicated:

Report of the Office of Management and Budget

A letter from the Deputy Director of the Office of Management and Budget reporting that the appropriation to the Department of Agriculture for Agricultural Marketing Service, for the fiscal year 1977, has been apportioned on a basis necessitating a supplemental estimate of appropriations; to the Committee on Appropriations.

Report of the Defense Civil Preparedness Agency

A letter from the Director of the Defense Civil Preparedness Agency transmitting a report of Financial Contributions Program, Equipment and Facilities for the fiscal year ending June 30, 1976 (with an accompanying report); to the Committee on Armed Services.

Report of the Secretary of Commerce

A letter from the Secretary of Commerce transmitting a report on the relative cost of shipbuilding in the various coastal districts of the United States (with an accompanying report); to the Committee on Commerce.

Report of the Defence Civil Preparedness Agency

A letter from the Director of the Defense Civil Preparedness Agency transmitting a report of financial contributions to the States, Personel and Administration, for the fiscal year ending June 30, 1976 (with an accompanying report); to the Committee on Armed Services.

Response of the Mayor of the District of Columbia

A letter from the Mayor of the District of Columbia transmitting a copy of his response to the Comptroller General's report entitled "What Can Be Done To Improve the Management of Money and Staff? District of Columbia Public Schools" (with accompanying papers); to the Committee on the District of Columbia.

Act Adopted by the Council of the District of Columbia

A letter from the Chairman of the Council of the District of Columbia transmitting a copy of an act adopted by the Council relating to condominiums (with accompanying papers); to the Committee on the District of Columbia.

Proposed Legislation by the Department of the Interior

A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation for authorization of appropriation for rehabilitation and resettlement of Enewetak Atoll (with accompanying papers); to the Committee on Interior and Insular Affairs.

Environmental Impact Statement of the GSA

A letter from the Commissioner of the Public Buildings Service and the Public Printer, Government Printing Office, transmitting a copy of the final environmental impact statement for the proposed Government Printing Office Relocation Project (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Legislation by the Veterans Administration

A letter from the Administrator of Veterans' Affairs transmitting a draft of proposed legislation with respect to the protection of certain officers or employees of the United States (with accompanying papers); to the Committee on the Judiciary.

Report of the National Mediation Board

A letter from the Chairman of the National Mediation Board transmitting the annual report of the Board including the report of the National Railroad Adjustment Board (with accompanying reports); to the Committee on Labor and Public Welfare.

Appropriation Request of the Federal Election Commission

A letter from the Chairman of the Federal Election Commission transmitting an appropriation request for fiscal year 1978 in the amount of $8,125,000 (with accompanying papers); to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

With an amendment:

H.R. 12961. An act to amend the Social Security Act to repeal the requirement that a State's plan for medical assistance under title XIX of such act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services (title amendment) (Rept. No. 94–1240).

By Mr. HRUSKA, from the Committee on the Judiciary:

S.J. Res. 173. A joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976, as "National Port Week" (Rept. No. 94–1241).

By Mr. TALMADGE, from the Committee on Agriculture and Forestry:

S.J. Res. 214. An original joint resolution to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices (Rept. No. 1242).

By Mr. STAFFORD (for Mr. Hartke), from the Committee on Veterans' Affairs:

With an amendment:

S. 969. A bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from thirty-six to forty-five months (title amendment) (Rept. No. 94–1243).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

Without amendment:

H.R. 589. An act to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands (Rept. No. 94–1244).

By Mr. McCLELLAN, from the Committee on the Judiciary:

With amendments:

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes (Rept. No. 94–1245).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

S.J. Res. 213. An original joint resolution to provide temporary authority for qualified individuals to hear and determine claims under Title IV of the Coal Mine Health and Safety Act of 1969, as amended (Rept. No. 94–1247).

With an amendment:

S. 3663. A bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes (Rept. No. 94–1246). Referred to the Committee on Finance.

By Mr. HRUSKA, from the Committee on the Judiciary:

Without amendment:

H.R. 4654. An act for the relief of Day's Sportswear, Incorporated (Rept. No. 94–1248).

H.R. 11149. An act to amend section 2 of the Act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution" (Rept. No. 94–1249).

By Mr. JOHNSTON, from the Committee on the Interior and Insular Affairs:

With amendments:

S.J. Res. 181. A joint resolution to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes (Rept. No. 94–1250).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 535. A resolution for waiving section 402(c) of Public Law 93–344 (Rept. No. 94–1251).

S. Res. 546. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3800 (Rept. No. 94–1252).

By Mr. ALLEN, from the Committee on Agriculture and Forestry:

Without amendment:

H.R. 10073. An act to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes (Rept. No. 94–1253).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare:

With an amendment:

H.R. 10760. An act to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such Act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes (Rept. No. 94–1254). Referred to the Committee on Finance.

By Mr. ALLEN, from the Committee on Agriculture and Forestry:

S. Res. 552. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10073. Referred to the Committee on the Budget.

By Mr. GRAVEL, from the Committee on Public Works:

S. 3823. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes (Together with supplemental views) (Rept. No. 94–1255).

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Without amendment:

S. 3688. A bill to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes (Rept. No. 94–1256).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. marshal for the middle district of Louisiana.

Frank J. Violanti, of Illinois, to be U.S. attorney for the district of the Canal Zone.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Sidney M. Aronovita, of Florida, to be U.S. district judge for the southern district of Florida.

Peter T. Fay, of Florida, to be U.S. circuit judge for the fifth circuit.

W. Eugene Davis, of Louisiana, to be U.S. district judge for the western district of Louisiana.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Col. Emmett H. Walker, Jr., U.S. Army Reserve, for promotion to brigadier general in the Reserve of the Army and in the Army of the United States; Maj. Gen. John P. Flynn, U.S. Air Force, to be lieutenant general; and Maj. Gen. George H. Sylvester, U.S. Air Force, to be lieutenant general; and Lt. Gen. John W. Vessey, Jr., U.S. Army, to be appointed to the grade of general. Also, Lt. Gen. Frederick J. Kroesen, Jr., U.S. Army to be appointed to the grade of general; and Maj. Gen. David E. Ott, U.S. Army to be appointed to the grade of lieutenant general; and Lt. Gen. Herron N. Maples, U.S. Army, to be placed on the retired list in the grade of lieutenant general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, Mr. President, there are 43 in the Air Force for promotion to 1st lieutenant—list beginning with John G. Albert—and 2,752 in the Air Force for promotion to lieutenant colonel and below—list beginning with Thomas G. Abbey—and 880 in the Army for promotion to colonel—list beginning with Albert Abraham, III). Also, there are 348 in the Navy and Naval Reserve for temporary promotion to the grade of captain—list beginning with Robert H. Ailes—and 44 in the Navy for permanent and temporary promotion to commander and below—list begins with Robert E. Nisbet—and 284 in the Navy for permanent promotion to the grade of lieutenant—list beginning with Roger L. Avant. Also, there are 400 in the Marine Corps for temporary and permanent appointment to the grade of lieutenant colonel and below—list beginning with James M. Chance. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 1 and September 7, 1976, at the conclusion of the Senate proceedings.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 16, 1976, he presented to the President of the United States the following enrolled bills:

S. 327. An act to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

S. 3283. An act to authorize various Federal reclamation projects and programs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 3821. A bill to amend the Civil Defense Act of 1950 to clarify the policy and intent of Congress under such act with respect to preparedness at the State and local levels for disasters other than disasters caused by an enemy attack, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BROCK:

S. 3822. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the armed forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict. Referred to the Committee on Finance.

By Mr. GRAVEL, from the Committee on Public Works:

S. 3823. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Placed on the Calendar.

By Mr. HATHAWAY:

S. 3824. A bill to repeal certain statutes prohibiting suits against ministers and their domestics;

S. 3825. A bill providing that the United States shall be deemed liable in the case of any judgment levied by any court against any diplomat against whom a recovery of damages is statutorily not allowed; and

S. 3826. A bill to establish within the Department of State an Assistant Secretary for Claims Against Foreign Ministers and Diplomats; to award just compensation for such claims; and for other purposes. Referred, by unanimous consent, to the Committee on Foreign Relations; and if/when reported by that committee, to the Committee on the Judiciary.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

S.J. Res. 213. An original joint resolution to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended. Placed on the Calendar.

By Mr. TALMADGE, from the Committee on Agriculture and Forestry:

S.J. Res. 214. An original joint resolution to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices. Placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROCK:

S. 3822. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the Armed Forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict. Referred to the Committee on Finance.

Mr. BROCK. Mr. President, today I am introducing legislation extending for 2 years certain provisions of the Internal Revenue Code of 1954 relating to individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict.

This measure would extend the January 2, 1977, deadline until January 2, 1979, for the purpose of first, extending the date a surviving spouse may take advantage of the special rule pertaining to joint income tax returns for surviving spouses; second, excluding from gross income the military compensation of members of the Armed Forces serving in Vietnam or hospitalized as a result of the Vietnam conflict; third, extending for 2 years the period during which the death of a missing serviceman results in the forgiveness of income taxes for the years after the individual first served in Vietnam; fourth, extending the time period that the spouse of a missing serviceman may elect to file a joint return; and fifth, providing the spouse of an MIA an extension of time to perform certain acts, such as the filing of tax returns and the paying of taxes, that are postponed by reason of the Vietnam conflict.

I understand that as of July 31, 1976, there were 795 military personnel and 26 civilians still in a missing status. It is clear that final status determinations will not be made on all of these individuals before January 2, 1977. Thus, it is imperative that this legislation be enacted during the remaining days of the

94th Congress. I urge that my colleagues support this measure.

By Mr. HATHAWAY:

S. 3824. A bill to repeal certain statutes prohibiting suits against ministers and their domestics;

S. 3825. A bill providing that the United States shall be deemed liable in the case of any judgment levied by any court against any diplomat against whom a recovery of damages is statutorily not allowed; and

S. 3826. A bill to establish within the Department of State an Assistant Secretary for Claims Against Foreign Ministers and Diplomats; to award just compensation for such claims; and for other purposes. Referred, by unanimous consent, to the Committee on Foreign Relations; and if/when reported by that committee, to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, the doings of diplomats in the city are frequently the subject of comment between interested observers of the political, social, and cultural contributions which foreign ministers and their governments make to our Nation and to the life of its Capital.

Because of their unusual status—the representatives of a government living in official capacity in another country—diplomats have long been granted varying degrees of immunity from the process and remedies of the laws of the country in which they are conducting diplomatic business.

It makes sense to grant diplomatic immunity because one can then reasonably request it on behalf of one's own nationals doing diplomatic duty abroad.

Our own diplomatic immunity statute dates back to 1790—the first Congress—and it grants immunity that includes civil and criminal matters and is virtually unlimited in its scope.

But immunity itself is not the problem. That occurs when a U.S. citizen is negligently injured by a foreign diplomat who refuses to make restitution for the damage he has done.

Under the umbrella of diplomatic immunity, there is no remedy for the injured American.

There is something alarming to the American mind that an injury—a wrong—cannot only go unrectified but its very wrongness is expressly condoned by force of a law which also prohibits any remedy other than falling back on one's own resources. In a sense, our present statute provides only for head-to-head combat between a private citizen and a foreign state in the streets, but bars the parties from repairing the damage in court.

While most Americans concede the need for such special protection and privilege for foreign ministers, it is obviously a very unpleasant situation to be the victim of an automobile accident for which a diplomat was at fault and who refuses to compensate the victim's damages. It is, for example, a criminal offense even to file suit in such a case.

Obviously, we need some system of justice to fit these circumstances. I do not wish to leave the impression that all foreign ministers in the United States fail to pay their bills or refuse to compensate their tort victims.

The truth of the matter is that only a few cases arise in which foreign governments long tolerate the refusal of their representation to live up to their obligations in the United States.

But persistent problems do recur. Automobile negligence, unpaid bills, and broken leases, not to mention parking violations and occasional serious breaches of criminal law, can be found in a group of newspaper articles which I have collected and for which I shall ask unanimous consent that they be printed at the end of my remarks. In particular I would note the instructive summary of the problem and description of an especially horrifying abuse of diplomatic immunity contained in an article which appeared in Potomac magazine on January 11, 1976.

It is my hope that the Committee on Foreign Relations will examine our policy and our law of diplomatic immunity with a view toward reporting a measure which will remove the burden of this privilege from the backs of victimized American citizens.

Toward that end, Mr. President, I now introduce several bills which contain a variety of solutions for the committee's consideration.

The first bill is the simplest. It abolishes diplomatic immunity.

The second bill makes the United States the party liable for damages in actions which, if brought against an ambassador, now are deemed void.

The third bill establishes in the Department of State an Assistant Secretary for claims against Foreign Ministers and grants to him the authority to award just compensation for such claims, paid by the United States.

I realize that any change in our own diplomatic immunity statute may give rise to new treatment of our officials abroad. But this need not deter us from moving on the problem as much as it should aid us in seeing the full dimensions of this troublesome matter.

Mr. President, I ask unanimous consent that the Potomac article which I have already mentioned, plus a half dozen newspaper stories on Americans' involvements with foreign diplomats, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEVILISH DEMAND OF DIPLOMATIC IMMUNITY

(By Kenneth Turan)

The police report calls April 20, 1974 a clear day, and Dr. Arthur Rosenbaum, chief of adult medicine at Group Health, had nothing special on his mind as he drove himself and his wife to work that morning. He was going south on 34th Street, NW, and had just about crossed Garfield Street when, at 7:35 a.m., it happened.

A 1970 Toyota, driven by Alberto Watson-Fabrega, cultural attache at the Panamanian embassy, going west on Garfield, ran a red light and smashed broadside into Rosenbaum's car, sending it into a tree. Watson-Fabrega suffered multiple fractures and minor head lacerations and spent less than a week in the hospital, as did Dr. Rosenbaum with a ten-inch scalp laceration, four fractured ribs, and a still painful vertebrae compression fracture. But for his wife, Dr. Halla Brown, things were not quite that simple. Because that small moment in time has turned her life into a tortuous nightmare from which she has yet to fully emerge.

Dr. Brown was a clinical professor of medicine at George Washington University and chief of its allergy clinic, a vibrant woman admired by her coworkers and patients. The impact of the crash, however, damaged her spinal cord between the fourth and fifth vertebrae, paralyzing all the nerves from the neck down and leaving her a quadriplegic, with no use at all of her body below the limited functioning of her shoulders. She spent the next 19 months in hospitals both in Washington and New York at a cost of more than $200,000. And when she finally did return home, it was as if her problems were just beginning.

Because of financial and logistical difficulties, the Rosenbaums were forced to sell their house and move into a specially renovated apartment. Dr. Brown must have round-the-clock nursing at a cost of $114 per day. "She'll have to have it for the rest of her life," says her husband. "She can't be left alone for a minute." She is prone to pneumonia, prone to urinary infection, and is subject to great fluctuations in blood pressure, which means she must always sit in a wheelchair with her legs completely up, strapped like a mummy with ace bandages from her feet to her abdomen, always ready to be physically tilted backwards should her pressure suddenly drop.

The right side of her face constantly sweats, her left arm from the shoulder to the elbow is hypersensitive and can't bear even the touch of a piece of clothing.

In one way, though it seems heartless to use the word, the Rosenbaums were fortunate. Because they are doctors, she was adequately insured and also was not charged for doctors' services that would have added tens of thousands of dollars to her bill. But insurance runs out, and at the very least, says her lawyer Arthur Feld, with staggering expenses extending into the indefinite future, "she should not have financial cares on top of physical cares." If Watson-Fabrega had been an American citizen, he could have been sued. "Here was a woman who was at the top of her profession and boom, it's cut off," says Feld. "You have loss of earnings, loss of earning capacity, pain and suffering, loss of enjoyment of life. None of this is covered by insurance."

Yet, even though the police report clearly indicates that he was in the wrong, nothing ever happened to Alberto Watson-Fabrega, now back in Panama, having been recalled by his country close to a year after the accident. He never personally communicated with the family, though the Panamanian embassy did make contact, if only to indicate, says her husband, still close to tears when he talks about it, that "they were very sorry. The ambassador was very nice. I won't go into that." As far as offering to pay for some of the damages, however, all that was forthcoming was a letter from counsel saying, says Feld, "that the ambassador does not plan to make any offer of indemnification."

And so the matter stands; except for the possible passage of a private bill in Congress asking the government to compensate Dr. Brown, she and her attorney are up against a stone wall. Because, as Panamanian cultural attache, Watson-Fabrega was covered by a concept known as diplomatic immunity, which means in this case he cannot be sued, cannot be entangled in any way in the laws of the country in which he lives or be held responsible for their violation. So attorney Arthur Feld, who wasn't even allowed to collect on the Rosenbaum's own uninsured motorist's coverage because of this, can only sigh and say, "There is a big difference between law and justice."

"WHO NEEDS IT?"

Hampton Davis winces and goes a bit pale when Dr. Halla Brown, obviously not his favorite topic, comes up in conversation. "We are extremely distressed about that," he says, his voice discreetly lowered, but almost immediately adds, "I don't want to sound that callous, but throughout society there are wrongs that have no remedy. And we don't want to harden sentiment against diplomats." All too often, he says, allowing himself to sound a bit cranky, he has given interviews about diplomatic immunity only to find "things have not come out with the shadings I had put in. It was like 'It's time to do another article on diplomats and their sins.' Well, who needs it?"

A cautious, pinstripe-suited veteran of nearly 25 years in the State Department, Davis has for the last five been assistant chief of protocol for special protocol services, which means among other things that he is responsible for seeing that the embassies' "P's and I's," the privileges and immunities provided under international law, "are assured them on as smooth a basis as possible. We try to be a mediator between the community and diplomats, a floating gear that smooths out these situations."

"These situations," remembers Milton Mitchell, who had Hampton Davis' job between 1950 and 1964 and now teaches a course in diplomatic and consular law at George Washington, "can cover a boggling variety of complaints.

"One chap from an African country didn't understand how stoves worked," he remembers, "so he built a wood fire on the linoleum kitchen floor. You can imagine the landlord complaining about that.

"Then there was the ambassador who didn't like to pay bills. He kept a revolver in his desk drawer and when someone would come to collect he'd just hold it up and yell 'Get out!'

"And some countries have religious problems. They rent a place and they won't kill the roaches, they won't step on them because they might be stepping on their grandfather. So you have roaches running up and down the walls, you can't even see the wall, I'm not kidding, it's solid roaches. And the landlord is saying, what can I do with these people, they claim diplomatic immunity."

Items like these cause Professor William O'Brien, chairman of Georgetown's department of government and a teacher of international law for twenty-five years, to admit diplomatic immunity means "we're sacrificing the American citizen for U.S. foreign relations." Hampton Davis, however, has another perspective. "It is unfortunate that people so often look on immunity as an irritant," he says in his measured way. "They look on things from a personal point of view. It's a question of whose ox is being gored, and they don't have the background on how it came about. It's a special, privileged status that has a very solid historical basis. It's been documented in the Bible, it's been necessary from time immemorial."

Most simply, diplomatic immunity means that those who have it are free from all judicial processes in the country in which they live. It protects them, writes one authority, "from the consequences of acts which, if commited by ordinary citizens, would result in the application of penal sanctions." The worst that can happen to a miscreant is that the host country will declare him persona non grata and order his departure, something that generally happens only to wartime spies. Diplomats have total freedom from arrest for criminal acts, and are free from the possibility of civil lawsuits as well. To enforce this, U.S. law provides for a maximum sentence of three years in jail and a possible fine for anyone who attempts to sue or criminally prosecute a diplomat.

Just how tough things can be on those who ignore immunity is demonstrated by a 1935 case in Elkton, Md., cited in all the classic texts. In November of that year, Iranian ambassador Ghaffar Khan Djalal and his chauffer were arrested for speeding in Elkton by two policemen who jumped on the running board of the ambassador's car. When he protested and resisted he was, as might be expected, handcuffed and hauled off to the police station, where he was released after identifying himself and paying 75 cents costs. The arresting policemen, however, were not so lucky, for the ambassador officially protested, which meant that after both Secretary of State Cordell Hull and the governor of Maryland formally apologized, the two officers were dismissed from the force, tried for assault and substantially fined. A word to the wise.

BLUE LIST, WHITE LIST

Diplomatic immunity is given the force of international law by the 1961 Vienna Convention, which well over 100 nations have signed, as well as, in the United States, by a specific statute enacted way back in 1790. It covers, in Washington, diplomats and employees of 130 nations, plus assorted international organizations, totalling about 6,000 people, plus their families, which means a rough estimate of more than 20,000 souls, none of whom are even permitted to waive their immunity without permission from higherups.

In addition to their other privileges, these people do not have to pay sales or excise taxes, they do not have to testify in court, and even their corpses, according to various legal precedents, are protected against inquests. Other interesting judicial wrinkles have held that wives living apart from husbands are still immune, but that a first secretary of the British embassy had to pay a $1.62 late charge on his water bill because it was not a penalty but an encouragement to prompt payment, and that the Guatemalan ambassador to Belgium had no immunity in this country and thus could be arrested as part of large-size heroin smuggling operation.

One of the unfortunate oddities of immunity is that while all countries recognize its existence, all do not apply it in the same way. As an international commission on the subject noted, "there is no uniformity in the practice of states in deciding which members of the staff of a mission shall enjoy privileges and immunities." In certain European countries, in addition, a line is usually drawn between acts performed in official capacities and private matters, like paying bills, a line which the United States does not draw. In fact the U.S. is one of the, if not the, most lenient nations in the world when immunity is concerned. "These people know," says a man who has dealt with diplomats, "they talk at parties, 'They won't do a thing to you around here.'" Adds a lawyer, "We let some of these dudes get away with murder."

Part of the reason America is more lenient than the rest of the world is that the language of our 1790 statutes, still in effect, is looser than that of the Vienna Convention. Take for example the two lists of immune personnel the State Department puts out, the Blue List, which covers diplomats, and the White List, which includes, besides the embassies' administrative staffs, its janitors, custodians and household servants. "If that 1790 statute were repealed," says Milton Mitchell, "two-thirds of the people on the White List would be gone." Hampton Davis says the State Department would like to see repeal, calling it "a healthy development." Why hasn't Congress done anything about it for the last ten years? "State has not been able to get sufficient attention paid to it," he says. "Congress is inundated, and this is a relatively small thing. Even most lawyers haven't heard of it."

IN THE BEGINNING

The idea of immunity has its origins far back in the murky beginnings of recorded history. The Hittites, the Babylonians, the Assyrians, the Hebrews, the Egyptians, the Chinese, you name it, all these ancient peoples and more, writes one authority, early realized that reciprocal advantages were to be gained and mutual interests served by granting envoys special immunities and privileges. Thus King David wiped out the Ammonites when they insulted his ambassadors, and the Illiad notes that the Trojans were horrified by Antimachus' suggestion that they kill the envoys who had come to negotiate Helen's return.

By the time the seventeenth and eighteenth centuries rolled around, codifiers like the revered Hugo Grotius, the father of international law, had justified this basic concept with a pair of slick legal fictions. The first was *extraterritoriality*, which claimed the ambassador was really on his own soil at all times and thus out of reach of local laws. The second was *representative character*, under which the diplomat was treated as if he were in fact the ruler he represented.

Still, countries have not always been as tidy with rival diplomats as they might be. In 1707, for example, came the famous Affair Matveiev, named after the Russian ambassador to England whose surname is variously spelled Mattueof, Mathveof, Matveev, Mattweoff and Mathueof. When this worthy gentleman was physically and verbally insulted in London while being arrested for his debts, an angry Peter the Great demanded the death penalty for those involved, but settled for a personal apology and the passage of the Diplomatic Privilege Act of 1709, sometimes known as the Statute of Queen Anne, the first recognition of diplomatic immunity in Anglo-Saxon law and the direct ancestor of America's 1790 statute.

These days fictions like extraterritoriality are no longer in vogue. The modern rationalization is called "functional necessity," which means diplomatic immunity is there because diplomats couldn't work effectively without it. "You can imagine," says Hampton Davis, "that if every Tom, Dick and Harry of an embassy could be hauled into court because his dog was barking too long, he wouldn't be able to get his work done. And it's not really his work, it's the work of his state. And these embassies are here because the President has decided it is in the interest of the United States to maintain relations with them."

An added, though sometimes unstated reason for immunity is that of mutual benefit. After all, Americans do commit crimes overseas and get away with claiming immunity for them. In 1961, for example, a Marine guard at the U.S. Embassy in Ceylon claimed diplomatic immunity after being accused of killing a motorcyclist while speeding along in a sports car one night, kissing a girl as he drove. Moreover, says Hampton Davis, "we have the largest diplomatic representation in the Western world. We send more people abroad than are sent here, and we would be subject to retaliations and reprisals against our people."

In 1964, it seems, when District police tried one of their periodic crackdowns against illegally parked diplomats, a squad of motorcycle policemen in Manila ticketed 87 Americans in one day for moving violations outside the U.S. Embassy there.

And Milton Mitchell puts the case even more melodramatically, "If you were in Russia you could be in the deepest dungeon and never get out without diplomatic immunity," he claims. "In uncivilized countries we wouldn't have a diplomat alive without it."

NAUGHTY ACTS

Ideally, in the best of all possible worlds, those with diplomatic immunity woudn't be committing naughty acts that needed protecting. After all, things like that go against the very definition of diplomacy put forward by the greatest modern expert on the subject, the late Rt. Hon. Sir Ernest Satow, G.C.M.G., LL.D., D.C.L. and formerly envoy extraordinary and minister plenipotentiary, who called it "the application of intelligence and tact to the conduct of official relations."

But while U.S. Ambassador to Turkey William Macomber thunders that "Diplomatic immunity is not license and those who use it as such abuse the hospitality which has been extended to them (and) strain rather than improve relations," the hard facts remain that abuse of the privilege is an all-too-common fact of life.

In New York, where representatives to the United Nations have immunity courtesy of a special treaty, police were recently prevented from quieting a loud party lasting until 7 a.m. and featuring a drum-heavy African band because it was held in the apartment of a member of the Chad delegation. And the ambassador from Barbados to the U.N. took it into his head to threaten "possible international consequences" if his German Shepherd was shot for continuing to bite the residents of Pelham, N.Y.

In Washington, things do not appear much better. When Gailey Smith, widow of the late dean of the White House press corps, Merriman Smith, placed an ad asking anyone who has had troubles with diplomats to contact here, she claims to have received 79 calls in one day. And a search of old newspaper clippings reveals incidents both trivial—the wife of a Soviet naval attache was caught shoplifting $2.56 worth of cut meat—and tragic—David Hearne, the 21-year-old son of the then Irish ambassador, previously picked up four times for disorderly conduct, drove a car which struck and killed a 54-year-old woman pedestrian, an act for which he was finally sent back home.

Most problems that occur in Washington, besides the outre, one-of-a-kind items, fall into three broad categories: bill-paying, realty troubles, and parking and traffic violations.

Diplomats, because of their immunity, are free to neglect to pay bills and sometimes even leave the country with them unpaid. When this happens, says Jerome Glazer, president of Eastern Credit, a Washington collection agency, "most embassies, not all now, are not too cooperative. They just kind of slough you off, like just forget it. If the guy leaves for some country where you can't make any contacts, you've got a nice big closed file."

Publicity sometimes makes a difference here. One catering service, which did not even want its name mentioned, was owed several thousand dollars by an embassy which made moves to repay after the debt was referred to in a newspaper article. "It's now settled, why raise it again?" said the caterer, sounding frightened at the specter of yet another setback. "We have to be very careful, we are a contractor to the State Department."

A diplomatic dispute in which money was nowhere involved occurred in 1970 when the nation of Zambia acquired an old mansion in the Kalorama area, a section of the city zoned for diplomatic residences but not chanceries, and promptly turned it into a chancery. The neighborhood residents protested mightily, but due to diplomatic immunity they were stuck with a *fait accompli*.

Thomas J. Offutt, by contrast, had felt himself stuck once too often by diplomatic tenants. The proprietor of the Dittmar Corporation, owner of 1600-plus rental units in suburban Virginia, he came to feel that "a lopsided proportion of the developing countries didn't seem to know how to take care of apartments. They not only break leases but they leave apartments in poor condition. In many instances some countries of the world consider the floor an extension of the street. Instead of keeping the nice oak floors shiny they beat 'em up."

A florid, slow-talking man given to rocking in his chair, Offutt picks up an old letter from the Mexican embassy which proposes that the verbal 30-day-notice one of their military attaches gave was the equivalent of the required written notice and thus the man did not have to pay the final month's rent.

"We just do not see things the same way," Offutt says in his unhurried way. "It's an unbreachable gulf of understanding." So between 1970 and 1975, the Dittmar Corporation refused to rent apartments to diplomats from those nations they felt to be troublesome.

In January, 1975, the Justice Department took Dittmar to court to force them to change their policy, charging subtle discrimination, and in October, 1975, the government won its case. "Do you know Melville's *Billy Budd*?" Offutt asks when queried about the decision. "Well he was as innocent as he could possible be, but it was just ordained that he had to hang."

In the area of parking violations, things have changed little since 1960, when Aly Khan, Pakistan's ambassador to the U.N., caused a scandal by double-parking his limousine at the busy corner of 14th and F so he could have lunch with Jockey Eddie Arcaro, or for that matter since 1926, when an attache of the Ecuadorian legation told a policeman who had informed him of a parking violation, "If I choose to leave my car in the middle of Sixteenth Street it would be none of your damned business," and then promptly pushed the officer off the running board.

Until 1964, Washington police didn't even give tickets, only warnings, to offending diplomats, and once tickets were given many countries made no attempt to pay them. According to a recent Jack Anderson column, nearly 50,000 violations were issued to diplomatic vehicles in the District last year, which would have meant a total of $300,000 in fines if everybody paid up.

Here too, publicity has a short-term effect. In 1960, Capt. J. C. Byrnes, a retired Navy man who lived near the embassy-laden intersection of Massachusetts Avenue and Decatur Place, NW, compiled an impressive list of statistics about who was illegally parking where and took it to the local newspapers, with the result that the situation cleared up for awhile. The captain has passed away, but his widow reports that the state of affairs "is worse than ever. You can't ever find a place to park. These so-called diplomats park in places they're not supposed to, and they never pay a fine. They're really," and here she stops to search for the right word, "impertinent."

WHAT IS TO BE DONE

Sometimes, people get so irritated at diplomatic immunity they take matters into their own hands. Air has been let out of the tires of limousines illegally parked at National Airport, Spain's aristocratic U.N. ambassador Jaime de Pines once got punched in the eye by an irate New York City garbageman, and when newspaper reports named a Beligan diplomat as the guilty party in a 1962 auto accident on Connecticut Avenue, rowdies smashed his kitchen door and delivered a series of indecent phone calls. Back in 1936, law professor and immunity expert Montell Ogdon saw things like this as part of "the tide of world-wide revolt against special privilege," and the State Department's Hampton Davis, having "given it a lot of thought," comes to quite similar conclusions.

"The reason," he says, "is to be found in de Tocqueville. He says the essence, the keystone principle with Americans is equality, and there's something antithetical to that in the concept of a privileged class. We always resent that, we resent anyone who doesn't compete on equal terms. It's every man a king in the United States. We are not an aristocratic society; it's not part of our tradition. And I don't quarrel with that. It's part of the strength of our democracy."

The defenders of diplomatic immunity, however, are not without a whole series of defenses for its weak points.

First off it is pointed out, in what seems a rather fine distinction, that diplomats are not freed from their moral obligation to obey our laws, they merely cannot be punished for their transgressions.

Next it is said that very few diplomats in fact break these laws. "Let me assure you that these are a tiny, minute portion of the community that is involved here," says Hampton Davis, with Milton Mitchell adding "it's one character in a thousand who doesn't pay his bills and claims immunity. With most of them their ambassadors say, 'If you get a parking ticket and don't pay it, buddy, home you go.' "

A further tack is to say that it is really modern civilization that is to blame here, not the diplomat. The Russians, for example, notorious for double and triple parking in front of their Sixteenth Street embassy, do it not because they're inherently nasty but because there's nowhere else for them to park. "The pre-World War II diplomatic lists were much smaller in number," says Hampton Davis. "This was not a big city, people walked, took streetcars, it was a fine old time." In fact, says Davis, warming to still another defense, "beleaguered" diplomats really have a hard time of it in Washington He walks to his State Department window, pulls the blind and points to an area supposedly reserved for their cars that is largely occupied by ordinary mortals. "Diplomats too suffer wrongs at the hands of citizens," he says. "There are assaults on their staff members, the wife of the Australian ambassador was beaten. This is a situation that needs to be seen in the round."

By "the round" Davis means that day-to-day injustices ought to be looked at from the perspective of America's global interests. "These people," he says, "are not thinking about the tremendous problems of operating our foreign relations. The power flow has come to Washington. We're the richest power in the world, so everyone has come here. People should accept diplomatic immunity as part of the cost of our being the great power that we are."

It is at this point that the last big gun defending diplomatic immunity is rolled into place. If even one hair on its head is touched, it is claimed, the very fabric of civilization as we know it will be threatened. The whole concept of limiting immunity goes against tradition, Hampton Davis notes somberly, "We consider there are very large stakes here, the stakes of war and peace."

The foes of unlimited immunity, of course, hardly accept this attitude lying down. They talk about small projects like getting diplomatic cars to display little stickers denoting country of origin, "so maybe national pride will make them drive a little more carefully," and remember fondly the victories that can occur when a strong man is on your side. In 1964, for example, the Fulbright Residential Zoning Act, barring chanceries from low-density residential areas, was passed under the aegis of Senator William Fulbright because, remembers Milton Mitchell, he happened to live close to the French embassy. "They were doing some repairs," he says, "and they were doing it at all hours of the night. Seven days a week, night and day, they were hammering away, and after several sleepless evenings, the Senator became terribly angry." The rest, obviously, is history.

Opponents of unfettered diplomatic immunity push forward on three fronts. First, it is said, the State Department should "call up and raise some Cain," demand with greater frequency that guilty diplomats be recalled, and change the prevailing attitude that, as one attorney puts it, "dealing with the State Department as an American citizen is a handicap."

Hampton Davis, for one, tends to get very hot denying accusations like this. Yet he admits that "when the chips are down, we can't force anything."

And Milton Mitchell, his predecessor, feels quite strongly that "We don't have to have that many people covered by immunity, it's because we have soft people in government. We've always given away the world, if the Russians wanted your watch we'd give it to them. We should declare a lot of people persona non grata very quickly. We should send the chief of protocol to yell at the ambassador, tell him 'We can't put up with 76 parking tickets in one month, send the man home.' You can't make friends in this business, you have to do a job. The problem is at the top. No one cares."

Since eviciting the evil-doer will not ease the pain of those who have suffered, many people have also suggested that the government should set up a type of fund to reimburse injured parties. Gailey Smith wants someone at State to cosign any legal contract a diplomat enters into, so that, "pardon my language, if their ass is involved they might be a little more concerned." And Dittmar's Thomas Offutt, ever philosophical, leans back in his chair and says:

"It's a little bit unfair for the U.S. government to impose on people affected by these diplomats the necessity to accept them at the risk of monetary loss. If the U.S. government wants to protect diplomats, it should underwrite and reimburse people who suffer injustices at their hands. We spend many billions of dollars in foreign aid, we should make this an item of domestic aid to those aggrieved by these foreigners. It would be the most diplomatic thing we could possibly do."

The most crucial problem with diplomatic immunity, however—and one that shows no signs of ever being solved because all the nations of the world benefit too much from its perpetuation—is that in many ways it is an outdated, over-extended concept in which a kernel of necessity has been indiscriminately inflated and taken advantage of. Once a device to protect diplomats against wrongs, it now serves largely to allow these same diplomats to commit wrongs of their own.

Says Arthur Feld, Halla Brown's attorney, "to seize the person of the ambassador is one thing, to ask him to respond in monetary damages for a suit of clothes he refuses to pay the bill for is an entirely separate matter.

"The overall immunity we grant to governments is way out of proportion to the function that diplomatic immunity served in the original idea. The whole concept should be reevaluated."

[From the Washington Post, Aug. 22, 1976]

IMMUNITY SHIELDS DIPLOMAT IN THREE-CAR WRECK

(By Robert Meyers)

On Aug. 1 at 7 a.m. a car driven by a high-ranking Zambian diplomat plowed into a parked Dodge van on a quiet residential street in New Market, Md., forcing the van up on top of a 1974 Volkswagen sedan parked behind it, according to a state police officer.

The diplomat's car, which had crossed the double-yellow line on Main Street in the Frederick County town, then caromed past the Volkswagen into a 1973 Pinto parked about 20 feet farther on the policeman says.

The diplomat's car then continued on until it was stopped by a tree. There were no injuries. But two of the three parked cars, as well as the diplomat's, were totally wrecked.

Maryland State Trooper Timothy L. Rigler said that "anyone else" involved in such an accident would have been charged with crossing the center line, negligent driving, and driving at excess speeds.

No charges were filed against Crispin Milupi Itwi, first secretary of the Embassy of the Republic of Zambia, because of his diplomatic immunity.

Because, police said, the diplomat was uninsured, the victims of the accident are faced with even more than the usual complications in recovering their losses. Diplomats cannot be sued in courts of law.

Itwi confirmed the accident but would not comment on it in detail or on whether he was insured.

"His (diplomatic) papers were in order," said Trooper Rigler. "He was polite. There was nothing I could do."

Rigler said the diplomat did not have insurance. "I checked, I felt real bad about not being able to charge him with anything because of his immunity," the officer said.

There is no requirement that drivers licensed in the District carry insurance.

The owners of the three cars say their insurance covered only part of the cost of replacing the parked cars. One of the owners, Henry Schiess, owner of a New Market antiques store, said his insurance company gave him $1,750 for the 1973 Pinto, and that a suitable replacement vehicle cost him $4,537. He had to absorb the additional cost of $2,787 himself, he said.

The two other cars hit by Itwi were both owned by William E. Cline, an antiques dealer in New Market. His son, William A. Cline, 19, says that the damage of the Volkswagen cost $805, of which his father had to pay a $250 deductible charge.

The 1975 Dodge van, the first vehicle hit, was totally destroyed, Cline says. The uninsured motorist clause of the policy paid $4,000, and his father added $1,200 to find a replacement, according to Cline.

Itwi does not deny the accident. "It was very unfortunate," he said over the phone. "I have great sympathy for the people involved. I didn't have the accident because I am a diplomat, but because I am a human being."

Itwi would not indicate whether he intends to compensate the cars' owner for their uncovered loses.

Richard Gookin, protocol officer at the Department of State, which handles matters involving foreign diplomats and American citizens, says he is aware of the Itwi matter: "I have urged Mr. Cline and Mr. Schiess to contact Mr. Itwi directly, and then to let me know if they are unable to receive satisfaction" to their demands for compensation, he says.

Schiess says he has already written to the Zambian embassy, but received no reply. He then wrote to Secretary of State Henry Kissinger, complaining of the matter. That letter was passed to Gookin.

If Cline and Schiess are not "satisfied" by dealing with Itwi or the embassy, then "I would be glad to extend the good offices of the Department of State to resolve the matter," Gookin says.

The "most severe" action Gookin said he could take would be to tell an ambassador that "an employee is no longer welcome in this country."

Other options include requesting that a diplomat's immunity be waived for prosecution in U.S. courts, or asking the embassy itself to compensate the car owners, he said.

The State Department itself has no policy on compensating people such as Cline and Schiess for losses suffered because of the actions of foreign diplomats, Gookin says.

More than 5,700 diplomats and diplomatic employees in the Washington area enjoy immunity from U.S. laws, Gookin says. "By and large the diplomatic community is law-abiding," he adds.

In the most serious episode involving an embassy employee this year, the employment of a Senegalese chauffeur was ended after he hit and killed a road worker in a car accident near Ft. Myer, Va. Local authorities then took over, Gookin says.

[From the Washington Star News, Mar. 13, 1974]

JUDGE ASKS ACTION ON DIPLOMAT'S SON

(By Winston Groom)

D.C. Superior Court Chief Judge Harold H. Greene has ordered juvenile court records alleging auto theft and larceny by the son of a high Pakistani Embassy official turned over to the State Department for action.

The youth was charged in two cases of automobile theft two months ago and with petit larceny from a hardware store last month. The charges were dropped when it was learned that he was immune from prosecution under diplomatic agreements.

Under the diplomatic immunity doctrine, diplomats and other employes of foreign embassies here and their families are not subject to the laws of the United States.

However, Greene pointed out in an 8-page opinion yesterday, "there is an important corollary to diplomatic immunity, namely, that those enjoying its benefits must respect the rights of citizens of the country in which they live."

He therefore ordered the D.C. corporation counsel's office to provide the State Department with records and documents in the youth's case.

The youth's family had opposed such action, claiming that D.C. law forbids disclosure of juvenile records to anyone except law enforcement agencies and other having a "professional interest" in a case.

Greene made it clear that the State Department has at its disposal a number of sanctions, including "the ability to terminate the diplomatic status of any person having such immunity."

Greene also said that in such cases the State Department "may . . . (bring) the matter formally to the attention of the diplomatic mission in which the juvenile's parent is employed and (call) upon the mission to administer appropriate discipine and warning to the offender."

Greene wrote that the problem of diplomatic immunity "is, of course, particularly important in a city like Washington where there are a great number of inhabitants with diplomatic immunity against whom . . . citizens . . . are powerless with respect to both criminal violations and civil claims."

Furthermore, he cited a provision of the Vienna Convention covering such immunity as saying that "without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving state."

Greene held, "The Department of State is in essence performing a law enforcement function and for that reason has a professional interest in the work of the court.

"At a minimum, the Department of State has a legitimate interest in being made aware of the transgressions of juveniles with diplomatic immunity, and . . . it may take whatever action it regards as appropriate."

[From the Washington Post, Nov. 14, 1975]

THE DIPLOMATIC IMMUNITY CHARADE

(By Jack Anderson and Les Whitten)

Not long ago, a black Cadillac sped along the Connecticut Turnpike through a fog-patched night. A patrolman pulled it over and asked the driver for his license.

Instead, the driver handed over an identification card bearing excerpts from U.S. Code Title 22, Sections 252–255. The excerpts warned that anyone attempting to arrest the driver could be "imprisoned for not more than three years and fined at the discretion of the court."

The cop waved the automobile on and stared after it in wonderment. He had just encountered the most elite of the human species: a foreign diplomat.

These privileged people, by virtue of international agreement, enjoy a curious courtesy known as "diplomatic immunity." They cannot be prosecuted under U.S. law.

If they break leases, fail to pay rent, destroy property or commit felonies, American authorities can do little more than expel the errant foreigners.

Diplomatic immunity, of course, is reciprocal. American diplomats, therefore, enjoy similar privileges in other nations. The State Department has assured us, however, that U.S. Foreign Service people create few problems overseas.

In contrast, we have documented thousands of cases involving foreign diplomats who violate U.S. laws with impunity.

Every day, for example, policemen in Washington and New York City patiently write out hundreds of parking tickets for cars bearing diplomatic license plates. Most of them go unpaid.

Often the drivers simply tear them up and toss them in the street. In Washington, nearly 50,000 violations were issued to diplomatic vehicles last year. The fines, if paid, would have totalled over $300,000.

In New York City, more than 135,000 parking tickets were issued to diplomats last year. The stiff fines would have helped to alleviate the city's financial plight; the total would have surpassed $3 million.

The police, carrying diplomatic courtesy an extra length, refused to tell us which embassy has accumulated the most tickets. But our reporter Terry Repak determined that the Soviets, with hundreds of unpaid tickets, are probably the worst offenders.

A few other examples of how diplomatic immunity works:

For years the Dittmar Co. in the Washington suburbs refused to rent houses to diplomats from certain countries because they habitually violated leases and failed to pay rents. The Justice Department took Dittmar to court and forced the firm to rent without discrimination.

Mrs. Failey Smith, wife of the late dean of the White House press corps, Merriman Smith, rented a home to the legal attache at the French embassy. Her diplomatic tenants, she charged, wreaked $11,000 worth of damage to her house. Yet she cannot collect it because of diplomatic immunity Her lawyer, Joseph Moran, appealed to the State Department for help. "They cautioned me against bringing suit," Moran told us, "and warned me against harassment which might be construed as a violation of statute."

Several collection agencies, including Eastern Credit and Nationwide Credit, described to us their frustration in trying to collect from diplomats on bad checks, medical fees and rental car bills.

In New York, the Barbados ambassador to the United Nations, W. E. Waldron-Ramsey, recently lodged an official complaint with the State and Justice Departments over his dog. He charged that local officials in Pelham, where he resides, were trying to shoot the animal. It had sunk its teeth, apparently, into at least eight indignant citizens. But the ambassador contended that his dog, like himself, deserved diplomatic immunity.

[From the Washington Star, Feb. 20, 1976]

Time for the Denver Boot

Among the perturbations of life in Washington, the abuse of parking laws by members of the diplomatic community is neither major nor intrusive for most of us. It is worse—it is a gnawing symbolic irritant.

The State Department tippy-toes around the matter as if a fuss over unpaid parking tickets could ignite a diplomatic incident of shattering proportions. Police continue to hand out parking tickets, the diplomatic corps continues to ignore them and, about once a year, the press noisily points a finger.

The list of pompous parkers this year had the Soviet Union at the head of the pack with 8,865 outstanding tickets, with Israel second with 2,539. These transgressions are part of 27,966 unpaid tickets written on DPL cars in the last eleven months here.

The Russians point out that there is a paucity of reserved diplomatic parking spaces at their embassy on busy 16th Street—which is true but irrelevant. It is also irrelevant that, as a Soviet spokesman told The Star's Mary Ann Kuhn, Americans in Moscow are permitted to park illegally. Anyone who has seethed during rush hour, clogged to the point of madness because of a Russian DPL car parked on 16th Street, would revoke detente on the spot, were it in his power. The Russians are far from the only offenders, witness Massachusetts Avenue during any rush hour.

Diplomatic immunity, of course, is too reasonable a principle to require discussion. But this abuse of parking has nothing to do with diplomatic immunity—it has to do, simply, with good manners.

Archaic as the notion is, we find it compelling. We do not wish foreign scofflaws bundled off to the Central Cellblock when caught with a dozen or several hundred, unpaid parking tickets. We do wish these nations would show a decent respect for local laws while in Washington as, we trust, and hope, our diplomats do in their capitals.

This patently does not work, however. We would wish then that someone in this city had the courage to do a favor for the indigenous population: Let officials permit an embassy to log, say, a dozen unpaid parking tickets in any month on any DPL car, surely a greater generosity than we are permitted. If they remain truculent when notified of their excessive disdain, why not let the police impose the boot made in Denver.

There would be wild keening initially, but we doubt if the procedure would cause a terminal breach in relations with any nation. Once the Denver boot was put into wide use, we suspect the cause of good manners would be advanced. All those in favor, signify by saying aye.

[From the Washington Star, Sept. 5, 1971]

The Diplomats Are Immune

(By Fred Geiger)

The Metropolitan Police Department scooterman had been successfully shooing cars from illegal zones on the F Street mall until he came upon a motorist who resisted.

The motorist's response to a request that he move his car was explosive and incomprehensible.

The policeman noticed the vehicle had Dpl—diplomatic—tags. He asked the driver for identification.

"You leave alone." You leave alone!" said the driver, switching to English.

The officer persisted.

The car abruptly sped off, running two red lights until, with the scooterman in pursuit, it stopped in a parking lot.

The scooterman dismounted. The Dpl driver got out.

At the moment, an Executive Protective Service (White House Police) car zoomed up.

The foreigner's belligerence evaporated. Niceties were exchanged. The scooterman went on his way.

The foreigners—representatives of one of the city's 114 embassies and three legations—were enjoying diplomatic immunity—total immunity from every law to which American citizens are subject.

PARKING

Confrontations involving moving violations are less common than chronic disregard of parking regulations.

The District Highway Department was asked to check out a complaint that diplomatic cars were parked on 16th Street NW "around the clock," in front of bus stops, fire plugs and entrances to buildings.

The Department found, on a typical Tuesday evening rush hour, that 30 Dpl cars were impeding traffic in "No Standing" zones on 16th between L and P Streets NW.

When Dpl cars are ticketed, the tickets go to the Central Violations Bureau.

At the end of a registration year, a computerized list of unpaid Dpl tickets is sent to the State Department for, in the words of Motor Vehicles Department Director Joseph P. Murphy, "what is laughingly called enforcement."

"Enforcement" in its most severe form amounts to "stern warnings" to those ambassadors whose employes are habitual scofflaws.

The admonishments are administered by Benny Whitehead, of the State Department's Special Protocol Services Office.

Some ambassadors demand all their employes to pay tickets, Whitehead said, and some don't.

Capt. Jack Buch, of the police department's Traffic Division, said it's up to individual officers whether to issue warning tickets or regular tickets, or no tickets.

"We're not really interested in ticketing them," he said. "When we ask embassies to move the cars, they usually do."

When they don't, illegally parked cars—although they may be festooned with tickets—aren't impounded but are towed onto side streets.

PROGRESS

Over the years, some progress has been made.

Prior to 1960 American nationals employed by embassies were issued State Department cards granting them full diplomatic immunity.

"When we stopped a chauffeur or a maid in their cars, they'd tell us to go to hell and keep going," Capt. Buch said.

Americans have no immunity now except when on "official duty."

On March 12, 1964, the D.C. Commissioners ordered a crackdown. Cars with Dpl and Wn (denoting minor functionaries) plates were to be ticketed.

On March 23, 1964, the commissioners issued a directive to the police department urging officers not to be overzealous in exercising their newly specified powers.

A year later, the Central Violations Bureau accumulated 1,650 tickets issued to diplomatic vehicles. None were paid.

In April, 1967, for the first time since the crackdown, the State Department withheld Dpl tag applications. The six unlucky applicants had amassed 105 tickets among them.

Whitehead (whose office was called the Courtesies and Privileges Section and later the Office of Special Representational Services before getting its present name) said seven applications were "held up" in 1969.

DELAYS

In 1970, there were no hold-ups, but several "delays" were effected.

There are currently about 2,500 Dpl tags registered with the Motor Vehicles Department. By Congressional law, their holders get them free of charge, and the diplomatic immunity they carry extends to wives and children.

Liability insurance isn't required in the District, but drivers determined to be at fault in accidents must prove financial responsibility—except the diplomats.

Dpl tag holders, according to Edward P.

Lombard, superintendent of the D.C. Insurance Department, often fail to report accidents.

Sometimes, he said, "they deny filing a claim, deny being at fault—deny everything. Anybody damaged by a diplomatic car doesn't have much recourse."

If an accident occurs involving an American citizen, and the operator of a Dpl car appears to be at fault, the American can request a court hearing.

If the Corporation Counsel agrees that the diplomat is at fault, the latter may be asked to attend the police department's traffic school.

A traffic school officer said, "I know for a fact that we have had some come through the program."

Attendance, however, isn't required, nor does the diplomat have to attend the hearing.

When the diplomat is uncooperative, the matter is referred to—and usually ends up in—the State Department.

PRIVILEGES

A spokesman for the D.C. Policeman's Association said:

"These people are guests here, but in my opinion they should abide by the same laws as anybody else. I can't really see giving them any special privileges."

Sen. Daniel K. Inouye, chairman of the Appropriations Subcommittee for the District, was asked to comment.

He said:

I find it difficult to accept the thesis that the spirit of friendship that we seek between our country and other nations should be deemed to rest on the privileged status of their representatives here in our nation's capital to disregard our traffic and parking regulations.

"It is further demeaning to those representatives who do comply—and I am confident that they represent the vast majority—to suggest that they seek 'special' consideration.

"I call upon our Department of State to take every possible step to make compliance general in the city of Washington."

[From the Chicago Tribune, July 29, 1974]

NINETY-FOUR IS HIGHWAY, NOT SPEED LIMIT, STATE POLICE TELL DIPLOMAT

(By Jack Fuller)

Michigan State Police got the Haitian consul general stationed in Chicago coming and going, a state trooper said yesterday.

First, they stopped the official, Consul General Adam, going eastbound on Int. Hwy. 94 near Benton Harbor Saturday and issued tickets on charges of reckless driving and driving without a license over Adam's protests that he had diplomatic immunity against traffic tickets.

Adam complained that because of the delay the police caused he would "have to do 90 miles an hour the rest of the way" to reach a meeting on time, according to Michigan State Trooper James J. Bos.

Bos quoted Adam as saying, "The safety of citizens isn't as important as the meeting I'm going to."

A few hours later a different squad car stopped Adam's car, again after allegedly clocking his car at 93 miles per hour westbound on I–94, Bos said. They issued the driver of the car, this time Adam's brother Frantz Adam, 31, a speeding ticket.

Tho the Haitian consul was more restrained the second time this car was stopped Bos said "He still made quite a fuss. He said the troopers were wasting their time because he'd beat the ticket in the end."

Bos said that after he made the first traffic stop, he handed Adam copies of the two tickets and Adam threw them back at him.

"I don't want these littering up my car," Bos reported Adam said.

Adam denied that he had been speeding. He said that the police version of the incident was a "big lie."

[From the Washington Post, Nov. 18, 1972]

GREEK DIPLOMAT ARRESTED ON COAST

SAN FRANCISCO, November 17.—The Greek consul general was arrested here today after punching a policeman who asked him to move his car from an illegal parking zone, police reported.

Eleitheros E. Eliopoulos, 36, later was released after being issued a citation for disobedience to a policeman and resisting an officer in the performance of duty, said Lt. Clem DeAmicis.

Because of diplomatic courtesy rules, DeAmicis said, Eliopoulos was not cited for the more serious charge of assault on a policeman.

Police gave the following account of the incident:

Sgt. Eugene Van Tricht, riding a three-wheel motorcycle, spotted a car with consul license plates parked six feet from a downtown area curb in a no-stopping zone.

When the officer asked the man to move and stop obstructing traffic, the driver said, "I am waiting for my wife."

After again being ordered to move, the driver said, "I am the consul general of Greece," and begain to walk away.

The officer pursued but before he could issue a citation, the man socked him in the mouth, knocking him to the ground.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that three bills introduced by the Senator from Maine (Mr. HATHAWAY), relative to diplomatic immunity, be referred to the Committee on Foreign Relations, and that if and when reported from that committee, they then be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN CHILD WELFARE ACT OF 1976

Mr. ABOUREZK. Mr. President, on August 27, I introduced S. 3777, the Indian Child Welfare Act of 1976.

I ask unanimous consent that the text of the bill and a section-by-section analysis of its provisions be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3777

A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1976".

FINDINGS

SEC. 2. Recognizing the special relations of the United States with the Indian and Indian tribes and the Federal responsibility for the care of the Indian people, the Congress finds that—

(a) An alarmingly high percentage of Indian children, living within both urban communities and Indian reservations, are separated from their natural parents through the actions of nontribal government agencies and are placed in institutions (including boarding schools), or in foster adoptive homes, usually with non-Indian families.

(b) The separation of Indian children from their biological families frequently occurs in situations where one or more of the following circumstances exist: (1) the natural parent does not understand the nature of the documents or proceedings involved; (2) neither the child nor the natural parents are represented by counsel or otherwise advised of their rights; (3) the Government officials involved are unfamiliar with, and often disdainful of, Indian culture and society; (4) the conditions which led to the separation are not demonstrably harmful or are remediable or transitory in character; and (5) responsible tribal authorities are not consulted about or even informed of the nontribal government actions.

(c) The separation of Indian children from their natural parents, including especially their placement in institutions or homes which do not meet their special needs, is socially and culturally undesirable. For the child, such separation can cause a loss of identity and self-esteem, and contributes directly to the unreasonably high rates among Indian children for dropouts, alcoholism, and drug abuse, suicides, and crime. For the parents, such separation can cause a similar loss of self-esteem, aggravates the conditions which initially gave rise to the family break-up, and leads to a continuing cycle of poverty and despair. For Indians generally, the child placement activities of nontribal government agencies undercut the continued existence of tribes as self-governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, to discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons, to assist Indian tribes in the operation of tribal family development programs, and generally to promote the stability and security of Indian family life.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of the Interior.

(b) "Indian", unless otherwise designated, means any person who is a member of, or who is eligible for membership in, a federally recognized Indian tribe, as defined in subsection (c) hereof.

(c) "Indian tribe" means any Indian tribe, band, nation, or other organized group, or community of Indians, including any Alaska Native region, village, or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned and controlled by Indians, or a majority of whose members are Indians.

(e) "Tribal court" means the Court of Indian Offenses, any court operated and maintained by an Indian tribe and any other tribunal which performs judicial functions in the name of an Indian tribe within an Indian reservation.

(f) "Nontribal government agency", unless otherwise designated, means any Federal, State, or local government department, bureau, agency, or other office, including any court, which has jurisdiction or which performs functions and exercises responsibilities in the fields of social services, welfare, and domestic relations, including child placement.

(g) "Child placement" means any proceedings, judicial, quasi-judicial, or administrative, voluntary or involuntary, and public or private, under which an Indian child is removed from the custody of his natural parent or parents, or the custody of any blood relative in whose care he has been left by his natural parent or parents, and is either offered for adoption or is placed in a foster home or other institution under the supervision of a nontribal government agency.

(h) "Natural parent" means the biological parent of a child and also any Indian who has adopted a child in accordance with tribal laws or customs.

TITLE I—CHILD PLACEMENT STANDARDS

Sec. 101. (a) In the case of any Indian child who resides within an Indian reservation, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless made pursuant to an order of the tribal court, where a tribal court exists within such reservation which exercises jurisdiction over child welfare matters and domestic relations.

(b) In the case of any Indian child who is domiciled within an Indian reservation, or who resides within an Indian reservation which does not have a tribal court, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless the Indian tribe occupying such reservation has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings.

(c) In the case of any Indian child who is not a resident or domiciliary of an Indian reservation, but who is or will be supported in whole or in part, directly or indirectly, by Federal funds, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless the Indian tribe of which the child is a member has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings.

Sec. 102. (a) No placement of an Indian child, who falls within any of the three classes mentioned in section 101 of this Act, shall be valid, or given any legal force and effect, except temporary placements under circumstances where the physical, or emotional well-being of the child is immediately threatened, unless (1) his natural parent or parents, or the blood relative in whose care the child may have been left by his natural parent or parents, has been accorded thirty days' written notice of the child placement proceedings and a right (A) to intervene in the proceedings as an interested party through counsel, (B) to submit evidence and present witnesses on his or her own behalf, and (C) to examine all reports or other documents and files upon which any decision with respect to child placement may be based; and (2) the nontribal government agency seeking to effect the child placement affirmatively shows that alternative remedial services and rehabilitative programs designed to prevent the breakup of the Indian family have been made available and proved unsuccessful.

(b) Where the natural parent, or parents of an Indian child, who falls within any of three classes mentioned in section 101 of this Act, or the blood relative in whose care the child may have been left by his natural parent or parents, opposes the loss of his custody, no child placement shall be valid or given any legal force and effect in the absence of a determination, supported by an overwhelming weight of the evidence, including testimony by qualified professional witnesses, that the continued custody of the child by his natural parent or parents, or the blood relative in whose care the child has been left, will result in serious physical or emotional damage. In making such determination, poverty, including inadequate, or crowded housing, misconduct, and alcohol abuse on the part of either natural parent, or the blood relative, shall not be deemed prima facie evidence that serious physical or emotional damage to the child has occurred or will occur.

(c) In the event that the natural parent or parents of an Indian child, who falls within any of the three classes mentioned in section 101 of this Act, consents to the loss of custody, whether temporary of permanent, no child placement shall be valid, or given any legal force and effect unless such consent is voluntary, in writing, executed before a judge of a court having jurisdiction over child placements, and accompanied by the witnessing judge's certificate that the consent was explained in detail, was translated into the natural parent's native language, and was fully understood by him or her. If the consent is to a nonadoptive child placement, the natural parent or parents may withdraw the consent at any time for any reason, and the consent shall be deemed for all purposes, except temporary custody, as having never been given. If the consent is to an adoptive child placement, the natural parent, or parents may withdraw the consent for any reason within a period of ninety days, or at any time before the final decree of adoption, whichever occurs later, and in such event the consent shall be deemed for all purposes, except temporary custody, as having never been given. In the case of an adoption, the natural parent or parents may withdraw the consent to child placement after expiration of the ninety-day period or the date of the final decree, whichever occurs later, only upon a showing that the child is again being placed for adoption, that the child placement did not comply with the requirements of this Act, or was otherwise unlawful, or that the consent in fact was not voluntary.

Sec. 103. (a) In offering for adoption an Indian child, who falls within any of the three classes mentioned in section 101 of this Act, every nontribal government agency shall grant a preference to members of the child's extended Indian family.

(b) In otherwise placing an Indian child, who falls within any of the three classes mentioned in section 101 of this Act, every nontribal government agency, in the absence of good cause shown to the contrary, shall grant preferences in the following order: (1) to a foster home, if any, licensed, or otherwise designated by the Indian tribe occupying the reservation of which the child is a resident, or domiciliary; (2) to a foster home, if any, licensed by the Indian tribe of which the child is a member; (3) to any other foster home within an Indian reservation which is recommended by the Indian tribe of which the child is a member; (4) to any foster home run by an Indian family; and (5) to a custodial institution for children operated by an Indian tribe, a tribal organization or nonprofit Indian organization: *Provided, however*, That each Indian tribe may modify or amend the foregoing order of preferences, and may add or delete preference categories, by resolution of its government body. Every nontribal government agency shall maintain a record evidencing its efforts to comply with the order of preferences provided under this subsection in each case of an Indian child placement.

(c) Where an Indian child is placed in a foster or adoptive home, or in an institution, outside the reservation of which the child is a resident, pursuant to an order of a tribal court, the tribal court shall retain continuing jurisdiction over such child placement until the child attains the age of eighteen.

Sec. 104. After an Indian adoptive child attains the age of eighteen, upon his or her application to the court which entered the final adoption decree, and in the absence of good cause shown to the company, the child shall have a right to learn the names and last known address of the natural parent or parents and siblings who also have attained the age of eighteen, their tribal affiliation and the grounds for the severance of their family relations.

TITLE II—INDIAN FAMILY DEVELOPMENT

Sec. 201. (a) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to make grants to, or enter into contracts with, Indian tribes for the purpose of assisting such tribes in the establishment and operation of Indian family development programs, as described in section 202.

(b) The Secretary is further authorized, under such rules, and regulations as he may prescribe, to carry out, or to make grants to or contracts with Indian tribes to carry out, a special home improvement program to upgrade: (1) the housing conditions of Indian foster and adoptive parents, if such housing conditions are substandard; (2) the housing conditions of Indians who seek Indian foster, or adoptive children, where improved housing would enable such Indians to qualify as foster, or adoptive parents under tribal law or regulations; and (3) the housing conditions of Indian families facing disintegration, where improved housing would contribute significantly to family stability.

(c) The Secretary is also authorized, under such rules and regulations as he may prescribe, to carry out, or to make grants to or contracts with Indian organizations to carry out, off-reservation Indian family development programs, as described in section 203. In the establishment, operation, and funding of off-reservation Indian family development programs, the Secretary may enter into agreements or other cooperative arrangements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated $21,792,000 during fiscal year 1977, $21,792,000 during fiscal year 1978, $21,792,000 during fiscal year 1979, and such sums as may be necessary during each subsequent fiscal year in order to carry out the purposes of this section.

Sec. 202. (a) Every Indian tribe is hereby authorized to establish, and operate an Indian family development program, which program may include some or all of the following features:

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the construction, operation, and maintenance of family development centers, as defined in subsection (c)(2) hereof;

(3) family assistance, including homemakers and home counselors, day care, afterschool care, and respite services;

(4) provision for counseling, and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children;

(5) a special home improvement program, as defined in section 201(b);

(6) the employment of professional and other trained personnel to assist the tribal

court in the disposition of domestic relations and child welfare matters;

(7) education and training of Indians, including tribal court judges and staff, in skills relating to child welfare and family assistance programs; and

(8) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children.

(b) Where an Indian tribe has implemented a licensing or other regulatory system pursuant to subsection 202(a)(1), any Indian foster or adoptive home so licensed or designated (1) may accept Indian child placements by a nontribal government agency, and State funds in support of Indian children, (2) shall have a first preference in the placement of an Indian child who is a resident or domiciliary of such tribe's reservation in accordance with subsection 103(b)(1) of this Act, and (3) shall have a second preference in the placement of an Indian child who is a member of such tribe in accordance with subsection 103(b)(2) of this Act.

(c)(1) The objective of every Indian family development program shall be to prevent the break-up of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his natural parent or parents, or the custody of any blood relative in whose care he has been left by his natural parent or parents, by a tribal court or nontribal government agency, shall be effected only as a last resort.

(2) In furtherance of this objective, every Indian tribe is authorized to construct, operate, and maintain a family development center which may contain, among other features:

(A) facilities for counseling Indian families which face disintegration and, where appropriate, for the treatment of individual family members;

(B) facilities for the temporary custody of Indian children whose natural parent or parents are temporarily unable or unwilling to care for them or who otherwise are left temporarily without adequate adult supervision by a blood relative; and

(C) facilities for the temporary custody of Indian parents, where so ordered by a tribal court, in lieu of incarceration for public intoxication or the commission of any other minor offsense.

SEC. 203. Off-reservation Indian family development programs, operated either directly by the Secretary or through grants, and contracts with local Indian organizations, may include, but shall not be limited to the following features:

(a) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children are provided the same support as Indian foster children;

(b) the construction, operation and maintenance of family development centers providing the facilities and services set forth in paragraphs (2) (A) and (B) of section 202 (c) of this Act;

(c) family assistance, including homemakers, and home counselors, day care, after-school care, and respite services;

(d) provision for counseling, and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children;

(e) an Indian child defense program, as defined in section 204(b), and other representation of Indian children before the courts; and

(f) furnishing guidance, representation, and advice to Indian families involved in child placement proceedings before nontribal government agencies.

SEC. 204. (a) The Secretary is hereby authorized and directed, under such rules and regulations as he may prescribe, to undertake a study of the circumstances surrounding all child placements which have occurred during the sixteen years preceding the effective date of this Act, where the Indian child so placed still is under the age of eighteen on such date. If the Secretary has good cause to believe, on the basis of this study, that a child placement was or may be invalid or otherwise legally defective, and if either natural parent or the blood relative previously having custody of the Indian child so requests, the Secretary is authorized, in his discretion, to institute a habeas corpus action, or other appropriate legal proceedings in the name of the United States on behalf of such parent, or blood relative in the United States district court for the district in which the child resides for the purpose of challenging the child placement and, if it is found invalid or legally defective, of restoring custody of the Indian child to its natural parent or parents, or to the blood relative in whose care the child had been left. If the United States Attorney for the district in which the child resides fails or refuses to initiate and prosecute a legal proceeding authorized under this section, the Secretary may employ private counsel for that purpose.

(b) The Secretary is further authorized and directed, under such rules and regulations as he may prescribe, to operate, or to make grants or contracts with Indian tribes or Indian organizations to operate, an Indian family defense program which shall provide representation by an attorney for every Indian child or its parents, as appropriate, who is the subject of a child placement proceeding. No child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, if the Indian child, or its parents, is not represented by counsel.

(c) There are authorized to be appropriated $18,000,000 during fiscal year 1978, $20,000,000 during fiscal year 1979, $22,000,000 during fiscal year 1980, and such sums as may be necessary during each subsequent fiscal year in order to carry out the purposes of this section, including the payment of attorney fees.

SEC. 205. (a) The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this Act.

(b)(1) Within six months from the date of enactment of this Act, the Secretary shall consult with Indian tribes, Indian organizations and Indian-interest agencies in the consideration and formulation of rules and regulations to implement the provisions of this Act.

(2) Within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(3) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(c) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the Secretary shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with the tribes, organizations, and agencies specified in subsection (b)(1) of this section, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

SUMMARY OF PROPOSED INDIAN CHILD WELFARE ACT OF 1976

INTRODUCTORY SECTIONS

Section 1 sets forth the title of the Act.

Section 2 contains a number of findings, based upon Congressional hearings, that an alarmingly high percentage of Indian children are separated from their natural parents and placed in foster and adoptive homes, that such family break-ups frequently occur as a result of conditions which are temporary or remediable or under circumstances where the Indians involved do not receive a full and fair hearing, and that the placement of Indian children in institutions or homes which do not meet their special needs is socially undesirable.

Section 3 would declare the policy of Congress to assist Indian tribes in the operation of family development programs, to establish standards for the placement of Indian children and, generally, to promote the stability and security of Indian family life.

Section 4 sets forth a series of definitions for terms used in the Act, including definitions for "Indian", "Indian tribe", "nontribal government agency", "child placement" and "natural parent".

TITLE I. CHILD PLACEMENT STANDARDS

Section 101 would give effect to the underlying premise of the Act that Indian tribes, as local governmental institutions, have a vital role to play in any decision about whether an Indian child should be separated from his family. Specifically, subsection (a) provides that, in the case of any Indian child who resides within an Indian reservation, no child placement shall be valid "unless made pursuant to an order of the tribal court, where a tribal court exists within such reservation which exercises jurisdiction over child welfare matters and domestic relations." With respect to all other placements of Indian children, subsections (b) and (c) provide that the appropriate Indian tribe shall be given thirty (30) days notice of, and a right to intervene in, the placement proceedings. An exception from these requirements is allowed for temporary placements where the physical or emotional well-being of the child is immediately threatened.

Section 102 is intended to assure that Indian families will be accorded a full and fair hearing when child placement is at issue. Thus, subsection (a) provides that the natural parents, or the blood relative in whose custody a child may have been left by his natural parents, shall have actual notice of any child placement proceeding and a meaningful opportunity to participate therein, and that no child placement shall be valid unless the moving agency "affirmatively shows that alternative remedial services and rehabilitative programs designed to prevent the breakup of the Indian family have been made available and proven unsuccessful." Subsection (b) provides that an Indian child placement shall not be effected over family opposition in the absence of overwhelming evidence, including expert testimony, that continuation of the status quo will result in serious physical or emotional damage to the child. Finally, subsection (c) provides that any consent by a natural parent to loss of a child's custody shall be both informed and voluntary, and, except in certain cases after a final adoption decree, also may be later withdrawn.

Section 103 establishes priorities in the placement of Indian children, with a first preference given to members of the child's extended Indian family, and other preferences to homes licensed by Indian tribes or maintained by Indians and institutions operated by Indian tribes and organizations. When a child placement is accomplished through an order of a tribal court, the court will retain continuing jurisdiction over the placement until the child reaches 18.

Section 104 provides that, in the absence of good cause to the contrary, an Indian adoptive child upon reaching the age of 18 shall be entitled to learn particulars about his adult natural family.

TITLE II. INDIAN FAMILY DEVELOPMENT

Subsection 201(a) would authorize the Secretary of the Interior to make grants to, or enter into contracts with, Indian tribes for the purpose of assisting such tribes in the establishment and operation of Indian family development programs. Pursuant to subsection (b), such programs would include a special home improvement program where better housing would contribute significantly to family stability or the improved facility would be used as a foster or adoptive home. Subsection 201(c) would also authorize the Secretary of the Interior to carry out or to make grants to, or enter into contracts with, Indian organizations to carry out, off-reservation Indian family development programs, and would permit the Secretary of Health, Education, and Welfare to assist in the financing of such programs.

Section 202 describes some of the major features which may be incorporated by an Indian tribe into its Indian family development program, including under subsection (c) the construction, operation and maintenance of family development centers. Where an Indian tribe has implemented a licensing or other regulatory system, any Indian foster or adoptive home so licensed or designated may accept Indian child placements by a non-tribal government agency and State funds in support of Indian children, and shall have a preference in child placements in accordance with subsection 103(b) of the Act.

Section 203 describes some of the major features which may be included in off-reservation Indian family development programs.

Section 204 directs the Secretary of the Interior to undertake a study of past child placements and, if he has good cause to believe on the basis of this investigation that the placement may be invalid or legally defective, and if the child's family so requests, to institute appropriate legal proceedings challenging the placement. The Secretary is further directed to operate, or to make grants or contracts with Indian tribes or Indian organizations to operate, an Indian family defense program which shall provide representation by an attorney for every Indian child, or its parents, who is the subject of a child placement proceeding.

Section 205 establishes procedures for promulgating rules and regulations necessary to carry out the Act.

ADDITIONAL COSPONSORS

S. 969

At the request of Mr. STAFFORD, the Senator from Wyoming (Mr. HANSEN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 969, to amend chapter 34 of title 38, United States Code.

S. 3684

At his own request, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 3684, to amend the Federal Aviation Act of 1958, as amended.

S. 3770

At the request of Mr. PASTORE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3770, the Nuclear Explosive Proliferation Control Act of 1976.

S. 3782

At the request of Mr. LEAHY, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3782, relating to energy needs in rural areas.

S. 3801

At the request of Mr. TALMADGE, the Senator from Connecticut (Mr. WEICKER) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 3801, to punish fraudulent activities under the medicare and medicaid programs.

S. 3806

At his own request, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3806, for the relief of Dr. Orlando Bravo.

S. RES. 524

At the request of Mr. JAVITS, the Senator from New Hampshire (Mr. DURKIN), the Senator from Nebraska (Mr. HRUSKA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Idaho (Mr. CHURCH), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. Res. 524, relating to the terrorist attack at Istanbul Airport.

AMENDMENT NO. 2114

At the request of Mr. TOWER, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Amendment No. 2114, intended to be proposed to S. 2304, to strengthen the supervisory authority of the Federal banking agencies.

SENATE RESOLUTION 549 AND SENATE RESOLUTION 550—SUBMISSION OF RESOLUTIONS OF DISAPPROVAL OF ENERGY ACTIONS

(Referred to the Committee on Interior and Insular Affairs.)

Mr. JACKSON submitted the following resolutions:

S. RES. 549

Resolved, That the Senate does not favor the energy action numbered 6 transmitted to the Congress on September 15, 1976.

S. RES. 550

Resolved, That the Senate does not favor the energy action numbered 7 transmitted to the Congress on September 15, 1976.

DECONTROL OF MILITARY JET FUEL: ENERGY ACTIONS NO. 6 AND 7

Mr. JACKSON. Mr. President, on Wednesday, September 15, the Federal Energy Administration transmitted to the Congress proposals to remove mandatory price and allocation controls from naphtha jet fuel. The Department of Defense is virtually the only customer for naphtha jet fuel, accounting for approximately 98 percent of all purchases of this product. The Defense Department purchases between 70 and 75 million barrels of this fuel annually, much of it directly from major refiners. Under the mandatory price and allocation regulations promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 the Department has negotiated prices with a fixed set of suppliers of record with a mandatory ceiling restricting the ultimate price to "allowable" cost increases above pre-embargo levels.

If these regulations are removed neither the price ceilings nor the allocation supply guarantees will govern transactions which provide the jet fuel the military requires.

In accordance with section 551 of the Energy Policy and Conservation Act—Public Law 94-163—the exemption proposed by the FEA will become effective after 15 days unless one House of Congress adopts a resolution of disapproval. This 15-day period will end at midnight, September 30.

The Energy Conservation and Production Act—Public Law 94-385—enacted in August 1976 requires the submission of separate proposals for removal of any refined product category from allocation and price controls. In the case of naphtha jet fuel, energy action No. 6 relates to price ceilings and Energy Action No. 7 relates to allocation regulations.

I am today introducing resolutions of disapproval with respect to each of these decontrol proposals. I believe that the FEA's rationale for decontrol and analysis of its impact deserve careful study. In the event that disapproval of either the price or allocation proposals—or the disapproval of both—is warranted, these resolutions can provide the legislative vehicle contemplated in the procedures outlined in the Energy Policy and Conservation Act will be available.

Mr. President, I ask unanimous consent that the texts of the FEA's letters of transmittal and the notices submitted to the Federal Register with respect to energy actions 6 and 7 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 15, 1976.

Re Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Price Regulations (Energy Action No. 6).

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On August 12, 1976, the Federal Energy Administration gave notice of a proposal to exempt naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. Written comments from interested persons were invited through September 1, 1976, and a public hearing regarding the proposal was held on September 3, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt naphtha jet fuel from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94-385), enacted on August 14, 1976 (ECPA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 6, an amendment exempting naphtha jet fuel from the price regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 7, FEA is submitting for review separately to each House of Congress an amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective October 1, 1976 or the first day following expiration of the Congressional review period, whichever is later.

Sincerely,

FRANK G. ZARB,
Administrator.

TITLE 10—ENERGY

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

Part 210—General Allocation and Price Rules Part 212—Mandatory Petroleum Price Regulations

Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Price Regulations

Introduction

On August 12, 1976, the Federal Energy Office (which assumed the responsibilities of the Federal Energy Administration ("FEA") during the interim between the expiration of the Federal Administration Act of 1974, Pub. L. 93-275, and its extension on August 14, 1976) issued a notice of proposed rulemaking and public hearings (41 FR 34784, August 17, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt naphtha jet fuel (as defined in 10 CFR 211.142 and 212.31) from the Mandatory Petroleum Price and Allocation Regulations. The proposal was based on tentative conclusions set forth in a document dated August 13, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Subsequent to the issuance of the August 12 notice, the Energy Conservation and Production Act, Pub. L. 94-385 (ECPA), was enacted. Section 102 of the ECPA in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but it does permit concurrent submissions of such separate energy actions. Accordingly, concurrent with the issuance of this amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations, a separate amendment is being issued to exempt naphtha jet fuel from the Mandatory Petroleum Allocation Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 6 and 7, respectively, pursuant to section 551 of the Energy Policy and Conservation Act ("EPCA").

Written comments on the exemption proposal and on the Preliminary Findings were invited through September 1, 1976, and the public hearing was held September 3, 1976. Forty-one written and oral comments were received in response to the notice of proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, and trade associations.

Almost all of the parties commenting agreed with FEA that naphtha jet fuel should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. FEA has carefully considered these comments and has concluded that its initial view that naphtha jet fuel should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's preliminary findings and views. In any event FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose price controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b)(1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations. Unless disapproved by either House of Congress under section 551 of the EPCA, this exemption will be effective October 1, 1976, or the first day following the expiration of the Congressional review period, whichever is later.

Findings and views

In addition to this amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations and the concurrent amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated September 14, 1976 and entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" (the "Findings and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Naphtha jet fuel is no longer in short supply; anticipated supplies of naphtha jet fuel will be sufficient to meet the demand over the near term. Stocks of naphtha jet fuel appear to be sufficient to meet demand surges.

(2) Exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. Ample domestic refining capacity exists to meet the demand for all refined products.

(3) Competition and market forces are adequate to protect consumers following exemption of naphtha jet fuel from regulation. Removal of controls will have no or only a slight incremental effect (i.e. 2 cents a gallon or less) on price movements.

(4) Exemption of naphtha jet fuel from regulation will not result in inequitable prices for the Department of Defense, the major consumer of naphtha jet fuel, or for any class of end-user.

Projected excess refinery capacity should guarantee continued supply and the large number of independent and small refiners now competing successfully in the naphtha jet fuel market indicates that sufficient competition exists to protect consumers.

(5) Exemption of naphtha jet fuel from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA.

Since an adequate supply is anticipated, the continued allocation and pricing of naphtha jet fuel are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)].

Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries. [Section 4(b)(1)(E)].

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers and that a return to the military's competitive bidding system will probably enhance competition. The exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Reallocation of increased naphtha jet fuel costs to other products

FEA requested comments in the notice of proposed rulemaking on whether the refiners' price rules should be amended to limit, between the date of issuance of the notice and the effective date of the exemption, the reallocation of increased product costs and increased nonproduct costs (including any unrecovered increased costs which have been banked for future recovery) which is currently permitted for naphtha jet fuel. FEA also requested comments on the method by which this limitation would be most effectively implemented, including the manner of determining which portion of the aviation jet fuel bank is properly attributable to naphtha jet fuel.

Nearly all the parties commenting on this issue opposed limiting reallocation of refiners' banked costs. Despite the comments received, FEA has not been persuaded to treat banked costs for naphtha jet fuel differently than it did in its earlier amendments exempting middle distillates (41 FR 24516, June 16, 1976) and naphthas, gas, oils, and "other products" (41 FR 30096, July 22, 1976). Accordingly, FEA has decided to adopt a limitation on the reallocation of increased costs attributable to naphtha jet fuel as of September 1, 1976.

Since under the price rules no costs attributable to exempt products may be reallocated to covered products, that portion of the aviation jet fuel bank attributable to naphtha jet fuel will no longer be reallocable to any other covered product as of September 1, 1976. This amendment provides a method for determining that portion, based on refiners' volumes of naphtha jet fuel produced in 1975.

Other conforming amendments to the price regulations are also being adopted to reflect the exemption of naphtha jet fuel.

Effective date and standby authority

FEA has selected October 1, 1976 as the effective date for the exemption of naphtha jet fuel, or the first day following the expiration of the 15 day Congressional review period, whichever is later.

Section 12(f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose price controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which stay the effectiveness of the general price regulations as they would otherwise apply to naphtha jet fuel without deleting those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that in the event of shortages or other occurrences which might require reimposition of controls, they may be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective October 1, 1976, or on the first day following the expiration of the 15 day Congressional review period, whichever is later, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA.

Issued in Washington, D.C., September 15, 1976.

DAVID G. WILSON,
Acting General Counsel.

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1. Section 210.35 is amended by adding paragraph (g) (2) to read as follows:

§ 210.35 Exempted products.

* * * * *

(g) * * * * *

(2) Aviation fuel (naphtha-type) as defined in § 212.31 of this chapter is exempt from the provisions of Part 212 of this chapter.

2. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 Definitions.

* * * * *

"Covered products" means aviation fuel (kerosene-type), aviation gasoline, butane, crude oil, gasoline, natural gas liquids, natural gasoline, and propane. A blend to two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * *

3. Section 212.83 is revised in subparagraph (3) of paragraph (d) to read as follows:

§ 212.83 Price rule.

* * * * *

(d) Reallocation of increased costs among product categories.

* * * * *

(3) Aviation jet fuel. (i) To the extent that a refiner does not allocate its increased costs for aviation jet fuel to maximum allowable prices for aviation jet fuel, it may instead allocate that part of its increased costs for aviation jet fuel only to maximum allowable prices for gasoline. No increased costs for aviation jet fuel may be reallocated to maximum allowable prices for No. 2 oils or general refinery products.

(ii) Beginning on September 1, 1976: The amount of increased costs attributable to aviation jet fuel which bears the same proportion to the total of such costs as the volume of aviation fuel (naphtha-type) refined by the refiner from crude oil during the calendar year 1975 bears to the total volume of all aviation jet fuel refined by the refiner from crude oil during the calendar year 1975, shall be excluded from reallocation to maximum allowable prices for covered products other than aviation fuel (naphtha-type).

* * * * *

4. Section 212.93 is amended in clause (iii) of subparagraph (2) of paragraph (i) to read as follows:

§ 212.93 Price rule.

* * * * *

(2) * * * * *

(iii) Aviation jet fuel. (A) To the extent that a seller does not allocate its increased product costs for aviation jet fuel to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased product costs for aviation jet fuel may be reallocated to the prices for any general refinery product or products, including propane, or for No. 2 oil.

(B) Beginning on September 1, 1976, no increased costs for aviation fuel (naphtha-type) may be reallocated to prices for any covered product.

* * * * *

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 15, 1976.

Re Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation Regulations (Energy Action No. 7)

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On August 12, 1976, the Federal Energy Administration gave notice of a proposal to exempt naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations persons. Written comments from interested persons were invited through September 1, 1976, and a public hearing regarding the proposal was held on September 3, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt naphtha jet fuel from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any oil, refined petroleum product or refined product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94–385), enacted on August 14, 1976 (ECPA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any oil, refined petroleum product or refined product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 7, an amendment exempting naphtha jet fuel from rently allocation regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 6, FEA is submitting for review separately to each House of Congress an amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective October 1, 1976 or the first day following expiration of the Congressional review period, which ever is later.

Sincerely,

FRANK G. ZARB,
Administrator.

TITLE 10—ENERGY

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

Part 210—General allocation and price rules

Part 211—Mandatory petroleum allocation regulations

Exemption of Naphtha Jet Fuel From the Mandatory Petroleum Allocation Regulations

Introduction

On August 12, 1976, the Federal Energy Office (which assumed the responsibilities of the Federal Energy Administration ("FEA") during the interim between the expiration of the Federal Administration Act of 1974, Pub. L. 93–275, and its extension on August 14, 1976) issued a notice of proposed rulemaking and public hearing (41 FR 34784, August 17, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt naphtha jet fuel (as defined in 10 CFR 211.142 and 212.31) from the Mandatory Petroleum Price and Allocation Regulations. The proposal was based on tentative conclusions set forth in a document dated August 13, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Subsequent to the issuance of the August 12 notice, the Energy Conservation and Production Act, Pub. L. 94–385 (ECPA), was enacted. Section 102 of the ECPA in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but it does permit concurrent submissions of such separate energy actions. Accordingly, concurrent with the issuance of this amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations, a separate amendment is being issued to exempt naphtha jet fuel from the Mandatory Petroleum Price Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 7 and 6, respectively, pursuant to section 551 of the Energy Policy and Conservation Act ("EPCA").

Written comments on the exemption proposal and on the Preliminary Findings were invited through September 1, 1976, and the public hearing was held September 3, 1976. Forty-one written and oral comments were received in response to the notice of proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, and trade associations.

Almost all of the parties commenting

agreed with FEA that naphtha jet fuel should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. FEA has carefully considered these comments and has concluded that its initial view that naphtha jet fuel should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's preliminary findings and views. In any event FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose allocation controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b) (1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations. Unless disapproved by either House of Congress under section 551 of the EAA, this exemption will be effective October 1, 1976, or the first day following the expiration of the Congressional review period, whichever is later.

Findings and views

In addition to this amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations and the concurrent amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated September 14, 1976 and entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" (the "Findings and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Naphtha jet fuel is no longer in short supply; anticipated supplies of naphtha jet fuel will be sufficient to meet the demand over the near term. Stocks of naphtha jet fuel appear to be sufficient to meet demand surges.

(2) Exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. Ample domestic refining capacity exists to meet the demand for all refined products.

(3) Competition and market forces are adequate to protect consumers following exemption of naphtha jet fuel from regulation.

Removal of controls will have no or only a slight incremental effect (i.e. 2 cents a gallon or less) on price movements.

(4) Exemption of naphtha jet fuel from regulation will not result in inequitable prices for the Department of Defense, the major consumer of naphtha jet fuel, or for any class of end-user.

Projected excess refinery capacity should guarantee continued supply and the large number of independent and small refiners now competing successfully in the naphtha jet fuel market indicates that sufficient competition exists to protect consumers.

(5) Exemption of naphtha jet fuel from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b) (1) of the EPAA.

Since an adequate supply is anticipated, the continued allocation and pricing of naphtha jet fuel are not necessary to protect the public health, safety and welfare, and the national defense [Section (4)(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)].

Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries. [Section 4(b)(1) (E)].

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers and that a return to the military's competitive bidding system will probably enhance competition. The exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Effective date and standby authority

FEA has selected October 1, 1976 as the effective date for the exemption of naphtha jet fuel, or the first day following the expiration of the 15 day Congressional review period, whichever is later.

Section 12(f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose allocation controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which stay the effectiveness of Part 211 and the general allocation regulations as they would otherwise apply to naphtha jet fuel without deleting those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that in the event of shortages or other occurrences which might require reimposition of controls, they may be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 211 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective October 1, 1976, or on the first day following the expiration of the 15 day Congressional review period, whichever is later, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA.

Issued in Washington, D.C., September 15, 1976.

David G. Wilson,
Acting General Counsel.

1. Section 210.35 is amended by adding paragraph (g)(1) to read as follows:

§ 210.35 Exempted products.

* * * * *

(g)(1) Aviation turbine fuel (naphtha base) as defined in § 211.142 of this chapter is exempt from the provisions of Part 211 of this chapter.

2. Section 211.1 is amended in paragraph (b) by adding new subparagraph (9) to read as follows:

§ 211.1 Scope.

* * * * *

(b) Exclusions.

* * * * *

(9) Notwithstanding the provisions of Subpart H of this part, aviation turbine fuel (naphtha base) is excluded from this part.

SENATE RESOLUTION 552—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 10073.

(Referred to the Committee on the Budget.)

Mr. ALLEN, from the Committee on Agriculture and Forestry reported the following resolution:

S. Res. 552

Resolved, That pursuant to the section 402(c) of the Congressional Budget Act of 1974, the prcvisions of section 402(a) are waived with respect to the consideration of H.R. 10073, a bill to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes. Such waiver is necessary in order to permit consideration of statutory authority for the implementation during fiscal year 1977 of a mandatory inspection program to assure consumers of the wholesomeness of rabbit products.

AMENDMENTS SUBMITTED FOR PRINTING

MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENTS NOS. 2315 AND 2316

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted two amendments intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

ADMINISTRATION OF THE NATIONAL PARK SYSTEM—S. 3430

AMENDMENT NO. 2317

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted an amendment intended to be proposed by him to the bill (S. 3420) to amend the act approved August 18, 1970, providing for improvement in the administration of the national park system by the Secretary of the Interior and clarifying authorities applicable to the national park system, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS AND RECREATION

Mr. JOHNSTON. Mr. President, I announce for the information of the Senate and the public, the scheduling of a hearing before the Subcommittee on Parks and Recreation of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for September 20, 1976, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony will be received on the following wilderness designation proposals: S. 1075, Chiricahua National Monument; S. 1084, Haleakala National Park; S. 1089, Mesa Verde National Park; S. 1095, Saguaro National Monument and S. 3078, Joshua Tree National Monument.

For further information regarding the hearing you may wish to contact Ms. Laura Beaty of the subcommittee staff on extension 47147. Those wishing to submit a written statement for the hearing record should write to the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

INDIAN POLICY REVIEW COMMISSION

Mr. ABOUREZK. Mr. President, I announce that the American Indian Policy Review Commission will be holding a hearing on the exercise of hunting and fishing rights of Indians and non-Indians on and off Indian reservations. This hearing will be held in Portland, Oreg., at the auditorium of the Bonneville Power Administration's building located on 1002 N.E. Holladay. It will convene at 9:30 a.m. and adjourn at 12 noon on September 25, 1976. Persons interested in giving testimony should contact Tony Strong at (202) 224-5842 by 3 p.m. on September 23, 1976.

MILITARY MEAT PROCUREMENT INVESTIGATION

Mr. CHILES. Mr. President, I wish to announce that the Government Operations Subcommittee on Federal Spending Practices will hold two days of hearings related to our investigation into military meat procurement Tuesday, September 21 and Thursday, September 23, 1976.

Investigatory hearings in May disclosed massive problems in military meat purchasing specifications, inspection, security and cases of bribery and fraud.

Tuesday's hearings will be devoted to necessary reform proposals and an accounting of corrective actions taken to date. Witnesses are expected from the Office of the Secretary of Defense, the Secretary of the Army, Defense Supply Agency, Defense Personnel Subsistence Center and Army Health Services Command.

Thursday's hearing will be devoted to witnesses from the U.S. Department of Agriculture to dispense with concerns over possible retribution suffered by an expert witness who cooperated with the subcommittee's investigation last summer.

Hearings are scheduled to begin both days at 9:30 a.m. in room 3302, Dirksen Senate Office Building.

Persons requiring additional information or who might wish to submit additional statements should contact the subcommittee staff director, Mr. Lester Fettig at 224-0211.

ADDITIONAL STATEMENTS

PHIL HART

Mr. MANSFIELD. Mr. President, in this Chamber, with its tradition of courtliness and gentility, it is difficult to phrase a tribute to a colleague which is sincere on its face. Choosing words which obviously do not simply trip lightly off the tongue from long practice, but come from much deeper inside, is not easy.

But this is what I must do today.

For before this session closes—and he and I both leave the Senate—I want publicly, and for the record, to express my special admiration, deep affection and highest respect for the senior Senator from Michigan (Mr. PHILIP A. HART).

Since he announced he would not seek reelection, the tributes to PHIL HART have been many. They have been impressive. And, in some cases, they have been poetic.

I will not seek those heights.

There is no shortage of PHIL HART admirers in this Chamber. This was clearly demonstrated when an overwhelming majority paid him a unique and special honor by resolving that the extension to the Dirksen Senate Office Building shall be named for him—a unique honor, bestowed on a unique man.

What so many of us are trying to capture in our tributes is just what is it that makes him unique.

We could first do what the Bible counsels—look at his fruits—as a way to best know him. Indeed PHIL HART's Senate record is impressive.

He stepped forward on the civil rights front—when it seemed not to make political sense for him—and he was a leader in every major civil rights battle since the mid-1960's.

He was one of the first in this body to warn of the dangers to our health and safety from pollutants, toxics, and pesticides in our environment.

He documented the growth of economic concentration and patiently instructed dozens of us in its threats to the social and political welfare of our country.

He almost invented the word "consumerism" and has been on the frontlines in all those battles for most of his Senate career.

As impressive as his works are, they are not what makes PHIL HART unique. No, this comes from the manner and quality of the man himself.

He is a gentle man, in the way a father is gentle with a child—tender in manner and touch, yet there is an awareness of the strength and resolve underneath.

He is a kind man, in a way which surpasses politeness and makes all in contact with him feel that they have a unique value of their own.

He is a wise man, his counsel has been sought consistently by many of us and the safest bet is that we erred generally only when we did not follow it.

He is a good man, in the sense that he trully has tried to use his life to improve the world for those here and to come.

In short, PHIL HART is a beautiful person. Which has made him a beautiful politician.

In recent years, the public has grown to expect that a lot of politicians were the direct opposite of beautiful. In such surroundings, those of us who simply are not corrupt stand out as exemplary.

PHIL HART would have stood out as a giant in any century.

He is the kind of man who makes one proud not only to be a politician but to be human. As for me, I feel I am a better human because I have had the privilege of serving with, and knowing, PHIL HART.

CHICAGO FESTIVAL ORCHESTRA

Mr. PERCY. Mr. President, in a creative and unprecedented execution of CETA funds, the Chicago Office of Manpower this summer engaged the talents of unemployed musicians. These musicians formed the celebrated Chicago Festival Orchestra which provided 10 weeks of free entertainment for the people of the Chicago metropolitan area.

The citizenry of Chicago and the surrounding suburbs have witnessed a significant development in the character of our Federal employment programs. This orchestra is comprised of minority groups such as women, blacks, Latinos, and Orientals. Most important, the Chicago Office of Manpower has offered a pilot program which has given new hope to musicians who know all too well the frustrations of not being able to demonstrate their special abilities and genius.

The proficient 77-piece orchestra brings its enthusiasm and fervor for music to those individuals who could not otherwise afford a symphonic performance and has been warmly received. In turn, the musicians have gained vital experience in their chosen profession.

Let me commend the Chicago Office of Manpower, the Chicago Festival Orchestra, and Conductor Raymond Rosenkranz for their unique and cooperative effort. They have strengthened the spirit of Chicago, a city which has always been a confirmed patron of the arts.

GRAIN INSPECTION LEGISLATION SITUATION

Mr. HUMPHREY. Mr. President, I wish to share with this body a detailed report by John Huey in the September 15 issue of the Wall Street Journal on the grain inspection situation as it appears today.

Mr. Huey reports on the uncertainty of the present situation. It would appear that improvement has taken place at some of the grain elevators which previously had serious inspection problems.

The article makes clear, however, that the current legislative uncertainty needs to be resolved in order to provide some permanent reforms of the system.

The Senate and the House conferees have been meeting informally to resolve the differences of their two bills. I am hopeful that a satisfactory compromise can be achieved. I am disappointed that the administration has shown so little interest or initiative in this area, and the Congress has continually had to lead in this area.

Mr. President, I ask unanimous consent that this informative article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Sept. 15, 1976]

Grain-Inspection Job Hasn't Changed Much Since Scandals Broke

(By John Huey)

Myrtle Grove, La.—From his glass-enclosed laboratory in a grain elevator seven stories above the Mississippi River, Guy Morgan is able to watch some 1.7 million bushels of Midwestern corn flow into the hold of the Lisita, a Norwegian-flag freighter bound for Eastern Europe.

As the corn pours into the ship at about 50,000 bushels an hour, Mr. Morgan, a 35-year-old federal inspector, tests samples of the grain on his elaborate lab equipment. After some weevil-infestation problems are corrected by spraying insecticides, Mr. Morgan is reasonably confident that, on this particular day at this particular elevator, the grain is unadulterated and accurately graded.

But that is the extent of his confidence. He hasn't any way to vouch for the weight of the grain, and his grading authority is limited to filing a report if he disagrees with the judgment of a private inspector. Moreover, he says he isn't always certain that the samples he inspects accurately reflect the quality of the overall grain shipment loaded onto ships.

Basically, the role of federal grain inspectors has changed little in the two years since federal prosecutors in New Orleans uncovered a major grain-export scandal. In those two years, indictments and convictions have spewed forth for misdeeds ranging from bribery of government-licensed private inspectors to theft, misgrading, false weighting and adulteration of grain.

WHITHER THE CLEANUP?

Pressure from the continuing scandal has cleaned up some operations, close watchers of the industry say, but they worry that reform attempts in general haven't gone far enough and that they may prove to be only temporary.

Even Mr. Morgan's job may be temporary, for example. He was one of nearly 400 extra federal inspectors hired in the aftermath of the scandals, and Agriculture Department officials are worried that he and the other new inspectors will lose their jobs unless Congress acts soon on grain-inspection legislation.

Both houses of Congress have passed bills providing among other things for increased federal inspections. But the House-Senate conference committee trying to iron out details on the extent of the federal inspections is deadlocked as Congress heads into its homestretch. The conferees plan to make a "final" stab at a compromise this week or next.

Meantime, the stopgap measures of grain regulators haven't worked any miracles. "We don't know exactly what's going on in these elevators," says U.S. Attorney Gerald J. Gallinghouse, the fiery prosecutor heading the New Orleans inquiry. "But I wouldn't say we've made them all honest. Some of them are only honest when they're being watched."

LIMITED POWER OF INSPECTORS

And while the Agriculture Department has added some 150 inspectors in the New Orleans area alone, they have no new powers and remain helpless to do anything about some of the worst problems uncovered by the scandals.

Despite court cases that established widespread falsification of weights amounting to millions of dollars' worth of grain, the government inspectors still have no power over weighing. In most cases, the same private inspection agencies that supervised the weighing before the scandals continue to do so.

"Affirmative-action" agreements signed by many companies do provide for ungraded weight safeguards and closer monitoring of inventories. The federal warehouse examiners who perform these functions now make inspections four times a year instead of two. But the Agriculture Department has only about 150 such examiners for the whole country, and department officials admit that the system isn't designed for adequate supervision of export weights.

To the frustration of regulators, the grain-grading system under which the corruption flourished remains basically intact. "The main improvement is that we're able to be at the elevators more often," says Harlan Ryan, head of the Agriculture Department's New Orleans grain office. "We still have very little authority over the private inspection agencies, and those agencies are still on their knees to the grain companies," which hire the private inspection agencies and in many cases provide their only income.

GRADING THE GRAIN

Government inspectors such as Mr. Morgan feel hampered because they still have only supervisory inspection authority. If, for example, Mr. Morgan grades a sample as "No. 3 yellow corn" and the private inspector grades a sample from the same lot as the more expensive "No. 2 yellow corn," Mr. Morgan's only recourse is to let the grain continue to be loaded and report the discrepancy to his bosses. At a later date, the inspectors may compare the two lab samples and seek a compromise. But the private inspector could doctor his sample in the interim, and one private inspector who was caught admitted he bought bushels of high-grade wheat to use in preparing such false samples.

Also, inspectors still feel uneasy with some of the mechanical systems that gather their samples at the elevators. Both government and private inspectors, as well as higher-ranking officials, single out the system at Continental Grain Co.'s Westwego, La., elevator as one in which they lack confidence.

"It's a disaster trying to keep up with the grain at Continental," says one inspector for the private New Orleans Board of Trade. "You get your sample before the grain goes (from storage tubes in the elevator) to the shipping bins, garners or scales. The controls are hard to figure out, and there aren't any locks on anything. I just don't trust it."

Continental, which paid a $500,000 fine on charges of filing inaccurate export declarations in Louisiana, says there is no question as to the system's integrity, pointing out that it is approved and certified by the Department of Agriculture. It is approved, but a department official in Washington, who monitors Continental's and other companies' affirmative-action programs, confirms that he has been negotiating with Continental for improvements in the system.

Moreover, even federal inspectors aren't a guarantee against scandal. "Just because you slap a federal badge on some dude, that doesn't make him honest," observes John A. Knebel, an Agriculture Department under secretary.

But others in the department say it is easier to control federal inspections. Inspector Morgan, who was a private grain inspector before signing on with the government, also says he has a great deal more freedom now and less pressure from the grain companies.

For the most part, the Agriculture Department's Mr. Ryan says, elevator operators since the scandals have increased cooperation with federal inspectors and are pressuring them less. "There's less calling of me and less calling of Washington to question their grading," he says. "We're not slapping the inspectors' hands for finding off-grade grain. Before, a fellow who made too many waves might be moved to a bad job."

But the inspectors complain that at one operation at least, Bunge Corp.'s Destrehan, La., elevator, they are hampered by heightened company security measures and less-open loading procedures. "We have to sign in and out, and we aren't allowed to go anywhere without a company escort," one inspector says. "We feel watched." Bunge says the closer scrutiny is part of a company-wide program to prevent unauthorized activities.

Most grain companies cite the affirmative-action programs as evidence of their good faith in cleaning up operations. But regulators say that some of the agreements sound stronger than they actually are.

CARGILL'S AGREEMENT

For example, Cargill Inc. entered a voluntary agreement (which expires next March) providing for inspection of all grain received and shipped at certain export elevators by an inspection agency or personnel authorized under either the U.S. Grain Standards Act or the U.S. Warehouse Act. Because the Warehouse Act is included, regulators say, Cargill's own employes are eligible to perform the inspections.

But even harsh critics concede that dramatic changes have been effected at some operations, and they cite Mississippi River Grain Elevator Inc.'s Myrtle Grove elevator here (controlled by the Feruzzi interests of Italy) as a "showcase" of such improvement.

Some 11 indictments and nine convictions were obtained in connection with operations at the elevator, previously described by one federal investigator as a "rat's nest," and elevator manager Giovanni Rametta fled to Italy to avoid federal prosecution on charges of conspiracy and tax evasion.

Now, however, the New Orleans Board of Trade (less tainted by the scandals than some other private inspection agencies) has assumed inspection authority from the defunct Delta Weighing and Inspection Bureau; the old sampling and weighing system has been revamped and bins and scales locked; inspectors like Mr. Morgan feel some confidence when overseeing loading of ships such as the Lisita. "The elevator is ideal from our viewpoint," says Mr. Ryan of the Agriculture Department.

DEBATE IN CONGRESS

Still, regulators insist they need legislation to perform their jobs properly, and with time running out on the 94th Congress, the conferees are still seeking a compromise between the two bills, both of which claim to provide the authority necessary to ensure the integrity of U.S. grain exports. It is an unusually stubborn standoff that, many believe, threatens to set back previous progress and perhaps stall cleanup of a badly discredited industry.

The conferees agree on a number of substantive issues. Both bills would, in effect, provide federal inspection at New Orleans and Houston area ports (which account for more than 60% of U.S. grain exports). Such inspection would secure the now-precarious jobs of many of the 400 inspectors authorized under temporary legislation. And both bills acknowledge the need for granting some authority over weighing to federal inspectors.

But the key point of disagreement on which all else now seems to hang is how far federal controls should extend and how many, if any, private agencies should remain. The original Senate proposal called for federal inspection at all ports and at the 25 largest interior terminals. The House bill called for federal or state inspection at all ports and for federal inspection only at interior terminals where state or private agencies aren't available.

Another key disagreement is over conflict-of-interest provisions of the two measures. The Senate bill's backers believe the House bill provides too many loopholes allowing possible conflicts of interest between the grain companies and those who control private inspection agencies.

Boosters of the House bill contend that the Senate proposal would prove to be costly and an overreaction to the scandal; Senate backers see the House version as favorable to the grain industry and parochial, preserving state and private agencies in committee members' home states.

"We believe—and we think it has been proven conclusively—that the inspection systems in both the interior and the ports are corrupt," says Sen. Dick Clark of Iowa, who, along with fellow Democratic Sen. Hubert Humphrey of Minnesota, is the prime mover behind the considerably harder-hitting Senate bill. "If the heat's on this month, everything may be fine everywhere, but it's the system that's wrong, and that's what needs reforming," Sen. Clark says.

Rep. Thomas S. Foley of Washington, chairman of the House Agriculture Committee, says, "We don't want to lapse into thinking we can clear up any problem simply by legislating. Their proposal (the Senate's) would place 87% of the country's grain under federal inspection and almost totally abandon the present system."

And at least one of the five House committee members opposing all compromise plans so far admits that he wants no bill at all. "I don't see any reason for the government to get involved with grain going to Russia. Japan or Ethiopia," says Agriculture Committee vice chairman W. R. Poage, a Texas Democrat.

With Congress expected to adjourn Oct. 2 and with the "final" conference-committee session expected this week or next, each side insists it is willing to forgo "permanent" legislation this year rather than bend too far in the other's direction.

Presidential politics further complicates the stalemate. On the recommendation of Agriculture Secretary Earl Butz, President Ford has let it be known that the Senate version is unacceptable to the administration, and Democratic nominee Jimmy Carter says he favors a federal-state inspection system with the abolition of private agencies.

At the Agriculture Department, there is little optimism for permanent legislation this year. "We're working on contingencies to see what we can do," Under Secretary Knebel says. "We don't believe the congressional tug-of-war is going to put either side in the mud this year." Some expect a temporary measure instead, giving somewhat broader authority to federal inspectors and perhaps extending the jobs of the 400 new inspectors.

Regulators await the outcome as they face another fall's harvest. "We're sitting on the edge of our chairs," Harlan Ryan says. "Without some kind of legislation, we just don't have a sense of direction."

PRICE FIXING AT THE LOCAL LEVEL

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues a Wall Street Journal article of July 30, 1976. The author, Mr. Timothy D. Schellhardt, focuses our attention on a point many of us concerned with the preservation of competitive business practices tend to overlook—that most price-fixing activity occurs locally and regionally, rather than on a national scale. An interesting fact is that most of the price-fixing cases in the last few years have been instances of regional price fixing, not national cases. Most importantly, the Justice Department has been getting help from employees in the Department's efforts to expose and bring criminal cases. This aid is attributed to more public awareness of criminal responsibility because of Watergate.

While it is disturbing to note that small business is so deeply involved in price-fixing. It is heartening to see a positive feedback from the Watergate trauma. Leaders are human and err, whether in politics or business. It is a good point to remember.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 30, 1976]

THE RISING TIDE OF PRICE-FIXING

(By Timothy D. Schellhardt)

WASHINGTON.—Four years ago, when Thomas Kauper became the nation's antitrust chief, he said he was "shocked" and "appalled" at the amount of price-fixing being uncovered in the business community.

Tomorrow Mr. Kauper leaves his job as Assistant Attorney General to resume teaching at the University of Michigan Law School. As for the prevalence of price-fixing, he says: "I'm still appalled."

During his time in Washington, Mr. Kauper has vigorously challenged price-fixing, obtaining 267 indictments in the past three years, but he remains puzzled at the government's inability to deter businessmen from engaging in such illegal practices.

In an interview the other day, Mr. Kauper discussed what he's discovered in four years of fighting the problem.

"Some in the business community view price-fixing sort of like jaywalking," says Mr. Kauper. "You look around and you see if there's a policeman standing on the street corner. If he isn't there you jaywalk, even though you know it's illegal.

"Why does a person jaywalk? Presumably because he sees it as the best way to get from here to there," he continues. "I think there's a little of the same attitude towards price-fixing. A business manager's constantly worried about how to get the best return, and he says: 'Well, the easiest way is if I don't have to compete with that fellow down the street.' Then you begin to get judgments made whether you're going to get caught and what will happen to you if you do."

Mr. Kauper says much of his division's work has been aimed at giving businessmen "the impression that there's a fair likelihood they'll get caught" if they agree to set their prices uniformly. But he strongly suggests that the message isn't getting through.

Most price-fixing activity, Mr. Kauper believes, occurs locally and regionally rather than on a national scale. "I don't think there's any doubt about it. I can remember just as a citizen running into this," he says. "You're told by the local dry cleaner, for example, 'it won't do you any good to shop around because all the prices went up yesterday and we agreed to do it.' If you start looking in communities. I think you will find any number of purely localized kinds of price-fixing situations."

The opportunity for businessmen to set uniform prices is much greater at the local and regional level, he explains, because they usually know each other well. "They all belong to the same country club, a whole variety of things of that sort," Mr. Kauper says.

He suspects it's more difficult to price-fix on a national scale. For one thing, he says, executives of major companies are more familiar with the consequences of price-fixing. "They tend to be better counseled and hammered away at." he says.

Most of the price-fixing cases the antitrust division has brought in the past few years have dealt with regional situations. In the Western U.S. alone in the past two years, the division has charged price-fixing violations by six oil refiners in five states, by two large retailers of women's quality clothing in northern California, by eight concrete companies in parts of Idaho and Oregon, by six wholesale bread bakeries in the San Diego area, and by two California county veterinary associations.

Mr. Kauper says it's easy to understand why price-fixing occurs. For one thing, he remarks, "you can do very well at price-fixing." The extra profits often far exceed any fines that might be levied if the price-fixer is caught and prosecuted.

Furthermore, there's a good chance, that a price-fixer, like a jaywalker, won't get nabbed. The federal government's antitrust sleuths, at the Justice Department and the Federal Trade Commission, can't begin to police every municipality. And many local price-fixing violations may be beyond the reach of federal antitrust laws. Most state attorneys general haven't put much effort into prosecuting price-fixers, and local prosecutors hardly ever bring cases. Last year in California, for example, over 100,000 criminal prosecutions were begun in the traditional areas of theft and drug violations, but local prosecutors filed only three antitrust cases.

Mr. Kauper complains that even when price-fixers are convicted, judges often impose weak sentences. Some recent sentences entered in antitrust cases, he says, have been "inappropriately mild by any conventional sentencing standards."

Mr. Kauper hopes some new ammunition obtained in recent years will deter price-fixing activity. Congress two years ago made price-fixing a felony instead of a misdemeanor and sharply increased the maximum fines for such violations. The top penalty for corporate violators was raised to $1 million from $50,000; for individuals, the maximum went to $100,000 and three years in prison, from $50,000 and one year.

"I'd like to think all of that put together is going to sharply reduce price-fixing," he says.

Indictments charging felony violations have just begun to surface, however, because the antitrust division couldn't use the new statutes in grand jury investigation begun before Dec. 21, 1974. Since grand jury inquiries generally take about 18 months, almost all of the indictments brought until this month have charged misdemeanors rather than felonies.

But from now on, notes Mr. Kauper, the government will have no choice but to charge felony violations. "No one ought to be proceeding on the assumption that he can fix prices and then come in and assert it's a misdemeanor," he asserts.

The antitrust division also has been getting help lately from an unusual source: employes who tell on their bosses. It's a post-Watergate phenomenon, Mr. Kauper believes. "There's a concern on the part of some employes that they're being asked to do something they're worried and nervous about. I suspect there's more awareness of that as a result of the Watergate affair," he says.

That kind of help, he suggests, may do the most to deter price-fixing. "When a group meets for that purpose, I'd like to have them constantly thinking that one of the group is talking to us," he says. "That sounds almost subversive, but they've got to recognize that any one of their group may ultimately find it in his interest to talk."

HUGH SCOTT

Mr. MANSFIELD. Mr. President, it is truly spoken that one cannot say farewell to a friend. Friendships abide through seasons both spare and bountiful, and for this one can only be grateful. That is why I rise today to express my gratitude to the distinguished minority leader of the U.S. Senate, Hugh Scott.

Both Hugh and I came to the Congress years ago. And both of us will retire from the Senate at the conclusion of this 94th Congress.

We have worked closely together as leaders of our respective parties since 1969. Ours has been a good relationship; it could not have been otherwise because it has always been based on trust in each other's word.

Hugh Sott is a Senator of selfless dedication to the people of his beloved Commonwealth of Pennsylvania. He is an astute leader of his party, which is strengthened because of him. He is a scholar to whom we are not too proud to defer. He is a gentleman who so often has lightened the burden of a heavy day with wit.

Much has changed over the years since the voters of the Keystone State and the voters of the Big Sky Country sent Hugh and me to Capitol Hill. Hugh Scott has earned an ample place in the history of these times.

When he first came to the House of Representatives, during World War II, one of the civil rights being considered had to do with lynching laws. That was how far we had to go in years that were not so long ago. Even as a freshman Congressman, when the issue of the rights of blacks and minorities was unpopular and virtually unknown, Hugh Scott spoke out with a strong voice.

We are proud, and grateful, that he carried that often lonely fight for human dignity throughout all his years in the House and the Senate. He was a leader in the passage of landmark civil rights legislation: the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Employment Practices Act, the Fair Housing Act; so many others. For this, the entire Nations salutes him.

As the leader of his party—and I know it is sometimes more difficult to be the minority leader than the majority leader—Senator Scott has brought a style of shared, and highly effective, leadership to the Republican Party in the Senate.

Much credit is due him as well for his leadership with Senator Kennedy in campaign reform, most especially for his support of public financing of elections. And he has worked tirelessly with our friend and colleague, Senator Philip Hart, on this year's antitrust bill—the most major reform of antitrust laws in a quarter of a century.

So, we are proud of Hugh Scott. I am proud of him.

Next year, his desk and mine on the floor of this Chamber will be occupied by others chosen by their colleagues. So it is right and proper that others have the opportunities before them that we have been so honored to have shared in for many a year.

It is my hope that those who succeed us will lead their parties with constancy, with courage, and with courtesy.

I personally shall miss the handshake across the aisle that has always started our Senate day as leaders.

I personally shall miss the manner in which we have been able to work, the bond of honor, and I hope those who follow us will achieve so rewarding a relationship.

I personally shall miss our equally eloquent colloquies on behalf of the party of the people—to which we both lay claim—and I shall ever reserve the right to disagree.

I personally shall miss the bon mot of which he is a master, and which so often has sent the media to their dictionaries and myself to distraction.

Maureen and I wish for Marian and Hugh seasons of joy in the coming seasons of change. For everything there is a season, and ours has been fruitful. To borrow upon his penchant for that orphan of the family of humor, the pun, I am very happy that ours is not only a good but a seasoned friendship.

REGULATION VERSUS COMPETITION

Mr. FANNIN. Mr. President, despite all the clamor and publicity about the costs of Government overregulation and the need to eliminate unnecessary, wasteful and harmful regulations and programs, there are still many observers who maintain that prospects for genuine comprehensive reform are uncertain at best. One of those "doubting Thomases" is Mr. R. T. McNamar, Executive Director of the Federal Trade Commission who, in an article which appeared in the Wall Street Journal, has asserted his doubt that regulatory reform is "an idea whose time has come".

In his excellent discussion of the problems and prospects of regulatory reform, Mr. McNamar suggested that fundamental changes are unlikely because first, critics of Government regulation, being uncertain about the causes of the current regulatory mess, cannot agree among themselves on the best approach to achieve reform; and second, businessmen are divided over the need or extent of reform.

The problem arises from the fact that industry has profited from the anticompetitive advantages they have enjoyed over the years in the cozy regulatory surrounding in which they must operate. In Mr. McNamar's words:

> Clearly, disagreement on the objectives of regulatory reform, coupled with the government's traditionally fragmented, nonsystematic legalistic approach, enables almost any corporation rationally to maintain a schizophrenic position. To wit, support for reform or repeal of some regulations, namely the "burdensome" ones, while seeking the retention of those laws or regulations that protect them from competition in markets where they believe they may be weak vis-a-vis competitors.

As a result of this situation, when businesses are faced with a loss of revenues, "the accepted course of action is to alleviate a corporate profit squeeze with Government action." Executives then turn to their elected representatives for assistance, claiming an urgent need to preserve competition and protect small business, the independents, and the like, in the name of "free enterprise".

Unfortunately, regulatory reform seems improbable, however strong its popular political appeal, so long as businessmen who are subject to Government regulation are fearful of making personal sacrifices, but willing to sacrifice the principles of a free market economy on the altar of profit-and-loss expediency.

Mr. McNamar's conclusion is not encouraging.

> Unfortunately, it appears that our economic competitors, today's corporate executives, may have lost their willingness to subject their firms and their own personal corporate bonuses to the same stringent risks of competition that we still demand of our athletes. If this is so, as a nation we have lost one of our vital forces that has made us great and given us our high standard of living. To date, the statements from top corporate executives about government regulatory reform seem an ominous harbinger. I hope I'm wrong.

As a proponent of regulatory reform and one who has made his way in the world of business, I hope that Mr. McNamar's analysis is too pessimistic.

Mr. President, I request unanimous consent that the complete text of "Regulation Versus Competition," the article by R. T. McNamar, published by the Wall Street Journal on August 9, 1976, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Regulation Versus Competition

(By R. T. McNamar)

It has been well-documented that many types of government regulations fuel inflation, promote inefficiency, discourage innovation and generally reduce competition.

As a result there is vast dissatisfaction with the methods government has been using to approach both the problems of the marketplace and to achieve social objectives. Abolitionists are calling for "deregulation"; others are seeking "regulatory reform." At the highest level, President Ford has led the fight for a broad-scale review by calling for a National Commission on Regulatory Reform, and introducing in Congress a follow-up bill, the Agenda for Government Reform Act.

Yet, does all the dissatisfaction, the criticism and calls for legislative action mean that regulatory reform is an idea whose time has come? Unfortunately, I fear not.

First, regulatory reform means different things to different people. The very people who are loudest in extolling the virtues of the free enterprise system often are the ones who oppose reforms which would infuse more competition in the area in which they do business.

My own experience indicates the typical reaction heard from business is all too often, "Cut down on government paperwork and regulation, but my industry has special problems where more competition won't work." Unfortunately, the cumulative effect of preserving those regulations that are needed to take care of each individual industry or special interest group's problems is a maze of stupefying regulatory constraints that effectively prevent free market economies from providing the benefits of competition to the American people.

For example, the specialty steel, television manufacturers, shoe and industrial fastener industries have recently been attempting to obtain more government regulation—specifically higher protection tariffs. In this instance, it's protection against foreign competition. More commonly, industries and individual firms are seeking regulation to avoid domestic competition. In Washington one repeatedly hears the call for "orderly markets" to promote competition. Just what is an orderly market? It seems to be defined as one that has no corporate losers—only winners. Yet intrinsic in the definition of a market is consumer choice, which must result in an unchosen product or service. Given the demand level, shouldn't competition be close to a zero sum game?

DISAGREEMENT ON TERMS

Second, in the abstract, all observers would agree with the need to do away with the truly wasteful and purposeless regulation, while maintaining what is necessary to achieve a safe, honest and competitive marketplace. But few can agree on precisely what that means.

Hence we have a situation where many people are discussing regulatory reform from different perspectives and for different reasons. Some dislike the economic regulations which create anticompetitive inefficiencies such as artificially high prices and barriers to entry into a market. Others oppose the new issue-oriented regulations aimed at health and safety objectives—the so-called "social regulation." In this sphere, the administrative and economic costs of retooling production to meet government safety and health standards are often cited as reasons to "deregulate."

As a result, the confusion surrounding the imprecise—and not terribly useful—terms "deregulation" or "regulatory reform" provides an umbrella under which a great many companies seek both to eliminate their government-imposed operating cost increases and to shield themselves from the cold rain of increased competition.

Against this background, I believe that almost all companies have some vested interest in almost any existing or proposed government regulation. Admittedly simplistic, there seem to be three broad possible effects of government actions:

(1) Regulation can create a government-induced market for products, by either requiring (or prohibiting) that business be done in a certain manner. In either event, established markets are disrupted. Those construction and engineering firms that have prospered because of the Environmental Protection Agency's enforcement of stricter water and air pollution standards have a major stake in existing regulation. Economically, the government has created new and larger markets for electrostatic scrubbers, precipitators, engineering services, etc. What would happen to the private firms that supply that market if the government were to cut back on its environmental enforcement efforts? Would these firms favor deregulation in this area?

(2) Regulation can affect the relative cost advantage of a firm's products vis-a-vis its competitors. Consider the well-publicized advantage of the Hess Oil Co. under the Federal Energy Administration's oil pricing regulations. The oil allocation and entitlements program vividly demonstrated that the cost structures of individual firms in the industry can be dramatically altered through government regulation. In the Hess example, geographic location of a refinery provided a government-created competitive advantage and profit windfall to the firm.

Historically, the operation of government regulation in the energy area has not only stimulated increased demand for energy through cheap energy policies but has determined that natural gas would be relatively less costly than other forms of fossil and non-fossil fuel. As a result, whether wisely or not, utilities, appliance manufacturers and construction firms have all had an interest in the government's policies in this area. And most of these firms are not at all interested in tampering with existing regulations in this area.

Indeed, preservation of the status quo seems to be the objective of many corporate executives. For example, in recent congressional hearings on reform proposals for the airline industry, TWA Chairman Charles C. Tillinghast, Jr., said: "I should like to be able to say that TWA is not afraid of deregulation of market entry. . . . I cannot. We have been disadvantaged and damaged over too many years by route awards to our competitors and fare determinations tilted against our unique route structure."

He argued that a number of TWA's competitors are strong because they have "significant monopoly positions." One wonders whether Mr. Tillinghast would include Pan Am in this favored group. For years, the Civil Aeronautics Board, through its regulatory process, has denied Pan Am the right to domestic routes to complement its overseas operations—an advantage it appears TWA has had.

(3) Regulation can alter the price structure of an industry. For example, pollution regulations on sulphur were a bonanza for low-sulphur coal suppliers from the Western states versus higher polluting Eastern coal. Obviously, it is in their interest to favor stricter pollution control and government-forced conversion of utility plants from oil or natural gas to coal. Who can blame them?

In addition, the imposition of government regulations, particularly congressionally-mandated ones, has a distinctly anti-small business bias. Unintentionally, they provide large corporations with a competitive advantage over small firms, because the costs of complying with most government regulations are largely fixed costs in the short and intermediate term—capital investments, attorney's fees and administrative overhead. Since larger companies have more units of production to cover their fixed costs, their per unit costs of compliance tend to be lower than those of a smaller producer of the same product. Thus they derive a competitive advantage from the cost of complying with government economic and social regulations. Small wonder that one hears few cries for broad regulatory reform from big business itself.

Clearly, disagreement on the objectives of regulatory reform, coupled with the government's traditionally fragmented, nonsystematic legalistic approach enables almost any corporation rationally to maintain a schizophrenic position. To wit, support for reform or repeal of some regulations, namely the "burdensome" ones, while seeking the retention of those laws or regulations that protect them from competition in markets where they believe they may be weak vis-a-vis competitors.

In short, no company favors deregulation or regulatory reform in the abstract. Rather, the company's executives' position depends on the precise individual government action as it affects them and their perception of their relative competitive advantage (or disadvantage) from it. This plain fact is too often ignored in the theoretical rhetoric about the economic principles underlying "deregulation."

TOO MANY EASY CHOICES

Underlying these examples is my concern that the government and business community may have lost the will to change the existing system. The current regulations provide too many fees or paychecks to the lawyers who designed them and represent either the government or private firms. They give the Congress too many easy choices. A Congressman can use the existing regulations to climb the committee ladders to greater power and authority. This allows him to point to his economic activities as a panacea for the public, while at the same time using them to protect those constituent interests that are most important to him.

Lastly, but I fear most importantly, too many firms now have an opportunity to boost profits and preserve executive compensation levels with a political-regulatory solution. Indeed, a major reason that top airline executives may oppose more entry into the field, the abandonment or sale of unprofitable routes and an economic rationalization of the industry is very simple. The end result would be that some of the current firms would be smaller. In turn, the company's executive salaries and bonuses, not to mention perquisites, would be reduced to reflect the size and performance of the firm. In the face of a reduced compensation package, who can blame an executive for putting his interest ahead of free market ideals and the consumer? Indeed, he's acting as Adam Smith might have predicted he would.

So regardless of whether lower profits are caused by a declining industry, poor management or possibly increased competitive pressures, today the accepted course of action is to alleviate a corporate profit squeeze with government action. And, so long as legislative or regulatory redress is a viable option to lower profits, top management will use it.

After all, what legislator or regulator can be unmindful of cries to "preserve the independents," "protect small business," and "preserve present levels of service"? All of these are claimed by business executives under the guise of "fostering competition." By contrast, only a free market is willing to make blind, arbitrary, rational resource allocation decisions that are insensitive to executive compensation.

The recent Olympic trials provide a lesson in competition that American industry should study. The United States chooses its swimming, boxing and track teams using rigorous and demanding competition. Some of the "best"—based on past performances—fail to make it. It's the American way. We are one of the few nations to use this most competitive, most free, most fair method. Yet, like the Olympics themselves, it produces winners and losers.

Unfortunately, it appears that our economic competitors, today's corporate executives, may have lost their willingness to subject their firms and their own personal corporate bonuses to the same stringent risks of competition that we still demand of our athletes. If this is so, as a nation we have lost one of our vital forces that has made us great and given us our high standard of living. To date, the statements from top corporate executives about government regulatory reform seem an ominous harbinger. I hope I'm wrong.

A TRIBUTE TO SENATOR PAUL FANNIN

Mr. MANSFIELD. Mr. President, I want to take this opportunity to remind my colleagues of the forthcoming retirement of one of the Senate's most respected Members, Senator PAUL J. FANNIN of Arizona.

During his two terms in the Senate he has been known to all of us here as that rare kind of man that it is always a pleasure to work with: He is that anomaly among politicians—a self-effacing man, never one to seek the limelight. He is a man who will work quietly and tirelessly to enact his legislation. A dynamic man, he is also one who cooperates, who listens and whose word is his bond. His sense of honor and integrity is an integral part of his personality. In fact, the name, PAUL FANNIN, and the word, integrity, are almost synonymous. Those of us who have worked with him know that if he says he is with you, you can count on his loyalty.

He has given his utmost to his Senate career—he has a voting record of 89.22

percent. He is ranking Republican on the Senate Interior Committee, second ranking on the Senate Finance Committee and a member of the Joint Economic Committee. He has labored intensively in the fields of energy and finance and is generally considered an authority in both of these areas. His profound interest and work toward the development of solar energy has made him an expert in that field. In some quarters he is known as "Mr. Solar Energy."

Paul Fannin came to the Senate in 1965 after three highly successful terms as Governor of Arizona. His popularity in Arizona is still unmatched—and his devotion to his State is equally well known.

Mr. Fannin attended the University of Arizona and graduated from Stanford University. He and his brother developed a successful business marketing propane gas and agricultural chemicals in the West and in Mexico until he retired from business in 1956, when he entered politics for the first time and became Governor.

Senator Fannin has never lost his enthusiasm for his legislative work. He is well known as one of the Senate's "workhorses" for his prodigious labors on his committee assignments. A case in point is the major role he has played in the recent tax legislation. He is one of the few people in this country, or in this Senate, for that matter, who can tell us what is in that enormous bound book called the Tax Reform Act of 1976.

Those of us who have had the opportunity to work with Senator Fannin over the past 12 years know that we have been working with a true statesman. Paul Fannin has never put partisan politics above the best interests of the country. He is the incarnation of that highly idealized vision of a Senator that young people have, a statesman and an honorable man.

BARBARA WHITE LEAVES PUBLIC SERVICE—BECOMES NEW PRESIDENT OF MILLS COLLEGE

Mr. PERCY. Mr. President, Ambassador Barbara White is well known to many of us in the Senate. As a member of U.S. delegations to five U.N. General Assemblies and to the World Conference for International Women's Year, as well as other conferences, Ambassador White has contributed significantly to our country's diplomatic efforts and stature, and has impressed those who came in contact with her with her great talent and intellect.

I would like to call to the attention of my colleagues the fact that Barbara White has now taken up new responsibilities as president of Mills College in California. After a distinguished career in public service with the State Department and the U.S. Information Agency, she will now apply her intelligence, dedication, and diplomatic skills to the administration and leadership of this highly respected women's college.

In 1974, at the 29th United Nations General Assembly, I had the pleasure of working with Barbara White on the U.S. Delegation. Her work as representative of the United States to the Trusteeship Council was especially effective and praiseworthy.

On September 8, the Christian Science Monitor published an article by Larry Wood, in which Barbara White's thoughts on education, as she takes up her new assignment at Mills College, are outlined. Because so many of my colleagues know and admire her and are familiar with Mills' outstanding reputation, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Liberal Arts and Liberation—College President Looks at Future for Women

(By Larry Wood)

Oakland, Calif.—Liberal arts and liberation are inextricably linked together.

This is the opinion of Barbara M. White, new president of the West's prestigious college for women, Mills College.

"I think that the basic purpose of a liberal arts education is to liberate the human being to exercise his or her potential to the fullest. And that means tearing down some of the walls of provincialism with which a person grows up," Miss White said during a recent interview. "I feel that one of the tremendous barriers of provincialism is attitudes about women . . . what women can and can't do . . . what women should and should not do."

Miss White is now settling in on the Oakland campus and preparing for the opening of the 124-year-old school later this month. Formerly a foreign service officer and a United States Ambassador to the United Nations, Miss White served on U.S. delegations to five UN General Assemblies and to the World Conference for International Women's Year in Mexico in 1975. She has also headed the U.S. delegations to the UN Economic Commission for Latin America, and to the Organization of American States Conference on the Integral Education of Women.

"The potential of what can happen to students as a result of the kind of educational experience that they are getting at Mills is very, very great," she said, adding her conviction that women's colleges are important today because of the special job they can do. She sees Mills as a pivotal point from which students can build their lives. She is glad it has not gone co-educational.

A Phi Beta Kappa and graduate of Mt. Holyoke, Miss White suggests: "As a product of a women's liberal arts college, I have a special appreciation for the role that such a college can fulfill." And then she defines Mills' mission:

To give a first-rate liberal arts education to each student. "Of course," she says, "liberal arts is interpreted in different ways in different times in different societies." But she is convinced that a liberal arts background "is really the basis for the development of the human person."

To provide motivation that will give women students educational enrichment and a special impetus and awareness of opportunities. She says that women need this kind of help "in order to make their way in a society that is not equal."

FLEXIBILITY VALUED

Also, a small, private women's college is able to make changes in curriculum and procedures easily—and Mills is doing this now. For example, the college has a new computer center that will be available to the students around the clock. Mills is also strengthening its program offerings in both mathematics and science.

"There are few professions in the world today where being at home in mathematics is not a great asset," Miss White commented.

Miss White feels that many women with very high potential are not achieving it. "This happens," she says, "in large part because it's a matter of where they set their goals and what they think is their capability and what they think they can do. . . . The under-utilization of the talents of women is probably the greatest waste in our society today."

On the other hand, Miss White indicates that many of women's current restrictions have been self-imposed in the sense that they have grown up with certain limited self-perceptions of what they can accomplish.

"Nobody has pointed a gun and said, 'You can't do that!' " she said.

"But we all know that motivation and aspiration are the keys to accomplishing anything in this world. And I feel that is, in part, what liberation means. It means liberation of women in their own concepts of themselves."

The new Mills' president intends to emphasize both flexibility in curricula and diversification of student body. For example, next year the school will have 25 percent of its approximately 1,000 students in minorities. Another 17 percent are "resumers," women beyond the traditional college age. Seventeen 16- and 17-year-olds have been accepted on an early entrance basis.

All of these students are going to have an opportunity to associate closely with their new president, if all goes as planned. Miss White has scheduled one "open door" afternoon each week, when students can drop by her office without appointment. And if they don't find her there, she hopes they will look her up in the campus pool where she has a brief swim three afternoons a week.

NO COMPETITION IN BUS MANUFACTURING

Mr. KENNEDY. Mr. President, in the last Congress I introduced S. 4131, designed to require General Motors to release its stranglehold on bus and rail production in the United States. Specifically, the bill would compel GM to divest control of bus and rail manufacturing and would encourage new firms to undertake mass transit production.

In many ways the depletion of our oil supplies, the disruption of our economy, and the unabated degradation of our environment can be traced to the displacement of public transit by automobiles. Hearings before the Senate Subcommittee on Antitrust and Monopoly in 1974 made it clear to me that as long as GM is able to orchestrate our transport industries to promote the sale of its cars and trucks, we are likely to remain a second-rate nation in public transportation.

A recent article in Environmental Action discusses the failure of DOT's space-age bus program which the author observes is "mainly due to lack of industry competition." The article reaches the disturbing conclusion that "the United States is trailing the world in bus technology." This is a brief article, Mr. President, but should provide food for thought for all of us, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

GM Puts Brakes on "Bus of the Future"

Five years ago the Department of Transportation called for development of a space-age bus. Today—mainly due to lack of industry competition—we are back where we started.

Two inches. That's the difference between the floor height of what was hailed as "the bus of the future" and the new floor height standard adopted by the Urban Mass Transportation Administration last month.

Concealed in those two inches is the federal government's response to a number of technological, economic, and political problems inhibiting mass transit. Also hidden in those two inches is the government's word on how well buses will meet the needs of riders.

In 1971 the Urban Mass Transportation Administration (UMTA) realized that private industry was not moving toward better designed urban buses on its own. So the agency established its Transbus program, a $25-million investment aimed at infusing space-age technology into the urban bus. Gone would be the lumbering, noisy, fume-spewing behemoths. In their place would come a new generation of comfortable, efficient, more "profitable" machinery—the Transbus.

The Transbus would also be key to fulfilling an important congressional mandate that federally financed transit be accessible to the elderly and handicapped. The low floor (22 inches or less) of the Transbus would enable manufacturers to do away with steps, replacing them with a short, convenient ramp.

Easy access is also important if buses are to improve service. The faster all passengers can get on and off a bus, the faster it can complete its route. Running time, as the industry calls it, is a major factor in the economics of operating a transit system. Small decreases in running time translate into large savings in labor and equipment costs. The Transbus was envisioned as an important step toward reducing running time and increasing bus popularity.

Three companies rose to the occasion and in 1974 submitted Transbus prototypes to UMTA, each of them offering low floors and a number of other options, ranging from fancy seating arrangements to sleeker, prettier exteriors. One proposal, featuring a turbine engine, came from General Motors. Another came from Rohr (Flxible), a leading manufacturer of mass transit equipment. A third was submitted by AM General, a division of American Motors.

It wasn't until two years later, however, that UMTA made its final decision on the Transbus. At a press conference in Washington, D.C. July 27, UMTA chief Robert Patricelli released the long-awaited guidelines used by federal officials to determine which buses will be funded with federal money. His announcement, expected ultimately to affect the disposition of hundreds of millions of dollars as well as the face of mass transit, left the bus of the future in the lurch and the bus of the present right where it has always been—in the hands of the largest, most powerful automobile manufacturer in the country.

On the day of Patricelli's announcement only one company had announced plans to produce a bus that would meet the new standards. For while Rohr (Flxible), AM General, and GM had all submitted futuristic prototypes for consideration, GM alone had gone ahead with a separate program aimed at refurbishing the old-line bus. And the old line bus is exactly what GM (along with many of the transit operators who eventually buy transit equipment) had decided would best fit the needs of the nation.

GM's control of the bus industry dates back to shortly after development of the first buses, when it acquired the Yellow Coach Company in 1925. GM had a number of competitors at that time, and proceeded to take care of many of them in the ways it took care of automotive competitors: either buying them or driving them out of business through that mainstay of monopoly control called predatory pricing (taking a loss over a short period of time in order to put the competition out of business). At the outset, GM also competed on more acceptable grounds, offering more economical, more reliable buses. But as the competition folded, the process of improvement slowed.

After the Korean War, GM had only one competitor left, the Flxible Company. Improvement no longer was necessary in order to sell buses, a situation reflected in GM's 1959 "New Look" bus. It was just that: new looking, but not new in fundamental design. Thirteen years later, GM "New Look" buses and Flxible copies were still the "best" buses available.

Prior to AM General's entry into the market three years ago, GM controlled over 60 percent of the market, reaching a high of 72.4 percent in 1971. But the marketing figures tell only half the story. Look under the hood and you'll invariably see only one name on the engine: Detroit Diesel.

Detroit Diesel is a wholly owned subsidiary of General Motors. In 1965, the U.S. Justice Department filed an antitrust suit against GM because of its arbitrary policy on selling its engines to competitors. GM and the government settled the suit when the company agreed to supply Flxible with engines at the same price as the ones sold to GM, an agreement extended to AM General when it entered the bus business in 1973.

Nevertheless, GM's monopoly of bus engine production still has an obvious impact on the bus industry. Shortages of new equipment currently prevent transit systems from retiring worn-out buses and improving service. At present it may take a transit system 18 months or longer to get delivery of new buses.

The principal reason for the delays is a "shortage" of engines and drive train parts. Bus engines are only a sideline for Detroit Diesel; most of its production goes into trucks. If the demand for truck engines is high, for example, the production of bus engines often is cut back.

Another long-term effect of the GM engine monopoly is the dampening of new technology in bus propulsion, the most dramatic example involving development of the turbine engine.

The Transbus prototype submitted by GM featured a modern gas turbine engine. Transit operators were favorably impressed by UMTA tests demonstrating the good maintenance record of the new engine and its smooth, quiet operation. John Schnell, research director of the American Public Transit Association, said the "turbine is definitely the wave of the future."

Will turbine-powered buses be available in the foreseeable future? The answer is no. Not because of any inherent problems with the turbine, but because the turbine prototype was made by GM and GM has decided not to put it into production. GM officials readily acknowledge that the turbine would be strong competition for Detroit Diesel's engine. Why, company officers reason, should we spend millions of dollars tooling up to make turbines when GM already controls the bus engine market? Once again the old adage applies: "What's good for General Motors is good for the U.S.A."

The circle comes back to the UMTA guidelines on bus floor height. While the Transbus prototypes were designed with floors 22 inches off the ground, UMTA in the end agreed to a 24-inch height that would encourage production of a slightly renovated old-line bus. GM's marketing department even gave its "new" new look bus a space-age designation: the "RTS–2."

GM's RTS–2 has a floor only four to five inches lower than the 34–35 inch floor of traditional buses. How will the RTS–2 meet the new UMTA standard of an "effective" floor height of 24 inches? By use of a special kneeling device involving an air bag in the front suspension that can be deflated to lower the front of the bus. And how will this fit the needs of the elderly and handicapped? Confronted with a wheelchair, the driver can switch on the optional hydraulic lift platform.

While this may seem like a workable, if peculiar, concession to the handicapped, it will do nothing to reduce running time. If anything, the hydraulic lift will slow things down. "It is of no value to the able-bodied," explains Hank Beasley, member of an organization that represents the handicapped. "But anyone can use a ramp—people with an armload of groceries, elderly persons who have difficulty with steps, and people in wheelchairs. Local transit officials won't be interested in slowing down their systems with lift-equipped buses." This means government regulations for easy access must be met with inadequate "alternative means," such as specially equipped vans.

UMTA Administrator Patricelli claims the "purposes of the Transbus program have been largely fulfilled . . . with the introduction of newly designed, more efficient, and more attractive transit buses into production in a competitive environment. . . . Progress will be maintained toward achieving the low floor objective and other goals of the Transbus program." But is that really the case? Rather, the new standard demonstrates a reversal of the policy of four years ago.

The federal government pays 80 percent of the cost of new buses purchased by local public transit agencies. The Transbus program was supposed to direct these funds toward certain ridership needs which the bus manufacturing industry was unable or unwilling to fulfill on its own. Now transit operations are basically back where they started: Buying a flashier verision of the same old diesel-operated bus.

According to an as-yet unrelated study by the Stanford Research Institute, it was GM's political pressure on the Ford Administration which ensured that its own RTS–2 would end up as the bus of the future, and not one equipped with 22-inch floors and turbine or other improved engines.

In fairness to GM, it must be added that transit system operators themselves, acting through the American Public Transit Association, also urged UMTA to postpone implementation of the Transbus program goals. APTA members liked the Transbus prototypes, but worried that in the end they would cost a lot more than traditional diesel models. (Since 1971, when federal funds first became available for mass transit, bus prices have risen roughly 76 percent. The relationship may not be entirely coincidental.)

Meanwhile, because of the essentially cosmetic nature of the new standards, the so-called "interim" buses—not likely to change until the 1980s—should be on the streets within the year.

Thus, GM will be able to maintain its traditional monopoly on engines and drive trains while dominating the new bus markets as well. Flxible will continue to share the market at GM's sufferance and may actually increase its share if AM General drops out of the bus business. If AMG decides not to market a bus meeting the new standard, the company can cash in on the transit operators' conservatism and still continue to sell current models right up until the new standards take effect in February 1977.

The U.S. is trailing the world in bus technology. Mercedes-Benz and Volkswagen have been experimenting for several years with combined diesel and electric propulsion systems that enable buses to operate on nonpolluting electric power in congested areas and recharge their batteries while running on diesel in outlying areas where exhaust is less of a hazard.

The sophistication of foreign buses is a reflection of the competitive environment in which foreign manufacturers operate. In Germany more than 20 companies make buses.

UMTA's "solution" to the fundamental problem of the bus industry—the lack of competitiveness that made the Transbus program necessary—is to let General Motors lead the way with its RTS-2. Perhaps when GM has worn out the tooling for the RTS-2 it will allow some further minor progress in bus design. It is no coincidence that introduction of the interim buses coincides with the wearing out of the tooling for GM "New Look" buses.

RETURNABLE BEVERAGE CONTAINERS ON FEDERAL FACILITIES

Mr. HATFIELD. Mr. President, I am pleased to report that the Environmental Protection Agency has today formally announced final guidelines for a returnable beverage container system on Federal property similar to laws now in effect in Oregon and Vermont and to legislation which I have sponsored in the U.S. Senate. Based on a 5-cent refundable deposit on all bottles and cans containing soft drinks or beer, this returnable program is expected to save up to 2,000 barrels of oil per day with annual savings of materials estimated at 6,000 tons of aluminum, 24,000 tons of steel, and 80,000 tons of glass.

The experience of Yosemite National Park, which I have discussed in earlier remarks to my colleagues, is indicative of the kind of success a program of this kind can achieve. Contrary to those who maintain that bottle bills and guidelines such as the ones adopted today will ban the can, I would like to point out that at Yosemite, where most of the beer and soft drinks are sold in cans, a 7-percent return rate on containers has been reached, leading to the weekly recycling of more than 1 ton of aluminum cans.

I applaud this action by Russell Train and the Environmental Protection Agency as being the most significant step since passage of bottle bills in both Oregon and Vermont toward implementing a national system of returnable beverage containers. Perhaps with the continuing success witnessed in these two States, along with the new EPA guidelines and additional studies by agencies of the Federal Government, critics of legislation such as my Beverage Container Reuse and Recycling Act will finally realize how effective a program of this kind can be in ending the "throwaway ethic" which is such a drain on our valuable energy and natural resources.

Mr. President, I ask unanimous consent that a copy of the press release issued today by the EPA concerning the beverage container guidelines be printed in the Record.

There being no objection, the press release was ordered to be printed in the Record, as follows:

[From Environmental News, Sept. 10, 1976]

Recycling-Reuse of Beverage Containers Sold on Federal Facilities To Be Encouraged

To encourage reuse or recycling, final guidelines requiring a five-cent refundable deposit on bottles and cans of soft drinks or beer sold on Federal facilities have been promulgated by the U.S. Environmental Protection Agency. The objective of the deposit is to give consumers an incentive to return the empty bottle or can for refund. Then the containers will be reused or recycled, thereby reducing solid waste and litter and conserving energy and materials. The guidelines will take effect in September 1977.

"These guidelines are similar to Oregon and Vermont laws," said Russell E. Train, EPA Administrator. "We know from the experience in those states that placing a refundable five-cent deposit on beverage containers can be a successful method for encouraging the return of the empty containers. As a result, there has been a marked reduction in beverage container litter."

These guidelines are required by the Solid Waste Disposal Act. Under Section 209, these guidelines constitute recommendations to State and local agencies. Under Section 211, they are mandatory for Federal departments and agencies.

Train said that "our data indicate that the use of a returnable beverage container system on Federal facilities will result in energy savings equivalent to as much as 2,000 barrels of oil per day. Anticipated annual material savings could amount to as much as 6,000 tons of aluminum, 24,000 tons of steel, and 80,000 tons of glass. No matter what types of containers are used—bottles or cans or both—their return for reuse or recycling will bring about savings in energy and important raw materials."

The Department of Defense is the Federal agency most affected. With $300 million in annual beverage sales, the Department of Defense accounts for over 95 percent of the beverages sold on Federal facilities. The other agencies principally affected by the guidelines will be the National Park Service, the Forest Service, and the General Services Administration.

The guidelines have been substantially modified in response to the nearly 6,000 comments received during the 60-day public comment period which ended January 12, 1976.

Train said: "One revision was made to clear up a misunderstanding that these guidelines somehow discriminate against cans. They do not. A returnable system can be effective even when the majority of the beverages sold are in cans.

"For example, a beverage container deposit system is being tested at Yosemite National Park in California by the Yosemite Park & Curry Co., the Park's prime concessionaire. Most of the soft drinks and beer are sold in cans. The results show that over 70 percent of the containers sold are being returned for refund. More than a ton of aluminum cans is being recycled each week. Officials of the company are so pleased with the results of the test that they decided before these guidelines are published to continue the deposit system on their own initiative."

The guidelines also have been revised to allow exemptions at some Federal facilities where warranted; for example, where a substantial portion of sales may be unavoidably diverted away from the facility.

Even if sales remain at an acceptable level, the deposit system may not result in high return rates if the consumers still discard the containers. It is also possible that an isolated facility would incur substantial and unrecoverable costs in implementing the guidelines.

"The guidelines recognize that these situations may occur and clearly indicate that such conditions are acceptable reasons to consider the discontinuation of the use of returnable beverage containers, provided that all reasonable alternatives have been exhausted in an effort to eliminate any problems," Train said.

Although the guidelines do not go into effect on Federal facilities for a year, they will be tested at from six to ten military installations in the near future. The tests will provide valuable data on the economic effect of the guidelines.

The guidelines will be published soon in the Federal Register.

STUART SYMINGTON

Mr. MANSFIELD. Mr. President, at the conclusion of the 94th Congress, the U.S. Senate will lose one of its most respected and distinguished Members, Stuart Symington. We have had the benefit of his 24 years of dedicated service and I am confident America will benefit from his wise counsel in his years of well-earned retirement.

Stuart Symington first made a name for himself in the business world. His success in reversing the fortunes of troubled businesses during the Depression years earned him a national reputation as a "doctor for sick businesses."

In fact, his success at Emerson Electric Manufacturing Co. in St. Louis impressed Missouri's then junior U.S. Senator so much that 4 years later, the same Senator, as President Harry S. Truman, called upon Stuart Symington to head the Surplus Properties Administration.

Six times President Truman sent the name of Stuart Symington to the U.S. Senate for confirmation to high office, including such positions as Secretary of the Air Force; Chairman, National Security Resources Board; and Administrator, Reconstruction Finance Corporation. For each of these positions he was confirmed without a single dissenting vote, a record demonstrating the Senate's high regard for him even then.

In his years of Government service as the troubleshooter of the Truman administration, Stuart Symington became a national figure.

Deeply concerned about the future and economic security of the United States, he went back home to run for the Senate. Defeating strong opponents in both the primary and general elections, Stuart Symington led the Democratic ticket in Missouri that year and in each of his three reelections. It is my understanding he is the first U.S. Senator to be elected four times by the people of Missouri.

Because of his broad experience in business and the executive branch of Government, right from his first year the wise counsel of Stuart Symington has been highly valued by the Members of this body.

Typical of his devotion to mission rather than personal advancement, Senator Symington consistently has sought committee assignments where he believed he could make the greatest contribution to the Nation's current and future security. In fact, as chairman of the Foreign Relations Subcommittee on Security Agreements and Commitments Abroad, he formulated a new definition for national security—the ability to destroy any possible enemy who might attack America and the certainty that enemy knows we have the ability; a strong economy; and of at least equal importance, the faith of the people in their Government.

Since 1961, STUART SYMINGTON has been the only Senator to serve on both the Armed Services and Foreign Relations Committees. Since 1971, he has also served as one of the most active members of the Joint Committee on Atomic Energy. On each of these committees because of his experience and wise perception of possible future threats to our security, he has served not only this generation but generations to come.

All Members of this body are aware of Senator SYMINGTON's long-standing concern about nuclear proliferation. He has been the leader in calling this matter to the attention of the Congress and the general public—in committee hearings and reports, on the Senate floor, and typically, on Monday of this week, in an address to the general convention of the Episcopal Church.

I ask unanimous consent that his short but meaningful remarks at that convention be included in the RECORD at the conclusion of this tribute to the senior Senator from Missouri.

In conclusion, may I just say that STUART SYMINGTON has served with me in many capacities and his contributions to the Senate have been innumerable. He has long been a member of our Policy Committee and as chairman, I have relied on his advice and wise counsel and it has been a source of comfort to me. As we leave this body in which we both have spent so much of our lives, I wish my old friend "Godspeed."

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR STUART SYMINGTON

It is a privilege to be with you today to present reasons why I believe we should all work together to further this "Venture in Mission" program.

The Founding Fathers were careful to separate Church and State, and that is well; but if I have learned anything from my years in public life, it is that the recent telescoping of time and space in the current nuclear era has increasingly emphasized the growing importance of each to the other.

Recently, a wise man observed: "The larger question that must be answered now and in the future is: 'Will the democracies consent to their own survival?' "

Based on recent scientific revelations, however, he should have changed the word "democracies" to "mankind," because as the result of actions taken following Dr. Einstein's letter presented to President Roosevelt, October 11, 1939, the people of this earth can either utilize the force contained in the atom to achieve a more secure, prosperous and happy life, or use that same force to destroy life on this earth.

Let me present one illustration.

As a military observer for this country during the Battle of Britain, I happened to be in the worst raids London and Birmingham ever had; and the loss of life and damage to those cities had to be seen to be believed.

The bombs used at that time had the force of one quarter of one ton of TNT. The first nuclear bomb, however, exploded over Hiroshima less than five years later, had a force corresponding to 13,000 tons of TNT, and promptly killed some 85,000 people; many thousands more died later from radioactive poisoning.

According to a recently declassified pamphlet, the largest nuclear bomb ever dropped—many years after Hiroshima—had a force equivalent to 59 million tons of TNT.

Consider the fact that just one of the three components of our military Triad, namely, Polaris-Poseidon submarines, has the capacity to destroy over 5,000 cities.

How true it is that war can never again be described as "the thin red line of our sons."

Now to the brighter side.

Plutonium 239 is one of the two materials most heavily in demand for the production of nuclear weapons. Remove one neutron, however, thereby obtaining plutonium 238, and you have a material which is ideal for producing pacemakers for the human heart, is a leading power source for artificial hearts, and is the current power source for our experiments on both Mars and the Moon.

Unfortunately, the Atoms for Peace plan, established in all sincerity back in 1954, has now, because of the proliferation of nuclear knowledge, moved steadily closer towards an Atoms for War plan.

These are all facts. We can now improve life, or end it. The Almighty has given us that knowledge, leaving the decision to the people of the world.

Primarily because of such developments, it is becoming increasingly difficult to see the light at the end of the tunnel on Capitol Hill.

There is another Hill, however, Washington's highest point, Mount St. Alban. On that Hill we have our great and incredibly beautiful National Cathedral, hopefully to be completed in the 1980's; and if I know anything it is that any real hope for the future of our children and their children lies in a closer relationship between the two Hills.

History demonstrates that the wars of the past two centuries originated because of economic, political, or military differences.

Based on the facts summarized in these few remarks, it is becoming increasingly clear that if we are to prevent a nuclear holocaust, we must express practically our spiritual convictions, as represented by that other Hill; and by this Convention.

We all know that one of the foundations of Christian faith is the importance of life, the value of each human soul; and that is but one reason why I support this constructive "Venture in Mission" program with all my mind, as well as my heart; and respectfully urge you to do the same.

GOVERNMENT OVERREGULATION OF ENERGY

Mr. FANNIN. Mr. President, it has long been my opinion, shared by many economists, that Government overregulation of business is harmful to the economy and bad for consumers because it leads to higher prices on goods and services the people want and critical shortages in the products the people need.

Nowhere is the evidence for this conclusion more compelling than in the field of energy. In the words of Alan Reynolds:

> There is no energy problem. There is just another problem of government regulation.

Mr. President, I wish to call the attention of my colleagues to an excellent speech analyzing our Nation's Government-caused energy crisis made recently by Alan Reynolds. Mr. Reynolds is a vice president of the First National Bank of Chicago. He was formerly senior economist with the Argus Research Corp. in New York. Before that he was a contributing editor in economics with National Review. Articles by Mr. Reynolds have appeared in many journals, including the New York Times, The Wall Street Journal and the Harvard Business Review.

In a paper prepared for delivery at Hillsdale College in Michigan, Mr. Reynolds documented the disastrous consequences that Federal price controls, environmental regulations, allocation and "entitlements" programs and other FEO and FEA policies have had upon America's energy situation. In the view of Mr. Reynolds and other leading economists, Federal policies have worsened our energy problems by exacerbating domestic shortages, increasing our dependence on costly foreign reserves and frustrating our national goal of energy self-sufficiency.

Mr. Reynolds' scholarly statement was delivered in a seminar held by the Center for Constructive Alternatives at Hillsdale College. Mr. President, I ask unanimous consent that the complete text of his paper, "The Federal Energy Agencies: The Solution or the Problem?" be printed in the RECORD as it appeared in the September 1976 edition of Imprimis, a publication of Hillsdale College.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

[From Imprimis, September 1976]

THE FEDERAL ENERGY AGENCIES: THE SOLUTION OR THE PROBLEM?

(By Alan Reynolds)

Our energy problems were made in the U.S.A. OPEC never would have gotten off the ground without the diligent efforts of the Federal Power Commission (and the State Department). Given the FPC, the Arab embargo still would not have caused the long lines at gasoline stations without the help of the Federal Energy Office. But given these disastrous policies, and many more, we would nonetheless be well on our way to solving the resulting energy problems were it not for the Federal Energy Administration. There is no energy problem. There is just another problem of government regulation.

In the past few decades, a growing tide of regulations has increased the demand for oil while simultaneously restricting domestic supplies of oil, coal, nuclear power, and natural gas. Environmental regulations have pushed utilities and industries out of coal and into fuel oil and natural gas. Pollution-control devices on cars increased gasoline consumption. The Coal Mine Health and Safety Act of 1969 shut down many mines. Ambiguous laws blocked the Alaskan pipeline, offshore drilling, strip mining, and the construction of refineries. It takes nearly twice as long to get a nuclear power plant into operation in the U.S. as it does in France or Japan, and the four-to-six-year difference is entirely a measure of red tape. At the state level, government prorationing restricted oil production to some percentage of a somewhat arbitrary "maximum efficient rate."

None of these things, however, caused a "shortage" of oil and natural gas. A shortage always means that consumers want to buy more at some specific price than producers want to sell at that price. If the price were higher, initially, consumers would demand less and producers would supply more, and the shortage would disappear. Even at the peak of the Arab oil embargo, there would have been a massive surplus of unsold gasoline at a dollar a gallon. So, the myriad rules and regulations that increased demand and restricted supply simply would have increased oil and gas prices, in the absence of price controls, and the inflationary monetary policy in recent years would have contributed to the rise.

But the Federal Power Commission has controlled the wellhead price of natural gas sold to interstate pipelines since 1954, and domestic crude oil has been under some sort of price controls since even before 1971. The inevitable result was that demand outran supply at the controlled prices, leaving a gap that could be filled only by larger and larger imports. That put foreign oil producers in an enviable bargaining position.

In the four years before the embargo, oil imports soared from 22% to 36% of U.S. consumption, and the proportion will probably hit 45% within a year. The share of these imports coming from Arab countries has risen even more rapidly, jumping from 12.2% to 22.5% of our imports between 1974 and 1975.

The Congressional response to this increased dependence on an unreliable foreign cartel has been to extend price controls to new oil and to roll back the total price; to attempt to extend price controls to intrastate sales of natural gas; to seriously consider breaking the energy industry into ineffectual fragments; and to compel taxpayers to pick up the pieces left by this deliberate demolition of our energy industries.

Rather than deal with the natural gas shortage, Congressional committees have solemnly pondered the question of whether or not the shortage really exists—which is about as foolish an inquiry as one could imagine. To say that the shortage did not exist would be to say that all industries and households could get all the natural gas they want at the controlled interstate price. Yet 33 states now have strict restrictions on supplying gas to new customers, and curtailments of supplies to established customers have increased from 286 billion cubic feet in 1971 to 2.7 trillion cubic feet in 1975. Marketed production of natural gas declined by about 5% in 1974, and another 7% in 1975.

Had it not been for mild winters and the reduced demand due to recession, the natural gas situation might already have caused more closed factories and cold houses than the Arab embargo. As it is, the increasing shortage of natural gas has pushed more and more households and firms into the closest substitute—namely, imported oil. Even those who are lucky enough to get interstate natural gas are seeing a sharp rise in price as distributors are forced to include more and more imported liquefied natural gas or synthetic gas—either of which is several times more costly than deregulated natural gas would be.

Occidental Petroleum and El Paso Natural Gas are actually negotiating with the Soviets to develop Siberian gas for the U.S.—which is hardly the safest or cheapest route to a reasonable degree of energy independence.

A PHONY SHORTAGE?

An article in *Readers Digest* last August, by James Nathan Miller, urged the reader to "write your Congressman telling him to vote against deregulation." Why? Because natural gas reserve data are collected by gas producers and distributors, rather than by, say, journalists or fishermen. True, the reserve data have been checked by the FPC, FEA, DOT, ERDA, SEC, FTC, Bureau of Mines, and the U.S. Geological Survey. But Mr. Miller figures they are all soft on the industry and can't be trusted.

On June 10, 1975, the *New York Times* ran a prominent headline: "Gas Price Rigging Alleged by FTC." Actually, it was not the FTC, but the FTC's Bureau of Competition. The charge was that the American Gas Association had understated proved reserves in order to panic the FPC into letting gas prices rise. What the *Times* neglected to mention was that the Federal Trade Commission's own Bureau of Economics had demonstrated two months earlier that the Bureau of Competition complaint contained no proof at all, that what was offered as proof really showed that the AGA data overstated reserves, and that the complaint was "extremely ill-advised."

In fact, the American Gas Association, which collects reserve data, mainly represents 300 pipeline companies and distributors—not those who drill and produce the gas, and are subject to FPC price controls at the wellhead, but those who get it from the wellhead to the home or factory. The major interstate pipeline companies have benefitted substantially from the FPC regulation of the price they pay for natural gas. Their net return on equity rose steadily from the time controls were imposed—from 15.5% in 1955 to 29.3% in 1972.

In any case, the level of proved gas reserves is unimportant. It is just an estimate of how much gas is recoverable from discovered reserves with present technology at present prices. Improve recovery techniques, or raise the price, and proved reserves will increase. And there is lots more gas in undiscovered wells, under the oceans, and in the Rocky Mountains. At a higher price, it would become possible to use costly enhanced recovery methods to squeeze more oil and gas out of existing wells, and it would become possible to explore in hostile areas. There is no single magic price that will provide "enough" incentive and financial resources: the supply curve does not kink and turn horizontal at some price.

What is important about gas reserves is not the level, but the trend. We unquestionably have been consuming gas at two or three times the rate at which we have been adding to working inventories—proved reserves. We have been eating everything in the cupboard, and not making enough trips to the grocery store. Any estimate of proved reserves which uses the same methods over time will show such a trend, although different assumptions about recovery rates and price could result in a different level of reserves at any moment in time.

The whole issue came to a head recently when a major Louisiana gas producer found itself facing two lawsuits at the same time—one brought by the FTC for understanding reserves, and another by the FPC for overstating reserves.

CONGRESSIONAL PROPAGANDA

An insight into the thought process of those who claim that the natural gas shortage is a myth is provided in a recent pamphlet called "Questions and Answers About the Nature and Causes of the Natural Gas Shortage," distributed at taxpayers' expense by the staff of the House Subcommittee on Oversight and Investigations.

According to this report, the high demand for natural gas had nothing to do with price, but was due to "aggressive promotional campaigns." Falling supplies had nothing to do with price either, except that producers are supposedly "withholding" production in the hope that prices will rise. Such conservation practices sound rather sinister until we learn what is meant by "withholding." The report said: "If a natural gas resource is thought definitely to exist but is not explored, withholding of gas may be involved." That is, failure to explore for gas is considered evidence of withholding, as is the failure to drill in explored areas in "a timely manner."

The pamphlet then cites a study that found a juicy example of such withholding: "Getty has been unwilling," the study found, "to commit substantial sums to accelerated production. . . ." The subcommittee pamphlet leans heavily on a study by Lawrence Kumins of the Library of Congress, whose work on deregulation of both oil and gas prices deserves the Hobart Rowan Award for Economic Illiteracy.

Kumins figures that decontrol of natural gas prices would squeeze at least $20.3 billion out of beleaguered consumers. That is a rather remarkable figure, since the total wellhead cost of FPC-controlled gas was only about $4.6 billion in 1974. Kumins somehow assumes a deregulated price of $2.50 per thousand cubic feet, which is twice the average unregulated price of gas sales within producing states. Then he acknowledges that annual production would increase by three trillion cubic feet, as a consequence of decontrol, so that three trillion times $2.50 per thousand becomes $7.5 billion of "additional cost" to consumers. Of course, this is not an additional cost at all, since the alternative is to heat homes and run factories with far more expensive imported oil and liquefied natural gas.

Kumins then simply adds a few such bogus price increases to the total price level of Gross National Product to show that inflation would rise by a percentage point or so. But even if people did spend that much more on gas, they would then have less to spend on other things, so nominal GNP and inflation would not rise.

Kumins also figures that decontrol would put hundreds of thousands of workers on the dole. Apparently, not having that extra three trillion cubic feet of domestic natural gas, and instead transferring more wealth to the Arabs or Russians, is considered the best way to increase domestic production and employment.

Armed with this sort of non-analysis, the House passed an equally silly bill. Only small producers, who produce 30% of the gas, could be exempted from price controls in the House bill. This curious piece of favoritism is based on the Nader-Hart theory that "competition" requires a large number of firms, plus special breaks for high-cost producers, and an absolute legal prohibition of any price rivalry whatsoever. Small firms would have an incentive to stay small, in order to remain exempt from price controls, and big firms would become small through bankruptcy.

The House bill would also extend price controls to intrastate sales, sales that do not involve interstate commerce. The House figured that there is no point in allowing the recent boom in intrastate gas development to continue when, with a simple violation of the Constitution, the whole country easily could be made miserable. This is the egalitarian approach to shortages.

THE COST OF CONTROLS

The Federal Energy Administration estimates that the average residential fuel bill would be $205 in 1985 under the Senate gas decontrol bill, $280 under existing FPC controls, and up to $311 under the House control bill. The apparent paradox—that the more severe the price controls the higher the fuel bill—is easily explained. With decontrol, there would be larger supplies of natural gas to replace more expensive substitute fuels, and decontrolled prices would allow consumers to bid gas away from use as an industrial boiler fuel in the Southwest into more efficient and higher-valued residential uses.

Looking backward, Paul MacAvoy has estimated that past FPC controls had already created a natural gas shortfall by 1972 which was the equivalent of 1.8 million barrels of oil a day. Most of that gap was filled with Arab oil, and it is at least as large as the peak impact of the Arab embargo. In short, the success of the OPEC cartel is critically dependent on our own FPC regulations.

ENERGY OFFICE BLUNDERS

Given the energy problems caused by one set of government regulatory agencies—mainly the FPC and EPA—the natural "solution" was to set up another regulatory agency, the Federal Energy Office.

Freezing heating oil prices at off-season lows after August 1971 caused a heating oil shortage in the winter of 1972. So, the FEO began facing the 1973 crisis by fighting last year's problem—forcing refineries to cut back on gasoline production in order to produce more heating oil. Heating oil supplies in February 1974 wound up 38% above the level of a year before, apparently in preparation for sub-zero weather that spring.

Then, the FEO allowed price increases on gasoline only at the end of each month, so gas stations closed at the end of each month and the waiting lines grew even longer.

Then, FEO allocated gasoline to dealers on the basis of 1972 sales. That put oodles of gasoline where the people had been in 1972—in remote vacation spots, in areas where population had declined, and along interstate highways. But the people were staying close to home. State and local authorities contributed to the confusion by imposing maximum gasoline purchases and restricted gas station hours, thus ensuring that people would form longer lines and get in line more often.

The early decision that oil from older domestic wells was not really worth as much as foreign or new oil caused all sorts of problems for the regulators, problems that continue today. One problem is that production from older wells gradually declines unless costly "enhanced recovery" techniques are used. But such techniques would require selling the added oil at a huge loss if it had to be priced at $5.25 a barrel. Paul MacAvoy estimates that this effect of price controls reduced domestic oil production by one-third of a million barrels per day in 1973. The Energy Research and Development Agency estimates that enhanced recovery could squeeze a million more barrels a day out of existing wells by 1985, but the required investments will never happen under any sorts of political price controls. Too much uncertainty.

A second problem was the 355,000 "stripper wells" that produce less than ten barrels of oil a day apiece, but together account for 11.5% of U.S. oil production. At $5.25 a barrel, many of these marginal wells might as well be shut down, so they were exempted from controls in 1973. But this created a perverse incentive to keep production below 10 barrels a day, and to avoid the use of enhanced recovery methods.

The main problem arising from keeping old oil at $5.25, however, was that those refineries with access to more of that oil would be required by the price control formula to price their refined products well below the prices charged by their crude-poor competitors. This is not really a David and Goliath match, as it is often portrayed, since big outfits like Mobil and Standard of Ohio refine much more crude than they produce, while smaller companies like Getty and Kerr-McGee have abundant supplies of domestic crude. The problem was how to get Getty to subsidize Mobil, or how to tax those who had developed domestic oil in order to subsidize those refiners who preferred to import their crude.

The FEO first tried a buy/sell program in which those refineries that were operating even further below capacity than average could get cheap price-controlled oil from those refineries that produced it. Those who were short of $5.25 oil had every incentive to avoid buying imports or new oil, so that they would get cheap oil at their rivals' expense. Those who had relatively good supplies of $5.25 oil had equally strong incentives not to scramble for scarce and costly imports, since if they seemed to have enough, some of their cheap crude would be sent to a competitor. Crude imports dropped to about 20% of a very small total, refineries ran at about 75% of capacity, and FEO's bungling in 1974 was blamed on the Arabs.

The Socialist government of West Germany just let prices rise a bit, and there was no crisis. The Netherlands weathered the embargo in the same way, with no significant difficulty, no gasoline lines.

On February 25, 1974, *Newsweek* ran a lengthly expose of the FEO allocation fiasco, entitled "A Cure That's Worse Than the Disease." It got so embarrassing that the Federal Energy Office changed its name to the Federal Energy Administration, but the cure continued to be worse than the disease. In fact, the cure was and is the disease—the solution is the problem.

In November 1974, the FEA scrapped the buy/sell program and instead adopted an "entitlements" program. Under this program, refiners who own an above-average share of old oil actually pay money to refiners who import a large share of their crude oil. The latter are called "independent" refiners (which is not to be confused with independent producers), but it might be more accurate to call them dependent refiners—dependent on OPEC. It is hard for people to believe that some oil companies have to pay their import-dependent rivals for the privilege of refining their own oil at a price far less than we pay to the Arabs. It is, of cousre, exactly like taxing producers of domestic "old oil" about $3 a barrel, and using the proceeds to subsidize imports.

One consequence recently made the news. Amerada Hess has a big refinery in the Virgin Islands, which is U.S. territory, so Hess has gotten about $300 million in entitlement payments. Other Caribbean refineries did not have that edge and were being driven to the wall, so entitlements now go to these foreign refineries too. Now the U.S.-based refineries are hurting, because they foot the bill. So Congress exempted smaller refineries from making entitlement payments to fairly big outfits, like Hess. That gives these smaller refineries a cost advantage of up to 10 cents a gallon, so they can profitably sell their gasoline for a dime a gallon less than their competitors. A lot of gasoline stations may not survive this rigged competition, so we will probably get a new agency to deal with that problem.

AN ENTRENCHED BUREAUCRACY

In December, FEA chief Frank Zarb managed to convince President Ford to sign the Energy Policy and Conservation Act of 1975. Before the ink was dry, the FEA was asking the OMB for another $600 million to deal with the administrative problems built into the Act. The FEA's zeal for expanding its powers is already legendary. The agency will have 4,000 employees before the year is out. Its press office uses 112 people and $3.5 million to publish coloring book propaganda, and to convince people that the FEA is the best thing since Santa Claus. The FEA overlaps all sorts of other energy agencies, and has tried to grab the authority to allocate coal during emergencies of its own making. The original FEA "Project Independence Blueprint" was full of strange ideas like requiring that all new homes be electrically heated, which would double the cost of heating these homes, make them unsalable, and put an additional strain on our already inadequate electric generating capacity.

Little wonder that Mr. Zarb liked the Energy Policy and Conservation Act, sometimes called the Cold Homes and Dark Factories Act. It too is full of curious ideas, like forcing Detroit to build tiny cars while simultaneously trying to keep gasoline cheap so those cars won't sell. The law is also full of special subsidies and tax breaks, of the sort that this Congress usually calls "loopholes." And it grants truly awesome power to the executive branch: for example, "The President may by rule or order require the allocation of . . . supplies of materials in order to maximize domestic energy supplies." No domestic energy producer really owns anything any more.

The new law reneges on the administration's promise to leave new oil decontrolled, thus effectively expropriating part of the investments made because of that empty promise. The average prices of old and new oil are to be rolled back, and then allowed to rise at a rate that may not even keep up with inflation in the cost of drilling equipment. Since old oil will naturally become a smaller share of the total as time goes on, and old oil supplies dwindle, a fairly constant average of old and new oil prices would really mean a declining price for new oil. Price controls may, at the President's discretion, end after forty months. But nobody really believes that they will. If producers believe it, they will wait until then to do much of anything in the way of expanding output. If they do not believe it, they will get into something more profitable—like running a newspaper or TV network and attacking obscene profits, while praising the social responsibility of subsidized losers. Diversification has already begun, Mobil's acquisition of Marcor being only one example.

There has been some controversy over whether or not the temporary rollback in domestic crude prices will actually result in a reduction of a penny or two in the price of gasoline, or whether it will just boost the profit margins of certain refineries. Gasoline prices had been falling anyway, despite rising crude prices, and oil companies had accumulated about $1.5 billion in "banked costs" which they could not pass on to consumers because the market was soft.

If the rollback does not result in a comparable decline in retail prices, it will lower costs and boost profits for those import-dependent refineries who qualify for entitlements. The result will be an incentive to increase imports and avoid domestic production.

If the rollback does result in lower prices of refined products, then demand will be higher, and demand can only be met with more imports. Either way, we end up legislating an increase in the demand for Arab oil—making it easier for OPEC to stick together, and to hold our homes and factories up for ransom.

The new law requires that taxpayers build a crude oil stockpile, at a cost of ten or twenty billion dollars over the next seven years or so. Why can't private industry and speculation bear this cost? After all, a private stockpile would be very valuable in the event of an embargo. But because of price controls and confiscatory allocation, there are no property rights in oil inventories. So taxpayers get stuck with the tab, and the Arabs get to sell more oil to us to fill our stockpile.

ALTERNATIVE SCHEMES

There is a bill pending in the House that would freeze oil imports at the current level, even though domestic supplies of oil and gas are falling and population is growing. Import quotas would reduce supply and raise price exactly as an embargo did. Since there would be a growing unsatisfied demand for imported oil, OPEC could easily charge much more than they do now. They would get more of our money, and we would get less of their oil.

Then there is Mr. Rockefeller's Hundred Billion Dollar Plan, which presumably would be financed with moral obligation bonds. The idea is to get taxpayers to underwrite ventures which are too risky to attract sensible investors. They are too risky because they are based on the curious idea of using our most expensive energy resources first, and saving the oil and gas until later, when it will probably be obsolete. Some worthwhile ventures are too risky for another reason, a reason cited by Vice President Rockefeller himself: "Private capital sources are, for good reason, reluctant to make capital available for domestic energy-production projects, because of the uncertainty of government regulation . . . ."

Then there is the idea of breaking up "big oil." Those refineries who were foolish enough to develop crude oil supplies in this country may be asked to divest themselves of these properties, if they can find some suckers to buy them. There have been lengthy Congressional hearings on this subject, and all of the competent testimony demonstrates conclusively that all aspects of the industry are vigorously competitive, that vertical integration is irrelevant, and that forced divestiture would be a disaster for American consumers and a boon to the Arabs. Since each aspect of the oil business is competitive, firms gain no monopoly power by engaging in several of these competitive activities, such as production, refining, and distribution. Multiplying zero monopoly power times three is still zero.

Finally, there is the idea of a tax-exempt and subsidized Federal Oil and Gas Corporation (FOGCO)—which is dormant but by no means dead. Once Congress has finished demolishing the domestic energy industry, with whimsical changes in the rules of the game, there will not be anyone left to pick up the pieces but the U.S. taxpayer. When FOGCO was first proposed, as a "yardstick" by which to measure the performance of the oil and gas industry, Gulf Oil responded quite appropriately by trying to buy Ringling Brothers, Barnum & Bailey Circus—as a "yardstick" by which to measure Congress.

ITALY'S CONTINUING EARTHQUAKE CRISIS

Mr. KENNEDY. Mr. President, the debris from the massive earthquake which struck northern Italy last May still lies on the ground, and reconstruction efforts were yet in their early stages, when a series of strong tremors once again hit the people of the Friuli region of Italy this week.

Yesterday's quake registered 6 points on the Richter scale—only slightly less intense than the disastrous earthquake on May 6—spreading panic throughout the region, killing eight people, injuring scores, toppling buildings, and setting back reconstruction efforts. Worse still, yesterday's earthquake left at least 20,000 more persons homeless, adding to the over 70,000 already without shelter and living in tents or temporary facilities since May.

Mr. President, the strong earthquake yesterday serves to remind us again of the continuing crisis among earthquake victims in northern Italy, and of our continuing humanitarian obligation to help those in need. It also calls for another look at the relief and rehabilitation program authorized by Congress last May—which is only now getting underway in the field—to determine new relief requirements.

On the basis of early reports, it is clear that some immediate relief assistance will be required from available funds to meet the needs of the most recent victims of the earthquake. Funds for tents and food and other emergency supplies should immediately be made available from either the $25 million appropriation or the regular disaster assistance account, if they are needed or requested by the Italian Government.

Mr. President, I am pleased to learn that the responsible official within the Agency for International Development directing the Italian relief program is now on his way to the field, and I am hopeful our Government will fully respond to the latest relief needs of the Italian people.

As chairman of the Subcommittee on Refugees, I shall continue to follow closely developments in northern Italy. To assess conditions in the field, I recently dispatched a special team to visit northern Italy and their report, which was filed with the subcommittee last Friday, offers a series of recommendations which I would like to share with the Senate.

Given the earthquake yesterday—which added scores of new victims to the massive toll of last May—I strongly feel that one of the report's recommendations, relating to additional funding requirements, deserves immediate attention.

As the report notes, the United States is currently providing $25 million for rehabilitation and reconstruction purposes. However, it is now clear that additional sums will be needed and that Congress and the executive branch should now seriously consider providing at least an additional $15 million to meet some of the new relief needs in the earthquake stricken area.

Mr. President, the sturdy and spirited survivors of the series of earthquakes which have devastated so much of northern Italy deserve our support in their effort to normalize their lives and rebuild their homes. And I am hopeful the Congress and executive branch will carefully consider the recommendations of the Refugee Subcommittee's report.

I ask unanimous consent that the text of a news dispatch describing yesterday's earthquake in Italy, as well as the text of the recommendations of the Refugee Subcommittee report, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 16, 1976]

Scores Hurt, 8 Killed in Italy Quake

Udine, Italy, Sept. 15.—Strong tremors jolted northern Italy's quake-ravaged Friuli area again today, knocking down hundreds of buildings and spreading panic through a region that has been shaking for more than four months.

At least eight persons were reported dead, three of them with heart attacks.

About 80 persons were injured, many of them jumping out of windows. Rescue teams started digging through land and rock slides that reportedly buried several cars and two army trucks, possibly with people trapped inside.

Officials estimated that today's shocks left at least 20,000 persons homeless, adding to the 70,000 already without shelter and living in tents since the disastrous May earthquakes, in which nearly 1,000 persons died.

The two major shocks measured more than 6 points on the Richter scale and were felt in other parts of northern Italy, Austria, Yugoslavia, Czechoslovakia, West Germany, Switzerland and France.

There was no panic in Venice, Milan, Bolzano and Trieste, along the coast of Yugoslavia and in Slovenia and its capital, Ljubljana. There were no immediate reports of casualties or serious damage in those areas.

It was the fifth straight day of strong tremors in the worst-hit area in Italy's northeastern corner. Experts said the continuing shocks went against their predictions of a gradual settling and that a new "quake stove" may be developing deep under the Friuli surface. The epicenter today was in the mountains near Gemona.

Icilio Finetti, director of the Trieste Observatory, said repeated quakes such as northern Italy has suffered are unprecedented.

In France, the Strasbourg Seismological Institute said the earth tremors currently affecting Europe represent an abnormal increase. About 50 tremors were recorded in Europe in June, a dozen in July and two in August, a spokesman for the institute said. But 26 such tremors have been registered since Sept. 4, he said.

Today's major quakes in the Friuli region were followed by shudders every three minutes during the day. The fresh jolts brought down buildings damaged earlier by the tremors that have hit Friuli since early May.

[A staff report of the Subcommittee to Investigate Problems Connected with Refugees and Escapees of the Senate Committee on the Judiciary]

Humanitarian Assistance to Earthquake Victims in Italy

RECOMMENDATIONS

For the purpose of this report, the Chairman makes the following recommendations regarding United States assistance to the people and towns in the Friuli region of northern Italy.

1. U.S. Assistance Must Respond to "People" Needs—

U.S. assistance to the earthquake victims in Italy must be purely humanitarian, rehabilitative in character, and fully responsive to helping the people of Friuli normalize their lives.

Homes for the elderly, schools, health facilities, day care centers, support for renewing the area's cottage industries, and perhaps help in restoring some historic buildings, many of which mean so much to the people of the area, reflect, among other things, the kinds of priorities which must govern the allocation of U.S. assistance.

Regrettably, the Administration's early planning and recommendations for U.S. assistance neglected such priorities, and heavily stressed such things as "technical assistance", "communications equipment", "a field computer terminal", and "high altitude photography", among others.

Justifications for such kinds of assistance were never forthcoming, and in recent weeks the Administration's initial planning and recommendations have apparently been pushed aside—hopefully, in favor of people oriented assistance. This would not only be in line with the intent of Congress in appropriating funds for Italy, but it would also be in line with the needs and the wishes of the Friulian people themselves.

2. Expenditures and Flexible Programing of U.S. Assistance—No AID Mission in Italy—

U.S. assistance to the earthquake victims in Italy should be allocated as expeditiously as possible, and should be administered in a simple and flexible way.

This assistance does not involve a routine bilateral arrangement for economic development, but humanitarian help for people in need. This assistance should reflect, therefore, the more flexible kinds of programing expected by Congress and the American people in helping to meet international disaster relief and rehabilitation needs.

The programing of U.S. earthquake assistance might include, therefore, some cash grants for specific projects to Italian Government units or voluntary organizations—and any contractual arrangements undertaken by the Agency for International Deveolpment (AID) with Italian Government units, voluntary organizations, or others should be simply drawn, involving Italian personnel to implement the project.

Officials in AID must avoid the red-tape, bureaucratic insensitivity, and cumbersome program requirements which have needlessly hampered the effective use of other humanitarian assistance made available by Congress in the recent past. And establishing an AID mission in Italy to administer U.S. earthquake assistance must also be avoided.

3. Support for Voluntary Agencies and Efforts—

U.S. assistance for the earthquake victims in Italy is limited, and the great bulk of it should go through Italian government channels.

Voluntary self-help projects among the earthquake victims, however, should not be neglected. Individual projects often involve modest sums. And the Administration should seriously consider supporting appropriate projects, including those which may be associated with established American voluntary agencies.

In this connection, the Administration should also appropriately facilitate the efforts of other private American groups that are still assisting the people of Friuli. These groups include those interested in supporting the restoration or reconstruction of treasured art work and historic buildings in the earthquake stricken area.

4. Additional Funding for Italy—

The U.S. is currently contributing $25,000,000 for rehabilitation and reconstruction purposes in the earthquake stricken area of Italy.

Field reports indicate, however, that, over the coming year or two, additional sums could be used effectively and Congress and the Executive Branch should seriously consider providing an additional $15,000,000 to help the people of Friuli normalize their lives.

5. Special Immigration Measures for Earthquake Victims—

In keeping with our national humanitarian tradition, and within the context of present law, the Administration should establish special immigration measures to facilitate the movement to the U.S. of earthquake victims who apply for visas—especially those with family members in this country.

JOHN PASTORE

Mr. MANSFIELD. Mr. President, John Pastore is the quintessential U.S. Senator. He is a noble man who embodies the noblest traditions of the U.S. Senate. His intellect, his wit, his oratory, and his humor have for 26 years enlivened and enriched an institution whose reputation has been burnished for 200 years by some of the greatest men of America. And he has, thereby, enriched all of us privileged to serve with him.

John Pastore's name is a metaphor for the long and grand tradition of oratory in the U.S. Senate. The Senate has been the mother of orators. There was a time when to be a Senator was to be an orator for before we were blessed with our marvelous electronic sound system, a Senator would better have been blessed with good vocal chords and a fine style or no one would have even heard him, let alone marvel at him. Well, John Pastore was here long before we wired ourselves for sound and no one ever had any difficulty hearing him.

He is a direct spiritual descendant of Daniel Webster, John Calhoun, and Henry Clay. Some of the most significant debates in American history have occurred in these Chambers and John Pastore is nothing if not a debater. In the rough and tumble of Senate debate, he stands alone. I think many of us can personally bear witness to that. John Pastore is the Senate's most scintillating debater and when he takes the floor in a tough debate, the flashes of Webster's sabre can be seen and the thunder of Calhoun can be heard.

As he is the Senate's stellar debater, he is also one of the Senate's most polished floor managers. So adept is he on the floor, and so persuasive, that bills which he manages are often brought to a vote within minutes while the rest of us are left wondering how he did it in less than a day.

The senior Senator from Rhode Island has a mind so keen and penetrating that for more than two decades now he has continually saved us from the parliamentary entanglements that engulf us here from time to time. He has the ability to observe a debate that has been droning on for hours, listen for a few moments, ask a few incisive questions that cut through the fog and then make the kinds of suggestions that are as remarkable for their simplicity as they are for their workability.

His persuasiveness and his influence in the Senate are legendary. In a body where very few votes are ever influenced by speeches on the floor, my dear friend from Rhode Island is one of the very few Senators who is capable of actually changing votes. Time after time, I have seen him strip a question before the Senate of all its nonessentials and then quickly and forcefully reveal the stark, naked issue at stake—and carry the Senate with him.

Few of us will ever accomplish legislatively what has been attained by the senior Senator from Rhode Island. His legislative record is an impressive monument. It was his resolution that led to the Nuclear Proliferation Treaty and he led the fight for its ratification with one of his greatest floor speeches. As a delegate to the United Nations, he helped draft the resolution that established the International Atomic Energy Agency. He also led the floor fight to ratify the Nuclear Test Ban Treaty. These he himself regards as his signal accomplishments in the Senate.

Senator Pastore has been responsible for most of the major legislation which has helped develop radio and television broadcasting in the best interests of society. As chairman of the Communications Subcommittee since 1955, he has played the leading role in the Senate in formulating significant policies and drafting landmark legislation that have brought to the people of this country the best communications system in the world.

He was responsible for the enactment in 1971 of the first campaign spending and disclosure reform in 50 years. In that same year he sponsored the dollar checkoff amendment which has revolutionized the way we finance Presidential and Vice-Presidential election compaigns.

He is truly the father of public television. For a decade he fought for the legislation that ultimately established the Public Broadcasting Service. And after public television was born, no one in Congress defended it more vigorously and faithfully against political pressures from the White House. He warned us years ago that to insulate public broadcasting from politics so that broadcasters would feel free to present bold and imaginative programs on controversial issues, long-range funding would be needed. He prodded and prodded until finally this year a long-range appropriation was enacted.

More than anyone in government, he has alerted America to the consequences of televised violence. Through years of controversy when he was criticized for his work on televised violence, he persisted. The researchers are now beginning to vindicate the concerns he first articulated 15 years ago. There is mounting evidence that heavy doses of televised violence does affect our behavior and it does affect how we perceive the real world.

Senator Pastore is the father of space communications. He had the wisdom, the courage and the vision to frame the guidelines that led to the development and use of communications satellites.

His achievements are not confined to the fields of atomic energy and communications.

He was one of several key Members who led the fight for enactment of our landmark civil rights bills in the 1960's.

Only last year he sponsored in both the Democratic caucus and on the floor the resolution that established the Select Intelligence Committee.

Also last year he was chairman of the Senate Democratic Task Force on Energy and the Economy. In 6 weeks of exhaustive work, he coordinated with a similar House panel to put together a comprehensive statement of goals on energy sufficiency and economic recovery that was adopted by the Congress. The report has formed the foundation for much of the energy legislation that has passed the Congress.

Mr. President, the distinguished Senator from Rhode Island has left his mark upon the Senate, upon the Nation and upon me.

I leave this Chamber soon and in a matter of days, this body will adjourn sine die. Both my friend, John Pastore, and I will be leaving the Senate. Montana is a long way from Rhode Island but I do hope that this will not be our final goodbye because his friendship I cherish more than these words can convey.

DANGEROUS STOCKPILE DEPLETION

Mr. HELMS. Mr. President, I am concerned about certain aspects of S. 3344, a request for permission to sell important portions of this Nation's stockpiles of strategic materials.

In S. 3344, we are asked to sanction the sale of 28,000 long tons of tin—in layman's language, that is some 62,000,720 pounds. We also are asked to authorize the sale of 10,000 short tons of antimony; 118,000,000 troy ounces of silver; and 8,500,000 carats of industrial diamonds—as I understand the bill to be presently written.

Mr. President, 8½ million carats of industrial diamonds, if they were gemstones, would set the heart of just about every lady in this Nation racing. Industrial diamonds, as engineers will tell us,

are critical in tooling, cutting, and many other important functions of this Nation's highly technological industrial base.

Our primary source for industrial diamonds is Southern Africa, an area of the world now torn by strife, and potentially unreliable as a supplier.

Mr. President, I cannot understand how the administration can consider such a material as no longer "strategic," as this sales proposition indicates. In light of the uncertainty of supply, why should such a potentially hard-to-obtain strategic material be dumped onto the open market and converted to whatever cash that can be gotten for it?

More importantly, Mr. President, we must consider the almost complete depletion of our Nation's silver stockpiles. I wonder how many Americans realize the importance of this commodity to our Nation's defense and defense-related industries? And further, Mr. President, how many Americans understand how scarce this strategic material actually is?

One need only look at the record; the story is clear. Silver consumption in the United States has exceeded silver production in this country for the past 17 years. Silver, then, is a mineral in very short supply domestically. At present, this Nation each year mines only about 20 percent of the silver that it consumes; I am told that we reclaim another 30 percent or so from industrial recycling operations. The rest we import.

Since 1961, this Nation has reduced its silver stockpile from more than 2 billion troy ounces of silver to a point where today, we have only about 140 million ounces in that stockpile.

And so, the United States must rely on imports to make up the difference. Most of those imports, I am told, come from Peru, Canada, Mexico, and Australia. I question whether this country should place its reliance upon those four nations for one-half or more of its yearly silver needs. One has only to read the daily newspaper to see the direction that Peru is headed; and Mexico has proved to be more and more a questionable ally, tending toward a third world bloc leadership position increasingly more anti-United States in its public statements and actions.

Even Australia's reliability to sell us silver at a reasonable price and in sufficient quantities is called into question by Australia's policy regarding the sales of bauxite. Since 1974, Australia has participated in a cartel arrangement with several other bauxite-producing nations. Under the cartel arrangement, the price of bauxite, the basic material in the production of aluminum, has risen sharply.

Who can say with assurance that the same thing will not happen in the case of silver. Especially so, in light of the ever-increasing trend in the world for raw materials producing nations to form OPEC-like cartel arrangements.

Let no one say, Mr. President, that the strategic value of silver is overemphasized. One need only look at silver consumption during World War II. During that conflict, at a time much less technically sophisticated than today, we consumed some 900 million ounces of silver. Measured against this, the 22 million ounces of silver that the Government contemplates keeping in our stockpiles after the sales envisioned by S. 3344, is pitifully—and dangerously—low.

There are other disturbing facts. For example, 70 percent of current silver production is the by-product of other mining operations. Just about all of the so-called free silver in this country already has been found, developed and mined, I am told. Therefore, the silver mining industry must mine deeper and deeper to get silver ore, and this means higher costs, time-consuming delays and possible potentially damaging environmental effects.

In considering this measure, if it comes out of committee, we might ask ourselves who is interested in seeing this silver stockpile sold. We are told, for example, that the Department of Defense wants it sold because they want the money that a sale will bring. I am concerned that the Department of Defense—in its desire to get money ostensibly unappropriated by what it might consider to be a less-than-friendly Congress—could be in for a surprise. It could end up not only with no silver stockpile, but also with no money. Who is to say, for example, that the Congress well may decide to reduce the budget of the Department of Defense in an amount equal to that generated by the stockpile sales?

We can believe that the consumers of silver in this country would like to see the silver stockpiles sold. They know that the dumping of the large quantity of silver contemplated by this bill would drive the price of silver down, to the bargain-basement level—possibly lower, indeed, than the current cost of new silver production. In my view, to permit such a large amount of silver to move into commerce as contemplated by S. 3344, is tantamount to almost a giveaway. In essence, we well could be selling at rock bottom prices this supply of strategic silver to a handful of large users—and for what: jewelry, photographic film, and the like.

I submit, Mr. President, that we must put first things first; that our Nation's ability to produce highly specialized technical materials for national defense is more important than how many new silver services or rolls of film are made.

The depletion of our national silver stockpile comes at a time when the free world is faced with a shortfall of silver supply of up to 30 million ounces. Some observers expect the shortfall in supply of silver in the free world to reach 50 million ounces by next year.

And so, Mr. President, we will be competing in the free world for what supplies are available to meet our increasing import demands—and doing so with the ever-increasing possibility that the free world suppliers of one-half or more of our yearly silver consumption just might decide to form an OPEC-like cartel to deal with us.

We need only look back a few years and see an analogy between what was happening then with regard to oil and oil prices, and what could happen with regard to silver supply and silver prices. We all remember the oil embargo. At that time, there was only a small domestic shortage; but in the face of a foreign oil cartel, oil prices exploded.

Why is it so difficult for the administration to see similar things happening in the case of silver? One need only consider the history of other cartel arrangements to see the potential for mischief that could occur in the current situation—where the free world supply shortfall is more than a quarter of U.S. consumption, and more than one-half of U.S. import needs.

I am told that those who invest in silver—as opposed to those who speculate in it—say that they can see the price of silver rising from its present price of something more than $4 per ounce to as much as $25 per ounce within the next 36 months if the United States is so shortsighted as to sell off its stockpile of silver. In such a situation, Mr. President, we then become dependent on the caprice of foreign producers for our critical strategic supply needs; this is dangerous business.

In the process, we also may be forced to pay a staggering price to obtain strategic silver—if, indeed, we can get it from abroad at all, as the lesson of the oil embargo teches us.

It is inconceivable to me, and, I think, to the American people, that Congress appropriates more than $100 billion for national defense, for weaponry and military supplies, and then sells almost all of our stockpile of something so basic to our Nation's defense capability, so irreplaceable, and so potentially short in supply as is silver.

Mr. President, I fear that some of my colleagues may be unaware of the strategic implications of this depletion of our vital strategic stockpiles.

I am hopeful that, over the next few days, they will look into this matter carefully.

In this regard, Mr. President, I stand ready to spend such time as may be necessary to help my colleagues become aware of what I consider to be at stake in these proposed sales of strategic stockpiles. The defense of our Nation's vital freedoms requires that we take no chances whatsoever in allowing this country to become even the least bit depleted in its strategic resources stockpiles.

EARTH RESOURCES INFORMATION SATELLITE SYSTEM ACT OF 1976

Mr. ABOUREZK. Mr. President, I would like to go on record in support of S. 3759, the Earth Resources Information Satellite System Act of 1976, introduced by my distinguished colleagues Mr. Moss of Utah and Mr. Ford of Kentucky.

I want to commend Senator Moss and Senator Ford for the initiative they have taken in introducing this important legislation. As a strong supporter of EROS, the earth resources observation system which has its headquarters in Sioux Falls, S. Dak., I have seen the possibilities of the Landsat satellites and the subsequent analysis of Earth resources data.

In a era when the U.S. Space program

appears to have lost some of its appeal to the American people, the introduction and passage of this legislation offers the citizens of the United States the opportunity to support a program that can produce tangible benefits for this country, and many other countries around the globe.

Many groups in the United States such as farmers, hydrologists, environmentalists, geologists, land-use planners, and others have seen the enormous benefits to be had from Earth resources surveys from space.

The collection of Earth resources data is geared to directly benefit people here on Earth. It has charted our croplands, discovered unknown deposits of metals, minerals and oil, forecast water runoffs, identified sources of pollution, and has literally accomplished more than any other part of our space program. There is not a single State in the United States which has not benefited from this program.

The potential of this new technology appears to be limitless. I believe it is incumbent on the Congress and the President to enact legislation that would place the Federal Government squarely in support of this new technology.

In addition, it is extremely important for the Federal Government, with the cooperation of other countries, to establish an organized system of Earth resources data gathering, analysis, and dissemination. This bill introduced by Senators Moss and FORD will create a strong organizational structure to coordinate the Earth resources capability of the United States.

Mr. President, I want to stress the importance of the Earth Resources Information Satellite System Act of 1976. When NASA put its first Earth resources technology satellite into orbit in 1972, the $200 million project was scorned by scores of doubtful critics as an adventure that would be best remembered for its waste. But nothing has been further from the truth.

Now the time has arrived for a coordinated governmental approach. This legislation offers just such an approach and I am pleased that I have the opportunity to be associated with it.

THE BUDGET PROCESS

Mr. BELLMON. Mr. President, the efforts of Congress to bring about a more responsible approach to Federal spending depend to a considerable extent upon Members of Congress and the public at large having an understanding of both the importance of this effort and the procedures which the Congress has established.

As the ranking minority member of the Budget Committee and as one who has both participated in and witnessed frequent floor debates, I have been greatly impressed by the ability of the chairman of the Budget Committee to discuss the budget process in a clear and persuasive manner. The efforts of Senator MUSKIE to accomplish this educational process include appearances before many groups outside of Government. Recently he appeared before a breakfast of the Washington-based corporation representatives where he again discussed the budget process. His comments show the Senator's unparalleled understanding of this process. His lucid presentation enables members of nongovernmental groups to understand what the Congress is doing in our efforts to establish greater Federal fiscal responsibility.

The educational effort which Senator MUSKIE is voluntarily carrying on needs to be undertaken by every Member of the Senate. Following adjournment, we will all have opportunities to appear before groups in our own States. I strongly urge that the budget process become a common topic of our discussions. I believe we would all be helped by the comments of Senator MUSKIE. I ask unanimous consent that his remarks be printed in full in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE BUDGET PROCESS

(By U.S. Senator EDMUND S. MUSKIE)

Today, I would like to discuss with you the budget process established by the Congressional Budget Act of 1974 and the Sunset Bill, a euphemism for zero-base budgeting. The word "sunset", incidentally, was invented out in Colorado. The State Legislature enacted something similar to what we're talking about in Congress today.

I've been told and I have read that under the new budget process the Senate Budget Committee has become a powerful committee. Actually, the Budget Committee has little power, unless it has proven to be and continues to be an effective way of focusing the attention of the Congress upon the consequences of its spending decisions.

I have no whip that I can use on recalcitrant Senators. I have no goodies to hand out to any of them, a different situation than most committees.

The Budget Committee can offer only restraint, if it is to measure up to its responsibilities. So that if we have power it's not because we have anything to give or to withhold from members in the tradition of other Senate committees.

I'm delighted that the new budget process itself is working. But, if it is working, then it's working because the Senate and the House are exposed to the consequences of their spending decisions.

Now this isn't to say that the Budget Committee has nothing to do with the success of the process. Our challenge is to present the case, to present the issues, to raise the red flag, to keep the Senate and the House on continuous notice, and to work with committees, because the whole object of the process is to avoid confrontations in committee or on the Senate floor.

And so as legislation moves along—from the time that it's first introduced—we must follow and monitor it, identify its budgetary consequences, and alert the committees involved to the budgetary dangers that may be down the road.

Now this is done not only for the purpose of restraining overall spending, although that's important. It's also for the purpose of ensuring that the Congress really is in a position to exercise its own sense of what the appropriate priorities for the country ought to be at a given time. And thirdly, it's done for the purpose of enabling the Congress, in all of its actions, to become part of the economic policy-making institution here in Washington.

Now we may disagree over what values public policy should protect or enhance and what directions we ought to take. But I think it's useful to all of us if we have a rational, effective system for focusing on the choices, focusing on the consequences, and focusing positively on what we can do together. Now it's a lot more difficult, of course, for the legislative body than it is for the executive branch to reach the final decision on what total spending should be, on what the priorities ought to be, and on what the economic policy ought to be. We have to meld the viewpoints of 535 men and women from diverse circumstances, and under varying pressures from the constituents they serve, and that's difficult.

But the magic of the process up to now is that apparently it has worked reasonably well. Not with precision. We're not working with a very clearly focused lens, but at least we can see the picture, even if at times it's a little bit out of focus.

How does the new process work? Well, first of all, of course, budget making has become a 12-month process. Until this system was established, the process began when the President's budget was sent up in January and theoretically should have been concluded by the following July 1. But because the time frame was too tight and because there was no opportunity for the Congress to work on the budget before the President sent up his request, it was an inefficient, imperfect, inadequate kind of system.

So the first thing we had to do was stretch out the time. We did that in these ways: First, we imposed an obligation on the President to send up a current services budget in November, which gave us about three months additional time to work on the basic budget.

Secondly, we advanced the fiscal year from July 1 to October 1. That gave us three more months in the legislative year itself. And then finally, we divided the legislative year into two parts. Prior to May 15 authorizing legislation is developed and required to be reported. This gives us from May 15 to October 1 to work on appropriations and spending decisions.

I'm talking about committee work now, because obviously on the floor the two periods are going to overlap as they are this year. But increasingly we'll see the legislative year divided into an authorizing period and an appropriations period. As a matter of fact, Mike Mansfield refers to it in that way now.

It is interesting to hear from long-time staff people how much more satisfying it is to see legislation moving in an orderly way, in accordance with some kind of scheme and some kind of system.

On the substantive side, the first Budget Resolution simply sets targets. It must be completed by May 15. It's based on a number of inputs: The President's budget; the Congressional Budget Office's analysis of the President's budget; the CBO's economic forecast; inputs from all of the Senate Committees, including the Joint Economic Committee and the Appropriations Committee; and by March 15, hearings of the Budget Committee on aspects of the budget we think need to be particularly dealt with.

Incidentally, may I say that having the current services budget in November followed by the President's complete budget in January has the advantage of identifying the major policy decisions with which the Congress is likely to be confronted, so that we can focus our hearings on these or any other areas that we think are going to be of high priority when the Budget Resolution gets to the floor of the Senate or the House.

About April 15, we begin the markup of the Budget Resolution for the purpose of setting these targets: total revenues and overall spending for all of the 17 functions of the budget, which range from defense to interest on the national debt.

The Budget Act requires that the revenue estimates in the Budget Resolution be accompanied by a presentation of the Budget Committee's allocation of those revenues from the various sources, including tax expenditures. It is that policy and whether or not it is binding in any way upon the Congress that is the subject of debate. And as long as the Chairman of the Finance Committee disagrees with the Chairman of the Budget Committee on this issue I suppose it will take time before the Congress finally resolves the question.

But I'd like to emphasize what I hope has come through from what I've said up to this point, that the budget process is more than bookkeeping, it's more than simply a numbers game. It is an economic tool as well as a budgetary tool; and it's a priorities tool as well as a spending tool. So unless it fulfills all three of these functions well, I doubt that it will survive. Because when you talk about the numbers in the budget simply in terms of the need for restraint, you're going to frustrate too many people who are also concerned about priorities and concerned about economic policy, and if the budget doesn't do the other two things, it's not alive, it's not meaningful. It is simply, you know, old grandma off in the corner complaining about spending too much. It is important to understand that the budget process is not a set of books, it's a process.

When the Congress finally approves the first Budget Resolution it has adopted targets on spending and revenues and the national debt. Now getting an agreement between the two Houses, or within each House, on these things is quite an achievement. On the House side, for example, both the conservatives and the liberals have voted against the Budget Resolution—conservatives because it spends too much, the liberals because it doesn't spend enough. As a consequence, I think it was last year, the Budget Resolution passed by one vote. If we hadn't gotten that one vote, you know, we might be talking about history this morning instead of a process that's alive.

And so you've got to accommodate these widely varied points of view in this budget. Now what were the results of the first year? We did better than hit our targets. But I wouldn't crow too much over this until we know precisely why it happened.

The final deficit of $65 to $66 billion is almost $8 billion under the Congressional target, which ended up last October at about $74 billion. The President's target was not much different.

The second Budget Resolution last October set the final deficit number at $74 billion and it will end up at between $65 and $66 billion. When you recall that a year ago last spring Secretary Simon was predicting the Congress would end up with a deficit of $100 billion, that's not a bad result.

One final thing about the budget process. Between the first Congressional Budget Resolution and the second one, the spending bills go through. And incidentally, this year as a result of the budget process, for the first time in my memory, and probably within the memory of anybody in this room, we are going to finish appropriations bills before the beginning of a fiscal year.

Now that doesn't mean that there conceivably won't be some supplementals after October 1. It's a little difficult to get the spending machine under that much control. But ideally, eventually we hope that the appropriations bills as passed will be adequate to fund the activities and programs of the government, short of emergencies that are unanticipatable.

This year we've gone a long way toward that goal, and I don't think anybody could remember or could conceive of not operating under a continuing resolution or a series of them. So that, I think, is an achievement.

Now the second Budget Resolution in September is designed to reconcile the first one with the accumulation of spending and revenue decisions that will have been made in the interim by the Congress. The first resolution does not impose handcuffs on the Congress and its targets are just targets. But it is our job to ensure that if they are breached, it happens only with the full awareness of each body.

And it's this awareness that has enabled us to win the major fights on the floor over how much is spent for certain purposes. And so the power comes from within the Senate.

But in preparing the second resolution, once we've reconciled those spending decisions, it might mean cutting back some program where we've voted to spend more, or it might mean shifting priorities, or it might mean adding to the deficit, or it might mean requiring the Finance Committee to report additional revenue-raising measures.

All these options are available. But when they are finally resolved in the second Budget Resolution, that's when the budget process begins to bite, because those targets then are fixed and it is the job of the Budget Committee, and each member of the Senate, to police them. After the second concurrent resolution any member of the Senate can raise a point of order with respect to any bill that he or she thinks is likely to breach the targets, and it would take a majority of the house involved to overcome that point of order.

Never in the history of the country has the Congress been willing to subject itself to this kind of discipline on spending. We haven't had to use it once this year, because we've stayed under our targets.

I've spoken out to the Senate on every spending bill that has come before the Senate and raised red flags—I forget how many times I spoke last year. I think it was 70 to 75 times on this question of the budget and whether we were getting too close, whether we should support this or that. And it has worked.

Now if the public mood changes about spending, the Congressional mood may also change. But I hope by that time we will have the institution so solidly in place that it will survive that kind of public indifference, if it should come.

Now for the Sunset legislation. The Budget Act gives us control over the whole picture but no effective control over the parts. There are two most disturbing things about the budget. One is the proliferation of programs which from a management point of view become increasingly difficult to monitor.

The other frustration is the fact that a larger and larger proportion of the budget becomes uncontrollable. Now about 77 percent of the total budget is uncontrollable—uncontrollable in the sense it would take legislation in order to bring it under control, and that's not easy to do.

So I concluded after a year that we had to find a way to control the parts, and that's what Sunset legislation is. It uses two tools: One, it would require the termination of every program on a five-year cycle. That means every program, except interest on the national debit and contributory systems like Social Security and pensions to which people have made contributions in anticipation of future benefits.

But every other program of the government would be terminated on schedule in five years. The second tool is that before a program could be reauthorized for spending purposes it must be subjected to a zero-base review justifying, not simply an increase in spending, but justifying all of its spending in terms of its fundamental premises.

Now that's the proposition. The bill itself, of course, is more complicated and difficult than that because it's an enormous task to undertake. As a matter of fact, most of the witnesses who have appeared before us, including such people as Roy Ash and Charlie Schultz, have been exposed to the budget process for many years. They predicted that we were taking on too much and that the result might be a casual kind of review that wouldn't really be effective. And so most of the bill is directed at trying to get a handle on the workload so that it does not carry the process, if we finally institute it, down to nothing.

But that's the objective, and it has stimulated just amazing response in the Congress. I have over 50 co-sponsors. Yesterday the Government Operations Committee reported it out unanimously with the support of Senators such as Senator Javits, Senator Percy, Senator Brock, Senator Roth, the whole spectrum, and they were all there. It's difficult to get a quorum in a committee at this stage of the session. But they were all there for two mornings so that we could work on the bill and report it out. So the bill's been reported out. It will have to go to the Rules Committee because it involves some changes in the Senate rules. There's a Title V to it which would subject tax expenditures to the same kind of discipline, and that could be an anchor on its legislative process. But I'm hoping we'll find a way to resolve that, because I'd like to get this bill passed and enacted by Congress before we recess about October 2.

That's a tall order. But we've acquired so much momentum behind it up to now that I think we've got a reasonable possibility of doing that.

Well, those are the two, my two most recent legislative initiatives. Were it not for these, I doubt that I'd be running for reelection, because all the rest of it is getting to be sort of old hat. But improving the fiscal environment is something that I take it the National Chamber approves.

Question from the floor: It seems to me that the budget proposal of an Executive agency should be kept within the Administration until it becomes an Administration position. What are your views?

Senator MUSKIE. Well, I don't see why it should. After all, the Executive has access to all of the reports that the Senate committees send to the Budget Committee, and they made political hay of it. For instance, this year the cumulative requests of Senate committees were $28 billion in excess of what we finally approved. Nobody took issue with the fact that the difference of $28 billion represented insensitivity to the part the Budget Committee plays. But we ourselves made that information public so that people would know what choices we made.

The whole objective is to let the Congress and the public also know what choices the President makes, when he evaluates agency requests and cuts them back. It seems to me that is a way to establish a firmer base for the President's budget than otherwise. We all know he has to make choices. We all know he has to say "no" to somebody. That he may say "yes" to some people who ought to get a "no." We have to do the same thing. I think that the success of the budget process in the Congress is dependent upon its openness. We never have a closed meeting. Every discussion, every decision and every vote is made with the press in the room. So if we can survive this process in the chaos that some people see the Congress as, it seems that the President can.

The question is controversial. The Administration argues that it ought to be free to make its decisions, in confidence, that if this information is released the President would be subject then to the pressures of all the lobbyists whose interests are involved in the recommendations of the agencies. Well, nobody knows the pressures of the lobbies better than me.

But has it done any harm, really? It's a good way to stiffen your backbone.

EUTAW SPRINGS REVIVED AS REVOLUTIONARY SITE

Mr. HOLLINGS. Mr. President, I would like to call to the attention of the Senate today an editorial which appeared in the September 8 edition of the State newspaper of Columbia, S.C.

The editorial commemorates the Revolutionary War battle at Eutaw Springs in Orangeburg County and makes mention of the fact that legislation has been introduced in the Congress to establish the site as a national battlefield. Additionally, it notes that another Revolutionary War battlefield in South Carolina—the Star Fort site at Ninety Six—recently gained national recognition when it was designated as a national battlefield.

I worked diligently in behalf of the Star Fort complex, and I am a sponsor of the legislation in behalf of the Eutaw Springs site.

My reason for commending the editorial commentary in the State to my colleagues today is my belief that it makes a dramatic presentation of South Carolina's extraordinary—though little celebrated—contributions to victory during the Revolution. It might interest my colleagues to know, for instance, that three of the six Revolutionary War battles for which the Continental Congress ordered gold medals to be struck were fought in my native State. That is a source of great pride to me in our Bicentennial Year.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Eutaw Springs Revived as Revolutionary Site

In this year of Bicentennial observances, South Carolinians should pause today to commemorate the anniversary of the Battle of Eutaw Springs, one of the most significant—and sanguinary—battles of the American Revolution.

A planned celebration, complete with costumed "Revolutionary" soldiers and an imaginative program, is scheduled to be held Saturday at the battle site in Orangeburg County. But the actual fighting was on September 8, not September 11, in 1781. Coming as did in the fading months of the War for Independence, the battle ended all British hopes of maintaining any show of strength in the South Carolina interior. Less than six weeks later, the British cause was irrevocably lost at Yorktown.

The truth is, however, that the battle losses at Yorktown were substantially exceeded by those at Eutaw Springs, although considerably fewer troops were involved. American casualties amounted to almost 25 per cent of the patriot force, while the British losses were almost 47 per cent.

By coincidence, this Saturday's observance of the Battle of Eutaw Springs comes within a few weeks after another notable South Carolina battle site achieved a new degree of national recognition. The Star Fort site at Ninety Six in Greenwood County has just been awarded national park status through congressional action and is expected henceforth to loom larger in historical accounts of the Revolution.

Much credit for this particular development is due South Carolina's congressional delegation, especially Rep. Butler Derrick, whose district (the Third) embraces the Ninety Six community. But credit should go also to South Carolina's America Revolution Bicentennial Commission and to the local folk of Ninety Six and Greenwood County for their perseverance in promoting not only restoration but appreciation of the site.

Similarly, state and local Bicentennial officials and enthusiasts have joined hands in arranging the Eutaw Springs commemoration. And, as would be expected, legislation has been introduced in the Congress to designate the site as the Eutaw Springs National Battlefield. Among other justifications for that action is the fact that Eutaw Springs is one of the six military engagements of the Revolution for which the Continental Congress authorized a gold medal. (The Battle of Cowpens also was among those six, giving South Carolina a third of the total medals.)

The State commends to public notice—and participation—the September 11 program at Eutaw Springs. It will represent yet another step toward stimulating national awareness of South Carolina's important role in the Revolution, a role described by the late, great historian, David Bancroft, in these words:

"Left mainly to her own resources, it was through bloodshed and devastation and the depths of wretchedness that her citizens were to bring her back to her place in the republic by their own heroic courage and self-devotion, having suffered more, and dared more, and achieved more than the men of any other state."

ROMAN HRUSKA

Mr. MANSFIELD. Mr. President, to say that the retirement from the Senate of Roman Hruska will be a great loss to this body, to his State, and to the Nation, is to use a cliché worn by time and use.

Yet no statement could be more apt in the case of the senior Senator from Nebraska.

Roman Hruska has been one of the great Senators. He is one of those stalwarts whose long hours and dedication to hard work enable this legislative branch of our Government to function.

His capacity for work is remarkable, a capacity inherited from his Czech forebears. To understand Roman Hruska it is helpful to understand more about his remarkable father, Joseph Hruska, who came to this country as an infant exactly 100 years ago.

Joseph Hruska's first family home in America was a two-room cabin, with a lean-to attached. He received a country school education which meant that, as a boy, he took time out from classes to help plant and harvest the crops.

Senator Hruska once said:

> To the early Czech pioneers of Nebraska, this was indeed the land of opportunity—opportunity to improve one's own lot in life by hard work and perseverance. But the true blessing of the new land to which the Czech pioneers came was the opportunity to improve oneself.

Roman Hruska has always placed his trust in what we now describe as the old-fashioned virtues of thrift, self-reliance, and honesty.

He has made those values the cornerstones of his public life as well as his private life.

His 22 years of service in the Senate have been distinguished by his service on the Judiciary Committee. There he has participated in the confirmation of every presently active justice of the Supreme Court of the United States. Since assuming his current position as the ranking minority member of the Judiciary Committee in 1969, he has been a member of the special panel which conducted hearings on the nominations of nearly 300 appointees to the Federal bench, more than half of the current article III judges.

The list of Senator Hruska's contributions to the cause of justice in America is long. He has been particularly concerned about upgrading the Federal judiciary. He was the chairman of a blue ribbon commission to study the appellate system of the Federal courts and has introduced a bill to create a new National Court of Appeals.

He has been a leader in the effort to improve the criminal justice system in America. His efforts in the establishment of the Law Enforcement Assistance Administration, in the passage of the Criminal Justice Act of 1964 which provided counsel for indigent defendants, in enactment of the Organized Crime Control Act of 1969 are but a few examples of his leadership and the application of his considerable knowledge in these important fields.

Equally important has been Senator Hruska's performance in the field of antitrust. As the ranking minority member of the Subcommittee on Antitrust and Monopoly, he has deservedly earned a reputation as one of the Senate's outstanding experts in that field.

As a ranking member of the Appropriations Committee on which he has served throughout his Senate career, Senator Hruska has earned the respect and admiration of his colleagues with his detailed knowledge in the fields in defense, agriculture, and public works.

In nearly a quarter of a century of service in the Congress, including a term in the other body, Roman Hruska has justly earned a national reputation for hard work, intelligence, and integrity. The Chicago Tribune once described him as a workhorse, not a showhorse.

But despite national prominence, Roman Hruska has never forgotten where his roots lie. He has been a loyal, faithful, and effective representative of his State. The basic industry of Nebraska is agriculture and an especially important segment of that industry is the production of livestock. All of us here know what a persuasive and articulate advocate Senator Hruska is on behalf of the livestock industry. He is truly a leader in this field.

Finally, Mr. President, I would like to say a word or two about Roman Hruska, the man.

He holds strong convictions and argues them with the skill of the excellent lawyer he is. But he is always tolerant of the viewpoints of others. He is unfailingly courteous and accommodating to opposing positions.

I count it a privilege to have served with Senator Hruska. And at the risk of employing another cliche, I can honestly say that the Senate will not be the same without him.

I know that all of my colleagues on both sides of the aisle join me in wishing him and Victoria a long, happy, and healthful retirement.

COPING WITH CHANGE IN THE BUSINESS WORLD

Mr. HRUSKA. Mr. President, Mr. Walter Hanson of New York City, senior partner of Peat, Marwick, Mitchell & Co., an international public accounting firm, recently addressed a group of civic leaders in Omaha on the occasion of his company's 25th anniversary in my home city.

Mr. Hanson's remarks were very timely and to the point. He spoke of the changes that have occurred in the business world over the past 25 years and the attempts being made by business leaders to deal with them.

He said:

> Today, of course, change is never far from the thoughts of any executive. It has become axiomatic that of the several "basics" of being a chief executive officer, the first—or, perhaps, the most basic—is the ability to manage change and to give leadership to an organization undergoing change.
>
> I am afraid, however, that the areas in which we can manage change are becoming more and more circumscribed. Those who would manage change are now being reduced to coping with change imposed from outside.
>
> Two trends, which are interrelated, are making this situation worse—virtually on a daily basis. The first is the trend toward more and more regulation, and the second is the deterioration of public confidence in business, a phenomenon fueled by what many of us view as a distinct anti-business bias among the media.

Mr. Hanson concluded his talk with the following request:

> . . . Let me point out that I am calling for nothing the least bit out of line or sinister. Simply reasonableness on the part of the regulators, a fair shake from the media, and an opportunity to build the capital necessary to maintain the free enterprise system. Certainly not much to ask—but a great deal to be denied.

Mr. President, I believe my colleagues and others interested in the maintenance of America's free enterprise system will find Mr. Hanson's comments both challenging and fascinating. I, therefore, ask unanimous consent that his remarks in Omaha on September 2, 1976, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

OMAHA SPEECH OF WALTER HANSON

Ladies and gentlemen. I am very proud to join with you today to celebrate the 25th anniversary of the entry of Peat, Marwick, into Nebraska.

I hardly need tell any of you of the changes our country and your State have gone through in those years. I would like to believe that our firm had some small part in Nebraska's change and growth. I think it only natural that, on milestone occasions such as this, we reflect on our past. Certainly change itself must rate very high as the key element of the past twenty-five years.

Today, of course, change is never far from the thoughts of any executive. It has become axiomatic that of the several "basics" of being a chief executive officer, the first—or, perhaps, the most basic—is the ability to manage change and to give leadership to an organization undergoing change.

I am afraid, however, that the areas in which we can manage change are becoming more and more circumscribed. Those who would manage change are now being reduced to coping with change imposed from outside.

Two trends, which are interrelated, are making this situation worse—virtually on a daily basis. The first is the trend toward more and more regulation, and the second is the deterioration of public confidence in business, a phenomenon fueled by what many of us view as a distinct antibusiness bias among the media.

I find both these trends extremely alarming, and I believe that the time has come to strongly resist them. If we are to be managers of change, we must—and it is an imperative—we must learn the nature of these forces and try to deal with them on some level other than that of accommodation.

Resistance to these trends, however, will not be easy. It is estimated, for example, that every day except Sunday over 100 new regulations of some sort come out of Washington. These regulations, which once affected only Government-controlled and a few other industries, now reach out and touch virtually all business.

There are still some isolated pockets of resistance. Some small businesses, for example, have managed to escape much of the encroachment of regulation, but that freedom is being eroded. I've been told of a small manufacturer in Ohio who had to deal with seven governmental agencies, State and Federal, and complete 27 forms when it made changes in its product lines and prices.

The larger the business or industry, of course, the greater the regulatory pressure. There have even been instances where one group of regulators have felt themselves compelled to complain about other regulators as barriers to better productivity. What they are really doing is arguing over jurisdiction.

Peat, Marwick, Mitchell has long been one of the leading accounting firms for banks, and we have been unhappy witnesses to the pervasive growth of regulation in that industry.

Consider, if you will, the volume of reports that a major bank must generate. To the Federal Reserve, it must submit 12 different monthly reports, 2 weekly reports, and three quarterly reports; to the Securities and Exchange Commission it must send a monthly, a quarterly and an annual report; and to the Comptroller of the Currency goes an annual report, two monthly, two weekly and two quarterly reports.

I don't want to belabor this, but suffice to say that the Federal Deposit Insurance Corporation and the Treasury Department also are on the mailing list. In all, it comes to nearly 550 separate reports each year.

Similarly, you will find railroads, trucking firms, and airlines—to name a few—chafing under the dead hand of overregulation.

This is not to say that all regulatory concerns are not legitimate, but how many layers of governmental control can we support? And at what cost, both in terms of lost initiative and actual dollar outlays?

Behind the welter of regulations has been the clamor for fuller disclosure—a laudable goal, certainly—but, here again, I ask how far do we go and at what cost?

Right now, we accountants inundate clients regulators and investors with streams of data, and the requirements for disclosure of business operations are in an almost continuous state of expansion. I truly shudder to think what this is going to mean to the average stockholder.

It seems to me that much of the investing public is already suffering from an inability to comprehend the meaning of much of the data that the SEC wants disclosed, and that it is the few professional investors—and, yes, the professional speculators and short-cut artists—who stand to benefit the most.

Indeed, the magnitude of the demands for disclosure is an important reason why the public is getting less than it deserves from auditing. Many of the lapses of our profession in the past revolve around insufficient depth of audits. When auditors are asked to spend a large part of their time dealing with various finite disclosure requirements, that means either that they must take time away from their auditing functions or that the public will ultimately have to pay more for the auditing service.

There is already considerable pressure on the accounting profession to hold down its fees, and I don't think that either the client or the public in general is especially happy about having those fees go up simply to set forth the schedule of a company's long-term leases to the year 2010, a nicety that just about everyone could do without.

Another aspect of the too-much-information syndrome is that a good deal of it may be far from valueless—to your competitors. A good financial detective can piece together from disclosure material a company's plans and basic strategies, picking up something of value that rightfully belongs to shareholders.

You might think from these remarks that I have already been badly bitten by the regulatory bug. Not so at all. Indeed, government regulations have substantially enlarged the scope of our business and have been the source of a considerable amount of new business. As laws and regulatory agencies have proliferated, the need for our services has increased significantly. And, while some segments of the public have at times been critical of the accounting profession those same people have pushed hardest for measures that tended to expand the scope of our practice.

While we are pleased at being able to expand our practice, we remain aware that regulation of the private sector is a two-edged sword. To encourage the regulation of other businesses is inevitably to invite the same for ourselves.

In our role as accountants we have seen from the inside what happens when the regulatory octopus gets hold of an industry. We don't want this for ourselves we don't want it for you. It is no secret that my firm and others in my profession are waging a pitched battle on several fronts against regulatory encroachment.

When encroachment does occur, the picture for a businessman is not a pretty one. What it amounts to is one big bureaucracy spawning mirror-image mini-bureaucracies within the organizations it regulates. And no one, need I add, has ever linked the noun "bureaucracy" with the adjective "efficient."

Inefficiency goes hand-in-hand with muddled priorities and self-defeating policies. Look at the plight of our welfare program.

Without going into a long discourse of how we got from the simple principle of the good samaritan who cares for his brother to the welfare mess which the industrialized western nations now face, let me say this:

There is something basically wrong with a system which encourages idleness. The evidence of the truth of this observation is on every side.

And yet local, state and national tax policies are geared to the budgetary needs of this impossible welfare policy.

Everyone knows it's a mess. Professional social workers say so. Elected officials say so.

Underlying the philosophy which gave us welfare is the basic notion that you and I are just not smart enough to decide how to spend our money. That you and I are not capable of assuming the role of the good samaritan. Such matters are best left to our big brother in Washington.

The let-Washington-do-it mentality has, of course, contributed to the growth of Federal agencies. While not all agencies grant funds directly, all are spending agencies. They pay salaries, and I might add, buy paper for their endless forms.

Is there any hope for reform?

Currently there is campaign oratory about zero-base budgeting and sunshine legislation.

You may know about zero-base budgets. In theory, every government agency is ordered to prepare its annual budget from the beginning. This means, of course, that every program must be evaluated for effectiveness.

Personally, I'm a little skeptical. That word "evaluation" gives me a problem.

Who does the evaluation? You guessed it. The dedicated bureaucrats.

Sunshine legislation has the same goal. A program which is no longer working will be terminated. Great idea—but who evaluates the spending agency?

You'll pardon my quiet amusement when I tell you that there undoubtedly will be a new Federal agency established to determine which of the others will be cut.

It's almost too easy to smile at the floundering that goes on in the public sector. There is nothing amusing, however, about the effects of overreaching regulations in the private sector.

There is a paralysis, a strangulation—call it what you will—that occurs. Once regulation is entrenched, the first priority becomes the filling out of forms. Initiative and the willingness to take risks are stifled. Caution becomes the watchword—hardly the hallmark of our free enterprise system.

Without the freedom to act relatively unimpeded, little gets done. The costs can be measured in lost jobs, more costly goods or services, and reduced tax revenues.

Let me give you an example—and it's not a hypothetical one.

Let's say you are a public utility supplying power to a major city, and, in response, to demands from customers, you plan expansion of generating capacity. You decide to build a new power plant of a certain type.

If the plant is coal, gas or oil fired, a number of Federal Government agencies must approve. To wit: The Federal Aviation Agency, the Corps of Engineers, the Department of Interior. Then add to this four state agencies, including the Department of Health and Conseravtion, and as many as 20 city agencies, among them: the Department of Air Resources, the Boiler Division of the Department of Buildings, and the Department of Ports and Terminals. Five of the city permits will be from the fire department for matters such as blasting and the storage of hydrogen.

The city, in this example is, of course, New York—the utility is Consolidated Edison, and the proposed new construction is its Astoria plant in the Borough of Queens.

Some of these permits may be granted in a routine fashion, or, if a problem develops, it might take longer, much longer than anticipated. A single final "no" answer from any of the agencies can kill a project. If it were a nuclear plant, you could multiply these difficulties by 100.

How can a utility solve the dilemma of where to put a power plant? How to balance customer demands with environmental concerns?

Charles F. Luce, Con Ed chairman, quite right! I think, put the issue squarely up to an informed public:

"In the long run, the resolution of the siting dilemma will be found in better public understanding of the issues involved, not in administrative administration no matter how brilliant, nor in utility management however far-sighted."

What Mr. Luce said is certainly reasonable, but I am afraid that "better public understanding" for Mr. Luce and for the rest of us is going to prove an elusive goal.

Why? Because of the relationship between business and its most vexing partner in our changing American economy—the media.

Many corporate spokesmen are convinced—and I believe they are acting on persuasive evidence—that the media have a fundamental bias against business and that business can only expect difficulty in trying to tell its story through the media.

We do live in strange times. In this country we have assembled the most powerful economic machine in history. An engine that has permitted us the widest personal freedom and guaranteed us the highest standard of living in the world. Yet on all sides we see different segments of our society trying to discredit and even dismantle it.

"Profits" has become a dirty term as has the word "business" itself. "Big business" is, of course, an absolute obscenity. Public opinion polls number businessmen among the least highly regarded members of our society—right along side, I should add, federal officials.

The press both reflects and intensifies the public's attitudes. It dutifully reports the results of the negative opinion polls, and then, knowing what the public expects, it goes out and looks for stories damning business.

Unfortunately, of late, these stories have been difficult to come by. What worries me is that too often the "business side" of business stories are not being fairly told. All of you, I expect, have seen a story on a price increase that represents a rational business portrayed as price gouging.

This sort of treatment is, of course, both irritating and disturbing. But what I find truly alarming is the thought that business and the country as a whole could lose out on a really significant issue because of the indifference and skepticism fostered in this kind of a climate.

One of the most important questions we face today, for example, is that of capital formation. Given the growing list of capital requirements, how is the private sector going to meet the staggering demand building for investment funds over the next decade?

Capital formation and the financing of the future did receive a good deal of coverage in the media at the height of the recent recession.

But with the improvement in the profits picture over the past 18 months, interest has waned, and the press has passed on to something else, assuming the problem solved.

The problem, of course, is not solved—at least not on a long-term basis.

Most economists put the country's capital requirements for the next ten years at almost three times what they have been for the past decade or so. This means an investment rate of anywhere from $300 billion to $400 billion annually, depending on whose assumptions you use.

Why is the load to be so heavy? First, because we are reversing a longstanding trend. We must recover from decades of underinvestment in industry and halt the expansion of the government sector at the expense of the private sector.

Treasury Department studies have shown that since the early 1960s, our major competitors in foreign trade have been putting far more of their gross national products into private investment than has the United States. This means, of course, that our productivity rates have slipped—a trend which must be reversed because of the bearing it has on inflation.

Inflation itself is also a big factor in totalling up the prospective bill for the next ten years. Most forecasters seem to think that an annual inflation rate of 5 per cent is a minimum expectation, meaning higher plant replacement costs as a result of higher labor, energy and materials costs.

It is not only inflationary pressures, however, that are driving up the costs of materials and fuel. Our primary sources of fuels and raw materials are being used up, and we must now make greater investments in order to develop secondary supplies.

We have to meet other needs, too. We must rebuild our central cities if they are to survive. Much of our housing stock must be replaced. Pollution controls necessitate enormous amounts of capital investments without any direct addition to productivity.

How, then, are these needs to be met? Not through internally-generated corporate funds, it seems certain, unless some basic changes are made.

Since the mid 1960's, corporations have had to rely increasingly—and this to the alarm of many observers—on debt as a source of capital to finance business expansion. Depreciation, retained earnings, and new equity issues were insufficient to maintain historic debt-to-equity ratios.

But in the future, you may ask, won't the current surge in profits help? Yes, to some extent. But, as a 1974 Treasury study showed, if you deduct from profits the effects of underdepreciation and inventory profits which aren't really profits at all when you try to replace inventory at current costs, what looks like whopping profit gains over a ten-year period turn out to be in real terms a decline in profits.

To better the environment for capital formation, we must, I believe, do several things:

We need tax deductible depreciation methods which take into account the inroads of inflation.

We need to make the 10 per cent investment credit tax a permanent part of our tax structure.

We need to encourage equity financing by eliminating the tax advantage given to users of debt. In other words, make corporate dividends a tax-deductible business expense, as is the interest paid on debt. Both after all, are simply fees paid to use funds.

We must carefully examine the performance of our multi-national corporations before making any changes in the way in which they are taxed. Such an examination, I believe, will indicate that, overall, they contribute to both domestic job creation and to positive capital flow. To tax them more burdensomely would place them in a more precarious position vis-a-vis their foreign competitors.

It is difficult, however, to gain support for a program such as this aimed at spurring capital formation. First, the entire question of capital formation is an involved, difficult to understand topic for both the public and the media—one that, at least on the surface, is not all that exciting.

Support would also be difficult to muster because of the current anti-business climate. Profits—that dirty word—are an integral part of the capital formation process. How do we talk about more liberal depreciation policies, about fostering the interests of multinationals, or about a new "tax loophole"—that's how it will be viewed—on dividends at a time when it is popular to adopt a soak-the-rich attitude toward business and businessmen.

On the question of capital formation and on most other issues, there is no question in my mind that both we as businessmen and the system under which we live and prosper are on the defensive. Those who would stand up and try to paint, from a business point of view, the whole picture of where we have been and where we might go from here cannot expect to be either reported upon or answered seriously and fully. Piecemeal criticism of small points, perhaps, but no serious debate/no real response.

If these observations are true for the print media, they are, I believe, still more valid for television.

Few, very few television broadcast news services assign reporters to cover business as a specialty. Other than the obligatory mention of closing stock market averages, business gets little attention *as* business. Balance sheets and income statement do not lend themselves to television.

Unfortunately, billowing smokestacks, polluted streams and payoff scandals do, and that's the side of business that is being presented on the six o'clock news.

I suggest we think seriously about preparing ourselves for the power of television, and I say to you that if we are dismayed by print media with an anti-business bias, the worst is yet to come.

As I pointed out earlier, the problems we are examining here today—overregulation/an anti-business press/and worsening public attitudes toward business—are interrelated. It's a steadily worsening cycle, as one element feeds off the other.

Sometimes, I admit, it doesn't seem as if we can possibly pull out of this cycle. Too often the tactics of our opponents run counter to our traditional values, yet no one rises to stay their hand or even rebuke them.

How, we ask, are we to cope—notice I didn't say manage—cope in this sort of climate?

Well, I believe that we can and must act. There can be no sideline-sitting for any of us.

First, we must regain some notion of the true measure of our worth, we must get out of our defensive, defeatist posture.

My good friend Walter Wriston, chairman of Citicorp, has spoken for all of us in a remarkable series of crusading speeches over the past few years. The businessman is not, he points out, a second class citizen. The first amendment applies equally to him, and so should the fair right of reply to one's critics.

To offer up pro-business or anti-regulatory arguments is not to become some sort of pharisee. Mr. Wriston explained it well:

"The fact that I argue today for a free market in goods and services, and that such a market would benefit my company, does not make my argument unsound. Self-interest and public policy can and often do coincide. No one attacks a newsman demanding freedom of the press just because the pursuit of that objective is what puts money in his pocket and dinner on his table. No one attacks a professor arguing for academic freedom, although its absence might cause the scholar to lose his job."

But, as Mr. Wriston points out, speaking out may carry its price:

"A railroad executive who publicly attacks the corrosive bureaucracy of the ICC, which has been so largely responsible for regulating our railroads into bankruptcy, fears that his next plea for a rate increase will be prejudged. A merchandiser who dares challenge some arbitrary rule promulgated by the Federal Trade Commission fears that bureaucracy will live to fight him another day. A banker who suggests that the current regulatory attitudes on interest rate ceilings are designed to rip-off the consumer fears that retribution will be visited upon him by the regulators in Washington." Unquote.

If you and I don't stand up and criticize this type of repression we will surely be crushed.

Although some of my language and ideas during this talk may have sounded harsh, let me point out that I am calling for nothing the least bit out of line or sinister. Simply reasonableness on the part of the regulators, a fair shake from the media, and an opportunity to build the capital necessary to maintain the free enterprise system. Certainly not much to ask but a great deal to be denied.

"ECONOMIC POSITION OF BLACKS IN THE UNITED STATES, 1976," BY PROF. ANDREW BRIMMER

Mr. GLENN. Mr. President, on May 20–23, 1976, the distinguished former Federal Reserve member, Prof. Andrew F. Brimmer, presented a very scholarly and balanced analysis of the economic status of black Americans to the American Assembly on Manpower Goals for American Democracy. This study, an exhaustive document, has been published in full in July as Special Report No. 9 of the National Commission for Manpower Policy. I recommend it as required reading for every policymaker concerned about the implications of economic trends and developments for the future of blacks.

Professor Brimmer describes the past decade and a half as a mixture of progress and stagnation. He cites some extremely disturbing trends that have potentially serious implications for the future. I would like to outline and comment upon several of the points raised in Professor Brimmer's thesis.

TRENDS IN THE BLACK LABOR FORCE

Professor Brimmer's paper states that in 1975, there were 10.5 million blacks in the labor force. Blacks held 9.1-million jobs and 1.5-million blacks were unemployed. In 1975 the civilian labor force totaled 92.6 million, representing 84.8-million employed persons and 7.8-million unemployed persons. Blacks comprised 11.4 percent of the civilian labor force, 10.7 percent of total employment, and a shocking 18.6 percent of total unemployment.

When combined with the declining labor force participation rates for adult black men—from 76.9 percent in 1969 to 73.3 percent in 1974—the fact that there has been no appreciable gain in blacks' share of total employment, and a growth of the black labor force that has expanded more rapidly than the labor force as a whole, then Professor Brimmer's and the black community's feeling of pessimism about its economic progress seems correct given a continuation of present economic policy.

STRUCTURE OF BLACK EMPLOYMENT

Much has been said of a "feeling" of tremendous black progress industry by industry and occupation by occupation since the late 1960's particularly due to greater numbers of young blacks attaining greater skills and training. Professor Brimmer's study indicates that blacks have made "modest progress" in recent years in finding job opportunities in the better paying sectors of the economy but that the progress has not been large enough or significant enough to justify a feeling of euphoria among the black populace as a whole.

Professor Brimmer's figures indicate that the "occupational center of gravity" for blacks remained in positions characterized by lower than average pay that offered few opportunities for skills attainment and advancement. So, let us not look at solely what has surely been great progress, such as the 129-percent increase in black professional and technical positions between 1959–69, the three-fifth's growth in the numbers of black managers, officials, and proprietors during the same period. We should not use these figures to argue that the economic problems of blacks have been "solved." We have simply made a long overdue beginning that must continue on a broad scale.

IMPACT OF THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Equal Employment Opportunity Commission is the Federal agency charged with enforcing title VII of the Civil Rights Act of 1974. There can be no denial of the fact that past and present job discrimination as well as past and present education and housing discrimination have been the prime contributors to economic disparity between blacks and whites. Consequently, in the vital area of job discrimination, the EEOC must be strong and vigorous in its pursuit of equal employment opportunity on all levels of the occupational scale and for both sexes. Professor Brimmer's statistics indicate the need for just such a policy. As the Congressional Budget Office in its July 19, 1976, paper "The Unemployment of Non-White Americans: The Effects of Alternative Policies" states:

> Federal policy can reduce discrimination and, thus, the differential between non-white and white unemployment rates in several ways.

Basically, those "ways" are as a deterrent to discrimination and as a corrector of past practices. And those "ways" extend across the board to housing, education, and into other areas. So, economic considerations are yet one more reason why the total Federal commitment to nondiscrimination must be firm and complete.

YOUTH UNEMPLOYMENT

Mr. President, perhaps one of the most grave and persistent problems that we face is that of youth unemployment, particularly among minorities. For black teenagers, unemployment in August was 40.2 percent and there is no doubt that minority youth unemployment in many inner cities even exceeds that figure. Teenage unemployment is not something to be thought of as "trivial" or as "relatively unimportant" because many young people desperately need employment in order to earn money to go to school and to help their families meet expenses.

The teenage years should be the key years for formulating career interests and job skills, particularly for youngsters who do not go on to college. Yet, it is often argued that it is an overly expensive and high-risk effort on the part of both the public and private sector to "invest" in training programs and in more than dead-end jobs. I hope that in the next session of Congress that we can begin to formulate a sound national strategy for tackling the problems of youth unemployment. Without such a strategy, we are simply wasting many good minds and young talents by allowing them to drift away on the street-corners of our cities. This group, Mr. President, makes up much of today's "hardcore." This group comprises much of the Urban League's "hidden employed" those who have stopped working or who have never worked before.

Without a scund national policy, we will experience still further sharp declines in labor force participants. Without a balanced, noncompetitive strategy in the public and private sectors we are actually building greater potential for further totally unacceptable permanent unemployment. Needless to say, the lack of such a coherent strategy only makes our problems of housing, health, welfare, and crime more serious. Let us begin to attack these problems by providing meaningful job opportunities and training for our Nation's youth.

Mr. President, I strongly urge my colleagues to read the Brimmer report and to fully consider all of its implications upon U.S. social and economic policy of its findings and those of the CBO and those of the Joint Economics Committee. Hopefully, we will use the next 4 years in further correcting the still glaring racial inequities in the United States and in accelerating the progress that has been made in this area. I believe that Professor Brimmer has done the Nation a tremendous service by undertaking this study which recommends more vigorous national action in accomplishing these goals.

CIVIL RIGHTS COMMISSION REPORTS ON SCHOOL DESEGREGATION

Mr. HUMPHREY. Mr. President, I am in receipt of the most recent publication of the U.S. Commission on Civil Rights and would like to share with my colleagues some of the contents of this report. Entitled "Fulfilling the Letter and Spirit of the Law—Desegregation of the Nation's Public Schools," the report represents the culmination of the Commission's 20 years of experience in the school desegregation field capped off by a recent 10-month concentrated effort involving four full Commission hearings, four State Advisory Committee open meetings, a mail survey to respondents in 1,291 districts, and 900 indepth interviews in 29 school districts througout the country. In my view, this quantity and quality of research—actually going out and listening to the students, parents, education officials, and teachers involved in desegregation efforts—provides the kind of empirical evidence on the issue that is unmatched.

I want to single out for attention a conclusion reached by the Commission which is of special concern to all Members of Congress:

> Perhaps the most important ingredient in successful school desegregation is leadership, both at the community level and in the schools. (Page 168 of the report.)

I think it especially important that this body of elected leaders note the importance of the leadership role in desegregation efforts. The Commission found that where responsible leadership is provided by the school board, school administrators, political leaders, police officials, religious and business groups, the media, and other public and private organizations, desegregation is more likely to be achieved with minimal difficulty.

Where such leadership is not present, however, the desegregation process is made that much more difficult, anxiety producing, and complicated, perhaps even leading to disruption of the desegregation effort and, thereby, the entire educational system.

The Commission found that affirmative leadership by school board members and superintendents is a "critical factor for acceptance and peaceful implementation of desegregation." Not only do school board members have input of primary importance as far as the formal desegregation plan and procedures go, but they set an example for the community in terms of acceptance of a plan, for they are the individuals deemed by the community most qualified to assess the impact of the plan on the education future of the area's students. In this sense, parents and students often look to the school board members and the school superintendent for a sense of whether the academic and overall educational life of the students will be enriched by or suffer because of the advent of desegregation. The Commission documented the fact that positive statements and acts in support of desegregation by such officials are highly regarded by all segments of the community and have a strong impact on the desegregation process.

Many communities, even those which initially opposed desegregation plans, resolved to make the court-ordered process work and to work to the best interests of the children. Not to do so, it seems to me, could amount to deception which encourages desegregation opponents to believe there is a chance to avoid desegregation when no such option should or does, in fact, exist. In the words of a community leader in an area that was desegregating with some difficulty:

> The school board knew it was in the wrong, but refused to admit it, even after all court appeals had been exhausted; the board misled the public. The community would have been more cooperative if the superintendent had said, "We are desegregating because it is the right thing to do for the children."

It is my sincere hope that education officials will exert the kind of leadership necessary for progress and that sometime soon all superintendents will act on the conclusion that "we are desegregating because it is the right thing to do for the children."

HIRAM FONG

Mr. MANSFIELD. Mr. President, as the 94th Congress draws to a close, I want to pay tribute to my colleague and good friend, the senior Senator from Hawaii, Hiram L. Fong, who plans, as I do, to retire from the Senate when his term expires next January 2, after serving more than 17 years.

How well I remember that historic March day when the Senate passed the bill granting statehood to Hawaii. And how well I remember that historic and colorful day when Hiram Fong was sworn into office, here in this Chamber, as one of the first two U.S. Senators from our Nation's newest State, Hawaii.

Not only does Hiram Fong hold the distinction of being one of the first statehood Senators from Hawaii, but he is also the last statehood Senator from any State currently serving in this body. His departure will mark the advent of a new era when the Senate will no longer have any statehood Senators among its 100 Members.

Hiram Fong has established other "firsts." He is the first person of Chinese ancestry to serve in the U.S. Congress and he is the first person of Oriental ancestry to serve in the U.S. Senate.

He was the first person of Asian ancestry ever to have his name placed in nomination as favorite son candidate for the Office of President of the United States.

In representing the Aloha State of Hawaii, Hiram Fong has, indeed, been an ambassador of good will and brotherhood, not only for multiethnic people of those beautiful islands, but also for the peoples living on other far-flung islands in the Pacific.

I understand that, in his first election campaign for U.S. Senate, Hiram ran as Man of the Pacific. And Man of the Pacific he has proved to be.

He has been an eloquent spokesman for the views of his mid-Pacific constituency in Hawaii and an articulate advocate of a positive role for America in the vast Asia-Pacific area.

We all know how diligent he has been in recommending people of various ethnic backgrounds from Hawaii to high Federal Government posts. Hiram has, indeed, made Hawaii's voice and views heard not only in Congress but in the executive branch and international councils.

At the same time, Hiram has not forgotten Hawaii's long struggle for voting representation in the Congress and he has felt a special obligation to speak and work in behalf of the territorial peoples of the Pacific—who do not have voting representation in Congress.

A native son of Hawaii, a showcase of ethnic harmony and democracy, it was only natural that Hiram Fong helped to write an impressive list of landmark civil rights measures since he took office in August 1959. The civil rights and voting rights laws of the 1960's and the historic Immigration Reform Act of 1965 all bear the imprint of Hiram Fong, both in his capacity as a member of the Senate Judiciary Committee and as a Member of the whole Senate.

Hiram Fong has also demonstrated here in the Senate time after time his staunch advocacy of better education and greater opportunities for students, teachers, and the entire academic community.

Born and raised in Hawaii, a product of public schools, and—as a law student at Harvard—of a private school, Hiram has long recognized the value of a good education. He attributes his ability to rise from humble beginnings to our Nation's highest legislative body and his success in business and law to the good education he received.

One of his early major addresses in the Senate was a plea for Federal assistance to elementary and secondary schools. When he was appointed to serve on the Senate Committee on Appropriations, he requested a seat on the Subcommittee on Labor-Health, Education, and Welfare, because it offered him opportunity to be of service in those human and humane fields.

From my personal observation here in the Senate, I know Hiram Fong is, indeed, a great credit to his ethnic background, to his State and to his Nation. It has been a pleasure to work with Hiram. As a long time student of Asia and the Pacific, I detect in Hiram the sound judgment and values of the peoples of the East blended with those of the West to comprise a cosmopolitan legislative leader.

I wish HIRAM and his gracious wife, Ellyn, good health, happiness, and Godspeed as they return to their beloved Hawaii. I know that a man of HIRAM's intellect and vigor will move forward in new fields of endeavor after he retires from the Senate. I know also that further success will be his.

To borrow that beautiful word from Hawaii, may I conclude by saying to my colleague and good friend HIRAM FONG, "Aloha."

A CHALLENGING MISSION: DECISIVE NAVAL POWER

Mr. HARRY F. BYRD, JR., Mr. President, the people of Virginia and, especially, those in the Hampton Newport News area were so pleased to have in Virginia on July 31 the able Senator from Mississippi, Mr. STENNIS.

Senator STENNIS delivered the address at the launching of the U.S.S. *Mississippi*. The *Mississippi* was built in Newport News at the Newport News Shipbuilding & Dry Dock Co.

This is one of the finest yards in the world with able and competent craftsmen and executives. I am pleased to count among my friends so many of the 24,000 employees of that fine shipyard.

Senator STENNIS made an excellent address—as he always does. To me, he is one of the ablest Members of the Congress of the United States—and more than that, a beloved and dear friend.

As chairman of the Senate Armed Services Committee, Senator STENNIS discussed in his July 31 address the important issue of the Navy's mission in the years ahead and pointed to the growing threat of the Soviet Navy.

His speech is a thoughtful one and an important one.

It is captioned "A Challenging Mission: Decisive Naval Power."

I ask unanimous consent that this excellent address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A CHALLENGING MISSION: DECISIVE NAVAL POWER

(Remarks By Senator JOHN C. STENNIS)

Secretary Middendorf, President Diesel, Americans all:

First, I bring you warm greetings from the people of Mississippi, and for them, I thank the Navy for naming this ship for our State. Mississippians are proud of our heritage, our culture, our traditions and, if I may say so, of our loyalty. Our people have fought with valor in the defense of our nation in past wars and take great pride that we have been in the forefront when duty called.

Also, on behalf of Mississippi's splendid Governor, the Honorable Cliff Finch, and at his special request, I bring greetings to the Navy, to those who have built this ship, to the Mississippians who are present, and to the other guests and visitors. Governor Finch regrets that he could not be here in person, but he is proud that members of his family will play significant roles in this ceremony.

Seventeen months ago many of us were here when a slab of steel was laid as the keel for the new USS MISSISSIPPI. Today this new, nuclear-powered guided missile cruiser will be launched and later join the fleet to assume its anti-aircraft and anti-submarine role as a part of an aircraft carrier task group.

The construction of this ship is a tribute to the Navy, the 23,000 shipyard workers here, and to this shipyard management and organization, where about 500 ships have been constructed in the last 85 years.

This shipyard, along with the other privately operated shipyards throughout the country, are great national assets, indispensable to our national defense. Our free enterprise system is the basic economic strength of the American way of life. Its productivity and achievements range from the success of the American farmer in producing food for the world to this fine ship which we launch today.

USE OF THE NAME U.S.S. "MISSISSIPPI"

The three ships carrying the name of the USS MISSISSIPPI over the past 135 years—from side-wheel steamer to nuclear power—are concrete illustrations of the progress of naval advancements and power over this long period of time.

The first USS *Mississippi*, the 1841 side-wheel steamer, which among other things served as Commodore Perry's flagship, was destroyed in an assault against the Confederate forces in New Orleans in 1862. The 1908 and 1917 battleships bearing this same name also played crucial roles in naval power. The USS *Mississippi* being launched today, therefore, symbolizes progress in the Navy. She is a dramatic part of a dramatic modernization program which is essential for our continued supremacy of the seas.

Our Navy has an unchanging mission. Many of our resources, our allies, and our enemies as well, lie overseas. In most of our wars in the last 175 years, including the Revolutionary War, this country would not have been victorious without superior naval power being on our side.

This mission to maintain decisive naval power for our global interests will remain as imperative for the future as the past. Our global interests and overseas dependence grows, not lessens, with each passing year.

As we all know, over 35 percent of our oil must be imported, as well as 90 percent of all types of strategic materials and metals consumed in this country. These percentages will increase. Our ability to move unhampered through the world's oceans is crucial to our economy and strength, both in peace and in wartime.

A strong and powerful Navy—a Navy second to none—is the greatest deterrent to war and influence for peace that our country can possess. I believe, beyond all question, that we have the most balanced and effective Navy in the world today. The very special advantages possessed by our Navy make it clear that it is now more than a match for any aggressor or combination of aggressors.

SOVIET NAVAL THREAT

In the last twenty years, however, the Soviet Navy has grown from a coastal defense force to a full-fledged ocean-going navy and poses an ever-growing challenge.

Our Navy can carry out our mission. But we must get on with modernizing our fleet if the Untied States Navy is going to be in a position to carry out its mission in the decades ahead.

I also believe, beyond all question, that we must provide a new family of modern ships as quickly as we can or, ten years from now, we will find that our Navy has fallen behind. This would be a calamity, not only for us but for the entire free world. The money that the Congress is providing now is intended for this purpose. The stream of ship production which is now contemplated must become a reality without delay or interruption!

Time has already been lost due to the deferral of shipbuilding during the Vietnam war. To modernize a fleet is a slow, expensive process. For larger ships it takes about ten years from the drawing board until a ship enters the fleet ready for combat.

All of these facts, the Soviet naval build-up, the Vietnam funding deferral and the time-consuming ship construction process, are facts we can do little about.

There are, however, two issues which are subject to our control which I will briefly discuss.

NEED FOR A CONSENSUS ON NEW SHIPS FOR THE NAVY

One of the great strengths of our democracy is the intense debate and criticism to which we subject all of our defense programs, and I thoroughly believe in a vigorous debate on what type of ships we should build.

I am of the view, however, that as we debate the composition of the Navy, there is an urgent need to develop a greater consensus as to what we need. In both the Congress and the Executive Branch, there are divisions of opinion, growing sharper, on the types of ships we should build. Some want more nuclear ships, some desire a conventional nuclear mix, others want greater emphasis on submarines and still others desire additional surface ships. Unless a greater consensus is developed, I am concerned that our attempt to modernize the fleet will be slowed and possibly jeopardized. Both the Executive Branch and the Congress must continue to strive to achieve a greater degree of agreement in order for these programs to move forward. The needs of the Nation demand no less.

SHIPBUILDING CLAIMS ISSUE

The other issue that should not be allowed to delay fleet modernization is the resolution of prior-year shipbuilding claims.

In no way do I attempt to assess the validity or place the blame with respect to any of these claims. The Government should not pay out one dime that is not owed or reward any mistakes of private contractors. At the same time, the Government should recognize its responsibilities and obligations under these old contractual arrangements.

Long delays have characterized settlement of shipbuilding claims. For example, last year a claim was settled for late and defective Government-furnished equipment and other justifications—three years after filing. Some resolutions have taken even longer. Too many of these claims tend to drag on, month in and year out. Thus, results become more remote.

I would observe that there is no doubt in my mind that some of these claims must have validity based on our previous experience and settlements. Some have been paid. My remarks are not aimed at one shipbuilder. Instead, my remarks relate to the Navy, the Department of Defense, and major shipbuilding contractors.

All year long I have pushed hard, against sharp opposition, for funds to pay these old bills. Congress has now authorized and is in the process of appropriating $1.6 billion this year, to pay these old bills including claims. The Congress has done its part in providing the money.

It is now imperative for all parties, Navy and Department of Defense officials and shipbuilders alike, to immediately sit down and negotiate a fair settlement—fair to all sides. This must be done in a reasonable period of time.

PROSPECTS WITHOUT A RESOLUTION TO CLAIMS ISSUE

Why do I emphasize the claims problem? Because I have no doubt that there will be a serious setback to the construction program for new ships if a resolution is not reached on the claims involving the major shipbuilders. There is no way that lawyers and courts can build ships.

Using Federal government-owned shipyards for new ship construction provides no answer to the overall demands for construction. According to Navy estimates, new construction costs are about one-third greater, even if necessary management talent and labor were available.

We all know that there is sharp competition for the defense dollar. The Army today is short of ammunition, artillery and other weaponry needed for Western Europe. The Air Force needs a greater number of new, modern aircraft. Funds for building Navy ships now take up about 25 percent of the entire Defense procurement budget. If this shipbuilding claims problem continues to drag out and delays the construction of new ships, it will be difficult to resist demands to shift ship dollars to other programs.

I am encouraged to learn that steps are being taken by the Navy and all the building contractors to more clearly define the obligations of all the parties involved. I strongly urge that all possible action be taken in this regard.

With men of good will on all sides actively seeking a fair settlement of this problem, and with logic and national necessity dictating such a result, and with Congress already having appropriated the needed funds, I have no doubt as to the ultimate outcome. I am now encouraged, not discouraged.

THE NIXON-FORD YEARS: HARD TIMES FOR SMALL BUSINESS

Mr. HUMPHREY. Mr. President, despite the painful facts, the Nixon-Ford administration has insistently and consistently characterized itself as the foremost, if not the only champion of the Nation's competitive enterprise system and true spokesman for the personification of that system, American business.

Despite the facts, anything the Nixon-Ford administration trumpeted in theoretical support of competitive enterprise and business in general went double for small business.

So what has happened to business in general and small business in particular during the 8 years of the Nixon-Ford administration? The Nation's economy was brought to its knees by the worst recession since World War II. Double digit inflation became a fact of life. Real unemployment soared above 10 percent, and some 11 million people were out of work.

One of the things that has happened is that there has been a 32-percent average annual increase in the number of business bankruptcy filings during the Nixon-Ford administration as compared to the Kennedy-Johnson years, as indicated by business bankruptcies filed with the U.S. district courts throughout the Nation. Moreover, this astounding increase in filings has occurred almost totally within the small business community since that segment of our economy comprises 98 percent of all business concerns.

During the Nixon-Ford administration period, fiscal years 1969 to 1976, a total of 172,430 businesses—farmers, professionals, manufacturers, merchants, and service firms—filed for bankruptcy.

The 8-year total translates into an average annual rate of 21,554.

During the preceding 8-year period of the Kennedy-Johnson administrations, a total of 130,194 businesses filed for bankruptcy at an average annual rate of 16,274.

Thus, there were 42,236 more business bankruptcy filings during the period 1969 to 1976 than there were for the 8-year span, 1961 to 1968.

On an annual basis, there was an 11.03-percent increase in business bankruptcy filings during the Nixon-Ford administration years as compared to a 4.06-percent average annual increasing during the Kennedy-Johnson administrations. But even more alarming, the trend of increased bankruptcy filings has greatly accelerated during the past 3 fiscal years, 1974, 1975, and 1976, when the average annual increase was 26.89 percent. The largest single increase by far in this period, 45.22 percent, occurred in 1975.

Mr. President, we are presently witnessing an appalling increase in the mortality rate of those business elements that form the bedrock of the national economy. Small business not only represents at least 98 percent of the business firms in the country, it employs more than 60 percent of the civilian labor force, and it provides income for 100 million workers and members of their families.

The survival problem of small business in general is indicated by the fact that in 1960 small and medium size manufacturing corporations had 50 percent of the assets and were responsible for 41 percent of the profits of all manufacturing corporations in the Nation. By 1972 the asset share of small and medium size manufacturing corporations had declined to 33 percent and profits had diminished to 28 percent of this entire category.

Judging from the accelerating rate of bankruptcy filings under the Ford administration during the 3-fiscal-year period, 1974 to t1976, small business in general has been in an even more rapid state of decline. During these 3 years alone a total of 86,078 businesses filed for bankruptcy—at least 98 percent of them were small businesses.

Mr. President, the following statistical compilation, based on the total number of business bankruptcies filed with U.S. district court throughout the Nation, traces the failure rate of small business during the fiscal year 1961 to 1968 and from 1969 to 1976. I ask unanimous consent that the chart I have referred to be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Business bankruptcy filings (fiscal year)

Fiscal year:	Number of filings	Fiscal year:	Number of filings
1961	15,241	1969	15,430
1962	15,655	1970	16,197
1963	16,303	1971	19,103
1964	16,510	1972	18,132
1965	16,910	1973	17,490
1966	16,430	1974	20,747
1967	16,600	1975	30,130
1968	16,545	1976	35,201
Total	130,194	Total	172,430
Average annual filings (1961–1968)	16,274	Average annual filings (1969–1976)	21,554

Fiscal year:	Annual increase of filings by percentage	Fiscal year:	Annual increase of filings by percentage
1961	24.07	1969	−6.73
1962	2.71	1970	4.97
1963	4.13	1971	17.94
1964	1.26	1972	−5.08
1965	2.42	1973	−3.54
1966	−2.83	1974	18.62
1967	1.03	1975	45.22
1968	−0.33	1976	16.83
Average increase 1961–1964	8.04	Average increase 1969–1972	2.77
Average increase 1965–1968	0.07	Average increase 1974–1976	26.89
Average increase 1961–1968	4.06	Average increase 1969–1975	11.03

FARMERS HOME ADMINISTRATION IN FISCAL 1977

Mr. BAYH. Mr. President, our Nation, a nation of riches, is beset by an ever-increasing number of crises and shortages. With the possible exception of energy, no shortage is more keenly felt by more Americans than that found in the housing market. Immediately after the conclusion of World War II, Congress recognized and began to grapple with this serious problem. The Housing Act of 1949 announced—and the more recently Housing and Community Development Act of 1974 (Public Law 93-383) renewed—the national commitment to a "decent home in a suitable environment for all Americans." For those living in the rural areas of our Nation, this reaffirmation is of critical importance. More than half of the substandard housing in the United States is located in rural areas, although only 30 percent of the American populace resides there. Significantly, these communities are marked by a high proportion of elderly and low-income persons.

The major agency of the Federal Government responsible for housing problems in rural areas is the Farmers Home Administration. However, under the current administration, the FmHA has not only failed to aggressively address the housing problems of rural areas; it has found a variety of techniques to subvert congressional intent to house rural people.

Tomorrow, along with a number of my colleagues, I will be sending a letter to FmHA Administrator Elliott urging him to reverse FmHA's latest obstructive action.

Last December I sponsored, along with Senators MATHIAS and HOLLINGS, a supplemental appropriation of $500 million in obligational authority for rural housing because the demand for FmHA housing loans was far outstripping the supply of funds. FmHA opposed the extra funding at that time, and has successfully managed to prevent the expenditure not only of the additional $500 million, but $300 million of the original appropriation as well. I emphasize that the failure to expend is not due to lack of demand—the demand is well documented—but because FmHA delayed, tried to rescind, allocated improperly and now is cutting off obligations before the end of the fiscal year.

The letter to Administrator Elliott urges him to continue obligating funds until the last day of fiscal year 1976.

Mr. President, FmHA's primary responsibility is to meet the housing and community development needs of towns of fewer than 10,000 residents and which are rural in character, and towns of between 10,000 and 20,000 residents outside of metropolitan areas. It is difficult to determine the exact magnitude of FmHA's mandate, but we know that it is tremendous. In March of this year, the National Rural Housing Coalition published its estimate of rural housing needs and the program levels required to meet these needs by 1980:

First. An estimated nine million rural units need to be repaired, rebuilt, or replaced, because they do not meet minimum standards of decency—they lack basic facilities such as plumbing, or are not watertight and weathertight, or otherwise in sound repair.

Second. An estimated five to six million new units should be built, to provide for anticipated population growth in rural areas, and to replace substandard units which should be demolished.

Third. An estimated six million households need subsidies of some sort to reduce their housing expenses to 25 percent of their income. The standard rule of thumb for financially stable housing expenditures is 25 percent of income.

As pressing as these needs are, the administration has refused to employ the full panoply of FmHA programs and funds made available by the repeated authorizations and appropriations of the Congress. The failure to aggressively implement critical rural assistance programs is inexcusable. Now, after several years of inopportune delay and procrastination, the administration again requested another budget cut in FmHA programs for fiscal 1977. The administration's budget constituted a retreat from servicing the needs of America's poor, amounting to an 8.5 percent unit reduction compared to last year.

Mr. President, I ask unanimous consent that the Housing Assistance Council's chart showing 1976 unit production compared to estimated production under the administration budget, be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Program	Units 1976	Units 1977	Change
Subsidized housing loans:			
Purchase of new dwellings	31,750	27,750	−4,000
Purchase, existing dwellings	25,400	22,200	−2,200
Repair and rehabilitation	6,350	5,550	−800
Very low income repair (504)	8,000	7,275	−725
Rural rental housing (515)	17,360	17,400	+40
Subtotal, subsidized housing	88,860	80,175	−8,685
Unsubsidized housing loans:			
Low-income loans, individuals	7,000	6,400	−600
Moderate income loans	37,000	33,350	−3,650
Rural rental housing loans	4,740	5,800	+1,060
Subtotal, unsubsidized	48,740	45,750	−2,990
Total	137,600	125,925	−11,675

Mr. BAYH. Mr. President, the proposed unit reductions flew in the face of the tremendous demand for participation in FmHA programs, an indication of the success and need for Federal housing assistance.

Mr. President, I would like to discuss three particular aspects of FmHA policy and budgeting with which I am very concerned: First, FmHA staffing; second, section 521(a)(2) rural rent supplements; and third, the section 504 home repair program.

FMHA STAFFING

The fiscal year 1977 administration budget proposed no changes in FmHA's full-time staffing levels. Between fiscal year 1971 and fiscal year 1975, the FmHA suffered a staff reduction of 1,149 persons. During the fiscal year 1977 hearings, before the Agriculture Apropriations Subcommittee, FmHA Administrator Elliott stated that FmHA needed an increase of 678 full-time employees to meet the agency's backlogs and expand its services as directed by Congress. Let me note here that Congress appropriated $12 million over the amount requested by the administration for fiscal 1976 to provide for 750 to 1,000 new full-time employees. Contrary to the manifest intent of Congress, the administration expended only $3.9 million to hire 400 new full-time employees. The balance was used to hire 200 part-time and 100 temporary employees; $4.744 million was used for pay increases, $1.725 million for travel expenses, $890,000 for increased postage expenses, and $996,000 for training—and all of these latter expenditures were made against a clearly expressed congressional intent to increase FmHA's full-time staff.

Thus, the past fiscal year, fiscal year 1976, has been nearly completed with the FmHA operating at staff levels far below those directed by the Congress. And, as previously noted, the administration recommended no changes in staffing for the FmHA for fiscal year 1977.

This sorry picture of frustration of congressional intent might still confront us were it not for the determined efforts of my esteemed colleague, Senator MCGEE, chairman of the Agricultural Appropriations Subcommittee. Sensitive to the importance of FmHA services to the rural poor, Senator MCGEE recognized the need for an increase in appropriations for staffing. The Senate subcommittee recommendation of an additional $7 million over the administration proposal reflected the subcommittee's awareness that adequate staffing is the key to the success of a program fundamentally dependent on the ability to carefully examine, investigate, counsel and advise participants in FmHA's rural housing programs.

The final appropriation for FmHA salaries and expenses was $170 million, an increase of $7.844 million compared to the budget request. Although I would have preferred to see FmHA staffing funded at a somewhat higher level, this is a good beginning for our efforts to secure for the rural populace the FmHA services which Congress has made available to them. I hasten to add that availability does not imply that FmHA programs are to be made available at the discretion of the administration. While there is great flexibility within the parameter of its authority, Congress expects the FmHA to execute and administer the programs authorized and funded by the Congress. The FmHA must not transgress that fine but all-important line which separates flexibility of administration from usurpation of the legislative function.

RURAL RENTAL SUPPLEMENTS

The FmHA's failure to implement this program is another example of that agency's willingness to ignore congressional intent. In 1974 Congress mandated the implementation of rural rental supplements in section 514 of the Housing and Community Development Act of 1974—section 521(a)(2) of the National Housing Act—and reaffirmed its mandate in the fiscal year 1976 Agricultural Appropriations Act and accompanying conference reports.

The goal of this program is to ameliorate the rise in production and operating costs which are reflected in rents that only moderate-income persons can afford. The 1974 act gave the FmHA the authority to serve low-income families through a rental assistance program. The enactment of this legislation was greeted with enthusiasm. For many rural residents, it would have provided access to decent housing. One would expect that an agency designed and funded to attack rural housing inadequacies would view this program with enthusiasm. But such was not the case. In fact, the program has not been implemented.

In recent hearings of the Agricultural Appropriatons Subcommittee this spring, I was surprised to hear the FmHA, speaking through Administrator Elliott, justifying the Agency's failure to implement 521(a)(2) on the grounds that substantial additional personnel would be required. While this might, in other circumstances, explain administrative inactivity, here it constituted hypocrisy. To plead inadequate staffing as an excuse, after failing to hire additional personnel, for which funds were appropriated in fiscal 1976, is merely a flanking maneuver to avoid the guts of the issue. The administration does not want to implement this program. And, as my esteemed colleague, Senator HUMPHREY, stated so eloquently this summer:

> (It) must be clear, except to those who will not see it, that Congress intended the rural rent supplement program be implemented at the earliest possible moment.

The FmHA has also stated as another reason not to follow through with section 515, a plan whereby FmHA and HUD conduct their efforts on rural housing development by integrating its section 515 rural rental housing program and HUD section 8.

In response to a query about the wisdom and efficiency of the tandem operation of the rural 515 program and the HUD section 8 program, Mr. Elliott praised it in glowing terms and explained that FmHA and HUD were in the process of ironing out existing problems and developing a delivery system. Once again, the real issue has been skirted. Today, more than 2 years have elapsed since the passage of the Housing and Community Development Act of 1974 and the rural rent supplement program. It was not the intent of that Congress—nor this one—that the rural ill-housed should have to wait for critically needed Federal assistance until the FmHA should deign to provide it. The Congress has mandated section 521, and it is not within the legitimate authority of FmHA to ignore that mandate, or to subsume section 521 under the HUD section 8 program. If this were the intent of Congress, it could have easily been so expressed.

This judgment is reflected in the congressional decision to fund section 521 through the FmHA. This choice, explicitly and knowingly made by the Congress, should not be overturned by administrative fiat. No sufficient reason has yet been provided to prefer the coordinated efforts of HUD and FmHA over the independent action of a proven organization in the rural housing area.

I am not willing to idly sit by and observe administration sleight of hand infect the once dynamic and successful Farmers Home Administration.

I once suggested that FmHA administrative funds be tied to the implementation of section 521. This extreme approach was not adopted but it does reflect my strong conviction that this section was never meant to be discretionary. The legislative history leaves no doubt that the section was to be executed by FmHA. Further delay is an unconscionable derogation of congressional intent.

504 HOUSING REPAIR GRANTS AND LOANS

All is not bleak on the rural housing front. In particular, the section 504 housing repair program has taken an important step forward.

In 1949, Congress enacted the section 504 loan and grant repair program, designed to remove health and safety hazards from a house. The program provided for a combination of loans and grants.

In 1966, the grant provision of the program was halted when the agricultural appropriations bill prohibited the use of administrative funds for the grant portion of the program. Fortunately, the language of the fiscal year 1977 agricultural appropriations bill reflects and complies with the original intent and purpose of the Housing Act of 1949, as amended, by eliminating the prohibition on grants.

The possibility of home repair now becomes a tangible reality to a broader class of persons. Many of our rural poor could not afford even the most minimal of interest rates on a home repair loan. The grant provision, standing alone or in conjunction with a loan, gives them the necessary assistance to make fundamental improvements in their homes.

Finally, Mr. President, I want to take this opportunity to extend my congratulations and gratitude to Senator McGEE, chairman of the Agriculture Appropriations Subcommittee, and to the members of his staff, particularly Mr. Dudley Miles and Mr. Richard Kelso, for the excellent bill which they have worked so hard to produce. It is worth noting that this bill passed the Senate on June 23, and became law on July 12. The early enactment of this law will facilitate orderly planning and disbursement of funds by Federal agencies, including the FmHA. I also want to thank my esteemed colleague from Missouri, Senator EAGLETON, for his most able assistance during the subcommittee and full committee mark up of this bill.

CHICAGO DAILY NEWS EXAMINES TELEVISION REPAIR BUSINESS

Mr. PERCY. Mr. President, a recent investigative series appearing in the Chicago Daily News suggests that the television set "is a miracle of technology that can make modern man feel like a helpless child." The series demonstrates that the uninformed consumer is similarly helpless when dealing with the large television repair industry.

The Daily News selected two groups of six television sets and arranged to have an electronics expert equip each set with a single inexpensive defective part. They were then taken to 12 randomly selected Chicago repair shops to be fixed.

The results are disturbing. The cost of repairing one group of sets ranged from $16.45 to nearly $40, while for the other group the range went from $9.50 to over $21. The electronics expert who originally prepared the sets examined them when returned. He found that repair shops commonly had used wrong replacement parts, not returned the old parts, and made additional, unnecessary repairs. Shopowners defended the additional repairs as "preventive maintenances"; that is, replacement of working parts which repairmen believe may need future replacment—a controversial and judgmental procedure. Other complaints included vague and nonitemized billing, and insufficient guarantees.

Mr. President, the problem seems twofold. Some shopowners simply take advantage of the consumer's lack of electronic expertise to overcharge and "overrepair." However, certain manufacturers are not entirely guiltless. The highly inflated prices of replacement parts frequently turn out to be "suggested" by a manufacturer. Similarly, even if a single part is found defective, some manufacturers reportedly suggest additional repairs. Dealers further attribute the problem of high costs to lack of standardization caused by the fragmented supply parts industry. Thus, unscrupulous repairmen are only partly to blame for the high cost of television repairs.

Licensing is one suggested cure. According to the Daily News, most reputable dealers and many technicians favor some kind of licensing. They express the hope that a licensing statute which requires adherence to an advertising code, as well as mandating certain minimum shop facilities and insurance, would protect good dealers while driving out incompetents and charlatans. Dealers also hope that licensing might lead to parts standardization and other requirements for manufacturers which could bring down the costs of supply items. At the same time, dealers and technicians fear that the added bureaucracy could produce a blizzard of paperwork which would eventually raise prices to consumers.

Dealers were unanimous in their desire for State, not city, licensing. They feel that city boundaries and jurisdictions do not suit a metropolitan area business and that States are more likely to have better administration. Dealers also expressed concern about the potentially noxious influence of local politics in the event of city licensing.

While this problem has national proportions, it is not uniquely a Federal issue but more a matter for State or local regulation. Nonetheless, I address it today to call attention to the problem and tis investigation. I wish to commend the Chicago Daily News and its reporter David Jackson for his even-handed, well-documented, and well-written series on television repair shops in the Chicago area.

Mr. President, I ask unanimous consent that the three-part series from the August 21 to August 24, 1976, Chicago Daily News be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Daily News, Aug. 21–22, 1976]

TV REPAIR COST: IS IT FAIR SHAKE?

(By David Jackson)

You've popped open a fresh beer, a plate of fried chicken is on your lap and the Super Bowl game starts in 10 minutes.

You flick on your portable television set and—with a curious crackling noise, the picture collapses, the screen turns black and a fine horizontal line creases the middle, then disappears.

There are 11 pages of television repair shops in the Chicago-area Yellow Pages. Which one should you choose when your set is on the blink?

A Daily News survey has shown that one shop may charge you twice as much as the next one—while tackling the same repair.

One shop charges you $10 to clean your tuner. Some shops give you a 5-second spray even though your set may be clean and corrosion-free.

A television set is a miracle of technology that can make modern man feel like a helpless child. Our survey has shown that you can feel just as helpless—and uninformed—at the hands of the television repair industry.

The Daily News, with the assistance of Steve J. Bytnar, a certified electronics technician responsible for purchasing and maintaining electronic equipment for Wright College's extensive physics and electronics programs, visited 12 television repair shops throughout the Chicago area.

We found an industry beset with rising costs, often at odds with manufacturers and almost no system for setting costs of parts and labor.

We installed a blown fuse in six sets and took them to six different dealers. In return we got varied fuse values. In addition, one dealer said that when a fuse blows you must replace another part. A second dealer said that when a fuse blows you must replace a tube.

Repair charges on the blown fuse ranged from $9.50 to $21.47.

Later we made a single video output transistor defective in each set. Repair costs ranged from $16.45 to $39.60.

One fact emerged from our survey: The television repair industry would be difficult to regulate. "Preventive maintenances" can be used as a catch-all phrase to justify higher prices—yet preventive maintenance often can be rightfully defended as a necessity by repairmen.

It is a procedure that can easily add $10 to your bill.

Prices for parts and labor vary widely and reflect factors other than the time that went into the repair of your set. Overhead expenses such as rent, advertising, lengthy shop hours and labor costs, were factors raised by shopowners in defending repair costs.

Most of the 12 shops surveyed were relatively prompt in making repairs. We took all of our sets to the shop since house calls generally are more expensive and are not necessarily faster. All of the shops had the sets ready within 3 or 4 days. One shop finished the set by the next morning—but at the highest price of the shops surveyed for that particular problem.

As for parts, one dealer threw in free a new 57-cent fuse as part of his $10 charge, while another dealer, as part of his $16.05 bill, charged $1.05 for the fuse—not unreasonable in an industry in which more than 100 per cent markup on parts is common.

One dealer charged us $9.75 for a tube available to dealers for $3.90. But don't blame the dealer. He was only following the manufacturer's suggested list price guide.

[From the Chicago Daily News, Aug. 21–22, 1976]

TV Shops: How the Billing Varies Here

(By David Jackson)

A television set that sounds fine but has no picture—only a lighted screen—is a frustrating experience. It means a trip to the shop and perhaps a costly repair.

But for a trained technician who spends some time troubleshooting, the problem is relatively simply—a defective video output transistor. Zenith part 121–743. The replacement costs the dealer $1.54 and a consumer, if he knows what he wants, can buy it at a Zenith parts distributor for $2.63.

That's the problem we installed in six virtually identical television sets as part of a Daily News survey of television repair shops in the Chicago area. Our consulting expert, Steven J. Bytnar, a certified electronics technician on the staff of Wright College, said repairs should cost no more than $20 to $25.

We took our sets to six randomly chosen repair shops in the Chicago area after calling to confirm that they repair Zenith portable television sets.

When each set was turned over to the shop, a Daily News reporter described the problem in similar terms: "There's no picture. The sound is OK but the picture is gone. It's just a lighted screen."

If a callback to the shop was required, the reporter gave the same instructions to each shop: "I don't care what it costs, just fix the set. Do whatever has to be done."

What the dealers didn't know was that each set had been checked beforehand by Bytnar in his laboratory at Wright. He installed the defective transistor, then checked the set by temporarily replacing the transistor to make sure no other part was damaged or affected.

After the sets were repaired by the shops, Bytnar again examined each set and determined what was done, what was replaced and if it was the correct replacement.

This is what our survey showed:

C.E.T. Inc. Chicago Engineers for Television, 609 W. North: $16.45.

Bytnar's comments: "It's a good repair. It's the right part and the set works well. The charge is very reasonable compared with the six sets in this series."

Said owner Gene Shapiro: "In all fairness to other shops, a lot depends on the ability of the individual (repairman). Some find problems quickly and some take more time."

Century Auto Radio, 5037 W. Diversey: $23.54.

Bytnar: "He replaced the transistor with the wrong part. It's a part used primarily in citizens band (CB) radios. It could take hours of use. It could last five minutes or it could go five years. But it's liable to go."

Bytnar pointed out that a Sylvania part ECG 195 A was substituted. Sylvania makes an interchangeable part, Bytnar said, but it's not the ECG 195 A. It should have been a Sylvania ECG 154, he said. "The ECG 195 A is being used beyond its maximum rated specifications in this set," Bytnar explained.

Century service manager Bob Heuer disagreed. "I consider it a compatible part," he said. "It's the choice of the man doing the job. I select my transistors out of the specs (specifications book). It's not that I just grab crap off the shelf and stuff it in there.

"I'm going by experience. I've been in this business for 15 years. I know there are people who use inferior parts. I don't. My job is to make sure that the job is done properly. How I do it is my business.

"Maybe to him (Bytnar) it's a wrong part, but to me it's not a wrong part."

Bytnar responded: "That part (installed by Century) will handle the amount of current flowing through that transistor. But it's working at a higher voltage than it was designed for. You have to match up all the specifications down the line.

"Where you're going to run into trouble is the collector-emitter voltage. His part (ECG 195 A) is rated 30 volts maximum. The correct replacement part (ECG 154) is rated 300 volts maximum. The Zenith service manual specifies further that that transistor is operating at 85 volts collector to emitter. In actual operation, I tested it and found that it is operating with a collector to emitter voltage of 65 volts.

"So he's using a 30-volt maximum-rated part in a 65-volt application. It's liable to go sooner or later."

Ancel Radio and TV Service, 4644 N. Broadway: $25.50.

Bytnar: "They repaired the set properly, but there was no breakdown on parts and labor. There always should be."

Emanuel Ancel, owner of the shop, said his cost was due to expensive labor and rent, "and somebody has to pay for them." He added, "It took a long time to find where the break was and fix it."

"I'm here for 42 years. I have a nice clientele because I'm doing the right thing."

B&M Television Service Co., 4735 N. Western: $29.25.

When a Daily News reporter left the set at the shop, he was told that repairs rarely exceeded $30. "We'll call if it's over $30," said the woman who took the set. Indeed, it was under $30—barely.

When a reporter picked up the set, manager Mel Gelman sprayed the screen with a cleaner, wiped it spotless, then sprayed the plastic cabinet and cleaned it, too.

"Your tuner was in real bad shape," he admonished the reporter, adding that it had been thoroughly taken apart and meticulously cleaned.

That cost $10.

After examining the set, Bytnar found it to be properly repaired. The bill, however, listed a charge of $10 for a "tuner kit." Since Bytnar found no new parts in or around the tuner, we asked owner Larry Menes what a tuner kit was.

Menes hauled out a small arsenal of cleaners, washers and Q-Tips. He explained that the tuner is dismantled and the insides, including the contacts, are cleaned with Brasso. Then the Brasso is removed with Rawn Chemicals Power Spray Tuner Degreaser and the tuner's insides are cleaned with one of two additional lubricants.

Menes denied that his technicians clean the tuner the way many shops do—with a five-second spray from a nozzle of a silicon cleaner. "We don't use spray. Don't tell me we just spray the tuner," he said.

He brought out bills for three months to show a Daily News reporter that the shop spends more than $250 each month for the various cleaners used in repairs.

He added that a set as old as the one the reporter brought in—a 1972 model—would be expected to need cleaning by now.

The entire tuner cleaning procedure, he said, takes about 40 minutes. It is more efficient than a "tuner kit," which one manufacturer sells for $9.95, Menes insisted. That kit consists of a thin foam strip and a "gob of grease" that brushes and cleans the tuner when it is rotated, he said.

"We do a job as well as the (set) manufacturer does," he contended.

Menes then called Frank J. Moch, executive director of the National Alliance of Television and Electronic Service Associations, who told the Daily News reporter: "It's preventive maintenance so it saves money for the consumer in the future."

As for the total bill, Menes defended the work but added: "We are expensive."

Austin-Belmont TV, 3140 N. Austin: $35.

The bill read simply: "Repair video portion and replaced leaky tr (transistor) tuner. Adjust as needed."

Bytnar: "The TV was repaired and it works well. The bill is vague. It should have been filled out."

Dick Maszota, partner in Austin-Belmont and a former Zenith field manager, said that when a new customer brings in a set it is thoroughly checked out.

"When we get a set in here, we have to go on the basis of checking the complete unit for operation. This is time-consuming. We've found in the past, a customer will say, 'My sound is the only thing that's bad.' Then he'll be in a couple days later with another complaint.

"We want to keep the rejects (returned sets) down. So the first time a new customer brings something in, we check everything so it works. There's nothing streamlined about this work. You cannot operate on a past-experience sort of thing.

"I don't know where you draw the line between deciding someone's honest or dishonest. This is a very elusive line of work."

Astro Television Service Inc. 3006 N. Ashland: $39.60.

Bytnar: "No way should it have cost this much. That's almost half the cost of the set. Also, they replaced two transistors, the bad one plus one that did not need to be replaced. That raises the price for one extra part and the labor to put it in. There also should have been a breakdown on parts and labor."

The bill read only: "Repaired shorted video circuitry. Cleaned and reset all controls."

When a Daily News reporter picked up the set, he asked the technician, "Did you replace any parts?"

"Yeah," the man replied.

"What?" the reporter asked.

"Couple of transistors," the man said.

"Do you have the bad ones?" the reporter asked.

"Nope."

Lou Rogers, Astro service manager, later told The Daily News: "Our rates are definitely geared to our overhead." He said the shop's 90-day guarantee is part of the price, plus overhead costs such as rent (at least $600 a month) and an advertising bill of "between $2,600 and $2,700 a month."

Also, Rogers added, the lengthy hours the shop keeps—six days a week, from 9 a.m. to at least 8 p.m.—are expensive.

As for the extra transistor which was replaced, Rogers said, "In our man's opinion, it (the set) needed it at the time."

[From the Chicago Daily News, Aug. 23, 1976]

TV REPAIR: COST OF BLOWN FUSE

(By David Jackson)

What do you do when you turn on your television set and nothing happens? No sound, no picture, no nothing. Feeling adventurous, you peer through the vents in the back of the set looking for lighted tubes. But they're dark as night.

There's always the chance the plug was yanked out—but it wasn't. What now?

The Daily News, with the assistance of Steven J. Bytnar, a certified electronics technician on the staff of Wright College, purposely built this problem into six virtually identical black-and-white portable Zenith television sets. We took them to six different dealers for repairs.

The problems? Simply a blown fuse. It cost less than 60 cents.

Good electricians are a suspicious lot, always looking for electronic hobgoblins. As one put it, "A fuse doesn't blow for no reason."

True, but experts say a fuse could blow because of a temporary power surge or during a lightning storm. But no one asked The Daily News reporter who brought in the sets any questions about the circumstances of the blown fuse.

Each shop was called beforehand to make sure it was equipped to repair a Zenith portable set.

When each set was turned over to the shop, the reporter described the problem in similar terms: "The set doesn't work. There's no sound, no picture, no nothing."

If a call back to the shop was required, the reporter gave the same instructions to each shop: "I don't care what it costs, just fix the set. Do whatever has to be done."

What the dealers didn't know was that each set was thoroughly checked out earlier by Bytnar in his laboratory at Wright College. He carefully blew the fuse, then checked the set by temporarily replacing the fuse to make sure no other part was damaged or affected.

After the sets were repaired by the shops, Bytnar again examined each set and determined what was done, what was replaced and if it was the correct replacement.

Bytnar estimated the cost of the repair at around $10 to $12. This is what we found:

Simmons Radio & TV Service, 301–303 E. 35th St.: $9.50—

Bytnar: "He replaced the 1¼-amp slow-blow fuse with a 3-amp fast-blow fuse. That's way too high. If something went wrong with this set, you could run into a lot of trouble before a 3-amp fuse would blow. Other components could burn out before the fuse would go. The fuse should go first, that's what it's there for. At worst, it poses a potential fire hazard."

Shop owner Frank Simmons said one of his benchmen repaired the set. He added, "We usually increase the amps (on the fuse) because a surge of current usually causes it (fuse) to blow." He said the higher-rated fuse would withstand a power surge.

"What bothers the repairman is what caused the fuse to blow. That's what they look for," Simmons said. "The only thing we could determine was that it was caused by a surge of current or an electrical storm. We tried to avoid that happening again" by putting in a 3-amp fuse, he said.

"In some areas of the city," Simmons continued, "you have higher voltage charges, you can always go 50 per cent above (the rating)."

He acknowledged that a 3-amp fuse was more than 100 per cent above.

"Why not call the customer and ask the circumstances of the fuse failure?" a reporter asked.

"It's very tough to get in touch with people, especially during working hours, because they're working too," he replied.

Alert Television and Radio Service, 2446 E. 87th St.: $10.00.—

Bytnar: "They replaced the fuse with a 1½-amp fast blow, but that's within an acceptable boundary."

Owner Sam London told The Daily News that when his technician tapped the tubes and found no problem other than the blown fuse, he chose to jump to a slightly higher rated fuse to avoid it blowing with a slight power surge.

"That (1½-amp fast-blow fuse) was probably what we had on hand. What you've got is what you use," he added.

Clear-View TV Service, 5637 W. 63d St., $13.63.—

Bytnar: "They replaced the fuse with a 2-amp fast-blow. It's acceptable. But they also replaced a rectifier ($2.50) which was not necessary."

Gary Staley, a field technician at Clear-View and acting manager in the absence of his father, William, said: "When the fuse blows, the first thing you check is the rectifier. If you blow a fuse in a set, it's either a dead short in the set or a sudden power surge or it happened during a thunderstorm. You change the rectifier."

"Nine times out of ten it happens during a power surge," he said.

Bytnar, however, disagreed:

"That doesn't mean you automatically replace it. In this case, the rectifier was good and it shouldn't have been replaced. All that was really necessary was to install a replacement fuse, then turn the set on for about four hours to make sure it warms up all right and the fuse doesn't kick back out. And it wouldn't have."

Lyle's Radio and Television, 6547 W. Roosevelt, Berwyn: $16.05.—

When a Daily News reporter picked up the set, he was given only a torn-off receipt for his bill. There was no breakdown for parts and labor, nor any description of what was done to the set.

When the reporter asked for a breakdown, a woman showed him the shop's receipt and pointed out that the fuse cost $1.05 and the labor was $15.

"See," she said, pointing at the bill, "they traced an open circuit."

"That cost $15?" the reporter asked.

"Oh God, yes!" she replied. "You're lucky it wasn't more." The reporter asked for the bill but she said the shop keeps it "in case problems come up."

On the receipt, labor and parts were guaranteed. However, the labor part was scratched out. Thus, if a defective part was put in by the shop, the customer would have to pay for a technician to put in a good part even though he wouldn't have to pay for the part.

Bytnar: "This is the only shop of the six which put in the original type and size fuse (1¼-amp slow-blow). The cost is high, though, and it's ridiculous not to get a bill from them."

Lyle Green, owner, said the cost was due to "time figuring out the problem and making sure it (set) holds up."

"When the fuse goes out, we're making sure there is no other trouble. We played the set long enough and it (fuse) didn't kick out so we figured it wasn't a tube.

"It could have been lightning or a surge of power," he said.

"Why not call the customer to ask?" a reporter asked.

"Most of the time, they don't know" when the set went out, he replied.

As for the warranty, Green said that if a defective part installed by the shop goes bad within "about 48 hours or so," the customer won't be charged for the labor to replace it.

Regarding his fuse choice, Green added: "If you take out a part, then you put that same value part back in, unless it kicks out. Then you've got a problem."

Certified Television Service Inc., 4457 W. Oakton, Skokie: $18.68.—

Bytnar: "They replaced the fuse with a 1½-amp fast-blow. It's acceptable."

Shop manager Michael Barry said that the replacement fuse was chosen because the shop didn't have a 1¼-amp slow-blow fuse (the original) on hand. He said the higher rated replacement would safely handle the power surge in the set.

Frank's Television-Radio Shop, 9720 Southwest Hwy., Oak Lawn, $21.47—

The bill from Frank's showed a charge of $10.50 for labor shop minimum; 70 cents for a 2-amp slow-blow fuse, which Bytnar said was acceptable, and $9.75 for a new 38 HE7 electron tube.

No other dealer replaced that tube. When a Daily News reporter picked up the set, he asked for the old tube and owner Frank Spearman turned it over. Bytnar tested the tube in his laboratory at Wright College and found it was in as good a condition as a new tube.

The RCA tube Spearman used as a replacement is available to dealers for $3.90, according to an RCA distributor.

Spearman, when contacted by a Daily News reporter, said:

"We stand behind what we do and we have for 40 years. As far as what we paid for the tube, that's our business and it's none of your business."

Spearman, however, showed the reporter a list of manufacturers' suggested list prices. The suggested list price for a 38HE7 tube was $9.75.

"It would not have been replaced if it didn't need to be replaced," said Spearman who called it "preventive maintenance."

He also insisted he tested the tube and found a "very high (amount of) leakage."

"We are going by years of experience . . . and by what the manufacturer says. The manufacturer says to replace that tube if the fuse is blown," Spearman said.

"We happen to know a fuse does not blow unless there's a reason," Spearman continued. "A fuse," he added, "will not blow in a thunderstorm."

Spearman later called The Daily News and said "evidence in writing" suggesting the tube replacement could be found in Tech Topics No. 66, a service bulletin distributed to repairmen by Zenith Radio Corp.

The bulletin does suggest replacement of the 38 HE7 tube after a fuse failure. Spearman thus was the only dealer who replaced that tube, as per the manufacturer's suggestion. The suggestion did not specify whether the replacement should be made if the tube is found to be in good condition.

Spearman, therefore, followed the book in installing the new tube.

[From the Chicago Daily News, Aug. 24, 1976]

TV Repairers Prefer State to City Licensing

(By David Jackson)

Almost everyone who owns a television set has gripes about repair work—unclear bills, high costs, questionable repairs.

Most reputable dealers agree that some regulation of the industry is needed. Steps toward regulation, in fact, are under way but they are likely to face a wall of opposition.

Chicago Consumer Sales Comr. Jane M. Byrne has ordered her aides to prepare recommendations for a city licensing ordinance.

Resistance to city licensing, however, has formed in the National Alliance of Television and Electronic Service Assns. (NATESA), which has headquarters in Chicago. NATESA favors licensing—but by the state.

"We are very much in favor of a proper state licensing bill and we have been trying to promote such a bill for the last 16 to 18 years," said NATESA executive director Frank J. Moch.

"A city bill will not be as well administered as a state bill."

"After all," Moch continued, "we no longer live in a city but in a metropolitan area." He said a dealer in the Chicago area would need "maybe 40 licenses" if cities licensed dealers in an area where there were overlapping jurisdictions.

Moch said association members have devised "an absolutely model bill" specifying that a licensed dealer would have to maintain certain technical facilities and insurance and abide by an advertising code. Technicians would have to prove their ability to "perform service on a professional level," Moch added.

Individual shop technicians polled by The Daily News also generally favored state licensing.

"I think if it's going to be in the city it's not going to be handled right," said Emanuel Ancel, owner of Ancel Radio and TV Service. "A state license I would be in favor of."

Another owner was more blunt: "Licensing by the state, sure. But not the city. Why? Politics."

Still another owner: "Licensing by the city would, I think, be corrupt. I would suspect there would be a lot of political shenanigans. I favor licensing nationwide under select rigid standards."

"Local licensing is for the birds," another dealer snapped.

Sam London of Alert Television and Radio Service said, "Licensing means unions and I'm kind of anti-union. But licensing would be good for getting rid of some of the people (repairmen) who don't know what they're doing in this business."

Two other shop owners queried by The Daily News also favored licensing by the state. One of them, Frank Spearman, of Frank's Television-Radio shop, Oak Lawn, said he witnessed a bribe in Springfield more than 10 years ago that prevented a governor's licensing bill from passing.

He declined to elaborate, however, adding only: "Everything (on the bill) was go. Suddenly it was stopped."

Astro Television Service Inc. service manager Lou Rogers said he did not think licensing would "make any difference," but "if everybody got together and charged the same prices it would do the industry a lot of good. A lot of unwarranted complaints would never materialize."

Gene Shapiro of C.E.T. Inc. opposed licensing. "I don't see where it would be beneficial . . . it's just one more bureaucracy," he said.

Gary Staley of Clear-View TV Service is sure of two things: Licensing would improve the public image of television repairmen, and "it would close half the shops in Chicago."

"It would drive service calls and shop costs up," he added.

Howard Richter, a technician at Clear-View, said, "Even if there was licensing you probably wouldn't get better service or better technicians. A technician starts to get licensed and he's going to start asking for more money. A technician who's been 20 years in this business is damn lucky if he gets five or six bucks an hour."

"People think we've all got our hands in the public's pocket," griped one service manager, who added, "There's not one repairman in the city who works less than 60 hours a week. The best benchmen (technicians) in Chicago make $7.50 an hour. The lowest make $5 to $5.50."

"It's just the cost of doing business," said one dealer. "It's getting worse and worse. A few years ago, benchmen cost $3.50 to $5 an hour. My shop manager makes $10 an hour now."

When asked why they didn't itemize their bills, several dealers said the work was time-consuming and costly, resulting in what one called "a blizzard" of paperwork.

"A couple of years ago, we quit looking up parts and numbers in the catalog," said Astro's Rogers. "We found that if we listed everything, it was more paperwork and more time. In other words, more expense for the customer."

Dick Maszota, of Austin-Belmont TV, gestured toward a wall shelf filled with stereo sets, televisions, radios, clocks and record players.

"The problem is fragmentation. There's nothing standardized," he said.

He said the discrepancy between the high costs of some parts in relatively cheap appliances was "tearing the livelihood out of the labor business."

He said that often a customer would be better off buying a new model appliance than paying to repair an old one.

"I think the customer by all means should be protected," he said. "But we have to get the manufacturers to help us out. We have to get the distributors to help us out, and we have to have more standardization (in the interchangeability of parts) in the industry."

Maszota, and most of the dealers interviewed by The Daily News, is a member of NATESA.

Natesa Sec. Gen. Leo E. Cloutier reflected the turmoil some repair shops feel when he wrote in the August issue of Scope, a NATESA newsletter:

"Bureaucracy, taxes, paperwork, ill-advised manufacturers, ill-advised consumer groups and others have all bestowed upon our industry new problems with an unprecedented and unparalleled frequency. Our industry is in a constant revolution."

Asst. Consumer Sales Comr. Terry Hocin disputed the objections raised by association members opposing licensing by the city.

"We realize," he began, "that licensing in itself is not going to cure any problems. But the regulations that come with licensing" will help check abuses in the industry, he said.

Hocin said that the problem of "overlapping jurisdictions" raised by NATESA's Moch never has been a problem in the past, when the state has given the City of Chicago jurisdiction in consumer regulations. He pointed out that the city is "better attuned to the local situation and problems."

When told of dealers' objections to "politics," Hocin said: "We hear that every time there's an election . . . It's unfair to say that politics may be involved in the city and not outside the city."

"We will work with NATESA and anyone else in the industry who has expertise and advice to offer us. We need their expertise, guidance and knowledge," he explained.

BLACK VOTER PARTICIPATION

Mr. GLENN. Mr. President, one of the most heartening developments in recent years has been the growth in the number of black elected officials. In 1976, according to the Joint Center for Political Studies, 3,979 blacks were holding elected offices, a 14 percent increase over 1975 and more than triple the 1969 figure of 1,185. Yet, even given these advances blacks still account for less than 1 percent of the 522,000 elected officials in the United States although blacks represent 11 percent of the population. So, there is still a very long way to go and much of hoped for future progress in this area will surely greatly depend on an increased black vote.

Despite the very fine Voting Rights Act which has been directly responsible for much of the progress in black voter registration and participation, there are still impediments to the black voter that must be removed. I would like to submit for the Record at the end of my statement a pamphlet from the nonprofit, nonpartisan voter education project of Atlanta, Ga., which points out remnants of some startling vestiges of the tragic days when blacks were simply and flagrantly not allowed in polling places. VEP has made tremendous strides in the area of black voter participation and registration and I particularly endorse their efforts to secure full black voter participation.

I would also like to endorse and applaud the efforts of the nonpartisan National Coalition on Black Voter Participation and their Operation Big Vote. Operation Big Vote recognizes that we cannot rest on old laurels in the area of political participation. Fully 50 percent of voting age blacks are not registered, only 35 percent of all eligible blacks voted in 1974, only one of six in the age brackets 18–24. Although, as with whites, a certain amount of disinterest explains not registered to vote responded to a very significant factor involved with respect to blacks are difficulties in getting to the polling places and registration offices. In 1972, fully 19 percent of blacks not registered to vote responded to a census questionnaire that they were "unable to register."

I believe that we at the Federal level must undertaken additional efforts to make absolutely sure that every citizen who wants to vote and wants to register can do it quickly and efficiently. State and local governments must be encouraged to remove unreasonable, arbitrary obstacles to voting. Of course, in this day and age, it should be abundantly clear that no form of racial discrimination be it blatant or of the more subtle type mentioned in the VEP bulletin, is tolerable. There is no room for that in this Nation.

Mr. President, I hope that we can move in the next Congress on this issue. The question of the minority vote remains most critical. It must be encouraged and maximized so as to provide maximum input into the policy-making process that so severely impacts on minorities in employment, education, health, housing, and literally every issue in heartily endorse the voter education project and Operation Big Vote. I ask unanimous consent that the VEP brochure be printed in the RECORD.

There being no objection, the brochure was ordered to be printed in the RECORD, as follows:

ELECTIONS 76: NOT EQUAL FOR ALL AMERICANS

AT THE POINT OF A GUN

Today, most Americans take voting rights for granted. But for some, the path to the ballot box is not easy.

Recently, in Canton, Mississippi, a field worker reported:

"A committee of black citizens went to the registrar's office to request that registration take place in at least some of the heavily populated black communities in the county. A schedule had already been set for three heavily populated white communities. The registrar pulled a gun and threatened them." After VEP took action, federal examiners were brought in by the Justice Department and registration did occur.

The obstacles to suffrage are more subtle in most black majority counties and towns in the South. But the effect; on the free exercise of the franchise are the same. They perpetuate practices which exploit the poor, the isolated—the minority.

These recent VEP field reports tell the story:

Opalocka, Florida. "Three black city sanitation workers were denied the right to register at the city hall by a city clerk who strongly suggested that they return after the election. Concerned about their job security, the three left, unregistered."

Macon, Georgia. "Many older persons who came to register had to be carried back home to get their Social Security numbers or documents to substantiate their approximate age, when the only age requirement was that the applicant be over the age of 18."

Hollandale, Mississippi. "The registrar discouraged voter registration by asking each individual his or her occupation and where they worked. Two young men lost their jobs with the city after registering."

Belle Glade, Florida. "An incident while one of the workers was helping two gentlemen register. The clerk called the police department and had the two men arrested for drunkenness. The program supervisor rushed to the jail, but the men had been set free without charges. Word spread like wildfire, and people were more hesitant to register than before."

THE RESULTS OF UNFAIR VOTING PRACTICES

There are 101 counties throughout the South where the majority population is black. In only six of these are blacks proportionately represented in local government. Everywhere else they are dominated by the white minority.

There are no black elected officials in 362 towns with black majority population in the South.

There are 1,944 black elected officials in the 11 southern states today. This represents only 2½% of the total number of elected officials. (Blacks represent more than 20% of the total population in the South.)

HOW TO KEEP PEOPLE FROM VOTING IN AMERICA

Despite the Federal Voting Rights Act, there are still three million Americans in the South who have not been able to register. And among the three and a half million who *have* registered, many face overwhelming obstacles before they can reach the voting booth.

In still-segregated southern communities, the location of polling places and what happens when you get there can very effectively work against the electoral process. In Talbot County, Georgia, on election day, three of the county's eleven polling places were on public property. The other eight sites were a white church, a white barber shop, a tool shed in a white family's yard, two white private homes, a segregated white club, and two white-owned grocery stores. (The polling place was moved to the white church after a black man bought the store in which it had previously been housed.)

In Holly Springs, Mississippi, approximately 300 blacks were turned away from the polls because they were classified as dead. Some of their names were purposefully left off the books and some names had been scratched off. There were also policemen at each booth intimidating people, walking in front of people and just frightening people away.

In Camden, Alabama, the white principal of a Wilcox County High School called the black teachers, cooks, janitors and bus drivers on his staff together and told them, "You vote for these folks (i.e., the white candidates) or you lose your job."

In Beaufort and Jasper Counties, South Carolina, a white and black candidate ran against each other for a state house seat. The white candidate's "family" gas company provides most people in the district with butane for cooking and heating. Some families were told that if they did not vote for the white candidate, they would not have gas for the winter.

In Moss Point, Mississippi, an anonymous caller threatened an unsuccessful black candidate after a newspaper reported his intent to seek a recount of the 1973 primary vote. "He knew where my little girl went to school . . . who picked her up and what time she got out of school . . . and I had best not cause any trouble."

WHAT VEP IS DOING

VEP, established in 1962, is the sole regional or national organization that conducts year-round, non-partisan voter registration drives in minority communities in 11 Southern states from Virginia to Texas. It provides direct grants for non-partisan voter registration efforts, takes legal action wherever citizen rights are impaired, and fights those devices which are used to dilute the impact of black votes, such as gerrymandering, at-large elections and exorbitant filing fees.

Groups receiving grants from VEP differ widely. Some are ad hoc organizations. The typical grant ranges from a few hundred to two thousand dollars and helps pay for training workshops, leaflets, gasoline for transportation to the registrar's office and for canvassing. The work is done by thousands of local volunteers. VEP follows through by providing technical assistance in the form of legal aid and information that will allow newly elected black officials to more effectively serve the people who elect them.

VEP is a non-profit, non-partisan public foundation. Its interracial staff and board members have played prominent roles in the civil rights struggle for many years. Its budget for 1976 is $425,000 which enables VEP to aid over 200 communities and hundreds of minority elected officials throughout the South. Support for this important work comes from unions, corporations, foundations and religious institutions. Additional support is needed from citizens who believe that America's greatest promise still lies in its hope for a truly interracial democracy.

WITNESSES URGE "NATIONAL YOUTH SERVICE" AT JOINT ECONOMIC COMMITTEE HEARING ON YOUTH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, the Joint Economic Committee held a hearing on Thursday, September 9, on the subject of youth unemployment, during which two witnesses presented proposals for the establishment of a National Youth Service program.

The two witnesses were Dr. Bernard Anderson, professor of economics at the Wharton School of the University of Pennsylvania, and Mr. Paul Barton, executive director of the National Manpower Institute in Washington, D.C.

In his prepared statement, Dr. Anderson pointed out that the lion's share of Federal funding for youth labor market programs goes to the Neighborhood Youth Corps and the summer jobs program, neither of which prepares disadvantaged youths adequately for finding regular jobs:

> Unfortunately, the Neighborhood Youth Corps has not contributed significantly to an improvement in the labor market status of youth. NYC is mainly an income transfer program for youth that does not emphasize the development of occupational job skills. Most projects are make-work, part-time jobs paid at the minimum wage, and administered through state and local governmental sponsors. The major component of NYC, the summer employment program, is even less oriented to skills training than the out-of-school, year-round component.

As an alternative to the NYC and the summer jobs program, Dr. Anderson has proposed establishing a meaningful youth job program which emphasizes skills development for the participants combined with performing useful services within the local community:

> What is required today is a National Youth Service that will redirect manpower training funds primarily toward out of school youth. Such a program would involve: (a) a substantially enlarged commitment primarily to assist poorly prepared youth to become productively employed in the regular economy; (b) a strong emphasis on performing useful work in the community; (c) the creation of a separate organizational entity within the Department of Labor; (d) the inclusion of a broad spectrum of the youth population; (e) an emphasis on full-time jobs with job counseling and training to the fullest extent possible.
>
> The net cost of such a program would not be significant because existing manpower expenditures for NYC (now running about $1.2 billion including the summer program) can be reprogrammed to support a National Youth Service. The program might start modestly with 600,000 participants the first year, and increase gradually to an authorized annual enrollment of about one million youth 16 to 21 years old. Because not all youth will remain in the program for a full year, the total number of participants will be greater than the average monthly number.
>
> Young people in the Service would be engaged in productive work aimed at the visible improvement of their physical and social environment. The Secretary of Labor should be authorized to enter into contracts with public, nonprofit, or private firms with the capability of managing such work efforts. The stipend and graded wage scale would be congruent with the youth wage scales in the community. Funds through the Community Development Act, general revenue sharing, and other sources can provide materials and supervision of the work perfomed. Participation in the Service should be limited to two years during which youth would gain opportunities for skill acquisition useful for transition into regular employment.
>
> A new national effort, designed to con-

solidate and redirect much of the current spending on youth holds promise of generating the kind of focus, energy, and purpose necessary for achieving measurable gains in the labor market status of youth. The National Youth Service idea deserves careful examination as an alternative to the current efforts which, thus far, have proven to be unsuccessful.

Mr. Barton also discussed a proposal for a National Youth Service in his oral statement before the committee. In addition, in a published article submitted to the committee for the hearing record, Mr. Barton suggested a wide and innovative range of other programs that could be helpful for reducing youth unemployment. Among Mr. Barton's suggestions were, first, establishment of employment placement services that would work closely with schools to place young people in full-time and summer jobs; second, community internship programs to allow students to combine work with education; third, a demonstration public TV program that would bring job information to young people on a regular basis; and fourth, a demonstration program to evaluate the ability of teenagers to perform jobs normally reserved for older adults. This list is just a small sample of the varied approaches that could be developed on a local or national basis to help our young people with their job market problems.

I ask unanimous consent that Dr. Anderson's statement and selected portions of Mr. Barton's article be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE YOUTH LABOR MARKET PROBLEM

Mr. Chairman and Members of the Committee: I can think of few problems more worthy of public attention today than the unemployment and labor market problems of youth. This issue carries profound implications for economic and social progress today, and for the years ahead. Although the problem exists in many communities throughout the Nation, my remarks will focus primarily on the dreadful situation confronting youth in our major cities.

The employment problems of youth in the inner city are perhaps the most serious of any demographic group in the American labor force. Almost all measures of economic and social well being are less favorable for inner city youth than for other, and most important, have shown little tendency toward improvement even during periods of generally vibrant economic activity. For this reason, public policy prescriptions for improving the economic status of youth must take specific account of conditions in the inner city which constrain income and employment opportunities.

MEASURING THE PROBLEM

Although a cursory examination of jobs and income in the inner city will reveal serious disparities in comparison with conditions in other areas, reliable statistical information on labor force status, trends, and behavioral motivation among inner city residents, especially youth, are not available. As a result, there is insufficient public awareness of the dimensions or real significance of the labor market problems of inner city youth. In the absence of reliable information, analysts and public officials must rely on conflicting data and perhaps conflicting value judgments in formulating effective public policies to deal with the employment problems of youth.

Faced with inadequate information, some observers have been led to speculate on the real causes of joblessness among inner city youth. One argument often presented in discussions of this issue is that the unemployment rate is an inadequate measure for understanding the problem of joblessness among youth. Many believe that because youths are attending school in large numbers, they seek only part-time jobs in order to supplement their discretionary income.

Yet a substantial majority of those aged 18 and 19 have left school and are interested in full-time jobs. Further, a significant number of inner city youth aged 16 and 17 want full-time jobs, and often those who are in school, while seeking part-time jobs, need employment as a condition for completing school. Adequate statistical data on the school attendance, work experience status of youth are not available for local areas, so we do not know the magnitude of this aspect of the problem for inner city youth. Much of the available information on this question is derived from direct observation of community workers and others involved in the administration of government funded manpower programs.

NARROWING THE ISSUE

Despite the deficiencies of existing statistical data, some useful information on youth unemployment can be obtained from reports periodically issued by the U.S. Bureau of Labor Statistics. In the following discussion, emphasis will be placed on the employment status of black youth because a large segment of this group resides in the inner city. There is little question that the "inner city" problem is heavily burdened with race (and Spanish-speaking) implications. Thus, to the extent that one focuses on the problem of black youth, one can obtain insight into the special problems of inner city youth.

SOME RECENT TRENDS: SCHOOL AND JOB STATUS

A much smaller proportion of black teenagers than white are in the labor force at any time. Among blacks who are in school and in the labor market, however, the job finding experience is less favorable than for white youth. For example, in 1974, black teenage males accounted for 9.9 percent of all males aged 16 to 19 in school and in the labor force, but only 8.0 percent of those at work. Similarly, black female teenagers comprised almost 9.0 percent of the female teenagers in school and in the labor force, but only 6.1 percent of those with jobs.

About 4.2 million teenagers were in the labor force, but not in school. This group, only slightly smaller than the number in school, were less successful in finding jobs. Undoubtedly, employers use age as an index of maturity, and as a result, young men and women out of school, especially those who are single, find it difficult to obtain jobs during the later teen years.

EMPLOYMENT STATUS OF LABOR FORCE 16 TO 19 YEARS OLD BY SCHOOL ENROLLMENT STATUS, AGE, SEX, RACE,[1] OCTOBER 1974

[Numbers in thousands]

Race and sex	Enrolled in school			Not enrolled in school		
	In labor force	Percent of population	Employed	In labor force	Percent of population	Employed
Both sexes	4,434	41.6	3,750	4,115	76.2	3,439
Male	2,383	43.8	2,047	2,214	87.5	1,851
Female	2,051	39.3	1,705	1,941	66.4	1,589
White male	2,148	46.3	1,881	1,937	88.0	1,661
Black male	235	29.2	165	278	84.2	190
Percent black	9.9		8.0	12.6		10.3
White female	1,872	42.3	1,599	1,720	68.8	1,444
Black female	177	22.3	104	220	51.6	144
Percent black	8.6		6.1	11.3		9.1

[1] Statistical reports show data for "nonwhites." Because blacks represent about 92 percent of all persons classified as nonwhite, the term "black" will be used throughout the paper.

Source: Bureau of Labor Statistics, "Students, Graduates, and Dropouts," special labor force report, No. 180 (1975).

A closer look at school and labor market experience can be obtained by comparing the unemployment rates of school enrollees, graduates, and dropouts. A cursory examination of the evidence for 1974 shows high unemployment rates among youth regardless of school status. Yet, there are significant differences in the labor market experience of graduates and dropouts, and among blacks and whites. Among whites, high school graduates experienced somewhat less joblessness than dropouts, but among blacks, high school graduation failed to provide a ticket to greater labor market success. Instead, black high school youth who graduated in May 1974 had an unemployment rate in October 1974 of 7.0 percentage points higher than that among those who dropped out of school during 1974–75.

UNEMPLOYMENT RATES BY SCHOOL STATUS AND FOR HIGH SCHOOL GRADUATES AND DROPOUTS, BY AGE, SEX, AND RACE, OCTOBER 1974

	Enrolled in school		Not enrolled in school					
			Total		Graduates [1]		Dropouts [1]	
	White	Black	White	Black	White	Black	White	Black
Both sexes:								
16 to 24	11.5	28.0	9.3	21.0	14.6	38.6	16.2	31.6
16 and 17	14.9	36.8	20.8	(2)				
18 to 19	10.1	31.1	14.0	31.4				
20 to 24	7.2	16.5	7.1	16.9				
					Both races		Both races	
Men: 16 to 24	11.0	24.1	8.8	19.4	15.3		24.5	
Women: 16 to 24	12.0	33.9	9.9	22.8	18.6		36.2	

[1] Percent not shown where base is less than 75,000.
(2) Graduating or dropping out during the academic year 1973–74.

Source: Bureau of Labor Statistics, "Students, Graduates, and Dropouts," Special Labor Force Report, No. 180 (1975).

The difference in unemployment experience by school status may reflect several forces at work in the labor market. First, the relatively high unemployment rate among youth in all age categories suggests a high degree of shifting about between jobs, and in and out of the labor force. Through this process, young workers gain important knowledge about the world of work, and begin to form preferences regarding lifetime career goals and aspirations. Some of the joblessness might be reduced through better counseling and job market information, but job changing among youth will probably always exceed that among adults.

Second, the relatively greater labor market difficulties among black youth are undoubtedly related to their concentration in inner city communities where there is a dwindling pool of semiskilled jobs, and fewer opportunities for employment except in menial service occupations. Racial discrimination in employment must also be identified as one of the major barriers to greater labor market success for black youth. In fact, these and other unfavorable conditions in urban labor markets help explain the high rate of nonparticipation among black youth in the labor force. One of the reasons black high school dropouts have a lower unemployment rate than black graduates is that many of the dropouts have given up the search for work and thus, are not counted among the unemployed.

UNEMPLOYMENT TRENDS

The unemployment problem of black youth has worsened progressively over the past decade. One measure of the trend can be obtained by comparative examination of youth unemployment relative to that for the labor force at large. Since 1960, the black teenage unemployment rate has increased from almost 25 percent to nearly 40 percent. It is important to note, however, that during this period, the ratio of black youth unemployment relative to that of adults increased markedly, while a similar comparison of the unemployment rate of young whites relative to adults showed little change.

It is also important to note the conflicting trends in labor force participation among black and white youth. Since 1960, (and the trend would be even more evident if the comparison began with 1950) the labor force participation rate among black youth has declined by 4.3 percentage points, while that among white youth actually *increased* by 8.4 percentage points. No doubt, worsening job prospects for black youth help explain these divergent trends.

The withdrawal of large numbers of black teenagers from the labor force, even those seeking part time jobs, means the standard unemployment rate fails to capture the full impact of the problem of joblessness. In reporting the black youth unemployment rate, it is important to remember that the 35.2 percent unemployed (first quarter, 1976) represent less than half of those in the 16-19 age group.

LABOR FORCE PARTICIPATION AND UNEMPLOYMENT AMONG YOUTH 16 TO 19, 1961–74

Year	Labor force participation rate [1]		Unemployment rate		Ratio teen to total unemployment rate	
	White	Black	White	Black	White	Black
1960	49.3	45.8	13.4	24.4	2.43	4.44
1961	48.0	44.8	15.3	27.6	2.28	4.12
1965	47.5	41.7	13.4	26.2	2.98	5.82
1966	49.4	43.1	11.2	25.4	2.94	6.68
1967	49.8	43.9	11.0	26.5	2.89	6.97
1968	49.9	42.9	11.0	25.0	3.06	6.94
1969	51.2	42.7	10.7	24.0	3.06	6.86
1970	52.0	41.4	13.5	19.1	2.76	5.94
1971	54.6	38.7	15.1	31.7	2.56	5.37
1972	54.6	39.7	14.2	33.5	2.54	5.98
1973	56.5	41.1	12.6	30.2	2.57	6.16
1974	57.7	41.5	14.0	32.9	2.50	5.88

[1] The ratio of the noninstitutionalized populafion, 16 to 19 employed or seeking jobs.

Source: U.S. Department of Labor, Manpower Report of the President 1975.

SOURCES OF INNER CITY JOB PROBLEMS

The employment difficulties of inner city youth have been exacerbated by unfavorable trends in job opportunities in the cities. The well documented evidence of industry relocation reducing the number of semiskilled jobs in the city compared with areas outside the city contributes to a shortfall in employment opportunities for youth, especially those 18 and 19 years of age. Perhaps even more important is the continuously changing structure of labor demand in expanding occupations within the city. Increasingly, the jobs located in the city segment of major metropolitan areas call for a level of education and skills not available among the large numbers of inner city youth. The widespread inadequacies in the quality of public school education (reflected in the annual surveys of student achievement) do little to prepare youth for even the available entry level jobs which require only modest educational attainment. For example, in Philadelphia, a recent study sponsored by the State Department of Education reported that about 40 percent of the high school graduates failed to attain a level of literacy comparable to a tenth grade education. As a result of such disparities between the educational preparation of youth, and the hiring standards of employers, large scale unemployment among inner city youth often exists simultaneously with significant numbers of job vacancies in entry level white collar jobs in many cities.

In addition to these factors, the changing attitudes of youth toward labor market participation undoubtedly contribute to the problem of joblessness. Many inner city youth reject menial, service type jobs previously accepted by youth newly entering the labor market. The preference today seems to be for "good" jobs, or at least entry level positions which appear to lead toward higher status and higher income in the near future. The attitudes and motivation of youth toward the labor market and job opportunities play a large role in determining their employment experience.

PUBLIC POLICY PRESCRIPTIONS

Remedial manpower programs developed during the past decade were beamed heavily toward youth. Between 1965 and 1972, for example, 73.2 percent of all first time enrollees in major manpower programs were under 22 years of age.[1] The Neighborhood Youth Corps and the Job Corps were the major youth programs, but substantial numbers of disadvantaged youth also participated in MDTA Institutional Training, the Concentrated Employment Program, JOBS, and the Opportunities Industrialization Centers.

Unfortunately, the Neighborhood Youth Corps has not contributed significantly to an improvement in the labor market status of youth. NYC is mainly an income transfer program for youth that does not emphasize the development of occupational job skills. Most projects are make-work, part-time jobs paid at the minimum wage, and administered through state and local governmental sponsors. The major component of NYC, the summer employment program, is even less oriented to skills training than the out-of-school, year round component.

Despite its shortcomings, NYC has received the lion's share of increased federal funding for youth labor market programs. Total expenditures doubled between 1969 and 1974 to a total of $662 million. Almost all this increase (91.4 percent) was for the summer youth programs. Summer NYC expenditures increased by over 200 percent during the past seven years to $410 million, while enrollment in such programs increased by two-thirds to 755,000 persons in 1975.

NATIONAL YOUTH SERVICE

The time has come for the nation to move away from short term palliatives and to consider a major national emphasis on the youth employment problem. Several promising alternatives were considered this year during the conference on Universal Youth Service, at Hyde Park, N.Y., in April; and at the American Assembly on Manpower Goals for American Democracy, meeting at Arden House in May.

What is required today is a National Youth Service that will redirect manpower training funds primarily toward out of school youth. Such a program would involve: (a) a substantially enlarged commitment primarily to assist poorly prepared youth to become productively employed in the regular economy; (b) a strong emphasis on performing useful work in the community; (c) the creation of a separate organizational entity within the Department of Labor; (d) the inclusion of a broad spectrum of the youth population; (e) an emphasis on full-time jobs with job counseling and training to the fullest extent possible.

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[1] C. R. Perry, B. E. Anderson, R. L. Rowan and H. R. Northrup, *The Impact of Government Manpower Programs* (Philadelphia, Industrial Research Unit, University of Pennsylvania, 1975), p. 22.

The net cost of such a program would not be significant because existing manpower expenditures for NYC (now running about $1.2 billion including the summer program) can be reprogrammed to support a National Youth Service. The program might start modestly with 600,000 participants the first year, and increase gradually to an authorized annual enrollment of about one million youth 16 to 21 years old. Because not all youth will remain in the program for a full year, the total number of participants will be greater than the average monthly number.

Young people in the Service would be engaged in productive work aimed at the visible improvement of their physical and social environment. The Secretary of Labor should be authorized to enter into contracts with public, nonprofit, or private firms with the capability of managing such work efforts. The stipend and graded wage scale would be congruent with the youth wage scales in the community. Funds through the Community Development Act, general revenue sharing, and other sources can provide materials and supervision of the work performed. Participation in the Service should be limited to two years during which youth would gain opportunities for skill acquistion useful for transition into regular employment.

It is unlikely that anything of significance will be done about the youth employment problems of the inner city until the nation turns specific attention to the problems of the young as a matter of social policy. Current federal programs to aid non-college bound youth in their transition from school to work are small in comparison with the need, and are not targeted properly to help relieve the problem. Economic recovery, by generating more jobs, will have some effect on youth employment, but economic growth alone will not improve significantly the conditions for minority growth in the inner city.

A new national effort, designed to consolidate and redirect much of the current spending on youth holds promise of generating the kind of focus, energy, and purpose necessary for achieving measurable gains in the labor market status of youth. The National Youth Service idea deserves careful examination as an alternative to the current efforts which, thus far, have proven to be unsuccessful.

YOUTH TRANSITION TO WORK: THE PROBLEM AND FEDERAL POLICY SETTING

(By Paul E. Barton)

The period since World War II has been, by standards of achievement long applied, the best of times for American youth; it remains to be seen whether the achievements of this period have been entirely to our advantage or whether in protecting youth from the harshness of adult life we may have gone too far and made it harder for them to live as adults.

Affluence combined with perhaps the most youth-centered culture in history has enabled the prolonging of childhood, for most youth at any rate, for six or seven years beyond the time when the physical ability to do society's work commences, the time that, in fact, provided the natural break from childhood during all but the most recent period of man's existence. During the late 1940s and not before, the word "teenager" came into existence, to provide a label for a population physically mature yet still cared for.

The swing generation's teenage children were without adult jobs during this extended period of preparation for adult life but not without resources: cars appeared as transportation to high school and college, the music and recording industry found its largest market ever, and special charge accounts for teenagers were advertised by department stores.

Increasingly, these youth grew up in suburbs, saw people around them living as well as they did, associated mostly with other young children with still young parents, were transported by family station wagons to extracurricular affairs, and were treated to what was thought to be the best in high school education, which more and more took place in institutions with 2,000 to 4,000 students. Taught to live as part of an age group, they learned their lessons well, and by the time those who were going to college got there, their views about the conduct of national and international affairs, and the manner in which those views were expressed, turned out to be quite different from those of their parents' generation, or perhaps any American college generation before them (a comment not rendered in judgment but in reminder that a lengthening period of protection and attendance in society's institutions of socialization did not result in a passing on of parents' views and values).

The younger sisters and brothers of these college students and the children of those who had been too young to fight in World War II found the schools even larger, saw alcohol replaced with hard drugs—which were available as early as junior high school—turned against the expensive clothes that youth before them had worn, and found accommodations for living together in vans, whereas their predecessors had had to settle for evenings in the parking lots of suburbia's shopping centers. Despite these outward differences between teenagers today and those who were teenagers during the mid 1950s and early 1960s, the prolongation of childhood, in whatever guise, remains the status quo, and most affluent middle class youth today are still going to college.

This is the situation of youth most visible to those Americans who matter in terms of power in the institutions of employment, education, and government. The rest of American youth, those stopping their educations at high school or earlier, must be making it somehow, but no one knows quite how that process is working. Often, it isn't. Until the riots of the 1960s, the public knew, only if it read of such things, that blacks (still called Negroes then) were moving rapidly to the centers of the major cities, and that the city surely wasn't the promised land. Claude Brown's life exemplifies what teenagers were doing in the crowded city center and still are doing: fighting for their reputations on the streets by age 12, being pushed into early motherhood, seeing all too clearly the inequalities and irrationalities of a welfare system, and missing out on a critical element of socialization into the work world: having fathers and mothers who can get stable jobs providing incomes that cover the essentials of living. Only the successful few are making it to the suburbs, and when they get there they are too far away to be what the sociologists have come to call effective role models.

Those who stay in rural areas see little hope there for a career, unless family resources are sufficient for the conversion to agribusiness. For the most part, though, youth aren't staying on the farm. In poorer states their education is likely to be substandard, which is no help in the city; and if vocational education is available, it is likely to be in agriculture and is no help for most of those who study it.

The disparities in adult society have been, not surprisingly, visited upon the young, and the schools have proved unable to achieve equality of abilities among youth of different races and economic classes, a task many seem to think is the schools' and theirs only.

No one knows what the extended protective shield for the coming of age of middle class youth will mean for their lives and their children's lives. As for what is happening to the youth trapped in the cities without community, and often without family or resources, the shape of their future cannot be discerned in detail either; we can, however, be sure enough that it is not a benign influence for the individual or for society.

This extension of childhood for the middle class, combined with the growing isolation of the big junior and senior high schools, leaping technological change, frequent, sometimes chronic labor surpluses, and the containment of blacks in the center city while the jobs (especially ones youth could hold) where shifted to the suburbs, has resulted in some of the worst of times for youth, or at least a dramatic break from the past in regard to the age of admission to adult society.

The growing portion of youth starting college, and the growing portion of corporate decision-makers whose sons and daughters comprise the one out of five youths entering the full-time labor force with a college degree, has probably had the effect of increasing the social minimum age at which youth are permitted to enter most forms of regular adult employment. Although it is entirely a matter of conjecture about cause and effect, the age of entry into regular employment seems to advance with the expected age at which the middle class emerges from college; the facts, at least, are consistent with such a proposition.

It is on such critical matters as this that our excellent statistical system leaves us in the lurch. One could point to a rising youth unemployment rate over time, only to be confounded by the fact that youth employment has increased as fast as the youth labor force. Closer inspection reveals that this employment increase is almost wholly in part-time jobs for students, that students get these jobs rather quickly (at least in non-recession periods) but move about so much during the year—summer job to part-time job to Christmas job—that they are cropping up more and more in the official count of *un*employment. It is almost as if things had gotten turned around, with the unemployment rate advancing to reflect the greater success of youth in locating these kinds of jobs.

The story, then, is not in the unemployment rate, or the employment rate either, for that matter. The better question is "At what age will employers hire youth for regular full-time jobs of the kinds that adults hold?" The answer is not to be found in the unemployment statistics at all but in a number of special studies conducted over the last half decade. The composite results are that from two-thirds to four-fifths of employers do not want to hire young people for regular jobs until the attainment of age 21 or thereabout. For the four out of five who enter the labor force without a college degree and who want to do it between the ages of 16 and 20, the extended childhood period must continue, even when society has conferred the last year of its free 12 years of education at age 17 or 18. The high school diploma received at this age cuts little ice; the graduate's success is not much different from that of the dropout in the several years before the age of 21.

Perhaps employers would dip below age 21 if they were hard pressed to do so by rapidly expanding markets. But the years have been few when workers were in such short supply as to require such action. The effects on youth of a chronic labor surplus are compounded by the way technological change affects manpower requirements. Although such change cannot yet be indicted for eliminating more jobs than it creates, it has to be a large factor in the condensing of work life toward the middle years, causing people to enter regular employment at an older age and retire from it at a younger one.

With youth seemingly less critical to the needs of industry, employers thinking of youth the age of their offspring still in college as too young to work, and youth walled off in ever-larger schools for longer and longer periods, the chasm that exists between the world of education and the world of work becomes more understandable, if not more acceptable. The opportunity for phased adult experience shrinks, and youth becomes older as time passes and become less adult at the same time; the prophesies that they are not ready to assume responsibility become self-fulfilling.

The comment made a number of paragraphs back about the unemployment rate tending to be inflated in success in part-time job-seeking needs qualification. For that ever-larger number of students engaging in casual part-time work, the comment is true enough. But for those blacks facing bleak opportunity in the center city, the unemployment rate for teenage blacks, even as it shot toward an unbelievable 40 percent in the 1975 recession, was inadequate in the other direction; the current situation is worse than it suggests. For teenagers, it is more revealing to look simply at the portion who are employed. The real tragedy of the black condition emerges with such measures. In 1954, 43 percent of white teenagers were employed, rising to 49 percent by 1974. In 1954, 38 percent of black teenagers were employed, falling to 26 percent by 1974. There is nothing now on the horizon to change these trends.

Much has been made, at different times, of the importance of demographic projections of the youth population and labor force for manpower planning, and it is legitimate to ask what the projected trends mean for the future. It is sometimes said that as the members of the post-World War II baby boom generation move into their late twenties, with the slower growth, even a decline, of the teenage population in the years to come, the problem of youth transition to work will lessen. Implicit in this statement is the assumption that the enlargement of the youth population was responsible for the rise in the teenage unemployment rate of that period. But "teenage jobs" fully kept pace with that population growth in the aggregate; the measured teenage unemployment rate is not a very useful guide to the existence of a problem. The gap between education and work, it is posited here, is the result of social, cultural, and economic changes—altering both the way we treat youth and the way we view youth—not a matter of population demography. If this is the case, the problem will not recede just because the tide of youth recedes. On the other hand, a lessening of demographic pressure cannot help but be on the right side, and it ought to make matters easier as we tackle basic structural and institutional arrangements.

It should be well noted that the population climb among young blacks did not recede and does not recede in the projections made by the Bureau of Labor Statistics (BLS). Unfortunately, BLS has not published projections by race since 1970. Those projections expected 3.3 million blacks aged 16 to 24 to be in the labor force by 1985, compared with an actual figure of 2.6 million in 1974. The comparable numbers for whites, using the same projections, are 17.5 million in 1985, compared to 19.2 mililon in 1974.

It is clear now that the quantity of jobs for blacks is inadequate and that the problem here includes, but also transcends, improved institutional linkages; things are going to get worse for young blacks unless some major steps are taken to create jobs, or to get blacks out to the suburbs, where the private economy is creating jobs for white youth. It is worth stating again that closer relationships between the processes of education and work will help the great bulk of youth; and they will help many blacks, but just as many blacks will be left behind until something is done about the quantity of experience opportunities available to them.

This is the setting of the problem. The federal role in dealing with it is necessarily a restricted one compared with what must be done locally, by parents, individual citizens, teachers, and employers. But it is still an important one and must be attended to with care.

NATIONAL ASSISTANCE: LOCAL ACTION

There is increasing recognition and acceptance of the proposition that we are too vast a nation and too pluralistic in our decision-making for many of our social conditions to be altered through uniform national policies, even less through federal government policies. That assertion is particularly true of efforts to bring about a smoother transition to adulthood, where federal, state, and local government and public education agencies, individual employers, unions, public employment services (with their three levels of policy-making), new municipal manpower agencies, parents, and, increasingly, students, are parties to the process.

On the other hand, it seems to be at the seat of national government that the need for change is recognized, the climate for change often conditioned, and the cost of change at least partially funded. This has been true of almost everything that has happened in the last 40 years in the manpower arena, including employment services, public retraining of the unemployed, public employment, and income maintenance. It has also been true of most of education that has been career specific, from land grant colleges to vocational education and on to career education. More recently, the Washington influence has become more subtle, but present nevertheless, in such projects as the federally funded and appointed panel that wrote *Youth: Transition to Adulthood*, the small Labor Department grants to stimulate better use of occupational information, and the models such as Experience-Based Career Education, established with federal money in four cities for others to emulate.

The limits to handed-down initiatives, from the Washington headquarters of one bureaucracy to its local offices, are increasingly apparent. There can be many reasons for diminishing opportunity for central policy directions, but a major one is that no one bureaucracy or institution has total responsibility for the youth transition, and no one command is capable of trimming the sail.

The ability to discern the general situation from Washington seems unimpaired, as is the superior financial position to get things started; it is the ability to accomplish things at the local level, particularly in this area, that Washington is short on. Given all this, the best approach seems to be to put the pieces together at the local level, with the initial stimulation and at least some funding coming from the federal level. It is out of experience with what local individuals and agencies are able to succeed in doing together that we will discern what an education-work policy has turned out to be.

The national role in getting local efforts started will, of course, require some judgment about what makes sense to get started on; there has to be some formulation of what is to be tried, if only by way of stimulating local people to think of ways to do it differently. It would be helpful in this respect to give a careful review of the experiences of those communities around the country already working on the problem (such a review is contained elsewhere in this volume).

It is suggested that the appropriate federal policy role is that of stimulating a variety of local projects that have the merit of bringing together several of the critical participants in a school-to-work transition, and of perfecting a number of what would become operational components of a complete local effort. A great deal of room would be left for local design, and federal suggestions would be just that and no more. Examples of suggestions are provided below.

A number of local councils large enough to provide useful experience, composed of educators, employers, union members, parents, effective individual citizens, members of community organizations, and elected students to try to bring back together the now disparate pieces of the community that formerly took a greater responsibility for the transition to adulthood. Almost any of the projects and pilot programs suggested below could be carried out under the auspices of such councils.

Community employment counseling services for high school students, which might operate under guidelines established by professional guidance counselors but which would have as their purpose the identification and organization of all resources available within the community to assist youth in learning what occupations are like and how people in them got where they are now.

Model employment placement services, working to provide part-time opportunities for youth still in school, career opportunities for youth leaving school, follow-up through age 20 or so, and feedback to the schools about the kinds of barriers to employment success that exist after schooling is completed. Given the past jurisdictional questions not yet clearly resolved, it would be useful to have at least four different kinds of models:

A high school or consortium of high schools operating the services.

The public Employment Service operating them, in a location accessible to students.

The schools and the Employment Service operating them jointly, with shared funding and carefully worked out responsibilities.

Volunteer service organizations providing the entire initiative and implementation.

Community internship programs to supplement opportunities in the private employment sector, so that all students needing it can have an opportunity to combine experiential learning with more formal education. The attempt would be to generate local programs under a variety of auspices, such as—

A volunteer citizens committee.

A committee of heads of major organizations that would have experience opportunities.

The education-work agencies, such as the schools, the municipal agency administering the Comprehensive Employment and Training Act (CETA) and the public Employment Service.

Model delivery systems for all work experience opportunities within a community to see how much more employer cooperation and involvement could be gained by efficiently developing opportunities and appropriately matching students and opportunities without many separate approaches to individual employers.

Demonstrations—perhaps as part of the above component—of what community-minded federal employers can do to stimulate an experience component in education. The combination of federal establishments located in a city—including employers holding federal contracts—involvement of the federally funded CETA agency, and public service activities receiving federal aid, would very likely provide a substantial number of experience opportunities for students and set the example for private employers. This is the kind of activity that existing councils of regional executives could organize.

A careful *demonstration project* to find out what difference the alternating of education and experience makes in the stereotypes now held by employers about the undesirability of young people under 21 as employees. Employers would have an opportunity to see what capabilities young workers have, and young workers would have the opportunity to mature as productive workers. Before-and-after employer attitudes toward youth would be measured.

An *education program* prepared for all employers and school officials on what federal, state, and local child labor laws permit, as well as prohibit, with regard to student work experience programs and the hiring of youth as they graduate from high school. To find out what impact inadequate knowledge about child labor laws is having, before-and-after surveys about employer knowledge, attitudes, and actual hiring practices would be desirable. If the surveys were done in several communities, the worth of a widespread educational effort could be evaluated and the most effective approach could be formulated.

The provision of money to a local school system to permit it to work out *cooperative agreements with private skill training schools,* so that high school students could get skills in approved private schools where public school offerings were not available. The money would be used to pay the students' tuition in the private schools in situations where academic education was provided in the public school and specific skill training in the private school. There has been a failure to bring about an integration of the resources available in the community, and exploration of cooperative arrangements in a few communities might determine how practical such possibilities are.

A *demonstration public broadcast youth TV program,* on a scheduled basis, which would—

Advertise its program and offerings in the local schools.

Solicit job listings from employers and give regular job availability bulletins.

Interview panels of people in identical occupations to draw out what that occupation requires and offers and how these people had prepared for the occupation and achieved success.

Interview employers about what they have to offer and why youth would want to work for them.

Interview graduates who have found jobs with regard to their job-hunting experiences and what worked best for them.

Efforts would be made to see how many viewed the program and who they were and to determine whether they found it useful.

Development of a *local occupational inventory* of entry-level jobs for graduating high school seniors, done by a consortium of individual citizens and organizations and made available in each high school within the guidance and counseling department. Means would have to be established for keeping the inventory up to date. It would have to be a listing of organizations generally having opportunities rather than a precise, current job vacancy record, which requires considerable statistical expertise and is usually done on a sampling basis.

Development of an education program or a *guide for local communities* showing them innovative models now in existence to better integrate education and work. The nation is so vast that the likelihood of any community's knowing what other communities are doing is not very great. A system of gathering specific information on individual projects would enable duplication of successful efforts and results.

A *comparison* (in one or several local communities) *of the job performance* of 18-year-old high school graduates, who have been provided with the necessary on-the-job training with that of older persons doing similar work, to see if there is, in fact, a basis for the large-scale refusal of corporations to hire persons under age 21.

These are meant to be only examples. Their purpose is to show that there are a large number of things to try, based on informed judgment. Any serious effort to launch a series of projects at the local level that go beyond efforts now being made by individual institutions operating in isolation from each other and from the community itself, would turn up other possibilities worthy of a trial run and might very well reject many of the above suggestions.

TRIBUTE TO JOHN W. WARNER

Mr. STENNIS. Mr. President, the American Bicentennial commemoration has been an outstanding success throughout the country. It has served to remind Americans everywhere of the basic principles of patriotism, freedom, and liberty upon which the greatness of this Nation is based. In rekindling in our hearts the spirit of 1776 it has made us more acutely aware of the genius and foresightedness of the Founding Fathers who realized that if the American system of Government was to endure it was absolutely essential that it be based on the the consent of the governed.

Many people share responsibility for the success of the Bicentennial and they are all to be commended. However, one man stands out above all others for his dedication, leadership, inspiration, and sacrifice which contributed so greatly to the fulfillment of our hopes and dreams for the Nation's 200th birthday. That man is John W. Warner, the Administrator of the American Revolution Bicentennial Commission. He brought to this position the same dynamic initiative and creativity that he displayed previously as Secretary of the Navy and in other positions of responsibility and trust.

I understand, Mr. President, that on September 15, 1976, Mr. Warner attended his last meeting of the Board of the Bicentennial Commission. In view of this I want to take the opportunity to join with my colleagues in highly commending him for a difficult job well done and in paying him just tribute for his outstanding work and leadership. He is an outstanding American and is in all respects a worthy recipient of the Presidential Medal of Freedom for which he has been recommended.

Mr. President I ask unanimous consent that a copy of a letter I wrote to Mr. Warner recently be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MY DEAR FRIEND WARNER: I knew you would do it, but I rejoiced all the more for its success—the tremendous and highly successful job you have done for America in this highly successful Bicentennial celebration. I am highly pleased and the fruits will be forthcoming a long, long time. I saw you on TV at some functions. Someday they will put you in stone for guiding the rebirth of our Nation.

Thanks so much,

Senator STENNIS.

TRIBUTE TO JOHN W. WARNER

Mr. FONG. Mr. President, I join my Senate colleagues in saluting John W. Warner, Administrator of the American Revolution Bicentennial Administration, for a job well done.

When John Warner was sworn in as Administrator of ARBA 2 years ago, his agency was small while the tasks facing it as America prepared for the 200th birthday were enormous. Thanks to his inspiration and leadership, order was established, priorities were set, and America as a whole was able to observe its Bicentennial with the proper mixture of pageantry, patriotism, and basic fun and enjoyment.

In Hawaii, thanks to ARBA's coordinated efforts with our local civic and historical societies, the series of events and programs certainly matched those of any other State. Especially noteworthy was the trip by a voyager canoe to and from Tahiti, tracing the ocean route of the original inhabitants of the Hawaiian Archipelago.

Certainly, the people of Hawaii, as the rest of the Nation, will recall the Bicentennial with fond memories for years to come. I know they join me in this tribute to John Warner and the other hard-working people of ARBA and add their voices to mine when I say: "Mahalo!" (Thanks).

THE IMPACT OF BALANCED BUDGET POLICIES

Mr. HUMPHREY. Mr. President, last week, Representative RICHARD BOLLING, vice chairman of the Joint Economic Committee and chairman of the Subcommittee on Fiscal Policy released a study titled "The Economic Impact of Alternative Fiscal Policies."

The study examines what would have happened in various historical periods had we followed a policy of balancing the budget or balancing the full-employment budget. It concludes that in almost all cases, intelligent use of discretionary fiscal policy is superior to blind adherence to either the balanced budget rule or the balanced full employment budget rule.

I commend Representative BOLLING and his Subcommittee on Fiscal Policy for their work in an area of critical importance to our Nation's economy. I ask unanimous consent that Representative BOLLING's statement releasing the study be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

BOLLING RELEASES FISCAL POLICY STUDY

Congressman Richard Bolling (D-Mo.), Chairman of the Subcommittee on Fiscal Policy and Vice Chairman of the Joint Economic Committee, today released a study examining the impact of balanced budget policies. This study analyzes the economic behavior that would have resulted from pursuing a balanced budget policy and a balanced full employment budget policy from mid-1965 to mid-1974.

"Economic fads like others come and go. But there is always a group of people who attribute the bulk of our economic problems to government deficits," Congressman Bolling said. "This opinion is often voiced before Congress. In the past decade we have heard a variant of this prescription: economic problems result from spending more than tax collections would be if the economy were operating at full employment.

"The study I am releasing today examines these two arguments. Using an econometric model it evaluates the impact that each of these policies—balancing the budget and balancing the full employment budget—would have had on the economy throughout the late 1960s and early 1970s. The study concludes that throughout most of this period balancing the budget would have had a significantly negative impact on total production and unemployment. It also concludes that balancing the full employment budget would have had little impact on economic performance throughout most of this period because the full employment budget was reasonably close to balance.

"The results of this study should not be interpreted to mean that balanced budget policies are always bad. They are not. The appropriate conclusion is that blind adherence to any fiscal policy rule will sometimes produce a desirable economic performance and sometimes produce an undesirable one. We should always be able to produce more desirable results by using careful discretion to select flexible fiscal policies best suited to the economic circumstances and avoiding ironclad adherence to some fixed rule.

"This study also concludes that balancing the budget would have had little impact on price behavior over the time period examined. In some cases, the result would have been perverse. By slowing down economic growth and productivity, labor costs and consequently price behavior might have been aggravated."

A brief summary and conclusion of the study is attached. Copies are available from the Joint Economic Committee.

THE ECONOMIC IMPACT OF ALTERNATIVE FISCAL POLICIES

(By L. Douglas Lee)

SUMMARY AND CONCLUSIONS

More than 5 years have passed since the American economy produced at its full potential. For most of these years we have also been plagued by increasing prices. Many explanations have been advanced for the causes of these problems, but the ones most often heard by Congress relate to the Federal budget. Some people argue that the Government's chronic deficits are at the root of our economic problems. These people propose a relatively straightforward solution: Balance the Federal budget.[1]

Others argue that the problem is not the deficit per se, but rather excessive stimulus or restraint at an inopportune time. They suggest calculating the revenues and expenditures which would result from operating the economy at full employment and using the change in this full-employment balance as a guide for determining the appropriate level of the actual deficit. A variant of this argument appeared several years ago when President Nixon suggested that expenditures should never be allowed to outrun the revenues that the tax system would generate at reasonably full employment.[2] More recent studies of our long-term capital needs have suggested that by spending less than full-employment revenues, the Government could encourage saving and capital formation.[3]

This paper looks back in history and tries to determine what might have happened if we had followed two fiscal policy rules: First, balancing the actual budget, and second, balancing the full-employment budget. Three time periods were examined: Mid-1965 to mid-1969, a period of substantial economic growth; mid-1969 to mid-1972, which spans an economic trough where growth fell sharply then rose sharply; mid-1972 to mid-1974, which covers a peak with real growth first rising rapidly then turning negative. Several tax and expenditure changes were used in each case to achieve the desired balance.

After examining the fiscal policy rules, a third, discretionary policy was tried. This policy was different in each case, but the object was to experiment with some combination of fiscal and monetary policy which economists might have regarded as reasonable at the time.

Three basic conclusions emerge from this analysis:

(1) Over most of the period from 1965 to 1974 balancing the budget would have been a very poor policy to follow. It would have meant substantial losses in output and increases in unemployment with little, if any, improvement in inflation.

(2) Balancing the full-employment budget over this period offers some improvements over balancing the actual budget, but it is no panacea. Over much of this period the full-employment budget was close to being balanced, so that bringing it into complete balance would have had little impact—either positive or negative—on economic performance.

(3) In almost all cases, discretionary policy proved superior to blind adherence to either of the fiscal policy rules. In some cases the experimental discretionary policy was significantly better than the policy actually pursued.

S. 3801, MEDICARE AND MEDICAID ANTIFRAUD BILL

Mr. CHURCH. Mr. President, I wish to take this opportunity to offer my support for the Medicare and Medicaid Anti-Fraud Act introduced by Senator TALMADGE last week. These programs were enacted to provide the best health care available to all Americans, including those who for financial or other reasons might not otherwise have received any medical attention. Our initial hopes for medicare, in fact, were that this program would take the severe burdens and the fears out of health care for the elderly of this Nation. I can recall numerous instances prior to the enactment of medicare when older citizens expressed to me personally an almost paralyzing fear of the possibility of sickness or injury. "What will I do?" they asked. "How will I be able to pay for the care I will need?" When even the resources of survival are minimal, as they were—and still are—for so many of our elderly, the costs of medical services literally become matters of life and death.

Congress approved the medicaid program at the same time, calling for the States to provide medical coverage for all those eligible for cash assistance. At that time, many of us had grave reservations about the feasibility of an administrative system which divided the responsibility for control among Federal and State authorities. However, we were more than willing to take a chance on medicaid because it had the potential to make quality care available to the needy.

In part, we have seen our hopes fulfilled in the last 10 years. Medicaid, as well as medicare, has rendered necessary services to the poor, the elderly, and the disabled. Unfortunately, our concerns for the medicaid program have been justified as well. The States and Federal Government have continually pointed accusing fingers at each other. Both parties should have some responsibility under the law; neither has accepted any. The Subcommittee on Long-Term Care, chaired by Senator Moss, has repeatedly documented areas of fraud and abuse: by nursing homes and home health agencies, by clinical laboratories, and by practitioners in the program.

Nor has Senator Moss's subcommittee been alone in its important work. Other committees of Congress have produced similar findings. The U.S. General Accounting Office has issued several reports which noted the lack of Federal action, specifically by the Department of Health, Education, and Welfare, in forcing States to comply with medicaid requirements. The recent hearings conducted by the Subcommittee on Long-Term Care, then, dramatic as they were, must be seen within the context of old, not new, abuses of the program.

For all these reasons—and reflecting my own position that the best way to assure quality health care for all older Americans is a step-by-step improvement of medicare—I believe that the immediate need now is to get medicaid under control with an eye toward replacing it with something better. I support, in particular, these provisions of the Talmadge bill:

First, the provision that would create an Office of Central Fraud and Abuse Control. I support this provision because it will require unit personnel to provide support to U.S. Attorneys and State prosecutors, and will thereby help reduce the current investigative manpower shortage. Additionally, it will give some central organization and direction to the monitoring of fraud and abuse.

Second, I support the provision that changes the status of fraudulent acts under medicare and medicaid from misdemeanors to felonies. I agree that lawbreakers, even when they are "professional" men, must be put in jail. A simple slap on the wrist has not proved an effective deterrent.

Third, I support the provision that clarifies the prohibition against assigning claims under the medicare and medicaid programs to third parties. The possibilities for fraud and abuse as perpetrated by so-called factoring firms are now well known. This provision of the bill would make it clear that the prohibition may not be by-passed by using a power of attorney.

Fourth, I support the provision authorizing Professional Standards Review Organizations to evaluate the quality of health care available in shared-health care facilities—the so-called medicaid mills.

Finally, I support the provision requiring disclosure by providers and suppliers of services under these two programs to the Secretary of HEW and to the Comptroller General of all relevant information on these facilities. This information would include ownership lists, fee-splitting arrangements, business transactions, and certified cost reports. All of this information is necessary if we are to eliminate the fraud and abuse which have plagued the medicaid system for so long.

Senator TALMADGE's bill is designed to help cut out the tremendous waste which has dramatically increased the costs of the medicare and medicaid programs. At the same time, the bill seeks to insure that every dollar spent really does go to providing quality health services to those Americans who need them most. It has my complete support.

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[1] For example, see "Controversy Over Proposed Mandatory Balancing of the Federal Budget," *Congressional Digest*, March 1976.

[2] "The U.S. Budget in Brief, Fiscal Year 1972," p. 6.

[3] See, for example, *Capital Needs in the Seventies*, Barry Bosworth, James S. Duesenberry, and Andrew S. Carron, Brookings Institution, 1975.

NEED TO CLARIFY ALLEGATIONS LINKING CANCER TO EATING MEAT

Mr. HRUSKA. Mr. President, a good deal of confusion has resulted from the testimony and opinions of two scientists presented earlier this summer to the Select Committee on Nutrition and Human Needs regarding the relationship between cancer and the nutritional habits of Americans. In general, the scientists, Dr. Gio B. Gori of the National Cancer Institute and Dr. D. M. Hegsted of Harvard's School of Public Health, contended that there was a direct relationship between dietary intake and forms of cancer, and that it was their recommendation that Americans should cut down on the amount of food they eat, and specificlly, eat less meat and fats.

This testimony has been widely publicized, and has tended to leave the impression in the minds of many Americans that they will develop cancer by eating meat. Such impressions are of special concern to me because they tend to mislead and misinform the American public, and do grave damage to our livestock and meat industry which is currently beset with economic hardship.

While I do not quarrel with the need to study and research the possible relationship, if any, between diet and cancer, it is important that such findings and conclusions are not misconstrued. That would seem to be the case with the opinions of Doctors Gori and Hegsted judging from the publicity they have received.

I speak of the testimony of these scientists as opinion because the conclusions they draw from various studies do not comport with those reached by others interpreting the same studies. For example, many of their conclusions seem to rely on studies showing a higher incidence of cancer among certain classifications of Americans whose consumption of meat has increased over a period of time. This view is not shared by all who have examined the matter.

Much of the attention on the subject of diet-colon cancer has grown out of a statistical paper published by the National Cancer Institute in December 1973 on the diet changes of Japanese who immigrated to Hawaii. Those who developed Western diets had a higher incidence of colon cancer than was observed in those who did not. Statistical analyses were run on all the foods which were increased and, of course, beef was one of the main ones. It is true that the Japanese immigrants, within a generation of living in the United States, showed a higher incidence rate of rectal-colon cancer than the Japanese who remained in the native land. But a complete examination of dietary patterns shows that for the Japanese-Americans there is a higher statistical relationship between the rate of rectal-colon cancer and the consumption of string beans than with the consumption of meat! Yet there is no major effort to reduce consumption of string beans; nor would I support such a move.

In fact, there is growing scientific interest and public excitement over the role of fiber in the diet and the possibility that various diseases, including intestinal cancer, may be linked to the relatively low level of fiber consumption by Americans. The indications are that it is not the additional meat we eat that causes problems in the United States, but the inadequate amount of crude fiber in our diets.

It is true that epidemiological work involving Seventh-day Adventists as a population group show these people to have a lower rate of virtually every form of cancer than the average American. Many Seventh-day Adventists are vegetarians for religious reasons. It is, however, misleading to link the Adventists lower rate of cancer with the avoidance of meat because a similar study involving the Church of Jesus Christ of Latter-day Saints—Mormons—shows equally impressive low rates for cancer. Yet the Mormons, as a population group, consume at least as much meat as the average American.

A recent study on the Mormon cancer rate indicated that Mormons eat more than the average per capita consumption of meat. A study of beef consumption in Utah, which has a very high Mormon population, showed per capita consumption above the national average. And Mormons, who have a relatively high social-economic status as a group, can be expected to consume more beef per capita since it has been shown that meat consumption tends to increase as a person's social-economic status increases.

I bring this matter to the attention of Senators to clear up any misunderstanding that may exist in the minds of the public that it is unhealthy to eat meat. Meat is recognized as one of the most nutritious foods available in our diets. Americans have always been a meat-eating people. In fact, I suspect that there are many Americans who are not ingesting an adequate amount of meat in their diets to meet their nutritional requirements.

Currently, meat is in abundant supply and is one of the best food bargains available to the American consumer. This is due primarily to drastically low prices being received by the producer who, regrettably, is losing money. The only way the producer can recover economically is to have a strong and steady demand for meat continue. Now is certainly not the time for unsubstantiated allegations and sensational headlines to cause the American consumer to drastically cut back on or stop his purchases of meat.

A relationship between eating excessive amounts of meat and various forms of cancer may exist. I do not know. I do know that a general statement indicting meat as a class, without specifics or greater detail, does not serve this purpose, especially if it tends to leave a mistaken impression that eating meat is unhealthy.

The generalized nature of the opinion of the doctors leaves more questions unanswered than it explains. Mr. Gwynn Garnett of Garnett Incorporated Coordinated Beef Systems was kind enough to share with me his letter to the Select Committee on Nutrition and Human Needs wherein he points this out by asking specific questions relative to the types of meats that were the basis of the doctors' opinions. His questions are as follows:

1. Was Dr. Gori basing his advice on data relative to eating beef, pork, lamb, poultry or game?

2. To single out beef, about which I have special knowledge, was Dr. Gori basing his advice on fat or lean beef, young or old beef, steer beef, bullock beef, heifer beef, range cow beef or dairy cow beef? (There are important differences as they bear on the incidence of cancer.)

3. Was Dr. Gori basing his advice on beef that had been implanted with growth stimulants—DES, MGA, and other chemicals or was it based on beef from animals free of these contaminants?

4. Was Dr. Gori basing his advice on beef from animals that had been meticulously protected from all manner of contaminants or was the beef chosen from the mainstream of commercial beef which can range from very good to very bad from the incidence of cancer?

5. Was Dr. Gori basing his advice on beef that had been fed diets that were especially rich in minerals and vitamins?

6. Was Dr. Gori basing his advice on beef that had been eaten as a part of a high or low roughage diet?

7. Man has been eating meat for as long as man has been on this planet. How does Dr. Gori explain that only in recent years has meat eating been linked to cancer? Could not whatever caused the change be remedied? Is he not throwing out the baby with the dishwater?

These are important questions. They bear directly on this matter and should be answered before general statements are issued that have the potential of causing the American consumer to change his dietary habits. It is my hope that the Select Committee on Nutrition and Human Needs will be diligent in seeking answers.

The American people are entitled to and should know whether there is evidence to equate eating meat with the incidence of cancer. They should not, however, be misinformed by opinions lacking in scientific evidence which can cause them to materially change their eating habits thereby further jeopardizing one of our most basic industries during a time of economic hardship. It is important that the testimony received by the Select Committee on Nutrition and Human Needs be clarified so that misunderstanding does not exist.

Mr. President, I ask unanimous consent that the letter of Mr. Gwynn Garnett to the Select Committee on Nutrition and Human Needs to which I referred earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GARNETT INCORPORATED,
COORDINATED BEEF SYSTEMS,
August 3, 1976.

CHAIRMAN,
Select Committee on Nutrition and Human Needs, U.S. Senate, Washington, D.C.

DEAR SIR: On July 28, Dr. Gio B. Gori of the National Cancer Research Institute appeared before your Committee. This appearance was carried via national television and reported widely in the press. (See attached clip from the Washington Post.) We presumed that Dr. Gori was a responsible spokesman for the scientific community and NCRI. He spoke on the alarming rate of increase in the incidence of cancer. Discussions of this phenomena deserve nationwide attention but it is vital that spokesmen for the scientific community, particularly NCRI hew to scientific facts. Dr. Gori failed to do this.

Dr. Gori advised the nation ". . . to eat less, especially fats, meat. . . ." There may well be a scientific basis for advising the nation to eat less, in terms of calories. There is no basis for advising the nation to eat less meat. A few questions and comments will make it clear:

1. Was Dr. Gori basing his advice on data relative to eating beef, pork, lamb, poultry or game?

2. To single out beef, about which I have special knowledge, was Dr. Gori basing his advice on fat or lean beef, young or old beef, steer beef, bullock beef, heifer beef, range cow beef or dairy cow beef? (There are important differences as they bear on the incidence of cancer.)

3. Was Dr. Gori basing his advice on beef that had been implanted with growth stimulants—DES, MGA, and other chemicals or was it based on beef from animals free of these contaminants?

4. Was Dr. Gori basing his advice on beef from animals that had been meticulously protected from all manner of contaminants or was the beef chosen from the mainstream of commercial beef which can range from very good to very bad from the incidence of cancer.

5. Was Dr. Gori basing his advice on beef that had been fed diets that were especially rich in minerals and vitamins?

6. Was Dr. Gori basing his advice on beef that had been eaten as a part of a high or low roughage diet?

7. Man has been eating meat for as long as man has been on this planet. How does Dr. Gori explain that only in recent years has meat eating been linked to cancer? Could not whatever caused the change be remedied? Is he not throwing out the baby with the dishwater?

It is unnecessary to add to the list to make it abundantly clear that neither Dr. Gori nor his associates have the scientific basis for the advice he gave to the nation about eating meat. There are better bases for advising the nation to eat more natural meat—but meat that has been programmed in systems which prevent contamination by suspected carcinogens and assure a full spectrum of minerals and vitamins which are or suspected anti-carcinogens. There are better bases for advising the nation to eat less fabricated foods, most of which have suspected carcinogens.

The beef industry in the USA is second in size only to automotive industries. The meat industry is the largest industry in the USA. Dr. Gori's sweeping and unfounded statements, which were given nationwide media coverage, have potentially disastrous effects on the nation's largest industry. The statements were irresponsible; to let them stand unchallenged is irresponsible.

Therefore, I respectfully request an opportunity to come before your committee to challenge the statements made by Dr. Gori and Dr. Hegsted.

This should be done to benefit the meat industry and consumers as well. Similar scientists decimated the egg industry. We should not stand by and let them decimate the meat industry, unless their facts are incontrovertable. Furthermore, contrary to the popular notion that we should eat less beef to make more food available for direct consumption, eating more beef from animals programmed in systems designed for full resource use, make more food available for all.

The notion that we should eat less beef to make more food available for a hungry world is intellectual garbage, produced by people of good will but who lack the in-depth knowledge of bovine genetics, bovine nutrition, crop production and utilization, farm management, resource utilization, land use, economics and business needed to analyze the facts. Therefore, Dr. Gori's advice will not only precipitate havoc in the meat industry, it will deprive humans of food they could otherwise have, but more particularly of the essential nutrients available in beef at low cost.

Millions of public dollars are funding a national search for carcinogens, as should be; beef is a suspected carcinogen, as it should be as well as all other foods should be. However, Dr. Gori's irresponsible statements, disseminated nationwide, should alert everyone in line of responsibility, to force these researchers to be responsible, lest they jeopardize the nation's food supply.

Our family does its utmost to produce beef that is free from suspected carcinogens, full of a wide spectrum of essential nutrients and anti-carcinogens, that has extra flavor and is more economical than chain store beef. Our family resources will be decimated unless the remarks of Dr. Gori are reined in to scientific facts and such remarks from others are fenced out.

There is no other source of help than via your committee.

Respectively,

GWYNN GARNETT,
President.

NEW YORK CITY IS MAKING GREAT SACRIFICES TO ACHIEVE FINANCIAL REFORM

Mr. **PROXMIRE.** Mr. President, I should like to call attention to a recent article in the New York Times documenting vividly the cutbacks imposed on the New York City school system by the city's financial crunch. This article illustrates the determined effort being made to cut spending across the board, and the sacrifices that are called for from every group in the population.

Here is what is happening in New York City as the new school year opens:

The school system now has 47,000 teachers for 1.1 million pupils, a drop of 5,000 since school closed in June, and 15,000 fewer than at the start of the last school year.

Class sizes have increased substantially, to as many as 48 pupils or more per class.

The school week has been cut by 90 minutes, in order to close the remaining budget gap.

The system's programs for handicapped children have been especially hard hit. Lack of funding has forced layoffs of 581 of last year's staff of 5,274 special education teachers, while the number of pupils has grown from 26,000 to 41,000. Home instruction time for the badly handicapped has been cut in half.

Last year, when Congress was debating whether or not to provide Federal assistance, it was often said that New York City did not have the will or the capacity to make the necessary budget cuts and restore fiscal responsibility. People said that business as usual would prevail and New York City would run through the Federal Government's money even faster than it ran through its own and more in the last 10 years.

That has not proven to be the case. On the contrary, what is emerging is a very different picture. New York City has done more than just cut the fat out of its budget. It has cut to the bone. This is undoubtedly a painful experience, but also a very necessary one.

Mr. President, I think that people across the country should understand and appreciate the enormous sacrifices New York City is making in the effort to balance its budget and wipe out the excesses of the past. New Yorkers took a lot of hard knocks in the press and public opinion last year. Now they deserve a great deal of credit for making the tough decisions and accepting the cutbacks needed to put the City's financial house in order.

Let me list some of the other actions the city has taken in the past year:

New York City made about $200 million in annualized budget cuts in the final 6 months of fiscal year 1976, and adopted a financial plan requiring further cuts of $379 million in fiscal 1977 and $491 million in fiscal 1978, in order to achieve a balanced budget by June 30, 1978, when the Federal loans end.

There have been cutbacks in garbage collections, library hours, fire companies, and a host of other city services.

The city university is now charging tuition, for the first time in its history.

Fifty thousand city employees have been taken off the payroll since January 1, 1975, a reduction of 15 percent. City and union officials are now working together on the final details of an agreement to halt the recent escalation in wage, pension, and other fringe benefit costs and to condition cost-of-living adjustments for city workers on actual gains in productivity.

The city has undertaken a wholesale reform of its budget and accounting systems, which should transform its tangled bookkeeping into the most advanced and efficient system in the country.

From being a fiscal failure, New York City is on its way to becoming a fiscal winner. The price in economic hardship has been, and continues to be high.

Mr. President, I ask unanimous consent that the article on the opening of New York City's schools be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Schools Open Today in New York in Tense Mood of Austere "Crisis"

(By Leonard Buder)

New York City's nearly 1,000 public schools start the new academic year this morning with new reductions in staff and services and mounting concern that even more difficult times are ahead.

"We're in crisis," School Chancellor Irving Anker said. "I don't know of any time in the history of education in this city when the problems were more serious and more potentially destructive of education in this city."

An estimated total of 1.1 million pupils—about the same number as last year—is expected to show up for the resumption of classes. On hand to greet them, according to the Board of Education, will be 47,000 teachers—5,000 fewer than were employed last June. And last year the system lost nearly 10,000 teachers.

Also on duty will be about 1,400 school security officers, the same number as last year but 1,000 fewer than in less financially stringent years, according to Carleton Irish, chief of school safety. Half this number will be assigned to the city's 100 senior high schools. The rest will be deployed by the 32 community school districts, which have jurisdiction over the elementary and junior high schools.

For elementary and junior high school pupils, the new term will again bring shortened school days, despite the enactment this fall of new state standards. For high school students, there will be fewer courses, especially electives.

For virtually all youngsters, class sizes will be higher than they were last year, when they were generally regarded as excessively high. There was concern among parents.

"How can he or anyone learn in a class of 48?" asked Elva Berger, whose son, Jonathan, is entering second grade at a West Side school.

For all of the city's pupils, there will be fewer opportunities—or none at all—to receive counseling, take enrichment work, receive special help or engage in after-school programs.

"We will be able to provide little more than a teacher for every class," said Ralph Brande, superintendent of Community School District 22 in the Sheepshead Bay-Mill Basin section of Brooklyn. "We will have no science teachers, no music or art teachers, no guidance counselors, no librarians. If conditions get any worse, we won't have anything left that is worth calling a school system."

STAFF LAYOFFS A SHOCK

For the school staff, there is still the shock and the uncertainties generated by the recent dropping of some 3,700 teachers.

"I thought I had enough seniority to stay put," said Audrey Sharpe, who has taught for eight years at two elementary schools in District 12 in the Bronx. "Then the letter came notifying me I was being excessed, It was very depressing."

But Mrs. Sharpe, who will be assigned to a school in another district, is more fortunate than many other teachers.

Jeffrey Gingold, who also taught elementary school in the Bronx, had "five years, six months and 12 days" of seniority. He has been laid off.

The scheduled layoff of 308 assistant averted last week when their union, the Council of Supervisors and Administrators, traded cost-of-living pay adjustments for the jobs.

SCHOOL DAYS ARE SHORTENED

Tight fiscal conditions have apparently accomplished what central orders and legal maneuvers could not do—bring an end to the refusal last term by some school officials and parents in district 3 on the West Side to shorten instructional days.

"We just don't have any money to try to run a full school day," said Clinton Howze Jr., the District 3 superintendent. "Now we are fighting to preserve as much as we can of the quality of our education programs."

The shortened school days—45 minutes were cut from programs twice a week—was an economy measure tied to the settlement of last fall's weeklong teacher strike.

Since then, the State Board of Regents has established minimum requirements for the length of school days—five hours in elementary schools and five and half in junior highs. The city's junior highs will fall short of the minimum on shortened days.

The City Board of Education has requested an exemption from the new standard, but State Education Commissioner Ewald B. Nyquist had not yet announced his decision.

However, Chancellor Anker said yesterday, "We really have no option. Without additional money, we simply have no choice but to shorten days."

He said that the system's operating budget $2.7 billion, was "more than $250 million short of meeting basic needs."

The financial crisis has hurt the school system's efforts to expand programs for handicapped children.

Dr. Helen M. Feulner, the executive director in charge of special education and pupil personnel services, said that the division's budget was still $22 million short of what was needed, even after the Board of Education added $15 million to the city's allocation.

The lack of sufficient funds, she said, has forced the system to drop 581 of last year's staff of 5,274 special education teachers. All told, the system will serve 41,000 handicapped pupils this year, compared with 26,000 a few years ago.

Among the reductions being instituted is a cut in the time a home instruction teacher will spend with each child. Homebound elementary-level pupils will now receive two and a half hours of personal instruction a week instead of five, as before. Those on secondary level will receive five hours a week, not 10. The lost teacher time is supposed to be made up by radio, television and tape-recorded instruction.

Last week angry teachers and parents protested this move, asserting, as some placards said, "Handicapped children need teachers, not television."

FURTHER AUSTERITY IS FEARED

"It looks like a year of suffering for the city and its pupils and teachers," said Albert Shanker, the president of the United Federation of Teachers. But he warned that unless the city got help that eased the financial crisis, the situation would get still worse and there would be more layoffs next year.

"Two and a half decades of educational progress," he said, "have been wiped out by the cutback.

"Deputy School Chancelor Bernard R. Gifford also said that more layoffs were inevitable unless the system got a fairer share of city funds and state aid.

Jean De Pesa, president of the United Parents Association, said that parents were aware of the city's fiscal plight "but they refuse to see the school system destroyed by dirty cafeterias, litered school yards and a lack of bold action."

She said that the real school crisis was being brought on by "a lack of leadership" and "a lack of creativity by city and school authorities.

ONE-HUNDRED SEVENTY THOUSAND LOSE TRAVEL AID

As another economy measure—some of the savings will go to special education—the Board of Education recently discontinued free or reduced-fare privileges for some 170,000 children who use public transportation to go to and from school. Many of these youngsters live relatively short distances from school. No handicapped pupil or child transported for reasons of integration was affected.

Thirty-two school buildings were closed recently to save funds through better use of space. Some were "ghost" buildings that had long ceased serving pupils but still incurred maintenance costs. However, others were in active use but perhaps underutilized, and their closings have become matters of local controversy.

Six new elementary schools and two new intermediate schools will be opened to pupils for the first time today. The new facilities, involving $63 million in construction costs, are Public School 142 and P.S. 124 in Manhattan; P.S. 182 in the Bronx; P.S. 346, P.S. 398 and Intermediate School 391 in Brooklyn; and P.S. 57, P.S. 69 and L.S. 72 on Staten Island.

THE JULIUS SILVER INSTITUTE

Mr. RIBICOFF. Mr. President, on July 22 of this year the Julius Silver Institute for Biomedical Engineering Sciences at the Technician Institute of Technology in Haifa, Israel, was dedicated.

The man for whom this institute is named, the founder of the institute, is a dedicated man and a good friend of mine.

Julius Silver has long been active in educational and social service causes. He has been a trustee of New York University, of the Jewish Theological Seminary, and a director of the Albert Einstein Foundation for Higher Learning.

The dedication of the Institute building represents the fulfillment of a dream Julius Silver has had since he founded the Institute in 1968.

I ask unanimous consent that Mr. Silver's remarks at the dedication be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Dedication Ceremonies of the Julius Silver Institute for Bio-Medical Engineering Sciences July 22, 1976, Haifa, Israel: Address by Julius Silver

We have assembled to dedicate this imposing structure designed as a center for instruction and research in bio-medical engineering. For some of us this is the long awaited day when an unreal but an insistently repetitive dream has achieved recognition and reality. For some of us, the reality began when this academy of learning began to function as a gallant pioneering undertaking. For all of us, this is a day of celebration which marks the end of the beginning, the end of the infancy of this Institute. There is no longer any doubt as to its mission or to its viability—the only question is how well it will perform.

What is bio-medical engineering, what is the mission of this Institute and how did it evolve?

Bio-medical engineering may be defined as the use of engineering technology in support of medical and life science objectives. Engineering technology involves adaptations of laboratory phenomena for repetitive uses. The engineer traditionally designs and maintains the mechanisms which put science to work.

In an age of specialization, the use of isolated products of research often is delayed until other disciplines discover their availability. Specialization without the energizing interplay of collaboration often results in duplication and in waste. In an age of specialization, it is necessary to create educational and professional mechanisms to encourage interdisciplinary cross-pollination. It has been said that the best way to know a thing is in the context of another discipline. Interchanges between chemists and biologists in the past have led to the birth of Biochemistry. Similar cooperations have provided the impetus for Bio-physics and for Bio-mathematics. All of these collaborative activities have looked to the engineering profession for the technology of applied uses and of mass production.

Have the life sciences and particularly the science and practice of medicine received the full benefit of technological input?

Unfortunately, in the past, the medical practitioner has too often conceived of the engineer as a mechanic or craftsman rather than as a full-fledged partner in the search for improved instrumentation or other specialized medical needs. Consequently, capable engineers, even those seeking humanitarian outlets for their talents, were not motivated to undertake or to participate in major projects in support of medical objectives. The remedy for this difficulty will not be found in dialogues for articulating grievances nor even in sporadic collaborations between the engineer and the medical researcher.

The solution depends on recognition that the practitioners of these two disciplines are separated by different orientations due to their training as well as by attitudes engendered by their traditional work habits. Only continuous exposure to each other and to common objectives will bridge the gap.

Dr. J. H. U. Brown, Director of the National Institute of Health Grant Program in Bioengineering, has stated:

"The addition of simple biological knowledge to an engineer or of simple engineering concepts to a biologist is not sufficient even for those engaged in such cooperative effort. The person so trained is still a technician unable to think in conceptual terms in the field in which he is not primarily trained. This is demonstrated by the fact that many engineers could design an apparatus if given a clear statement of its requirements. However, the biologist cannot formulate his needs in engineering terms and the engineer cannot understand the design in biological terms."

An institute for bio-medical engineering is the instrumentality that provides the equipment, the literature and the environment in which professional interaction is natural, confident and mutually satisfying. Such an institution fosters continuous mutual involvement in particular projects for the development of medical devices, for the management of disease, for the reduction of disability, for the design of ecological and statistical systems and for innovation in the diagnostic and therapeutic procedures for the delivery of improved health care.

How do representative professionals in medicine and engineering appraise the prospects for bio-medical engineering?

Dr. Lewis Thomas, Dean of the Yale University School of Medicine, in an address before the U.S. National Academy of Sciences Institute of Medicine, noted that:

"Our time for application of science on a major scale is approaching rapidly and medicine will be totally transformed when it happens." . . .

"It is a curious position that we are in today, poised as we are between the old world trial-and-error empiricism, superstition, hunch and resignation to defeat and the new world, just ahead of *hard information and applied science.*"

Speaking for the Engineers is Dr. Robert W. Mann, of the Department of Engineering at MIT in Cambridge:

"The physician must cope with his responsibilities by acquiring and applying a vast array of information, invaluable, but largely qualitative and unstructured, describing the normal and pathological state of man.

"In contrast, the physical scientists or engineer, through education and experience, is convinced that physical reality conforms to a quite limited set of very general principles which explain natural phenomena and direct the synthesis of man-made artifacts."

"Clearly, advances . . . in medicine and health delivery generally, must draw upon the respective talents of these 2 populations, certainly not as protagonists for their own proprietary knowledge and problem-solving approaches, not even as congenial, congruent practitioners each applying his own trade to a common question, but rather as synergistically linked collaborators. To relate effectively both must participate in problem definition and formulation and the inescapable iterations which lead to solution. Through a joint modus operandi both must identify with and assume responsibility for outcome. The collaborative research effort becomes a mutual learning experience, which identifies problems and defines attacks which never would be realized under a less intimate relationship."

The proposal to create a bio-medical engineering institution at Technion was first publicly advocated in 1968. At that time few engineering institutions anywhere in the world were programmed to encompass technological applications for life science objectives. Certainly there was no such institution in the Middle East, and we believe, there is none today outside of Israel. However, there were faculty members at Technion who harboured and cherished the prospect of an interdisciplinary partnership between engineering and the life sciences. Foremost among those faculty members was the prestigious Professor Franz Ollendorf, the distinguished teacher and innovative electrical engineer whose endorsement of the 1968 proposal provided essential academic support for its adoption.

My friend, Mr. David Rose, the Honorary President of the American Society for Technion, whose presence here today, honors our cause, and whose passionate devotion to Israel and to Technion is reflected in numerous benefactions, enlisted the collaboration of the highly regarded engineer, Alexander Goldberg, then the President of Technion, whose advocacy and leadership enormously expanded the scope of the Institute. Alexander Goldberg discerned instinctively that the concept of bio-medical engineering would be received with great interest in the academic circles of Israel and that there was an enormous latent and unsatisfied appetite in the engineering community for greater involvement in the life sciences. Contemporaneously, the professional medical community of Israel, reacting to local patient needs and to advances reported in international medical journals, welcomed the opportunity to enlist the engineering profession in ongoing collaboration for the improvement of health care.

Alexander Goldberg tells us in his own words how the Institute acquired hospital facilities:

"In 1970 the Minister of Education formed a committee to determine the future of the Haifa Teaching Hospital. At the time the large Rambam Hospital provided only the clinical teaching and accepted students who had finished their preclinical training abroad (mostly in Italy).

"The Technion Administration pressed the point that the medical man of the 21st Century would have to be more science and technology based, and that therefore the Technion was the right Institute to incorporate the Medical School and provide the necessary preclinical training which must include the Engineering Sciences. * * * The fact that the Technion was already engaged in bioengineering clinched the argument and the Medical School was absorbed into the Technion orbit. This merger is the most interesting development of Israel's university life and is being closely followed in the world of higher learning."

This institutional marriage represented an achievement of great administrative and diplomatic skill exercised by Alexander Goldberg and by Dr. David Erlik, the head of the Rambam Hospital in Haifa and Dean of the Medical School. Their efforts resulted in the creation of a unique institution which encompassed, within its physical and its administrative unity, all the component elements of biomedical engineering; to wit: a service hospital, medical and engineering faculties and student bodies, laboratories and equipment for research, specialized scientific libraries and other educational facilities.

During the infancy of the Bio-Medical Engineering Institute, the faculty representatives of Technion, who acted as directors, as protective guardians, as sponsors and as guides, were Dr. Zvi Karni, who had a particularly lonely vigil, then Dr. Mordecai Diskin, and later Dr. Yoram Lanir.

In 1971, Professor Mordecai Diskin of the Electrical Engineering Department at Technion was appointed the director of the Institute, thus assuring that the Institute would, during its formative period, retain its independence as an engineering discipline specializing in the application of technology to the life sciences. Professor Diskin served with distinction for four years and when his assignment was completed his successor was Dr. Yoram Lanir, who guided the Institute through the period when temporary physical facilities became operational, and during the period when an international gathering of scientists under the chairmanship of Dr. G. F. Inbar participated in a symposium at Technion which signalled the emergence of the Institute on the global scene as a unique facility of great promise.

In 1971, arrangements were made for the construction of a suitable physical center for the Institute, and after conducting architectural competitions the firm of Jacob and Ora Yaar, a husband and wife partnership, were chosen as the architects of the structure which we are dedicating today. When Technion was appraising architectural plans for this structure, the need for distinction, even in its appearance, was recognized as an essential ingredient. A fledgling academic enterprise should be motivated by high standards of excellence in every area of its activity, including its public posture. History records the birth of an ideology in the caves and the wilderness of the Middle East, the influence of which grew with the distinction of its cathedrals.

Do I reflect the reactions of this audience when I suggest that this building, this location, this facade, and the general impression created eminently meet aesthetic standards appropriate for this enterprising discipline?

Many people have made contributions, in various degrees, to the birth and the development of the Institute. A number of men have made contributions of such significance as to influence the character and viability of the Institute. One of these men is Alexander Goldberg, another is General Amos Horev, the President of Technion, and another is Dr. Ami Carmon.

General Horev became the President of Technion after a distinguished military career. Among the many aspects of his service record was his leadership in the research and development functions of the armed services, in the management of huge capital facilities and of military manpower. As a newly-initiated President of Technion, General Horev enthusiastically endorsed the mission of the Bio-Medical Engineering Institute. He formulated and defended its claim to priorities in certain influential circles, and he accelerated the process of creating the physical facilities essential for a bio-medical engineering center of distinction. Another valuable contribution was the care and the patience he exercised in the selection of the Institute's managing director. When he learned that Dr. Ami Carmon might be available, General Horev succeeded in persuading Dr. Carmon to accept the appointment as director.

Dr. Carmon is a distinguished scientist, famous for the scope and range of his scientific interests, his versatility and his resourcefulness in innovation. He received his medical degree at Hadassah Hospital in Jerusalem. He received his Masters Degree and his Ph.D. at the University of Iowa as a specialist in psychology and neurology.

Having accepted the post of director of this Institute, Dr. Carmon spent most of his waking hours in the multitude of Institute needs, the teaching, selection of staff, managing, directing, lecturing in Israel and in the U.S., and in involving himself in every facet of the Institute's present and its future needs and objectives.

I request the privilege of offering a layman's observation about the young scientists already engaged in various bio-medical engineering projects at this Institute. These men, physicians and engineers, are dedicated, they are highly innovative, they are driven by the scope of the opportunities in the hitherto unexplored portions of the scientific world that now beckon their talents. They demonstrate in their work the vast potentialities which technology, hitherto available but inadequately employed, can produce in medical instruments of greater sensitivity; for measuring coronary and other physical functions, of anatomical analysis of human tissue and their artificial counterparts, of procedures for earlier diagnosis of incipient diseases, and a host of other devices and methodologies which will radically alter the practice of both medicine and engineering.

I am delighted now to pay my respects to the Women's Division of the American Technion Society under the leadership of Mrs. Pearl Milch. They became early converts to our mission; they have labored with energy, grace and distinction in spreading the gospel and in supplying many of the essential ingredients for the work of this worldwide community enterprise.

It is our hope that in this country, in this atmosphere of high intellectual and scientific content, there may develop from this day of dedication, a significant contribution to the economy of Israel and to the health of people all over the world.

CHICAGO POLICE DEPARTMENT HIRING QUOTAS REMOVED

Mr. PERCY. Mr. President, I am pleased to report that the city of Chicago, the Chicago Police Department, and Federal District Court Judge Prentice H. Marshall have reached an agreement on minority hiring for the city's police department. This agreement led Judge Marshall to suspend the racial and sexual quotas on hiring he had imposed on the department earlier this year.

In 1970, the Afro-American Patrolmen's League filed a complaint against Chicago and its police department, charging discriminatory hiring practices. The Department of Justice later joined the League in this suit. At one point during the lengthy judicial proceedings extending over 5 years, Judge Marshall withheld Federal revenue-sharing funds from the Chicago Police Department in an effort to secure its cooperation. But despite Judge Marshall's extensive findings and his lucid explanations in written opinions, the city refused to change its hiring practices.

Given this attitude, the Chicago Tribune concluded in a January 7, 1976, editorial that:

> Judge Marshall and the Federal Government could not win . . . If he didn't tell the city what it should do, he was being too vague; if he did issue orders, he was being despotic. The city, in short, brought about and maintained a situation in which no reasonable solution was possible . . . [I]t took an inflexible position which forced the court to try to do the impossible.

Judge Marshall reluctantly imposed a quota system for hiring on the police department in November 1974, and expanded the court's control over the entire matter in an opinion delivered on January 5 of this year. He required that 42 percent of those hired be white males, 42 percent be minority males, and 16 percent be females.

Now after 8 months, Judge Marshall has lifted his order, saying that the city has taken positive steps to correct past discrimination in police hiring practices. He stated that the department may now hire new officers on the basis of their ranking on the 1975 police department eligibility roster. On this list, about half of the individuals are white males, about one-quarter are minority males, and about one-quarter are females. Judge Marshall noted that the sexual and racial makeup of the list is quite close to that of the original applicant group.

I am delighted that a solution has been found to what appeared to have been an intractable problem. Judge Marshall and city officials both showed commendable flexibility in the final resolution of this situation. As I have stated many times in the past, I abhor the use of quota systems whether they be based on race, religion, sex, ethnic origin, or any other irrelevant criteria. But after reading Judge Marshall's opinion written last January, I did appreciate the dilemma before him and understand his duty to impose such a system on the Chicago Police Department in order to enforce the law.

Since I share Judge Marshall's obvious reluctance to use quota systems, I should add that, in my view, they should be imposed only as a very last resort.

Mr. President, I ask unanimous consent that a September 9, 1976, editorial in the Chicago Tribune, which explains Judge Marshall's latest decision in this area and points out the salutary effect his actions have had on the city's hiring practices, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

THE CAST COMES OFF

> Federal Judge Prentice Marshall's lifting of the hiring quotas he imposed on the Chicago police department is a long-awaited and welcomed event, like having the bone doctor take a cast off your arm. The cast undoubtedly was needed, but the relief of losing it is immense.
>
> Judge Marshall said the quota system he ordered in November, 1974, was no longer needed because the city is actually doing something to stop discriminatory practices in hiring and promoting police officers. Instead of hiring on the judge's rigid formula of 42 per cent white male, 42 per cent minority male, and 16 per cent female, the police department may now hire from the pool of 1,091 applicants on its 1975 eligibility roster.
>
> The makeup of that roster differs from Judge Marshall's specifications: It is 50.2 per cent white males, 25.8 per cent black and Spanish-surnamed males, and 23.9 per cent women. But that proportion meets a genuine, non-arbitrary test. It closely matches the ratio of whites, blacks, and women who took the written test to become police officers in April, 1975.
>
> In other words, those who passed the test are a pretty accurate sampling—by race, ethnic grouping, and sex—of those who took it. That in itself is convincing proof that the test was fair. Two professors at Ohio's Bowling Green University developed this test specifically to get rid of the unintentional "slanting" of questions to favor one group over another, and the first results indicate they succeeded. [A separate question is how good the test is in producing capable police officers; but as the judge noted, that question can be answered only by their performance over the next three years or so.]
>
> And since members of differing races and sexes passed the exam in roughly the same proportions as they took it, Judge Marshall's decision is doubly sensible. It means that policemen's jobs will be allocated on the basis of interest, initiative, and the desire to be a policeman. And this, it seems to us, provides a fairer and more accurate measure of who is likely to make a good policeman than either arbitrary quotas or quotas based on total population.
>
> Right now the outcome seems to please everybody. Judge Marshall can withdraw an arbitrary quota system that nobody liked, including himself; The Afro-American Patrolmen's League, which brought the original complaint of discriminatory hiring in 1970, has won a clear victory; and the city can get the federal law-enforcement funds that were withheld until it satisfied the Justice Department's fair-hiring rules. Finally, Judge Marshall's ruling headed off an absurd move by the department to bar an applicant's arrest record from consideration in determining his eligibility.
>
> One area of doubt remains. This whole exhausting struggle came about only because of the city's iron resistance to making any changes in its hiring procedures. City attorneys used every delaying tactic they could think of to fight off compliance with federal rules and still get federal money. It would be pleasant to think this attitude has changed, but there are no guarantees that the city—after hiring 200 officers from its present roster—won't go back to stonewalling again.
>
> We can only advise Mayor Daley and city officials not to go down that road again. It is a long, rocky detour, and it comes out in just the same place.

THE MEANING OF GENOCIDE

Mr. PROXMIRE. Mr. President, genocide is a diabolical crime perpetrated against man throughout history. But prior to the horrible crime against humanity committed by Nazi Germany, little action had been taken to prevent or punish it.

Raphael Lemkin, a Polish lawyer who escaped when the Nazis invaded Poland in 1939, first developed the word "genocide" from the Greek word "genos" meaning race, nation, or tribe and the Latin suffix "cide" meaning killing. A resolution adopted by the United Nations General Assembly in 1946 declared:

> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.

Nevertheless, there are critics who argue against Senate ratification of the Genocide Convention, claiming that the term "genocide" is still ambiguous and often erroneously interpreted. I believe a short description of the Treblinka camp will eliminate any confusion as to the real meaning of genocide:

> Before the killing, the hair of the women was shorn and then the remaining belongings of the candidates for execution were pillaged. The hair was placed in sacks and sent to Germany. They were ordered to undress and then forced into the gas chambers to the accompaniment of beatings and blows from rifle butts. They were herded inside naked, with their hands above their heads, so that more people could be squeezed into

the chambers. The hatch was then closed, the engine was turned on and the poison gas pumped in to kill them. When the doors of the chambers were open and the gas fumes dispersed, gold teeth were extracted and the bodies were then flung into pits.

The evil of genocide, often lost in the arguments of formal hearings, is painfully obvious in its effects on human life. We must act now to outlaw this heinous crime.

RESOLUTION FROM KENTUCKY GENERAL ASSEMBLY

Mr. FORD. Mr. President, I send to the desk, Senate Resolution No. 14, a concurrent resolution passed by the Commonwealth of Kentucky General Assembly during its regular 1976 session. This resolution urges Congress to enact legislation to exempt Kentucky teachers' retirement income from Federal income tax.

Mr. President, I recognized the inequities of the tax laws on individuals covered by State retirement systems, but not covered by social security. Adjustments in the portion exempt from Federal income tax had not been made for 12 to 14 years even though the amount of social security payments had increased drastically. Accordingly, I introduced an amendment to the Tax Reform Act of 1976 (H.R. 10612) to correct this inequity.

During deliberations, I was convinced that the tax credit for the elderly substantially corrected the problem. The answer will depend upon periodic adjustments in this credit to reflect cost-of-living increases. In a colloquy, I was assured that it was the intent of the Finance Committee to propose such increases to avoid the current situation in the future.

The resolution does emphasize a "wrong" in our tax laws. But, I believe that it has been substantially corrected by congressional action on the Tax Reform Act of 1976 through the tax credit for the elderly. I urge the Finance Committee to review the cost of living index on a regular basis and propose adjustments to retain the present buying power for this group of dedicated and deserving citizens.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

A concurrent resolution calling on the United States Congress to exempt Kentucky teachers' retirement checks from federal income taxes which would provide for an improved retirement system.

Whereas, the financial security of the 10,803 teachers receiving benefits is now threatened by inflation and the rising cost of living; and

Whereas, the exemption would increase monthly benefit payments which now average only three hundred and seven dollars per month; and

Whereas, teachers being historically underpaid, salaries would be significantly enhanced by the exemption. Now, therefore,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Congress of the United States is hereby called upon to exempt Kentucky teachers' retirement checks from federal income taxes for the improvement of the teachers' retirement system.

Section 2. That the Clerk be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress.

DR. BEATRICE REUBENS TESTIFIES BEFORE JOINT ECONOMIC COMMITTEE ON YOUTH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, on Thursday, September 9, the Joint Economic Committee held a hearing on the problem of youth unemployment, one of the most pressing problems our Nation faces today. This hearing begins an active inquiry by the committee into the causes and effects of high youth unemployment rates and what Congress can do to solve the problem.

One of the outstanding witnesses who appeared at the hearing was Dr. Beatrice Reubens, professor of economics at Columbia University in New York City, and one of our Nation's experts on the youth employment problems and programs in the other advanced industrialized economies of Western Europe, Japan, and Australia.

In her prepared statement, Dr. Reubens began by pointing out that many Western European countries which enjoyed low youth unemployment rates in the 1960's now have begun experiencing serious youth unemployment. This problem is not ours alone. The causes cited for rising youth unemployment by European experts are remarkably similar to those cited for our problem—an increasing number of young people entering the labor market, increased competition from women whose labor force participation rates have risen, changes in technology that have eliminated many youth jobs, declines in industries which have traditionally employed large numbers of young people, and declines in apprenticeship programs.

Because the United States was the first industrialized economy to face the problem of high youth unemployment, many of the European countries have patterned their own youth employment programs on models first developed here, but with some outstanding improvements that we should pay very close attention to as we look for ways to achieve a real and lasting solution to high youth unemployment in this country.

The most important difference mentioned by Dr. Reubens is that the European countries do not wait until a crisis has occurred before developing and implementing programs to help their youths. Among the outstanding features of European programs are that they are prepared during prosperous periods and are ready to go into effect promptly as economic indicators show declines; that there are a wide variety of measures to meet the needs of a diverse unemployed youth population; and that provisions for reducing or closing down programs are tied to changes in the economy and programs are not ended simply for financial reasons.

In addition, the European programs pay very close attention to training supervisors for youths enrolled in job programs and to allowing plenty of time for a program to be organized and tested.

Dr. Reubens' testimony is a gold mine of information and ideas on youth unemployment, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

YOUTH UNEMPLOYMENT AND THE TRANSITION FROM SCHOOL TO WORK

(Statement by Beatrice G. Reubens, Conservation of Human Resources, Columbia University)

Some perspective on American problems of youth unemployment and transition may be obtained from an examination of the experience, attitudes, and programs of other countries, making due allowance for the economic, demographic, social and political differences among the countries.

Many industrialized countries which enjoyed low youth unemployment rates and low ratios of youth to adult unemployment in the 1960s now have discovered serious youth employment problems. While the recession which began in 1974 may be the major new factor in some countries, others fear that longer-run forces are at work. It is no longer valid for American analysts to cite favorable youth unemployment rates of other countries or to point to institutions which we lack as causes of their success. Those institutions either have been undermined as economic development has followed American patterns, or else they were not accurate explanations of the earlier low unemployment.

As other countries seek to understand their new youth unemployment, one is struck first by the recurrence of the same explanations from one country to another and second by the applicability of the explanations to the United States. Of course the timing, sequence, and severity of the specific causes vary from country to country, but a list of the reasons currently given abroad may help us to understand our own development of a persistent youth employment problem in the 1960's, before other countries and in keeping with our precedence in economic and social trends. The leading causes cited are:

1. Pressure of numbers of young people coming on to the labor market as a result of demographic trends. Prolonged education merely postpones the problem and shifts it to higher occupational levels.

2. Competition from women whose labor force participation rates have risen sharply.

3. Slowdown in the increase of productivity rates. The completion of European post-war reconstruction may mark a new economic period for those countries.

4. Changes in technology and the scale of operations which eliminates or reduces jobs for youth.

5. Decline of industries which used a high proportion of young people and could absorb those with low academic ability.

6. Protection of the existing work force through employment security legislation or agreements to the detriment of new entrants.

7. Narrowing of the actual wage and earnings differentials between youth and adult workers, with the consequence that employers feel young workers are too costly. The fact that this wage movement has occurred in countries which have no legal minimum wage is of crucial significance for the argument that a youth differential in the American minimum wage would lead to an increase in employment.

8. A decline in apprenticeship vacancies relative to total employment in the countries which had highly developed this method of easing the transition from school to work. The decline appears to be due to technologic and cost factors primarily.

9. Youth attitudes toward work. Selectivity about the type of job, the conditions of work (hours, quality of supervision, pressures, opportunities for participation in decision-making, physical conditions), and the balance between work and other aspects of life have raised conflicts between youth and employers.

10. Legal and other barriers to youth employment in regard to age, permitted hours of work, other protective provisions, licensing, etc. While this factor is mentioned in almost every country, its actual impact is poorly documented.

While some of these factors may be amenable to change and others, especially the demographic pressure, will decrease in the years ahead, there are powerful trends in the economy and labor market which set youth at a disadvantage against other age groups. To counter these is a formidable challenge to a full employment policy, especially in the U.S. or Canada which have such a rapidly growing labor force. It is not generally realized that the countries which earned American admiration for maintaining full employment and very low youth unemployment before the present recession had, except for Australia, a much slower growth of the total and youth labor force, even when foreign workers are included, full employment was easier to achieve.

Another way in which foreign countries may show less youth unemployment than the United States is by exclusion from the statistics of young people who are in full-time education and who seek jobs during the school year. They are counted neither in the labor force nor in the unemployment totals. The proportion of young people at school who are also in the labor force tends to be lower in other countries than in the United States, in part because their studies are more demanding and in part because many receive government study grants which prohibit or limit work while studying.

Since a large proportion of teenage unemployed youth in the United States is in school, one policy approach might be to draw a sharp distinction between in-school and out-of-school youth in statistics and programs dealing with the labor force, employment and unemployment. Given the dimensions of the American youth unemployment problem, it could be helpful to relegate the in-school youth to the education authorities who should have programs for paid work-study, community service and other activities yielding some income. Not only will this decrease the competition for jobs between in and out-of-school youth, it might lead to more productive use of time and better preparation for work on the part of in-school youth. At the same time, employment programs can be concentrated on the out-of-school youth, as is the practice abroad.

ATTITUDES TOWARD YOUTH UNEMPLOYMENT

Foreign countries tend, on the whole, to regard youth unemployment as a more serious social ill than we do, especially if they have been accustomed to a rapid absorption of each cohort of new entrants. Without giving youth precedence over adults, they show concern over three aspects of youth unemployment:

1. Difficulty in obtaining a first job or in remaining in employment in the early years of labor market experience is seen as damaging to the individual, a bad introduction to working life, and unfavorable to the development of careers. This approach leads to a concern for all youth unemployed and the design of many programs for individuals rather than disadvantaged groups.

2. The movement of young people into the labor force is regarded as the most important single way in which the labor force and its average level of skill are renewed and developed. If cyclical or secular developments reduce the intake of new entrants, the nation and the economy lose by youth unemployment. Programs are thus in the national interest.

3. A rise in youth unemployment is feared because of its political and social consequences—street demonstrations, strengthening of political movements on the left or right, as well as increases in delinquency, crime and other costly outlets.

It might be said that the U.S. has given little attention to the first two aspects in recent years and has largely limited its efforts to countering the social dynamite of unemployed minority youth in inner cities. Without discounting the significance of this group, it can be said that the measures devised to cope with their problems have been inadequate and at the same time the overall provision for needy unemployed youth—the vast majority of whom are white—has been minimal.

RECESSION PROGRAMS FOR YOUTH

There are no ingenious new programs anywhere else that we do not know about from our own experience, which other countries study for their programs. There are some foreign approaches that we probably would not want to adopt—for example, paying unemployment benefits or assistance to those who never have worked since leaving school, or compelling employers to take on trainees, or fostering early retirement with the proviso that a young person should be taken on as a replacement.

National policies to cope with youth unemployment have established separate programs for youth because of the special needs of new entrants, and these programs have sometimes been extended to include other young people. In addition, many manpower programs have no age restrictions.

In the countries whose unemployment programs seem outstanding, the following characteristics appear significant:

a. Programs are prepared in prosperous periods and go into effect promptly as economic indicators show declines.

b. General monetary and fiscal measures are well integrated with specific unemployment measures.

c. Within the specific unemployment measures, special programs for youth occupy a position which reflects the social priority attached to this segment of the population.

d. A sufficient variety of measures and large enough programs are provided to cover the needs of a diverse unemployed population.

e. Provisions for reducing or closing down of programs are set as a response to changes in the economy, and programs are not ended simply for financial reasons.

f. A set of basic programs for training, mobility, income maintenance and other measures is kept permanently in place with cyclical variations in the utilization.

Comparing the actual programs in the U.S. with those of other countries in the present recession, one observes not only a greater variety abroad but also relatively less dependence on public service employment. Instead, one of the newer and most widely used types of measure in both all-age and youth specific unemployment programs abroad has been the subsidy to encourage training and employment or combinations of both. Subsidies have been offered to private employers and to various levels of government in an effort to encourage the same intake of young trainees, apprentices and workers as before the recession. Such programs also are advocated for their contribution to output at little cost above the income maintenance payments.

One specific suggestion which emerges from recent programs for youth in other countries is the subsidization of employers who normally hire apprentices in programs registered with the Department of Labor. Such subsidies would be granted to employers who are willing to hire extra apprentices and prove their ability to offer the full, prescribed training in occupations where additional craftsmen will be needed. The introduction of such subsidies might lead to a more permanent form of financial support for apprenticeship. Both the official connections of registered apprenticeships and the existence of programs to open apprenticeship to minority groups and women make this a suitable kind of youth training to subsidize, although it is likely to be a small program at best.

YOUTH TRANSITION PROGRAMS

To a surprising extent various nations are following a parallel course in appraising and prescribing for the structural problems affecting at least a portion of their teenagers. The dissatisfaction expressed in the United States with high school education and the consequent attention to Career Education has not been repeated precisely elsewhere, but other nations are seeking to bring education into closer proximity to the world of work, to inform young people about the options and conditions they will face, to combine school and the workplace, to bring general and vocational education into harmony, and to devise new forms of education/training for the segment of youth which will not or cannot master the basic cognitive skills. The last group, varying in size from country to country, is not a new phenomenon, but it causes increasing concern as the economy provides fewer and fewer jobs for such youth. Special programs have been instituted for remedial work and second-chance opportunities, but it is too early to appraise them.

In the very best of European programs to build bridges between education and work, certain elements particularly contribute to effective operations. The legislature sets forth the objectives, guidelines and financing, but leaves to executive agencies the working out of details. The legislation provides for a delay in the start-up of the program, as much as four or five years, in order that adequate preparation may occur. A combination of the education and manpower agencies does the overall planning, establishes the responsibilities of the various agencies at all levels of government and sets up advance training or retraining courses for those who will deliver the actual services. Such advance training is a key factor, too often neglected in American social programs. After the preliminaries are well under way, the new program is introduced gradually, starting in one part of the country or one type of school and expanding to national coverage as trained personnel emerge from the special courses. The entire program is reviewed after it has been in operation for a stipulated number of years, but modifications may be made by the executive agencies without recourse to legislative action within the experimental period.

MEXICAN INDEPENDENCE DAY CELEBRATIONS

Mr. TOWER. Mr. President, I am very pleased to call to the attention of the Senate the preparations being made and the celebration already being held in honor of Mexico's Independence Day.

September 16 is proudly referred to by Spanish-speaking people everywhere as el Diez y Seis de Septiembre. On this date in history, 166 years ago, Father Miguel Hidalgo y Costilla issued his famous "Grito de Dolores" or the call for freedom from Spain's rule. Since that day, the people of Mexico have commemorated September 16 as Mexican Independence Day.

Mr. President, it has been less than 3 short months since we observed with all manner of patriotic tributes and activities the 200th anniversary of our own Nation's call for freedom and independence. During our Bicentennial Year, we have remembered and honored those courageous men and women who banded together in the fight for freedom and who braved overwhelming odds to establish an independent and sovereign nation.

On September 16 we need only to reflect on the significance of our own Fourth of July to better understand, perhaps, its historic meaning to the people of Mexico. This date is equally important to countless numbers of our own citizens who live in every part of our country and who are of Mexican ancestry and heritage. In a unique and splendid way, the Spanish speaking of our country, particularly those who are of Mexican ancestry, will enjoy the opportunity to observe and commemorate for the second time this year the deeds of another valiant people which also led to independence—the independence of Mexico.

Mr. President, el Diez y Seis is traditionally observed with all of the splendor and color of our Fourth of July. The common quality that leads men and women to fight for freedom and dignity, however great the cost, is also commemorated on this important day. I urge my colleagues to join with me, therefore, in extending a special salute to the people of Mexico and to all people who treasure liberty and human dignity.

AMENDMENT TO THE FEDERAL AVIATION ACT

Mr. CHURCH. Mr. President, I am today asking to be added as a cosponsor of S. 3684, a bill to amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases.

I have been urged by State and local officials of Idaho, the Greater Boise Chamber of Commerce, Boise State University, and others to support this measure.

Often it seems that we regulate ourselves into a corner and, as a result, fail to provide services that are needed by the public. This measure will provide the needed flexibility to deal with special cases—such as that of Federal Express.

Federal Express is a cargo airline that specializes in priority parcels of 70 pounds or less. The company has grown rapidly because of the critical need of many for overnight delivery of vital documents, medicines, and machine parts throughout the country.

Presently, regulations force Federal Express to rely on small Fanjets to carry cargo. Using the small aircraft is a waste of money and fuel; for example, as many as four to six aircraft are flying wingtip to wingtip between various points across the country just to meet existing demand.

If this bill becomes law, Federal Express has stated that it could and would offer lower rates, expand to additional small cities and offer additional features of service.

Mr. President, I am pleased to join as a cosponsor of this measure and ask unanimous consent that letters in support of this legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY OF POCATELLO,
Pocatello, Idaho, August 31, 1976.
Hon. FRANK CHURCH,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CHURCH: I am writing to you on behalf of the City of Pocatello in hope that this letter finds you in support of HR 14623 and S3684, as enclosed with this letter.

I feel that the benefits from the passing of these bills would be innumerable. The main advantage for the State of Idaho is obvious—citizens of Idaho have long been in need of faster, more reliable freight service. We are confident that passing such bills would fill that need and upgrade delivery services in this state. If Federal Express were free to fly larger planes to the major markets (Los Angeles, Dallas, etc.), that would release the smaller planes from those markets to additional off-line markets such as Boise, Pocatello, and Idaho Falls.

Although I realize that a great number of cities in the U.S. would be advantageously affected by such a major change in air express service, I am thinking of the citizens of Idaho when I appeal to you to support HR 14623 and S3684.

Sincerely,
JOHN C. POSTLEWAITE,
Director of Public Works.

BOISE STATE UNIVERSITY,
Boise, Idaho, August 25, 1976.
Hon. FRANK CHURCH,
Senator of Idaho,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: Recently I attended a meeting of the Aviation Committee of the Greater Boise Chamber of Commerce and listened to an exciting presentation by Federal Express representatives. This young, but highly successful, air cargo carrier has the need for certain expansion. Idaho is seriously being considered as one of the hubs for the Federal Express System if Civil Aeronautics Board regulations can be altered for expansion possibility.

You will find enclosed a copy of S. 3684 which amends modestly the Federal Aviation Act of 1958. The bill has as its fundamental objective to broaden the power of the Civil Aeronautics Board to grant certain relief by exemption in certain cases and for other purposes.

After careful questioning, it is my strong feeling that the State of Idaho would benefit economically by the passage of this bill, and I urge you to not only give this favorable consideration but also to do all within your power to expedite passage prior to October, 1976.

Your attention to this letter of positive support for passage of the bill will be greatly appreciated.

Sincerely,
RICHARD E. BULLINGTON,
Executive Vice President.

ORE-IDA FOODS, INC.,
Boise, Idaho, August 20, 1976.
Hon. FRANK CHURCH,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: Once more we find that the federal laws governing transportation are preventing carriers from providing modern up-to-date transportation services so badly needed in these times.

The regulations governing rail, truck, and air transportation seem to protect the government bureaus and employees and not the public.

H.R. 14623, a bill to revise some sections of the Federal Aviation Act of 1958, has been introduced and referred to the Committee on Public Works and Transportation. We believe passage of this bill is vital to the continual growth of the airfreight industry.

Air freight/service in our State of Idaho is very poor. The only service available is on passenger aircraft, and the present carriers such as United Air Lines, Hughes Air-West, and Western treat freight as unimportant. Idaho air freight services is just something that comes along with passenger service.

Carriers like Federal Express are the answer to our air freight problems. However, if the government continues to stand in their way, air freight service will never improve.

We would appreciate your urging passage of H.R. 14623 and voting in favor of this bill when and if it is presented in your Chamber for a vote.

Thank you.

Very truly yours,
DONALD C. FOWLE,
Senior Traffic Manager.

GREATER BOISE CHAMBER OF COMMERCE,
Boise, Idaho, August 20, 1976.
Hon. FRANK CHURCH,
Senator, State of Idaho,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: S. 3684 and H.R. 14623 are amendments to the Federal Aviation act of 1958 to give the CAB power to grant relief by exemption in certain cases.

The particular case in which we have an interest, as do many other cities, is to permit Federal Express to fly larger aircraft, thus permitting them to expand their services to Idaho and possibly establish a hub center in Boise.

Federal Express is a cargo airline carrying priority parcels of 70 pounds or less. They do not nor ever intend to carry people!

The enclosed fact sheet and copies of the bills are for your information. We urge your support of these bills.

Best regards,
NORRIS E. JOHNSON, CCE,
Executive Vice President.

TRIBUTE TO SHAYNE SENSIBAR

Mr. PERCY. Mr. President, several hundred people recently attended the formal dedication of Henri Azaz' giant artwork, "the Form Makers," on Rosary College's west campus near Chicago.

Donated to the college by Ezra Sensibar, board chairman of Construction Aggregates Corp. of Chicago, as a memorial to his late wife, Shayne, the wall is a sculptured chronicle of Chicago architecture from 1836 to 1965.

George Anastaplo, Rosary professor of political science and philosophy, gave the memorial address as a personal friend and former teacher of Shayne Sensibar, on behalf of the Sensibar family. In speaking of the late Mrs. Sensibar, Anastaplo said:

> The virtue which comes to mind, as an outsider thinks about Shayne Sensibar, is what the ancients knew as "magnificence," a greatness in the knowledge and practice of the appropriate, of the proper. I do not believe I have ever been privileged to see that virtue so fittingly exemplified as in her life. Indeed, upon thinking about her and about her life, I believe I have learned something about the virtue of magnificence I might never have learned otherwise. . . . Shayne Sensibar's life continues to be instructive, as will be this mural and garden dedicated today in her memory.

Many of the buildings portrayed on the wall were created by Chicago's most famous architects, including Adler, Sullivan, Frank Lloyd Wright, and Mies van der Rohe.

The Azaz wall is a wonderful contribution to the Rosary west campus and will become one of the Chicago area's most important artistic attractions. It honors and memorializes a great citizen of our community.

POTATO FUTURES

Mr. CHURCH. Mr. President, recently the Commodity Futures Trading Commission has sought to alter the Idaho potato futures contract. The Commission has held hearings in Boise on August 30 and heard from the potato growers, shippers, and processors. The people of Idaho are very concerned that this new proposal will lump all potatoes together into a "Western" contract which will include States from as far east as Wisconsin and Michigan.

The Boise Statesman printed an editorial on September 5 concerning this problem which succinctly stated the objections of the people of Idaho. I ask unanimous consent that the editorial and also my remarks prepared for the Commission's hearings be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Boise Statesman, Sept. 5, 1976]

Hands Off Our Spuds

Idaho farmers have worker for generations to make Idaho potatoes a household word. Now, Johnny-come-latelies are trying to get in on the act.

Idaho potatoes have traditionally been considered superior. You find them on menus from Vermont to California, even in foreign countries. Much of this is due to promotional efforts originating in Boise, Pocatello and other Idaho towns.

Now, Washington, Oregon, Colorado, Wisconsin and Michigan are trying to cash in on this. They want their potatoes included in the Idaho potato futures contract, which gives Idaho farmers alone the right to sell potatoes in the future at a previously arranged price.

Idaho farmers can "hedge" for the future by being guaranteed a certain price. If the market price rises above that price by the time they have agreed to sell, they don't make as much as if they had gambled on the market. But if the market price falls below the arranged price, they come out winners. Security is the main advantage.

The proposed new futures contract would lump Idaho potatoes with those from other states. Gov. Cecil Andrus, Sen. Frank Church and many Idaho potato experts say this would lead to loss of the famous Idaho potato's identity.

How would Washington feel if Idaho started moving in on its apples? What would happen if Massachusetts started selling Maine lobsters or Florida muscled in on the Georgia peach market? Idahoans have a right to be upset.

It isn't as if the other potato producing states don't already have something to brag about. Michigan is famous for cars, Colorado for mountains, Wisconsin for cheese, Washington for apples and Oregon for rain. They should stick to their own specialties.

If they want to sell a few spuds, that's fine. But when it comes to Idaho potatoes, they should leave things in the hands of those who know best, the farmers who grow the real thing.

Statement of Senator Frank Church to the Commodity Futures Trading Commission, August 30, 1976

I am sorry that I cannot be in Boise to testify personally on the proposal by the Chicago Mercantile Exchange to alter the potato futures contract. But you have before you the best spokesmen that Idaho can present—the potato growers, shippers, and processors, themselves.

I appreciate very much the Commission's decision to hold hearings in Idaho on the expansion of the potato futures market. I asked Chairman Bagley to hold such a hearing, and he kindly agreed to bring along the other Commissioners to listen to the views of Idahoans who are concerned.

Although I am unconvinced that there should be any trading in potato futures, the proposal to expand the Idaho potato futures contract into a broader Western contract disturbs me very much. As we all know, Idaho produces a very famous potato, known for its quality throughout the world. Moreover, almost two-thirds of all the Russet-Burbank potatoes are grown in our State. Idaho has thus enjoyed a position second to none in the potato market.

Neighboring states, to be included in the proposed "Western Contract", neither produce the same quantity of potato, nor do they regulate their quality as strictly. Nevertheless, the Chicago Mercantile Exchange proposal would require Idaho to drop one of its two delivery points. Pocatello would be left as the single place of delivery within Idaho. Oregon and Washington, however, would each have two designated delivery points, even though they produce far fewer potatoes than Idaho.

These are some of the problems posed by the new proposal.

But a larger question remains. Many of the Idaho potato farmers have expressed a desire to simply terminate, rather than enlarge, the existing potato futures market. You will hear testimony today explaining their reasons for that position. Few potato growers or processors participate in the futures market; it is not used as a hedge. Farmers like Clarence Parr, Past President of the National Potato Council, raised the issue of termination long before the Chicago Mercantile Exchange proposed to expand the existing contract. In testimony before the Senate Agriculture Committee in 1974, he stated:

"In reviewing the minutes of meetings of the State Board of Directors of Potato Growers of Idaho, Inc., we find that in the period from June 19, 1970 to December 30, 1971, an affirmative vote in support of complete elimination of futures trading in Idaho potatoes was gained five times. On November 31, 1971, a resolution was passed by the membership at its annual meeting to eliminate trading . . . trading in potato futures, I feel, has definitely been subjected to price manipulation and has exerted detrimental influence on Idaho potato growers' price expectations."

At the time the Senate Agriculture Committee was considering the establishment of the Futures Commission, I proposed that the new Commission should be required to hold a referendum for approval or rejection of participation in commodity futures trading. Mr. Parr, testifying at the time, agreed, urging the Committee—

"To provide exclusions of the Commission (Commodity Futures Trading Commission) for the granting of trading rights on any agricultural commodity whose terms of trade specify origin or variety, unless prior producer referendum approval is gained by the board of trade who is seeking permission from the Commission to initiate or retain transaction privileges, and that identical provisions be embraced into all other legislation dealing with futures trading being considered here today."

Idaho is not alone in giving serious consideration to the possible elimination of futures trading in potatoes. The Maine Potato Council recently voted, almost two and a half to one, against such trading. This should be an issue for the growers, shippers, and processors of Idaho to decide by a referendum, and I would hope that your Commission would abide by the results of such a vote.

H.R. 71—DESERVING OF ENACTMENT

Mr. DOMENICI. Mr. President, all too often the Members of this body are called on to take positions on issues and cast votes on legislation about which the information available at the time may be incomplete or inadequate for such important purposes. We do not have the luxury of declining to vote until we are satisfied that our information is complete and accurate and that we have assessed it correctly. We simply have to do the best we can by basing decisions and positions on our assessment of the best information available at the time.

Sometimes, Mr. President, we find that our decision would have been different had we more or better information at the time a decision was required. Such is the case regarding my vote against H.R. 71 last Friday.

H.R. 71 is a bill which would extend certain medical benefits to any person who has been a U.S. citizen for 10 years who also served as a member of the Armed Forces of Czechoslovakia or Poland during World War I or II. At the time of the vote, on the basis of the best information available to me, and relying on the opposing arguments of Senators whose judgment I respect, I was impressed that this bill could generate an open-ended, or at least, an incalculable drain on the resources of the VA medical system. As we all know too well, Mr. President, that system has already been strained dangerously close to the breaking point in attempting to meet just the medical needs of those veterans who served in this Nation's armed forces.

I am now convinced that the additional load on the VA medical system would not be so great as to justify refusing its benefits to this deserving group of Americans. Although it is purely an estimate, since no hard figures are available, it appears that only approximately 40,000 persons would be eligible under the criteria set forth in the bill. Projections based on utilization experience indicates that only about 10 percent of those eligible would seek assistance, leading to an estimated increase in costs of no more than $5.6 million a year.

Surely, Mr. President, the services these people rendered to this Nation and the freedom of the world justifies such a modest expenditure. Accordingly had I the opportunity to vote again on this bill, knowing what I now know, I would gladly vote for it and urge its enactment as quickly as possible.

SUPPORT FOR THE REVISED HYDE AMENDMENT

Mr. HUMPHREY. Mr. President, recently the issue of the availability of Federal funds for abortion has created a great deal of controversy.

During debate on the fiscal year 1977 appropriations measure for the Departments of Labor and Health, Education, and Welfare, the House adopted an an amendment by Congressman HYDE which provided that—

> None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

The Senate struck this provision. The thrust of the arguments centered around the fact that this is legislation on an appropriations bill, which is contrary to the rules of the Senate. The total effects of this proposed amendment, argued its opponents, had not been fully explored—the issue of just how far the amendment would go, the effect it could have with respect to certain drugs used in cancer treatment—these and other concerns were expressed. Others have strongly questioned the constitutionality of denying abortion procedures to poor women, those who receive health care under the medicaid program, while this is legal for other women. This issue has primarily been before the courts.

The problem in my view—and I believe in the view of many who voted against the amendment—is that the original Hyde amendment went far beyond the issue of abortion itself. Those of us who voted against it were concerned because it allowed no exceptions even when the life of the mother is endangered. I could not in good conscience support such a provision.

I do, however, support and will vote for the revised amendment, which would prohibit Federal payment for abortions "except where the life of the mother would be endangered if the fetus were carried to term."

Mr. President, I fully respect the rights of individuals who seek to amend the Constitution with regard to abortion. It is a principle dear to every American that every person be free to exercise his conscience in seeking to affect public policy.

I have a deep and abiding reverence for life, and I believe that my public record fully demonstrates this. My reverence and respect extends to those yet unborn and to those at every stage of life and condition—the elderly, the handicapped, and children.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. PELL. Mr. President, I was necessarily absent from the Senate on Monday, September 13, because of commitments in my home State of Rhode Island, and on Tuesday, September 14, I was absent to attend a family funeral.

For the purposes of the record, I wish to announce how I would have voted on each of the rollcall votes that occurred in the Senate on those 2 days.

Rollcall vote No. 582: Adoption of the conference report on H.R. 13655, the advanced automotive propulsion systems bill. I would have voted "yea."

Rollcall vote No. 583: Unprinted amendment No. 443 to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "nay."

Rollcall vote No. 584: Unprinted amendment No. 444 to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "nay."

Rollcall vote No. 585: Unprinted amendment No. 446 to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "nay."

Rollcall vote No. 586: Unprinted amendment No. 450, to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

Rollcall vote No. 587: Unprinted amendment No. 451, to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

Rollcall vote No. 588: Unprinted amendment No. 452, to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

Rollcall vote No. 589: Unprinted amendment No. 456, to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

Rollcall vote No. 590: Unprinted amendment No. 457, to H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

Rollcall vote No. 591: Final passage of H.R. 13367, the State and Local Fiscal Assistance Amendments of 1976. I would have voted "yea."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SMITH COLLEGE

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 1386, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 1386) for the relief of Smith College, Northhampton, Mass.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I believe there is no controversy about the pending bill. It is a bill for the relief of Smith College. It was reported favorably by a unanimous vote by the committee. It passed by a unanimous vote in the House. It has to do with the importation of a carillon produced by the Paccard Bell Foundry in France; the bells which are the subject of this bill were also in that foundry. Without this legislation, the bells imported from France are dutiable at 7 percent ad valorem and Smith College would pay approximately $2,250 in duty. This legislation would permit a one-time entry of the carillon bells free of duty for use by Smith College and provide for no other situation. The administration has no objection.

UP AMENDMENT NO. 462

Mr. LONG. Mr. President, I offer an amendment to the bill, which basically is the Roth college tax credit amendment to the tax reform bill. When a motion was made to postpone indefinitely further consideration of the amendment, the Senate voted 20 to 68 against that motion, which we would regard as being roughly a 3½-to-1 margin in favor of the Roth amendment. It is necessary to offer this amendment again, because the House conferees were not willing to agree to the amendment as a part of the tax reform bill, but they were willing to go to conference on the amendment if it were added to another bill. I am encouraged to think that something can be worked out. This matter would be sent to the President as a separate bill, which he would be privileged to veto in his own right or sign in his own right, depending upon his view of it when it reached him, assuming that the House will vote favorably on it. This, I believe, is necessary in order to clear consideration for the conference report on the tax reform bill.

Mr. GRIFFIN. Will the Senator yield for one question?

Mr. LONG. I yield.

Mr. GRIFFIN. The Senator from Delaware, as I understand, is not coming to the Chamber, but he has discussed this amendment with the chairman of the committee.

Mr. LONG. I offered this amendment on behalf of the Senator from Delaware.

Mr. GRIFFIN. The chairman said that basically it was the amendment that was adopted. Is it the amendment that the Senator from Delaware wants to be offered? Has it been checked with him? I assume it has been.

Mr. LONG. It is identical except for conforming changes required by offering it as an amendment to a different bill.

Mr. GRIFFIN. I understand. I thank the chairman.

Mr. LONG. I now offer this amendment on behalf of Senator Roth.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long), on behalf of the Senator from Delaware (Mr. Roth), proposes an unprinted amendment No. 462.

The amendment is as follows:

At the end of the bill add the following new section:

Sec. 3. Credit for Certain Expenses Incurred in Providing Education.

(a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44A. Expenses of Higher Education.

"(a) General Rule.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the educational expenses paid by him during the taxable year to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) Limitations.—

"(1) Amount per individual.—The credit under subsection (a) for educational expenses of any individual shall be an amount equal to—

"(A) so much of such expenses paid in taxable years beginning after December 31, 1976, but before January 1, 1978, as does not exceed $100,

"(B) so much of such expenses paid in taxable years beginning after December 31, 1977, but before January 1, 1979, as does not exceed $150,

"(C) so much of such expenses paid in taxable years beginning after December 31, 1978, but before January 1, 1980, as does not exceed $200, and

"(D) so much of such expenses paid in taxable years beginning after December 31, 1979, as does not exceed $250.

"(2) Proration of credit where more than one taxpayer pays expenses.—If educational expenses of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of educational expenses of such individual paid by the taxpayer during the taxable year is of the total amount of educational expenses of such individual paid by all taxpayers during the taxable year.

"(c) Definitions.—For purposes of this section.—

"(1) Educational expenses.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) Eligible educational institution.—The term 'eligible educational institution' means—

"(A) an institution of higher education; or

"(B) a vocational school.

"(3) Institution of higher education.—The term 'institution of higher education' means the institutions described in section 1202(a) or 491(b) of the Higher Education Act of 1965.

"(4) Vocational school.—The term 'vocational school' means an area vocational educational school defined in section 108(2) of the Vocational Education Act of 1963. "(d) Special Rules.—

"(1) Adjustment for certain scholarships and veterans benefits.—The amounts otherwise taken into account under subsection (a) as educational expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and

"(B) an educational assistance allowance under chapter 35 of title 38 of the United States Code or education and training allowance under chapter 33 of title 38 of the United States Code.

"(2) Graduate, noncredit, and recreational, etc., courses.—Amounts paid for educational expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school and are not attributable to any graduate program of such individual.

"(3) Application with other credits.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of the tax imposed on the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section, section 31, and section 39).

"(4) Full-time student.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses with respect to any individual unless that individual, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student above the secondary level at an eligible educational institution.

"(5) Spouse.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(e) Disallowance of Expenses as Deduction.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any educational expense which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the educational expenses of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44A. Expenses of higher education.".

(2) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out the semicolon and "and" at the end of clause (vii) and inserting in lieu thereof a comma and "and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to credit for expenses of higher education); and".

(3) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to credit for expenses of higher education), exceed".

(c) Tax Liability for Presidential Election Campaign Fund Designation.—Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof a comma and "44, and 44A".

(d) Effective Date.—The amendments made by this section shall apply to educational expenses paid after June 30, 1977, in taxable years beginning after December 31, 1976, for courses of instruction commencing after June 30, 1977.

Mr. ALLEN. Will the Senator yield?

Mr. LONG. I yield.

Mr. ALLEN. I want to assure the Senator that I will offer no objection to the consideration of the amendment, to the vote on it and on the bill as well.

The Senator will recall that I mentioned to him, I believe privately here in the Chamber, about an amendment that I wished to offer to one of these bills which has been through the Ways and Means Committee and the Finance Committee, a minor amendment which was agreed to without dissent in the Senate, having to do with the matter of babysitter agencies, as to whether they will have to pay taxes for their babysitters where they do not receive any money, where no money goes through their hands. They merely arrange for the services of babysitters.

It has come up in my State where such an agency is being charged with income taxes on these people where they have never received the funds at all. I did want the opportunity, before we adjourned sine die, to offer that amendment to one of these bills. Will the Senator be bringing up other such bills to which the Senator from Alabama might offer this as an amendment?

Mr. LONG. Yes, I will do so, if the Senate is willing to let me bring up some of these bills. We have several unobjected to bills on the Calendar. We will bring up a bill for this purpose to which the Senator can offer his amendment. If the Senate is willing to pass the bill with the Senator's amendment, we will seek to have it included.

Mr. ALLEN. I thank the Senator.

Mr. LONG. I think the Senator's amendment is meritorious. I supported it in conference. I will try again to have this matter resolved the way the Senator thinks it ought ot be. I believe he has a good point.

Mr. ALLEN. I thank the Senator.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, what is involved here is the Roth amendment, which would provide college tuition tax credits. It is an issue that was raised in debate on the tax bill earlier this year, and I doubt that much can be added in comment on its merits or demerits. Nevertheless, I think, in order to insure that the record is reasonably complete on both sides of the issue, I will make some brief observations.

The tuition tax credit offered by Senator Roth would provide a credit against taxes paid equal to 100 percent of the first $100 in tuition and fees paid for higher education in the last 6 months of 1977, rising to $150 for these types of expenses paid in 1978, $200 in 1979, and $250 in 1980 and subsequent years. The person for whom the credit is claimed must be a full-time student in college or vocational school.

The revenue loss resulting from enactment of this provision will be:

Revenue Loss (in millions)

Fiscal year:	
1977	0
1978	−$467
1979	−711
1980	−926
1981	−1,103

This is a 5-year total of $3.2 billion.

With respect to the issues raised, let me make these points:

The credit is likely to be largely or entirely reflected in increased tuition costs. Educational institutions, knowing this gift is being provided to virtually all their students, are likely to increase their tuition costs. When this occurs, taxpayers will not benefit at all from enactment of this provision.

The second point I would make, Mr. President, is that many students attend land grant colleges whose tuitions are extremely low as a result of direct subsidization. These persons would receive the full benefits of the credit, even though their college costs are already heavily subsidized.

On the other hand, since the credit constitutes a relatively small fraction of full-time private college costs, it will provide relatively little relief to parents whose children attend private colleges.

The relative low level of benefits also indicates the strong likelihood that if the credit were enacted in its present form, the level of benefits will be subject to future pressure to be raised substantially, with concurrent large increases in the revenue loss associated with the provision.

I think all of us can anticipate that to happen.

Because the credit is so broadly based, it will provide unnecessary relief to the very wealthy as well as those lower income taxpaying individuals whose dependents receive federally funded or other partial scholarships. Thus, the credit benefits are not efficiently targeted to the middle income class the proponents of the amendment seek to assist.

The tuition credit was not the subject of hearings by the Committee on Finance or any other recent congressional hearings. The likely effects of the credit, including all of the foregoing problems which I have described, have not been closely analyzed.

In order to avoid any revenue impact on the fiscal year 1977 budget, this massive credit was formulated to take effect July 1, 1977, almost a year from now, as though the budgets for subsequent years are of no concern to those who are now Members of the Senate.

Mr. President, it is true that insofar as the 1977 budget resolution is concerned this amendment will have no deleterious effect. But we have learned that if we are to get the budget under control we must begin to think about the down year effects of spending proposals that are written into law.

Since this amendment would not take effect until July 1, 1977, then it seems to me that implementation of this costly credit easily could be fully considered before that time. I think that if we are to act within the spirit of the budget resolution we ought to delay action until that time.

Otherwise, cumulative, beginning with fiscal year 1978 through fiscal year 1981, we will be writing into law a budget loss of $3.2 billion in revenues before we know what the claims on those revenues may be, when we get to those budget years.

For that reason, Mr. President, I urge our colleagues to reject this amendment.

Mr. ROTH. Mr. President, on August 5 of this year, the Senate overwhelmingly endorsed this college tuition tax credit as an amendment to the tax reform bill by a 68 to 20 vote. This amendment provides tax credits for higher education expenses, beginning with a $100 tax credit in 1977, and increasing by $50 per year to a $250 tax credit in 1980 and thereafter.

The House-Senate conference committee voted to delete the college tax credit amendment from the final version of the tax reform bill after making a commitment to bring the provision up for separate votes in the Senate and House this session.

I believe there is an urgent need to act on this important provision before Congress adjourns for the year. In the past few years, the cost of a college education has skyrocketed, depriving more and more qualified students from obtaining a college education. Especially hard hit are the millions of middle-income families who are neither affluent enough to afford the high cost of college today nor poor enough to qualify for the many different Government assistance programs which their taxes make possible.

These middle-income families deserve a tax break. They are not asking for a Government handout. They merely want to retain a greater share of their earnings to help pay for their children's college education. The increasing cost of a college education, combined with inflation, unemployment and rising tax burdens, has made it virtually impossible for many families to send their children to college, and tax relief is necessary to assure that all Americans have an equal access to higher education.

Although some concern has been expressed about the budgetary impact of this provision, I believe the revenue impact represents a worthwhile and necessary investment in the future of our country. The Federal Government is spending billions of dollars a year to bail out badly run cities, billions on foreign aid, and billions on Government travel and frills. It makes no sense to spend so much for these and other questionable purposes and to deny tax assistance to the millions of heavily taxed working parents who are struggling to finance a college education for their sons and daughters. I should also point out that the college tax credit was carefully structured so as not to violate the second budget resolution, and there is no revenue impact in fiscal 1977.

Mr. President, I am disappointed that the final version of the tax reform bill does not contain the college tax credit amendment. However, I am pleased that the distinguished chairman of the Finance Committee (Mr. Long) and the other Senate conferees were able to obtain a firm commitment from House Ways and Means Committee Chairman Ullman and the other House conferees to bring the college tax credit up for a separate vote. As I mentioned earlier, the Senate endorsed this provision by a 68 to 20 vote and I am confident the House will also pass this measure if given a chance to vote on the provision. By acting today, the Senate can give the House the opportunity to live up to its commitment to vote on this measure providing tax relief to working parents, and I urge the Senate to reenact the college tuition credit and send it to the House for a final vote.

Mr. THURMOND. Mr. President, I support the amendment offered by the Senator from Delaware (Mr. Roth) which would provide an income tax credit for parents paying college tuition.

I regret to see that this amendment, which was passed by the Senate as a provision of the Tax Reform Act, was dropped by the conference. I believe it is highly appropriate for the Senate to reaffirm its commitment to this tax reform measure.

In this time of rising educational

costs, parents with children in postsecondary schools need a tax break. This amendment would give a tax credit for expenses incurred by parents with children in institutions of higher education and vocational schools.

Mr. President, I am of the opinion that education of our citizens is essential in order to preserve America's position as the world leader. This amendment would aid the attainment of the educational goals of many of our citizens. I urge its favorable consideration.

Mr. CURTIS. Mr. President, I ask unanimous consent that the Senator from Tennessee (Mr. BROCK) may be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

Mr. LONG. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

SEVERAL SENATORS. Aye.

Mr. MUSKIE. No.

The PRESIDING OFFICER. The ayes appear to have it.

The amendment was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? (Putting the question.)

SEVERAL SENATORS. Aye.

Mr. MUSKIE. No.

The PRESIDING OFFICER. The ayes appear to have it.

The bill (H.R. 1386), as amended, was passed.

Mr. LONG. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. HANSEN, and Mr. ROTH conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill be printed with the amendment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendment to H.R. 1386.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLYMPIC WINTER GAMES AUTHORIZATION ACT—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on S. 2184 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2184) to authorize appropriations for the winter Olympic Games, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 31, 1976.)

Mr. JAVITS. Mr. President, I am very pleased to support the work of the conferees on this bill, S. 2184, which will make it possible for the United States to host the 1980 winter Olympic games at Lake Placid, N.Y., with dignity.

I introduced the original S. 2184 which has been significantly improved over the past year to yield this final conference report. It has been a completely bipartisan effort with cooperation from interested Senators and Congressmen as well as the invaluable assistance of the administration.

The funding authorized by this legislation will make possible the construction of winter athletic facilities, such as ski jumps, ice skating sheets, a luge run, and a winter sports arena. These facilities will not only make the 1980 winter Olympic games an event that we Americans can be proud of when they are held, but also they will provide a permanent amateur winter recreation area where our young athletes can train and no longer be placed at a great disadvantage in international competitions because of a lack of adequate training facilities.

There is absolutely no reason why this great Nation should not have the winter athletic facilities capable of producing world class athletes in every Olympic event. The recent staging of the summer games in Montreal showed us what a great source of national pride our young athletes can be; but up until now they have been denied adequate training facilities in many of the winter events. This legislating, once and for all, remedies that deficiency.

I have witnessed the beginnings of the work being undertaken by the deeply committed people on the Lake Placid Olympic Organizing Committee. Now, finally after more than 2 years of work here in the Congress, and similar efforts with the administration, the Federal Government is joining hands with the organizing committee, the locality, and the State of New York to insure that these 1980 winter Olympics befit the United States.

Now that this partnership has been completed, the games should be a great success, primarily for the athletes of the world but also for every American who will take pride in hosting these games at what will be one of the finest winter sporting facilities in the world. I believe also that the environmental character of the Adirondack region will be preserved in accordance with our intent.

I urge my colleagues to support this excellent conference report which should pay dividends on the investment for generations to come.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LONG. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, in no case longer than 1:30 p.m.

The motion was agreed to, and at 12:19 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:30 p.m. when called to order by the Presiding Officer (Mr. HELMS).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

SMITH COLLEGE—H.R. 1386

Mr. LONG. Mr. President, I ask unanimous consent that the vote by which the motion to reconsider the vote by which H.R. 1386 was agreed to be the subject of a yea and nay vote.

Mr. ALLEN. Mr. President, reserving the right to object, were we not going to move to reconsider the vote by which it was agreed to?

Mr. LONG. What I am proposing is that we vote on the motion to reconsider the vote by which the bill was passed. The intent is that then that would be regarded as a vote on the issue.

Obviously, it is one of those backward votes where a vote to reconsider is a vote against the bill and a vote not to reconsider is a vote in favor of the bill.

Mr. ALLEN. So it would not be a

tabling motion. It would be a motion up and down on reconsidering the vote by which the bill was agreed to.

Mr. LONG. Yes. Of course, that is subject to a motion to table; but if we can have a limitation, I will not make a motion to table.

Mr. ALLEN. I still am not getting it quite back to the point, but it would be better than having it removed one degree further over.

Mr. LONG. Mr. President, I ask unanimous consent that there be one-half hour, equally divided, 15 minutes by those who favor the bill and 15 minutes by those who oppose the bill as amended, so that both sides might state their position prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator intend to make the motion to reconsider?

Mr. LONG. What I am asking for, Mr. President, is this: I have asked unanimous consent that there be 15 minutes on each side. Mr. ROTH should manage the time in opposition to the motion to reconsider, and I believe Mr. ALLEN would manage the time in favor of the motion to reconsider. We would then proceed to vote on the motion to reconsider the vote by which the bill was passed.

The reason I suggested it in that fashion is that we would like to bring this matter to a decision and, by voting on the motion to reconsider, those who are in favor of the bill can let it be known by voting against reconsideration and those who are for reconsideration would obviously be against the bill as amended. The key point is whether or not you are in favor of the amendment dealing with the taxpayers' paying for education. I simply do not want to get the bill into a situation where it is subject to amendment and then further amendments.

Mr. ALLEN. Reserving the right to object, and I shall not object, I appreciate the distinguished Senator from Louisiana's agreeing to this procedure. Actually, on the vote by which the bill was passed, there was no motion to reconsider that vote and of course, there was no tabling motion. So the matter is properly before the Senate, can properly be brought up. On the other hand, a motion to table could be made as soon as the Senators get recognition.

I appreciate the distinguished Senator from Louisiana's agreeing that there might be a limited debate on this motion, because I believe we may have acted in haste in what we have done to pass an amendment of this magnitude on a voice vote, with some four or five Senators in the Chamber. The Senator from Alabama having been one of them, he feels he was derelict in his responsibility in not having a rollcall vote at the time.

The PRESIDING OFFICER. Will some Senator make a motion to reconsider?

Mr. MANSFIELD. I make the motion to reconsider.

The PRESIDING OFFICER. Under the previous order and the time agreement, the motion to reconsider is to be considered.

Mr. LONG. I am not agreeing to the motion to reconsider. I want to vote on the motion to reconsider.

Mr. ALLEN. I have not made the motion yet.

Mr. LONG. Mr. MANSFIELD made the motion.

The PRESIDING OFFICER. The Senator from Montana made the motion.

Mr. LONG. I ask that the yeas and nays be ordered on the motion to reconsider, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I yield myself 5 minutes.

This bill allowing taxpayers credit for college tuition is a principle that I approve. I voted for this issue when it was before the Senate, when the tax bill was under consideration. I did that because there were literally scores of other issues involving revenues—raising revenues and reducing revenues. I thought that this principle was a principle that should be supported and considered along with other revenue-raising or lowering of proposals.

This matter was considered by the conference committee. It was rejected by the conference committee. Now the conference committee comes back and gives us the result of their fine work—and it was fine work—in the committee. They chose to give priority to other revenue-reducing measures. They chose, of course, to have the extension of the tax cuts, which was a tremendous cost to the Treasury. It was my amendment here, on the floor, that extended that reduction and that credit through 1977. I supported that.

Now, the conference committee has come back with a bill that, aside from the extension of the tremendous tax cuts granted in 1974, produces additional revenue of $1.6 billion. But, now, this bill or this amendment, I shall call it, undoes a large portion of the work of the conference committee. So we come in and say, "Gee, we are fiscally responsible. The Committee on the Budget said to save $2 billion on tax reform, and we came up to $1.6 billion; therefore, we have almost complied with the direction of the Committee on the Budget." That was the issue here, on the floor, whether we would drive for the recommendations of the Budget Committee or whether we would fall far short of that.

Now we have the words of the distinguished chairman of the Committee on the Budget, showing that this bill that was passed in the Senate, without one bit of discussion, without one single bit of discussion, without a rollcall vote and with only four to five Senators on the floor. It has been drawn from nowhere, added to a bill, involving some $2,000, and added as an amendment. This will be approved over in the other Chamber and sent down to the President. He will be put on the spot.

That is of no great concern to me, but I do not believe it is the way we ought to legislate.

The conference committee, in its wisdom, composed of the tax experts—one of whom was the distinguished Senator from Louisiana, the foremost tax authority in the entire United States—saw fit in their wisdom to discard this amendment. Why? Because, Mr. President, according to what Mr. MUSKIE says, this bill, even though its application is delayed for 1 year, would cost the Treasury $3.2 billion. That is undoing some one-half of the work of the conference committee.

Mr. LONG. Will the Senator yield at that point?

Mr. ALLEN. In just one moment, I will.

They labored for years. We had this matter up on the floor for weeks and weeks, and the conference committee devoted weeks to it. And here, in one fell swoop—and I use that phrase advisedly, one fell swoop—we are going to destroy, to the extent of $3.2 billion, the fine work of the conference committee.

What I am doing here is trying to stand by the conference committee and support the fine work of the chairman of the conference committee, the chairman of the Committee on Finance. I hope we will reconsider the vote by which this bill was passed, because all that is in it, really, is this tax cut. But it is not realistic to do all of this work, have the conference committee drop it, and then, with four or five Senators here, insert this measure, which will cost the taxpayers $3.2 billion in a period of 4 years.

Mr. LONG. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. LONG. I hope the Senator understands that a great number of people knew about this matter. We had it in open conference, and when we discussed the matter, the chairman of the House conferees, Mr. ULLMAN, said that the House would not agree to this amendment on this bill, but that if we would send it to them on some other bill, they would be willing to go to conference and see what they could work out with us. So this amendment was deleted on that basis. That was an open conference, and everybody knew about that; that is, all the press knew about it.

We had a lot better attendance by the press there than we have here, I might say. They were far more numerous, even though I see some of the same people in the press gallery now who were over there at the time. So everybody knew what we were going to do.

Furthermore, I explained this matter to the majority leaders, and I explained this matter to those on the minority side. Also, I asked that this matter be explained to the Democratic Policy Committee, that we would seek to vote on some measure to send this bill back to conference, because it was a measure supported by an overwhelming majority of the Senate, about 68 to 20, and Mr. ROTH would have every right to fight against the conference report and resist it because adequate consideration had not been given to his amendment and it could go to conference on some other measure.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. The distinguished Senator from Louisiana could use time on the other side, because we are on opposite sides.

I announce that the distinguised occupant of the chair (Mr. HASKELL) would like to be associated with my remarks with respect to this amendment. I appreciate that, coming as it does from one of the leading tax reformers in the Senate and a member of the committee.

At this time, I am going to yield such time as the distinguished Senator from Maine desires.

Mr. MUSKIE. I appreciate the courtesy of the distinguished Senator from Alabama, and I am happy to associate myself with the initiative he has taken here this afternoon.

This issue, as I indicated earlier today in remarks that Members can find in the Record, is there is a down-year cost to this amendment which is significant.

I recall the debate on this issue at the time of the tax legislation, which we will take up later today, hopefully, and it is argued that because the impact is down in the down years after fiscal year 1977, which is governed by the congressional budget resolution, that we need not be concerned about it.

But, as I pointed out earlier this morning, if we are ever to get a handle on the budget in one of these down years, we have got to be concerned about spending decisions that we write into law which will catch up with us in those down years.

The table I put in the Record this morning indicates that over the next 5 years although the costs, budget costs, in 1977 will be zero, the budget costs in the next 4 years will be $3.2 billion, and in fiscal 1981, the fourth of those 4 years, it will be $1.1 billion, and still climbing.

The second point I made this morning was that in the case of land-grant colleges where tuitions are low, this will be of significant help to students. But they are already subsidized by the States in which the land-grant colleges are located.

With respect to private college tuitions, the assistance offered by this amendment is really only a small part of the total tuition costs and the cost of fees. That being the case, the pressure is going to be upon us, once we write this into law, to increase the benefits to pick up a larger share of the costs of tuition and of fees. So we can predict, I think with considerable justification, if we make this beginning before 1981 we will be pressed to increase it, so that the tax credit will pick up a larger share of the cost of college tuition and fees, with a substantial increased budgetary impact on the current budget whenever that takes place.

So this is a very significant initiative from the point of view of the Federal budget. It is one of those places where we can today reduce the pressures on future Federal budgets.

I have heard a lot of Members of the Senate express concern about the fact that we have a deficit this year. Well, one of the reasons why we have a deficit as large as it is this year is because of commitments we made in previous years which are written into law and as to which we have no control.

If we write this one into law, then future Budget Committees are going to be confronted with even a greater challenge. They will not be able to deny funding for this provision in future years.

So I hope, Mr. President, we are not tempted too often by the argument that was made by the Senator from Delaware when he presented this amendment earlier this year that, "Well, my colleagues, there is no budget impact in fiscal 1977, so we do not need to worry about it."

Well, I worry about it. I am running for reelection this year. I may not be around after this year, but if I am, and I am still charged with this responsibility, I will be very worried about the down-year costs of this amendment.

When, as I said this morning, the benefit to the parents of college students is illusory, as it is in this case, then I see nothing to be gained for anybody because I know once we write this into law, boards of trustees of colleges are going to say to themselves, as they consider their rising costs, "Well now, the Congress has approved a tax credit for the students coming here. Why do we not increase our tuition by the amount of that tax credit? It would not cost the students anything because Uncle Sam is going to pick up the costs."

So I predict within 12 months this benefit will be washed out by boards of trustees of colleges and educational institutions from one end of this country to the other.

What will we have done? We will have stimulated a rise in college tuitions which will then be more burdensome upon those parents of students who do not have taxes against which to claim this credit but have to rely upon student loan funds or student scholarship funds—and they do not rise as fast—in order to meet their tuition costs.

So, Mr. President, principally on future budgetary grounds, secondarily on the merit of the issue, I join my good friend from Alabama. I think he has made a responsible statement. The tax bill as it comes back to us, or will later this year, I think, has responded very well indeed to the congressional budget resolution of last spring and the second one which the Senate approved yesterday.

I would hate to see us begin to nibble away at the future year benefits of that improvement by now adding to the bill, in effect, provisions that were struck from the bill in order to make it more budgetarily responsible.

For that reason, Mr. President, I join my good friend from Alabama in, and compliment him on, bringing this to a record vote.

Mr. ALLEN. I thank the distinguished Senator.

Mr. ROTH. Mr. President, I yield myself 5 minutes.

As the distinguished Senator knows full well, this particular proposal for a tax credit for college tuition was debated at great length during the consideration of the tax reform legislation.

I think it should be pointed out to the distinguished Senator from Alabama that in the conference committee report it was stated that this provision was deleted with the specific understanding that the matter would be brought up for a separate vote both in the House and in the Senate.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROTH. Yes.

Mr. LONG. Not only is it pointed out in the statement of the managers but, in addition to that, it was made clear in that big room, where we had as many people sitting there as are in the Senate galleries, which are well attended now, with all the people packed in, and with better attendance than the Senate has at this moment. I noticed this morning that the Senate has more newspaper reporters in the gallery than ordinarily. So there was tremendous attendance of the press, the media, at the time this was all explained, that if the Senate conferees yielded on this item they would bring it back to conference on some other bill.

Mr. ROTH. That is correct.

The decision was made in public. It was attended, as the Senator pointed out, not only by many members of the press but the public at large. The conference report was agreed to with the condition and understanding that there was to be this legislation enacted separately.

One of the reasons, as I understand it, they felt that way on the House side was that since they had not had a chance to consider it they should have this opportunity to consider it separately. The distinguished chairman of the Ways and Means Committee agreed to bring it up for a separate vote.

I believe, Mr. President, the same reasons why this was sound legislation a few weeks ago stand today. You may recall recently the Commissioner of Education stepped down from a salary of $37,800 saying he had three children to send to college and he could not afford to do it on that salary.

Well, one of our most serious problems is that you have millions of Americans, middle-income, hard-working Americans, making much less, who also have children to send to college, and they are finding it even more difficult to send their own children to college.

I think one of the important points that should be made clear is that middle America, working America, is not asking for a handout. They just want a right to retain some of their own earnings so they can send their children to college or vocational school.

I think this is a very essential part of our program this year. I think many people, many middle Americans, have become disillusioned with the Government because they feel we are always trying to help others and ignoring the tax-paying Americans.

As far as the budget is concerned, let me point out again that this provision will have no impact on the fiscal 1977 budget. It will go into effect on July 1, 1977, when there will be a tax credit of $100, and that is all.

The following year, it will begin to go up $50 per year until finally it reaches $250 per student in 1980.

It seems to me that this is the least we can do to help parents and students offset the rising costs of college.

I would also like to say that I do not have quite the same jaundiced view as Mr. Muskie when he claims this tax credit will only result in increased tuition costs. We can make the same argument for any Government program, whether it is a subsidy, direct grant, or a tax credit. Hopefully, our school administrators are more responsible than that.

What we have here is an opportunity to give a small bit of help or assistance to middle America, to enable their children to go to school.

They are not coming to the Government and asking for a dole or a handout. They are just asking for the opportunity to be able to keep some of their own funds.

I would also like to point out that this is in the form of a tax credit in order to provide equal benefits to all taxpayers, regardless of their income.

Mr. PASTORE. Vote.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. How much time is left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. ALLEN. Mr. President, we have not even approved the tax bill conference report, and before the ink is dry on that, before it is even brought up for consideration, we are undoing the work of that conference report. After the years of preparation, the months of work here in the Senate and in committees, now we are wiping out approximately half of the revenue gained by the work that this committee did.

The committee was awfully anxious to have a good showing, so what they did is prepare a bill that will increase revenues $1.6 billion. Right on the side, though, they apparently are agreeing to pass a bill that in 1981 will cost the Treasury $1,100 million—within a half billion dollars of the entire saving here.

If this had been in the conference report, I would go ahead and vote for the conference report. But the main justification for approving the conference report is to save $1.6 billion, but it will only save half of that if this bill is allowed to stand.

I do not feel we ought to, in one stroke, wipe out over half of the accomplishment of years of work.

When all time has been yielded back, Mr. President, I am going to suggest the absence of a quorum, and it will be a live quorum, in order that we may acquaint Senators as they come on the floor with what is involved in this matter.

I say again that I am for the principle of this amendment and if it had been wrapped up in the tax report, the conference report, and they had effected this saving, I would be for the report. I may still vote for the report.

The PRESIDING OFFICER (Mr. STAFFORD). All time of the Senator from Alabama has expired.

Mr. ALLEN. It will not be quite the report we thought it was if this bill is passed.

Mr. LONG. Will the Senator yield me 2 minutes?

Mr. ROTH. Yes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this is not the only item we yielded on that we would like to talk about further.

We had to yield on the energy package which would help to conserve energy. We said there that we were going to try to pass the energy bill and, incidentally, put a tax on to pay for it, a one-half cent tax on a gallon of gasoline for all we would like to do to conserve energy, to insulate homes, and do all these various things that were in our bill, and we want to go to conference with the House.

I hope the Senate will be willing to sustain us in our position of trying to pay for the energy provisions in that bill. If we cannot be sustained, I suspect the bill will be subject to a point of order.

But we made those two commitents in discussing these matters, with regard to which the Senator was very much interested.

We wanted to renew it, either in its own right or some other bill.

For example, to bring the energy bill back up again with the House energy bill they sent us a year ago stricken and the Senate language added in its place, plus a tax to pay for it.

These would not be subject to a point of order, as long as the tax is in it. If it is out of it, it would be subject to a point of order once a budget resolution becomes in effect today.

But Senators know how disappointing it can be to have an amendment drop out when they know it has merit, just as the Senator from Alabama expressed it in regard to a child care matter.

This Senator simply does the best he can to try to accommodate all Sentaors and the Senate, to help it work its will.

I personally feel, where we vote a tax cut to take place in a previous year, that does not mean we will have an unbalanced budget in that year. It requires us to take it into consideration in terms of how much revenue we will have, and we must either reduce spending or we must raise more revenue.

I am willing to do whatever may be necessary to achieve that result.

I voted for about $4 billion more in taxes than was on that bill that passed the Senate. I did that trying to raise revenue to meet the budgetary objectives, not that I wanted all those taxes, but to try to comply with the spirit of the budget procedure.

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. LONG. One more minute. I want to yield to the Senator from Maine.

Mr. MUSKIE. I say that I certainly have no objection to the procedure followed in conference in bringing this to the floor as a separate issue. As a matter of fact, that perhaps is another position to deal with. But I think committing us to consider it on the floor does not mean the commitment to pass it.

One reason I like this procedure is that it gives us an opportunity to consider its budgetary implications on the merits of this one issue, and that has been my only point.

I voted against it when it was part of the omnibus tax bill. I will vote against it here for reasons I have amply expressed.

I want the Senate to understand I do not object to the procedure, but I still am concerned about the budgetary effects.

Mr. LONG. I would like to make it clear to the Senator, if I have the time, that I want to work on this, and cooperate on the budget matter. I am sure the Senator wants to cooperate, too. We want to insulate homes in his area.

Mr. MUSKIE. Yes.

Mr. LONG. We want to insulate those homes up there. We also want to see if we can get some help passing the tax to pay for it, because part of the idea is that we would try to join forces to see if we could not raise the money to pay for those things we would like to look at for the benefit of the public.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ALLEN. I suggest the absence—has all time expired?

The PRESIDING OFFICER. All time has not expired.

Does the Senator suggest the absence of a quorum?

Mr. LONG. Senator ROTH yields back the remainder of his time.

The PRESIDING OFFICER. Is all time yielded back?

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum. It will be a live quorum.

The PRESIDING OFFICER. All time has been yielded back. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 37 Leg.]

Allen
Bartlett
Beall
Burdick
Church
Griffin
Hansen
Hart, Gary
Haskell
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
McClellan
McGee
McIntyre
Morgan
Muskie
Nunn
Pastore
Pearson
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stone
Talmadge
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. Long) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate is not in order. The clerk will suspend until the Chair determines that the Senate is in order.

Will Senators please clear the well? Will Senators who wish to converse retire to the cloakroom?

The clerk may resume.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 80, nays 3, as follows:

[Rollcall Vote No. 602 Leg.]

YEAS—80

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Young

NAYS—3

Goldwater
Johnston
Weicker

NOT VOTING—17

Baker
Brooke
Buckley
Dole
Domenici
Ford
Hart, Philip A.
Hartke
Laxalt
Mathias
McClure
Mondale
Montoya
Moss
Taft
Tunney
Williams

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

SMITH COLLEGE

The Senate continued with the consideration of the bill (H.R. 1386) for the relief of Smith College, Northampton, Mass.

The PRESIDING OFFICER. The Senate will now act on the motion to reconsider the vote by which the bill H.R. 1386 was passed.

The question is on agreeing to the motion of the distinguished Senator from Montana. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Was the motion to reconsider made by the distinguished majority leader?

The PRESIDING OFFICER. That is correct.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is this a motion on whether or not Senators are for the Roth amendment?

The PRESIDING OFFICER. The Chair is unable to interpret the answer in connection with the Senator's inquiry.

The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. The clerk will not proceed until the Senate is in order. The business of the Senate will be expedited if Senators will refrain from audible conversation, clear the well, and take their seats.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 21, nays 62, as follows:

[Rollcall Vote No. 603 Leg.]

YEAS—21

Allen
Bellmon
Bumpers
Clark
Cranston
Culver
Glenn
Hart, Gary
Haskell
Helms
Javits
Kennedy
Mansfield
McClellan
McGovern
Muskie
Nelson
Nunn
Pell
Percy
Stevenson

NAYS—62

Abourezk
Bartlett
Bayh
Beall
Bentsen
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Leahy
Long
Magnuson
McGee
McIntyre
Metcalf
Morgan
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—17

Baker
Brooke
Buckley
Dole
Domenici
Ford
Hart, Philip A.
Hartke
Laxalt
Mathias
McClure
Mondale
Montoya
Moss
Taft
Tunney
Williams

So the motion to reconsider the vote by which the bill was passed was rejected.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguised Senator from Arkansas not to exceed 3 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas is recognized.

PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 366, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Stafford). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 10, 1976, beginning at page 29774.)

Mr. McCLELLAN. Mr. President, the report was signed by all conferees on the part of the Senate and the House and has been agreed to by the House by a record vote of 290 yeas to 71 nays. The report recommends that we agree to an amendment inserting language agreed to by the conferees in lieu of the matter inserted by the Senate in its amendment to the House bill.

The purpose of H.R. 366 is to provide a $50,000 death benefit to the survivors of public safety officers—which includes law enforcement officers and firemen—who die as the result of personal injury sustained in the line of duty.

Mr. President, the subject matter of this legislation has been before us for several years. Measures have passed the Senate on three previous occasions, but the two Houses had not been able to reconcile their differences. I am thankful that the labors of the past 6 years have now come to fruition. This legislation will stand as an appropriate manifestation and acknowledgment of the great debt owed by the people of this country to the many policemen and firemen who give such dedicated service to us all.

Mr. ALLEN. Will the Senator yield for just a moment?

Mr. HRUSKA. Will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to express my support for the conference report on H.R. 366, a bill to provide public safety officers' death benefits. This legislation, in its present form, represents sound judgment by Congress on a matter which concerns us all—the tragic deaths of our Nation's public safety officers.

The bill which emerged from conference, Mr. President, provides only death benefits to the survivors or dependents of public safety officers who are killed in the line of duty. The Senate version had required that any such death result from a criminal act or apparent criminal act, but that test was dropped in conference.

Also rejected by the conferees was a section that would have established a group life insurance program for public safety officers. I have always opposed such a proposal and was gratified to see that my fellow conferees saw the wisdom of deferring any further consideration of it.

Mr. President, while it is important that the survivors of public safety officers who are tragically slain be provided for, it is even more important that steps be taken to avoid unnecessary deaths of police and firefighters. The Law Enforcement Assistance Administration, which will administer this program, firmly believes that many deaths could be avoided if preventive action were taken. By preventive action, I mean assuring that these public safety officers are in good physical and mental condition.

There is good reason for such preventive action, Mr. President, because recently the National Institute for Occupational Safety and Health identified police work as a most hazardous occupation in terms of the probability of developing stress-related problems. In addition, there are approximately 1,000 deaths among public safety officers annually due to illness and/or diseases associated with job environment and duties. Present evidence also indicates that more law enforcement officers are incapacitated because of heart-related illness than due to any other cause.

The LEAA interest here includes the concept of preventive medicine, in the hope that preventing health problems will lead to less death and disability among public safety officers. For example, attention is being given to the development and evaluation of programs that can be used to promote a high level of physical fitness among police personnel, since a lack of fitness can be related to coronary heart disease. Attempts also will be made to assess the effects of different types of exercise programs on physiological and psychological factors relating to job performance. This research is designed to provide information on the nature and effects of specific exercise programs and indicate measures that police departments can use to determine the need for physical fitness programs.

Mr. President, I think it should be recognized that although passage of this bill will qualify eligible survivors and dependents for benefits, appropriations will need to be approved by Congress before any benefits can be awarded. Moreover, when appropriations are made, I hope there will be an allowance for adequate funds to support staff and operating expenses for this program within the Law Enforcement Assistance Administration. This is necessary in order to guarantee an efficient and responsive program.

I thank the Senator from Arkansas for having so persistently pursued this matter for the last 4 or 5 years and, finally, for that degree of success, to which he is entitled.

Mr. McCLELLAN. I thank the distinguished Senator.

I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, the Senate passed an amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) that would have provided for a program for group insurance for public safety officers. I wonder if that survived the conference.

Mr. KENNEDY. Will the Senator yield for me to make the point of information?

Mr. McCLELLAN. Yes.

Mr. KENNEDY. Mr. President, I am pleased that the Congress of the United States has agreed on passage of a public safety officers' death benefits bill. In the interests of getting this important legislation enacted into law I agreed to drop the amendment to H.R. 366 which would have established a public safety officer national life insurance program. This amendment, which I originally introduced as S. 230, passed the Senate overwhelmingly for the third time.

Mr. President, I agreed to elimination of the insurance amendment on the representation of the distinguished chairman of the House Judiciary Committee, Mr. RODINO, that the subject of public safety officer life insurance—so important to our police and firemen—would receive prompt consideration next session. We owe our public safety officers no less.

Mr. President, I ask unanimous consent that the following letter from the chairman, Mr. RODINO, be printed in the RECORD, as well as a copy of a letter I recently received from the International Conference of Police Associations sent to most police chiefs in the United States.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 1, 1976.
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: It is my understanding that in the interest of expediting the approval of H.R. 366, the "Public Safety Officers Benefits Act of 1976", as amended by the Senate, you will not insist on your amendment to that bill which would establish a group life insurance program for public safety officers.

From our conversations I appreciate your interest in such a program, particularly in view of the Senate's approval of this legislation on several previous occasions. I certainly agree with you that the concept should be fully developed in hearings by the committees of both the House and Senate. In order to achieve that objective and to facilitate consideration of this legislation, I want to assure you that it is my intent to schedule your bill for a hearing early in the next Congress.

I deeply appreciate your agreement to narrow the issues to be considered by the Conferees and I feel certain that your efforts will insure the passage of this urgently-needed legislation.

With kindest personal regards,
Sincerely,
PETER W. RODINO, Jr.,
Chairman.

INTERNATIONAL CONFERENCE OF
POLICE ASSOCIATIONS,
Washington, D.C., September 6, 1976.

DEAR CHIEF: Please be advised that this office has been notified by members of Senator Kennedy's staff in Washington, D.C., that the Public Safety Officer Benefit Act, which will provide a $50,000 death benefit to the survivors of police officers killed in the line of duty, will indeed be approved by the House-Senate Conference Committee at their next meeting scheduled on September 8th.

As you may know, Senator Kennedy has introduced an amendment to provide a national life insurance program covering all law enforcement officers. With the assistance of the police officers of the State of Massachusetts, we hope to see a National Life Insurance bill introduced and passed into law in the next Congress.

As representatives of over 180,000 law enforcement officers throughout the United States, who have been actively involved with the $50,000 death benefit bill since its inception, we urge you to have this letter posted for the information of the members of your Department.

Fraternally,
ROBERT D. GORDON,
Secretary-Treasurer.

Mr. KENNEDY. Mr. President, that was the third time that that particular provision passed the Senate by a very substantial vote. The House had indicated again, unfortunately and regrettably, that they had not had the hearings which would be necessary in order for them to justify it to the body. I have had printed in the RECORD a letter from the chairman of the Committee on the Judiciary of the House committing Judiciary Committee to full and early hearings on this matter as the first order of business for the new Congress. With this commitment, we shall be able to achieve it, hopefully, early in the next session.

Mr. ALLEN. I thank the Senator. I am proud to be one of the cosponsors of this amendment, as the Senator knows.

Mr. KENNEDY. I am thankful for the times we can work together.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 366. I was one of the conferees for this bill, and I feel that it is now in a form which is suitable to both houses.

This legislation would provide a $50,000 benefit payable to the survivors of a public safety officer who is killed in the line of duty. As defined in this bill, "public safety officer" includes policemen, firemen, correction officers, probation officers, parole officers, and judicial officers.

Law enforcement careers must be made more aceptable to our qualified citizens. We cannot ask decent, hardworking men and women to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.

I introduced the first bill on this subject and have worked for 6 years to bring it about. It is gratifying to me that it has finally passed.

Mr. President, I urge adoption of the conference report.

Mr. McCLELLAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. McCLELLAN. I move to reconsider the vote by which the conference report was adopted.

Mr. HUGH SCOTT. I move to lay that motion on the table

The motion to lay on the table was agreed to.

COMMITTEE MEETING

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this request has been cleared on both sides of the aisle, that the Committee on Post Office and Civil Service be authorized to meet for 30 minutes today in executive session for the purpose of reporting S. 3688.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair protect my rights to the floor. I yield for not to exceed 2 minutes to the Senator from New York (Mr. JAVITS).

ANTITRUST REVIEW AND REVISION COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1156 at the request of the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, the Senator from New York is recognized subject to the right of the Senator from West Virginia to retain the floor.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3799) to establish an Antitrust Review and Revision Commission.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JAVITS. Mr. President, this is a measure which was incorporated in the antitrust bill which we have been dealing with, which was over in the House and was dropped simply because the conferees did not want to deal with yet another subject. I have a letter from the House chairman, Mr. RODINO, to that effect. It passed the Senate, 73 to 0. Whatever comes of the antitrust bill—this may well be the only thing that remains—it commended itself highly here, as we all realize that the antitrust laws are, in many cases, obsolete and need very urgently to be reviewed.

The commission is composed of 18 members: four from the executive branch, four from the Senate, four from the House of Representatives, six from private life, subject to Senate confirmation. The changes which I made in the bill, which was introduced with Senators ABOUREZK, DOLE, DOMENICI, HRUSKA, and MATHIAS as cosponsors, were to have it not take effect earlier than March 1, 1977, so that we may have a new President, who is elected by the people to appoint the commission.

Also, there is an amendment suggested by Senator KENNEDY, which will enable us to review the cost and effect of exemptions from the antitrust laws in the regulated sector of the economy—that is, subject to the regulatory commission—and the cost and effect of state laws that inhibit competition or prohibit anticompetitive practices.

UP AMENDMENT NO. 463

I send the amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 463.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2,

At the end of the first section, add the following new paragraph:

"The Commission also shall study and report on (i) the cost and effect of exemptions from the antitrust laws including exemptions for the regulated sector of the economy; and (ii) the cost and effect of State laws that inhibit competition or protect anticompetitive activities."

On page 7, line 15, change the date to read: "October 1, 1977."

Mr. JAVITS. The measure has been cleared on both sides and I hope very much the Senate will adopt it.

My purpose, I might say to the Senate, is twofold: One, to show the Senate favors this idea; and, two, in the hope that I may yet be able to get it done this year so we can get a commission next year by agreement with the chairman and ranking member of the Judiciary Committee in the other body.

May I have 2 more minutes, Mr. President, to yield to my colleague from Nebraska?

Mr. ROBERT C. BYRD. Mr. President, I yield 2 more minutes.

Mr. JAVITS. I yield to Senator HRUSKA, who has been my staunch friend always.

Mr. HRUSKA. Mr. President, I join the Senator from New York in his request and in his approval of the pending bill.

This bill and the commission which it proposes to create has a long history. It is a sound history, a sound legislative history. It is a sound bill, and it is based upon consideration that I do believe the Senate is fully in sympathy with, and that is testified to by the fact that on three different occasions the bill has been passed here but not in the other body. The third time was the time in connection with the antitrust revision bill just last month.

Inasmuch as it fell by the wayside in this conference, this independent way of approaching it seems to be very desirable. It is my hope that the bill will be approved and promptly processed by the other body.

Mr. JAVITS. I thank my colleague.

I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I support the Senator's bill, and I shall do nothing to impede its progress. But I did confer with the distinguished Senator from New York earlier about the possibility of adding as amendments the two bills the House passed containing two of the antitrust titles. That is all that remains in the committee at this time, the Senate having acted on H.R. 8532, and it would be my purpose to vote for such amendments to give the House an opportunity to agree to the antitrust titles, other than parens patriae, as passed by the House.

But the distinguished Senator from New York requested I not offer these amendments. I do understand he would prefer that this bill not be encumbered with these other two titles; is that correct?

Mr. JAVITS. I will say to my colleague that I did make the request. I would not consider the bill encumbered. As the Senator knows, the only hope of getting anywhere on this particular measure is to let it go to the other body this way, and I am grateful to my colleague.

Mr. ALLEN. I would like very much, indeed, to add the titles. But complying, acceding to the request of the Senator from New York, I will forego that.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER (Mr. STAFFORD). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I urge

my colleagues in the Senate to approve this legislation to create the Antitrust Review and Revision Commission to study the antitrust laws of the United States.

Several times during my congressional service in the other body and in the Senate I introduced legislation very similar to the bill presently before us. It is time that we create a mechanism for a thorough, thoughtful review by an expert but sufficiently broad-based body to give Congress some real help in evaluating the adequacy of our present statutes and their administration. The composition of the Commission, as set forth in the bill, is certain to insure that the Commission can skillfully undertake a thorough and objective analysis of our existing antitrust laws and their enforcement.

Almost 90 years have passed since the Congress first enacted antitrust legislation. Despite the additional antitrust bills that have become law in the intervening years, the conditions of our basic economy and the world economy in which U.S. businessmen must compete have so changed that some of these laws are out of date.

It is also suggested that because of inherent weaknesses of these laws, and alleged lack of vigorous enforcement, have failed to prevent increasing concentration of control of U.S. industry and have permitted the development of conditions in a number of so-called oligopoly industries in which competition does not now adequately serve the interests of the consumers, taxpayers, businessmen, or of the Nation as a whole. And it is suggested that they work different results depending upon the form of business to which they are applied. Our system is further being tested in competition with other economic systems with different approaches to control of monopoly. These are matters of great controversy among economists, politicians, and lawyers inside and outside the Government.

The time has come for creating an Antitrust Review and Revision Commission.

The Brownell Commission, established by Attorney General Herbert Brownell, one of our great Attorneys General, did significant and important work in codifying our antitrust laws. At the same time, however, the Brownell Commission merely accepted the law as it is, or as it then was, and made very little innovative change or creative contribution to what the law ought to be. That, I think, is what the Senator from New York and I perceive as necessary.

Years ago, when I was a Member of the other body, and proposed a similar plan to the then president of General Motors, he said:

> Yes, there ought to be changes in the antitrust laws.

And he was all for them, but he said:

> I don't know what kind of changes you fellows in Congress would make.

It seems to me that the way this bill would structure this Commission, to give weight not only to what Members of Congress may feel, but to what people in the private sector feel, is a very constructive approach to one of the most important issues before the country.

I urge the Senate approve this bill.

Mr. JAVITS. I am ready for the vote on the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 3799) was passed, as follows:

S. 3799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE OF THE COMMISSION

Sec. 101. There is hereby established an Antitrust Review and Revision Commission (hereinafter referred to as the "Commission"). The Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial controls;

(d) foreign trade and international competition; and

(e) economic growth.

The Commission also shall study and report on (i) the cost and effect of exemptions from the antitrust laws including exemptions for the regulated sector of the economy; and (ii) the cost and effect of State laws that inhibit competition or protect anticompetitive activities.

MEMBERSHIP OF THE COMMISSION

Sec. 102. (a) Number and Appointment.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) Representation of Varied Interests.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) Political Affiliation.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) Vacancies.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

Sec. 103. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

Sec. 104. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 105. (a) Members of Congress.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members From the Executive Branch.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission plus such additional compensation, if any, as is necessary to make his aggregate salary not in excess of the highest rate for employees compensated at the rate of GS–18 of the General Schedule under section 5332 of title 5 of the United States Code, and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members From Private Life.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

Sec. 106. (a)(1) Hearings.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon applications by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Official Data.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional

staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

FINAL REPORT

SEC. 107. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 108. Sixty days after the submission to Congress of the final report provided for in section 107, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. There is hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

EFFECTIVE DATE

SEC. 110. The provisions of this bill shall take effect no earlier than October 1, 1977.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At this point Mr. Robert C. Byrd addressed the Senate in connection with tributes to Senator Mansfield. Mr. Byrd's request, and tributes to Senator Mansfield are printed in today's Record following consideration of the tax reform conference report.)

ORDER OF BUSINESS

The PRESIDING OFFICER. The Chair wishes to state that, pursuant to the previous arrangement, the Chair will now recognize the Senator from Louisiana (Mr. Long) to present a conference report, after which the Senate will resume the tributes to the distinguished majority leader (Mr. Mansfield).

TAX REFORM ACT OF 1976—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 10612 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 13, 1976, beginning at page 29996.)

Mr. LONG. Mr. President, the Tax Reform Act of 1976 will increase the taxes of those individuals and corporations who are not now paying their fair share of the tax burden and will selectively cut the taxes of taxpayers who are now paying more than their fair share. It simplifies some of the most difficult provisions of the law for the average taxpayer. Also, it extends the 1975 antirecession tax cuts and significantly improves the administration of the tax laws.

In a Senate amendment to this bill, the Senate voted that, to the extent practicable the revenue loss from the bill in fiscal year 1977 should be limited to $15.3 billion. We have come very close to achieving this goal—the revenue loss will be $15.7 billion, despite the fact that the bill extends the 1975 tax cuts all the way through 1977. The tax cut extension reduces revenues by $17.3 billion in fiscal year 1977, and the tax reform provisions raise $1.6 billion.

The net revenue figure of $1.6 billion really understates the extent to which this bill will raise the taxes of people who do not now pay their fair share. When we consider only the tax-increasing sections of the bill, the tax increases total $3.0 billion in 1977. This figure rises to $3.5 billion in 1978 and $4.8 billion by 1981. I think in many ways these gross revenue figures give a better indication of the amount of tax reform in the bill, since many of the tax-reducing provisions are extremely popular with the Senate and should not simply be counted as "negative" those provisions which reduce taxes by way of reform also.

In fact, it has always been my thought that you ought to add those provisions that reduce taxes on people who are paying too much to the figure of those who are not paying enough rather than the other way around. If that were the case, of course, the figure would be far greater than those I have stated of the overall tax reform in the bill.

Our success in approximately achieving the revenue goal set by the Senate is, in large part, a result of the hard work put in by my colleagues on the conference committee. The conferees worked long hours, since there were 250 substantive differences between the House and Senate bills. I commend the Senate conferees, Senators Talmadge, Ribicoff, Gravel, Bentsen, Hathaway, Haskell, Curtis, Fannin, Hansen, and Packwood, for the fine job they have done in this conference.

In large measure, this conference report achieves the basic goals of the Senate amendment. The House sent us a bill that appeared to raise a sizable amount of revenue, but it did so in a way that would have added enormous complexity to the tax law and seriously harmed the economy. Indeed, once these adverse impacts are considered, it is not at all clear that the House bill would have raised any revenue at all.

The conference committee has achieved roughly the same revenue figures as the House bill, but it has done so in a way that will not hurt the economy or, if so, will hurt it but little. Unlike the House bill, the conference report deals directly with the abuses of tax shelters and other problem areas, rather than use a "meat-ax" approach to tax reform.

To achieve our revenue goals, we have had to recede on a number of the costlier Senate amendments. In many cases, this was not because the House did not approve of the amendments, which generally were meritorious, but rather because we simply could not afford them in the context of the revenue goals set by the Senate amendment agreed to immediately before passing the bill.

In several cases, we have secured a pledge from the House committee to take up these matters that were deleted in conference in other legislation when the budget picture is clearer.

Let me summarize the major provisions of the conference report.

The bill will virtually eliminate the abuses associated with tax shelters. While the House bill dealt with all tax shelter areas by using the same extremely cumbersome approach—the limitation on artificial losses, or LAL—the conference bill more carefully tailors the tax shelter provisions to the resuirements of the specific industries involved. In this respect, the conference report follows the approach of the Senate amendment.

In some cases, like interest and taxes during the construction period of a building and prepaid expenses of farm syndicates, costs which are now expensed and deducted currently will be capitalized. Recapture rules, which prevent conversion of ordinary income into a capital gains, are tightened in several industries, including oil and gas. In many areas, deductions are limited to the amount for which the taxpayer is at risk. Also, some new tax preferences are added to the minimum tax to reduce the attractiveness of tax shelters.

The conference also agreed to a Senate amendment that would deny the benefits of the 50-percent maximum tax to the full extent that taxpayers use tax preferences. This should make the maximum tax a more effective device to discourage tax shelters.

The bill significantly strengthens the minimum tax. Generally, the changes follow the Senate amendment. The main point at issue was the deduction under the minimum tax for regular taxes, which the Senate voted to retain and the House voted to abolish. Here, the conference split the difference and voted to allow individuals a deduction for one-half of regular tax liability. Corporations will retain a deduction for regular taxes but will lose the carryover of unused regular taxes.

The bill tightens up abuses related to business expense deductions of individuals. These include deductions for business use of the home, deductions related to rental of vacation homes and for foreign conventions. Too many taxpayers have been claiming excessive deductions for these expenses. Also, the bill repeals the tax preference for qualified stock options.

The bill includes a major simplification of some of the most complex, widely used provisions of the law, including the child care provision and the retirement income credit. The child care deduction is converted into a 20-percent tax credit, although for budgetary reasons we yielded to the House and deleted the Senate amendment making this credit refundable. We also accepted a House provision repealing the extremely complex sick pay exclusion, except for the permanently and totally disabled. This, too, was essential in meeting our revenue goal.

A major simplification for the ordinary taxpayer is achieved by changing the nature of the tax tables. Currently, a taxpayer must choose one of 16 tax tables, and the result is that many people make errors. Under this bill, there will be a much simpler series of tables that may be used by more taxpayers.

Another important simplification results from the permanent increase in the standard deduction, which encourages those who file 9 million tax returns to elect the standard deduction.

Tax simplification is going to be an increasingly important, if difficult, issue. Unless we take positive action, the tax laws will become more and more complicated as we add new provisions to achieve new goals. The bill directs the staff to complete a major study on tax simplification by the middle of next year, and Congress will soon have to take a closer look at this issue. This bill, however, is a first step toward simplification for many taxpayers.

The bill includes major reforms in the tax treatment of foreign income. The House and Senate bills were similar in this respect. Abuses of the foreign tax credit are reduced, especially for the multinational oil companies. We were able to get the House to recede on its provision eliminating the exclusion for income earned abroad and instead accept Senate amendments eliminating abuses of that provision. We did agree to reduce the maximum exclusions.

The conference accepted Senator RIBICOFF's amendment on denying tax benefits to companies participating in international boycotts, but the conference made some modifications in this provision that should make it more workable than the original Senate amendment.

Also, the bill will reduce the revenue loss from the DISC tax incentive for exports without significantly impairing its effectiveness by making DISC benefits apply only to the increase in exports over a base period level.

There are some significant changes in the capital gains tax. The bill makes it easier to deduct capital losses against ordinary income, raising the $1,000 limit on such deductions to $3,000. This liberalization is financed by increasing the holding period defining long-term capital gains to one year except for agricultural commodity futures contents. Also, the conference agreed to Senate amendments that prevent avoidance of capital gins tax through use of swap funds, prevent conversion of ordinary income into capital gains by writing stock options, and reduce the capital gains tax when a senior citizen sells his home.

The tax increases that I have described, along with several less important changes, generate more revenue than we need to satisfy our revenue targets—$3 billion in fiscal year 1977. We were able, therefore, to include some additional tax reductions in the bill. The changes in the child care provision and retirement income credit, for example, involve tax cuts of $700 million.

The bill also includes significant incentives for capital formation. The 10-percent investment credit and corporate rate cuts for small business are extended, and there are incentives for investment by airlines and railroads. The House also agreed to a modified version of a Senate amendment liberalizing the deduction of net operating losses. This will encourage risk-taking and will especially help new businesses. We were able to get the House to accept a liberalization of the investment credit and rapid amortization for pollution control facilities.

In the long run, the provisions that may be most significant in stimulating capital accumulation are those dealing with employees stock ownership. Employee stock ownership plans could develop into an important source of equity funds for business. I fervently hope this occurs. They would encourage more saving and greater productivity and would lead to a more equal distribution of wealth.

The conference report extends the existing additional one-percent investment tax credit when an equivalent amount is contributed to an employee stock ownership plan. Also, it sets up an option under which the corporation may claim an additional one-half of 1 percent investment tax credit if the employees contribute a like amount to an ESOP. Finally, the bill makes a number of technical amendments that clear up problems that have prevented companies from establishing ESOP's. I think these changes will greatly expend the use of

The Senate conferees were also able to achieve a sizable cut in estate and gift taxes, almost as large as in the original Senate amendment. The bill raises the level at which an estate becomes taxable from $60,000 to $175,000 by replacing the $60,000 exemption with a tax credit and by restructuring the rates. Also, the marital deduction is expanded to permit larger tax-free transfer between husbands and wives. When fully phased in, these estate and gift tax cuts will total $1.4 billion.

The House conferees, however, would only accept our estate tax cuts if they were accompanied by significant estate tax reform. I think this insistence is appropriate, since the estate and gift tax laws are extremely unfair—imposing an onerous burden on some estates while allowing others to escape virtually all tax.

The bill, therefore, contains an important estate and gift tax reform. The estate and gift taxes are unified to prevent tax avoidance through "rate splitting." Also, a version of the Senate amendment imposing a special tax on generation-skipping trusts is included. Finally, the law that permits heirs to use as their basis for computing capital gain or loss the fair market value at time of death, rather than the decedent's own basis, is changed to require carryover of basis at death. This provision is made entirely prospective, and heirs will have a "fresh start" by using as their basis the value as of December 31, 1976.

Because some of these estate tax provisions are in neither the House bill nor the Senate amendments, the conference committee is reporting them in technical disagreement. This will give the Senate the opportunity to vote on the estate and gift tax package.

The House also agreed to the Senate amendment sponsored in the committee by Senator PACKWOOD, providing tax exemption for employer contributions to qualified group legal service plans.

In several cases, we had to recede on Senate amendments in order to meet our revenue targets. That is the reason we had to drop the tuition tax credit, which I know is very popular in the Senate. The House has promised to take this up in a separate bill once the budget picture is clearer.

Also, we had to drop the title of the bill dealing with energy. The House has passed an energy tax bill, H.R. 6860, and they felt that their bill should be in conference along with ours. Also, while their bill involves some tax increases, our title included largely tax cuts. The Finance Committee has already acted to strip H.R. 6860 of the House provisions and substitute the title of the tax reform bill, dealing with energy. To finance the incentives for energy production and conservation, the Finance Committee has recommended a one-half cent increase in the gasoline tax.

If the Senate will pass the amended version of H.R. 6860, we can go to conference and try to enact some of the energy tax incentives that the Senate has already passed in the tax reform bill. The energy situation is becoming increasingly serious as our dependence on foreign oil grows, and we need to take action to conserve the energy we have and expand domestic production of energy.

A very necessary part of the bill extends the 1975 tax cuts. The increase in the standard deduction already in place for the first half of 1976 are made permanent. The general tax credit, which equals either $35 per capita or 2 percent of the first $9,000 of taxable income, is extended through 1977. Also, the refundable earned income credit, which originated in the Finance Committee, is extended through 1977, and eligibility for it is broadened in several ways.

The 10-percent investment credit is extended through 1980, along with the ESOP provisons, and the corporate rate cuts for small business are extended through 1977.

The conference statement on section 2701 of the Tax Reform Act of 1976 addresses certain specific concerns relating to proposed employee stock ownership plan regulations issued by the Internal Revenue Service. One item which needs further clarification is paragraph eight on page 541 of the conference report. This paragraph discusses the possible treatment of a sale of stock by a shareholder to an ESOP as a corporate redemption. The general rule applicable to this situation is that a sale of stock to an ESOP—or any other plan or entity—provides capital gain to the selling shareholder, rather than dividend income. However, in some limited situations, under the proposed regulations, the proceeds of such sale is treated as a distribution of a dividend to the selling shareholder. This could occur, for example, where the selling shareholder has such a large beneficial interest as an ESOP participant that a substantial portion of the stock he sells to the ESOP will inure to his benefit—that is, to a large extent, the shareholder is selling to himself.

It is the intent of the conferees that if the regulations are otherwise appropriate, they should provide that the proceeds from a sale of stock to an ESOP or other plan should be treated as a dividend only in those rare situations when the transaction does not result in a substantial change in beneficial ownership of the stock acquired by the plan. Where the selling shareholder is not a participant in the plan or if his interest under the plan is small in relation to the interest of all employees as a group, dividend treatment is not appropriate under applicable provisiosn of the Internal Revenue Code.

Together, these tax cuts will reduce budget receipts by $17.3 billion in fiscal year 1977. On a full calendar year basis, they amount to an extension of a tax cut of $21 billion. Allowing taxes to rise by this amount at this time would be foolhardy in view of the rapid rise in unemployment that has occurred in the past several months.

The bill also includes administrative changes that tighten up the withholding system, particularly in relation to gambling winnings, and strengthen taxpayers' rights. The House agreed to an especially significant Senate amendment protecting the confidentiality of tax return information. This bill marks the most significant reform of tax administration in many years.

This tax reform bill has been a bipartisan effort, involving considerable cooperation with the executive branch. The bill meets the targets agreed to by the conferees on the second budget resolution. I think it is a good bill.

Incidentally, Mr. President, it is not as long a bill as some would have us believe, notwithstanding the voluminous papers before us. There are 200 pages of the bill as printed which repeal obsolete sections of the law, thereby reducing the extent of the law by a considerable amount.

Furthermore, many provisions of the bill amount to a rewriting of existing sections to reform or improve those sections and bring them up to date.

The American people are demanding that high-income people pay their fair share of the tax burden, and this bill will bring us a long way toward that goal. It contains much-needed tax cuts, tax simplification, and administrative reforms. I strongly urge the Senate to agree to this conference report on the Tax Reform Act of 1976.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TALMADGE. Mr. President, the conference agreement contains section 2105 which was not in the House bill and which clarifies that tax-exempt organizations, such as trade associations, do not have unrelated business taxable income from the conduct of trade shows.

Section 2105 overrules the principle of a series of rulings (TIR-1409, 1975-2 CB 202-226) in which the Internal Revenue Service indicated that tax-exempt organizations had unrelated business taxable income from renting display space at their convention trade shows to exhibitors permitted to make sales. Under section 2105, renting display space is not an unrelated trade or business where the sponsoring organizations use trade shows to promote and stimulate interest in, and demand for, their industries' products in general, or where the sponsoring organizations use trade shows to educate their members regarding developments, products, and techniques available to them. Thus, it is my understanding that both the so-called industry show and the so-called supplier show are a qualified trade show activity within the meaning of new code section 513(d)(3)(B).

Mr. LONG. That is correct. Such activities do not result in unrelated business income to the sponsoring organizations.

Mr. TALMADGE. I thank the distinguished chairman.

Mr. LONG. Mr. President, I hope that Senators, in order to accommodate those who have airplane reservations and must greatly inconvenience themselves to stay while we discuss the merits and demerits of the conference report, will be willing to let us vote on this conference report. Then we can further discuss the reasons why certain provisions were agreed to and certain provisions could not be agreed to, to make the record complete.

If we may do that, I ask unanimous consent that the colloquy that would occur appear in the RECORD prior to the vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER (Mr. STEVENS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, we will have to have two votes on this conference report. One will be on the tax bill.

VISIT TO THE SENATE BY MEMBERS OF THE NORWEGIAN PARLIAMENT

Mr. HUMPHREY. Mr. President, I realize that we are about ready to vote on the conference report, but I take this opportunity to introduce to the Members of the U.S. Senate a very fine delegation from the Norwegian Parliament known as the Storting. These are members of the Industry Committee of the Norwegian Parliament who have been visiting in the State of Alaska—I say to the present Presiding Officer, the Senator from Alaska (Mr. STEVENS)—having visited the North Slope area, and they have been traveling throughout our country.

The members of the Industry Committee are directly concerned with the problems of fuel and energy, particularly the development of Norwegian oil and gas resources.

Today, they have been our guests at the Committee on Foreign Relations. The distinguished chairman of the committee, Senator SPARKMAN; the ranking minority member, Senator CASE; Senator JAVITS; Senator GRAVEL; Senator RANDOLPH, and others have shared a brief social hour with them.

I take this opportunity to express to our guests, on behalf of the Senate, our appreciation for the friendship of the Norwegian Nation, its Government and its peoples, to express to them our continued friendship and alliance in the North Atlantic Treaty Organization; and, above all, to extend to them a most hearty welcome to the U.S. Senate.

We are honored by their presence, and we know that their presence represents the good feelings of the people of Norway with respect to our respective countries. The members of the Industry Committee are as follows:

MEMBERS OF THE INDUSTRY COMMITTEE OF THE NORWEGIAN PARLIAMENT

The Honorable Arvid Helmer Johanson (Labor), Chairman, Industry Committee.

The Honorable Odd Vattekar (Conservative), Deputy Chairman, Industry Committee.

The Honorable Rolf Hellem (Labor), Parliamentary Secretary, Industry Committee.

The Honorable John Austerheim (Center).

The Honorable Arve Berg (Labor).

The Honorable Hallvard Eika (Liberal), Former Minister of Commerce and Agriculture.

The Honorable Axel Fossen.

The Honorable Rolf Furuseth (Labor).

The Honorable Sverre Helland (Center).

The Honorable Finn Kristensen (Labor).

The Honorable Reidar T. Larsen (Leftist Social Left).

The Honorable Lauritz B. Sirfvaag (Conservative).

The Honorable Odd Vigestad (Christian Peoples Party).

The Honorable Toralf Westermoen (Christian Peoples Party).

The Honorable Oscar Vaerno, Minister Counselor, Embassy of Norway.

Mr. Arne Borge, Secretary for Storting Industry Committee.

Mr. Karl-Edwin Manshaus, Deputy Director, Ministry of Industry.

Mr. Olav K. Christiansen, Technical Director, Statoil.

Mr. President, I ask unanimous consent that the members of the Storting

Industry Committee of the Norwegian Parliament stand and that Senators welcome them. [Applause.]

TAX REFORM ACT OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. The yeas and nays have been ordered on the conference report.

The yeas and nays are now ordered on the second vote the Senator mentioned.

Mr. LONG. I understand we will vote on that after the first part.

Mr. CURTIS. Mr. President, I pay my respects to the distinguished Senator from Louisiana, the chairman of the Committee on Finance. Few people realize what he has accomplished here.

We had long weeks of hearings. This bill was on the floor of the Senate for about 5 weeks. It was a long and difficult conference. The bill is complex; it is long. He has handled it skillfully. In my opinion, he has made every major move with the desire of doing that which is best for the American economy, and I commend him.

Also, I commend the staff for their very outstanding work. Many of them should be mentioned. To save time, I will only mention Dr. Woodworth, the head of the staff of the Joint Committee on Internal Revenue Taxation, and Don Moorehead, our minority counsel, for their excellent work.

Mr. President, as the ranking minority member of the Committee on Finance, I signed and will support the conference report on H.R. 10612.

The conference report, together with the estate and gift tax amendments agreed to by the conference committee, constitutes one of the most far-reaching pieces of tax legislation ever brought before the Congress. I commend our distinguished chairman, the Senator from Louisiana, for his leadership during the conference with the House. That the conference committee was able to reach agreement on such an immense bill is in no small measure attributable to the efforts of our chairman. I commend him both for his leadership and for his unfailing courtesy to the minority members.

As I view this mammoth legislation, it has several distinct purposes. First, it extends for an additional period of time the general tax reductions first agreed to by the Congress in 1975 as an anti-recession device. Second, the bill contains a series of provisions designed to discourage the use of artificial tax shelters and other devices to avoid taxes. Third, the bill is designed to improve the manner in which our tax laws are administered and to assure that confidential tax returns are properly safeguarded. Fourth, the bill simplifies many of the provisions of existing law, particularly those frequently used by middle income taxpayers. Fifth, the bill contains much needed relief in the estate and gift tax field.

For the information of my colleagues, Mr. President, I want to comment in some detail on several provisions of the conference report. A major focus of the Senate bill and of the conference report is on so-called tax shelters, which seldom can be justified on economic grounds alone. The Senate wisely rejected the complicated LAL provisions of the House bill and substituted rules limiting tax writeoffs in such ventures to the amount the taxpayer has "at risk." I am pleased to report that the conference committee agreed with the Senate that the at risk concept was more appropriate than the LAL rules.

The conference committee decided not to apply the at risk rule to real estate because of the lack of evidence that the use of nonrecourse financing in real estate presents a serious potential for tax abuse. However, the conference report does contain strict limitations on the timing of deductions for construction period interest and taxes. These and other limitations will assure that real estate investments cannot be used to avoid taxes.

The at risk principle also applies to farming syndicates. The conference report generally follows that contained in the Senate bill. Included in this definition is a rule designed to assure that a farm operation is not classified as a "syndicate" merely because a limited risk interest is held by a person who does, or has, actively participated in the management of the farm. With this and other safeguards, I am hopeful that we have in fact made it clear that the new rules are not to apply to those actively engaged in either the operation of or the active management of a farm.

As I indicated at the outset of these remarks, Mr. President, the conference committee also agreed to make substantial changes in our estate and gift tax laws. Many of these changes are long overdue. As a result of inflation, the estate tax is no longer simply a tax on the transfer of very large estates. To the contrary, the estate tax now reaches many moderate-sized estates. This problem has become particularly pronounced in the case of family farms and small businesses, but it is one of nationwide application.

The conference committee agreed to accept most of the estate tax provisions in the Senate bill. The conference agreed to a combined gift and estate tax credit which will be the equivalent of a $175,000 exemption. Also, there is a special valuation rule for family farms. Further, the gift and estate tax marital deductions are increased and the provisions for deferred payment of estate taxes have been liberalized. The conference agreement also includes, on a wholly prospective basis, a generation-skipping trust provision similar to that passed by the Senate. However, it was agreed that a so-called one-generation skip should be permitted, subject to a cap of $250,000 per child.

The conference committee also agreed to several estate and gift tax changes that the House Ways and Means Committee previously agreed to. The most important of these are the unification of the estate and gift tax tables and a so-called carryover basis at death. Both of these provisions are to operate on a wholly prospective basis. Under the carryover basis provision, one who inherits property will not get to increase the basis of that property to date of death value. Instead, the basis will be equal to the decedent's basis, but will be increased to reflect all appreciation in value occurring before 1977. This provision gives me some concern. Nevertheless, I became convinced that failure to include this provision could jeopardize all estate and gift tax relief for this year. Consequently, I will support the estate and gift package despite some reservations about certain features of it.

As my colleagues will recall, Mr. President, the Senate bill contained a series of provisions dealing with private foundations and other tax-exempt organizations. Among other things, the Senate bill reduced the tax on foundation investment income from 4 to 2 percent. It also reduced the mandatory payout for private foundations to 5 percent of the value of the foundation's assets. The conference committee agreed to the payout reduction, and I am pleased to report this to those 40 of my colleagues who cosponsored this proposal with me. I regret to report, however, that the conference committee rejected the Senate provision reducing the 4-percent tax. Hopefully, we shall have more success with this issue next year.

One of the major problems of our tax laws is their very complexity and I regret to say that some of the provisions of this conference report are also quite complex. However, in certain specific areas, such as the retirement income credit, the conference report does provide for a greater degree of simplification. Additionally, the conference report contains the so-called deadwood bill under which many obsolete or seldom-used provisions of the Tax Code are repealed. Of equal importance to these specific actions is the conference committee's agreement to the provision in the Senate bill mandating a comprehensive study of simplification proposals by the staff of the Joint Committee on Taxation. Also, the conference committee received assurances from the Treasury that its simplification studies, which are now in process, will be made available at the earliest possible date.

Mr. President, I referred at the outset of these remarks to this bill as a mammoth bill. It is just that. The conference report consists of nearly 650 pages of "fine print" which will have to be carefully studied and analyzed.

There are many provisions in this bill which I favor, but there are many which I have vigorously opposed. Among these are the restrictive provisions dealing with the DISC, the requirement that many farming corporations abandon the cash method of accounting, and the provisions which seek to use our tax system as an instrument of foreign policy. Nevertheless, I am satisfied that there are a sufficient number of constructive provisions in the bill to warrant its approval. For these reasons, I shall support the conference report and I urge my colleagues to do likewise.

DEFINITION OF FARM SYNDICATES

While I strongly support the elimination of tax abuses in agriculture, I am very fearful of seriously injuring bona fide farmers by drawing them into the syndicate web. In our zeal to completely eliminate such abuses, we must avoid an overkill.

In reviewing the definition of farm syndicates under section 464, I see a need to clarify the intent of the language to make it clear that any person whose principal business activity is actively participating in the management of a farming activity will not be considered a limited partner or limited entrepreneur in a farming syndicate—other than a registered syndicate—with respect to any farming activity in which such person is engaged directly or through representatives or agents.

Mr. LONG. The intent is that any individual whose principal business activity is actively participating in the management of a trade or business of farming will not be considered a limited partner or limited entrepreneur with respect to any farming activity in which such individual is engaged directly or through representatives or agents.

GRACE PERIOD FOR EXISTING FARM SYNDICATES

Mr. CURTIS. The effective date for farm syndicates under section 464 provides for a grace period in 1976 where there is no change in membership of the syndicate.

If a member dies, does this "no change of membership" requirement rule out a transfer of an interest to his estate or to his surviving spouse where property is jointly owned or to a gift or a withdrawal? Does not the "no change" requirement simply refer to the addition of new members to the syndicate?

Mr. LONG. The provision applies to the addition of new members and the sale of interests of existing members to new members, but it is not intended to apply to substitutions occurring by operation of law, gifts, or withdrawals by existing members.

ACCRUAL ACCOUNTING FOR FARM CORPORATIONS—CLARIFICATION OF GROSS RECEIPTS

Mr. CURTIS. Section 447(e) added to the Internal Revenue Code by the bill requires certain corporations engaged in farming with over $1,000,000 of gross receipts to use the accrual method of accounting and to capitalize preproductive expenses.

What is included in determining "gross receipts." Would you include moneys received from the sale of farmlands and improvements, for example?

Mr. LONG. No. Moneys from the sale of farmland and improvements, farm machinery and equipment would not be included in "gross receipts" under section 447(e). With respect to its farming activities, a taxpayer would include only the receipts received from the sale of farm products including livestock held for breeding, draft, dairy or sporting purposes—unless the sale of livestock is not in the ordinary course of business and involves the disposition of a substantial portion of the taxpayer's livestock. In the case of nonfarm items, the taxpayer would include receipts from those items which produce ordinary income as contrasted with those which produce capital gains.

Mr. THURMOND. Mr. President, will the distinguished Senator from Louisiana yield 1 minute to me?

Mr. LONG. Yes, I yield.

Mr. THURMOND. Mr. President, I rise to commend the able and distinguished Senator from Louisiana on his fine leadership on this bill. I do not know of any man who has worked harder on a piece of legislation than he has on this particular bill. He has done a great job. The bill does not carry everything that I favor, and it carries some things that I do not favor. As a whole, I think it is an unusually fine piece of legislation, and I hope the Senate will adopt it promptly.

I also commend the able and distinguished Senator from Nebraska (Mr. CURTIS), the ranking member of the Committee on Finance, for the great job he has done on this bill. I think the Senate is fortunate to have two such able tax men as the Senator from Louisiana and the Senator from Nebraska. I feel that this bill is going to bring reforms that are badly needed and will be of great benefit to this Nation.

Mr. LONG. I thank the Senator.

Mr. HRUSKA. Mr. President, the tax bill presented to the Senate by the conference committee is, on balance, good legislation. To be sure, there are several provisions in the bill with which I do not agree and which I opposed when they were debated on the Senate floor. There are provisions which, in my view, go too far and others which do not go far enough. Nonetheless, the end result is a net improvement compared to our present tax laws. With the passage of technical amendments over the next few years, there will be further improvement.

This is the most extensive tax revision bill in 7 years. It has evolved after 3½ years of legislative give-and-take. It is a massive, complex bill of approximately 1,500 pages in length. Virtually every taxpayer, every citizen, is substantially affected by one or more of its provisions. This bill combines an extension of the personal and business tax cuts designed to continue the Nation's economic recovery with an improvement in the underlying fairness of our Federal tax system. It will raise an estimated $1.6 billion additional revenue from so-called reform provisions. The bill does not contribute toward simplification of the Tax Code as much as would be liked. Hopefully, however, progress will be made in this area in the years ahead.

Mr. President, when the Senate debated the tax bill this past summer, I was concerned that the final result would lack a sense of balance. All agreed that the tax laws play a large role in determining the well-being of our Nation's economy. Yet, in the name of "reform" it was argued that steep, marginal tax rates should be applied to certain classes of income, particularly investment income. It was assumed that applying these high rates would not greatly deter those risking their time and resources from continuing their efforts. It is usually people of higher income who both possess the funds and can afford to risk these funds who invest in a new industry or a new machine. Those who stress the need for fairness in our tax laws claim that people of higher income can afford to pay higher tax rates and, therefore, should be made to pay higher rates.

And so they should. But care must be taken not to make those rates too high. Saving and investment then may not be worth the risk and effort. For if investment is not made, income is not earned, and tax revenue is not collected. Profit is not a dirty word, properly and sensibly collected. Viewed, it represents the cost of capital. We must look to capital to improve and increase industrial and business strength and capacity.

Mr. President, my colleague from Nebraska (Mr. CURTIS), the ranking minority member of the Finance Committee, played an effective, steady role in maintaining the balance we see in this conference result. He counseled on numerous occasions that the goals of income equality and economic growth are quite often mutually exclusive. To gain more of one, some of the other had to be sacrificed. Senator CURTIS recognized that many of those proposals mistakenly labeled with the adjective "reform" were really inspired by a desire to reduce investment in the private sector and, through the tax collector, transfer those resources to the government for more spending on programs of dubious merit. This would only decrease our economy's rate of growth, increase the Government's interference in our daily lives, and add more fuel to the fires of inflation.

Senator CURTIS also was instrumental in persuading the conference committee to act on estate tax reform. I am a cosponsor with Senator CURTIS of estate tax reform legislation, S. 1173. Estate tax reform is badly needed. It has wide support. Yet, it appeared that the conference would not address the issue. Without action by the conference committee, the prospects for passage of estate tax reform in the present Congress were very doubtful.

The issue was addressed, however. To be sure, it is not all that I had hoped it would be. Further, it contains some provisions which I do not favor, in and of themselves, such as the changes made in the capital gains tax on inherited property.

The conference result does provide, however, for a credit the equivalent of a $120,000 exemption in 1977 which will rise to a credit the equivalent of a $175.625 exemption in 1981. I would have preferred an immediate increase in the exemption to $200,000, rather than conversion to a credit of a lesser amount. Yet, the curent exemption of $60,000 is clearly inferior to what the conference has recommended.

The conference committee has also recommended that the marital deduction be increased to $250,000 or half the estate, whichever is greater. This is vast improvement over the present marital deduction of half the adjusted gross estate. In addition, the conference result provides for assessing a family-owned farm or business on the basis of its current use, rather than its potential use in shopping centers, apartment complexes, or the like. This provision is desperately needed if the family farm is to be preserved.

The other body should insure that it

does not let internal difference over some of the estate tax and gift tax provisions result in a stalemate on estate tax reform. If there is one issue that has been clearly communicated this year to Congress by the electorate, it is the need for estate tax reform. Action simply must be taken by Congress in this session.

Mr. FANNIN. Mr. President, I join Chairman LONG and the ranking minority member in urging my colleagues to support the conference report on H.R. 10612, the Tax Reform Act. As a conferee, I view this conference report as a sound compromise between the bills adopted by the House and Senate.

H.R. 10612 is unquestionably one of the more far-reaching pieces of tax legislation adopted by any Congress. It addresses virtually every major area of the Internal Revenue Code.

Although I am in disagreement with some provisions in the bill, I believe it is fair to characterize H.R. 10612 as both tax reform and tax revision. Actions taken by the conferees will assure that all taxpayers pay a reasonable amount of taxes as a result of curbing tax shelter devices and expanding the minimum tax. Vast changes are made in the estate tax provisions which are designed to update this area of vital concern to all American taxpayers. I am pleased that Congress has agreed with President Ford that significant changes are needed in the estate tax area in order to encourage the survival of the small business and small farm in America.

Of immediate importance to the American taxpayer is the extension of the individual tax reductions and the small business tax reductions. It is my view that the average taxpayer will also be pleased with the job-creating aspects of this bill, such as extension of the investment tax credit and expansion of the employee stock ownership program.

Mr. President, much of this bill is more accurately referred to as tax revision rather than tax reform. Many of the modifications to existing law were necessitated by changes in contemporary American society. Provisions such as those in the administrative title and many in the miscellaneous titles are simply a recognition that present tax laws no longer meet present needs.

It is easy to point to good provisions in this bill. I must state, however, that there are several bad ones, too, which most likely will be brought to the attention of Congress in the immediate future. A particular disappointment to me is the failure to make permanent the surtax exemption for small businesses which desperately need a dependable increase in available capital, as well as the extension of the holding period for long-term capital gains from 6 months to a full year, the restricting of business deductions for attending foreign conventions and adding to the minimum tax base certain intangible drilling costs. I am also concerned with those sections which restrict the existing DISC provisions and the foreign tax provisions affecting individuals abroad. It is my belief that these and other provisions will reflect negatively on the economy.

Despite my support for this bill, it is clearer than ever to me that Congress must more directly tackle our present and future needs for vast amounts of new capital. These needs remain a compelling fact of life and are at the heart of our unemployment problems today.

Although I am violently against the improper use of boycotts, I am strongly opposed to the Arab boycott legislation included in the Tax Reform Act. I feel, as does the administration, that it is improper to use the tax code to affect foreign trade and influence the foreign policy of the United States. Not only is it an improper use of the tax code, but it bypasses those congressional committees which have jurisdiction over international relations. The administration is equally concerned that enactment of such legislation would seriously weaken American influence with Arab States and damage the cause of peace. It would make it difficult for American companies to do business with those Arab States and will result in diverting business to other foreign countries. It would therefore have a serious effect upon the American economy, its businesses, exports, and jobs. It would damage, rather than help, our diplomatic posture. This is a position in which I strongly concur.

It is unfortunate that the Congress has been unable to satisfactorily complete real simplification of our tax laws. Only by making it easier for the average American taxpayer to calculate his own taxes can we achieve our real objective of tax simplification.

I feel compelled to remind my colleagues that an important title of the Senate's version of H.R. 10612 remains pending before the Congress. I refer to the energy provisions which were debated at length and adopted in the Finance Committee and on the Senate floor. These energy provisions were deleted from H.R. 10612 at the request of the House conferees with the understanding that they would receive positive consideration by this Congress in a separate piece of legislation. This legislation is urgently needed to expand our domestic energy supplies by encouraging conservation and conversion to new energy sources. I, therefore, join with a solid majority of my colleagues in urging immediate action on H.R. 6860, which is now on the Senate calendar.

Mr. President, I pay tribute to Chairman LONG and our ranking minority member, Senator CARL CURTIS, for their outstanding leadership in the supervision and completion of this very comprehensive legislation. Few tasks have been more challenging than the responsibility they assumed.

The chairman's ability in accomplishing the almost impossible was a result of his expertise and his dedicated devotion to his chairmanship.

Mr. President, I would like to take this opportunity to extend my sincere appreciation to the majority and minority staffs of the Finance Committee and that of the Joint Committee on Internal Revenue Taxation for their excellent work on H.R. 10612. These several individuals have provided dedicated service to my colleagues and me on the Finance Committee.

Mr. MUSKIE. Mr. President, the tax reform bill has come back to the Senate after a long and, frankly, discouraging fight on the Senate floor—after a long and difficult conference.

I voted against this bill when it left the Senate. It has come back a much better bill, and I shall support the conference report.

Hopefully, this summer's long struggle for reform marks a turnaround.

Hopefully, we are beginning to slam the door on the kind of insidious special interest tax loopholes which cost taxpayers billions in lost revenues each year, to no good public purpose.

Hopefully, our hard-won success with this tax bill will give us the courage to take further steps in the future—toward more loophole closing—toward a fairer tax system—and toward a simpler tax system.

If we expect each American to file an honest tax return every year—and the vast majority of us do—we had better show steady progress toward a fair and understandable tax code. The very complexity of the bill shows how far we have to go in this regard.

As it has emerged from the conference, the bill is consistent with two major assumptions underlying the second concurrent budget resolution revenue floor.

First, the bill provides full year extension through 1977 of all the temporary tax reductions first enacted in 1975. This extension is necessary for continued progress toward economic recovery. Second, the bill will raise $1.6 billion in fiscal 1977 from elimination or modification of tax expenditures.

The conference report is a far better version of H.R. 10612 than the one passed in August by the Senate that I voted against. That bill, instead of raising $1.6 billion in fiscal 1977 through elimination or modification of tax expenditures, would have lost $300 million. That bill was $2.3 billion below the first concurrent resolution revenue floor, the then applicable congressional budget revenue target. The conference report is also far better than the bill initially reported by the Finance Committee that would have raised only $1.0 billion in 1977.

At least as important as the substantial net revenue gain in 1977 from tax expenditure and estate and gift revision provisions under the conference report is the fact that the conference bill also will raise substantial revenues in subsequent years from these provisions. It is estimated these conference report provisions would raise approximately $1.0 billion in 1981. By contrast, the comparable provisions passed by the Senate would have lost $2.8 billion in 1981. The comparable provisions of the bill initially reported or approved by the Finance Committee would have lost $4.3 billion in 1981. This change in the long run revenue impact was necessary if we are to balance the budget by 1980 or 1981.

Senator LONG, the distinguished and able chairman of the Finance Committee, and the other Senate conferees are to be praised for a conference report so much improved over the Senate-passed version of the tax reform bill.

On balance, the conference report now

contains more positive provisions repealing or modifying tax expenditures and the estate and gift tax laws than it expands or creates new unjustifiable tax expenditures for limited classes of taxpayers.

However, despite the solid improvements in the tax system that will result from enactment of this legislation, much more can be done to make the tax system more efficient and more equitable.

I believe some of the shortcomings in our Revenue Code are attributable to the prevailing attitudes exhibited in the Senate toward tax legislation—attitudes reflected by the bill originally passed by the Senate. Instead of meeting the $2 billion revenue gain target then set under the congressional budget process, that bill would have lost $300 million in 1977.

Many new revenue-losing provisions that were adopted by the Senate—most but not all of which were diluted or eliminated in conference—had laudable purposes but were insufficiently supported by analyses indicating they could meet these goals efficiently. With respect to many existing tax expenditures, a majority of the Senate often voted to retain benefits even though there was insufficient justification or economic analysis supporting their continuation.

The same strict standards of efficiency that the Senate applies to direct spending programs are infrequently applied to the review of both new and existing tax expenditures. Many Senators who are extremely discriminating and even penurious in approving direct spending programs do not apply the same strict standards to enactment of legislation intended to meet comparable policy goals through the use of tax expenditures. Changing this attitude will take strong discipline that will have to be applied by the Senate itself. The Senate cannot abdicate its sense of fiscal responsibility and rely on its appointed conferees to modify tax legislation to provide appropriate tax policy.

The congressional budget process can facilitate the growth of this necessary discipline. In fact, I believe the final product of the tax legislative process in the form of the conference report now before the Senate reflects the substantial impact of the new budget process.

I urge the Senate to adopt the conference report. In the future, I hope the Finance and Budget Committees will work more closely together to achieve our common goal of fiscal responsibility. With good will, I believe we can avoid the conflicts that developed this summer on the Senate floor.

Mr. BEALL. Mr. President, I take this opportunity to commend all those involved in the creation of the Tax Reform Act of 1976. The task has been long and tedious for all of us, but I believe that a special expression of gratitude should be extended to the distinguished members of the Finance Committee and its chairman (Mr. LONG) and the ranking minority member (Mr. CURTIS). I am pleased to find that the bill, as reported by the House-Senate conference, contains many provisions which I have either sponsored or cosponsored over the past few years in separate legislation. In particular, I express my special gratitude for the inclusion of several provisions in the Tax Reform Act of 1976 which I would like to describe briefly.

First, the bill contains a provision which encourages the preservation and rehabilitation of historic properties by providing a tax incentive for such behavior. I have been interested in such a provision for several years and think that it is especially fitting that it be included in the tax reform bill in this, our Bicentennial Year.

Second, the bill provides for the withholding of State taxes from military personnel, which should be of assistance to both the States and the individuals involved.

Third, the bill will provide assistance to those over 65 who decide to sell their principal residence by significantly reducing the capital gains tax involved in such a transaction. This provision offers much needed relief to the elderly individuals of our Nation who find themselves already heavily burdened by various forms of Federal, State, and local taxes.

Fourth, I am pleased that the bill provides for the exemption from taxation of the reserve funds of condominium and homeownership associations. This will make the treatment of a condominium owner consistent with that currently given individual homeowners.

Finally, Mr. President, I am pleased with the encouragement of family continuity in small businesses and farms that the bill's estate and gift tax title provides. This is accomplished by allowing, under certain conditions, the valuation of these properties at "current use" rather than "highest and best use" as is required under current law for the determination of estate tax liability.

In conclusion, Mr. President, although the bill is very complex and contains several provisions which I find objectionable, I must consider the bill in its totality. It is from this perspective that I support the Tax Reform Act of 1976 as reported by the House-Senate conference.

TAX REFORM: PROGRESS, BUT NOT ENOUGH

Mr. HUMPHREY. Mr. President, the old adage claims the only certainties are death and taxes. But at least we can strive for long life and fair taxes. While for now I leave the former concern to others, I believe Congress has taken long steps toward a better and fairer tax structure this year.

We cannot hope for perfection of a system laden with problems accumulated over 200 years, from one well-intentioned session of Congress; Government does not work like that, and if it did, it would not be run by humans. So perhaps the expectations of some exceeded the realistic ability of representative government to bring forth change—but Congress is making an auspicious start in the present tax bill, which in turn will be a fine takeoff point for further reform under the new Administration next year.

What have we done? What is left to do? Let me explain. Last September I joined 12 other Senators in sponsoring the Federal Taxpayers Rights Act of 1976. It set the tone for facing the challenging task of creating a system of tax collection for the Nation's third century:

Strong protection of private tax information;

A nonpolitical Internal Revenue Service;

Elimination of arbitrary IRS rulings;

IRS reponsiveness to taxpayer complaints;

Adequate legal assistance through the maze of complex laws and procedures, and

Accountability of the IRS to the people's representatives in Congress.

Under the previous administration, the tax laws were a weapon to be turned against enemies. People demanded statutory assurance the tax procedure would work for them and never again be targeted against them.

That is one side of tax reform, but there is more. Tax reform is fair collection procedures, simplified processes, and equitable assessments.

The fundamental principle of equitable assessment is that a penny earned is a penny taxed the same, regardless of who you are, or how you derive your income and wealth. Exceptions to the principle can only be justified by explicit decisions that they will serve the needs of the country, and not just of a few powerful individuals or businesses.

We have made progress. The Tax Reform Act of 1976, which we are acting on today, contains no less than six provisions to simplify the tax system. While there remains an urgent need to do much more, this is a good step forward.

We have made progress. The bill would extend the $35 tax credit to individuals thereby helping sustain our mediocre economic recovery by putting money in consumer pockets. Congress has not gone overboard with election year panaceas. Taxes could have been cut more, but it would have been fiscally irresponsible at this time.

Second, the tax bill extends the 10 percent investment tax credit and the corporate tax surtax exemption ceilings. These measures stimulate all business, but especially small business, to invest more of their earnings in capital at a time when experts predict we face shortages in the tools and equipment the country will need to be fully employed a decade from now.

Third, the rough and tumble legislative process has been especially rough on estate and gift tax reform. But the provisions agreed to in conference are, by any measure, a vast improvement over the unchanged and anachronistic estate tax tables of 1942 that remained in effect until now. The $60,000 exemption will be nearly tripled by 1981—an improvement which will help keep intact America's family businesses and farms currently expropriated by Government between generations.

Fourth, one of the changes I am proudest of is the extension of the child care credit to those who do not itemize their deductions. The bill liberalizes the retirement credit which will greatly help the elderly—the segment of society which has given the most, is receiving the least, and is largely incapable of defending its own economic interests. And the conference committee, by providing tax-free status to prepaid legal insurance plans, correctly ranked equal justice for all as a fundamental American right alongside the pursuit of good health.

Fifth, the Senate took steps—not as large as possible—for the first time to clean up its own tax writing process, as the House of Representatives did last year. In unprecedented special hearings, the Finance Committee withdrew 17 special interest breaks designed, in many cases, to funnel funds from the Treasury to the pockets of a few corporations represented by powerful interests. This reform will save taxpayers over $100 million.

And sixth, we tightened the minimum tax, and reformed the maximum tax, both, I believe, in beneficial ways. That is progress, too.

The minimum tax is predicated on the principle that all Americans should be assured the opportunity to help finance the cost of the Government which protects them and supports so many public services of which they freely partake. Instead of allowing a $30,000 exemption plus an exemption for all regular taxes paid, the act would permit only a $10,000 exemption or half the taxpayer's regular taxes, whichever is greater. Hence, more income will be subject to minimum taxation, and similar rules would apply to corporations at a time when they are paying the lowest effective rate of taxes in recent history.

Regarding the maximum tax, we did away with the provision which exempted $30,000 of preference income from the portion which could be deducted from "earned" income to determine how much is subject to the maximum tax. That means less income of wealthy taxpayers with good tax lawyers will benefit from this break—and that is all to the good. Now pensions and annuity income may be included in "earned" income for the purpose of benefiting from the maximum tax rate of 50 percent. The changes in this provision alone exemplify the mix of compassion and fairness which guided most Members of Congress in formulating the bill.

So we did make progress, but let me hasten to add that I believe we did not make enough. We did not do anything about foreign tax deferral, which is an unconscionable break to American-owned companies who produce abroad with foreign labor. We are not adequately limiting tax shelters, though the House showed how it could be done by disallowing some common accounting tricks.

And we are not addressing the question of the correct Federal relationship of tax systems. Property taxes, which are regressive and a crushing burden to the average homeowner, rose 82 percent for the $14,000 a year family between 1953 and last year, but only 47 percent for the $56,000 a year family. At the same time, the progressive Federal income tax decreased as a proportion of the GNP from 1956 until last year, from 15.9 to 13.2 percent. These figures raise policy questions that policymakers had better well keep in mind—and I am not sure we fully did.

Boycotts and bribes, foreign trusts, preserving confidential information—the list goes on and on. The net impact, when this act becomes law, is that the tax laws of this country will be firmer, fairer, simpler, and more compassionate than at any time in recent history. The lawmakers of the United States have not forgotten the lessons of our own Revolutionary War: few other actions of Government can so raise the ire and passion of freedom loving people anywhere as unjust taxes—and we know that axiom applies to Americans.

I shall vote for the conference report.

Mr. BUMPERS. Mr. President, I am greatly distributed by the actions of the conferees on H.R. 10612 with respect to the use of the accrual method of accounting by farming corporations. Under new section 447 of the code, as added by this bill, farming corporations, with a few exceptions I shall discuss later, can no longer use the cash basis of accounting. Under present law, by contrast, these corporations, like other businesses, can use either the cash or accrual basis, provided that the basis elected can be disapproved if the Commissioner finds that it does not clearly reflect income.

Mr. President, I have serious reservations about this whole approach. I see no reason why farming corporations should not be allowed, in common with all others, to use the cash basis if it clearly reflects income. But I am willing to accept this change, albeit reluctantly. To make the change applicable only to certain types of farming corporations, however, and not to others, seems to me discriminatory in the extreme. Section 447 exempts "family corporations" from its provisions. The term is defined to include corporations in which one family owns 50 percent of the stock. Section 447 also exempts corporations qualifying for taxation as partnerships under subchapter S and corporations doing $1 million worth of business or less a year.

There may be good reasons for permitting smaller corporations to continue to use the cash basis, but I can see no reason of accounting or tax policy to justify distinguishing between corporations on the basis of who owns them. Some very large taxpayers indeed are "family corporations." It is unfair and discriminatory to permit these corporations to use a different basis of accounting from their competitors, of equal size, that are not "family corporations."

Mr. President, I plan to offer an amendment to another tax bill on the calendar this session to remedy this injustice, by simply eliminating the exemption for "family corporations" from section 447.

Mr. HATHAWAY. I have a question regarding the effective date provisions of section 1051. I understand that under the Senate amendment, earnings derived by a possessions corporation prior to October 1, 1976, from any source outside the United States, will constitute qualified possession source investment income. Am I correct that to the extent such earnings—or the funds from which they were derived—are reinvested in the possession in which such corporation actively conducts a trade or business, the income from such reinvestment will also constitute qualified possession source income?

Mr. LONG. Yes, that is correct if those funds which were invested outside of the possession were initially derived from a possessions trade or business.

ADDITIONAL STATEMENTS

Mr. BENTSEN. Mr. President, I support prompt enactment of the comprehensive tax reform bill. This measure, among other things, extends the essential individual income tax cuts of 1975, provides long overdue estate tax relief to families across this country and provides needed assistance to smaller businesses. The bill also protects the confidentiality of individual income tax returns and includes safeguards to help prevent future political misuse of the IRS. Although I strongly oppose many provisions in this bill, on balance it is good legislation.

Mr. President, this bill extends the $14 billion individual income tax cut which was enacted last year. This extension represents a tax saving of about $250 a year for the average family of four. Inflation makes it harder and harder to make ends meet and this tax cut which I strongly support will provide some relief. When the cost of living keeps going up, as it has with great regularity for the past several years, middle income people and low income people have to have money from somewhere to pay the grocery bill, and the rent, and rising utility bills. Thus, a continuation of the individual income tax cuts is essential to them.

In addition, the tax bill includes very important provisions that will, in effect, gradually increase the estate tax exemption to more than $175,000 over the next 5 years. This is a welcome change and one I fought for. The old $60,000 exemption, set back in World War II, was forcing the widows and children of farmers, ranchers and small businessmen to sell their property to pay the tax. Everything has gone up in the 34 years since the exemption was set, except for the exemption itself. Experts estimate that a farmer earning some $10,000 a year will leave an estate valued at $320,000. The $60,000 inheritance exemption for him meant that his widow and his sons and daughters had to sell their land. The tax bill also includes a provision restricting artificially high land valuations that drive up the estate tax. It restricts an existing practice by the Internal Revenue Service of assessing some farm land at its commercial value rather than its agricultural value for estate tax purposes.

The tax bill also extends the provisions of the 1975 Tax Reduction Act which are vitally important to small business. These provisions increased the corporate surtax exemption from $25,000 to $50,000 and reduced the normal tax rate on the first $25,000 of corporate income from 22 to 20 percent. I will continue to support legislation which will help small business prosper and grow. Small businessmen form the economic backbone of our Nation and are vital to our economy. It is the small businessman who provides jobs for about one-half of our private work force. The survival of small businesses across our Nation is indispensable if we are to maintain healthy competition in our economy.

However, I strongly oppose some provisions of this bill which may impose an unnecessarily severe burden on such crucial sectors of the economy as agriculture, real estate and energy. For example, the provisions restricting intangible drilling deductions will slow the search for new oil and gas in this country and aggravate the energy shortage. We already have a serious energy shortage and we are dangerously increasing our dependence on unreliable foreign sources of oil and gas. In light of our energy needs, the provisions relating to intangible drilling deductions are counterproductive.

As chairman of the Senate Financial Markets Subcommittee, of the Senate Finance Committee, I intend to hold hearings early next year to thoroughly analyze the impact this bill may have on the ability of our economy to generate sufficient capital to achieve energy self-sufficiency and sustained noninflationary growth.

Mr. BAYH. Mr. President, the Senate is today considering the conference report on H.R. 10612, the tax reform of 1976. I will vote in favor of accepting this report because I believe that this bill takes vital steps toward the goal of tax equity for all our citizens and because it extends the essential anti-recessionary tax cuts.

It has been obvious for a number of years that extensive reform of our tax code is necessary. The Federal tax code places unfair burdens on those with low and middle income, allows many very wealthy individuals and powerful corportions to escape fair taxation, and is a maze of complexities which often defies comprehension.

Over the years, so many special provisions have been built into the tax laws to subsidize various actions and interests that these subsidies, known as tax expenditures, reached an estimated $92 billion for the current fiscal year, about one-fourth of Federal expenditures. Unlike other Federal expenditures, these tax subsidies are not examined and renewed on a periodic basis and generally remain in the code long after the purposes for which they were created have ceased to be relevant.

The Senate worked for almost 2 full months on the tax legislation and produced a bill that was almost 2,000 pages long, but which contained pitifully little that could be labeled "reform."

After a number of lengthy sessions, the House and Senate conferees have developed a final version of the tax bill that—while not perfect—does close a number of loopholes in the tax code. The bill will raise a total of $1.6 billion in fiscal year 1977 in additional taxes, most of that from those who have been paying less than their fair share of taxes to date.

Most notable among these provisions is the raising of the minimum tax to 15 percent on all preference income after deducting $10,000 or half the taxpayers' regular taxes whichever is greater. While this provision still permits too many individuals to escape paying their fair share of taxes, it does go a long way toward insuring that everyone pays at least some income tax. In fact the changes in the minimum tax provisions are estimated to affect 300,000 individuals as opposed to the 30,000 persons now affected under the current minimum tax provision. This is a significant step forward.

I would also like to take note of the conference action on the Domestic International Sales Corporation—DISC's. This indefensible loophole allows corporations to defer up to 50 percent of their export profits resulting in an annual revenue loss and negative impact on domestic employment. The conference agreement confines this tax break to only the increase in sales and not all sales. DISC benefits can only be applied to two-thirds of the average yearly export profits earned by that company between 1972 and 1975. While I favored complete repeal of DISC's, I am pleased that the conference made progress in bringing this loophole under control.

The conference also continued the investment tax credit at 10 percent until 1980 and retained provisions that would remove tax advantages for any companies who participate in the Arab boycott of Israel. I support both of these important sections of the bill.

While much of the conference action will affect American businesses—from the giant multinational corporations to the small family enterprises—many of the key provisions will have a direct impact on the individual taxpayer. Chief among these provisions are the continuation through 1977 of the $35 tax credit for individuals and raising the minimum standard deduction to $2,100 for joint returns and $1,700 for single taxpayers. This is an important part of our continuing battle against unemployment which is still far too high at 7.9 percent.

Of importance to working parents are the changes in deductions for child care. A credit of 20 percent of the cost of child care up to a maximum of $400 for one child and $800 for two or more children will apply to taxable years beginning after December 31, 1975. As the law currently stands both parents have to work full-time in order to be eligible for this credit. Under the new provisions this credit is applicable when one parent works full-time and the other is a part-time worker or a full-time student. The credit is also available for divorced or separated parents with custody of the children.

I was greatly disappointed that the conference dropped my amendment on the sick pay exclusion. I fought to retain the current $100 per week sick pay exclusion for persons with adjusted gross incomes of under $15,000 and phase out the exclusion at $20,000 adjusted gross income. In this way, relief is offered to those who need it most. Unfortunately, the conference elected to repeal the sick pay exclusion for almost all taxpayers, retaining only a limited exclusion for totally disabled persons under age 65. A repeal of this nature falls hardest on persons at the lower income levels.

The bill also makes changes in the estate and gift tax sections of the tax code. However, these adjustments work mainly to the advantage of persons with extremely large estates. A concentrated effort is still needed to help relieve the small family farmer and others with limited estates from the heavy burden of inheritance taxes. This burden often results in the necessity of selling the family farm or business in order to pay the taxes on the estate. I have long been concerned about this problem and hope effective action can be taken in the next Congress to help those with small, non-liquid estates.

This massive piece of legislation, while not containing all of the tax reforms that I would like to see enacted, does extend limited tax relief to low- and middle-income taxpayers while at the same time tightening some loopholes and special provisions which have allowed many individuals and corporations to pay little or no taxes in previous years.

However, this legislation suffers from the same problem that has confronted previous attempts at tax reform—namely the final version was arrived at through a piecemeal approach. What is needed is a comprehensive and coordinated revision of the entire Federal tax code.

Senate passage of H.R. 10612 today brings the country closer toward tax equity for all our citizens but there is still a long way to go. Hopefully this legislation will serve as a basis for future congressional action to at last achieve meaningful and complete tax reform.

Mr. KENNEDY. Mr. President, I commend the distinguished chairman of the Finance Committee, Senator LONG for his achievement in bringing back to the Senate a bill that those of us who supported comprehensive tax reform in the Senate this year can endorse and support. But we also approach this conference report with mixed feelings. In this atmosphere, a few observations on the course of events may help to put the issue in perspective.

First, every supporter of tax reform owes a major debt to Chairman AL ULLMAN and the House Ways and Means Committee conferees for putting this bill into a shape where it deserves the genuine label of "tax reform."

The numbers tell the story. A bill that left the Senate $300 million in the hole in terms of revenues in fiscal year 1977 and $2.8 billion in fiscal year 1981 was transformed by the conferees into a bill that will actually raise $1.6 billion in 1977 and $1 billion in 1981. If the excessive estate tax provisions are omitted, the future revenue picture would be even brighter, with the bill bringing in a full $2.4 billion of new revenues from tax reform in 1981.

Compared to the Senate bill, that is a swing to the good side of about $2 billion in 1977 and over $5 billion in 1981, which is no small feat by the conferees, in light of the sorry shape in which the tax bill left the Senate. In effect, the House conferees took the Senate bill, gave it a cold shower and some hot coffee, sobered it up, and put it back on the path to tax reform.

Second, this bill is not the millenium

for tax reform. It is not even a major step in the right direction. It is a step forward, but only a small one. There is plenty left for the next Congress and Jimmy Carter to do on tax reform, and I hope that we shall be starting on the task as early as possible next year.

When the House tax bill reached the Senate last December, those of us who were working for tax reform emphasized that it was only a foundation on which to build. Many of us recommended strengthening changes to improve the House bill and take advantage of the opportunity for achieving major tax reform.

Essentially all of our major efforts were defeated in the Senate Finance Committee and on the Senate floor. The few victories we achieved were largely of the finger-in-the-dike variety—an occasional success in preventing a new loophole from being added on the Senate floor, or in striking some of the worst special interest sections and other regressive provisions from the Finance Committee bill.

It is fair to say that the conference bill restores—but only restores—the foundation on which to build for tax reform in the future. We are back where we came in with the House bill last December, but no further. So our sense of relief over the conference bill is tempered by a realization of how far we still have to go. The foundation for tax reform has been restored, not demolished, and we are ready to try again.

Third, an analysis of the final bill as it emerged from the conference demonstrates that the House bill was strengthened in few, if any, of the major controversial areas of tax reform:

One of the most important House reforms, the complete repeal of the "deductions for taxes paid" in the minimum tax on individuals, was watered down to allow half the deduction to continue for individuals. The entire deduction was retained for corporations.

In the tax shelter area, the conference bill essentially splits the difference between the relatively effective House LAL provisions and the much weaker Senate bill. Experience will tell whether the compromise is anything more than a mild slap on the wrist to wealthy investors in lucrative tax shelter deals. Given the modest scope of the original House bill and the diluted conference version, any obituary for tax shelters at this time would be completely premature.

On DISC, the bill is a failure. The conferees picked up $400 million in 1977 by setting the effective date earlier. But the bill eliminates only one third of a $1.4 billion loophole for the Nation's largest multinational corporations. Probably no other loophole in the history of the Internal Revenue Code has cost so much per year with so little justification. It remains in the tax laws as a continuing reminder of the strength of a small but powerful special interest lobby.

The bill does nothing at all to eliminate another favorite loophole of the multinational corporations—the tax deferral loophole for profits earned abroad. It is difficult to believe that a country with a major capital shortage and 8 percent unemployment would be granting tax benefits to U.S. firms to build plants abroad and hire foreign workers. Yet that is the result of this $400 million runaway plant and runaway jobs loophole.

The bill also contains the "great estate tax rip off", approximately $1 billion in tax relief for the wealthiest 7 percent of the population. This relief is masquerading as assistance to farmers and small businesses. But as the Senate debate showed, it would only cost $120 million to provide such relief to farms and small businesses. The rest is "juice" for wealthy holders of corporate stock and other investors, whose closest brush with a farm or small business is the well-heeled lobbying effort that won this rich but undeserved relief. I find it incredible that both the Senate and the House have been lulled so easily into accepting this massive giveaway of scarce tax dollars. It would be interesting to know how many Senators and Congressmen who voted for this relief are in a position to benefit personally from it.

And then there are the multi-million-dollar "plums" for favored special interest groups. On Black Friday, last July 30, the Senate voted in rapid-fire succession to give approximately $30 to $50 million each in special tax relief to the railroads, airlines, the shipping industry, and the life insurance industry. Each of those provisions emerged relatively unscathed from the conference. But the conferees refused to accept a $30 million benefit for low-income working mothers, in the form of the Senate amendment making the child care credit refundable. That's not a bad yardstick for the future—when Congress starts paying as much attention to working mothers as it does to the railroads and the airlines and the ships and the life insurance companies, we'll be well on the way to genuine tax reform.

Fourth, the congressional budget process worked in the end—not perfectly, but surprisingly well. I give great credit for this success to the chairman of the Budget Committee, Senator MUSKIE, for performing his difficult and thankless task so well. No responsible fiscal and budget policy can ignore the impact of tax spending. If the Senate has not yet finally come to terms with the need for better control and scrutiny of tax expenditures, we are at least progressing toward acquiring such control. A new breed of reckless big spenders in Congress has been identified—those who vote for massive Federal spending programs through the tax laws with little thought as to either the equity or efficiency of the way the funds are used.

It turns out that the same Senators who are so quick to urge a balanced budget and to slash Federal spending in vital areas like homes and jobs and schools and health are the same Senators who are willing to give away billions of Federal dollars to special interest groups and wealthy individuals and corporations.

Now that these big spenders have been identified, their influence will inevitably diminish. The shoe is on the other foot, and the big tax spenders are beginning to feel the pinch. The logic of the budget process is irresistible. It is long past time for tax expenditures to be subject to the same microscopic examination the budget process requires us to give to other forms of Federal spending.

Fifth, the debate and the repeated failures on tax reform have highlighted the darker side of the way Congress deals with taxes. The cozy and unsavory connection between political campaign contributions, lobbyists, and tax loopholes should be obvious to everyone concerned about the integrity of Congress and the way we write the Nation's tax laws. Congressional reform in the areas of lobbying and campaign financing is already at the top of the agenda for many of us in the Senate and the House. My hope is that the fallout from this tax bill will be enough to spur Congress to finish action in this session on the pending lobbying reform legislation and that next year we will adopt the even more important reform of public financing for Senate and House elections. In my view, these twin institutional reforms of Congress are essential if we are to achieve comprehensive tax reform.

Was it worth it? Unquestionably. In tax reform, as in so many other areas, there are no final victories. It took years to educate the country on Vietnam and medicare. Both sides won and lost in the debate this year on tax reform. Personally, I doubt that the Senate will revert to the bad old ways of doing the public's business in the vital area of taxation and tax reform. Now that we are pointing once again in the right direction, I am optimistic that in the next Congress, we will take an even larger forward step, and deal more thoroughly with the massive national agenda of tax reform.

Mr. HUDDLESTON. Mr. President, the Senate is considering today an important piece of tax legislation, H.R. 10612, which will provide tax relief for millions of financially hard-pressed Americans and close a substantial number of tax loopholes. There were many times during the consideration of this bill that I lost hope of achieving any semblance of tax reform. When the vote on final passage in the Senate was called on the bill, I was on the verge of voting against it because in its amended form the bill was a mockery to its title which captioned it as "tax reform."

However, I maintained one last hope that the bill would be salvaged in conference with the House and, fortunately, this has proved to be true. I commend the conferees for meeting in a responsible fashion the challenge laid down by this tax bill.

The bill as reported by the House-Senate conference committee is by no stretch of the imagination an ideal tax reform bill. The defects are glaring in that they fail to go far enough in closing tax shelters and other special provisions for the wealthy and large corporations. Further, I have considerable doubt about whether the changes will assure that everyone is paying his or her fair share of taxes. While the bill is deficient in many respects, it does have the overall redeeming value of coming very close to the goal of the budget resolution of closing $2 billion in tax loopholes.

H.R. 10612 has many commendable features which will go a long way toward providing greater tax justice for those average taxpayers who need it the most. The extension of the tax cuts will give some relief from inflation and at the same time provide additional stimuli to the flagging economy. The elderly who are struggling to get by on fixed pensions will benefit by the increase in the retirement credit. This is an increase that Senator CHURCH and I began fighting for 3 years ago and which I am happy to see included in the bill.

Overdue changes in the estate tax laws will give individuals an increase in the standard exemption to compensate for the effect of inflation on estates. Also, family farms and small businesses will be able to value their property according to current use rather than being forced to value it according to the highest and best use. This means that the Federal Government will not continue to force the sale of these businesses just to satisfy the estate taxes.

There are many other worthwhile provisions in the tax bill, but the one that holds out the best hope for providing true tax justice in the long run is that which requires a study by the Joint Committee on Internal Revenue Taxation on simplifying and indexing the tax laws. I amended this provision in the Senate version of the tax bill to require the submission of the report within 18 months of the date of enactment rather than leaving it open-ended as under existing law. I am extremely pleased that the conference committee recognized the importance of this study and the need for a timely report by moving the date of the report up to June 30, 1977. This report will lay the groundwork for beginning a serious effort on the part of Congress to reform the tax laws.

I believe that this bill is a prime example of the vicious circle we have gotten ourselves into by way of an overly complex and confusing tax code. H.R. 10612 does make a rather timid effort to simplify the code, but it falls far short of achieving any substantive changes and, in fact, compounds the existing problems by weaving into the code more confusing and incomprehensible provisions. This unnecessary complexity only serves to aid those special interest groups who seek to have special privileges built into the code in a manner which discourages detection. Only when we have a simplified code that lays bare any deviation from fair taxing standards will we ever achieve tax equity for every taxpayer.

Mr. President, I support the conference report as an interim approach to tax reform and with the understanding that next session I will again renew my efforts with other Senators to restore sense and fairness to the Federal tax code.

Mr. STONE. I have a question regarding section 1321 of the conference bill. Assume that a prospective residential customer agrees to pay a regulated public utility a specified amount before the commencement of utility service to that customer for the construction of central sewer and waterplant facilities and sewer and water mains. Because of State regulatory requirements, the payments must be placed in an escrow account and cannot be released to the utility until the main lines are hooked up to the customer's property. My question relates to the expenditure rule approved by the conference committee and described in the Finance Committee report. Am I correct that the foregoing payments will qualify as nontaxable capital contributions if the utility can show that at any time before it received the payments, or at any time during the rest of the year of receipt and the two succeeding taxable years, it spent at least an equivalent amount for the construction of the central sewer and waterplant or sewer and water mains?

Mr. LONG. Yes; assuming, of course, that the payments truly relate to the construction of plant and mains, and are not in lieu of connection fees or regular service charges.

Mr. STONE. In other words, if the utility can make such a showing, the result in the type of case I just described will not be affected by the existence or duration of the escrow arrangement. Is that correct?

Mr. LONG. Yes.

Mr. GRAVEL. I want to get a clarification of the term "customer connection fee" for purposes of the contribution in aid of construction provision of the tax bill. Under the conference agreement, are fees or amounts paid by a customer to a water or sewer public utility in order to have a main extended by the utility to a place immediately adjacent to the customer's property considered as not a customer connection fee?

Mr. LONG. Yes. However, any fees or amounts paid by a customer in order to install or connect the utility's main to the customer's property are considered a customer connection fee.

Mr. GRAVEL. The purpose of this section is still the same as when we approved it on the Senate floor. It was intended to require the Internal Revenue Service to continue its traditional treatment of contributions in aid of construction as nontaxable contributions to capital. In light of this intent, I would like to point out that even though we did not make this section retroactive, the Congress hopes and intended that the IRS will dispose of any pending controversies concerning taxation of utilities' contributions in prior open years as soon as possible and in light of the policies outlined in section 1321.

Mr. HANSEN. Mr. President, a question has arisen over the treatment of certain pending freedom of information cases under the new rules governing disclosure of private letter rulings and related materials under section 1201(a) of the bill, which adds section 6110 to the revenue code. I would be grateful if the chairman of the committee could advise me as to whether I am correct, Mr. President, in assuming that under section 1201 (b) of the bill, rulings, technical advice memorandums, background files, indexes, and card files which were or are the subject of a judicial proceeding under the Freedom of Information Act are not made subject to these new rules on disclosure? In other words, are cases such as Fruehauf Corp. against Internal Revenue Service, Supreme Court docket 75-679, in any way adversely affected by the changes contained in section 1201(a) of the bill by reason of section 1201(b)?

Mr. LONG. Mr. President, in answer to the Senator's question, if the Supreme Court or other Federal court, in a pending freedom of information case, affirms a taxpayer's rights to disclosure of private letter rulings, technical advice memorandums, background files, indexes and card files, or other related communications and correspondence, section 1201 (b) assures that section 1201(a) will in no way impede or deter the court ordered disclosure as to all the information sought in the pending cases. Similarly, if a pending freedom of information case is decided against the taxpayer, the taxpayer must look to the new law for its disclosure rights.

Mr. ROTH. Mr. President, I was one of the first Senators to introduce legislation to provide tax relief for farmers, small business and widows. I am disappointed to have the conference committee transform this Senate amendment providing estate tax relief for farms, small businesses, and widows into an incomprehensible, 73 pages of fine print that were not subject to a single day of hearings in the Senate.

The Senate version, which I strongly supported in committee, would have provided significant tax relief to family farms, small business, and widows generally. The amendment was designed to offset the impact inflation has on the taxes families must pay on their property, and it would have helped the small family farms and small businesses which are being squeezed out of existence by high estate taxes. The estate tax exemption would have been changed to a credit and increased over a 5-year period to an amount equivalent to a $200,000 exemption. The marital deduction would have been increased, and a special valuation provision would have reduced excessive tax assessments.

All of these provisions were the subject of extensive hearings and debate both in the Senate Finance Committee and on the Senate Floor, where they were adopted by an overwhelming vote. But the House-Senate conference committee scaled down these tax relief provisions and added complex provisions that were not in either the House or Senate versions of the bill. By doing this, the conference committee greatly exceeded its authority and in fact, violated the rules of both the House and the Senate.

In my opinion, this is a perfect example of how not to legislate. Because there were no hearings on this amendment, most of my distinguished colleagues have absolutely no idea what the proposal does and what its impact will be. No one has explained how the capital gains at death provision can be administered by the Treasury Department and the Internal Revenue Service. What concerns me is that no one fully comprehends what effect these changes will have on the relief provided family farmers and small business. What is the effect of these changes to a homeowner who may find his home to have doubled in value over a period of years because of double-digit inflation? I believe that any changes regarding capital gains at death should give some adjustment for inflation. Otherwise the benefits we extended with one hand to the farmer and small business is taken away with the other. It also concerns me to establish policies that means inflation benefits the Government through higher tax revenues.

I believe the estate and gift tax laws need careful review, but it should be accomplished through the regular legislative process.

(The following proceedings on the Tax Reform Conference Report occurred later in the day and are printed at this point in the Record by unanimous consent.)

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. Mr. President, if the distinguished chairman would answer a question for me, I think it will help to clarify the Record.

I direct the Senator's attention to the effective date in section 1032 of the conference committee print. It is my understanding that the conferees agreed to accept the House version but that the effective date for losses incurred in possessions would be delayed for 3 years instead of the 5 years shown in the House version. However, the committee print does not show any delay in the effective date for possessions losses.

Mr. LONG. What the Senator said is correct. The House version had a 5-year delay in the effective date for loss recapturing possessions, but the conferees compromised this and agreed to a 3-year delay. Apparently, there was some misunderstanding and the committee print did not include a sentence which delays the effective date. We shall make every effort to clarify that as soon as possible.

Mr. CURTIS. I thank the distinguished Chairman.

Mr. McGEE. Will the Senator yield?

Mr. LONG. I yield.

Mr. McGEE. Mr. President, I want to highlight here what we in the Western States believe to be a serious inequity in the compromise that was worked out with the House in the conference on the tax bill. Even though the Senate acted forthrightly in this respect, in the realities of what they have to negotiate, I think an inequity was the result. That is this: In the area of the intangibles, as an incentive to oil exploration, the minimum tax was increased from 10 to 15 percent, as I understand it. But the result was that the 15-percent minimum tax applies to the individuals and partnerships and not to the corporations, and we think that this becomes immediately inequitable and counterproductive.

Eighty percent of the exploration really comes from the independents. The result is that with that extra 15 percent, what we are doing is cutting back on the activities of the independents. I realize that, in arriving at an agreement with the House in conference, that is the best we could do and, given all the larger picture that was involved, it is far more complicated than the simple statement I have made.

I would like to get some kind of assurance in behalf of my colleague, Mr. Hansen, and the chairman's colleague, Mr. Bennett Johnston, and myself that, in the interest of the independents, we might receive some consideration on this as soon as possible. Will the chairman of the committee give us some assurance?

Mr. LONG. I thank the distinguished Senator for his statement. I did not want to agree to increase taxes on the independent oil producers, particularly the individuals, any more than the Senate bill did. I am sure the Senator realizes that the House bill was far more severe insofar as that industry was concerned. We knew we would have to make a compromise between the Senate and the House position. If one looks at what the area of compromise was, I really feel that no one could have realistically anticipated that we would do any better than we did in this conference.

I hope that next year, we can take another look at this situation. I do think that the effect of this is going to be to discourage drilling for oil rather than to encourage drilling for oil. I do not think that is good at all. I resisted it on that basis.

We could have debated this matter much longer than we did in conference, but I want the Senator to know that there are some of those on the House side, like Mr. Vanik, for example, who feel just as strongly on the other side of the argument as those of us who are from the States that produce minerals feel that we should not be denying incentives to the industry. I do think that it goes too far in that regard. On the other hand, I think that, for the time being, we did about as well as we could hope to do.

I hope that one of these days, the Senate and the House are going to be willing to agree on something that will provide more incentive to produce energy, rather than less incentive in the form of tax increases, and I hope when we do—and I hope it will be next year—this will be one of those items that should be considered.

Mr. McGEE. It seems to me this is the wrong target, because we all agree that we need more incentives to produce oil. To sock it to the very group that represents 80 percent of the exploration and production in new wells is not quite the way to serve the national interest.

I hope that we might even put it stronger than having another look at it. I would like to think that we shall have another run at it, because I think it is desperately urgent.

Mr. HANSEN. Will my colleague from Wyoming yield at that point?

Mr. McGEE. I yield.

The PRESIDING OFFICER. Will the Senators suspend for a moment? There is still some noise in the Chamber.

Mr. McGEE. I wish that some of that noise were the gushing of new wells.

The PRESIDING OFFICER. Be that as it may, the Senate will be in order.

The Senator may proceed.

Mr. HANSEN. I thank my good friend from Wyoming and my good friend, the chairman of the Senate Committee on Finance, for the sentiments they just expressed. As one of the conferees, I am well aware of the situation that confronted the Senate conferees on that bill. I quite agree with my colleague from Wyoming that to single out, as this legislation does, and impose an extra burden upon the independent oil man indeed, goes in the wrong direction, for this reason: We are becoming more and more dependent upon foreign sources of supply. The cost and the balance of payments problems that are part of that growing dependence are very real ones for the United States.

Besides that, the jobs that could be developed in this country and the undergirding of our national security that would surely result, as we encourage domestic activity within the United States, all seem to me to be compelling arguments for taking an early look at changes in the law early next year.

I quite agree with my chairman, however, that one of the problems we had, frankly, is that this is an election year and the newspapers and the other media have done a great job of persuading everyone that the oil industry wears a black hat. Any time you can sock it to the oil industry, that, presumably, is in the public interest, if we believe the headlines that we read in most of today's papers. I hope that when we get this election behind us, when cooler heads will have time to reflect upon what the facts are and how we are discouraging the very part of the industry that offers greatest opportunity to change the whole direction around that this country has been going in, we can, indeed, have called up early next year, appropriate legislation that will undo the injustice that my colleague from Wyoming has called attention to.

Mr. McGEE. Mr. President, the Tax Reform Act of 1976, as reported by the House-Senate conference, increases the impact of the minimum tax on individuals by raising the rate from 10 to 15 percent. It also reduces the deduction for normal taxes against tax preference items from the current 100 percent of normal tax liability to 50 percent of tax liability.

For the first time, intangible drilling expenses on successful oil wells was added as a tax preference item for independent oil and gas producers. For the independents the preference will be the amount of the deduction for the current year in excess of the amount which would have been deductible had the intangibles been capitalized and recovered through normal straightline depreciation.

Mr. President, this action deeply concerns me for two reasons. First, it will naturally impair the ability of our independent oil producers to raise the high-risk capital which is necessary for increased domestic oil and gas exploration. Second, it is highly discriminatory. Corporations and the majors are treated differently. For corporations, although the rate of the minimum tax was increased to 15 percent, the same as for individuals, the deduction for normal tax liability was retained at 100 percent of normal taxes as under prior law.

The result may have been through inadvertence. For corporations, the intangible drilling expense was not added to the list of tax preference items. This inexplicable result means that independent producers of oil and gas will suffer a penalty equal to 15 percent of their intangible expenses of successful wells, except for a small amount which would be deductible under straightline depreciation. To compound the inequity, this provision is retroactive to January 1, 1976. This additional burden will not be imposed upon the major oil companies. It is unfortunate that this significant increase in cost of drilling exploratory and development wells will penalize the independent producers. As we all know, more than 80 percent of the onshore exploratory wells in this country are drilled by the independents. This action simply adds another factor to the climate within the industry which has been discouraging further exploration and increasing the number of drilling rigs which are lying idle in our oil-producing States. It comes at a time when we should be encouraging greater domestic exploration and discovery of new producing wells. It is for this reason, Mr. President, that I hope that we can reverse the decision which was reached in conference on the tax reform bill.

Not only have the independent producers been discriminated against as compared to the major companies, but the conference committee changed the concept of the intangible expense preference as it had theretofore been contained in the tax reform bill. The original proposal dealing with intangible drilling expenses adopted by the Ways and Means Committee would have deferred the intangible drilling expense deduction under the limitation on artificial losses concept—LAL. To the extent the intangible drilling expense exceeded income from the oil and gas property during the year, it would have been disallowed as a current deduction and deferred until the property produced sufficient income to offset the deduction. Once thus deferred, the intangible expenses would not have been subjected to the minimum tax when allowed as a deduction in later years. The Senate Finance Committee dropped the LAL approach but followed a similar concept and treated intangible drilling expenses as a tax preference only to the extent they exceed the taxpayer's oil and gas income. The rationale of this approach was that intangible drilling expenses offer a shelter opportunity only if they exceed oil and gas income and thus are available to shelter salary, professional fees, and other unrelated types of income.

The conference committee adopted the House minimum tax but with LAL. Thus, the concept of treating only excess intangible drilling expenses as a preference disappeared. Corporations, on the other hand, had not been covered by the House minimum tax amendments at all.

We are not now asking that intangible drilling expenses be removed altogether as a tax preference item for independent producers, but that some degree of parity be granted with the major oil companies by treating intangible drilling expenses as a tax preference item only to the extent that such expenses exceed oil and gas income for the year. Basically, this is what was contained in the tax reform bill as it passed the Senate and went to conference. In this manner, income produced from earlier drilling activity would be fully available for further exploration and development activity by the independent segment of the industry. Of course, at the same time, there would be a penalty for any attempt to shelter outside income with intangible drilling expenses.

Mr. President, I am hopeful that this inequity can be eliminated, retroactively to January 1, 1976. The interest which my colleague from Louisiana, the chairman of the Finance Committee, has shown in this matter is very much appreciated.

Mr. President, I ask unanimous consent that a letter which I received from Mr. R. H. Prewitt, Jr., president of the Independent Petroleum Association of Mountain States, be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 14, 1976.

Senator GALE W. MCGEE,
Russell Senate Office Building,
Washington, D.C.

We are alarmed over action by conference committee on tax bill HR10612 which is clearly punitive and discriminatory toward all independent oil and gas producers. The 15-0/0 penalty on intangible drilling costs could result in reduction in drilling budgets of ten to fifteen percent by thousands of individual independent oil and gas producers. The proposed new recapture of the intangibles rule not only singles out individual oil operators for the worst possible discrimination but also reduces favorable tax attributes for investors outside the industry who are an important source for exploration capital. Urge your help in deleting section 301 subparagraph 11 which subjects intangible drilling costs to minimum tax. We have no objections to having individuals treated similarly to corporations but present wording discriminates against individuals and will place most small producers in untenable financial positions. Net effect would be disastrous to independents and cause dramatic reduction in domestic exploratory drilling.

R. H. PREWITT, Jr.,
President, Independent Petroleum
Association of Mountain States.

Mr. JOHNSTON. Will the Senator yield?

Mr. McGEE. I yield to the junior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I know my senior colleague has gotten the same calls I have gotten from the independent operators in Louisiana. To say we are flooded with calls is an understatement.

What they are telling me is that the present provisions of this tax bill relating to intangibles are going to make it unprofitable for them to take risks and are going to result in a very sharp drop-off in drilling activity by the independents—not by the majors but by the independents.

I think that is demonstrably true. I think it can be shown by the bill. I think a look at what it does to the individual tax returns of those in the business will show that that result is going to occur.

Now, frankly, Mr. President, I was called by a number of those who suggested that we put in an amendment, hopefully at this time on another bill, hoping that Congress would accept it, because it was so clear in its injustice and so bad in its effect on the search for energy. But, quite frankly, Mr. President, we discussed the matter among the three of us, the two Senators from Wyoming as well as my senior Senator from Louisiana. The truth of the matter is that as clear as we think the issue is, and as difficult as this bill makes the situation, the votes simply are not there. We recognize that you cannot win the day without votes.

So what we have done is to hit upon the strategy: That is to not bring up any amendment at this time, which we would surely lose, but to appeal to the good sense and judgment of this Senate and of the House Members that the matter be given priority consideration early in the next Congress and, in the interim period of time, the staff of the Finance Committee and the staff of other committees look at this matter and determine what its effect really is.

My friends who are independent oil operators tell me—and let us make this very clear, almost every independent oil operator is successful. I mean, an independent oil operator if he stays in the business has got to be successful. He is sort of like a gladiator, you know. You are either pretty strong or pretty tough or you are dead. So it is with the independent oil operators. They either lost their money last year and they are out of the business or if they are still in the business they are successful, as we want them to be. They are not a lot of objects in terms of getting sympathy for themselves in terms of being broke when you compare them to poor people. But they are the people who are producing the energy for the country or who have been and are drilling 80 percent of those wells.

If you make it unprofitable for them to drill those high-risk wells, it is not going to mean they are going to go broke. They are just going to take their money and do something else with it, and that is what they assure me they are going to do.

I hope they have overstated the case. I hope their cries of alarm are not correct. But I am very pleased that my senior colleague, who has done such yeoman work in helping to preserve some incentive for the oil and gas industry, will be successful in prevailing upon his committee and his staff to give this matter priority consideration early in the next Congress.

Mr. LONG. Mr. President, I agree with the Senator from Louisiana on everything he has said.

I would just like to point this out: The House bill had a provision known as LAL, limitation on artificial losses, that would have increased taxes on these independent oil and gas producers by $220 million in 1977.

Then there was an at-risk limitation on which we cannot put a figure, but it would not have provided much of an increase this year. The House bill also had a recapture provision. That would raise $7 million. Those together would have increased taxes by $227 million on this industry for this coming fiscal year starting in September.

Now, the Senate was much more considerate of the industry. It did seek to tighten up on loopholes, but it raised $6 million in the minimum tax, $50 million from the at-risk limitation, for a total of $56 million.

Obviously, in conference we had to compromise somewhere between the $227 million and the $56 million. So the compromise was the minimum tax without any related income provision, as distinguished from the Senate position that said you would reduce the tax by related income. That raised $25 million in the conference.

The at-risk limitation raises the same $50 million as in the Senate bill, and the recapture provision in the House bill raises $7 million. That is a total of $82 million.

If you look at the two figures, let us say, the $227 million and the $56 million, you would think that almost any industrial group looking at those two would say, "Well, if we come out of that thing with better than a break-even compromise we are doing all right."

I am not saying they are doing all right, but between the two alternatives, that is about the best they could hope to count on considering the much higher levels in the House bill.

Presently, the taxes they pay are well below that. Admittedly, next year it will be more than that. There is not too much difference between House and Senate figures, far below what the initial figure would be, because independents would be drilling far less wells if the House provision stayed in the law.

We will be acting in this area again in the next Congress no matter who the President may be. President Ford has indicated he is going to recommend an overhaul of the whole tax structure in January if he is elected. We have heard that the Democratic candidate for President, former Governor Jimmy Carter, will recommend a vast tax reform program as early as he can study it and make his recommendations. So that in either event we will be looking at this whole picture of the need to provide incentives to produce more energy, and also for the need for tax uniformity.

Now, the fact that we are doing this—and I am not sure we should tax the industry this heavily—I do not want to do that, but I do what I must do to work out a bill between the Senate and the House. But the fact that there will not be a lot of people in the oil business who make a lot of money but pay no tax, I think, will put the oil industry in a far better image next year to work out a program to bring tax incentives to the industry than they would be in if someone could point to these isolated cases of where somebody made a lot of money and paid no tax to the Government.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I have tried to tell these people who are independents—and sometimes they feel these things very keenly—I tried to make them aware of the fact of what the Senate was able to do in conference committee was a great victory for the oil and gas industry and independents, as bad as it may have been.

It is hard to get this picture over to them, because they did not fully realize the depth of the difficulty they were in in the House bill.

I have tried to get that across to them.

Having said that, we want to try to get the ox the rest of the way out of the ditch.

I know my senior colleague has been in the forefront on that movement and, hopefully, we can get that done and the image will be better and people in the oil business will not be quite so unpopular next year. That really is the reason for this whole thing. For some reason or other, people in the oil and gas business are awfully unpopular in this country. It transcends reason and logic and goes over into the image.

I hope we can clear that up.

Mr. McGEE. If the Senator will yield, instead of the ox out of the ditch, we get the steer out of the pit.

That is what we want to do.

Mr. LONG. It might be of some solace, I would like to quote a line that my brother likes to quote a lot—I know the Senator knows my brother in Shreveport:

> From the day you were born until you ride in a hearse, it is never so bad that it couldn't be worse.

[Laughter.]

Mr. JAVITS addressed the Chair.

Mr. LONG. All I can say to the Senator is that it can be a great deal worse. But our friends from Shreveport and elsewhere will read this Record and I think will agree that can be the case.

I yield to the Senator.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, if I can have the attention of the Senator from Louisiana, I will be very brief.

I wish to direct his attention to page 55 of the conference report, section 280 (a). The issue there, because of the language which is expressed, does not take into consideration the problems of artists, sculptors, actors, dancers, musicians, or writers.

For this reason, those people normally, many of them, have two jobs. They work for a living and they work in their art.

In the case of actors, they have had a little problem—and musicians, et cetera—they are constantly practicing at home. The points which are left in the air by these provisions respecting the use of a home as an office, which they practically all do, are two.

One, suppose the person is employed, let us say he is a salesman in a store and does not use the home for that, but he uses the home for his art, for practice and activity, et cetera. The question then is whether the word "employee" does not apply to that person, but that person will be charged for his art activity as a unit business.

In other words, if he uses his home for that particular type business, then he would qualify, provided he met all the other considerations, to get a deduction for using his home—if he met every other consideration.

So that would be one type of activity. The other type would be the person who gets a job as an actor, let us say, or a singer or something, for 3 weeks or a month, loses it, but must continue his practice, et cetera, using his home for that purpose.

What is his situation?

I asked those questions of the distinguished Senator from Louisiana and he told me he might or might not be able to answer them, he might wish to answer them in writing.

The reason I raise them now is, should the Senator choose to answer them in writing, I would ask unanimous consent for two things: One, that this colloquy may be part of the Record before the vote on approving the report; and I ask the colloquy be made part of the Record before approving the report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. And such writing as the Senator chooses to give us by way of opinion as to the intention of the manager of the bill would also be made a part of my remarks, when, as, and if received.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. We cannot give the Senator an adequate answer for what he wants at this moment.

If the Senator will permit us to reduce this to writing and perhaps embellish it by adding a few additional examples to illustrate the situation he had in mind, I will seek to respond in writing, or I will be glad to read it into the Record on the floor and make it part of the Record in connection with this legislation.

Mr. JAVITS. That is satisfactory.

Mr. LONG. But I cannot do it at this moment.

Mr. JAVITS. That is satisfactory to me, with the minority also joined in that, so that when we have it, we have the position on which the majority and minority agree.

Mr. CURTIS. I think that is a good position and I concur.

Mr. HUDDLESTON. If the Senator will yield, I might inquire of the distinguished chairman of the Finance Committee, in the final version of the conference report, language is retained relating to the withholding of Federal income taxes from earnings from gambling winnings, is that correct?

Mr. LONG. Yes.

Mr. HUDDLESTON. And that within that category there are also withholding provisions for earnings at race tracks?

Mr. LONG. Yes.

Mr. HUDDLESTON. From certain wagers and under certain conditions.

As I understand it, there was a good deal of concern about the proper interpretation of just what was provided in the case of winnings from race tracks as to whether or not the threshold should be on the basis of the odds of the actual bet that was made or on the amount of the winnings.

Could the Senator relate to us just what the final version provides?

Mr. LONG. It is on the amount of the net winnings only, but in this area, particularly with regard to race tracks and parimutuels, we did not discover until we were in conference between the two Houses that the language was identical in both the House and Senate bills and the identical language was contrary to the way the Commissioner of Internal Revenue thought it should be.

For example, he thought the law should be that only where one won a bet at 300-to-1 odds, and in excess of $1,000, that there would have to be withholding at the track for that bet. He had in mind the exotic type bets.

The language of the statute; that is, as proposed in the House and the Senate bills, was identical, and it clearly precluded the interpretation that the Commissioner of Internal Revenue believes should be the case.

I would have been happy to fight for the position that the Senator thinks it should be and that the Commissioner of Internal Revenue thinks it should be, but the language was not in conference.

Mr. HUDDLESTON. So the Senator did not have an opportunity in conference to correct it?

Mr. LONG. It simply did not permit that solution in conference, because the language was identical in the two Houses.

Mr. HUDDLESTON. So the way it is now on the wagers, if the winning amounts to $1,000, or the 300-to-1 odds, then the withholding is made?

Mr. LONG. One word of good news for those involved in this is that it must be over $1,000 net. So if a man bet $500 at 2-to-1 odds, he would have to win $1,000 net, over and above the $500 he put up in order to be subject to this provision.

The only thing I can say to the Senator, in a situation where at the moment we cannot correct it, we will have to go forward and enact the law we have. But I will assure the Senator of my best efforts to put it the way the Commissioner of Internal Revenue thought it should be. Hopefully, we might be able to take care of this before the Kentucky Derby next year, because it will create some confusion.

Mr. HUDDLESTON. I can understand that. I think it would.

With the statement of the distinguished floor manager that as it is now, because of the confusion or because of the fact that the conference was unable to deal with the problem, because the language was the same on both sides, the result was we were more severe than had been intended as it relates to racetrack betting earnings.

I am glad to hear the Senator say he is willing to consider this matter when we come back in January and try to correct it.

I thank the Senator.

Mr. FORD. Will the Senator allow the Senator from Kentucky to enter into this colloquy? Is there an opportunity between now and the end of the session to straighten out a piece of legislation that all parties agreed is not the intent of the legislation?

Mr. LONG. I doubt that we can, because it has revenue implications, and it would be subject to a point of order in the budget resolution. We either need to have a waiver of points of order on the budget resolution, or we need to have this in connection with some item that raised some money so that the revenue increase would offset the revenue loss. Many of us can think of things we would like to do to raise some additional revenue, but at the moment we are not in a position to do it. We do hope to vote for some measures that will increase our revenue situation between now and the time we leave, but at the moment we could not do it, because it would be subject to a point of order.

Mr. FORD. I have a letter that I had printed in the RECORD from Commissioner Alexander stating that he agrees with this, and that letter was in the RECORD when the Senate tax bill went into conference. He was asking for a delay, even under their understanding, in order to work out the proper forms. As of now, we are compiling a 1099. Under the new law which will be in effect, there will be a withholding at the track. I am sure the Senator can see a $500 bet on 2-to-1 odds which would favor it, getting back $1,500 and withholding 20 percent on that $1,000. They will have them lined up from Churchill Downs to the Ohio River on derby day, or Pimlico, the Louisiana Derby, the Arkansas Derby, or out in California.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, I will not object to 2 minutes, but I want to say that many of us have been here in the Chamber waiting to pay tribute to our distinguished majority leader. I just serve notice that I will object to any further extension of time on this matter.

Mr. FORD. I apologize to the Senator from Virginia, but this is very important to a constituent industry.

Is there any way that the regulation can be studied and a request of IRS to delay this? If this goes into effect now, the racing community will have to start withholding and it will cost them millions of dollars. It will cost the State tax money.

Mr. LONG. I will say to the Senator that at the moment, I do not know, but there may be a way the mind of man can devise. If the Senator can show me a way during the next week or so, or the Internal Revenue Service can show me how it can be done, or our staff can show me how we can resolve the Senator's problem in that regard, I would be happy to cooperate. We will put our minds to work and see if we can work out a way.

Mr. FORD. I appreciate that. I would call the Senator's attention to RECORD page 26148, August 6, 1976, where the letter of the Commissioner of Internal Revenue, Donald C. Alexander, appears.

Mr. HANSEN. Mr. President, in thinking of the tax conference report, I am reminded somewhat of the Greek Goddess of Wisdom, Athena, who bore on her shield the likeness of Medusa, a hideous monster with snakes covering its head instead of hair. The expectation of Americans is that the Finance Committee will act with the wisdom of Athena in dealing with tax legislation before it. The only problem is that, more often than not, tax reform ends up being as difficult a task as dealing with a monster like Medusa. Indeed, I think that the snakes on Medusa's head might be more easily tamed than any tax reform legislation.

It cannot be denied that the tax bill has received much criticism, some of which is, admittedly, justified. There are areas which, quite frankly, cause me great concern. The Arab boycott provisions, to my way of thinking, just pave the way for the same kinds of energy shortages which beset the Nation just 3 years ago. I recognize the diplomatic objectives that provision seeks to achieve, but I do not believe that our tax laws are any place to enforce diplomatic objectives, particularly where the administration has taken action to correct the problem.

There has been much criticism, Mr. President, of all of the so-called special interest provisions of this tax legislation. I grant readily that there are provisions for many specific industries. But, I would like to point out the obvious fact that our Nation is a nation made up of many specific and diverse businesses and industrial interests. I suppose that we could make the decision to treat all of those businesses and industries exactly alike, regardless of size or operational differences. I submit, however, that if we made the decision to allow the Government to dictate that every business be treated just exactly like every other business, then I think we would move toward a Government control of the private sector that I, for one, could never accept. I view it as a sign of some strength that we have a fairly self-policing system of taxation, to which the vast majority of citizens and corporations voluntarily contribute, which recognizes that there are very real individual differences. A strength of American life is that we do recognize, and incorporate into society, a great number of varying social characteristics. I do not regard it as an overwhelming evil that we provide tax incentives for essential industries, or stock ownership plans for American workers or improved legal services plans for middle Americans who are too poor to engage their own attorneys but too rich to qualify for legal aid. By recognizing individual needs in this country, I believe we maintain a more viable system than many of our more socialistic or communistic sister countries.

I especially praise the conferees for including major estate tax reforms in the bill. An example will suffice to show how desperately the reform was needed. The day after the conferees had finished their work, a constituent called to find out the effective date of the estate tax provision. Unfortunately, this family will not fall under the provision, and so is faced with a burden of an estate tax of more than $25,000. The problem that the family faces is that they run a ranch which has been in their family since it was purchased in 1901. Their principal assets are the ranch, their home on it, and their livestock. Those assets are the family's life blood, and, while they may have a high appraisal value, they simply do not provide the cash flow to come up with that kind of tax money. These estate tax provisions are essential if family farms, ranches and businesses are to retain their useful position in our country.

Mr. President, I think we would be unwise to throw the baby out with the bath. This bill will ease the tax burdens of a lot of ordinary Americans. Besides extending the tax credits, it provides a pension plan for housewives—thereby recognizing their invaluable contributions—grants assistance to our older citizens in the form of retirement income credit and a $35,000 exclusion for their home sales, and allows liberalized child care benefits. It sets up incentives for improving our environment by providing incentives for the installation of pollution control devices as well as for the preservation of historic structures. It continues the tax policies which help small business. To my way of thinking, these provisions are not any kind of raid on the Treasury, they are mechanisms for improving the lot of many good, ordinary taxpayers. Earlier, in a colloquy with the committee chairman, Senator Long, my Wyoming colleague, Senator McKee, and the junior Senator from Louisiana, I deplored the self-defeating tax law changes made that affect the independent oilman. That ill-advised action, prompted by the popularity of whipping the oil industry in an election year, will surely hurt this Nation by increasing our dependency upon increasingly costly, undependable foreign sources of supply. Our national security is weakened with our growing dependency upon imports.

This is an example of many provisions in the bill that taxpayers and jobseekers might well wish were changed. But let us be judged in our actions on the basis of the choices we were offered. I have no doubt, learning as we must the hard way, we will have incentive next session to make many changes. Nevertheless, it is essential that we agree to this conference report and recognize that there is much good to be served by this tax bill. I urge Senators to support its passage today.

(This concludes the colloquy that occurred later in the day and is printed at this point by unanimous consent.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, for a special reason, that this be a 30-minute rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 84, nays 2, as follows:

[Rollcall Vote No. 604 Leg.]

YEAS—84

Abourezk
Allen
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—2

Bartlett
Hollings

NOT VOTING—14

Baker
Buckley
Byrd, Harry F., Jr.
Dole
Goldwater
Griffin
Hartke
Mondale
Montoya
Moss
Pastore
Taft
Tunney
Williams

So the conference report was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Schweiker). The clerk will state the amendment in disagreement.

The amendment in disagreement was stated:

The amendment of the House to Senate amendment numbered 35 is printed in the House proceedings of today's Record.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. What is the pending business?

The PRESIDING OFFICER. The amendment in disagreement, which the clerk just read.

Mr. CURTIS. Mr. President, I ask for the yeas and nays on the amendment in disagreement.

The PRESIDING OFFICER. No motion relative to the amendment has yet been made, so there is nothing on which to have a rollcall.

Mr. BENTSEN. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 35, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas (Mr. Bentsen) that the Senate concur in the House amendment to Senate amendment No. 35. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "yea."

The result was announced—yeas 82, nays, 2, as follows:

[Rollcall Vote No. 605 Leg.]

YEAS—82

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—2

Fong
Roth

NOT VOTING—16

Baker
Beall
Buckley
Byrd, Harry F., Jr.
Dole
Goldwater
Griffin
Hartke
Mondale
Montoya
Moss
Pastore
Stennis
Taft
Tunney
Williams

So the motion to concur was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE CONCURRENT RESOLUTION 751, DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE CORRECTIONS IN THE ENROLLMENT OF H.R. 10612

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 751.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives on House Concurrent Resolution 751, which will be stated.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 751) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 10612.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LONG. Mr. President, House Concurrent Resolution 751 is to correct technical errors to section numbers, cross references, printing errors, and such defects as the staffs of the committees have been able to discover since the conference report and the statement of the managers were filed. I see no point in having a rollcall vote on that. I think we should just do that by voice vote.

The PRESIDING OFFICER (Mr. Gary Hart). The question is on agreeing to the concurrent resolution.

The resolution was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the tax reform conference report will be coming to the Senate Chamber shortly. As has been indicated earlier, Senators will have from the close of legislative business today into the evening, as long as they wish, to express tribute to our retiring distinguished majority leader.

At 4 o'clock this afternoon the Democratic Senators are meeting with Mr. and Mrs. Mansfield, and that meeting will probably require an hour, give or take.

At this time, in view of the fact that Mr. Hugh Scott, the distinguished Republican leader, must leave the floor for a while, I think it would be well if we began our expressions of tribute, with the understanding that upon the arrival of the tax reform conference, the conference report will be called up and disposed of, after which the tributes will continue.

I ask unanimous consent that the Record not show an interruption of those expressions.

Mr. MAGNUSON. I wonder if the Senator will ask unanimous-consent request that the Record remain open for such time, until Monday or so.

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. Then, those of us who may not be able to do this today will have the opportunity to prepare such remarks.

AUTHORIZATION FOR THE RECORD TO BE HELD OPEN FOR 10 DAYS FOR STATEMENTS OF TRIBUTE TO MR. MANSFIELD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Record be held open for 10 days so that Senators may include their expressions of tributes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that it then be bound as a permanent volume.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTES TO SENATOR MIKE MANSFIELD, MAJORITY LEADER OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, Webster defines a statesman as one who exercises political leadership wisely and without narrow partisanship. If this be so, I can find few words that would better describe Senator Mike Mansfield than the word statesman.

With this session of the 94th Congress, Senator Mansfield concludes nearly a quarter-century in this distinguished body. Elected to the position of majority leader in January 1961, he has shared his abilities and talents with us through some of the most difficult years in this century. No man in the history of the U.S. Senate has served in the capacity of majority leader as long or more objectively than has Mike Mansfield. When the Nation was shaken by assassinations, dissension, violence, and scandal, Mike Mansfield kept faith with the highest ideals of America; as a result, he provided the Senate—and the whole Nation—with an example of steadfastness, fairness, integrity, and responsibility of which every Member of this body can be justly proud.

Senator Mansfield's career is a classic demonstration of the possibilities for individual achievement in American life. He was born in Manhattan, the son of Irish immigrant parents, but was raised in Montana. Without completing the eighth grade, Senator Mansfield entered the U.S. Navy in 1918 and served for the duration of World War I. Subsequently, he enlisted in the Army and the Marine Corps. While he was in the service, he began to grasp the international dimensions of America's responsibilities in the World.

In 1922, Mike Mansfield returned to Montana and became a miner. Later in that same decade, he qualified for entrance into college. He went on to receive his bachelor of arts and master of arts degrees and taught Latin American and Far Eastern history at the University of Montana from 1933 to 1943. As Professor Mansfield, he still holds permanent tenure in the department of history of the university.

In 1942, Mr. Mansfield was elected to the U.S. Congress and served five terms in the House of Representatives. He was elected to the Senate in 1952 and has provided excellent service to the people of Montana. In every election since his first term, the voters of Montana have returned Senator Mansfield to this body with majorities never less than 60 percent.

Throughout his legislative career, the stands he has taken and the course he has steered have reflected the broad background of experience that he has brought to the fulfillment of his duties. Mike Mansfield seems to have a vision and a patience tempered by disciplined study, matured and informed judgment, and genuine practical knowledge.

As the majority leader of the Senate, he has emphasized cooperation, honor, fairness, and negotiation. The most useful tools in his leadership arsenal have been courtesy, gentleness, and persuasion. His style has been marked by personal conviction and a loyalty to lasting principles.

Each Member of the Senate, I believe, looks forward to the culmination of his years of service here with the hope that his actions and decisions have advanced the Nation toward the realization of the ideals of our American heritage. Each of us wants to help the American dream to acquire a more evident reality. Mike Mansfield has not been disappointed in these aspirations during his years in the Senate. In an historian's terms, he will deserve more than a footnote in the annals of the Congress; he has already warranted a full chapter in any such account.

Mr. President, dozens of distinguished and famous men have lent their prestige, excellent character, and leadership to the U.S. Senate during its long history. The names of Clay, Webster, Calhoun, LaFollette, Taft, and many others will deserve the attention of scholars and legislators for generations to come. However, no list of great Senators will be complete henceforth which does not include the name of Mike Mansfield of Montana.

This Chamber will miss the presence and influence of Senator Mansfield, but it will longer remember his character and his example. I am sure that all of the Members of this body join me in thanking Mike Mansfield for the service he has rendered to us and to this Nation. Likewise, we wish him the best that life can offer as he continues his distinguished career as a private citizen in future years.

Mike, on behalf of my wife, Erma, and myself, we wish for Mike Mansfield and for Maureen these things:

Work for your hands; a straight path for your feet; a coin for your purse; sunshine on your window-pane at morning; a song in your tree top at evening; soft rains for your garden; the hand of a friend on your latch-string; love at your fireside; happiness in your hearts; and God's blessings always.

Mr. HUGH SCOTT. Mr. President, it is a great honor to be able to lead these tributes to the man who is so beloved by all of us and who so epitomizes in his own life and works all that is good in the great structure of the Senate in which so proudly we serve.

> There's nothing so becomes a man as modest stillness and humility.

No one more than MIKE MANSFIELD could deserve that Shakespearean accolade.

The Grandiloquent Dictionary defines "Auscultation" as the process of listening. No one in my experience has so refined that process, that art, so well as has MIKE MANSFIELD. So good a listener learns much, but we have learned even more from this kindly, gentle, friendly man.

When this year ends, the Senate will never be the same again. But MIKE will always be the same; whatever he puts his hand to, his heart goes with it. His new ventures will be marked by his willing service to others, we can be sure.

May his life always be fructuous, which is to say productive, and to that new life he will bring many precious memories of his service in this our great and beloved institution of the Senate, of the many friends he has made here, as all of us who have rejoiced in his friendship and benefited from his good work will likewise carry forever those precious recollections in our hearts.

To MIKE and to Maureen we say, as we offer our collective benison by the unanimous consent of this body: may you walk in peace and happiness all the days of your lives.

May the Lord bless you and keep you, now and for always.

Mr. President, I ask unanimous consent that a message from the Vice President be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY THE VICE PRESIDENT

One of the most satisfying aspects of my presiding over the Senate has been the privilege to serve with one of the giants of this Chamber—Senator Mike Mansfield.

Mike Mansfield leaves the Senate with a towering reputation for integrity. He leaves it with the unstinting respect and affection of all of us, whatever our party or political philosophy. And, in a real sense, Mike Mansfield will never leave the Senate, since he has left his mark here for all time in a remarkable record of courage, intelligence and compassion achieved in the service of his country.

Mr. HUGH SCOTT. I ask unanimous consent that my time remaining may be transferred to the distinguished Senator from North Dakota, the dean of the Republican Members of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Now it is my great honor to yield to the Senator who has served longer than any other Republican Member.

Mr. YOUNG. Mr. President, I wish to join all the Members of the Senate in expressing deep regret that this will be the last day our good friend, Majority Leader MIKE MANSFIELD, will be serving in the U.S. Senate.

His has been a great record of accomplishment in both the House and Senate. His service as majority leader has been in one of the most difficult periods in the history of the Senate. There were many difficult problems to deal with, and it was in a period when Members of the Senate were perhaps more individualistic in their thinking and more prone to act independently.

There were some stormy periods during MIKE MANSFIELD's years of leadership, but somehow he was always able to keep his cool. Through his patient and persuasive ability as a leader, he resolved difficult situations that won him the gratitude and admiration of every Member of the Senate.

MIKE MANSFIELD is leaving a record in the House and Senate which few, if any, have ever matched. He has been a tremendously effective Senator, always fighting hard for the things he believed in strongly. While he has always been an aggressive fighter, he has endeared himself to every Member of the Senate, regardless of party affiliation or differing views they might have.

He could be stern when it was necessary to be stern, but always it was in a kindly, friendly, and considerate way. These are some of the many fine characteristics that endeared MIKE to all his colleagues.

Mr. President, although MIKE MANSFIELD and I are of different party affiliations, there never was a time in all the years we served together when he did not go out of his way to help me. This friendly helping hand he extended to me, as a fellow Senator, will be something I shall never forget.

One of the great characteristics of Senator MANSFIELD is that he was always so direct and honest in answering questions, whether on the Senate floor or on nationwide television. I do not believe MIKE knows how to filibuster a question. More often than not, his answer would be a simple yes or no.

MIKE MANSFIELD may not be remembered in recorded history as one of the Senate's greatest orators, but few, if any, ever had a more beautiful choice of words in expressing himself on great and momentous occasions. Typical of his beautiful choice of words was the most eloquent eulogy he delivered in the rotunda of the Capitol on the occasion of the tragic death of President John F. Kennedy. This eulogy was unique, too, in that it was in the form of a poem. It is the most touching eulogy I have ever heard.

Mr. President, I ask that this eulogy by our distinguished colleague, MIKE MANSFIELD, be printed in full at the close of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. YOUNG. Mr. President, my wife, Pat, and I wish to express our love, affection and admiration to a great Senator and the fond hope that the world will always be kind to him and to his wonderful wife, Maureen.

EXHIBIT 1

EULOGY BY SENATOR MANSFIELD IN THE ROTUNDA, U.S. CAPITOL, NOVEMBER 24, 1963

There was a sound of laughter; in a moment, it was no more. And so she took a ring from her finger and placed it in his hands.

There was a wit in a man neither young nor old, but a wit full of an old man's wisdom and of a child's wisdom, and then, in a moment it was no more. And so she took a ring from her finger and placed it in his hands.

There was a man marked with the scars of his love of country, a body active with the surge of a life far, far from spent and, in a moment, it was no more. And so she took a ring from her finger and placed it in his hands.

There was a father with a little boy, a little girl and a joy of each in the other. In a moment it was no more, and so she took a ring from her finger and placed it in his hands.

There was a husband who asked much and gave much, and out of the giving and the asking wove with a woman what could not be broken in life, and in a moment it was no more. And so she took a ring from her finger and placed it in his hands, and kissed him and closed the lid of a coffin.

A piece of each of us died at that moment. Yet, in death he gave of himself to us. He gave us of a good heart from which the laughter came. He gave us of a profound wit, from which a great leadership emerged. He gave us of a kindness and a strength fused into a human courage to seek peace without fear.

He gave us of his love that we, too, in turn, might give. He gave that we might give of ourselves, that we might give to one another until there would be no room, no room at all, for the bigotry, the hatred, prejudice and the arrogance which converged in that moment of horror to strike him down.

In leaving us—these gifts, John Fitzgerald Kennedy, President of the United States, leaves with us. Will we take them, Mr. President? Will we have, now, the sense and the responsibility and the courage to take them?

I pray to God that we shall and under God we will.

Mr. ROBERT C. BYRD. Mr. President, I now yield to Senators JACKSON, MUSKIE, RIBICOFF, CHURCH, and MCCLELLAN in that order. They have previously asked for that sequence of recognition.

Mr. JACKSON. Mr. President, I join my colleagues on this occasion to pay tribute to MIKE MANSFIELD, loyal colleague and staunch coworker in the Congress of the United States for 34 years.

For me, this is a particularly nostalgic occasion. MIKE and I have been neighbors since our days together in the House of Representatives, where our offices were adjoining. In 1952, the year of the Eisenhower landslide, MIKE and I both tempted fate and ran for the Senate. We were the only Democratic Senators west of the Mississippi elected that year to the Senate.

Moreover, Washington State and Montana are physically neighbors, almost border States—just the few miles of the Idaho panhandle separate us. I have always relished the fact that my father, who emigrated from Norway, worked in the Anaconda smelter in Montana before moving the few miles further to settle in Everett, Wash. Obviously the economic concerns and interests of our people are very similar. And both our States have a common border with our friends to the north in Canada.

Over the years, MIKE MANSFIELD and I have worked together on Western problems—on land policy, water resources, conservation, and public park development. In the House and in the Senate I have had the privilege of fighting side by side with him in many a successful struggle for the development of hydroelectric power and the great river systems including the Columbia, for the conservation and wise harvesting of our timber resources, for pioneer reclamation projects, for the expansion of public parks, for legislation to meet our agricultural and farm problems, and for the sensible conduct of relations with Canada.

I want to make special mention of Mike's quintessential integrity and fairness. As majority leader of the Senate he has stood by the principle that the will of the majority of Senators should prevail. He respects the right of each Senator to speak his mind, to vote his conscience, and to dissent from prevailing views without fear of retaliation. Throughout his career—including the McCarthy period—I have watched Mike stand up for those he believed were falsely charged or unfairly denigrated. He looks the accuser in the eye and quietly and firmly demands justice. What a man we have had as majority leader of the Senate during these last turbulent and difficult years.

Helen and I join my colleagues in the Senate in wishing Mike wonderful days of rest and new adventures with Maureen and the rest of his family, especially his wonderful grandchild.

Mr. MUSKIE. Mr. President, with the retirement of Mike Mansfield, we will end a distinguished chapter in the history of this body.

He has served as majority leader for nearly 16 years—longer than any other man—and I can think of nobody whose imprint on the Senate has been more profound.

He has presided over the restoration of this body to a constitutional Senate—a Senate which is again asserting the role contemplated by the Founding Fathers.

He accomplished that restoration during some of the most turbulent years of our history—with a brand of quiet leadership that seemed ill-suited for those trying times, but now is deeply appreciated.

We must never forget that the legislative accomplishments of these years were also his accomplishments.

His wise counsel and constant presence helped enact the civil rights measures of the 1960's—when we took apart the legal barriers to equal opportunities in education, jobs, housing, and public accommodations.

Mike Mansfield presided over the enactment of major drives against poverty, decaying cities, inadequate schools, and health care—when this Nation saw the other side of America, and determined to lift it up.

Mike Mansfield guided the Senate through the terrible years of a war in Vietnam that nobody wanted. He called for peace with a quiet voice of unmistakable moral force. And when peace came, he worked to heal the scars.

Mike Mansfield presided over a reform Senate. During his years, we have democratized many of our procedures, opened up our deliberations, and made accessible the inner workings.

And when the challenge came to reassert our role against the executive branch, he led the way.

But we will remember Mike Mansfield for more than legislative accomplishments.

During the agony of Watergate, when the raw abuse of power was defended by the allegation that everyone does it, Mike Mansfield provided through his character the rebuttal to that monumental lie.

The American people could see in him that morality, conscience, and decency could be practiced in high office.

He knew that we must trust in the people. He knew that, in the end, people will accept only leadership that has a solid moral base, that is committed to democracy and participation.

Mike Mansfield never presided with a heavy hand. He resisted the attraction of power, the easy way that many wanted him to take.

Instead, he sought an atmosphere in which no Senator was afraid to speak his mind or voice the concerns of his fellow citizens.

To him, there were no junior Senators or senior Senators, only Senators. Each was duly elected to represent his constituents, and each deserved an equal chance.

He recognized that the Senate can be great only if each Senator can rise to his or her own potential.

He wanted the Senate to be more than simply the sum of each part, to make this more than just a body of 100 Senators. He would make this the constitutional Senate envisioned more than nearly two centuries ago.

When I came to the Senate in 1959, I had been Governor of a State for 4 years. Suddenly I was a freshman Senator, overwhelmed by my relative insignificance.

But Mike Mansfield was there. And he was one of the first to help me chart a course that would best use my concerns and abilities. I will never forget his help.

All of us in this Chamber have benefited from his leadership and guidance.

No, Mike, we do not think that the Senate will be any less when you leave. The Senate is much more than it was when your leadership began.

But, above all, we will miss two treasured friends in you and Maureen.

Mr. RIBICOFF. Mr. President, when I was elected to the 81st Congress, it was my good fortune to be assigned to the House Foreign Affairs Committee. Representative Mike Mansfield was a leading member of that committee. He was an inspiration for all of us with his character, integrity, intellect, and personality. His wisdom and experience were reflected time and time again by the actions taken in foreign policy matters by the House of Representatives.

Again, when I was designated by President John F. Kennedy to be Secretary of Health, Education, and Welfare, Mike Mansfield was chosen majority leader. There was no one to whom President Kennedy turned for sound advice and counsel with greater consistency and respect than Mike Mansfield. I, too, found that on troubled and controversial issues, Mike Mansfield's advice was invaluable.

Coming to the Senate in 1963, Mike's leadership, experience, and wisdom were reinforced in my mind each and every day during these intervening years.

Now by his own choice he leaves the U.S. Senate on the completion on his term. The U.S. Senate will never see the likes of him again. His contribution to the U.S. Senate will be historic and will rank with the greatest. Of all his many qualities, above all he remains a completely decent human being.

During his 15-year service as the majority leader—the longest tenure of any floor leader in the Senate's history—Mike has succeeded in developing this body into an effective element of the legislative branch. As the New York Times so aptly noted earlier this year, Mike changed the Senate "into an assertive institution in which the voices of a new post-war generation of senators could be heard." His unique style of gentle persuasion but firm leadership has been successful in breaking countless legislative deadlocks and in guiding controversial and complicated measures through the Senate. Mike's able direction, coupled with a temperate attitude, has gained him the respect and deep affection of this body.

Mike has been more than a majority leader, however. He has been at the forefront of countless constructive issues dating back to his entry into the 78th Congress in 1943.

In a few weeks, Mike Mansfield will end his 34 years of service in Congress. He can look back on his career with pride and satisfaction.

Casey joins me in extending every good wish to Mike and his lovely wife and partner through these many years—Maureen.

We will miss him indeed, but his character and memory will be with us through the corridors of time.

Mr. CHURCH. Mr. President, who is Mike Mansfield?

He is the Senator who speaks softly, but is always heard, while others who shout are ignored.

He is a leader who does his work, not by twisting arms, but by offering an example to his colleagues that often gives them a twist of conscience.

He is a westerner, whose rise to national prominence has never led him to forget his roots, nor slacken in his diligence to represent the best interests of his constituents, the people of Montana.

He is a Democrat, where loyalty tc his party has never faltered, but whose partisanship has always been kept subordinate to his patriotism.

He is a world figure, praised and feted in many lands, but a man whose modesty remains unchanged from the days be worked in the mines in Butte.

He is a man of honor, honesty, and high purpose, with neither a trace of self-righteousness nor a taste for questioning the character, motives, or purposes of others.

He is a majority leader with the

strength of his own convictions, even when they forced him to differ with Presidents of his own party, and he has sought always to preserve the prerogatives and independence of the Senate.

In sum, MIKE MANSFIELD, the quintessence of a Senate man, will, on his retirement, leave a void not to be filled by any other Member among us.

Only after he has left will we come to fully understand the magnitude of our loss.

Mr. McCLELLAN. Mr. President, in the 34 years that I have been privileged to be a Member of the U.S. Senate, I have served under five Democratic majority leaders. For the last 16 of those years—for almost one-half of my career in the Senate—I have served under the distinguished senior Senator from Montana, Mr. MANSFIELD.

I speak, then, from the vantage point of one who has had an opportunity—not as fully shared by many others in this body—to observe the able majority leader in relation to several of his predecessors. Based upon that experience, I can state without hesitation and without in any way disparaging others that, in my opinion, MIKE MANSFIELD is an excellent leader. He is unexcelled by any of those under whom I have served and I am sure is among the best the Senate has ever had.

Mr. President, the position of majority leader is, without a doubt, the most demanding in the Senate. It is a burdensome and often thankless job. Shepherding a legislative program through the Senate while, at the same time, insuring that the rights and interests of the individual Members are preserved is a task that requires someone who is tireless and hardworking, a man of honesty and integrity, and a man who is scrupulously fair. MIKE MANSFIELD is possessed of all of these qualities.

His long hours on the Senate floor are known to us all. And there is no Member of the Senate who doubts that he can rely on the majority leader's word.

But, perhaps most important of all, MIKE MANSFIELD has always been eminently fair. Decent, fairminded, and understanding—these are the words that best describe MIKE MANSFIELD. He has never tried to impose his will on his colleagues. His position has always been that all Senators are equal and should be treated as such—regardless of seniority or point of view on any issue—and even when he did not agree with that point of view.

In all of his 16 years as majority leader and his 13 years as a member of the Committee on Appropriations and as chairman of its Subcommittee on Military Construction, I have never known MIKE MANSFIELD to attempt to use pressure to coerce or influence the votes of other Members of the Senate. He twisted no arms—no matter how strongly he may have personally felt about the issue. And never would he urge or expect a Senator to violate the dictates of his own conscience. This quality of fairness and respect for the opinions of others has endeared him not only to his fellow Democrats but also to all the Members who have served in this body while he has been here.

Over the years, MIKE MANSFIELD has gained a deserved reputation for independent judgment and articulate dissent in the field of international relations. His voice in world affairs—particularly in the Far East, which he first visited more than a half century ago as a young Marine—has been one of intelligence and restraint.

Senator MANSFIELD has been a steady and unshakeable beacon of integrity in government. He has been ever faithful to his ideals and principles, to his party, and to the Nation.

I know I speak for all Members of the Senate when I say that we shall miss his counsel, his wisdom, and his calm and balanced judgment on the myriad problems confronting our Nation today.

And, whoever his successor may be, the Senator from Montana will be greatly missed in future sessions of the U.S. Senate. But he leaves the Senate—as I know we all someday hope to leave—carrying with him the admiration, respect, and esteem of all those who have served with him and under his leadership.

Mrs. McClellan joins me in wishing MIKE and his gracious wife, Maureen, "Godspeed" as they return to their beloved Big Sky Country. May they have many happy years of retirement.

SENATOR MIKE MANSFIELD—SCHOLAR, WARRIOR, STATESMAN, PATRIOT

Mr. SYMINGTON. Mr. President, on January 3, 1953, after spending 10 years in the U.S. House of Representatives, a quiet man came from Montana to the Senate.

On the same day, I also came here.

In the some 24 years since, MIKE MANSFIELD has built a position among his colleagues of industry, wisdom, tolerance, and, above all, integrity; and as a result, on both sides of the aisle, he is both admired and trusted.

As majority leader, MIKE has served longer than any other individual since the Senate began meeting in 1789. This record of leadership could well stand for all time, very possibly because it is a reward for the fact that he has consistently placed the national interest over any personal or partisan consideration.

As a statesman, he has recommended America be strong, but just; also that this Nation not play policeman or "rich uncle" to the world in order to maintain its leadership.

When we went to war in Vietnam, MIKE MANSFIELD made peace his first priority; and when our Government placed us on the verge of other questionable ventures abroad that could only mean the loss of both lives and treasure, MIKE MANSFIELD spoke his conscience, let the chips fall where they may.

It is universally agreed that his knowledge and understanding of world affairs is unsurpassed in Congress.

MIKE MANSFIELD has also recognized that there is no substitute for a strong national economy, one built and maintained with the premise of equal opportunity for all. The domestic legislation passed during the last decade and a half under his leadership attests to his deep concern for the well-being of every citizen.

In his youth, MIKE worked in the mines. Enlisting in the Navy at 14, he served in the Armed Forces during World War I, subsequently in both the Army and Marine Corps.

He later became a professor of Latin American and Far Eastern history at Montana State University, then served in the House before coming to the Senate.

This man is a scholar, a statesman, a patriot. He is a good man, who has dedicated his life to serving the people of his country.

We all know of his total devotion to his wife, Maureen. We, too, respect and love her, not only because of her grace and understanding, but also because we know, watching them together over the years, that he could never have achieved his unique niche in American history without her wise counsel and help.

In the years to come, may God grant them a happy and fruitful life.

Mr. BARTLETT. Mr. President, I am pleased to join my colleagues in paying tribute to the distinguished Senator from Montana (Mr. MANSFIELD). The Senate and the United States are fortunate to have had the benefit of MIKE MANSFIELD's leadership and service for the past 34 years.

Particularly in the past decade, the public has come to question not only the effectiveness but also the integrity of so many of our institutions. Congress has certainly received its share of scrutiny and criticism. Throughout this difficult period, MIKE MANSFIELD has done much to bring credit to the Senate and to Congress. His personal integrity and honesty are unquestioned. His leadership on issues in both foreign and domestic affairs has done much to raise the standards of public discourse.

In many ways, MIKE MANSFIELD has personified the ideal of the Senate. His hard work, wisdom, compassion, fairness, brevity, humanity—these are all virtues he exhibits every day of his life. He has not sought the spotlight in his leadership of the Senate, but has repeatedly demonstrated that his quiet, yet forceful manner can provide effective guidance and direction to the actions of this body.

Mr. President, the U.S. Senate, the Government of the United States, and the American people owe a debt of gratitude to Senator MIKE MANSFIELD for his many years of distinguished public service. I will miss his leadership, his counsel, and his friendship. I wish for MIKE and his wife, Maureen, a happy, long, and productive retirement.

Mr. NUNN. Mr. President, when I came to the Senate nearly 4 years ago, MIKE MANSFIELD had already served in this body for 21 years. I soon discovered—as many before had discovered—the one characteristic that has distinguished his outstanding career above all others: His unswerving sense of fairness. It is this quality which has endeared MIKE MANSFIELD to his colleagues on both sides of the aisle.

MIKE MANSFIELD has served longer

than all but two of his colleagues who, incidentally, were elected to the Senate with him in 1952. As each succeeding freshman class has come to this Chamber, his patient and wise counsel has always been available. Our orientation to the intricate rules and procedures of the Senate has been significantly enhanced by the guidance of our distinguished majority leader.

The wisdom of the quiet Montanan has been a source of inspiration for both his colleagues in the Senate and his respectful countrymen through a very trying period in our Nation's history. By the force of his intellect and character, Mike Mansfield has earned for himself the deep respect and trust of all those who have known and worked with him.

In my opinion, the Nation is losing a great force for reason and unity with the retirement of Senator Mansfield. He has gained a place of honor in the annals of the Senate of the United States and in the history of American Government.

In the U.S. Senate, Mike Mansfield has been a gentle but effective symbol of decency and integrity. That is the legacy he leaves us as he returns to his native Montana. I do not know who the next majority leader will be, but whoever he is, he should understand the importance of the characteristics Mike Mansfield brought to this post. There can be no substitutes for the time-honored virtues of decency and integrity.

Mr. President, I have a deep sense of gratitude for the friendship and close association I have enjoyed with this gentleman. It is my hope that his years of retirement will continue to be productive and satisfying, and that he and Maureen will enjoy many years of good health and happiness in their beloved Montana.

Mr. WILLIAMS. Mr. President, Mike Mansfield is a Montanan, but I can think of nothing more apt to describe him than the words William Makepeace Thackeray wrote in "The Virginians":

> To endure is greater than to dare; to tire out hostile fortune; to be daunted by no difficulty; to keep heart when all have lost it; to go through intrigue spotless; to forgo even ambition when the end is gained—who can say this is not greatness?

When Mike Mansfield assumed the majority leadership of the Senate he stepped into big shoes. There were those who said he could not fill them, but the past 15 years have proved the doubters wrong.

It is the measure of a true leader that besides having the respect and admiration of those he leads, he also has their affection. In the 18 years I have served in this body, I have known Senator Mansfield as guide, philosopher, and friend. I have seen him modest in success, and imperturbable in adversity. I have seen him calm and patient, when the circumstances might have rendered a lesser man apoplectic. I have seen him as the arbiter, when lesser men might well have used their power to be dictators. Mike Mansfield has the incomparable trait of being able to listen, as well as to speak.

The Senate will miss Mike Mansfield's wise counsel, and his quiet competence. We will miss his statesmanship. We will miss his depth of understanding, and his forgiveness of our frailties.

In bidding a regretful farewell to Mike, we also lose the gracious and charming presence of Maureen, whose love, affection, and counsel have sustained the majority leader through all the years of their long and happy partnership. Mike has never hesitated to acknowledge the debt he owes to Maureen's wisdom and understanding.

Mike was best man at my wedding last year, and Jeanette and I will always value and treasure the friendship that Mike and Maureen have accorded us.

The Senate of the United States has had great majority leaders in the past, and will doubtless have great leaders in the future. But none has stood or will stand higher in the esteem of his peers than Mike Mansfield. Perhaps Rudyard Kipling, in some presentiment, had Mike Mansfield in mind when he wrote:

> If you can talk with crowds and keep your virtue,
> Or walk with Kings—nor lose the common touch.

Mr. BURDICK. Mr. President, I am pleased to have the opportunity to pay tribute to my friend and colleague, Senator Mike Mansfield of Montana. His service as majority leader stands as one of the most distinguished performances in the long and distinguished history of the U.S. Senate. His retirement, which will begin at the conclusion of this session, will be met with admiration for a job well done and sorrow at his leaving.

Mike Mansfield championed the righteous causes of his day, playing a particularly significant role in fostering a national debate of this country's foreign policy. As a person, he has exemplified the finest qualities—kindness, fairness, candor, and forthrightness. Few people have given as much to this country as "the gentle persuader" from "Big Sky Country." I am deeply grateful for his tremendous contributions to our legislative process.

I extend my very best wishes to Mike and his lovely wife, Maureen. America owes this man a great and lasting debt for his contributions to the growth of these United States.

Mr. HUMPHREY. Mr. President, a few days ago I asked my colleagues in this body to join me in honoring a great man and an outstanding leader—the distinguished senior Senator from Montana, Mike Mansfield.

Mike Mansfield has served longer as majority leader of the Senate than any other Senator in our history. That in itself might not be extraordinary achievement in quiet times. But Mike Mansfield assumed the leadership under unique and trying conditions.

For one thing, he occupied the majority leader's position after it had been held for several years by one of the most talented and capable statesmen of our time—Lyndon Johnson. Moreover, he took over the leadership in 1961, at the outset of what was to become nothing less than a revolution in the conscience of America and its governing bodies.

I had the privilege to be elected as assistant majority leader in the same year that Mike rose to leadership, and I can vouch for the overwhelming difficulties he faced. The great civil rights and voting rights debates, the enactment of unprecedented social legislation under the Presidency of Lyndon Johnson, the pressing need for better education, health care and housing, and a foreign war which split the country as it did this Senate—all of these and more challenged the Nation while Mike Mansfield was majority leader.

Yet through those critical years, Mike Mansfield remained a constant unwavering force for progress: outspoken without demagoguery, and firm without heavy handedness. And in doing so, he left behind him a record of leadership unequaled in the American experience.

Recently we learned that Mike Mansfield has decided to step down from the position he has occupied with such distinction, and to retire from the Senate which he has served so faithfully and so well.

Each of us will feel that loss in his own way. For my own part, I will deeply miss the daily presence of a good friend, a trusted ally and a reliable adviser. And I am sure that my colleagues will share that feeling.

But out of that sadness I think that we can bring a new dedication and a firm commitment to the things Mike Mansfield fought for in the Senate and in the Nation. And we can pledge ourselves to complete the long and arduous work which he has so forcefully begun.

Mike Mansfield understands the Constitution and the role stipulated in it for Congress. He has been a strong proponent of congressional independence and prerogative, especially in the areas of appropriations and foreign policy, while at the same time realizing that government is a partnership among equals, and that nothing meaningful is accomplished without cooperation and informed agreement between Congress and the executive branch.

We can share that understanding.

Mike Mansfield has led the fight to make Congress a more open, more representative institution, and has worked for overdue reforms in its structure and conduct of business.

We can join—and finish—that fight.

Mike Mansfield has looked over the breadth and depth of American history, and has found no place there for bigotry, discrimination, or anything less than the fullest opportunity for every man and woman to become the best it is in them to be. He has been guided by the unshakable belief that all men are created equal, and that preserving their freedom—including freedom from poverty, ignorance, and neglect—is the most solemn obligation of government.

We can learn that wisdom.

When future generations of historians gather to assess the progress of democracy, freedom, and openness in American Government, we cannot be sure how they will treat our troubled age. But we can be certain of this—that the name Mike Mansfield will be heard often and proudly, as an example of enlightened leadership and a profound reverence for our institutions, and that it will not be forgotten as long as men remember our century and its achievements.

Mr. President, my learned and able colleague from the State of New York (Mr. BUCKLEY) is obliged to be away from the Senate today. However, he sincerely wanted to join in today's tribute to our retiring majority leader, and has expressed his feelings in a letter which he sent to me early this week.

I ask unanimous consent that his letter honoring the Senator from Montana be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 13, 1976.
Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR HUBERT: I want to thank you for the very kind invitation to join you and our other colleagues in honoring Mike Mansfield on the floor of the Senate, September 16, 1976. Unfortunately, I will not be able to be in Washington that day and I want to take this opportunity to let you know.

Although I won't be able to attend, I join with all of you in spirit in honoring this fine gentleman and leader. When I came to the Senate in 1971, Mike extended to me not only the hand of friendship, but the patience and common-sense wisdom we have all come to see as part of his great spirit. I hope you will pass along for me the following: Mike Mansfield has taught all of us what it means to be a Senator. He has done this by his example, by his dedication, and by his adherence to the principles of civility. He is an uncommon man. The people of Montana and of the United States will miss him—and so will every one of his colleagues on either side of the aisle.

Sincerely,

JIM.

Mr. LAXALT. Mr. President, John Brooke, the British historian, once wrote that: "Politics is the art of managing men while foreign affairs or finance is merely its subject matter." It is in this very human sense that MIKE MANSFIELD has been a great majority leader through one of the most tumultuous periods in our Nation's history.

This is not to say that he has not been well versed in the substance of legislation. As a senior member of the Appropriations and Foreign Relations Committees, he certainly has had more than his share of impact on the nuts and bolts of legislation. But as a freshman Senator of 2 years' service, I take this opportunity to thank Senator MIKE for the welcome and the feeling of gratification I received from a very warm and personable individual.

His personal approach has been an effective leadership style. Some commentators, who cannot really know him, have argued that Senator MIKE has not been an effective majority leader. Perhaps this is because he persuades rather than coerces and has never in the course of the longest tenure as majority leader on record been known to try to compel a reluctant Senator to vote against his conscience or the interest of his State. Yet, this is precisely his strength. Issues come and go, and as important as they are at the moment, it is personal integrity and character that count. No one in this Senate will ever underestimate the strength of the leadership which Senator MIKE has exercised on the basis of the personal ties of respect and admiration which he has with even the most junior Members of this body.

Leadership is a most difficult concept to define. Leadership in a democratic legislature composed of strong-willed individuals, each of whom is something of a leader in his own right, is even more difficult to exercise. Yet, by forging close personal bonds with his colleagues through better than 16 trying years, Senator MIKE, by quiet strength of character and personal example, has indeed been a strong and effective leader.

What is more, his leadership also provides a hopeful vision for the future. Gone are the days when majority leaders and senior committee chairmen cracked whips and junior members were content to be seen and not heard. Constituencies now expect their Senators to represent their States actively from the first day of their arrival. Arm-twisting is thus a thing of the past. And, for the future, Senator MIKE's quiet persuasiveness, far from being the weaker style of Senate leadership, may instead be the only possible effective approach. In any case, his successors are going to have an extremely difficult act to follow.

Mr. EAGLETON. Mr. President, we are gathered in a chamber frequently cited for its loquaciousness to pay tribute to a distinguished majority leader best known for his understated wisdom. When the air occasionally becomes too heated on either side of the aisle, this body welcomes the breath of fresh air that the majority leader provides.

On August 15, 1974, the Senate gathered to pay tribute to MIKE MANSFIELD upon the occasion of his 13th year and 225th day as majority leader—a longer service than any of his predecessors. MIKE listened for a period of time to the commendations, but rose to leave midway. After some persuasion by his colleagues, he agreed to remain for the duration of the remarks. At the conclusion, he observed that:

> I find it hard to recognize the man who was described by my colleagues.

Such modesty characterizes MIKE MANSFIELD's approach to life—both on a personal and on a professional level.

MIKE MANSFIELD's biography reads like the outline of a Horatio Alger story. He left school after eighth grade and joined the Navy at the age of 14. From there he set a course which took him from service in three branches of the military, to the copper mines in Montana, to Montana State University—where he spent time on both sides of the lectern—and finally to Congress in 1943. I have no doubt that he approached each task with the same mixture of courage and dedication that mark this individual in the minds of all of his colleagues in Congress.

Senator MANSFIELD's career has spanned an extraordinary period in American history. During his 33 years in office, the United States has been in and out of three wars, has weathered domestic turmoil which pitted race against race and generation against generation, and, most recently, has experienced an agonizing crisis of confidence in its leadership that resulted in the resignation of a President. In each of these areas, MIKE MANSFIELD has confronted the issues in his rational and deliberative manner and has contributed his eminent sense of reason. He was one of the earliest opponents of American involvement in Vietnam, urging an end to our participation as early as 1962. He was in the forefront of the move to pass the long overdue Civil Rights Act of 1964. And it was MIKE MANSFIELD who established the committee to investigate Watergate.

In all of these instances, MIKE was guided by his strong sense of individuality and justice, and by his firm commitment to the best interests of the Nation without regard to political expediency. And yet, in his 33 years of service to the Nation, he has always placed the highest priority on his obligations to Montanans. In a speech in August 1967, at the University of Montana Foundation dinner, Senator MANSFIELD spoke of his native State:

> The minds of Montanans dwell not only upon community and State, but upon the nation and the world and on the essential unity of all. And this sense of unity is buttressed by the harsh uncertainties of an all powerful environment which has taught us to draw together in a mutual concern for one another. . . .

These words characterize, in my mind, our distinguished majority leader.

No one in the Senate has been as tireless in his efforts to restore the balance between the executive and legislative branches—an effort which is still far from culmination, but which has progressed under MIKE's leadership.

In his dealings with colleagues in the Senate, MIKE contributes a sense of balance, a rational, well thought out approach to any question. I read an editorial in the Washington Star last March which said it well:

> Whether or not one subscribed to his views they sprang from deliberation; they were the products of a spirit secure in its values, tempered and temperate.

Our distinguished majority leader has established his own unique style of leadership in the Senate. He has never subscribed to the trade-off system of votes and favors, but has attempted to step back and allow each Member to keep his own counsel.

MIKE MANSFIELD will be remembered not only for the length of his service, but more, for the quality of his contribution. We have all been privileged beyond measure to serve with someone of his distinction.

Mr. BIDEN. Mr. President, I am grateful to our colleague, Senator HUMPHREY, for organizing this tribute today to honor MIKE MANSFIELD, who is retiring—much to the great regret of all of us.

When Senator HUMPHREY asked me to take part, he noted that he had not cleared this effort with Senator MANSFIELD because, he said, he knew that MIKE MANSFIELD would oppose it.

That he would have opposed this tribute says much, in my mind, about the kind of man MIKE MANSFIELD is, and the kind of leadership he has provided in the Senate.

When I was thinking about what I might say today, it struck me that it would be a simple matter to list the many accomplishments of MIKE MANSFIELD as majority leader—ranging from his leadership during the passage of the most comprehensive civil rights bills in a century to his reasoned and dispassionate attempt to forge a responsible foreign policy in which Congress would once again regain its proper constitutional place in the making of decisions affecting war and peace.

Those things are important, Heaven knows.

But speaking as a young Senator with limited seniority and short Senate experience it is not Senator MANSFIELD's specific accomplishments, great as they are, that I will recall when I think of him in years to come.

Rather, when I think of MIKE MANSFIELD, I think I will tend more to recall the tone and tenor of his leadership in the Senate and the personal friendship he extended to me during these few years we have served together.

To understand MIKE MANSFIELD's leadership in the Senate is to understand his vision of what he has wanted the Senate to be: an independent, deliberative legislative body composed of equals who are self-disciplined enough to carry out the public's business in a responsible, constructive, and creative manner.

MIKE MANSFIELD has based his leadership on the premise that the Senate will only be as great as all of us are willing to make it.

Those are high expectations: that we rarely live up to them is, of course, obvious.

But by challenging us to assume greater responsibilities in the conduct of the Nation's business; by insisting that the Senate work its legislative will through cooperation and not coercion, and by refusing to utilize his own power as majority leader for partisan advantage, MIKE MANSFIELD leaves us with a new understanding of what the Senate as a legislative body not only could be, but ought to be.

That is a legacy that will far outlive even his impressive list of personal accomplishments, for it sets the ideal against which future leadership will be measured.

I cannot end my remarks today without at least a brief personal comment upon my friendship with Senator MANSFIELD.

I came to the Senate in the aftermath of a personal tragedy that left me unable to focus clearly those first few months on the beginning of my Senate career.

MIKE MANSFIELD saw that I needed to be challenged in a time of grief, and he found opportunities in the Senate to give me new assignments to keep me occupied.

It was good therapy, and I came increasingly to rely on his counsel, which always seemed to require that I raise new questions and reach my own conclusions.

I will miss MIKE MANSFIELD.

His retirement is a major loss to the Senate. But his loss to the Senate is tempered by the knowledge that his friendship and counsel will still be available.

I wish for MIKE MANSFIELD now a full measure of that great life his home State of Montana has to offer him: a time for reflection and contemplation; more time for family, for friends, for books, for study; and as a teacher, time, too, for young men and women so that a new generation may learn from a man we have been so fortunate to have as a colleague.

Godspeed, Mr. Leader.

Mr. CHILES. Mr. President, I want to join with my colleagues on both sides of the aisle to pay tribute to our distinguished majority leader, MIKE MANSFIELD, who is ending his distinguished service to the Senate, to his State and Nation.

I have had the privilege of serving under his leadership for the last 6 years. I shall never forget his kindness to me personally when I took office in 1971. Contrary to what I had anticipated coming to the Senate for the first time, MIKE MANSFIELD not only appointed me to membership on the steering committee but assisted me in obtaining committee assignments consistent with my interests and desires. I had thought this would take years before it could be accomplished.

MIKE MANSFIELD will be remembered for many things. One of these which impresses me as a Member of the U.S. Senate is that as majority leader he has always treated each Member of the Senate, regardless of rank or position, as an equal. I do not think any Member of this body could deny that in his role as a Member of the Senate or as majority leader that he was not treated on an equal basis and with every courtesy by MIKE MANSFIELD.

Another side of MIKE MANSFIELD is shown in his determination and courage to fight for the things that he believes in, at the same time maintaining a dignity and courtesy to others that is unequaled. His leadership against the war in Vietnam was very influential in the Congress and the Nation and yet this influence was never given or exerted with rancor or pressure on Members of this body.

MIKE MANSFIELD encouraged each Senator to do his job and strive to excellence, and he had the quality of leadership which raised the Senate up—not down.

He has brought a brand of dignity to this office as majority leader that we can be proud of. He does us honor.

I want to personally wish our distinguished majority leader only the best in his future endeavors, and I sincerely hope that he will be available for counsel and guidance as the years go by. Not to take advantage of such a source of wisdom, experience and good commonsense such as Senator MANSFIELD possesses would be a loss to us all.

Mr. STONE. Mr. President, as a newcomer to the Senate, the most striking impression I have gained is the constant kindness and respect shown to all by all here. And I have learned how much of this is inspired by our revered majority leader. By his own example, he has made discourtesy and lack of consideration of the feelings and hopes of others an untenable and unacceptable course here.

The sages of old ranked human attainment. They held that higher in value than the crown of fame and glory, higher even than the crown of worthy works and a good name is the crown of a wise and understanding heart.

Therefore, may I suggest that greater than his merited fame, greater even than the historical quality of the legislation inspired by his leadership; greatest of all is the imprint on the Senate and other countries of the wisdom, kindness, and understanding of MIKE MANSFIELD.

Mr. BUMPERS. Mr. President, I count it a privilege to have come to the Senate for at least a brief portion of the service as majority leader of the distinguished Senator from Montana, MIKE MANSFIELD. Although my service has coincided with his for only 2 years, I have been here long enough to appreciate and concur in the sentiments of respect and affection expressed by all Senators for him.

As a new Member, I have been especially grateful for his courtesy and consideration to the freshman class of 1975. Immediately after my nomination as Democratic candidate for the Senate in May of 1974, the leader graciously offered his congratulations. When new Members arrived and were sworn in in January of 1975, he went out of his way to be helpful. He took and firmly held to the position that all Senators, having been duly elected by the people of their respective States, were equals in dignity. He was the leader—and still is—but he never conveyed any feeling of superiority or condescension. He is truly first among equals. He has been gentle but not weak, strong but not rigid, upright but not sanctimonious.

Mr. President, we stand in a Chamber where many great men have served. The names of Clay and Webster, Calhoun and LaFollette, Taft and Truman, Kennedy and Johnson, come readily to mind. Many others could be added to the roll of honor of those who have occupied these places of distinction. MIKE MANSFIELD now joins these giants. His name and record, no less than theirs, belong to the history of America.

Mr. PHILIP A. HART. Mr. President, much of the comings and goings of the Senate resemble a university. Newcomers are "freshmen." As a group, they are "the class of." And, this year, I began to understand that "retiring" seems much like graduating.

There is some of the same ache of leaving behind dear friends. And there is the knowledge that friendships with fellow graduates will not be quite so close as when we were here—struggling the same struggles, bearing the same burdens.

But at this moment it is a dissimilarity between a graduating class and the Senate that troubles me. We have no valedictorian—and no valedictory speech.

This year, especially, that is a serious lack.

For there is no doubt that the valedictorian of this graduating class would be the senior Senator from Montana, who has graced the office of majority leader by holding it for more than 15 years.

There is so much that MIKE MANSFIELD could pass on to future Congresses.

For example, I am sure that the structure and tone of his valedictory would demonstrate that it is not necessary to lecture, berate or harass the Senate to obtain its respect and admiration. MIKE MANSFIELD is not a lecturer. But he is much respected and deeply admired.

Surely he would counsel future Congresses to keep a close eye on the Constitution—both on its letter and its spirit. For MIKE MANSFIELD understands well that this is the charter of individual freedom, the safeguarding of which is essential if we are to keep our promises. The only times in memory that he ventured close to lecturing was when he would be reminding the Senate of this fact.

And, he would have some words—I am sure—for caring for this institution itself and for how to make the Senate a more responsive and responsible body. It is a message that he could deliver with wisdom and love.

But mostly, I would hope, MIKE MANSFIELD could convey somehow his great optimism for this institution, for the country, for a way of life.

It is this optimism, backed by a determination to see that it comes to fruition, which so characterizes his career.

Fortunately, the career is there for future generations to turn to if they are wise enough to seek wisdom from MIKE MANSFIELD.

The career is long, distinguished, written with hard work, respect for his fellow man, love for mankind, dignity, and wisdom.

It is not as easy as studying one speech. But the message is as clear.

Mr. ABOUREZK. Mr. President, I am glad to take this opportunity to join my colleagues in paying tribute to our distinguished majority leader, MIKE MANSFIELD.

In the few moments that each of us will have to speak this afternoon, it will be impossible to express adequately our appreciation to him for his selfless service as leader of this body. But each of us, in his own way, know that our service in the Senate has been enriched and made more meaningful by our association with him.

During my term here, Senator MANSFIELD has always treated me and every other Member of this body with unfailing courtesy and with the highest respect. From my first day of service in the Senate, his kindness and his wisdom have been apparent. He has served this body well.

MIKE and I have not always found ourselves on the same side in every debate during the past 3½ years. Occasionally, his view of the national interest and mine differed. Yet, even in those instances, one never questioned his fairness, his dedication to principle, or his belief that every Senator had the right to express his views fully and completely.

MIKE's long and distinguished tenure as majority leader has encompassed some of the most trying times in this Nation's history. We have seen political leaders assassinated; we have been through a war that almost tore this country apart; we have experienced dissent, both peaceful and violent; we have witnessed the very fabric of our political system stretched to the breaking point as first a Vice President and then a President resigned in disgrace.

Yet, through all this, and much more during the past 16 years, MIKE MANSFIELD has provided good counsel and strong leadership. He has served four Presidents. He has served the U.S. Senate. And, most important, he has served the American people. He has served with dedication, with wisdom, and with the knowledge that he has helped to shape the course of our history.

And so, I join my colleagues here today in saying "thanks" to MIKE MANSFIELD for all that he has done for us, individually and collectively. The Senate of the United States is a stronger institution for his having served here. He will be sorely missed in this Chamber.

Mr. PROXMIRE. Mr. President, MIKE MANSFIELD is leaving us. It is his choice, one he is entitled to make. We—majority and minority alike—will miss him. We wish him and his family peace and good fortune. But we wish he were not leaving.

MIKE MANSFIELD is a rare human being. He is a rare political leader. As a man, as a leader, he is the same person. There are not two MIKE MANSFIELDS. There is but one, kind, thoughtful, intelligent, learned, incisive, quiet, respecting and respectful, honest, sincere, tough, gentle, ethical MIKE MANSFIELD. He is a magnificent man.

There are some who have said that MIKE MANSFIELD is not partisan enough, not strong enough to lead the majority of the U.S. Senate. I do not believe that is true. I do not believe that Senator MANSFIELD sees his job that way. I believe he sees his job in a much more subtle manner. I believe he sees the job of majority leader as one that, above all else, must respect the egalitarian nature of our system of self-government. He understands that each of us in this Chamber has exactly the same power and authority. We each represent a sovereign State or Commonwealth. We each are part of the same upper house, the same deliberative body. The authority of each of us rests in the Constitution and in the people of our respective States. Regardless of age or experience, we stand here as equals. Each carries his own fasces.

Had MIKE MANSFIELD not understood, that, he would not have held the position of majority leader longer than anyone else in the history of the Senate—16 of the nearly 188 years that the U.S. Senate has existed, about 8 percent of its history. Perhaps his understanding stems from the fact that he is from Montana, a State whose residents have traditionally been individualists.

Although born in New York, Senator MANSFIELD was reared and educated in Montana. But his education did not follow the ordinary pattern. At 14 he left home, not having completed elementary school, and joined the Navy. After the war, he enlisted in the Army for a year, then did a 2-year hitch in the Marine Corps. He is one of few men who ever served in three major military services; fewer, yet, one who rose so high in his government.

Back in Montana, working in the mines young MANSFIELD waited until he was 27 before returning to school. By examination, he was able to show he was college material. He was not satisfied with a baccalaureate; he worked for and won his master's degree and then became a teacher at his alma mater. For 10 years he was professor of Latin American and Far Eastern History at Montana State University, where he is still on permanent tenure. And he never attended high school. Only a man of extraordinary strength of character could achieve that—and with distinction, too.

MIKE MANSFIELD brought his talent to Washington, having won a seat in Congress in November 1942. Ten years later he was elected to the U.S. Senate.

He served as a delegate to the United Nations sixth session in Paris in 1951—an appointee of President Truman. Other diplomatic missions included appointment by President Eisenhower as a delegate to the 13th General Assembly of the U.N. an assignment to West Berlin and Southeast Asia for President Kennedy in 1962, and similar foreign policy assignments for President Johnson in 1965 and for President Nixon in 1969. Twice, he visited mainland China, in 1972 and 1974. And, I understand, he will return next week.

Senator MANSFIELD's expertise in foreign affairs, gained as a scholar and as a member of the Foreign Relations Committee, has added to his stature as majority leader. The Senate, in its role as foreign policy adviser to the Executive, could have gone far astray if it had not been for the leadership of MIKE MANSFIELD.

His voice was a voice of reason during the Vietnam war. His knowledge of the Far East, his wisdom in assessing that knowledge, his understanding of the situation helped bring the time when the consensus of our Nation was such as to halt the carnage. Not all of us were as quick as he in discerning the situation. Had we been, his task would have been easier.

MIKE MANSFIELD's leadership of the Senate has been quiet and efficient. Flamboyance and levity are not his style. Circumlocution is not his method. Rather, his is reason without rhetorical flash. His speech is straightforward and logical. He is direct, but without rancor. He is candid but not vitriolic. He speaks his mind with clarity. He does not tolerate ambiguity in his own speech.

MIKE MANSFIELD is a person who combines the qualities of manhood and humanity that all must respect. Few can claim—and his modesty would preclude his claiming—the admirable attributes that are his. He is, in short, a remarkable human being. Those qualities have made him a great majority leader.

Now he is about to leave the Senate, the Senate he has served well and uniquely. The Senate will go on, for no man, even a MIKE MANSFIELD, is indispensable. But because of his having been here, all of us who have served with him are just a little better. And certainly, the Senate, which is a product of its traditions, is different because of him. He has left his mark. It is a good mark, a mark that has not marred the Senate. Rather, he has left a mark to which all future Senators should wish to measure themselves.

Mr. McGEE. Mr. President, it is a privilege for me to join my colleagues from both sides of the aisle today in paying tribute to our distinguished majority leader and friend, MIKE MANSFIELD, who advised us last March of his decision not to seek reelection at the expiration of his present term.

It is a measure of the esteem with which MIKE MANSFIELD is held by Democrats and Republicans alike that this time has been arranged in MIKE's honor by the distinguished majority whip, ROBERT C. BYRD, and the distinguished minority leader, HUGH SCOTT.

MIKE's retirement is particularly sad for me, as we share many common bonds. Not only are both of us westerners, but we also have similar constituencies in our neighboring States of Montana and Wyoming. Both of us pursued careers as professors of history prior to entering public life. Both of us have served together on two major committees—Appropriations and Foreign Relations.

Last March, I noted in observing MIKE's 73d birthday and his retirement announcement, that it is a common human failing when one finds it difficult to express aloud what he feels in his heart and mind concerning the qualities of another. The most appropriate and meaningful description I could find which does justice to MIKE MANSFIELD was in the following quote from the 18th century English poet, Alexander Pope who wrote:

> Statesman yet friend to truth! of soul sincere, in action faithful, and in honor clear, who broke no promise, served no private end, who gains not title, and who lost no friend; ennobled by himself, by all approved, praised, wept, and honored.

MIKE has guided this institution on a truly democratic course. He has viewed each and everyone of us as equal partners in the pursuit of representing the Nation's interests.

We have a rich heritage of institution-building in this Nation. We can point to the Founding Fathers and the wisdom they displayed in drafting a most remarkable document, the Constitution, which has given us a viable and workable instrument to guide man's greatest experiment in self-government. We can point to a system of checks and balances between the three branches of our Federal Government as a means of preventing abuses of those in positions of power and responsibility. We can point to the Bill of Rights as a guarantor of the equality of all people of this Nation. We have refined and expanded upon what the Founding Fathers gave us.

Yet, these are but instruments—written principles—whose source of strength and vision resets with the men and women of a nation sworn to uphold them. It is this inherent understanding of, and appreciation for, the evolution of our political thought and culture as a nation which breathes life into this system founded 200 years ago. This has been MIKE MANSFIELD's greatest strength. He has understood that our system is much more than a series of documents; it is more than two national political parties; it is more than 200 years of institution building. It is a recognition that the human factor, for its weaknesses and frailties, it is the key element in the perpetuation and improvement of our system of government. While recognizing our inherent human failings, he has capitalized on our human strengths of compassion, a sense of equality, and respect for the rights of the views, principles, and concerns of others. I am sure my colleagues from the other side of the aisle will be the first to agree that this sensitivity to the democratic processes of the Senate has allowed all to participate as equal partners in the legislative process.

MIKE served as majority leader through one of the most difficult and traumatic periods of this Nation's history—a period in which the very viability of our form of government institutions hung by a very slender thread. It was a period which saw tremendous strides achieved in according civil rights to all citizens of our Nation. It was a period which saw concerted efforts in bringing all strata of our society into the mainstream of American life. Yet, it was also a period in which the Nation was buffeted by Watergate, the abuses of our intelligence agencies, and the Vietnam conflict. That we have survived is not so much a tribute to the institutions themselves, as it is to the men who bear the responsibility for maintaining what our Founding Fathers had the wisdom to very delicately and conscientiously craft man's greatest experiment in government. It is a tribute to MIKE's leadership as he exercised a subtle, but steadying, effect on the conduct of our responsibilities as the people's elected representatives that we emerged from this era with a firm grasp on our destiny as a Nation.

The Senate has truly become an institution in which each and every one of us does not feel under any constraint to vote our conscience, to express opposing views and to represent our constituencies to the best of our abilities. And no one is more responsible for this than MIKE MANSFIELD.

Therefore, we shall all miss him and regret that he will not be assuming his duties as leader when the new Congress convenes in January. Yet, MIKE has left us a very firm foundation upon which we can continue to build. And this is the greatest tribute anyone can pay to a friend, colleague and fellow human being.

Mr. BAYH. Mr. President, I address my distinguished colleagues with both a sense of sadness and a sense of joy. Sadness because I know that in January, MIKE MANSFIELD will no longer be present in this Chamber on a daily basis, patiently, fairly, and courteously assuming the often difficult mantle of leadership. Joy because I know MIKE will be returning to his beautiful Montana with the knowledge he has compiled a legislative and leadership record which will never be surpassed.

It is difficult to imagine the Senate without the leadership of MIKE MANSFIELD. During the longest tenure of any majority leader in the Senate's history, MIKE assumed the enormous responsibility of leading this body through issues and times of great turmoil in our country. MIKE's unwavering integrity, dignity, and accomplished leadership are in a large part responsible for the better and greater America which has emerged today.

As we embark on our third century, it is only realistic to assume that new issues and problems will have to be faced. It is my hope that during difficult days in the future, this Nation will be fortunate to have the type of leadership MIKE has given to the Senate. He has treated every Member of the Senate with fairness and has worked to see that each Member is assignd major legislative responsibilities. He has never attempted to impose his will upon his colleagues, and partisan politics have never taken precedence over his personal convictions. He always gives light to Senate deliberations, yet he is a man of few words and does not seek to draw the spotlight of national attention.

If there is one man who can show what a good Senator is by example, it is MIKE MANSFIELD. He knows the Senate better than any man alive today, and uses that knowledge not for personal gain, but to insure substantive achievements for his country.

Mr. President, MIKE's presence and leadership will be sorely missed by me, by our fellow Democrats, by the Senate, and by the Nation. I believe my colleagues will agree that we are all better people and better legislators for having known MIKE, and I can think of no better tribute to MIKE MANSFIELD, the majority leader, the distinguished Senator, and the man, than to say that when he leaves the Senate, he leaves only friends.

Mr. PASTORE. Mr. President, my feeling toward MIKE MANSFIELD need not be embellished with the eloquent word since it comes with spontaneity from my heart. I cherish our friendship. I respect him as the majority leader. I admire him as a person, and I love him as a great human being.

I wish him and his Maureen many years of good health and happiness.

Mr. STAFFORD. Mr. President, I am gratified to have the opportunity to join in this tribute to MIKE MANSFIELD, an uncommon man.

But, first, I have a message from an old and dear friend of the majority leader. I spoke today with George Aiken, who retired as the dean of the Senate after 34 years of service just 2 years ago.

Senator Aiken asked that I say in his behalf that the retirement of MIKE MANSFIELD is "the greatest loss the Senate has sustained" in Senator Aiken's memory.

I share that view.

From the day I entered this Chamber as the most junior Member of the U.S. Senate, I have been indebted to MIKE

MANSFIELD for his friendship and his wise counsel.

Under his leadership, each of the 100 Members of the Senate has been an equal partner, regardless of seniority or any other standing; each free to vote his conscience, to dissent and to seek to influence the course of events without fear of retaliation.

The leadership—indeed, the simple presence—of MIKE MANSFIELD has ennobled this institution and each of its members.

His departure diminishes all of us.

It is a loss to the Senate, to our Nation and to the world.

Only time will tell us how great a loss.

To MIKE MANSFIELD, and to his partner, Maureen, I can say only; Godspeed.

Mr. STEVENS. Mr. President, the past 15 years have witnessed almost unprecedented changes in our Nation. During the post-World War II years, most Americans were pleased with our country and its apparent direction. A few years later, however, the Nation was confronted with the deep divisions resulting from the Vietnam war, student unrest and violence, and increasing demands from minority groups for more equitable treatment. Today, the campuses are calm, the war has finally ended, and great strides have been made in the area of civil rights.

Over the past several years, the press has made a great deal of the fact that there is not a Lyndon Johnson or a Sam Rayburn in either House of Congress. What I feel has been overlooked is that these last years have called for a different quality of leadership. We have faced many crises in these Chambers and have met the challenge not because one man had his way. But, rather, because one man urged us to reason and compromise in the highest sense of the word. That man is MIKE MANSFIELD.

The term "majority leader" is far too narrow to summarize the role of the Senator from Montana. At many times he has represented all of us—Democrats, Republicans, Independents, and Conservatives—and we have been proud to have him do so. Senator MANSFIELD has helped us keep faith in ourselves and our Government. As a tribute to the man and his ideals, we should now pledge our strongest efforts to reclaiming the faith of the American people who have been so well served by Senator MANSFIELD.

On a more personal basis, I have had the privilege of serving as ranking minority member of the Military Construction Appropriations Subcommittee which has been ably chaired by the majority leader. In all our work on the subcommittee, the chairman was most fair and courteous, allowing all points of view to be thoroughly explored.

It has been my pleasure to know MIKE MANSFIELD as a person and as a legislator, and I join the other Members of the Senate in expressing our gratitude for his past work and our best wishes for his future pursuits. And I know we will value our continued friendship with MIKE and MAUREEN for years to come.

Mr. CULVER. Mr. President, today the Senate gathers in a cross-current of emotion—a mood of mingled sadness and celebration. This is one of the last occasions when we meet under the leadership of MIKE MANSFIELD, who voluntarily relinquishes his legislative duties at the end of this Congress.

When Senator MANSFIELD announced this intention earlier this year, many of us conveyed our gratitude to him for his many acts of courtesy, friendship and personal example. Today, we renew that expression of admiration and affection. But we ought at the same time to recall the extraordinary period of unbroken service that MIKE MANSFIELD has given in the 20 years since he was chosen assistant leader and the nearly 16 years since he assumed the position of majority leader. More important than the unprecedented length of that leadership has been its quality and its exceptional productivity. One of MIKE MANSFIELD's greatest gifts of leadership has been his natural capacity to share that responsibility and to spread initiative throughout the body. Senator MANSFIELD has never permitted personal pride or pique to cast a shadow across the work or processes of the Senate. He has always been accessible, candid, and clear in his own beliefs. He abhors false drama or frivolous misuse of the legislative process, but he has always been able to accommodate himself to the honest convictions of other colleagues and gradually to achieve a reconciliation of divergent views.

MIKE MANSFIELD is more quiet and more laconic than many legislative leaders of our memory and experience. But the acts of quiet persuasion have yielded steady results whose importance probably exceeds that of any prior period of leadership in this body. Some observers have misjudged the lack of open hostility and abrasive encounter in this body as a mark of institutional weakness. In fact, its reflects Senator MANSFIELD's capacity for friendship and his unfailing sense of fairness and gentle persistence. It is those qualities which are the true lubricants of legislative accomplishment.

Our deep regret at MIKE MANSFIELD's departure from his Senate desk does have a note of joy—the knowledge that his career has been one of fulfillment, complete integrity, and always life-enhancing. The regret we feel is also mitigated by our shared certainty that Senator and Mrs. Mansfield have other careers ahead of them. We know that good sense, vision, and the thirst for new experience are possessions that Senator MANSFIELD will take with him from the Senate and place at the disposal of his country. I am confident that there will be countless further opportunities when we shall benefit from his counsel and wisdom. And we who continue to serve in the Senate will always have MIKE MANSFIELD as a standard of human excellence and a benchmark of legislative performance. To the Mansfields we wish all success and continued happiness in the years ahead.

Mr. McGOVERN. Mr. President, when I first came to the Senate in 1963, I was, like so many others in both parties, made welcome by the distinguished majority leader, Senator MIKE MANSFIELD. His sound advice and quiet counsel were of great value to me then. But as I came to know him better over the years, my esteem for him deepened and my appreciation for his achievements grew.

MIKE MANSFIELD can look back upon many great accomplishments—the 18-year-old vote, restoration of congressional prerogatives in foreign affairs, a long and often lonely history as a voice of reason on Asia—but I think that he will be best remembered for the sensitive leadership he gave to the Senate.

"The majority leader has very little power," Senator MANSFIELD once told an interviewer, "and what authority you have is on sufferance from your colleagues. I operate on the basis that I treat my colleagues, regardless of seniority or political differences, the way I would like to be treated. I do not desire power as such; I would like to get away from it. I would like to get by on cooperation, understanding, and mutual trust. I have no desire to be in a position to crack a whip. I do not want to tell people what to do."

The Mansfield style is rooted in a profound respect for the integrity of the Senate and of the individual Members. MIKE MANSFIELD has always believed that reason is superior to arm twisting, that varied views, vigorously expressed, are preferable to monolithic unity of opinion, that younger talent should be encouraged rather than forced into a limited and limiting role.

Mr. President, MIKE MANSFIELD would be the last to suggest that it is so, but the fact is that this quiet and unpretentious man has led one of the great American lives. As an underage volunteer, he enlisted in the Navy during World War I and subsequently, he served a year in the Army and 2 years in the Marine Corps.

As a Marine, this bright and sensitive young man from Montana had the opportunity to serve for a time in China in the early 1920's, when that great nation was at one of the lowest points in its long history. Much of the world thought little of China in those days, but the young Marine showed then—as he has shown ever since—an unusual ability to see the fundamental human realities beneath appearances. MIKE MANSFIELD understood, as few others did, that what happened in Asia was of enormous import to all the world.

When young MIKE left the Marine Corps, he had a good deal of catching up to do—he had joined the Navy at the age of 14 before he had even completed the eighth grade. While working in the copper mines, he managed to complete his high school equivalency exams, and began his undergraduate work at the Montana School of Mines. Subsequently, he went on to earn his bachelor's and master's degrees at the University of Montana with such distinction that he was invited to join the university faculty as a professor of Far Eastern and Latin American history.

In many ways, MIKE MANSFIELD has never ceased to be a teacher and a student. His learning is broad and deep. He is tolerant of diversity, but unwavering where principle is concerned. He is a man of matchless experience and accomplishment, but his mind is always open to new ideas. MIKE thrives in the presence of the young because he, like they, cannot be satisfied with platitudes or with facile answers to the questions which every honest person must ask.

Mr. President, when MIKE MANSFIELD returns to private life, the people of Montana will elect a new Senator and the Senate will choose a new majority leader. Other individuals can fill the positions he has occupied, but I do not believe that anyone can replace this wise and honorable man.

Some have said that after the Good Lord made MIKE MANSFIELD, he threw away the mold. For the sake of the Nation, I hope that is not true.

Mr. SCHWEIKER. Mr. President, I am proud to have served in the U.S. Senate with Senator MIKE MANSFIELD, and am certain that the Senate will feel a deep sense of loss when we reconvene in January without him.

His career of public service has been a model for those who seek the finest in a politician. MIKE MANSFIELD's record is one of unmatched service to the State of Montana, the Senate, and the people of the United States.

MIKE MANSFIELD has earned the respect and love of Senators from both sides of the aisle, and has returned that respect for each of us. His leadership has always been from a position of one among equals, and always with the clear understanding that each Senator will ultimately vote as his own conscience dictates.

During Senator MANSFIELD's long term of service, our country has had to face a number of critical foreign and domestic crises. His vision, and his unyielding high moral standards, have helped guide the Senate and this Nation through those difficult periods.

This country is fortunate that MIKE MANSFIELD chose to dedicate his life to public service. We shall all miss him.

Mr. INOUYE. Mr. President, with the retirement of our distinguished majority leader, Senator MIKE MANSFIELD of Montana, the country will lose a respected and inspiring leader, but the junior Senator from Hawaii will lose as well the frequent companionship of a beloved tutor and friend.

I can vividly recall the day in 1963 when I took the oath of office as a U.S. Senator, and Senator MIKE MANSFIELD is an integral part of that memory. In the hubbub following the conclusion of the ceremonies, Senator MANSFIELD invited me and my family to join him for lunch in the majority leader's private dining room. I was greatly flattered that he would think to extend such hospitality to a first-term Senator. But after I got to know MIKE MANSFIELD, I realized that such gestures were typical of this wise and gentle man from Montana.

Late in 1965 I was privileged to accompany Senator MANSFIELD on an around-the-world inspection tour at the request of President Johnson. This experience not only provided an unparalleled opportunity to meet with many of the world's leaders but an opportunity to get to know this great and good man much more intimately. Needless to say, he represented our Nation well and portrayed in his contacts with foreign leaders that which is best in the American character.

The character of MICHAEL JOSEPH MANSFIELD was molded in the true American pioneer tradition. He worked hard for his achievements and he was never afraid either to experiment or to compromise. He took pride in being a little different, trying a little harder and expecting a little more.

MIKE MANSFIELD brought to Congress broad professional experience and versatility combined with an appreciation for the American ideals of equality and hard work. He began his long public career by service in not one but three branches of the military during and immediately following World War I. Then he worked for some 8 years as a miner and mining engineer in the Montana copper fields. The valuable lessons in human relations he learned during this period served him well in later life. Even in the Senate he was fond of quoting the wisdom of the miners of Butte. His intellectual curiosity sparked, he entered college—without ever completing high school—and graduated from Montana State University with a bachelor of arts degree. He pursued graduate studies at this institution and also at the University of California at Berkeley, ultimately advancing to a full professor in Latin American and Far Eastern history at the Montana University. So we trace the development of this disciplined and inquiring mind that has provided the same unique leadership and guidance to Senators as it did to students those many years ago in Montana.

All of us can attest to the manner in which Senator MANSFIELD applied his democratic philosophy to his conduct of affairs within the Democratic majority and within the Senate. He not only stated that all Senators are equal, but also put the concept into practice. Under his direction committee assignments have been made without regard to seniority.

He has given younger Members positions of authority. And even a single Senator could ask for and be accorded the opportunity for a caucus. Senator MANSFIELD's goal was always to provide 100 equal but independent individuals the opportunity to reach a collective judgment.

As majority leader, MIKE MANSFIELD has been a hard man to say no to. I make this statement from personal experience. Twice I turned down the position he offered me on the Watergate Committee. Now I consider the experience as one of the most important and satisfying of my public life. I hope I will someday be able to reach the same conclusion about my work as chairman of the Senate Select Committee on Intelligence, a job I reluctantly accepted at Senator MANSFIELD's urging only after turning it down.

Indeed, Senator MANSFIELD has encouraged all of us to participate in the affairs of the Senate. His noble goal has been to build a strong, dynamic, democratic institution of which our Founding Fathers and 20th century citizens alike could be proud.

MIKE MANSFIELD's distinguished record in Congress, both in the House and the Senate, is well known to all of us, and is one which most of us will never be able to equal. For close to 33 years, 15 of them as majority leader, he has fought to preserve America's democratic ideals for future generations. It is illustrative of his concern for the future of the United States that he considers one of his greatest legislative achievements passage of the law which gave 18-year-olds the right to vote.

History may well record the most important legacy of this great American as being the example he sets by resigning from public office at the pinnacle of his career. He has made a conscious and willing decision to turn authority over to a younger successor.

Senator MANSFIELD has served his Nation long and hard, but for him the goal has always been just that—service, in the purest democratic sense, and not for love of power or personal gain. As a firm believer in the inherent justice and worth of the democratic system, he does not feel it is healthy for one politician to control the reins of power for an extended period. Power has corrupted many throughout our country's political history. I need not call out the all-too-familiar names—but power has not corrupted MIKE MANSFIELD. He has shown his strength and foresight by this decision, as well as his understanding that men are not gods, and Senator MANSFIELD serves as a shining example to which a generation of Americans disillusioned with self-serving politicians can point to with pride.

Yes, this leader will be deeply missed and long remembered by a junior Senator from Hawaii—as a tutor, as a fellow Democrat, and as a fellow Senator. But mostly, I will remember a gentle and compassionate friend, a truly great American, who was able to preserve the democratic institution of the Senate not through clever politics but through a personal faith in the basic goodness and equality of each and every human being.

Mr. FORD. Mr. President, many words of well-deserved praise have been directed at our distinguished majority leader today, and there is little I can add that has not already been said.

But I do want MIKE to know that when he leaves, he will be missed by the junior Senator from Kentucky.

It was not quite 2 years ago when I first came to the Senate from an entirely different setting in government service. The transition from the governorship of Kentucky into the setting of the Senate was an abrupt and significant one, but it was eased by the gentle warmth and wisdom of this man.

From the very first day, he gave me a deep sense of being welcome and of belonging. His guidance and counsel were invaluable during my first weeks and months in the Senate, and will be sorely missed when he is gone.

MIKE is a man who cares about his Nation and this body, and has a very special feeling for his people in Montana. Day in and out, his dedication and public consciousness have been unequalled, and throughout his career he has brought dignity and honor to the Senate. In time-honored words, he is a gentleman and a scholar.

When the next session of Congress convenes in January, it will not be the same; for we are losing not only our majority leader, but also a true statesman and a dear friend.

Mr. HARRY F. BYRD, JR. Mr. President, when the Senate reconvenes in January, for the first time in 16 years, Senator Mike Mansfield of Montana will not be occupying the post of majority leader.

Both as a Member of the Senate and as a citizen, I regret the retirement of Senator Mansfield. He has held the difficult and challenging post of majority leader longer than anyone else in history, and he has done a splendid job.

Fairness and integrity are synonymous with the name of Mike Mansfield. These qualities of the man, translated into action as he discharged his duties, resulted in a leadership in which every Senator learned to place his trust.

Besides the fairness which he always has shown in dealing with his fellow Senators and with the great issues of the day, Mike Mansfield also has displayed keen judgment, total dedication, and genuine humility. All of these characteristics have enhanced his stature.

The years during which Senator Mansfield has served as majority leader have been difficult ones, full of challenge and controversy. The majority leader, throughout these trying times, has held firm to his principles and to his conception of the majority leadership as an institution which must rest upon a foundation of confidence.

Mike Mansfield has inspired confidence, and deservedly so.

His contributions to his State of Montana, and to our beloved Nation, have been many. His contributions of friendship and understanding, which he has bestowed upon his colleagues, will long be remembered.

I salute my dear friend, Mike Mansfield, an outstanding American whose absence in this Chamber next year will be a loss to the Senate and to the Nation.

Mr. HUDDLESTON. Mr. President, every institution has its heroes—those who stand large when measured against their colleagues and contemporaries. Every institution has its symbols—those who embody the characteristics, the traits which reflect its strength and expertise. Every institution has its ideal—the image of the best that can be offered.

Mike Mansfield, our distinguished majority leader, is all of these—hero, symbol, ideal. He is what the American system and the U.S. Senate are all about. He is the self-made man of the American dream—the man who made his own way in the world, tirelessly dedicating himself to a body which he has deeply and personally influenced.

He is a man committed to the traditions and values of America, never afraid to speak out in behalf of a cause which he believed honorable and just, never afraid to raise questions or issues whose popularity might be in doubt. He often asked us to look at ourselves, to examine the stands we had taken, to reassess policies in an effort to guarantee that our Nation took the fair and righteous course, to insure that our policies were based on truth and a sound moral foundation. He has given us an integrity which would have been exemplary in any time, but which has been singular in a more disappointing and unfortunate period in our Nation's history.

He is the majority leader who ever-conscious of the fact that the congressional system is one of negotiation and compromise has time and again exercised wisdom, patience, and consideration for those with whom he agreed and those with whom he disagreed. His service has been designed to promote conciliation and consensus so that we in this body might expedite the enactment of legislation for the benefit of our Nation and all its people.

Many of us will speak today. Many of us will cite Mike's contributions and accomplishments. But, the most difficult—and yet the most important message—that we can convey today is an understanding of the intangible, but very real strength and guidance which he has given to us as individuals and to this body and to the Federal Government. Without his virtues, this could indeed have been a different and lesser place.

Thus, with our commendations, we should also include our appreciation for the courageous and careful leadership which he has given us and for the reputation which he leaves with us of a proud and honorable service.

Mr. TALMADGE. Mr. President, I am happy to join the U.S. Senate today in this tribute to the distinguished majority leader, Senator Mike Mansfield, and I do so with sincere gratitude for Mike's friendship and the association we have had over almost 20 years.

When the 95th Congress convenes next January, it will not be the same without the presence of Mike Mansfield. The Senate will not be the same without his guidance as majority leader. All of us here, on both sides of the aisle, and the Members of the House of Representatives will miss him very much.

Mike Mansfield has served the Senate as majority leader longer than anyone in history. This is testimony to the high esteem in which he is held by his colleagues. He distinguished himself, as well as the position of majority leader, with dignity, honor, and integrity. Through his outstanding service and wise leadership, he has made an important mark on the U.S. Senate and on the history of America.

No one here needs to be reminded that the job of majority leader is not easy. At best, it demands qualities of patience, determination, and leadership that not many people have. Mike Mansfield has given meaning to these qualities, and he kept the body and soul of the Senate together during some of its most trying years. He has never flinched from duty nor backed away from responsibility.

Words do not seem adequate at a time like this. But the best way I know to describe Mike's performance as majority leader is that he does the job with restrained and gentlemanly force and persuasive eloquence. I remember very well one such example.

Mike called me to ask that I serve on the Select Committee on Presidential Campaign Activities, the so-called Watergate Committee. When this committee was being organized, I must confess that I did not exactly rush forward and seek to be a member.

Anyhow, Mike called and said, "Herman, I want you to serve on the Watergate Committee." I said, "Mike, I already have extensive responsibilities and about as much as I can handle." He replied, "Herman, I want you to serve on the Watergate Committee." Well, I knew then that I had better get more specific with respect to my duties.

I said, "Mike, I am chairman of the Committee on Agriculture and Forestry. I am vice chairman of the Senate Committee on Finance. I am vice chairman of the Committee on Veterans' Affairs. I serve on the Committees on Nutrition and Human Needs and Standards and Conduct, and the Joint Committee on Internal Revenue Taxation. And, besides that, I am a member of the Democratic Policy Committee."

So far as I know, Mike never argued with or tried to browbeat a Senator. In this instance, he simply said, "Herman, I want you to serve on the Watergate Committee." I served. I am proud that I did, and I am honored that the majority leader saw fit to select me for this service.

The measure of a man is not just how well he does his job, but also the manner in which it is performed. By this standard, Mike Mansfield measures very high. He stands tall in the U.S. Senate and resides deep in the hearts of all who have had the honor and the pleasure to serve with him.

I join my colleagues in extending to the majority leader my heartfelt congratulations and best wishes for every happiness and success in his retirement from the Senate.

MIKE MANSFIELD—THE RIGHT PERSON AT THE RIGHT TIME

Mr. McINTYRE. Mr. President, it will be a new Washington when we return to the Nation's Capitol in January.

No matter who wins the election we will have an elected President for the first time in several years. We will have a new House of Representatives and, maybe, most significantly, we will have a new Senate.

For the first time in 15 years the Senate will have a new leader. In fact, Mr. President, there are 69 of us in the Senate—several more than two-thirds of us—who have performed our full Senate service under the leadership of Mike Mansfield.

As one of those who has been fortunate enough to call Mike "our leader" since entering the Senate, let me say, with emphasis, that this has been a rewarding experience for me.

Mike and I have found ourselves in disagreement from time to time. We have not always agreed on some defense matters. We had differing views on Vietnam during the early years of that conflict. But our disagreements were never touched with rancor.

I know that as Mike led the Senate

through the days of Vietnam, through the difficult days of demonstrations in the streets and even in the corridors of Congress, as he led us when we faced Watergate, and even the possible impeachment of a President, as he kept us to the task of writing the Nation's laws that he was often ready to lose his temper and tell us "what for."

But Mike was a compassionate man, an understanding man. Maybe no other kind of men could have taken us through the chaotic 1960's, and half way through the trying 1970's.

They say the right person comes along at the right time. History will record that Mike was that man.

I could go on for some time but that would be unfair to Mike Mansfield who is not a man of many words.

Let me just say that when we convene next January and Mike is not in the leader's chair, then the realization will be heavy in this Chamber that when Mike Mansfield decided to retire a little of the greatness that is the Senate was chipped away.

To Mike and Maureen, his supporter and life's companion, our best for many years together in good cheer and companionship, which they so richly deserve after serving their Nation and all people so diligently and humanely.

A light burns here in the window and in the hearts of all of us for you, Mike.

Mr. MORGAN. Mr. President, many of my constituents have been writing me letters which express their concern, their frustration, or their outright anger at hearing of misbehavior by their elected representatives in Washington. I have shared their disgust, and I respect their demand for action against any who have broken the law.

But Mr. President, at the same time it worried me that the people could lose confidence in Congress as an institution. I know that the greatest number of my colleagues in the House and Senate are fine people, and work hard to serve our citizens well.

What could I tell people to reassure them about their Congress? What could I say that would be positive proof that honor was alive on Capitol Hill? Where was the most convincing argument I could find?

Mr. President, I believe I found the best evidence there is, and I have used it in letters and in speeches all during the scandals which have threatened to give everyone here a black eye.

I asked the people this question—if honor is not admired in the U.S. Senate, if integrity is not valued, then why did we elect Mike Mansfield as majority leader?

Can we not, after all, judge the quality of any organization by the quality of the leadership it freely chooses?

The Senate majority did not choose a demagog to lead it. It chose an even-handed leader who realizes the first kind of honesty in any man is intellectual honesty. And that includes the willingness to give a hearing to the widest variety of opinion.

Because of this willingness of Senator Mansfield, we have avoided the de facto disenfranchisement of the people. The political process of alternative measures, of give and take, has worked under his leadership. The people of no State, however small, can say the voice of its representatives have been stifled. When I came to the Senate as a freshman, Mike Mansfield made me a clean gift of his respect, and welcomed me as a peer. This was personally gratifying.

More than that, it insured that the constitutional right of my people to have their say in the Senate would be respected.

That is a kind of honesty which has been kept alive in the Congress because of the majority leader. And it is evidence of the quality of those who elected him, as well.

The Senate majority leader has not been intellectually dishonest. It would be regarded as completely absurd for anyone to question his integrity as a man or as a politician in any other respect, as well. Because of this, when someone was said that all politicians are dishonest, I have been able to stop him and say: That is not so; look at what an incorruptable man the majority of politicians in the Senate have elected as their leader. There is no better argument.

I must end on a personal note. I feel I owe this man a debt which can never be repaid. To enter the U.S. Senate as a freshman is a difficult experience. One's horizons must expand with explosive speed. Decisions which will have a heavy impact on the well-being of the people come too fast, and in too great a number. Very little which happens in the Nation, and even in the world, fails to touch us. And we are required to respond wisely. The burden is almost intolerable for any new Senator who wants to do well by the people who sent him to Washington.

That is why the presence of Mike Mansfield has been so important to me. His coolness and his incisiveness were inspiring to me. He treated me with great fairness, and with the courtliness which is his trademark. And these things made all the difference. I hesitate to think how much harder my adjustment would have been without his example and his kindness. I owe him a debt for it which cannot be repaid.

Mr. CLARK. Mr. President, when I came to the Senate in 1973, one of the first people with whom I talked was our majority leader, Mike Mansfield. He urged me to participate fully, actively, and without hesitation in the business of the body. "Your voice and your vote," he said, "count just as much as those of any other Senator."

There is much that can and will be said about the rich and productive career of Mike Mansfield. But that incident, more than anything else, stands out in my mind as an example of his greatest contribution. Thanks to Mike Mansfield, the Senate is now a more open and more democratic institution than at any time in its history. Thanks to Mike Mansfield, every Member has confidence that his rights in this body are secure, regardless of seniority, or region, or party, or ideology.

That is because Mike Mansfield has led, not by intimidation, but by example. In my judgment, that has been his greatest contribution and the greatest tribute we can pay to Mike Mansfield is to insure that the leadership of this body continues in the tradition he has established.

Mr. HASKELL. Mr. President, the tenure of a great man of Congress soon will end. Mike Mansfield's record of service will not be matched soon, if ever. The litany of his accomplishments bears evidence of a dedicated representative of the people who saw many of his deep seated convictions bear fruit. This complex man of deep integrity and modesty has graced Congress for 34 years. He has generously given of his time to share his wisdom and advice as often as asked. He will not be forgotten.

In February 1918, a month short of his 15th birthday, Mike left school and joined the Navy to fight in World War I. By 1922, he had, in addition to his Navy service, enlisted in both the Army and the Marines. The invaluable expertise Mike has provided on matters of the Far East undoubtedly began with his service experience in the Philippines, Japan, Siberia, and China.

At 19 Mike was home again in Montana working in the mines. He later returned to school to earn a graduate degree. In 9 years he rose to a full professorship at Montana State teaching in the areas of Latin American and Far Eastern history. He was described as "an Irishman with no blarney, industrious as a Teuton, reticent as a Redskin" during this period, a characterization not unlike vintage Mansfield of today's Senate.

Mike Mansfield first came to the House of Representatives in 1942. The freshman Congressman was asked by President Roosevelt to assess the then volatile China situation. His report remains famous today. That historic report helped defuse an American public which was accustomed to reading the violence-scarred record of the Germans and the Japanese.

His impact on foreign affairs will take historians years to evaluate, but the crucial chapters will be written about the Mansfield role in building opposition to the war in Vietnam. His quiet style and gentle approach belied the strong conviction which, as it had so many times in the past, won over a majority of the Senate.

What does one say about so great a leader? Which of his attributes is most worthy of mention? This sensitive, modest, self-deprecating intellect—so kind, so courteous, so honest—is the paragon of statesmanship. He is an example for us all. He will be remembered.

Mr. HRUSKA. Mr. President, it is an honor to pay tribute today to the distinguished majority leader of the Senate, Senator Mike Mansfield. The Senator from Montana, with his skill, gentleness, and effective leadership, will be sorely missed when he retires from the Senate at the end of this term.

During my time in this body, I have watched with great admiration his ability to handle with skill and dignity the problems that arise when everyone does not agree on a certain course of action. He has the respect of Senators on both sides of the aisle because he is a fair man. We have disagreed on occasion, but Senator MANSFIELD has always impressed me with his reasonableness and his understanding of other points of view.

MIKE MANSFIELD's word always has been his bond. He has done a great deal to uphold those Senate traditions of dignity and decorum. Senator MANSFIELD has been at the helm of the Senate through many tumultuous times in this country such as World War II, Korean and Vietnam wars, and the resignations of a President and Vice President. His leadership never faltered.

Mr. President, I am joining Senator MANSFIELD in stepping down from this body at the end of the year. I know how he must feel at the prospect of laying down the burdens of many years. In my 22 years in the Senate, I have shared with Senator MANSFIELD many joys and disappointments. I wish him well in his future endeavors. He leaves behind a record of which he can be proud.

Mrs. Hruska joins me in the fervent affectionate wish and hope that long years of health and happiness lie ahead for our long time friends Maureen and MIKE.

Mr. HOLLINGS. Mr. President, as MIKE MANSFIELD prepares to take leave of this Chamber in which he served so long and well, we look with pride upon his many accomplishments, with gratitude for having had the privilege of serving alongside him, and with sadness at the prospect of his leaving.

No man has led the Senate so long. No man has led it with such sensitivity and fairness. And none has left it with greater affection and esteem and gratitude than that which we feel in our hearts today.

In paying tribute to the man, we honor also an ideal. It is the ideal of unrelenting integrity. Integrity of thought and integrity of action. His probity and candor won MIKE MANSFIELD the admiration of his colleagues and the respect of his countrymen. That respect transcends geographical boundary as well as party affiliation. It comes from the recognition that here is a man whose only goal is to serve the Nation and serve it well. Enduring leadership brooks no duplicity or deviousness. Nor does it entertain insensitivity to the concerns of of the led. MIKE MANSFIELD's leadership has endured.

His contributions to country began long before he came to the Congress. He joined the Navy at age 14, during the First World War and served thereafter in both the Army and the Marine Corps.

He developed an enduring interest in education. He taught in the schools and he became a recognized scholar. In the years since he left Montana State University, he has been a teacher to the Nation, sharing his scholarship and wisdom and good judgment with us all.

Then, over 34 years ago, he commenced a career in public service which encompassed some of the most tumultuous years in the annals of the Republic: World War II; postwar adjustment; the cold war; Korea; economic dilemmas one upon the other; tumult and violence in our cities; the unfulfilled aspirations of the blacks; Vietnam.

Through it all, MIKE MANSFIELD kept his compass fixed on course, demonstrating an uncanny ability to perceive when old myths no longer accommodated new reality. On matters of social and economic justice, as well as on the role America should play in the world, our distinguished majority leader has time and time again been among the very first to see which way America must go, and he has tirelessly led the way in helping us get there.

MIKE MANSFIELD leaves the U.S. Senate a far better place than he found it. This is a more open, more public, and more representative body than ever before. It reflects more than we sometimes realize the image of the man who leads it, his openness, his tolerance, his civility. The Mansfield imprint is clearly upon this Senate, and we are just as clearly the better for it.

We go into the future without his leadership—but with his example. He leaves not only a record of distinguished achievement, but the foundations upon which 100 representatives of the people can continue to build and progress.

And as we go about that challenge, we will be fortunate indeed if we can continue to share in the wisdom and counsel of this good man. We look forward to seeing him here often.

Mr. President, no tribute to MIKE MANSFIELD would be anywhere near complete without mention of his lovely wife, Maureen. Ever-gracious, dedicated, and understanding, she has contributed much to the success of her husband, and in her own right has been one of the most effective Senate wives in history. She, too, is responsible for the substance and good image of the Mansfield Senate.

To both of these fine people, we extend our genuine affection, our infinite respect, and our enduring gratitude for their outstanding service to the Nation. Our wishes for all of life's happiness and good fortune go with you. And a part of the Senate—-a warm and happy part—goes with you, too. We will miss you both.

Mr. PACKWOOD. Mr. President, when I was first elected to the Senate in 1968, I had certainly heard of Senator MANSFIELD. By 1968, MANSFIELD had already been Senate majority leader for 7 years and had been a Senator for 16. He already had the reputation of a fair, evenhanded leader. He had the confidence of a man who knew his job, coupled with the competence to do it well.

But I think what has impressed me most about the distinguished majority leader, now and during my first years as a Senator, is his humanity, his compassion for his fellow men. No matter what the issue, he has never lost sight of this. What is less visible to the public and no less important are examples of his day-to-day humanness and sense of justice in the Senate. The office of majority leader is a crucial, pivotal point for the progress of any legislation. Never once have I seen Senator MANSFIELD abuse this tremendous power.

I am sure that other Senators who served their first term under the tutelage of MANSFIELD would agree with me that he went out of his way to make sure that the "freshmen," including those not of his party, were accorded the same respect and rights of the more senior Members. This picture of evenhandedness is one which will always come to mind when I think of MIKE MANSFIELD, and a trait which distinguishes "competency" from "greatness." I am sure any number of my fellow Senators owe Senator MANSFIELD a great deal of gratitude for his personal kindness and assistance.

As a person and as a politician, there is much to compliment MIKE about. I am sure he would find any praise embarrassing and I could imagine him saying it is a waste of the Senate's time. But perhaps that makes the tributes offered here today all the more genuine.

The Senate will acutely feel the loss of MANSFIELD. He retires as he worked, seeking no great fanfare, and a quiet finish to a job well done. MANSFIELD is a great man not because he has held the post of majority leader longer than anyone else in history, or because he has any number of awards and degrees; his mark on the Senate will not rest only on his tangible accomplishments. In my opinion, MANSFIELD is a great man because he has the strength to lead, coupled with a tremendous capacity for kindness and understanding. With retirement, I am certain that he will continue to be a leader, spreading his talents to areas in addition to the Senate. I know that we in the Senate will continue to seek guidance and counsel on a great number of issues from a man who has earned the appellation of "distinguished colleague."

MIKE MANSFIELD SERVANT OF THE SENATE

Mr. MATHIAS. Mr. President, MIKE MANSFIELD is the most succinct man who has served in Washington since Calvin Coolidge and so it would be a travesty to expound at length, even on the longest record of leadership in the Senate.

After all it is the excellence of that record which is important and not its length. In that respect the record speaks for itself.

A venerable Italian statesman once said that in public life there are few opportunities to achieve any positive good and that success may consist merely of preventing harm. MIKE MANSFIELD has the distinction of unusual success in both aspects of public service; he has not only prevented much harm, he has achieved much good.

Consider the episodes that have marked his term as majority leader. A President, John F. Kennedy, was assassinated on November 22, 1963. The Nation became entangled in its most tragic and unpopular war in Viet Nam with devastating social, economic, military, and political results. A Vice President, Spiro Agnew, was forced from office under the cloud of serious charges. On August 9, 1974, a President, Richard M. Nixon, became the first Chief Executive to resign as the result of shocking scandals and revelations.

Each of these tragic events gravely endangered the Republic. Reckless acts committed in the heat of the moment, careless words uttered or the appearance of wavering under pressure would have aggravated the danger. MIKE MANSFIELD was always prudent, careful, and confident. His leadership and his example were superb at each critical junction. The American people owe him a debt of enormous magnitude for guiding them through these dangers.

Senator MANSFIELD's record is equally distinguished in the realm of positive achievement. That record is well known, but I shall comment on two examples of his wisdom and judgment with which I have some personal familiarity.

When the Senate was considering the repeal of the Gulf of Tonkin resolution it became obvious to some of us that there were a number of grants of unusual authority made to various Presidents in time of emergency. The emergencies passed into history, but the power did not. Senator MANSFIELD was one of the few Members of the Senate to recognize the significance of the existence of this vast body of emergency law which lay like a time bomb at the center of our Government. By his active sponsorship and his patient encouragement he made possible the legislation which has now not only terminated all national emergencies, but provided that no such dangerous accretion of power develop in the future.

In 1974 as Watergate unfolded there were several indications that our intelligence community had failed in its responsibilities to the Nation, thus suggesting a serious flaw in our national armor. In the dramatic atmosphere of those days, few Americans recognized the danger, fewer still related it to the fact that for a quarter century Congress had not taken a careful look at the intelligence community. Out of the entire Senate it was only Senator MANSFIELD who would join with me in calling for an investigation of the CIA, the FBI and other agencies. Months later, through his leadership, the Senate unanimously voted to create the Select Committee To Investigate the Intelligence Operations.

In all of this time behind all of his achievements, he has had the support and encouragement of Mrs. Mansfield, whose name seldom appears in public but whose presence and inspiration is always there.

I have been speaking as a colleague and friend. I would like to add an additional word as a Republican.

It has always been manifest that MIKE MANSFIELD is a patriot. At no time in the 8 years I have served with him have I ever observed him to put any partisan interest above the interest of his country.

It has always been equally clear that MIKE MANSFIELD is a man for whom justice and equity are universal principles to be applied to everyone. Under his leadership the rights of the minority have been upheld as vigorously as the privileges of the majority. He has led us in doing right, which is the highest form of leadership.

The Senate is the trustee of the fundamental principles of the Republic. MIKE MANSFIELD has been its servant and will be its model for generations to come.

Mr. THURMOND. Mr. President, I rise to express my regrets upon the retiring of the distinguished and able Senator from Montana at the end of the present session.

I came to the Senate in December 1954 and he was a Member of this body at that time.

I have had the pleasure of knowing him well and working with him in all matters since that time.

I have looked upon the Senator from Montana as being a man of high principle, as being a man of quality. He was a teacher prior to his coming here. We had a teacher at the University of South Carolina who knew him well, Dr. Turnbull, who supported Senator MANSFIELD in Montana. He told me what a splendid man MIKE MANSFIELD was.

I have found that to be true. The Senator from Montana is a man of character and integrity and, above all, qualities, those should come first. He is a man of courage. I have not agreed with him on a great many things, especially in some matters of national defense and foreign policy, but I respect his position. I know he is sincere and, therefore, one can differ with people without being disagreeable.

He is a man of great capacity. I think in his leadership here in the Senate—and I believe it is the longest in the history of the Senate as majority leader—he has typified outstanding leadership, and he is a man whom I have found to be courteous on all occasions. To me that is very important because I think it is inexcusable for a man in high position not to be courteous. As a lawyer I have seen some judges, especially some Federal judges, who would embarrass lawyers and jurors. I thought it was inexcusable.

I have seen others in high positions flaunt their power at times or be arrogant with the power vested in them, and I thought that was inexcusable.

But the distinguished Senator from Montana has always been humble, he has been genteel, he has been courteous to his fellow Senators and with others with whom he has come in contact. I feel the Senate is losing a very important person in his departing from the Senate this year.

I have had the pleasure of knowing his lovely wife, Maureen, and his beautiful daughter, Anne. Mrs. Thurmond and I wish to express to them our very best wishes for good health and happiness in the future.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Tennessee (Mr. BAKER).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAKER

It is with profound humility that I participate in a session honoring the coming retirement of Senator Mike Mansfield, the very distinguished Majority Leader. Senator Mansfield has led his Party in a manner that has been complimented and praised by people of all political persuasions. But, even more importantly, Mike Mansfield has been the leader of this institution; and, during his leadership, the stature of this body has grown immensely. As individuals, I suspect there is no one in this room who has not personally benefitted from his wisdom and counsel. He has been in the truest sense of the word a leader and friend to us all.

As with any man of high integrity and clear vision, there is an easily discerned consistency that pervades his words and actions. In a recent speech, when he was commenting on the course of the nation following the throes of Watergate and the tragedy of Vietnam, he remarked that the most important thing for us now is neither isolation nor recrimination, but figuring out "how best to get on with the Nation's unfinished business." I believe this simple statement shows his uncompromising concern for the good of this nation. I believe, furthermore, that it can be said with certainty that, through many years, Senator Mansfield has shouldered his awesome responsibilities not for personal blandishments and recognition which he seemingly ignores, but for the good of all his countrymen.

Whether speaking his views on the world, the nation, or even on the Senate as an institution, one is struck by the consistency, the compassion, and the principled nature of his discourse, no matter how different a particular situation or circumstance might be. I think we have all benefitted from his remarkably realistic perception of the world community and his realistic analysis of the role of this nation in that community. In his perception of inter-dependence amid the crying need for an emphasis on multi-lateral diplomacy, he has been well ahead of most of us. He has asked for a "spirit of self-reliance and regional cooperation" among nations, goals for which the Senator's highest concerns have been expressed. His view is of the world as it should be, and I would hope that his wisdom will remain in this Chamber long after he leaves.

A remarkable comparison can just as likely be drawn between the world and Mike Mansfield's service in the U.S. Senate. His leadership, in a Chamber known for diversity of opinion, has fostered a strengthened institution of unnatural stability. He has fostered a spirit of self-reliance, of equality among peers, and of cooperation.

As he leaves this Chamber to enter retirement, I can only wish for him and his family the best that life can bring. The Senate, the United States, and the World community are stronger today because he has been here.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

I shall take a moment to pay tribute to our distinguished Leader from Montana, Senator Mike Mansfield.

I consider Mike Mansfield a friend, and I value his opinions and advice. He is a man of high integrity and high standards. In nearly a quarter of a century of service to the Senate he has been dedicated to enacting the best possible legislation for the good of our society, and he has never settled for less.

His presence and guidance will be sorely missed, and I am certain that all of us will continue to rely on his sound wisdom and good sense long after he leaves public life.

Because of Mike Mansfield, the lives of millions of American men and women have been vastly improved, and I am proud to have served with him in the Senate.

Mr. ROTH. Mr. President, I have probably known our distinguished majority leader as long as anyone in the

Congress. I first met him when I was an undergraduate student at the University of Montana and he was a member of the faculty, a history professor of the first order. He sometimes chides me that if I had done my homework more diligently in those days I would be a Democrat and not a Republican today.

My father, a staunch Republican and a resident of Montana most of his life, is still fond of recalling how, many years ago, my sister and I, both too young at the time to vote, urged him to commit heresy by voting for a young Democrat, a political novice named MIKE MANSFIELD, who was seeking public office for the first time. I might add both of my parents did vote for him and have always spoke of him with pride.

There is no truer measure of a man than the esteem in which he is held by his peers. In the 10 years I have served in the Congress, I know of no one more beloved and more respected by his colleagues than the Senator from Montana.

We know him as an even-handed, even-tempered man distinguished by his complete fairness and absolute integrity. We know him as a wise and patient leader, and a kind and thoughtful friend. We know him as a statesman who has always put the interests of the country ahead of all other considerations.

In everything he has done, he has set an example for this Chamber, as refreshing as it is rare, in his economical use of words and directness of speech. All of us would do well to emulate him.

His loss from the Senate will be felt by everyone of us. The mark he has left on this institution will remain long after most of us have departed. He is one of the great men of this body and we will miss him sorely. All of us wish the greatest happiness for him and his lovely wife Maureen.

Mr. GARN. Mr. President, I am delighted to join my colleagues today in paying tribute to the distinguished majority leader and senior Senator from Montana, Mr. MANSFIELD, who is not seeking reelection to the Senate.

Senator MANSFIELD has served as majority leader in the Senate during all of my political life. It is difficult to recall even the days of Lyndon Johnson's leadership in this body.

As most Americans, I was aware for many years of this man's national reputation and his prominence in the Senate of the United States. But only since entering this Chamber for the first time as a Member of the Senate in December 1974, have I come to see this man for all that he is. He is an even bigger man, and an even greater man than the Nation knows, and I am proud to call him a colleague and a friend.

We are a partisan body here. There is no question about that. But there is also no question about the fact that MIKE MANSFIELD has demonstrated time and time again that he is a man of fairness and a man who exercises even-handed leadership, and can set aside purely partisan considerations. He has established a fine tradition of leadership in this complex, often volatile, institution of Congress, which I hope will be emulated by leaders to come. The majority leader is firm in his convictions. He is firm in his belief that the Congress of the United States must exercise an equal voice in governing the affairs of this great Nation, and he has worked tirelessly to preserve that role for the Senate, and to make it equal to the tasks before it.

This U.S. Senate has been called the greatest deliberative body on the face of the earth. I view that as more of a goal than an accomplished fact. The greatness of any institution must always be challenged and perfected. Men like Senator MANSFIELD help make that possible.

As a member of the minority in this body, I proudly salute this man for the example of statesmanship and dedication and commitment that he has given to us all.

Mr. ALLEN. Mr. President, once when our friend and highly esteemed colleague and majority leader, MIKE MANSFIELD, was asked how he wanted to be remembered, he replied, "As a man who did his best."

I know Senator MANSFIELD will have his wish. He will be remembered as a man who did his best for the citizens of his great State of Montana and for his country during 34 years of public service in the Congress. But such an assessment of his career does not go nearly far enough for those of us who have had the pleasure of working with him, and the privilege of his friendship.

During his long career in Congress—10 years as a Member of the House, then 24 years as Senator, including 15 years as majority leader, longer than any other Senator in history has served in that post—MIKE MANSFIELD has shown himself to be among the rarest of successful leaders. Senator MIKE MANSFIELD is the kind of leader who builds on a foundation of mutual trust and respect and confidence. His authority resides in his own absolute integrity, honesty, and fairness.

In Senator MANSFIELD's makeup there is a large measure of steel which has been tempered with patience, compassion, and understanding. He has that indefinable quality that outstanding leaders possess. In a forum in which excellence is the rule rather than the exception, MIKE MANSFIELD stands shoulder to shoulder with our greatest U.S. Senators.

The distinguished majority leader has demonstrated an acute awareness of the tremendous range of problems which face our Nation and give rise to its major anxieties. Both in domestic and international matters, Senator MANSFIELD has worked laboriously to chart a course through a maze of disturbing public issues. His personal efforts and effective leadership in the art of government has contributed substantially to limbering the deadweight of massive bureaucracy and bringing about a greater responsiveness to changing circumstances both at home and abroad.

Senator MANSFIELD's reasoned pronouncements on international affairs in the 1960's have been incorporated into the Nation's foreign policies of the 1970's.

As my colleagues know, I have not always agreed with the distinguished majority leader on issues before the Senate, but that has not kept me from admiring him tremendously. This man has such great integrity, such great character that he has certainly been one of the factors and forces that has made this body a great deliberative body.

MIKE MANSFIELD has given us an inspiring example of the very highest standards of principled public service. He will be remember by a grateful public not only for doing his best, but for his instrumental role in making the operation of the Senate more open and democratic.

His retirement is indeed a great loss to the Senate and to the people of the United States and will deprive the Senate of much of its luster.

My wife, Maryon, and I wish for Senator MIKE MANSFIELD and his lovely wife, Maureen, the very best of health, happiness, and a rewarding and fulfilling life in their years of retirement. Although Senator MANSFIELD will depart the Senate, his outstanding legislative record, his legacy of courage and integrity, the great influence he has had in this Chamber, will live on undiminished.

Mr. STEVENSON. Mr. President, it is with sadness and pride that I join this tribute to MIKE MANSFIELD: sadness that the Senate is losing a man of his maturity and wisdom; pride in knowing him—in having served in the Senate with him.

MIKE MANSFIELD is one of those rare leaders who leads, not by main force, but by the quiet force of mind and character. In an institution that has been called the greatest deliberative body, he is the great deliberator. Soft of voice but strong of will, he leaves a gentle but indelible impression upon this institution.

Others have paid tribute to the depth and breadth of his intellect; to his steady and effective leadership against the war in Indochina; to his unfailing good humor and his capacity for warm friendship.

For my part, I shall remember all these things and more, including Senator MANSFIELD's role in the reform and modernization of the U.S. Senate. As a veteran Member of the Senate and as its majority leader, he might have been expected to resist changes in the institution he knew and loved well; he might even have been forgiven for resisting such change.

But, to the contrary, MIKE MANSFIELD has been an apostle of creative change in the Senate. Newer Members pressing for improvements in the organization of the Senate and in the ways it conducts its business have found in Senator MANSFIELD a willing ally and a wise counselor.

Their efforts and his leadership led to the creation of the new Committee on Committees for which all our hopes are high. Whatever the Senate achieves in greater efficiency, fairness, and effectiveness will be due in large measure to the senior Senator from Montana; I am grateful to him.

An old Latin inscription used to be carved on memorials that translated: "If you seek his monument, look about you."

MIKE MANSFIELD, I know, is not in the market for memorial inscriptions; he leaves the Senate next year with many vigorous years ahead of him. But those old words are a fitting tribute to the influence he has had upon the Senate which he served well and which will miss him.

Mr. CANNON. Mr. President, I am pleased to join my colleagues in paying my respects to our retiring majority leader of the Senate, MIKE MANSFIELD.

As one who has worked closely with MIKE MANSFIELD on many issues over my years in the Senate. I am very sorry to see him go. But that is his decision, and he has a right to it certainly after 34 years in public service on the national and international levels.

MIKE MANSFIELD was in his 6th year of Senate service and 16th year in Congress when I first came to the Senate in 1959. I was green then, but Senator MANSFIELD was so helpful and encouraging that I soon felt at ease in conducting my Senate business on behalf of the State of Nevada.

He is a fellow westerner who loves and respects the rugged western country and he has always worked to meet the needs of that region and its people.

A fair and forthright Senator, MIKE MANSFIELD has had a direct and vital role in a long series of major legislative accomplishments, in the cause of promoting opportunities for a better life for all our people and in seeking world peace.

As Senate majority leader, MIKE MANSFIELD has typified outstanding leadership with a great capacity for work and an appreciation of the various viewpoints that go to make up this great Nation of ours. Because of these qualities, he has attained the respect and admiration of every man in this body, regardless of political party or philosophy.

Above and beyond his personal qualities as a fine gentleman, he has always taken a progressive attitude toward America. He has never lent his influence and prestige to the carpers or the critics who see nothing but failure and disaster in the future of our country. He believes in America, and his leadership has done much to build a strong and forward-looking Nation. I find it difficult to recall any progressive piece of legislation in the domestic or international arena which has not received the encouragement or support of the majority leader.

I know that during retirement he will not relinquish his interest in the affairs of our country and of the world, but that, on the contrary, he will continue his concern with matters of great national importance. I wish him and his wife Maureen, on behalf of my wife and myself, a glowing future in whatever way he chooses to spend it.

Mr. HATHAWAY. Mr. President, the majority leader of this Chamber, Montana's MIKE MANSFIELD, will be retiring at the end of this session. I join my colleagues here today in paying tribute to this man; yet I do so with some doubts of my own ability to put into words the depth of my respect for him and the degree of my praise for the work he has accomplished in his 24 years of service in this Chamber.

Senator MANSFIELD is leaving a mark here that is so indelible that no tribute to him today, or monument to him tomorrow, can adequately reflect his contribution to the United States.

MIKE MANSFIELD is one of the most potent political leaders of our times. Accomplishments of this sort are often attributed to the qualities of shrewdness, or power, and helped by the reigning political power structures. The Senator from Montana made his success by using reason, integrity, conscience, and humility. His rise to power makes a mockery of the cliche, "Good guys finish last."

Of all the things that can be said of MIKE MANSFIELD, perhaps the most profound is that he represents all the potential that our form of government promises.

For in this land and under this Government, freedom is the promise held out to every individual. Each individual is responsible for his or her actions—they are free to make their own choices about where they want to go and what they want to do—and the Government established under our Constitution guarantees the pursuit of those things dear to us; life, liberty, and happiness.

The laments of those who complain, "But I did not have a chance," ought to review MIKE MANSFIELD's career.

A runaway at 14, the future majority leader joined the Navy, and later returned to Montana to work in the mines as a mucker. He met and fell in love with a woman whose faith and determination matched his own: No, she would not marry him until he had an education. High school and college were taken at the same time. Maureen Hayes Mansfield helped him not only as a teacher; she cashed in her life insurance and helped finance him through Montana State University. He taught Far Eastern history there before entering the House of Representatives in 1943.

Who can review such a record, and say that this country does not reward those who are willing to work?

MIKE MANSFIELD epitomizes the opportunity that exists here for everyone. That he has used his personal success for unquestionable public good is another demonstration of the integrity which runs deep within him.

The West, with its vast spaces and lack of visible boundaries, was a fitting place for a man of MIKE MANSFIELD's character and integrity to take shape. He brought with him the vision that such a landscape tends to produce, and applied the concepts of freedom and opportunity to his work in the two Houses of Congress.

He points to the right to vote for 18-year-olds as a hallmark of his achievements here. Other accomplishments of which he is proud are his role in initiating the Watergate investigation and the Senate's intelligence inquiry, each of which has done much to restore truth and credibility in government.

The mark I shall remember him for has been the reaffirmation of dignity and evenhandedness in Congress.

In the many crises this Nation has faced recently, our majority leader has steadfastly trusted in the process of government as the best means to solve the seemingly insolvable problems.

The ordeals of Vietnam, Watergate and CIA and FBI revelations have all strained the due process called for in our Government, but none were able to trigger the tempers and passions to the point that this Chamber tampered with that due process.

It is not the style of the majority leader to permit passion to overrule reason. The institutions created by the people of this Nation were adequate to the task of extricating us from Vietnam, of expelling a President who did not obey the law, and of restoring order to the management of our intelligence agencies. Partisan haggling was not to be the order of the day.

MIKE MANSFIELD was so right to put his faith in this democracy.

For we are now on a positive track to rebuild the confidence of the Nation in its Government, and MIKE MANSFIELD was one of the engineers that put us there.

We all have our heroes, and how fortunate it is that we who are in this Chamber today can look to the front desk and see before us an American hero—an in-the-flesh-American hero.

The Montana Senator leaves us at the end of this session; it is a gross understatement to say that he will be missed. But his legacy of faith in due process, and in our democratic institutions, shall serve us well in the years, and crises we have yet to face.

Good luck, my friend, and thank you for what you have given us, and left behind.

Mr. BELLMON. Mr. President, as one who has worked with leaders in many fields including the military, State government, as well as in private business, I have come to recognize the qualities which cause other human beings to bestow the mantle of leadership upon one of their fellows.

These qualities include personal integrity and equanimity, a fundamental sense of fairness, a high degree of personal motivation, the ability to separate the relevant from the irrelevant and clarity of thought and speech.

MIKE MANSFIELD has all these qualities and others required of a great leader. It has been an honor and a pleasure to serve with him in the Senate.

As a somewhat junior member of the minority, my personal experiences with Senator MANSFIELD have been limited. However, in every case when I have turned to the majority leader for counsel or to ask for special consideration, I have found him to be totally approachable. His decisions have been both wise and fair.

Among all deliberative bodies on the face of the Earth, the U.S. Senate is unique. We come here as equals and while, with the passage time, some come to be more equal than others, there still remains a treasured equiparance. Senator MANSFIELD, in his role as majority leader, has preserved and strengthened this tradition especially as it applies to members of the minority.

Mr. President, the Senate is not writing Senator MANSFIELD's epitaph here today. Many years of dedicated and constructive service remain ahead of our retiring majority leader. I am confident he will take with him wherever he goes those same qualities which have made him the distinguished leader he has been to all of us. From him, in the years to come, will emanate other accomplishments which may very well rival or even exceed the significant contributions he has made to the development and conduct of the legislative process in this great and free country.

Mr. PEARSON. Mr. President, as the Senate begins its work again in January, it will be in the absence of our distinguished colleague from Montana, MIKE MANSFIELD. With his departure the Senate loses a man of reason and magnanimity.

His years of being majority leader include my 15 years in the Senate, and I have yet to know a man, in or out of politics, who is more honorable. His patience, his sense of duty and laconic style will be missed.

For myself, I will remember most his clarity of thought and his affirmation of truth.

He shunned equivocation. He reminded us that truth is a jealous mistress. He was a man who knew that to live in a reasoned world one must use reason upon it.

His adherence to basic principles has created a mold that all leaders should examine. It is a mold that shows a man who made it to the top without showing inexorable partisanship or obsession of power.

Like a well-worn leather chair, Senator MANSFIELD has become a familiar and favorite figure to his colleagues. His sage guidance has been called on repeatedly. He has counseled this body through some of the most troubling events of this Nation's short life.

More than any other man, he fought and prayed that this Nation would be the bearer of peace to other nations. If our foreign policy could be based on any one objective, his first choice would be peace.

The Senate is more alive, more innovative today than it has ever been. It is a spark that Senator MANSFIELD helped light with his view of youth and his demand for openmindedness. He is a leader who was disdainful of the protective garb of party labels when truth and fairness were being neglected. He will expect no less from his successors.

As the Montana Senator leaves this Chamber I hope it will be with memories as deep and meaningful as our memories of him. I hope, too, that we will remember and pursue his principles for building and guiding a morally stronger, wiser and more compassionate Nation.

His presence will be missed. But we all join in wishing good fortune and Godspeed to Senator MANSFIELD and his lovely wife, Maureen, in whatever endeavors the future charts. May they remain full-faced to life as they have until now.

Mr. DOMENICI. Mr. President, for Senators new and old, the Senate can be a great and continuing school. Senator MIKE MANSFIELD has been true to his former vocation—that of teacher—even as majority leader.

When I entered the Senate in 1973, I heard much of the importance of seniority. Freshman Senators were to be seen and not heard. The Senate custom was said to be so strong in that regard as to make overexuberant newcomers fat targets for their older colleagues.

And a new Member of the minority was supposed to be especially discreet.

Thus, I was a bit gun shy of the majority leader. After all, in 1973 he already had spent 12 of his 20 years in the Senate in that top post.

From that first day I learned of the graceful use of power as taught by Professor MANSFIELD. Whatever our frailties as mere humans, he clearly respected the Senate, respected the responsibility given him, respected his colleagues.

And he made no distinction as to age, service or party.

From then until now, MIKE MANSFIELD has always been the courteous gentleman, has listened to my requests or questions with quiet, genuine concern. Ninety-eight other Senators, Democrat or Republican, have had exactly the same experience. It is also beyond dispute that MIKE MANSFIELD in his unique position to interact with the executive branch has invariably come down on the side of every issue with the public good foremost in mind, refusing to yield to partisan interests.

There is a great lesson in this for us, a sterling example. I would hope we could all learn it, imitate it, live it, as Members of the Senate.

That would be the finest monument to MIKE MANSFIELD, priceless beyond any statuary award. For it would make more likely the survival of the U.S. Senate into the next century and the century thereafter.

Mr. HELMS. Mr. President, there is no one who deserves a greater tribute from his colleagues than the distinguished majority leader. It goes without saying that I have not always agreed with the positions which our distinguished colleague has taken on the issues. But day after day, hour after hour, often late into the evening, the distinguished majority leader has constantly set the highest standards for himself and for all the rest of us in the conduct of the Senate business.

The Senate is a unique institution. It runs on rules, but it runs on the cultivation of senatorial courtesy as well. We all know that the Senate could not operate and achieve its constitutional purposes unless all Senators cooperate to respect one another's rights.

For in the long run, it is not just our feelings toward each other, it is not just the personal relationships that are involved. Each of us is here to represent a State among the United States. Each State is of equal importance and dignity in the Senate, no matter how large or how small. The people of each State have a right to be represented, have a right to have their voices heard on an equal basis. And if each Senator did not have all of his rights respected, then his State would not be equal.

The distinguished majority leader is a man who has always understood the nature of the Senate. He is a gentleman of the highest caliber, and he has set a gentlemanly code of conduct for the Senate. He is always most gracious in understanding the rights and needs of other Senators, both in the majority and in the minority.

Now we all know that there are two conflicting elements in the operation of the Senate as a body. On the one hand, there is the need to keep the unanimous consent of the Senate so that routine matters and personal needs of Senators can be accommodated smoothly; and on the other hand every Senator is seeking to further political issues as he sees fit. Therefore it is a very delicate balance that must be sought.

The distinguished majority leader is a man who has a definite point of view. Yet he has shown great restraint in submerging his personal views and allowing the Senate to work its will. We will all be grateful for the precedents he has set, and the generosity which has been the most conspicuous aspect of his tenure as majority leader. All of us are most reluctant to see him go, and we wish him well in his years of retirement.

Mr. FANNIN. Mr. President, in paying tribute to Senator MIKE MANSFIELD, our majority leader, we must recognize that he is a very unordinary man, having proven that the Horatio Alger story can still carry a man from the humblest beginnings to the highest level of leadership in our Nation.

Our youngsters of today would be rewarded by reading of MIKE's great determination, including his joining the U.S. Navy at the age of 14 during World War I and later in 1919 enlisting in the U.S. Army for a year, as well as serving in the U.S. Marine Corps for 2 years. So this great statesman learned leadership at a very early age. But certainly not in an easy manner.

MIKE's climb to fame covers many pages of history. His unique accomplishments, such as never completing grade school or high school and still going on to attend the Montana School of Mines through an entrance examination, then on to Montana State University to receive his B.A. and M.A. degrees with a tour as a professor of Latin American and Far Eastern history, prepared him for some of his outstanding accomplishments to come. He takes pride in still being a professor of history on permanent tenure at the University of Montana.

It was my good fortune to learn to know our majority leader shortly after coming to the Senate and being appointed a delegate to the United States-Mexico Interparliamentary Conference where I observed the great affection that the Mexican people and leaders have for MIKE and Maureen, his lovely wife. His supervision of our delegation was masterfully handled, overcoming any problem arising with finesse and I do have to admit that there were some problems, including one in which I was involved in relation to the salinity of the Colorado River flowing into Mexico. I was privileged to have MIKE call on me to take part in this serious discussion when the Mexican officials complained bitterly about nothing being done to satisfy their demands. MIKE not only discussed this matter thoroughly with them but finished up with reports to the President after our session ended.

Although I realize this is just one instance of the tremendous impact he has brought on many countries of the world, all of us look to Mike as the liaison with other countries, including the People's Republic of China.

The privilege of serving with Mike is one I will always remember with great pride and gratification and although some may equal, although I doubt they will, his great accomplishments, I am sure that none will ever exceed him.

Mrs. Fannin joins me in wishing Maureen and Mike many years of happiness in retirement, knowing that their accomplishments will continue over decades ahead.

Mr. TOWER. Mr. President, Mike Mansfield will retire from the Senate in January. The occasion will be one of sorrow for the Senate and the American people, who will be losing a distinguished legislator, and a warm and compassionate friend.

Mike Mansfield will have served in the Senate for 24 years, 16 of them as Senate majority leader, the longest that any man has held that post since its inception in 1920. Mike Mansfield first came to Washington as a Member of the House of Representatives in the 78th Congress. He was reelected four times before being elevated to the Senate in 1952. Senator Mansfield served his party as majority whip for two Congresses before he was elected to the post of majority leader in 1961.

Few legislators can match Senator Mansfield's distinguished record of service. Mike Mansfield was a forceful defender of the Senate's prerogatives during both Democratic and Republican administrations, and he never hesitated to take on a President of either party when he thought their policies were wrong.

Senator Mansfield believes his greatest accomplishment to have been the extension of the franchise to 18-year-old Americans. His greatest disappointment, he has said, was his failure to put an end to the bloodshed in Southeast Asia. That is a disappointment he shares with many.

Those of us who have had the honor and privilege of serving with Mike Mansfield in the Senate respect his manifold accomplishments as a legislative leader, a patriot, and a shrewd and successful politician.

But we, his colleagues, honor Mike Mansfield for the kind of man he is. His reputation for fairness and integrity is without parallel. As majority leader, Mike Mansfield urged each Senator to speak his own mind and to vote his own convictions. We in the minority have special reason to be grateful to Mike Mansfield, because there never was a partisan battle so hot that would cause the majority leader to deviate from his firm policy of fair and equal treatment of all Senators at all times, without regard to their political party or to their positions on the issues of the day. Mike Mansfield's leadership was a leadership of reason, compassion, and consideration, not arm-twisting and power plays.

Mike Mansfield will be retiring from the Senate, but not from public life. He remains aware, vigorous, alert, and concerned that he will continue to struggle, selflessly, for what he considers best for all Americans for as long as he draws breath.

As historians of the future ponder the roster of distinguished Senate leaders, they will no doubt disagree whether this one or that one was the more effective leader. But they will find no better than Mike Mansfield. We, his colleagues, honor and respect him for what he has done and for what he has tried to do. But we shall always revere him for what he is.

Mr. BENTSEN. Mr. President, I am pleased to join my colleagues today in offering words of praise for Mr. Mansfield.

But, in point of fact, mere words of praise cannot do nearly so much justice to the distinguished senior Senator from Montana as do his own record of service in the Senate over the past 23 years and his record of service as majority leader of the Senate for the past 17 years.

Mike Mansfield has served as Senate majority leader longer than anyone in the history of this country, and he will be missed by both the Democrats and the Republicans who have served with him.

Mr. President, in 1913 Mr. Justice Holmes said that the best service that anyone can do for his country or for himself is:

> To hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised.

Mr. President, the advice of Oliver Wendell Holmes is as sound and as valid today as it was when he uttered those words 63 years ago. And I know of no individual who exemplifies that credo more than the senior Senator from Montana.

When he leaves this body at year's end, Mr. Mansfield will leave behind a solid list of achievements, of things he has accomplished in service to his State and his Nation. And in every case he has sought "To hammer out as compact and solid a piece of work as one can," he has sought "To make it first rate," and he has left it, unadvertised, to speak for itself.

I count it a privilege to know Mike Mansfield. I value highly his guidance and his leadership during the 6 years I have served in the Senate. And I have valued his personal friendship for many more years than that.

Mr. President, Mrs. Bentsen and I had the privilege of knowing Congressman and Mrs. Mansfield when he and I served together as Members of the House of Representatives, following World War II. The Mansfields worked as partners even then, and they were a great inspiration to a young couple from Texas in their devotion to each other and their devotion to the country they served.

Senator and Mrs. Mansfield were the kind of friends that we found very hard to leave behind in the mid-1950's when we returned to Texas. And, in 1970, when we came back to serve in the Senate one of the things we looked forward to most was the opportunity to renew our acquaintance with them.

Now, Mr. President, the Mansfields are leaving to return to their home in Montana. And we find ourselves saying goodbye again. We will miss them. And we wish for both of them many more rich years of happiness together.

Mr. President, my good friend, the Senate majority leader, is a man of great integrity, known far and wide for his fairness and for his keen sense of equity. He has devoted his life to serving the American people. And I just wish we had more people like him in public office.

Mr. HANSEN. Mr. President, such words as steady, patient, dependable, courteous, and quiet strength come to mind when one pauses to think about Mike Mansfield.

I count it as one of the privileges of my tenure in the U.S. Senate to have been associated with him; I will always remember his unfailing kindness and genuine effort to be helpful and accommodating. I am most grateful to him and salute his stewardship of this great body through these troubled times.

His leadership has been both compassionate and productive and his love of the Senate and the United States of America stands as a lasting monument for his dedicated service.

Mr. President, I am pleased to join in this tribute to a great U.S. Senator, a great world leader, and a fine friend. Mrs. Hansen and I cherish his and Mrs. Mansfield's friendship.

I ask unanimous consent that a recent article from Colorado Business dealing with Senator Mansfield be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Mike Mansfield: A Monument Steps Down

In nine terms in the U.S. House and four in the U.S. Senate, Montana's Mike Mansfield didn't win every fight he got into. But as he leaves Congress after 34 years on the Hill, the 73-year-old Senate majority leader is just as convinced he was right on the issues as the day he voted on them—win, lose or draw.

Mansfield recently announced he won't seek a fifth term in the Senate, but that doesn't mean he is hanging up his spurs. "Anytime I can serve my country I will do my best to be of service," he says, and then thoughtfully adds, "To my country or Montana."

Mansfield recently excused himself from a Senate luncheon to discuss with Colorado Business Washington correspondent David Arbogast some of the achievements—and failures—of his three and a half decades in Congress.

One of Mansfield's greatest regrets is that Congress has yet to adopt a policy of national health insurance—"though it will come very shortly because the people demand it," he predicts.

Discussing what, in his opinion, was failure on the part of Congress, Mansfield reiterates his opposition to the two-term limit placed on presidential tenure. While a representative in the 79th Congress, he voted against what became the 22nd amendment to the Constitution. He still thinks the amendment is wrong, but the Montana Democrat manages to derive some satisfaction from its effects.

"I think my judgment was vindicated," he says, "and the Republicans, who were responsible for that amendment because they didn't want to see another Roosevelt had created in Eisenhower another potential four-term president, but he was shoved out from being considered beyond the two terms."

REFORMS

Among his achievements, Mansfield takes special pride in the democratic reforms instituted in the Senate since his accession to the post of majority leader.

"Since 1961," he says, "we've brought about a number of substantive changes in the Senate . . . based on philosophy and geography rather than seniority. We have put into effect means by which committee members and chairmen are elected by secret ballot, with no pressure from the majority leader. We've made it a point to give the younger members greater opportunity to participate. And I think we've established at long last that . . . there are no second-class senators, nor are there any superior senators; they're a hundred members of equal standing."

Mansfield's genuine commitment to democratic fairness expresses itself in other ways as well. Explaining why he will not attend this summer's Democratic National Convention, he says he thinks "it's time for a younger man to take my place. Or a younger woman," he quickly adds.

If he is careful to avoid the pitfalls of sex discrimination, he has been equally concerned with discrimination based on age. Mansfield was a pioneer in the movement to lower the voting age to 18.

He also emphasizes that age did not figure in his decision to retire. "Age is not a factor in the Constitution," he explains. "It may be a factor in the minds of the constituents, but as far as my wife and I were concerned it was no factor at all."

In a way, it is surprising that Mansfield has remained in the capital as long as he has. Born in New York in 1903, his first half of life was characterized by frequent and often unpredictable change. When only three, he was sent to live with relatives in Great Falls. Before finishing the eighth grade, however, he left home on a sojourn that would find him, alternately, a seaman second class in the Navy, a private in the Army, and a private first class in the Marine Corps.

MINER

Following his military service, Mansfield returned to Montana where he worked as a copper miner. Then he met Maureen Hayes, a Butte schoolteacher who persuaded him, Mansfield says, "to go to school and make something of myself. So I did."

In 1932 he married Miss Hayes, and in 1933 he received his B.A. degree from the University of Montana at Missoula. His M.A. degree followed the next year; and for the following eight years Mansfield was professor of Latin American and Far Eastern history at the university.

Then, in 1942, he was elected to Congress as the representative from the Western District of Montana. He has served in Congress ever since, though one could hardly say that he has settled down in the job.

During the second world war, President Roosevelt sent Mansfield to the Far East on a strategic war mission. In 1949 he was offered, and declined, a State Department job under President Truman.

Then, in 1951, he was again on the road, this time as a delegate to the U.N. General Assembly in Paris. The opinion he formed of the United Nations would remain constant over the ensuing years. "It isn't even a debating society," he proclaims; "it never has been" a purposeful deliberative body.

In 1952, he was elected to the first of his four terms in the Senate. Five years later he was elected majority whip of the Senate; and four years after that he was chosen to succeed Lyndon B. Johnson as majority leader.

Regarding his predecessor, Mansfield says, "We're direct opposites in many respects: I've always felt that honey is a better inducement than vinegar."

During Johnson's administration as president, other differences arose between the two men, as Mansfield led early opposition to the Vietnam War.

Mansfield takes quiet but insistent pride in his home state, and expresses definite opinions about its future. "I think we ought to recognize," he declares, "that our basic economy in the state is agriculture. It's the commodity on which our livehood is based. If you develop coal on a helter-skelter basis, in a number of years we become a wasteland—scarred, our topsoil gone, and we haven't much to look forward to."

CONSERVATION

A respected conservationist, Mansfield modestly remarks that his greatest service to his state has been "saving Flathead Lake in Montana from the Army Engineers."

When the conversation turns to his plans for the future, the taciturn side of Mike Mansfield emerges. A charter member of the American Federation of Teachers, he retains tenure at the University of Montana, and has entertained the idea of returning to the lectern.

"I've had a number of offers," he says, "some quite attractive. What I'll do, I don't know. I'll decide that next year." His attitude is the same on the possibility of future government service. "That's something which will resolve itself. I've given no thought to it," he says.

Amid the hoopla and display of Washington's Bicentennial celebrations, this living monument to our nation's democratic heritage will likely pass unnoticed by the 10 million Americans expected to visit the capital this year. Ironically, he is one of the most accessible of all our nation's landmarks.

Perhaps the prospect of waiting in line behind diplomats and kings deters many from attempting to see the man who has been majority leader of the Senate longer than anyone else in history. Perhaps many simply do not know he's there.

Neither is Mansfield image-conscious. He's never had a press secretary. "Don't need one," he advises, "unless you want to build up your ego."

The senator's egalitarian instincts are unerring. He draws few distinctions between senators and sightseers. It is this quality in the man—a deep commitment not only to democratic principles but to democratic example as well—that will be sorely missed when Mansfield leaves Washington at the end of the year.

Mr. EASTLAND. Mr. President, beginning with a short appointive term to the Senate in 1941, it has been my privilege to serve under five Democratic leaders—Alben Barkley of Kentucky, who served from 1937 to 1949; Scott Lucas of Illinois, who served from 1949 to 1951; Ernest McFarland of Arizona, who served from 1951 to 1953; Lyndon Johnson of Texas, who served from 1953 to 1961; and MIKE MANSFIELD, who will shortly conclude his service.

All of these men had different attributes of leadership which I shall not attempt to describe. All of them, however, were outstanding leaders who served the Senate with grace and devotion. All of them without exception had great ability. All were Democrats, but, first of all, all of them were great Americans highly dedicated to the national interest and to the Senate.

MIKE MANSFIELD of Montana is different in many vital respects from all of his predecessors. While he possesses an iron will, his dealings with his fellow Senators approach the point of gentleness. While undoubtedly aggravated by personalities and issues and by constant conflict in the Senate, he is almost devoid of temper. His friendships in the Senate are close and intimate. One of the pleasant things that I recall about MIKE was his daily breakfast meeting with another quiet, unassuming great man, George Aiken, who was for many years the senior Republican and dean of the Senate. They were so much alike that they reminded me of each other.

Another trait of MIKE MANSFIELD was his ability to attract a staff that was able and loyal. The entire Senate is grateful for his excellent staff's service over a long period of years.

MIKE MANSFIELD's leadership abilities were developed through the hardships of youth; service in all three branches of the military—the Navy, the Army, and the Marine Corps; his great struggle for an education capped by a professorship of history at the great University of Montana, followed by service in the House of Representatives, and climaxed by his election to the U.S. Senate in 1954.

It has been a great privilege and a distinct personal honor to serve so long with this great American. I shall treasure his friendship and his many kindnesses toward me as long as I shall live. The Senate will be a different place next January, after this man has retired to return to his State and the lofty mountains of the Continental Divide and the great rivers which plunge both ways. I wish him many, many years of contentment as he reflects upon a lifetime of useful service to his fellow man.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the statements of Senator HARTKE, Senator MONTOYA, and Senator MOSS.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HARTKE

If the world of politics were comprised totally of men like Mike Mansfield, our strivings would not be carrying the burden of cynicism and disillusionment that today characterizes so much of the public attitude about our profession.

The qualities of decency, courage, modesty and uncommon ability he has demonstrated throughout his long and distinguished career epitomize the best of what we ought to be.

From a personal standpoint, I have benefited greatly from his wise and patient counsel. When self-doubt invaded, he brought courage; when knowledge was lacking, he provided scholarship; when understanding was needed, he was patient; when support was sought, he offered strength.

In a broader context, a new dignity and meaning have descended upon the powerful post of Senate Majority Leader because of Mike Mansfield. He has been discreet in his use of power, not arrogant, and he has been fiercely loyal to democratic principles, applying his sense of decency and fair play to friend and foe alike.

There can be no finer tribute to that splendid human being, Mike Mansfield, in these, his final days in the United States Senate, than the words of Thomas Jefferson in observing his own retirement from public service . . .

"The care of human life and happiness, and not their destruction, is the first and only legitimate objective of good government."

Statement of Senator Montoya

One of the sad parts of our job here in the Senate is the occasional time when we must say goodbye to a fellow Member who is retiring. Very soon we must face that moment with Senator Mike Mansfield, a man who has brought a special dignity and honor to this Chamber and to the title of Senator and majority leader.

Mike Mansfield has been a part of this body since 1952. I find it difficult to imagine what the Congress of the United States will be like without his steady and clear headed guidance and without his good common sense. His career has been dedicated to the people of his own State, and to the people of this Nation. He has more than fulfilled the expectations of every one of those who sent him to us, and of those of us who asked him to be our leader in the United States Senate.

The people of the State of Montana are proud of this man—and well they should be. The Members of the Senate who have served with him are proud of him, of the work he has done here, and of the work we have all done under his leadership. The Democratic party is proud of him, too. He represents the very finest of our efforts to serve our Nation in the Government of the United States.

I wish to add my own personal tribute and thank you to those of other Americans as Mike Mansfield leaves active service in Washington, D.C. I hope that his retirement years are full and rich. I hope that he will be willing to continue to provide us with counsel and advice in the years ahead. I know that the memory of his years here at the heart of government will stay with him, and with those of us who remain behind.

Statement of Senator Moss

At the conclusion of this Congress, the Senate will lose one of its outstanding leaders, Senator Mike Mansfield of Montana. As one who has worked closely with Senator Mansfield over the years, as a colleague and as a member of the Democratic leadership, I would like to join Senator Mansfield's many friends in the Senate in paying tribute to him and the service and example he gave during his stay in Washington.

As we all know, Senator Mansfield served as Majority Leader of the Senate longer than anyone in our history. For this alone he will be remembered in our minds and in our history books. But his extraordinary record is more than one of longevity—it is a record of a unique quality of leadership that will keep him in our hearts as long as in our minds. I believe that the quality of leadership Senator Mansfield provided will be included in our written history too—that it will be correctly listed as his greatest achievement.

It was a conscious and deliberate decision by Senator Mansfield when he became Majority Leader that the internal processes of the Senate should be democratically organized and run. Under his able leadership, the majority of the Senate began a cooperative "leadership" with power and influence shared by 100 equal partners. It was Senator Mansfield's belief that every Senator should be free to vote his conscience, to represent his state as he sees fit, to dissent without fear of punishment or retaliation, and to seek to influence fellow Senators on a totally equal basis. We take these "freedoms" for granted today, but a quick look back in time will remind us of how new our "freedoms" actually are. I hasten to add that none among us, I am sure, would choose to turn the clock back. Having been brought into the 20th Century by Senator Mansfield, we should do honor to his memory by moving forward, always seeking better ways to operate the Senate and serve the people of this land.

I could go on and on extolling the virtues and accomplishments of Senator Mansfield, but I am reminded of the one characteristic Americans most likely will remember him by—brevity. Senator Mansfield was an uncommon politician in that he never used 10 words where one would do. Let me conclude by saying that Senator Mansfield was a great Senator and a great Majority Leader. Above all, to me, he was an uncommon friend. I shall miss him and I know that the Senate will miss him.

Mr. KENNEDY. Mr. President, the retirement of a great Senator is always a sad occasion, and never more so than in the case of Mike Manfield. The great majority of us in the Senate have never known another majority leader. All of us regret his decision to retire after his long, distinguished, and unparalleled career as our leader in the Senate.

No one in this body personifies more nearly than Mike Mansfield the ideals of the Senate. Wisdom and integrity, fairness and compassion, patriotism and perseverance, humanity and humility—these timeless virtues are his daily life. They have earned him the highest respect and affection of the Senate and the Nation.

As he leaves the Senate, he also leaves behind a list of outstanding accomplishments that are a monument to his role, not just as majority leader, but as an effective legislator in the Senate. Accomplishments like the 18-year-old vote, the launching of the Senate Watergate and Intelligence Committees, his eloquent leadership in foreign policy, his key role in oppostion to the Vietnam war and in support of civil rights—these highlights of a great career only scratch the surface of his extraordinary record in the Senate.

He has inspired all of us by his example, Democrat and Republican alike. Time and again, he has stretched this institution beyond its ordinary ability, as easily and as often as he has shamed it for failing to meet its responsibility.

Most of all, perhaps, we welcomed the Mansfield style of leadership and its light but effective touch. The easy way he held the Senate reins is an inspiring example in modern American political life of the famous description of leadership by the Chinese philosopher and poet, Lao Tse, who wrote:

> A leader is best when people barely know he exists. Of a good leader, when his work is done, his aim fulfilled, they will say, we did this ourselves.

Under the guidance and leadership of Mike Mansfield, the Senate has become a genuinely freer and more responsive institution. In his tenure, and with his help, the Senate has been an effective forum on every great national issue of the past decade. Quietly, but skillfully, he guided the Senate in dealing with issues like civil rights and Vietnam and Watergate, accommodating all sides fairly and fully in these and other great debates, and thereby insuring that the final results were a fair reflection of the Senate and the public interest.

More than other persons, Mike Mansfield has brought home to us the meaning of democracy in America. He has made it a reality for us in the daily business of the Senate. It has been said of Mike Mansfield that he could have been a Founding Father. There is no more fitting tribute to a modern American leader. We are a better Senate because of him. We shall miss him in the future, even as we try to carry on the high standards he set for effective leadership in the Senate and the Nation.

There is also the personal side. A large part of Mike Mansfield stems from the roots in the Montana soil he loves and the people he has served so well. President Kennedy was fond of quoting Thoreau's famous phrase, "Westward I go free," to express his strong affection for Montana and the West. Montana had a special place in his affections, as it has for all the members of our family. One of President Kennedy's happiest visits was the trip he took in late September 1963 to Great Falls. He stopped at the Mansfield home on the south side and spent a few brief but memorable moments with Mike Mansfield's parents, before going on to the Memorial Stadium that evening to speak on foreign policy. Among friends like the Mansfields and the people of Montana, President Kennedy felt closest to America and the new frontier he sought.

In my own visits to Montana, I have known first hand the Mansfield legend, the warmth and friendship of the people of the State, the vast resources, the magnificent sky and earth and water, the sunshine and the happiness. As the writer Kenneth Ross Toole wrote in 1959:

> And whatever else has changed, the sky has not—its pale immensity in winter, its blue depth in summer, the great white fists of its clouds, and the fierce ecstasy of its sunsets.
>
> Montana is still high, wide, handsome, and remote. There are many ways of looking at it, and many ways of feeling about it. And there is room for all the ways.

The bond of kinship is also close, because of the Irish heritage of so many citizens of Montana. On the streets of the towns and cities, you meet people whose faces are maps of Ireland. They are among the "wild geese," the sons and daughters of Ireland who have gone to the farflung corners of the Earth to seek a better life. Many have come to Montana and found an Irish home away from home. Some have risen to become fine leaders of the people. Patrick Mansfield left Kilkenny in 1896. His wife was from County Galway. And today we honor their son, the majority leader of the Senate of the United States—Mike Mansfield of Montana, an uncommon man from an uncommon land.

SENATE RESOLUTION 551—DESIGNATING ROOM S-207 AS THE MIKE MANSFIELD ROOM

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon and the members of the Committee on Rules and Administration, and Mr. Mathias, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 551) authorizing the designation of Room S-207 in the U.S. Capitol as the Mike Mansfield Room.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution was considered and agreed to, as follows:

Resolved, That room S207 (Senate Conference Room) in the United States Capitol henceforth shall be designated as the Mike Mansfield Room.

Mr. ROBERT C. BYRD. Mr. President, I believe I should mention that this resolution (S. Res. 551) was adopted today at the hour of 5:51 p.m.

Mr. HATFIELD. Mr. President, it is difficult to find the correct words to describe my feelings for our beloved colleague. Perhaps admiration and affection are the two closest emotions that first come to mind. When he announced his retirement, I summed up my admiration in saying that I wished my two sons could grow up and embody his qualities. Any father knows that is the highest compliment to be paid. That really says it all, for in hoping that my own sons would mirror his qualities, I recognize that MIKE MANSFIELD could be a model for us all here in Congress, and for young people to emulate across the country.

The affection I feel toward MIKE I know is shared by all who know him. In this town, where egos of some are matched only by the venom of others, MIKE MANSFIELD is a kind and humble person, self-confident in his sense of himself. He has felt no need to assert himself in the manner of some who are insecure under a facade of brassy self-confidence. He has no need to advance himself at the expense of others. He has no desire to dominate either this body as such or its Members as individuals.

Perhaps it is because we both came to public service through academic backgrounds rather than through law or business, but I always have felt a special kinship with Senator MANSFIELD. When I arrived here in 1967, I was No. 100—at the very bottom.

Senator MANSFIELD immediately made me feel a part of the Senate. He offered me sage words of advice that assisted me greatly in my first months and years here. During the 1960's, Senator MANSFIELD and I shared a common viewpoint on Vietnam, and was a source of knowledge about the region and of strategy when we were considering legislation to end the conflict. Others have pointed out MIKE MANSFIELD's contribution to ending the Vietnam conflict through his leadership position, and I always enjoyed our working relationship in these efforts.

While the citizens of Montana have been ably served through his quiet work on State matters, I think his legacy to this body, however, will not be in legislation. His legacy will be the climate of decency and respect that he will leave us all. It is the sense of morality that pervades all that MIKE has done. It is the MANSFIELD spirit that he will leave behind him. It is the way he made each of us recognize our own importance as individual Senators. In doing this, he not only gave us more power, but he made us recognize the greater responsibility that accompanied this power. Individual responsibility—in passing this to us in our Senate dealings, Senator MANSFIELD has appealed to what he considers to be important in everyone.

In conclusion, let me belabor an obvious point: I will miss MIKE MANSFIELD greatly. His counsel, his friendship, his standards, and his spirit all will be missed. I think in the future that there will be no higher compliment to any Senator—current or future—than to say he embodies the qualities of MIKE MANSFIELD.

My wife Antoinette joins me in wishing all the best to MIKE and Maureen in the years ahead. May they be as bountiful in their returns to the two of them as the contributions to others have been from them both over the years.

Mr. PERCY. Mr. President, I have an inquiry on the procedure.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. As I understand, there was a list at the desk. I am happy to yield to any other Senator who is ahead of me on the list. Is it my turn at this particular time? I have been waiting since about 4 o'clock.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, it is a paradox that we are saying so much today in tribute to a man who is noted, among other things, for saying so little. But there is much to be said about MIKE MANSFIELD, who has devoted so many years to the service of his State and Nation and who has served with such distinction.

MIKE MANSFIELD's integrity is universally acclaimed. His character and personal qualities are greatly respected. Through a long career of public service, he has won and maintained the admiration of fellow Senators, press representatives, and citizens.

As his colleague on the Foreign Relations Committee, I have always been deeply impressed by his grasp of international issues, his immense knowledge of East Asia, and his contributions to the thinking of all the members of the committee.

Most of all, I have been impressed with MIKE MANSFIELD in the Senate Chamber, where he has exercised a moral leadership which reflects the ideals and finest traditions of our country. I recall those occasions when he spoke spontaneously and with great intensity against American involvement in the Vietnam war, overcoming his natural propensity for brevity, and holding the attention of every Senator in the Chamber.

Just as Senator HATFIELD remembers so well when he was No. 100 in the Senate—through his own generosity of desire to maintain his governorship and fulfill his full term as a Governor or he would have ranked at the head of our class—when he, by his own choice, decided to be at the bottom of the class, I think we all remember our first meeting with Senator MANSFIELD.

I had a luncheon meeting with Senator MANSFIELD with my classmates, and Senator Dirksen was with us. I asked the question as to how long we should wait before it would be appropriate for us to engage in the work of the Senate. I had heard that it was unbecoming for a "new boy" to speak too soon and to get involved in the work of the Senate.

Senator MANSFIELD and Senator Dirksen looked at one another, and Senator MANSFIELD said:

> I would admonish any member of this class that if they have something urgent dealing with the Nation's welfare and the people's welfare that needs to be done now, everyone is equal in this body; you are elected a U.S. Senator, and do not let any foolish precedent stand in the way of your getting it done now. If you have it to do, do it today.

I think that is an example of the blunt incisiveness MIKE MANSFIELD always brought to any issue.

I notice also in the Chamber Frank Valeo, and I cannot help but say this to every member of the staff of Senator MANSFIELD who has served with him: All of us have a devotion to our own staff members. We could not operate in this body without adequate staff. It is with dedication, with determination, with vision, with creativity, and with hard work, sometimes at considerable sacrifice over what could be earned, for instance, in private industry in the hours that they keep in the private sector, that members of the Senate staff serve the Senate of the United States, their country, and their Senators.

Certainly the staff of Senator MANSFIELD has been absolutely outstanding, and when I say his staff, I include everyone from the chief clerk of the Senate down, and speak of everyone who has in any capacity worked with him. They are as devoted to him as any Member of the Senate. In fact, though we work closely with Senator MANSFIELD, they have worked intimately with him. They have seen him under most extraordinary circumstances. We could not possibly envision the frustration of the end of the day, the feeling of despair that while a leader is a leader in name, as he so many times has said, it is the will of the Senate that must prevail.

Certainly their devotion to him and affection for him, which is shared by every colleague in the Senate, is something that everyone recognizes and appreciates, and we pay great tribute to the exceptional staff of loyal, capable, and devoted men and women who have served in the Senate because of the selection and choice of Senator MANSFIELD.

As a member of the minority, I have also been touched by the great courtesy and fairness he has routinely accorded us. He never stampeded us. He never cut us off. He always treated us as decently as he treated the members of the majority. In fact, he was so fair and cooperative with us that the partisan difference was never very apparent. He treated us with respect, and we respected him.

No man is indispensable. No man is irreplaceable. But MIKE MANSFIELD is unique and will be greatly missed here next year and in future years.

Inasmuch as his successor as majority leader will have served with Mike Mansfield for many years, he will know firsthand those qualities that have been responsible for earning our respect.

May the majority and minority be able to continue to work in harmony as they have under his leadership, and may I serve in the Senate long enough to see a Republican attempt to emulate those qualities as majority, not minority leader.

Mr. GARY HART. Mr. President, we live in an age when honesty seems out of fashion. I do not believe this to be true. But even if it were, Senator Mansfield will go down as one of the last honest men.

All about us now scandal has raised public attention before honesty. The arrogance of a few is treated as the rule, and old-fashioned virtue truly goes unwarranted.

But Senator Mansfield is living proof that power need not corrupt. He is further proof that power need not rob us of our humanity.

In Tennyson's words:

> The greater man, the greater courtesy.

It is generally held that the path to power in Government must be strewn with the corpses of one's enemies, that deals and daggers in the back are stock in trade.

It has not, to my knowledge, been even remotely suggested that the majority leader has ever resorted to the knife or the deal to pursue his goal. The phrase "get even" is not even part of his vocabulary.

According to that other shopworn, common myth, political success is directly tied to the volume of the words one may produce, but if words were the true coin of the political realm, Mike Mansfield would be a pauper.

Senator Mansfield conserves his anger as he does his words. His patience is legendary. And in an institution designed to resist real leadership, that patience becomes even more remarkable.

To fully appreciate the greatness of the man, I think one must have served under his leadership as a new U.S. Senator.

We all reveal ourselves most clearly in the words we choose for others. The most indelible impression of Mike Mansfield in the minds of most Americans was his eulogy in the Rotunda of the U.S. Capitol on the occasion of the death of President John F. Kennedy. I think those words may as well apply to Senator Mansfield now as they did to President Kennedy then. He said:

> He gave us of a good heart from which the laughter came. He gave us of a profound wit, from which a great leadership emerged. He gave us of a kindness and a strength fused into a human courage to seek peace without fear.

Mr. President, as a form of blessing we might send with Mike Mansfield as he travels on his road the words of the great Irish poet, William Butler Yeats:

> God's laughing in heaven,
> To see you so good.

Mr. RANDOLPH. Mr. President, it is a joy, yet it is tinged with sadness, as we join in our tribute to perhaps the unequalled leadership of Mike Mansfield in this Senate. It is a tribute in which all 99 of his colleagues can agree. We may disagree on other matters but on this there is a happy consensus.

Mike has served as majority leader, as we know, in the Senate longer than any other Member in our history. He certainly has had a key role in many of the major developments which have challenged and changed the direction of our Republic.

Leader Mansfield has been called a "low-key rock of integrity," and his service to people impresses on me the fact that in this service there has been a hallmark of the proper use of power in a democratic legislative body.

I share with our colleagues the satisfaction we have had in serving with this scholarly man and in assisting at times in some of his achievements.

He never wanted to claim for himself undue attention. He believed that there is enough credit in progress made, and that progress can be shared with others.

Yes, his integrity and fairness have been a landmark on which each Member of this Senate can assemble.

His absence when the 95th Congress of the United States convenes in January of next year will be genuinely noted. The void caused by his departure brings to all of us a sense of personal loss and an official loss from this body itself.

Mike was born in the year that the Wright Brothers lofted their frail aircraft toward the sky and a time when a burgeoning nation was seeking to define its rightful role in the world.

Mike's rise to leadership and prominence was equally arduous. He was a school dropout. Many people have not known this fact. And he left his home at the age of 14. He served as a seaman in our Navy during World War I. He was a private in the U.S. Army in 1919 and 1920 and he served as a U.S. Marine in 1920-22.

And then some persons do go home again, after being away where there are the far reaches of the Earth with strange sounding names, and he went back to Butte, Mont. There he used his hands as a mucker in the copper mines until he met a teacher named Maureen Hayes.

We must never forget the value, strength, and undergirding that comes when a man and woman look forward to working together, and certainly she, Maureen, urged him to improve on an eighth grade education. You see, that is what he had. And he took on the task that few men have faced. He took high school and college as a double-edged career. He did all of this at the same time.

Mike's academic career included bachelor and master degrees from Montana State University. He served there later as a professor of Far Eastern history and political science until he was elected to the U.S. House of Representatives where he served five consecutive terms.

Mr. President, Mike was elected to the Senate for the term commencing January 3, 1953, for the first of four consecutive terms. He is one of the few men in Congress today who served under seven Presidents. I have had that privilege of serving for and with seven Presidents. And, of course, he was here when Lyndon Johnson became Vice President in 1961, and Mike ascended to the majority leadership in this body, and over the past decade and a half his presence has strengthened and ennobled that position.

Yes, we will miss Mike as he shifts his burden and takes time off to do a little fishing. Those are the words that are often used. But I imagine he will do less fishing than most because he will have so many intense interests to pursue.

We will remember that we were often colleagues, all of us, regardless of which side of the aisle, in many of the causes which he brought into actuality through crusading and keeping at his task.

We have striven together ofttimes to have mutual convictions that brought into being bonds of friendship and respect which crossed this aisle.

So, under his gentle guidance, the tough issues of our times were faced. They were dealt with in a manner often short of perfection, but with Mike at the helm we knew that well-reasoned decisions were being made.

Mike and Maureen, Mary and I, because we feel a personal bond toward both of you, say "Good luck, good health, happiness, and the full measure of faith."

Mr. LEAHY. Mr. President, Senator Mansfield said earlier this year, "There is a time to stay and a time to go." Thirty-four years is not a long time, but it is time enough.

I find, as always, that it is impossible to disagree with the distinguished majority leader, but this time I find that agreeing with him causes only sadness and true personal difficulty.

The greatest honor the State of Vermont could ever pay me was election to the U.S. Senate, but this honor was immeasurably heightened because for 2 years it allowed service with one of the true giants of the Senate, Mike Mansfield. Thousands have served our country in many different capacities, but only a handful ever achieved such stature that history can record them always as an American statesman, Mike Mansfield is already so recorded.

Senators with far more experience, far more service, and far more knowledge of the history of this body have spoken more eloquently and more fully of what our country and the Senate have gained by the service of Mike Mansfield. But I want to add my personal thanks and my personal affection for this great man.

Mike Mansfield has helped me; he has inspired me; he has encouraged me. Whatever the duration of my Senate service might be, the first 2 years will be the most memorable in my mind, because I served as the Senate's most junior Member in the company of a friend who embodies every attribute a Senator could desire—my friend and colleague, Mike Mansfield.

So. Mr. President, my wife, Marcelle, and I wish God's blessing and peace and happiness to Mike and Maureen.

Mr. CRANSTON. Mr. President, I say to MIKE: You have been a great leader for our world, our country, our Congress, and for those of us who have been privileged to serve with you.

You have given new Senators—and I still feel new in many senses—a unique and unprecedented opportunity to be effective in many ways.

You have been a rock of integrity at a time of cynicism and despair over the character and moral strength or weakness of our Nation's leaders.

You have been a defender of democratic practices at a time when many find dictatorial ways enticing.

You have been sound on very many issues, foreign and domestic.

You have often stated your views clearly and concisely and forcefully. You then left it to each Senator to vote his own judgment and his own conscience.

For this, I and all others who have served with you—and many more people who know about your leadership and your qualities—thank you from the bottom of our hearts.

I trust that MIKE MANSFIELD will still render great and invaluable services in many ways to all of us. Again, I thank him.

Mr. LONG. Mr. President, a man must have the patience of Job to be a good majority leader. He must also have a passionate dedication to this Nation and to the best interests of all its people.

MIKE MANSFIELD has those traits in abundance. He also has some features that are somewhat unique to himself as a great leader.

During his long tenure as our majority leader, he has never pressed anyone to vote contrary to that person's deep conviction or contrary to the interests of those whom that person represented. Nor has MIKE MANSFIELD ever taken advantage of his position to deny to any Senators procedural rights that would have been theirs had they known as much as MIKE MANSFIELD knew at the time.

Furthermore, he has refused to yield to the unworthy demands of partisanship. MIKE MANSFIELD has refused, for example, to cooperate with those who would try to compel a member of a party caucus to vote the majority position of the party caucus if that person felt for any reason that he should not do so.

In the 34 years that MIKE MANSFIELD has served in both Houses of Congress, he has done much to improve the quality of life for Americans. His contributions are in many areas, from civil rights to election laws, to foreign policy. The legacy of his distinguished career is contained in much of the legislation enacted during the past three decades.

MIKE MANSFIELD's honesty, his strong-held convictions, and his personal integrity make we wonder if Thomas Jefferson could have been looking into the future and thinking of MIKE when he said, 161 years ago:

> The moral sense is as much a part of our Constitution as that of feeling, seeing or hearing; as a wise Creator must have seen to be necessary in an animal destined to live in society; that every human mind feels pleasure in doing good to another.

Mr. President, when the gavel falls for sine die adjournment next month, we will lose a gentle leader, but a strong force, a quiet voice that commands attention, with a few words that contain volumes of knowledge.

We wish him all God's blessings and much success in his new endeavors.

Mr. JAVITS. Mr. President, it may be a sad day for many because of MIKE MANSFIELD's leaving us, but I am so fond of him that it is a happy day for me; because I feel that a man of such breadth and personal philosophy will, first, be happy. He is satisfied—as I am sure he was before he made the decision to leave—that he has done all that one man can do insofar as his country is concerned. Second, I am sure that with the prestige and distinction he has built up from skill and integrity and the trust of his colleagues, he will make himself useful in any way that any President or the country or his own conscience may dictate.

As to the man, of course I have great pride in the fact that he was born in New York, in Manhattan—in Greenwich Village, to be exact.

I just asked him how old he was when his family moved, and he said he was 3. Considering the fact that he was already in the Armed Forces of the United States at 14, I think I can call him a constituent, even at 3.

I am very proud of that. But even more, I have always felt a deep personal bond because of our own origins. He is the son of emigrants from Ireland. I am the son of emigrants, one from the Near East—my mother, who was born in what is now Israel—and the other from the Pale of Settlement, the middle of Europe, what was then the Austro-Hungarian empire, and is probably the Soviet Union today. This is a very important heritage, Mr. President; first because it combines an accumulated experience over centuries, which, somehow or other, beats in the blood of the first generation; second, because it always inspires, in my heart—and I believe it is just as true of Senator MANSFIELD—the feeling that there but for the grace of God am I.

So whether I am eating well or living well or not, there is still that human identity with the underdog and the oppressed and the depressed, and an understanding which is an enormous alternative to resentment. Even when the oppressed and the depressed are unreasonable, as they often are, and are wrong, as they often are, there is still the deep sympathy and understanding which underlies everything which is done.

MIKE MANSFIELD has always reminded me of the judge meting out a tough sentence with tears in his eyes. That is the way it ought to be.

I think I have said before on this floor that, among the people of my faith, there is one word supreme above all others. That is the word "justice." To me, MIKE MANSFIELD has epitomized that word. He never used his weight as a leader to be overbearing to a Member that I know of. I believe he never has and he never would. It would be absolutely unthinkable to him.

The model of integrity which he represents in this body has given luster to its name in the tight places and in times when it was in very low esteem. The literal passion with which he uttered to us the call to duty restored the Senate's character, its quality, and its luster to us and its luster to the country.

His leaving is going to be a great loss to the Senate, but nobody can go on forever. He will be replaced, we hope, if that is humanly possible—and I know he hopes it even more than I—by someone who could be even better than he is. That is going to be a very hard act to follow.

This is really what I would like to leave with him as a friend and a colleague who has been so good to me, so good to so many of us in accommodating our views, our problems. Often we have vexed him deeply. Momentarily, he has been annoyed, but never more than 30 seconds with MIKE MANSFIELD. I would like to leave him with one thing: I am almost as old as he is—just 1 year younger. I believe objectively, having, man and boy, lived with him here for 20 years, that he really has every reason to feel that he need yield to no man that I know of in modern times in having contributed to the purity of the stream of our country, which he reveres more than honors and more than loves.

He has really done what man and God could require of any man. He has every reason to be very happy with Maureen, his delightful wife, and to feel that he is resting, as ancient heroes have, on the laurels of a job dearly won and well done.

Good luck.

Mr. SPARKMAN. Mr. President, I was about to say that I take great pleasure in joining with my colleagues in making these remarks about MIKE MANSFIELD, but I am afraid that would imply that I am getting pleasure of his leaving the Senate. Of course, I am not.

I have known MIKE MANSFIELD ever since he entered the Congress of the United States. I have admired him throughout the years. I have admired the way he has conducted its affairs. I have had the pleasure of sitting beside him in the Committee on Foreign Relations over all these years.

He cannot quite equal the record that I had with Bill Fulbright. I sat by Bill Fulbright as his junior for 22 years, both in the Banking Committee and in the Committee on Foreign Relations. In fact, one time, about the time that JIM ALLEN first entered the Senate, there was a meeting down at Montgomery, Ala. Senator Hill was there, whom Mr. ALLEN was succeeding. I remarked, in my remarks to JIM ALLEN, that I had been the junior Senator to Senator Hill for 22 years and that I hoped he would be a junior Senator for 22 years.

Well, anyhow, I have enjoyed the pleasure of being associated closely with MIKE in the Committee on Foreign Relations and here on the floor of the Senate. I have never known a man who was more fair, shall I say, than MIKE MANSFIELD. He is accessible, easy to approach, understanding as matters are laid before him. He has done a great job.

I have had the privilege of serving

with several majority leaders, none of whom I would rate above Mike Mansfield. He has been a great majority leader, a great leader of the Senate, because I feel that the members of the minority party have the great confidence in him that we on this side of the aisle have.

Mike, I want you to know that we are going to miss you. We hope you will be coming back. They tell us that there is such a thing as Potomac fever.

I must say, in all frankness, that I doubt that Mike Mansfield would ever be subject to Potomac fever. I do not know where he is going or what he is going to do. I really mean it when I say it could be comforting if we could see him around here from time to time, have him drop in on us and speak a few words of wisdom to us and give us advice.

But, Mike, wherever you go, remember that the good feeling, the affection, the admiration, the love of your fellow Senators go with you.

You know, when I think of Mike Mansfield, I think of a Latin phrase, two words: ecce homo, behold the man. I think that is a good way to refer to Mike Mansfield, who, through these years, has served so well with us. And, of course, I am sure it has been pointed out and will be pointed out that he has served the longest of any Senator in the position of majority leader.

Mike, we hail you and we wish for you and Maureen great and long happiness wherever you may go.

Mr. PELL. Mr. President, Tacitus, in his "History," wrote that "reason and judgment are the qualities of a leader." Mike Mansfield, in his 16 years as majority leader of the U.S. Senate, has consistently demonstrated the sound reasoning and superb judgment that are the qualities of a truly great leader.

Mike Mansfield was elected majority leader of the Senate in 1961, the same year that I began my own service in the Senate. It has been my great good fortune, therefore, to have had the benefit of his friendship and leadership throughout my 16 years here.

Through all of these years, my esteem, my admiration, my respect and my affection for Mike Mansfield have continued to grow.

Senator Mansfield has served in one of our Nation's most demanding leadership positions during one of the most difficult and trying periods in the history of our Nation.

Through the public passions and turmoil of the struggle for civil rights legislation, the deeply divisive issue of the war in Vietnam, and the trauma of the Watergate period, Mike Mansfield's reason and judgment provided an essential steadying influence on the public and on the actions and deliberations of the Senate.

Mike Mansfield has demonstrated on countless occasions his wisdom, both as a majority leader and as a Senator, on matters of public policy. I cite but one instance of his perception and wisdom. In 1962, at the request of President Kennedy, Senator Mansfield led to Southeast Asia a study mission of four Senators of whom I had the pleasure and the honor of being one.

Under the leadership of Mike Mansfield, our report said:

> . . . there is no interest of the United States in Vietnam which would justify, in present circumstances, the conversion of the war in that country primarily into an American war, to be fought primarily with American lives.

That advice, tragically, was not heeded in the ensuing years.

As majority leader, Mike Mansfield has served not only as an effective leader for members of the majority party but as a leader and an effective spokesman for the entire Senate. He has sought and succeeded in projecting the Senate as a whole and never sought to impose his views on any one of us. For this I thank him from the bottom of my heart.

The Senate and the Nation will miss Mike Mansfield's leadership. I will miss greatly his friendship and his daily presence here in the Senate. Nuala and I extend to Maureen and Mike our love and I wish them well and a wonderful retirement.

Mr. ROBERT C. BYRD. Mr. President, this afternoon his Democratic colleagues presented to our distinguished majority leader a handsome gift. I wish to express, on behalf of my colleagues, our gratitude to Mrs. Abraham Ribicoff for her having gone to New York yesterday to select the gift, and our appreciation for the exquisite gift which she chose. It was a gift that will not, like so many gifts, be placed in an attic; it is a gift of great utility, and will be used, I am sure, by the distinguished majority leader and his lady throughout the years to come.

I also wish to thank all of my Democratic colleagues for their sharing in the gift, and for their prompt and favorable response to the suggestion that such a gift be procured.

Moreover, I wish to thank Mr. Mansfield's colleague from Montana, Lee Metcalf, on his eloquent and appropriate remarks made at the time of the presentation by Mr. Metcalf of the gift to our majority leader.

I ask unanimous consent that my own remarks—prepared for that occasion—appear in the Record at this point.

There being no objections the remarks were ordered to be printed in the Record, as follows:

Remarks by Senator Robert C. Byrd

We have come together today especially to honor one of our most distinguished colleagues, Mike Mansfield. Though our words and gestures here will do little to enhance the name and honor that he has already earned for himself, I am sure that he will respect and understand our desire to make our expressions of appreciation to him as he departs from our membership.

The Senate of the United States is one of the most extraordinary bodies in the world—in fact, in human history. Only a handful of people ever win the right to membership in it. The Senate is a place where great men and great events intersect one another almost as a habit.

Therefore, it is difficult for Senators to honor one another adequately. Buildings and statues are sometimes erected; streets and parks can be named for past Senators; pictures and busts may be commissioned for the Capitol. These must often be left for posterity to accomplish, however.

I believe that no greater monument of affection can be rendered to a person than the warmth that a man establishes for himself in the hearts of his colleagues and friends. I want to assure Senator Mansfield and his wife, Maureen, that our hearts are full of warmth for them today. Very few men are present who can remember when Mike Mansfield was not a Senator, but everyone here will be aware of his absence when he has left his seat in our midst.

Each Senator here has been a recipient of Mike Manfield's graciousness and kindness. As the Mansfields leave us to make their trip to China, I hope that they will realize the deep impression they have made on us and the rich feelings that they have etched in our memories. I wish them both Godspeed and a joyous time in their retirement to their new lives.

RESPONSE OF SENATOR MANSFIELD TO TRIBUTES IN HIS BEHALF

Mr. MANSFIELD. To paraphrase freely a great statesman, may I say, on behalf of Maureen and Mike Mansfield, never did two people owe so much to so many in this Senate regardless of party, to the people of Montana, and to the Nation as a whole.

It has long been obvious to me that the Senate is a place of eloquence, tolerance and affection. These characteristics have been very evident in the remarks which have been made here today. Indeed, they have been present in oversupply. There has also been, I might add, a degree of benevolent exaggeration. Exaggerated or not, I am deeply grateful to all of you for the words which have been sent in my direction. Your kindness and generosity are not unusual. It is the way that I have been treated ever since my arrival in the Senate.

Your comments have touched off echoes deep in my personal feelings. In whatever lies ahead, I shall miss greatly the supportive warmth of the Senate's way. That is a gap which looms before me. If I were to dwell at length on the prospect, it would make me very sad. There is no need to do so. It is far better, in thanking you for your statements, to remind myself of what, together, with Senate colleagues has been faced and done during the last two dozen years.

In that span of time, much has come before the Senate in the way of national anxieties and hopes and needs and conflicts. Much has flown through the Senate and into the policies of the Nation. In memory, only flashes of great issues emerge from these years. They are scattered eddies in the river of the Senate's affairs. When the issues were before us, however, they loomed large and as of profound and, often, passionate concern. Who would downgrade the Nuclear Test Ban Treaty, the first major achievement of the Kennedy administration in foreign affairs? What of medicare and extensions of insured health care in the direction of national coverage? Other elaborations of the social security system? The great civil rights legislation achieved after months of debate, in the aftermath of the assassination of President Kennedy?

The Indochina war which, first supported by the Nation and then denounced by the Nation, was finally brought to an end by the President under the persistent pressure of the Senate?

What of the Senate's recent block of a similar misadventure in Angola? And what of the legislative efforts—some effective and many wanting but all reflective of the Nation's finest sentiments—to come to grips with the Nation's shame of widespread poverty in the midst of plenty?

Here in the Senate there were the first major responses in national policy to the Frankenstein of environmental pollution. Here, too, was launched the drive to bring about the right to vote for 18-year-olders. Here, too, began the effort to reopen the door to relations with China.

And Watergate? And the investigation of the CIA and the FBI?

These headlines are the easily remembered moments of the last 24 years. They are but a fraction of actions deliberately taken and deliberately not taken by the Senate—a national park bill, the confirmation of a second lieutenant in the Army or a general, or the rejection of a Federal judge or a bill to admit an immigrant to permanent residence. How many thousands, tens of thousands, of these actions in 24 years? Each has had its impact, however infinitesimal, on the shaping of the Nation.

As certain events stand out in memory so do the names of some of the colleagues who have come and gone from here—Taft of Ohio, Knowland of California, Vandenberg of Michigan, McCarthy of Wisconsin, George of Georgia or Russell of Georgia, Douglas of Illinois, and Dirksen of Illinois, Aiken of Vermont, Murray of Montana, Kefauver of Tennessee, Byrd of Virginia, Morse of Oregon, Kennedy of New York, Ervin of North Carolina, Hayden of Arizona, and Johnson of Texas. These and many more were my friends and colleagues of another time. They, too, were but a small part of those who shaped and were shaped by the Senate during these past 24 years. Of the Senators here when the Senator from Washington (Mr. JACKSON) and the Senator from Missouri (Mr. SYMINGTON) and I were sworn in, together, on January 3, 1953, only seven remain.

In retrospect, it does not much matter whether or not the Senate is considered, legally, a continuing body. The lawyers of the Senate have argued that question since the beginning of the Republic. What matters is that the institution goes on meeting its constitutional responsibilites. In that respect the Senate has been continuous since the first session of the First Congress. So long as the Senate persists, I am confident that the liberties of the American people will be maintained and the government of the Republic will remain receptive to their needs and aspirations.

So I do not leave this place in sadness. I leave as one who has lived as a part of it and loved it deeply. I leave personally fulfilled and contented to have been here, one Senator of the over 1,700 men and women who have served their states and the Republic in the Senate of the United States.

In closing, I want to thank Maureen Mansfield, my wife, who with infinite patience and understanding has sustained me through these years. I want to thank the members of the majority for choosing me as leader of the majority and all the Members of the Senate for accepting me and helping me in that capacity. I want to thank, in particular, the younger Senators whose full and equal participation in every aspect of the Senate's endeavors has been of particular concern to me; it would be my hope that the window which has been opened in the Senate in that respect will never again be closed.

I want to thank the distinguished Republican leader, Mr. HUGH SCOTT, and his able assistant, Mr. GRIFFIN, for a never-failing cooperation in the dignified and orderly operation of the Senate, a condition which could not possibly have been sustained without them. I want to thank the able majority whip, Senator ROBERT C. BYRD of West Virginia, who has given me outstanding support for many years and has served the majority and the Senate with great dedication.

As you are aware, I will be going, shortly, to the People's Republic of China in response to a long-standing invitation and, in concert with the wishes of the President of the United States. I do not know, therefore, whether we shall meet again in the 94th Congress or, as this group, ever again. To you who are my friends—to all of you—I can only say thank you and goodby.

[Prolonged applause, Senators rising.]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the eloquent response by Mr. MANSFIELD appear at the end of all of the expressions of tributes that have been made today, and that will be entered into the permanent volume during the next 10 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRIBUTES TO SENATOR MANSFIELD TO BE PLACED IN BOUND VOLUME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those tributes be placed in a bound volume and that they be made a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO REPRINT SENATE REPORT NO. 94-1235—SENATE RESOLUTION 524.

Mr. SPARKMAN. Mr. President, on September 13, 1976, on behalf of the Committee on Foreign Relations, I submitted a report (S. Rept. No. 94-1235) on Senate Resolution 524 regarding the terrorist attack at Istanbul Airport. Unfortunately, some of the material in the committee's report was inadvertently omitted. In addition, there were inaccuracies in the report which I deeply regret. Therefore, in order that the legislative history on this resolution will be complete, I ask unanimous consent that the report be reprinted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ENVIRONMENTAL RESEARCH AUTHORIZATIONS

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7108.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. MUSKIE, and Mr. BAKER conferees on the part of the Senate.

AUTHORITY TO REPORT AND ADDITIONAL REFERRAL OF H.R. 10760

Mr. RANDOLPH. Mr. President, I ask unanimous consent that when the Committee on Labor and Public Welfare reports H.R. 10760, the Black Lung Benefits Reform Act of 1976, the bill be referred to the Committee on Finance until September 24, 1976. I further ask unanimous consent that the Committee on Labor and Public Welfare have until midnight Monday, September 20, to file a report on H.R. 10760, the Black Lung Benefits Reform Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER CONFERENCE REPORT ON H.R. 14232 TOMORROW

(Earlier in the day the following occurred:)

Mr. MAGNUSON. Mr. President, may I ask this, as long as the assistant majority leader is on the floor: The House is about to vote on the HEW conference report. It is very important that we do something about it tomorrow because the 10-day period for a pocket veto will take effect if we do not do something tomorrow.

I do not think there will be too much discussion on the bill. But is it the intention of the Senator from West Virginia that we bring up, if the House finishes it tonight, which I am sure they will, the conference report on HEW appropriations prior to the veto vote or after?

Mr. ROBERT C. BYRD. Mr. President, again if the Senator from Louisiana will yield——

Mr. JOHNSTON. I will yield for just a minute. I have been waiting for a good while.

Mr. ROBERT C. BYRD. I ask unanimous consent, so as to answer the question of the distinguished Senator from Washington, that upon the disposition of the veto message tomorrow the Senate proceed to the consideration of the HEW appropriations conference report.

Mr. MAGNUSON. So the Senate can be informed, because everyone is interested in this HEW matter, particularly one of them, we would then start the discussion immediately after 1 o'clock tomorrow.

Mr. ROBERT C. BYRD. After the vote on the veto.

Mr. MAGNUSON. I thank the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—CONFERENCE REPORT ON H.R. 14232

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the debate on the conference report on the HEW appropriations bill be limited to 45 minutes to the side and to be controlled by Mr. MAGNUSON and Mr. BROOKE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A VOTE ON VETO MESSAGE ON H.R. 8800 AT 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the veto message on H.R. 8800, the electric vehicle research bill, is received from the House, that it be spread on the Journal and that the Senate proceed to vote thereon tomorrow at 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

HABEAS CORPUS RULES

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15319 and ask for its immediate consideration.

The PRESIDING OFFICER laid before the Senate H.R. 15319, an act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title XXVIII, of the United States Code, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. BURDICK. Mr. President, H.R. 15319 is a bill making certain amendments to the rules of procedure for use in cases and proceedings arising under 28 United States Code sections 2254 and 2255. I would like to explain the intent and meaning of this bill. As chairman of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, I have had principal responsibility on behalf of the Senate to consider and study the changes in the habeas corpus and section 2255 rules proposed by the Supreme Court which this bill amends and adopts.

I am pleased to announce that these remarks on the intent and meaning of the bill represent also the views of the distinguished Senator from California (Mr. TUNNEY), who, as chairman of the Subcommittee on Constitutional Rights of the Committee on the Judiciary, has also given the proposed rules careful study.

The purpose of this legislation is to make certain amendments to the rules of procedure for use in cases and proceedings arising under 28 United States Code, sections 2254 and 2255.

BACKGROUND

Section 2254 of title 28, United States Code, provides that someone who is held in State custody may apply to a Federal court for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." Section 2255 of title 28, United States Code, provides that a person who is held in Federal custody may, by motion, seek release from the custody "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack . . ." Section 2255 provides a statutory remedy for Federal prisoners in most respects similar to the writ of habeas corpus.

Habeas corpus is recognized in the original Constitution, article I, section 9, and thus in a sense is an even more basic guarantee of our freedoms than the Bill of Rights. This legislation seeks to make the writ available on a simpler and more uniform basis, without unnecessary procedural hurdles restricting access to the courts.

On April 26, 1976, the Supreme Court promulgated two sets of rules of practice and procedure which are known collectively as the habeas corpus rules. One set of rules governs cases under 28 U.S.C. 2254; the other set governs proceedings under 28 U.S.C. 2255. The procedures that they establish, however, are very similar.

The Court, acting pursuant to statutes known as the "Rules Enabling Acts," provided that the rules were to take effect on August 1, 1976. The August 1 effective date was postponed, however, by Public Law 94–349. The habeas corpus rules are now scheduled to take effect 30 days after the 94th Congress adjourns sine die.

The purpose for delaying the effective date of the habeas corpus rules was to give Congress an adequate amount of time in which to study them. H.R. 15319 is the product of the congressional study of those rules that Public Law 94–349 contemplates.

After a careful study of all the proposed rules, we have concluded that all but four of them ought to be approved as drafted. These four seemed to engraft unwise procedural impediments to the writ of habeas corpus, whose availability is not to be suspended under article I, section 9 of the Constitution. H.R. 15319 amends only four of the section 2254 rules and four of the section 2255 rules. It approves the rest in their entirety.

In *Stone* v. *Powell*, 44 U.S.L.W. 5313 (July 6, 1976), the Supreme Court held that where a State has provided an opportunity for a full and fair litigation of a Fourth Amendment claim, a State prisoner is not entitled to habeas corpus relief on the ground that evidence obtained through an unconstitutional search and seizure was introduced at his trial. This legislation is intended neither to approve or disapprove the Stone decision.

The concept of a uniform habeas corpus form, widely available in a simple format, is a commendable step forward in the administration of justice. However, during hearings before the House Judiciary Committee, the forms annexed to the rules were criticized in several respects. Representatives of the judicial conference who testified conceded that the forms could be improved and ought to be revised from time to time, not only to take account of changing rules of law but also to improve the clarity of the forms. These representatives testified that it was the opinion of the General Counsel of the Administrative Office of the U.S. Courts that these forms could be changed as necessary by the Administrative Office, without the necessity for the Supreme Court to promulgate the changes. We concur in this opinion, and the legislation does not address itself to the forms annexed to the rules. It is expected that the Administrative Office of the U.S. Courts, from time to time, will make changes in the forms in order to comply with court decisions.

It is also expected that the Administrative Office will consult both with practicing criminal lawyers, and with specialists in writing for the general public, to redraft the forms to make them as simple, clear, and free of legal jargon as possible, so that they will be easier to read and understand.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1

Section 1 of H.R. 15319 provides that the habeas corpus rules promulgated by the Supreme Court on April 26, 1976, as amended by the bill, are approved and shall take effect with respect to petitions and motions filed on or after February 1, 1977.

SECTION 2

Section 2 of H.R. 15319 amends rules 2, 8, 9, and 10 in both the section 2254 rules and the section 2255 rules.

RULE 2

Rules 2(c) of the section 2254 rules, as promulgated by the Supreme Court, required that a petition for habeas corpus be in the form annexed to the rules or in a form prescribed by the local rules of the district court. It further provided "The petition [for habeas corpus] shall follow the prescribed form." Rules 2(b) of the section 2255 rules, as promulgated by the Supreme Court, provided similarity for motions to vacate, set aside, or correct a sentence.

The legislation amends rule 2(c) in each set of rules by deleting the provision that the petition or motion "shall follow the prescribed form." The legislation also amends the first sentence of each rule 2(c) to provide that the petition or motion "shall be in *substantially* the form annexed" to the rules (emphasis added).

While the Administrative Office of the U.S. Courts and the clerks of court will, we assume take adequate measures to assure the availability of forms to potential petitioners in both Federal and State institutions, persons lacking access to a form must be able to commence a petition by alternative means.

Rule 2(e) of section 2254 deals with the return of a petition for habeas corpus for failure to comply with the requirements of rule 2 or rule 3 of the section 2254 rules. As promulgated by the Supreme Court, rule 2(e) permitted a court clerk to return a petition for noncompliance. Rule 2(d) of the section 2255 rules provided similarly with respect to motions to vacate, set aside, or correct a sentence which did not comply with the requirements of rule 2 or rule 3 of the section 2255 rules.

The legislation amends rule 2(e) of the rule 2254 rules and rule 2 (d) of the section 2255 rules to permit return of a petition for noncompliance with rule 2 or rule 3 only "if a judge of the court so directs . . ." We believe that the decision to return a petition or motion for failure to comply with rule 2 or rule 3 is not a decision that a court clerk should make but, rather, is a decision that a judge appointed under article III of the Constitution should direct.

RULE 8

Rule 8(c) of the section 2254 rules authorizes the judge to hold an evidentiary hearing and to "appoint counsel for a petitioner who qualifies for the appointment of counsel under 18 United States Code, section 3006A(g) . . ." rule 8(c) of the section 2255 rules provides similarly with respect to motions to vacate, set aside, or correct a sentence.

The legislation adds the following sentence to rule 8(c) in section 2254 rules: "These rules do not limit the appointment of counsel under section 3006A of title 18, United States Code, at any stage of the case if the interest of justice so requires." A similar provision is added to rule 8(c) of the section 2255 rules. This language is intended to state explicitly that appointment of counsel provisions in the habeas corpus rules are not intended to restrict a judge's authority to appoint counsel under 18 United States Code, section 3006A.

RULE 9

Rule 9(a) of the section 2254 rules is entitled, "Delayed petitions." As promulgated by the Supreme Court, it permitted dismissal of a petition for habeas corpus on the ground that the delay in filing prejudiced the State's ability to respond to the petition. As promulgated by the Supreme Court, it further provided that if the petition is filed more than 5 years after the judgment of conviction, there shall be a presumption, rebuttal by the petitioner, that there is prejudice to the State. When a petition challenges the validity of an action, such as revocation of probation or parole, which occurs after judgment of conviction, the 5-year period as to the action shall start to run at the time the order in the challenged action took place. Rule 9(a) of the section 2255 rules provides similarly with respect to motions to vacate, set aside, or correct a sentence.

The legislation amends rule 9(a) in both the section 2254 rules and the section 2255 rules by deleting the language relating to the rebuttable presumption after 5 years and the calculation of the 5-year period. We believe that it is unsound policy to require the defendant to overcome a presumption of prejudice and that the legislation brings rule 9(a) into conformity with existing law.

Rule 9(b) of the section 2254 rules is entitled "Successive petitions." As promulgated by the Supreme Court, it permitted a judge to dismiss a petitioner's second or successive petition, even if the petition alleged new and different grounds for relief, if the judge found that the failure to assert those grounds in a prior petition was "not excusable." Rule 9(b) of the section 2255 rules provided similarly with respect to motions to vacate, set aside, or correct a sentence.

The legislation amends rule 9(b) in both the section 2254 rules and the section 2255 rules by deleting the "not excusable" standard. As amended by the bill, rule 9(b) of the section 2254 rules permits a judge to dismiss a second or successive petition alleging new and different grounds if the judge finds that the failure to assert those grounds in a prior petition "constituted an abuse of the writ." The legislation makes a similar amendment to rule 9(b) of the section 2255 rules.

We believe that the "not excusable" language created a new and undefined standard that gave a judge too broad a discretion to dismiss a second or successive petition and which could have introduced a doctrine of res judicata or claim preclusion into habeas corpus law. The "abuse of writ" standard brings rule 9(b) into conformity with existing law. As the Supreme Court has noted in reference to successive applications for habeas corpus relief and successive section 2255 motions based upon a new ground or a ground not previously decided on the merits, "full consideration of the merits of the new application can be avoided only if there has been an abuse of the writ or motion remedy; and this the Government has the burden of pleading." Sanders v. United States, 373 U.S. 1, 17 (1963).

RULE 10

Rule 10 of the section 2254 rules and the section 2255 rules is entitled "Powers of Magistrates." As promulgated by the Supreme Court, rule 10 in both sets of rules permits a magistrate to perform certain duties of a judge "if and to the extent that he is so empowered by rule of the district court * * *."

The legislation amends rule 10 in both sets of rules by adding a provision that a magistrate may perform these duties only "to the extent that the district court has established standards and criteria for the performance of such duties." We believe that the duties which this rule permits to be delegated to a magistrate are important enough to require that they be delegated with standards and criteria.

Furthermore, we assume that it is always within the power of a district judge to reverse the decision of a magistrate in an instance when the magistrate is acting pursuant to authority delegated to him by the district court under rule 10, or makes rulings under rule 7 on discovery or under rule 8 on the scope of the record. Since the writ of habeas corpus is a judicial remedy, the final decisions on its administration are the responsibility of a judge appointed under article III of the Constitution, assisted as the judge may be by personnel such as magistrates.

Mr. President, at the request of the distinguished Senator from California (Mr. Tunney) who is necessarily absent from the Senate today, I ask unanimous consent to include in the Congressional Record at this point a statement by him.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

The Senator today considers H.R. 15319, which amends the proposed rules concerning petitions under Sections 2254 and 2255 of title 28 of the United States Code. I want to record my concurrence with the statement of that most distinguished and scholarly Senator from North Dakota (Mr. Burdick) explaining the intent and meaning of the bill. Senator Burdick, as chairman of the Subcommittee on Improvements in Judicial Machinery, was the key figure in drafting and securing passage on the Senate side of Public Law 94–349, which postponed the effective date of the proposed rules to make sure that Congress had adequate time to study them. And I know that Senator Burdick has worked closely with our colleagues in the other House to secure agreement on the excellent substantive changes in the proposed rules which are embodied in H.R. 15319.

These changes do away with unnecessary procedural hurdles restraining access to the courts. They allow petitions to be filed even if they do not follow the exact prescribed form; prevent court clerks from refusing to file petitions, unless a judge so directs; preserves the right of appointed counsel at any stage of the case; do away with the proposal which established what was almost a five year statute of limitations; prevent establishment of a res judicata doctrine in habeas corpus litigation; and preserve access to the judge, rather than a magistrate, for substantial decisions on the administration of the writ. This legislation is in no way intended to approve the Supreme Court's decision in Stone v. Powell 44. U.S.L.W. 5313 (July 6, 1976). As chairman of the Subcommittee on Constitutional Rights I regard the changes made by H.R. 15319 to be excellent ones, and I concur fully in the explanations by Senator Burdick of the meaning of these changes.

Mr. HRUSKA. Mr. President, the consideration of this bill at this time is pursuant to the provisions of the Public Law 94–349 which provides that the rules promulgated by the Supreme Court on habeas corpus will become effective 30 days after the adjournment sine die of the present Congress.

The purpose of that delay was to afford the other body, as well as this Senate, a brief opportunity to study the habeas corpus rules thus promulgated and to make such amendments as would be necessary.

The amendments, Mr. President, are good. Seven out of the eight have no controversy about them at all. The eighth has some dispute about it, in academic parallels, particularly. But the eighth amendment is the only one that is in controversy. It is based and bottomed upon decisions, seasoned decisions of the Supreme Court and its procedures, and it is considered not only by ourselves on the Judiciary Committee, but also by the other body headed by the gentleman from Missouri (Mr. HUNGATE), as being wholesome and sound.

So it is urged on that basis that the bill be approved so that we may proceed to final conclusion in the matter.

The bill was ordered to a third reading, read the third time, and passed.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STONE). The Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. GRAVEL) to attend the annual meetings of the Board of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development, to be held in Manila, Philippines, October 4–8, 1976.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, in order to make our time run right tomorrow, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the distinguished majority leader and the distinguished minority leader or their designees have been recognized under the standing order, and prior to the orders that have already been entered for the recognition of Senators, Mr. TALMADGE, Mr. CLARK, Mr. ABOUREZK, Mr. McGOVERN, and Mr. MORGAN be recognized each for not to exceed 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. On behalf of Mr. KENNEDY and at his request, I submit a report of the committee of conference on H.R. 9019 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9019) to amend title VIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 13, 1976, beginning at page 29968.)

Mr. CHURCH. Mr. President, I am pleased to lend my support to the adoption of the conference report on H.R. 9019, the Health Maintenance Organization Amendments of 1976. I am especially pleased that the conferees agreed to retain the amendment I offered with Senator KENNEDY relating to home health services, and I thank the distinguished chairman of the Senate Health Subcommittee for his strong leadership in the conference sessions.

The Church-Kennedy amendment extends the authority under the Health Revenue Sharing Act (Public Law 94–63) to finance the initial costs of establishing and operating home health agencies and to expand services of existing agencies. The amendment authorizes $2 million for the transitional quarter and $8 million for fiscal 1977 for this purpose.

Second, it continues the authority to train professional and paraprofessional personnel for home health agencies. An authorization of $1 million for the transitional quarter and $4 million for fiscal 1977 is provided for the training provision.

As chairman of the Senate Committee on Aging, I have repeatedly witnessed the immense need for home health services for aged persons in this country. Unfortunately, more than 58 million persons in this country live in areas unserved by home health agencies. To further complicate the problem, even areas served by an agency are often offered only skilled nursing and one other service. With the enactment of the Church-Kennedy provision, existing agencies would find it possible to expand their services, and communities without service could use this program for startup costs.

Moreover, adoption of this measure would be particularly beneficial to persons living in rural areas where institutional facilities may be limited or nonexistent. The availability of home health services in such a community would allow an older person to remain in the community and avoid a move to a nursing home, usually some distance away.

Today, many elderly persons are unnecessarily or prematurely institutionalized at a much higher public cost simply because alternative forms of care are not available.

This takes on added importance now because our Nation can conceivably save $600 million if the medicare national hospital average would be reduced by just 1 day.

Mr. President, the measure before us contains provisions necessary to provide high quality of care for all Americans, and I urge its adoption.

Mr. SCHWEIKER. The conference report before the Senate today on H.R. 9019, the Health Maintenance Organization Act Amendments of 1976, represents an effort on the part of both Houses of Congress to solve many of the problems encountered by the HMO program since enactment of the act during the 93d Congress, by remedying the anticompetitive effects of the requirements imposed on HMO's by title XIII of the Public Health Service Act. The bill is also designed to clarify congressional intent and improve administration of the HMO program, so that this promising form of health care delivery will receive a fair trial.

I originally introduced the Senate version of this bill (S. 1926) along with my colleagues Senator JAVITS and MONDALE in response to two basic sets of problems which have beset the HMO program. First, there have been severe administrative difficulties in the program, with responsibility for program implementation split among 21 different offices within the Department of Health, Education, and Welfare. Serious delays in formulating regulations and implementing the provisions of the original HMO Act (Public Law 93–222) have also led to the loss of a considerable amount of time, and the resulting atmosphere of uncertainty actually discouraged development of federally qualified HMO's. Therefore, this bill revises the authorization levels and extends the period for which they are available, so that HMO's will benefit from the full demonstration period which Congress intended in the original act.

Second, the bill aims at correcting some of the deficiencies in existing law which placed HMO's at a competitive disadvantage vis-a-vis other parts of the health care system. Four of the more controversial deficiencies identified in the original act include: First, the high cost of providing the required basic and supplemental services; second, the anticompetitive effects of the open enrollment requirement; third, the problem of community rating; and fourth, the problem of requiring members of medical groups to devote more than 50 percent of their professional time to practice for the HMO. Testimony before congressional committees and the results of a recent GAO study pointed up these difficulties under current law. The compromises arrived at in the final bill submitted by the conference committee today are designed to remedy the adverse effects of these stringent requirements while preserving the unique concept of health care delivery through health maintenance organizations.

HMO's will have greater flexibility in determining the health services package which will be offered to their members; while at the same time they will still be required to offer a comprehensive basic benefits package, including preventive services such as well child care from birth, immunizations, periodic health evaluations for adults, and children's ear examinations conducted to determine the need for hearing correction.

The compromise bill reported by the conference committee retains the principle of open enrollment of members in HMO's, but modifies existing law to set a far more realistic standard for open enrollment which HMO's can meet without jeopardizing their economic viability.

The bill also recognizes that preexisting HMO's need time to come into full compliance with the requirement that they establish a community rating system for fixing their prepayment charges, and provides for a 4-year postponement of the community rating requirement for these HMO's. New HMO's have generally been able to meet the community rating requirement from the outset.

Last, the conferees acknowledged the difficulty which HMO's have encountered in meeting the requirement under current law that members of medical groups devote more than 50 percent of their professional time to practice for an HMO. The bill contains a substitute requiring that the members of a medical group must individually engage in coordinated group practice as their principle professional activity and collectively take substantial responsibility for the delivery of health services to the membership of the HMO. A substantial portion—at least 35 percent—of the whole group's services would have to be devoted to the care of HMO members. Recognizing that these criteria cannot be met in every instance, the conference committee's bill provides that HMO's would not have to meet these requirements for the first 3 years after they become federally qualified HMO's and authorizes the Secretary of HEW to grant waivers beyond 3 years in certain situations.

I believe that the conferees on H.R. 9019 have reached an excellent accord which will insure that HMO's have the opportunity to demonstrate their considerable promise as an alternative means of health care delivery for Americans. I wish to express my deep appreciation to the House and Senate conferees for their hard work on this much-needed step toward the solution of many of the problems of the HMO program. H.R. 9019 clarifies Congress original intent in Public Law 93-222, alleviates some of the excessively strict requirements of the original act which have placed HMO's at a competitive disadvantage, and provides for improved administration of the HMO program. For these reasons, I urge my colleagues to join me in support of the conference committee's report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized each for not to exceed 12 minutes: Mr. Talmadge, Mr. Clark, Mr. Abourezk, Mr. McGovern, and Mr. Morgan, after which the following Senators will be recognized, each for not to exceed 15 minutes: Mr. Kennedy, Mr. Abourezk, Mr. Cranston, and Mr. Inouye, and Mr. Mansfield then for not to exceed 10 minutes, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will then be a period for the transaction of routine morning business for not to exceed 10 minutes, by unanimous consent, with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. After which, the Senate will proceed to the consideration of the veto message. The time will be equally divided, as stated earlier today, between Mr. Magnuson and Mr. Stevens. The vote on the override of the President's veto will occur at 1 p.m. That will be a rollcall vote. Upon the disposition of that vote the Senate will proceed to the consideration of the conference report on the HEW appropriation bill under a time limitation of 1½ hours, the time to be equally divided between Mr. Magnuson and Mr. Brooke.

Mr. ROBERT C. BYRD subsequently said:

Mr. President, did I not obtain unanimous consent that the time for debate on the override of the President's veto be equally divided between Mr. Stevens and Mr. Magnuson?

The PRESIDING OFFICER. The Senator obtained the division of time, but not the certain amount of time.

Mr. ROBERT C. BYRD. The Chair is correct.

Mr. President, I ask unanimous consent that at no later than 10 minutes after 12 noon tomorrow, and no earlier than the hour of 12 noon tomorrow, the time begin running for debate on the override of the President's veto message.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There may be a rollcall vote on the adoption of the conference report. Other matters will be taken up during the afternoon following the disposition of the HEW appropriations conference report. Other conference reports may be called up, they being privileged matters and rollcall votes may occur thereon.

Mr. ROBERT C. BYRD. Mr. President, is there an order for the convening of the Senate on Monday?

The PRESIDING OFFICER. There is not.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 10 A.M. MONDAY, SEPTEMBER 20, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow it stand in adjournment until the hour of 10 a.m. on Monday morning next. That time may be changed on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3688 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow morning, immediately following the remarks by the two leaders and preceding the consummation of the orders for recognition of Senators, the Senate proceed to the consideration of Calendar Order No. 1190, S. 3688, and that there be a time limitation of not to exceed 10 minutes thereon, the time to be equally divided between the Senator from Wyoming (Mr. McGee) and the Senator from Hawaii (Mr. Fong).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of a companion House bill (H.R. 11337).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:09 p.m. the Senate adjourned until tomorrow, Friday, September 17, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1976:

INTERNATIONAL BANKS

William D. Rogers, of Virginia, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice Charles W. Robinson, resigned.

DEPARTMENT OF STATE

Wat T. Cluverius IV, of Maryland, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

Edward E. Masters, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

IN THE COAST GUARD

The following reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

Michael E. McKaughan
Vidas Vilkas

Lieutenant

Robert T. Argalas
John P. Barnstein
Donald E. Bodron
George B. Brinson
William S. Davis
George Pascal
David B. Pascoe
John D. Koski
John F. Whiteley

Lieutenant (junior grade)

Franklin T. Fowler
Wayne A. Luginbuhl
Mark R. Mayne
Bruce C. Steffens
Gregory W. Westrup

HOUSE OF REPRESENTATIVES—*Thursday, September 16, 1976*

The House met at 10 o'clock a.m.

The Most Reverend Eugene A. Marino, SSJ, D.D., auxiliary bishop of Washington and titular bishop of Walla Walla, offered the following prayer:

Heavenly Father, we give praise and honor to Your holy name as Jesus has taught us to do. We ask You to establish Your kingdom among us on Earth. We ask You to give us the light to see and the strength to do Your holy will. We pray for Your blessings and Your guidance in our deliberations. We ask You to guide this assembly entrusted with the awesome responsibility of making laws for our Nation. Fill our Representatives with Your justice and Your spirit of righteousness. Let our civic leaders know the meaning of mercy and compassion in their quest to establish a better society. Our Republic was founded 200 years ago: "As one nation under God." I beseech Thee, Heavenly Father preserve our country in the bond of unity and under the mantle of your protection. Almighty God and Father, sanctify us all, so that our lives may serve as a witness that we have come forth from You. May our lives indicate that we are destined to spend our eternal lives with You. May we proclaim this faith and this hope to all mankind.

This we pray through Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10339) entitled "An act to encourage the direct marketing of agricultural commodities from farmers to consumers."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 139) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1977," and that the Senate receded from its disagreement to the amendment of the House and agreed to the same with an amendment to the foregoing resolution.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8228. An act to amend the Federal Aviation Act of 1958 relating to emergency locator transmitters, and for other purposes; and

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (S. 2710) entitled "An act to extend certain authorizations under the Federal Water Pollution Control Act, as amended," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. MUSKIE, Mr. BURDICK, Mr. CULVER, Mr. GARY HART, Mr. BUCKLEY, Mr. BAKER, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2657) entitled "An act to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes," agrees to the conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. RANDOLPH, Mr. WILLIAMS, Mr. KENNEDY, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HATHAWAY, Mr. BEALL, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. TAFT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3664. An act to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

THE EDUCATIONAL RECORD OF GERALD R. FORD: NOT ONE TO TRUST

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, Gerald R. Ford left the White House yesterday to make a speech at the University of Michigan.

In his talk, Candidate Ford said:

> It is not enough for anyone to say "trust me." Trust must be earned.

I agree with that.

Indeed, who wouldn't?

But, Mr. Speaker, Candidate Ford went on to tell his university audience that "quality education for every young American is my administration's goal," and that on education "this Congress has shown itself to be sitting dead in the water—addicted to the status quo."

Mr. Speaker, for Gerald R. Ford to pretend to be a friend of American education and attack Congress for doing nothing about education is patently absurd.

For the record—not the rhetoric—of Candidate Ford clearly demonstrates that students and teachers, schools and colleges, and parents of children and students have no friend in the White House today.

Candidate Ford, indeed, is trying hard to outdo even Richard Nixon in his hostility to education.

It has been the Congress of the United States—often with Republicans joining Democrats—that has taken the initiative on measures to strengthen American education while Gerald R. Ford, like Richard Nixon before him, said, "No."

Last year, for example, it was Congress that initiated the Education for All Handicapped Children Act, to help meet the challenge of educating America's disabled youngsters.

Candidate Ford opposed the bill but Congress passed it anyway—by huge bipartisan margins. Who was "dead in the water" then, "addicted to the status quo"? It was not Congress; it was Candidate Ford.

Mr. Speaker, last year Congress extended and amended the Vocational Rehabilitation Act, to help train handicapped persons.

Candidate Ford opposed this congressional initiative but Congress passed it anyway.

"Quality education for every young American is my administration's goal," Candidate Ford said yesterday, I would remind you.

But this is the same man who vetoed last December the aid to education bill which provided funds for education for the handicapped, environmental education, drug abuse education, education for the disadvantaged, vocational education, higher education, libraries, educational broadcasting, emergency school aid, bilingual education, occupational and adult education, and the National Institute of Education.

The Congress, however, voted to override the Ford veto with an overwhelmingly bipartisan vote of 379 to 41 in the House and 88 to 12 in the Senate.

And, Mr. Speaker, this is the same President who vetoed the school lunch and child nutrition amendments and thereby sought to curtail reduced price lunches in schools, breakfast programs for children, and food programs for new mothers and infants.

Candidate Ford is the man whose vetoes would have halted Federal support for such programs as Head Start, maternal and child health care, and treatment of drug abuse.

Nor are opposition to congressional initiatives in education or use of the veto the only instruments with which Candidate Ford seeks to attack efforts to strengthen education in our country. He has used as well the device of the recission to cut funds that Congress has already appropriated for a whole range of programs, including loans and grants to students, Follow Through and help for elementary and secondary schools. He is even today holding up $90 million in additional aid which Congress has voted to make available for the education of handicapped children.

Mr. Speaker, Gerald R. Ford's opposition to education programs is not limited to attacks on education legislation and education appropriations. He has enmeshed these programs in redtape, and his administration has utilized the process of writing regulations to delay and fragment congressionally approved efforts in education.

Mr. Speaker, even as Candidate Ford attacks Congress for being "dead in the water" on education and "addicted to the status quo," House and Senate conferees, Democrats and Republicans alike, are sitting in this very building working hard—today—to approve a major bill to strengthen vocational education, postsecondary education, and educational research in our country.

Mr. Speaker, one thing Candidate Ford said yesterday was right: "Trust must be earned."

But Mr. Speaker, on the record of Gerald R. Ford on education—not the rhetoric—he has earned the mistrust of the American people.

CLEAN AIR ACT AMENDMENTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3219) to amend the Clean Air Act, as amended, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from West Virginia (Mr. STAGGERS) tell us what the progress of the talks that he and the gentleman from North Carolina (Mr. BROYHILL), the ranking minority member of the subcommittee, have had today?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I have talked to the gentleman from North Carolina this morning by telephone. I asked him what kind of a night he had. He said he had had a good night and everything was fine. I asked him if he would object this morning to bringing the bill up, and he said he would not. We had a discussion and reached some understanding on other things, but he said he would not object to the consideration of the bill.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman tell us what the differences were and how they were resolved?

Mr. STAGGERS. There were no practical differences, because the practical differences were resolved in the bill that passed the House. I said that I could not deviate from what passed the House, but there are chances for compromise in the conference if the views of the conferees meet with and coincide with what we are trying to do here.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman then can assure us that many of the items that passed the House, such as the Dingell-Broyhill amendment, will remain or that the House will stand firmly behind it?

Mr. STAGGERS. Indeed. As chairman of the committee, I have always tried to uphold the position of the House in every instance. When we meet in conference, we do have to compromise on certain matters, but there are certain issues on which we do try not to compromise, and that would be one of them.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comment, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The third sentence of subsection (b) of section 105 of the Clean Air Act is amended to read as follows: "No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds.".

(b) Subsection (c) of section 105 of the Clean Air Act is amended by adding the following: "In fiscal year 1977 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

SEC. 2. Section 107 of the Clean Air Act is amended by adding a new subsection as follows:

"(d) (1) For the purpose of transportation control planning, prevention of significant deterioration, and for other purposes, each State, within one hundred and twenty days after the date of enactment of the Clean Air Amendments of 1976, shall submit to the Administrator a list, together with a summary of the available information, identifying those air quality control regions, or portions thereof, established pursuant to this section in such State which on the date of enactment of the Clean Air Amendments of 1976—

"(A) do not meet a national primary ambient air quality standard for any mobile source related air pollutant;

"(B) do not meet, or in the judgment of the State may not in the time period required by an applicable implementation plan attain or maintain, any national primary ambient air quality standard for any pollutants other than those listed in subparagraph (A) of this paragraph through the application of measures or controls approved or promulgated pursuant to section 110 of this Act;

"(C) do not meet a national secondary ambient air quality standard;

"(D) cannot be classified under subparagraph (B) or (C) of this paragraph on the basis of available information, for ambient air quality levels for sulfur oxides or particulate matter; or

"(E) have ambient air quality levels better than any national primary or secondary air quality standard other than for sulfur oxides or particulate matter, or for which there is not sufficient data to be classified under subparagraph (A) of this paragraph.

"(2) Not later than sixty days after submittal of the list under paragraph (1) of this subsection the Administrator shall promulgate each such list with such modifications as he deems necessary. Whenever the Administrator proposes to modify a list submitted by a State, he shall notify the State and request all available data relating to such region or portion, and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate.

"(3) Any region or portion thereof which is not classified under subparagraph (B) or (C) of paragraph (1) of this subsection for sulfur oxides or particulate matter within one hundred and eighty days after enactment of the Clean Air Amendments of 1976 shall be deemed to be a region classified under subparagraph (D) of paragraph (1) of this subsection.

"(4) A State may from time to time review, and as appropriate revise and resubmit, the list required under this subsection. The Administrator shall consider and promulgate such revised list in accordance with this subsection.".

SEC. 3. The first sentence of section 108(b) (1) of the Clean Air Act is amended by striking the words "technology and costs of emission control" and inserting in lieu thereof the words "cost of installation and operation, energy requirements, air quality benefits, and environmental impact of the emission control technology.".

SEC. 4. Section 108 of the Clean Air Act is amended by adding new subsections as follows:

"(e) The Administrator shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development and State and local officials and within one hundred and eighty days after the enactment of this subsection, and from time to time thereafter, publish guidelines on the basic program elements for the transportation planning process assisted under subsection (h) of section 110 of this Act. Such guidelines shall include information on—

"(1) methods to identify and evaluate alternative planning and control activities;

"(2) methods of reviewing plans on a regular basis as conditions change or new information is presented:

"(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

"(4) methods to assure participation by the public in all phases of the planning process; and

"(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

"(f) (1) The Administrator shall publish and make available to appropriate Federal agencies, States, and air pollution control agencies, including agencies assisted under subsection (h) of section 110 of this Act, within six months after enactment of this subsection for clauses (i), (ii), (iii), and (iv) of subparagraph (A) and within one year after the enactment of this subsection for the balance of this subsection (and from time to time thereafter), (A) information, prepared, as appropriate, in cooperation with the Secretary of Transportation, regarding processes, procedures, and methods to reduce or control each such pollutant, including but not limited to—

"(i) motor vehicle emission inspection and maintenance programs;

"(ii) programs to control vapor emissions from fuel transfer and storage operations and operations using solvents;

"(iii) programs for improved public transit;

"(iv) programs to establish exclusive bus and carpool lanes and areawide carpool programs;

"(v) programs to limit portions of road surfaces or certain sections of the metropolitan areas to the use of common carriers, both as to time and place;

"(vi) programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities;

"(vii) programs to control on-street parking and new offstreet parking facilities;

"(viii) programs to construct new parking facilities and operate existing parking facilities for the purpose of park and ride lots and fringe parking;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

"(x) provisions for employer participation in programs to encourage carpooling, vanpooling, mass transit, bicycling, and walking;

"(xi) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

"(xii) programs of staggered hours of work;

"(xiii) programs to institute road user charges, tolls, or differential rates to discourage single occupancy automobile trips;

"(xiv) programs to control extended idling of vehicles;

"(xv) programs to reduce emissions by improvements in traffic flow;

"(xvi) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations;

"(xvii) programs for retrofit of emission devices or controls on vehicles and engines, other than light duty vehicles, not subject to regulations under section 202 of title II of this Act; and

"(xviii) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions;

(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambient air quality standard will be exceeded during any extension under subsection (h) of section 110 of this Act and during episodes for which an air pollution alert or emergency has been declared; (C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and (D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an increase in the emissions or formation of any other pollutant.

"(2) In publishing such information the Administrator shall describe (A) the effectiveness of such processes, procedures, and methods; (B) factors related to the costs and benefits of such processes, procedures, and methods, in different situations; (C) transportation factors related to such processes, procedures, and methods; (D) the environmental, energy, and economic impact of such processes, procedures, and methods; and (E) his assessment of whether each such process, procedure, or method is reasonable for application to attain a primary ambient air quality standard.".

Sec. 5. (a) Section 110 of the Clean Air Act is amended by adding a new sentence at the end of paragraph (1) of subsection (a) as follows: "Each State shall adopt and submit to the Administrator within eight months after the date of enactment of the Clean Air Amendments of 1976, a revision of its implementation plan which provides for implementation, maintenance and enforcement of the provisions of subsection (g) of this section for the prevention of significant deterioration in each appropriate air quality control region (or portion thereof) within such State.".

(b) Section 110(a)(2)(B) of the Clean Air Act is amended to read as follows:

"(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and, in addition, as may be necessary, (i) to assure attainment and maintenance of such primary or secondary standard, such other measures, including, but not limited, to transportation controls, and enforceable supplemental emission reduction strategies for existing nonferrous smelters, and (ii) land-use controls for the purpose of maintenance of, or to prevent further deterioration from, any primary ambient air quality standard: *Provided, however,* That land-use controls shall be included in an implementation plan only after consideration of the energy, environmental, and economic impacts of such controls;".

(c) Section 110(a)(2)(D) of the Clean Air Act is amended by inserting after "(D) it includes" and before "a procedure" the following: "a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit or equivalent program for any major emitting facility, within such region to assure (i) that national ambient air quality standards are achieved and maintained, (ii) that the requirements of subsection (g) of this section are met, and (iii)".

(d) Section 110(a)(2)(H) of the Clean Air Act is amended by striking "or" before "(ii)" and by striking the period and adding at the end thereof: ", or to incorporate the requirements of subsection (g) of this section; or (iii) to incorporate any additional requirements established under the Clean Air Amendments of 1976.".

(e) Section 110(a)(4) of the Clean Air Act is amended by inserting after "primary or secondary standard" the following: "or which will not comply with a standard of performance under section 111, or which does not conform to the requirements of subsection (g) of this section,".

(f) Section 110(d) of the Clean Air Act is amended by striking the period and inserting at the end thereof "and the requirements of subsection (g) of this section.".

Sec. 6. Section 110 of the Clean Air Act is amended by adding a new subsection as follows:

"(g)(1) Each implementation plan shall include requirements applicable to each region identified in the list promulgated pursuant to paragraph (1)(D) of subsection (d) of section 107 of this Act, which shall, in addition to the requirements of paragraphs (2), (3), (4), (5), and (6) of this subsection, provide:

"(A) for designation as class I areas of—

"(i) all international parks, and each national wilderness area, and national memorial park which exceeds five thousand acres in size, and each national park which exceeds six thousand acres in size and which is in existence on the date of enactment of the Clean Air Amendments of 1976;

"(ii) such other areas as the State (and, if appropriate, after notice and consultation with adjacent States) may designate, except that Federal lands may be so designated only with the concurrence of the Federal Land Manager;

"(B) each national park and national wilderness area or any part thereof, which exceeds five thousand acres in size, established after the enactment of the Clean Air Amendments of 1976, shall be classified as either class I or class II by the Congress in the designating legislation for such national park or wilderness area.

"(C) that all remaining areas in such State identified under section 107(d)(1)(D) of this Act and not designated class I pursuant to subparagraph (A) of this paragraph shall be designated as class II areas.

"(2) As it relates to the pollutants particulate matter and sulfur dioxide, the cumulative change in the air quality in any area designated under paragraph (1) of this subsection resulting from the construction and operation of any new major emitting facility or facilities shall be limited to the following projected increases in pollutant concentrations over the baseline air quality concentration:

"Pollutant	(*In micrograms per cubic meter*)
Particulate matter:	
Annual geometric mean	10
Twenty-four-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	15
Twenty-four-hour maximum	100
Three-hour maximum	700

"(3) Requirements applicable to an area designated as class I or class II shall include a management program to assure that, in the event of the proposed construction of any major emitting facility in any such area, the construction of such facility shall be preceded by an analysis of the ambient air quality, climate and meterology, soils and vegetation, and visibility at the site of the proposed facility and in the area potentially affected by the emissions from the proposed facility for each pollutant regulated under this Act which will be emitted from, or which results from the construction or operation of, such facility. Such analysis shall be included in any permit application required.

"(4) No major emitting facility on which construction is commenced after June 1, 1975, may be constructed in any area designated under this subsection—

"(A) unless a permit has been issued for such proposed facility in accordance with this section, setting forth emission limitations for such facility which conform to the requirements of this subsection,

"(B) unless the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this Act emitted from, or which results from, such facility,

"(C) unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur oxides will not contribute to a cumulative change in the air quality in excess of that allowed in paragraph (2) of this subsection,

"(D) unless the provisions of paragraph (5) of this subsection with respect to protection of class I areas have been complied with for such facility,

"(E) unless there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility, and

"(F) unless there has been opportunity for a public hearing conducted by a State on any proposed permit for such facility, with an opportunity for interested parties, including representatives of the Administrator, to appear and provide testimony on such facility, including alternatives thereto, and control technology requirements.

"(5)(A) The State shall provide notice of any permit application to the Administrator and the Administrator shall provide notice of the permit application to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within a class I area which may be affected by emissions from the proposed facility.

"(B) The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values.

"(C) In any case where the Federal official charged with direct responsibility for management of any lands within a class I area or the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such a class I area files a notice alleging that emissions from a proposed major emitting facility may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur dioxide will not contribute to a cumulative change in air quality in excess of the following projected increases in pollutant concentrations over the baseline air quality concentration:

"Pollutant	(*In micrograms per cubic meter*)
Particulate matter:	
Annual geometric mean	5
Twenty-four-hour maximum	10
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four-hour maximum	5
Three-hour maximum	25

Provided, That (i) in any case where the Federal Land Manager demonstrates to the satisfaction of the State that the emissions from such facility will have an adverse impact on the air quality-related values of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will not exceed for such lands the limitations on projected increases established in this subparagraph, a permit shall not be issued, and (ii) in any case where the owner or operator of such facility demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such facility will have no adverse impact on the air quality related values of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will exceed for such lands the limitations on projected increases established in this subparagraph, the State may issue a permit.

"(6) For purposes of this subsection—

"(A) the term 'best available control technology' means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment, for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act;

"(B) the term 'Federal Land Manager' means (i) the Secretary of the department with authority over any lands of the United States, and (ii) Indian tribes which have legal jurisdiction over tribal lands; and

"(C) the term 'commenced' as applied to construction of a major emitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time: *Provided*, That in the case of a facility on which construction was commenced in accordance with this definition after June 1, 1975, and prior to the enactment of the Clean Air Amendments of 1976, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to the enactment of the Clean Air Amendments of 1976.

"(7)(A) Until a revision of the implementation plan in accordance with this subsection is submitted and approved, significant deterioration for those pollutants covered by such regulations shall be regulated pursuant to applicable regulations and procedures for prevention of significant deterioration established under authority of the Clean Air Act in effect prior to the enactment of the Clean Air Amendments of 1976, except as those regulations provide for designations of nondeterioration areas which allow increases in emissions of air pollutants or any reduction in air quality inconsistent with paragraphs (1) and (2) of this subsection, or do not require the degree of control required by paragraph (6)(A) of this subsection, or are otherwise inconsistent with the requirements of this subsection.

"(B) For the purpose of this section any State may submit the revision to its implementation plan relating to the prevention of significant deterioration which has been adopted for such State as of the date of enactment of the Clean Air Amendments of 1976. Such requirements shall be the requirements applicable to such State under this section unless the Administrator finds that such requirements or a portion thereof are inconsistent with the requirements of this subsection and notifies the State of such inconsistency.

"(8) The Administrator shall study strategies to control pollutants not covered by paragraph (2) of this subsection in order to prevent significant deterioration of air quality for such pollutants and shall report to the Congress within one year after the date of enactment of the Clean Air Amendments of 1976 recommending control strategies for such pollutants. Such report shall recommend increments, as appropriate, for class I and class II areas applicable to the emissions from stationary sources of nitrogen oxides, hydrocarbons, and such other pollutants and control strategies as the Administrator determines to be appropriate.

"(9) The Administrator shall, and a Governor may, take such measures under section 113 or 304 of this Act, including seeking injunctive relief, as necessary to prevent the issuance of a permit under this subsection or the construction of a major emitting facility which does not conform to the requirements of paragraphs (4) and (5) of this subsection.

"(10) In the event any State adjacent to a State subject to the requirements of this subsection disagrees with the designation of any class I area in the State subject to the requirements, or if a permit is proposed to be issued for any new major emitting facility proposed for construction in an adjoining State which the Governor of the affected State determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this subsection in any class I or class II area within the affected State, the Governor may request the Administrator to enter into negotiations with the States involved to resolve such dispute. If requested by any State involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands in such State. If the States involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable plan and shall be enforceable as part of such plan.

"(11) Notwithstanding paragraphs (2), (4), and (5) of this subsection, in no instance shall the Administrator approve any requirements or revision of any implementation plan, nor shall any permitting authority issue a permit under this subsection for a new major emitting facility, which would allow for the deterioration of air quality to a level that would exceed any national ambient air quality standard.

"(12) Nothing in this subsection shall alter or affect section 116 of this Act.".

SEC. 7. (a) Section 110 of the Clean Air Act is amended by adding subsection (h) as follows:

"(h)(1) Upon application by the Governor of a State on or after June 1, 1976, the Administrator may extend for not more than five years the deadline for attainment of national primary ambient air quality standards required under this section where transportation control measures are necessary for the attainment of such standards and where the implementation of such control measures by the date established in existing implementation plans would have serious adverse social or economic effects.

"(2) The Administrator may consider extension applications for only those air quality control regions in which the State has:

"(A) implemented or will have implemented by June 1, 1977, (i) the requirements of the applicable implementation plan with respect to stationary source emissions of transportation-related pollutants, and (ii) implemented or will have begun implementing by June 1, 1977, all reasonably available measures of the applicable transportation control plan which do not have serious adverse social or economic effects; and

"(B) completed, or agreed to complete by June 1, 1978, a detailed planning study that evidences public and local governmental involvement in accordance with paragraph (7) of this subsection and includes (i) examination of alternative measures and combinations of measures to attain and maintain the standards after June 1, 1977, (ii) a description of projects to be undertaken together with timetables and resource requirements, and (iii) identification and analysis of social, economic, and environmental effects including public health and energy conservation effects of such measures and projects.

"(3) Each extension application shall be accompanied by adequate documentation of compliance with the requirements of paragraph (2) above, and shall include a description of the process for the development of an implementation plan for the extension period requested. Such plan shall be submitted no later than June 1, 1978. The plan shall at a minimum:

"(A) identify the remaining emission reductions necessary for attainment of the national primary ambient air quality standards and the additional reasonably available measures to be implemented to accomplish these reductions;

"(B) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

"(C) identify the financial and manpower resources to be committed to carrying out the plan;

"(D) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

"(E) demonstrate (i) attainment of the national primary ambient air quality standards as expeditiously as practicable, but no later than May 31, 1982, or (ii) that such attainment is not possible within the extension period prior to May 31, 1982, despite implementation of all reasonably available control measures.

"(4) (A) Within one hundred and twenty days following the submission of an application and all supporting materials, and after providing an opportunity for public hearing, the Administrator shall grant an extension, unless he determines that the requirements of this subsection have not been met.

"(B) If the Administrator determines that the requirements of this subsection have not been met, including findings relating to the impacts of the transportation control measures upon the social, economic, energy conservation, and environmental welfare of the air quality control region, he shall notify the Governor of deficiencies in the application, including his judgment as to acceptable dates for implementing measures included in the plan and as to the appropriate duration of an extension. The notification shall also specify a date for the submission of a revised application.

"(5) Where the Administrator grants an extension based on an application meeting the requirements of paragraph (3) (E) (ii) of this subsection, the Governor of the State may, on or after June 1, 1981, apply for a further extension in accordance with and subject to the requirements of this subsection. No extension under this paragraph or other portion of this Act may extend beyond May 31, 1987.

"(6) (A) Where the Administrator denies an extension application or where the Governor of a State in which the national primary ambient air quality standards are not being met does not submit an application or revised application under this subsection, the Administrator shall, after consultation with appropriate State and local elected officials and after opportunity for public hearing in the affected State if no such hearing has been previously held, propose and promulgate an implementation plan (or portion thereof) meeting the requirements of this subsection. In proposing and promulgating such plan, the Administrator shall comply with the time requirements and schedules of this subsection. The United States court of appeals for the appropriate circuit may grant a stay of any provision of such plan upon application by a State pursuant to section 307 of this Act.

"(B) The Administrator may delegate the implementation or enforcement of any portion of a promulgated plan to one or more general purpose local governments or a State.

"(7) (A) The implementation plan required by paragraph (3) of this subsection shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Amendments of 1976, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan. Where feasible, such organization shall be the metropolitan planning organization designated to conduct the continuing, cooperative, and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, or the organization responsible for the air quality maintenance planning process under regulations implementing this section, or the organization with both responsibilities.

"(B) The preparation of the implementation plan required by paragraph (3) of this subsection shall be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under section 134 of title 23, United States Code, and the air quality maintenance planning process required under this section, and such planning processes shall take into account the requirements of this subsection.

"(8) (A) The Administrator shall make grants to any organization of local elected officials with transportation of air quality maintenance planning responsibilities recognized by the State under paragraph (7) of this subsection for payment of the reasonable costs of developing an air quality transportation control plan under this section.

"(B) The amount granted to any organization under subparagraph (A) of this paragraph shall be 100 per centum of any additional costs of developing an air quality transportation control plan under this section for the first two fiscal years following receipt of the grant under this paragraph, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance planning. Grants under this paragraph shall not be used for construction.

"(9) (A) The Administrator shall not approve any projects or award any grants authorized by this Act or any other authority of the Administrator after June 1, 1977, in any State in which any primary ambient air quality standard has not been attained, where transportation control measures are necessary for the attainment of such standard and the Governor has not applied for an extension in accordance with this subsection, or where the Governor has not submitted an implementation plan by June 1, 1978.

"(B) In any area in which the State or, as the case may be, the general purpose local government or governments or any regional agency designated by such general purpose local governments for such purpose, is not implementing any requirement of an approved or promulgated plan under this section, including any condition of the extension under paragraph (2) of this subsection, the Administrator shall decrease funds or grants for any projects authorized by any authority of the Administrator by fifteen per centum for each year during the period any such requirement is not being implemented.

"(10) (A) No department, agency, or instrumentality of the Federal Government shall (i) engage in, (ii) support in any way or provide financial assistance for, (iii) license or permit, or (iv) approve, any activity which does not conform to a plan after it has been approved or promulgated under this section. No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under this section. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

"(B) Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air quality standard. This paragraph extends to, but is not limited to, authority exercised under the Urban Mass Transportation Act, as amended, title 23 of the United States Code, and the Housing and Urban Development Act, as amended.".

(b) Section 10 of the Clean Air Act is amended by adding a new subsection as follows:

"(i) In carrying out the requirements of subsections (a) (2) (B) (i) and (ii), (g), and (h) of this section and subsections (d) and (g) of section 113, the State shall provide a satisfactory process of consultation with general purpose local governments and designated organizations of elected officials of local governments, in accordance with regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than four months after the date of enactment of the Clean Air Amendments of 1976. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this subsection. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for review of such action on the basis of a violation of the requirements of this subsection.".

SEC. 8. The Clean Air Act is amended by adding a new subsection (e) to section 112 as follows:

"(e) For purposes of this section the Administrator may promulgate a hazardous emission standard in terms of a design, equipment, or operational standard if he determines that such standard is necessary to control emissions of a hazardous pollutant or pollutants because, in the judgment of the Administrator, they cannot or should not be emitted through a conveyance designed and constructed to emit or capture such pollutants.".

SEC. 9. (a) Section 113 of the Clean Air Act is amended by adding the following new subsection:

"(d) (1) A State (or, after thirty days notice to the State, the Administrator) may issue an enforcement order for any stationary source which specifies a date for final compliance with an applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That (A) such order is issued after notice to the public (and, as appropriate, to the Administrator) containing the content of the proposed order and opportunity for public hearing; (B) the order contains a schedule and timetable for compliance; (C) the order contains any interim control measures the State (or the Administrator) deems to be reasonable, and the order requires the emission monitoring and reporting by the source authorized to be required under sections 110(a)(2)(F) and 114(a)(1); (D) the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than January 1, 1979; and (E) in the case of a major emitting facility, the order provides that it will be amended no later than January 1, 1978, to contain a provision requiring the source to pay monthly a delayed compliance penalty, in an amount equal to that sum established by the Administrator pursuant to section 120 of this Act, in the event such major emitting facility fails to comply by January 1, 1979.

"(2) An enforcement order proposed by a State shall issue under this subsection unless the Administrator, within ninety days of receipt of any proposed order, objects in writing to the issuance of such order as not consistent with the requirements of paragraph (1) of this subsection. If the Administrator so objects, he shall simultaneously proceed to issue an enforcement order in accordance with this subsection. Nothing in this section shall be construed as limiting the authority of a State or political subdivision to adopt and enforce a more stringent emission limitation or more expeditious schedule or timetable for compliance than that contained in an order by the Administrator.

"(3) If any source not in compliance with an emission limitation in an applicable implementation plan gives written notification to the State (or the Administrator) that such source intends to comply by means of replacement of the facility, a complete change in production process, or a termination of operation, the State (or the Administrator) may issue an order under paragraph (1) of this subsection permitting the source to operate until January 1, 1979, without any interim schedule of compliance: *Provided*, That as a condition of such issuance, the owner or operator of such source shall post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue to the owner or operator of such source by reason of the failure to comply. If a source for which the bond or other surety required by this paragraph has been posted fails to replace the facility, change the production process, or terminate the operations as specified in the order by the required date, the owner or operator shall immediately forfeit on the bond or other surety and the State (or the Administrator) shall have no discretion to modify the order under this paragraph or to compromise the bond or other surety.

"(4) In the case of a major emitting facility which proposes to comply with an applicable emission limitation through replacing existing production capacity with an innovative production process which will result in an emission reduction significantly greater than required by the emission limitation applicable to such facility, or with the installation of an innovative control technique that has a substantial likelihood for enabling the source to comply with the applicable emission limitation by achieving a significantly greater emission reduction than that required by the applicable emission limitation, or by achieving the required reduction with an innovative system that will have potential for industry-wide application at a significantly lower cost than the systems which have been determined by the Administrator to be adequately demonstrated, the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 120 of this Act shall be January 1, 1981.

"(5)(A) In the case of a major emitting facility which—

"(i) is ordered to convert to coal under an order pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(ii) within one year after enactment of the Clean Air Amendments of 1976 gives notice of intent to convert to coal as its primary energy source because of actual or anticipated curtailment of natural gas supplies under any curtailment plan or schedule approved by the Federal Power Commission (or, in the case of intrastate natural gas supplies, approved by the appropriate State regulatory commission),

and which thereby would no longer be in compliance with an applicable emission limitation under an implementation plan, an enforcement order may be issued under paragraph (1) of this subsection for such facility which specifies a date for final compliance with the applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than three years after the date of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or three years after giving notice under clause (ii) of this subparagraph, which date shall be the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 120 of this Act and in no event shall be later than July 1, 1980.

"(B) In issuing an order under this paragraph, the State shall prescribe (and may from time to time modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions for each facility to which such an order applies. Such limitations, requirements, and measures shall be those which the State determines must be complied with by the facility in order to assure (throughout the period before the date for final compliance established in the order) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

"(C) The Administrator of the Federal Energy Administration may, by regulation, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out this paragraph shall provide such systems to users thereof, if he finds, after consultation with the States and the Administrator, that priorities must be imposed in order to assure that such systems are first provided to sources subject to orders under this paragraph in air quality control regions in which national primary ambient air quality standards have not been achieved. No regulation under this subparagraph may impair the obligation of any contract entered into before the date of enactment of the Clean Air Amendments of 1976.

"(6) For the purposes of sections 110, 304, and 307 of this Act, any order issued or approved by the State (or the Administrator) pursuant to this subsection shall become part of the applicable implementation plan.

"(7)(A) During the period of the enforcement order issued under this subsection and where the owner or operator is in compliance with the terms of such enforcement order, no other enforcement action pursuant to this section or section 304 of this Act shall be pursued against such owner or operator based upon noncompliance during the period the order is in effect with the emission limitation for the source covered by such order.

"(B) The failure of any source subject to an enforcement order under this subsection to adhere to the schedule and timetable of compliance established under this subsection during the period of the order, shall make such source subject to the provisions of subsections (a), (b), and (c) of this section.

"(8) No extension, postponement, waiver, or delay of any requirement of an implementation plan applicable to a major emitting facility shall be granted except in accordance with this subsection or section 110 (f) of this Act: *Provided, however*, That neither this subsection nor section 120 of this Act shall be construed as limiting the authority of any State to revise any deadline for attainment of a national secondary ambient air quality standard.

"(9) Any actions of the Administrator pursuant to this subsection, including any objection under paragraph (2) of this subsection, shall be considered a final action for purposes of section 307 of this Act.

"(10) Any enforcement order issued under subsection (a) of this section or any consent decree in an enforcement action which is in effect on the day of enactment of the Clean Air Amendments of 1976 shall remain in effect to the extent that such order or consent decree is not inconsistent with the requirements of this subsection and section 120 of this Act. Any such enforcement order issued under subsection (a) of this section or consent decree which provides for an extension beyond January 1, 1979, is void unless modified to comply with the requirements of this subsection.".

(b) The Clean Air Act is amended by adding a new section 120 as follows:

"DELAYED COMPLIANCE PENALTY

"SEC. 120. (a) Prior to January 1, 1978, any enforcement order issued under subsection (d) of section 113 of this Act shall be amended to include a delayed compliance penalty established pursuant to this section which shall be imposed automatically and payable monthly for any major emitting facility which for any reason not entirely beyond the control of the owner or operator is not in compliance with an applicable emission limitation on January 1, 1979.

"(b) As an enforceable interim step under any enforcement order issued under section 113(d) of this Act, the owner or operator of any major emitting facility not in compliance with an applicable emission limitation, for which such order specifies a date for compliance after January 1, 1978, shall, prior to January 1, 1977, furnish to the State (with a copy to the Administrator) information containing a detailed description of the control technology or system proposed to achieve compliance with the applicable emission limitation and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply with such limitation or requirement by January 1, 1979, and the estimated annual costs of operation and maintenance of any technology or system required in order to maintain such compliance, together with such information as the State (or the Administrator) may require on the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such facility.

"(c)(1) A notice of receipt of information pursuant to subsection (b) of this section shall be published in the newspapers in general circulation in such State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

"(2)(A) Within sixty days following the date of publication of the notice issued under paragraph (1) of this subsection there shall be published in the newspapers in general circulation in such State (and, as appropriate, the Federal Register or any publication required as part of any rulemaking activity in such State) the proposed delayed compliance penalty applicable to the major emitting facility, with an announcement of an opportunity for a public hearing on such action.

"(B) Such proposed delayed compliance penalty under subparagraph (A) of this paragraph, determined in accordance with guidelines published by the Administrator, shall be a monthly payment in an amount no less than the monthly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such major emitting facility.

"(C) The State shall take final action establishing such delayed compliance penalty within sixty days after the date of publication of the proposed penalty under subparagraph (A) of this paragraph.

"(d)(1) A delayed compliance penalty established by a State under this section shall apply unless the Administrator, within ninety days after the date of publication of the proposed penalty under subsection (c)(2)(A) of this section, objects in writing to the amount of the penalty as less than would be required to comply with guidelines established by the Administrator.

"(2) If the Administrator objects under this subsection, he shall immediately establish a substitute delayed compliance penalty applicable to such facility.

"(e)(1) In the event an owner or operator contests the delayed compliance penalty established under this section, the owner or operator may within sixty days seek review of such penalty in the appropriate United States district court.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a facility not in compliance with an applicable emission limitation to commence monthly payment of the delayed compliance penalty as determined by the State (or the Administrator) on January 1, 1979, pending the outcome of any such review.

"(B) In any challenge of the imposition of the penalty based on an allegation that the failure to comply by January 1, 1979, was due to reasons entirely beyond the control of the owner or operator, the obligation to commence monthly payment of the delayed compliance penalty may be stayed pending the outcome of such challenge: *Provided*, That as a condition of such stay, the owner or operator of such source shall post a bond or other surety in an amount equal to the potential liability for such penalty during the period of the stay.

"(3) If an owner or operator is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

"(f) In any case where a State does not have sufficient authority to issue a delayed compliance penalty, the Administrator after thirty days notice to the State shall establish, implement, and enforce such penalty.

"(g) Failure to make any payment required by an order under this section and section 113(d) of this Act or to submit information required under this section shall, in addition to liability for such payments, subject the owner or operator of a major emitting facility operating pursuant to an enforcement order issued under section 113(d) of this Act to a penalty under subsection (e) of section 113 of this Act.

"(h) Any actions pursuant to this section, including any objection of the Administrator under subsection (d)(1) of this section, shall be considered a final action for purposes of section 307 of this Act.

"(i) Any enforcement orders, payments, sanctions, or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way affect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

"(j) In the case of an emission limitation approved or promulgated by the Administrator after the enactment of the Clean Air Amendments of 1976 which is more stringent than the emission limitation for the source under the applicable implementation plan in effect prior to such approval or promulgation, if any, or where there was no emission limitation approved or promulgated before enactment of the Clean Air Amendments of 1976, the date for imposition of the delayed compliance penalty under subsection (a) of this section, and for purposes of subsections (b), (c)(2)(B), and (e) of this section, shall be either January 1, 1979, or the date on which the source is required to be in full compliance with the emission limitation, whichever is later, but in no event later than three years after the approval or promulgation of such emission limitation.".

SEC. 10. The Clean Air Act is amended:

(a) By amending subsection (b) of section 113 to read as follows:

"(b) The Administrator shall commence a civil action for appropriate relief, including a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $10,000 per day of violation or both, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a) or (d) of this section; or

"(2) violates any requirement of an applicable implementation plan (A) during any period of federally assumed enforcement, or (B) more than thirty days after having been notified by the Administrator under subsection (a)(1) of a finding that such person is violating such requirement; or

"(3) violates section 111(e), 112(c), 119(g), 120(b), or 120(g); or

"(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection shall be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, and assess such penalty. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.".

(b) By amending subsection (c) of section 113—

(1) to amend paragraph (1)(B) to read as follows:

"(B) violates or fails or refuses to comply with any order under subsection (a) or (d) of this section, or"; and

(2) to add a new paragraph (3) as follows:

"(3) For the purpose of this subsection, the term 'person' shall mean, in addition to the definition contained in section 302(e) of this Act, any responsible corporate officer.".

(c) By adding the following new subsections to section 113:

"(e) In any case where a person is in knowing violation of a provision of an implementation plan application to a stationary source, where there has been no request for an enforcement order extending the date of compliance concerning such source filed pursuant to subsection (d) of this section within one hundred and eighty days after enactment of the Clean Air Amendments of 1976 (unless such an order has been issued under this section without any such request), or where a person is in violation of the requirements of subsection (b) or (g) of section 120 of this Act, such person shall be punished by a fine of not more than $25,000 per day of violation.

"(f) If it is alleged that interference with the achievement or maintenance of any national primary or secondary ambient air quality standard will result from any major emitting facility in any region of a State other than the State in which the facility is or may be located, the Administrator, at the request of the Governor of such other State, shall review the operation or proposed operation of such facility and, if necessary to prevent interference with the achievement or maintenance of any national primary or secondary ambient air quality standard in such other State, he shall take such measures, including seeking injunctive relief, as necessary to prevent such interference.".

SEC. 11. Section 113 of the Clean Air Act is amended by adding the following new subsection:

"(g)(1) No major emitting facility shall be constructed or modified in any air quality control region or portion thereof in which any national ambient air quality standard is exceeded, if such facility will emit air pollutants subject to such standard so as to prevent the attainment or maintenance of such standard, except that a facility proposed for construction or modification at an existing site or plant owned or controlled by the owner or operator of such facility may be constructed or modified in such region if the owner or operator demonstrates to the satisfaction of the State that (A) the proposed facility will comply with the best available control technology (as defined in section 110(g)(6)(A) of this Act) applicable to such proposed facility before the proposed facility begins operation, (B) all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility either are in compliance with all applicable emission limitations or are in compliance with an approved schedule and timetable for compliance under a provision of an applicable implementation plan under section 110 of this Act or an enforcement order issued under section 113(d) of this Act, (C) the total cumulative emissions from the existing sources at the proposed facility location and the proposed facilities will at no time increase, (D) the total allowable emissions from all existing and proposed sources at the proposed facility location will be sufficiently less than the total allowable emissions from the existing sources under the implementation plan or an approved schedule and timetable for compliance applicable prior to the request to construct or modify so as to represent reasonable further progress toward attainment of the applicable national ambient air quality standard, taking into account progress already made.

"(2) After January 1, 1979, only a proposed facility where all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility are in compliance with all emission limitations under an applicable implementation plan under section 110 of this Act shall be eligible for an exception under paragraph (1) of this subsection.

"(3) The provisions of this subsection shall not be available where a State has not made any appropriate revision in the applicable implementation plan to include the emission limitations established for sources at the proposed facility location under paragraph (1)(D) of this subsection.".

SEC. 12. Section 115 of the Clean Air Act is amended to read as follows:

"SEC. 115. (a) Whenever the Administrator, upon receipt of requests, reports, surveys, or studies from any duly constituted international agency, has reason to believe that any air pollutant or pollutants emitted in the United States endanger the health or welfare of persons in a foreign country, or whenever the Secretary of State requests him to do so with respect to such pollutant or pollutants which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to such Governor of the State in which such emissions originate.

"(b) The notice of the Administrator shall operate as finding under clause (ii) of subparagraph (H) of subsection (a)(2) of section 110 of this Act and any foreign country adversely affected by the emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

"(c) This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this section.

"(d) Recommendations issued following any abatement conference conducted prior to the enactment of the Clean Air Amendments of 1976 shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 109 of this Act. However, the Administrator, after consultation with all agencies which were party to the conference, may rescind any such recommendation on grounds of obsolescence.".

SEC. 13. Section 117 of the Clean Air Act is amended—

(1) to strike subsections (a) through (c);

(2) to remember subsections (d) and (e) as subsections (a) and (b), respectively; and

(3) to amend redesignated subsection (b)—

(A) by striking the words "the Board and" the first time the word "Board" appears and inserting in lieu thereof the word "any"; and

(B) by striking the words "of the Board" the second time the word "Board" appears.

SEC. 14. Section 118 of the Clean Air Act is amended by striking in the first sentence thereof the words "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements." and inserting in lieu thereof the words "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of air pollution in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States nor any agent, employee, nor officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.".

SEC. 15. (a)(1) Section 119 of the Clean Air Act, as amended, is hereby repealed. All references to section 119 or subsections thereof in section 2 of the Energy Supply and Enviromental Coordination Act of 1974 (Public Law 93-319) shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular. Any certification or notification required to be given by the Administrator of the Environmental Protection Agency under section 2 of the Energy Supply and Enviromental Coordination Act of 1974 shall be given instead by the appropriate State.

(2) In the case of any major emitting facility to which any requirement is applicable under section 113(d)(5)(B) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such facility will be able to comply with all such requirements. In the case of any plant or installation which the State determines (after consultation with the Administrator of the Environmental Protection Agency) will not be subject to an order under section 113(d) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such plant or installation will be able to burn coal in compliance with all applicable emission limitations under the implementation plan.

(3) Any certification required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or under this subsection may be provided in an enforcement order under section 113(d) of the Clean Air Act.

(b) Section 111(a) of the Clean Air Act, as amended, is amended by adding the following new paragraph:

"(7) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or (B) which qualifies under section 113(d)(5)(A)(ii) of this Act, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.".

SEC. 16. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART B—OZONE PROTECTION

"PURPOSES

"SEC. 150. The purposes of this part are (1) to provide for a better understanding of the effects of human actions on the ozone in the stratosphere, (2) to provide for a better understanding of the effects of changes in the ozone in the stratosphere on the public health and welfare, and (3) to authorize the regulation of activities which affect the ozone in the stratosphere in such a way as to cause or contribute to endangerment of the public health or welfare.

"FINDINGS AND DEFINITIONS

"SEC. 151. (a) The Congress finds, on the basis of presently available information, that—

"(1) halocarbon compounds introduced into the environment potentially threaten to reduce the concentration of ozone in the stratosphere;

"(2) ozone reduction will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

"(3) increased incidence of solar ultraviolet radiation is likely to cause increased rates of disease in humans (including increased rates of skin cancer), threaten food crops, and otherwise damage the natural environment; and

"(4) other substances, practices, processes, and activities may affect the ozone in the stratosphere, and should be investigated to give early warning of any potential problem and to develop the basis for possible future regulatory action.

"(b) For the purposes of this part—

"(1) the term 'halocarbon' means the chemical compounds $CFCl_3$ and CF_2Cl_2, other chlorofluoromethanes, and such other halogenated compounds as the Administrator determines may threaten to contribute to reductions in the concentration of the ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause; and

"(3) the term 'aerosol containers' means pressurized dispensing containers.

"STUDIES AND REPORTS

"SEC. 152. (a) The Administrator shall undertake to contract with the National Academy of Sciences to—

"(1) continue the study begun prior to enactment of this part and report to the Administrator and the Congress not later than July 1, 1976, concerning the nature and likelihood of potential direct and indirect effects on the public health and welfare from the release of halocarbons into the atmosphere; and

"(2) perform further studies and report to the Administrator and the Congress not later than October 1, 1977, on—

"(A) the nature and likelihood of potential direct and indirect effects on the ozone in the stratosphere from the release of halocarbons into the atmosphere;

"(B) the nature and likelihood of potential direct and indirect effects on the ozone in the stratosphere from other substances, practices, processes, or activities;

"(C) the nature and likelihood of potential direct and indirect effects on public health or welfare from changes in the ozone in the stratosphere; and

"(D) methods to control or replace halocarbons or other substances, practices, processes, or activities which may affect the ozone in the stratosphere.

"(b) The Secretary of Labor shall study and transmit reports to the Administrator and the Congress (1) not later than October 1, 1976, with respect to the losses and gains to industry and employment which could result from the elimination of the use of halocarbons in aerosol containers and recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom; and (2) not later than October 1, 1977, with respect to the losses and gains to industry and employment which could result from the control of uses of halocarbon compounds other than in aerosol containers, and recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom.

"(c)(1) The National Aeronautics and Space Administration shall—

"(A) pursuant to its authority under title IV of the National Aeronautics and Space Act of 1958, as amended by Public Law 94-39, continue programs of research, technology, and monitoring of the stratosphere for the purpose of understanding the physics and chemistry of the stratosphere and for the early detection of potentially harmful changes in the ozone in the stratosphere;

"(B) in implementing this subsection, coordinate the programs of all Federal agencies relating to the research, technology, and monitoring of the phenomena of the upper atmosphere, including the stratosphere;

"(C) transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator and the Congress on the results of the programs authorized in this subsection, together with any appropriate recommendations for Federal action, including regulations.

"(2) Nothing in title IV of the National Aeronautics and Space Act of 1958, as amended, or this Act shall prevent the National Aeronautics and Space Administration from delegating operational monitoring of the stratosphere to another appropriate Federal agency.

"(d) The Administrator of the National Oceanic and Atmospheric Administration shall continue programs of research and monitoring of the atmosphere for the purpose of early detection of potentially harmful changes in the ozone in the stratosphere and the climatic effects of reduction of ozone in the stratosphere and transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator, the National Aeronautics and Space Administration, and the Congress the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(e) The Director of the National Science Foundation shall encourage and support ongoing stratospheric research programs and continuing research programs that will increase scientific knowledge of the effects of changes in the ozone layer in the stratosphere upon living organisms and ecosystems; and transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter but at least once each Congress, to the Administrator, the National Aeronautics and Space Administration and the Congress on the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(f) The Secretary of Agriculture shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon animals, crops, and other plant life: and shall transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter but at least once each Congress, to the Administrator and the Congress on the results of such programs together with any appropriate recommendations for Federal action, including regulations.

"(g) The Secretary of Health, Education, and Welfare shall—

"(1) encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon human health; and shall transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(2) In carrying out the programs authorized by this subsection, utilize the National Institute of Environmental Health Service to coordinate the programs of all Federal agencies relating to research into the effects upon human health of changes in the ozone layer in the stratosphere.

"(h) The Food and Drug Administration, in cooperation with the Consumer Product Safety Commission, shall consider proposed substitutes for halocarbons in aerosol containers and other uses and shall propose regulations to assure that such substitutes do not adversely affect human health, directly or indirectly.

"(i) The Administrator shall—

"(1) encourage and support continuing research programs that will increase scientific knowledge of the effects on public health and welfare of changes in the ozone layer in the stratosphere. Such research shall be coordinated with other Federal agencies identified in this section. He shall report to the Congress on the findings of such research by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress.

"(2) not later than two years after the date of the enactment of the Clean Air Amendments of 1976, submit to the Congress a summary report of the results of the studies and research conducted under this section by the Environmental Protection Agency and other Federal agencies. The Administrator shall include in the report a summary of his actions regulating sources of halocarbons and his recommendations for control of substances, practices, processes, and activities other than those involving halocarbons, which are found to affect the ozone in the stratosphere and which may cause or contribute to harmful effects on public health or welfare.

"(j) In carrying out the programs provided for in subsections (b) through (i) of this section, the agencies responsible shall enlist and encourage assistance from the Nation's institutions of higher education and private organizations, including industrial, labor, consumer, environmental and other organizations, coordinate such activity with the other appropriate agencies, and solicit and consider the views of the Administrator with regard to plans for the research technology and monitoring involved so that such research technology and monitoring will help provide the information base for the Administrator to decide whether regulatory action is necessary and to take such action if it is necessary.

"(k) The Administrator shall convene a Management Council to facilitate coordination of the programs authorized under this part, which Council shall (A) be comprised of the officials responsible for the research efforts of the agencies required to perform research under this part, and of such other agencies as the Administrator may designate; (B) review plans and funding for pertinent research and studies in order to provide the information base for the Administrator to decide what regulatory action, if any, is necessary, and (C) coordinate the preparation of reports authorized or required under this part to minimize duplication and insure that the necessary reports are made available in a timely fashion.

"REGULATION

"SEC. 153. (a) Not later than January 1, 1978, the Administrator, after considering available reports under section 152, and other available information, and after consulting appropriate agencies and scientific entities, if he then finds that halocarbon emissions from aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare, shall publish proposed regulations which prohibit or restrict the manufacture, sale, import, export, or use of aerosol containers which result in discharge of halocarbons into the atmosphere to the extent necessary to avoid any such endangerment of public health or welfare. Not later than April 1, 1978, and after public hearings, the Administrator shall promulgate and transmit to the Congress final regulations, which shall take effect if not disapproved pursuant to subsection (b) of this section.

"(b) Regulations promulgated under subsection (a) of this section and any amendment or revision thereof shall be transmitted to the Congress. A regulation transmitted under this subsection shall take effect at the end of the first period of ninety calendar days of continuous session of Congress after the date on which the regulation is transmitted to it unless, between the date of transmittal and the end of the ninety-day period, either House passes a resolution disapproving such regulation.

"(c) From time to time after April 1, 1978, the Administrator may revise, promulgate, and submit to the Congress, in accordance with subsection (b) of this section any of the regulations promulgated pursuant to this section in the light of new evidence.

"EXPEDITED REGULATION

"SEC. 154. (a) If the Administrator at any time prior to January 1, 1978, finds it necessary to protect the public health or welfare from significant risk of harmful effects which may reasonably be anticipated to arise in whole or in part from halocarbon emissions from aerosol containers, he shall promptly, after public hearings, promulgate regulations which prohibit or restrict the manufacture, production, sale, import, export, or use of aerosol containers discharging halocarbons into the atmosphere. In promulgating such regulations the Administrator shall take into account the public need for such aerosol containers, the costs and feasibility of such action, and all other costs related to depletion of stratospheric ozone.

"(b) To the extent determined essential to protect the public health and welfare pursuant to this section, the Administrator may in the promulgation of regulations pursuant to subsection (a) proceed without regard to such provisions of title 5 of the United States Code, relating to administrative procedure, as he determines necessary.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this section in the light of new evidence.

"ADDITIONAL REGULATION

"SEC. 155. The Administrator shall—

"(a) consult with appropriate Federal agencies and scientific entities;

"(b) afford an opportunity for public hearing; and

"(c) if he then finds that halocarbons released from sources other than aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of the public health or welfare, publish not later than April 1, 1978, proposed regulations for the control of these emissions. Such regulations shall restrict the manufacture, sale, import, export, or use of such sources to the extent necessary to avoid such endangerment of public health or welfare, and shall include limitations on emissions from such sources to the maximum extent feasible, taking into account the cost of achieving such limitations and all other costs related to the depletion of stratospheric ozone. The Administrator shall take into consideration the findings of other Federal agencies conducting research on stratospheric ozone pertaining to the public health and welfare, and available reports prepared pursuant to section 152. Regulations proposed under this section shall be promulgated in final form within ninety days. From time to time the Administrator may revise any of the regulations issued under this section in the light of new evidence.

"PENALTIES

"SEC. 156. (a) It shall be unlawful for any person to violate any provision of regulations pursuant to section 153, 154, or 155 of this Act.

"(b)(1) The Administrator shall commence a civil action in the United States district court in the judicial district in which the person alleged to be engaged in conduct prohibited by regulations under section 153, 154, or 155 of this Act is located or conducts business, for appropriate relief, including a temporary restraining order or a preliminary or permanent injunction to restrain any such conduct.

"(2) Any person engaged in conduct prohibited by regulations under section 153, 154, or 155 of this Act, other than use of aerosol containers by an ultimate consumer, shall be subject to a civil penalty of not more than $100,000 per day of violation.

"INTERNATIONAL COOPERATION

"SEC. 157. The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this part, and to develop standards and regulations which protect the stratosphere consistent with regulations under section 153, 154, and 155 of this Act. For these purposes the President through the Secretary of State and the Assistant Secretary of State for

Oceans and International Environmental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements. Research agreements shall be developed in accordance with section 8 of Public Law 94-39, and other existing legislation.

"STATE AUTHORITY

"SEC. 158. Nothing in this part shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation controlling the manufacture, sale, or use of halocarbons except that if any regulation is in effect under this part such State or political subdivision may not adopt or enforce any regulation which is less stringent than the regulation under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 159. For the purpose of carrying out the provisions of this part, there are authorized to be appropriated—

"(i) to the National Aeronautics and Space Administration, the National Science Foundation, and the Department of State, such sums as may be necessary for the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977; and

"(ii) to all other agencies such sums as may be necessary.".

(b) Title I of the Clean Air Act is amended by inserting immediately before section 101 the following:

"PART A—AIR QUALITY AND EMISSION LIMITATIONS".

SEC. 17. (a) Section 202(a) of the Clean Air Act is amended by adding a new paragraph (3) as follows:

"(3) The regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, particulates, and oxides of nitrogen from heavy duty trucks, buses, and motorcycles and engines thereof manufactured in model years (A) 1979 and 1980 (and, if appropriate in the judgment of the Administrator, 1978) shall contain standards which require a reduction of emissions of such pollutants established by the application of the best available control technology, taking into account the cost of compliance, as determined by the Administrator, and (B) 1981 and thereafter shall contain standards requiring a reduction of emissions of such pollutants equivalent to the levels required by the standards established under subsection (b) of this section, except that for heavy duty motor vehicles over 10,000 pounds and engines thereof such standards shall constitute a reduction from uncontrolled levels of emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen as actually measured from gasoline powered heavy duty motor vehicles over 10,000 pounds and engines thereof equivalent to the percentage reduction required for light duty motor vehicles in model year 1980 compared to the appropriate model year 1970 base or, for oxides of nitrogen, model year 1971 base (unless the Administrator finds and reports to the Congress that the control technology is not available or has not been available for a sufficient period of time to achieve compliance on any class of heavy duty vehicle or engine thereof and establishes standards which are based on the best available control technology and which constitute a reduction from any standards which apply in model years 1978 through 1980). The Administrator may, where appropriate, divide vehicles and engines thereof regulated under this paragraph into classes by size, weight, horsepower, and use patterns.".

(b) Section 206(a)(1) of the Clean Air Act is amended by inserting "(A)" after "(1)" and by adding at the end thereof the following:

"(B) In the case of heavy-duty motor vehicles, the Administrator may perform, or require to be performed, the test provided under subparagraph (A) of this paragraph on heavy-duty motor vehicle engines for application in a range of vehicle configuration and use patterns.".

SEC. 18. Subparagraph (A) of paragraph (1) of section 202(b) of the Clean Air Act is amended by striking the term "1977", and inserting in lieu thereof "1979"; by striking the phrase "and 1976" after the term "1975" where it first appears, and inserting in lieu thereof "1976, 1977, and 1978".

SEC. 19. Subparagraph (B) of paragraph (1) of section 202(b) of the Clean Air Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during (i) model year 1976 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 3.1 grams per vehicle mile, (ii) (subject to the provisions of paragraph (5) of this subsection) model years 1977, 1978, and 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile, and (iii) model year 1980 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 gram per vehicle mile.".

SEC. 20. Section 202(b)(5) of the Clean Air Act is amended to read as follows:

"(5) The Administrator shall promulgate regulations requiring each manufacturer whose sales represent more than 3 per centum of total light duty motor vehicle unit sales in the world to comply during model year 1979 with the emission standards required under paragraph (1) of this subsection for model year 1980 on 10 per centum of the manufacturer's projected total sales in model year 1979, as determined by the Administrator. Such regulations shall provide that no more than 90 per centum of such manufacturer's projected total sales of light duty motor vehicles in model year 1979 may be sold in compliance with the emission standards otherwise required under paragraph (1) of this subsection for model year 1979.".

SEC. 21. Section 202(b) of the Clean Air Act is amended by adding a new paragraph (6) as follows:

"(6) The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen actually measured from light duty motor vehicles manufactured in model year 1971 not subject to any Federal or State emission standard for oxides of nitrogen. The Administrator shall, by regulations promulgated within one hundred and eighty days after enactment of the Clean Air Amendments of 1976, require each manufacturer whose sales represent at least 0.5 per centum of light duty motor vehicle sales in the United States, to build and, on a regular basis, demonstrate the operation of light duty motor vehicles that meet this research objective, in addition to any other applicable standards or requirements for other pollutants under this Act. Such demonstration vehicles shall be submitted to the Administrator no later than model year 1978 and in each model year thereafter. Such demonstration shall, in accordance with applicable regulations, to the greatest extent possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and (C) assure the utilization of optimum engine, fuel, and emission control systems.".

SEC. 22. Section 202(c)(1) of the Clean Air Act is amended to read as follows:

"(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct continuing comprehensive studies and investigations of the effects on public health and welfare of emissions subject to subsection (a) of this section (including sulfur compounds) and the technological feasibility of meeting emission standards required to be prescribed by the Administrator by subsection (b) of this section. The Administrator shall report to the Congress within six months of the date of enactment of this paragraph and each year thereafter regarding the status of the contractual arrangements and conditions necessary to implement this paragraph.".

SEC. 23. Section 202(d) of the Clean Air Act is amended by amending paragraph (2) to read as follows:

"(2) in the case of any motorcycle or any other motor vehicle or motor vehicle engine not included in paragraph (1), be a period of use the Administrator shall determine.".

SEC. 24. (a) Section 203(a) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding a new subparagraph (B) at the end of paragraph (3) as follows:

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or".

(b) Section 205 of the Clean Air Act is amended to read as follows:

"SEC. 205. Any person who violates paragraph (1), (2), or (4) of section 203(a) or any manufacturer who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any person who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (2), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.".

SEC. 25. Section 203(a)(4) of the Clean Air Act is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or" in lieu thereof, and by adding a new subparagraph (C) as follows:

"(C) except as provided in subsection (c)(3) of section 207, to provide directly or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the coverage of any warranty under this Act is conditioned upon use of any part, component, or system manufactured by such manufacturer or any person acting for such manufacturer or under his control, or conditioned upon service performed by any such person.".

SEC. 26. (a) Section 206(b)(1) of the Clean Air Act is amended by inserting "(A)" after "(b)(1)" and adding a new subparagraph (B) at the end of such subparagraph as follows:

"(B) The Administrator shall within six months of the date of enactment of this subparagraph established a test procedure to implement, beginning no later than model year 1977, the authority of subparagraph (A) of this paragraph.".

(b) Section 206(A) of the Clean Air Act is amended by adding the following new paragraph:

"(3) Each new motor vehicle or new motor vehicle engine shall be certified to conform to the regulations prescribed under section 202 of this Act for the particular vehicle configuration, anticipated use pattern, and Administrator shall certify each vehicle or engine with an allowance to assure conformity with such regulations for air-conditioning or similar equipment to be subsequent equipment of such vehicle or engine. The installed. Such vehicle or engine shall be deemed to be covered by a certificate of conformity only if no equipment is added or other modification made which is not within the allowance provided for in this paragraph.".

SEC. 27. Section 207(a)(1) of the Clean Air Act is amended by adding the following new sentences at the end thereof: "The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for placement during the useful life of the vehicle in order to maintain compliance with regulations under section 202 of this Act, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 per centum of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term 'designed for emission control' as used herein means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. It is not intended to include those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control.".

SEC. 28. (a) Section 207(a) of the Clean Air Act is amended by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202 of this Act. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than one year after the date of the enactment of this paragraph. Before the effective date of such regulations all parts shall be deemed to have such certification.".

(b) Section 207(b)(2) of such Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2) of this section, nor shall any such warranty be invalid on the basis of the installation or use of any air-conditioning system not installed in the factory of the vehicle manufacturer, where the particular vehicle or engine in which such air-conditioning system is installed is certified in accordance with section 206(a)(3) with an allowance for air-conditioning or similar equipment to be subsequently installed.".

SEC. 29. Paragraph (3) of subsection (c) of section 207 of the Clean Air Act is amended to read as follows:

"(3)(A) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine written instructions for the proper maintenance and use of the vehicle or engine by the ultimate purchaser and such instructions shall correspond to regulations which the Administrator shall promulgate.

"(B) The instruction under subparagraph (A) of this paragraph shall not include any condition on the ultimate purchaser's using, in connection with such vehicle or engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguishing between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship, and service performed by independent automotive repair facilities with which such manufacturer has no commercial relationship; except that the prohibition of this subsection may be waived by the Administrator if—

"(i) the manufacturer satisfies the Administrator that the vehicle or engine will function properly only if the component or service so identified is used in connection with such vehicle or engine, and

"(ii) the Administrator finds that such a waiver is in the public interest.

"(C) In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 202 of this Act. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.".

SEC. 30. Section 207 of the Clean Air Act is amended by adding the following new subsection:

"(g) For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of section 207(a)(1)) that has a design life of less than the useful life of such vehicle or engine, unless such part, item, or device is covered by any warranty not man-dated by this Act or unless such part fails prior to its design life.".

SEC. 31. Section 209 of the Clean Air Act is amended by adding the following new subsection:

"(d) Notwithstanding subsection (a) of this section, any State in which a region or portion thereof has been identified pursuant to section 107(d)(1)(A) of this Act may adopt and enforce for model year 1979 the emission standards for light duty motor vehicles required for model year 1980 under section 202(b)(1) of this Act: *Provided*, That the State shows to the satisfaction of the Administartor that the adoption of the standard in 1979 is required to achieve any ambient air quality standard by 1982 and maintain thereafter. Light duty motor vehicles offered for sale within such State shall be certified to comply with such standards in accordance with the procedures established under section 206 of this Act.".

SEC. 32. Section 211 of the Clean Air Act is amended by adding a new subsection (e) as follows:

"(e) The Administrator shall conduct a study and report to Congress by July 1, 1977, on the emission of sulfur-bearing compounds from motor vehicles and motor vehicle engines and aircraft engines. Such study and report shall include but not be limited to a review of the effects of such emissions on public health and welfare and an analysis of the costs and benefits of alternatives to reduce or eliminate such emissions (including desulfurization of fuel, short-term allocation of low sulfur crude oil, technological devices used in conjunction with current engine technologies, alternative engine technologies, and other methods) as may be required to achieve any proposed or promulgated emission standards for sulfur compounds.".

SEC. 33. (a) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

"SEC. 235. (a)(1) Within ninety days after the date of enactment of the Clean Air Amendments of 1976, the Administrator shall commence a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(B) the technological feasibility of controlling such emissions.

"(2)(A) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall publish proposed emission regulations applicable to emissions of any air pollutant from any class or classes of locomotives, locomotive engines and secondary power sources on railroad rolling stock, which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

"(B) Such proposed regulations shall include emission standards setting limits on air pollutant emissions which reflect the degree of emission reduction achievable through the application of the best available technology, taking into account the cost of compliance, as determined by the Administrator. Such regulations may identify the type of technology available to achieve such reduction.

"(3) The Administrator shall hold public hearings with respect to such proposed regulations. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(b) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) Any regulations under this section, or amendments thereto, with respect to locomotives, locomotive engines, and secondary power sources on railroad rolling stock, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety.

"SEC. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"SEC. 237. After the effective date of regulation under section 235 of this Act no State or political subdivision thereof may adopt or enforce any standard respecting emissions of any air pollutant from any railroad locomotives, locomotive engines, or secondary pwer sources on railroad rolling stock, unless such standard is identical to a standard applicable to emissions prescribed by any regulation under this part.".

(b) Section 116 of the Clean Air Act is

amended by striking out "and 233" and inserting in lieu thereof "233 and 237".

Sec. 34. (a) Section 302 of the Clean Air Act is amended by adding five new subsections as follows:

"(i) The term 'emission limitation' means a requirement established by a State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including a detailed schedule and timetable of compliance.

"(j) The term 'schedule and timetable of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

"(k) The term 'major emitting facility' means any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any air pollutant, except that for the purposes of section 110(g) of this Act, the term is limited to the following types of such stationary sources: fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than 250 million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities, and such other major emitting facilities as the Administrator determines to be significant potential sources of air pollutants.

"(l) The term 'baseline air quality concentration' refers to the ambient concentration levels which exist at the time of the first application for a permit in an area under section 110(g) of this Act, based on air quality data available in the Environmental Protection Agency or an air pollution control agency and such monitoring data as the permitting authority may require the permit applicant to submit. Such ambient concentration levels shall take into account all projected emissions in, or which may affect, such area from any major emitting facility on which construction commenced prior to January 6, 1975, but which has not begun operation by the date of the baseline air quality concentration determination. Emissions of sulfur oxides and particulate matter from any major emitting facility on which construction commenced after January 6, 1975. shall be accounted against the limitations on projected increases in pollutant concentrations established in paragraphs (2) and (5) of section 110(g) of this Act.

"(m) The term 'stationary source' shall have the same meaning as such term has under section 111(a)(3) of this Act.".

(b) Section 302(d) of the Clean Air Act is amended—

(1) by striking out the word "and" immediately preceding "American Samoa";

(2) by striking the period immediately following "American Samoa" and inserting in lieu thereof ", and the Trust Territory of the Pacific Islands.".

Sec. 35. (a) Section 304(a) of the Clean Air Act is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or"; and

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(3) against any person who proposes to construct or constructs any new major emitting facility without a permit required under section 110(g) of this Act or who is alleged to be in violation of any condition of such permit.".

(b) Section 304(f) of the Clean Air Act is amended by inserting "requirement," after "a" in paragraph (1).

Sec. 36. Section 307 of the Clean Air Act is amended by adding a new subsection as follows:

"(d) In any judicial proceeding under this Act in which the United States or an officer or employee thereof is a party (other than as an intervenor), any party other than the United States which prevails in such action shall recover from the United States the reasonable costs for such party's participation in such proceeding, including reasonable attorney's fees, expert witness fees, and the costs of any studies, analyses, tests, or engineering reports that the court finds were necessary to litigate such action. In any case in which such party prevails in part, the court shall have discretion to award such reasonable costs.".

Sec. 37. (a) The Clean Air Act is amended by inserting a new section 314 as follows after section 313 and renumbering succeeding sections accordingly:

"EMPLOYEE PROTECTION

"Sec. 314. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act or of any applicable implementation plan.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of an applicable implementation plan approved or promulgated under section 110 of this Act, a new source performance standard under section 111 of this Act, a standard for hazardous emissions under section 112 of this Act, any requirement relating to inspections under section 114 of this Act, or any other prohibition or limitation established under this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, many request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the mater and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this Act or any applicable implementation plan.".

(b) Section 114 of the Clean Air Act is amended:

(1) To amend paragraph (iii) of subsection 114(a) to read as follows:

"(iii) carrying out section 119, 303, or 314.".

(2) To amend paragraph (2) of subsection 114(a) to strike the "and" at the end of section 114(a)(2)(A); to change the period at the end section 114(a)(2)(B) to a comma; and inserting the following:

"and (C) may at reasonable times have access to and copy any employer's records relating to matters being investigated pursuant to section 314.".

Sec. 38. The Clean Air Act is amended by inserting a new section 315 as follows after new section 314 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"Sec. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the economic, technological, and

environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(2) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare, to achieve the other purposes of the Act, including achievement and maintenance of national ambient air quality standards and in accordance with subsection (i) of this section the prevention of significant deterioration of air quality;

"(3) the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(4) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(5) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(6) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act;

"(7) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

"(A) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants' or chemical precursors to photochemical oxidants;

"(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(C) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

"(E) any other oxidant-related issues which the Commission determines to be appropriate;

"(8) alternative strategies for permitting, without impeding the achievement of national ambient air quality standards as expeditiously as possible, the construction of new facilities and the modification of existing facilities in air quality control regions exceeding the national ambient air quality standard for any pollutant regulated under the Act.

"(b) Such Commission shall be appointed within sixty days after enactment of this section and shall be composed of sixteen members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and twelve members of the public appointed by the President. Such Commission shall include four State Governors, who may designate the chief administrative officer of the State's air pollution control agency. The Chairman of such Commission shall be elected from among its members.

"(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(d) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a)(3) of this section no later than March 1, 1977, in order that Congress may have this information in a timely fashion if it deems further changes are needed in the requirements for control of emissions of oxides of nitrogen under this Act.

"(e)(1) Except as provided in paragraph (2) of this subsection, a report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section.

"(2) A report on the results of the study and investigation of the Commission authorized under subsection (i) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section.

"(3) A report on the results of the study and investigation of the Commission authorized under subsection (a)(7) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section. During the preparation of this specific study and report, the Commission shall seek the participation and consultation of the Chairman of the Council on Environmental Quality; the Administrator of the National Oceanic and Atmospheric Administration; the Administrator of the Environmental Protection Agency; and Governors of those States having air quality control regions in which primary ambient air quality standards for photochemical oxidants are exceeded at the time of enactment of these amendments or are projected to be exceeded within the period of the study, or the chief administrative officers of their State air pollution control agencies designated by any State Governor. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a)(7) of this section.

"(f) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(g) There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,000,000.

"(h) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

"(i)(1) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of subsection (g) of section 110 of this Act.

"(2) In carrying out the authority of this subsection the Commission shall study, among others, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subsection (g) of section 110 of this Act, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology.

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutants subject to regulation under subsection (g) of section 110 of this Act.

"(3) For the study authorized under this subsection there shall be made available by contract to the Commission from the appropriation to the Environmental Protection Agency for fiscal year 1977 the sum of $1,000,000.".

Sec. 39. Section 318 of the Clean Air Act, as redesignated by this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 318. There are authorized to be appropriated to carry out this Act, other than sections 103 (f)(3) and (d), 104, 110(h)(8), 150 through 159, 212, 315, and 403, not to exceed $300,000,000 for the fiscal year ending June 30, 1976, $75,000,000 for the transition period ending September 30, 1976, and $200,000,000 for each of fiscal years 1977 and 1978. There are authorized to be appropriated to carry out section 110(h)(8) of this Act $75,000,000 to be available until expended.".

Sec. 40. The Federal Trade Commission shall undertake a study of the impact on competition of any warranty required to be provided pursuant to the Clean Air Act, taking into account the objectives of the Act. Such study shall include public hearings. Such study shall include an analysis of any measures implemented by the Administrator of the Environmental Protection Agency to prevent or diminish the impact of such warranties on competition and shall include a finding with respect to whether or not a significant impact on competition would result from such warranty if the warranty applied for the actual useful life of the vehicle. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs, the Department of Justice, and the Environmental Protection Agency. The report of such study shall be submitted to the Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than eighteen months after the enactment of the Clean Air Amendments of 1976.

SEC. 41. The Congress finds that emissions of oxides of nitrogen are projected to increase dramatically in coming years and that inadequate controls are currently projected for stationary sources of oxides of nitrogen, and directs the Administrator to study and report to the Congress within one year on the possible creation of a system of penalties on emissions of oxides of nitrogen. Such penalties shall be designed for new major emitting facilities, or existing major emitting facilities, or both, to encourage the development of more effective systems and technologies for control of emissions of oxides of nitrogen. Any proposed penalty system recommended by the Administrator should be planned to terminate, for each category of facilities, at such time as the Administrator is satisfied that adequate technology exists and is available to control oxides of nitrogen to the greatest extent practicable for that category of facilities, and that such controls are being, or will be, installed on all such facilities. As a part of such report, the Administrator shall also recommend a system by which major emitting facilities would be required to compile records to determine any such emission penalty that would be due.

SEC. 42. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendments made by this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c) Nothing in this Act nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of this Act or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

SEC. 43. This Act may be cited as the "Clean Air Amendments of 1976".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the Senate bill (S. 3219) and to insert in lieu thereof the provisions of H.R. 10498, as passed, as follows:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1976".

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AUTHORIZATIONS

SEC. 2. (a) Section 316 of the Clean Air Act (42 U.S.C. 1857l) is amended to read as follows:

"APPROPRIATIONS

"SEC. 316. (a) There are authorized to be appropriated to carry out this Act, other than section 212 and authorities providing for research, development, and demonstration under this Act, $200,000,000 for the fiscal year 1977, $200,000,000 for the fiscal year 1978, and $200,000,000 for the fiscal year 1979.

"(b) There are authorized to be appropriated for the fiscal year 1977, $129,223,500 for carrying out authorities providing for research, development, and demonstration under this Act.".

(b) Section 212(i) of such Act (42 U.S.C. 1857f–6e(i)) is amended to read as follows:

"(i) There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $25,000,000 for each of the fiscal years 1977, 1978, and 1979.".

(c) The Clean Air Act (42 U.S.C. 1857, et seq.) is amended by adding a new section to read as follows:

"SUNSHINE IN GOVERNMENT

SEC. 325. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest (A) in any person subject to such Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

"shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of the Clean Air Act Amendments of 1976—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such position shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES

UNREGULATED POLLUTANTS

SEC. 101. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new section:

"LISTING OF CERTAIN UNREGULATED POLLUTANTS

"SEC. 120. (a) In the case of vinyl chloride, cadmium, arsenic, and polycyclic organic matter, unless the Administrator finds, after notice and opportunity for public hearing, that the substance will not cause or contribute to air pollution which may reasonably be anticipated to endanger public health, he shall (not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976) include such substance in the list published under section 108(a)(1) or 112(b)(1)(A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

"(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a))."

(b) Section 109 of such Act (42 U.S.C. 1857c–4) is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall, not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976, promulgate a national primary ambient air quality standard for NO_2 concentrations over a period of not more than one hour unless, based on the criteria issued under section 108(c), he finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.".

(c) Section 108(c) of such Act (42 U.S.C. 1857c–3(c)) is amended by adding the following at the end thereof: "Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator shall revise and reissue criteria relating to concentrations of NO_2 over a period of not more than one hour. Such criteria shall include a discussion of nitric and nitrous acid, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.".

(d) The Administrator shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter which are present or may occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter.

BASIS OF ADMINISTRATIVE STANDARDS

SEC. 102. (a)(1) Section 108(a)(1)(A) of the Clean Air Act (42 U.S.C. 1857c–3(a)(1)(A)) is amended to read as follows:

"(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;".

(2) Section 108(a)(1) of such Act is amended by adding the following at the end thereof: "Such list shall also include air pollutants required to be listed as provided in section 120.".

(b) The second sentence of section 111(b)(1)(A) of such Act (42 U.S.C. 1857c-6(b)(1)(A)) is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare or if it is required to be listed as provided in section 120.".

(c) Paragraph (1) of section 112(a) of such Act (42 U.S.C. 1857c-7(a)(1)) is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.".

(d)(1) Section 202(a)(1) of such Act (42 U.S.C. 1857f-1(a)(1)) is amended by striking out "which in his judgment causes or contributes to, or is likely to cause or contribute to, air pollution which endangers the public health or welfare" and inserting in lieu thereof "which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

(2) Section 202(e) of such Act is amended by striking out "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers" and substituting "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger".

(e) Section 211(c)(1)(A) of such Act (42 U.S.C. 1857f-6c(c)(1)(A)) is amended to read as follows: "(A) if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes to, air pollution which may reasonably be anticipated to endanger the public health or welfare, or".

(f) Section 231(a)(2) of such Act (42 U.S.C. 1857f-9(a)(2)) is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

ECONOMIC IMPACT STATEMENT

SEC. 102A. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"ECONOMIC IMPACT STATEMENT

"SEC. 325. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation establishing a schedule of rates of excess emission fees under section 122(b),

"(4) any regulation under subtitle B of title I (relating to stratosphere protection),

"(5) any regulation under subtitle C of tittle I (relating to prevention of significant deterioration of air quality),

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(8) any aircraft emission standard under section 231, and

"(9) any railroad emission standard under section 235.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (9) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date 90 days after the date of enactment of this section. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact statement respecting such standard or regulation. Such statement shall be included in the docket required under section 307(d)(2) and shall be available to the public as provided in section 307(d)(4). Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact statement. In proposing the action the Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a). Each such explanation shall be part of the statements of basis and purpose required under sections 307(d)(3) and 307(d)(6).

"(c) Subject to subsection (d), the statement required under this section with respect to any standard or regulation shall contain an analysis of:

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects on small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs;

"(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection); and

"(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

"(d) The statement required under this section shall be as extensive as practicable, in the judgement of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed:

"(1) to alter the basis on which a standard or regulation is promulgated under this Act; or

"(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and the environment.

A standard or regulation subject to this section shall be invalid on the basis of a failure to comply with this section only if the Administrator acted arbitrarily and capriciously—

"(A) in failing to prepare and publish an adequate economic impact statement as required by this section, or

"(B) in failing to comply with the procedural requirements of subsection (b)."

COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

SEC. 103. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 101 of this Act, is further amended by adding the following new section at the end thereof:

"COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

"SEC. 121. (a) For purposes of this section, the term—

"(1) 'compliance date extension' means an order issued by the State or by the Administrator to a stationary source postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan;

"(2) 'means of emission limitation' means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics); and

"(3) 'major stationary source' means a source listed as provided in section 111 (relating to new source performance standards) or section 112 (relating to hazardous pollutants) or a source which is a major stationary source within the meaning of section 160 (relating to prevention of significant deterioration of air qualtiy).

"(b) Upon application by the owner or operator of a stationary source, and after notice and public hearing on the record, a compliance date extension may be issued to the source under subsection (c)—

"(1) by the Administrator with the written consent of the Governor of the State in which such source is located, or

"(2) by the State in which such source is located, but—

"(A) in the case of any major stationary source, no such extension shall take effect until the Administrator determines that such extension has been issued in accordance with the requirements of this section, and

"(B) in the case of any source other than a major stationary source, such extension shall cease to apply upon a determination by the Administrator that it was not issued in accordance with the requirements of this section.

Before any hearing conducted under this section, the applicant shall furnish the Administrator or the State (as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of the record of such hearing. No such extension may be granted unless the applicant establishes that he meets the conditions required for the issuance of such extension. Any decision with respect to the issuance of such an extension shall be accompanied by a concise statement of the findings based on the hearing conducted under this section. Not later than ninety days after submission by any State to the Administrator of notice of its determination to issue a compliance date extension under this section to a major stationary source within such State, the Administrator shall determine whether or not such extension has been issued by the State in accordance with the requirements of this section.

"(c)(1) A compliance date extension with respect to any requirement of an applicable implementation plan may be issued to a stationary source under this paragraph if—

"(A) no means of emission limitation applicable to such class of sources and necessary for compliance by such source with such requirement has been adequately demonstrated (as determined by the Administrator taking into account the cost of compliance, non-air quality health and environmental impact, and energy considerations),

"(B) there is a shortage of the means of emission limitation necessary for compliance with such requirement and such means is unavailable to such source,

"(C) the necessary means of emission limitation is unavailable to such source by reason of an embargo, strike, or other event primarily beyond the control of the owner or operator of the source.

"(D) operation of the source is necessary in order to continue production which was scheduled to be transferred to a new source, the construction or operation of which is delayed for reasons primarily beyond the control of the owner or operator of the source applying for such extension, or

"(E) it is impossible for the owner or operator of the source to obtain financing from its own resources or from outside sources for procurement and use of the necessary means of emission limitation due to temporary conditions in capital markets making necessary capital unavailable to such owner or operator.

No extension may be issued under subparagraph (E) of this paragraph if capital is available to the owner or operator of the source for the purpose of improvement or expansion of productive capacity. No extension may be issued under any provision of this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemptions, and compliance orders, previously issued under this Act, the extension will not permit continued emissions of any air pollutant from such source which may cause, or materially contribute to, a significant risk to public health after the primary standard attainment date for such pollutant or unless the continued operation of the source is essential to public health, welfare, or public well-being.

"(2) A compliance date extension with respect to any requirement of an applicable implementation plan may be issued to a stationary source under this paragraph if—

"(A) the source will expeditiously use new means of emission limitation determined by the Administrator to be adequately demonstrated (within the meaning of subsection (c)(1)(A)),

"(B) such new means of emission limitation is not likely to be used by such source unless an extension is granted under this section,

"(C) such new means of emission limitation is determined by the Administrrator to have a substantial likelihood of—

"(i) achieving greater continuous emission reduction than the means of emission limitation which, but for such extension, would be required; or

"(ii) achieving an equivalent continuous reduction at lower cost in terms of energy, economic, or non-air quality environmental impact; and

"(D) compliance by the source with the requirement for which the extension is sought would be impracticable prior to, or during, the installation of such new means because—

"(i) it would require excessive capital expenditures,

"(ii) operating costs would be excessive, or

"(iii) scarce energy resources would be unnecessarily wasted.

No extension may be issued under this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemptions, and compliance orders previously issued under this Act, the extension will not permit continued emissions of any air pollutant from such source which may cause, or materially contribute to, exceeding the national primary ambient air quality standards for such pollutant after the primary standard attainment date or unless the continued operation of the source is essential to public health, welfare, or public well-being. If the new means of emission limitation is determined by the Administrator to possess substantial potential for achieving significantly greater continuous emission reduction and significantly less energy consumption than the use of the means of emission limitation which, but for such extension, would be required, the Administrator or the State (as the case may be) may issue an extension only if such extension will not permit continued emissions of any air pollutant from such source which may cause, or materially contribute to, a significant risk to public health, taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemptions, and compliance orders previously issued under this Act.

"(3)(A) Not in excess of two compliance date extensions for not more than five years each may be issued with respect to any requirement of an applicable implementation plan to any primary nonferrous smelter in existence on the date of enactment of this section if the owner or operator of the smelter applying for such extension demonstrates that it is necessary to use other measures to attain and maintain any national ambient air quality standard to which the requirement relates because no means of emission limitation applicable to such smelter and necessary for compliance by such smelter with such requirement has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, nonair quality health and environmental impact, and energy considerations). No extension may be issued under this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions previously issued under this section, the extension will not permit continued emissions of any air pollutant from such smelter which may cause, or materially contribute to, exceeding the national primary or secondary ambient air quality standard for the pollutant to which the requirement relates after the attainment date for such standard.

"(B) The Administrator may authorize a smelter to which a compliance date extension is issued under this paragraph to use such other measures as may be necessary to meet the requirements of the last sentence of subparagraph (A) of this paragraph if the owner or operator of the smelter agrees—

"(i) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such a system, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the compliance date extension relates, and

"(ii) that any violation of any national ambient air quality standard to which the compliance date extension relates occurring within a liability area designated by the Administrator or of any condition under clause (i), shall be treated as a violation of a requirement of the applicable implementation plan by the owner or operator of the smelter.

In issuing a compliance date extension to which this paragraph applies, the Administrator shall designate as the smelter's liability area, for the purpose of clause (ii), that area within which emissions from the smelter may be anticipated to cause, or materially contribute to, violations of any national ambient air quality standard to which the compliance date extension relates.

"(d) A compliance date extension issued to a source under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. Where the Administrator has determined under subsection (c)(1)(A) that no means of emission limitation has been adequately demonstrated for a class of sources (or in the case of primary nonferrous smelters under subsection (c)(3), for a particular source), the increments of progress shall be limited to requiring compliance with subsection (e) and to procuring, installing and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated. Except with respect to compliance date extensions issued under subsection (c)(3) (relating to primary nonferrous smelters), the aggregate of all such extensions issued to a source under this section shall not result in the postponement of such requirement beyond the date five years from the date on which, but for this section and but for any order issued under section 113 before enactment of this section, compliance would have been required.

"(e)(1) A source to which a compliance date extension is issued under this section shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such extension is in effect. In the case of an extension issued under subsection (c)(3) (relating to primary nonferrous smelters), the best practicable system or systems of emission reduction shall be determined on a source-by-source basis.

"(2) A major source to which a compliance date extension is issued under subparagraph (A) of subsection (c)(1) (relating to no means of emission limitation adequately demonstrated) or under subsection (c)(3) shall commit such resources as the Administrator determines to be reasonable for the owner or operator of that source to undertake, or assist in the conduct of, research on, and development of, the necessary means of emission limitation unless the Administrator determines that such commitment will not expedite or improve such research and development.

"(3) A major source to which a compliance date extension is issued under subsection (c)(1)(B) (relating to shortages), shall make such advance financial commitments as the Administrator determines to be reasonable for the owner or operator of that source to assure timely availability of the necessary means of emission limitation.

"(4) A source to which a compliance date extension is issued under subsection (c)(1)(C) (relating to strikes, embargoes, etc.) shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to,

"(A) a requirement that the persons receiving the extension comply with such reporting requirements as the Administrator determines may be necessary.

"(B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

"(C) requirements that the extension shall be inapplicable during any period during which the necessary means of emission limitation are in fact reasonably available (as determined by the Administrator) to such source.

"(5) A source to which a compliance date extension is issued under subsection (c)(2) (relating to new means of emission limitation) shall comply with the requirement of subparagraph (A) of such subsection (c)(2) (relating to the expeditious use of new means of emission limitation).

"(6) Any extension under subsection (c)(1) or (c)(3) shall be terminated if the Administrator determines on the record, after notice and hearing, that the conditions upon which the extension was based no longer exist. If the owner or operator of the source to which the extension is issued demonstrates that prompt termination of such extension would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under the last sentence of subsection (d).

"(f) If the Administrator determines that a source to which a compliance date extension is issued under this section is in violation of any requirement of subsection (c)(3)(B), (d), or (e) he shall either—

"(1) enforce such requirement under section 113, or

"(2) (after notice and opportunity for public hearing) revoke such extension and enforce compliance with the requirement with respect to which such extension was granted.

"(g) Except for a compliance date extension issued under this section or under section 119 (relating to energy-related authority), a variance or waiver under section 111(f) (relating to variances for technology innovation), or an exemption under section 118 (relating to Federal facilities), or a plan revision under section 110(a)(3), no extension, plan revision, or other action changing a requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator."

(b) Section 113(b)(4) of such Act (42 U.S.C. 1857c–8(b)(4)) is amended by inserting ", 121(c)(3)(B), (d), or (e)," after "114".

(c)(1) Section 110(a) of such Act (42 U.S.C. 1857c–5(a)) is amended by adding the following new paragraph at the end thereof:

"(5) Neither the State, in the case of a plan approved under subsection (a), nor the Administrator, in the case of a plan promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more variances, exemptions, or compliance date extensions have been granted under section 111(f) (relating to technology innovation), 118 (relating to Federal facilities), 119 (relating to energy-related authority), 121 (relating to extensions under State plan), 123 (extension of transportation control compliance dates), or 124 (respecting variances for indirect sources), if such plan would have met the requirements of section 110 if no such variances, exemptions, or extensions had been granted.".

(2) Section 110(a)(2)(H)(ii) of such Act is amended by inserting "except as provided in paragraph (5)," before "whenever".

(3) Section 110(d) of such Act is amended by striking out "implements" and all that follows down through the period at the end thereof and inserting in lieu thereof "implements the requirements of this section.".

(4) Section 110(c)(1)(A) of such Act is amended to read as follows:

"(A) the State fails to submit an implementation plan which meets the requirements of this section,".

(d) Section 110(f) of such Act (42 U.S.C. 1857c–5(f)) is hereby repealed.

(e) Section 307(a)(1) of such Act (42 U.S.C. 1857h–5(a)(1)) is amended by striking out "110(f)" and inserting in lieu thereof "121".

(f) Section 119(b) of such Act (42 U.S.C. 1857c–10(b)) is hereby repealed.

(g)(1)(A) Section 113(a)(3) of such Act (42 U.S.C. 1857c–8(a)(3)) is amended by adding the following at the end thereof: "No order issued under this subsection shall have the effect of permitting any delay or violation of any requirement of this Act (including any requirement of an applicable implementation plan).".

(B) The third sentence of section 113(a)(4) of such Act (42 U.S.C. 1857c–8(a)(4)) is amended by striking out the first comma and all that follows down to the period at the end thereof.

(2) The amendments made by paragraph (1) shall take effect on the date of enactment of this Act with respect to orders issued on or after such date of enactment.

(h) Section 302 of such Act (42 U.S.C. 1857h), as amended by sections 106(f) and 201(e) of this Act, is further amended by inserting the following new subsection at the end thereof:

"(l) 'Primary standard attainment date' means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

ASSESSMENT OF CIVIL PENALTIES

SEC. 104. (a) So much of section 113(b) of the Clean Air Act (42 U.S.C. 1857c–8) as precedes paragraph (1) thereof is amended to read as follows:

"(b) The Administrator may commence a civil action for a permanent or temporary injunction, to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever any person—".

(b) Section 113(b) of such Act is amended by striking out the penultimate sentence thereof and substituting: "Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty and to collect any excess emission fee (and non-payment penalty) owed under section 122. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into consideration (in addition to other factors) the size of the business, the economic impact of the penalty on the business, and the seriousness of the violation.".

EXCESS EMISSION FEE

SEC. 105. (a) Title I of the Clean Air Act, as amended by sections 101 and 103 of this Act, is further amended by adding at the end thereof the following new section:

"EXCESS EMISSION FEE

"SEC. 122. (a)(1) At the time a compliance date extension is granted or approved under section 121(c)(1) to any major stationary source, the Administrator shall determine (on the record of the hearing required to be conducted under section 121) whether or not the circumstances which made such source eligible for such extension were primarily beyond the control of the owner or operator of such source. The Administrator shall promptly notify such owner or operator if the Administrator determines that such circumstances were not primarily beyond the control of the owner or operator. Under regulations promulgated by the Administrator after notice and opportunity for public hearing, a major stationary source granted a compliance date extension under section 121(c)(1) shall pay a fee based on the amount of any air pollutant emitted by such source in excess of the requirement with respect to which such extension is granted if the circumstances which made such source eligible for such extension were not primarily beyond the control of the owner or operator of such source. Regulations under this section shall be promulgated no later than nine months after the date of enactment of this section. The fee imposed under such regulations shall apply only to emissions of an air pollutant which occur after the date one year after such date of enactment.

"(2) The Administrator shall promulgate such regulations as are appropriate to assure the reasonably expeditious conduct of any hearing with respect to a compliance date extension under section 121(c)(1) and the imposition of a fee under this section.

"(3) No compliance date extension under section 121(c)(1) for a major source shall take effect before the date on which the Administrator makes the determination required under paragraph (1) of this subsection.

"(b)(1) The regulations promulgated under subsection (a) shall provide for the imposition of such fee on an annual basis according to a schedule of rates prescribed by the Administrator in such regulations taking into account—

"(A) the objective of preventing any such extension from creating a competitive advantage for sources issued an extension, and

"(B) the objective of encouraging compliance as expeditiously as practicable with the requirement extended.

Such rates may vary with respect to each pollutant and each category of sources. The aggregate amount of any fee imposed under this section with respect to any source shall not exceed an amount equal to $5,000 for each day during which such fee is imposed.

"(2) The amount of the fee imposed with respect to a compliance date extension granted to any source shall be based on the schedule of rates prescribed under this subsection on the basis of the record at which the extension was granted or after compliance with the procedures of section 307(d). Any such reduction shall take into account—

"(A) the degree to which the owner or operator of the source was at fault in failing to meet the requirement extended, and

"(B) such other factors as the Administrator deems equitable.

"(c)(1) The regualtions promulgated under subsection (a) shall—

"(A) provide for the times and manner of payment of such fee by the owner or operator of the source within a reasonable time following any annual period during which such fee applied to such source, and

"(B) require computation of such fee on (i) the basis of continuous monitoring and reporting of emissions by such owner or operator or (ii) such other basis as may be required by the Administrator in any case to which paragraph (2)(B) applies.

Reports required under subparagraph (B) of this paragraph shall specify the amount of the fee for which such owner or operator calculates he is liable with respect to each source for which he is so liable.

"(2)(A) Regulations promulgated under subsection (a) shall specify the types and methods of monitoring to be used for purposes of paragraph (1)(B), but shall permit the use of types and methods of monitoring which the Administrator determines are equivalent to those so specified.

"(B) No such monitoring shall be required if the Administrator determines it to be economically or technologically infeasible.

"(3) Upon petition of the owner or operator of a source subject to a fee under regulations pormulgated under subsection (a), or on his own motion, the Administrator shall provide notice and hearing on the record and may adjust the amount of such fee in any case in which he determines that the amount of such fee is computed improperly or on the basis of incorrect monitoring data.

"(d) Any owner or operator of a stationary source who fails or refuses to pay the amount of any fee imposed under the authority of this section shall, under regulations promulgated under subsection (a), in addition to liability for such fee, pay a nonpayment penalty of 20 percent of the amount of the unpaid balance of the fee owed.

"(e) As used in this section, the term 'major stationary source' has the same meaning as provided by section 121(a)(3).".

(b) Section 113(b) of such Act (42 U.S.C. 1857c–8(b)) is amended by inserting the following after the first sentence thereof: "The Administrator may commence a civil action to recover any excess emission fee, to recover any nonpayment penalty for which any person is liable under section 122, or both. The amount of such fee (and penalty) collected shall be deposited in the general fund of the Treasury.".

(c) Section 113 of such Act (42 U.S.C. 1857 c–8) is amended by adding the following new subsection at the end thereof:

"(d)(1) Whenever notice is required to be provided prior to the bringing of a civil or criminal action under this section, the amount of the civil or criminal penalty imposed shall be computed beginning on the day on which such notice is provided.".

COMPLIANCE DATE EXTENSIONS FOR COAL CONVERSION

SEC. 106. (a)(1) Section 119(c)(1) of the Clean Air Act (42 U.S.C. 1857c–10(c)(1)) is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) The second sentence of section 119 (c)(2)(C) of such Act is amended by striking out "1978" and inserting in lieu thereof "1979" and by striking out "1979" and inserting in lieu thereof "1980".

(b) The first sentence of section 119(c) (2)(C) of such Act is amended to read as follows: "Regulations under subparagraph (B) shall require that the source achieve the degree of emission reduction required under the applicable implementation plan for the date on which the compliance date extension expires.".

(c)(1) Section 119(c)(1) of such Act is amended by inserting after such first sentence thereof the following: "Except as provided in paragraph (2) of this subsection, the Administrator shall also issue a compliance date extension to any coal-burning stationary source which is prohibited from using petroleum products or natural gas, or both by reason of an order which is in effect under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 and with respect to which a variance or compliance schedule had been obtained under the applicable implementation plan prior to issuance of such order in order to permit compliance with the applicable implementation plan by means of conversion to the use of petroleum products or natural gas as its primary energy source. Notwithstanding the preceding provisions of this subsection, the Administrator may refuse to grant a compliance date extension under this subsection in any case in which he finds that such extension may result in a significant endangerment to the public welfare. In making a finding under the preceding sentence the Administrator shall specify the basis of such finding.".

(2) Subparagraph (A) of such section 119 (c)(1) is amended by striking out "or natural gas" and inserting in lieu thereof ", natural gas, or both".

(3) Section 119(c)(2)(B) of such Act is amended by adding the following at the end thereof: "Regulations under this subparagraph shall be amended not later than ninety days after the date of enactment of the Clean Air Act Amendments of 1976 to take into account such Amendments and may be amended or revised from time to time thereafter.".

(d) Section 119(c)(2)(D) of such Act is amended to read as follows:

"(D) No compliance date extension issued to a source under this subsection with respect to an air pollutant shall be effective if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing)—

"(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.".

(e) Section 119(c)(3) is amended to read as follows:

"(3) A source to which this subsection applies may, upon the expiration of a compliance date extension under this section, receive compliance date extensions under the conditions, and in the manner, provided in section 121.".

(f) Section 302 of such Act (42 U.S.C. 1857h) is amended by adding the following new subsection at the end thereof:

"(i)(1) The terms 'emission limitation' and 'emission standard', and 'standard of performance' mean a requirement of continuous emission reduction.

"(2)(A) The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under title I shall not be affected in any manner by (i) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator) or (ii) any other dispersion technique. The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Amendments of 1970 or dispersion techniques implemented before such date.

"(B) For the purpose of this paragraph, the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

"(C) Not later than six months after the date of enactment of this subsection, the Administrator shall, after notice and opportunity for public hearing, promulgate regulations to carry out this paragraph. For purposes of this paragraph, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this paragraph, such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source.".

(g) Section 119(c)(2)(A) of such Act is amended by striking out "and" at the end of clause (ii), striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding the following new clause at the end thereof:

"(iv) the Governor of the State in which is located the source to which the proposed compliance date extension is to be issued gives his prior written concurrence.".

STRATOSPHERE AND OZONE PROTECTION

SEC. 107. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new subtitle:

"Subtitle B—Stratosphere and Ozone Protection

"PURPOSES

"SEC. 150. The purposes of this subtitle are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, and (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere, on the public health and welfare.

"DEFINITIONS

"SEC. 151. For the purposes of this subtitle—

"(1) the term 'halocarbon' means the chemical compounds $CFCl_3$ and CF_2Cl_2 and such other halogenated compounds as the Administrator determines by rule may reasonably be anticipated to contribute to reductions in the concentration of ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause.

"STUDIES AND RESEARCH BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

"SEC. 152. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

"(1) the release into the ambient air of halocarbons,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the uses of bromine compounds, and

"(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substances, and

"(4) other methods to regulate substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere.

"(c)(1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

"(d)(1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modification of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make an interim report of findings one year after the date of the enactment of this subtitle and a final report thirty days after the submission of the final report of the Administrator called for in subsection (f)(1) of this section.

"(2) The Administrator shall make available to the Academy such information in his possession as is needed for the purposes of the study provided for in this subsection.

"(e)(1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) of this section.

"(2) Members of the Coordinating Committee shall include the appropriate official responsible for the relevant research efforts of each of the following agencies:

"(A) the National Oceanic and Atmospheric Administration,

"(B) the National Aeronautics and Space Administration,

"(C) the Federal Aviation Administration,

"(D) the Department of Agriculture,

"(E) the National Cancer Institute, and

"(F) the National Institute of Environmental Health Sciences,

and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

"(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

"(4) The Chairman may request a report from any Federal agency for the purpose of determining if that agency should sit on the Coordinating Committee.

"(5) Upon submission of the final report called for in subsection (f)(1) of this section, the Chairmanship of the Coordinating Committee shall be assumed by the Administrator of the National Oceanic and Atmospheric Administration; and the Environmental Protection Agency shall nominate an appropriate official to serve as a member. The purpose of the Coordinating Committee shall thenceforth be to ensure the coordination of research and study efforts related to the program of research provided for in section 102 of this Act. The responsibilities and duties of the Chairman and the Coordinating Committee shall otherwise be as provided in the preceding paragraphs of this subsection.

"(f)(1) Not later than two years after the date of the enactment of this subtitle, the Administrator shall report to the Interstate and Foreign Commerce Committee and the Science and Technology Committee of the House of Representatives and to the appropriate committees of the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies. The Administrator shall include in the report his recommendations for control of substances, practices, processes, and activities which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, which effect may reasonably be anticipated to endanger public health or welfare. In devising these recommendations the Administrator shall take into account the feasibility and costs of achieving such control.

"(2) Prior to the submission of such final report, the Administrator shall submit quarterly interim reports to the Congress describing the progress of the research and studies and, insofar as possible, indicating anticipated results and conclusions. The first such report, due ninety days after the date of the enactment of this subtitle, shall include the plan and schedule for the research and study to be carried out. Subsequent interim reports shall update this plan and schedule and shall describe and explain revisions to and deviations from the plan.

"(3) If at any time prior to the submission of such final report, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, he shall promptly promulgate and submit regulations to the Congress respecting the control of any such substance, practice, process, or activity. Such regulations shall take effect as provided in section 155.

"(4) Any reports and recommendations required to be submitted under this subsection which are first submitted to the President, the Office of Management and Budget, or any other department or agency of the United States in proposed form shall be submitted to the Congress in such proposed form as well as in final form.

"RESEARCH AND MONITORING BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"SEC. 153. (a) The Administrator of the National Oceanic and Atmospheric Administration is directed to establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of potentially harmful changes in the stratosphere. He shall report to the Congress annually on the findings of such research and monitoring, with the first such report being due two years after the date of the enactment of this subtitle and containing plans for the research and monitoring to be carried out. Each report shall contain recommendations for actions (especially regulatory actions) by the Congress and by other Federal agencies.

"(b) In carrying out the program provided for in subsection (a) of this section the Administrator of the National Oceanic and Atmospheric Administration (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

"REGULATIONS

"SEC. 154. Upon submission of the report required under section 152(f)(1), and after consideration of the research and study under section 152 and, consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control. Not later than three months after proposal of such regulations the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

"DISAPPROVAL BY CONGRESS

"SEC. 155. (a) Regulations promulgated under section 154 and any amendment or revision thereof shall be transmitted to the Congress. A regulation (or amendment or revision) transmitted under this subsection and any regulation submitted under section 152(f)(3) shall take effect at the end of the first period of sixty legislative days of continuous session of Congress after the date on which the regulation (or amendment or revision) is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor such regulation (or amendment or revision).

"(b) For the purpose of subsection (a) of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

"(c) Under provisions contained in a regulation (or amendment or revision) if the Administrator determines that no endangerment of the public health or welfare may reasonably be anticipated to result, a provision of the regulation (or amendment or revision) may be effective at a time later than the date on which the regulation (or amendment or revision) would be effective under subsection (a).

"(d) This section (other than subsection (a)) is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e), and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(e) For the purpose of this section, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the   does not favor the regulations numbered   transmitted to Congress by the Administrator of the Environmental Protection Agency on   , 19   .', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

"(f) A resolution with respect to a regulation (or amendment or revisions) shall be referred to a committee (and all resolutions with respect to the same regulation (or amendment or revisions) shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(g)(1) If the committee to which a resolution with respect to a regulation has been referred has not reported it at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the regulation which has been referred to the committee.

"(2) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same regulation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the commitee be made with respect to any other resolution with respect to the same regulation.

"(4) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(5) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) Motions to postpone, made with respect to the discharge from committee of, or the consideration of, a resolution with respect to a regulation, and motions to proceed to the consideration of other business, shall be decided without debate.

"(7) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a regulation shall be decided without debate.

"OTHER PROVISIONS UNAFFECTED

"SEC. 156. Nothing in this subtitle shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under section 231 (relating to aircraft emission standards), or under any other provision of this Act.

"STATE AUTHORITY

"SEC. 157. (a) Nothing in this subtitle shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere unless a regulation of such substance, practice, process, or activity is in effect under this subtitle.

"(b) If a regulation of any substance, practice, process, or activity is in effect under this subtitle in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political subdivision is identical to the requirement of such regulation. The preceding sentence shall not apply with respect to any law or regulation of any State or political subdivision controlling the use of halocarbons as propellants in aerosol spray containers.".

(b) Title I of such Act is amended by inserting immediately before section 101 the following:

"Subtitle A—Air Quality and Emission Limitation".

(c)(1) Section 113(b)(3) of such Act (42 U.S.C. 1857c–8(b)(3)) is amended by striking out "or 119(g)" and inserting in lieu thereof "119(g), or any regulation effective under section 155".

(2) Section 113(c)(1)(C) of such Act is amended by striking out "or section 119(g)" and inserting in lieu thereof "section 119(g), or any regulation effective under section 155".

PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 108. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 107 of this Act, is further amended by adding at the end thereof the following new subtitle:

"Subtitle C—Prevention of Significant Deterioration

"PREVENTION OF SIGNIFICANT DETERIORATION

"SEC. 160. (a) The purposes of this subtitle are as follows:

"(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur from air pollution (or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air), notwithstanding attainment and maintenance of all national ambient air quality standards;

"(2) to preserve, protect, and enhance the air quality in national parks, national monuments, national seashores, national recreation areas, and other areas of special national or regional natural, recreational, scenic, or historic value;

"(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources;

"(4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

"(5) to assure that any decision to permit increased air pollution in any area where the national primary and secondary ambient air quality standards for any pollutant are not being exceeded is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

"(b) In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain such measures as may be necessary, as determined under regulations promulgated under subsection (c), to prevent significant deterioration of air quality.

"(c)(1) Except as may otherwise be permitted under subsection (d) in the case of air pollutants other than sulfur oxides and particulates, each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, any air pollutant for which a national ambient air quality standard is established. In the case of increases based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall permit such limitations to be exceeded during one such period per year. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutants are not being exceeded. Such classification plan shall provide for designation of all such areas as either class I, class

II, or class III as to each such pollutant. Until such designation is effective, all such areas shall be considered class II, except those areas required to be class I under paragraph (3)(B).

"(2)(A) For any class I area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed 2 percent (10 percent in the case of particulates) of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or seocndary ambient air quality standard whichever is lower.

"(B) For any class II area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-fourth of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard, whichever is lower.

"(C) For each class III area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-half of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard whichever is lower.

"(D) The maximum allowable concentration of any air pollutant for which an increase is permitted under subparagraph (A), (B), or (C) above shall not exceed a concentration for such pollutant for each period of exposure equal to—

"(i) the concentration permitted under the national secondary ambient air quality standard, or

"(ii) 90 percent of the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

"(E) For the purposes of this section, the term 'baseline concentration' means, with respect to a pollutant, the level of concentration of such pollutant determined by adding—

"(i) the level of concentration determined for each period of exposure on the basis of plant capacity in existence on the date on which regulations respecting classification systems for prevention of significant deterioration of air quality initially became effective January 1, 1975,

"(ii) the concentrations for each such period of exposure attributable to new sources which (before the date of enactment of this section) received permits under provisions of applicable implementation plans adopted pursuant to sections 110(a)(2)(D) and 110(a)(4),

"(iii) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to any new or modified source which had filed, on or before January 1, 1975, a completed application (as determined in accordance with regulations of the Administrator) for such a permit (but only if such permit is subsequently granted), and

"(iv) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to other new sources which are not subject to permit requirements under such provisions but which have reached a stage, on or before the date of enactment of this section, comparable to the stage at which permits are normally required under such provisions in the case of sources subject to such permit requirements.

"(F)(i) For purposes of determining the maximum allowable increases permitted under subparagraphs (A), (B), and (C), the allowable percentages shall be determined on the basis of national primary or secondary ambient air quality standards as in effect on the date of enactment of this section.

"(ii) In the case of any standard promulgated on or after such date of enactment for a pollutant, or for a period of exposure, for which no such standard was promulgated before such date, the maximum allowable increases shall be determined on the basis of such standards as first promulgated and not on the basis of any subsequent revision thereof.

"(3)(A)(i) Prior to designation or redesignation of the classification of any area, notice shall be afforded and public hearings shall be conducted in areas proposed to be designated or redesignated and in areas which may be affected by the proposed designation or redesignation. Prior to any such public hearing, a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed designation or redesignation shall be prepared and made available for public inspection and prior to any such designation or redesignation the description and analysis of such effects shall be reviewed and examined by the designating authorities.

"(ii) Prior to the hearing conducted under clause (i) respecting the designation or redesignation of any area under this subsection, if such area includes any Federal lands, the State shall afford the appropriate Federal agency (or agencies) having authority over such lands adequate opportunity to submit an analysis of the proposed designation or redesignation and its recommendations with respect to such designation or redesignation.

"(iii) The Administrator shall promulgate regulations not later than six months after date of enactment of this subtitle to assure, insofar as practicable, that prior to any public hearing on designation or redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major stationary source or development which may be permitted to be constructed and operated only if the area in question is designated or redesignated as class III.

"(B) In designating or redesignating areas under this subsection, the State (or the Administrator who may make an initial designation in the case of a failure of the State to submit a plan which meets the requirements of this section) shall make specific findings as to the desirability of designating or redesignating as class I each area of special environmental concern such as national recreation areas, wild and scenic rivers, national lakeshores and seashores, national forests, or other areas of specific national or regional natural, recreational, scenic or historic value, but in no event shall any unit of the national wilderness preservation system or national park be designated or redesignated other than class I, if such unit or park is in existence on the date of enactment of this section and, as of such date, exceeds twenty-five thousand acres in size. Any—

"(i) unit of the national wilderness preservation system or national park, other than a unit or park referred to in the previous sentence but which exceeds one thousand acres,

"(ii) international park (in excess of one thousand acres),

"(iii) national preserve, national monument, national recreation area, or national primitive area, which preserve, monument, or area exceeds ten thousand acres,

shall initially be designated as class I, and may be redesignated if such redesignation meets the conditions specified in clauses (i) through (ii) of paragraph (3)(C)) only as class II. In no event shall any wild and scenic river, national lakeshore or seashore, national wildlife refuge, or national forest, be designated or redesignated other than class I or class II, if such river, lakeshore, seashore, refuge, or forest exceeds ten thousand acres in size.

"(C) An area may be designated or redesignated by the State (or the Administrator who may make an initial designation in the case of a failure of the State to submit a plan which meets the requirements of this section) as class III if—

"(i) such designation or redesignation has been specifically approved by the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area so designated or redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's (or the Administrator's) designation or redesignation;

"(ii) such designation or redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase level or maximum allowable concentration permitted under the classification of any other area; and

"(iii) such designation or redesignation is otherwise consistent with the requirements of this section.

The requirements of clauses (i) through (iii) of this subparagraph shall also apply as provided in subparagraph (B).

"(D) The Administrator may disapprove the designation or redesignation of any area only if he finds, after notice and opportunity for public hearing, that such designation or redesignation does not meet the requirements of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the designation or redesignation which was disapproved.

"(4)(A) Each applicable implementation plan shall require each new or modified major stationary source to obtain a permit to construct prior to commencement of construction and shall contain provisions for review prior to granting such a permit for any major stationary source in order to determine the effect that emissions from such source will have on air quality concentrations in any area which may be affected by emissions from such source. This paragraph shall not apply in the case of new sources described in paragraphs (2)(E)(ii), (iii), and (iv).

"(B) The review provided for in subparagraph (A) shall be preceded by an analysis, which may be conducted by the State (or any general purpose unit of local government) or by the major stationary source applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such source for each pollutant subject to regulation under this section which will be emitted from such source. Such analysis shall be performed in accordance with regulations of the Administrator. Effective one year after date of enactment of this section, the analysis required by this subparagraph shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such source will exceed the maximum allowable increases or the maximum allowable concentration permitted under paragraph (2). Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under subparagraph (A), unless the Administrator or the State (in accordance with the regulations of the Administrator) determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis, in terms established by regulations of the Administrator, shall be included in any application for such permit. In promulgating regulations respecting the analysis under this paragraph, the Administrator shall not require the use of any automatic or uniform buffer zone or zones. Such regulations shall authorize such analysis to take into account the terrain and meteorology of the areas affected, the size and nature of the proposed source, the degree of continuous emission reduction which could be achieved by such source, and such other factors as may be relevant in determining the effect of emissions from a proposed source on any classified area. Any model or models designated under such regulations shall be adjusted, upon a determination after notice and opportunity for public hearing by the Administrator that such an adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from a source applying for a permit required under this paragraph.

"(C) A permit under this paragraph may be issued to any major stationary source—

"(i) if any proposed permit has been subject to a public hearing with opportunity for interested persons to appear and submit written or oral presentations on the air quality impact of such source and other appropriate considerations;

"(ii) if emissions from such source will not cause, or contribute to, air pollution in excess of any maximum allowable increase or maximum allowable concentration for any pollutant in any area; and

"(iii) if the requirements of this section applicable to such source have otherwise been met.

Each applicable implementation plan shall require any completed permit application (as determined in accordance with regulations of the Administrator) under this paragraph, or under section 110(a)(2)(D), to be granted or denied not later than 180 days after the date of filing of such completed application.

"(D) Each applicable implementation plan shall contain provisions requiring any person who owns or operates, or proposes to own or operate, a major stationary source for which a permit is required under this paragraph to conduct such monitoring as may be necessary to determine the effect which emissions from any such source may have, or is having, on air quality in any area which may be affected by emissions from such source.

"(E) For the purpose of this title, the term 'major stationary source' means any stationary source of air pollutants which directly emits, or has the design capacity to emit, one hundred tons per year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act.

"(F) For the purpose of this section, the term 'commencement of construction' means that the owner or operator, or prospective owner or operator, of a stationary source has undertaken a continuous program of construction or modification of such source.

"(5)(A) In the case of a proposed construction or modification of any source the emissions from which may affect any area required to be designated as class I which may not be redesignated as class II or III under this section, before the issuance of the permit required under paragraph (4), such source may apply for a variance from such emission limitations as may be imposed for purposes of compliance with the maximum increases of SO_2 allowable under paragraph (2) for such area. Nothing in this paragraph shall authorize the granting of a variance from any new source standard of performance.

"(B) A variance may be granted by the Governor under this paragraph if the Governor, after notice and opportunity for public hearing (which may be conducted in conjunction with the permit hearing under paragraph (4)(C)(i)), determines that—

"(i) the source has demonstrated that—

"(I) compliance by the source with such emission limitation is not feasible by the date the source is to commence operation,

"(II) alternative locations of the source which would not necessitate a variance under this section are not reasonably available (taking costs and other appropriate factors into account), and

"(III) the values (including visibility and other esthetic values) for which the area affected was established as a protected category of Federal land will not be adversely affected by such variance,

"(ii) the source agrees to comply with the emission limitations under clause (iii) with respect to which the variance is granted as expeditiously as practicable (but not later than 5 years after the date on which the variance is granted),

"(iii) the source agrees to comply with such interim emission limitations as may be necessary to assure that

"(I) emissions of SO_2 from such source, together with emissions of such pollutant from all other sources will not cause or contribute during more than 3 percent of the days of the year, to levels which exceed the concentrations permitted for the applicable period under paragraph (2),

"(II) during any such time when such concentrations are exceeded, emissions from all such sources will not cause or contribute to levels which exceed the concentrations permitted for such period for a class II area, and

"(III) during any year that the variance is in effect the median concentration of SO_2 for each period of exposure (other than an annual period) (not taking into account such times when such concentrations are exceeded) shall not exceed the median concentrations for such period of exposure which would have occurred during such year if no such variance had been granted, and

"(iv) the source agrees to make adequate commitments to such research and development as may be necessary to insure compliance with the emission limitations with respect to which such variance is granted following the expiration of such variance. Upon making the determinations required under this subparagraph the Governor shall notify the Administrator and the appropriate Federal land manager. Not later than 90 days following the date of such notice, such Federal land manager shall concur or refuse to concur with the Governor's finding under clause (i)(III) and the Administrator shall determine whether or not the requirements of this paragraph have been met. Such concurrence or refusal to concur by such Federal land manager and such determination by the Administrator shall be published together with a detailed explanation of such action, and such action shall be subject to the provisions of section 307(d) (including the provisions respecting judicial review under paragraph (8) thereof). No permit may be issued under paragraph (4) on the basis of a variance under this paragraph before the date on which such Federal land manager has issued notice of such concurrence and the Administrator has published his determination that such requirements have been met.

"(C) a variance granted under this paragraph may be extended for one or more additional 5 year periods if the requirements of this paragraph (other than subparagraph (B)(i)(II)) are met in the same manner as required for the issuance of the original variance and if the Governor determines that the agreement under clause (iv) has been complied with by the source during the preceding 5 year period.

"(6) Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall promulgate regulations under this section specifying with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this section.

"(d) With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulates, an area classification plan such as that referred to in subsection (c) shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under subsection (e)(2) of this section contains other provisions which the Administrator finds will carry out the purposes in subsection (a) at least as effectively as such a classification plan.

"(e)(1) Each State shall adopt and submit to the Administrator, after notice and public hearing, a plan or revision of a plan containing measures meeting the requirements of this section. With respect to sulfur oxides and particulates, such plan or revision shall be submitted no later than one year after the date of enactment of this section. With respect to any other pollutant for which a national ambient air quality standard has been promulgated prior to enactment of this section, such plan or revision shall be submitted no later than two years after the date of enactment of this section. With respect to any air pollutant for which a national ambient air quality standard is promulgated or revised after date of enactment of this section, such plan or revision of such plan shall be submitted not later than eighteen months after the date of promulgation or revision of such standard.

"(2) The Administrator shall, within four months after the date required for submission of a plan under this subsection, approve such plan, or any portion thereof, if he determines that such plan was adopted in accordance with, and meets the requirements of, this section. If a State fails to submit such a plan or if any plan, or portion thereof, is disapproved, the Administrator shall, within four months after the date required for submission of such a plan or after such disapproval, prepare and propose such regulations for such State as are necessary to meet the requirements of this section. After notice and opportunity for public hearing, but not later than ninety days after proposal, the Administrator shall promulgate such regulations with such modifications as he deems appropriate.

"(3) Notwithstanding the maximum allowable concentrations permitted under subsection (c)(2)(D), in the case of any area where such concentrations are exceeded on the basis of plant capacity in existence on the date of the enactment of this section, no plan shall be required, as a condition for approval by the Administrator under this section, to reduce pollution concentrations in such area to such maximum allowable concentrations.

"(f)(1) In the case of any State which has a plan approved by the Administrator under subsection (e)(2), the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that for purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account—

"(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under sections 2 (a) and (b) of the Eenergy Suppy and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order, "(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan,

"(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities,

"(D) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration determined under subsection (c)(2)(E), and

"(E) concentrations of naturally occurring particulate matter.

"(2) No action taken with respect to a source under paragraph (1)(A) or (1)(B) shall apply more than five years after the effective date of the order referred to in paragraph (1)(A) or the plan referred to in paragraph (1)(B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

"(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

"(g) The Administrator shall provide such technical assistance to States and localities as may be necessary to assist in carrying out this section.

"(h)(1) Until such time as an applicable implementation plan is in effect for any area which plan meets the requirements of this section to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under the Clean Air Act prior to enactment of this section shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant, except as otherwise provided in paragraph (2) of this subsection.

"(2) If any regulation in effect prior to enactment of this section to prevent significant deterioration of air quality would be inconsistent with the requirements of subsections (c)(2) and (c)(3)(B), then such regulations shall be deemed amended so as to conform with such requirements.".

(b) Section 110(a)(2) of such Act (42 U.S.C. 1857c-5(a)(2)), as amended by section 201(c) of this Act, is further amended by inserting the following new subparagraph at the end thereof:

"(J) it complies with the requirements of subtitle C of title I (relating to prevention of significant deterioration of air quality).".

(c) Title III of such Act, as amended by sections 306, 201, 304, 211(a), 312, and 313, of this Act is further amended by adding the following new section at the end thereof:

"STANDARDIZED AIR QUALITY MODELING

"SEC. 323. (a) Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out subtitle C of title I (relating to prevention of significant deterioration of air quality).

"(b) The conference conducted under this section shall provide for participation by the National Academy of Sciences, representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

"(c) Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

"(d) The comments submitted and the transcript maintained pursuant to subsection (c) shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under subtitle C of title I."

(d) Not later than one year after the date of enactment of this Act, the Administrator shall publish a guidance document to assist the States in carrying out their functions under subtitle C of part I of the Clean Air Act (relating to prevention of significant deterioration of air quality) with respect to pollutants, other than sulphur oxides and particulates, for which national ambient air quality standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multi-State basis for the purpose of implementing section 160 and section 110 of such Act.

(e) Not later than two years after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the progress made in carrying out subtitle C of title I of the Clean Air Act (relating to significant deterioration of air quality) and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multi-State basis.

(f) The Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"National Commission on Air Quality

"SEC. 325. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the effects of the implementation of requirements on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

"(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population and to achieve the other purposes of the Act;

"(4) the technological capability of achieving and the economic, energy, and environmental and health effects of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act.

The Commission's study and report under paragraph (4) shall include analysis of the health effects of pollutants which are derivatives of oxides of nitrogen.

"(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

"(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

"(2) the effects of limiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

"(c) The Commission shall, as a part of any study conducted under subsection (a)(1) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

"(d) Such Commission shall be composed of eleven members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce (or delegates of such chairmen or member appointed by them from among representatives of such committees) and seven members of the public appointed by the President, by and with the advice and consent of the Senate. The chairman of the Commission shall be elected from among the members thereof.

"(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(f) A report; together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a)(4) of this section no later than March 1, 1978, and the results of the investigation and study concerning subsection (a)(1) of this section no later than two years after the date of enactment of the Clean Air Act Amendments of 1976. The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the same matters required to be studied by the Commission under subsection (a)(1) and to submit such study to the Congress at the same time as required for the report of the Commission concerning such subsection. Funds shall be available in the same manner, and the Administrator shall have the same authorities and duties respecting such study, as provided in the case of the study authorized pursuant to section 202(c).

"(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section. Upon submission of such report or upon expiration of such three-year period, whichever is sooner, the Commission shall cease to exist.

"(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United Stataes Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(i) There are authorized to be appropriated, for use in carrying out this section, not to exceed $17,000,000.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.".

TRAINING

SEC. 109. Section 103(b) of the Clean Air Act (42 U.S.C. 1857b(b)) is amended by striking out paragraph (5), redesignating the following paragraphs accordingly, and adding the following at the end thereof: "In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications. Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.".

REVIEW OF STANDARDS

SEC. 110. Section 109 of the Clean Air Act (42 U.S.C. 1857c–4), as amended by section 101(b) of this Act, is further amended by adding the following new subsection at the end thereof:

"(d)(1) Not later than eighteen months after the date of the enactment of this subsection, and at two-year intervals therafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards promulgated under this section and shall promulgate such new standards and make such revisions in existing standards as may be appropriate under subsection (b).

"(2)(A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

"(B) Not later than one year after the date of enactment of this subsection, and at two-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 108 and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing standards as may be appropriate under subsection (b).

"(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.".

NEW SOURCE STANDARDS OF PERFORMANCE

SEC. 111. (a)(1)(A) Section 111(a)(1) of the Clean Air Act (42 U.S.C. 1857c-6(a)(1)), defining standard of performance, is amended to read as follows:

"(1) The term 'standard of performance' means—

"(A) with respect to any air pollutant emitted from a particular category of sources to which subsection(b) applies, the standard which reflects the degree of emission reduction achievable through the application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated; and

"(B) with respect to any air pollutant emitted from a particular source to which subsection (d) applies, a standard which the State (or the Administrator under the conditions specified in subsection (d)(2)) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.".

(B) Section 111(a) of such Act is further amended by adding the following new paragraph at the end thereof:

"(7) The term 'technological system of continuous emission reduction' means—

"(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

"(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air.".

(2) Section 111 of such Act as amended by section 112(a) of this Act, is further amended by inserting after subsection (f) the following new subsection:

"(g) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative technological system of continuous emission reduction will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the technological system applicable to a source under subsection (a)(1), the Administrator shall permit the use of such alternative technological system by the source for purposes of compliance with such subsection (a)(1) with respect to such pollutant.

"(h)(1) Not later than nine months after the date of enactment of this subsection, the Administrator shall promulgate regulations specifying the categories of major stationary sources which are not included on the list required under subsection (b)(1)(A). Not later than one year after such date of enactment, and at annual intervals thereafter for three additional years, the Administrator shall include 25 percent of such specified categories of sources in such list under subsection (b)(1)(A).

"(2) In determining priorities for listing of unlisted categories of major stationary sources for the purpose of paragraph (1), the Administrator shall consider—

"(A) the quantity of air pollutant emissions which each such category will emit, or will be designed to emit;

"(B) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare; and

"(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

"(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection, the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

"(4) For the purpose of this subsection, the term 'major stationary source' means any stationary source of air pollutants which directly emits, or has the design capacity to emit, one hundred tons per year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act.

"(i)(1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (h)(1) any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

"(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b)(1)(A) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

"(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (h)(2). The Administrator shall revise the list under subsection (b)(1)(A) to apply properly such criteria.

"(4) Upon application of the Governor of a State showing that—

"(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

"(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) for such category no longer reflects the greatest degree of emission limitation achieveable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non air quality health and environmental impact and energy requirements) has been adequately demonstrated,

the Administrator shall revise such standard of performance for such category accordingly.

"(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 112, the Admiinstrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

"(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 112 is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

"(7) Unless later deadlines for action of the Administrator are otherwise prescribed under this section or section 112, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

"(A) find that such application does not contain the requisite showing and deny such application, or

"(B) grant such application and take the action required under this subsection.

"(8) Before taking any action required by subsection (h) or by this subsection, the Administrator shall provide notice and opportunity for public hearing.

"(j) as a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source.".

(b)(1) Section 111(d)(1) of such Act is amended by striking out "emissions standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the exitsing source to which such standard applies.".

(2) Section 111(d)(2) of such Act is amended by adding at the end thereof the following new sentence: "In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.".

VARIANCES FOR TECHNOLOGY INNOVATIONS

SEC. 112. (a) Section 111 of the Clean Air Act (42 U.S.C. 1857c-6), as amended by section 111 of this Act, is further amended by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Any person proposing to own or operate a new source may request the Administrator for a variance from the requirements of this section with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction which have not been determined by the Administrator to be adequately demonstrated. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a variance under this paragraph, if the Administrator determines after notice and opportunity for public hearing, that—

"(i) there is a substantial likelihood that the proposed system will achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or non-air quality environmental impact, and

"(ii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

In determining whether an unreasonable risk exists under clause (ii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce, or eliminate emissions of any unregulated pollutants; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (ii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system if such pollutant was not emited, or was emitted in significantly lesser amounts without use of such system.

"(B) A variance under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(i) emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

"(ii) proper functioning of the technological system or systems authorized.

Any such term or condition shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 113.

"(C) The number of variances granted under this paragraph with respect to a proposed technological system of continuous emission reduction shall not exceed such number as the Administrator finds necessary to ascertain whether or not such system will achieve the objectives specified in clauses (i) and (ii) of subparagraph (A).

"(D) A variance under this paragraph shall extend to the sooner of—

"(i) a date (not more than ten years after the date on which the variance is granted) determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

"(ii) the date on which the Administrator determines that such system has failed to—

"(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

"(II) comply with the condition specified in paragraph (1)(A)(ii),

and that such failure cannot be corrected.

"(2)(A) If a variance under paragraph (1) is terminated under clause (ii) of paragraph (1)(D), the Administrator shall grant a waiver from the requirements of this section for such period as may be necessary for procurement, installation, and test operation of a technological system or systems such as will comply with standards of performance under subsection (b) of this section. Such period shall not extend beyond the date two years from the time such waiver is granted.

"(B) A waiver granted under this paragraph shall set forth a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practical and include such measures as are necessary and practicable in the interim to minimize emission. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section 113.".

CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 113. (a) Section 118 of the Clean Air Act (42 U.S.C. 1857f), relating to control of pollution from Federal facilities, is amended by striking out "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and by inserting in lieu thereof "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, respecting control and abatement of air pollution in the same manner, and to the same extent, as any nongovernmental entity. Neither the United States nor any officer, agent or employee thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such requirement.".

(b) Section 113(d) of such Act (42 U.S.C. 1857c-8), as added by section 105(c) of this Act, is amended by adding the following new paragraph at the end thereof:

"(2) For purposes of this section, the term 'person' includes any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.".

(c) Section 118 of the Clean Air Act (42 U.S.C. 1857f) is amended by inserting the following immediately before the last sentence thereof: "In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.".

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

SEC. 114. Section 105(b) of the Clean Air Act (42 U.S.C. 1857c(b)) is amended by inserting at the end thereof the following: "The Administrator, after notice and opportunity for a public hearing and upon making a general finding of good cause and appropriate specific findings, may waive the prohibition of the third sentence of this subsection. For the purpose of this subsection, the term 'finding of good cause' may include a finding that—

"(1) denial of the grant would result in extreme hardship;

"(2) the general purpose unit of government, or higher applicable unit of government, of which such agency is a part has declared the existence of a financial emergency and is thus unable to meet the requirements of this subsection; or

"(3) the circumstances which made such agency unable to meet the requirements of this section were beyond its control.".

TEMPORARY EMERGENCY REVISIONS

SEC. 115. Section 110 of the Clean Air Act (42 U.S.C. 1857c-5), as amended by section 103 of this Act, is amended by adding at the end thereof the following new subsection:

"(f)(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing on the record, an emergency revision of an implementation plan with respect to such source may be made by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) An emergency revision under this subsection shall be made only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source an economic emergency involving actual or threatened high levels of unemployment;

"(B) such unemployment can be totally or partially alleviated by such emergency revision; and

"(C) such emergency revision, together with all other revisions effective under this subsection, will not result in emissions from such source of any air pollutant which may cause, or materially contribute to any delay in the attainment of, or preventing the maintenance of, any national ambient air quality standard for such pollutant.

"(3) A temporary emergency revision made by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four month period, approve such revision if he determines that it meets the requirements of paragraph (2) of subsection (a) of this section.

"(4) This subsection shall not apply in the case of a plan promulgated by the Administrator under subsection (c) of this section.

"(5) No emergency revision may be effective pursuant to this subsection if such revision contains any plan provision which has been disapproved by the Administrator (or any plan provision which would have the effect of a provision which has been disapproved by the Administrator) at any time during the 18 months preceding the date of application for such revision.".

TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

SEC. 201. (a) Title III of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 306 of this Act, is further amended by adding the following new section at the end thereof:

"INDIRECT SOURCE REVIEW PROGRAM STUDY

"SEC. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(g) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study.".

(b) Section 110(a) of such Act (42 U.S.C. 1857c–5(a), as amended by section 103(c) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6) Except as may be otherwise provided under paragraph (2)(I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan.".

(c) Section 110(a)(2) of such Act (42 U.S.C. 1857c–5(a)(2)) is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—

"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant; and".

(d) Title I of the Clean Air Act (42 U.S.C. 1857c–5), as amended by section 101, 103, 105, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON INDIRECT SOURCE CONTROLS

"SEC. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b)(1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions sepcified in paragraph (1)(B) exist or in any region designated in paragraph (1)(C).

"(c)(1)(A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a)(2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1)(C) for approval or disapproval of a State plan revision submitted under paragraph (1)(B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modificaiton complies with such approved plan.

"(d)(1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e)(3), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c)(3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e) (1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate regulations under section 110(c) (1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c) (1) (C) for approval or disapproval of a State plan revision.

"(f) (1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or

which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section or a plan revision under section 110(a) (3), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b) (5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan.

No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g) (1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1).

"(h) (1) The Administrator may not deny, on the basis of any provision of this Act (other than section 111 or section 112), an application for Federal financial assistance under any other provision of law for construction of a sewage treatment plant (with a specified capacity level), except as otherwise provided in paragraph (2).

"(2) The prohibition contained in paragraph (1) shall not apply if the Administrator determines that the effects of the sewage treatment plant (with such capacity level) would (A) cause or contribute to air pollution which exceeds the national ambient air quality standard for any air pollutant after the attainment date required for such standard in the applicable implementation plan or (B) violate any requirement of an applicable implementation plan. The Administrator shall, within 30 days after the determination under the first sentence of this paragraph, notify the State of such determination and provide opportunity for the State to revise the implementation plan accordingly. If, at any time after a determination under the first sentence of this paragraph, the applicable implementation plan is revised and approved under section 110(a) (3) so as to assure that the effects of such plant will not cause or contribute to such pollution or violate any such requirement, the Administrator may not deny any such application on the basis of any provision of this Act (other than section 111 or section 112).

"(3) In making the determination referred to in aparagraph (2) (A) of this subsection, the Administrator must apply the assumptions specified in subsections (a) (1) and (2).".

(e) Section 302 of such Act (42 U.S.C. 1857h), as amended by section 106(f) of this Act, is further amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110 (c) (2) (D) (ii)).

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211 (c) (1) (A), 231, or 235 of this Act.".

(f) Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)) is amended by striking out "land use and" in paragraph (2) (B) and by inserting after "transportation controls" the following: ", air quality maintenance plans, and preconstruction review of direct sources of air pollution".

EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

SEC. 202. Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by sections 101, 103, and 105 of this Act, is further amended by adding at the end thereof the following new section:

"EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

"SEC. 123. (a) (1) Upon application submitted by the Governor of a State, the Administrator may extend the date required for compliance with any transportation control measure adopted by a State and included in an applicable implementation plan.

"(2) Upon application submitted by the chief executive officer of a general purpose unit of local government which is carrying out responsibility delegated under section 110(c) (3), or on his own motion, the Administrator may extend the date required for compliance with any transportation control measure which was promulgated by the Administrator under section 110(c). In the case of an application submitted by such officer, such extension shall apply only to the extent that such measure applies within the jurisdiction of such unit.

"(b) (1) (A) No extension may be granted under subsection (a) with respect to any transportation control measure unless such measure is applicable in an air quality control region in which the State or unit of local government (or the Administrator, as the case may be) has implemented within such jurisdiction all requirements (except as provided in subparagraph (B)) of the applicable implementation plan which are required to be implemented as of the date of application and are intended to control any mobile source-related pollutant, Such implementation includes initiating and diligently pursuing enforcement actions to bring noncomplying persons into compliance.

"(B) For purposes of subparagraph (A), the State or unit of local government (or Administrator) shall not be required, as of the date on which such extension is granted, to have implemented:

"(i) transportation control measures with respect to which a finding has been made under paragraph (2), and

"(ii) requirements for indirect source review programs (as defined in section 124).

"(2) No extension may be granted under

subsection (a) for any transportation control measure unless—

"(A) the Administrator finds that implementation of such measure on the required date would (i) cause, or contribute to, a failure to meet basic transportation needs of the area, (ii) be infeasible, or (iii) otherwise cause seriously disruptive and widespread economic or social effects,

"(B) the Administrator states with reasonable specificity the factual basis of the finding made under subparagraph (A), and

"(C) the applicant has submitted (or the Administrator has prepared, if acting on his own motion)—

"(i) a detailed planning study identifying and quantifying the respect (if any) in which the basic transportation needs of the area could not be met if the applicable measure were not extended, the seriously disruptive and widespread economic or social effects (if any) of not extending such measure, the respects (if any) in which implementation of such measure would be infeasible, and the effects on public health and welfare expected to result from the continued air pollution associated with the extension,

"(ii) an examination of measures (including establishment, improvement, or expansion of public transportation) other than those measures for which an extension is sought, which could be implemented and used to attain and maintain national ambient air quality standards as expeditiously as practicable, and

"(iii) a detailed description of the measures to be undertaken during all such extensions to minimize any risk to public health.

"(3) No extension may be granted under subsection (a) unless there has been prior notice and opportunity for public hearings.

"(4) No finding may be made under paragraph (2)(A)(i) unless the Administrator finds that implementation of public transportation (or other means) which would meet such needs by such required date would be impracticable.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, each transportation control measure for which an extension is granted under subsection (a) shall be required to be implemented (under a compliance schedule containing increments of progress prescribed pursuant to such extension) as expeditiously as practicable but not later than January 1, 1980.

"(B) Such measure shall be required to be implemented as expeditiously as practicable but not later than January 1, 1985, if the applicable implementation plan is revised within the one-year period specified in paragraph (6)—

"(i) to include comprehensive measures (including compliance schedules containing increments of progress) to, as expeditiously as practicable, establish, expand, or improve public transportation to meet basic transportation needs while implementing transportation control measures necessary to attain and maintain national ambient air quality standards, and

"(ii) to meet the requirements of paragraphs (1) and (2) of subsection (d).

"(6) No extension for any transportation control measure under subsection (a) shall remain in effect for more than one year after such extension is granted unless, before such date, the applicable implementation plan is revised to include—

"(A) requirements to use (insofar as necessary), for the purpose of implementing the transportation control measures with respect to which such extension was granted, funds which are reasonably available to the State or local government; and

"(B) in the case of an area which has been granted an extension beyond January 1, 1980, requirements to use (insofar as necessary), for the additional purpose of implementing the comprehensive public transportation measures required under paragraph (5)(B), funds which are reasonably available to the State or local government.

"(c) In the case of any applicable implementation plan containing measures requiring—

"(1) retrofits on other than commercially owned in-use vehicles, or

"(2) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects if implemented before January 1, 1985,

the Administrator may, after notice and opportunity for public hearing, approve elimination of such measures from the plan notwithstandinig the requirements of section 110(a). No later than nine months after approval of the elimination of any such measure is granted with respect to any applicable implementation plan, a revised plan must be submitted (as provided in section 110(a)(2)(H)) to meet such requirements.

"(d) Not later than one year after date of enactment of this section, the Administrator shall complete a review of all applicable implementation plans for mobile source-related pollutants to determine whether or not such plans would be adequate as of such date to attain, by the date required under section 110, the national primary ambient air quality standards for such pollutants and maintain them thereafter if no extensions, exemptions, or variances had been granted under sections 111(b), 118, 119, 121, 124, and this section. Unless the Administrator determines that any such plan would be adequate (within the meaning of the preceding sentence) he shall require revision of such plan. The revised plan shall be such as would be adequate (within the meaning of the first sentence of this subsection). The Administrator shall promptly notify the State when any plan revision is required under this subsection and shall require submission of such revised plan on such date (not sooner than sixty days or later than six months after such notice) as he may determine. Such revised plan shall—

"(1) identify and provide for implementation of the remaining emission reductions necessary for the plan to be adequate within the meaning of this subsection with respect to mobile source-related pollutants and the measures to be implemented to accomplish these reductions;

"(2) identify the financial and manpower resources necessary to carry out such measures, and commit the State or local government to provide those resources; and

"(3) include emission limitations, applicable to stationary sources which emit any mobile source-related air pollutant in significant amounts, requiring reduction of such emissions to the maximum extent technologically feasible (or a finding that any such emission limitation not so included is not necessary for the plan to be adequate within the meaning of this subsection and a justification for such finding).

If the Administrator determines that a proposed plan revision does not incorporate the most expeditious practicable date for achievement of adequacy within the meaning of this subsection, he shall notify the Governor of the deficiencies in the proposed revision. This notification shall include the Administrator's judgment as to the additional control strategies that should be incorporated, and the most expeditious dates which are practicable for implementing the measures included or to be included in the plan. The notification shall also specify a date for submission of the modified plan revision not more than one hundred and twenty days from the date of notification.

"(e) Except for a compliance date extension issued under this section, a plan revision under section 110(a)(3), or an elimination approved under subsection (c), no extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any transportation control measure by the State or by the Administrator.

"(f)(1) For purposes of this section and section 110(a)(2)(B), the term 'transportation control measure' does not include any measure for management of parking supply (as defined in section 110(c)(D)(ii) except that such definition shall be applied without regard to whether or not a facility is new) or any indirect source review program (as defined in section 124).

"(2) For purposes of subsection (b)(6), the term 'funds which are reasonably available' means—

"(A) grants which have been made to a State or local government under Federal law,

"(B) funds which have been appropriated under State or local law, or

"(C) any combination of such grants and funds, which may, consistent with the terms of the legislation providing for such grant or making such appropriation, be used for the purposes referred to in such subsection (b)(6).".

LIGHT-DUTY MOTOR VEHICLE EMISSIONS

SEC. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f–1(b)(1)(A)) is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202(b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) (A) (i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A) (i).

"(6) (A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Adminstrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption.".

"(7) (A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1985 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section (including any interim standard prescribed under paragraph (5) (C)) for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year. The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a) (1) for such model year,

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph,

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978
1982	1979
1983	1980
1984	1981

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subgraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A) (ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid, or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraphs (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c) (1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

(e) Part A of title II of such Act is amended by redesignating section 214 as section 218 and by inserting after section 213 the following new section:

"STUDY OF UNREGULATED POLLUTANTS FROM MOTOR VEHICLES

"SEC. 214. (a) The Administrator shall conduct a study concerning the effects on health and welfare of emissions from motor vehicles or motor vehicles engines to which section 202 applies of sulfuric acid mist, other pollutants which are not subject to standards under section 202, and pollutants which may be present in the ambient air which are derivatives of any pollutant emitted from motor vehicles. Such study shall characterize and quantify such emissions, and determine the effects of such pollutants emitted from diesel, rotary, stratified charge, lean burn, catalytically equipped, and conventional internal combustion engines as well as engines or control devices which the Administrator determines are likely to come into common use.

"(b) The Administrator shall report to Congress the findings and results of the study conducted under subsection (a) not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976 and annually thereafter.

"(c) The reports required to be submitted to the Congress under this section shall be submitted directly to the Congress by the Administrator before disclosure or submission of such reports to the Office of Management and Budget, the President, or any other department or agency of the United States. Nothing in this subsection shall be construed to preclude the Office of Management and Budget from submitting its comments concerning any such report to the Congress.".

(f) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f-2(a)) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and substituting "; or", and by adding the following new paragraph at the end thereof:

"(5) for any manufacturer applying for a suspension under section 202(b) (5) or to which a revised or changed standard under section 202(a) (3) applies, to fail to make maximum efforts which are feasible for such manufacturer to comply with the standard with respect to which such suspension was granted or with such revised standard.".

(f) Section 204(a) and the first sentence of Section 205 of such Act are each amended by striking out "paragraph (1), (2), (3) or (4) of".

EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f-1) is amended by adding the following new paragraph at the end thereof:

"(3) (A) (i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1978. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1978 through 1984 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year 1985 shall contain standards which require a reduction of at least 65 percent in the case of oxides of nitrogen and a reduction of at least 90 percent in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1, through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A)(ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning five model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production for such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if—

"(i) he finds that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under section 160 (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply,

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A)(ii) or, if applicable, subparagraph (E), and

"(ii) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E)(i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under sections 214 and 215), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A)(ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year five years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category.".

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

(c) Section 312 of such Act is amended by inserting "AND STUDIES ON COST-EFFECTIVENESS ANALYSIS" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act.".

(d) Part A of title II of such Act (as amended by sections 203 and 216 of this Act) is further amended by inserting after section 215 the following new section:

"STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES

"SEC. 216. (a)(1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1976. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a).".

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f)(1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under paragraph (1) if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than December 31, 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than December 31, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant;

"(B) may vary by class or category or vehicle or engine;

"(C) shall be based on the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction.".

AIRCRAFT EMISSION STANDARDS

SEC. 205. (a) Section 231(c) of the Clean Air Act (42 U.S.C. 1857f–9(c)) is amended to read as follows:

"(c) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1976 or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

(b) Section 231(a) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) Not later than 12 months after the date of the enactment of this paragraph and after fulfillment of the procedural requirements contained in paragraph (3) (whether before or after the enactment of this paragraph), the Administrator shall issue final regulations containing emission standards under this section applicable to emissions of air pollutants from nonmilitary supersonic aircraft or supersonic aircraft engines.".

ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

SEC. 206. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f-1(a)), as amended by section 204(a) of this Act, is further amended by inserting "paragraph (1) of" before "this subsection" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

"(4)(A) Effective with respect to vehicles and engines manufactured after model year 1977, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.".

(b) Section 206(a) of such Act (42 U.S.C. 1857f-5(a)) is amended by adding at the end thereof the following:

"(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a)(4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.".

(c)(1) Section 206(b)(2)(A)(i) of such Act (42 U.S.C. 1857f-5(b)(2)(A)(i)) is amended by inserting "and with the requirements of section 202(a)(4)" after "conformity was issued".

(2) Section 206(b)(2)(A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 207. Section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f-1(b)(1)) is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured during or after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph.".

RAILROAD LOCOMOTIVE EMISSION STANDARDS

SEC. 208. (a) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 235. (a) Within ninety days after the date of enactment of this section, the Administrator shall commence a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(1) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(2) the technological feasibility of controlling such emissions.

"(b) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of locomotives, locomotive engines, and secondary power sources on railroad rolling stock, which in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare.

"(c)(1) The Administrator shall hold public hearings with respect to such proposed standards. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(2) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(3) Any regulations under this section, or amendments thereto, shall apply unless disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to railroad safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.

"COMPLIANCE

"SEC. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"STATE STANDARDS AND CONTROLS

"SEC. 237. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any railroad locomotives, locomotive engines, or secondary power sources on railroad rolling stock if the Administrator has promulgated a standard applicable to such emissions, unless such standard is identical to a standard applicable to such locomotives, locomotive engines, or secondary power sources on railroad rolling stock, under this part.".

(b) Section 116 of the Clean Air Act is amended by striking out "and 233" and inserting in lieu thereof "233, and 237"

MOTOR VEHICLE PARTS CERTIFICATION AND STUDY BY FEDERAL TRADE COMMISSION

SEC. 209. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f-5a(b)(2)) is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).".

(b) Section 207(a) of such Act is amended by inserting "(1) after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.".

(c)(1) Section 207(b) of this Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) In lieu of the eighteen-month or eighteen thousand mile period referred to in subsection (b) there shall be substituted the useful life of the vehicle or engine (as determined under section 202(d)) if the Federal Trade Commission finds under section 209(d) of the Clean Air Act Amendments of 1976 that no significant anticompetitive effects would result from the application of such warranty for such useful life.".

(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen month or eighteen thousand mile period specified in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not significant anticompetitive effects would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs.

(e) Section 207(c)(3) of the Clean Air Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a)(2).".

VEHICLE INSPECTION AND MAINTENACE

SEC. 210. (a) Section 110(a)(2)(G) of the Clean Air Act (42 U.S.C. 1857c–5(a)(2)(G)) is amended by inserting the following before the semicolon at the end thereof: ", and it complies with applicable provisions of section 217 respecting the annual inspection and maintenance of motor vehicles registered in such State".

(b) Part A of title II of the Clean Air Act (42 U.S.C. 1857f–1 and following), as amended by sections 203, 216, and 206 of this Act, is further amended by inserting the following new section after section 216:

"INSPECTION AND MAINTENANCE

"SEC. 217. (a) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State shall provide for the annual inspection and testing of all light-duty vehicles to which this section applies which are registered in such State by any person whose residence or principal place of business (or both) is located in such air quality control region. Such inspection and testing shall be for purposes of determining compliance by such vehicles with the emission standards specified in subsection (b). Such plan shall, except as permitted under subsection (b)(4)(B) and subsection (c)(1), prohibit the registration and operation of vehicles subject to such inspection and testing in such State unless such vehicles comply with such standards.

"(b)(1) The standards applicable to light duty motor vehicles operating during the annual period beginning eighteen months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969----------	8.0	800
1970 through 1974-----	6.0	600
After 1974-------------	3.0	300

"(2) The standards applicable to light duty motor vehicles operating during the annual period beginning thirty months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969----------	7.0	700
1970 through 1974-----	5.0	500
After 1974-------------	2.0	200

"(3) The standards applicable to light duty motor vehicles operating during any annual period beginning forty-two months or more after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969----------	5.0	600
1970 through 1974-----	4.0	400
After 1974 ------------	2.0	200

"(4) The Administrator shall promulgate regulations—

"(A) providing for the exemption from the inspection and testing required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(B) authorizing the operation of vehicles which have not met the applicable standards for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such standards or to undertake the tuneup required for registration and operation of the vehicle pursuant to subsection (c)(1).

"(5) For the purposes of complying with the provisions of subsection (a), the plan shall require testing for emissions using testing procedures and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate. Compliance with the levels specified in the tables contained in paragraph (1) shall be determined on the basis of engines operating at idle (as determined by the Administrator).

"(c)(1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of noncomplying vehicles may permit the registration and operation of such vehicles if, following the inspection and testing by reason of which such vehicle was determined to be a noncomplying vehicle or within the three-month period immediately preceding the date of such inspection and testing, a major engine tuneup has been undertaken with respect to such vehicle and in the case of a vehicle having such a tuneup following such inspection and testing, such vehicle has (for purposes of providing statistical information only) been reinspected and retested under this section following such tuneup. Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) Not later than four years after the date of enactment of this section, the Administrator shall include in his report to the Congress under section 313 an analysis of any new inspection and testing methods or technology which have become available during such four-year period and which may be appropriate (taking cost into account) for purposes of this section.

"(d) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.".

(c) Section 210 of such Act (42 U.S.C. 1857f–6b) is amended by adding the following at the end thereof: "Grants may be made under this section by way of reinbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. The preceding sentence shall not apply to any amounts expended by a State before the date of the enactment of the Clean Air Act Amendments of 1976. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection maintenance program is not equal to or more stringent than the procedures and standards specified in section 217.".

(d) Not later than three months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section and each such State shall, within 9 months after receiving such notice, submit to the Administrator a revision of such plan. Within 3 months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendments made by this Act and was adopted after reasonable notice and hearing. The provisions which are required under section 217 to be included in such plan shall be implemented not later than 18 months after the date of enactment of this Act.

COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

SEC. 211. (a) Title III of the Clean Air Act, as amended by sections 306, 201, and 304 of this Act, is further amended by adding the following new section at the end thereof:

"COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

"SEC. 320. The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1976 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment.".

(b) Section 113(b)(3) of such Act (42 U.S.C. 1857c–8(b)(3)), as amended by section 107, is further amended by inserting "or 320" before the semicolon.

(c) Title III of such Act, as amended by sections 306, 201, 304, 312, 313, and 108 of this Act and by subsection (a) of this section is further amended by adding the following new section at the end thereof:

"VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

"SEC. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b)(1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than 18 months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b)(2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b)(2) which are detrimental. The analysis required under clause (C) shall include a discussion of the measures referred to in subsection 202(a)(5) (pertaining to fill pipe standards) and 202 (a)(6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b)(2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause such independent marketers to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of greater than 50 percent of its stock.".

TESTING BY SMALL MANUFACTURERS

SEC. 212. Section 206(a)(1) of the Clean Air Act (42 U.S.C. 1857f–(5)(a)(1)) is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act.".

CALIFORNIA WAIVER

SEC. 213. Section 209(b) of the Clean Air Act (42 U.S.C. 1857f–6a(b)) is amended to read as follows:

"(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determination of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.".

LOW-EMISSION VEHICLES

SEC. 214. (a) Section 212(d) of the Clean Air Act (42 U.S.C. 1857f–6e(d)) is amended—

(1) by striking out "a class or model" in paragraph (1)(C) and inserting in lieu thereof "a class, model, or other category (including a category based on limited use or determined on the basis of such other criteria as will effectuate the purpose of procuring low-emission vehicles)",

(2) by striking out "class or model" each place it appears in the second and third sentences of paragraph (1) and in paragraph (3) and inserting in lieu thereof in each such place "class, model or category", and

(3) by striking out "any class or classes" in paragraph (3)(F) and inserting in lieu thereof "any class, model or category".

(b) Section 212(e) of such Act is amended by striking out "class or model" in paragraphs (1) and (2) thereof and substituting "class, model, or category".

REMOVAL OR TAMPERING WITH CERTAIN DEVICES, ETC.

SEC. 215. (a) Section 203(a)(3) of the Clean Air Act (42 U.S.C. 1857f–2(a)(3)), relating to prohibited acts, is amended by striking out "or dealer" and inserting in lieu thereof ", dealer, or person engaged in the business of repairing motor vehicles".

(b) Section 203(a) of such Act is amended by adding the following at the end thereof: "Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means parts produced by the manufacturer of the motor vehicle or motor vehicle engine.".

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 216. (a) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f–2(a)), as amended by section 215 of this Act, is further amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited Act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine.".

(b) Title II of such Act as amended by section 203 of this Act is further amended by inserting the following new section after section 214:

"HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

"SEC. 215. (a)(1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is performed in accordance with altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds the adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made.

"(b)(1)(A) Upon submission of any new motor vehicle or motor vehicle engine to the Administrator for purposes of obtaining a certificate of conformity under section 206 (a)(1), the manufacturer shall submit to the Administrator instructions providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes. If the Administrator does not disapprove such instructions on or before the issuance of the certificate of conformity for the vehicle or engine, such instructions shall be treated as approved for purposes of this section.

"(B) In the case of any model year beginning after the date of enactment of this section, instructions respecting vehicles or engines manufactured during such model year which have been approved by the Administrator, shall be included in the instructions required under section 207(c)(3) and shall, not later than the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, be made available to any person upon request.

"(C) In the case of any model year beginning before the date of enactment of this section, instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator not later than 6 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 8 months after such date of enactment, such instructions shall be treated as approved for purposes of this section.

"(D) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than 60 days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(2) Any violation by a manufacturer of paragraph (1) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205.

"(c) No instructions which require the use of any manufacturer parts (within the meaning of section 203(a)) may be promulgated or approved by the Administrator under this section.".

PARTS STANDARDS; PREEMPTION OF STATE LAW

Sec. 217. Section 209 of the Clean Air Act (42 U.S.C. 1857f–6a) (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Whenever a design or performance standard with respect to any motor vehicle part or motor vehicle engine part is in effect under regulations of the Administrator under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any design or performance standard or any requirement of certification, inspection, or approval applicable, to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).".

FILL PIPE STANDARDS

Sec. 218. Section 202(a) of the Clean Air Act (42 U.S.C. 1857f–1(a)) as amended by sections 204 and 206 of this Act is further amended by adding the following new paragraph at the end thereof:

"(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall prescribe, by regulations, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which receives certification of performance capability. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate lead time for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) Any standards promulgated under subparagraph (A), or amendments thereto, may be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for vehicle safety.

"(E) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure.".

ONBOARD HYDROCARBON TECHNOLOGY

Sec. 219. Sec. 202(a) of the Clean Air Act (42 U.S.C. 1957f–1(a)), as amended by sections 204, 206, and 218 of this Act, is further amended by adding the following new paragraph at the end thereof:

"(6)(A) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall prescribe, by regulations, standards which shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

"(B) Any regulations promulgated under subparagraph (A), or amendments thereto, shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulations would create a hazard to vehicle safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.".

CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

Sec. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

"ESTABLISHMENT OF STANDARDS

"Sec. 241. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. Such study shall characterize and quantify interior levels of carbon monoxide in such buses and vehicles and determine its effects upon the passengers. The study shall review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) Not later than one year after the enactment of this part, the Administrator shall issue proposed standards setting forth the levels of carbon monoxide in the passenger areas of schoolbuses which are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses.

"(c) Pursuant to the requirements of section 307(d), the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of schoolbuses establishing the levels of carbon monoxide in such areas which are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses. Such standards shall be revised from time to time.

"COMPLIANCE

"Sec. 242. (a) Each State shall submit to the Secretary of Transportation an implementation plan which shall include such measures as may be required, under regulations promulgated by the Secretary, to prevent, in the case of any schoolbus, a violation of the standards established under section 241(c) to the extent that such violation is attributable to carbon monoxide from such schoolbus. Such measures shall be required to be implemented as expeditiously as practicable (but not later than three years after approval of the plan). Such measures shall include adequate monitoring and, not less frequently than twice during any 12-month period, inspection of such schoolbuses. Such measures shall apply to schoolbuses manufactured before the effective date of this part (buses in use) as well as to schoolbuses manufactured on or after such date.

"(b) The Secretary shall approve the plan submitted by the State under subsection (a) if such plan meets the requirements of subsection (a). Such plan shall be approved or disapproved in the same manner as plans approved or disapproved by the Administrator under section 110.

"(c) No schoolbus may be registered, or otherwise authorized to operate, by a State after the date 31 months after the date of enactment of this section unless such bus is in compliance with a plan approved under this section. The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction whenever any person fails to comply with this subsection. Any action under this subsection may be brought in the appropriate district court of the United States, and such court shall have jurisdiction to restrain such violation and to require compliance.

"DEFINITIONS

"Sec. 243. For purposes of this part, the term—

"(1) 'person' has the meaning provided by section 302(e);

"(2) 'passenger' includes the driver of a schoolbus;

"(3) 'bus' means any passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver;

"(4) 'schoolbus' means a bus which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools;

"(5) 'motor vehicle' means any self-propelled vehicle designed for transporting persons on a street or highway; and

"(6) 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including, but not limited to, taxicabs, and police vehicles.

"STATE LAW

"SEC. 244. (a) Nothing in this part shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement applicable to the presence of carbon monoxide in the passenger areas of schoolbuses except that if any such requirement is in effect pursuant to this part no such State or political subdivision may adopt or enforce any such requirement which is less stringent than the requirement in effect pursuant to this part.

"(b) Each State shall adopt and submit a plan for the purpose of meeting the requirements of section 242 of the Clean Air Act not later than twenty-seven months after enactment of this section. Not later than four months after submission of such plan, the Secretary of Transportation shall approve such plan or disapprove such plan.".

TITLE III—MISCELLANEOUS AMENDMENTS

REDESIGNATION OF AIR QUALITY CONTROL REGIONS

SEC. 301. Section 107 of the Clean Air Act (42 U.S.C. 1857c-2) (relating to air quality control regions) is amended by adding at the end thereof the following new subsection:

"(d) (1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State.

"(2) In the case of an air quality control region in a State, or part of such a region, which the Administrator finds may significantly affect air pollution concentrations in another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.

"(3) No compliance date extension granted under section 119 (relating to coal conversion) shall cease to be effective by reason of the regional limitation provided in section 119(c) (2) (D) if the violation of such limitation is due solely to a redesignation of a region under this subsection.".

CONSULTATION

SEC. 302. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) as amended by sections 101, 103, 105, 201, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"CONSULTATION WITH LOCAL GOVERNMENTS, REGIONAL AGENCIES, AND COUNCILS OF GOVERNMENTS

"SEC. 125. (a) An applicable implementation plan under section 110 shall provide a satisfactory process for consultation with general purpose units of local government, regional agencies, and councils of governments prior to the adoption of any transportation controls or any measure referred to in the last clause of section 110(a) (2) (B) or in section 110(a) (2) (I) (pertaining to indirect sources) or 110(a) (2) (J) (pertaining to prevention of significant deterioration) adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1976 as part of such plan. No such process shall be deemed satisfactory unless it meets the requirements of regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than nine months after the date of the enactment of this section. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this section.

"(b) For purposes of section 307 or any other provision of law relating to judicial review, only a general purpose unit of local government, regional agency, council of government, or State adversely affected by action of the Administrator approving or promulgating any portion of a plan referred to in this section may petition for review of such action or may intervene in any such action on the basis of a violation of the requirements of this section.".

(b) Section 110(c)(1) of such Act (42 U.S.C. 1857c-5) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, any portion of a plan relating to any measure described in the first sentence of section 125(a) or the consultation process required under section 125 shall not be required to be promulgated before the date eight months after such date required for submission.".

DELEGATION TO LOCAL GOVERNMENT UNDER FEDERAL PLAN

SEC. 303. Section 110(c) of the Clean Air Act (42 U.S.C. 1857c-5(c)), is amended by adding the following new paragraph at the end thereof:

"(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the responsibility to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from enforcing any applicable provision of a plan promulgated under this subsection.".

EMPLOYMENT EFFECTS

SEC. 304. The Clean Air Act (42 U.S.C. 1857 and following), as amended by section 201(a) of this Act, is further amended by adding the following new section at the end thereof:

"EMPLOYMENT EFFECTS

"SEC. 319. (a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any requirements under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such requirements.

"(b) Any employee, or any representative of such employee, who is discharged or laid-off, threatened with discharge or layoff, or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed or proposed to be imposed under this Act, including any requirement applicable to Federal facilities and any requirement imposed by a State or political subdivision thereof, may request the Administrator to conduct a full investigation of the matter. Any such request shall be reduced to writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice. At such hearings, the Administrator shall require the parties, including the employer involved, to present information relating to the actual or potential effect of such requirements on employment and the detailed reasons or justification therefor. If the Administrator determines that there are no reasonable grounds for conducting a public hearing he shall notify (in writing) the party requesting such hearing of such a determination and the reasons therefor. If the Administrator does convene such a hearing, the hearing shall be on the record. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such requirements on employment and on the alleged actual or potential discharge, layoff, or other adverse effect on employment, and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

"(c) In connection with any investigation or public hearing conducted under subsection (b) of this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner, or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Nothing in this section shall be construed to require or authorize the Administrator, the States or political subdivisions thereof, to modify or withdraw any requirement imposed or proposed to be imposed under this Act.".

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 305. (a) Section 307 of the Clean Air Act (42 U.S.C. 1857h-5) is amended by adding the following new subsection at the end thereof:

"(d) (1) This subsection applies to—

"(A) the promulgation or revision of any national ambient air quality standard under section 109,

"(B) the approving or disapproving of any State implementation plan (or any revision thereof) under section 110 or 111(d),

"(C) the promulgation or revision of an implementation plan by the Administrator under section 110(c),

"(D) the promulgation or revision of any standard of performance under section 111 or emission standard under section 112.

"(E) the promulgation or revision of any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(F) the promulgation or revision of any aircraft emission standard under section 231,

"(G) promulgation or revision of regulations pertaining to compliance date extensions of coal conversion under section 119 (but not including orders granting or denying any compliance date extensions),

"(H) promulgation or revision of regulations pertaining to compliance date extensions for stationary sources under section 121 (but not including orders granting or denying any compliance date extensions),

"(I) promulgation or revision of regulations authorizing compliance date extensions for transportation control measures under section 123 (but not including orders granting or denying such extensions),

"(J) promulgation or revision of regulations requiring indirect source review programs under section 124,

"(K) promulgation or revision of regulations under subtitle B of title I (relating to stratosphere and ozone protection),

"(L) promulgation or revision of regulations under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(M) promulgation or revision of regulations establishing emission standards under section 292 and test procedures for new motor vehicles or engines under section 206, the granting or denying of a suspension under section 202, the revision of a standard under section 202(a)(3)(B), the making of a determination under section 202(b)(6), and the promulgation of any regulation under 202(a)(5) or 202(a)(6),

"(N) the approval or disapproval of any application for a State program grant and any deobligation of grant funds under section 105,

"(O) promulgation or revision of regulations establishing railroad emission standards under section 235,

"(P) promulgation or revision of regulations establishing a schedule of rates of excess emission fees under section 122(b),

"(Q) promulgation or revision of any regulations promulgated under section 207,

"(R) action of the Administrator under section 127;

"(S) action of the Administrator under section 122(b)(2) (unless such action is taken on the basis of the record of the hearing at which the extension under section 121 is granted), and

"(T) such other actions as the Administrator may determine.

The provisions of section 553 through 557 and section 706 of title 5 of the United States Code shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies. This subsection shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5 of the United States Code.

"(2) Not later than the date of proposal of any action to which this subsection applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be simultaneously established in the appropriate regional office of the Environmental Protection Agency.

"(3) In the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the Federal Register, as provided under section 553(b) of title 5, United States Code, shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment (hereinafter referred to as the 'comment period'). The notice of proposed rulemaking shall also state the docket number, the location or locations of the docket, and the times it will be open to public inspection. The statement of basis and purpose shall include a summary of—

"(A) the factual data on which the proposed rule is based;

"(B) the methodology used in obtaining the data, in analyzing the data, and in reasoning from the data to the proposed rule; and

"(C) the major steps of reasoning leading to the proposed rule (including an articulation of the major legal interpretations, policy considerations, and evaluations of competing risks included in the chain of reasoning).

The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by advisory committees and other bodies (including the Scientific Review Committee established under section 109(d) and, the National Academy of Sciences), and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

"(4)(A) The rulemaking docket required under paragraph (2) shall be open for inspection by the public at reasonable times, specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays expenses, including personnel costs to do the copying.

"(B)(i) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(ii) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(5)(A) In promulgating a rule to which this subsection applies (i) the Administrator shall allow any person to submit written comments, data, or documentary information; (ii) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (iii) a transcript shall be kept of any oral presentation; and (iv) during any such oral presentation, the Administrator shall include an opportunity for cross-examination as provided in subparagraph (B).

"(B)(i) During any such oral presentation, the Administrator shall include an opportunity for cross-examination on any matter shown to be a disputed issue of material fact to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issues involved, the number of participants and the nature of their interests, and any need for expedition, including that for meeting any statutory deadline for promulgation of the rule involved.

"(ii) If only a single interested person seeks the opportunity for cross-examination or if the Administrator determines that all persons in a class who seek to avail themselves of such an opportunity share an identity of interest, the Administrator shall, upon the making of such a showing, afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination with respect to any such issue to the same extent that cross-examination is permitted under section 556 of title 5, United States Code, taking into account the need for expedition as provided in (i) above.

"(iii) If all persons and classes of persons seeking to avail themselves of an opportunity to engage in cross-examination cannot agree upon one or more classes which, in the discretion of the Administrator, reasonably afford representation of various interests and classes of persons potentially affected by the rule, the Administrator may deny cross-examination.

"(C) Any determination respecting the procedure provided for in subparagraph (A) or (B) may be held grounds for invalidating the Administrator's action only if such determination is arbitrary or capricious.

"(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(7)(A) The record for judicial review shall consist exclusively of the material referred to in paragraph (3), clause (i) of paragraph (4)(B), and subparagraphs (A) and (B) of paragraph (6).

"(B) Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit. Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

"(8) The sole forum for challenging procedural determinations made by the Administrator under this subsection shall be in the United States court of appeals for the appropriate circuit (as provided in subsection (b)) at the time of the substantive review of the rule. No interlocutory appeals shall be permitted with respect to such procedural determinations. In reviewing alleged procedural errors, the court may invalidate the rule only if the errors were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.

"(9) In the case of review of any action of the Administrator to which this subsection applies, such action shall be affirmed by the court unless the court finds that it is not supported by substantial evidence in the rulemaking record (as defined in paragraph (7)(A)) taken as a whole. In addition, the court may reverse any such action found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or

"(D) without observance of procedure required by law.

"(10) Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

"(11) The requirements of this subsection shall take effect with respect to any rule the proposal of which occurs after the date of enactment of the Clean Air Act Amendments of 1976.".

(b) Section 105 of such Act (42 U.S.C. 1857c) is amended by adding the following new subsection at the end thereof:

"(e) No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for a public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected).".

(c)(1) The first sentence of section 307(b)(1) of such Act (42 U.S.C. 1857h–5(b)(1)) is amended by striking out "111" and inserting in lieu thereof "111(b), and finding of the Administrator under section 111(i)(7)(A), any regulation promulgated under section 111(d)(1), 121, 122, 123, 124(c), 125, 126(a), 152(f)(3), 154, 160, 207, or 302(i)"; by inserting "or required to be prescribed under section 202(a)(3)(A) with respect to vehicles or engines manufactured during or after model year 1983" after "202(b)(1)"; by inserting "or under section 202(a)(3)(B)" after "202(b)(5)"; and inserting "or under section 235" after "231".

(2) The second sentence of section 307(b)(1) of such Act is amended (A) by inserting after "(C)" the following: ", or his action under section 121 (other than the promulgation of regulations)," and (B) by inserting after "thereunder," the following: "his action in imposing a fee under section 122, his action under section 127(b), his action in approving any plan or making any designation or redesignation under section 160,".

(3) The last sentence of section 307(b)(1) of such Act is amended to read as follows: "Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that such date if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise. No determination of the Administrator under section 122 with respect to the imposition or reduction of a fee shall be reversed by the court unless such determination is unsupported by substantial evidence on the record.".

(4) Section 307(b)(1) of such Act is further amended by inserting the following after the second sentence thereof: "Notwithstanding the preceding sentence a petition for review of any action referred to in such sentence may be filed only in the United States Court of Appeals for the District of Columbia if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.".

(d)(1) Clause (iii) of section 114(a) of such Act (42 U.S.C. 1857c–9(a)(iii)), relating to inspection, monitoring, and entry, is amended by striking out "or 303" and inserting in lieu thereof the following: ", 111(f), 121 (including determining whether to grant, deny, approve, or disapprove a compliance date extension under section 121), 122, 124, 126, 127, 160, or 303, or subtitle B of title I".

(2) Section 114(a)(1) of such Act is amended by striking out "the owner or operator of any emission source" and inserting in lieu thereof "any person subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 208)".

EMPLOYEE PROTECTION

SEC. 306. Title III of the Clean Air Act (42 U.S.C. 1857g and following), relating to general provisions, is amended by adding at the end thereof the following new section:

"EMPLOYEE PROTECTION

"SEC. 317. (a) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under any applicable implementation plan,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(e) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(f) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act.".

NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

SEC. 307. Section 114(a)(2) of the Clean Air Act (42 U.S.C. 1857c–9(a)(2)) is amended by adding at the end thereof the following: "In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of a compliance date extension under section 119, before carrying out an entry, inspection, or monitoring under this paragraph with respect to such standard, limitation, or other requirement, the Administrator (or his representative) shall provide the State air pollution control agency with reasonable prior notice of such action, including a statement of the reasons for such action. The Administrator shall, upon a showing by the State agency that such an action will be detrimental to the administration of the State's program of enforcement, take such showing into consideration in determining whether to take such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation or other requirement which is not part of an applicable implementation plan.".

EMERGENCY POWERS

Sec. 308. (a) Section 303 of the Clean Air Act (42 U.S.C. 1857h–1) is amended to read as follows:

"EMERGENCY POWERS

"Sec. 303. (a) Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may in order to protect the health of such persons, commence a civil action for appropriate relief, including a restraining order or permanent or temporary injunction. If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are or may be affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day during which such violation occurs or failure to comply continues.".

(b) Section 313 of the Clean Air Act (42 U.S.C. 1857j–2) is amended by striking out "and" at the end of clause (9) and adding after clause (10): "and (11)(A) the status of plan provisions developed by States as required under section 110(a)(2)(F)(v), and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 303) by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 110(a)(2)(F)(v), and an evaluation of their effectiveness in reducing pollution; and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action.".

INTERSTATE POLLUTION ABATEMENT

Sec. 309. (a) Section 110(a)(2)(E) of the Clean Air Act (42 U.S.C. 1857c–5) is amended to read as follows:

"(E) it contains provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard after the attainment date for such standard or interfere with measures required to be included in the applicable implementation plan for any other State to prevent significant deterioration of air quality, and (ii) insuring compliance with the requirements of section 126;".

(b) Title I of such Act, as amended by sections 101, 103, 105, 201, 202, and 302 of this Act, is further amended by adding at the end thereof the following new section:

"INTERSTATE POLLUTION ABATEMENT

"Sec. 126. (a) Not later than nine months after date of enactment of this section, the Administrator shall promulgate regulations establishing a procedure for abating interstate air pollution in accordance with the requirements of this section.

"(b) Regulations promulgated under subsection (a) shall require each applicable implementation plan—

"(1) to require each major proposed new (or modified source which may significantly contribute to air pollution in any air quality control region outside the State in which such source intends to locate (or make such modification) to obtain a permit to construct from the State of intended location at least ninety days prior to the date of commencement of construction,

"(2) to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(3) to review and identify all major existing stationary sources (within the meaning of section 121(a)(3)) which may have the impact described in paragraph (1) and to provide notice to all nearby States of the identity of such sources not later than eighteen months after date of enactment of this section.

"(c) Regulations under subsection (a) shall authorize any State or political subdivision to petition the Administrator for a finding that any major source would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i). Within sixty days after receipt of any petition under this subsection, the Administrator shall provide opportunity for a public hearing and shall grant or deny the petition.

"(d) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State (1) for any major proposed new (or modified) source with respect to which a petition has been granted under subsection (c) to operate more than sixty days after such petition has been granted, or (2) for any major existing source to operate more than six months after such petition has been granted with respect to it, except that the Administrator may permit the continued operation of such source beyond the expiration of such six-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirement contained in section 110(a)(2)(E)(i) as expeditiously as practicable.".

INTERAGENCY COOPERATION ON PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

Sec. 310. Title I of the Clean Air Act as amended by sections 107 and 108 is further amended by adding the following new subtitle at the end thereof:

"Subtitle D—Prevention of Environmental Cancer and Heart and Lung Disease

"PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

"Sec. 170. (a) Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the 'Task Force'). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

"(b) The Task Force shall—

"(1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer nad heart and lung disease;

"(2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

"(3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

"(4) coordinate research and control efforts by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

"(5) report to Congress, not later than January 31 of each year, on the problems and progress in carrying out this section.

"(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease.".

CIVIL LITIGATION

Sec. 311. Section 305 of the Clean Air Act (42 U.S.C. 1857h–3) is amended to read as follows:

"CIVIL LITIGATION

"Sec. 305. (a) Except as otherwise provided in subsection (b), in any civil action under this Act (including any civil action brought by any person with respect to action taken by the Administrator under this Act), the Administrator shall have exclusive authority to commence or defend, and supervise the litigation of, such action and any appeal of such action in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

"(b)(1) Notwithstanding subsection (a) the Attorney General shall have exclusive authority to determine whether or not an appeal shall be made from the decision of any court in an action in which the Administrator represented himself pursuant to subsection (a).

"(2) The authority of the Administrator under subsection (a) shall not apply in the case of actions before the Supreme Court.

"(3) In any case where the Attorney General represents the Administrator before the Supreme Court in any civil action in which the Administrator represented himself pursuant to subsection (a), the Attorney General may not agree to any settlement, compromise, or dismisal of such action, or confess error in the Supreme Court with respect to such action, unless the Administrator concurs.

"(4) For purposes of this subsection (with respect to representation before the Supreme Court), the term 'Attornery General' includes the Solicitor General.

"(c) The provisions of this section shall apply notwithstanding any other provision of law.".

FINE PARTICULATE STUDY

Sec. 312. (a) Title III of the Clean Air Act, as amended by sections 306, 201, 304, and 211(a) of this Act, is further amended by adding the following new section at the end thereof:

"FINE PARTICULATE STUDY

"Sec. 321. Not later than eighteen months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the hazards to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter.".

AIR QUALITY MONITORING BY ENVIRONMENTAL PROTECTION AGENCY

Sec. 313. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 211(a), and 312 of this Act, is further amended by adding the following new section at the end thereof:

"AIR QUALITY MONITORING

"Sec. 322. Not later than one year after the date of enactment of the Clear Air Act Amendments of 1976 and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quailty monitoring system throughout the United States which—

"(1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index,

"(2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan,

"(3) provides for daily analysis and reporting of air quality based upon such uniform air quality index, and

"(4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air quality monitoring system required under any applicable implementation plan under section 110 shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations.".

CERTAIN MINOR AND TECHNICAL AND CONFORMING AMENDMENTS

Sec. 314. (a) Section 203(a)(2) of the Clean Air Act (42 U.S.C. 1857f–2(a)(2)) is amended by inserting the following before the semicolon: "or for any reason to fail or refuse to permit entry, testing, or inspection authorized under section 206(c)".

(b) The second sentence of section 205 of such Act (42 U.S.C. 1857f–4) is amended by striking out "(2)" and inserting in lieu thereof "(3)".

(c) Section 302(d) of such Act (42 U.S.C. 1857h(d)) is amended by inserting before the period at the end thereof the following: "and includes the Commonwealth of the Northern Mariana Islands".

(d) Section 203(b)(3) (42 U.S.C. 1857f–2(b)(3)) is amended by striking out "subsection (a)" the second time it appears and inserting in lieu thereof "section 202" and by striking out "country of export" in each place it appears and inserting in lieu thereof "country which is to receive such vehicle or engine".

RESEARCH NOT AUTHORIZED

Sec. 315. (a) No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1977, unless previously authorized by legislation thereunder enacted by the Congress.

(b) The Administrator of the Environmental Protection Agency shall transmit to the Congress a comprehensive five-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress each year no later than two weeks after the President submits his annual budget to the Congress in such year.

(c) The Administrator of the Environmental research, development, and demonstration programs of the Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

STUDY AND REPORT CONCERNING ECONOMIC APPROACHES TO CONTROLLING AIR POLLUTION

Sec. 316. Title III of the Clean Air Act is amended by inserting the following new section after section 313:

"ECONOMIC CONTROLS STUDY

"Sec. 313A. (a) The Council on Environmental Quality (hereinafter in this section referred to as 'the Council') shall undertake a study and assessment of economic measures for the control of air pollution which could—

"(1) strengthen the effectiveness of existing methods of controlling air pollution,

"(2) provide incentives to abate air pollution to a greater degree than is required by existing provisions of this Act (and regulations thereunder), and

"(3) serve as the primary incentive for controlling air pollution problems not addressed by any provision of this Act (or any regulation thereunder).

"(b) The study of measures referred to in paragraph (1) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

"(c) The study of measures referred to in paragraph (2) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficiently extensive to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

"(A) interfering with the effectiveness of existing methods of control, or

"(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

"(d) The study of the measures referred to in paragraph (3) of subsection (a) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

"(e) In conducting the study under this section, a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

"(f) Not later than two years after the date of the enactment of this section, the Council shall conclude the study and assessment under this section and submit a report containing the results thereof to the President and to the Congress. Interim reports on specific pollution problems and solutions recommended shall be made available to the President and the Congress by the Council whenever available.".

LOSS OF PAY PROHIBITED IN CERTAIN CASES

Sec. 317. Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5) as amended by sections 103 and 201 of this Act is further amended by adding the following new paragraph at the end thereof:

"(7) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of section 121 (relating to compliance date extensions), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.".

RULE REVIEW

Sec. 318. (a) Any rule or regulation prescribed by the Administrator pursuant to the Clean Air Act may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Administrator. The Administrator shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within said 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 10498) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3219, CLEAN AIR ACT AMENDMENTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill S. 3219, with the House amendments thereto, insist on the amendments of the House and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, SYMINGTON, SCHEUER, WAXMAN, FLORIO, CARNEY, MAGUIRE, DEVINE, CARTER, BROYHILL, HEINZ, and MADIGAN.

STATEMENT BY MAJORITY LEADER THOMAS P. O'NEILL, JR., ON THE REPUBLICAN CAMPAIGN

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, President Ford finally left the Rose Garden yesterday to deliver a speech opening his campaign for the Presidency.

He asked to be judged on his performance in office, and outlined a list of goals for the Nation.

His accomplishments, he said, included improving the economy and achieving peace.

I suggest that he include the rewriting of history among them.

When he took office, the unemployment rate was 5.5 percent. Today it is 7.9 percent. There are nearly 3 million more people out of work today than there were 2 years ago. The Nation hardly can stand much more of that kind of improvement.

He said he achieved peace. Has he forgotten that he sought to continue the war in Southeast Asia, a war Congress refused to continue? Has he forgotten he sought to involve us in a war in Angola, an effort Congress refused to approve?

He said he has a goal of 2.5 million new jobs every year. That goal only takes care of the normal growth of the labor force. Has he consigned the 7.5 million Americans now out of work to the jobless ranks forever?

He promised every American the opportunity to purchase a home when he has refused to honor the commitments of existing housing law that would provide for the construction of 2 million homes a year.

He promised programs for quality education when he has opposed every piece of legislation before this Congress to continue or expand aid for schools.

He pledged affordable health care when his budget sought to reduce medical care programs and he has opposed national health insurance.

It often is said of Gerald Ford that, despite what one thinks of his policies, he is a man of integrity and sincerity.

After reading his speech, I wonder if we should not say that the President gets confused very easily.

MINORITY LEADER'S ANSWER TO MAJORITY LEADER'S STATEMENT VIS-A-VIS PRESIDENTIAL CAMPAIGN

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I had not really thought that I would reply to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), until he made his remark about the present President of the United States being in favor of continuing the Vietnam war.

Of course, President Ford was never in favor of continuing the Vietnam war. He tried his very best to wind it down. He did wind it down, and he got Americans out of it.

Mr. Speaker, I think that the distinguished majority leader should also go back in memory to the point when the war began. He should remember that it did not happen under a Republican administration; it happened under a Democratic administration.

In fact, Mr. Speaker, Republican Presidents in this century several times have had to wind down and end wars that were started in Democratic administrations.

If the gentleman from Massachusetts (Mr. O'NEILL) wants to play the game of war and to take the case to the American people as to who starts wars and who ends them, I will be very happy to play that game with him.

Also, Mr. Speaker, I think it might be interesting, in considering the current Presidential candidates, to compare the ambivalence of the candidate of the majority leader's party, Governor Carter, as against the steadfastness of the President of the United States.

I do not know whether Governor Carter is a conservative today or a liberal. I know that yesterday he said he was a conservative, and a couple of weeks ago he said he was a liberal. I think the American people are just terribly confused about the whole thing.

Mr. Speaker, I say to my good friend, the majority leader, that if the state of mind of the American people is the same at the state of mind of the Members of the House with whom I have talked concerning Governor Carter, they will go to the polls and vote overwhelmingly for President Ford because they do know where he stands. He stands right where he said he was going to stand, and that is exactly where he will be.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 737]

Abdnor
Andrews, N.C.
Archer
Armstrong
Boggs
Bolling
Breaux
Brown, Mich.
Burke, Calif.
Burton, John
Butler
Byron
Carter
Chappell
Chisholm
Clausen, Don H.
Clay
Collins, Ill.
Conlan
Conyers
Corman
Coughlin
Crane
Derwinski
Dingell
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Esch
Ford, Tenn.
Giaimo
Green
Hansen
Harsha
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Howard
Howe
Jacobs
Jarman
Johnson, Pa.
Jones, Tenn.
Karth
Kelly
Kemp
Keys
Landrum
Leggett
Long, Md.
Lott
McCollister
McDade
Madigan
Matsunaga
Metcalfe
O'Hara
Passman
Patterson, Calif.
Peyser
Pressler
Rangel
Rees
Riegle
Risenhoover
Rosenthal
Russo
Ryan
Santini
Sarbanes
Scheuer
Shuster
Spellman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Thornton
Tsongas
Udall
Vander Jagt
Wilson, Tex.

Mr. Speaker, on this rollcall 344 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST TO CONCUR IN SENATE AMENDMENT ON H.R. 14846, AUTHORIZING MILITARY CONSTRUCTION

Mr. ICHORD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14846) to authorize certain construction at military installations, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment.

The SPEAKER. The Chair must tell the gentleman we do not have the papers from the Senate so the matter is not eligible for consideration at this time. The request will have to be made later.

Mr. ICHORD. Mr. Speaker, I will delay my request.

ELECTRIC VEHICLE RESEARCH DEVELOPMENT AND DEMONSTRATION ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is: Will the House, on reconsideration, pass the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Texas (Mr. TEAGUE) for 1 hour.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8800.

The SPEAKER. Is there objection to

the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, H.R. 8800, the Electric Vehicle Research Development and Demonstration Act is a small but vital part of our national energy strategy. This legislation passed the House by a margin of 308 to 60 and the vote in the Senate was 72 to 16. The conference report was also overwhelmingly approved by both Houses of Congress.

Because H.R. 8800 is a good, nonpartisan, and noncontroversial bill, I am frankly puzzled at the President's veto. The Committee on Science and Technology has worked closely with the administration in the development of this legislation, and the Republican members of the committee have been among its strongest supporters. The only explanation of the veto that makes any sense is that the President received some bad advice.

Mr. Speaker, the bill vetoed by the President establishes an electric vehicle research, development, and demonstration project in the Energy Research and Development Administration—ERDA. This program will concentrate on electric vehicle technology, including batteries, drive systems, and control systems.

In addition to this accelerated research and development program, a carefully planned demonstration of electric vehicle technology will be initiated under the terms of the legislation. After testing and evaluation of currently available vehicles is completed, performance standards will be established. These performance standards will be used as the basis for an initial demonstration of 2,500 electric or hybrid vehicles. This first phase of the demonstration will be carried out during the period of 21 to 39 months after enactment of this legislation. Four years after enactment, the ERDA will establish revised performance standards and procure an additional 5,000 advanced demonstration vehicles.

Mr. Speaker, this is a practical, commonsense approach to the development, testing, and demonstration of a vital new energy technology. This legislation specifically addresses the problems of those small business enterprises which have performed so much of the electric vehicle research in the past. Its provisions include a loan guarantee program that will help assure broad participation by small but innovative electric vehicle manufacturers.

Electric vehicles can save money for the consumers in this country—not only those who buy and use them as second cars or delivery vehicles for a large number of limited applications, but also those who use electricity for nonvehicle applications would benefit from increased load factors of the utilities. Electric vehicles, with the assistance of this legislation, can help up solve the environmental problems of air and noise pollution. This bill is also vital to help assure that American workers will still build automobiles even after our supply of cheap oil is gone.

In his veto message the President cited three major deficiencies in this legislation. First, he stated that technological breakthroughs in battery research will be necessary before the electric vehicle can become a viable option. This is just not so—the President was misinformed. The best technological advice that the Committee on Science and Technology has been able to find indicates that the first generation advanced batteries can be in production by early to mid-1979. These nickel-zinc batteries are two to three times lighter than the current lead-acid batteries, and will make a significant difference in the performance and economic attractiveness of these vehicles. But, this is not all. Second generation batteries such as lithium-sulfur are projected by ERDA to be in commercial production by the early 1980's. The important point in mentioning these dates for first and second generation of advanced batteries is that they correspond with the first and second phases of the demonstration program which I have just outlined. In summary, the best technical advice has been incorporated in this bill and only a moderate amount of engineering development is necessary not the technological breakthroughs that the President's message claims.

The second deficiency cited by the President is that ERDA already has authority to carry out this action through the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974. I certainly agree that ERDA has general authority for research in this area. It is not clear whether the comprehensive demonstration called for in this bill needs additional legislation or not. I should call to the attention of the Members of this body, that it seems clear that such a program will not, in fact, be carried out without the enactment of legislation such as this. It is also clear that the important incentives needed to provide vitality to the manufacturers of electric vehicles, such as the loan guarantee program, do not exist under current public law.

The third point made by the President in his veto message is that private industry has substantial experience in this area of technology and it would be foolish to throw vast amounts of Government money into this program. Here again I believe the President has received poor advice. It is the private electric vehicle manufacturers and the utility industry that are among the strongest supporters of this legislation. The amount of money—$160 million for the 6-year program—should be put in perspective. If we had 10 million electric vehicles on the road in the year 2000 replacing conventional automobiles using 2 gallons of gasoline per day we would save one-half million barrels of imported oil per day. This makes a difference of $2.2 billion annually in our balance of payments. This saving makes the cost of this program—$160 million through 1982, look paltry by comparison. Unlike some of the legislation which may come before this House, we are talking about an investment in the technology of tomorrow, not a wasteful expenditure in unproductive programs.

Mr. Speaker, the electric vehicle bill represents the kind of legislative initiative this country needs. It can help solve the long-term energy and environmental problems of this Nation. I earnestly solicit the support of each Member of this Chamber in overriding the President's veto.

Mr. McCORMACK. Mr. Speaker, I want to urge support today in this vote to override the veto of H.R. 8800, the electric vehicle research, development and demonstration bill of 1976. I want to emphasize at the start that I do not criticize the President for this veto and I do not know anyone who does.

I agree with the chairman, the gentleman from Texas (Mr. TEAGUE) that from our perspective this veto was simply a matter of bad advice which the President received from agencies within the administration.

Mr. Speaker, I have before me a large number of communications from various organizations and groups around the country, electric industries, public and private power companies. I have requests for support for this bill from the American Public Power Association, National Association of Electric Companies, the IBEW and a large number of other groups.

I agree with our chairman that this veto has confused and puzzled us, because we expected this bill, which received such overwhelming bipartisan support in both the House and Senate, would automatically be signed. Therefore, I want to speak for a moment to reiterate what this bill contains. I think the best way to understand this electric vehicle research, development, and demonstration bill, is to compare it to the solar energy heating and cooling demonstration bill, because it was modeled after that concept. The concept is to take a technology which is in its infancy and which clearly can be improved; to set up an intensive research and development program over a necessary period of time, 5 years for this particular electric vehicle program; to include the resulting technology in a demonstration program, so that the general public will become acquainted with the technology, in this case with electric vehicles; and to stimulate small industry to become involved.

We are talking about not only an aggressive program of research and development, but also a program of demonstration. Under this bill we have set out a specific program for demonstration, and I will take only a minute to describe it. However, I want what we are proposing to be known and to be understood. This is not just some haphazard idea, but a specific program.

During the 12 months following enactment of this legislation, the Energy Research and Demonstration Administration will conduct a period of testing and evaluation of existing vehicles and technology. By the 15th month after the legislation is enacted, it will then promulgate performance standards for electric vehicles and then by the 21st month after the bill is passed they will let contracts for the purchase by the Government of 2,500 electric vehicles to be used by Federal agencies and State governments and to be used by private citizens throughout the country for field demonstration tests and familiarization tests throughout the country. It will be for the benefit of the Federal Government and then they will be sold. During that time we will have a research and development program moving forward, particularly with respect to batteries, regenerative breaking and solid state electronic controls. Then by the 48th month we will have revised performance standards followed by new contracts for the purchase of 5,000 vehicles within 54 months of enactment to be delivered by the 72d month, again for the use of Federal, local, and State governments and for use by private individuals for a period of time.

Mr. Speaker, the concept of this bill is, first of all, to provide the information this country needs to take this infant technology and to build it up to a point where it can be a significant part of our transportation fleet and where it can make a significant contribution to conserving energy. The concept is also to stimulate small business.

This bill provides a loan guarantee program not only for research and development, but for small entrepreneurs who will manufacture and sell electric vehicles, not only to the Federal Government, but to private citizens throughout the country.

So we have a program here to take a technology, which is not yet completely ready for competitive commercialization and bring it to the point where it is.

Now, what is the end result of all this? Well, as Chairman TEAGUE stated earlier if we had 10 million electric cars on our streets today, saving 2 gallons of gas a day for commuter runs, the result would be the saving of a half a million barrels of oil a day. Moreover, about 90 percent of all the driving we do in this country is in fact for commuter runs to and from the office, to and from the school, to and from the store, to and from the trade centers.

At the present import prices, this would be a saving of $2.2 billion per year, just for 10 million electronic vehicles. We believe we can manufacture 10 million electric vehicles by the year 1990. The Energy Research and Development Administration and the Federal Energy Administration both project 10 to 20 million electric vehicles on our streets by the year 2000, and this is our goal.

But, we are not going to get there unless we establish this program so that we have a program to develop this new technology, to make it useful, to make it competitive, to conserve energy, to use less petroleum, to provide load leveling on our electric systems, to reduce pollution control and noise control.

I was appalled when I looked out from the Hill 2 days ago—I believe the day the President vetoed the bill—looked out at the Washington Monument, at the brown pall of smoke covering the city of Washington, D.C. What we are trying to do is to provide vehicles that do not contaminate the atmosphere, do not pollute. Electric vehicles are an answer to that problem.

We are attempting to stimulate small business—not big business. Our purpose is not to get the Federal Government into the design or production of electric vehicles themselves, but rather to stimulate small business. Finally, our purpose is not only to save energy, but to save money for the people of our country, because even today we can buy a minimal electric vehicle which will travel at 40 miles per hour for about 40 cents a day—about a penny a mile even where electricity is expensive. We can do much better than that, but we cannot do it unless we get started.

As the President has said, the Energy Research and Development Administration has the authority to carry out research, but not the authority or direction to carry out this kind of program. It has no plans to carry out a program such as that envisioned in H.R. 8800. So, today we have the opportunity to take a major step toward putting a major portion of our energy program in place; to save energy, to reduce pollution, to reduce our imports of oil and to save money for the people of this country.

Mr. Speaker, I believe the President took a regrettable action in vetoing the Electric Vehicle Research, Development, and Demonstration Act of 1976, H.R. 8800. His stated reasons for the veto were both weak and factually inaccurate with regard to the need for and the purpose of the bill.

As the original sponsor of H.R. 8800, I believe the bill is a major step forward in establishing a meaningful, coherent energy policy for this Nation. It is part of an integrated set of congressional initiatives during the 94th Congress aimed at augmenting energy supply and enhancing energy conservation through increased efficiency of energy use and through substitution of other energy sources for petroleum and natural gas. I believe the Congress must override this Presidential veto to keep faith with the American people that we are aggressively pursuing new initiatives for our energy future.

I should like to address further some of the underlying reasons why we need this specific research, development, and demonstration program. As most of the Members are well aware, transportation now accounts for about 50 percent of our petroleum use, and about 40 percent of our petroleum is imported. It also seems likely that we will simply run out of petroleum by the end of this century.

The national energy plan prepared by ERDA makes it clear that we are headed toward an economy which will be more heavily dependent on electrical energy generated from principally coal and nuclear fission, and later in this century, from geothermal and solar energy. Commercial nuclear fusion plants may be a reality early in the next century.

H.R. 8800, the Electric Vehicle Research, Development and Demonstration Act of 1975 is not only consistent with this trend toward an electric economy, but it will actually help to foster this trend. With electric vehicles we can replace imported petroleum with electricity. At the same time we can reduce the flow of petrodollars and develop the technology and economic infrastructure for a new transportation system in this country, which retains the important characteristic of individual freedom of movement.

The gasoline engine would probably have remained unchallenged far into the future if economic, social, and technical factors had remained unchanged. However, the mounting pressures to conserve petroleum and to reduce pollution from vehicle emissions are forcing a trend toward smaller vehicles for short urban commutes. Alternatives to standard automotive propulsion systems must now be completely reevaluated; and of all the alternatives, electric vehicles look most promising.

Mr. Speaker, when considering what can and cannot be done, that will have a significant impact in relieving the problems of the energy crisis, some programs have a much greater value than others because they will have a significant impact in the near future. The Science and Technology Committee has analyzed the energy crisis and tried to provide solutions. We have picked pressure points where a small change in a technology that is socially, economically and environmentally attractive can make a big difference either in increasing our energy resource base or reducing energy consumption.

In addition, we have also sought to find ways to reduce demands for critically short materials, such as natural gas today or petroleum and gasoline in the near future specifically as compared to just reducing energy consumption generally. Switching to electric cars is such a program, particularly for second cars for urban commuting, and it has the advantage that Americans replace 10 percent of their cars each year, and that 40 percent of our cars are second cars.

The initial objective of this legislation is to develop second cars for our citizens and specialized delivery vans for businesses and Government agencies. This constraint, very frankly, is a technical one. The driving range of current electric vehicles is about 60 miles so that they are amenable for immediate use in the 50 percent of those automobile trips which are less than 5 miles.

An EPA report, entitled "Impact of Future Use of Electric Cars in the Los Angeles Region" also has significant calculations of potential oil savings. It states that short-range electric cars could replace 1 million, or 17 percent, of the cars in the Los Angeles basin by 1980.

By 1990, nearly half of the Los Angeles area cars could be electric. Replacements of a similar percentage of our 100 million gasoline-powered vehicles throughout the Nation would have extremely salutory effects, both on our petroleum supplies and urban polution. This is one of three consumer-oriented things we can do to reduce oil and natural gas consumption without serious alteration of lifestyle with the others being to improve energy efficiency in gasoline-powered cars and in the home.

With widespread usage of electric vehicles electric utilities would conserve energy, because the electrical energy demands would be more uniform due to a predominance of recharging of batteries during late night and early morning hours. New more efficient powerplants could replace inefficient old powerplants presently operated to meet peak power requirements in the late afternoon and early evening.

The electric vehicle itself offers some prospect for energy conservation in heavily urban traffic. No energy is used while the vehicle is stopped, and the energy lost in the form of heat during braking is largely recoverable in an electric vehicle equipped with a regenerative braking system to store the recovered energy in the batteries, or perhaps in a flywheel.

While conserving liquid fuels, electric vehicles can also make a significant impact on air and noise pollution. The complicated problem of controlling millions of moving internal combustion engines—present sources of pollution—in a single city can be transformed into the more tractable problem of controlling and monitoring emissions from a few electric generating plants.

A Department of Commerce study in 1967 pointed out that the automobile was the largest single contributor by weight to our national air pollution problem. The Clean Air Act, Public Law 83-206, provided for research on motor vehicle pollutants. As a result, a program on advanced automotive power systems was initiated in the EPA. This program was transferred to ERDA by the Energy Reorganization Act of 1974.

Mr. Speaker, H.R. 8800, the Electric Vehicle Research, Development, and Demonstration Act of 1976, establishes a 6-year, $160 million program for research, development, and demonstration for electric vehicles under the Energy Research and Development Administration. The primary goal of this project will be to demonstrate the feasibility of electric vehicles, including the evaluation and demonstration of more than 7,500 vehicles over the next 6 years.

A primary thrust of this bill is for research and development programs to improve the existing electric vehicles technology. Batteries are a primary area in which the experts agree that major progress can be made in a short period of time. A former Presidential science adviser, Dr. Edward David, of Gould, Inc., testified before my subcommittee that a new, lighter weight nickel-zinc battery could be in production at economically competitive prices within 2 to 3 years from now if a vigorous development program were initiated. ERDA recently announced that commercially feasible, highly superior replacements for the lead-acid battery can be developed within the time period of the 6-year program established by this bill.

However, we are confronted by a sort of chicken-and-egg proposition. Before substantial private funding will be invested to achieve major progress in batteries or other technical areas, there must be a sufficient market for the product. This is a major reason for the Federal participation in electric vehicle research, development, and demonstration. Through the R. & D. programs the solutions to the remaining technical problems which are currently preventing wider acceptance of electric vehicles can be found.

In addition to demonstration and maintenance programs, planning grants and a loan guarantee program will be provided to allow small firms with problems in raising capital to bid competitively for the ERDA contracts and to establish themselves in the electric vehicle industry.

With the demonstration program we will remove the social and economic barriers by stimulating the interest of the American people in electric vehicles. The bill will undoubtedly also encourage the investment of private capital for further R. & D. on electric vehicle technology and for the production of electric vehicles as well.

An article in the October 1975 issue of Consumer Reports graphically shows the need for the three-stage demonstration program included in H.R. 8800. Two electric vehicles which were tested were found unsafe for driving on city streets, because a 30 m.p.h. collision would result in serious injury to the occupants. The ERDA is directed under the three-stage demonstration program to develop by examining the electric vehicles purchased in the first stage performance criteria, including safety criteria, to be used in contracting during the second and third stages.

There will also be considerable prospect for technology transfer from the electric vehicle program to other aspects of our lives. For instances, better batteries in terms of energy storage capacity will be directly applicable to storing electricity generated from solar energy sources such as wind generators and solar cells.

Mr. Speaker, it is clear that this Nation needs a concerted effort to develop and employ electric vehicles on a massive scale. This bill was unanimously approved by the Subcommittee on Energy Research, Development and Demonstration and by the full Committee on Science and Technology.

On September 5, 1975, H.R. 8800 was approved by the House by the overwhelming margin of 308 to 60, which is enormously strong support for any bill authorizing a new $160 million program. This bill passed the Senate on June 14, 1976, by a 72-to-16 vote.

I urge the Members to override the Presidential veto of this very important congressional initiative to conserve energy and reduce our vulnerability to changes in supply and price of foreign petroleum.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may require to the ranking minority member, the gentleman from California (Mr. GOLDWATER), who spent many long hours on this bill.

Mr. GOLDWATER. Mr. Speaker, the conference report on the second concurrent resolution on the budget, fiscal year 1977 confirms my worst fears about the unwillingness of this Democrat-controlled Congress to be fiscally responsible and candid with the American people.

This budget resolution authorizes a $50.6 billion deficit. It is some $3.1 billion greater than the amount President Ford strongly urged the Congress to hold to. There is no doubt that this high deficit level confirms that the Democrats in Congress do not know how to be fiscally responsible.

Spending dollars we do not have and spending large amounts of money on "soft" projects and jobs that produce no real substantial economic impact—produces inflation. A $50 billion deficit is inflationary and let us make no mistake about it: This gross deficit budget encourages and perpetuates the inflation that is robbing senior citizens, stifling the job market, and artificially increasing the cost of all goods and services. It is a Democrat proposal and they should bear the full responsibility for its consequences.

Second, this resolution, by setting an excessive budget outlay level and by setting a high revenue floor precludes the President's proposal for more substantial reductions in personal and business income tax cuts. The only conclusion that can be drawn is that the proponents of this budget bill have placed the burden on the financially strapped American taxpayer and have opted for heavily funding—burdensome and disruptive Federal programs. I urge my colleagues to reject it. This proposal is not in the best interest of efficient government. It makes a mockery of the claims by the Democrats that they are fiscally responsible and it condemns the taxpayer to at least another year of deteriorating economic conditions.

Mr. Speaker, I rise to encourage my colleagues to override the veto of the President of the Electric Vehicle Research, Development, and Demonstration Act of 1976. I was greatly surprised that the President chose to veto this act.

Regretfully, I would have to concur with my colleagues that he may have been misled on this particular piece of legislation.

In his veto message he states:

> It is well documented that technological breakthroughs in battery research are necessary before the electric vehicle can become a viable option. It is simply premature and wasteful for the federal government to engage in a massive demonstration program . . . before the required improvements in batteries for such vehicles are developed.

He goes on to state:

> ERDA already has adequate authority under the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974 to conduct an appropriate electric vehicle development program. Under my fiscal year 1977 budget, ERDA will focus on the research areas that inhibit the development of practical electric vehicles, for widespread use by the motoring public. Included is an emphasis on advanced battery technology.

Let me begin by noting that this legislation passed the House September 5, 1975, by a vote of 308 to 60, and on August 31, 1976, the conference report passed by a voice vote. There was not one dissenting comment made during the consideration. There was not even one discouraging word registered.

Furthermore, if indeed the administration had serious objections to the adoption of the conference report, the White House did not communicate that message to me before, during, or after the consideration and adoption of the conference report.

The Science and Technology Committee of the House, after extensive investigation and hearings, accurately determined that it is in the best interests of the Nation and any electric vehicle research and development program to do two major things: First, specifically direct ERDA to conduct an electric vehicle research and development program, and to have that direction accompanied by a clearcut program description. H.R. 8800 clearly did that. The evidence received by the committee indicated that this approach was necessary to help ERDA. And the Nation's obvious need for the rapid development of a viable propulsion system alternative to the internal combustion engine demands it. Second, both Houses of Congress determined that it is fiscally and programmatically more sound to simultaneously pursue research and development in both research and development.

The reason is simple. Given the Nation's demonstrated need for transportation alternatives to the internal combustion engine and the need for the rapid development of these alternatives, the pursuit of both R. & D. efforts will mean that as the battery improvements become a viable reality, there will be available vehicles to utilize it. This minimizes utilization delays and maximizes the opportunities for widespread use by the motoring public.

Regarding the President's concern that there will be a wasteful demonstration program, and I presume he means the demonstration program will be undertaken regardless of the state of battery and vehicle technology, I can only say that his advisers have failed to accurately convey the true character of the demonstration program. It is a two-phased program. The Government demonstration program is carefully geared to the anticipated advances in technology that will be produced by the private sector. Both the Science Committee and ERDA can modify or redirect the nature and scope of each aspect of the demonstration program at any point. The Nation is almost totally assured of getting the "biggest bang" for its dollar.

This is not a wasteful, extravagant, or ill-considered program. What is involved here is a difference of opinion over program policy. The Congress is overwhelmingly supported by the evidence that its approach is sound and will be effective.

Mr. Speaker, there are two other points that must be made, and one about which I am greatly concerned is that this not become an internal Government program, but in fact, maximize and utilize the private sector to the greatest extent possible. I am especially concerned that it concentrate much of its resources on, and call upon, small entrepreneurs, small businessmen, all of whom come to us from time to time with innovative ideas.

It is clearly my concern and desire that this approach encompass the small business entrepreneurs, these virtual geniuses who live out in the hinterlands, who have a great contribution to make. In fact, this bill does include small businessmen across the land.

Second, the $160 million authorized in this bill really breaks no budget. As a matter of fact, the President did not raise this as an issue when he vetoed this bill, and it should be remembered that these funds will be spent over a 5-year period.

Mr. Speaker, the objections of the President notwithstanding, I urge my colleagues to override the President's veto.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague, the gentleman from Ohio (Mr. MOSHER).

Mr. MOSHER. Mr. Speaker, I join with the gentleman from California (Mr. GOLDWATER) and with Chairman TEAGUE and most members of the Science and Technology Committee, in supporting the override of the President's veto of H.R. 8800: Electric and Hybrid Vehicle Research Development and Demonstration Act of 1976.

I especially salute the wise and effective leadership of Mr. GOLDWATER in shaping this much needed legislation.

This bill would establish a 5 year, $160 million program to promote the development of improved batteries and demonstrate the viability of electric vehicles by operating test models throughout the country. The specifics of the conference bill are remarkably similar to the bill which passed the House by 308 to 60 on September 5, 1975. The Senate bill passed 72 to 16.

I hate to disagree with my President. I appreciate his concerns in disapproving the bill, but I believe that its current framework actually is structured to mitigate his objections. I suspect the President was not adequately informed concerning the actual thrust of this legislation; and I share part of the blame for that.

H.R. 8800 is designed to complement the work being done in the private sector, not compete with it. The bill includes an integrated game plan for developing improved battery systems and for demonstrating the everyday practicality of electric vehicles.

I concur with the President that it would be unwise to rush into a demonstration program which only used vehicles containing existing technology. H.R. 8800 provides for the purchase of a limited number of vehicles from existing manufacturers in order that we may survey the cross section of what is currently avaliable. This will serve as a baseline for planning further action.

Concurrently, work will be underway to improve battery performance. The final phase of the program will be the demonstration of electric vehicles which embody the improved technology batteries.

Far from being an unwarranted intrusion into the private sector, I believe the Federal program will foster the maturity of a fledging new industry. The electric vehicle can make a significant contribution to our energy conservation goals. H.R. 8800 contains the Federal commitment and focus necessary to make its potential contributions a reality.

Mr. Speaker, I support the override of the President's disapproval of H.R. 8800.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Speaker, I want to take this opportunity to correct an omission in my previous statement, and that is that I want to pay high tribute to both the gentleman in the well, the gentleman from California (Mr. GOLDWATER), the ranking minority member on the subcommittee, and to the gentleman from Ohio (Mr. MOSHER), the ranking minority member on the full committee, for their wonderful, bipartisan teamwork and support throughout this entire program of developing an energy policy for this country.

Mr. Speaker, this bill is one such example, and the teamwork we have been shown here today has been typical of what has been shown for the last 4 years. I cannot praise them high enough.

Mr. GOLDWATER. I thank the gentleman for his comments.

Mr. Speaker, one of the reasons that makes it very difficult for me to encourage the Members to sustain the veto is the fact that I believe the administration has overlooked the very cooperative nature of the efforts on both sides of the aisle in the creation of this legislation.

I cannot stand here and complain that I did not have an opportunity for input. I truly did, and so did the other members of the subcommittee. It was an effort that took time, but there was a lot of give and take. I truly believe that this legislation represents a compromise from many points of view.

Therefore, it is a program that, I believe, takes care of the criticism that it is extravagant and unnecessary. It is, in fact, a meaningful program, and one that was well thought out. I truly believe it is a program that is needed, and certainly if it had not been for our cooperative and nonpartisan spirit, I would not be standing in the well urging my colleagues to override the President's veto.

Mr. TEAGUE. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I rise in support of the President's veto, and I ask the Members to think seriously about the vote they are about to cast.

This bill that we passed calls for the expenditure of $160 million. It provides, as the veto message indicates, for the purchase of up to 7,500 demonstrational electric vehicles.

Nobody knows if these vehicles are going to work, nobody knows how well they are going to work, and nobody knows what we are going to do with them if they do not work. I think every Member should think a little clearly about embarking on such a tremendous project, a project of this size and scope, with our budgetary situation in the shape it is at the present time.

I did not vote on this particular bill when it passed the House. It passed more than a year ago. It is just coming up now for our final consideration. If I had voted, I might have voted for the bill at that time; I am not sure. I do not know what I would have done. It certainly was an appealing idea to spend some money and try to help protect the environment by having electric vehicles instead of gasoline-powered vehicles running around.

However, I say to each of the Members who might have voted for the bill a year ago that there are a lot of new facts in existence now that were not in existence then, facts that we just cannot ignore. The main one is that we have this report that I hold in my hand. This is a report of the Federal Task Force on Motor Vehicle Goals Beyond 1980. This report was first issued on September 2, 1976. The Federal task force is made up of several Federal agencies, the Department of Transportation, the Environmental Protection Agency, the Energy Research and Development Administration, the Federal Energy Administration, and the National Science Foundation. The report on page 17 states very clearly the facts in regard to electric vehicles, and I read to the Members as follows from this report:

> The prospects for a highly efficient electric car, in the next 10 years at least, appear to be slim. Substantial technological advancement in batteries would be required before the electric car can offer a commercially viable alternative to gasoline or diesel-fueled automobiles. Current and near-term electric automobile deficiencies in range, payload, performance, cost, and overall energy efficiency would have to be overcome. Electric vehicles are feasible for special purposes (such as small postal delivery vans) and offer flexibility in fuel use, but the total national effect on petroleum consumption within the next 15 years will be minimal.

Mr. Speaker, that is the report of the task force of the Federal Government. I say that we should not fly in the face of this report and its conclusions and require the Government to embark on a major program expending $160 million to buy thousands of vehicles which may never work.

Mr. Speaker, I ask the Members to sustain the President's very sound veto of this bill.

Mr. TEAGUE. Mr. Speaker, for the information of the Members, we should vote on this veto message in about 5 minutes. I have two more speakers.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, very thoughtful members of the Committee on Science and Technology do not always agree on everything, but they are almost unanimously in accord on this measure on both sides of the aisle. There was no real dissent in the discussion of this measure.

Mr. Speaker, the programs will not as the gentleman from New York (Mr. WYDLER) claims, produce vehicles that will not work. The vehicles do work. We have a Member of Congress right here, my good friend, the gentleman from North Carolina (Mr. ROSE), who drives one to and from the Capitol every day.

I myself have demonstrated two of these vehicles, starting 8 years ago. At every place to which I went, we got crowds of people around; and all they were asking me was, "Where can we buy one?"

I had to tell them, "You cannot buy one now." They were not available.

These vehicles are made by small manufacturers, for the most part, who have not been able to acquire the capital in order to be able to mass produce for the market. This bill would provide them with the needed capital.

Mr. Speaker, I think there is no question that there would be a tremendous market for these vehicles.

The cost of this program is not exactly as my friend, the gentleman from New York (Mr. WYDLER), has represented. He says it is $160 million. In point of fact, it is $160 million over 5 years, and $30 million this year; and most of that money will come back to the Government because these vehicles are going to be made available for lease and then sale to municipalities and enterprises that want to use them.

Therefore, Mr. Speaker, the cost of this program is going to be very minimal; and the results are going to be very significant because we are creating the ground work for small businesses to be able to manufacture, on a mass-production basis, vehicles that will save substantial amounts of oil and that will prevent very substantial amounts of pollution.

Mr. Speaker, I think this is a sound piece of energy legislation, as sound as any we could possibly devise. It will provide for very meaningful conservation, and it will provide for very meaningful control of our air pollution problem. I think it deserves to go forward.

I congratulate our chairman the gentleman from Texas (Mr. TEAGUE), the gentleman from Washington (Mr. McCORMACK), the subcommittee chairman, and the minority leaders, the gentleman from Ohio (Mr. MOSHER) and the gentleman from California (Mr. GOLDWATER), for their leadership in bringing this legislation before us.

I hope the House will resoundingly override this very unsound veto.

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. EMERY), probably the most knowledgeable Member in the House of Representatives on electricity.

Mr. EMERY. Mr. Speaker, I thank the chairman very much for his kind and thoughtful remarks.

Mr. Speaker, this legislation is extremely important for a number of reasons.

First of all, we have to find ways in which to reduce our rapidly increasing dependence on oil. The fact remains that while we have debated various alternatives with respect to energy use and energy production, our dependence on foreign oil has reached an all-time high, 50 percent of all oil consumed in this country.

At the same time, Mr. Speaker, most of the oil consumed in this country, nearly half, is consumed in some kind of vehicle. We are very, very dependent upon petroleum for transportation, not only for our private consumption, but for business and industrial purposes as well.

Mr. Speaker, it makes a great deal of sense to put this very modest amount of money into the research, development, and demonstration of electric vehicles. I think it is a very timely bill. Furthermore, compared to many of the other attempts that we have had in this Congress with respect to energy research and development, this bill can provide us with the greatest potential for the least amount of money.

Mr. Speaker, I ask the Members to support the legislation.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in support of the President's veto of H.R. 8800 for several good and sufficient reasons.

The two agencies most directly affected by this bill, ERDA and DOT, both have testified in opposition to it. The major point against the program is simply that existing electric vehicle battery technology has not advanced to the point where it is realistic to have the massive, mandatory, near-term demonstration program provided by the bill. Since the storage battery problem is really the key to the successful development of electric and hybrid vehicles, it is simply unreasonable for the Government to engage in a large-scale demonstration program before the necessary advances are made in battery technology.

It is also clear that since the area of particular need is for the advancement of battery technology, Government research and development should be concerned primarily with advancing battery research and not with the construction of electric and hybrid vehicles as such. In this regard, ERDA already has sufficient authority under the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974 to conduct an appropriate electric and hybrid vehicle research and development program which attaches priority to the advancement of electric vehicle battery technology. Accordingly, the bill would unnecessarily duplicate ERDA's existing authority.

It is clear that the intent of H.R. 8800 to demonstrate several thousands of electric vehicles in the next few years would display the known inadequacies of the present battery technology. Such a premature demonstration of electric vehicles carrying the endorsement of the Federal Government would only reinforce the attitude of the general public that electric cars are toys for hobbyists and not for them. It could "turn off" the general public and prevent the acceptance of the more fully developed electric vehicles.

Finally, Mr. Speaker, I am also concerned about the role of the Government with respect to this program. This bill would make the Government responsible for bringing about the development of production prototypes of electric and hybrid vehicles. Developing completely new motor vehicles such as these to the point of commercial production, as this bill would require, has traditionally been a matter for private industry on the theory that the Government should not intrude into the private sector any more than necessary. In my view, the appropriate Federal role in this case should be confined to research and development of battery technology—the real heart of the developmental problem—and should not extend into commercial areas private industry is fully capable of pursuing.

Accordingly, Mr. Speaker, I am very much in favor of sustaining the President's veto of this bill and urge my colleagues to vote likewise.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I strongly urge my colleagues today to vote to override the President's ill-advised veto of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

I have been, as have other Members, concerned with trying to analyze the possible reasons for the President's veto of this initiative on the part of the Congress.

As other speakers have said, this has been a cooperative bipartisan effort covering a considerable period of time and aimed at developing an essential component of our overall national energy strategy.

It is meritorious in every way. We have been, perhaps mistakenly, led to believe that the administration itself looked with some sympathy on this bill. In trying to determine why the President might have vetoed the bill, one point has occurred to me that may or may not have validity. It is the point that possibly he vetoed it because the initiative did not come from the executive branch. This would be unfortunate if true. The executive branch does initiate most of the legislation that comes before this House, but it should not seek to preempt entirely the House's opportunity and responsibility to initiate good, solid legislation such as this. I hope that it is not the case that such motivation entered into the President's action.

I know that there exists now within the executive branch a multimillion-dollar electric vehicle experimental program. It is not in the Energy Research and Development Administration. It does not have the strong component of research which it should have. It is a program operated by the Post Office Department.

The SPEAKER. The time of the gentleman has expired.

Mr. TEAGUE. I yield 1 additional minute to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, the point that I am trying to make here is that we have this electric vehicle program in the Post Office Department without the necessary framework which is contained in this bill. Hundreds of these vehicles are being used because they are more efficient for post office use than gasoline powered vehicles. The main effort or experiment there is not to improve the vehicles so much but to determine what the maintenance costs and other operating parameters of these vehicles are. The total cost has run into several million dollars for this experimental program.

I commend the executive branch for taking this initiative without a specific framework of legislative authorization. However, I regret that the broader and more necessary program embodied in this bill has not been welcomed with equal enthusiasm by the executive branch.

Therefore, Mr. Speaker, I feel we should override the veto in this case in order to resolve the remaining research problems and proceed with this very desirable program.

Mr. Speaker, one of the pervasive social and industrial problems we face in this country is what I would call "technological inertia." What I mean is this: In some areas we have so specialized and institutionalized our technology that we have established overwhelming barriers to change. Long after the conditions which spawned the technology have passed away, we are often still locked into an out-moded pattern—technologically inflexible dinosaurs facing extinction in a changing world.

Our transportation system is a prime example. Large, powerful gasoline powered automobiles became dominant in an era of cheap and abundant oil, an era of naivete about the health effects of polluted air, and an era of blindness concerning the potential congestion of our inner cities. Our marketing practices and other aspects of our economic system led to a highly specialized and concentrated ground vehicle industry. Today there is an unassailable dominance of a very few corporations in that industry, all producing an almost identical product. There is no doubt that for most urban transportation needs that product is ludicrously inappropriate.

How do we change? How do we bring the needed technological diversity into the personal vehicle industry? The Congress answer, with bipartisan support and advice from wide segments of the industrial and financial communities, was to set up a program to demonstrate the viability of a technological alternative to the internal combustion engine. The electric vehicle represents a technology that is ready for the market place. Though it faces an overwhelming competition with the internal combustion monolith for capital and public attention, many small manufacturers are ready to tool up and show what they can do. The incentives they need are minimal, and providing those minimal incentives to get them over the barriers facing a new automobile producer is what this bill is all about.

If there ever was a technology ready to go, it is the electric vehicle technology. If there ever was a market and industry difficult to change and diversify, in which incentives for innovative approaches are needed, it is the internal combustion automobile industry. If there ever was a technological innovation with societal value, in the sense of preserving scarce resources and preventing damaging environmental effects, it is the electric automobile.

The President's veto message is very weak. He argues that ERDA already has the authority for the program. We know that. The important point is that ERDA has failed to act on the technological opportunity represented by the electric vehicle. ERDA needs a program plan, like the one we have provided, to get it moving. The President argues also that we should rely purely on private industry to develop the electric vehicle; however, there is only one segment of the vehicle industry which has the capital—the existing concentrated auto companies. They are the dinosaurs; they have shown every reluctance to adjust to new conditions. The President can not expect us to seriously believe that a major innovation of this kind will come from corporations which have done all they can to maintain the status quo.

I agree with the President that private industry can and should develop the electric vehicle, but for those outside the tiny circle of large automakers there is little hope of raising capital without an incentive. The best incentive is a reasonable assurance of growing market. This bill will help open up that market and bring us some of the diversity we need in choosing ground transportation.

Let us not miss this opportunity to be technologically flexible, adaptable. I strongly urge that we override the President's attempt at a "technological freeze" in our personal ground transportation system.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, it is certainly apparent at this point in the debate that those of us who rise to urge the support of the President's veto are not espousing a very popular position. Nevertheless I believe the President is right. I think as the gentleman from New York (Mr. WYDLER) pointed out from the draft report of the Federal task force on electric vehicles—and, after all, this was a task force composed of such prestigious organizations within the Government as the National Science Foundation, the Environmental Protection Agency, and the Department of Transportation—that draft report stated that the prospects for a highly efficient electric car in the next 10 years are slim.

Well, what in heaven's name are we doing then by spending $160 million to procure 7,500 vehicles? We ought to, instead, as the veto message points out be working on technological breakthroughs that are going to be necessary with regard to the battery that is used to power those cars.

In other words, Mr. Speaker, in our desire to produce another form of horseless carriage, once again we are putting the cart before the horse.

Also, I have listened to the argument of the gentleman from California (Mr. BROWN) that because these vehicles are being used by the Post Office Department, that proves their efficiency. This is astounding to say the least. I have heard from this floor many times in recent months that there is probably no more inefficient department of the Government than the Post Office Department, or the U.S. Postal Corporation. So I am not impressed with any claims of efficiency stemming from their use of electric vehicles.

I would suggest that we could spend some money to good advantage to do the research on the battery as the President's veto message points out. But let us not give every bureaucrat here in Washington who wants to run around in an electric runabout a chance to have one of these cars during the next year. Let us sustain the veto.

Mr. TEAGUE. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 307, nays 101, not voting 23, as follows:

[Roll No. 738]

YEAS—307

Abdnor
Abzug
Adams
Addabbo
Albert
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conlan
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Hicks
Holland
Holtzman
Horton
Howard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Ketchum
Keys
Koch
Krebs
Krueger
Lagomarsino
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quillen
Randall
Rangel
Rees
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steelman
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—101

Anderson, Ill.
Archer
Armstrong
Ashbrook
Bauman
Bevill
Biester
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Cederberg
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Derwinski
Devine
Dickinson
Edwards, Ala.
Erlenborn
Evans, Ind.
Fenwick
Findley
Fish
Gradison
Hall, Tex.
Hammerschmidt
Heckler, Mass.
Henderson
Hightower
Hillis
Holt
Hubbard
Hutchinson
Hyde
Jarman
Jeffords
Kindness
LaFalce
Landrum
Latta
Levitas
Lott
Lundine
McClory
McDonald
McKinney
Madigan
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Nichols
O'Brien
Passman
Patten, N.J.
Paul
Quie
Railsback
Regula
Roberts
Robinson
Rogers
Ruppe
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Stanton, J. William
Steiger, Wis.
Symms
Taylor, Mo.
Traxler
Treen
Vander Jagt
Vigorito
Waggonner
Wiggins
Wilson, Bob
Wolff
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—23

Carter
Chappell
Chisholm
Esch
Ford, Tenn.
Hansen
Hébert
Helstoski
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Kelly
Kemp
Leggett
McCollister
Matsunaga
Metcalfe
Risenhoover
Stanton, James V.
Steiger, Ariz.
Stephens
Stuckey

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee and Mrs. Chisholm for, with Mr. Hébert against.

Mr. Chappell and Mr. Helstoski for, with Mr. Hansen against.

Mr. Matsunaga and Mr. Risenhoover for, with Mr. Kemp against.

Mr. Leggett and Mr. Howe for, with Mr. Kelly against.

Mr. Metcalfe and Mr. Ford of Tennessee for, with Mr. Steiger of Arizona against.

Mr. Stephens and Mr. James V. Stanton for, with Mr. McCollister against.

Messrs. MADIGAN and SIKES changed their vote from "yea" to "nay".

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McFALL). The Clerk will notify the Senate of the action of the House.

CONFERENCE REPORT ON H.R. 10612, TAX REFORM ACT OF 1976

Mr. ULLMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 10612) to reform the tax laws of the United States, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of September 13, 1976.)

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, let me relate to the Members of this body exactly what the parliamentary situation is so that there will be no misunderstanding.

What is before the House at this time is the basic conference report, not the gift and estate tax provision.

Our first vote will be to accept the conference report, and the first hour of discussion, it seems to me, should be on that conference report. It is an extremely long and complex piece of legislation which I hope the Members will study because it has far-reaching consequences. After we vote on the conference report, then we will bring back to the House in technical disagreement the provision relating to gift and estate taxes, and at that time I will move to recede and concur with an amendment. That will encompass another hour of debate which will be devoted exclusively to the gift and estate tax provision.

At the conclusion of that time, we will have the previous question on that issue and, hopefully, we will have approved the previous question and have an up or down vote on the matter in technical disagreement. I will discuss that matter further during the second hour, but I hope that this first hour we can devote to the rest of this conference report.

I am bringing before the House the conference report on the Tax Reform Act of 1976. This is a major effort to simplify the tax law and make it more equitable. It extends the 1975 tax cuts through calendar year 1977, and makes some of those tax cuts permanent. Also, it improves the administration of the tax laws, especially to strengthen taxpayers' rights.

In terms of budget receipts in fiscal year 1977, the tax reform sections of this bill raise $1.6 billion. The extension of the tax cuts will reduce budget receipts by $17.3 billion in fiscal year 1977. Therefore, the net tax cut in the upcoming fiscal year will be $15.7 billion. This is consistent with the second budget resolution.

There were many people who thought that Congress would not achieve such a significant amount of tax reform. The tax reform sections of the Senate bill involved a revenue loss of $300 million in fiscal year 1977, compared to a gain of $1.6 billion in the House bill. That we have been able to achieve a revenue gain equal to the original figure in the House bill indicates how well the conferees have upheld the House position.

This bill embodies more tax reform than is indicated by the net revenue figures, because the bill includes some very popular, tax-reducing reforms. Looking only at the tax-increasing provisions, the bill raises $3 billion in fiscal year 1977, $3.5 billion in fiscal year 1978 and $4.8 billion in fiscal year 1981. The major share of these tax increases falls on high-income people who are not now paying their fair share of the tax burden.

These tax increases are partly used to finance tax-reducing reforms—largely estate and gift tax reductions, a liberalization of the child care and retirement income credits and incentives for employee stock ownership and capital accumulation. These tax-reducing reforms total $1.4 billion in 1977, $2.5 billion in 1978 and $3.8 billion in 1981.

Thus, the net revenue gain from the tax reform provisions is $1.6 billion in 1977, $1 billion in 1978 and $1 billion in 1981.

This was a long, arduous conference. The House bill was almost 700 pages, while the Senate amendments were 1,000 pages long. There were 250 important differences between the two bills, each of which had to be reconciled in conference. The conferees met from early morning until late at night. I want to commend the House conferees—Congressmen BURKE, ROSTENKOWSKI, LANDRUM, VANIK, SCHNEEBELI, and CONABLE—for their hard work and effective performance on this bill.

Let me summarize the major provisions of the conference report.

The bill mounts a concerted attack on tax shelters in each of the areas where they are now used. These include real estate, oil and gas, farming, equipment leasing, movies, and sports franchises. The House bill would have eliminated the use of any deduction from these tax shelters against unrelated income, in effect eliminating the tax shelter aspect of the investment. The Senate, however, rejected this concept—the limitation on artificial losses, or LAL—and instead applied a variety of rules to limit shelters. The Senate rules were adequate in some areas, but in key areas, like real estate and oil and gas, they were clearly not strong enough to stop tax shelters.

The House conferees adopted a pragmatic approach. Our aim has been to eliminate the provisions in existing law that enable high-income people to avoid paying income tax. We did not feel tied down to the specific approach used in the House bill as long as the basic objective of ending tax shelters was achieved.

Therefore, in areas where the Senate provisions were largely adequate to eliminate tax shelters, such as farming, movies, equipment leasing, and sports franchises, we agreed to the Senate rules, usually with some strengthening amendments. In the areas of real estate and oil and gas, where the Senate provisions were too weak, we have been able to obtain significant concessions from the Senate. We have come up with a bill that will eliminate the real abuses of tax shelters in these areas and greatly reduce the ability of high-income people to avoid paying income tax. The shelter provisions will raise over $500 million when fully phased in.

Both bills contained a significant tightening of the minimum tax on tax preferences. The Senate bill extended these changes to corporations. Here, the conference adopted many of the strongest features of each bill. For individuals, the conference bill raises the minimum tax rate from 10 to 15 percent and lowers the exemption to $10,000. It reduces the deduction for regular taxes to half, makes that deduction an alternative to the exemption, and eliminates the carryover of regular taxes. Finally, it adds new preferences to the base. These changes will raise over $1 billion in 1977, quadrupling the revenue from that tax. For corporations, the conference agreed to most of the Senate provisions increasing the minimum tax.

The House agreed to a Senate amendment that tightened the "preference offset" to the maximum tax on earned income. This will deny the benefit of the 50-percent maximum rate on earned income to the extent that people use tax preferences.

Except in extraordinary cases, the tax shelter and minimum tax provisions should make it unlikely that high-income people will pay no Federal income tax. This is a major achievement.

The bill makes substantial simplifications in some of the most complicated, widely used provisions of the tax law. It liberalizes and simplifies the retirement income credit, and it converts the child care deduction into a 20-percent credit. The bill simplifies the child care provision and broadens eligibility for it. The sick-pay exclusion, perhaps the most complicated provision of the law for the average taxpayer, is repealed, except for those who are permanently and totally disabled. Also, the bill converts the alimony deduction into a deduction that may be taken by those who use the standard deduction. Tax tables are simplified and made available to more taxpayers.

Perhaps the greatest simplification from the standpoint of the average taxpayer is the increase in the standard deduction that is made permanent in the bill. This will make it worthwhile for those who file 9 million tax returns to switch from itemizing their deductions to using the standard deduction.

The bill restricts several tax abuses associated with business expense deductions of individuals. These include deductions for business use of the home and rental of vacation homes, which too often are artificially inflated by taxpayers, and deductions for foreign conventions. The bill also eliminates the tax preference for stock options, which is no longer needed because the maximum rate on earned income is now 50 percent.

Some of the most significant tax reforms deal with the taxation of foreign income. These include getting rid of the per country limitation which permits foreign losses to be offset against U.S. income, the subsequent recapture of tax benefits arising from foreign operations which are used against U.S. income when income is earned abroad, the repeal of Western Hemisphere and China Trade Act Corporations, and limiting the rate of taxes eligible for credit in the case of oil companies to a 48-percent rate. Here we had to strike a delicate balance between eliminating unjustified incentives for foreign operations instead of domestic operations and also encouraging the free flow of trade and capital across national borders. Abuses of the foreign tax credit, especially by multinational oil companies, are curtailed, and the bill eliminates a variety of incentives for investment in particular regions of the world. The bill also raises a sizable amount of revenue by cutting back the DISC tax incentive for exports. These changes will raise $600 million.

A very difficult issue for the conference was a Senate amendment denying various tax benefits to companies participating in the Arab boycott of Israel. I am strongly opposed to the boycotts, but this is such a delicate problem involving complex issues of foreign policy that had to be dealt with very carefully. Therefore, we have tried to draft a boycott provision that is much more workable than the original Senate amendment.

The bill makes important changes in the taxation of capital gains and losses. These largely follow provisions that were in the House bill. The holding period defining long-term capital gains is increased to 1 year, except for agricultural commodity futures contracts, and the amount of ordinary income against which capital losses may be deducted from $1,000 to $3,000. This will increase taxes on successful speculators while reducing taxes on those with losses. Also, the use of swap funds to avoid capital gains tax is eliminated; and rules regarding taxation of stock options are changed to prevent conversion of ordinary income into capital gains. Both of these last two changes have been passed by the House. Finally, the capital gains tax is reduced for senior citizens who sell their home.

The tax increases I have just described, along with some other, smaller tax reforms, raise $100 million in 1977 and $500 million by 1981. A substantial part of this revenue is used to finance tax reduction—many of which have been sought for a long time by Members of the House.

The principal tax-reducing reform involves estate and gift taxes. As you know, I have been committed to passing this year a sizable estate and gift tax cut for small and medium-sized estates. I preferred to do it in a separate bill, but the parliamentary situation and the fact that only a few more weeks remain in this Congress mean that it is unlikely that such a separate bill can be enacted this year. Therefore, we have worked out a series of estate tax cuts and reforms in the conference. We are bringing this package back to the House in technical disagreement to give the House a chance to vote on estate and gift tax reform.

The major elements in the estate and gift tax package are an increase in the estate tax threshold—the level at which estates become taxable—from the current $60,000 to $175,000. This estate tax cut is phased in over a 5-year period. In order not to benefit unduly the larger estates, this tax cut takes the form of a credit in place of the $60,000 exemption; and existing rates, which range from 3 to 77 percent, are replaced with a rate scheduling ranging from 18 to 70 percent.

Other estate and gift tax reductions in the bill include an increase in the marital deduction to permit larger tax-free transfers between husbands and wives and a provision allowing farms and small businesses to be valued at use-value rather than fair market value.

The conferees felt very strongly that the long-run budget picture is sufficiently tight that these estate and gift tax cuts, which amount to $1.5 billion per year when fully phased in, must be financed by estate and gift tax reforms. Currently, the estate and gift tax laws are far too inequitable. Many large transfers avoid a large amount of estate or gift tax, while others are subject to tax at very high rates.

The conference report achieves a substantial measure of estate and gift tax reform. In large part, these reforms follow the bill reported by the Ways and Means Committee. The report unifies the estate and gift taxes and imposes a special tax on generation-skipping trusts. These changes sharply limit two common ways of avoiding transfer taxes.

A third major tax reform requires heirs to carry over the basis of decedents, rather than use as their basis the fair market value at time of death. This important change is made entirely prospective and will only apply to appreciation after the end of this year. Carryover of basis will greatly reduce what is now the major source of tax avoidance by high income people—the step-up in basis at death.

I urge the House to support the conference committee on the carryover issue. While carryover of basis deserves to be supported on its own merits, it also should be supported as part of a total package that has been carefully worked out. If carryover is defeated, it places the whole estate and gift tax package in jeopardy; and I can no longer guarantee that the estate and gift tax reduction can be enacted this year.

Finally, let me say that, sooner or later, Congress is going to have to face up to the issue that over $15 billion of incomes goes entirely untaxed each year because of the step-up in basis at death. This is a major tax loophole. Most of this income accrues to very wealthy people. The carryover provision in this bill is quite lenient—providing a "fresh start," a $60,000 minimum basis and an additional exclusion for $10,000 worth of personal and household effects. It is unlikely that future legislation on this subject would be as lenient.

I will outline briefly the more significant estate and gift tax reforms contained in this bill.

First. Unification of estate and gift taxes.—The bill provides a single unified rate schedule for estate and gift taxes. The rates are progressive on the basis of cumulative lifetime and deathtime transfers. Under this unified structure, the total tax on cumulative lifetime and deathtime transfers will result in treating taxpayers who have transferred a portion of their property during lifetime somewhat better than taxpayers who retain their property for transfer at death.

Second. Unified credit in lieu of present exemption.—The bill provides a unified credit against estate and gift taxes, phased in over 5 years. The credit provides a substantially higher tax-free level than the specific exemptions of $60,000 for estates and $30,000 for gifts under present law. The amount of the credit is $30,000 for estates of decedents dying in 1977 and increases $5,000 each year until 1981 when the credit is $50,000. In 1981, when fully phased in, the credit is equivalent to an exemption of $175,625.

Third. Marital deduction.—The bill increases the estate tax marital deduction for small and moderate-sized estates by allowing a marital deduction for property passed to a surviving spouse up to the greater of $250,000 or one-half of the decedent's adjusted gross estate. In addition, the bill increases the gift tax marital deduction in the case of lifetime gifts to a spouse.

Fourth. Separate valuation rule for farms and small business.—The bill provides that the executor may elect to value real property included in the decedent's estate which is devoted to farming or other closely held businesses on the basis of such property's value as a farm or closely held business, rather than the property's fair market value determined by taking into account its "highest and best use." However, this special valuation cannot reduce the value of the decedent's gross estate by more than $500,000.

Fifth. Liberalization of rules for delaying estate tax payments.—The bill liberalizes the present requirements that must be met in order to obtain an extension of time for the payment of estate tax and extends the period over which payment of estate tax attributable to a closely held business can be made from 10 to 15 years. Under this new provision, the executor can elect to defer payment of the entire estate tax for a period of 5 years and, thereafter, pay the tax in installments over the next 10 years. In addition, the interest rate on the estate tax attributable to the first $1 million of farm or other closely held business property is to be decreased from its current rate of 7 percent to a permanent rate of 4 percent.

Sixth. Carryover basis.—The amendment provides a "carryover basis" for property acquired from a decedent dying after December 31, 1976. Under this provision, the cost or other basis of property in the hands of the executor and heirs of the decedent is to remain the same as the basis of the property in the hands of the decedent immediately before his death. However, all taxpayers are given a "fresh start" and thereby permitted to step-up their basis in appreciated property to its fair market value on December 31, 1976.

The amendment also allows the basis of an asset to be increased by the amount of the estate tax attributable to the appreciation in the asset. In addition, the bill provides a minimum aggregate basis of $60,000, and an additional $10,000 exclusion for personal and household effects.

Seventh. Imposition of tax on generation-skipping transfers.—The bill imposes a tax in the case of generation-skipping transfers under a trust or (similar arrangement) upon the distribution of an intervening interest in the trust. The tax is to be substantially equivalent to the transfer tax which would have been imposed if the property actually had been transferred outright to each successive generation. A limited exception allows one generation to be skipped in the case where the generation-skipping transfer is to a grandchild of the grantor but the maximum amount that can be transferred under this exception without the imposition of a generation-skipping tax is to be $250,000.

In addition to the above-listed major reforms, the bill provides a number of administrative and miscellaneous provisions designed to correct problems that exist under the present estate and gift tax law.

Another set of tax reductions in the bill deal with capital accumulation. The United States does not now have an adequate rate of business investment. What is worse, we have no public policy of stimulating investments. We are clearly going to have to make major policy changes to encourage capital accumulation. The Ways and Means Committee has had a task force working on this problem since February, and this group will recommend major changes in the taxation of income from capital.

This bill contains only a more modest set of tax reductions designed to stimulate investment. The 10-percent investment credit and tax cuts for small business are extended. Also, the deductibility of net operating losses is liberalized, which will encourage riskier enterprise. There are tax incentives for employee stock ownership and investment in airlines and railroads and in pollution control facilities.

The Senate amendment included a substantial number of tax reductions designed to encourage energy conservation and production. The House conferees insisted that the conference delete these Senate amendments because we thought they should be considered in the context of the more comprehensive energy tax bill passed last year by the House. The Senate Finance Committee has reported this House bill, amending it to include the energy-related title of the Senate version of the tax reform bill and adding a ½-cent increase in the gasoline tax to finance the tax incentives. I urge the Senate to move forward with legislation on this pressing issue.

The Tax Reform Act of 1976 also extends the 1975 tax cuts. The changes in the standard deduction are made permanent at the level enacted for the first half of 1976 in the Revenue Adjustment Act of 1975. The general tax credit of either $35 per person or 2 percent of the first $9,000 of taxable income and the earned income credit are extended through 1977. Also, the corporate tax rate cuts for small businesses are extended through 1977. The 10-percent investment credit is extended through 1980.

On a calendar year basis, these individual and corporate tax reductions total $21 billion. In view of the unacceptably high rate of unemployment—and the extremely rapid rise in unemployment in the last 3 months—extending this fiscal stimulus is essential. Indeed, the high unemployment rate and relatively sluggish economic growth in the past few months make it imperative that the new administration, together with Congress work up and implement a plan for rapid economic recovery.

The conference report also includes a series of very important administrative changes. These protect taxpayers' rights with respect to tax return disclosure, private letter rulings, jeopardy and termination assessments, mathematical errors and other areas. The withholding system is tightened in several respects, particularly for gambling winnings. There are also administrative changes dealing with charitable organizations and private foundations.

With respect to these administrative provisions I want to commend the chairman of the Subcommittee on Oversight of the Committee on Ways and Means, the gentleman from Ohio (Mr. VANIK), who has held a great many hearings and who participated very actively both in the committee and in the conference in bringing these major administrative reforms to us.

These provisions I have summarized are just the most important parts of this bill. This bill as a whole represents a major step toward tax reform and deserves to be enacted. It is the product of 3½ years of work by the tax-writing committees—work which has been largely a bipartisan effort.

Tax reform, however, is an ongoing process. There will have to be more major tax legislation in the next Congress. The bill directs the staff to conduct a study of tax simplification, particularly for the individual income tax. As I have said, the Ways and Means Committee is studying how to encourage capital accumulation, and we will have to act on that problem as well. A task force is also studying the taxation of married and single persons. Passing the Tax Reform Act of 1976 will enable us to move ahead in these other directions.

I hope, therefore, that the House will agree to this conference report.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to my friend, the chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I thank the chairman of the committee for yielding.

I want to compliment the committee chairman and the conferees on what they have done. The bill does meet the budget. I am in full support of the conference report, and I think it was an excellent job that was well done in a difficult area.

Mr. ULLMAN. Mr. Speaker, I thank my friend, the gentleman from Washington.

Mr. Speaker, at some time during this consideration I would be glad to yield for any questions, but at this time I will reserve the balance of my time.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 10612. I believe that on balance this report well merits the support of the House. Like any bill of this size and complexity, it contains many pluses and minuses. I do not think that in the brief time which we have for debate on the conference report, I should attempt any comprehensive review of the conference agreement, but would rather focus on only some of the provisions.

The reason I do that, Mr. Speaker, is that this conference report is 645 pages long, and to get into any details would certainly require more time than the half-hour that we are allowed on this side.

Mr. Speaker, the conferees agreed to extend most of the individual income tax reductions passed into law at the end of 1975. The general tax credit which grants a taxpayer a credit of $35 per personal exemption deduction or two percent of the first $9,000 of taxable income, whichever is greater, and the earned income credit are extended through the end of 1977. The changes in the standard deduction made in late 1975 are now made permanent.

I have no particular argument with this extension of the individual tax cuts. Certainly the American people are already far overburdened by Federal, State, and local taxation, without this body acting to increase their taxes even further. I do regret, however, that these cuts are not accompanied by any reductions in Federal spending. This is a fight led by the President and from our side over the past year. I am hopeful that the Congress will eventually approach this problem responsibly and associate further tax reductions with much-needed reductions in Federal spending.

The conference report also includes provisions extending through 1980 the increase in the investment tax credit to 10 percent, the reductions in the corporate tax rates and the increase in the corporate surtax exemption which were enacted in late 1975. The changes in the corporate tax rates and the surtax exemption are especially important to small business, to which they mainly apply. The investment tax credit action is, in my opinion, vital in order to spur much-needed capital investment in our economy and to provide new jobs for Americans.

In other major provisions, the bill significantly restricts the use of tax shelters and substantially increases the minimum tax on both and individuals and corporations, which I think we will come to regret, particularly as the minimum tax inhibits investment in capital assets. The bill also provides for amended tax treatment of domestic international sales corporations, applying an incremental base rule for the computation of benefits under the DISC provisions of the Internal Revenue Code.

In addition, the conference report contains a multitude of minor provisions, which range all the way from encouraging the preservation of historic structures, allowing spouses to establish joint individual retirement accounts, and encouraging pollution control to investment in architectural changes to aid handicapped persons, all of which I support.

Unfortunately, the bill also contains what some like to term minor provisions, but which may have far-reaching effects over the long run. In particular, I am opposed to section 2601 of the conference report, which relates to group legal services plans. The conferees agreed to exclude from an employee's income amounts which an employer contributes to a qualified group legal services plan on behalf of employees and also to exclude from income the value of any personal legal services received by an employee or any amounts reimbursed to an employee under such a plan for such legal services.

Although the conference report makes this provision effective for the 5-year period 1977–1981. I am convinced that once this gets into the law, it will be virtually impossible to remove. Although I know that most of the legislation which the Congress passes, particularly extremely complex legislation such as this bill, constitutes a full employment program for lawyers, in my opinion, section 2601 is a lawyers' relief act without precedent. Given an opportunity to do so, I would certainly move to strike it from the bill.

Nonetheless, on balance, I feel that this conference report is a good one, and would urge the support of my colleagues for it.

In closing, I would also like to refer just briefly to the estate and gift tax provisions agreed upon by the conferees, which will be considered separately by the House upon conclusion of consideration of the conference report, inasmuch as the estate tax provisions were reported back by the conferees in technical disagreement. I believe the estate tax provisions to be basically good ones, particularly those which increase the credit against the new unified estate and gift tax to a level equal to an exemption of approximately $175,000 over a 5-year period, as compared to the present $60,000 exemption, increase the marital deduction to the greater of $250,000 or one-half of the deceased's adjusted gross estate, and the several provisions which provide relief for owners of farms and small businesses. My principal objection to the estate and gift package relates to the carryover basis provisions agreed to by the conferees.

Although the carryover basis provision agreed to by the conferees is an improvement over the provision in the Ways and Means Committee bill, inasmuch as the present provision permits a stepup in basis for income tax purposes to the value of the asset at the end of 1976, nonetheless I believe that it should be dropped from the bill. It will create a lock-in of capital assets, since those who receive property with a low carryover basis will be encouraged to hold property longer than economically desirable merely because of the large capital gain which will be realized upon sale. Also, this provision may result in substantially higher taxes for a number of farms and small businesses in those cases where executors are forced to sell assets in order to meet estate tax liabilities, thereby creating substantial capital gains tax liabilities.

It is a needless complication in the law and I hope that my colleagues will support our effort to strike this provision from the estate and gift tax package, which we will make on an attempt to defeat the previous question at the conclusion of debate. Except for this provision, however, the estate and gift tax provisions agreed upon by the conferees are a substantial improvement in the law.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, one of the most outrageous loopholes, in my opinion, in the inheritance tax law is the skipped generation trusts.

What does the bill now provide for with respect to the skipped generation trusts?

Mr. SCHNEEBELI. Skipped generation trust provisions were agreed upon by the conferees. They are included not in the conference report, but in the separate package of estate and gift tax provisions reported back in technical disagreement. The House will vote on that package separately. The only difference between the generation-skipping provisions agreed upon by the conferees and the provisions in the House bill is that in the House bill the limit on certain tax free generation skipping transfers to grandchildren was $1 million per child of the donor. The conference provision limits such transfers to $250,000 per child of the donor.

Mr. ICHORD. That is in there?

Mr. SCHNEEBELI. Yes, that is in there.

Mr. ICHORD. I thank the gentleman.

Mr. SCHNEEBELI. Mr. Speaker, I do have a question to ask the gentleman from Oregon (Mr. ULLMAN), the chairman of the committee, with respect to section 1321.

I want to get a clarification of the term "customer connection fee" for purposes of the contribution in aid of construction provision of the tax bill. Under the conference agreement, are any fees or amounts paid by a customer to a water or sewer public utility in order to have a main extended by the utility to a place immediately adjacent to the customer's property considered as not a customer connection fee?

Mr. ULLMAN. Will the gentleman yield?

Mr. SCHNEEBELI. Of course I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the answer is yes. However, any fees or amounts paid by a customer in order to install or connect the utility's main to the customer's property are considered a cost to the customer.

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman from Oregon for that explanation. Again, Mr. Speaker, I very solidly and roundly congratulate the chairman of the House conferees, the gentleman from Oregon (Mr. ULLMAN). He did a great job. I think we have a sound and very reasonable report and I recommend it to the Members.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, I want to also publicly commend the gentleman from Pennsylvania (Mr. SCHNEEBELI) and the gentleman from New York (Mr. CONABLE), who were the two minority conferees, for their cooperation and coordination. I found it to be a real fine experience. Only with that cooperation could we have achieved this kind of responsible report.

Mr. SCHNEEBELI. Mr. Speaker, again I thank the gentleman from Oregon. I believe that when one considers the very complexity of the discussions that were involved, we crossed swords very seldom.

Mr. Speaker, I reserve the balance of my time.

May I inquire, Mr. Speaker, how much time I have consumed?

The SPEAKER. The Chair will state that the gentleman from Pennsylvania has consumed 7 minutes.

Mr. ULLMAN. Mr. Speaker, I yield 5 minutes to a member of the conference and a distinguished member of our committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, the conference report that we have before us today is the product of almost 4 full years of congressional deliberations on the subject of tax reform. For those of us on the Committee on Ways and Means, it is particularly significant since this report represents more hours than we frankly wish to remember of taking testimony and marking up legislation (during the past two Congresses). Hearings on the subject of tax reform began on March 5, 1973. And only last Thursday evening, after a very long, but quite productive conference, this report was actually signed.

But I take the floor today, seeking neither sympathy or praise for the individual members of the Ways and Means Committee, but rather to seek support for what I fairly believe is legislation that all in this Chamber can and should support. In doing so, I am happy to point out that after our extensive conference all 18 conferees—11 from the Senate and 7 from the House—chose to endorse this conference report. We did this not so much because we all believe the bill is perfect * * * for it is not; but rather, we were unanimous in our belief that it represents a sound, well thought out compromise that both the House and Senate could, with enthusiasm, support.

When the Senate finally passed its version of this tax bill during the month of August and called for a conference with the House, there were those, including some in this Chamber, who articulated the view that it would be worthless to take the bill into conference. There were those who felt it was better to abandon almost 4 years of legislative work rather than attempt to reconcile our House-passed bill with an admittedly far different Senate version. I even recall receiving a letter from one "public interest" legislative lobbying group that skeptically spoke of the need for "a legislative miracle in this preelection period for the conference on H.R. 10612 to sustain even those minimal reforms passed by the House." They also declared that whatever the result of the conference with the Senate, it was "bound to undermine the new congressional budget procedure on which so much hope has been placed."

To my friends from Common Cause who were so quick to abandon us on the eve of our conference, I do admit that the conference report we have before us is not a legislative miracle, but it is a good piece of legislation. And, as to "undermining the budget process," it is true that although we did not recapture the full $1.93 billion in tax revenues deleted by Senate amendments, we were able to recover $1.9 billion of it.

Credit for this result and for the overall soundness of this final bill must be given to my very good friend from Oregon, the distinguished chairman of the Committee on Ways and Means, AL ULLMAN. He has brought through conference legislation that has been promised the American people for many years, but several times in the previous Congress, weaker versions of tax reform never even made it to the House floor. This legislation embodies not only a permanent reduction in tax liabilities for most Americans, it also substantially simplifies the Code and tightens many of the more serious loopholes in the present tax system.

In addition. Chairman ULLMAN has brought back to the House a delicately negotiated compromise on estate and gift tax reform with which all in this Chamber can feel comfortable. Here the gentleman from Oregon has again delivered what he has promised to the full House and delivered where others have failed to do so. It is this compromise that reforms the estate and gift tax provisions of the Code and brings the needed relief to the millions of Americans whom inflation alone has made subject to the estate tax. This compromise package is the first extensive revision of estate and gift taxation in more than 30 years. My colleagues, the estate and gift tax package designed by our chairman is the last, best chance for reform in this area in the near future. When offered as a separate amendment, it deserves the vote of all who seek to see estate and gift reform in the closing days of this Congress.

The chairman of the committee has already outlined to the membership the major points embodied in this conference report and the report itself has been available to the Members for several days.

Let me, in brief, underscore what I believe are the key points to be remembered in voting on this conference report.

First, and foremost, is the issue of revenue. This is a barometer not only of our commitment to tightening the tax code, but also the true gage of our support for the budget system in the Congress. In my opinion, the conference compromise meets that test. The original House bill raised slightly more than $1.63 billion in revenue for the upcoming fiscal year. The Senate bill would have lost almost $300 million in the same period of time. The conference report in front of us will raise $1.6 billion in the next 12 months. Certainly the revenue impact of the House position has been preserved, preserved to the point where here the word "compromise" might not even be appropriate.

Second—simplification. The more than 20 titles of this bill presently before the House not only represent reform but they represent simplification. It should be remembered by all who might be apprehensive about the sheer size of this bill, that much of it is designed to simply delete unnecessary code provisions and reduce to more direct English those sections that must remain. Unfortunately, it requires an extensive number of words in this bill to remove the excessive number of words in the code itself.

Third, this bill does meet the test of tax reform. The chairman has already highlighted for the membership the key points in the area of reform.

In short, this is a good bill. On virtually all key points it is quite close to the House bill. When adopted, it will stand as one of the high water marks of this Congress. I urge my colleagues to give it their complete support.

I want to congratulate both my chairman and the gentlemen on this conference committee with whom I serve, particularly the gentleman from Pennsylvania (Mr. SCHNEEBELI), the gentleman from New York (Mr. CONABLE), the gentleman from Massachusetts (Mr. BURKE), the gentleman from Georgia (Mr. LANDRUM), and the gentleman from Ohio (Mr. VANIK). It was a well worthwhile experience.

Mr. SCHNEEBELI. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, as an early cosponsor of legislation to reform the estate and gift tax law, I take great pleasure today in speaking in favor of this provision of the Tax Reform Act, H.R. 10612. This estate and gift tax reform section marks the first significant change to the Federal estate and gift tax code in almost a generation, and I join with other sponsors of this legislation in saying it is long overdue.

Since the law was last amended in 1948, inflation has shrunk the buying power of the dollar by two-thirds. But no proportional changes have been made in the bite on modest-sized estates by the Federal inheritance tax laws.

As the Federal representative of a district with numerous farms and small family-owned businesses, I am dismayed by the severe impact of the Federal Estate Tax Code upon these estates at the time of probate. All too often, family farms and closely held business firms must be sold to pay the Federal inheritance taxes. To destroy the small family farm and the closely held family firm through our tax policy is expressly contrary to our national interest.

Passage of this provision before the House today is mandated if farmers and small businessmen are to be able to pass along their enterprises intact, as well as family heirlooms and antiques, to their immediate heirs without overly harsh penalties.

In my western Massachusetts district, the most visible effect of this legislation would be on dairy farmers. About 400 dairymen operate commercial farms in my district, and all of them are small, family enterprises.

During the frequent meetings I have with my dairy farmers, one of their foremost concerns they express is reform of the Federal Estate Tax Code. Uniformly, they have urged quick passage of the bill introduced by our distinguished colleague from Texas, Representative OMAR BURLESON, which would have raised the estate tax deduction from $60,000 to $200,000.

I am pleased to see that the bill before the House would have virtually the same impact.

Dairy farming is not a highly profitable operation in New England. In the past 3 years, dairymen suffered gravely due to inflation, escalating feed and fuel costs, inefficient transportation, massive competition from cheap, subsidized dairy products imported from Europe, and decreasing market revenues. Many dairy farmers were forced to terminate their operations, few sons or relatives remained with their family's farm, and no new dairy operations were started from scratch. Older dairymen complained to me that they saw little chance of passing along their farms to their sons or daughters because of the Federal inheritance tax laws, and because of this they predicted a continuing shrinkage of the dairy industry in New England.

The value of the average farm in Massachusetts today is close to $225,000, but that is a "paper value" that could only be realized by selling out.

There are strong local needs for preserving these farms. In the Bay State, only 16 percent of the food consumed is locally produced. The remainder must be imported from other States. Food reserves are low and transportation costs are high, which accounts for why consumers pay 9 percent more for food products in Boston than in other regions of the Nation.

The number of Massachusetts farms and the amount of acreage in production is dwindling. But forecasts for 1980 show that demand for locally produced dairy products will rebound sharply. So it is important to remedy our tax laws today so that the farms we will need tomorrow will still be available.

This provision now before the House, reforming the estate and gift tax laws, goes a long way toward preserving the family farm and the small family business.

Most importantly, this provision increases the size of the estate on which Federal inheritance taxes would be levied. To maximize the possible tax relief for medium-sized estates, this estate tax section also changes the exemption into a more valuable tax credit, which is subtracted from the final tax bill due.

In addition, there is a sharp increase in the marital deduction in this bill. For small and modest-sized estates, property worth up to $250,000 could be passed tax-free to the spouse of the deceased.

Two other provisions in this bill are of very special interest to family farmers and small family businessmen.

First, this legislation would allow the executor of an estate, if he chooses, to value the real property in the estate devoted to farming or the closely held family firm on the basis of the property's value as a farm or closely held business. In other words, the property's fair market value would not have to be determined by taking into account its "highest and best use." This provision would protect family farms from being bankrupted by escalating assessments due to land speculation and developers.

Second, the bill also provides longer periods of time for closely held businesses to pay any Federal estate taxes due. In some cases, the period could stretch up to 15 years, with no payments required for the first 5 years. This provision would allow greater continuity in operations while sufficient cash could be generated to pay the tax bill.

Mr. Speaker, reform of the estate and gift tax laws is an important step toward reducing the heavy burden of Federal inheritance taxes on medium-sized estates and preserving the family farm and closely held business. I strongly urge passage of this estate tax reform section and the conference report to H.R. 10612, the tax reform bill.

Mr. CONABLE. Mr. Speaker, I rise in general support of the conference report on H.R. 10612, an enormously complex bill, the major provisions of which have already been described by those who have preceded me in the well.

I should like to express my gratitude also to the chairman of the Committee on Ways and Means, the gentleman from Oregon, Mr. ULLMAN, for the patience he exhibited in advancing the House version of this complex bill. There is no question about it, despite some of the comments that have been made, there were struck very few blows for simplicity in this legislation.

As a matter of fact, the tax code is already as wide as human experience.

The historical complexities that have been engrafted into it make it very difficut to deal with, certainly impossible to deal with simply, if we are to retain any degree of equity.

I also would like to thank the chairman for having handled this matter in such a way that we can deal, first of all, with the conference report as a whole, and express our acceptance or our rejection of it. I intend to vote to accept the conference report because I feel in balance it is good.

I am going to describe to the Members some of the reservations I have about it before I leave the well this time. The chairman has also brought back in disagreement the estate and gift tax provisions, which will permit me to move against the previous question for the purpose of changing one provision, and one provision only—that relating to the restated cost basis carryover.

That he has made it possible, I appreciate, because I think there are some serious philosophic disagreements about the carrying over of a decedent's cost basis from one generation to another hereafter, despite the fact that it has been compromised to strip out all appreciation up to the end of this current year.

I would like to comment briefly on some of the major provisions of the bill and make comments which are mostly negative. I do not want anyone to misunderstand me, however. I think on balance the bill is good. I think my colleagues, however, should understand what they are doing to the tax law with regard to particular provisions. In some respects I think we are off on the wrong foot.

Tax shelter provisions first. Title II of the conference report on the Tax Reform Act contains the so-called tax shelter provisions. As much as anything, this was the central idea of the bill. To be frank, I am disappointed in much of the action the conferees took in this area. I supported the limitation on artificial accounting losses concept, the so-called LAL which was included in the House-passed version of the bill. I believe the limitation on artificial losses concept approaches most of the tax shelter abuse problem directly and I think that is the way we should do it.

The conferees, however, rejected the LAL approach, as did the Senate. It is true that the conference agreement contains a number of desirable capitalization and amortization requirements with regard to certain expenses which arise in a number of these economic activities, in particular, real estate and syndicated farming. For example, the conferees have agreed upon what I believe to be reasonable capitalization and amortization rules in the real estate area with respect to construction period interest and taxes. Equally, I believe that a number of the capitalization requirements in the farm syndicate area are reasonable ones.

Basically, however, the conferees have relied heavily upon the so-called "at risk" restrictions on deductibility of expenses with regard to a number of these tax shelters, limiting deductions to the amount which the investor in question is "at risk" in the activity. In a number of cases I do not believe that this is necessarily a desirable approach.

Also, the tax shelter provisions agreed upon by the conferees raise substantially less revenue over the next 5 years than do the House-passed provisions, although considerably more than the Senate-passed tax shelter restrictions.

Next, the minimum tax provisions. Generally, title III of the conference report deals with changes in the minimum tax. The second source of my objections to what the conferees have done in the tax shelter area is that in rejecting the LAL approach, we have ended up relying very heavily on increasing the minimum tax superstructure in our law. It is my belief we would do much better to deal with any abuses directly.

The conference agreement increases the minimum tax rate on individuals and corporations from 10 to 15 percent. It reduces the exemptions substantially for purposes of computing the minimum tax. It adds important new items of tax preference.

I am opposed to this reliance on the minimum tax because I have seen what it has done to effective tax rates on capital gains, by including the portion of net long-term gains excluded for purposes of computing the regular income tax in the minimum tax base. This "preference" is included under minimum tax now. At present we raise substantial revenues from the minimum tax on the part of capital gains excluded from the regular income tax and thereby inhibit much needed capital formation.

I think many of our colleagues believe we should be reducing the tax rate on long-term capital gains. In fact we are increasing it by increasing the minimum tax. With respect to individuals, up to the present time 85 percent of the revenue from the minimum tax has come from taxation of the previously untaxed portions of long-term capital gains.

In increasing revenues from the minimum tax by over a billion dollars in fiscal year 1977, which increase will gradually rise to about $1.5 billion by fiscal year 1981, I believe we are going down the wrong road.

The so-called tax preferences were enacted to further what we thought at the time to be desirable social and economic goals. Subjecting income deliberately not heavily hit by the regular income tax to a substantial minimum tax seems to me a contradictory policy.

With regard to the extensions of individual income tax reductions, title IV of the conference agreement contains all the individual income tax reductions contained in the Revenue Adjustment Act of 1975 through the end of 1977, and makes the increase in the standard deductions permanent. I have no particular argument with this extension of the individual tax cuts. However, I continue to be concerned about the fact that the Congress refuses to address the question of adequate spending cuts to accompany such tax cuts, contrary to what the President has requested repeatedly and to the position taken by most Members on the minority side.

The SPEAKER pro tempore (Mr. BENNETT). The time of the gentleman from New York (Mr. CONABLE) has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. CONABLE. Mr. Speaker, this fight has been waged in this Chamber repeatedly over the last year and I see no point in discussing it at length at this time. Ultimately, however, whatever the realities of the present political season, we must face the responsibiilty of matching these attractive tax reductions with the more difficult spending reductions.

We come now to capital formation and small business provisions. Titles VIII and IX of the conference report contain the capital formation and small business provisions of the bill. The conferees extended the present 10 percent investment tax credit to the end of 1980. I am not a particular advocate of the investment tax credit approach, preferring realistic depreciation schedules and allowances. What concerns me most about the conferees' actions in this area, however, are the provisions which will permit a total investment credit as high as 11½ percent if the employer establishes a qualified employee stock ownership plan.

This potential additional 1½-percent credit may cost the Treasury as much as hundreds of millions of dollars per year. I believe it to be an essentially gimmicky approach which the Congress would be well-advised to restrain. I am particularly concerned about the damage which growth of these ESOP plans might do to the well-established and more traditional profit-sharing and pensions plans, upon which so many American workers rely.

With regard to Domestic International Sales Corporations—DISC's—the conferees attempted to compromise competing needs and philosophies in this area. I have supported the DISC concept strongly in the past. I believe the conference compromise is a workable one which will retain the major portion of DISC benefits and the incentive for the creation of American jobs which results from those benefits, while at the same time reducing the revenue loss.

Essentially, the conference agreement provides for continued DISC benefits to the extent that current gross export receipts exceed two-thirds of a DISC's gross receipts in a 4-year base period. Until 1980, this base period will be the 4 taxable years from 1972 through 1975. In 1980 the base will begin moving forward 1 year each year thereafter. I think that this is a reasonable compromise.

I would also like to comment at this time with regard to the estate and gift tax provisions recommended by the conferees. Although these provisions are not included in the conference report, since they were reported back in technical disagreement, they will be considered as a group on the conclusion of the House's consideration of the conference report. I intend to ask for a no vote when the motion to recede and concur comes.

The estate and gift package includes a number of desired changes in the law. Some of the major changes are the unification of the estate and gift taxes, a unified credit against those taxes which will rise over a 5-year period to a level equal to an exemption of approximately $175,000, and an increase in the marital deduction for estate tax purposes to the greater of $250,000, or one-half of the decedent's adjusted gross estate.

In addition, the conferees agreed to alternate real property valuation provisions with regard to certain real property devoted to farming or other closely held businesses, extended the time for payment of estate tax liabilities in the case of farms or other closely held businesses and restricted "generation skipping" transfers which can be made free of estate taxation. Overall, I think that these provisions constitute a desirable change in the law.

The SPEAKER pro tempore (Mr. BENNETT). The time of the gentleman from New York has again expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. CONABLE. Now, in my opinion, the House's action on the rule on H.R. 14844 forced this improvement by the conferees. I find the recommended carryover basis provision most unfortunate. It will produce complex and time-consuming litigation between taxpayers and the Government. It will inhibit the free transfer of property because of the "lock-in" effect and, as a result, encourage people to hold property far beyond the time when prudence would otherwise dictate its disposition.

In addition, potentially, this provision will have some of its harshest effects on farms and small businesses, many of which are held in the same families for generations, and which are often illiquid. This illiquidity often forces executors to dispose of various capital assets in the estate in order to satisfy estate tax liabilities. If the recommended carryover provision is adopted, such dispositions may trigger new large capital gains liabilities as well.

I will go into this issue in more detail in connection with our consideration of the estate tax and gift package. I raise the matter now to inform my colleagues as early as possible with regard to my opposition to this provision.

I will offer a substitute estate and gift tax package which will be identical to that reported by the conferees except for the deletion of the carryover provisions.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. VANIK) a member of the committee and member of the conference.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I would like to thank my esteemed colleague from Ohio for yielding to me, and take this opportunity to thank the chairman of the Committee on Ways and Means, the ranking minority member and the conferees for producing what I think is an outstanding bill.

Mr. Speaker, as the House takes final action on this Tax Reform Conference Report, I would like to call the Members' attention to a section of this act which will have far-reaching effects on the right of privacy of most citizens. This provision, section 1205, which I authored will in effect give all taxpayers the right to be notified before the IRS examines their financial records. This will apply to records that are not in the actual possession of the taxpayer—those held by a creditor, an accountant, or a credit card issuer to cite some examples. When issuing an administrative summons on the third party record holder for the taxpayer's records, the taxpayer will automatically be notified of the summons, and will have the right to request that the record keeper not comply with it. Should the IRS seek court action to enforce it, the taxpayer will for the first time have the right to appear in court, along with the record holder, to raise his own defense against enforcement.

This new procedure will for the first time preclude the IRS from conducting widespread fishing expeditions in all our financial records. This sort of safeguard is absolutely essential. I would like to call to the attention of my colleagues the fact that this notice requirement is intended to apply in all cases of attempted access by the IRS to records covered by the section. Once this procedure is law, there will be no more informal access to records by any IRS agent or employee.

The language of this provision will go a long way toward guaranteeing the right of privacy that so many of us expect, and do not realize is often taken away by these agents. I commend my colleagues, especially in the Ways and Means Committee, for having supported this essential section, and know that an end to informal access by the IRS to all our records will be tremendously important both to those who have cared about this problem, and to those who have been unaware of it. With this language in the law, they will never have to discover that the right of privacy they thought they had in fact did not apply in these kinds of situations.

I would like to thank the California Bankers Association, the northern California ACLU and the many others who worked on this provision.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I rise in support of this conference report, although I do so with reluctance. I believe it is a much better product than the bill reported by our Ways and Means Committee and passed by the House. The worthwhile provisions of this massive piece of legislation slightly outnumber its drawbacks, justifying my vote in its favor.

I must say, however, that the bill is misnamed, and has been misrepresented in the press. Let us not fool ourselves that this is a substantial reform of the Tax Code. Reform means to amend or to improve by change. I doubt that many Members believe the addition of several hundred pages of complex tax provisions will improve the already byzantine Internal Revenue Code. During the 15 months that this bill has been under consideration, its proponents constantly said that their goals were simplicity and equity. The sad truth is that any equity contained in this bill is more than offset by its failure to simplify anything. The one sure thing about this bill is that it is a boon to the Nation's tax lawyers and accountants.

I commend the conferees for making several excellent deletions in the House bill, particularly in eliminating the destructive concept of LAL. I continue to believe that LAL would have played havoc with the capital market in businesses particularly sensitive to capital formation. I do question the wisdom of increasing the number of preference items under the minimum tax and suggest we may be forced to modify these provisions in the future.

The bill contains some helpful items that will encourage business expansion and create new jobs. The extension of the corporate surtax exemption and the investment tax credit are the two most prominent examples. I believe that a real reform of the Tax Code would involve inclusion of similar provisions, such as elimination of the double taxation on dividends, improvement of the asset depreciation range, reduction of the corporate income tax, and exclusion of the first $1,000 of capital gains. These are included in the Jobs Creation Act, a most important bill introduced by Congressman KEMP which I have cosponsored. Through the encouragement of corporate growth and creation of permanent jobs in the private sector, this bill would result in a greater GNP and greatly increased Treasury revenues. The first steps in this direction are contained in this conference report, and deserve encouragement.

I am pleased that this conference report also contains a revision of the archaic 1942 estate and gift tax laws. However, the provisions do not go as far as they should. Merely to offset for inflation, the existing exemption level of $60,000 should be increased to $200,000. Still, the credit of $47,000 equal to a $175,000 exemption is an improvement over the House bill, and is worthy of support. I continue to object strongly to the carryover basis provision, however, and will vote to remove that section of the bill.

In voting for this conference report I am fully aware of the amount of work that remains to be done in tax reform. I have proposed an indexing of the tax code to offset the tax increases due to inflation, and believe we should give serious consideration to eliminating most deductions and exemptions and replacing them with one flat tax rate to be paid by all. In the future I intend to work for these measures, so that someday we may have a Tax Reform Act worthy of the name.

Mr. VANIK. Mr. Speaker, I support the conference report as it comes to the House. It represents a landmark achievement for Chairman Al Ullman and the House conferees. The report is evidence of the preservation of the House position on major issues.

The conference, in its nature, limited the conferees to adjustment of the differences between the Houses. The conference report is not perfect, but it is the best that the House could do in reconciling differences with the other body.

It must also be noted that this conference, unlike any previous conference on a tax bill, did its work in the open. The sessions were well attended. There were even a few citizens without special interests who managed to take the time out to visit the conference and watch the proceedings. Positions were openly stated and votes were publicly taken. The conference demonstrated that an open conference can work and resolve the very complicated problems and issues involved in tax legislation.

In a statement in yesterday's Congressional Record, I outlined my differences and dissent on certain positions, and support for others. I have reservations about provisions relating to the estate tax which I will discuss when we get to those provisions, but the conference report which is submitted today deserves the support of the House.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Speaker, I rise in support of the conference report. Others have stated it well, that this is a conference report done in the open. The conference worked well; the conferees did an extraordinarily good job under difficult circumstances.

But, it is not without its problems. I might, for the benefit of my colleagues, simply point to two of those from my standpoint. One is the fact that there is a retroactive application of the new minimum tax changes and the at-risk provisions, which means that for taxpayers in this country who, in good faith, made decisions in 1976 based on the existing code, suddenly will find those decisions subject to new taxes without any real knowledge or any real opportunity to have done anything about it. That is a problem, and I think all of us will hear from constituents who will have that kind of experience facing them when this bill is approved and, I hope, signed into law.

The second, and one that disturbs me much more than any other, was the decision of the conference, because of budget pressure, to delete the House-passed benefit of section 1502, on the limited individual retirement account—LIRA. This will live to fight another day, and I would not want the conferees, the joint committee staff, the House Ways and Means Committee or others to think that I have given up that fight to establish a degree of equity in terms of those who are presently discriminated against because they belong to a qualified pension or profit-sharing plan, but that plan is inadequate, and they are precluded from establishing an IRA. I think they ought to have that right, and I hope that will come forth in 1977.

There is another problem, and I would like to have the attention of the chairman of the Committee on Ways and Means to raise an issue that is dealt with in title XII of the bill, on the administrative provisions. Under the present law, the National Institute of Occupational Safety and Health receives from IRS, in its efforts to trace employees or former employees of companies in an effort to track down those who may have been exposed to toxic substances or to carcinogens.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield one additional minute to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Speaker, under the provisions of section 12, the conferees have deleted NIOSH from the list of Federal agencies which will have access to tax records not for tax purposes but for names, tracing names. I wonder if the chairman is aware of the problem and if it is possible for us to find a way to solve it, either by legislation soon, or administratively.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the distinguished gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Yes, the Chairman is very conscious of the problem. It was not drawn to the attention of the conferees in sufficient time to take care of it there. It cannot be taken care of, as the gentleman knows, in this conference report. But I am in full accord with the gentleman, it is a problem that we need to take care of, and at the earliest moment it will be our purpose to look into that problem and try to resolve it.

Mr. STEIGER of Wisconsin. I thank the Chairman very much.

It is partially my fault and it is partially the fault of a lot of other people. I should have caught it, and none of us did. I regret we did not catch it in time to help the conference resolve the problem.

Mr. ULLMAN. If the gentleman will yield further, I thank the gentleman for his interest in this whole field. He has given us real leadership, and we certainly will be following his leadership in trying to find an answer to this problem.

Mr. STEIGER of Wisconsin. I thank the gentleman very much for his comments.

There are, Mr. Speaker, other provisions which are of interest to me. Section 1707 of the conference version contains provisions similar to H.R. 14683 which I joined in introducing with other members of the Ways and Means committee. This section is of great value since it will allow a mutual fund to pass through tax exempt interest to its shareholders. This creates a new mandate for municipal funds.

Section 1207 is also of interest to me since it embodies legislation . I first introduced. I am pleased that the conferees adopted the Senate version concerning State income tax withholding for military personnel. This mandatory approach is preferable since it aids those in the military who do not know they have a State tax liability but suddenly find themselves with substantial lump sum payments due when the State finds them.

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume, and I yield to a member of the committee, the gentleman from Louisiana (Mr. Waggonner).

Mr. WAGGONNER. Mr. Speaker, I thank my distinguished chairman for yielding.

I would like to utilize a moment or two to clarify by colloquy a couple of issues.

First, Mr. Speaker, with regard to section 1032 of the bill, it is my understanding that the conference agreed to accept the House version, with the qualification that the effective date for possession losses would be delayed only 3 years instead of the 5 years shown in the House version; is that a correct statements?

Mr. ULLMAN. If the gentleman will yield, the gentleman is correct. The answer is yes. The House version had a 5-year delay in effective date for loss recapture, but the conferees compromised this and agreed to a 3-year delay. In addition, there is apparently some misunderstanding over this, and we will make every effort to clarify it as soon as possible.

Mr. WAGGONNER. Mr. Speaker, to deal with the issue surrounding the question of boycotts, I would like to inquire as to the effective date of the antiboycott provisions under the conference agreement.

The Senate bill initially provided an effective date of 30 days after enactment. However, during the conference, I am advised, the House conferees insisted upon taxpayers being given a period of time in which to reorganize or restructure their existing operations or commitments to avoid future participation in or cooperation with international boycotts, operations or commitments which were not penalized prior to the adoption of these new provisions. As finally approved, this conference agreement does give taxpayers until December 31, 1977, to accomplish this result if their operations are carried on pursuant to a binding contract in existence on September 2, 1976.

However, Mr. Speaker, there are a number of international operations that are not carried on pursuant to the terms of binding commercial contracts but rather are mandated under the laws, edicts, or regulations of foreign host governments—with an even more binding effect on the operations involved.

In view of this, Mr. Speaker, could you advise whether it was the intent of the House conferees to construe the term "binding contract" as it appears in the conference agreement to include operations or agreements that as of September 2, 1976, were being carried out pursuant to the requirements of foreign host government laws, edicts, or regulations?

Mr. ULLMAN. The gentleman is correct. As the gentleman indicated, the reason for the exceptions to the 30-day-after-enactment effective date was to give taxpayers time to rearrange or restructure their pre-September 2 operations or commitments, as long as they make no agreements to participate in a boycott after that date. If no such agreement is made, the provisions will not apply until after December 31, 1977.

Mr. WAGGONNER. I thank the gentleman for that answer. I believe the gentleman from New York (Mr. CONABLE) would like to speak on this particular issue.

Mr. CONABLE. Mr. Speaker, will the distinguished chairman of the committee yield to me for a question?

Mr. ULLMAN. Yes, I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, the provisions denying foreign tax credits and certain other foreign tax benefits to U.S. taxpayers which participate in an international boycott are to be based on a determination by the Secretary of the Treasury or by Internal Revenue agents. In determining whether the taxpayer has in fact agreed to participate, it is my understanding that the burden of proof is to be on the Government. Is that not correct?

Mr. ULLMAN. Yes, the gentleman is correct. As the proposal was agreed to by the conferees, the initial determination by the Secretary of the Treasury or by an Internal Revenue agent is to be made only if the preponderance of the evidence available indicates that the taxpayer has agreed to participate in the boycott. This burden of proof is thus slightly different than that applied in ordinary tax cases. However, once it has been established that the taxpayer has agreed to participate with respect to any operations, he is to be treated to have participated with respect to all his operations in boycotting countries unless the taxpayer can clearly demonstrate that he has not in fact participated. In the making of the initial determination by the Department of Treasury, the mere failure to do business with any company or in any country for good business reasons does not imply an agreement.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his answer.

Mr. BURLESON of Texas. Mr. Speaker, will the gentleman yield to me?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. BURLESON of Texas. Mr. Speaker, we are about to finalize the most important legislation to come before this session of Congress. The report accompanying this bill is 646 pages and there are wide differences of opinion as to the meaning and effect of many provisions. It is highly technical and complex. When this bill is labeled as "reform" it certainly does not include simplification of the tax code.

Mr. Speaker, the conference report before us is a product of days and days of drafting and redrafting. Months of study and debate went into the formulation of this bill and yet there remains many, many sections subject to interpretation. When this measure is finally enacted into law, it will create business for tax lawyers and accountants.

Seldom do we get legislation here on this floor which pleases everyone. This is a situation which totally pleases no one. It becomes a matter of balancing what one perceives to be desirable with that found to be objectionable. In other words, it is not all bad but it certainly is not all good.

Time will permit only the mention of two areas in this measure to which I object and think to be absolutely unacceptable. The first is another attack on intangible drilling costs. This can have no other effect than to restrict exploration. It only applies to individuals. In other words, the independent oil operators who do the exploring. It does not apply to the "big oil" companies because it is not applicable to corporations. This provision is self-defeating and is absolutely unconscionable.

The other undesirable feature appears in the estate and gift tax provision. An "appreciation tax" is now imposed instead of the section 6 in the committee bill when it was separate from this omnibus tax bill but which got fouled up in procedures here on the floor last week. It is still a capital gains tax regardless of what it is called. It is new in the tax code and in 4 or 5 years will hit the small and medium size estates, the very people we are trying to help in this legislation.

For these reasons, Mr. Speaker, I am going to vote against this conference report and hope that there is opportunity of eliminating the capital gains feature of the estate and gift tax. As we all know, under the procedures here today, there is no way to even get the chance of eliminating this section applicable to the intangible drilling costs.

Hopefully there may be a way found to reverse the action here today by the Senate. Chairman ULLMAN has indicated that he would be willing for the House to have opportunity for a direct vote on this issue when that is possible. We know it is not in order under the rules governing this conference report. I hope we can have such an opportunity before the serious damage is done which is certain to occur under this provision.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I thank the gentleman for yielding this time to me. I might suggest that the committee chairman sit down for just a moment because I want to say some kind words about him.

I have been in the Congress for 16 years now, and most of that time was spent on a committee on which there was no balance. It did not matter too much what one thought in the Committee on Armed Services because the military was going to get what it wanted anyway.

On Ways and Means the chairman of the committee has had a very difficult role because the committee has been and is philosophically balanced and we get tough, close votes on issues most of the time. The committee chairman deserves a great deal of credit for keeping the committee hard at work toward the goal of arriving at compromise provisions. The gentleman has done a superlative job in this regard.

I did not think 30 days ago that we were going to have a tax reform bill or an estate tax bill this year. I believe this has in a sense been a legislative miracle, and a great deal of this is due to the fact that this sense of fairness, this sense of compromise, and this willingness to plug ahead to get the job done has gotten the job done.

Mr. Speaker, this is not a perfect bill. It is, however, a bill that gives us a better tax code, a fairer tax code, and a more just tax code, and I am happy to support the conference report.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman for his kind remarks. Let me add that the gentleman from New York (Mr. PIKE) is a great member of the Committee on Ways and Means.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas (Mr. PICKLE), a member of the committee.

Mr. PICKLE. Mr. Speaker, I thank the chairman of the committee for yielding.

Mr. Speaker, I would like to inquire about a provision dealing with condominium associations with respect to certain income that is received by the association. Under the provision in the conference report, section 1301, would money which is set aside for a reserve fund for painting and repairs to the exterior of the building and other such maintenance work be excluded from taxation? In this case, the money would be paid by the co-owners in their maintenance fees.

In addition, I would also like to inquire whether under this provision in the bill money that came from the tenants paying a parking fee would not be taxable income to the condominium as long as the money came from only the co-owners, and the money was placed only in the maintenance budget?

Mr. ULLMAN. The answer would be "Yes" to both of those questions.

Mr. PICKLE. Mr. Speaker, there are many things in this 646-page conference report that I would rather were not there. For example I believe that the provisions in the bill pertaining to the intangible drilling deduction will have just the opposite result from the result intended. I believe that the provisions in the bill will result in the independent oil and gas producers being squeezed out of business. The big oil companies can still afford to drill for oil because they have the necessary income to offset their losses. However, the independents, who have historically done the greatest percentage of the drilling for wildcat and exploratory wells, will not be able to attract the necessary capital to do the job. Overall this will undoubtedly have the unintended effect of slowing down our search for energy reserves at a time when we most need to encourage it. We must try to correct this inequity and I hope we can advance it in a separate bill soon.

I also have grave doubts about the carryover provisions adopted by the conference committee. I believe that these provisions will have serious implications, not immediately, but a few years down the road. This provision that requires that for a decedent dying after December 31, 1976, the basis of all assets will be stepped up to their fair market value on December 31, 1976, is in reality an income tax provision, and has no place in an estate tax reform bill. Further, the administrative problems and complexity of this provision will keep the lawyers and accountants busy for years.

This provision will start hurting not immediately, but assuming we still have our present rate of inflation, it will hurt in a few years. People who die 5 years from now will feel the effects of this tax when their estates are probated, and their families will find that they are having to pay a high tax on property that they thought was just the family farm. All the heirs will be faced with the difficult task of determining what was the actual value of the land or farm on December 31, 1976.

However, in spite of these reservations, and other reservations about other parts of the bill, I am voting in favor of the bill because I believe this is the last chance we have for meaningful estate tax and income tax reform this session. The overall reform of the estate tax laws are long overdue. The committee has worked long and hard to resolve our differences, and this is the best compromise that we could agree on. It is not a perfect bill, but it is a workable bill that will accomplish the overall aims of raising the exemption for estate tax, and will also provide for assessing farms and small businesses on the basis of use.

The bill also has a strong effect in making the tax laws more fair, especially by strengthening the minimum tax. At the same time, the bill recognizes our capital needs by increasing the investment tax credit, and lowering the tax on small corporation. All in all, I will be supportive.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. Jones).

Mr. JONES of Oklahoma. Mr. Speaker, I, too, want to extend my compliments to the chairman for his tenacity in bringing this bill to the point where it is today.

Mr. Speaker, I would like to ask a question of the distinguished Member from Oregon (Mr. Ullman) concerning section 1035(c) of the bill. Section 1035 (c) relates to the foreign tax credit and production sharing contracts.

Earlier this year, the IRS issued a ruling which holds that the contractor under a production sharing contract in Indonesia is not entitled to a foreign tax credit. However, the ruling was made applicable only to future years because the IRS was of the view that, prior to the issuance of the ruling, the companies involved had reason to believe that they were entitled to a foreign tax credit. In order to give the oil companies operating under existing production sharing contracts a reasonable period of time to renegotiate these contracts with the foreign governments so as to conform to the new IRS position, section 1035(c) of the bill allows the foreign tax credit for 1 more year for payments made under production sharing contracts entered into before April 8, 1976.

In some cases, after April 8, 1976, the Indonesian Government has asked the contractors to immediately make available funds in excess of existing contract obligations.

Where the basic arrangement that makes the contract a production sharing contract and subject to the ruling is unchanged, but the Indonesian Government's share was increased, will the contract be treated as a contract entered into before April 8, 1976, under the terms of section 1035(c) of the bill?

Mr. ULLMAN. The intent of the legislation is to make the foreign tax credit available for 1 more year for existing contracts to which revenue ruling 76–215 applies. As long as the fundamental terms of the arrangement, which makes it a production sharing contract and subject to the IRS ruling, were entered into before April 8, 1976, and are not changed, the amendment is applicable.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. Fithian).

Mr. FITHIAN. Mr. Speaker, I rise in support of the bill as the best piece of legislation we could get, and I commend the chairman for this effort.

Mr. Speaker, I rise in support of Mr. Ullman's motion and I would urge my colleagues to join me in voting today for reform in our tax laws. This can be a great day for all of us who are concerned about preserving the family farm and family-owned businesses in America.

By voting for the Tax Reform Act with its provisions designed to modernize estate and gift tax laws, we will be providing much-needed tax relief to those who have faced financial chaos upon the death of the head of household. We will be correcting an inequity in the current tax treatment of spouses. We will be helping to keep family farms in business as the most productive force in the agricultural sector. We will, in a sense, be voting for the American family.

I share the sentiments of my colleague Mr. Conable, for I agree that inclusion of the carryover basis on property provision will negate some of the tax relief we are seeking for family farm estates and will make estates less liquid as assets. But I cannot in good conscience support the Conable substitute, for to do so may well contribute to the death of any real tax reform in this Congress. Any attempts to alter the sensitive balance achieved by House and Senate conferees in the agreements they have struck may well kill this legislation entirely. Politics is, after all, the art of the possible—and it is simply not possible for us to have both the essential tax reforms included in other areas of this bill and the Conable substitute. I urge my colleagues to give consideration to what we may risk by supporting the Conable substitute.

Today marks the culmination of a real citizen effort on behalf of tax reform. Millions of men and women from across our land who have felt that present inheritance tax laws are inadequate in today's economy have called upon us to approve this legislation.

Perhaps no single issue we have considered this year is as important in the minds of the people I represent in Indiana as this tax reform bill. In almost 200 town meetings which I have conducted throughout the Second District, I have heard again and again from people who have been forced in the past to cope with inequities in the present tax law. In conversations on the streets of such communities as Valparaiso and Warsaw and Rensselaer, working men and women have asked me to never yield in my efforts to secure passage of this legislation.

Indeed, this is the result of a citizen lobbying effort unlike any other I have seen since taking office. After I introduced H.R. 4368, the Family Farm Inheritance Act, I circulated petitions throughout my district, calling for estate tax reform legislation in this Congress. More than 5,500 citizens quickly signed those petitions, and I presented them to the Ways and Means Committee during my testimony in support of this legislation. In my subsequent conversations with Mr. Ullman, I have tried to impress upon him the real need for this legislation in the minds of the people I represent. Their voices have been heard.

In a sense, then, passage of this bill is proof that representative democracy does work. It shows that if enough people feel strongly about an issue and make the effort of working with their elected representative to achieve their goal, they can be successful.

Mr. Speaker, my voice this afternoon in support of this bill is being echoed by thousands of the citizens I represent. Let us carry this fight for fairer taxes one more step. I urge my colleagues to approve the Ullman motion, and to subsequently approve the Tax Reform Act.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Speaker, I would like to ask the chairman a question, and I would like to explain that I am not a member of the Committee on Ways and Means.

In any case, I would like to commend the staff and the committee for going through what I am sure has been an agonizing ordeal and for the product that has finally been produced.

Mr. Speaker, I do have some concerns about one particular section. Although I am not a tax expert, I would like to ask the chairman whether he could explain the conference report with relation to treatment of intangible drilling costs of corporations that are engaged in oil and gas production versus the same tax treatment of intangible drilling costs that are afforded individuals operating as individuals rather than as corporations.

My understanding—and again, I am not an expert on this—is that presently in the conference report independent operators who deduct their intangible drilling costs must pay a tax preference in order to do so, as opposed to corporations which are allowed to take those deductions without having to pay any tax preference.

Is that understanding correct?

Mr. ULLMAN. Mr. Speaker, I would say to my friend, the gentleman from Louisiana (Mr. BREAUX), that in this bill we were looking for shelter operations, and there are not shelter operations in corporations. That is the first answer.

Second, corporations and individuals are treated traditionally in different ways. When we ended the depletion allowance, we ended it for the big corporations to the tune of billions of dollars; and we kept it for the small, usually unincorporated entities. Therefore, I do not think we can properly argue that both need to be treated in the same way, because they are not, under the tax law.

However, Mr. Speaker, we would be very happy to look into that problem at some future time so as to try to accommodate the gentleman from Louisiana with respect to that situation.

Mr. BREAUX. Mr. Speaker, I thank the gentleman.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, I yield to the gentleman from Tennessee (Mr. DUNCAN) a member of the committee.

Mr. DUNCAN of Tennessee. Mr. Speaker, section 1201 (a) of the bill creates new rules governing the public inspection of written determinations made by the Internal Revenue Service and related background files. It is being enacted, in part, as a response to the need to avoid "secret lawmaking" by the Internal Revenue Service. Under section 1201(b), rulings, technical advice memoranda, and background file information which were or are the subject of a judicial proceeding under the Freedom of Information Act are not made subject to these new rules on disclosure. For example, Mr. Speaker, cases such as Fruehauf Corp. against Internal Revenue Service, Supreme Court Docket 75-679, if decided in favor of the taxpayer, are not in any way adversely affected by the changes contained in section 1201(a) of the bill by reason of section 1201(b). Thus, if the Supreme Court or other Federal courts, in a pending Freedom of Information case, affirms a taxpayer's rights to disclosure of private letter rulings, technical advice memoranda, background files, indexes and card files, or other related communications and correspondence, section 1201(b) will in no way impede or deter the court ordered disclosure as to all information sought in the pending cases.

Similarly, if a pending freedom of information case is decided against the taxpayer, the taxpayer must look to the new law for its disclosure rights.

Mr. FRENZEL. Mr. Speaker, I want to echo the sentiments of many of the other Members of the House who have spoken recommending the acceptance of this conference report. It is a remarkably good bill when one considers the terrible complexity of the problem and the difficulty of the process through which we achieved this final product. I believe the conferees are certainly deserving of great credit for having brought us what I can only describe as a surprisingly good bill.

H.R. 10612 is a good piece of legislation. It is a wide ranging bill which makes changes widely regarded as reform. It closes what have been described as loopholes. It makes equity adjustments. It extends individual tax cuts. Most importantly, except for the individual cuts, the conferees resisted the lure of giveaways and actually produced a bill that will substantially increase tax revenues by $1.6 billion.

By increasing the standard deduction and by changing the child care and alimony provisions, this bill will greatly simplify tax filing for millions of Americans.

The estate tax reform is, by itself, almost reason enough to support the bill. It is long overdue. It has a serious flaw, but I hope that the January 1, 1977, basis date will be removed.

H.R. 10612 also contains administrative reforms which are calculated to give the taxpayers a fairer break in their dealings with the IRS.

I do not want to leave the impression, however, Mr. Speaker, that the bill is a series of unvarnished blessings. The bill is filled with flaws. There are items in it such as have been described by other Members of this House which are bad tax policy. I suspect the increase in the capital gains tax through the increase in the minimum tax is one of the worst.

The feature of the International Trade Commission is another unnecessary and bad piece of law that does not belong in here.

But, on balance, I am pleased to recommend to this House that this conference report be agreed to, and I am pleased to commend the conferees for having done an extraordinary job.

I do intend to support the amendment to be offered by the gentleman from New York (Mr. CONABLE) to the estate and gift tax. In order to do that, we will have to follow his leadership and vote down the previous question in order not to have a brandnew tax be imposed upon widows and children in this country who may in all other respects be totally exempt from the estate tax but, because of the unwise carryover in this bill be forced to pay a cruel and unreasonable tax.

For this reason I believe we will have to support the Conable amendment. It will do wonders to the bill.

Then I hope the entire bill is then passed.

Mr. SCHNEEBELI. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. KETCHUM), a valuable member of the committee.

Mr. KETCHUM. Mr. Speaker, I rise with considerable reluctance to support this conference report. I do commend not just the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN), but the other 36 members of the committee who spent many, many long hours working on this bill and producing a product that was not in many respects nearly as good as the product that we now have.

I certainly hope, though, that none of the Members of this body will go home and try to tell their constituents that they have voted for a tax reform bill because this is not. What the Members will be voting for, if they intend to vote for the conference report, they will be voting for a tax revision bill. That is about the sum and substance of it.

It is not a good bill. It is not a bad bill. There is just a little more good in it than there is bad.

So I will, reluctantly, support the conference report and support the gentleman from New York (Mr. CONABLE) in his efforts to make some revision in the estate and gift tax.

Mr. Speaker, along with my colleagues on the Ways and Means Committee, I began work on this legislation more than 15 months ago. The final product before us today falls far short of the hopes I held in June 1975, but on balance it is a substantial improvement over the bill passed by the House last December. I doubt that it could seriously be considered much of a "reform" measure—"revision" would be far more apt as a description. Within the 1,500 pages of H.R. 10612 are several praiseworthy provisions, often standing beside some true clunkers. I intend to vote for this conference report, but with the full knowledge that it is far from perfect and deserves revision in the future.

The most important improvement in this conference report is its omission of the imposition of LAL on real estate, farm operations, oil and gas operations and equipment leasing. Since no one knows what effects LAL would have had upon capital investments in these areas, the conferees made a wise decision to omit the House provisions. However, I do question the wisdom of imposing the "at risk" limitations on farming and oil and gas ventures, a limitation not placed upon real estate operations. I believe that the conferees properly realized that "at risk" meant decreased investment in real estate, a depressed industry. The same logic would extend to oil drilling and farm operations which are capital intensive ventures badly in need of additional capital. On balance, however, "at risk" is preferable to LAL.

I have reservations also about requiring corporations involved in farming to go to accrual accounting. This must not serve as a precedent to place the same requirement upon the family farm.

Including new preference items within the minimum tax is again better than LAL; however, it may pose real and burdensome tax increases on some industries. What particularly bothers me is the impact of this minimum tax on independent oil and gas producers. Independent producers account for 90 percent of exploratory drilling within the United States. Theirs is an especially capital intensive occupation, since the vast majority of holes drilled come up dry. Why in the name of Heaven do we want to dry up capital in the domestic oil industry at a time when there is a desperate need for every drop of domestic oil? Inclusion of oil and gas drilling as a preference item under the minimum tax will not hurt the major corporations—it will hurt the 10,000 independent producers who are vital to project independence, that forgotten goal. This is one of the most obnoxious provisions in the conference report and should certainly be corrected in the future.

The conferees made an improvement in the provisions concerning the Domestic International Sales Corporation—DISC. I objected to the House action which excluded agricultural sales from DISC treatment, which was a wholly arbitrary and discriminatory act. The conference report wisely drops that exclusion. I continue to think that allowing military sales only 50 percent of DISC benefits is a subjective judgment which does not belong in an impartial IRS code.

Another serious flaw is the "boycott" provision. Mr. Speaker, this kind of language has no business in a tax bill, or any other kind of bill for that matter. I must strenuously object to the use of the tax code to bully American businesses into trading with some and not with others. We are creating a "boycott" of our own by marching down this road, and should recognize what we are doing. Again, this is a section which should be examined again in the future.

The conference report retains some very fine features from the House bill. I endorse particularly the extension of the $50,000 corporate surtax exemption and the 20 percent normal tax rate on the first $25,000 of corporate income; the extension of the 10 percent investment tax credit for 4 additional years, and the extension of an additional 2 years for carryforward of business losses. These are helpful tools to aid capital formation, and the conferees are to be congratulated on their inclusion. Regrettably, there are not many more provisions of this nature in the bill.

Thoughout this year, I have watched the development of the reform of estate and gift taxes with great concern. I doubt I have ever seen such unanimity of opinion of any piece of legislation as on the need to update the 1942 laws. Inflation has increased over 200 percent since the estate tax laws were enacted, but the dollar exemption of $60,000 has remained the same. The inexorable growth in inflation rates has, therefore, pushed hundreds of thousands of taxpayers into brackets subject to estate taxes, even though real worth remains relatively stationary. The people who have suffered in this squeeze the most are the owners of family farms and family businesses, many of whose heirs must sell their properties simply to pay the estate tax.

The Estate and Gift Tax Reform Act which was earlier before this House was a step in the right direction, but contained sizeable flaws. The estate tax provisions of the conference report represent a considerable improvement over our version of this reform. First, the credit is increased from an exemption level of $154,000 to $175,000. Second, the carryover basis provision has been modified to establish the tax basis of property at its fair market value as of January 1, 1977, rather than the original purchase price. This provision is still devastating, however. I intend to support a motion which will eliminate any change in the existing carryover basis later today.

In sum, I believe that this bill deserves my vote, while reserving my grave doubts about many of its provisions. I would advise my colleagues that we would be mistaken in trumpeting this Act as any real "reform" of the tax code. That monumental task is still to be accomplished. As a member of the Ways and Means Committee, I intend to devote myself to that as yet elusive goal.

Mr. SCHNEEBELI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ARCHER), a member of the committee.

Mr. ARCHER. Mr. Speaker, I reluctantly take the floor to oppose the conference report. It is not an easy decision because the chairman has done an excellent job in this regard in trying to meld together the various desires and various philosophies of a very diverse House of Representatives and a very diverse Congress. But, ultimately, we have to put the good and the bad on the balance scale.

There are two major issues facing this country that to me transcend tax reform. Tax reform is important but those two issues are: The economy, inflation, deficit spending, and a balanced budget on the one hand and, on the other hand, energy.

This country will rise or fall in the years ahead on these two major issues, not on the issue of tax reform.

A year ago we heard great debate in this House on whether we should have a tax reduction without an equivalent reduction in spending. There has not been one word today about that, and I cannot let this House adopt this conference report with a reduction of $17 billion in revenue at a time when this Nation is running a $50 billion deficit without any regard whatsoever for the need to make a dollar-for-dollar spending reduction that was supposedly guaranteed in December of last year, when we adjourned, in any future tax reductions, and it is nowhere to be seen. A $50 billion deficit drives this country to greater and greater inflation, and inflation is the No. 1 concern of the people of America.

So on principle and on balance this major issue causes me to have to cast a vote against a bill that has been carefully tailored to try to harmonize the desires of many in this Congress.

The other issue is energy, and this was touched on briefly by the gentleman from Louisiana. The man who takes the risk to drill the wells to explore to find new oil and gas under very adverse conditions is the independent, the small independent oil man in America. We will either move toward greater energy self-sufficiency through his efforts, or we will fail. This bill requires that he pay 15 percent of every dollar that he spends on labor and on fuel and on drilling costs of money that he spends out of his pocket, and for the privilege of being able to spend that money, he gets to have to borrow an extra 15 percent to have to pay into the Federal Treasury.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. ARCHER. Because of my concern not just for the immediacy or the expediency of being able to say that I voted for tax reform, I am more concerned about the two major issues on which this country will rise or fall; so reluctantly I must cast my vote against this conference committee report.

Mr. SCHNEEBELI. Mr. Speaker, the previous gentleman from Texas (Mr. ARCHER) referred to the huge $50 billion deficit. I share his concern, but I think we express our concern probably better in the budget resolution which we adopted earlier, which will come up shortly after we resolve this question on our own conference report. At that time I plan voting against the budget because of this huge deficit. But I think we would better express our concerns for our mounting deficit and continuing deficit at that time.

Mr. Speaker, to summarize my situation, I heartily support the conference report as it is given to the House at this time. Again I want to commend the Chairman, the gentleman from Oregon (Mr. ULLMAN) for his very fine leadership in bringing back this fine report.

Mr. SPEAKER, I yield back the remainder of my time.

Mr. MURPHY of New York. Mr. Speaker, I join my colleagues in endorsing the conferees' work on H.R. 10612. The report before the House today is a significant step toward tax reform and should be supported by the Members of this body.

In considering whether to support this massive conference report which we have before us, I hope my colleagues will heed the recent endorsement of the final version of this legislation that has been given by two of the Nation's most ardent advocates of tax reform—the New York Times and the Washington Post.

Both on the editorial pages and in their analyses, these respected newspapers have urged the adoption of this conference report. While not perfection, this bill does bring us a step closer to an equitable tax system. I insert at this point in the debate the articles and the editorials from the Washington Post and the New York Times:

[From the Washington Post, Sept. 13, 1976]

REFORMING THE TAX LAWS

The tax reform bill has been reformed—not completely, to be sure, but far more substantially than seemed possible a month ago. The House originally passed it in pretty good shape, but then the Senate, in a fit of irresponsibility, wrote into it a vast collection of new tax breaks and miscellaneous atrocities. The struggle swayed back and forth for weeks in the Senate-House conference. That conference has now ended with a compromise that retains many of the House version's strengths and omits most of the Senate bill's mischief. It is a hugely complex piece of legislation, and only the bravest of legislators would claim at this point to comprehend every line fully; certainly we do not. But the main outlines seem clear. In its present form, the bill deserves to be enacted and signed by the President.

In terms of money, and the amount of tax that everybody will pay this year, the most important part of the bill is also the least controversial. It continues the temporary tax cuts that Congress quickly enacted early last year when the full dimensions of the recession were becoming apparent. With unemployment high and rising, hardly anyone would even consider turning off the stimulus that the cuts give the economy. But the bulk of the bill addresses the much more intricate question of distributing the load.

What does tax reform mean? By one definition, it means improving the fairness of the tax code—in the sense that the ideal law would tax people of similar incomes at similar rates regardless of their accountants' skill at tax avoidance. One constant symbol of the present law's shortcomings is the number of wealthy citizens who manage each year to avoid paying any taxes at all. In respect to them, the bill is indeed a reform. It carries a modest but significant tightening of the minimum tax that they are required to pay regardless of their tax shelters. The bill also eliminates some of the most egregious of the shelters, although it does not contain the systematic clean-up that was in the original House bill.

Another definition of reform is simplification of the law. Here the bill is a clear loss. It adds nothing but more complexity. The unfortunate truth of the matter is that every broad revision of the code attempts to remedy previous injustices and anomalies by making still finer distinctions. A simple tax code is a delightful idea, but we seem to be in the wrong century for it.

Reform also means making the tax system more progressive—shifting more of the load onto the taxpayers with more than average incomes. This bill does not do anything about the broad distribution of the American tax burden. But it makes a couple of highly controversial changes in the closely related question of taxing inherited wealth. Because the current law exempts the first $60,000 of an estate from taxation, only 7 per cent of all Americans leave estates large enough to be taxed at all. The new bill would raise the exemption to $175,000, at which level only the largest 2 per cent of all estates would be taxed. In return for this great concession to inherited wealth, the conference decided that estates should no longer be wholly exempt from the capital gains tax. Suppose a man buys stock at a low price and, by the time of his death, it has risen in value. Under present law, that capital gain is never taxed. Under the bill, it would gradually begin to be taxed (if, but only if, the heirs ever sold it). Even this gradual beginning is too much for some of the congressmen, who are going to make one more attempt to delete it.

They might succed. The tax bill will now come back to the House in a peculiar parliamentary situation that will require a separate vote on the estate and gift tax section. That whole section will be worthless if the House abandons this slow and gentle beginning to taxing the capital gains in estates. It might be noted that inflation continuously raises the income taxes of average citizens by kicking them into higher tax brackets. Particularly in view of these silent tax increases, it is hardly appropriate for Congress to show such disproportionate solicitude for the inheritances of the nation's wealthiest families.

At its present stage, the tax bill also represents a heartening affirmation of the new congressional budget process. Last spring Congress voted, in its first budget resolution, to raise $2 billion by closing tax loopholes. But as the Senate passed it, the tax bill would have opened up $300 million worth of new loopholes. Most of the worst of these provisions were thrown out by the conference, and the substantive changes in the law would now raise a net of about $1.6 billion next year. For legislation hammered out in the heat of a summer before a presidential election, that's not bad at all.

This bill was entirely a congressional initiative, and it is a congressional solution. The White House and the Treasury have had astonishingly little to do with it. The reason is, presumably, that President Ford's long competition with Ronald Reagan for the nomination made it impolitic for him to address most of the issues that the bill raised. But if this much can be accomplished with no support from the administration, it is reasonable to expect that more could be done with the kind of help that at least one of the presidential candidates, Jimmy Carter, is pledging. As for the present bill, it falls short of the original hopes of its sponsors. But on balance, it is worth enacting into law.

[From the Washington Post, Sept. 13, 1976]

ULLMAN SHAKES "LOSER" TAG IN GIVE-AND-TAKE WITH LONG

(By Peter Milius)

At the end of the House-Senate tax bill conference Thursday night, someone at the cluttered table asked Laurence N. Woodworth, chief of the conference committee's staff, how much revenue the bill would raise in the next fiscal year.

As Woodward announced the amount—$1.596 billion—an enormous grin spread across the normally worried face of Rep. Al Ullman (D-Ore.), Ways and Means Committee chairman who had led the House conferees.

The revenue figure—one of the tests by which the degree of "tax reform" in the huge bill will be judged—was within a decimal point of the total the House tax bill would have raised, and almost $2 billion beyond the net loss the Senate bill would have produced.

The smart money had said Ullman would be the loser in the conference, easy pickings for his Senate counterpart, Russell B. Long (D-La.), Finance Committee chairman. Instead, Ullman came out of conference a winner.

The loser label was pinned on Ullman almost from the day he took over Ways and Means two years ago, after his predecessor, Rep. Wilbur D. Mills (D-Ark.), was forced by scandal to step down.

The House was supposed to be newly liberal following the 1974 elections, which had left it two-to-one Democratic and with a large, relatively cohesive and impatient class of reformist freshmen. Ways and Means was supposed to have been re-energized by the addition of new and supposedly progressive members, especially on the Democratic side.

Yet Ullman was embarrassed, first on an energy bill that barely cleared the committee and was diluted on the House floor, then in his first tax bill conference as chairman, where critics said he was outbargained by Long on the oil depletion allowance (though most of the revenue loss from depletion was stopped by the final bill).

It is often said and written of Ullman that he is a decent man. Critics began to complain he might be too decent to do the scheming and head knocking necessary to produce legislation from Ways and Means.

Ullman's defenders replied that the new Ways and Means Committee was a lot less liberal than it was reputed to be. They said the House Democratic leadership, in its usual cautious way, had not given Ullman a working liberal majority, but instead a divided committee that frequently split 19 to 18 on controversial issues. The 12 committee Republicans, voting as a bloc, generally could find six and sometimes seven conservative Democrats, often including Mills, to join them on close questions.

In any case, Ullman's reputation vis-a-vis Long's was such that when the 1976 tax bill moved from the Senate to conference last month, House liberals—the leaders of the Democratic Study Group—went to Speaker Carl Albert (D-Okla.) and Majority Leader Thomas P. O'Neill (D-Mass.) to urge that the bill be junked.

The Senate had so denatured it, they said, that Ullman could never salvage the reform sections in conference, and Congress should simply let tax reform drop until next year, when there might be a new and more supportive administration. They recommended that Congress simply extend last year's tax cuts through next year and go home.

Ullman stoutly resisted, saying he could produce a creditable bill if given the chance. And now he has.

Ullman would be the first to laugh at the idea that, like some legislative Popeye, he ate a can of spinach, then somehow outwitted and outfought Long in the conference. The outcome, and the reasons for it, are not that simple.

For one thing, while the conference was a victory for Ullman, it is not clear that it was a loss for Long. Some cynics think Long may have deliberately loaded the bill in the Senate with provisions he did not really want and planned to give away in conference witb the House.

Reformers now are grateful the conference got back about to the terms of the House bill, but the House bill was never regarded as the millennium in tax reform.

It merely struck at some of the most egregious forms of tax avoidance, restricting the use of tax shelters and raising the so-called minimum income tax—a special extra tax on wealthy individuals who, because of other provisions in the code, would otherwise pay no or very low taxes. It made no monumental, fundamental changes in the code.

The bill produced by the conferees, moreover, while about as strong as the House bill if judged by the revenue it would yield, is not as strong in some structural respects. For one thing, it would not crack down as hard on shelters, which would continue. Shelters are investments set up to produce artificial, or accounting, losses that investors can use to reduce their net taxable income (and thus their taxes). In this sense, Long won a little.

A second factor in the outcome of the conference might be called the awakening of Rep. Dan Rostenkowski. The 48-year-old, nine-term Chicago Democrat, who has often seemed half indifferent to tax questions in the past, suddenly started acting like what he is—the 62-year-old Ullman's heir apparent as chairman of Ways and Means. (Rostenkowski is third in seniority among Ways and Means Democrats now, behind Ullman and Rep. James A. Burke (D-Mass.), but Burke is 66 and regarded as unlikely to run for more than one more term.)

Rostenkowski got up early on mornings the conferees were supposed to meet, to study the likely issues and arguments, and he sometimes seemed to be fighting harder for revenue-raising provisions—and against revenue-losers—than Ullman was.

The House conferees, like the House committee, were often narrowly divided. House and Senate sides both voted by the unit rule, and the seven House conferees tended to divide 4 to 3, with Reps. Herman Schneebeli (R-Pa.), Barber Conable (R-N.Y.), and Phil M. Landrum (D-Ga.) on one side; Ullman, Burke, Rostenkowski and Charles A. Vanik (D-Ohio) on the other. Had Rostenkowski been less vehement, Ullman might have well felt in conference as he often did in committee—that he had no choice but to give in.

A third factor in the outcome was the influence of tax reform groups and the new House and Senate budget committees. The budget committees in May set a tax reform revenue target of $2 billion for the fiscal year beginning Oct. 1.

When first the Senate Finance Committee, then the Senate ignored that target in their tax bill, they were held up in public as budget-busters who were adding to the probable deficit in the year ahead just as surely as if they had voted for increased spending.

The two budget committees were a new source of pressure on the two tax committees.

So, too, were the reform groups, led by Ralph Nader's Tax Reform Research Group. They have been around before, but never in as sophisticated and organized a way as this year. They found and helped publicize a series of special-interest provisions in the Finance Committee bill, and the embarrassed committee finally felt compelled to withdraw 17 of them.

But others—special tax cuts for the railroads, airlines, ship owners, big insurance companies, companies with high anti-pollution costs, Encyclopedia Britannica, PPG Industries, Freeport Minerals and assorted other corporations—remain in the bill.

For Ullman, the victory was clear. But for tax reform, the results were mixed.

THE TAX BILL PASSED TWO CRUCIAL TESTS

(By Edwin L. Dale, Jr.)

WASHINGTON.—Since early this year the huge, complex tax revision bill that was winding its way through Congress has been measured against two tests:

First, would it accomplish significant tax "reform," usually defined as limiting, at least to some extent, the various tax preferences that reduce taxes on the well-to-do? Second, related to the first, would it raise a significant amount of new revenue for the Treasury, so as to meet the revenue requirements established by the new Congressional budget control process?

As the bill, more than three years in gestation, left the Senate last month it seemed that neither test would be met. The Senate version was widely criticized, particularly by liberals. But after nine days of exhausting work by conferees from the House Ways and Means Committee and the Senate Finance Committee, the first tax-writing conference in history that was open to the press and public, the final version of the tax bill that emerged seemed quite respectable on both counts.

Probably the single most important conclusion that should be drawn from the writing of this tax bill is that the budget process now exerts a powerful influence on the revenue side of Congressional decision-making. The budget process had already shown surprising success in bringing some order and control to the expenditure side, but revenues seemed more intractable, particularly in the Senate.

By carefully picking and choosing among the various provisions in the House and Senate bills and particularly by dropping or delaying revenue-losing provisions, the tax conferees managed to produce an estimated revenue gain for the fiscal year 1977 of $1.6 billion, fully meeting the hopes of the budget committees in both houses and conforming to the final budget control resolution for fiscal 1977, which is about to be adopted by Congress.

There was an evident sense of restraint. The Senate conferees dropped costly new provisions granting a tax credit to students or their parents to help pay for higher education, a series of tax incentives to encourage energy conservation, and a credit for the expense of training amateur Olympic-class athletes. And in many little ways, the conferees resolved their differences in favor of minimizing revenue loss.

As for the "reform" aspect, the judgment depends upon the eye of the beholder. Many changes in tax law that liberals term "reform" are regarded by such groups as the American Council on Capital Formation as a further attack on the savings available for investment and on already inadequate corporate profits.

Since the time of President Nixon, the Treasury has supported the basic idea that the various tax preferences—all adopted ostensibly for worthy purposes such as stimulating oil drilling and middle-income housing construction—should not continue to be combined in such a way as to permit some wealthy individuals to avoid tax altogether or reduce their taxes to absurdly low levels. To end that abuse, a "minimum tax" was adopted in 1969, with the important exception of tax-free interest on municipal bonds. A taxpayer is required to add up the various preferences he or she uses and, if they exceed a certain level, to pay a special minimum tax. The main questions surrounding the bill just completed were how much heavier to make the minimum tax and whether some of the preferences should be limited directly, as the House bill would have done.

The issues involved were of surpassing complexity, and the possible outcomes made a big difference to the various types of wealthy taxpayers and tax-sheltered investments. In the end there was a compromise that was tough in all respects. All of the preferences—oil and gas drilling, real estate investments, farming losses by non-farmers, sport franchises and the like—were tightened to varying degrees, although not quite as much as in the House bill. Moreover, the minimum tax was greatly changed. The change will raise the number of persons affected by the tax from about 30,000 now to 300,000 and increase the amount of tax paid by those who are "caught."

The well-off doctor or lawyer who has some capital gains, has invested in a real estate syndicate, perhaps has a farming loss and also has large normal deductions for such things as charitable contributions and state income taxes, used to be able to reduce his tax to a nominal amount. But no more. All the investment preferences and deductions are still available, but he will have to pay a minimum tax on all "preference income" above $10,000. The minimum tax rate under the new bill is 15 percent, compared with 10 percent now.

Much of the additional revenue from the toughened minimum tax, about $1 billion a year, will come from those who have large capital gains, and this troubles those who are worried about "capital formation."

Corporation taxes were largely left alone, except for a reduction in the special benefit for exporting, which has gone mainly to a few large multinational companies. Of greater interest to business was the extension for four more years of the 10 percent investment tax credit, meaning a tax saving of more than $3 billion to companies that make new investments.

It is worth noting that the bill makes the tax system somewhat more "progressive" by extending last year's anti-recession tax reductions through all of 1977, for a saving to individuals of about $15 billion, weighted toward those of low and moderate income. In such areas as child care, alimony deductions and a special retirement credit for the aged, individual taxpayers were also helped a little.

The bill is noteworthy in another respect: it includes the first major reform of the estate and gift tax since 1941. There will be a significant tax relief for all modest-sized estates, through an increase in the amount of an estate exempt from tax, and the law will be toughened somewhat with respect to the very large estates and those who inherit them.

Few liberals will proclaim themselves satisfied with the huge bill. But while it continues to be complicated, the tax system is probably a little fairer than it was before the lengthy effort at change began, and the Government's revenues have been reasonably well preserved.

[From the New York Times, Sept. 12, 1976]

TOWARD EQUITY—THE TAX BILL

The tax bill has made some modest progress toward greater equity by increasing the minimum tax on so-called "preference" income (that is, income shielded from regular income taxes). This will make it virtually impossible for the rich to avoid paying any taxes—unless the whole of their income is derived from the interest on municipal bonds. But whatever their other deductions, they now would have to pay a tax of 15 percent on all other "preference" income after deducting either $10,000 or half the taxpayer's regular taxes, whichever is greater. Though still too generous, this is an improvement over the present situation that allows very wealthy people to pay ridiculously low taxes.

In addition, tax shelters for investors in oil and gas wells, movies, real estate, and sports franchises, though still preserved, have been narrowed. In the other direction, estate taxes have been markedly lightened; the present $60,000 exemption from the estate tax would be converted into a tax credit slated to jump to the equivalent of a tax exemption of $120,000 next year and to rise to $175,000 by 1981.

The conference bill retains a provision imposing stiff tax penalties on companies that cooperate with the Arab boycott. It would require the Secretary of the Treasury to suspend their right to U.S. tax credits on their foreign taxes and to defer the payment of U.S. taxes on foreign earnings until they are repatriated. The President opposes this use of the tax laws as a punitive device, as do we; but we believe the President should sign the tax bill and try to persuade Congress to accept other measures to fight the boycott later, rather than veto the entire bill on that one issue.

While this huge and cumbersome tax bill has been whipped into acceptable overall shape through the discipline of the new budget process and the exposure to open proceedings, the bill has made only the most limited progress toward genuine reform.

True tax reform cannot be achieved by tinkering with the hundreds and thousands of items that constitute the present mess. Whoever is elected President in November should give the highest priority to a drastic overhaul of the tax system for the sake of both equity and simplicity.

The massive tax bill that the Senate and House conferees have agreed upon is no model of tax reform—but it is now more acceptable than it threatened to turn out only a few weeks ago. The improvements in the bill—especially the junking of a great many giveaways that it originally contained—are a tribute to the new budget process and the tax reformers.

The revision and reform sections would bring in $1.6 billion, which is reasonably close to the $2 billion figure the joint Congressional budget committee set last spring as the amount of extra revenue that had to be raised by tax reform. While the budget committee may scale back its revenue requirement to match what the tax committee has done, the fact remains that, through the stubborn resistance of Senator Muskie of Maine and other champions of the new budget process, a host of costly nonreforms were stripped from the tax bill.

As a result, this measure is in line with economic needs as determined by the joint budget committee and its professional staff. And, as the tax bill comes close to the revenue target, the House and Senate have shown fiscal responsibility by accepting the $413 billion ceiling on expenditures set by the budget committee.

There is no way a single fiscal package can simultaneously stop inflation and stimulate more rapid expansion to reduce unemployment; but what this tax-and-spending policy does is focus on the more critical immediate problem, which is to keep the recovery going and reduce unemployment, without exacerbating inflation.

The new tax bill helps to accomplish that purpose by making permanent the 1975 tax cuts for individuals and the refundable income-tax credit for low-income families; these are worth $14.4 billion. And the bill also makes permanent the 1975 business-tax cuts, worth $1.7 billion, and continues the investment tax credit at 10 percent through 1980, instead of allowing it to revert to 7 percent next year. With unemployment at nearly 8 percent and the economy still so sluggish, it would be most unwise to impose additional tax burdens on consumers and business by letting the 1975 tax cuts lapse.

Mr. FISHER. Mr. Speaker, I rise to support the conference report on the Tax Reform Act of 1976. The end result of nearly 2 years of work by the Ways and Means Committee and this House, the conference report on balance deserves to become law. I see in it more pluses than minuses as I survey its vast scope.

The revenue gain for next year is estimated to be $1.6 billion, a modest amount, not as great as I had hoped, but still in the right direction.

Continuation of the 1975 and 1976 antirecession tax cut is necessary to help overcome the persisting unemployment and business slack. Such continuation will not endanger the economy with more inflation as long as so much excess capacity in industry and unemployment in the labor force exist. The report does contain the necessary tax reduction.

In other respects—tax reform, tax simplification, improved tax administration—modest, though important progress is being offered. But there is nothing wrong with modesty, and it becomes all of us in this House to rejoice in such gains as our legislative process permits. Besides, there is always another day to do battle for further tax reform, simplification and administrative improvement. I intend to take a strong part in future efforts to achieve more reform and more simplification.

I want to add my compliments to those others have bestowed on our Ways and Means Committee chairman. He is a paragon of patience, fairmindedness, and persistence. As one who has pressed frequently for a greater measure of reform than was possible to attain, as one who has been disappointed from time to time with failure to eliminate entirely the undeserved tax loopholes, I do especially appreciate this kind of leadership.

Mr. DRINAN. Mr. Speaker, I would like to speak in favor of the Tax Reform Act, H.R. 10612. The bill is not the type of tax reform that ideally I prefer, but it does reform a number of tax loopholes which clearly should be rectified if we are to establish a more progressive tax system for all Americans.

The Tax Reform Act raises almost $1.6 billion by strengthening existing tax provisions in a number of areas. Some of the reforms which are addressed include tightening the minimum tax, reducing the Domestic Industrial Sales Corporation—DISC—subsidy, reducing the benefits of tax shelters, and reducing the availability of excess foreign tax credits. There is no doubt that a true tax reform bill would go much further in eliminating the inequitable and inefficient tax subsidies which are found throughout the U.S. tax code, but this bill at least makes a worthy beginning.

Mr. Speaker, I am happy to say that H.R. 10612 is a much better bill now than it was a month ago. At that time, the Senate wrote into their bill a vast collection of new tax breaks and loopholes. Although the original House bill, which was passed last December, was a worthy bill, the Senate action threatened to gut the reforms that were made there.

Fortunately, however, the agreements that were eventually hammered out between the House and the Senate resulted in a compromise that retains many of the original strengths of the House version and omits many of the Senate's more deplorable inclusions.

One important aspect of the Tax Reform Act is the continuation of the temporary tax cuts which the Congress enacted last year. At that time, the United States was attempting to break out of the economic recession of many months. The tax cut which was successfully enacted through the Tax Reduction Act provided a significant stimulus to the faltering economy. In view of the fact that high unemployment continues to persist throughout much of the country, it would clearly be bad economic policy to stop the one stimulus which has been so effective in beginning to turn our recessionary economy around.

Mr. Speaker, the tax bill is an important instrument of fiscal and monetary policy. But above all, it is supposed to represent a fair and equitable revenue-raising device for the Federal Government. Our tax code should be fair, so that people of similar incomes are taxed at similar rates, regardless of the tax shelters in which they are able to invest. Yet it has long been clear that our tax code is progressive in name only.

The number of millionaires and wealthy citizens who manage each year to avoid paying any taxes at all is symptomatic of the failure of our current tax code. For example, in 1973, one of the most recent years for which complete tax statistics are available, it was revealed that a total of 24 millionaires with an adjusted gross income of more than $1 million paid no Federal income tax.

To prevent similar tax avoidance in future years, the Congress passed a device known as the minimum tax, which required that a certain minimum tax be paid regardless of the tax shelters which were used. But just the fact that a minimum tax must be needed at all indicates how far we are from true tax reform. Acknowledging this fact, the Tax Reform Act does strengthen the minimum tax somewhat. True reform, however, will not be achieved until the minimum tax device will no longer even be needed.

Another aspect of our tax laws which should be addressed, Mr. Speaker, is the need for simplification. Our tax code is presently so complex that few attorneys and accountants are able to understand its intricacies. In the near future, we must strive to simplify existing law. H.R. 10612 helps very little in this regard, as even the tax reforms accomplished here are complex in themselves. It may be very difficult, to achieve tax simplification, but it is clearly a worthy goal which we should strive for.

I am also supporting as part of this bill, Mr. Speaker, the estate and gift tax provisions as originally passed in the Senate bill. This legislation was needed in order to avoid the unjust impact on farmers and small businessmen who are not able to pass their businesses and farms on to persons within their immediate families, due to the substantial estate taxes that are imposed. In many cases, the method of evaluation used required families to sell the farm or business in order to pay the required estate taxes. Consequently, these provisions ameliorate this effect.

While I do support the estate and gift section as presently constituted, I would be forced to oppose them should the carryover basis provision be deleted from the entire estate and gift tax package. This provision represents a real reform in the bill, and to eliminate it now would jeopardize the passage of the entire estate tax section.

Before I close, Mr. Speaker, I feel it should be noted that the administration has done little to bring about even limited tax reform. The Congress has had to go it alone, and in view of the very sophisticated lobbying which is done on a bill such as this, the lack of initiative by the President represents a large handicap to this legislative effort.

The Tax Reform Act does not constitute the Congress' best reform effort. But in its present form, the bill still deserves to be enacted into law in this session of the Congress.

Mr. BINGHAM. Mr. Speaker, H.R. 10612, the Tax Reform Act of 1976 as agreed to by the conferees, is a progressive bill. It will produce the $1.6 billion net gain in revenue anticipated in the budget resolution and it will do so by shifting a more substantial part of the tax burden where it belongs—on those individuals who can best afford to pay. Certainly I would have preferred a comprehensive simplification of the tax code and equalization of the tax burden to these 1,500 pages of revisions and 250 new provisions, but in several significant areas this bill is, nevertheless, very good.

I have been concerned about tax reform since I first came to Congress, and early in 1975, I participated in the work of the Democratic Congressional Task Force which recommended tax reform as an important element of a sound economic recovery program. In 1967 I introduced a tax equity bill to ease the burden on middle and lower income groups by closing 14 loopholes. Among my proposals were an end to the oil and gas depletion allowance, equalization of the estate and gift tax, and a minimum income tax. In subsequent years I advocated tax relief for the families of the handicapped to help them pay for required home care. I also called for tax relief for the elderly by excluding the first $5,000 of a person's retirement income from that person's taxable gross income. I have supported tax breaks for single persons, commuters, and working parents of young children. The 1969 and 1975 tax bills addressed several of these concerns—a minimum tax was established, across the board tax cuts in the form of rebates were enacted, and the oil and gas depletion allowance was phased out.

The present bill goes still further in this direction. Moreover, in addressing itself to the Arab boycott issue it breaks new ground in discouraging compliance with a discriminatory and repugnant practice and potentially raises large new revenues at the same time.

First, H.R. 10612 extends the tax cuts already on the books. The tax credit of $35 for each person or 2 percent of the first $9,000 of taxable income will continue. Families with incomes under $8,000 will receive an earned income credit and if they owe no taxes or owe less than the credit, they will receive a check for the credit anyway. This, in essence, is a negative income tax for the working poor, an historic innovation of the 1975 bill continued this year.

For those taxpayers who do not itemize their deductions, the minimum standard deduction, which was $1,300 before last year, is now set permanently at $1,700 for single persons and $2,100 for couples. Above these minimums the standard deduction will be 16 percent of income with a ceiling of $2,400, for single people and $2,800 for couples.

A significant new provision provides a tax credit of up to 20 percent of outlay for people who must pay for the care of children or disabled dependents while they are working. That credit is also available to couples even if one of them is only a part-time worker or in school. Under the previous legislation the taxpayer received a deduction, not a credit, and this was allowed only to people working full time.

The retirement income credit for the elderly has been revised. The amount of income for which the 15 percent tax credit may be claimed is increased from $1,524 to $2,500 for a single person and from $2,286 to $3,750 for a married couple. (The result of this will be that many retirees will pay no income tax, as proposed in my bill, previously referred to.) The credit also will not be reduced as drastically as previously when the retiree has earned income.

On the other side of the ledger, this bill raises revenue by hiking the minimum income tax everyone must pay from 10 to 15 percent. This tax is levied on so-called preference income not subject to standard taxation and applies that rate to much more of previously sheltered income as well. The bill also raises from 6 months to a year the length of time one must hold a security to qualify for favorable capital gains rates. The use of tax shelters is circumscribed. Investments in oil drilling, movie making, and in team franchises in sports will be subjected to a higher tax.

Corporations, especially multinationals, will feel the bite of this bill. It imposes new tax restrictions on income multinational companies earn abroad and on income earned on exports by DISC's—subsidiary corporations set up by American companies for export purposes. Perhaps most significant, the bill denies the foreign tax credit, tax deferrals of foreign source income, and DISC benefits to any company found to be complying with the Arab boycott of Israel. By giving tax breaks to companies operating abroad we had been offering incentives to participate in the boycott. The Treasury has lost perhaps a billion dollars a year in revenue and the boycotters of Israel and of Jews have benefited.

I am not completely satisfied with the estate and gift tax reform sections. I have long favored the unification of estate and gift taxes, the tax on generation-skipping trusts, and the carryover basis to eliminate the disparity between taxes on property sold prior to death and property sold subsequently. These three reforms, accomplished in this bill, close some very substantial loopholes long used by the wealthy to escape taxation. The bill also gives relief to small businesses and family farms.

My concern is that the estate tax reduction is extreme. The current $60,000 deduction needed revising but the effect of H.R. 10612 will be to raise the exemption on estate taxes to $175,000 by 1981. The percentage of estates subject to tax will be reduced from 6 percent to less than 2 percent. This is unwarranted.

On balance, however, this tax package is deserving of support, and the House conferees are to be congratulated for securing agreement on many of the House-passed provisions that were superior to the Senate's. The bill makes the most significant changes in the tax law since 1969. It closes loopholes used by the wealthy. It gives breaks to the people who need them most. It raises the necessary revenue and it helps fight the Arab boycott. While it is not comprehensive reform of the tax code, it represents several large steps in the right direction.

Mr. DODD. Mr. Speaker, I rise in support of the conference report to accompany the bill H.R. 10612, the Tax Reform Act of 1976.

In December of last year we passed this bill and sent it to the Senate. It was, at that time, a good first step toward a more equitable system of taxation. In the intervening months, however, the Senate Committee on Finance all but destroyed the progress this body had made.

We sent the Finance Committee a bill which closed many loopholes which large corporations and wealthy individuals now benefit from—at the expense of the average taxpayer; the Senate committee reinstated many of these loopholes and added imaginative new ones.

We sent the Finance Committee a bill which provided temporary incentives for capital investment, in order to promote our economic recovery; the Senate committee took the unwarranted step of making many of these tax preferences permanent.

We sent the Finance Committee a bill which imposed reasonably strict limits on aritficial accounting losses and reformed tax treatment of domestic international sales corporations; in fact, last December one of my major concerns was that the treatment of LAL and DISC should be even stricter than the House bill, and I supported amendments designed to further tighten them. Once again, however, the Senate Committee on Finance chose to undo the reforms accomplished by the House.

On the positive side, the Senate committee agreed to House provisions extending the important individual tax relief measures provided by this Congress under the Tax Reduction Act of 1975, but the result of this extension without the other tax reform measures to insure that the wealthy pay their fair share was that the total bill was unacceptable for budgetary reasons.

In short, Mr. Speaker, the bill which came out of the Senate Committee on Finance did more harm than good; it was regressive tax legislation, not tax reform.

I was concerned that if the conference report on this legislation turned out to be as disappointing as the Senate version, or only marginally better, it would be necessary for Congress to simply extend the current tax reductions and attempt tax reform once again in the next Congress. It would be unfortunate to have to do this, considering the diligent efforts of the House Ways and Means Committee and some Members of the Senate on behalf of tax reform, but it would have been a necessary course to take.

Fortunately, the tax reformers at the conference were largely successful, and we now have a conference report before us which is in substantial agreement with the House version of H.R. 10612. It is a good first step toward tax reform—one which will provide a good foundation for further efforts in this area during the next session of Congress.

The conference report does close loopholes, and, although its limitations on artificial accounting losses and restrictions on the preferential tax treatment of domestic international sales corporations are not as tight as in the House-passed version of H.R. 10612, it is a considerable improvement over existing law.

The conference report also tightens up the minimum income tax provisions substantially, to insure that wealthy individuals will not be able to use tax shelters to get out of paying income taxes entirely.

It is also a victory in the way of providing temporary tax preferences to aid the economy. This is accomplished through a 4-year extension of the elevated investment tax credit provided through the Tax Reduction Act of 1975, and a 2-year extension of the increased corporate surtax exemption and reduced tax rate for small businesses also provided under the Tax Reduction Act. To make these changes permanent, as the Senate version of the bill would have done, was the wrong approach, but these temporary extensions will provide for the kind of capital investment and tax relief for small businesses which is necessary for our long-range economic well-being.

The conferees deleted many of the "special interest" provisions added by the Senate Finance Committee. This is an important accomplishment, as tax equity cannot be achieved so long as provisions exist in the Internal Revenue Code with the name of a certain corporation or individual attached; and because it is important that we strive for tax simplification, rather than a system which is totally incomprehensible.

The legislation we have before us also provides tax relief where it is needed most—for low and middle-income taxpayers, working parents, and older Americans. It extends through calendar year 1977 the reduced withholding rates for the relief of individual taxpayers, provided by this Congress under the Tax Reduction Act of 1975.

It extends through next year the anti-recession tax credit for individual taxpayers and their dependents, and permanently increases the allowance for deduction of child care expenses for working parents.

The conference report also provides much-needed tax relief for older Americans, who have been particularly hard hit by inflation. This would be accomplished through permanent changes allowing a greater retirement income credit, and through a 57-percent increase in the tax exemption on capital gains, realized by persons over 65 years of age, through the sale of a house.

Finally, Mr. Speaker, in passing this conference report, we will be providing long-overdue relief to family-owned farms in this Nation by amending the Federal estate tax statutes. These laws have remained essentially unchanged for more than 30 years, and this has resulted in a situation whereby many families, in passing property from one generation to the next, must sell large portions just to pay the taxes. Though the restrictions on the use of this tax exemption by wealthy individuals seeking to pass along their estates are not as tight as I had hoped, the provisions will provide desperately needed relief to farms and other closely held businesses. I urge that we adopt these changes now, and I am hopeful that we will be successful in the next Congress in tightening the restrictions.

In some areas, this conference report falls short of the necessary requisites for tax reform; nonetheless, I believe it is a positive step toward a more equitable system of taxation, and it is incumbent upon us to act in the public interest by voting in the affirmative. I urge all of my colleagues to join me in supporting this important step.

Ms. HOLTZMAN. Mr. Speaker, I rise in support of the conference report on H.R. 10612, the Tax Reform Act of 1976. With respect to real tax reform, its title is sadly misleading, but I support this legislation primarily because it contains tax reductions and simplifications that will mean some tax relief for many middle-income and elderly taxpayers.

The Tax Reform Act helps middle-income taxpayers by:

Extending through 1977 antirecession tax cuts enacted by Congress last year, the $35 tax credit for each taxpayer and dependent, and the earned income credit for those with low incomes;

Making permanent last year's increase in the standard deduction—16 percent of gross income with a minimum deduction of $1,700 for single persons and $2,100 for couples and maximum of $2,400 for singles and $2,800 for couples. This means not only tax savings but also allows more taxpayers to use the short tax return.

The Tax Reform Act helps retired people by:

Changing the retirement income credit for those 65 and over so that it may offset wages as well as retirement income. This means that the retirement income credit when combined with the other tax benefits available to people over 65—the standard deduction, double personal exemption for older people, and exemption credit—will enable a single person 65 or over to have $5,800 of taxable income exempted and couples can receive $9,200 tax free.

Liberalizing the retirement income credit for retired civil service employees under 65;

Providing that a taxpayer 65 or over who sells his home for $35,000 or less will not pay taxes on any gain from the sale. Under present law, he must pay taxes on some of the excess over a $20,000 sale.

The Tax Reform Act helps women by:

Allowing millions more American families to qualify for tax relief for child care expenses, by changing present child and dependent care deduction to a tax credit and liberalizing eligibility requirements;

Providing that people eligible for a tax sheltered retirement account may set up a tax sheltered retirement account, IRA, for their spouse who has no earnings. It is good that Congress has addressed the problem of retirement security for homemakers.

An important and welcome provision of the bill denies tax benefits to companies that participate in an international boycott. It is high time that our laws stopped offering tax benefits to companies that cooperate with the Arab boycott against Israel.

Like the original House-passed bill, the conference report includes several provisions protecting taxpayers, including a requirement that the IRS notify the taxpayer if it is requesting information about the taxpayer from others, such as banks.

The conference report's claim to substantial reform is, however, slim. While it somewhat increases the minimum tax for the wealthy, it will still allow many rich taxpayers to avoid their fair share of taxes. While it tightens several tax loopholes, it gives new tax benefits to certain industries. The original House bill closed only about $750 million in tax loopholes—a very modest effort to spread the tax burden more equitably. The Senate, however, actually created billions of dollars in new loopholes. The compromise conference report settled for closing about $400 million in loopholes—a perfunctory nod in the direction of tax equity.

The conference report also included a major revision of the inheritance tax laws which had been tacked onto the Senate bill. This estate and gift tax revision increases enormously the amount of tax-free money that the rich can leave to their heirs, thus benefiting fewer than 5 percent of all Americans at the expense of the rest. On the other hand, the estate tax revision phases out the loophole that now allows capital gains on inherited wealth to go tax free. It also includes a provision tightening the restrictions on generation skipping trusts—a favorite estate-tax avoidance gimmick.

The Tax Reform Act of 1976 is, on balance, only a small step toward meaningful tax reform. Our tax laws still overwhelmingly favor the rich at the expense of middle-income Americans. True tax reform would go much farther in eliminating inequitable tax subsidies and reducing the disproportionately heavy burden of low- and middle-income taxpayers.

Mr. ULLMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. ARCHER. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ARCHER moves to recommit the conference report on H.R. 10612 to the Committee on Conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

Mr. ULLMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 26, not voting 21, as follows:

[Roll No. 739]

YEAS—383

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kasten

Kastenmeier
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mathis
Mazzoli
Meeds
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—26

Archer
Bell
Breaux
Burleson, Tex.
Collins, Tex.
Goldwater
Gonzalez
Hall, Tex.
Hightower
Jarman
Jones, Okla.
Kazen
Krueger
Mahon
Melcher
Rousselot
Runnels
Satterfield
Steed
Steiger, Ariz.
Symms
Teague
Waggonner
White
Wilson, Tex.
Young, Tex.

NOT VOTING—21

Carter
Chisholm
Conlan
Dickinson
English
Esch
Ford, Tenn.
Hansen
Hawkins
Hébert
Helstoski
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Kelly
Kemp
Matsunaga
Metcalfe
Risenhoover
Stephens

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Carter.
Mr. Helstoski with Mr. Howe.
Mrs. Chisholm with Mr. Johnson of Pennsylvania.
Mr. Risenhoover with Mr. Kelly.
Mr. Metcalfe with Mr. Hansen.
Mr. Hawkins with Mr. Conlan.
Mr. Hébert with Mr. Stephens.
Mr. English with Mr. Kemp.
Mr. Ford of Tennessee with Mr. Dickinson.
Mr. Jones of Tennessee with Mr. Esch.

Mr. JONES of Oklahoma changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT NO. 35 REPORTED IN DISAGREEMENT

The SPEAKER. The Clerk will report amendment No. 35 reported back in disagreement.

The Clerk read as follows:

Amendment No. 35: On page 661, after line 16, insert:

TITLE XXII—ESTATE AND GIFT TAXES

SEC. 2201. REVISION OF ESTATE AND GIFT TAX PROVISIONS.

(a) ALLOWANCE OF CREDIT AGAINST ESTATE TAX.—

(1) Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by inserting before section 2011 the following new section:

SEC. 2010. CREDIT AGAINST ESTATE TAX.

"(a) GENERAL RULE.—A credit of $50,000 shall be allowed against the tax imposed by section 2001 with respect to the estate of every decedent.

"(b) TRANSITIONAL RULE.—In the case of decedents dying before January 1, 1981, there shall be substituted for the $50,000 amount set forth in subsection (a) an amount determined under the following table:

"If the decedent dies is—	*The amount of the credit is—*
1977	$30,000
1978	35,000
1979	40,000
1980	45,000".

(2) REPEAL OF SPECIFIC EXEMPTION.—Section 2052 (relating to specific exemption for purposes of the estate tax) is hereby repealed.

(3) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(A) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended—

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000."; and

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate".

(B) CREDIT FOR GIFT TAX.—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the credit provided by section 2010".

(C) CREDIT FOR TAX ON PRIOR TRANSFERS.—

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(c)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in section 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

(D) CREDIT IN CASE OF ESTATES OF NONRESIDENTS NOT CITIZENS.—Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT AGAINST ESTATE TAX.—

"(1) IN GENERAL.—A credit of $5,000 shall be allowed against the tax imposed by section 2101.

"(2) TRANSITIONAL RULE.—In the case of decedents who are neither residents nor citizens of the United States dying before January 1, 1981, there shall be substituted for the $5,000 amount set forth in paragraphs (1) and (3)(A) an amount determined under the following table:

"If the decedent dies in—	*The amount of the credit is—*
1977	$3,000
1978	3,500
1979	4,000
1980	4,500

"(3) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, the credit under this subsection shall be the greater of—

"(A) $5,000, or

"(B) that proportion of $14,767 (or in the case of a decedent dying in a calendar year before January 1, 1982, the amount applicable to such year as determined under section 2010(b)) which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(4) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010.".

(E) REPEAL OF SPECIFIC EXEMPTIONS.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedent nonresidents not citizens) is hereby repealed.

(F) CREDIT FOR FOREIGN DEATH TAXES.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

(G) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(H) LIABILITY OF RECIPIENTS OF CERTAIN PROPERTY.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(I) RETURN BY EXECUTOR.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended to read as follows:

"(a) RETURNS BY EXECUTOR.—

"(1) CITIZENS OR RESIDENTS.—In all cases where the gross estate at the death of a citizen or resident exceeds—

"(A) $60,000, in the case of a death before January 1, 1977,

"(B) $130,000, in the case of a death during 1977,

"(C) $147,000, in the case of a death during 1978,

"(D) $164,000, in the case of a death during 1979,

"(E) $181,000, in the case of a death during 1980, and

"(F) $197,000, in the case of a death after December 31, 1980,

the executor shall make a return with respect to the estate tax imposed by subtitle B.

"(2) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—In the case of the estate of every non-resident not a citizen of the United States, if that part of the gross estate which is situated in the United States exceeds—

"(A) $30,000, in the case of a death before January 1, 1977,

"(B) $60,000, in the case of a death during 1977,

"(C) $70,000, in the case of a death during 1978,

"(D) $80,000, in the case of a death during 1979,

"(E) $90,000, in the case of a death during 1980,

"(F) $100,000, in the case of a death after December 31, 1980,

the executor shall make a return with respect to the estate tax imposed by subtitle B.".

(J) CLERICAL AMENDMENTS.—

(i) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Credit against estate tax.".

(ii) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(b) INCREASE IN LIMITATION ON ESTATE TAX MARITAL DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:

"(1) LIMITATION.—

"(A) IN GENERAL.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

"(i) $250,000, or

"(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

"(B) COMMUNITY PROPERTY ADJUSTMENT.—The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—

"(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2)(B), over

"(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

(c) VALUATION FOR PURPOSES OF THE FEDERAL ESTATE TAX OF CERTAIN REAL PROPERTY DEVOTED TO FARMING, WOODLANDS, SCENIC OPEN SPACES, AND HISTORIC SITES.—

(1) GENERAL RULE.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

"SEC. 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

"(a) VALUE BASED ON USE ON BASIS OF WHICH PROPERTY QUALIFIES.—

"(1) GENERAL RULE.—If—

"(A) the decendent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use on the basis of which it qualifies, under subsection (b), as qualified real property.

"(2) LIMITATION.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $1,000,000.

"(b) QUALIFIED REAL PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified real property' means real property located in the United States which, on the date of the decedent's death, was being used for a qualified use, but only if—

"(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

"(i) on the date of the decedent's death, was being used for a qualified use, and

"(ii) was acquired from or passed from the decedent to a qualified heir of the decedent,

"(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which such real property was—

"(i) owned by the decendent, and

"(ii) used for a qualified use, and

"(D) such property is designated in the agreement referred to in subsection (d)(2).

"(2) QUALIFIED USE.—For purposes of this section, the term 'qualified use' means the devotion of the property to any of the following:

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land used for the commercial production of trees and land publicly used for undeveloped scenic or outdoor recreational purposes),

"(C) open pastoral space, or

"(D) maintenance of historic values but only if such property is listed in the National Register of Historic Places, either separately or as part of a district so listed.

"(3) ADJUSTED VALUE.—For purposes of paragraph (1), the term 'adjusted value' means—

"(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053 (a), or

"(B) in the case of of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

"(c) TAX TREATMENT OF DISPOSITIONS AND CONVERSIONS TO NONQUALIFIED USES.—

"(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, within 10 years after the decedent's death and before the death of the qualified heir—

"(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

"(B) the qualified real property is converted to a nonqualified use (within the meaning of paragraph (7)),

then there is hereby imposed an additional estate tax.

"(2) AMOUNT OF ADDITIONAL TAX.—

"(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

"(i) the adjusted tax difference attributable to such interest, or

"(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

"(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference for the estate (determined under subparagraph (C)) as—

"(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

"(ii) a similar excess determined for all qualified real property.

"(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of subparagraph (B), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(D) PARTIAL DISPOSITIONS.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a conversion to a nonqualified use of such a portion—

"(i) then the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and

"(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

"(3) PHASEOUT OF ADDITIONAL TAX AFTER 24 MONTHS.—If the date of the disposition or conversion referred to in paragraph (1) occurs more than 24 months and less than 120 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by 20 percent plus an amount determined by multiplying 80 percent of the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such death in excess of 24, and

"(B) the denominator of which is 96.

"(4) ONLY ONE ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY ONE PORTION.—In the case of an interest acquired from (or passing from) any decedent—

"(A) if subparagraph (A) of paragraph (1) applies to any portion of an interest, subparagraph (B) of such paragraph shall not apply with respect to such interest, and

"(B) if subparagraph (B) of paragraph (1) applies to any portion of an interest, subparagraph (A) of such paragraph shall not apply with respect to such interest.

"(5) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or conversion referred to in paragraph (1).

"(6) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(7) CONVERSION TO NONQUALIFIED USE.—For purposes of paragraph (1)(B), real property is converted to a nonqualified use on the first occurrence of any of—

"(A) the conversion of the real property with respect to which the election provided in this section was made, or any portion thereof, to a use other than one or more of the qualified uses described in subsection (b)(2); or

"(B) the rezoning of such property to permit a use other than one or more of the qualified uses described in subsection (b)(2), if such rezoning occurs at the request of the owner; or

"(C) if such property qualified for the election only pursuant to subsection (b)(2)(D), removal of such property from the National Register of Historic Places, or discontinuance of maintenance of the historic values.

"(d) Election; Agreement.—

"(1) Election.—The election under this section shall be made no later than the time prescribed under section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(2) Agreement.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

"(e) Definitions; Special Rules.—For purposes of this section—

"(1) Qualified heir.—The term 'qualified heir' means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified farm real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(2) Member of family.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(3) Certain real property included.—Residential buildings and related improvements occupied on a regular basis by the owner or lessee of the real property or by persons employed by such owner or lessee for the purpose of operating or maintaining the real property and improvements described in subsection (b)(1), and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

"(f) Statute of Limitations.—If qualified real property is disposed of or is converted to a nonqualified use, then—

"(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or conversion shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or conversion, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) Application of This Section and Section 6324B to Interests in Partnerships, Corporations, and Trusts.—The Secreatry shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of section 6166 (b))."

(2) Special lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

"Sec. 6324B. Special Lien for Additional Estate Tax Attributable to Farm, Etc., Valuation.

"(a) General Rule.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)), shall be a lien in favor of the United States on the property in which such interest exists.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified real property—

"(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.".

(3) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Additional Tax Imposed Under Section 2032A.—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

"(1) the additional tax imposed by section 2032A (c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property.".

(4) Clerical amendments.—

(A) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

"Sec. 2032A. Valuation of certain farm, etc., real property.".

(B) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.".

(5) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(d) Extensions of Time for Payment of Estate Tax.—

(1) Reasonable cause substituted for undue hardship in determining eligibility for extensions of time for payment of estate tax.—

(A) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

"(2) Estate tax.—The Secretary may, for reasonable cause, extend the time for payment of—

"(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

"(B) any part of any installment under section 6166 (including any part of a deficiency prorated to any installment under section 6166),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

(B) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:

"(b) Amount Determined as Deficiency.—

"(1) Income, gift, and certain other taxes.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 42, or 43 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 42, or 43, or to the donor in the case of a tax imposed by chapter 12.

"(2) Estate tax.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) No extension for certain deficiencies.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to the intentional disregard of rules and regulations, or to fraud with intent to evade tax.".

(C) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or reminder interest) is amended to read as follows:

"(b) Extension for Reasonable Cause.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a).".

(D) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163 or 6166".

(2) Extension of time for payment of estate tax where estate consists of interest in closely held business.—

(A) 3-year deferral 12-year installment payment.—

(i) Subsection (a) of section 6166 (relating to extension of time for payment of estate tax where estate consists of interest in closely held business) is amended by striking out "but not exceeding 10" and inserting in lieu thereof "but not exceeding 12".

(ii) Subsection (e) of section 6166 (relating to date for payment of installments) is amended to read as follows:

"(e) Date for Payment of Installments.—If an election is made under subsection (a), the first installment shall be paid on or before the date selected by the executor which is not more than 3 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this subsection for payment of the preceding installment.".

(iii) Subsection (g) of section 6166 (relating to time for payment of interest) is amended to read as follows:

"(g) Time for Payment of Interest.—If the time for payment of any amount of tax has been extended under this section—

"(1) Interest for the first 3 years.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the first 3 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

"(2) INTEREST FOR PERIODS AFTER FIRST 3 YEARS.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 3-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

"(3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (f) applies which is assessed after the close of the 3-year period referred to in paragraph (1), interest attributable to such 3-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

"(4) SELECTION OF SHORTER PERIOD.—If the executor has selected a period shorter than 3 years under subsection (e), such shorter period shall be substituted for 3 years in paragraphs (1), (2), and (3) of this subsection.".

(iv) Subsection (i) of section 6166 (relating to transitional rules) is amended to read as follows:

"(i) ELECTION IN CASE OF CERTAIN DEFICIENCIES.—

"(1) IN GENERAL.—If—

"(A) a deficiency in the tax imposed by section 2001 is assessed,

"(B) the estate qualifies under subsection (a), and

"(C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to the intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(2) TIME OF ELECTION.—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) EFFECT OF ELECTION ON PAYMENT.—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date of payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.".

(B) 6-PERCENT INTEREST RATE.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) 6-PERCENT RATE ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166.—

"(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166 and the annual rate provided by subsection (a) exceeds 6 percent, interest on the 6-percent portion of such amount shall (in lieu of such annual rate) be paid at the rate of 6 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) 6-PERCENT PORTION.—For purposes of this subsection, the term '6-percent portion' means the lesser of—

"(A) an amount equal to—

"(i) $295,700, in the case of decedents dying in 1977,

"(ii) $290,700, in the case of decedents dying in 1978,

"(iii) $285,700, in the case of decedents dying in 1979,

"(iv) $280,700, in the case of decedents dying in 1980, or

"(v) $275,700, in the case of decedents dying after December 31, 1980, or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

"(3) TREATMENT OF PAYMENTS.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 6-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 6-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 6-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.".

(3) SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166; DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—

(A) IN GENERAL.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

"SEC. 6324A. SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 6166, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) SECTION 6166 LIEN PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'section 6166 lien property' means interests in real and other property to the extent such interests—

"(A) can be expected to survive the deferral period, and

"(B) are designated in the agreement referred to in subsection (c).

"(2) MAXIMUM VALUE OF REQUIRED PROPERTY.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

"(A) the deferred amount, and

"(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

"(3) PARTIAL SUBSTITUTION OF BOND FOR LIEN.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept a bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

"(c) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

"(1) consenting to the creation of the lien under this section with respect to such property, and

"(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or this section.

"(d) SPECIAL RULES.—

"(1) REQUIREMENT THAT LIEN BE FILED.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of section 6323(f) has been filed by the Secretary. Such notice shall not be required to be refiled.

"(2) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability of the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

"(3) PRIORITIES.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

"(A) REAL PROPERTY TAX AND SPECIAL ASSESSMENT LIENS.—To the extent provided in section 6323(b)(6).

"(B) REAL PROPERTY SUBJECT TO A MECHANIC'S LIEN FOR REPAIRS AND IMPROVEMENTS.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

"(C) REAL PROPERTY CONSTRUCTION OR IMPROVEMENT FINANCING AGREEMENT.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(h).

"(4) LIEN TO BE IN LIEU OF SECTION 6324 LIEN.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

"(5) ADDITIONAL LIEN PROPERTY REQUIRED IN CERTAIN CASES.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(h).

"(6) LIEN TO BE IN LIEU OF BOND.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

"(e) DEFINITIONS.—For purposes of this section—

"(1) DEFERRED AMOUNT.—The term 'deferred amount' means the aggregate amount deferred under section 6166 (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(2) AGGREGATE INTEREST AMOUNT.—The term 'aggregate interest amount' means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(3) DEFERRAL PERIOD.—The term 'deferral period' means the period for which the payment of tax is deferred pursuant to the election under section 6166.

"(4) APPLICATION OF DEFINITIONS IN CASE OF DEFICIENCIES.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166.".

(B) DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL LIEN UNDER SECTION 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166) shall be treated as the furnishing of a bond with respect to the amount for which the time for payment has been extended under section 6166.".

(C) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2202. CERTAIN GENERATION-SKIPPING TRANSFERS.

(a) IMPOSITION OF TAX.—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

"SUBCHAPTER A. Tax imposed.
"SUBCHAPTER B. Definitions and special rules.
"SUBCHAPTER C. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.
"Sec. 2602. Amount of tax.
"Sec. 2603. Liability for tax.

"SEC. 2601. TAX IMPOSED.

"A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

"SEC. 2602. AMOUNT OF TAX

"(a) GENERAL RULE.—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

"(1) a tentative tax computed in accordance with the applicable rate schedule (as in effect on the date of transfer) on the sum of—

"(A) the fair market value of the property transferred (determined as of the date of transfer),

"(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied, and

"(C) the amount of—

"(i) the taxable gifts (within the meaning of section 2503) made by the deemed transferor before this transfer if the deemed transferor is alive at the time of the transfer, or

"(ii) the taxable estate of the deemed transferor if the deemed transferor has died before this transfer, over

"(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B) and (C) of paragraph (1).

For purposes of the preceding sentence, the term 'applicable rate schedule' means the rate schedule set forth in section 2501(a) if the deemed transferor or is alive at the time of the transfer or the rate schedule set forth in section 2001 if the deemed transferor has died before the transfer.

"(b) MULTIPLE SIMULTANEOUS TRANSFER.—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur at the same time, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to—

"(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

"(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

"(c) DENIAL OF DEDUCTIONS, CREDITS, ETC.—

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

"(2) EXCEPTION FOR UNUSED PORTION OF ESTATE TAX CREDIT.—The portion of the credit under section 2010 (relating to estate tax credit) which exceeds the sums of—

"(A) the tax imposed by section 2001, and

"(B) the taxes previously imposed by section 2601 with respect to this deemed transferor,

shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

"(3) EXCEPTION FOR CREDIT FOR TAX ON PRIOR TRANSFERS.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601.

"(4) EXCEPTION FOR CHARITABLE DEDUCTION.—The deduction under section 2055, 2106(a)(2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

"(5) MARITAL DEDUCTION.—For purposes of section 2056 (relating to bequests, etc., to surviving spouse), if the generation-skipping transfer occurs at the death of the deemed transferor or within 3 years and 9 months thereafter, the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

"SEC. 2603. LIABILITY FOR TAX.

"(a) PERSONAL LIABILITY.—

"(1) IN GENERAL.—If the tax imposed by section 2601 is not paid when due then—

"(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

"(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

"(2) LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceed the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

"(3) LIMITATION OF PERSONAL LIABILITY OF DISTRIBUTEE.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property recived by the distributee in the distribution.

"(b) LIEN.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

"Subchapter B—Definitions and Special Rules

"Sec. 2611. Generation-skipping transfer.
"Sec. 2612. Deemed transferor.
"Sec. 2613. Other definitions.
"Sec. 2614. Special rules.

"SEC. 2611. GENERATION-SKIPPING TRANSFER.

"(a) GENERATION-SKIPPING TRANSFER DEFINED.—For purposes of this chapter, the terms 'generation-skipping transfer' and 'transfer' mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

"(b) GENERATION-SKIPPING TRUST.—For purposes of this chapter, the term 'generation-skipping trust' means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

"(c) ASCERTAINMENT OF GENERATION.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

"(1) an individual who is a lineal descendant of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

"(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more thn 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having a beneficial interest in such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) GENERATION-SKIPPING TRUST EQUIVALENT.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) EXAMPLES OF ARRANGEMENTS TO WHICH SUBSECTION RELATES.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (not are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) REFERENCES TO TRUSTS INCLUDE REFERENCES TO TRUST EQUIVALENTS.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"Sec. 2612. Deemed Transferor.

"(a) General Rule.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) Determination of relationship.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

"Sec. 2613. Other Definitions.

"(a) Taxable Distribution.—For purposes of this chapter—

"(1) In general.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary.

"(2) Source of distributions.—If, during the taxable year of the trust, there are distributions out of such income of the trust and out of corpus, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) Payment of tax.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) Distributions subject to gift or estate tax excluded.—The term 'taxable distribution' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(b) Taxable Termination.—For purposes of this chapter—

"(1) In general.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust.

"(2) Time certain termination deemed to occur.—

"(A) Where 2 or more benefciaries are assigned to same generation.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) Same beneficiary has more than 1 interest or power.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(3) Deemed recipients of certain terminations.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

"(4) Termination of power.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

"(5) Terminations subject to gift or estate tax excluded.—The term "taxable termination' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(6) Coordination with subsection (a).—

"(A) Terminations take precedence over distributions.—If—

"(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

"(ii) such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution,

then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

"(B) Certain prior transfers.—To the extent that—

"(i) the demand transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer, and

"(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer,

the terms 'taxable termination' and 'taxable distribution' do not include this later transfer.

"(c) Younger Generation Beneficiary; Beneficiary.—For purposes of this chapter—

"(1) Younger generation beneficiary.—The term 'younger generation beneficiary' means any beneficiary who is assigned to a generation younger than the grantor's generation.

"(2) Beneficiary.—The term 'beneficiary' means any person who has an interest or power in the trust.

"(d) Interest or Power.—For purposes of this chapter—

"(1) Interest.—The term 'interest' means a right to receive income or corpus from the trust.

"(2) Power.—The term 'power' means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

"(e) Limited Power To Appoint Among Lineal Descendants of Grantor Not Taken Into Account in Certain Cases.—For purposes of this chapter, if any individual—

"(1) does not have any interest in the trust, and

"(2) does not have any power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual,

then such individual shall be treated as not having any power in the trust.

"Sec. 2614. Special Rules.

"(a) Disclaimers.—If any beneficiary of a trust—

"(1) disclaims any interest or power in such trust on or before the day which is 9 months after the date the trust becomes irrevocable,

"(2) after such disclaimer, such interest or power does not exist, and

"(3) there has been no distribution from the trust with respect to such interest, or no exercise of such powers, as the case may be, then this chapter shall apply to such trust as if such interest or power had never come into being.

"(b) Allowance of Deduction Against Income Tax.—If any amount distributed out of a generation-skipping trust or trust equivalent is included in the gross income of the transferee, there shall be allowed as a deduction in computing against the tax imposed by chapter 1 an amount equal to the tax imposed by this chapter on such amount, reduced by any credit allowable with respect to the tax imposed by this chapter on the amount distributed.

"(c) Nonresidents Not Citizens of the United States.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States—

"(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

"(2) if the deemed transferor has died before the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

"Subchapter C—Administration

"Sec. 2621. Administration.
"Sec. 2622. Regulations.

"Sec. 2621. Administration.

"(a) General Rule.—Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) if the deemed transferor is not alive at the time of the transfer, all provisions of law (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

"(2) if the deemed transferor is alive at the time of the transfer, all provisions of law (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

"(b) Certain Provisions Made Inapplicable.—For purposes of this chapter, the following provisions shall not apply:

"(1) section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business), and

"(2) section 2032A (relating to valuation of certain real property).

"Sec. 2622. Regulations.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts.".

(b) Technical, Clerical, and Conforming Changes).—

(1) Clerical changes.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

"Chapter 13. Tax on certain generation-skipping transfers.".

(2) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Tax Imposed on Certain Generation-Skipping Transfer.—If any property was transferred to the decendent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

"(1) such property shall be deemed to have passed to the decendent from the deemed transferor;

"(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

"(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer.".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) Exceptions.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1978, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, a generation-skipping transfer. For purposes of subparagraph (B), if the decendent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) Generation-skipping trust equivalent.—For purposes of this subsection, in the case of a generation-skipping trust equivalent (within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954), the provisions of such subsection (d) shall apply.

Sec. 2203. Gift Tax Treatment of Community Property.

(a) In General.—Section 2517(b) (relating to certain annuities under qualified plans) is amended by adding at the end thereof the following new subsection:

"(d) Exemption of Certain Annuity Interests Created by Community Property Laws.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made by his employer or former employer under a trust or plan described in subsection (a) (1) or (2), or toward the purchase of a contract described in subsection (a)(3), which under subsection (b) are not considered as contributed by the employee, benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(1) is attributable to such contribution or payments, and

"(2) arises solely by reason of such spouse's interest in community income under the community property laws of the State.".

(b) Effective Date.—The amendment made by this section shall apply to calendar quarters ending after December 31, 1976.

Sec. 2204. Credit Against Certain Estate Taxes.

(a) In General.—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed under chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

(b) Amount of Credit.—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed and interest thereon under chapter 11 of the Internal Revenue Code of 1954.

(c) Deed Requirements.—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) Acceptance as National Forest.—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of the Department of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) Effective Date.—The provisions of this section shall be effective on the date of enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment reported back in disagreement be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I intend to move against the previous question on this matter. I wish to state this for the information of the Members at this time, although I am a little late in my reservation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MOTION OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Ullman moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 2201. Unified Rate Schedule for Estate and Gift Taxes; Unified Credit in Lieu of Specific Exemptions.

(a) Changes in Estate Tax.—

(1) Imposition of Tax; Rate Schedule.—Section 2001 (relating to rate of tax) is amended to read as follows:

"Sec. 2001. Imposition and Rate of Tax.

"(a) Imposition.—A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

"(b) Computation of Tax.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (c) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) the aggregate amount of tax payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976.

For purposes of paragraph (1)(B), the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(c) Rate Schedule.—

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $10,000	18 percent of such amount.
Over $10,000 but not over $20,000	$1,800, plus 20 percent of the excess of such amount over $10,000.
Over $20,000 but not over $40,000	$3,800, plus 22 percent of the excess of such amount over $20,000.
Over $40,000 but not over $60,000	$8,200, plus 24 percent of the excess of such amount over $40,000.
Over $60,000 but not over $80,000	$13,000, plus 26 percent of the excess of such amount over $60,000.
Over $80,000 but not over $100,000	$18,200, plus 28 percent of the excess of such amount over $80,000.
Over $100,000 but not over $150,000	$23,800, plus 30 percent of the excess of such amount over $100,000.
Over $150,000 but not over $250,000	$33,800, plus 32 percent of the excess of such amount over $150,000.
Over $250,000 but not over $500,000	$70,800, plus 34 percent of the excess of such amount over $250,000.
Over $500,000 but not over $750,000	$155,800, plus 37 percent of the excess of such amount over $500,000.
Over $750,000 but not over $1,000,000	$248,300, plus 39 percent of the excess of such amount over $750,000.
Over $1,000,000 but not over $1,250,000	$345,800, plus 41 percent of the excess of such amount over $1,000,000.
Over $1,250,000 but not over $1,500,000	$448,300, plus 43 percent of the excess of such amount over $1,250,000.

Over $1,500,000 but not over $2,000,000	$555,800, plus 45 percent of the excess of such amount over $1,500,000.
Over $2,000,000 but not over $2,500,000	$780,800, plus 49 percent of the excess of such amount over $2,000,000.
Over $2,500,000 but not over $3,000,000	$1,025,800, plus 53 percent of the excess of such amount over $2,500,000.
Over $3,000,000 but not over $3,500,000	$1,290,800, plus 57 percent of the excess of such amount over $3,000,000.
Over $3,500,000 but not over $4,000,000	$1,575,800, plus 61 percent of the excess of such amount over $3,500,000.
Over $4,000,000 but not over $4,500,000	$1,880,800, plus 65 percent of the excess of such amount over $4,000,000.
Over $4,500,000 but not over $5,000,000	$2,205,800, plus 69 percent of the excess of such amount over $4,500,000.
Over $5,000,000	$2,550,800, plus 70 percent of the excess of such amount over $5,000,000.

"(d) ADJUSTMENT FOR GIFT TAX PAID BY SPOUSE.—For purposes of subsection (b)(2), if—

"(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

"(2) the amount of such gift is includible in the gross estate of the decedent,

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent."

(2) ALLOWANCE OF UNIFIED CREDIT.—Part II of subchapter A of chapter 11 (relating to credits against the estate tax) is amended by inserting before section 2011 the following new section:

"SEC. 2010. UNIFIED CREDIT AGAINST ESTATE TAX.

"(a) GENERAL RULE.—A credit of $47,000 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) PHASE-IN OF $47,000 CREDIT.—

"In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$47,000' the following amount:
1977	$30,000
1978	34,000
1979	38,000
1980	42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001."

(3) TERMINATION OF CREDIT FOR GIFT TAX.—Section 2012 (relating to credit for gift tax) is amended by adding at the end thereof the following new subsection:

"(e) SECTION INAPPLICABLE TO GIFTS MADE AFTER DECEMBER 31, 1976.—No credit shall be allowed under this section with respect to the amount of any tax paid under chapter 12 on any gift made after December 31, 1976."

(4) REPEAL OF SPECIFIC EXEMPTION.—Section 2052 (relating to exemption for purposes of the estate tax) is hereby repealed.

(5) ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DEATH.—Section 2035 (relating to transactions in contemplation of death) is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF GIFTS MADE BY DECEDENT.—Except as provided in subsection (b), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) any gift excludable in computing taxable gifts by reason of section 2503(b) (relating to $3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513(a).

"(c) INCLUSION OF GIFT TAX ON CERTAIN GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse after December 31, 1976, and during the 3-year period ending on the date of the decedent's death."

(b) CHANGES IN GIFT TAX.—

(1) RATE OF TAX.—Subsection (a) of section 2502 (relating to rate of gift tax) is amended to read as follows:

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(2) UNIFIED CREDIT.—Subchapter A of chapter 12 (relating to determination of gift tax liability) is amended by adding at the end thereof the following new section:

"SEC. 2505. UNIFIED CREDIT AGAINST GIFT TAX.

"(a) GENERAL RULE.—In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar quarter an amount equal to—

"(1) $47,000 reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

"(b) PHASE-IN OF $47,000 CREDIT.—

"In the case of gifts made:	Subsection (a)(1) shall be applied by substituting for '$47,000' the following amount:
After December 31, 1976, and before July 1, 1977	$6,000
After June 30, 1977, and before January 1, 1978	30,000
After December 31, 1977, and before January 1, 1979	34,000
After December 31, 1978, and before January 1, 1980	38,000
After December 31, 1979, and before January 1, 1981	42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed under subsection (a) for any calendar quarter shall not exceed the amount of the tax imposed by section 2501 for such calendar quarter."

(3) REPEAL OF SPECIFIC EXEMPTION.—Section 2521 (relating to specific exemption in the case of the gift tax) is hereby repealed.

(c) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CHANGES IN ESTATE TAX.—

(A) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended—

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000.",

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate"; and

(iv) by adding at the end thereof the following new subsection:

"(f) LIMITATION BASED ON AMOUNT OF TAX.—The credit provided by this section shall not exceed the amount of the tax imposed by section 2001, reduced by the amount of the unified credit provided by section 2010."

(B) CREDIT FOR GIFT TAX.—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the unified credit provided by section 2010".

(C) CREDIT FOR TAX ON PRIOR TRANSFERS.—

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(e)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

(D) Rate of tax in case of nonresidents not citizens.— Section 2101 (relating to tax imposed in the case of estates of nonresidents not citizens) is amended to read as follows:

"Sec. 2101. Tax Imposed.

"(a) Imposition.—Except as provided in section 2107, a tax is hereby imposed on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

"(b) Computation of Tax.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the amount of the adjusted taxable gifts.

"(c) Adjustments for Taxable Gifts.—

"(1) Adjusted taxable gifts defined.—For purposes of this section, the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503 as modified by section 2511) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(2) Adjustment for certain gift tax.—For purposes of this section, the rules of section 2001(d) shall apply.

"(d) Rate Schedule.—

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $100,000	6% of such amount.
Over $100,000 but not over $500,000	$6,000 plus 12% of excess over $100,000.
Over $500,000 but not over $1,000,000	$54,000, plus 18% of excess over $500,000.
Over $1,000,000 but not over $2,000,000	$144,000, plus 24% of excess over $1,000,000.
Over $2,000,000	$384,000, plus 30% of excess over $2,000,000."

(E) Credit in case of estates of nonresidents not citizens.—

(i) Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) Unified Credit.—

"(1) In general.—A credit of $3,600 shall be allowed against the tax imposed by section 2101.

"(2) Residents of possessions of the United States.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit under this subsection shall be the greater of—

"(A) $3,600, or

"(B) that proportion of $15,075 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(3) Phase-in of paragraph (2)(B) amount.—In the case of a decedent dying before 1979, paragraph (2)(B) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$8,480' for '$15,075',

"(B) in the case of a decedent dying during 1978, by substituting '$10,080' for '$15,075',

"(C) in the case of a decedent dying during 1979, by substituting '$11,680' for '$15,075', and

"(D) in the case of a decedent dying during 1980, by substituting '$13,388' for '$15,075'.

"(4) Limitation based on amount of tax.—The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

"(5) Application of other credits.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010."

(ii) Subsection (c) of section 2107 (relating to expatriation to avoid tax) is amended to read as follows:

"(c) Credits.—

"(1) Unified credit.—

"(A) In general.—A credit of $13,000 shall be allowed against the tax imposed by subsection (a).

"(B) Limitation based on amount of tax.—The credit allowed under this paragraph shall not exceed the amount of the tax imposed by subsection (a).

"(2) Other credits.—The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with subsections (a) and (b) of section 2102. For purposes of subsection (a) of section 2102, sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under paragraph (1) were allowed under section 2010."

(F) Repeal of specific exemption.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

(G) Credit for foreign death taxes.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

(H) Liability of life insurance beneficiaries.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(I) Liability of recipients of certain property.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(J) Return by executor.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended—

(i) by striking out "$60,000" in paragraph (1) and inserting in lieu thereof "$175,000";

(ii) by striking out "$30,000" in paragraph (2) and inserting in lieu thereof "$60,000"; and

(iii) by adding at the end thereof the following new paragraphs:

"(3) Phase-in of filing requirement amount.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'.

"(4) Adjustment for certain gifts.—The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

"(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

"(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

(K) Revocable transfers.—

(i) Paragraph (1) of section 2038(a) (relating to revocable transfers) is amended by striking out "in contemplation of decedent's death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(ii) Paragraph (2) of section 2038(a) (relating to revocable transfer) is amended by striking out "in contemplation of his death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(L) Property within the United States.—Subsection (b) of section 2104 (relating to revocable transfers and transfers in contemplation of death) is amended by striking out "And Transfers in Contemplation of Death" in the subsection heading and inserting in lieu thereof "And Transfers Within 3 Years of Death".

(M) Prior interests.—Section 2044 (relating to prior interests) is amended by striking out "specifically provided therein" and inserting in lieu thereof "specifically provided by law".

(N) Clerical amendments.—

(i) The item relating to section 2001 in the table of sections for part I of subchapter A of chapter 11 is amended to read as follows:

"Sec. 2001. Imposition and rate of tax."

(ii) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Unified credit against estate tax."

(iii) The table of sections for part III of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"Sec. 2035. Adjustments for gifts made within 3 years of decedent's death."

(iv) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(2) Changes in gift tax.—

(A) Taxable gifts for preceding years and quarters.—Subsection (a) of section 2504 (relating to taxable gifts for preceding years and quarters) is amended by striking out "except that" and all that follows and inserting in lieu thereof "except that the specific exemption in the amount, if any, allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of calendar years or calendar quarters ending before January 1, 1977, for purposes of computing the tax for any calendar quarter."

(B) Clerical amendments.—

(i) The table of sections for subchapter A of chapter 12 is amended by adding at the end thereof the following new item:

"Sec. 2505. Unified credit against gift tax."

(ii) The table of sections for subchapter C of chapter 12 is amended by striking out the item relating to section 2521.

(d) Effective Dates.—

(1) The amendments made by subsections (a) and (c)(1) shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a)(5) and subparagraphs (K) and (L) of subsection (c)(1) shall not apply to transfers made before January 1, 1977.

(2) The amendments made by subsections (b) and (c)(2) shall apply to gifts made after December 31, 1976.

Sec. 2202. Increase in Limitations on Marital Deductions; Fractional Interests of Spouse.

(a) Increase in Estate Tax Marital Deduction.—Paragraph (1) of section 2056 (c) (relating to limitation on marital deduction) is amended to read as follows:

"(1) Limitation.—

"(A) In general.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

"(i) $250,000, or

"(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

"(B) Adjustment for certain gifts to spouse.—If a deduction is allowed to the decedent under section 2523 with respect to any gift made to his spouse after December 31, 1976, the limitation provided by subparagraph (A) (determined without regard to this subparagraph) shall be reduced (but not below zero) by the excess (if any) of—

"(i) the aggregate of the deductions allowed to the decedent under section 2523 with respect to gifts made after December 31, 1976, over

"(ii) the aggregate of the deductions which would have been allowable under section 2523 with respect to gifts made after December 31, 1976, if the amount deductible under such section with respect to any gift were 50 percent of its value.

"(C) Community property adjustment.—The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—

"(i) the amount of the subtraction determined under clauses (i) (ii), and (iii) of paragraph (2)(B), over

"(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B)."

(b) Increase in Gift Tax Marital Deduction.—Subsection (a) of section 2523 (relating to deduction for gift to spouse) is amended to read as follows:

"(a) Allowance of Deduction.—

"(1) In general.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.

"(2) Limitation.—The aggregate of the deductions allowed under paragraph (1) for any calendar quarter shall not exceed the sum of—

"(A) $100,000 reduced (but not below zero) by the aggregate of the deductions allowed under this section for preceding calendar quarters beginning after December 31, 1976; plus

"(B) 50 percent of the lesser of—

"(i) the amount of the deductions allowable under paragraph (1) for such calendar quarter (determined without regard to this paragraph); or

"(ii) the amount (if any) by which the aggregate of the amounts determined under clause (i) for the calendar quarter and for each preceding calendar quarter beginning after December 31, 1976, exceeds $200,000."

(c) Fractional Interest of Spouse.—

(1) In general.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection:

"(b) Certain Joint Interests of Husband and Wife.—

"(1) Interests of spouse excluded from gross estate.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.

"(2) Qualified joint interest defined.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both,

"(B)(i) in the case of personal property, the creation of such joint interest constituted in whole or in part a gift for purposes of chapter 12, or

"(ii) in the case of real property, an election under section 2515 applies with respect to the creation of such joint interest, and

"(C) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants."

(2) Amendment of related gift tax provision.—Subsection (c) of section 2515 (relating to election with respect to tenancies by the entirety) is amended to read as follows:

"(c) Exercise of Election.—

"(1) In general.—The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined without regard to this section), in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

"(2) Subsequent additions in value.—If the election provided by subsection (a) has been made with respect to the creation of any tenancy by the entirety, such election shall also apply to each addition made to the value of such tenancy by the entirety.

"(3) Certain actuarial computations not required.—In the case of any election under subsection (a) with respect to any property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest."

(3) Clerical amendment.—Section 2040 is amended by striking out "The value" and inserting in lieu thereof the following:

"(a) General Rule.—The value".

(d) Effective Dates.—

(1)(A) Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) If—

(i) the decedent dies after December 31, 1976, and before January 1, 1979,

(ii) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before January 1, 1977, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(iii) the formula referred to in clause (ii) was not amended at any time after December 31, 1976, and before the death of the decedent, and

(iv) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

(3) The amendments made by subsection (c) shall apply to joint interests created after December 31, 1976.

Sec. 2203. Valuation for Purposes of the Federal Estate Tax of Certain Real Property Devoted to Farming or Closely Held Businesses.

(a) General Rule.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

"Sec. 2032A. Valuation of Certain Farm, etc., Real Property.

"(a) Value Based on Use Under Which Property Qualifies.—

"(1) General Rule.—If—

"(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

"(2) Limitation.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $500,000.

"(b) Qualified Real Property.—

"(1) In general.—For purposes of this section, the term 'qualified real property' means real property located in the United States which, on the date of the decedent's death, was being used for a qualified use, but only if—

"(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

"(i) on the date of the decedent's death, was being used for a qualified use, and

"(ii) was acquired from or passed from the decedent to a qualified heir of the decedent.

"(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such real property was owned by the decedent or a member of the decedent's family and used for a qualified use, and

"(ii) there was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business, and

"(D) such real property is designated in the agreement referred to in subsection (d) (2).

"(2) Qualified use.—For purposes of this section, the term 'qualified use' means the devotion of the property to any of the following:

"(A) use as a farm for farming purposes, or

"(B) use in a trade or business other than the trade or business of farming.

"(3) Adjusted value.—For purposes of paragraph (1), the term 'adjusted value' means—

"(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

"(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

"(c) Tax Treatment of Dispositions and Failures To Use for Qualified Use.—

"(1) Imposition of additional estate tax.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

"(B) the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,

then, there is hereby imposed an additional estate tax.

"(2) Amount of additional tax.—

"(A) In general.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

"(i) the adjusted tax difference attributable to such interest, or

"(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

"(B) Adjusted tax difference attributable to interest.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—

"(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

"(ii) a similar excess determined for all qualified real property.

"(C) Adjusted tax difference with respect to the estate.—For purposes of subparagraph (B), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(D) Partial dispositions.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—

"(i) the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and

"(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

"(3) Phaseout of additional tax between 10th and 15th years.—If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) Only 1 additional tax imposed with respect to any 1 portion.—In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or (A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

"(5) Due date.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

"(6) Liability for tax.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(7) Cessation of qualified use.—For purposes of paragraph (1)(B), real property shall cease to be used for the qualified use if—

"(A) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the property qualified under subsection (b), or

"(B) during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating 3 years or more during which—

"(i) in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

"(ii) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

"(d) Election; Agreement.—

"(1) Election.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(2) Agreement.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

"(e) Definitions; Special Rules.—For purposes of this section—

"(1) Qualified heir.—The term 'qualified heir' means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(2) Member of family.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(3) Certain real property included.—In the case of real property which meets the requirements of subparagraph (C) of subsection (b)(1), residential buildings and related improvements on such real property occupied on a regular basis by the owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

"(4) Farm.—The term 'farm' includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

"(5) Farming purposes.—The term 'farming purposes' means—

"(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

"(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

"(C)(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market.

"(6) Material participation.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

"(7) Method of valuing farms.—

"(A) In general.—Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

"(i) the excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of such farm over the average annual State and local real estate taxes for such comparable land, by

"(ii) the average annual effective interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the 5 most recent calendar years ending before the date of the decedent's death.

"(B) Exception.—The formula provided by subparagraph (A) shall not be used—

"(i) where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or

"(ii) where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).

"(8) Method of valuing closely held business interests, etc.—In any case to which paragraph (7)(A) does not apply, the following factors shall apply in determining the value of any qualified real property:

"(A) The capitalization of income which the property can be expected to yield for farming or closely held business purposes over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors,

"(B) The capitalization of the fair rental value of the land for farmland or closely held business purposes,

"(C) Assessed land values in a State which provides a differential or use value assessment law for farmland or closely held business,

"(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and

"(E) Any other factor which fairly values the farm or closely held business value of the property.

"(f) Statute of Limitations.—If qualified real property is disposed of or ceases to be used for a qualified use, then—

"(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or cessation shall not expire before the expiration of

3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or cessation, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) Application of This Section and Section 6324B to Interests in Partnerships, Corporations, and Trusts.—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) Special Lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

"Sec. 6324B. Special Lien for Additional Estate Tax Attributable to Farm, Etc., Valuation.

"(a) General Rule.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified farm real property—

"(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section."

(c) Credit for Tax on Prior Transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Additional Tax Imposed Under Section 2032A.—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

"(1) the additional tax imposed by section 2032A(c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property."

(d) Clerical Amendments.—

(1) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

"Sec. 2032A. Valuation of certain farm, etc., real property."

(2) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation."

(e) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

Sec. 2204. Extension of Time for Payment of Estate Tax.

(a) General Rule.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

"Sec. 6166. Alternate Extension of Time for Payment of Estate Tax Where Estate Consists Largely of Interest in Closely Held Business.

"(a) 5-Year Deferral, 10-Year Installment Payment.—

"(1) In general.—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 65 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

"(2) Limitation.—The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

"(A) the closely held business amount, bears to

"(B) the amount of the adjusted gross estate.

"(3) Date for payment of installments.—If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

"(4) Eligibility for election.—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent.

"(b) Definitions and Special Rules.—

"(1) Interest in closely held business.—For purposes of this section, the term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(2) Rules for applying paragraph (1).—For purposes of paragraph (1)—

"(A) Time for testing.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Indirect ownership.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(3) Farmhouses and certain other structures taken into account.—For purposes of the 65-percent requirement of subsection (a)(1), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(4) Value.—For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

"(5) Closely held business amount.—For purposes of this section, the term 'closely held business amount' means the value of the interest in a closely held business which qualifies under subsection (a)(1).

"(6) Adjusted gross estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

"(c) Special Rule for Interests in 2 or More Closely Held Businesses.—For purposes of this section, interests in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 20 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate.

"(d) Election.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

"(e) Proration of Deficiency to Installments.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(f) Time for Payment of Interest.—If the time for payment of any amount of tax has been extended under this section—

"(1) Interest for first 5 years.—Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

"(2) Interest for periods after first 5 years.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

"(3) Interest in the case of certain deficiencies.—In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

"(4) Selection of shorter period.—If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

"(g) Acceleration of Payment.—

"(1) Disposition of interest; withdrawal of funds from business.—

"(A) If—

"(i) one-third or more in value of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

"(i) subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

"(ii) subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

"(C) Subparagraph (A)(1) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(1) as an interest qualifying under subsection (a)(1).

"(D) Subparagraph (A)(1) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) Undistributed income of estate.—

"(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

"(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

"(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);

"(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

"(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

"(3) Failure to pay installment.—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(h) Election in Case of Certain Deficiencies.—

"(1) In general.—If—

"(A) a deficiency in the tax imposed by section 2001 is assessed,

"(B) the estate qualifies under subsection (a)(1), and

"(C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(2) Time of election.—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) Effect of election on payment.—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date of payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

"(j) Cross References.—

"(1) Security.—

"For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

"(2) Lien.—

"For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

"(3) Period of limitation.—

"For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

"(4) Interest.—

"For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601."

(b) 4-Percent Interest Rate.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) 4-Percent Rate on Certain Portion of Estate Tax Extended Under Section 6166.—

"(1) In general.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) 4-percent portion.—For purposes of this subsection, the term '4-percent portion' means the lesser of—

"(A) $345,800 reduced by the amount of the credit allowable under section 2010(a); or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

"(3) Treatment of payments.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 4-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 4-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 4-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166."

(c) Reasonable Cause Substituted for Undue Hardship in Determining Eligibility for Extension of Payment of Estate Tax.—

(1) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

"(2) Estate Tax.—The Secretary may, for reasonable cause, extend the time for payment of—

"(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

"(B) any part of any installment under section 6166 or 6166A (including any part of a deficiency prorated to any installment under such section),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

(2) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:

"(b) Amount Determined as Deficiency.—

"(1) Income, gift, and certain other taxes.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

"(2) Estate tax.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) No extension for certain deficiencies.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

(3) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"(b) Extension for Reasonable Cause.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a)."

(4) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163, 6166, or 6166A".

(d) Special Lien for Estate Tax Deferred Under Section 6166.—

(1) In general.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

"Sec. 6324A. Special Lien for Estate Tax Deferred Under Section 6166 or 6166A.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 6166 or 6166A, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) Section 6166 Lien Property.—

"(1) In general.—For purposes of this section, the term 'section 6166 lien property' means interests in real and other property to the extent such interests—

"(A) can be expected to survive the deferral period, and

"(B) are designated in the agreement referred to in subsection (c).

"(2) Maximum value of required property.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

"(A) the deferred amount, and

"(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151 (a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

"(3) Partial substitution of bond for lien.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

"(c) Agreement.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

"(1) consenting to the creation of the lien under this section with respect to such property, and

"(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or 6166A or this section.

"(d) Special Rules.—

"(1) Requirement that lien be filed.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323 (f) has been filed by the Secretary. Such notice shall not be required to be refiled.

"(2) Period of lien.—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

"(3) Priorities.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

"(A) Real property tax and special assessment liens.—To the extent provided in section 6323(b)(6).

(B) Real property subject to a mechanic's lien for repairs and improvements.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

"(C) Real property construction or improvement financing agreement.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h).

"(4) Lien to be in lieu of section 6324 lien.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

"(5) Additional lien property required in certain cases.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g) or 6166A(h).

"(6) Lien to be in lieu of bond.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

"(e) Definitions.—For purposes of this section—

"(1) Deferred amount.—The term 'deferred amount' means the aggregate amount deferred under section 6166 or 6166A (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(2) Aggregate interest amount.—The term 'aggregate interest amount' means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(3) Deferral period.—The term 'deferral period' means the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A.

"(4) Application of definitions in case of deficiencies.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A."

(2) Discharge of executor from personal liability.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(c) Special Lien Under Section 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166 or 6166A) shall be treated as the furnishing of bond with respect to the amount for which the time for payment has been extended under section 6166 or 6166A."

(e) Amendments of Section 303.—

(1) Extension of period for distribution.—Paragraph (1) of section 303(b) (relating to distributions in redemption of stock to pay death taxes) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or ", and by adding at the end thereof the following new subparagraph:

"(C) if an election has been made under section 6166, or 6166A and if the time prescribed by this subparagraph expires at a later date than the time prescribed by subparagraph (B) of this paragraph, within the time determined under section 6166 or 6166A for the payment of the installments."

(2) Relationship of stock to decedent's estate.—

(A) Subparagraph (A) of section 303(b) (2) is amended to read as follows:

"(A) In general.—Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent's gross estate exceeds 50 percent of the excess of—

"(i) the value of the gross estate of such decedent, over

"(ii) the sum of the amounts allowable as a deduction under section 2053 or 2054."

(B) The first sentence of subparagraph (B) or section 303(b)(2) is amended by striking out "the 35 percent and 50 percent requirements" and inserting in lieu thereof "the 50 percent requirement."

(3) Relationship of shareholder to estate tax.—Subsection (b) of section 303 is amended by adding at the end thereof the following new paragraphs:

"(3) Relationship of shareholder to estate tax.—Subsection (a) shall apply to a distribution by a corporation only to the extent that the interest of the shareholder is reduced directly (or through a binding obligation to contribute) by any payment of an amount described in paragraph (1) or (2) of subsection (a).

"(4) Additional requirements for distributions made more than 4 years after decedent's death.—In the case of amounts distributed more than 4 years after the date of the decedent's death, subsection (a) shall apply to a distribution by a corporation only to the extent of the lesser of—

"(A) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which remained unpaid immediately before the distribution, or

"(B) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which are paid during the 1-year period beginning on the date of such distribution."

(4) Stock with substituted basis.—Subsection (c) of section 303 (relating to stock with substituted basis) is amended by striking out "limitation specified in subsection (b)(1)" and inserting in lieu thereof "limitations specified in subsection (b)".

(f) Technical, Clerical, and Conforming Changes.—

(1) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166 or 6166A."

(2) Section 7403(a) (relating to action to enforce lien or to subject property to payment of tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any acceleration of payment under section 6166(g) or 6166A(h) shall be treated as a neglect to pay tax."

(3) Paragraph (2) of section 2011(c) (relating to credit for State death taxes) is amended by striking out "section 6161" and inserting in lieu thereof "section 6161, 6166 or 6166A".

(4) The last sentence of section 2204(b) is amended by striking out "has not been extended under" and inserting in lieu thereof "has been extended under".

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

"Sec. 6166A. Extension of time for payment of estate tax where estate tax consists largely of interest in closely held business.".

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are as amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

(g) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

Sec. 2205. Carryover Basis.

(a) General Rule.—

(1) Amendment of section 1014.—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) Decedents Dying After December 31, 1976.—In the case of a decedent dying after December 31, 1976, this section shall not apply to any property for which a carryover basis is provided by section 1023."

(2) Carryover basis.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

"Sec. 1023. Carryover Basis for Certain Property Acquired From a Decedent Dying After December 31, 1976.

"(a) General Rule.—

"(1) Carryover basis.—Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

"(2) Loss on personal and household effects.—In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

"(b) Carryover Basis Property Defined.—

"(1) In general.—For purposes of this section, the term 'carryover basis property' means any property which is acquired from or passed from a decedent (within the meaning of section 1014(b)) and which is not excluded pursuant to paragraph (2) or (3).

"(2) Certain property not carryover basis property.—The term 'carryover basis property' does not include—

"(A) any item of gross income in respect of a decedent described in section 691;

"(B) property described in section 2042 (relating to proceeds of life insurance);

"(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent's beneficiary under chapter 1;

"(D) property included in the decedent's gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

"(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under section 422(c)(1), 423(c), or 424(c)(1); and

"(F) property described in section 1014(b)(5).

"(3) $10,000 exclusion for certain assets.—

"(A) Exclusion.—The term 'carryover basis property' does not include any asset—

"(i) which, in the hands of the decedent, was a personal or household effect, and

"(ii) with respect to which the executor has made an election under this paragraph.

"(B) Limitation.—The fair market value of all assets designated under this subsection with respect to any decedent shall not exceed $10,000.

"(C) Election.—An election under this paragraph with respect to any asset shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of tax imposed by section 2001 or 2101 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(c) Increase in Basis for Federal and State Estate Taxes Attributable to Appreciation.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes as—

"(1) the net appreciation in value of such property, bears to

"(2) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(d) $60,000 Minimum for Bases of Carryover Basis Properties.—

"(1) In general.—If $60,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subsection (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

"(A) the net appreciation in value of such property, bears to

"(B) the net appreciation in value of all such property.

"(2) Special rule for personal or household effect.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

"(3) Nonresident not citizen.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

"(e) Further Increase in Basis for Certain State Succession Tax Paid by Transferee of Property.—If—

"(1) any person acquires appreciated carryover basis property from a decedent, and

"(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or the District of Columbia for which the estate is not liable,

then the basis of such property (after any adjustment under subsection (h), (c), or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such persons as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property acquired by such person which is subject to such taxes.

"(f) Special Rules and Definitions for Application of Subsections (c), (d), and (e).—

"(1) Fair market value limitation.—The adjustments under subsection (c), (d), and (e) shall not increase the basis of property above its fair market value.

"(2) Net appreciation.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (d), such adjusted basis shall be increased by the amount of any adjustment under subsection (c), and, for purposes of subsection (e), such adjusted basis shall be increased by the amount of any adjustment under subsection (c) or (d).

"(3) Federal and state estate taxes.—For purposes of subsection (c), the term 'Federal and State estate taxes' means—

"(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.

"(4) Certain marital and charitable deduction property treated as not subject to tax.—For purposes of subsection (c) and (e), property shall be treated as not subject to a tax—

"(A) with respect to the tax imposed by section 2001 or 2101, to the extent that a deduction is allowable with respect to such property under section 2055 or 2056 or under section 2106(a)(2), and

"(B) with respect to State estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

"(5) Appreciated carryover basis property.—For purposes of this section, the term 'appreciated carryover basis property' means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

"(g) Other Special Rules and Definitions.—

"(1) Fair market value.—For purposes of this section, when not otherwise distinctly expressed, the term 'fair market value' means value as determined under chapter 11.

"(2) Property passing from the decedent.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

"(3) Decedent's basis unknown.— If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

"(4) Certain mortgages.—For purposes of subsections (c), (d), and (e), if—

"(A) there is an unpaid mortgage on, or indebtedness in respect of, property,

"(B) such mortgage or indebtedness does not constitute a liability of the estate, and

"(C) such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness.

"(h) Adjustment to Basis for December 31, 1976, Fair Market Value.—

"(1) Marketable bonds and securities.— If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

"(2) Property other than marketable bonds and securities.—

"(A) In general.—If—

"(i) the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

"(ii) the value of such carryover basis property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection) shall be increased by the amount determined under subparagraph (B).

"(B) Amount of increase.—The amount of the increase under this subparagraph for any property is the sum of—

"(i) the excess referred to in subparagraph (A)(ii), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

"(ii) the adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

"(C) Applicable fraction.—For purposes of subparagraph (B)(i), the term 'applicable fraction' means, with respect to any property, a fraction—

"(i) the numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

"(ii) the denominator of which is the total number of days in such holding period.

"(D) Substantial improvements.—Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

"(E) Definitions.—For purposes of this paragraph—

"(i) The term 'marketable bond or security' means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

"(ii) The term 'holding period' means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent's death.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(3) Amendment of section 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(23) to the extent provided in section 1023, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976."

(4) Amendments of section 691.—

(A) Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:

"(A) The term 'estate tax' means Federal and State estate taxes (within the meaning of section 1023(f)(3))."

(B) Section 691(c)(2)(C) is amended to read as follows:

"(C) The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate."

(5) Repeal of section 1246(e).—Section 1246 (relating to gain on foreign investment company stock) is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) Nonrecognition of Gain Where Certain Appreciated Carryover Basis Property Is Used in Satisfaction of a Pecuniary Bequest.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"Sec. 1040. Use of Certain Appreciated Carryover Basis Property to Satisfy Pecuniary Bequest.

"(a) General Rule.—If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in section 1023(f)(5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11.

"(b) Similar Rule for Certain Trusts.— To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange."

(c) Limitation of Increase in Basis for Gift Tax Paid to That Portion of Gift Tax Attributable to Net Appreciation in Value.—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for gifts made after December 31, 1976.—

(A) In general.—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

"(i) the net appreciation in value of the gift, bears to

"(ii) the amount of the gift.

"(B) Net appreciation.—For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift."

(d) Information Requirement.—

(1) In general.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

"Sec. 6039A. Information Regarding Carryover Basis Property Acquired From a Decedent.

"(a) In General.—Every executor (as defined in section 2203) shall furnish the Secretary such information with respect to carryover basis property to which section 1023 applies as the Secretary may by regulations prescribe.

"(b) Statements To Be Furnished to Persons Who Acquire Property From a Decedent.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item."

(2) Penalties.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6694. Failure to File Information With Respect to Carryover Basis Property.

"(a) Information Required To Be Furnished to the Secretary.—Any executor who fails to furnish information required under subsection (a) of section 6039A on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of $100 for each such failure, but the total amount imposed for all such failures shall not exceed $5,000.

"(b) Information Required To Be Furnished to Beneficiaries.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under such subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of $50 for each such failure, but the total amount imposed for all such failures shall not exceed $2,500."

(e) Clerical Amendments.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Carryover basis for certain property acquired from a decedent dying after December 31, 1976.
"Sec. 1024. Cross references."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

(4) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6694. Failure to file information with respect to carryover basis property."

(f) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

(2) The amendment made by subsection (c) shall apply to gifts made after December 31, 1976.

Sec. 2206. Certain Generation-Skipping Transfers.

(a) Imposition of Tax.—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

"Subchapter A. Tax imposed.
"Subchapter B. Definitions and special rules.
"Subchapter C. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.
"Sec. 2602. Amount of tax.
"Sec. 2603. Liability for tax.

"Sec. 2601. Tax Imposed.

"A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

"Sec. 2602. Amount of Tax.

"(a) General Rule.—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in section 2001(c) (as in effect on the date of transfer) on the sum of—

"(A) the fair market value of the property transferred determined as of the date of transfer (or in the case of an election under subsection (d), as of the applicable valuation date prescribed by section 2032),

"(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied,

"(C) the amount of the adjusted taxable gifts (within the meaning of section 2001 (b)) made by the deemed transferor before this transfer, and

"(D) if the deemed transferor has died at the same time as, or before, this transfer, the taxable estate of the deemed transferor, over

"(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B), (C), and (D) of paragraph (1).

"(b) Multiple Simultaneous Transfers.—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur by reason of the same event, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to—

"(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

"(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

"(c) Deductions, Credits, Etc.—

"(1) General rule.—Except as otherwise provided in this subsection, no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

"(2) Charitable deductions allowed.—The deduction under section 2055, 2106(a) (2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

"(3) Unused portion of unified credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the credit under section 2010(a) (relating to unified credit) which exceeds the sum of—

"(A) the tax imposed by section 2001, and

"(B) the taxes theretofore imposed by section 2601 with respect to this deemed transferor,

shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

"(4) Credit for tax on prior transfers.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601. For purposes of the preceding sentence, section 2013 shall be applied as if so much of the property subject to tax under section 2601 as is not taken into account for purposes of determining the credit allowable by section 2013 with respect to the estate of the deemed transferor passed from the transferor (as defined in section 2013) to the deemed transferor.

"(5) Coordination with estate tax.—

"(A) Adjustments to marital deduction.—If the generation-skipping transfer occurs at the same time as, or within 9 months after, the death of the deemed transferor, for purposes of section 2056 (relating to bequests, etc., to surviving spouse), the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

"(B) Certain expenses attributable to generation-skipping transfer.—If the generation-skipping transfer occurs at the same time as, or after the death of the deemed transferor, for purposes of this section, the amount taken into account with respect to such transfer shall be reduced—

"(i) in the case of a taxable termination, by any item referred to in section 2053 or 2054 to the extent that a deduction would have been allowable under such section for such item if the amount of the trust had been includible in the deemed transferor's gross estate and if the deemed transferor had died immediately before such transfer; or

"(ii) in the case of a taxable distribution, by any expense incurred in connection with the determination, collection, or refund of the tax imposed by section 2601 on such transfer.

"(C) Credit for state inheritance tax.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, there shall be allowed as a credit against the tax imposed by section 2601 an amount equal to that portion of the estate, inheritance, legacy, or succession tax actually paid to any State or the District of Columbia in respect of any property included in the generation-skipping transfer, but only to the extent of the lesser of—

"(i) that portion of such taxes which is levied on such transfer, or

"(ii) the excess of the limitation applicable under section 2011(b) if the adjusted taxable estate of the decedent had been increased by the amount of the transfer and all prior generation-skipping transfers to which this subparagraph applied which had the same deemed transferor, over the sum of the amount allowable as a credit under section 2011 with respect to the estate of the decedent plus the aggregate amounts allowable under this subparagraph with respect to such prior generation-skipping transfers.

"(d) Alternate Valuation.—

"(1) In general.—In the case of—

"(A) 1 or more generation-skipping transfers from the same trust which have the same deemed transferor and which are taxable terminations occurring at the same time as the death of such deemed transferor; or

"(B) 1 or more generation-skipping transfers from the same trust with different deemed transferors—

"(i) which are taxable terminations occurring on the same day; and

"(ii) which would, but for section 2613(b) (2), have occurred at the same time as the death of the individuals who are the deemed transferors with respect to the transfers;

the trustee may elect to value all of the property transferred in such transfers in accordance with section 2032.

"(2) Special rules.—If the trustee makes an election under paragraph (1) with respect to any generation-skipping transfer, section 2032 shall be applied by taking into account (in lieu of the date of the decedent's death) the following date:

"(A) in the case of any generation-skipping transfer described in paragraph (1)(A), the date of the death of the deemed transferor described in such paragraph, or

"(B) in the case of any generation-skipping transfer described in paragraph (1)(B), the date on which such transfer occurred.

"(e) Transfers Within 3 Years of Death of Deemed Transferor.—Under regulations prescribed by the Secretary, the principles of section 2035 shall apply with respect to transfers made during the 3-year period ending on the date of the deemed transferor's death. In the case of any transfer to which this subsection applies, the amount of the tax imposed by this chapter shall be determined as if the transfer occurred after the death of the deemed transferor and appropriate adjustments shall be made with respect to the amount of any prior transfer which is taken into account under subparagraph (B) or (C) of subsection (a)(1).

"Sec. 2603. Liability for Tax.

"(a) Personal Liability.—

"(1) In general.—If the tax imposed by section 2601 is not paid, when due then—

"(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

"(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

"(2) Limitation of personal liability of trustee who relies on certain information furnished by the secretary.—

"(A) Information with respect to rates.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceed the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

"(B) Amount of remaining exclusion.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

"(i) the amount furnished by the Secretary to the trustee as being the amount of the exclusion for a transfer to a grandchild of the grantor of the trust which may reasonably be expected to remain with respect to the deemed transferor, is less than

"(ii) the amount of such exclusion remaining with respect to such deemed transferor.

"(3) Limitation of personal liability of distributee.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

"(b) Lien.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

"Subchapter B—Definitions and Special Rules

"Sec. 2611. Generation-skipping transfer.
"Sec. 2612. Deemed transferor.
"Sec. 2613. Other definitions.
"Sec. 2614. Special rules.

"Sec. 2611. Generation-Skipping Transfer.

"(a) Generation-Skipping Transfer Defined.—For purposes of this chapter, the terms 'generation-skipping transfer' and 'transfer' mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

"(b) Generation-Skipping Trust.—For purposes of this chapter, the term 'generation-skipping trust' means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

"(c) Ascertainment of Generation.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

"(1) an individual who is a lineal descendant of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

"(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described and an individual who has been at any time married to the grantor shall be assigned to the grantor's generation,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) Generation-Skipping Trust Equivalent.—

"(1) In general.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) Examples of arrangements to which subsection relates.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) References to trust include references to trust equivalents.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"Sec. 2612. Deemed Transferor.

"(a) General Rule.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) Determination of Relationship.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

"Sec. 2613. Other Definitions.

"(a) Taxable Distribution.—For purposes of this chapter—

"(1) In general.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary. For purposes of the preceding sentence, an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary.

"(2) Source of distributions.—If, during the taxable year of the trust, there are distributions out of the income of the trust (within the meaning of section 643(b)) and out of other amounts, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) Payment of tax.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) Certain distributions excluded from tax.—The term 'taxable distribution' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by subsection (b)(6), and

"(B) any transfer to the extent such transfer is subject to tax imposed by chapter 11 or 12.

"(b) Taxable Termination.—For purposes of this chapter—

"(1) In general.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. Such term does not include a termination of the interest or power of any person who at no time has had anything other than a future interest or future power (or both) in the trust.

"(2) Time certain terminations deemed to occur.—

"(A) Where 2 or more beneficiaries are assigned to same generation.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) Same beneficiary has more than 1 interest or power.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(C) Unusual order of termination.—

"(i) In general.—If—

"(I) but for this subparagraph, there would have been a termination (determined after the application of subparagraphs (A) and (B)) of an interest or power of a younger generation beneficiary (hereinafter in this subparagraph referred to as the 'younger beneficiary'), and

"(II) at the time such termination would have occurred, a beneficiary (hereinafter in this subparagraph referred to as the 'older beneficiary') of the trust assigned to a higher generation than the generation of the younger beneficiary has a present interest or power in the trust,

then, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

"(ii) Special rules.—If clause (i) applies with respect to any younger beneficiary—

"(I) this chapter shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary; and

"(II) the value of the property taken into account for purposes of determining the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the older beneficiary.

"(D) Special rule.—Subparagraphs (A) and (C) shall also apply where a person assigned to the same generation as, or a higher generation than, the person whose power or interest terminates has a present power or interest immediately after the termination and such power or interest arises as a result of such termination.

"(3) Deemed transferees of certain terminations.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, except to the extent provided in regulations prescribed by the Secretary, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

"(4) Termination of power.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

"(5) Certain terminations excluded from tax.—The term 'taxable termination' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by paragraph (6), and

"(B) any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(6) $250,000 limit on exclusion of transfers to grandchildren.—In the case of any deemed transferor, the maximum amount excluded from the terms 'taxable distribution' and 'taxable termination' by reason of provisions exempting from such terms transfers to the grandchildren of the grantor of the trust shall be $250,000. The preceding sentence shall be applied to transfers from one or more trusts in the order in which such transfers are made or deemed made.

"(7) Coordination with subsection (a).—

"(A) Terminations take precedence over distributions.—If—

"(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

"(ii) such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution,

then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

"(B) Certain prior transfers.—To the extent that—

"(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer,

"(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer, and

"(iii) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer,

the terms 'taxable termination' and 'taxable distribution' do not include this later transfer.

"(c) Younger Generation Beneficiary; Beneficiary.—For purposes of this chapter—

"(1) Younger generation beneficiary.—The term 'younger generation beneficiary' means any beneficiary who is assigned to a generation younger than the grantor's generation.

"(2) Time for ascertaining younger generation beneficiaries.—A person is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer (or, in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers).

"(3) Beneficiary.—The term 'beneficiary' means any person who has a present or future interest or power in the trust.

"(d) Interest or Power.—For purposes of this chapter—

"(1) Interest.—A person has an interest in a trust if such person—

"(A) has a right to receive income or corpus from the trust, or

"(B) is a permissible recipient of such income or corpus.

"(2) Power.—The term 'power' means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

"(e) Limited Power To Appoint Among Lineal Descendants of Grantor Not Taken Into Account in Certain Cases.—For purposes of this chapter, if any individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

"(f) Effect of Adoption.—For purposes of this chapter, a relationship by legal adoption shall be treated as a relationship by blood.

"Sec. 2614. Special Rules.

"(a) Basis Adjustment.—If property is transferred to any person pursuant to a generation-skipping transfer, which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer. If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1976).

"(b) Nonresidents Not Citizens of the United States.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States and—

"(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

"(2) if the deemed transferor has died at the same time as, or before, the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

"(c) Disclaimers.—

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

"Subchapter C—Administration

"Sec. 2621. Administration.
"Sec. 2622. Regulations.

"Sec. 2621. Administration.

"(a) General Rule.—Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) if the deemed transferor is not alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

"(2) if the deemed transferor is alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

"(b) Sections 6166 and 6166A Not Applicable.—For purposes of this chapter, sections 6166 and 6166A (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) shall not apply.

"(c) Return Requirements.—

"(1) In general.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

"(A) the person who is required to make such return shall be—

"(i) in the case of a taxable distribution, the distributee, or

"(ii) in the case of a taxable termination, the trustee; and

"(B) the return shall be filed—

"(i) in the case of a generation-skipping transfer occurring before the death of the deemed transferor, on or before the 90th day after the close of the taxable year of the trust in which such transfer occurred, or

"(ii) in the case of a generation-skipping transfer occurring at the same time as, or after, the death of the deemed transferor, on or before the 90th day after the last day prescribed by law (including extensions) for filing the return of tax under chapter 11 with respect to the estate of the deemed transferor (or if later, the day which is 9 months after the day on which such generation-skipping transfer occurred).

"(2) Information returns.—The Secretary may by regulations require the trustee to furnish the Secretary with such information as he determines to be necessary for purposes of this chapter.

"Sec. 2622. Regulations.

"The Secretary shall prescribe such regulations as may be necesary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts."

(b) Technical, Clerical, and Conforming Changes.—

(1) Clerical change.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

"Chapter 13. Tax on certain generation-skipping transfers."

(2) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Tax Imposed on Certain Generation-Skipping Transfers.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

"(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

"(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

"(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer."

(3) Income in respect of a decedent.—Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for generation-skipping transfers.—For purposes of this section—

"(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c)(5)(C) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a));

"(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

"(C) under regulations prescribed by the secretary, any item of gross income subject to the tax imposed under section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611 (a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined)."

(4) Special rules for generation-skipping transfers.—Section 303 is amended by adding at the end thereof the following new subsection:

"(d) Special Rules for Generation-Skipping Transfers.—Under regulations prescribed by the Secretary, where stock in a corporation is subject to tax under section 2601 as a result of a generation-skipping transfer (within the meaning of section 2611 (a)), which occurs at or after the death of the deemed transferor (within the meaning of section 2612)—

"(1) the stock shall be deemed to be included in the gross estate of the deemed transferor;

"(2) taxes of the kind referred to in subsection (a)(1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of the deemed transferor's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax);

"(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

"(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer."

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) Exceptions.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, any generation-skipping transfer.

For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) Trust equivalents.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply.

Sec. 2207. Orphans' Exclusion

(a) General Rule.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"Sec. 2057. Bequests, Etc., to Certain Minor Children

"(a) Allowance of Deduction.—For purposes of the tax imposed by section 2001, if—

"(1) the decedent does not have a surviving spouse, and

"(2) the decedent is survived by a minor child who, immediately after the death of the decedent, has no known parent,

then the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to such child, but only to the extent that such interest is included in determining the value of the gross estate.

"(b) Limitation.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) with respect to interests in property passing to any minor child shall not exceed an amount equal to $5,000 multiplied by the excess of 21 over the age (in years) which such child has attained on the date of the decedent's death.

"(c) Limitation in the Case of Life Estate or Other Terminable Interest.—A deduction shall be allowed under this section with respect to any interest in property passing to a minor child only to the extent that a deduction would have been allowable under section 2056(b) if such interest had passed to a surviving spouse of the decedent. For purposes of this subsection, an interest shall not be treated as terminable solely because the property will pass to another person if the child dies before the youngest child of the decedent attains age 21.

"(d) Definitions.—For purposes of this section—

"(1) Minor child.—The term 'minor child' means any child of the decedent who has not attained the age of 21 before the date of the decedent's death.

"(2) Adopted children.—A relationship by legal adoption shall be treated as replacing a relationship by blood.

"(3) Property passing from the decedent.—The determination of whether an interest in property passes from the decedent to any person shall be made in accordance with section 2056(d)."

(b) Clerical Amendment.—The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Bequests, etc., to certain minor children."

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

Sec. 2208. Administrative Changes.

(a) Furnishing of Statement Explaining Estate or Gift Valuation.—

(1) In general.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"Sec. 7517. Furnishing on Request of Statement Explaining Estate or Gift Evaluation.

"(a) General Rule.—If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapters 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination.

"(b) Contents of Statement.—A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

"(1) explain the basis on which the valuation was determined or proposed,

"(2) set forth any computation used in arriving at such value, and

"(3) contain a copy of any expert appraisal made by or for the Secretary.

"(c) Effect of Statement.—Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary."

(2) Conforming and clerical amendments.—

(A) Section 2031 (defining gross estate) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For executor's right to be furnished on request a statement regarding any valuation made by the Secretary within the gross estate, see section 7517."

(B) Section 2512 (relating to valuation of gifts) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For individual's right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that individual, see section 7517."

(C) The table of sections for chapter 77 is amended by adding at the end thereof the following:

"Sec. 7517. Furnishing on request of statement explaining estate or gift valuation."

(b) Special Rule for Filing Returns Where Gifts in Calendar Quarter Total $25,000 or Less.—Subsection (b) of section 6075 (relating to gift tax returns) is amended to read as follows:

"(b) Gift Tax Returns.—

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

"(2) Special rule where gifts in a calendar quarter total $25,000 or less.—If the total amount of taxable gifts made by a person during a calendar quarter is $25,000 or less, the return under section 6019 for such quarter shall be filed on or before the 15th day of the second month after—

"(A) the close of the first subsequent calendar quarter in the calendar year in which the sum of—

"(i) the taxable gifts made during such subsequent quarter, plus

"(ii) all other taxable gifts made during the calendar year and for which a return has not yet been required to be filed under this subsection,

exceeds $25,000, or

"(B) if a return is not required to be filed under subparagraph (A), the close of the fourth calendar quarter of the calendar year.

"(3) Nonresidents not citizens of the United States.—In the case of a nonresident not a citizen of the United States, paragraph (2) shall be applied by substituting '$12,500' for '$25,000' each place it appears."

(c) Public Index of Filed Tax Liens.—

(1) Initial filing of notice.—

(A) Section 6323(f) (relating to filing of notice of lien) is amended by adding at the end thereof the following new paragraph:

"(4) Index.—The notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in a public index at the district office of the Internal Revenue Service for the district in which the property subject to the lien is situated."

(B) Paragraph (2) of section 6323(f) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (4)".

(2) Refiling of notice.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if such notice of lien is refiled in the office in which the prior notice of lien was filed and the fact of refiling is entered and recorded in an index in accordance with subsection (f)(4); and".

(d) Effective Dates.—

(1) The amendments made by subsection (a)—

(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1954, shall apply to the estates of decedents dying after December 31, 1976, and

(B) insofar as they relate to the tax imposed under chapter 12 of such Code, shall apply to gifts made after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

(3) The amendment made by subsection (c) shall take effect—

(A) in the case of liens filed before the date of the enactment of this Act, on the 270th day after such date of enactment, or

(B) in the case of liens filed on or after the date of enactment of this Act, on the 120th day after such date of enactment.

Sec. 2209. Miscellaneous Provisions.

(a) Inclusion of Stock in Decedent's Estate Where Decedent Retained Voting Rights.—Subsection (a) of section 2036 (relating to transfer with retained life estate) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (1), the retention of voting rights in retained stock shall be considered to be a retention of the enjoyment of such stock."

(b) Disclaimers.—

(1) Amendment of gift tax provisions.—Subchapter B of chapter 12 (relating to transfers for purposes of the gift tax) is amended by adding at the end thereof the following new section:

"Sec. 2518. Disclaimers.

"(a) General Rule.—For purposes of this subtitle, if a person makes a qualified disclaimer with respect to any interest in property, this subtitle shall apply with respect to such interest as if the interest had never been transferred to such person.

"(b) Qualified Disclaimer Defined.—For purposes of subsection (a), the term 'qualified disclaimer' means an irrevocable and unqualified refusal by a person to accept an interest in property but only if—

"(1) such refusal is in writing,

"(2) such writing is received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates not later than the date which is 9 months after the later of—

"(A) the day on which the transfer creating the interest in such person is made, or

"(B) the day on which such person attains age 21,

"(3) such person has not accepted the interest or any of its benefits, and

"(4) as a result of such refusal, the interest passes to a person other than the person making the disclaimer (without any direction on the part of the person making the disclaimer).

"(c) Other Rules.—For purposes of subsection (a)—

"(1) Disclaimer of undivided portion of interest.—A disclaimer with respect to an undivided portion of an interest which meets the requirements of the preceding sentence shall be treated as a qualified disclaimer of such portion of the interest.

"(2) Powers.—A power with respect to property shall be treated as an interest in such property."

(2) Amendment of estate tax provisions.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

"Sec. 2045. Disclaimers.

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518."

(3) Clerical amendments.—

(A) The table of sections for subchapter B of chapter 12 is amended by adding at the end thereof the following:

"Sec. 2518. Disclaimers."

(B) The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2045. Disclaimers."

(4) Technical and conforming changes.—

(A) Paragraph (2) of section 2041(a) (relating to release of general powers of appointment) is amended by striking out the second sentence thereof.

(B) The first sentence of subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by striking out "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)".

(C) The second sentence of subsection (a) of section 2055 is amended—

(i) by striking out "an irrevocable" and inserting in lieu thereof "a qualified", and

(ii) by striking out "such irrevocable" and inserting in lieu thereof "such qualified".

(D) Section 2056 (relating to bequests, etc., to surviving spouse) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(E) Subsection (a) of section 2056 is amended by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (c)".

(F) Subsection (b) of section 2514 (relating to powers of appointment for purposes of the gift tax) is amended by striking out the second sentence thereof.

(c) Certain Retirement Benefits.—

(1) Exclusion from gross estate of individual retirement accounts, etc.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(e) Exclusion of Individual Retirement Accounts, Etc.—Notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the value of the gross estate the value of an annuity receivable by any beneficiary (other than the executor) under—

"(1) an individual retirement account described in section 408(a),

"(2) an individual retirement annuity described in section 408(b), or

"(3) a retirement bond described in section 409(a).

If any payment to an account described in paragraph (1) or for an annuity described in paragraph (2) or a bond described in paragraph (3) was not allowable as a deduction under section 219 and was not a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death."

(2) Exclusion from gross estate of self-employed plans.—The fifth sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent."

(3) Exclusion inapplicable in case of lump sum distributions.—The first sentence of subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "other payment receivable by any beneficiary" and inserting in lieu thereof "other payment (other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A)) receivable by any beneficiary)".

(4) Gift tax treatment of elections under certain retirement plans.—

(A) Individual retirement accounts, etc.—

(i) Subsection (a) of section 2517 (relating to certain annuities under qualified plans) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)."

(ii) Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by striking out "other than paragraph (4)" and inserting in lieu thereof "other than paragraphs (4) and (5)".

(iii) Subsection (c) of section 2517 (defining employee) is amended by adding at the end thereof the following new sentence: "In the case of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established."

(B) Self-employed plans.—The last sentence of section 2517(b) (relating to transfers attributable to employee contributions) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of an individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) of subsection (a) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than such individual and, to the extent not so allowable, shall be considered to be made by such individual."

(5) Gift tax treatment of certain community property.—Section 2517 (relating to certain annuities under qualified plans) is amended by redesignating subsection (c) (as amended by paragraph (4)(A)(iii)) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Exemption of Certain Annuity Interests Created by Community Property Laws.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made—

"(1) by his employer or former employer under a trust or plan described in paragraph

(1) or (2) of subsection (a), or toward the purchase of a contract described in paragraph (3) of subsection (a), which under subsection (b) are not considered as contributed by the employee, or

"(2) by the employee to a retirement plan described in paragraph (5) of subsection (a), a transfer of benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(A) is attributable to such contribution or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of the State."

(d) Income Tax Treatment of Certain Expenses of Estate.—Section 642(g) (relating to disallowance of double deductions) is amended by inserting after "shall not be allowed as a deduction" the following: "(or as an offset against the sales price of property in determining gain or loss)".

(e) Effective Dates.—

(1) For subsection (a).—The amendment made by subsection (a) shall apply to transfers made after June 22, 1976.

(2) For subsection (b).—The amendments made by subsection (b) shall apply with respect to transfers creating an interest in the person disclaiming made after December 31, 1976.

(3) For subsection (c).—

(A) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendments made by paragraphs (4) and (5) of subsection (c) shall apply to transfers made after December 31, 1976.

(4) For subsection (d).—The amendment made by subsection (d) shall apply to taxable years ending after the date of the enactment of this Act.

Sec. 2210. Credit Against Certain Estate Taxes.

(a) In General.—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

(b) Amount of Credit.—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed (and interest thereon) by chapter 11 of the Internal Revenue Code of 1954.

(c) Deed Requirements.—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) Acceptance as National Forest.—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) Interest.—Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reason of the provisions of this section for any period before the date of such transfer.

(f) Effective Date.—The provisions of this section shall be effective on the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Oregon for 30 minutes.

Mr. ULLMAN. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, let me first announce at this time that if I yield at this point, I will yield for debate only. But let me commend, first, the members of the Committee on Ways and Means.

Mr. Speaker, the Committee on Ways and Means has spent a great deal of time and effort this year in developing gift and estate tax reform for the Congress. In my judgment, this is one of the most important areas of needed reform in the code, and I venture to say that it may be one of the most important aspects of this whole legislation before us.

Let me then relate to what we have done in the conference report with respect to the gift and estate taxation.

I had not intended to attach gift and estate tax provisions to this bill, but it became obvious by the time the conference was grinding down that if we were to get a gift and estate tax reform package passed in this Congress, that was about our only avenue of doing it. So we began negotiating with the Senate conferees in an effort to arrive at a reasonable compromise. We spent considerable time in doing that.

I want to say that I am proud of the compromise package that we brought back to this Congress. It preserves most of the basic reform features contained in the House bill, H.R. 14844. It is a soundly balanced package. It offers relief in a very meaningful way to people who have to pay estate taxes. I think by and large it accomplishes the purposes of basic reform, and it is something that we can live with in this country for a long time to come.

If we should delete some parts of this, this could come back to haunt us and be up again before the Congress. If we can hold these compromises intact, I think we will have disposed of this matter for a long time to come.

Mr. Speaker, let us look then at the basic components. We should remember that in the details and in the minor aspects, the conference report does encompass most of the provisions of the House bill, the bill that the Committee on Ways and Means reported and which contained very carefully considered reforms.

As for the major aspects of this legislation, the No. 1 is the exemption issue. All of us, I believe, are very conscious of the fact that the $60,000 exemption which was put into effect over 30 years ago has created a very real burden on persons with estates, and in many instances it has forced people to sell businesses and farms in order to pay estate taxes. What we have done here in the exemption area is to raise that $60,000 in five steps to $175,625 in the form of a credit.

We think this is an excellent compromise. It is one that provides the kind of relief that we need to give to the people who are trying to hold their estates together in a situation brought about by a death.

Another area of this bill that has been involved in some controversy is the generation-skipping provision. In the original bill that I had introduced I had closed off all generation skipping. I think that is a very defensible posture. However, we have gyrated on this issue. It has been a point of some controversy. In the compromise that we bring back to the Members I believe that we have developed a reasonable compromise.

We have prohibited all skipping beyond one generation, and then only through a child to a grandchild. We have further limited it very severely to a maximum of $250,000 per child. This tightens the provision very greatly as compared with the bill that we passed out of the Committee on Ways and Means. I think it is a very excellent compromise provision.

Mr. Speaker, we now come to the provision on which a question has been raised by the gentleman from New York (Mr. Conable). This is the one that he is going to use to build a case for his previous question motion.

The compromise that we bring back to the Members on the "stepped-up" basis problem is, I think, the centerpiece of this legislation. This is the part of the package that will make this gift and estate tax reform bill stand up for a long time to come. I think this is the provision that will keep this problem from plaguing us again year after year on the capital gains at death issue, which I am sure all the Members have heard about. The conference amendment contains a compromise that will not hurt people. It is one that brings everybody up to a current basis; that is, fair market value as of December 31, 1976—for estate tax purposes if they should sell their property in the future.

Let us remember that what we are talking about in a stepped-up basis is only this: Under current law—and this has been the main criticism in all of the tax code—when a taxpayer dies, we allow the basis of property to be stepped up to current valuation. As a result if the property is sold in the future, that current valuation prevails.

In this bill what we say is this: Everybody comes under current valuation as of the end of this year for income tax purposes in the case of appreciated property passing through estates.

The SPEAKER. The time of the gentleman from Oregon (Mr. Ullman) has expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 2 additional minutes.

Therefore, Mr. Speaker, if we have a situation where there is a death in 1977, the basis would automatically be stepped up to the valuation as of the end of this year. Then, if the heirs sell the property, there will be very little income tax to pay on it because they only have to pay taxes on the difference between the valuation at the end of this year and the price at which the property is sold.

Mr. Speaker, this gives tremendous relief to those people who are objecting the most to the carryover basis, because this adjustment eases those situations where someone paid $10 an acre for a piece of property 50 years ago that is now worth $1,000 an acre. If that is the value now, that would be stepped up to $1,000 an acre, and that $1,000 would be passed through to the heirs. Then, if there were a sale subsequently, that $1,000 would be the basis used in determining the capital gains. Therefore, this does give basic relief to existing situations. I think it is the best kind of compromise to reach, and it resolves, once and for all, this key issue.

Mr. Speaker, it is an issue that most economists and tax experts say is probably the biggest loophole in the whole tax code. This takes care of the stepped-up basis at death in a compromise way that I think will resolve the issue once and for all and resolve it very equitably.

Mr. Speaker, I want to say that the gentleman from Arkansas (Mr. Mills), who has been living with this problem for a long, long time, fully supports this solution to the problem. In yesterday's Record, at page 30546, we have a lengthy statement on his part which I think sets forth the issue very, very clearly.

The SPEAKER. The time of the gentleman from Oregon (Mr. Ullman) has expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 1 additional minute.

Let me say, Mr. Speaker, that a lot of people have contributed greatly to this effort that we are making here. I could name a lot of people on the committee, but the gentlewoman from Kansas (Ms. Keys), has probably been one of the most diligent people in working toward an adequate compromise on this issue. I commend her for it, and I commend all of the others who have worked so diligently on this piece of legislation.

Mr. Speaker, I strongly urge that we vote for the previous question and then for this motion. It is the best way in which we could get the long overdue gift and estate tax revisions into this legislation.

It seems to me, Mr. Speaker, that if we vote down the previous question, then we may very well set in motion a chain of events that could keep us from getting any gift and estate tax legislation this year at all.

I say, Mr. Speaker, that if we want gift and estate tax legislation, this compromise is the only sure way for us to get it.

The SPEAKER. The time of the gentleman from Oregon (Mr. Ullman) has again expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 1 additional minute.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I appreciate the gentleman's yielding.

If we were to accept the compromise which the gentleman suggests and someone were to die 10 years from now, would the property in that estate step up to its value as of December 31, 1976, or what would the circumstances be?

Mr. ULLMAN. That is exactly the situation. That property would step up to current value as of the end of this year, December 31, 1976. Then if it is subsequently sold, the fair market value on that date would be the basis for determining capital gain taxes.

Mr. EVANS of Colorado. Let us say that there is a death 10 years from now. Would the step-up be to the date of December 31, 1976?

Mr. ULLMAN. The answer is yes.

Mr. EVANS of Colorado. Even though the death is 10 years later, in 1986?

Mr. ULLMAN. The answer is "yes." We are establishing this date, December 31, 1976, as a stepped-up basis for everyone.

Mr. EVANS of Colorado. Mr. Speaker, I thank the gentleman.

The SPEAKER. The gentleman from New York (Mr. Conable) is recognized for 30 minutes.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the defeat of the previous question relative to the estate and gift tax changes which have been reported in technical disagreement. If the previous question is voted down, then I will offer a substitute which is at the desk and which embodies everything included in the chairman's motion to recede and concur with an amendment, but eliminates the compromise cost basis carryover only. While the conference amendment would seemingly be an improvement on the present estate and gift tax there is one provision, the carryover basis provision, which is objectionable and which, if enacted, will produce complex, costly, time-consuming litigation between the Government and the taxpayer and will complicate the duties of every administrator or executor of a decedent's estate. From a philosophical point of view the carryover basis provision will inhibit the free transfer of property and increase the capital outlay in the future.

The parliamentary situation is this:

An amendment accompanying the conference report has been reported in disagreement. The text of the amendment has been printed as an appendix to the conference report. The amendment is not itself subject to an amendment, however if the previous question is defeated, a substitute may be offered.

If the previous question is defeated, I will offer a substitute that would delete the carry over basis provision but which would in all other respects be identical to the amendment offered by the chairman, the gentleman from Oregon (Mr. Ullman).

I urge the Members to vote against the previous question so that the substitute may be offered.

As the chairman, the gentleman from Oregon (Mr. Ullman) has accurately described, under present law a beneficiary receives a step up in tax basis for inherited property. The basis is stepped up to its fair market value on the date of the decedent's death. As a result, each generation receives a new basis for purposes of capital gains taxes under the income tax laws for inherited property.

The amendment reported by the conferees would change the basis rule to provide that a beneficiary would take a decedent's basis for inherited property if purchased after the first of this next year, or take its value as of December 31, 1976, as its basis, if previously held. Eventually this will result in a straight cost basis carryover system, to which a majority of the House objected when the rule came up recently for a separate estate tax bill here in the House.

The lock-in effect of the carryover basis provisions will be very harsh. The after death lock-in effect will be overbearing. Low carryover tax basis property will obviously be held beyond the time when prudent investment sense would dictate so as to avoid the large capital gains taxes which would result from a sale.

Let me give the Members some examples on how the carryover basis provision will operate. These are at the desk on the minority side and any majority Members are welcome to these examples, a couple of examples that will show how this operates and why we still oppose this on philosophical grounds.

The first example is an illustration of why we oppose this measure.

Assume a husband owned a small store and a home. He dies and the surviving wife decides to sell both the store and the house so as to move into an apartment. The home, worth $25,000 in 1977, and the store worth $35,000, are worth $45,000 and $65,000, respectively, in 1988 when the husband dies and the properties are sold by the wife. Under the present law the wife would not be liable for any capital gains tax. With the carryover basis provision—that the chairman, the gentleman from Oregon (Mr. Ullman), seeks to have us adopt today—her capital gains income tax liability will be more than $7,000. She would have had no capital gains liability under previous law. law.

This is quite irrespective of any liability for estate taxes. In fact, then, we are providing a new tax on decedents with this carryover basis. Many of the people who will receive the impact of this tax will not have taxable estates, therefore will be among those very modestly affluent people. Thus we will in effect put a tax on those who would pay no estate tax.

In other words, we are hitting not the very wealthy; we are hitting, among others, those who are not very wealthy but who happen to own an appreciated home. I ask the Members to look at the example that is in the record of the Congressman who buys property right now and dies unexpectedly 5 years from now with only this home here in Washington as an asset of his estate. What happens to his wife if he does that, even though she would pay no estate tax? There is a new tax on middle-class Americans. It may well undermine the estate tax relief offered in other provisions of the amendment. We are asked to approve a phase-in of the cost basis carryover, the very thing we objected to originally.

In my view, the carryover basis is ill-advised. The carryover basis provision would violate the reasonable proposition that property should be either held or sold for sound business or personal reasons, not for tax reasons.

We are all deeply concerned with actions that would tend to preserve the existence of family farms and small businesses in America. The impact of the carryover basis will fall most heavily on the small farm or family-owned business which has been handed down generation through generation. This is critically important to remember.

Estates composed largely of farm or small business assets all too frequently are illiquid and executors are forced to dispose of appreciated assets held in the estate in order to meet estate tax liabilities. Taxable capital gains will result under this proposal. Additional sales of appreciated assets may be necessary to help meet capital gains tax liability. Let me emphasize that this undesirable effect will have its greatest negative impact in the case of farms and small businesses which have been held from generation to generation.

The provision adopted by the conferees will not have any positive revenue impact for at least 5 years. In this light the only real issue before us relative to the carryover basis is a philosophical one. The carryover basis provision contained in H.R. 14844—the estate and gift tax reform bill reported by the Ways and Means Committee—could at least be arguably justified on the grounds that it raises additional revenue. One cannot even advance that argument in favor of the conference provision.

I urge you to vote down the previous question relative to the estate and gift tax provisions, and then to support the substitute proposal I will offer which is identical with those contained in the Chairman's motion except for the carryover basis item which I seek to delete; and finally to vote to adopt the estate and gift tax provisions of the conference report as modified.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

I wish to commend the gentleman for the statement he has just made. I think he points out one of the real shortcomings of this piece of legislation. It is a new provision inserted into this bill which has no place in it. The House has already objected to including it. I have reference to the capital gains provision which would attach to property acquired through estates when it is sold. It has been somewhat modified in the conference committee report, but the capital gains tax placing the value as of December 31, 1976, is still in the bill. I think this principle is bad. It is bad because once these people bent on redistributing the wealth in America get their feet in the door, they are going to say next year or the next year we ought to eliminate the December 31, 1976, date for purposes of valuation and use the value on the date of acquisition by the decedent for tax purposes. This is wrong and should be stricken from the bill.

Mr. CONABLE. I thank the gentleman for his contribution. With the conference compromise, we are adopting the principle in full, even though we are stripping out accumulated appreciation of assets already held or purchased by a potential decedent.

Mr. LATTA. I could not agree more with the gentleman that the principle is bad and should not be adopted.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

In order to clarify this in my mind, let me see if I understand the point the gentleman mentions. I will just make a personal illustration. My wife and I own a home which we have had for about 12 years. We own it by the entirety. We paid for it, let us say, in the neighborhood of $50,000. We signed our wills yesterday. If I should die and it should be valued as of the end of this year at $100,000, even though my estate may not be large enough to incur inheritance tax, would she have to pay a capital gains tax on her part of that house?

Mr. CONABLE. No. The answer is more complicated than that. Any past appreciation in this asset would be stripped out because the old value would be replaced by the value as of January 1, 1977, by an apportionment process which I may say is irrebuttable and which cannot be disproved by other value evidence. But it would be as to future appreciation that the cost basis would be carried over to one's heirs, if it is the gentleman's wife, or his children. This is so despite the fact that the estate assets would be valued for estate tax purposes at their full current value. In other words we have separated estate and capital gains tax. We have said that despite the fact the gentleman paid a full estate tax or despite the fact that it is valued for estate tax purposes as of the time of his death, the capital gains basis remains as of January 1, 1977, or whenever he bought it after that. He would pay capital gains tax in addition to the estate tax which is collected.

Mr. ALLEN. If the gentleman will yield further; in other words then, if I should die let us say 4 years from now and the home was valued at $100,000 as of January 1, 1977, but sold at that time at $150,000, she would be subject to long-term capital gains tax on $50,000?

Mr. CONABLE. That is right. She would pay estate tax on the $150,000 valuation at the time the gentleman died, assuming there were other assets to make it a taxable estate, but her cost basis would remain the cost basis as of January 1, 1977.

Mr. ALLEN. I thank the gentleman from New York for his explanation.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. CORMAN. The one little thing the gentleman left out was that the basis is increased by the estate tax paid.

Mr. CONABLE. That would help the very wealthy who pay an estate tax. It would not help the small middle-class person who paid no estate tax.

Mr. CORMAN. But who would pay an estate tax if we did not have this bill?

Mr. CONABLE. I acknowledge that the bill is an improvement. I am objecting to this provision of the bill and that is why I am making the effort against ordering the previous question.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I take this time to make some comments and at the end of my comments I will ask the chairman of our committee some questions.

The compromise reached by the conferees on the estate and gift taxes is delicately balanced on competing interests. To upset it now would require us to return to conference and drop the issue. The only guaranteed way to get an estate and gift tax act this year is to vote up the previous question on the motion and then support the motion itself.

Under the compromise, we raise the estate and gift tax exemption from $60,000 to an equivalent of $175,000, almost a 300-percent increase.

In addition under the compromise the first $425,000 of any transfer at death to one's spouse will be tax free and 50 cents of every dollar left to the spouse above the $425,000 will also be exempt from every estate tax.

This in my opinion is indeed a good package.

Now if the chairman of the committee would answer some questions, I would like to ask:

In regard to the carryover basis provision, is it not true there are absolutely no gains attributable to periods before January 1, 1977, which will be subject to income tax when the decedent's heirs sell the property, providing in effect a fresh start for everyone?

Mr. ULLMAN. The gentleman is correct.

Mr. ROSTENKOWSKI. Is it not true that the carryover basis provision will not even apply to small estates since the basis will be the same as the estate value to the extent the $60,000 minimum basis rule applies?

Mr. ULLMAN. The gentleman is again correct.

Mr. ROSTENKOWSKI. Is it not true each estate can elect to exclude an additional $10,000 of personal or household assets from the carryover basis rules?

Mr. ULLMAN. That is correct.

Mr. ROSTENKOWSKI. Is it not true that not a penny of capital gains tax will have to be paid by any heir unless and until that heir elects to sell the property? The inherited property will only be affected by this provision when and if the property is eventually sold by the decedent's heirs. And remember, even then only the post-1976 gain will be taxed and then at the very favorable capital gain rates.

Mr. ULLMAN. That is a very important point and it is correct.

Mr. ROSTENKOWSKI. Mr. Speaker, is it not true that any estate tax paid on the appreciation in the property is also added to that property's basis for purposes of determining gain, further reducing the amount which would be subject to the capital gains tax when the property is eventually sold?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, that is correct.

Mr. ROSTENKOWSKI. Mr. Speaker, in my opinion, the overall compromise is quite a generous liberalization of the estate and gift tax law. In fact, as a representative of the interests of a center city, I was reluctant in conference to support such an expensive reduction of the estate tax base. I only supported this then, as I do now, in the spirit of compromise.

I feel, and I know there are many in the Senate who will agree, that this is as far as we can or should go, so I truly urge my colleagues to vote up the previous question and accept the package as the chairman has outlined.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, in the example which the gentleman from Illinois and the chairman were just talking about, where there has been an heir inheriting the property after January 1, 1977, that property is never sold by the heir, and then he dies and leaves it to his heir, then how much capital gains tax is paid?

Mr. ROSTENKOWSKI. No capital gains tax is paid until the property is sold.

Mr. CONABLE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me say the cost basis remains the same from generation to generation.

Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the committee, the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I support the gentleman from New York (Mr. CONABLE) in his efforts to defeat the previous question on this amendment so that we may delete the carryover basis provision. If adopted, the carryover basis proposal will produce tremendously expensive litigation. It will complicate the administration of the decedent's estate and it will cancel out in many instances the estate and gift tax relief provided in other parts of this agreement.

Now, Mr. Speaker, one would think that Mr. CONABLE is seeking a big concession. All his substitute will provide is that the present tax law be continued. Present tax law states that valuation is the value of the property at the time of the decedent's death, not some artificial set date such as January 1, 1977. We are merely asking for a continuance of present law and this certainly is not creating a loophole. This has been the tax law for several decades.

Now, many of us received a "Dear Colleague" letter this morning indicating that we might jeopardize passage of estate and gift tax reform if we defeat the previous question. I would like to say, "poppycock." There is no validity to this position whatsoever.

The farmers and the many hundreds of thousands of small businessmen are going to be carefully watching our votes on this proposition, because all of them, as far as I know, certainly all of them who have written to me, have indicated they would like to have a continuance of the present tax law as it relates to this basis issue. It has served us well for many generations.

Mr. Speaker, I am very deeply disturbed by the carryover basis provision.

The carryover basis provision was adopted with insufficient regard for those significantly affected. Administrators and executors of estates will have to live with this provision; they will be forced to distribute property among beneficiaries not on the basis of their respective needs, but instead on the basis of attempting to keep each one's tax basis roughly equal to the basis of each other beneficiary. Administrators and executors will be subject to new perils as they wind their way through the administration of a decedent's estate.

Those who favor a carryover basis say it will make death a nontaxable event. However, the fact is that the tax consequences of death will become far more profound with this provision than under present law. The "lock-in" effect after death will be extremely strong. A beneficiary who receives property with a low carryover basis will obviously be encouraged to hold the property longer than prudent investment sense would dictate. The capital gain subject to tax would be too large to permit a sale. The longer an asset is held, the more generations it passes through, the larger its increase in value, the stronger the incentive to hold the property will be, the stronger the lock-in. This is poor tax policy.

I urge, therefore, a defeat of the previous question so that a substitute may be offered. The substitute will be identical with the provisions agreed to by the conferees with the exception that it will not contain a carryover basis provision.

As many of us know, President Ford's estate and gift tax reform proposals would have, among other things, increased the specific estate tax exemption available under current law from $60,000 to $150,000, over a 5-year period. The conference agreement would move in the same direction; it would provide a unified credit in lieu of specific exemptions to replace the present $60,000 estate tax exemption as well as the current $30,000 gift tax exemption. The unified credit would be phased in over a 5-year period. During the first year, 1977, the credit would be $30,000, or roughly the equivalent of an exemption of $120,600; in 1978, the credit would be $35,000 or roughly the equivalent of an exemption of $137,300; in 1979, the credit would be increased to $40,000, or the equivalent of an exemption of $153,750; in 1980, the credit would be increased to $42,500, or the equivalent of an exemption of $161,563; and in 1981, the credit would be permanently increased to $47,000, or the equivalent of an exemption of $175,625.

The present $30,000 gift tax exemption and the $60,000 estate tax exemption were enacted in 1942. Inflation since then has exceeded 249 percent, so you see these changes are long overdue.

The President's proposal would have provided for an unlimited marital deduction so that husbands and wives would be able to transfer their property to their spouses without estate and gift tax consequences. The conferees did not adopt the President's proposals in this regard, but, instead provided for some lesser relief. Under the conference agreement the marital deduction would be increased from its present 50 percent level to the greater of $250,000 on one-half of a decedent's adjusted gross estate. The gift tax marital deduction would also be amended to provide an unlimited deduction for transfers between spouses for the first $100,000 in gifts and, thereafter, the deduction would be 50 percent of gifts in excess of $200,000.

These provisions are a significant improvement over current law.

This increase in the marital deduction coupled with the increased credit would permit a spouse to will an estate of $425,625 to a spouse tax free.

One other area touched on in President Ford's recommended legislation pertains to the liquidity problem. The President proposed that estates be granted a 5-year moratorium on estate tax liability followed by a 20-year payout period, with interest accruing after the fifth year at an annual 4 percent rate. His proposed legislation would have been limited to estate taxes attributable to an interest in closely held business or farm property worth up to $300,000. In the case of an interest valued between $300,000 and $600,000, there would have been, under President Ford's proposal, a dollar-for-dollar reduction in the value of the estate qualifying for the extended payment rules.

The conference provision does significantly improve the provisions of current law. An executor could elect to pay installments over a period of 15 years, with only interest due for the first 5 years. In order to qualify for these extended payment provisions, the value of the farm or the closely held business would have to constitute 65 percent of the decedent's estate. In addition, interest on the unpaid balance of the estate tax liability would accrue at the rate of 4 percent annually.

To reiterate, I hope that we will vote to defeat the previous question relative to the estate and gift tax provisions which have been reported in disagreement; that we will vote for the substitute proposals which will be identical with those in the amendment except for the carryover basis item; and that we will then vote to adopt the estate and gift tax provisions as modified.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, it is difficult, at best, to find myself opposing a position taken by the leadership on our side of the Committee on Ways and Means; but I do so because I support the estate and gift tax provisions that were reported by the conference committee, including the carryover basis provision. From my standpoint, the issue comes down to one thing. How do we treat lifetime gifts as compared to those made at death. That, on balance, it seems to me is the whole concept that we as Members of this House and as people who are deeply concerned about what happens in this country are going to have to make our judgment on.

What we do now under the present system is to say, "If you give a gift during lifetime the value as of date of purchase is the basis." If I get a gift from my father during his lifetime, I carry my father's basis with me, but at the time of death if I receive a comparable gift, suddenly that basis is stepped up to the date of his death. So, there is an inequity, a basic inequity in tax policy which has nothing to do with economic decisions or anything else. It has only to do with the fact that we give an advantage, in my judgment, to what happens as the result of death in valuing property that is then carried forward to the heirs.

From every examination that the Committee on Ways and Means has ever made and that any rational person makes, that concept is a weakness in the present estate system. It is a weakness that can be corrected by the conference report. It will not, in my view, create further lock-in problems because all of us are aware and I think all of us know that there are now decisions that are made that have nothing to do with economics, they have only to do with the anticipation of death.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. ULLMAN. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I intend to vote "aye" on the previous question. Let me just clarify that last point. What we are doing now is having decisions made which are based, not on what is right or wrong economically, but rather what is the best for my heirs. How can I avoid their paying a tax if I keep my asset until my death. That, in my judgment, is not proper.

We skew the code; we skew the code in an improper fashion. Thus, I think the carryover basis provision in this compromise is a legitimate, honest effort to achieve far greater equities and insure the decisions are made, not on the basis of anticipation of death, but on the basis of what is economically correct. I urge that the motion be sustained.

Mr. Speaker, I support enactment of the estate and gift tax provisions reported by the conferees in disagreement.

I urge the adoption of the provisions not because they are perfect—but because they represent an outstandingly reasonable compromise between legitimate but competing points of view in our society.

It is my judgment that the bill as adopted by the conferees is balanced. It provides for significant tax relief and at the same time fairly and equitably eliminates one of the most significant weaknesses in our present estate and gift tax system.

A particularly important provision of the proposal would permit an executor to elect to value farm and closely held business real property of a decedent, not at its highest and best use, but, instead, as a farm or closely held business. This provision will do a great deal to permit the continued operation of family farms and closely held businesses. Our present laws incorrectly increase land values for estate tax purposes to such an extraordinary degree that properties must frequently be sold in order to meet estate tax liabilities. This is wrong; it should be changed. We can and should rectify this injustice.

Many of the witnesses who testified before the Ways and Means Committee in connection with estate and gift tax matters earlier this year touched upon the provisions of present law relative to the marital deduction. Under present law a decedent may transfer tax-free up to 50 percent of his or her property to a spouse. A gift tax marital deduction of 50 percent is also allowable under present law of up to one-half the value of transferred property.

President Ford proposed, and I wholeheartedly support his proposal, to allow for unlimited tax-free transfers between husband and wife. The committee was unwilling to adopt the President's proposal but did adopt two important changes in this area.

Under the amendment offered in Chairman Ullman's motion, the maximum marital deduction would be $250,000 or one-half of the decedent's estate whichever is greater. This will provide some relief to smaller and moderate-sized estates. While this is an improvement over present law, philosophically I feel that husbands and wives ought to be able to transfer their property between one another without tax consequences.

A related provision will also be beneficial to husbands and wives; it would correct the grossest kind of injustice. Farms, small businesses, and other jointly held property would be treated for estate tax purposes as belonging half to each spouse, regardless of which spouse provided the consideration for the original purchase of the property.

Under current law a decedent's estate is taxed as if the full value of jointly held property was held by the decedent exclusively, except to the extent it can be shown that another joint owner contributed the consideration for the original purchase of the property. This proposition is referred to as the "consideration contributed" test. It frequently produces the harshest most undesirable tax consequences for husbands and wives who have worked side by side for a lifetime. When one of the spouses dies the entire value of the property is taxed in that individual's estate. This is grossly unfair to a surviving spouse.

The conference provisions would rectify this situation and provide a fractional interest rule for spouses. Under the rule if various criteria are met then the property would be treated as belonging equally to each spouse.

For real property the jointly held interest would have to be treated—that is, an election would be required—as a gift, and perhaps taxable, at the time of its creation. Personal property interests would be treated as completed gift transactions at their creation. This will ameliorate the unfair impact of our present estate tax laws.

As I said at the outset of my remarks, I will vote for the provisions relative to estate and gift taxes as agreed to by the conferees.

Mr. ULLMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Speaker, I hope this House will vote the previous question. I hope the House will oppose the effort to strike from the estate tax provision the carryover basis on capital assets which is proposed by the gentleman from New York (Mr. Conable). If this effort succeeds, the Treasury will lose, in addition to present losses, $36 million additionally in 1979, $93 million in fiscal year 1980 and $162 million in 1981. In later years, the loss under the proposal made by my colleague from New York will approximate $1.1 billion per year. This is serious business.

In the discussions on the Federal estate tax which was revised in this so-called Tax Reform Act, it was argued that the $60,000 Federal estate tax exemption had not been changed since 1942, although the cost-of-living index has risen by 249 percent to the present. The tax bill is more than generous. In certain categories, the case of an estate being left to a spouse, the combination of marital deduction and one lifetime gift can exempt an estate of $525,625 from Federal estate taxation. The new exemption constitutes an increase in the tax exemption at a rate of 350 percent, considerably more than the increase in the cost of living since 1942.

We must make note of this tax advantage for less than 3 percent of our adult population, and take steps to bring other things into line. For example, the dependency exemption, which affects all the other almost 85 million taxpayers in America, affects every family in America. In 1941 the dependency allowance was $750. Today, the dependency allowance is $750. It has not increased one bit except for the temporary $35 tax credit which makes the exemption an equivalent of $860 per dependent.

If the dependency exemption were increased to reflect the cost of living since 1941, as we have in the estate tax, the dependency credit today would be $1,867 per dependent today. If the dependency exemption was increased to the same extent and in the same percentage as the estate tax in this bill, the exemption per dependent would be $2,625 per dependent.

I think it should be a matter of high priority in the new Congress to adjust the dependency exemption to the cost of living. It should be established at a more responsible relationship to the cost of supporting a dependent.

The farms and small businesses in America, which are continued through the same family ownership through relaxed estate tax laws are important. But it is even more important to preserve family life and family responsibilities through a tax structure which recognizes the sacrifice of the individual taxpayer to support a dependent.

Mr. Speaker, the Treasury will lose by the bill in its present form, without the additional cost of the Conable amendment, approximately $4 to $5 billion by 1980. This bill will reduce estate tax filings on an annual basis from 157,000 every year to 45,000. We are indeed doing a great deal to relieve the estate tax burden of 3 percent of the adult population of America. It is time we should take care of the other 97 percent.

In his statement, the gentleman from New York (Mr. Conable) implied that his amendment, which we have opposed, would stimulate a lock-in. Its effect is exactly the opposite. It would decrease the lock-in, since there would be no point in holding estates until death in order to get the stepped-up basis, because it will not occur.

It was also suggested by my colleague, the gentleman from Pennsylvania (Mr. Schneebeli), that the proposal in the present law is too complex, that it would be difficult to administer, that it would be hard to determine values.

I think the bill in its present form provides for a very proper basis for apportioning the value of property so that we can apportion value for holding before 1976 and pro rata valuation for the period after 1976. It can be readily and easily administered.

Mr. Speaker, I would like also to point out, that so far as ownership in public securities is concerned, the values would be readily ascertainable because the market gives us those values on a daily basis.

Mr. Speaker, I urge the Members to vote the previous question, and I hope that the House will vote down the proposal offered by the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Ohio and the gentleman from Wisconsin, for whom I have a great deal of respect and affection, are concerned variously that the Federal Government will lose money by the effort of the gentleman from New York (Mr. Conable), or that the Federal Government does not get its full bite of appreciated value of property. While I enjoy their company and like them, I think I will take my stand, rather than with the Federal Government, with the widows and orphans, because I am concerned about what happens to them in this situation.

Mr. Speaker, I rise in strong support of Mr. Conable's motion to defeat the previous question in order to delete the ill-conceived "carryover basis" provision of the estate and gift tax reforms contained in H.R. 10612. The inclusion of this provision in the estate and gift tax section of this legislation would eventually compound the problems already faced by the families of small businessmen and farmers at present.

Under this modification of the capital gains section, heirs ultimately will have to pay considerably more taxes than they now pay when they sell inherited property. Under current law, later sale capital gains on inherited property are based on the fair market value of the inherited at the time of the decedent's death.

Thus, the capital gain on the property while it was held by the decedent but never realized by him is washed out. One might argue that the inheritance tax is a substitute for that capital gain—as far as the Government is concerned. But for the heir, there is a tax on the inheritance, but no tax on the capital gain which neither he—the heir—nor the decedent realized. The value of the inheritance at the time the heir acquires it becomes the new basis for judging future capital gains or losses on which the heir would be taxed at the time of future sale.

This gives each generation a fresh start for capital gains purposes in the event that the heir ever desires to sell his newly acquired property.

However, proposed provision of the conference bill would change the present law by making the heir's basis in the inherited property the same as the decedent's; thus making the heir liable for a potentially much larger tax if and when the property is sold. Therefore, this carryover basis provision, designed to give the small businessmen and farmers the long overdue relief they deserve, will only serve to substantially increase their total tax liability in years to come.

If enacted, this carryover basis provision would be counterproductive to the desirable reforms contained in this bill. In the case of suburban-small city-rural districts, like my own, the capital gains tax liability could become so great that in time, little land, if any, would be for sale in America.

And in fear of death, property owners would try to remain as financially liquid as possible so that the inheritance tax can be paid without the necessity of selling property—because to sell would be to substantially increase the tax burden. This requirement to remain liquid discourages job formation investment or any other investments to stimulate the economy.

Estate tax laws should not discourage the accumulation of the investment capital necessary for more efficient food production on the farm, for instance.

Reasonable reform is necessary now if we want to save family farms. This lock-in effect, the reluctance of heirs to sell their highly appreciated property, coupled with the recordkeeping and liquidity problems, will only reduce the bill's tax relief in the long run.

I am in favor of the badly needed increase in the exemption in the estate tax of this legislation, but I cannot support the inclusion of the carryover basis provision which only negates the relief it proposes to offer by placing an increased tax burden on family farms, homes, businesses, and other personal investments. I urge prompt passage of the Conable substitute.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Kansas (Mrs. Keys).

Mr. ULLMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. KEYS. I yield to the committee chairman.

Mr. ULLMAN. Mr. Speaker, I simply wish to say that no Member has been more persistent than the gentlewoman from Kansas (Mrs. Keys) in getting a constructive job done on this committee.

Mrs. KEYS. Mr. Speaker, I thank the chairman of my committee very much.

Mr. Speaker, no legislative issue in the 94th Congress is of more importance or interest to so many people on family farms and closely held businesses than the Estate and Gift Tax Reform Act of 1976. The committee work to prepare H.R. 14844 in the House has been lengthy, diligent, and much debated. The result was a good bill, one which brought much-needed relief to family farms and businesses. The result of the conference committee action to incorporate most elements of that bill in the conference report means that relief will be achieved this year, in spite of procedural difficulties on this House floor. It must be.

Three main elements of relief that have been needed for years are achieved by this legislation: First, an increase in the present exemption of $60,000, which was established in 1942 at a time when land values were vastly lower than they are now; second, a provision allowing for joint ownership under the estate tax law as well as a large increase in the marital deduction; and third, appraisal of farm estates on the basis of their value as farms rather than on their "fair market" value.

The $60,000 exemption was set a third of a century ago, and it bears no relation at all to land valuation today. The increase of this exemption is accomplished with a tax credit, which is more equitable than an exemption, as well as less costly. A credit, as opposed to an exemption, provides equal dollar relief to all estates regardless of value and therefore does not disturb the progressivity of the tax rates. It also simplifies the estate tax. The credit phases in over a 5-year period: $30,000 the first year equivalent to an exemption of $120,667; $34,000 the second year equivalent to an exemption of $134,000; $38,000 the third year equivalent to an exemption of $147,333; $42,500 the fourth year equivalent to an exemption of $161,563; and $47,000 the fifth year equivalent to an exemption of $175,625. It will bring equal relief to an estate of $200,000 and to an estate of $2,000,000. An exemption would have given much greater relief to the $2,000,000 estate, resulting in a much greater revenue loss, but would not have solved the problem of survival of the small family farm or business.

Much of the tax code's discrimination against women has been alleviated by the committee bill. In the past, there was no way for joint ownership to be recognized for Federal estate tax purposes. This bill provides for joint tenancy. This joint tenancy may be created by a transfer of up to $3,000 annually, which is excluded from gift taxation, or by additional transfers subject to the gift tax. Unlike present law, under the bill this transferred property will be treated as belonging to each spouse. In addition, the bill increases the marital deduction to $250,000 or one-half, whichever is greater. This means that in the smaller estates, where both spouses have equally contributed to the success of the estate, the estate tax law will automatically recognize the contribution of both. These changes are a tremendous step forward in equity for women.

The effect of the outdated estate tax exemption on family farms has been severe. But the fair market appraisal of land for estate tax purposes has been especially cruel, for speculation has been added to inflation to produce an estate valued upon the land's possibilities for development other than continued farm use. A family may be living on a farm whose value has multiplied many times, yet their annual income is probably no higher, and their indebtedness is probably much greater, due to the necessity of high-cost equipment and other production costs. Upon the farmer's death, his family is forced to pay an estate tax levied upon the speculative value of the land rather than upon its value as a farm. This bill will provide for differential valuation of farmland. I worked hard in committee to channel the expertise of the Kansas Livestock Association and other Kansas farm groups into the drafting of this section. The bill provides for an easily computed formula for valuation based upon rental value of comparable land in the area. The advantage of this formula is that it is precise, not subject to abuse, and not subject to litigation and the tying up of estates in courts. And in the event there is no available rental figure, there are alternative methods of use valuation from which to choose.

The bill provides, in addition to the accomplishment of these three specifically recognized needs, other fair and equitable reforms of the estate and gift tax codes. The bill unifies the rate schedules for estate and gift taxes, thus removing any artificial encouragement within the tax code in favor of lifetime over testamentary transfers. This change will also eliminate the complex litigation that has surrounded the present code's vague "contemplation of death" provision. The bill will also extend the time during which the estate tax may be paid. A qualifying estate will be allowed a 5-year period after death and then an additional 10-year period thereafter in which to pay the tax in equal installments with an interest rate of only 4 percent. The bill also limits taxpayers' ability to arrange transfers that skip several generations, thereby avoiding any estate tax.

One proposed change in the bill that has received particularly intense opposition is the requirement that executors of an estate carry over the decedent's basis in each asset. The conference-accepted provision removed the real problems with this provision by moving the date of basis for everyone up to December 31, 1976. It is important to remember that no new tax is imposed by this section and that it does not affect the estate tax at all. A tax will be paid only if and when the heirs decide to sell a particular asset, and then will be liable to pay a capital gains tax as under present law—the only difference between present law and the bill being the basis from which the appreciation is computed. Estates will never be affected by this section as long as they remain within the family.

I urge all Members of this body to support the previous question and Chairman ULLMAN's amendment. The problems of the survival of small economic units such as the family farm and small closely held businesses are real ones. The relief brought to these estates is also a fostering of our national interest to keep food production in the hands of individual owners and to foster the free enterprise of the small businessman—both so integral to American life. Back in the depression, there used to be many forced sales of small family farms and businesses. Recently, families have been forced to sell to pay a heavy tax liability on the death of the owner. This is our one chance to deliver to the American people relief from an estate tax as outdated and oppressive as depression itself.

Vote "yes" on the previous question and "yes" on Chairman ULLMAN's motion.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I support the effort of the gentleman from New York to strike the carryover provision from this so-called tax reform bill.

I must admit that I am somewhat amazed at the Ways and Means Committee's end run and successful effort to circumvent the will of this body by incorporating estate tax provisions in this tax bill.

The matter should rightfully have been considered separately.

A number of Members of this body, myself included, had amendments which we had hoped to attach to the estate tax bill.

I intended to offer my amendment, as I know did many others, because I believed that we would genuinely improve upon the version reported out by the Ways and Means Committee.

Now that the conferees on the tax bill have met and have made their tradeoffs, one finds that essentially the estate tax bill—which the body had hoped to vote upon separately—is now incorporated within the tax bill.

This effort by the chairman and the other members of the committee to thwart this body's intentions no doubt will be ranked as a classic example of partisan power politics.

We are now faced with the option of accepting these estate tax measures, which the chairman and the conferees have forced upon us, or choosing to allow American taxpayers to pay more income taxes during 1977.

More equitable estate taxes or increased income taxes for our constituents—that is the choice the chairman and the conferees have presented to us.

Realistically speaking, if we are to keep income taxes down we will only be able to strike the most objectionable provision in the estate tax area from the conference report.

That, of course, is the carryover provision which would allow for capital gains taxes on estates. This provision is unfair, it is unjust, and it is unwarranted.

We give the beneficiaries of the estates a unified tax credit that puts them in a much better position than what they were on one hand, and in the other hand, we take away with the carryover provision.

The chairman and the conferees may think this sort of political gamesmanship will help continue the family farm and small family businesses, but in Kansas that is certainly not the case, and I cannot believe this is the case in the rest of the Nation.

I urge this body to vote down the previous question and then support the Conable proposal.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I want to join with my distinguished colleague from New York (Mr. CONABLE) in defeating the previous question.

Once again, we see illustration that the idea of tax reform to many Congressmen means simply that more dollars be transferred from the private sector to the public sector. They are not content merely with adjusting the basic estate tax exemption to compensate for the tolls of inflation exacted over the past 35 years. Instead, the estate tax provisions in the conference report on H.R. 10612 would insure that, over the course of several generations, the public sector will have more income at its disposal and the private sector less.

Specifically, I strongly urge elimination of the "carryover basis" provisions in this bill. These provisions amend the Income Tax Code to provide that heirs and successors to property assume the same basis for the property as was held by the decedent immediately prior to his death. In medium-size business and farm enterprises, where extremely high proportions of the estate normally consist of capital gains, the carryover of the basis will substantially increase the burden upon an estate.

Had this provision been in effect 5 years ago an average farm in my district valued at $500 per acre would today be valued at $2,000 per acre; if the farm is sold after the farmer's death, the spouse or children would have to pay a capital gains tax on $1,500 an acre whereas under current law or the tax bill without the carryover basis provision, no capital gains tax would have to be paid.

The basic appreciation exemption in this bill would hardly touch the amount of gains realized by even medium-sized farm estates. In the case of illiquid estates, where the executor is forced to dispose of appreciated assets, these liquidity sales will merely trigger the imposition of the appreciation tax which may in turn result in further forced sales. Especially in the case of farms which cannot be partitioned into economically viable subunits, the result of this sudden taxation will likely be to encourage their sale, the very evil that estate tax reform was ostensibly designed to curtail.

The introduction of the appreciation tax will also add substantially to the injustice that has been done estate owners through maintenance, for 35 years, of the same basic exemption level. Much of the appreciation that will be taxed is attributable to inflation rather than to real growth in investment. In addition, so long as we fail to fully index the Tax Code, and adjust its provisions on a regular basis to reflect inflation, increasingly larger shares of the estate are going to go to the Government simply as a result of nominal, rather than real increases in the value of the estate.

Also worth considering is the fact that the "carryover basis" provisions effect a double taxation of capital—in conjunction with the estate tax itself—at a point in time when Federal fiscal and monetary policies have brought our economy to the brink of a serious capital shortage. We can talk until we are blue about full employment boards, countercyclical, antirecessionary assistance, and National Institutes of Full Employment, but until we make some funds available to private enterprise for investment and job creation, we are going to accomplish nothing.

Not only do the "carryover basis" provisions increase the weight of taxation upon potential capital, but they also insure that this capital is going to be far less mobile and available to new borrowers. Ironically, it is other small businesses and farms that are frequently most in need of new sources of capital. The carryover basis provisions provide economic disincentives to capital investment. As the result of inheriting property which has greatly appreciated over a long period of time, heirs will be deterred from transferring the property, realizing gains from the sale, and thus triggering imposition of the capital gains tax. The longer the property is held, and the more it appreciates, the more powerful will be this disincentive.

Some Members suggest we should just accept this bitter provision along with the sweet, and work for change in future years. In my opinion, if we do not have reform of this undesirable provision any faster than we have on the outdated exemption level established 35 years ago this will be a disaster. There is no question that without elimination of the carryover basis, we will be doing more harm than good to the very people we are supposed to be helping.

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I congratulate my distinguished colleague from New York on giving the House a chance to insure that revisions in the estate tax are really reform and not simply an exercise in taking away with one hand that which we have given with the other.

From the very beginning of the debate on reform of the estate tax, the original sponsor, the distinguished gentleman from Texas (Mr. BURLESON), and the gentleman from New York (Mr. CONABLE) have insisted that estate tax reform is a matter of equity rather than an exercise in accounting legerdemain which can somehow magically have no effect on Treasury revenues.

What is at stake here is whether we really gave reform and relief, or whether we gave some temporary relief and then take it way a few years down the road.

The committee language is not a compromise. It is simply a short, few-year deferral of a plan that will eventually take away through capital gains taxes the benefits we are offering today through increased estate tax exemptions.

The conference committee report will drastically change existing law concerning the payment of capital gains taxes on assets passed in estates. Right now, capital gains taxes are not assessed at all on these assets. Under the conference committee report they will be.

Because the cost basis will be carried forward to the date of January 1, 1977, proponents of the conference committee report would have us believe that this feature does not make very much difference. On the contrary, all it does is defer the terrible problems of inequity and administration against which nearly every witness heard by the committee on this matter strongly protested.

After a few years, even if we succeed in slowing down inflation, which now seems unlikely, the assets in many estates will show capital gains. Therefore, even though an estate may be too small to be taxed under the law we are passing today, the beneficiary of that estate—widows and orphans often of modest means—will be obliged to pay capital gains tax on that estate if some of the assets must be sold for cash needs. The example cited by the gentleman from New York of the widow who must sell an appreciated house ought to be a bad enough one. But, consider the case of the farmer 10 years from now. By then there will have been considerable appreciation in land values from January 1977. At that time when a decedent farmer's estate passes to his heirs, those heirs may find that even though they owe no estate tax, because of appreciation in the farm value and the need to raise some cash to continue the farming operation, they must pay considerable capital gains tax.

Now comes the worst irony of all. If those farm heirs had had to pay some estate tax, they would, under the deferral payout system, be able to phase in those payments over many years. In the case of the capital gains tax, the cruel difference will be that they will have to pay that tax immediately.

The effects of the committee bill are obvious. No. 1 is a glaring inequity, particularly on small estates which may not have to pay any estate tax other than this unfair, immediate tax. No. 2 is the administrative mess. No. 3 is that this feature will freeze assets within estates because heirs will not be able to afford to sell them. This, of course, will stifle capital movements and prevent the normal and necessary capital flows to the priority needs of the marketplace. No. 4 is that it will also mess up the application of State laws which, although they are very different, are mostly built around the current treatment of the basis of assets in estates.

I think this House ought to be more interested in equity than any other phase of this issue, but I think the matter of administration is also terribly important. Every witness who testified on this basis question indicated that it would be an administrative nightmare to try to retrieve cost records on assets in estates, particularly assets which had been purchased many years ago. Several witnesses indicated that the cost of trying to determine asset value would far exceed whatever government would be able to get in terms of taxes.

The administrative mess means more than just unnecessary redtape. It means enormous, and needless, expenses to heirs who in many cases cannot afford them. In addition the carryover basis will slow down settlement of estates probably creating hardships, especially when the continuation of a family farm or business is most necessary. We have created a great profit opportunity for lawyers, but, without the Conable amendment, we have placed a terrible burden on heirs.

The conference committee bill cures the retroactive problem, but leaves us the same problem for the future. In only a few years we will have all the administrative problems back in our lap again. As usual we have chosen a temporary solution that gives a preference to some taxpayers, but lays an unfair burden on taxpayers who die a few years in the future.

Another reason why the Conable amendment desperately is needed is that we are today levying a brandnew tax on American people This tax has never been collected before, is in some respects double taxation and will be particularly resented by the people that we claim we are trying to help by increasing estate tax exemption.

If we believe in what we say about preserving family farms and small businesses, the very best thing we can do is pass the Conable amendment. The very worst thing we can do is to pass the conference committee report with its false promise of reform, because it will eventually take away all benefits that we are claiming it will give because of this basis feature.

If we really are worried about the effect on the Treasury, we ought to take a look at our excessive, obsessive spending. If we want to bring our budget more in line, let us cut some of our foolish spending. Let us not dip into the pockets of defenseless widows and orphans in the false name of frugality.

Mr. Speaker, I urge passage of the Conable amendment, and I ask those who vote against it to try to explain to the farmers and small business people of this country what they have done.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to sum up the objections that we have to the cost basis carryover on this side of the aisle. First of all, this particular provision will increase the administrative difficulty for executors of estates. It will require the tracing of records back to earlier generations once we have put the date of 1977 behind us and this cost basis carryover is fully phased in.

It has been said that this is for the good of the family farms but my feeling is that they have given the farmers a small grace period but after a few years they will be in worse shape than they would have been if we had not changed the provision in the first place.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

The gentleman spoke about the entanglement of the administrative part, and this and that, in trying to determine values. If this provision should pass as now in the bill, would it be advantageous for everyone to go out and have their real property and other personal property appraised on January 1?

Mr. CONABLE. If the gentleman would permit me to answer that, it would not be advantageous because the property is going to be valued according to a linear apportionment formula which may not have any basis at all in fact as to what the fluctuations in value for that property have been. It would be apportioned to January 1, 1977, and that is all. If I may now continue—I thought the gentleman might be going to ask me about administrative difficulty from the point of view of an executor. If he is distributing property in kind, which has a varying cost basis because it was purchased at different times, he has severe problems of equity as among various heirs to that property, and that becomes a serious administrative difficulty also. The lock-in, Mr. Speaker, is greater. We will make the IBM stock of the future a family heirloom in effect, because we will carry the cost basis of that from one generation to another. It will never be restated by death. The only way it can ever be upgraded is by its sale. There is no redeeming fiscal impact from this provision for the foreseeable future because the revenue impact for this next year of this carryover provision restated to January 1, 1977, is zero or virtually zero. If we assume that there will be no inflation in the future, then there would be no objection to this provision. However, we know very well the cost of land and the cost of scarce goods is going to continue to rise. Inflation has been the historical fact in this country, and, thus, we are phasing-in a lock-in there as well. There will be a pyramiding of taxes on illiquid estates inevitably, as people have to sell appreciated assets to pay estate taxes or for reasons related to the distribution of that property to the heirs. In fact, we are taxing a new class of taxpayer and not necessarily an affluent class at that.

Mr. Speaker, I ask that the previous question be voted down.

The SPEAKER. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CORMAN).

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman from California for yielding.

Mr. Speaker, the conference provision for a cost basis carryover of inherited property is a delayed action time bomb. It will eventually eliminate the overdue relief benefits of the estate and gift tax section of this bill.

Many Members were persuaded that it was valid and equitable to adjust the estate tax exemption to relieve farm families and small family businesses from the inflation-induced tax burden. We came to recognize that it was unfair and against the character of America to impose a tax on small inherited farms and thus require the farm to be sold by the deceased farmer's children to pay the estate tax. In 1940, a $60,000 exemption was passed to allow for this, but since then it has been eroded by inflation. The 1940 $60,000 farm is now worth over $250,000—not because the farm is more valuable but because the dollar is less valuable. This bill allows an increase in that $60,000 exemption, which will help such families right away.

What the increased exemption gives to the farmer today, the cost-basis carryover will take away tomorrow. The family owning a small farm or business will thus have only a few years of grace for the relief they had sought. They will find out later that they will pay more tax on this new capital gains basis than they save under the estate tax exemption. The carryover basis is a time bomb, and ought to be defused.

Mr. CORMAN. Mr. Speaker, if we believe that some privileged among us should have substantial income that goes untaxed, then we really ought to support the position of the gentleman from New York and vote down the previous question and change that portion of the law which gives a carryover basis for capital gain because that is precisely the state of the law now, and it is what would be preserved.

I regret that the conferees were unable to agree to the House Ways and Means Committee provision because it would have given us immediate reform for the most scandalous loophole existing in the income tax law. That was not possible, and I must say to my colleagues who worked on the House side I think they did admirably by getting the Senate to go as far as they did. But at least by starting January 1, 1977, from that date forward we will bring into the tax structure people with vast sums of capital gains who would have otherwise escaped them.

The gentleman from New York talks about the effect of lock in and, of course, as the gentleman from Ohio (Mr. VANIK) pointed out, exactly the opposite of that is true. But let us take taxpayers A and B who buy a piece of property for $100,000 on January 1, 1977, and each holds it for 30 years, and so the properties appreciate substantially. If the man who bought it with his own money sells it at that time, he pays a substantial capital gains tax, and that is as it should be. The other gentleman has the good fortune to die 2 days before the sale, and his children or his nephews or his girl friend get it. They pay nothing. That is not fair between those two taxpayers, and it is what causes people in their older years to be saddled with kinds of property that they do not economically need, usually a very expensive house. But they have to keep it because if they keep it until they die, then their children will escape the tax. That is not fair.

The gentleman from Ohio (Mr. BROWN) is concerned about the widows and the orphans. Let me suggest to him that for most of the widows and the orphans that he and I will represent, the widow is going to have to go out and work because she is not going to be left enough money to take care of her children, and when she goes to work, if she makes $15,000 a year she is going to have to pay 20 percent of that in social security taxes and income taxes probably.

We are not talking about equity between the capital gains taxpayer and the Government. We are talking about equity among taxpayers. Why in the world should we separate out taxpayers whose income is based on substantial capital gains and say to them: "If you manage your property carefully you will never have to pay a dime, but if you go out and earn money by the sweat of your brow or the cleverness of your brain we we are going to tax you very substantially"?

Tax reform is attempting to get some degree of fairness among taxpayers. We all know we have had horrendous deficits over the past 8 years. We have had record deficits. We are not collecting too much money in this country. We are collecting too much money from the people who make modest wages and pay substantial income taxes, and we are collecting almost nothing from people who have vast sums of income primarily from capital gains.

The only significant reform in this bill so far as income tax is concerned is this provision, and it is the reason there is so much hue and cry from some who cry about how complex it is. It is no more complex to pay a modest capital gains tax on vast sums of wealth than it is for the wage earner who earns $200 or $300 a week to pay out 15 percent, or 20 percent, or 30 percent of his income in income taxes.

The gentleman has obviously loaded his case to try to come up with the worst possible fact situation. Even then, the effective rate of tax is only about 19 percent, or $9,500 on a capital gain of $50,000.

Now let me explain why the case is distorted. First of all, it assumes that the estate is at exactly the right level so that it would not be subject to estate tax under present law. If the estate in the gentleman's hypothetical case were only slightly larger, it would be subject to estate tax under present law. However, under the conference amendment, the estate left to the widow could be $425,000 instead of only $120,000, and still no estate tax would be payable. So there are not very many medium-sized estates that are not going to be substantially benefited under this legislation.

Now on the income tax side, the gentleman has assumed that there are no children to carry on the business and the widow decides not to carry on the business by herself. He also assumes that the widow is not yet age 65. If she were 65, most of the gain on the house, $15,500, would be excluded, and she would pay only $5,350 of total tax. If she moved into a condominium, all of the capital gain on the house would be eligible for a tax-free rollover, she would pay $4,270 of tax on the sale of the store. Even if all of the facts were as stated in the gentleman's example, and the widow were advised to sell the business in 1 year and the house in a later year, this would reduce her tax bill to $6,360. If she rented her house instead of selling it, she would pay no capital gains tax on the house, and would be eligilbe for a retirement income credit for the rental income.

In short, I am afraid the gentleman has chosen a case where the widow receives no help from the estate tax relief provisions of the bill, which most will do, is not eligible for the tax benefits provided to the elderly, and plans her affairs so poorly as to maximize her income tax. Even then, as I have said, the effective tax rate on her gain is only about 19 percent.

As was the case in the first example, the gentleman has also loaded the facts in this example. First, he assumes that an individual with a house worth $76,500 has a total estate under $120,000 and thus would pay no estate tax under present law. The strong likelihood is that there will be an estate tax under present law, and that the changes made by this amendment will completely eliminate any estate tax.

Second, even if the assumptions in this example were true, there probably would be no tax since it is likely that the Washington, D.C. home is her principal place of residence and about half of the gain would be excluded if she were 65 years old. In addition, I would like to point out that even under the gentleman's facts, the total tax would only be about $1,400.

Mr. Speaker, I urge that the previous question be supported.

Mr. BROOMFIELD. Mr. Speaker, there has long been a clear and compelling need to reform our estate and gift tax system. Because of the combined effects of inflation and the present low estate tax exemption level, the Federal Government is engaged in nothing less than confiscation that penalizes the work and savings ethic, and threatens our free enterprise system.

For over three decades the Federal estate tax exemption has remained at $60,000 while inflation has raised the cost of almost everything else. This has subverted the original intent of the tax and has had a dramatic impact on medium-sized estates—particularly, small business and family farms.

In 1942, when the estate tax was enacted, it was a progressive attempt to prevent the excessive concentration of wealth. Only 1 percent of all estates were subject to the tax. With the effects of inflation, 8 percent of all estates are now being taxed with the burden falling more and more on moderate-income families and businesses.

In the 1940's and 1950's, and even into the early 1960's, a $60,000 exemption covered a reasonably moderate estate and allowed it to be passed on to the heirs tax free. However, since the $60,000 limit was set, inflation has increased property value by over 200 percent. For many small businesses and farming operations, this has meant that the market value was far in excess of their ability to generate income. Thus, all too often, the heirs of these small operations have been forced to sell the enterprise just to pay the taxes that resulted from this discrepancy.

Mr. Speaker, such a system provides no incentives to work hard and save, because people know that with their demise, estate taxes will put an added hardship on their heirs.

Neither does such a system help our economy. The small businesses and farms that have been an integral part of our economy since the Nation was founded are now being sold by the heirs to large corporations in order to pay the taxes. Thus, we are gradually losing this vital sector of our national economy.

The reform measures that we are considering today are a step in the right direction but I do not believe that they go far enough. The $175,600 equivalent exemption is not an adequate response to those who need relief the most—the medium-sized estates. With this level, many family farms and small businesses will still have to be sold to pay the taxes.

Early in the first session, I introduced a bill that called for a $200,000 exemption in estate taxes. I still believe this is a more appropriate figure. This amount simply reflects cost-of-living increases of the past 34 years on the existing $60,000 level. It also restores the original purposes to the tax.

Mr. Speaker, it is long past time for Congress to acknowledge the eroding effect that inflation has had on the $60,000 estate tax exemption.

The reforms being considered today are a step in the right direction, but only that. They must not be considered the last word in estate tax reform for three more decades. They must be recognized for what they are—a necessary start with much more to be done.

Mr. BEDELL. Mr. Speaker, today as we consider H.R. 10612, the Tax Reform Act of 1976, I would like to address one particularly significant aspect of this legislation which I believe establishes important reforms in the Federal estate tax code.

Such reform has been a long time coming. After 34 years, it is finally before us and while these estate tax provisions do not go nearly all the way in righting the terrible inequities created by our present Federal estate tax laws, they do go a considerable distance in bringing that part of the tax code more into line with contemporary economic realities.

In 1942, when the current estate tax exemption was set, $60,000 was a great deal of money. No more. The average family farmer, as a striking example, has watched the value of his land balloon with inflation and now finds himself land-rich though in most cases hard pressed for cash by rising costs of production and worrisome constraints upon his effective entry into the marketplace.

Unfortunately, the $175,000 provided by the tax credit system in this legislation, in my opinion, provides inadequate relief.

Nationally, the average farm is 385 acres. In Iowa, indeed in many States, the price for an acre of land has passed the $2,000 mark and it is not unusual for a family farm to exceed $700,000 in inflated land value alone.

The current $60,000 tax exemption is of small use to a farming family when there is little cash available to pay for the bulk of the tax on such property and the very land itself must be sold for what is owed.

While I believe that the $60,000 exemption is too low generally, my primary concern throughout the long struggle for estate tax reform has been for those heirs who would like to continue the businesses and farms they inherit.

In order to allow this continuity which benefits both these individuals and society, I am urging support for these reforms.

Further, I believe that passage of this legislation is necessary to stop an alarming trend now taking place, especially in agriculture, as farms become larger and fewer and the individual family farmer becomes more and more rare. It is estimated that 200,000 to 400,000 farms will be lost over the next 20 years. We could be reduced to 1 million units from a current level of 2.8 million by the turn of the century.

Today's consideration of the estate tax reforms is an opportunity for us, in the Congress, to look clearly at what is happening to an important part of our country—the individuals who farm and run small businesses. We must now consider what that disappearance is already coming to mean to the future quality and texture of all of our lives and then we must act accordingly.

A point of hard decisions has crystalized before us with consideration of this legislation. I believe that the family farmer and the small businessman should pay their fair share of tax on wealth and property, whether acquired by inheritance or during the hard work of their own lifetime. But, I do not believe that these families should be forced to pay an excessive estate tax which may well force the sacrifice of their very farms and businesses.

To not remedy this burden and at the same time fail to shift revenue base toward those who, with far more justice, can afford it and have largely managed to avoid doing so, would be to miss a crucial opportunity for the tax reform which the Congress has only promised the American people for too many years.

I urge my colleagues to support the estate tax reforms within this legislation.

Mr. McCOLLISTER. Mr. Speaker, I rise in support of the substitute for the estate and gift tax section of H.R. 10612, the Tax Reform Act of 1976. This proposed substitute will delete the carryover basis provision entirely from the final version of the bill.

While I support the increased credit of $47,000 approved by the conferees, I cannot accept the compromise decision on the carryover basis provision. This so-called compromise merely postpones but does not eliminate the capital gains tax at death. If adopted, this provision will be a real burden to all farmers and small businesses—a burden that completely negates the relief provided in the other sections of the bill relating to estate tax.

I urge that the Members support this substitute to revise the Federal estate tax law to reflect today's current economic conditions.

The high cost of estate taxes, both Federal and State, is destroying not only small businesses but also small family farms throughout the country. From 1949 to 1969, the number of farms in the United States has declined by over 2 million. In the past 33 years, Nebraska alone has experienced a loss of 53,000 small family farms. Nearly 45 percent of the farms have disappeared. On the other hand, during the last 33 years, the value of an average farm in Nebraska has increased by $244,800. The average cost per acre of a Nebraska farm in 1942 was $24; the average cost of this same acre in 1975 was $289. An unbelievable 1,060 percent increase.

In 1942, when the present estate tax exemption was enacted, the average Nebraska farm was valued at $12,600. Today, the average Nebraska farm is worth $257,400. Besides inflation, speculation and rising productivity have contributed to this phenomenal increase in the value of land.

More importantly, in 1942, it was possible to operate an efficient farm or small business worth $60,000. Today, even small businesses require far greater capitalization. Small businesses and family farms are traditionally starved for capital and at a disadvantage in obtaining adequate and reasonably priced capital for expansion.

Despite these dramatically different circumstances facing small businesses and family farms, there has been no major change in our estate tax structure. The present $60,000 basic estate tax exemption and the 50-percent deduction are no longer adequate. Though the exemptions have remained unchanged prices have increased by 224 percent. As a result, families are forced into acquiring a second or third mortgage on their property, selling part of their land to pay the estate taxes or selling the farm outright; thereby losing their livelihood. Small businesses are frequently sold to pay the estate tax. When this occurs, unemployment rises and corporations, which are exempt from the estate tax law, often acquire these farms and small businesses.

It is obvious that these unfair estate taxes present a severe hardship to people who have struggled through the years to build a family-owned-and-operated enterprise.

It is time to reevaluate and reform our antiquated estate tax laws. We cannot afford to delay any longer.

Mr. SEBELIUS. Mr. Speaker, I appreciate this opportunity to discuss reform of our estate tax laws. I especially want to commend the conference committee for including estate tax reform in the general tax reform bill, H.R. 10612.

Estate tax reform is a reform whose time has not only come, but is long overdue. There is no section of the tax code more in need of reform than the section dealing with estate taxes. I know of no other issue that is of such great concern to virtually every farmer and business man and woman in my congressional district.

The last meaningful change we had in our estate tax laws was in 1942; over three decades ago. At that time, the estate tax exemption was set at $60,000. According to the Library of Congress, $60,000 in 1942 would be worth over $200,000 today. This tax bill contains a credit equivalent to a $175,000 exemption to be phased in over 5 years.

Mr. Speaker, while I support this section, I believe a more realistic proposal would be an immediate $200,000 exemption or an equivalent credit. Such an exemption has been proposed in legislation sponsored and cosponsored by many of my colleagues from rural areas.

I would like to point out the provision establishing use value assessment as the basis for valuing family farms and family-held small business property is a real reform breakthrough. This provision, as much as any other, will help preserve family farming and business operations and reduce the threat of corporate control. My colleague and good friend, the distinguished Senator from Kansas, Bob Dole, is to be commended for authoring this section of the Senate bill; the section which served as the basis for the conference argument.

The provision which raises the estate tax marital deduction to $250,000 or half the estate whichever is greater, will spare many surviving spouses the economic threat that results from estate tax obligations. This problem has been especially difficult for farm families who face forced liquidation of a family unit while they are still grieving the loss of a loved one.

While I believe the above provisions are most welcome and will provide overdue relief, I am very concerned about the carryover provision that threatens an increase in capital gains tax. In some instances, this increase may more than offset the estate tax relief which is granted in the rest of the estate tax section of H.R. 10612. We are actually talking about a double tax because the value of the asset would be taxed in the estate and then a portion of the same value would be subject to a capital gains tax. This provision is most discriminatory for farmers. Owners of land, livestock, and grain would be especially hard hit by the provision. Farmers have experienced a precipitous decline in farm prices and are in no position to pay a heavier and discriminatory tax on inherited property. I would like to add that from an enforcement point of view, this provision could produce administrative nightmares. The goal of tax reform should be one of simplification.

I ask my colleagues to join me in protecting the farmers from discriminatory tax treatment and oppose the previous question and support the Conable substitute.

As I stressed earlier, I know of no reform that is more urgently needed. To illustrate my point and to dramatize the direct effect this bill has upon the livelihood of citizens throughout our rural areas, I would like to submit for the record the following brief comments from only four letters among literally thousands I have received in support of this reform effort:

> After writing his will, my father-in-law frugally put into savings $30,000 so that his two heirs would have cash without selling the farm. The inheritance tax was $68,000 and it was a modest estate. We had to sell a quarter of our own land to pay the tax. Our sons were not able to keep this fourth generation farm in the family without selling a portion of the land.
>
> I agree that our tax laws are badly out of date and any small businessman must have an investment substantially in excess of $60,000 to continue operating. A builder and I own this firm. Under the current tax laws, we would have a tax liability of some $60,000; if either of us should die, it would be somewhat doubtful that we could continue the business. We have 13 permanent employees and their welfare is likewise tied to the survival of our small business and estate tax reform.
>
> My father has worked extremely hard all his life in order to own a 450-acre farm. Now he is worrying, to his detriment, because he realizes that due to inflation his children will not be able to retain ownership of a farm which has been in the family since 1874. It must be sold in order to afford to pay Federal taxes on inheritance.
>
> My father passed away in January and it is going to cost my mother a fortune to keep what is already hers, or so we thought. She used to go out behind the combine and pick up the down milo heads so she could buy us kids something, a new coat which we needed or some other essential. Now the government lays claim to her property. It's too late for Mother, but maybe we can help someone else.

Mr. Speaker, the above comments are similar to those who have been petitioning Congress for estate tax reform not only during this session but throughout the last decade. It is time for action and that time is now.

Mr. RIEGLE. Mr. Speaker, I rise in support of the estate tax amendment and the adoption of the previous question and thank the gentlewoman from Kansas, Congresswoman Keys for the vivid and thorough education she provided me on my recent visit to her district in Kansas. There is no question of the serious need of this revision to family farmers and small businessmen throughout the country. I also want to congratulate the gentlewoman from Kansas for the dedication and leadership she displayed in developing this important piece of legislation.

Mr. ALEXANDER. Mr. Speaker, with the exception of the carryover basis provision which I hope this House will delete from the conference report, the estate and gift tax revisions contained in the tax reform package will bring the necessary relief to this Nation's family farmers and small businessmen who in many cases have been forced to sell part of their assets just to pay the Federal taxes on inheritances from loved ones.

Federal estate and gift tax laws, unrevised in more than three decades, significantly increase the progressivity of our tax system and help prevent excessive concentrations of inherited wealth. In fiscal year 1977, it is expected that estate and gift taxes will raise $5.8 billion, all of which comes from the wealthiest 7 percent of the population.

These revisions will reduce the burden of estate taxes on middle-sized estates. Since enactment of the existing $60,000 estate tax exemption in 1942, the percentage of dependents whose estates are subject to tax has increased from 1 to 8 percent. This increase has resulted largely from inflation. It is our failure to adjust estate tax laws to inflation that has threatened the very existence of family farms and small businesses.

This bill increases the level of taxable estate over which the estate tax is imposed from $60,000 to $175,625 over a 5-year phase-in period. The initial increase in 1977 will be from $60,000 to $120,667. In addition, the bill changes the exemption to a tax credit in order to confer the maximum possible tax relief on medium-sized estates.

The bill also provides that real property used for farming or other closely held business purposes may be valued for estate tax purposes, when the estate remains in the family, on the basis of the actual use of the land as a farm or business, rather than on the basis of the speculative market value. This provision should cut down on the acute problem that has existed because of valuation of assets at their "highest and best use" whereby family members have been forced to sell farms and small businesses in order to pay the estate tax.

The bill also increases the time for payment for estate tax liability. Coupled with the above valuation provision, these reforms will aid in preserving the family farm and family business.

Other revisions in the bill include those which increase the marital deduction; tighten the loophole on generation-skipping trusts; unify the rate schedule for estate and gift taxes; and provide for an exclusion for orphans.

The one provision in the bill, however, which could potentially nullify the relief afforded by the other estate tax revisions, is the carryover basis provision.

Under present law a beneficiary's tax basis for inherited property is stepped up, generally to its fair market value on the date of the decedent's death. Under the provisions of this conference report, however, the step up in basis would be eliminated, with an exception, so that an heir would assume the decedent's original basis. The exception is for property acquired by a decedent before December 31, 1976, which would have a basis equal to its value on that date.

While the conference provision is far superior to the original committee proposal, it, in my estimation, is still unacceptable, amounts to a capital gains tax at death over and above estate tax liability, and undermines the effect of the relief provided farms and small businesses in other sections of the estate tax revision. In short, it reinstates the pressure to sell family farms or small business property to pay Federal taxes.

Mr. Speaker, as a Member who has sponsored and sought passage of estate tax reform legislation in the 91st, 92d, 93d, and 94th Congresses, I am pleased that this Congress has the opportunity to vote on such needed tax relief.

Tax laws are as important to family farms and small businesses as a good rain in a dry month and a good sale in the off-season.

I urge that my colleagues accept, with the exception of the carryover basis provision, the estate tax reform contained in this conference report.

Mr. JACOBS. Mr. Speaker, I would like to briefly comment on two examples that appeared in the CONGRESSIONAL RECORD yesterday at page 30539. In the first example, the author has assumed the worst possible fact situation. Even then, the effective rate of tax is only about 19 percent, or $9,600 on a capital gain of $50,000.

Now let me explain why the case is distorted. First of all, it assumes that the estate is at exactly the right level so that it would not be subject to estate tax under present law. If the estate in the gentleman's hypothetical case were only, slightly larger, it would be subject to estate tax under present law. However, under the conference amendment, the estate left to the widow could be $425,000 instead of only $120,000, and still no estate tax would be payable. So there are not very many medium-sized estates that are not going to be substantially benefited under this legislation.

Now on the income tax side, the gentleman has assumed that there are no children to carry on the business and the widow decides not to carry on the business by herself. He also assumes that the widow is not yet age 65. If she were 65, most of the gain on the house, $15,500, would be excluded, and she would pay only $5,350 of total tax. If she moved into a condominium, all of the capital gain on the house would be eligible for a tax-free rollover, she would pay $4,270 of tax on the sale of the store. Even if all the facts were as stated in the gentleman's example, and the widow were advised to sell the business in 1 year and the house in a later year, this would reduce her tax bill to $6,360. If she rented her house instead of selling it, she would pay no capital gains tax on the house, and would be eligible for a retirement income credit for the rental income.

In short, I am afraid the gentleman has chosen a case where the widow receives no help from the estate tax relief provisions of the bill, which most will do, is not eligible for the tax benefits provided to the elderly, and plans her affairs so poorly as to maximize her income tax. Even then, as I have said, the effective tax rate on her gain is only about 19 percent.

As the case in the first example, the facts in the second example are also loaded. First, it assumes that an individual with a house worth $76,500 is part of a total estate under $120,000 and thus would pay no estate tax under present law. The strong likelihood is that there will be an estate tax under present law, and that the changes made by this amendment will completely eliminate any estate tax.

Second, even if the assumptions in this example were true, there probably would be no tax since it is likely that the Washington, D.C., home is her principal place of residence and about one-half of the gain would be excluded if she were 65 years old. In addition, I would like to point out that even under the gentleman's facts, the total tax would only be about $1,400.

Mr. FRASER. Mr. Speaker, I would like to add my strong support for the conference report on the Tax Reform Act of 1976. When the Senate finished its work on the tax bill, I was doubtful that Chairman ULLMAN and his House colleagues on the conference committee could salvage much either in the way of revenue or reform. The measure we are voting on today does not go as far as I would like, but we can truly call this a tax reform bill and an important one.

I support Chairman ULLMAN's motion to recede and concur in the Senate's amendments on the gift and estate tax sections of the bill. The unification of the two taxes and replacement of the exemptions by a credit, along with the change to current use valuation and the extension of time for paying taxes on farms and small businesses, solves many of the problems our constituents faced with the estate tax. While I would have preferred an unlimited tax-free transfer of property between spouses, the increased marital deduction and the fractional interest rule for spouses will eliminate some of the financial hardships now encountered when a husband dies.

The carryover basis for capital gains on sale of inherited property in determining the tax is a true reform. Calculation of the gains from the basis as of December 31, 1976, is a good compromise which will eliminate many practical problems in implementing this provision. Any change in the estate and gift tax law which fails to make such a change is seriously weakened. It might be better to wait until the next Congress to work on the estate and gift tax rather than approve a change without this provision.

Again, I want to congratulate Chairman ULLMAN for his hard work. He has brought back to the House a creditable tax reform bill which I am pleased to support.

Mr. BAUCUS. Mr. Speaker, I would like to comment on the estate and gift tax provisions of the Tax Reform Act of 1976.

My congressional district is the western portion of Montana. My district is composed of farms, ranches, and small businesses, single families who own most of these. Family tradition is important to Montanans. Throughout Montana's history older generations have passed possessions to the younger ones. However, this strong family bond is threatened by the present estate tax laws.

Estate tax exemption levels have not changed since 1942, making the level too low for many of my constituents. A dreadful event occurs. Farmers and businessmen are forced to sell their land and possessions in order to pay the estate tax. Heirs can no longer afford to remain in the family business or keep their farms intact. Any more, the only bidder is often a giant corporation. Thus, present estate taxes, rather than keeping vast wealth from accumulating over the years, are instead forcing families out of business and promoting giant corporate growth.

Today's estate tax provisions rectify this situation. The bill provides relief to the beleagured farmer and businessman by eliminating estate exemptions and replacing them with an expanded tax credit. The family businessman could now claim a tax credit equivalent to $175,000 tax exemption. That is a vast improvement over the present $60,000 exemption.

Another badly needed revision changes the method of property valuation for farms and small enterprises. Presently, property is valued at its most highly profitable use, forcing a farmer to value his land as if it were developed commercial land. The Tax Act enables farmers to value land on the basis of actual use. The point here is to keep our tax laws from forcing the suburbanization of precious farmland.

I am also pleased that the provisions allow a 15-year period for the payment of estate taxes instead of the present 10-year period.

I support these reforms because they provide aid to individuals most overburdened—farm families, ranch families, and families in business. Congress, by enacting a higher tax credit and revising the process of land valuation, can insure the continuance of Montana's family tradition.

Mr. HAMMERSCHMIDT. Mr. Speaker, in our consideration of the conference report accompanying H.R. 10612, the Tax Reform Act, which contained vital estate and gift tax reforms, I voted to defeat the previous question, so that I and my like-minded colleagues could consider and act affirmatively on an important substitute proposal to delete entirely the carryover basis item. I very much regret that this effort was defeated and we were unable to have a separate vote on this particular aspect of the conference report.

With the exception of this carryover basis feature, the legislation is probably a step in the right direction as it contains the first modification of estate tax laws in some 33 years. Hopefully we can reconsider eliminating the carryover provision and some other objectionable features in the next Congress.

The House had clearly expressed its will that special attention be given to specific aspects of estate and gift tax revision when we voted to bring such reform legislation to the House under an open rule, in consideration of H.R. 14844, the Estate and Gift Tax Reform Act. At that time, I am sure we were all well aware of the concerns of many citizens in our national constituency relative to section 6 of that bill, relating to the carryover basis.

Nationwide, family-owned and operated farms number around 3 million. In much of Arkansas, family farms are a way of life and the many difficulties of maintaining a productive and profitable farm are well known to farm families. Inflation has, of course, taken its obvious toll in raising costs of production while dampening the market value of farm goods. One of inflation's not so obvious effects become evident when a farm owner dies, passing along his estate to family heirs. I can tell you first-hand that failure to delete the carryover basis portion of the conference report on H.R. 10612 will adversely affect citizens in my State of Arkansas and, no doubt, throughout the Nation as well.

There are several worthwhile aspects of estate and gift tax reforms present in the conference report, as it was presented to us. I applaud these and the responsible actions of the conferees seeking to write such revisions into the Tax Reform Act. These include an increase in the estate tax exemption and the conference agreement allowing family farms and businesses to be assessed for tax purposes at their value for farming or business purposes, rather than at market value, which would open them up to future development for purposes other than farming. These are crucial areas of revision which I wholeheartedly support. However, I am concerned over the effect that the carryover basis item will have on my people in Arkansas.

Those of our citizens in rural areas should be heard. Unfortunately, sometimes their concerns seem to be overshadowed and the interests of the Nation's major urban areas are brought to the forefront. By deleting the carryover basis provision, however, we would have recognized the welfare not only of a single segment of the Nation, be it urban or otherwise; we would have acted decisively on a problem that affects a substantial majority of Americans.

While the carryover basis provision in the conference report does represent an improvement over that contained in the estate and gift tax reform bill (H.R. 14844), it was still unacceptable, in my view. My concern is that it will tend to negate tax relief that may be realized by enactment of other provisions.

I supported each of the estate and gift tax reforms contained in the conference report, with the exception of this item. I supported its deletion by this body. Such action was far preferable, to insure that this vital piece of legislation, which will have far-reaching implications in the years ahead, would have brought about the greatest degree of tax relief possible.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I rise to urge my colleagues to support the motion by the gentleman from New York (Mr. CONABLE), who seeks, first, to vote down the previous question on H.R. 10612, the Tax Reform Act of 1976, and second, to support his substitute proposal that deletes the conference "carryover" provisions on the sale of inherited real property and retains the present approach of basing the value of the tax on the fair market value of the real property at the date of the decedent's death.

Under present law, the capital gains tax on the sale of inherited real property is stepped up to the fair market value of the property at the time of the decedent's death. The conference version would require the beneficiary to assume the cost of the decedent's property, provided that the carryover cost does not exceed the fair market value of the property held by the decedent and sold by the beneficiary after January 1, 1977. Property acquired by the decedent and sold by the beneficiary after January 1, 1977, would receive a capital gains tax based on the cost of the property as of the date of sale after January 1, 1977, thereby eventually negating the fair market value approach of the present law and subjecting the heir to a capital gains tax based on the cost of the property, rather than its fair market value at the time of sale.

Aside from that reservation, Mr. Speaker, the conference report to accompany H.R. 10612 provides significant benefits to our small farmers and small businessmen who need this kind of assistance. Beginning in 1977, the $60,000 estate tax deduction, a deduction that has not been changed in 34 years, would be replaced by a 5-year phased-in tax credit of $30,000—or a tax exemption equivalent to approximately $120,000—that would be permanently increased to a tax credit of $47,000 in 1981—or a tax exemption equivalent to about $175,625. The marital deduction would be increased to $250,000 or one-half of the decedent's adjusted gross estate. These benefits are highly important to small farmers and business merchants whose tax exemptions have been eroded by inflation.

Mr. Speaker, in the interest of assisting the small, family-held farm and business, I urge my colleagues to support the substitute proposal and, among other benefits, to replace the inflation-eroded tax deduction system with a realistic system of estate tax credits.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this motion and on the report itself which was previously carried.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, if we want gift and estate tax reform, the way to get it is to vote for the previous question and then to vote for this provision. It is sound. It is administrable. It is basic reform that will keep this problem off our backs for a long time to come.

I urge the Members to support the previous question and then to support the motion.

The SPEAKER. The question is on ordering the previous question on the motion.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 229, nays 181, not voting 20, as follows:

[Roll No. 740]

YEAS—229

Abzug
Adams
Addabbo
Allen
Ambro
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.

Drinan
Duncan, Oreg.
du Pont
Early
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Gaydos
Giaimo
Gibbons
Ginn
Green
Gude
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Henderson
Hicks
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Keys

Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McCormack
McFall
McHugh
Madden
Maguire
Mazzoli
Meeds
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Preyer
Price
Randall
Rangel

Rees
Reuss
Richmond
Riegle
Rinaldo
Rodino
Roe
Roncalio
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Scheuer
Schroeder
Seiberling
Sharp
Simon
Slack
Smith, Iowa
Solarz
Staggers
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—181

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bell
Boggs
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane

Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Eshleman
Fenwick
Findley
Fish
Flynt
Forsythe
Frenzel
Frey
Fuqua
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harsha
Hébert
Heckler, Mass.
Hightower
Hillis
Holt
Horton
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Jones, Ala.
Kasten

Kazen
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Nichols
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Pressler

Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Rogers
Rooney
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius

Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Symms
Talcott
Taylor, Mo.
Thone
Traxler
Treen

Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—20

Carter
Chisholm
Eckhardt
Esch
Ford, Tenn.
Hansen
Helstoski

Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Kelly
Matsunaga
Metcalfe

Risenhoover
Sarbanes
Spellman
Steiger, Ariz.
Stephens
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mrs. Chisholm for, with Mr. Kelly against.

Mr. Sarbanes for, with Mr. Steiger of Arizona against.

Mr. Charles H. Wilson of California for, with Mr. Johnson of Pennsylvania against.

Mr. Metcalfe for, with Mr. Hansen against.

Mr. Ford of Tennessee for, with Mr. Carter against.

Mr. Helstoski for, with Mr. Esch against.

Until further notice:

Mr. Jones of Tennessee with Mr. Howe.

Mr. Risenhoover with Mrs. Spellman.

Mr. Eckhardt with Mr. Stephens.

Messrs. DERWINSKI, LUJAN, McKAY, and BURKE of Florida changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 2, not voting 23, as follows:

[Roll No. 741]

YEAS—405

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi

Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr

Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine

Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness

Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula

Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Maguire
Stark

NOT VOTING—23

Carter
Chisholm
Cleveland
Eckhardt
Esch
Ford, Tenn.
Hansen
Helstoski
Henderson
Hinshaw
Howe
Johnson, Pa.
Jones, Tenn.
Karth
Kelly
Matsunaga
Metcalfe
Risenhoover
Sarbanes
Spellman
Steiger, Ariz.
Stephens
Wilson, C. H.

The Clerk announced the following pairs:

Mrs. Chisholm with Mr. Henderson.

Mr. Jones of Tennessee with Mr. Matsunaga.

Mr. Metcalfe with Mr. Sarbanes.

Mr. Cleveland with Mr. Ford of Tennessee.

Mr. Johnson of Pennsylvania with Mr. Howe.

Mr. Carter with Mr. Steiger of Arizona.

Mr. Hansen with Mr. Esch.

Mr. Helstoski with Mrs. Spellman.

Mr. Eckhardt with Mr. Charles H. Wilson of California.

Mr. Risenhoover with Mr. Stephens.

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TO CORRECT THE ENROLLMENT OF H.R. 10612

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 751) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 10612.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 751

Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 10612

Resolved by the House of Representatives (the Senate concurring), that in the enrollment of the bill (H.R. 10612) to reform the tax laws of the United States the Clerk of the House of Representatives shall make the following corrections:

(1) Redesignate the sections in accordance with the following table:

Section numbers in enrolled bill:	Section numbers in conference report:
101	101
102	102
201	103
202	201
203	201A
204	202
205	202A
206	203
207	204
208	205
209	206
210	207
211	208
212	209
213	210
214	211
301	301
302	302
401	401
402	402
501	501
502	502
503	503
504	504
505	505, 2501
506	506
507	507
508	508
601	601
602	602
603	603
604	604
605	605
701	701
801	801
802	802
803	803, 2701, 2711
804	804
805	805
806	806
807	807
901	901
902	1314, 2306, 2714
1011 to 1067	1011 to 1067
1101	1101
1201 to 1212	1201 to 1212
1301	2101
1302	2102
1303	2103
1304	2104
1305	2105
1306	2106
1307	2503
1308	2504
1309	2505
1310	2506
1311	2602
1312	2603
1313	2702
1401	1401
1402	1402
1403	1403
1404	2713
1501	1501
1502	1502
1503	1503, 2715
1504	1504
1505	1505
1506	1506
1507	1507
1508	1508
1509	1509
1510	2703
1511	2704
1512	2705
1601 to 1608	1601 to 1608
1701 to 1703	1701 to 1703
1801	2401
1802	1327
1901 to 1908	1901 to 1908
1951 to 1952	1951 to 1952
2001	2201
2002	2202
2003	2203
2004	2204
2005	2205
2006	2206
2007	2207
2008	2208
2009	2209
2010	2210
2101	1301
2102	1302
2103	1303
2104	1304
2105	1305
2106	1306
2107	1307
2108	1308
2109	1309
2110	1310
2111	1311
2112	1312
2113	1313
2114	1315
2115	1316, 2709
2116	1317
2117	1318
2118	1319
2119	1320
2120	1321
2121	1322
2122	1323
2123	1324
2124	1325
2125	1326
2126	1328
2127	2301
2128	2302
2129	2303
2130	2304
2131	2305
2132	2502
2133	2507
2134	2601
2135	2604
2136	2706
2137	2707
2138	2708
2139	2710
2140	2712
2141	2716

(2) Redesignate the titles to conform to the changes made by paragraph (1).

(3) Conform the title headings, section headings, and other headings to the changes made under paragraphs (1) and (2).

(4) Correct spelling, punctuation, margins, section references, cross references, and headings.

(5) In section 189(a) of the Code (as added by section 201(a) of the bill), strike out "or" after "an individual" and insert in lieu thereof a comma, and insert after "section 1371 (b))" the following: ", or a personal holding company (within the meaning of section 542)".

(6) In section 465(a) of the Code (as added by section 204(a) of the bill), strike out "which is not" and insert in lieu thereof "which is neither", and strike out "section 1371(b)))" and insert in lieu thereof "section 1371(b)) nor a personal holding company (as defined in section 542))".

(7) In section 280(a) of the Code (as added by section 210(a) of the bill), strike out "section 1371(b))" and insert in lieu thereof "section 1371(b)) or a personal holding company (as defined in section 542))".

(8) In section 189(b) of the Code (as added by section 201 of the bill) strike out the line beginning with 1976 and insert:

1976	----	----	See subsection (f)
----	1978	1982	25

(9) In section 189(f) of the Code (as added by section 201 of the bill) strike out "such amount allowable" and insert "such amount allowable under this section".

(10) In section 465(b)(3) of the Code (as amended by section 204 of the bill) strike out "paragraph (2)(B)" and insert "paragraph (1)(B)".

(11) In section 204(c)(3)(A) of the bill strike out "465(c)(1)(C)" and insert "465 (c)(1)(B)".

(12) In section 464(e)(2)(A) of the Code (as inserted by section 207(a) of the bill) strike out "a partnership" and insert "as a limited partner".

(13) In section 464(c)(2) of the Code (as inserted by section 207(a) of the bill)—

(A) strike out "and" at the end of subparagraph (C), and redesignate subparagraph (D) as subparagraph (E),

(B) after subparagraph (C) insert the following new subparagraph:

"(D) in the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming, and", and

(C) in subparagraph (E) (as so redesignated) strike out "or (C)" each place it appears and insert "(C), or (D)".

(14) In section 1056(a)(2) of the Code (as added by section 212 of the bill) strike out "transfer contract and insert "transfer of such contract".

(15) In section 1245(a)(4)(A) of the Code (as added by section 212 of the bill), strike out "the greater of" and insert in lieu thereof "the adjusted basis of such contracts increased by the greater of".

(16) In the last sentence of section 704(d) of the Code (as added by section 213(e) of the bill) strike out "to which section 465" and insert "to the extent that section 465".

(17) In section 213(f)(2) of the bill strike out "in the case of partnership taxable years beginning after" and insert "to liabilities incurred after".

(18) In section 214(c) of the bill strike out "made by this Act" and insert "made by this section".

(19) In section 57(e)(3) of the Code (as added by section 301(c)(4)(C) of the bill) strike out "paragraph 1231(b)(2)" and insert "section 1231(b)(1)".

(20) In section 1348(b)(1)(B)(i) of the Code (as amended by section 302(a) of the bill) strike out "403(a)(2)(A)" and insert "403(a)(2)".

(21) In section 1348(b)(1)(B)(ii) of the Code (as amended by section 302(a) of the bill) strike out "any amount".

(22) In section 37(e)(4)(A)(i) of the Code (as amended by section 503(a) of the bill) strike out "which are exempt" and insert "which is exempt".

(23) In section 280A(g) of the Code (as added by section 601(a) of the bill) strike out "and other provision" and insert "any other provision".

(24) In the last sentence of section 274(h)(4) of the Code (as inserted by section 602(a) of the bill) strike out "expenses of all" and insert "expenses for all".

(25) In section 644(a)(1)(B) of the Code (as added by section 701(e)(1) of the bill strike out "the basis" and insert "the adjusted basis".

(26) In section 644(b)(2) of the Code (as added by section 701(e) of the bill) strike out "the basis" and insert "the adjusted basis".

(27) In section 46(b)(1) of the Code (as amended by section 802(b) of the bill redesignate the second subparagraph (A) as subparagraph (C) and redesignate the second subparagraph (B) as subparagraph (D).

(28) In section 46(b)(1)(D) of the Code (as redesignated by the preceding paragraph) strike out "801(b)(2)" and insert "802(b)(2)".

(29) In section 301(d)(13)(B) of the Tax Reduction Act of 1975 (as amended by section 803(c) of the bill) strike out "by the employer".

(30) In section 301(d)(14)(B) of the Tax Reduction Act of 1975 (as amended by section 803 of the bill) is amended by striking out "the claim is made for credit under section 38" and insert "the credit under section 38 is allowed".

(31) In section 301(e)(3) of the Tax Reduction Act of 1975 (as added by section 803(d) of the bill), strike out "to transfer" and insert in lieu thereof "to transfer at the time described in subsection (d)(6)(B)".

(32) In section 46(g)(6) of the Code (as added by section 805(a) of the bill), strike out "this section" and insert in lieu thereof "this subsection".

(33) In subsection (a) of section 806 of the bill, insert before "is amended" the following: ", as amended by section 1606(b) of this Act,".

(34) In subsections (b)(2) and (c) of section 806 of the bill, insert before "is amended" the following: ", as amended by section 1901(a)(29) of this Act,".

(35) In the heading of section 382(a)(2) of the Code (as amended by section 806(e) of the bill), strike out "net operating loss" and insert in lieu thereof "net operating loss carryover".

(36) In section 382(b)(3)(B) of the Code (as amended by section 806(e) of the bill), strike out "fair market value" the second place it appears and insert in lieu thereof "total fair market value".

(37) In subsection (a) of section 908 of the Code (as added by section 1061(a) of the bill) strike out so much of such subsection as precedes paragraph (1) and insert the following:

"(a) IN GENERAL.—If a person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes such person, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable under section 901 to such person, or under section 902 or 960 to United States shareholders of such person, for foreign taxes paid during the taxable year shall be reduced by an amount equal to the product of—

(38) In section 908(b) of the Code (as added by section 1061(a) of the bill) strike out "section 275(a)(4) shall not apply" and insert "section 275(a)(4) and section 78 shall not apply".

(39) Section 999(a) of the Code (as added by section 1064(a) of the bill) is amended to read as follows:

"(a) INTERNATIONAL BOYCOTT REPORTS BY TAXPAYERS.—

"(1) REPORT REQUIRED.—If any person, or a member of a controlled group (within the meaning section 993(a)(3)) which includes that person, has operations in, or related to—

"(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

"(B) any other country (or with the government, a company, or a national of that country) in which such person or such member had operations during the taxable year if such person (or, if such person is a foreign corporation, any United States shareholder of that corporation) knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

that person or shareholder (within the meaning of section 951(b)) shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes, except that in the case of a foreign corporation such report shall be required only of a United States shareholder (within the meaning of such section) of such corporation.

"(2) PARTICIPATION AND COOPERATION; REQUEST THEREFOR.—A taxpayer shall report whether he, a foreign corporation of which he is a United States shareholder, or any member of a controlled group which includes the taxpayer or such foreign corporation has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which there was participation in or cooperation with such boycott (or there was a request to participate or cooperate).

"(3) LIST TO BE MAINTAINED.—The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b)(3)).

(40) In section 999(b) of the Code (as added by section 1064(a) of the bill)—

(A) in paragraph (1), strike out "the taxpayer" each place it appears and insert "the person",

(B) in paragraph (1), strike out "he did not participate in or cooperate with" and insert "there was no participation in or cooperation with", and

(C) in paragraph (4), strike out "a taxpayer" and insert "a person".

(41) In section 999(c)(2) of the Code (as added by section 1064(a) of the bill)—

(A) strike out "by the taxpayer",

(B) strike out "with respect to his worldwide operations",

(C) strike out "amounts" and insert "amount", and

(D) strike out "the taxpayer participated in or cooperated with" and insert "there was participation in or cooperation with".

(42) In section 999(d) of the Code as added by section 1064(a) of the bill)—

(A) strike out "the taxpayer" the second time it appears and insert "a person", and

(B) strike out "the taxpayer" the third time it appears and insert "that person".

(43) In section 999 of the Code (as added by section 1064(a) of the bill) strike out subsection (e) and insert the following:

"(e) PARTICIPATION OR COOPERATION BY RELATED PERSONS.—If a person controls (within the meaning of section 304(c)) a corporation—

"(1) participation in or cooperation with an international boycott by such corporation shall be presumed to be such participation or cooperation by such person, and

"(2) participation in or cooperation with such a boycott by such person shall be presumed to be such participation or cooperation by such corporation.

(44) In section 6110(f)(6) of the Code (as inserted by section 1201(a) of the bill) strike out "under this subsection" and insert "under this section".

(45) In section 6110(i)(2) of the Code (as inserted by section 1201(a) of the bill) strike out "that such employee" and insert "that an employee".

(46) In section 6103(h)(3)(B) of the Code (as inserted by section 1202(a) of the bill) strike out "the information" and insert "the return or return information".

(47) In section 6103(l)(1) of the Code (as inserted by section 1202(a) of the bill) strike out "may disclose" and insert "may, upon written request, disclose".

(48) In section 6103(l)(2) of the Code (as inserted by section 1202(a) of the bill) strike out "may furnish" and insert "may, upon written request, furnish".

(49) In section 6103(p)(3)(A) of the Code (as inserted by section 1202(a) of the bill) strike out "(l)(1) or (4)(B)" and insert "(l)(1), (4)(B), or (5)".

(50) In section 6103(p)(3)(C) of the Code (as inserted by section 1202(a) of the bill) strike out "records and accountings" and insert "records or accountings".

(51) In section 6103(p)(3)(C)(i) of the Code (as inserted by section 1202(a) of the bill) strike out "(5)" and insert "(6)".

(52) In section 6103(p)(8)(B) of the Code (as inserted by section 1202(a) of the bill) strike out "nothing in this section" and insert "nothing in subparagraph (A)".

(53) In section 6696(b) of the Code (as added by section 1202(f) of the bill) strike out "chapter 42 taxes" and insert "certain excise taxes".

(54) In section 1210(d) of the bill strike out "subsection (a) or (b)" and insert "subsection (a) or (c)".

(55) At the end of section 1303 of the bill, add the following new subsection:

(e) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of income tax resulting from an election made under this section is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law or rule of law, refund or credit of such overpayment (to the extent attributable to such election) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date. If the taxpayer makes an election under this section and if assessment of any deficiency for any taxable year resulting from such election is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law or rule of law, such assessment (to the extent attributable to such election) may, nevertheless, be made if made within one year after such date.

(56) In section 271(c) of the Code (as added by section 1304(a) of the bill) strike out "a taxpayer's" and insert "the taxpayer's".

(57) In section 613A(c)(9)(B)(iii) of the Code (as added by section 1316(b)(1) of the bill) strike out "lineal descendant of the grantor" and insert "lineal descendant of the settlor".

(58) In section 1402(b)(1)(C) of the bill insert before the period at the end thereof the following: "and subparagraph (L) of paragraph (4) of section 402(e) (relating to election to treat pre-1974 participation as post-1973 participation)".

(59) In section 4973(b)(2) of the Code (as added by section 1501(b) of the bill)—

(A) strike out "all taxable years" and insert in lieu thereof "all prior taxable years", and

(B) insert "or $1,750, if applicable," after "excess of $1,500".

(60) In subsection (b) of section 1501 of the bill, after paragraph (9) insert the following:

(10) Paragraph (1) of section 408(d) (relating to tax treatment of distributions) is amended by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title (including chapters 11 and 12), the basis any person in such an account or annuity is zero."

(61) In subparagraph (A) of section 1504(c)(2) of the Code (as added by section 1507(a) of the bill) strike out all after "subsection (a)" and insert in lieu thereof the following: "except that no such company shall be so treated until it has been a member of the affiliated group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed".

(62) In section 1901(d) of the bill, add at the end thereof the following new sentence: "The amendments made by subsections (a)(29) and (b)(10) shall apply with respect to taxable years ending after the date of the enactment of this Act."

(63) In section 6323(b) (as amended by section 1906(a)(29)(A) of the bill), strike out "with in claim" and insert "with the claim".

(64) In section 1033(g)(3)(D) of the Code (as added by section 2301(a) of the bill)—

(A) strike out "section" and insert in lieu thereof "subsection",

(B) insert "(and treated by the taxpayer as real property)" after "subparagraph (C)", and

(C) strike out "similar or related in service or use to" and insert in lieu thereof "of a like kind as".

(65) In section 2303(b) of the bill, strike out "before that date" and insert in lieu thereof "on or before that date".

(66) In section 2601(e)(2) of the bill, strike out "described" and insert in lieu thereof "prescribed".

(67) In section 1372(e)(1)(A) of the Code (as added by section 2714(c) of the bill) strike out "60th day after" and insert in lieu thereof "60th day after the day on".

(68) In subsection (b) of section 1606 of the bill, strike out "is amended by adding at the end" and insert ", as amended by section 1901(a)(29)(A)(i), is amended by inserting after subparagraph (D)", and strike out "(I)" in the amendment made by such subsection and insert "(E)".

(69) In section 1606(d) of the bill, strike out paragraph (1) and redesignate paragraph (2) as subsection (d).

(70) In paragraph (2) of section 1608(d) of the bill, strike out "paragraph (3)" and insert "subparagraph (C)".

(71) In the heading for section 185(e)(3) of the Code (as added by section 1702(a) of the bill) strike out "March 1, 1969" and insert in lieu thereof "March 1, 1913".

(72) In section 1901(a)(29)(A) of the bill, strike out clauses (ii) and (iii) and redesignate clause (iv) as clause (ii).

(73) In section 1901(a)(99) of the bill, insert ", other than the last sentence thereof, as added by section 806(d)(1)(A) of this Act," before "is amended".

(74) In section 1901(b)(8)(A) of the bill, strike out "(B), and 117(b)(2)(B)".

(75) In section 1503(c) of the Code (as added by section 1507(a)(3) of the bill) strike out paragraph (2) and insert in lieu thereof the following:

"(2) LOSSES OF RECENT NONLIFE AFFILIATES.—Notwithstanding the provisions of paragraph (1), a net operating loss for a taxable year of a member of the group not taxed under section 802 shall not be taken into account in determining the taxable income of a member taxed under section 802 (either for the taxable year or as a carryover or carryback) if such taxable year precedes the sixth taxable year such members have been members of the same affiliated group (determined without regard to section 1504(b)(2))."

(76) In section 1507 (b)(1) of the bill, insert ", as amended by section 1901(a)(104)(C) of this Act," after "applies)", and strike out "(e)", "(f)", and "(g)" each place they appear and insert in lieu thereof "(d)", "(e)", and "(f)", respectively.

(77) In subparagraph (A) of section 1507(c)(2) of the bill, strike out "January 1, 1982, and losses of credits" and insert in lieu thereof the following: "January 1, 1981, and losses or credits".

(78) Amend the table of contents to reflect the text of the bill, as amended by both Houses of the Congress (including this resolution).

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2981, AUTHORIZING APPROPRIATIONS FOR INDIAN CLAIMS COMMISSION

Mr. HALEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. Haley, Taylor of North Carolina, Meeds, Stephens, Risenhoover, Young of Alaska, and Johnson of Colorado.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight tonight to file three reports.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 13367 EXTENDING AND AMENDING THE STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, with the Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Brooks, Fountain, Fuqua, Mezvinsky, Miss Jordan, Messrs. John L. Burton, Drinan, Horton, Wydler, and Brown of Ohio.

PERMISSION FOR JOINT COMMITTEE ON ATOMIC ENERGY TO HAVE UNTIL MIDNIGHT SATURDAY, SEPTEMBER 18, 1976, TO FILE A REPORT ON H.R. 15419

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Joint Committee on Atomic Energy have until midnight Saturday, September 18, 1976, to file a report on H.R. 15419, as amended, a bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954 as amended.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2212, OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to a conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Messrs. Rodino, Edwards of California, Conyers, Mann, and Danielson, Ms. Jordan, Ms. Holtzman, and Messrs. Mazzoli, Hughes, Hutchinson, McClory, Wiggins, and Butler.

SENATE AMENDMENT TO S. 522, IMPROVING SERVICES AND FACILITIES OF FEDERAL INDIAN HEALTH PROGRAMS

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the

Speaker's desk the bill (S. 522) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature death of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 57 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) unrelated support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 102, 103, and 201(c)(5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more of the four criteria in subsection (c) (1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any school, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe: *Provided*, That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $900,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,800,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometery, podiatry, pharmacy, public health, nursing, or allied health professions.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

(c) Scholarship grants made under this

section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this section: $800,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

Sec. 104. Section 225(i) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1)" after "(i)", and (2) by adding at the end the following:

"(2)(A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1978, $5,450,000; for the fiscal year ending September 30, 1979, $6,300,000; for the fiscal year ending September 30, 1980, $7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

"(B)(i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

"(ii) The active duty service obligation prescribed by subsection (e) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(C) For purposes of this paragraph, the term 'Indians' has the same meaning given that term by subsection (c) of section 4 of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

Sec. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated for the purpose of this section: $600,000 for fiscal year 1978, $800,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

CONTINUING EDUCATION ALLOWANCES

Sec. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) There are authorized to be appropriated for the purpose of this section: $100,000 for fiscal year 1978, $200,000 for fiscal year 1979, and $250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

TITLE II—HEALTH SERVICES

HEALTH SERVICES

Sec. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, dental, optometrical, and other Indian health needs, the Secretary is authorized to expend, through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

(1) Patient care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $8,500,000 and two hundred and twenty-five positions for fiscal year 1979, and $16,200,000 and three hundred positions for fiscal year 1980.

(2) Field health, excluding dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $3,350,000 and eighty-five positions for fiscal year 1979, and $5,550,000 and one hundred and thirteen positions for fiscal year 1980.

(3) Dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $1,500,000 and eighty positions for fiscal year 1979, and $1,500,000 and fifty positions for fiscal year 1980.

(4) Mental health: (A) Community mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $1,300,000 and thirty positions for fiscal year 1979, and $2,000,000 and thirty positions for fiscal year 1980.

(B) Inpatient mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $400,000 and fifteen positions for fiscal year 1979, and $600,000 and fifteen positions for fiscal year 1980.

(C) Model dormitory mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $1,250,000 and fifty positions for fiscal year 1979, and $1,875,000 and fifty positions for fiscal year 1980.

(D) Therapeutic and residential treatment centers: sums and positions as provided in subsection (e) for fiscal year 1978, $300,000 and ten positions for fiscal year 1979, and $400,000 and five positions for fiscal year 1980.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1978, $150,000 for fiscal year 1979, and $200,000 for fiscal year 1980.

(5) Treatment and control of alcoholism among Indians: $4,000,000 for fiscal year 1978 $9,000,000 for fiscal year 1979, and $9,200,000 for fiscal year 1980.

(6) Maintenance and repair (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $3,000,000 and twenty positions for fiscal year 1979, and $4,000,000 and thirty positions for fiscal year 1980.

(7) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (4)(E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

(e) For fiscal year 1978, the Secretary is authorized to apportion not to exceed a total of $10,025,000 and 425 positions for the programs enumerated in clauses (c) (1) through (4) and (c)(6) of this section.

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

Sec. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

(b) The following amounts are authorized to be appropriated for purposes of subsection (a):

(1) Hospitals: $67,180,000 for fiscal year 1978, $73,256,000 for fiscal year 1979, and $49,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act.

(2) Health centers and health stations: $6,960,000 for fiscal year 1978, $6,226,000 for fiscal year 1979, and $3,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.

(3) Staff housing: "$1,242,000 for fiscal year 1978, $21,725,000 for fiscal year 1979, and $4,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.

(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service, shall—

(1) consult with an Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

Sec. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

(b) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated $43,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, and $30,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.

(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

PREFERENCE TO INDIANS AND INDIAN FIRMS

Sec. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or to any enterprise, partnership, corporation, or other types of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

SOBOBA SANITATION FACILITIES

Sec. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:

Sec. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).".

TITLE IV—ACCESS TO HEALTH SERVICES

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE PROGRAM

Sec. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out "No payment" and inserting in lieu thereof "Subject to section 1880, no payment".

(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"Sec. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

"(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted

"(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

"(d) The annual report of the Secretary which is required by section 701 of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.".

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

SERVICE PROVIDED TO MEDICAID ELIGIBLE INDIANS

Sec. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"Sec. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

"(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.".

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".

REPORT

SEC. 403. The Secretary shall include in his annual report required by section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act, as amended.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.

CONTRACT ELIGIBILITY

SEC. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:

(1) determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health education to such urban Indians;

(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by approprate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

SEC. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

REPORTS AND RECORDS

SEC. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

AUTHORIZATIONS

SEC. 506. There are authorized to be appropriated for the purpose of this title: $5,000,000 for fiscal year 1978; $10,000,000 for fiscal year 1979; and $15,000,000 for fiscal year 1980.

REVIEW OF PROGRAM

SEC. 507. Within six months after the end of fiscal year 1979, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purpose of this title.

RURAL HEALTH PROJECTS

SEC. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

TITLE VI—AMERICAN INDIAN SCHOOL OF MEDICINE; FEASIBILITY STUDY

FEASIBILITY STUDY

SEC. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

TITLE VII—MISCELLANEOUS

REPORTS

SEC. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.

REGULATIONS

SEC. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided,* That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

PLAN OF IMPLEMENTATION

SEC. 703. Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

LEASES WITH INDIAN TRIBES

SEC. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years.

AVAILABILITY OF FUNDS

SEC. 705. The funds appropriated pursuant to this Act shall remain available until expended.

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, on July 30, the full House, by a vote of 310 to 9, passed the Indian Health Care Improvement Act. The purpose of that bill is to bring the health status of Indians up to par with the rest of our Nation's population. The bill attempts to achieve this by providing: Broadened scholarship assistance to those interested in serving in the Indian Health Service with priority to Indian applicants; funds for additional health services and for construction of new health facilities; funds for urban Indian health centers; a feasibility study for an American Indian School of Medicine, and by allowing Indian citizens to take full advantage of their medicare and medicaid eligibility. The total cost of the House bill was around $470 million over 3 fiscal years.

The Senate had passed a much more liberal bill calling for the expenditure of $1.8 billion over 7 fiscal years. By a vote of 78 to 0, the Senate has decided to accept the House amendments, with 19 further amendments. Sixteen of those amendments are purely technical and/or clarifying. Three of the amendments are more substantive. The first amendment amends the definition of Indian tribe as it relates to Alaska Natives so that the definition will be in line with that used in the Indian Self-Determination and Educational Assistance Act of 1974. The second major amendment makes certain that osteopaths and veterinarian students are included in the scholarship provision of the bill. The third amendment increases the funding level for programs in title II to $10 million for fiscal 1978, rather than the $5 million limitation established by the House bill.

All of these amendments have been cleared with the three House committees which worked on this bill, and I know of no congressional opposition to their adoption.

Mr. RHODES. Mr. Speaker, I rise to support House acceptance of amendments made by the Senate to S. 522, in amending the House-passed amendments.

The chairman of the Subcommittee on Indian Affairs has explained them in detail to the House. He has pointed out that most are minor and technical. I would like to remind my colleagues of the major changes made by the House in the original Senate bill.

When the bill was referred to the House, it provided for a grand total of $1,609,987,000 for 7 fiscal years beginning in fiscal year 1977. These funds were for several different programs contained in the six titles: Indian health manpower; Indian health services; Indian health facilities instruction; Indian medicare-medicaid; urban Indian health; and miscellaneous provisions.

Three committees of the House, Interior and Insular Affairs, Ways and Means, and Interstate and Foreign Commerce, had an opportunity to consider the bill and recommend changes. When these committees had all reported to the House, the bill was much more acceptable to all concerned.

The major amendments of the House to the bill were:

First. Reduction of the 7-year, $1.6 billion authorization to a 3-year, $475 million authorization. This represents a reduction, by the House, of $1,134,987,000 from the Senate bill. The House amendment further provided that funds for the 4 additional years of the programs of the bill would be subject to further authorizing legislation.

Second. The funds allocated in the bill for construction of Indian health service hospitals were redistributed to permit a more realistic implementation of that activity.

Third. The implementation date for the programs in the bill was changed from fiscal year 1977 to fiscal year 1978.

Fourth. The program providing for scholarships for Indian health professionals was changed significantly at the recommendation of the Interstate and Foreign Commerce Committee to make that program more realistic.

Many other amendments were adopted which have made the bill and its programs more acceptable to a broad range of interests.

H.R. 2525 passed the House by a vote of 310 to 9 on July 30, 1976. This is solid proof of the broad support of the bill. I urge that the House concur in the amendments of the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the House amendment to S. 522.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

SENATE AMENDMENT TO H.R. 14846, MILITARY CONSTRUCTION AUTHORIZATION

Mr. ICHORD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14846) to authorize certain construction at military installations, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 42, after line 7, insert:

BASE REALIGNMENTS

SEC. 612. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated in this Act may be used to effect or implement—

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever occurs later; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies;

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) the Secretary of Defense or the Secretary of the military department concerned complies with all terms, conditions and requirements of the National Environmental Policy Act; and then

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military departments concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section, the term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(c) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(d) This section shall not apply to any closure or reduction if the President certifies to Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

Page 42, line 9, strike out "Sec. 612." and insert: "Sec. 613."

Page 42, line 17, strike out "Sec. 613." and insert: "Sec. 614."

Page 43, line 4, strike out "Sec. 614." and insert: "Sec. 615."

Mr. ICHORD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record at this point.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to the main request, could the gentleman from Missouri give us some explanation of this matter.

Mr. ICHORD. If the gentleman will yield, I would state to the gentleman from Maryland that this is the military construction bill for 1977. The Senate acted upon H.R. 14846 and adopted the one major amendment I now ask the House to concur in. The gentleman will remember the House passed this bill on August 24, after the President had vetoed the previous bill. The Senate has apparently come up with an amendment that they agreed on overwhelmingly, and the vote in fact was 82 to 2.

The Senate adopted a new section 612, which differs from the previous version in this respect. The new Senate provision is applicable for 1 year instead of 5 years, as was provided in section 612 in H.R. 12384. The new Senate amendment would require the Department of Defense to withhold taking any irrevocable action on a base closure or major realinement for 60 days after the decision is announced, instead of having to wait for 1 year as was provided in H.R. 12384. That is the difference between the original provision in section 612 in H.R. 12384 and section 612 now before us, adopted by the Senate.

Mr. BAUMAN. Further reserving the right to object Mr. Speaker, this is a substantial reduction in the time the Defense Department would be required to wait before final action on base closings or consolidations. Taken together with the National Environmental Policy Act, how much time will elapse after an announcement before these bases can be closed?

Mr. ICHORD. The gentleman is correct. The original bill required a waiting period of 12 months. This bill requires only 60 days, but I would point out in most cases I would expect by the time they comply with the National Environmental Policy Act and they provide the information to the Congress, that a year would be required.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, is it not true under the amendment passed by the Senate, that in essence the Defense Department would have to supply the very information we sought to have given us in section 612 adopted by the House, giving complete justification from the military point of view and the economic point of view?

Mr. ICHORD. Mr. Speaker, the gentleman is correct. They would be required to furnish a detailed justification, together with an estimate of the fiscal, local and economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction.

Mr. COHEN. Mr. Speaker, if the gentleman will yield further, this will go beyond that specified in the NEPA Act?

Mr. ICHORD. That is correct.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

A motion to reconsider was laid upon the table.

AMENDING THE CLAYTON ACT

Mr. RODINO. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, with a Senate amendment to the House amendment to the Senate amendments thereto, and concur in the Senate amendment to the House amendment to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate engrossed amendments, insert; That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976".

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TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

DEFINITIONS

Sec. 101. Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended—

(1) in subsection (a)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out "(A)" and ", or (B) any unfair trade practice in or affecting such commerce" in paragraph (2) (as redesignated subparagraph (B)).

(2) by amending subsection (c) to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation;".

(3) by amending subsection (f) to read as follows:

"(f) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law;".

(4) by amending subsection (h) to read as follows:

"(h) The term 'custodian' means the custodian or any deputy custodian designated under section 4(a) of this Act.".

CIVIL INVESTIGATIVE DEMANDS

Sec. 102. Section 3 of the Antitrust Civil Process Act (15 U.S.C. 1312) is amended to read as follows:

"CIVIL INVESTIGATIVE DEMANDS

"Sec. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

"(b) Each such demand shall—

"(1) state the nature of—

"(A) the conduct constituting the alleged antitrust violation, or

"(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation,

which are under investigation and the provision of law applicable thereto;

"(2) if it is a demand for production of documentary material—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; and

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available; or

"(3) if it is a demand for answers to written interrogatories—

"(A) propound with definiteness and certainty the written interrogatories to be answered; and

"(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted; or

"(4) if it is a demand for the giving of oral testimony—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify an antitrust investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

"(c) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony, if such material, answers, or testimony would be protected from disclosure under—

"(1) the standards applicable to subpenas or subpenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

"(2) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

"(d)(1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) Any such demand or any petition filed under section 5 of this Act may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e)(1) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(i)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(2) The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking such testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30), shall not apply to such examinations.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the antitrust investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the antitrust investigator or the officer shall afford the witness (who may be accompanied by counsel a reasonable opportunity to examine the transcript; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the antitrust investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded a reasonable opportunity to examine it. the officer or the antitrust investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(5) The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the officer or antitrust investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(6) Upon payment of reasonable charges therefor, the antitrust investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Antitrust Division may for good cause limit such witness to inspection of the official transcript of his testimony.

"(7)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the antitrust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

"(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.".

CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

SEC. 103. Section 4 of such Act is amended to read as follows:

"CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

"SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Act, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(b) Any person, upon whom any demand under section 3 of this Act for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to section 5(d) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

"(c)(1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this Act.

"(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Notwithstanding paragraph (3) of this subsection, such material, answers, and transcripts may be used by any such official or employee in connection with the taking of oral testimony pursuant to this Act.

"(3) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers, or transcripts, by any individual other that a duly authorized official or employee of the Department of Justice. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

"(4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe, (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by any duly authorized representative of such person, and (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

"(d) (1) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts of official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to the Federal Trade Commission, in response to a written request, copies of such material, answers, or transcripts for use in connection with an investigation or proceeding under the Commission's jurisdiction. Such material, answers, or transcripts may only be used by the Commission in such manner and subject to such conditions as apply to the Department of Justice under this Act.

"(e) If any documentary material has been produced in the course of any antitrust investigation by any person pursuant to a demand under this Act and—

"(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

"(2) no case or proceeding, in which such material may be used, has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.".

JUDICIAL PROCEEDINGS

Sec. 104. (a) Secton 5(a) of such Act is amended by striking out ", except that if" and all that follows down through the end of the sentence and inserting in lieu thereof a period.

(b) The first sentence of subsection (b) of section 5 of such Act is amended to read as follows: "Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as many be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such antitrust investigator a petition for an order of such court modifying or setting aside such demand.".

(c) The second sentence of subsection (b) of section 5 is amended by striking out the period at the end thereof and by inserting in lieu thereof: ", except that such person shall comply with any portions of the demand not sought to be modified or set aside.".

(d) Subsection (c) of section 5 is amended by striking out "delivered" and inserting in lieu thereof "or answers to interrogatories delivered, or transcripts of oral testimony given".

(e) Section 5 is further amended by adding at the end thereof the following:

"(f) Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

CRIMINAL PENALTY

Sec. 105. The third paragraph of section 1505 of title 18, United States Code, is amended to read as follows:

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or".

EFFECTIVE DATE

Sec. 106. The amendments to the Antitrust Civil Process Act and to section 1505 of title 18, United States Code, made by this title shall take effect on the date of enactment of this Act, except section 3(i) (8) of the Antitrust Civil Process Act (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act, or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall apply to any act or practice without regard to the date on which it occurred.

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

Sec. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"Sec. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d) (1) and the waiting period described in subsection (b) (1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2) (A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

"(b) (1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereinafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance, from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e) (2) or (g) (2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the Federal Reigster a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount or percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition,

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

"(9) acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer; and

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, or (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisition may, if consummated, violate the atitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b)(1) of this section, or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e)(2), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e)(2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to comply substantially with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section.".

EFFECTIVE DATES

SEC. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

TITLE III—PARENS PATRIAE

PARENS PATRIAE ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 301. The Clayton Act is amended by inserting immediately following section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) (1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of the Sherman Act. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b) (2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the cost of suit, including a reasonable attorney's fee.

"(b) (1) In any action brought under subsection (a) (1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person on whose behalf an action is brought under subsection (a) (1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection.

"(3) The final judgment in an action under subsection (a) (1) shall be res judicata as to any claim under section 4 of this Act by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection.

"(c) An action under subsection (a) (1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

"(d) In any action under subsection (a)—

"(1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and

"(2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) (1), in which there has been a determination that a defendant agreed to fix prices in violation of the Sherman Act, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Monetary relief recovered in an action under section 4C(a) (1) shall—

"(1) be distributed in such manner as the district court in its discretion may authorize; or

"(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"(b) To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

"DEFINITIONS

"SEC. 4G. For the purposes of sections 4C, 4D, 4E, and 4F of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and includes the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on—

"(A) a contingency fee based on a percentage of the monetary relief awarded under this section; or

"(B) any other contingency fee basis, unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the court under section 4C (d) (1).

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'natural persons' does not include proprietorships or partnerships.

"APPLICABILITY OF PARENS PATRIAE ACTIONS

"SEC. 4H. Sections 4C, 4D, 4E, 4F, and 4G shall apply in any State, unless such State provides by law for its nonapplicability in such State.".

CONFORMING AMENDMENTS

SEC. 302. The Clayton Act (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "sections 4 or 4A" and inserting in lieu thereof "section 4, 4A, or 4C";

(2) in section 5(i) (15 U.S.C. 16(i)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.".

CONSOLIDATION

SEC. 303. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Clayton Act.

EFFECTIVE DATE

SEC. 304. The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

SHORT TITLES FOR CERTAIN ANTITRUST LAWS

SEC. 305. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), is amended by adding immediately after the enacting clause the following: "That this Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by—

(1) inserting "(a)" after "That" in the first section; and

(2) adding at the end of the first section the following new subsection:

"(b) This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the 'Webb-Pomerene Act'.".

(d) The Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 78. Sections 73, 74, 75, 76, and 77 of this Act may be cited as the 'Wilson Tariff Act'.".

Mr. RODINO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

PARLIAMENTARY INQUIRIES

Mr. McCLORY. Mr. Speaker, I have several parlimentary inquiries.

The SPEAKER. The gentleman will state them.

Mr. McCLORY. Mr. Speaker, is the motion of the gentleman from New Jersey privileged because the stage of disagreement has been reached?

The SPEAKER. The gentleman is correct.

Mr. McCLORY. Mr. Speaker, my next parliamentary inquiry is, was the stage of disagreement reached when the House insisted on its amendment to the first Senate amendment and requested a conference thereon, even though the Senate had not previously or has not subsequently voted its disagreement?

The SPEAKER. That is correct.

Mr. McCLORY. Mr. Speaker, my third parliamentary inquiry is this: Is the House still in disagreement even though it has not acted upon the Senate amendment now before the House?

The SPEAKER. The stage of disagreement is still in effect.

Mr. McCLORY. I thank the Speaker.

The SPEAKER. Is there objection to

the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland recalls several weeks ago there was a request made to combine for the purpose of conference consideration a number of bills in the area of parens patriae and other related legislation.

Does the motion before us, offered by the gentleman from New Jersey, indicate there will be no conference and the only chance we will have to act is by an acceptance or rejection of the other body's action in a highly complicated legal area?

Mr. RODINO. Mr. Speaker, if the gentleman will yield, that is essentially correct at this point. But the differences are minimal and the action that was taken was action to facilitate House participation. After the House had initially consolidated this measure and sought a conference, the House then informally tried—after no conference was forthcoming—to reconcile some of the differences that existed and we have reached this posture now where there is this agreement. In an effort to try to move this legislation, that is the motion that has been made by the gentleman from New Jersey.

Mr. McCLORY. Mr. Speaker, will the gentleman from Maryland yield on his reservation of objection?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, the gentleman may recall that I suggested in the Committee on Rules and on the floor, although it went through without debate, that we agree to combine the three pieces of legislation into one and then since the Senate was not able to get a conference, I acquiesced with the gentleman from New Jersey (Mr. RODINO) to convene this sort of private unofficial conference. We never did get together with the Members of the other body. We did meet, however, as Members of the House and we did put together what we thought reflected the House position. But there are two matters with which the Members did not agree and the Members on the other side asserted that there was agreement and we tried to put the record straight and establish that there was no agreement on two key issues. This is not a compromise, and in due course I would hope we can correct this measure and put it in the form that the House Members will agree to and which reflects the original action of the House with respect to parens patriae.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, it seems to me this is a very poor procedure. The least the House could expect is to have conferees appointed and have the matter considered in due course by the House, so that we are not put in the position of accepting all or nothing in the form of the motion the gentleman from New Jersey has offered.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I might point out to the gentleman that the House has always been ready to proceed in that manner. Conferees were in fact appointed. Unfortunately, there were efforts on the other side to filibuster the consideration of the move to go to conference, and as a result it became impossible to do other than what we have done. Remember, this measure already has been before the House in a consolidated version. The parens patriae came up alone. The CID bill, which is strongly supported by the administration, has been before us. The pre-merger notification bill, which is included in this bill, has already been supported by the administration.

I might say that with regard to the parens patriae title, where there did occur some differences, I think we will be able to convincingly show during the course of discussion on this matter that the House has prevailed in 90 percent of the areas where there might have been some kind of difference.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY I would like to point this out: That the purpose of this private arrangement was to circumvent a filibuster that was being carried on in the other body. I have the written assurance from the Senator from Alabama, Senator ALLEN, who staged the filibuster, as well as Senator HRUSKA and Senator THURMOND, that after the House works its will by putting the measure back in the form in which the House acted upon the parens patriae section of this measure, they will then not object and they will urge an immediate or early vote on the matter over there.

So, there would not be any delay as a result of our carrying out what is the will of the House with respect to these two issues, one of which relates to contingency fees and the other treble damages.

Mr. BAUMAN. I thank both the gentlemen for their explanations. I would say, however, that in circumventing the political difficulties on this legislation, we are also circumventing the rights of the Members of the House to consider in an orderly manner the separate pieces of legislation on their own merits. To that degree I am still disappointed—as I am often disappointed with things which happen here—but more so in this instance.

Mr. McCLORY. If the previous question is voted down on the privileged motion of the gentleman from New Jersey, the House will then have a full opportunity to vote on the subject of these two amendments.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. RODINO moves that the House concur in the Senate amendment to the House amendment to the Senate amendments.

The SPEAKER. The gentleman from New Jersey is recognized.

Mr. RODINO. Mr. Speaker, I allot myself such time as I may consume.

Mr. Speaker, I would like to point out that the measure that we consider today is a measure that comes up under a privileged motion—it is an important measure. It is an antitrust measure, a law enforcement measure that I believe the House has already expressed its will on, in certain respects, four different times. Four times in 1976 parens patriae or CID or premerger legislation has reached the floor, and each time the House has passed these bills.

The parliamentary situation that we are confronted with, however, is such that the House, unless it takes this action and supports the motion on the previous question, will in effect realistically kill this legislation. And this, my friends, is legislation sorely needed if we are to enforce our antitrust laws. It is no secret that the President of the United States, in his state of the Union message and in further messages to the Congress of the United States, has told repeatedly of the need to enforce our antitrust laws.

The President also recommended certain legislation.

Certain tools which are needed by the Justice Department are included in this measure: the CID bill, which provides necessary tools for the Justice Department to be able to do their investigative work so that they might better be able to enforce the antitrust laws; and there is included the premerger notification bill.

The administration has spoken strongly in support of this. The Assistant Attorney General, who served this administration with distinction, Mr. Thomas Kauper, appeared on behalf of the administration when we first considered the parens patriae bill, and strongly recommended parens patriae as a tool to effectively deter those who might violate the antitrust laws. He stated it would help deter those who would enrich themselves at the expense of the consumers, at the expense of the citizens who would be unable to proceed against the great corporate interests that might violate the antitrust laws, corporations that enrich themselves to the tune of hundreds of of millions of dollars.

Let me address some specifics regarding the bill.

I would like to briefly state that title I is the Antitrust Civil Process Act amendments, which gives the Justice Department's Antitrust Division the same investigative powers that more than 40 other Federal law enforcement agencies currently enjoy.

Right now the Antitrust Division can only get documents from corporations that are suspected violators. It cannot get oral testimony from natural persons. It cannot even get evidence from the victims of possible violations, and it cannot get anything in a premerger investigation.

This bill gives the Antitrust Division the long-needed investigative tools.

But I might point out that it also sets careful safeguards, a full right to counsel and judicial review, to protect the persons being investigated.

Title II of the bill is the Premerger Notification Act. It covers very large mergers that might illegally wipe out competitors and create monopolies. All of us have expressed ourselves against monopolies. It gives the Government 30 to 50 days to investigate and challenge these mergers before they are consummated, before the firms are hopelessly and irrevocably scrambled together.

So the bill actually avoids these long and costly and generally futile attempts to unscramble the illegal mergers after the damage has been done. That is why it is so necessary.

I might state also that the administration supports this measure.

Title III, the Parens Patriae Act permits State attorneys general to recover damages on behalf of consumers injured by Sherman Act violations. In price fixing cases, damages can be proved in the aggregate.

The bill would compensate the victims of antitrust violations, and prevent what we consider to be and what all of us must agree is unjust enrichment. And it deters, hopefully, future violations.

Let me emphasize one thing. This bill creates no new antitrust liability. It merely provides for an effective procedural mechanism for enforcing our existing antitrust laws. And moreover, the parens patriae bill is prospective only, in operation. It covers violations occurring after the date of enactment and does not reach injuries that occurred in the past.

Let me point out to the House the areas where the House prevailed. I am not going to go into every single area, but as I stated initially, the House prevailed in 90 percent of the areas that might have shown some differences. There were more than 40 significant differences between the Senate bill and the House bill, and the simple fact is that the House view is now reflected in more than 90 percent of these issues. That is an overwhelming preponderance in favor of the House.

Therefore, I feel, as one who wants to support the House position, and as one who wants to assure that this House will be able to provide the kind of legislation for the signature of the President so that the antitrust laws may be effectively enforced, that we ought to adopt this measure. Unless we do so at this time, we are abandoning the responsibility that is ours, and we are certainly not giving the President the legislation that he believed was necessary. We feel that those provisions that he suggested are, with only some minor differences, included in this measure.

I would like to point out, Mr. Speaker, that H.R. 8532 is free enterprise legislation. It seeks to maintain vigorous competition throughout our entire national economy.

I believe H.R. 8532 is also States rights legislation, and I think it can be considered as that. It recognizes that the States are closer to the people, and it returns power to the States by delegating antitrust enforcement power to the State attorneys general.

H.R. 8532 is law enforcement legislation. It will enable both the Federal Government and the State governments to crack down on violators of the existing antitrust laws, especially those who fix prices. Companies that are violating these laws are just as much a menace to society as criminals who rob and take money at the point of a gun.

H.R. 8532 is small business legislation. It means that the Antitrust Division of the Department of Justice and the Federal Trade Commission will have a better chance to stop corporate mergers that swallow up small, independent competitors.

Finally, Mr. Speaker, H.R. 8532 is consumer legislation. It will directly bring about lower consumer prices. It will reduce prices that are artificially and illegally inflated by pricefixing, it will help to prevent further inflation, and it will help to compensate the millions of consumers who at present pay the steep prices that are caused by these violations.

For that reason, Mr. Speaker, I believe that this measure should be sustained by the House. I believe that this is a reasonable means of bringing together the legislation the Senate provided us with and the legislation the House insisted on, and effectively doing the job of enforcing our antitrust laws.

Mr. McCLORY. Mr. Speaker, will the gentleman yield to me for purposes of debate?

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory) for purposes of debate. I will yield more time to the gentleman later.

Mr. McCLORY. Mr. Speaker, I really need about 7 minutes for my presentation.

Mr. RODINO. I will yield 2 minutes to the gentleman for the present.

Mr. McCLORY. Mr. Speaker, this matter has come to the House under rather unique circumstances. Under our rules the House could never itself have combined these three bills in one package. This was done in the other body. It now has come back to us, and we are proceeding here under a procedure that limits debate—and could preclude any amendments no matter how essential.

The first two titles of the bill, the CID and the premerger provisions, are not really controversial, and I believe they are supported by the overwhelming majority of the Members of this body and of the other body as well.

The third title, the parens patriae provisions, was a controversial subject here, and we did debate that thoroughly. The President expressed his concern about it and presented certain objections. In the House I personally undertook to try to put the bill in a form which would be approved by the President and which would include some amendments that would overcome those objections.

Mr. Speaker, that is the form it was in when we sent it over to the other body.

Mr. Speaker, there has been a great deal of discussion whether this body or the other body won or lost more if the motion to concur is approved. On paper, if one merely counts the number of differences between House and Senate versions, it will appear that the House was quite successful. But in reality the House captured all the pawns while the Senate captured the queen and the king. Graciously, the Senate has consoled us by complimenting us on the number of pieces we hold.

Moreover, it should be noted that the House piled up its points by correcting mistakes made in drafting by the other body in the CID and premerger notification titles. For example, under the Senate version, a $10 sale of stock would have triggered the reporting requirements, cash tender offer transactions would have been severely curtailed, the Government would have been given the unilateral power to bar a merger forever, there would have been no objective way to determine whether the waiting period had begun or had ended and no way to determine when it was legal to consummate the merger. In avoiding these pitfalls by adhering to the House version, the Senate yielded nothing but its own embarrassment. It is on points like these that the House has been given its "victories."

But, on parens patriae, the Senate amendment, if it is accepted today under duress, is a serious reversal of the House position.

When the House first passed the parens patriae bill, so great was the concern as to its breadth that almost simultaneously two amendments were adopted. One by Mr. Flowers would have provided zero damages if the defendant had acted in good faith, or as he put it, not willfully in violation of the antitrust laws. The other amendment, offered by me, would have provided single damages if the defendant acted in good faith.

Well, the Senate substitute would impose upon the "good faith" violator—not single or zero damages—but treble damages. Now, it cannot be overemphasized that on the floor last March not a single Member of the House supported the position being thrust upon you today—not one. Last March we all knew that it was possible to fix prices in good faith believing that the law permitted it, because of prior administrative or judicial guidelines, and then be found liable for treble damages because of factual mistake or a shift in judicial thinking. In the calm of the spring with months ahead on the legislative calendar, we all knew that. Now in the exigencies of the moment the common understanding of the law and the recognized need for the House amendments are undergoing substantial revision.

Today businessmen will hear good news. Today, by colloquy on the floor, the Sherman Act will be amended so that good faith violations are no longer reachable. Suddenly, after all these months of study and debate in both bodies we will hear for the first time that good faith violators do not have to pay any damages.

The question that must be answered is this: If the law has always provided that good faith violators are to pay no damages, why did the chairman, the floor manager, and everyone else in this body vote to increase zero damages to single damages?

The other serious reversal, if agreed to, comes on the question of contingency fees. In committee, the bill was amended to bar contingency fees absolutely. On the floor a further amendment was offered which would have made the ban inapplicable in any case where the court determined the amount of the fee. Since in the context of class actions courts normally exercise supervisory power to prohibit overreaching, the proposed amendment would have permitted contingency fees subject to judicial oversight. In other words, the proposed exception would have gutted the ban. It would have returned to current law. It would have permitted contingency fees.

This body understood and it defeated that attempt to gut the ban by 50 votes, 217 to 167. The so-called Senate compromise is exactly the same proposal to gut the ban with a very minor exception. That exception arises only if the case goes to trial and judgment. I think we all realize the cases will almost always be settled. But, if a case does go to judgment, the exception is merely that the court cannot approve the attorney's fee based on a "percentage" of the award. But, since the court is otherwise obligated to "determine" the fee in any event, this exception is almost meaningless.

So the Senate substitute does kick up some dust, but when the dust settles, it is all the same. The Senate substitute permits contingency fees subject to court supervision.

Since over the years courts have been approving astronomical contingency fees, the House rejected such a proposal last March. It is my hope that the House will once again have the opportunity to vote on that issue.

Under the circumstances the House can vindicate its position only by voting to refer the Senate amendment to the Committee on Rules for an appropriate rule. In order to do this, we will have to vote "no" on the previous question. A "no" vote will be a vote to insist on the House position. A "yes" vote will be a vote to punish those who act in good faith and a vote to permit what one Member has called "a Roman holiday for lawyers."

Finally, one important point must be made. I am not—and have never been—an opponent of this legislation. I will vote for the legislation if the two House amendments are retained. It should be pointed out that while there was no recorded vote on title III, the Republicans on the subcommittee voted unanimously in favor of title I and title II when they passed the House as separate bills.

I do not address you as an "opponent" asking you to "kill the bill" as the majority's "Dear Colleague" letter would have you believe. I have supported this legislation, and because I continue to support it in the form which has passed the House I am described as an opponent by many who, in fact, disagreed with the House position.

I stand for the House position. There is time to vindicate the House position. I urge you to take the necessary steps to support the House position. After the appropriate amendments are made, most, if not all, can vote for the bill.

I supported this legislation. I supported expediting this legislation. I supported putting the CID and the premerger provisions in it. I supported putting it on the suspension calendar, notwithstanding the fact that I had amendments I wanted to offer.

Mr. Speaker, I have done everything I can to help expedite this legislation, and if we cannot now put this in proper form because of the pressures of the hour, it seems to me that it will be a great disservice and a great rebuff to someone who has supported and worked hard to get this legislation to this point.

Mr. Speaker, I am including the letter received from Senator ALLEN, HRUSKA, and THURMOND which should give assurance that adoption of these two amendments to the bill would in no way prevent early final passage of this measure:

U.S. SENATE,
Washington, D.C., September 14, 1976.

Re H.R. 8532, the antitrust amendments bill.

Hon. ROBERT MCCLORY,
House of Representatives,
Washington, D.C.

DEAR MR. MCCLORY: We are hopeful that the House will amend the Senate Amendment to the House Amendment to the Senate Amendment to H.R. 8532, the Antitrust Amendments Bill, by striking out the Senate Amendment's provisions on treble damages in parens patriae proceedings and on contingency fees and inserting in lieu thereof the provisions contained in the bill as passed by the House, allowing only single damages where the defendant acted in good faith and using the House language on contingency fees.

From statements which you and Mr. Railsback made in the House, the Members of the House who consulted with Senate Members on a so-called compromise insisted that any compromise reached should contain these provisions as passed by the House. Since the Senate Amendment to the House Amendment to the Senate Amendment did not contain the House language on these two points it is understandable that the House would not wish to accept the provisions of the bill which is now before the House for action.

In an effort to shape the bill in a manner to correspond with the House position on these two points, we wish to assure you that if the House does strike the Senate language at these two points and inserts the House language and sends the bill back to the Senate, so amended, we will not debate the matter further and will urge the Senate to bring the bill to a vote as finally amended by the House in the manner set forth above.

It is our judgment that the bill, amended as suggested, would encounter no further difficulty in coming to a vote in the Senate and we would work in good faith to see that such result ensues.

Respectfully submitted,
ROMAN L. HRUSKA,
STROM THURMOND,
JAMES B. ALLEN,
U.S. Senators.

Mr. RODINO. Mr. Speaker, may I inquire how much time we have consumed?

The SPEAKER. The Chair will state that the gentleman has 43½ minutes remaining.

Mr. RODINO. I thank the Speaker.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are a number of differences between H.R. 8532 as passed by the Senate on September 8, and H.R. 8532, H.R. 13489, and H.R. 14580, as originally passed by the House. With respect to those portions of these three House-passed bills that are incorporated in the Senate amendment of September 8, the intention and effect is the same as is set forth in the House report accompanying each bill; namely, House Report No. 94-499, House Report No. 94-1343, and House Report No. 94-1373.

In addition, the following legislative intention is appropriate and let me add, that except on the single issue of the "good faith" defense in the parens bill—on which we have our differences—all the minority members of the Monopolies Subcommittee agree with my assessment of the meaning and purpose of this compromise bill, which is as follows:

TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

First. The Senate bill eliminated the Justice Department's existing authority under subsections 2(a)(2) and (2)(a)(3)(B), to conduct CID investigations of "unfair trade practices" violative of the FTC Act. The House bill did not. On this point, the compromise bill follows the Senate language, because the FTC can already maintain its own "CID" investigations of "unfair trade practices," and it would be inappropriate for the Justice Department to use this authority.

Second. The Senate bill permitted investigations of "any activity which may lead to any antitrust violation." Under the House bill, the scope of investigations into incipient violations is less broad and open ended: The substitution of the word "consummated" for the word "completed" is the only change and is not intended to alter the limited scope of the House provisions.

Third. The House bill permitted investigations of "any person." The Senate bill permitted investigations of "any person," including those "acting under color of State law." The compromise bill adopts the Senate language, but in any event does not change the complex substantive antitrust law governing the "state action" antitrust exemption. If any "state action" exemption is raised, its validity may not be determined without considerable investigation. But if, upon development of the facts underlying the claim of immunity, it then appears that the exemption is clear and well-founded, the Justice Department will consequently have no jurisdiction to continue its investigation, for no "antitrust violation" within the meaning of section 2(c) can be made out.

Fourth. The House-passed bill required that each CID "state in appropriate detail the nature of the conduct or the activities under investigation." The compromise bill requires each CID to "state the nature of the conduct or the activities under investigation." The phrase "in appropriate detail" was deleted solely because it is superfluous; existing case law under the 1962 act already requires "appropriate detail." See *Petition of Gold Bond Stamp Co.*, 211 F. Supp. 391 (D. Minn. 1963), and *Hyster* v. *U.S.*, 338 F.2d 183 (9th Cir. 1964). The intention of the compromise bill is thus to carry forward exactly this standard, as it has evolved under the existing Act.

Fifth. The Senate bill permitted CID witnesses to "clarify equivocal answers" in the course of reviewing their transcript. The House bill permitted CID witnesses to make "any changes in form or substance" that they desire. The House version, adopted by the compromise, avoids pointless disputes over what constitutes an "equivocal" answer; and in any event, under the compromise bill, the witness' original testimony remains on the record, and a statement of the reasons for any changes must be given by the witness.

Sixth. The Senate bill limited the CID witness to the same access to his transcript that a grand jury witness has: If the witness demonstrates a "compelling" or "particularized" need, he may inspect his transcript. Generally, however, counsel to the grand jury witness cannot accompany him and also inspect the transcript of his testimony. In re Braniff, 1975 CCH Trade cases, ¶ 60,239 (W.D. Tex.). The compromise adopts the provisions of the House bill, which in every instance permits the witness and his counsel to inspect the transcripts. In addition, under the "good cause" test set forth in the compromise bill, the witness will generally have access to a copy of his transcript, upon payment of reasonable charges. If the Assistant Attorney General denies the witness access to his transcript on the basis of "good cause"—such as a possibility of perjury, or witness intimidation, or the circulation of the copy to coconspirators seeking to orchestrate testimony—the Assistant Attorney General's determination is reviewable by a court, under section 5(c).

Seven. The compromise bill adopts the provisions of the House bill governing court review of CID disputes. Like the House bill, the compromise bill, therefore, incorporates all the existing procedures for judicial review set forth in the 1962 act.

Eighth. Under the Senate bill, if a CID recipient moves to quash the CID, his duty to comply with the demand is suspended as long as the dispute is under adjudication, but only if the recipient promptly complies with unobjectionable portions of the CID. The House bill contained no comparable provision. The compromise adopts the Senate provision because the intention of the House, throughout its consideration of this measure, was simply to require the CID recipient to object specifically to portions of a demand rather than to use such objections as an excuse for general noncompliance.

Ninth. The Senate bill provided that whenever a CID recipient files a petition to quash a CID, any objection not therein specified in the petition shall be deemed waived, unless good cause is shown for the failure to assert it in such a petition. The House bill had no comparable provision, nor does the compromise. The reason is that a CID recipient's petition to quash is an original proceeding in district court. It is therefore a civil complaint, and F.R.Civ.P. 15(a), governing amendments to pleading, consequently applies. That rule provides that—

> A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or . . . at any time within 20 days after it is served. Otherwise, the party may amend his pleading only by leave of court . . . and leave shall be freely given when justice so requires. . . .

Because the Senate bill's "waiver" provision necessarily conflicts with rule 15(a), it has been deleted.

TITLE II—PREMERGER NOTIFICATION AND WAITING

First. Then Senate bill covered acquisitions made by "persons." The House bill only covered acquisitions by "corporations," because only corporations are subject to the provisions of section 7 of the Clayton Act. However, section 5 of the FTC Act prohibits certain noncorporate mergers; that is, acquisitions by partnerships; and a Sherman Act merger challenge is in no way limited by the legal structure of the merging entities.

Because the anticompetitive nature of a merger is not dependent upon the legal form of the acquiring entity, the compromise covers "persons."

Second. Under the House bill, both parties to the merger were required to notify and wait. However, in the case of tender offers, the House bill placed the notification and waiting obligations only upon the acquiring firm. That is because the "target" of a tender offer—the firm that is to be acquired—is often hostile to the offer, and may, by a variety of means, seek to thwart or delay the planned takeover. This may be the case whether or not the tendered consideration is cash or securities—though, by and large, cash tender offers are hostile, and securities tender offers are unopposed, or "friendly." Thus, were the notification and waiting requirements to be imposed upon the target firm, it might easily frustrate the offer, should it choose to do so, simply by refusing to comply with the bill's requirements. In that event, the waiting period would never commence, and the takeover could never be accomplished. The target firm would thereby profit from its own wrong. Moreover, many tender offers, especially cash tender offers, are prearranged in secret, and commenced by a public announcement that generally comes as a distinct surprise to the target company. In these cases, even if the target chose to comply with the notification requirements, it would be hard-pressed to do so in a short period of time. Unlike the parties to an amicably negotiated merger, it will not already have undertaken, on its own, to analyze the legality of the proposed merger. It will not have even begun to fill out the notification form, nor will it have compiled much of the data relevant to the merger's legality which, in all probability, will be requested by the Justice Department and the FTC. The bill's rationale—that the premerger data sought by the Government can be compiled rapidly, and that premerger "discovery" can be satisfactorily compressed into a few weeks' time because the merging companies will have already compiled, prepared, and analyzed this very data well in advance of the planned consummation date—consequently will not hold true in the case of a "surprise" tender offer.

Nevertheless, the target of a tender offer will often have considerable data relevant to its own operations, and thus, relevant as well to the planned merger's legality. Often, this data will not be available to the acquiring company, but will, nevertheless, be necessary to a reasoned analysis of the merger. The compromise bill, unlike the House bill, thus imposes the notification and waiting obligations upon the target in a tender offer, but further provides that the target's failure to comply with these requirements will not operate to extend the waiting period—which could effectively frustrate the takeover. Instead, the court may, under subsection (g)(2), order the target to comply, and may impose sanctions if the target refuses.

Three. The "minimum threshold" test set by the House bill provided that no stock or asset acquisition involving $100 million and $10 million companies is subject to this bill unless that acquisition gives the acquiring firm 25 percent or more of the acquired firm's voting securities or assets, or at least $20 million of the acquired firm's voting securities and assets. The Senate bill provided no comparable "threshold " and thus would have covered any nonexempt capital transaction. The compromise bill reduces the House bill's "minimum threshold" to 15 percent or $15 million. These alternative standards will, in some cases, override the 10 percent limitation specified in the exemption set forth in subsection (c)(9). Thus, an acquisition under subsection (c)(9) would be exempt from this bill, even if, for example, 14 percent of the outstanding voting securities of the issuer are acquired solely for the purpose of investment—so long as the aggregate value of these voting securities does not exceed $15 million.

Four. Like the House bill, the compromise bill does not require absolute and complete compliance with either the required premerger notification form or any subsequent request for additional information, before the waiting period or the extension period begins to run. Premerger discovery is a complex process in the best of circumstances, and compressing the entire process into a few weeks time will not make it less complex. Therefore, in a manner that is somewhat analogous to the procedures set forth in the CID bill, the compromise version of the premerger bill provides that the waiting and extension periods will commence running upon receipt by the FTC and the Justice Department of the completed notification or a partially completed notification, together with a specific statement of the reasons for the partial noncompliance. Similarly, the extension period will commence immediately upon the receipt of all the additional information that is requested, or, if any of the requested information is omitted, upon receipt of all the submitted data together with a statement of the reasons for the failure to include the omitted data. The rationale of the compromise bill is, in this respect, exactly that of the House bill: If the omitted data is withheld by the parties for frivolous, unjustifiable, or improper reasons, the Justice Department or the FTC may seek a court order, under subsection (g)(2), extending the premerger waiting period until there has been "substantial compliance"—that is, until the notification form has been substantially completed, or until there has been substantial compliance with the request for additional data.

A broad and liberal interpretation of the doctrine of "substantial compliance" should protect the rights of the Government as well as the parties to the proposed merger. Thus, a company would not fail to "substantially comply" if it withheld information, for example, that was subject to a legitimate privilege. And plainly, Government requests for additional information must be reasonable. The House conferees contemplate that, in most cases, the Government will be requesting the very data that is already available to the merging parties, and has already been assembled and analyzed by them. If the merging parties are prepared to rely on it, all of it should be available to the Government. But lengthy delays and extended searches should consequently be rare. It was, after all, the prospect of protracted delays of many months—which might effectively "kill" most mergers—which led to the deletion, by the Senate and the House Monopolies Subcommittee, of the "automatic stay" provisions originally contained in both bills. To interpret the requirement of substantial compliance so as to reverse this clear legislative determination would clearly constitute a misinterpretation of this bill.

In sum, a government request for material of dubious or marginal relevance, or a request for data that could not be compiled or reduced to writing in a relatively short period of time, might well be unreasonable. In these cases, a failure to comply with such unreasonable portions of a request would not constitute a failure to "substantially comply" with the bill's requirements. All the equities of the particular situation should be considered in determining what constitutes "substantial compliance."

Fifth. In the case of cash tender offers, more so than in other mergers, the equities include time and the danger of undue delay. This bill in no way intends to repeal or reverse the congressional purpose underlying the 1968 Williams Act, or the 1970 amendments to that act. Therefore, under the House bill, a special shortened 21-day waiting period applied to cash tender offers. This 21-day waiting period could not be extended by the FTC or the Justice Department. There was general agreement that this 21-day waiting period would not unduly delay the consummation of cash tenders, and thus "tip the balance" to the incumbent management of the target firm. The House-passed bill was, therefore, consonant with the underlying purposes of the Williams Act. However, the House conferees recognize that this nonextendable waiting period could present difficult dilemmas for the FTC and the Justice Department: If, for example, the Government requested additional data on the 14th day of the waiting period, the acquiring firm might delay its submission of the additional data until the 20th day. In that event, the Government might well have only a few hours to analyze that crucial data. To avoid this dilemma, the House conferees agreed to "split up" the premerger period into an initial period of 15 days, followed by a discretionary 10-day extension—in a manner similar to that provided for ordinary mergers. The House conferees contemplate that this means, at most, waiting periods of approximately 25 days. Such a waiting period should be the rule—and not the exception. Lengthier delays will give the target firm plenty of time to defeat the offer, by abolishing cumulative voting, arranging a speedy defensive merger, quickly incorporating in a State with an antitakeover statute, or negotiating costly lifetime employment contracts for incumbent management. And the longer the waiting period, the more the target's stock may be bid up in the market, making the offer more costly—and less successful. Should this happen, it will mean that shareholders of the target firm will be effectively deprived of the choice that cash tenders give to them: Either accept the offer and thereby gain the tendered premium, or reject the offer. Generally, the courts have construed the Williams Act so as to maintain these two options for the target company's shareholders, and the House conferees contemplate that the courts will continue to do so.

Six. The Senate bill permitted the FTC, with the participation of the Department of Justice, to promulgate rules subjecting "small" mergers—involving companies with less than $100 million and $10 million in sales or assets—to the notification and waiting requirements provided by this bill. The House bill completely deleted this provision, and so does the compromise bill. In the view of the House conferees, the coverage of this bill should be decided by Congress—not the FTC and the Justice Department. In particular, the Senate provision was rejected because it was completely "open-ended." It set no qualifications, standards, or conditions upon the rulemaking authority. It may in future years appear that additional coverage is desirable; for example, in industries that are "highly concentrated" or "rapidly concentrating," or with respect to a large firm that makes a series of acquisitions of firms below this bill's $10 million size limits. But surely this decision would be more wisely made in light of the experience stemming from the application of this bill.

Seven. The House bill required an annual report from the Federal Trade Commission and the Justice Department, detailing the operation and effects of this bill, as well as explanations by the Government agencies in cases in which they took "no action" pursuant to this bill. The Senate bill contained no such provision. The compromise bill adopts the House provisions requiring an annual report from the Government antitrust agencies, but deletes the requirement that these agencies explain why they "took no action" whenever they fail to challenge a merger under this bill. This deletion was premised upon concern that such a "no action" explanation might well prejudice the rights of private parties who may subsequently challenge the merger, and might, as well, prejudice the Government agencies in the event they subsequently decide to mount a challenge to the merger. Moreover, the requirement of such an explanation might well disclose confidential premerger data, or at least conclusions based on such data.

Eight. The House applied the same two confidentiality safeguards to premerger data that both the House and Senate bills applied to CID files compiled pursuant to title I of the compromise bill. These two safeguards provide that, first, the premerger data is exempt from the Freedom of Information Act, so that the Government cannot be forced to disclose it to the public, and second, the Government agencies themselves cannot discretionarily release premerger data to anyone, but can disclose it only in "judicial or administrative proceedings." In contrast, the Senate bill made the premerger data "subject" to the Freedom of Information Act—not exempt from it. The compromise bill adopts the House provisions, because premerger data compiled pursuant to title II of the compromise bill will, in essence, contain the same kind of information as a CID file compiled in a premerger investigation pursuant to title I of the compromise bill. The House conferees see no reason why this data should be exempt from the Freedom of Information Act in the one case, and subject to the act in the other.

Ninth. The House bill covered acquisitions of assets and "voting securities"—any debt or equity instrument entitling the holder to elect directors of a corporation. Nonvoting securities were completely exempt from the House-passed bill. However, nonvoting securities that can be converted into voting securities were covered "upon conversion," and compliance with the bill's notification and waiting requirements would thus have been required prior to conversion. In contrast, the Senate bill covered acquisitions of assets; voting securities; nonvoting but convertible securities; and, apparently, nonvoting, nonconvertible equity securities. Nonvoting, nonconvertible debt securities were completely exempt from the Senate bill under subsection (b)(4)(B)(ii). The compromise bill completely exempts acquisitions of nonvoting, nonconvertible debt or equity securities. Further, the compromise bill covers nonvoting but convertible securities upon acquisition, not conversion. Finally, the compromise bill covers acquisitions of voting securities in all instances, except in the case of de minimus "solely for purpose of investment" acquisitions expressly exempted by the bill.

Tenth. The House conferees felt that exemption set forth in subsection (c)(11) of the House bill should be retained in the compromise, provided that the phrase "or other entity," appearing in the second line of that subsection, was deleted. By thus limiting this exemption solely to acquisitions by bank trust departments or trust companies, the House conferees felt that this exemption would not be unreasonably broad or prone to abuse. While the compromise bill deletes this exemption, the House conferees continue to believe that it would serve a desirable purpose, and should be considered by the Federal Trade Commission, pursuant to the Commission's power to exempt various acquisitions under subsection (c)(12) of the House bill, which has been adopted by the compromise bill.

Eleventh. The $10,000/day penalty

provision of both the House and the Senate bills applied only to an acquiring corporation that "holds" stock or assets "in violation of" the bill. The compromise bill slightly alters the wording of this monetary penalty provision, but only because it was felt that the acquired as well as the acquiring company should be subject to this penalty. However, this sanction should be imposed upon an acquired company only if it voluntarily acquiesces in the merger—which will not be the case in, for example, a hostile cash tender offer. And, obviously, if the acquired firm is completely "swallowed up" in the course of the merger, it will cease to exist, and it will thus be impossible to impose any penalty upon it. In addition, the House conferees stress that the monetary and injunctive sanctions provided in subsections (g)(1) and (g)(2) are, to a considerable extent, mutually exclusive. For example, if the merging companies fail to comply substantially with the notification data or additional information requirements, a court injunction pursuant to subsection (g)(2) would ordinarily be the proper remedy for the Government. In contrast, complete compliance, not substantial compliance, is the test set by the waiting requirements. The firms must wait the full 30 days—not just 27 or 28 days. And there may well be cases in which the merging companies act in bad faith, or conceal relevant data from the Government for frivolous or unjustifiable reasons, or otherwise "orchestrate" the submission of requested data so that the Government agencies have no realistic opportunity to seek injunctive relief pursuant to subsection (g)(2). If they do so, they act at their peril, and would properly be subject to sanctions under subsection (g)(1), which, on its face, applies to violations of "any" provision of this act. But while "good faith" has never been a defense to a civil penalty action by the Government, it is one factor in assessing the size of the penalty. This factor, together with the traditional broad discretion held by the court in a civil penalty action, should prevent any miscarriage of justice that might arise from an overly literal reading of subsection (g)(1).

TITLE III—PARENS PATRIAE AMENDMENTS

First. Neither the House nor the Senate bills create any new substantive liability with the parens patriae action. No new antitrust violations are created. But the claim for relief created by the House bill was in some respects, procedurally narrower than that established in section 4 of the Clayton Act. For example, Clayton section 4 authorizes recoveries by "any person." But the House bill was limited to "natural persons." Again, Clayton section 4 authorizes recoveries based upon any violation of the "antitrust laws." But the House bill authorized parens recoveries only for violations of the Sherman Act. Most importantly, in order to avoid the creation of expansive new treble-damage liability, the House bill exactly paralleled the traditional requirements for recovery set forth in Clayton section 4; namely, that recoveries be limited to natural persons injured in their business or property by reason of anything forbidden in the Sherman Act.

The original Senate bill, however, would have eliminated two of these crucial requirements for recovery set forth in section 4 of the Clayton Act, and followed by the courts for 86 years. First, the "injury" requirement of Clayton section 4 was deleted by the Senate bill; the word "injury" thus appeared nowhere in the Senate bill. Instead, the Senate bill permitted recoveries "in respect of any damage substained" by natural persons. Second, Clayton section 4 does not permit recoveries for all conceivable kinds of injury. Instead, to be actionable, the injury must be a tangible, actual, concrete, financial injury; namely, an injury to the business or property of the plaintiffs. But the Senate bill's section 4C completely eliminated the "business or property" requirement set forth in Clayton section 4. The House conferees, concerned over the erosion of these traditional elements of private recoveries, and the consequent possible creation of broad new liability, drafted compromise language which requires that parens patriae recoveries be premised upon "injury sustained by natural persons to their property by reason of any violation of the Sherman Act."

Unlike Clayton section 4 plaintiffs, cosumers in parens actions need not be injured in their business. But this is because commercial entities are excluded from parens patriae actions, and thus, by definition, consumers injured in their "business" could never recover under the new Clayton section 4C. Moreover, requirements of "standing" that are entirely appropriate for commercial litigants—such as the "direct injury" test—are not appropriate for consumer litigants, as the courts have recognized. See Carnivale Bag, infra.

Like both the House and Senate bills, new Clayton section 4C also incorporates the traditional "causation" requirement of Clayton section 4, which is embodied in the "by reason of" language of the compromise bill. The retention of this requirement means that any State attorney general must bear the traditional antitrust plaintiff's burden of proving causation: He must prove a violation, and that it resulted in an illegal overcharge, and that the overcharge was in fact passed on to and borne by the consumers of his State. Consequently, the compromise bill—like the House bill—does not in any way change the law of causation as it has evolved under section 4 of the Clayton Act. Nevertheless, some opponents of this bill have argued that it does change the law of causation. They claim, for example, that if, first, manufacturers illegally fix the price of ball bearings; second, which are subsequently incorporated into a popcorn vending machine; third, which is sold to the owners of a movie theater in Cleveland; and, fourth, who then charge moviegoers 50 cents per box of popcorn, that the Ohio State attorney general, for example, can then recover treble damages from the manufacturers. But plainly, the State could never prove "causation" in such a case. It would be an accountant's nightmare. The State would simply be dismissed on the pleadings, for under no set of facts could it possibly carry its burden of proving "causation"—by showing that the initial violation, through this series of transformations, ultimately caused the consumers to pay a higher price.

Some changes are made by the compromise bill, and, like those embodied in the original House bill, these are procedural changes. First, the compromise bill expressly gives "standing to sue" to the State attorney general. And the compromise bill squarely grants "standing" in cases where consumers have purchased price-fixed products—such as bread, potato chips, milk, eggs, gasoline, automobiles, and the like. Thus, assuming the State attorney general proves a violation, and proves that an overcharge was "passed on" to the consumers, injuring them "in their property"; that is, their pocketbooks—recoveries are authorized by the compromise bill whether or not the consumers purchased directly from the price fixer, or indirectly, from intermediaries, retailers, or other middlemen. The technical and procedural argument that consumers have no "standing" whenever they are not "in privity" with the price fixer, and have not purchased directly from him, is rejected by the compromise bill. Opinions relying on this procedural technicality—see *Donson Stores, Inc.* v. *American Bakeries Co.*, 1973–1 CCH Trade Cases, ¶ 74.387 (S.D. N.Y.) (price-fixed bread); *City of Detroit* v. *American Bakeries Co., Inc.*, No. 33046 (E.D. Mich. 1971) (price-fixed bread); *City of Akron* v. *Laub Baking Co.*, 1972 CCH Trade Cases, ¶ 73,930 (N. D.Ohio) (price-fixed bread); *Travis* v. *Fairmount Foods Co.*, 1973–1 CCH Trade Cases, ¶ 74,308 (E.D.Pa.) (price-fixed milk); and *United Egg Producers* v. *Bauer*, 1970 CCH Trade Cases, ¶ 73,299 (S.D.N.Y.) (price-fixed eggs)—are squarely rejected by the compromise bill.

First, if this bill means anything, it means that the State may recover damages for purchasers of price-fixed bread, potato chips, and the like. To argue that consumers must be direct purchasers from the price fixer is to deny recovery in these cases—for the consumer rarely if ever buys potato chips directly from the manufacturer, or bread directly from the bakery. In these cases, the manufacturer invariably sells through wholesalers and retailers—grocery stores, drug stores, and the like—and if the intervening presence of such a middleman is to prevent recovery, the bill will be utterly meaningless. In any event, most courts have recognized this fact: See *Carnivale Bag Co.* v. *Slide-Rite Mfg. Corp.*, 1975 CCH Trade Cases, ¶ 60,370 (S.D.N.Y.) ("It cannot be said * * * that the injury sustained by a purchaser one or two stages from an illegal overcharge is an "incidental" effect of a price-fixing conspiracy"); *Boshes* v. *General Motors Corp.*, 1973–1 CCH Trade Cases, ¶ 74,483 (N.D. Ill.) ("A simple rule of privity is inappropriate under the wording of the statute [Clayton section 4]"); *Midway Enterprises Inc.* v. *Petroleum Marketing Corp.*, 1974–2 CCH Trade Cases, ¶ 75,200 (D.Md.) ("one intermediary between plaintiff and defendant through which passed a commodity [gasoline] unaltered by manufacturer or processor"); *Bray* v. *Safeway*, 1975-1 CCH Trade Cases, ¶ 60,193 (N.D.Cal.) ("It should be noted that the Ninth Circuit has specifically held that the mere presence of an intermediary between the plaintiff and the defendant would not require a finding of lack of injury. * * * It is the economic area in which the plaintiff is damaged that is the crucial factor—not an artificial limitation based upon the number of links in the chain of distribution.")

Second, the courts that have required privity between the plaintiff and the defendant as a prerequisite to standing, have generally done so, because they have misread the Supreme Court's Hanover Shoe opinion, 392 U.S. 481 (1968). Fearing that the first purchaser can, under Hanover Shoe, recover the entire overcharge, whether or not he absorbs all or merely part of it, these courts have clearly been motivated by the specter of double liability raised by successful actions by subsequent secondary purchasers. However, the compromise bill—unlike the House bill—expressly forbids duplicative recoveries. This additional safeguard against duplicative recoveries makes express the House intention, and is not intended to detract from plaintiff's burden of proving injury and the amount of damages suffered by natural persons on whose behalf the action is brought. In this light, to insist that indirect purchasers of price-fixed bread have no standing, because Hanover Shoe requires "privity" in order to avoid double recoveries, is to seriously misread the compromise bill.

Second. Like the House bill, the compromise bill is not a rule 23(b) (3) class action under Clayton section 4. It is instead a single action by the State. In particular, it is a superior alternative to a rule 23(b) (3) class action. Thus, the compromise bill does not incorporate the various requirements of rule 23(b) (3): That the claims be "typical"; that common issues "predominate" over individual ones; that the action be "manageable" within the meaning of rule 23; or that the representation be "adequate" within the meaning of rule 23—for this bill represents the legislative conclusion that the State's attorney general is the best representative conceivable for the State's consumers—as the courts have repeatedly recognized.

Third. The House bill authorized only "damages." The Senate bill authorized "monetary relief" and "other relief" to "prevent or remedy" the violation. According to the Senate report, "other relief" means restitution, injunctive relief, or equitable relief—such as a decree of divestiture. The compromise bill authorizes only monetary relief. That is because restitution seems unnecessary in light of the broad authority for damage recoveries conferred by the compromise bill. As for injunctive relief, the compromise bill omits any reference to it solely because such relief is already available to State attorneys general, acting as parens patriae in injunctive actions under the Clayton Act, 15 United States Code, section 26. The compromise bill, therefore, in no way alters the current case law on parens patriae injunctive relief. Provision for equitable relief; that is, decrees of divestiture, was squarely rejected by the House conferees in the belief that State attorneys general should not be authorized to file parens suits seeking divestiture.

Fourth. The House bill permitted State attorneys general to recover "the cost of suit and a reasonable attorneys fee." The Senate bill authorized State attorneys general to recover "the cost of suit, a reasonable attorney's fee, and other expenses of the litigation." The compromise bill rejects any recoveries for such "other expenses," which leaves the law in this area as it presently is.

Fifth. Like the House bill, the compromise bill specifically authorizes aggregate damages in cases where there has been a determination that a defendant agreed to fix prices. Unlike the Senate bill, it does not specifically authorize aggregation in cases of Sherman Act violations arising out of patent fraud. Under the compromise bill, "price fixing" means horizontal price fixing or vertical price fixing. It does not mean monopolization, market allocations, output restrictions, customer or territorial restraints, tie-ins, group boycotts, predatory pricing, reciprocal dealing, or other non-price-fixing violations of the Sherman Act.

The House bill expressly authorized aggregation in cases of "willful" price fixing. The compromise bill omits the requirement that the price fixing be "willful." First, "willful" price fixing may seem to imply criminal scienter. This is not the intention of the House conferees. Were the House bill interpreted in this manner, aggregation might be permitted only in those price-fixing cases that would constitute a criminal violation of the Sherman Act, or even further, only in cases where the defendants have been adjudged guilty of a criminal price-fixing violation. Second, the bill in no way changes the traditional elements of a Sherman Act price-fixing offense. Generally, the crucial and essential element of any price-fixing case has always been a conscious, willful, overt, deliberate, intentional, actual agreement to fix prices. Thus, if a businessman, on the basis of his own independent business judgment, simply charges the same prices as his competitors charge, he does not thereby "fix prices." The Sherman Act has always required that businessmen must in fact combine together, deliberately agree to fix prices, and actually adhere thereafter to that agreement, before the violation is completed. Concededly, direct proof of the actual agreement is not required, and the actual agreement may be inferred from the surrounding circumstances; but it must be there. In this sense, inclusion of the word "willful" was superfluous, for the House conferees in no way intend any alteration of the well-established requirements of this offense.

Finally, the House bill provided for a reduction of aggregate treble damages to single damages, if the defendant established that he acted in good faith without reasonable grounds to believe that his conduct violated the Sherman Act. The compromise bill omits this "good faith" single damages proviso. While the inclusion of this proviso would not have caused any particular harm, and might even be helpful in some hypothetical situations, the limitation of the aggregation section of the bill to price-fixing cases only, and the adoption of the Senate provision making the bill apply only to future actions, have made the proviso inoperative and meaningless in the vast majority of cases.

Mr. Speaker, I offer for inclusion in the Record following these remarks an editorial from today's Washington Post. I also offer a letter from the National Association of Attorneys General, which indicates their intention to cooperate fully in providing information to the Congress annually in the years to come, so that we may properly oversee the workings of this pioneer legislation, and, if appropriate, enact further legislation to improve its efficacy and curb abuses, if any.

The material follows:

PENALTIES FOR PRICE-FIXING

The antitrust bill is once again in peril. That's to be expected. The subject is complex, time is running out, and the opposition is fierce. It's coming mainly from people like Sen. James Allen (D-Ala.) and Sen. Roman Hruska (R-Neb.), who favor competition in principle but find that, in practice, a little of it goes a long way. The bill has attracted their attention for the very good reason that it would make price-fixing much more dangerous—particularly in consumers' goods.

The bill now hangs on one take-it-or-leave-it vote in the House, within the next day or so. If the House passes the bill as it stands, it will go directly to the President's desk. If the House changes the bill in any respect, however minor, it will be dead. The reason is the intemperate and intransigent opposition in the Senate, where a small number of members, led by Mr. Allen, have promised to filibuster it once again.

They filibustered the bill on its original passage. The filibuster was broken, but that took much time and effort. The House moved the legislation along in somewhat different form, as usual, and normally there would have been a conference to reconcile the differences. But that would have given Sen. Allen & Co. two more opportunities to filibuster, once on the naming of the conferees and again on their report. Majority Leader Mike Mansfield made it clear to the bill's sponsors that the Senate could afford the time to break one filibuster but not two. It is the old story. The approaching end of the session strengthens every dilatory and obstructive tactic.

Several senators and representatives met informally last month to do the work of a conference. Their compromise version of the bill went first to the Senate where Mr. Allen predictably filibustered it again. The filibuster was broken, and the bill passed, by large majorities. Now the bill goes to the House. Since any amendment at all would send it back to the Senate and further extended discussion by Mr. Allen and his friends, the practical choice is between the bill in its present form and nothing. The bill has been greatly refined over the past half-year of debate, and would constitute a valuable addition to national economic policy.

It contains a number of improvements in the administration of the antitrust laws. But its largest contribution would be an altogether new method of assessing damages. Consider the dozens of commodities—gasoline, milk, bread, soda pop—that everybody buys continually in small quantities. A conspiracy to fix prices might add only a fraction of a cent to the price, yet bring millions of dollars to the perpetrators. Under present law, the public has no practical way to recover damages. Who keeps the receipts for a year's purchases of bread? Even if a suspicious customer began collecting receipts, they would never add up to enough money to justify a long and difficult lawsuit. The conspirators would risk being convicted of a crime, but it would be almost impossible to make them return the proceeds of this crime to consumers. The antitrust bill changes that. It would permit a state to hire a lawyer and sue in behalf of its citizens, assessing damages by economic estimation. If the conspiracy had raised the price of soda by half a cent per can, the damages would be computed simply by multiplying the number of cans sold, during the life of the conspiracy, by half a cent. Full restitution would suddenly become a real possibility.

The bill has been narrowed considerably in recent months to meet some of the objections to its original language. Some antitrust violations are less precisely defined than others. The new assessment procedure would be limited to cases of price-fixing, the clearest of antitrust offenses. Many businessmen also feared the effects of contingent fees in which the lawyer takes a percentage of the damages as his fees. Fees running up to a third or a half of the damages would act as bait, they argue, to create a whole new legal industry and generate a flood of dubious suits. In response to this objection, the managers of the bill have explicitly ruled out fees based on a share of proceeds.

Stronger antitrust enforcement is a weapon against inflation. The bill deserves the votes of those congressmen who believe in open markets and greater competition in the American economy.

SEPTEMBER 16, 1976.

Hon. PETER W. RODINO,
Chairman, Subcommittee on Monopolies and Commercial Law, Rayburn Building, Washington, D.C.

DEAR CHAIRMAN RODINO: You have asked for our ideas with respect to this Association's assisting the Congress in its oversight function if the pending Parens Patriae legislation is enacted. We have given this matter considerable thought and believe that we have a plan of action which would substantially assist the Congress in one of the more controversial aspects of the new legislation, the contingency fees provision. We will recommend to the Association for action at its annual meeting in December a resolution which will provide for supplying the following information annually to the Chairmen of the House and Senate Judiciary Committees:

1. A copy of the Complaint of each new case commenced by any Attorney General under the new Parens Patriae authority,
2. The name of any outside counsel retained by any Attorney General in connection therewith,
3. A statement of the fee arrangement with such counsel if it includes any computation based upon the outcome of the case,
4. A description of any such case which has been settled including a copy of the settlement agreement approved by the Court and a copy of any judgement of attorneys' fees entered by the Court.

We believe that the information resulting therefrom would be useful to the Congress in assessing the actual impact of the contingency fees provision as it is now phrased in HR 8532. While no mechanism presently exists within our Association for gathering, organizing, and disseminating such information, we will recommend to the full Association that it adopt such procedures and we believe that the Association is likely favorably to consider that proposal.

Finally, we thank you for your strong efforts on behalf of the public interests which this bill is designed to protect.

With best regards and,
Sincerely yours,

SLADE GORTON,
President, Attorney General of the State of Washington.
ANDREW P. MILLER,
Chairman, Antitrust Committee, Attorney General of the Commonwealth of Virginia.

Mr. SEIBERLING. I thank the Chairman.

Mr. Speaker, the gentleman from Illinois made a rather impassioned speech, and I think it would be helpful to, as they say, look at the record. I am looking at the RECORD for March 18, 1976, the day that this bill was passed. On page 7038 the gentleman from Illinois (Mr. MCCLORY) offered the amendment which he and I worked out together, which contained the proviso that any damages awarded a defendant could be reduced from treble damages to actual damages if the defendant established that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws. That was an amendment to the aggregation of damages section, and is the language which the Senate dropped from the bill that is now before us. I agree that that was appropriate language when this section of the bill provided for aggregation of damages in all antitrust cases brought by a state attorney general under this bill.

But something happened to his amendment before it was adopted by the House—the gentleman from Alabama (Mr. FLOWERS) offered an additional amendment to the amendment of the gentleman from Illinois. Mr. FLOWERS' amendment limited the aggregation section to cases of willful price-fixing, and the gentleman from Illinois opposed the amendment offered by the gentleman from Alabama (Mr. FLOWERS). Let us look at the RECORD and see what he said in stating his opposition.

Mr. Speaker, I am turning now to page 7041 of the RECORD of March 18, 1976, and I am quoting from it:

> Mr. MCCLORY. Mr. Chairman, I am going to oppose the amendment offered by the gentleman from Alabama (Mr. FLOWERS), and state that it seems to me that the impact of this legislation should be, as the gentleman from Ohio indicated, far beyond that of price-fixing. Therefore, it seems to me that the authority for aggregation of damages should cover the gamut of antitrust violations—not merger cases, not Robinson-Patman cases, but the rest of them. Therefore, I do not think that this right should be limited further—in parens patriae cases. . . . I think that if anything, the amendment offered by the gentleman from Alabama would be confusing and not consistent with the general thrust of this legislation.

And the gentleman was absolutely right in saying that the effect of Mr. FLOWERS' amendment was confusing, because if we were going to limit this bill to price fixing, and even more to willful price fixing, then it makes little sense to tack on to it a proviso which allows mitigation of damages if the defendant can prove good faith, because the concept of good faith and willful price fixing are inherently incompatible.

Now what does this bill do? We took the word "willful" out of the aggregation section because everybody agrees that connotes criminal intent. But it is still hard to conceive of a case where defendants engaged in price fixing, a per se violation of the Sherman Act would be able to show that they acted in good faith, and without reason to believe their conduct violated the law. If the section in question had been limited to price fixing before the gentleman from Illinois offered his amendment, I doubt if it would have been accepted, since it was no longer of much significance.

Now there are a few possible hypothetical situations, such as where a change in the law is made after the fact and, therefore, someone could say he relied on the fact that the law was different at the time he went into the price-fixing arrangement, let us say a fee schedule.

We are going to make it clear that, by adopting the nonretroactivity feature of the Senate bill, we do not intend that the bill be applied retroactively to such situations.

I want to make just one further point and then I will yield to the gentleman from Illinois.

There is a long line of cases where the courts have said where the law in effect is changed they will not merely reduce damages to single damages, they will not allow any damages retroactively. In addition, under the well-known doctrine of remittitur, the courts can also reduce damages where they believe they are excessive.

Mr. Speaker, this is a bill to benefit consumers by strengthening the legal keystone of our free enterprise system, the antitrust laws. It will also benefit consumers by making anticonsumer actions, especially price fixing, less likely. It will further benefit consumers, finally, by giving them a meaningful way of recovering their damages in those few cases where the antitrust laws are violated.

I offer for inclusion in the RECORD at this point three letters from citizens organizations expressing strong suport for this legislation:

SEPTEMBER 13, 1976.

MEMORANDUM

To: All Members of the House of Representatives.

From: Coalition in Support of H.R. 8532.

We, the undersigned, support the passage of amended H.R. 8532, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, particularly Title III, the Parens Patriae provision, which authorizes states to sue price fixers to recover damages for consumers.

Since March when the House first passed its Parens Patriae version, the specific language of the omnibus antitrust bill has been extensively debated and modified. On September 8, 1976, the Senate passed H.R. 8532 by a 69–18 vote with this final version being refined through informal negotiation between both Chambers. The Parens Patriae provisions, the focus of much controversy, were in essence limited to price fixing violations. Fraud on the Patent Office was dropped. Of the 41 major initial disagreements between the two Chambers, 25 were resolved according to House wishes, 6 involved compromise and 10 accommodated Senate preferences. Because of the parlimentary posture of the bill, any House amendment would kill the bill. Although some still disagree with certain provisions or believe that the language can be improved, the sole question now before the House is whether there will be any bill at all.

Public confidence in government's ability to protect both consumers and businesses from antitrust violators has been shaken. This legislation represents a step in the right direction to restore public confidence.

Now it is time for a truce. Let us finally approve this vital legislation. We urge you to support H.R. 8532 on the House floor this week.

Respectfully submitted,

Consumer Federation of America, National Retired Teachers Association, American Association of Retired Persons, Computer and Communications Industry Assn., United Mine Workers of America, National Association of Attorneys General, National Farmers Union, Congress Watch, Citizens for Class Action Lawsuits, National Council of Senator Citizens, United Steelworkers of America, National Consumer Congress, International Union of Electric, Radio and Machine Workers, Public Interest Economics Center, United Auto Workers, National Rural Electric Cooperative Assn., MCI Communications Corp., International Ladies Garment Workers Union, American Federation of State, County, and Municipal Employees.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., September 15, 1976.

DEAR REPRESENTATIVE: Tomorrow you will vote on the most critical piece of antitrust legislation of the last 25 years. Consumer Federation of America actively supports this legislation and is particularly enthusiastic about the *Parens Patriae* provisions.

The bill is a recognition of the fact that antitrust violations, including price-fixing, cost consumers incalculable sums of money every year. In addition, they contribute to the increasing erosion of public confidence in industry and in the ability of the federal government to enforce antitrust laws. Obviously it is unrealistic to rely on the federal government for adequate and comprehensive antitrust enforcement, particularly when the annual funding for federal antitrust enforcement is equal to the sum expended by one giant firm in defending itself against an antitrust action.

Individual consumers usually lack the expertise and resources to bring private antitrust actions. They also lack the motivation to bring a lawsuit when, for example, the price-fixing results in an individual product cost increase of less than a dollar. Cumulatively, however, the cost impact is millions of dollars. Within the past year, seven individuals did bring an antitrust action for price-fixing against a major food chain resulting in a jury award in excess of $32.7 million. Unfortunately, private citizen action is very much the exception, not the rule.

H.R. 8532 is a practical and much needed approach to this consumer problem. By allowing state Attorneys General on behalf of the citizens of their states to bring civil actions for antitrust violations, the law increases the ability of state Attorneys General to afford consumers the protection and economic benefits they deserve.

Unfortunately, the merits of the legislation have been clouded by a most regrettable misunderstanding. The question is whether two provisions of this Senate-passed substitute were agreed to during advance informal negotiations with members of the House Judiciary Monopolies and Commercial Law Subcommittee who had been appointed as conferees. Informal negotiations were pragmatically necessary because Senator James Allen (D-AL) had indicated that he would filibuster both the naming of conferees and the conference report itself.

Obviously we did not participate in those informal negotiations and are not in a position to comment on the origin or details of the misunderstanding. Please find enclosed, however, a statement of Senator Hugh Scott (R-PA) which sheds some light on the misunderstanding. Yet before we discuss the substance of the two controversial issues, we feel compelled to emphasize in the strongest possible terms that any action to recommit, to amend or to refer this bill to conference will have the very real effect of killing the legislation. The reason is simple. Because it is so late in the Congressional year, the Senate leadership has made it clear that it cannot afford to waste the floor time which would be absorbed by the minimally two Allen filibusters which would definitely result if the bill is sent back for any further Senate action.

Therefore, regardless of how you view the procedural principles involved, we implore you to consider a still higher principle—namely, that consumers deserve and demand the strong antitrust law and enforcement that the Ford Administration promised would be its best remedy for the economic ills which have beset this country.

We share the frustration of those who deplore the fact that the legislation as introduced has been gradually narrowed and thus weakened. Nonetheless, we are persuaded that the Senate-passed substitute is infinitely better than the status quo and is a promising step in the right direction.

As to the two controversial features of the substitute, please consider the following:

1. *Contingency Fees.*—The expression "contingency fees" in the context of class action antitrust suits often conjures up images of greedy attorneys reaping a sizeable percentage (e.g. 34%, 50%) of a potentially enormous court award to the tune of thousands or millions of dollars. The Senate-passed substitute eliminates that potential windfall because it contains an outright ban on contingency fees which are percentages of the court award. Non-percentage contingency fees must be approved by the court (for example, if the case is unsuccessful the plaintiff's attorney receives nothing; if successful, the attorney receives a fee of $50 per hour.

It cannot be overemphasized that in more than one-third of the states there is not a sufficient staff or budget in the Attorney General's office to bring more than a bare minimum number of *parens patriae* cases. If the legislation is to have any practical significance for these states, they must be provided with the flexibility to utilize the services of private practioners.

2. *Aggregate Damages.*—In the original House-passed version, treble damages could be reduced to single damages when a defendant can establish that the violation was in good faith. The rationale of that House provision was to protect certain existent good-faith practices from being the target of litigation. As the Senate-passed substitute allows treble damages for prospective price-fixing, that earlier provision is no longer necessary.

With these considerations in mind, we urge you to vote in favor of H.R. 8532 so that state governments can be equipped with expanded legal rights to enforce antitrust laws for the benefit of consumers.

Very truly yours,

CAROL TUCKER FOREMAN,
Executive Director.
KATHLEEN F. O'REILLY,
Legislative Director.

CONGRESS WATCH,
Washington, D.C., September 13, 1976.

DEAR REPRESENTATIVE: This week the House will vote on a motion to concur in the Senate substitute amendment to the antitrust bill, H.R. 8532, an omnibus bill which increases the investigatory powers of federal antitrust enforcement agencies and grants states attorneys general the power to represent their citizens in civil antitrust cases. If this motion is rejected, and the bill is amended, this piece of antitrust legislation is dead for this Congress.

Normally, any further change in the House bill as amended by the Senate would merely lead to a conference (since it cannot be amended beyond the third degree). Because fourteen legislative days have been wasted so far by opponents of this bill in the Senate, Majority Leader Mansfield has announced that he will not schedule the appointment of conferees and the conference report. Just two weeks ago, the appointment of conferees was filibustered in the Senate, the first time such an action has been taken since 1946. To avoid the three cloture votes necessary to disengage a filibuster of the appointment of conferees, negotiations were held between the House and Senate Antitrust Subcommittees, resulting in the compromise passed. Even if Senator Mansfield were willing to schedule the cloture votes needed to appoint conferees at this late date the opponents could easily delay the bill beyond the date now set for adjournment, killing other House-passed legislation in the process.

The House is being urged to open the bill for amendment by Representatives who never supported the bill in the first place. They can claim to have been mistreated only if they ignore the fact that the Senate substitute is much closer to the House bill than to the Senate version. Of forty-one disputed issues, the House language was accepted twenty-five times, the Senate six, and ten issues were compromised.

The House Committee Republicans are complaining about two issues which are not substantial enough to warrant killing the entire bill. These issues have shrunk in importance because the original committee bill is now effectively restricted to price fixing and no longer covers a variety of antitrust violations.

1. One issue is whether to insist upon the House provisions which allow treble damages only when the price fixer was acting willfully and in bad faith. These requirements were dropped because of the improbability of finding an unintentional price fixer and the prodigious but unproductive use defendants would likely make of those defenses, wasting time and money. Since these limitations on damages would apply only to suits instituted by state attorneys general, an anomaly would be created: there would be a great gap between the damage recoveries depending on whether the state or federal law enforcement agencies were prosecuting the violation. Some legitimate concern has been expressed over potential reliance by defendants upon precedence which is subsequently overturned by the court, such as when the Supreme Court recently outlawed minimum attorney schedules. The sponsors of the legislation have agreed to a floor colloquy to cover this rare situation.

2. The second issue raised regards contingency fees. Both the House and Senate rejected attempts to alter the ban on contingency fees. However, negotiations with Senators opposed to contingency fees produced a compromise which eliminated the primary concern of these Senators: that attorneys would be awarded large percentages of the state's recovery. The compromise ties the attorney's fees to the number of hours worked by the attorney, and is supervised and determined solely by the court. To go further would impair the ability of the court to award fees, which opponents of contingency in both Houses have stated is not their intent.

The House opponents of this bill are trying to exploit the parliamentary predicament faced by the bill's proponents in order to kill this landmark legislation on procedural rather than substantive grounds. But their motivations are clear. The fact is that everyone concerned would prefer a conference, but the dilatory tactics of a Senate minority have made that impossible. This legislation has already been greatly restricted in scope from the original committee passed version, and is more faithful to the original House passed bill than are most conference reports.

The significance of this bill should not be underestimated. This is the first major piece of antitrust legislation to pass both houses of Congress in twenty-five years. Even though its application has been effectively limited to price fixing, that violation alone cost the American people $70 billion annually, according to former Deputy Attorney General for Antitrust Thomas Kauper. The tremendous potential impact of this legislation is substantiated by the vicious lobbying campaign being waged by its corporate opponents, such as the Business Roundtable. Its earnest opposition should be no surprise, since during the past ten years seventy of the 160 Roundtable members have been found guilty of antitrust law violations, have signed cease or desist orders, or have antitrust cases pending.

Some officeholders, including the President, have advocated using the antitrust laws as a substitute for government regulation. Ironically, when legislation to make these laws functional is proposed, these antitrust advocates become antitrust adversaries, or they quietly try to kill the bill by maneuvering it down a procedural back alley. The attempt to defeat the motion to concur in the Senate antitrust bill, H.R. 8532, is such an attempt. We urge you to support the motion.

Sincerely,

JOAN CLAYBROOK,
MITCHELL ROFSKY.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield, I did not want to limit the language just to price fixing cases but I only wanted single damages to be recovered in parens patriae cases whether the basis for the action was price-fixing or some other antitrust violation. When the good faith provisions were offered as an amendment to this bill, there were other types of cases, in addition to price-fixing cases, where defendants might have acted in good faith. The "dear colleague" letter which the gentleman from Ohio (Mr. SEIBERLING) himself signed indicated there can be good faith violations—there should be an opportunity to reduce the damages in such cases from triple damages to single damages. If this is the law at this time—under case law and court decisions—why do we not put it in the statute? We are admitting it is the law but we are not putting into the statute what the gentleman is saying is the law.

Mr. SEIBERLING. I would just like to say there is no point in putting in something which is superfluous, but I would read from page 7038, the gentleman's own interpretation of this bill even without the Flowers amendment:

> What my amendment would do would be to allow treble damages only in cases where there is a willful or deliberate violation of the antitrust law.

Mr. Speaker, the gentleman was talking about the entire body of antitrust law, not just price fixing.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I commend the chairman for listing all the areas where the Senate did recede from its position, but I would suggest that that was because of the carefully drafted language and the merit and the equity of the House version of the CID bill and the premerger notification bill. Many of the Senate provisions were not only inequitable, but I would suggest unconstitutional, which is why they have yielded to the House position. There are several letters circulated that those opposed to this bill as it is now written are trying to kill it through a procedural device.

I think the gentleman from New Jersey (Mr. RODINO) would verify that I voted for this bill in the subcommittee and voted for it in the full committee and took an active part in debate on the floor in support of it, so there should be no doubt about my commitment to the concept of parens patriae; but I must express my objection to the newly added contingent fee arrangement in this legislation and the elimination of the defense of good faith. I know a number of my colleagues are concerned about this. The gentleman from California (Mr. ROUSSELOT) had to leave, but the gentleman did express to me his concern about these two points and these two points only. I suggest the gentleman is expressing this as a matter of good faith and is not trying to kill the bill.

One Senator had threatened to filibuster this measure and that is why the bill has arrived here in its present form. I do not think we should allow one set of vocal cords to strangle the will of this House.

Again, there will be some discussion by the gentleman from Alabama (Mr. FLOWERS). Perhaps the gentleman could answer some questions I have about good faith.

The gentleman from Ohio (Mr. SEIBERLING) suggests the current law protects those that act in good faith. My understanding of the current antitrust law is that only where we have a complete reversal of the Supreme Court decision has the Court moved in the direction to allow good faith as a defense.

Senator KENNEDY said yesterday that only those that wish to deliberately violate our antitrust laws should fear this legislation. I agree with the Senator's use of the word "deliberately."

I want to know about those areas that are still vague. For example, in Parker against Brown the Court said that where there is a State regulatory scheme being followed that there is an exemption from the antitrust laws. This has been cut back by the recent Goldfarb decision which permits the exemption only if that individual is acting under State compulsion. There are individual decisions that show that there may be gray areas. I am concerned about those individuals acting in good faith based upon prior law, yet might not be acting under State compulsion as finally construed by the Supreme Court. What about those instances? That is why we insisted on the provision of good faith. That is my principal concern over the elimination of the House provision.

Mr. RODINO. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, as a member of the Monopolies Subcommittee of the Judiciary Committee, I would like to clarify a few points about this legislation with my distinguished committee chairman, Mr. RODINO, before we act.

On Thursday, August 26, the House conferees met for the purpose of informally negotiating a possible compromise bill that both Houses could accept without a formal conference. We did not sit down with the Senators. Instead, we met alone for several hours into the evening to draft a substitute that would represent our final bargaining position. We submitted this draft to the Senators the next morning. This House draft was accepted in toto by the Senators with two exceptions. These exceptions were, first, the elimination of both the word "willful" and the good faith proviso from the fluid recovery provisions; and, second, the adoption of the Senate ban on percentage-based contingency fees in lieu of the total House ban on all contingency fees. I thus agree with the statements of my distinguished colleagues Messrs. McCLORY and RAILSBACK 2 weeks ago that there was no compromise agreed to and in fact no meeting between the Senate managers and the House conferees.

I cannot, however, agree that these two changes go to the heart and soul of this legislation. In fact, it is wholly erroneous to refer to the bill pending before us today as the Senate proposal. To the contrary, the bill we are about to vote upon was drafted by our conferees and staff and accepted by the Senate verbatim with just two changes. I am therefore amused by the Senate's reference to our bill as the so-called Byrd substitute. This legislation is in fact a House substitute which embodies all the basic House concepts. Senators ABOUREZK and KENNEDY, the Senate negotiators, were really confirming this when they pointed out how the bill pending before us and drafted by us rejects most of the Senate positions.

As Senator ABOUREZK pointed out on September 7, for example, the fluid recovery provision—not contingency fees—is, and I am quoting, "the heart" of the parens patriae title. As I shall remind everyone, this provision represents the basic House approach, not the Senate. The essential point is that while the two Senate changes in the House bill are not unimportant, they are not at the heart of this legislation. They cannot alter the fact that with the exception of those changes and the Senate retroactivity provision, what we are voting upon today is the House bill, both in specific detail and general approach.

With this background in mind, Mr. RODINO and I would like to assure the House on the following points:

Mr. Speaker, I was the author of the amendment which limited the use of the aggregate damages provision to price fixing. I would like to state the reasons why my amendment initially contained the word "willful" and why its elimination is acceptable to the House. Prior to consideration of my amendment, the House had adopted the good faith proviso offered by Mr. McCLORY to protect inadvertent violators. I believed that it would not achieve adequate protection. This is because it would not prevent the filing of punitive lawsuits which would in all likelihood force defendants into settlements before the good faith proviso could ever come into effect. Accordingly, I offered my amendment so as to limit damage aggregation to the clearest, most pernicious and—it now appears from the Justice Department's recent efforts—the most frequent violation.

I did not intend the word "willful" to impose a criminal burden of proof. Rather, I used the word to make sure that States would not try to allege new theories of price fixing such as conscious parallelism, not now accepted in law, in order to bring suits under some radical new theory of what constitutes price fixing.

I was also concerned with permitting a court to assess damages retroactively after overruling long-accepted practices, such as minimum fee schedules, or prior court rulings of exemption, such as the baseball exemption. The House bill did not at that time have a provision against nonretroactivity.

The adoption of my statement rendered Mr. McCLORY's amendment superfluous, but it was impossible procedurally to delete it. However, the Senate did delete the proviso when it adopted the House aggregate damages provision as part of the final Chiles-Byrd compromise on June 10 prior to initial Senate passage of H.R. 8532. See page 17545 of the June 10, 1976 CONGRESSIONAL RECORD. The authors of that compromise, Senators CHILES, PERCY, and JAVITS, also determined to delete the word "willful," because they feared a criminal standard, which I never intended, might be imposed. But they did so only after a detailed colloquy to satisfy the two concerns I had—to limit the bill to the existing law on price-fixing conspiracies and to guard against retroactivity.

A good faith defense is simply not necessary to legislation limited to price fixing. Competitors must in fact contract, combine, or conspire together in some manner, deliberately agree to fix prices, and actually adhere to the agreement thereafter before the key parens patriae provision applies. Price fixing has always required a deliberate, knowing and intentional combination, and the aggregate damages provision is limited to this kind of violation. Good faith cannot by definition be present, except in the very limited circumstances where the courts or Congress overrule an exemption or provision for immunity. I think we have taken care of that problem by adopting the Senate nonretroactivity provision. It is our intent, as I believe it was the intent of Senator PERCY, that courts not apply aggregate damages retroactively when and if a specific exemption or immunity is withdrawn in the future.

There are, of course, case precedents for denying retroactive damages in similar circumstances. See, for example, *Chevron Oil Co.* v. *Huson*, 404 U.S. 97. In our opinion, however, these cases leave too much to the equitable discretion of a district court. It is our intention by accepting the Senate non-retroactivity provision in our House substitute to require prospective treatment of aggregate damages where there is reasonable reliance on immunity or an exemption later altered. The Supreme Court's recent Cantor against Detroit Edison decision is a good example of where the dissent's fears about a defendant's guessing wrong have no foundation, at least as far as this legislation is concerned.

NEW CAUSE OF ACTION ISSUE

One of my particular concerns is the discussion on page 29342 of the RECORD of September 8, under the heading "Separate Cause of Action," in Senator HART's insertion. In that discussion, Senator HART's paper states that the bill that we passed "purported to be entirely procedural in nature." That is correct. The paper then says that the original Senate-passed bill created a "separate cause of action in the State," regardless of whether consumers actually have a cause of action. It says that the Senate bill was, and I quote, "more than merely procedural because it deliberately bypassed some of the language of section 4 of the Clayton Act." Senator HART's statement then indicates that the new version proposed by the Byrd motion, which was supposedly agreed to by the House conferees, "adopts the basic Senate approach." According to the statement, this would mean that there would be liability to the State in a parens patriae action even if, under existing principles of substantive antitrust law, consumers do not have a cause of action or a right of recovery at all.

As has been made clear, there was no such agreement to adopt the basic Senate approach. Quite to the contrary, the bill ultimately voted upon by the Senate was drafted by us and based on the basic House approach. I would therefore like to confirm that the House conferees never committed themselves to the changes and objectives set out in Senator HART's statement; and second, that enactment of the bill before us would not create a new cause of action that would establish new liability or permit right to recovery where none would otherwise exist under the antitrust laws.

The bill is to provide a practical procedural mechanism for enforcing antitrust liability, but without changing the basic substantive principles which determine whether there is any liability or a right to recovery. I do not understand how the Senate could have had a more sweeping objective after it substituted the House aggregate damages provision for the Senate Judiciary Committee version on the Senate floor in June.

In any event, I can state clearly that neither I, nor to the best of my knowledge, any of the House conferees, agreed to such a fundamental change in our intention. We have always insisted that the bill is procedural and not substantive, and is simply designed to provide a practical mechanism by which a State attorney general can step into the shoes of the consumers in the State to enforce their antitrust claims. An essential part of this objective is that the legislation would not create liability to consumers where the courts would otherwise hold there is no compensable injury to consumers.

To make sure of our intent, we in fact added to the House substitute adopted by the Senate some language that was not originally included in our bill. This new language is the phrase "for injury sustained by such natural persons to their property" in section 4C(a)(1). This is basically the same language found in section 4 of the Clayton Act, which creates treble-damage liability to a person who "is injured in his business or property" by an antitrust violation. We included this language keyed into section 4 of the Clayton Act in order to make it crystal clear that the attorney general is simply being empowered to sue on behalf of consumers when and if he can demonstrate, in accordance with the standards applied under section 4, that consumers have been injured in their property.

Finally, I would like to refer to the statement made on the Senate floor by Senator ABOUREZK, the Senate floor's manager and principal negotiator:

> Let me emphasize one thing. The bill creates no new antitrust liability, it merely provides an effective mechanism for enforcement of the existing antitrust laws. (Page 29146.)

I believe that statement accurately reflects what I assume was the consensus, namely, that the enactment of the pending parens patriae bill would not change any of the rules of law that determine whether or not consumers have any right of recovery.

There also arises a question concerning the part of section 4C(a)(1) of H.R. 8532 that prohibits duplicative damage awards. When we originally passed this bill in this House, we did not include similar language because we thought it unnecessary. That is, the legislation before us requires the State attorneys general to bear the burden of proving, as a condition to obtaining any recovery, that conduct shown to be in violation of the antitrust laws caused actual injury to consumers rather than someone else in the chain of distribution. Thus, for example, a State attorney general would bear the burden of proving by competent evidence that any illegal overcharge was in fact passed on to consumers. Accordingly, there would be virtually no risk of a duplicative damage award. When we drafted the House substitute for submission to the Senate managers in late August, we decided to make this intent clear and thus added an express prohibition against duplicative damages.

I am also troubled by paragraph six of the so-called statement inserted into the RECORD by the senior Senator from Michigan when the House substitute was passed in the Senate on September 8. This statement is unclear.

It correctly states that a State attorney general will have to establish the amount of damage properly allocable to consumers. But it seems to suggest that in some, unspecified circumstances the defendants will have the burden of proving that the effects of anticompetitive activity were or were not passed on to consumers. This latter suggestion is incorrect. I know that the House conferees communicated only with Senators KENNEDY and ABOUREZK, so that Senator HART's misstatement is perhaps understandable. But to avoid any possibility of confusion, I would like to confirm my understanding that we have no intention of changing the law to require the defendant to show who was and who was not injured by his alleged misconduct.

Not all antitrust violations injure all economic actors along a chain of distribution, and not all antitrust violations, including price fixing, ultimately cause actual injury to consumers. Title III of H.R. 8532 is procedural only, and is not intended to change the requirement that anyone suing under the antitrust laws, including State attorneys general representing the interests of consumers, must bear the burden of proving that injuries caused by anticompetitive conduct befell them, rather than anyone else in the chain of distribution.

The aggregate damages provision offers the attorney general an alternate way of proving the scale of damages suffered by consumers once price fixing has been found. But the burden of proving both the fact of actual injury to consumers and the scale of damages suffered by consumers remains with the attorney general in all parens patriae cases that would be brought under this bill.

Mr. Speaker, there is one further point I think should be discussed. Both the original House CID bill, H.R. 13489, and title I of the House substitute, which is virtually identical and which is now before us, make the standards of the Federal Rules of Civil Procedure applicable to CIDs. The Senate bill did not contain a similar provision. The purpose of the House provision is set forth in the House Judiciary Committee report. There is, however, a curious discussion of this provision in the so-called additional statement of Senator HART inserted in the Senate RECORD after the debate. This discussion may be interpreted to imply that the standards of the Federal rules apply only to the extent that they are identical to the grand jury protections against undue burden or oppression. For example, the statement says that the protection against annoyance and embarrassment contained in rule 26 is not applicable. As far as we are concerned, this is simply wrong. It is our intent to stand by the additional protections afforded by the Federal rules. I would ask Mr. RODINO if this is not correct.

Mr. RODINO. That is correct. Our committee report is unequivocal. That report says on page 12 that except where the Federal rules are inconsistent with the CID act, as set forth on page 12, then, and I quote, "the Federal judiciary may treat objections to CID's much like objections to civil discovery requests."

Mr. FLOWERS. I have really no reservations at this point about going with the language that is here before us as a result of a process that I do not necessarily agree with, but we are in the position now of determining whether or not we are going to have legislation this year, and I think we ought to move forward.

Mr. COHEN. As I understand it, the House version originally provided for a good faith provision, and the gentleman from Alabama is the one who insisted upon that, as I recall.

Mr. FLOWERS. Well, the good faith provision was a part of the measure I amended to limit specifically to price fixing in, so it was attached to it, but that is not necessary, in my judgment, because price fixing inherently is not in good faith.

Mr. COHEN. Would the gentleman suggest that is true for the practice of minimum bar fee schedules, real estate schedules, for engineers and architects?

Mr. FLOWERS. I think there could be good faith reliance on what one considered to be a regular or accepted practice, and that is why we want to emphasize so strongly the line of cases which allow the court the discretion to allow no damages in those instances.

Mr. COHEN. Under this bill, is it the gentleman's opinion that be followed by the court, or at least develop a legislative history in those cases where they are, in fact, relied upon, primarily administrative and judicial decisions? That is, not enforce treble damages?

Mr. FLOWERS. I would hope very strongly that the court would look to legislative history and abide by those terms.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. At the time I conferred with the gentleman from Illinois (Mr. McCLORY) on the drafting of the amendment which he offered, that had the good faith proviso in it, we were not contemplating a bill that had the aggregation of damages section limited by the Flowers amendment, which restricted it to price fixing. When the gentleman from Illinois offered his amendment, we did not have any price-fixing limitations in this section. It was only after he offered his amendment that the section was so limited.

As the gentleman will recall, I opposed that limitation but the House overruled my views. Thereafter, I went to the gentleman from Alabama and said, "You know, it does not make sense, now that we have limited this to price fixing, to say that defendants found guilty of price fixing can reduce damages by showing good faith. I really find it hard to conceive of price fixing in violation of the law in good faith." Yet that is the situation we found ourselves in, and that is why the Senate, very logically in my view, took it out. However, as a conferee, I had been willing to go along with leaving it in as a compromise.

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. RODINO. Mr. Speaker, I yield 2 additional minutes to the gentleman from Alabama.

Mr. FLOWERS. I think we have probably ridden this horse into the ground, and there is no sense in going over it again. I think there is another aspect of controversy here, or apparently in controversy, that there should be some discussion of, and that is the matter of contingency fees.

I was also the author of an amendment which would have allowed for a contingency fee in the true sense of the word; that is, a fee based upon a percentage amount of the recovery, because I felt in good faith that this would be helpful to small States such as my own, to employ expert legal counsel to represent them. Now, this body did not see it my way and voted down my amendment. So, we have now, in effect, a provision before this body which disallows that kind of contingency fee.

It allows only the historic attorney's fee. One can use the word "contingent" if one wishes in connection with it, but it is really an attorney's fee based upon success or lack of success, based upon time spent and all of the range of consideration that normally come to bear when a court sets a reasonable attorney's fee.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Arkansas.

Mr. THORNTON. I thank the gentleman for yielding.

As the gentleman knows, I strongly support the doctrine of parens patriae. However, I am concerned that in our enthusiasm for the good features of this bill, we are being asked to accept a harm which I think will airse from the approval of contingency fees.

In my view the allowance of contingent fees is inconsistent with the doctrine of parens patriae. That doctrine rests upon the theory that the State should accept the responsibility of representing classes of its citizens in certain antitrust actions.

The proper exercise of that responsibility requires that the State be accountable for its actions, and in complete charge of the case.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. HUTCHINSON), the ranking minority member of the committee.

Mr. THORNTON. Mr. Speaker, will the gentleman yield so that I might continue my statement?

Mr. HUTCHINSON. I yield to the gentleman.

Mr. THORNTON. Mr. Speaker, I would like to continue my statement by saying that the doctrine of parens patriae necessarily includes accountability, and accountability is not served by contingent fee contracts. Law firms should not be permitted to approach States with a no-risk contract, by means of which the law firm gains control of the case.

The primary interest of a firm employed under such a contract would not be in protecting the interests of the citizens of the State, but in whether or not it gains a fee from the rendition of services.

Parens patriae actions brought on behalf of a State should be the responsibility of the State attorney general, who is accountable to the electorate, and such cases should remain under the State attorney general's control.

I believe that States can and should develop the resources and capabilities to represent the State's legal interests wherever needed.

I do not believe that only the largest States need or can afford such a legal capability within the State attorney general's office. The State of Arkansas has demonstrated that a State can develop its own effective antitrust legal resources.

Where needed, a State attorney general can draw on the advice and assistance of the Antitrust Division of the U.S. Department of Justitce. Where needed, he can also hire outside members of the private antitrust bar, on an hourly or per diem basis, out of the resources of the State, to assist the State in handling unusual situations requiring specialized expertise.

States should develop their own inhouse legal capabilities, and hire any needed assistance by outside lawyers on a definite and specific hourly rate or dollar compensation basis out of the State's resources, based on the attorney general's responsible professional judgment as to the merits and prospects of a case.

I support the doctrine of parens patriae but I believe the House's prohibition against contingency fees should be insisted upon in this bill.

Mr. HUTCHINSON. Mr. Speaker, I want to state to the Members on the floor that there are those of us on the floor who are fully in support of two-thirds of this bill but are strongly opposed to the concept of parens patriae.

I oppose parens patriae because I think it is poor public policy to delegate to the States their responsibility of enforcing Federal antitrust laws. I think that we should have strong antitrust enforcement. We need that. But it should be done by the Federal Government because they are Federal laws, and it should be done by the Department of Justice. I think it is very poor public policy for us to delegate to State attorneys general, who go out and run for office every couple of years or every 4 years, the power of starting all manner of suits, perhaps harassing suits, against alleged violators of the Federal antitrust laws, and then with the realization that there is not going to be anybody in the public who is going to actually receive those damages. This is just a new kind of a fining procedure. If we want to assess fines, it seems to me as though that ought to be done through the criminal law.

Mr. Speaker, the Senate amendment before us today has three titles. Two titles are good legislation and one title is bad. The two good titles are the first two, concerning civil investigative demands and premerger notification. They provide reasonable help to Federal law enforcement enforcing Federal antitrust laws. And they are strongly supported by the administration. Moreover, the Senate substitute closely resembles the House bills which the House passed under suspension of the rules on August 2, 1976.

The third title, parens patriae, is not good legislation. It would embroil Federal antitrust enforcement in State politics. It would unfairly benefit State enforcement by providing special trial advantages not given to the people or to the Federal Government when they bring antitrust actions. And since big money would be involved, the authority given every State attorney general to dispense million dollar favors on his lawyer-friends will unfortunately breed scandal.

Now if that isn't bad enough, the Senate has sent us a new version, even worse. Under the Senate version, good faith violators will be hit with treble damages. The purpose of this, I suppose, is to deter people who think their activities are legal from going forward. Also under the Senate version, the State will be able to farm out these cases to friends of the attorney general without any financial risk to the State. The lifting of the ban on contingency fees will remove the brakes on this mischievous vehicle.

I address those in this body who thought last March that the House bill was a good idea: You better look closely at the Senate substitute because it is vastly different.

I bring to your attention Senator Hart's report on the substitute printed in the Congressional Record for September 8, 1976. On page 29342, it states that whereas the House bill was "procedural"—and that is correct, the Senate bill creates a new cause of action in order to reject "the use of such labels as 'standing,' 'manageability,' 'priority,' 'target area,' or 'remoteness' by the court to frustrate the intent of the legislation."

Well, the first two titles are House versions, and the third title is the Senate's, and the Senator for whom this bill is named should know what the Senate intended. But the legal implications of those quoted words are incredible.

What is the intention of this bill? What guidelines are there for this new cause of action that tosses aside tests of standing and casuality? According to the Senator's report, the intention is to permit those who were "denied the benefits of a free and open market to recover damages".

Well, I do not think the House can accept the untested breadth of the revised parens patriae title. The name is the same. But that is all. I hope that the Members of this body will not be intimidated and panicked into passing this legislation for fear that a vote for sound reason will be distorted by the newspapers as a vote against antitrust.

If the legislative intent of the authors of the language before us matters, if the addition of provisions the House already rejected matters, if the words before us matter, one cannot in good conscience vote to concur.

The choice is not a difficult one. Because if this package with all its bad provisions dies, the good within it still lives. The two titles other than parens patriae have an independent existence as House passed bills now awaiting Senate approval. So have no fear that in trying to restore the House position on parens patriae you might lose everything. Not so. For if parens patriae dies, the other titles can still easily be salvaged.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

In carrying on what the gentleman is saying, we are not only delegating to the attorneys general of the various States this authority, but we are delegating the authority to engage private attorneys and make contingency fee contracts with them.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. RODINO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 742]

Abzug
Ashley
Breaux
Burke, Calif.
Burke, Fla.
Carter
Cederberg
Chisholm
Cleveland
Cochran
Conlan
Conyers
D'Amours
Daniel, Dan
Derrick
Derwinski
Diggs
Eckhardt
Edwards, Calif.
Esch
Eshleman
Fish
Ford, Tenn.
Fraser
Fuqua
Green
Hansen
Harrington
Harsha
Hébert
Heinz
Helstoski
Hinshaw
Holland
Howe
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kelly
Ketchum
Koch
Landrum
Long, Md.
Madigan
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Milford
Mink
Murphy, N.Y.
Neal
Nolan
O'Hara
Passman
Patterson, Calif.
Pike
Pressler
Pritchard
Rees
Rhodes
Riegle
Rose
Rousselot
Santini
Sarbanes
Satterfield
Scheuer
Schneebeli
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Teague
Thompson
Thone
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Waxman
Wilson, C. H.
Winn
Wright
Yatron
Young, Alaska

The SPEAKER. On this rollcall 333 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDING THE CLAYTON ACT

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. I thank my chairman, the gentleman from New Jersey, for yielding.

Mr. Speaker, I am delighted, first of all, to see that the Chamber is full. We have been talking to a fairly empty House, and I think that this is an extremely important piece of legislation—a measure that is misunderstood by a lot of my colleagues.

There are three basic aspects of the legislation: one dealing with CID, civil investigative demands, which is noncontroversial, premerger notification, which is noncontroversial; and parens patriae, which has two areas of question, one dealing with a good faith defense to price fixing, which I think my colleague, the gentleman from Alabama, addressed very well in colloquy with my colleague, the gentleman from Maine; and the second dealing with contingency fees.

I think there is a great deal of misunderstanding as to what in effect is in the compromise, so I would like to address that one issue dealing with contingency fees. Clearly the compromise measure forbids percentage contingency fees. The House-passed version of H.R. 8532 contained a provision flatly prohibiting contingency fees of any kind. This provision was addressed primarily to those States which lacked their own in-house capacity to prosecute antitrust cases and are, therefore, required to retain outside counsel with expertise in the field of antitrust law to prosecute cases on behalf of the State. It was the intent of the original House version to prevent enterprising lawyers working on a flat percentage fee basis from maintaining these suits for their own enrichment rather than in the public interest. This was obviously a legitimate concern.

However, by prohibiting all contingency fees of any kind, the House bill went too far. As originally passed by the House, the only permissible fee would be paying lawyers on a straight hourly or per diem basis, regardless of the merits of the case or whether they win or lose.

While this amendment was well intentioned, it actually would have the opposite effect. From the standpoint of a lawyer earning an hourly or per diem fee, the longer the case and the longer he has the meter running, the better. The more protracted the litigation, the more money he makes. Certainly we should not encourage that type of arrangement as a matter of public policy.

There is one form of fee which provides the best of both worlds, and that is the one provided for in the amendment now before us. The legislation as now submitted would permit the type of fee arrangement whereby if the lawyer loses, he gets nothing, or his costs; but if he wins, he gets a reasonable hourly rate for his services, to be approved by the court.

The SPEAKER. The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield 30 additional seconds to the gentleman from New Jersey.

Mr. HUGHES. The compromise retains the original House bill's prohibition against flat percentage fees. However, it would permit a fee to be determined by the court on the basis of the actual hours put in by the attorney, the quality of the work, and the resulting benefits to the consumer. This type of approach would discourage frivolous suits and give a lawyer a strong incentive to win his case expeditiously.

I strongly urge my colleagues to ratify this reasonable approach to a most difficult issue.

The SPEAKER. The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, in the other body this bill is considered as a memorial to two formidable antitrust champions, Senator HART and Senator SCOTT and that is as it should be. However, it seems obvious to me that the Senate would not have taken the grave risk of challenging the House on the two most important issues in disagreement, especially after our displeasure was made a matter of record, unless either the chairman had given his approval to the Senate action or the Senate managers were confident that they could dispose of further House amendments prior to adjournment. Since the chairman has assured us that he did not approve of the Senate action, it may be that there is still time for the Senate to agree to House amendments.

Of course, some Members will argue that time has run out. There will be statements to that effect. But if you look behind those statements at the voting record of those who say that time has run out, you will see that they never have supported the House position banning contingency fees. So what is really happening should be clear: we are being panicked into abandoning the House position by those who never really liked it anyway.

With regard to the deletion of "good faith" defense, we are being given belated rationalizations that the amendment is unnecessary because its contents are already the law. This is news to some of us on the antitrust subcommittee as it must be to members of the antitrust bar. By elaborate argument, a few dicta, and a very limited discretionary exception are being inflated to appear as some general rule.

It should also be noted that this belated rationalization was not the thinking in the other body. Rather, the other body seemed to suggest that one could not fix prices in good faith—that the amendment was an impossibility. Here, we are told not that a good faith defense is impossible but that it is the law. Perhaps the House and the Senate managers should confer with each other on the question.

Finally, I am somewhat disturbed by the ex post facto attempt in the other body to write legislative history by inserting in the RECORD, after the debate had concluded, a statement which was erroneous in many particulars. I hope that in the future when this bill becomes law, with or without the amendments in controversy, that no court is deceived by this attempt.

Particularly, with regard to the first two titles, the Senate amendment is basically the House version. It would seem to me that the House reports on House language would be controlling.

Moreover, every Member of this body ought to know and every court ought to know that the House conferees met, having been informed of the desires of the Senate managers, and drafted the language of a proposed compromise. In doing so we did no violance to the provisions of the first two titles as they passed the House. With regard to title III, we created a hybrid. But our intention was never to dismiss legal doctrines of long standing as totally irrelevant. It is evident that the other body tampered substantially with our draft of title III, but its refusal to accept a good faith defense or a ban on contingency fees is not a basis for restructuring the parens patriae action itself.

Let me close with an example that should put this attempt in perspective. The House version had a provision that a CID could be objected to for reasons one might object to a grand jury subpena or a discovery order under the Federal rules of civil procedure. Let me tell you that certain House conferees were contacted by Senators who wanted this provision stricken or weakened because it was mischievous. Now it should be known that this provision and other similar ones were extremely helpful in getting this bill out of limbo. So the House conferees held fast, and the House language was retained verbatim.

The statement of intent now suggests that the Senate adopted the House language because it was essentially meaningless. The House report explains the language. It should be emphasized that the provision embracing the Federal rules would incorporate by reference any new developments thereunder, generally shows greater sensitivity to matters such as trade secrets, and would permit in appropriate cases protective orders and orders conditioning compliance upon the advancement of costs.

Finally, I want to concur in the earlier remarks by the chairman, the gentleman from New Jersey (Mr. RODINO), on the intention and purpose of the Senate amendment and the various differences between it and the three bills previously passed by the House. I think his remarks—except those relating to the "good faith" defense—reflect the views of us on the minority side of the subcommittee and accurately express the legislative intention of the language of the Senate amendment which we, in large part, drafted.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I am here to talk about something dear to my heart: attorneys' fees. The contingent fee section in the bill as reported by the informal conference is diametrically opposed to the position of the House. The position of the House was sustained by a wide margin. The position of the House was presented to the Senate. It narrowly failed in the Senate. Notwithstanding the weight of this support for the House language, it is abandoned in the proposal now before. Contingent fee payments, if approved by the court, are authorized in cases which are settled. This is the most common situation. In other words, current practice, and all of its excesses, is ratified in this bill.

The justification, Mr. Speaker, for contingent fees is that it allows the impoverished plaintiff an opportunity to hire the best legal brains available. That is why attorneys' fees on a contingent basis are condoned at all.

But does anybody here think that any State in the Union properly can be characterized as an impoverished plaintiff? Of course not. They should have the same burden as the defendant. When a defendant is served with a complaint, he hires an attorney and pays for legal services at an hourly rate. What is wrong with casting the same burden upon the plaintiff as well? Contingency fees ought to be eliminated, Mr. Speaker, in this class of cases, and that was the considered judgment of the House. We should not repudiate that judgment now.

Class actions have resulted in enormous fees to private counsel. Parens patriae actions will exacerbate this problem. The most classic illustration of what I am speaking about are the tetracycline cases in which roughly $200 million was distributed. The actions presumptively were brought on behalf of consumers. The consumers received about $40 million, and the attorneys got about $40 million. The rest was paid to the Government and other entities.

If we cut up $40 million among a dozen attorneys and cut up the remaining $40 million among millions of consumers, who really profits from the lawsuit? Was it brought because of the attorneys' economic interest or brought because of the possibility of recovering a dollar or two on behalf of the individual consumer? The answer is clear, and we should not tolerate it. This legislation grants enormous power to State government. It is going to be abused by State governments hiring counsel on a contingent basis.

The contingent fee language of the bill is deceptive. It purports only to eliminate some contingent fee arrangements, in fact it does not change present practice.

My colleague, Mr. Rousselot, has also expressed to me his concern over this section, and the bill as a whole. Well he might, for the legislation is unacceptable in its present form.

Mr. Speaker, let us stick to the House language.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. Flowers).

Mr. SEIBERLING. Mr. Speaker, will the gentleman from Alabama yield for one short observation?

Mr. FLOWERS. I yield to the gentleman from Ohio for a short observation only.

Mr. SEIBERLING. Mr. Speaker, the gentleman from California said that parens patriae cases have resulted in enormous attorney fees. I am sure that was a slip of the tongue, because unless this bill is passed, there is no basis for bringing parens patriae damage actions, and there have been none for damages up until now.

Mr. WIGGINS. Mr. Speaker, if the gentleman will yield, class actions of this sort have resulted in enormous fees.

Mr. FLOWERS. Mr. Speaker, I would also like to address the contingency fee issue and I ask my colleagues to pay close attention here, because I think we are in danger of being influenced by a false problem here.

Mr. Speaker, I want to assure my colleagues that I am not supporting the Senate change as an effort to obtain an amendment that was lost in March. The fact is that the Senate change closes a loophole that was permitted by the House provision, though perhaps not contemplated by its sponsor, the gentleman from California (Mr. Wiggins). This loophole existed because the original House version was not clear in its application to settlements as distinguished from litigated cases. There was, therefore, nothing to prohibit a State from agreeing to provide a portion of a settlement fund for the lawyer in addition to any fixed-fee arrangement, so long as the court approved. The Senate change does not prohibit hourly-based fees that are contingent upon success. But its ban of percentage-based fees applies to settlements and it does require the court not merely to approve, but in fact to determine the appropriate fee.

This is not a contingent fee arrangement in the normal sense in any way whatsoever. It is the normal, reasonable attorney's fee that we all know about, we are used to and the courts do it all over the land.

Let me ask my distinguished chairman, the gentleman from New Jersey (Mr. Rodino) if the gentleman agrees with this analysis here?

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the distinguished chairman.

Mr. RODINO. Mr. Speaker, I agree totally, because here we are dealing with a question that really gets to the heart of it, because the problem with fees is not their contingent nature. The problem really we are dealing with is the percentage arrangement that the State's lawyer extracts either from the State in his contract, or from the defendant in settlement negotiations. The Senate change would prohibit private settlement arrangements that result in percentage and other unreasonable fees coming out of the settlement fund and, thus, out of the pockets of consumers. It will do this by requiring the court—not the litigants—to determine the fees in all cases in the future, and not merely to approve the litigants' arrangements as in the past.

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. RODINO. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, we want to stress the word "determine." We intend by this to focus settlement negotiations on the merits of a case, and to leave the fee determination to the court, and that is where it should be. Ordinarily, if the plaintiff fails to prevail substantially and substantively in his complaint, no legal fees whatever would be approved by the court and that is why this method of dealing with contingent fees is acceptable to us.

Mr. Speaker, it is my intention to move the previous question on my earlier motion when I conclude my remarks. Before I do so, however, I want to take this final opportunity to remind the House that it will be this next vote—the vote on the previous question—that will determine the fate of this critical legislation, and to put it very succinctly and forcefully, we will have to either fish or cut bait. If those who want to support the type of legislation to enforce our antitrust laws, to protect competition, to protect the consumers' interests and are in support of this kind of legislation, then I think that it is up to them to support the motion on the previous question.

Mr. McCLORY. Mr. Speaker, I ask unanimous consent that the gentleman have 5 additional minutes.

The SPEAKER. The gentleman has no time left. The Chair has said he has 1½ minutes, and that is all that can be used.

Mr. RODINO. Mr. Speaker, the Committee on the Judiciary, has studied these specific issues for nearly 3 years; the House has passed nearly identical forms of this very bill four times already in this Congress. Yet because of the parliamentary situation, we have not yet enacted this badly needed legislation into law. If the previous question is not ordered on this next vote, the bill, I am afraid, will slip beyond us for the last time in this Congress.

I urge the help of all my colleagues, and I am certain American consumers will benefit greatly from your support.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. I just want to say that we have assurances from the other body that there will not be a filibuster and that there will be a prompt vote on the two amendments.

Mr. RODINO. I refuse to yield further because, Mr. Speaker, we have no such assurances.

Mr. McCLORY. I have them in writing, as the gentleman knows.

Mr. RODINO. Mr. Speaker, I move the previous question on the motion.

PARLIAMENTARY INQUIRY

Mr. McCLORY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McCLORY. Mr. Speaker, in view of the fact that rule XVII states that "It shall be an order—after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee," and in view of the fact that motions to commit are permitted when the stage of disagreement has been reached in the context of the consideration of conference reports, and in view of the fact that prior precedents indicate that a motion to commit is in order after the previous question has been ordered on a motion to concur in a Senate amendment (V, 5575), is it absolutely necessary to first vote down the previous question before I may be recognized to offer a motion to commit?

The SPEAKER. The answer to the specific question is "yes," but the precedent cited by the gentleman is not applicable in the present situation, since in this case the stage of disagreement has been reached and therefore the pending motion is most preferential as tending to resolve the differences between the Houses most quickly.

Mr. McCLORY. I thank the Chair.

Mr. ASHBROOK. Mr. Speaker, I had sought time to ask questions of the chairman regarding the effect of this legislation on current labor law. I feel that there are a number of areas where unions who support this legislation might find themselves with unexpected results not to their liking. Not that they would not deserve it but at least these questions should have been raised. In the Senate on September 8, Senator Hart obviously tried to anticipate some of the problems in labor law under parens patriae and insert remarks on pages 29343 and 29344. I think these remarks muddied the water.

Here are the questions I would have asked and the answers I would have given. I do not now know what answers the chairman would have gotten.

QUESTIONS AND ANSWERS CONCERNING THE LABOR ANTITRUST EXEMPTION

Q. If a union and an employer agree on the price at which the employer must sell his products, would the union be exempt from the antitrust laws?

A. No. The Supreme Court clearly stated such actions by a union would not be exempt from the antitrust laws. *Mine Workers* v. *Pennington,* 381, U.S. 657, 663, (1965) and *Meat Cutters* v. *Jewel Tea,* 381, U.S. 676, 689 (1965).

Q. Can a union agree with one employer, or set of employers, to impose a certain wage scale on employees of the employer or employers who are not in the union without violating the antitrust laws?

A. No. The Supreme Court has said such an agreement would clearly violate the antitrust laws. *Mine Workers* v. *Pennington,* 381 U.S. 657, 665–66 (1965).

Q. Can a union, without violating antitrust laws, agree with both contractors and manufacturers who employ the union's members that the contractors will buy goods only from the union's local manufacturers and the manufacturers will sell in the local area only to the union's contractors?

A. No. The Supreme Court found such an agreement was not exempt from the antitrust laws in *Allen Bradley Co.* v. *Union,* 325 U.S. 797 (1945).

Q. Can a union agree with an employer of its members that the employer will subcontract work only to firms who also have contracts with the union without violating the antitrust laws?

A. No. The Supreme Court clearly held such an agreement, or even attempts to force an employer to sign such an agreement, would violate the antitrust laws. *Connell Co.* v. *Plumbers & Steamfitters,* 421 U.S. 616, 623–25 (1975).

Q. Under the proposed legislation that we are here considering, would unions be subject to *parens patriae* suits in each of the instances that I have just cited?

A. Clearly they would where the violation could be alleged to have caused injury to consumers. The examples you cite point up the fact that contrary to a popular assumption, unions do not have blanket exemption from the antitrust laws. In fact, the examples you cite by no means exhaust the type of activity which would make labor unions vulnerable to *parens patriae* suits.

Q. Is there any exemption for labor unions written into this bill?

A. No; there is not.

Mr. RAILSBACK. Mr. Speaker, while my views on this legislation are well known, I want to commend Chairman Rodino and other members of the Judiciary Committee who have labored long and hard to produce this omnibus antitrust legislation.

Their endeavors are particularly praiseworthy to the extent the House is now voting on a more moderate enactment, particularly with respect to title III—parens patriae, which differs from the many extreme proposals which were advocated in the Senate and which are elaborated in the report of the Senate Committee on the Judiciary and in explanations during the voluminous Senate debates.

Among the moderating revisions in title III, for which I credit my colleagues in this Chamber, are the following:

First. The preservation of express parens patriae terminology, so as to insure historic fiduciary obligations of parens patriae, and other common law obligations.

Second. The retention of Clayton Act section 4 requirements of "injury" to the "property" of the natural persons for whom action is filed, as well as the required causal nexus that such "injury" is actually "sustained" by them "by reason of" a Sherman Act violation.

Third. Extension of all claims which properly belong to "any business entity" in the chain of distribution or causation.

Fourth. Judicial determination of the amount of any plaintiff's attorney's fee awarded in the case of a prevailing plaintiff who is entitled to treble damages and costs, "including a reasonable attorney's fee."

Fifth. Limitation of proven "aggregate" damages to actions where there has been a determination that defendants in fact, rather than by inference or implication, "agreed to fix prices in violation of the Sherman Act."

Sixth. Exclusion from participation in parens patriae actions of any private person hired on a "percentage" or "any other contingency fee basis," excepting only the court's "award of a reasonable attorney's fee to a prevailing plaintiff" as "determined under section 4C(d)(1)"—rather than out of a recovery which belongs in full to the State or to its residents, or out of proceeds of actions terminated without findings for a "prevailing plaintiff," under section 4C(c) or otherwise.

Seventh. Retention of the authority of State legislatures to provide by law for the nonapplicability of the Federal parens patriae authorization in such a State, and to determine by State law who, other than the State's chief legal officer, is to be authorized to bring parens patriae actions under the new Federal cause of action established under section 4C.

Eighth. Confirmation that the provisions of title III are inapplicable to preenactment causes of action, with an express limitation barring claims for "any injury sustained prior to the date of enactment."

In summary:

I want to give credit where credit is due, and commend Chairman Rodino and his collaborators for many improvements which moderate the more extreme positions of the Senate proponents.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCLORY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 177, not voting 38, as follows:

[Roll No. 743]

AYES—215

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Fraser
Gaydos
Gibbons
Gilman
Green
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W.Va.
Heckler, Mass.
Heinz
Hicks
Hightower
Holtzman
Howard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lehman
Long, Md.
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Studds
Sullivan
Symington
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Ga.
Zablocki
Zeferetti

NOES—177

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Findley
Fish
Flynt
Foley
Forsythe
Fountain
Frenzel
Frey
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley

Hall, Tex.
Hammerschmidt
Harsha
Hefner
Henderson
Hillis
Holt
Horton
Hubbard
Hutchinson
Hyde
Jarman
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Karth
Kasten
Kazen
Kemp
Kindness
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Passman
Paul
Pettis
Poage
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—38

Alexander
Ashley
Carter
Chisholm
Cleveland
Conlan
Eckhardt
Esch
Eshleman
Ford, Tenn.
Fuqua
Hansen
Harrington
Hébert
Helstoski
Hinshaw
Holland
Howe
Johnson, Pa.
Jones, Tenn.
Kelly
Ketchum
Matsunaga
Mazzoli
Meeds
Metcalfe
Mink
Patterson, Calif.
Riegle
Rose
Rousselot
Sarbanes
Steiger, Ariz.
Stephens
Teague
Vander Veen
Winn
Yatron

The Clerk announced the following pairs:

Mr. Hébert with Mr. Johnson of Pennsylvania.
Mrs. Mink with Mr. Winn.
Mr. Mazzoli with Mr. Cleveland.
Mr. Harrington with Mr. Eshleman.
Mr. Eckhardt with Mr. Hansen.
Mr. Ashley with Mr. Ketchum.
Mr. Sarbanes with Mr. Rousselot.
Mr. Patterson of California with Mr. Kelly.
Mr. Yatron with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Carter.
Mr. Jones of Tennessee with Mr. Esch.
Mr. Fuqua with Mr. Conlan.
Mrs. Chisholm with Mr. Ford of Tennessee.
Mr. Vander Veen with Mr. Helstoski.
Mr. Stephens with Mr. Matsunaga.
Mr. Riegle with Mr. Holland.
Mr. Meeds with Mr. Rose.
Mr. Alexander with Mr. Teague.

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. COHEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 242, nays 138, not voting 50, as follows:

[Roll No. 744]

YEAS—242

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Carr
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Gibbons
Gilman
Gradison
Grassley
Green
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hightower
Holtzman
Howard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Kastenmeier
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Steelman
Stokes
Studds
Sullivan
Symington
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Ga.
Zablocki
Zeferetti

NAYS—138

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bowen
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Flynt
Forsythe
Fountain
Frenzel
Frey
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harsha
Hefner
Henderson
Hillis
Holt
Horton
Hubbard
Hutchinson
Hyde
Jarman
Jenrette
Johnson, Colo
Jones, N.C.
Kasten
Kazen
Kemp
Kindness
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McCollister
McDonald
McEwen
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Nichols
Paul
Pettis
Poage
Quie
Quillen
Regula
Rhodes
Roberts
Robinson
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Steiger, Wis.
Stratton
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—50

Alexander
Ashley
Burton, John
Carter
Chisholm
Clay
Cleveland
Conlan
Eckhardt
Esch
Eshleman
Ford, Tenn.
Fuqua
Hansen
Harrington
Hébert
Helstoski
Hinshaw
Holland
Howe
Johnson, Pa.
Jones, Tenn.
Karth
Kelly
Ketchum
Matsunaga
Mazzoli
Meeds
Metcalfe
Mink
Ottinger
Passman
Patterson, Calif.
Riegle
Rose
Rousselot
Ryan
Sarbanes
Slack
Stark
Steed
Steiger, Ariz.
Stephens
Stuckey
Talcott
Teague
Vander Veen
Wilson, C. H.
Winn
Yatron

The Clerk announced the following pairs:

Mr. Hébert with Mr. Winn.

Mrs. Chisholm with Mr. Eshleman.

Mr. Slack with Mr. Ketchum.

Mr. Yatron with Mr. Johnson of Pennsylvania.

Mr. Metcalfe with Mr. Steiger of Arizona.

Mr. Passman with Mr. Carter.

Mr. Eckhardt with Mr. Hansen.

Mr. Ashley with Mr. Talcott.

Mr. Fuqua with Mr. Cleveland.

Mr. Karth with Mr. Rousselot.

Mr. Mazzoli with Mr. Kelly.

Mr. Rose with Mr. Esch.

Mr. Stephens with Mr. Conlan.

Mr. Sarbanes with Mr. Ottinger.

Mrs. Mink with Mr. Alexander.

Mr. Matsunaga with Mr. Ryan.

Mr. Harrington with Mr. Meeds.

Mr. Clay with Mr. Stark.

Mr. Jones of Tennessee with Mr. Ford of Tennessee.

Mr. Helstoski with Mr. Riegle.

Mr. Vander Veen with Mr. Charles H. Wilson of California.

Mr. Teague with Mr. Stuckey.

Mr. Steed with Mr. Patterson of California.

Mr. John Burton with Mr. Holland.

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE CERTAIN REPORTS

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, Thursday, September 16, 1976, to file reports on the following bills:

H.R. 15134. A bill to amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public buildings and to amend the act of August 14, 1968, relating to the accessibility of certain buildings to the physically handicapped;

H.R. 15026. A bill to authorize reduced fare transportation on a space available basis for elderly persons and handicapped persons;

H.R. 12349. A bill to equalize the treatment afforded to tax loss carrybacks in determining regional air carrier subsidy;

H.R. 3647. A bill to amend the Federal Aviation Act of 1958 to permit aliens holding permanent residence visas to register aircraft in the United States; and

H.R. 12484. A bill to amend the Federal Aviation Act of 1958, to provide for expedited consideration by the Civil Aeronautics Board of applications for certificates of public convenience and necessity.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1977

Mr. ADAMS. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 11, 1976.)

Mr. ADAMS (during the reading). Mr. Speaker, I ask unanimous consent that the conference report be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The Chair lays before the House the Senate amendment to the House amendment, which the Clerk will read.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $451,550,000,000;

(3) the appropriate level of total budget outlays is $413,100,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,600,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category is as follows:

(1) National Defense (050):

(A) New budget authority, $112,100,000,000.

(B) Outlays, $100,650,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,900,000,000.

(B) Outlays, $6,900,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,600,000,000.

(B) Outlays, $4,500,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $18,200,000,000.

(B) Outlays, $16,200,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,100,000,000.

(B) Outlays, $2,200,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,400,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,550,000,000.

(B) Outlays, $9,050,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $24,000,000,000.

(B) Outlays, $22,200,000,000.

(9) Health (550):

(A) New budget authority, $40,500,000,000.

(B) Outlays, $38,900,000,000.

(10) Income Security (600):

(A) New budget authority, $155,900,000,000.

(B) Outlays, $137,200,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,300,000,000.

(B) Outlays, $19,500,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,500,000,000.

(B) Outlays, $3,600,000,000.

(13) General Government (800):

(A) New budget authority, $3,600,000,000.

(B) Outlays, $3,500,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,600,000,000.

(B) Outlays, $7,700,000,000.

(15) Interest (900):

(A) New budget authority, $39,600,000,000.

(B) Outlays, $39,600,000,000.

(16) Allowances:

(A) New budget authority, $700,000,000.

(B) Outlays, $800,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$16,800,000,000.

(B) Outlays, —$16,800,000,000.

Mr. ADAMS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment to the House amendment.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

MOTION OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ADAMS moves to concur in the Senate amendment to the House amendment.

The SPEAKER. The gentleman from Washington (Mr. ADAMS) is recognized for 1 hour in support of his motion.

GENERAL LEAVE

Mr. ADAMS. Mr. Speaker, prior to making my remarks, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate Concurrent Resolution 139.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. ADAMS. Mr. Speaker, I rise in strong support of the conference report on the second budget resolution for fiscal year 1977. This report represents a reasonable compromise between the House- and Senate-passed resolutions of last week.

The conferees agreed to the following budget aggregates for fiscal year 1977:

Revenues: $362.5 billion, the same amount as in the House resolution and $500 million above the Senate resolution,

Budget authority: $451.55 billion, approximately $1 billion below the House resolution and $4 billion above the Senate resolution,

Outlays: $413.1 billion, $100 million below the House resolution and $300 million above the Senate resolution,

Deficit: $50.6 billion, $140 million below the House resolution and $200 million below the Senate resolution, and

Public debt: $700 billion, the same amount as in the House resolution and $1 billion below the Senate resolution.

After adoption of this report, the Congress may not consider legislation which would reduce revenues below the revenue floor, or increase spending above the total budget authority and outlay levels specified in the resolution. The functional amounts in the resolution are not ceilings.

The conference report also provides distributions of budget authority and outlays by functional categories of the budget. I am inserting at this point in the RECORD the conferees' agreement on these amounts, along with the original House and Senate resolutions:

[In billions of dollars]

	Senate	House	Conference
Fiscal year 1977 budget authority:			
050 National defense	112.1	112.086	112.1
150 International affairs	9.1	8.770	8.9
250 General science, space and technology	4.6	4.595	4.6
300 Natural resources, environment and energy	18.2	17.923	18.2
350 Agriculture	1.6	2.317	2.1
400 Commerce and transportation	15.2	17.699	17.2
450 Community and regional development	7.5	9.584	9.55
500 Education, training, employment and social services	24.0	23.884	24.0
550 Health	40.5	40.527	40.5
600 Income security	156.2	155.872	155.9
700 Veterans' benefits and services	20.3	20.323	20.3
750 Law enforcement and justice	3.5	3.490	3.5
800 General government	3.6	3.556	3.6
850 Revenue sharing and general purpose fiscal assistance	7.6	7.617	7.6
900 Interest	39.6	40.400	39.6
Allowances	.7	.860	.7
950 Undistributed offsetting receipts	—16.8	—16.920	—16.8
Total	447.5	452.583	451.55

	Senate	House	Conference
Fiscal year 1977 outlays:			
050 National defense	100.7	100.606	100.65
150 International affairs	6.9	6.763	6.9
250 General science, space and technology	4.5	4.505	4.5
300 Natural resources, environment and energy	16.0	16.227	16.2
350 Agriculture	2.0	2.239	2.2
400 Commerce and transportation	17.4	16.984	17.4
450 Community and regional development	9.0	9.078	9.05
500 Education, training, employment and social services	22.3	22.187	22.2
550 Health	38.8	38.960	38.9
600 Income security	137.3	137.000	137.2
700 Veterans' benefits and services	19.5	19.539	19.5
750 Law enforcement and justice	3.6	3.571	3.6
800 General government	3.5	3.534	3.5
850 Revenue sharing and general purpose fiscal assistance	7.7	7.657	7.7
900 Interest	39.6	40.400	39.6
Allowances	.8	.910	.8
950 Undistributed offsetting receipts	—16.8	—16.920	—16.8
Total	412.8	413.240	413.1

For the benefit of the House, I would like to describe briefly the major differences between the conference report and the House-passed resolution.

First, in the natural resources, environmental, and energy function, the conference report adopts the Senate resolution amount of $18.2 billion in budget authority. This amount assumes a higher budget authority level for EPA construction grants—$5.7 billion, rather than the $1.5 billion assumed by the House—and no budget authority at this time for the proposed Nuclear Fuel Assurance Act, rather than the $4 billion in authority assumed by the House.

With respect to the Nuclear Fuel Assurance Act, the conferees agreed that there are too many contingencies involved in both the authorization and appropriations bills to determine precisely how much budget authority should be provided. Consequently, as the statement of managers states:

> Should the authorization and subsequent appropriations be adopted, they will result in budget authority and the Budget Committee would consider the possibility of a third budget resolution to cover this requirement, taking account of the total budgetary situation at that time.

Second, in the commerce and transportation function, the conference report assumes $2 billion in budget authority for the Government National Mortgage Association mortgage purchase program, rather than the $3 billion assumed by the House resolution. In addition, the conference report assumes $500 million in budget authority and outlays for additional subsidies to the Postal Service, over the amounts provided in the House resolution. These amounts have been authorized and are expected to be appropriated shortly.

And third, the conference report assumes budget authority and outlays of $39.6 billion for interest on the public debt, $800 million below the House resolution. The amount agreed to represents the best estimates of the two Budget Committees and the Congressional Budget Office of interest costs for the upcoming fiscal year.

At the end of my remarks, I am inserting for the RECORD a more complete legislative history of the assumptions for each functional category.

Mr. Speaker, before closing I wish to call the House's attention to the outstanding performance by the chairman of the Ways and Means Committee, Mr. ULLMAN, and his fellow conferees on the tax bill. Through their efforts, the first budget resolution target of $362.5 billion has been successfully met, avoiding the sharp revenue losses contemplated by the Senate bill.

Finally, I want also to thank all House Members and the House leadership for their full cooperation and support in making this new budget process work so successfully this year. I believe that through our collective efforts we have taken a most important step toward reasserting Congress historic prerogatives in setting fiscal and spending policy.

I want also to thank the members of the House Budget Committee whose cooperation and effort have made the committee's success this year possible; and Senator MUSKIE, chairman of the Senate Budget Committee, for his outstanding job in the Senate. Senator MUSKIE's performance in making the new process an integral part of the Senate's procedures is widely appreciated both in the Congress and in the Nation as a whole. He has always been available to work out the many problems which inevitably rise when a new process is started. I wish him well next year.

EXPLANATION OF CONFERENCE AGREEMENT ON FUNCTIONAL CATEGORIES

050: NATIONAL DEFENSE

The conference agreement provides budget authority of $112.1 billion and outlays of $100.650 billion. This is an increase of $14 million in budget authority and $44 million in outlays over the House resolution. The conference agreement generally supports the same assumptions as previously approved by the House. It also assumes absorption of amounts for pay raises in line with past experience.

150: INTERNATIONAL AFFAIRS

The conference agreement provides $8.9 billion in budget authority and $6.9 billion in outlays. This is an increase of $130 million in budget authority and $137 million in outlays over the House resolution. The levels agreed to represent the latest estimates of spending from appropriations bills already approved, plus an amount to cover the Foreign Assistance Appropriations Bill still in conference.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The conference agreement provides budget authority of $4.6 billion and outlays of $4.5 billion. This is an increase of $5 million in budget authority over and a decrease of $5 million in outlays from the House bill. The agreement substantially supports the assumptions included in the House resolution.

300: NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

The conference agreement provides budget authority of $18.2 billion and outlays of $16.2 billion. This is an increase of $277 million in budget authority over and a decrease of $27 million in outlays from the House resolution.

While the conference agreement is very close to the House amounts for this function, it involves two internal changes in the House assumptions. First, the conferees agreed to strike the $4 billion in budget authority that had been assumed for the Nuclear Fuel Assurance Act, without prejudicing future action of the Congress on this program. At the same time, they agreed that this program should be an on-budget, rather than off-budget program. Second, the conferees provided an additional $4.2 billion allowance in budget authority for EPA construction grant programs.

350: AGRICULTURE

The conference agreement provides budget authority of $2.1 billion and outlays of $2.2 billion. This is a decrease of $217 million in budget authority and $39 million in outlays from the House resolution. The only significant change is a $224 million reduction below the House resolution in budget authority assumed for reimbursement to the Commodity Credit Corporation for net realized losses. Both Houses are assuming $25 million of budget authority and outlays for agriculture research expansion, and an increase of $300 million for outlays to reflect a higher program level for short-term commodity sales.

400: COMMERCE AND TRANSPORTATION

The conference agreement provides budget authority of $17.2 billion and outlays of $17.4 billion. This is a decrease of $499 million in budget authority from and an increase of $416 million in outlays over the House resolution.

The agreement provides $2 billion in budget authority for the Government National Mortgage Association's program of mortgage market support, and $500 million in budget authority and outlays for additional payments to the Postal Service during FY 1977. In addition, funds are provided to cover anticipated supplemental requirements in the transportation area. Potential items to be covered include general fund highway programs, additional railroad requirements, mass transit substitute projects under the Interstate Transfer provisions of the Highway Act, and additional liquidating cash to cover the planned level of Airport Development Grants for the Transition Quarter and FY 1977.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The conference agreement provides budget authority of $9.55 billion and outlays of $9.05 billion. This is a decrease of $34 million in budget authority and $28 million in outlays from the House resolution.

The Senate conferees agreed to adopt the position taken by the House conferees that sufficient budget authority be provided within the FY 1977 totals to accommodate enactment of the pending supplemental appropriations for public works and employment. The conference agreement indicates the conferees' view that if funding for this program occurs in the transition quarter, the $2 billion included for this purpose in FY 1977 should not be available for any other purpose.

500: EDUCATION, EMPLOYMENT, TRAINING AND SOCIAL SERVICES

The conference agreement provides budget authority of $24.0 billion and outlays of $22.2 billion. This is an increase of $116 million in budget authority and $13 million outlays over the House resolution. the increases will cover estimates of needed funds for employment and training activities. The conference agreement reaffirms the Congressional policy to provide funding for 500,000 temporary public service jobs by the end of the fiscal year.

550: HEALTH

The conference agreement provides budget authority of $40.5 billion and outlays of $38.9 billion. This is a decrease of $27 million in budget authority and $60 million in outlays from the House resolution.

The conference agreement provides the following:

(1) budget authority for Medicare is included at $23.100 billion and outlays at $21.850 billion;

(2) for the Medicaid program, the House resolution had provided the current law estimate of $10.235 billion in budget authority and $10.169 billion in outlays; the Senate resolution provided $10.000 billion in budget authority and outlays; the conferees agreed to a budget authority and outlay level of $10.100 billion; the reduction from the current law estimate is based on anticipated initiatives to control fraud and abuse; the totals will permit an anticipated supplemental of about $800 million; and

(3) for all health programs other than Medicare and Medicaid, the conferees agreed to provide budget authority of $7.300 billion and outlays of $6.950 billion; these amounts are in recognition of the need to fund several important health programs not included in the Labor–HEW Appropriation bill because of late enactment or absence of authorization legislation; budget authority of $700 million and outlays of $290 million are included within the totals for these programs.

600: INCOME SECURITY

The conference agreement provides budget authority of $155.9 billion and outlays of $137.2 billion. It reflects the House resolution estimate for budget authority. Outlays are increased by $0.2 billion over the House resolution due to a re-estimate of current policy costs for unemployment compensation.

The conference agreement reflects the following assumptions regarding major pending legislation included in the House resolution:

Enactment of the Supplemental Security Income Amendments (H.R. 8911).

Elimination of the one-percent kicker with either the modification in the intervals between cost-of-living adjustments proposed by the Chairman of the Post Office and Civil Service Committee, or with the semi-annual adjustments included in a Senate amendment to the Legislative Appropriations bill.

Extension of special unemployment assistance (SUA), as reported to the full committee on Ways and Means (H.R. 14970).

The revenue impact from the Unemployment Compensation Amendments of 1976 (H.R. 10210).

700: VETERANS BENEFITS AND SERVICES

The conference agreement provides budget authority of $20.3 billion and outlays of $19.5 billion. This is $23 million in budget authority and $39 million in outlays below amounts assumed in the House resolution. The slight reductions involve new entitlement authority for veterans programs.

750: LAW ENFORCEMENT AND JUSTICE

The conference agreement provides budget authority of $3.5 billion and outlays of $3.6 billion. This is an increase of $10 million in budget authority and $29 mllion in outlays over the House resolution. There were no substantive differences between the House and Senate resolutions. The House conferees accepted the slightly higher Senate figures.

800: GENERAL GOVERNMENT

The conference agreement provides budget authority of $3.6 billion and outlays of $3.5 billion. This is an increase of $44 million in budget authority over and a decrease of $34 million in outlays from the House resolution. There were no substantive differences between the two resolutions. The House conferees accepted the Senate figures, which were slightly higher in budget authority and slightly lower in outlays.

850: REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

The conference agreement provides budget authority of $7.6 billion and outlays of $7.7 billion. This is a decrease of $17 million in budget authority from and an increase of $43 million in outlays over the House resolution. There were no substantive differences between the two resolutions. The House conferees accepted the Senate figures, which were slightly lower in budget authority and slightly higher in outlays.

900: INTEREST

The conference agreement provides budget authority of $39.6 billion and outlays of $39.6 billion. This is a decrease of $800 million in budget authority and outlays from the House resolution. In view of recent and anticipated trends in money market conditions, the conferees accepted the lower Senate figure for interest on the public debt.

ALLOWANCES

The conference agreement provides budget authority of $700 million and outlays of $800 million. This is a decrease of $160 million in budget authority and $110 million in outlays from the House resolution. The conferees agreed that it is reasonable to assume absorption in line with past experience for the anticipated pay raise for non-Defense agencies.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

The conference agreement assumes receipts of −$16.8 billion in budget authority and outlays. This is $120 million lower in receipts than assumed in the House resolution. The conferees adopted the Senate figures, reflecting a re-estimate of the amount of interest to be paid to government trust funds, consistent with the conference agreement on the Interest function.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA) for purposes of debate only.

Mr. LATTA. Mr. Speaker, I do not intend to support this conference report, for the reasons just given by the gentleman from Washington. These are almost the same figures that left the House. They are much too high. They provide for $700 billion in national debt next year. The deficit for next fiscal year will be $50.6 billion. The budget authority will be $451.55 billion. Outlays will be $413.1 billion, and there will be revenues of only $362.5 billion.

Mr. Speaker, since there has been so little change in this budget resolution, I am constrained to oppose it.

Mr. Speaker, except for a major increase in budget authority for EPA construction grants and the elimination of all budget authority for the Nuclear Fuel Assurance Act, and a few minor adjustments, this conference report is substantially the same as the budget resolution that cleared the House last week. I do not support this conference report.

This legislation promises more of the same economic policies that have weakened and will continue to weaken our economy. It calls for more Federal spending. This approach preserves an evil that people at the grassroots in both parties—Democrats and Republicans alike want to see dealt with effectively—and that is Government that is growing far too fast and too big.

Under the fiscal plan contained in this resolution, the public debt will soar to an unbelievable $700 billion by the end of fiscal year 1977. That figure is even more scary when you realize that almost half of that amount, $320 billion, has been piled on over just the last 15 years. Let me point out to my colleagues that adding $320 billion to the national debt means an additional tax burden of over $1,500 for every man, woman, and child in the country. Think of that, an additional $1,500 burden for every man, woman, and child in the Nation racked up in just the last 15 years. Can there be any doubt that Federal spending trends have to be turned around.

These tremendous amounts of Federal deficit spending have contributed much to our combined inflation/unemployment problem today. Inflation has been lowered very encouragingly since 1974 from the 11-percent range to the 5-percent range. But inflation threatens to soar again if Government spending is not brought under control.

Unfortunately, it hardly seems that this legislation promises the spending restraints that are needed. It includes, for example, start-up funds for two measures whose combined budgetary impact could be well over $130 billion annually. These are for national health insurance legislation and the discredited Hawkins-Humphrey bill. It neglects the President's block grant proposals which would improve services and cut costs in the areas of health, social services, education, and child nutrition by consolidating the existing tangle of some 59 categorical programs. Instead of saving, it is business as usual.

On the tax side, the budget resolution goes in the wrong direction. What we should be providing is additional income tax relief to the individual income taxpayers, such as an increase in the personal exemption from $750 to $1.000, raising the standard deduction, and reducing the tax rate as proposed by the President.

The Congress with the help of the new budget process can and must exercise improved economic leadership and exert some budgetary leadership for the benefit of all of the people of the Nation. Regrettably, this budget resolution does not do this and I must oppose it.

Mr. MORGAN. Mr. Speaker, I rise in support of the conference report on Senate Concurrent Resolution 139, the second concurrent resolution on the budget for fiscal year 1977.

Adoption of this conference report will demonstrate that the new congressional budget process is workable.

It will show that the Congress can successfully deal with the Federal budget on a total rather than a piecemeal basis.

It will prove that the Congress can live within its budget targets.

Finally, it demonstrates that the Congress can set its own budget priorities without merely reacting to the President's budget.

I wish to commend the distinguished chairman of the House Budget Committee and his colleagues on the committee for their diligent efforts to make the new process successful. The conference report, in my opinion, reflects the views and actions of the authorizing and Appropriations Committees in a fair and balanced way. Such cooperation between the Budget Committees and the other committees is essential to the continued viability of the budget system.

I particularly want to compliment Chairman Adams for his leadership in reaching this fiscal milestone.

I would also like to commend those Members of the House who rejected the amendment to the resolution offered last Thursday which would have arbitrarily cut the international affairs function by 10 percent.

Such a reduction, of course, would nullify many important U.S. programs abroad and seriously impair the conduct of U.S. foreign policy. The fact that the amendment was defeated shows that the House, and Congress as a whole, reject the notion that severe cuts in the international affairs category are in the national interest.

Mr. Speaker, I urge the adoption of the conference report.

Mr. BADILLO. Mr. Speaker, with deep regret, I find myself once again compelled to vote against the conference report on Senate Concurrent Resolution 139, the second concurrent resolution on the budget for fiscal year 1977.

The original raison d'etre, of course, for adopting the congressional budget process was to establish more acceptable and realistic budgetary goals and priorities for our Nation. Unfortunately, this laudable objective has not been realized. Congress, too, appears to have fallen into the trap of labeling "sacrosanct" programs for the military and "expendable" programs designed to deal with our urgent social needs. Once again, the tail is wagging the dog.

Mr. Speaker, I am aware of the fact that the committee has an exceedingly difficult task in bringing about an acceptable and workable balance between our resources and needs. I sincerely hope that by the time it considers the next budget resolution, it will attain this difficult goal. In the meantime, I must once again cast a "no" vote for the budget.

Mr. ALEXANDER. Mr. Speaker, putting a congressional halter on the Federal budget may very well be the most important action we can take this century. During the past half century the President and the executive branch have dominated the Federal budget process.

In 1974 the Congress took decisive action to put an end to this domination by passing the Congressional Budget Control and Impoundment Act. I am proud that I sponsored that law and to have had part in its passage. The Federal budget resolution we are dealing with today was written under that law.

We are still facing some thorny economic problems that this law can help us solve. They include:

Working for tighter controls on Federal spending;

Putting the brakes on inflation rates and keeping them there;

Achieving a balanced Federal budget;

Ending the need for Federal deficit spending; and

Creating a national economy in which business and industry can produce at full capacity, generating jobs for all persons who are willing and able to work.

I believe that we have made major progress toward Federal budget reform. We have taken substantial steps toward putting Congress back into possession of its constitutional responsibility for budget making and Federal spending.

Last year the Congress went through a "trial" session to see how well this new law would operate. This year the law has been in full force.

Though it is not generally recognized, at this time, I think that Congress can take a well-earned bow for the progress we have made. At the same time, I believe that we must redouble our efforts to reach a balanced Federal budget position in the near future.

Last year Congress drafted its own Federal budget and by sticking with it we were able to cut the anticipated 1975 deficit by $10 billion. At the same time we enacted programs to help business and industry recover from the recession, to reduce inflation, and to increase jobs.

With this budget resolution on the 1978 budget under consideration today we are proposing to narrow even further the gap between the income and outgo of Federal dollars. It is estimated that, if we work carefully and keep to the trends being set in our overall budgetmaking process this year we can achieve a balanced budget and sharply reduce unemployment by 1980, while, at the same time, keeping the lid on the inflation cooker.

A Federal budget under control and in balance, and without excessive inflation or unemployment, will obviously mean making some hard choices about which programs to expand or reduce or keep at the same spending levels.

This Federal budgetmaking trail we are following now is critically important. It is helping move us toward a balanced budget. It is giving Congress more firm control over the setting of priorities on what we will spend, how, where, and when. The deficit proposed in the coming year is $25 billion less than the one proposed last September for 1976.

For the first time we are getting a real look at the budget as a whole rather than as a collection of parts. This system of budget formulation Congress has established gives Congress a better chance of making the right decisions on the hard choices before us in our effort to control Federal spending and inflation and avoid a new round of recession.

Mr. ASHBROOK. Mr. Speaker, I strongly oppose the conference report to Senate Concurrent Resolution 139, the second concurrent resolution on the budget. This resolution continues the same irresponsible spending policies that have created and fueled our problems of inflation, unemployment, and high interest rates.

Since first being elected to Congress I have warned my colleagues that there must be a limit to Government spending. I have repeatedly stated that the reckless spending habits advocated by liberal politicians could prove disastrous to the economy of the Nation.

The Congress, however, has enacted new spending program after new spending program without regard to cost. To finance these programs it has resorted to massive deficit spending for 15 of the past 16 years. And now Americans are paying the price for this recklessness. We are suffering from inflation, unemployment, and high interest rates.

I had hoped that the Congress would learn something from this tragic affair. That does not seem to be the case, however. Instead of fiscal responsibility, the second concurrent resolution on the budget calls for more of the same huge deficit spending that has created our problems in the first place.

House Concurrent Resolution 728 proposes budget outlays totalling $413.1 billion. This is approximately $38 billion higher than the budget resolution approved by Congress last November and over $13 billion more than the administration request.

The level of Federal spending has shot up astronomically over the past few years. Total budget outlays, which did not hit the $100 billion mark until the 1960's, have now swollen to four times that amount in little over a decade.

The failure of Congress to bring Federal expenditures under control has grave implications for the future. This tremendous growth in resources consumed by the Government poses a threat to our economic system and individual liberty.

The extent of the danger can be seen in the majority report. It states that even if no new program initiatives are taken during the next 4 fiscal years, spending would increase from $413 billion to $549 billion by fiscal year 1981. Such an increase would largely devour the expected growth in tax revenues. The exact language of the report is as follows:

> As the Committee's 5-year projection of the fiscal year 1977 budget resolution makes clear (see Appendix G), even if no new budget program initiatives are taken during the next four fiscal years, spending will increase from $413 billion in fiscal year 1977 to $549 billion in fiscal year 1981. This increase of approximately $136 billion will nearly absorb the substantial growth in revenues expected to result from the continued economic recovery assumed in the projection, after taking into account the current deficit level.

Steps must be taken now to eliminate unnecessary governmental programs and cut back on wasteful spending. The present Congress, however, is unwilling to do this. Instead of working on ways to reduce spending, the Congress envisions passing new costly Federal programs that would mean still bigger Government. These include start-up funds for such socialistic legislation as the Humphrey-Hawkins bill, which could cost $20 billion or more and national health insurance, which could cost between $50 and $100 billion. This is sheer stupidity.

Also disturbing is the deficit level set forth in the resolution. The Committee on the Budget recommends a fiscal year 1977 deficit of $50.6 billion. When coupled with the $75 billion deficit for fiscal year 1976, the Congress will have run up a $125 billion overall deficit in only 2 years. To show the magnitude of this figure, it exceeds the entire increase in the national debt from 1947 through June of 1971.

The huge deficits piled up by Congress are becoming a tremendous burden on the taxpayers of this Nation. Interest on the debt for fiscal year 1977 is estimated to be $43.9 billion. This is more than 10 percent of the total budget outlays.

Congress is saddling present and future taxpayers with too heavy a load. We cannot afford to continue adding billions and billions of dollars to the public debt. Spending must be brought into line with revenues.

Mr. ARMSTRONG. Mr. Speaker, with adoption of this resolution, Senate Concurrent Resolution 139, the House completes the first full cycle of the new congressional budget process. Today ought to be an occasion for celebration. Today Members of Congress could and should be showing concern for the future of this Nation by adopting the lower spending targets that would promote the economic well-being of America.

But instead of reflecting restraint, this budget calls for an outlay deficit of over $50 billion for fiscal 1976–77, for budget authority $89 billion above revenues and raises the national debt to $700 billion—a travesty of the responsible budgeting which Congress promised the Nation when the new process was established a year ago.

By legislating a deficit of such stupendous proportions, Congress forces the Nation to risk renewed inflation, unemployment and declining productivity and economic sluggishness which have become depressingly familiar in recent years. I share the concern so well expressed by my colleagues Messrs. LATTA, CEDERBERG, SCHNEEBELI, BROYHILL, DEL CLAWSON, SHRIVER, CONABLE, and Mrs. HOLT in the minority views which accompanied this resolution. Thoughtful Americans would do well to reflect on the issues which they have forcefully raised.

Somehow the deficits which Congress has enacted during the past 2 years are so large as to overload our sense of proportion. Somehow we have become numb to the realization of how very, very large our spending and deficits have become. I would like to put the situation and recent trends into perspective.

In the current fiscal year, the deficit alone is as large as the total of all Federal spending only two decades ago.

Just the interest on Federal debt—$40.4 billion—is more than the Federal Government spent for all outlays for the entire period from the Revolutionary War to World War I, twice as much as the Federal budget for all the years from 1789 to 1900, more than the total for all Federal spending for any single year prior to 1943—just the interest!

It took 186 years for the Federal budget to reach $100 billion in 1962; in the next 9 years we reached the $200 billion mark; with 4 more years, $300 billion; now Federal spending has zoomed past $400 billion.

Even more ominous than the actual amount of spending in dollars is the rising share of our income which is going to Federal, State, and local government. This proportion has increased from 10 percent in 1929 to 18 percent in 1940, 21 percent in 1950, 27 percent in 1960, 32 percent in 1970, and is now over one-third and still rising. Literally the "average" American now works the first 4 months of each year to pay the cost of government.

How this could happen in a Nation born in a revolution sparked by excessive and unjust taxation is an issue beyond the scope of the debate on this resolution. But the trend toward greater and greater government spending must be prime concern to anyone who understands the inseparability of economic freedom from other cherished liberties. I do not know where the breaking point is. But it is impossible to believe that freedom of worship, free speech, free press, freedom of association, travel, and other traditional freedoms can survive the indefinite continuation of the trend of government taking more and more of our income each year.

Where do we begin? It does not seem that Congress is capable of putting a bloated bureaucracy on a diet. Of the some $3 billion in savings suggested in the first concurrent resolution, passed May 14, 1976, this Congress has been able to act on only half that amount. Yet each Member will return to his or her district and agree with the voters at home that "we need to reduce government spending." The budget process under which we are considering this resolution is certainly a step in the right direction but, spending totals included here should make it obvious to everyone that we have a long way to go for real budget reform. Until we adopt procedures long used by State governments—zero based budgeting and constitutional prohibitions against deficit spending, we are deceiving ourselves and our constituents by assuming a Congress collectively accountable to no one will somehow act differently in the future than it has in the past.

Mr. Speaker, for these reasons, I am constrained to vote against this budget resolution.

Mr. FRENZEL. Mr. Speaker, the final budget resolution returns to us from conference committee in about the same sorry state in which it left the House; $413 billion in spending and $51 billion in deficits simply cannot be justified.

At this time, I must conclude that the budget process has been an educational adventure, but it surely hasn't done much for the taxpayers. One can only hope that the education will be of some benefit next year.

I also note that between the Congressional Budget Office and the staffs of both Budget Committees, we have added more than 400 employees. That's been a great WPA program for underemployed economists, but the costs of this vast army of budgeteers have probably exceeded any savings it might accidentally have caused.

Let us hope that next year the Budget Committees exercise at least a little of their own discretion rather than simply adding up all the spending requests of paternalistic subcommittee chairmen. That is the only way the budget process can become more than an early warning of the extent of the annual fiscal insanity.

Mr. ADAMS. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. ADAMS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 143, not voting 53, as follows:

[Roll No. 745]

YEAS—234

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Danielson
de la Garza
Delaney
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Giaimo
Gibbons
Ginn
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Holtzman
Horton
Howard
Hungate
Jarman
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mathis

Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Santini
Scheuer
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Steed
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, Mo.
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—143

Abdnor
Allen
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badillo
Bafalis
Bauman
Beard, Tenn.
Bell
Biester
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Cederberg
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Conyers
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Dellums
Derwinski
Devine
Dickinson
du Pont
Edwards, Ala.
Erlenborn
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flynt
Forsythe
Fountain
Frenzel
Frey
Gilman
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harsha
Hillis
Holt
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Kasten
Kastenmeier
Kemp
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McDonald
McEwen
Madigan
Mann
Martin
Melcher
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
O'Brien
Ottinger
Paul
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Robinson
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Wis.
Symms
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—53

Alexander
Ashley
Beard R.I.
Bonker
Burton, John
Carter
Chappell
Chisholm
Cleveland
Conlan
Daniels, N.J.
Eckhardt
Esch
Eshleman
Ford, Tenn.
Fuqua
Goldwater
Green
Hansen
Harrington
Hébert
Heinz
Helstoski
Hinshaw
Holland
Howe
Johnson, Pa.
Jones Tenn.
Kelly
Ketchum
Matsunaga
Mazzoli
Meeds
Metcalfe
Mink
O'Hara
Passman
Patterson, Calif.
Rhodes
Riegle
Rose
Rousselot
Ryan
Sarbanes
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Teague
Vander Veen
Winn
Yatron

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Rhodes.
Mr. Hébert with Mr. Johnson of Pennsylvania.
Mr. Passman with Mr. Eshleman.
Mr. Matsunaga with Mr. Carter.
Mr. O'Hara with Mr. Steiger of Arizona.
Mrs. Chisholm with Mr. Conlan.
Mr. Ashley with Mr. Talcott.
Mr. Fuqua with Mr. Kelly.
Mr. Teague with Mr. Heinz.
Mrs. Sullivan with Mr. Cleveland.
Mr. Eckhardt with Mr. Rousselot.
Mr. Helstoski with Mr. Winn.
Mr. Stephens with Mr. Esch.
Mr. Jones of Tennessee with Mr. Goldwater.
Mr. Green with Mr. Hansen.
Mr. Chappell with Mr. Ketchum.
Mr. Mazzoli with Mr. Alexander.
Mrs. Mink with Mr. Holland.
Mr. Sarbanes with Mr. Metcalfe.
Mr. Yatron with Mr. Vander Veen.
Mr. Ryan with Mr. Meeds.
Mr. Bonker with Mr. John Burton.
Mr. Ford of Tennessee with Mr. Rose.
Mr. Harrington with Mr. Beard of Rhode Island.
Mr. Patterson of California with Mr. Stark.

Mr. QUIE changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1977

Mr. FLOOD. Mr. Speaker, in accordance with the unanimous-consent request granted yesterday, I call up the conference report on Senate amendment No. 68 to the bill H.R. 14232, making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

The Clerk read the title of the bill.

The Clerk read the conference report.

(For conference report see proceedings of the House of September 15, 1976.)

The SPEAKER. The Clerk will report the amendment in disagreement.

AMENDMENT IN DISAGREEMENT

The Clerk read as follows:

> Senate amendment No. 68, page 39, line 5, strike out:
>
> "Sec. 209. None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:
>
> "Sec. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

The SPEAKER. The gentleman from Pennsylvania (Mr. Flood) and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

Mr. FLOOD. Mr. Speaker, today we are considering the agreement reached by the conferees on the Senate amendment No. 68 to the Labor-HEW appropriation bill for 1977. I would emphasize that we are considering only the one amendment. The conference report on all other issues connected with this bill has been approved and adopted by both the House and the Senate. I would ask the Members to keep that in mind. As soon as we settle the matter before us today, this $56 billion appropriation bill be sent to the President. I would like to also remind the Members that the fiscal year 1977 will begin October 1 which is, by the way, just 15 days from now.

Today we again have before us the issue of whether the Federal Government, through the medicaid program, should pay for abortions.

On June 24, the House adopted the Hyde amendment by votes of 207 to 167 and 199 to 165. The Hyde amendment inserted Section 209, which stated that:

> None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

On June 28, the Senate struck the entire section from the bill by a vote of 57 to 28. We were unable to resolve the issue in our first conference with the Senate on the Labor-HEW bill. On August 10, a motion to recede and concur in the Senate amendment was defeated in the House of Representatives by a vote of 223 to 150. On August 25, a motion to recede to the House on this amendment was defeated in the Senate by a vote of 53 to 35. The result of all these votes was a continued confrontation between the House and the Senate on the issue of payment for abortion. We had to go back to conference. This has been the most difficult conference, believe me, the most difficult conference that I have ever experienced in my public life.

We met repeatedly with the Senate conferees day after day for many, many hours. The House conferees insisted that they could not, and would not, recede from the clearly stated position of a majority of the Members of the House that HEW funds should not be used to pay for abortions. We proposed a modification of the Hyde amendment to permit payment for abortions only in those instances where it is necessary to save the life of the mother. The Senate conferees attempted repeatedly to persuade us to agree to language which we believed would leave the door open to payment for abortions in cases where it is not a true medical necessity. We rejected all such proposals. Finally, the House and the Senate conferees agreed to accept a proposal made by the gentleman from Massachusetts (Mr. Conte) that the language be amended to read:

> None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

As far as I am concerned, this language means essentially the same thing as the language which I originally proposed to permit abortion only in cases were necessary to save the life of the mother. For that reason, and for that reason alone, I was able to accept it.

Mr. Speaker, I strongly urge to the President and the Secretary of HEW not to permit this legislative provision, now whose intent is clear and unmistakable, to be emasculated by any regulations or interpretations. I am convinced that if it is properly administered by the Department of Health, Education, and Welfare, it will bring about a substantial reduction in the number of abortions performed for nontherapeutic reasons.

Mr. Speaker, I urge the adoption of the motion.

Mr. MICHEL. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of this conference report on the Labor-HEW appropriations bill for fiscal year 1977. As my colleagues know, this is the second time we have presented a conference report on this measure, and I am hopeful that we will be able to get the Senate to approve the bill this time.

It is not necessary to run through this entire bill again. It contains appropriations for some $56.6 billion worth of programs in the areas of labor, health, education, and welfare, as well as certain related agencies. We have already agreed on funding amounts for those programs, and those amounts have already been approved by the House and Senate.

The sticking point on this bill has been Senate amendment No. 68, the so-called Hyde amendment which as passed by this House prohibited the use of Federal funds for abortion.

The Senate did not include this prohibition in its bill, and was unwilling to accept the prohibition in conference. That is why the last conference report failed in the Senate.

Since that time, we have been meeting steadily with the Senate conferees, and have had some dozen sessions, trying to hammer out a compromise. Yesterday I offered language that was acceptable to a majority of the conferees on both the House and Senate sides, and I am here in the well to urge my colleagues' support for that language.

In essence, we have kept the Hyde amendment prohibition except when the life of the mother would be endangered if the fetus were carried to term. As was made clear in the statement of the conferees, it is intended to prohibit payment for abortions as a method of family planning, or for emotional or social convenience.

I want to stress very clearly that we did not prohibit abortions per se; there is serious doubt whether such a prohibition could be made except through constitutional amendment.

What this bill does is prohibit Federal funding of abortions, not the performance of abortions themselves.

It is not the intent of this measure to preclude payment for abortions when the life of the woman is clearly endangered, as in the case of multiple sclerosis or renal disease. Nor is it the intent to prohibit medical procedures necessary for the termination of an ectopic pregnancy or for the treatment of rape victims. Nor is it intended to prohibit the use of contraceptive devices or the so-called morning after pill.

It may well be that this is not the best possible compromise, although I believe that it is. But my colleagues should be very aware of the time frame in which we are operating.

As my colleagues know, this bill is some $4 billion above the President's budget. It is expected that the President will veto this bill, and that we will then vote to override that veto.

In order to have that opportunity to override, and to get this bill approved according to our Budget Committee timetable, we must get this bill to the President by Monday. After that date, we will be running into problems from a pocket veto if we adjourn sine die as expected on October 2.

Mr. Speaker, I believe that it would be irresponsible to let the programs provided for in this bill run under continuing resolution because of the controversy over this prohibition.

As the author of amendments which provided significant and necessary increase in funding for mental health research and treatment, and as a supporter of funding increase for other programs, I believe that we must adopt this compromise in order to meet our vital responsibilities in human resources.

To let the Members know just where I stand on this thing, should the President veto the bill, I will vote to override the veto.

Mr. Speaker, I urge the adoption of this motion.

Mr. FLOOD. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OBEY) 10 minutes.

Mr. OBEY. Mr. Speaker, I rise in support of this amendment but because of the atmosphere in which this bill is being considered I want to say something else which I think needs saying.

Last Thursday the Nation witnessed a public appearance by a spokesman for the American Council for Catholic Bishops which, even if understood, left the implication that the bishops had a preference for President, based upon their interpretation of the respective positions of the two candidates on the issue of abortion.

The Council of Bishops has the same right as any other organized group—indeed they have an obligation—to speak out on moral issues which confront the Nation. But, when they collectively or individually, in and through their roles as officials of the Catholic church, go beyond that by leaving the implication that they prefer a Presidential candidate because of his position on one issue, to the exclusion of all others, they make a serious mistake for the church and a mistake for the country.

One of the foundations of American freedom has been the tradition, rooted in the first amendment to the Constitution, which draws a hard firm line between church and State. That line stands as the one sure protection of all churches against the heavy hand of government and against the domination of public affairs by any one organized church.

I am a Catholic. I make no claim to any special piety. The judgment about how well I practice my religion will, in the end, be made neither by me nor by any other living person.

But, because I do care about the church, and even as I support the amendment I feel it necessary to object to the bishops' political statement in my individual capacity as a Catholic and in my public capacity as a public official who happens also to be a Catholic.

In my private capacity as a Catholic, I must object because I believe the bishops' action will produce a backlash against the church and is distorting Catholic values in the eyes of the American people. The action of the Catholic bishops in appearing to be subtly blessing the candidacy of one candidate for President simply on the basis of his position on abortion, even though that difference is one of tactics, not substance, and even though the other candidate is extremely close to the church on a great number of other moral issues, is a negation—even though unintentional—of what the church has always stood for—concern about poverty, about racial justice, about hunger, and other areas of social justice.

If the bishops are, in fact, to measure candidates, should not they be measured against all of the moral guidelines laid down by church teachings in a whole series of great encyclicals on social justice and not just those found in a single encyclical?

As the President of Georgetown University, Rev. Timothy S. Healy said Tuesday,

> Any reduction of all issues in a major political contest to one only is a serious distortion. No matter how worthy the end, narrowing the vision of the electorate can lead to disaster.

But the basic question is really whether the bishops should be making any pronouncements at all concerning individual candidate preferences, no matter how subtle or indirect they may be. I believe they should not.

And I feel duty bound by the oath I have taken to uphold the Constitution of the United States to make clear to both clergy and the American public that while I welcome expressions of opinion by anyone on any subject at any time, I do not recognize the wisdom or the right of the official leaders of the Catholic church to pressure public officials, be they Catholic or not, into taking certain actions on matters of political strategy.

I happen to agree with the position of the Catholic Church on the question of abortion. I am voting for this amendment today which limits Government payments for abortion except in cases of strict medical necessity. I have done so not because I am Catholic, but because I think that it is sound public policy. This amendment is not the language I would have preferred. I believe it should have given physicians more latitude in determining medical necessity, because the last time I looked, the physicians seemed to know a little bit more about medical requirements than the politicians. But I am willing to accept this language in order to save this bill and in order to try to keep this country together on this most divisive and emotional issue and I hope you are too.

And, irrespective of whether the Government finances abortion, I also agree with the Catholic Church that abortions should be discouraged by every rational means. But I happen to disagree with the church about what tactics and techniques will be most effective in minimizing abortions. So does Mr. Carter. Both Mr. Ford and Mr. Carter oppose abortion. Their only disagreement is over tactics—over what techniques, if any, should be employed to implement that opposition.

As Father Healy said, for the Catholic Church:

> The appearance of identification with any one party, any one candidate, or above all, with any one political strategy is likely to be as destructive as it will be useless.
>
> "Millions of Catholics" won't accept identification with any one political party, candidate or strategy "for the good and simple reason that, like their pastors, they care too much for the church to hobble it to a political stake."

When official leaders of the Catholic Church or any other church try to bring their official and collective weight to bear in a debate between public officials over questions of strategy—that is whether a constitutional amendment or some other form of action is the most appropriate Government response to the abortion question—they are operating outside of their own realm of competence.

I would remind the bishops of the words of another Catholic, John F. Kennedy, who 16 years ago this week gave perhaps the best definition of the proper role of organized religion in our constitutional system ever given by an American. President Kennedy said the following:

> I do not speak for my church on public matters and the church does not speak for me.
>
> Whatever issue may come before me as President, if I should be elected—on birth control, divorce, censorship, gambling, or any other subject—I will make my decision in accordance with these views, in accordance with what my conscience tells me to be in the national interest, and without regard to outside religious pressure or dictate. And no power or threat of punishment could cause me to decide otherwise.
>
> I believe in an America where the separation of church and state is absolute—where no Catholic prelate would tell the President (should he be a Catholic) how to act and no Protestant minister would tell his parishoners for whom to vote. . . .
>
> I believe in an America that is officially neither Catholic, Protestant nor Jewish—where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches or any other ecclesiastical source—where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials. . . .
>
> For, while this year it may be a Catholic against whom the finger or suspicion is pointed, in other years it has been and may someday begain, a Jew—or a Quaker—or a Unitarian—or a Baptist. It was Virginia's harassment of Baptist preachers, for example, that led to Jefferson's statute of religious freedom. Today, I may be the victim—but tomorrow it may be you—until the whole fabric of our harmonious society is ripped apart at a time of great national peril.

I agree. I will stand by that statement. So should Mr. Ford. So should Mr. Carter. And so should the bishops.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE), the author of the original amendment.

Mr. HYDE. Mr. Speaker, I deplore the introduction of the Carter-Ford controversy on this issue. As I recall it, it was Mr. Carter who sought an interview with the bishops, not the bishops with Mr. Carter. As I recall, Mr. Carter was concerned with the reaction to the Democratic Platform, which went out of its way to bring this issue in our political spectrum more than it was.

I just think it is unfair to take umbrage at the bishops for going to see the President after they acceded to the invitation of Mr. Carter to go see Mr. Carter. I do not think it has anything to do with what we are talking about. I wish we could talk about the issue. Enough said about that.

Mr. Speaker, I fully support the compromise language settled on by the conferees. Admittedly it is compromise language, but is honestly and fairly implemented it contains the essential elements of what I intended all along, namely to prevent the use of Federal funds to pay for abortions except to save the life of the mother. I offer this as a clear statement of legislative intent.

The compromise language omits the proscription against using these funds to promote or encourage abortions, but I should think reasonable persons would interpret the plain, clear language of this amendment as discouraging abortion as a solution to the problem of an unwanted pregnancy.

No one, least of all myself, denies the hardship and even in some cases tragedy that can result from an unwanted pregnancy. The issue, however, is whether the avoidance of this hardship is worth the killing of a human life. The issue is the nature of the sacrifice to avoid this hardship.

The word "kill" is a harsh word—the preferred word among abortionists is "terminate." Can you imagine anyone saying "I'm going to terminate these mosquitoes or cockroaches or crabgrass?" No, you "kill" these pests but you "terminate" the human life of an unwanted and innocent pregnancy through abortion. The use of terminate instead of kill is a triumph of esthetics over intractable reality.

There is language in the report that goes beyond my views on this issue. Particularly that portion which asserts that Congress, by this action, does not intend to prejudge any constitutional questions before the Supreme Court this fall. It certainly is up to the Court to adjudicate constitutional issues just as it is our responsibility to legislate. I view this portion of the report as gratuitous and irrelevant.

I wish to congratulate the gentleman from Massachusetts (Mr. CONTE) for proposing the compromise language, and also every member of the conference committee for their devotion and energy and steadfastness in this matter. It is beneficial to the other body to learn from time to time that this House shares an equal role in the legislative process.

George Will, in the current issue of Newsweek in an editorial entitled "Discretionary Killing," tells us that last year there were a million abortions in the United States and 50 million worldwide. He characterizes the killing of the unborn on this scale "a revolution against the judgment of generations."

An article in the Chicago Tribune of August 20 by columnist Joan Beck states:

> A sad irony now confronts the feminists who fought so hard and so long to make abortion on demand legally available: Abortion is increasingly being used to end the life of healthy unborn infants just because they are not of the sex their parents prefer. And almost all of the unborn babies being aborted for no reason except that they are of an unwanted sex, are female.
>
> This ultimate discrimination against females is expected to increase rapidly in the next few years. Cheap and highly accurate methods of learning the sex of unborn infants early in pregnancy will become widely available in one or two years. These methods will replace the complex and expensive techniques now required for the purpose. Couples willing to resort to abortion will then find it easy to produce only sons or daughters in the precise order they desire.

Justice William O. Douglas is esteemed by many Americans as a man of limitless sensitivity and compassion. In a lengthy dissent in the 1972 case of *Sierra Club vs. Morton* (405 U.S. 727), he urged that in cases concerning the environment—

> Environmental issues should be tendered by the inanimate object itself. Then there will be assurances that all of the forms of life which it represents will stand before the Court—the pileated woodpecker as well as the coyote and bear, the lemming as well as the trout in the streams. Those inarticulate members of the ecological group cannot speak. But those people who have so frequented the place as to know its values and wonders will be able to speak for the entire ecological community.

He also said:

> The ordinary corporation is a "person" for purposes of the adjudication process whether it represents proprietary, spiritual, esthetic or charitable causes. So it should be as respects valleys, Alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland or even air, that feel the destructive pressures of modern technology and modern life.

I have difficulty in reconciling these views with those holding the unborn to have no standing in court or in their mother's womb. The unborn possess this distinction—they are human and, if not killed by some physician, then life and thought, emotion and choice, love and reason, will go on inside them.

I do support this amendment, not because it is perfect, but because it is the best attainable. Many human lives will be saved, and this is no small achievement.

This language says that human beings are not mere commodities to be manipulated, exploited, or thrown away. This language tells the social and biological engineers that this Congress still believes that human life is unique in creation and possessed of dignity.

Mr. Speaker, I urge its support.

Mr. FLOOD. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, I am certain that the courts of our land will be extremely interested in our debate here today because it merely proves, in my opinion, and makes the legislative history quite clear, that what we propose today is discriminatory legislation and unconstitutional. I hope and expect that it will be struck down.

In any case, I have always wondered at the fact that this is a body that has many lawyers in it, and yet we are unwilling to allow this issue, which is already before the Supreme Court, to be determined there, where it belongs. What the Members supporting this amendment are challenging is a Supreme Court decision with which they disagree. And even though they disagree with that Supreme Court decision—with which they have a right to disagree—this is not the way to change it. We cannot change a Supreme Court decision interpreting the Constitution of the United States by an amendment to an appropriation bill. If you want a constitutional amendment, then fight for that. But I think this is an error, an inappropriate way to legislate. I believe the Court will strike it down. It is discriminatory legislation, which creates two classes, those women who can secure abortions because they have money, and those women who cannot secure abortions because they are poor. This is class legislation. It is elementary to those Members who are lawyers that this is unconstitutional.

What is it that we do here today? I say it is an act of extreme cruelty, in addition to being an act in violation of the Constitution. It is an act of cruelty to people who cannot help the fact that they are poor. We spend Federal funds—and all taxpayers contribute to those Federal funds—for many programs and policies not supported by the people paying the taxes. For example, there were a lot of people in this country who disagreed with the war in Vietnam, and yet their tax dollars were used every day to conduct that war in Vietnam to kill innocent people here and abroad. A further irony is that that war was illegal, and yet we paid for it, while here, we are refusing to pay for something guaranteed by the Constitution.

This is a very important question. We have the right of privacy. The Supreme Court has said that it exists under the first, the second, the fourth, the fifth, the ninth, and the fourteenth amendments. It says that this issue is not a political issue, that this issue is not an issue which bishops or rabbis or anybody but the individual herself should decide. Herself, not himself, either. Herself. It is a right of the individual herself to decide what to do about her body, not him, not the bishop, not the rabbi, not Congressmen. It is a right of an individual woman to decide what she should do with her body. That is the right of privacy, and that is what the Supreme Court says.

I found it most shocking when my colleague, the gentleman from Massachusetts (Mr. CONTE), told me that it took $50 million to conduct this program of giving medicaid abortions. I want to know if my colleague, whom I normally regard as a man of compassion, knows what it costs the woman who seeks an unsafe and illegal abortion, in terms of dollars and cents. It has been calculated there are at least 25,000 such cases a year, where there is no right to an abortion. What is the cost in dollars and cents? Hundreds or thousands of dollars for hospital care for a person who has a self-induced abortion. And some will die. As a result of this appropriation measure, some will die.

I object to this amendment because it is improper legislative action.

I object to this amendment because it is unconstitutional, it is class legislation.

I object to this amendment because it is vague. What does it mean, "endangering the life of a mother"? Who is going to determine that? It permits an abortion if the mother's life would be endangered by the fetus' going to full term. And what if the life of the mother were to be endangered if the fetus went to less than full term? The Members apparently have not considered that.

I think the Members who are lawyers know that we cannot add by legislative history conditions which clearly are not in the statute. Mr. Speaker, they are not kidding me when they say that this language also includes a right to payment for an abortion when the life of a woman is not in danger in instances outlined in the conference report. It will preclude payment where there is rape or incest, because the language of the statute itself does not permit such payment. I believe they are just muddying the waters with this legislative history, because what is plainly in the statute is not going in any way to take care of the ectopic pregnancy or the victims of rape or incest.

The problem of pregnancy resulting from rape is a real one. In 1974 there were 55,000 rapes. And the real number of this underreported crime is probably between three to nine times greater. Four percent of these rapes, which is about 18,000, result in pregnancies.

And the problem of genetic deformity is not even mentioned by the conferees. The thalidomide tragedy brought genetic deformity to the attention of the public. There are other toxic substances, such as the recent gas leak in Italy, which can be equally tragic. Yet under this provision women who are dependent on medicaid would be unable to obtain abortions.

The vagueness of the language "endangering the life of the mother" will leave many doctors and States uncertain about their right to perform and fund abortions. Right now 47 States and the District of Columbia provide medicaid funding for abortions without restriction. Three States permit abortions for therapeutic reasons and in cases of rape or incest. This amendment will throw these practices into chaos.

This very issue—whether a State can prohibit the use of medicaid funds for the performance of abortions—is being argued before the Supreme Court this term in Roe against Maher. I see no reason for Congress to jump into this controversy at this point, particularly when judgments are being influenced by electoral politics and electoral pressures. This question has not been considered in our legislative committees, but was merely tacked on to this appropriation bill. Such an important and controversial question should at the very least receive careful scrutiny with hearings so that persons from all different affiliations could present their views. Although extensive hearings were held on the question of a constitutional amendment, which committees in both the House and Senate rejected, no hearings were held on the separate question of banning medicaid payment for abortions. In light of this and the imminent Supreme Court decision, which could dispose of this issue entirely, I would urge all my colleagues to defeat this amendment and at least defer consideration of such a restriction until we receive some guidance from the Supreme Court. If the Court finds this provision unconstitutional, as I believe it will, this debate will be unnecessary.

Opponents of abortion are well aware that the only way to outlaw abortions in this country is through a constitutional amendment. In the landmark decision of Roe against Wade, the Supreme Court upheld a woman's right to choose an abortion. The only way Congress can properly overturn the Supreme Court decision is through a constitutional amendment. Those who oppose the Supreme Court decision have been fighting for such an amendment and, although I strongly disagree with them, I respect their right to pursue such a change by constitutional means.

But let us not penalize those who are pregnant and poor and outlaw abortions for them when other women will continue to obtain safe, legal abortions.

I want to remind my colleagues that a majority of Americans, regardless of religious affiliation, believe that abortion is a personal and private choice that should not be interfered with by Government action. A New York Times poll earlier this year showed that 67 percent of the respondents believed that the abortion decision should be left up to the woman and her doctor.

I urge the Members of this body to vote down this motion to recede and concur in the Senate amendment with an amendment. Women do have a constitutional right to abortion under the right of privacy. The Supreme Court has decided it, and it ill behooves this body to take it away in this arbitrary fashion.

The SPEAKER. The time of the gentlewoman from New York (Ms. ABZUG) has expired.

Ms. ABZUG. Mr. Speaker, will the gentleman yield 1 additional minute to me?

Mr. FLOOD. Mr. Speaker, I am sorry, but my time is limited.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRASER).

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. FRASER. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Speaker, if I may continue, what I am saying is that this is an instance of a very deceptive and, I believe, a very unfair way to legislate. The statute would speak simply to this by saying that Federal funds may not be used unless the life of a mother would be endangered if the fetus were carried to term. Then the conferees say in the report that they are not trying to prohibit this, that, and the other thing. They say they would not prohibit procedures necessary for the termination of an ectopic pregnancy or for treatment of rape or incest victims, nor is it their intention to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum, and so on. Nor would it interfere, they say, with Federal aid to medical schools where abortion-related research is going on.

Mr. Speaker, this shows very poor draftsmanship. It shows a desperation to respond to what is a minority view in this country. It is the minority view that opposes abortion. Those who oppose abortion do have a right to oppose it, but we should not legislate on it because it is a personal, private matter. I do not object to their opposition to it, nor to their own refusal to have abortions, nor to their legitimate efforts to amend the Consituation, but I cannot accept the idea that a woman who does believe in abortion and who has a constitutional right to have an abortion should be prevented from exercising that right because she happens to be poor.

Mr. FRASER. Mr. Speaker, I hope that we will defeat this measure which is discriminatory and, therefore, unconstitutional.

I do not find fault with the conference. I know the members of the conference committee were instructed by the House, and it might well be that this is the best compromise they could achieve.

However, the medicaid program was designed to buy comprehensive medical assistance for the needy and for the indigent of this country. For us to say what the medical procedures should be and to say what is available to the indigent and the near poor is, I think, invidious discrimination, and it ought to be stricken down.

The history of the Hyde amendment this session has been a sad one, and the consequences will be not only sad but destructive. If this measure is enacted into law, the consequences will include:

First, a rise in the number of illegal abortions, and a corresponding rise in the number of abortion-related deaths and injuries.

Second, immediate chaos in the 47 States and the District of Columbia that presently reimburse for abortion through medicaid. These States will have to change their laws to comply with both the Supreme Court decisions and the rigid language of the amendment—a "Catch-22" task if ever there was one.

Third, suits in Federal courts to prevent the discriminatory ban from going into effect October 1, at the beginning of the new fiscal year. Seven Federal courts have already upheld the legality of medicaid reimbursement, and the Supreme Court has three cases on its fall calendar which will determine the constitutionality of this reimbursement.

I want to make my views clear on the record because I am sure that this issue will be before the courts. We are not dealing with the question of a constitutional amendment here. I am not in favor of a constitutional amendment, but I am even more strongly opposed to throwing such a burden on the poor of this country.

Mr. MICHEL. I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I rise in support of the language the conference committee has returned to the House for final action. I would have been much more comfortable with the original language offered by the gentleman from Illinois (Mr. HYDE), who deserves a great deal of credit for the courage he has shown in bringing this issue before the House, but I will abide by the conferees decision. They, too, deserve our thanks.

The statement was made a few moments ago in debate that the proper means to arrive at a solution to the issue of abortion would be a constitutional amendment, and that we should be willing to fight to bring such an amendment before the House. Lord knows, we have tried for years now to do just that. Since the Supreme Court issued their original decision many of us have fought to obtain the right to vote on a constitutional amendment and to debate it on the floor. We have been denied that right of full deliberation in both Houses of Congress. So the means at hand must be used to express our view. The language before the House is perfectly legal and constitutional despite the opinions offered here by lawyers and nonlawyers. The intimation is that this is an unconstitutional prohibition, but I see it as imposing a valid limitation on an appropriation bill. Why should Federal taxpayers' funds be employed to murder the unborn?

There is no denying the fact that many millions of dollars of the Federal taxpayers' money have been used to stamp out the lives of many thousands of unborn children. As the gentleman from Illinois (Mr. HYDE) says, these are indeed the lives of defenseless human beings.

Reference was made also in the debate to the fact that the denial of a tax supported abortion is an extreme act of cruelty. The most extreme act of cruelty is the brutal denial of life itself. I think that should be self-evident, and this thought was expressed in the very first words of our Constitution and Declaration of Independence.

Mr. Speaker, what is so disturbing about this emotional issue is that as a nation we may have arrived at a milestone faced by other nations in the past. We may have reached a point at which our national legislature, the executive branch, in fact, a majority of this country may no longer care about the right to life. A point at which life will now be measured in dollars and cents. Pray God, I hope that is not so.

Mr. Speaker, the argument of inconvenience can be extended to the elderly or to the ill, those who just happen to be in the way of the majority, those who disagree.

We saw in Nazi Germany the ultimate flowering of that pernicious and lethal doctrine. And who here wishes to announce their belated endorsement of Adolf Hitler's "final solution"?

Mr. Speaker, I would hope that the House will adopt the language of this report. I hope there will be no move to sever the motion made by the gentleman from Pennsylvania (Mr. FLOOD), but that we will take our stand.

Make no mistake about it, this language makes the intent of Congress very clear. We are not going to permit the Federal Government and its taxpayers to support wholesale murder. I think that is something about which all of us in this Congress ought to be proud.

Let me add that the gentleman from Wisconsin (Mr. OBEY) has the right to express his opinion as he did earlier in debate but I must suggest, he is mistaken in his view. There should be no indictment of the right of Catholics, Protestants, or Jews or anyone to raise moral issues within the political process. It is well that burning issues have a full airing. Those in places of leadership in our churches, whatever their denomination may be, should be able to step forward and make their views known on an issue so basic as the right to life. It would be immoral to shirk this duty.

Were they to do otherwise, they would avoid the basic issues this country is facing, and we should not quarrel with any group for forcefully stating their views on this issue. Rather, Mr. Speaker, we should applaud them for their stand and seriously question those politicians who seek to curry maximum political favor by avoiding the supreme issues of our day, especially when their goal is the Presidency of the United States.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would like to make some points, one with respect to something which the gentlewoman from New York (Ms. ABZUG) raised about the war in Indochina.

A lot of people were opposed to that war. It was my two amendments, one of which the gentleman from Connecticut (Mr. GIAIMO) cosponsored, that cut funds for Vietnam and put a ceiling on aid to Cambodia. I did that, and my colleagues supported me, because we did not like the killing going on in that war.

Mr. Speaker, let us get back to the point here. This language was a compromise, and the gentleman from New York (Mr. PEYSER) seems to attack it.

Mr. Speaker, we had some 20 amendments to this provision that we tried to get through that conference committee. Some 20 times we tried and failed. We got nowhere for 2 weeks. Finally, yesterday, we agreed on this.

As I said earlier, we are facing a pocket veto of this $56.6 billion bill. And where does the largest chunk of that $56.6 billion go? It goes to the poor people in this country, to those who are in need.

If the gentleman from New York feels that strongly, perhaps he is willing to risk and kill this whole bill. We will almost certainly have an outright veto any way. If the gentleman feels so strongly, he will have the opportunity at that time to sustain the President's veto.

Mr. FLOOD. Mr. Speaker, I yield 2

minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in opposition to this amendment.

It is all well and good to say that this is a compromise. We know that it is—but we are compromising with respect to some poor woman whom none of us here know, as to what she can expect or cannot expect from her Government.

We are not settling the question of abortion here. The question of abortion, if it is ever settled, will be settled at another time, undoubtedly in the Supreme Court. However, what we are saying here is that while under the present law a woman is legally entitled to have an abortion, if she happens to be poor and cannot afford to have it without some assistance from the Federal Government then she will not have the benefit that wealthier women have.

Mr. Speaker, I cannot accept that, and I do not think that can be compromised. We have medicaid programs; we have all kinds of programs which provide health services to people and types of medical treatment which are legal and proper under the law. Abortion is legal and proper under the law; but we say in the instance of the poor, "We will not provide assistance to you."

Therefore, Mr. Speaker, we are disenfranchising poor women and barring them from rights which they would have if they had money of their own. I do not think it is fair. It pays lip service to extreme conditions in the whole area of abortion, but it really does not solve the issue, although it might benefit some people who think that it does.

Mr. Speaker, it just is not right. The easy vote, I believe, would be to vote in favor of this amendment in order to duck the issue. The only ones who will be angry with us will be some poor unknown women. I do not think that is right, and I think we should vote down this amendment.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I do not want to be critical of the conferees who worked so hard because I know on this whole battle that it was very difficult, but on this particular issue this is not a compromise, it is capitulation. Just remember we in no way took care of the women who will be raped. Fortunately the Supreme Court in the next term will take care of this measure because it is clearly unconstitutional.

Finally, Mr. Speaker, if we had had 17 men and the rest of them were women, then both of us know that there would be a different discussion made today on this decision.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I cannot sit quietly, although I know there is little time left for me to speak, but I do wish to state to the Members that it is obvious that the suggestion that this Government is doing justice is a parody. I have been in countries where it did not stop abortions just by stopping Federal funds, they are just putting a subterfuge to the abortion question.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, after 3 months of debate on this amendment, and very exhaustive conference committee considerations, I think we all know where we stand on this issue. We have had extensive debate; we know from our own constituents what they want us to do. But, Mr. Speaker, let me say that the right to life is not primarily or exclusively a religious issue. It is a human rights issue.

There is much in this appropriation bill to sustain human rights; education for the gifted and the afflicted, programs for the poor, programs for health, help for the elderly and for the infirm. The funding for these programs deserves our support, because without the help they provide life itself loses much of its meaning.

Our vote today is not a referendum on the positions taken by the two Presidential candidates, or on a constitutional amendment to protect life. In fact, the role of the President in the constitutional amending process is a very minimal one. Presidents play very little if any role. Few people realize that. It is this body and the other body and the legislatures of all of our 50 States that play a distinct role. It is, therefore, to the Congress, and the State legislatures, that the people of this country, including the Catholic bishops, the Protestant ministers, the rabbis and the Mormons should pay their attention not to the Presidential candidates, on the issue of a constitutional amendment to protect life.

The amendment we are considering this afternoon, however, does involve both the Congress and the Executive. So it is appropriate for all segments of our society to speak up and to be heard. All of us, in a few moments, are going to take a stand, when we vote on this amendment. Both Presidential candidates, I believe, have for some time committed themselves to a position in opposition to Federal funding of abortions, so it is not a partisan issue. I make no reference to their position on a constitutional amendment to protect life.

This vote is not on the issue of poverty or discrimination, this is a human rights issue, the rights of the voiceless and the voteless—the unborn. So I ask my colleagues to vote today for those who cannot vote; vote for life; vote for the unborn.

The SPEAKER. The time of the gentleman has expired.

Mr. FLOOD. Mr. Speaker, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, if the gentleman from Wisconsin (Mr. OBEY), my colleague and my excellent leader, can come down on the same side of this issue with the gentleman from Maryland (Mr. BAUMAN), my friend, then maybe I think it is time for me to come down on the side of the gentleman from Minnesota (Mr. FRENZEL) and on the side of conservative columnist and commentator James J. Kilpatrick. I have here a letter from the gentleman from Minnesota (Mr. FRENZEL) that I include in the RECORD at this time.

DEAR COLLEAGUE: Yesterday the Conference Committee on the Labor/HEW Appropriations Bill compromised the disagreement on the Hyde Amendment by accepting the House position. Additional language was added, but the result will be basically the same as the original Amendment.

That Amendment does not prevent abortions. It doesn't change the Supreme Court's ruling. It merely denies abortions to the people who need them most.

Because James J. Kilpatrick's radio commentary of August 27 matches my own sentiments, I invite your attention to it:

"There is something especially cruel, pointless and indefensible in the position taken by the House of Representatives in the latest controversy over abortion. The House is insisting upon an amendment to the pending $57 billion appropriations bill for HEW. The Amendment would prohibit the expenditure of Medicaid funds for the purpose of abortions. The Senate has refused to go along.

"If the effect of this amendment were absolutely to prohibit abortions anywhere, anytime, by anybody, perhaps it would make some sense. But Congress has no such power to define abortion as a crime and to impose a sweeping ban. That is the business of the separate states.

"What we have here is a misguided proposal to make therapeutic abortions more difficult for the very class of women least able to fend for themselves—the poor women on welfare. The amendment won't prevent them from getting abortions. It will merely drive them into the hands of the underground abortion mills; or it will foster the birth of more unwanted children who will form a new generation of supplicants on the public dole.

"No useful public purpose will be served by the House amendment. The money that might be saved will be spent, now or later, in aid to families with dependent children. Middle-income and upper-income women, able to afford abortions, will get them. Only the poor will be denied the safety and security of proper medical care. Maybe this is good politics—I doubt it—but it is a mean-spirited act. I hope the House retreats. I'm James J. Kilpatrick."

Members will vote against the HEW Appropriation for a variety of reasons. The Hyde Amendment is one reason to do so.

Yours very truly,

BILL FRENZEL,
Member of Congress.

I was once a prosecutor. I prosecuted doctors who did illegal abortions. Some I got convictions on; some I lost. What I remember most is that some mothers died from infections from those illegal abortions.

Abortions are going to go on, whether we stop paying for some of them or not. I think it is an injustice to say that the poor can no longer have abortions in hospitals. They will simply then have them in the back alleys. That is an injustice that I cannot vote for.

Mr. MICHEL. Mr. Speaker, I yield myself the remaining time I have.

Mr. Speaker, as the gentleman from Connecticut said a few moments ago, this is not going to be the final resolution of the issue of abortion in this country. Let us face it. Since it is that emotional and complex a subject, I would not attempt here in the few moments or so that I have left to really discuss that issue.

May I simply, then, in conclusion define, if I can quickly, the parliamentary situation in the event it is anyone's choice and prerogative, as it is in this House, to ask for a division of the question on the motion of our chairman, the gentleman from Pennsylvania (Mr. Flood) to recede and concur with an amendment. If there is a demand for a division of the question, I would urge every Member on both sides of the issue to vote to recede, because if we do not vote to recede, we are never going to be able to concur with an amendment. Admittedly, those who are opposed to the position the conferees have taken here, I assume, would like to recede and concur. If that move is made, the preferential motion is one to recede and concur with an amendment which, of course, would be the prerogative of our chairman. Then I would ask that if we get through to that point, that the Members certainly support the chairman and their conferees because, as the gentleman from Massachusetts (Mr. Conte) has said, 16, 17, 18—I do not know how many—amendments and efforts were made during a 2-week period of time during which we attempted to iron this thing out to the satisfaction and agreement of all parties. It is practically impossible. But in the final resolution I might say that the Senator from Indiana (Mr. Bayh) supported this proposition when it was put to a final vote of the Senate conferees, so I think that should give indication enough to some of those who are of like mind to support what the conferees have done.

Mr. SEIBERLING. Mr. Speaker, would the gentleman yield for a question?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Would it be correct to summarize the effect of the motion by observing that if we wish to have Dr. Jekyll, we must also take Mr. Hyde?

Mr. MICHEL. Mr. Speaker, I yield back the remainder of my time.

Mr. FRENZEL. Mr. Speaker, we have already adopted the conference report on this bill. I voted negatively because the bill contained excessive spending—at least $4 billion over the President's budget.

Today we are concerned only with the compromise language of the Hyde amendment. The House conferees were successful, and the basic thrust of the Hyde amendment was preserved. Per my remarks when this bill was last before us, I do not support that amendment, and shall vote "no" today.

Mr. LEVITAS. Mr. Speaker, I originally opposed the Hyde amendment for several reasons, but one of the chief reasons was that it deprived a woman who was poor from receiving even a therapeutic abortion, as opposed to an elective abortion. The new amendment presented today eliminates that problem and therefore I can support it.

Mr. REUSS. Mr. Speaker, I support the Senate-House conference position on abortion. In the language of the conference report, which I take it will govern the amendment in disagreement:

> It is the intent of the Conference to limit the financing of abortions under the Medicaid program to instances where the performance of an abortion is deemed by a physician to be of medical necessity and to prohibit payment for abortions as a method of family planning, or for emotional or social convenience. It is not our intent to preclude payment for abortions when the life of the woman is clearly endangered, as in the case of multiple sclerosis or renal disease, if the pregnancy were carried to term. Nor is it the intent of the Conferees to prohibit medical procedures necessary for the termination of an ectopic pregnancy or for the treatment of rape or incest victims; nor is it intended to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

The conference report replaces language previously adopted by the House, but rejected by the Senate—the so-called Hyde amendment, containing an absolute prohibition against the use of medicaid funds to pay for abortions. This absolute prohibition is identical with that contained in the so-called human life amendment to the Constitution, guaranteeing "the right of life to the unborn from the moment of fertilization."

I know that many sincere persons, both lay and clerical, support the human life constitutional amendment and its legislative counterpart. After carefully studying the 1973 Supreme Court abortion decision, and after extensive dialog and communication, I concluded that I cannot be in support, and have so informed those interested in the human life amendment and its legislative counterpart. For example, to deny to a State the power to legalize an abortion so as to arrest the fertilization that has taken place as a result of rape or incest, or where it is deemed by a physician to be a medical necessity, seems to me to disregard other important human rights—the right of a mother to her health, and the right of a family whose maternal leader has been the subject of rape to avoid the consequences of a violent fertilization.

These are serious questions. I have given them serious thought.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Flood).

PARLIAMENTARY INQUIRY

Mr. WIRTH. Mr. Speaker, I have a parliamentary inquiry in relation to the comments just made.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WIRTH. My question, Mr. Speaker, is are we going to be able to vote, first of all, upon the amendment as agreed to by the conferees before we vote on the whole of the bill?

The SPEAKER. That is not in order after the question is put.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 256, nays 114, not voting 60, as follows:

[Roll No. 746]

YEAS—256

Abdnor
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Fountain
Frey
Gaydos
Gibbons
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kemp
Kindness
LaFalce
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McHugh
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Melcher
Mezvinsky
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Patten, N.J.
Paul
Pepper
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarbanes
Satterfield
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stratton
Sullivan
Symington
Symms
Taylor, Mo.
Thone
Thornton
Traxler
Treen
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wolff
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—114

Abzug
Adams
Allen
Anderson, Calif.
Anderson, Ill.
Badillo
Biester
Bingham
Bolling
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Burke, Calif.
Burton, Phillip
Butler
Carr
Clay
Cohen
Collins, Ill.
Conyers
Corman
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Dellums
Diggs
Dodd
Downey, N.Y.
Duncan, Oreg.
du Pont
Edwards, Calif.
Evans, Colo.

Evins, Tenn.
Fascell
Fenwick
Fisher
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Giaimo
Gilman
Hall, Ill.
Hannaford
Harris
Hawkins
Hayes, Ind.
Holtzman
Jeffords
Jenrette
Johnson, Colo.
Jordan
Kastenmeier
Keys
Koch
Krebs
Krueger
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McKinney
Maguire
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Mosher
Natcher
Neal
Ottinger
Pattison, N.Y.
Perkins
Pettis
Peyser
Pritchard
Rangel
Rees
Richmond
Risenhoover
Roncalio
Rosenthal
Sarasin
Scheuer
Schneebeli
Schroeder
Seiberling
Solarz
Stokes
Stuckey
Studds
Taylor, N.C.
Thompson
Tsongas
Udall
Van Deerlin
Waxman
Weaver
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Yates

NOT VOTING—60

Addabbo
Alexander
Annunzio
Ashley
Bell
Biaggi
Burke, Fla.
Burton, John
Carter
Chappell
Chisholm
Cleveland
Conlan
Daniels, N.J.
Eckhardt
Esch
Eshleman
Ford, Tenn.
Fuqua
Goldwater
Green
Haley
Hansen
Harrington
Hébert
Heinz
Helstoski
Hinshaw
Holland
Howe
Johnson, Pa.
Jones, Tenn.
Karth
Kelly
Ketchum
Landrum
Levitas
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mink
Passman
Patterson, Calif.
Riegle
Rooney
Rose
Rousselot
Ryan
Stark
Steelman
Steiger, Ariz.
Stephens
Talcott
Teague
Vander Veen
Winn
Yatron
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Yatron for, with Mr. Steelman against.

Mr. Levitas for, with Mr. Harrington against.

Mr. Ashley for, with Mrs. Chisholm against.

Mr. Hébert for, with Mr. Stark against.

Until further notice:

Mr. Karth with Mr. Burke of Florida.
Mr. Jones of Tennessee with Mr. Carter.
Mr. Meeds with Mr. Hansen.
Mr. Ryan with Mr. Bell.
Mr. Stephens with Mr. Eshleman.
Mr. Teague with Mr. Conlan.
Mr. Rooney with Mr. Talcott.
Mrs. Mink with Mr. Rousselot.
Mr. Dominick V. Daniels with Mr. Ketchum.
Mr. Passman with Mr. Kelly.
Mr. Matsunaga with Mr. Steiger of Arizona.
Mr. Ford of Tennessee with Mr. Cleveland.
Mr. Haley with Mr. Winn.
Mr. Addabbo with Mr. Johnson of Pennsylvania.
Mr. Holland with Mr. Esch.
Mr. Vander Veen with Mr. Goldwater.
Mr. Young of Georgia with Mr. Heinz.
Mr. Riegle with Mr. Metcalfe.
Mrs. Meyner with Mr. Rose.
Mr. Green with Mr. Helstoski.
Mr. Annunzio with Mr. John Burton.
Mr. Alexander with Mr. Chappell.
Mr. Biaggi with Mr. Eckhardt.
Mr. Fuqua with Mr. Landrum.
Mr. Mazzoli with Mr. Patterson of California.

Mr. SYMMS and Mr. HOWARD changed their vote from "nay" to "yea."

Mr. LLOYD of California changed his vote from "yea" to "nay."

Mr. NEAL changed his vote from "present" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion just agreed to in respect to Senate amendment numbered 68 to the bill H.R. 14232.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time in order to inquire of the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), as to the program for tomorrow.

Mr. O'NEILL. Mr. Speaker, if the distinguished gentleman from Arizona (Mr. RHODES) will yield, I will be glad to reply to the gentleman.

Mr. RHODES. I yield to the distinguished gentleman from Massachusetts.

REQUEST FOR HOUR OF MEETING TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ASHBROOK. Mr. Speaker, I reserve the right to object.

Mr. O'NEILL. Mr. Speaker, if the gentleman is reserving the right to object, then I will withdraw my request at this time so that I may give the program for tomorrow.

Mr. Speaker, the program for tomorrow, Friday, is as follows:

House Resolution 1540, Select Committee on Assassinations;

We will conclude consideration of H.R. 15069, national forest management reform;

That will be followed by H.R. 15193, District of Columbia appropriations conference report;

H.R. 15194, public works employment appropriations conference report;

H.R. 12987, emergency job programs stopgap extension conference report; and

H.R. 15377, Export Administration, an open rule with 1 hour of debate.

It seems obvious we will not be able to conclude the entire program that we have scheduled. We would hope we would be able to get through with the conference reports, and we would hope we would be able to adjourn at 5 o'clock tomorrow evening.

And so, Mr. Speaker, with that in mind, I will renew my unanimous-consent request.

HOUR OF MEETING ON TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, first I will say, congratulations to our majority leader.

Some of us are a little concerned about the legislative program. I know that last week some of us felt that it was a show-and-tell session, but many of us have felt this week there is a very serious attempt being made to legislate.

Therefore, I certainly would not object to the request. The gentleman did say that we will be finished by 5 o'clock tomorrow afternoon?

Mr. O'NEILL. Yes. Mr. Speaker, if the gentleman will yield, I say that on the assumption that we can complete consideration of all the conference reports. If we do, we will be out of here by 5 o'clock.

Mr. ASHBROOK. Mr. Speaker, I thank the majority leader, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman tell us what reports are involved in his request?

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. MADDEN. The privileged reports are on the rule on H.R. 14970, Special Unemployment Assistance Extension Act of 1976; and the rule on H.R. 13350, ERDA authorization, to facilitate the conference.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 15, PUBLIC DISCLOSURE OF LOBBY ACT OF 1976

Mr. MADDEN, from the Committee on Rules, submitted a privileged report (Rept. No. 94-1579) on the resolution (H. Res. 1551) to regulate lobbying and related activities, which was referred to the House Calendar and ordered to be printed.

EXTENDING AND IMPROVING PROGRAM OF EXCHANGE OF MEDICAL INFORMATION BETWEEN VETERANS' ADMINISTRATION AND THE MEDICAL COMMUNITY

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3348) to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, after line 7, insert:

SEC. 2. (a) Subchapter I of chapter 2 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 203. Availability of appropriations.

"Any funds appropriated to the Veterans' Administration may, to the extent provided in this title or an appropriations Act, remain available until expended.".

(b) The table of sections for subchapter I of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new item:

"203. Availability of appropriations.".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I shall not object, but I will take just a moment to yield to the distinguished chairman of the committee so that be can give us a brief explanation of this legislation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3348 would extend the Department of Medicine and Surgery's exchange of medical information program through 1979.

The purpose of the program is to bring modern medical and communications technology to bear on the quality of services available to veterans at VA hospitals which, for reasons of size, location, or lack of resources, are unable to take full advantage of the latest medical information. The program is designed to strengthen medical programs at Veterans' Administration hospitals not affiliated with medical schools or in locations remote from medical teaching centers.

Under the program the Administrator of Veterans' Affairs may enter into agreements with medical schools, hospitals, medical centers, and individual members of the medical profession for the free exchange of medical information.

The program was first authorized in 1966.

The bill would authorize $4 million to be expended in fiscal year 1977.

TECHNICAL AMENDMENT BACKGROUND

For years appropriation acts have specified, for most VA appropriation accounts, that the funds appropriated may remain available until expended. This clarifying amendment is necessary because there is apparently some question as to whether an appropriations act can specify the continued availability of VA funds unless the substantive law authorizing the various VA programs permits such funds to be continued available until expended. Without such authorization an appropriations act specifying the same may be subject to a point of order on the floor of the House.

Some Veterans' Administration programs authorized under title 38 already have such specific authorization with respect to multi-year availability of appropriations. They include medical and prosthetic research—section 216(B)—grants to the Republic of the Philippines—section 631(D)—grants for the construction of State extended care facilities—section 644(d)—loan guaranty revolving fund—section 1824—and assistance for health manpower training institutions—section 5082(B). As to certain other VA programs, there is not such a specific authorization. Accordingly, the clarifying technical amendment would provide explicit authority in order to authorize the House Appropriations Committee to continue existing practice.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the gentleman's motion to concur with the Senate amendment to H.R. 3348.

This measure was unanimously passed by the House on June 16, 1975. It provides both for the extension and the improvement of the Veterans' Administration's exchange of medical information program. This program, now concluding its eighth year of operation strengthens Veterans' Administration hospitals which are unaffiliated with medical schools and/or are remotely located from medical teaching centers.

First, it has enabled the Veterans' Administration to take advantage of modern communications technologies, in providing information to and developing innovative pilot projects for such hospitals. For instance, the Veterans' Administration has participated in a series of biomedical communications experiments via the ATS–F satellite launched in April 1974, by the National Aeronautics and Space Administration.

Second, it has helped the Veterans' Administration attract highly trained and qualified members of the medical profession to such hospitals.

Third, it has assisted the Veterans' Administration in making up-to-date medical care available to veterans in such hospitals.

The bill under consideration would authorize appropriations of $3.5 million for fiscal 1976; $1.7 million for the transition period; and $4 million each year for fiscal 1977, 1978, and 1979.

The Senate amendment to H.R. 3348 is technical in nature. It authorizes that the appropriated funds remain available until expended. This is in line with a recent interpretation by the House Parliamentarian that an appropriations act is subect to a point of order if the authorizing legislation does not contain language regarding the expenditure of funds after the end of the fiscal year.

Mr. Speaker, I urge my colleagues to support H.R. 3348 with the Senate amendment.

Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT AS DELEGATES TO ATTEND CONFERENCE OF THE INTERPARLIAMENTARY UNION AT MADRID, SPAIN

The SPEAKER. Pursuant to the provisions of section 204(b), Public Law 94–141, the Chair appoints as delegates to attend the conference of the Interparliamentary Union to be held at Madrid, Spain, on September 23 to October 1, 1976, the following Members of the House: The gentleman from Oklahoma, Mr. JARMAN; the gentleman from Missouri, Mr. RANDALL; the gentleman from Illinois, Mr. McCLORY; the gentleman from Florida, Mr. PEPPER; and, the gentleman from Maryland, Mr. BYRON.

A GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE POLISH PEOPLE'S REPUBLIC—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–613)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with The Fishery Conservation and Management Act of 1976 (P.L. 94–265; 16 U.S.C. 1801), I transmit herewith a governing international fishery agreement between the United States and the Polish People's Republic, signed at Warsaw on August 2, 1976.

This Agreement is significant because it is the first to be negotiated in accordance with that legislation. I recommend the Congress give favorable consideration to this Agreement at an early date. I further recommend that, in the event 60 calendar days of continuous session as required by the legislation are not available before March 1, 1977, the Congress consider issuance of a joint resolution in order to bring this Agreement into force by that date.

GERALD R. FORD.

THE WHITE HOUSE, *September 16, 1976.*

MIKE MANSFIELD—A GREAT SERVANT OF HIS STATE AND HER PEOPLE

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, over in the other body of Congress, Senators are paying tribute today to the retiring majority leader, Montana's Senator MIKE MANSFIELD.

I want to join in that tribute, and adopt as my own views everything said in praise there of the Senator's record as a Senator and as majority leader on national and international issues.

I rise in the House of Representatives, however, to remind those who will read the Senate tributes that MIKE first served 10 years in this body, that he made significant contributions here, to pay tribute to him for the great service he has rendered to the State of Montana and her citizens, and to express my own boundless gratitude and appreciation for the guidance, the wise advice, and assistance that he has given me.

There are others in the House who served in this body with him who will, in the days ahead, comment on his service here. Several have discussed it with me and I regret that it was not made known until yesterday that MIKE is leaving Friday for China and may not be back until we have adjourned.

His trip at this moment in China's history is in the national interest.

Just briefly at this time, I wish to make some personal observations.

When I came to Congress 7½ years ago after a special election, I became a part of a congressional delegation that is unique in the country. Members and their staffs meet together regularly on Montana projects and on legislation that affects our State. Our current weekly staff meetings to plan and check on progress with Montana problems are known in our offices as the "Montana Good Government" meetings. There has been a maximum of unity and cooperation on Montana projects and concerns.

This unique, long-term unity and cooperation started back in 1942 when MIKE MANSFIELD came to Congress and initiated it. Senator LEE METCALF, MAX BAUCUS, and I will attest that, working as a unit, the Montana delegation has accomplished much for our State.

While Senator MANSFIELD is known most nationally for his work in the field of foreign affairs, we from Montana think also of his leadership on the development of great power projects—Hungry Horse Dam, Yellowtail Dam, Libby, and more recently the magnetohydrodynamics—MHD—project at Butte, Mont., Tech and our State university at Bozeman—a project that is one of the most promising new energy sources the Nation has, and a project that I will continue to press, with other members of the Montana delegation, because of its great promise of more efficient use of coal, conservation of water, and nonpollution of the air.

Other types of projects in Montana are far too numerous to list, but Montanans know them and will thank MIKE not only for those projects, but for hundreds upon hundreds of things he has done for the individual citizens of the State. Everyone who rides Amtrak through Montana on its southern route—one of Amtrak's most economic lines—owes a debt to MIKE for it was his conviction that that route, slated for abandonment, would be profitable, and his persistence in getting a commitment to continue it, that saved it from execution by planners with a lot less foresight than the senior Senator from Montana.

The Nation is indebted to MIKE for early warnings on our water resources problem. The Senate's Select Committee on Water Resources, which in 1950 gave us the Nation's earliest comprehensive report on impending water shortages, excessive pollution, and other water problems, grew out of a suggestion by MIKE MANSFIELD to a caucus of western Senators that we needed to look into growing water problems.

In many other areas—and that includes the establishment of the special Watergate Committee—MIKE's foresight fathered major happenings which, because of the modest nature of the man, have never been widely attributed to him.

MIKE will go down in history for the record length of his service as majority leader of the Senate. Encomiums will continue, particularly as to his leadership on foreign policy matters, and it will certainly be pointed out that if national leaders had listened to him years ago, we would have avoided that tragic experience altogether.

In Montana, he will also be regarded as a great servant of the State and her people.

And I shall continue to regard him as a friend and mentor whose advice and unfailing help have been of inestimable worth to me, and as a man whose friendship has vastly enriched my life.

MIKE, I am sure, hopes to have more time to devote to personal interests, and to spend with his wife, Maureen, who has shared in his thinking and his work throughout his career. Her contribution has been an especially great one.

I wish MIKE and Maureen a wholly enjoyable and satisfying new life, knowing very well that in any plans they may have, continued service to others, to the State, and the Nation will still have a liberal allocation of their time.

MIKE's retirement is only from the strenuous duties of the majority leadership. I am certain MIKE will continue to be one of our national leaders for many more fruitful years.

CHARLES GORRY OF ASSOCIATED PRESS

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Arizona (Mr. RHODES) is recognized for 5 minutes.

Mr. RHODES. Mr. Speaker, it is with a deep sense of personal sorrow that I rise to pay respects—on behalf of my Republican colleagues—to a great photographer and an exceptional human being, Charles Gorry of Associated Press.

Charlie was an enormously talented man—who was able to capture history through the camera's lens as good as any other person of his time—and better than most. He had a natural instinct for what constitutes news—and his pictures illustrated some of the most memorable and important news stories of this century.

Charlie was also a tremendously warm—and thoroughly decent—person who seemed to make friends wherever he went. To be a friend of Charlie's was to belong to a very special fraternity—a fraternity whose membership included foreign heads of states, Presidents, and Members of Congress on both sides of the aisle.

I remember well the first visit to Capitol Hill made by President Ford after taking the highest office in the land. It was a great occasion for us all—for that was the day that the President—our former colleague—returned to this Chamber to receive our greetings. The President was scheduled to arrive at my office and—as is always the case with a Presidential visit—security was very tight. The Secret Service had restricted the public and the news media behind some ropes in the corridor. Somehow, Charlie Gorry was able to duck under the ropes and join the group of us who were awaiting the President's arrival. A Secret Service agent—noticing Charlie's camera—said very authoritatively that there would be no pictures permitted of the President.

Just as authoritatively, Charlie replied: "Well, I'll just ask Jerry!" And that is exactly what he did do.

Mr. Speaker, we will all miss this talented and kind man—Charlie Gorry—who seemed as much a part of this body during the time he spent with us as any elected Member. He was one of those rare individuals who made life more enjoyable for all those who were fortunate enough to cross his path.

I will never forget him—for he was a very special friend.

GENERAL LEAVE

Mr. MYERS of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order today of the gentleman from Arizona (Mr. RHODES), on the extraordinary life and career of Charles Gorry, distinguished photographer for the Associated Press, who was so much a part of the congressional scene, and who died on Wednesday.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SECOND DISTRICT OF NEW HAMPSHIRE ANSWERS THEIR CONGRESSMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 60 minutes.

Mr. CLEVELAND. Mr. Speaker, for 14 years I have been sending an annual questionnaire to my constituents in the Second District of New Hampshire. The results, with my own answers and comments, are placed in the CONGRESSIONAL RECORD and mailed to my constituents. This year approximately 12,000 persons responded to the questionnaire.

The results of this year's questionnaire show both a determination on the part of those answering to get on with solving the problems we face and a disillusionment with political rhetoric.

ENERGY: URGENT NATIONAL CONCERN

Despite the fact that discussion of our energy problems has dropped off dramatically in the news media, this year's results show that the people of New Hampshire view the energy problem as a matter of urgent national concern.

The fact that respondents support construction of the Seabrook nuclear power station to meet present needs while looking ahead to a long-range solution to our energy problems is noteworthy. The overwhelming priority given to development of solar energy resources reflects a determination to move now toward solutions of the future. This questionnaire thus indicates a realistic desire to find solutions both to our present problems and to our long-range problems, and to get busy with both of them.

The results also indicate disillusionment with the government's present performance—most notably in the expressed desire to curb Government spending. Obviously, if our constituents thought the programs Congress has been enacting were so good, they would not consider the spending to be so wasteful. There also appears to be concern that the red tape accompanying most Federal programs slowly but surely intrudes upon our individual freedoms. The lure of "Federal" money is accompanied by Federal restrictions, reports and forms which collectively intrude into our decisions and our freedom.

PRIORITIES

A very interesting part of the results is the ranking of priorities among twenty listed issues of clear national interest. It is obvious that second district residents are not as impressed as Washington by the pleas of special interests. Instead, they want Congress and the Federal Government to focus more effort on solving the genuinely critical problems, and less on promising to solve all problems of all people by creating programs for all the "good and worthy causes."

A close look at these priorities reveals that the double-digit inflation of a couple of years ago has not been forgotten any more than the oil embargo, and that Government spending is perceived as a contributing factor to the chronic inflation of the past decade. Concern about unemployment is balanced by this perception.

Perhaps most striking is that among the top seven priority items we find several that have not been front-page news for at least a couple of years. I have already referred to the energy shortages, but equally significant is the fourth-ranking priority assigned to fighting crime. While there have certainly been newsstories about crime, it has not been a major political issue for several years. But, our people know what their own problems are and want politicians to listen and concentrate on solving those problems.

While politicians have been promising tax reform for as long as I can remember, it is not surprising that people are tired of being confronted every April with income tax forms so complex that the average person is unable to fill them out. This complexity, coupled with reports of wealthy people paying very little in taxes, threatens to undermine the essential faith of the working men and women of this country in the fairness of our tax system.

REALISTIC SOLUTIONS—COMMONSENSE

The questionnaire returns this year demonstrate in every respect a concern for realistic solutions to our problems. Take health care for example. While more than two-thirds of the people are dissatisfied with the present system of paying health bills, the same percentage also rejects the simplistic appeal of comprehensive national health insurance. This reveals an understanding of the need to focus on the problem and on the way Government should solve it, without creating more bureaucracy than is necessary. This answer represents a call for a solution—a lasting solution—to those problems obviously beyond the abilities of an average citizen to take care of alone and unaided.

The commonsense approach in the search for realistic solutions is evidenced also in the strong preference for solving our unemployment by developing jobs in the private sector rather than through make-work Federal programs, and by the understanding that inflation is more of a threat to our long-term economic recovery than unemployment, even though unemployment has a greater impact on affected people. Likewise, though there has been a lot of talk about cutting the defense budget in recent years, I note that national defense is among the top priority items. This, too, evidences a good deal of commonsense.

NEW HAMPSHIRE OPINION PREDICTIVE

Mr. Speaker, it is a particular pleasure for me to share these questionnaire results with my colleagues, as I am becoming increasingly convinced that New Hampshire opinion is remarkably prescient. Last year, the results of my poll revealed strong support for less government regulation and opposition to new Federal programs. State and local governments were perceived as more responsive to the needs of people than the Federal Government. In addition, curbing government waste, developing an energy program, reforming the welfare and tax systems, and restoring confidence in government headed my constituents' list of priorities. Subsequently, these concerns have spread throughout the country.

A fair reading of this year's Presidential primaries has shown how clearly New Hampshire voters last year foreshadowed what has this year become a central issue, that is, the much discussed "anti-Washington" sentiment.

Speaking of Presidential preference primaries, New Hampshire voters have a good record of sending accurate signals to the rest of the Nation. Once again last February they very accurately predicted the final results of the Presidential nominating races.

Mr. Speaker, the questions asked, the results and my comment follow:

1. Seabrook: Do you favor the proposed construction of a nuclear power plant in Seabrook, N.H., subject to existing federal safety and environmental standards?

[In percent]

Yes	63
No	34
Undecided	3

Until our increasing investments in solar energy and other clean energy alternatives make them economically feasible and widely available, the fact remains that we need additional electricity. Even though energy conservation measures have helped reduce demand, our reliance on foreign oil is greater than ever.

It is my strong conviction, therefore, that right now in New England we need to build the Seabrook nuclear power station, on condition, of course, that existing safety and environmental standards are met.

It is significant that New England already gets 25 percent of its electricity from nuclear power. Equally persuasive is the enormous success of nuclear propulsion in the U.S. Navy.

The very strong endorsement of the Seabrook plant by those responding to the questionnaire indicates a belief that nuclear power, even with its limited risk, is vastly preferred to increasing our dependence on Arab oil.

The risks and disadvantages associated with nuclear power have been well publicized. A chief problem is disposal of nuclear waste, which stays with us forever, even though produced in limited quantity. It is not unreasonable to conjecture that technology can solve the problem and quite possibly find a constructive use for the waste.

However, it should be recognized that all presently feasible alternatives have equally serious disadvantages. For example, we are dependent for oil on foreign powers who have already demonstrated a willingness to impose an embargo. Coal is produced outside our New England region, and presents problems in logistics as well as air pollution, mineworker safety, and need for land reclamation. If we do use more coal, as I believe we should, it should first be used to substitute for oil in those generating stations capable of converting to coal.

2. Revenue sharing: Should the general revenue sharing program be continued in substantially its present form?

[In percent]

Yes	68
No	22
Undecided	10

As an original supporter and cosponsor of the Federal revenue sharing program, I enthusiastically endorse this method of reinstating a significant measure of local control over decisionmaking in government.

Although the future of this popular and successful program appeared doubtful earlier in the 94th Congress, because of opposition from special interest groups wanting to restrict the use of funds to Washington-defined goals, the House approved legislation this past spring which extends revenue sharing in substantially its present form. As of this writing, the Senate has just passed its version so that extension of the program seems likely.

The bill passed by the House would send approximately $20.9 million annually to State, county, and local governments in New Hampshire. This substantial source of revenue is especially valuable becase decisons on how to spend the funds will be made at the local level, thereby insuring that local needs and priorities receive the utmost consideration. Among these is controlling the local property tax burden.

Noteworthy is the number of people who are undecided about revenue sharing. It appears that people are unsure of the program's impact, suggesting that subjects of intense interest to some of us are sometimes of much less so to others.

3. Concorde: Do you approve the decision to permit the British-French SST to land in New York and Washington on a trial basis?

[In percent]

Yes	53
No	44
Undecided	3

I agree—and have so voted—with the majority of my constituents that Transportation Secretary Coleman made the correct decision in allowing the Concorde SST to land at New York and Washington for a trial period. As one who opposed U.S. Government involvement in developing an American SST, on grounds of need and cost, I do support this limited trial as a commonsense way of dealing with the fact the Concorde is flying commercially.

No flights have yet gone to Kennedy Airport in New York, because of a ban imposed by the New York-New Jersey Port Authority, but Dulles International Airport in Washington has had five scheduled flights—both takeoff and landing—per week since May 24. These flights have been very closely monitored by the Federal Aviation Administration for noise levels, engine emissions, structural vibrations, and community reactions.

These tests by the FAA will continue and reports will be issued monthly throughout the Concorde's trial period. They will yield an abundance of valuable data upon which the Secretary can make a final decision about the Concorde. Whatever decision is ultimately made, this trial assures that it will be made on the basis of scientific evidence and not emotion.

4. Tax simplification: Would you favor simplifying the present personal income tax laws by eliminating all exclusions, deductions and exemptions and replacing them with a lower but still graduated income tax, collecting the same amount of money for the federal treasury?

[In percent]

Yes	59
No	36
Undecided	5

The favorable response to this question reflects the widespread belief that there is great need for simplification and reform of the Federal income tax system.

Every time Congress has passed a so-called tax reform bill, new well-intentioned loopholes have been added and the paperwork made worse. This year's tax reform bill has turned out to be a 1,600-page monster. Battalions of bureaucrats, lawyers, and accountants will have a delightful and confusing time with their new toy, but for the rest of us the system has reached the breaking point.

Debate and discussion of the proposal outlined in this question appears to be the best way to get action on overdue reforms of the Federal income tax system, the correction of existing tax inequities, and above all simplification.

But support for such a proposal must be tempered by concern for the desirable social purposes of many existing Federal income tax deductions, exclusions, and exemptions. Despite its inadequacies, the present Federal income tax system does have desirable features. For example, provisions of the tax code encourage charitable contributions, the purchase of homes, and investment and expansion by small businesses.

5. Social security: Do you believe the Social Security program is generally administered efficiently and fairly?

[In percent]

Yes	40
No	54
Undecided	6

The expressed dissatisfaction with the performance of one of our biggest and most visible Federal programs underscores the pitfalls of massive bureaucracies.

This program provides benefits to approximately 30.9 million recipients. The number of people required to administer it, and the massive amount of paperwork involved, have resulted in a great deal of confusion and inefficiency, with the burden being borne by those least able to afford it—the legitimate beneficiaries.

In handling numerous social security cases for constituents, my office has come in contact with many of the dedicated people who work for the Social Security Administration. These people share the frustration of trying to make the system work, and acutely feel the hardship caused to deserving retired and disabled workers by the inequities which can and do occur.

At the time of drafting this questionnaire, my office had become very aware of some of the worst difficulties encountered by social security benefit claimants. One of the stark realities was the fact that while over one-third of the disability benefit denials were being reversed, it often took as long as 18 months for an appeal to be heard. This time lag has since been substantially corrected, but it took some prodding by the Congress to make it happen. In the meantime, many people who were obviously eligible for benefits were penalized by a system which was not only unresponsive to their needs but out of control administratively.

Since I have been in Congress—1963—social security beneficiaries have received a cumulative 134.1 percent increase in benefits, all of which I have supported. The cumulative increase in the Consumer Price Index for that same period has been 85.5 percent. But as noted earlier, increased funding—while often needed—is only part of the solution. We need to make the system work more efficiently and more fairly.

Economy, part I: To stimulate the economy and combat the problem of unemployment, would you (a) spend more on public service employment and public works projects to reduce unemployment? or (b) attempt to stimulate private sector employment by encouraging business investment and expansion?

[In percent]

(a) Public jobs	24
(b) Private	76
(c) No answer	7

The overwhelming support for trying to solve our long-term economic problems by encouraging growth in the private sector is most heartening and reflects a no-nonsense approach to this problem. The most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation. The goal is to create permanent private sector jobs, not temporary public jobs payrolled by the American taxpayer.

Public service jobs do not solve our long term economic woes; at best, they only relieve the symptoms. Furthermore, these programs actually discourage private sector employment by fueling excessive growth in Federal spending. Federal Government borrowing to support deficit spending reduces the amount of money available to the private sector for productive investment, thus discouraging the growth needed to create private sector jobs and driving up interest rates.

Furthermore, the well publicized economic stagnation in England emphasizes a danger of an excessive governmental interference in a nation's economy.

Though public service jobs are not the long-term solution to unemployment, a temporary and effective use of this tool can help relieve the hardships of unemployment. For this reason, I have on occasion voted for public employment programs, notably the Comprehensive Employment and Training Act—CETA—and accelerated public works. In fact, I even voted for one version of the celebrated "Jobs" bill, before the U.S. Senate added a couple of extraneous and objectionable programs which doubled the price.

Economy, Part II: At this time, which of the two following economic problems do you consider the greater threat to the American economy?

[In percent]

(a) Unemployment	24
(b) Inflation	76
(c) No answer	5

Inflation represents the greater threat to the American economy.

It inflicts its damage on all areas of our economy—on the senior citizens with fixed incomes, on students, on consumers, on business investment and expansion, on the employed and unemployed. Obviously a new round of high inflation in the midst of our current economic recovery will dim the now bright prospects for restoration of long-term economic stability.

Massive and continuing Federal deficits are largely responsible for high inflation. Because inflation is intrinsically tied to employment, keeping the rate of inflation under control is probably the best single step we can take to encourage the creation of private sector jobs. This is not to discount the seriousness of our unemployment problems; however, keeping inflation under control will go a long way toward easing them.

And this is actually happening. Even though unemployment remains unacceptably high, the total number of employed people continues to climb to record levels. The number of new people entering the labor force has kept unemployment up, even though the creation of new jobs has more than kept up with the number of additional job seekers.

Energy: Which one of the following solutions to our energy shortages should receive top priority:

[In percent]

(a) Greater use of coal	15
(b) Expedited licensing and construction of nuclear power plants	23
(c) Energy conservation	16
(d) Development of solar energy	41
(e) Other	5
No answer	7

Although solar energy is favored by Second District residents, the large number of votes cast for other choices emphasizes that there is no simple answer to our Nation's energy problems. The question recognized this by referring to the choices as partial solutions, but the many other suggestions listed by respondents indicate that just as the problem is many-sided, so are its solutions.

Energy prices in New England continue to be a critical issue. The number one choice, solar energy, cannot immediately provide significant economic relief to households because of the expensive technological improvements still needed to make it widely available. For this reason, it is essential that the Federal Government step up its commitment to the solar program. This year I cosponsored a proposal increasing present Federal funding of solar development by approximately 170 percent. This dramatic jump was justified by evidence that technology has now reached a point where increased spending can quite possibly make solar energy available at competitive prices by 1985 for the generation of electricity and for significant home use.

In view of the leadtime needed to utilize solar energy fully, I was heartened to find 23 percent of my constituents stressing expedited licensing and construction of nuclear power plants to meet our present energy needs.

New England has not been able to use much domestically produced oil, largely because of our lack of refining capability, and the Nation at large has been shortsighted in ignoring its abundant coal resources. While clean air considerations played a part in the original switch from coal to oil, the equally serious Arab oil embargo has brought no major reconversions to electric generation from coal. The Federal Government is partly to blame, but the fact remains that our own abundant coal reserves could be used to far greater advantage.

Energy conservation remains an important factor and statistics prove that New England consumers have been very conscious of the savings potential. Restricting consumption of valuable resources while maintaining a sufficient degree of economic growth demands the attention and effort of all concerned Americans.

Other noteworthy suggestions included geothermal, wind, and wood power. The last one could be especially valuable in areas of the country such as New Hampshire which are blessed with abundant, and renewable, timber resources.

National health insurance: Which of the following choices fits most closely with your views:

[In percent]

(a) We should leave the current system of paying medical expenses substantially as it is	30
(b) Congress should adopt a comprehensive national health insurance program which would provide every American with complete medical protection	34
(c) Congress should adopt a limited program which would cover medical bills resulting only from "catastrophic" illness	36
No answer	6

Two-thirds of the respondents are dissatisfied with the present system of paying medical expenses. An equal number, however, prefer either retaining the present system or proceeding cautiously with a limited program of effective coverage for catastrophic medical costs.

My own approach at this time to the problem of providing adequate health care at a reasonable cost would be to provide protection against medical catastrophes. Obviously, action to aid those not adequately protected by the private insurance industry in this way is long overdue. One explanation for the failure of Congress to assume any responsibility in this area is that a limited program might reduce the political incentive for jumping headlong into federally financed comprehensive health insurance.

More than $133 billion was spent nationally last year for health care and related activities by the Federal Government and private individuals and groups. It is therefore becoming increasingly urgent for the Federal Government to make some clear policy decisions in this area. There arguments in favor of a limited approach are very persuasive. The cost of a comprehensive, tax-financed health insurance plan according to the Congressional Budget Office would range from $74.7 to $77.2 billion in fiscal year 1977, increasing to $104.2 to $139.6 billion in fiscal year 1981. Cost estimates for a limited, catastrophic program prepared by the Congressional Budget Office range from $9.5 to $11.4 billion in fiscal year 1977 to $24.8 to $27.8 billion in fiscal year 1981. At a time when fiscal restraint ranks first among priorities listed by second district residents, these cost figures indicate that the more practical, yet effective, course of action would be to take care of the most pressing needs. Such a step would also provide for evaluation of the mechanism at its initial stages before deciding whether or how to go further. Dissatisfaction with the way the social security system is operating points up to folly in adding a vast new health care system to the recent evidence of massive fraud in the medicaid program emphasizes the danger of relying on Government more than is necessary.

PRIORITIES

The number and complexity of the issues confronting the Congress dictate as a matter of course that we establish some order of priority in handling them. The process of deciding which needs are going to be addressed before others, produces as expected, a variety of opinions because of the varying interests involved. The responses of my constituents reflect that same multiplicity.

This year my questionnaire asked people to list their top five priorities. It is interesting to note that of the 20 items on my questionnaire, all but 2 of them made the top 5 list of at least 10 percent of my constituents, thus showing the many concerns competing for the attention of Congress. The table below shows the results, indicating what percentage of the respondents included a given issue in their list of the top five.

As in years past, several items dominate the list of priorities, and they have by and large been the same issues. This year inflation heads the list, with 61 percent citing it as one of the top five priorities. Close behind is the desire to cut Government spending, and I am convinced that the two go hand in hand. The reckless spending by recent Congresses is probably the major cause of inflation today, leading to a budget deficit of some $70 billion in 1 year alone, and a failure to impose a spending cut in conjunction with tax cuts. The results of this overspending by the Government is painfully obvious over the long run, and we will not get inflation under control until the Government adopts a more sponsible and stringent budget.

Unfortunately, the fact that deficit-fueled inflation leads ultimately to recession is too little heeded in Washington. Instead, the congressional remedies for recession and unemployment are often more of the same Government spending that helped create the problems.

Since my questionnaire was printed and mailed out, a series of sordid disclosures has rocked the Congress and provoked an outcry about the ethics of public officials. Most of those who wrote in their own priorities referred to this issue, and I agree that there is a need to make the operations and activities of Congress more accountable. As an advocate of congressional reform for many years, I have voted against the pay raise and other allowances and supported moves to televise congressional sessions and committee meetings. Particularly, I long opposed the concentration of power in the Committee on House Administration, until recently chaired by Representative Wayne Hays, Democrat of Ohio.

Priorities: Which of the following should Congress be concentrating on? (For each issue, percentage represents those listing it among their top five priorities.)

[In percent]

Inflation	61
Cutting Government spending	56
Energy shortages	44
Fighting crime	41
Unemployment	36
Tax reform	33

National defense	32
Aid to elderly	24
Paying off national debt	23
Health care	21
Consumer protection	15
Pollution abatement	15
Postal service	15
Public transportation	14
Poverty	13
Education	12
Regulatory reform	11
Housing	5
Foreign aid	2
Better roads	1

LEGIONVILLE NATIONAL HISTORIC SITE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 5 minutes.

Mr. HEINZ. Mr. Speaker, today I am introducing legislation which would create a National Historic Site at Legionville, Pa.

As you may be aware, Legionville played a very significant role in American history. It served as the first military training camp in the United States and was the base for Gen. Anthony Wayne's "Legion of the United States" which successfully secured western Pennsylvania from Indian attacks in the 1790's.

Furthermore, the first American Legion, trained at Legionville, opened the Northwest Territory and western expansion to American settlement. During that time a future President, Benjamin Harrison, served as a lieutenant there and Merriweather Lewis served as a major there long before he volunteered for his famous expedition.

However, despite its historical significance, it is still the largest unrestored post-Revolutionary site in the United States.

Through the efforts of interested groups as the Anthony Wayne Historical Society, Legionville has been designated a State Historic Site and is listed in the National Register of Historic Places. Unfortunately, without designation as a National Historic Site, this landmark, zoned for industrialization, will be lost for future generations of Americans to enjoy.

For this reason, I am introducing legislation which directs the Secretary of the Interior to acquire the 22 acres in Harmony Township, Beaver County, Pa. The National Park Service would then administer the land as a national historic site and would be able to reconstruct a model of the encampment.

It is my hope that, in this Bicentennial Year, a vital part of our heritage will be commemorated through the establishment of the Legionville National Historic Site.

For the benefit of my colleagues, I am including the text of my legislation:

H.R. 15598

A bill to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve and interpret for the benefit of present and future generations the site of the first military training camp established in the United States, the Secretary of the Interior shall acquire by gift, purchase, or otherwise, the real property described in subsection (b) for the establishment and administration of a national historic site.

(b) The real property referred to in subsection (a) is that real property in Beaver County, Pennsylvania, containing 22 acres more or less, in the northernmost part of Harmony Township, adjacent to Baden Borough, which is bordered by Duss Avenue, State Highway 65, and Logan Lane.

SEC. 2. The property acquired under the first section of this Act shall be known as the Legionville National Historic Site, and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes" (16 U.S.C. 1, 2–4) and the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467).

THE NEED FOR INCREASED HISPANIC-AMERICAN LEADERSHIP WITHIN THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, it is fitting that today as our neighbor, Mexico, celebrates its independence a resolution encouraging increased Hispanic-American leadership within our Armed Forces be introduced. Since the discontinuance of the draft, our armed services have increasingly had to compete with the public sector in the employment of minority individuals. In order to attract minority individuals of high caliber to our Armed Forces, these individuals must be drawn by prospects of advancement and reward. Hispanic Americans, people of Mexican-American, Puerto Rican, Cuban-American, and other Spanish origin Americans, within the military presently have little hope of advancement to high rank if one looks at their representation within the ranks of general and flag officers. I would like to call attention to the following statistics concerning Hispanic-Americans within our Armed Forces.

Hispanic Americans make up 4.1 percent of our Armed Forces. Department of Defense figures for the end of 1975 list 1,163 general and flag officers within the military, unfortunately only 3 are Hispanic Americans. Therefore, for every 29,000 Hispanic military personnel only 1 has attained general or flag officer rank. I will add, that since I have brought these facts to the attention of the Department of Defense, the number of Hispanic-American general and flag officers has increased from two to three.

Despite the courage and dedication displayed by Hispanic-American military personnel as proven by the numbers of Congressional Medals of Honor and other decorations of valor, a meager twenty-six hundredths of 1 percent of our general and flag officers are Hispanic. It is obvious that an injustice has been inflicted. Regardless of the reasons it is time to terminate this form of discrimination in promotion of Federal employees. The military talents and accomplishments of Hispanic Americans must be recognized through promotion of those qualified.

Our Armed Forces must totally utilize the capabilities it has at hand. It can ill afford to allow potential Hispanic-American general and flag officer talent to remain idle. The importance of this resolution is further underscored by our Armed Forces' position within the Federal Government. I hope this resolution will receive expeditious consideration.

BIG CITY LIBERALS AGAIN BLOCK TAX REFORM FOR FARMERS, SMALL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, I have often pointed out how the big city liberals pass legislation which shortchanges the rural areas of our country and encourages regulation, welfarism, and antibusiness, antifarm redtape. No better example could be found than today's vote which defeated our efforts to make the estate tax reform one which would be truly meaningful.

By a 229 to 181 vote, with 220 of the votes coming from Democrats in the prevailing side and 129 of the 181 votes on the losing side coming from Republicans, the liberals effectively saddled small businessmen and farmers with a new, repeat new, tax to cut down on improvements in the existing estate tax exemption.

The new tax proposed by the liberal Democrats is a devious one. It is one of the reasons you always have to be careful when they discuss tax reform. Usually they mean tax increase when they talk about reform. Indeed if one reads the CONGRESSIONAL RECORD today he will find repeated examples of the Democratic liberal majority referring to tax losses, losses to the Federal Treasury, how much less tax the Federal Government would collect and so forth. That is accurate. The liberal worries about collecting taxes so they can spend it on their grandiose schemes. We conservatives want to leave as much money as possible in the hands of the average taxpayer so he can take care of himself. On this issue, the liberals defended the Federal Government, we conservatives advocated the cause of the widow, orphan, the farmer, and the small businessman.

How did they do this? Very simple; by establishing a cost basis carryover as a part of their estate tax reform, the liberals make certain that in most cases there will be a new income tax obligation which does not now exist, a capital gains tax. Conservatives wanted to continue the basic provisions of present law and merely increase the taxable exemption from its 1942 level of $60,000 to $200,000 with no carry over provisions or changes. As a result of the liberal Democratic majority's victory—a loss to most of us but a victory as usually for them—many estates which would not have any estate tax will now have a capital gains tax. In addition, it will create accounting problems, encourage litigation, and add to the expense of administering an estate. It may require tracing back many years of records.

Again we see the liberal effort to create new taxes while advertising in big print that they are reforming the estate tax laws. We lost, as I pointed out by a 229-to-181 vote and this day should be marked down by farmers and small businessmen because it is the beginning of many new estate problems which did not exist up to now and, even worse, the beginning of a new tax. Unfortunately, it is but one part of a large and comprehensive tax reform act which cannot reasonably be vetoed because of this bad feature. The liberals know this and they used their voting power to ram this down our throats.

ESTATE AND GIFT TAX REFORM

Mr. Speaker, a synopsis of what we have done today shows some progress. Our present Federal estate tax laws are seriously outdated. Despite a high rate of inflation and a huge increase in land valuation, the basic $60,000 exemption has remained unchanged for more than three decades.

This limit has placed a severe strain on the families of farmers and small businessmen. Many families have been forced to sell their farm or their business in order to pay the estate taxes. Such a situation cannot be tolerated.

I have previously introduced legislation—H.R. 12277—which would increase the exemption to $200,000. This would be a major step in helping to relieve the estate tax burden on farm and business families.

Unfortunately the estate and gift tax reform proposals in the conference report do not go as far as my bill. The report establishes a $47,000 credit phased in over a 5-year period. This is equal to approximately a $175,000 exemption. Although I would prefer a higher amount, nevertheless the proposed new credit would be a considerable improvement over the existing situation. It should go a long way toward helping the heirs carry on the family farm or business without having to sell all or part of it in order to pay the estate tax.

Another worthwhile change is that providing for an alternate valuation standard. I have previously introduced legislation—H.R. 5131—which would, at the election of the executor, allow a farm estate to be assessed at its value for farming purposes. This would be a valuable alternative to present tax policy of valuing land at its highest potential value.

The conference report adopts this important option. It provides that the executor may elect to value real property which is devoted to farming or other closely held businesses on the basis of such property's value as a farm or business. The executor would not be forced to take the property's fair market value as determined by taking into account its highest potential use. The effect of this provision will be to help keep the family farm and the family business within the family.

The proposed legislation would make other valuable changes in the estate tax laws. These changes include increasing the marital deduction and extending the time for payment of the tax on illiquid estates. Once again, the goal is to avoid the forced sale of farms or businesses in order to pay the estate tax.

Unfortunately a large part of what the conferees give with one hand they would take away with the other as I have already noted. The carryover basis provision would have an adverse impact on estates containing farms and closely held small businesses. It would impose a tax on capital gains from future sales of inherited property by an heir or executor. This would be done by providing that the heir must use the decedent's base rather than the value of the property at the time he inherited it as the law now provides. This is the new tax I have already mentioned.

Under current law a beneficiary's tax basis for inherited property is generally stepped up to its fair market value on the date of the decedent's death. The conference report would require a beneficiary to take over the decedent's basis except that property acquired by a decedent before December 31, 1976, would have a basis equal to its value on that date.

The liberals in Congress would undercut the important gains made by farmers and small businessmen in other sections of this bill. They would force the unwise and unwarranted carryover basis provision into the legislation. I am strongly opposed to this provision and I voted for its deletion from the bill. The big city liberals beat us again and the middle-class farmer or small businessman will be the loser.

CHANGES IN FEDERAL MAKE-OR-BUY AND DESIGN PROCUREMENT POLICIES PRAISED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, the Office of Federal Procurement Policy—OFPP—an office located within the Office of Management and Budget in the Executive Office of the President—has promulgated two revisions to executive policy which have great promise for reducing the cost of Government.

One has to do with removing from Government operations those commercial and industrial activities which private enterprise is both willing and able to perform. I addressed myself specifically to this matter on August 26, and those remarks can be found at pages 27880-27883 of the RECORD of that day. The other revision reorganizes the way in which Government goes about creating optional product choices for either private or public buyers.

Both of these actions provide executive policy guidance with a sense of Congress expressed as long ago as 1933. In that year, a House report provided the first comprehensive study on the extent to which the Federal Government was engaged in commercial activities. That report concluded that if a Government activity was competing with private enterprise, then the Government activity should be liquidated.

It took 22 years, a deep economic depression, and a world war, before this sense of Congress was first instituted in executive policy. That policy—issued in 1955—stated that—

> It is the general policy of the administration that the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from enterprise through ordinary business channels.

Both the 1933 sense of Congress and the 1955 expression of executive general policy set forth the conclusion that Government has no business being in business.

Executive "make-or-buy" general policy today is the same as issued in 1955. But in 1967 an unworkable clause—an exception to that general policy—was inserted. Along with more reasonable exceptions to the general policy was this exception:

> If private sector supply would result in higher costs to government, then government performance is justified dependent upon a comparative cost analysis.

This exception was unworkable from the start.

While the cost accounting system of Government suppliers has received intense attention from the U.S. Cost Accounting Standards Board—CASB—and its close associate, the General Accounting Office, I was surprised to learn recently that the CASB's charter does not include setting cost accounting standards for the Federal Government. By its title, one would think that it did, but the CASB only sets standards for Government's suppliers. So the Federal accounting mechanism needed to accurately, fairly, and equivalently compare industry and agency costs to perform the identical job has never even existed.

Lacking any industrially equivalent cost accounting system, the estimation of industrially equivalent Government costs has some obvious, large gaps in it. Two of these have been picked up by the OFPP. Agency estimators had been using 7 percent of a Federal employees' salaries as Government's insurance fringe benefit. OFPP is now correcting this percentage to 31.7 percent—almost four times the previously used amount—7 percent contributed by the employee and 24.7 percent contributed by Government. Through these promulgations, we are beginning to learn more about the full taxpayer's cost to pay for Federal employees.

Removing Federal employees who perform industrially equivalent jobs does not mean that joblessness will increase. The Administrator for Procurement Policy has said that jobs removed from Government payrolls will very likely be picked up by private payrolls, for Government will continue to need the products and services. But once on private payrolls, employees become part of competitive private enterprise where the setting of sales price is arrived at by competition. When industrially equivalent commercial and industrial activities are instituted within Government, as I have already pointed out, it is anyone's guess as to what total cost is being paid by the taxpayers. By contrast, a contract with an industrial or commercial firm clearly states the total price to be paid.

I am sure that OFPP is looking into another large gap in comparative costs.

The CASB has promulgated standards governing industrial plant and equipment depreciation cost acceptable as cost elements in Government contracts. Because of previous IRS rules and the CASB promulgations, contractors are not permitted to "expense off" capital investments on Government contracts in the year incurred. However, Government capital acquisitions are expensed off in the year incurred, and Government's plant and equipment acquisition costs no longer appear in subsequent years as a taxpayer's cost for Government to do business. Thus, in making comparative industry/agency cost estimates, the cost of Government performance should include a cost markup equivalent to industrial plant and equipment depreciation. Otherwise, comparative cost data will be unfair and in fact inaccurate, because the taxpayer contributes to "buying" ownership or pays the whole bill if owned by Government.

The other gap is the requirement imposed upon industry to put aside a reserve for Federal taxes out of profit accumulations. Paying taxes on corporate profits produces revenue for the United States. Federal operations obviously are tax exempt; they simply do not produce tax revenue. In their not paying taxes, we all have to pay more, because they do not pay any. It would be unfair to not include an industrially equivalent tax payment in agency cost estimates. Paying taxes on profits reduces a company's discretionary resources to enlarge its business, hire more people, and achieve profitable growth. These Federal tax payments are a real cost of doing business from a private company's point of view, and having Government perform the identical activity is a real cost to the taxpayer in lost revenue.

The CASB could constructively apply their indepth knowledge of industrial cost accounting systems to the construction of industrially equivalent Federal cost accounting systems. I would like to see the CASB take some initiative in this area and set up Federal cost accounting standards on an industrially equivalent basis. Agency management and the GAO could then check and balance the agency's numbers put into such a system, as they are used in justifying make-or-buy decisions. All of us, including the agency, would benefit.

I am neither an accounting or costing expert, so I make no representation that the two obvious cost areas I have described are all that remains to be added. I have heard of "general and administrative" expenses which contractors must recover in product prices in order to stay in business, and I wonder if Federal costing should include an equivalent amount. The combined CASB and GAO wisdom should surely be able to provide relative cost comparison clarity, not only to the executive branch but the legislative as well.

The other OFPP executive circular is also make-or-buy related. This is a new circular issued last April providing executive policy in the aquiring of major systems.

Because no typical major systems are specified, I presumed on first reading that it would apply to only Department of Defense and National Aeronautics and Space Administration weapons and space systems. But, surprisingly, it applies to all agencies, both civil and defense, whether they acquire systems for their own use or not.

This is an entirely new viewpoint on the Federal make-or-buy policy which is currently limited to "commercial or industrial products and services for government's own use."

The circular obviously has to do with Federal research and development, whether the new products and services, which come out of such expenditures, are ultimately bought by Government for its own use, or ultimately bought by private buyers for their use and not Government's.

I advise my colleagues to read and understand this new circular. In recent days, hearings were held before the Subcommittee on Federal Spending Practices, Efficiency, and Open Government of the Senate Committee on Government Operations, chaired by Senator Lawton Chiles, as to the agencies' progress in implementation. The Energy Research and Development Administration, the Department of Transportation, NASA, and DOD testified. I am told that all agencies responded positively and are in the process of taking implementation actions and full implementation planning.

Why is this executive directive so important to our domestic economy?

You have to go back to a 1972 commission to get the answer. This was the Commission on Government Procurement, proposed by our former colleague, Congressman Chet Holifield of California, and established by Public Law 91–129 in 1969. The Commission took 2½ years to complete its assignment, analyzing all Federal procurement, including several special studies such as acquisition of major systems and Federal make-or-buy policy and practice. The work of the Commission was concluded in December 1972.

Remarkably, the report of this Commission, unlike most other commission reports, is alive and healthy today. Action on its 149 recommendations is closely monitored by the GAO. The OFPP is a consequence of the Commission. And Senator Chiles' subcommittee is exceptionally active in monitoring executive response and progress.

Of the 149 recommendations, 12 dealt with system's acquisition. The sense and thrust of these 12 have been faithfully captured by the April 1976 OFPP circular.

That circular sets policy for agencies to procure ideas and design concepts from both private and public sources.

In the past, agencies had procured partially completed designs that were specified by in-house technical groups. Quoting on partially completed Government designs cost a lot of money, so smaller and newer firms could not compete with the big ones. Now, with this new policy in place, a new or small firm should be able to compete equally with a much larger one, based on the relative value of their ideas in fulfilling an agency need. Because conceptual designs and ideas are significantly cheaper to propose than prototype or engineering designs, the small firm should be able to challenge big ones and profitably grow based on competitive merit. The circular tells how this is to be done.

Responsive implementation by civil agencies will probably cause the most trauma. Most civil agencies have mirrored DOD in setting research and development policies and practices. But since the civil agencies usually do not procure and use what their R. & D. sponsors, these agencies need to innovate different R. &. D. policies than DOD and NASA which do procure and use what their R. & D. sponsored. It appears to me that civil agencies will need to devise Federal incentives which will bring private innovators into contact with private, local, and State buyers, and the private financial community. I think it is a diversion to retain DOD R. & D. policies within civil agencies, policies which motivate private innovators to fly to Washington to get Federal R. & D. funds, as defense contractors have to do, flying over their real marketplace while they are on their way.

So when we close back to make-or-buy policy, I see significant change in relative agency versus industrial R. & D. performance. First of all, a careful reading of the new circular shows that a contractor with an acceptable idea owns the idea. It can no longer be taken out of his proposal and put into a larger procurement specification which only the larger firms can bid on. However, the contractor will have to prove out his representations within a competitive environment. The performance of proof out R. & D. will be managed by the private company, not split up between multiple industrial and agency performers. This has obscured responsibility for new product innovations in the past, leading to severe contractural difficulties.

This clear management responsibility for competitive product innovations will impact upon those Federal scientific and engineering employees who in the past did much of their work noncompetitively during the preparation of procurement specifications. Competition was entered into at a later time, when the specification was released to industry to build what government had designed.

As I understand it, product diversity should come about during R. & D. Once R. & D. is passed, the opportunity for optional choice is narrowed, if not eliminated.

Members of Congress have been presented too often with a fait accompli—the agency need and a strongly recommended single solution, all in one package. For example, we were given little understanding or information on the existence or progression of alternative ways to solve the strategic offense Triad mission need. When the solution was given to us, it came in the form of R. & D. requests to innovate a single approach and now in a $22 billion investment and operating package, there were no alternatives to the B–1 bomber. I have and will continue to support the B–1 bomber, because I believe in a strong defense, but I do not think we can overlook the reality that it came to us as the only choice to meet an important national security need about which Members should have known the array of choices.

I think we who serve in Congress could act more wisely, if we were more thoroughly informed about the widespan ideas to meet a common need during early R. & D. phases and were provided with information about their relative progress. We would understand also a great deal more about how the executive arrives at such expensive investment and operating packages. A part of the new circular provides us with this important visibility.

I am not equipped nor are most of my colleagues to debate relative merits of alternative design concepts during their early design phases, nor do I believe we should force a premature choice on the executive. But I do believe that widespan competitive alternatives should be put fully before us as a precondition for R. & D. authorization.

If a need comes to Congress with only one solution or some design variations of the same solution, I think we should regard it for exactly what it is: a nationalized program. I also think we should insist that a phaseout plan be attached to dissolve the ad hoc private-public arrangement when the job is done. I know that, from time to time, there will be compelling arguments for such a venture, so I am not ignoring that reality. The circular makes provision for such programs, and I find no disagreement when treated on an "exception" basis as the circular advises.

How this executive circular will impact Federal make-or-buy policy, if at all, remains to be seen. But by its implication, a new balance between agency and private company R. & D. performance will very likely be sought with product diversity permitted and competition during R. & D. made effective. I also look toward seeing some recognition of civil product and defense product marketplace distinctions. It is not clear to me that a policy for products and services for Government's own use still applies, particularly considering the significant rise of civil product R. & D. expenditures.

For those two bold initiatives, OMB and OFPP are to be commended. I can not help but believe that effective agency implementation will lead to business setting back into business, and government getting out of it.

PILOT TELEVISION INFORMATION NETWORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 10 minutes.

leagues will be interested in a demonstration project now being developed by the House Commission on Information and Facilities. The project, if successful,

Mr. BROOKS. Mr. Speaker, our col-
will bring directly into their offices much earlier than previously anticipated the important daily benefits of the Commission's experimental summary of proceedings and debate.

As many Members know, the summary project is an existing part of the Commission's Member Information Network—a computer-assisted system which allows terminals in 30 offices to access directly, both in printed form and on the terminal's cathode ray tube or screen, several kinds of legislative information: The bill status system of the House Information Systems, the six data files of the Library of Congress "Scorpio" system, and the summary of proceedings and debate.

The summary project, as the title suggests, transmits to the 30 terminals a running summary of everything that occurs on the floor while the House is in session: The morning notices, the legislative program, announcements, debate, calls of the House, and votes. This information generally reaches the terminal within 5 to 15 minutes of the time the action took place. In the case of quorum calls and rollcalls, the purpose of each is transmitted to the terminal within a minute or two of the bells.

Chairman FRANK THOMPSON of the Committee on House Administration and Chairman CHARLIE ROSE of the Computer Subcommittee have been assisting in this project and at present are seeking ways to extend the network to all Members.

Members participating in the information network have found that the summary project is especially useful. It enables them to leave their offices fully informed of the status of debate or of the nature of an amendment or a motion. With the help of the printer attached to the terminal, Members can take with them to the floor a printed copy of as much, or as little, of the summary as they choose. Consequently, Members are much better prepared to vote or to join in the debate when they arrive on the House floor.

Since it may be some time before all Members' offices can be equipped with the terminals necessary to obtain the floor summary, the Commission has been exploring possible ways of communicating this information in some other usable form. The most feasible way of accomplishing this appears to be the use of ordinary commercial television sets which most Members already have in their offices.

The Commission, therefore, is presently reviewing several possible methods of utilizing available channels on existing television receivers—on a closed circuit basis—to transmit all or selected portions of the running summary of floor proceedings.

The Commission is hopeful that it will be possible to demonstrate such a process prior to the final adjournment of the House for this session. This will depend, in large measure, on the availability of the needed equipment. In any event, the initial demonstration will have to be limited to offices in the Rayburn Building, because it is the only House Office Building now equipped to receive signals directly from the Capitol Building.

Nevertheless, we believe that a successful demonstration of the capacity of inexpensive television receivers to function as a significant medium for the internal communication of information within the House can greatly expand needed services to Members and committees at relatively little cost.

FED ALLOWS COVERUP OF DEALER KICKBACKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the sweetheart relationship between auto dealers and financial lenders which has long perpetuated under-the-table kickbacks has now been endorsed by the Federal Reserve Board in a proposed regulation for the Truth in Lending Act.

I wrote Federal Reserve Board Chairman Dr. Burns yesterday to express my dismay at this regulation which does not require disclosure of any dealer participation fee to consumers who are about to sign auto loans.

The participation fees usually occur when a dealer fronts for a financial institution by suggesting to the consumer that he finance his auto through the dealer. The dealer is rewarded by the bank by receiving either a portion of the interest rate charged the consumer or in the most outrageous cases, the bank sets an interest rate and tells the dealer that he can keep anything over that amount. And with the way the regulation reads, consumers need know nothing about this.

Instead of requiring the loan disclosure which the consumer needs to make an informed decision when he buys a car, the Board has decided that such charges need not be separately described and, therefore, in my opinion, it has given the go-ahead to these dealer-lender deals.

The effect of this proposed regulation can only be to perpetuate the practice of under-the-table kickbacks which have cost consumers literally millions in the past few years without their ever knowing about it.

The enactment of this regulation would also make it very difficult to enforce the Federal Trade Commission's new rule of preservation of consumers' claims and defenses, a ruling which now makes financial institutions responsible for goods they are financing should those goods prove inferior. Unless it can be proven that the dealer and the lender had a "business arrangement" it will be very difficult to provide consumers with the protection against shoddy products bought on time that the FTC felt was necessary when it enacted this rule.

The Federal Reserve Board is supposed to enforce the Truth in Lending Act which was enacted so that consumers would have all of the information necessary to comparatively shop among different financing options. But instead of requiring that the complete picture of the cost of credit be provided to the consumer, the Board is permitting a coverup of this dealer/lender relationship.

Absolutely no justification for this blatantly anticonsumer stance has been offered by the Board. Disclosure of the dealer participation fee would not materially lengthen or complicate other disclosures. And certainly, finder's fees are not outlawed by their being disclosed.

I believe strongly that if the consumer has to pay the dealer for his service to the loan institution of bringing a new customer in, then the customer ought to know about it. With this knowledge, he could then check to see if he could get a lower finance charge through direct financing. But with the way this regulation is written, a consumer would have to hire a lawyer to avoid the hidden charge of a dealer-participation fee.

FEDERAL TRANSPORTATION POLICIES THREATEN FOOD PRODUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, today the Rail Services Planning Office of the U.S. Interstate Commerce Commission held a hearing in Little Rock, Ark., on the railroad classifications and designations proposed by the U.S. Secretary of Transportation under the Railroad Revitalization Act of 1976. Because of my legislative responsibilities here I was unable to personally participate in the hearing but have submitted a statement to be made a part of the Record.

I am deeply concerned about the implications the Secretary's proposals, and other Federal transportation policy trends, have for the future of our Nation's food production and distribution system and countryside regions. At this time I would like to make my statement a part of the Congressional Record and urge my colleagues to carefully review the issues which I have raised:

Statement Submitted by Hon. Bill Alexander, Under Interstate Commerce Commission Docket No. 329 in Connection With Ex Parte Hearing on Railroad Classification Under Provisions of the Railroad Revitalization Act of 1976 Conducted in Little Rock, Ark., September 16, 1976

Under the Railroad Revitalization Act of 1976, which has prompted this classification hearing, the Secretary of Transportation is directed to propose classifications based on level of usage and the probable economic viability of the rail lines under examination. Sec. 503 of the Act specifically allows the Secretary to take into account and make allowances for the differences in operation among railroads or groups of railroads.

In studying "Preliminary Standards, Classification, and Designation of Class I Railroads in the United States", Vol. 1, prepared by DOT, it appears to me that the Department has made insufficient use of the usage flexibility provided to the Secretary and has placed inordinate emphasis on use of service to "major markets" in establishment of its classifications.

This classification and designation of railroads process is laying the foundation for decisions on which of the Nation's communities will continue to receive rail service. It is the initial step toward increased abandonment of lines and service to food producing regions whose resources are vital to the continued survival of the Nation.

The alternative to this abandonment is for the States and localities to raise taxes to pay for railroad improvements and continuation of service or to improve highways which can serve to move this food and other natural resource products to the U.S. and international markets which must have them.

It is true that for a period of five years the States would receive financial aid from the federal government to carry on rail service and railroad improvements. But, this aid is to be provided in smaller and smaller shares. Not only does the State's responsibility increase annually, but in 1981 the State must begin to pay the whole cost of this service to the Nation.

States like Arkansas cannot afford the costs which are being thrust on them by this rail program and other similar transportation policies which are biased in favor of greater federal aid for urban dwellers and less and less for countryside communities.

It is gross discrimination for the Nation's transportation policy makers to expect countryside residents not only to produce the food city residents must have, but to pay the increased transportation costs as well. That is what the proposed railroad classification and designation scheme does.

To give more and more dollars to upgrade and improve the transportation systems basically benefiting the Nation's cities while continually reducing the dollars going into transportation for countryside areas is to work directly against the best interests of the Nation.

But, that is exactly what is happening under all existing federal transportation policies, rail included. By ignoring the legitimate claims countryside regions have to federal transportation assistance federal policy makers are laying the tracks over which the Nation is speeding toward an economic and food collision of catastrophic proportions.

To make decisions about railroad service without taking fully into account their impact on other transportation systems, such as highways, is to indulge in irresponsible foolhardiness. Yet, that appears to be exactly what is happening.

In these hearings on railroad classification and designation, we are dealing with a program expressly designed to bring about rail line abandonment. The inevitable result will be increased use of our rural highway system by heavier and heavier trucks, many operated by railroad conglomerates.

At the same time, in other federal actions, more than 100,000 miles of rural highways have been dropped from the federal-aid highway system. This means that the State and local governments must take over their upkeep and any improvements that are made. Even though the whole Nation benefits from the food and other products which move over these highways it is the local taxpayer who has to bear the burden.

In addition, the changes in the rules governing highway funding made by the Federal-Aid Highway Act of 1976 can be expected to mean further reductions in federal aid to rural highways. This law allows more and more money to be used in heavily populated areas and less and less in countryside regions.

The result, if these federal transportation policies are not reversed, will be increased local taxes, higher consumer food prices, reduced farm income, and reduced exports of U.S. food products. Reduction of food exports will hurt the U.S. balance of trade position and our efforts to control inflation.

Taking into account the implications of increased rail abandonment in countryside areas and recent developments in federal highway assistance programs, I would urge the Rail Services Planning Office to include in its recommendations to the Secretary of Transportation the recommendation that more flexibility be employed in classifying and designating rail lines serving the Nation's regions where food is produced. These regions are essential to national survival and adequate transportation systems are critical to the effective operation of our food production and distribution system.

STUMBLING ON SYNTHETIC FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Hayes) is recognized for 10 minutes.

Mr. HAYES of Indiana. Mr. Speaker, the serious economic drawbacks of H.R. 12112, the synthetic fuel loan guarantee bill are detailed in an excellent Louisville Courier-Journal article concerning this remarkable piece of special-interest legislation. I urge my colleagues to seriously consider Mr. Sinclair's apt remark, "As sometimes happens on major policy issues, Congress virtually stumbled onto the loan-guarantee issue last year," and resist stumbling on it this year:

[From the Louisville (Ky.) Courier-Journal, Sept. 14, 1976]

(Reprinted with permission)

Synthetic Fuel Plants Only Need Lots of Money

(By Ward Sinclair, Courier-Journal Staff Writer)

(Ward Sinclair is the Courier-Journal's bureau chief in Washington and has been covering energy issues for many years:)

Washington.—Federal planners foresee a day when 100 or more plants around the country would convert enough coal to synthetic gas and petroleum to supply much of the nation's fuel needs.

The coal and the technology are available to achieve the goal of energy self-sufficiency proposed by Presidents Nixon and Ford to free the United States from dependency on foreign oil.

And coal-wealthy states such as Kentucky, Ohio and Illinois, are eager to land new industry, and they have invested considerable effort and money to attract the synthetic-fuels producers.

But the big hangup is economics.

Each commercial conversion plant costs more than $1 billion. Lenders are wary of underwriting a product too expensive to compete with imported petroleum. Social and environmental costs are uncertain.

The Ford Administration, still clinging to its goal of American energy independence by 1985, is trying to persuade a skeptical Congress that private industry must have federal aid to get the synthetic fuels program in gear.

The centerpiece of the administration's program is a $100 billion energy-independence authority that would disburse huge federal grants to private entrepreneurs to build the synthetics plants.

Because of the vast sums of money involved, the politically popular idea of making a quick-fix on energy problems and because of the public and private interests that come into conflict, the subject of synthetic fuels has been intensely debated here for more than a year.

With that background, the struggle to determine the extent of federal involvement in synthetic fuel development will come to a head this week.

The House Rules Committee is scheduled to meet tomorrow to decide whether to send to the floor a bill that would get the program going by authorizing $4 billion in federal loan guarantees for construction of synthetic-fuel plants.

If the committee approves the bill (a close vote is expected), it could reach the floor for debate before the end of the week. Prospects for final passage there do not seem good. A similar proposal was defeated overwhelmingly last December.

Support and opposition on the legislation break down this way:

Supporters claim the legislation is only for research and development on commercially sized plants, rather than outright subsidization through loan guarantees. But they say the cost of each plant is so high that construction will be possible only with federal support.

Opponents say the bill is the first step in what could turn out to be a massive raid on the federal treasury in which the public assumes the risk by guaranteeing loans and private industry takes what profits there are. They say the first guarantee would be for plants using already outdated technology.

These arguments have been raised many times in more than 30 hearings this year held by four committees involved in drawing up pending legislation.

That four committees are involved underlines the political sensitivity of the synthetic-fuels issue. The Science and Technology, Interstate and Foreign Commerce, Banking, Currency and Housing and the Ways and Means committees all have claimed jurisdiction and have played a role in shaping the bill.

Adding to the sensitivity, both sides have invoked the name of Democratic presidential nominee Jimmy Carter to make their case. Opponents say Carter opposes the legislation, supporters say he does not.

Carter was drawn into the debate last week when the Rules Committee began consideration of the bill. Opponents led by Rep. Richard Ottinger, D-N.Y., said that Carter is strongly on record against the concept of federal loan guarantees for commercial synthetic fuel plants.

But Rep. Olin Teague, D-Tex., chairman of the Science and Technology Committee and a supporter of the bill, said that he had heard Carter did not oppose the bill—quoting a report he had as recently as Aug. 29 from former Massachusetts Gov. Endicott Peabody.

Carter headquarters in Atlanta said the candidate has taken no position on any pending legislation, but stands by an earlier-stated energy position, which roundly rejected the loan-guarantee concept for commercialization of synthetic fuels.

Peabody, reached in his Washington law office, said Carter has no position on the bill because, as Peabody put it, it is for research "demonstration," rather than the full-scale commercialization Carter was talking about.

Peabody, incidentally, is a representative of the Western Gasification Co. (WESCO), one of two companies in line for the first of any loan guarantees. The company wants to build a high-BTU coal gasification complex in New Mexico.

He said he talked to Carter last month, not as a WESCO representative but as a long-time supporter of the former Georgia governor's presidential candidacy. He said he has supported Carter since February.

As sometimes happens on major policy issues, Congress virtually stumbled onto the loan-guarantee issue last year. The Senate, with no hearings or debate, quietly attached a $6 billion loan-guarantee amendment to a pending Energy Research and Development Administration (ERDA) bill.

Sens. Henry Jackson, D-Wash., and Jennings Randolph, D-W. Va., sponsors of the amendment, assured their colleagues they had worked out all the earlier problems and that the program needed to begin quickly.

But it ran into trouble in the House, where Ottinger and Reps. Ken Hechler, D-W. Va., Phil Hayes, D-Ind., and Tim Wirth, D-Colo., were waiting in ambush. They forced House hearings on the issue and then succeeded in getting the full House to kill the guarantee program.

That is where action resumed this year. More hearings were held and the Jackson-Randolph scheme was scaled down and altered by the House committees that took up the issue.

As it emerged from Science and Technology, the bill would provide $4 billion in loan guarantees for coal gasification, coal liquefaction and shale oil conversion plants, plus money for other energy development processes.

The Commerce Committee came up with its own version—a $2 billion in loan guarantee authority, plus a new kind of regulatory program to help private industry finance high-BTU synthetic gas facilities by removing Federal Power Commission controls from the new fuels.

Still another provision establishes a program that would let ERDA enter into price-guarantee agreements for nonregulated synthetics and contracts for federal purchase of the liquids—in other words, a price-support program.

The congressional skirmishing comes on a backdrop of divided support for the bill within the administration and the energy industry. It also comes on the heels of two General Accounting Office (GAO) studies this year that raised serious questions about the loan-guarantee approach.

GAO said that given the high cost of the synthetics (some would cost nearly twice the price of imported oil) and the risk involved in plant construction, the government would be better advised to key its energy program on strict conservation measures.

Even the Commerce Committee, scaling down the loan-guarantee authorization, has noted that the pending bill would "demonstrate" a synthetic-fuels technology that ERDA itself has conceded will not be the basis for future commercial production.

And the critics—from the Commerce Committee to Hechler, Ottinger and Hayes— have contended that ERDA's pleading that the program will help study social and environmental impacts from commercialization is just "a cover" to get the loan-guarantee plan going.

Ottinger, one of the most vocal critics, put it this way: "Putting the full faith and credit of the federal treasury behind a series of white elephants hardly seems an appropriate fashion in which 'to do something about the nation's energy situation.' "

THE FORD–NIXON RECORD ON THE HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, for many years, members of Congress, acting not as partisans but as makers of law for a great nation, have exercised our responsibility as elected representatives of the American people, to write legislation aimed at enriching the lives of the most vulnerable members of our society, the physically, mentally, and emotionally handicapped. As a member of the Committee on Education and Labor and as chairman of the Subcommittee on Select Education, I count it a privilege to have been part of these efforts, particularly as they relate to the education of handicapped children and the rehabilitation of our adult handicapped.

I am sure that all those who share a commitment to the wellbeing of handicapped Americans have been deeply concerned over the record in this area of the administration of Richard Nixon and Gerald R. Ford. For example, the irresponsible use by President Ford of both the veto and rescission powers to attempt to kill or seriously weaken Federal programs of assistance to the Nation's handicapped has been nothing less than alarming.

Mr. Speaker, it must be obvious from the record that there is a deep division between the President and Congress on legislation to deal with the problems that confront handicapped people in our society, a division which is readily demonstrated by contrasting the intent of Congress in passing or extending legislation to benefit the handicapped with President Ford's continued efforts to frustrate such objectives. One can only conclude from the record—not the rhetoric—that Gerald Ford is no friend of handicapped Americans. Neither was his predecessor, Richard Nixon.

EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

Mr. Speaker, examples of the Ford administration's insensitivity to the handicapped are not difficult to find. I need not remind you that the most significant education measure enacted into law during the first session of the 94th Congress was the Education for All Handicapped Children Act, legislation which represented an historic advance in meeting the challenge of educating America's handicapped children. Yet at the time this legislation was under consideration it was consistently opposed by the Ford administration despite the testimony of a diverse group of witnesses that less than half of the 8 million handicapped children in the United States are receiving an education appropriate to their needs and that 1 million of these children, usually the most severely handicapped, are receiving no education at all. President Ford continued his attempt to block this legislation despite the broad bipartisan support it enjoyed in Congress and despite a pattern of increasing decisions by courts across the land and by State legislatures holding that handicapped children have a constitutional right to an education responsive to their special needs.

Faced with an overwhelming vote for the bill of 404 to 7 in the House and a similar margin, 87 to 7, in the Senate, Mr. Ford was constrained to back down from his widely reported threat to veto the legislation. He made it all too clear, however, that he was signing the bill with the greatest reluctance and he accused its supporters—nearly 500 elected Members of the House and Senate—of "falsely raising the expectations of the groups affected," presumably the 8 million young handicapped Americans and their families, although Mr. Ford voiced his "strong support for full educational opportunities for our handicapped children," at the same time he complained bitterly that we could not afford to help educate the handicapped children of our country.

Although he felt compelled to sign the bill, Mr. Ford remains determined to undermine the law so overwhelmingly approved by Congress. Indeed, after Congress this year voted to make available an additional $90 million for the program, the President, on July 28, 1976, asked that the $90 million to benefit handicapped children not be spent.

Unfortunately, Mr. Speaker, this was not President Ford's only attempt to use his executive power to weaken programs for the education of the handicapped. Earlier, on January 30, 1975, he requested that $52.5 million for educating the handicapped be withheld from the fiscal 1975 budget and that $50 million be withheld from the fiscal 1976 budget. On November 18, 1975, a second request to withhold funds for this purpose was issued, this time for $36.375 million.

Mr. Speaker, given his own history of grudging support for handicapped programs, it is no wonder that President Ford said that we were "raising false hopes." For while Congress was calling for a dramatic increase in fiscal 1977 funds to educate the handicapped, Mr. Ford asked for absolutely no increase in funding for the State grant program for this purpose.

Everyone who is concerned about educating handicapped children must be pleased that Congress did not agree to President Ford's recommendations and, moreover, that a Senate-House conference agreed upon $205 million more than Ford's request for the State grant program. Indeed, the Senate-House conference accepted a figure $231 million higher than the administration's fiscal 1977 request for all education programs for the handicapped.

The actions of President Ford, Mr. Speaker, and the distorted priorities which they represent, are hard evidence of this administration's callous disregard for America's disabled youngsters and demonstrate blatant unconcern for the millions of parents and their handicapped children who are being denied adequate educational opportunities.

While Mr. Ford's rhetoric on behalf of the handicapped is eloquent, his actions reveal a determination to obstruct rather than to assist. I am reminded of the words of another Republican, former Attorney General John Mitchell, who, you will recall, said watch not what we say, but what we do. I can assure this administration no one who watches the actions rather than the words of the administration of Gerald R. Ford on programs to serve the handicapped can fail to be distressed by the wide gap between the record and the rhetoric.

FORD'S VETO OF EDUCATION APPROPRIATIONS

Mr. Speaker, I need not also remind you of President Ford's veto last December of the education appropriations bill which, if successful, would have slashed funds not only for education for the handicapped but also for a number of other vital education programs such as bilingual education, education for the disadvantaged, vocational education, higher education, and libraries. Congress, however, demonstrated the profound extent to which it disagreed with the President by overriding Mr. Ford's veto with an overwhelmingly bipartisan vote of 379 to 41 in the House and 88 to 12 in the Senate.

VOCATIONAL REHABILITATION ACT

Mr. Speaker, let me mention, too, the hostility which has beset the vocational rehabilitation program during the Nixon-Ford years. Such programs have for over half a century helped provide handicapped persons the opportunity to support themselves and, therefore, to maintain their pride and their sense of self-worth. For example, persons who were rehabilitated in fiscal year 1975 received annual earnings of $1.385 billion, a net increase of $1.129 billion over their earnings at the time they entered rehabilitation. Clearly the benefits of rehabilitation programs are many times their cost. One finds it hard, therefore, in either human or economic terms, to understand the determined opposition of President Ford to these bipartisan congressional initiatives to strengthen vocational rehabilitation programs.

The Rehabilitation Amendments of 1972, which were designed to continue and expand the program of Federal assistance to State vocational rehabilitation services that for so many years have helped handicapped people with training and assistance in securing employment, were pocket vetoed by President Nixon before the 1972 election and vetoed again early in the next session. Richard Nixon's action was supported fully by Congressman Gerald R. Ford, then House minority leader. And Senator ROBERT DOLE, who wants to become our next Vice President, disappointed advocates of the handicapped by voting to sustain the Nixon veto.

Mr. Speaker, this important measure, which was finally enacted in September of 1973, also contained new provisions to guarantee employment opportunities to handicapped people and to protect the handicapped from discriminatory practices. In view of what I have already said, Mr. Speaker, about the hostility of the Nixon and Ford administrations to the handicapped, you will not be surprised to learn that the administration attempted to delay implementation of the law and to fragment the program it authorized.

For example, more than a year elapsed before the first of the regulations governing the Vocational Rehabilitation Act were published, and even as I speak, we are still awaiting publication of some of the regulations—nearly 3 years after enactment of the legislation.

Moreover, the regulations drafted by the administration have been, at every step of the process, less than responsive to the intent of Congress as expressed in the law. Indeed, there has been a concerted effort by the administration to utilize the regulations to evade and circumvent the intent of the language which Congress wrote to guarantee the rights of the handicapped.

Mr. Speaker, these obstructionist tactics did not stop with the regulations, for the administration also took fully 16 months to appoint a Commissioner of the Rehabilitation Services Administration, the person charged with administering this crucial program.

With the resignation of Richard Nixon, Mr. Speaker, many of us had hoped for an administration which would prove to be more concerned about and sensitive to the needs of the handicapped. Very early in his administration, however, Gerald Ford offered proof that he shared Mr. Nixon's attitude toward the handicapped Americans. When Congress once again, in 1974, sought to strengthen the vocational rehabilitation effort, President Ford, soon after taking office, vetoed the new bill. Had his veto been sustained, it would have resulted in a tragic diminution of rehabilitation services. But Congress again refused to follow the administration and voted to override the Ford veto—by the largest override vote in the history of the United States; 398 to 7 in the House and 90 to 1 in the Senate.

In a similar display of unconcern for the Nation's handicapped, last January President Ford vetoed yet another appropriations bill, this one containing $40 million more than the President sought to assist in the rehabilitation of our handicapped.

CARING FOR SOCIETY'S VULNERABLES

Mr. Speaker, the Nixon-Ford record on programs for the handicapped reinforces the conviction that we need a President of the United States who not only vigorously supports such programs but who acknowledges the close connection between advancing the well-being of the vulnerable persons in our society and the general health of the Nation.

Mr. Speaker, there is a responsible majority in Congress—composed of both Democrats and Republicans—who, working together, are committed to support programs to serve the handicapped. It makes no sense, to repeat, in either human or economic terms to turn our back on handicapped children, abused children, or older persons, or adults in need of rehabilitation. I must conclude—and I do so with no particular pleasure—that the commitment of the Congress of the United States to helping meet the needs of these vulnerable of our fellow citizens is not shared by the person who today holds the highest office in our land.

Mr. Speaker, let me note that I am commenting here on only one area under the jurisdiction of the subcommittee that I have the honor to chair. The subcommittee's responsibilities extend to a number of other fields, including child care and programs for the older adult; a close examination of the Ford-Nixon record in these areas would reveal a similar pattern of indifference or obstruction.

Mr. Speaker, I hope the time will not be long when we will have a President in the White House who shares the commitment of the elected representatives of the American people to support the services—such as vocational rehabilitation and the education of the handicapped—that are so crucial to the lives of so many.

IN SUPPORT OF THE SECOND CONGRESSIONAL BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I rise in support of Senate Concurrent Resolution 139, the second congressional budget resolution for fiscal year 1977.

The resolution we have before us clearly demonstrates that the new budget process is sound in both concept and practice. It is a real victory for Congress, for the American taxpayer, and for the economy, and I would like to commend the members and staff of the House and Senate Budget Committees for the outstanding job they have done in this, the first year that the Budget and Impoundment Control Act has been fully implemented.

I was particularly impressed with the efforts of the distinguished chairman of the House Budget Committee, my good friend from Washington (Mr. ADAMS). Under his guidance, we have installed a budgetary system which will allow us to better see the total picture of Federal spending, to better determine our economic priorities, to relate revenues to outlays, and in the near future, to balance the budget. The Congressional Budget Act has been called, deservedly, the single most important legislative initiative in many decades. Under the leadership of the gentleman from Washington we have seen this initiative become a reality.

The President has often accused this Congress of being "spendthrift." The budget we will act on today provides ample evidence that this is simply not the case.

We have reduced the Federal deficit for fiscal 1977 to $200 million below what we had expected it would have to be, and we have brought the public debt down $13.1 billion from what was expected. These are major accomplishments considering our continuing, high rate of unemployment.

Had the President not been totally lacking in concern for the 8 million people in this country who cannot find jobs, and for the American taxpayers who will be supporting them until they do, the budget deficit could have been reduced even more. Instead, the President demonstrated blatant disregard for the unemployment situation in this Nation, and its effect on the economy, by attempting to block almost every major antirecession measure passed by Congress.

Mr. Speaker, the President says we cannot afford to take measures to bring down unemployment. Considering the cost of unemployment to the American taxpayer—each percentage point of unemployment above 4.5 percent costs over $16 billion in lost revenues and additional outlays—I believe we cannot afford not to take these measures.

We have before us a budget resolution which will allow us to bring unemployment under control—and will accomplish this without being "spendthrift."

Outlays in the congressional budget are only slightly higher than what the President had requested—in fact, about 3.5 percent higher—but one which will allow us to continue as the strongest nation in the world—economically, militarily, and politically.

I think it is important to consider, Mr. Speaker, what programs come under this additional 3.5 percent in the congressional budget which, to the President, makes this a spendthrift Congress. If we look at the record, we see that he has proposed:

Reductions in programs for older Americans, including major cuts in funding for the hot meals program and home health services;

Reductions in existing jobs and jobs training programs, as well as vetoes of legislation to bring down unemployment;

Reductions in educational programs, including a $100 million cut in elementary and secondary educational assistance, and a $200 million cut in funds for higher education;

Reductions in energy programs, including a $37.5 million cut in FEA programs for energy conservation and environmental protection, and an $11.5 million cut in regulatory programs designed to keep consumer prices down; and other reductions in alternative energy programs, despite his claim that his administration is seeking energy independence;

Reductions in housing programs, including a veto of legislation designed to provide temporary assistance to middle-income families seeking to purchase homes;

Reductions in veterans' programs, including a proposal to forget about this year's cost-of-living increase for veterans receiving pensions.

Congress, in passing the budget resolution we have before us, will not be ignoring these important areas, and will still be keeping spending—and the deficit—at a minimum. We will be providing realistic levels of spending to promote the economic recovery and the sustained well-being of the Nation, and we will be doing so with a deficit which is approximately $15 billion less than the one we had last year. We will be providing adequate funding for programs which will enable us to further reduce the budget deficit in the years ahead, and eventually, eliminate the need of a deficit altogether.

It is doubtful that this kind of long-range planning would have been possible without the installation of the new budget process. It is truly a landmark piece of legislation, and one which will produce positive results—budgets which are consistent with the public interest—for many years to come.

I want to again commend the Budget Committee, its distinguished chairman, members, and staff, for their excellent job in guiding us through this first year of reformed budgeting, and for bringing before us a budget which is both penny wise and pound wise. I urge all of my colleagues to join me in supporting this important step on the road to economic recovery.

LEGISLATION TO FOCUS NEEDED ATTENTION ON MEDICARE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am introducing today two bills designed to focus much needed attention on two significant problems in the medicare program—the lack of adequate medicare coverage for health services furnished to beneficaries living or traveling outside the United States; and the limitations on medicare reimbursement for services rendered by qualified physician extenders in rural health facilities. I am introducing these bills now in the hope that they will elicit the analyses and refinements needed to design equitable and administratively feasible solutions to these problems.

Under present law, medicare coverage is available, with a few very limited exceptions, only for hospital and medical services rendered within the United States. These exceptions involve only cases in which the beneficiary needs emergency hospital services while traveling in Canada between the 48 States and Alaska, or needs hospital services because of a problem that arose while traveling or residing within the United States near the border, and a Canadian or Mexican hospital was more accessible than the nearest U.S. hospital. This limitation of medicare coverage to services rendered within the United States was originally included in the law to avoid problems that might otherwise arise in assuring the quality of care and in determining the appropriate amount of reimbursement for services furnished in foreign countries.

I believe that the time has come for a fresh examination of this restrictive provision in the hope that a way around the administrative difficulties can be found. While the number of beneficiaries affected—approximately 150,000 individuals—is not large in the context of the total medicare population, it is a distressing fact that the protection which they have earned through contributions during their working lives is summarily denied to them. Without minimizing the substantial administrative problems involved, it does seem to me that some reasonably effective solution can be found.

The approach incorporated in the bill I am introducing involves the use of bilateral agreements with those foreign countries willing to establish reciprocal arrangements with the United States. This approach would provide a measure of flexibility in meeting the widely varying conditions in different countries and would allow for the development of acceptable controls over the provision of and reimbursement for services in foreign countries.

The problem with respect to the services of physician extenders in rural health clinics is that reimbursement, under present law, can be made for such services only when they are provided under the direct personal supervision of a physician. However, a great many rural health clinics are in areas where, because of limited medical resources and the isolated character of the communities, physicians' services are generally inaccessible. In such areas rural health clinics, relying almost exclusively on physician extenders, have achieved noteworthy success in providing access to needed primary care and in establishing appropriate referral arrangements to other specialized medical services when necessary.

To the extent that medicare does not pay for services rendered by qualified physician extenders in the setting of a rural health clinic providing primary care, innovative uses of such personnel and facilities to help meet the pressing problems of rural communities is hampered. Under the bill I am introducing, reimbursement would be provided for services rendered in rural health clinics under the supervision of a physician, but the physician would only be required to assume responsibility for the care provided and would not have to be physically present at the time the care is rendered. This should facilitate greater use of such medical personnel in rural areas and encourage the further development of rural health clinics.

Under the bill, physician extender services provided in rural health clinics meeting specified requirements would be covered under part B of medicare. Payment for such services would be made to the rural health clinic on the basis of charges reasonably related to the costs incurred in providing the services. To assure that such services are of high quality, the bill specifies requirements relating to clinic arrangements for overall physician supervision, periodic physician review and certification of services rendered by extenders, preparation of medical orders and physician availability for referral and assistance in medical emergencies.

Specific requirements are also provided for the clinics to assure both the quality and effective delivery of services. These requirements include: a formal arrangement with hospitals in the area for referral and admission of patients requiring further diagnosis and treatment; maintenance of clinical records on all patients; provision of necessary routine diagnostic services and appropriate facilities for storing and dispensing drugs.

The bill also recognizes the absence of uniformity in the nomenclature used in State laws to describe physician extenders. Thus, under the bill the term would include those individuals trained and variously described as physician assistants, nurse practitioners, or medics who are authorized under State law to perform specified medical procedures.

I am not certain that these bills provide the most effective or most desirable approaches to the problems I have identified; nor am I committed to them. However, I do believe that they represent approaches that warrant careful consideration and I welcome, therefore, the comments and suggestions of all interested parties on their feasibility and possible refinement.

ANNIVERSARY OF MEXICO'S DECLARATION OF INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Kazen) is recognized for 5 minutes.

Mr. KAZEN. Mr. Speaker, I am pleased to call the attention of my colleagues to the fact that today, September 16, is the anniversary of the Declaration of Independence for our neighbor nation to the south, the Republic of Mexico. It is the Mexican equivalent of our Fourth of July.

During the period when our Nation gained its independence from Britain, Mexico was ruled by Spain. Mexico was the heart and center of Spanish holdings in the New World, but the exploitation of its resources became increasingly abhorrent to the proud people. Army officers and private citizens talked of a rebellion. A small group of them enlisted a priest from Dolores in their cause, and Miguel Hidalgo y Costilla became a key figure in the effort. Many of us in this body have seen the statue of him which was recently erected near our Department of State here in Washington.

Father Hidalgo was a progressive priest, interested in the welfare of his people, but even as he encouraged new industry and agricultural progress, he also recognized the need for political freedom. A revolt was planned for December 8, 1810, but word leaked out, some planners were arrested, and on the night of September 15, Ignacio Allende, an army officer, rode out to meet with Father Hidalgo. Another officer had already arrived, so Allende wanted to warn the priest and Juan de Aldama that their secrecy had been compromised.

The three men decided on immediate action, and at midnight on September 15, they rallied their people with the so-called Grito de Dolores. The message was clear: "Long live our Lady of Guadalupe, and death to the gachupines" or Spaniards. It ended "Viva Mexico."

The next morning, with a band of 600 poorly armed Indians, they set out for San Miguel, where Allende's forces were garrisoned. Recruits streamed to their cause, so that their army numbered 50,000 when the first battles began. The forces of freedom won some significant towns, but the forces of Spain were too much for them. All three of the leaders were captured and put to death. But the spark of freedom glowed on, and in 1821, the last Spanish governor negotiated the terms of the Treaty of Cordoba and the United States of Mexico became a free nation.

I am one of the Members of this House who is privileged to represent a district that was part of that new nation at the time. Mexico's culture and traditions have blended with ours; the Spanish language is spoken throughout that area. We have been good friends and neighbors for a long time, and we who are privileged to live on the border have never considered the Rio Grande a boundary that separates us but rather a link in the chain of friendship, understanding and mutual respect that binds our two nations and our people.

Mr. Speaker, it is with a great deal of pleasure that I stand on the floor of this House today and wish our friends in Mexico a happy birthday.

HOUSE SELECT COMMITTEE ON AGING ADOPTS REPORTS RECOMMENDING SPRINKLERS IN NURSING HOMES AND ASSISTANCE TO ELDERLY WHO NEED MEDICAL APPLIANCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Pepper) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, I am pleased to inform our colleagues that the House Select Committee on Aging today approved two reports of the Subcommittee on Health and Long-Term Care, on which I have the privilege to serve as chairman. The first report concerns "medical appliances and the elderly." The second covers "the tragedy of nursing home fires." Both reports are based on recent subcommittee hearings on these subjects and supplemental research.

The majority and minority worked together in drafting these reports. I wish particularly to thank our good friends, Hon. William J. Randall, chairman of the full House Select Committee on Aging, and Hon. H. John Heinz III, ranking minority member of the subcommittee on Health and Long-Term Care, for their help and support, as well as the other members of the Subcommittee on Health and Long-Term Care for their assistance—Ike Andrews, Ed Beard, Jim Florio, Marilyn Lloyd, Bill Cohen, and Bob Wilson, who also serves as ranking minority member of the full committee.

The reports adopted today discuss subjects which are very meaningful to the elderly of the Nation.

I. MEDICAL APPLIANCES AND THE ELDERLY

The first report is entitled "Medical Appliances and the Elderly: Unmet Needs and Excessive Costs for Eyeglasses, Hearing Aids, Dentures, and Other Devices."

An earlier subcommittee report, "New Perspectives in Health Care for Older Americans," recommended that medicare part B, the optional provision paid for partly by premiums, be extended to cover hearing aids, eyeglasses, and dentures for the elderly. This report restates that recommendation and provides further documentation of its urgency.

The report is based largely on testimony presented to the subcommittee at its June 23 and 24 hearings on medical appliances for the elderly. Subcommittee members will also remember receiving at the hearings a preliminary issue brief on this subject, prepared by the subcommittee staff in consultation with the Library of Congress.

Witnesses at the hearings included senior citizens consumer organizations; manufacturers and distributors of hearing aids, eyeglasses, dentures, and other devices; a panel of the Nation's leading health insurance company representatives; the Federal Trade Commission; HEW; the Food and Drug Administration; and the Veterans' Administration.

Additional information was obtained from numerous Federal, State, and local agencies, health organizations, and congressional committees, all of which are enumerated in the memorandum at the beginning of the report. In addition, the Library of Congress provided invaluable continued assistance.

Our investigation demonstrated that in the area of medical appliances, the elderly are simply not receiving the high-quality health care that they are entitled to and that they so desperately need. For example, according to the National Center for Health Statistics, 5 million elderly Americans are wearing glasses which need correction. There are 3.4 million elderly Americans over 65 who have dentures which need to be replaced or refitted. And 1.5 million elderly Americans are unable to hear words that are spoken in a normal voice and need either hearing aids or medical help.

In theory, public and private health benefit programs were created to meet this type of sever health need. However, in the area of appliances, these programs have been of only the most limited help. The report shows that medicare does not cover the cost of eyeglasses, hearing aids, or dentures. Medicaid does cover these devices, but only in some of the States—25 States provide eyeglasses, 36 States cover dentures, and only 11 States cover hearing aids. Moreover, the number of States covering any or all of these services is declining as many States strive to cut back their expenditures. Finally, private health insurance policies rarely cover eyeglasses and hearing aids and cover dental costs only occasionally.

In short, elderly people who need medical appliances must either pay for them out of their own pockets or simply do without them. As nearly one-half the elderly are near or below the poverty line—the largest segment of any age group—the latter is all too often the case.

Among the barriers to the purchase and proper use of these devices are serious evidence of abuse and overpricing. For example:

Serious evidence of abuse came from a survey by the New York City Department of Consumer Affairs, which demonstrated that one out of five eye examinations by optometrists resulted in unnecessary prescriptions.

Numerous surveys of retail firms selling eyeglasses show a 200 to 300 percent variance in the cost of identical eyeglasses.

Identical dentures, including identical fitting procedures, range in price from $100 to $1,000.

The hearing aid delivery system, as presently structured, fosters a clear and continuing conflict of interest that pits the profit orientation of the businessmen who sell hearing aids against the health and economic interests of elderly consumers. Studies have demonstrated that the result of this system of allowing the hearing aid dealers, rather than physicians, to determine the need of elderly consumers for aids, is frequent recommendations by dealers for hearing aids that cannot help buyers and neglect more serious medical problems.

The cost of hearing aids is excessively high—2½ times the wholesale price—and represents a formidable barrier to those elderly people who need the devices.

The subcommittee heard evidence from the Federal Trade Commission of numerous instances of misrepresentation and anti-trust violations such as price fixing in the hearing aid industry, including consent orders issued by the FTC against attempting territorial control and price fixing by three of the largest seven hearing aid companies. Two additional cases against two others of the largest seven companies are also pending.

Furthermore, the subcommittee received testimony from Government programs which made use of volume contract purchasing of eyeglasses, hearing aids, and dentures. The Veterans' Administration was able to save $145 per hearing aid—paying $205, including the related audiological test, instead of $350—under such a program. Likewise, glasses which sell on the open market for $26 to $50 a pair are purchased by the Defense Department and the Veterans' Administration for $7 to $8 a pair, by the General Services Administration for $18 a pair, and by the State of Arizona for $15 a pair.

As a result of these distressing findings, the report makes the following recommendations:

First, pending any national health insurance program which might lie ahead, the optional part B section of medicare should be extended to cover eyeglasses, hearing aids, and dentures and medical care related to fitting those items. With this extension, elderly people who chose to enroll in the voluntary part B program would be covered for 80 percent of the reasonable charges for these health expenses once they had spent more than $60 in that year on covered part B medical care expenses.

To pay for the additional benefits, part B monthly premiums and the Federal contribution to the medicare program would be increased slightly, in accordance with the apportionment system used in 1977 to divide total part B costs between the Federal Government and the elderly paying the premiums. Thus, the effect of the proposal would be an increase of $2.66 a month in premiums and an increase of $1.9 billion in the Federal share of the program during the first year of the medicare extension. It is important to note that the cost of the Federal share and of the premiums would decline by as much as $1 billion a year after the fifth year of the program since the enormous backlog of elderly people who desperately need medical appliances will be reduced by that time.

The subcommittee has found that the medicare part B extension could be quickly implemented by making use of the existing medicare administrative mechanisms. The additional coverage would represent no extra burden to these mechanisms.

The subcommittee found that an anomaly exists in medicare failing to provide coverage of oxygen tents and other durable medical equipment to patients in nursing homes while elderly people living outside institutions receive coverage. The report recommends correcting this anomaly, a change which HEW has estimated tentatively would cost between $1 million and $2 million per year.

Second, in view of the findings of cost-effectiveness of existing contract purchasing programs, the report recommends that contract purchasing of eyeglasses, hearing aids, and dentures be utilized wherever feasible by the Department of Health, Education, and Welfare to provide these appliances to those elderly people who opt to receive the part B coverage. HEW should begin to experiment with contract purchasing immediately. Within 5 to 10 years, it should be the official HEW policy that contract purchasing be utilized wherever feasible in the purchase of eyeglasses, hearing aids, and dentures for those covered. The subcommittee also recommends that States consider making use of contract purchasing of medical appliances as part of their medicaid programs. Existing Government contract purchasing programs are conclusive proof that this recommendation would result in a reduction in the actual cost of medical appliances from the excessively high levels of the present.

Under contract purchasing, HEW would, on the basis of competitive bidding, award contracts to a number of manufacturers—the current VA hearing aid program uses 14 manufacturers.

Third, because of evidence of abuses and inadequacies in the present pricing and delivery systems of medical appliances, it is urgent that a series of major safeguards be enacted to protect elderly consumers from the kinds of abuses that they suffer today.

The subcommittee recommends that safeguards be implemented by Federal and State agencies including continued and increased scrutiny by the Federal Trade Commission and the Food and Drug Administration, in order to end anticompetitive practices and antitrust violations.

Action is also recommended to the States individually and the Federal Trade Commission nationally to remove the bans which bar price advertisements of medical appliances. According to the Federal Trade Commission's Bureau of Consumer Protection, these bans "reduce competition, restrict consumer access to information, and allow higher than competitive prices to exist."

The subcommittee also recommends HEW actions to reduce those medicare expenditures which are excessive and unnecessary. HEW should immediately implement leasing and other economical methods of obtaining medical equipment. Legislation authorizing this was passed 4 years ago. The subcommittee can see no reason for the delay. Second of all, HEW should limit its payment for such devices as pacemakers to "reasonable charges," as provided under the social security statute. The subcommittee found that medicare pays for pacemakers virtually regardless of price.

There is a particularly severe need for additional safeguards specifically directed at ending the inadequate and overpricing of the present hearing aid delivery system. These include Federal Trade Commission regulations that would guarantee that hearing aid purchasers have the right to return hearing aids, end misrepresentation in hearing aid advertising, and would bar high-pressure techniques in the sale of hearing aids. In order to eliminate the widespread sale of unnecessary hearing aids, the subcommittee believes that the Food and Drug Administration should implement regulations which would require that everyone, except those allowed specific exemptions, be examined by a physician, preferably a hearing specialist before purchasing a hearing aid. The subcommittee believes that the regulation that has been proposed by the FDA which would require only persons under the age of 18 to have the examination is not adequate. Finally, the subcommittee believes that increased HEW assistance to encourage continuing education and training programs for hearing specialists, clinical audiologists, and physicians is needed in order to improve the quality of the hearing care they provide. Similarly, State and local public health departments should be encouraged to provide greater hearing care to the elderly including a network of examination and treatment sites.

Finally, the subcommittee recommends that all people purchasing medical appliances utilize consumer discretion to avoid overpricing and unnecessary services so that they will have eyeglasses, hearing aids, and dentures of the highest possible quality and the lowest possible price. The subcommittee has listed suggestions at the conclusion of the report.

What happens if the elderly go without these necessary devices because of abuses and overpricing, or because of the lack of coverage by public or private insurers?

Nelson Cruikshank, president of the National Council of Senior Citizens, answered this question in his testimony before our subcommittee. He said:

> They pay but not in dollars. They pay in the quality of life. Some cut down on food requirements. Some go without the proper type of shelter. Some cut off their social life. Many just do without (eyeglasses, hearing aids, and dentures) and fall back into more and more seclusion and live a restricted life because these appliances are not available to them as they should be.

II. "THE TRAGEDY OF MULTIPLE DEATH NURSING HOME FIRES"

The second report approved today by the Select Committee on Aging is entitled "The Tragedy of Multiple Death Nursing Home Fires: The Need for a National Commitment to Safety."

In February of this year in Chicago, 32 senior citizens lost their lives and 28 were injured in two nursing homes which had no sprinkler systems

In June in Roanoke; Va., four elderly residents were killed and 28 were injured in a nursing home which did not have a sprinkler system.

Members of the subcommittee, that makes 36 senior citizens in the nursing homes of this country who were killed, and at least 78 who have been injured, in fires in nursing homes without a sprinkler system. The fiscal damage is equally staggering. In 1974 alone, over $5.9 million was lost in damages from 9,300 nursing home fires.

As you know, our subcommittee and the Senate Subcommittee on Long-Term Care held a joint hearing on recent nursing home fires. At our subcommittee's request, the U.S. General Accounting Office examined this issue in substantial depth. GAO concluded that "Federal fire safety requirements do not insure life safety in nursing homes" and recommended "that the Congress enact legislation which will require that all nursing facilities be fully protected with an automatic sprinkler system." The digest of the GAO report is reprinted as appendix III in our report.

Witnesses before the subcommittee reported that there has not been a single instance of multiple loss of life by fire in nursing homes which had sprinklers. The National Fire Protection Association, the General Accounting Office, and other experts indicate that no other fire protection device now required—smoke or heat detectors, smoke doors, alarms, fire-resistive construction, or other methods—have a similarly effective record. The fires and deaths in Chicago occurred in facilities which were—quote—"fire resistive"—unquote. Yet 8,000 of the Nation's 16,500 medicare/medicaid nursing homes are not protected against fire by automatic sprinklers.

During our investigation, we found that nursing homes require special consideration because many residents are frail or disabled, and neither staff nor time is available to evacuate all residents during a fire.

As a result of the Chicago fires, the city of Chicago enacted a city ordinance requiring all Chicago nursing facilities to install automatic sprinkler systems.

The Roanoke County fire coordinator said that if the Roanoke facility had been sprinklered, there would probably have been not more than one fatality in that fire.

In addition to the lack of sprinklers, financing of sprinklers and other fire safety equipment has been extraordinarily difficult for facilities. The current loan insurance program, enacted in 1974, gave joint authority to HEW and HUD. The report indicates how bureaucratic tangling between these two giants, including a "Catch 22" situation of excessive processing time and a prohibition against loan insurance after work has begun, has resulted in the approval of not a single loan anywhere in the country. The program has been totally ineffective.

Concerning the question of cost, the General Accounting Office found the cost of requiring all nursing homes to be fully protected with automatic sprinkler systems at between 10 and 19 cents per patient with the total national cost estimated from $256 to $476 million, or approximately $10 to $20 million per year divided over a 20-year loan repayment period for the 8,000 unsprinkled medicare and medicaid facilities.

The report states the belief that the cost to facilities is low enough to be extremely feasible economically and is badly needed.

The report states that a safe environment is of critical importance in providing adequate health care. As was pointed out that the June 3, 1976; hearings, fire safety is one of the single most important psychological factors leading to the emotional well-being of an elderly person in a nursing home. Nursing home residents in facilities visited by subcommittee staff related "fear of a fire" as one of their greatest concerns. Virtually all residents had seen television or newspaper accounts of the many recent tragic fires.

As Chicago Fire Prevention Chief Francis Murphy said at the committee's August 12 field hearing concerning the Chicago fires:

> Gentlemen, you know, your mother, my mother, your father, can we put a price on their body? There is no money in this world that can put a price on their body.
>
> So I say let us go the full route. And the best thing that I know of is a sprinkler system which is 98 percent. So why fool around and why not go for the best.

As a result of these findings, the report makes the following recommendations:

First. The Congress should immediately enact legislation which will require that all nursing facilities participating in medicare or medicaid be fully protected with an automatic sprinkler system.

Second. The Congress should enact legislation providing a revolving fund by which the Department of Health, Education; and Welfare may make direct loans to nursing facilities for the purchase, construction, and installation of automatic sprinkler systems. Such loans should provide for interest at a rate not to exceed 6 percent, thereby matching the amount the Government pays for money through savings bonds but at the same time providing a low enough rate to encourage use of the fund to install sprinklers. In addition, by this loan procedure, there will be no direct cost to the Federal Government.

Third. The Congress should enact legislation requiring the Department of Health, Education, and Welfare to establish minimum requirements which must be met by any nursing facility before a waiver of the automatic sprinkler requirement is issued. These minimum requirements should reasonably assure that a waiver from the automatic sprinkler requirement would not adversely affect the health and safety of the patients; and that such waiver would only be issued when enforcement of the sprinkler requirement would result in an unreasonable hardship on a facility.

Fourth. All States should take action to require complete automatic sprinkler protection in all group homes caring for the elderly, whether certified for medicare or medicaid. This requirement should extend to all forms of institutional elderly housing regardless of their institutional classification, whether skilled nursing facilities, intermediate care facilities, nursing homes, homes for the aged, or custodial facilities.

A TRIBUTE TO CHARLES GORRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, Charles Gorry, Associated Press photographer who covered wars and upheavals across Asia for the Associated Press and ended his career as one of the best known and best liked newspapermen on Capitol Hill, died last night after a heart attack.

Gorry was on the fighting fronts in Okinawa and Iowa Jima during World War II, met Mao Tse-tung in the caves of China and covered the American landings in Japan at the end of the war.

He covered guerrilla uprisings in Malaya, the beginning of the Korean war and insurgencies in Malaya and Morocco.

For the last decade, at his own request, he was assigned to the House. His high professional standards of ethics, his good nature and friendliness made him welcome in innumerable offices, from those of the party leaders to the newest Members.

His photographs won numerous awards. In August the Washington Press Club put on exhibit a collection of his most famous pictures. It is still on display in the club room in the Sheraton-Carleton Hotel.

The opening of the exhibit was the occasion for Charlie's last public appearance. It drew an overflow crowd and congratulatory messages from House leaders and President Ford.

Charlie is survived by his wife Pat and several children and grandchildren.

Funeral arrangements have not yet been made.

MEXICAN INDEPENDENCE DAY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, today marks the anniversary of the independence of our great neighbor and sister republic, Mexico. In the years since the Mexican people severed their ties with Spain they have achieved a new and unique society combining the most noble elements of their Indian and Spanish heritages. It is a strong and dynamic society whose accomplishments in science, the arts, agriculture and industry are proof of the creativity, energy, and determination of the Mexican people.

From a long history of frequently hostile relations between the United States and Mexico our two nations in recent years have moved into an era characterized by a spirit of mutual cooperation. In my judgment the continuation of close and friendly ties must have high priority in both governments if both our peoples are to continue to prosper and to work out their separate national destinies in an age of interdependence and in such close proximity to one another.

Mr. Speaker, any American who has had the privilege which I have enjoyed of traveling in Mexico can attest to the uniqueness and strength of Mexico's national self awareness. One can see the effects of Mexican nationalism in virtually every aspect of her society. It has been Mexico's successful transformation of her own heritage and values into a truly independent and flourishing society that have won her wide respect among the nations of the world and especially among the other developing nations. This uniqueness has, however, had some unfortunate side effects in certain quarters in the United States who seemingly have misunderstood the nature and direction of Mexico's revolution.

Mr. Speaker, I have not hesitated to criticize Mexico when I thought it justified, as with respect to the treatment of U.S. citizens imprisoned in Mexico. I would, however, like to take this opportunity, on Mexican Independence Day, to state that recent charges of rampant communism in Mexico are unfounded and based, in my judgment, on a lack of comprehension of Mexico's history and the nature of her uniquely Mexican revolution. In this connection I would like to call to the attention of the House an excerpt from testimony before the International Political and Military Affairs Subcommittee of the International Relations Committee by Deputy Assistant Secretary of State William H. Luers on June 15, 1976. In his statement Mr. Luers commented on charges of Communist influence in Mexico:

EXCERPT FROM A STATEMENT BY WILLIAM H. LUERS DEPUTY ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS BEFORE THE SUBCOMMITTEE ON INTERNATIONAL POLITICAL AND MILITARY AFFAIRS OF THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS

With regard to Mexico, we believe that recent allegations that the Mexican Government is taking Mexico down the Chilean and Cuban road to socialism are unfounded. Those who make these allegations cite what they characterize as government supported land seizures, policies directed against foreign investment and the influence of Chilean exiles on government policies.

In discussing Mexico, it must be borne in mind that Mexico is a proudly independent country. The tenacity with which it holds to its independence is heightened by geography—it is our neighbor and highly sensitive to us and signs of any designs to undermine its independence. Decisions Mexico takes to respond to what it perceives as its internal problems are purely Mexican decisions. It does not seek or accept influence from foreign sources or proponents of alien ideologies. Its political system, which has evolved over the 66 years since the Mexican Revolution, is eclectic and unique.

The allegation that Chilean exiles are influential in the development of Mexican policy and actions can be looked at in context. Mexico has a long record of liberalism in granting political asylum. At the end of the Spanish Civil War, Mexico accepted many Republican exiles. It did the same after 1960 in accepting anti-Castro Cuban exiles, and following the overthrow of the Allende Government in Chile it accepted more than 100 prominent Chileans, plus a large number of their dependents, and assisted them in finding gainful employment.

Some of these exiles were given government positions. But there is no evidence that these or any other foreign advisors have significantly influenced the policies or programs of this large and resourceful nation. Mexico has a highly organized governing political party and a vast reservoir of educated technicians who are fully competent to run the nation,

With regard to internal far leftist organizations in Mexico, Communist and radical Marxist parties are legal but are small and weak. The government party—the PRI—has been successful in encompassing a wide spectrum of political thought and activity. Because Mexico's own revolutionary tradition is expressed by the PRI, it is difficult for the Marxist parties to build a following.

The Mexican Communist Party (PCM) has only an estimated 5,000 members, not enough under Mexican law to qualify for registration. Since 1968 when the Russians invaded Czechoslovakia, the PCM has followed a line relatively independent of Moscow. There is also evidence of strain within the party over the issue of the degree of support to be given to student activism.

The Popular Socialist Party (PSS) is a loosely organized party which claims 75,000 members. It has carefully refrained from advocating violence or opposing the goals of the Mexican Revolution. It has endorsed the PRI presidential candidate since 1958, while running some of its own congressional and gubernatorial candidates.

The PCM and the PPS have disavowed terrorism. The principal terrorist organizations in Mexico are the 23rd of September Communist League (which has been disavowed by the PCM), the Poor Peoples' Army, and the Peoples Armed Revolutionary Army. Strong Mexican government anti-terrorist measures resulted in an abatement of terrorism during 1975.

The 23rd of September Communist League is apparently the only group still active. They have claimed credit for several bombings, the murder of a police patrolman, and the recent kidnapping of the Belgian Ambassador's daughter. The 23rd of September League is an irritant to the GOM but not a threat to political stability. We know of no current Cuban connection to these terrorist groups.

Allegations that recent measures and actions by the Government of Mexico are "communist inspired," and against private domestic and foreign investment, do not hold up under scrutiny. There has, of course, been some controversy within Mexico over some of the government's recent proposals, a phenomenon that is inevitable in an open society in which various sectors do not always have identical interests.

With regard to alleged attacks on private property, the Government of Mexico has made it clear that it does not accept or tolerate violence as a means of furthering land reform any more than it will tolerate private land holdings in excess of the limits imposed by its Constitution. It has also acknowledged that the so-called "land invasions" are in part a result of the frustration of small farmers over their lack of adequate land. In a visit to Sonora on April 21, President Echeverria forcefully stated that the Government of Mexico would not tolerate land invasions and reaffirmed his government's commitment to the rule of law in regard to both squatters and property owners. The same theme has been sounded by Jose Lopez Portillo, the Presidential candidate of the ruling Institutional Revolutionary Party (PRI). Thus, while there have been land invasions, on occasion stimulated by leftist agitators, there is no official endorsement of such invasions.

Those who allege a drift towards Communism in Mexico also cite recent Mexican legislation—a Law on Human Settlements, which was opposed by some sectors in Mexico as an unconstitutional attack on private property. This law essentially gives authority to the government to regulate exploding urban growth through land use planning measures accepted in some industrialized countries. The Government of Mexico, in heeding the criticism expressed by some groups in Mexico, proposed some modifications of the original proposal by expressly stating that the law would not be used to expropriate private residences; by creating mechanisms to afford relief to property owners who might be affected; by excluding retroactivity; and by reaffirming its commitment to the concept of private property.

With regard to the general question of foreign investment, the Government of Mexico has made it clear that it wants and needs foreign investment that will be of benefit to Mexico's economy and development, but does not want investment that does not meet its needs. Foreign investors, including U.S. investors, continue to find investment attractive in Mexico, under the ground rules established by the Mexican Government. Mexico has a healthy and mixed economy with both private and public enterprise. The private sector within Mexico accounts for the largest part of total industrial production apart from petroleum, and the government continues to encourage its mixed economy. The long-range trend in Mexico, as in many countries of Western Europe, may well be toward greater state involvement in the dominant sectors of the economy. But we see little chance of dramatic shifts and anticipate that the private sector will continue to play a key role.

With regard to allegations that an "amnesty" of persons jailed as a result of student riots in 1968 is evidence of a trend towards Communism, it should be noted that most of the several hundred persons apprehended at that time have long since been released from jail on bail. The amnesty legislation was welcomed by both the left and right in Mexico as a measure which finally put the tragic events of 1968 to rest.

In discussing Mexico, it should be mentioned that some people allege that the United States is attempting to "destabilize" Mexico. This allegation is, of course, totally false. Mexico's interests, as well as ours, are best supported by a stable and economically prosperous Mexico, and we are supportive and understanding of efforts by the Government of Mexico to come to grips with the problems it perceives the need to solve to assure its economic and social advancement.

As a final note, relations between the United States and Mexico are excellent. We have engaged in effective consultation and cooperation on numerous questions of mutual interest. And, when bilateral problems arise, as they inevitably must when two sovereign countries share 2,000 miles of border, we have been able to discuss these problems in a frank and friendly manner, and together seek mutually acceptable solutions. We do not foresee any change in this mutually advantageous relationship.

H.R. 15579, MILITARY TRANSPORT FOR DONATED GOODS

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, I have introduced legislation which will permit State Governors to request military transport of donated goods, on a space-available basis, to a foreign area following a natural disaster.

My bill will not cost the American public anything. I propose the use of military planes on a space-available basis. Americans have traditionally been generous and compassionate in responding to natural disasters abroad. But much of our charity in recent years has literally never gotten off the ground. Through religious and other charitable groups we have collected food, clothing, and supplies to help victims cope with earthquakes, floods, and famines.

In many instances, however, the high cost of transporting these goods has stymied our charitable impulse and collected goods never leave this country. This is a tragic waste of our potential for timely humanitarian assistance. The problem clearly lies with transporting donated goods; there has never been a dearth of needed goods.

Over recent months, we have witnessed several massive natural disasters, including a terrible earthquake and tidal wave in the Philippines. In my home State of Hawaii, citizens have readily responded to the needs of the hungry and homeless victims of the Philippines earthquake but there has been no inexpensive means of transporting these donated goods to the Philippines. The commercial cost of shipping the materials by air is prohibitively expensive.

In order to furnish timely assistance and inexpensive transport, I urge that military planes be allowed to be used on a space available basis. This would be at no cost to the taxpayer and would provide a fast, effective means of transport for the goods.

Theoretically this could be done under existing law by the President. In reality, however, this power is rarely exercised. In a case such as the Philippines' recent earthquake, the motives of the Federal Government would in fact be suspect as the Government is currently engaged in very sensitive negotiations with the Philippine Government over the future of its military bases there.

In the interests of timely response to a natural disaster and to assure that the thrust of the effort is humanitarian rather than political, I propose that State Governors be given the authority to request the transport of donated goods on military planes on a space available basis. Where a local community is eager to provide assistance, such as the great compassion evidenced in Hawaii over the Philippines' needs, my legislation will give the Governor the flexibility to respond to the situation quickly and effectively.

In view of the seeming increase in natural disasters worldwide and the American people's evident willingness to help, I urge my colleagues to give their support to this legislation.

DOD SCHOOLING FOR CERTAIN AMERICAN CHILDREN OVERSEAS

(Mrs. MINK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr Speaker, I am introducing legislation today which will provide tuition-free schooling for certain American children overseas who have tragically been denied an American education.

Over the past several years numerous cases have been brought to my attention of American children of Asian mothers and American DOD-employed fathers who remain abroad but are, under current law, unable to enroll in DOD schools.

These children are American citizens. Many of them were already enrolled in DOD schools when their American fathers died or divorced or deserted their Asian mothers. The absence of their fathers left these children ineligible for tuition-free education in DOD schools; few if any of their Asian mothers could afford the tuition, which runs around $1,500 annually.

Many of the cases I have received have been referred by social workers at DOD schools. They are impressed by the willingness of these mothers to make enormous sacrifices for their children's American education. But many are subsisting on social security payments or meager incomes and can not possibly meet the burden of educating one or more children on a tuition basis.

The situation is a particularly tragic one for the children. Social workers report that these children, many of whom speak only English, are very reluctant to enter local schools where they will encounter great language difficulties and often face taunts and discrimination in a society not as racially mixed as our own.

My efforts to help these children through administrative means have been consistently thwarted by current laws which forbid the granting of tuition waivers, even in cases as desperate as these certainly are. Current law simply is too restrictive to deal with the urgent human needs of these children.

For this reason I am prosposing legislation which will grant tuition waivers where the child is an American citizen not residing in the United States and when the parent with custody has been determined to have insufficient means to afford tuition. My bill would further specify that the child must have had a parent who is or was employed by DOD and who is now deceased, separated, or divorced from the parent with custody to be eligible for a tuition waiver.

I believe this tuition waiver is vitally important if these children are to have a fair chance of obtaining an American education. From the background information I have received their Asian mothers are ill-equipped to come to America themselves. Often they do not have a good command of English, have no marketable skill and fear the very real isolation of being in the United States without their American spouse or family.

But they are anxious to see their children receive an American education and have demonstrated their willingness to sacrifice a great deal to provide that education. I believe the American Government can and should provide these children with an education comparable to that which would have been given them freely if circumstances had permitted them to be raised in the United States.

The alternatives these children face are often tragic. I have received reports of children who were turned out of DOD schools and sought work rather than enter local schools. The children's mixed blood often places them on the fringes of society there; with minimal education there are few respected professions open to them. In one instance a 14-year-old Asian-American girl has entered professional wrestling after being dismissed from a DOD school for her mother's inability to pay the school's tuition.

There is clearly a small but distinct group of American children abroad who need our help. I urge you to give your support to this measure providing tuition-free education to these children.

A BILL TO AUTHORIZE MEDICARE PAYMENTS TO STATES AND LOCALITIES SERVING ELIGIBLE INDIVIDUALS

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, I have today introduced a bill, H.R. 15540, which authorizes payment to States and localities under the medicare program for services furnished otherwise eligible individuals in public institutions.

The medicare program currently reimburses patients and physicians; it does not reimburse individuals if they themselves are under no obligation to pay for medical services. Under current law, there is no reimbursement where medical services are provided to eligible persons by a governmental entity.

For example at the Kalaupapa leprosy settlement in the State of Hawaii, the State is the provider of medical services. The cost of medical care for these elderly patients at Kalaupapa is very high. Most would be eligible for medicare coverage if they were not living at Kalaupapa. Notably these patients are no longer required to remain at Kalaupapa but do so by choice. That being the case, the State cannot recoup the costs of medical care it provides the patients over 65 years of age.

My bill would allow medicare reimbursements to be made to State and local governments which furnish such medical care to otherwise eligible individuals where the care is provided in public institutions such as Kalaupapa.

WHY DOES NEW YORK CITY DRAG ITS HEELS IN INSTITUTING PREPAID HEALTH CARE FOR MEDICAID PATIENTS?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the failures, the maladministration, and the abuses of the medicaid program by patients and providers alike have been documented and extensively reported on in the press in recent weeks. Estimates of the Federal, State, and local tax money squandered as a result of mismanagement and abuses range from $900,000 to more than $1 billion nationwide each year. This is not a new problem. Congress has been aware of the deficiencies of the medicaid program and has been searching for solutions for several years.

New York City accounts for a very substantial portion of all medicaid expenditures each year. Unlike most municipalities, the city, itself, contributes approximately 25 percent of each medicaid dollar expended. It is currently spending nearly one-half billion dollars annually of its own tax revenues to pay for medical and hospital care provided medicaid enrollees. Clearly the city has a stake in the program and, in light of these circumstances, it is reasonable to suppose that the city would be in the forefront of assuring its efficient management and in developing solutions to its major problems. Regrettably, this has not been the case; in fact, since the inception of the medicaid program 10 years ago, New York City has lost $1 billion.

Over 18 months ago, in January 1975, I introduced a bill, H.R. 1325 which would amend the title XIX of the Social Security Act to waive the existing requirement that medicaid enrollees have complete freedom of choice to select physicians and treatment facilities in instances in which municipalities elected to provide medical and hospital care to medicaid enrollees in their own health facilities. New York City operates the largest municipal hospital system in the United States with 17 hospitals virtually all with ambulatory as well as inpatient acute care facilities. Professional care in these hospitals is provided, under affiliation agreements, by physicians from some of the leading teaching hospitals and medical schools in the Nation. The system suffers occupancy problems, but the management has forcefully stated that it is the particular role of the municipal hospitals to treat those who have nowhere else to turn. Nonetheless, it is apparently not up to the job. Two letters which follow, one to the editor of the New York Times which appeared on Sunday, September 12, 176, and the second by the Regional Commissioner of the Department of Health, Education, and Welfare's Social Rehabilitation Service, explain why.

The letter to the editor, written by a friend and a constituent, Mr. Richard W. Nathan who is a consultant and expert in the field of health care in New York City points out that for a variety of reasons medicaid patients prefer to go to shared health facilities—usually known as medicaid mills—rather than to municipal hospitals due to the fact that the care provided in the medicaid mills is cheaper, and that it is not necessarily any worse than that provided in the municipal hospitals and elsewhere. The letter from the Regional Commissioner from the Department of Health, Education, and Welfare largely substaintiates Mr. Nathan's points with respect to the cost of the city's municipal hospitals relative to the medicaid mills. What a poor commentary on the management and efficiency of the New York City Health and Hospitals Corp. I never thought the day would come when I would think that medicaid mills might be better than any other type of health care facility.

Aware of the high cost of providing quality health care in the City's municipal hospitals, New York City Mayor Abraham Beame reported at a conference on health care costs last January that the city was working on a prepayment acpitation plan for 100,000 medicaid enrollees that could potentially save the city "million of dollars" each year through preventive care and incentives to control cost. Under such a program, medicaid recipients would be enrolled in a prepaid health maintenance program—HMO—plan. Estimates made by Mr. Jack Bigel of program planners for the health insurance plan of New York which was negotiating with the city on the prepayment plan, indicate that medicaid costs would be cut in half, from $529.66 a year for each welfare family enrolled to $265.72. The annual savings for the initial 100,000 medicaid enrollees would total $26,394,000 including an approximate $7 million savings for the city and the State with the remainder going back into the Federal Treasury.

The National Medical Capital Foundation recently concluded a study which evaluated the feasibility of enrolling medicaid patients in a prepayment—HMO—program. The results indicated significant and consistent decreases in all four categories of utilization—physician encounters, drug utilization, hospital admissions, and hospital days. Overall ambulatory physician encounter rates decreased 15 percent, drug utilization was down 18 percent, hospital admissions decreased 30 percent, an hospital days declined 32 percent after enrollment in the prepaid group—HMO—program. Congress has appropriated funds to support the development of health maintenance organization—HMO's which are based on the prepayment concept. Prepayment plans have proven highly successful, the Kaiser-Permanente plan in California, and the health insurance plan for municipal employees in New York City have succeeded in delivering quality health care at reasonable cost. With proven accomplishments in other parts of the country an organization in New York City experienced in prepaid care and the Federal development funds which are available, it would not appear to be speculative or difficult to assume that New York City could institute this program for medicaid enrollees. Nonetheless, more than 9 months after the mayor discussed this proposal, the medicaid bills are going up and up, and the program will not be started up in the near future.

Mr. Speaker, it is exceedingly distressing to me that the New York City government, with the substantial resources and experience at its command, can neither sufficietly reform its own system of health care to make it competitive with nonpublic sources of health care for medicaid patients nor devise an alternative system which can provide quality health care at a reasonable cost to its citizens.

In conclusion, Mr. Speaker, let me say that it is incredible that New York City is not able to provide high quality management appears to be the order of care at reasonable cost and that misthe day in the operation of the Health and Hospitals Corp. Is it possible that Puerto Rico, the Virgin Islands and Guam have a public health hospital system which is properly managed and that New York City is simply incompetent to do an equally good job without massive fraud and a waste of taxpayers' moneys? And why is it that when the mayor says in January that a new program will be entered into with the health insurance plan, that 10 months later the program is still on paper, and the mismanagement and corruption in our delivery of health care continues?

I am appending the correspondence that I have had on this subject:

U.S. Congress,
Washington, D.C., June 23, 1976.

Mr. William Toby, Jr.,
Deputy Regional Commissioner, Regional Office II, Social and Rehabilitation Service, Federal Plaza, New York, N.Y.

Dear Mr. Toby: I understand that the Virgin Islands, which is under your regional jurisdiction, is implementing it's medicaid program somewhat differently than the rest of the United States in that Medicaid clients are forced to patronize a few select "medicaid facilities" and that their free choice in the selection of treatment facilities has been waived.

I would like to learn more about the operation of this system, and how it is working. I would also like to solicit your personal opinion about that system, and specifically, how you think it woud function in a place such as New York City—also in your jurisdiction.

I would appreciate hearing from you at your earliest convenience.

Sincerely,

Edward I. Koch.

Department of Health,
Education, and Welfare,
New York, N.Y., July 2, 1976.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: This is in reply to your letter of June 23, 1976, relating to the Medicaid program in the Virgin Islands and the freedom of choice issue.

Since Public Law 90-248 was enacted in 1967, the Title XIX requirements in Puerto Rico, Virgin Islands and Guam have been somewhat different than for the States.

Public Law 90-248, Section 227, amended the Social Security Act and added paragraph (23) to Section 1902(a) as follows "(A State Plan for Medical Assistance must:) provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such service." This amendment was applicable with respect to calendar quarters beginning after June 30, 1964 except in the case of Puerto Rico, the Virgin Islands, and Guam where it applied only with respect to quarters beginning after June 30, 1972.

Public Law 92-603, Section 271(a) amended Section 227(b) of the Social Security Amendments of 1967 (PL 90-248) by striking out "June 30, 1972" as applied to Puerto Rico, the Virgin Islands and Guam and inserted in lieu thereof, "June 30, 1975."

Public Law 94-48, enacted on July 1, 1975, permanently exempts Puerto Rico, Virgin Islands and Guam from the Medicaid provision that requires freedom of choice of provider of service.

The elimination of the legislative mandate for freedom of choice in the Virgin Islands was in recognition of the unique features of the Medicaid program in these jurisdictions. Section 1108 of the Social Security Act limits Federal financial participation in Virgin Islands to one million dollars a year whereas in the States there is open ended Federal financial participation in the Title XIX program.

Also, in the Virgin Islands, health care delivery for the indigent and medically indigent, historically, has been through a public health program. There are no voluntary or proprietary hospitals on the Islands and a large majority of the medical practitioners are government employed.

As you know, free choice of providers of health care is a legal right of every Title XIX recipient, except in Puerto Rico, the Virgin Islands and Guam, the purpose of which is to allow Medicaid recipients the same opportunities to choose among available providers of covered health care and services as are generally offered to the general population. With the exemption of free choice in the above-named jurisdictions, a State Plan for Title XIX must provide that any individual eligible for Medicaid under the plan should obtain the services available under the plan from any institution, agency, pharmacy, or practitioner, including an organization which provides such services or arranges for their availability on a prepayment basis.

You may be interested in a pilot project, currently being prepared by the New York City and State Medicaid officials. In keeping with the judge's opinion in *Bay Ridge Diagnostic Lab., Inc. et al* v. *James R. Dumpson, Commissioner of Social Services, New York City*, the pilot project is to determine through a Section 1115 Demonstration Project of the Social Security Act whether (1) "a designated carrier system" for laboratory services rendered to Medicaid eligibles in the borough of Queens is cost effective and (2) existing statutes should be amended to exclude clinical laboratories from the freedom of choice provisions.

In view of the uniqueness of the health care delivery system in the Virgin Islands and its major and substantial differences from the New York City and all other Medicaid systems in the Continental United States, it would be exceedingly difficult and counterproductive to waive the freedom of choice provision for all services on a New York City-wide basis.

Sincerely,

Dennis Caughlin,
Acting Regional Commissioner.

U.S. Congress,
Washington, D.C., July 14, 1976.

William Toby,
Acting Regional Commissioner, Social Rehabilitation, Health, Education, and Welfare, Federal Plaza, New York, N.Y.

Dear Commissioner: It was very good of you to brief me on the medicaid proposal that I had offered which would allow the City to substitute its clinics for the current free choice. I recognize the validity of your analysis, and opposition to the proposal. But, wouldn't those objections be overcome if instead of using City hospitals, medicaid coverage were provided by HIP and not private doctors?

I understand that there is something already being done with HIP, and I'd appreciate knowing what the experience is, and the extent of the coverage, and any other details you can provide on that matter.

Sincerely,

Edward I. Koch.

Department of Health, Education, and Welfare,
New York, N.Y., July 27, 1976.

Hon. Edward I. Koch,
Member, U.S. House of Representatives, Federal Plaza, New York, N.Y.

Dear Mr. Koch: This is in reply to your letter of July 14 which was a follow-up to our recent discussion on the validity of waiving the requirement of free choice of providers for Medicaid eligibles in New York City. Your letter asks whether our objection of your initial proposal might be overcome if "Medicaid coverage were provided by the Health Insurance Plan (HIP) and not private doctors."

The rapidly rising costs of health care not only present a growing burden to Federal and State governments which pay a large portion of such costs, but also may constrain the scope and quality of health services received by those covered by such programs as Medicaid. It is, therefore, important that we seek means of increasing both the efficiency and effectiveness of the health care delivery system and its financing. We believe that the concept of health maintenance organizations (HMOs) is one of the most promising approaches. The Department of HEW considers that HMOs are an able alternative for Medicaid recipients, with potential for cost effectiveness and quality.

A recent study of an HMO in Washington, D.C., supported by the Social and Rehabilitation Service, showed significant cost savings and better utilization of preventive care, both characteristic of HMOs. Significant and consistent decreases in all four categories of utilization (physician encounters, drug prescriptions, hospital admissions and hospital days) were reported. Overall ambulatory physician encounter rates decreased 15%, drug utilization was down 18%, hospital admissions decreased 30%, and hospital days declined 32% after enrollment in the prepaid group (HMO) practice.

For the same benefit package, annual prepaid costs for Medicaid enrollees reflected a sizable 37% savings when compared to Medicaid fee-for-service costs over the same period. The chief reason for the reduced costs of the prepaid plan as concluded in the report seems to have been the lower hospital utilization rate of the study group enrolled in the HMO which was 40% lower than the Medicaid fee-for-service universe.

The New York City Department of Social Services has had an agreement with HIP to provide ambulatory care to Medicaid recipients since 1967. Since that time, New York City has been concerned with the quality of care provided through this agreement, and HIP has been concerned about the declining Medicaid enrollement levels. The City and State Departments of Social Services have supported the renegotiaion of this contract in order to promote a more positive on-going administrative relationship between the City and HIP, expand the range of benefits available to Medicaid recipients under the contract, improve quality assurance mechanisms and acountability, and incorporate recent State and Federal policies and requirements pertaining to prepaid (HMO) contracts with Medicaid.

At the present time, the City and HIP have resolved all of the contract issues and final contract language is being drafted. A capitation rate for the new contract is being developed and will be submitted to the New York State Department of Health for review and approval.

While it is too early for an evaluation of the specific HIP contract, to which you refer, we point out that, among your concerns, all HMO contracts must specify the voluntary covered population and procedures for enrollment/re-enrollment. The covered population should be defined both in terms of eligibility characteristics and in terms of population characteristics necessary to compute an actuarially based rate. The regulation 45 CFR 250.30(b) (4) Reasonable Charges states: "The upper limit for payment for services provided on a prepaid capitation basis shall be established by ascertaining what other third parties are paying for comparable services under comparable circumstances. The cost for providing a given scope of services to a given number of individuals, under a capitation arrangement shall not exceed the cost of providing the same services while paying for them under the requirements imposed for specific provider services."

If we can be of further assistance, feel free to contact this office.

Sincerely,

Dennis J. Caughlin,
William Toby,
Acting Regional Commissioner.

[From the New York Times, Sept. 13, 1976]

MEDICAID 'MILL' DEFENSE

To the Editor:

Amid the hue and cry concerning the evils of Medicaid mills, four points ought not be overlooked:

Medicaid enrollees go to Medicaid mills of their own free will. In many instances, they prefer to go to mills rather than hospital outpatient clinics or emergency rooms. A majority of Medicaid patients interviewed in connection with a study I completed earlier this year for H.E.W. said they prefer to go to Medicaid mills because the mills were closer to their homes, the doctors and staff of the mills treated them with greater respect and dignity and in mills they seldom had to wait several hours for treatment.

Medicaid mills are far cheaper than most alternative forms of ambulatory care. Average first visit costs at Medicaid mills are reimbursed by Medicaid at less than $25 per visit, compared with $40 per visit at the city's municipal hospitals and over $60 per visit at some major teaching hospitals.

Ambulatory care provided by physicians in private practice or by hospitals is not necessarily any better or more honest. Medicaid mills are not alone in making wrong diagnoses or conducting unnecessary or inappropriate tests.

If Medicaid mills are driven out of business, many in doctor-short poor areas of the city will have nowhere else to turn for care. Only about 25 percent of physicians practicing in New York, thanks to Medicaid administrative red tape, will now accept Medicaid patients. The answer is not to drive the mills out of business, but through rigorous, effective regulation to see that they do the job that needs to be done and that they are best equipped to do.

RICHARD W. NATHAN.

New York, Sept. 5, 1976.

MEXICO CELEBRATES 166TH YEAR OF INDEPENDENCE

(Mr. DE LA GARZA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, today the people of our sister Republic of Mexico celebrate the 166th year of their independence. I respectfully ask you and my colleagues in the House of Representatives to join me in extending to them our best wishes on such an historic date in their lives.

I think it might be well to mention some of the events of our own independence, Mr. Speaker, for there are so many similarities. Further, a great part of what is now the United States of America was then a part of New Spain, hence independence for them began with the "Cry of Dolores" at that little hamlet in the state of Guanajuato.

In 1776 when Washington, Jefferson, Madison, Franklin and the many other patriots who joined to give us "government by the consent of the governed" and all the other blessings of liberty, they also lit in the hearts of many of their contemporaries throughout our hemisphere, the same yearning for freedom. And so it was but a few years later that cries for independence were being echoed throughout the New World. We then heard of Bolivar, Marte, and in what is now the Republic of Mexico, a priest by the name of Don Miguel Hidalgo y Costilla who led the move for independence.

Something which I think is of interest is the fact that independence at Philadelphia was announced by the ringing of the Liberty Bell. So it was in Mexico with the ringing of a church bell at Dolores Hidalgo.

We now have cordial relations with the government of Mexico. Our links of friendship, with mutual respect, and frank dialog are daily in existence between our governments. More important is the fact that there exists great love, admiration and respect between our two peoples, many of us being brothers from the days before independence of both our countries.

Therefore, Mr. Speaker, I personally and in behalf of those who would join me, extend our best wishes and sincere greetings to the government and people of Mexico, with the hope that their future will continue to be one of good health and prosperity.

Finally, Mr. Speaker, I would like to mention that Mexico has honored us with sending always the most able and distinguished Mexicans as ambassadors to our country. The present Ambassador, His Excellency Don Jose Juan Olloqui, has been no exception, and we attribute a great part in keeping our present relations at such a high level, to his very able representation of the best interests of his country with the proper respect and understanding of our institutions.

We take this opportunity, therefore, to extend to Doctor Olloqui our best wishes and respectfully request that he transmit to the proper authorities in Mexico this our humble but very sincere wish on such an important day.

ADMINISTRATION EVASION OF EXPORT CONTROL ACT MUST BE PUT TO AN END

(Mr. MELCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MELCHER. Mr. Speaker, in the past 2 years, the executive branch has imposed various so-called voluntary restraints on U.S. grain exports, in disregard of the Export Administration Act. These restraints have included a "prior approval" export system instituted by the Department of Agriculture in the fall of 1974, an embargo on grain sales to the Soviet Union in the summer of 1975, and the conclusion of an agreement with the U.S.S.R. in October of 1975 regulating Soviet purchases of U.S. grain over the next 5 years.

We have recently heard public assurances from the Ford administration that these Executive restraints are a thing from the past. We are told that a grain embargo will not happen again. Well, it should not have happened the first time. Not only was the 1975 embargo ill-conceived—hurting the American producer and the U.S. balance of payments—but it was also contrary to the law that we have under discussion.

The Constitution vests in the Congress, not the President, the power to regulate commerce, which includes the power to determine whether, and to what extent, exports shall be restricted. Under that power, Congress enacted the Export Administration Act, which delegates to the President certain limited powers to control exports. Section 4(f) of the act generally prohibits export controls of any agricultural commodity if the supply of that commodity is in excess of the requirements of the domestic economy. An exception to this prohibition exists only where overriding considerations of national security or fulfillment of U.S. international responsibilities are concerned and the President makes a finding to that effect.

In imposing the 1975 embargo and other restraints on grain sales and exports, the executive branch ignored the Export Administration Act. Not only were these export restraints unauthorized, but they also were directly inconsistent with section 4(f) of the act.

There can be little question that the export sales moratorium instituted by the administration last year was imposed purely for domestic political purposes. More than adequate supplies of grain existed to satisfy U.S. requirements and to make additional sales to the Soviet Union and other foreign buyers. Since the conditions for imposing controls under the act were not met, the administration circumvented the law by inducing exporters to withhold sales to the Soviet Union for a period of approximately 3 months.

The executive branch has argued that the Export Administration Act is irrelevant when so-called voluntary restraints are applied. I cannot agree, and I do not believe this House can agree. The President's power to impose controls on agricultural exports under the act was carefully circumscribed so that agricultural exports would not be restricted or limited except when the stringent standards of the act were met. By imposing export restraints without legislative authorization, the President has acted outside his authority, and has invaded the constitutional prerogative of the Congress to regulate foreign commerce. If such action by the Executive is condoned, then the carefully considered standards adopted by Congress in the act will have little meaning, as the 1975 embargo demonstrates.

Moreover, to call these restraints voluntary is somewhat misleading. One can only speculate why the grain exporters agreed not to conduct their normal business of making sales. Maybe their agreement was voluntary. However, the embargo was not voluntary for those Americans most directly affected—the Nation's grain producers. They were not consulted, nor were they given a voice in the embargo decision. Yet they are ones who suffer.

The action to withhold export sales came during a critical marketing period for our farmers, and brought about drastic declines in farm prices. Moreover, it has been reliably estimated that the United States lost some 5 to 7 million tons of grain sales while the Ford administration's embargo was in place. Where did these sales go? A member of the Australian Wheat Council said that the U.S. moratorium on wheat sales to the U.S.S.R. doubled Australian wheat sales to Russia. And a representative of the Canadian Wheat Growers Association indicated that Canada also benefited, when he said:

> We ought to give your President Ford a placque for helping the Australian farmer sell more wheat.

That statement was made in Billings, Mont., on January 17, at a meeting of the National Wheat Growers Association, which I attended. I insert in the RECORD a news story from the Billings Gazette of

January 19, on the speech at the end of these remarks.

Our producers lost the income from these diverted sales, and our Nation lost the significant balance-of-payments earnings that they would have brought. And this is not all. The administration's embargo also resulted in a heavy and needless increase in our carryover stock, which has continued to depress prices. So, even today, producers are still bearing the burden of the Executive's unjustified and illegal intervention into the export grain market.

This fiasco would not have occurred had the administration simply followed the law, since the Export Administration Act would not have permitted export controls to be imposed on U.S. grain exports under the circumstances surrounding the 1975 embargo. I also think the administration should have been sensitive to the antitrust implications of the moratorium, where a handful of companies, acting in collusion with executive branch officials, took action that financially injured our grain producers.

Immediately upon announcement of the 1975 moratorium, I protested to the President that the embargo was in violation of the Export Administration Act. Now that we are extending the President's authority to control exports under the act, it is appropriate to again remind the President that we expect him to follow the law. While I would think that this was already apparent from the language of the act and the Constitution itself, the point bears repeating, in light of the recent executive branch export restraints on grain.

The most absurd alibi that I have heard for the grain embargoes was one given by Secretary Butz to a farm audience that if the administration had not done it the Congress would have.

There was no hint of any such congressional action. If Congress had done it, it would have at least been legal, but I heard absolutely no suggestion here that we violate our own export control policy.

This is another of those figments of a partisan imagination characteristic of the Secretary of Agriculture.

Mr. Speaker, in addition to the clipping from the Billings Gazette on Australian appreciation of the wheat market we turned over to them—a speech also reported in the Farm Journal—I include in the RECORD a letter I wrote Chairman MORGAN of the International Relations Committee on the problem of requiring administration adherence to the Export Act and a chronology of administration interferences in foreign agricultural trade.

The articles follow:

[From the Billings Gazette, Jan. 19, 1976]

U.S. WHEAT MORATORIUM AN AUSTRALIAN WINDFALL

A member of the Australian Wheat Council told members of the Western Wheat Associates in Billings on Saturday that the U.S. moratorium on wheat sales to the USSR early last fall provided a windfall for farmers of his nation.

The meeting was held preliminary to the national convention of the National Association of Wheat Growers, which begins Sunday in Billings. Members of the eight-state wheat associates group will meet through Thursday with other delegates to the NAWG's 26th annual meeting.

Wheat farmer Les Price of Australia said the moratorium doubled Australian wheat sales to Russia, adding that, "Even so I do sympathize with you as a farmer."

Price said harvesting of Australian grain in Australia is nearly finished. The continent nation, located in the southern hemisphere, has seasons which are the reverse of lands north of the Equator.

The Australian crop received some weather damage, but should total 400 million bushels—nearly double the average, he said.

In response to a query about beef prices, Price said prime beef sold for 10 cents a pound last spring.

"It is double that now, about 20 cents a pound," he said.

He said he doubts that feedlot operations would be profitable in Australia because "you can graze animals to fat conditions for almost nothing a pound."

In other wheat associated business, Jim Minnyard of the federal Foreign Agricultural Service said some four million tons of wheat has been allocated for export shipment by July 1.

Of this quantity, some two million tons already had been organized for shipment, he said. Minnyard said the service is looking into the sale of wheat in Africa and South America as well as in other countries.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 1, 1976.
Hon. THOMAS E. MORGAN,
Chairman, House Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the International Relations Committee is completing work of H.R. 7665, an act to amend and extend the Export Administration Act. I believe it is important that the Committee, in reporting out the bill, emphasize that Congress disapproves of certain recent circumventions of the Act by the Executive Branch.

In the past two years, the Executive Branch has imposed various restrictions on U.S. grain exports, without following the standards or the procedures set forth by Congress in the Export Administration Act. These Executive Branch actions included a "prior approval" system imposed by the Department of Agriculture in the fall of 1974, an embargo on grain sales to the Soviet Union in the summer of 1975, and the conclusion of an agreement with the USSR in October 1975 regulating Soviet purchases of wheat and corn from the U.S. over the next five years.

The Constitution vests in the Congress, not in the President, the power to regulate interstate and foreign commerce. Congress has exercised this power to regulate exports by enacting the Export Administration Act, which carefully defines, in Section 4(f), the limited circumstances in which export restrictions can be imposed upon agricultural commodities. The purpose of the Congress in enacting a special provision with respect to agricultural commodities was to ensure that agricultural exports not be restricted, except where the overriding considerations set forth in Section 4(f) are present.

In limiting grain sales and exports to the Soviet Union, the Executive Branch acted in contravention of the Export Administration Act. These export restraints were unauthorized under the Act and were inconsistent with the limitations on regulation of agricultural exports contained in Section 4(f). Indeed, Administration spokesmen have admitted that the Export Administration Act was not followed in imposing the embargo.

The Congress cannot afford to ignore these Executive circumventions of the Export Administration Act. By imposing export restraints without legislative authorization, the President has acted outside his authority and has invaded the Constitutional prerogative of the Congress to regulate foreign commerce. If such action by the Executive is condoned, then the carefully considered standards adopted by Congress in the Export Administration Act will have little meaning, as the 1975 embargo demonstrates.

Immediately upon announcement of the 1975 embargo, I protested to the President that the embargo was in violation of the Export Administration Act. Now that the Congress is in the process of extending the Act, I hope that the Committee will stress in its report on H.R. 7665 that export restrictions outside the Act are not consistent with the will of Congress. While I would think that this was already apparent from the language of the Act and the Constitution, the point bears repeating in light of the recent Executive Branch export restraints on grain.

Sincerely,

JOHN MELCHER.

CHRONOLOGY OF GOVERNMENT INTERVENTION IN MARKETPLACE

June 13, 1973—Department of Commerce announces export reporting system requiring all exporters to report anticipated sales of soybeans and other commodities.

June 27, 1973—Secretary of Commerce Frederick Dent imposes an embargo on the export of soybeans, cottonseeds, and various oil and meal products. Action received approval of Agriculture Secretary Butz, in accordance with Export Administration Act.

July 2, 1973—Soybean and cottonseed embargo replaced by system of validated export licenses. License requirement lifted on other commodities, but warning issued that restrictions would be placed on these commodities if exports reached "unacceptable levels".

October 4, 1974—Wheat and corn sales to Soviet Union totaling 3.2 million metric tons "held in abeyance" at request of President Ford. The contracts were made between the Soviets and Continental Grain Co. and Cook Industries.

October 5, 1974—Cook and Continental Grain met with Secretary of the Treasury Simon, Special Trade Representative Eberle, and President Ford. Cook later testified before Permanent Investigations Subcommittee of Senate Government Operations Committee that, based on the October 5 meeting, no sales could be made to the Soviet Union, Communist China or oil producing nations. Neither the Soviets or the U.S. firms "canceled" the grain sales agreements, but terms of the agreement were said not to be in effect.

October 8, 1974—Notice sent by Foreign Agricultural Service of USDA to all exporters establishing a "prior approval" system of export management. Exporters were requested to obtain USDA approval prior to making export sales.

October 19, 1974—Secretary of the Treasury Simon announces conclusion of agreement between U.S. and Soviet Union whereby USSR agreed to limit its total grain purchases from U.S. to 2.2 million tons. The additional 1 million tons contracted by grain companies with the USSR was to be delivered by exporting countries other than the U.S.

July 24, 1975—USDA asks grain companies to report all pending sales to USSR.

August 11, 1975—Agriculture Secretary Butz announces that grain exporting companies have been asked not to make additional Soviet sales commitments until Government has better assessment of U.S. grain crops. Prior to announcement, USDA asked exporters for a moratorium on sales and immediate notification of additional Soviet purchase interest.

September 4, 1975—Agriculture Secretary Butz states that the hold on Soviet grain sales would continue until the longshoremen's refusal to load Soviet grain purchases ends.

September 9, 1975—President Ford announces agreement with AFL–CIO to end loading boycott. U.S. to seek multi-year Soviet grain supply agreement. Moratorium on new sales to the USSR extended for one month.

September 22, 1975—Ban on grain sales expanded to include Poland.

October 10, 1975—Polish ban lifted.

October 20, 1975—President Ford announces U.S.-Soviet grain agreement Moratorium ends.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RISENHOOVER (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. HELSTOSKI (at the request of Mr. FLORIO), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MYERS of Pennsylvania) and to revise and extend their remarks and include extraneous matter:)

Mr. RHODES, for 5 minutes, today.

Mr. CLEVELAND, for 60 minutes, today.

Mr. HEINZ, for 5 minutes, today.

Mr. STEELMAN, for 5 minutes, today.

Mr. ASHBROOK, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. HAYES of Indiana), to revise and extend their remarks, and to include extraneous matter:)

Mr. BROOKS, for 10 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. HAYES of Indiana, for 10 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 10 minutes, today.

Mr. KAZEN, for 5 minutes, today.

Mr. PEPPER, for 15 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. REES and to include extraneous matter.

Mr. KAZEN and to include extraneous matter.

(The following Members (at the request of Mr. MYERS of Pennsylvania) and to include extraneous material:)

Mr. BOB WILSON in two instances.

Mr. GILMAN in two instances.

Mr. MCCLORY.

Mr. CLEVELAND.

Mr. STEIGER of Arizona.

Mr. HEINZ in two instances.

Mr. SCHULZE.

Mr. RHODES.

Mrs. HOLT.

Mr. CONABLE.

Mr. ASHBROOK in two instances.

Mr. SNYDER.

Mr. MOSHER.

Mr. HYDE.

Mr. TREEN.

Mr. KEMP.

(The following Members (at the request of Mr. HAYES) and to include extraneous matter:)

Mr. JOHNSON of California.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. SARBANES.

Mr. CLAY.

Mrs. MINK.

Mr. YATRON.

Mr. MAZZOLI.

Mr. BRINKLEY.

Mr. CHARLES H. WILSON of California.

Mr. OTTINGER.

Mr. EDWARDS of California.

Mr. DELLUMS in two instances.

Mr. MILFORD.

Mr. MCDONALD in three instances.

Mr. HAWKINS.

Mr. EARLY.

Mr. JONES of Oklahoma.

Mr. HARKIN in two instances.

Mr. ROE.

Mr. FARY.

Mr. BINGHAM.

Mr. ROSENTHAL in two instances.

Mr. DINGELL.

Mr. ALEXANDER.

Mr. DODD.

Mrs. KEYS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3664. An act to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2184. An act to authorize appropriations for the winter Olympic games, and for other purposes.

ADJOURNMENT

Mr. HAYES of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, September 17, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4030. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on Federal contributions to States for civil defense equipment and facilities during fiscal year 1976, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended [50 U.S.C. 2281(i)]; to the Committee on Armed Services.

4031. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the appropriation of $12.4 million at July 1976 prices for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Interior and Insular Affairs.

4032. A letter from the Executive Director, Federal Communications Commission; transmitting a report on the backlog of pending applications and hearing cases in the Commission as of July 31, 1976, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

4033. A letter from the Administrator, Federal Energy Administration, transmitting an amendment to the mandatory petroleum price regulations exempting naphtha jet fuel (energy action No. 6), pursuant to section 12 of the Emergency Petroleum Allocation Act, as amended (89 Stat. 951) (H. Doc. No. 94–614); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

4034. A letter from the Administrator, Federal Energy Administration, transmitting an amendment to the mandatory petroleum allocation regulations exempting naphtha jet fuel (energy action No. 7), pursuant to section 12 of the Emergency Petroleum Allocation Act, as amended (89 Stat. 951) (H. Doc. No. 94–615); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

4035. A letter from the Chairman, National Mediation Board, transmitting the 41st annual report of the Board, including the report of the National Railroad Adjustment Board, covering fiscal year 1975, pursuant to sections 4, second, and 3, first (w), respectively, of the act of May 20, 1926, as amended; to the Committee on Interstate and Foreign Commerce.

4036. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a request for the withdrawal of the order suspending deportation of Virginia Mendoza, A17 547 448, previously submitted pursuant to section 244(c) of the Immigration and Nationality Act; to the Committee on the Judiciary.

4037. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 18, United States Code, with respect to the protection of certain officers or employees of the United States, and for other purposes; to the Committee on the Judiciary.

4038. A letter from the Chairman, Federal Election Commission, transmitting the Commission's appropriation request for fiscal year 1978, pursuant to section 437(d)(1) of Public Law 94–283; jointly, to the Committees on House Administration, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3078. A bill to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes; with an amendment (Rept. No. 94–1568). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11887. A bill to amend the act approved August 18, 1970, providing for improvement in the administration of the national park system by the Secretary of the Interior and clarifying authorities applicable to the national park system, and for other purposes; with an amendment (Rept. No. 94–1569). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11891. A bill to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes; with amendments (Rept. No. 94–1570). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 15246. A bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act, and for other purposes (Rept. No. 94–1571). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 15499. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; with amendments (Rept. No. 94–1572). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 15390. A bill to establish an Office of Inspector General within the Department of Health, Education, and Welfare, and for other purposes; with an amendment (Rept. No. 94–1573). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 15445. A bill to save the gray whale; with amendments (Rept. No. 94–1574). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. S. 3050. An act to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country; with amendments (Rept. No. 94–1575). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7682. A bill relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma; with amendments (Rept. No. 94–1576). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 10841. A bill to amend the Intercoastal Shipping Act, 1933, by revising its suspension provisions and by authorizing periodic promulgation of rate of return guidelines; with amendments (Rept. No. 94–1577). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 13585. A bill to amend the Federal Boat Safety Act of 1971; with an amendment (Rept. No. 94–1578). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 3647. A bill to amend the Federal Aviation Act of 1958 to permit aliens holding permanent residence visas to register aircraft in the United States, and for other purposes; with amendments (Rept. No. 94–1580). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 12349. A bill to amend the Federal Aviation Act of 1958 to limit under certain circumstances the discretion of the Civil Aeronautics Board in determining the rate of compensation to be paid to an air carrier for the transportation of mail by aircraft; with an amendment (Rept. No. 94–1581). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 12484. A bill to amend the Federal Aviation Act of 1958, to provide for expedited consideration by the Civil Aeronautics Board of applications for certificates of public convenience and necessity; with an amendment (Rept. No. 94–1582). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 15026. A bill to amend the Federal Aviation Act of 1958 to authorize reduced-fare transportation on space-available basis for elderly persons, young persons, and handicapped persons; with amendments (Rept. No. 94–1583). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 15134. A bill to amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped; with an amendment (Rept. No. 94–1584, pt. I). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 15134. A bill to amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped; with an amendment (Rept. No. 94–1584, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1551. A resolution providing for the consideration of H.R. 15. A bill to regulate lobbying and related activities (Rept. No. 94–1579). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 4206. A bill to designate the new Federal building in Albuquerque, N. Mex., as the Senator Dennis Chavez Federal Building (Rept. No. 94–1585). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 4847. A bill to designate the Federal office building located in Dover, Del., as the J. Allen Frear Building (Rept. No. 94–1586). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 9444. A bill to name the Federal building in Omaha, Nebr., the Glenn Cunningham Federal Building in commemoration of the many contributions of former Congressman Glenn Cunningham (Rept. No. 94–1587). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 12927. A bill to designate a Federal building and U.S. Post Office in Jasper, Ga., as the Phil M. Landrum Federal Building and Post Office (Rept. No. 94–1588). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation, H.R. 13247. A bill to name a certain Federal building in Grand Rapids, Mich., the Arthur H. Vandenberg Building (Rept. No. 94–1589). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 13727. A bill to designate the plaza area of the Federal Building, Portland, Oreg., the Terry Schrunk Plaza (Rept. No. 94–1590). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 14503. A bill to name the new post office in Youngstown, Ohio, the Michael J. Kirwan Post Office (Rept. No. 94–1591). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 14956. A bill to designate the Joe L. Evins Post Office and Federal Building (Rept. No. 94–1592). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 14977. A bill to name the Federal office building in Athens, Ga., the Robert G. Stephens Federal Building (Rept. No. 94–1593). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 15546. A bill to designate the Ray J. Madden Post Office Building (Rept. No. 94–1594). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 15582. A bill to name the Federal office building in Bluefield, W. Va., the Elizabeth Kee Federal Building (Rept. No. 94–1595). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1552. A resolution providing for the consideration of H.R. 14970. A bill to extend the special unemployment assistance program for 1 year, and for other purposes (Rept. No. 94–1596). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1553. A resolution providing for agreeing to the Senate amendment to the bill H.R. 13350; with an amendment (Rept. No. 94–1597). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOWNING of Virginia:

H.R. 15585. A bill to permit the construction and operation of facilities other than a hotel upon the Fort Monroe Military Reservation in Virginia; to the Committee on Armed Services.

By Mr. HICKS (for himself and Mr. MATSUNAGA):

H.R. 15586. A bill to provide that the October 1, 1976, pay raise for Federal officers and employees shall be 6½ percent, in lieu of the percentage determined under the pay comparability system, and to exclude Members of Congress from such pay raise; to the Committee on Post Office and Civil Service.

By Mr. JENRETTE:

H.R. 15587. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes; to the Committee on Agriculture.

By Ms. KEYS:

H.R. 15588. A bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mrs. MINK:

H.R. 15589. A bill to provide tuition-free schooling to certain dependents of Department of Defense employees and former Department of Defense employees; to the Committee on Armed Services.

H.R. 15590. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for services furnished to eligible individuals in certain State and local institutions not certified as providers; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 15591. A bill to extend and revise the commodity supplemental food program; jointly, to the Committees on Education and Labor and Agriculture.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 15592. A bill to amend section 4349(a) of title 10, United States Code, to provide that the companies of the corps of cadets at the U.S. Military Academy may be commanded by commissioned officers of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

By Mr. ROSTENKOWSKI:

H.R. 15593. A bill to amend the Social Security Act to authorize international agreements with respect to social security health insurance benefits; to the Committee on Ways and Means.

H.R. 15594. A bill to amend title XVIII of the Social Security Act to provide coverage for physician extender and other services furnished by rural health clinics meeting health, organizational, and safety requirements; to the Committee on Ways and Means.

By Mr. STEELMAN:

H.R. 15595. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER (for himself and Mrs. Spellman):

H.R. 15596. A bill to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians; to the Committee on Post Office and Civil Service.

By Mr. HEBERT:

H.R. 15597. A bill to amend title 10 of the United States Code to limit the authority of the Secretary of Defense with regard to functions and powers within the Department of Defense; to the Committee on Armed Services.

By MR. HEINZ:

H.R. 15598. A bill to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania; to the Committee on Interior and Insular Affairs.

By Mr. REUSS:

H.R. 15599. A bill to enact the National School-Age Mother and Child Health Act of 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. CHARLES WILSON of Texas (for himself and Mr. Breaux):

H.R. 15600. A bill for the relief of the Alabama-Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana; to the Committee on Interior and Insular Affairs.

By Mrs. MINK:

H.J. Res. 1099. A resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. Badillo, Mr. Collins of Texas, Mr. Conte, Mr. Derwinski, Mr. Downey of New York, Mr. Eilberg, Mr. Flood, Mr. Gradison, Mr. Guyer, Mr. Hechler of West Virginia, Mr. Hicks, Mr. Kemp, Mr. Levitas, Mr. Lagomarsino, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. Mikva, Mr. Ottinger, Mr. Riegle, Mr. Russo, Mr. Stratton, Mr. Symington, Mr. Waxman, Mr. Whitehurst, and Mr. Wolff):

H. Con. Res. 752. A resolution urging the President to take certain measures against countries supporting international terrorism and persons engaging in international terrorism and to seek stronger international sanctions against such countries and persons; jointly, to the Committees on International Relations and Public Works and Transportation.

By Mr. STEELMAN:

H. Con. Res. 753. A resolution expressing the sense of Congress that Hispanic Americans should receive a fair opportunity for leadership positions within the Armed Forces; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. MINK:

H.R. 15601. A bill for the relief of Sadame Nagata Ishida, Satsuko Nagata Higuchi, and Noboru Nagata; to the Committee on the Judiciary.

By Mr. NATCHER:

H.R. 15602. A bill for the relief of Dr. Orlando Fufilero Bravo; to the Committee on the Judiciary.

By Mr. WIGGINS:

H.R. 15603. A bill for the relief of Habib Haddad; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12112

By Mr. HAYES of Indiana:

(Amendments to amendment by Mr. Teague.)

On page 27909 of the Congressional Record of August 26, 1976, at the end of subsection (b)(4), insert the following: "Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent."

On page 27910 of the Congressional Record of August 26, 1976, strike the last sentence of subsection (f) and insert therein the following: "Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, who obtained such guaranteed obligation for value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation."

On page 27908 of the Congressional Record of August 26, 1976, strike the third sentence and insert therein the following: "The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section."

By Mr. MIKVA:

(Amendment to amendment by Mr. Teague.)

On page 27909 of the Congressional Record of August 26, 1976, insert a period after the word "so" in subsection (d) and strike all thereafter through the period.

(Amendment to amendment by Mr. Teague.)

On page 27909 of the Congressional Record of August 26, 1976, in subsection (e)(3) strike the third sentence and insert therein the following: "The Chairman of the panel shall be selected from the panel by the Administrator, but such Chairman shall not be a Federal or State employee or officer."

By Mrs. SCHROEDER:

(Amendments to amendment by Mr. Teague.)

On page 27912 of the Congressional Record of August 26, 1976, add a new paragraph to the end of subsection (s) to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration or the Secretary of the Treasury who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration or the Secretary compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade FG–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration or the Secretary, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement of guarantee or commitment to guarantee or contract with the Administrator under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 27910 of the Congressional Record of August 26, 1976, in subsection (h) after the word "finds" insert a comma and the following: "which finding shall be published in the *Federal Register* at least 60 days prior to entering into such contract,".

On page 27912 of the Congressional Record of August 26, 1976, in subsection (p) strike "(1)" and all of paragraph (2).

On page 27910 of the Congressional Record of August 26, 1976, in subsection (1) strike the period at the end of the first sentence and insert a colon and the following proviso: "*Provided,* That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 27912 of the Congressional Record of August 26, 1976, insert the following sentence at the end of subsection (x): "No more than 65 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to facilities the total cost of each of which exceeds $20,000,000."

By Mr. UDALL:

In section 19(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (as added by the first section of the amendment in the nature of a substitute offered by Mr. Teague):

(1) strike out "and" at the end of paragraph (8),

(2) insert after paragraph (8) the following:

"(9) in the case of a demonstration facility which converts any coal (including lignite) from a surface mine to synthetic fuel, the Administrator has determined that regulations have taken effect under Federal legislation (applicable to surface mining operations on federally-owned and nonfederally-owned land) the principal purpose of which is the reduction and control of adverse environmental effects resulting from surface mining operation in the United States;" and

(3) redesignate paragraph (9) as paragraph (10).

H.R. 15069

By Mr. WEAVER:

Page 35, add immediately after line 20 the following new section:

SUSTAINED YIELD AND MARGINAL LANDS

SEC. 14. (a) Within two years after the date of the enactment of this Act, the Secretary of Agriculture shall, in accordance with procedures set forth in Section 553 of title 5, United States Code, promulgate regulations to insure—

(1) that the National Forest System, as such term is defined under section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, will continue to produce adequate and continuous supplies of wood, water, wildlife, wilderness, forage, and recreation by—

(A) limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any 10-year period do not exceed such quantity limitations. In those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. Nothing in this subparagraph shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe; and

(B) establishing guidelines to assure that, based on periodic surveys of the productivity of lands for commercial timber production, such production is not a management goal where the estimated cost to the United States will exceed the estimated economic return to the United States; except (1) that the estimated cost of production will include only direct timber production costs, including a prorated share of the access costs for timber harvest, (2) that such restrictions do not apply to salvage of dead or diseased trees, and (3) that such restrictions are not intended to impede the reforestation of lands for multiple-use purposes or to impede the cutting of timber specifically for the improvement of fish and wildlife habitat; and

(2) that commercial timber production is a management activity only on lands where—

(A) soil, slope, or other watershed conditions will not be irreversibly damaged;

(B) assurance is given that such lands can be adequately restocked within five years after harvest; and

(C) protection is provided from changes in water temperatures, blockages of water courses, and deposits of sediment, for streams, stream banks, shorelines, lakes, wetlands, and other bodies of water where harvests could seriously and adversely affect water conditions or fish habitat.

(b) The first sentence of section 3 of the Act entitled "An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on natural forests, and for other purposes", approved June 9, 1930 (46 Stat. 527; 16 U.S.C. 576(b)), is amended by—

(1) striking out "or" immediately before "(3)"; and

(2) striking out the colon and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the national-forest land on a sale area, including sale-area improvement operations, maintenance and construction, reforestation, and forest habitat management."

H.R. 15377

By Mr. FINDLEY:

Page 20, immediately after line 5, insert the following new section:

SEC. 19. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is amended by adding at the end thereof the following new paragraph:

"If the Secretary of Commerce shall prohibit or curtail the exportation of any commodity pursuant to this section, he shall immediately report such prohibition or curtailment to the Speaker of the House and the President pro tempore of the Senate setting forth his reasons therefor in detail. If the Congress shall by concurrent resolution disapprove of such prohibition or curtailment, it shall cease with the passage of said resolution."

S. 22

By Mr. OBERSTAR (for himself and Mr. FRASER):

Page 97, line 16, strike out the period and insert in lieu thereof a semicolon.

Page 97, immediately below line 16, insert the following new clause:

"(9) performance of a dramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to the persons referred to in clause (8) of this section, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of any radio subcarrier authorization referred to in clause (8)(iii) of this section."

AMENDMENT TO SECTION 111(a) OF S. 22

By Mr. ROONEY:

Page 28, insert after line 6, the following:

"(5) The right of a cable system to carry a particular signal or to operate in a particular community is pending in a proceeding before the Commission until 30 days after the issue is resolved against the cable system and the proceeding is no longer subject to appeal."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 15, 1976, page 30560.

H.R. 15301. August 26, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include the services of licensed professional nurses under the coverage provided pursuant to such programs.

H.R. 15302. August 26, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all-cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 15303. August 26, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to regulate terminal equipment.

Directs the Commission to conduct a study of the costing policies related to domestic and international satellite common carrier communication services.

H.R. 15304. August 26, 1976. Interstate and Foreign Commerce; Interior and Insular Affairs. Establishes procedures for administrative review and Presidential decision-making concerning the selection of a natural gas transportation system to deliver Alaska natural gas to other States. Details procedures for Congressional review of such Presidential decision.

Suspends various procedural requirements imposed by the Mineral Leasing Act of 1920 and the National Environmental Policy Act of 1969. Imposes limitations on judicial review of administrative actions taken pursuant to this Act.

H.R. 15305. August 26, 1976. Public Works and Transportation. Authorizes construction of the projects for Nonconnah Creek and Horn Lake Creek, in Mississippi and Tennessee.

H.R. 15306. August 26, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15307. August 26, 1976. Judiciary. Declares a certain member of the Armed Forces to have been eligible for the regular reenlistment bonus to which he would have been entitled had he been on active duty on a specified date. Directs the Secretary of Defense to pay such individual a specified sum.

H.R. 15308. August 26, 1976. Judiciary. Authorizes the admission of certain individuals to the United States for permanent residence.

H.R. 15309. August 26, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15310. August 30, 1976. Judiciary. Creates a Council on Judicial Tenure to receive, investigate and make recommendations on any written complaint concerning a Justice or judge of the United States.

Makes it the duty of the Judicial Conference of the United States to sit as a court to hear any cause relating to the removal, censure, or involuntary retirement of a United States judge or Justice.

Specifies grounds for removal of such judges or Justices.

H.R. 15311. August 30, 1976. House Administration. States that expenditures made for the purpose of arranging or conducting any nationally televised debate between the candidates of any major party for the office of President during the period beginning on the date of enactment of this Act and ending November 2, 1976, shall not be considered an expenditure or contribution for purposes of the Federal Election Campaign Act of 1971.

H.R. 15312. August 30, 1976. Interstate and Foreign Commerce. Repeals the National Health Planning and Resources Development Act of 1974.

H.R. 15313. August 30, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15314. August 30, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance under the Social Security Act.

H.R. 15315. August 30, 1976. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of certain market allocation agreements made as part of a contract or agreement (1) for the manufacture, distribution or sale of a trademarked soft drink product or (2) for the distribution or sale of a trademarked private label food product.

H.R. 15316. August 30, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act, musical or social programs or activities.

H.R. 15317. August 30, 1976. Armed Services. Deletes the name "American Ephemeris and Nautical Almanac" from the publication of the Naval Observatory, under the direction of the Secretary of the Navy, which provides data to navigators and astronomers.

H.R. 15318. August 30, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Authorizes a study of alternative modes of freight transportation service to the upper Mississippi and Illinois water areas.

H.R. 15319. August 30, 1976. Judiciary. Revises the rules governing the writ of habeas corpus, such revisions to apply to specified motions and petitions filed on after February 1, 1977.

H.R. 15320. August 30, 1976. Post Office and Civil Service. Designates "Federal Election Day" as a legal public holiday.

H.R. 15321. August 30, 1976. Ways and Means. Amends the program of Child Support and Establishment of Paternity of Title IV of the Social Security Act to limit to 50 percent the portion of an individal's wages from Federal employment which is subject to garnishment for the enforcement of child support and alimony obligations.

H.R. 15322. August 30, 1976. Post Office and Civil Services. Prohibits carriers of Federal employee health benefits plans from reducing benefits or excluding any class of provider of health services unless the Civil Service Commission gives notice of and conducts hearings relative to the proposed change within prescribed time limits.

H.R. 15323. August 30, 1976. Banking Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers, and specified educational, medical or social service centers. Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 15324. August 30, 1976, Ways and means. Entitles taxpayers, under the Internal Revenue Code, to elect to take a deduction with respect to the amortization of any qualified school or hospital property, which was purchased from a tax-exempt organization, based on a period of 180 months.

H.R. 15325. August 30, 1976. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in a State project to repair or replace unsafe bridges. Extends the Highway Trust Fund and the Land and Water Conservation Fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code.

EXTENSIONS OF REMARKS

WHEN WILL THEY EVER LEARN?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks, I include the following:

WHEN WILL THEY EVER LEARN?

(By M. S. Forbes Jr.)

Candidate Carter and his economic advisers are apparently giving serious thought to reimposing wage and price controls next year. Assuming he is elected, Carter probably realizes that if he fulfills only a fraction of his big spending promises, inflation will indeed be surging again.

The Carterites should take a cue from the late Chester Bowles, who for a time during World War II was the administrator of our most extensive economic controls.

Here is what Bowles had to say about peacetime controls in 1973 when Nixon was trying them a second time around: "Controls will work only in a tightly sealed, highly centralized economy. If you want them to work, you cannot have international trade (and) the Government must have complete control over the economy's production. The Government must decide what's to be produced and have the power to distribute the necessary resources."

Nixon's imposition of controls in 1971–72 did little damage because the economy had considerable unused industrial capacity. Moreover, people believed in the efficacy of controls. Those conditions did not exist in 1973. Shortages were exacerbated; inflationary forces did not abate; a recession was not avoided.

Controls next year would have the same sorrowful results. There is evidence that not very much excess capacity exists anymore, for example, in such a critical industry as steel.

The psychological impact would be devastating. Businessmen now know that surging inflation and attendant controls will invariably bring another bout of tight money followed by a recession. Capital spending plans would be shelved. Companies would hoard cash, anticipating higher interest rates and tight money. The economic recovery would be destroyed. Unemployment would surge.

President Ford has taken to heart the lessons of the early 1970s. If Carter wins, one can only hope that he will, by that time, have done the same.

When he was seeking the Democratic presidential nomination, Jimmy Carter liked to stress his reorganization of Georgia's state government, pointing out that the number of agencies was cut from 300 to 22. In today's environment, such talk scored well.

Carter has not been specific about how he would make the Federal Government more "efficient" and perhaps with good reason. The bulk of Carter's Georgia reorganization amounted to little more than a grand reshuffling of bureaucratic titles.

Contrary to the impression he once sought to portray, the number of Georgian bureaucrats increased, not decreased, under Carter's reign.

And spending jumped nearly 60% during his four-year term.

Apply that 60% to the current federal budget and you come up with $250 billion, which just about equals the size of the entire federal budget in fiscal 1973, the year when the latest bout with inflation got under way.

With an inflationary stimulus like that, no wonder Democrats are thinking of dusting off controls.

With the Republicans controlling the White House and the Democrats the Congress, we have a government of checks and balances. If the Democrats win both Congress and the White House, we will have a government of bigger checks—and smaller balances to cover 'em.

POWER GRAB IN INDIA CONTINUES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ASHBROOK. Mr. Speaker, the descent of India into dictatorship goes on. India is a country that has received billions upon billions of dollars in foreign aid from the United States. While India cozied up with the Soviet Union, supporters of India in the Congress pushed for continued American aid under the rationale that it was the largest democracy in that part of the world.

The pretensions of India as a great democracy have fallen by the wayside. But Indira Gandhi, dictator of India, is trying to maintain a thin veneer of pseudo-legality over her dictatorship. Gandhi is now pushing a constitutional amendment to give her the dictatorial powers she has already grabbed.

Unfortunately, the present majority in Congress seems unwilling to take action to stop American tax dollars going to India. If there was such a commitment by the majority, my recent amendment to cut 40 percent of the funds for the International Development Association, which in turn gives about 40 percent of its funds to India, would have been successful.

At this point I include in the RECORD the text of an article from the Washington Star of August 31, 1976:

GANDHI OFFERS PLAN TO TAKE TOTAL POWER

NEW DELHI.—Prime Minister Indira Gandhi's government has unveiled a proposed constitutional amendment giving the executive branch virtually unfettered power.

The 20-page draft amendment rewrites the preamble and 59 articles of India's constitution. It sets forth "fundamental duties" for each citizen, bars activity the government deems "anti-national," and curtails the judiciary's right to enforce civil liberties and review legislation, including constitutional amendments.

Under the amendment, India's high courts will no longer be allowed to issue orders—including writs of habeas corpus—which might delay "a matter of public importance."

The proposed amendment also allows the president, on advice of the prime minister's cabinet, to amend the constitution himself over the next two years to take care of any difficulty arising from the constitutional overhaul.

The government said yesterday the changes are needed to help achieve a "socio-economic revolution which would end poverty, ignorance, disease and inequality of opportunity." But leading opposition spokesmen charged that it would destroy India's parliamentary democracy.

The prime minister declared a national emergency in June of last year. Since then she has restricted civil liberties, imposed news censorship and jailed thousands of political opponents. Opponents charge that the amendment would institutionalize Gandhi's authoritarian rule.

The amendment appears assured of passage since Gandhi's party has a two-third majority in both houses. It was expected to be formally introduced later this week and passed in late October.

MYRON HALL, PHOTOGRAPHER, TO BE HONORED

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. NOLAN. Mr. Speaker, I rise today to pay tribute to a man who represents the very essence of the American standards, morals, and brotherhood so often cited as characteristics of this great country.

For 46 years my acquaintance and friend, Myron Hall, has served as the only full-time photographer on the staff of the St. Cloud Daily Times, a newspaper located in central Minnesota. In 1930, as an advertising salesman, Myron started taking a camera with him while on assignment to stimulate interest in possible subscriptions. The "new feature" began to catch on and the Times became the first paper outside the Twin City area able to reproduce its own local pictures and Myron Hall became the first full-time photographer in out-State Minnesota.

The Times photojournalism tradition was thus begun in early depression days, inseparably meshed with the talents and personality of Myron Hall. That tradition continues until this year as Myron Hall has chronicled the history of St. Cloud through thousands of pictures.

With numerous photography awards and pictures appearing in Time, Life, and Look magazines, as well as the New York Times and thousands of other newspapers across the country, Myron's talents have set the standard for many photographers and aspiring journalists in central Minnesota and throughout the State.

There were offers to work for bigger newspapers and for better working conditions and more money. Myron turned them down in favor of the pride of working with something he had created, of carrying on a tradition and breathing life into a service he had initiated in central Minnesota—and of knowing he really could not be replaced.

For a man who was born and raised in St. Cloud, married to the newspaper for 46 years and his wife, Fridge, for 37 years, raised 11 children, put his life and soul, not to mention his weekends—into something he really believed in, and for someone who has not altered nor compromised his standards whether among football coaches, kings, or bishops, it has come time to end an era.

A special retirement party is scheduled for Myron Hall this Saturday, September 18, and I plan to join in commendations with Senators HUBERT HUMPHREY and WALTER MONDALE, and Gov. Wendell Anderson, who has proclaimed this Saturday Myron Hall Day in Minnesota. The Governor's statement, Myron Hall represents the highest tradition in photojournalism and the newspaper profession and this celebration will serve as a just tribute to a man who has added so much to the lives of thousands of people in central Minnesota.

It will be with mixed emotions that I join in honoring Myron Hall and I will be saddened to know that something has been lost to so many who knew and respected Myron in central Minnesota; but I will also be happy to know that Myron will now have some leisure time to spend on himself and the many friends he has come to know over the years.

FEDERAL NONFEASANCE IN CLEAN WATER PROGRAM

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. CLEVELAND. Mr. Speaker, I would like to bring to the attention of my colleagues a recent report of the General Accounting Office entitled "Improvements Needed in Operating and Maintaining Waste Water Treatment Plants (LCD–76–312) (June 18, 1976)."

The Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500) and Executive Order 11752 require Federal facilities to comply with Federal and State water quality standards. Yet, according to this GAO report, many Department of Defense waste water facilities do not meet these standards and the DOD has not taken measures to insure compliance by the statutory deadline of July 1, 1977.

I am most disturbed by these findings.

First, this nonfeasance will delay our efforts to clean up our Nation's precious waterways.

Second, the Federal Government's failure to toe the mark sets a poor example for other governmental and nongovernmental parties regulated under Public Law 92–500. If Federal facilities do not make a strong effort to clean up our waters, why should a State or a municipality or an industry?

Finally, and most importantly, the Federal Government's disregard for its own laws will further erode public confidence in Government. As Justice Brandeis observed in *Olmstead* v. *United States*, 277 U.S. 483, 485 (1928):

> Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example.

Rather than dragging their feet, Federal agencies should lead the way in complying with pollution control requirements. Not only should they meet the letter of Public Law 92–500, but they should embrace the spirit of the law to reduce pollution to the maximum extent feasible.

I am concerned with the GAO's conclusion regarding DOD waste water treatment facilities. The pessimist in me says that the DOD is not atypical and that numerous other Federal facilities may fail to meet the statutory deadline mandated by the Clean Water Act.

Justice Brandeis went on in Olmstead to make the following observation:

> If the government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.

We would do well to heed his warning.

In light of the GAO report, I call on Congress to closely monitor the progress of all Federal facilities to insure that every effort is made to comply with the pollution control laws of the United States.

Mr. Speaker, I insert the digest of the Comptroller General's report to the Congress in the RECORD:

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: IMPROVEMENTS NEEDED IN OPERATING AND MAINTAINING WASTE WATER TREATMENT PLANTS, DEPARTMENT OF DEFENSE

DIGEST

Executive Order 11752 requires each Federal agency head to insure that facilities under his jurisdiction are designed, constructed, operated, and maintained to comply with Federal and State water quality standards.

The Federal Water Pollution Control Act, as amended, requires that these standards be met by July 1, 1977. Many Defense facilities do not meet these water quality standards and Defense has not taken measures to insure compliance by July 1, 1977. (See pp. 2 and 17.)

In view of the improvements needed and time required to accomplish them, GAO recommends that the Congress amend the Federal Water Pollution Control Act to provide that the Environmental Protection Agency may grant Federal agencies extensions to achieve water quality requirements beyond July 1, 1977, where necessary. (See p. 22.)

Because effectiveness of the Defense waste water treatment program is seriously impaired by problems of design, operation, and maintenance of facilities, GAO recommends that the Secretary of Defense direct the Secretaries of the Army, Navy, and Air Force to establish the necessary controls for insuring that waste treatment facilities comply with effluent limitations and water quality standards. Defense should have the military services:

Determine the capabilities of all treatment plants and the improvements in plant and operations needed to meet effluent limitations and water quality standards.

Price out, budget for, and program improvements in plant, laboratory equipment, staff, and training that would bring plants into compliance with applicable water quality standards.

Monitor the progress of improvements by using internal operating reports and evaluations made by the Environmental Protection Agency and environmental groups within Defense. (See p. 17.)

Defense generally agreed with GAO's recommendations and said it would emphasize the requirements of the executive order and the actions needed to conform with the applicable effluent limitations and water quality standards.

The Environmental Protection Agency concurred with GAO's recommendations to the Secretary of Defense and said that proper staffing and staff training, preventive maintenance programs, replacement of obsolete equipment, and implementation of adequate laboratory testing programs should be emphasized. (See p. 18.)

GAO rated the condition of 20 waste water treatment plants by using Environmental Protection Agency criteria. Of these 20 plants, 1 was found satisfactory, 1 was conditionally satisfactory, and 18 were unsatisfactory. Some improvements were needed at all 20 plants. The problems identified involved (1) plant design, (2) inoperable equipment, (3) lack of testing equipment and procedures, and (4) shortages of qualified plant-operating personnel. (See ch. 2.)

GAO also reviewed about 380 evaluations of Defense treatment plants made by the Environmental Protection Agency, environmental groups within Defense, consulting engineers, and State agencies and noted that the evaluations had identified similar problems at many other Defense treatment plants. (See ch. 3.)

Officials at many locations said that the lack of operation and maintenance funds kept them from obtaining equipment and filling authorized positions. Some plants had not requested funds for needed test equipment. Several officials said that denial of authorization for additional staff hindered their hiring operators and that trained operators were hard to find. According to a 1975 Environmental Protection Agency survey, the services had failed to identify those in need of training. As a result, the services were required to operate the plants as best they could with untrained or inadequately trained operators. (See pp. 9, 10, and 11.)

All three services cited improvements that they made or are making at many of the plants that GAO visited. The Army and Navy said that plans were underway to implement the recommendations. The Air Force said that it would make a comprehensive survey of all plants and would develop a monitoring system to insure that water quality standards are met. (See pp. 20 and 21.)

Some of the plants GAO examined are over 30 years old and are outmoded. Although problems of outmoded plants, difficulty in hiring trained operators, and shortages of funds contributed to the existing conditions, Defense is not relieved of its responsibility to comply with the water quality standards established by law. GAO believes that, to overcome these problems, all administrative levels need to emphasize waste water treatment processes. (See p. 3.)

CLEAN AIR AMENDMENTS OF 1976

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. DE LA GARZA. Mr. Speaker, I voted against H.R. 10498. I did so as a protest against what I consider a gross abuse of legislative intent by the enforcing agencies, not only of this bill but of several others.

This is a very complicated piece of legislation. I have studied the bill, have read the report, have spoken to the sponsor of the legislation and also with several who oppose it.

I have listened to my constituents on this matter and have done some independent research on my own.

I have found no one who is against having clean or cleaner air. That is not basically the question any more. We are committed to that end.

What I protest is the excesses, the abuses, the downright arrogance of some of the bureaucrats as they attempt to enforce the law, mainly by giving way to personal wishes and/or prejudices.

Until we have complete assurance—and we do not have at this time—that the agencies will enforce the letter of the law with the intent of the Congress, I do not feel that I can support any piece of legislation which will expand their authority or give them more legislation which will allow for discretion on their part.

We have found that always this discretion appears to be used against the people, our constituents, who pay the taxes to sustain the Government.

The word I get from my constituents is that they are tired of the excesses and abuses they suffer at the hands of some so-called civil servants.

In their name, I use this nay vote to protest, and urge my colleagues to join with me, to continue our fight to have Government really by the consent of the governed, as was intended by our Founding Fathers.

THE URGENT NEED TO COMBAT INTERNATIONAL TERRORISM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. GILMAN. Mr. Speaker, on August 3, 1976, I introduced House Concurrent Resolution 697, the fivefold purpose of which is to urge the President: First, to exercise his authority under the Foreign Assistance Act of 1961 and the Federal Aviation Act of 1958 whenever an act of international terrorism occurs; second, to instruct the U.S. Ambassador to the United Nations to seek the formation of a permanent international commission to study international terrorism for the purpose of proposing methods to prevent future incidents of international terrorism and to deal with such incidents when they occur; third, to review the efforts begun at the Rome air security conference in 1972 providing aviation sanctions against countries that refuse to punish or extradite persons responsible for unlawful acts against civil aviation; fourth, to seek strict compliance with the Convention for the Suppression of Unlawful Seizure of Aircraft by parties to the convention; and fifth, to seek an international convention to prevent and punish the taking as hostages individuals who are not protected under certain international agreements.

Mr. Speaker, within the past month, the international community has been terrorized by five highjackings. On August 11, a week after House Concurrent Resolution 697 was introduced, terrorists of the Popular Front for the Liberation of Palestine launched an attack at the Istanbul International Airport against passengers preparing to board an El Al flight to Israel, a dastardly attack that left in its wake the murder of four innocent individuals, including an aide to the distinguished Senator from New York (Mr. JAVITS). More than 30 passengers were injured, several seriously, before the Turkish police captured the international bandits. Two weeks later, Egyptian commandos rescued 96 Egyptian, Japanese, and French passengers from the grip of Arab guerrillas who had seized an Egyptian Air Boeing 737 on an internal flight from Cairo to Luxor.

On September 5, a Dutch KLM DC-9 airliner carrying 80 passengers from Nice to Amsterdam was highjacked by three Palestinians who diverted the flight to Cyprus and threatened to blow up the jetliner and all aboard if Israel did not release eight incarcerated prisoners. The highjackers released the passengers and crew and surrendered to local authorities in return for a safe conduct passage from Cyprus. And in 1 week, last week, the international community witnessed two highjackings: the internal flight in India that was diverted to Lahore, Pakistan and the suspenseful New York-to-Chicago TWA flight that was highjacked to Paris by five Croatian nationalists, a journey that ended after a bomb, planted by the terrorists in the Grand Central Terminal, exploded in a Bronx police demolition pit taking the life of police officer Brian Murray and seriously injuring three police officers: Deputy Inspector Fritz O. Behr and officers Terrence McTigue and Henry Dworkin.

The New York Times report of September 14 that certain West European governments are preparing an international agreement against the taking of hostages for the forthcoming United Nations General Assembly session that will convene on September 21 is an encouraging development, especially since terrorism has been on the General Assembly's agenda since 1972, but unfortunately without any substantive results.

Mr. Speaker, the recent wave of highjackings within the past month underscores the need for the international community to establish joint cooperative efforts to develop tighter security measures to prevent incidents of international terrorism and to arrest and bring to trial the international pirates whose terror and destruction paralyze international air traffic. It is in the interest of the international community to attain this objective, and it is in furtherance of that spirit, Mr. Speaker, that I am reintroducing House Concurrent Resolution 697 for my colleagues' consideration and support, together with a list of the following Members who are cosponsoring this measure:

COSPONSORS OF THE GILMAN ANTI-TERRORISM RESOLUTION

Mr. Badillo of New York.
Mr. Collins of Texas.
Mr. Conte of Massachusetts.
Mr. Derwinski of Illinois.
Mr. Downey of New York.
Mr. Eilberg of Pennsylvania.
Mr. Flood of Pennsylvania.
Mr. Gradison of Ohio.
Mr. Guyer of Ohio.
Mr. Hechler of West Virginia.
Mr. Hicks of Washington.
Mr. Kemp of New York.
Mr. Levitas of Georgia.
Mr. Lagomarsino of California.
Mr. Long of Maryland.
Mr. Long of Louisiana.
Mr. Mikva of Illinois.
Mr. Ottinger of New York.

Mr. Riegle of Michigan.
Mr. Russo of Illinois.
Mr. Stratton of New York.
Mr. Symington of Missouri.
Mr. Waxman of California.
Mr. Whitehurst of Virginia.
Mr. Wolff of New York.

TRIBUTE TO SISTER MARGARET BURKE, PAST PRESIDENT OF BARAT COLLEGE, LAKE FOREST, ILL.

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. McCLORY. Mr. Speaker, on September 30, the board of trustees of Barat College in Lake Forest, Ill., in cooperation with the College's Alumni Association and friends, will sponsor a dinner in Chicago's Ritz-Carlton Hotel to honor a great educator and a great lady—Sister Margaret Burke, former president of Barat.

During the entire period of my public service in the Illinois General Assembly and in this U.S. House of Representatives I have had occasion to work with Sister Burke in behalf of the best interests of Barat College and American education. I value this association and the close friendship which Sister Burke and I have experienced during a period of more than 25 years. I respect and honor her as a Christian in the highest sense of the term and as a brilliant and talented woman whose contributions to education, social progress, and cultural enrichment are unsurpassed.

The September 30 event will be a salute to Sister Margaret Burke's incomparable career in education and her highly valued contributions to Barat in helping make its programs in women's education nationally recognized.

Barat College is a 4-year women's liberal arts institution which adjoins my 13th Congressional District. During Sister Burke's tenure as president, enrollment more than doubled and six beautiful new buildings were added.

She brought sweeping changes in the curriculum. For instance, she worked to establish a business and economics advisory committee composed of some of Chicago's outstanding corporate executives who assisted Barat's students and faculty in developing an innovative business and economics internship program.

She introduced a continuing education program providing excellent opportunities for the woman returning to college after a career as businesswoman or homemaker and mother.

Sister Burke also fostered Barat's commitment to meet the cultural needs of the area. She now is director of the Lake Forest Community Music Association. She is a member of the board of the school ballet. Under her presidency, the school's Drake Theatre and nationally renowned Academy Festival Theatre flourished. Barat also is home to the Lake Forest Symphony.

Mr. Speaker, Sister Burke, who has her master's degree in philosophy and a doctorate in clinical psychology, came to Barat in 1941 and served as chairman of its psychology department from 1950 to 1954. She was president from 1954 to 1975, completing more than a quarter century of service to students, faculty, and community.

In 1974, the North Central Association of Colleges and Secondary Schools paid this high tribute to the school:

> Barat College is blessed with a dedicated faculty, administration, and student body who share a vision of good education for the contemporary woman. Its program is flexible, imaginative and rich.

Mr. Speaker, I am proud to congratulate Sister Margaret Burke and to thank her for sharing with the Lake Forest and Lake Bluff community her vision, her energies, her intellect, and her enthusiasm. I am certain she will continue to give expression to all of these qualities through involvement in other activities from which our society may benefit.

I am pleased to be a member of the honorary committee which will salute Sister Burke on September 30 in Chicago.

NORTHROP SALUTED

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, despite the ever-lengthening list of overruns, delays, bailouts, and fixes disguised as improvements that plague our defense budget, there is evidence, nonetheless, that some defense programs can be run properly and with concern for the taxpayers. Last month the Northrop Corp. began final assembly of the 3,000th member of its family of F–5 tactical fighters and T–38 supersonic trainers.

This has been one of the most successful programs in the last 20 years. Every airplane built by Northrop has been delivered on time, has been within contract cost and has met or exceeded its performance objectives. That is an achievement that is rare, if not unique, in the record of defense production.

The program included 1,100 T–38 supersonic trainers for the U.S. Air Force. The safety record of this aircraft—the first supersonic trainer in history—was five times better than expected, and saved Americans over $300 million and countless lives.

The F–5 tactical fighter has been delivered to 20 countries as an economical and effective air defense system. By far, most of these planes have been purchased by these nations with their own funds. They have been maintained and operated by their own people with very little, if any, American personnel involved. They have become self-sufficient in operating this aircraft for their own defense.

Our own Air Force and Navy use the F–5 to serve as an aggressor in simulated combat in order to train our pilots in combat tactics with our frontline fighters like the F–15. The F–5 "keeps them honest" even though these aircraft cost four or five times as much as an F–5.

In a related development, the Air Force's International Fighter System Program Office at Wright-Patterson AFB, Ohio, was recently awarded the Air Force Organizational Excellence Award. This award, for exceptionally meritorious achievement, was presented to the SPO for an outstanding record established in the development and acquisition of the Northrop F–5E aircraft. Joining in my congratulations is the Sacramento Union which carried the following article on August 26:

> PLAUDITS
>
> One of the more inviting targets of congressmen and editorial writers is the major Pentagon weapons program that staggers through cost overruns or delays in completion.
>
> But fair's fair, and we take pleasure in offering kudos to the Air Force's performance in developing and acquiring the F5E fighter plane. The original F5 production contract with the Northrop Corp. of Hawthorne, Calif., contained options for 325 aircraft. In July, 1975, the 325th plane was delivered, 18 months ahead of schedule and at a cost of $17.7 million below the original program estimate.
>
> OK, Senator Proxmire, let's hear it for the Air Force and Northrop!

MEXICAN INDEPENDENCE DAY, 1976

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. REES. Mr. Speaker, last night at midnight President Luis Echeverria Alvarez of Mexico uttered "el grito de Dolores"—the cry of independence—celebrating the 166th anniversary of independence from Spain.

September 16, "Diez y Seis", marks the date in 1810 when Father Miguel Hidalgo Costilla, amidst ringing church bells, urged the citizens of the small town of Dolores to take up arms against the oppressive Spanish rulers. Like the proclamation of our Declaration of Independence on July 4, 1776, "el grito" of 1810 inspired the revolt that brought freedom from European colonial domination.

It took 11 years and the death of many courageous freedom fighters, including Father Hidalgo before the Spanish forces were defeated. Mexico had to fight a second war of independence against the French pupper Emperor Maximilian before she was finally free of European domination, May 5, "Cinco de Mayo," commemorates this victory of 1867.

Each "Diez y Seis," with "el grito de Dolores," the Mexico patriots who devoted their lives, their valor, and their determination to the ideal of self-government and human liberty, are honored by the citizens of Mexico and by the many citizens of Mexican descent in the United States and elsewhere throughout the world.

In my home city of Los Angeles, September 16 is celebrated with as much patriotism as July 4. It is not necessary to be of Mexican descent to appreciate the contribution to the revolutionary ideal of freedom that is signified by this historic date. For California's heritage is intertwined with Mexico; and in 1810 California was still under Mexican rule. Mexico's freedom from European colonialism was literally our freedom from it as well.

Americans should be particularly appreciative of Mexico's gallant struggle in this year of our own Bicentennial celebration. Not only have independence and stability come to Mexico, but she continues to set an example for South America with her economic prosperity.

The friendship between our two countries has been long and cherished. On the occasion of this September 16 let us all join in honoring Mexico's independence and in appreciating the contribution she has made to our own revolutionary heritage.

FAIR HOUSING HEARINGS CONTINUE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. EDWARDS of California. Mr. Speaker, I wish to announce that the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary will hold 4 additional days of public hearings on civil rights enforcement in Government housing programs. The scheduled hearing days are September 22, 23, 27, and 30.

On September 22 and 30, equal opportunity in HUD housing programs will be examined. The witnesses appearing on the 22d will be called by the minority members of the subcommittee; and on September 30, HUD Secretary Carla A. Hills is scheduled to testify.

In a March appearance before the subcommittee, HUD representatives promised to speed up fair housing complaint processing, to increase the number of fair housing compliance reviews, to implement laws requiring the employment of low income residents in HUD projects, and to enforce the low income housing production and dispersal goals of the 1974 Housing and Community Development Act.

Secretary Hills is expected to testify on the Department's progress in accomplishing these goals; and, of course, the subcommittee will be quite anxious to receive her report in view of continuing public complaints that HUD is failing to carry out its equal opportunity obligations—especially under the 1974 act.

September 23 and 27 have been designated for oversight of equal opportunity in Veterans Administration housing programs. Witnesses scheduled for the 23d are representatives of the Leadership Conference on Civil Rights and the National Association of Real Estate Brokers. VA representatives are to testify on September 27.

In fiscal year 1976 alone VA guaranteed well over 300,000 home loans. Through this loan guaranty program, VA engendered benefits for lenders, builders, developers, individual home sellers, appraisers, and real estate brokers. Yet, it appears that while VA allows these individuals to participate in this housing program, it takes no monitoring steps to ensure that they deal with minority and female buyers on a nondiscriminatory basis.

It is imperative that the VA take firm steps to insure that discriminators not participate in its housing program. Indeed, VA must act affirmatively so as not to perpetuate dual and racially segregated housing patterns. The witnesses representing VA have been requested to address concerns such as these.

On each of the 4 days, the hearings will commence at 10 a.m. The hearings on September 22, 23, and 27 will be held in room 2237 of the Rayburn House Office Building. The hearing scheduled for September 30 will be held in room 2141 of the Rayburn House Office Building.

GOODBYE GARCIA ADIOS

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. STEIGER of Arizona. Mr. Speaker, an inspiring and unusual book called "Goodbye Garcia Adios" has been written by Mr. Robert Robles of Yuma, Ariz., and Mr. Don Dedera of Del Mar, Calif. The book is written in both English and Spanish, and details the heroism of Jose Garcia, a Mexican locomotive engineer, who sacrificed his own life in 1907 to save the town of Nacozari, Sonora, from a disastrous explosion of a trainload of burning dynamite.

An article about the book and its coauthors was written by Cindy Lancaster of the Yuma Daily Sun, and I include it to be reprinted in the RECORD:

OF NATIONAL HERO OF MEXICO

(By Cindy Lancaster)

It was in Nacozari, Son., in 1907, in the cab of a locomotive loaded with burning dynamite, that a young Mexican railroad engineer named Jose Garcia chose between his own life and that of an entire community. Despite the fact that Garcia is a national hero in Mexico, it was to be seven decades before a book on his bravery and self-denial would be published in the United States.

One author of the newly published "Goodbye Garcia Adios" is Bob Robles, a Yuma insurance agent. His co-author is Don Deders, a former Arizona Republic columnist and now a freelance writer in Del Mar, Calif.

"Both of us were very aware that there is much hunger for knowledge of heritage on the part of Mexican-Americans," Robles said. "We hope that through such a book as this, we can satisfy part of that urgency."

Toward that end, the book was written in bilingual format. Page by page, paragraph by paragraph, the copy runs mutually in two languages. The left page of each spread is in English and the facing page in Spanish.

"We wanted to appeal not only to Mr. and Mrs. Citizen, but also to educational people—high school and college level bilingual classes," Robles said.

Robles, who said he writes between insurance clients, plans to continue doing research on Mexican heroes. His current interest is Heraclio Bernal from the state of Sinaloz. "It's a beautiful story—he was sort of a Mexican Robin Hood."

Robles graduated from Northern Arizona University with a major in Spanish and a minor in English. He has been active in developing bilingual educational programs.

He became interested in Garcia as early as 1964 and did research off and on for about five years. About six years ago, he mentioned his interest to Dedera while the two were lunching together in Yuma.

The two discussed the possibilities of the story, and decided the two should coauthor it.

Robles said he first got to know Dedera when he submitted a translation of a letter written by South American hero Simon Bolivar to the columnist.

"I dared try to translate the emotional letter Bolivar had written," Robles said, adding Dedera liked the translation and ran it in his column.

The team work began again when Dedera called Robles a year ago January to discuss the proposed book.

The effort began in earnest. It took Robles four weeks to extract what he wanted from a two-inch thick stack of notes written in Spanish. From that he jotted down Garcia's story, without regard to punctuation or grammar.

Dedera took that rough draft and read it until he was familiar with it. He then set it aside while both men did more research, traveling to Mexico a number of times.

Once that phase was completed, Dedera took Robles' rough draft and reworked the story into finished form. From there, it was back to Robles, who spent eight weeks "working night and day" to translate the completed English version into Spanish.

"The only time we sat down together was for two days of work checking the English with the Spanish," Robles said. "He would read the English version out loud while I studied the Spanish. We had to check tenses, wording, to make sure they were as identical as possible."

The two used as many original sources as possible in telling Garcia's story. They found one eyewitness account in the form of a letter, and they managed to collect a series of rare photographs, which are reproduced in the book.

Facts were checked and double-checked. Items were left out if they couldn't be proven.

Robles' search for information included placing a classified advertisement in The Sun seeking relatives of Garcia, since he knew two of Garcia's sisters had once lived in Yuma.

He managed to locate a nephew, Ernest Bartlett, who works at MCAS. Bartlett is the son of Garcia's sister Artemisa.

An autograph party for Robles' book will be announced later. The publisher, Northland Press of Flagstaff, hopes to circulate the book nationally. Locally, B. Dalton bookstore in the Southgate Mall is the distributor.

THE ELDERLY LIVING ON FIXED INCOMES

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mrs. KEYS. Mr. Speaker, it is essential that our economic policy decisions not place an unfair burden on those Americans least able to afford it—the elderly living on fixed incomes.

Because this group of citizens are social security beneficiaries, their outside earnings are severely limited by law to a level that is just plain out of touch with the realties of our economic situation.

Not only is the financial consideration a serious problem, but the human aspect is equally important. Many seniors wish to work more, to be more useful in a society that sometimes denies them such, and I strongly believe that we should not put up any road blocks to deter them from doing so.

Today, I am introducing legislation to increase the outside earnings which is permitted each to a level of $4,800.

We desperately need to direct our priorities so as to reflect upon human needs and concerns. This measure is just one way to correct a problem that is crippling many of our Nation's aged who only want to be able to live their lives with a little more satisfaction and independence.

IN FAINT PRAISE OF CIGAR LOBBYISTS

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. MOSHER. Mr. Speaker, recalling my remarks of June 24, in which I commented on a piece of tax legislation that would have given the cigar manufacturing industry a gift worth between $7.5 million and $11 million per year, I now wish to express my admiration and respect for the diligence and evident skill of the lobbyists who represent the manufacturers of large cigars.

They have finally done it. After repeated efforts, they have just now succeeded in obtaining that multimillion-dollar tax break for their clients.

In the last Congress there was a bill introduced that would have reduced the Federal excise tax return on large cigars by several million dollars per year. That bill made it onto the suspension calendar, but never came to a vote.

In this 94th Congress, a similar bill (H.R. 8125), to revise the Federal excise tax on large cigars, was introduced. Under the guise of being merely a simplification of the tax laws—by switching from a bracket form of taxation to an ad varlorem tax—the bill also had the less obvious but more significant effect of dropping the effective tax rate from approximately 10 to 8.5 percent.

On June 23, the House saw through this clever smoke screen and wisely refused to suspend the rules and pass that bill. It failed to get the necessary two thirds vote.

Many of us who voted against the bill did so because we were troubled by the projected annual tax revenue loss of between $7.5 million and $11 million.

Well, did the cigar lobbyists give up? Did they hide in shame after their true intent was exposed to the public. No, of course not.

Seeking to illustrate that it is difficult to keep a bad bill down, the steadfast cigar lobbyists immediately turned their attention to the Senate, where they met with greater success.

They located a friend in the Senate who tacked their bill on as a minor amendment to H.R. 10612, the so-called tax reform bill. Because this particular special interest measure bleeds the Treasury of "only" $7.5 million a year, it attracted little attention and no serious opposition in the Senate.

When the conference met to consider the differences in H.R. 10612, the tax break for large cigars quietly slipped through—it was considered too small to argue over, I am told. Our House conferees evidently were not overly troubled by the fact that the House had rejected the same proposal.

Mr. Speaker, I wish to reiterate my comment of June 24—see page 20479.

> I believe that we should not ask the American taxpayers to forfeit $7.5 million or $11 million per year in tax revenue so that the folks over at the Treasury Department do not have to mess with an untidy tax structure for large cigars. . . .
>
> Now, I agree that it would be desirable to go to a more logical tax structure . . . But I do not think we should give the cigar manufacturing industry a multimillion-dollar subsidy in the process.

Well, I stand by that statement. But what can we do? The only option we now have is to vote up or down on all of H.R. 10612, and many of its key provisions far outweigh the stale-smelling cigar provision—section 2302—to which I object.

So, we must accept the whole tax reform package, cigar clause and all.

Armed only with a thin ruse and much chutzpah, the cigar lobbyists have bagged their tax break. Thus, the cigar manufacturers win, the taxpayers lose, and the lobbyists have earned my respect.

JOSEPH CARLSON

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ASPIN. Mr. Speaker, I would like to draw to your attention the brave deed of 13-year-old Joseph Carlson from Milwaukee, Wis.

Last November, Joseph and his family were visiting friends who owned a home on Lake Michigan. As Joseph and his sister were taking a walk along the lake, they heard a cry for help coming from the winter waters.

Joseph and his sister investigated and saw a small boy being carried out by the waves. Without a thought for his own safety, Joseph jumped into the water fully clothed in an effort to save the boy.

As Joseph swam to the boy, his sister stood by to run for help if needed. Fortunately for all concerned, Joseph was able to pull the child to shore and to safety.

I am so proud to have learned of Joseph's courageous deed. We hear too many complaints that people no longer wish to "get involved." It is heartening to see that concern for others is not a lost or forgotten human trait. It is alive and practiced by many. Joseph Carlson is only one example but he is certainly a fine one and is worthy of your highest commendation.

MEXICO CELEBRATES 166 YEARS OF FREEDOM

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. FARY. Mr. Speaker, this is a day of special significance for our good neighbors in the great country of Mexico.

It was on September 16, 1810, that Father Miguel Hidalgo y Costilla proclaimed the absolute independence of Mexico. The initial effort by Father Hidalgo failed, but it was his action which lit the torch of liberty and independence was finally realized in 1821.

The people of Chicago take pride in the contributions of the Mexican culture to our own Nation, and we are pleased to join in observing September 16 as Mexican Independence Day.

It should be noted that Mexico's struggle for independence is not dissimilar in spirit from our own American Revolution. In both nations there is a devotion to democracy and universal freedom.

Americans of Mexican descent have contributed greatly to the building of our country, especially in the Southwest, and I would like to salute them, and to join them in commemorating this date which is so very important to their rich heritage.

FRANKLIN W. KOLK

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. MILFORD. Mr. Speaker, the untimely death last month of Franklin W. Kolk of American Airlines deprived this Nation of one of its truly original and innovative thinkers in the field of aeronautics.

I became acquainted with Mr. Kolk shortly after I came to Congress, and it was a great privilege to know him personally. Conversations with him were always stimulating.

Earlier this year my Subcommittee on Aviation Research and Development held hearings on the future of aviation in the United States, and Mr. Kolk was kind enough to submit a paper to the subcommittee. In this paper he demonstrated once again why he was universally considered one of our greatest aeronautical engineers.

During his 33 years with American Airlines, Mr. Kolk had a hand in the development of almost all the airplanes introduced by the airline—the Convair 240 and 990, the DC–6 series, the DC–7, the Lockheed Electra and L–1011, and the DC–10, which his fellow engineers fondly nicknamed "the Kolk machine."

His degree in aeronautical engineering was from the Massachusetts Institute of Technology, and he was a senior aerodynamist with the Martin Co. before joining American in 1943. At the time of his death, he was American's vice president of technological engineering.

Mr. Kolk was a fellow of the Aerospace Industries Association of America and of the Royal Aeronautical Society. He was chairman of the National Aeronautical and Space Administration's safety and aeronautical operating systems panel. He was a former chairman of the Society of Automotive Engineers' committee on aircraft exterior noise measurement. In 1967 the Flight Safety Foundation honored him with the Adm. Luis de Florez Flight Safety Award.

American aviation owes a lot to Franklin Kolk, and he and his ideas will be sorely missed.

SENATE—*Friday, September 17, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

We praise Thee, O God, for the gift of this new day and for life itself. For all good things in this world; for food and raiment, for home and friendship, for useful tasks and pure pleasures, we thank Thee, O Lord. For all spiritual blessings: for Thy Holy Word, for the community of a common faith, for the good example and blessed memory of those who have gone ahead, we thank Thee. Make us mindful of those who live less well than we, whose days are unfulfilled, who would work if they could, and for all who suffer pain of body or desolation of spirit. Give us grace to live and work here as servants of Thy coming kingdom.

We ask it in the Great Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 17, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 16, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

THE JUDICIARY

The second assistant legislative clerk proceeded to read sundry nominations in the judiciary.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps, placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the conclusion of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 1087, 1123, 1186, and 1187.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRESSIONAL CEMETERY

The bill (S. 3441) to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (b), the Architect of the Capitol is authorized to perform such work as may be necessary to prevent further deterioration of, and to maintain, those sections of the cemetery located in the District of Columbia known as the Congressional Cemetery which are of historical significance, including those sections in which former Members of the Senate and House of Representatives are buried.

(b) Before commencing any work under subsection (a), the Architect of the Capitol shall obtain the consent and approval of the person or persons who have legal responsibility for the care and maintenance of the cemetery and shall enter into such agreements with them as may be necessary to carry out the provisions of such subsection. Such agreements shall include provisions protecting the liability of the Architect of the Capitol and the employees of his Office.

(c) To carry out the provisions of subsection (a), there are authorized to be appropriated the sum of $175,000 for the fiscal year ending September 30, 1977, and the sum of $75,000 for the fiscal year ending September 30, 1978.

Sec. 2. (a) The Secretary of the Interior shall conduct a study for the purpose of formulating proposals for renovation and permanent maintenance by the United States of those historical sections of the Congressional Cemetery referred to in the first section of this Act. The Secretary shall report the results of such study to the Senate and the House of Representatives not later than September 30, 1977.

(b) To carry out the provisions of subsection (a), there is authorized to be appropriated the sum of $50,000 for the fiscal year ending September 30, 1977.

ADMINISTRATION OF THE NATIONAL PARK SYSTEM

The Senate proceeded to consider the bill (S. 3430) to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows:

(a) In subsection (e), after "within an area of the national park system," insert "as long as such activity does not in any way violate or jeopardize the integrity of the natural ecosystem or any historic resource,".

(b) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

"(h) promulgate and enforce regulations concerning boating operations and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided,* That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior.".

Sec. 2. The Act of August 18, 1970, is further amended by adding the following new sections:

"Sec. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

" 'Sec. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days' rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the coterminous forty-eight States.'.

"Sec. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinqunish to a State, or to a Commonwealth, territory, or possession of the United States. All or part of the legislative jurisdiction of the United States over National Park System lands or interests in that State, Commonwealth, territory, or possession: *Provided,* That, prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

"Sec. 7. Notwithstanding subsection 5901 (a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to $400 annually.

"Sec. 8. The Secretary of the Interior is directed to investigate and study areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of lisitng are not included in the National Park System. Each report and annual listing shall be printed as a House document.

"Sec. 9. Section 3 of the Act of August 21, 1935 (49 Stat. 666, 667; 16 U.S.C. 461, 463), is amended to read as follows:

" 'Sec. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and insituations. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

" '(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.'.

"Sec. 10. (a) The arrest authority relating to the National Park Service is hereby amended in the following respects:

" '(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed.

" '(2) The first paragraph of that portion designated "GENERAL EXPENSES, FOREST SERVICE" of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words "and national park service", "and national parks", and "or national parks".

" '(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed.

" '(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n–5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed.

" '(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

" '(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

"'(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

"'(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

"'(c) The Secretary of the Interior is hereby authorized to—

"'(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

"'(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement or supervision of the laws or ordinances of that State or subdivision; and

"'(3) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

"'(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

"'(d)(1) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction with the National Park System.

"'(2) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

"'(3) For purposes of the tort claim provisions of title 28, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

"'(4) For purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be deemed a civil service employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.'.

"SEC. 11. Section 101(a) of title I of Public Law 89-665, (80 Stat. 915; 16 U.S.C. 470a) establishing a program for the preservation of additional historic properties, is amended by adding thereto a new paragraph to read as follows:

"'(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.'".

UP AMENDMENT NO. 464

Mr. MANSFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) proposes unprinted amendment No. 464.

On page 8, line 14, strike out "." ." and insert in lieu thereof "effective October 1, 1977."

On page 9, line 9, insert after "." the following: "Subsection (b) of this section shall become effective October 1, 1977."

On page 10, line 12, strike out "." and insert in lieu thereof "effective October 1, 1977."

On page 15, line 8, insert after "reimbursement," the following: "effective October 1, 1977,".

On page 16, line 10, strike out "For" and insert in lieu thereof the following: "Effective October 1, 1977, for".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows:

(a) In subsection (e), after "within an area of the national park system," insert "as long as such activity does not in any way violate or jeopardize the integrity of the natural ecosystem or any historic resource,".

(b) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

"(h) promulgate and enforce regulations concerning boating operations and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided,* That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior effective October 1, 1977.".

SEC. 2. The Act of August 18, 1970, is further amended by adding the following new sections:

"SEC. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

"'SEC. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days' rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States. Subsection (b) of the section shall become effective October 1, 1977.'.

"SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over National Park System lands or interests in that State, Commonwealth, territory, or possession: *Provided,* That, prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

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"SEC. 8. The Secretary of the Interior is directed to investigate and study areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. Each report and annual listing shall be printed as a House document.

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" 'SEC. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

" '(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.'.

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" '(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed.

" '(2) The first paragraph of that portion designated "GENERAL EXPENSES, FOREST SERVICE" of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks is amended by deleting the words "and national park service", "and national parks", and "or national parks".

" '(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed.

" '(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n–5), as amended relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed.

" '(b) In addition to any other authority confered by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

" '(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

" '(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

" '(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

" '(c) The Secretary of the Interior is hereby authorized to—

" '(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

" '(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement or supervision of the laws or ordinances of that State or subdivision; and

" '(3) provide limited reimbursement, effective October 1, 1977, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

" '(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

" '(d) (1) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction with the National Park System.

" '(2) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

" '(3) For purposes of the tort claim provisions of title 28, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

" '(4) Effective October 1, 1977, for purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be deemed a civil service employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.'.

"SEC. 11. Section 101(a) of title I of Public Law 89–665, (80 Stat. 915; 16 U.S.C. 470a) establishing a program for the preservation of additional historic properties, is amended by adding thereto a new paragraph to read as follows:

" '(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.' ".

WAIVER OF SECTION OF PUBLIC LAW 93–344

The resolution (S. Res. 535) waiving sec. 402(c) of Public Law 93–344, was considered and agreed to, as follows:

S. RES. 535

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 3441. Such waiver is necessary because the congressional cemetery has had considerable and continuing deterioration which this bill hopes to halt by providing maintenance funds for two years (fiscal year 1977 and fiscal year 1978) at the end of which a National Park Service study, as required by this bill, will determine which Federal agency should be responsible for future operation and maintenance of the cemetery.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 3800

The resolution (S. Res. 546) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3800, was considered and agreed to, as follows:

S. RES. 546

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3800. Such waiver is necessary because a similar measure passed by the Senate on July 19, 1976, as an amendment to H.R. 366, was deleted by the Conference on H.R. 366 on September 10, 1976, after the House Committee on the Judiciary had ordered reported on September 9 a companion measure. The Senate has passed a Victims of Crime Act five times; therefore, in order to assure that the will of the Senate as previously expressed becomes law in the Ninety-fourth Congress, a waiver with respect to S. 3800 is necessary so that the two Houses may go to conference in the event of House passage of a companion measure.

ORDER VITIATING CONSIDERATION OF S. 3688

Mr. MANSFIELD. Mr. President, I ask unanimous consent, due to a difficulty which has arisen overnight, that the time agreement on S. 3688, a bill to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, be vitiated.

The ACTING PRESIDENT pro tempore. Does that include the agreement to proceed to its consideration?

Mr. MANSFIELD. Yes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair and yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 12 minutes.

FARM AND FOOD POLICY 1977

Mr. TALMADGE. Mr. President, the 94th Congress is drawing to a close. It has been 2 eventful years for food and farm policy and legislative activity. There is no reason to believe that the 95th Congress, which will begin in just 4 months, will be any less eventful.

It may be instructive to look briefly at what has happened in 1975 and 1976, and to consider what Congress is likely to face next year.

The Committee on Agriculture and Forestry reported five major reform bills during the past 2 years. So far, only one of the five has become law.

First. We passed an emergency farm bill in early 1975 to provide farmers a modest level of protection against a price catastrophe, but the President vetoed the bill and there were not enough votes in the House to override.

Second. We passed a major overhaul of school lunch and child nutrition programs later in 1975. The President vetoed that, too, but we managed to override his veto.

Third. In March of this year, our committee produced and the Senate passed a major food stamp reform bill to eliminate fraud and abuse and to provide greater benefits for the truly needy. The House committee took similar action, but as yet there has been no action on the House floor.

Fourth. In April, we reported a major grain inspection reform bill, the result of many months of investigation of a scandal which shocked farmers and concerned Americans of every walk of life. We have been in conference with the House and I am optimistic about a compromise in the next several days.

Fifth. In May, our committee produced a bill for major reform of national forest management. The House committee passed its legislation recently and House action is imminent. I am hopeful that we can reach agreement on legislation before we adjourn.

This five-point summary hits only the high points of an extremely active 94th Congress in the area of food and agriculture. And it does not even suggest the challenges which face us when the new year dawns.

Our first major challenge in the 95th Congress will be to consider what legislation, if any, should be enacted to replace the farm and food programs which expire at the end of next year.

Expiring programs include the basic farm programs of price stabilization for the so-called basic commodities—corn, cotton, and wheat—as well as the basic authority for the food stamp progam and our overseas food assistance efforts under Public Law 480.

I believe it is our challenge to develop balanced legislation which will make it possible to achieve a wide range of objectives.

Among them is the provision of a sustained and stable supply of food and fiber to the consumer, here and abroad, at prices fair to buyer and producer.

Basic to that objective, of course, is a healthy and viable agriculture—farmers and ranchers making a profit—and an effective and efficient marketing system which moves food and fiber from the field to the consumer.

If we are to continue to meet our major objectives, it is clear that we must make substantial improvements in food and farm legislation.

An urgent need is better protection to farmers against a price catastrophe.

We now operate under the provisions of farm legislation enacted in 1973—legislation which provides wholly inadequate price protection.

Should market prices fall to the unrealistic loan and target price levels of the present programs, it would be economic disaster throughout rural America.

We must increase these support levels to a more realistic level, one which assures farmers that they can, at the very least, cover the enormous operating costs which go into farm production.

We must continue to encourage farmers to produce the maximum extent possible, but we should not encourage them to produce themselves into a price collapse that would send them streaming to the bankruptcy court.

The addition of realistic policies of assurances to the producers and consumers of our food and fiber commodities will be our most significant challenge in the coming Congress.

To help set the stage for this challenge, my committee this week published a booklet entitled "Farm and Food Policy 1977." The publication contains a number of thoughtful recommendations as to the directions we should take in next year's farm bill.

It is my intention to send a copy to each Member of the Senate today. I hope each Member of the Senate will have an opportunity to read at least parts of this worthwhile publication and to begin thinking about the farm and food policy challenges we will have when we come back to work in January.

Mr. HELMS. Mr. President, I commend the able Senator from Georgia, the distinguished chairman of the Committee on Agriculture and Forestry, for his statement, and I associate myself with his remarks.

The Senate is blessed with having a leader of Senator TALMADGE's dedication as chairman of such an important committee. The farmers of America are grateful to him for his dedicated efforts, and so am I. I appreciate his diligent work on behalf of the farmers of America. He is an able chairman, always fair in his approach to problems our committees faces, and I am honored to be associated with him.

Mr. TALMADGE. I thank my distinguished colleague, who serves as one of the most dedicated, valuable, and hard-working members of the Committee on Agriculture and Forestry.

Mr. HELMS. I thank the distinguished Senator. Again I commend him.

Mr. STONE. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. STONE. Mr. President, I associate myself with the remarks of the distinguished and able Senator from North Carolina with regard to the chairman of the Committee on Agriculture and Forestry.

At this time, I should like to add a few words to the research situation in agriculture these days.

Mr. TALMADGE. Mr. President, if the Senator will yield at this point, I desire to express my deep appreciation for the generosity of his comments. The Senator has served on the Committee on Agriculture and Forestry throughout the time he has been a Member of the Senate. He has been one of the most hard working members of that committee. He comes to the committee meetings on time and is prepared. He knows what he is talking about. He has made many valuable contributions to our committee, to its deliberations, and to the laws we have passed.

Mr. STONE. I thank the Senator.

Mr. TALMADGE. Mr. President, I yield the floor, and the Senator from Florida may have the remainder of my time in addition to the time he has been allotted.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

THE ADMINISTRATION HAS FAILED TO MEET AMERICA'S DEMAND FOR AGRICULTURAL RESEARCH

Mr. STONE. Mr. President, one of the most important issues in the world today is the question of adequacy of food.

Today, in a world of tight food supplies, we are consuming even faster than we are producing at times.

This has created a world of volatile prices that hurts everyone, especially the poor.

We have all heard reasons and descriptions of what has happened to cause this situation. But instead of Monday morning quarterbacking, we should be looking forward for solutions. We should be supporting and implementing broader and more intensive food and agriculture reseach programs.

Unfortunately the record of this administration as well as the previous administration regarding agricultural research is terrible.

The Office of Management and Budget not only fails to recognize the need for basic agricultural research—it seems to be working to destroy the programs we already have.

While we are faced with the clear-cut mandate for better funding of our agriculture and food research effort, we find that the administration's research budget shortchanged agriculture again this year. They have not even provided adequate funds to keep up with where we were the year before.

The President's last budget request for the Agricultural Research Service—the Nation's primary agricultural research agency—was in real terms less than it was 5 years ago. In fact, in real terms it was only three-fifths of that we devoted to ARS 10 years ago.

The administration has tried to eliminate much nutritional research work. It has failed to ask for reasonable funding for nutritional studies and attempted last year to cut back the principal extension nutrition program—the expanded-family nutrition program.

Mr. President, the United States of America is the most productive agricultural nation the world has ever known. We have long been in the forefront, but we cannot stay in the forefront by resting on our past achievements. We achieved this position through agricultural research; we can hold this position only through necessary support of agriculture research.

Mr. President, agriculture is perhaps the most complex and challenging industry in this Nation. Biological systems are constantly changing; new diseases are developing even as we stop old diseases. New insect strains, such as fire ants and citrus blackfly, are evolving even as we are controlling old strains. The need for better products, higher yielding crops, and improved livestock are never ending challenges. Research is the key as we seek to feed an ever expanding world population, a population that is hungry, a population that will be explosive unless we find a way to feed it.

We must recognize that agricultural research is a long-term proposition that cannot be stopped and started. Research must be continued as we go through generation after generation of crops or livestock to find the genetic breakthroughs that we desperately need.

We must recognize the need for better facilities and that we need facilities distributed throughout the country so we can respond to unique geographic and climatic conditions in each region. But facilities have been totally ignored in the past two administrations. So much so that all are in disrepair and large shares of our Federal research facilities fail to meet minimum safety regulations established by our Government.

The most important ingredient for research is minds. Only from the minds of scientists can we expect the necessary discoveries to feed the world in 10 or 20 or 50 years.

Once again the administration has recorded a bad record. Today, the Agricultural Research Service in USDA has some 160 fewer scientists than they had in 1970.

The need today is for more trained power, not less.

The need is for more dollar investment, not less.

The need is for more research facilities, not less.

The record of this administration is deplorable. As a member of the Senate Committee on Agriculture and Forestry, I know the efforts of our committee to rectify this problem, but faced with the extremely negative attitude of the administration we have not been successful.

But, Mr. President, we must be successful, we must turn the agricultural research situation around, we must do it now.

INSENSITIVITY TOWARD FARMERS AND RANCHERS

Mr. ABOUREZK. Mr. President, as I speak here today, the farmers and ranchers in my State of South Dakota are suffering through a drought that rivals, and in some areas even surpasses, the worst of the 1930's. All across my State, and in wide areas of Minnesota, North Dakota, and Iowa as well, crops are drying up, herds are being liquidated, and dust is flying again as it has not since the drought days of the Depression.

Only men and women whose very lives depend on the land can understand the special terror of prolonged drought. Prolonged drought means disaster. Mr. President, it means loss of your land, land you have worked since childhood, land worked by your father before you.

I believe with all my heart and soul that these farming men and women deserve help from their Nation. I am here today to tell you that they are not receiving that help. I am here today to tell you that what is happening to South Dakota during this drought is a national disgrace, to say nothing of the other States that are affected by it.

This administration has loudly proclaimed its policy of less Government intervention and less Government spending, except, of course, for armaments. This is a nice sounding policy. It wins votes in some areas. Unfortunately, drought, flood, and the human suffering these disasters produce do not fit in that policy. This administration does not flinch when it asks Congress to approve record-setting budgets for defense and foreign affairs. But let a small farmer, devastated by disaster, ask for help to preserve his place and the result is automatic. "It will cost too much," this administration says.

There is not a day when a letter does not cross my desk asking, "How can the U.S. Government help every foreign nation that asks for assistance, but turn me down cold when I need help to save my farm?" I cannot answer that question. There is no answer.

Certainly the value of our farm sector to the national economy is not the answer to this mystifying lack of concern for our farmers and ranchers. Farm exports play a vital role in the U.S. balance-of-trade position. In 1975, agricultural exports earned the United States $21.9 billion. Without these exports, we as a nation would be flat broke. Yet the farmers who produce those exports get virtually nothing when they need it the most.

Every Member of this body, at one time or another, has heard horror stories concerning the lack of commonsense shown by the Department of Agriculture. A farmer in my home State of South Dakota informed me of a problem he is having obtaining assistance through the emergency livestock feed program—ELFP—a program administered by the Agricultural Stabilization and Conservation Service. This program provides low-cost grain to farmers during disaster situations. After providing an inventory of his hogs and cattle, this farmer indicated that he had some hay on hand for his cattle, but was seeking to obtain grain for his hogs. After consulting the chart provided by the Department of Agriculture, the local ASCS representative told him he was not eligible for any grain, because he had hay on hand. Unfortunately, though it may not be widely known within the USDA bureaucracy, or at Purdue University, hogs do not eat hay.

In response to a recent questionnaire I sent to the drought counties in South Dakota, 68.8 percent of the 311 farmers and ranchers responding rated current ASCS programs poor. The Secretary of Agriculture has the power to set regulations for existing programs so that immediate relief is provided in disaster situations. Obviously, he has not done so, and our farmers know it.

Just what can the administration do in a disaster situation? When one examines the powers, the neglect is all the worse. After Secretary Butz announced that he would move to eliminate all disaster payments and replace them with a Federal insurance program, he turned around and told drought-stricken Midwest farmers that no insurance applications for the 1977 crops will be accepted due to weather conditions. That is terrific. What the Secretary is saying is that all post facto protection against disaster should be eliminated in favor of insurance programs, but insurance should not be available if a disaster is likely to occur.

Farmers who apply for the emergency livestock feed program are often told that the grain is just not available. What they are not told is that Secretary Butz also has the power to provide for an emergency reserve of up to 75 million bushels of wheat, feed grains, and soybeans. He refuses to do so.

The administration, through the Federal Disaster Assistance Administration has the power to grant assistance to farmers and ranchers who wish to transport their cattle out of disaster areas, but it did so only after the Senate passed legislation forcing its hand. In addition, the administration could increase the amount of assistance provided to farmers and ranchers who must haul in hay for their animals. It refuses to do so.

At a time when the cattle market in the United States is severely depressed, the administration could limit imports, which are undercutting the domestic market prices by approximately 30 percent. It refuses to do so. It refuses, despite the recent revelation that, from January through July of this year, 21.3 million pounds of foreign beef entered through the foreign trade zone at the Port of Mayaguez. This beef will not be counted against the voluntary quotas negotiated by the administration. It is just commonsense that meat imports ought to be restricted during periods when the domestic market is severely depressed. But they are not.

The National Farmers Union recently said:

> The U.S.D.A. chieftain lavishly praises his "market-oriented" system for giving farmers a "maximum incentive" to maintain and increase food production, but neglects to mention that this incentive is in the form of

Commodity Credit loan levels equal to only about 45% of the cost of production on wheat and feed grains.

That, of course, is an invitation to go broke, not an incentive to produce.

Why is this insensitivity toward the American family farmer and rancher allowed to continue? What possible justification can there be for policies which offer no protection from disaster and no price when production is high? Why are family farmers pushed from pillar to post while large agribusiness corporations thrive?

I do not know what the reason is. But I do know that Ralston Purina is only one of the several corporations previously served by the Secretary of Agriculture, Earl Butz.

I also know that the individual in the Department of Agriculture who negotiated the notorious Russian grain deal which gave the grain companies their fattest profits in years left shortly afterwards to serve the Continental Grain Co.

And I know that Kenneth Frick, ASCS Administrator and the man who, next to Secretary Butz, is most responsible for the survival of the family farmer and rancher, once said:

> A few farms going broke each year is one of the most healthy things there is.

Mr. President, the agricultural record of this administration is just as ridiculous and inadequate as that statement by Mr. Frick. It is a record which is not adequate for the family farmers and ranchers of my State, who are suffering through the worst drought since 1934. It is not adequate for the consumers, who pay high prices despite record low farm prices. And it is not adequate for any American who believes in elementary justice and fair play for the men and women who earn their living from our land.

I look forward to participating with the Senator from Georgia (Mr. TALMADGE), my colleagues in the Congress, and with an administration that cares to write a new agricultural policy next year.

Mr. President, I ask unanimous consent that the results of my questionnaire concerning the drought in South Dakota be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESULT OF SENATOR ABOUREZK'S SURVEY ON DROUGHT

How many head of livestock have you been forced to sell because of the drought?

Number sold	Number of farms	Percent
0	55	18.9
1 to 20	59	20.3
21 to 40	57	19.7
41 to 60	31	10.6
61 to 80	24	8.3
81 to 100	23	7.9
101 to 120	15	5.2
121 to 140	2	.1
141 to 160	6	2.8
161 plus	13	6.2
Total	290	100.0

What percentage of your herd have you sold because of the drought?

Percent sold	Number of farms	Percent
0	55	18.6
1 to 10	20	6.8
10 to 20	21	7.1
21 to 30	45	15.2
31 to 40	43	14.5
41 to 50	46	15.5
51 to 60	7	2.4
61 to 70	8	2.7
71 to 80	20	6.8
81 to 90	4	1.4
91 to 100	27	9.1
Total	296	100.0

What percent of your original herd do you feel you could sell and still maintain a foundation herd?

Percent of herd	Percent of farms	Percent
0	48	18.3
1 to 10	26	9.9
11 to 20	18	6.8
21 to 30	40	15.2
31 to 40	28	10.7
41 to 50	81	30.8
51 to 60	8	3.0
61 to 70	5	1.9
71 to 80	6	2.3
81 to 90	1	.4
91 to 100	2	.8
Total	263	100.0

Can you estimate the amount of money you will need to buy feed for present livestock until you get a crop?

Dollars in thousands	Number of farms	Percent
0–5	52	23.0
5 to 10	63	27.9
11 to 15	38	16.8
15 to 20	22	9.7
20 to 25	17	7.5
25 to 30	12	5.3
30 to 35	3	1.3
35 to 40	9	8.0
45 to 50	5	2.2
50 plus	5	2.2
Total	226	100.0

Would you take advantage of the livestock replacement program were it made available to you?

	Number of farms	Percent
Yes	251	86
No	41	14
Total	292	100

If hay were made available at $40 a ton, would you be able to keep your cattle, or would you still be forced to sell?

	Number of farms	Percent
Keep	171	60
Sell	114	60
Total	285	100

Do you anticipate making use of the present hay subsidy program administered by the ASCS?

	Number of farms	Percent
Yes	90	30.8
No	202	69.2
Total	292	100.0

How would you rate the ASCS programs that are now available?

	Number of farms	Percent
Good	13	4.2
Average	84	27.0
Poor	214	68.8
Total	311	100.0

Do you believe the ASCS payment program should continue to be based on a percentage per bushel of the target price?

	Number of farms	Percent
Yes	105	43.4
No	137	56.6
Total	242	100.0

What percentage do you think would be a fairer figure than the present one-third of the target price?

Fair percent	Number of farms	Percent
33 to 40	2	1.2
41 to 50	56	32.4
51 to 60	8	4.6
61 to 70	24	13.9
71 to 80	26	15.0
81 to 90	3	1.7
91 to 100	54	31.2
Total	173	100.0

Can you estimate the amount of dollars lost in each crop thus far?

DOLLAR LOSS IN THOUSANDS

Crop	0 to 5	5 to 10	10 to 15	15 to 20	20 to 25	25 to 30	30 to 40	40 to 50	50 plus	Total
Wheat	[1] 128	96	49	37	20	19	7	7	16	379
Oats	197	134	48	17	1	3	2			408
Barley	71	56	11	5	1	1				147
Corn	96	90	91	43	23	2	6	9	5	378
Alfalfa/hay	81	112	27	32	4	1	5	1	5	269
Flax	36	23	1	2						64
Rye	16	4	2							28
Sunflowers	2	3		1						6
Soybeans	1			3						4
Millet	7									7
Milo	2									2
Potatoes	1									1

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[1] Number of farmers.

RESULT OF SENATOR ABOUREZK'S SURVEY ON DROUGHT—Continued

Crop	Number of farmers	Total dollar loss (estimate)[1]	Average dollar loss[1]
Wheat	225	2,816.5	12.5
Oats	235	1,492.0	6.3
Barley	83	427.5	5.2
Corn	218	2,769.5	12.7
Alfalfa/hay	158	1,500.0	9.8
Flax	38	205.0	5.4
Rye	15	77.0	5.1
Sunflowers	6	45.0	7.5
Soybeans	4	55.0	13.7
Millet	4	10.0	2.5
Milo	2	5.0	2.5
Potatoes	1	2.5	2.5

[1] Thousands.

Would you favor a payments system based on cost of production on alloted acres rather than the present percentage formula?

	Number of farms	Percent
Yes	224	85.5
No	38	14.5
Total	262	100.0

If, due to the drought, your crops were appraised this year for crop insurance, who did the appraising, the Federal Crop Insurance appraiser? Or an ASCS representative?

	Number of farms	Percent
FCI	82	35
ASCS	110	47
Total	234	100

How long did you have to wait between the time the appraisal was requested and the time the appraisal actually was made?

Number of days	Number of farms	Percent
0–5	67	35.3
5 to 10	29	15.3
10 to 15	21	11.1
15 to 20	2	1.1
20 to 25	12	6.3
25 to 30	16	8.4
Still waiting	43	22.6
Total	190	100.0

Mr. STONE. Mr. President, will the Senator yield me a few minutes for the purpose of taking up an agricultural bill? I have cleared it on both sides.

Mr. ABOUREZK. Yes, I yield.

IMPORTED TOMATOES

Mr. STONE. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 1175, S. 2440, relating to the importation of tomatoes.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2440) to amend section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes, which had been reported from the Committee on Agriculture and Forestry.

Mr. STONE. Mr. President, I ask unanimous consent for immediate consideration of this bill and ask for 30 seconds or so to explain it.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STONE. Mr. President, this bill would simply subject the importation of tomatoes to the same requirements that our own domestic growers and producers of tomatoes are faced with now. In the situation of, for example, Mexico, where they just devalued and floated their currency, it cheapens the price of their product as compared to ours, and they do not, even at this moment, have the same crating and boxing requirements that we have. Therefore, growers who compete at the season that they send us tomatoes are faced with ruin unless we can at least equalize the conditions under which these products are sold.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence (1) by inserting after "eggplants" a comma and the following: "or regulating the pack of any container of tomatoes" and (2) by inserting a comma and "and in the case of tomatoes any provisions regulating the pack of any container," after "provisions" wherever it appears, and in the fourth sentence by inserting a comma and "and with respect to imported tomatoes such restrictions on the pack of any container," after "classifications".

Mr. STONE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR THE RECOGNITION OF SENATOR JOHNSTON

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to proceed for not to exceed 5 minutes, without prejudice to any other orders.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

DOMESTIC SUGAR PRICES

Mr. JOHNSTON. Mr. President, today I would like to call your attention to the do-nothing policy being pursued by the Ford-Butz team, which causes me great alarm and is of critical concern to the State of Louisiana, as it could well result in the wholesale bankruptcy of farmers in Louisiana and throughout the country.

On July 7, 1976, Mr. L. William Seidman, Assistant to the President for Economic Affairs, wrote in a letter to my distinguished colleague, RUSSELL LONG:

> We see no reason to be alarmed at price prospects for the remainder of this year given the current outlook, but we will continue to watch the situation closely.

This letter was expressing the administration's position on taking action to assist domestic sugar farmers facing certain financial ruin this fall as their crops are harvested at a cost 70 percent higher than they are likely to get on the market. Since that letter was written there has been virtually no change made in the administration's position on sugar.

Farmers growing sugarcane and sugar beets stand to lose all they have as a result of the insensitivity of the Ford-Butz administration, which has stood by and done nothing to save an important domestic industry while our markets are being flooded with sugar produced with cheap labor abroad. This year President Ford has set an import quota of 7 million tons, while the best estimates show that all that would be needed to fill our full domestic needs would be 4 million tons.

To bring this crisis into clear focus, one need only glance at the situation for the past several years. It all began in late 1973 during the Nixon-Butz administration. The Sugar Act, which had been in existence for 40 years, and which had brought stable prices to consumers and a livable return to producers, was coming before Congress for renewal in 1974. In November 1973, Secretary Butz and his key aides let the world know that they favored a termination of the Sugar Act, which had provided for the domestic growers to produce at the limit of their ability and for the United States to acquire the remainder of its sugar from designated foreign countries. The Sugar Act also included a provision for a guide price which was derived from a formula set forth in the act, geared to the parity index and the wholesale price index. Our experience with the working of this act had been positive, with fair prices for consumers and reasonable returns for growers.

When Butz and his key aides began talking about doing away with the Sugar Act, our friendly, foreign suppliers began seeking other markets for their then scarce supply of sugar. As a result—even though there was no real shortage—sugar prices around the world began to skyrocket. Whereas American consumers had been buying sugar at a stable price of around 15 cents a pound, the apprehension generated by the wild talk of the high USDA officials caused sugar prices to increase rapidly until they reached a level of 30 to 35 cents a pound in mid-1974. With the help of these high prices and the opinions of the so-called agricultural experts in the Nixon-Butz administration, the House of Representatives failed to renew the Sugar Act in 1974. This rejection of the Sugar Act was and is considered the keystone of the administration's policy toward sugar production in the United States. Immediately thereafter prices really took off to the point where consumers were paying as high as $1 a pound for sugar. It has been reliably estimated that the actions by the Nixon-Butz administration resulted in sugar costing the American consumers an additional $4.2 billion in 1 year's time.

As is the case with commodities, high prices generate additional production. Frequently, this increased production exceeds the demands of the available market, resulting in a drop in prices. From the top of the roller coaster we are now at the bottom, paying the price for the Nixon-Ford-Butz approach to maintaining a stable and reliable supply and price for domestically produced sugar. Unfortunately, our sugar producers will have to sell their sugar this year for less than 10 cents a pound, while their estimated cost of production is over 17 cents a pound. This means that farmers in my State will lose an average of $300 an acre on every acre of sugarcane harvested. Obviously, many of them, particularly the small farmers, will be driven into bankruptcy. Consumers will reap the benefits of this "enlightened" sugar policy for a brief time, if processors pass the savings on to them. But inevitably price will rise in the aftermath. Only the next price rise will see foreign producers reaping most of the benefits, as America becomes more and more dependent on nondomestic sources for its sugar.

The most galling aspect of the Ford-Butz approach to this complex problem is that the President has the legislative authority supplied to him by Congress which he could use to help solve the present problem, yet he refuses to utilize this authority and has his Assistant for Economic Affairs write to the Senator from Louisiana (Mr. LONG) saying:

> We see no reason to be alarmed at price prospects. . . .

I would suggest the following actions which President Ford could and should take—

First, establish a realistic import quota. and stop foreign countries from dumping their surplus in our markets thereby depressing prices;

Second, establish a price support program similar to the program in effect for other food commodities; and

Third, increase the import duty on offshore sugar being shipped into the United States.

So far, the President has chosen to bury his head in the sand and pretend that his farm policies are a brilliant success. The Louisiana sugar growers know better. They are the ones paying the price for his cruel charade.

QUORUM CALL

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STONE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PREDICTABILITY OF JIMMY CARTER IN AGRICULTURE

Mr. McGOVERN. Mr. President, each spring when America's farmers begin production, the country's biggest gambling session starts all over again. Urban dwellers have come to take farm production for granted because year after year the ingenuity of the American farmer seems to come up with an abundance of food and fiber that provides them with food at prices that are currently high, but not through the fault of the farmer who only gets 40 cents of that food dollar.

Out in the country, however, it is not quite that simple. Each time a farmer plants seed which will return a bushel of corn he commits at least $2.06 in production costs. Each time he plants seed for a bushel of wheat, he can count on an outlay of up to $3.51. If he wins the traditional battle against the elements—if the rains come at the right time, if the growing season is long enough, if there are no early or late frosts, if there are no dramatic rises in energy or machinery costs, if a natural disaster in one form or another doesn't strike his particular area, he can expect at the end of the year $2.35 for his bushel of corn and $3.85 for his bushel of wheat, based on the average received by farmers for the last 3 years through 1975.

Quick calculations indicate that under most favorable conditions farmers at harvest can expect about 10 percent more for their product than their complete cost of production.

But what if the odds turn against the farmer? The calculated loss on that $2.06 cost in a bushel of corn is a lean Government loan payment of $1.25 for corn—the loss of that $3.51 cost in a bushel of wheat is a puny loan payment of $1.50—un untenable situation that makes the farming odds even a bigger gamble. The losses which cannot be calculated in advance come in the form of market dips caused by export embargoes or "administrative restraints" that curb vital export sales that now require us under "full production" theories of agriculture to export 20 percent of our corn crop and 50 percent of our wheat crop to guard against huge carryovers which would depress farm prices even more.

Indeed, Mr. President, over the last 4 years the veto of the 1973 farm bill and the policies of the administration have resulted in a roller coaster price situation that has made the Department of Agriculture an added negative variable in the world's greatest crop game. Roller coasters are for children; they are not for farmers who already are subjected to the uncertainties of nature. These uncertainties need not be augmented by the artificial hand of a Secretary of Agriculture whose design is to weed out the small farmer by creating greater uncertainty in the production process. The unpredictability of nature certainly does not need an added thrust and a willing hand from the U.S. Secrtary of Agriculture.

Farmers reeling from rides on the Ford-Butz roller coaster are offered a choice in this fall's national elections. Farmers are accustomed to the natural unpredictability that is inherent in their lives—they welcome it—they accept it. In my judgment, what the family farm operators want is a sense of predictability from a national government which they assume ought to act in their best interest. To substitute predictability for unpredictability, Governor Carter has committed his administration to a program of embracing loan rates at figures which approximate cost of production—thus the cost of the $2.06 corn bushel would have a corresponding guarantee to the farmer that he could get his money back—the $3.51 wheat farmer would have the guarantee that he could pay for his seed, fertilizer, and pay the fuel supplier. Governor Carter believes that when the farmer must live daily with the vagaries of nature, he should at least have an understanding and sensitive government that should reduce his uncertainties rather than add to them.

The Democratic candidate for President has given a flat guarantee of no embargoes save for national emergencies—so has the Republican candidate. But let us look at the record. Who must bear the responsibility for the soybean embargo of 1973? Who must answer for the original poorly handled Russian grain deal? Who must stand and answer for the "restraints" on grain shipments to the Soviets and Eastern Europeans in 1975? "By their fruits you know them" is not an idle Biblical admonition. Perhaps it is not inappropriate to suggest that a man whose life has been nurtured by the soil in Southern Georgia might be more predictable than an expatriate from Grand Rapids who has spent the greater portion of his life marshalling Republican antifarm votes as minority leader in the House of Representatives.

Farmers are not unlike other interest groups. They have every reason to know and trust one of their own. They should feel that they can predict how one of their own will respond. I, for one, reared in the traditions of the land and nurtured by the solace of the Word feel that the farmers' choice this year is predictable because predictability itself is founded on a sense of trust that comes from sharing mutual adversity, a sense of joy that comes from sharing mutual abundance, and a mutual respect for the sentiments expressed in the memorable words of John Kennedy's inaugural address that we should go forth "asking His blessing and His help, but knowing that here on earth God's work must truly be our own."

PROBLEMS CONFRONTING THE NATION'S FARMERS

Mr. LEAHY. Mr. President, I am pleased to join in this discussion of some of the problems confronting the Nation's farmers. Unfortunately, in recent years too little attention has been paid to them, and I would hope that from time to time we will have more such constructive colloquies.

The fact is that despite campaign rhetoric to the contrary, this administration has shown a tragic lack of concern for the needs of those who produce our food and fiber.

Its agriculture policies have been geared toward the enhancement of large corporate agriculture with almost total disregard for the small family farmer.

Its energy policies show more concern for the demands of the huge multinational oil companies than for the legitimate needs of the American farmers.

Its fiscal policies have resulted in

astronomic interest rates and tight money that have harshly penalized the farmer.

These policies show no signs of change. To the contrary, they appear to promise an even bleaker future for millions of America's family farms.

The Department of Agriculture under the leadership of Secretary Butz continues to follow a policy of "adapt or die" toward small farmers. This indifference, and even contempt, for the family farmer serves to increase the possibility that large corporations will eventually take over agriculture production. Indeed, the prevailing USDA philosophy is that technological changes and increased capital needs have combined to reduce the need for efficient small-scale farms.

Although small farms might not be important in Secretary Butz' scheme of highly commercial, industrialized agriculture, they comprise nearly a third of the land, 44 percent of the tractors, and 25 percent of the cattle. They are the place of residence for more than half of the total farm population. The current policy of neglect toward these people is having a disastrous economic effect on rural America.

In 1973 net farm income reached $29.9 billion. In 1974 it dropped to $27.8 billion. Last year it plunged to $22.7 billion.

In all of those years, thousands of livestock and dairy farmers, many in my State of Vermont, were forced out of business. The policies pursued by the Secretary of Agriculture seem dedicated to fulfilling his department's estimate that the country will lose almost half of its 1973 dairy herds by 1980—farmers squeezed out of busines or forced to consolidate.

The cold, hard fact is that despite their willingnes to put in a 7-day week, 52 weeks a year, dairy farmers too often do not receive enough return to provide the living needed for their families. Faced with rising costs, falling income, and indifference from the administration, many have given up in despair.

Agriculture, and in particular dairy farming, forms the economic backbone of my State of Vermont, the most intensive dairy State in the Nation. Eighty-five percent of our agricultural income is derived from dairy farming. Anything that affects our farmers—whether good or bad—eventually affects all Vermonters.

And the sad truth is that while the dairy industry is a vital part of American agriculture, this administration has been almost oblivious to its problems. Federal price support action has been too little and too late.

When we in the Congress attempted to correct, or even ease, the situation—to enact legislation to meet the legitimate needs of American farmers—we were time and time again repulsed by the veto.

In December 1974, Congress passed a farm bill that, among other things, would have raised the price support for milk to 85 percent, computed quarterly so that the price will reflect the effects of inflation. The President vetoed it.

In April 1975 Congress passed an emergency farm bill to provide a level of price and income protection that would give all farmers the assurance they need to produce a sustained abundant supply of food and fiber. The President vetoed it.

In January of this year we passed Senate Joint Resolution 121, which would have set milk parity at 85 percent, computed quarterly. The President vetoed it.

The fact is that the farm policy, if it can be called that, of this administration is a do-nothing policy. In place of action they offer tired excuses and platitudes. They rationalize their inaction by claiming that any changes would mean higher prices for consumers and higher costs for the Government. They carefully avoid the questions of the possible loss of production and the likely shortages which could result.

While the President calls on American farmers for all-out production, he refuses to give them adequate price and market protection. All-out production at a good price means good income. But it can also mean overproduction—heaping surpluses and crashing prices.

The administration supported legislation to bail out Lockheed Aircraft.

The Administration supported legislation to bail out the Penn Central Railroad.

But it refuses to support legislation to guarantee farmers reasonable income protection.

In essence, it is telling them to bear the entire risk of producing food for a hungry world. The rationale seems to be that farmers should risk going hungry so that others can eat.

If this trend continues, the problem will cease to be the farmer's alone. It will become a problem for all Americans as prices again move up sharply with a greater percentage of their paychecks going for food. Everyone will suffer.

It is tragic that there are some in this country who deliberately try to turn consumers against farmers. In the final analysis, the consumer's interest and the farmer's interest are one and the same.

The consumer wants to be assured of a constant, plentiful supply of food and fiber at reasonable prices.

The farmer is eager and able to produce this abundance, not only in sufficient quantity to meet our own needs but to share with less fortunate people around the world. But to meet these needs, he requires and is entitled to reasonable protection against runaway costs and depressed prices.

The fact is that every major attempt by Congress to do so has been thwarted by an administration coldly indifferent to the valid requirements of the family farmers of the Nation.

VITIATION OF SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining special orders for the recognition of Senators be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have morning business?

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 10 minutes with statements limited therein to 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:10 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate numbered 68 to the bill (H.R. 14232) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3348) to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. BURDICK).

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 18 and 19 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 3, 6, 16, 48, and 60 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MORGAN, from the Committee on Public Works with amendments:

H.R. 14360. An act to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes (Rept. No. 94–1257).

By Mr. KENNEDY, from the Committee on the Judiciary with amendments:

S. 796. A bill to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures (Rept. No. 94–1258).

S. 798. A bill to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures (Rept. No. 94–1259).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. WILLIAM L. SCOTT:

Glen M. Williams, of Virginia, to be U.S. district judge for the western district of Virginia.

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twentieth Session of the General Conference of the International Atomic Energy Agency:

REPRESENTATIVE

Robert C. Seamans, Jr., of Massachusetts.

ALTERNATE REPRESENTATIVES

Frederick Irving, of Rhode Island.
Richard T. Kennedy, of the District of Columbia.
Myron B. Kratzer, of Maryland.
Edward A. Mason, of Massachusetts.
Nelson F. Sievering, Jr., of Maryland.
Galen L. Stone, of the District of Columbia.
Gerald F. Tape, of Maryland.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 17, 1976, he presented to the President of the United States the enrolled bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. BEALL:

S. 3827. A bill for the relief of Maria Vasquez; and

S. 3828. A bill for the relief of Marilyn and Elpidio Termulo. Referred to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 3829. A bill to save the California gray whale and the bowhead whale. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 3829. A bill to save the California gray whale and the bowhead whale. Referred to the Committee on Commerce.

SAVE THE CALIFORNIA GRAY WHALE AND THE BOWHEAD WHALE

Mr. CRANSTON. Mr. President, I introduce on behalf of myself and the distinguished Senator from Washington (Mr. MAGNUSON) a bill to protect the California gray whale—Eschrichtius robustus—and the bowhead whale—Balaena mysticetus. The measure directs the Secretary of Commerce to study the distribution, migrations, and populations of these extraordinary mammals and the effects of habitat destruction, disease, pesticides and other chemicals, and food shortages, with a report to the Congress by January 1, 1980, setting forth effective protective measures to combat present and potential threats to their survival.

Further, until such time as the studies are complete, and recommendations are implemented, Federal agencies must cooperate in protecting these species, and the Secretaries of Commerce and State are to initiate immediately negotiations with Canada and Mexico for appropriate bilateral agreements for the same purpose, $1,000,000 is authorized for fiscal years 1978 and 1979 for the required studies.

Mr. President, the California gray whale is a most noted and valuable resource. Its annual migration of some 5,000 miles, down the California coast from its summer range in the Arctic, draws thousands of spectators to viewpoints or to boat observations. Scientists and spectators annually visit the calving and mating grounds in Baja California lagoons. The affinity Californians feel for the gray whale was evidenced in 1975 when the State of Californa designated the California gray whale as the State marine mammal.

The California gray whale is the last remaining of three stocks. This eastern Pacific mammal has been protected from commercial hunting since 1947 and has come from near extinction to a population of about 11,000. The Korean gray whale—western Pacific—was so overhunted between 1899 and 1933 that it is now considered extinct. The Atlantic gray whale, of which we have only subfossil remains, has been extinct for centuries.

The bowhead whale, which migrates annually along the northern Alaska coast, is perhaps the least understood of the great whales. Little is known of the habits of this 50-foot baleen whale except that the bowhead and its close relative, the Greenland whale, appear—unlike many other cetaceans, to remain close to the ice pack throughout the year.

The bowhead is certainly rare, and it may well be the most endangered of all whales. From approximately 1854 to 1912, the bowhead was ruthlessly hunted by commercial whalers. They penetrated deep into the ice, seeking the whales' long baleen strips, which were in demand for coach whips and corsets. At the peak of this market, the baleen from only one bowhead whale would often pay the costs of an entire expedition.

There is little evidence that the surviving bowhead stock has ever appreciably recovered from these depredations. At the Food and Agricultural Organization conference on marine mammals, conducted early this month in Bergen, Norway, fear was expressed that the remnant stock may now be declining under pressure from aboriginal taking. The bowhead's survival might be jeopardized as well by oil spills from drilling or tanker traffic in waters off Alaska and northern Canada.

During the last meeting of the International Whaling Convention, a resolution was passed expressing concern over the current plight of the bowhead and requesting an immediate study of the status of the animal and of the impact of Eskimo killing. To comply with this constructive request by an international body which we have often in past years criticized for inadequacy, is surely not unreasonable.

It would be tragic indeed if this magnificent Arctic whale were to further decline, or even to become extinct, while under the primary management of the United States, which has come to be viewed by the world as a particular friend of whales.

Mr. President, for both species—the California gray whale and the bowhead whale—the possibility of habitat destruction is a major reason for the legislation I introduce. Both Outer Continental Shelf developments of our energy resources and other commercial activities within the breeding grounds of the whales present threats to the future safety. Partly for lack of information, procedures to mitigate this potential harm have not been developed. The comprehensive study required by this bill should provide some answers to these questions.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Save the California Gray Whale and the Bowhead Whale Act".

SEC. 2. The Congress finds that—

(1) whales form a resource which is of esthetic ad scientific value to mankind, and are a vital part of the marine ecosystem;

(2) whales have been overexploited by commercial whalers for many years, severely reducing several species, including the California gray whale and the bowhead whale;

(3) the California gray whale has been designated the official California State marine mammal;

(4) the California gray whale provides esthetic enjoyment to millions of Americans;

(5) energy development and other commercial activities along the west and Arctic coast of North America have caused significant concern as to their impact on the gray and bowhead whale;

(6) the California gray whale and the bowhead whale, protected by special treaty for several decades, may be again threatened by harassment and habitat destruction and;

(7) there is inadequate knowledge of the ecology, habitat requirements, and population dynamics of the California gray whale and the bowhead whale and factors which influence their healthy maintenance and development as species.

SEC. 3. The Secretary of Commerce, in cooperation with the Marine Mammal Commission and the coastal States, shall make a comprehensive study of the gray whale (Eschrichtius robustus) and the bowhead whale (Balaena mysticetus) taking into consideration, among other things, the distribution, migrations, and population dynamics of these mammals and the effects of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages on them, for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve such mammals. The Secretary of Commerce shall submit through the President, a report on the study, together with such recommendations, including suggested legislation, that he deems appropriate, to the Congress no later than January 1, 1980.

SEC. 4. Until such time as the study has been completed and the recommendations of the Secretary are implemented by appropriate legislation or regulation, all Federal agencies shall, to the fullest extent feasible, and in consultation with the Marine Mammal Commission and with the assistance of the Secretary of Commerce, utilize their authorities in furtherance of the protection of the California gray whale and the bowhead whale to insure that actions authorized, funded, or carried out by them do not jeopardize their continued existence or result in the destruction or significant adverse modification of the habitat of such species.

SEC. 5. The Secretary of Commerce, through the Secretary of State, shall initiate negotiations immediately for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of the California gray whale and the bowhead whale.

SEC. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated the sum of $1,000,000 for fiscal years 1978 and 1979.

ADDITIONAL COSPONSORS

S. 3807

At the request of Mr. EAGLETON, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3807, to amend Public Law 93-198.

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. JACKSON, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Concurrent Resolution 118, relating to religious freedom in the Soviet Union.

SENATE RESOLUTION 554—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF CERTAIN BUDGET AUTHORITY

(Referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Labor and Public Welfare.)

Mr. MAGNUSON (for himself and Mr. BROOKE) submitted the following resolution:

S. RES. 554

Resolved, That the Senate disapprove the proposed deferral of budget authority for the Rogers Memorial Hospital, which deferral (D76-115) was set forth in the special message transmitted by the President to the Congress on July 28, 1976, under section 1013 of the Impoundment Control Act of 1974.

AMENDMENTS SUBMITTED FOR PRINTING

EDUCATIONAL ASSISTANCE FOR VETERANS—S. 969

AMENDMENT NO. 2318

(Ordered to be printed and to lie on the table.)

Mr. GARY HART submitted an amendment intended to be proposed by him to the bill (S. 969) to amend chapter 14 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

INDIANA DUNES NATIONAL LAKESHORE—H.R. 11455

AMENDMENT NO. 2319

(Ordered to be printed and to lie on the table.)

Mr. BAYH. Mr. President, on behalf my colleague from Indiana (Mr. HARTKE), Mr. STEVENSON, Mr. PERCY, and myself, I submit an amendment in the nature of a substitute to the bill (H.R. 11455) to expand the Indiana Dunes National Lakeshore.

I ask unanimous consent that a statement prepared by Senator HARTKE in connection with this amendment be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HARTKE

I am today substituting an amendment to the bill, H.R. 11455, which will expand the Indiana Dunes National Lakeshore by 3,663 acres, for myself, and my distinguished colleagues Senators Bayh, Stevenson and Percy. What we have in this amendment is a carefully worked out plan for the addition of certain lands to and changes in the boundaries of the Lakeshore.

With but a few exceptions, there has been a great deal of debate by all concerned as to the value and necessity of each parcel proposed for inclusion. The amendment we propose today reflects that debate. The amendment would preserve some 3,660 acres of dunes and wetlands with an additional 802 acres included for study to determine their desirability for future acquisition. Although it is some 1,000 acres short of what we originally sought just over 4 months ago, this amendment accomplishes most of the major goals which have been at the forefront in our expansion efforts.

The idea to preserve this area is not new. I recently ran across an article reprinted from the May, 1919 National Geographic Magazine which emphasized the importance of acquiring this area before it was lost to industrial expansion, and ended with the statement that it "would be a catastrophe if this opportunity for preserving an incomparable breathing spot on Lake Michigan should be neglected." The Indiana Dunes of 1919 are no longer available for us to preserve. The 20-mile stretch of mile-wide beach has been taken in part by industrial and residential expansion. While in that year the hope was to protect the treasure bestowed on Indiana, it soon became apparent that the demands of an industrial society would restrict that preservation.

When I entered the Senate in 1959, it was my belief that industry and park could coexist within the area. Since then, the efforts put forth have been to strike a just balance between the need to preserve the Dunes and allow for industrial growth in the area. It has not been an easy task. But the amendment we propose today protects the best of what remains of our Indiana treasure.

I would like to add that the money we would commit by this legislation has itself been a subject of debate. However, the value of our action now to preserve this area will increase with each generation that will have the rare opportunity to appreciate, study and enjoy the graceful Indiana Dunes.

MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENTS NOS. 2320 THROUGH 2326

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted seven amendments intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

NOTICE OF HEARING

COMMITTEE ON GOVERNMENT OPERATIONS

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will hold a markup Wednesday, September 22, 1976, at 10 a.m. in room 3302 on the following legislation: H.R. 14886, a bill to revise the appropriation authorization for the Presidential Transition Act of 1963; H.R. 14451, to amend the Federal Property and Administrative Services Act of 1949, to permit the donation of Federal surplus personal property to the States and local organizations for public purposes; H.R. 11347, to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation; H.R. 10686, to require that population census records be transferred to the National Archives within 50 years after a census, and that such records be made available after 75 years to persons conducting research for genealogical, historical, or medical purposes; and H.R. 13828, the Federal Records Management Act, which would strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies.

OCCUPATIONAL SAFETY AND HEALTH ACT SUBCOMMITTEE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. DURKIN. Mr. President, on behalf of the Committee on Labor and Public Welfare, I would like to announce a hearing to be held on the Occupational Safety and Health Act, specifically on several pending amendments and on general legislative oversight.

This hearing will be held on September 27, 1976, in courtroom No. 2, main post office building, 311 West Monroe Street, Jacksonville, Fla. It will begin at 10 a.m.

Persons wishing to testify or wishing additional information should contact Peggy Taylor of the Labor Subcommittee staff, room G-237, Dirksen Senate Office Building, 224-3674.

ADDITIONAL STATEMENTS

TRIBUTE TO MIKE MANSFIELD

Mr. JOHNSTON. Mr. President, I wish to share a few thoughts with my colleagues on the retirement of our distinguished majority leader, MIKE MANSFIELD.

I will never be able to repay the debt of gratitude I owe him for the kindness and consideration he has shown to me during this my freshman term as a U.S. Senator. He has never had the attitude that newcomers should sit quietly and watch the experienced experts as they carry on the business of the Senate. Rather, he has taken special pains to be sure that the newest Members are immediately brought in to participate fully in the business of this body.

Throughout his 15 years of leadership he has impressed all who have come into contact with him with his undeniable fairness and decency. Indeed, it is only a man with his remarkable character and integrity who could have supplied the leadership necessary to guide the Senate through these past troubled years, which have seen some of the greatest foreign and domestic stresses in our Nation's history. Vietnam and Watergate would have sorely tested the mettle of a lesser man, but MIKE handled both of these issues with the skill of a statesman, never inserting partisan politics into these great constitutional questions.

Yes, all those who have come into contact with MIKE are better for the experience. His great knowledge and erudition, his gentle but firm leadership have been invaluable to those of us who have had the pleasure of serving with him. This man of greatness has enriched the lives of those who have known him.

Records are made to be broken. But MIKE MANSFIELD has quietly accumulated a record which will remain unsurpassed long after he has left this hallowed Chamber.

Mr. WEICKER. Mr. President, it is not unusual for a Member of this body to rise and pay a deserved tribute to a fellow Senator who is retiring from service.

But, saying goodby to the Senator from Montana is a task I find especially difficult. MIKE MANSFIELD is more than a respected colleague. He is a man who has done more than lead the Senate through votes and debate. He is a dear friend, a good and decent man. His constituency extends far beyond the borders of Montana. His service has been to the Nation. He is a man whose vision and wisdom was years ahead of the majority of this body, as witnessed by his calls more than two decades ago for oversight of our intelligence community and his early opposition to our entanglement in Southeast Asia.

During my short tenure in the Senate, I have witnessed MIKE MANSFIELD stand up for principles in which he believed no matter how unpopular.

When the Nation was confronted with an Arab oil embargo, he had the guts to call for the enactment of a mandatory fuel conservation program. When memories of Watergate began to fade, he was a steadfast ally in a fight to enact reforms. He was a courageous defender of the individual rights, freedoms and ideals upon which this Nation was founded.

Mr. President, MIKE MANSFIELD is a man of quality whose character has touched all of us in this Chamber. Vision, wisdom, an uncompromising dedication to decency, and the courage to defend his convictions are the hallmark of the man.

We will sorely miss him in the Senate, but, make no mistake about it, MIKE MANSFIELD has left his mark. It is that of fairplay. For no matter how junior a Senator, no matter what his party, no matter what his philosophy, MIKE MANSFIELD gave us all the opportunity to be heard. That, Mr. President, is the greatest of all contributions which he made to us and to the Nation in his faithful service.

Mr. BROOKE. Mr. President, it is difficult to believe that MIKE MANSFIELD will soon be retiring. For 24 years in this Chamber, 16 of them as majority leader, he has left his indelible mark on the Senate. This body will not be the same without him.

MIKE MANSFIELD's brand of leadership has manifested itself in many ways. Legislatively he has been one of the most influential Senators in Senate history. It is accurate to say that without his effective leadership many of the major legislative accomplishments of the past two decades would not have been enacted. In particular he has made invaluable contributions to the passage of civil rights bills and other major domestic legislation.

And all of us know of MIKE MANSFIELD's special expertise in the area of foreign policy. Many have followed his leadership on critical foreign policy issues and the country has profited thereby.

In addition to his legislative accomplishments, MIKE MANSFIELD has made perhaps his greatest contributions in opening up Senate procedures. Under his leadership, the Senate has become a body of 100 equal Members.

Every Senator, no matter how junior, is free to express his views and exercise his senatorial prerogatives without reservation. This trend to senatorial equality has made the Senate a more effective and responsive institution.

As important as MIKE MANSFIELD's contributions to the Senate have been, I believe most of his colleagues will remember MIKE MANSFIELD for the type of man he is. They will remember his integrity, his unfailing courtesy, his fairness and his steadfast commitment to the Senate and to his country. But I believe, more than anything else, we will remember his friendship. All of us can recall numerous occasions when he thoughtfully assisted us in a time of need.

I remember well when I first came to the Senate in January of 1967. There were times when I thought my new surroundings would all but overwhelm me. And well they may have had it not been for the senior Senator from Montana. His help and guidance in these early months were invaluable, his friendship, reassuring.

I will miss Mr. MANSFIELD of Montana next year. I will miss his patience, his understanding, and his guidance. I take heart in the thought that we will see him again in this city and in this Chamber as he will no doubt continue to serve our country as the statesman that he is. But I am sure that his plans call for a little time for himself and his lovely and devoted wife, Maureen. After 34 years of public service in the Congress, it will be time to which she and he are surely entitled.

TRIBUTE TO JOHN WARNER

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that a statement by Senator MONTOYA be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MONTOYA

As a member of the Board of the American Revolution Bicentennial Administration, and a member of the Joint Committee on Arrangements for Commemoration of the Bicentennial, I have been privileged to observe the work of John W. Warner as the Administrator of this program for the past two years.

Mr. Warner has provided all of us with leadership and guidance as we attempted to find appropriate ways to help local communities and states celebrate the nation's two hundredth birthday. His assignment as the Administrator of ARBA was challenging, and required the utmost in patience and dedication. There has never been enough money provided so that ARBA could do all the things which people expected it to do. There has always been controversy about exactly how we should recognize and celebrate the Bicentennial. There have always been many more ideas, requests, demands, and mandates than could be accommodated by ARBA and its staff.

Somehow, in spite of the constant clamor from both the public and the representatives of government at every level, John Warner has managed to bring us through the celebrations with dignity and with delight in the great variety of Bicentennial programs developed with his help.

Most of the Bicentennial celebrations in this Nation on our two hundredth birthday were local celebrations. The whole nation was able to participate in the celebration at the community level. John Warner actively supported and fostered that concept. He traveled thousands of miles, speaking to citizens in every part of the nation. He encouraged the development of bicentennial events which would involve all facets of a community and all ethnic and racial groups. He wanted us to provide for a total celebration, a mozaic of celebrations to match our mozaic of cultures.

I think that he succeeded beyond even his own high expectations.

The Bicentennial year is drawing to a close. I know that the people of my own state of

New Mexico have been richly rewarded by their own participation in the national celebration. We have learned a good deal that is new to us about our own history and heritage. We have learned a good deal about the many different kinds of people who have made New Mexico the land of enchantment which it is today. We have used the Bicentennial as a vehicle for planning historical and cultural and technical efforts for the future.

In all of the Bicentennial efforts of New Mexico John Warner has been helpful and supportive, whenever he has been asked to participate or to provide guidance and assistance. I want to express to him the gratitude and thanks of the people of my state for a job well done.

I would like to add to that my own personal thank you and my congratulations on the splendid performance of a most difficult and complex assignment. The American people will remember the Bicentennial for many years with pride and pleasure. When they do, they should remember the name of John Warner, the man who helped to make it a successful and complete celebration.

NUCLEAR PROLIFERATION

Mr. GLENN. Mr. President, there are currently six countries which have exploded nuclear devices, and by various estimates there will be an additional 20 countries who will achieve a nuclear weapons capability within the next decade.

It is imperative that the United States and the other nuclear suppliers insist upon appropriate safeguards with respect to nuclear exports to slow this dangerous trend, and to put an end to a situation in which we have become unwitting contributors to proliferation of nuclear weapons capability around the world.

A succinct and cogently worded statement on this most important issue appeared in an editorial, dated August 26, 1976, in the Dayton Journal Herald. I ask that the editorial be printed in the Record at the conclusion of these remarks. The editorial points out the need for effective international institutions with enforcement and sanction powers, to inspect and monitor nuclear facilities. At present, the only such institution remotely resembling this description is the International Atomic Energy Agency, IAEA, which, I hasten to add, has no enforcement or sanctions powers at all, but simply carriers out a surveillance function. The strengthening of the IAEA's inspection procedures and the establishment of international arrangements to impose sanctions against weapons-related misconduct should be prime objectives of all responsible nuclear suppliers. I was pleased to introduce a recently enacted amendment to increase the U.S. contribution to IAEA safeguards activities, but more than that needs to be done to regain control over the proliferation problem.

Accordingly, I have cosponsored S. 3770 the Nuclear Explosive Proliferation Control Act of 1976 which is virtually identical to S. 1439 as reported by the Foreign Relations Committee, the effect of this legislation would be to set a list of specific criteria designed to serve as the basis for a nonproliferation agreement among the nuclear supplier nations. In addition, 18 months from enactment, these criteria would have to be met before a U.S. nuclear export license would be granted by the Nuclear Regulatory Commission. The criteria would provide that the recipient country give assurances that it will adhere to policies designed to prevent the proliferation of nuclear explosive devices. In return, the United States will endeavor to provide a reliable supply of nuclear fuel services.

It is my sincere feeling that this bill will help provide the impetus for further advancement of international nonproliferation objectives. Editorials such as the Journal Herald's can also assist in efforts toward that end.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Dayton Journal Herald, Aug. 26, 1976]

NUCLEAR PROLIFERATION: NEEDS INTERNATIONAL SAFEGUARDS

U.S. pressures appear to have temporarily stalled a French-Pakistani nucelar reactor and fuel reprocessing sale. But although stalled, the deal is by no means off.

The United States is against the deal because it includes the sale of the technology used to reprocess the fuel that runs the reactor. Reactors create energy. The fuel that runs them produces plutonium, which can be easily converted into a nuclear bomb.

Nuclear proliferation means an increased threat of terrorism, but because this nation is no longer in a monopolistic position there is little it can do itself to slow its rate. France and Germany have the means to construct a nuclear reactor and to reprocess its fuel. Japan, Canada and the United Kingdom have the means to produce one or more of the key elements used to run reactors.

In these countries, the initial impulse to build reactors was a nationalistic desire to be independent of U.S. nuclear imports. Now their nuclear industries are producing more reactors than domestic consumption can accommodate. Market realities therefore dictate an active and competitive promotion of sales abroad. When Brazil, for example, wanted its own nuclear reactor, it received eight bids, and was able to demand and get from Germany the complete nuclear package—including fuel reprocessing technology.

Given the intense and competitive nature of the international nuclear industry, it is unlikely that European firms will yield to U.S. prssure not to sell. And it is more than likely that the void created by a unilateral U.S. embargo on nuclear exports would be eagerly and quickly filled by industries in other countries.

There is a need for the creation of effective international safeguard institutions. Institutions created by international agreements that can effectively monitor and inspect nuclear facilities. To be effective, these institutions need enforcement and sanctions powers.

Difficult as it will be to obtain international agreement or cooperation on the nuclear issue, U.S. policy makers should work in this direction—for all our sakes.

THE WORLD HAS A RIGHT TO FOOD

Mr. KENNEDY. Mr. President, yesterday the Senate unanimously adopted Senate Concurrent Resolution 138—the right to food resolution—which I cosponsored. The underlying purpose of this important congressional action is to affirm the right of every person throughout the world to a nutritionally adequate diet—and that the need to combat hunger at home and abroad must be a fundamental objective of U.S. foreign policy. This humanitarian goal which Congress seeks to achieve is certainly not beyond the capacity of our Nation.

Tragically, America today lives in a world where millions face a bleak existence of hunger and malnutrition. It is a life marked by despair and suffering, of human resources and energy wasted in a losing battle against famine. No American can ignore this development, for hunger affects too many lives and raises too many international problems. That is why reflecting the traditional humanitarian concern of our Nation and the unyielding support which Americans have expressed for a viable international food policy, Congress has strengthened and expanded our Nation's international humanitarian food programs.

In recent years the abuses which characterized our food aid programs have been virtually eliminated, and in the wake of the World Food Conference the Congress has moved ahead to increase the basic food commitment of the United States to the developing world. These measures—while commendable in themselves—are still just initial steps in the war against hunger. With the mandate of the right to food resolution, hungry nations will be reassured that the American people intend to carry through with the promises our Government made in recent years in international forums and elsewhere regarding our food assistance programs around the world.

Many concerned international and voluntary organizations worked closely with the sponsors of this resolution—and in the days ahead I look forward to working with them to transform this American commitment into a meaningful and generous international food policy.

Mr. President, I ask unanimous consent that the text of Senate Concurrent Resolution 138 be included in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Con. Res. 138

Whereas in this Bicentennial year we reaffirm our national commitment to the inalienable right of all to life, liberty, and the pursuit of happiness, none of which can be realized without food to adequately sustain and nourish life, and we recall that the right to food and freedom from hunger was set forth in the Universal Declaration of Human Rights and in the World Food Conference Declaration of 1974; and

Whereas the report entitled "The Assessment of the World Food Situation", prepared for the 1974 World Food Conference, estimated that four hundred and sixty million persons, almost half of them young children, are malnourished; and

Whereas nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients; and

Whereas most of this hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food; and

Whereas the demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than fifteen years; and

Whereas the Food and Agriculture Organization, and other recognized authorities, currently estimate that by 1985 the developing countries will experience an annual food deficit of eighty-five million tons; and

Whereas it is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability; and

Whereas the United States proposed, and all nations at the World Food Conference of 1974 accepted, the bold objective "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas the international community has repeatedly urged the industrialized nations to increase their official development assistance to seven-tenths of 1 per centum of their total national production (GNP); and

Whereas the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States reaffirms the right of every person in this country and throughout the world to food and a nutritionally adequate diet; and

(2) the need to combat hunger shall be a fundamental point of reference in the formulation and implementation of United States policy in all areas which bear on hunger including international trade, monetary arrangements, and foreign assistance; and

(3) in the United States, we should seek to improve food assistance programs for all those who are in need, to insure that all eligible recipients have the opportunity to receive a nutritionally adequate diet, and to reduce unemployment and insure a level of economic decency for everyone; and

(4) the United States should expand and emphasize its assistance for self-help development among the world's poorest people, especially in countries seriously affected by hunger and malnutrition, with particular emphasis on increasing food production and encouraging more equitable patterns of food distribution and economic growth; and such assistance, in order to be effective, should be coordinated with expanded efforts by international organizations, donor nations and the recipient countries to provide a nutritionally adequate diet for all.

DISCRIMINATION AGAINST WOMEN AND BLACKS IN FEDERAL ADVISORY COMMITTEE APPOINTMENTS

Mr. METCALF. Mr. President, in its continuing oversight of the Federal Advisory Committee Act, the Subcommittee on Reports, Accounting, and Management has investigated the composition, by sex and race, of all Federal advisory committees. Its findings show a gross imbalance which discriminates against both women and blacks.

At the end of 1975, there were 1,267 Federal advisory committees in existence. Of the total, 462, or 36 percent, had no women members, and 629, or 50 percent, had no minority representation.

There were 22,256 people serving on those advisory committees. Only 11.35 percent were women.

Whites made up 92.09 percent of the membership while blacks comprised only 4.07 percent. According to 1975 census figures, women comprise 51.3 percent of our population while blacks account for 11.3 percent.

The overwhelming majority of advisory committee members are public citizens appointed by agency heads or the President. One agency not using a formal appointment process for all of its advisory committee members is the Federal Communications Commission, which operates a number of large technical advisory committees whose membership is open to all persons who wish to participate.

Of the 1,321 positions on FCC advisory committees, only 17, or 1 percent, were filled by women. Blacks comprised a little more than one-half of 1 percent. The National Aeronautics and Space Administration had 485 advisory positions, of which only 2 percent were filled by women and 1 percent by blacks. The Federal Power Commission had only 21 women in its 676 advisory positions, and no blacks.

Six major departments—Commerce, Treasury, State, Agriculture, Defense, and Justice—as well as other major agencies—the Securities and Exchange Commission, Energy Research and Development Administration, General Services Administration—all had 5 percent, or less, representation from both women and blacks.

Thirteen of the 56 agencies with Federal advisory committees, or 23 percent, had no women or minority representation. They include the Commodity Futures Trading Commission, with four committees and 63 members, and the Nuclear Regulatory Commission, with two committees and 22 members.

Not all agencies had such one-sided representation. Of the 792 advisory committee positions within the U.S. Commission on Civil Rights, 342, or 43 percent, were filled by women. Blacks accounted for 29 percent of the Commission's total. Women and minorities were represented on each of its 51 advisory committees. The Consumer Product Safety Commission also had 43 percent women participation.

Mr. President, I ask unanimous consent that agency-by-agency details regarding service on advisory committees by women, and by blacks and other minorities, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Summary of findings: Women and minority members of Federal Advisory Committees, as indicated in the fourth annual report of Federal Advisory Committees, covering calender year 1975

Number of Advisory Committees	1267
Committees with no women member (36%)	462
Committees with less than 5% women representation (41%)	522
Committees with less than 10% women representation (51%)	652
Committees with no minorities (50%)	629

There were 22,256 people serving on these 1,267 committees:

Women (11.35%)	2,525
Asiatics (1.21%)	268
Indian American (.64%)	143
Blacks (4.07%)	904
Hispanics (1.99%)	443
Whites (92.09%)	20,472
Race undisclosed	26

PERCENTAGE OF WOMEN SERVING ON FEDERAL ADVISORY COMMITTEES, BY SELECTED AGENCIES

Agency	Percent of women on advisory committees	Percent of advisory committees without women	Percent of advisory committees with less than 5 percent women	Less than 10 percent
U.S. Commission on Civil Rights	43	None	None	None
Consumer Product Safety Commission	43	None	None	None
American Revolutionary Bicentennial Administration	31	None	None	None
National Endowment for the Arts	26	None	None	7
HEW	25	6	7	13
Commodity Futures Trading Commission	0	100	100	100
Nuclear Regulatory Commission	0	100	100	100
FCC	1	57	90	90
NASA	2	90	93	97
Commerce	3	56	56	82
Treasury	3	56	56	94
FPC	3	57	74	96
SEC	3	50	50	100
State	4	55	75	88
ERDA	4	56	56	67
Agriculture	5	62	64	71
Defense	5	73	77	85
GSA	5	63	67	78
Justice	5	17	50	67

TABLE I

	Total ADCOMS	Number without women	Number without minorities	Total members	Female	American Indian	Asiatic	Black	Hispanic	White	Percent women	Percent black
EXECUTIVE OFFICE OF THE PRESIDENT												
OMB	6	1	4	109	7	1	0	1	1	106	6	1
Coun. on Enviro. Quality	1	0	1	15	2	0	0	0	0	15	13	0
Office of Tele Communi. Policy	2	1	2	18	1	0	0	0	0	18	6	0
Office of the Special Trade Rep	1	0	1	36	1	0	0	0	0	36	3	0
DEPARTMENTS												
Agriculture	168	104	111	1,650	82	2	10	18	44	1,576	5	
Commerce	74	49	47	1,305	38	1	5	33	31	1,235	3	3
Defense	66	48	46	1,022	49	0	3	19	2	998	5	2
HEW	322	20	114	3,723	917	57	93	233	112	3,228	25	6
HUD	2	0	0	21	3	0	0	1	0	20	14	5
Interior	109	34	74	1,458	137	5	4	21	12	1,416	9	1
Justice	6	1	2	205	10	0	0	9	2	194	5	4
Labor	23	5	9	701	79	1	2	20	9	669	11	3
State	40	22	19	1,865	66	0	25	13	3	1,824	4	1
Transportation	30	20	20	535	45	1	1	8	4	521	8	1
Treasury	16	9	10	261	9	0	1	7	1	252	3	3
AGENCIES												
Adminis. Confer. of the United States	1	0	0	88	3	0	0	5	0	83	3	6
Amer. Revolution Bicenten. Adm	2	0	0	48	15	5	6	6	5	26	31	13
Agency for Internat'l Develop	3	1	1	36	5	0	0	3	0	33	14	8
CAB	1	1	1	12	0	0	0	0	0	12	0	0
Commodity Futures Trading Comm	4	4	4	63	0	0	0	0	0	63	0	0
Community Services Administration	1	0	0	7	3	0	0	1	0	6	43	14
Consumer Prod. Safety Comm	3	0	0	53	23	0	0	5	0	48	43	9
ERDA	9	5	9	84	3	0	0	0	0	84	4	0
EPA	20	3	4	215	30	1	1	18	3	192	14	8
Export-Import Bank of the United States	1	1	1	3	0	0	0	0	0	3	0	0
FCC	21	12	12	1,321	17	0	7	8	0	1,306	1	1
FEA	14	6	6	366	25	1	1	15	1	348	7	4
Federal Home Loan Bank Board	1	0	0	24	1	0	0	1	1	22	4	4
Fed. Mediation & Conciliation Service	3	0	0	26	4						15	
FPC	23	13	18	676	21	0	4	0	4	668	3	0
GSA	27	17	14	306	16	0	1	15	2	288	5	5
ICC	1	1	1	9	0	0	0	0	0	9	0	0
NASA	29	26	21	485	8	0	6	4	0	475	2	1
Nat'l Credit Union Adm	1	0	1	7	1	0	0	0	0	7	14	0
Nat'l Endow. for the Arts	15	0	2	395	103	3	5	35	10	342	26	9
Nat'l Endow. for the Humanities	7	0	1	654	103	2	4	27	4	617	16	4
NLRB	1	0	0	29	3	0	0	1	0	28	10	3
Nat'l Science Foundation	48	18	30	1,147	105	4	13	47	24	1,059	9	4
Nuclear Regulations Commission	2	2	2	22	0	0	0	0	0	22	0	0
Railroad Retirement Board	1	1	1	3	0	0	0	0	0	3	0	0
Securities & Exchange Commission	2	1	2	31	1	0	0	0	0	31	3	0
Small Business Admin	66	8	12	1,909	160	4	42	89	70	1,704	8	5
U.S. Arms Control Disarmament Agen	1	1	1	14	0	0	0	0	0	14	0	0
U.S. Civil Service Comm	4	3	2	42	3	0	0	3	0	39	7	7
U.S. Comm. on Civil Rights	51	0	0	792	342	54	30	227	96	385	43	29
U.S. Information Agency	1	1	1	5	0	0	0	0	0	5	0	0
Veterans' Admin	28	18	15	372	80	1	4	9	2	356	22	2
SELECTED COMMITTEES, COMMISSIONS, AND COUNCILS												
Advisory Comm. on Fed. Pay	1	1	1	3	0	0	0	0	0	3	0	0
Comm. on the Review of the Nat'l Policy toward Gambling	1	0	0	14	1	0	0	1	0	13	7	7
Defense Manpower Comm	1	0	1	7	1	0	0	0	0	7	14	0
Fed. Employees Pay Council	1	1	1	5	0	0	0	0	0	5	0	0
Marine Mammal Comm	1	1	1	9	0	0	0	0	0	9	0	0
Nat'l Comm. for the Rev. of Fed. and State Laws Relating to Wiretapping and Elec. Surveillance	1	0	0	15	1	0	0	1	0	14	7	7
Nat'l Study Comm. on Records and Docu. of Fed. Officials	1	0	1	16	1	0	0	0	0	16	6	0
Privacy, Protec. Study Comm	1	1	1	7	0	0	0	0	0	7	0	0
U.S. Water Resources Coun	1	1	1	12	0	0	0	0	0	12	0	0

TABLE II

	Percent without women	Percent with less than 5 percent women	Percent with less than 10 percent women	Total ADCOMS	Number without women	Number with less than 5 percent women	Number with less than 10 percent women
EXECUTIVE OFFICE OF THE PRESIDENT							
OMB	17	33	50	6	1	2	3
Council on Envior. Quality	0	0	0	1	0	0	0
Office of Tele-Communications Pol	50	50	50	2	1	1	1
Office of the Spec. Trade Represen	50	100	100	1	0	1	1
DEPARTMENTS							
Agriculture	62	64	71	168	104	107	120
Commerce	66	76	82	74	49	56	61
Defense	73	77	85	66	48	51	56
HEW	6	7	13	322	20	22	41
HUD	0	0	0	2	0	0	0
Interior	31	34	41	109	34	37	45
Justice	17	50	67	6	1	3	4
Labor	22	35	65	23	5	8	15
State	55	75	88	40	22	30	
Transportation	67	70	80	30	20	21	
Treasury	56	56	94	16	9	9	

TABLE II—Continiued

	Percent without women	Percent with less than 5 percent women	Percent with less than 10 percent women	Total ADCOMS	Number without women	Number with less than 5 percent women	Number with less than 10 percent women
AGENCIES							
Adminis. Confer. of the United States	0	100	100	1	0	1	1
Agen. for Internat'l Develop	33	33	66	3	1	1	2
Amer. Rev. Bicenten. Admin	0	0	0	2	0	0	0
CAB	100	100	100	1	1	1	1
Community Futures Trading Comm	100	100	100	4	4	4	4
Community Services Admin	0	0	0	1	0	6	0
Consumer Product Safety Comm	0	0	0	3	0	0	0
ERDA	56	56	67	9	5	5	1
EPA	15	15	20	20	3	3	4
Export-Import Bank of the United States	100	100	100	1	1	1	1
FCC	57	90	90	21	12	19	19
FEA	43	57	79	14	6	8	11
Fed. Home Loan Bank Board	0	100	100	1	0	1	1
Fed. Mediation and Conciliation Serv	0	0	33	3	0	0	1
FPC	57	74	96	23	13	17	22
GSA	63	67	78	27	17	18	21
ICC	100	100	100	1	1	1	1
NASA	90	93	97	29	26	27	28
Nat'l Credit Union Admin	0	0	0	1	0	0	0
Nat'l Endow. for the Arts	0	0	7	15	0	0	1
Nat'l Endow for the Humanities	0	0	0	7	0	0	0
NLRB	0	0	0	1	0	0	0
Nat'l Science Foundation	38	40	56	48	18	19	27
Nuclear Regulatory Comm	100	100	100	2	2	2	2
Railroad Retirement Board	100	100	100	1	1	1	1
SEC	50	50	100	2	1	1	2
SBA	12	24	61	66	8	16	40
U.S. Arms Control and Disarmament Agen	100	100	100	1	1	1	1
CSC	75	75	75	4	3	3	3
U.S. Comm. on Civil Rights	0	0	0	51	0	0	0
U.S. Information Agency	100	100	100	1	1	1	1
SELECTED COMMITTEES, COMMISSIONS, AND COUNCILS							
Advisory Comm. on Federal Pay	100	100	100	1	1	1	1
Comm. on the Review of the Nat'l Pol. toward Gambling	0	0	100	1	0	0	1
Defense Manpower Comm	0	0	0	1	0	0	0
Federal Employees Pay Council	100	100	100	1	1	1	1
Marine Mammal Commission	100	100	100	1	1	1	1
Nat'l Comm. for the Review of Fed. and State laws Relating to Wiretapping and Elec. Surveillance	0	0	100	1	0	0	1
Nat'l Study Comm. on Records and Docu. of Fed. Officials	0	0	100	1	0	0	1
Privacy Protec. Study Comm	100	100	100	1	1	1	1
U.S. Water Resources Coun	100	100	100	1	1	1	1

WHAT THE FIRST AMENDMENT IS REALLY ABOUT

Mr. PROXMIRE. Mr. President, the appearance of broadcast reporter Daniel Schorr before the House Ethics Committee pointed up the real meaning of our Constitution's first amendment.

Mr. Schorr and some press comments on his testimony give the lie to some sickly romantic paraphrases of the first amendment and, instead, make clear that freedom of the press was meant as protection of the people from their Government.

Mr. Schorr said in refusing to tell the committee of his source in obtaining a committee document:

> For a journalist, the most crucial kind of confidence is the identity of a source of information. To betray a confidential source would mean to dry up many future sources for many future reporters. The reporter and the news organization would be the immediate loser. I would submit to you that the ultimate losers would be the American people and their free institutions.

In his essay in the New York Times of Thursday, September 16, William Safire said, in commenting on the Schorr appearance:

> The press is the countervailing power built into our Constitution that is the best defense against all other powers.

He said he was speaking to "conservatives."

On the same page, Anthony Lewis in his column, "At Home Abroad," wrote that—

> The whole theory of the Constitution is that the Government and the press must each be free, separately, to perform its own function. The Government will always try to control its information; the press's duty is to seek the facts and publish. It is "an untidy accommodation," as the late Alexander Bickel said, but our system prefers it to the alternative of monolithic control.

The Washington Post, in an editorial Thursday morning, said that—

> The First Amendment imposes no obligations on the press. It creates only protections—although certain responsibilities can be inferred from those protections.

One of those inferences is, of course, the people's right to know. But the Constitution does not put it that way. No, it says that no law shall be made that abridges the right of a free press. If the press cannot be bridled, then there is no problem in interpreting what things the citizens should know and what things they should not know. But with a contest between press and Government clearly set up by the first amendment—with both press and Government free to pursue their own interests—then the public will automatically be informed.

The negative command, the prohibition of the Constitution's first amendment, is simple to interpret. That is its virtue.

The Government, as the Post editorial points out, is free to try to keep secrets. The press is free to dig them out. If the press reveals legitimate secrets that should be kept secret, then there is recourse. The Post editorial notes:

> Indeed, the First Amendment provides little protection for the press against criminal charges of violating the espionage laws.

But such is not the case here.

To those who would claim that it is safer to put faith in the Government than in the press, there are two clear rebuttals.

One, Governments traditionally have gathered more and more power unto themselves without regard to the liberties of their citizens. Europe and South America and Asia are replete with such examples. And, we in this country can cite some near-misses, the most recent being known by the shorthand term of Watergate.

Two, it is easy for a government, with its power to give jobs and favors, to present a solid front in controlling information about itself. But it is impossible with members of a free press competing among themselves to conspire to suppress information about government or anything else. As someone once said, whoever heard of a newspaper suppressing a government?

The freedom of the press can be abused by individual reports, papers, magazines, broadcasters, or broadcasting stations. Sure it can. But, with competition—the drive to be best, to be first with the news, to make money—there is little or no danger of all elements of the press forming a clique or cabal to take over the Government or—and most important—to deceive the citizens, their customers.

As long as the Government is kept from the neck of the press by the first amendment, the public shall be informed. And that is why the first amendment was written the way it was—as a direct prohibition against governmental interference with five basic freedoms: Of religion, of speech, of press, of assembly, of redress.

The press is the only private business mentioned in the Constitution. But it was put in company with four intangibles. All five freedoms refer to ideas. The press should never be discussed without reference to the interrelationship with the other four rights, all of which have to do with the minds and souls of men, the stuff that makes them human beings and distinct from other forms of life.

Let us not brush away the wisdom of the men who wrote that Constitution and its Bill of Rights.

It is easy to do that. Look at what the Government has done already in the way of abridging the freedom of the press without much dissent from the lawmakers, the courts, the academic community, all of which should know better. I refer to the governmental controls over the content of radio and television broadcasts.

These rights are brushed aside with such sophistries as that which holds that such controls give people the right to be heard and thus "enhance" the first amendment. The Supreme Court will say that about broadcasting, but will not say the same for newspapers. The court is wrong about broadcasting and right about newspapers. How can that be?

It can happen because the basic philosophy behind the first amendment is not really examined when broadcasting cases get to the courts. Lawyers and pseudopublic protectors become too involved in questionable sociology and not enough in constitutional law.

They set up straw men to knock down rather than examining the effective machinery put into motion by the Constitution, machinery that was designed out of an understanding of human nature and out of experience with autocratic government.

The testimony of Daniel Schorr, himself a broadcast newsman, before the House Ethics Committee presents an opportunity to again look at the first amendment as the way it was written and as it was meant to operate.

Mr. President, I ask unanimous consent to have printed in the Record the full texts of Mr. Schorr's opening statement, the columns of Messrs. Safire and Lewis, and the Post editorial.

There being no objection, the material was ordered to be printed in the Record, as follows:

Text of Opening Statement by Daniel Schorr Before House Committee

Washington, September 15.—Following is the text of the opening statement by Daniel Schorr before the House Standards of Conduct Committee on the publication of a classified intelligence document:

I appear before this committee today, under protest, in response to a subpoena whose issuance I deeply deplore.

I had hoped that the committee, which has already learned a great deal about Congressional procedures for handling intelligence information, could have completed its hearings without crossing that constitutional Great Divide which separates the roles of the Congress and the press.

Whatever happens at this hearing, it is my belief that your subpoena, commanding the appearance of a reporter to discuss his journalistic activities, already is harmful to a free press.

This subpoena requires me to produce all records, papers, documents, correspondence, etc., 'which relate in any way' to the subject of your inquiry. Seeking to interpret that very broad statement, I would divide material in my possession into four general categories.

1. Many of the records in my possession are in the public domain—such as speeches that I have made, newspaper articles and copies of The Village Voice containing the report of the House Intelligence Committee. To the extent that these public materials are not already available to this committee, and are desired by the committee, I am willing to provide them.

2. Since publication of the report in The Village Voice I have received several thousand letters and telegrams. If the committee feels a need for such correspondence, I should first like to seek the permission of the persons involved, out of respect for their privacy.

I have notes taken during the coverage of the House Intelligence investigation and I have draft scripts written in preparation for broadcasts. Because of the internal news decision-making and editing process, some of those scripts vary from what I actually did broadcast and, in fact, others were not broadcast at all.

All of this work product I must respectfully decline to submit. I believe that it falls under the category of reporter's notes' protected by the First Amendment. I take the same position that Dr. Frank Stanton, the president of CBS Inc. took in 1971.

He refused to comply with the House Commerce Committee subpoena demanding the scripts and the so-called 'out-takes' of interviews filmed in preparation for the CBS television documentary, 'The selling of the Pentagon.' His position then and mine today is that the internal process of preparing news for publication or for broadcast cannot be subject-

* * * * *

4. The subpoena specifically demanded all drafts and copies of the report of the Select Committee on Intelligence which were in existence prior to January 29, 1976.

I cannot comply with that demand. The examination of the document could conceivably help lead to discovery of the source. And, as must now be manifest, I consider it a matter of professional conscience as well as constitutional right not to assist you in discovering the source.

This also means, obviously that I shall not respond to direct questioning about confidential sources. In some 40 years of practicing journalism, I have never yielded to a demand for the disclosure of a source that I had promised to protect. I cannot do so now.

IT IS A PERSONAL MATTER

At the appropriate time, Mr. Califano, Mr. Schorr's attorney is ready to explain why, given the circumstances of this case, my role in the publication of the report and my right to withhold the source are protected by the Constitution. Let me add that even if our legal position were not as strong as it is, I could still not tell you my source. For me, it is a personal matter—almost a visceral matter.

But Mr. Chairman and members of the committee, we all build our lives around certain principles, without which our careers lose their meaning.

For some of us—doctors, lawyers, clergymen, and journalists—it is an article of faith that we must keep confidential those matters entrusted to us only because of the assurance that they would remain confidential.

For a journalist, the most crucial kind of confidence is the identity of a source of information. To betray a confidential source would mean to dry up many future sources for many future reporters. The reporter and the news organization would be the immediate loser. I would submit to you that the ultimate losers would be the American people and their free institutions.

But, beyond all that, to betray a source would be to betray myself, my career, and my life. I cannot do it. To say I refuse to do it is not saying it right. I cannot do it.

What Is the Press?

(By William Safire)

Washington, September 15.—"What is the press?" asked Congressman Olin Teague of Texas, in a serious effort to define the scope of the First Amendment at the House Ethics Committee's final hearing on the leak of the Pike Report.

The question is worth asking, but not in the atmosphere of today's hearing room: in a disgraceful abuse of power, a committee of Congress threatened four journalists with "prosecution and punishment" for refusing to reveal sources and editorial methods.

The so-called Ethics Committee, split on whether to hold Daniel Schorr in contempt, will not back up its threats. Lawyers on the committee are doubtful that the full House would sustain a contempt citation, and are worried that if it did pass, the citation would be struck down by the Supreme Court, severely weakening the investigative powers of the Congress.

If Congress is genuinely concerned about national security leaks, it should fill up the holes in its own sieve. But the invitation to the Congress to attack the First Amendment by threatening newsmen with jail came partly as the result of a show of division and vacillation by the press itself.

Jimmy Quillen, Republican of Tennessee, proudly pointed to the disagreement within the journalistic community about Dan Schorr's publishing the Pike Report in The Village Voice.

Some journalists have nitpicked various details of the method of publication, and some publishers have tut-tutted at the lack of prestige of The Voice. Too many editorialists at first missed the significance of all that was at stake, and the Congressmen sensed that weakness and moved in.

"If Schorr didn't do anything wrong," one of the committee members asked me, "why did CBS suspend him?"

More than anything, the action of CBS against its own employee—paying for a lawyer, but then ostentatiously holding its corporate nose—is the display of weakness that permitted this investigation to go this far.

It was not always thus. Five years ago, when CBS president Frank Stanton was cited for contempt by a House committee for refusing to hand over what in effect were reporters' notes, CBS chairman Bill Paley called his affiliates together to give them strong marching orders: Lean on Congressmen locally to vote down the contempt citation.

At that time, CBS also sought the help of the Nixon White House in persuading conservative Congressmen to block the contempt move. Surprisingly, the word was passed that the White House was not its usual press-vindictive self in this matter. Gerald Ford, House minority leader, voted against the contempt citation, which was defeated.

Three days after that vote, White House aide Charles Colson granted Dr. Stanton a meeting CBS had been seeking for weeks, graciously accepting his thanks. The meeting was secretly taped; Mr. Colson now recalls that most of the tape was virtually unintelligible but that the CBS president more than once assured the Nixon men that "we want to work with you."

As can be seen, when one of its top executives was under fire, CBS was ready to lay the sticks on its affiliates and offer the carrots to the White House for help.

But when one of its newsmen dared to publish a minor-league version of the Pentagon Papers—after first using portions on the air and making the text available to CBS for publication—suddenly CBS lost taste for all but the most formal battle.

In the Schorr case, CBS chairman Bill Paley saw the chance to rid himself of the only newsman who followed up the story—broken by a former CBS News president—of Mr. Paley's long-time cover arrangements with the Central Intelligence Agency.

And so Mr. Schorr was taken off CBS, encouraging some Congressmen to believe he must have done "something" wrong.

Today, after Congressman Quillen's rip-roaring "newspapers come and go, but our country remains forever" blast at a fundamental freedom in the name of security, there should be no joy atop the fortress at Black Rock. Bill Paley—who resolutely forced Ed Murrow out of broadcasting, and tried to silence Howard K. Smith—might be having second thoughts about where his suspension of the annoying Mr. Schorr has led.

To conservatives who enjoyed harassing journalists seen to be liberals, as well as to those who are seriously concerned with protection of national security, let me suggest this answer to "What is the press?" The press is the countervailing power built into our Constitution that is the best defense against all other powers.

In the near future, the only countervailing power to the liberalism of Speaker-to-be Tip O'Neill and majority leader-to-be Hubert Humphrey might have to be a critical press. If Mr. Ford should lose, we could hardly expect help from the former Governor of Georgia who called a Senator after the publication of the Pentagon Papers to urge, in his words, "the enactment of Federal legislation that would make news organizations criminally liable."

CONGRESS SHALL MAKE NO LAW . . .

(By Anthony Lewis)

BOSTON, September 15.—Even in a country that rightly celebrates its freedom, there is a deep strain of deference to authority. When the words "national security" are murmured, some expect the individual to bow automatically to the state. After two hundred years, principles of our constitutional liberty still escape understanding.

Those unhappy thoughts were aroused by today's hearing of the House Ethics Committee on the matter of Daniel Schorr. It was an extraordinarily instructive occasion, in ways that the committee surely did not intend. For anyone who listened with an open mind ought to have learned a good deal about that prickly idea, the freedom of the press—and the pressures it has to resist.

Most depressing were the comments from committee members deploring the publication of Government "secrets." For example, Representative James H. Quillen, Republican of Tennessee, said he was "appalled" that The Village Voice had printed the report of the House Intelligence Committee despite a House vote to suppress it.

"It's a very serious situation," Mr. Quillen said, "that publishers in this country should take it upon themselves to publish secret and classified information against the will of Congress and the people." Representative Ronald J. Mitchell, Republican of New York, said that "in an extreme situation the inability to keep secrets could destroy this country."

But how many of the great tests of Government secrecy in recent years have turned out to involve any genuine risk to the national security? Richard Nixon's efforts to keep the facts of Watergate concealed? President Ford's attempt to suppress the Senate report on C.I.A. assassination plots? Again and again the concern was really about official embarrassment.

Once the claims of secrecy have been exploded, we tend to forget how hysterically officials argued that publication would jeopardize the future of the country. So it may be worthwhile exhuming an example. It comes from the case of the Pentagon Papers.

* * * * *

In the course of trying to stop publication of the Pentagon Papers in 1971, the Government filed a number of top-secret affidavits in court on the damage they would do. One was by Butts Macomber, then Deputy Under Secretary of State. His affidavit has only recently been declassified.

"I cannot overemphasize," Mr. Macomber said under oath, "the breadth, intensity and severity of the harm which would be caused to the national security. . . . I conclude, as an experienced professional diplomat and a senior diplomatic officer of the United States Government, that further publication of such materials would irreparably harm the United States."

Mr. Macomber's pomposities notwithstanding, the courts refused to prohibit publication in that case—and the Republic still stands. Today, hardly anyone can remember a single item of the papers that caused all the fuss.

The House Intelligence Committee report is an even more extreme example of hysteria over a molehill. The C.I.A. had effectively pressured the committee into deleting any remotely sensitive disclosures, and the substance of the report had already been published when Mr. Schorr obtained the text and gave it to The Village Voice. The House vote to suppress the tame final document was a result of internal politics and of public reaction against the whole intelligence investigation.

Still, the House was entitled to decide against publishing the report itself. The question that plainly troubled some members of the Ethics Committee today was why the House should not be able to enforce that judgment on others. Floyd D. Spence, Republican of South Carolina, said the press was saying that "one person can determine for himself what should be secret and what should not."

But the whole theory of the Constitution is that the Government and the press must each be free, separately, to perform its own function. The Government will always try to control its information; the press's duty is to seek the facts and publish. It is "an untidy accommodation," as the late Alexander Bickel said, but our system prefers it to the alternative of monolithic control.

Of course the press does not always, or even mostly, perform its function in the grand style. The Ethics Committee hearing made television of rare drama and importance, but the commercial networks left it to the public stations to carry. The media are a disorderly, unpredictable lot—but that is the point. The press is meant to be outside the established order.

A good many editors and broadcasters have been unsympathetic to Daniel Schorr. But I think they would understand and respect him if they had heard him explain to the Ethics Committee why he could not disclose his sources without risking the American public's rights. He and other reporters like him do not endanger national security; they serve their country by doing their job, even when it annoys. Committee members seemed to understand when Mr. Schorr said: "There is a necessary tension between what you do and what I do."

THE HOUSE AND THE FIRST AMENDMENT

It takes nothing away from the performance of Daniel Schorr before the House Ethics Committee yesterday to observe that he had a lamentably easy act to follow. Some news executives of the Village Voice, who testified before Mr. Schorr was called to the stand, and some members of the committee as well, had twisted the First Amendment so far out of shape that it was barely recognizable—even to those of us who believe in it deeply and defend it zealously. The distinctions drawn by Mr. Schorr and his attorney, Joseph A. Califano Jr., between the rights of journalists to protect their confidential sources and to publish information and the right of government to try to withhold certain information from the public were a breath of fresh air.

Under our view of the First Amendment, contrary to what our colleagues from the Voice said yesterday, there is no obligation on the part of the press to publish every bit of information or every government secret it stumbles on. The First Amendment imposes no *obligations* on the press. It creates only protections—although certain responsibilities can be inferred from those protections. Even so, the First Amendment does not confer on anybody an obligation to publish the report of the House Select Committee on Intelligence, which Mr. Schorr obtained last winter. Whether the decision to publish it was a responsible one is a different question, on which individuals can reach different judgments. But it is reckless to rely, as one witness did, on the fact that one third of the members of the House had voted to make the report public, as support for the decision to publish.

We have no doubt that the government, and the House for that matter, have a right to keep some information secret. And we have no doubt that Congress was entitled to make it a crime for government employees to release legitimately classified national security information without proper authority. Similarly, we have no doubt that certain kinds of government secrets ought not to be made public if they fall into the hands of the news media. Indeed, the First Amendment provides little protection for the press against criminal charges of violating the espionage laws. The constantly recurring questions concern which classified documents really merit secrecy—and when. Given the way classified information moves around this town—and out of government control—even documents that may have been properly classified can easily lose their standing as authentic secrets; the highest government officials traffic in secret materials with the press when it suits their political purposes. Like Mr. Schorr, we have in addition seen all too many instances in recent years when the stamp of national security has been used to withhold information that was embarrassing or even incriminating but had nothing to do with national security. And we, like Mr. Schorr, also think that while it is the government's right to create secrets, it is also the government's responsibility to keep them; once the government has lost control of its secrets, the decision about whether they should be published rests with the news media; it needs to be remembered that a wrong decision can result in a criminal conviction. That is the tension—of which Mr. Schorr spoke so eloquently—that is created by the First Amendment between the power of the government and the protections afforded a free press by the First Amendment.

EXEMPTION OF NAPHTHA JET FUEL FROM THE MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATIONS, ENERGY ACTIONS NOS. 6 AND 7

Mr. FANNIN. Mr. President, yesterday the Federal Energy Administration pursuant to the Energy Policy and Conservation Act, transmitted energy actions Nos. 6 and 7 to the Congress. The 15-calendar-day congressional review period started to run yesterday. Because recording of this action in the Federal Register may take several days before publication I shall ask unanimous consent that the transmittal letter to the President of the Senate, the findings and views, and the proposed regulations—energy actions Nos. 6 and 7—be included in the body of the RECORD at this point so that the Members of Congress and all other interested persons may have early notice of this proposal.

The Federal Energy Administration is submitting two energy actions because the Energy Conservation and Production Act—ECPA—enacted on August 14, 1976, requires the submission of separate energy actions for the removal of price and allocation regulations. The ECPA does, however, permit the concurrent submission to Congress of the separate energy actions.

I would hope that the Congress would be inclined not to disapprove these energy actions. The Congress has not disapproved any of the preceding five energy actions, most of which also were related to decontrol of petroleum products from price and allocation controls.

I ask unanimous consent that the transmittal letter, the Findings and Views, and energy actions Nos. 6 and 7 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 15, 1976.
Re exemption of naphtha jet fuel from the mandatory petroleum price regulations (Energy Action No. 6).
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On August 12, 1976, the Federal Energy Administration gave notice of a proposal to exempt naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. Written comments from interested persons were invited through September 1, 1976, and a public hearing regarding the proposal was held on September 3, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt naphtha jet fuel from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any oil, refined petroleum product or refined product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94-385), enacted on August 14, 1976 (ECPA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any oil, refined petroleum product or refined product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 6, an amendment exempting naphtha jet fuel from the price regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 7, FEA is submitting for review separately to each House of Congress an amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective October 1, 1976 or the first day following expiration of the Congressional review period, whichever is later.

Sincerely,

FRANK G. ZARB,
Administrator.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 15, 1978.
Re Exemption of naphtha jet fuel from the mandatory petroleum allocation regulations (Energy Action No. 7).
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On August 12, 1976, the Federal Energy Administration gave notice of a proposal to exempt naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. Written comments from interested persons were invited through September 1, 1976, and a public hearing regarding the proposal was held on September 3, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt naphtha jet fuel from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any oil, refined petroleum product or refined product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94-385), enacted on August 14, 1976 (EPCA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any oil, refined petroleum product or refined product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 7, an amendment exempting naphtha jet fuel from the allocation regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 6, FEA is submitting for review separately to each House of Congress an amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective October 1, 1976 or the first day following expiration of the Congressional review period, whichever is later.

Sincerely,

FRANK G. ZARB,
Administrator.

TITLE 10—ENERGY; CHAPTER II—FEDERAL ENERGY ADMINISTRATION; PART 210—GENERAL ALLOCATION AND PRICE RULES; PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

EXEMPTION OF NAPHTHA JET FUEL FROM THE MANDATORY PETROLEUM PRICE REGULATIONS

Introduction

On August 12, 1976, the Federal Energy Office (which assumed the responsibilities of the Federal Energy Administration ("FEA") during the interim between the expiration of the Federal Administration Act of 1974, Pub. L. 93-275, and its extension on August 14, 1976) issued a notice of proposed rulemaking and public hearing (41 FR 34784, August 17, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt naphtha jet fuel (as defined in 10 CFR 211.142 and 212.31) from the Mandatory Petroleum Price and Allocation Regulations. The proposal was based on tentative conclusions set forth in a document dated August 13, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Subsequent to the issuance of the August 12 notice, the Energy Conservation and Production Act, Pub. L. 94-385 (ECPA), was enacted. Section 102 of the ECPA in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but it does permit concurrent submissions of such separate energy actions. Accordingly, concurrent with the issuance of this amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations, a separate amendment is being issued to exempt naphtha jet fuel from the Mandatory Petroleum Price Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 7 and 6, respectively, pursuant to section 551 of the Energy Policy and Conservation Act ("EPCA").

Written comments on the exemption proposal and on the Preliminary Findings were invited through September 1, 1976, and the public hearing was held September 3, 1976. Forty-one written and oral comments were received in response to the notice of proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, and trade associations.

Almost all of the parties commenting agreed with FEA that naphtha jet fuel should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. FEA has carefully considered these comments and has concluded that its initial view that naphtha jet fuel should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's preliminary findings and views. In any event FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose allocation controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b)(1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations. Unless disapproved by either House of Congress under section 551 of the EPCA, this exemption will be effective October 1, 1976, or the first day following the expiration of the Congressional review period, whichever is later.

Findings and Views

In addition to this amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations and the concurrent amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated September 14, 1976 and entitled "Findings and Views concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" (the "Findings and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Naphtha jet fuel is no longer in short supply; anticipated supplies of naphtha jet fuel will be sufficient to meet the demand over the near term. Stocks of naphtha jet fuel appear to be sufficient to meet demand surges.

(2) Exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. Ample domestic refining capacity exists to meet the demand for all refined products.

(3) Competition and market forces are adequate to protect consumers following exemption of naphtha jet fuel from regulation.

Removal of controls will have no or only a slight incremental effect (i.e. 2 cents a gallon or less) on price movements.

(4) Exemption of naphtha jet fuel from regulation will not result in inequitable prices for the Department of Defense, the major consumer of naphtha jet fuel, or for any class of end-user.

Projected excess refinery capacity should guarantee continued supply and the large number of independent and small refiners now competing successfully in the naphtha jet fuel market indicates that sufficient competition exists to protect consumers.

(5) Exemption of naphtha jet fuel from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA.

Since an adequate supply is anticipated, the continued allocation and pricing of naphtha jet fuel are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)] or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)].

Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries. [Section 4(b)(1)(E)].

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry.

FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers and that a return to the military's competitive bidding system will probably enhance competition. The exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Effective date and standby authority

FEA has selected October 1, 1976 as the effective date for the exemption of naphtha jet fuel, or the first day following the expiration of the 15 day Congressional review period, whichever is later.

Section 12 (f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose allocation controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which stay the effectiveness of Part 211 and the general allocation regulations as they would otherwise apply to naphtha jet fuel without deleting those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that in the event of shortages or other occurrences which might require reimposition of controls, they may be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 211 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective October 1, 1976, or on the first day following the expiration of the 15 day Congressional review period, whichever is later, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA.

Issued in Washington, D.C., September 15, 1976.

DAVID G. WILSON,
Acting General Counsel.

1. Section 210.35 is amended by adding paragraph (g)(1) to read as follows:

§210.35 Exempted products.

* * * * *

(g)(1) Aviation turbine fuel (naphtha base) as defined in § 211.142 of this chapter is exempt from the provisions of Part 211 of this chapter.

2. Section 211.1 is amended in paragraph (b) by adding new subparagraph (9) to read as follows:

§ 211.1 Scope.

* * * * *

(b) Exclusions.

* * * * *

(9) Notwithstanding the provisions of Subpart H of this part, aviation turbine fuel (naphtha base) is excluded from this part.

TITLE 10—ENERGY; CHAPTER II—FEDERAL ENERGY ADMINISTRATION; PART 210—GENERAL ALLOCATION AND PRICE RULES; PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

EXEMPTION OF NAPHTHA JET FUEL FROM THE MANDATORY PETROLEUM ALLOCATION REGULATIONS

Introduction

On August 12, 1976, the Federal Energy Office (which assumed the responsibilities of the Federal Energy Administration ("FEA") during the interim between the expiration of the Federal Administration Act of 1974, Pub. L. 93–275, and its extension on August 14, 1976) issued a notice of proposed rulemaking and public hearing (41 FR 34784, August 17, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt naphtha jet fuel (as defined in 10 CFR 211.142 and 212.31) from the Mandatory Petroleum Price and Allocation Regulations. The proposal was based on tentative conclusions set forth in a document dated August 13, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Subsequent to the issue of the August 12 notice, the Energy Conservation and Production Act, Pub. L. 94–385 (ECPA), was enacted. Section 102 of the ECPA in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but it does permit concurrent submissions of such separate energy actions.

Accordingly, concurrent with the issuance of this amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations, a separate amendment is being issued to exempt naphtha jet fuel from the Mandatory Petroleum Allocation Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 6 and 7, respectively, pursuant to section 551 of the Energy Policy and Conservation Act (EPCA).

Written comments on the exemption proposal and on the Preliminary Findings were invited through September 1, 1976, and the public hearing was held September 3, 1976. Forty-one written and oral comments were received in response to the notice of proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, and trade associations.

Almost all of the parties commenting agreed with FEA that naphtha jet fuel should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. FEA has carefully considered these comments and has concluded that its initial view that naphtha jet fuel should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's preliminary findings and views. In any event FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose price controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b)(1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations. Unless disapproved by either House of Congress under section 551 of the EPCA, this exemption will be effective October 1, 1976, or the first day following the expiration of the Congressional review period, whichever is later.

Findings and views

In addition to this amendment exempting naphtha jet fuel from the Mandatory Petroleum Price Regulations and the concurrent amendment exempting naphtha jet fuel from the Mandatory Petroleum Allocation Regulations, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated September 14, 1976 and entitled "Findings and Views Concerning the Exemption of Naphtha Jet Fuel from the Mandatory Petroleum Allocation and Price Regulations" (the "Findings and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Naphtha jet fuel is no longer in short supply; anticipated supplies of naphtha jet fuel will be sufficient to meet the demand over the near term. Stocks of naphtha jet fuel appear to be sufficient to meet demand surges.

(2) Exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. Ample domestic refining capacity exists to meet the demand for all refined products.

(3) Competition and market forces are adequate to protect consumers following exemption of naphtha jet fuel from regulation. Removal of controls will have no or only a slight incremental effect (i.e. 2 cents a gallon or less) on price movements.

(4) Exemption of naphtha jet fuel from regulation will not result in inequitable prices for the Department of Defense, the major consumer of naphtha jet fuel, or for any class of end-user.

Projected excess refinery capacity should guarantee continued supply and the large number of independent and small refiners now competing successfully in the naphtha jet fuel market indicate that sufficient competition exists to protect consumers.

(5) Exemption of naphtha jet fuel from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA.

Since an adequate supply is anticipated, the continued allocation and pricing of naphtha jet fuel are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G]. Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries. [Section 4(b)(1)(E)].

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers and that a return to the military's competitive bidding system will probably enhance competition. The exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Reallocation of increased naphtha jet fuel costs to other products

FEA requested comments in the notice of proposed rulemaking on whether the refiners' price rules should be amended to limit, between the date of issuance of the notice and the effective date of the exemption, the reallocation of increased product costs and increased nonproduct costs (including any unrecovered increased costs which have been banked for future recovery) which is currently permitted for naphtha jet fuel. FEA also requested comments on the method by which this limitation would be most effectively implemented, including the manner of determining which portion of the aviation jet fuel bank is properly attributable to naphtha jet fuel.

Nearly all the parties commenting on this issue opposed limiting reallocation of refiners' banked costs. Despite the comments received, FEA has not been persuaded to treat banked costs for naphtha jet fuel differently than it did in its earlier amendments exempting middle distillates (41 FR 24516, June 16, 1976) and naphthas, gas oils, and "other products" (41 FR 30096, July 22, 1976). Accordingly, FEA has decided to adopt a limitation on the reallocation of increased costs attributable to naphtha jet fuel as of September 1, 1976.

Since under the price rules no costs attributable to exempt products may be reallocated to covered products, that portion of the aviation jet fuel bank attributable to naphtha jet fuel will no longer be reallocable to any other covered product as of September 1, 1976. This amendment provides a method for determining that portion, based on refiners' volumes of naphtha jet fuel produced in 1975.

Other conforming amendments to the price regulations are also being adopted to reflect the exemption of naphtha jet fuel.

Effective date and standby authority

FEA has selected October 1, 1976 as the effective date for the exemption of naphtha jet fuel, or the first day following the expiration of the 15 day Congressional review period, whichever is later.

Section 12(f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose price controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which stay the effectiveness of the general price regulations as they would otherwise apply to naphtha jet fuel without deleting those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that in the event of shortages or other occurrences which might require reimposition of controls, they may be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11833, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective October 1, 1976, or on the first day following the expiration of the 15 day Congressional review period, whichever is later, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA.

Issued in Washington, D.C., September 15, 1976.

DAVID G. WILSON,
Acting General Counsel.

1. Section 210.35 is amended by adding paragraph (g)(2) to read as follows:

§ 210.35 Exempted products.

* * * * *

(g) * * *

(2) Aviation fuel (naphtha-type) as defined in § 212.31 of this chapter is exempt from the provisions of Part 212 of this chapter.

2. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 Definitions.

* * * * *

"Covered products" means aviation fuel (kerosene-type), aviation gasoline, butane, crude oil, gasoline, natural gas liquids, natural gasoline, and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * *

3. Section 212.83 is revised in subparagraph (3) of paragraph (d) to read as follows:

§ 212.83 Price rule.

* * * * *

(d) Reallocation of increased costs among product categories.

* * * * *

(3) Aviation jet fuel.

(i) To the extent that a refiner does not allocate its increased costs for aviation jet fuel to maximum allowable prices for aviation jet fuel, it may instead allocate that part of its increased costs for aviation jet fuel only to maximum allowable prices for gasoline. No increased costs for aviation jet fuel may be reallocated to maximum allowable prices for No. 2 oils or general refinery products.

(ii) Beginning on September 1, 1976: The amount of increased costs attributable to aviation jet fuel which bears the same proportion to the total of such costs as the volume of aviation fuel (naphtha-type) refined by the refiner from crude oil during the calendar year 1975 bears to the total volume of all aviation jet fuel refined by the refiner from crude oil during the calendar year 1975, shall be excluded from reallocation to maximum allowable prices for covered products other than aviation fuel (naphtha-type).

* * * * *

4. Section 212.93 is amended in clause (iii) of subparagraph (2) of paragraph (i) to read as follows:

§ 212.93 Price rule.

* * * * *

(2) * * *

(iii) Aviation jet fuel. (A) To the extent that a seller does not allocate its increased product costs for aviation jet fuel to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased product costs for aviation jet fuel may be reallocated to the prices for any general refinery product or products, including propane, or for No. 2 oils.

(B) Beginning on September 1, 1976, no increased costs for aviation fuel (naphtha-type) may be reallocated to prices for any covered product.

* * * * *

[NOTE.—Certain of the charts and figures referred to in the following memorandum are not reproducible in the RECORD.]

FINDINGS AND VIEWS CONCERNING THE EXEMPTION OF NAPHTHA JET FUEL FROM THE MANDATORY ALLOCATION AND PRICE REGULATIONS

EXECUTIVE SUMMARY

To exempt naphtha jet fuel from the Mandatory Petroleum Allocation Regulations, the Federal Energy Administration (FEA) must find ". . . that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category would not have an adverse impact on the supply of any other oil or refined petroleum product . . ." [Section 12(d)(1)(A) of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended]. FEA finds that naphtha jet fuel is not in short supply and supplies are expected to be adequate to meet projected demand. Currently, naphtha jet fuel represents approximately 1.4 percent of the total refinery yield from U.S. refineries. Domestic refinery capacity utilization for the first eight months of 1976 was 89.0 percent of the approximate 15 million barrels per day total capacity (compared with the pre-embargo long-term norm of approximately 90 percent utilization of then available total capacity). As a result, FEA concludes that ample unused domestic refinery capacity exists to meet any increased demand for refined products, including naphtha jet fuel. Similar conditions exist with respect to available world refinery capacity.

To exempt naphtha jet fuel from the Mandatory Petroleum Price Regulations, the FEA must also find ". . . that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product . . ." [Section 12(d)(1)(B) of the EPPAA of 1973]. With ample supplies of naphtha jet fuel, the major consumer (Department of Defense representing 98% of total demand) exerting downward pressure on prices, and the industry operating at a historically adequate level of profitability, naphtha jet fuel prices are experiencing only nominal upward pressures. In addition, existing naphtha jet fuel contracts should forestall potential price increases for at least 9 months. FEA finds that market forces are therefore adequate to protect consumers, and that exempting naphtha jet fuel from regulation will not result in inequitable prices for any class of end users or other product uses. The FEA further finds that the exemption of naphtha jet fuel is consistent with the attainment of the other objectives of the EPAA.

The FEA has also concluded that the exemption of naphtha jet fuel from regulation will have no significant effect on the rate of unemploymnt, the Consumer Price Index, or the Gross National Product.

In summary, continued regulation of naphtha jet fuel is no longer necessary to achieve the objectives of the EPAA. Consequently, the FEA is proposing to Congress, in accordance with the requirements of Section 12 of the EPAA and Section 551 of the Energy Policy and Conservation Act (EPCA), and Section 102 of the Energy Conservation and Production Act, the exemption of naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations.

CHAPTER I: INTRODUCTION

This report presents the FEA's findings and views with respect to its proposal to exempt naphtha jet fuel from the Mandatory Petroleum Allocation and Price Regulations (10 CFR, parts 210, 211, and 212) issued pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA), Public Law 93-159 (November 27, 1973), as amended.

Section 455 of the Energy Policy and Conservation Act (EPCA), Public Law 94-163 (December 22, 1975), added Section 12 to the EPAA, requiring that any amendment submitted to the Congress for the purpose of exempting a petroleum product or product category from regulation be supported with certain findings and FEA views on a variety of matters related to the exemption. Section 102 of the Energy Conservation and Production Act (ECPA), Public Law 94-385, requires separate submissions to the Congress of energy actions exempting a refined petroleum product from both price and allocation provisions of FEA regulations, but it does permit the FEA to submit concurrently separate energy actions proposing price and allocation exemptions. Inasmuch as FEA has decided to submit concurrent energy actions proposing the exemption of naphtha jet fuel from price and allocation regulations, this report considers the impact of both proposed exemptions. If neither House of Congress disapproves these amendments during the 15-day period allowed for legislative review under Section 551 of the EPCA, the exemptions would become effective upon the date specified in the amendment and the regulations would be converted to standby status.

Based on an analysis of historic and projected supply, demand, and price trends, the FEA has concluded that allocation and price controls are no longer necessary for naphtha jet fuel and that exemption of naphtha jet fuel is consistent with the attainment, to the maximum extent practicable, of the objectives specified in Section 4(b)(1) of the EPAA.

To ensure that the findings and views ultimately submitted to the Congress are based on the most comprehensive and accurate data available, represent the most reasonable conclusions drawn from such data, and fully support the proposed exemption of naphtha jet fuel and that exemption of naphtha jet preliminary findings and views on the possible exemption of naphtha jet fuel from price and allocation controls. The written and oral comments received in response to these preliminary findings and views are now reflected in this report.

The FEA's final findings regarding the exemption of naphtha jet fuel from regulation are as follows:

Naphtha jet fuel is not in short supply.

Exemption of naphtha jet fuel from the allocation and price regulations will not have an adverse impact on the supply of any other oil or refined petroleum product subject to the EPAA.

Competition and market forces are adequate to protect consumers following exemption of naphtha jet fuel from regulation.

Exemption of naphtha jet fuel from regulation will not result in inequitable prices for any class of user of naphtha jet fuel or other products.

The FEA also finds that the exemption of naphtha jet fuel from price and allocation regulations is consistent with the objectives set forth in Section 4(b)(1) of the EPAA. Since supplies of naphtha jet fuel are adequate, and should continue to be sufficient, continued mandatory price and allocation controls for naphtha jet fuel are unnecessary to:

Protect public health, safety, welfare, and national defense [Section 4(b)(1)(A)];

Maintain all public services [Section 4(b)(1)(B)] and agricultural operations [Section 4(b)(1)(C)];

Maintain exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)]; and

Insure equitable distribution of crude oil, residual fuel oil, and refined petroluem products [Section 4(b)(1)(F)].

Because the regulations issued pursuant to the EPAA are designed to deal primarily with shortage conditions, the FEA has concluded that the exemption is required to facilitate the attainment of the following EPAA objectives in the current period of ample supplies:

Preservation of an economically sound petroleum industry [Section 4(b)(1)(D)];

Economic efficiency [Section(b)(1)(H)]; and

Minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

Further, the exemption should not have an adverse effect on allocating suitable crude oil to U.S. refineries [Section 4(b)(1)(E)], maintaining energy production, or providing for maximum use of refinery capacities.

It is also FEA's view that the exemption of naphtha jet fuel from regulation will not have an adverse effect on:

Any state or region of the country

Availability of consumer goods and services

The Gross National Product (GNP)

Competition

Small business

The supply and availability of energy resources for use as fuel or feedstock for industry

The Consumer Price Index, consumer prices, or the implicit price deflator for the GNP, and

The rate of unemployment.

Chapter II provides background information on the use, production, and distribution of naphtha jet fuel. Chapter III analyzes the historical interaction of supply, demand, and price, and explores the market structure for naphtha jet fuel during 1968–1975, prior to and during imposition of allocation and price controls. Chapter IV examines the effects of exempting naphtha jet fuel from controls upon naphtha jet fuel supply, demand, price, and market structure and indicates the benefits to be derived from such exemption. In Chapter V, the potential economic impacts of exemption are evaluated. Chapter VI provides a final summary of the FEA's findings and views in support of its judgment that naphtha jet fuel should be exempted from the Mandatory Petroleum Allocation and Price Regulations.

CHAPTER II: BACKGROUND

This chapter provides background information regarding the characteristics, uses, supplies and prices, and distribution of naphtha jet fuel. Naphtha jet fuel has the technical properties of products in the middle distillates range. However, it was specifically excluded from the exemption of middle distillates because of the distinctive nature of its usage, and its separate treatment under the FEA price and allocation programs.

Aviation fuel (naphtha type) is defined in 10 CFR 212.31 as "all fuels in the heavy naptha boiling range with an average gravity of 52.8 API and 10% to 90% distillation temperatures of 210° F. (99°C) to 420° F. (216° C), including JP-4 and other fuels meeting military specifications MIL-F-5624 and MIL-T-5624G. used for turbojet and turboprop aircraft engines, primarily by the military," and in 10 CFR 211.142 as Type B (naphtha-base) refined petroleum fuel whose basic specification is ASTM D-1655 and is designed to operate aircraft turbine engines.

Product description

Naphtha jet fuel is a naphtha-based fuel designed primarily for use in military jet (turbine engine) aircraft. Although the Department of Defense (DOD) has designated eight different categories of jet propulsion fuels, JP-1 through JP-8, this report primarily concerns JP-4 which is the only naphtha base jet fuel currently used by the military. Among the other fuels: JP-1 through JP-3 are obsolete, JP-6 through JP-8 are largely experimental, and JP-5 is a kerosene-based fuel (See Appendix A).

Currently there are three civilian jet fuel designations: Jet A, Jet A-1, and Jet B, a naphtha-based fuel, similar to JP-4, is considered here. The other civilian jet fuels, Jet A (employed by domestic civil airlines) and Jet A-1 (used by international airlines), are kerosene-based.

Naphtha jet fuel freezes at a lower range of temperatures, is more volatile than kerosene jet fuel, and generates a potentially explosive gas (see Appendix B). It has a flash point below 0° F. (−18° C), and a Reid vapor pressure of 2 to 3 psi. In contrast, kerosene jet fuels (i.e., JP-5 for military, and Jet A and Jet A-1 for commercial use) have negligible Reid vapor pressures and flash points above 105° F. (41° C). Other minor differences among turbine engine jet fuels are attributable to additives which retard bacteriological growth (biocidal), lower the freezing point, or act as anti-corrosives.

Production characteristics of naphtha jet fuel

Naphtha jet fuel can be produced through simple refinery distillation processes. It is a "wide-cut" product in that it covers an extremely broad range of boiling points, spanning approximately 24 to 27 percent of an average barrel of crude oil. This broad distillation range, in conjunction with a comparatively simple refining process, makes naphtha jet fuel attractive for small refiners to produce. Larger and more sophisticated refineries have greater flexibility to utilize the distillation range from which naphtha jet fuel is produced to refine other products, chiefly gasoline, which are more in demand and of higher profitability.

The overall potential for production of naphtha jet fuel may be estimated by comparing its historical production with that of the other products refined from the same distillation range. As seen from Figure II-1, about 70 percent of this range coincides with the gasoline fraction (except for some very light components of gasoline) and the remaining 30 percent coincides with kerosene and the lighter heating oils and diesel fuels. Historically, gasoline has accounted for more than 45 percent of overall refinery yield, on a national basis (see Table 6, Chapter IV) and middle distillates, which include kerosene, heating oils, and diesel fuels, have accounted for about 20 percent of the yield. In contrast, naphtha jet fuel has accounted for only about 1 to 3 percent of average U.S. refinery yield. Thus, given the simplicity of producing naphtha jet fuel, refiners could in theory easily meet a sharp increase in demand for naphtha jet fuel by diverting production from gasoline and distillate fuels without causing undue hardship for most users of these major fuels.

Demand

The naphtha-based jet fuel, JP-4, is used primarily by the Department of Defense (DOD). DOD usage now accounts for 98% of JP-4 consumption. Approximately 91.5% of the aviation fuel used by the military is JP-4. It is widely used by Air Force aircraft, although the Navy uses a limited quantity at on-shore bases. The Army's use of JP-4 is increasing moderately because newer Army aircraft are being powered by turbine engines. Overall, however, there has been a gradual decline in military JP-4 use due to currently diminished military activity and a slight reduction in the defense role played by jet aircraft. It appears likely that this trend will continue in the foreseeable future. Moreover, non-military uses of naphtha jet fuels have been declining in recent years, as shown in the following table.

TABLE II-I.—DEMAND FOR NAPHTHA JET FUEL

[In thousands of barrels]

	1971	1972	1973	1974	1975
Total demand	94,700	88,500	79,200	81,200	76,500
Military	87,700	81,900	71,200	77,100	75,300
Nonmilitary	7,000	6,600	8,000	4,100	1,200
Percentage:					
Military use	93	93	90	95	98
Nonmilitary use	7	7	10	5	2

Source: BOM.

Among the civilian uses are the manufacture and testing of military aircraft, and some commercial aviation use including helicopter operation. Low commercial consumption of naphtha jet fuel is due primarily to potential safety hazards resulting from its volatility. Since commercial airline turbine engines run equally well on naphtha-based or kerosene-based jet fuel, there is no significant technical reason why their use is not fully interchangeable. However, tactical and strategic (as opposed to transport) military aircraft cannot use kerosene-based jet fuel without significant engine modification to avoid flameout.

Supply and price data

Since 1973, naphtha jet fuel supply and demand has been in equilibrium and FEA forecasts indicate that stable market conditions will continue. Demand for naphtha jet fuel is highly predictable and refinery production levels have consequently been adjusted to reflect known demand. However, if the military need for JP-4 were to expand greatly in a short period of time, it is projected that such increases could easily be accommodated. This is true, in part, because of the wide distillation range from which naphtha jet is refined.

While naphtha jet fuel stocks have declined, this reduction has paralleled decreasing demand. Currently stocks are at historical levels—representing nearly a full month's supply.

In 1974, 8.2% of naphtha jet fuel supplies were imported, while in 1975, the amount decreased to 3.0%. These volumes do not include imports from offshore U.S. territories and possessions.

Military JP-4 prices have been within ½ cent to 1 cent of commercial airline Jet A fuel prices. The relationship to airline Jet A prices is one of the standards by which DOD contract prices for naphtha jet fuel are measured.

After the 1973 embargo, and the subsequent introduction of FEA controls, JP-4 prices increased from 11 cents per gallon to between 28 and 31 cents per gallon. During the same period, airline Jet A prices rose to a range of between 12 and 19 cents per gallon. The difference between Jet A and JP-4 prices was caused by the existence of long-term contracts with suppliers which prevented full passthrough of increased crude costs. However, more than 90 percent of all old airline contracts have now expired, and airline Jet A and military JP-4 prices again average within ½ cent of each other, at approximately 30½ cents per gallon. These price levels have been relatively stable throughout the last quarter of 1975 and the first quarter of 1976.

A more detailed analysis of supply/demand and price considerations is presented in Chapter III of this report.

Procurement and distribution

All of the fuel used by the United States Armed Forces is procured by the Defense Fuel Supply Center (DFSC) located at Cameron Station, Virginia. Historically, fuel purchases have been made by competitive bidding. However, all DOD petroleum procurements since 1973 have been accomplished by sole source negotiations with the assistance of FEA allocation directives.

Generally, the DFSC purchases JP-4 from approximately 52 refiners operating 65 refineries. In 1975 large integrated refiners supplied 46.8% of domestic naphtha jet fuel, large independents supplied 15.3%, and small refiners provided 37.9%.

With respect to product distribution, roughly half of the procurement contracts call for fuel to be delivered directly from the refinery to specific military installations. Most of the remaining military contracts are "single point" (or point of origin contracts requiring little or no activity beyond the refinery gate.

These contracts allow for delivery of the product at the refinery with the DFSC arranging transportation to the point of use. The absence of an extensive distribution system enhances the economic feasibility of producing JP-4 by small refiners. DFSC distribution is accomplished principally by 8,000 gallon transport trucks. Lesser quantities are delivered by railroad tank cars, river barges, coastal tankers, and ocean-going barges. When coastal tankers or ocean-going barges are employed, delivery is made to DOD operated storage terminals from which secondary distribution is made to specific military installations.

Almost 99% of JP-4 is distributed directly by refiners. As a result, independent distributors, resellers, and retailers play a very minor role in JP-4 marketing due to the nature of DFSC contracts.

CHAPTER III: HISTORICAL CONDITIONS (1968–1975)—INTRODUCTION

The historical interaction of supply, demand, and price of naphtha jet fuel, and the market structure of the petroleum industry are examined in this chapter in order to address the findings required by the EPAA. The following questions will be resolved:

Is naphtha jet fuel in adequate supply?

Will exemption of naphtha jet fuel from regulation result in shortages of other refined products?

Are competition and market forces adequate to protect consumers following an exemption of naphtha jet fuel?

Will exemption result in inequitable prices for any class of user?

Is the exemption of naphtha jet fuel consistent with attainment of the objectives of the EPAA?

In this chapter an overview of the period 1968 through 1975 provides a perspective for assessing the effects of exempting naphtha jet fuel from the Mandatory Allocation and Price Regulations, which is discussed in Chapter IV.

Chronology of allocation and price controls

Allocation and price controls on petroleum products (including naphtha jet fuel) have been imposed at various times over the past several years beginning with the series of price controls established under the Economic Stabilization Program. The principal allocation and price controls involved, for purposes of this report, are as follows:

Program, effective date, and description and responsible office.

Phase I, August 15, 1971, Original Price Freeze Office of Emergency Preparedness.

Phase II, November 13, 1971, Mandatory Price Controls Price Commission.

Phase III, January 11, 1973, Voluntary Price Standards Cost of Living Council.

Special Rule No. 1, March 6, 1973, Mandatory Price Controls on Petroleum Industry Cost of Living Council.

June 13, 1973, Price Freeze II Cost of Living Council.

Phase IV, August 19, 1973, Mandatory Price Controls on Petroleum Products Cost of Living Council.

Emergency Petroleum Allocation Act of 1973 (EPAA), November 27, 1973, Mandatory Allocation & Price Regs. issued Jan. 14, 1974 Federal Energy Office and Federal Energy Administration.

Major provisions of the controls

The Phase I Controls consisted of a general price freeze imposed on all sectors of the U.S. economy for a period of 90 days under which prices were frozen at their August 15, 1971 level.

The Phase II Mandatory Price Controls established ceiling prices for all industries based on Phase I prices with limited adjustments allowed to reflect increased costs.

The Phase III Voluntary Price Standards, applied generally to all industries and permitted price increases above those lawfully in effect on January 11, 1973, to reflect increased costs without regard to profit margin limitations. Phase III had the effect of permitting large increases in petroleum product prices. As a result, Phase III was amended by Special Rule No. 1 on March 6, 1973, the first time price controls were established expressly for the petroleum industry. Special Rule No. 1 limited price increases to a weighted average price of one percent above the January 11, 1973, base price levels. However, Special Rule No. 1 applied only to sales of crude oil and refined products by the 23 largest oil companies, and petroleum prices continued to rise because of price increases by the uncontrolled portion of the petroleum industry.

Partly because of continuing increases in petroleum prices, Price Freeze II was placed in effect on June 13, 1973. This 60-day price freeze was imposed on virtually all consumer prices.

The Phase IV Controls for Petroleum Products, developed during the 60-day price freeze, went into effect on August 19, 1973, and provided for a comprehensive system for controlling petroleum prices at the producer, refiner, and distributor levels. Controls regarding retailers were implemented on September 7, 1973.

The Phase IV price controls were incorporated into the Mandatory Petroleum Price Regulations now in effect under the EPAA.

The programs established under the Emergency Petroleum Allocation Act of 1973, and under the Mandatory Petroleum Allocation and Price Regulations, issued January 14, 1974, provided for a comprehensive set of controls covering both the allocation and pricing of petroleum products at all levels of the petroleum industry. These regulatory programs were established to deal with the problems created by the reduction in supplies of petroleum product aggravated by the October 1973 oil embargo, and to preserve, to the extent possible during a shortage situation, an economically sound and competitive petroleum industry. They also contained provisions to assure equitable distribution of refined petroleum products at equitable prices. Included among these provisions was the Domestic Crude Oil Entitlements Program, which was created for the purpose of allowing all refiners to share in the benefits of price controlled domestic crude oil production. Under this program, refiners with greater than average access to low-cost domestic crude oil are required to make payments to refiners who use greater than average amounts of more costly domestic and imported crude oil, so that all domestic refiners, in effect, have an equitable share of the limited quantities of low-priced domestic crude oil. Also included among the regulatory provisions is the Buy/Sell Program which assures an adequate supply of crude oil to all U.S. refiners to best utilize refinery capacity.

Under allocation controls a priority allocation system was established for the distribution of petroleum products. Moreover, a state managed set-aside program for certain petroleum products was created for the purpose of meeting local hardship and emergency requirements.

The allocation and price regulations achieved a substantial measure of success in easing the impact of the October 1973 embargo. Whether the present regulations are needed to ensure equitable prices or adequacy of supply to all users is the subject of the next section, which addresses naphtha jet fuel supply, demand, and price patterns before and during controls.

Supply/demand

The demand for naphtha jet fuel (see Figure III–1) decreased 28 percent between 1968 and 1970, and shows a steady decrease at an average annual rate of about 8 percent since 1970. This softening of demand corresponds with declining military use from the peak demand levels reached during the late 1960s. The greatest demand occurred in Petroleum Administration for Defense (PAD) District V encompassing the west coast states in addition to Alaska and Hawaii. Next in order of declining demand were PAD Districts I, III, II, and IV (see Figures III–2 and III–3).

The decline in consumption of naphtha jet fuel was followed by a corresponding decline in domestic production. Domestic production declined from 332,718 barrels per day in 1968 to 179.781 barrels per day in 1975. The major producing areas for naphtha jet fuel are located in PADs III and V. Table III–1 compares the domestic production of naphtha jet fuel with historic domestic production trends of all refined products.

During the same period, stocks declined by a similar percentage (see Table III–2) so that overall, the number of days supply of naphtha jet fuel remained relatively constant. Post-embargo stock levels are probably not required to be as high as earlier levels since utilization of increased refinery capacity provides a larger refining capability margin than existed in 1970 and 1971.

TABLE III–1.—DOMESTIC PRODUCTION OF REFINED PRODUCTS AT REFINERIES FOR 1968–75

[Thousands of barrels per day]

	Motor gasoline	Middle distillates [1]	Residual fuel oil	Naphtha jet	Kero jet	Other products [2]	Total all products
1968	5, 212	2, 300	756	333	530	2, 001	11, 132
1969	5, 468	2, 320	729	287	594	2, 062	11, 460
1970	5, 699	2, 454	705	230	597	2, 222	11, 907
1971	5, 971	2, 495	752	233	601	2, 245	12, 297
1972	6, 281	2, 637	799	210	636	2, 149	12, 712
1973:							
I quarter	6, 213	2, 872	1, 035	177	716	2, 299	13, 312
II quarter	6, 695	2, 626	914	190	664	2, 520	13, 609
III quarter	6, 830	2, 790	890	172	667	2, 628	13, 977
IV quarter	6, 366	2, 992	1, 089	184	668	2, 404	13, 703
Average	6, 527	2, 820	971	181	679	2, 475	13, 653
1974:							
I quarter	5, 950	2, 505	1, 003	189	616	2, 151	12, 414
II quarter	6, 433	2, 670	1, 002	213	636	2, 415	13, 369
III quarter	6, 699	2, 694	1, 052	183	641	2, 480	13, 849
IV quarter	6, 349	2, 808	1, 220	196	669	2, 301	13, 543
Average	6, 358	2, 668	1, 070	195	641	2, 362	13, 294
1975:							
I quarter	6, 285	2, 688	1, 356	168	687	1, 964	13, 148
II quarter	6, 279	2, 469	1, 182	171	684	2, 149	12, 934
III quarter	6, 900	2, 663	1, 161	189	728	2, 422	14, 063
IV quarter	6, 599	2, 766	1, 262	192	667	2, 181	13, 667
Average	6, 518	2, 655	1, 251	180	691	2, 162	13, 457

[1] Excludes kerosene.

[2] Includes kerosene.

Source: BOM.

TABLE III-2.—AVERAGE DAILY STOCKS

	Demand (thousand barrels per day)	Stocks (thousand barrels)	Number of days of supply
1968	346	8, 904	25.7
1969	297	8, 556	28.8
1970	249	6, 621	26.6
1971	260	6, 990	26.9
1972	242	6, 147	25.4
1973	217	5, 599	25.8
1974	222	5, 529	24.9
1975	210	5, 222	24.9

Source: BOM, FEA.

This larger margin can be relied upon to accommodate any demand surges, with stocks meeting the initial part of the surge while refinery runs are being increased.

In addition to production and the change in stocks, the third component of domestic supply is imports. In 1975, imports accounted for 3 percent of domestic naphtha jet fuel needs, excluding naphtha jet fuel imported from offshore U.S. possessions. The difference between the two curves shown in Figure III-4 represents the amount of naphtha jet fuel imported.

Some foreign airlines use bonded naphtha jet fuel (tax free fuel for non-domestic consumption), but this use has dwindled from 3.9% of total naphtha jet fuel consumption in 1973, to 2.2% in 1974, and 0.1% in 1975, as international airlines were given access to lower-cost domestic kerosene jet fuel.

Price trends

This section traces naphtha jet fuel price trends for the period 1968–1975. Prices remained relatively stable during Phases I through III of controls. Phase IV controls (beginning on August 19, 1973), however, were ineffective in counteracting the "cost-push" forces that were causing prices to spiral. The controls were limited in their impact on "cost-push" because they permitted product cost pass-through as required by law at a time when imported crude oil was increasing rapidly in price and as a proportion of all crude used.

Until 1973, the Defense Fuel Supply Center was able to procure adequate supplies of naphtha jet fuel for domestic requirements through formal advertising. Between early 1973 and December 1974, however, the DFSC was unable to procure sufficient supplies of naphtha jet fuel from its traditional suppliers because of fuel shortages, uncertainties in the crude oil market, and government price controls.

As a result, the Defense Production Act of 1950 (DPA) as amended, was invoked in late 1973 to require oil companies to supply petroleum products, including naphtha jet fuel, for the Government's needs. The DPA authorizes the President to require acceptance and performance of defense contracts or orders, in preference to others, by any person he finds capable of their performance.

Under the EPAA, FEA designated the firms that would supply fuel to the Department of Defense, generally on the basis of 1972 supplier-purchaser relationships. The allocation system, which further discouraged competitive procurements, had an additional impact on the prices paid by the Department of Defense for naphtha jet fuel. Despite price controls, the average cost for a gallon of fuel almost tripled as the cost of crude oil feedstocks to domestic refineries rose (see Table III-3).

Naphtha jet fuel is an essential product for defense purposes, the demand for which is largely inelastic with respect to price. This characteristic of naphtha jet fuel demand has largely supported the continued upward movement of prices. However, this upward movement has probably been somewhat constrained by DFSC's power to exert downward pressures on prices and the ability of the Renegotiation Board to prohibit excessive profits.

Market structure

This section discusses the market forces and competition in the naphtha-base jet fuel market during the 1968 through 1975 period, and provides a perspective for assessing the adequacy of these market forces in preserving the competitive viability of independent refiners and marketers following exemption of naphtha jet fuel from regulation.

Recent trends indicate that small refiners are increasing their market share. This section discusses this trend in detail by:

TABLE III-3.—DFSC NAPHTHA JET FUEL PROCUREMENT AVERAGE WEIGHTED DOMESTIC PRICE

[Cents per gallon]

Year	Naphtha jet fuel	Crude oil
1968	10.5	7.5
1969	10.8	7.8
1970	10.6	8.1
1971	10.5	8.6
1972	10.8	8.5
1973	11.1	9.9
1974	[1] 27.2	20.5
1975	[1] 29.5	26.3

[1] Simple average of prices during 6-mo contract period.—1974: January through June, 22.42; 1975: 29.58; 1974: July through December, 31.88; 1975: 29.49.

Source: DFSC, FEA.

Describing the market conditions which give small refiners a unique production niche within this market; and

Examining the changes in market share experienced by different classes of refiners during the period of allocation and price controls.

The naphtha-base jet fuel market is influenced by the dominant demand for its use by the military, the nature of its production, and the Department of Defense supply regulations. The combination of these factors historically gave small refiners a unique production position within this market.

Although, naphtha jet fuel is occasionally used in commercial applications, its primary use is in military aircraft. In 1975, the military accounted for 98 percent of naphtha jet fuel demand as evidenced in the following table:

TABLE III-4.—END-USE[1] AND SOURCE OF NAPHTHA JET FUEL, 1975 (PRELIMINARY)

	Volume (thousands of barrels)	Percent of total
Military use, total	75, 238	98.4
Commercial use, total	1, 109	1.5
Airline	163	.2
Aviation factories	279	.4
General aviation	667	.9
Total	76, 347	100.0
Source:		
Domestic shipments	66, 120	86.6
Direct imports [2]	10, 227	13.4
Total	76, 347	100.0

[1] Excludes sales for nonaviation use.

[2] Includes 8,371 million barrels imported from U.S. Virgin Islands.

Source: Bureau of Mines. Preliminary aviation fuel tabulations.

The Defense Fuel Supply Center purchases product directly through contracts with prime suppliers. The procurement contracts calls for the fuel to be delivered either directly from the refinery to specific military installations or for delivery at the refinery (point of origin) with the DFSC providing transportation. Transport trucks are the major form of transportation with some additional quantities shipped by railroad tank car, barge, and coastal tankers.

The role of independent marketers is minimal in the domestic naphtha jet fuel market since refiners distribute almost 99 percent of their products directly to military and commercial accounts.

Because of the nature of the distillation process for naphtha-base jet fuel, specialized domestic refiners developed to serve the military demand. The broad distillation range for naphtha jet fuel allows the extraction of about one-fourth of the crude barrel as naphtha jet fuel compared to only 7 to 9 percent for kerosene-base jet fuel. The distillation process is particularly suited for separating the barrel into naphtha-base jet fuel and asphalt. This form of specialized refining is particularly conducive to small refiners with minimal processing capacities.

The specialized refineries which developed have often been located in close proximity to military bases in order to minimize transportation costs for military contracts specifying direct delivery to military installations. Regional refining market, particularly in the west, evolved along with the increase in military jet fuel demands. PAD V, for example, accounted for approximately 27 percent of the domestic production of naphtha-base jet fuel in 1974 but only 15 percent of the crude oil runs (see Table III-5).

The competitive position of small refiners in the military naphtha-base jet fuel market has been enhanced by the small business set-aside program of the Small Business Administration. This program grants special procurement advantages to small business refiners defined as having less than 50,000 barrels per day refining capacity and employing fewer than 1,500 employees. The small business set-aside program applies to the procurement of all refined petroleum products by the government. It is especially important in the naphtha jet fuel market because of the large Department of Defense demand for the product.

TABLE III-5.—REFINING OF NAPHTHA-BASE JET FUEL BY DISTRICT, 1974

	Total Crude Runs		Naphtha-Base Jet Fuel Output	
PAD District	Thousands of barrels	Percent of U.S. total	Thousands of barrels	Percent of U.S. total
I	514, 181	11.6	3, 297	4.6
II	1, 216, 538	27.4	15, 097	21.2
III	1, 862, 519	42.1	29, 159	41.0
IV	153, 443	3.5	4, 302	6.0
V	682, 045	15.4	19, 320	27.1
United States	4, 428, 726	100.0	71, 175	100.0

Source: Bureau of Mines.

The October 1973 embargo had a direct impact on the availability of naphtha jet fuel. In November 1973, the Department of Interior estimated that the Department of Defense supply shortage would increase from 95,000 barrels per day in the fourth quarter of 1973 to 156,000 barrels per day in the first quarter of 1974.* As previously mentioned, under the authority of the Defense Production Act of 1950, the Department of Defense directed several refineries in late 1973 to increase their production of naphtha jet fuel.

Provisions of the Emergency Petroleum Allocation Act (EPAA) of 1973 were developed to maintain the competitive viability of independent refiners (less than 30 percent crude self-sufficient) and small refiners (less than 175,000 b/d refining capacity). During the period 1972 to 1975, large independent and small refiners steadily increased their shares of the domestic naphtha jet fuel market. In 1975, large integrated refiners accounted for about 47 percent of the refiner naphtha jet fuel sales, large independent refiners for about 15 percent, and small refiners for 38 percent of the market as shown in Table III–6.

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*Staff Report to the Federal Trade Commission. An Evaluation of the Mandatory Petroleum Allocation Program, March 1974.

Large independent and small refiners have maintained a larger share of naphtha jet fuel sales than of other refined petroleum products. These refiners accounted for 53 percent of the domestic naphtha jet fuel sales in 1975. By contrast, large independent and small refiners accounted for only 26 percent of the motor gasoline and 27 percent of the distillate fuel sold by refiners in 1975.

TABLE III-6.—REFINER GROUP SHARES OF NAPHTHA JET FUEL SALES

Year	Total refiner sales [1] (thousands of barrels)	Refiner group's share of refiner sales [2]		
		Large integrated refiners	Large independent refiners	Small refiners
1972	72,667	57.3	14.6	28.1
1973	61,214	53.4	15.5	31.2
1974	72,857	49.7	17.6	32.7
1975	[3] 65,810	46.8	15.3	37.9

[1] Excludes bonded fuel imports and direct imports by the Department of Defense and other independent marketers.

[2] Refiner group definitions based on crude self-sufficiency ratios and refining capacities at the end of 1973.

[3] Estimate. For the period beginning January 1975, refiners report their sales of jet fuel on a consolidated basis of naphtha-base plus kerosene-base jet fuel. Estimates of 1975 naphtha-base jet fuel sales on a comparable basis were obtained by applying the percent change in the Bureau of Mines naphtha-base jet fuel production (on a custody basis) aggregated for each refiner group between 1974 and 1975 to the refiner group's 1974 naphtha-base jet fuel sales reported to FEA.

Source: FEA; refiner market shares survey (FEA P-305-S-0)

Federal regulation and practices have had the effect of maintaining the traditionally strong position of the small refiner. As shown in Table III–7, 20 of the 52 refiners (38 percent) selling naphtha-base jet fuel in 1974 had a capacity of under 30,000 * barrels per day. The aggregate market share of these refiners was 15.6 percent.**

In summary, small refiners have strengthened their competitive position within the naphtha jet fuel market. Secondly, while spot supply shortages did occur in 1973, the Department of Defense was able to use the Defense Production Act to guarantee adequate supply for the national defense.

TABLE III-7.—U.S. SALES [1] OF NAPHTHA JET FUEL BY CAPACITY RANKED REFINER GROUPS, 1974

Refiner capacity range (thousands of barrels per day	Number of refiners selling naphtha base jet fuel [2]	Volume sold by group (thousands of barrels)	Volume sold as percent of total refiner sales
0 to 30	20	11,357	15.6
30 to 50	5	3,762	5.2
50 to 75	6	5,357	7.4
75 to 175	4	1,023	1.4
Over 175:			
Independent [3]	4	15,095	20.7
Major	13	36,263	49.7
Total	52	72,857	100.0

[1] Excludes bonded fuel imports and direct imports by the Department of Defense and other independent marketers.

[2] Represents the number of firms operating 1 or more refineries.

[3] Independent refiners are classified here as refiners which own or control less than 30 percent of the crude oil used in their refineries; major refiners are refiners which own or control more than 30 percent of their crude input.

Source: FEA; refiner market shares survey (FEA P305-S-0).

CHAPTER IV: IMPACT OF DECONTROL ON SUPPLY/DEMAND, PRICE, AND MARKET STRUCTURE

This chapter considers future demand, supply, price, and market structure conditions, and assesses the impact of exempting naphtha jet fuel from mandatory allocation and price regulations. The principal questions raised by the EPCA are:

Will exemption of naphtha jet fuel from regulation result in shortages of naphtha jet fuel or any other refined product?

Will exemption result in inequitable prices for any class of user of naphtha jet fuel?

Will competition and market forces be adequate to protect consumers following an exemption of naphtha jet fuel from regulation?

To answer these questions, the following analytical approach has been taken:

Demand forecast—A demand forecast for naphtha jet fuel and all refined products was developed for the period 1976–1978.

Supply forecast—The availability of refining capacity and crude supply on both a domestic and worldwide basis to meet forecast demand has been evaluated.

Pricing forecast—The price movement pressures arising from foreign market prices, alternate product prices, and the unique nature of the principal consumer have been assessed.

Market structure and competition—Trends that may affect future competition among suppliers have been examined.

Demand forecast

As described in Chapter III, and charted on Table IV–1, domestic demand for naphtha jet fuel has dropped from 346,000 b/d in 1968 to 210,000 b/d in 1975. (See Table IV–2 for FEA's projected domestic petroleum product demand.)

Historically, the principal end user of naphtha jet fuel has been the Department of Defense, accounting for approximately 98 percent of the total. As already mentioned, naphtha jet fuel demand is closely related to to the level of military activity. Demand has declined due to the overall reduction in the level of military activity.

Forecasts for purchases by the Department of Defense, based on projected military spending, assuming peace time conditions, are stable through 1978 around the 210,000 bbl./day level (See Table IV–1, Figure IV–1, and Appendix C).

TABLE IV-1.—DEMAND FOR JET FUEL

[In thousands of barrels per day]

	Naphtha type	Kerosene type
1968	346	609
1969	297	694
1970	249	718
1971	260	751
1972	242	803
1973	217	842
1974	222	771
1975	210	792
1976 [1]	210	840
1977 [1]	210	890
1978 [1]	210	930

[1] Based on FEA short-term model, June 25, 1976 base case forecast, as revised on July 7, 1976.

Source: 1968 to 1975 data from BOM.

TABLE IV-2.—PROJECTED DOMESTIC PETROLEUM PRODUCT DEMAND ASSUMING NO PRICE INCREASE DUE TO EXEMPTION [1]

[In thousands of barrels per day]

	1975	1976 [2]	1977 [2]	1978 [2]
Motor gasoline	6,674	7,000	7,200	7,400
Middle distillates [3]	2,849	3,100	3,300	3,500
Residual fuel [4]	2,433	2,500	2,700	2,700
Kero jet fuel	791	800	900	900
Naphtha jet fuel	210	200	200	200
Other products	3,334	3,500	3,800	3,900
Total domestic demand	16,291	[5] 17,200	18,100	18,600
Exports and crude oil losses	223	200	200	200
Total demand	16,514	17,400	18,300	18,800

[1] Assumes GNP growth rate will be 5.9 percent in 1977 and 1.2 percent in 1978.

[2] Entries rounded to nearest 100,000.

[3] Kerosene is included in other products.

[4] These residual fuel oil demand estimates are revised downward from those reported in the findings and views concerning the exemption of residual fuel oil from the mandatory petroleum allocation and price regulations, Mar. 29, 1976.

[5] Total does not add due to rounding.

Source: FEA demand model (June 25, 1976). Forecasts are designed from FEA's short-term model as revised on July 7, 1976.

Supply forecast

In order to assess the adequacy of petroleum product supplies relative to forecast demand, the key supply determinants of refinery capacity, refinery yields, and crude oil supply were analyzed. In order to emphasize the adequacy of U.S. potential product supplies, product imports were assumed to be held constant at the 1975 level of 1.9 million barrels per day. As a result, the overall supply forecast shown in Table IV–3 was developed.

As shown in Tables IV–3 and IV–4, additional domestic refinery capacity is projected to closely parallel the projected increase in total domestic petroleum product demand. Based on the assumption that product imports remain at about 1975 levels, projected utilization of this capacity will increase slightly over the 1975 level, but will remain below the longer-term norm of approximately 90 percent, prior to the imposition of controls as indicated in Table IV–4.

TABLE IV-3.—PROJECTED U.S. PETROLEUM SUPPLY ASSUMING CONSTANT IMPORTS

[Thousands of barrels per day]

	1976	1977	1978
Refinery capacity [1]	15,700	16,500	17,000
Percent utilization	87	88	88
Anticipated utilization	13,600	14,500	15,000
Product imports	1,900	1,900	1,900
Natural gas liquids	1,500	1,500	1,500
Other [2]	400	400	400
Total supply	17,400	18,300	18,000

[1] FEA estimates; does not include Puerto Rico and Virgin Islands, which contribute approximately 1,000,000 barrels per day additional capacity. Numbers are obtained by adding announced new capacity projects to existing capacity.

[2] Includes processing gain and other hydrocarbon inputs.

TABLE IV-4.—DOMESTIC REFINERY CAPACITY UTILIZATION

Year	Percent crude oil input to capacity	Year	Percent crude oil input capacity
1968	90.6	1974	83.1
1969	90.6	1975	85.7
1970	88.6	1976	[1,2] 87.0
1971	87.2	1977	[1] 88.0
1972	88.4	1978	[1] 88.0
1973	89.8		

[1] Projected. Assuming product imports remain at the 1975 level of 1,900,000 barrels per day.

[2] Actual figures to end of August 1976 indicate an average of 89.0 capacity utilization.

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*Until 1974, the Small Business Administration definition of a small refiner placed the capacity limit at 30,000 b/d, since (10/30/75) amended to 50,000 b/d.

** Of the 25 refiners selling naphtha jet fuel whose capacity was 50,000 barrels per day or less, it is indicated that average naphtha jet fuel sales in 1976 account for about 11% of total individual refiner sales.

This projected utilization may be conservative; any additional increase in utilization will offset some of the assumed refined product imports.

Refinery yields are an important factor in the supply forecast. Since the rate of demand growth varies by refined product, shifts in refinery yield will be necessary to respond to a changing demand mix. To identify any potential problems associated with refinery yield, historical yields are presented in the following table.

TABLE IV-5.—DOMESTIC REFINERY YIELDS [1]

[Annual percentage]

	1968	1969	1970	1971	1972	1973	1974	1975 [2]
Gasoline	43.9	44.8	45.3	46.2	46.4	45.8	46.2	46.7
Middle distillates	22.1	21.7	22.4	22.0	22.2	22.4	21.8	21.2
Residual fuel oil	7.2	6.8	6.4	6.6	6.7	7.7	8.7	9.9
Naphtha jet	3.0	2.5	1.9	1.9	1.7	1.3	1.5	1.4
Kerosene jet	5.3	5.7	5.6	5.4	5.4	5.5	5.3	5.5
Other	18.5	18.5	18.4	17.9	17.6	17.3	16.5	15.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Other unfinished oils added to crude oil in computing yields.
[2] Preliminary Data.

Source: U.S. Bureau of Mines.

These data indicate that although definite yield patterns exist, the industry is capable of shifting yields significantly in response to changing market conditions. Assuming 88 percent utilization, the 1975 naphtha jet yield percentage was applied to forecast 1978 domestic production as follows:

TABLE IV-6.—PROJECTED NAPHTHA JET PRODUCTION, 1978

[In thousands of barrels per day]

Projected U.S. refinery capacity, 1978	17,100
Projected utilization (percent)	88
Estimated domestic refinery production, 1978	15,000
Naphtha jet fuel yield, 1975 (percent)	1.4
Estimated domestic naphtha jet fuel production	210

This analysis indicates that continued operation of domestic capacity at the conservatively forecast rate of 88 percent would satisfy the projected demand of 210 MB/D in 1978. This would likely maintain imports of naphtha jet fuel at the reduced level of 1975.

On a product-by-product basis, some slight shifts in yield are likely, depending on specific demand developments conditioned by weather characteristics and other factors. These shifts in production have been demonstrated historically, and are clearly within the range of industry capability. For example, naphtha jet fuel yields between 1968 and 1975 have shifted almost 50 percent in response to demand factors. In fact, new technology in refining allows more flexibility in the yield mixes of new refineries than was possible in the past. No refinery yield problems are foreseen for the forecast period, and yield flexibility is sufficient to even accommodate a complete shutdown of naphtha jet imports in the event of a national emergency.

Availability of crude oil

Supply projections indicate that increasing amounts of imported crude oil will be refined domestically. Crude oil imports were projected at the following levels:

1975, 4,105, thousands of barrels per day.
1976, 5,500,* thousands of barrels per day.
1977, 6,600,* thousands of barrels per day.
1978, 6,000,* thousands of barrels per day.

The decline in 1978 is due to anticipated additional domestic crude oil production from Alaskan sources which is expected to total 1.2 million barrels per day by 1978.

The FEA has tentatively determined that sufficient shut-in production is available in foreign countries to meet the increased demand for crude imports. While 13 OPEC countries, Canada, and Mexico together had a total production capacity of almost 42 million barrels per day, their production for the first six months of 1976 averaged only 30.5 million barrels per day. These countries are thus capable of producing an additional 11.5 million barrels per day provided that demand incentives for expanding production exist.

Thus, without controls, the crude oil supply is expected to be adequate to meet demand for all refined products including naphtha jet fuel through 1978.

Price forecast

Rising crude oil prices and increased refiner cost pass-throughs will tend to increase naphtha jet prices with or without controls. Domestic crude costs will rise as permitted under the provisions of the EPCA. While it is difficult to project the rate of increase in foreign crude costs, it is expected that these costs will not decline and may rise in the near future. The cost to the U.S. of imported crude oil is assumed to rise at the rate of inflation for U.S. goods and services. As the volume and percentage of imported crude oil increases through 1977, the average costs of crude oil to U.S. refiners will rise at a higher rate than the rate of inflation.

Projected crude oil cost increases for refiners and accompanying nonproduct crude costs are shown in Table IV–7. Assuming that the rising crude costs are allocated to all refined products on a percentage of sales basis, controlled naphtha jet fuel price increases will closely follow those crude cost increases. Thus, additional crude and nonproduct costs will cause the price or naphtha jet fuel to increase by about 8½ cents per gallon by the end of 1978 regardless of whether controls are maintained. Accordingly, the discussion in this chapter focuses on the effects resulting solely from exemption of naphtha jet fuel.

Seven factors must be evaluated as having an effect on price movement in the event of naphtha jet fuel price decontrol:

1. Banked Costs
2. Supply/Demand
3. Nature of the Market
4. Recourse in the Event of Marketplace Disruptions
5. Alternate Product Value
6. World Price
7. Petroleum Industry Profitability

In this section, the implications for prices due to these factors are assessed, with a focus on how controls exert influence on these factors.

TABLE IV-7.—PROJECTED COMPOSITE CRUDE COST AND NONPRODUCT COST INCREASES WITH CONTROLS

Year and quarter	Cumulative crude oil increases from 2d quarter cost [1] (cents per gallon)	Cumulative increase in nonproduct costs [2] (cents per gallon)	Total cumulative increase (cents per gallon)
1976:			
3d quarter	0.8	0.2	1.0
4th quarter	1.3	.4	1.7
1977:			
1st quarter	2.3	.6	2.9
2d quarter	2.8	.8	3.6
3d quarter	3.5	1.0	4.5
4th quarter	4.0	1.2	5.2
1978:			
1st quarter	4.9	1.4	6.3
2d quarter	5.4	1.6	7.0
3d quarter	6.1	1.8	7.9
4th quarter	6.5	2.0	8.5

[1] Based on FEA short-term petroleum model, July 7, 1976 variation of June 25, 1976 model.
[2] Annual 0.8 cents per gallon nonproduct cost increase estimated on the basis of 1975 and 1976 nonproduct costs reported to FEA by refiners.

1. Banked costs

Under current FEA regulations a refiner is permitted to pass through increases in product costs and nonproduct costs subject to certain constraints. These increased product and nonproduct costs not recouped during the month after they are incurred can be carried forward, (i.e., banked) for future use with certain limitations.

Jet fuels have had their own bank only since February 1, 1976. For the purpose of cost pass through, naphtha jet fuel and kerosene jet fuel are treated as one product, i.e., no reporting differentiation is made between them. Even though historic pricing data, marketing mechanisms, and refining processes all show that the difference in costs between the two products is slight, the computation of one bank for both products tends further to distort any conclusions which might be drawn from the existence of banked costs.

FEA pricing regulations contain a provision which has tended to distort the significance of banked costs of aviation fuels as an indicator of market forces. The "equal application" rule of 10 CFR 212.83(h) (1) provides that a firm calculating its banked or unrecovered costs for a product for a given month must compute unrecouped costs as though the greatest amount of costs actually included in prices charged to one class of purchaser had been added to prices of the product sold to each class of purchaser. Thus banks may be diminished or grow by less than they would have otherwise because refiners are including smaller amounts of increased costs in prices charged to some classes of purchase than to others. An exception to the equal application rule is contained in rule 10 CFR 212.83(h) (3) (i) for firms selling under fixed price provisions of contracts entered into on or before September 1, 1974. As a result of this exception, long term fixed price contracts could contribute to the buildup of the aviation fuel bank.

Table IV–8 examines the relationship between the aviation jet fuels bank (includes kerosene jet and naphtha jet fuel) naptha jet fuel sales volumes, and the total bank for 20 refiners who sell naptha jet fuel. In March

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*Figures deffer from Preliminary Findings because of revised FEA import projections.

1976, the aviation bank was about $75 million for these 20 refiners, a reduction of $6 million from the initial $81 million bank, but a smaller reduction than the maximum permissible under the regulations.

Different interpretations can be placed on the existence of banked costs for aviation jet fuels. The lack of historic aviation jet fuel bank data and the combination of kerosene jet and naphtha jet fuel in one bank make the existence of banked costs, in this situation, particularly inconclusive. However, the banks of unrecovered costs that could be passed through under current regulations may be taken as some evidence that competitive forces are precluding their pass through and should continue to do so subsequent to exemption from controls.

TABLE IV-8.—AVIATION FUELS BANK FOR 20 OF THE TOP 30 REFINERS

[Dollars in millions]

	1976—		
	January	February	March
Total bank	$1,224	[1] $1,099	[1] $1,152
Aviation fuels bank [2]	[3] 81	[1] 75	[1] 75
Percentage of total	6.6	6.8	6.5
Total naphtha jet sales (thousands of gallons)			220,447
Bank application allowable (10 percent permitted per month)			[4] $.028

[1] Preliminary figure.

[2] Does not include bank for 10 refiners who do not produce naphtha jet fuel.

[3] Created by FEA regulations attributing part of the general refinery products bank to aviation jet fuel as of Jan. 31, 1976.

[4] Per gallon per month.

Source: FEA.

2. *Supply/Demand*

Previous discussion on supply/demand indicates that adequate product supplies can be made available and that no shortages exist or are expected under conservative demand projections. As previously discussed, sufficient refinery capacity exists to meet demand. Therefore, no pressures for increased prices can be ascribed to potential shortages or capacity constraints.

3. *Nature of the market*

The most salient feature of the naphtha jet market is that it is characterized by the existence of one buyer and multiple sellers. Although there are some civilian uses of naphtha jet fuel, DOD is the only buyer as far as most sellers are concerned. Demand for naphtha jet fuel is predictable. Nearly all of it is delivered under contract to DOD. As such, it does not require large surplus storage facilities for stockpiling to meet periods of peak usage. Therefore, only enough product is manufactured to meet demand, and to maintain stocks equal to approximately one month's consumption. It is a simple market in that most contracts are for bulk delivery with very few delivery costs or complexities. Naphtha jet fuel is very simple to make, and much of it is produced by small refiners who lack the high cost, sophisticated equipment needed to make products other than naphtha jet fuel and residual fuel oil and/or asphalt. For these refiners, naphtha jet fuel appears to remain sufficiently profitable, to assist them financially during the present period when the market for asphalt is depressed.

Most of the small refiners who sell naphtha jet fuel either cannot make gasoline, or are severely limited to downstream unit capacity in the amount of gasoline they can make. These refiners must either sell naphtha jet at the price DOD will pay or find some other market for the 70% of virgin naphtha and 30% of straight run kerosene that they would otherwise use to make naphtha jet.

The only other markets for naphtha are other refiners (for use primarily in their gasoline production), SNG plants, or petrochemical plants. Although limited amounts of kerosene might be blended with diesel fuel, these other markets require more sophisticated distribution facilities, which tend to limit alternative marketing by small refiners. This is particularly true with respect to the commercial airline market where the purchaser contracts for large volumes of fuel to be delivered to a large number of different airports, which is beyond the capability of most small business refiners.

In summary, the naphtha jet market has monopsonistic characteristics. Cursory examination of DOD invitational notices, discussions with several refiners, and the comments received at the September 3, 1976, hearing indicates that DOD applies its monopsonistic powers prudently, allowing carefully controlled profits in order to discourage market withdrawals by sellers. Under these market conditions, prices should not rise to a level greater than that allowed for by increased costs plus whatever additional profit is needed to discourage market withdrawal.

4. *Recourse in the event of marketplace disruptions*

The DOD, as a consumer, is an immensely powerful negotiator. In addition to its massive leverage in a monopsonistic market, DOD has further recourse. The DOD may appeal to the Renegotiation Board, which has the authority to prohibit contractors from making excessive profits. Furthermore, the President is empowered under the Defense Production Act to ensure that essential defense production requirements are being met.

5. *Alternate product value*

Alternate product value has been set forth as the principal factor affecting naphtha jet prices following deregulation. The argument is that, in the absence of controls, a refiner would produce the most profitable product, so prices of less profitable products would tend to rise to the point where they were equally profitable.

However, in making this argument, we must consider (1) the profitability of producing naphtha jet fuel as compared to the profitability of diverting naphtha to alternate uses, such as to gasoline production, direct sales to other refiners, or direct sales to consumers for other uses such as SNG feedstock or petrochemical feedstock; and (2) whether or not the refiner has the equipment, distribution mechanisms, or market to exploit alternative uses. Many small business refiners (who produce approximately 38% of naphtha jet fuel) do not have this capacity.

Since naphtha jet fuel is a "wide cut" fuel, there are many other products that are either totally or partially produced from the same portion of the crude oil barrel. All of these are, to a degree, alternates to naphtha jet fuel production.

Gasoline as a product is more costly to refine than naphtha jet fuel. Additional refining processes must be used to increase the volume of naphtha stocks refined into gasoline. This is accomplished by breaking down or "cracking" some of the larger molecules in the heavier gas oils and residue stocks, as well as by combining the smaller molecules of some of the lighter oils through alkylation. Extremely costly catalytic cracking, hydrocracking processes, and catalytic reforming to increase octane quality are employed to produce gasoline. A value for naphtha jet fuel can be computed based on the prices for its alternate use products, gasoline and kerosene, taking into account the additional costs of refining naphtha into gasoline. The FEA has not specifically analyzed the additional cost for refining regular gasoline versus using naphtha to make naphtha jet fuel; but based on refining cost comparisons for kerosene jet fuel and regular gasoline, this cost is believed to range between 1½ to 3 cents per gallon (see Table IV-9). Form the figures in this Table an additional cost of 2.9 cents per gallon is shown for refining regular motor gasoline as opposed to kero jet fuel.

Reference to historical prices shown in Table IV-10 indicates that naphtha jet prices have tended to correspond closely to gasoline and kerosene prices, taking into account these differences in refining costs (kerosene is represented by kerosene jet fuel prices). In 1968, the difference in price between gasoline and naphtha jet fuel was slightly more than one cent per gallon, while in 1970–1974, the difference averaged slightly more than 2 cents per gallon, very close to FEA's cost comparison data.

TABLE IV-9.—REFINING COST DIFFERENTIALS [1]

	Dollars per barrel	Cents per gallon
Premium gasoline	2.28	5.4
Regular gasoline	1.82	4.3
Kero/jet fuel	.59	1.4
No. 2 diesel/No. 2 distillate	.59	1.4
No. 6 residual fuel oil	0	0

[1] Based on Mar. 10, 1976, FEA study using residual fuel oil manufacturing costs as a base.

TABLE IV-10.—HISTORIC DOMESTIC PRICE COMPARISON

[In cents per gallon]

	Wholesale regular motor gasoline IPAA	(JP-4) naptha jet fuel DFSC	Kerosene jet fuel ATA/CAB [1]
1968	11.6	10.5	10.1
1969	11.8	10.8	10.7
1970	12.3	10.6	11.1
1971	12.7	10.5	11.6
1972	12.7	10.8	11.6
1973	14.7	11.1	12.6
1974	25.5	[2] 27.2	21.9
1975	30.3	[2] 29.5	27.6

[1] Air Transport Association Prices for 1968–75 based on Civil Aeronautics Board's "Total Domestic" data, March 1976 price based on CAB total domestic price release.

[2] Simple average of prices during 6-mo contract period: 1974, January through June, 22.42; 1974, July through December, 31.88; 1975, 29.58; 1975, 29.49.

Assuming two cents to be a reasonable estimate of additional refining costs, rough estimates of the alternate use values for naphtha jet fuel components have been computed based on the prices of regular gasoline and kerosene (see Table IV-11). These values are based on data provided to the FEA for the period July 1975 to April 1976. They are not yet available for May and June. Estimates of regular gasoline wholesale prices for May and June have been made using dealer tankwagon prices reported to the FEA by Lundberg Survey, Inc. Kerosene prices are assumed to be constant for these months. With the recent rise in gasoline prices, the alternate use value has increased from a level in April 1976 of 30.9 cents per gallon to about 33.0 cents per gallon. In April, naphtha jet fuel prices were close to their alternate use value. However, based on June prices, naphtha jet fuel prices would have to rise by as much as two cents per gallon to be competitively priced with gasoline and kerosene. However, DOD has entered into 9 to 15 month contracts for the purchase of naphtha jet fuel and any such price increase would therefore be delayed until the end of the contract periods, subject to any special renegotiation provisions which DOD may have included in their contracts. In addition, this particular computation may overstate the alternate use value since it is based on gasoline prices during the peak gasoline season.

On the other hand, gasoline is not directly an "alternate product" for naphtha jet fuel in that additional costly and sophisticated processes, not available to many smaller refiners, for a refiner whose gasoline production capacity is limited, is to sell the virgin naphtha for petrochemical feedstock, SNG feedstock use, or to sell or exchange it with another refiner for use in making gasoline. As national and international economic recovery continues, aromatic and other petrochemical uses of naphtha are expected to increase. Normally these uses consume about 5% of naphtha supply which is about equal to the amount consumed in producing naphtha jet fuel (Source: Chem Systems, Inc.).

TABLE IV-11.—VALUE OF NAPHTHA JET FUEL BASED ON ALTERNATIVE VALUES OF ITS COMPONENTS

	Regular gasoline wholesale	Kerosene wholesale	Alternate[1] use value	Naphtha jet fuel
1975				
July	34.5	30.0	31.8	31.3
August	35.2	30.6	32.4	30.7
September	35.4	30.9	32.7	30.2
October	34.9	31.9	32.6	30.1
November	34.2	32.3	32.2	30.4
December	33.8	33.0	32.2	30.6
1976				
January	33.5	32.8	31.9	31.0
February	32.8	32.9	31.4	30.9
March	32.4	31.8	30.8	30.9
April	32.8	31.2	30.9	30.5
May	[2] 34.2	[2] 31.2	31.6	[3] 30.5
June	[2] 35.8	[2] 31.2	33.0	[3] 30.8

[1] Computed as follows: 0.7 (prices gasoline minus 2 cents for extra gasoline refining costs) plus 0.3 (price kerosene).

[2] Estimated on basis of dealer tankwagon prices reported by Lundberg Survey, Inc.

[3] Preliminary prices provided by DFSC, DOD. These prices could be adjusted to reflect retroactive price adjustments.

Naphtha and gas oil prices are now in stable relationship to naphtha jet fuel prices. As demand for naphtha increases, naphtha prices could be expected to rise and thereby exert an upward pressure on naphtha jet fuel prices that will be counter-balanced by the cost necessary to reorient production and marketing from naphtha jet fuel.

The kerosene content of naphtha jet fuel is another matter. Within limitations, it could be poured into tanks storing distillates. It would directly increase the gallonage in those tanks and would require no change in refinery procedure or equipment. During the heating season, a January 1976, spot cargo price of #2 heating oil was 32 cents per gallon, which would be an indicator that naphtha jet fuel is priced in approximately proper relationship to #2 heating oil, particularly in view of distribution and marketing cost differences.

Production of kerosene jet fuel is another alternative use for the kerosene otherwise used in naphtha jet production. Since the prices of both straight kerosene and kerosene jet fuel are very close to naphtha jet fuel (see Tables IV-10 and IV-11), no pressures for price increases are anticipated from this alternate use.

6. World price

Essentially, naphtha jet fuel is a domestically produced product. Some studies of petroleum product decontrol argue that prices of uncontrolled domestic products could rise to the level of the "world price." The "world price" is the price of foreign product refined from foreign crude oil. The argument is that this product is under no price controls and therefore reflects the level that would be reached in the absence of controls.

The first column of Table IV-12 shows the total volume of naphtha jet fuel imports. However, these figures include receipts from the Virgin Islands. Naphtha jet fuel produced in U.S. territories has been controlled by domestic pricing regulations, and must be deleted from total imports in order to arrive at the total volume of imports that were purchased at world prices. Table IV-12 compares imports at world prices to total U.S. production. In 1974, world priced import represented only 8.2 percent of total production. This percentage decreased to only 3 percent in 1975.

TABLE IV-12.—IMPORTS OF NAPHTHA JET FUEL AT WORLD PRICES

[Thousands of barrels per day]

	Total imports	Imports at world prices[1]	Total U.S. production	World priced imports as percent of total production
1968	19	NA	333	NA
1969	14	NA	287	NA
1970	19	NA	230	NA
1971	30	NA	233	NA
1972	33	22.7	210	10.8
1973	36	28.2	181	15.6
1974	27	15.9	195	8.2
1975	28	5.4	180	3.0

[1] Excludes imports from Virgin Islands.

NA—Not available.

Source: BOM.

While it is difficult to determine any one specific world price, the current difference between domestic and foreign naphtha jet fuel is approximately 6–7 cents per gallon. While there is a substantial price difference between domestically produced and world priced naphtha jet fuel, the small percentage of total U.S. demand represented by the world price of imports has a neglible effect on the domestic prices of naphtha jet fuel.

7. Petroleum industry profitability

The profits of multi-national oil companies declined 23 percent in 1975 from the record year of 1974. Most of the large gains of 1973 and 1974 were in the companies' foreign operations and large parts of those gains were composed of inventory profits. In the U.S., profits increased gradually but steadily. Over the last 8 years, domestic profits grew by 7% per year (compounded annually), with little deviation from a steady trend. On a world wide basis, the return on equity for these companies in 1975 was above their historical average, based on preliminary data (see Table IV-13). The 8-year average, which includes the 2 years of price controls, is slightly above the all-industry average (12.1%).

In the last three years, domestic return on equity has increased since its low of 9.3% in 1971. In spite of higher crude oil prices, returns on domestic petroleum have increased to a level almost comparable to the average for all industries.

Equity (stockholders' investment) has also been growing at a rate slightly less than 7 percent. Recent capital expenditure forecasts indicate that the companies will invest the amounts required to maintain this trend. Thus, if the trends of earning and equity growth reassert themselves, we could look forward to a period of average return on equity in the near future.

TABLE IV-13.—RATES OF RETURN ON EQUITY

[In percent]

Year	Domestic petroleum	Foreign petroleum	World-wide petroleum	All industries
1968	11.9	10.0	11.1	12.4
1969	10.6	10.9	10.7	11.8
1970	10.0	10.7	10.3	10.1
1971	9.3	11.9	10.5	10.9
1972	9.6	9.6	9.6	11.8
1973	10.3	19.6	14.8	14.2
1974	13.6	22.2	17.7	14.0
1975	[1] 12.2	15.2	13.8	11.8
8-yr average	10.9	13.7	12.3	12.1

[1] Estimate.

Source: Calculated from Chase Manhattan Bank data.

With the exception of certain small refiners whose profits were once constrained by FEA price regulations, the growth of investment and the profit levels appears to be generating a satisfactory return. Thus, profit levels are not imposing any pressure for price increases. As to the small refiners whose profits may have been abnormally constrained, recent FEA rule changes should permit a return to normal profit levels even if controls were continued.

Market structure forecast

As indicated in Chapter III, small refiners having refining capacities of less than 175,000 barrels per day increased their share of the naphtha jet fuel market from 28.1% in 1972 to an estimated 37.9% in 1975. In the event of decontrol, small refiners are expected to hold this gain due to their proximity to U.S. military installation and because their costs are lower. Since the naphtha jet fuel market is a monopsony, its structure would not be changed by decontrol. Also, reinstitution of the small business set-aside after the exemption would give small business refiners a further market advantage.

However, one possible change in the market structure might be either an increase in the demand for naphtha jet fuel by commercial airlines, or an increase in demand for kerosene jet fuel by the Department of Defense. Kerosene jet fuel is an "alternate value" product for naphtha jet fuel because commercial jet aircraft can use either interchangeably, particularly if certain additives are included. However, no airline switch to naptha jet is anticipated. Due to its volatility, naphtha jet fuel is alleged to be more hazardous (potentially explosive) than kerosene jet, and is considered so by the public. Although these allegations have not been proved, and despite the absence of any regulation on the subject by the Federal Aviation Administration, the public opposition to airline use of naphtha jet fuel is expected to prevail. Significant diversions to kero jet fuel by DOD are not expected at this time. Most tactical and strategic military aircraft currently operating are unable to use kerosene based jet fuel due to the danger of engine flame-out.

The future structure of the market may be dramatically altered as a result of DOD's switching its predominant jet fuel from JP-4 to kerosene-based JP-8. The NATO countries are urging the U.S.A. to make this change and FEA's Office of Oil and Gas is conducting an impact study for the DOD. Under DOD Directive 4,140.43, future military aircraft will have the capability to use JP-8. Present aircraft would require retrofit. Assuming DOD decides to make this change, there should be little or no impact by 1978.

SUMMARY AND CONCLUSIONS

In this section the analyses of demand, supply, pricing factors, and market structure are consolidated along with FEA's findings to answer the three questions presented at the beginning of this chapter.

Will exemption of naphtha jet fuel from regulation have an adverse impact on the supply of naphtha jet fuel or any other refined product?

FEA finds that the supply of naphtha jet fuel over the 1976–1978 period will be adequate and that exemption will not result in shortages of naphtha jet fuel or other products. Domestic and foreign refining capacity is projected to be adequate to meet any increases in demand. An analysis of the yields of other products, when refineries run at rates sufficient to meet naphtha jet fuel demand, indicates no supply problems with other refined products. Furthermore, FEA finds that each sector of the industry—refiners and distributors—will continue to have access to adequate supplies at equitable prices because of market forces created by supply/demand balances, competition, and in the case of refiners, because of the FEA Crude Oil Entitlements and Buy/Sell Programs.

Will exemption result in inequitable prices for any class of user of naphtha jet fuel or any other refined product?

Will competition and market forces be adequate to protect consumers following an exemption of naphtha jet fuel from regulations?

The changing cost of crude oil is one of the primary causes of price changes in naphtha jet fuel. Crude oil costs are expected to increase by as much as $2.74 per barrel by 1978 (Table IV–7) under crude oil price control provisions. This crude oil cost increase to domestic refiners will create direct pressure for price increases among all products including aviation jet fuels which amount to as much as 6.5 cents/gallon,* even if price controls on naphtha-jet fuel continued, because current regulations permit refiners to recover increased crude oil costs. Additional increases of up to 2 cents per gallon for increased nonproduct operating costs would also occur, even under controls.

The factors discussed below, demonstrate the comparatively small amount of projected naphtha jet fuel price increases which would result if these products are exempted from controls. FEA's views as to the effect of each of these factors on prices can be summarized as follows:

Banked Costs. The banks of naphtha-jet fuel are too newly established to give a conclusive indication.

Supply/Demand. Supply of crude oil is adequate. Naphtha jet refining capacity is adequate to meet present demand. Demand is not expected to increase. FEA sees no element in the supply/demand balance that would place an upward pressure on naphtha jet fuel prices.

Nature of the Market and DOD Recourse. There is essentially one consumer, DOD, which is an immensely powerful negotiator. DOD also has access to the Defense Production Act to ensure supply and the Renegotiation Board to ensure that refiners' profits will not be excessive. Nearly 38% of supply comes from small suppliers, many of whom have no viable alternative in the disposition of the light end of their barrel of crude oil other than selling naphtha jet fuel to the DOD.

DOD could use its powers to preclude any price increase of more than 2 cents per gallon above the cost related price increases that would be passed through even under price controls.

Alternate product value

For the small business refiners, who produce 38% of the naphtha jet supply, there is no viable alternate product. The pricing of other alternate products, including naphtha, kerosene, and kerosene jet fuel, does not appear to impose any upward pressure on naphtha jet prices. One possible exception is motor gasoline. Pressures caused by the use of naphtha for gasoline production could cause naphtha jet prices to rise. FEA has identified 2 cents per gallon as the probable outer limit of any increase.

World price

World price varies over a wide range. Since domestic crude oil costs will remain under control, and since world price imports currently constitute less than 3% of naphtha jet supply, world prices are expected to have negligible or no effect on naphtha jet fuel prices in the event of decontrol.

Petroleum industry profitability

Refiners, particularly the large integrated refiners, are showing reasonable profitability at current prices. Profit needs of some small refiners could exert pressure on prices but not any greater than if controls were retained.

Summary

The price of alternate use products, particularly motor gasoline, could result in small increases in naphtha jet fuel prices with 2 cents per gallon as the maximum probable limit as a result of exemption. Considering all factors, however, FEA believes that if any price increase were to result solely from decontrol, it is unlikely to reach this limit.

CHAPTER V: IMPACT OF EXEMPTION OF NAPHTHA JET FUEL ON THE ECONOMY

The EPAA, as amended by the EPCA, requires that FEA state its views as to the potential impacts (if any) of exempting naphtha jet fuel from control. Where practicable, these views should relate to:

State and regional impacts, including effects on governmental units.

Economic effects on the availability of consumer goods and services and the Gross National Product (GNP).

Effects on employment and consumer prices; rate of unemployment, the Consumer Price Index, and the implicit price deflator for the Gross National Product.

As the foregoing discussion shows, the price of naphtha jet fuel could at the outer limit rise by as much as 2 cents per gallon as the result of decontrol although in view of all the circumstances, FEA does not expect this to happen. The consumption of naphtha jet fuel was also estimated to be approximately 9.2 million gallons per day in 1976, a figure which is expected to remain relatively constant through 1978. Over 98% of this volume is consumed by the military for operating jet aircraft. If a 2 cent per gallon increase in the price of naphtha jet fuel did occur, it would thus increase naphtha jet fuel costs to the military by about $64 million per year. This amounts to less than .07 percent of estimated national defense outlays in 1976.

The above increase in military fuel costs will produce an insignificant impact on the economy via the Federal budget even if Federal taxes were to rise to cover the resulting increase in Federal outlays (which amounts to less than .02 percent). The decrease in personal income because of higher taxes (a miniscule decrease in percentage terms) would most likely be less than the increase in personal incomes on account of the higher incomes received by DOD suppliers of naphtha jet, given the differential tax rates on personal income and business profits. The multiplier effects of these two opposite and unequal changes would just as likely be inflationary as deflationary, and are hardly measurable.

If, on the other hand, the increased Federal outlays were not financed by higher taxes, the impact might conceivably be inflationary, but likewise, insignificantly so.

The use of a macro-model of the U.S. economy to gauge the impact of the larger government sector resulting from the higher costs of naphtha jet fuel used by the military would not be productive inasmuch as the resulting exogenous effect on the system is too small to produce measurable impacts on employment, the Consumer Price Index and the GNP Deflator.

In summary, the effects on the economy of a 2 cent increase in the price of naphtha jet would be insignificant by any standard measure of macro-impact, including those variables enumerated in Section 12 of the EPAA.

CHAPTER VI: FINDINGS AND CONCLUSIONS

INTRODUCTION

This chapter states FEA's findings and views concerning the possible exemption of naphtha jet fuel from the Mandatory Allocation and Price Regulations. Section 12 of the Emergency Petroleum Allocation Act of 1973 (EPAA), which was added by the Energy Policy and Conservation Act (EPCA), requires that FEA make certain findings and express its views on a variety of matters in proposing to Congress that a product be exempted from regulation. As indicated in Chapter I, since FEA is submitting to Congress concurrent Energy Actions exempting naphtha jet fuel from both pricing and allocation regulations, the findings and views contained herein address both of the exemptions.

FEA's findings and views expressed in this chapter are drawn from the combined analyses presented in Chapters III, IV, and V. These findings and views are grouped under five general headings: (1) findings related to supply and demand, required for exemption of naphtha jet fuel from allocation regulations; (2) findings related to price, required for exemption of naphtha jet fuel from price regulations; (3) FEA's finding that exempting naphtha jet fuel from regulation will be consistent with the objectives of the EPAA; (4) FEA's views on a variety of potential impacts that must accompany any proposed exemption submitted to Congress, including state and regional impacts; and (5) FEA's views related to the effects of exempting naphtha jet fuel from price regulation upon employment, the Consumer Price Index, the availability of consumer goods and services, and the Gross National Product.

(*1*) *Findings related to supply and demand*

To exempt any oil or refined product from the allocation regulations, the Federal Energy Administration (FEA) must find ". . . that such oil or refined product category is no longer in short supply . . ." (Section 12(d)(1)(A) of the EPAA). Chapters III and IV present FEA's examination of the supply/demand situation of naphtha jet fuel. In this review, FEA finds that naphtha jet fuel is no longer in short supply and that anticipated supplies of naphtha jet fuel will be sufficient to meet the demand over the near term. Similarly, stocks of naphtha jet fuel appear to be sufficient to meet demand surges.

The total supply of naphtha jet fuel will be adequate over the 1976–1978 period, and exemption should not result in shortages of naphtha jet fuel and/or other products. With projected expansions, domestic refinery capacity is projected to be more than adequate to meet demand. Sufficient supplies of foreign crude oil should be available, and the entitlements program will ensure the availability of equitably priced crude to all domestic refiners. An analysis of the refinery yields required to meet naphtha jet fuel demand demonstrates that domestic refineries have the flexibility to satisfy the demand for all refined products.

Any exemption must also be accompanied by a finding ". . . that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to the Act . . ." (Section 12(d)(1)(A) of the EPAA). With domestic refining capacity utilization at an estimated 85.7 percent in 1975 (compared with the pre-embargo average of nearly 90 percent), ample capacity exists to meet the demand for all refined products, including naphtha jet fuel. Consequently, FEA finds that exempting naphtha jet fuel will not have any adverse impact on the supply of other products.

The analysis of historical supply and demand in Chapter III and the supply and demand forecast through 1978 in Chapter IV, fully support FEA's findings that naphtha jet fuel is now, and will continue to be, in adequate supply to meet current and projected demand.

(2) *Findings related to price*

To exempt a product from price regulations, the FEA must find ". . . that competition and market forces are adequate to protect consumers . . ." (Section 12 (d)(1)(B) of the EPAA). Naphtha jet fuel prices will increase as crude costs and other costs increase. FEA's analysis indicates that the removal of controls (under which cost increases may presently be passed through to consumers) will have no or only a slight incremental effect (i.e. 2 cents per gallon or less) on price movements. Supply and demand are in balance and are expected to remain in balance. The industry is expected to achieve adequate levels of profitability and competition is expected to remain at its current levels. It is FEA's finding, therefore, that competition and market forces are adequate to protect consumers if naphtha jet fuel is exempted from regulation.

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* Based on 42 bal/bbl, $2.74 divided by 42 equals 6.5 cents per gallon. This assumes a full and proportional dollar pass-through of the crude oil price increases.

The FEA must also accompany any exemption from price regulations by a finding ". . . that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product . . ." (Section 12(d)(1)(B) of the EPAA).

DOD is the major consumer of naphtha jet fuel. Since, at the outer limit, only minimal price increases are projected as being possible to occur as a result of exemption, and since the market structure analysis in Chapter IV indicates little change in the market structure from historical patterns as a result of exemption, considering all factors, FEA finds that exemption will not result in inequitable prices for DOD or for any other class of end-user. The market for this product has traditionally been competitive. With supply presently adequate, and the petroleum industry operating at an adequate level of profitability, FEA believes that no price increase or, at most, a price increase not in excess of 2 cents per gallon for naphtha jet fuel is likely to occur, solely as a result of exemption. Projected excess refinery capacity should guarantee continued supply and the large number of independent and small refiners new competing successfully in the naphtha jet fuel market indicates that sufficient competition exists to protect consumers.

(3) *Consistency with the objectives of the EPAA*

The FEA, in presenting any exemption for Congressional review, is required to support such a proposal with a finding that it is "consistent with the attainment of the objectives specified in subsection 4(b)(1) of the EPAA."

The FEA finds that the exemption of naphtha jet fuel from the price and allocation regulations is consistent with the attainment of the objectives set forth in Section 4(b)(1) of the EPAA. Since an adequate supply is anticipated, the continued allocation and pricing of naphtha jet fuel are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)]. Adequate supply and the positive effects of competition should insure that the exemption is consistent with the preservation of an economically sound and compettive petroleum industry [Section 4(b)(1)(D)]; the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)]. The exemption should have no adverse effect on the refineries [Section 4(b)(1)(E)].

(4) *FEA's views related to potential economic impacts*

Any exemption from either price or allocation regulations must be accompanied by ". . . a statement of the President's view as to the potential impacts (if any) of such (exemption) amendment . . ." (Section 12(d)(2)(A) of the EPAA). This section of the EPAA further specifies a number of particular views which should be included, if practicable. In this section of the report, the FEA presents its views on such potential impacts, presented in the order in which they are cited in the Act.

Views on the state and regional impacts (including impacts on governmental units). Because only minor or no supply, demand, or price (from zero to 2 cents per gallon) impacts are anticipated as a result of the exemption, no significant state or regional impacts are anticipated. In particular, no undue adverse impact is expected on any governmental units.

Views on the effects on the availability of consumer goods and services. Assessing the potential impacts on the availability of consumer goods and services as a result of exempting naphtha jet fuel from regulation involves consideration of the major use of this product. Military aviation is dependent on this product and consumes over 98 percent of all naphtha jet fuel. Since supplies of naphtha jet fuel have been determined in Chapters III and IV to be adequate to meet both present demand and demand over the 1976–1978 period, it is FEA's view that exemption will have no adverse impact on the availability of consumer goods and services.

Views on the effects on the Gross National Product. Assuming an increase of 2 cents per gallon for naphtha jet fuel, which is FEA's judgment of the outer limit of any possible price increase resulting solely from decontrol, the effect on the Gross National Product (GNP), as determined in Chapter V, will be quite small and FEA was unable to discern any measurable impact.

Views on the effects on competition. In Chapters III and IV the market structure for naphtha jet fuel was examined and FEA concludes that exemption of naphtha jet fuel from regulation will not adversely affect the competitive viability of independent refiners and marketers. Further, a return to the military's competitive bidding system will probably enhance competition.

Views on the effects on small business. Marketing of naphtha jet fuel is not expected to change from present patterns, as determined in Chapter IV, nor is there any projected change in supply, demand, or price as a result of exemption. The exemption, therefore, will not adversely affect small business. Large independent and small refiners increased their market share of naphtha jet fuel sales from 43 percent in 1972 to approximately 53 percent in 1975. These trends indicate the continued viability of the independent marketer.

Views on the effect on the supply and availability of energy resources for use as fuel or as feedstock for industry. Chapters III and IV examined the supply availability of naphtha jet fuel and demonstrated that supplies are adequate to meet present and anticipated demand for the period 1976–1978. This supply situation is not likely to change as a result of exemption, and, therefore, the fuel and feedstock needs of industry will continue to be met following exemption.

Views on the effects on employment and consumer prices. The projected effects of exemption were shown in Chapters IV and V to be relatively minor. FEA's view is that these effects will have little or no impact on employment or consumer prices.

(5) *Views on Unemployment, Consumer Price Index, and Gross National Product*

In the case of an exemption from price regulations, the FEA must analyze the effects of such exemption on ". . . the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the Gross National Product . . ." (Section 12(d)(2)(B) of the EPAA).

As explained in Chapter V, the potential impact of exemption of naptha jet fuel on the rate of unemployment, the CPI and the implicit GNP price deflator will be negligible.

APPENDIX A: TURBINE FUEL DESIGNATIONS

JP–1 Obsolete. A heavy kerosene with 110° F. flash and −76° F. freeze point—sometimes used as today's kerosene—a very restrictive specification.

JP–2 Obsolete. High vapor pressure gasoline fuel. Used experimentally, never in production.

JP–3 Obsolete. A high pressure, minimum 5 psi, maximum 7 psi, naptha turbine fuel.

JP–4. A wide cut to give maximum availability in time of war. −76° F. freeze point. Minimum 2 psi, maximum 3 psi vapor pressure, naptha type. MIL spec MIL–T–5624.

JP–5. U.S. Navy fuel. Very restrictive kerosene specification 140° F. flash −55° F. freeze point. Commercial airlines accept as alternate to Jet fuel.

JP–6. A light kerosene for supersonic aircraft. Very restrictive specification with high thermal stabiliy and −65° F. freeze point.

JP–7. Kerosene for supersonic-luminometer #90—high thermal stability, −50°F. freeze and 120°F. flash point. R.V.P. negligible.

JP–88. Specification MIL–T–83133 kerosene luminometer #45— −51°F. freeze and 110°F. flash. Originally proposed for combat area operations only.

Jet A. Kerosene—luminometer #45— −45°F. freeze and 105°F. flash point. Used for U.S. domestic operations only.

Jet A–1. Kerosene luminometer #45— −58°F. freeze and 105°F. flash point. Used for international operations only.

Jet B. Commercial version of JP–4; same physical make-up as JP–4 with military additives removed (i.e., biocidals—metal deactivators, etc.).

APPENDIX B

PROPERTIES OF JET FUELS

	Jet A–1	Jet A	JP–5	Jet B	JP–4
Vapor pressure	(1)	(1)	(1)	(2)	(2)
Flash point, maximum	150°F	150°F	140°F	[3] 0°F	[3] 0°F
Freezing point	—58°F	—40°F	—55°F	—58°F	—76°F
Distillation temperature 50 percent evaporated	450°F	450°F	450°F	370°F	370°F

[1] Negligible.
[2] Pounds per square inch.
[3] Below.

APPENDIX C

MILITARY AIRCRAFT FORECAST

	1975	1980
Number of aircraft	20, 203	19, 935
Hours flown per aircraft	333	329
Total hours flown	6, 652, 000	6, 555, 000

Source: Aviation forecasts, Federal Aviation Administration.

URBAN HOMESTEADING—S. 3295

Mr. GLENN. Mr. President, when the Senate acted on S. 3295, the Housing Amendments of 1976, I was particularly interested in section 810 of that bill which dealt with a relatively new project called urban homesteading. This program transfers suitable federally owned properties to local governments; then properties are transferred to individuals at a nominal fee with the requirement of improvements in order to obtain clear title. That program began only this year in a few demonstration areas.

In Ohio, efforts in urban homesteading have begun in Columbus and Cincinnati. I am hopeful that their experience proves successful and that their programs become models for the Nation. Abandoned property in the inner city is one of the primary contributors to the decay of many of our cities and to urban blight. In Cleveland, Ohio, alone there are over 5,000 abandoned structures. I would like to see urban homesteading begin to reverse those trends and to provide a means of attracting and holding many middle-class black and white citizens in our cities and through them, helping to stabilize the economic bases of those cities. It is by no means a "solve all" to our housing problems, to segregation, and problems of poverty. It is, however, an effort worth watching and supporting.

I ask unanimous consent that the following materials on the urban homesteading experience be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 10, 1976]

HOMESTEADING WITH $1 DOWN—AND SWEAT

(By Susan Crowley and Martha Beshers)

When Kenneth and Diane Pryor first saw their Columbia Heights house a couple of years ago, its windows were boarded, the floors waterlogged and rotted and the plaster walls crumbling. The rooms were filthy from years of neglect. But the Pryors knew it was the house for them, and they got it—for one dollar.

The Pryors were among the first 13 District families to buy uninhabited, rundown houses in the city through the Urban Homestead Program. The houses, abandoned because of foreclosures on FHA loans, were sold by the Department of Housing and Urban Development for a dollar each to the District government.

The District turned around and sold them for same price to people who could bring the houses up to standard. The owners must be willing to live in the homes for at least five years. The program is a modern-day version of the 19th century program that populated the West—by providing 160 acres to anyone willing to settle on the land for five years and improve it.

Nineteen families are now urban homesteaders here and an additional 31 foreclosed homes recently purchased by the city are expected to be resold soon.

One study by the Rutgers University Center for Urban Policy research found that urban homesteading, initiated in 25 communities since the first program began three years ago in Wilmington, Del., many need a more sophisticated operational framework. Such property needs substantial assistance, in the form of low-interest financing, property tax breaks and a high level of municipal services, the study indicated.

But "for most of the owners, this is a dream come true," says Barbara Carter, program coordinator for the District's department of housing and community development. "Some had to adjust to not dialing the landlord every time they have a problem—but we think the program has been very successful. Nobody has given a house back yet."

Today the Pryors' three-bedroom brick rowhouse at 605 Kenyon St. NW has freshly painted walls, new plumbing and electrical systems, two fully restored bathrooms, new front and back porches and an up-to-date kitchen with walnut-stained cabinets and copper-colored appliances. A large, paneled family room was built in the basement, along with a laundry and storage room.

The Pryors got a $16,700 home improvement loan with the help of the D.C. Development Corp., a publicly funded, nonprofit corporation set up to stimulate housing and economic development in the city. The couple has 15 years to repay the loan, with monthly payments totaling a little more than $200. "I'll be 39 when it's paid off—I got it all figured out," says Ken Pryor, an automobile inspector with the D.C. Department of Motor Vehicles.

A combination of luck and right qualifications led the Pryors to their house. Applicants for one of the 13 houses "numbered into the thousands," Pryor recalled, and these were slowly eliminated over several months until 70 were left for the final drawing.

Staying in the running hinged on "whether you could get a loan to renovate," Pryor said, and "it also had something to do with being Mr. Good Citizen."

On the day of the drawing, July 13, 1974, the finalists each put their names in one of 13 fishbowls representing the house of their choice. "Most of the names were going in bowls for two houses that were very popular," said Diane Pryor, who is an exhibit technician for the Smithsonian Institution. "For a while only our name was in our fishbowl."

When four or five others added their bids to the bowl, "I was ready to walk out the door," Ken Pryor said. "I didn't expect to win. When we did it was quite a shock."

In their early 20s, the Pryors were the youngest of the pioneering homesteaders. Diane Pryor remembers that there were "a lot of older people in their 40's and 50's. One old man in his 60's looked like he wouldn't live through the renovation."

Restoration of the Pryor home began the following winter. Hospitality House, another private, non-profit group that aided the homesteaders, supplied an architect and helped the Pryors find a contractor.

"We were in complete agreement with the architect," Ken Pryor said. "We had a choice of colors, but he was doing such a good job, we let him pick those, too. It was very smooth"

The Pryors came daily with their two children, Michelle, 5, and Kenny, 2, to check on the work. Diane's mother, who lives a few blocks away, "didn't go along with the idea at first. Now she's crazy about the house. And a lot of our friends want to get into the program," Mrs. Pryor said.

The renovation was essentially completed in June, 1975, when the Pryors moved in. Ken has since installed carpeting throughout the downstairs and vinyl floor covering in one of the bedrooms. He had to dig six feet of dirt away from a basement wall in order to waterproof it, and he built a cement parking pad in the small yard behind the house.

Diane Pryor, who believe the house is at least 50 years old, said that a next door neighbor told her the place was abandoned for about five years before they bought it.

"What a mess—you could see the upstairs bathroom right through the kitchen ceiling. And there were no closets—we had to build them in," Mrs. Pryor said.

Some of the original features have been retained, such as the tall windows, the wooden banister, small ornamental dormers on the sloping slate roof and a "patchwork" glass skylight. The house has 10-foot ceilings.

The Pryors think the house is now worth about $40,000 and probably more. But they say they don't intend to move—ever—and plan to sit back and enjoy it.

[From the New York Times, June 22, 1976]

FAMILIES HOPE $10 HOUSES WILL BE THEIR HOMES

(By Joseph P. Fried)

Orazio and Marianna Iaboni, who have been married five years and have a 3-year-old daughter, want to get a house of their own at reasonable cost, rather than to continue renting an apartment from Mr. Iaboni's father.

As a result of a "housing lottery" run by the city yesterday, their chances of doing so are good.

Cecil Jordan, who is divorced and now rents a room from a relative, also wants a house of his own, one that will be large enough for himself and his son and daughter.

Following the same lottery, his chances are not as good as those of the Iabonis.

Mr. Jordan and the Iabonis took part yesterday in a major step to select 34 families to receive deteriorated, foreclosed homes for $10 each.

The 34 homes are being distributed by the city as part of a Federally sponsored "urban homesteading" program. But the program, city officials have stressed, is not a "giveaway."

Selected families will have to undertake sizable rehabilitation—which can cost anywhere from $5,000 to $20,000 for each house—and they will have to meet estimated monthly housing costs of $250 to $300, including repayment of the rehabilitation loans.

Despite these and other financial requirements, more than 250 families applied to take part in the New York City version of the program, which involves 30 properties in South Ozone Park and Baisley Park, Queens, and another four in New Brighton, S.I.

Most of the sites are single-family houses, but three are two-family structures. Homesteading families must agree to live in the houses they receive for at least three years.

Before yesterday, the more than 250 applicants were weeded down to 87 families that appeared to meet various requirements. One was that a household of four or less have an annual gross income of at least $14,000, and that larger households have an annual gross income of $15,500 or more.

Yesterday's lottery, held in a meeting room at Police Headquarters, near City Hall, was designed to determine which of the 87 families was likely to get the 34 houses.

Drawings were held in six categories, based on the borough and on the size of the houses being awarded. Each family could be entered in only one category.

Thus, in the category of two-bedroom houses in Queens, there were only 20 applicants for 17 sites. The name of Mr. Iaboni, a plumbing supervisor in a hospital, was drawn eighth in this class, so the family was assured of a house, provided that it liked what it would see in the category and met a final credit check.

Mr. Jordan, a Housing Authority employee, was entered in the class of three-bedroom houses in Queens, which had 35 applicants for only 12 houses. His name was drawn 27th in this group. Thus, he has a chance only in the event that many families ahead of him were to drop out or fail the final check.

"I took a chance and didn't make it," he said.

"This will give us a chance to get our own house," Mrs. Iaboni said.

♦All About Urban Homesteading—A Pamphlet From the City of Columbus, Ohio

WHAT IS URBAN HOMESTEADING?

Urban homesteading is based on the Homestead Act of 1862 which was used extensively in settling much of the western frontier by offering incentives of land to persons agreeing to make productive use of it.

Urban homesteading in Columbus is a program which makes homeownership possible for highly motivated persons who are willing to make a moderate investment of time, energy and money to rehabilitate a deteriorated property in the city. It is designed to help stabilize transitional neighborhoods, accelerate rehabilitation of older homes and increase the opportunity of homeownership for Columbus-area families.

HOW WILL URBAN HOMESTEADING WORK?

Through the Columbus Urban Homesteading Program, eligible families receive, for one dollar, vacant, structurally sound buildings or homes held by the U.S. Department of Housing and Urban Development (HUD) if they agree to rehabilitate the structure so that it meets or surpasses Columbus housing codes and live in it for at least four years.

If, at the end of four years, the homesteader has complied with all requirements, he or she will receive full title to the land and structure.

HOW WILL URBAN HOMESTEADERS BE SELECTED?

Urban homesteaders are selected through a four-stage process which includes:

Submission of a homesteading application which asks persons to specify homes in which they are interested

A pre-selection conference between program staff and persons eligible for the program

A three-day "cooling off" period during which potential homesteaders are advised to view the properties and make final decisions on homesteads for which they wish to be considered

A homestead lottery designed to link prospective homesteaders with structures which, when rehabilitated, will meet their long-term housing needs.

Although potential homesteaders are only able to receive one structure, they may be eligible for more than one, depending on family size and financial capability.

There are no income or occupational restrictions for persons wishing to participate in the program. However, no structures are made available to persons whose combined housing costs (rehabilitation, taxes, maintenance and utilities) are greater than 25 percent of their gross annual income.

To be eligible for the Urban Homesteading Program, persons must demonstrate that they:

Are 18 years old and citizens of the United States or registered aliens

Can provide financial or "know-how" ability to rehabilitate a homestead

Have a reasonably good credit rating

Have no more than 30 percent of their total gross annual income consumed by ongoing debts such as furniture, automobiles, etc.

Are willing to rehabilitate a homestead so that it meets or surpasses Columbus housing codes

Will live in it for at least four years.

WHAT COSTS ARE INVOLVED IN THE HOMESTEAD PROGRAM?

Although applicants receive homestead properties for one dollar, there are other costs involved. The largest single cost is for rehabilitating the homestead. Rehabilitation costs vary and depend on the extent of property deterioration and the number of additional repairs homesteaders wish to make. Homesteaders are encouraged to do as much rehabilitation as possible.

Urban Homesteading staff will furnish homesteaders with a list of lending institutions which have indicated a willingness to offer loans to homesteaders. However, homesteaders are not restricted to the list and may deal with any institution they choose. Home insurance costs will be included in all rehabilitation loans. Homesteaders are responsible for all utility payments taxes and routine maintenance after the homestead is assigned.

IS THERE A CHOICE OF HOMESTEADS?

Yes. Persons interested in becoming homesteaders will receive, along with this brochure, a list of homesteads. They may indicate their preferences on the application and choose as many properties as they wish. However, persons are advised to select homesteads for which they have a substantial interest. A final determination is made on each applicant's eligibility only after an extensive review is conducted. Potential homesteaders may view properties for which they are eligible during the three day "cooling off" period. They may decline selection of any property at that time. Once homesteaders have been selected through the lottery, they are not eligible for any other homesteads.

Potential homesteaders should take maximum advantage of the three day "cooling off" period. Any person who declines a property after being selected in the homestead lottery is ineligible for further participation in the program.

WHAT CONDITIONS ARE THE HOMESTEADS IN AND WHERE ARE THEY LOCATED?

The condition of homestead properties varies although all are structurally sound. Mcst need substantial repairs, including heating, plumbing, roofing and electrical wiring. Properties include two, three and four bedrooms and range in type from two story brick and frame to single floor plan structures. There will also be a small number of double-family structures available.

Most homestead properties are located in communities that have been designated as Community Development Program Areas. These areas include communities on the near north, south and east sides of Columbus.

ARE HOMESTEADERS EXPECTED TO COMPLETE ANY REHABILITATION?

Yes. Homesteaders are expected to repair properties to the extent of their own personal skills. Though some homesteaders have actually performed major repair work, others have not.

Some homesteaders, therefore, perform only minor repairs and decorative work. For major rehabilitation, homesteaders will be furnished with a list of contractors that are licensed and bonded and have demonstrated an ability to perform quality work. Homesteaders are free to choose their own contractor and have access to a rehabilitation technician if questions arise.

WHAT ASSISTANCE WILL THE HOMESTEADER RECEIVE

Homesteaders receive advice, counsel and support from members of the Urban Homesteading staff. Rehabilitation technicians work with homesteaders in preparing a rehabilitation schedule which indicates the cost of all work that must be completed. The rehabilitation schedule is a tool which gives homesteaders and staff an indication of when certain work is to be completed. Other staff members work with homesteaders on problems ranging from securing the homestead to accomplishing minor home repair through a series of seminars designed to aid their transition to the homesteads. Seminar attendance is mandatory.

[From the Washington Post, September 7, 1976]

District Homesteading Is a Success

(By LaBarbara Bowman)

"When I used to get off from work I'd eat and then come to the house. It was in pretty bad shape. At that time there was no electricity so I worked by flashlight," recalled Edward McCall of his days as a pioneer urban homesteader in Washington.

McCall is one of the city's 13 original homesteaders. In 1974, he paid $1 for a boarded-up, two-story brick house at 1605 U St. SE. With help from two relatives, he transformed the shell into a comfortable two-bedroom home for himself, his wife and their two small children.

"It's a lot of work and it involves a lot of time and patience," McCall said, sitting in his new living room with his feet resting on a vibrant burnt-orange carpet. He installed the windows and bathroom facilities, put up the dry wall, laid the kitchen floor and painted the rooms.

That work behind him, McCall is one of 12 of the 13 original homesteaders who are now living in homes they say they could never have afforded without the program that is designed to allow families earning $10,000 to $15,000 to become homeowners.

The program is also designed to reduce the city's stock of boarded-up houses that are owned by the federal Department of Housing and Urban Development, which so far has sold the city 49 homes.

The District is not participating in HUD's experimental urban home steading program now under way in 23 cities across the country. Instead, the District received its HUD homes through another federal program, which transfers federally owned houses of little or no value to cities. The cities can demolish the houses or use them to create their own homesteading program, which is what Washington has done.

The families pay only for the renovation of their home. Since McCall did most of his own work his home cost $13,357. Virgil Royal and his wife spent the highest amount of the original 13—$24,911—to restore their large home at 62 T St. NW. The average cost of the restorations has been $17,500.

The D.C. development corporation, a nonprofit subsidiary of the city's housing depart ment, loaned the families money to renovate their homes.

Once the homes were restored, the families received long-term mortgages from savings and loan companies. In this way DCDC was reimbursed and the homeowners given 15 years to pay their mortgages at prevailing interest rates.

D.C. officials also help the families find contractors and monitor the construction work, in an attempt to keep the restoration costs low so families can afford their mortgage payments.

Most of the couples are young with small children, and they work as cab drivers, grocery store clerks, bricklayers, plasterers, nurses and housewives. They are generally pleased with their new homes but several report some problems.

Berlin Royal said in the three months since she, her husband and four children moved into their T Street home, their refrigerator, garbage disposal and electric stove have needed repairing, the outside paint is peeling and the flooring around the bathtub is loose.

"This has happened in three months. What's going to happen in three years?" she asked. She also complains that the wrong lights were installed in the living room, the wrong cabinets were hung in the kitchen and a large refrigerator and double-oven were denied her on grounds that they were too expensive.

"If I had it to do all over again I would find a house and do it myself. I could then tell the contractor how I wanted it and get no static instead of having things pushed down my throat," she said.

The point of the program is to make the homes livable, not plush, DCDC officials said. The families can add extras later.

Mary Pleasant, of 1927 North Capitol St., has a three-story brick home and said she has been trying unsuccessfully for months to have her contractor return and correct the lack of drainage in her backyard, which causes water to run into her basement.

Kay Mayo, of 323 T St. NW., discovered she had no drawers in any of her kitchen cabinets. "Every woman has a junk drawer but me," she said smiling.

There are no ceiling lights in the three bedrooms, but she views this oversight as simply inexperience on the Mayos' part. "The first time around you just don't know what to ask for," she explained.

The federal government is now transferring to the city a last group of 31 homes. Hospitality House, a social service agency in Northeast will take names and addresses of families interested in applying for them, according to housing coordinator Charles Brooks. Brooks and his staff screen the applicants to insure they meet all the requirements for the program.

These 31 houses may be the last HUD homes the city receives, said James Clay, of the local HUD office. There are only 42 HUD-owned single family houses left in the city, he explained and none can be sold to the city unless they are valued under $5,000 and have been advertised for sale for 60 days.

All 42 are worth more than $5,000, Clay said, and HUD has no trouble selling homes in the city's tight housing market.

NATIONAL ITALIAN AMERICAN BICENTENNIAL DINNER

Mr. KENNEDY. Mr. President, last evening in Washington, D.C., four outstanding citizens of the Italian-American community were honored at the National Italian-American Bicentennial tribute dinner. I would like to join with the Italian American Foundation in saluting the outstanding achievements of Judge John J. Sirica, Congressman PETER W. RODINO, JR., Congressman DOMINICK V. DANIELS, and my esteemed colleague in the U.S. Senate, Senator JOHN O. PASTORE.

Mr. President, as a fitting tribute to these men, I would like to place in the RECORD today their respective citations which they so deservedly received in recognition of their outstanding service to the Italian American community, their families, and their country.

I ask unanimous consent that these testimonials be printed in the RECORD.

There being no objection, the testimonials were ordered to be printed in the RECORD, as follows:

U.S. SENATOR JOHN O. PASTORE

Who, since 1950, has served with honor and distinction as a United States Senator from the State of Rhode Island, and who, before his election to the United States Senate, served as a Member of the Legislature, Lieutenant Governor, and Governor of that State,

this plaque is awarded for

His many years of distinguished and devoted public service to the people of his state of Rhode Island and of all the United States, which have earned him the respect, affection and admiration of all peoples and an abiding place in the history of our country,

His dynamic leadership and articulate voice of reason for the causes of freedom and human rights, and achievement of legislative causes for the economic, social and political advancement of all Americans, which will be long remembered by a grateful nation after his retirement from public service,

His depth of understanding, and his extraordinary human qualities of courage, ability and dignity in tireless pursuit of compassion and justice for all men,

His wisdom, warmth and courage which are a legend destined to endure in the legislative annals and history of this nation,

His distinguished record of service to our nation in the field of foreign relations, and where his humanitarianism and background were invaluable instruments in the conduct of our National Foreign Affairs, and

His contributions to the cultural, economic and political fabric of America, demonstrating that the heritage of his forefathers and their skills and talents have contributed to a better America.

JUDGE JOHN J. SIRICA

Who, since February 1957, during his tenure as a judge of the United States District Court, District of Columbia, having served as a Chief Judge of that Court from 1971 to 1974 when required by law to step down as Chief Judge, demonstrated in the discharge of his judicial duties,

That, law, order and morality in our nation and society can and must be preserved through tolerant, impartial and courageous discharge of the enforcement responsibilities entrusted to our judiciary by the people of this nation,

That, our nation is governed by the rule of law, and that no one individual, class or race of people, of whatever origin, rank or position, private or public station in life, can be permitted to determine which laws are exempt from obedience, and that, however worthy be the end proclaimed, no means violative of law can justify the attainment,

That, whatever the color, race or creed of the wrongdoer, the guarantee of due process and equal justice, under our system of law, is inviolable and redressable in our judiciary system with all entitlements bestowed by our Constitution,

That, to assure justice and to preserve respect for law within an ordered society, our judicial tribunals must safeguard and secure our people from those who would commit lawless invasions and trespasses upon rights and liberties guaranteed to us by our constituted authority, and,

That, compassion, tolerance, impartiality and knowledge are the cornerstones and firm pillars for equal, indispensable to the discharge for the awesome burdens and grave responsibilities of those who are called upon to exercise judicial judgment.

CONGRESSMAN PETER W. RODINO, JR.

Who, since 1948, has represented the 10th Congressional District from the State of New Jersey in the House of Representatives, United States Congress, for

His twenty-eight years of faithful, dedicated and devoted service as an elected representative of the people to the Congress of the United States, and his advocacy and unrelenting support of legislation for economic and social reforms designed to remove the poverty, starvation, disease and repression which still stalk some of our people,

His temperance, restraint, compassion and strength in advocacy of those progressive legislative causes of individual liberties and preservation of basic human rights the struggle for attainment of which never ends,

His public record as a legislator demonstrating that the causes of freedom and justice are paramount to all men, and that we were conceived and must exist as a nation governed by law and not by individual men, and

His judicious, tolerant, firm, and impartial leadership and judgment as Chairman of the House Judiciary Committee of the Congress of the United States, when he conducted with unparalleled dignity the Presidential Impeachment Inquiry during 1973–1974, when the constitutional foundations of our nation were being threatened by wanton disregard for the rule of law, and accepted the awesome challenge with the words,

"Let us go forward. Let us go forward into debate in good will, with honor and decency and with respect for the views of one another. Whatever we now decide, we must have the integrity and the decency, the will and the courage to decide rightly.

Let us leave the Constitution as unimpaired for our children as our predecessors left it to us."

CONGRESSMAN DOMINICK V. DANIELS

Who, since 1958, as a member of the United States House of Representatives, has served with honor and distinction the people of the 14th Congressional District of New Jersey and of America, this award is presented in recognition of his

Dedication and contributions to the cause of legislation enacted for the betterment of all Americans,

Continued leadership in the reform of those aspects of American life which deny to individuals the opportunity to improve the quality of their lives, and,

Untiring vigilance in the pursuit of expanding opportunities for all Americans to create for themselves and their children ever-increasing health, happiness, and prosperity.

RURAL DEVELOPMENT COORDINATION

Mr. ABOUREZK. Mr. President, the August issue of Rural Water News carried a brief item commenting on the possible role of the Community Services Administration in rural development. While my own view would not necessarily be the same as the writer's conclusion that "CSA is a logical agency to coordinate rural development efforts," I certainly would agree that CSA should play a major role in that coordination. I would also agree that despite the Rural Development Act's charge to the Secretary of Agriculture to lead in coordinating Federal rural development efforts, little real coordination is currently taking place.

Some of my colleagues might find the Rural Water News items of interest and I ask unanimous consent that it be in the RECORD.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

CSA AND RURAL DEVELOPMENT

(By Patrick F. Cannon)

On April 16, 1976, Samuel R. Martinez, a Coloradan with a long record of service in the Office of Economic Opportunity and other agencies, was sworn in as the new Director of the Community Services Administration, OEO's successor agency. He inherited a hot spot in the federal government, head of an independent agency that has suffered severely in recent years from crises of identity, was torn internally by staffing problems and threatened externally by forces desiring its abolition.

In his appearance before the Senate committee considering his nomination, Martinez came out strongly against shifting CSA to the Department of Health, Education, and Welfare (which the President has been authorized to do) or any other agency. Noting the "massive bureaucracy now entrenched" in HEW, he felt that CSA would be lost in the shuffle, and he indicated that the Ford Administration had assured him that no such transfer would be made until the new Director could assess the overall situation.

The 43-year old ex-schoolteacher also supported rural development, promising that it would be his intent "if there is a neglect in particular areas through CSA's effort that that would be corrected as quickly as possible," within the limits of the agency's resources. He also favored reducing program "local share" requirements in hard-pressed rural areas.

Mr. Martinez also accepted the role of catalyst for CSA, using the agency to induce larger governmental units, such as HEW and DOL, to make resources available that Community Action Agencies around the country can utilize, and developing programs that could be spun off to larger agencies (as was done with Head Start, Job Corps, and VISTA).

While NDWP supports the analyst notion in principle, and is itself a catalyst-type organization, it is not sure that a coherent policy of rural development can be achieved this way and that CSA might well consider positioning itself to play a more direct and extensive role in this area. The problem is that there is now no agency in government pursuing a coordinated rural development strategy; and should CSA develop such a strategy, there would be no agency to entrust with its implementation. To be sure, the U.S. Department of Agriculture has an Assistant Secretary for Rural Development and a fledgling Rural Development Service. But the real power in the department lies with the older agencies—Farmers Home Administration and Cooperative Extension Service, for example—that have close ties with the agribusiness community. Meeting needs in this limited area (most rural residents are not farmers) is by no means synonymous with meeting rural development needs.

The fact is that CSA, despite its internal problems, is probably doing more for rural America than any other government agency. With its national network—local CAA's, state SEOO's, regional offices—CSA is a logical agency to coordinate rural development efforts. We do not need another swollen bureaucracy to dispense funds, but we do need a tightly-staffed and innovative agency that can implement some of the programs it designs.

SENATOR TUNNEY DISCUSSES AMERICA'S COMMITMENT TO ISRAEL

Mr. RIBICOFF. Mr. President, throughout his outstanding career in the Congress—for the past 6 years in the Senate and his three earlier terms in the House—my distinguished colleague from California (JOHN TUNNEY) has evidenced his support for Israel. On countless occasions he has worked to reaffirm America's support for the freedom, independence and territorial integrity of Israel and has actively worked to maintain the delicate military balance in the Middle East.

A short time ago Senator TUNNEY delivered a major address before the B'nai Zion National Convention which met in Monticello, N.Y. In this important speech Senator TUNNEY discussed the U.S. relations with the State of Israel and the need to strengthen our commitment to that critical ally in the troubled Middle East. He properly observes in this speech that there is a basic degree of self-interest in our support for Israel. In addition he aptly notes that our policy "is founded on deep emotional bonds between the United States and Israel."

Senator TUNNEY's statement deserves close and careful consideration and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR JOHN V. TUNNEY BEFORE THE B'NAI ZION ANNUAL CONVENTION, MONTICELLO, NEW YORK, JUNE 19, 1976

I am honored to be here with you this evening to address the annual convention B'Nai Zion.

After six grueling months of campaigning, I feel like Mark Twain who seems to have captured the essence of the anti-Washington sentiment that we incumbents must face this election year when he remarked: "There are some that believe I will make Senator yet—if I escape hanging."

Turning to a more serious matter, in 1948, Israeli Prime Minister David Ben Gurion speaking of the need for Jewish unity in the struggle for the survival of his nation said—and I quote—"We can only rely on ourselves and world Jewry.

Our closest neighbors are our bitterest enemies, refusing to accept our existence. But Israel was never intended to be a Hebrew Sparta. Our strength will not be determined solely by our military power and economic wealth, but by the special content of our lives and our capacity to cling to our common heritage."

By your presence here today, you are paying tribute to that common heritage—a communion of belief and blood that has carried the State of Israel through 28 years of war and tension to an age of hope and prosperity. The past year has been one of great hope and great anxiety, of initial stalemate and ultimate progress. 1975 was marked by Dr. Kissinger's shuttle diplomacy. When it broke down, the President announced a reassessment of American Middle East policy. While he did not say so directly, he left little doubt that the reappraisal was directed primarily at Israel.

The President's announcement produced an enormous shock wave from concerned Americans—from private citizens to Members of Congress. Seventy-six Senators, myself included, signed a letter to the President. Reaffirming our support for Israel and condemning the tone of his remarks.

Largely as a result of this outpouring of sentiment, the reassessment took a more positive turn and the Middle East talks slowly began to pick up renewed momentum, reaching their final stage during the first week in September when the Congress overhelmingly approved the stationing of Civilian Technicians in the Sinai to monitor interim disengagement accord.

As part of that accord, the United States agreed to provide increased military and economic assistance to Israel, both to help offset the costs of the agreement itself and to counter the increased level of Soviet aid to some Arab States, especially Syria.

I am happy to say that the Congress, despite the President's unfortunate veto of the Foreign aid bill, has taken a final step towards providing that assistance by enacting legislation that would allocate $4 billion for Israel in fiscal years 1976 and 1977. The administration had wanted to cut that figure, but was not successful.

The symbolic as well as the practical significance of that money is great. The two years since the Yom Kippur war have been a severe test of America's commitment to peace in the Middle East. Our role has been a constructive one, never aimed against any country. But at all times we have maintained our pledge to assure that Israel will remain free.

The Congress has reaffirmed the seriousness of that commitment repeatedly in the last several months, not only by passing the aid bill but by drawing the line on unrestricted hawk missile sales to Jordan and by blocking any major changes in our arms supply relationship with Egypt.

You can rest assured that the Congress will continue to monitor closely any new arms proposals to insure that they are consistent with stability in that region and the security of Israel, for the security of Israel and the achievement of peace in the Middle East remains our unyielding commitment.

America's support for Israel is based on a straight-forward policy of our self-interest as well as Israel's. Israel is the only democratic western-oriented nation in the whole area—events in Lebanon have made that all too obvious. And Israel stands in a vital position at the eastern end of the Mediterranean Sea.

There are several things that have to be understood if we are to understand the swirling crisis of the Middle East.

(1) Yasir Arafat is an international outlaw and he must never be allowed to dictate to the Israelis, or anyone else, his terms for a peace settlement.

(2) Although the U.S. now imports 50% of its oil from abroad, we must never allow ourselves to be blackmailed into accepting a foreign policy that makes a mockery of our national security and our moral commitments. In other words, we must never sell Israel or any other country out because of Arab oil pressure.

(3) To end energy dependence, we must move immediately, faster than we are now moving, to establish a national program of conservation and research and development for substitute energy sources. We cannot let the yoke of Arab oil reduce us to a second class power with second class commitments.

(4) We must never allow government pressure from our oil suppliers to force our banks and multi-national corporations to take part in an Arab boycott.

Beyond mutual self-interest, the policy of assistance and friendship also is founded on deep emotional bonds between the United States and Israel. Americans recognize in Israel something of their own heritage. Israel is a land of immigrants, just as we are. She is molding these disparate elements into a strong, vigorous society.

Israel has sown deserts with flourishing crops and has built great industries and developed schools and hospitals among the foremost in the world.

In all of this, Americans see a parallel to their own experience—a people burning with the fire of human rights and freedom, forging a new life with courage and foresight. In a world that all too often recognizes freedom only in name, Israel has solidified its freedom in the face or continued external threats—a triumph of liberty.

Before I conclude, I would like to turn to another subject which I know is of deep importance to all of you, the problem of human rights in general and emigration from the Soviet Union in particular.

I have been appalled at the repressive measures applied by the Soviet government to discourage and prevent emigration by some of its citizens, most are Jews who wish to settle in Israel. Clearly, such repression of human rights and dignity should not be accepted by our Nation in an era when relations with the Soviet Union supposedly are growing less hostile.

Last August, through the Helsinki accords, the Soviet Union committed itself to observance of the fundamental principles of human rights. In his speech to the gathered heads of state, party general secretary Brezhnev boasted, and I quote: "We proceed with the assumption that all the countries represented at the conference will translate into life the agreements reached. As regards the Soviet Union, it will do precisely that."

But, of course, it has not, and believing it would not, I commissioned a major study by the Library of Congress on Soviet compliance with the accords.

I believe the results of that study, which has been released throughout this country and Europe in the last month, demonstrate unequivocally that the Soviet Union continues on a relentless course of systematic and flagrant repression totally unaffected by its pledge to human rights and dignity set forth in Helsinki.

I hope the Soviet Union will abide by the accords. But I can assure you that we in the Congress, and I know all of you have been fighting for this as well, will not stand idly by as the Soviets make a mockery of mutual undertakings. They initiated the accords, and they shouldn't benefit from its security provisions while trampling on the section on life and liberty.

In 1968, Abba Eban wrote: "In the Soviet Union nearly three million Jews remain cut off from the mainstream of Jewish life and denied expression of their Jewish solidarities. In recent years the brief and pathos of their situation has aroused the interest of a progressive world. The prospect of their reunion with Jewish history is remote, but the dream is still alive and fervently cherished. They are, at least, on the international agenda."

I pledge to you here tonight that so long as I am in the Senate those Soviet Jews and the thousands of other repressed peoples throughout eastern Europe seeking an outlet for their expressions of hope and freedom will remain on that agenda until the day that the Soviet Union meets its responsibilities under international law and the Helsinki accords.

EFFECTIVE GOVERNMENT: OUR NEXT BIG CHALLENGE

Mr. GLENN. Mr. President, I ask unanimous consent that the article authored by Senator Edmund Muskie entitled "Effective Government: Our Next Big Challenge," which appeared in the Policy Forum of the April 3, 1976, edition of the National Journal, be printed in the Record at the conclusion of my remarks.

Senator Muskie has been a diligent, hard-working advocate of beneficial governmental reform. Under his able leadership, the congressional budget process has become an effective mechanism to temper potential excessive spending and to highlight the budgetary implications of congressional actions.

To further control Federal spending and the ever-expanding growth of Government, I joined Senator Muskie and Senator Roth in introducing S. 2925, the Government Economy and Spending Reform Act of 1976. This highly significant legislation requires a zero-base review of all Federal Government budget authorizations and, due to an amendment which I proposed in committee, all Federal tax incentive provisions on a rotating 5-year cycle. Enactment of this bill will prove to be a meaningful step toward the elimination of inefficient and unnecessary Government spending.

On August 6, S. 2925 was reported to the Senate by the Government Operations Committee. It is presently scheduled for floor action sometime after September 15. In order to acquaint fellow Senators with the necessity for, and implications of S. 2925, I take pleasure in bringing the following excellent article by Senator Muskie to their attention.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From National Journal, Apr. 3, 1976]

Effective Government: Our Next Big Challenge

(By Senator Edmund Muskie)

One of the most common grievances against government, expressed by the American people in one public opinion survey after another, is that they do not think they are getting their money's worth out of the tax dollars they pay. Judging from the Presidential campaign trail these days, this message promises to make a major mark on the direction of national debate over the next few years.

The rising chorus of "anti-Washington" themes in the campaign may strike a popular chord with the American public. Yet in my opinion, much of it not only overstates the problem, but understates the difficulty of solving it. Because I do believe there is a very real problem—a Federal government that is not as productive or effective as it should be—I am concerned over the dangers of political rhetoric which is long on scapegoats but short on practical solutions.

Making the Federal government more productive could well be one of the most difficult tasks any of us—either in Washington or out—has ever undertaken. It demands not breezy promises which can never be met, but diligent, unexciting scrutiny of the nuts-and-bolts operations of Congress and the Executive Branch.

On February 3 of this year, I introduced legislation which is designed to provide a process for applying such scrutiny to the operations of the Federal government. The legislation, "The Government Economy and Spending Reform Act of 1976," S 2925, is intended to accomplish for the individual parts of the Federal budget what budget reform has begun to do for the budget as a whole—lend discipline and cohesiveness to the way the Federal government handles the taxpayers' money. It is a logical followup to budget reform.

As now written, this proposal would dramatically alter the way we do business in Washington. It will not do so overnight, nor in a very exciting way. But it is a starting point for serious debate on what I believe is one of the most important items on the congressional agenda this year.

Briefly, the legislation would do the following things:

First, it would put *all* government programs and activities on a four-year reauthorization schedule. All would have to be reauthorized every four years, or be terminated. The sole exceptions of this provision would be payment of interest on the national debt, and programs under which individuals make payments to the Federal government in expectation of later compensation—e.g., railroad retirement, Social Security, civil service retirement, and Medicare.

Second, the bill would establish a schedule for reauthorization of programs and activities on the basis of groupings by budget function. Programs within the same function would terminate simultaneously, so that Congress would have an opportunity to examine and compare Federal programs in that functional area in its entirety, rather than in bits and pieces. The schedule would be set up so that all of the functional areas would be dealt with within one four-year cycle.

Third, the bill would reverse the assumption that all existing programs and activities deserve to be continued simply because they existed last year, by incorporating the principles of zero-base review into the reauthorization process.

—Fourth, the bill would make maximum use of the timetable for authorization bills already required by the Congressional Budget Act, and it would encourage Congress to make better use of the program review already undertaken by the General Accounting Office.

A number of factors have led me to introduce this kind of proposal.

First, I suppose, are the regular public opinion polls which tell us that the American people have lost faith in their government. The only government worker getting high marks from the public is the local trash collector, because at least people know whether he is doing the job or not.

A second major factor has been my brief but very educational experience with the new congressional budget process. Under that process, Congress is finally beginning to reassert control over the Federal budget—the most important statement of national priorities that we have.

The progress we have made thus far is very encouraging. Nevertheless, I—and I believe other members of the committee as well—have been frustrated by the limits of the system within which we have to work.

To illustrate from the coming year's budget—the cost of continuing all 1976 programs in the 1977 budget will be approximately $45–50 billion higher than last year's spending level. Thus, without a single new program, FY 1977 spending will be in the vicinity of $420 billion. Most of this growth is attributable to the increase in uncontrollable spending, which in 1967 accounted for about 59 percent of that year's budget, but which in 1977 will take up roughly 77 percent of all Federal spending. Over this same period, taking inflation into account, discretionary or controllable spending has not increased.

At this rate, the much-hailed new congressional budget process could, in the not-too-distant future, become little more than the simple arithmetic sum of predetermined spending levels.

The implications of this trend for discretionary spending, or for innovative Federal programs to meet coming national needs, is of equal concern to me. It is these efforts which stand to suffer most in the competition for increasingly scarce Federal resources.

Because of this predicament—which I foresee only getting worse in the future—I have come to believe that no matter how successful the new budget process is, the statement of national priorities embodied in the Federal budget as a whole will not be complete until Congress improves control over the individual parts—and over services the budget is intended to buy.

S. 2925 has been offered as a framework through which Congress can begin to exert such control.

A third and related reason for my introduction of this spending reform legislation stems from the active support I have given to many of the new Federal program initiatives of the last fifteen years.

Over that period, we have built up an awesome Federal structure for the purpose of solving what are truly serious national problems—hunger, poverty, ignorance, and disease. I personally have expended a considerable amount of energy in helping to nurture that system.

Today, however, I find that many of the goals I have worked for are being thwarted by an unwieldy and unresponsive Federal establishment.

I have often cited the example of the GAO study of outpatient health care facilities in the District of Columbia, where several different Federal programs funded eight separate clinics in one neighborhood. The result of this lack of coordination was that doctors in some of these clinics were seeing as few as four or five patients a day.

I find this example outrageous—not because I no longer believe in a major Federal role to ensure that Americans receive the health care they need—but because I believe so strongly in that Federal role. For if better use were made of these and other Federal resources, more Americans could receive the services which they need and which these resources were intended to provide.

I see the kind of approach embodied in S. 2925 as offering us one of the few chances we may have to locate scarce resources that are not now used effectively—and to redirect those resources where they are needed most.

A final reason for my support of this legislation is more amorphous. I do not know if the situation described by the GAO, to which I referred above, is typical or not. Probably no one knows the real story, on a government-wide basis. And I suggest that the fact that no one knows is by itself a compelling reason to pursue some kind of spending reform.

These numbers invite an obvious but simplistic response—one which we have already heard from the President—that the answer to government inefficiency is consolidation of programs. Frankly, I do not think this is an adequate reply. For I am less concerned with the numbers than with the questions they raise: How did we get where we are today? and What have we gotten in return?

By now, the recitation of the multiplicity of Federal programs is becoming quite familiar—228 health programs, 83 housing programs, 156 income security and social service programs, etc.; more than 1,000 Federal advisory boards, committees, commissions, and councils; and more than 4,000 quasi-governmental units, such as law enforcement planning regions, air quality regions, comprehensive areawide health planning agencies and the like.

The answer to the first question is relatively clear. We have gotten where we are today largely by accident, through individual legislative initiatives enacted in a piecemeal fashion. No one has decreed that 228 health programs is the right number of health programs. I am not suggesting that it is a wrong number. What I am suggesting is that it is a number that should be arrived at deliberately, not by default. If Congress determines that we need all 228 of these programs, so be it. At least then we will have a positive comprehensive statement of Federal health policy.

The answer to the second question is not so easy.

Clearly, we have provided health care to many Americans previously unable to afford it. But we still have not cracked the fundamental health problem—providing high quality care at a cost all can afford.

Clearly, we have raised the standard of living for a great many poor Americans. But we have not yet eliminated poverty, nor even corrected the imbalance in the distribution of income to any great degree.

Clearly, we have spent billions of dollars to revive our nation's cities. Yet we still have no national urban policy, and the root cause of the cities' problems, defined so eloquently by the Kerner Commission several years ago, still remains.

Can we not do more? Clearly, I think, we must. But until we bring what activities we now have under control, we simply may not have the reserves we need—either in the budget or the public's trust—to pursue new legislative solutions to pressing national problems.

And Congress must be the one to do it.

The goals we have sought elude us not because we haven't tried. But in too many cases, we in Congress have satisfied ourselves with the rhetoric of legislation, leaving the hard work of implementation—from rulemaking to evaluation—to the Executive Branch. Permanent appropriations—funds spent without any review by Congress—have become the fastest growing component of the Federal budget, tripling from $55 billion in 1966 to $165 billion in 1976.

The spending reform proposal I have introduced offers a vehicle for Congress to respond rationally and constructively to the criticism that we are not in control of our own house.

It offers a stronger congressional voice in setting national priorities—out from under a suffocating system which now has the upper hand in the fate of programs we enact.

It proposes a neutral process. It does not propose to judge the success or failure of any program, or for that matter of the totality of Federal programs which now exist. Nor does it propose to judge national priorities. These judgments must continue to be made by the standing committees of the Congress, and by the Congress as a whole, as they are now.

It does propose to open a dialogue on the important task of making government more productive. And I am convinced that this is an undertaking in which liberals and conservatives alike have a vital stake.

TRIBUTE OF APPRECIATION TO RICHARD SAUNDERS FOR SERVICE IN THE DEMOCRATIC CLOAKROOM

Mr. HATHAWAY. Mr. President, Senator CULVER and I wish to pay tribute today to the service of Richard Saunders who has worked in the Democratic cloakroom since June of 1975. This is a demanding job and requires great stamina. Richard has demonstrated these qualities, but most importantly has been his courteous manner and quiet effectiveness in serving all our Democratic colleagues.

Richard came to the cloakroom after graduating from the University of Texas. He is going on to work in New York City where we wish him continued success.

Out of the public view and glare of publicity are the services of the Senate staffs whose duties are to provide us with the information which helps to make us more effective in our duties. Richard has been one of these unsung heroes of the U.S. Senate. He is one who has kept at his fingertips a sure ability to dial the area codes of Iowa and Maine, and on a larger scale showed uncanny ability to predict votes no matter how confused the legislative maze.

These qualities of quiet effectiveness, character, and cheerful service will be missed. We, Senators CULVER and HATHAWAY, thank you, Richard, for having stood steadfast in the trenches.

THE GENOCIDE CONVENTION AND THE CONSTITUTION

Mr. PROXMIRE. Mr. President, today I would like to address a point often raised by opponents of the Genocide Convention. They are of the opinion that the articles of the convention would supersede our Constitution and could undermine the clear commands of our Bill of Rights. As proof, critics cite the supremacy clause of the Constitution, which reads:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land.

Nothing in this clause, however, suggests that treaties or laws enacted would not have to comply with the provisions of the Constitution. Nor is there anything in the debates which accompanied the drafting and ratification of the Constitution which even suggests such a result. Rather, the Supreme Court has ruled, in Reid against Covert, that—

> It would be manifestly contrary to the objections of those who created the Constitution, as well as those who were responsible for the Bill of Rights—let alone alien to our entire constitutional history and tradition—to construe Article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions.

Indeed, there is no merit to the emotional argument that the convention would jeopardize our constitutional rights. Rather, the convention will serve to help guarantee, to people of every nation, the right to life. I ask my fellow Senators to act swiftly to ratify this important treaty to outlaw genocide.

ARMS CONTROL IMPACT STATEMENTS

Mr. SPARKMAN. Mr. President, last month the Committee on Foreign Relations received the initial submissions of arms control impact statements as required under section 36 of the Arms Control and Disarmament Act as amended. The Department of Defense provided statements on 11 programs and the Energy Research and Development Administration provided statements in regard to 5 programs. All of the submitted statements were classified.

The submitted statements were reviewed by the members of the Foreign Relations Committee, by the staff of the committee, and by the Congressional Research Service. On September 15, the Senator from New Jersey (Mr. CASE) and I wrote to Secretary of Defense Donald H. Rumsfeld and Dr. Robert C. Seamans, Jr., Administrator of the Energy Research and Development Administration in regard to these statements.

We concluded that the arms control impact statements submitted by the Department and by ERDA do not comply with the law and are unacceptable, and we asked that they resubmit comprehensive statements on the programs covered by the initial submissions.

In addition, we outlined in our letters the proper scope and content of the arms control impact statements required by law.

My fellow Members will recall that the provision calling for arms control impact statements was designed to gain information which would be of value to the Congress in making its determination on defense proposals. The statements were submitted too late and were too brief and unsubstantial to be of value to anyone with a passing familiarity with the programs covered.

We intend to make certain that future submissions comply fully with the law so that next year and in ensuing years these statements will be of value in the deliberative process. Because of the interest expressed in the arms control impact statements, I thought it would be of value to bring my fellow Members up to date on the present situation. Accordingly, I ask unanimous consent that the letters sent to Secretary Rumsfeld and Dr. Seamans be printed in the RECORD at this point, together with the memorandum prepared for the committee by the Congressional Research Service and unclassified versions of the 11 statements submitted by the Department of Defense.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 15, 1976.

Hon. DONALD H. RUMSFELD,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: The Committee on Foreign Relations recently received the initial 11 submissions of Arms Control Impact Statements, as required under section 36 of the Arms Control and Disarmament Act, as amended. These initial submissions have been reviewed by the Members, by the staff of the Committee and by the Congressional Research Service.

The statements provided do not comply with the law and are unacceptable. Accordingly, on behalf of the Committee on Foreign Relations, we request that you take immediate steps to resubmit comprehensive statements meeting the requirements of law on each of the 11 programs covered in the initial submissions.

The legislation requires that the Arms Control Impact Statements be complete and analytical, and that they deal with the impact of the program on arms control and disarmament policy and with the impact on arms control and disarmament negotiations.

The Congressional Research Service comments in regard to analysis as follows:

"Analysis implies an examination of such matters as causes, effects, purposes, accompanying circumstances, alternatives, reasons in favor or against, costs versus benefits, and historical evolution. To put it in other ways, an analysis of impact might explore historical, political, economic and military factors, or it could be concerned with long-range, or medium and short-term elements. These are some categories of information, among others, that are necessary for Congress to make its own appraisals and to participate meaningfully in the formulation of arms control policy."

The Congressional Research Service commented as follows as to impact on policy and negotiations:

"There can be impact on current policy, which of course implies an explanation of what current policy is, on various alternatives to present policy, on proposals for future policy, and on the many varieties of factors and circumstances that affect decisions on policy. . . . Arms control impact on negotiations could include impact on a number of ongoing negotiations in various forums—SALT, MBFR, United Nations, Conference of the Committee on Disarmament, as well as others. An arms control impact statement could include a discussion how a particular defense program might facilitate or complicate certain negotiations, or some analysis how it might impinge on possible future negotiations."

The programs for which statements are required are outlined specifically in the legislation. We would like to draw particular attention to the requirement that "any program of research, development, testing, engineering, construction, deployment or modernization" meeting other criteria is covered by the legislation. The submissions essentially dealt with programs under research and development, which is substantially less than envisioned.

We note the complete classification of the submitted statements. When classification is necessary for full and detailed discussion, specific statements should be provided in classified and unclassified form. Every effort should be made to provide unclassified information to the fullest extent possible.

Since the requirement for arms impact statements became law on November 29, 1975, the executive branch understandably was unable to finish its work on the initial statements in time to submit them with the fiscal 1977 authorization and appropriation requests. However, the delay before submission was extremely prolonged, and the statements were only forthcoming after further inquiry by this Committee. In the future, the timing must be in full compliance with the law.

Sincerely,

JOHN SPARKMAN, *Chairman.*
CLIFFORD P. CASE,
Ranking Member.

SEPTEMBER 15, 1976.

Hon. ROBERT C. SEAMANS, Jr.,
Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR DR. SEAMANS: The Committee on Foreign Relations recently received the initial five submissions of Arms Control Impact Statements, as required under section 36 of the Arms Control and Disarmament Act, as amended. These initial submissions have been reviewed by the Members, by the staff of the Committee and by the Congressional Research Service.

The statements provided do not comply with the law and are unacceptable. Accordingly, on behalf of the Committee on Foreign Relations, we request that you take immediate steps to resubmit comprehensive statements meeting the requirements of law on each of the five programs covered in the initial submissions.

The legislation requires that the Arms Control Impact Statements be complete and analytical, and that they deal with the impact of the program on arms control and disarmament policy and with the impact on arms control and disarmament negotiations.

The Congressional Research Service comments in regard to analysis as follows:

"Analysis implies an examination of such matters as causes, effects, purposes, accompanying circumstances, alternatives, reasons in favor or against costs versus benefits, and historical evolution. To put it in other ways, an analysis of impact might explore historical, political, economic and military factors, or medium and short-term elements. These are some categories of information, among others, that are necessary for Congress to make its own appraisals and to participate meaningfully in the formulation of arms control policy."

The Congressional Research Service commented as follows as to impact on policy and negotiations:

"There can be impact on current policy, which of course implies an explanation of what current policy is, on various alternatives to present policy, on proposals for future policy, and on the many varieties of factors and circumstances that affect decisions on policy . . . Arms control impact on negotiations could include impact on a number of ongoing negotiations in various forums—SALT, MBFR, United Nations, Conference of the Committee on Disarmament, as well as others. An arms control impact statement could include a discussion how a particular defense program might facilitate or complicate certain negotiations, or some analysis how it might impinge on possible future negotiations."

The programs for which statements are required are outlined specifically in the legislation. We would like to draw particular attention to the requirement that "any program of research, development, testing, engineering, construction, deployment or modernization" meeting other criteria is covered by the legislation. The submissions essentially dealt with programs under research and development, which is substantially less than envisioned.

We note the very high classification of the submitted statements. When classification is necessary for full and detailed discussion, specific statements should be provided in classified and unclassified form. Every effort should be made to provide unclassified information to the fullest extent possible.

Since the requirement for arms impact statements became law on November 29, 1975, the executive branch understandably was unable to finish its work on the initial statements in time to submit them with the fiscal 1977 authorization and appropriation requests. However, the delay before submission was extremely prolonged, and the statements were only forthcoming after further inquiry by this Committee. In the future, the timing must be in full compliance with the law.

Sincerely,

JOHN SPARKMAN,
Chairman.
CLIFFORD P. CASE,
Ranking Member.

[From the Library of Congress, Congressional Research Service, Washington, D.C., Aug. 20, 1976]

MEMORANDUM

To: Senate Foreign Relations Committee.
Attention: Mr. Bill Ashworth.
From: Charles R. Gellner.
Subject: Arms Control Impact Statements Submitted August 1976.

This memo is a preliminary comment on the arms control impact statements submitted by the Department of Defense and the Energy Research and Development Administration in August 1976, in response to Senator Sparkman's and Representative Morgan's letter of March 29.

According to Sec. 36(b)(2) of the Arms Control and Disarmament Act Executive proposals to Congress regarding certain specified defense programs "shall include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations." This legislative requirement specifies therefore that the impact statement be—

(1) Complete,

(2) Analytical,

(3) Deal with the impact of the program on arms control and disarmament policy, and

(4) Deal with the impact of the program on arms control and disarmament negotiations.

Regarding completeness, the Department of Defense submitted eleven statements and ERDA submitted five, total sixteen. According to the criteria of a budgetary and other character in the legislation there are many other defense programs eligible for inclusion on which statements were not forwarded. No statement submitted makes reference to the legislative criterion governing its inclusion. While there are variant ways of defining defense programs the charts appended to this memo list many programs that might have been included but were not. For instance, there are many programs relating to deployed systems, as distinct from those in R and D, which were not included.

Each statement is very brief. Only one DOD statement goes beyond a single page. In most cases about half of each statement is a factual description of the program, which appears to be mostly a repetition of the kind of information included in budget submissions. The "impact" part of the statements in many cases is no more than several sentences.

The House International Relations Committee Report, in explaining the intent of the legislation, makes the following statements:

> It is anticipated that any impact statement . . . [conveyed to Congress] would be comprehensive, complete and substantive enough for Congress to exercise independent appraisals. (page 13)
>
> Congress has a constitutional responsibility to share in the formulation of foreign policy. In order to fulfill that role properly and responsibly in the all-important area of proposed defense programs, it needs complete information—especially in terms of the impact of such proposals on U.S. arms control and disarmament policy and negotiations. (page 5)
>
> A central purpose of the reporting requirement is to provide the Congress . . . with accurate and systematically developed information on the arms control and disarmament implications of proposed defense programs. The Committee believes that such information would, especially in the case of Congress, facilitate independent appraisals and ultimately achieve a more integrated, effective and balanced national security policy. (page 10)

These excerpts show that the impact statements are intended to play an essential role in aiding Congress to make independent appraisals and to fulfill its Constitutional responsibility for formulating foreign policy. It is difficult to understand how the short, spare and superficial impact statements which have recently been forwarded can be of much assistance to Congress in this respect.

In regard to the requirement that the impact statements be "analytical", those submitted are brief, general summaries of facts or of a relationship, without much or any explanation or elaboration. Analysis implies an examination of such matters as causes, effects, purposes, accompanying circumstances, alternatives, reasons in favor or against, costs versus benefits, and historical evolution. To put it in other ways, an analysis of impact might explore historical, political, economic and military factors, or it could be concerned with long range, or medium and short term elements. These are some categories of information, among others, that are necessary for Congress to make its own appraisals and to participate meaningfully in the formulation of arms control policy. They are not present in the impact statements submitted.

In reference to impact on policy there can be a number of approaches. There can be impact on current policy, which of course implies an explanation of what current policy is, on various alternatives to present policy, on proposals for future policy, and on the many varieties of factors and circumstances that affect decisions on policy. Some statements of U.S. arms control policy appear in the fifteenth report of the U.S. Arms Control and Disarmament Agency which the President forwarded to Congress less than two weeks before the impact statements were delivered. (See excerpts attached to this memorandum)

Just a few of the major aims of arms control and disarmament policy that can be summarized from the fifteenth annual report for illustrative purposes are as follows:

1. To reduce the likelihood of war or to avoid war altogether;

2. To lessen the destructiveness of war if it comes;

3. To reduce or eliminate expenditure of human and material resources in preparation for war.

One might have expected that arms control impact statements would have contained some consideration of policies such as those just summarized as well as others mentioned in the fifteenth report and elsewhere in official literature. However, the impact statements submitted to Congress are bereft of such discussion.

Arms control impact on negotiations could include impact on a number of ongoing negotiations in various forms—SALT, MBFR, United Nations, Conference of the Committee on Disarmament, as well as others. An arms control impact statement could include a discussion how a particular defense program might facilitate or complicate certain negotiations, or some analysis how it might impinge on possible future negotiations. There is no such analysis in these statements. Under this heading could also fall an examination whether defense programs conform with or transgress existing arms control agreements or pending agreements. The statements that have been submitted do include judgments of this character but without much explanation or elaboration.

The foregoing discussion refers to the character of the arms control impact statements submitted by the Executive as they appear in the light of the criteria set down in the Arms Control and Disarmament Act. The response of the Congress to the initiative of the Executive Branch this year could strongly influence the way the Executive reacts to its legislative obligations next year. What therefore might Congress now do to inform and perhaps guide the Executive in future submissions of arms control impact statements?

POSSIBLE COURSES OF ACTION

1. Send a letter of response to DOD and ERDA stating that the statements submitted fall considerably short of what is contemplated in the legislation and specifying some of the respects in which they do so.

A. The letter might also state that at least some of the statements are unjustifiably classified (see additional remarks on this point below), and that it is expected that future statements will be marked, sentence by sentence, either as unclassified or with a proper degree of classification.

B. The letter might also state that the Committees will provide at a later date detailed guidelines for what should be included in future arms control impact statements submitted to Congress. Such guidelines could be worked out and transmitted later, but in time to be used by the next Administration before its defense programs are sent to the next Congress.

2. In accordance with Sec. 36(b)(3) of the Arms Control and Disarmament Act the Committee in the near future might request the Director of ACDA for advice on the arms control implications of the programs which are subjects of the impact statements. If there is not sufficient time to hold a hearing before Congress adjourns, then the Director could be requested to supply his advice in writing. Such a method is contemplated in the House Committee report. ACDA has already prepared impact reports on the subject defense programs so little additional effort on its part would likely be required to respond in writing to a request for advice.

3. In addition to the above possible courses of action, CRS or other Congressional support agencies might prepare reports on selected defense programs analyzing their impact on arms control policy and negotiations. In the first instance, these might assist the Congress in making the independent appraisals envisioned in the legislation. More specifically, such reports might be employed as a base on which to construct a set of hearings for the director of ACDA on arms control impact, or they could be used as a check against which to analyze future impact statements submitted by the Executive, or they could serve as models to guide future submissions by the Executive.

ADDITIONAL REMARKS

Classification. All of the impact statements recently submitted are classified. Two disadvantages of this fact are, first, it prevents the many resources of the non-governmental professional community from being applied in a critical analysis of the statements, and second, it hinders the conduct of effective public hearings by Congress.

According to classification regulations the inclusion of just one item of classified information can require the classification of an entire document. Thus an explicit designation of the classification of the parts could facilitate separation into classified and unclassified documents. Another possibility is for the Executive to prepare unclassified summaries of the classified statements. It can be expected that requests will come from outside the government for unclassified summaries and that there will be initiatives to have the statements declassified in whole or in part. In view of this probability Congress itself might like to take the initiative at an early date to have as much as possible of the statements declassified.

A Possible Dilemma. There is a possible dilemma for the Executive Branch built into the impact statement procedure. It will be difficult for the Executive to send to Congress a recommendation for a defense program and at the same time send an impact evaluation that the program would be detrimental to national arms control policy. There can be programs that are deemed to have positive defense values at the same time they are judged to be adverse to a successful arms control policy or negotiations (cruise missiles are candidates for this category). How will the Executive resolve dilemmas of this character?

One possibility is that the Executive will think through and resolve the conflicting policy considerations before it drafts a program to be proposed to Congress. This is evidently one of the aims of the arms control impact legislation. But it is not realistic to expect the Executive will quickly adopt novel habits that are contrary to long ingrained dichotomies in thinking about defense and arms control. Until the Executive Branch learns to integrate defense and arms control policies at the genesis of weapons systems and defense programs an adversary situation could exist in the Executive Branch.

In the meantime if ACDA makes independent appraisals of the arms control aspects of defense programs, as directed in the legislation, there could be serious differences of view between it and the defense agencies. One obvious way the Executive Branch might choose to deal with this dilemma in the reports it sends to Congress would be to paper over the differences with generalized or unspecific language or in some other way to dodge the issue. Congress might find that it is receiving reports with watered down interpretations of arms control impact or that omitted significant aspects of unfavorable impact.

If Congress found that this was happening, it might want to avail itself fully of the provision in the legislation for requesting of the Director of ACDA his appraisals of arms control impact. As backup for its questioning of ACDA or as a check on the response from ACDA, Congress might wish to conduct its own independent appraisals of arms control impact with the assistance of its own various support resources.

On the other hand, if the Executive Branch should candidly state in its reports to Congress conflicts between defense and arms control policy, leaving ultimate decisions to Congress, then the latter will require an independent study effort on which to base its decisions.

[Arms Control Impact Information]

SYSTEM TITLE: TRIDENT WEAPONS SYSTEM

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit R-1, Line 89 and 161, Program Elements 6456ON & 64353N and Exhibit P1, Appropriation 1611N, Lines 5 & 6 and Appropriation 1507N, Lines 3 & 4.

Program description: The Trident system, of which the Trident submarine and Trident-1 (C-4) missile are a part, is designed to provide an undersea missile system to maintain a credible strategic deterrent. The Trident submarine design provides for 24 missile launch tubes, larger than those in existing SSBNs. Initially Trident SSBNs will be outfitted with the Trident-1 (C-4) missile, with the first deployment scheduled for 1979; procurement of 11 Trident SSBNs is programmed through FY 1981. Long-range planning continues procurement beyond FY 1981 at a rate of three Trident submarines every two years. The ultimate Trident force level cannot reasonably be determined at this time. The Trident-1 (C-4) missile is a new technology strategic weapon under development which will be capable of carrying a full payload of multiple independently targetable re-entry vehicles (MIRVs) to a range of 4,000 nautical miles. The Trident-1 missile will be deployed in the 11 Trident submarines (264 launchers) programmed through FY 1981 and in 10 Poseidon SSBNs (160 launchers). Operational availability date (OAD) of the missile is September 1979. Backfit of the Poseidon SSBNS will be accomplished in 1979-1982.

Relevant arms control policy and/or negotiations and implications: The program is consistent with all U.S. international obligations and arms control policies. As a strategic offensive arms system, the Trident Program is encompassed by strategic arms limitation negotiations. Modern ballistic submarines and their associated launchers are subject to the terms of the SALT ONE Interim Agreement. However, since the Interim Agreement expires in October 1977 and the first Trident submarine is not scheduled to commence sea trials until 1978, the program will not be affected by or affect other systems limited by the provisions of the Interim Agreement. If a SALT TWO Agreement along the lines of the Vladivostok understanding is reached, each Trident launcher will be counted in the 2400 aggregate of strategic nuclear delivery systems and the 1320 MIRV ceiling. However, SALT TWO is not expected to include a separate limit on the number of SSBNs permitted each side.

SYSTEM TITLE: AIR-LAUNCHED CRUISE MISSILE (ALCM)

Sponsoring military service: Air Force.

DOD FY 1977 budget entry: Exhibit R-1, Line 61, Program Element 64361F.

Program description: The ALCM is a subsonic, air-to-ground missile primarily designed to be carried internally or externally and launched from the B-52. The ALCM is designed to be interchangeable with the Short-Range Attack Missile (SRAM) on the SRAM rotary launcher and to carry a nuclear warhead [deleted]. The ALCM is in advanced development to demonstrate feasibility and to provide cost and performance data. The first flight was accomplished in March 1976 and a full guided flight is scheduled in late 1976. The quantity of ALCMs to be deployed has not been determined, although a procurement of 700 missiles is being studied.

Relevant arms control policy and/or negotiations and implications: Cruise missiles as a class are not limited by the SALT ONE Interim Agreement; they are, however, under active consideration in the SALT TWO negotiations. The ALCM development program requested in the current budget will proceed with full cognizance of any agreement reached in SALT TWO.

SYSTEM TITLE: SEA-LAUNCHED CRUISE MISSILE (SLCM)

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit R-1, Line 73, Program Element 6336IN.

Program Description: The sea-launched cruise missile (Tomahawk) is a long-range cruise missile with both nuclear-armed and conventional-armed applications. The Tomahawk will be capable of launch from a variety of mobile platforms, including submarines, surface ships, aircraft, and land vehicles. The conventional-armed version of the Tomahawk, identical in external physical appearance to the nuclear-armed version, is being developed to provide the Navy with a longer-range, greater-lethality anti-ship missile. Both the nuclear-armed and conventional-armed versions are planned to achieve an Initial Operational Capability in early 1980. Final inventory objectives have not been established.

Relevant arms control policy and/or negotiations and implications: Cruise missiles as a class are not limited by the SALT ONE Interim Agreement; they are, however, under active consideration in SALT TWO negotiations. The SLCM development program requested in the current budget will proceed with full cognizance of any agreements reached in SALT TWO.

SYSTEM TITLE: PERSHING II ADVANCED TECHNOLOGY DEVELOPMENT

Sponsoring military service: Army.

DOD FY 1977 budget item: Exhibit R-1, Line 41, Program Element 63311A.

Program description: The Army's Pershing II advanced technology program, currently in the advanced development phase, uses the latest available technology to combine a new Radar Area Correlation Terminal Guidance System with the currently fielded Pershing IA propulsion and ground support equipment to achieve greatly improved missile accuracy. This accuracy, along with low yield specialized warhead options, to include a low yield earth penetrator, will allow the Pershing II to be used to attack critical targets within the theater of operations while keeping collateral damage to a minimum. The purpose of the Pershing II advanced technology development program is to provide the European theater with a land mobile surface-to-surface missile system that incorporates high accuracy and immediate responsiveness with operational factors of survivability and penetrability.

Relevant arms control policy and/or negotiations and implications: Introduction of the Pershing II would not violate any present international arms control obligation of the U.S. and would not have a significant quantitative impact from an arms control viewpoint because they would be replacements for current Pershing IA components. [Deleted.] In MBFR negotiations, [deleted].

SYSTEM TITLE: MARV (MANEUVERING REENTRY VEHICLE)

Sponsoring military services: Navy and Air Force.

DOD FY 1977 budget item: Navy, PE-64363N (Trident), Air Force, PE 63311F (ABRES).

Program Description: Maneuvering Reentry Vehicle's have two distinction applications. One is for evading defensive missiles, the other is for improving overall missile systems accuracy. The preponderance of U.S. efforts are devoted to the first application in two programs: The Navy Mk-500 and the Air Force (ABRES) Advanced MaRV. Lesser effort is devoted to the more difficult task of MaRV for accuracy in the Air Force (ABRES) program. The Mk-500 MaRV evader being developed by the Navy for the Trident I missile is a hedge against simple proliferated ballistic missile defense (e.g., upgraded SAM's). It uses preprogrammed high-g maneuvers to vary from a ballistic path and evade interceptors. The Mk-500 MaRV is less accurate than the ballistic RV which it could replace. The Advanced MaRV under development by the Air Force is designed also for evasion of ballistic missile defenses but its object is to demonstate technology for evading advanced (Sprint-type) interceptors without accuracy degradation. Program efforts to date have involved concept studies by three contractors. Program efforts for MaRV with improved accuracy are limited to the development of terminal sensing technology. This is a much more difficult problem than simple evasion. Flight tests would not occur for at least 4-5 years.

Relevant arms control policy and/or negotiations and implications: All MaRV Efforts involve only advanced development or technology programs. No decisions have been on full scale development or production for any MaRV. MaRV's are not restricted by existing agreements or by a SALT TWO treaty based on the Vladivostok understanding. Any MaRV's on strategic missiles would be counted under the 2400 aggregate limit and the 1320 MIRV limit if associated with MIRV systems.

SYSTEM TITLE: ADVANCED ICBM TECHNOLOGY/ M-X

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Exhibit R-1, Line 54, Program Element 63305F.

Program description: The Advanced ICBM Technology Development Program will lead to the development of new technology to ensure the availability of an option for the modernization of US ICBM forces in the 1980s and beyond. Technology is being developed to assure a new missile weapons system (M-X) capable of deployment in existing silos, an air mobile basing mode or a ground mobile basing mode. The M-X is expected to be a large throw-weight, MIRVed ICBM. FY 1977 funding is associated with the advanced ICBM technology program. Initial funding for M-X engineering development is planned for FY 1978. The major areas of effort in FY 1977 are the development of missile and basing subsystems, system integration and extensive system/subsystem testing to support the full-scale development decision.

Relevant arms control policy and/or negotiations and implications. The M-X program is consistent with all US international obligations and all currently proposed SALT TWO limitations. In particular, it is consistent with all SALT ONE provisions and the unilateral US statement on missile size. The SALT ONE Interim Agreement established limitations on ICBM silo size and the mix of light and heavy missile launchers, but imposed no limitation on qualitative factors or on research, development, and testing. If the Vladivostok understanding results in a SALT TWO agreement, a deployed MIRVed M-X would be counted in the aggregate of strategic nuclear delivery systems and in the ceiling on MIRV launchers. Its size and weight, as well as other relevant design factors, would be in accordance with any SALT TWO limitations.

SYSTEM TITLE: B-1 BOMBER

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Exhibit P-1, Appropriation 3010F, Lines 1 and 2, and Exhibit R-1, Line 39, Program Element 64215F.

Program description: The B-1 is being developed to provide for modernization of the bomber portion of the strategic forces. The prime mission of the B-1 is nuclear deterrence. The B-1 will be able to carry out a variety of military operations at conflict levels below full strategic nuclear retaliation. The B-1 program calls for a total buy of 244 aircraft, four committed to RDT&E, and 241 planned for the operational inventory (including one RDT&E aircraft converted to operational status). The FY 1977 RDT&E program is designed to continue a level of testing to verify that the B–1 can perform as expected and is ready for a production contract. This includes continued flight testing on aircraft 1, 2, and 3 and continuation of aircraft 4 fabrication.

Relevant arms control policy and/or negotiations and implications: The B–1 program is consistent with all present U.S. international obligations and arms control policies; the Interim Agreement on Offensive Arms established in SALT ONE did not impose limitations on bombers. A SALT TWO agreement, based on the Vladivostok understanding in November 1974, will place an equal aggregate ceiling on the number of strategic nuclear delivery vehicle systems; these would include heavy bombers, ICBM launchers, and SLBM launchers. B–1's would be included in this aggregate. Within the ceiling, each side would be free to determine the mix of systems, except for the bans on additional fixed ICBM launcher construction. However, the programmed B–1 force would not violate the aggregate limit of 2400 systems or have any adverse impact on other U.S. strategic weapons systems in complying with the 2400 aggregate. The B–1 program represents force modernization, which is specifically permitted under SALT ONE and under the Vladivostok understanding.

SYSTEM TITLE: MK12A

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 64, Program Element 11213F.

Program description: The MK12A research and development program involves modification to the MK12 reentry vehicle by incorporating advances in warhead technology and component miniaturization techniques internally while retaining its external configuration, thus retaining the same aerodynamic and radar signature characteristics of the MK12. The new warhead improves the yield of the MK12. The MK12A reentry vehicles would replace the present MK12's on the MINUTEMAN III ICBM's, and could be deployed on M–X and/or TRIDENT II. FY 1977 activity includes flight testing to verify that operational flight characteristics duplicate those of the MK12.

Relevant arms control policy and/or negotiations and implications: The MK12A program is consistent with all current U.S. international obligations and all proposed SALT II limitations. The SALT I Interim Agreement imposed no limitation on qualitative factors or on research, development, and testing. SALT II is not expected to constrain ICBM RDT&E either.

SYSTEM TITLE: IMPROVED MINUTEMAN GUIDANCE

Sponsoring military service: Air Force.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 64, Program Element 11213F (Minuteman Squadrons).

Program description: Guidance improvements for the Minuteman III are intended to improve weapon system accuracy. The operational systems development program involves changes only to the computer software of the present guidance set. These software changes are primarily better mathematical modeling of the inflight performance of the inertial platform and accelerometers, and improved calibration routines for the gyroscopes and accelerometers prior to launch. Planned FY 1977 activity includes flight testing and performance analysis. Validation and verification of software for deployment will also be accomplished.

Relevant arms control policy and/or negotiations and implications: The improved Minuteman Guidance program is fully consistent with all current U.S. international obligations and all proposed SALT II limitations. The intended improvements to Minuteman Guidance represent a refinement of inherent capability in keeping with the SALT I Interim Agreement which established limitations on ICBM silo size and the mix of light and heavy missile launchers, but imposed no limitations on qualitative factors or on research, development, and testing.

SYSTEM TITLE: CAPTOR

Sponsoring military service: Navy.

DOD FY 1977 budget item: Exhibit P–1, Appropriation 1507N, Line 46.

Program description: CAPTOR (enCAPsulated TORpedo) is a deep-water [deleted] non-nuclear anti-submarine mine which may be delivered by submarines, surface ships, and aircraft. The concept of operation is that the CAPTOR mine will be planted in deep-water depth SLOC's (Sea Lines of Communication) and choke points. When a valid submerged target is detected and classified, a specially modified MK 46 torpedo is released to attack the target. CAPTOR is one of an entire new generation of mines designed to provide the U.S. with a highly effective, countermeasures-resistant, world-wide and relatively inexpensive mine warfare capability. A planned CAPTOR inventory objective of [deleted] weapons will provide sufficient weapons to allow flexibility in countering any enemy submarine capability.

Relevant arms control policy and/or negotiations and implications: The CAPTOR program is consistent with all current U.S. international obligations and arms control policies. It meets the requirements of the 1908 Hague Convention ["Laying of Automatic Submarine Contact Mines" (Hague VIII)]. The Treaty on the Prohibition of the Employment of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and Ocean Floor and in the Subsoil Thereof (Seabed Treaty) is not relevant to this program since it does not have a nuclear capability.

SYSTEM TITLE: XM 753 PROJECTILE

Sponsoring military service: Army.

DOD FY 1977 budget item: Included in Exhibit R–1, Line 89, Program Element 64603A (Nuclear Munitions).

Program description: The Improved 8-inch Nuclear Projectile (XM 753) development program is part of an Army nuclear munitions program currently in the engineering development phase. The objective of the XM 753 program is to develop a modern 8-inch nuclear projectile which incorporates the latest technology to replace the current M422 projectile. ERDA is providing the warhead (W79) for the XM 753 in accordance with the Joint AEC/DOD agreement of March 1953. Related development projects are a family of nonnuclear 8-inch projectiles and the 8-inch howitzer, self-propelled (M11OA1E1). The XM 753 projectile, compared to the current round, will provide a substantial increase in combat effectiveness with a significant reduction of the area exposed to collateral damage. In addition, the W79 warhead design significantly enhances safety, security, and command and control.

Relevant arms control policy and/or negotiations and implications: Introduction of the XM 753 projectile would be consistent with all present U.S. international arms control obligations and policies.

The Threshold Test Ban Treaty (TTBT) and the Mutual and Balanced Force Reductions (MBFR) negotiations do not appear to be relevant to the XM 753 program. The TTBT does not affect further under ground testing of the W79 warhead because the yield from such an explosion would be well below the 150 kt limit established by the TTBT. In MBFR negotiations, [deleted]. In any case, neither MBFR proposal would prevent replacement and improvement of the round.

FINANCIAL STATEMENT

Mr. McGEE. Mr. President, early next week I will make available to the Wyoming news media a statement of my personal finances, including my holdings, taxes paid this year and the past 5 years, my income, and my liabilities.

As a candidate for reelection this year, Mr. President, I am pleased to join an ever-growing list of public officials who are voluntarily making these statements public—out in the open for all to see. Many of my colleagues in this Chamber have preceded me in making personal financial statements, Mr. President, and I hope that many more will follow.

I ask unanimous consent, Mr. President, that the text of the news release containing my financial statement be printed in the RECORD.

There being no objection, the financial statement was ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENT

WASHINGTON, D.C., Sept. 20.—Senator Gale McGee (D-Wyo.) today issued a statement of personal finances, including his holdings, taxes paid, income, and liabilities.

Noting that he is a candidate for re-election this year, McGee said, "I feel the trend of public officials and candidates for office voluntarily making their finances public is commendable and is very much in the public interest."

The Wyoming Senator said his basic income in 1975 was $43,025, his U.S. Senate salary. In addition, as already reported to the Secretary of the Senate, he received $14,950.00 in honoraria for speaking engagements and $14,061.87 in interest income on savings. Income from Laramie property was $2,415.84, and Mrs. McGee received $156.74 in dividends from a small amount of common stock.

For 1975, McGee paid federal income taxes totaling $11,133.80, he said.

McGee lists as assets a house and acreage near Dubois for which he paid $75,000, a home in Washington, D.C. for which he paid $42,500, an automobile for which he paid $4,450 and an additional automobile for which he paid $4,701.

Liabilities, McGee said, total $36,750 owed for the Dubois property.

The Wyoming Senator also listed the taxes he has paid in the last five years, 1970 through 1974. They are as follows: 1970—$16,860; 1971—$15,744; 1972—$18,509; 1973—$14,581; and 1974—$10,915.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 1 hour.

The motion was agreed to; and at 10:31 a.m. the Senate took a recess for 1 hour.

The Senate reassembled at 11:31 a.m., when called to order by the Presiding Officer (Mr. STONE).

EAST GERMAN CLAIMS PROGRAM

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1121, S. 3621.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3621) to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, the Foreign Relations Committee had this bill under consideration. It is a part of the International Claims Settlement Act of 1949. During the years since that act was originally passed, we have had a great many settlements of foreign claims.

This relates to sections 210 and 211 of the War Claims Act of 1948, as amended by the one in 1949.

With reference to this particular claim, the committee voted unaimously to approve the claim.

Senator HRUSKA does have an amendment relating to a claim that is fully explained in a statement which he will present.

I believe the amendment is justified. Therefore, I shall move adoption of the bill and the amendment offered by Senator HRUSKA.

I send the amendment of Senator HRUSKA to the desk.

UP AMENDMENT NO. 465

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN), for Mr. HRUSKA, proposes an unprinted amendment No. 465.

The amendment is as follows:

On page 9, at line 25, after Sec. 614, add the following new section:

"SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within 90 days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within 30 days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within 30 days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948, and any increases in awards determined to be appropriate by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with Section 213 of the Act.

Mr. HRUSKA. Mr. President, the amendment I am offering would amend sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279). The amendment provides authority for the Foreign Claims Settlement Commission to reopen its procedures established by the War Claims Act of 1948.

Mr. President, the amendment does not direct any payment of moneys, it simply permits the Foreign Claims Settlement Commission to accept new evidence in connection with a claim presented to the Commission on July 15, 1964, by the Sea Oil and General Corp.

The claim submitted by Sea Oil and General Corp. was for property, of which 75 percent was owned by the corporation, which was destroyed by the Imperial Japanese Forces during the period covered by title II of the War Claims Act of 1948. The claim asserted that the property in question was worth in excess of $4 million at the time of the loss.

Mr. President, the staff of the Foreign Claims Settlement Commission spent the better part of 3 years investigating and researching the validity of this claim. Staff concluded on the basis of the evidence that substantial questions as to the claimed ownership of Sea Oil and General Corp. existed and therefore recommended that compensation be denied because of the claimants' failure to meet the burden of proof.

Subsequently, objections were filed by the corporation and a further hearing was held where additional evidence was submitted. Following the hearing the Commission issued a summary of the proceedings which concluded that the doubts about the ownership of the property had been resolved and that "* * * the claimed is deemed to be compensable and an appropriate award may issue * * *." Staff was then directed to proceed with valuation of the proper compensation.

Mr. President, on May 17, 1967, the Commission issued a final decision which provided for an award of $228,960 to Sea Oil and General Corp. Because the valuation was substantially less than the $4 million claimed a protest was filed on June 5, 1967. Unfortunately, the protest was returned by the Commission because the statutory authority for the program had expired just several days earlier, on May 17, 1967, and therefore "* * * the Commission no longer (had) jurisdiction to reconsider or change its decisions on these claims."

This amendment would allow the Commission to reopen its consideration of the claim by Sea Oil and General Corp. I repeat that it does not give the Commission authority to grant any monetary award, it simply allows the Commission to hear additional evidence in support of the corporation's claim. It is only equitable and just that this be done. Moreover, no costs will accrue to the U.S. Treasury even if the award is increased since the War Claims Fund contains proceeds of liquidated foreign assets.

Mr. President, I urge the adoption of this amendment to the pending measure.

Mr. President, I ask unanimous consent that a document entitled "Summary of Events, Claim of Sea Oil and General Corporation" be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

SUMMARY OF EVENTS—CLAIM OF SEA OIL & GENERAL CORPORATION

On July 15, 1964 a claim (#W-11642) was presented to the Foreign Claims Settlement Commission by Sea Oil & General Corporation (SOGC) for property located in Java, of which it had 75% ownership, which was destroyed by the Imperial Japanese Forces during the period covered by Title II of the War Claims Act of 1948. SOGC asserted that the sugar mill property in question was worth in excess of $4 million at the time of the loss.

The Commission staff spent the better part of three years investigating and researching the validity of this claim, as direct evidence regarding the succession of ownership of the property in question was complex, conflicting in part, and generally difficult to assemble. Finally concluding that substantial questions as to the claimed ownership by SOGC existed, the staff recommended a Proposed Decision dated March 8, 1967, which denied compensation because of the claimants' failure to meet the burden of proof.

Objections to the Proposed Decision were filed by SOGC, which asked for a hearing and opportunity to submit further evidence. A hearing did take place on April 20, 1967, following which an oral hearing summary was issued by the Commission and signed by the Chairman on April 28 stating that doubts about the ownership of the property had been resolved and that ". . . the claim is deemed to be compensable and an appropriate award may issue . . ." Staff was to proceed with a valuation of the proper compensation.

On May 17, 1967 the Commission issued a Final Decision (W-21393) which provided for an award of $228,960 to SOGC, or 75% of the valuation made by the Commission of the subject property in Java ($305,280). Because this valuation was substantially less than the $4 million claimed and believed to be the actual value at time of loss by SOGC, a Protest to Final Decision was filed by the claimant on June 5, 1967. It was returned by the Commission on June 8 because the statutory authority for the program had expired on May 17 (the day of the Final SOGC Decision), and ". . . the Commission no longer [had] jurisdiction to reconsider or change its decisions on these claims."

SOGC has since made several efforts to reopen its claim before the Commission, and has submitted new evidence as recently as May 1974. In each case the Commission has claimed lack of statutory jurisdiction to consider the claim further. Private relief bills have been introduced in Congress on SOGC's behalf in the 90th Congress (H.R. 16609; April 10, 1968) and 92nd Congress (H.R. 10508; August 6, 1971), but were opposed by the Commission and were not enacted. Legislation of some type is required in order to permit an increase in the award to SOGC, or in the alternative to confer jurisdiction upon the Commission permitting SOGC to present its case, as modified by new evidence obtained since the Commission's mandate expired.

SOGC's position is that the Commission utilized an incorrect basis for determining the value at time of loss of the property in question; namely, the balance found in the books relating to the sugar mills. They contend that there is no factual evidence supporting the actual value of the property being as low as the book value. On the contrary, SOGC asserts that the overall evidence in the record supports the conclusion that the true value was substantially higher. The evidence obtained since the Final Decision on May 17, 1967 through the services of an expert recommended by the Department of Commerce adds further corroboration to SOGC's position that the commission's computations were erroneous. The case file of the Commission itself reveals that far more time and effort went into the validity of the claim than its valuation. As a matter of fact, the worksheet prepared by the Commission staffer which roughs out the figures upon which the final award was determined bears the date of May 16, 1967—just one day before the decision was issued and the Commission's mandate terminated.

Legislation providing an opportunity for SOGC to present its case once more to the current Commission, with all the evidence now available, is both equitable and just—especially if the legislation provides the same opportunity to any other claimants which may be similarly situated because their awards were made in the waning days of the Commission's mandate. Such legislation permits any such claims to rise or fall on their own merits and requires Congress to make no judgments on the virtue of those claims. Further, no costs will accure to the U.S. Treasury even if awards are increased since the War Claims Fund is stocked with proceeds of liquidated foreign assets.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move the adoption of the bill, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following new title:

"TITLE VI

"PURPOSE OF TITLE

"SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"DEFINITIONS

"SEC. 601. As used in this title—

"(1) The term 'national of the United States' means—

"(a) a natural person who is a citizen of the United States;

"(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

"(2) The term 'Commission' means the Foreign Claims Settlement Commission of the United States.

"(3) The term 'property' means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

"(4) The term 'German Democratic Republic' includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

"(5) The term 'Claims Fund' is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

"RECEIPT AND DETERMINATION OF CLAIMS

"SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

"OWNERSHIP OF CLAIMS

"SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"CORPORATE CLAIMS

SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

"(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

"(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

"OFFSETS

"SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

"CONSOLIDATED AWARDS

"SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"CLAIMS FUND

"SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

"(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

"(1) payment in full of the principal amount of each award of $1,000 or less;

"(2) payment in the amount of $1,000 on account of the principal amount of each award of more than $1,000 in principal amount;

"(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

"(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

"(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

"SETTLEMENT PERIOD

"SEC. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

"TRANSFER OF RECORDS

"SEC. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"APPROPRIATIONS

"SEC. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title.

"FEES FOR SERVICES

"SEC. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER LAWS

"SEC. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

"SEPARABILITY

"SEC. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

"PROTESTS

"SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87–846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948, and any increases in awards determined to be appropriate by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act.".

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 553—HONORING MIKE MANSFIELD OF MONTANA

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself and Mr. HUMPHREY, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution be amended, as follows: In the third paragraph, the third line, the word "majority" be inserted between the word "as" and "whip."

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble is as follows:

S. RES. 553

Whereas Mike Mansfield has served the people of Montana and the Nation for thirty-four years in the Congress of the United States, ten years in the House of Representatives and twenty-four years in the Senate;

Whereas Mike Mansfield by his tireless efforts in the Senate and abroad during seven administrations and by his advice and counsel in the conduct of foreign relations to Presidents Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford has contributed to safeguarding the welfare of the United States in the world;

Whereas his Senate colleagues repose great trust and confidence in Mike Mansfield, as manifested in his elections as majority whip for four years and as majority leader for sixteen consecutive years, the longest service as leader in the history of the United States Senate; and

Whereas Mike Mansfield, as he is in the Senate, is recognized throughout the Nation and the world for his efforts to encourage respect for human decency, to enhance political integrity and to advance international peace: Now, therefore, be it

Resolved, That the Senate acknowledges the exceptional service of Mike Mansfield, of Montana, on behalf of the people of this Nation and expresses to him its profound gratitude for his outstanding participation in the Government of the United States of America.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution may lie at the dask throughout the day so that other Senators who wish to add their names as cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Subsequently, by unanimous consent, the following Senators were added as cosponsors:

Abourezk, Allen, Baker, Bartlett, Bayh, Beall, Bellmon, Bentsen, Biden, Brock, Brooke, Buckley, Bumpers, Burdick, Byrd, Harry F., Va., Cannon, Case, Chiles, Church, Clark, Cranston, Culver, Curtis, Dole, Domenici, Durkin, Eagleton, Eastland, Fannin, Fong, Ford, Garn, Glenn, Goldwater, Gravel, Griffin, Hansen, Hart, Gary W., Colo., Hart, Philip A., Mich., Hartke, Haskell, Hatfield, Hathaway, Helms, Hollings, Hruska, Huddleston, Inouye, Jackson, Javits, Johnston, Kennedy, Laxalt, Leahy, Long, Magnuson, Mathias, McClellan, McClure, McGee, McGovern, McInytre, Metcalf, Mondale, Montoya, Morgan, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Roth, Schweiker, Scott, Hugh, Pa., Scott, William L., Va., Sparkman, Stafford, Stennis, Stevens, Stevenson, Stone, Symington, Taft, Talmadge, Thurmond, Tower, Tunney, Weicker, Williams, Young.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—VETO

Mr. ROBERT C. BYRD. Mr. President, I ask, with the understanding that no action will be taken until 12 o'clock noon thereon, that the President's message on the veto be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate a message from the House of Representatives, which was read, as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 8800) entitled "An Act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The Senate proceeded to reconsider the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President's veto message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message is as follows:

To the House of Representatives:

I am returning, without my approval, H.R. 8800, the "Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976."

This bill would establish a five-year, $160 million research, development and demonstration project within the Energy Research and Development Administration (ERDA) to promote the development of an electric vehicle that could function as a practical alternative to the gasoline-powered automobile. One of the major objectives of the project would be the development and purchase by the Federal government of some 7,500 demonstration electric vehicles. Such development would cover some of the areas private industry stands ready to pursue.

It is well documented that technological breakthroughs in battery research are necessary before the electric vehicle can become a viable option. It is simply premature and wasteful for the Federal government to engage in a massive demonstration program—such as that intended by the bill—before the required improvements in batteries for such vehicles are developed.

ERDA already has adequate authority under the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974 to conduct an appropriate electric vehicle development program. Under my fiscal year 1977 budget, ERDA will focus on the research areas that inhibit the development of practical electric vehicles, for wide-spread use by the motoring public. Included is an emphasis on advanced battery technology.

Even assuming proper technological advances, the development of a completely new automobile for large-scale production is a monumental task requiring extensive investment of money and years of development. While the Government can play an important role in exploring particular phases of electric feasibility—especially in the critical area of battery research—it must be recognized that private industry already has substantial experience and interest in the development of practical electric vehicle transportation. I am not prepared to commit the Federal government to this type of a massive spending program which I believe private industry is best able to undertake.

Gerald R. Ford.

The White House, *September 13, 1976.*

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon, and that the time of the recess not be charged to either side.

There being no objection, the Senate, at 11:40 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Allen).

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—VETO

The Senate continued with the reconsideration of the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the consideration of the President's veto of H.R. 8800.

There is 1 hour for debate, the time to be divided equally between the Senator from Alaska (Mr. Stevens) and the Senator from Washington (Mr. Magnuson).

Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield me 5 minutes to speak out of order?

Mr. STEVENS. I yield.

TRAVEL BY MEMBERS OF CONGRESS ON OFFICIAL BUSINESS

Mr. MANSFIELD. Mr. President, some time ago, an article appeared in a local newspaper entitled, "Pentagon to Halt Hill Travel Funds." This article referred to the practice of the Department of Defense providing transportation for Members of Congress who are required to travel overseas and in the United States to carry out legitimate legislative oversight functions. The article also referred to funds provided by the Department, in accordance with existing law, for those official purposes.

Public Law 207, 83d Congress, section 1314, states:

> Funds made available in this or any other Act shall hereafter be available for examination of estimates of appropriations in the field and the use of such funds for such purpose shall be subject only to regulations by the standing committees concerned.

This act applies to all departments of the executive and has been in effect since 1953.

On August 9 of this year, the distinguished minority leader, Hugh Scott, and I, acting in my capacity as majority leader, wrote to the Honorable Donald Rumsfeld, the Secretary of Defense, calling attention to the article and to the existing law. We further attempted to make it absolutely clear that if abuses occurred in the use of such funds—and we did not anticipate that they would—the place to correct them is within this institution and not by fiat of the executive branch. The Senate's system is capable of monitoring matters of this type, and if wrongdoing is apparent, the Senate will act on it. It is possible that in the past there may have been occasions when moneys were expended by executive departments on behalf of Members of Congress without the latter's knowledge and without even the implicit authority of the committee chairman concerned. If this has occurred, it is the responsibility of the departments—notably Defense—to correct the situation and bring it to the attention of the appropriate committee chairman. Has this ever been done by an executive department? Not to my knowledge.

The law of the land takes precedence over departmental regulations insofar as it applies to Members of Congress. This is still a government of three coequal branches, and I hope that the Department of Defense and the other departments of the executive department have not lost sight of that constitutional reality.

On September 9, more than a month after the distinguished minority leader and I had written to the Secretary of Defense, I again wrote pointing out that the first letter was delivered to his office and as of September 9 we had not received as much as an acknowledgment of our letter, nor had Mr. William K. Brehm, the Assistant Secretary of Defense for Congressional Relations, made any effort to consult with appropriate persons in Congress on this matter as was proposed in our original letter. I asked that a reply be provided to the joint leadership within a few days. As of today, more than 6 weeks after our original letter, we have not been contacted, our staff has not been contacted, no acknowledgment of our letter has been received, and no reply appears to be forthcoming. In other words, it appears that the Department of Defense has returned to a practice unhappily referred to in recent history as "stonewalling."

When the distinguished minority leader, Hugh Scott, and I write to a member of the Cabinet, we do not do so as Mike Mansfield and Hugh Scott, nor as Senators from our States, but in this and other instances as the two elected leaders of the U.S. Senate. In that capacity, representing the institution as we do, we are entitled to expect a reply within a reasonable period of time. Indeed, any Member of the Senate is entitled to that minimal courtesy.

It is my intention to leave for the People's Republic of China this evening to conduct a study, with the concurrence of the President of the United States. It is not likely that I will return to the Senate in session prior to my retirement. I will not be the majority leader after January, but I occupy that position now and feel most deeply the responsibilities that go with that office. I am confident that my distinguished colleague, Senator Scott, joins me in this concern.

The only purpose of our letter to the Secretary of Defense was to recognize a common problem, its potential for mischief, and to work with the executive branch in correcting the situation. Members of the Senate have no right to request or expect any services or emoluments beyond those necessary to satisfy the purposes of congressional travel as outlined by the leadership or appropriate committee chairmen under the law. The American people, moreover, are entitled to strict accountability by Members of Congress and by members of the executive in all matters, and I, for one, wish to state that such accountability will be practiced under the close supervision of Members of this institution who are charged with this responsibility.

I, again, ask that the Secretary of Defense provide the leadership of the Senate with at least the courtesy of a reply to our letter. Common decency demands no less.

Mr. President, I ask unanimous consent that the joint leadership letter of August 9, along with my letter of September 9, both to the Honorable Donald Rumsfeld, Secretary of Defense, be printed in the Record.

Mr. President, during the past month, I have been approached by various newspapermen for a copy of the letter which the minority leader and I sent to the Secretary of Defense, but we felt that, as long as the letter had not been answered, we were not free at that time to release that letter. But this request will release copies of both letters, if the Senate agrees to our suggestion.

There being no objection, the letters were ordered to be printed in the Record, as follows:

August 9, 1976.

Hon. Donald Rumsfeld,
Secretary, Department of Defense,
Washington, D.C.

Dear Mr. Secretary: Recently, an article appeared in the Washington Post entitled, "Pentagon to Halt Hill Travel Funds." This article referred to the practice of the Department of Defense providing transportation for Members of Congress who are required to travel overseas and in the United States to carry out their legitimate legislative oversight functions. The authors indicated that your Department, in accordance with existing law, provides funds for official purposes over and above the per diem provided to Members of Congress. Escort officers assigned by the military departments have administered these funds in the past.

Public Law 207, 83rd Congress, Section 1314, states, "Funds made available in this or any other Act shall hereafter be available for examination of estimates of appropriations in the field and the use of such funds for such purpose shall be subject only to regulations by the standing committees concerned." This Act applies to all Departments of the Executive and has been in effect since 1953.

We can appreciate the dilemma faced by an escort officer responsible for expenditures involving local transportation, baggage handling, communications, meetings with foreign officials, control room costs, and related matters when his channel of reporting is to his military superiors. The escort officer is properly subject to regulations promulgated by the Department of Defense.

Only when requested by a committee chairman, escort officers should accompany committee members to assist wherever possible with travel arrangements, scheduling, and coordination of details. They have been of great assistance in the past and bring credit on the services they represent. They are not there to lobby but on request to assist the chairman of each delegation in the performance of his duties and those of the group as a whole. Expenditure of funds by these officers should only be as authorized by the chairmen, and such expenses should be carefully monitored by appropriate Senate authority to ensure that they are being spent in the public interest.

It may be more appropriate in the future that when expenditures of funds provided by the Departments are required for Congressional travel, that administration of these expenditures be handled by a Senate staff member who would answer to the committee chairman concerned. In this way, the law would be complied with and no apparent conflict of interest on the part of uniformed personnel would ensue.

The question of whether the Department of Defense has authority to restrict travel to Members of Congress should be faced up to once and for all. Recently, we have noticed some reluctance on the part of a few people in your Department to comply with legitimate requests of Congress. It is our understanding that aircraft of the Special Air Missions Wing at Andrews Air Force Base were procured for the use of the President, Vice President, members of the Cabinet, and Members of Congress when in performance of their official duties. It would seem that certain people in the Pentagon are patronizing the Congress when an aircraft and other support is provided for official travel.

For example, recently, there was an occasion when a medical doctor was requested to accompany an official Congressional delegation, but personnel in the office of the Assistant Secretary for Congressional Relations saw fit to deny the request. When an emergency arose in Colorado, no doctor was present, and one had to be summoned from some distance away. This is but one example of an Executive department exercising unwarranted jurisdiction over an official Congressional request.

Since the Department of Defense is the only Department, except for perhaps the Federal Aviation Administration, which has aircraft suitable for official travel, it is understandable that it must bear the brunt of these requests. Nonetheless, the law should be clearly understood by all concerned that committee chairmen of the Congress have authority to authorize official travel for their committee members. The review of such travel and expenses thereto is subject only to regulations by the standing committees concerned. If abuses should occur, and I do not anticipate that they will, they will be corrected within this institution. Our committee system is capable of monitoring matters of this type, and, if wrong-doing is apparent, the Ethics Committee will make a final recommendation to the Senate. It is not appropriate for an Executive department to issue regulations involving Members of Congress not specifically provided for by law.

The law requires that the Executive departments provide reimbursement for those actual and necessary expenses incurred during official visits in excess of the individual per diem authorized each Member. William K. Brehm, your Assistant Secretary of Defense for Congressional Relations, who is mentioned in the article, should discuss this matter fully with appropriate staff members of the Senate before he recommends a regulation to you which may or may not be in accordance with existing statute.

In any case, we wish to make it very clear that we reject the implications of the news article referred to as it concerns the Senate. We do not condone staff members requesting a military escort, and, in fact, there are many instances where an escort officer is neither necessary nor desirable. The Senate is asking no favors or special consideration by the Executive Branch, only that to which it is entitled by law.

We do not request, expect, or even desire any services or emoluments beyond those necessary to satisfy the purposes of Congressional travel as outlined by the Leadership or appropriate committee chairmen. The most important matter deals with the availability of aircraft. The Senate as a general rule has limited periods of time during which its Members can be absent and it is normally within those recess periods that transportation is required. It is usually only during these periods that Members can exercise their responsibility in overseeing the use of appropriations in the field. We urge you to give priority to such Congressional travel in the future unless these aircraft are preempted by The Executive.

We would recommend that this whole matter be thoroughly reviewed by your Department and the Congress in the near future so that a compatible and justifiable system be initiated which will be mutually satisfactory to all concerned.

With best personal wishes, we are,
Sincerely yours,
Mike Mansfield,
Majority Leader, U.S. Senate.
Hugh Scott,
Minority Leader, U.S. Senate.

September 9, 1976.

Hon. Donald Rumsfeld,
Secretary, Department of Defense,
Washington, D.C.

Dear Mr. Secretary: On August 9, 1976, the distinguished Minority Leader, Hugh Scott, and I wrote to you concerning the Department of Defense providing transportation for Members of Congress who are required to travel overseas and in the United States to carry out their legitimate legislative oversight functions.

Today is more than one month since the letter was delivered to your office, and until now, we have not received as much as an acknowledgement. It was suggested that Mr. William K. Brehm, your Assistant Secretary of Defense for Congressional Relations, should discuss this matter with the appropriate staff members of the Senate before recommending new regulations to ensure that they were in accordance with existing statute. To my knowledge, no discussions have been held in this regard.

It would be appreciated if the Joint Leadership can be provided with your reply to our letter within the next few days.

With best personal wishes, I am,
Sincerely yours,
Mike Mansfield.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I understand that these requests have been cleared on the other side of the aisle.

I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 21, to consider the nomination of Dr. Ronald Berman; that the Committee on Government Operations be authorized to meet on September 22 to consider several House-passed bills; that the Foreign Relations Committee be authorized to meet on September 20 and 21 to continue hearings on "Foreign Policy Choices for the 1970's and 1980's," several nominations, and arms sales; that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet on September 22 and 23 on the role of U.S. Corporations in South Africa; that the Subcommittee on Arms Control, International Organization and Security Agreements of the Committee on Foreign Relations be authorized to meet on September 22 on Taiwan's nuclear program; that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations be authorized to meet on September 24 on the Grumman Corp.; that the Subcommittee on Foreign Assistance of the Committee on Foreign Relations be authorized to meet on September 24 on the F–16 sale to Iran; that the Committee on the District of Columbia be authorized to meet on September 22, to consider several pieces of legislation; that the Subcommittee on Parks Recreation of the Committee on Interior and Insular Affairs be authorized to meet on September 20 to consider several potential wilderness designations within units of the national park system; and that the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Labor and Public Welfare be authorized to meet on September 21 for a hearing on the special unemployment assistance program.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. WILLIAM L. SCOTT. It is my understanding that all of these requests have been cleared on this side of the aisle.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to proceed for 5 minutes, with the time to be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR MIKE MANSFIELD, MAJORITY LEADER OF THE SENATE

Mr. WILLIAM L. SCOTT. Mr. President, last night, and during a major part of yesterday, Members of the Senate paid tribute to our distinguished majority leader, who is leaving at the end of this session. I was here on the floor during the later part of the day attempting to obtain recognition to pay my own personal tribute to the distinguished senior Senator from Montana, but I had to leave to keep a speaking engagement in Virginia and was unable to participate. I ask unanimous consent, Mr. President, that my remarks be included as a part of the permanent RECORD for yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, MIKE MANSFIELD has served in the House of Representatives for a period of 10 years. He has served in the U.S. Senate for 24 years. I understand he has been majority leader longer than any other person, for a period of 16 years. I wish to add my commendations to the distinguished Senator for his long service in this body and for the leadership position that he has held.

He and I always vote alike on unanimous-consent requests and we frequently vote alike on voice votes. Sometimes I think we vote alike on broadbrush foreign aid; but sometimes, we vote differently. We have somewhat of a different philosophy.

MIKE MANSFIELD is very much of a partisan leader of the Democratic Party, but he is accommodating to all Members of this body. He has never, to my knowledge, attempted to flaunt his power as majority leader. He attempts to be fair to all Members of the Senate.

I am sure others have spoken of his general background, of his academic achievements; but to me, he has attempted to shepherd legislation through Congress in just as fair a manner as he can and still, at the same time, maintain the partisan position, the leadership position that he occupies. I have heard him say on a number of occasions that the 100 Members of this body are equal. I think that some are more equal than others, but he has always attempted to be fair.

I just would like to add my own respects to him as a fine gentleman, one who does his duty as he sees his duty, and to wish for him many happy years ahead, as he retires.

He has been quoted as saying, in response to an inquiry from the press, that when he retires, he intends to do nothing. I hope that after he does nothing for a period of time, he will rest for a while and enjoy a long and happy life, together with his family.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be charged equally against both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—VETO

The Senate continued with the reconsideration of the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

Mr. STEVENS. Mr. President, I yield such time to the Senator from Alabama out of the time allocated to us as he may wish.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Senator from Alaska for yielding time at this point.

Mr. President, I speak in support of the President's veto of H.R. 8800.

The two agencies most directly affected by this bill, ERDA and DOT, both have testified in opposition to it. The major point against the program is simply that existing electric vehicle technology has not advanced to the point where it is realistic to have the massive, mandatory, near-term demonstration program provided by the bill. Since the storage battery problem is really the key to the successful development of electric and hybrid vehicles, it is simply unreasonable for the Government to engage in a large-scale demonstration program before the necessary advances are made in battery technology.

It is also clear that, since the area of particular need is for the advancement of battery technology, Government research and development should be concerned primarily with advancing battery research and not with the construction of electric and hybrid vehicles as such. What they ought to do is concentrate on the development of adequate battery technology and not the building of the overall vehicle. In this regard, ERDA already has sufficient authority under the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974 to conduct an appropriate electric and hybrid vehicle research and development program which attaches priority to the advancement of electric vehicle battery technology. Accordingly, the bill would unnecessarily duplicate ERDA's existing authority.

Finally, I am also concerned about the role of the Government with respect to this program. This bill would make the Government responsible for bringing about the development of production prototypes of electric and hybrid vehicles. Developing completely new motor vehicles such as these to the point of commercial production, as this bill would require, has traditionally been a matter for private industry on the theory that the Government should not intrude into the private sector any more than necessary. This is something that can be done better, can be done quicker, can be done less expensively by private enterprise. In my view, the appropriate Federal role in this case should be confined to research and development of battery technology—the real heart of the developmental problem—and should not extend into commercial areas private industry is fully capable of pursuing.

Accordingly, Mr. President, I am very much in favor of sustaining the President's veto of this bill.

Now, Mr. President, fresh off the press, dated September 2, 1976, is a statement, or an excerpt from a statement, of "Motor Vehicle Goals Beyond 1980" which has been prepared by the task force consisting of the Department of Transportation representatives, the Environmental Protection Agency, Energy Research and Development Administration, the Federal Energy Administration, and the National Science Foundation.

The task force has also drawn on other departments of the Government, including the Department of Commerce, the Department of Defense, the Department of Labor, and the National Aeronautics and Space Administration.

They come up with this evaluation of the electric vehicle:

> The prospects for a highly efficient electric car, in the next 10 years at least, appear to be slim. Substantial technological advancement in batteries would be required before the electric car can offer a commercially viable alternative to gasoline or diesel-fueled automobiles.

That is advancing the same argument I have advanced that what we need to do is to develop a battery technology and not seek to produce a vehicle:

> Current and near-term electric automobile deficiencies in range, payload, performance, cost and overall energy efficiency would have to be overcome. Electric vehicles are feasible for special purposes (such as small postal delivery vans) and offer flexibility in fuel use, but the total national effect on petroleum consumption within the next 15 years will be minimal.

The Energy Resources Council was established under the Energy Reorganization Act of 1974, implemented by Executive Order 11814.

The Council established the task force on motor vehicle goals beyond 1980.

The Chairman at the time of the request was Rogers Morton, Secretary of Commerce. Elliott Richardson is currently Secretary and Chairman of the Council.

So we are getting the cart before the horse, Mr. President, in seeking to develop the overall vehicle when we have an absence of technology on electric batteries.

What needs to be done, it would seem to me, is that ERDA, under the authority it now has, should have a research and development program to advance electric battery technology. After that has been done, I believe private enterprise could take up the task then and develop the electric vehicle.

The two main departments of Government that are directly affected with this bill and that would be required to implement the bill are ERDA, Energy Research and Development Administration, and DOT, the Department of Transportation. They are against the bill. They favor sustaining the President's veto, and I believe they are more knowledgeable in this area than possibly those who are pushing the bill. I hope the President's veto will be sustained.

Mr. President, I ask unanimous consent that this document "Motor Vehicle Goals Beyond 1980" be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

1. MOTOR VEHICLE GOALS BEYOND 1980

BASIS FOR THE STUDY

On March 21, 1975, the Chairman of the Energy Resources Council in a letter to the council members stated—

As part of the Nation's long range effort to conserve energy, there is a need to set motor vehicle fuel economy goals beyond 1980—keeping in mind the need for compatibility with environmental, safety, and economic objectives. The Secretary of Transportation was requested to lead a Joint Federal Task Force to recommend these goals.

The assigned Task Force consisted of the:

Department of Transportation (DOT) Hamilton Herman (Task Force Manager).

Environmental Protection Agency (EPA) Eric O. Stork.

Energy Research and Development Administration (ERDA) Gene G. Manella.

Federal Energy Administration (FEA) Robert F. Hemphill, Jr.

National Science Foundation (NSF) Ronald M. Powell.

The Task Force has also drawn upon other departments of the government, including the:

Department of Commerce (DOC).

Department of Defense (DOD).

Department of Labor (DOL).

National Aeronautics and Space Administration (NASA).

ELECTRIC VEHICLES

The prospects for a highly efficient electric car, in the next 10 years at least, appear to be slim. Substantial technological advancement in batteries would be required before the electric car can offer a commercially viable alternative to gasoline or diesel-fueled automobiles. Current and near-term electric automobile deficiencies in range, payload, performance, cost and overall energy efficiency would have to be overcome. Electric vehicles are feasible for special purposes (such as small postal delivery vans) and offer flexibility in fuel use, but the total national effect on petroleum consumption within the next 15 years will be minimal.

Mr. ALLEN. I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, as chairman of the Committee on Commerce which considered this bill and passed it out of the committee, as far as I know by unanimous approval, I am hopeful that we will override the President's veto.

The Senator from Alabama just made a statement in which he suggested that battery research is the most important factor involved in any future success of electric vehicles. Of course, that is true. No one disagrees with that.

The problem has been that the administration has only allotted about $4 million for battery research in fiscal year 1977. H.R. 8800, after extensive testimony in the House and the Senate, would mandate a research development and demonstration program of $160 million—of which $60 million is in the form of loan guarantees—over a 6-year period. A substantial portion of this authorization will be directed to battery research.

So battery research is really one of the most important parts of the bill that was vetoed.

Mr. President, H.R. 8800, the Electric Vehicle Research, Development, and Demonstration Act, has been before the Congress for the last 2 years. Throughout this period, it has consistently received overwhelming bipartisan support. The original legislation passed the Senate 72 to 16 and passed the House by a margin of 308 to 60. The conference report, which was signed by all the conferees, was passed by both Houses by voice vote—no objection was heard from anyone.

Throughout this period Congress has worked closely with technical experts within the administration, and many of the modifications in the legislation before us are a result of this consultation. Yesterday, the House again demonstrated widespread nonpartisan support for this legislation by overriding the veto by more than 3 to 1 (307 to 101).

I am hopeful that this legislation can again receive bipartisan support in the Senate. The need for this legislation is clear.

I need not recite all this, but I call it again to the attention of the Senate because a larger problem is involved.

We have made many speeches in the Senate on both sides of the aisle over the past 3 or 4 years about energy problems. This legislation offers a major opportunity to conserve energy in the future.

The United States is now forced to import approximately 40 percent of our oil—more than 30 percent from the Middle East. Furthermore, our dependence on foreign oil has been projected to reach 50 percent as early as 1977. To avoid subjecting ourselves to the threat of energy blackmail, we must take forceful and rapid action to limit this accelerating dependence.

H.R. 8800 is one of the necessary steps, one facet of meeting this challenge.

Transportation is clearly a critical sector if we wish to combat this growing dependence. The automobile is this Nation's single largest end used of petroleum and accounts for nearly 40 percent of the present petroleum consumption in the United States. This represents approximately 6.3 million barrels of oil a day, an amount almost equal to our present oil imports.

Research, development, and demonstration of electric and hybrid vehicles can greatly assist us in meeting this challenge especially during the latter decades of this century. Electric vehicles can provide the public with quiet, nonpolluting vehicles, which are not dependent on petroleum fuels.

The potential petroleum savings are significant. A study by the Argonne National Laboratory conservatively estimated that:

> The development of economically competitive electric automobiles would reduce the demand for oil and, thus the need for oil imports. Introduction of electric cars by about 1985 and the gradual build up to a total of 18 million cars on the road by the year 2000 would result in a cumulative savings of petroleum of 1.3 billion barrels.

Even at today's price of $13 per barrel of imported oil such a reduction corresponds to cumulative savings in foreign payments of $16.9 billion by the year 2000. If we act forcefully, electric and hybrid vehicle technology can begin to have an impact not in the distant future, but within the next decade. H.R. 8800 provides a two-part program to facilitate the development and demonstration of such vehicles. The first part of this program will comprise a major research and development program within the Energy Research and Development Administration to focus on advanced battery development and improvements in vehicle design. Dr. Austin Heller, Assistant Administrator for Conservation of the Energy Research and Development Administration, estimated that up to "$150 million" could be usefully expended in battery research and development over a 5-year period by ERDA.

The second part of the program is devoted to a three-step demonstration of electric and hybrid vehicles. This demonstration program will provide the Government, the public, and industry with the baseline data necessary to evaluate these vehicles. Within 21 months of enactment, the Administrator shall contract to purchase or lease 2,500 electric or hybrid vehicles, with delivery of such vehicles to be completed within 39 months of enactment of H.R. 8800. These vehicles are to represent the best state of the art of electric and hybrid vehicles at that time—it is a set time—and meet the performance standards prescribed by the Administrator, which shall specify minimum performance levels for such vehicles.

Within 54 months of enactment, the Administrator shall contract under the Act to purchase or lease 5,000 advanced electric or hybrid vehicles. Delivery of such vehicles is to be completed within 72 months of enactment. The act defines "advanced electric or hybrid vehicles" as vehicles which minimize the total amount of energy to be consumed during fabrication, operation, disposal, and which represent a substantial improvement over existing electric or hybrid vehicles with respect to the total amount of energy so consumed. Such vehicles also must be capable of being produced and operated at a cost and in a manner which is sufficiently competitive to enable their production and sale in numbers representing a reasonable proportion of the market. These vehicles must also meet any safety, damageability, or other Federal requirements. Therefore, H.R. 8800 specifically requires that the Government only demonstrate such advanced vehicles if they can meet these criteria for substantial battery and other vehicular improvements.

Otherwise, this funding would be directed toward a continuing battery research and vehicle development program.

Also, this legislation contains specific provisions to assist small business concerns which currently provide much of the impetus for electric and hybrid vehicle research and development.

In closing, I would like to make three points in regard to the assertions in the President's veto message.

First, it is asserted that ERDA already has adequate authority to conduct an appropriate electric vehicle development program. It is fair to say that the present Energy Research and Development Administration program is completely inadequate, as shown by the testimony, to assure rapid development of electric or hybrid vehicles. The amounts involved are much smaller than are justified by the need and the opportunity. In fiscal year 1977, ERDA will expend only $4.2 million on battery research and development and $4 million on electric and hybrid vehicle development.

As already stated, the Assistant Administrator for Energy Conservation at ERDA has publically testified that as much as "$150 million" could be usefully expended in battery research alone over a 5-year period. That takes care of the matter suggested by the Senator from Alabama. It seems clear that without the impetus of the program envisaged in H.R. 8800, acceleration of electric vehicle development will not take place.

Second, it has been claimed that before the Federal Government should engage in a demonstration program, major battery breakthroughs must first be accomplished.

These programs have to be run in parallel. We cannot just produce a new battery and say, "All right, now we are going to produce a vehicle to fit it into."

The testimony provided to the House and the Senate oversight committees by experts in the field indicated that within the time frames envisaged in H.R. 8800 electric vehicles have the potential to triple their performance and greatly lessen their cost to the public. Therefore, there is no reason to delay in moving forward with the program mandated in H.R. 8800. Again, it should be noted that the major part of the demonstration program will only be undertaken if electric and hybrid vehicles can meet the criteria for substantial improvements mandated in the act.

Finally, it has been asserted that the Federal Government should not be committed to this research, development, and demonstration program which private industry is best able to undertake. Despite the fact that a large number of private companies have demonstrated significant interest in the development of electric and hybrid vehicle technologies, it is generally agreed that without Federal assistance and incentives the rate of introduction of such vehicles into our transportation fleet will be extremely slow. The enormous present investment of the major automobile manufacturers in the internal combustion engine configuration and the reluctance of the public to utilize new technology until its reliability is demonstrated stand in the way of accelerated electric and hybrid vehicle development. Numerous representatives of private industry have testified about the need for Federal incentives. Therefore, sole reliance on the private sector for the development of such vehicles is likely to assure that they will either not be developed or be developed very slowly. Thus, if we wish to gain the enormous petroleum conserving potential of electric vehicles, it is necessary that we enact the program envisaged in H.R. 8800. I strongly urge my colleagues to join me in support of this vital part of a meaningful national energy strategy.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 3 minutes remaining.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the following staff members be allowed the privilege of the floor during the debate on overriding the President's veto of H.R. 8800, the Electric and Hybrid Vehicle Research, Development, and Demonstration Act: Dan Jaffe, Mike Brownlee, Lynn Sutcliffe, Allan Hoffman, and Craig Peterson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield to the Senator from Nebraska such time as he may need. I ask that control of the time be given to the Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, the Electric Vehicle Research, Development, and Demonstration Act of 1975, H.R. 8800, has been vetoed by President Ford.

This veto does not reduce in any way the program of research and development on advanced batteries that must be developed for electric vehicles to be successful. It does eliminate the requirement for ERDA to spend tens of millions of dollars to demonstrate that electric cars using the lead-acid batteries or other batteries available today are completely inadequate for widespread use.

The ERDA program today includes R. & D. on advanced batteries and on electric vehicles. The work is authorized generally by the Nonnuclear Energy Research and Development Act and authorized specifically by the annual authorizations for ERDA's programs. It would be better to increase the funding for the existing agency than to enact this legislation. This battery research and development is needed to open up to electric option for us when it may be necessary to rely much more on electric power than it is today. The solid weight of opinion of the scientific and technical experts is that it will take much time and effort to develop the advanced batteries and that they are the major barrier to the success of electric vehicles now.

Indeed, the report of the interagency task force on motor vehicle goals beyond 1980 that was just released, said about electric vehicles:

> The prospects for a highly efficient electric car, in the next 10 years at least, appear to be slim. Substantial technological advancement in batteries would be required before the electric car can offer a commercially viable alternative to gasoline or diesel-fueled automobiles. Current and near-term electric automobile deficiencies in range, payload, performance, cost and overall energy efficiency would have to be overcome. Electric vehicles are feasible for special purposes (such as small postal delivery vans) and offer flexibility in fuel use, but the total national effect on petroleum consumption within the next 15 years will be minimal.

It is clear that the intent of H.R. 8800 to demonstrate several thousands of electric vehicles in the next few years would display the known inadequacies of the present battery technology. Such a premature demonstration of electric vehicles carrying the endorsement of the Federal Government would not contribute to the quest for an improvement in batteries.

Now we can see that the most desirable aspect of H.R. 8800, the R. & D. on advanced batteries is already authorized and that part of H.R. 8800 is unnecessary. We can also see that the new aspect of H.R. 8800, the premature demonstration of thousands of electric cars, is undesirable. Further, it would be a clear waste of the taxpayers money and another contribution to the excessive budget deficit to spend the millions authorized by H.R. 8800 for the premature demonstration of electric cars relying on today's inadequate battery technology.

The last point I want to make is that this bill puts the Federal Government much into the business of developing electric cars to the point of commercial sale—not just to show that the technology is feasible and practical—but to the design of commercial electric cars. The several developers of electric cars who are selling them now to the general public have shown that they are capable of developing cars to sell once the technology is in hand.

For all these reasons, I call for your vote to sustain the veto of H.R. 8800.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by William Hamilton, a principal investigator for the General Research Corp., and a statement by Dr. Paul Nelson of the Argonne National Laboratory. Both researchers stress the importance of an electric car, not only for commercial purposes, but also for its potential role in the second car market—that is, a second car to be used by families in urban centers and crowded areas.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY WILLIAM HAMILTON, PRINCIPAL INVESTIGATOR FOR THE GENERAL RESEARCH CORP.

In recent discussions with battery developers, we found substantial prospects for a tripling of lead-acid battery life in automotive propulsion service over that anticipated three years ago. Moreover, a 30% increase in energy density should simultaneously be within reach. Together, these improved prospects can make lead-acid battery cars competitive in cost with conventional cars in 5 to 10 years. This would remove the principal obstacle to electric cars use—higher cost—which we found in our technical study. Furthermore, it would make possible electric cars with a range of 100 miles or more between recharges in either urban driving or freeway driving. This is more than sufficient for use as a secondary car.

STATEMENT BY DR. PAUL NELSON, DIRECTOR OF BATTERY RESEARCH, ARGONNE NATIONAL LABORATORY

Presently available batteries, such as lead-acid, nickel-zinc or nickel-iron can be improved in the near future within the proposed term of the electric vehicle Act to increase the range of present electric vehicles by a factor of 2 or 3. Such improvements would make possible an electric car that could take over part of the second car market.

Mr. MAGNUSON. Finally, I wish to state what has not been mentioned yet in the debate nor in the report, and I do not see it referred to in the veto message: The cost of operation of electric vehicles in certain circumstances can be much lower than the cost of operation per mile of conventional vehicles. This is particularly true in area where the cost of electricity is low, such as in the Pacific Northwest. Such vehicles could be very competitive in such areas.

Electric vehicles have all these possibilities. This is an authorization bill involving $160 million, and it may not be that the Appropriations Committee would allow the full amount; but the amounts involved are modest considering the significant need to get started in fostering this important technology.

I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield myself just a minute to say that I think the record should be made clear that this research and this undertaking in reference to electric cars is far different from a gigantic program like the space program. The space program, by its very nature, involving thousands and thousands of miles of outer space and the fact that the immediate gain or reward from it would be in the field of general technology, available to the whole country, made it necessary and proper that only the Federal Government undertake that. No one else would have been able to do it.

That is not so with electric cars. If they are a success, everyone will want to buy them. There is all the incentive in the world for inventors, research people seeking patents, and so on.

Furthermore, this is a smaller operation, here on Earth, within the reaches. There is no good reason why the traditional private enterprise avenues available for research and development in this country, which have been so successful in the past for many areas, cannot properly handle this one.

In addition, the basic research on the battery part of it is already authorized under existing law.

Mr. President, I am ready to yield back the remainder of my time.

Mr MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of asking unanimous consent that Mike McCabe, Mr. Mal Sterrett, and Mr. Phil Grill, be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, the order for the quorum call is rescinded.

Mr. MAGNUSON. I then ask unanimous consent that those three people have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CURTIS. I yield time.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I understand that there is a nomination at the desk which was reported earlier today and has been cleared all the way around, as far as I can determine.

I ask unanimous consent that the Senate go into executive session and that the nomination be called up at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Glen M. Williams, of Virginia, to be U.S. district judge for the western district of Virginia.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—VETO

The Senate continued with the reconsideration of the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

ADDITIONAL STATEMENTS

Mr. MORGAN. Mr. President, I am in favor of the purpose of H.R. 8800, which is to develop an electric alternative to the internal-combustion-engine vehicle. However, this is a general research and development project to encompass all phases of development. If I am to believe the knowledgeable people with whom I have discussed this matter, we should focus these funds entirely on the battery or energy storage system—if in fact we should use taxpayers' money for this purpose at all.

We already have electric vehicles on the road for many specialized uses. Private industry provided the technology for these present vehicles and I see no reason why they cannot provide for our future needs.

For these reasons, and keeping in mind the $50 billion budget deficit, I must vote to uphold the President's veto.

Mr. MATHIAS. Mr. President, on September 5, 1975, the House of Representatives overwhelmingly approved H.R. 8800, the Electric And Hybrid Vehicle Research, Development, and Demonstration Act of 1976, by a vote of 308 to 60. On June 14, 1976, the Senate passed a similar version of this bill by a vote of 72 to 16. At that time I voted for this important piece of legislation. The conference report on this bill was signed by every member of the conference committee, and was accepted by both Houses by voice vote.

On September 16, 1976, the House voted to override the President's veto of this bill by a 3-to-1 margin—307 to 101. Today we are asked to vote again on this bill. It is a modest proposal which deserves the support of the Senate.

It appears that despite the profound disturbances in the recent past and the constant threat of disruption in the present and future, energy is to be the object of words and politics, but not substantive action.

There is a tendency today to entrust our Nation's welfare to blind optimism or the good will of the oil exporting nations and then blame those nations or the industries for our plight when an obvious crisis develops. This is the easy way politically, but it can do irreparable damage to our Nation and the world as a whole. Blind faith and the availability of a scapegoat may save many political hides in the short run, but our Nation and the world will pay for many years to come.

This bill we consider today will provide the kind of research incentive we must provide if we are to deal with cur continuing energy crisis with vision. Our headlong rush toward increasing dependence on foreign sources of oil serves only to emphasize the need for the kind of stimulus that this bill provides. To the extent that such research and development stirs the populace and the Government toward a new conservation ethic, it will provide benefits far beyond the modest investment the Government undertakes in this measure.

Mr. President, I wish to call to my colleagues' attention an excellent editorial which appeared in the Washington Star on September 16, 1976, which deals with this important piece of legislation. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 16, 1976]

OVERRIDING THE 56TH VETO

Those who keep track of such things noted that President Ford cast his 56th veto the other day—a bill to provide a modest $160 million for development and demonstration of electrically powered vehicles. The veto, we think, was shortsighted.

The measure, written by Representative Mike McCormack, D-Wash., passed each house by wide margin; it is neither intrusive nor gargantuan. What it would do is establish a sort of "mid-wifery" for a valuable technology. It would provide a degree of governmental guarantee to stimulate research and to define more fully the merits and problems that electric vehicles involve.

On the page opposite today, James J. Kilpatrick wonders what has happened to our concern over energy, and answers the question forebodingly: "The steam leaked out." He notes the insouciance of our habits—at the time of the Arab oil embargo, imports were 1.1 million barrels a day. That figure now is 2 million barrels a day. It does not require a doctorate in geology to plumb the dislocative possibilities in that rocky climb.

Whatever sense of urgency stimulated us in 1974 surely has dissipated. The comments on energy in the presidential campaign so far hardly would fill the back of a laundry ticket.

The House today is scheduled to vote on overriding Mr. Ford's veto. It has been only fitfully successful in past efforts but, given the practice the House now has had, we hope to see this constructive measure become law.

The fact is that the major auto-makers have not over-exerted themselves in this matter of electric vehicles (American Motors has been fairly active). There are substantial questions about the widespread feasibility of electric cars, but not so profound as the lack of activity would indicate. Particularly in urban areas, the smaller electric car seems to be as promising a possibility as there is immediately on the horizon.

The feds, under the McCormack bill, eventually would purchase or lease up to 5,000 of the electric machines, to be made available to government agencies and "other persons for individual or business use (including farms)" for testing. Another portion of the bill would order that smaller businesses be assured opportunity to have their electric vehicles used in the demonstration projects, and would guarantee loans for commercial production of these cars and vans by small businesses.

Opening the competition seems to us one of the major virtues of this bill. There are a few small firms already producing electric cars with some success. The loan guarantees would hardly constitute a "giveaway" and the survival and growth of small, pioneering firms should lend happy impetus to the drive for a non-polluting urban vehicle.

The notion ought to be further along than it is that electric vehicles are not toys.

Mr. McCLURE. Mr. President, I urge my colleagues to vote to override the veto of H.R. 8800. I can understand how the President reached his decision to veto this measure, based on the advice of his technical advisers, but I strongly disagree with the technical evaluations on which that advice was based.

The Department of Transportation believes that the impact of electric vehicles on fuel consumption will be "minimal." My own studies, however, have convinced me of just the opposite—electric and hybrid vehicles can have a significant impact on our petroleum demands, especially with regard to the continually increasing demand for imported oil. It is not, in my opinion, completely accurate to compare electric vehicle energy requirements to internal combustion engine fuel consumption in terms of oil. Electric vehicles offer us the opportunity to use domestic resources, such as coal and uranium, for transportation needs. And, in future years when renewable energy sources become more available—such as solar energy, geothermal energy, wind and tidal power—electric vehicles will be capable of using these resources.

The purpose of H.R. 8800 is not to get the Federal Government into the business of producing or selling electric cars. One major feature of this bill is the stimulation of small business to increase the availability of electric and hybrid vehicles. In addition, H.R. 8800 will require that Federal agencies use electric vehicles where possible. Not only will this stimulate the production of EV's, but it will promote the Federal role in energy conservation and reduction of air pollution.

In summary, H.R. 8800 is a reasoned, soundly based response to the critical transportation problem facing this Nation, with the related energy and environmental concerns. The President's technical advisers believe that electric vehicles are not yet ready to contribute to the solution to this problem. I believe that they are and I urge support for H.R. 8800 and an override of the Presidential veto.

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to vote on the President's veto message of H.R. 8800.

The question is, Shall the bill (H.R. 8800) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HUGH SCOTT (when his name was called). Mr. President, on this vote I have a pair with the Senator from New Jersey (Mr. CASE) and the Senator from Michigan (Mr. GRIFFIN). The Senator from New Jersey (Mr. CASE) would vote "yea" and the Senator from Michigan (Mr. GRIFFIN) would vote "nay," if they were present and voting. If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY), if present and voting, would vote "yea".

I also announce on this vote that the Senator from Arkansas (Mr. BUMPERS) would vote "nay".

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 53, nays 20, as follows:

[Rollcall Vote No. 606 Leg.]

YEAS—53

Abourezk
Bayh
Bellmon
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Eagleton
Ford
Garn
Glenn
Haskell
Hatfield
Hathaway
Hollings
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Williams

NAYS—20

Allen
Bartlett
Brock
Byrd, Harry F., Jr.
Curtis
Durkin
Fannin
Fong
Hansen
Hart, Gary
Helms
Hruska
Morgan
Pearson
Roth
Scott, William L.
Sparkman
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hugh Scott, for.

NOT VOTING—26

Baker
Beall
Bentsen
Biden
Buckley
Bumpers
Case
Dole
Domenici
Eastland
Goldwater
Gravel
Griffin
Hart, Philip A.
Hartke
Huddleston
Humphrey
McClellan
McGee
Mondale
Montoya
Moss
Stennis
Taft
Tunney
Weicker

The PRESIDING OFFICER. On this vote the yeas are 53 and the nays 20.

Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1977—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 14232, which the clerk will state by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 68 to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have been unable to agree, signed by all the conferees.

The Senate proceeded to consider the conference report.

The PRESIDING OFFICER. The time for the debate is limited to 1½ hours, to be equally divided and controlled by the Senator from Washington (Mr. MAGNUSON) and the Senator from Massachusetts (Mr. BROOKE).

The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Monana.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a series of nominations to the International Atomic Energy Agency, which I understand are noncontroversial.

There being no objection, the Senate proceeded to the consideration of executive business.

INTERNATIONAL ATOMIC ENERGY AGENCY

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk read the nominations of the following-named persons to be the representative and alternate representatives of the United States of America to the 20th session of the General Conference of the International Atomic Energy Agency:

REPRESENTATIVE

Robert C. Seamans, Jr., of Massachusetts.

ALTERNATE REPRESENTATIVES

Frederick Irving, of Rhode Island.
Richard T. Kennedy, of the District of Columbia.
Myron B. Kratzer, of Maryland.
Edward A. Mason, of Massachusetts.
Nelson F. Sievering, Jr., of Maryland.
Galen L. Stone, of the District of Columbia.
Gerald F. Tape, of Maryland.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order Nos. 1171 and 1172.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTANCE TO SMALL FARMERS IN UPGRADING THEIR FARMING OPERATIONS

The Senate proceeded to consider the bill (S. 2823) to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations, which had been reported from the Committee on Agriculture and Forestry with amendments as follows:

On page 1, line 6, strike "(1)";

On page 1, line 9, strike "(A)" and insert "(1)";

On page 2, line 9, strike "(B)" and insert "(2)";

On page 2, line 13, strike "subparagraph (A)" and insert "paragraph (1)";

On page 2, line 15, strike "(C)" and insert "(3)";

On page 2, line 17, strike "subparagraph (B)" and insert "paragraph (2)";

On page 2, line 18, strike "(D)" and insert "(4)";

On page 2, line 20, strike "subparagraph (A)" and insert "(1)";

On page 2, line 21, strike "(E)" and insert "(5)";

On page 2, line 22, strike "subparagraph (A)" and insert "paragraph (1)";

On page 2, line 24, strike "(F)" and insert "(6)";

So as to make the bill read:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 502(c) of the Rural Development Act of 1972 (86 Stat. 657) is amended to read as follows:
>
> "(c) SMALL FARM EXTENSION, RESEARCH, AND DEVELOPMENT PROGRAMS.—Small farm extension and research and development programs shall consist of the following:
>
> "(1) A comprehensive study and survey by the Secretary conducted through the Federal-State Cooperative Extension Services to identify small farmers in each State and to determine their resources, abilities, education, and experience, and the willingness of such farmers to upgrade their farm operations through improved farm management practices, improved agricultural production techniques, improved farm machinery technology, improved products, and improved cooperative agricultural marketing practices.
>
> "(2) The development and implementation of a program by the Secretary and the Federal-State Cooperative Extension Services for improving operations of small farmers by means of the measures referred to in paragraph (1) for upgrading small farmer operations.
>
> "(3) The establishment of procedures for evaluating the social and economic consequences of the program described in paragraph (2).
>
> "(4) The establishment of procedures for regular periodic updating of the study and survey provided under paragraph (1).
>
> "(5) Research and development with respect to measures referred to in paragraph (1) for upgrading small farmer operations.
>
> "(6) An annual report by the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate regarding the extent to which the objectives of the program provided for in this subsection are being achieved and the effectiveness with which such objectives are being achieved.
>
> As used in this subsection, the term 'small farmer' means any person who depends on farming as his primary source of income, whose gross annual sales from farming operations are less than $20,000, and whose income from nonfarm sources is less than $5,000.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TERRORIST ATTACK AT ISTANBUL AIRPORT

The resolution (S. Res. 524) regarding the terrorist attack at Istanbul Airport, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

> Whereas the August 11 attack at Yesilkoy Airport in Istanbul, Turkey, resulted in the death of four innocent civilians, including a member of the United States Senate staff; and
>
> Whereas this victimization of innocent civilians is but the most recent of a long and outrageous history of comparable terrorist attacks allegedly political in nature but causing the deaths and wounding of many Americans and other nationals having nothing to do with the political struggle; threatening the interdiction of international air transportation; and constituting a transgression against human rights and civilized values by a new form of armed aggression; and
>
> Whereas the perpetrators of the August 11 attack have stated that they were provided arms and instructions in Libya for this attack and other terrorists have been provided arms and aid for previous comparable terrorist attacks, as well, by, through, or with the complicity of the government or governments of a nation or nations with which the United States has commercial relations; and
>
> Whereas the actions of such transgressor nations constitute a threat to the facility of free movement thereby necessitating that appropriate unilateral United States and international measures be taken to protect international air transportation from such threat: Now, therefore, be it
>
> *Resolved,* That it is the sense of the Senate that—
>
> (1) the President of the United States is urged to direct United States Ambassadors abroad to seek the consideration by foreign governments of their suspension of their air service to any foreign nation aiding or abet-

ting terrorism until the international community, in implementing the Helsinki accords, has been assured that the nation in question has ceased such activity;

(2) the President should undertake in a timely fashion international discussions and negotiations which would strengthen the current minimum safety standards established pursuant to the Convention on International Civil Aviation; or, should take any other actions he deems appropriate to improve airport security in those nations with direct air links to any transgressor nation and in other airports servicing international air transportation;

(3) the President under his authority is urged to take such appropriate measures as to—

(a) deny the right of any United States air carrier to engage in foreign air transportation between the United States and any other foreign nation whose government is in violation of such act;

(b) suspend the air service rights of any foreign air carrier, which may pose a threat to international air transportation by servicing such foreign nation, by engaging in air transportation between the United States and any such foreign nation; and

(c) direct the Secretary of Transportation, with the approval of the Secretary of State, to withhold, revoke, or impose conditions on the operating authority of any airline or airlines of any foreign nation that does not maintain transportation security sufficient to meet the minimum security standards established pursuant to the Convention on International Civil Aviation; and be it further

Resolved, That the Senate urges the President to conduct a comprehensive review of all United States trade and diplomatic relations to determine what further appropriate-actions including specific sanctions may be taken to discourage any further support of international terrorism.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1977—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

Mr. MAGNUSON. Mr. President, I wish to say just a few words about the second Labor/HEW conference report. The details of the bill are propably well known to everyone here, but I want to repeat some of them again for the record. I shall not repeat them all, unless there are some questions about certain portions of the bill.

Overall, the bill totals $56.6 billion, an increase of nearly $4 billion over the budget estimates. Those are the budget estimates from the administration. This total is under the budget ceilings for these programs. Yet, the bill represents a continuing commitment to the programs which deliver services to the people of this country. We fought hard with the House to maintain solid funding support where it would best serve the taxpayer.

HEALTH

In the health field, the primary focus is on preventive health. Here, everyone agrees that it is less expensive to keep people healthy than to wait until illness or disability strike at our people—young and old alike.

LABOR

This bill also addresses the problems of unemployment. With more than 7.5 million people still unemployed, we worked hard to hold funds for jobs and job training—including programs for the elderly and disadvantaged young people.

EDUCATION

This bill also represents one of the most far-reaching efforts in education. We have targeted funds to help more than six million disadvantaged children—children from poor families, migrants, and those in State institutions. The bill also expands programs for the handicapped. We believe there should be a partnership of effort between the Federal, State, and local agencies to provide millions of handicapped children with a good education.

OTHER PROGRAMS

This bill also supports a wide range of services in other areas, including programs for the elderly, Headstart, community services, the ACTION Agency, and the Corporation for Public Broadcasting.

TIMING

Mr. President, this is the third time we have come to the floor with this bill. Time is running short. We all know the issue that has held up the bill—the matter of the language regarding abortion. Personally, I believe this is not the proper place to get involved with this issue.

This is an appropriations bill—perhaps one of the most crucial bills before us in terms of people served. Nearly every American is touched by this bill.

I think it is almost unbelievable that it would be held up all this time over a matter that should not be in the bill to begin with.

Schools have already opened; people are unemployed. I am hopeful that the Senate will agree to a final result of the conference.

We spent a good deal of time and effort to arrive at compromise language on the abortion issue. Some might not call it a compromise, some might. Some might not like it at all. I probably could modify that to say we spent a great deal of time to arrive at compromise language on the abortion issue. The report which you all have before you, is self-explanatory. For that reason, I will not go into details of the language at this time, unless someone has some questions to ask.

As to the money part of the bill, I do not think there should be any objection from anyone in the Senate, because, as I say, this is the third time around.

In the beginning, when the bill originally came to the Senate, there was no objection. There was some discussion but there was very little objection to the committee's recommendations on the appropriations themselves, and there should not be now.

The conference, I think, on the money part of the bill was a good one. The House added to the budget figure from downtown. We added to the House, and we arrived, I think, at the reasonable in-between amount of money we think will adequately take care of the programs now waiting to be funded.

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. STONE). The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I ask unanimous consent that Ralph Neas and Barbara Harris of my office be granted permission to stay on the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I have spoken on the $56 billion plus Labor-HEW appropriations bill before and it is not before us in that sense at this time, so I will forgo any further discussion of the bill.

The matter before the U.S. Senate at this time is the matter restricted to the so-called Hyde language and the compromise agreement that was entered into between the House and Senate conferees.

Mr. President, I have always admired and respected the distinguished chairman of our subcommittee, Senator WARREN MAGNUSON from the State of Washington. I have admired him for his leadership and for his wisdom. But never during a conference—and I have been on many in the 10 years I have been in the Senate—have I seen such perseverance and patience as was demonstrated by the chairman during this conference. I here want to pay my respects to him.

Mr. MAGNUSON. I thank the Senator.

Mr. BROOKE. I want to pay my respects to his very able staff assistant, Mr. Dirks, and to Mr. Kaganowich, the very able staff assistant for the minority, and to the others on the subcommittee staff for the time, effort, and commitment they all put into this particular appropriations bill.

Mr. President, we have finally concluded the long and difficult conference on the 1977 Labor-HEW appropriations bill.

As many may already know, the conference bill is being acted upon in two stages. On August 25, the Senate adopted the conference report containing $56.6 billion for Labor-HEW programs and several items in disagreement.

Today, the Senate must act upon one item in disagreement that could not be resolved last month and which has kept the conference running for so long.

I speak, of course, of the so-called Hyde antiabortion amendment which barred use of the funds in the bill to pay for abortions or to promote or encourage abortions.

This was the only item in complete disagreement between the two Houses and the item which finally was resolved on Wednesday.

While I believe the conference result is better than the original version of Hyde, I cannot in good conscience vote for it and I cannot recommend my colleagues vote for it.

The language adopted by the conferees clearly discriminates against the poor who cannot afford the cost of an abortion but must rely upon medicaid. Like Hyde, this amendment would not affect those who can afford the price of an abortion. It would not put an end to abortions, but simply would price them out of reach of the neediest of our citizens.

I was convinced that Hyde was clearly unconstitutional. And I believe that even with the change in language, the new measure is also clearly unconstitutional, and that the Supreme Court will so rule.

The lower Federal courts have been unanimous in ruling that the Government cannot provide funds and services for those women who choose to end their pregnancy through birth while denying important funds and services to those who choose to end their pregnancy during the first trimester. Such a denial is a violation of the equal protection clause of the 14th amendment to the Constitution.

Nevertheless, I am very concerned about the interim period between the effective date of this legislation and the rendering of a decision by the Supreme Court on this issue. Thus it is vital that HEW understand the intent of the conference action so that it is not administered in this period to the detriment of those who would be most directly affected.

Let me point out how the Hyde amendment has been changed and how its impact has been softened and how it should now be interpreted.

The new language leaves out the ambiguous part about promotion or encouragement of abortions. Importantly, it permits abortions where the life of the mother would be endangered if she carried the fetus to term.

Also, it will rightly be argued that there may be many instances where the mother's life is "endangered" and she is entitled to an abortion paid for partly by medicaid.

At this point, it is too soon to try to enumerate the possible instances, but our conference report language definitely lists multiple sclerosis and renal disease as possibilities. I also would include instances where suicide may be a concern—that is, the endangerment of one's own life by one's own hand.

I also point out that the dictionary tells us that the word "endanger" means "to expose to danger or harm; imperil." This introduces the principle of "exposure" which needs to be examined for its relevance to this issue. Does "exposure" imply something less than an actual life-threatening situation? It is a fair question, I believe.

It also is important to closely examine the conference report language that was agreed to. And because I proposed the conference report language, it is incumbent upon me to make crystal clear the intent of my language

This, too, is essential for HEW to have so that it accurately, most particularly during this interim period, interprets the intent of the Congress of the United States

Let me quickly list the exceptions to the bill language spelled out in the conference report.

I have already covered the exceptions for multiple sclerosis and renal disease. The report language cites these only as examples. I interpret this as opening the door to other diseases.

It also was not—and I stress this—our intention to prohibit "treatment of rape or incest victims." We are told that each year some 10,000 pregnancies result from rape, so it is important that the conferees have spoken to this point through our language in the conference report.

Also, our language clearly states that we do not intend to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum. And we do not, as the report language states, propose to interfere with or limit Federal aid to medical schools conducting research into, or teaching, abortion procedures for therapeutic purposes.

Thus, I repeat: It is important for all who read the language of the bill to then read the language I inserted in the report. They are inextricably linked.

I have stressed the possible interpretations of "endanger" and the exceptions listed in the conference report to show the difference from the original Hyde language. And while this bill definitely will result in some reduction in abortions paid through medicaid, it is not, thanks to the language in the report, insensitive to such matters as rape and incest, medical research and medical training.

Another helpful note: The conferees adopted report language by Senator BAYH that action on this bill should not be construed as prejudging any constitutional questions involved in the three abortion cases now pending before the Supreme Court.

I believe this is a fair explanation of how the conference action should be interpreted.

However, I would have preferred even more flexibility in the compromise agreed to and made suggestions to that effect. I regret that those suggestions were not accepted.

In sum, I must repeat that this amendment is unconstitutional and this amendment is unconscionable. I shall vote against the amendment.

Mr. MAGNUSON. Mr. President, the Senator from Washington would like to suggest for the record that he primarily agrees with the Senator from Massachusetts on the statement regarding the report language. It is not what I would have wanted this language any more than what he would want it.

But I must, with some reluctance, vote for the conference report because there are so many great overriding issues, so many millions and millions of Americans who are dependent upon the passage of this bill—the quick passage.

If this matter were separate—as it should have been in the beginning—I would surely join my colleague from Massachusetts.

I think it is unconscionable that we had to hold this bill up all this time over this amendment. But we must do what we must do in getting legislation through. Legislation is a matter of compromise. It is too bad this issue is involved. I say to my good friend from Massachusetts that it is too bad this is involved in a Presidential campaign. It is too bad for the President, too bad for the Democratic nominee. It does not belong there. It is too bad it is on this bill. But there it is. We are talking about close to $60 billion of needed help for the unemployed, and the needy people, and the social needs of the people of this country.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. I certainly agree with my distinguished chairman. I think it is too bad that this is legislation, first of all, on an appropriations bill. Second, it is a very important issue. It is an emotional issue. It is also a constitutional issue.

It certainly is not an issue that should be the subject of politics and, certainly, in a Presidential election.

I would vote, obviously, for the bill itself. We have done so much work on this bill. As the Senator knows, we worked day and night on this bill. We have had countless hearings.

It is a bill involving money for all the health institutes, education, welfare, labor, and the rest.

I do not interpret what we are voting on today to be a vote upon that itself. I think we are merely voting upon the motion relating to the matter in disagreement.

Though I will cast my vote against the motion on the disagreement, obviously, I did vote for the bill itself. I voted for it after the first conference. But the matter before us today is a disagreement that could not be resolved until now.

Mr. PACKWOOD. Mr. President, I think Congress will be making a very serious mistake if it decides today to restrict Federal funds for abortions. Though this provision coming from the conference committee adds an exemption for a woman whose life is endangered by her pregnancy, it is no compromise. There is simply no constitutional way, in light of the 1973 Supreme Court decision, to compromise, condition or qualify every woman's right, rich or poor, to obtain an abortion during her first two trimesters of pregnancy. I am disappointed and, frankly, disgusted, with the language the conference has agreed to.

The restriction of Federal funds for abortion in no way resolves the moral questions involved with this issue. A safe, medically supervised abortion can still be had by any woman rich enough to pay for it. It is simply saying to those women who are so poor, who have so little money that they must depend upon State or Federal help, that they cannot have an abortion, at least that the Federal Government is going to help pay for. And lets not kid ourselves that State or local governments are going to have the money or desire to pick up the medicaid tab the Federal Government is leaving behind.

Because abortions will continue to take place, no matter what the law, we are in effect sending poor women to backroom abortionists to obtain abortions under the most unsanitary and often inhumane conditions, where they run the risk of losing their lives.

I appeal to my colleagues to reject for a third time this backward, anachronistic, unfair abortion provision. It discriminates against the women of this country, poor women, to be exact, and black women in particular—who constitute the greatest proportion of medicaid abortion patients. It flies in the face of all the progress this country has made toward granting equal rights toward every American, and is the worst example of socially unjust legislation this Congress could ever hope to put into law.

Again, I cannot urge my colleagues strongly enough to reject this abortion provision.

Mr. BROOKE. Mr. President, the distinguished chairman and I had 90 minutes to be divided 45 minutes each.

How much time is remaining?

The PRESIDING OFFICER. The Senator from Washington has 28 minutes remaining and the Senator from Massachusetts has 37 minutes remaining.

Mr. MAGNUSON. I have nothing further.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington yields back the remainder of his time.

Mr. BROOKE. I yield 2 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr. STEVENS. Mr. President, I believe the record ought to be clear as to what the Senate did in this regard, after having sent our conferees to confer with the House on a very strong position that we took against having amendments such as this on this type of bill, on an appropriations bill.

I think we ought to be very clear that the result of the compromise amendment is to determine who pays for the abortions that will take place under State law. I keep reading in the newspapers and receive calls from home indicating somehow or other people think we have changed the State law.

This amendment only deals with who pays the bill, whether it is the Federal Government or the State government.

In order to try and break the deadlock in the conference, the conferees of the Senate by a vote of 11 to 2 at my request submitted an amendment to the House which stated:

> None of the funds contained in this Act shall be used to pay for abortions except when consistent with State law where the life of the mother would be endangered or shortened if the fetus were carried to term or in case of rape or incest.

The Conte amendment which came back after considerable debate struck the provision "when consistent with State law" and the words "or shortened" and the phrase "or in cases of rape or incest."

Our report makes it abundantly clear that the phrase "where the life of the mother would be endangered" includes the area where diseases or other occurrences might result in endangering the life of the mother by threatening to shorten her life and also makes clear the treatment that could occur in the event of cases of rape or incest.

So, in effect, the only real difference is the phrase "when consistent with State law."

Arizona has no medicaid program. Idaho, Indiana, and Louisiana are the other three States which permit only therapeutic abortions.

The impact of leaving that phrase out will have to be determined, but as a practical matter the House did, in fact, agree with the Senate position which makes the dividing line on whether the Federal Government will reimburse the States under medicaid consistent with what I think is a workable pattern, and that is where the life of the mother would be endangered during the term of the pregnancy, not an ad hoc decision which must be made on the basis of information only to the date of the decision with regard to the abortion.

I think that we have done our best to compromise this position, but I am extremely disturbed that this bill continues to be made a vehicle for a dispute of this magnitude involving so many different passions when what we are talking about is not legislation as to whether or not there should be an abortion but legislation to determine what is the fair burden sharing between the Federal Government and the State government with regard to payments for abortions which will take place under State law without regard to the bill we have considered.

I think the record ought to be abundantly clear that this is not an amendment for or against abortion. This is an amendment concerning the funding of medical procedures under State law and determines what the Federal Government will pay for pursuant to the medicaid program.

I thank the Senator from Massachusetts.

Mr. BROOKE. Mr. President, if no other Senators wish to be heard, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BAYH. Mr. President, I am going to cast my vote in support of the Labor-HEW conference report. This is not an easy decision for me, and I do so only because I do not want to withhold funds from vital programs designed to help millions of Americans.

I am deeply distressed over the final action of this conference committee on the issue of Federal funding for abortions. I remain concerned that the Congress action at this time not prejudice the outcome of the three cases to be heard during the fall term of the Supreme Court. By denying funds under medicaid to those indigent women whose lives are not "endangered," the Congress is now placing the issue into the hands of the courts.

In light of the Supreme Court's earlier rulings in *Roe* v. *Wade,* 410 U.S. 113 (1973) and *Doe* v. *Bolton,* 410 U.S. 179 (1973), and various lower court decisions, it is clear that the language approved by the conference committee will be open to attack in the courts on the grounds that it creates an invidious classification which restricts the fundamental right of a woman in that class to decide whether to have an abortion.

In every lower court case which has involved a State's denial of medicaid benefits for the performance of an abortion, Federal courts have uniformly held such practices to be unconstitutional. In *Doe* v. *Wholgemuth,* 376 F. Supp. 173 (D.C.W.D. Pa. 1974), the court ruled against such restrictions as a violation of the equal protection clause of the 14th amendment. In handing down its decision, the court stated:

> Under traditional Equal Protection standards, once the state choose to pay for medical services rendered in connection with the pregnancies of women, it cannot refuse to pay for the medical services rendered in connection with the pregnancies of indigent women electing abortion . . .

This statement was similarly reflected in a letter to the conference committee by the U.S. Commission on Civil Rights. According to the Civil Rights Commission:

> Economic discrimination as such may not always be a violation of the Constitution, but racial discrimination is, and the effect of prohibiting states to pay for legal abortions with medicaid funds would be to discriminate against those racial and ethnic minority women who are disproportionately represented by low income women.

I ask unanimous consent that a copy of the Commission's letter appear in the RECORD.

A similar judgment as to the unconstitutionality of denying Federal funds is reflected in a report issued by the American Law Division of the Library of Congress. I also ask unanimous consent that this report appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. Because of my concern that our action here today may prejudice the Court consideration of the cases before it, I successfully amended the conference report to read as follows:

> The Congress is aware that there are three cases related to this issue to be heard by the Supreme Court this fall, and wishes to make clear that the Congress in its action upon this particular appropriations bill does not intend to prejudge any constitutional questions involved in those cases.

It is my hope that the court will consider this report language in determining congressional intent.

The language adopted by the conference committee prohibits Federal funds for any abortions unless the mother's life would be "clearly" endangered if the fetus were to be carried to full term.

The conference report stated that it was the intent of the conferees that this language would not prohibit abortions when a woman was "endangered" by diseases such as MS or renal disease, nor in the cases of ectopic pregnancies, rape, or incest. It went on to say that the ban should not preclude the use of contraceptive devices or drugs preventing implantation. Furthermore it will not interfere with conducting research or teaching abortion techniques in federally funded medical schools.

This report language along with the compromise language in the bill itself is the result of many hours of tedious and frustrating negotiation. The language is better than the Hyde amendment, but it is still bad. Once enacted, it is most certainly going to be challenged in the courts. I am confident that any court ruling will hold this action as unconstitutional.

In the meantime it is important to fund those vital programs of health, education, and welfare.

EXHIBIT 1

WASHINGTON, D.C.,
July 22, 1976.

Hon. BIRCH BAYH,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: This is in response to your request for the views of the U.S. Commission on Civil Rights concerning Representative Hyde's proposed amendment to H.R. 14232, the Departments of Labor and Health, Education and Welfare Appropriations bill. The proposed amendment states that "None of the funds appropriated in this Act shall be used to pay for abortions or to promote or encourage abortions." The Commission strongly opposes the amendment and applauds the Senate for its June 28th vote to strike the amendment from the bill. Because of the potential negative impact of the amendment on the constitutional rights of indigent women, we would urge the Conferees to delete the Hyde amendment language.

As we stated in our report entitled "Constitutional Aspects of the Right to Limit Childbearing," the Commission's sole position is its affirmation and support of each woman's constitutional right to abortion under circumstances delineated by the Supreme Court in *Roe* v. *Wade and Doe* v. *Bolton*. The report made three major recommendations, one of which is that "Congress should reject anti-abortion legislation and amendments, and repeal those which have been enacted, which undermine the constitutional right to limit childbearing." The Commission reiterates this recommendation, and urges the Conferees to reject the Hyde amendment to H.R. 14232, for several reasons. First, we believe that such an amendment would undermine the constitutional rights of women as set forth by the U.S. Supreme Court. Second, it is clear that restriction of Medicaid funds for legal abortion would negatively impact only on low-income women, among whom racial and ethnic minority women are disproportionately represented. Such a result, in our view, would violate the equal protection clause of the Fourteenth Amendment.

Representative Hyde's proposed amendment would effectively nullify the *Roe* and *Doe* decisions for indigent women, as those women must rely on Medicaid and other federally funded health care programs for medical services, the very services which the Hyde amendment would restrict. The Department of Health, Education and Welfare was moved to issue an impact statement when it learned that Congress was considering such legislation. The statement reads:

"This language would affect virtually all programs involved in or related to the provision of medical care as well as those which are concerned with social and educational services or benefits funded by the Departments of Labor and of Health, Education, and Welfare. Included would be programs such as those of the Bureau of Community Health Services, the Public Health Hospitals, social service programs of AFDC and Medicaid. . .

"The program that would be most affected would be the Medicaid program in 49 States and the District of Columbia. It is estimated that the Department is currently financing between 250,000 and 300,000 abortions annually at a cost of $45–50 million. The preponderance of funding is through Medicaid.

"The provision would also clearly preclude the use of departmental funds for therapeutic abortions including those to save the life of the mother, severely constrain medical schools receiving capitation grants and other HEW funds from instructing students in the performance of abortions, and preclude any federally supported agencies or projects from counseling clients on the availability of abortion services."

The effect of the proposed amendment on indigent women who must rely on these programs and services for their health care, is devastating. Our report states:

"Statistical data demonstrate the suffering experienced by poor women when abortion is illegal. For the poor woman, restrictive abortion statutes have meant either another baby she could not care for, or the chance of death from an attempt to self-abort or at the hands of a backroom abortionist. Almost universally, where abortion is legalized the maternal mortality rate drops and the incidence of septic abortion (abortion complicated by acute infection of the lining of the uterus) and incomplete abortion decreases. This points to the conclusion that legal abortion reduces the incidence of ill effects from criminal abortions and is, therefore, preferable to criminal abortion. For example, at San Francisco General Hospital in 1967, before abortion reform, there were 68 septic abortions per 1,000 live births; by 1969 there were only 22 per 1,000 live births. In New York City's Harlem Hospital there were 1,054 women admitted for aftercare following incomplete abortions in 1965 and only 292 in 1971, after abortion was legalized.

"Poor women face grave risks of endangering life and health by self-abortion or by seeking the services of nonphysician abortionists. If forced to continue an unwanted pregnancy, women, when unmarried, face a whole range of discrimination. If they are employed, their health insurance coverage may be inadequate to cover expenses associated with pregnancy and childbirth. Furthermore, employers are not obligated to transfer a pregnant woman to less arduous work, if this is medically advisable during any stage of pregnancy. Indeed, women have often been forced to leave their employment, either temporarily or permanently when they become pregnant, thus losing potential benefits, including health insurance coverage. If a pregnant woman is unable to find employment and does not qualify for compensation and has no one to support her, she may be forced to accept inadequate public assistance. Additionally, the existence of an out-of-wedlock pregnancy and birth may be used as evidence to deny employment or housing to a woman. The same economic factors which create her inability to gain an abortion in the first place might mean that a woman would not be able to file suit to challenge such patently discriminatory actions."

The recognition of abortion as a constructional right by the Supreme Court has made it possible for more poor women to gain access to safe abortions done by physicians, and paid for by Medicaid funds. They need not pay the higher fees demanded by illicit practitioners when the procedure is illegal. Representative Hyde's proposed amendment to H.R. 14232 would eliminate that opportunity. Economic discrimination as such may not always be a violation of the Constitution, but racial discrimination is, and the effect of prohibiting States to pay for legal abortions with Medicaid funds would be to discriminate against those racial and ethnic minority women who are disproportionately represented among low income women.

Further, the Commission's report discusses various State actions which have been taken since the Supreme Court *Roe* and *Doe* decisions, as attempts to indirectly limit the right to abortion. One of the most important of these is the attempt to refuse Medicaid payments for abortion procedures. It should be noted that the Supreme Court has agreed to hear in the Fall Term, two cases involving restrictions on the use of Medicaid funds for provision of abortions. As is pointed out in the October, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress, entitled "Constitutionality of the Bartlett Amendment Banning Use of DHEW and DOL F.Y. 1975 Funds for Abortion," the courts have declared that all such State actions represent illegal interference with the reproductive freedom of women acknowledged in *Roe* and *Doe*. Our report describes one such case as follows:

"In one case (*Doe* v. *Roe*), the Utah State Department of Social Services ruled that indigent pregnant women, entitled to medical services and care for pregnancy under its Medicaid program, were not entitled to abortions at the expense of Medicaid unless an application was approved by the Department as being therapeutic. The Department defined a terapeutic abortion as one necessary to save the life of the expectant mother or to prevent serious and permanent impairment to her physical health, and none other. The Federal appeals court decided that this 'broad abortion policy is intended to limit abortion on moral grounds.' Such a policy 'constitutes invidious discrimination and cannot be upheld under constitutional challenge.' "

Adoption of the Hyde or a similarly discriminatory amendment would be particularly ironic since a main objective of H.R. 14232 is to equalize access to education and health services for all Americans.

Compromise language, if offered, would be similarly unacceptable as violative of the Constitutional right of women to choose to undergo abortion. The 1973 Supreme Court decisions provided that all women have a constitutionally guaranteed right to legal access to abortion services as delineated by the Court. Any language of an abortion restrictive nature attached to this legislation, even "compromise" or "modified" language, would impermissibly violate the indigent woman's right to choose abortion because she, as a result of her financial status, must rely for health care on the publicly funded health care programs which the Hyde or a compromise amendment would restrict.

From these comments it is clear that personal feelings about abortion need not, and indeed, should not be involved in Congressional consideration of the Hyde Amendment or similar legislation. The matter involved is that of a fundamental Constitutional guarantee—equal protection under law. The law virtually mandates deletion of the Hyde Amendment from H.R. 14232 by the Conference Committee.

I hope that this reply is responsive to your concerns. Please feel free to call on me if the Commission can be of further help.

Sincerely,

JOHN A. BUGGS,
Staff Director.

CONSTITUTIONALITY OF A STATUTORY PROVISION BANNING THE USE OF ANY FEDERAL FUNDS FOR ABORTIONS

(By Morton Rosenberg)

On March 11, 1975, an amendment (No. 86) was offered to S. 66 (a bill to revise and extend certain health programs under title VIII of the Public Health Services Act) which would prohibit the use of any federal funds to pay for or encourage the performance of an abortion except to preserve the life of a mother. The amendment reads as follows:

"No funds authorized under this Act or under any other act may be used in any manner, directly or indirectly, to pay for or encourage the performance of abortions except in a case where such an abortion is necessary to preserve the life of the mother."

In response to inquiries as to the constitutionality of such a provision, we submit the following.

In view of the Supreme Court's decisions in *Roe* v. *Wade*, 410 U.S. 113 (1973) and *Doe* v. *Bolton*, 410 U.S. 179 (1973), and lower federal court decisions which have applied the principles of *Roe* and *Doe* in situations involving state attempts to withhold funds for abortions, and other relevant legal precedents, it would apear that the constitutionality of the above-quoted amendment would be open to serious attack in the courts on the ground that it creates a classification restricting the fundamental right of women in that class to decide whether or not to have an abortion, in violation of equal protection standards.

I

. . . a federal statute is called into question on the ground that it invidiously discriminates against a particular class, the constitutional argument must rest upon the Fifth Amendment to the Constitution, rather than the Fourteenth. E.g., *Weinberger* v. *Wiesenfeld*, No. 73–1892 (March 19, 1975) (slip opinion at p. 2 and n. 2). Although the Fifth Amendment does not contain any clause explicitly guaranteeing the equal protection of the laws, it nevertheless has long been settled that the amendment "does forbid discrimination that is 'so unjustifiable as to be violative of due process.'" *Frontiero* v. *Richardson*, 411 U.S. 677, 680 n. 5 (1973), quoting *Schneider* v. *Rusk*, 377 U.S. 168, 163 (1964); accord, *United States Department of Agriculture* v. *Moreno*, 413 U.S. 528, 533 n. 5 (1973). The Supreme Court has recognized, moreover, that both the concept of equal protection and the concept of due process stem "from our American ideal of fairness." *Bolling* v. *Sharpe*, 347 U.S. 497, 499 (1954). Accordingly, it is now equally well-settled that "The due process clause of the Fifth Amendment provides the same basic safeguards as the equal protection clause and the general principles of the latter apply to the former." *United States* v. *Craven*, 478 F. 2d 1329, 1338 (6th Cir. 1974), cert. denied 42 U.S.L.W. 3198; *United States* v. *Synnes*, 438 F. 2d 764, 777 (8th Cir. 1971), vacated on other grounds, 404 U.S. 1009 (1972). "Thus, if a classification would be invalid under the Equal Protection Clause of the Fourteenth Amendment, it is also inconsistent with the due process requirement of the Fifth Amendment. See *Richardson* v. *Belcher*, 404 U.S. 78, 81 (1971)." *Johnson* v. *Benson*, 415 U.S. 361, 364–365 n. 4 (1974). "This Court's approach to Fifth Amendment equal protection claims has always been precisely the same as to equal protection claims under the Fourteenth Amendment." *Weinberger* v. *Wiesenfeld*, *supra*, p. 2 n. 2 (slip opinion). See also *Schlesinger* v. *Ballard*, 42 L. Ed. 2d 610 (1975).

II

The threshold inquiry in an equal protection case concerns the appropriate standard by which a challenged provision is to be measured. *San Antonio Independent School District* v. *Rodriguez*, 411 U.S. 1 (1973); *Weber* v. *Aetna Casualty & Surety Co.*, 406 U.S. 164, 172–173 (1972). If the legislation operates to the disadvantage of persons in a suspect classification or infringes on a fundamental right explicitly or implicity protected by the Constitution, strict judicial scrutiny is required. The challenged legislation is not entitled to the usual presumption of validity. In addition, the government must demonstrate that the legislative classification is justified by a substantial and compelling interest, that the statute has been narrowly drawn to serve legitimate interests, and that the legislature has selected the least drastic means for effectuating its objectives. *San Antonio Independent School District* v. *Rodriguez*, *supra*, at 16–17; *Dunn* v. *Blumstein*, 405 U.S. 330, 335, 342–343 (1972).

On the other hand, if the challenged legislation involves neither a suspect classification nor the infringement of a fundamental right, its constitutionality is adjudged under a far less stringent standard. The legislature's action is accorded a presumption of constitutionality, *Lindsey* v. *Normet*, 405 U.S. 56, 71 (1972), and the party attacking the statute bears the burden of showing that it violates the Fifth or Fourteenth Amendments. *Feinerman* v. *Jones*, 356 F. Supp. 252, 256 (N.D. Pa. 1973). The classification made in the statute need only "bear some rational relationship to a legitimate state end and will be set aside as violative of the Equal Protection Clause only if based on reasons totally unrelated to the pursuit of that goal." *McClellan* v. *Shapiro*, 315 F. Supp. 484, 490 (D. Conn. 1970), quoting *McDonald* v. *Board of Election Commissioners*, 394 U.S. 802, 809 (1969). Furthermore, "'a statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' *McGowan* v. *Maryland*, 366 U.S. 420, 526," *Dandridge* v. *Williams*, 397 U.S. 471, 485 (1970). And the rational basis on which the statute is sustained need not in fact have been the primary purpose behind its passage. *McGinnis* v. *Royster*, 410 U.S. 263, 275–276 (1973).

Thus, whether the compelling interest or rational basis standard is utilized to test a particular piece of legislation may be determinative of the outcome of equal protection litigation. The Supreme Court has dealt with the choice of standards problem in the following manner.

When dealing with legislation which falls within the realm of economics and social welfare, the Supreme Court has expressed considerable reluctance to subject legislative action to the strict scrutiny of the compelling state interest test. For example, it has rejected a claim that a statute reducing welfare benefits as family size increases should be measured against that test, stating:

"In the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis," it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality." *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61–78. "The problems of government are practical ones and may justify, if they do not require, rough accommodations—illogical, it may be, and unscientific." *Metropolis Theatre Co.* v. *City of Chicago*, 228 U.S. 61, 69–70. "A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426. (*Dandridge* v. *Williams*, 397 U.S. 471, 485 (1970)).

The court has refused to denominate education, *San Antonio Independent School District* v. *Rodriguez*, *supra;* welfare, *Jefferson* v. *Hackney*, 406 U.S. 535 (1972), *Dandridge* v. *Williams*, *supra;* or housing, *Lindsey* v. *Normet*, *supra*, as "fundamental rights," the denial of which would call into play the compelling state interest test; and it has refused to do so despite its recognition that each may be critical either to survival itself or the acquisition of the means necessary to rise above mere survival. Thus the Court has described its role in this area as follows:

"It is not the province of this Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws. Thus, the key to discovering whether education is "fundamental" is not to be found in comparisons of the relative societal significance of education as opposed to subsistence or housing. Rather, the answer lies in assessing whether there is a right to education explicitly or implicitly guaranteed by the Constitution." "[Citations omitted]. (*San Antonio School District* v. *Rodrigues*, supra, at 33–34).

A prohibition against the use of federal funds for abortions is arguably a provision which falls within the category of economics and social welfare legislation. It represents a congressional decision as to which categories of medical assistance will be conferred upon the poor and other eligible groups. Such assistance has never been held to be a right guaranteed by the Constitution, either explicity or implicitly, Under *Rodriguez*, then, it would be difficult to maintain that it is a fundamental right, the denial of which, in and of itself, triggers the operation of the compelling state interest test.

However, equal protection analysis does not end at that point. The Supreme Court has identified situations and acknowledged that even where benefits which have been specifically held not to be fundamental are in issue, a provision excluding a particular class from receiving those benefits may still be subjected to strict judicial scrutiny. That result follows in one of two instances: where the class excluded from the receipt of benefits is a "suspect classification", *Graham* v. *Richardson*, 403 U.S. 365 (1971) (welfare benefits and alienage); see also *New Jersey Welfare Rights Organization* v. *Cahill*, 411 U.S. 619 (1973) (per curiam) (welfare benefits and illegitimacy); or where the basis for the exclusion from benefits involves a fundamental right entirely distinct from the benefits themselves, and it can be shown that the exclusion infringes upon the exercise of that right. *Shapiro* v. *Thompson*, 394 U.S. 618 (1969) (welfare benefits and the right to travel); *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250 (1974) (medical benefits and the right to travel).

It can be argued that the subject amendment falls within the latter class of cases and would be measured against the compelling interest standard. That is, a congressional prohibition of funding for abortions or abortion-related medical assistance arguably involves a fundamental right and infringes upon the exercise of that right. Indeed, the case law considered below appears to establish that classifying eligibility for assistance in order to curtail access to abortion is one giving rise to "strict scrutiny".

In its abortion decision, *Roe* v. *Wade*, supra, and *Doe* v. *Bolton*, supra, the Supreme Court ruled that states may not categorically proscribe abortions by making their performance a crime, and that states may not make abortions unnecessarily difficult to obtain by prescribing elaborate procedural guidelines. The constitutional basis for the *Roe* decision rested upon the conclusion that the Fourteenth Amendment right of personal privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." 410 U.S. at 153. The Court left no doubt that since the right of personal privacy is a fundamental right, only compelling state interests can justify its limitation by a state (410 U.S. at 155–156):

"Where certain 'fundamental rights' are involved, the Court has held that regulation limiting these rights may be justified only by a 'compelling state interest,' *Kramer* v. *Union Free School District*, 395 U.S. 621, 627 (1969); *Shapiro* v. *Thompson*, 394 U.S. 618, 634 (1969); *Sherbert* v. *Verner*, 374 U.S. 398, 406 (1968); and that legislative enactments must be narrowly drawn to express only the legitimate state interests at stake. *Griswold* v. *Connecticut*, 381 U.S., at 485; *Aptheker* v. *Secretary of State*, 378 U.S. 500, 508 (1969); *Cantwell* v. *Connecticut*, 310 U.S. 296, 307–308 (1940); *see Eisenstadt* v. *Baird*, 405 U.S., at 460, 463–464 (White, J., concurring in the result).

"In the recent abortion cases . . . courts have recognized these principles. Those striking down state laws have generally scrutinized the state's interests in protecting health and potential life, and have concluded that neither interest justified broad limitations on the reasons for which a physician and his patient might decide that she should have an abortion in early stages of her pregnancy. Courts sustaining state laws have held that the state's determinations to protect health or prenatal life are dominant and constitutionally justifiable."

Further, while the Court recognized the legitimacy of the state interest in protecting maternal health and preserving the life of the fetus, it held these interests insufficient to justify an absolute ban on abortions. Instead, the Court emphasized the durational nature of pregnancy and held the state's interest to be sufficiently compelling to permit curtailment or prohibition of abortion only during specified stages of pregnancy. The High Court concluded that until the end of the first trimester an abortion is no more dangerous to maternal heatlh than child birth itself, and found that—

"With respect to the state's important and legitimate interest in the health of the mother, the "compelling" point, in light of present medical knowledge, is at approximately the end of the first trimester."

Only after the first trimester does the state's interest in protecting maternal health provide a sufficient basis to justify state regulation of abortion, and then only to the extent to protect this interest. 410 U.S. at 163–164.

Doe, which struck down state requirements that abortions be performed in licensed hospitals,[1] reiterates the holding of *Roe* that the basic decision of when an abortion is proper rests with the pregnant woman and her doctor, but extended *Roe* by warning that just as states may not prevent abortion by making their performance a crime, they may not make abortions unreasonably difficult to obtain by prescribing elaborate procedural barriers.

In every case which has involved a state's denial of Medicaid benefits for the performance of an abortion, or a state's denial of the use of public hospital facilities for the performance of an abortion or sterilization procedure, lower federal courts have uniformly held that under *Roe* v. *Wade*, a woman's right to abort a pregnancy is a fundamental right falling within her constitutionally guaranteed right of privacy and that state action interfering with that right must be justified by a compelling state interest. Further, as is more fully detailed below, no federal court which has directly addressed the constitutional issue has sustained a state's claim of any compelling interest in this area.

III

The earliest litigation on the scope of Medicaid coverage arose in New York after that state's liberalized abortion law went into effect in 1970. For nine months the program paid for all abortions. Then, the New York Commissioner of Social Services issued a directive allowing compensation only for those abortions that were medically required. The New York Court of Appeals, reversing the lower courts, sustained the validity of the directive. But in a challenge brought in a federal court, in *Klein* v. *Nassau County Medical Center*, 347 F. Supp. 496 (E.D.N.Y. 1972), a three judge district court found that the directive, and the New York Medicaid statute if interpreted as mandating the directive, deprived indigents of equal protection of the laws. The court reasoned that all pregnant women have the right to decide whether or not to bear children; and the state Medicaid program, by paying for childbirth, but not elective abortions, deprived indigent women of this right and forced them to carry their children to term for economic reasons. The *Klein* case reached the Supreme Court after *Roe* and *Doe* were decided. The Court vacated the district court decision and remanded for further consideration in light of those decisions. *Commissioner of Social Service* v. *Klein*, 412 U.S. 925 (1973).[2]

Court decisions since *Roe* and *Doe* have consistently invalidated a variety of state actions which had the effect of denying Medicaid funds for elective abortions.[3] In *Doe* v. *Rampton*, 366 F. Supp. 189 (D. Utah, 1973), a three judge district court held unconstitutional Utah statutes which imposed "burdensome regulations upon the decision whether or not to have or perform an abortion at any stage of pregnancy" in violation of *Roe* and *Doe*. One of the statutes would have prohibited the use of Medicaid funds for abortions except where necessary to save the life of a mother or to prevent serious and permanent damage to her physical health. Title 76, Chapter 7, section 314, Utah Code Annotated 1953. Judge Ritter, writing for the court, emphasized that the legislatively imposed Medicaid restrictions were unconstitutional because they limited the "exercise of the right to an abortion by the poor in all trimesters, for reasons having no connection with the health of the mother," 366 F. Supp. at 197.[4]

In another Utah case, the Tenth Circuit Court of Appeals overruled an attempt to limit the use of Medicaid funds for abortions, this time under the guise of requirements issued by the state's welfare agency. *Doe* v. *Rose*, 499 F. 2d 1112 (10th Cir., 1974). Under scrutiny in that case was the policy of the Executive Director of the Utah State Department of Social Services that indigent pregnant women entitled to medical services and care for pregnancy under its Medicaid program were not entitled to an abortion at the expense of Medicaid unless an application for it was approved by him as being a therapeutic abortion. He defined therapeutic abortion as one necessary to save the life of the expectant mother or to prevent serious and permanent impairment to her physical health, and none other. Applying *Roe* and *Doe* the Court stated:

"That in the absence of a compelling state interest a state may not bar all abortions, except those necessary to protect the health of the mother regardless of the trimester. A statute thus limiting abortions violates the constitutional right of privacy of pregnant women, at least those in their first or second trimester, who during the first six months of their pregnancy have a qualified right to terminate their pregnancies." (499 F. 2d at 1116).

In holding the informal policy of the Executive Director unconstitutional under the Fourteenth Amendment, the court rejected as "compelling" the suggestion that the policy served to protect the public fisc from expenditures for unnecessary medical treatment of indigents and concluded that his "broad abortion policy is intended to limit abortion on moral grounds. Under the authorities above cited,[5] such policy constitutes invidious discrimination and cannot be upheld under constitutional challenge." 499 F. 2d at 1117.

A similar result obtained in *Doe* v. *Wohlgemuth*, 376 F. Supp. 173 (D.C.W.D. Pa. 1974), an action challenging the state's refusal to provide reimbursement for the cost of abortions under its medical assistance program. At the outset the court recognized that it was "here concerned with 'fundamental rights' which must be balanced against' *compelling* state interests' where legislative enactments including State-wide Regulations pursuant thereto must be narrowly drawn to express only state interests." 376 F. Supp. at 179. In holding the state's restrictive regulations violative of the Fourteenth Amendment's Equal Protection Clause, the court stated:

"Under traditional Equal Protecttion standards, once the State chooses to pay for medical services rendered in connection with the pregnancies of women, it cannot refuse to pay for the medical services rendered in connection with the pregnancies of other indigent women electing abortion, unless the disparate treatment supports a legitimate State interest . . ."

The Court rejected arguments that the fiscal integrity of the state was a legitimate interest (the court in fact found that abortions would cost the state less than full term pregnancies), that the restrictive regulations were approved by doctors, and that denying indigent women abortions would help discourage abortions. The court concluded:

"We hold that the state's decision to limit coverage to "Medically indicated" abortions, as arbitrarily determined by it, is a limitation which promotes no valid state interest. In the PMAP, the state has instituted a program to provide benefits to the poor; the state has excluded certain of the poor from the program; the exclusion denies medical assistance benefits to otherwise eligible applicants solely because they have elected to have an abortion, and the state has been unable to show that the exclusion of such persons promotes a compelling state interest.

". . . the Regulations and/or Procedure of the Pennsylvania Medical Assistance Program are unconstitutional because they are in violation of the Equal Protection Clause since they create an unlawful distinction between indigent women who choose to carry their pregnancies to birth, and indigent women who choose to terminate their pregnancies by abortion."

Wolgemuth was affirmed by the Third Circuit on December 10, 1974 on the narrower constitutional ground that it was a violation of equal protection for the state to pay for abortions only when litigation is threatened[6] and remanded to the district court for further proceedings. However, both sides petitioned for rehearing which was granted and held in February, 1975.

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[1] The Court also invalidated a requirement that abortions be approved by a hospital committee, 410 U.S. at 196–198, and that two physicians concur in the abortion decision, 410 U.S. at 198–199.

[2] Since its decisions in *Roe* and *Doe*, the Court has summarily disposed of, remanded, or denied certiorari in, all subsequent cases which might have involved reassessing or expanding its rulings in those cases.

[3] The Fourteenth Amendment reaches not only statutes which deny due process or equal protection, but also applies to "state action" or "governmental action" generally. Thus, the action need not be in the form of a statute but may be the acts of a governor, *Cooper v. Aaron*, 358 U.S. 1, 16–17 (1958); *Sterling* v. *Constantine*, 287 U.S. 378, 393 (1932), of prosecuting attorneys, *Mooney* v. *Holahan*, 294 U.S. 103, 112, 113 (1935), minor administrative officials, *United States* v. *Classic*, 313 U.S. 299 (1941), or of policemen, *Griffin* v. *Maryland*, 378 U.S. 130 (1964). The action may, of course, be expressed in formal form in a statute or ordinance, but it may as easily be nothing more than a policy expression that is enforced, *Lombard* v. *Louisiana*, 373 U.S. 267 (1963), or custom which is sanctioned through official action. *Peterson* v. *City of Greenvill,e* 373 U.S. 244 (1963).

[4] Judge Anderson, though dissenting from many of the majority holdings, agreed with the majority that section 314 was unconstitutional.

[5] Among others, the court cited *Klein*, *Rampton*, *Hathaway* v. *Worcester Hospital* and *Doe* v. *Wohlgemuth*, the latter two of which are discussed below.

[6] The state's Attorney General stipulated that it was following a policy of paying for abortions in any county where litigation was "threatened" but not otherwise.

In *Roe* v. *Westby*, 383 F. Supp. 1143 (D.S.D., 1974), vacated and remanded by the Supreme Court, March 17, 1975, for consideration of the statutory issue, plaintiff challenged as unconstitutional and sought to restrain the enforcement of a rule of the South Dakota Social Services Department under which women otherwise eligible for Medicaid were denied benefits to pay for non-therapeutic abortions. In analyzing the plaintiffs' claims, the court wrote

The policy reflects the moral judgment of the State that the pregnancies must terminate only by birth of a child or for therapeutic reasons. This moral judgment is not a compelling state interest which would justify inhibiting a woman in her exercise of a fundamental personal right as defined in *Roe* and *Doe*.

"The Equal Protection Clause does not prohibit disparate treatment *per se*. But where fundamental rights are limited by a State-created classification, the State must exhibit a compelling interest justifying the classification expressed by a narrowly drawn statute reflecting those compelling interests only. *Kramer* v. *Union Free School District*, 395 U.S. 621, 627 (1969); *Shapiro* v. *Thompson*, 394 U.S. 618, 634 (1969); *Aptheker* v. *Secretary of State*, 378 U.S. 500, 508 (1964): 383 F. Supp. at 1146."

The court also rejected the discouragement of abortion as a legitimate state interest and concluded that the state had "created a classification which is in violation of the Equal Protection Clause of the Fourteenth Amendment" to the Constitution. Id. at 1147.

Also, a recent court of appeals ruling has reiterated the constitutional infirmities inherent in restrictive governmental Medicaid policies with regard to non-therapeutic abortions. In *Wolff* v. *Singleton* 508 F. 2d 1211 (8th Cir. 1975), the court dealt with a Missouri statute providing for medical assistance payments if pregnancy is carried to term or for therapeutic abortions, but not if a non-therapeutic abortion is performed. After disposing of jurisdictional issues the court found the statute unconstitutional on its face:

". . . This classification is a clear violation of the Equal Protection Clause of the Fourteenth Amendment.

"There is ample case authority for the holding that a welfare payments statute which places special regulation on abortion but not upon other medical procedures cannot stand in light of the Supreme Court decisions [in *Roe* and *Doe*]. [Citation *omitted*] . . .

"The control meted out by this statute does not give proper consideration to the conflicting constitutional interests involved . . . It is further invalid since the welfare parent and her physician are discriminated against by reason of the patient's poverty." (508 F. 2d at 1215–1216).

See also *Roe* v. *Norton*, 380 F. Supp. 726 (D. Conn 1974) and *Roe* v. *Ferguson*, No. 74–315 (S.D. Ohio, September 16, 1974), 43 U.S.L.W. 2143, which rejected state claims that Title XIX of the Social Security Act either required a prior medical certification that an abortion is necessary before Medicaid payments could be made (*Norton*), or that abortions are not "necessary medical services" within the meaning of the Act (*Ferguson*).

In summary, then, court rulings which have dealt with the constitutionality of governmental action restricting Medicaid payments to indigent women seeking non-therapeutic abortions in the light of *Roe* and *Doe* have established that (1) once a state chooses to pay for medical services rendered in connection with the pregnancies of some indigent women, it cannot refuse to pay for medical services rendered in connection with the pregnancies of other indigent women electing an abortion, unless the disparate treatment supports a legitimate state interest; (2) such action must be measured by the compelling state interest test; and (3) the moral repugnance to abortion, the drain on public treasuries of the cost of abortions, and the desire to discourage abortions, are not legitimate or compelling state interests to uphold such restrictive state action.

IV

There has been a similar application of equal protection principles in a number of cases in closely related areas. In *Friendship Medical Center, Ltd.* v. *Chicago Board of Health*, 505 F. 2d 1141 (8th Cir. 1974), cert. denied March 24, 1975, the court faced the question of the validity of Chicago Board of Health regulations which imposed substantial and detailed health requirements as to the conditions, equipment, and procedures that medical facilities offering abortions had to comply with, without regard to the trimester of pregnancy involved. After finding that plaintiffs had standing to claim that the regulations unduly infringed upon the privacy rights of their patients, the court concluded that "*Roe* and *Doe* compel us to conclude that the fundamental right of privacy includes, at least during the first trimester of pregnancy, the right to be free from governmental regulations that have an effect on the abortion decision," 505 F. 2d at 1151, and that the detailed regulations could have such an effect. The court also invalidated rules which comprehensively regulated physicians performing abortions, while at the same time leaving other medical procedures, often more complex and dangerous in terms of the patient's health, up to the good judgment of the physician. The court held that "where fundamental rights are involved, it is impermissible to treat differently two classes which do not differ on any ground related to the purpose of the challenged statute." 505 F. 2d at 1152.[7]

In *Hathaway* v. *Worcester City Hospital*, 475 F. 2d 701 (st Cir., 1973), the question was raised whether a municipal hospital could constitutionally refuse to allow the performance of non-therapeutic procedures (in this case sterilization) while allowing others involving similar medical risk. Relying primarily on *Roe* and *Doe*, the Court ruled the refusal an impermissible denial of equal protection under the Fourteenth Amendment.

"But it seems clear, after *Roe* and *Doe*, that a fundamental interest is involved, requiring a compelling rationale to justify permitting some hospital surgical procedures and banning another involving no greater risk or demand on staff and facilities. While *Roe* and *Doe* dealt with a woman's decision whether or not to terminate a particular pregnancy, a decision to terminate the possibility of any future pregnancy would seem to embrace all of the factors deemed important by the Court in *Roe* in finding a fundamental interest, 410 U.S. at 155, 93 S. Ct. 705, but in magnified form, particularly so in this case given the demonstrated danger to appellant's life and the eight existing children.

"The state interests, recognized by *Roe* as legitimate, are far less compelling in this context. Whatever interest the state might assert in preserving the possibility of future fetuses cannot rival its interest in preserving an actual fetus, which was found sufficiently compelling to outweigh the woman's interest only at the point of viability. The state maintains of course a significant interest in protecting the health and life of of the mother who, as here, cares for others whom the state might otherwise be compelled to provide for. Yet whatever health regulations might be appropriate to vindicate that interest, and on the present record we need not decide the issue, it is clear under *Roe* and *Doe* that a complete ban on a surgical procedure relating to the fundamental interest in the pregnancy decision is far too broad when other comparable surgical procedures are performed.

"*Doe* is particularly apposite in this regard. The Court there struck down the Georgia requirements of advance approval of an abortion by a hospital committee of three staff members and the additional concurrence of two doctors other than the patient's attending physician, primarily on the ground that "We are not cited to any other surgical procedure made subject to committee approval" and "no other-voluntary medical or surgical procedure for which Georgia requires confirmation by two other physicians has been cited to us." 410 U.S. at 199, 93 S. Ct. at 751. Here we are cited to no other surgical procedure which is prohibited outright and are told that other procedures of equal risk are performed and that non-therapeutic procedures are also permitted. *Doe* therefore requires that we hold the hospital's unique ban on sterilization operations violative of the Equal Protection Clause of the Fourteenth Amendment."

Other cases applying the principles of *Roe* and *Doe* have held that public hospitals may not refuse to permit abortions, *Nyberg* v. *City of Virginia*, 361 F. Supp. 932 (D. Minn. 1973) aff'd 495 F. 2d 1342 (8th Cir. 1974), appeal dismissed and cert. denied 95 S. Ct. 169; *Doe* v. *Hale Hospital*, 369 F. Supp. 970 (D. Mass. 1974), aff'd 500 F. 2d 144 (1st Cir. 1974), cert. denied 43 U.S.L.W. 3411; but cf. *Doe* v. *Poelker*, No. 73c–565(A) (E. D. Mo. Jan. 13, 1975) and *Roe* v. *Arizona Board of Regents*, No. 149243 (Pima County Superior Ct. Feb. 6, 1975); invalidated procedural and accreditation requirements applying to abortions alone, *Doe* v. *Menghini*, 339 F. Supp. 986 (D. Kansas 1972); and invalidated requirements of spousal and parental consent to an abortion, *Coe* v. *Gerstein*, 376 F. Supp. 695 (S.D. Fla. 1973), cert. denied 42 U.S.L.W. 3666; *Doe* v. *Rampton*, 366 F. Supp. 189, 193 (D. Utah, 1973); *Doe* v. *Bellin Memorial Hospital*, 479 F. 2d 756, 759 (7th Cir. 1973); *Foe* v. *Vanderhoof*, No. 74–F.418 (D. Colo. Feb. 5, 1975).

V

Two cases decided by the Supreme Court since its decisions in *Roe* and *Doe* may be noted for their possible value in assessing how the High Court might treat the provision under question. Neither deals with the abortion issue.

In the first case, *Memorial Hospital* v. *Maricopa Hospital*, 415 U.S. 250 (1974), the Court considered an appeal from a decision upholding an Arizona statute which required a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The question presented was whether the duration residency requirement was repugnant to the Equal Protection Clause as applied in *Shapiro* v. *Thompson*, *supra*. The Court considered first the test to be applied in deciding the case and ruled that the compelling state interest test controlled since the state provision operated to penalize those who exercised their constitutional right to travel. It then assessed the state's asserted purposes in justification of the requirement—fiscal savings, inhibiting migration of indigents generally, deterring indigents from taking up residence in the county solely to utilize the medical facilities, protection of long-time residents who have contributed to the community particularly by paying taxes, maintaining public support of the county hospital, administrative convenience in determining bona fide residence, prevention of fraud, and budget predictability—and found that none satisfied the state's burden of justification. The Court therefore concluded that "the durational residence requirement for eligibility for nonemergency free medical care creates an 'invidious classification' that impinges on the right of interstate travel by denying newcomers 'basic necessities of life.'" 415 U.S. at 269.

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[7] Accord, *Word* v. *Poelker*, 495 F. 2d 1349 (8th Cir. 1974).

The significance of the *Maricopa County* case for present purposes would appear to be three-fold: first, the Court has reaffirmed its doctrine that government may not condition the receipt of statutory benefits upon the forfeiture of a constitutional right and that any apparent attempt to do so will be tested by the strict compelling interest test. Second, the factual context of the case is close to the present situation in that it involved the denial of a medical benefit. Indeed, the Court appeared to go far in establishing a special status for health benefits for indigents when it stated that "it is at least clear that medical care is as much 'a basic necessity of life' to an indigent as welfare assistance. And, governmental privileges or benefits necessary to basic sustenance have often been viewed as being a greater constitutional significance than less essential forms of governmental entitlements." 415 U.S. at 259. Third, the court rejected a number of justifications which have been unsuccessfully used to support denials of Medicaid benefits in the lower courts, i.e., fiscal savings, administrative convenience, and discouragement from utilization of a constitutional right to receive benefits.

The second case which may be considered is *United States Department of Agriculture* v. *Moreno,* 413 U.S. 528 (1973). There the Supreme Court reviewed a challenge to the constitutionality of a section of the Food Stamp Act which excluded from participation in the food stamp program any household containing an individual who was unrelated to any other member of the household. Although it evaluated the provision under the more lenient rational basis test, he Court still held the exclusion unconstitutional, finding the classification without rational basis. In this regard it stated at one point (413 U.S. at 534–535):

"The legislative history that does exist . . . indicates that the amendment was intended to prevent so-called "hippies" and "hippie communes" from participating in the food stamp program. [Citation omitted]. The challenged classification clearly cannot be sustained by reference to this congressional purpose. For if the constitutional conception of "equal protection of the laws" means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest. As a result, "[a] purpose to discriminate against hippies cannot, in and of itself and without reference to [some independent] considerations in the public interest, justify the 1971 amendment." [Citation omitted].

From the above-quoted language it might be argued that if it is impermissible for legislators to discriminate against "hippies" because of their own or their constituents' distaste for their ways or view of life, it is equally impermissible for the legislature to discriminate, for like reasons, against individuals seeking to exercise their constitutional right to an abortion.

VI

In previous debate on a similar proposal to prohibit federal funding of abortions (see Daily Congressional Record, November 20, 1974, pp. S.19677–19680), the question was raised whether those cases which have held that a state is not required to commence Aid to Families with Dependent Children assistance on the basis of unborn children are perhaps more relevant to the present issue. Particular reference was had to *Windom* v. *Norton,* 507 F. 2d 750 (2d Cir. 1974) where the court held (1) that the AFDC statutory provisions do not permit payments to the unborn and (2) that a state's denial of such aid did not violate the equal protection of the laws since the state's action was rationally based and was free from invidious discrimination.

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As the previous discussion demonstrates, the AFDC precedents do not directly bear on the present issue. To recapitulate, in the area of welfare assistance the Supreme Court has applied the rational basis test to equal protection challenges to governmental policies, *Richardson* v. *Belcher,* 404 U.S. 78, 81–82 (1971); *Dandridge* v. *Williams,* 397 U.S. 471, 485–487 (1970), with, however, the exception that when the classification in this area trenches upon a "fundamental" interest the classification will be voided unless it serves a compelling governmental interest and especially it will be voided if it is intended to deny that "fundamental" interest. Illustrative is the invalidation of the durational residency requirement in the *Maricopa County* case discussed above at pp. 19–20. If the right to an abortion is a "fundamental" right, like that of interstate travel, as the Supreme Court has indicated in *Roe,* then the AFDC cases not only do not bear on the present issue, they are irrelevant to it since they implicated no recognized fundamental right. It should be noted that on March 18, 1975 the Court in *Burns* v. *Alcala,* No. 73–1708, held that the term "dependent child" in the Social Security Act does not, as a matter of *statutory interpretation,* include unborn children, and hence states receiving federal financial aid under the AFDC Program are not required to offer welfare benefits to pregnant women for their unborn children. The Court did not reach the constitutional issue.

CONCLUSION

The amendment under question would deny federal funds for the performance of abortions in any trimester. The provision would apply to any current law authorizing funds for such a purpose. Perforce, it would apply to the federal Medicaid program and would create a situation where pregnant indigent women who choose to carry their pregnancies to term would receive pre-natal and delivery benefits but indigent pregnant women who elect to terminate their pregnancies by abortion, for a reason other than to preserve their lives, would be denied financial assistance for this purpose. Such women would then have to either seek alternate ways or means to abort or carry to term.

Under such circumstances, and in the light of present decisional law, the federal government, faced with a suit testing the constitutionality of the provision, would be confronted with the following constitutional principles and guidelines:

(1) A women's decision whether or not to terminate her pregnancy by abortion is a fundamental constitutional right.

(2) The government may not condition the receipt of a statutory benefit upon the forfeiture of a constitutional right.

(3) The constitutionality of a provision infringing upon a constitutional right will be measured by the compelling governmental interest standard under which the government must sustain the burden or showing that a challenged provision is justified by a legitimate governmental interest.

(4) In the past, courts, including the Supreme Court, have rejected moral repugnance, cost, desire to discourage, and administrative convenience, as insufficiently compelling or legitimate to sustain governmental action restrictive of a constitutional right.

In view of the foregoing, it appears that by eliminating abortion as one of the medical services that may be rendered indigent women under the Medicaid program, while at the same time continuing to allow all other medical services for pregnant women, the subject provision would be very likely to be held by the courts to create an invidious classification which restricts the fundamental right of women in that class to decide whether to have abortions. If this is indeed the prospect, the provision would conflict with the Supreme Court's decisions in *Roe* and *Doe* and lower court rulings interpreting those cases, and other Supreme Court rulings in analogous contexts, and would therefore be held to violate the equal protection standards of the Fifth Amendment.

MORTON ROSENBERG,
Legislative Attorney, American Law Division April 2, 1975.

Mr. SCHWEIKER. Mr. President, I am pleased to join in supporting the report of the conference committee on the abortion funding amendment. As those who attended the conference can testify, we had several days of vigorous discussion, and we debated and voted on many different proposals. I think that the final language agreed upon is a sound method of responsibly ending the Federal funding of abortion on demand.

We agreed that abortions should only be paid for when the life of the mother is endangered. This reaffirms the basic purpose of the medicaid program, which is to provide necessary medical treatment of the indigent. Congress never intended medicaid to pay for all nontherapeutic medical procedures that might be available from the health care professions.

I think that the funding of abortion on demand by the Federal Government has been a very unfortunate development in recent years. I hear from thousands of Pennsylvanians who tell me that it is bad enough that abortion has been legalized, but they are personally insulted that their tax dollars are being used to pay for these operations. I am glad that this situation will now come to an end with this amendment.

When the Hyde amendment was first presented to the Senate, I could not support it because it did not contain any exception for the life of the mother. I felt that we had to recognize that cases of clear medical necessity where the mother's life is endangered by the pregnancy do arise, and there should be no doubt that we intend to have medicaid services available in those cases. Therefore, I thought we should send the amendment to conference, where clearer language would be agreed to.

The language we have settled on makes it plain that women who have a medical condition that would endanger their lives if pregnancy were carried to term can have an abortion and have that abortion paid for under medicaid. We also made it clear that treatment of rape victims in the aftermath of the crime, which I believe is effective in preventing pregnancy, will continue to be provided. These are legitimate medical concerns, and the Federal Government should take care of them under the medicaid program.

What we made clear is that abortions for family planning purposes, abortions for social convenience, or abortion-on-demand in general will not be paid for out of the Federal Treasury. I have supported this position in the past, and I am very pleased that it is about to become part of the law.

Mr. HELMS. Mr. President, it should be clear that in accepting the conferees' modification of the House bill language, we are restricting the use of Federal funds to pay for the performance of abortions. This provision does not prevent the use of funds to finance medical procedures where the life of the mother is endangered. The test involved in this prohibition is a simple one: Is the physical existence of the mother endangered?

If the answer to this question is yes, in the professional opinion of the mother's attending physician, then any medical procedures deemed medically necessary to protect the mother's life are permitted by this language. However, this provision does not permit funding for abortions as a method of family planning, or for emotional or social convenience or for general health reasons when those reasons do not directly endanger the mother's life.

Neither does it permit funding for abortions where pregnancy resulted from rape or incest unless the life of the mother is endangered by that pregnancy. The intent of this provision is clear. It is to restrict the use of Federal money for abortion. In doing so it carves out a single, limited exception and nothing more.

During previous discussions of this proposal it was suggested that since the U.S. Supreme Court will soon deal with the alleged right to a federally funded abortion, Congress should postpone further consideration of this amendment until the Court has acted. The conferees rejected this proposal. And I believe that we will also do so. Although Congress cannot prejudge the constitutional questions raised by the specific factual situations of particular parties to future legal disputes, it does implicitly uphold the constitutionality of this amendment by adopting it. By taking affirmative action on this amendment Congress is saying that it is constitutionally permissible.

In adopting this amendment we are saying that this is a valid and a constitutionally permissible limitation on an appropriations bill. This is a firm and unequivocal statement of congressional policy on the question of using tax funds for abortions.

Mr. BARTLETT. Mr. President, I am pleased that the Labor-HEW conferees have been able to eliminate the major concern of the Members of the Senate to the Hyde amendment by the inclusion of a "life of the mother" clause.

Enactment of the Hyde amendment makes a clear statement of congressional policy on the whole question of using taxpayers' money to pay for abortions. This is a matter that should involve such use of tax dollars only in those instances where the life of the mother is involved.

Passage of this legislation is particularly gratifying to me since the amended Hyde language is almost identical to my amendment which passed the Senate in September 1974 on another Labor-HEW appropriations bill.

I applaud the Senate for passing this modified Hyde amendment.

Mr. CHURCH. Mr. President, on August 25, I explained my position on the so-called Hyde amendment. I ask unanimous consent that my statement appear at this point in the RECORD:

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Aug. 25, 1976]

Mr. CHURCH. Mr. President, on June 28, I voted in the Senate to strike the so-called Hyde amendment from the HEW-Labor appropriations bill for fiscal 1977. The amendment provided that:

"None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions."

I have no problem, Mr. President, with that part of the amendment which would prohibit the spending of Federal funds to promote or encourage abortions. Although people are entitled to have information on all legal options which are available to them, as a strong supporter of adoption instead of abortion, I firmly believe that the Government should not become an abortion advocate.

Two years ago, I voted against tabling an amendment to the HEW-Labor appropriations bill for that year, which provided:

"No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay for or encourage the performances of abortions except such abortions as are necessary to save the life of a mother."

The amendment this year is virtually identical to the amendment of 2 years ago in barring funds, including medicaid funds, to pay for or encourage abortions, but it fails to include the exception for the life of the mother. It was my position then, and it is my position today, that Federal funds should not be spent for abortion on demand. But it is also my view that payment for an abortion needed to save the life or preserve the health of the mother should not be foreclosed.

Because the amendment before the Senate this year fails to include such an exception, I must oppose it.

Mr. CHURCH. The modified Hyde amendment now before the Senate provides:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Because the modified amendment, together with the intent as explained in the conference report by its authors, arrests the objections I voiced to the amendment in its original form, I will vote for the conference report.

Mr. MAGNUSON. Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate the amendment No. 68, which is in disagreement.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The assistant legislative clerk read as follows:

Restore the matter stricken by Senate amendment No. 68, amended to read as follows:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator desire to make a motion for which the yeas and nays will be asked?

Mr. MAGNUSON. If we can withdraw that, I understand that, according to parliamentary procedure, there also should be a motion that the Senate concur with the amendment of the House to the amendment No. 68 of the Senate.

The PRESIDING OFFICER. The Senator is correct.

Does he make that motion?

Mr. MAGNUSON. Yes, I make that motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, in view of the last motion, if one is against the amendment No. 68, his vote on this particular motion would be "aye," is that correct?

The PRESIDING OFFICER. The Chair is not in a position to interpret the vote.

The vote "aye" would be a vote to concur in the House amendment.

Mr. MAGNUSON. Let me put it this way to the Chair.

Would a vote "aye" be interpreted to concur with No. 68?

The PRESIDING OFFICER. That is correct, as amended.

Mr. NELSON. Mr. President, I wonder if the Senator from Washington or the Senator from Massachusetts could respond to a question.

The reference on this motion, on this amendment, is the amendment that was agreed to by the conferees with the House on the abortion question?

Mr. BROOKE. It is a compromise amendment; yes.

Mr. NELSON. And the conferees are, on our side, recommending approval?

Mr. BROOKE. The conferees voted that amendment 10 to 5; yes.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Will there be order in the Senate? The clerk will suspend.

Mr. MAGNUSON. Will the Chair clear the well?

The PRESIDING OFFICER. The clerk will suspend until we can have order. The Senate will be in order. Will Senators take their conversations to the cloakrooms?

If the Senators wish to be able to record their votes, will Senators please take their seats so we can continue and complete the rollcall.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ABOUREZK when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. THURMOND (when his name was called). Mr. President, on this vote I have a pair with the able Senator from Connecticut (Mr. Weicker). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Gary Hart), the Senator from Michigan (Mr. Philip Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Arkansas, Mr. McClellan), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from North Carolina (Mr. Morgan), the Senator from Utah (Mr. Moss), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan), and the Senator from New Hampshire (Mr. McIntyre) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from New Jersey (Mr. Case), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin, the Senator from Illinois (Mr. Percy), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Case) would vote "nay."

On this vote, the Senator from New York (Mr. Buckley) is paired with the Senator from Texas (Mr. Tower).

If present and voting, the Senator from New York would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 47, nays 21, as follows:

[Rollcall Vote No. 607 Leg.]

YEAS—47

Allen
Bartlett
Bayh
Beall
Bellmon
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Durkin
Eagleton
Ford
Garn
Hansen
Hatfield
Helms
Hruska
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McClure
McGee
Metcalf
Muskie
Nelson
Pastore
Pearson
Pell
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stevens
Stone
Symington
Williams
Young

NAYS—21

Brooke
Clark
Culver
Fannin
Fong
Glenn
Haskell
Hathaway
Hollings
Inouye
Javits
Mansfield
Mathias
McGovern
Nunn
Packwood
Ribicoff
Scott, William L.
Stafford
Stevenson
Talmadge

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Abourezk, against.
Thurmond, for.

NOT VOTING—30

Baker
Bentsen
Biden
Buckley
Bumpers
Case
Cranston
Dole
Domenici
Eastland
Goldwater
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Huddleston
Humphrey
McClellan
McIntyre
Mondale
Montoya
Morgan
Moss
Percy
Stennis
Taft
Tower
Tunney
Weicker

So the motion to concur was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. Bartlett). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

MINING ACTIVITY WITHIN THE NATIONAL PARK SYSTEM

Mr. METCALF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2371.

The PRESIDING OFFICER (Mr. Bartlett) laid before the Senate the amendments of the House of Representatives to the bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the national park system, and for other purposes, as follows:

Page 3, line 20, after "and" the first time it appears, insert: by repealing

Page 3, strike out all after line 23, over to and including line 9 on page 4, and insert:

Sec. 4. For a period of four years after the date of enactment of this Act, holders of valid mineral rights located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February 29, 1976: *Provided*, That if the Secretary finds that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, the surface of lands contiguous to the existing excavation may be disturbed to the minimum extent necessary to effect such enlargement, subject to such regulations as may be issued by the Secretary under section 2 of this Act. For purposes of this section, each separate mining excavation shall be treated as an individual mining operation.

Page 4, line 16, after "within", insert Glacier Bay National Monument,

Page 4, line 20, strike out "States.", and insert: States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands. The Secretary shall also study and within two years submit to Congress his recommendations for modifications or adjustments to the existing boundaries of the Death Valley National Monument and the Glacier Bay National Monument to exclude significant mineral deposits and to decrease possible acquisition costs.

Page 5, line 12, after "thereafter.", insert: Within thirty days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

Page 6, strike out lines 14 through 18 inclusive, and insert:

Sec. 10. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Page 7, after line 4, insert:

Sec. 12. Nothing in this Act shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 6 of this Act to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship.

Page 7, after line 4, insert:

SUNSHINE IN GOVERNMENT

Sec. 13. (a) Each officer or employee of the Secretary of the Interior who—

(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

Mr. METCALF. Mr. President, following are descriptions of the amendments proposed by the other body. Substantially they are clarifying and all are acceptable to those of us who support this legislation. I have checked with Senator CRANSTON as well as with members of the Interior Committee, all of whom agree to the House amendments, except as noted. I have examined the proposals put forth by the Senator from Alaska and in view of the overwhelming vote in both the House and Senate cannot agree that this bill should be sent to conference in view of the minor differences on the Glacier Bay proposals.

First. Moratorium on expansion of mining—section 4 would, within the same three monuments or parks, prohibit surface disturbance for mining of lands not disturbed prior to February 29, 1976, as contrasted to a September 18, 1975, cut-off date in the Senate bill. The extra 5 months allowed in the House bill might result in greater expansion of existing surface operations in Death Valley. However, allowable expansion would be based on the rate of average annual production in any given operation during the calendar years 1973, 1974, and 1975. This provision—recognizing that a certain degree of horizontal expansion is needed to continue vertical expansion of an open pit, would probably prevent serious exploitation of the extra 5 months in the House bill.

Second. Two-year study of unpatented mining claims—section 6 was enlarged to include Glacier Bay, and the Secretary is to include the enviromental consequences of mining, the estimated acquisition costs, and recommended changes in the boundaries of Death Valley.

Third. Four-year study of unpatented mining claims—section 7 also was enlarged to include environmental effects of mining and acquisition costs.

Fourth. Notice for mining claims recordation—section 8 was added requiring the Secretary to publish in the Federal Register and local newspapers notice of the requirement for recordation.

Fifth. Secretary's right to acquire lands—new section 12 was added requiring the Secretary to promptly consider any offer to sell lands under section 4, where continued ownership would create hardship.

Sixth. Sunshine in government—new section 13 adds language mandating the disclosure by Department officials of certain financial holdings. It is analogous to provisions included in bills affecting employees of EPA, ERDA, HEW and Labor Departments.

Mr. STEVENS. Mr. President, this is the bill that we previously debated. I understand that the House has amended the matter with regard to mining in the parks.

This is the bill I have discussed with the Senator from Montana, is it not?

Mr. METCALF. I do not understand what the Senator is asking.

Mr. STEVENS. This is the bill we have discussed. The House has acted on it without changing the provision with respect to the Glacier Bay National Monument. Is that correct?

Mr. METCALF. This is the bill in which we had provisions with regard to Glacier Bay, and we had an extensive debate, I say to the Senator from Alaska. The Senator from Alaska was heard, and a vote was had on the Glacier Bay proposition.

The same discussion was had in the other body as to whether we would have mining in Glacier Bay. The colleague of the Senator from Alaska represented the proposition that the Senator from Alaska would like—to have continuance of mining in Glacier Bay, and he was outvoted 2 to 1 in both Houses. We have had a substantial 2 to 1 vote against this proposition.

If we do not mine there, we still will have an opportunity to study it for a couple of years, in accordance with the House amendment. It seems to me that both sides of Congress have spoken on this issue, and we should move on to some of the other propositions which are involved.

Mr. STEVENS. I want the Senator from Montana to know that I appreciate his courtesy, and his statement is correct.

The point of view of those of us who represent the great State of Alaska, with regard not to Glacier Bay National Monument but with regard to the western portion of the Fair Weather Range, which was added to this monument for administrative purposes, as I pointed out, have not prevailed.

I understand that the Senator from Montana does not want to go to conference. I had hoped that there might be some way, as I pointed out to the Senator personally, that Congress might consider the impact of the discovery that has been made. As I understand it—I sent the Senator a copy of the page from the bulletin—the bulletin shows that this ore is located in an area 75 miles long and 10 miles wide in the Fair Weather Range, on the western side, not in the Glacier Bay National Monument but in the portion of the Forest Service area that was added to the monument for administrative purposes, and that portion has been assayed and has been indicated to contain .5 percent chromium. Its content of nickel is the same, .5 percent nickel. On the basis of that, it is projected—and I understand that some people do not listen when we say it is projected—that that is the largest deposit of nickel on the North American continent. It would be the most substantial deposit of chromium that has been found in recent years, if it contains that much chromium throughout this deposit.

I do not believe that it is necessary to prevent further exploration. I hoped that something would have been done to allow us to assay and test drill the remainder of that deposit.

At the time, we are having a substantial problem in Africa, with the reliability of our chromium supplies in question, and apparently we rely heavily now on Russia. In view of this, I do not understand why we, as a nation, would close the door to even looking. This bill prohibits the filing of mining claims. It prohibits even looking in this new area.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. METCALF. This bill does prohibit the filing of mining claims, but a substantial number of mining claims have been filed on this Glacier Bay area; and according to the House amendments, which I propose that the Senate agree to, we propose to study those mining claims for a period of 2 years. If we let that chrome lay there, if we left all those minerals that allegedly are in those mining claims lay there for the next 2 years, they are not going to be mined; nobody is going to do anything about them. No harm is going to be done. We still have a study program. The Senator from Alaska, with his eloquence and his insistence on this proposal, can come in 2 years from now and say, "Look, now that we have the study, we have found out that there is one area in the national park, and that is one in Glacier Bay, in which we should allow mining."

But right now, what is wrong with shutting it down and saying we are not going to mine anywhere in the national parks and we are going to study these areas? This is what the Senator's distinguished colleague in the other body recommended and put into the bill.

Mr. STEVENS. I have no argument with the majority of the Senate. It has made the decision. It has made the decision that the existing mining claims cannot be used.

I pointed out in debate here that under the ruling of the Solicitor of the Interior Department, the surface of that claim cannot be used. So that deposit is not going to be exploited so long as you have to haul that rock completely outside of the monument in order to retort it.

I am trying to point out to the Senator that only 10 miles of the 75 miles has been drilled, and there is no way we are going to know whether or not the chromium is in fact there, until this suspension is lifted. I have been associated with the Department of the Interior, on and off, as the Senator knows, since 1952. I have yet to see a suspension lifted that would lead toward the expansion of known mineral deposits in this country.

I do not expect to be eloquent enough to convince the Senate that this suspension should be lifted. Nothing in the Senator's bill will permit us to drill this area outside the mining claims. Nothing in the Senator's bill will permit us even to sample the ore that is in the existing mining claims, because we cannot use the surface of the mining claims.

Again I point out that it is on the western side of the Fair Weather Range.

The Senator from South Carolina and others have gone to Glacier Bay just this year. I think it is the Garden of Eden. It is the most beautiful place there is. We honor it and want to protect it. But we were not responsible for the administrative decision that put part of the Forest Service, the mineralized part of the Forest Service, under the Glacier Bay National Monument and the Park Service for administrative purposes in 1935.

I am trying to point out to the Senate, to the country—and I hope to the world—that this Nation is so rich, so contented with its situation, that it is unwilling even to look to see if it now has the largest deposit of chromium known to man. This bill will close that door, and I do not expect to be eloquent enough to open it, not without the help of the Senator from Montana and the help of the Senator from Colorado, who is standing here. I will continue to plead for that. Our State of Alaska can help make this Nation independent so far as mineral resources are concerned if the Senate and the House of Representatives will open its eyes and, respectfully, its ears.

I do not intend to object to this, because I can count as well as the Senator from Montana, and I am sure he is right about the sentiment of the Senate at this time. I do thank him for his patience.

Mr. METCALF. I thank the Senator from Alaska.

Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 13035 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 15, 1976.)

Mr. HOLLINGS. Mr. President, we are considering today the conference report on H.R. 13035, the Sea Grant Program Improvement Act.

The sea grant program, a part of the National Oceanic and Atmospheric Administration—NOAA—has been operating now for 10 years. During this decade this well-conceived program, through its applied research, education, and advisory service activities has provided a vast amount of useful information about our ocean resources and how to use them, has helped to train hundreds of students in ocean-related fields, and has directly assisted a great number of fishermen and small businesses which depend on the sea for their livelihood. The basic concept has been well-proven.

Because sea grant's authorization terminated this year, our oversight responsibilities required us to undertake a thorough examination of the program. Two full days of hearings were held by the Committees on Labor and Public Welfare and on Commerce. S. 3165 was reported out, and subsequently passed by this body.

The original sea grant legislation—authored by my distinguished colleague from Rhode Island, served this program and the Nation for 10 years and served them well. A great deal has happened in 10 years, however. Congress has significant oversight responsibilities which it exercises more seriously now than in the past. We are concerned with the fiscal accountability of the programs which we fund, with proper coordination and management within departments and agencies, with long-range planning guidelines and setting of priorities, and with means to measure the utilization of our taxpayers' money. All of these concepts were contained in title I of the Senate bill and are a part of the conference substitute.

Title II of S. 3165 called for an Office of Marine Resources, Science, and Technology to be established within the National Oceanic and Atmospheric Administration—NOAA. The purpose of title II was to see that proper internal management and coordination took place between sea grant and other elements in NOAA, and that NOAA carried out long-range planning in marine resource, and marine science and technology activities. The House bill, H.R. 13035, had no comparable provisions. Unfortunately, the House Merchant Marine and Fisheries Committee was precluded by time constraints from addressing these issues. In addition, S. 3165 called for a 3-year authorization while H.R. 13035 provided only a 1-year authorization. The Senate conferees agreed to recede on most of title II and agree, to a 1-year authorization on the basis of an agreement with the House conferees that the House Merchant Marine and Fisheries Committee would, in its hearings next year on reauthorization, take a look at some of the problems that title II addressed in the context of our overall national ocean policy.

The national sea grant program, as provided for in this conference substitute, will continue to serve the needs of our Nation and our States in providing information, education, and practical assistance to understand, utilize, assess, develop, and conserve our ocean and coastal resources. We only hope that the Sea Grant Program Improvement Act will serve as well as has the original Pell-Rogers Act of a decade ago.

Mr. PELL. Mr. President, the National Sea Grant College program has proven itself during its first 10 years of operation to be a vital and productive element in our national oceans program. The provisions of H.R. 13035, as agreed upon by the House and Senate conferees, provide the basis for expansion and strengthening of the program, and I urge adoption of the conference report.

I am frankly disappointed that the House conferees insisted on a 1-year authorization of appropriation for the program, instead of agreeing to the 3-year authorization proposed by the Senate. However, I understand the desire of the House committee members for an opportunity to study and become more familiar with the program before approving a more extended authorization, and I look forward to working with the House Members next year in their efforts to further improve and strengthen the sea grant program.

I am particularly happy that the conference was able to agree on new provisions in the sea grant legislation authorizing a new program of national projects, and a new program of international cooperation, while making it clear that these new and important activities should not be funded at the expense of the basic and existing Sea Grant College program activities in ocean and coastal research, education, and advisory services.

Mr. President, although this legislation is an entire rewriting of the authorization for the National Sea Grant College program, it maintains intact the principal goals and framework of the program. The legislation represents, indeed, an endorsement of the basic concepts and direction of the program established by the original 1966 Pell-Rogers Sea Grant Act.

The new legislation does not prejudice in any way the status of the many institutions throughout the Nation which are now participating in the sea grant college program. Institutions which have been formally designated by the Secretary of Commerce as sea grant colleges will continue to carry that designation.

The joint explanatory statement of the conferees, I believe, makes it clear that the outstanding capabilities and performance which have won formal sea-grant designation for these institutions, is to be given appropriate consideration in decisions on future activities of the sea grant college program while prudent efforts are made, within the limitations of funding, to expand participation in the program. I fully endorse that concept.

Mr. President, on the Senate side this legislation is the product of close cooperation between the Senate Commerce Committee and the Senate Committee on Labor and Public Welfare, which share legislative jurisdiction. I particularly appreciate and commend the cooperation and contributions of Senator MAGNUSON, chairman of the Senate Commerce Committee, and Senator HOLLINGS, chairman of the Subcommittee on Oceans and Atmosphere. I also express my thanks and appreciation to the members of their committee staff who have been most diligent, thorough, and helpful in the preparation and consideration of this legislation.

Mr. HOLLINGS. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

QUORUM CALL

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF REV. ARMAND DOLL

Mr. ALLEN. Mr. President, the State Department has just announced that Rev. Armand Doll, a minister for the Church of the Nazarene, who has been in prison in Mozambique for several months, is to be released immediately and that he will fly from Mozambique to Johannesburg, South Africa, leaving at 9:30 in the morning, E.D.T.

Reverend Doll was one of four ministers who were imprisoned by the dictator of Mozambique, Machel, for the crime of preaching the Gospel and advocating the Christian religion. The Government of Mozambique is under a Communist dictatorship. They have secret police, a police state, concentration camps, and they serve as the staging ground for guerrilla activities aimed against the Government of Rhodesia.

When the authorization bill for the foreign assistance program was before the Senate, I sought to delete the funds going to Mozambique on the ground that our country should not support a program of violence aimed at overthrow of a stable government in one of the countries—one or two, counting South Africa—there in the southern part of Africa.

The Senate did pass an amendment which I introduced, saying that none of the funds appropriated or authorized by that bill would be available to Mozambique until Reverend Doll was released from prison. However, that amendment was deleted in conference, though the conferees stated that they felt they could achieve the same result without this amendment.

Later, Mr. President, to the credit of the Senate, when the appropriations bill came up, all funds for Mozambique were deleted from the bill. The Senate took the position, by its vote, that it would not support the violent overthrow of a government in southern Africa, that our Government might advocate peaceful change, but that it would not support the violent overthrow of a government by attacks from neighboring states. So I was delighted when the Senate did delete these funds that were intended for this Communist state in South Africa. I am pleased that we are advised now by the Department of State that the Reverend Doll, whose only crime was that he was preaching the gospel of Christ there, in Mozambique, has been released, since Machel, the dictator there, carrying out his ruthless campaign against religion, did jail Reverend Doll and three other ministers. The others have been released heretofore. For some reason, they were continuing to imprison the Reverend Doll, with no contention that he had violated any law except the law against the promulgation of religion, because Mozambique is a nation that is what we might say is a godless nation, in that those who support that government and the government itself are godless.

I announce to the Senate that this matter has been under discussion here, in the Senate, has finally been resolved and, I think that, through efforts of the U.S. Senate, this release of Reverend Doll has come about.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent to be officially excused from the Senate on official business from the close of business today for the rest of this regular session.

The PRESIDING OFFICER. Without objection, permission is so granted.

THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP: A 16-YEAR HISTORY

Mr. MANSFIELD. Mr. President, I am pleased and proud to call to the attention of the Senate the 16-year record of the Mexico-United States Interparliamentary Groups. During that period, Mexico has traveled its own path, expanding beyond the borders of Latin America and becoming an integral part, as well as a leader of the third world. She has earned that right through the vision of her Presidents and her Congress.

In the area of curbing the growth and the transportation of drugs, Mexico has proved to be a full partner—if not more—with the United States. U.S. business is in good shape in Mexico and approximately one million U.S. tourists a year visit that country. It is one of our best customers and one of our best friends, if we would but understand them.

I would point out, incidentally, that at the time of the Cuban crisis during the Kennedy administration, the first country to give its full support to our position was Mexico. At that time, President Lopez Mateos, who was in Manila, cabled President Kennedy that he was wholeheartedly behind him.

A word about the Mexico-United States Interparliamentary Conferences. In the first place, they were initiated by the Mexican Congress and agreed to by the U.S. Congress. In the second place, these conferences were largely responsible for the Chamizal settlement and the finding of a solution to the Colorado River salinity problem.

Mr. President, I ask unanimous consent that a history of the Mexico-United States Interparliamentary Group covering a period of 16 years be incorporated at this point in the RECORD.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

LETTER OF TRANSMITTAL

SEPTEMBER 10, 1976.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, it has been my privilege to be involved in all of the sixteen conferences held by the Mexico-United States Interparliamentary Group.

At this year's conference in Atlanta, the leaders of the Mexican delegation suggested that this might be a good time to put together a review of our sixteen conference sessions. As Chairman of the U.S. Senate delegation, I endorsed the idea and subsequently asked Bob Dockery of the staff of the Foreign Relations Committee to work with specialists from the Library of Congress on the preparation of such a review. That review has now been completed. I respectfully request that it be printed for the use of the Foreign Relations Committee and for the information of the Senate as a whole.

I want to thank Bob Dockery for his assistance on this project, as well as the following individuals from the Library of Congress: Rosemary P. Jackson, Foreign Affairs Analyst; K. Larry Storrs, Analyst in Latin American Affairs; Barry Sklar, Specialist in Latin American Affairs; Kathryn Hume, William Raiford, Charlotte Phillips and John Chwat.

Sincerely,

MIKE MANSFIELD.

THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP—A SIXTEEN-YEAR HISTORY

INTRODUCTION

Sixteen years have passed since the inception of the Mexico-United States Interparliamentary Group. During that time, events in Mexico and the United States, as well as relations between the two nations, have unfolded in the context of developments which have shaken the world and challenged the will and imagination of all nations.

The past sixteen years were the years of the Alliance for Progress, the Cuban missile crisis, the Dominican crisis, the Vietnam tragedy, and two wars in the Middle East. They also were the years that gave birth to the era of détente, the opening to the People's Republic of China, and the energy crunch.

But throughout this period, Mexico and the United States, both individually and collectively, have weathered the storms and capitalized on new opportunities for cooperation under the firm and experienced guidance of their respective leaders—Lopez Mateos and John Kennedy; Diaz Ordaz and Lyndon Johnson; Luis Echeverria and Richard Nixon and Gerald Ford.

Just as the chief executives of our two great nations have made a practice of close, personal dialogue and consultation, so, too, have the legislative representatives of Mexico and the United States. Though the congressional meetings frequently lack the publicity that Presidential discussions attract, they are no less important—as our Chief Executives would be the first to admit. Indeed, the Chief Executives of the United States from Kennedy to Ford and the Chief Executives of Mexico from Lopez Mateos to Luis Echeverria—all of them have given their unqualified support to our legislative conferences and each President has made a point of meeting regularly with the delegates.

As the Presidents of our two nations have known over the last sixteen years, interparliamentary meetings not only strengthen the bonds of friendship and understanding—but, in addition, they just make good, common sense.

Thus, over the years, members of the Mexican and United States Congresses, meeting annually as the Mexico-United States Interparliamentary Group, have been discussing issues such as trade, border problems, immigration and narcotics control. These issues may not require "shuttle diplomacy" but they do affect the lives of our people and necessitate frequent attention and consideration.

Our interparliamentary meetings have and continue to serve this purpose. In a spirit of cooperation and mutual respect, Mexican and United States legislators have become keenly aware of the problems, pressures and concerns faced by their counterparts. And working together, they have endeavored to arrive at mutually acceptable solutions. With the understanding and knowledge gained from their annual meetings, the delegates have returned to their capitols to work for the implementation of those solutions through their respective political processes.

Because of the record—summarized in this volume—I firmly believe the Mexico-United States Interparliamentary Group has contributed substantially to the growing understanding and to the easing of tensions between Mexico and the United States. It is, I think, a tribute to these meetings that relations between our two nations have achieved such a high level of mutual respect, cooperation and understanding despite the variety of problems we have faced and are sure to face in the future. Much of the success of the meetings can be measured in terms of the amicable and cordial relations which have been developed, but in addition, these meetings have to their credit such solid achievements as the Chamizal settlement and the Colorado River Salinity Agreement—both directly attributable to legislative initiatives resulting from the conferences.

The legislative origins of the Mexico-United States Interparliamentary Group go back to 1959, when the Mexican Congress took the lead and approved legislation authorizing its members to participate in annual discussions with members of the United States Congress, which approved similar legislation the following year. The intent of both U.S. and Mexican legislators was to provide a mechanism for informal discussions of mutual problems.

More specifically, United States participation in the Mexico-United States Interparliamentary Group was authorized by Public Law 86–420, approved April 9, 1960. This authorization originated as House Joint Resolution 283 by Representative D. S. Saund. Then representative Joe Montoya and other members of the House introduced complementary bills. A companion measure in the Senate was Senate Joint Resolution 102 sponsored by Senator Chavez and strongly supported by Senators Kuchel, Engle, Yarborough, Morse and Gruening.

Under Public Law 86–420, the United States Group is comprised of 12 Members of the Senate, appointed by the Vice-President, and 12 Members of the House, appointed by the Speaker. At least four of the Senators and four of the Representatives are members of the Foreign Relations and International Relations Committees respectively. The meetings are held annually, on odd-numbered years in Mexico and even-numbered years in the United States.

The initiative to establish the meetings was given additional impetus by the enthusiastic support of President John Kennedy. While still in the Senate, both John Kennedy and Lyndon Johnson voted for the Act establishing this interparliamentary group. Equally strong support was also forthcoming from their successors, Richard Nixon and Gerald Ford.

But the creation of the Mexico-United States Interparliamentary Conference coincided with those exciting days when President Kennedy was vigorously forging a new Latin American policy for the United States in the name of the Alliance for Progress.

Looking back over the pages of history, I think it is interesting to recall that just 3 weeks prior to our first meting in Guadalajara, President Kennedy outlined, in his Inaugural Address, the objectives of the Alliance for Progress. He specifically expressed interest in our first meeting when he urged the United States representatives to meet with their Mexican colleagues and convey the sincere, good wishes of his administration. I remember those days well, having had the honor of serving as chairman of the Senate delegation at the Guadalajara meeting.

While those of us who have participated in these meetings need no convincing of their importance to strengthening the bonds of friendship betwen our two countries, let me point to some very practical examples of the results of our efforts to help strengthen "the ties that bind:"

—In just five short years, from 1970 to 1974, Mexican trade with the United States more than doubled.

—Today, half of Mexico's international trade is with the United States.

—Mexico is our largest customer in Latin America and our fourth largest in the world. In fact, last year Mexico came very close to overtaking West Germany as our third largest export market.

—United States investors hold approximately eighty percent of the $3 billion invested in Mexico by foreign nationals.

—Mexican tourists visiting the United States account for approximately twenty-five percent of the total annual U.S. income from tourism.

These are just a few of the examples that evidence the growing economic interdependence which our two nations share. These examples also indicate the increasing maturity of the Mexican economy based on a generation of economic stability. The recent decision to float the peso will further ensure stability over the long-term. It was a difficult but necessary decision. It was a courageous decision, the kind of decision that the world has come to expect from Mexico and its leaders.

During this period of economic adjustment, I know the United States will do all that it can to be of assistance to Mexico. As we have learned, such assistance mutually serves our bilateral interests and our own self-interests as well.

Students of Mexican and United States history, as well as those of us who have been close to Mexico, know that our relations have not always been viewed in such a cooperative light. Battles have been fought, territory has been lost, and sovereign rights have been infringed. Regrettably, these were some of the hallmarks of our beginnings, but during the intervening years, we have come a long way together. Our nations have matured and we have treated each other with respect for many years, relegating the negative to the back pages of history where it properly belongs.

Simply stated, we have come from a time of hostility and resentment to a time of cooperation and understanding.

From the turmoil and upheaval of armed struggle, the Mexican Revolution, implementing its profound political and social principles, has forged a proud and powerful nation. Mexico's unique and democratic political system has been a model of stability, enabling Mexico to make the kind of sterling achievements that have brought it to the forefront of the nations of the world.

Mexico has developed from a rural based economy to an industrialized nation. In recent years, she has achieved ever higher production rates in petroleum, petrochemicals, steel electric energy and fertilizer. With her recent oil discoveries in the South, Mexico's industrial development is sure to be accelerated. On the social front, a similar record of achievement can easily be found. Educational facilities have been expanded and social welfare programs to meet the needs of the people have always been given high priority by the Mexican Government. Public transportation facilities, housing, health care—these are all areas in which the Mexican people and their elected officials have made tremendous strides.

Internationally, Mexico, the most populous Spanish speaking country, has taken its rightful place as a leader of the Third World. With the principle of non-intervention serving as its cornerstone, Mexican foreign policy has had tremendous impact on the international community. The Charter of Economic Rights and Duties of States, approved by the United Nations General Assembly in 1974, was the creation of President Luis Echeverria. Moreover, Mexico's imaginative and independent course has led it to leadership in the movement to establish a nuclear free zone in Latin America, which resulted in the Treaty of Tlatelolco; to enthusiastic support for the recent establishment of the Latin American Economic System (SELA); and to a central role in the creation of the Caribbean Multinational Fleet. Looking beyond the Hemisphere, Mexico recently signed important trade agreements with both the European Economic Community and the Council for Mutual Economic Assistance (COMECON).

This is the kind of record that any nation would be proud to claim as its own. It is an enviable record and it rightfully belongs to Mexico. She has worked around the clock to establish and maintain it.

Those of us who have participated regularly in our annual interparliamentary conferences bear witness to Mexico's very rapid progress in a very short period of time. We have gained not only a deep appreciation of Mexico's achievements but, I think, it is fair to say that we have made a solid, lasting contribution to a more mature, cooperative relationship between our two nations. This is not to say that the future of our relations will be devoid of problems; indeed, there will be problems, but because of the estalished procedures of the Mexico-United States Interparliamentary Group, there also will be solutions—legislative solutions. I believe the prospects are very promising, as I tried to indicate during the closing session of this year's conference in Atlanta:

> . . . the experience we have gathered during the past sixteen years casts a bright and illuminating future for the next sixteen.

The following review of the past 16 conferences held by the Mexico-United States Interparliamentary Group will, I believe, reveal the basis for my optimism.

CONFERENCES

First Meeting, Guadalajara, Jalisco, Mexico, February 6–11, 1961:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield of Montana.
Dennis Chavez of New Mexico.
Bourke B. Hickenlooper of Iowa.
Wayne Morse of Oregon.
Andrew F. Schoeppel of Kansas.
John Marshall Butler of Maryland.
Albert Gore of Tennessee.
Carl T. Curtis of Nebraska.
Clair Engle of California.
Ernest Gruening of Alaska.
Eugene J. McCarthy of Minnesota.
Claiborne Pell of Rhode Island.

From the House:
D. S. Saund of California.
Walter Norblad of Oregon.
William L. Springer of Illinois.
Joel T. Broyhill of Virginia.
J. T. Rutherford of Texas.
Joseph N. Montoya of New Mexico.
Robert N. Nix of Pennsylvania.
Harris B. McDowell of Delaware.
Edward J. Derwinski of Illinois.
Daniel K. Inouye of Hawaii.
Ancher Nelsen of Minnesota.

MEXICAN DELEGATES

From the Senate:
Elisco Aragon Rebolledo of Morelos.
Rodolfo Brena Torres of Oaxaca.
Abelardo de la Torre Grajales of Chiapas.
Guillermo Ibarra of Sonora.
Fernando Lanz Duret Sierra of Campeche.
Emilio Martinez Manautou of Tamaulipas.
Antonio Mena Brito of Yucatan.
Manuel Moreno Sanchez of Aguascalientes.
Guillermo Ramirez Valadez of Jalisco.
Carlos Roman Celis of Guerrcro.
Maximiliano Ruiz Castaneda of Mexoic.
Angel Santos Cervantes of Nuevo Leon.
Juan Manuel Teran Mata of Tamaulipas.

Francisco Velasco Curiel of Colima.
From the Chamber of Deputies:
Florencio Barrera Fuentes of Coahuila.
Antonio Castro Leal of the Federal District.
Carlos Hank Gonzalez of Mexico.
Arturo Llorente Gonzalez of Veracruz.
Enrique Olivares Santana of Aguascalientes.
Jose Ortiz Avila of Campeche.
Jose Perwz Moreno of Jalisco.
Juan Sabines Gutierrez of Chiapas.
Enrique Sada Baigts of Oaxaca.
Guillermo Salas Armendariz of Durango.
Emilio Sanchez Piedras of Tlaxcala.
Jose Vallego Novelo of Yucatan.
Manuel Yanez Ruiz of Hidalgo.

The formal opening of the Mexico-United States Interparliamentary Group took place on March 6 with remarks by Senator Guillermo Ramirez Valadez and Senator Mansfield. Wreaths were placed before the statues of Abraham Lincoln and Benito Juarez. The U.S. delegation voted to present a plaque to be placed in the Casa de la Cultura to mark the site of this first meeting of the Interparliamentary Group.

The formal meetings concluded on February 9. The following day the American delegation proceeded to Mexico City where they were received by President Adolfo Lopez Mateos and Foreign Minister Manuel Tello. The U.S. delegates departed for Washington on February 12.

The work of the conference was organized into four committees: Foreign Investment; Foreign Trade; Border Matters; and Cultural Interchange. Each committee met twice, and it was understood that there would be no voting, that neither delegation had the authority to speak for its government, and that no attempt would be made to reach agreements. The objective of this first meeting, and for all subsequent meetings of the Group, was to conduct full and frank discussion of common problems and exposition of individual points of view.

Committee I—Foreign investment

In reference to foreign investment the Mexican delegation made the following points:

(1) Capital accumulation, although it was increasing, was still insufficient for the country's needs. Thus, foreign investment was needed and welcome, provided it did not seek special privileges and that it supplemented, rather than competed with, local investment.

(2) Mexico preferred "indirect investment"—which was to say, either loans to public agencies to be used at their discretion, or private participation on a minority basis in Mexican enterprises.

(3) Particular criticisms were leveled at private foreign investment which competed with Mexican private business (e.g. retail trade, soft drinks, detergents), in automobile assembly operations (it was said that despite local assembly, automobiles cost more in Mexico than in the U.S.), and in mining (it was said that Mexico's mineral resources were not being used for the benefit of Mexico, but for export).

(4) Export of minerals and repatriation of profits from other private investment in Mexico resulted in a net loss of capital to Mexico.

(5) The Mexican delegation stated that although it did not offer special treatment to foreign investment, it did offer many attractions, e.g., good profit prospects, free convertibility of capital and profits, moderate tax rates, subsidies for new necessary industries, cheap fuel, low transportation rates, easily trainable labor, a stable currency, and political and social stability.

(6) The Mexican Constitution, the delegation pointed out, considers private property as an element to serve social needs, and Mexico reserves its sovereign right to put social restrictions on property. However, the Constitution also provides for compensation for property which may be expropriated for social purposes.

The United States delegation made the following points:

(1) U.S. private business does not seek special status, but it does not want to be discriminated against.

(2) The right of Mexico, or any other country to accept or reject private investment on its own terms is recognized, but it must also be recognized that private investment will go where its treatment and prospects are best.

(3) Foreign investment in Mexico contributes substantially to Mexico's economic growth. In 1955, for example, foreign investment accounted for $240 million in the Mexican national product. Many foreign companies reinvest a large part of their earnings. Even among those companies which are directly competitive with Mexican business, some of them bolster Mexican industry through a policy of local procurement and give Mexican consumers good quality merchandise at low prices.

(4) It was suggested that some American businessmen are uncertain of the meaning of Mexican laws relating to foreign investment and the laws should be clarified.

(5) It was recognized that Mexico, like any other country, has the right of expropriation with compensation, and no objection was seen in the proposal for participation with Mexican capital on a minority basis.

(6) Mexico has an excellent international credit rating, and the hope was expressed that its borrowings would be for long terms at low interest rates.

Committee II—Foreign trade

Members of the Mexican delegation expressed their interest in "trade, not aid" during these discussions. Among the commercial problems cited by the Mexican delegation were: price fluctuations in basic commodities, U.S. quotas and tariffs on imports, and U.S. subsidies on cotton exports. In addition to cotton, the following commodities were discussed: lead, zinc, coffee, shrimp, fruits, vegetables, hard fibers, and sugar. The Mexican delegation expressed special concern about future exports of lead and zinc.

The U.S. delegation pointed out its own problems in related U.S. matters such as unemployment which might be affected by changes in tariffs or quotas on certain U.S. imports. However, the delegation did point out that the cotton export subsidy had been reduced from 8 to 6 cents and that market prices had remained stable. As for eliminating the subsidy altogether, an American delegate suggested that this might actually stimulate U.S. cotton production while a Mexican delegate thought it would probably result in decreased production as the land was put to more profitable use.

The Mexican delegation expressed satisfaction over President Kennedy's decision not to establish tariffs or quotas on henequen, bailing twine, and cordage.

Committee III—Border matters

Under the topic of border matters, two main points were discussed—tourists and braceros. The Mexican delegation was especially unhappy with President Kennedy's recommendation that Congress reduce from $500 to $100 the value of goods which tourists could bring into the United States duty free. With reference to braceros, the Mexican delegation pointed out that the hourly minimum wage of 50 cents had not been increased since the original agreement of 1942; that insurance coverage of braceros was inadequate; that arrangements for feeding the workers were unsatisfactory and that sometimes, in the interest of harvesting crops rapidly, so many braceros were recruited that their work did not last long enough to justify the trip.

The American delegation agreed to recommend careful consideration of the matters discussed. The delegates expressed hope that crossing the border to either country could be simplified. With reference to the braceros, the U.S. delegates pointed out that although the minimum wage had not been officially increased, the average wage amounted to 90 cents an hour. The bracero program was called the best Point 4 program of the U.S. Government in that, through the program, Mexican workers learned various agricultural techniques.

Committee IV—Cultural interchange

Both delegations agreed that cultural exchanges should be supported and increased. Activities suggested were: wider diffusion of publications, library services, and radio and television in a reciprocal manner; increased efforts to place exchange students with families in the host country; establishment of training programs in U.S. industry for Mexican students; extended scholarship periods; and establishment of inter-university exchange programs which would encourage the exchange of students and professors.

Second Meeting, Washington, D.C., May 14–17, 1962:

UNITED STATES DELEGATES

From the Senate:
John Sparkman, of Alabama.
Wayne Morse, of Oregon.
George A. Smathers, of Florida.
Albert Gore, of Tennessee.
Clair Engle, of California.
Ernest Gruening, of Alaska.
Lee Metcalf, of Montana.
Homer E. Capehart, of Indiana.
Thomas H. Kuchel, of California.
Barry Goldwater, of Arizona.
John G. Tower, of Texas.

From the House:
D. S. Saund, of California.
J. T. Rutherford, of Texas.
Joseph M. Montoya, of New Mexico.
Robert N. C. Nix, of Pennsylavnia.
Harris B. McDowell, Jr., of Delaware.
Daniel K. Inouye, of Hawaii.
L. Mendel Rivers, of South Carolina.
Robert B. Chiperfield, of Illinoils.
J. Irving Whalley, of Pennsylvania.
William L. Springer, of Illinois.
Edward J. Derwinski, of Illinois.
Ben Reifel, South Dakota.

MEXICAN DELEGATES

From the Senate:
Manuel Moreno Sanchez, of Aguascalients.
Eliseo Aragon Rebolledo, of Morelos.
Angel Santos Cervantes, of Nuevo Leon.
Manuel Hinojoso Ortiz, of Michoacan.
Mauricio Magdaleno Cardona, of Zacatecas.
Emilio Martinez Manautou, of Tamaulipas.
Antonio Mena Brito, of Yucatan.
Guillermo Ramirez Valadez, of Jalisco.
Gustavo Vildosola Almada, of Baja California.
Ramon Ruiz Vasconcelos, of Oaxaca.
Carlos Roman Celis, of Guerrero.
Juan Manuel Teran Mata, of Tampaulipas.

From the Chamber of Deputies:
José Lopez Bermudez, of Guanajuato.
Antonio Navarro Encinas, of Baja California.
J. Jesus Gonzalez Gortazar, of Jalisco.
Manuel Moreno Moreno, of Guanajuato.
Filiberto Rubalcava Sanchez, of Jalisco.
Gustavo Arevado Gardoqui, of Maja California.
Jorge Rojo Lugo, of Hidalgo.
Norberto Aguirre, of Oalaca.
Roldolfo Echeverria Alvarez, of the Federal District.
Alfredo Ruiseco Avellaneda, of Colima.
Salvador Gonzalez Lobo, of Coahuila.
Genaro Vazquez Colmemares, of Oaxaca.
Rodrigo Moreno Zermeno, of Guanajuato.

Formal opening of the second meeting of the Mexico-United States Interparliamentary Group took place on May 14 with welcoming remarks by Senator Sparkman, Secretary of

State Dean Rusk, and Mexican Deputy Lopez Bermudes. Vice President Lyndon Johnson addressed the delegation at a luncheon on the same day.

Work of the Group was organized into three panels: Foreign Investment and Foreign Trade; Border Matters and Cultural Exchange; Hemispheric Peace and Security and the Alliance for Progress.

In addition to the above panel discussions, the Mexican delegation visited sites in and around Washington such as Arlington National Cemetery and Williamsburg, Virgina. After the meetings concluded on May 14, the Mexican delegation proceeded to New York where they visited the United Nations and were welcomed by Mayor Wagner. On May 20 the delegation flew to Los Angeles where they remained until their departure to Mexico City on May 23.

Panel I—Foreign investment and foreign trade

The United States delegation reiterated its belief in the mutual benefits of foreign investment and expressed its understanding of the principle of expropriation as long as action is followed by fair and prompt compensation. Members of the Mexican delegation, in turn, conceded their continued need for foreign investment but that it must be subject to national law and that it should be directed to the sectors designated as priority areas by the Mexican Government. The Mexican delegates concluded that despite these guidelines, Mexico remained a desirable place for foreign investment as a result of attractive laws, abundant natural resources, satisfactory market conditions, good profit returns, freedom to transfer capital, free monetary convertibility, moderate taxation, stimuli for reinvestment, low transportation rates, a stable exchange rate, and political stability.

Foreign trade discussions focused on tariffs and quotas relating to agricultural and mineral commodities. It was pointed out by the Mexican delegation that the prices of these raw materials had declined in recent years as compared to the cost of needed manufactured goods—a situation which had contributed to an imbalance of trade and a decline in living standards and had caused difficulty in purchasing capital goods. The United States delegation responded with the suggestion that Mexico avail itself of the opportunity to participate in international consultations to find a means of stabilizing prices oh basic commodities and to seek out compensatory financial arrangements. The Mexican delegation expressed pleasure with recent actions by the United States Government on these commercial problems. Specifically, they cited the application of the most-favored-nation clause, the increase in the sugar quota and the price of sugar, a new willingness to participate in international conventions on commodity agreements, and its support of the Alliance for Progress.

Other issues, such as the sales of surplus agricultural products payable in local currency and on long terms, subsidies, restrictive quotas, and high or prohibitive tariffs were still regarded as areas for discussion by Mexico. The delegation also noted that certain aspects of the 1962 Trade Expansion Act did not offer sufficient consideration to many commercial problems, though it was seen as an improvement on the Tariff Act of 1934 which had been in effect.

The discussions on foreign trade also covered specific problems related to trade in cotton, coffee, sugar, lead, and zinc. In the case of cotton, the Mexican delegation expressed alarm over continued subsidies paid to U.S. cotton farmers which the Mexicans felt led to the dumping of surplus cotton on the world market at prices close to or below production costs. The delegation stated that the Mexican cotton industry would collapse if this policy continued. The United States delegation responded by explaining that subsidies to American farmers were temporary policy intended to aid farmers in the cotton belt until they could shift to a more suitable crop.

With regard to the other agricultural products, the U.S. delegation indicated that they would expect Mexico to continue as our major source of agriculture products. For its part, the Mexican delegation noted the progress made in stabilizing coffee prices through international cooperation. The Mexican delegation expressed hope that the U.S. would not revise the sugar bill, which would reduce the price of sugar substantially and decrease the Mexican quota. Such a move, they pointed out, would negate the positive aspects of the Mexican trade, such as its proximity to the United States, and would effect substantial economic hardship on the Mexican economy.

In reference to the lead and zinc trade, the Mexican delegation suggested international cooperation would be the best means of assuring a fair price for the metals. The delegation further protested proposed U.S. actions which would fix quotas and increase tariffs. In turn, the U.S. delegation stated that it did not anticipate tariff changes on lead and zinc and that it was gratified by the progress made by the International Study Group on Lead and Zinc. The U.S. representatives explained that the policy on lead and zinc was dictated by defense considerations.

Both the U.S. and Mexican delegations agreed that Mexican participation in the Latin American Free Trade Association would prove beneficial to the United States and to all the Latin countries involved. Moreover, the U.S. delegates assured the Mexican delegation that U.S. trade with the European Economic Community would not be detrimental to United States-Mexican commercial relations.

Panel II—Border matters and cultural exchange

Included in these discussions were issues surrounding tourism in Mexico. Specifically, the proposed U.S. reduction in the duty free allowance for American tourists was cited as potentially damaging to the Mexican artisans who depend upon tourist expenditures for a livelihood. The American delegation suggested that if these items could be included under legislation covering reciprocal trade, Mexico might take steps to provide for the freer importation of certain goods bought by Mexican tourists.

Also under border matters were discussions concerning the situation of the Mexican migratory workers in the U.S. The American delegation pointed out the valuable role they play in U.S. agriculture and that these workers were deserving of minimum wages, insurance coverage, and respect. Both delegations called for better border control in order that these foreign nationals might be provided with appropriate visas which would state their necessity as employees in the U.S.

The problem of the salinity of the Colorado River was also discussed as the treaty of 1944 did not address the question of water quality—an important issue since its deterioration had caused considerable damage in Baja California, rendering large tracts of land unproductive and displacing Mexican farmers. Although the U.S. delegates did not concede a legal obligation to insure the purity of the river, the members indicated that the United States was seeking a just solution to the problem.

Finally, both delegations expressed a desire to step up activities in the area of cultural exchange. Suggestions included an increase in the number of student and scholar exchange programs along with corporate and even governmental exchanges.

Panel III—Hemispheric peace and security and the Alliance for Progress

In addressing the questions of hemispheric peace and security, the U.S. delegation expressed its belief in the right of self-determination for each country. In particular, they cited the parallels in Mexican and American historical development which demonstrated this conviction. The delegation cited the activities of Cuba and the Soviet Union as the basis for U.S. concern over the possible subversion of other Latin American governments. They recommended the OAS report on subversion to the Mexican delegates as background to understanding United States interest in combatting the spread of communism in the hemisphere. The delegation concluded by noting that under Article 6 of the Rio Treaty, the U.S. is committed to oppose communist subversion in the hemisphere. The Mexican delegation stated the Mexican Government's policy of strict nonintervention in the affairs of other Latin American countries. Regarding the Cuban issue, the delegation agreed that the apparent principles of the Castro government were incompatible with the OAS Charter. Nevertheless, they did not regard these differences as a rationale for intervening in Cuban affairs.

In discussing the Alliance for Progress, the Mexican delegation stressed two points: First, the Alliance should take into account the varied conditions among the countries so as to make it an effective program; second, the Alliance should not be promoted as an anticommunist campaign because it might move the oligarchies to a more reactionary stance in regard to relinquishing their power.

Although the U.S. delegation still tended to regard the Alliance as a type of Marshall Plan to halt the spread of totalitarian governments in Latin America, the concluding remarks of the delegation were in keeping with the Mexican suggestion that above all the Alliance must be a cooperative venture in order to accomplish its goals.

Third Meeting, Guanajuato, Mexico, March 15–24, 1963:

UNITED STATES DELEGATES

From the Senate:
John Sparkman of Alabama, Chairman.
Wayne Morse, of Oregon.
Mike Mansfield, of Montana.
Thomas J. Dodd, of Connecticut.
Edmund S. Muskie, of Maine.
Daniel B. Brewster, of Maryland.
Thomas J. McIntyre, of New Hampshire.
Wallace F. Bennett, of Utah.
Thomas H. Kuchel, of California.
Jack Miller, of Iowa.
E. L. Mechem, of New Mexico.

From the House:
Robert N. C. Nix, of Pennsylvania, Chairman.
Joseph M. Montoya, of New Mexico.
Harris B. McDowell, Jr., of Delaware.
Torbert H. Macdonald, of Massachusetts.
Jim Wright, of Texas.
Harold T. Johnson, of California.
Ronald Brooks Cameron, of California.
Edward J. Derwinski, of Illinois.
Walter Norblad, of Oregon.
William L. Springer, of Illinois.
F. Bradford Morse, of Massachusetts.
Ben Reifel, of South Dakota.

MEXICAN DELEGATES

From the Senate:
Abelardo de la Torre Grajales, of Chiapas, Chairman.
Manuel Hinojosa Ortiz, of Michoacán.
Julián A. Manzur Ocaña, of Tabasco.
Juan Manuel Terán Mata, of Tamaulipas.
Fernando Lanz Duret, of Campeche.
José María Tapia, of Baja California.
Elías Mendoza González, of Jalisco.
Edgardo Medina Alonzo, of Yucatan.
Ramón Ruiz Vasconcelos, of Oaxaca.
Mauricio Magdaleno Cardona, of Zacatecas.
Rafael Moreno Valle, of Puebla.
Maximiliano Ruiz Castañeda, of Mexico.

Alternates:
Abdón Alanís Ramírez, of Durango.
Guillermo Ibarra, of Sonora.

From the Chamber of Deputies:
Rómolo Sánchez Mireles, of the Federal District, Chairman.
Gonzalo Aguirre Beltrán, of Veracruz.
Jesús Reyes Heroles, of Veracruz.
Noé G. Elizondo, of Nuevo León.
Gonzalo Bautista O'Farrill, of Puebla.
Maria del Refugio Báez, of Sinaloa.
Ricardo Carrillo Durán, of Chihuahua.
Flavio Romero de Velasco, of Jalisco.
Juan Pérez Vela, of Guanajuato.
José López Bermúdez, of Guanajuato.
Antonio Navarro Encinas, of Baja California Sur.
Jesús González Gortázar, of Jalisco.
Alternates:
Joaquín Gamboa Pascoe, of the Federal District.
Martín Díaz Montero, of Veracruz.
Enrique Pacheco Alvarez, of Oaxaca.

The U.S. delegation arrived in Mexico City March 15 and proceeded to Guanajuato on March 17. Sessions of the conference of the Mexico-United States Interparliamentary Group took place in Guanajuato on March 18–20. On March 21, the delegation returned to Mexico City where it was received the following day by President Adolfo Lopez Mateos. The delegation then flew to Merida and spent March 23 visiting the Mayan ruins of Chichen-Itza, at the invitation of the Mexican hosts. On March 24, the delegation returned to Washington, D.C.

At the conclusion of the formal sessions, the conference as a whole issued a joint declaration in which it applauded the merits of the Interparliamentary Group meetings, endorsed the ideals and perspectives of the Alliance for Progress, supported continued cultural and scientific exchanges, and recommended further action within the United Nations to speed up agreements on world disarmament.

The conference organized its work into the following four committees: Appraisal of the Alliance for Progress; Perspectives of the Alliance; United States-Mexican Bilateral Problems; Disarmament, Peace, Collective Security, and International Relations.

Committee I—Alliance for Progress: Appraisal

The Mexican delegation offered an appraisal of the Alliance for Progress by citing a number of areas of concern such as: tax reform, land reform, education policy, public health, and social security, economic planning, financial and technical aid, trade, and economic integration of Latin America.

Under tax reform, the Mexican delegation mentioned their tax reform of 1961 which sought to discourage luxury consumption by the wealthy in order to channel additional funds into important economic enterprises. Nevertheless, the individual tax burden remained low, thus shifting much of the responsibility for economic growth in the private sector. Although the Mexican delegation asserted that this policy had tended to facilitate capital formation, the U.S. delegation suggested that the administration and collection of tax revenues remained an area for improvement. However, the American delegation applauded the Mexican efforts, as many of the other countries participating in the Alliance for Progress lagged far behind Mexico in resolving this problem.

In respect to land reform, the Mexican delegation cited its progress in this area over the past 40 years. However, the U.S. delegation emphasized that this laudable policy must be accompanied by a serious appreciation for the important problems of increased production and seed and water availability. In the areas of education, public health and social security, the Mexican delegation reported significant progress.

In the area of economic planning, the Mexican delegation explained that its Government sought to coordinate investment in which the private sector had no interest or provided insufficient participation. The delegation reiterated that Government-provided stimuli were intended to attract funds to be channeled into farming, manufacturing, housing, and transportation. The Mexican delegation, as in the previous meetings, restated its Government's policy of allowing foreign investments to play a complementary role in the economy. Nevertheless, the Mexicans conceded that additional foreign capital was needed in order to resume the level of economic growth which the country had enjoyed until 1956. The U.S. delegation was pleased to note that Mexico's high credit rating is one of its most solid assets and that its external and internal debts remained within manageable bounds.

Next, the Mexican delegation discussed the economic problems posed by the fluctuations of commodity prices. For Mexico, this was a crucial problem since these exports are necessary to pay for capital goods (usually U.S. manufactured). The delegation cited the United States use of trade policies to decrease demand for Mexican exports as detrimental to both economies.

Finally, the Mexican delegation noted that it was a signatory to the Montevideo Treaty and was seeking to facilitate further discussions among the members of the Latin American Free Trade Association regarding economic integration in Latin America.

The U.S. delegation proposed that the Mexican delegation give consideration to using the "guarantee method" to accelerate the housing program. In this method, U.S. banks, insurance companies, and loan associations would make capital available for construction. Since this money would be offered to the central Mexican agency (which would then make the loans to individuals), foreign capital would be under Governmental supervision.

Committee II—Alliance for Progress: Perspectives

The Mexican delegation addressed itself to the problems and opposition the Alliance still faced in achieving its goals. The U.S. delegation responded that additional incentives would be offered to U.S. investors to encourage participation. The U.S. delegates explained that the Alliance was proposed with a minimum ten year horizon which was necessary to accommodate the needs of each Alliance country. Finally, the U.S. delegation noted that in regard to taxes, agrarian reform, and incentives to private investment that Mexico enjoyed a leading position among the Latin American countries.

Committee III—Specific Mexican-North American problems

The Committee focused on the specific issues of tourism, migratory workers, cultural exchange, and the salinity of the Colorado River. The Mexican delegation again pointed out the deleterious effects of the U.S. $100 exemption for tourists bringing in items from Mexico and other foreign countries. However, given the U.S. delegation statement that this reduced exemption was intended to help rebalance U.S. trade, the Mexican delegation suggested other possible U.S. actions to mitigate the problem. First, that Europeans coming from Mexico via the U.S., be exempted from the $100 U.S. customs limitation. Second, the Mexican delegation suggested that a mutually satisfactory tourist agreement be worked out.

In reference to migratory workers, the Mexican delegation pointed out that two major problems remain: first, the low wages and meager benefits afforded to the illegal farmworker in the United States; second, issuance of work visas to migratory workers whose employment is temporary and who then overcrowd the border towns in the off seasons.

The problem of the salinity of the Colorado River was discussed. As in previous meetings, the Mexican delegation pointed out the damage created by this situation. The U.S. delegation reported that it would recommend further serious study on the matter to Congress.

Both delegations reaffirmed their belief in and support for cultural exchanges. However, the Mexican delegation explained that the expense of these student exchanges posed a hardship for their government. They suggested that the United States consider the loan of technically skilled persons to Mexico as an alternative type of exchange which would offer greater benefits to Mexico's development. As another aspect of cultural exchange, the U.S. delegation added that it would recommend continued efforts to make available books of a technical variety and other publications to Mexican students at reasonable prices.

Committee IV—Peace, disarmament, collective security, and international relations

The delegations issued a joint statement indicating the friendship of Mexico and the United States and expressing their support for the United Nations actions aimed toward a world ban on nuclear testing and arms control. Moreover they expressed their belief in the potential of the OAS to contribute to the security of the Americas—especially when this security is derived from the increased well-being of all member countries. Within the framework of the OAS and the United Nations, the two delegations expressed their belief that world peace and security could be safeguarded through the judicial settlement of world disputes and that the rule of law would replace that of force.

Fourth Meeting, Washington, D.C., March 5–12, 1964:

UNITED STATES DELEGATES

From the Senate:
John Sparkman, of Alabama, Cochairman.
Wayne Morse, of Oregon.
Mike Mansfield, of Montana.
Thomas J. Dodd, of Connecticut.
Allen J. Ellender, of Louisiana.
Olin D. Johnston, of South Carolina.
Albert Gore, of Tennessee.
Ernest Gruening, of Alaska.
Thomas H. Kuchel, of California.
John G. Tower, of Texas.
E. L. Mechem, of New Mexico.
Milward L. Simpson, of Wyoming.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Cochairman.
Joseph M. Montoya, of New Mexico.
Harris B. McDowell, Jr., of Delaware.
Torbert H. Macdonald, of Massachusetts.
Jim Wright, of Texas.
Harold T. Johnson, of California.
Ronald Brooks Cameron, of California.
Edward J. Derwinski, of Illinois.
Walter Norblad, of Oregon.
William L. Springer, of Illinois.
Ben Reifel, of South Dakota.
F. Bradford Morse, of Massachusetts.

MEXICAN DELEGATES

From the Senate:
Manuel Moreno Sánchez, of Aguascalientes, Cochairman.
Eliseo Aragón Robelledo, of Morelos.
Rafael Carranza Hernández, of Coahuila.
Guillermo Ibarra, of Sonora.
Edgardo Medina Alonzo, of Yucatán.
Elías Mendoza González, of Jalisco.
Carlos Román Celis, of Guerrero.
Maximiliano Ruiz Castañeda, of México.
Angel Santos Cervantes, of Neuvo León.
Juan Manuel Terán Mata, of Tamaulipas.
Tomás Valles Vivar, of Chihuahua.
Gustavo Vildósola Almada, of Baja California.

From the Chamber of Deputies:
José López Bermúdez, of Guanajuato, Cochairman.
Jorge Abaría Calderón, of the Federal District.
Martin Díaz Montero, of Veracruz.
Joaquín Gamboa Pascoe, of the Federal District.

Jesús González Gortázar, of Jalisco.
Manuel Marquez Escobedo, of Guanajuato.
Rodrigo Moreno Zermeño, of Guanajuato.
Enrique Pacheco Alvarez, of Oaxaca.
Romeo Rincón Serrano, of Chiapas.
Guadalupe Rivera Marín, of the Federal District.
Diódoro Rivera Uribe, of Morelos.
Jenaró Vazquez Colemenares, of Oaxaca.

The fourth meeting of the Mexico-United States Interparliamentary Group was opened formally on March 5 with welcoming remarks by Senator Sparkman, Secretary of State Dean Rusk, and Mexican Senator Manuel Moreno Sanchez. Speaker of the House of Representatives, John W. McCormack addressed the delegations at a luncheon given by Representative Nix the same day.

In addition to the formal meetings, the Mexican delegation visited Arlington National Cemetery and was received by President Johnson in the White House on March 6. From Washington the delegation proceeded to Knoxville, Tennessee, on March 8, and visited a number of Tennessee Valley Authority projects along with a reactor at Oak Ridge. On March 10, the group flew to New Orleans, Louisiana, where it visited the Michoud Saturn Plant. The delegation departed for Mexico City on March 12.

The work of the conference was organized into three committees which met on March 5 and 6: Political matters (East-West relations and inter-American problems); Economic matters (the Alliance for Progress and trade relations); Bilateral matters (cultural exchanges, migratory workers, and border problems).

Committee I—Political

Among the political issues discussed by the delegation were Cuban aggression against Venezuela, the Panama Canal, and East-West conflict as evidenced by the cold war and increasing hostilities in Vietnam. The U.S. delegation pointed out that Cuban aggression against Venezuela was not in keeping with the U.S. and Mexican policies of non-intervention. The U.S. delegation reminded the Mexicans that since Mexico had recognized the Act of Punta del Este, both countries had a mutual obligation to help contain the spread of communism within the hemisphere. The Mexican representatives responded by stating that at Punte del Este in 1962, Mexico accepted the majority's vote. Second, they noted that since they were unacquainted with the OAS report on the Venezuelan situation, they were unable to give a concrete opinion. Third, they stated that even if such aggression were recognized, the case would have to be submitted to the United Nations for judgment.

In reference to the Panama Canal, the U.S. delegation assured the Mexicans that the United States would be glad to discuss the matter at any time. However, they pointed out that the United States would not respond to threats and pressures, nor would it make promises in advance, regarding a new treaty. Finally, it was explained that any new treaty, according to the U.S. Constitution, must be subject to Senate approval.

Regarding East-West tensions, the Mexican delegation offered the observation that the situation could best be characterized as struggles between the developed and underdeveloped countries, or between the rich and the poor. The delegation noted that this struggle is mirrored in Mexico-U.S. relations as well and can only be concluded when the power and privilege of one country is not acquired by the permanent poverty of another. The United States in turn emphasized that the loss of freedom in one constituted a threat against all free people. Nevertheless, the Mexican delegation pointed out that the problem of salinity in the Colorado River was considerably more important to Mexican public opinion than the outcome in Vietnam.

Committee II—Economic

The discussion on economic issues concerned United States-Mexican trade and the Alliance for Progress. The trade discussions covered the following commodities: cotton, coffee, beef, minerals (principally lead and zinc), copra, henequen, sugar, fruits, and vegetables.

Cotton, as mentioned in previous years, is Mexico's principal export crop. The Mexican delegation also pointed out that the country imports many U.S. goods, such as farm machinery, fertilizers, seeds, and transport vehicles, for cotton production. Thus, the Mexican delegation was pleased to learn that bills were pending in the U.S. Congress which would increase the price of cotton and thus help stabilize the world market for this commodity. The Mexican delegation also argued for a more equitable treatment by the U.S. in light of its recent agreement with Japan on the import of cotton textiles.

In reference to coffee, the Mexican delegation emphasized that the United States would suffer a blow to its prestige if the U.S. Congress failed to approve the world coffee agreement.

In studying the issue of meat exports from Mexico, the U.S. delegation pointed out that Mexican beef constituted a small part of the total U.S. meat imports. Nevertheless, the Mexican delegation pointed out that imposing a smaller quota would be prejudicial to the Mexican economy since 99% of their meat exports are for U.S. markets.

With regard to the production of lead and zinc, the U.S. delegation stated that it foresaw no serious deterioration in lead and zinc imports. The Mexican delegation protested that proposed duty increases on these metals would harm the Mexican economy. The Mexican senators and deputies emphatically pointed out the need for a new U.S. policy which would establish a formula for the fair and preferential treatment of Mexican lead and zinc.

As discussed in previous meetings the Mexican delegation requested a return to the tourist duty free allowance of $500 to benefit Mexican artisans.

The Mexican delegation, for the first time, introduced the question of copra or coconut oil exports. The Mexicans pointed out that when this oil is imported from the Philippines no duty is paid, while Mexico is charged a duty. Since the commodity does not compete with U.S. products, the Mexican delegation asked that this tariff be rescinded. The increased use of synthetics for use in twine and rope was discussed as it threatened the henequen industry in southeast Mexico.

In reference to the export of Mexican fruits and vegetables to the U.S., the Mexican delegation pointed out that half of the market value received is returned to the United States in the purchase of farm machinery, taxes, and fertilizer. For this reason, the Mexican delegation suggested that one of the major aims of the Alliance for Progress should be to simplify transit through customs, and improve sanitation and fumigation procedures, to avoid unnecessary charges and damage to products which quickly decompose.

The U.S. delegation regretted that there could not have been more discussion regarding the Alliance for Progress. Nevertheless, the Mexican delegation offered a number of observations on its problems and prospects for the future. The Mexicans pointed out that a portion of the Alliance funds, especially those from international agencies, would have been available to Mexico through customary credit channels. In addition, they cited the internal bureaucratic handling of fund assignment in the United States as an obstacle. A final problem was the requirement by the Export-Import Bank that industrial equipment be U.S. produced, a regulation which the Mexicans regarded as inimical with acquiring capital goods at the lowest possible prices.

Committee III—Bilateral relations

Both delegations expressed satisfaction with the settlement of the Chamizal dispute in January. In addition, the increase in the number of exchange students between the countries, the opening of various reading rooms in Mexico, and U.S. donations to the Agricultural School of Chapingo and the Technological Institute of Monterrey, and the increase in translation and distribution of books by the USIS, were hailed as great achievements in the area of cultural relations.

The U.S. delegation announced that substantial improvement had been effected in the quality of waters released to Mexico from the Colorado River as a result of the construction of 25 additional drainage wells and the near completion of an 8,000 tiled drainage system. The U.S. delegation asked that the Mexican Government reciprocate by undertaking projects to reduce the salinity of the lower Rio Grande River which adversely affected the irrigation of the lower Rio Grande Valley of Texas.

In reference to other border matters, both delegations were pleased to note that visas were now available free of charge to all tourists crossing from one country to the other. However in reference to the problem of migratory workers, the Mexican delegation insisted on the need for a legal instrument which would effectively replace the bilateral bracero program. This must be done, the delegation continued, not only to protect North American workers from unfair competition but also to protect the migrants themselves by providing them legal rights and setting out guidelines to their pay and living conditions.

Fifth Meeting, La Paz, Mexico; February 11–17, 1965:

UNITED STATES DELEGATES

From the Senate:
John Sparkman, of Alabama, Chairman.
Wayne Morse, of Oregon.
Mike Mansfield, of Montana.
Albert Gore, of Tennessee.
Ernest Gruening, of Alaska.
Joseph M. Montoya, of New Mexico.
Joseph D. Tydings, of Maryland.
George D. Aiken, of Vermont.
Wallace F. Bennett, of Utah.
Milward L. Simpson, of Wyoming.
Paul J. Fannin, of Arizona.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Chairman.
Harris B. McDowell, Jr., of Delaware.
James C. Wright, Jr., of Texas.
Ronald Brooks Cameron, of California.
Henry B. Gonzalez, of Texas.
Edward J. Derwinski, of Illinois.
William L. Springer, of Illinois.
F. Bradford Morse, of Massachusetts.
James Harvey, of Michigan.
Alphonzo Bell, of California.

MEXICAN DELEGATES

From the Senate:
Manuel Tello, of Zacatecas.
Alfsono Guerra, of Nayarit.
Alfredo Ruiseco Avellaneda, of Colima.
Armando Arteaga Santoyo, of Nuevo Leon.
Florencio Barrera Fuentes, of Coahuila.
Gonzalo Bautista O'Farrill, of Puebla.
Carlos Loret de Mola, of Yucatán.
Cristóbal Guzmán Cárdenas, of Durango.
Gustavo A. Rovirosa, of Tabasco.
Carlos Sansores Pérez, of Campeche.
Juan José González Bustamante, of San Luis Potosí.
Mario Olivera Gómez Tagle, of México.
Eulalio Gutiérrez Treviño, of Coahuila.
Mañuel Soberanes Munoz, of Querétaro.

From the Chamber of Deputies:
Alfonso Martinez Dominguez, of Nuevo León.
Antonio Martinez Manautou, of Distrito Federal.
Alejandro Carrillo, of Distrito Federal.
Luis Dantón Rodriguez, of Guanajuato.
Jorge de la Vega Domínguez, of Chiapas.
Manuel Gurria Ordoñez, of Tabasco.
Ruben Moheno Velasco, of Jalisco.
Francisco Pérez Rios, of México.
Miguel Covián Pérez, of Distrito Federal.
Raúl Legaspi Donis, of México.
José Antonio Cobos Panáma, of Veracruz.
Miguel Osorio Marbán, of Guerrero.

This fifth meeting of Mexico-United States Interparliamentary Group was formally convened on February 15 in La Paz at the "Casa de la Juventud" (House of Youth) with welcoming remarks by General Bonifacio Salinas Leal, the Governor of the Territory of Baja California Sur, Deputy Alfonso Martinez Dominguez, and Senator Sparkman. The following committees were designated by the Group: Economic, Political, and Social.

Prior to the opening of the formal session, the U.S. delegation, which arrived in Chihuahua, Mexico on February 11, traveled with the Mexican delegation to Los Mochis, Sinaloa, via the Chihuahua-Pacific Railroad. On February 13, the group flew to Mazatlan and departed for La Paz, by ferryboat, arriving the next day. At the conclusion of the formal sessions, which took place on February 15 and 16, the delegations proceeded to Mexico City where they were received by President Gustavo Diaz Ordaz. The U.S. delegation returned to Washington on February 18.

At the conclusion of the meetings, the conference as a whole issued a joint declaration in which it reaffirmed its belief in democratic principles, repudiated all forms of aggression against or intervention in the affairs of one state by another, and agreed that the strengthening of the United Nations and the Organization of American States would provide for better means of solving international disputes. It also supported measures to prevent the proliferation of nuclear weapons in Latin America, noted the importance of solving the salinity problem of the Colorado River, urged the acceleration of Alliance for Progress programs, supported cultural and technical exchanges as a means of stimulating development, agreed that tourism brought economic and social returns to both the United States and Mexico and recognized the need for appropriate legislation to govern the movements and guarantee the rights of Mexican migratory workers.

Committee I—Economic

The Economic Committee discussed topics such as: trade, foreign investment, economic development, international credit, and the Alliance for Progress.

Specific quotas for sugar were proposed by the Mexican delegation although the U.S. delegation indicated that it would recommend an increase in the U.S. quota vis-a-vis Mexican sugar. The delegations also discussed U.S. imports of lead and zinc. The Mexican delegation was of the opinion that an increase in the U.S. quota for these imports would be desirable although the U.S. pointed out that both metals now enjoyed price stability. The U.S. delegation described the outlook for the sale of henequen with pessimism because of competition from synthetics—a prediction viewed with alarm by the Mexican delegation because of the number of Mexicans involved in the cultivation of this crop. The Mexican delegation also expressed hope that U.S. import quotas for beef and shrimp might be increased.

The U.S. representatives expressed pleasure with increasing industrial activity in Mexico. Nevertheless, they cited the inefficiencies of the local assembly of automobiles and tractors which cost more to produce in Mexico. They also mentioned that the high tariffs placed on the import of U.S. vehicles contributed to unemployment in the United States. Moreover other Mexican export taxes on minerals not only inhibit the growth of Mexican exports but also in some cases—such as amorphous graphite—seriously reduced supplies needed by U.S. industry.

Both countries expressed satisfaction with the Alliance for Progress, although the Mexican members pointed to some discrepancies between the data of the two countries in the administrtation of funds. The Mexican delegation pointed out that although the country enjoys the confidence of international credit institutions, it should be explained to these agencies that Mexico still required so-called soft credit to encourage the undertaking of development programs. Finally the delegation recommended that in order to utilize these needed foreign funds, the administrative procedures in the United States should be simplified.

Committee II—Political

The topics discussed by the political committee included the salinity of the Colorado River, a world-wide program of arms control, and the role of the OAS in maintaining hemispheric solidarity.

The Mexican delegation, as in previous Interparliamentary meetings, explained the seriousness of the increasing salinity of the Colorado River and described the steps taken to date to solve the problem as temporary solutions at best. The U.S. delegates acknowledged the Mexican concern and expressed hope that the program for immediate relief, worked out between the Presidents of the two countries, would soon be approved by the Governors of the states involved and the necessary appropriations would be made by the U.S. Congress. The U.S. delegates also noted that the final total solution would require programs to supply additional water to the Colorado River Basin from other U.S. river systems, and perhaps even from Canada, as well as the development of large-scale, nuclear-powered desalinization projects. It was recommended by the U.S. delegation that both countries engage in joint research in the field of desalinization. The pilot project underway sponsored by the University of Sonora and the University of Arizona was cited as an example for future undertakings.

In considering issues of international scope, the committee discussed disarmament, colonialism, intervention, the United Nations and the Organization of American States. The U.S. delegation cited the work of the Arms Control and Disarmament Agency as an indication of United States concern on the subject. Similarly, the Mexican delegation referred to the subjects of "Nonnuclearization of Latin America and Denuclearization," noting the repeated, intensive efforts of Mexico in various international forums to ban the manufacture, stockpiling, dissemination, and use of nuclear weapons.

With reference to colonialism, the U.S. delegates pointed out that except for Portugal, colonialism by the Western Powers had been eliminated although it had been continuing and increasing on the part of the Soviet Union with respect to much of Eastern Europe. The U.S. delegation also noted that in Puerto Rico, it remained the decision of its citizens to decide its status: independence, statehood, or continuation of its present commonwealth system.

The Mexican delegation described its government as playing the role of a moderator in various international disputes—a role consistent with the traditional Mexican policy of non-intervention. The delegation continued by supporting the fundamental structure of the OAS and emphasizing the importance of respect by all members for the sovereignty of other states.

Committee III—Social

Under social issues, the delegates discussed cultural and technological exchanges, migratory workers, border problems, and tourism.

Both delegations agreed that student exchanges were to be encouraged—a point made in previous meetings. The U.S. delegation recommended that students be sent abroad in "cultural clusters," that is in small groups, so as to minimize their feelings of disorientation and to maximize their learning experience. The U.S. delegates also applauded the plans to establish the University of the Americas in Mexico City. They believed the University would contribute to greater mutual understanding.

The two delegations also agreed on the importance of technological exchanges of information, especially as it contributes to solving problems in the areas of health care and the study of demographic growth.

With the termination of the bracero program, the U.S. delegation addressed the problem by citing the two major considerations: First, realistic guarantees that wage rates should not be depressive or disruptive of prevailing rates and should not affect job opportunities among U.S. workers; and second, that there should be enforceable protections against discrimination, mistreatment, or unjust exploitation of Mexican workers.

Sixth Meeting, Washington, D.C. February 9–12, 1966

UNITED STATES DELEGATES

From the Senate:
John J. Sparkman, of Alabama, Chairman.
Wayne Morse, of Oregon.
Mike Mansfield, of Montana.
Albert Gore, of Tennessee.
Ernest Gruening, of Alaska.
Daniel K. Inouye, of Hawaii.
Gaylord Nelson, of Wisconsin.
Joseph M. Montoya, of New Mexico.
George D. Aiken, of Vermont.
Thomas H. Kuchel, of California.
Paul J. Fannin, of Arizona.
George Murphy, of California.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Chairman.
Harris B. McDowell, Jr., of Delaware.
James C. Wright, Jr. of Texas.
Harold T. Johnson, of California.
Ronald Brooks Cameron, of California.
Henry B. Gonzalez, of Texas.
Eligio de la Garza, of Texas.
Edward J. Derwinski, of Illinois.
F. Bradford Morse, of Massachusetts.
James Harvey, of Michigan.
Alphonzo Bell, of California.
Chester L. Mize, of Kansas.

MEXICAN DELEGATES

From the Senate:
Manuel M. Moreno, of Guanajuato, Chairman.
Manuel Tello, of Zacatecas, secretary.
María Lavalle Urbina, of Campeche.
Arturo Llorente González, of Veracruz.
Manuel Bernardo Aguirre, of Chihuahua.
Mario C. Olivera, of the State of Mexico.
Arturo Moguel Esponda, of Chiapas.
Filiberto Rubalcaba, of Jalisco.
Amado Estrada Rodríguez, of Sinaloa.
Eulalio Gutiérrez Treviño, of Coahuila.
Ignacio Bonilla Vázquez, of Tlaxcala.
Juan de Dios Bojórquez, of Sonora.
Oswaldo Cravioto Cisneros, of Hidalgo (Alternate).
Antonio Flores Mazari, of Morelos (Alternate).

From the Chamber of Deputies:
Jorge de la Vega, of Chiapas, Coordinator.
Mauro Berrueto Ramón, of Coahuila.
José Antonio Cobos, of Veracruz.
Luis Dantón Rodriguez, of Guanajuato.
Alejandor Carrillo, of the Federal District.
Raúl Legaspi, of the State of Mexico.
Abraham Aguilar, of Chiapas.
Vicente Fuentes Díaz, of Guerrero.

Antonio Martinez Manautou, of the Federal District.
Aurora Navía Milán, of Zacatecas.
Martha Andrade del Rosal, of the Federal District.
Rubén Moheno Velasco, of Jalisco.
Humbert Morales, of Sinaloa (Alternate).
Arnulfo Treviño Garza, of Coahuila (Alternate).

The Mexican delegation arrived in Washington on February 9. On the following day, the conference formally convened with opening remarks by Representative Robert Nix, Secretary Dean Rusk, and Mexican Senator Manuel Moreno. The formal discussions were divided into two committees: Political and Economic and Social Affairs. In addition to the committee sessions, the Mexican delegation was received by President Johnson on February 11. The next day, both delegations participated in ceremonies at the Lincoln Memorial and at the late President Kennedy's gravesite. The delegations proceeded to Philadelphia on February 13 for a commemorative session at Congress Hall in Independence Park. The Mexican delegation received an inscribed replica of the Liberty Bell from the city of Philadelphia. On May 14 and 15, the two delegations visited San Francisco where Mayor Shelley proclaimed Congress of Mexico Day and the delegates attended a dinner sponsored by the Chamber of Commerce.

At the conclusion of the meeting, a joint statement was made by the chiefs of both delegations. They reaffirmed their belief in the democratic form of government, opposition to armed aggression and intervention in the internal affairs of other states, faith in the United Nations and the Organization of American States as a means to problem solving between countries, belief in the desirability of a nuclear-free zone in Latin America, commitment to accelerate the advancement of the Alliance for Progress, belief in the values of cultural interchange and tourism as a means of increasing mutual understanding and promoting economic development, and agreement on the usefulness of this and previous Interparliamentary Conferences.

Committee I—Political affairs

Talks centered around the following three subjects: reorganization of the OAS, denuclearization of Latin America, and Central America and the Caribbean.

Concerning the OAS, the Mexican delegation maintained that while the structure of the organization should be revised, such principles as nonintervention, the juridical equality of states, and the prohibition of force should remain intact as underlying principles. The Mexican participants expressed a desire to broaden the jurisdiction of the OAS in such fields as human rights and social development. The Mexican delegation suggested that the Inter-American Juridical Commission produce a definition for the concept of collective action to avoid confusing it with the concept of nonintervention. The U.S. delegation agreed that problems existed because of the various interpretations given to the term "intervention," citing differences over Cuba and the OAS action in the Dominican Republic in 1965, as examples.

On denuclearization of Latin America, the U.S. delegation commended its Mexican counterpart for its initiatives, but raised questions about methods of policing multilateral agreements and about the ramifications it might have on later decisions such as using nuclear power to excavate a second canal opening. Both American and Mexican participants agreed that these factors should not be a hindrance since it was concluded that no ban should be made on the peaceful use of atomic energy.

Regarding Central America and the Caribbean, the U.S. delegation noted increased Mexican trade activity in the area. The delegation also acknowledged that while American-operated firms in Central America might experience immediate problems, because of Mexico's participation, the greater trade and keener competition benefiting all parties would make the initiative worthwhile. Likewise, the Mexican assembly supported freer trade among neighboring republics in Central and South America expounding a position characterized by the absence of all territorial claims, a desire for economic integration, and a strengthening of the bonds of friendship and close international cooperation.

Committee II—Economic and social affairs

The major topics considered under this heading included trade and commodity matters, cultural and technical exchanges, border problems and the Alliance for Progress.

In view of the unbalanced terms of trade that existed as a result of Mexico's purchasing a greater dollar volume of U.S. goods than the United States purchases from Mexico, the U.S. delegation stated that its favorable position was offset by its umbrella of protection to the free world, its economic assistance programs and the volume of American tourist trade to Mexico. To help alleviate its balance of payments deficit to the United States, the Mexican delegation proposed accords which would serve to stabilize the prices of raw materials, and requested U.S. companies in Mexico to reinvest their earnings to accelerate the rate of capital growth and development.

On individual commodities, it was determined by both sides that there was a need to insure stable prices and increased competition in the production of cotton, beef and sugar. The Mexican representatives also called for a revision of the tariff statutes on fluospar and barite. Finally, the Mexican participants urged the U.S. legislators to take measures to enhance the tourist trade by establishing preferential air fares, promoting advertising campaigns, and increasing purchase allotments on liquor and other gifts.

Both the United States and Mexican assemblies stressed the need to emphasize social and cultural exchanges as a means to recognize each other's heritage and to strengthen the ties of friendship and understanding. In light of this mutual feeling, both groups agreed that a continued dialogue could be facilitated through planned action and the creation of a specific agency or committee to encourage and enact such exchanges.

As far as border problems were concerned, the Mexican delegation admitted that illegal migratory flows could be expected to persist as long as there continued to be a need for labor and manpower within the United States. The termination of the Bracero Agreement in 1964 exacerbated the situation. In response to this issue, the Mexican representatives proposed the establishment of a bilateral commission to study the problem.

Concerning the Alliance for Progress, the Mexican members articulated a desire for an accelerated rate of public investment and an increase in foreign credit at low interest and long term rates. Although the U.S. delegation also voiced aspirations to see the Alliance succeed, it maintained that Mexico must begin to generate capital investment and expansion internally. Hence, the U.S. participants suggested an emphasis on long term loans, sharing management of U.S.-operated firms in Mexico, greater public investment, investment incentives and reinvestment programs.

Seventh Meeting, Oaxaca, Mexico, February 9–14, 1967:

UNITED STATES DELEGATES

From the Senate:
John Sparkman, of Alabama, Chairman.
J. W. Fulbright, of Arkansas.
Wayne Morse, of Oregon.
Mike Mansfield, of Montana.
Frank Church, of Idaho.
Frank E. Moss, of Utah.
Joseph M. Montoya, of New Mexico.
Ernest F. Hollings, of South Carolina.
Ernest Gruening, of Alaska.
George D. Aiken, of Vermont.
Margaret Chase Smith, of Maine.
Len B. Jordan, of Idaho.
Paul J. Fannin, of Arizona.
Clifford P. Hansen, of Wyoming.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Chairman.
James C. Wright, Jr., of Texas.
Harold T. Johnson, of California.
Henry B. Gonzalez, of Texas.
Eligio de la Garza, of Texas.
Armistead I. Selden, Jr., of Alabama.
Donald M. Fraser, of Minnesota.
William L. Springer, of Illinois.
F. Bradford Morse, of Massachusetts.
Ben Reifel, of South Dakota.
James Harvey, of Michigan.
J. Irving Whalley, of Pennsylvania.

MEXICAN DELEGATES

From the Senate:
Andres Serra Rojas.
Juan de Dios Bójorquez.
María Lavalle Urbina.
Luis L. León Uranga.
Baltasar R. Leyva Mancilla.
Mario C. Olivera.
Diódoro Rivera Uribe.
Rodolfo Sandoval López.

From the Chamber of Deputies:
Hilda Anderson Nevares.
Martha Andrade de Del Rosal.
José Antonio Cobos Panamá.
Miguel Covián Pérez.
Luis Dantón Rodríguez.
Jorge de la Vega Domínguez.
Vincente Fuentes Díaz.
Tulio Hernández Gómez.
Rául Legaspi Donis.
Antonio Martínez Manautou.
Rubén Moheno Velasco.
Enrique Ramírez y Ramírez
Mario Vargas Saldaña.

The U.S. delegation arrived in Acapulco, Mexico on February 8 and then proceeded to Oaxaca where the formal sessions of the Conference were held on February 9 and 10. The work of the meeting was broken down into two committees: Political and Economic. After the formal sessions, both delegations traveled to Mexico City where they were received by President Gustavo Diaz Ordaz on February 11. The two delegations then spent the weekend at the Mexican Social Security Institute's Vocational Center in Oaxtepec. On February 13, both delegations returned to Mexico City and the U.S. delegations departed for Washington on February 15.

At the conclusion of the conference, the heads of delegations issued a joint statement reaffirming their belief in the value of the Interparliamentary meetings, adherence to democratic principles, faith in the value of the Organization of American States and the United Nations to improve international cooperation and understanding, support of an agreement to ban nuclear weapons in Latin America, belief in the importance of trade and cultural interchange to improve United States-Mexico relations, commitment to solving the problem of water scarcity, and the usefulness of personal meetings between the Presidents of their respective countries as a tool in the settlement of bilateral problems.

Committee I—Political

Committee I discussed a variety of political matters: desalinization, the denuclearization of Latin America, sumit, presidential and interparliamentary meetings, OAS charter revision, and structural improvements in Latin American societies.

Of great interest to both delegations was what Senator Mansfield referred to as the "world-wide water problem," in particular, the cooperative achievements (of the two countries in desalinization projects. The Mexican delegation noted that Presidents Johnson and Diaz Ordaz had signed an agreement for the construction of a desalinization plant and that Mexico had begun new construction of such a plant. Both delegations urged the importance of continuing such efforts.

Creation and maintenance of a nuclear-free zone in Latin America was unanimously favored. The Mexican delegation referred to approval in the U.N. General Assembly of a "denuclearization" resolution and noted that the previous Mexico-United States Interparliamentary Group was on record in favor of carrying out programs to establish a nuclear-free zone to further the maintenance of peace. Senator Fulbright felt that it was time to go beyond denuclearization to the issue of the control of conventional weapons.

Proposals to revise the OAS charter with a view towards structural and functions reform were discussed. Senator Mansfield noted that the Senate Foreign Relations Committee had reviewed the matter and the Mexican delegation emphasized the importance of adhering to basic OAS principles of non-intervention, self-determination, the juridical equality of states and the peaceful settlement of disputes.

Both delegations commented on the desire for social progress and economic development and some members of the U.S. delegation suggested the importance of the evolution of political institutions. A United States delegate suggested that a timetable be set for the full realization of a Latin American Common Market. Closely related to these discussions was a strong emphasis on the importance of summit meetings, interparliamentary meetings, and in particular, the utility and desirability of meetings between the Chief Executives of Mexico and the United States.

Committee II—Economic

The discussion in Committee II was dominated by the trade and payments problems of both countries. The United States legislators hoped that both countries could ease their import restrictions and suggested the utility of voluntary restraints. It was suggested that Mexico join the GATT to facilitate trade discussions and that it could attract more U.S. investment through reduced requirements in its "Mexicanization" policy. Some U.S. representatives noted that the United States might ease its restrictions on imports by tourists, a factor which was hurting the Mexican economy. The costs of the Vietnam war were noted by U.S. legislators as a restraining factor with respect to any liberalization of U.S. international economic policies.

A number of Mexican representatives felt that more liberal U.S. trade policies with respect to Mexico would have little effect on the U.S. economy and could have an important positive effect on the Mexican economy. It was noted that U.S. balance-of-payments difficulties had resulted in reduced bilateral aid and private investment in Mexico. The Mexican delegates felt that U.S. trade restrictions on cotton, tobacco, minerals, fruits and vegetables could be reduced and that an increase in Mexican exports to the U.S. would, in turn, result in more purchases of U.S. capital goods by Mexico. The Mexican delegation asserted that its trade policies were oriented to seeking a higher standard of living and suggested that Mexico, like other less-developed-countries, should obtain trade preferences from the United States.

Committee III—Social

Committee III discussed the Olympic Games of 1968, tourism, educational and cultural exchange programs and economic development matters.

Both delegations spoke in glowing terms of the Olympic games to be held in Mexico City and of the preparations Mexico was making to include not only sporting events but cultural and artistic activities as well. Mexican delegates pointed out that the construction of new facilities designed with regard to its potential for long-term improvement of the infrastructure of the country.

Descriptions of tourism and educational and cultural exchange programs were accompanied by statements confirming their importance to both countries. The importance of desalinization programs, irrigation projects and funds for new housing were noted, particularly by the Mexican delegation. Both the United States and the Mexican representatives felt that the demand for education, housing and health facilities in Mexico constituted a serious problem and the importance and appreciation of aid money for these areas was expressed. The report of the United States delegation stated that it was formally agreed that the population problem, not on the agenda, was "the most critical and pressing problem for our times."

Eighth Meeting, Honolulu, Hawaii, April 12–16, 1968:

UNITED STATES DELEGATES

From the Senate:
John Sparkman, of Alabama, Chairman.
Mike Mansfield, of Montana.
Ernest Gruening, of Alaska.
Frank E. Moss, of Utah.
Daniel K. Inouye, of Hawaii.
Hiram L. Fong, of Hawaii.
Len B. Jordan, of Idaho.
Robert P. Griffin, of Michigan.

From the House of Representatives:
James C. Wright, Jr., of Texas, Acting Chairman.
Eligio de la Garza, of Texas.
Patsy T. Mink, of Hawaii.
Thomas P. O'Neill, Jr., of Massachusetts.
William L. Springer, of Illinois.
James Harvey, of Michigan.
James A. McClure, of Idaho.
Guy Vander Jagt, of Michigan.
Marvin L. Esch, of Michigan.

MEXICAN DELEGATES

From the Senate:
Ezequiel Padilla Peñaloza, of Guerrero.
Manuel Tello, of Zacatecas.
Maria Lavalle Urbina, of Campeche.
Cristóbal Guzmán Cárdenas, of Durango.
Rafael Murillo Vidal, of Veracruz.
Hermenegildo Cuenca Díaz, of Baja California.
Luis González Aparicio, of the Federal District.
Mario C. Olivera, of México.
Raul Bolaños Cacho, of Oaxaca.
Oswaldo Cravioto Cisneros, of Hidalgo.
Luis Gómez Zepeda, of Aguascalientes.
Manuel Sánchez Vite, of Hidalgo.

From the Chamber of Deputies:
Octavio A. Hernández González, of the Federal District.
Victor Manzanilla Schaffer, of Yucatán.
Ignacio Guzmán Garduño, of the Federal District.
Rene Tirado Fuentes, of Puebla.
Heriberto Ramos González, of Coahuila.
Joaquín Gamboa Pascoe, of the Federal District.
Jesús Elias Piña, of Tamaulipas.
María Guadelupe Calderón de Herrera, of Michoacán.
Alberto Briceño Ruiz, of the Federal District.
Juan Manuel Gómez Morín Torres, of the Federal District.
Hesiquio Aguilar Marañon, of Veracruz.
Ignacio Pichardo Pagaza, of Mexico.
Juan Manuel Berlanga García, of Coahuila.

The U.S. and Mexican delegations arrived separately in Honolulu on April 11 where they were welcomed by Governor Burns. On the following day, both delegations visited the Center for Cultural and Technical Interchange Between East and West. The formal sessions of the conference were held on April 13–16. Discussions were focused on three committees dealing with political, economic, and social matters. While in Honolulu, the delegations met informally with President Johnson.

At the conclusion of the formal meetings, the heads of the two delegations issued a joint statement in which they reaffirmed their confidence in the utility of the Interparliamentary Group meetings, noted the progress on bilateral problems such as the Chamizal, and the purification of waters of the Colorado and Rio Grande Rivers, expressed agreement over the objectives of the Treaty of Tlatelolco, Protocol II, and indicated confidence in the Organization of American States and the informal flow of tourists as means of reinforcing common hemispheric bonds.

Committee I—Political

Both delegations noted the extraordinary harmony existing between the two nations and at the conference, a harmony based on achievements during the previous year of a momentous nature. The Treaty of Tlatelolco banning nuclear weapons use in the Western Hemisphere had been signed, the OAS charter revision had been approved by the U.S. Senate, and both countries had approved a project for building a nuclear desalinization plant in the Gulf of California. The Mexican delegation emphasized the importance of developing nuclear power for peace. The U.S. delegation reaffirmed its adherence to the principle of nonintervention but stressed the importance of developing constitutional systems which would permit the orderly transfer of power and leadership in hemisphere nations.

Committee II—Economic

U.S. rapporteur Senator Inouye summarized the differences between the United States and Mexico with respect to economic policies as arising from two basic facts:

"First, trade between the United States and Mexico represents a much larger percentage of Mexico's foreign trade than it represents of U.S. foreign trade. Second, Mexico, as a country in the process of development, naturally seeks wider and easier access to the U.S. market, while the United States feels constrained to fit its trade policies into a broader global market."

A Mexican delegate affirmed the critical importance of U.S. trade for Mexico by pointing out that 62.9 percent of the latter's purchases and 53.8 percent of its sales were made in the United States. The Mexican delegation hoped that the United States would be able to make progress in price stabilization and negotiation of commodity agreements, achievement of lower tariffs, and—in accord with Third World views expressed at UNCTAD meetings—restraining its own production of raw materials. The Mexican delegation expressed its concern about protectionist tendencies in the United States and stressed the importance of assistance in providing housing for their people. The U.S. delegation noted their constraints in both these areas: one, a real feeling of protectionism in the U.S., and two, internal problems in the U.S. in financing its own housing industry, particularly at a time when the Vietnam War was making drains on the economy. Both delegations noted with approval the movement for the economic integration of Latin America.

Committee III—Social

The Social Committee discussed a number of matters where the two countries faced problems: illegal aliens, taxes on imports of goods brought home by tourists, the assembling of materials produced in the United States and Mexico and then sold in the United States, and the use of water. Mexico received more than 40 percent of its foreign exchange from tourism and the Mexican delegation noted that any restrictions in this area caused hardship, for example, the limitation on tax-free goods U.S. visitors could bring home with them. Senator Gruening felt that Mexico had more to offer the United States "than any country in the world" and pointed out that he also opposed any such taxes.

The U.S. delegation noted objections its labor unions had raised with respect to the assembling of U.S. produced materials in Mexico for resale in the U.S. The Mexican delegation pointed out that this program benefitted materials producers in the U.S. and that the wages earned in Mexico were frequently spent in the United States. A Mexican delegate suggested that Mexican labor unions get in touch with U.S. labor to explain the benefits of the program which others pointed out had been well received along both sides of the border.

In addressing water problems, the Mexican delegation felt that a formal agreement should be reached regarding the digging of both public and private wells in the Yuma area so as not to prejudice the farming potential of the San Luis plateau. The issue of flood control was raised in regard to the Tijuana River and the Lower Rio Grande; in both instances, the two delegations noted that the International Boundary and Water Commission had already taken affirmative and constructive action.

Unanimous concern was expressed by both delegations on the importance of the population problem, the need for family planning facilities and programs, and the importance of having such programs be voluntary and educational in nature.

Ninth Meeting, Aguascalientes, Mexico, April 2-8, 1969:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield, of Montana, Chairman.
Robert C. Byrd, of West Virginia.
Thomas J. Dodd, of Connecticut.
Vance Hartke, of Indiana.
Gaylord Nelson, of Wisconsin.
Joseph M. Montoya, of New Mexico.
Mike Gravel, of Alaska.
Jacob K. Javits, of New York.
Jack Miller, of Iowa.
Paul J. Fannin, of Arizona.
William B. Saxbe, of Ohio.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Chairman.
James C. Wright, of Texas.
Harold T. Johnson, of California.
Eligio de la Garza, of Texas.
James W. Symington, of Missouri.
Sherman P. Lloyd, of Utah.
Sam Steiger, of Arizona.
J. Irving Whalley, of Pennsylvania.
George Bush, of Texas.
Manuel Lujan, Jr., of New Mexico.
Abraham Kazen, Jr., of Texas.

MEXICAN DELEGATES

From the Senate:
Manuel Tello, of Zacatecas.
Baltazar R. Leyva Mancilla, of Guerrero.
Arturo Moguel Esponda, of Chiapas.
Gonzalo Bautista O'Farril, of Puebla.
Carlos Loret de Mola Mediz, of Yucatan.
Eulalio Gutiérrez Treviño, of Coahuila.
Manuel Sarmiento Sarmiento, of Sinaloa.
Raúl Llanos Lerma, of Nayarit.
Antonio Flores Mazari, of Morelos.
Alicia Arellano Tapia, of Sonora.
Mario C. Olivera Gómez Tagle, of Mexico.
Ramón Osorio y Carvajal, of Yucatan.
Eliseo Rodríguez Ramírez, of Guanajuto.

From the Chamber of Deputies:
Ignacio Guzmán Garduño, of the Federal District.
Hesiquio Aguilar Marañón, of Veracruz.
Ignacio Pichardo Pagaza, of México.
José Arana Moran, of Querétaro.
Raúl Noriega Ondovilla, of the Federal District.
Blas Chumacero, Sánchez, of Puebla.
Leopoldo Hernández Partida, of Jalisco.
Alberto Briceño Ruiz of the Federal District.
Joaquín Gamboa Pascoe, of the Federal District.
Maria Elena Jiménez Lozano, of the Federal District.
Rafael Preciado Hernández, of the Federal District.
Hilario Galguera Torres, of the Federal District.
Juan Manuel Berlanga, of Coahuila.

The U.S. delegation arrived in Mexico City April 2 and was later received by President Gustavo Diaz Ordaz. The two delegations then proceeded together to Aguascalientes where the formal sessions of the Conference were held on April 3 and 4. On April 5 the two delegations went to Cozumel and on April 8 the U.S. delegation returned to Washington, D.C.

At the closing session of the conference, each delegation reported separately on the work of each of the three committees into which the Conference was divided—political, economic, and social matters. In addition, the leaders of the two delegations issued a joint statement of principles dealing with the successes of interparliamentary meetings, respect for democratic principles, support of the U.N. and O.A.S., promotion of technical, cultural, and tourist interchange, support of balanced economic development, maintenance of increased commercial trade, and expression of gratitude to the people of Aguascalientes for sponsorship of the Conference.

Committee I—Political

The U.S. delegation pointed to several successes of interparliamentary meetings between the two nations, most notably the investigation of the practicability of a nuclear powered plant which would convert sea water and produce energy for the arid regions of Northwest Mexico and the U.S. Southwest.

Topics discussed by the delegations included: Mexico's interpretation of international law relating to nonintervention and self-determination for nations; the transferring of water from areas of abundance to arid areas in both nations; the impact of the Nuclear Nonproliferation Treaty on Mexico and an explanation of the U.S. Senate's role in the passage of the Treaty; the possible formation of a Pacific Area Association of nations bordering the Pacific to discuss their mutual problems relating to trade, transportation, and economic interests.

The Mexican delegation presented the background and provisions of the Treaty of Tlatelolco which deals with a Latin American zone free of atomic weapons. The U.S. delegation pointed out that the United States has signed Protocol II of the Treaty, which, in essence, respects the denuclearization of the region.

The final subject before the Committee concerned the Second Development Decade and U.S. interests in helping less developed nations. The kinds of assistance and impact on recipient nations was discussed, as was the topic of population growth and food production.

Committee II—Economic

The committee considered trading problems between the two countries on a commodity-by-commodity basis. Attention was given to sugar, coffee, a variety of fruits and vegetables, cotton, cedar and mahogany plywood, henequen, tar and resin, barite, iron and steel, handicraft products, meat, mercury, and candelilla wax. The Mexican delegation asked for more liberal U.S. trade policies, either through action to increase U.S. imports or through refraining from imposing tariffs or quota limitations. The U.S. delegation in general was sympathetic to the problems but several delegates pointed to the deficit in U.S. balance of payments and the costs of the Vietnam war.

The Mexican delegation wanted the United States to remove, or at least reduce, restrictions on the value of goods returning American tourists may bring into the country duty free. The U.S. delegation, however, viewed these restrictions as necessary to correct the balance-of-payments deficit.

The Mexican delegation expressed concern over high U.S. interest rates and the increased profit remittances of U.S. companies operating in Mexico. This delegation also endorsed the recommendations of the U.N. Conference on Trade and Development relating to preferential tariff treatment by industrialized countries of the manufactured and semi-manufactured exports of less developed countries. The U.S. delegation urged Mexico to take a leading role in transforming Latin America into a true common market.

Additional areas touched upon by the delegations included: correction of the problem of in-bond stores selling tax-free merchandise in the U.S. for export to Mexico, control of the narcotics traffic, customs treatment of border trade, joint action to solve the screw worm problem, continuation of regulations to govern shrimping in the Gulf of Mexico, location of international bridges across the Rio Grande, the problems associated with border industralization in terms of employment opportunities and organized labor opposition, and the possibilities of the U.S. extending loans to Mexico, especially in the areas of agriculture and livestock.

Committee III—Social

Four major topics were discussed by this committee: tourism, cultural exchanges, the Commission for Border Development and Friendship, and the so-called "green card workers."

Under the subject of tourism, attention was focused on ways to expand the tourist trade. The possibilities for such expansion would include the holding of a Mexico-U.S. exposition, special group flights at reduced rates, and enhancing of facilities in each country for all classes of tourists.

In the area of cultural and scientific exchanges, attention was drawn to student scholarships, professional exchanges, and scientific cooperation. Both delegations sought to expand cultural exchange programs.

Due to the almost 2,000 miles of common border between the two countries, the delegations supported the work of the Commission for Border Development. The Commission served as a means to solve problems in the area of health, sanitation, urbanization, beautification, trade, security, transportation and communications. Both delegations hoped that the Commission could tackle the problem of restrictions imposed by Mexico and the U.S. on tourist trade goods.

The final topic addressed by the Committee was the commuter alien issue or the so-called "green card workers." With the exception of organized labor in the United States there was little objection by U.S. border residents to current practices. Both delegations hoped that labor unions in each country would continue their negotiations to resolve the problem.

Tenth Meeting, Washington, D.C., May 4-10, 1970:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield, of Montana, Chairman.
Alan Bible, of Nevada.
Jennings Randolph, of West Virginia.
Gale W. McGee, of Wyoming.
Daniel K. Inouye, of Hawaii.
Joseph M. Montoya, of New Mexico.
Fred R. Harris, of Oklahoma.
George D. Aiken, of Vermont.
John Sherman Cooper, of Kentucky.
George Murphy, of California.
Paul J. Fannin, of Arizona.
Barry Goldwater, of Arizona.

From the House of Representatives:

Robert N. C. Nix, of Pennsylvania, Chairman.

James C. Wright, Jr., of Texas.

Harold T. Johnson, of California.

Henry B. Gonzalez, of Texas.

Eligio de la Garza, of Texas.

Donald M. Fraser, of Minnesota.

James W. Symington, of Missouri.

Abraham Karzen, Jr., of Texas.

George Bush, of Texas.

Sam Steiger, of Arizona.

Sherman P. Lloyd, of Utah.

Vernon W. Thomson, of Wisconsin.

Charles E. Wiggins, of California.

Manuel Lujan, Jr., of New Mexico .

MEXICAN DELEGATES

From the Senate:

Manuel Tello, of Zacatecas.

Mario C. Olivera Gomez Tagle, of Mexico.

Cristóbal Guzmán Cárdenas, of Durango.

Arturo Moguel Esponda, of Chipas.

Alicia Arellano Tapia, of Sonora.

Mario Morua Johnson, of Sonora.

Luis Gómez Zepada, of Aguascalientes.

Manuel Sarmiento Sarmiento, of Sinaloa.

Raul Llanos Lerma, of Nayarit.

Raul Bolaños Cacho, of Oaxaca.

From the Chamber of Deputies:

Alfonso de Alba Martin, of Jalisco.

Hesiquio Aguilar Marañón, of Veracruz.

Raul Noriega Ondovilla, of the Federal District.

Maria Guadalupe Aguirre Soria, of the Federal District.

Adolfo Ruiz Sosa, of the Federal District.

Alfonso Meneses González, of Puebla.

Juan Manuel Berlanga, of Coahuila.

Ignacio González Rubio, of Jalisco.

José Arana Morán, of Queretaro.

Silverio R. Alvarado, of Veracruz.

Jose Angel Conchello Dávila, of the Federal District.

Hilario Galguera Torres, of the Federal District.

Alfonso Argudín Alcaraz, of Guerrero.

The Mexican delegation arrived in Washington on May 4, prior to the formal sessions of the conference which were held on May 5 and 6. The conference was opened with an address by Secretary of State William P. Rogers, after which discussants divided into two working committees, one dealing with political and social affairs, the other concentrating on economic affairs. At the end of the first day's discussions, the two delegations were received by President Nixon at the White House. Following the conclusion of the formal sessions, the delegations traveled to San Francisco where they attended a reception by Mayor Alioto in city hall, and viewed an Army Corps of Engineers' hydraulic model of San Francisco Bay used for ecological studies.

Committee I—Political and social affairs

Discussion focused on the salinity of the Colorado River, tourism, Mexican migratory workers, and drug control.

In view of the increasing worldwide concern to protect the environment, discussants agreed that full cooperation between the two neighboring countries was required, and the services of the professional staff of the Public Works Committee of the U.S. Senate were offered to the Mexicans for purposes of exchanging ideas or airing difficulties in tackling pollution. The U.S. delegation pledged further efforts to eliminate the harmful effects on Mexico of salinity in the Colorado River.

In connection with tourism, the Mexican delegation cited harmful effects of the U.S. limitations since 1965 on duty-free purchases by American tourists, particularly since the balance of trade between the countries is unfavorable to Mexico, while proportionately more Mexicans travel to the U.S. than vice versa and spend more per capita than their American counterparts.

Regarding Mexican frontier commuters and migratory farmworkers, the Mexican delegation urged continuation of laws permitting daily "green card" commuters, while also urging joint efforts to regulate the flow (since the termination of the bracero program in 1964) of illegal, easily exploitable Mexican farm laborers.

On narcotics control, while the U.S.-initiated "Operation Intercept" of September 1969 had temporarily created ill feeling, discussants emphasized the 40 year-long history of U.S.-Mexican cooperation in drug traffic control, agreeing that joint consultation and programs were absolutely indispensable for a successful resolution of the problem.

Committee II—Economic affairs

Discussions concentrated on trade restrictions, the border industries program, and the termination by the United States of "soft loans" to Mexico.

The Mexican delegation was particularly critical of U.S. restrictive trade measures which affect Mexico since Mexico sells much less to the United States than it buys, creating a highly unfavorable balance of trade. Specifically it was noted that restrictions or limitations affect Mexican exports of melons, strawberries, tomatoes, frozen beef, other beef, cotton, and textiles, products of great importance to Mexico since most of its exports are agricultural. In the area of fishing it was pointed out that the United States uses up 90 percent of the total annual quota of the yellow-fin tuna catch allocated by the Inter-American Tuna Commission and create other licensing requirements which prevent Mexico from exporting fish to the United States. The reduction of tariff or non-tariff barriers was urged as a solution.

On general trade matters the Mexican delegation expressed concern about protectionist features of the Trade Act under consideration in Congress, while urging the establishment by the United States, in line with presidential declarations, of a generalized system of non-reciprocal tariff preferences for developing countries.

Regarding the border assembly industries, the Mexican delegation argued that the program was mutually beneficial to both countries, not resulting in the loss of jobs in the United States, in part because a considerable percentage of wages paid to Mexicans is spent in U.S. border cities, a characteristic distinguishing Mexico from other low labor cost countries.

Also of concern to the Mexican delegation was the ending by AID of soft loans to Mexico on grounds that Mexico had attained a relatively high level of economic development in Latin America. Since much of Mexico remains backward and underdeveloped, the Mexicans argued that low interest loans are vitally needed and completely justified. The United States delegation expressed a willingness to continue to cooperate with Mexico in a wide variety of developmental projects of mutual concern to both countries.

Eleventh Meeting, Puerto Vallarta, May 27–31, 1971:

UNITED STATES DELEGATES

From the Senate:

Mike Mansfield, of Montana, Chairman.

Robert C. Byrd, of West Virginia.

Henry M. Jackson, of Washington.

Joseph M. Montoya, of New Mexico

Lloyd M. Bentsen, Jr., of Texas.

Lawton Chiles, of Florida.

George D. Aiken, of Vermont.

Marlow W. Cook, of Kentucky.

Edward J. Gurney, of Florida.

From the House of Representatives:

Robert N. C. Nix, of Pennsylvania, Chairman.

James C. Wright, Jr., of Texas.

Eligio de la Garza, of Texas.

John E. Moss, of California.

Abraham Kazen, Jr., of Texas.

Morris K. Udall, of Arizona.

William J. Randall, of Missouri.

Peter H. B. Frelinghuysen, of New Jersey.

Vernon W. Thompson, of Wisconsin.

Sam Steiger, of Arizona.

Charles E. Wiggins, of California.

Manuel Lujan, Jr., of New Mexico.

MEXICAN DELEGATES

From the Senate:

Victor Manzanilla Schaffer, of Yucatan.

Gilberto Suárez Torres, of Oaxaca.

Alejandro Carrillo Marcor, of Sonora.

Salvador Gámiz Fernández, of Durango.

Miguel Angel Barberena Vega, of Aguascalientes.

Pascual Bellizia Castañeda, of Tabasco.

Guillermo Morales Blumenkron, of Puebla.

Ignacio Maciel Salcedo, of Jalisco.

Juan Sabines Gutiérrez, of Chiapas.

Florencio Salazar Martinez, of San Luis Potosi.

Francisco Pérez Rios, of Mexico.

Germán Corona del Rosal, of Hidalgo.

Viqcente Juarez Carro, of Tlaxcala.

From the Chamber of Deputies:

Santiago Roel García, of Nuevo León.

Oscar de la Torre Padilla, of Jalisco.

Juan Moisés Calleja García, of the Federal District.

Oscar Hammeken Martínez, of the Federal District.

Celso H. Delgado Ramírez, of Nayarit.

Alejandro Peraza Uribe, of Yucatan.

Renato Vega Alvarado, of Sinaloa.

Alfredo V. Bonfil Pinto, of Queretaro.

León Michel Vega, of the Federal District.

Ignacio F. Herrerías Montoya, of the Federal District

Salvador Reséndiz Arreola, of Michoacan.

Marco Antonio Ros Martínez, of Veracruz.

Luis Horacio Salinas Aguilera of Coahuila.

The U.S. delegation arrived in Mexico City on May 27 and, after meeting the Mexican delegation, went to the Presidential Palace where they were received by President Luis Echeverria The entire group, acting on the impromptu suggestion of the President, then proceeded to the statue of the great 19th century Mexican, Benito Juarez, to pay their respects. After lunch, the two delegations travelled separately to Puerto Vallarta where the formal meetings were held on May 28 and 29, with discussions organized into committees dealing with political, economic, and social affairs. On Monday, May 31, the two delegations travelled jointly to Guadalajara to visit the Casa de la Cultura, the site of the First Interparliamentary Conference ten years before.

At the conclusion of the conference, the two delegations, in a joint statement, recognized the importance of the "friendly dialog" of the inter-parliamentary meetings, affirmed that strengthened common friendship and respect for principles of law and justice will produce advantageous settlements of present and future conflicts, and reiterated the conviction that the democratic form of government is most appropriate for both countries. With respect to the items discussed, the joint statement affirmed that commercial trade on a basis of reciprocity is mutually beneficial, that expanded tourist and cultural exchange was desirable, that treaties and reciprocity should govern the development of broader resources, that the Colorado River problem required satisfactory resolution, and that legislators ought to seek legislative solutions to common problems in their respective nations in order to strengthen friendship between the countries.

Committee I—Political affairs

The most important matter on this committee's agenda was the increasing salinity of Colorado River water delivered to Mexico. The U.S. delegation, while pointing out political differences among the western states and the promise of several long-term projects, agreed that the United States was obligated by treaty to provide usable water to Mexico in the short term. Hopes for a diplomatic solution were expressed by both delegations and Senator Jackson announced that the Senate Interior Committee would hold hearings on the matter.

On other matters, both delegations felt that relations between the countries "have never been better," that meetings between the Presidents produced beneficial results, that Mexico's initiative to create a nuclear free zone in Latin America was admirable, and that the establishment of a Pan America Highway Administration would maximize mutual benefits of the highway. The U.S. delegation also urged Mexican agreement to joint efforts to eradicate the screw worm by moving the border eradication zone further south to the narrow Isthmus of Tehuantepec.

Committee II—Economic affairs

To improve the balance of trade between the countries, the Mexican delegation urged tariff-free admission of a number of primarily agricultural commodities into the American market. While pointing to historical trading patterns, higher American labor costs, and U.S. aid to developing countries throughout the world and rising pressure in the United States to adopt protectionist measures, the U.S. delegation was impressed with Mexican efforts to assist small farmers and promote foreign trade through the Institute for Foreign Trade. Members of both delegations recognized that Mexico had been unintentionally harmed by legislation limiting the duty-free purchases of American tourists abroad.

On related matters, the U.S. delegation urged further study of Mexico's request for legislation to repeal laws requiring American companies abroad to return profits to the parent companies in the United States, and to continue cooperative efforts to prevent smuggling of goods into Mexico without discouraging legal trade.

Committee III—Social affairs

This committee focused on educational exchanges, migratory workers, and illegal trafficking of drugs.

To expand educational and cultural exchanges, it was felt that exchange agreements dating back to the 1940's and early 1950's required updating, that obstacles to foreign study, e.g. increased tuition for foreign students, should be eliminated, and that private organizations, such as labor unions, professional associations, and universities, should be encouraged to promote more exchanges.

Considering the problem of Mexican migratory workers entering the United States illegally since the termination of the bracero program, sometimes at the urging of unscrupulous U.S. employers, it was felt that "both sides have a responsibility to insure that their citizens respect and obey not only their immigration laws but those of their neighbors as well."

On control of narcotics traffic, the Mexican delegation pointed out that the problem for Mexico is principally the result of high demand for narcotics in the United States, with American purchasers offering tremendous economic incentives to Mexican farmers to produce illegal drugs. For its part, Mexico had doubled and tripled its efforts to seize and eradicate drug products before they cross the border. It was suggested that the United States increase and rigidly enforce penalties against those caught purchasing drugs in Mexico for resale in the United States, taking care not to infringe on Mexico's domestic jurisdiction. Joint, cooperative action on this matter was applauded by all.

Twelfth Meeting, New Orleans, May 16–21, 1972.

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield, of Montana, Chairman.
Gaylord Nelson, of Wisconsin.
Joseph M. Montoya, of New Mexico.
Lawton Chiles, of Florida.
George D. Aiken, of Vermont.
Marlow W. Cook, of Kentucky.

From the House of Representatives:
James C. Wright, Jr., of Texas, Acting Chairman.
Eligio de la Garza, of Texas.
Abraham Kazen, Jr., of Texas.
Hale Boggs, of Louisiana.
Peter H. B. Frelinghuysen, of New Jersey.
Charles E. Wiggins, of California.
Manuel Lujan, Jr., of New Mexico.
Charles Thone, of Nebraska.
J. Herbert Burke, of Florida.

MEXICAN DELEGATES

From the Senate:
Victor Manzanilla Schaffer, of Yucatán.
Alejandro Carrillo Marcor, of Sonora.
Oscar Flores Tapia, of Coahuila.
Jose Rivera Pérez Campos, of Guanajuato.
Enrique Gonzalez Pedrero, of Tabasco.
Martin Luis Guzman Franco, of the Federal District.
Ramiro Yañez Córdoba, of Zacetecas.
Gilberto Suarez Torres, of Oaxaca.
Miguel Barberena Vega of Aguascalientes.
Guillermo Morales Blumenkron, of Puebla.
Garmañ Corona del Rosal, of Hidalgo.
Francisco Aguilar Hernández, of Morelos.
Juvier Garcia Paniagua, of Jalisco.
Guillermo Fonseca Alvarez, of San Luis Potosí.
Aurora Ruyalcaba Gutíerrez, of Colima.
Carlos Perez Cámara, of Campeche.

From the Chamber of Deputies:
Santiago Roel Garcia, of Nuevo León.
Marcos Manuel Suarez Ruiz, of Morelos.
Salvador Resendiz Arreola, of Michoacán.
Guillermina Sanchez Mesa de Solis, of the Federal District.
Luis Horacio Salinas Aguilera, of Coahuila.
Francisco Zarate Vidal, of Baja, California.
Oscar Hammeken Martinez, of the Federal District.
Hilda Anderson Nevares, of the Federal District.
José Peniche Bolio, of the Federal District.
José Carlos Osorio Aguilar, of Jalisco.
Ignacio F. Herrerias Montoya, of the Federal District.
Antonio Melgar Aranda, of Chiapas.
Enrique Soto Resendiz, of Hidalgo.
J. Jesus Yañez Castro, of Zacatecas.

After the arrival of the Mexican delegation on May 16, the two delegations met and went directly to the White House where they were greeted by President and Mrs. Nixon, after which they proceeded to wreath-laying ceremonies at the Benito Juarez statue and the Lincoln Memorial. The two delegations then flew separately to New Orleans where formal discussions organized into three committees were held on May 17 and 18. At the conclusion, on May 19, the two delegations proceeded jointly to St. Croix, United States Virgin Islands, in accordance with the tradition of visiting parts of the host country other than the site of the conference.

The joint statement issued at the conclusion of the conference affirmed that relations between Mexico and the United States were excellent; that the main problem between the countries, requiring a prompt, effective solution, was the salinity of the lower Colorado River; that cooperation was necessary to increase cultural exchanges, to control drug traffic and the illicit shipment of cultural property, to ameliorate the conditions of migrant workers, to control environmental pollution, and to arrive at joint solutions concerning the Law of the Sea; that disagreements concerning trade matters should be resolved according to fair and just formulas; that both delegations recognize the usefulness of the Inter-American Development Bank as an instrument of financial support for Mexico.

Committee I—Political affairs

Discussants felt that the most pressing problem between Mexico and the United States was the continuing high salinity of the lower Colorado River, preventing the United States from delivering usable water to Mexico as required by the Water Treaty of 1944. The Mexican delegation presented two proposed solutions, one juridical, to amend the 1944 treaty to provide that Mexico be entitled to water of the same quality as that in the Imperial Valley; the other practical, that the United States build a diverting canal to discharge the contaminated water in the Gulf of California or the Salton Sea. Both delegations recognized the need to find an effective, prompt, non-litigious solution to the problem. Members of the American delegation promised to redouble efforts, arguing that a way had to be found to establish a desalinization plant in this modern age of scientific advances.

More generally, this problem demonstrated the intricate inter-relationship of the countries and the need for cooperative, long range efforts to tackle environmental pollution of the air, soil, seas and water. Preliminary points of view were exchanged concerning the U.N. Environmental Conference to be held in Stockholm and the possible establishment of a border committee to prevent or control various forms of pollution.

Discussing other topics, the delegates praised the Treaty of Tlatelolco which prohibits nuclear weapons in Latin America while favoring the peaceful use of nuclear power for the production of energy, desalinization of water, and matters related to health. A plant in Mission, Texas, utilized in a bilateral program for the eradication of the screw worm, was cited as an excellent example.

Differences of opinion relating to shrimp fishing and the Law of the Sea conference were aired, both delegations concluding that full understanding and the conclusion of agreements between the countries was necessary to provide equitable and effective regulation of fishing.

Progress was reported on construction of the Pan American highway through the Darien Gap and the proposed creation of an OAS committee to recommend ways to jointly utilize the highway, to simplify customs and border procedures, and to establish safeguards against intrusion through the Darien Gap of hoof and mouth disease.

Committee II—Economic affairs

On trade matters, members of the Mexican delegation wanted U.S. barriers to its exports lowered or eliminated, particularly health restrictions and seasonal tariffs on agricultural products (tomatoes being a leading example). More generally, they urged adoption by the United States of UNCTAD-mandated generalized tariff preferences for the less developed countries (LDC's). While favoring these advances, the Mexicans were even more apprehensive about protectionist sentiment in the United States, fearing that existing barriers might be raised. The U.S. delegation pointed to current difficulties, namely inflation, unemployment, and balance of payments deficits as causes, predicting U.S. adoption of trade preferences for developing countries in due course.

The Mexican delegation strongly urged support for the Charter of Economic Rights and Duties of States proposed by President Echeverria at the United Nations Conference on Trade and Development (UNCTAD) in Santiago. The Charter provides for state control of natural resources, a state's right to adopt the economic system which suits it, prohibition of economic pressure by foreign states or multinational corporations, commodity stabilization agreements, and expanded economic assistance for development without strings. These proposals inspired heated discussion, with most members of the U.S. delegation feeling that the Charter would find little support in Congress.

Committee III—Social affairs

Discussion focused on prevention of illegal export of cultural artifacts from Mexico, educational exchanges, reduction of drug traffic, tourism, and Mexican migrant laborers.

Members of the Mexican delegation expressed grave concern for the illegal removal from Mexico of archeological, historical and cultural artifacts for sale in the United States, noting the obligation of the United States under treaty to assist in the recovery of stolen cultural objects. The United States delegation emphasized the siaoed concern of Congress, indicating that various steps had been taken including ratification of a bilateral treaty with Mexico last year, passage by the House of Representatives of legislation prohibiting import of certain pre-Columbian artifacts illegally removed from the country of origin, and expected passage by the Senate of the UNESCO Convention on stolen cultural property. The need for multilateral cooperation in this area was recognized by both delegations.

After discussion, there was full agreement on the part of the delegates to increase cultural, scientific and technical exchanges between the two countries, with a more active participation on the official level, through programs such as the Lincoln-Juarez scholarships.

Both delegations expressed satisfaction with cooperative efforts to control illegal drug traffic, particularly the strenuous efforts by the Government of Mexico. The United States delegation noted concern with the lengthy delay before trial of young Americans arrested in Mexico for violation of drug laws, while the Mexican delegates indicated that U.S. customs inspectors should show more respect for the dignity of Mexicans entering the country.

On questions on tourism and migratory workers, the issues were fully discussed and sympathy was expressed for Mexico's position. Nevertheless, given economic conditions, the United States delegation indicated that there seemed little possibility for increasing the duty free allowance for Americans visiting Mexico or for re-establishing a bracero-type program for Mexican contract laborers.

Thirteenth Meeting, Guanajuato, Mexico, May 24–29, 1973:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield, of Montana, Chairman.
Jennings Randolph, of West Virignia.
Frank E. Moss, of Utah.
Harry F. Byrd, Jr., of Virginia.
Sam Nunn, of Georgia.
Floyd Haskell, of Colorado.
Robert Griffin, of Michigan.
Charles Percy, of Illinois.

From the House of Representatives:
Robert N. C. Nix, of Pennsylvania, Chairman.
James C. Wright, Jr., of Texas.
Eligio de la Garza, of Texas.
Abraham Kazen, of Texas.
Morris K. Udall, of Arizona.
Charles E. Wiggins, of California.
William S. Broomfield, of Michigan.
J. Herbert Burke, of Florida.
Clarence Brown, of Ohio.

MEXICAN DELEGATES

From the Senate:
Alejandro Carillo Marcor, of Sonora.
Miguel Angel Barberena Vega, of Aguascalientes.
Ignacio Maciel Salcedo, of Jalisco.
Alfonso Sanchez Madariaga, of the Federal District.
Gustavo Aubanel Vallejo, of Baja California.
Ramiro Yanez Cordova, of Chiapas.
Rogelio Flores Curiel, of Nayarit.
German Corona del Rosal, of Hidalgo.
Pascual Bellizzia Castanedo, of Tabasco.
Francisco Aguilar Hernandez, of Morelos.
Martin Luis Guzman, of the Federal District.
Norberto Mora Plancarte, of Michoacan.
Ramon Alcala Ferrara, of Campeche.
Samuel Terrazas Zozaya, of Veracruz.
Nicanor Serrano del Castillo, of Tlaxcala.

From the Chamber of Deputies:
Rafael Rodriguez Barrera, of Campeche.
Juan Moises Calleja Garcia, of the Federal District.
Santiago Roel Garcia, of Nuevo Leon.
Oscar Hammeken Martinez of the Federal District.
Salvador Resendiz Arreola, of Michoacan.
Guillermina Sanchez Meza de Solis, of the Federal District.
Guillermo Ruiz Vazquez, of Jalisco.
Antonio Melgar Aranda, of Chiapas.
Marco Antonio Ros Martinez of Veracruz.
Roberto Avila Gonzalez, of Veracruz.
Ignacio Galvez Rocha, of Michoacan.
Hector Lutteroth Camou, of Baja California.
Alejandro Rios Espinosa, of Sinaloa.
Roman Ferrat Sola, of Mexico.
Jose Estefan-Acar, of Oaxaca.
Diamantina Reyes Esparza, of Chihuahua.
Frida Pabello de Mazzoti, of Veracruz.

The U.S. delegation arrived for the thirteenth meeting of the Mexico-United States Interparliamentary Group on May 24 for preliminary activities in Mexico City. The U.S. delegates were greeted at the airport by members of the Mexican delegation. The group then proceeded to pay brief tribute to Benito Juarez and Abraham Lincoln at their respective statues. Subsequently, the delegations were guests of President Ehceverria for lunch at the President's official residence, Los Pinos. The delegations then travelled together to Guanajuato where the formal conference sessions were held on May 25 and 26. On May 27, the two delgations proceeded to Cozumel in the Mexican territory of Quintana Roo where they visited until the departure of the U.S. delegation to Washington, D.C. on May 29.

The Work of the Group was broken down into three committees for the formal sessions. Committee were designated as follows—political affairs, economic affairs, and social affairs.

At the conclusion of the conference, the Chairmen of the two delegations issued a joint declaration in which they reiterated their faith in the value of the Interparliamentary Group meetings, noted the importance of the international trade issues faced by both countries, cited the continuing salinity problem of the Colorado River, emphasized the need for a just solution to the problems posed by temporary migrant workers, recognized the importance of regulating drug traffic and the illegal export of artifacts from Mexico, and expressed confidence in the value of tourism and cultural exchanges to foster mutual understanding.

Committee I—Political affairs

Under political affairs, the Mexican delegation urged that the United States favorably consider the proposed Charter of Economic Rights and Duties of States, first put forward by President Echeverria at the UNCTAD conference in Santiago in 1972. The Charter, the Mexican delegation explained, was intended to foster a new international system of economic and social justice. The U.S. delegation agreed that most people would subscribe to the principles of the charter, although there might be differences of opinion with respect to their application in specific cases.

In reference to the continuing problem of the salinity of the Colorado River, the U.S. delegates concurred that the United States had a treaty obligation to supply Mexico with 1.5 million acre feet a year of usable water. The U.S. delegation pointed out that following the 1972 meeting of Presidents Echeverria and Nixon the United States had initiated a serious study to resolve the matter. It was felt by both delegations that a just solution would be forthcoming soon.

With respect to the patrimonial sea, the Mexican delegation proposed this concept as a solution to the international disputes surrounding the law of the sea. Under this concept, the coastal state's sovereignty would extend 12 miles, but its patrimony—i.e. the exclusive right to exploit the resources of the sea and the seabed—would extend an additional distance to a maximum of 200 miles. The U.S. welcomed these suggestions as another example of Mexican initiative in world affairs.

The discussions of the Tlatelolco Treaty for the Denuclearization of Latin America, were inconclusive. Although the Mexican delegation urged the United States to ratify Protocol I, the U.S. delegation explained that it had not yet accepted this provision because the U.S. Government did not desire the application of the treaty to Puerto Rico and the Virgin Islands. Nevertheless, the U.S. delegations promised to bring the matter before the Joint Committee on Atomic Energy.

With reference to multinational corporations, the Mexican delegations detailed its new laws which would regulate foreign investment; transfers of technology, and the use and exploitation of trademarks. In general, these laws, it was explained, would increase Mexican participation in foreign enterprises operating in Mexico and regulate the contracts for the transfer of technology so as to minimize Mexican resources expended for this purpose. The U.S. delegates agreed that Mexico has the legal right to regulate business and noted the concern of the United States over the activities of multinational corporations.

The committee also discussed the recent agreement between Mexican and American technicians for further studies of a nuclear desalinization and electric plant.

Committee II—Economic affairs

With respect to trade problems between Mexico and the United States, the Mexican delegation cited a number of U.S. measures, including the Trade Reform Bill, as displaying "protectionist tendencies." The U.S. delegates, though appreciative of the Mexican point of view, noted the internal economic and trade deficit situations being experienced by the United States. They went on to note that these protective measures were understandable and certainly not directed against Mexico. As in previous years, the U.S. members also called attention to various Mexican import restrictions which were regarded by U.S. producers as discriminatory.

On the matter of border transactions, Mexico enjoyed a favorable advantage in trade, tourism, and border transactions in the preceding year. The Mexican delegation again suggested that the $100 duty-free allowance for returning U.S. nationals be increased. The U.S. delegates responded, noting that Mexico already enjoyed preferential treatment in this matter in so far as U.S. tourists were permitted to bring in the maximum value of goods every 30 days regardless of the actual amount of time spent within Mexico. In contrast, the U.S. members observed that Mexican restrictions on their returning nationals had become more stringent, so much so that U.S. border merchants had experienced a 50 percent decline in sales.

Both delegations agreed that the cooperation between the customs officials of both countries had improved the "in bond stores" for tourists of other countries. Finally, the Mexican delegation expressed concern over illegal exports from Mexico. However, the U.S. delegates pointed out that this was a matter which could only be solved by Mexican authorities.

In the international field, the U.S. delegation called attention to the consistent support offered by the United States for the Inter-American Development Bank. The delegates also focused attention on the gradual replacement of the dollar by Special Drawing Rights.

Committee III—Social affairs

With reference to the environment, both delegations agreed that the border area must be treated as an indivisible region where both countries share responsibility for any pollution which might affect either side of the border. The U.S. delegation expressed special support for the cooperative efforts which have been undertaken, such as the eradication of the screwworm, and expressed hope that such mutually beneficial endeavors would continue.

The Mexican delegation noted the importance its Government attaches to a broad program of technical, scientific, and cultural exchanges. An exchange of teachers was suggested and the U.S. delegation agreed that the feasibility of such a program should be explored.

The delegations also discussed the bilateral treaty on the recovery of stolen artifacts and the U.S. law barring the importation of illegally removed artifacts. The Mexican delegation recommended that the United States give greater consideration to the treaties involved. The U.S. members responded that the Executive Branch of the United States had not yet proposed legislation, although the U.S. Senate had given its advice and consent to the UNESCO Convention.

Both delegations agreed that tourism between the two countries should be encouraged. The Mexican delegates received the support of their U.S. counterparts when the matter of Mexico's bid to become the seat of the World Tourism Organization was discussed.

The Mexican delegates also described their Government's current campaign against drug production and traffic. The U.S. delegates were especially pleased with newly proposed Mexican laws which would control the production of amphetamines and barbiturates.

The two delegations also discussed the serious problem posed by illegal migratory workers. It was agreed that a new law regulating these workers was desirable, but the U.S. delegation noted that this move was ill-timed considering the current high unemployment in the United States.

Finally, the possibility of building additional dams on the Mexican tributaries to the Rio Grande River below the Falcon Dam was discussed as a way to control the periodic flooding of the Rio Grande.

Fourteenth Meeting, Washington, D.C., May 13–15, 1974:

UNITED STATES DELEGATES

From the Senate:

Mike Mansfield, of Montana, Chairman.
Joseph M. Montoya, of New Mexico.
Hubert H. Humphrey, of Minnesota.
Lawton Chiles, of Florida
Sam Nunn, of Georgia.
Joseph R. Biden, Jr., of Delaware.
Walter D. Huddleston, of Kentucky.
George D. Aiken, of Vermont.
Jacob K. Javits, of New York.
Paul J. Fannin, of Arizona.
Charles H. Percy, of Illinois.
Pete V. Domenici, of New Mexico.

From the House of Representatives:

Robert N. C. Nix, of Pennsylvania, Chairman.
James C. Wright, Jr., of Texas, Acting Chairman.
Henry B. Gonzalez, of Texas.
Eligio de la Garza, of Texas.
Abraham Kazen, Jr., of Texas.
Morris K. Udall, of Arizona.
Jemore R. Waldie, of California.
Charles E. Wiggins, of California.
Manuel Lujan, Jr., of New Mexico.
Edward J. Derwinski, of Illinois.
J. Hebert Burke, of Florida.
John B. Conlan, of Arizona.

MEXICAN DELEGATES

From the Senate:

Victor Manzanilla Schaffer, of Yucatan.
Enrique Gonzalez Pedrero, of Tobasco.
Oscar Flores Tapia, of Coahuila.
Alejandro Carrillo Marcor, of Sonora.
Ignacio Maciel Salcedo, of Jalisco.
Francisco Aguilar Hernandez, of Morelos.
Carlos Perez Camara, of Campeche.
Florencio Salazar Martinez, of San Luis Potosi.
Gilberto Suarez Torres, of Oaxaca.
Agustin Ruiz Soto, of Durango.
Samuel Terrazas Zozaya, of Veracruz.
Jose Bruno del rio Cruz, of Tamaulipas.
Francisco Luna Kan, of Yucatan.

From the Chamber of Deputies:

Roldolfo Echeverria Ruiz, of the Federal District.
Carlos Madrazo Pintado, of the Federal District.
Pindaro Uriostegui Miranda, of Guerrero.
Alejandro Cervéntes Delgado, of Guerrero.
Selestino Salcedo Monteon, of Baja California.
Federico Martinez Manaton, of Baja California.
Juan Jose Hinojosa, of the Federal District.
Antonio Martinez Baez, of Michoacan.
Gabriel Legorreta Villarreal, of Tamaulipas.
Maria Guadalupe Cruz Aranda, of Chiapas.
Mariano Araiza Zayas, of the Federal District.
Humberto Mateos Gomez, of the Federal District.
Jorge Hernandez Garcia, of the Third District, State of Mexico.
Concepcion Rivera Zenteno, of the Federal District.

The Mexican delegation arrived for the fourteenth meeting of the Mexico-United States Interparliamentary Group meeting on May 13. The group formally convened the next day. Prior to the closing plenary session, on May 15, the two delegations placed wreaths at the statues of Benito Juarez and the Lincoln Memorial. At noon on the same day, President and Mrs. Nixon welcomed the two delegations at the White House.

The work of the Conference was organized into two committees. The Committee on Political Affairs dealt with Bilateral issues: results of the foreign ministers meetings in Mexico, Colorado River salinity, energy, migratory workers, and Law of the Sea. The Committee on Economic and Social Affairs covered the Charter of Economic Rights and Duties of States, bilateral trade issues, border issues, and tourism and other exchanges.

At the conclusion of the formal meetings, the chairmen of the two delegations issued a joint statement in which they reaffirmed the decision to continue the Interparliamentary meetings, expressed satisfaction with the "New Dialogue" initiated by the United States and Latin America at Tlatelolco, noted that finally a solution to the salinity of the Colorado River had been achieved, discussed the problems of energy, illegal aliens, and the Law of the Sea as they affected both countries, reaffirmed the value of the Charter of Economic Rights and Duties of the States, noted the importance of proper regulation of investors operating in foreign countries, supported consultation between Mexico and the United States prior to enactment of trade legislation, noted the urgency of curtailing traffic in dangerous drugs, and expressed confidence in the contribution of tourism and cultural exchanges to mutual understanding.

Committee I—Political affairs

The committee on political affairs commenced its discussions with a brief review of United States foreign policy toward Latin America. Specifically, the Tlatelolco Conference, held February 18–23, 1974, was mentioned and Secretary of State Kissinger's "new dialogue" was endorsed by both delegations.

The development of greatest interest to both delegations was the August 30, 1973 agreement, formally referred to as Minute 242 of the International Boundary and Water Commission, which proposed a final and definitive solution to the salinity problem of the Colorado River. Since this problem had plagued the two nations and had been discussed at many Interparliamentary meetings, the proposal was strongly endorsed by both delegations. The Mexican delegation expressed particular satisfaction with the opportunity to talk with U.S. senators and representatives at the Conference to learn the exact status of the pertinent legislation in the respective houses. (Congress took final action on H.R. 12165 on June 18, 1974. President Nixon signed the bill into law on June 24.)

Regarding the question of illegal aliens, both delegations recognized the growing seriousness of the problem. The U.S. delegation cited statistics indicating over one million Mexican aliens in the United States had entered illegally, despite the fact that in 1973 alone, 608,000 were apprehended and turned over to Mexican authorities. The Mexican delegation expressed concern over the treatment afforded the apprehended aliens and was assured by the U.S. delegation that mistreatment of these individuals was not tolerated by the U.S. Immigration and Naturalization Service. It was agreed that the delegations would establish a joint commission in an effort to resolve this problem and that in the interim, the rights of these aliens would be respected.

The remainder of the committee discussion covered energy and the law of the sea. The two delegations reviewed their respective energy policies and lent attention to the task of mitigating the impact of the crisis on the two nations. In addition, they summarized the discussions which occurred at the law of the sea conference (held in the summer of 1973 at Caracas, Venezuela) and both delegations expressed optimism that efforts toward reaching international agreement would be successful.

Committee II—Economic and social affairs

The discussions on economic and social affairs opened with the Mexican delegation's summary of national progress, since 1910, in the fields of agrarian reform, worker's rights, popular education, and natural resource development. The delegates noted the recent shift in the economy from an agricultural base to an industrial base—a shift which had been accompanied by a serious economic imbalance requiring deficit financing and a greater emphasis on exports to overcome the negative balance of trade.

The U.S. delegation pointed out that Mexico was our leading customer in Latin America and our fifth largest in the world. The members added that the United States has been purchasing about 70 percent of Mexican exports while supplying about 60 percent of Mexican imports. It was noted that one of the major difficulties in assessing the extent of the Mexican balance of payments problem was the lack of reliable statistics. The U.S. delegation cited this absence of data along with recent Mexican laws regulating foreign investments as stumbling blocks to increasing foreign investment in Mexico. Moreover, while the Mexican delegates cited U.S. tariffs as a point of discussion, the U.S. delegates pointed out that these barriers were not specifically directed at Mexico. The U.S. delegation also noted that the impact of the Mexican import licensings systems greatly hindered U.S. trade with Mexico.

The U.S. delegation further suggested that Mexico had now reached a stage of economic development where it would take a less restrictive stance with regard to imports. The U.S. members explained that the United States would be most cautious in regard to any trade liberalization because of United States concern for loss of jobs. The delegates added that this was reflected in our worldwide policy and was all the more salient vis a vis the recent oil embargo. The delegation also noted the recent favorable balance of trade enjoyed by the United States and indicated that the uncertainty of its permanence was another factor in not pursuing more liberal trade policies. Finally, the U.S. representatives pointed out that Mexico enjoyed an unusual advantage within its total balance of payments with respect to tourism, which was a growing source of foreign exchange.

The commitee also discussed the problem of drug traffic over the border. The Mexican delegation noted that their enforcement procedures had been stepped up in an effort to curtail this activity. Wtih respect to these procedures, the U.S. members noted that there had been some difficulties for Americans in recovering stolen vehicles taken into Mexico as well as those held by Mexican authorities for infractions of Mexican laws unrelated to the vehicles.

During the committee discussions a number of other items were mentioned. Mexico noted that 3.2 million tourists visited Mexico in 1973, almost a 10 percent increase over 1972. Of these, 87% came from the United States. Tourism generated $724.2 million in 1973 for Mexico, while Mexicans abroad spent only $257.3. To encourage the flow of tourists, the Mexican delegation reported that a number of hotels had been constructed since 1962 and noted that many more were being planned or were underway.

The two delegations also discussed the shortage of jet fuel. The Mexican delegation was especially concerned as this might reduce the number of tourists able to travel to Mexico. However, it was agreed that both countries were deeply concerned over the matter but that the United States certainly could not be held responsible for the curtailment of fuel or any resultant reduction in tourism revenues to Mexico.

Both delegations were pleased to note the increase in cultural exchanges which had involved students, sports and musical events, and sister-city agreements. The collaborative endeavors by both countries in the physical sciences was also commended and the Mexican delegation expressed hope that future U.S. studies of Mexican sociology and political science might assume a collaborative nature.

Fifteenth Meeting, Campeche, Mexico, March 26–31, 1975:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield of Montana, Chairman.
Stuart Symington of Missouri.
Jennings Randolph of West Virginia.
Vance Hartke of Indiana.
Joseph M. Montoya of New Mexico.
Walter D. Huddleston of Kentucky.
Robert P. Griffin of Michigan.
Charles H. Percy of Illinois.
Paul Laxalt of Nevada.

From the House of Representatives:
James C. Wright of Texas, Acting Chairman.
Herman Badillo of New York.
Charles Wilson of Texas.
John H. Rousselot of California.
Tennyson Guyer of Ohio.
Robert J. Lagomarsino of California.

MEXICAN DELEGATES

From the Senate:
Victor Manzanilla Schaffer.
Alejandro Carrillo Marcor.
Aurora Ruvalcaba Gutierrez.
Guillermo Morales Blumenkron.
Gilberto Suarez Torres.
Martin Luis Guzman.
Francisco Aguilar Hernandez.
Ramon Alcala Ferrara.
Ignacio Maciel Salcedo.
Carlos Perez Camara.
Florencio Salazar Martinez.

From the Chamber of Deputies:
Luis Danton Rodriguez.
Luis del Toro Calero.
Manuel Ramos Gurrion.
Gilberto Acosta Bernal.
Ignacio Carrillo Carrillo.
Abraham Talavera Lopez.
Alejandro Sobarzo Loaiza.
Mario Ruiz de Chavez.
Carlos Machiavelo Martin del Campo.
Horacio Labastida Muñoz.
Fernando Estrada Samano.
Jose Murat.
Fedro Guillen Castañon.
Luis Leon Aponte.
Joaquin Canovas Puchades.

The United States delegation arrived for the fifteenth meeting of the Mexico-United States Interparliamentary Group in Campeche, Mexico on March 26. The following morning, the delegates attended a flag raising ceremony followed by the formal convening of the meetings. Later that evening the delegates attended a wreath-laying ceremony and fireworks display at Campeche's Juarez Statue. The conference formally concluded on the morning of March 28 after which each member of the U.S. delegation was presented a key to the City of Campeche. The following day, the two delegations toured the coastal area south of Campeche by bus.

Both delegations departed for Cancun International Airport on March 30 where they awaited the arrival of President Echeverria. Following the official inauguration of the airport, a luncheon was held in honor of the President, attended by both delegations. The U.S. delegation departed for Washington, D.C. on March 31.

At the conclusion of the sessions, the heads of the delegations issued a joint statement which reaffirmed their respect for democratic principles; noted the numerous points of agreement between Mexico and the United States as compared to only a few disagreements; recognized the need for changes in Organization of American States and the Inter-American Treaty of Reciprocal Assistance, especially as their policies preserve sanctions on the Republic of Cuba; agreed on the importance of the United Nations Conference on the Law of the Sea to establish internatioinal treaties; noted the importance of establishing a new international economic order in order to assist the development of nations and to preserve world peace; commended the actions of the United Nations to encourage world disarmament and to end discrimination, colonialism, and the violations of human rights. The delegation chiefs also condemned the actions of multinational corporations which intervene in the domestic affairs of the countries in which they operate, indicated interest in extending the Generalized System of Preferences to all Latin American countries, supported tourism for both its economic and social benefits, encouraged continued cultural exchanges, and recognized the continued importance of drug traffic control.

The work of the Group was divided into two main committees—Committee I, Political Affairs: (1) the Inter-American System, (2) Population and Development, (3) Law of the Sea, (4) Charter of Economic Rights and Duties of the States, (5) Strengthening the United Nations, (6) Multinational Corporations; and Committee II, Economic and Social Affairs: (1) the Trade Reform Act of 1974, (2) Balance of Payments, (3) Energy, (4) Tourism, (5) Narcotics, (6) Science and Technology.

Committee I—Political affairs

During the course of discussion, both delegations agreed on the need for changes in the inter-American system. Especially, changes were sought in the Organization of American States and the Inter-American Treaty of Reciprocal Assistance. The U.S. delegation, in response to Mexican members' comments on the Latin American Economic System (SELA), voiced approval, provided it did not replace the OAS. With respect to Cuba, members of both delegations expressed hope that there would be more consideration given to rescinding the OAS trade sanctions in effect against that country since 1964.

With respect to population and development, all delegates stressed the inter-relationship of the issues. The Mexican delegation stated that the core issue was economic development and noted the disparity between the prices of exports from the developing countries and the prices of imports of manufactured goods from industrialized countries as a key problem.

During the deliberations on the Law of the Sea, a Mexican delegate noted that in recent years the positions of the United States and Mexico had become considerably closer so that the two countries now agreed on most major points.

The Mexican delegation voiced its disappointment that the United States did not support the Mexican-sponsored Charter of Economic Rights and Duties of the States during the 29th UN General Assembly, pointing out why, in its opinion, the Charter would have served the interests of a new international economic order. A member of the U.S. delegation indicated that President Echeverria's initiative in proposing the Charter had been applauded by the United States and that the United States concurred with the general principles of the Charter; however, the matters of foreign investment and producer cartels required further discussion before the Charter could expect full approval.

A U.S. delegate, after outlining the World Bank's estimates of the very large private and public investment thought to be required by the developing nations in future years, indicated that, without modification, the Charter might discourage the capital needed by these countries. The delegate further pointed out that in private conversations, certain OPEC country leaders who voted for the Charter indicated that they "went along" with the Group of 77, but were cautious as to their willingness to invest in development projects unless certain controversial provisions of the Charter were modified. An *ad hoc* committee of two delegates from each country was established to review differences on the Charter.

Both delegations agreed it was their duty, and that of other countries, to strengthen the United Nations. It was pointed out that in recent years many countries had used the organization as a political sounding board rather than as an instrument of international cooperation. Both delegations agreed that if this trend were allowed to continue, disillusionment woud become greater and eventually the United Nations would cease to be viable.

Regarding multinational corporations, Mexico's delegates reaffirmed their Government's position that foreign investment capital was welcome, providing that it complements, rather than displaces, local capital that it makes a positive contribution to the country's economic development, and that it abides by national laws. The U.S. members responded by noting that "corporations which are not good citizens abroad are frequently not good citizens at home."

Committee II—Economic and social affairs

The discussion on economic and social affairs was opened with comments by a Mexican delegate on the recently passed U.S. Trade Act of 1974. The most controversial aspect of this law, the delegate noted, was the provision denying all members of the Organization of Petroleum Exporting Countries (OPEC) the benefits of the proposed "Generalized System of Preferences" (GSP). Mexico, although not a member of OPEC and a beneficiary of the legislation, felt obligated to point out, as had other Latin American countries, that this restriction was discriminatory toward Ecuador and Venezuela, which, though OPEC members, did not participate in the oil embargo of 1973.

In general, Mexico expressed satisfaction with the Ford administration's decision to grant all other Latin American countries GSP benefits. Another Mexican delegate reiterated a point made in previous meetings, that a stabilizaiton of commodity prices was crucial to the economic development of Mexico and other Latin American countries. A U.S. delegate expressed the view that because of the recent inflation of world commodity prices, along with the current recession and unemployment in the United States, the stabilization of commodity prices could be achieved only through international agreements. Another U.S. delegate suggested that reform in the area of monetary exchange was desirable to minimize the fluctuations brought about by the system of "floating" exchange rates.

A Mexican delegate noted that Section 106 of the Trade Reform Act provided a framework for the negotiations of multilateral agreements between producer and consumer nations. Such agreements could result in a lessening of restrictions which were inhibiting the exchange of basic products and adversely affecting Mexico's balance of payments. Again, the Mexican delegates expressed concern that Title V of the Act, though not applicable at the time, might restrict Mexico's freedom of choice to join OPEC in the future.

With respect to Mexico's balance of payments situation, the discussions of both delegations focused on specific import restrictions and prohibitions. A Mexican delegate urged that the United States enact legislation which would equalize tariffs throughout the year and thus avoid the seasonal fluctuations which were disruptive to Mexican export production. Moreover, the Mexican delegates argued that the twenty year ban on the importation of avocados be rescinded since the plant disease at one time infecting them had been eradicated for some time. Finally, the Mexican delegation pointed out that since Mexico imports nearly 50 percent of its farm inputs (e.g. farm machinery, fungicides, and fertilizers) from the United States, increased tariffs on selected Mexican agricultural goods were inequitable.

A U.S. delegate responded that this issue was not one-sided and that the impact of Mexicos' import protection system on U.S. suppliers was significant. For instance, lemons, avocados, and wine produced in California had been consistently exluded from the Mexican market. Furthermore, the Mexican import licensing system was another obstacle to U.S. exporters. The U.S. delegate finally noted that while an increase in the trade of agricultural products was desirable, it would have to be on a reciprocal basis.

In reference to energy, both delegations noted the dramatic increase in oil exploration and production which had occurred in Mexico in recent years. As a result of new oil fields discovered in 1972, Mexico faced the prospect of doubling or even tripling its oil reserves, allowing Mexico to become self-sufficient in oil and to become an oil exporter. The Mexican delegation pointed out, however, that oil production would be subject to a number of national guidelines including adherence to prices set by OPEC (although membership was not anticipated), greater emphasis on Mexican exportation of refined oil and petrochemical products, rather than on the export of crude oil, and a commitment to a balanced industrialization of the country rather than dependence on oil exports.

In contrast, the U.S. delegates pointed out that the United States still imported 40 percent of its oil and would use leverage, including the Trade Reform Act, to encourage a stabilization of oil prices. The U.S. delegation also suggested that while Mexico was sufficient in oil, the United States enjoyed a technological edge. He stressed the potential advantages to Mexico in exchanging oil for technology to the mutual benefit of both countries.

The two delegations also discussed tourism, the Mexican delegation pointing out the continued importance of tourism to the Mexican economy. A U.S. delegate addressed the group on the subject since he had encouraged the growth of tourism in his home state. He indicated that since group tours tend to be the most remunerative, much advertising could be geared to these groups with tremendous success. The two delegations agreed that the availability of air transport was crucial. The Mexican delegation observed that the U.S. principle of unrestricted competition had resulted in U.S. control of about 70 percent of all air traffic between the two countries. The U.S. delegation responded, noting the difficult time faced by all U.S. carriers at the time and pointing out that U.S. airfields charged lower landing fees to foreign planes than to its own, a practice which has worked to the disadvantage of U.S. carriers.

In the field of narcotics, both delegations stressed joint cooperation in trying to eradicate this trade. The U.S. delegation expressed its appreciation for the help of the Mexican Government since nationals of the United States are the major consumers of these illicit substances.

Finally, both delegations realized the importance of continuing scientific and technological exchange between the two countries.

Sixteenth Meeting, Atlanta, Georgia, February 25-29, 1976:

UNITED STATES DELEGATES

From the Senate:
Mike Mansfield of Montana, Chairman.
Joseph M. Montoya of New Mexico.
Robert Morgan of North Carolina.
John A. Durkin of New Hampshire.

From the House of Representatives:
E (Kika) de la Garza of Texas, Chairman.
Lester L. Wolff of New York.
Jerome A. Ambro of New York
Manuel Lujan, Jr., of New Mexico.
John H. Rousselot of California.
Clair W. Burgener of California.
Robert J. Lagomarsino of California.
Benjamin A. Gilman of New York.

MEXICAN DELEGATES

From the Senate:
Ramon Alcala Ferrera of Campeche.
Victor Manzanilla Schaffer of Yucatan.
Aurora Ruvalcaba Guitierrez of Colima.
Enrique Gonzales Pedredo of Tobasco.
Carlos Perez Camara.
Francisco Aguilar Hernandez of Morelos.
Guillermo Morales Blumenkron of Puebla.
Ignacio Maciel Salcedo of Jalisco.
Edgar Robledo Santiago of Chiapas.
German Corona del Rosal of Hidalgo.
Gilberto Suarez Torres of Oaxaca.
Jose Bruno del Rio (Alternate).
Vincente Juarez Carro (Alternate).

From the Chamber of Deputies:
Alejandro Sobarzo Loaiza of Sonora.
Antonio Martinez Baez of Michaocan.
Rogelio Garcia Gonzalez of Veracruz.
Francisco Javier Guiterrez Villarreal of Nuevo Leon.
Jose de Jesus Martinez Gil of the Federal District.
Luis Adolfo Santibanez Belmont of the Federal District.
Mario Ruiz de Chavez Garcia of the State of Mexico.
Pedro Guillen Castanon of Chiapas.
Antonio Carrillo Huacuja of Baja California.
Teodoro Carrasco Palacios of Oaxaca.
Jose Milrat (Alternate).

The Mexican delegation arrived at Andrews Air Force Base on February 25, where it was received by members of the U.S. delegation. Both delegations then proceeded to the White House where President Ford delivered a brief address after an informal reception. Later that same afternoon, both delegations departed for Atlanta, Georgia, where they proceeded to the Regency Hyatt Hotel, the location of the official conference.

The formal convening of the Group took place the next morning with welcoming remarks by the Honorable George Bushee, Governor of Georgia, U.S. Representative E. (Kika) de la Garza, and Deputy Rodriguez, of the Mexican delegation. The sessions concluded on the morning of February 27 with closing remarks by Senator Mike Mansfield, Chairman of the U.S. Senate delegation, and Senator Enrique Olivares Santana, Chairman of the Mexican delegation. That evening the delegates attended a dinner and special Bicentennial performance in Atlanta.

The next morning, both delegations flew to Denver, Colorado, toured the city, and took a bus trip to Vail where a final dinner was held. On February 29, the members of the U.S. delegation returned to Washinton, D.C.

At the conclusion of the meeting, the chairmen of the respective delegations issued a joint statement which committed the delegations to working for a better understanding between the peoples whom they represent, reiterated their confidence in the usefulness of the Interparliamentary meetings, and expressed views on the points which were discussed: The heads of the delegations voiced support of the United Nations, reiterated their support for the principle of non-intervention, and appealed for reform of the Organization of American States; expressed satisfaction as to the cooperative measures taken by both countries on the issue of illicit narcotics, recommended a redoubling of efforts to reach agreement on all outstanding Law of the Sea Issues, and pointed out that "Protection of Human Rights" was a main concern of the delegations.

The joint statement also noted that the delegations expressed renewed interest in the construction of a nuclear desalinization plant in Baja California, expressed concern over worldwide inflation and recognized the necessity of promoting and expanding international trade and increasing the flow of U.S. investment in Mexico. Members of the U.S. delegation agreed to discuss with the Executive Branch the desirability of implementing provisions of the Charter of the Economic Rights and Duties of States favored by both governments.

The statement concluded by pointing out that the delegations agreed that a liberalization of trade policies was necessary as were proposals to strengthen regional economic integration. Both delegations expressed the hope that their respective governments would fully consider the problem of undocumented migratory workers, and recognized the important role played by education, science, and culture in the improvement of human, political, and social relations among all peoples.

The work of the Conference was organized into two Commitees: Political Affairs and Economic and Social Affairs.

Committee I—Political affairs

During the committee's discussions on bilateral relations it was agreed that generally, Mexico-United States relations were good if not excellent. At the broader level, however, the Mexican delegates pointed out considerable differences of opinion which reflect the global political, military, and economic interests of the United States.

After considering Cuban intervention in Angola, the Mexican delegation reaffirmed the country's traditional opposition to intervention in the internal affairs of one country by another.

The Organization of American States and the proposed amendment to the Rio Treaty were reviewed in detail by the Mexican delegation during the committee meeting. This review demonstrated the considerable lack of consensus among the OAS countries on such matters as ideological pluralism, sovereignty over natural resources, and collective economic security. Specifically, the Mexican delegates affirmed their country's conviction that collective economic security is vital to the peace and well being of the hemisphere. Regarding the proposed amendments to the Rio Treaty, the U.S. delegates expressed some reservations, whereas the Mexican delegation explained that Mexico regarded the treaty as an alliance for cooperation rather than a military pact.

In reference to narcotics control, discussants expressed the view that major efforts were being undertaken by both countries. Both delegations praised President Echeverria's proposal to establish parallel national commissions to oversee the drug traffic curtailment efforts.

The committee's consideration of the Law of the Sea focused on efforts within the United Nations to obtain a comprehensive law of the sea agreement, and on national legislation creating 200-mile fishery or economic zones. Both delegations expressed hope that the United Nations would complete its work on these issues this year.

The subject of human rights elicited concern from U.S. delegates regarding the treatment of Americans in jail in Mexico, and from the Mexican delegation over the detention of Mexican aliens in the United States. Both delegations agreed that all nations could do better in implementing the U.N. Declaration on Human Rights.

Committee II—Economic and social affairs

The first topic discussed was inflation and development. Commenting on worldwide inflation and the adverse effects on Mexico's balance of payments when the costs of manufactured goods rise, the Mexican Chairman emphasized the importance of a more equitable international economic system to reduce the impact of recessions in the developed countries on the less developed ones. This world economic situation heightened the U.S. appreciation for the interdependence of nations, an appreciation demonstrated by the recent, major U.S. contribution to the International Monetary Fund (IMF). Attention was also called to Secretary Kissinger's address to the Seventh Special Session of the U.N. General Assembly in September 1975, which proposed various measures to improve the economies of developing countries.

On bilateral exchange of goods and services, a U.S. delegate suggested the possibility of negotiating long-term agreements whereby Mexico would provide crude oil exports to the United States of certain key Mexican products. The Mexican delegation stated that although their recent oil discoveries did not put them on the scale with the Middle East, they expected exports of crude oil to increase significantly in the future.

Considerable discussion was also devoted to Mexico's "twin plants" Border Industry Program which was established in 1965 to alleviate high unemployment along the border. The Mexican delegation pointed out that the activities of these 550 plants had slowed by January 1975 but a U.S. delegate noted that this was a result of the recession in the United States and higher costs in Mexico.

In his opening statement, the Mexican Chairman observed that the Charter of Economic Rights and Duties of States, originally proposed by President Echeverria, had been adopted by the United Nations on December 12, 1974. Essentially, the charter removed the concept of economic cooperation from good will and gave it a standing in international law. The U.S. delegation responded, noting that the United States and other industrialized countries had objected only to certain provisions regarding foreign investment, expropriation, primary commodities, producer cartels, indexation of prices and similar provisions. Because certain amendments had not been accepted, universal adherence to the Charter had not been established. At the request of the Mexican delegation, members of the U.S. delegation in Committee II agreed to discuss the Charter with officials in the U.S. executive branch.

Tourism was mentioned by the Mexican delegation as an industry which continues to be important to the Mexican economy. The recent decline of American tourists and tourists receipts was regretted, although it was understood that this was a consequence of worsening economic conditions in the United States.

The Mexican delegation noted the efforts to stimulate American interest in travel to Mexico and the establishment of centers to prepare Mexicans for employment in the tourist industry. An American delegate noted that some of the decline in U.S. tourists to Mexico could be attributed to Mexico's support of the so-called "Zionism" resolution in the United Nations. Moreover, he cited the lack of competitive air fares as another deterrent to tourists. On the other hand, the Mexican decision to rescind the 15 percent restaurant tax for foreign visitors was a welcome development. Finally, the Mexicans again suggested that the $100 customs exemption for returning U.S. residents be increased, especially in view of recent inflationary factors.

The Mexican delegates expressed dissatisfaction with the U.S. Trade Act of 1974. Particularly, the delegates noted that restricting the application of the General System of Tariff Preferences would work to the detriment of Mexican exports since textiles, footwear, electronic parts, steel, and glass were exempted from coverage. The Mexican delegates also dealt with certain nontariff restrictions, such as import quotas, which severely curtail Mexican exports of cotton and tomatoes.

The U.S. delegates observed that trade restrictions were two-sided, citing lemon oil as well as other deciduous fruits as items which have long been excluded from the Mexican market, even though they do not compete with Mexican production. In 1974, moreover, American-produced beef, dairy products, and quarterhorses were subjected to high tariff rates, until somewhat modified in 1975. The U.S. delegation also cited the Mexican system of licensing as another obstacle to free trade as well as the de facto tariffs implied by the Mexican pricing structure. In conclusion, the U.S. delegation stated that an easing of trade regulations was unlikely unless reciprocated by the Mexicans. Responding to Mexican criticisms, the U.S. delegation noted that Mexico in particular, and Latin America in general, could expect substantial benefits from the new GSP provision of the trade act.

Efforts to promote a common Latin American economic system (SELA) were outlined in a paper by a Mexican delegate, noting that Mexico had led a one year initiative before the adoption of the Charter in October 1975, by twenty-three Latin American countries, including Cuba. Members of the U.S. delegation welcomed the assurance that SELA was intended to enhance cooperation, not divisiveness, among all nations of the hemisphere.

In discussions on migratory workers, the Mexican delegate recalled that the Organization of American States (OAS), at its tenth regular meeting, had adopted the term "non-documented migratory worker" as preferable to the terms commonly used. The U.S. delegates agreed that the new term was to be commended since it tended to reaffirm the principle of work as a fundamental right. The U.S. delegation pointed out, contrary to popular belief, that two-thirds of the migratory work force was engaged in non-agricultural pursuits.

Both delegations cited the October 1974 meeting between President Echeverria and President Ford as a positive step on this issue. At the meeting, President Echeverria noted that a long term solution to the problem depended upon the improvement of economic conditions in Mexico, noting that Mexicans emigrated because of domestic population pressures, the relative unproductiveness of Mexican agriculture, and higher salaries in the United States. Moreover, he noted that this emigration often occurred at Mexico's expense through the loss of better qualified and more productive Mexican workers to U.S. industrial centers.

The U.S. delegation, though in agreement with the above observations over the long run, felt that the establishment of a new "Bracero" program would be a reasonable temporary solution. While Senators from agricultural states favored this approach, it was strongly opposed by U.S. organized labor. It was suggested that the bracero issue be discussed by labor representatives of Mexico and the United States to encourage understanding of the issues involved.

Finally, the U.S. delegation noted that the Rodino bill, which would impose criminal penalties for the hiring of illegal aliens, had passed the House of Representatives on two different occasions and that the United States Supreme Court had upheld a similar California state law. It was agreed that the adoption of such laws would discourage the hiring of Mexicans and or Mexican-Americans especially in doubtful or borderline cases.

In reference to education, the Mexican delegation stressed the importance of learning the history of neighboring countries to improve social and political relations. In particular, it was suggested that bilingual education be encouraged and that similar ideals and historical parallels of Mexico and the United States be pointed out to students. The establishment of the Third World University, which was to open soon pursuant to a UNESCO declaration, was discussed, with U.S. delegates expressing considerable interest. The United States Chairman observed that one problem in the United States was the lack of equal educational opportunities for Mexican-Americans. For instance, despite a shortage of doctors in the United States, degrees from Mexican institutions, especially in medicine and dentistry, were still not being recognized in the United States. Both delegations agreed that student and technical exchange programs should be encouraged.

The U.S. delegates also cited recent developments in solar energy which might prove applicable to the desalinization of water, a problem which affects both Mexico and the United States. Responding to the U.S. comments on the northward flow of sewage from Mexicali in Baja California to San Diego, California, the Mexican delegates stated that the Mexican Government had assumed full responsibility for the problem and had taken some initial corrective steps which had been successful.

At the close, the respective Chairmen of the two delegations expressed full agreement on the usefulness of the Interparliamentary mechanism for increasing mutual understanding of complex problems and respect for the positions of both countries in international affairs.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment over to Monday, September 20, 1976, the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives, and that the Vice President, the President pro tempore, or the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, SEPTEMBER 20, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on Monday, there be a period for the transaction of routine morning business of not to exceed 30 minutes with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALL VOTES TO OCCUR PRIOR TO 3 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday next prior to the hour of 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIVE-YEAR COMPARISON OF SENATE ACTIVITY

Mr. MANSFIELD. Mr. President, the staff of the Democratic Policy Committee has prepared a comparison of Senate legislative activity as of today, September 17 with the past four sessions of Congress as of September 17.

The Senate has compiled a very respectable record in comparison with previous years when judged by numbers of measures passed, hours in session and public laws enacted. I ask unanimous consent that this 5-year comparison be inserted at this point in the Record.

There being no objection, the comparison ordered to be printed in the Record, as follows:

5-YR COMPARISON OF SENATE ACTIVITY
(AS OF SEPTEMBER 17)

	1972	1973	1974	1975	1976
Days in session	137	125	127	126	132
Hours in session	895:40	706:24	728:03	788:55	931:55
Total measures passed	544	426	518	445	784
Rollcall votes	408	385	384	397	607
Public laws	197	107	171	95	207
Treaties	13	10	2	1	17
Senate average attendance (percent)	82.54	87.59	87.94	89.69	84.64
Early sessions (before 10 a.m.)	39	17	18	27	50
Late sessions (after 8 p.m.)	19	5	2	16	21
Saturday sessions	0	5	0	4	1

THANKS AND BEST WISHES

Mr. MANSFIELD. Mr. President, I could not let this occasion go by without expressing my heartfelt thanks and deep appreciation for the officials of the Senate who have worked so hard, so well, so cooperatively, and who make a fine team.

Secretary of the Senate Francis R. Valeo has been outstanding in his position—dedicated, intelligent, understanding; Nordy Hoffmann has attended to his duties with determination and understanding and will become a great Sergeant at Arms; Stan Kimmitt has been dedicated, wise in his understanding of the Senate and its Members—a great secretary for the majority; Charles Ferris, who has been the chief counsel for the majority for more than 10 years, has performed with great dedication, a thorough understanding of the issues involved, and has kept the policy committee abreast of all legislation at all times; and Salpee Sahagian, administrative assistant to the majority leader and coordinator between the offices of the above officials, has been extremely effective, highly intelligent, and very understanding of what the Senate is and means, as have all the others. Collectively, they represent the best people, in my opinion, who have ever occupied the positions they now hold. They are all a credit to the Senate and they are all devoted to the Senate.

In addition, I should mention with high admiration and great respect the dedication and effectiveness of Mr. Kimmitt's assistants, Patrick Hynes, and Dave Brown; Mr. Valeo's assistant, Darrell St. Claire; Mr. Ferris' associates, Lee Williams and Bill Smith; Mr. Hoffmann's assistants, Bob Hough, and Mel Fish; and Mrs. Sahagian's assistant, Miss Donna Schade.

I could name all the others in the respective offices because they have been great Senate officials, great public servants, and to all of them, I extend my deepest thanks and my deepest appreciation. They have all served the Senate well.

I should like to also express my appreciation and respect to the distinguished minority leader, the Senator from Pennsylvania, Mr. Scott, and the distinguished assistant minority leader, Mr. Griffin, with both of whom we have worked effectively and cooperatively, and I can say of them that they deeply cherish the Senate's well-being. They are good men to work with.

I also wish to express my appreciation and thanks to Bill Hildenbrand, secretary for the minority, and to Howard Greene, assistant secretary for the minority, and to Oliver Dompierre, special assistant to the minority, all of whom have contributed years of service to the Senate and all of whom have performed their functions extremely well.

I also want to thank collectively the parliamentarians, the clerks at the front desk and the Official Reporters because they, too, have made their very significant contribution to the well-being of this institution.

And while I am commending these officials of the Senate who serve all of us so well, I would like as a personal note to pay particular tribute to those who have worked for me in my State office for so long and who have served the Nation and Montana so well; Peggy DeMichele, who has been with me my entire time in Washington and has served as my administrative assistant in my State office during my tenure in the Senate; Ray Dockstader, who has been my legislative assistant for more than 20 years; Mary Jane Del Balzo, who has been my executive assistant since 1953; and to the other members of my State office—Joanna Bell, Shirley Bouchard, Joan Chambers, Rita Curtain, Vincent Del Balzo, Marjorie Finney, Mary Lockridge, Marian London, Marlene McCollom, Sheila McKinnon, Chris-Ann Pisha, Gloria Prencipe, Rose Reckner, Anne Sullivan, Erminee Wade, and all the rest, I cannot nor can Montana thank them for the faithful service they have provided over the years.

In other words, my best wishes and thanks to all Senate employees and my deep appreciation for the contributions which they have made.

LEGISLATIVE PROGRAM FOR THE NEXT 2 WEEKS

Mr. ROBERT C. BYRD. Mr. President, the program for Monday and the days ahead is tentatively as follows—and I emphasize the word "tentatively":

On Monday, September 20, Monday next, H.R. 3035, interest payment on demand deposits; H.R. 12934, Federal Reserve System; S. 2304, Federal banking agencies; S. 2849, Investment Advisors Act amendments; Tuesday, September 21, S. 2278, civil rights attorneys fees; H.R. 10210, unemployment tax; Wednesday, September 22, S. 2613, Small Business Investment Act; S. 2925, sunset legislation; Thursday, September 23, H.R. 11321, duty suspension on certain elbow prostheses; H.R. 13555, and S. 1302, mine safety; H.R. 10760 and

S. 3183, black lung; Friday, September 24, omnibus rivers and harbors; Monday, September 27 through Friday, October 1, H.R. 6860, comprehensive national energy conservation and conversion program; H.R. 9401, import duty suspension on certain horses; H.R. 8656, tariff schedules; H.R. 12254, duty suspension on certain bicycle parts and accessories; H.R. 8283, Internal Revenue Code amendments—wine; and H.R. 11997, Internal Revenue Code amendments—divestitures by bank holding companies.

Conference reports will be coming along at any time. Rollcall votes may occur thereon. Senators will want to keep in mind the possibility of Presidential vetoes which might require an attempt to override.

Rollcall votes are expected daily, and there is a possibility of long daily sessions in order to make the adjournment target.

The aforementioned list is not necessarily all-inclusive. Other measures may be added from time to time.

Moreover, the leadership will need as much flexibility as possible in scheduling measures and, therefore, it may be necessary to deviate, as to sequence, from the foregoing schedule. In addition, it may be necessary, as problems arise, to set aside measures after a reasonable time for debate has elapsed. As of now, an October 1 adjournment or before looks good; if nothing unforeseen arises, and depending, of course, also on the progress made by the House of Representatives. As far as the Senate is concerned we are definitely on course..

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. Does the Senator have any idea how long the consideration of the sunset bill will take? I have understood it is a very complex bill. We, in the Rules Committee, as the Senator knows as a member of that committee, have returned the bill without recommendation one way or the other.

I believe another committee has reported the bill favorably.

Mr. ROBERT C. BYRD. Yes.

It has been agreed by the Democratic Policy Committee, and I have been so instructed, that should any measure scheduled run into any undue delay, it wold be the prerogative of the leadership to lay it aside and proceed to other measures in the schedule.

It was also agreed that the approved schedule, by necessity, was tentative and that the leadership should be given the prerogative to make necessary adjustments.

These agreements were unanimously approved by the policy committee.

Mr. HUGH SCOTT. I would ask only, if there are any major changes in scheduling, we would appreciate it on the minority if the Senator would notify us so we could notify our membership.

Mr. ROBERT C. BYRD. The distinguished Republican leader makes a reasonable request and it will be acceded to.

Mr. HUGH SCOTT. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock on Monday.

The motion was agreed to; and at 2:52 p.m., the Senate adjourned until Monday, September 20, 1976, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate, September 17, 1967:

UNITED NATIONS

The following-named persons to be representatives and alternate representatives of the United States of America to the Nineteenth Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Representatives:
John E. Reinhardt, of Maryland.
Robert B. Kamm, of Oklahoma.
William B. Jones, of California.
Sarah Goddard Power, of Michigan.
Clayton Kirkpatrick, of Illinois.

Alternate representatives:
Arthur K. Solomon, of Massachusetts.
Mae Sue Talley, of Arizona.
Russell C. Heater, of California.
Oscar Padilla, of California.
Dixon R. Harwin, of California.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 17, 1976:

DEPARTMENT OF JUSTICE

Frank J. Violanti, of Illinois, to be U.S. attorney for the district of the Canal Zone for the term of 8 years.

Thomas A. Grace, Jr., of Louisiana, to be U.S. Marshal for the middle district of Louisiana for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Peter T. Fay, of Florida, to be U.S. circuit judge for the fifth circuit.

Sidney M. Aronovitz, of Florida, to be U.S. District Judge for the Southern District of Florida.

W. Eugene Davis, of Louisiana, to be U.S. district judge for the western district of Louisiana.

Glen M. Williams, of Virginia, to be U.S. district judge for the western district of Virginia.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. John P. Flynn [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8600, in grade as follows:

To be lieutenant general

Maj. Gen. George H. Sylvester, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer, Army National Guard of the United States, for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army and to the grade of brigadier general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be brigadier general

Col. Emmett Hudson Walker, Jr., [redacted].

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. John William Vessey, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Frederick James Kroesen, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. David Ewing Ott [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Herron Nicholas Maples, [redacted] Army of the United States (major general, U.S. Army).

IN THE AIR FORCE

Air Force nominations beginning John G. Albert, to be first lieutenant, and ending John F. Stilley, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

Air Force nominations beginning Thomas G. Abbey, to be captain, and ending Gene E. Hendon, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

IN THE ARMY

Army nominations beginning Albert Abraham III, to be colonel, and ending Larry A. Zieske, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

IN THE NAVY

Navy nominations beginning Robert H. Ailes, to be captain, and ending Joann E.

Watkins, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

Navy nominations beginning Robert E. Nisbet, to be lieutenant commander, and ending Robert B. Wells, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

Navy nominations beginning Roger L. Avant, to be lieutenant (jg.), and ending Barbara L. Weakland, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on September 1, 1976.

IN THE MARINE CORPS

Marine Corps nominations beginning James M. Chance, to be lieutenant colonel, and ending Lawrence R. Zinser, to be major, which nominations were received by the Senate on September 3, 1976, and appeared in the Congressional Record on September 7, 1976.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twentieth Session of the General Conference of the International Atomic Energy Agency:

Representative

Robert C. Seamans, Jr., of Massachusetts.

Alternate representatives

Frederick Irving, of Rhode Island.
Richard T. Kennedy, of the District of Columbia.
Myron B. Kratzer, of Maryland.
Edward A. Mason, of Massachusetts.
Nelson F. Sievering, Jr., of Maryland.
Galen L. Stone, of the District of Columbia.
Gerald F. Tape, of Maryland.

HOUSE OF REPRESENTATIVES—*Friday, September 17, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Restore unto me the joy of Thy salvation and uphold me with Thy free spirit.—Psalms 51: 12.

"Holy Spirit, truth divine,
Dawn upon this soul of mine;
Word of God and inward light,
Wake my spirit, clear my sight.

"Holy Spirit, love divine,
Glow within this heart of mine;
Kindle ever high desire,
Perish self in Thy pure fire.

"Holy Spirit, power divine,
Fill and nerve this will of mine;
By Thee may I strongly live,
Bravely hear and nobly strive.

"Holy Spirit, right divine,
King within my conscience reign;
Be my Lord and I shall be
Firmly bound, forever free."
—SAMUEL LONGFELLOW.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code; and

H. Con. Res. 751. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 10612.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10612) entitled "An act to reform the tax laws of the United States," and that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 35 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9019) entitled "An act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7108) entitled "An act to authorize appropriations for environmental research, development, and demonstration," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. MUSKIE, and Mr. BAKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3799. An act to establish an Antitrust Review and Revision Commission; and

S. Con. Res. 138. Concurrent resolution expressing the sense of the Congress reaffirming the right of every person to food and calling for U.S. foreign and domestic policies designed to combat hunger and improve nutrition.

CONFERENCE REPORT ON H.R. 15193, MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA, FISCAL YEAR 1977

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 10, 1976.)

Mr. NATCHER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER) for 30 minutes.

Mr. NATCHER. Mr. Speaker, under this conference report the District of Columbia will have resources totaling $1,483,144,700 for the fiscal year 1977. The conference agreement provides a Federal payment of $259,797,400. A total of $363,796,400 in Federal funds is included. The conference agreement for 1977 is $33,097,600 less than the budget request, $8,910,600 less than the House allowance, and $175,900 less than the Senate proposal. The Federal payment request has been reduced $20,202,600, and the Federal loan authorization is reduced $12,895,000.

Mr. Speaker, the total in the bill in District of Columbia funds as agreed to in conference is $1,120,107,400. The conference agreement for 1977 is $7,968,200 less than the budget request, $1,247,600 more than the House allowance and $124,100 more than proposed by the Senate.

For Federal grants that are provided for the District of Columbia as well as for the other 50 States, we have a total of $340,208,600. The District of Columbia will receive in revenue-sharing funds the sum of $26 million. This conference report provides for Federal loans of $101,292,000 for fiscal year 1977. Other Federal funds that will be available total $2,707,000. These funds plus the Federal payment under the conference report will provide the District of Columbia a total of $730,005,000 in Federal funds during fiscal year 1977.

Mr. Speaker, I would like to point out to the Members of the House that 49.2 percent of the total resources available to the District government will be financed from Federal funds. Fifty point eight percent of the total funds in the bill come from local and other revenue sources. Almost one-half of the city's resources will be financed from Federal funds.

The conference action reflects the approval of additional resources to enable the city to institute programs to raise additional local revenues through the implementation of a billing system for the institutions of the Community Health and Hospitals Administration of the Department of Human Resources and an intensified program to collect delinquent taxes. Initial funding for the independent audit of the financial condition of the city authorized in recent legislation has been provided. Funds for the District's share of the Metrobus operating subsidy were reduced $2,400,000 as recommended by the Senate in an effort to have fares increased in the city during the rush hours. Funding for 105 uniform police positions was restored to the House level to avert a reduction in the police force. A total of $13,733,000 is provided for the care and treatment of the mentally retarded at the Forest Haven institution. The conference agreement includes $1,292,000 for the completion of the Sursum Corda Neighborhood Center, of which $900,000 is to be repaid to the city out of funds raised by Sursum Corda, Inc. The conferees deleted the funds provided by the Senate for the Pennsylvania Avenue Development Corporation.

Language making the fiscal 1977 Coast Guard pollution fund immediately available to clean up oil spills was approved.

Under permission I will request on conclusion of consideration of this conference report, I will insert a tabulation summarizing the conference action.

The tabulation referred to follows:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1977 (H.R. 15193)—CONFERENCE SUMMARY

Item	New budget (obligational) authority, fiscal year 1976	Budget estimates of new (obligational) authority, fiscal year 1977	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with—			
						Fiscal year 1976	Budget estimates	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I—DISTRICT OF COLUMBIA FEDERAL FUNDS									
Federal payment	$248,948,700	$280,000,000	$270,000,000	$259,973,300	$259,797,400	+$10,848,700	−$20,202,600	−$10,202,600	−$175,900
Payment in lieu of reimbursement for water and sewer services to Federal facilities	5,688,000	2,707,000	2,707,000	2,707,000	2,707,000	−2,981,000			
Loans to the District of Columbia for capital outlay	210,000,000	114,187,000	100,000,000	101,292,000	101,292,000	−108,708,000	−12,895,000	+1,292,000	
Total, Federal funds	464,636,700	396,894,000	372,707,000	363,972,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−175,900
DISTRICT OF COLUMBIA FUNDS									
Operating expenses	1,042,142,700	1,092,280,900	1,083,065,100	1,083,696,600	1,083,520,700	+41,378,000	−8,760,200	+455,600	−175,900
Capital outlay	117,706,500	35,794,700	35,794,700	36,286,700	36,586,700	−81,119,800	+792,000	+792,000	+300,000
Total, District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	+1,247,600	+124,100
TITLE II—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Land acquisition and development		[1] (25,000,000)		25,000,000					−25,000,000
Public development		[1] (11,450,000)		11,450,000					−11,450,000
Total, Pennsylvania Avenue Development Corporation		[1] (36,450,000)		36,450,000					−36,450,000
Grand total, Titles I and II:									
Federal funds	464,636,700	396,894,000	372,707,000	400,422,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−36,625,900
District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	+1,247,600	+124,100

[1] Reflected in estimates considered in connection with the Department of the Interior and Related Agencies Appropriation Act, 1977.

This is a good conference report. I urge its adoption.

Mr. Speaker, at this time, before I yield to my friend, the distinguished gentleman from Florida (Mr. YOUNG), the ranking minority member on this subcommittee, I would like to say to the House that it is a total privilege and an honor for me to serve with the gentleman from Florida (Mr. YOUNG) on this subcommittee. He is one of the able Members of the House; he is one of the diligent Members. Mr. Speaker, it would do the Speaker's heart good to see the gentleman from Florida (Mr. YOUNG) in a conference and to see him performing his duties as a member of the Subcommittee on the District of Columbia. Mr. Speaker, it is a privilege and honor to serve with all the members of the subcommittee on both sides of the aisle.

At this time, Mr. Speaker, I yield to my distinguished friend, the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding and would like to respond and say that the gentleman from Kentucky (Mr. NATCHER), is an outstanding chairman, and it is because of his very diligent activities that we do have a good conference report before us. The minority side supported the bill; we supported the conference report. Mr. Speaker, as one who believes in saving time when possible, I yield back the remainder of my time.

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, line 4, strike "$270,000,000," and insert "$259,973,300,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$259,797,400".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 3, line 7, strike "$112,870,700," and insert "$84,550,800,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$84,453,300".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 9, line 6, strike "$35,794,700" and insert "$36,286,700".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$36,586,700".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 10, line 5, insert: ": *Provided further*, That $1,292,000 is hereby appropriated for the completion of the Sursum Corda Neighborhood Center; $900,000 shall be for the completion of the Sursum Corda Neighborhood Center to be repaid to the city out of funds raised by Sursum Corda, Inc., through fundraising activities".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 10, line 10, insert: ": *And provided further*, That all sums so collected be applied to the cost of construction with a corresponding reduction in, or refund of, appropriated District of Columbia funds; and $392,000 shall be for equipment for the center.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 14, line 9, after the figure insert: ", exclusive of positions initially authorized or funded by this title;".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ", exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 16, line 9, insert:

TITLE III—DEPARTMENT OF TRANSPORTATION

Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

TITLE II—DEPARTMENT OF TRANSPORTATION

Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and that I be permitted to inulude a tabulation summarizing the action taken.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 15558, OMNIBUS NEW AREAS STUDY BILL

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a report on the bill H.R. 15558, the omnibus new areas study bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE A REPORT ON H.R. 15563, RECOGNIZING RECREATION AT TVA RESERVOIRS

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a report on H.R. 15563, to recognize recreation at TVA reservoirs.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION TO PRINT REVISED SUBSTITUTE AMENDMENT FOR H.R. 50, FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

Mr. PERKINS. Mr. Speaker, on May 14, 1976, the House Education and Labor Committee reported H.R. 50, the Full Employment and Balanced Growth Act of 1976, with an amendment in the nature of a substitute. Many questions have been raised regarding this legislation and the members of the committee have continued to study the provisions of the bill, not only to satisfy the questions that have been raised, but also to make it more workable in reaching its desired objectives.

Today, the House Education and Labor Committee met and adopted a revised text for the substitute amendment for H.R. 50, which had been reported on May 14, and I have been instructed by the committee to obtain consideration of the revised substitute amendment with respect to any further proceedings by the House on this measure. I ask unanimous consent that a copy of the revised substitute amendment for H.R. 50 be printed in the Record at this point.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The committee print of September 16, 1976, follows:

TEXT OF REVISED SUBSTITUTE AMENDMENT TO THE TEXT OF H.R. 50 AS REPORTED BY THE EDUCATION AND LABOR COMMITTEE ON MAY 14, 1976, SAID REVISED SUBSTITUTE HAVING BEEN APPROVED BY THE EDUCATION AND LABOR COMMITTEE ON SEPTEMBER 16, 1976

In H.R. 50 as reported by the House Education and Labor Committee on May 14, 1976, strike all the language beginning on line 17 on page 28 and following pages through and including page 77 and substitute in lieu thereof the following:

That this Act and the following table of contents may be cited as the "Full Employment and Balanced Growth Act of 1976":

TABLE OF CONTENTS

Sec. 1. Title.
Sec. 2. General findings.

TITLE I—ESTABLISHMENT OF GOALS, PLANNING, AND GENERAL ECONOMIC POLICIES

Sec. 101. Statement of purpose.
Sec. 102. Declaration of policy.
Sec. 103. Economic goals and the Economic Report of the President.
Sec. 104. Full Employment and Balanced Growth Plan.
Sec. 105. Economy in government.
Sec. 106. Fiscal and monetary policies.
Sec. 107. Anti-inflation policies.
Sec. 108. Council of Economic Advisers.
Sec. 109. Advisory Committee on Full Employment and Balanced Growth.

TITLE II—COUNTERCYCLICAL, STRUCTURAL, AND YOUTH EMPLOYMENT POLICIES

Sec. 201. Statement of purpose.
Sec. 202. Countercyclical employment policies.
Sec. 203. Coordination with State and local government and private sector economic activity.
Sec. 204. Regional and structural employment policies.
Sec. 205. Youth employment policies.
Sec. 206. Full Employment Office and reservoirs of employment projects.
Sec. 207. Income maintenance and full employment policies.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

Sec. 301. Statement of purpose.
Sec. 302. General Congressional review.
Sec. 303. Congressional review of economic goals in President's Economic Report.

Sec. 304. Congressional review of Full Employment and Balanced Growth Plan.
Sec. 305. Division of Full Employment and Balanced Growth.
Sec. 306. Exercise of rulemaking powers.
TITLE IV—GENERAL PROVISIONS
Sec. 401. Nondiscrimination.
Sec. 402. Labor standards.
Sec. 403. Authorizations.
Sec. 404. Definitions.

GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the Nation has suffered substantial and increasing unemployment and underemployment, over prolonged periods of time, imposing numerous economic and social costs. Such costs include the following:

(1) The Nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increase in individual income and well-being that would exist under conditions of genuine full employment.

(2) Insufficient production is available to meet pressing national priorities.

(3) Workers are deprived of the job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(4) Business and industry are deprived of the production, sales, capital flow, and productivity necessary to maintain adequate profits, create jobs, and contribute to meeting society's economic needs.

(5) The Nation is exposed to social, psychological, and physiological costs and traumas, including disruption of family life, loss of individual dignity and self-respect, and the proliferation of physical and psychological illnesses, drug addiction, crime, and social conflict.

(6) Federal, State, and local government economic activity is undermined as government budget deficits occur because tax revenues fall and expenditures rise for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, drug addiction, and physical and mental health.

(b) The Congress further finds:

(1) High unemployment often increases inflation by diminishing labor training and skills, underutilizing capital resources, reducing the rate of productivity advance, increasing unit labor costs, reducing the general supply of goods and services and thereby generating cost-push inflation. In addition, modern inflation has been due in large measure to errors in national economic policy, including erratic monetary policy, inadequate energy and food policies, and ineffective policies to maintain competition in the private sector.

(2) Although necessary for sound economic policy, aggregate monetary and fiscal policies are inadequate by themselves to achieve full employment production and to restrain inflation. Such policies must be supplemented by more direct private and public measures to create employment and reduce inflation.

(3) Genuine full employment has not been achieved, in part, because explicit short- and long-term national economic goals and priorities have not been established by the President, the Congress, and the Federal Reserve. Moreover, public and private economic policies have not been organized and coordinated to achieve national goals and priorities.

(4) Increasing job opportunities and full employment make a major contribution to the abolition of discrimination based upon sex, age, race, color, religion, national origin, and other improper factors.

(c) The Congress further finds that an effective full employment and balanced growth policy should (1) be based on the development of explicit economic goals and policies involving the President, the Congress, and the Federal Reserve, as well as State and local governments, with full use of the resources and ingenuity of the private sector of the economy, and (2) include programs specifically designed to reduce high unemployment due to recessions, and to reduce structural unemployment within regional areas and among particular labor force groups.

(d) The Congress further finds that full employment and balanced growth are important national requirements that will promote the economic security and well-being of all our citizens.

TITLE I—ESTABLISHMENT OF GOALS, PLANNING, AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this title to declare the general policies of this Act, to provide an open process under which annual economic goals are proposed, reviewed, and established, to provide for the development of a long-range Full Employment and Balanced Growth Plan, to provide for economy in government measures, to ensure that monetary, fiscal, anti-inflation, and general economic policies are used to achieve the annual economic goals and support the goals and priorities of the Full Employment and Balanced Growth Plan, and generally to strengthen and supplement the purposes and policies of the Employment Act of 1946.

DECLARATION OF POLICY

SEC. 102. (a) Section 2 of the Employment Act of 1946 (15 U.S.C. 1021) is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote balanced growth and useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote full employment, production, and purchasing power.

"(b) The Congress declares and establishes the right of all adult Americans (sixteen years of age or older) able, willing, and seeking work to opportunities for useful paid employment at fair rates for compensation.

"(c) The Congress further declares that inflation is a major national problem requiring improved government policies relating to food, energy, improved fiscal and monetary management, economy in government, the reform of outmoded government rules and regulations, the correction of structural defects in the economy that prevent or seriously impede competition in private markets, and other measures.

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to coordinate, integrate, and improve the policies and programs of the Federal Government, toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems. Although it is the purpose under the Act to seek diligently and to encourage the voluntary cooperation of the private sector of the company in helping to achieve the objectives of the Act, no provisions of the Act are intended nor shall be used, with respect to any portion of the private sector of the economy, to provide for Government control of production or employment or allocations of resources, except to the extent authorized under other legislation.

"(e) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under the Act shall be in accord with this purpose. In moving toward the goals for reduction of unemployment, the objective shall be to maintain trends in the ratio of private employment to civilian public employment similar to those from 1947 to the time of enactment of the Full Employment and Balanced Growth Act of 1976, which would mean a numerical growth in private employment several times as large as the numerical growth in civilian public employment. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority: (a) expansion of conventional private jobs through improved use of fiscal and monetary policies and other policies made available under the Full Employment and Balanced Growth Act of 1976; (b) expansion of private employment requiring Federal assistance in connection with some of the priority programs specified in such Act; (c) expansion of public employment under other programs specified in such Act, not including the reservoir projects under section 206 of such Act; and (d) only as a last resort under section 206 of such Act and subject to the limitations therein. The creation of reservoirs of public and private nonprofit employment projects.".

ECONOMIC GOALS AND THE ECONOMIC REPORT OF THE PRESIDENT

SEC. 103. Section 3(a) of the Employment Act of 1946 is amended to read as follows:

"SEC. 3. (a) The President shall transmit to the Congress not later than January 20 of each year an economic report (hereinafter called the 'Economic Report') setting forth for each year—

"(1) current and foreseeable trends in the levels of employment, production, and purchasing power and a review and analysis of economic conditions affecting these economic trends in the United States;

"(2) annual numerical goals for employment, production, and purchasing power that are designed to achieve balanced growth and full employment of the Nation's human and capital resources as promptly as possible;

"(3) a numerical long-term full employment goal which is (A) consistent with the minimum level of frictional unemployment necessary for efficient job search and mobility in the labor force, and (B) consistent with the aggregate long-term economic goals and priorities set forth in the Full Employment and Balanced Growth Plan required under section 3A; and

"(4) the programs and policies for carrying out the policy declared in section 2 of this Act, as well as the numerical economic goals of paragraph (2) of this subsection, together with such recommendations for legislation as the President deems necessary or desirable in order to achieve full employment and balanced growth as promptly as possible.".

FULL EMPLOYMENT AND BALANCED GROWTH PLAN

SEC. 104. The Employment Act of 1946 is amended by adding after section 3 the following new section:

"FULL EMPLOYMENT AND BALANCED GROWTH PLAN

"SEC. 3A. (a) In conjunction with the first Economic Report after enactment of this section, or within ninety days after the enactment of this section, whichever may come earlier, and thereafter in conjunction with each annual Economic Report, the President shall transmit to the Congress a proposed Full Employmentand Balanced Growth Plan, prepared with the assistance of the Council of Economic Advisers, and in consultation with the Office of Management and Budget. The Plan shall propose, in quantitative and qualitative terms, and for the number of years feasible, long-term national goals related to full employment, production, purchasing power, and other essential priority purposes, and the major policies and programs, including recommendations for legislation, to achieve such goals and priorities. In developing the goals, the President shall take into account the level and composition of each factor needed to maintain economic balance and full resource use and to meet priority needs.

"(b) The Full Employment and Balanced Growth Plan shall set forth the foreseeable trends in economic and social conditions, provide estimates of the unmet economic and social needs of the Nation, and identify the human, capital, and national resources available and needed for the achievement of the economic and related social goals and priorities established in the Full Employment and Balanced Growth Plan.

"(c) The Full Employment and Balanced Growth Plan shall contain long-term economic goals as follows—

"(1) full employment goals set at the number of jobs to be provided for adult Americans in order to reduce unemployment to the minimum level of frictional unemployment consistent with efficient job search and labor mobility;

"(2) full production goals set at the levels of output estimated to be yielded by achievement of the full employment goals as defined above, with expected improvements in productivity; and

"(3) full purchasing power goals set at levels estimated to be necessary for attaining and maintaining full employment and production while contributing to an equitable distribution of purchasing power.

"(d) (1) In carrying out the provisions of paragraph (1) of subsection (c), the full employment goal shall be consistent with a rate of unemployment not in excess of 3 per centum of adult Americans twenty years of age or older in the civilian labor force, to be attained as promptly as possible, but within not more than four years after the enactment of the Full Employment and Balanced Growth Act of 1976. Concurrently with this, the objective shall be to reduce unemployment among those aged 16 through 19 as rapidly as feasible, including reduction of the ratio of the rate of unemployment among teenagers to the rate of unemployment among those twenty years of age and older as rapidly as feasible. Toward the reduction of unemployment among teenagers, there shall be full utilization of section 205 of the Full Employment and Balanced Growth Act of 1976, and utilization of other provisions of that Act to the extent relevant. In addition, the President shall from time to time make such other recommendations to the Congress as he or she deems desirable to facilitate the reduction of unemployment among teenagers.

"(2) In achieving the goals set forth in subsection (c), the President shall include the objective of holding the annual rate of consumer and other price increases to levels consistent with reasonable price stability. To accomplish this objective, the President shall take full advantage of the specific structural programs called for in title II of the Full Employment and Balanced Growth Act of 1976, which promote the achievement of the full employment goal established in paragraph 1 of subsection (c) without excessive price increases. In selecting appropriate policies and programs for achieving full employment, the President shall have the objective of preventing a rise in the annual rate of consumer and other price increases above such rates on the date of enactment of this Act. Achievement of reasonable price stability shall be sought through the methods set forth in section 107 and elsewhere in the Full Employment and Balanced Growth Act of 1976, and shall not be sought through any weakening of the goals and timetable relating to reduction of unemployment.

"(3) Within one year of the date of enactment of the Full Employment and Balanced Growth Act of 1976, the President shall review the full employment goals and timetable required by this section and report to Congress on any obstacles to their achievement, and, if necessary, propose corrective economic measures to insure that the full employment goals are achieved.

"Priorities, Policies, and Programs

"(e) To contribute to the achievement of the general economic goals established in sections 3(a)(2) and 3A(c) of this Act, the Full Employment and Balanced Growth Plan shall propose priority policies and programs that comprise a full employment program that provides productive nonwasteful jobs and that reorder national priorities and employ the jobless in the production of goods and services which add to the strength of the economy, the wealth of the Nation, and the well-being of the people. Such policies and programs shall not be set forth in the programmatic detail developed by specialized Federal agencies, and by others in the public and private sectors, but only sufficiently to furnish an integrated perspective of our needs and capabilities and as a long-run guide to optimum private, Federal, State, and local government action. Priority policies and programs to support full employment and balanced growth shall initially include—

"(1) development of energy, transportation, small business, and environmental improvement policies and programs required for full employment and balanced economic growth, and required also to combat inflation by meeting full economic levels of demand.

"(2) development of policies and programs related to (a) food and fiber requirements for full employment and balanced growth and to help combat inflation, (b) the needed labor force and capital in agriculture to meet food and fiber requirements, (c) the income needs of farmers to encourage production of food and fiber in accord with the above requirements and moving farm families toward parity of income, this including recognizing the economically disadvantaged segments of the agricultural economy which suffer more from underemployment due to seasonal or disaster-related factors than unemployment, (d) measures to discourage the excessive migration of farm families to urban areas, including encouragement of supplementary nonfarm work and income for farm families, and (e) improved equalization of necessary public facilities and service for farm families with those provided for other families;

"(3) the quality and quantity of health care, education and training programs, child care and other human services, and housing, essential to a full economy and moving gradually toward adequacy for all at costs within their means;

"(4) Federal aid to State and local governments, especially for public investment and unemployment related costs;

"(5) national defense and other needed international programs; and

"(6) such other priority policies and programs as the President deems appropriate.

"(f) The President shall establish procedures to insure that members of the Cabinet, relevant regulatory agencies, other relevant officers of the executive branch, and the Chairman of the Advisory Committee on Full Employment and Balanced Growth have an opportunity to review and make recommendations to the President prior to his or her submission of the Full Employment and Balanced Growth Plan to the Congress. The annual reports of departments and agencies shall include reports on any actions and studies undertaken related to the implementation of the Full Employment and Balanced Growth Plan.

"(g) At the time of the submission of the proposed Full Employment and Balanced Growth Plan to the Congress, the President shall transmit copies of the Plan to the Governor of each State and to other appropriate State and local officials. Within sixty days after the submission to Congress of the proposed Full Employment and Balanced Growth Plan, the Governor of each State may submit to the Joint Economic Committee a report containing findings and recommendations with respect to the proposed Plan. Any such report submitted by a Governor shall include the views and comments of citizens within the State, after public hearings have been held within the State. A Governor may, if he or she so desires, submit at any time to the Joint Economic Committee such additional reports or information in respect to matters placed by this Act within the responsibility of the Joint Economic Committee as the Governor deems advisable."

ECONOMY IN GOVERNMENT

SEC. 105. (a) The Congress finds and declares that widespread duplication and contradiction among Federal departments and agencies, the failure to establish long-term priorities, lack of adequate information on the impact of Federal regulations and programs, and the lack of a process for developing more efficient alternatives for achieving the Nation's priorities are impeding the Federal Government in efficiently implementing full employment and balanced growth policies. The Congress further declares that genuine efficiency in Government requires time and planning. Accordingly, it is the purpose of this section to utilize the comprehensive planning framework established by section 104 to improve the efficiency and economy of the Federal Government.

(b) In carrying out this section, the President shall, in conjunction with the submission of each Full Employment and Balanced Growth Plan, submit proposals for improving the efficiency and economy of the Federal Government, including, but not necessarily limited to—

(1) a review of existing Government rules and regulations to determine if they still serve a public purpose and are properly designed; and

(2) an annual evaluation of 20 per centum of the dollar volume of existing Federal programs which are in effect each year, and the submission to Congress of a formal analysis of the economic and social impact and value of each program.

FISCAL AND MONETARY POLICIES

SEC. 106. (a) The Employment Act of 1946 is amended by inserting after section 3A, as added by this Act, the following new section:

"FISCAL AND MONETARY POLICIES

"SEC. 3B. (a) The President's Budget and Economic Report shall be consistent with the Full Employment and Balanced Growth Plan, and the Economic Report shall set forth for each year the following:

"(1) The level and composition of Federal expenditures, measured against estimated capabilities at full employment and production, necessary to support the annual economic goals proposed in section 3 and to support the Full Employment and Balanced Growth Plan, taking into account the role of the private sector and of State and local governments in supporting these purposes. The President shall also make a determination of the extent to which the use of aggregate fiscal and monetary policy, without the supplementary employment policies provided in the Full Employment and Balanced Growth Act of 1976, will achieve the production, employment, purchasing power, and priority goals required in sections 3 and 3A. Whenever the economy is operating at full production and employment, or subjected to excessive overall strain, the general principle to be followed is that priority expenditures established in section 3A(e) shall not in general be reduced, allowing for some variations for countercyclical purposes, so long as it is feasible to reduce relatively less important expenditures, or to resort to means set forth in paragraph (2) below.

"(2) Federal tax policy consistent with expenditure levels in paragraph (1) of this subsection necessary to (A) balance the Federal budget under conditions of full production, employment, and purchasing power, (B) restrain excessive economic activity and inflation when total demand threatens to exceed the Nation's capabilities at full employment, (C) avoid fiscal drag upon the economy during any periods of substantial economic slack, and (D) contribute to the needed level and distribution of purchasing power.

"(3) A monetary policy designed to assure such rate of growth in the Nation's money supply, such interest rates, and such credit availability, including policies of credit reform, allocation, and international capital flows as are conducive to achieving and maintaining the full employment, production, purchasing power, and priority goals specified in sections 3 and 3A.

"(b) The Board of Governors of the Federal Reserve System shall transmit to the President and the Congress, within fifteen days after the transmission of the Economic Report or the Full Employment and Balanced Growth Plan, whichever may come earlier, an independent statement setting forth its intended policies for the year ahead with respect to its functions, the extent to which these policies will support the achievement of the goals in section 3 and section 3A, and a full justification for any substantial variations from the President's goals and recommendations. If the President determines that the Board's policies are inconsistent with the achievement of the goals and policies proposed under this Act, the President shall make recommendations to the Board and to the Congress to insure closer conformity to the purposes of this Act."

ANTI-INFLATION POLICIES

SEC. 107. (a) Section 3 of the Employment Act of 1946 is amended by adding at the end thereof the following:

"(d) The Economic Report shall each year contain a comprehensive set of anti-inflation policies, including, but not necessarily limited to—

"(1) a comprehensive information system to monitor and analyze inflationary trends in individual economic sectors, including information on the international sector, so that the President and Congress can be alerted to developing inflation problems and bottlenecks;

"(2) the use of monetary and fiscal policy geared to the capabilities of the economy operating at full employment as provided in section 3B;

"(3) programs and policies in the Full Employment and Balanced Growth Plan for increasing the supply of goods, services, labor, and capital in structurally tight markets, with particular emphasis on increasing the supply of food and energy;

"(4) the establishment of stockpile reserves of food and other critical materials in order to meet emergencies such as floods and famines and to maintain reasonable price stability and adequate farm income;

"(5) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and eocnomic sectors;

"(6) recommendations to strengthen and enforce the antitrust laws and such other recommendations as are necessary to increase competition in the private sector; and

"(7) recommendations for administrative and legislative actions to promote reasonable price stability if situations develop that seriously threaten national price stability.

COUNCIL OF ECONOMIC ADVISERS

SEC. 108. (a) The second sentence of section 4(a) of the Employment Act of 1946 is amended by inserting "full" immediately after "promote".

(b)(1) Section 4(c)(1) of such Act is amended by inserting immediately before the semicolon a comma and the following: "and the Full Employment and Balanced Growth Plan".

(2) Section 4(c)(4) of such Act is amended by inserting "full" immediately after "maintain".

(c)(1) Section 4(e)(1) of such Act is amended by inserting immediately before the semicolon a comma and the following: "and shall consult with the Advisory Committee established under section 6."

(2) Section 4(e) of such Act is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding after such paragraph (2) the following:

"(3) In this connection, the Council is authorized and directed to seek and obtain the cooperation of the various executive and independent agencies in the development of specialized studies essential to its responsibilities."

ADVISORY COMMITTEE ON FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 109. The Employment Act of 1946 is amended by adding at the end thereof the following new section:

"ADVISORY COMMITTEE ON FULL EMPLOYMENT AND BALANCED GROWTH

"SEC. 6. (a) To furnish advice and assistance to the Council of Economic Advisers in the preparation and review of the Economic Report and Full Employment and Balanced Growth Plan, there is established an Advisory Committee on Full Employment and Balanced Growth, which shall consist of—

"(1) four members appointed by the President;

"(2) four members appointed by the Speaker of the House of Representatives; and

"(3) four members appointed by the President pro tempore of the Senate.

"(b) The Committee shall elect a Chairman, and shall meet at the call of the Chairman, but not less than twice a year. The members of the Advisory Committee shall be appointed for terms of two years from among representatives of labor, industry, agriculture, consumers, and public at large, who are especially competent by virtue of background and experience to furnish advice to the Council on the views and opinions of broad segments of the public on matters involved in the formulation and implementation of goals and policies for full employment and balanced growth.

"(c) Each member of the Advisory Committee shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a posision at level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of his or her duties as such a member, and each member shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his or her duties.

"(d) The Advisory Committee is authorized to establish regional, industry, and special advisory subcommittees to furnish advice and assistance to it. Each such subcommittee shall consist of at least one member of the Advisory Committee and shall be broadly representative of the particular region or industry, including business, labor, consumer interests, and other interested groups.

"(e) The Chairman of the Council of Economic Advisers shall furnish the Advisory Committee with such personnel, facilities, and services as he or she deems necessary to enable the Advisory Committee to perform its functions under this Act.".

TITLE II—COUNTERCYCLICAL, STRUCTURAL, AND YOUTH EMPLOYMENT POLICIES

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to establish supplementary employment policies to close the employment gap, if one should exist, between the levels of employment achieved through aggregate monetary and fiscal policy and the employment goals established in sections 3 and 3A of the Employment Act of 1946. Accordingly, this title establishes a system of comprehensive and flexible employment policies to create jobs in both the private and public sectors of the economy that encourages the optimum contribution of the private sector and State and local governments toward the achievement of the goals and purposes of this Act. These supplementary employment policies shall vary according to economic conditions and the other actions taken under this Act, but shall have the broad objective of reducing cyclical, structural, regional, and youth unemployment, and unemployment due to discrimination. It is also the purpose of this title to establish a Full Employment Office within the Department of Labor to use special means for training and providing employment for those people who are otherwise unable to find employment. It is the further purpose of this title to mandate improved integration of income maintenance programs and full employment policies.

COUNTERCYCLICAL EMPLOYMENT POLICIES

SEC. 202. (a)(1) The Congress finds and declares that—

(A) the Nation has been unprepared to promptly implement employment policies during periods of economic downturn and resultant high unemployment;

(B) existing policies are so diffused and fragmented at all levels of government that it has been impossible to implement a comprehensive countercyclical employment program in a coordinated manner; and

(C) the lack of a coherent, flexible, countercyclical employment policy reduces the prospects of the Nation solving economic and related social problems which threaten fundamental national interests and objectives, including those specified by this Act.

(2) It is the purpose of this section to require the development of a coherent and flexible countercyclical employment policy, creating jobs in both the private and public sectors that are valuable to States, local communities, and the Nation, and thereby reducing employment gaps that may remain despite the appropriate implementation of other provisions of this Act.

(b)(1) To carry out the provisions of this section, the President shall within ninety days after the date of enactment of this Act transmit to the Congress a comprehensive proposal, together with such legislation as is necessary, which shall establish on a permanent basis the range of supplementary employment policies and programs necessary to reduce high unemployment arising from cyclical movements in the economy. The countercyclical action provided for in this section relates to periods of high unemployment, regardless of the stage of the business cycle.

(2) In establishing the component parts of such a comprehensive proposal, and making a determination of the role of each, the President should consider the following programmatic entities—

(A) countercyclical public service employment;

(B) accelerated public works, including the development of standby public works projects;

(C) State and local countercyclical grant programs as specified in section 203;

(D) the levels and duration of unemployment insurance;

(E) skill training in both the private and public sectors, both as a general remedy, and as a supplement to unemployment insurance;

(F) youth employment programs as specified in sector 205;

(G) a community development program to provide employment in activities of value to the States, local communities (including rural areas), and the Nation; and

(H) augmentation of other employment and manpower programs that would prove helpful in meeting high levels of unemployment from cyclical causes.

(c) To insure that the component parts of the countercyclical proposal establishes an integrated and flexible program, the President shall—

(1) utilize existing employment and training mechanisms as appropriate;

(2) provide for advance planning for countercyclical employment programs among the Federal Departments and agencies;

(3) provide for an automatic trigger or set of coordinated triggers that would implement the program during a period of rising unemployment, and phase out the program when unemployment is appropriately reduced;

(4) insure that allocation of employment assistance takes into account the severity and geographic distribution of unemployment, and the special needs of the unemployment groups within the labor force;

(5) provide for a well balanced combination of job creation and related activities in both the private and public sectors of the economy; and

(6) incorporate effective transitional mechanisms to facilitate individuals assisted under programs developed pursuant to this section to return promptly to regular private and public employment as the economy recovers.

COORDINATION WITH STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR ECONOMIC ACTIVITY

SEC. 203. (a) As an integral part of the comprehensive countercyclical employment policies established under section 202, the President shall set forth programs and policies to facilitate harmonious economic action among the Federal Government, regions, States and localities and the private sector to promote the (1) achievement of the goals and priorities of this Act and the Employment Act of 1946, and (2) an economic environment in which State and local governments and private sector economic activity and employment will prosper and essential services will be maintained.

(b) As a primary effort to meet the requirements of this section, the President shall within ninety days after the date of enactment of this Act transmit to the Congress legislation creating a permanent program related to the stabilization and needed growth of State and local budgets. In formulating this proposal, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with accent upon the rates of unemployment in these respective States and localities.

REGIONAL AND STRUCTURAL EMPLOYMENT POLICIES

SEC. 204. (a) (1) The President shall within one hundred and eighty days after the date of enactment of this Act transmit to Congress a comprehensive regional and structural employment proposal, including such legislation as necessary, designed to reduce the chronic underutilization of human and capital resources in certain areas of the country and in groups within the labor force. In formulating the regional components of such a proposal, the President shall encourage private sector production and employment to locate within depressed regions, inner cities, and rural areas with substantial unemployment. The President's regional employment proposal shall also include an analysis of the extent to which Federal Government tax, expenditure, and employment policies have influenced the movement of people, jobs, and industry from chronic high unemployment regions and areas, and proposals designed to correct Federal policies that have an adverse economic impact upon such regions and areas.

(2) In formulating the structural components of such an employment program, the President shall utilize existing employment and training mechanisms and other existing programs, as appropriate, and such other measures as necessary.

(b) To further meet the requirements of this section, the President shall transmit to the Congress, within one hundred and eighty days after the date of enactment of this Act, legislation providing an institutional means designed to encourage (1) public and private investment in economically depressed regions, inner cities, economic sectors, and rural areas with substantial unemployment; and (2) provide an alternative source of capital funds for local and State governments to finance public facilities. In formulating the legislation required by this section, the President shall include provisions for—

(1) long-term loans at rates of interest no higher than the average rate of long-term Treasury borrowings plus service costs;

(2) capitalization through public stock and bond subscriptions, stock purchases by the State governments, local governments, and businesses that benefit from the program, and financial assistance from the Federal Government; and

(3) criteria setting priorities for assistance to State and local government and businesses, with special attention to areas with unemployment rates consistently and significantly in excess of the national average or otherwise suffering severe economic dislocation, to achieve the objective of increasing employment in such areas, and increasing total employment.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds and declares that—

(1) serious unemployment and economic disadvantage exist among youths, this group constitutes a substantial portion of the Nation's unemployment, and this significantly contributes to crime, drug addiction, and other social and economic problems;

(2) many youths have special employment needs and problems which, if not promptly addressed, will substantially contribute to more severe unemployment problems in the long run;

(3) a significant number of youths in certain areas even in the best of economic circumstances do not have adequate access to employment opportunities providing effective entry into the labor force; and

(4) existing employment programs for youth are fragmented and inadequate, and the special needs and problems of youth unemployment require the development of a permanent, comprehensive youth employment program which will meet the job needs of youth.

(b) To meet the requirements of subsection (a), the President shall transmit to Congress within ninety days after the date of enactment of this Act legislation creating a comprehensive youth employment program, which—

(1) utilizes the resources and facilities of existing youth employment and training programs that are designed to provide job opportunities for youths,

(2) provides for other policies and programs necessary to provide employment for youths, and

(3) contributes to carrying out the policies of this Act and the Employment Act of 1946.

(c) In formulating such a program, the President shall include provisions designed to—

(1) fully coordinate youth employment activities with other employment and manpower programs;

(2) develop a smoother transition from school to work by fostering a more effective partnership between educational and employment institutions, such as businesses, employer associations, and labor unions;

(3) prepare disadvantaged and other youths with employability handicaps for regular self-sustaining employment through education, training, medical services, counseling, and other support activities;

(4) develop realistic methods for combining training with work, including apprenticeship and on-the-job training in the private sector; and

(5) provide job opportunities for youths in a variety of tasks, including conservation, public service activities, inner city cleanup and rehabilitation, and other jobs of value to States, local communities, and the Nation.

FULL EMPLOYMENT OFFICE AND RESERVOIRS OF EMPLOYMENT PROJECTS

SEC. 206. (a) In order to insure that full employment is achieved under this Act, the President, through the Secretary of Labor, shall develop policies, procedures, and programs to provide employment opportunities to adult Americans able, willing, and seeking to work but who, despite a serious effort to obtain employment, are unable to do so in the general economic environment, or through any of the other provisions of this Act.

(b) There is established within the Department of Labor a Full Employment Office to assist the Secretary of Labor in providing the employment opportunities required under subsection (a). Under the supervision of the Secretary of Labor, the Office shall be phased in consistent with subsection (d) of this section.

(c) In meeting the responsibilities to provide job opportunities under subsection (a) and after full utilization of the Comprehensive Employment and Training Act of 1973, the Secretary of Labor shall, as appropriate—

(1) assure that counseling, training, and other support activities necessary to prepare persons willing and seeking work for employment is provided under the Comprehensive Employment and Training Act of 1973, including the use of section 110 of such Act when necessary; and

(2) refer persons able, willing, and seeking to work to job opportunities in the private and public sectors through the existing public employment placement facilities and through the United States Employment Service, including job opportunities in positions drawn from sections 202, 204, and 205 of this Act.

(d) Only to the extent that adult Americans able, willing, and seeking work are not provided with the private job opportunities which are the first and major purpose of this Act, nor provided with job opportunities under section 206(c) or through other programs under this Act, such opportunities shall be provided by the President through reservoirs of federally operated public employment projects and private nonprofit employment projects approved by the Secretary of Labor. Such projects shall not be put into operation less than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetable for the reduction of unemployment set forth in this Act. The Congress hereby establishes the policy that such projects shall be so designed as not to draw any workers from private employment to such reservoir projects. The jobs under such reservoir projects shall be useful and productive jobs. Nonetheless, such jobs shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs. The number and nature of such reservoirs of employment projects shall be determined in conjunction with the policies and programs of the Full Employment Office established under subsection (b) and the other job creation provisions of this Act. The provisions of this subsection shall be phased in by the President, in conjunction with the annual employment recommendations required under section 3 of the Employment Act of 1946, in order to achieve a rate of unemployment not in excess of 3 per centum as established by section 3A(d) of such Act, and to achieve the objective for the reduction of unemployment among teenagers as set forth in paragraph 1 subsection (d) of section 3A of the Employment Act of 1946.

(e) The Secretary, in carrying out the provisions of this section, shall establish such regulations as he or she deems necessary. Such regulations shall include provisions for—

(1) an initial determination by the Full Employment Office of the job seekers' ability to be employed at certain types and duration of work so that he or she may be appropriately referred to jobs, training, counseling, and other supportive service;

(2) compliance with the nondiscrimination provisions of this Act in accordance with section 401;

(3) such priority criteria as may be appropriate to establish the order in which persons able, willing, and seeking to work are provided jobs under this section, so that such persons who most need employment are given first consideration and, in determining the priority order, the Secretary shall consider such factors as duration of unemployment, number of people economically dependent upon any such person, expiration of unemployment insurance, household income, and any other factors essential to determining employment need;

(4) appropriate eligibility criteria to limit access to the program authorized under subsection (d), including but not limited to such criteria as household income, duration of unemployment (not less than eight weeks), and refusal to accept or hold a job other than a job under subsection (d) except for good cause as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (c) paragraph (2), in order to seek a reservoir project job under subsection (d); and

(5) such administrative appeal procedures as may be appropriate to review the initial determination of the abilities of persons willing, able, and seeking to work under clause (1) of this subsection and the employment need and eligibility under clauses (3) and (4) of this subsection.

Compliance with the requirements of clause (4) of this subsection relating to a person's eligibility for assistance may be satisfied by an affidavit submitted by persons seeking assistance. If such person knowingly provides false information in any such affidavit, he or she shall be ineligible for any assistance under this section and shall, in addition, be subject to prosecution under section 1001 of title 18, United States Code.

INCOME MAINTENANCE AND FULL EMPLOYMENT POLICIES

SEC. 207. (a) Congress finds and declares that to achieve the goals of full employment and balanced growth it is essential that the employment policies prescribed by this Act and the Employment Act of 1946 give adequate attention to (1) providing quality jobs that improve the work environment, strengthen income and eliminate substandard earnings; (2) improving and integrating existing public and private income maintenance programs with the full employment policies of this Act and the Employment Act of 1946; and (3) substituting work for income maintenance to the maximum extent feasible, taking account of the need for adequate income maintenance among those who cannot be brought within the full employment policy.

(b) To meet the requirements of this section, the President shall within ninety days after the date of the enactment of this Act transmit to Congress a proposal, together with such legislation as is necessary, analyzing the relationship of income maintenance needs, existing income maintenance programs, and the full employment policies required by this Act and the Employment Act of 1946, and make recommendations on how the income maintenance and employment policies can be integrated to insure that employment is substituted for income maintenance to the maximum extent feasible.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

STATEMENT OF PURPOSE

SEC. 301. The purposes of this title are—

(1) to establish procedures for Congressional action and review with respect to the Economic Report, the Full Employment and Balanced Growth Plan, the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this Act and the Employment Act of 1946; and

(2) to establish a Division of Full Employment and Balanced Growth within the Congressional Budget Office.

GENERAL CONGRESSIONAL REVIEW

SEC. 302. (a) To provide for comprehensive economic and employment policies to meet the objectives of this Act and the Employment Act of 1946, and to provide Congress with guidance on these matters, the appropriate committees of the Congress shall review and revise, to the extend deemed desirable, the economic goals, priorities, policies, and programs proposed under such Acts by the President and the Board of Governors of the Federal Reserve System. The Congress shall initiate or develop such legislation as it deems necessary to implement these proposals and objectives, after such modification in such proposals as it deems desirable. Nothing in this Act shall be construed to prevent the Congress or any of its committees from considering or initiating at any time action to implement this Act.

(b) In addition to its responsibilities under the Employment Act of 1946 with respect to the Economic Report, the Joint Economic Committee shall carry out overall review of executive branch policies under this Act, with special attention to general economic conditions, the setting of national economic goals in the Economic Report, the Full Employment and Balanced Growth Plan, and the relationship of economic policy measures to the fulfillment of the goals and priorities established under this Act and under the Employment Act of 1946.

(c) In addition to their responsibilities under the Congressional Budget Act of 1974, the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives shall review, in conjunction with reporting concurrent resolutions on the budget under the Congressional Budget Act of 1974, the fiscal policy, economy in government policies, and Federal budget priorities recommended by the President.

(d) The other appropriate committees of Congress shall review and report on those policies or programs implemented or submitted which relate to matters within the jurisdiction of each such committee.

CONGRESSIONAL REVIEW OF ECONOMIC GOALS IN ECONOMIC REPORT

SEC. 303. (a) In conjunction with this review of the Economic Report, and the holding of hearings on the report, as required under the Employment Act of 1946, the Joint Economic Committee shall review and analyze the annual numerical goals for employment, production, and purchasing power recommended by the President in fulfillment of section 3 of the Employment Act of 1946. Subsequent to such a review, the Joint Economic Committee shall make recommendations to the Congress on the appropriate annual numerical goals for employment, production, and purchasing power, subject to the requirements of section 3A(d) of the Employment Act of 1946 relating to those periods when unemployment is to be reduced to given levels.

(b) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1)) by striking out "and" at the end of clause (5);

(2) by redesignating clause (6) as clause (7); and

(3) by inserting after clause (5) the following new clause:

"(6) numerical goals for employment, production, and purchasing power; and".

(c) The second sentence of section 301(c) of the Congressional Budget Act of 1974 is amended to read as follows: "The Joint Economic Committee shall further submit to the Committees on the Budget of both Houses its recommendations as to the fiscal and monetary policies appropriate to the goals of the Employment Act of 1946. The Joint Economic Committee shall further submit to the Committees on the Budget of both Houses, in accordance with section 3 of the Employment Act of 1946, recommendations on annual numerical goals for employment, production, and purchasing power designed to achieve full employment of the Nation's human and capital resources as promptly as possible. These recommendations shall be incorporated by the Committee on the Budget of each House in the first concurrent resolution on the budget referred to in subsection (a) reported by that committee, with modifications if necessary to fulfill the objectives of the Full Employment and Balanced Growth Act of 1976, and to meet the requirement of section 3A of the Employment Act to achieve full employment within not more than four years after the enactment of the Full Employment and Balanced Growth Act of 1976. In the event that the Committee on the Budget of either House modifies the annual numerical goals for employment, production, and purchasing power recommended by the Joint Economic Committee, that Budget Committee shall provide its reasons for such modification in the report accompanying the first concurrent resolution.

CONGRESSIONAL REVIEW OF FULL EMPLOYMENT AND BALANCED GROWTH PLAN

SEC. 304. (a) Each proposed Full Employment and Balanced Growth Plan transmitted to the Congress by the President under section 3A of the Employment Act of 1946 (hereafter in this section referred to as a "Proposed Plan") shall be referred to the Joint Economic Committee. Within sixty days after receipt by the Congress of a Proposed Plan, each standing committee of the Senate and the House of Representatives and each joint committee of the Congress shall submit to the Joint Economic Committee a report containing its views and recommendations with respect to aspects of the Proposed Plan which relate to matters within the jurisdiction of such committee or joint committee.

(b) The Joint Economic Committee shall hold hearings for the purpose of receiving testimony from the Members of Congress, appropriate representatives of Federal departments and agencies and such representatives of the general public and interested groups as the joint committee deems advisable. The joint committee shall also consider the comments and views on the Proposed Plan which are received from State and local officials.

(c) Not later than one hundred and five days after the submission of a Proposed Plan to the Congress, the members of the Joint Economic Committee who are Members of the House of Representatives shall report to the House, and the members of the joint committee who are Members of the Senate shall report to the Senate, a concurrent resolution which shall state in substance that the Congress approves or disapproves the Proposed Plan, in whole or in part, and which may contain such alternatives to, modifications of, or additions to the Proposed Plan as the joint committee deems appropriate and in accord with the purposes of this Act and the Employment Act of 1946. The report accompanying such concurrent resolution shall include findings and recommendations of the joint committee with respect to each of the main recommendations contained in the Proposed Plan.

(d) (1) When a concurrent resolution referred to in subsection (c) has been reported to the House of Representatives it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any such concurrent resolution in the House of Representatives shall be in the Committee of the Whole House on the State of the Union, and shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the concurrent resolution. A motion further to limit debate shall not be debatable.

(3) Except to the extent specifically provided in the preceding provisions of this subsection, consideration in the House of Representatives of any such concurrent resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstance.

(e) (1) Debate in the Senate on a concurrent resolution referred to in subsection (c), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to any such concurrent resolution shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. Debate on any amendment to an amendment, and debate on any debatable motion or appeal shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of the concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion in the Senate to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(4) The conference report on any such concurrent resolution shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any such concurrent resolution, debate shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated in the Senate, debate on any request for a new conference and the appointment of conferees shall be limited to one hour to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment in the Senate shall be limited to thirty minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(f) Upon adoption of a concurrent resolution under this section with respect to any Proposed Plan, the concurrent resolution shall serve as a long-term guide to the Congress with respect to legislation relevant to the goals, priorities, policies, and programs recommended in the Proposed Plan, as modified by the concurrent resolution. A copy of the concurrent resolution shall be transmitted to the President by the Clerk of the House of Representatives or the Secretary of the Senate, as appropriate, for such actions as the President deems appropriate.

DIVISION OF FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 305. (a) There is established within the Congressional Budget Office a Division of Full Employment and Balanced Growth (hereafter in this section referred to as the "Division") to perform long-term economic analysis. The Division shall be headed by a Deputy Director who shall perform his or her duties under the supervision of the Director of the Congressional Budget Office and shall perform such other duties as may be assigned to him or her by the Director. Such Deputy Director shall be appointed in the same manner, serve for the same period, and receive the same compensation as the Deputy Director provided for in section 201 of the Congressional Budget Act of 1974.

(b) It shall be the first responsibility of the Division to assist the Joint Economic Committee in the discharge of its duties under this Act by providing, as the Joint Economic Committee may request—

(1) information with respect to long-term economic trends, national goals, resource availability, and the methods available to achieve full employment and balanced economic growth;

(2) information necessary for the preparation of the report and concurrent resolution referred to in section 304(c); and

(3) such related information as the committee may request.

(c) At the request of any committee of the House of Representatives or the Senate, or any other joint committee of the Congress, the Division shall provide to such committee or joint committee the information necessary to fulfill its responsibilities under this Act.

(d) At the request of any Member of the House or Senate, the Division shall provide to each Member any information necessary to fulfill his or her responsibilities under this Act.

EXERCISE OF RULEMAKING POWERS

SEC. 306. (a) The provisions of this title (other than section 305) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House), at any time, in the same manner and to the same extent as in the case of any other rule of such House.

TITLE IV—GENERAL PROVISIONS

NONDISCRIMINATION

SEC. 401. (a) No person in the United States shall on the ground of sex, age, race, color, religion, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activitiy funded in whole or in part with funds made available under this Act, including membership in any structure created by this Act.

(b) Whenever the Secretary of Labor determines that a recipient of funds under this Act has failed to comply with subsection (a), or an applicable regulation, he or she shall notify the recipient of the noncompliance and shall request such recipient to secure compliance. If within a reasonable period of time, not to exceed sixty days, the recipient fails or refuses to secure compliance, the Secretary of Labor is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he or she has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in the appropriate United States district court for any and all appropriate relief.

(d) To assist and evaluate the enforcement of this section, and the broader equal employment opportunity policies of this Act, the Secretary of Labor shall include, in the annual Employment and Training Report of the President, a detailed analysis of the extent to which the enforcement of this section achieves affirmative action in both the quantity and quality of jobs, and for employment opportunities generally.

(e) In moving to reduce unemployment in accord with the goals and timetable set forth in this Act, every effort shall be made to reduce the differences between the rates of unemployment among women, minorities, and other labor force groups and the overall rate of unemployment, with the ultimate objective of removing them entirely. Insofar as these differences are due to discrimination, the nondiscrimination provisions of this section, as well as other provisions of the Act, shall be utilized. Insofar as these differences are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall take such action as he or she can to achieve the objectives of this paragraph; shall make studies, develop information, and make recommendations toward remedying these differences and include these in the annual Employment and Training Report of the President; and, if deemed necessary, make recommendations to the Congress within ninety days related to the objectives of this paragraph.

LABOR STANDARDS

Sec. 402. The policies and programs implemented and provided for by this Act, and funded in whole or in part through this Act, shall provide that persons employed pursuant to such policies and programs are paid equal wages for equal work, and that such policies and programs create a net increase in employment through work that would not otherwise be done. The President shall insure that any person employed in a reservoir project under section 206(d) or in any other job utilizing funds provided in whole or in part under this Act shall be paid not less than the pay received by others performing similar work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938 as amended. No person employed under section 206(d) shall perform work of the type to which the Bacon-Davis Act, as amended (40 U.S.C. 276a–276a–5) applies. Any recommendation by the President for legislation to implement any program under this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

AUTHORIZATIONS

Sec. 403. There is authorized to be appropriated such sums as may be needed to carry out the provisions of this Act. Notwithstanding any other provisions of this Act, no provision shall be construed to require expenditures in excess of amounts appropriated pursuant to this Act.

DEFINITIONS

Sec. 404. (a) "Fiscal drag" as used in section 106 means tax and expenditure rates which, in combination, substantially impede attainment (or maintenance) of full employment, production, and purchasing power.

(b) "Balanced growth" in the Full Employment and Balanced Growth Plan means projecting and achieving (1) the relationship between production or supply capability and demand, and (2) the relationships among the growth rates of private investment, private consumer expenditures, and public outlays, and also (3) the purchasing power, including important components of each element mentioned in (1), (2), and (3) above, required to achieve and then maintain full employment and production and appropriate servicing of national priorities, these to be promoted by the programs and policies set forth in this Act and by encouragement of voluntary cooperation within the private sector (for example, between labor and management) and between the Government and the private sector.

(c) "Frictional unemployment" means the lowest level of unemployment, determined on the basis of evolving experience, consistent with labor mobility, changing job patterns, freedom of job choice, and sufficient job search on a voluntary basis.

Amend the title so as to read: "A bill to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to combine full employment, production, and purchasing power goals with proper attention to balanced growth and national priorities; to mandate such national economic policies and programs as are necessary to achieve full employment, production, and purchasing power; to restrain inflation; and to provide explicit machinery for the development and implementation of such economic policies and programs.".

CALL OF THE HOUSE

Mr. LEVITAS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 747]

Abzug
Adams
Alexander
Andrews, N.C.
Ashley
AuCoin
Badillo
Bell
Bolling
Bonker
Bowen
Breaux
Burke, Calif.
Burton, John
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Cleveland
Collins, Ill.
Conlan
Conyers
Cotter
Coughlin
Derwinski
Diggs
Dingell
Dodd
Eckhardt
Edwards, Calif.
Emery
Esch
Eshleman
Flynt
Ford, Tenn.
Fraser
Fuqua
Giaimo
Goldwater
Green
Hagedorn
Hansen
Harkin
Harsha
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Howe
Ichord
Jacobs
Jarman
Johnson, Pa.
Jones, Ala.
Karth
Kastenmeier
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
Lent
Lott
McCloskey
McCollister
McFall
Madigan
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mikva
Milford
Mineta
Mink
Mitchell, Md.
Mosher
Moss
Murphy, N.Y.
O'Hara
Patterson, Calif.
Pepper
Pike
Pressler
Railsback
Randall
Rangel
Rees
Richmond
Riegle
Rodino
Roncalio
Rose
Rosenthal
Rousselot
Roybal
Ruppe
Ryan
Santini
Sarbanes
Scheuer
Schneebeli
Schroeder
Shipley
Shuster
Skubitz
Snyder
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Talcott
Teague
Thornton
Udall
Vander Jagt
Vander Veen
Waxman
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Ga.

The SPEAKER pro tempore (Ms. Jordan). On this rollcall 292 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CREATING SELECT COMMITTEE TO INVESTIGATE AND STUDY ASSASSINATIONS OF JOHN F. KENNEDY AND MARTIN LUTHER KING, JR.

Mr. MADDEN. Madam Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 1540) creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of any others the select committee shall determine, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1540

Resolved, That there is hereby created a select committee to be composed of twelve Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

The select committee is authorized and directed to conduct a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Junior, and of any others the select committee shall determine.

For the purpose of carrying out this resolution the select committe, or any subcommittee thereof authorized by the select committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary; except that neither the select committee nor any subcommittee thereof may sit while the House is meeting under the five-minute rule unless special leave to sit shall have been obtained from the House. The chairman of the select committee may establish such subcommittees of the select committee as he considers appropriate. A majority of the members of the select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purpose of this resolution. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia. Subpenas may be issued under the signature of the chairman of the select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

The select committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. Madden) is recognized for 1 hour.

Mr. MADDEN. Madam Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson), pending which I yield myself such time as I may consume.

Madam Speaker, House Resolution 1540 provides for the establishment of a select committee to be composed of 12 members to be appointed by the speaker. The select committee is directed to conduct a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of any others the select committee shall determine.

House Resolution 1540 provides that the select committee is authorized to sit and meet throughout the remainder of the 94th Congress whether or not the House is in session and also provides that the select committee shall have subpena power.

On Wednesday, September 15, the Rules Committee reported this resolution by a vote of 9 to 4, with 1 abstention. Our committee feels that the time is right to begin an investigation of how these assassinations occurred.

As chairman of the Rules Committee, I have received hundreds of letters and telegrams from all over the country on this issue. An overwhelming majority have strongly urged approval of this resolution.

Madam Speaker, I support House Resolution 1540, and I urge the adoption of this resolution.

Mr. YATES. Madam Speaker, will the gentleman yield for a question?

Mr. MADDEN. I yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, I ask the gentleman this question: What does the phrase mean following the granting of authority for investigating the circumstances surrounding the death of John F. Kennedy and Martin Luther King, Jr., and I quote, "of any others the Select Committee shall determine"?

May this committee investigate the assassination attempts on the life of Castro, for example? Can it examine any assassination attempt it wishes to?

Mr. MADDEN. Madam Speaker, I will yield to the gentleman from Virginia (Mr. DOWNING) to answer that question.

Mr. DOWNING of Virginia. Madam Speaker, I thank the chairman for yielding.

I would like to advise my colleague, the gentleman from Illinois (Mr. YATES), that "any others" has no specific meaning.

I myself wish the words had never been included in the resolution, but it would be up to the determination of the committee as to what "any others" means.

It could mean that if there was a possible assassination attempt on the life of the present President, the committee, I suppose, would have the discretion to go into that. However, it would be entirely up to the judgment of the committee.

Mr. YATES. Madam Speaker, if the gentleman will yield further, I share the gentleman's statement when he says he wishes this phrase was not in there.

I think it gives the committee enormous power to go into any possible kind of assassination attempt on any person throughout the world.

Madam Speaker, I wonder why this phrase should have been inserted. I wonder why the Committee on Rules included it.

Mr. DOWNING of Virginia. Presumably it could mean what the gentleman says. However, I think we are going to have to trust the judgment of the committee to do what is right. This phraseology pertains to American leaders, not foreign persons.

Mr. YATES. Madam Speaker, if the gentleman will yield further, it seems to me that the committee's investigation of the assassinations of former President Kennedy and Martin Luther King, Jr., would be enough of a charge upon the committee. I would hope that there would be no effort to go into any other.

I believe it gives the committee far too much power, power beyond the original intent of the resolution.

Mr. DOWNING of Virginia. Madam Speaker, I have told the gentleman that I wish the words were not in there; but I can assure him that insofar as I have anything to do with it, I would not want the power to be too broad, and I hope the gentleman from Illinois votes for the resolution.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I want to thank the chairman, the gentleman from Indiana, Mr. MADDEN, for yielding to me.

Let me say that I raised the same question before the Committee on Rules. I would like to ask the gentleman why this language should not be stricken when this matter comes on for debate today?

Mr. DOWNING of Virginia. Mr. Speaker, if the gentleman will yield, I have no objection to striking those words.

Mr. LATTA. I thank the chairman.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, I would just like to congratulate the Committee on Rules on this resolution. This is something I became involved in about 5 years ago. I do not know of any plots or any secrets, but I do know that I think the attitude of the American people is that there are questions that have not been put to rest. I think the questions that have not been put to rest about the Government have severely damaged the credibility of our Nation's Government and of our system.

I would hope that this committee quietly, very seriously and in a very hard working fashion can come out with the final answers that the American people have asked.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

Mr. Speaker, let me say that I too have some very real doubts as to some of the circumstances involved, particularly those surrounding the Kennedy assassination and perhaps we can get at some of the facts and questions that have been raised such as the unnatural deaths of certain of the people connected with the assassination, incidents that seem to be continuing right up to now as for instance, the recent murder of Roselli a month or two ago.

But, Mr. Speaker, my most immediate interest is as to the funding of the committee and I would like to have the attention of the gentleman from Virginia (Mr. DOWNING) who will be the chairman of the committee.

I am curious as I say, as to the nature of the funding. First, we are limited to this Congress and, of course, we have the proposed date of October 2 for adjournment although I do not know that we will get out at that time. I would ask the gentleman from Virginia if he has any idea as to how much it will cost? I assume they will come to our committee for the funds they need, or it is going to be a direct tap on the contingency fund? How much does the gentleman anticipate it will cost?

Mr. DOWNING of Virginia. Mr. Speaker, if the gentleman will yield, the gentleman from Alabama is correct in his assumption in the first instance that we will appear before his committee and ask for funds. We will ask for, it is estimated, $250,000. This will be for organizational purposes, setting up of the staff, and so forth, so the committee will be ready to go at the next session of the Congress.

Mr. DICKINSON. The gentleman says "at the next session of the Congress," so I assume the gentleman does not anticipate that this special subcommittee will make any substantial progress in investigating this year. Will the committee make any report during this present Congress even though the gentleman does not expect to conduct or finish any investigations until the following Congress? I ask that, Mr. Speaker, because the resolution says:

> The Select Committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study . . .

From what the gentleman has told me, the gentleman does not even anticipate making a serious start until the next Congress. Could the gentleman explain that?

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding me the additional time.

Mr. DOWNING of Virginia. Mr. Speaker, if the gentleman will yield further to me?

Mr. DICKINSON. I would be pleased to yield to the gentleman.

Mr. DOWNING of Virginia. Under the terms of the resolution the committee will have to file a report at the end of this Congress as to the progress of the committee during the interim period. It is not expected that there will be any formal hearings, certainly before election. It may be necessary to hold some hearings in order to preserve testimony. I just cannot assure the gentleman from Alabama that it will or will not hold hearings in that regard.

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, much as I sympathize with the objectives of the gentleman from Virginia (Mr. DOWNING), we must remember that the select committee expires with each Congress.

Mr. DOWNING of Virginia. That is right.

Mr. THOMPSON. That would mean the creation of this select committee, then, presumably, it would appear before the Committee on House Administration for funding purposes, then the organization of the committee, so that there would be relatively little time within which to do anything before the end of this Congress. Then the select committee would expire and there would be the reconstitution of the whole process all over again in the next Congress.

It just seems to me a meritorious idea—and I say this with all respect to my dear friend, the gentleman from Virginia, who will not be with us, unfortunately, next year—that this matter, if it does deserve the attention the gentleman is convinced that it does deserve, should really wait until the 95th Congress.

Mr. DOWNING of Virginia. If the gentleman would yield further, we have got to get started sometime, I will say to the gentleman from New Jersey, that this thing has been put off too long. The longer we wait, the more difficult it will be to obtain whatever evidence still remains out there. If we can get it organized, get our priorities, and get our directions set in the remaining days of this Congress, then the 95th Congress can start off right away with substantial hearings.

Mr. THOMPSON. If the ranking minority member, the gentleman from Alabama (Mr. Dickinson) would yield further, I wish to point out the factual situation as I see it.

The SPEAKER. The time of the gentleman has expired.

Mr. MADDEN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. Downing).

Mr. DOWNING of Virginia. Mr. Speaker, today marks the culmination for me—and others, too, I suppose—of 15 months of intensive work and efforts to try to persuade this body to reinvestigate the assassinations of President Kennedy and Martin Luther King.

I want to thank the Speaker; I want to thank the leadership on both sides of the aisle; I want to thank the Committee on Rules for giving the House this opportunity.

Mr. Speaker, House Resolution 1540, which is sponsored by Mr. Gonzalez, Mr. Fauntroy, and me, is the refinement of a number of similar resolutions sponsored by approximately 135 Members of this body.

Two or 3 years ago—perhaps even 1 year ago—only a small fraction of us would have looked with favor upon this establishment of a select committee to reexamine the assassinations of several of our national leaders. However, today, I believe that there is overwhelming support in this House and throughout the country for an in-depth study into these traumatic events, in order to ascertain the truth, or at the very least, dispel doubts concerning them.

Most of us have reached our conclusion as to the necessity of a select committee reluctantly. However, the revelations of the last year or two have been both shocking and sobering.

Committees of both the House and the Senate have proven that much vital information was withheld from the Warren Commission. The CIA and its former Director, Allan Dulles, pointedly withheld all information relating to the multiple plots, which the U.S. Government launched, in an effort to assassinate Fidel and Raul Castro. To underline the importance of this conscious effort to dedeceive, we have the recent violent and unexplained murders of Sam Giancana and John Rosselli, the two Mafia chieftains who were recruited by the CIA for the assassination plots against the Cuban leaders, which I think is deplorable.

A subcommittee of the House, chaired by our colleague from California, Mr. Edwards, has shown how a threatening note sent by Lee Harvey Oswald to an FBI agent, shortly before President Kennedy's murder, was torn up and flushed down a toilet rather than delivered to the Warren Commission.

We know that the original autopsy notes of the chief surgeon in President Kennedy's autopsy were burned in the doctor's recreation-room fireplace.

We know that Jack Ruby had many ties to both the Mafia and to Cuba, which were either unknown to the Warren Commission, or ignored by it.

The list of such items is almost endless.

In light of all of this, there is little wonder that very few people any longer have faith in the Warren Commission's conclusions that Oswald, and Oswald alone, was responsible for the death of President Kennedy, or that Ruby, likewise, was a "lone nut killer."

In a recent CBS poll, 65 percent of those polled said they did not believe the Warren Commission's conclusions. In a Detroit News poll, it was 87 percent. In addition, most of our leading newspapers and journals now have called for a reopening of the case.

Mr. Speaker, this resolution concerns only assassinations of President Kennedy and Dr. King. If and when the select committee reaches a conclusion that other cases should be reexamined in depth, it will have authority to conduct such investigations.

However, for the present, the committee's efforts will be concentrated on the deaths of these two national leaders.

It is my hope and my expectation that this select committee shall be nonpartisan, and nonpolitical. It will be dealing with matters of grave concern to all Americans, regardless of their political party, race, or section of the country. I can foresee no partisan aspect to the work of the committee. And to the extent that I am privileged to participate in its work, I shall do everything in my power to see that it remains above politics.

This committee will engage in no witch hunts. Its purpose is to arrive at the truth, not to blame those who may have erred in the original investigations.

For my part, the only conclusion I have reached concerning the murders of President Kennedy or Dr. King is that we do not know the complete truth. Certainly in the case of President Kennedy, I am convinced that there was a conspiracy involved. I do not, however, know the identity of the conspirators or their motives. It is this that we must prove in depth.

So that there will be no question about the nonpolitical nature of the proposed committee, it has been agreed that there will be no public hearings held prior to the election in November. Some hearings may be scheduled for later this year, but most of the time will be spent in organizing staff, setting priorities, and obtaining a mass of official records. This will set the stage for prompt and deliberate action by the select committee when, as I strongly urge and expect, it will be reestablished in the 95th Congress.

Mr. Speaker, I am sure that each of us remembers the manner in which we heard of the assassinations of President Kennedy and of Dr. King. We may forget many of the details of our lives, but each one of us will always remember where we were, what we were doing, how we heard about these assassinations, and our own personal reaction to them.

Mr. Speaker, I do not want to go home and face my people unless I can assure them that I have done my utmost to provide them with the knowledge of what really happened to John F. Kennedy, their President. I want them to know what happened to Dr. King. I want to be able to tell them that no one has stood in their way of learning the truth. I want to help restore in them the credibility of their Government. That they need.

I want to leave this as my legacy to the Members of the 95th Congress, the pleasure of whose company I have chosen, with great reluctance, to deny myself.

INTERROGATION OF LEE HARVEY OSWALD

Lee Harvey Oswald was questioned by Dallas police and by seven FBI officials for approximately 12 hours. There are no stenographic transcripts of his interrogation. No tape recorded record of the questioning was made. Capt. Will Fritz, chief of homicide, "kept no notes." The sole source of information about the interrogations are reports, based in large part on memory, prepared by some of those present and covering some of the interrogation sessions. There are no reports for several of the interrogation sessions on Friday afternoon. No transcripts were made of Oswald's arraignments for either of the two homicides with which he was charged.

Oswald was taken into custody at approximately 2 p.m. on Friday and was murdered in the basement of the Dallas Police and Courts Building on Sunday shortly after 11 a.m. Throughout his detention, Oswald was without legal representation.

On Friday evening representatives from the Dallas Civil Liberties Union appeared at the police department to determine whether Oswald was being deprived of counsel and they were told by police officials that Oswald was informed of his rights and free to seek a lawyer. They sought permission to meet with Oswald but were unable to meet with him.

The fact that the 12 hours of interrogation by FBI agents of Lee Harvey Oswald, perhaps the most important defendant and witness in the history of our country, are lost to us forever, raises the most serious questions. What did Oswald say? Why are we unable to learn of his comments? Only a congressional committee that asks those questions of the seven FBI agents can provide answers for America.

BURNED AUTOPSY MATERIAL

There is general agreement that an analysis of the preliminary autopsy materials would shed further light on the possibilities of the Commission's "single bullet" theory, a theory which is crucial to the Commission's conclusion that Oswald was the lone assassin. However, chief autopsy surgeon, Comdr. James J. Humes, burned "preliminary draft notes" relating to the autopsy upon the body of President Kennedy. When Humes testified before the Warren Commission on March 16, 1964, he testified that:

> In the privacy of my own home, early in the morning of Sunday, November 24, I made a draft of this report which I later revised, and of which this (handwritten report of autopsy report) represents the revision. That draft I personally burned in the fireplace of my recreation room.

Commission Counsel Arlen Spector, author of the "single bullet" theory, did not ask Humes why he destroyed a crucial piece of Federal evidence in the case against Oswald.

JACK RUBY AND THE FBI

According to Commission Document 1052 Jack Ruby worked for the FBI as an informant on organized crime in Dallas from March 11, 1959, to October 2, 1959. During that time he was contacted on nine separate occasions by Dallas FBI Special Agent Charles W. Flynn. J. Lee Rankin, general counsel for the Warren Commission received this information by courier service from J. Edgar Hoover on June 9, 1964.

Leon D. Hubert, Jr., and Bert W. Griffin, the two Commission lawyers in charge of investigating Ruby's background were not provided any information on his underworld or law enforcement affiliations. Thus the Warren Commission did not know and did not reveal the relationship between Jack Ruby and the FBI.

ROBERT R. M'KEOWN AND JACK RUBY

In 1959, while Jack Ruby was an informant for the FBI, he went to Havana, Cuba, where he stayed at the Tropicana Hotel owned by Meyer Lansky, a king pin in organized crime. Before Ruby went to Cuba he attempted to secure a letter of introduction to Fidel Castro from Robert R. McKeown. According to the statement of McKeown, Ruby offered $25,000 for the letter of introduction to Castro.

The year was 1959—the year organized crime entered into an alliance with the intelligence community to assassinate Fidel Castro. The two Warren Commission lawyers assigned to investigate Jack Ruby's background, Leon D. Hubert, Jr., the former district attorney of New Orleans, and Burt Griffin, now a judge in Cleveland, Ohio, insisted in four separate memorandums that the Commission call McKeown as a witness. The Commission did not call McKeown and did not ask Ruby any questions about the matter.

POSSIBLE OSWALD LINK TO CIA

Before Oswald went to Mexico in September of 1963, he had to get an entry permit from the Mexican Consulate in New Orleans. After the assassination, the FBI investigated everyone who had gotten permits in New Orleans on the same day as Oswald. To their horror, they discovered that the man immediately preceding Oswald was one William George Gaudet, a man who had worked for the CIA since its founding in 1947. After much discussion between the CIA, the FBI, and the Warren Commission, it was decided not to call Gaudet as a witness, nor even to let his identity be known until the year 2039. However, recently, and apparently by accident, Gaudet's name was made public, and he has affirmed the story of the entry permit and the coverup.

This coverup by itself is bad enough, but it becomes more sinister when one realizes that CIA-man Gaudet not only stood in line ahead of Oswald, he also had knowledge of Ruby's activities. In fact, Gaudet told the FBI on November 27, 1963—4 days after the murder—of Ruby's activities in New Orleans.

Yet to this day, Gaudet has never been subpenaed, put under oath and questioned publicly about the links between himself, Oswald, and Ruby—and the CIA.

THE WARREN COMMISSION'S SECRET MEETING

Two documents recently declassified, the January 22, 1964, and the January 27, 1964, transcripts of the Warren Commission executive sessions, provide interesting reading.

The members of the Commission decided to destroy the minutes of the meetings so that the American people might not know what the Commission discussed. The minutes survived, and they reveal that the general counsel for the Warren Commission, J. Lee Rankin, reported that the two highest law enforcement officials in Texas, Waggoner Carr, the attorney general of Texas, and Henry Wade, the Dallas district attorney, both had proof that Lee Harvey Oswald was an employee of the FBI. Rankin suggested that an examination of the FBI records would reveal that Oswald worked for the FBI, but he added that Hoover would probably deny that Oswald was the agent referred to in the FBI files. Allan Dulles assured Chief Justice Warren that Hoover would not tell the Commission the truth, even under oath, if Oswald did work for the FBI. Dulles said that a good agent would lie under similar circumstances.

The Commission agreed to call the five relevant witnesses on the questioning of Oswald's employment by the FBI and to subpena Oswald's FBI file as well. By the end of the second meeting, the Commission decided not to call the five relevant witnesses and not to subpena the records of the FBI. Instead, the Warren Commission relied exclusively upon the testimony of Mr. Hoover regarding Oswald's association with the FBI.

Yet for many Americans this question remains an open one. A question which must be resolved if we are to know how and why John Kennedy was assassinated.

TAPED CONVERSATION OF "OSWALD" IN MEXICO CITY

When Oswald visited Mexico City in September 1963, someone made several visits and phone calls to the Soviet and Cuban Embassies using the Oswald identity.

That there is some doubt that the person visiting and phoning the embassies was in fact Lee Harvey Oswald is evidenced by the fact that many photographs of "Oswald" were taken by CIA cameras outside both embassies. Each and every photograph which has been pried loose from the Government—and they are still withholding some—are of a man who is about 6 feet 2 inches, 175 pounds, 35 years old, and burly. "Our" Oswald was 5 feet 9 inches, 135 pounds, 24 years old, and slim. The pictures are obviously not of Oswald, though so identified by the CIA.

At the same time, the CIA—through some unknown means—tapped and taped the telephone calls of "Oswald" to the Soviet and/or Cuban Embassies. These recorded conversations were withheld from the Warren Commission. Had they been made available, or if they were made available today, voice prints of them could be made and compared with voice prints of known conversations of Lee Oswald. Then we would know for sure if there was someone else using Oswald's identity in Mexico City. And, if there are two Oswalds for sure, we can wager great odds that there was a conspiracy involved in the death of our President.

SECRET WIRETAPS

After the assassination, the Federal Government placed a number of wiretaps but withheld most of the "fruits" of these taps from the Warren Commission.

We are certain as to one crucial tap because of an FBI report declassified only weeks ago. This tap was either on the home phone of the Paine residence or the business phone of Michael Paine. It must be remembered that the Paines were the Oswald's closest friends in Dallas; in fact, Marina Oswald was living at the Paine residence at the time of the assassination. Oswald ostensibly stored his rifle in the Paine's garage.

On the day after the assassination, the FBI overheard Ruth and Michael Paine telling each other over the telephone that, although Oswald did the shooting, "We know who is responsible." Apparently the tapes from the conversation were withheld, because when the Paines were questioned at a later date, they denied the fact that the conversation had taken place. The FBI dropped the subject without ever facing them with a tape or an FBI agent who had monitored the conversation.

If the Oswalds' best friends, the Paines, know "who was responsible," is it not about time that the American people know?

ALLAN DULLES AND ASSASSINATIONS

A leading member of the Warren Commission was Allan Dulles. Mr. Dulles had been the Director of the CIA from 1953 until after the Bay of Pigs in 1961. During this time, Dulles, as the head of the CIA, must have been privy to the fact that the CIA had been actively engaged in many attempts to murder Fidel Castro in the years 1959–61.

The grimy details of the CIA excesses—especially the use made by the CIA of the Mafia in its murder plots—have been recently documented by the Church committee.

Yet, despite the Warren Commission's great interest in Oswald's many links to Cuba and to both pro-Fidel and anti-Fidel factions, Allan Dulles never said one word to the other members of the Commission about the attempts on the life of Castro. Had Allan Dulles been more forthcoming, the whole direction of the Warren investigation might have been radically different and its conclusions radically altered.

When we have a new investigation of the Dallas murder—and we will have one, whether it is this year, next year, or 10 years hence—the investigators can now realistically weigh the evidence withheld from Earl Warren by Allan Dulles to see if John Kennedy's death was directly or indirectly caused by his administration's attempts on the life of Fidel Castro.

THE MURDER WEAPON

A rifle was discovered on the sixth floor of the book depository building at 1:22 p.m. on November 22, 1963. The Dallas authorities told the press later that day that the weapon was a 7.65 German Mauser. Dallas District Attorney Wade repeated this information at a formal televised press conference and it was widely publicized. Deputy Constable Seymor Weitzman, on November 23, 1963, in a notarized affidavit, descrbed the rifle he and Deputy Sheriff Boone found as "a 7.65 Mauser, bolt action equipped with a 4/18 scope, a thick leather brownish black sling on it." In a filmed interview in April 1974, Roger Craig, a deputy Sheriff also present when the rifle was found stated:

> I was standing next to Weitzman, he was standing next to Fritz, and we weren't any more than six or eight inches from the rifle, and stamped right on the barrel of the rifle was 7.65 Mauser. And that's when Weitzman said, "it is a Mauser," and pointed to the 7.65 Mauser stamp on the barrel.

This description of the rifle is incompatible with the Warren Commission's case against Oswald. Although the FBI reported that Oswald owned a rifle it was not similar to the one reportedly found on the book depository sixth floor. According to the FBI, the rifle Oswald had purchased was a Mannlicher/Carcano, 6.5 Italian carbine. This rifle, which the Warren Commission identified as the murder weapon, is available for examination in the National Archives. Any individual, regardless of his experience in firearms, can clearly see it is an Italian rifle because stamped clearly on the rifle are the words, "Made Italy" and "Cal. 6.5." It is unlikely that two police officers upon close inspection would have made such a case of mistaken identification.

Recently declassified CIA documents add further evidence that "Oswald's" rifle was not the rifle found in the book depository. A CIA report, dated November 25, 1963, states:

> On November 22, 1963 Lee Harvey Oswald shot President Kennedy while the President was riding in an open automobile on a Dallas Texas street. The rifle used was a Mauser. . .

A second CIA report dated 5 days after the assassination states:

> NOVEMBER 28, 1963.
>
> INFORMATION ON THE WEAPON PRESUMABLY USED IN THE ASSASSINATION OF PRESIDENT KENNEDY
>
> 1. As regards articles appearing recently in the Italian and foreign press concerning the presumed use of an Italian-made rifle in the slaying of President Kennedy, the following comments are made.
>
> 2. The weapon which appears to have been employed in this criminal attack is a model 91 rifle, 7.35 caliber, 1938 modification.
>
> 3. The description of a "Mannlicher Carcano" rifle in the Italian and foreign press is in error.

It should be clear that the initial identification of the rifle as a 7.65 Mauser clearly was not, as the Commission maintained, because Deputy Constable Weitzman "thought it looked like a Mauser." Since the Commission's case against Oswald as the lone assassin is built almost exclusively on his ownership of the 6.5 Mannlicher/Carcano, the identification of the murder weapon as 7.65 Mauser tends to discredit the entire case.

The report of the Warren Commission includes reference to a trip by Lee Harvey Oswald to Mexico City in late September of 1963, where on September 28 he visited both the Cuban and the Soviet Embassies. The report mentions that while he was in the Soviet Embassy he spoke with the Soviet Consul Kostikov, who also served as a KGB agent. Oswald referred to him as "Comrade Kostin." There is no further reference in the Warren Commission report as to the identity of Kostikov. We learned this in the recent release of some 1,500 CIA documents. I quote from one of the documents:

> NOTE.—Valeriy Vladimirovich Kostikov, who has functioned overtly as a consul in the Soviet Embassy in Mexico City since September 1961, is also known to be a staff officer of the KGB. He is connected with the thirteenth, or Liquid Affairs Department, whose responsibilities include assassination and sabotage.

Upon reading this, my suspicions were very definitely aroused. Here we have the man who is considered to be the assassin of President Kennedy visiting a Soviet official whose responsibilities, according to the CIA, include assassination. I find the whole thing highly suspicious. I find it incredible. I would like to know more about Oswald's KGB contact. I would like to know why this is not mentioned in the Commission report.

THE HOSTY LETTER

Just as the FBI destroyed evidence in the Watergate case, equally did it do so in the Dallas case.

In one crucial instance we know that a few days before the assassination, Oswald hand-delivered to the FBI office in Dallas a threatening letter addressed to FBI Agent James Hosty. Two hours after Ruby shot Oswald, Hosty tore up the note and a memorandum about it, and flushed them down a toilet in the FBI office.

How can we be so sure of the details of this incident? Because a subcommittee of the House, chaired by the Honorable DON EDWARDS, held a full-fledged hearing under oath on this subject not more than a few months ago. Such facts as I have stated are perfectly clear.

What is not clear is: First, the nature of the threats in the letter; second, did J. Edgar Hoover know of the letter; third, who ordered the letter destroyed; and fourth, why was it so crucial to hide the whole incident from the Warren Commission?

At the Edwards hearing, the testimony of various FBI witnesses was radically contradictory. As they were under oath, at least some of the witnesses were perjuring themselves, 12 years after the fact.

The aim of the FBI appeared obvious from Hosty's answers to questions from Chairman EDWARDS. He said he did not tell the Commission about the Oswald letter because he was not asked. He did not volunteer the information because he had been instructed not to volunteer anything that would be of help to the Commission.

To the extent I am privileged to participate in its work I shall do everything in my power to see that the committee remains above politics.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DOWNING of Virginia. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this resolution.

As chairman of the House Select Committee on Missing Persons in Southeast Asia, I would like to pledge to the gentleman or others my cooperation and work with the staff on how to set up the committee. I also commend the gentleman from Texas (Mr. GONZALEZ) for his initial leadership in this area. I would suggest to the gentleman from Virginia that you have a small staff and use other Government agencies to help gather information.

Also I would like to suggest that these select committees do not have to run on and on. Even though the Select Committee on Missing Persons was extended for 3 months over the 1 year of the life of the committee, which was needed, I think we can write a comprehensive report on the missing persons by January 3. I see no reason to extend the Select Committee on Missing Persons.

I know the gentleman will look into these matters.

Mr. DOWNING of Virginia. I thank the gentleman from Mississippi. I agree with him. The life of the committee will be determined by each succeeding Congress.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. DOWNING of Virginia. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I would like to add my support to this resolution and commend the gentleman in the well for his devotion to this cause. I think all America will applaud him for it.

The trouble is that we all felt in our bones that we did not have all the facts as to these terrible events, but only recently have we gotten some concrete evidence to confirm our misgivings. I was privileged to sit on the House Judiciary Subcommittee on Civil Rights earlier this year when we had hearings with respect to the FBI incident where they had a report on Oswald which was suppressed and flushed down the drain.

Unfortunately, the new evidence has been developed piecemeal and as a sort of byproduct of other investigations and oversight hearings. Now for the first time we will have the satisfaction that at least one committee will have the jurisdiction to go into this whole matter and try to answer some of these awful questions that have been continuing concern to the people of our country.

Mr. DOWNING of Virginia. I thank the gentleman.

This committee will engage in no witch hunts. Its purpose is to arrive at the truth and not to blame those who may have erred in the original investigation.

For my part the only conclusion I have reached concerning the murders of President Kennedy and Dr. King is that we do not know the complete truth. Certainly in the case of President Kennedy I am convinced that there was a conspiracy involved.

I do not, however, know the identity of the conspirators or their motives.

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. MADDEN. Mr. Speaker, I yield 1 additional minute to the gentleman from Virginia (Mr. DOWNING).

Mr. DOWNING of Virginia. Mr. Speaker, so that there will be no question about the nonpolitical purposes of this proposed committee, it has been agreed there will be no public hearings held prior to the election in November. Some hearings may be scheduled for later this year, but most of the time will be spent in organizing staff, setting priorities or obtaining the mass of political records for setting the stage for broad and deliberate action by the Select Committee, when as I strongly urge and expect it will be reestablished in the 95th Congress.

Mr. Speaker, I am sure we each remember the manner in which we heard of the assassination of President Kennedy and Dr. King. We may forget many of the details in our lives, but we will each remember where we were and what we were doing when we heard about it and our own personal reactions thereto.

Mr. Speaker, I do not want to go home and face my people unless I can assure them that I have done my utmost to provide them with all the knowledge of what happened to John F. Kennedy, our former President. I want them to know what happened to Dr. King. I want them to know that no one stood in the way of learning the truth. I want to restore credibility in our Government. I want to leave this as my legacy to the 95th Congress, whose pleasure I have chosen to leave at this time with great reluctance.

Mr. MADDEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, today—in this eleventh hour of the 94th Congress—the House has finally seen fit to attempt to discharge its responsibility in respect to some of the political assassinations of the last decade.

When I became the first Member of Congress since the Warren Commission report to ask for a congressional investigation of political assassinations on February 19, 1975—at the first available time after committees were organized for this Congress—I was ridiculed in some quarters and no one else was interested in joining in the effort. The U.S. press was, generally speaking, disinterested.

Much to my surprise, as well as everyone else's, the kind of reaction which I initially received quickly began to change as the result of revelations, especially about the John F. Kennedy assassination, which began to appear in print. The showing of the Zapruder film on national television also stimulated great interest.

As the interest began to mount, my good colleague, Congressman THOMAS DOWNING of Virginia, introduced the very same resolution which I had introduced, but left off all other assassinations—or attempted assassinations—except that of President Kennedy.

However, I had originally proposed and continued to propose that the House also undertake a review of the assassinations of U.S. Senator Robert F. Kennedy and Dr. Martin Luther King, and the attempt on the life of Gov. George Wallace, so my good colleague and I began to gather cosponsors on our two different versions of my proposal.

In the discussions which I had with my good colleague he argued that all the names of the others, especially that of Dr. King, should be removed from the proposal I had introduced, if we were to get any congressional investigation underway on the John F. Kennedy assassination, or any assassination.

Therefore, it was heartening this last Monday that my good colleague, THOMAS DOWNING, agreed to join me and Congressman WALTER FAUNTROY in a compromise proposal, House Resolution 1540, which includes Dr. King's assassination, and possibly others, as well as that of President Kennedy.

Mr. Speaker, you will recall, that I was the very first to appeal to you personally, on the floor of this House, for consideration of legislation creating a select committee on assassinations, as we have done today. This first appeal was many months ago when it appeared that there was no likelihood that we would ever get such a proposal out of the House Rules Committee.

Creation of the select committee is long overdue. However, whether creation of such a committee at this time, under the present circumstances, including the retirement from Congress of my colleague, Congressman DOWNING, is really appropriate, remains to be seen.

I have only one interest: the truth about why and how these assassinations occurred.

In organizing such an effort, as a select committee on assassinations, we should have only the objective of assessing the effects of these assassinations on the American people, trying to determine why they happened, and how we can prevent such a series of events from happening again.

Mr. MADDEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I am delighted that the gentleman who has preceded me on this resolution was the gentleman from Virginia (Mr. DOWNING). The gentleman certainly has no political motives whatever in espousing the cause of a reopening of the investigation into the death of Dr. King and John F. Kennedy, because as all of the Members of this committee know, the gentleman from Virginia is not seeking reelection to this body.

Mr. Speaker, very frankly, I was one of those who originally was highly skeptical—totally skeptical, I would say—of the utility of further pursuing this matter. Yet, after listening to the testimony of the gentleman from Virginia (Mr. DOWNING) before the Committee on Rules way back in March of this year, I was so impressed with the very patient and persistent effort that the gentleman had made to gather together all of the facts and all of the evidence that certainly pointed to new areas that deserve investigation, that at that time I voted in favor of reporting out this resolution. This was on the 31st of March of this year.

Now, almost 6 months have gone by, 6 months, I might say, of very valuable time that could have been used to pursue this matter.

Fortunately, some of the members of the Committee on Rules, at least in my judgment, changed their position and so it was that I read this week 2 days ago that by a vote of 9 to 4 this resolution was favorably reported.

Mr. Speaker, I shall not take the time to go into the evidence that has been presented to the committee by the gentleman from Virginia (Mr. DOWNING). The gentleman has already made some reference to it in his statement a moment ago; but, for example, some of the people who have urged reconsideration of this matter include the staff attorney for the Commission, David Belim, who in November of last year called for a new investigation, because the Commission at the time it did its work had been totally unaware of CIA attempts on the life of Fidel Castro; yet I read, for example, in the statement of the gentleman from Virginia (Mr. DOWNING) and heard the gentleman testify before the Committee on Rules, that Lee Harvey Oswald was questioned by seven FBI officials for approximately 12 hours and that there are no stenographic transcripts of his interrogation, no tape-recorded record of his questioning was made, that no notes were kept, even by the chief of homicide of the Dallas Police.

Mr. Speaker, those are things certainly that lead me to believe that in view of what we have learned in recent months of CIA involvement in attempted assassination efforts with respect to the Cuban dictator, Fidel Castro, and also some of the revelations with respect to the activities of the FBI have led me to believe that reasonable men have the right at this point in history to once again make an inquiry into these matters.

I have not spoken as extensively about the need for reinvestigation of the death of Dr. King, although I understand from one of the witnesses before our committee, Mr. FAUNTROY, that there is evidence in this case as well that is deserving of consideration. I think both of these matters are so important that I would urge Members to put aside their doubts and support the adoption of the resolution.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, no one can deny that there is a considerable percentage of people in America who feel they haven't had the full truth about the assassination of former President John F. Kennedy and Martin Luther King. There are lingering doubts in the minds of many about the participants, motives, and causes of these tragedies.

In my opinion, sinister conspiratory aspects loom larger and larger.

Questions have also been raised about killings, or attempted murders, of other leading American political leaders in the past 10 to 15 years.

It is always worthwhile to seek the truth. It is always a wise course to try to replace doubts with certainty. It is always a course of wisdom to seek to find answers for important questions.

An investigation of these assassination attempts may help to guide America's conduct of international relations. An investigation may help to provide better protection for our political leaders. Most importantly, an investigation that is thorough, complete, and impartial will do much to ease American minds. The United States is a nation of free people. We require knowledge and information to keep our freedom. As Jesus said, "The truth will make you free."

In the search for truth, I urge adoption of this proposal.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to my colleague from Illinois.

Mr. YATES. Mr. Speaker, the statements that have been made today by those advocating the resolution indicate that the committee's attention will be devoted to the assassinations of former President Kennedy and Dr. Martin Luther King. Yet, I am troubled by the phrase in the resolution which states, "and any others the select committee shall determine."

Mr. ANDERSON of Illinois. I would respond to the gentleman from Illinois in this manner: Certainly, all of the testimony before the Committee on Rules—and which led me individually to support as long ago as March of this year the adoption of a resolution to set up a select committee—was based on a desire on the part of the witness to reopen the investigation into the deaths of two men, and two men only, Dr. Martin Luther King and former President John F. Kennedy.

Let me conclude my answer by saying that just as the gentleman from Virginia (Mr. DOWNING) pointed out, there have been some very mysterious deaths occur in recent months, and he referred by name to two former members of the Mafia. It is generally believed that they may have had some connection with plots by the CIA on the life of Castro; so that, to me, indicates that this language is merely designed to give the select committee, if it is established, the latitude and the flexibility that it might need to look into the deaths of other individuals who are not really the prime focus of inquiry, but leads with respect to how that matter would in turn perhaps shed some light on the whole mystery surrounding the deaths of former President Kennedy and Dr. King. So, I think it is wholly ancillary to the principal thrust of the investigation, which is to look into the deaths of Dr. King and former President Kennedy.

Mr. YATES. Does the gentleman believe that the work of the committee should be fully devoted to the deaths of those two individuals? And further respecting the deaths, as the gentleman suggested, occurring recently if those deaths are related to the death of former President Kennedy, the authority given by the resolution would permit the committee to go into those deaths as well. I think the authority that is given by that gratuitous phrase, if you please, is so broad that the committee could go into the assassination of President Lincoln, for example, under this authority. It could go into the assassination of President McKinley.

Mr. ANDERSON of Illinois. Now, the gentleman is resorting to a familiar device. There is not a shred of evidence before the Committee on Rules to show that they intend to go back and exhume the bones of Abraham Lincoln or James Garfield.

Mr. YATES. Why put this phrase in here then?

Mr. ANDERSON of Illinois. I have tried to explain to the gentleman that the deaths of some of the other people in recent months have led the authors of the resolution to think they might have some bearing on the deaths of President Kennedy and Dr. King.

Mr. YATES. If they have a bearing on the deaths, would not the authority of this resolution give Congress the power to go into that investigation?

Mr. ANDERSON of Illinois. I suppose one could argue without the phrase "and of any others" that they could.

Mr. YATES. That is right. I thank the gentleman for his concession.

Mr. ANDERSON of Illinois. I frankly cannot see the basis for the fears expressed by the gentleman from Illinois that this committee is going to get off on a fishing expedition into every gangland slaying that has occurred over the past 10 years. I do not think that is their intention at all.

Mr. MADDEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, let me urge my colleagues, for gosh sakes, if they have any respect, as I am sure they all do, for the dollars of our taxpayers, let us vote this resolution down. This, to me, is almost unbelievable, that we would be here, approaching October 1, even discussing the issue.

Maybe I should not use this title, because it certainly does not apply to any Member of this body, nor to most Americans, but there are unfortunately, a number of people running around this country who are plain witch hunters, and they have some kind of a melodramatic desire for the morbid. They want to try to create an incident.

If anyone can stand up and tell me one single good that anything that this committee may do would be of any benefit to the American people, to the American Government, to anyone, then for God's sake I wish they would do it.

I thought we put this thing to bed a long time ago, and we did have it stopped for a time.

But it seems to ever raise its head. And, finally, let me say we had an amendment yesterday proposed to eliminate the phrase which has been raised here which opens it up. For example, I understand there is new evidence in connection with the death of President Harding. I do not know whether or not the committee wants to go in and investigate the death of President Harding, and I do not really care. I just hope, as I said, that we vote this resolution down, and particularly at this stage of the year when there is no possibility even, with the admission of possible Members of the committee, that they are going to do anything this year and will depend on the 95th Congress for any achievements that may be developed.

Mr. Speaker, let me say to my colleagues that we have heard all kinds of rumors, and there will continue to be rumors. We had a very distinguished commission 13 years ago that I think did the very best possible job of investigating this. People talk about new facts. We read about new facts concerning a whole variety of things, some of them going back 100 years ago. Facts are facts to the individual stating them. They may or may not be facts. They may be truths or half-truths.

So I say, Mr. Speaker, that I would urge that this House on this occasion vote down this resolution, and then if the 95th Congress wants to take a look at some new evidence that apparently seems to be floating around, they can do so. Frankly, as a Member of the Committee on Rules, I still have not heard anything up there that would in any way change my strong conviction that it is a total waste of time. Are we going to go down and bring Mr. Castro up here if somebody comes up with some so-called facts that he was instrumental in the death of

President Kennedy? To me, it is just unbelievable that we spend our time on this kind of situation.

Mr. MADDEN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. Downing).

Mr. DOWNING of Virginia. Mr. Speaker, I have resolved this question for myself. The Members all know that I do not go in for the sensational or the bizarre. That is not my lifestyle. I asked myself: "Why do you want to do this?" And the answer came back: "The truth."

The American people want to know the truth. I would hope and pray that the committee would resolve that the Warren Commission was right, but I know in my heart it will not.

Let me tell the Members something else about these assassinations. We should take into consideration the political effects of this crime. Let us think of this for a minute: But for the fact that Kennedy was assassinated, Johnson probably would not have been President, and but for the fact that Robert F. Kennedy was assassinated, Richard M. Nixon probably would not have been President, and but for the fact that George Wallace was eliminated, Nixon probably would not have been reelected. No one can tell me that an assassination does not have an effect on politics and on our form of government.

Mr. Speaker, I urge the Members to vote for this resolution.

Mr. MADDEN. Mr. Speaker, I yield 5 minutes to the gentleman from the District of Columbia (Mr. Fauntroy).

Mr. FAUNTROY. Mr. Speaker, I rise in support of the House Resolution 1540. There are at least three compelling reasons for the House to establish this Select Committee on Assassinations. The first is that the American people want it. The second is that a wealth of new information which was not available to the initial investigators of the Kennedy and King assassinations justifies it. And third, Mr. Speaker, the best vehicle for such an inquiry would be a duly constituted panel of distinguished Members of this House committed to conduct a responsible and searching investigation of these matters.

Let us take a look at the first compelling reason, namely that: The American people today want a thorough, impartial and reliable investigation of the rash of political assassinations that have rocked our Nation over the past 13 years. Both nationwide polls and more localized polls of opinions of the American people indicate that an overwhelming majority of our people are not satisfied that we know the whole truth about several of these assassinations. In fact, a CBS nationwide poll as recently as November of last year found a whopping 46 percent of the American people believing that the shootings of John F. Kennedy, Martin Luther King, Jr., and even George Wallace were related. The polls found only that 15 percent of the American people believe that Lee Harvey Oswald acted alone in the Kennedy assassination.

When one reflects upon the wealth of new information that has come to light since initial investigators completed their work, one can understand the low level of confidence which the American people have in these dated findings. Not only have a number of books published on the subject of the assassinations revealed new information and raised serious questions that ought to be answered, but the recent findings of the Senate Select Committee on Intelligence have, in my view, confirmed the need for a reopening of these matters.

Our distinguished colleague from Virginia, Mr. Downing, has noted a number of facts that were not available to the Warren Commission in the Kennedy case. The King assassination has never been thoroughly investigated inasmuch as there has never been a trial, even though the confessed assassin has been seeking one for nearly 8 years. I have shared new information with respect to the King assassination with the leadership of the House with the result that they have concurred in our desire to establish the select committee.

Third, Mr. Speaker, a select committee of the House is clearly the best vehicle for conducting this investigation. What the Senate Select Committee on Intelligence has documented about the shameful conduct of the FBI with respect to Dr. King is certainly enough to convince all of us that the responsible thing for the Congress to do is to undertake this investigation, resolve any lingering doubts and help restore confidence in our Government.

The American people want it, new information demands it, and the conduct of our traditional investigative agencies requires that we establish this select committee. Nothing more is needed; nothing less will suffice.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I share the concern of the gentleman, and I agree that these assassinations certainly needed investigation at the time, but I fail to realize how we can come up now 2 weeks before sine die adjournment with a resolution that provides for the appointment of 12 Members of this Chamber to make an investigation in 2 weeks and clear the air in a matter that the Warren Commission spent months in investigating. I just cannot see it.

I will ask one other question, if I may.

Mr. FAUNTROY. May I answer the first question and then answer the gentleman's second.

Mr. MYERS of Indiana. Certainly.

Mr. FAUNTROY. It is my considered judgment that the members of the Committee on Rules who voted for this, including the gentleman from Virginia (Mr. Downing) whose record is very clear on questions of this nature, have not moved to do this at this time without serious understanding of the urgent need to preserve testimony. I am confident that when we are apprised of the specifics, of the new information, we will understanding the wisdom of the leadership which is supporting this measure now.

Mr. MADDEN. Mr. Speaker, I yield myself an additional 30 seconds.

Mr. Speaker, I want to commend the gentleman from the District of Columbia (Mr. Fauntroy) for the remarks he just made.

As I previously stated, Mr. Speaker, there have been thousands of letters and requests from organizations and people all over the country pressing for these investigations.

The gentleman from Texas (Mr. Gonzalez) has been one of the pioneers in bringing about this investigation resolution. His work has not only extended over months, but over years in trying to get this Select Assassination Committee created.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Indiana (Mr. Madden) for yielding.

I will not take all of that time because I was also going to point out to the House that one of the first voices in the Congress to raise questions was that of the gentleman from Texas (Mr. Gonzalez).

Mr. Speaker, I have doubts about what this committee will find; but I do know that the gentleman from Texas (Mr. Gonzalez) has been pursuing this matter for the last several years and probably was the first one to initiate or to insist on further inquiring. I think the House ought to know that perhaps this resolution is before us today because of his persistence and because of his determination that certain testimony ought to be preserved.

Mr. Speaker, most of us are going to reserve our judgment, but I know that the able gentleman from Texas (Mr. Gonzalez) felt very strongly about uncertainties, and I think that the Members should be reminded of that particular fact.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, once again we will establish a commission or a select committee, and I understand that these people who will serve on this committee have already been designated, in the event this resolution passes today.

I wonder if this resolution would be here today if the 12 members who will serve on it were not Members of the House of Representatives. If we selected 12 persons from the population to make this investigation, would we still be voting on this bill today? Are we really concerned about this or is this an opportunity for somebody to be out in the limelight again?

Mr. PICKLE. Mr. Speaker, I must say to the gentleman from Indiana (Mr. Myers) that I do not know whether the members have been seletced. That is a matter for the Speaker, who will make that determination.

Mr. MYERS of Indiana. If the gentleman will yield further, at the time this came up I understand that the members had been selected already or designated, at least, even though they have not been appointed.

Again, I doubt that we would be here today taking up this resolution if Members of Congress were not to serve on this very select committee. Regardless of how worthy or meritorious this bill is, can the 12 members to be appointed fulfill all their other legislative responsibilities, all probably will be running for reelection and will be doing some politicking during this period, yet do any kind of job of investigation and make a report before we adjourn? To spend that much money in such a short time is just not reasonable.

Mr. MADDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I thank the gentleman for yielding.

When I came to this body nearly 2 years ago, I came from a role of a history professor.

I was the person who had seen in the books repeatedly or every so often the statement that we wanted to go back and reinvestigate some assassinaton.

Mr. Speaker, by training alone, I was opposed to this movement; but in the last 18 months, both from the evidence that has been amassed and the interest that has been exhibited, and from my own investigation and my own reading into this subject, I have been led to believe that this is worthy of our consideration. It is worthy of our consideration because there are too many unanswered questions.

Both of these assassinations and the evidence pertaining to them are now demonstrably incomplete, as has been stated ably by the gentleman from Illinois (Mr. ANDERSON). That being the case, it is time to try to lay this question to rest and to try to assure the American people, who are, as the gentleman from Indiana (Mr. MADDEN), the chairman of the Committee on Rules mentioned, uneasy about this whole matter.

Therefore, I would urge the Members of this body to support this resolution.

Mr. MADDEN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Speaker, I think it is odd. Yesterday we had the Clean Air Act. Today we have this resolution.

Everybody in America loves moving pictures and they love to read mystery stories. It is the best way to sell a newspaper.

I work on the Appropriations Committee and there are no TV cameras or lights, no reporters. Let us get into the act even if it is a fake.

Mr. WON PAT. Mr. Speaker, I rise to support House Resolution 1540, which calls for the creation of a select committee to investigate the deaths of the late President John F. Kennedy, his brother Robert, Martin Luther King, and the attempted assassination of Gov. George Wallace.

The measure now before this body is similar to one I cosponsored; House Resolution 456, both of which were written by our esteemed colleague Representative HENRY B. GONZALEZ, of Texas.

The need for Congress to undertake a new and thorough investigation of these matters, particularly the Kennedy assassinations, is very real. Recent events have revealed new information which shed light on some very gray areas of the Kennedy assassinations. Information which should give every American pause to question whether the Warren Commission did, in fact, uncover all the sordid facts surrounding these terrible events in our history. Did Cuban President Fidel Castro play a role in the killings as press reports now indicate may be the case? Did the Mafia know about the murders and are the gangland killings of the two Mafia heads related in any way to the Kennedy assassinations?

I, for one, have no idea if these or any of the numerous theories about the assassinations are valid. But the fact remains that many Americans continue to doubt that all the truth has been revealed.

I have great confidence that should the Congress approve of this legislation, the investigation will be conducted in a professional and responsible manner which will reflect credit on the U.S. Congress. What we are looking for is the truth, not a sideshow. But as long as a reasonable doubt remains, I believe that it is the duty of the Congress to investigate these issues and report to the American people its findings.

Congressman GONZALEZ deserves our support in this matter. He has approached this sensitive issue with dignity and appreciation for the complex issues involved. Should the select committee be authorized, I would heartily recommend that Congressman GONZALEZ be chosen as its chairman. He is extremely familiar with the issues and has undoubtedly developed strong connections with many of the groups who have publicly expressed reservations about the assassinations. Congressman GONZALEZ's record in the House is an outstanding one, and I am confident that he would carry out the duties of the chairman of the select committee to investigate the assassinations with his usual skill.

Mr. ANDERSON of California. Mr. Speaker, I rise to support House Resolution 1540, a resolution that establishes a House select committee to complete a thorough investigation of the assassinations of President Kennedy and Dr. Martin Luther King, Jr.

Lingering doubt about "what happened" remains with the American people. Uncertainty about the death of great leaders, or anyone, cannot be.

Thus, last year I cosponsored a nearly identical resolution (H. Res. 574) introduced by my colleague from Virginia, Mr. DOWNING. Today, I urge every Member to join with me in passing a resolution that, hopefully, will close an old wound.

Mr. BAUCUS. Mr. Speaker, I rise to urge a speedy passage today of House Resolution 1540. As Members of the House of Representatives, we have the duty to investigate and prove or disprove to the best of our ability any allegations of impropriety or conspiracy in these assassinations. The American people have the right to know with the greatest certainty possible the circumstances surrounding deaths of President Kennedy, Martin Luther King, and the attempted assassination of Governor Wallace.

Mr. MINETA. Mr. Speaker, I am most hopeful that today the House will take a step toward ending the 13 years of doubt that have surrounded the assassination of President John F. Kennedy. Public opinion polls have shown us repeatedly that the American people simply do not believe the conclusions of the Warren Commission report. And rather than subsiding, the questions, charges, and doubts grow in scope, magnitude, and intensity with the passage of time. The Senate Select Committee on Intelligence Activities concluded that there were serious omissions in the information and evidence provided to the Warren Commission and that another investigation is warranted. I concur with that conclusion and believe the House of Representatives should establish the vehicle to conduct that investigation.

It is clear that the Warren Commission never questioned the guilt of Lee Harvey Oswald and never looked into any information that was not directly related to him. In this way they never examined any information that did not fit into this preconceived conclusion, and thus the scope of their investigation was narrow and incomplete.

I do not pretend to know who did, or did not, kill President Kennedy. I do know that too many questions and doubts remain for us not to create a select committee to investigate that assassination. Further, information that has come to light over the last several months regarding the surveillance and harassment of Rev. Martin Luther King, and the inconsistencies surrounding his assassination warrant attention by the House of Representatives as well.

I urge all of my colleagues to consider the public's right to know the truth, and cast an affirmative vote on this resolution.

Mr. BIAGGI. Mr. Speaker, I rise to indicate my full support for this resolution which will establish a new Select Committee on Assassinations. As a cosponsor of this resolution, I consider its passage vital if we are to address the clamorings of millions of Americans to reopen the investigations of the assassinations of John F. Kennedy and Dr. Martin Luther King, Jr.

Now, almost 13 years later, there are still many serious questions being raised on certain key facts associated with the murder of President Kennedy. The relentless efforts of such persons as Mark Lane in his book "Rush to Judgment" as well as other individuals and groups, have produced new evidence which questions the findings of the Warren Commission. It should be clearly understood that the efforts to create this select committee are in no way designed to be a total denunciation of the Warren Commission. Rather, in light of new and substantial evidence, it is imperative that a new inquiry be undertaken and we are seeking to allow Congress to investigate the assassination for the first time.

Similarly, serious questions have been raised about the murder of Dr. Martin Luther King, Jr. New and very disturbing theories have surfaced which deserve close examination. This is exactly what the committee would do.

I am pleased that this resolution will vest the new committee with sufficient authority to insure that thorough inquiries are conducted. These two assassinations of major American leaders have had a profound effect on all Americans. We must write the final chapter on these two dark events in American history by permitting all relevant evidence to be aired and considered so that unimpeachable conclusions on these assassinations may be reached.

Mrs. MINK. Mr. Speaker, I rise in support of House Resolution 1540, to establish a Select Committee on Assassination. Many of us have been shocked in recent times to learn of the extent to which American intelligence and law enforcement agencies have engaged in illegal, improper, and unethical activities. Investigations by both Chambers of Congress have charted a long history of abuses by the CIA, FBI, and other agencies that have included illegal electronic surveillance, drug abuses, political spying, mail openings, efforts to disrupt and discredit citizen protest groups, and assassination plots against foreign leaders.

The recent disclosure of J. Edgar Hoover's now infamous COINTELPRO memos outlines a nationwide program to "expose, disrupt, misdirect, discredit, or otherwise neutralize the activities" of organizations and leaders who did not share Mr. Hoover's political philosophy. And yet, I would remind my colleagues, that the investigations of the assassinations of President John F. Kennedy, Senator Robert F. Kennedy, and Dr. Martin Luther King, Jr., were dependent upon information gathered under the direction of the very same J. Edgar Hoover.

Mr. Speaker, this Congress had done much to prevent the reoccurrence of the abuses of the past but to stop at this point is to leave our work half done. Many Americans are demanding to be told the whole truth about the assassinations of some of our greatest leaders. The recent systematic violations of the Constitution, Federal, State, and local laws by the FBI, CIA, and other agencies, necessitates the direct intervention of this honorable body in order to determine if all facts have been brought to light. The American people will expect no less.

Mr. MILLER of Ohio. Mr. Speaker, I rise in opposition to this resolution. The proponents of this resolution are asking the American taxpayers to pay $250,000 to study the circumstances surrounding the assassinations of certain named individuals and other unnamed individuals. The proponents of this resolution call for the expenditure of these funds even though thousands of dollars have been previously spent by various local, State, and Federal entities—including adjudicatory bodies—in the investigation of assassinations.

Now, Mr. Speaker, assassinations are a terrible thing and if we could prevent them by writing $250,000 reports that nobody will read, I would vote for this resolution. But the proponents of this resolution indicate that we just have to have this study. However, I have neither heard nor seen a great clamor from the people demanding this study. If the proponents truly down deep in their hearts want this great treatise called for by this resolution, I respectfully suggest that they reach down deep in their pockets and get out their checkbooks and personally contribute to this undertaking. I have it calculated. If each of the Members would write a check for $575, that will cover the $250,000 cost of this endeavor. Since the people do not want this resolution it is only fair that we pay the bill and save the taxpayers some funds. I suspect that there would be a lot less studies undertaken if we were required to pay for them out of our own pockets. And I also suspect, Mr. Speaker, that all of these study commissions would not linger on indefinitely if the Members were required to pay for them year after year.

The SPEAKER. All time has expired.

GENERAL LEAVE

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the pending resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 65, answered "present" 1, not voting 84, as follows:

[Roll No. 748]

YEAS—280

Abdnor
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, Phillip
Butler
Carr
Cederberg
Clausen, Don H.
Clay
Cohen
Conte
Conyers
Corman
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derwinski
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
du Pont
Early
Edgar
Edwards, Calif.
Eilberg
Emery
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCollister
McDade
McDonald
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Melcher
Mezvinsky
Mikva
Miller, Calif.
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Russo
St Germain
Santini
Sarasin
Scheuer
Schulze
Seiberling
Sharp
Shriver
Sikes
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stephens
Stokes
Stuckey
Studds
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—65

Annunzio
Beard, Tenn.
Biester
Breckinridge
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Dent
Derrick
Devine
Dickinson
Dingell
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Fary
Ford, Mich.
Gaydos
Hall, Tex.
Harsha
Hicks
Holt
Hutchinson
Jarman
Jones, Okla.
Kindness
Lujan
McClory
McCormack
McEwen
Michel
Miller, Ohio
Mosher
Murtha
Myers, Ind.
Nedzi
Passman
Patten, N.J.
Pike
Poage
Quillen
Risenhoover
Robinson
Rostenkowski
Runnels
Satterfield
Sebelius
Shuster
Simon
Sisk
Stanton, J. William
Steed
Steiger, Wis.
Stratton
Van Deerlin
Waggonner
Wampler
Wiggins

ANSWERED "PRESENT"—1

Young, Tex.

NOT VOTING—84

Abzug
Adams
Alexander
Ashley
Badillo
Bell
Bowen
Burke, Calif.
Burton, John
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Cleveland
Collins, Ill.
Conlan
Cotter
Eckhardt
Esch
Flynt
Ford, Tenn.
Fuqua
Giaimo
Goldwater
Green
Hagedorn
Hansen
Hawkins
Hébert
Heinz
Helstoski
Hinshaw
Howe
Johnson, Pa.
Kelly
Ketchum
Lent
Lott
McKay
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Milford
Mineta
Mink
Moss
Murphy, N.Y.
Patterson, Calif.
Randall
Rangel
Rees
Riegle
Rose
Rousselot
Roybal
Ruppe
Ryan

Sarbanes
Schneebeli
Schroeder
Shipley
Skubitz
Snyder
Stark
Steelman
Steiger, Ariz.
Sullivan
Symington
Talcott
Teague
Thornton
Vander Veen
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Ga.

The Clerk announced the following pairs:

Mr. Bowen with Mr. Hébert.
Mr. Chappell with Mr. Talcott.
Mr. Teague with Mr. Heinz.
Mr. Matsunaga with Mr. Bell.
Mr. Flynt with Mr. Esch.
Mr. John Burton with Mr. Goldwater.
Mr. Shipley with Mr. Wydler.
Mr. Wolff with Mr. Lott.
Mr. Yatron with Mr. Carter.
Mr. Mineta with Mr. Hansen.
Mrs. Meyner with Mr. McKay.
Mr. Mann with Mr. Schneebeli.
Mr. Cotter with Mr. Howe.
Mr. Murphy of New York with Mr. Lent.
Mr. Stark with Mr. Snyder.
Mr. Rose with Mr. Clancy.
Mr. Roybal with Mr. Ruppe.
Mr. Hawkins with Mr. Kelly.
Mr. Adams with Mr. Hagedorn.
Ms. Abzug with Mr. Steelman.
Mr. Byron with Mr. Metcalfe.
Mr. Carney with Mrs. Collins of Illinois.
Mrs. Chisholm with Mr. Winn.
Mr. Eckhardt with Mr. Skubitz.
Mr. Fuqua with Mr. Johnson of Pennsylvania.
Mr. Giaimo with Mr. Riegle.
Mr. Green with Mr. Symington.
Mr. Helstoski with Mr. Alexander.
Mr. Meeds with Mr. Cleveland.
Mr. Rangel with Mr. Rousselot.
Mr. Wirth with Mr. Mazzoli.
Mr. Wright with Mrs. Sullivan.
Mr. Badillo with Mr. Milford.
Mr. Ashley with Mr. Steiger of Arizona.
Mr. Ford of Tennessee with Mr. Conlan.
Mr. Thornton with Mrs. Burke of California.
Mr. Moss with Mr. Rees.
Mrs. Mink with Mr. Sarbanes.
Mr. Patterson of California with Mr. Young of Georgia.
Mr. Ryan with Mrs. Schroeder.
Mr. Vander Veen with Mr. Randall.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL FOREST MANAGEMENT ACT OF 1976

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 15069) to amend the Forest and Rangeland Renewal Resources Planning Act of 1974, and for other purposes.

The SPEAKER pro tempore (Mr. Boland). The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 15069, with Mr. Danielson (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. Danielson). When the Committee rose on Wednesday, September 15, 1976, the gentleman from Washington (Mr. Foley) had 14 minutes of general debate remaining and the gentleman from Idaho (Mr. Symms) had 16 minutes of general debate remaining.

The Chair now recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. Weaver).

Mr. WEAVER. Mr. Chairman, the timber industry and the men and women who work in it have contributed greatly to this Nation, providing the wood products with which we have built our homes and the furnishings within our homes and buildings.

It is a hardworking industry, a proud people, fallers and buckers, choker setters, all who work in the woods, in logging shows, in mud and snow; those who pull on the green chain, the sawyers, those who lay out veneer and make plywood, the log truckdrivers who work from early dawn to late at night, all bring to America one of its most precious, warm, and useful resources to be constructed by craftsmen into that which, with the food we eat, is the important quality in our lives—our homes.

Oregon is proud to be the State which provides the most softwood timber to this Nation. We do our part, and want always to do our part. We want to continue our ability to provide timber, and at the same time show strong and reasoned concern for the care of our forests and the forests of this Nation.

For, Mr. Chairman, the woods are many things. They are the growing place of magnificent trees, the growing place of plants of rare beauty, and they are the source of our water, the fresh mountain water that is our blessing and our trust. They are the habitat of countless wildlife, the spawning grounds of bright fish, whose natural streams are sensitive to environmental change. We in Oregon are fishermen and women, hunters and hikers, and we love our forests with our streams coursing through the mountains. We know the soils must be carefully preserved to protect all that is in our woods.

We invite you to Oregon to see our natural wonders. Join us if you wish; it is a free country. We only ask one thing, that you help us to keep Oregon, its forests and rivers, a special place to live.

And, we ask this Congress to approve sound, balanced legislation which will keep us at work providing wood to this Nation, and at the same time keep a forest environment that preserves those other vital values of nature; and legislation that will assure that the trees, young and old, growing and harvested, will be with us forever. For, what would Oregon be without trees; the Nation without forests?

Mr. SYMMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. Smith).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of H.R. 15069, the National Forest Management Act of 1976.

As reported by the House Agriculture Committee, this legislation would amend the 1897 Organic Act—enacted at a time when our timber resources appeared virtually unlimited—to permit the increased use of the timber produced in our national forests.

As Members know, a recent court decision based on the Organic Act has resulted in an outright ban on all clearcutting in the Monongahela National Forest. If extended to all national forests, the Forest Service estimates, timber harvests in the East would be reduced by about 10 percent, with a 50-percent reduction in western forests.

The bill presented today would allow limited clearcutting in national forests under the supervision of the Agriculture Department. This will allow the use of modern timber harvesting methods, while at the same time assuring adequate protection for the environment.

In addition, today's bill will establish an 8-year reforestation program designed to increase future timber yield.

Mr. Chairman, this represents a sound balance between increasing timber production and protecting the environment. As is evident in the debate last night and today, this is an extremely sensitive issue, and I want to commend the Agriculture Committee for a constructive solution to a difficult problem.

I am confident that adoption of this legislation will remove much of the pressure to increase lumber prices and will result in an increase in future supplies.

Mr. SYMMS. Mr. Chairman, I have no further requests for time.

Mr. FOLEY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. Krebs).

Mr. KREBS. Mr. Chairman, members of the Committee, I will not use my 4 minutes.

I voted in favor of this legislation when it emerged from the full committee. I supported the bill when it emerged from the subcommittee. I probably do not represent one of the largest timber areas in the country; nevertheless, there is substantial timber in my district. We have two national forests which I am privileged to have in my district, and I think it is important that we get timber legislation out of this House in this session of the Congress.

I also happen to feel that we have to strike a balance between the timber needs of this country and the sound environmental concerns, as distinguished from concerns that are based more on emotions than on reality. With this in mind, I will support some of the amendments that will be offered here, because I feel that it will bring the legislation before us closer to the legislation that emerged from the other body, legislation which I feel does represent the type of balance I just referred to a second ago.

So I urge the members of this Committee to give due consideration to the amendments that will be before this committee later today.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Chairman, I support

H.R. 15069, the national forest timber management reform bill. It is important that the bill be enacted without further delay. It may not be a perfect bill but it provides relief for the Monongahela crisis, the solution of which would also permit the U.S. Forest Service to go about the business of managing national forests in the East, in Alaska, in Texas, and elsewhere. It provides environmental safeguards as well—perhaps not as strong as some of our colleagues would prefer, but adequate to prevent future mistakes of the kind that brought on the Monongahela decision. I commend the Committee on Agriculture for a great job of resolving a difficult issue and reporting a reasonably satisfactory bill to the House.

Several amendments are being proposed and some have merit but there is danger that they tend to be prescriptive legislation which would tie the hands of the Forest Service in managing the national forests for all values. A large measure of professional judgment must be left in the hands of those trained to exercise it. We should not and cannot properly prescribe silviculture practices into law. As a policymaking body, the Congress should reaffirm its mandate to the Forest Service to practice multiple-use sustained-yield management on the national forests and to go about its assigned responsibility of developing a comprehensive program under the Forest and Rangeland Renewable Resources Planning Act. I believe H.R. 15069 would achieve these objectives.

I cannot refrain from taking this opportunity to point out the fact the Congress should have been more specific and comprehensive in its past policy directives. We have not yet established clear policy guidelines and objectives for either public or private forest lands. We have such problems as Monongahela because concise policy directives on the future policies of our national forests are lacking. Although H.R. 15069 resolves the Monongahela problem for the time being, it does not chart a comprehensive course for forestry in America.

Earlier this year, a number of our colleagues joined me in introducing legislation that would supplement the bill before the House today. These bills are H.R. 12232 and H.R. 13378. The proposal would establish a joint congressional committee to study existing forest policy and make recommendations to the Congress with respect to future policy and needed legislation. My statement before the House in support of this measure appears in the March 2 CONGRESSIONAL RECORD on page 5003.

As stated before, I support H.R. 15069, but I strongly urge that we address ourselves as soon as possible to the broader question of forest policy and the future of this great resource that covers one-third of our total land area. As population pressures continue to increase, the forest resources of our Nation become increasingly important, not only for wood but for recreation, wildlife and all the other amenities that they provide. It is our duty to work with the professional foresters, the landowners, and others involved in the field of forestry to determine the policies that are needed and then give them the financial backing and the authority to carry out sound policy guidelines.

H.R. 15069 is a first step and I am hopeful the bill will be approved.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman I rise in strong support of H.R. 15069, and in opposition to any substantial amendments to the bill as reported.

Before explaining my position, I want to express my congratulations to the Committee on Agriculture for a job well done. Under the leadership of its chairman, the gentleman from Washington (Mr. FOLEY), the acting chairman of the Forestry Subcommittee (Mr. MELCHER) and the late Jerry Litton, the committee has produced a sound, balanced bill in timely fashion.

The need for prompt action on this legislation is, by now, well known.

Recent Federal court decisions, based on the Organic Act of 1897, have effectively halted the timber sale program of the U.S. Forest Service in all or part of six States, and similar rulings are possible in other parts of the country.

As a result, there is the very real danger of a forest products shortage that would be bad for people in all parts of the country and disastrous for the American economy.

H.R. 15069 answers that threat by updating the Organic Act and providing a new set of legislative guidelines for management of our national forest lands. It builds on both the Multiple-Use Sustained-Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974 in ways and protects the environment and offers promise of increasingly productive management of a resource that is vital to bettering the housing and social well-being of the people in this country.

I am especially pleased with three aspects of this legislation.

First is its emphasis on reforestation.

The Congress has talked about the importance of reforesting lands denuded decades ago by fire, disease, or man for as long as I have been a Member of this body. We have agreed, along with conservationists and the forest products industry, that bringing these hundreds of thousands of acres under productive management would be good for the country—a sound investment for the future. Yet we have been reluctant to make the kind of current commitment that will provide for a brighter future.

H.R. 15069 would, at long last, affirm that commitment in law. It provides a deadline for completion of the necessary work, an authorization that will cover the necessary investment, and a direction that will guard against redevelopment of another reforestation backlog.

It is a commitment our children will thank us for making.

The second feature of the bill I am particularly pleased to see is that which incorporates the so-called Church subcommittee guidelines on timber management and clearcutting into law.

Members may recall these guidelines were formulated 4 years ago after evidence was presented indicating that the Forest Service had been considerably less than discriminating in planning certain clearcuts in Montana, West Virginia, and elsewhere. The guidelines were incorporated in an action plan at the Forest Service and have, insofar as I know, been carefully adhered to since that time. Among other things, they allow use of clearcutting only if:

There is assurance forest regeneration can occur within 5 years;

The cleacut area is kept to a minimum size; and

It is blended and shaped to protect land and water resources and minimize the esthetic effect.

In forests in my own State, these guidelines have sharply reduced the size of clearcuts, keeping them to under 25 acres except where specifically approved by the forest supervisfor and to less than 40 acres in most circumstances.

By placing these guidelines into law and requiring harvesting programs and methods to be set forth in an integrated plan for forest units—a plan which is subject to public scrutiny and input before it becomes effective—this bill is a step toward even more careful management than we have had in the last few years.

Finally, H.R. 15069 will require that amounts credited to timber purchases for construction of roads and amounts deposited under the Knutson-Vandenberg Act for reforestation be included as receipts from the national forests for purposes of calculating the amounts which must be distributed through States to counties for public roads and schools.

This corrects a situation in which the Forest Service has reduced effective timber sale receipts by allowing liberal purchaser credit for road construction and insures that units of local government will receive a fairer share of gross receipts in the future.

H.R. 15069 is a good bill, balanced over months of hard work by the Agriculture Committee. I urge its adoption without amendments that would upset its equilibrium and create new possibilities for harmful litigation.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in full support of the bill. It has been perfected in the Committee on Agriculture. We had the fine leadership of the chairman of the full committee and the subcommittee in perfecting the bill, along with the minority side.

I do believe we have a very fine bill here before us on the floor. I am in full support of it. I represent a very large area that is timbered. I have studied the bill, we have a well prepared bill for consideration. I do not believe it is necessary to consider the amendments that will be offered here. I hope after due consideration they will be voted down and we can maintain the language that is in the bill at the present time.

Mr. Chairman, on a nationwide basis, national forests are most important as a source of softwood sawtimber, the raw material base for softwood lumber and plywood. U.S. Forest Service lands currently account for nearly one-quarter of the softwood sawtimber harvest and contain about 50 percent of the Nation's inventory of this raw material. These lands must be carefully managed for the use of future generations. I believe that H.R. 15069 presents us with the formula for doing this effectively.

A reduction in the amount of timber products offered to consumers would quickly result in increased prices. A number of studies and historical experience indicate that market prices of the major timber products are quite responsive to changes in quantities supplied to the market. Our preliminary estimate indicates that a 50-percent reduction in available Forest Service softwood timber would result in more than a 15-percent increase in wholesale lumber prices and a larger increase in wholesale plywood prices for the period 1980–90. The immediate impact on lumber and plywood prices could even exceed the above projections. The impact of a shortage in supply would be particularly critical if it occurred at a time when the housing market was expanding.

It is, therefore, appropriate that the Congress take positive action to insure that our natural resources are managed in a wise manner. I should point out, Mr. Chairman, that all of us are familiar with the recent court actions involving the Monongahela National Forest in West Virginia and the Tongass National Forest in Alaska. The courts have adhered to very strict interpretations of the 1897 act and, in so doing, have made it clear by the language of their decisions that the guidelines for broadening this admittedly far too restrictive interpretation must come from Congress. We have a challenge, and I am pleased that the Congress is attempting to meet that responsibility.

Furthermore, it is essential to emphasize that conservation of these resources and their wise utilization are essential for the future of our Nation for generations to come. In conserving these resources for future generations, we, of course, must look to the environmental impact of our resources management.

There is no doubt that we need now to improve renewable resource management on the national forests. Further, there is no doubt that in the next few years we will find an even greater need for even more change.

In conclusion, I would point out that there should be no doubt of the national importance of the 187,000,000 acres in the national forests. Their waters are significant to rural and urban America. Their soil is a vital resource to the plant/animal community within and adjacent to these lands. The wildlife on the land and in the waters, including the anadromous fish and migratory birds, are of truly national importance. Their scenery is a core part of the American landscape. These lands contain most of the superlatives that we so often take for granted. These lands are a major source of all types of most enjoyable outdoor recreational activities. These lands provide grazing for livestock important to our food base. They provide minerals, energy and nonenergy, that help our standard of living.

Finally, the trees that grow on 90-plus million acres of these national forests are not a small or minor component of our wood base for quality lumber, plywood, paper, and other wood products. They are a resource of major importance owned by the public and held for public management because of the foresight that developed 100 years ago. Here we are in our 200th year and our public forests have become a major factor in our wood supply despite the fact that they are but one-fifth of our total forested land. These lands are our richest softwood reserve. They have a trillion board feet of timber. While these forests are of but average productivity, their growth can be enhanced.

Thus, for all of the resources and for all of the uses, I think that the key policy issue that we need to address is that the national interest requires that their uses be multiple and the yields of all of them be sustained. I believe that H.R. 15069 provides us with the legislative language required to carry out this policy. It has been developed through a careful blending of ideas and has been widely accepted by forest management people as a workable proposal and one which will benefit the Nation. I encourage my colleagues to endorse and support the legislation recommended by the Committee on Agriculture.

Mr. FOLEY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I very much appreciate the generosity of the chairman of the committee in yielding me this time.

In view of the unfortunate scheduling of this legislation, the bill having been taken up the other evening without announcement while a number of Members were not here and being scheduled this afternoon when we are a little short on attendance, I had wanted as much as possible to use the time I have available to clarify the basic issues of this bill as I see them.

Basically, I believe, as I said before, that we have a good piece of legislation. It will be matched with a Senate bill already passed which, I think, is superior in some respects. There will be an effort here on the floor during the consideration of amendments to offer two or three amendments which we think are helpful in order to strengthen the bill.

Essentially, these amendments have to do with the strengthening of the language concerning sustained yield and multiple use of resources as a principle or principles. These few words encompass many principles, but they are principles to which I think all Members of the House are committed.

In the hearings on this bill we found no objection from any side, from industry, environmentalists, or conservationists, with regard to the basic idea that we want to manage our forests in accordance with sound principles of forest management and adhere to the principles of sustained yield and multiple use.

The problem comes about basically as to how we interpret these terms. Essentially, they have been in the existing law without specific interpretation. The interpretation placed upon the terms amounts to what the Forest Service in practice does.

The Forest Service has been criticized on all sides of the spectrum. The environmental and conservationist groups have criticized the Forest Service for allowing clearcutting in the forests and for failing to protect the integrity of streams and marginal lands. This bill deals with that problem in various ways.

Industry people, on the other hand, have criticized the Forest Service for not allowing greater cuts of timber from the forests, and they have a legitimate position, I might say. A general objective analysis indicates that we could do better in getting timber from our forests. I want us to achieve that objective.

All of these parties assert their positions within the framework of a commitment to sustained yield and multiple use of resources; hence the need to clarify in this legislation what we mean by these terms. That is going to be the purpose of the amendments which will be offered by myself and by the gentleman from Oregon (Mr. WEAVER).

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I want to commend the gentleman from California (Mr. BROWN) for his leadership in drawing up his amendment. They provide the kind of balance that this legislation urgently needs.

The gentleman has addressed the problem of clearcutting, by providing that there will be adequate guidelines so the Forest Service will not be subject to undue pressures from all sides.

The CHAIRMAN pro tempore (Mr. DANIELSON). The time of the gentleman from California (Mr. BROWN) has expired.

Mr. SYMMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I thank the gentleman very much.

Mr. GUDE. Mr. Chairman, in addition, his amendments give attention to the marginal lands which, if overcut can make for new dustbowls. He pays particular attention to the question of sustained yield. This is a principle which evolved early in this century under the leadership of such people as Teddy Roosevelt, one of our great conservationists. It was he who really launched the Forest Service and the National Park Service in the direction which they follow these days.

All together, Mr. Chairman, the gentleman's amendment encompasses really four principles. They are well thought out. I think he has had a lot of input in this matter.

Mr. Chairman, I do hope we adopt the gentleman's amendment. I can hardly see my way clear to supporting this legislation without it. Again I commend him for his leadership.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from Maryland (Mr. GUDE) very much for his remarks, particularly in the light of his own leadership on these issues over the past years.

Mr. Chairman, there will not be time here to explain in detail some of the complicated aspects of the amendments. We will do that further in the amending process, but I wanted to try to make it as clear as possible as to what the issues are.

Both sides have yielded. The environmentalist groups themselves are yielding in recognition of the fact, at least in my view, that clearcutting is a legitimate silviculture practice, one that is necessary and even valuable to the forests, if done under properly controlled conditions.

Of course, Mr. Chairman, from the standpoint of the forest industry, this bill will allow the kind of approach to the forests which they very much need.

Mr. SYMMS. Mr. Chairman, I have no further requests for time.

Mr. FOLEY. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Chairman, to a Representative from the State of Oregon and to the people of Oregon, I suppose this is one of the most important bills that will come out of this Congress.

Timber production, of course, is the most important industry of Oregon. As my colleague, the gentleman from Oregon (Mr. WEAVER), mentioned, it is not simply the harvesting of trees but all of the multiple uses to which our natural resources can be put which are important to our State.

Mr. Chairman, I had my own bill in, in an effort to help solve the crisis out of the Monongahela decision. The Members will forgive me if I suggest that it is a far better solution than the committee bill.

It was a simple bill. It simply struck a couple of obsolete provisions from the Organic Act, together with the offending and obsolete words that gave rise to the Monongahela decision, to wit: "dead, matured or large growth" and "individually designated."

In lieu thereof and to modernize the law, I provided that the forests would be managed in accordance with the Multiple-Use Sustained Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974. Both of these acts were supported by a broad range of resource users from industry to environmental groups. They mandated multiple use, sustained yield, land management plans based on a systematic interdisciplinary approach, an inventory of assets and a long-range approach, with 60 days for Congress to modify or revise it, and ample opportunity for public hearings and comment.

The Duncan bill did not attempt to lay down specific logging practices that must or must not be followed. I think no bill should. Such efforts in 1897 brought us to our present troubles. Even if we concede that mistakes in forest management have occurred—and they have—cannot we also concede that there will always be mistakes. Mistakes are made on the operating table daily, but we do not prohibit by law specific operations or delineate by law how such operations shall be performed. So for forest management we should set up a flexible procedure under broad policy directives that will reasonably protect the public and yet make readily available the best professional judgment and talent there is.

Specific statutory language mandating forest practices, in my judgment, will lead us right back into the courtroom on every proposed sale and every proposed withdrawal or dedication to recreational use. What seems wise today is unwise tomorrow. And the English language is such a difficult one in which to express oneself that ambiguities are found by the lawyers where none are sought to exist by the draftsmen. The result is a frustration of our forest policies and the elevation of the courts as the foresters of this Nation, as other ambiguous statutes have made them the fish masters, the water masters, the highway planners, et cetera. The lawyers who become judges have no particular expertise in these fields. Their proper function is not as administrators but as custodians of the people's freedom to restrain Government from unlawful, unreasonable, arbitrary, and capricious actions. It is not to define professional policies in the first instance.

In my judgement, the committee bill poses serious threats along these lines. It spells out forest practices in such detail that I fear both the timber production and recreational development will be interminably and unnecessarily delayed. While there are a number of objections I have, I am particularly concerned with section 6(f)(5)(vi) and section 6(j)(1).

The former, prohibiting the application of silvicultural systems only if "such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber," in my judgment, relegates timber harvests at least to the low end of what I thought were equal multiple uses of the national forests. Why else, I ask, would a silvicultural system be selected if it does not give the greatest dollar return and the greatest unit output of timber? That is not to say that other uses within the area to which silviculture is applied should not be ignored, but I read this section to require the Forest Service virtually to ignore timber production and its values.

The latter section requires—

> standards to insure that, prior to harvest, stands of trees . . . shall generally have reached the culmination of mean annual increment of growth. . . .

I see very little difference in these words and the magic words of the Organic Act—"dead, matured and large growth." I see a lawsuit possible on every sale to determine whether incremental growth has culminated. I see many stands that should be harvested because incremental growth has slowed, held up because it had not culminated. I think we have sowed in this section the seeds of great difficulty.

I say this because I see in the future a crisis in the production of timber and wood products not dissimilar to that we face today on energy. I am convinced that our forests, under proper management, can produce the wood products we need in increased amounts along with increased resources for wilderness, recreation, wildlife, livestock production, and more and better water. I think we still have time to avert a crisis. I do not believe we can do so by denying ourselves the right to use the most modern silvicultural techniques, the right to harvest at the optimum time, nor by refusing to make the capital investment in the resource agencies that any prudent manager would make.

Nevertheless, I must point out to the committee that I am a cosponsor of this commitee bill. Although there are provisions therein that I would change, it is infinitely better than the one produced by the Senate. Because the judicial decisions pose a threat to timber production and recreational use, and, in the spirit of compromise that must accompany any legislative action, I urge the members of this commitee to support fully the committee version and to oppose the amendments which will be offered by the gentleman from Oregon (Mr. WEAVER) and the gentleman from California (Mr. BROWN).

Mr. BONKER. Mr. Chairman, I am a strong supporter of the principles of sustained yield forest management as embodied in the Multiple-Use-Sustained Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974. I am also encouraged that the U.S. Forest Service has taken greater care in recent years to insure that the sustained yield concept is accurately reflected in the annual allowable cuts on our national forests.

However, I do not favor writing rigid sustained yield language into statute, and I opposed House floor amendments that would have done so during consideration of H.R. 15069, the National Forest Management Act of 1976.

Modern forestry practices require flexibility if we are to do the best possible job of meeting the Nation's growing demand for wood and wood products. Flexibility is provided by Forest Service administration under existing law. Inflexibility would have been forced had a sustained yield amendment been added to H.R. 15069.

Mr. ASHLEY. Mr. Chairman, the National Forest Management Act will update timber harvesting practices in our national forests by amending the Organic Administration Act of 1897 and the Renewable Resources Planning Act of 1974. Its chief thrust is to clarify the multiple use and sustained yield mandate of the Forest Service in the aftermath of a recent court decision which placed severe and unrealistic limitations on the allowable limits of timber removal.

The so-called Monongahela decision, which in effect prohibits clear-cutting, would by USDA estimates restrict timber harvest in the immature eastern national forests to 10 percent of current levels and to 50 percent of current levels in the mature western forests. The ramifications on the homebuilding industry would be severe. Were the Monongahela decision allowed to stand and become applicable nationwide, the resulting shortage of wood building materials would lead to an increase in the price of the average single-family house that has been estimated at anywhere from $1,200 to $2,500.

Not the least of the causes of the current depressed housing market is the steadily rising level of prices for new homes, currently increasing by nearly 15 percent a year. In April of this year, for example, the median sales price of new homes sold was $44,100. Nationally the average sales price for new homes sold in the January–May period of 1976 was $46,800. Whatever the increase in costs may be from limiting timber supply from the national forests, it would most assuredly impact the housing market which is now also faced with rising costs for land, labor, financing, and utilities. With the price of new homes outstripping the reach of most Americans, it is clear that we cannot afford to permit court decisions or legislative restrictions to constrain the supply of timber and raise prices even more.

The National Forest Management Act will solve the legal problems rising from the Monongahela decision and will give the Forest Service authority to apply modern management practices and technology to the management of timber resources. At the same time, H.R. 15069 will provide ample safeguards against excessive timber harvesting or ecologically unsound clear-cutting.

The bill authorizes $200 million annually for reforestation and requires the backlog of land in need of work to be treated within eight years. It directs the Secretary thereafter to treat and maintain planned timber production so as to prevent a backlog of needed reforestation work.

Furthermore, the act adds new requirements for timber management planning by providing for public participation in the planning process and emphasizing that the land management planning process be consistent with multiple-use-sustained yield objectives. In addition, the Secretary is required to establish standards to insure that trees are harvested at maturity, with exceptions for thinning or other stand improvements and for harvesting of timber stands which are substantially damaged by fire or disease.

In sum, Mr. Chairman, H.R. 15069 appears to me to strike a reasonable balance between environmental and economic concerns, while at the same time encouraging prudent, scientific management of national forest timber. I therefore support the bill and urge the rejection of amendments that would effectively reduce timber supply beyond the sound provisions in the Agriculture Committee bill. This is a clear instance in which urban interests are directly tied to the wise and balanced management of our natural resources. Our concern for the availability of decent, reasonably priced housing for all of our people and a proper consideration of community development needs throughout the United States will be reflected by a vote for H.R. 15069 as reported out of committee.

Mr. McCOLLISTER. Mr. Chairman, I rise in support of H.R. 15609, the National Forest Management Act of 1976. This legislation strikes a positive balance between environmental concerns for preserving our national forests and economic concerns for providing an adequate supply of lumber. I urge that my colleagues pass this legislation as reported by the House Agriculture Committee.

Recent court decisions have all but crippled the forests product industry and stymied the recovery of the housing industry. These decisions hold that only "dead, mature, and large" trees may be sold from the national forests. In effect, the courts have stopped the harvest and sale of national forest timber in 7 out of 39 States. If Congress does not take appropriate action, this ban could spread to all national forests resulting in a disastrous reduction in our timber supply.

Right now, there are 155 national forests in this country encompassing 187 million acres of Federal land in 44 States. These forests supply 15 percent of all the wood consumed in the United States. Though this figure does not appear overwhelming, we must take into account that these forests supply 25 percent of all the softwood sawtimber and 50 percent of the total U.S. supply of standing softwood sawtimber.

Reductions in timber supply from our national forests would force severe shortages in all industries dependent on an adequate flow of timber. It has been estimated that over 100,000 jobs in the lumber, wood products, pulp, and paper industry will be jeopardized if positive action is not taken in the immediate future.

Today, the Members of the House have the opportunity to remedy the problems caused by the recent court interpretation of the 1897 organic law. H.R. 15609 is a comprehensive bill that both enhances environmental values and does not neglect our need for timber and sound forest policy management. I believe this bill is consistent with multiple-use sustained-yield objectives developed over the past 100 years of forest conservation and will adequately protect wildlife habitats. The bill also provides adequate clearcutting guidelines that will improve the regeneration of many forest species. It is vitally important that we pass H.R. 15609.

Mr. FRENZEL. Mr. Chairman, I support H.R. 15069. I am specially pleased to be a cosponsor of the amendment proposed by the distinguished gentleman from Minnesota (Mr. FRASER) to help deal with the Dutch elm disease problem.

I hope the bill is promptly passed.

Mr. BOWEN. Mr. Chairman, because I could not be present today for action on this bill, I am asking that my remarks be included here under general leave granted all Members.

I am today representing the Mississippi congressional delegation, both House and Senate, in testimony before the Interstate Commerce Commission in New Orleans on behalf of the Columbus and Greenville Railway, which is seeking assistance under the Railroad Revitalization and Regulatory Reform Act of 1976.

This entire rail line is located within my district, and I had made a commitment several months earlier to speak for the Mississippi congressional delegation and lead a delegation of State officials at this important hearing.

Mr. Chairman, I strongly support the National Forest Management Act of 1976, as it was reported from the full Agriculture Committee, on which I serve.

The committee in its thorough consideration of this legislation was faced with the need to correct provisions in the 1897 Organic Act which have led to court decisions restricting timber sales on national forests, along with environmental considerations over management of these public forests. I believe the committee produced a balanced bill effectively addressing both of these considerations.

I am especially pleased that this bill contains an amendment adopted in the Agriculture Committee which I offered, insuring that a standard for measuring timber is not adopted by the Forest Service which would result in sharp cutbacks in timber cutting and sales.

The amendment insures that the Forest Service can use cubic measure, which is their current practice, rather than being required to use board foot measure. Cubic measure is preferred to board foot measure because it eliminates ambiguities which characterize the various log rules, provides better accounting of the full roundwood content of the tree, not just that portion which may yield timber, and facilitates multiproduct recognition because it is free of any end-product connotation.

In my part of the country, for example, pine trees are currently cut under Forest Service management at the age of about 30 to 35 years. If a board foot measure were adopted by the Forest Service, as was implied in subcommittee action on this bill, a pine tree could not have been cut before it was 60 to 65 years old, creating a drastic cutback in Southern timber production. Similar reductions would have taken place throughout the Nation in other species.

Forestry and related industry is a $1 billion a year economic factor in my own State of Mississippi, and failure to pass this legislation could result in a cirppling blow to our State, as well as to many other States which are substantial timber producers.

Many months of study, hearings, and consideration characterize the measure which is before you today. This bill provides strong incentives for professional forest management and productivity without losing regard for recreational and environmental values.

It is my hope that the Weaver and Brown amendments will be rejected by the House, the committee bill adopted and then upheld in conference with the Senate.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise today to express my support for H.R. 15069, the National Forest Management Act of 1976, and to commend the distinguished members of both the House Agriculture and the House Interior and Insular Affairs Committees for their prompt recognition for the need for this important legislation. I was an original cosponsor of similar legislation and after all a bill introduced is nothing but an idea subject to close examination and change as committee members decide what is in the total best interest of the Nation.

I concur that by passage of this legislation, the Congress has the opportunity to take constructive action in response to the two recent court decisions which have created such great uncertainty over the future management of our national forests. The need for a major revision of forest management legislation becomes abundantly clear by reading the decision of the court of appeals in the Monongahela case, wherein it was stated that the legislation enacted over 75 years ago would well be "an anachronism" which is no longer in the public interest.

The Forest Service has estimated that if the Monongahela decision were to be applied nationwide, there would be a short-term reduction of timber supply from the national forests of 75 percent, and a long-range reduction estimated at 50 percent. This is not surprising when viewed in the light of the annual supply of softwood sawtimber now coming from our national forests. Already, the harvesting and sale of national forest timber has been all but halted in seven States, and without a new law, there is the serious threat that the supply of timber nationwide will be cut off.

Even a reduction in the supply of timber from our national forests could mean serious shortages of all wood-based products—products needed for homebuilding and construction, for all paper products, and for the manufacturing of furniture. The jobs of thousands of people who work in the pulp and paper industry, and the wood and lumber products field would be threatened. Local economies across the country could suffer serious setbacks, which would impact directly on the Nation's economic recovery efforts.

H.R. 15069 is responsive to the problems resulting from the recent court decisions. It also provides strong and workable guidelines to the Forest Service in timber management activities, which have the interests of all Americans and the national economy in mind. It is a balanced and constructive piece of legislation, and a prudent approach to the proper and scientific management of this most valuable renewable timber resource.

This bill does much to encourage and redirect our energies toward timber growth, while maintaining the multiple-use concept of our national forests, for their full development of all forest values—recreation, watershed and fish habitation, wildlife, and rangeland. It provides new direction for reforestation and timber-stand improvement of the national forests, by authorizing $200 million annually to take care of the backlog of land in need of reforestation and timber-stand improvement, within an 8-year period, and thereafter on a current basis. With full implementation of this authority, the Forest Service will be able to provide increased yields from the national forests as needed to keep pace with demand for timber products and, at the same time, enables this resource to be replenished and renewed through the years.

The bill places forest management in the hands of the experts—the wildlife specialists, the land managers, the foresters, biologists, and solid scientists and provides them with the flexibility to develop plans conducive to the individual characteristics of each national forest.

This legislation also sets forth provisions for public participation in the land management planning process for units of the national forest system, and emphasizes that the land management planning process be consistent with provisions of the Multiple-Use Sustained-Yield Act. The language of the legislation is quite specific in setting up guidelines for the application of silvicultural practices and goes to great lengths in protecting both the economic and environmental aspects associated with our national forests.

I believe the Members of the House can be pleased with the efforts put forth by the Agriculture Committee on this important legislation. It is responsive and timely and I urge my colleagues to support the bill now before us without substantive or crippling amendments.

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 15069 now before the House. This bill represents a great deal of work, effort, and study on the part of those who did the major portion of the drafting. They did a good job in a very difficult area.

This bill will insure the continuous flow of wood products from our national forest in perpetuity. The bill provides guidance to the Forest Service in the management of the national forest. It provides for implementation of modern forestry techniques and assures adequate present and future crops of high-quality timber. Over time as the concepts are implemented timber stands will be improved, the growth increased and the annual harvests from the national forest can be increased.

What is at stake here is more than just which forestry principles are to be used; it is the present and future orderly supply of lumber and the furniture, housing, and jobs that go with it.

Without this bill the supply of lumber from our national forest will simply decline to zero. Since the national forests provide a major portion of our lumber, the effects could be disastrous on employment, housing, and any other industries dependent upon wood and wood products.

The following description of the economic importance of the national forest that was provided by the Forest Service serves to underline the importance of this piece of legislation and the need for the guidance and flexibility accorded the Forest Service by the bill:

> The forests and grasslands provide opportunities for healthful outdoor recreation, with a minimum of restrictions. In 1974, the number of recreation visitor-days (each equivalent to one person spending 12 hours) was almost 193 million, more than one-half of all the Federal outdoor recreation and more than twice that provided by any other agency. Outdoor recreation is an important source of supplementary income in most areas, as well as providing recreational opportunities for local residents. In some relatively depressed communities, it has become vitally important.
>
> More than 93 percent of the total National Wilderness Preservation System is National Forest System land. The 87 wildernesses contain 11.9 million acres.
>
> National Forests provide habitat for much of the Nation's fish and wildlife, including about 50 percent of the Nation's big game. Habitat for 36 species of endangered fish and wildlife is on these lands. Hunters, fishermen and appreciative wildlife users (photographers and birdwatchers) constitute an important supplementary source of income for numerous communities near these lands.
>
> Some 3.2 million head of domestic livestock (mature animals) are grazed on National Forests and Grasslands, assisting about 20,000 rural families by providing supplementary feed for the animals.
>
> The National Forests supplied 9.2 billion board feet of timber in fiscal year 1975 to the Nation's forest products requirements. Dependence of the forest products industries on National Forest timber continues to increase as a result of depletion of good quality timber on private lands. Without this supply, the national demand for wood and fiber products could not be met at reasonable prices.
>
> About 390 million acre feet of high quality water are provided annually from National Forest System lands. Most Western cities and many in the East benefit from National Forest protection of municipal supplies. About 20 million acres of Western lands are irrigated by water from National Forests.
>
> About $300 million worth of minerals, oil, and gas are extracted annually from National Forest lands.
>
> These lands produced a cash income in fiscal year 1975 of $373.1 million. Approximately 65 percent of this amount was credited to the general fund in the Federal treasury (miscellaneous receipts). The remainder was distributed in accordance with special acts of Congress, including 25 percent of receipts to States or counties in which lands are located.
>
> The area within National Forest and National Grassland boundaries is equivalent to about 10 percent of the area of the United States. About 24 percent of this land is within areas now experiencing economic distress. Proper management, development and utilization of these lands are important factors in permanent improvement of these local economies. Millions of people who live in and near the National Forests are supported in whole or in part through the economic development based on the forests and their resources.
>
> The increased demands for recreation and commodity products greatly accelerate demand for special uses of forest land. The Forest Service administers 74,000 special permits for such things as powerlines, pipelines, microwave towers, ski areas, waterpower facilities, and many others.

I urge my colleagues to join me in the support of this vital piece of legislation. Thank you.

The CHAIRMAN pro tempore. All time for the general debate having expired, pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That this Act may be cited as the "National Forest Management Act of 1976".

REPORT ON FIBER POTENTIAL

SEC. 2. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new subsection (c) as follows:

"(c)(1) The Secretary shall report in the 1979 and subsequent assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations.

"(2) In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 2 of the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 2? If not, the Clerk will read section 3.

The Clerk read as follows:

REFORESTATION

SEC. 3. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d)(1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to Congress annually at the time of submission of the President's budget together with the annual report provided for under section 7(c) of this Act, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class where practicable of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cutover or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

"(2) Notwithstanding the provisions of section 8 of this Act, the Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 7 (c) of this Act at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

"(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System $200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended and shall not be subject to rescission.

"(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses.".

RENEWABLE RESOURCE PROGRAM

Mr. FOLEY (during the reading). Mr. Chairman, I ask uanimous consent that further reading of section 3 be dispensed with and that it be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 3? If not, the Clerk will read section 4.

The Clerk read as follows:

SEC. 4. Section 3(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by striking "satisfy" and inserting in lieu thereof "implement and monitor".

The CHAIRMAN pro tempore. Are there amendments to section 4? If not, the Clerk will read section 5.

The Clerk read as follows:

SEC. 5. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is further amended by striking out the word "and" at the end of paragraph (3); striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding the following new paragraph:

"(5) program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple use and sustained yield relationships among and within the renewable resources can be determined;

"(B) recognize the fundamental need to protect and where appropriate improve the quality of soil, water and air resources;

"(C) state national goals that recognize the interrelationships between and interdependence within the renewable resources; and

"(D) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 5 be dispensed with, that it be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 5? If not, the Clerk will read section 6.

The Clerk read as follows:

NATIONAL FOREST SYSTEM RESOURCE PLANNING

SEC. 6. Section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding the following subsections:

"(c) The Secretary shall begin to incorporate the standards contained in this section into plans for units of the National Forest System as soon as practicable after enactment of this amendment and shall complete such incorporation for all such units by no later than September 30, 1985. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.

(d) Upon preparation, such plans shall be available for public scrutiny at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and thereafter hold public meetings or comparable processes of public involvement for consideration of such plans in locations that foster public participation in the review of such plans.

"(e) In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

"(1) provide for multiple uses and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness;

"(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (e)(1), the definition of the terms 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

"(f) Plans developed in accordance with this section shall—

"(1) form one integrated plan for each unit of the National Forest System, incorporating in one document all of the features required by this section and any other applicable provisions of law;

"(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

"(3) be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;

"(4) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, tree improvement, and the like if (i) such practices justfy increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

"(5) permit the application of silvicultural systems only if—

"(i) such systems are determined to be appropriate to accomplish the multiple-use sustained yield resource management objectives of subsection (e) (1),

"(ii) such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources,

"(iii) there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than five years,

"(iv) the size of areas to be clearcut is kept to the minimum needed to accomplish silvicultural and multiple use sustained yield resource management objectives of subsection (e) (1),

"(v) the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, and

"(vi) such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;

"(6) be amended after final adoption only in accordance with the provisions of subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by subsection (d); and

"(7) be revised (i) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).

"(g) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(h) The length and the other terms of any contract for the sale of timber shall be designed to promote orderly harvesting consistent with the principles set out in this section. Unless there is a finding by the Secretary that better utilization of the various forest resources, consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years: *Provided*, That such ten-year period may be adjusted at the discretion of the Secretary to provide additional time because of circumstances beyond the control of the purchaser. The contract shall require the purchaser to file, as soon as practicable after the execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be made a part of the contract, subject to concurrence by the Secretary, and which shall be subject to amendment to meet changing conditions. The Secretary shall not extend any contract period with an original duration of two years or more unless he finds that the purchaser has diligently performed, or made every reasonable effort to perform, in accordance with the plan of operation concurred in by the Secretary and that extension would be in the public interest.

"(i) Within the multiple use objections of a land management plan adopted pursuant to this section, the Secretary shall, insofar as practicable, take steps to preserve the diversity of tree species similar to that which is existing at the time of harvest in the region controlled by the unit plan.

"(j) The Secretary shall establish—

"(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack;

"(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including but not limited to recreation, wildlife, habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section; and

"(3) utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: *And provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

"(k) The Secretary shall make a report to Congress, together with the 1979 updating of the assessment as required by section 2 of this Act, on the milling and other wood fiber product fabrication facilities and their location in the United States. The report shall note the public and private forested areas that supply such facilities. The report shall assess the degree of utilization into product form of harvested trees by such facilities and shall set forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

"(l) The Secretary shall—

"(1) formulate and implement, as soon as practicable, a process for estimating long-term costs and benefits to support the program evaluation requirements of this Act. This process shall include requirements to provide information on all estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

"(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 7(c) of this Act, including an identification of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process.".

Mr. FOLEY. Mr. Chairman, I ask that further reading of section 6 be dispensed with, that it be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENTS OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BROWN of California:

Page 22, strike out line 24 and all that follows through page 23, line 7.

Page 23, line 19, insert "and" immediately after the comma.

Page 23, strike out line 20 and all that follows through page 24, line 6.

Page 24, line 7, strike out "(vi)" and insert in lieu thereof "(iii)".

Page 29, line 11, strike out "and".

Page 29, line 7, strike out both periods and the quotation marks at the end of such line and insert in lieu thereof "; and", and insert immediately after such line the following new paragraph:

"(3) within two years after the date of the enactment of this subsection, promulgate regulations to ensure—

"(A) that clearcutting (including seed tree cutting, shelterwood cutting, and other cutting designed to regenerate an even-aged stand of timber) will be used as a cutting method on National Forest System lands only where—

"(i) clearcutting is determined to be the optimum method to meet the objectives and requirements of the relevant land management plan;

"(ii) a multidisciplinary review has been completed by the team described in subsection (f)(3) of this section and the potential environmental, biological, esthetic, engineering, and economic impacts on each sale area have been assessed by such team, as well as the impact of the sale on non-timber resources and the consistency of the sale with the multiple use of the general area;

"(iii) clearcut blocks, patches, and strips are shaped, spaced, and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be clearcut in one harvest operation, including provisions which permit the established limits to be exceeded after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal; except that such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions, such as fire, insect or disease attack, or windstorm; and

"(v) clearcutting is carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource; and

"(B) that positive action is taken to perpetuate habitats and populations of the native species of plants and animals found in the national forests, and special attention is devoted to the maintenance and the enhancement of the habitats and populations of native plants and animals whose habitats and populations are diminishing."

Page 85, add immediately after line 20 the following new section:

"SUSTAINED YIELD AND MARGINAL LANDS

"SEC. 14. (a) Within two years after the date of the enactment of this Act, the Secretary shall promulgate regulations to insure—

"(1) that the National Forest System, as such term is defined under section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, will continue to produce adequate and continuous supplies of wood, water, wildlife, wilderness, forage, and recreation by—

"(A) limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitations. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. Nothing in this subparagraph shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe; and

"(B) establishing guidelines to assure that, based on periodic surveys of the productivity of lands for commercial timber production, such production is not a management goal where the estimated cost to the United States will exceed the estimated economic return to the United States; except (1) that the estimated cost of production will include only direct timber production costs, including a prorated share of the access costs for timber harvest, (2) that such restrictions do not apply to salvage of dead or diseased trees, and (3) that such restrictions are not intended to impede the reforestation of lands for multiple use purposes or to impede the cutting of timber specifically for the improvement of fish and wildlife habitat; and

"(2) that commercial timber production is a management activity only on lands where—

"(A) soil, slope, or other watershed conditions will not be irreversibly damaged;

"(B) assurance is given that such lands can be adequately restocked within five years after harvest; and

"(C) protection is provided from changes in water temperatures, blockages of water courses, and deposits of sediment, for streams, stream banks, shorelines, lakes, wetlands and other bodies of water where harvests could seriously and adversely affect water conditions or fish habitat.

"(b) The first sentence of section 3 of the Act entitled "An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes", approved June 9, 1930 (46 Stat. 527; 16 U.S.C. 576(b)), is amended by—

"(1) striking out 'or' immediately before "(3"; and

"(2) striking out the colon and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: ', or (4) protecting and improving the future productivity of the renewable resources of the national-forest land on a sale area, including sale-area improvement operations, maintenance and construction, reforestation, and forest habitat management.' "

Page 29, line 17, strike out the quotation marks and the period at the end of such line, and insert immediately after such line the following new subsection:

"(m) the Secretary shall—

"(1) take affirmative action to perpetuate habitats (including old growth, dens, and snags) and populations of the native species of plants and wildlife located in the national forests as presently distributed and shall give priority to the preservation of such habitats and populations which are diminishing; and

"(2) prior to taking any actions in a national forest significantly affecting fish or wildlife populations or habitat, including the award of any timber sale or road construction contract, request an opinion concerning the projected effects of such action on populations and habitats of fish and wildlife (a) from all agencies or departments which administer fish or game programs for the State in which such action is to take place and (b) from the United States Fish and Wildlife Service. If any such agency or department or such Service reports to the Secretary that such action may result in a significant loss of population or habitats of any specie of fish or wildlife, the Secretary shall determine what mitigation or enhancement measures may be available and shall use such measures if such action is taken. If significant loss of such population or habitat cannot be avoided through mitigation or enhancement measures, such action shall not be taken."

Page 17, line 2, strike "new subsections (d) and (e)" and insert in lieu thereof the following: "new subsections (d), (e) and (f)".

Page 19, line 22, insert the following new subsection:

"(f) The Secretary shall present to Congress in 1978 a five year program for research into timber harvesting methods for the mixed hardwood forests east of the 100th meridan which result in the maintenance of a general canopy for regenerating hardwood species in a manner that benefits regrowth and provides for the other multiple uses of the forest. The sum of 20 million dollars is authorized to conduct this research. As the results of the research are disclosed, the Forest Service shall incorporate them into its management plans for national forests east of the 100th meridian that contain mixed hardwoods as the preferred harvest method in areas where clearcutting might be applied as a timber harvesting technique, provided that clearcutting may be preferred where required to improve multiple forest uses. In the interim, while such research is being carried out and the results of such research are being incorporated into timber management plans, the Forest Service shall, in preference to clearcutting in the eastern mixed hardwood forests, maintain a general canopy over the harvest area by the utilization of harvest methods including, but not limited to, shelterwood cutting, except that clearcutting shall be preferred wherever multiple uses of the forest would be improved. Those trees providing the canopy shall not be subject to a final harvest until the regenerating stand with which they are associated has attained multiple use objectives established for the sale area except that such canopy trees may be harvested whenever stand health is imperiled."

Page 29, line 17, strike out the quotation marks and the period at the end of such line, and insert immediately after such line the following new subsection:

"(m) The Secretary shall, in the administration of the national forests, give full consideration to all systems of silviculture; including uneven-aged as well as even-aged management, provided that uneven-aged forest management primarily implemented by selection cutting and group selection cutting shall be administered in the eastern mixed hardwood forests in critical zones and in the major portion of the general forest zone. The size of clearcuts to be utilized in the remainder of the general forest zone shall be as small as feasible in accordance with multiple use objectives."

Page 30, line 22, strike "ten" and insert in lieu theerof "two", and in line 24, insert immediately after the period the following:

"The contract shall contain specifications developed by the Secretary (A) for road construction, road maintenance, and continuing stabilization of adjacent areas which may be affected by road construction and road operations, and (B) for roads that are not incorporated into the forest development road system, specifications for road closing as the contract is terminated by the purchaser of the roadway and for stabilization of surrounding areas which have been disturbed by the construction and operation of the road. Such final road closing specification shall include, but not be limited to, revegetation and other stabilization of the abandoned roadway within a two year period to protect the various resources. The Secretary shall annually inventory and submit to the Congress a report organized on a national forest basis and containing information—

"(1) specifyig the roads which have not been closed according to contract provisions within two years after termination of the contracts and the reasons for such failure to be closed; and

"(2) specifying the roads which, even though closed according to contract provisions, are creating problems related to soil, water, and other resources."

Page 31, line 1, strike out "later", and immediately after "determined" insert the following: "during the life of the contract".

Page 31, line 2, insert immediately after the first period the following: "Contract provisions pertaining to specifications for road construction, road maintenance, and revegetation shall apply up until the road is closed according to contract provisions or is incorporated into the forest development road system for the area to which the contract applies."

Mr. BROWN of California (during the reading). Mr. Chairman, I ask that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I ask unanimous consent that the amendments to section 6 be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, these particular amendments to section 6 seek to set forth within the bill clearly specified guidelines with regard to the practice of clearcutting and such other silviculture and forest practices that may be related thereto. It is a straightforward amendment and I believe is substantially identical to language contained in the Senate bill. The language there, as I think most of the Members are aware, was carefully worked out compromise language between two separate bills, each of which sought to address this problem.

Mr. Chairman, as I indicated in my earlier remarks, to a very substantial degree this represents a major concession on the part of environmental and conservation groups which take the position, and who have been upheld by the courts in that position, that the present language does not permit clearcutting of any kind in the national forests. Therefore the burden of proof is necessarily upon those who would clearcut as to the effect of this particular silviculture practice in terms of meeting the principles that we enunciated earlier of multiple use and sustained yield of the forests.

From a practical standpoint, I have come to the conclusion, because it seems to be widely accepted in the industry and in the forestry field by those who are practitioners of the art of forestry, that clearcutting is a legitimate practice in the forest where it is properly controlled. It is most useful and desirable in the so-called even age stands of trees which predominate in the western softwood forests, and it is in those areas, of course, where it does produce an economical harvesting of large portions of the timber crop. It is least desirable in the mixed hardwood forests of the eastern part of the United States, and it is, of course, least desirable and frequently undesirable in areas which are of marginal utility for the production of timber and which have a heavy component of other uses such as hunting, fishing, stream protection, and other things of that sort, where uncontrolled clearcutting can do major damage to the forests.

What this amendment does, very simply, is to set forth certain guidelines which the Forest Service would adhere to in the preparation of their management plans for the cutting of the timber. These are guidelines which are simple; they are reasonable; they are largely agreed to by most people who engage in the practice of forestry. They are practices which enlightened industrial practitioners themselves use in their best managed forests. There is nothing in them which is inappropriate in any way to the preservation of our great resources of timber in this country.

The major objection that has been offered to them, in all honesty, is that the legislation should not contain such detailed prescriptions with regard to the practice of forestry. None of these are presented in the form of detailed prescriptions. They are directives for the Secretary of Agriculture and the Forest Service to develop regulations which will be generally used. They provide for exceptions. There is ample leeway here, but it focuses attention upon what the clear intent of Congress should be with regard to forest practices when it comes to harvesting in the national forest, and as such it is highly desirable.

I do not like to point out the fact that the existing law, particularly the Organic Act which has caused so much difficulty, had very specific language in it with regard to harvesting. It is the Organic Act of 1897 which said that the Forest Service could not market timber unless each tree was individually marked, and that the tree was old, diseased, or large.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BROWN of California) was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Despite this very specific and prescriptive language in the Organic Act, the Forest Service over a period of many years saw fit to disregard it. I do not believe that this is typical of the Forest Service to disregard the clear language of law passed by Congress, but I am citing it as a reason why we cannot say to the Forest Service, go out and practice good forestry. We need to give them some guidelines.

We need to give them some prescription so that they will establish those guidelines at least, and this is what I am seeking to do. It is a good amendment. It is widely supported. I urge a favorable vote of the Members on the amendment.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know the gentleman from California has worked a great deal on this bill and he would like to include this set of guidelines.

We thought and we think that in the committee bill we do have proper guidelines which deal with this subject, which would leave the flexibility somewhat better with the professional foresters.

We have what are known as the Church guidelines, developed in 1972 after extensive hearings on the part of the other body, with respect to clearcutting, soil protection, watershed protection, size and shape of cuts et cetera on various terrains. Members can read those guidelines, beginning on page 23 and continuing on page 24 of the bill, where these guidelines already are included and already provide adequate protection I think to the forests and the Forest Service.

I think it would be better to go with the committee bill than to try to put in here a new set of guidelines that the committee has not had proper opportunity to examine.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Would the gentleman from California respond to a question?

Mr. BROWN of California. I would be happy to respond.

Mr. MELCHER. The gentleman's amendment requires the regulations to be developed within 2 years?

Mr. BROWN of California. Yes.

Mr. MELCHER. Is it the gentleman's intention through his amendment to suspend the use of part of the Church guidelines on clear-cutting for those 2 years?

Mr. BROWN of California. No, it is not my intention to suspend any activities that can be legitimately carried on in the forests.

Mr. MELCHER. I thank the gentleman from California. I thank the gentleman for his intention. But I must point out to the committee that the gentleman's amendment is drafted to delete part of the Church guidelines beginning on page 23, striking line 20 through line 6, page 24, which are some key parts of the Church guidelines. So in the interim for 2 years the Secretary would be directed to draw up some regulations but would not have these particular sections of the Church guidelines enacted into law during that period.

Mr. BROWN of California. Will the gentleman yield to me on that point?

Mr. MELCHER. Yes.

Mr. BROWN of California. I very much respect the gentleman's knowledge of this matter. It is far superior to my own. I hope I was not making an error in drafting but it seems to me that the language of section 6, which is worded as an amendment to the 1974 Renewable Resources Planning Act, quite clearly says that the Secretary shall begin to incorporate the standards contained in this section into plans as soon as practicable after enactment of this amendment but no later than September 30, 1985. It seems to me that the existing language allows a number of years for the Secretary to develop the kinds of standards called for here. My own amendment does nothing further. Am I in error on this?

Mr. MELCHER. I think there is a confusion in that interpretation of the bill. I would respond to the gentleman from California, what we are enacting into statute in this particular section are the Church guidelines that restrict clearcutting. We presume that all timber sales are presently using these guidelines. We have been assured by the Forest Service that is what they are doing. When we put this in the bill then we are putting into statutory language that which they have assured us they have been using in their own regulations during the past 3 years.

I am afraid what the gentleman's amendment would do would be to instruct the Forest Service within 2 years to promulgate some regulations that are based on the gentleman's amendment.

First of all, the amendment says that within 2 years he has supplanted some of the Church guidelines and the Forest Service must draw regulations based on his language.

Second, by striking line 20, page 23, to line 6, page 24, the gentleman has removed from the bill some of the key parts of the Church guidelines.

Mr. Chairman, I think the gentleman's amendment would do serious damage to the bill. I do not think it would accomplish immediate enactment into law of the Church guidelines. I think it would be a state of confusion and it would delay promulgating and practicing what we feel should be done immediately, based on the bill as drawn regarding the Church guidelines.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, the gentleman just said 2 minutes earlier that the Forest Service presently follows these guidelines and then the gentleman said this amendment would delay, in practice, following the guidelines. Which is true?

Mr. MELCHER. Mr. Chairman, I thank the gentleman for correcting me, because that is a valid point. It would delay, or at least confuse the Forest Service on what they are supposed to do for the next 2 years. It would seem to say that they should delay using what we have on line 20, page 23, to line 6, page 24, which would be stricken from the bill; that they should not continue to use those until such time as they have drawn up new regulations.

I think that would be damaging. I think it would be counterproductive.

Mr. Chairman, I hope the amendment is defeated.

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment. I move to strike the requisite number of words.

Mr. Chairman, in response to the able acting chairman of the subcommittee, the Brown amendment simply replaces language in the bill with language setting up guidelines providing greater care for our national forests.

Mr. Chairman, I would like to speak on the economics of this amendment and of this bill, because sound forest management is sound economics. The care for the capital resources of our forests, our trees, soils, wildlife and watersheds, guarantees that we will enjoy their products for many years, and we hope in perpetuity, for our children and their children and into future generations.

Mr. Chairman, I would like to point out to those who are concerned about jobs a very simple, fundamental truth; that is, that the more care we take of our forests, the more jobs we will need to do that. In other words, we will provide more jobs in our forests the more carefully we preserve our capital resources.

In this resolution, and I am reluctant to admit this, but face this we must, in the Nation in the past we squandered a whole host of natural resources. In several generations we have used up practically all the oil that we have in this Nation. We have left vast wooded lands in this Nation cut down and of little worth.

Now, we must face the reality that we need our natural resources and must protect them. We cannot go the way of England. England's problem and predicament is basically the loss of their natural resource base. They were in the colonies, to be sure, but England lost its natural resource base and, therefore, is bereft of such a base and its economy is in trouble. The United States must not go this way. We must not lose our resource base. We must manage our resources wisely.

I maintain, Mr. Chairman, that it is now with this recognition that we must set a national policy in law on the care we take of this one of our most precious national resources, our forests.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Montana.

Mr. MELCHER. I think the gentleman's statement is excellent. I cannot quarrel with it at all, but based on what he has said, what does he find in the amendment that is advantageous? Why would it be advantageous to delay 2 years, or at least set up the confusing time frame that seems to ask for a 2-year delay in using the Church guidelines?

Mr. WEAVER. There are several reasons, if the chairman will permit. First, we must enact legislation this year. It is vital. By bringing the framework of the legislation closer to the Senate language, we more surely may enact this through conference. That is one reason we offer this amendment.

The second reason is that we felt that the language ought to be clearer and tighter and less susceptible to lawsuits. By doing this through guidelines drafted by foresters, we felt that this would alleviate the threat of lawsuits, while putting the guidelines directly in the statute leaves us susceptible to lawsuits on forests, which we do not wish run by our courts, but run by our foresters.

Mr. MELCHER. I appreciate the gentleman's observation and respect him, but may I infer from his statement that he does agree that the language that exists in the bill on using the Church guidelines is good language and is desirable?

Mr. WEAVER. It is good and desirable language. It just needs further refinement.

Mr. MELCHER. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the last word, and I rise to speak against the amendment.

Mr. Chairman, the amendment that has been offered has, I think, pretty well been dealt with by the gentleman from Montana with respect to clearcutting, but there are a couple of kickers in this amendment which I think should be pointed out, and no one has stressed them as yet.

The amendment would delete this section of the bill on page 22, line 24, section (f)(4), which says that the plans which are developed in accordance with the proposal we are talking about under section 6, would be eliminated. It states:

> "(4) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, tree improvement, and the like if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

That is a very vital section when we talk about increasing the harvesting of our national forestland. We need to have that section in there, and the gentleman's amendment would eliminate it.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. BROWN of California. The gentleman's point is well taken with regard to the need for the flexibility to increase the allowable cut, given the intensified forest management and increased productivity. I would make the point, and ask the gentleman whether or not he would care to verify it, that the Forest Service has this leeway now. They can put into their computer programs to determine the cut and increase the allowable cut today where they think it is in conformity with the increased productive levels of the forest. Not only do they have that authority now, but they are using it now. Am I mistaken in that?

Mr. JOHNSON of Colorado. No, I think the gentleman is correct, and he removes a legislative directive which confirms this particular policy. I do not know why the gentleman would want to remove it.

I do not know why the gentleman wants to remove section (5)(iii) which says that we can use silvicultural system only if there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than 5 years.

There are more things to the gentleman's amendment than meet the eye with respect to clearcutting.

I urge the Members to read sections (5)(iv) and (5)(v) on pages 23 and 24, and to realize that many of the features that are contained in the gentleman's amendment are already in the bill with respect to the regulaion of clearcutting.

Clearcutting actually only took place in 1975 on three-tenths of 1 percent of the total acreage of commercial land owned by the Forest Service.

So the gentleman is making the legitimate objections to some of the clearcutting practices a vehicle by which other features of the bill that he evidently does not like will be eliminated.

The gentleman's amendment was considered. It went through the full committee process and the subcommittee process. We considered this all in the light of the various arguments that were presented. He was voted down in the full committee and he was voted down in the subcommittee.

Mr. Chairman, I urge the House to sustain the committee's position.

Mr. GUDE. Mr. Chairman, I move to strike the last word.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, the points just made by the gentleman from California have varying degrees of merit and, obviously, they are intended to create an atmosphere unfavorable to the amendment. But I do not think they really are all that significant.

It is true that the language of the amendment replaces similar language but not as good language in the bill. And it is true that the committee rejected it because they did not want what I and those of us interested in environmental protection thought was necessary.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield at that point for a question?

Mr. GUDE. I yield to the gentleman from Colorado for the purpose of asking a question.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman say that those of us who advocate this bill and reject his amendment are not interested in environmental protection? Would the gentleman say that he and the gentleman from Oregon (Mr. WEAVER) are the only ones interested in protecting the environment?

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield further, I would be the last to make that statement. I am aware of the gentleman's keen interest in the environment. The language the gentleman objects to having stricken out is the language which merely provides how we can increase the timber production from the forest. I do not think it is important to keep that in. It is existing practice. The Forest Service is doing this. I want to see increased production. But it is just not that important language to have in the bill.

The gentleman from Colorado, on the other hand, thinks it is not important to have language which protects the clearcutting practices, and so on. There is a slight difference of emphasis, and that is what I am trying to point out here.

In neither case is the gentleman an evil character, asking to strike down the good. We have different emphasis with regard to timber production and environmental protection. I am frank to confess that the language of my amendment gives what I think is the necessary protection to the environment. The language the gentleman seeks to protect gives what he thinks is the necessary protection to timber production. We have an honest difference of opinion as to the validity of these two points of view.

Mr. GUDE. Mr. Chairman, I would only add that the gentleman from California did not just write these amendments overnight. He studied them carefully and has had input from people with broad professional background in this area. I think it is clear from the colloquy that we have had here on the floor that it provides a balance between the various interests. Where perhaps some might say he is striking legislation that would open the forests to abuse, he is adding protection in a statutory form to replace what are now just administrative regulations to protect our forests.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. I thank the gentleman for yielding.

I think that is a point.

What the amendment does is to delay putting part of the Church guidelines into statutory form. It requires 2 years for promulgation of regulations which will result in implementing what is proposed. What the committee chose to do in the bill is to enact the Church guidelines into statutory form now.

Mr. Chairman, I think it is significant that the members of the committee should realize that is what the bill does, and when they vote on this particular amendment, they should know they are either voting for the Church guidelines now or voting to wait until a later time to put in the Church guidelines.

Mr. GUDE. Mr. Chairman, I do not wish to yield further because I know my time is going to run out.

A far greater purpose will be served by the adoption of this amendment as there will be only a 2-year delay in adoption of the stronger guidelines provided for by Mr. BROWN.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from California.

Mr. BROWN of California. Again, Mr. Chairman, I want to express my very great respect for the gentleman from Montana (Mr. MELCHER), but I do believe that this is in a parliamentary sense a rather complex matter. Let me quote from the language that is in the bill, the language that we seek to replace.

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. GUDE) has expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. GUDE was allowed to proceed for 3 additional minutes.)

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield further, the language I am referring to is found at the top of page 21 of the bill, and it states as follows:

> The Secretary shall begin to incorporate the standards contained in this section into plans for units of the National Forest System as soon as practicable after enactment of this amendment and shall complete such incorporation for all such units by no later than September 30, 1985.

Now, this is what is happening to the Church guidelines: Within the next 9 years they will be incorporated into the plans for the management of individual national forests. They are not written in the law. The Secretary is directed to incorporate them into plans over the next 9 years.

What my amendment does is this: It says that within 2 years these somewhat better worded modifications of the Church guidelines will be included in department regulations. As a practical fact, the language of this amendment will produce stronger and faster regulation of clearcutting than the language of the bill. That is why I have offered the amendment, and I think that the gentleman from Montana (Mr. MELCHER), with the best of intentions, is distorting the situation when he says that we are delaying writing the guidelines into law.

We are not delaying writing the guidelines into law. The bill does not contemplate that the Church guidelines will be in the law; they will be incorporated in plans for management units, but they are not in the law.

Mr. GUDE. Mr. Chairman, I thank the gentleman. I urge the adoption of the amendment because, through the amendment, Congress clearly speaks out and directs the adoption of much stronger clearcutting regulations.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if the gentleman from California (Mr. BROWN) would help me with some clarifications here.

I am persuaded, particularly by the amendment in its reference to timber policy in mixed hardwood forests of the East, that there is much here of great importance that cannot be lightly discarded. However, it seems to me that there is something that is not quite clear.

As I remember the debate some days ago, the gentleman from California (Mr. BROWN) spoke approvingly of the sustained yield definition in the law of 1960. As I understand it, after looking at the amendment, under (a) of section 14, the sustained yield and marginal lands section, the difference is in the quantity "which can be removed from such forest annually in perpetuity," whereas the 1960 definition says:

> Sustained yield means the achievement and maintenance in perpetuity of a high level annual or regular periodic output.

There is a difference. Is that what the gentleman from California is seeking to eliminate, the words "regular, periodic." According to the debate the other day, there could come a moment when in any particular forest a rather large uniform stand would mature; the stand will not develop very much further because it has reached its maturity and is taking up a lot of space. However, we could have a regular, periodic output if not an annual output in that forest.

Is it the phase "regular, periodic" that the gentleman is objecting to?

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, may I assure the gentlewoma from New Jersey (Mrs. FENWICK) that do not object to use of the terms "regular," "periodic."

If there is anything in any of the amendments which I or the gentleman from Oregon (Mr. WEAVER) are offering which in any way disturbs the current practice of the Forest Service to use not just the annual production, but the production on the 10-year basis, we will gladly take it out.

The purpose of our amendment is to confirm the Forest Service's legislative authority to make their calculations of allowable cut based upon 10-year periods.

Mrs. FENWICK. However, Mr. Chairman, the gentleman goes on to say in this amendment as follows:

> . . . a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitations. In those cases where a forest has less than two hundred thousand acres of commercial forest land . . .

It seems to me extremely difficult to set that particular time cycle because one has to cut the trees when they are mature.

There are many species which do not mature in 10 years, are there not?

Mr. BROWN of California. If the gentlewoman will yield further, the gentlewoman has put her finger on the most difficult, complex, and technical problem in this whole field of sustained yield management, the inability to accurately calculate these figures. Because of its complexity, the bill and the amendments we are offering do not attempt to deal with this in great detail. We recognize the principle that the calculations should be made on either an annual or a 10-year basis, as the Forest Service now does.

Mrs. FENWICK. However, would it not be safer to say annual or regular, periodic production?

I have been in forests in Denmark where there is a 60-year cycle. If one generation of the family fails to meet its obligation to that forest, there is going to be trouble.

In other words, it seems to me that instead of having this 10-year requirement, it ought to be regular, periodic, depending on the species involved.

Mr. BROWN of California. Mr. Chairman, if the gentlewoman will yield further, there is a distinction between the two points that the gentlewoman is making.

We are talking about the calculation of cut based upon a 10-year analysis; but the actual rotation period, which may be as long as 100 years, is a different matter that also enters into this formula.

We do not by any means intend to prescribe that the trees will be cut on a 10-year cycle. By no means do we intend that.

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding.

I will only take a moment to make clear in the committee's deliberation what the intent of the bill is concerning clearcutting and the Church guidelines.

The gentleman from California (Mr Brown), in support of his amendment, has mentioned section 6(c), which is the section dealing with the overall plans for each unit of the national forest system to be completed by 1985. It should be made clear that it is the intent of the House Committee on Agriculture and the intent of the bill that plans developed in accordance with this section and those on line 8 of page 22 of the bill, which are embraced in that subsection (f), meaning the Church guidelines, that it is the intent of the committee and the intent of the bill that those clear-cutting restrictive guidelines be used on each plan and with respect to each timber sale.

As to the question of plans the bill reads:

> "(g) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans.

I think it is important to know that the committee intends that timber sales made after the enactment of the bill will be, as soon as practicable, reflective in carrying out the intent of this bill which does include the Church guidelines on restricting clear cutting.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to point out that the arrangement of the amendment offered by the gentleman from California (Mr. Brown) creates a situation where we will not have any way of assessing or evaluating here, because, under section (f)(3) of the bill, these plans are to be for a full forest unit. The silviculture management of a forest unit is to be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest. But the gentleman from California in his amendment has inserted another requirement for the multidisciplinary team, that is the team that evaluates the whole forest as a unit, which requires a multidisciplinary review by the team to assess potential environmental, biological, esthetic, engineering, and economic impacts on each sale area within the forest unit.

That imposes a burden on the multidisciplinary team that nobody can evaluate at this point. It creates an opportunity for litigation that would stop every sale that should arise.

This is an additional kicker in this amendment that has been offered which by and of itself should justify rejecting the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California, Mr. Brown.

The question was taken; and on a division (demanded by Mr. Brown of California) there were—ayes 13, noes 24.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Richmond: Page 28, immediately following line 25, insert the following new subsection and renumber succeeding subsections accordingly: (1) The Secretary shall include in his report in the 1979 and subsequent assessments on the additional fiber potential in the National Forest System, specific recommendations on the potential for increased utilization of forest and wood produce wastes in the national Forest System and on other lands, and of urban wood wastes and wood product recycling.
>
> In developing the report, the Secretary shall provide opportunty for public input, and shall consult with other interested governmental departments and agencies. The report shall recommend to the Congress actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products.

Mr. RICHMOND (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the amendment be considered as read and printed in the record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FOLEY. Mr. Chairman, reserving the right to object, I believe there is only one more sentence in the amendment and I think perhaps we should complete the reading of the amendment. Therefore I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk concluded the reading of the amendment.

Mr. RICHMOND. Mr. Chairman, as a member of the Committee on Agriculture, I offered an amendment during committee markup to provide minimum utilization standards for timber harvesting in national forests. While the amendment was ultimately rejected, I was pleased that the Krebs utilization amendment was adopted.

In order to assist industry in meeting utilization standards, and to encourage more complete utilization of forest and wood product wastes, including recycling, I believe the Secretary of Agriculture, in his reports on fiber potential, should study and make recommendations on this topic.

I am offering an amendment to provide that the Secretary's report as stated in section 6 of the bill, shall include increased utilization of forest and wood product wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling.

In addition, the Secretary must recommend to Congress, after receiving input from the foresty industry and others, actions which would lead to increased utilization of materials now being wasted in our National Forest System and in manufactured products.

Currently, about 15 percent of all tree material is left on the site, including stumps, branches, and wood debris. While much of this is necessary as organic material for the forest, much can be removed and made into useful products.

One of the most succesful products is wallboard made from chipped wood. This material is also used extensively in construction of inexpensive furniture and for packing.

Historically, the forest industry has not used this waste material. The economics of collecting the residue were not worthwhile and much was burned as slash, resulting in air pollution. Residues left on site may also cause insect infestation and are a fire hazard.

In December 1974, Clarence Richen of Crown Zellerbach told the annual meeting of the Western Forestry and Conservation Association that:

> Now we need to utilize this available fiber. The economics are right, with current prices and demand for pulpable material and high stumpage prices dictating that more of this material be utilized.

Oregon and Washington clearcuts can leave 40–227 tons per acre of usable material. Improved utilization of this valuable material means less demand on other forest areas, and larger supplies of wood products.

Waste chips are raw materials. The Forest Service estimates that every ton of wood chips relates to 2½ jobs in pulp and paper mills. Most pulp, paper, paperboard and particleboard is made from wastes—not logs. Using logs to make paper has been described as using prime steak to grind hamburger.

Don Gedney of the U.S. Forest Service has estimated that in the Douglas-fir region alone, close utilization of wood residues would stretch the region's timber supply by 2.5 billion board feet and add 15,000 new jobs. Up to 6 billion board feet of timber residue could be utilized nationwide.

Wood at one time was the prime source of energy in the U.S. Today many progressive timber firms are saving money and energy by burning wastes for power, fuel, and light. We can no longer afford to waste valuable wood resources. As these companies have discovered, we must make an affirmative effort to expand our utilization capability.

In New York State's forests, hundreds of millions of cubic board feet of timber go to waste annually because they are not processed into new wood products. If New York City had a plant to de-ink paper, we could live on recycled newsprint. Europe and Japan recycle over 40 percent of their entire newspaper supply.

The benefits of more efficient utilization of our forest and wood wastes are many and deserve the full attention of the Agriculture Department and Congress. I hope my colleagues will agree and incorporate this vital topic into the Secretary's report.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Chairman, I think this amendment has merit, and speaking for this side, we would accept the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I would just like to ask the gentleman a question. I sat through several lengthy hearings on this. We did not have any hearings specifically on this subject. I do not think it is an amendment that is going to ruin the bill one way or the other. It probably will not ruin it, but we now have pages and pages and tons and tons of reports in the committee room, and we have them down in the Forest Service. I just wonder why it is that we want to burden this bill with another report. I also think the responsibility for what is done as far as the utilization of the wood is concerned is in the hands of the people who buy it. As the market goes, and as the utilization of wood becomes more viable and important, there will be better utilization of wood.

If the gentleman would come out to my district, we have small local mills that take 3-foot 2 by 4's, glue them together and make them into 16-foot 2 by 4's. This is already happening. I would prefer not to have it in the bill, but I am not going to make a major fuss over it, because I know it is a concern to the gentleman.

Mr. RICHMOND. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. Richmond).

The question was taken; and on a division (demanded by Mr. Richmond), there were—ayes 20, noes 4.

So the amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 6? There being none, the Clerk will read.

The Clerk read as follows:

Sec. 7. Section 7 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended—

(a) by striking the period at the end of subsection (a) and inserting in lieu thereof the following: ": *Provided*, That, commencing in fiscal year 1981, notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out renewable resource programs of the Forest Service after September 30, 1980, except as specifically authorized by law enacted after the date of this provision, and except as otherwise provided in section 2(d)(3) of this Act."; and

(b) by adding a new sentence at the end of subsection (c) as follows: "With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 7 of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 7? There being none, the Clerk will read.

The Clerk read as follows:

TRANSPORTATION SYSTEM

Sec. 8. Section 9 of the Forest and Rangeland Renewable Resources Act of 1974 is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsection (b) as follows:

"(b) Unless the necessity for permanent roads is set forth in the forest development road system plan, roads constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as part of the forest development road system.".

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 8? There being none, the Clerk will read.

The Clerk read as follows:

NATIONAL FOREST SYSTEM

Sec. 9. Section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any Act supplementary to and amendatory thereof, shall be returned to the public domain except by an Act of Congress.".

The CHAIRMAN pro tempore. Are there any amendments to section 9? There being none, the Clerk will read.

The Clerk read as follows:

Sec. 10. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new section 12 as follows:

"Sec. 12. Acquisition of National Forest System Lands.—(a) The National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513–516, 518) is abolished and all functions of the Commission are transferred to the Secretary of Agriculture.

"(b) For the purposes of providing information that will aid Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary is hereby authorized and directed to make an annual report of all land purchases and exchanges relating to the National Forest System, and report the findings to Congress as part of the report prepared in compliance with section 7(c) of this Act. The report shall include an evaluation of the purchase price criteria and guidelines utilized by the Secretary for the purpose of forest land acquisition.".

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection?

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: Page 31, strike out line 23 and all that follows down through line 9 on page 32 and insert in lieu thereof the following:

"(b) For purposes of providing information that will aid Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate. Such report shall contain at least the following:

"(1) guidelines utilized by the Secretary in determining that the land should be acquired;

"(2) the location and size of the land;

"(3) the purchase price of the land and the criteria used by the Secretary in determining such price; and

"(4) the person from whom the land is being acquired."

Mr. ICHORD. Mr. Chairman, H.R. 15069 abolishes the National Forest Reservation Commission, but does not establish any procedures for either the Congress or any executive body to exercise oversight responsibility over the work of the Forest Service or the Department of Agriculture.

I serve, Mr. Chairman, along with the gentleman from Mississippi (Mr. Lott), as a member of the National Forest Reservation Commission. The Forest Reservation Commission consists of seven members: The Secretary of Agriculture; the Secretary of the Interior; the Secretary of the Army; and two Members of the House, one from each party; and two Members of the Senate, one from each party. With the distinguished gentleman from Mississippi (Mr. Lott) and myself also serve the distinguished Senator from Mississippi (Mr. Stennis) and the distinguished Senator from Kansas (Mr. Dole).

The committee report states that some of the members have described the Commission as in a moribund state. I do not know whether that terminology is exactly accurate. At the risk of offending the rules of the House, I doubt if we could state that the senior Senator from Mississipppi, after his miraculous and complete recovery from his serious gunshot wounds is in an immediately dying state, although one could state that all organizations composed of human beings are in a slowly dying state because death is inevitable. Nor do I think we could say that the gentleman from Kansas (Mr. Dole), who is now a candidate for the Vice Presidency of the United States on the Republican ticket, is in a moribund state. Nor do I believe that the gentleman from Mississippi and I are about to die, God willing.

But our problem on the Commission is this. I have been on the Commission for the last 4 years and I have yet to see the Secretary of Agriculture or the Secretary of the Interior or the Secretary of the Army present at one of the meetings. In 1973, I did see the Senator from Vermont (Mr. Aikens) present at one of the meetings. With that one exception, none of the Senate Members have been able to make a meeting.

The difficulty is in getting a quorum. For example, a meeting was scheduled today at 10 o'clock, conflicting with the meeting of the House, so the meeting was put off until next week, at which time certain purchases, and I have a book of them, that have been made by the Forest Service will be approved in unassembled action by the members of the Forest Reservation Commission.

There is difficulty in getting a quorum. If all the Members of the Congress who are members of the Commission were present at each meeting, we would have a majority of congressional membership, because there are only three executive members.

The Cabinet members are always represented by lower echelon employees of the department involved, but we never have been able to get over one or two Members from the Congress present at a meeting.

The National Forest Reservation Commission, however, does exercise a very valuable oversight function. I favor the abolition of the Commission, but I would hate to see the abolition of the Commission and the transfer of all the powers of the Commission to the Secretary of Agriculture without any oversight being conducted by the Congress.

Therefore, I have provided for in this amendment the abolition of the National Forest Reservation Commission, but have set up the same procedures with which the gentleman from Florida (Mr. Bennett), whom I observe in the Chamber, is familiar; that is the procedures used by the House Committee on Armed Services in conducting oversight activities over the purchase, acquisition, disposition, and exchange of all lands by the military.

The CHAIRMAN pro tempore. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. Ichord was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman, it would be a tragic mistake and a step backward if we abolished the oversight responsibilities of the National Forest Reservation Commission without setting up something in its place.

I might state that the Forest Service called me this morning about this amendment. I have made some perfecting changes. I did accept language which they suggested which more accurately expresses my intent and will permit both Committees of Agriculture of the House and of the Senate to conduct proper oversight activities over the Department of Agriculture.

To firmly establish legislative intent, I would state that it is the express purpose of this amendment to make certain that all purchases and exchanges which now come before the National Forest Reservation Commission are submitted to the Committees on Agriculture, so that the committees can examine such proposals and take such action as they might deem desirable. I would hope that the House Committee on Agriculture acts in a way similar to the House Armed Services Committee which exercises close scrutiny over similar activities of the military services.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I generally find this amendment to be one that we can agree to and approve on this side. I wonder if the gentleman would consider one additional change in the amendment? After the word "Senate" and before the enumerated items 1 to 4, I wonder if the gentleman would object to the inclusion of the language: "or such earlier time as may be approved by both such committees."

Mr. Chairman, would the gentleman respond to this point?

Mr. ICHORD. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, the thrust of the gentleman's amendment is to require the laying over of such amendments for 30 days before the Committees on Agriculture of both the House and the Senate. There is the possibility that both such committees would act to approve the proposal before 30 days expire. It seems to me that this might be a case where quick action within the appropriate procedures is possible.

Mr. ICHORD. Mr. Chairman, the gentleman has in mind an emergency situation?

Mr. FOLEY. Yes.

Mr. ICHORD. Mr. Chairman, would the gentleman offer that as an amendment to the amendment?

AMENDMENT OFFERED BY MR. FOLEY TO THE AMENDMENT OFFERED BY MR. ICHORD

Mr. FOLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Foley to the amendment offered by Mr. Ichord: Page 1, line 14 of the amendment, after the word "Senate" strike the period and add such language: "or such earlier time as may be approved by both such committees."

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. Foley) to the amendment offered by the gentleman from Missouri (Mr. Ichord).

The amendment to the amendment was agreed to.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, considering the adoption of the amendment to the amendment, we would urge approval of the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, we accept the amendment on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. Ichord), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there amendments to section 10? If not, the Clerk will read section 11.

The Clerk read as follows:

Sec. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 and 14 as follows:

"Sec. 13. Regulations.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

"Sec. 14. Severability.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 11 of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 11?

There being none, the Clerk will read section 12.

The Clerk read as follows:

ORGANIC ACT AMENDMENT

SEC. 12. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby amended by deleting the same and inserting in lieu thereof the following paragraphs:

"For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 581h, 1601–1610), the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of tress, or forest products located on National Forest System lands. The Secretary shall advertise all sales, unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. The Secretary shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of tress, or forest products from National Forest System lands, including but not limited to—

"(1) establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;

"(2) requiring sealed bidding to be predominantly utilized for advertised sales of one million board feet or less; and

"(3) requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Department of Justice with any and all supporting data.

Designation, making when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary, and such persons shall have no personal interest in the purchase or harvest of such products nor be directly or indirectly in the employment of the purchaser thereof.

"The Secretary, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or forest products for research and demonstration projects.

"Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this amendment shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 12 of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 12?

There being none, the Clerk will read section 13.

The Clerk read as follows:

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 13. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260, as amended, 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963, as amended, 16 U.S.C. 500), are amended by adding at the end thereof the following new sentence: "In the administration of the foregoing provisions of this paragraph, the term 'moneys received' against which the percentage authorized by such provisions is applied for determining the amount payable to any State for public schools and public roads shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget review estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 13 of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Mr. Chairman, I offer an amendment.

The clerk read as follows: Page 35, add immediately after line 20 the following section:

PLAN FOR CONTROL OF DUTCH ELM DISEASE

SEC. 14. The Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, shall conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease. The Secretary shall prepare and submit to the President and both Houses of the Congress on or before March 1, 1977 a report which includes—

(A) the results of such study

(B) plans for further research into the control of Dutch elm disease

(C) an action plan which includes a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease.

Mr. FRASER. Mr. Chairman, I am offering this amendment on behalf of myself and my colleagues from Minnesota (Messrs. BERGLAND, FRENZEL, NOLAN, OBERSTAR, and KARTH). Our intent is to upgrade the Forest Service's role in combatting the spread of Dutch elm disease.

The amendment does several things:

First. It calls on the Secretary of Agriculture to conduct a nationwide study of the incidence of Dutch elm disease and to evaluate current methods for controlling the disease.

Second. It directs the Secretary to submit the results of this study to Congress by March 1 of next year, along with recommendations for remedial actions that can be taken by the Federal Government.

Third. It authorizes the Forest Service to develop outreach and public information programs dealing with disease prevention and treatment techniques.

Mr. Chairman, research efforts in this area are already under way in the Forest Service, but much more needs to be done on a national level to deal with a forestry problem that is now reaching crisis proportions in my district and other Midwestern communities. Research, in and of itself, is not enough. We need to encourage local communities to act, and we need to do so before their elms have been destroyed. Since the early 1930's, when the disease was first introduced in the United States, many towns and cities have discovered that their trees were infested only after it was too late to take executive remedial action. What we need is an "early warning system" that can alert communities to the impending danger and assist them to combat the disease.

Dutch elm disease is now rampant in the Minneapolis-St. Paul area, and it is too early to tell yet whether and to what extent we can save the nearly 4 million elms in our seven-county metropolitan region. In the city of Minneapolis, alone, we estimate that more than 95 percent of the city's elms will be lost by 1989 unless the rapid spread of the disease can be halted. Luckily, the people of our area are alerted to the problem and remedial efforts have already begun.

Where concerted conservation programs have been undertaken in other parts of the country, they have proven to be successful. Evanston, Ill., has been able to keep its elm loss to about 2 percent a year by promptly identifying and removing diseased trees. The same program has produced similar results in Ottawa, Canada. Elsewhere, efforts have not been as effective. Des Moines, Iowa, which had 260,000 elms before the disease was first spotted in 1958, now has only about 3,000 left and is rapidly losing even these. Ames, Iowa, has only about 300 elms left from an original population of about 10,000 trees in 1961. The denuded boulevards of countless other Midwestern and Eastern communities bear witness to the widespread impact of this chronic malady.

Mr. Chairman, this amendment, in and of itself, will not enable us to eradicate Dutch elm disease, but it can strengthen ongoing Forest Service programs, and it can provide the foundation upon which more direct Federal efforts can be based.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I think the gentleman's amendment is probably something we should have done years ago. We would support his amendment.

Mr. FRASER. I thank the gentleman.

Mr. FOLEY. Mr. Chairman, we accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 35, add immediately after line 20 the following new section:

SUSTAINED YIELD

SEC. 14 (a) Within two years after the date of the enactment of this Act, the Secretary of Agriculture shall, in accordance with procedures set forth in Section 553 of title 5, United States Code, promulgate regulations to insure—

(1) that the National Forest System, as such term is defined under section 10(a) of the Forest Rangeland Renewable Resources Planning Act of 1974, will continue to produce adequate and continuous supplies of wood, water, wildlife, wilderness, forage, and recreation by—

(A) limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any 10-year period do not exceed such quantity limitations. In those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield. Nothing in this subparagraph shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe; and

(B) establishing guidelines to assure that based on periodic surveys of the productivity of lands for commercial timber production, such production is not a management goal where the estimated cost to the United States will exceed the estimated economic return to the United States; except (1) that the estimated cost of production will include only direct timber production costs, including a prorated share of the access costs for timber harvest, (2) that such restrictions do not apply to salvage of dead or diseased trees, and (3) that such restrictions are not intended to impede the reforestation of lands for multiple-use purposes or to impede the cutting of timber specifically for the improvement of fish and wildlife habitat; and

(2) that commercial timber production is a management activity only on lands where—

(A) soil, slope, or other watershed conditions will not be irreversibly damaged;

(B) assurance is given that such lands can be adequately restocked within five years after harvest; and

(C) protection is provided from changes in water temperatures, blockages of water courses, and deposits of sediment, for streams, stream banks, shorelines, lakes, wetlands, and other bodies of water where harvests could seriously and adversely affect water conditions or fish habitat.

(b) The first sentence of section 3 of the Act entitled "An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes", approved June 9, 1930 (46 Stat. 527; 16 U.S.C. 576(b)), is amended by—

(1) striking out "or" immediately before "(3)"; and

(2) striking out the colon and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the national forest land on a sale area, including sale-area improvement operations, maintenance and construction, reforestation, and forest habitat management."

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Chairman, this is the sustained yield amendment. This amendment incorporates into law the present Forest Service policy of sustained yield. That is called, in the technical term, even-flow nondeclining yield. It is, as I say, the sustained yield formula developed by the Forest Service and presently their policy in determining how many trees shall be harvested annually, particularly in the old growth forests in the Northwest.

In response to questions, the chief of the Forest Service said that by incorporating this formula into law, it will not decrease the supply of timber to this Nation. I repeat: It will not decrease the supply of timber to this Nation.

And, furthermore, the supply of timber can be increased, provided investment and management are properly applied.

I make the point again that most jobs in our forests will be provided by the better care we take of our forests and the more prudently we marshal the resources of our forests.

This amendment is being offered today for a very simple reason. It will guarantee the stability of our communities and the stability of our jobs.

We do not have sustained yield today, in law, by each national forest, as this amendment provides. Congress has not defined sustained yield in any law, and it is open to various interpretations. It is time Congress did so. This language provides the best assurance that the other forests values will not be subjected to sudden and perhaps adverse changes. Rapid liquidation of old growth certainly would impact wildlife, recreation, and watersheds over a rather wide area. Such liquidation will occur, in any case; but the impact can be better compensated for if it is done on a well planned, gradual schedule that will guarantee trees out of our forests in perpetuity.

The amendment I am offering specifically permits timber harvests to be increased, where justified, by management practices.

"* * * a quantity equal to or less than * * *" are the controlling words in this amendment regarding the timber that can be sold in perpetuity. All that is excluded is a quantity in excess of what can be sold in perpetuity. Obviously, if silvicultural practices are such that the volume grown will increase in the future and be maintained under sound management, the old growth can be sold at a faster rate.

The amendment also permits variations of the annual timber sale. The calculation of what may be sold in perpetuity is made for a 10-year period. If the management practices contemplated by the 1974 Renewable Resources Planning Act are carried out, timber harvests can be increased steadily, and they have been.

If we go over the statistics of the Forest Service, we will see every year an increase in the allowable cut in most forests.

The amendment does not pose the issue of cutting or not cutting old growth timber, which ranges in age from 200 to 500 years. It is being cut now, under the same even flow established by the Forest Service that I am proposing be established as congressional policy, as well.

The issue is whether that old growth will be cut before new trees are big enough to maintain the same level of harvest. That is the crux. In Oregon, if we accelerate the cut in our old growth now, we will go decades without trees of sufficient saw timber size to process in our mills and to supply the timber in this country. This boom and bust cannot be afforded by Oregon and the Nation.

This amendment will, in the words of Chief McGuire of the Forest Service, "avoid any eventual decline in the flow of timber" and, remember, this is even flow, nondeclining yield. We do not anticipate any decline, and we make it statutory.

The CHAIRMAN pro tempore. The time of the gentleman from Oregon (Mr. WEAVER) has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 3 additional minutes.)

Mr. WEAVER. Mr. Chairman, to continue, Chief McGuire also said:

> Nondeclining even flow, by National Forests, appears to be the policy alternative most consistent with the statutory direction. Generally, but not always, it contributes more to long run community stability than other alternatives.

That is the end of the quote from Chief McGuire of the Forest Service.

The adoption of this language is not expected to reduce the annual timber harvest. Chief McGuire also said in an answer to a question asked by Senator JACKSON: "We do not expect any significant difference" in production.

Mr. Chairman, we are a generation behind in replanting trees. Had we begun planting trees 50 years ago, we would not be in the predicament we are in today. But planting was not profitable then; trees were too cheap. Today they are expensive, and there are too few trees. We must harvest the old growth in such a way as to provide a stable supply. If we sharply increase the cut, we will come to a time when there are few trees of sufficient size to make good lumber and plywood.

This will bring about the boom and bust that is so damaging to our economy. The sustained yield language is the same as in the bill that was passed by the Senate, and Senator HUMPHREY has told me that he feels it is one of the most important provisions in the bill that passed the Senate 90 to nothing.

The amendment also includes, Mr. Chairman, marginal lands language that simply states that public investments in our forests should be spent where they do the most good. It also provides that where the land is so arid or inaccessible or the soils are so fragile that logging would irreversibly damage these essential elements, timber production would not be a management goal. It also expands improvement uses under the Knutson-Vandenberg funds.

All of this makes sense. The entire amendment is in the form of requiring the Forest Service to draft regulations within 2 years to implement these provisions.

So what we have here are prudent forest practices developed by foresters, and we are giving the foresters the task of implementing them through their own regulations.

Mr. Chairman, I urge the adoption of this amendment to speed up and assure enactment of this vital legislation.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his amendment and on the lucid explanation which he has given us.

I can say wholeheartedly, despite the fact that I offered a previous amendment, that this is the single most important amendment that could have been offered to this bill. It will do more to protect the integrity of our national forests than any other thing that could have been done. I compliment the gentleman for offering the amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word.

Again I would like to ask the sponsor of this amendment if we could substitute the language of "sustained yield" to include the words, "regular periodic output," instead of limiting it to the output annually in perpetuity, as the amendment now reads.

Mr. WEAVER. Mr. Chairman, if the gentlewoman will yield, will the gentlewoman explain the meaning of "regular periodic output" and how it fits in the amendment?

Mrs. FENWICK. That is the definition that appears in the 1960 act. It was approvingly discussed by the gentleman from California (Mr. BROWN) in the debate a day or two ago. I do not have the paper before me now, but it reads, "annually or on a regular periodic output."

Mr. WEAVER. Mr. Chairman, if the gentlewoman will yield, section 4 of the Multiple Use-Sustained Yield Act contains this language:

> "Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services...

Mrs. FENWICK. Mr. Chairman, if the gentleman does not mind my interrupting, I was referring to the definition of "sustained yield," not "multiple use."

Subsection (b) of section 4 says as follows:

> "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests . . .

Mr. WEAVER. If the gentlewoman will yield further, I just point out that this is the various renewable resources of the national forests and includes all of the multiple uses.

In our amendment we are specifically referring to timber production.

Mrs. FENWICK. If the gentleman from Oregon (Mr. WEAVER) will forgive me, this is not quite accurate, is it? I am talking about what is in the 1960 act only, about the sustained-yield section, not the multiple-use section.

As I understand it, the amendment is headed "Sustained Yield," and I am suggesting that we could include in the gentleman's amendment the wording of the subtained-yield definition which is in the 1960 act.

Would that be agreeable to the gentleman from Oregon?

Mr. WEAVER. If the gentlewoman will yield further, the bill itself refers to sustained yield in several places.

Mrs. FENWICK. I am not discussing the bill, if the gentleman will forgive me. I am discussing the gentleman's amendment. Later I hope to offer an amendment which will replace the language of the gentleman's amendment with the definition of "sustained yield" in the 1960 act.

Mr. WEAVER. If the gentlewoman will yield further, I merely point out that the Sustained Yield Act refers to the multiple uses of the forests, including timber, while the amendment we have before us refers explicitly and solely to timber production.

Mrs. FENWICK. I beg the gentleman's pardon. The 1960 act has under it a dual heading, I will admit, with two definitions, first, the definition of "multiple use," and second, the definition of "sustained yield."

I am referring now to the definition of "sustained yield." It seems to me germane, because in the gentleman's amendment is the heading "Sustained Yield" and "Multiple Uses" has been crossed out in my copy.

Mr. Chairman, what I am asking is would the gentleman agree to an amendment that would include the definition in the 1960 act?

Mr. WEAVER. If the gentlewoman will yield further, the reason that the specific language is in this amendment is that it was referred to in testimony before the Committee on Agriculture by the Chief of the Forest Service as being, in effect, their present sustained yield policy, even with respect to nondeclining yield.

I would be very reluctant to change that, because we have the Chief's word, in testimony, that this language in the present amendment is sustained yield as practiced by the Forest Service. Therefore, any alteration would affect the Chief's testimony on that, and it would be very difficult to do that.

Mrs. FENWICK. I was basing my statement on the colloquy, or the statement, of the gentleman from California (Mr. BROWN), who seemed to approve of the original definition.

I gather from what the gentleman says now that the gentleman has gone beyond that definition and feels that another definition would be more desirable.

Mr. WEAVER. Yes. The gentlewoman is specifically relating to timber production.

Mrs. FENWICK. This is sustained yield or timber production that we are discussing, yes.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the amendment, first of all, does not amend the Sustained-Yield Act. The amendment is an add-on to a later act of Congress, the Forest and Rangeland Renewable Resources Planning Act of 1974:

I think there probably might be some confusion in the public mind, as well as in that of Congress itself, that sustained yield is not part of the law. It is not some regulation. It is not some nebulous affair. Sustained yield is in the law now, it is required and followed under existing law.

Mr. Chairman, what we are doing in this bill is requiring that in the Multiple-Use Sustained-Yield Act, the Forest Service, in developing plans within any unit of the national forests, must take additional steps. These additional steps are meritorious, worthwhile, and constructive.

With respect to the plan for those units, the bill says that there shall be public hearings regarding timber sales.

The timber sales must incorporate the Church guidelines and I refer the committee to some of the language on page 23, line 14 that says that these timber sales as a result of these plans:

> . . . are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, . . .

On page 24, line 3, the bill requires:

> . . . the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, . . .

I bring these points to the attention of the committee because these are environmental issues. The bill is explicit on these issues. On page 26, lines 8 and 9, we require the Forest Service, in timber sales, in their plans for any units of the national forests, to give consideration to diversity of tree species. And this is significant in protecting the habitat of the wildlife, and particularly in the western part of the country. It is an important section of the bill. It is important for our wildlife. This provision is solidly backed by the wildlife advocate communities and all the environmental groups in regard to wildlife habitat protection.

In addition, on page 27, line 3, we deal with another important aspect. I will put this question as a rhetorical question: Does the bill consider the broad aspects of use of our national forests for other purposes than the timber harvest? The bill again is explicit. In developing the plans for any unit in the national forest system the forest system must—

> in carrying out the multiple use of the forests include, but not limit it to recreation, wildlife, habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section.

I have quoted from the bill.

I have given the Members the explicit language, because I want to reassure the members of the committee that environmental concerns have been considered by the Committee on Agriculture before bringing this bill to the floor.

We think we have done a good job. We think we have given consideration to the request of the environmental organizations, and we think we have done a good job in enacting into the terms of this bill ample protection for environmental concerns.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I am sorry that we have to replow the ground for many of the Members who are here, because we discussed this when we were debating this measure and since there are a sufficient number of Members here who were not present then, I believe it warrants mentioning a second time.

The Weaver amendment perhaps is a good amendment if it is limited to the gentleman's own area, to the Pacific-Northwest. Perhaps it is adequate for Oregon, I do not know. But, unfortunately, the trees in this country do not all grow at the same speed that they grow in Oregon. The National Forest System is scattered throughout the whole United States. We have forests on both coasts and we have forests in the inner mountain areas. Each forest is a different entity which has to be considered.

In the inner mountain area, the trees grow at a much slower rate. We have different histories of harvesting. On the east coast, for example, the forests have been harvested one or more times. In the Rocky Mountain area we have not had all of the timber harvested as yet.

To try to maintain legislatively that we are going to harvest the trees in the same equal amount every year annually in perpetuity, a sustained yield, is to ignore the physical facts of life and to ignore the fact that trees do not all grow in such a pattern that we can do this in an economical fashion.

In the national forests in our part of the country we cannot even legislate for one forest in the Rocky Mountain National Forest and have it apply sensibly to some of the other forests in the same vicinity. We have some forests that are having a great amount of beetle infestation because the trees are old and are about to fall down. The Forest Service cannot cut them because of environmental pressure against it, so the trees are dying. They will be removed in the natural process when lightning strikes and we have forest fires.

This kind of amendment prevents sound silviculture and forest management activities from taking place all over the country. It may, as I say, be a good amendment from the point of view of harvesting trees in Oregon, but it does not apply across the country. It does not deal with the problem that we have. The old sustained yield definition is still the best one, and the sustained yield definition says that the sustained yield of the several products and services means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources.

The Weaver amendment does not improve on that. As a matter of fact, the Weaver amendment is destructive of sound forest management.

Then I should like to point out to the members of the committee that section 3(b) is something that I do not understand, and I wonder if anybody else does. Perhaps the author of the amendment does, although he does not explain why the amendment is included. It is an amendment to the Knutson-Vandenberg Act of 1930. It has not been explained as to the reason for striking a portion of section 3 of that act and inserting the new language. There has been no hearings on the reason or the requirement for striking a portion of the Knutson-Vandenberg Act and inserting this language. It is hard to tell what it is, and I do not think it has been adequately explained.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. KREBS. I thank the gentleman for yielding.

I certainly know the gentleman's great concern for the environment, and my question certainly does not mean to reflect on that. I believe this is a matter of record.

My question to the gentleman, however, is whether he would be kind enough to point out to this committee as to where the amendment proposed by the gentleman from Oregon states that we have to harvest the same amount of trees every year. As a matter of fact, as I read the amendment, the very opposite is true. It permits an average cut over a period of 10 years.

Mr. JOHNSON of Colorado. For the same quantity limitation. The language is:

> Limiting the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any 10-year period do not exceed such quantity limitations.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will accept no compromise with sustained yield forestry in national forests, but I would urge my colleagues to vote against the pending amendment, and I would like to explain why.

I begin by pointing out that it is a misnomer to say that this is in effect, a sustained yield amendment.

Sustained yield is already mandated by the Multiple Use-Sustained Yield Act of 1960. This amendment would not initiate the practice of nondeclining evenflow harvesting in national forests. This has been Forest Service policy and practice since 1973, based on that agency's assessment that this is the best method to implement sustained yield law.

The issue this amendment raises is whether to write nondeclining evenflow into statutory law or whether to leave it as a Forest Service regulation. To decide this, we must first ask whether such a change is necessary; then whether such a change is desirable.

I say it is neither. It is not necessary because the Forest Service adopted this policy when it was convinced that the policy was needed to implement the statutory sustained yield law passed by Congress. The Forest Service has stood by this decision despite great pressures to back down.

The refusal of Congress to make nondeclining even-flow harvesting statutory will in no way undermine the position of the Forest Service. Chief McGuire has made it clear that this policy is, in his professional opinion, required to assure sustained yield practice.

Even if it wished, which it clearly does not, the Forest Service could not lightly abandon nondeclining even flow. Under NEPA, any significant forest management changes are subject to an environmental impact statement requirement and would certainly trigger congressional oversight hearings to determine whether such changes truly represent improved implementation of the sustained yield law.

In view of this, I see no compelling need to add the language of this policy to statutory law.

But, Mr. Chairman, we should also ask whether this amendment is desirable. I believe it is not.

Like many other technical fields, forest management is in the midst of a scientific revolution. Advances in fields ranging from molecular genetics to computer technology are making possible tremendous advances in our understanding of forest ecology and in the tools we have for managing our forests.

But if we lock present practices into law, we will impede the acceptance of other new developments that may be necessary in the future. Or if Congress falls back into the pattern of neglect and allows the law to fall behind scientific management practices, as it did for the original Organic Act, we can expect future trouble that we may live to regret.

Mr. Chairman, to lock this policy into law is to fail to recognize the need for reasonable flexibility. There are times when forests can be preserved only by briefly exceeding levels of harvest permitted under nondeclining evenflow. Even this amendment recognizes that such instances can occur—exempting as it does those trees that have been lost to mortality or to insect infestation.

But the amendment does not recognize the opportunity to prevent such catastrophes from occurring in the first place. In some cases forest specialists can identify these losses as far as 20 to 30 years in advance—yet under this amendment the Forest Service would be powerless to act until the loss has actually occurred and the damage done, and in some cases unnecessarily spread to other forest areas.

For some trees, such as the lodgepole pine, prompt harvest after maturity is required to prevent heavy mortality and loss to insects and fire. But by mandating the inflexibility of a statutory requirement, we shackle the Forest Service in its effort to use appropriate management alternatives for these special conditions. By doing so we assure wasteful losses.

Mr. Chairman, since first recognizing

the need for a forest management bill, I have consistently stressed two important points that I feel must be emphasized once more. First, there does not need to be a trade-off between timber and other national forest resources. With better management, we can assure adequate timber production while increasing the other multiple uses of our national forests—recreation, fish and wildlife, wilderness, and soil and water quality.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Mr. Chairman, the second point I have consistently tried to make is that Congress must recognize the diversity of our national forests and avoid writing management rules for a textbook forest. This is the point the gentleman from Colorado made a few moments ago. We should avoid writing management rules for a textbook forest when there is no textbook forest; they are different across the country. We must not have rules that are unrelated to the local conditions practicing foresters find across the country. I am pleased that in general both Houses of this Congress have recognized this need.

But to add the nondeclining even-flow policy to statutory law would be a clear step backwards in this respect. It would be a step having no environmental purpose because nondeclining even-flow policy has already been put into use, is now in use, and will be kept in use.

By making this policy statutory, we lock out a major tool for preventive forestry and foreclose the use of alternative management practices to meet special conditions found in our national forests.

Mr. Chairman, for these reasons, I urge my colleagues to vote down this amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I would like to commend the gentleman from Oregon for his fine statement.

Mr. Chairman, "nondeclining yield," "sustained yield." What is the issue?

The Forest Service, the forest products industry, conservation and environmental organizations and labor and consumer groups all support "sustained yield" for the national forests.

"Sustained yield" has been a statutory requirement of national forest management for all resources—recreation, wildlife, forage, timber, and water—since 1960. It was also the management objective of these lands for decades prior to that legislative action.

Mr. Chairman, the 1960 act directs that the Secretary of Agriculture manage the national forests for multiple use and sustained yield of the several products and services obtained therefrom. "Sustained yield of the several products and services" was defined by that act as "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land."

Mr. Chairman, the current controversy arises over legislative proposals which would mandate a narrow interpretation of the phrase "achievement and maintenance" of the high-level output. The "nondeclining yield" proposal requires that current timber harvest levels be no higher than future growth rates under current levels of management. That is the "maintenance" aspect of sustained yield. However, that requirement totally ignores the "achievement" obligation of the Secretary and the Forest Service.

Where there has been accumulated over centuries a large volume of timber in excess of that needed for the future management levels of the forest, "achievement" includes the orderly reduction of that inventory. By its very presence on the land, the excess volume prevents use of the growth potential of the forestlands.

For most eastern national forests there is no problem since these lands have been harvested at least once, and have already grown one or more new crops of timber. For these lands, the Forest Service objective is to maintain current growth rates and increase them over time with new investments and better methods.

However, Mr. Chairman, for most western national forests, the situation is quite different. On these lands there is a large stand of timber which is well past its maturity. It is timber that has begun to decay as the result of old-age, lightning strikes, insect and disease attack. It is often growing at a net loss—that is the annual growth rate is more than offset by its loss in wood volume due to death and decay.

It is on these lands that the "achievement" requirement of the sustained yield definition is important. On these lands it is prudent management to harvest timber at a rate in excess of what future growth rates will be as long as the current harvest rate will not result in reducing future growth rates. Such a harvest program makes the productivity of the land available for growing future crops of sound wood, reduces the waste of standing timber and waste of the growth potential of these lands, and permits other national forest management objectives to be implemented on these otherwise stagnant lands.

In considering this issue it is important to recognize that the national forest areas designated as "commercial forestlands" do not include those areas set aside for wilderness use and for other special single purpose uses which are incompatible with timber management. In every national forest unit where timber management is conducted, other multiple use objectives including outdoor recreation, range, watershed and wildlife and fish purposes as stated in the 1960 Multiple-Use Sustained-Yield Act must be considered and provided for.

"Nondeclining yield" is not a rational form of "sustained yield" because it ignores the "achievement" directive. It is wasteful of billions of board feet of standing timber and billions of dollars of national assets.

"Sustained yield" is the policy of our Government for these lands. It should not be changed.

I urge a no vote on the Weaver amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Alabama.

Mr. MONTGOMERY. Mr. Chairman, I also rise in opposition to this amendment and in very strong support of H.R. 15069 and urge its approval by my colleagues. Furthermore, I would urge my colleagues to reject crippling amendments that will be offered under the 5-minute rule. The bill as reported by the House Agriculture Committee is an excellent compromise of several bills introduced in the 94th Congress.

I feel that the most important point to be made about the National Forest Management Act of 1976 is that it will provide needed flexibility to the Secretary of Agriculture and Forest Service in applying modern management techniques and reforestation programs. I commend the committee for reporting out a bill which recognizes that you cannot and should not apply the same regulations to softwood forests as you do hardwood forests and vice versa. I am pleased that the bill does make allowances for the need to practice varying management techniques in the different types of national forests in our Nation.

Mr. Chairman, there is no doubt as to the need for this legislation as reported out of committee. We cannot allow our future timber supply to be dependent upon the court decision rendered in the Izaak Walton League of America against Butz case. The very narrow court interpretation of the 1897 law would greatly reduce our timber supply and thus cause price increases for a wide range of products dependent upon wood and wood byproducts as raw materials.

A reduction in the amount of timber products offered to consumers would quickly result in increased prices. A number of studies and historical experience indicate that market prices of the major timber products are quite responsive to changes in quantities supplied to the market. The Department of Agriculture's preliminary estimate indicates that a 50-percent reduction in available Forest Service softwood timber would result in more than a 15-percent increase in wholesale lumber prices and a larger increase in wholesale plywood prices for the period 1980–90.

The immediate impact on lumber and plywood prices could even exceed the above projections. The impact of a shortage in supply would be particularly critical if it occurred at a time when the housing market was expanding. With more and more people being priced out of the housing market with each passing year, I do not think the Congress should contribute further to increased housing cost by imposing restrictive cutting practices in our national forests. To do so would be a disservice to the consumers of America, as well as the depressed construction industry. For this reason we must pass H.R. 15069 as reported and without any amendments.

Mr. Chairman, another important provision of the bill is the new thrust it would provide for the reforestation and timber stand improvement of the national forests. It provides an annual authorization of $200 million with a view that the backlog of land in need of reforestation and timber stand improvement would be treated within an 8-year period and thereafter forest lands would be treated on a current basis. It is expected that with full implementation of this authority, the Forest Service will be able to provide increased yields from the national forest as needed to keep pace with demand for timber products and at the same time enable this resource to be replenished and renewed through the years. Further, the provision, in my opinion, will provide indirect returns to the Federal Government and the American people through improved watershed protection, greater opportunities for outdoor recreation and enhanced wildlife and fish habitat.

All in all, this bill is most fair and a practical approach to management of our national forests. It provides for needed timber production and at the same time addresses environmental concerns. I urge the approval of H.R. 15069 as reported and the rejection of proposed amendments.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I commend my colleague from Oregon for a fine statement and join him in asking for the defeat of this amendment. Someone has suggested this might be good for Oregon. I strongly disagree. We should vote down this amendment and support the committee bill.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment, but in doing so, I want to comment, as several of our colleagues have done, on the speech of the previous gentleman from Oregon with regard to the issues at stake here. I think the gentleman displays a very perceptive understanding of the problem. I come to different conclusions, but I admire the lucidity with which the gentleman has explained the matter.

Mr. Chairman, as the gentleman has pointed out, we have in existing prior law a commitment to the sustained yield principle. As the gentleman has likewise pointed out, we have the uniform interpretation of the Forest Service over the years that adherence to the sustained yield principle requires management of the national forests on an even-flow nondeclining yield basis. We are agreed on that.

All this amendment does is to stipulate that the forests will be managed on an even-flow nondeclining yield basis, the current practice of the Forest Service in conforming to what they understand to be a policy established by this Congress.

Now, let me tell my colleagues why there is objection by many people to writing this into the language of the bill. It is not because it makes the bill unduly specific. We will find that the same people who use the argument in connection with this amendment are delighted to write with the greatest specificity provisions into this law which they support, but they do not want this written into the law. Why is this? The fact is that the major policy problem confronting our national forests today is how fast shall we cut the stands of virgin soft woods timber in the Western United States which constitute somewhere close to half our total stands of available timber in this country?

Now, it is the industry's position, one which, of course, is in their own interest, one which is easily understandable, that the Forest Service should permit them to cut that large stand of old growth virgin timber faster than they are now allowing them to cut. They object to the even-flow nondeclining yield as it is calculated by those computers down at the Forest Service headquarters.

Now, if we continue to write into the law a prescription that calls for this even-flow nondeclining yield, the position of those who want to move out and cut much more rapidly the virgin timber of the West is going to be undermined, because the practice of the Forest Service will be confirmed by the action of this Congress. If we delete this deliberately and knowingly, after the Senate has put it in and this House refuses to put it in, it will be the position of industry that the deliberate policy action of this House is to reject the practice of even-flow nondeclining yield as a way of implementing the sustained yield principle, which is the policy of this country.

Now, is that what we want? If so, fine. We are entitled to take such action and I commend those that want to have that; but let us do so clearly understanding what is at stake. Do we want a vastly accelerated cutting of virgin forests of the West to accord with the needs of industry for cheap timber, or do we want to protect this resource and continue to cut it with a policy and a practice that will protect the economic base and the welfare of the communities within the forest regions?

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding to me. The answer to his question is an emphatic yes. We do want to protect our national forests. We find with both questions; do we want to protect the forest and do we want to use the nondeclining yield basis, that the answer to that is yes, we do.

I must say to the gentleman that I have attempted in surveys to determine if in region one, which includes western Montana, whether or not the environmental groups there feel that the Forest Service practices during the past 2 or 3 years have adequately protected forest resources under the Multiple Use Act, giving adequate consideration to environmental concerns. I find the answer is yes, during the past 2 or 3 years there is general approval of forest service practices.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. MELCHER. There has been satisfaction during the last 2 and 3 years of Forest Service practices in that area. What we seek to do in the bill is to continue that and not hamper it with additional legislation that would detract from it, but add to it constructively. That is what we have done in provisions of the bill.

Mr. BROWN of California. I thank the gentleman.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Idaho.

Mr. SYMMS. I would hate to have the gentleman mislead the Members of this body with his beautiful prose.

Mr. BROWN of California. No more than I would.

Mr. SYMMS. But, the problem is with the overmature stands of timber in the western parts of the country. They are overmature. That has been brought out by myself and others in the debate and the colloquy.

We have people here, for example, the dean of the college of forestry in my State, who is not a pawn of the timber industry or anything else, who believe that if we want to protect our forests, we must keep nondeclining yields because of the situation we are confronted with in the Pacific Northwest with overmature timber which is no longer growing. I would urge Members to vote down this amendment.

Mr. BROWN of California. I thank the gentleman for his comments. I would like to make another point or two.

The gentleman is correct in stating that these are overmature. I said that these are the old, virgin forests, some of them hundreds of years old. The question is, Do we want to cut them all down tomorrow? That is exaggerating a little bit, but basically the question is, How fast do we cut them down?

Now, let me say this: Most forest experts think that we can cut them down faster than we are cutting them down, even with the even flow nondeclining yield practice, but to do so requires that we engage in intensified forest management practices. I concur with this. We can increase the cut by 100 percent, but to do so we have to guarantee that we are going to produce more out of these forests.

This bill will help to do this, I might say, and to that extent it is a good bill, but we do not want to give up completely our commitment to the principle of even flow nondeclining yield because if we do and the Forest Service feels that we have, there is no limit to what we can cut in those old growth virgin forests. I think this is something we want to protect against.

Mr. FOLEY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, this is an amendment which would, in its most important aspect, freeze into the regulations the requirement for even flow, nondeclining yield provisions. The proponents of the amendment have stated many, many times that this is the policy currently being followed by the Forest Service. But, the effect of putting the amendment into the bill will deny the Forest Service, I think, some needed flexibility which they presently have and which the Forest Service has commented many times is important to the management of the forests. The proposed amendment would prevent that flexibility from being exercised. Without going over all the arguments, it is true that there is an issue over the harvesting of mature and overmature forests, particularly in the intermountain West.

There is an argument about how fast those forests should be cut while still allowing good forest management practices to be followed. Certainly the Forest Service is not presently cutting them at a rate which would suggest that they are going to be immediately cut down if this amendment is not included.

As a matter of fact, the gentleman from California has just stated there are many foresters and many environmentalists who think that the forests should be cut faster, presuming good management.

One of the problems with this amendment is that it presumes that the forests to which it applies are managed forests, that is, that they are highly intensely managed forests. This is not the case, because the resources are not available.

Although the intentions of the gentleman in offering this amendment, are good intentions, and we all share his interest in the valid implementation of sustained yield forestry, I would hope that we would not go so far as to write this provision into the regulations until there has been an opportunity to determine what the effect might be on the forests, particularly those in the intermountain West.

Mr. Chairman, this bill, if I may say so at this point in the record—and I want to make this clear—is not a bill which ignores the environmental protection of the national forests or avoids imposing rigid standards on silvicultural practices in the national forests. It is the strongest mandate that has ever been given by the Congress, without this amendment, to require proper silvicultural practices and careful environmental concern in the management of our national forests. And this is particularly true with respect to timber-cutting practices in our national forests.

Mr. Chairman, I hope the members of the Committee will support the committee bill without the addition of this amendment. We have a bill which I think can be taken to the conference with the Senate, where the differences between the two versions can be resolved.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

Would not the gentleman say that if we adopt this amendment, it removes the last chance that we might be able to back away from our preexisting commitment to sustained yield? If we leave it out, we can back away from the preexisting commitment of sustained yield if we feel it is desirable to do so.

Mr. FOLEY. I do not share the gentleman's concern that there is any likelihood of our backing away from the sustained yield principle. As the gentleman knows, it has been in the law since 1960. The gentleman's amendment would carry the principle, I think, a little too rigidly into the regulations, and I hope it will be rejected.

Mr. KREBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman and Members of the Committee, I realize that it is Friday afternoon and time is limited, so I want to apologize to anybody we are holding up here this afternoon, but I think this piece of legislation is of sufficient importance to spend at least a reasonable amount of time to discuss it intelligently, regardless of what conclusion we may reach.

I do not particularly cherish the task of standing before the members in opposition to my distinguished chairman, for whom I believe each member of our committee has tremendous respect.

Mr. Chairman, I would like to address myself for just a couple minutes to some of the points which have been raised. Statements have been repeatedly made that the defeat of this amendment would have no environmental impact and that this bill really is environmentally sound.

As I stated during the general debate, I did support the bill in the subcommittee, as well as in the full committee, in the hope that through the amendment process on the floor we would be able to improve the bill and bring it closer to the thrust of the legislation that was voted out of the other body by a vote of 90 to 0, and hopefully make it a more balanced bill than it is at the present time.

I think for this reason, and I do not think it is merely an accident, that every environmental group is opposing this bill in its present form and is supporting the amendment proposed by the gentleman from Oregon.

I think the reason is that this amendment would give the necessary legislative backbone to the Forest Service to resist the pressures from industry.

Let me digress here for a minute and state the obvious; namely, that the thrust of the opposition is coming from industry. The interest that we see coming from industry is not because of their environmental concerns, we know that. It comes from industry because industry would like to carry on in the same manner in which they have been operating for years.

I hope in this year of 1976 we have learned something from the past as far as the limitation of our natural resources is concerned. I hope we have learned that this problem is not limited just to energy, but that it is true also of timber. I really do not think it is asking too much of this body that we tell the Forest Service that we would like them, regardless of the pressure that is going to be exerted on them, to continue the same practices they are using at the present time.

So, Mr. Chairman, I would urge the Members to adopt this amendment, because it is probably the most important amendment that has either been offered or will be offered. If this amendment is adopted, it will make this legislation a balanced one that all of us can walk out of this chamber and be proud of. Then in the conference process, as the chairman of the committee correctly pointed out, we can iron out any differences that may still exist between the two Houses of Congress.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I am sure the gentleman would be candid enough to state that the purpose of the amendment is in part to foreclose these issues from conference. Is that not correct?

Mr. KREBS. Mr. Chairman, if the committee chairman will allow me, I will respond to that.

It is not my intention really, speaking only for myself, to foreclose anything in conference. It is merely my intention, as I stated repeatedly, that we bring out a bill that is going to be balanced.

Mr. FOLEY. Mr. Chairman, I understand the gentleman's position, but is it not true that if the amendment offered by the gentleman from Oregon (Mr. WEAVER) is adopted, we would be foreclosed from considering certain matters in conference?

Mr. KREBS. Mr. Chairman, that might be true with reference to this particular issue, but there are many other provisions in the House version of this bill that are still markedly different from the version voted out by the other body.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. One hundred three Members are present, a quorum.

The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 13?

AMENDMENT OFFERED BY MR. BAUCUS

Mr. BAUCUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUCUS: Page 35, add immediately after line 20 the following new section:

LIMITATION ON TIMBER REMOVAL

SEC. 15. (a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be harvested from such forest annually in perpetuity on a sustained-yield growth basis for each associated tree species. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

Mr. BAUCUS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. BAUCUS. Mr. Chairman and Members of the Committee, it is with considerable concern that I offer an amendment which will be opposed by the committee and particularly by the chairman of the subcommittee, who is the dean of my delegation and a colleague of mine whom I respect very, very much.

Nevertheless, Mr. Chairman, I offer this amendment because I think it is extremely important, not only to Montana, but to all congressional districts that have considerable forest resources.

For example, in Montana we have 14 million acres of forest resources; and 90 percent of all of the forest lands are in my district in western Montana, while 10 percent are in eastern Montana.

To make it even more significant, 51 percent of the personal income in western Montana is derived, directly or indirectly, from the forest industry.

Therefore, Mr. Chairman, I am telling the members of the committee that this bill is of crucial importance to me, as it is, I am sure, to all the other members of the committee who have considerable forest resources in their districts.

Mr. Chairman, the gist of the debate so far pertaining to sustained yield, particularly the amendment offered by the gentleman from Oregon (Mr. WEAVER), has been that we should lock in the concept of sustained yield because the Forest Service is already doing it.

Mr. Chairman, if the members have listened very closely to what has been said, they have heard two things: No. 1, the Forest Service is practicing sustained yield as a policy, which is meritorious. No. 2, why lock it into concrete because there may be some change?

Mr. Chairman, what does that mean? Basically, to me it means that we do, as a matter of public policy, want a sustained yield. However, I think it also means that we want flexible sustained yield.

It is for that purpose, Mr. Chairman, that I am offering my amendment.

Essentially, my amendment is the Senate sustained-yield language, but it is made more flexible by making sustained yield the policy to be followed by the Forest Service, not only on a national forest basis, but also on an associated species basis.

The purpose of this amendment is to enable the Forest Service to pursue the sustained-yield policy and to go in and get at more of its overgrown trees, the potentially disease-infected trees.

Mr. Chairman, the reason the Forest Service ought to be able to do this is because, with associated species, we will be looking at different life spans for different species of trees. The lodgepole, for example, has a shorter lifespan, and in the Northwest it is the main species that is overgrown and potentially disease infected or actually disease infected.

Mr. Chairman, my amendment will enable the Forest Service to go in and get to stands of potentially disease-infected trees. Moreover, it will set a standard policy that the Forest Service will then follow generally with respect to sustained yield.

Mr. Chairman, those Members who think or who hear that sustained yield will cost jobs require some explanation. Let me explode that myth once and for all.

If we look at the total allowable cut—and that is what sustained yield goes to, allowable cut policy—across the country and in region 1, we will see that allowable cut exceeds harvest level from between 30 to 50 percent.

The reason that some mills are having some difficulty is not because of the low allowable cut which has been set under present sustained-yield practices. Instead, it is because of inadequate accessibility, insufficient roads, the low housing market, and the refusal of OMB to provide the funds for forest product sales.

Mr. Chairman, those are the reasons the economy is not proceeding, and why some mills are having some difficulty. It is not because of allowable cut.

Therefore, Mr. Chairman, I tell the Committee that essentially everybody agrees that we want sustained yield. Let us then set that as a congressional policy, but let us make it a little more flexible than it has been prescribed in prior amendments.

A few things need to be placed in perspective in discussing the sustained yield concept and how my amendment would work. The industry argument is that adoption of language similar to the Senate bill would force a reduction in national forest cutting levels below those currently in effect.

The fact is that the Senate language, as well as my language, plans to increase the growth and thus the cutting levels up to the potential level. Currently, growth on the national forests is 30 cubic feet per acre per year and the potential is 73 cubic feet per acre per year. Thus, the sustained yield provision will permit the cutting levels to move up over 100 percent.

My language modifies this in order to permit treating the single problem that the Chief of the Forest Service recited to Senator METCALF in his July 19 letter. Bearing in mind that this was 2 months after the Senate bill had been reported, and bearing in mind that the Chief said that the Senate language placed the current policy into law, the Members need to know whether my language is a modification of the current Forest Service policy.

The answer is that it is. The Chief pointed out that the Forest Service had a self-imposed restraint on itself. There were stands of short-lived species such as lodgepole pine that are mature that cannot now be removed as rapidly as they should be to avoid losses in volume due to insect and disease attacks.

My amendment, therefore, differs with the Senate language and the Brown-Weaver language in addressing this specific issue. By statutorily directing attention to the fact that the Forest Service computes allowable cuts based on species and associations of species, it provides the Secretary of Agriculture with the means to do several needed things in a way that increases his flexibility in using commonsense.

First. He can set into motion a system of timber harvesting that raises cutting levels as rapidly as feasible to growth potential.

Second. He can increase the harvest of short-lived species, or any species where retention will result in catastrophic losses, so that real losses can be avoided to the extent feasible.

He has the opportunity in a decade to do the following in the Rocky Mountain region.

Here the potential cutting level is 65 cubic feet per year. Actual cutting levels are 16 cubic feet a year and actual growth is 23 cubic feet per year. He can in the decades ahead move the cut up to 65 cubic feet, four times the current level if he can, in the process, avoid losses in standing timber and has in operation a plan of management that pushes growth up to the 65-cubic-foot level. This permits a response to the problem of real and critical epidemic losses. From a practical standpoint, if the mill capacity in the area exists and can handle this volume it will be sold. However, the other fact we need to recognize is that in many cases the Forest Service has been unable to market possible increases in harvests because markets are not present. The ultimate limit is the sustained yield potential level. The practical limit is facilities to convert the trees to products.

Members also need to bear in mind that under the Senate language provision exists for salvage cutting beyond the sustained yield constraint when a catastrophe such as fire or insects and disease wipe out a stand.

Wednesday I spoke about the use of commonsense. The sustained yield concept, as it has operated in fact and as it would operate under this language, would require the sustained yield situation be recalculated after the catastrophe and the cutting.

It is no hypothetical situation. If the forest has been overcut due to catastrophe, the total number of growing trees has been reduced. The age classes of the forest are put out of kilter and the land productivity may have been affected.

Therefore, the foresters are going to be forced to recalculate the future harvest levels and plans.

The underlying requirement remains

that the harvest of timber cannot over the long run exceed the true sustained yield potential. If all the existing marketable timber, whether mature in a cutting sense, or overmature in a biological sense, is knocked out by a fire and destroyed, obviously the Forest Service cannot offer any timber for sale until more timber of marketable size and condition is available. Thus in reality there is no guaranteed allowable cut either in theory or in fact. The cutting level that will exist is based on the marketable trees that are available. The sustained yield concept sets a policy of not knowingly embarking on a program of cutting more timber than can be grown and cut in perpetuity.

This amendment does two key things. It sets a statutory policy that promotes budgets and programs to secure the highest optimum growth rates consistent with sustaining a high level of output. At the same time it provides the vehicle for capturing the largest possible amount of the standing mature forest for conversion to usable products consistent with protecting future high yields.

By dealing with the species situation it directs the Forest Service to identify the situations where losses may occur and to act wisely to prevent them.

A considerable amount of confusion has been spread by the contention that sustained yield restricts cutting levels to current low-growth levels that now exist on our national forests. This is absolutely false and the Senate report, explaining the intent, makes it clear that current growth is not the standard. The standard is the in-place actions taken or underway to increase growth.

If the Forest Service uses this standard, it will use its commonsense to cut and its full range of forestry techniques to grow more timber for the future. In summary, "waste not, want not" and "don't mortgage the future."

So, Mr. Chairman, in the spirit of compromise, I strongly urge the Members to support my amendment. Because when the die is cast, it will be the direction in which we should, and probably will proceed.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Montana (Mr. Baucus).

Mr. Chairman, I would just say that we have debated this issue for some hour or hour and a half here today. In the Subcommittee on Forests of the Committee on Agriculture, we have gone through this issue for weeks. In the full Committee on Agriculture we deliberated on this very carefully and very thoughtfully.

I would also state that the amendment offered by the gentleman from Montana (Mr. Baucus) is somewhat identical to the one the committee just worked its will on and turned down. Also it is somewhat worse because it takes a sustained yield growth basis for each associated tree species. I think we would be handing the U.S. Forestry Service a can of worms or, possibly I should say, a can of wood worms that they probably would not be able to manage.

I am somewhat surprised that the gentleman from Montana (Mr. Baucus) who is located at the headquarters of the Regional Forestry District No. 1, would come up with this amendment.

Mr. BAUCUS. Mr. Chairman, if the gentleman will yield, I checked with the Forest Service and asked them whether they could implement it. In fact, I accepted their suggestion. The earlier draft I had was for individual trees, individual species but, at their suggestion, I changed this to "associated tree species." So they can implement the policy reasonably and effectively. Beyond that I followed a fundamental concept, that is, in fact, being practiced by the Forest Service in carrying out sustained yields right now.

Mr. SYMMS. I thank the gentleman from Montana for his statement. I am sure that if one would check around in every forestry agency that you would be able to find one who supports this amendment but I do not believe the agency itself does.

I would hope that we can vote quickly and vote against this amendment, and that other Members will debate the amendment very briefly so that we can get on with a vote on the legislation itself.

Mr. Chairman, I urge defeat of the amendment.

Mr. RONCALIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I respect the suggestion of my friend, the gentleman from Idaho (Mr. Symms), and I shall not take the full 5 minutes.

Mr. Chairman, I think there comes a time in this august body when we recognize emerging excellence in 1st term lawmakers, and I compliment the author, Mr. Baucus. I think this amendment offered by the gentleman from Montana (Mr. Baucus) reflects excellence on the part of my young colleague from Montana. And since the dean of the Montana delegation respectfully refused his backing on this amendment, I thought that I would, as the dean of the delegation just south of Montana, give Mr. Baucus my support.

Mr. Chairman, this is a good amendment. It permits the continuation of road building, of salvaging blown down timber, fire damaged insect damaged and other timber without causing a necessary restriction upon the Forest Service managers. I do not believe it would be objected to by them, in fact, I am sure it would not be objected to by them, and I urge support of the amendment. It is in fact the Senate's "sustained-yield" section.

Mr. FOLEY. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes.

Mr. Chairman, I also have great respect for the gentleman from Montana (Mr. Baucus) as well as his colleague the gentleman from Montana (Mr. Melcher) but this amendment would, in my judgment, pose the same problems that were posed by the amendment offered by the gentleman from Oregon (Mr. Weaver) which was not accepted. There is the possibility that it might actually create even greater complexity. I hope the committee will reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. Baucus).

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Danielson, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, pursuant to House Resolution 1534, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WHALEN

Mr. WHALEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr WHALEN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit

The Clerk read as follows:

> Mr. Whalen moves to recommit the bill H.R. 15069 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. SYMMS. Mr Speaker, on that I demand the yeas and nays

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 305, nays 24, answered "present" 2, not voting 99, as follows:

[Roll No. 749]

YEAS—305

Abdnor
Addabbo
Allen
Ambro
Anderson,
Calif.
Anderson, Ill.
Andrews, N.C.
Andrews,
N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley

Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Blanchard
Blouin

Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan

Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Carr
Cederberg
Clausen, Don H.
Clawson, Del
Clay
Cochran
Collins, Tex.
Conte
Corman
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frey
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Kindness
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Martin
Mathis
Melcher
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Roush
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schulze
Sebelius
Sharp
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wylie
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—24

Biester
Bingham
Brodhead
Burton, Phillip
Conyers
Coughlin
Dellums
Edwards, Calif.
Gude
Hechler, W. Va.
Holtzman
Koch
McCloskey
Maguire
Mottl
Ottinger
Rosenthal
Seiberling
Solarz
Studds
Vanik
Waxman
Whalen
Yates

ANSWERED "PRESENT"—2

Conable
Haley

NOT VOTING—99

Abzug
Adams
Alexander
Badillo
Bell
Bowen
Burke, Calif.
Burton, John
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Cleveland
Cohen
Collins, Ill.
Conlan
Cotter
Delaney
Dent
Eckhardt
Esch
Eshleman
Flood
Flynt
Ford, Tenn.
Frenzel
Fuqua
Giaimo
Goldwater
Green
Hagedorn
Hansen
Hawkins
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Howe
Jacobs
Johnson, Pa.
Kelly
Ketchum
Keys
Krueger
Lent
Lott
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Milford
Mineta
Mink
Moore
Moss
Murphy, N.Y.
Patterson, Calif.
Paul
Peyser
Railsback
Randall
Rangel
Rees
Riegle
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
Schneebeli
Schroeder
Shipley
Skubitz
Smith, Nebr.
Snyder
Stark
Steelman
Steiger, Ariz.
Sullivan
Symington
Talcott
Teague
Thompson
Thornton
Vander Veen
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Thompson with Mr. Bell.
Mr. Bowen with Mr. Hansen.
Mr. Shipley with Mr. Rees.
Mr. Matsunaga with Mr. Wydler.
Mr. Chappell with Mr. Carter.
Mr. Hébert with Mr. Clancy.
Mr. Cotter with Mr. Heinz.
Mr. Dent with Mr. Johnson of Pennsylvania.
Mr. Flynt with Mr. Schneebeli.
Mr. Delaney with Mr. Snyder.
Mr. Hawkins with Mr. Cleveland.
Mr. Mineta with Mr. Lent.
Mr. Murphy of New York with Mr. Steelman.
Mr. Fuqua with Mr. Cohen.
Mr. Giaimo with Mr. Conlan.
Mr. John Burton with Mr. Kelly.
Mr. Badillo with Mr. Skubitz.
Ms. Abzug with Mr. Talcott.
Mr. Rose with Mr. Lott.
Mr. Rangel with Mr. Moore.
Mr. Runnels with Mr. Esch.
Mrs. Chisholm with Mr. Winn.
Mr. Carney with Mr. Peyser.
Mr. Byron with Mr. Eshleman.
Mrs. Keys with Mr. Frenzel.
Mr. Jacobs with Mr. Paul.
Mr. Meeds with Mr. Steiger of Arizona.
Mrs. Meyner with Mr. Goldwater.
Mr. Moss with Mr. Hagedorn.
Mr. Flood with Mr. Howe.
Mr. Eckhardt with Mr. Rousselot.
Mr. Alexander with Mrs. Mink.
Mr. Ryan with Mr. Railsback.
Mr. Stark with Mr. Green.
Mr. Teague with Mr. Ford of Tennessee.
Mr. Wirth with Mr. Randall.
Mrs. Collins of Illinois with Mr. Metcalfe.
Mr. Mann with Mrs. Sullivan.
Mr. Krueger with Mr. Thornton.
Mr. Milford with Mr. Ketchum.
Mr. Riegle with Mr. Ruppe.
Mr. Roybal with Mrs. Schroeder.
Mr. Symington with Mr. Vander Veen.
Mr. Wright with Mr. Young of Georgia.
Mr. Zeferetti with Mr. Yatron.
Mr. Patterson of California with Mr. Mazzoli.
Mr. Adams with Mr. Hefner.
Mrs. Burke of California with Mr. Helstoski.
Mrs. Smith of Nebraska with Mr. Wolff.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, pursuant to House Resolution 1534, I take from the Speaker's table the Senate bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Foley moves to strike out all after the enacting clause of the Senate bill S. 3091 and to insert in lieu thereof the provisions of the bill H.R. 15069, as passed, as follows:

That this Act may be cited as the "National Forest Management Act of 1976".

REPORT ON FIBER POTENTIAL

Sec. 2. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new subsection (c) as follows:

"(c) (1) The Secretary shall report in the 1979 and subseqeunt assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations.

"(2) In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies.".

REFORESTATION

Sec. 3. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) (1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to Congress annually at the time of submission of the President's budget together with the annual report provided for under section 7(c) of this Act, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class where practicable of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

"(2) Notwithstanding the provisions of section 8 of this Act, the Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 7(c) of this Act at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

"(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System $200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended and shall not be subject to rescission.

"(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses.".

RENEWABLE RESOURCE PROGRAM

Sec. 4. Section 3(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by striking "satisfy" and inserting in lieu thereof "implement and monitor".

Sec. 5. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is further amended by striking out the word "and" at the end of paragraph (3); striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding the following new paragraph:

"(5) program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple use and sustained yield relationships among and within the renewable resources can be determined;

"(B) recognize the fundamental need to protect and where appropriate improve the quality of soil, water, and air resources;

"(C) state national goals that recognize the interrelationships between and interdependence within the renewable resources; and

"(D) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.".

NATIONAL FOREST SYSTEM RESOURCE PLANNING

Sec. 6. Section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding the following subsections:

"(c) The Secretary shall begin to incorporate the standards contained in this section into plans for units of the National Forest System as soon as practicable after enactment of his amendment and shall complete such incorporation for all such units by no later than September 30, 1985. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.

"(d) Upon preparation, such plans shall be available for public scrutiny at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and thereafter hold public meetings or comparable processes of public involvement for consideration of such plans in locations that foster public participation in the review of such plans.

"(e) In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

"(1) provide for multiple uses and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish and wilderness;

"(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (e)(1), the definition of the term 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

"(f) Plans developed in accordance with this section shall—

"(1) form one integrated plan for each unit of the National Forest System, incorporating in one document, all of the features required by this section and any other applicable provisions of law;

"(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

"(3) be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;

"(4) permit increases in harvest levels based on intensified management practices, such as a reforestation, thinning, tree improvement, and the like if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

"(5) permit the application of silvicultural systems only if—

"(i) such systems are determined to be appropriate to accomplish the multiple-use sustained yield resource management objectives of subsection (e)(1),

"(ii) such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources,

"(iii) there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than five years,

"(iv) the size of areas to be clearcut is kept to the minimum needed to accomplish silvicultural and multiple-use sustained yield resource management objectives of subsection (e)(1),

"(v) the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, and

"(vi) such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;

"(6) be amended after final adoption only in accordance with the provisions of subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by subsection (d); and

"(7) be revised (i) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).

"(g) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(h) The length and the other terms of any contract for the sale of timber shall be designed to promote orderly harvesting consistent with the principles set out in this section. Unless there is a finding by the Secretary that better utilization of the various forest resources, consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years: *Provided*, That such ten-year period may be adjusted at the discretion of the Secretary to provide additional time because of circumstances beyond the control of the purchaser. The contract shall require the purchaser to file, as soon as practicable after the execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be made a part of the contract, subject to concurrence by the Secretary, and which shall be subject to amendment to meet changing conditions. The Secretary shall not extend any contract period with an original duration of two years or more unless he finds that the purchaser has diligently performed, or made every reasonable effort to perform, in accordance with the plan of operation concurred in by the Secretary and that extension would be in the public interest.

"(i) Within the multiple use objectives of a land management plan adopted pursuant to this section, the Secretary shall, insofar as practicable, take steps to preserve the diversity of tree species similar to that which is existing at the time of harvest in the region controlled by the unit plan.

"(j) The Secretary shall establish—

"(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack;

"(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including but not limited to recreation, wildlife, habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section; and

"(3) utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: *And provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

"(k) The Secretary shall make a report to Congress, together with the 1979 updating of the assessment as required by section 2 of this Act, on the milling and other wood fiber product fabrication facilities and their location in the United States. The report shall note the public and private forested areas that supply such facilities. The report shall assess the degree of utilization into product form of harvested trees by such facilities and shall set forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

"(l) The Secretary shall include in his report in the 1979 and subsequent assessments on the additional fiber potential in the National Forest System, specific recommendations on the potential for increased utilization of forest and wood produce wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling.

In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies. The report shall recommend to the Congress actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products.

"(m) The Secretary shall—

"(1) formulate and implement, as soon as practicable, a process for estimating long-term costs and benefits to support the program evaluation requirements of this Act. This process shall include requirements to provide information on all estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and,

"(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 7(c) of this Act, including an identification of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process."

SEC. 7. Section 7 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended—

(a) by striking the period at the end of subsection (a) and inserting in lieu thereof the following: ": *Provided*, That, commencing in fiscal year 1981, notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out renewable resource programs of the Forest Service after September 30, 1980, except as specifically authorized by law enacted after the date of this provision, and except as otherwise provided in section 2(d)(3) of this Act."; and

(b) by adding a new sentence at the end of subsection (c) as follows: "With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management.".

TRANSPORTATION SYSTEM

SEC. 8. Section 9 of the Forest and Rangeland Renewable Resources Act of 1974 is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsection (b) as follows:

"(b) Unless the necessity for permanent roads is set forth in the forest development road system plan, roads constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as part of the forest development road system.".

NATIONAL FOREST SYSTEM

SEC. 9. Section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any Act supplementary to and amendatory thereof, shall be returned to the public domain except by an Act of Congress.".

SEC. 10. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new section 12 as follows:

"SEC. 12. ACQUISITION OF NATIONAL FOREST SYSTEM LANDS.—(a) The National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513–516, 518), is abolished and all functions of the Commission are transferred to the Secretary of Agriculture.

"(b) For purposes of providing information that will aid Congres in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate or such earlier time as may be approved by both such committees. Such report shall contain at least the following:

"(1) guidelines utilized by the Secretary in determining that the land should be acquired;

"(2) the location and size of the land;

"(3) the purchase price of the land and the criteria used by the Secretary in determining such price; and

"(4) the person from whom the land is being acquired.".

SEC. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 and 14 as follows:

"SEC. 13. REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to cary out the provisions of this Act.

"SEC. 14. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.".

ORGANIC ACT AMENDMENT

SEC. 12. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby amended by deleting the same and inserting in lieu thereof the following paragraphs:

"For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 581h, 1601–1610), the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands. The Secretary shall advertise all sales, unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. The Secretary shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to—

"(1) establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;

"(2) requiring sealed bidding to be predominantly utilized for advertised sales of one million board feet or less; and

"(3) requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Department of Justice with any and all supporting data.

Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary, and such persons shall have no personal interest in the purchase or harvest of such products nor be directly or indirectly in the employment of the purchaser thereof.

"The Secretary, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or forest products for research and demonstration projects.

"Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this amendment shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.".

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 13. The sixth paragraph under the heading "FOREST SERVICE" in th Act of May 23, 1908 (35 Stat. 260, as amended, 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963, as amended, 16 U.S.C. 500), are amended by adding at the end thereof the following new sentence: "In the administration of the foregoing provisions of this paragraph, the term 'moneys received' against which the percentage authorized by such provisions is applied for determining the amount payable to any State for public schools and public roads shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget review estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.".

PLAN FOR CONTROL OF DUTCH ELM DISEASE

SEC. 14. The Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, shall conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease. The Secretary shall prepare and submit to the President and both Houses of the Congress on or before March 1, 1977 a report which includes—

(A) the results of such study

(B) plans for further research into the control of Dutch elm disease

(C) an action plan which includes a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15069) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3091, TO AMEND THE FOREST AND RANGELAND RENEWABLE RESOURCES ACT OF 1974

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WEAVER. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if this is for the purpose of instructing the House conferees.

Mr. FOLEY. If the gentleman will yield, no, the purpose of this motion is to permit the appointment of conferees today. It does not instruct the conferees in any manner at all.

Mr. WEAVER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. FOLEY, MELCHER, WEAVER, VIGORITO, KREBS, BROWN of California, MATHIS, WAMPLER, SYMMS, and JOHNSON of Colorado.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (S. 3091), just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 9288, PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report on the bill (H.R. 9288) to amend the Perishable Agricultural Commodities Act, 1930.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5546, HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1976

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, SEPTEMBER 18, 1976, TO FILE A REPORT ON H.R. 15531

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight Saturday, September 18, 1976, to file a report on H.R. 15531, to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT SEPTEMBER 18, 1976, TO FILE A REPORT ON H.R. 15552

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight Saturday, September 18, 1976, to file a report on H.R. 15552 to amend title 18, United States Code, to implement the Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING SALARY ADJUSTMENTS FOR OFFICIAL REPORTERS OF DEBATES AND OFFICIAL REPORTERS TO COMMITTEES

Mr. JONES of Tennessee, from the Committee on House Administration, submitted a privileged report (Rept. No. 94–1601) on the resolution (H. Res. 1495) which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 15194, PUBLIC WORKS APPROPRIATIONS, FISCAL YEAR 1977

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 14, 1976.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes.

Mr. MAHON. Mr. Speaker, this is the celebrated public works jobs bill. The House last considered this measure on August 25, 1976. The legislation was adopted by a vote of 311 to 72.

This bill, as approved by the House, included $2 billion for the Economic Development Administration local public works program; $1.250 billion for antirecession financial assistance, and $200 million for EPA waste water treatment facility grants.

When the bill went to the other body, the other body raised the amount of the appropriation for water treatment construction grants, and sent the bill back with a figure that was $500 million above the House figure for this purpose.

We went to conference with the other body and upped the House figure of $200 million to $480 million, an increase of $280 million. The total in the bill for all purposes is $3,732,435,000.

There is authorization for the total amount of $700 million for the EPA waste treatment program. Ultimately all of this money will be needed, and more, but it was felt that the amount provided in the bill was adequate for the purpose for the forthcoming fiscal year.

The hearings on this feature of the bill were conducted by the gentleman from Massachusetts (Mr. BOLAND) and members of his subcommittee. I wish now to yield to the gentleman from Massachusetts.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND) to make whatever statements he may think appropriate in regard to the conference report.

Mr. BOLAND. Mr. Speaker, I thank the gentleman from Texas (Mr. MAHON).

Mr. Speaker, as the chairman of the full committee has pointed out, the House and Senate were in agreement on the funding level for titles I and II of the Public Works Employment Act: $2 billion is appropriated to the Economic Development Administration for public works projects and $1.25 billion is provided to the Department of the Treasury for antirecessionary revenue sharing.

However, the House and Senate were in substantial disagreement over funding for additional waste water treatment facilities under title III of the authorization. The House provided $200 million and included language that had the effect of putting the money in those States which were expected to run out of construction grant funds in the first half of fiscal year 1977. The House position was to provide only that level of funding, approximately $200 million, that could be obligated in 1977.

The Senate, on the other hand, included the full $700 million authorization, and the conferees have brought back a compromise of $480 million.

Now, I recognize that often a compromise leaves no one very happy. There were Members on our side who felt strongly—very strongly—that we should not give a nickel above the $200 million—and there were Members on the other side who fought just as hard for the $700 million. So, obviously, what was needed was a compromise, and that is what we have brought back.

We have provided $480 million for waste water treatment grants and have dropped the House language which would have required that it be used only in those States that had fully obligated their share of the 1972 $18 billion program.

This is not a perfect compromise, but under the circumstances, I believe it is reasonable—and it will help provide thousands of jobs in the hard-hit construction industry.

Mr. Speaker, I will include in the RECORD at this point a table showing the distribution of the $480 million:

REGION I	
Connecticut	$0
Maine	0
Massachusetts	0
New Hampshire	0
Rhode Island	0
Vermont	0
REGION II	
New Jersey	0
New York	0
Puerto Rico	5, 856, 000
Virgin Islands	0
REGION III	
Delaware	0
Maryland	7, 248, 000
Pennslyvania	0
Virginia	0
West Virginia	34, 272, 000
Dist. of Columbia	0
REGION IV	
Alabama	23, 520, 000
Florida	14, 256, 000
Georgia	27, 360, 000
Kentucky	12, 960, 000
Mississippi	12, 720, 000
North Carolina	31, 920, 000
South Carolina	14, 016, 000
Tennessee	14, 448, 000
REGION V	
Illinois	0
Indiana	0
Michigan	0
Minnesota	0
Ohio	0
Wisconsin	12, 720, 000
REGION VII	
Arkansas	17, 952, 000
Louisiana	16, 848, 000
New Mexico	5, 424, 000
Oklahoma	17, 472, 000
Texas	88, 608, 000
REGION VII	
Iowa	1, 776, 000
Kansas	13, 920, 000
Missouri	7, 056, 000
Nebraska	3, 696, 000
REGION VIII	
Colorado	14, 592, 000
Montana	3, 024, 000
North Dakota	5, 088, 000
South Dakota	4, 272, 000
Utah	8, 928, 000
Wyoming	4, 368, 000
REGION IX	
Arizona	22, 512, 000
California	0
Hawaii	2, 880, 000
Nevada	624, 000
American Samoa	768, 000
Guam	4, 704, 000
Pacific Island Territories	1, 440, 000
REGION X	
Alaska	4, 368, 000
Idaho	5, 088, 000
Oregon	1, 344, 000
Washington	11, 952, 000
Total	480, 000, 000

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Massachusetts (Mr. O'NEILL), the distinguished majority leader, with reference to a question on title II of this bill.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the conference committee is to be commended for the efforts put forth in the development of a bill that meets the intent of the Congress. In the establishment of procedures that can apply throughout the entire country there sometimes occurs, in some States, an impediment that creates difficulty within those States in strictly complying with the rules and regulations written in behalf of the bill.

Such a situation exists in the Commonwealth of Massachusetts in regard to title II of this Act—the countercyclical section. Because most Massachusetts communities have already established their budgets for the fiscal year that began July 1, 1976, and ends June 30, 1977, and Massachusetts law does not permit downward adjustment to the budget, or tax rate, once they are established, it will be necessary to have a more liberal definition of the word "spent" than the regulations established by the Treasury require.

I am sure that the Department of the Treasury will recognize that it is the intent of the Congress to allow municipalities and States the right to use countercyclical funds to maintain basic service levels and public employment, but at the same time not to conflict with State law should difficulties arise. It would be appropriate, therefore, for Treasury to broaden the definition of "spent" in the case of States like Massachusetts where annual budgets have already been established. The definition could be broadened to allow "spent" to be interpreted as appropriated or obligated. Would the gentleman agree with this interpretation?

Mr. BOLAND. Yes, the gentleman agrees with the distinguished majority leader with respect to that interpretation. Let me say that the subcommittee also agrees with that interpretation, and we are delighted that the distinguished majority leader raises this question.

The question arises as a result of section 205, paragraph (7) of title II of this bill.

That particular paragraph does concern itself with the interpretation of the word "spent." The ultimate definition should be broadened, as the distinguished majority leader indicates, to allow that word "spent" to be interpreted as "appropriated or obligated."

Mr. Speaker, let me say to the distinguished majority leader and to the Members of the House that we have been in touch with the Office of Revenue Sharing which is responsible for the allocations under title II of this bill, and it does not object to that interpretation.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. BOLAND).

I urge the House to pass this vital piece of legislation which will go far in allowing State and local budget related actions to coordinate with Federal economic recovery efforts for the benefit of the Nation.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we well know, when we passed this bill through the House, we had the $200 million for waste treatment in it. We felt that that was perfectly adequate and I have supported the lower figure.

However, when we went to the other body and were confronted with the increase of $500 million above the House figure, it was necessary to try to reach a compromise. It was quite difficult.

Of course, we all recognize that this

program has to move forward eventually, but we had thought the Senate figure was entirely too high. Finally, we did agree on $480 million as a substitute for the House figure of $200 million.

Under these circumstances, Mr. Speaker, I am compelled to support the conference report. I think it is the best thing we can do, all considered.

Therefore, while there are differences of opinion here, and I certainly share the thoughts that the figure ought to be lower, I do not think it is practical to insist upon the lower figure of $200 million at this point.

Mr. Speaker, I wonder whether the gentleman from Michigan (Mr. CEDERBERG) would take some time to express his thoughts.

Mr. CEDERBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in opposition to the conference report. This so-called emergency jobs bill has been here for over a year. We are just getting to it now.

Evidently, it was not much of an emergency; and the bill is identical to what left the House except, as referred to by the chairman, with respect to the amount in the so-called EPA section that has to do with sewer and water treatment grants.

It is an interesting situation when we know that they cannot spend over $200 million yet we insist on $480 million. But I can appreciate and understand what happened in the conference and there was not much else they could do but come to an agreement. As I said earlier, I am not convinced there are any real jobs in this bill at all, it is substituting local and Federal money for State money on almost all of these projects that will be ready to go.

Mr. Speaker, I have no requests for time.

Mr. McDADE. Mr. Speaker, the funds provided by the conference committee for public works employment will go a long way to alleviate the severe unemployment problems experienced in many localities today. We have been told repeatedly that unemployment is no longer a crucial problem—that an unemployment rate of 7.9 percent is acceptable. Mr. Speaker, the unemployment rate in my congressional district averages 11 percent. I do not find it acceptable and I know my constituents, particularly those in the construction industry where unemployment hovers near 25 percent, do not find it acceptable. Regardless of claims to the contrary, unemployment does remain a crucial issue this year and I am proud and pleased that the Congress has taken the initiative to provide more jobs.

In addition, the programs established under titles I and II of the bill go far beyond the "make-work" characterization which opponents of the programs have attempted to convey. There are hundreds of communities nationwide in dire need of facilities and services which can be provided under these sections. Although the applications are not even being accepted by EDA, over 50 communities in my congressional district are already well into the planning for participation in the title I program.

The money we are appropriating today will be used in these communities for necessary and worthwhile projects, projects which have been long deferred for lack of funds. May I emphasize that none of these communities would be able to provide any of these projects without this bill.

Title II also will go a long way to compensate for the decline in the tax base in many of the towns and boroughs in my district which are feeling a tremendous pinch in providing everyday services to their residents. Again, I must commend the Congress for its foresight in planning for these hidden effects of unemployment.

The conference report also contains an additional $280,000 for wastewater construction grants. Mr. Speaker, I wish to commend Chairman BOLAND and the other House conferees for their diligence in holding the line on appropriations for this section of the bill. In so doing we saved the taxpayer $220 million in unnecessary expenditures which the Senate attempted to add. Clearly there were no good reasons for accepting the Senate's position on this increase. The House did not initiate this section of the authorizing legislation—it never appeared in a House-originated bill. The purpose of the public works "jobs" bill is to provide jobs and reduce unemployment. Acceptance of the Senate amendment would have done neither.

Testimony before our subcommittee in hearings on the appropriations measure revealed that jobs created by funding for wastewater construction programs cannot possibly come on line for at least a year; that EPA presently has an unobligated balance of $7.3 billion available for wastewater treatment construction, certainly there is no reason to appropriate beyonds the Agency's capabilities. Further, none of the funds under this title will go to the States with the highest rates of unemployment. For example, Pennsylvania with an unemployment rate of 7.6 percent and New York with an unemployment rate of 8.9 percent will receive no funds under this title. Yet, in my State alone there is a backlog of over $600 million in unfunded wastewater treatment projects. None of the funds authorized would accrue to Pennsylvania.

Mr. Speaker, the conference report is a workable compromise, but more importantly it is jobs, in the short term, for hundreds of thousands of unemployed. We have passed legislation authorizing not only jobs in areas of high unemployment but important community projects and services as well. I urge my colleagues to support the conference report.

Mr. MAHON. Mr. Speaker, move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. McFALL). The question is on the conference report.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 53, answered "present" 1, not voting 113, as follows:

[Roll No. 750]

YEAS—263

Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carr
Clausen, Don H.
Clay
Cochran
Conte
Conyers
Corman
Cornell
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frey
Gaydos
Ginn
Gonzalez
Goodling
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holtzman
Howard
Hubbard
Hughes
Hungate
Hyde
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCormack
McDade
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Melcher
Mezvinsky
Mikva
Miller, Calif.
Mills
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Russo
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Taylor, N.C.
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—53

Abdnor
Archer
Armstrong
Ashbrook
Bauman
Brown, Ohio
Broyhill
Burleson, Tex.
Butler
Cederberg
Clawson, Del
Collins, Tex.
Conable
Daniel, Dan
Daniel, R. W.
Devine
du Pont
Erlenborn
Gibbons
Gradison
Grassley
Hall, Tex.
Holt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Kindness
Lagomarsino
Latta
McCollister
McDonald
Martin
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Myers, Ind.
Rhodes
Robinson
Satterfield
Schulze
Sebelius
Shriver
Shuster
Spence
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Whitehurst
Wiggins

ANSWERED "PRESENT"—1

Mitchell, N.Y.

NOT VOTING—113

Abzug
Adams
Alexander
Badillo
Beard, Tenn.
Bell
Bowen
Burke, Calif.
Burke, Fla.
Burton, John
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Cleveland
Cohen
Collins, Ill.
Conlan
Cotter
Crane
Delaney
Dent
Dodd
Eckhardt
Esch
Eshleman
Flood
Flowers
Flynt
Ford, Tenn.
Frenzel
Fuqua
Giaimo
Gilman
Goldwater
Green
Hagedorn
Hansen
Hawkins
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Holland
Horton
Howe
Jacobs
Johnson, Pa.
Karth
Kelly
Ketchum
Keys
Krueger
Lent
Lloyd, Calif.
Lott
McCloskey
McEwen
McKay
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Milford
Mineta
Mink
Moffett
Moorhead, Pa.
Moss
Mottl
Murphy, N.Y.
Patterson, Calif.
Paul
Peyser
Railsback
Randall
Rangel
Rees
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
Schneebeli
Schroeder
Shipley
Skubitz
Smith, Nebr.
Snyder
Stark
Steelman
Steiger, Ariz.
Sullivan
Symington
Talcott
Teague
Thompson
Thornton
Vander Veen
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Thompson with Mr. Bell.
Mr. John Burton with Mr. Hansen.
Mr. Chappell with Mr. Paul.
Mr. Rangel with Mr. Rousselot.
Mr. Zeferetti with Mr. Wydler.
Mr. Mineta with Mr. McEwen.
Mr. Moorhead of Pennsylvania with Mr. Frenzel.
Mr. Dent with Mr. Carter.
Mr. Carney with Mr. Burke of Florida.
Mrs. Burke of California with Mr. Heinz.
Mr. Badillo with Mr. Railsback.
Ms. Abzug with Mr. Winn.
Mr. Delaney with Mr. McCloskey.
Mr. Hawkins with Mr. Esch.
Mr. Helstoski with Mr. Ketchum.
Mr. Runnels with Mr. Eshleman.
Mr. Shipley with Mr. Steelman.
Mr. Stark with Mr. Schneebeli.
Mr. Teague with Mr. Peyser.
Mr. Wolff with Mr. Johnson of Pennsylvania.
Mr. Yatron with Mr. Kelly.
Mr. Flood with Mr. Clancy.
Mr. Fuqua with Mr. Crane.
Mr. Giaimo with Mr. Lent.
Mr. Matsunaga with Mr. Skubitz.
Mrs. Keys with Mr. Ruppe.
Mr. Jacobs with Mr. Cleveland.
Mrs. Chisholm with Mr. Cohen.
Mr. Byron with Mr. Goldwater.
Mr. Bowen with Mr. Talcott.
Mr. Adams with Mr. Steiger of Arizona.
Mr. Meeds with Mr. Gilman.
Mrs. Meyner with Mr. Lott.
Mr. Murphy of New York with Mr. Karth.
Mr. Moss with Mr. Howe.
Mr. Thornton with Mr. Horton.
Mr. Alexander with Mr. Hébert.
Mr. Beard of Tennessee with Mr. Krueger.
Mrs. Collins of Illinois with Mr. Conlan.
Mr. Cotter with Mr. Eckhardt.
Mr. Dodd with Mrs. Mink.
Mr. Flynt with Mr. Metcalfe.
Mr. Flowers with Mr. Wright.
Mr. Ford of Tennessee with Mr. Ryan.
Mr. Rose with Mr. Rees.
Mr. Green with Mr. Mottl.
Mr. Moffett with Mr. McKay.
Mr. Mazzoli with Mr. Mann.
Mr. Lloyd of California with Mrs. Sullivan.
Mr. Symington with Mr. Vander Veen.
Mrs. Smith of Nebraska with Mr. Snyder.
Mrs. Schroeder with Mr. Patterson of California.
Mr. Hefner with Mr. Hagedorn.
Mr. Holland with Mr. Milford.
Mr. Young of Georgia with Mr. Roybal.
Mr. Randall with Mr. Wirth.

Mr. HILLIS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill (H.R. 15194) just agreed to and that I may be permitted to include tables, charts, and other extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT ON HOUSE JOINT RESOLUTION 1096

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on a joint resolution (H.J. Res. 1096) making supplemental appropriations for the repair and replacement of facilities on the Island of Guam.

Mr. ROBINSON reserved a point of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 1096

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order in the House on Tuesday next, or any day thereafter, to consider House Joint Resolution 1096 making supplemental appropriations for the repair and replacement of facilities on Guam.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING REGIONAL RAIL REORGANIZATION ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, together with Senate amendments thereto, concur in the Senate amendments to the text of the bill with amendments, and concur in the Senate amendment to the title of the bill.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 3, insert:

SEC. 2. Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act.".

SEC. 3. The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to section 303(b)(1) of this title, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1)(C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required.".

SEC. 4. Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designated under section 206(c)(1)(D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.".

SEC. 5. Section 303(e) of the Regional Rail Reorganiaztion Act of 1973 (45 U.S.C. 743(e)) is amended by adding "or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Act of 1976 or of section 601(d) of this Act" at the end of the second parenthetical expression between "title" and the closing parenthesis.

Amend the title so as to read: "An Act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the House amendments to the Senate amendments as follows:

Page 2, line 8 of the Senate engrossed amendments, insert "or liabilities" immediately after "costs".

Page 2, line 16 of the Senate engrossed amendments, insert "or liabilities" immediately after "costs".

Page 3, line 15 of the Senate engrossed amendments, insert "Reform" immediately after "Regulatory".

Mr. STAGGERS. Mr. Speaker, the House passed H.R. 13325 to give the U.S. Railway Association additional money for administrative expenses. The Senate has agreed to the House bill.

The Senate has added to the House bill the following provisions:

First. Protection for ConRail, Amtrak, and States against deficiency judgments. This merely corrects an ambiguity in existing law with respect to the adequacy of deficiency judgment protection involving properties conveyed to Amtrak or to the States or other responsible persons to meet the needs of commuter or intercity rail passenger service.

Second. Continuation of certain options conveyed to ConRail by bankrupt railroads with respect to the acquisition of properties designated to meet the needs of commuter or intercity rail passenger service. This provision would permit ConRail to transfer to the State of Rhode Island certain properties located in that State and clarify any uncertainties regarding that transfer.

Third. Exempting from transfer taxes and recording fees any transfer of property made by ConRail to implement the Northeast Corridor project. This conforms with a similar exemption granted with respect to transfers of property from the bankrupt railroads to ConRail.

Mr. Speaker, all of these provisions have previously passed the Senate and, in the House, the provision has either passed in a previous bill and awaits disposition in conference or is reported from this committee and ready for action by the House.

All of these provisions are noncontroversial and by agreeing to these amendments we are permitting certain transfers to the State of Rhode Island which are urgently needed to prevent adding increased costs due to inflation which, otherwise, must be borne by the taxpayers of that State.

The amendments I have at the desk are merely technical amendments to correct language in the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12987, EMERGENCY JOBS PROGRAMS EXTENSION ACT OF 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, I call up the conference report on the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of September 13, 1976.)

Mr. DOMINICK V. DANIELS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the adoption of the conference report on H.R. 12987, which would authorize appropriations for fiscal year 1977 to carry out public service employment programs under title VI of the Comprehensive Employment and Training Act.

Let me at the outset pay tribute to my colleague on the other side of the aisle, the distinguished gentleman from Minnesota (Mr. QUIE), who is also the ranking minority member on the Committee on Education and Labor. I have worked with the gentleman for many years on a wide number of legislative matters and he has always been fair, courteous, and willing to compromise in order to bring forth legislation which is in the best interests of the people of this country. I think we have worked out a conference agreement which is bipartisan in spirit and I want to thank the gentleman for his outstanding contributions.

I am also proud to note that all of the conferees on both sides of the aisle have signed the conference report and are in agreement with it, and that the conference report enjoys the support of the administration.

The enactment of this measure is essential not only to create additional jobs but to prevent the layoff of persons who are currently employed in public service employment programs. With unemployment running at 7.9 percent and over 7.5 million unemployed persons; this is not the time to relax our efforts to create jobs for the unemployed. Public service employment is an essential component of the job creation strategy and the enactment of this measure is essential to continue, expand, and improve our public service employment programs.

I hope that this bill will be funded so that we may raise the number of those employed to the 500,000 job level contemplated in the budget resolution.

Essentially, the conference agreement provides for a program of employment projects for persons who are both long-term unemployed and low-income for jobs above the June 30, 1976, level of employment. This program is taken from the Senate bill but for purposes of legislative history, it is important to remember that such employment projects were included in H.R. 11453, as reported by the Education and Labor Committee and passed by the House in February 1976.

The description of the project approach on pages 10 and 11 of the committee's report on H.R. 11453 (94–804) is applicable to the bill as passed and I refer to it here because the Senate's legislative history is almost silent on the meaning of the project approach.

I have attached the appropriate part of the House report as an appendix to this statement.

With respect to the jobs which become available because of attrition from the job level on June 30, 1976, the conference agreement provides that one-half shall be filled by persons meeting the new eligibility requirements, except for the project requirement, and one-half shall be filled in accordance with the provisions of law previously applicable, except that prime sponsors may give preference to hiring unemployed health and safety personnel in positions for which they are qualified.

The conference agreement prohibits the Secretary of Labor from applying any quota or numerical restriction on the number of rehired public service employees that may be employed in those jobs to which the new eligibility requirements do not apply, and permits the rehiring of employees laid off after June 30, 1976, because of such a quota.

The new eligibility requirements are carefully designed so that jobs will be given to those who are most in need of them. Again, I am happy to see that the Senate provisions were adapted after those contained in the bill passed by the House last February. The conference agreement also contains labor protection provisions taken from the House bill, and I would refer my colleagues to pages 13 and 14 of the House report (94–804) which contained detailed descriptions of the prohibition of contracting out and the protection of labor standards promotional opportunities. The appropriate portion of the House committee report is also appended to my statement.

I am pleased that the conference agreement also includes the House-passed provision which lowers from 90 to 85 percent the amount of public service employment funds—under titles II and VI—that must be used for wages and employment benefits. The remainder had been available for administrative costs as determined by the Secretary of Labor. The new provision specifically defines administrative costs to include the purchase of necessary supplies, equipment and materials, and rental costs.

The conference agreement provides for reimbursement to the States for unemployment compensation benefits they pay to laid-off public service employees, provides for the establishment of a national commission on employment and unemployment statistics, authorizes new demonstration projects, expands the definition of Indian tribes eligible to receive title VI funds, reserves 2 percent of title VI funds for Indian tribes, contains language emphasizing veterans' employment programs, and provides for a study of the net job-creating impact of CETA by the National Commission for Manpower Policy.

Mr. Speaker, it is 19 months since I introduced a bill to extend the authorization of the public service employment program; it is 15 months since the Subcommittee on Manpower, Compensation, and Health and Safety reported a bill to make substantial revisions and improvements in title VI as well as to extend its authorization; and almost 8 months have elapsed since the Committee on Education and Labor reported a title VI bill to provide for an emergency jobs project program. The delay in enacting this vital legislation cannot be laid at the door of the House of Representatives, but we now have the opportunity to provide more jobs for the unemployed.

The excerpts from the report follow:

SUMMARY OF MAJOR PROVISIONS

THE PROJECT APPROACH

Central to the bill is the concept of employment "projects." These will be proposals for services submitted to local prime sponsors by eligible applicants, which now will include local education agencies, private nonprofit agencies, institutions of postsecondary education, and Indian tribes. A project is a task that can be defined; it has a beginning and an end. It is different from ordinary public service employment in that it is not an increment to an existing service but rather the accomplishment of a group of persons working independently. The distinction is, of course, not absolute, it is a matter of degree, but the following example may serve to illustrate the concept.

Sanitation Departments ordinarily pick up trash and garbage along defined routes and on a regular schedule. Ordinary public service employees would be added to the complement of regular employees and would be used to extend the routes or even to increase the frequency of the pick-ups. A neighborhood clean-up project, on the other hand, would use a group of persons to pick up the trash that is *not* picked up on the regular sanitation service. It would not expand the existing service but provide a new kind of activity which would cease when the neighborhood was cleaned up.

The project concept is also fitted to performing physical tasks such as planning of trees, making bicycle paths, winterizing or rehabilitation of public housing, painting of school classrooms, and similar work which has a physical, identifiable product. Again, while this is not impossible to perform such tasks under regular public service concepts, the thrust of public service has been to provide an increase of services ordinarily performed rather than to perform separately identifiable tasks.

The Committee has decided to concentrate additional funding on projects rather than existing public service employment programs for the following reasons:

First, because projects have both a defined beginning and a defined end, they make less of an open-ended commitment to continued funding than regular public service employment. Under the bill projects may be for a period no longer than one year and project employees do not have a built-in expectation of continued employment.

Second, critics of public service employment have charged that public service employment jobs are not a net increase to the total stock of jobs. The fact that projects will be sponsored by a variety of groups and governments, none of whom can anticipate the level of funding they will receive, makes it much more difficult for them to reduce their own employment effort in anticipation of funding under the bill.

Third, by providing for competition among project applicants the Committee is re-emphasizing its concern and commitment that jobs funded under this legislation continue to be meaningful and productive.

* * * * *

LABOR PROTECTION

The Committee expects that the short-term nature of the Part B projects will result in the creation of special purpose, innovative activities rather than in the provision of traditional governmental services. The Committee also has included a provision in H.R. 11453 specifically designed to prevent the transfer of government service delivery to the nonprofit sector under either Part B or the other public jobs provisions of CETA.

Sec. 612(a)(3) expresses the Committee's view that funds provided to nonprofit agencies under CETA not be used in such a way as to result directly or indirectly in the contracting out of work currently being performed by government employees or in the provision by nonprofit organizations of government services which have been reduced or eliminated. Thus, a city government cannot terminate its emergency ambulance service and then turn right around and fund an emergency ambulance project operated by a nonprofit organization. However, the mere fact that there has been a layoff at a city hospital does not mean that a nonprofit hospital in the area cannot sponsor a project to provide additional health services. The key difference is that in the first case the nonprofit organization is providing the *very* service that the city is eliminating; in the second, there is only the provision of a *kind* of service which is provided by both municipal and nonprofit organizations.

PROMOTIONAL OPPORTUNITIES

The Committee is concerned that the jobs program not infringe on the promotional opportunities of regular employees and has adopted an amendment to existing law to ensure that result. In practice, promotional lines frequently include more than one so-called "job category". For example, trash throwers normally promote up to sanitation truck driver in many cities. To place a CETA funded employee in a truck driver position, without offering the job to the trash thrower, as some prime sponsors have done has the effect of infringing on the trash throwers' promotional opportunities. It also permits a prime sponsor to use the CETA funds to pay for the more expensive job. The Committee had intended to protect against this kind of practice when it wrote Sec. 205(c)(24) into CETA. By substituting the term "promotional line" for "job category" under this section, the Committee hopes to clarify its intent.

Another problem under Sec. 205(c)(24) occurs when a prime sponsor uses CETA funds to fill a non-entry level job left vacant (or "frozen") for budgetary reasons or when the prime sponsor creates an additional non-entry level job with CETA funds. In such cases, some prime sponsors have denied regular employees the opportunity to fill the job on the ground that no promotional opportunity "would otherwise be available" to regular workers if there were not CETA funds. Such an interpretation is clearly contrary to the spirit and intent of Sec. 205(c)(24). It also may encourage unnecessary "job freezes" which violate the maintenance of effort requirements. The Committee emphasizes that Sec. 205(c)(24) prohibits the placement of CETA workers into positions which are normally open to qualified regular employees until all applicable personnel procedures and collective bargaining agreements have been complied with. The term "which would otherwise be available" has nothing to do with budgetary conditions or circumstances, and should not be construed in such a manner as to undermine personnel procedures and collective bargaining agreements.

I urge the adoption of the conference report.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, first let me congratulate the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS). This perhaps will be the last conference report and last piece of legislation that he will bring before this Chamber. He has done an admirable job and a very efficient job to protect the rights of the present employees under CETA and to make sure that we authorize adequate funds so the program will function in the future.

Mr. Speaker, in the limited time available to me under the consideration of this important legislation, in which Mr. DANIELS has provided such valuable leadership, it would be difficult for me to recount the contributions that the distinguished gentleman from New Jersey has made to legislation in the area of manpower and unemployment. Prior to assuming the chairmanship of the Subcommittee on Manpower, Compensation, and Health and Safety, he served the House Education and Labor Committee as chairman of the Select Subcommittee on Education.

Consequently, he has contributed greatly to landmark pieces of legislation in the field of vocational rehabilitation, Youth Conservation Corps, youth camp safety, and other special educational areas. The list of legislation in which he has played a key role is long—manpower development training, emergency employment, occupational safety and health, CETA, longshoremen and harbor workers' compensation, mine safety and health, and others. He will be missed by his colleagues on the House Education and Labor Committee with whom he has worked so diligently through many Congresses as I am sure he will be missed by all of his colleagues in the House.

Mr. Speaker, I also wish to compliment the distinguished gentleman from Minnesota (Mr. QUIE) and all of the participants in this conference.

Mr. Speaker, the main purpose of this bill is to extend the authority for the existing public service jobs program under title VI of the Comprehensive Employment and Training Act—CETA—which has expired.

There were approximately 310,000 public service jobs funded under CETA as of June 30. This bill would continue that job level through fiscal year 1977 under the existing authorities with one important change. Fifty percent of all jobs created below the June 30 level which fall vacant due to attrition will be filled under a new set of priorities and requirements which focus these jobs more sharply on the long-term unemployed and economically disadvantaged; the remaining 50 percent of jobs falling vacant due to attrition will be filled under the existing rules and procedures except that preference may be given to hiring laid off public health and safety personnel.

The second purpose of the bill is to give congressional direction to any expansion of this program beyond existing levels that might occur. I should state that the bill only authorizes "such sums as may be necessary" and that we do not know of any plan of the administration to seek funding beyond what is necessary to sustain current levels.

Mr. Speaker, this bill establishes different eligibility standards both for those seeking to qualify for jobs and for the nature of the jobs themselves for any new jobs above the existing levels. And, as I have already mentioned, 50 percent of the existing jobs that fall vacant due to attrition must be filled by individuals meeting these new eligibility standards.

To be eligible for one of these jobs or an add-on, project job, an individual must have: First, been receiving unemployment compensation for 15 or more weeks; second, been ineligible for such benefits and unemployed for 15 or more weeks; third, exhausted unemployment compensation benefits; or fourth, receive or live in a family which receives AFDC.

Further, we provide that no individual may qualify for such a job if he is a member of a household which has a gross family income, exclusive of unemployment compensation and wages received by such individual from a CETA funded public service employment job, exceeding 70 percent of the lower living standard budget.

As I have said, the basic provisions of the bill would maintain a steady level of funding for approximately 310,000 public service jobs nationally for the remainder of the transition quarter and fiscal year 1977.

Mr. Speaker, we adopted three changes to the existing title VI program as we folded it into this new bill. First, we permit 15 percent of the funds to be used for various administrative expenses, including supplies, equipment, and rent. This change was supported by virtually everyone connected with this program. The second change addressed attempts by the Labor Department to require layoffs by limiting the rehiring of former employees of public employers under this act. Arbitrary quotas and percentages had been imposed on prime sponsors which the conferees felt were not in keeping with the purposes of the act.

Accordingly, we developed language which prohibits the Secretary of Labor from imposing any such limitations or quotas, while preserving the strict prohibition against "paper lay-offs."

The third change involved creating a nonmandatory preference for the reestablishment of essential public health and safety jobs.

Mr. Speaker, as regards the new "project" section, there are a few things worth pointing out. First, I think we have occasionally had a hard time identifying the specific accomplishments of public service employment beyond the primary one of providing an unemployed person with a job. The problem has been that the services performed by these individuals have, typically, been in the nature of an increment to already existing services. So the taxpayer does not readily see the impact of his public service employment tax dollar. By moving in the direction of projects which will perform some new or different service, we should add a lot more visibility to the use of this money so that people can actually see what their tax dollars are doing for them.

I know there are Members who may wonder what the difference is between our proposals and the public works bill that was adopted in this Chamber just 2 weeks ago. I can certainly understand this, and I want to say unequivocally that I strongly support the approach taken in the public works bill. I feel just as strongly about the wisdom of the approach in this bill although there are several important differences between the two.

First, I think it is safe to say that the jobs we are providing here will start quicker and end quicker than those in the public works bill. These jobs do not involve any new construction, nor may they involve a substantial capital investment—85 percent of the money must be used for wages and benefits only.

We also expect that no project will last for more than 12 months. I think these provisions make it abundantly clear that the "project" jobs are intended to be temporary jobs to help absorb some of the tremendous unemployment created by this recession, and that this program will be very easy to phase down or out when unemployment returns to acceptable levels.

I have also been asked what are the differences between the nonproject type public service jobs and those expected to be created under the countercyclical fiscal assistance provisions of the public works bill. The first important difference is that very few of the persons hired under this act are former employees of State and local governments, whereas almost all of those hired under the countercyclical assistance program will be current employees of State and local governments who would otherwise have faced layoffs.

The purpose of countercyclical assistance is to maintain existing services at current levels without requiring further increases in State and local taxes. Public service employment focuses on aid to individuals, most of whom are not former public employees, who are unemployed and need a job. The public services they provide are a dividend and represent additional service over and above that which is already being provided. Countercyclical assistance helps State and local governments cope with their fiscal crises; public service employment helps individuals cope with their personal crisis of unemployment.

I should also point out that redirection of public service employment toward the long-term unemployed, those who have run out of unemployment compensation benefits, gives it a completely different focus than countercyclical assistance which finances the continuation of existing jobs even before the jobholder becomes unemployed.

We have tightened up on public disclosure by making it mandatory that financial records relating to these jobs, and the name, position, and salary of everyone hired under this program be kept and made available to the public.

I know that some people think this has just been a program to reemploy State and local government workers, but this just is not so. Labor Department statistics show that less than 5 percent of all jobholders under public service employment were rehires. Under the project approach and new eligibility standards there will be even less potential for "substitution" as the economists call it: when you just switch Federal funds for local funds and maintain the same level of service.

As for what this bill will cost, let me say that if it is funded at the level necessary to maintain the job levels in each prime sponsorship area that was in effect on June 30, 1976, the cost will be in the vicinity of $1.6 billion. This is a rough calculation at best, for it is extremely difficult to know precisely until the quarterly reports of on board strength, which were due on June 30, are tabulated, compared with existing balances in various program accounts, and a prime sponsor by prime sponsor cumulative total is finally determined.

In February we had calculated the cost of maintaining current levels—320,000—through fiscal year 1976, the transition quarter, and fiscal year 1977 at $3.6 billion. Adjusting for a lower job level—310,000—and actual experience we come up with $3.3 billion; $1.3 billion has already been appropriated since then under title II—$1.2 million in fiscal year 1976 and $100 million in the transition quarter.

In addition, $400 million under title II is included in the regular fiscal year 1977 Labor-HEW appropriation. These amounts total $1.7 billion, which, when subtracted from $3.3 billion, gives you a remaining need of $1.6 billion to sustain the June 30 job levels to the end of fiscal year 1977.

We think we have learned some valuable lessons from our previous public job creation efforts, and we think we have come out with a bill that is well conceived, and certainly an appropriate response in view of the economic conditions that confront our citizens. Several months ago, the Congressional Budget Office did a comprehensive study on every known temporary measure to stimulate employment, from tax breaks to job creation. Their conclusion was that the most effective, most flexible, and most controllable of all temporary programs to stimulate employment was public service employment.

We hope in our hearts that the day will come soon when such programs are not needed, but in our minds we know it is a long way off. For now we must do what we can to relieve the devastation of widespread unemployment. This bill merits your support. For the information of the House I am submitting for the RECORD following my remarks a title-by-title summary of the Comprehensive Employment and Training Act:

CETA—A SUMMARY BY TITLE

TITLE I—COMPREHENSIVE MANPOWER SERVICES

This title provides the basic authority for most of the programs that used to be authorized by the Manpower Development and Training Act—MDTA—and title I-B of the Economic Opportunity Act. These were known by a variety of names, some of which were: Neighborhood Youth Corps—in-school and out-of-school—OJT—on-the-job training—Operation Mainstream, Green Thumb, New Careers, concentrated employment program—CEP—institutional training or multiskill centers, work experience, and skill training generally. Title I of CETA authorizes all of these kinds of activities, but does not identify them by name. Rather, in section 101, it describes the activity in general terms.

In addition—also in section 101—continued authority is provided for such complementary services as: outreach, screening of applicants, counseling, referral to jobs and/or training activities, training allowances, and education. Supportive services which enable individuals to take advantage of employment opportunities, including necessary health care and medical services, child care, assistance securing bonds, et cetera, are also authorized but, in fact, not much money is spent in this area.

Title I also establishes a decentralized delivery system. Every city or county which has a population of 100,000 or more is eligible to become a prime sponsor in its own right. An eligible prime sponsor can also form a consortium with other political jurisdictions regardless of their size, and this combination then becomes a single prime sponsor—such as the Louisville/Jefferson County Manpower Consortium. The areas in any State which are not served by local prime sponsors constitute what is called the balance of State area and are served by a single balance of State prime sponsor, which is the State itself. The only exception to this scheme is in the case of a limited number of concentrated employment programs serving rural areas and designated by the Secretary of Labor as prime sponsors in their own right.

Eighty percent of the funds appropriated under title I are distributed to the prime sponsors under a formula using the following weighted factors: 50 percent on the basis of the previous year's funding; 37.5 percent on the basis of an area's unemployment relative to total unemployment; and 12.5 percent on the basis of the number of adults in families below a low-income level relative to the national total—the so-called poverty factor. Every area is guaranteed at least 90 percent of its previous year's funding level.

The remaining 20 percent is distributed as follows: First, 5 percent is given to Governors for allocation by State vocational education boards; second, 4 percent is reserved for use by States in providing statewide services; third, 1 percent is set aside for necessary administrative costs associated with State manpower services councils, with the proviso that any money not actually needed for this purpose will be applied toward Statewide services; fourth, up to 5 percent—he does not have to use the full amount for this purpose—is available to the Secretary to provide financial incentives to local jurisdictions to encourage them to voluntarily form consortia; and fifth, the remaining amount—5 percent plus whatever he does not use for incentives to consortia—is available to the Secretary in his discretion.

In order to qualify for financial assistance, a local prime sponsor must submit a comprehensive manpower plan annually which sets forth in some detail the way in which it intends to use its title I funds. The Secretary then reviews this plan to make sure that it is consistent with the purposes of the act, that the requirements for public notice and participation in the planning process have been met, that any formal allegations of noncompliance are investigated and resolved to his satisfaction, and that the prime sponsor's performance under the previous year's plan has been satisfactory. Once a plan is approved, the prime sponsor may not make any major changes in it without going through an additional review of each proposed major modification.

Other significant provisions of title I include: First, the requirement that each prime sponsor establish an advisory planning council which is broadly representative of the community to review proposed plans and activities and provide a formal vehicle for community participation; second, the creation of a State manpower services council which serves as a mechanism for the exchange of information and plans among all prime sponsors, particularly ways in which State and local activities can be usefully coordinated; third, authority for the State to provide technical assistance, develop labor market information, carry out model training and employment programs, and provide special programs for rural areas located outside major labor market areas; and fourth, special authority—section 112—and a reserved amount of money for distribution by State boards of vocational educational education to provide needed vocational education in areas served by prime sponsors.

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

This title establishes authority for public services employment programs in areas of substantial unemployment, which is defined as an area with an unemployment rate of 6.5 percent or more for 3 consecutive months. At the time the last designation of title II areas was made—March 1975—the national unemployment situation was so adverse that a very large number of areas were designated, including many which were entire prime sponsorship areas. The original purpose of this title was to provide a way to target public job creation funds into areas which experienced chronic high levels of unemployment even when surrounded by reasonably healthy labor markets.

Thus it was expected that these funds would go into depressed inner city areas even though the citywide unemployment problem was not severe, and into depressed rural areas notwithstanding the unemployment rate for the State as a whole. The extraordinary high levels of unemployment throughout the country have as mentioned earlier, made virtually every area eligible for title II funds, with the consequence that the program has lost most of—if not all—its original sharp focus. This will change as the overall unemployment situation improves and fewer and fewer areas remain eligible for title II funds.

Eighty percent of the funds appropriated under this title are distributed to prime sponsors under a formula based upon the number of unemployed persons in designated title II areas within a prime sponsor's jurisdiction relative to the total number of such persons in all such areas nationally. The remaining 20 percent may be distributed at the Secretary's discretion for use in designated title II areas, taking into account the severity of unemployment in such areas.

The title also requires prime sponsors to delegate their functions and the funds with which to carry them out to units of general local government within the prime sponsorship area having a population of 50,000 or more, known as program agents. This applies only to titles II and VI.

In order to qualify for title II funds, a prime sponsor must submit an application to the Secretary which sets forth, inter alia, a description of the jobs that will be created and the kinds of services they will provide. Assurances must be given that preference will be given in hiring to the most severely disadvantaged in terms of length of unemployment and poor prospects for finding a job.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Title III is divided into two parts. Part A authorizes programs for special groups, such as Indians, migrants and seasonal farmworkers, persons of limited English-speaking ability, ex-offenders, youth, and older workers. Part B provides for research, including experimental or demonstration projects, evaluation, the development of better labor market information, and inservice training and technical assistance.

In the case of ex-offenders, persons of limited English-speaking ability, youth, and older workers, the Secretary may use title III funds to supplement manpower services being provided to such groups under titles I and II.

With respect to Indians, the historical relationship is one established by treaty between the tribes and the Federal Government. In order to preserve and respect this relationship, which is of great importance to the Indian tribes, Indian manpower programs were made a special responsibility of the Secretary of Labor. He deals directly with designated Indian prime sponsors or, where that is impractical, he contracts directly with public or private nonprofit agencies that meet with the approval of the Indian tribes to be served. A specific sum of money is reserved and set aside to carry out these programs.

The Secretary is also given responsibility for administering programs for migrants and seasonal farmworkers. It was felt that the migratory movements of agricultural workers were likely to make it difficult for individual prime sponsors to successfully provide services, and that the prime sponsors' first obligation would naturally be to permanent residents.

The Secretary also has authority under title III to enter directly into contracts with organizations such as OIC, the National Farmers Union, the AFL-CIO, the National Alliance of Businessmen, and others for the provision of manpower programs which are specifically designed to deal with the special problems of the groups which part A addresses itself to. However, there is great competition for title III funds and a relatively small amount available.

Finally, the summer youth employment program is authorized under title III, although funds for ancillary recreation and transportation continue to be funded under the Economic Opportunity Act.

TITLE IV—JOB CORPS

In this title, the entire Job Corps authority was lifted out of title I–A of the Economic Opportunity Act and reenacted, word for word, as a new title IV of CETA. In doing so the committee made quite clear its intention that this was being done purely for administrative convenience and did not indicate any change in policy or in the Job Corps program (H. Rept. 93–659).

TITLE V—NATIONAL COMMISSION FOR MANPOWER POLICY

This title establishes a 17-member National Commission for Manpower Policy with 11 public members appointed by the President and 6 members of the administration who serve ex officio. The Commission is charged with developing manpower policy recommendations and transmitting them to the Secretary of Labor and to the Congress.

TITLE VI—EMERGENCY JOB PROGRAMS

This title authorizes public service employment programs and was added to CETA in December of 1974 after unemployment began to rise sharply. There are several important differences between this public service employment program and the one authorized under title II:

First, where title II is only for areas of unemployment in excess of 6.5 percent, this program is available to all prime sponsors regardless of their unemployment rate—of course, if an area's unemployment rate is high it will get more funds than another area of comparable size whose rate is lower;

Second, in this title, preferred consideration in hiring is given to persons who have exhausted unemployment insurance benefits, to persons who are not eligible for such benefits, and to unemployed persons who have been out of work for 15 or more weeks;

Third, areas with unemployment rates in excess of 7 percent are not required to comply with a variety of provisions having to do with orderly movement of persons hired for a public service job into one not subsidized under this act;

Fourth, small scale community capital improvement projects are authorized in areas with over 7 percent unemployment, including the construction of water and sewer facilities in rural communities having a population of less than 10,000; and

Fifth, 90 percent of the funds appropriated under this title are distributed in accordance with a formula based on the following weighted factors:

First, 50 percent of the funds on the basis of an area's unemployment rate relative to total unemployment nationally; second, 25 percent on the basis of the number of unemployed persons in designated title II areas within the prime sponsor's jurisdiction relative to the total of such numbers in such areas nationally; and third, 25 percent on the basis of the number of unemployed persons in excess of 4.5 percent in an area relative to the total excess number of such persons nationally.

It is important to remember that the title II and title VI programs have different characteristics, different requirements, and were intended to meet quite different problems. Title II, as already described, was designed to be targeted into areas of chronic high unemployment, while title VI was designed to meet a general worsening of the unemployment problem throughout the Nation.

TITLE VII—GENERAL PROVISIONS

This title contains provisions applicable to all programs under the act, such as prohibitions against discrimination and political activities, labor standards, criminal provisions, definitions, and so forth.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding.

Mr. Speaker, I would say that in the last few years we have had a severe argument and debate on public service employment. The people on this side of the House wanted to have it limited to the long-term unemployed and the people who have been economically disadvantaged. On the other side, there was legislation setting priorities to those who are in public health and safety and are already hired by the cities.

We felt it was a transfer of Federal money for local money and that it would not decrease unemployment. That stymied this for 2 years. We finally went to conference.

Mr. Speaker, I want to commend the gentleman from New Jersey for his work in bringing about this conference. We redirect attention to the long-term unemployed and to the percentage of those to be rehired.

I want to say to the gentleman from New Jersey that despite the differences of opinion, the gentleman has always been a fair individual. He has always kept his word in protecting the minority, and we on this side do not have any criticism of what he did. We also commend him for protecting these rights time after time.

Our hats go off to the gentleman. The fact that we have a difference of opinion is, of course, a part of the process of a legislative body, it is a part of the differences between political parties, and I think it is a part of the system of this Nation that is healthy for the American people. It enables us to write legislation like this that I believe is extremely good. I believe this bodes well for our future and points up our efforts to provide jobs for those who are presently unemployed.

So, Mr. Speaker, the conference report on title VI which continues the public service jobs program is, in my view, a step in the right direction. I urge my colleagues to support it.

Mr. Speaker, the conference report on CETA, title VI which continues the public service jobs program, is, in my view, a step in the right direction. Although I am not enthusiastic about one of its provisions, I believe the bill represents the best we can expect at this time.

First, the bill does not portend a massive increase over the 1976 level and includes a "such sums" authorization to run concurrently with the rest of CETA through the end of fiscal year 1977. But more importantly, the legislation begins to target the public service programs to those truly in need of these jobs. As has been pointed out by the gentleman from New Jersey, any new jobs funded above the June 30 level have to be made available to individuals who have either: First, been unemployed longer than 15 weeks; and second, exhausted their unemployment insurance benefits or are receiving AFDC. In addition, one-half of the jobs that become available through attrition must also go to these individuals. In either case, the conference bill establishes criteria to assure that these new public service jobs go only to individuals from families who are without a minimum level of income.

These provisions make good sense. As I have pointed out repeatedly on the floor during debate on past public service bills, title VI simply has not gone to those most in need of employment and has been little more than a revenue sharing program to local governments to carry on existing local services with Federal moneys.

Most of the individuals hired under the current program have not been those having difficulty finding employment. Only 1 in 4 were either receiving unemployment insurance or AFDC at the time of employment. In Minneapolis, Minn., an Urban League Study revealed that less than 15 percent were either on UI or AFDC.

The reality of unemployment is that despite the fact that the rate of 7.87 is unacceptably high, most of the unemployed regain employment by the 15th week. However, individuals unemployed longer than 15 weeks find it increasingly difficult to find jobs.

The reasons for this appear obtuse, but in reality they are not. We have had considerable testimony in this Congress on both sides of the Hill which reveal that a fair percentage of the unemployed are on lay-off waiting to be recalled to their original job and not actively seeking new employment. These individuals generally utilize their unemployment insurance to tide them over. And the facts are that most of these individuals eventually are recalled, and long before 15 weeks have expired. A look at even the high August unemployment figures reveals that over two-thirds of the unemployed find jobs before the end of the 15 weeks.

But what is revealing is that once the 15-week period is reached, individuals find it is harder to find jobs—and the number who are unemployed 27 weeks and over is consistently greater than those unemployed between 15 and 26 weeks.

Included in this latter group are individuals who are permanently dislocated from their original employment and cannot find jobs in their occupational area. It also involves individuals who are without the necessary job experience or training to find employment in other fields. These are the individuals we ought to be helping but to date title VI has failed to do this.

A recent study by Mathimatic, Inc., shows that the same difficulty exists for UI exhaustees. Although the study is not yet complete, the initial findings reveal that 61 percent of the individuals who have exhausted all UI benefits remain unemployed 4 months later.

Next to these statistics, the argument that public service jobs either succeed in reducing unemployment or result in savings in UI and welfare is ludicrous. By targeting PSE jobs to the long-term unemployed, UI exhaustees and AFDC recipients, these provisions make PSE much more responsive to the unemployment problem as it really exists.

The conference report contains several other items which would make PSE more effective. The first is an amendment designed to rectify the unemployment insurance problems confronted by CETA prime sponsors in 8 States requiring coverage of local employees under State law. This amendment would simply place CETA employees in these 8 States—with all other CETA employees in the other 42 States who are covered under supplemental unemployment assistance, SUA.

As it is now, the CETA prime sponsors in these States—and private nonprofit agencies in all the States—have had to come up with the funds to pay UI benefits which would otherwise go into providing jobs and this amendment would rectify this inequity.

A third provision, which I support, is an increase in public service funds that would be available to Indian tribes and groups from an existing one-half of 1 to 2 percent. During the past year I have made a particular effort to study the extent of unemployment among Native Americans and have learned much to my dismay that on some reservations, unemployment averages between 40 percent and as high as 60 percent. Clearly, there is a need to target some of our limited funds into these areas.

Although I support the conference bill and urge the Members of the House to do so, I am not all that enthusiastic about the provisions of the bill allowing for the rehiring of regular laid-off local employees. While I recognize the serious needs of some municipalities, faced with high unemployment and a dwindling tax base and declining services, I do not believe that title VI ought to be used to resolve these problems.

The conference agreement would specifically prohibit the Department of Labor from establishing a specific quota on rehiring, not only for any new employees hired under the old conditions, but for all those employees already hired. The only condition that applies is the existing requirement that persons rehired must have been laid off for "bona fide" reasons—a difficult judgment to make even under the most clear cut of circumstances. The Department of Labor should severely limit such bona fide reasons.

The Department should assure a maintenance of effort by local governments limiting the condition to those localities that do have serious problems and not areas where rehiring might resolve some budget problems.

I should like to point out that we have just completed consideration of the conference report on the Public Works employment appropriations legislation. This appropriation contains $1.25 billion specifically designed to allow localities to maintain local services. It is senseless to do so here.

Also, included in the conference report is the National Commission on Employment and Unemployment Statistics. At first, I felt that what we did not need was yet another commission and that we have commissioned ourselves to death. But in this one area, an independent analysis of unemployment data might be welcome if we are to resolve the charges and countercharges surrounding the current data developed by the Bureau of Labor Statistics. In fact, the BLS indicates that it welcomes such a commission and so I do not view this as a serious drawback.

Despite the one reservation, the conference report represents a substantial improvement over the existing title VI program and I urge the Members to support this legislation.

Mr. SARASIN. Mr. Speaker, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

I would like to join with our committee chairman, the gentleman from Kentucky (Mr. PERKINS), and the ranking Republican member, the gentleman from Minnesota (Mr. QUIE), in their comments concerning the gentleman from New Jersey (Mr. DOMINICK V. DANIELS). It has been my pleasure as the ranking Republican member of the committee to work very closely with the gentleman from New Jersey on this bill as well as on other matters.

I have also found the gentleman to be not only extremely fair but generous and extremely helpful to this Member on the minority side.

Mr. Speaker, I rise in support of the conference report on H.R. 12987, legislation which extends title VI, the emergency jobs program, of the Comprehensive Employment and Training Act.

During the time we conferees worked to resolve the differences between the House and Senate versions, we kept uppermost in our minds two principal objectives. The first was obviously to report to our colleagues a bill that would meet the immediate needs of our existing economic and unemployment situations. The second, and even more important goal, was to devise a package that would give us a sound manpower policy for the future.

The agreements we reached provide us with both. All individuals who are presently benefiting from the CETA program in localities throughout our country can continue in their jobs, insuring their families of an income while assisting local governments and businesses in their operations. However, while our hold-harmless clause protects existing jobs, new eligibility requirements place emphasis on a shift to a manpower program for the long-term unemployed and the low-income citizen.

This provision is critical to the objectives of this country—ever increasing job opportunities for those who wish to work. While we as a nation must be concerned each time an individual loses a job, our primary interest must be for those who have seen months and months of joblessness. It is these people whose families, homes, and life savings are threatened, whose children might be denied an education, and whose self-respect is jeopardized. Above all, it is these people whose services and capabilities are going to be of critical importance to our economy when the labor shortages, which many economists have predicted, develop.

Other important provisions of the bill include the creation of a National Commission on Employment and Unemployment Statistics to improve our capabilities to assess the problems we face, and language specifying the importance of veterans employment programs.

Finally, our bill calls for a study of the job-creating impact of CETA by the National Commission for Manpower Policy. Employment is going to be a subject of national concern for decades to come, and we must insure now that we are doing everything possible—and doing it effectively—if we are to meet future needs.

I urge my colleagues to support this vital legislation so that we may go forward in our effort to train and employ our citizens.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. SARASIN) for his remarks, and I thank as well the gentleman from Minnesota (Mr. QUIE) for the remarks he previously rendered.

Mrs. MINK. Mr. Speaker, I am pleased to support the conference report on H.R. 12987 which would extend the emergency public service jobs programs under title VI of CETA through fiscal year 1977.

Besides insuring the continuation of those 260,000 jobs currently funded under title VI, the conference report takes an important new direction by targeting new public service jobs on the long-term unemployed who have been unemployed for 15 or more weeks or who receive welfare assistance in projects of no longer than 1 year in duration. While the authorization level is not specified and would depend on the appropriations process, it is important to note that the fiscal year 1977 budget resolution provides enough money to fund up to 500,000 public service jobs.

I am especially pleased that the conference report makes organizations serving native Hawaiians eligible to apply for title VI project funds through the prime sponsor. In this regard, I am deeply grateful to the chairman of the Manpower Subcommittee, the Honorable DOMINICK DANIELS, for his sensitivity to the plight of native Hawaiians in my State. I would like to point out that the CETA bill (H.R. 11453) which passed the House in February made native Hawaiian organizations eligible project applicants under title VI.

The conference report deserves our support and I urge its adoption.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I wish to urge all my colleagues to support the conference report, and I now move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 9, not voting 126, as follows:

[Roll No. 751]

YEAS—295

Abdnor
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Carr
Cederberg
Clausen, Don H.
Clawson, Del
Clay
Conable
Conte
Conyers
Corman
Cornell
Coughlin
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Florio
Foley
Forsythe
Fountain
Fraser
Frey
Gaydos
Gibbons
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holt
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Lehman
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—9

Armstrong
Burleson, Tex.
Cochran
Collins, Tex.
Hall, Tex.
Hutchinson
McDonald
Myers, Pa.
Symms

NOT VOTING—126

Abzug
Adams
Alexander
Anderson, Ill.
Badillo
Beard, Tenn.
Bell
Bowen
Brooks
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burton, John
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Cleveland
Cohen
Collins, Ill.
Conlan
Cotter
Crane
D'Amours
Delaney
Dent
Dodd
Eckhardt
Esch
Eshleman
Fish
Flood
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Frenzel
Fuqua
Giaimo
Gilman
Goldwater
Green
Guyer
Hagedorn
Hansen
Hawkins
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Holland
Holtzman
Horton
Howe
Jacobs
Johnson, Colo.
Johnson, Pa.
Kelly
Ketchum
Keys
Krueger
Landrum
Leggett
Lent
Lloyd, Calif.
Lott
McCloskey
McEwen
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Milford
Mineta
Mink
Moffett
Moss
Mottl
Murphy, N.Y.
Passman
Patterson, Calif.
Paul
Peyser
Railsback
Randall
Rangel
Rees
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
Schneebeli
Schroeder
Shipley
Skubitz
Smith, Nebr.
Snyder
Stark
Steelman
Steiger, Ariz.
Stephens
Sullivan
Symington
Talcott
Teague
Thompson
Thornton
Traxler
Vander Veen
Vigorito
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Thompson with Mr. Hébert.
Mr. Murphy of New York with Mr. Paul.
Mr. Matsunaga with Mr. Schneebeli.
Mr. Dent with Mr. Wydler.
Mr. Cotter with Mr. McEwen.
Mr. Mineta with Mr. Crane.
Mr. Teague with Mr. Ketchum.
Mr. Zeferetti with Mr. Horton.
Mr. Young of Georgia with Mr. Peyser.
Mr. Yatron with Mr. Railsback.
Mr. Dodd with Mr. Carter.
Mr. D'Amours with Mr. Kelly.
Mr. Wolff with Mr. Lent.
Mrs. Keys with Mr. Conlan.
Mr. Jacobs with Mr. Cleveland.
Mr. John L. Burton with Mr. Skubitz.
Mr. Badillo with Mrs. Smith of Nebraska.
Mr. Bowen with Mr. Heinz.
Mr. Brooks with Mr. Brown of Michigan.
Ms. Abzug with Mr. Clancy.
Mr. Green with Mr. Bell.
Mr. Hawkins with Mr. Cohen.
Mr. Helstoski with Mr. Beard of Tennessee.
Mr. Rose with Mr. Esch.
Mr. Rangel with Mr. Eshleman.
Mr. Runnels with Mr. Lott.
Mr. Shipley with Mr. Talcott.
Mr. Stark with Mr. Winn.
Mr. Vigorito with Mr. Gilman.
Mr. Wirth with Mr. Frenzel.
Mrs. Meyner with Mr. Fish.
Mr. Fuqua with Mr. McCloskey.
Mr. Giaimo with Mr. Stephens.
Mr. Eckhardt with Mr. Steelman.
Mrs. Chisholm with Mr. Steiger of Arizona.
Mr. Chappell with Mr. Ruppe.
Mr. Adams with Mr. Goldwater.
Mr. Alexander with Mr. Howe.
Mr. Roybal with Mr. Rousselot.
Mr. Ryan with Mr. Johnson of Pennsylvania.
Mr. Leggett with Mr. Landrum.
Mr. Meeds with Mrs. Sullivan.
Mr. Moffett with Mr. Mottl.
Mr. Wright with Mr. Symington.
Mr. Delaney with Mr. Snyder.
Mrs. Collins of Illinois with Mr. Burke of Florida.
Mrs. Burke of California with Mr. Anderson of Illinois.
Mr. Carney with Mr. Guyer.
Mr. Byron with Mr. Ford of Tennessee.
Mr. Ford of Michigan with Mr. Traxler.

Mr. Flood with Mrs. Mink.
Mr. Flowers with Mr. Holland.
Ms. Holtzman with Mr. Hansen.
Mr. Flynt with Mr. Hagedorn.
Mr. Moss with Mr. Vander Veen.
Mr. Mazzoli with Mr. Milford.
Mr. Lloyd of California with Mr. Metcalfe.
Mr. Krueger with Mr. Rees.
Mr. Mann with Mr. Randall.
Mr. Patterson of California with Mr. Passman.
Mrs. Schroeder with Mr. Hefner.
Mr. Melcher with Mr. Thornton.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 12987 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14232) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to the amendment of the House to the amendment of the Senate No. 68 to the foregoing bill.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, SEPTEMBER 18, 1976, TO FILE A REPORT ON H.R. 13000

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow to file a report on H.R. 13000.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. O'NEILL. Would the distinguished acting minority leader be kind enough to yield?

Mr. MICHEL. I will be happy to yield.

Mr. O'NEILL. I thank the gentleman for yielding.

The program for the House of Representatives for the week of September 20, 1976, is as follows. I am sure the gentleman has a copy in his hand, and he will note that there are 26 suspensions. The voting on the suspensions will be at the close of the day, and we will put the list in the RECORD.

Mr. MICHEL. Those are all on Monday only, the 26 suspensions?

Mr. O'NEILL. Those are on Monday, the 26 suspensions only, so we will vote on them later in the day to give everyone an opportunity if he wants to increase his batting average.

Mr. MICHEL. I was going to make mention of the fact that we have 26 suspensions scheduled for Monday and if we would have full debate on each side, with 20 minutes on each side for each bill, that could take up 17 hours, and the rollcalls could last several hours, so we could be meeting until 3 o'clock or 4 o'clock in the morning.

Mr. O'NEILL. We do not anticipate being here until 3 o'clock or 4 o'clock in the morning. We would expect to finish earlier in the day.

Mr. MICHEL. Could the majority leader advise us whether any of these would lie fallow in the other body after we take them up?

Mr. O'NEILL. We have consulted with the other body and they have assured us they plan to take them up. We did bring that item up with them. There are 26 suspensions which will be placed on the RECORD for Monday's program.

For Tuesday, there are 33 suspensions, and it keeps mounting, so the batting averages on the rollcalls for Members will have another increase on Tuesday.

The suspensions to be considered on Tuesday are:

1. H.R. 15246, Service Contract Act.
2. H.R. 12048, Administrative Rulemaking Reform.
3. H.R. 14071, Interstate Horseracing.
4. H.R. 13089, Daylight Saving Time.
5. H.R. 7682, Lake Murray, Oklahoma.
6. H.R. 13101, Potential of Irrigable Lands.
7. H.R. 11887, Administration of National Park System.
8. H.R. 11891, Congaree Swamp National Preserve, South Carolina.
9. H.R. 15558, Study of Areas by Secretaries of Agriculture and Interior.
10. H.R. 3078, Chattahoochee River National Recreation Area, Georgia.
11. S. 3051, Commodity Futures Trading Commission.
12. H.R. 15059, Emergency Livestock Credit.
13. H.R. 11315, Sovereign Immunity.
14. H.R. 15460, Civil Rights Attorneys' Fees.
15. S. 12, Judicial Survivors' Annuities.
16. S. 2923, Federal Magistrates' Compensation.
17. S. 14, Federal Judges' Cost-of-Living Adjustments.
18. H.R. 4580, Organic Act of Guam.
19. S. 1283, Magistrate's Jurisdiction.
20. H.R. 14535, Western Hemisphere Immigration.
21. H.R. 15522, International Anti-Terrorism Conventions.
22. H.R. 15331, Unsworn Declarations.
23. H.R. 13502, Medicaid Formula for Federal Payments Under AFDC Program.
24. H.R. 13160, Park Wilderness Lands.
25. H.R. 14736, National Commission on Neighborhoods.
26. H.R. 14830, Agriculture Census Requirements in 1979.
27. H.J. Res. 1008, National Volunteer Firemen Week.
28. H.R. 15499, To Distinguish Federal Grants and Cooperation Agreements.
29. H.R. 15390, Office of Inspector General of Health, Education, and Welfare.
30. H.R. 15134, Public Buildings Act of 1959.
31. H.R. 12349, Regional Air Carrier Subsidy.
32. H.R. 1300, Dealer Day in Court.
33. H.R. 15372, Utility Pole Attachments.

Mr. MICHEL. Could I inquire with respect to these suspensions now, would those be considered in the exact order in which we have them listed on these printed pages?

Mr. O'NEILL. That is our plan, yes. There are 33 of them.

After we finish the 33 early enough on Tuesday, we are going into consideration of the conference report on H.R. 14238, the legislative branch appropriations, fiscal year 1977.

Then we will go on to consideration of House Joint Resolution 1096, Guam typhoon supplemental appropriations.

That is for Monday and Tuesday.

Mr. MICHEL. Would the majority leader repeat that? The printing is very bad on that.

Mr. O'NEILL. That is House Joint Resolution 1096, the Guam typhoon supplemental appropriations.

Then we will follow on Wednesday and Thursday with H.R. 15377, Export Administration, under an open rule, with 1 hour of debate.

That will be followed by S. 22, copyright law revision, under a modified open rule, with 1 hour of debate.

Then we will have H.R. 15, regulating lobbying and related activities, under an open rule, with 4 hours of debate.

Then we will have H.R. 6684, exclusive territorial franchises, under an open rule, with 2 hours of debate.

Then we will have H.R. 12112, synthetic fuels, under an open rule, with 4 hours of debate. While we do say Wednesday and Thursday, we do anticipate that will be up on Thursday.

There is a joint meeting for President Tolbert of Liberia on Thursday at 12:30 p.m.

Conference reports may be brought up at any time.

Any further program will be announced later.

The House will be in recess from close of business on Thursday, September 23, until noon, Monday, September 27. The gentleman is aware of the fact that there is a religious holiday and we had announced that matter early.

Mr. MICHEL. Is it expected there would be a request made to come in early on any of those days next week?

Mr. O'NEILL. I will ask unanimous consent, and we have already talked to the leadership on the gentleman's side of the aisle about that, and we have agreed to request to come in at 10 o'clock on Tuesday and Wednesday and Thursday morning.

REQUEST TO CONVENE EARLY ON TUESDAY, WEDNESDAY, AND THURSDAY OF NEXT WEEK

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the House may meet on Tuesday, Wednesday, and Thursday of next week at 10 o'clock in the morning.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, in view of the lengthy program announced by the majority leader and the 57 bills listed for the first 2 days, I think it is somewhat premature to commit the House at this point to coming in at any particular hour. It seems to me the better course of action might be to take some of this junk off the program and put it back where it belongs. It is quite obvious some of it will not be passed into law. Many of these bills are highly controversial and to agree to come in at 10 o'clock to consider what may be obviously an exercise in futility which at the present time, as I see it, stands little chance of being enacted into law.

The SPEAKER pro tempore. Do I understand the gentleman from Maryland is objecting?

Mr. BAUMAN. Yes; I object.

The SPEAKER pro tempore. Objection is heard.

Mr. O'NEILL. It is my intention to ask next week to come in early on Tuesday, Wednesday, and Thursday.

ADJOURNMENT TO MONDAY, SEPTEMBER 20, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES AND SPEAKER TO SIGN BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Monday, September 20, 1976, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORTS

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file conference reports on S. 3149 and H.R. 5546.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE A REPORT

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tonight to file a report on S. 1283, magistrates jurisdiction.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TRIBUTE TO JOHN WARNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, we have had a great Bicentennial Year, and much of the credit for the success of the thousands of grassroots celebrations and activities across the country goes to John W. Warner, Administrator of the American Revolution Bicentennial Administration.

He has worked tirelessly to organize the activities of ARBA, which has coordinated and disseminated information on the Bicentennial functions which have been taking place all year. The many events over the Fourth of July weekend were the culmination of the tremendous planning which has been done by Mr. Warner and the communities and organizations across America to make our 200th birthday celebration such a success.

I am proud that 27 communities in my district received official recognition by the American Revolution Bicentennial Administration for projects commemorating our 200th anniversary.

Mr. Warner's contribution to the truly remarkable patriotic spirit which has swept America in 1976 can be illustrated by his interest in the Bicentennial efforts not only of cities and communities, but those of single individuals. For example, one of my constituents, Henry Frett of Palos Heights, Ill., handcrafted a special Bicentennial clock which he presented to the British Horological Institute in London. John Warner, who was in London as a member of the delegation to receive the Magna Carta, took the time out of his official activities to attend the presentation ceremony with Mr. Frett.

I join the many Members paying tribute to John Warner for the enormous amount of work he did to make our country's Bicentennial an outstanding success.

TRIBUTE TO SENATOR MANSFIELD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MORGAN) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, as I contemplate my own impending retirement after 32 years in this body, I find I am in very good company.

I particularly welcome this opportunity to pay tribute to the distinguished majority leader of the Senate, who is also stepping down—a great American and a great and valued friend, the Honorable MIKE MANSFIELD of Montana.

My own close association with MIKE MANSFIELD dates back to 1944 when he began five consecutive terms as an able and effective member of the House Committee on Foreign Affairs—now redesignated the Committee on International Relations.

Fortunately for all of us, his foreign policy expertise and experience were not lost with his transfer to the Senate and his subsequent assumption of the top leadership position there: Since 1953, the year he took office as a Senator, he has served as an active member of the Committee on Foreign Relations. I have had the privilege, in fact, of sitting across the table from him at innumerable conference sessions, where we have hammered out the compromises which were needed to pass some landmark legislation.

MIKE MANSFIELD is a man of strong conviction, but also a man who understands that progress in the international field can only be achieved by taking into account the views and the often conflicting interests of other members. He has demonstrated that compromise need not represent a sacrifice of one's principles, but rather the constructive achievement of what is possible. We have all benefited from his wisdom and advice.

Above all, MIKE MANSFIELD always placed the interest of his country over all other interests and considerations.

Finally, let me say that MIKE MANSFIELD began his career as a professor of Latin American and Far Eastern history at the University of Montana, where he spent 10 years before turning to public service. This background served him well in articulating his views on Asian issues and in assuming a leading role in all Senate delegations to the Mexico-United States Interparliamentary Conferences, beginning with the first conference in 1961.

MIKE MANSFIELD is a modest man. But he has taught us a great deal. Much of what he has taught us cannot be found in books. He has taught us that in the long run, character, dedication, patience and common sense can succeed where other, more spectacular attributes of a political leader may fail.

Mr. Speaker, I wish for MIKE MANSFIELD and his devoted wife, Maureen, all the rewards of retirement which they both so richly deserve.

THE NATIONAL ITALIAN AMERICAN BICENTENNIAL TRIBUTE DINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last night the Italian American Foundation held its Bicentennial tribute dinner at the Washington-Hilton Hotel in honor of the 27 Italo-American Members of the Congress of the United States.

Special awards were presented to Senator JOHN O. PASTORE of Rhode Island and Congressman DOMINICK V. DANIELS, of New Jersey, who are retiring, Federal Judge John J. Sirica and Congressman PETER W. RODINO, JR.

Over 2,200 Italo-American leaders from 25 States participated in this huge patriotic demonstration including leaders of industry, civic organizations, and professional organizations.

President Ford attended the banquet, and he was well received. His speech represented the inherent feelings of Italo-Americans, and expressed so well the profound pride they feel in being Americans.

President Ford, in his remarks, also gave much-deserved recognition to Italo-Americans for their outstanding contributions in every field of endeavor to the building of America. He noted that Italo-Americans have given generously of themselves, their talents, their hard work, their loyalty, and indeed, their lives in the cause of freedom and in the defense of America.

It is a pleasure for me to call the President's speech to the attention of my colleagues in the House of Representatives. The President's speech follows:

REMARKS OF THE PRESIDENT AT THE ITALIAN-AMERICAN FOUNDATION BICENTENNIAL TRIBUTE DINNER, WASHINGTON HILTON HOTEL

Senator John Pastore, Congressman Pete Rodino, Congressman Dominick Daniels, Judge Sirica, Reverend Clergy, distinguished platform guests, ladies and gentlemen:

First, let me thank the members of the Italian-American Foundation and your national chairman, Jeno Paulucci, for inviting me to be a part of this very special evening. In many ways, my good friend, Jeno Paulucci symbolizes the magic of America. His first great success was a company called Chun King. What could be more American than a business built on a good Italian recipe for chop suey. (Laughter)

This Bicentennial dinner pays tribute to the extraordinary contribution Italian-Americans have made to our country. The men you are honoring tonight are the distinguished offspring of a culture that was once transplanted, but is now deeply rooted in American soil, to the benefit of all Americans.

Long before we were a nation, Italians began making new lives for themselves in America as teachers, merchants, craftsmen, artists, musicians and writers. From our first honorary Italian-American, Christopher Columbus, to contemporary figures as diverse as Enrico Fermi and Vince Lombardi, the Italian fiber is woven very deeply into the fabric of the United States of America.

Italian-Americans have made their marks in many different areas, but they have all shared at least one common quality, uncommon pride; pride in their country, pride in themselves, pride in the roles they played in making America what it is.

In every century and in every field of endeavor, Italian-Americans have given their country their energy, their talents and their devotion and their blood.

When the earthquake struck Italy earlier this year, the American response was swift and bipartisan. Just this morning, Jeno Paulucci and Ambassador John Volpe reported to me on the way our $25 million of disaster relief assistance is being spent to relieve suffering in the country which has given America so much. I congratulate Jeno for his observations and recommendations which included not only his views as to how our program was being administered, but his very constructive recommendation that you needed something more than Government to just do the job; his proposal that Italian industry contribute in this situation—as it has through his leadership in Minnesota—in alleviating some of the problems and making some progress in that State.

I hope and trust, Jeno, that the proper authorities in Italy will follow your recommendations, and not only have the Italian Government and our aid through our Government agencies do the job, but do the same with the help and assistance of the private sector in Italy, itself.

I remember also, if I might, something Vice President Rockefeller told me after he visited the earthquake site at my request in May. He was struck by the fact that in the midst of destruction and personal tragedy one of the first concerns of the people was to protect their monuments, their churches and their cultural heritage. There is a lesson in that for the United States, for we also risk seeing some of our cultural heritage destroyed not by a sudden shock of an earthquake, but by a gradual erosion.

We must be aware of the growing danger of conformity of American thought and American behavior. We need to encourage and protect individuality.

Our national wealth of culture, ethnic and religious traditions, is a valuable counterbalance to the overwhelming sameness and subordination of totalitarian societies. Let me add, if I might, a comment or two on that subject.

Italy and the United States share a firm dedication to democratic government and the principles of freedom and liberty. We, in America, value the role of Italy in the world itself, Italy's contribution to the Atlantic Alliance and Italy's contribution to a stronger and more cohesive Europe, working with the United States.

We have been hearing a lot recently about the new character of some Communist parties in Western Europe, that they believe in democratic multi-party government, that they are independent nationalist parties with no loyalties or affiliations beyond national borders.

Lest we succumb to this beguiling message, I remind you that we are hearing these same reassuring messages from the heads of Communist parties in Eastern Europe right after World War II. We all know what happened when these parties actually came into power in the late 1940s. It is a history lesson we should not forget.

The history of our own country teaches us another important lesson, the value of diversity as well as unity among our people. At a meeting in the White House last month, Italian-American leaders spoke to me of our need to encourage culturalism without diminishing Americanism. I agree completely.

Our neighborhoods are the place to start. On the first of this year, I had the privilege of signing into law a bill passed by the Congress called the Mortgage Disclosure Act, to prevent red lining. Last May, I met with a group of ethnic leaders to see what more could be done. As a result of that meeting, I created the President's Committee on Urban Development and Neighborhood Revitalization. I charged that Committee with developing a sound Federal policy to help preserve our neighborhoods and to prevent urban decay.

Our policy will be based upon local initiative and local control. I was very pleased and very encouraged the other day when I read in the New York Times about major new efforts, including proposed new zoning rules to revitalize New York City's Little Italy. As I read from that article, the City Planning Commission and a neighborhood group spent some two years coming up with this plan. I wish them every success. I hope other groups and other communities will follow their example.

But let me say with emphasis and reemphasis: I am committed to maintaining the strength and vitality and the unique contributions of America's communities. In my search for Americans to help us with this very major task, now and in the next four years, I will continue to look for Americans of high caliber from all cultural backgrounds. I will continue to look for Americans with the talents of John Pastore, Peter Rodino, Dominick Daniels and Judge John Sirica.

May I say to all four of them: It has been a very special pleasure for me to join with you in honoring these outstanding Americans.

As enjoyable as this evening is for all of us present, we might take just a moment to remember certain people who can only be here in spirit—people who would have gotten an even bigger thrill on this occasion than you or me—the parents of John Sirica, Dominick Daniels, John Pastore and Peter Rodino.

When you stop for a minute and think about those parents, about the sacrifices they made, about the hardships they endured, about the dreams they had for their children, and then you see those dreams come true in the careers of these fine men, that is when you know exactly what America is all about and you know if these parents could only be here with us tonight they could be very proud, and deservedly proud indeed.

By your contributions and those of all Italian-Americans to our arts and sciences and Government, to business life and family life, America will continue to grow, to prosper, and become an even better place in which to live.

Thank you very, very much.

LAMENTABLE RECORD OF PRESIDENT FORD AND REPUBLICAN PARTY IN THE CONSERVATION AND MANAGEMENT OF NATIONAL RESOURCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, President Ford recently revealed his new program for the national parks and scenic and recreational resources in a dramatic speech before Old Faithful geyser in Yellowstone National Park. Apparently the President felt that he would use shock therapy on the American people. Shock in the sense of employing drama in the setting and rhetoric in the pronouncements to cover and otherwise minimize Mr. Ford's own and his party's lamentable record in the conservation and management of our national resources.

The President apparently hoped this sleight of hand could cause people to forget how his administration, and President Nixon before him, refused even to adhere to the basic tenets of the National Parks Act of 1916, which admonishes all subsequent administrations to maintain and protect the national park lands, in their natural state insofar as possible.

For the moment let us put aside the failure of the Nixon-Ford administration to properly fund necessary land acquisition for the further protection and completion of the national park system. Instead, let us focus on the maintenance and day-to-day operation of our national parks and recreational resources. As I shall document, it shows a disgraceful and completely irresponsible policy that has resulted in the deterioration of our parks and recreation areas.

"The Degradation of the National Parks" is the subject of an editorial in the National Parks and Conservation magazine of February 1976 by Anthony Wayne Smith, president of the National Parks and Conservation Association.

Mr. Smith states:

> One of the greatest achievements of the American people has been the establishment and the preservation of the National Park System. The beauty of the parks is a symbol of the high civilization we would like to create. . . . Above all in the Bicentennial year we should be celebrating these achievements. And yet precisely at this moment, myopic budgetary policies threaten everything we have labored to preserve.

Additionally, in the same February 1976 issue, is an article entitled: "Short Changing the National Park System: Natural Areas." The National Parks and Conservation Association had been protesting the budgetary restrictions and low personnel ceilings for over 3 years in a number of meetings with the Office of Management and Budget. The OMB in customary fashion admonished them to be specific. The OMB obviously received more than they bargained for. This citizen organization, which comprises many highly knowledgeable professionals filed their first report showing some 33 national parks and monuments were in difficulty ranging from serious to disastrous. They were specific as to problems and their remedies.

The second report of the National Parks and Conservation Association was published in their magazine of March 1976 entitled: "Short Changing the National Park System, Historic and Recreation Areas." Another 36 areas were reviewed revealing a failure even to maintain physical facilities such as roads, trails, buildings, as well as a failure to maintain visitors' services.

Mr. Speaker, the National Parks and Conservation Association is an independent, private, nonprofit, public service organization which is scientific and educational in character. It is in no way politically partisan. Its existence is for the very purpose of watch dogging the national park system—that park system of which the President has so belatedly taken cognizance. It is a citizens organization and was established in 1919 by Steven Mather, the first Director of the National Park Service.

It is perhaps the final irony that the cover of the February 1976 issue of the National Parks and Conservation magazine in which its president cited the degradation of the national park system has upon its cover a picture of Old Faithful in Yellowstone Park, the very place the President of the United States expressed his belated concern regarding the national park system and its future. This association has been concerned for 60 years not these last 60 days before election.

If the President of the United States is concerned that we will have to spend more money now in order to take care of park problems for the future then he is correct. If the President is aware that this is going to be required even if we have to restrain expenditures elsewhere, he is again correct. He proposed to expend $1½ billion. If he feels his proposal to spend $1½ billion over the next 10 years for purposes of land acquisition and operation and management of the national parks is adequate, then he continues to be as incorrect as his past performance indicates.

The President's program calls for $141 million to be used for acquisition of lands and waters for the national park system. (H.R. 15399, title I, sec. 101(b)(1)(A). Unfortunately, the Federal recreational land acquisition backlog is $2.9 billion. The Presidential request for $30 million for the acquisition of lands and waters for the national refuge system makes a very small dint in the backlog of $1.6 billion. The story goes on—the backlog for the migratory birds wetland acquisition is $410 million but the President requested nothing. The construction and rehabilitation backlog for the park service alone is over $2.75 billion but the President proposes only $700 million.

Mr. Speaker, upon the most cursory investigation it is obvious that the President's Bicentennial land heritage program is long on theatrics and short on substance.

The President's concern for our land and waters and wildlife heritage is commendable. We, in the Congress, are sorrowed that his administration never behaved as if there was the major concern the President appears to make it in his "Old Faithful" speech. Additionally, his programs bear little resemblance to realistic solutions to our problems. Again—too little—too late.

I read in wonderment the President's speech at Yellowstone Park because my recollection of natural resource matters was to the effect that Congress was constantly pressing for programs and funds to maintain and expand these areas only to be met by a hostile administration.

As a result, I had prepared a table showing the President's request for appropriations and the congressional action for the last 3 fiscal years for the National Park Service and the Fish and Wildlife Service. I also asked that the same information be supplied for the land and water conservation fund for the last 4 years, since this fund is the source of all moneys for Federal land and water acquisition.

Mr. Speaker, I include these three tables in the RECORD at this point in my remarks:

TABLE 1.—*Land and water conservation fund*

Fiscal	President's request	Appropriation
1974	[1] $55,200,000	$76,223,000
1975	300,000,000	307,492,000
1976	300,000,000	308,086,000
1977	300,000,000	397,056,000

[1] Includes $50 million for States and $5 million for Federal agencies.

TABLE 2.—NATIONAL PARK SERVICE

	Fiscal 1975		Fiscal 1976		Fiscal 1977	
	President's request	Appropriation	President's request	Appropriation	President's request	Appropriation
Operation of national parks	$210,058,000	$220,139,000	$240,121,000	$255,203,000	$272,864,000	$276,485,000
Planning and construction	57,303,000	60,412,000	22,800,000	27,457,000	33,200,000	40,097,000
Road construction	23,000,000	26,026,000	38,820,000	40,115,000	18,000,000	21,800,000
Preservation of historic properties	24,375,000	24,476,000	24,516,000	24,666,000	14,500,000	22,000,000
Planning, development, and operation of recreation facilities	11,900,000	11,900,000	14,000,000	14,000,000	14,000,000	14,000,000
John F. Kennedy Center	2,420,000	2,500,000	2,575,000	2,645,000	3,072,000	3,072,000
Total	329,056,000	345,452,000	453,929,000	364,086,000	359,454,000	377,454,000

TABLE 3.—FISH AND WILDLIFE SERVICE

	Fiscal 1975		Fiscal 1976		Fiscal 1977	
	President's request	Appropriation	President's request	Appropriation	President's request	Appropriation
Resource management	$101,785,000	$103,798,000	$112,433,000	$120,750,000	$122,821,000	$128,861,000
Construction and anadromous fish	8,978,000	14,397,000	6,727,000	19,311,000	6,727,000	17,211,000
Migratory bird conservation account	0	1,000,000	0	7,500,000	0	4,000,000
Total	110,682,000	119,195,000	119,160,000	147,516,000	129,548,000	150,072,000

It is immediately evident when comparing the President's requests for land acquisition moneys that his eagerness shown in Yellowstone has been remarkably restrained. The Congress appropriated over $105 million more in the last 2 fiscal years than the President requested. Apparently, the President's concern over the lagging of our acquisition program was not as acute as some believe.

Further documentation is also very revealing. The National Park Service appropriations requested by the President were increased by the Congress over $16 million in 1975, over $9 million in 1976, and $18 million in 1977. In 1977 the Congress noted the President's request showed a continued drop of $20 million in planning and construction, a reduction of $10 million in the historic preservation program and finally the Congress provided funds to hire 548 new people because of the deterioration of parks and park facilities.

A comparison of the President's rhetoric and performance fares no better when the fish and wildlife budget is compared. The Congress appropriated over $8 million more than the President's request in 1957, over $2.8 million more in 1976, and over $20 million in 1977. In fiscal 1976 and fiscal 1977 there was no request by the President for funds for the endangered species program but Congress appropriated $2 million in 1976 and $1 million in 1977. The Congress felt it imperative to increase the wildlife refuge rehabilitation and fish hatchery construction over three times the amount requested by the President.

Under the leadership of the distinguished chairman of the Subcommittee on Interior and Related Agencies of the Appropriations Committee, the Congress sought to redress the obvious inadequacies in the 1977 budget requests. The conference report (No. 94–1218) is eloquent in its basic statement. I quote as follows:

> 1. **Restoration of Cuts Made by the Administration:** The budget proposed by the Administration included cutbacks in many programs which the Congress has authorized and which the Committee believes are useful. The Committee, the Congress, and the public have given these programs strong support in the past, and the Committee cannot understand why the reductions were proposed by the Office of Management and Budget. The Committee therefore, has recommended increases above the budget estimates for these programs as follows:

"Historic preservation grants	+$5, 000, 000
Endangered species grants	+1, 000, 000
Wetland acquisition loan fund	+7, 500, 000
Youth Conservation Corps	+28, 000, 000
Cooperation in forest fire control	+8, 884, 000
Geological Survey programs	+11, 838, 000"

The President's recommended program is amazing in that all the moneys requested are already authorized. Naturally, if this was stated the headlines would have been smaller. The President's bill reauthorizes the funds and appropriates the money in the same proposal. Why if the President was eager to spend this amount of money on new parks and wildlife areas did his administration not recommend such action to the Congress?

In addition, all of the previous failures were culminated in June 16, 1975, when the Congress of the United States had under consideration increases in the land and water conservation fund, in some cases running to $1 billion, the Department of Agriculture spoke for the administration as follows:

> It is the conclusion of the Administration that programs of this nature cannot be expanded without adverse affect on the budget. The Administration does not support this increase in the Land and Water Conservation Fund.

As late as July 11, 1975, scarcely a year ago, when the House had under consideration H.R. 2763, a measure to expand the land and water conservation fund, which is the source of all moneys for Federal acquisition for parks and recreation areas, the Assistant Secretary of the Interior of Parks and Wildlife states:

> We recommend against enactment of this legislation because these expenditures would jeopardize the President's effort to hold down Federal spending.

Mr. Speaker, the list is long and exhaustive wherein this administration has opposed at every turn efforts to expand the fund from which we obtain moneys for the acquisition of land, and yes, the expansion, the protection of our park areas, wildlife, and other recreation resources. Specific bill after specific bill finds one excuse and then another. The total amount is too much. The administrative cost is excessive The timing is not right. Inflationary pressures are extraordinary.

For example, last January the Alpine Lake Wilderness area in Washington State was before the Congress. The recommendations of the Department of Agriculture was that it not be enacted because it was too costly as to acquisition and administrative costs. It was only after abundant evidence that this measure was going to pass in any event that it ultimately was enacted into law.

The famous Chattahoochee bill found the President topping his previous ambivalence by arguing for more aggressive leadership by State officials, on the one hand, and opposing the program on the other because it was too expensive to the Federal Government. Finally, the administration argued against an increase in the land and water conservation fund which would have given the States additional money to do what the administration was requesting.

The Congaree Swamp project in South Carolina finds the administration asking that action be deferred while studies can be undertaken. This is an outstanding area which is in jeopardy of disappearing forever unless immediate action is undertaken. The leadership by the administration is not just cautious, not just hesitant, but nonexistent.

The pattern of this administration's stewardship is before all who have even the slightest contact with and knowledge of our lands, waters, wildlife, and their proper management. It is a pattern of neglect, irresponsibility and nonleadership. To bring to the attention of the American people one of the blackest chapters of this administration is perhaps an indication of their panic to somehow redress the grievances of the past by rosey promises in the future.

The President does have a chance to partially redeem his administration. He can do so by forgetting politics for the moment and joining Congress in supporting a conference report which is about to be acted upon by the Congress calling for an increase in the land and water conservation fund, from the present $300 million per annum to $600 million in fiscal year 1978, $750 million in 1979 and $900 million from 1980 to the conclusion of the program in 1989.

We presume that the President will eagerly accept this challenge and sign this legislation which was the result of long and careful hearings, chaired by the distinguished gentleman from North Carolina (Mr. TAYLOR), supported overwhelmingly by the Interior and Insular Affairs Committee of the House, and finally last May 5, 1976, squeaked through the House by a vote of 392 to 3.

The President's support of this legislation can be achieved by just affixing his signature to these recommendations. No lofty pronouncements, no edicts from on high are required. If the President does cooperate then the next chairman of the Subcommittee on National Parks and Recreation will not have to state at the beginning of the 95th Congress what Chairman TAYLOR did at the beginning of the 94th Congress. The chairman stated:

> There have been problems for us with witnesses testifying from the Park Service. They had to tell us one thing publicly and privately tell us something different.

WATERWAY FUEL TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. Mr. Speaker, the Federal Government has historically financed nearly the entire cost of developing and maintaining the Nation's inland waterways. Yet, the Federal Government has always permitted their free use for commerce and recreation.

This free use has proven to be extremely effective. Waterway use has expanded to the point where existing key lock capacities have become inadequate to handle all traffic. Barges are now beginning to wait idly for long periods, resulting in severe losses of productive time. The deteriorated condition of locks and dam 26 at Alton, Ill., with which my colleagues are now familiar, provides a vivid illustration of this problem.

Congress must soon decide whether to continue Federal subsidies for the waterway industry. In so doing, it will principally need to consider the effects of this policy on competing modes of transportation. As we are called upon to approve replacement and rehabilitation projects of millions of dollars, we must weigh these considerations before, not after, we expend these vast amounts of money.

And so, Mr. Speaker, I have today introduced legislation which seeks to create a more evenhanded Federal policy among the various competing modes of transportation.

My bill would simply impose a 5-cent per gallon tax on nongasoline fuels, and an additional 1-cent-per-gallon tax on gasoline for use in commercial water transportation.

None of the waterways' construction or annual operation and maintenance costs have ever been reimbursed by waterway users. This is because there has been a longstanding policy of free use dating back to the Northwest Ordinance of 1787. The ordinance stated that navigable waters leading into the Mississippi and the St. Lawrence, "shall has been a longstanding policy of free to citizens of the United States without any tax."

However, today's waterway conditions, and their importance in bulk commodity transportation, are vastly different from those which existed in the early years when this policy was established. Since 1950 the tonnage transported on inland waterways has doubted and the ton-miles have increased almost fivefold. Although the inland waterways include less than 3 percent of the miles in the Nation's transportation system, they account for 16 percent of the total ton-miles of all commodity movements.

Waterway traffic volume has thus reached a point where relatively nominal user charges would recover most or all of the annual operation and maintenance costs.

For example, according to a 1975 GAO report, a fuel tax of about 7 cents per gallon in 1973 would have fully absorbed the $109 million in waterway operation and maintenance expense the Corps of Engineers incurred in that year. For commercial users, this fuel tax would have increased their total operating costs by only 4 percent.

It is no secret as to why use of our inland waterways for commodity transportation has increased significantly in this period. Since World War II, over $3 billion has been spent by the Federal Government to operate and maintain the inland waterway system of the United States. Nearly that amount has also been spent as capital investment on new locks and channels. The President's 1977 budget request included over $40 million for expenditure by the Corps of Engineers on the shallow draft inland waterways having a depth of 12 feet or less. This amount was increased to nearly a half billion dollars by recent actions in Congress.

We simply can no longer insulate one mode of commerce from Federal cost-sharing as we have with the waterway industry, while requiring competitors to repay a major portion of their Federal cost through use taxes.

Various competing modes of transportation pay registration taxes, route certification fees, State and Federal motor vehicle taxes, weight taxes, licensing and mileage taxes, gross receipt taxes, property taxes, landing fees, tire taxes, and a variety of other special levies. The water industry pays nothing.

As recently as this summer, the Senate included a provision in its version of the Tax Reform Act of 1976 which would exempt commercial barge owners from State and local taxation.

The fuel tax I have proposed would begin to inject some fairness and equity among the various competing transportation modes.

It has been frequently stated that a waterway user charge of any kind would result in higher consumer prices. I believe there is ample evidence which indicates such increases would be slight in relation to the tax revenue generated by such a levy. In this sense, a fuel tax would substantially lessen the general revenue tax burden that the public must now carry for the annual operation and maintenance costs of the inland waterway system.

The most persuasive evidence that such a tax would have only a small effect on the cost of barge transportation is revealed in a preliminary staff study by the U.S. Department of Transportation's Transportation Systems Center in Cambridge, Mass. Entitled "Regional Market, Industry and Transportation Impacts of Navigation Cost Recovery Programs: Preliminary Results," the study states that a uniform fuel tax recovering the Corps of Engineers' full operation and maintenance cost would generally increase barge transportation rates only 5 to 15 percent, with a few localized and commodity exceptions.

In addition, while the preliminary findings indicate that full recovery of operation and maintenance costs would require a 22 to 24 cents per gallon fuel tax, the resulting effects on barge rates and market prices would be minor. The study states that:

> Predictions of substantial, generalized impacts on water carriers as the result of user charges appears unsupported by preliminary results . . . User charge impacts on regional market prices (would) rarely exceed 1 or 2 percent of delivered value per ton, significantly less than water carrier impacts . . . If railroads raise rates in response to barge rate increases due to user charges, relative impacts would be reduced.

Levying a fuel tax on commercial barges would not destroy any inherent advantage of waterway transportation, but only eliminate an artificial advantage created by unequal treatment of transportation modes by the Federal Government.

Mr. Speaker, a user charge to recover the costs of commercial waterway transportation is by no means a new concept. It has been proposed in some form by every President since Franklin D. Roosevelt. President Ford recommended legislation providing for recovery of these costs last year.

Several different approaches of recovering costs have been suggested. The most prominent have been lockage fees or tonnage charges by river segments. I think a fuel tax is unquestionably the fairest and most equitable of the various approaches.

A segmented, ton-mile charge would bear most heavily on lesser-used waterways. For example, industry calculations indicate that the cost per mile for a 1,500-ton barge would range from 20 cents for the lower Mississippi and less than $1 for other heavily used waterways, to nearly $30 for waterways with less traffic.

Lockage fees would have similarly unequal impacts. "Interpool" traffic which would not go through any locks would pay no fees at all. But long distance haulers, as from Minneapolis to the gulf, would have to pay lockage fees through all 27 locks.

A 5-cent fuel tax would pose no regional disadvantages and would be easier to administer. I have chosen 5 cents with a view toward phasing in the full recovery of operation and maintenance costs over a period of time to prevent the potentially severe economic disruption which could occur with a sudden and substantially higher levy. According to the Department of Transportation, the annual consumption of fuel by waterway users is roughly 1 billion gallons. Therefore, my bill would raise $50 million in the first year. This would recoup about 30 percent of the $158 million of operation, maintenance, and rehabilitation cost expended by the Corps of Engineers in 1974 for the shallow draft—up to 12-foot channel—system.

Mr. Speaker, this tax would build upon the policy announced by the U.S. Water Resources Council to establish principles and standards for guiding Federal participation in planning the use of the Nation's water and related resources. One of those principles is that "reimbursement and cost-sharing policies shall be directed generally to the end that identifiable beneficiaries bare an equitable share of cost commensurate with beneficial effects."

Imposition of a 5-cent fuel tax for commercial barge transportation would be a reasonable first step toward fulfillment of these principles and standards. It would hasten the establishment of a national policy with more balanced Federal financial support among the competing modes of commercial transportation, instead of continuing the unjustifiable policy of favoring just one mode as we have since 1787.

WILL KISSINGER GIVE AMERICAN AID TO AFRICAN TERRORISTS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. McDonald) is recognized for 5 minutes.

Mr. McDONALD. Mr. Speaker, I have written a letter to Secretary of State Kissinger pointing out that the Agency for International Development has given a quarter of a million dollar contract to the African American Scholars Council to study the needs of Rhodesia and South West Africa—Namibia—"after the transfer of power."

Has Kissinger promised economic aid to the Communist organized terrorist movements in Southern Africa after they take power? These organizations—SWAPO in South West Africa, and ZAPU and ZANU in Rhodesia—are currently carrying out terrorist attacks against civilians, noncombatants, in those countries.

The appropriations bill for the AID program will be coming back to us from the conference committee soon. I urge my colleagues to vote against it unless all provisions for aid to terrorists are removed from the bill.

My letter to the Secretary of State follows:

House of Representatives,
Washington, D.C., September 17, 1976.

Dr. Henry A. Kissinger,
Secretary, Department of State,
Washington, D.C.

Dear Mr. Secretary: The Department of State has just provided me with an unclassified document relating to a quarter of a million dollar grant to study the needs of Rhodesia and South West Africa (Namibia) "after the transfer of power." The contract for this study has been given to the African American Scholars Council of Washington, D.C.

For the past week my staff has been attempting to secure information about this contract from both the African American Scholars Council and the Agency for International Development. The AASC referred us to AID, while AID advised us that they had to get State Department clearance before this unclassified information could be made available to us.

The granting of this contract raises serious questions. The first relates to the propriety of a recent former official of the AID program, Dr. Samuel C. Adams, Jr., serving as a director of a study program financed by his former agency. But more important is the question of the purpose of the study.

Communist sponsored terrorist groups are now carrying out attacks against the civilian populations of Rhodesia and South West Africa (called in the contract Namibia). These terrorist groups have official representatives operating in the United States. For example, the South West Africa People's Organization (SWAPO) has a propaganda and fund-raising apparatus here; and two Rhodesian groups, the Maoist Zimbabwe African National Union and its Soviet oriented rival, the Zimbabwe African People's Union, both have similar operations in this country.

The State Department and the Justice Department have taken no action against the representatives of these terrorist groups operating in this country.

The State Department is pressuring the governments in Southern Africa to surrender power to the Communist terrorist movements. The granting of the contract to the African American Scholars Council raises the question of whether you have promised economic aid to the future Communist regimes these terrorist movements are working to establish in Southern Africa.

It is interesting to note that one of the officials of the African American Scholars Council, which received the quarter of a million dollars in taxpayers money, is John Henrik Clarke, chairman of the AASC Social Science Committee, who also serves as an associate editor of the magazine, Freedomways. This magazine has been publicly identified by the FBI as a Communist Party, U.S.A. propaganda organ aimed at American Negroes. News of this study was released to the press by a representative of ZANU who obviously has been given more information than Members of Congress.

Your African policy is leading us to disaster. The net result of those policies will be more totalitarian Communist regimes in Africa. I will vote against any U.S. aid to these regimes and will urge my colleagues to join with me in denying you the funds to provide such aid.

Sincerely,

Larry McDonald.

AIRCRAFT CARRIERS—THE NSC RESISTS THE IMPLICATIONS OF ITS OWN CONCLUSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Leggett) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, many of us here in the House have been critical for some time of the U.S. Navy's excessive reliance on, and devotion to, the mammoth, large-deck aircraft carrier. With the advent of highly accurate long-range cruise missiles, in fact, the prospect for these ships may be a threat of extinction just as absolute as that which befell the mammoths of the Pleistocene Era.

The many critics of the aircraft carrier fixation syndrome have not heretofore included, as far as I am aware, the august personages of the National Security Council. I was interested, therefore, to learn from a letter sent to our Armed Services Committee by Defense Secretary Rumsfeld last month that the NSC has tentatively concluded that, in view of advancing technology and the high cost of building large-deck carriers, "we must pursue all avenues to find new ways to put airpower to sea."

The NSC does not, to be sure, follow this premise to the conclusion which many of us would find inescapable. The study forwarded by Mr. Rumsfeld resists the implications of its assessment of the cost of and threat to big carriers, concluding that we will need 12 of these ships through the 1990's and that we must build a fifth nuclear-powered carrier now in order to maintain that force level.

We have been debating the roles and missions of aircraft carriers for the last 7 years or so, and the issues have not changed throughout that period. My view, as I said in supporting the Burlison amendment to the Defense authorization bill last June, is that the arguments against building more of these costly but vulnerable ships are compelling. We continue, however, to shrink from following their dictates. And we have been true to form in the current session, approving the first $350 million of long leadtime funds for construction of the fourth *Nimitz*-class carrier.

The argument against again building "just one more", which is a repeat of what we did in 1970, is well stated in the NSC study. As Mr. Rumsfeld tells us.

> In the course of its review of naval force requirements, the NSC study shows that the rapidly rising costs of nuclear-powered carriers coupled with the prospective technological advances in the threat (particularly Soviet overhead surveillance systems) make it imperative that the development of a more flexible replacement for large-deck aircraft carriers be initiated. Moreover, potential advances in other U.S. ship, missile, and aircraft systems offer a prospect of fulfilling the requirements of sea-based air through a combination of new capabilities.

The implication of that view, in my estimation, is that investing $2.5 billion in another *Nimitz*, even leaving aside the cost of its escorts and aircraft, is a dubious proposition at best. Yet our NSC friends tell us, despite their cogent treatment of the cost/vulnerability issue, that 12 carrier task forces are required for the sea control mission over the next quarter of a century. A service life extension program on the existing conventional carriers will, we are told, enable us to maintain 11 carriers through the 1980's and 1990's. Hence the conclusion that we must build one more *Nimitz*-class ship.

At the same time, however, the NSC also proposes to accelerate R. & D. on new technologies and approaches, such as V/STOL aircraft, cruise and other anti-ship missiles, and land-based aircraft, for performance of the sea control mission.

Mr. Speaker, I am just as convinced as the Secretary of Defense and the NSC of the need to maintain a strong sea control capability, but my conclusion is different from theirs. If the cost/vulnerability problem posed by the current large carrier concept is truly formidable, and if new technical and operational approaches to this mission are really promising, why lock ourselves into the existing system for two and a half decades?

I will continue to assert this view when further funding requests for the fourth *Nimitz*-class carrier come before the Congress. And we should assure our friends in the defense establishment that we will have the NSC conclusion on this issue firmly fixed in mind if they should come back, a few years hence, with a request to buy "just one more" beyond that fourth *Nimitz*.

At this point, I would like to include Mr. Rumsfeld's letter in the record so that my colleagues will be able to examine the NSC study for themselves:

The Secretary of Defense,
Washington, D.C., August 2, 1976.

Hon. Melvin Price,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Included in the Defense Report which I submitted to your Committee in January was a five-year shipbuilding plan containing the President's proposed FY 1977 ship procurement program. In May, the President amended this program, based on early results of the National Security Council study of U.S. maritime strategy and its impact on Navy ship requirements. I indicated then that the rationale for our immediate and long-term requirements would be forwarded as the NSC study was completed.

The enclosure is a summary of tentative conclusions drawn from the NSC study. The summary addresses in broad terms our maritime strategy, the major threats, and our requirements for specific classes of ships. This paper includes a tentative five-year shipbuilding program and provides the rationale for our shipbuilding program request. While the NSC study is not yet complete, I do not expect the final conclusions to vary significantly from those given in the enclosed summary.

The action taken by Congress to date, while incorporating many of the needs highlighted in the NSC study, does not adequately address the high priority need of the Navy for adequate defense against an increasingly sophisticated Soviet anti-ship missile threat. I urge you to give immediate attention to authorization of those remaining FY 1977 shipbuilding program deficiencies. Specifically, I regard as essential the funds for the DDG–47 AEGIS destroyer, Nuclear Strike Cruiser (CSGN), and the four additional Frigates (FFG). Additionally, the President requested that funds to restore the BELKNAP be provided in FY 1976 or the Transition Period, but Congress authorized the funds in the FY 1977 program. We again request that those funds be authorized for the Transition Period. Finally, the Congress also authorized funds for a fourth attack submarine in FY 1977, and provided long-lead funding for conversion of the LONG BEACH to a strike cruiser configuration. We request that those funds be deleted, and priority given to the DDG–47, the CSGN, and the additional FFG's.

Your continued support is appreciated.

Sincerely,

DONALD R. RUMSFELD.

Enclosed.

U.S. MARITIME STRATEGY AND THE NAVAL SHIPBUILDING PROGRAM

I. BACKGROUND

In his January 1976 Defense Report, the Secretary submitted a Five-Year Shipbuilding Plan. That Plan, including the proposed FY 1977 procurement program, was described as tentative, pending completion of a National Security Council study of U.S. maritime strategy and its impact on Navy ship requirements. The Plan as submitted called for expansion of the U.S. Navy with a mix of nuclear and conventionally powered surface ships.

In May, the President amended his FY procurement request to include long-lead funding for one nuclear-powered aircraft carrier, full funding for four additional patrol frigates, and full funding for one additional support ship. This amended program was based on early results of the NSC study. Table 1 shows the President's amended program and the subsequent action of the Congress.

As the Table shows, the action taken by Congress thus far, while addressing many of the needs highlighted by the NSC study, does not adequately address the high priority need of the U.S. Navy for adequate defense against an increasingly sophisticated Soviet anti-ship cruise missile threat. Therefore, the President and the NSC believe it necessary to request formally that this Congress authorize the full FY 1977 shipbuilding request as amended. Since the Congress plans to adjourn in early October it is urgent that the Congress address the remaining FY 1977 items expeditiously.

Specifically, we regard as essential the funds for the DDG–47 AEGIS destroyer, the nuclear strike cruiser, and the additional patrol frigates. The importance of these ships to the fleet in the 1980's and 1990's is discussed in the paragraphs which follow. The tentative five-year naval shipbuilding program which has evolved as a result of the ongoing NSC study is also described.

II. UNITED STATES MARITIME STRATEGY

The United States strategy derives from the clear need to preserve our ability to use the seas for commerce and to honor our commitments to friends and allies. This strategy requires that the U.S.: (1) be able to gain control and hold vital sea areas in a timely manner, particularly the areas essential to NATO; (2) be able to control crisis situations that threaten the vital interests of the United States; and (3) deploy naval forces forward in peaceime to deter aggression.

TABLE 1.—CONGRESSIONAL ACTION ON FISCAL YEAR 1977 SHIPBUILDING

	Fiscal year 1977	
	Amended request	Authorization (June 25, 1976)
Trident submarine	1	1
SSN–688 attack submarine	3	4
CVNX nuclear carrier	(1)	(1)
CSGN strike cruiser	(1)	0
DDG–47 Aegis destroyer	1	0
FFG–7 guided missile frigate	12	8
Long Beach modernization	0	(1)
Belknap repair and conversion	(2)	(3)
Support ships	4	4
Total	21	17
Funding	$7, 300, 000, 000	$6, 700, 000, 000

[1] Long lead.

[2] The President proposed that funds for the repair and modernization of the Belknap be authorized in fiscal year 1976 or the transition period.

[3] Repair and modernization.

III. MAJOR THREATS AND U.S. RESPONSES

The NSC review of U.S. Strategy and Naval Missions has confirmed that there are three major threats to the control of the vital sea lines of communications: the Soviet submarine fleet, the Soviet surface fleet equipped with anti-ship missiles, and the new Soviet BACKFIRE aircraft equipped with a sophisticated air-to-surface anti-ship missile as well as longer range cruise missiles launched from ships or aircraft.

A. The Submarine Threat—

The Anti-Submarine Warfare (ASW) mission takes on new importance as the Soviets replace short-range, diesel-electric ships with nuclear-powered and long-range, diesel-electric submarines. With these forces, the Soviets have the potential to interdict the sea lines anywhere in the world. In addition to posing a classic torpedo threat to surface ships, many of these submarines also pose an impressive long and short-range anti-ship cruise missile threat.

Current naval force structure of the United States and its principal allies as well as the associated research and development programs have been derived with the submarine threat uppermost in mind. The U.S. Navy has continued to improve the ASW capabilities of its own submarines. U.S. submarines are believed to be quieter and to have a better sonar suite than Soviet submarines. The U.S. also has a highly effective torpedo, the MK–48. The U.S. air ASW platforms, the P–3 and S–3, have introduced substantial improvements in the past few years with the acquisition of better acoustic processors and better sonobuoys. These, coupled with improvements to and expansion of the Underwater Sound Surveillance system, have done much to keep pace with improvements in Soviet submarine performance.

The tactical towed array sonar and the LAMPS helicopter now under development promise to add a new dimension to the anti-submarine capability of the surface fleet. When operational, these systems will provide a major improvement in the local ASW defenses of convoys, underway replenishment groups, and amphibious forces. Thus, qualitative progress is being made to increase our capability to find and destroy enemy submarines, either as they proceed to and from their patrol areas, loiter on station, or make the final approach to the defended force. However, the number of surface combatants now planned is not adequate to provide world-wide capability against the Soviet submarine threat. Equally important, should some cruise missile launching submarines go undetected and launch their missiles, the ability of U.S. naval forces to defend against these missiles is marginal at best.

B. The Anti-Ship Missile Threat From the Soviet Surface Fleet—Many units in the Soviet surface fleet are equipped with sophisticated anti-ship missiles. As in the case of the submarine threat, new offensive weapons in the U.S. program such as HARPOON, CONDOR, long-range cruise missiles, and improved tactical air forces, should provide capability to counter the launch platforms on the high seas. Until the Soviet fleet gains an organic air cover and a more efficient at-sea replenishment capability, the Soviet open-ocean fleet constitutes a threat primarily during the initial phases of hostilities when the fleets may be intermingled and when U.S. ships would be most vulnerable to a large-scale, coordinated attack. If open warfare were initiated, it is doubtful if the Soviet surface fleet could operate as an effective open-ocean force for a significant period of time. However, the many Soviet anti-ship missile equipped ships would still be quite effective in such peripheral seas as the Sea of Japan, the Barents Sea, etc., where they would operate under the umbrella of modern land-based tactical air power.

C. The Threat From the Air—The Soviet Naval aviation force already possesses a large number of long-range, anti-ship missile launching bombers. However, the introduction of the Backfire bomber and its anti-ship missiles give the Soviets the capability to threaten a much greater area of the oceans than before. Land-based Soviet naval air operating from fields in the Black Sea area can attack shipping throughout the Mediterranean. From northern fleet bases, the Backfire can range deep into the Atlantic to strike resupply and reinforcement convoys to Europe. In the Pacific the Backfire can reach to areas south of Hawaii making U.S. resupply of Hawaii, Japan and Korea difficult.

The Backfire aircraft have the potential to launch up to two anti-ship missiles. The present U.S. defense against such an attack consists of interceptors from aircraft carriers and, in a few cases, from land bases. This defense is augmented primarily by surface-to-air guided missiles, such as Tartar and Terrier, plus point defense systems such as Sea Sparrow.

The introduction of the F–14/Phoenix system has brought a major improvement in the carrier-based interceptor phase of defense. However, interceptors cannot do the total job. There will be situations when significant numbers of hostile bombers will survive the interceptor screen to launch air-to-surface missiles that must be opposed by the surface-to-air missile systems of the convoy protection forces.

IV. STATE OF U.S. ANTI-SHIP MISSILE DEFENSE

Present U.S. surface-to-air missile systems are not effective against the newer generation Soviet anti-ship missiles. This is especially the case in a high density attack—the type of attack in which the Soviets would employ their Backfire bombers. The time from detection until target engagement is excessive, and coordination among missile batteries on different ships in the task force is poor. These difficulties are compounded by system vulnerability to electronic countermeasures. For these reasons the development of the Aegis system with its high-power, narrow-beam, high-data-rate radar was started more than ten years ago. The Aegis system would not only be far superior to the present systems, but it would also supply tactical information to the current Terrier and Tartar systems, making them more effective. Thus, deployment of the Aegis system would offset a primary deficiency in fleet capabilities.

We propose to put the Aegis system on two platforms, the DDG–47 class destroyer and the nuclear-powered strike cruiser (CSGN). A mix of nuclear and conventionally-powered Aegis ships will strike a balance between quantity and quality, making an effective air defense system an integral part of all major fleet forces. The lower-cost DDG–47 has been proposed for the earlier and more numerous procurement since it can be produced relatively rapidly. The goal is to have up to two Aegis ships per carrier, or a total of 24 Aegis ships associated with an operational force of 12 aircraft carriers, with the mix of DDG–47's and CSGN's being determined primarily by the mix of non-nuclear and nuclear carriers.

In Figure 1, the number of Aegis platforms that can be procured with a given amount of money is compared for three alternative fleets: one with DDG–47's only, one with CSGN's only, and one with a mix. While there is a faster build-up in the all-DDG–47 fleet, a mixed force of the type outlined above can be bought with only a small degradation to the building rate. It is essential that funds be provided in FY 1977 to initiate procurement of the lead ships in these two new classes.

In addition to the anti-ship missile threat to U.S. carrier forces, there is the threat posed by cruise missiles launched from surface ships, submarines, and aircraft that must be handled by surface combatants supporting convoys, underway replenishment groups, and amphibious ships. While the FFG–7 frigates have a significant ASW capability with tactical towed array sonars and Lamps, they also have an effective anti-air warfare suite against a low intensity cruise missile threat. Ship-launched anti-ship missiles also are fairly common in third-world navies, and adequate defense against a small number of anti-ship missiles may be required in any contingency operation. We therefore propose to accelerate procurement of the versatile FFG–7, as noted in the President's Budget Amendment.

A FFG–7 construction program of 12 ships per year will provide suitable replacements for older destroyers and achieve the force level objective in a reasonable time. That number will keep three shipyards fully occupied and give the maximum benefit of learning consistent with early delivery of these ships. It is important that we convey to the shipyards that this is a stable program.

V. CARRIERS

The aircraft carrier will continue to be a major component of the U.S. sea control force as well as the major element in the force of forward-deployed naval forces maintained for deterrence. Our analysis indicates that 12 carrier task groups are required both for the sea control mission in a major NATO war with the Soviet Union and to sustain the current pattern of forward deployments.

Through a vigorous service life extension program for the conventional carriers the U.S. can keep a total of 12 carriers in the force through the 1990's. However, while the service life extension program is proceeding, one or more carriers will be decommissioned for up to two years at a time. The extension program will begin in the early 1980's and continue into the 1990's, thus drawing existing carriers down to eleven deployable ships, one less than required. It was for this reason that the President requested one more large-deck carrier. The accompanying chart shows the U.S. carrier force when ships reach the nominal end of service life and the effects on force levels of a service life extension program.

In the course of its review of naval force requirements, the NSC study shows that the rapidly rising costs of nuclear-powered carriers coupled with the prospective technological advances in the threat (particularly Soviet overhead surveillance systems coupled with advanced offensive strike systems) make it imperative that the deployment of a more flexible replacement for large-deck aircraft carriers be initiated. Moreover, potential advances in other U.S. ship, missile, and aircraft systems offer a prospect of fulfilling the requirements of sea-based air through a combination of new capabilities. In view of these factors, we propose to accelerate R&D on several new technologies—V/STOL, anti-ship missiles, cruise missiles, and long-range land-based aircraft. We need an additional $95 million in FY 1977 to explore vertical and short take-off and landing aircraft technology as well as a multi-mission long-endurance aircraft concept that might allow sea control missions to be conducted from land bases even in the continental United States. The funds would also be used to explore means to supplement the strike capability of the carrier, through improved cruise missile technology including target acquisition, damage assessment, and guidance. Cruise missiles will give the U.S. the capability to attack highly-defended areas and generally reduce U.S. reliance on manned aircraft. It is imperative that these initiatives be started as soon as possible.

VI. OTHER PROGRAMS

The President requested that funds to restore the BELKNAP be provided in FY 1976 or the Transition Period. However, Congress authorized the funds in the FY 1977 program. It is again requested that those funds be authorized for the Transition Period.

The Congress also authorized funds for a fourth attack submarine in FY 1977, and provided long-lead funding for conversion of the Long Beach to a strike cruiser configuration. We request that those funds be deleted. Our analysis dictates that priority be given instead to the DDG–47, the strike cruiser, and the additional frigates. The service life of the Long Beach is such that its conversion to the strike cruiser configuration can safely be postponed.

VII. FIVE-YEAR PLAN

The NSC review of U.S. strategy and naval requirements is continuing. However, certain general conclusions are already evident. These are:

The Soviet maritime threat presents a formidable challenge to the U.S. maritime capability.

The rate at which the U.S. Navy is rebuilt should be accelerated to meet this challenge.

The Allies have a substantial maritime capability which can and should augment our own capabilities.

There should be continued emphasis on improving our ASW capability.

There is a major deficiency in the U.S. capability to meet the anti-ship cruise missile threat, especially the high-density air-launched missile threat. Needed capabilities can be attained with a mix of AEGIS-equipped DDG–47 destroyers, CSGN strike cruisers, and FFG–7 frigates.

Through the 1990's our major sea control platform will be the large-deck aircraft carrier. However, in view of advancing technology and the high cost of carrier replacement, we must pursue all avenues to find new ways to put airpower to sea.

Once combatant ship force levels are firmly established, the increased requirements for specialized support and auxiliary ship needs must be addressed.

Table 2 summarizes the five-year naval shipbuilding plan submitted in January along with the changes which reflect these general conclusions. The number—and especially the mix—of ships in the outyears is still under review and will be refined upon completion of the NSC study.

TABLE 2.—DEPARTMENT OF DEFENSE 5-YR SHIPBUILDING PROGRAM

	January budget request		Status of congressional actions (authorization bill, June 25, 1976),	Amended budget request	
	Fiscal year 1977	Fiscal year 1977–81	fiscal year 1977	Fiscal year 1977	Fiscal year 1977–81
Ballistic missile submarine (Trident)	1	7	1	1	7
Attack submarine (SSN–688)	3	11	4	3	[1] 11
Nuclear carrier (CVN)		2	(2)	(2)	1
V/STOL ship (VSS)		1			[3] 1
Long Beach (CGN)			(2)		(4)
Strike cruiser (CSGN)	(2)	2		(2)	2
AEGIS destroyer (DDG–47)	1	8		1	[5] 8
Patrol frigate (FFG–7)	8	40	8	12	60
Amphibious ship (LX)		1			[3] 1
Mine countermeasure (MCM)		10			[1] 19
Support ships	3	29	4	4	[1] 43
Total	16	111	17	21	[1] 153

[1] Interim best estimate. Final NSC study results will be incorporated into the 5-yr plan for fiscal year 1978.

[2] Long lead.

[3] Requirements for new ship concepts such as the VSS and LX are being reviewed as part of the NSC study.

[4] The Long Beach conversion to a strike cruiser configuration is planned for fiscal year 1983.

[5] The final mix of CSGN and DDG–47 ships will be determined in the NSC study.

A NEW DEAL FOR THE MIDDLE-INCOME TAXPAYER

(Mr. GONZALEZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, I am proposing a tax bill today that is a symbol of protest against the taxes paid by the American people. In the 1970's the citizens of this great Nation have been faced with ever increasing costs of food, clothing, gasoline, and utility costs, but in the final analysis when they calculate their budgets they find that the biggest increase has been in the amount of taxes they pay. According to the most recent statistics, taxes have risen 65 percent while the cost-of-living climbed about 40 percent.

Our tax system has been one of the most successful in the world because our citizens voluntarily comply with its requirements. I am sure that any taxpayer would say that he does not object to paying his fair share of taxes, as he is well aware of the benefits he receives in return. But what he does object to is not being able to understand the present tax system. Its complexities at this stage have forced two out of every five taxpayers to seek outside assistance, usually at some expense, to help them complete their forms.

The middle-income taxpayer is up in arms because he does not feel that the system is equitable. He feels that another taxpayer with the same amount of income is paying less in taxes because of dozen of loopholes, or even worse, he reads reports of a wealthy individual who does not pay any taxes.

Today I am offering a proposal that will certainly not cure all of the ills of our present system but will simplify it to a degree. My bill says that notwithstanding any other provisions of the tax code, the tax liability of those who file an income tax return on an adjusted gross income of less than $30,000 will be no more than 10 percent of that adjusted gross income.

I am offering this proposal in hopes that the House Ways and Means Committee, which has the responsibility for tax legislation, would utilize this basic idea when considering overall tax reform.

The citizens of our Nation deserve to be able to understand the tax structure as well as feel that everyone is paying his fair share and at the present time there is no way to adequately assess the system.

VIETNAM AND THE IMF

(Mr. GONZALEZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, Vietnam, which would like to join the United Nations, has succeeded in becoming a member of the International Monetary Fund. That is a first step toward becoming a member of other international financial organizations, like the World Bank and Asian Development Bank—both of which Vietnam presumably is eligible to join.

When the House debated the Bretton Woods agreement amendments bill, I offered an amendment that would have prohibited the United States to accept any amendment to the agreement that would have conferred benefits on Vietnam, unless and until that country makes a full accounting of Americans missing in action. My amendment was defeated—I suppose because not many believed that Vietnam would join the Fund, let alone get any monetary assistance from it. But Vietman has joined the Fund, and is now eligible to receive its help.

According to press reports, the United States objected to the approval of the Vietnam application to join the IMF, but the approval was nevertheless given.

I have often asked what would happen if China, or Southeast Asia countries now under Communist domination, sought to claim the seats in multilateral development banks that were held by preceding governments. I have always been told in effect that we will cross that bridge when we get to it.

Clearly, we are at that point. The question is, what will we do? Do we welcome Vietnam into these important aid-granting institutions? Do we object? Do we resist? And what will be the result if we take one or another course of action? Raising these questions is no longer premature. We are confronted with a situation that can no longer be avoided, and our Government obviously has not developed a policy to deal with it.

I do not say that we should forever maintain an attitude of hostility toward any government. But Vietnam has not acted in good faith in dealing with the missing in action; we ought to use whatever leverage we have to deny that country access to international aid agencies until and unless we get an accounting for our missing.

GENERAL ACCOUNTING OFFICE CONFIRMS HUGE LOOPHOLE IN SYNTHETIC FUELS BILL

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, earlier this week Congressmen DINGELL, OTTINGER, HAYES of Indiana, and myself wrote to the Secretary of the Treasury concerning the applicability of the Federal Financing Bank Act of 1973 to the synthetic fuels loan guarantees authorized by the substitute amendment to H.R. 12112. We pointed out that the House Committee on Science and Technology's Report of May 15, 1976, on H.R. 12112 included language, at the urging of ERDA officials, to insure that this Federal Financing Bank Act would apply to the guarantee program. We expressed to Secretary Simon that the use of the Federal Financing Bank, which is an off-budget device, would result in a direct Federal loan to the special interests' synfuels borrowers and, in fact, impact on the public debt. That act authorizes the FFB to purchase Federal guarantees of any amount.

REQUEST TO GAO FOR COMMENTS

Because of our concern about this budget gimmickry we asked the GAO to provide this week its views and comments on the appropriateness of the use of FFB in this program and its budgetary effect. The Acting Comptroller General of the United States replied today saying:

> It appears to us that FFB could, indeed, purchase such loans under FFB's existing authority and that the resulting disbursement of Federal funds would not be reflected as an outlay in the Federal budget. Such a transaction would, as you suggest, increase the total outstanding Federal debts.
>
> *"I believe this sort of loophole in the budget process is highly undesirable.* It is for this reason that we have consistently opposed the creation of "off-budget" agencies, of which FFB is a prominent example. (Emphasis supplied.)

Mr. Speaker, as Congressman HAYES observed in his remarks in the RECORD of September 15, page 30539, H.R. 12112 may be riddled with loopholes, such as this.

SERIOUS IMPACT ON PUBLIC DEBT

It seems to me that it is unwise for the Congress to enact legislation in such haste, particularly, when it will have such a serious impact on the public debt. I dare say that few in Congress, including those on the committees that considered H.R. 12112, were not aware until now H.R. 12112 could lead to a subsequent legislation raising the national debt limit by as much as $3.5 billion, as we are called upon every year to do, in part, due to the activities of the Federal Financing Bank. This is one more reason, and a very important one, why this bill should be abandoned in the closing days of the 94th Congress.

I urge all my colleagues to read carefully our letter to Secretary Simon and the September 16 letter of the Acting Comptroller General of the United States to me concerning the bank. I insert these letters in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 13, 1976.

Hon. WILLIAM E. SIMON,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: For some time now the Energy Research and Development Administration has touted the synthetic fuels loan guarantee bill (H.R. 12112) now before the House Rules Committee as needed to "generate essential" information about these billion dollar or more commercial size facilities. Specifically, ERDA stresses that successful operation of plants "based on first-generation technology will increase the confidence of the financial community . . . so that they will be more likely to finance plants using first and second-generation technologies, without any Federal financial incentives."

However, an August 30, 1976, report of the staff of the Task Force on Energy of the Senate Budget Committee (Congressional Record of September 7, 1976, pages 29114–29124) raises serious questions about the validity of that ERDA contention.

That report points out that the Federal Financial Bank Act of 1973 (12 U.S.C. 2281–2296) authorizes the FFB purchase of "any obligation guaranteed" by a Federal agency. This is confirmed by the Appendix to the President's Budget for FY 1977 which states (p. 915) that the FFB "has become the vehicle through which most Federal agencies finance their programs involving the sale or placement of credit market instruments, including "guaranteed obligations." In 1975, the FFB made 150 "loans and advances totaling $15.8 billion to . . . . federally guaranteed borrowers." These funds are lent at a rate of ⅛ of 1% above the new issue rate of marketable U.S. Treasury securities of similar terms and conditions which is a very favorable rate over market rates. Since June 5, 1975, the FFB gets the loan money from the Treasury Department which in turn borrows it from the taxpayer.

The Senate report states that, in fact, when the FFB purchases a guaranteed obligation, "the Federal Government," not the "financial community," becomes the "direct lender." The report stresses that by using the FFB, "a Federal agency can finance a very large guaranteed loan much more cheaply and easily than if funds had come from private lenders." The report of the House Committee on Science and Technology indicates that language was included in H.R. 12112, at the request of ERDA officials, to insure this result (H. Rept. 94–1170, Part I, page 32).

But this result is *not* designed to "increase the confidence of the financial community" in later synthetic fuels plants which are not subsidized by the Federal Treasury. If the FFB provides the money, there will be little participation by the financial community, except possibly, as consultants in the preparation of notes, etc., leading up to the loan. Furthermore, by further reducing the interest rate for money for the project below that charged in the private sector for a Federally guaranteed obligation, ERDA provides an additional subsidy to the project and further distorts the true project costs.

A special interest energy corporation, like WESCO, which is controlled by Texas Eastern Transmission Corporation and Pacific Lighting and wants to build a plant on Navajo Indian lands in New Mexico costing over $1 billion, will be able, through the FFB, to reduce its money costs substantially and thus artificially reduce its project's costs which will be recovered through rates paid by its customers in Southern California. This is, in essence, a windfall for WESCO whose only interest in H.R. 12112 is to build a plant to produce gas, not information. These same customers will pay taxes to help provide money for the Treasury to loan to the FFB.

It is our understanding that the FFB can fund the entire borrowing, not just the guaranteed portion, which removes much of the risk for WESCO. We also understand that this borrowing by the FFB may require Congress to increase the debt ceiling by the $4 billion authorized in H.R. 12112.

We recognize, of course, that if WESCO defaults, the bail out costs to the Government will be less, if the loan is financed by the FFB, rather than by the private sector.

But we reiterate that H.R. 12112 is *not* being touted by the Administration as a bill to save costs for the taxpayers. It is, in ERDA's words an "information program" for the financial community. In our view, it is a *sweetheart* indirect ERDA loan for the special interests, like WESCO, in the gasification area, and the "big" oil corporations in shale oil development, such as TOSCO, Sunoco, Union Oil, and Gulf.

If the Administration insists on providing a direct loan to WESCO, et al., let it be done by ERDA directly through its loan authority. in section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974, rather than through the charade of an ERDA guarantee and FFB loan.

We welcome your views and comments and urge that ERDA and Treasury clearly explain to all House Members the projected differences in WESCO project costs where a loan is made by the FFB and where it is made by the private sector with no FFB participation.

Sincerely,

Ken Hechler,
Richard Ottinger,
John D. Dingell,
Philip H. Hayes.

Comptroller General of the
United States,
Washington, D.C., September 16, 1976.

Hon. Ken Hechler,
House of Representatives.

Dear Mr. Hechler: In your letter of September 13, 1976, you asked for our views and comments on the use of the Federal Financing Bank (FFB) to purchase loans guaranteed by the Energy Research and Development Administration (ERDA) under the provisions of H.R. 12112, if enacted.

It appears to us that FFB could, indeed, purchase such loans under FFB's existing authority and that the resulting disbursement of Federal funds would not be reflected as an outlay in the Federal budget. Such a transaction would, as you suggest, increase the total outstanding Federal debt.

I believe this sort of loophole in the budget process is highly undesirable. It is for this reason that we have consistently opposed the creation of "off-budget" agencies, of which FFB is a prominent example.

If H.R. 12112 were enacted, ERDA would have authority to guarantee certain loans. Under section 3 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1302) the authority to guarantee loans does not represent budget authority. Budget outlays (cash disbursements) would not be recorded until such time as ERDA disbursed funds pursuant to the guarantee. Thus ERDA's immediate transactions would not affect the budget totals.

Under existing law, FFB is authorized to purchase loans guaranteed by Federal agencies, including ERDA (12 U.S.C. 2285). Under usual budget concepts, the disbursement of funds by the Federal Government (and FFB is indisputably a Federal entity) to a private individual or firm is a Federal budget outlay. However, the transactions by FFB of this sort are excluded from the budget totals by law (12 U.S.C. 2290). Thus this transaction also escapes the discipline of the budget process. Taken together, however, these transactions—the ERDA guarantee plus the FFB purchase—amount to a direct loan.

There is little dispute that direct loans should logically be reflected in the budget totals. But the special budget treatment accorded loan guarantees, and the special budget treatment accorded FFB transactions, creates a situation in which it is possible, in effect, to make direct loans without ever going through the normal discipline of the budget process—a discipline which is applicable to most proposals to spend the taxpayer's money.

This anomaly is inconsistent with sound budgetary principles, as reflected in the Report of the President's Commission on Budget Concepts. We believe FFB should be barred from engaging in transactions of this sort so long as its activities are not fully reflected in the budget.

Sincerely yours,

R. F. Keller,
Acting Comptroller General of the United States.

ARMS CONTROL IMPACT STATEMENTS: A NEW APPROACH TO SLOWING THE ARMS RACE?

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, Wednesday I submitted for the Record the official summaries of 11 arms control impact statements submitted to Congress ostensibly pursuant to legislation enacted by Congress in 1975. I pointed out the woeful inadequacy of the statements, both as to timing and as to substance.

Today, I am submitting for inclusion in the Record an article by Betty Goetz Lall entitled "Arms Control Impact Statements: A New Approach to Slowing the Arms Race?" from the July/August 1976 issue of "Arms Control Today" published by the Arms Control Association. Ms. Lall is currently on the faculty of Cornell University's New York State School of Industrial and Labor Relations and was formerly the staff director of the Senate Subcommittee on Disarmament and Special Assistant to the Deputy Director of the U.S. Arms Control and Disarmament Agency. Ms. Lall discusses the potential values of the legislation and the weaknesses in its implementation. She also points out that even such little value as the handful of impact statements submitted to Congress in August might have had was diminished by the timing of their submission, since the defense authorization bill had already become law and congressional action on the defense appropriations bill was all but completed.

Those of us who believe that Congress must take a more active role in evaluating the arms control impact of various weapons systems are putting the Arms Control and Disarmament Agency and appropriate congressional committees on notice that next year we will object to any vote on funding for new weapons systems unless complete and meaningful arms control impact statements have been made available to the Congress sufficiently in advance to permit the Members of both Houses to have the benefit of such reports in evaluating the proposed weapons systems.

Ms. Lall's article follows:

Arms Control Impact Statements: A New Approach to Slowing the Arms Race?

(By Betty Goetz Lall)

To date, international negotiation has been the principal means used to try to slow the momentum of the arms race. While some positive results can be cited, *e.g.*, the partial test ban treaty, and the ABM Treaty, negotiation clearly has not produced substantial progress, and it might be enhanced if other methods could be pursued simultaneously.

Among the reasons why negotiation has yielded such limited progress is the manner in which decisions are made to develop and produce new weapons systems. The major nations have built specialized bureaucracies whose principal job is to maintain their defense establishment in a perpetual state of modernization. Consequently, as new weapons systems move from the initial research stage to later stages of development, testing, production, and deployment, they become more difficult to control or eliminate through international disarmament and arms control negotiations. The weapons acquisition process has accumulated an impressive array of vested interests. The enormous investment of funds in a new weapons system and the disruption which would result from its termination cause national political leaders to be reluctant to abandon it once development and procurement has commenced.

Another factor obstructing the efforts to slow the momentum of weapons development is that the people responsible for arms control and disarmament policy and negotiations often have not had up-to-date information about new weapons systems, and particularly about the early research and development activities which may have an important bearing on arms control policy and negotiations. Such research programs often become buried in a maze of defense authorization and appropriations data. For example, although the U.S. began the serious development of multiple warheads (MIRVs) in the early 1960s, their arms control implications were not really considered until about 1969.

ARMS CONTROL IMPACT STATEMENTS—A POTENTIAL SOLUTION

Late in the fall of 1975 the U.S. Congress passed legislation establishing a process for determining the impact of new weapons systems on the arms race. The purpose of this process is to reveal the arms control impact of a weapons system while it is still in an early stage of development.

The legislation specifies programs which may have significant implications for arms control policy and negotiations shall be subject to analysis and assessment. The agency responsible for such weapons programs must furnish the Director of the Arms Control and Disarmament Agency (ACDA) "on a continuing basis . . . full and timely access to detailed information"[1] about them. The Director of ACDA "as he deems appropriate, shall assess and analyze each program with respect to its impact on arms control and disarmament policy and negotiations, and shall advise and make recommendations, on the basis of such assessment and analysis, to the National Security Council, the Office of Management and Budget, and the Government agency proposing such program."

If the National Security Council decides that the programs have significant arms control implications, then the agency's request to the Congress for funds must be accompanied by "a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations."

The new legislation also provides that any one of eight different congressional committees may request the advice of the Director of ACDA "on the arms control and disarmament implications of any program with respect to which a statement" on the arms control and disarmament impact was submitted as part of the budgetary request. Two of these committees—the House Committee on International Relations and the Senate Committee on Foreign Relations—have established a procedure to evaluate the impact statements submitted to them. Experts of the Congressional Research Service (CRS) will advise the congressional committees about the adequacy of the impact statements. It is possible that the CRS will consider focusing on a few of the programs that appear to have the most significant arms control impact. CRS and/or the various congressional committees may eventually develop an independent arms control impact analysis capability.

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[1] The phrases in quotation marks are contained in the legislation as a new Section 36 of the Arms Control and Disarmament Act.

Implications of the legislation

It is important to note that agencies involved in research, development, testing, and production programs for weapons must furnish the Director of ACDA with information on a continuous basis. Thus, one of the difficulties in attempting to control weapons at early stages of development is potentially removed. All nuclear weapons programs are subject to this information requirement as well as weapons programs with expenditure levels exceeding $50 million annually or $250 million in total costs. Moreover, the information flow can begin for weapon programs or policies even below these levels of expenditures. The House Committee on International Relations pointed out the reason for this provision.

"Included in this intent are items of 'seminal' nature, such as major philosophical or doctrinal changes in defense posture or new weapons concepts in various stages of research and development." [2]

The key to the effectiveness of the legislation is the kind of analysis prepared by the Director of ACDA, since this will be the basis for any decision by the National Security Council to submit the impact statement with the agency's budgetary requests to Congress.

The legislation does not specify what, if anything, should be done if an ACDA assessment of a weapons program indicates that it would have a negative or countervailing effect on arms control policy or negotiations in process. It might be presumed that strong ACDA leadership would bring such a finding to the attention of the National Security Council, the Secretary of Defense, and possibly to the President. Much depends on the character of the ACDA leadership.

If a conflict arose would the weapons system be abandoned, postponed, developed at a slower rate, or, alternatively, would the arms control policy be altered? The answer to this question cannot yet be known because the legislation has not been implemented. The Executive branch has stated that the legislation was passed too late to have it applied to the budgetary process which began in January, 1976. It was anticipated, however, that impacts statements on some twenty to thirty weapons programs for consideration would be prepared this year. Finally in early August, Congress did receive 16 impact statements (see box, p. 2) concerning Defense Department and Energy Research and Development Administration programs—unhappily, too late to have any impact on congressional consideration of the current defense programs. It is reported that about 100 weapon programs will be assessed for 1977.

ACDA's choice of criteria in making its assessments is crucial to the efficacy of the arms control impact statements as a means of slowing down the arms race and as a contributor to more successful arms control and disarmament negotiations. While the legislation does not require ACDA to reveal its criteria they will undoubtedly become known because Congress is likely to require such information as part of its analysis of the materials submitted to it by the Executive branch. Such criteria might include, for example, answering such questions as: at what point in the development of a new weapons system should it become the subject for international negotiation? To what extent should the rate of research and development of a weapons program be slowed in order not to have it complicate already delicate and difficult negotiations? Will there be times when a new weapons program should be delayed altogether pending the outcome of negotiations? Should new weapons programs serve as bargaining chips in negotiations? Should research contracts for verification be let simultaneously with contracts for the weapons themselves so as to assure that means of verification will be available? What are reasonable time periods that should be set to give negotiations time to succeed pending decisions to proceed with a weapons program from one stage of development to another?

Both positive and negative effects

It is possible that the impact statements will also affect the formulation of arms control and disarmament policy. This effect could be both positive and negative. It could be positive because the ACDA personnel responsible for formulating policy would have much more information to work with. Similarly, the Congress would also have more data with which to judge the adequacy of the present policies. Policy might become more comprehensive and long range as compared to the present ad hoc and limited approach. Theoretically every weapons system is a candidate for control, reduction, or elimination. However, if the weapons program can be identified by ACDA at an earlier stage the result could be both a savings of money and a reduction in tension among nations—provided such identification leads to a postponement of the development of that program and its eventual control through international negotiation. In terms of the current arms race, in the overwhelming majority of cases the introduction of new weapons, as well as the deployment of existing weapons in new locations, has been a source of tension and not the reverse. ICBMs, the intercontinental bomber, MIRVs, and ABMs are examples. A significant exception is the long-range ballistic missile on submarines. However, the above positive implications are not likely to reach their full potential and effectiveness unless similar approaches are adopted by the other major arms producing countries.

On the negative side increased pressure could be put on ACDA, the National Security Council, the President, and Congress by weapons-producing agencies either to assess the impact of a weapons system as being of no consequence to the success of arms control policy or negotiations, or if the impact was considered harmful to arms control efforts the policy itself should be changed. For example, in the 1950's and early 1960's military leaders resisted successfully all efforts to include ICBMs as active and serious subjects for reduction and control in international negotiations.

On balance, the concept of arms control impact statements is a promising new development in achieving arms control and disarmament. The effectiveness of this approach would be enhanced if it were adopted in other countries. In other nations the Academy of Sciences would often be the appropriate institution to be given the responsibility for preparing the impact statements. Since the U.S. legislation is at such an early stage of implementation, it necessitates the scrutiny of arms control observers in order to make certain its intent is being realized.

PERSPECTIVES

The arms control impact statement process

The arms control impact statements which were recently forwarded to Congress by the Executive branch are the product of over two years of congressional debate, study and negotiation. The concept of assessing weapons programs for their significance for U.S. arms control and disarmament policy was originally proposed by Rep. Michael Harrington (D-Mass.) in an amendment to the Arms Control and Disarmament Agency (ACDA) authorization bill in 1974. Although the amendment was adopted by the Foreign Affairs Committee, it was later rejected during the House floor debate. One of the main arguments against the amendment was the claim by its critics that the legislaton would place an unmanageable burden on the Arms Control and Disarmament Agency. In addition, ACDA Director Fred Ikle did not support the amendment.

During the year following this initial setback, the Committee's Subcommittee on National Security Policy and Scientific Affairs,[3] chaired by Rep. Clement J. Zablocki (D-Wis.), began an intensive inquiry into possible means for strengthening the policy-making role of ACDA as well as improving the consideration of arms control factors in U.S. defense policy. The inquiry was the result of congressional concern that following the 1972 SALT I agreement, ACDA had gone into an "eclipse" in terms of its effectiveness within the Executive branch. After more than a year of hearings and studies, the Committee reported out a series of recommendations aimed at upgrading ACDA's policy-making position. (For a discussion of these recommendations see the July/August and December 1975 issues of *ACT*.)

One of the Committee's most important and controversial recommendations was the creation of an arms control impact statement process. According to Rep. Zablocki, the assumption underpinning this legislation is that "arms control and disarmament are seen properly as inherent and vital parts of our broad national security policy—not as adversary, negative activities." Furthermore, the primary purpose of the impact statement is to insure that "vital and necessary" information on new defense programs is made available to both Congress and ACDA.

The arms control and impact statement process involves three general phases. The first phase requires that the ACDA director be supplied with "full and timely access to detailed information" by any government agency which submits a funding request to Congress involving 1) nuclear weapons, or 2) military programs with an annual program cost exceeding $50 million or total program cost exceeding $250 million, or 3) any other programs which the ACDA director believes may have significant arms control implications.

In the second phase, the Director of ACDA decides which of the programs should be assessed for their impact upon arms control and disarmament policy and negotiations. The assessments are prepared by the responsible agencies. The advice and recommendations of the ACDA director concerning the assessments by the agencies is then sent to the National Security Council, the Office of Management and Budget and the government agency which is proposing the program.

In the third phase, the arms control impact statements are transmitted to Congress along with the government agency's program requests for funding. It should be noted that impact statements in the third category—on those non-nuclear weapons programs below the cost ceilings which the ACDA director nevertheless believes may have significant arms control implications—are submitted to Congress *only if* the National Security Council concurs in that belief. A further provision allows appropriate congressional committees to request the advice of the ACDA director upon any program for which an impact statement was submitted to Congress. These committees include the House and Senate Armed Services Committees, House and Senate Appropriations Committees, House International Relations Committee, Senate Foreign Relations Committee, Joint Committee on Atomic Energy, and the House Government Operations Committee.

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[2] House of Representatives, 94th Congress, 1st Session, "Arms Control and Disarmament Act Amendment of 1975," June 11, 1975, p. 11.

[3] In 1975 the names of the subcommittee and committee were changed to the Subcommittee on International Security and Scientific Affairs of the Committee on International Relations.

The Foreign Affairs Committee went into great detail in its recommendations in order to insure that the provision would not be rejected (as it had been in 1974) by seeking the endorsement of the Executive branch. Consequently, the critical role of the National Security Council in determining whether certain impact statements would be forwarded to Congress is a reflection of some of the political compromises the Committee felt were necessary if the legislation were to pass into law. In spite of such efforts, the provision never did receive the endorsement of the Defense Department and it was publicly reported that Deputy Defense Secretary William Clements hoped that the Congress would not pass the provision. Furthermore, it was reported that most of the Executive branch agencies recommended to the President that the measure should be vetoed. Nonetheless, President Ford signed it into law on November 29, 1975.

While the legislation provides the general framework for the arms control impact statement process, many important questions remain to be settled. As George Berdes, the Subcommittee's staff consultant, recently pointed out, "the initial go-through will probably be uneven and inadequate. Adjustments in form, scope, and treatment will undoubtedly be called for. It will take time to get the new procedure into smooth operation." For example, the small number of impact statements which finally reached Congress late in the year is likely to prompt Congress to make certain that the submission of the 1977 impact statements meets the deadlines of the congressional budgetary schedule.

While the list of impact statements includes many weapons programs of great arms control significance, it also lacks some very important programs. One of the most important of these omissions is the Army's new binary nerve gas program (see the May 1975 *ACT*) which is still in the research stage and has significant implications for the ongoing chemical weapons limitation negotiations in Geneva. Other important programs not on the list include the high-yield Advanced Ballistic Reentry Vehicle (ABRV), high energy laser programs, the advanced technology program for ballistic missile defense, the missile attack assessment warning system, the advanced strategic air-launched missile, and the civil defense crisis relocation program. Finally, there is no reason why certain programs should not be assessed for their positive arms control contributions such as the Defense Department's seismic detection or reconnaissance satellite programs.

Of even more importance will be the congressional reaction to the perspective taken in the arms control impact statements. An important debate took place within the Executive branch over whether the impact statements should take a broad or narrow arms control perspective concerning the weapons programs to be assessed. A broad perspective would raise questions concerning the program's implications for the strategic balance and crisis stability, while a narrow perspective confines its examination of the programs to their effects upon specific arms control policies or negotiations. The Executive branch reportly decided to use only the narrow perspective for assessing the weapons programs. A narrow interpretation of arms control assessment is likely to avoid important arms control questions and therefore reduce the utility of the arms control impact statement process for Congress. Some of these important questions include the future of the increasingly vulnerable land-based missile force, whether the sea-based missile force should acquire a hard-target counterforce capability, and the possibility that the U.S. is considering the adoption of some type of "launch-on-warning" missile strategy.

A final question concerns the public availability of the impact statements. It is difficult to conceive of how the arms control implications of a particular weapons program can be kept secret for long or why it should be. It would seem possible that at least some form of unclassified digests could be made available to the public. Furthermore, there are a number of issues on which the present ACDA Director and many others in the arms control community disagree such as the desirability of a counterforce nuclear strategy or the new "mininuke" generation of tactical nuclear weapons. The availability to the public of the impact statements would give Congress the option to hear the viewpoints of other experts in the field on such issues.

(Sources: George Berdes, "Congress' New Leverage," The Center Magazine, July/August 1976, 76–80; Senator Hubert Humphrey, "Arms Control and Disarmament Impact Statement," Congressional Record, August 9, 1976, pp. 26329–26331;; Edgar Ulsamer, "The Key Strategic Requirement: Flexibility," Air Force Magazine, October 1975, p. 25; "Amending the Arms Control and Disarmament Act," Congressional Record, April 24, 1974, pp. 11668–11678; and "Arms Control and Disarmament Act Amendments of 1975." Congressional Record, July 9, 1975, pp. 21848–21856. Also see the selections in this month's Selected Bibliography.)

Arms Control Impact Statement: Too Few and Too Late

According to various accounts published earlier this year, the Executive branch was preparing about 25 arms control impact statements to be submitted to Congress by as early as April 1, 1976. But it was not until the second week in August that Congress finally received a total of 16 arms control impact statements—11 on Department of Defense programs and 5 on Energy Research and Development Administration (ERDA) programs. What little value the handful of impact statements might have had for Congress was further diminished by the timing of their submission: the defense authorization bill, on which Congress always focuses most of its scrutiny, had already become law, and the congressional action on the appropriation bill was all but completed. This fact provoked the sharp criticism of Senator Hubert Humphrey (D-Minn.). Senator Humphrey recently stated on the Senate floor:

"I am well aware that because the law was enacted at a moment in time when the President was well advanced in the process of developing his military budget proposals, that the procedures and requirements of Public Law 94–141 [Arms Control and Disarmament Impact Statement] could not be fully met. But the executive branch, and specifically the National Security Council has taken advantage of the willingness of the Congress to grant it extra time so that it may establish the procedures for full compliance with the law . . .

". . . We have been deprived of these [impact statements] through bureaucratic delay which is so extreme as to lead to the conclusion that the executive branch has delayed obeying the law until we conclude the appropriations process.

"Such behavior works to the detriment of any trust and confidence between the two branches of Government.

Such behavior is a violation of the law."

The arms control impact statements sent to Congress are classified at this time, but the names of the programs which were assessed are listed below:

DEPARTMENT OF DEFENSE PROGRAMS

1. B–1 strategic bomber.
2. Trident I nuclear submarine missile.
3. Advanced (MX) ICBM program.
4. Air-launched cruise missile.
5. Sea-launched cruise missile.
6. Maneuvering reentry vehicle.
7. Mark 12A warhead for the Minuteman III ICBM.
8. Improved accuracy program for SLBMs.
9. Pershing II warhead.
10. CAPTOR (a deep-sea antisubmarine mine).
11. XM–753 8-inch nuclear artillery shell.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION PROGRAMS

12. W–76/Mark 4 Trident missile warhead.
13. B–77 high-yield strategic bomb.
14. W–78/Mark 12A warhead.
15. W–79 8-inch nuclear artillery shell.
16. Cruise missile/advanced SRAM warhead.

Selected Bibliography: Arms Control Considerations in U.S. Policymaking

(*The articles listed below examine the effectiveness of the policy-making role of the U.S. Arms Control and Disarmament Agency in recent years.*)

Luther Carter, "Arms Control Agency: Fred Ikle, New Captain of a Disabled Ship," *Science*, May 11, 1973, 570–572.

Duncan Clarke, "Arms Control and Disarmament Agency: Effective?" *Foreign Service Journal*, December 1975, 12–14, 28–30.

Bernard Gwertzman, "New Chief Intent Bolstering Arms-Control Agency," *New York Times*, July 11, 1973.

Barry R. Schneider, *Arms Restraint: Too Weak A Voice*, The Defense Monitor (Wash., D.C., Center for Defense Information, August 1974), 12 pp.

Stanley Foundation, *Strategy for Peace Conference Report* (Muscatine, Iowa: The Stanley Foundation, October 1975), 61 pp. (Especially see the section entitled, "ACDA: A Re-Appraisal," pp. 10–18.)

U.S. Congress, House Armed Services Committee, Hearings and Report: *Review of Arms Control and Disarmament Activities*, 93rd Cong., 2nd sess. (Wash., D.C.: Govt. Print. Off., 1974), 71 pp. and 13 pp. (One of the principal focuses of this committee's inquiry was determining whether the Department of Defense has been given an adequate opportunity to influence decisions on U.S. arms control and disarmament policy.)

U.S. Congress, House International Relations Committee, Subcommittee on International Security and Scientific Affairs, Hearings: *Arms Control and Disarmament Act Amendments*, 94th Cong., 1st sess. (Wash., D.C.: Govt. Print. Off., April 1975), 88 pp. (This subcommittee undertook extensive hearings and studies into the "arms control impact statement" concept and the effectiveness of ACDA in the formulation of U.S. arms control policies. The longer, 1974 hearing is entitled, "Arms Control and Disarmament Agency," 241 pp. Also important is the May 14, 1975 unpublished testimony of Administration officials.)

(*The following works specifically concern the creation of an arms control impact assessment process.*)

"Arms Control and Disarmament Impact Statement," section 146, title III, Public Law 94–141, November 29, 1975, reprinted in the *Congressional Record*, August 9, 1976, pp. 26329–26331. (Sen. Humphrey inserted for the record the law and legislative history for the arms control impact statements.)

George Berdes, "Congress' New Leverage." *The Center Magazine*, July/August 1976, 76–80. (The author is staff consultant to the congressional committee which proposed the impact statement process. He describes the process in great detail and the history behind it.)

Philip M. Boffey, "Arms Control Agency: New Law Seeks to End Its Period of 'Eclipse'," *Science*, December 26, 1975, 1275–1278.

John W. Finney, "Pentagon Plans Impact Reports on Arms," *New York Times*, February 3, 1976.

Rep. Michael J. Harrington, "Building Arms Control into the National Security Process," *Arms Control Today*, V. 2 (February 1975), 4–5. (Rep. Harrington was the original proponent of the concept of the arms control impact statement.)

"House Approves $10-Million for Arms Control Agency," *Congressional Quarterly Weekly Report*, April 27, 1974, 1049–1050. (This article discusses the defeat of the initial congressional attempt to establish an arms control assessment procedure.)

Betty Goetz Lall, "Slowing the Momentum of the Arms Race—A New Approach," Paper delivered to the 26th Annual Pugwash Conference, August 1975, 11 pp. (A longer, more detailed version of the author's editorial which also examines the concept of establishing an arms control impact statement process in other countries.)

REMARKS OF ATTORNEY GENERAL OF VIRGINIA ON PRESENTATION OF CRAFT SHOP FOR THE PATRICK HENRY BOYS PLANTATION

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, in this particular period, satisfactions are sometimes hard to come by. We often complete a day with the thought, "What have we done that will matter?"

Sometimes we must wait years for an answer and then the answer is inconclusive.

There is a group in my State which has recently done something that matters, not just for now but for many years to come.

The Department of Virginia, American Legion, as its Bicentennial project, has provided a craft shop for the Patrick Henry Boys Plantation. This shop will provide skills and pleasure for the institution's present inhabitants and for those who will follow.

Hon. Andrew P. Miller, attorney general of Virginia, spoke at the presentation and I found his words both instructive and inspiring.

I include Mr. Miller's statement in the RECORD at this time and commend it to my colleagues who, I am sure, share my concern for the youth who will become our Nation's leaders:

Throughout the Commonwealth this year, there will be a kaleidoscope of Bicentennial activities. This presentation this afternoon is only one among them. Yet, I am particularly happy to have a part in this program.

It is obvious that the American Legion's Department of Virginia could have chosen many other Bicentennial projects for 1976. I am sure the Legion would have been applauded had it chosen a project obviously in keeping with its patriotic aims and its brilliant record of support for a strong military posture for our country. Instead, the Legion chose to present a craft shop to a home for boys. It is the unexpected that always escapes our attention until it happens. For that reason, this Bicentennial project stands in my estimation as one of the most memorable the Commonwealth has seen thus far.

Of course, we ourselves might miss the significance of what Virginian Legionnaires have done if we regarded this gift only as a craft shop on the grounds of a charitable institution whose purpose is to provide a home for boys who have none: to guarantee the kind of upbringing they might never have were it not for the generosity of those who support this institution.

No, the event we witness is much more than that. For this institution has risen on ground that is a vital part of our national heritage. The future generations who will benefit from the generosity of Virginia Legionnaires are growing up in the shadow of Red Hill, where Patrick Henry lived and died.

It is a truly marvelous opportunity for when these boys leave the Patrick Henry Boys Plantation, they will take with them something that no other youngster can claim—an intimate feeling for our American heritage, developed through close association with this giant of American history through his home and the plantation.

Henry would have found these boys and this institution to his liking. After all, he had 17 children of his own. That's more than half the present enrollment here today. It is the concept, however, that he would have liked best—a private effort, mounted without profit in mind, except for that profit which may be measured solely by the worth of these youngsters when they leave.

The man whose thundering voice at St. John's Church in 1775 was the first clear call to arms against the Crown would have been pleased to know how many Virginians have contributed in past years to making the Patrick Henry Boys Plantation a success. I have no doubt that he would have opened his own heart and his own wallet to ensure its future, even as so many contemporary Virginians are doing today.

Now, in the Boys Plantation's 15th year, the American Legion's Virginia members have demonstrated their interest in our youth by this generous gift. I think it is well to point out that the Department of Virginia's interest in the Patrick Henry Boys Plantation is not something new. There may be many people who do not know that the American Legion Auxiliary in Virginia was instrumental in helping this unique school and home get going. What has been so gratifying to the Legion, and to the Plantation, however, is the tremendous support given to this craft shop as a Bicentennial project.

Dan Daniel, who serves on the Board, has reason to be immensely proud of his fellow Legionnaires. I know that your former national commander and present Congressman from the 5th District is grateful for the support given to this project. I am confident he is also very pleased that he happens to be the member of Congress in whose district the Patrick Henry Boys Plantation exists.

I am sure that former Governor William M. Tuck shares your satisfaction this afternoon at the realization of this project's goal. It was while Bill Tuck represented this district in the House of Representatives that the Patrick Henry Boys Plantation was born. I know Bill Tuck has observed its progress with great satisfaction.

I think, too, this afternoon, of another Virginian who gave this institution inspired leadership as its first Board president. Dr. J. D. Hagood is no longer with us, but as long as the Patrick Henry Boys Plantation exists, he will be remembered for his selfless contributions to its success. Dr. Hagood would no doubt protest against being singled out for especial praise in connection with his role in the early days of the Boys Plantation. Yet, those of you who knew him and knew of his great interest in this place and its young students are fully aware of what his leadership meant.

I cannot overemphasize today the importance of this institution. It is needed as never before. We are in a period of our history when young people are growing up without sufficient exposure to the values which every American must adhere to if he is to be a useful and productive citizen. Here, in such an atmosphere as this, we need have no fear that those values are not being instilled in the boys who live and study here.

True, we are not talking about a large number of boys. But bear in mind that what they become in their formative years dictates what they will be as adults. I am concerned that this is a lesson which is being overlooked in too many American homes today. The steady rise in delinquency and violent crimes committed by juveniles is an indication that many family structures fail in developing young men and women whose strength of character, integrity and religious faith must guarantee this country's future.

That is why the Patrick Henry Boys Plantation becomes so important. Here, youngsters who began life with limited prospects have the opportunity to become talented citizens. It is a paradox that this is an opportunity that is afforded to very few, at least in such a setting and such an atmosphere as this .

And that, I believe, is the point that should be made today. These youngsters—whose number will increase in August when the new cottage is ready—are especially favored because fortune has directed them here. In this historic setting, they will be exposed to the values and the influences that many of their contemporaries are now missing.

This imposes a particular responsibility on the boys who will leave the Patrick Henry Boys Plantation as young men next year and in the years to come. They will depart from the Plantation with individual gifts, and it is up to each to use them much as the servants to whom the rich man distributed the talents, every one according to his ability. (Matthews 25:14–30). No youngster leaves here without a deep sense of gratitude to those who made it possible for him to come and those whose generosity assures that there will always be a Patrick Henry Boys Plantation. In the past 15 years, the board and faculty of the Plantation have seen manifestations of this sense of gratitude through the accomplishments of the young men whose upbringing was enhanced by their stay here. In the future, it will continue to be demonstrated by those who are here today and who will be here in the years to come.

The greatest response these boys can make, it seems to me, is to multiply the talents they receive at the Patrick Henry Boys Plantation in terms of citizenship. They have been given training here in the necessity for leadership combined with adherence to religious faith, patriotism and moral integrity. These qualities are essential to make any young American a contributing citizen. Moreover, in the years ahead, when they themselves begin to rise their own families, the precious talents earned in this place will serve to develop similar qualities in the next generation.

I am not one who despairs about this country or its people. We have come through a great deal in recent years. We have suffered some disappointments and there are many uncertainties ahead. Yet, in this Bicentennial year, I have no sense of dread about the future. Rather, I am confident that moral leadership will be restored and that it will be restored because of our own realization that nothing less will suffice.

Here is a beginning. This haven for boys is not the only one of its kind in the nation. There are others, of course, and each has a similar mission: to demonstrate that the young people of this nation need only proper guidance to grow up into fine, young citizens. I trust, however, that the example so well set by the young men of Patrick Henry Boys Plantation will not be lost upon those with whom they inevitably come in contact. It is a lesson that all of us, as parents and citizens, must learn.

I am glad to have had this opportunity today to be with you and to participate in the presentation of the American Legion craft shop. The gesture of this veterans' organization is a demonstration of its own faith in, and hope for, American youth. I know the graduates of Patrick Henry Boys Plantation will realize the Legion's dream.

PUBLIC BROADCASTING SYSTEM COMMENDED FOR DECISION TO SIGN LANGUAGE FORD-CARTER DEBATES

(Mr. FREY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FREY. Mr. Speaker, I wish to commend and congratulate the Public Broadcasting System for its decision to simultaneously sign language the Ford-Carter debates next Thursday.

Last week, Congressman TOM HARKIN, Democrat of Iowa and I garnered 60 signatures from our House colleagues on a letter urging the three commercial networks and PBS to sign language or caption the debates.

Only PBS responded—and in the affirmative.

More importantly, PBS will caption the debates on Friday evening. The captioning will be similar to "subtitles" on foreign-language movies. Modern technology has brought us "closed captioning"—a system whereby written translations of verbal information are converted to electronic codes by the broadcaster and inserted in the regular TV signal in a way that is hidden in the picture. The captions remain unseen to the general public. To decode the captioning a special device incorporated into the viewers home TV receiver is needed.

The only reason PBS will have to resort to subtitles and not closed captioning is the Federal Communications Commission.

PBS has had a petition to caption their programing before the FCC for nearly a year. The process is opposed by the three commercial networks and equipment manufacturers who would need to develop and market the home decoders.

Why? You tell me.

I can only hope that by 1982 we will have another round of Presidential debates.

I and the 13 million-plus deaf and hearing-impaired citizens of this country can only hope that 4 years from now the FCC will have acted favorably on the PBS petition. And, that the three commercial networks will either sign language those debates—or, even, if we are lucky, have implemented the closed captioning system for their programing.

Again, I commend the PBS and can only wonder when the FCC and ABC, CBS, and NBC will move into the 20th century.

CONFERENCE REPORT ON H.R. 5546

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1612)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance Act of 1976".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the availability of high quality health care to all Americans is a national goal;

(2) the availability of high quality health care is, to a substantial extent, dependent upon—

(A) the availability of qualified health professions personnel; and

(B) the availability of adequate numbers of physicians engaged in the delivery of primary care, including family practice, general internal medicine, and general pediatrics, and in the various specialties, but numbers which do not exceed the need for physicians in such specialties;

(3) there are many areas in the United States which are unable to attract adequate numbers of health professions personnel to meet their health care needs; and

(4) physician specialization has resulted in inadequate numbers of physicians engaged in the delivery of primary care.

(b) The Congress further finds and declares that—

(1) health professions personnel are a national health resource and the Federal government shares the responsibility of assuring that such qualified personnel are available to meet the health care needs of the American people:

(2) it is therefore appropriate to provide support for the education and training of such personnel; and

(3) at the same time it is appropriate to provide such support in a manner which will assure the availability of health professions personnel to all of the American people.

(c) The Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States and that there is no further need for the admission of alien physicians and surgeons under the Immigration and Nationality Act.

TITLE I—EXTENSION OF CURRENT AUTHORITIES THROUGH FISCAL YEAR 1977

EXTENSION

SEC. 101. (a)(1) Section 312(a) (relating to traineeships for professional public health personnel) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $9,900,000 for the fiscal year ending September 30, 1977".

(2) Section 313(a) (relating to project grants for graduate training in public health) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $6,000,000 for the fiscal year ending September 1977".

(3) Section 313(c) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $6,400,000 for the fiscal year ending September 30, 1977".

(b) Section 329(h) (relating to the National Health Service Corps) is amended (1) by striking out "and" after "1975;", and (2) by striking out "1976" and inserting in lieu thereof "1976; and $34,000,000 for the fiscal year ending September 30, 1977".

(c) Section 720 (relating to grants for construction of teaching facilities) is amended (1) by striking out "and" after "1975;" and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $103,000,000 for the fiscal year ending September 30, 1977".

(d) Section 729 (relating to loan guarantees and interest subsidies) is amended—

(1) by striking "June 30, 1974" in subsections (a) and (b) and inserting in lieu thereof "September 30, 1977"; and

(2) by inserting after "1974" in subsection (e) the following: ", or in any of the next three fiscal years".

(e) Section 742 (relating to health professions student loans) is amended (1) by striking out "and" after "1975," the first time it occurs, and (2) by inserting after "1976" the following: ", and $39,100,000 for the fiscal year ending September 30, 1977".

(f) Section 747(d) (relating to loans for students in foreign medical schools) is amended by striking out "two" and inserting in lieu thereof "four".

(g) The section 767 entitled "GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN FAMILY MEDICINE" is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $39,000,000 for the fiscal year ending September 30, 1977".

(h) The section 768 entitled "GRANTS FOR SUPPORT OF POST-GRADUATE TRAINING PROGRAMS FOR PHYSICIANS AND DENTISTS" is amended—

(1) by striking out "for the fiscal year ending June 30, 1974" in subsection (a) and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976"; and

(2) by inserting "or in the next two fiscal years" after "1974," in subsection (b)(3)(B),

(i) Section 769(a) (relating to grants for training for health professions teaching personnel) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

(j) Section 769A (relating to grants for computer technology) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977".

(k)(1) Paragraph (1) of section 770(j) (relating to capitation grants) is amended (A) by striking out "and" after "1973", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $133,700,000 for the fiscal year ending September 30, 1977".

(2) Paragraph (2) of such section is amended (A) by striking out "and" after

"1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $29,300,000 for the fiscal year ending September 30, 1977".

(l) Section 771(a)(6) (relating to start-up assistance) is amended (1) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years, and not to exceed $5,100,000 for the fiscal year ending September 30, 1977", (2) by striking out "July 1, 1974." in subsection (b)(2) and inserting in lieu thereof "October 1, 1977", and (3) by striking out "June 30, 1975" in such subsection and inserting in lieu thereof "September 30, 1978".

(m) Section 772(d) (relating to special project grants and contracts) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $40,852,000 for the fiscal year ending September 30, 1977".

(n) Section 773(a) (relating to financial distress grants) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" the first time it appears and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $5,400,000 for the fiscal year ending September 30, 1977".

(o) Section 774(e) (relating to education initiative awards) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $41,170,000 for the fiscal year ending September 30, 1977".

(p) Section 780 (relating to scholarship grants) is amended (1) by striking out "the next fiscal year" in subsection (b) and inserting in lieu thereof "the next three fiscal years", (2) by striking out "1974" in such subsection and subsection (c)(1)(B) and inserting in lieu thereof "1976", (3) by striking out in subsections (b) and (c)(1)(B) "June 30, 1975" and inserting in lieu thereof "September 30, 1977" and (4) by striking out "two" in subsection (c)(1)(A) and inserting in lieu thereof "four".

(q) The section 785 entitled "SCHOLARSHIP GRANTS FOR STUDY ABROAD" is amended (1) by striking "two" in subsection (e)(1) and inserting in lieu thereof "four", (2) by striking out "June 30, 1975" in subsection (e)(2) and inserting in lieu thereof September 30, 1977", and (3) by striking out in such subsection "1974" and inserting in lieu thereof "1976".

(r) Section 786 (relating to physician shortage area scholarships) is amended (1) by striking out "June 30, 1975" in the second sentence and inserting in lieu thereof "September 30, 1977", and (2) by striking out "1974" in that sentence and inserting in lieu thereof "1976".

(s) (1) Section 792(b) (relating to special improvement grants) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $11,400,000 for the fiscal year ending September 30, 1977".

(2) Section 792(c)(1) (relating to special projects) is amended (A) by striking out "and" after "1973;", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $15,400,000 for the fiscal year ending September 30, 1977."

(3) Section 793(a) (relating to traineeships for advanced training) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $3,900,000 for the fiscal year ending September 30, 1977".

(4) Section 794a(b) (relating to assistance for recruitment) is amended (A) by striking out "and" after "1973;", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $109,000 for the fiscal year ending September 30, 1977".

(t) Section 225(i) (relating to Public Health and National Health Service Corps scholarships) is amended (1) by striking out "and" after "1974,", and (2) by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "each for the fiscal years ending June 30, 1975, and June 30, 1976, and $40,000,000 for the fiscal year ending September 30, 1977".

TITLE II—GENERAL PROVISIONS

NEW GENERAL PROVISIONS

SEC. 201. (a) Sections 701 through 711 are repealed.

(b) The following section is inserted in part A of title VII:

"LIMITATION ON USE OF APPROPRIATIONS

"SEC. 700. (a) Notwithstanding any other provision of law, with respect to any fiscal year beginning after September 30, 1977, no funds appropriated for such fiscal year may be made available for obligation or expenditure for the purpose of carrying out any provision of this title if the sum of the amounts appropriated for such fiscal year for scholarships under subpart IV of part C of title VII (relating to National Health Service Corps scholarships) and for the purpose of making grants under section 758 (relating to disadvantaged student scholarships) is less than the lesser of—

"(1) the sum of the amounts authorized to be appropriated for such fiscal year under such subpart and section, or

"(2) 50 percent of the sum of the amounts appropriated for such fiscal year under this title.

"(b) Subsection (a) shall not apply with respect to a fiscal year if less than 75 percent of the sum of the amounts authorized to be appropriated for such fiscal year under paragraphs (1), (2), and (3) of section 770 (e) (relating to capitation grants for medical, osteopathic, and dental schools) is appropriated for such fiscal year under such paragraphs.".

(c) Sections 724, 725, 799, and 799A are transferred to part A, inserted after section 700 (added by subsection (b)), and redesignated as sections 701, 702, 703, and 704, respectively.

(d)(1) The heading for part A of title VII is amended to read as follows:

"PART A—GENERAL PROVISIONS

(2) The heading for part H of title VII is repealed.

(e) Section 701 (as so redesignated) is amended—

(1) by striking out "As used in this part and parts C, E, and F—" and inserting in lieu thereof "For purposes of this title:";

(2) by inserting "or an equivalent degree" after "degree in public health" in paragraph (4); and

(3) by adding at the end the following new paragraphs:

"(7)(A) The term 'program for the training of physician assistants' means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide health care under the supervision of a physician and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

"(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

"(i) extend for at least one academic year and consist of—

"(I) supervised clinical practice, and

"(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver health care; and

"(ii) have an enrollment of not less than eight students.

"(8)(A) The term 'program for the training of expanded function dental auxiliaries' means an educational program which (i) has as its objective the education of individuals who will, upon completion of an accredited program of studies, be qualified to assist in the provision of dental care under the supervision of a dentist and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

"(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such a program—

"(i) extend for at least one academic year and consist of—

"(I) supervised clinical practice, and

"(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver dental care; and

"(ii) have an enrollment of not less than eight students.

"(9) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(10) The term 'Department' means the Department of Health, Education, and Welfare.

"(11) The term 'medical residency training program' means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty recognized by the Liaison Committee for Specialty Boards established jointly by the American Board of Medical Specialities and the Council on Medical Education of the American Medical Association and which provides the graduate education required by the specialty board (recognized by such Liaison Committee) for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.".

ADVISORY COUNCIL

SEC. 202. (a)(1) The second sentence of subsection (a) of section 702 (as so redesignated) is amended to read as follows: "Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this title, including at least six persons experienced in univerity administration and at least four representatives of schools of veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 791, (2) two shall be full-time students enrolled in health professionals schools, and (3) six shall be members of the general public.".

(2) Section 702 (as so redesignated) is amended by adding at the end thereof the following new subsection:

"(d) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.".

(3) The amendment made by paragraph

(1) with respect to compositions of the National Advisory Council on Health Professions Education shall apply with respect to appointments made to the Council after October 1, 1976, and the Secretary of Health Education, and Welfare shall make appointments to the Council after such date in a manner which will bring about, at the earliest feasible time, the Council composition prescribed by the amendment.

(b)(1) Section 702 (as so redesignated) is amended by striking out "E, and F" in subsection (a) and inserting in lieu thereof "E, F, and G".

(2) Section 702 (as so redesignated) is amended by striking out "parts A and G" in subsections (b) and (c) and inserting in lieu thereof "subpart II of Part G".

ADVANCE FUNDING AUTHORITY

SEC. 203. Section 703 (as so redesignated) is amended to read as follows:

"ADVANCE FUNDING

"SEC. 703. (a) An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available for any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

"(b) Subsection (a) shall not apply with respect to grants under section 770 (relating to capitation).".

RECORDS AND AUDITS, CONTRACTS

SEC. 204. Part A of title VII is amended by adding after section 704 (as so redesignated) the following new sections:

"RECORDS AND AUDITS

"SEC. 705. (a) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

"(b) Each entity which received a grant or entered into a contract under this title shall have an annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this Act were used, and any other funds received under this Act. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

"(c) The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a), shall be established and maintained.

"(d) A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required under subsection (a) or provide for an audit required under subsection (b).

"(e)(1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available ot the Secretary or the Comptroller General of the United States, or any of their duly auhorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have the authority to carry out the purposes of this subsection.

"CONTRACTS

"SEC. 706. Contracts authorized by this title may be entered into without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).".

DELEGATION OF AUTHORITY

SEC 205. Part A of title VII is amended by adding after section 706 (added by section 204) the following new section:

"DELEGATION

"SEC. 707. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority—

"(1) to review, and prepare comments on the merit of, any application for a grant or contract under any such program for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

"(2) to make such a grant or enter into such a contract,

shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.".

HEALTH PROFESSIONS DATA

SEC. 206. Part A of title VII is amended by adding after section 707 (added by section 205) the following new section:

"HEALTH PROFESSIONS DATA

"SEC. 708. (a) The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which shall initially include data respecting all physicians and dentists in the United States and its territories and possessions. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

"(b)(1) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

"(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location.

"(3) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurances, satisfactory to the Secretary, that—

"(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

"(C) such State or entity shall comply with the requirements of subsection (e).

"(c) For purposes of providing the Secretary with information under this section, each school which receives financial support under section 770 shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students who attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

"(d) The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 308(a)(2)(C).

"(e)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3)(A) Notwithstanding any other provisions of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contracts, or other arrangement with the Secretary under this section.

"(f) In carrying out his responsibilities under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code.

"(g) The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.".

SHARED SCHEDULE RESIDENCIES

SEC. 207. Part A of title VII is amended by adding after section 708 (added by section 206) the following new section:

"SHARED SCHEDULE RESIDENCY TRAINING POSITIONS

"SEC. 709. (a) Any entity which—

"(1) maintains a medical residency training program in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology, and

"(2) receives any Federal assistance, shall

establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such program as shared schedule positions.

"(b) The Secretary shall report to Congress not later than January 1, 1979, on entities' compliance with subsection (a) and shall include in such report recommendations for legislation to ensure compliance with such subsection.

"(c) For purposes of subsection (a), the term 'shared schedule position' means a physician training position in a medical residency training program which is shared by two individuals and in which each individual—

"(1) engages in at least two-thirds but not more than three-fourths of the total training prescribed for such position,

"(2) receives for each year in such position an amount of credit for certification in the medical specialty for which the position provides training which is equal to the amount of training engaged in in such year,

"(3) receives at least one-half of the salary for such position, and

"(4) receives all applicable employee benefits.".

PAYMENT UNDER GRANTS

SEC. 208. Part A of title VII is amended by adding after section 709 (added by section 207) the following new section:

"PAYMENT UNDER GRANTS

"SEC. 710. Grants made under this title (except under section 770) may be paid in advance or by way of reimbursement, at such intervals and on such conditions as the Secretary may find necessary and with appropriate adjustments on account of overpayments or underpayments previously made.".

PAYMENT FOR TUITION AND OTHER EDUCATION EXPENSES

SEC. 209. Part A of title VII is amended by adding after section 710 (added by section 208) the following new section:

"PAYMENT FOR TUITION AND OTHER EDUCATIONAL COSTS

"SEC. 711. The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this title after the date of enactment of the Health Professions Educational Assistance Act of 1976.".

TITLE III—ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

REGIONAL HEALTH PROFESSIONS PROGRAMS

SEC. 301. Section 721 is amended by adding after subsection (e) the following new subsection:

"(f)(1) An application for a grant under subsection (a) for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 722.

"(2) In considering application for grants under subsection (a) for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

"(3) For the purposes of this subsection, the term 'regional health professions program' refers to an interstate program (A) in which a State with an existing degree-granting school sets up a cooperative program with another State (or other States) which does not have such a school, and (B) which provides for (i) a shared curriculum between two or more schools, or (ii) a single campus which is cooperatively financed and controlled by two or more States.".

GRANT AUTHORITY; AUTHORIZATIONS

SEC. 302. Section 720 is amended to read as follows:

"GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 720. (a)(1) The Secretary may make grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

"(2)(A) The Secretary may make grants to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

"(B) For purposes of this section, the term 'ambulatory, primary care teaching facilities' means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.

"(b) For payments under grants under this part there is authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1978, $40,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980. Of the sums appropriated under this subsection for any fiscal year 50 percent of such sums shall be obligated for grants under subsection (a)(2).".

APPLICATIONS

SEC. 303. (a)(1) Section 721(b)(1) is amended by inserting "under section 720(a)(1)" after "for a grant".

(2) Section 721(b)(2) is amended by inserting "for a grant under section 720(a)(1)" after "an application" the first time it appears.

(3) Sections 721(b)(3) and 721(c) are each amended by striking out "grant under this part" and inserting in lieu thereof "grant under section 720(a)(1)".

(4) Section 721(d) is amended by inserting "under section 720(a)(1)" after "for grants".

(5) Section 721(e) is amended by inserting "for a grant under section 720(a)(1)" after "of applications".

(b) Section 721 is amended by adding after subsection (f) (added by section 301) the following new subsection:

"(g)(1) A grant under section 720(a)(2) may be made only if the application therefor is approved by the Secretary upon his determination that—

"(A) the applicant meets the eligibility conditions set forth in section 720(a)(2);

"(B) the application contains or is supported by reasonable assurances that (i) the facility is intended to be used for purposes for which the application has been made, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

"(C) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(D) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in subparagraph (D) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(2) In making grants under this section 720(a)(2) the Secretary shall give special consideration to entities which have been awarded grants or received contracts under section 781, 784, or 786 (relating to area health education centers, general internal medicine and general pediatrics, and family medicine and general practice of dentistry).".

(c) Subsection (e) of section 721 is amended by adding at the end the following new sentence: "In considering applications submitted for a grant under section 720(a)(1) for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities.".

GRANT AMOUNTS

SEC. 304. (a) Subsection (a) of section 722 is amended to read as follows:

"(a)(1) The amount of any grant under section 720(a)(1) for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice of the Council, except that (A) no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary of such project.

"(2) The amount of any grant under section 720(a)(2) for construction of a facility shall be such amount as the Secretary determines to be appropriate, except that no grant for any facility may exceed the lesser of—

"(A) 50 percent of the total cost of such facility, or

"(B) $1,000,000.".

(b)(1) Subsection (d) of section 722 is amended by striking out "under this part" and inserting in lieu thereof "under section 720(a)(1)".

(2) Subsection (d) of section 722 is amended by striking out "(within the meaning of part A of this title)".

RECAPTURE

SEC. 305. Section 723 is amended—

(1) by striking out "paid under this part" and inserting in lieu thereof "under a grant under section 720(a)(1)",

(2) by inserting "(a)" before "If",

(3) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively, and

(4) by adding at the end the following:

"(b) If, within 20 years after completion of any construction for which funds have been paid under a grant under section 720(a)(2)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit entity;

"(2) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

"(3) the facility is used for sectarian instruction or as a place for religious worship, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.".

LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 306. (a) Subsections (a) and (b) of section 729 are each amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1980".

(b) The second sentence of section 729 (e) is amended by striking out "and" after "June 30, 1973," and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$2,000,000 in the fiscal year ending September 30, 1978, $3,000,000 in the fiscal year ending September 30, 1979, and $3,000,000 in the fiscal year ending September 30, 1980.".

(c) The third sentence of section 729(a) is amended to read as follows: "No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project.".

(d) Subsections (a) and (b) of section 729 are each amended by inserting "or the Federal Financing Bank" after "non-Federal lender".

EFFECTIVE DATE

SEC. 307. (a) The amendments made by sections 302 through 305 shall apply with respect to grants made under part B of title VII of the Public Health Service Act from appropriations under section 720 of such Act for fiscal years beginning after September 30, 1977.

(b) The amendment made by section 306 (c) shall apply with respect to loans guaranteed under section 729(a) of the Public Health Service Act (redesignated section 726 (a) by section 308(d) of this Act) after September 30, 1977.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) Section 721(c) is amended—

(1) by striking out "section 770(f) of this Act" in paragraph (2) and inserting in lieu thereof "section 771";

(2) by striking out the sentence at the end of paragraph (2);

(3) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(4) by striking out "and" at the end of paragraph (5) (as so redesignated), by striking out the period at the end of paragraph (6) (as so designated) and inserting in lieu thereof "; and", and by inserting after paragraph (6) the following:

"(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in paragraph (7) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)."; and

(5) by striking out "725" in the last sentence and inserting in lieu thereof "702".

(b) Section 726 is repealed.

(c) Section 727(a) is amended by striking out "institutions" each time it appears and inserting in lieu thereof "entities".

(d) Sections 727, 728, and 729 are redesignated as sections 724, 725, and 726, respectively.

TITLE IV—STUDENT ASSISTANCE; NATIONAL HEALTH SERVICE CORPS

INSURED LOANS TO STUDENTS

SEC. 401. (a) Effective October 1, 1976, subpart II of part C of title VII is repealed.

(b) Effective October 1, 1977, part C of title VII is amended by—

(1) amending the heading for part C to read as follows:

"PART C—STUDENT ASSISTANCE";

(2) redesignating subpart I of such part as subpart II, and by amending the heading for such subpart to read as follows:

"Subpart II—Student Loans"; and

(3) inserting immediately below the heading to such part the following new subpart:

"Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 727. (a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in eligible institutions.

"(b) For the purpose of carrying out this subpart there are authorized to be appropriated (1) for the fiscal year ending September 30, 1978, to the student loan insurance fund (established by section 734) the sum of $1,500,000 and of such further sums, if any, as may become necessary for the adequacy of student loan insurance fund and for the purpose of administering this subpart; and (2) for fiscal years thereafter such sums as may be necessary for the purpose of administering this subpart. Sums appropriated under this subsection shall remain available until expended.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 728. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737), to students covered by Federal loan insurance under this subpart shall not exceed $500,000,000 for the fiscal year ending September 30, 1978; $510,000,000 for the fiscal year ending September 30, 1979; and $520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1982.

"(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 729. (a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $50,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $37,500 in the case of a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(b) The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 733 or 738.

"SOURCES OF FUNDS

"SEC. 730. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 731. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

"(1) made to student who—

"(A) has been accepted for enrollment at an eligible institution;

"(B) is in good standing at an eligible institution as determined by the institution;

"(C) is pursuing a full-time course of study at an eligible institution;

"(D) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(E) has agreed that all funds received

under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books and laboratory expenses, incurred by such student;

"(F) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

"(G) in the case of a pharmacy student, has satisfactorily completed three years of training; and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months after the date on which the student completes his internship or residency training, and not later than the earlier of 12 months after such date or of 3 years after the date he ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (v) not in excess of three years, during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973, and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above;

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded semiannually and payable in installments over the period of the loan;

"(E) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purpose of clause (2)(d) of subsection (a) may exceed 10 percent per annum on the unpaid principal balance of the loan.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart, shall not be less than the annual interest on the outstanding principal.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 732. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable to subsection (c).

"(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 728, issue to an eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student, a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein: but, subject to the limitations of section 728, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or become totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 733(a).

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 733. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at the time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined.

"(b) Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

"(c) Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 732(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 732(d);

"(2) the term 'amount of the loss' means, with respect to a loan, the unpaid balance of the principal amount and interest on such loan; and

"(3) the term 'default' includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less freqent installments.

"(f) The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

"(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title II of the United States Code, only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731 (a)(2)(B), when repayment of such loan is required.

"STUDENT LOAN INSURANCE FUND

"SEC. 734. (a) There is hereby established a student loan insurance fund (hereinafter in this section referred to as the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under hte Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such funds.

"POWERS AND RESPONSIBILITIES

"SEC. 735. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

"(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subpart of the application of sections 517 and 547 of title 28 of the United States code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in the subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

"(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

"(b) The Secretary shall, with respect to the financial operations arising by reason of this subpart—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this subpart an integral set of accounts.

"(c)(1) The Secretary may enter into a written agreement with a borrower under which the Secretary agrees to assume the obligation of paying an amount, not to exceed $10,000 in any 12-month period, toward the principal and interest due on any loan made to the borrower and insured under this subpart and the borrower agrees to serve, either as a member of the National Health Service Corps or in private practice pursuant to section 723 (as determined by the Secretary), in a health manpower shortage area (designated under section 332) which is described in subparagraphs (A) and (B) of section 753(a)(2) for a continuous period of (A) not less than 12 months for each 12-month period the Secretary assumes such obligation under the agreement, or (B) 24 months, whichever is greater.

"(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the agreement, the United States shall be entitled to recover damages from such individual in an amount equal to three times the amount paid by the Secretary under the agreement to or on behalf of such individual. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

"(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual.

"(4) The Secretary shall by regulation provide for the waiver or suspension of payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the agreement which was breached is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 736. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

"DEFINITIONS

"SEC. 737. As used in this subpart:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States that is receiving, or the Secretary determines is eligible to receive, a grant under section 770 of this Act.

"(2) The term 'school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health' means any school legally authorized within a State to train members of the professions indicated and accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

"(3) The term 'eligible lender' means an eligible institution, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

"(4) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"REPAYMENT BY THE SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 738. If a student borrower who has received a loan dies or become permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 734.

"ELIGIBILITY OF INSTITUTIONS

"SEC. 739. (a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this subpart;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart; and

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart".

"(b) The Secretary shall by regulation—

"(1) require an eligible institution to record and make available to a lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart; and

"(2) in the case of an eligible institution which is a school of medicine, osteopathy, or dentistry, require such institution to establish procedures to insure that no more than 50 percent of the students in each class in the institution are authorized to have loans insured under this subpart.".

STUDENT LOAN AGREEMENTS

SEC. 402. Section 740 is amended—

(1) by striking out "of Health, Education, and Welfare" in subsection (a);

(2) by striking out ", except as provided in section 746," in paragraphs (2) and (3) of subsection (b);

(3) by striking out ", and that while the agreement remains in effect" and all that follows through "National Defense Education Act of 1958; and" in subsection (b)(4) and inserting in lieu thereof a semicolon;

(4) by redesignating paragraph (5) of subsection (b) as paragraph (6), and inserting after paragraph (4) of such subsection the following new paragraph; and

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and".

LOAN PROVISIONS

SEC. 403. (a) Subsection (a) of section 741 is amended to read as follows:

"(a) Loans from a student loan fund (established under an agreement with a school under section 740) may not exceed for any student for each school year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at such school, and

"(2) $2,500.".

(b) Subsection (e) of section 741 is amended by striking out "3 per centum" and inserting in lieu thereof "7 percent".

(c) The amendments made by subsections (a) and (b) shall apply with respect to loans made after September 30, 1977, from student loan funds established under section 740 of the Public Health Service Act.

(d) Subsection (f)(1)(B) of section 741 is amended to read as follows:

"(B) who obtained one or more loans from a loan fund established under this subpart; and".

(e) In the case of any individual who, on or after November 18, 1971, and before the date of enactment of this Act, met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act) while a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741 (f) of such Act, be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice if such individual makes application to the Secretary, not later than January 1, 1977, for payment by the Secretary under section 741(f)(2) of such Act.

(f) A student in a school of medicine or osteopathy who will graduate from such school after June 30, 1979, shall be eligible to receive a loan under section 741 of the Public Health Service Act after October 1, 1977 only if such student is of exceptional financial need (as defined by regulations of the Secretary).

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Effective October 1, 1977, subsection (a) of section 742 is amended to read as follows:

"(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriate $26,000,000 for the fiscal year ending September 30, 1978, $27,000,000 for the fiscal year ending September 30, 1979, and $28,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and each of the two succeeding fiscal years, there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before October 1, 1981, to continue or complete their education.".

DISTRIBUTION OF ASSETS

SEC. 405. Section 743 is amended by striking out "June 30, 1977" and "September 30, 1977" each place they occur and inserting in lieu thereof "September 30, 1983" and "December 31, 1983", respectively.

LOANS TO SCHOOLS AND TECHNICAL AND CONFORMING AMENDMENTS

SEC. 406. (a)(1) Sections 744 and 746 are repealed.

(2) Section 745 is redesignated as section 744.

(b) The health professions education fund created within the Treasury by section 744 (d)(1) of the Public Health Service Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 744 of such Act. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

(c) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) of the Public Health Service Act before September 30, 1977.

(d) Section 742(b) is amended (1) by striking out ", and for loans pursuant to section 744" in paragraph (1), and (2) by striking out "whether as Federal capital contributions or as loans to schools under section 744" in paragraph (3).

(e) Section 743(b) is amended by striking out "(other than so much of such fund as relates to payments from the revolving fund established by section 744(d))".

REVISION OF NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 407. (a) Part C of title III is amended by inserting immediately below the heading for such part the following:

"Subpart I—General Provisions".

(b) Title III is amended—

(1) by striking out section 329;

(2) by redesignating sections 331 and 332 as sections 339 and 340, respectively; and

(3) by inserting immediately after section 330 the following new subpart:

"Subpart II—National Health Service Corps Program

"NATIONAL HEALTH SERVICE CORPS

"SEC. 331. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') which (1) shall consist of such officers of the Regular and Reserve Corps of the Service and such civilian personnel as the Secretary may designate (such officers and personnel hereinafter in this subpart referred to as 'Corps members') and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 332(a).

"(b) The Secretary shall conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps and the Scholarship Program.

"(c) The Secretary may reimburse applicants for positions in the Corps for actual and reasonable expenses incurred in traveling to and from their places of residence to the health manpower shortage area (designated under section 332) in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

"(d)(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage areas as follows:

"(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed $1,000) which when added to the member's monthly pay and allowance will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

"(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances is equal to or exceeds the monthly income he received for the last of such 36 months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

"(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 741(f)(1)(C), under which the Secretary is obligated to make payments in accordance with section 741(f)(2), the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term 'monthly pay' includes special pay received under chapter 5 of title 37 of the United States Code.

"(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

"(e) Corps members assigned under section 333 to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

"(f) Sections 214 and 216 shall not apply to commissioned officers in the Regular or Reserve Corps of the Service who are members of the National Health Service Corps and who have participated in the Scholarship Program.

"(g) The administrative unit which administers section 770—

"(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

"(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts, with respect to the Corps.

"(h) For the purposes of this subpart:

"(1) The term 'Department' means the Department of Health, Education, and Welfare.

"(2) The term 'Scholarship Program' means the National Health Service Corps Scholarship Program established under section 751.

"(3) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianna Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

"DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

"SEC. 332. (a)(1) For purposes of this subpart the term 'health manpower shortage area' means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage.

"(2) For purposes of this subsection, the term 'medical facility' means a facility for the delivery of health services and includes—

"(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, community health center;

"(B) such a facility of a State correctional institution or of the Indian Health Service;

"(C) such a facility used in connection with the delivery of health services under section 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of certain Federal employees), 325 (relating to examination of aliens), or 326 (relating to services to certain Federal employees), or part D of title III (relating to services for persons with Hansen's disease); and

"(D) a Federal medical facility.

"(b) The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

"(1) The ratio of available health manpower to number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

"(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

"(A) infant mortality,

"(B) access to health services, and

"(C) health status.

"(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

"(c) In determining whether to make a designation, the Secretary shall take into consideration the following:

"(1)(A) The recommendations of each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

"(B) The recommendations of the State health planning and development agency (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

"(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

"(d) In accordance with the criteria established under subsection (b) and the considerations listed in subsection (c), the Secretary shall designate, not later than November 1, 1977, health manpower shortage areas in the States, publish the names of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

"(e) Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

"(f) The Secretary shall give written notice of the designation of a health manpower shortage area, not later than 60 days from the date of such designation, to—

"(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located;

"(2)(A) each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

"(B) the State health planning and development agency of the State (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated; and

"(4) appropriate public or nonprofit entities which are located or which have a demonstrated interest in the area so designated.

"(g) Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.

"(h) The Secretary shall conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this title by virtue of the designation of such areas.

"ASSIGNMENT OF CORPS PERSONNEL

"SEC. 333. (a)(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period (specified in the agreement described in section 334) only if—

"(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

"(B) such application has been approved by the Secretary;

"(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 334; and

"(D) in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 334) which has expired, the Secretary has (i) conducted an evaluation of the continued need for health manpower for the area, the use of Corps members previously assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and fiscal management by the entity with respect to Corps members previously assigned and (ii) on the basis of such evaluation has determined that—

"(I) there is a continued need for health manpower for the area;

"(II) there has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

"(III) there is general community support for the assignment of Corps members to the entity;

"(IV) the area has made continued efforts to secure health manpower for the area; and

"(V) there has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

"(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

"(b) The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—

"(1) each health systems agency (designated under section 1515) for a health service area which includes all or part of the area in which the area, population group, medical facility, or other public facility so designated is located, and

"(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service area for which no health systems agency has been designated, the State health planning and development agency (designated under section 1521) of the State in which such part is located,

an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

"(c) In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

"(1) give priority to an application which provides for the assignment of Corps members to an area, population group, medical facility, or other pubic facility with the greatest health manpower shortage, as determined under criteria established under section 332(b);

"(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;

"(3) take into consideration the willingness of individuals in the area or population group, or at the medical facility or other public facility, and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services; and

"(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or, if no such societies exist, comments of medical, dental, or other health professions serving the area, population group, medical facility, or other public facility.

"(d) The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

"(e) In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

"(f)(1) The Secretary shall provide technical assistance to a public or nonprofit private entity which is located or has a demonstrated interest in a health manpower shortage area which entity desires to make an application under this section for assignment of a Corps member to such area.

"(2) The Secretary shall provide, to public and nonprofit private entities which are located or have a demonstrated interest in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

"(3) The Secretary shall provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

"(g) The Secretary shall conduct, or enter into contracts for the conduct of studies of the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include studies of—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

"(2) the characteristics, including utilization and reimbursement, patterns, of areas which have been able to retain health manpower personnel; and

"(3) the appropriate conditions for the assignment and use of nurse practitioners, physician's assistants, and expanded function dental auxiliaries in health manpower shortage areas.

"(h) Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

"COST SHARING

"SEC. 334. (a) The Secretary shall require, as a condition to the approval of an application under section 333, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

"(1) the entity shall be responsible for charging in accordance with subsection (d) for health services provided by Corps members assigned to the entity;

"(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

"(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

"(A) the portion of the salary (including amounts paid in accordance with section 331 (d) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

"(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such program; and

"(C) if such entity received a loan under section 335(c), an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

"(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

"(b)(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

"(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for any entity, which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3).

"(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) for the improvement of the capability of such entity to deliver health services to the individuals in the health manpower shortage area.

"(c) The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

"(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

"(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 338 to carry out this subpart.

"PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

"SEC. 335. (a) In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in such health manpower shortage area regardless of their ability to pay for the services, and (2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart.

"(b)(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent, or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

"(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

"(c) The Secretary may make one loan to any entity with an approved application under section 333 to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any loan shall be determined by the Secretary, except that no loan may exceed $50,000.

"(d) Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell to any appropriate local entity equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

"(e)(1)(A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges, when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

"(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease to receive and to be eligible to receive any Federal funds under this Act or under titles XVIII or XIX of the Social Security Act.

"(2) For purposes of this subsection, the term 'hospital' includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

"ANNUAL REPORTS

"SEC. 336. The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

"(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

"(2) the number of applications filed under section 333 in such year for assignment of Corps members and the action taken on each such application;

"(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

"(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

"(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

"(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for their not making such election;

"(7) the results of evaluations and determinations made under section 333(a)(1)(D) during such year; and

"(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 334, and the amount which was paid to the Secretary in such year under such agreements.

"NATIONAL ADVISORY COUNCIL

"SEC. 337. (a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the 'Council'). The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(1) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

"(2) Three members shall be appointed from medical, dental, and other health professions.

"(3) One member shall be appointed from a State health planning and development agency (designated under section 1521), one member shall be appointed from a Statewide Health Coordinating Council (designated under section 1524), and one member shall be appointed from a health systems agency (designated under section 1515).

"(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.

"(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 1503).

No individual who is a provider of health care (as defined in section 1531(3)) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.

"(b)(1) Member of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Council.

"(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government Service employed intermittently.

"(e) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

"AUTHORIZATION OF APPROPRIATION

"SEC. 338. (a) To carry out the purposes of this subpart, there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $57,000,000 for the fiscal year ending September 30, 1979; and $70,000,000 for the fiscal year ending September 30, 1980.

"(b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.".

(c)(1) The amendment made by subsections (a) and (b) shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) after the date of enactment of this Act.

(2)(A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such section (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)), and (ii) have had an application approved under section 333 of such Act (as so added) for the assignment of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) has expired.

(B) The assignment period (within the meaning of such section 334) applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977).

(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977), the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section 331(d) of such Act (as added by subsection (b) of this section) to such number.

(3) The amendment made by subsection (b) which changed the name of the Advisory Council established under section 329 of the Public Health Service Act (and placed the authority of the Advisory Council in section 337 of such Act (as added by such amendment)) shall not be construed as requiring the establishment of a new Advisory Council under such section 337; and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment.

(d)(1) Section 741(f)(1)(C) is amended by striking out all that follows after "in a State" and inserting in lieu thereof "in a health manpower shortage area designated under section 332;".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into under section 741(f) of the Public Health Service Act after September 30, 1977.

SCHOLARSHIP AND PUBLIC HEALTH TRAINEESHIPS

SEC. 408.(a) Effective October 1, 1977, part C of title VII is amended by adding at the end thereof the following new subpart:

"Subpart III—Traineeships for Students in Schools of Public Health and Other Graduate Programs

"TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH

"SEC. 748. (a) The Secretary may make grants to accredited schools of public health for traineeship to train students enrolled in such schools.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

"(A)(i) have previously received a postbaccalaureate degree, or

"(ii) have three years work experience in health services; and

"(B) are pursing a course of study in—

"(i) biostatistics or epidomiology,

"(ii) health administration, health planning, or health policy analysis and planning,

"(iii) environmental or occupational health, or

"(iv) dietetics or nutrition.

"(4) The percent referred to in paragraph (3) is—

"(A) 45 percent for grants made for the fiscal year ending September 30, 1978,

"(B) 55 percent for grants made for the fiscal year ending September 30, 1979, and

"(C) 65 percent for grants made for the fiscal year ending September 30, 1980, and in succeeding fiscal years.

"(c) For payments under grants under subsection (a), there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978; $8,000,000 for the fiscal year ending September 30, 1979; and $9,000,000 for the fiscal year ending September 30, 1980.

"TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS

"SEC. 749. (a) The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding schools of public health, which offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose, by the Commissioner of Education and which meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who (A) have previously received a postbaccalaureate degree, or (B) have three years work experience in health services.

"(c) For payments under grants under subsection (a), there are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1978; $2,500,000 for the fiscal year ending September 30, 1979, and $2,500,000 for the fiscal year ending September 30, 1980.".

(b)(1) Effective October 1, 1977, section 225 is repealed and part C of title VII (as amended by subsection (a)) is amended by adding after subpart III the following new subpart:

"SUBPART IV—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

"NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

"SEC. 751. (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the 'Scholarship Program') to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

"(b) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Scholarship Program; and

"(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

"(c) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

"(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 754 in the case of the individual's breach of the contract; and

"(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

"(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 758; and

"(2) second, to applications made (and contracts submitted)—

"(A) in the school year ending in the fiscal year beginning October 1, 1977, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

"(B) in each school year thereafter, by individuals who are entering their first year of study, in a course of study or program described in subsection (b)(1)(B) in such school year.

"(e)(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

"(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g)) in each such school year or years (not to exceed four school years), during which the individual is pursuing a course of study described in subsection (b)(1)(B), as shall be determined by the individual, and (ii) to accept (subject to the availability of appropriated funds for carrying out subpart II of part C of title III) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (2), the individual agrees—

"(i) to accept provision of such a scholarship to the individual;

"(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) until the individual completes the course of study;

"(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary, by the educational institution offering such course of study); and

"(iv) to serve for a time period (hereinafter in the subpart referred to as the 'period of obligated service') equal to—

"(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

"(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 332) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated to carry out the purposes of this subpart and subpart II of part C of title III;

"(3) a statement of the damages to which the United States is entitled, under section 754, for the individual's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

"(g)(1) A scholarship, provided to a student for a school year under a written contract under the Scholarship Program or under section 758 (relating to the disadvantaged student scholarship program), shall consist of—

"(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 711) of—

"(i) the tuition of the student in such school year; and

"(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

"(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5303 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

"(i) The Secretary shall report to Congress on December 1 of each year—

"(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

"(2) the educational institutions at which such students are receiving their training;

"(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

"(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(j) The administrative unit which administers section 770 shall—

"(1) participate in the development of regulations, funding priorities, and application forms, and

"(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

with respect to the Scholarship Program.

"OBLIGATED SERVICE

"SEC. 752. (a) Except as provided in section 753, each individual who has entered into a written contract with the Secretary under section 751, shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

"(b)(1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later that 60 days before the date such individual is required to begin the period of such obligated service, of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in either the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

"(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date the individual is required to begin the period of such obligated service, of the individual's desire to provide such service as such an officer.

"(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall promptly appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (3) does not so qualify, the Secretary shall promtply appoint such individual in accordance with paragraph (4).

"(4) Except as provided in paragraph (3) and in section 753, the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

"(5)(A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraph (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years) required for the individual to complete an internship, residency, or other advanced clinical training. No such period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(B) With respect to an individual receiving a degree other than from a school of medicine, osteopathy, or dentistry, the date referred to in paragraph (4) shall be the date upon which the individual completes his academic training leading to such degree.

"(c) An individual shall be considered to have begun serving a period of obligated service—

"(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the service or as a member of the Corps, or

"(2) in the case of an individual who has entered into an agreement with the Secretary under section 753, on the date specified in such agreement,

whichever is earlier.

"(d) The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with subpart II of part C of title III. If the Secretary determines that there is no need in a health manpower shortage area (designated under section 332) for a member of the profession under which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

"(e) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 472.

"PRIVATE PRACTICE

"SEC. 753. (a) The Secretary shall release an individual from all or part of his service obligation under section 752(a) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

"(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or

"(2) in the case of any other individual, in a health manpower shortage area (designated under section 332) which (A) has a priority for the assignment of Corps members under section 333(c), and (B) has a sufficient financial base to sustain such private practice and to provide the individual with income of not less than the income of members of the Corps.

In the case of an individual described in paragraph (1), the Secretary shall release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving meets the requirement of subparagraph (B) of paragraph (2).

"(b) The written agreement described in subsection (a) shall—

"(1) provide that during the period of private practice by an individual pursuant to the agreement—

"(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

"(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

"(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

"BREACH OF SCHOLARSHIP CONTRACT

"SEC. 754. (a) An individual who has entered into a written contract with the Secretary under section 751 and who fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part of a scholarship under such contract, shall in addition to any service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) An individual who has entered into a written contract with the Secretary under section 751 and who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(2) is dismissed from such educational institution for disciplinary reasons; or

"(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training, in lieu of any service obligation arising under such contract shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(c) If an individual breaches his written contract by failing (for any reason) either to begin such individual's service obligation in accordance with section 752 or 753 or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover, 'ϕ' is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the individual's period of obligated service and 's' is the number of months of such period served by him in accordance with section 752 or a written agreement under section 753. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"(d)(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

"(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) Any obligation of an individual under the scholarship (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B), when payment of such damages is required.

"SPECIAL GRANTS FOR FORMER CORPS MEMBERS TO ENTER PRIVATE PRACTICE

"SEC. 755. (a) The Secretary may make one grant to an individual (other than an individual who has entered into an agreement under section 753)—

"(1) who has completed his period of obligated service in the Corps, and

"(2) who has agreed in writing—

"(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332 and described in paragraphs (1) and (2) of section 753(a)) for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

"(B) to conduct such practice in accordance with the provisions of section 753(b)(1); and

"(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any building.

"(b) The amount of the grant under subsection (a) to an individual shall be—

"(1) $12,500, if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

"(2) $25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

"(c) The Secretary may not make a grant under this section unless an application therefor has been submitted to, and approved by, the Secretary.

"(d) If the Secretary determines that an individual has breached a written agreement entered into under subsection (a), he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 120 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under section 753(c), except that in applying the formula contained in such section, 'ϕ' shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, 't' shall be the number of months that such individual agreed to practice his profession under such agreement, and 's' shall be the number of months that such individual practices his profession in accordance with such agreement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 756. (a) There are authorized to be appropriated for scholarships under this subpart $75,000,000 for the fiscal year ending September 30, 1978, $140,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each subsequent fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

"(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) of this subsection shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) prescribing the financial obligation of a participant in the National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program for any school year ending before September 30, 1977, irrespective of whether such individual received such a scholarship after that date, unless such individual agrees to meet his active duty service obligation (or the remaining part thereof) through the private practice of his profession under an agreement entered into under section 753 of the Public Health

Service Act (as added by this subsection), in which case are the provisions of section 754 of such Act (as added by this subsection) shall apply to such individual if he violates such agreement.

(C) Periods of internship or residency served before September 30, 1976, in a facility of the National Health Service Corps or other facility of the Public Health Service in accordance with an agreement entered into under section 225(b) of the Public Health Service Act (as in effect before that date) shall be creditable in satisfying a service obligation incurred under the Public Health and National Health Service Corps Scholarship Program as revised by this subsection.

(c) Effective October 1, 1977, part C of title VII (as amended by subsections (a) and (b)) is amended by adding after subpart IV the following new subpart:

"Subpart V—Other Scholarships

"SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

"SEC. 758. (a) The Secretary shall make grants to a public or nonprofit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 1721(b)(1)(B), for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need, and who are in their first year of study at such school in the school year ending in the fiscal year in which such grant is made.

"(b)(1) Scholarships may be awarded by a school from grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students in their first year of study at such school.

"(2) A scholarship awarded to a student for a school year under a grant made under subsection (a) shall be the scholarship described in section 751(g).

"(3) For purposes of this section, the term 'first year of study' means, with respect to a student of a school other than a school of pharmacy, the student's first year of postbaccalaureate study at such school.

"(c) The Secretary shall distribute grants under this section among all schools of the health professions, but shall give priority in distributing such grants to schools of medicine, osteopathy, and dentistry.

"(d) For the purpose of making grants under this section, there is authorized to be appropriated $16,000,000 for the fiscal year ending September 30, 1978, $17,000,000 for the fiscal year ending September 30, 1979, and $18,000,000 for the fiscal year ending September 30, 1980.

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 759. (a) The Secretary annually shall make grants to at least 10 individuals (to be known as Lister Hill scholars) for scholarships of up to four years of medical school if such individuals agree to enter into the family practice of medicine in a health manpower shortage area in accordance with this section. Grants made under this section shall be made only from funds appropriated under subsection (b).

"(b) There are authorized to be appropriated to carry out the purposes of this section $80,000 for the fiscal year ending September 30, 1977, $160,000 for the fiscal year ending September 30, 1978, $240,000 for the fiscal year ending September 30, 1979, and $320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.".

SCHOLARSHIPS

SEC. 409. (a) Effective October 1, 1976, subparts I, II, and III of part F of title VII are repealed.

(b) The Secretary of Health, Education, and Welfare during the period beginning October 1, 1976, and ending September 30, 1979, may (1) make grants under section 780 of the Public Health Service Act (as in effect before the date of the enactment of this Act) to public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy to enable such schools to continue making payments under scholarship awards to individuals enrolled and in good standing as full-time students who initially received such awards out of grants made to the schools under such section 780 for fiscal years ending October 1, 1976, and (2) make scholarship grants under section 784 of such Act (as in effect before the date of the enactment of this Act) to individuals enrolled and in good standing as medical students who initially received such grants before October 1, 1976.

TITLE V—GRANTS FOR HEALTH PROFESSIONS SCHOOLS

GRANT AMOUNTS; AUTHORIZATIONS

SEC. 501. (a) Section 770(a) is amended to read as follows:

"(a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each school with an approved application shall be computed for each fiscal year as follows:

"(1) Each school of medicine, osteopathy, and dentistry shall receive—

"(A) for the fiscal year ending September 30, 1978, $2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year,

"(B) for the fiscal year ending September 30, 1979, $2,050 for each full-time student enrolled in such school in the school year beginning in such fiscal year, and

"(C) for the fiscal year ending September 30, 1980, $2,100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(2)(A) Each school of public health shall receive for the fiscal year ending September 30, 1978, and for each of the next two fiscal years an amount equal to the product of—

"(i) $1,400, and

"(ii) the sum of (I) the number of full-time students enrolled in such school in the school year beginning in such fiscal year, and (II) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (B), for such school for such school year.

"(B) For purposes of subparagraph (A) the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

"(i) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(ii) the greater of (I) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (II) 9,

rounded to the next highest whole number.

"(3) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of veterinary medicine shall receive $1,450 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(4) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of optometry shall receive $765 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(5) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive $695 for each full-time student enrolled in such school in the school year beginning in such fiscal year. Each school of pharmacy with a course of study of more than four years shall receive $695 for each full-time student enrolled in the last four years of such school. For purposes of section 771, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

"(6) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of podiatry shall receive $965 for each full-time student enrolled in such school in the school year beginning in such fiscal year.".

(b) Subsection (b) of section 770 is amended to read as follows:

"(b) APPORTIONMENT OF APPROPRIATIONS.—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated under subsection (f) for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under such subsection as the total of the amounts appropriated for that year under subsection (f) for grants to schools of the same category as such school bears to the amount required to make grants in accordance with such subsection to each of the schools of that category with approved applications.".

(c)(1) Subsections (c), (d), (e), (f), and (g) of section 770 are repealed.

(2) Subsection (h) of section 770 is (A) redesignated as subsection (c), and (B) is amended to read as follows:

"(c) ENROLLMENT DETERMINATIONS.—

"(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purposes of this section, the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor or master of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term 'full-time students' shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of section 771, students enrolled in the first of the last four years of such program shall be considered as first-year students.".

(3) Subsection (i) of section 770 is amended (A) by inserting ", public health" after "dentistry", (B) by striking out "and (b)", and (c) redesignated as subsection (d).

(4) Subsection (j) of section 770 is redesignated as subsection (e) and is amended to read as follows:

"(e) Authorizations of Appropriations.—

"(1) There are authorized to be appropriated $124,182,000 for the fiscal year ending September 30, 1978, $131,683,800 for the fiscal year ending September 30, 1979, and $139,400,100 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine.

"(2) There are authorized to be appropriated $8,680,000 for the fiscal year ending September 30, 1978, $9,337,750 for the fiscal year ending September 30, 1979, and $10,159,000 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of osteopathy.

"(3) There are authorized to be appropriated $43,798,000 for the fiscal year ending September 30, 1978, $45,409,550 for the fiscal year ending September 30, 1979, and $46,909,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of dentistry.

"(4) There are authorized to be appropriated $7,166,000 for the fiscal year ending September 30, 1978, $7,296,800 for the fiscal year ending September 30, 1979, and $7,411,600 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.

"(5) There are authorized to be appropriated $10,219,600 for the fiscal year ending September 30, 1978, $10,548,750 for the fiscal year ending September 30, 1979, and $10,705,350 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine.

"(6) There are authorized to be appropriated $3,204,585 for the fiscal year ending September 30, 1978, $3,272,670 for the fiscal year ending September 30, 1979, and $3,366,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of optometry.

"(7) There are authorized to be appropriated $16,939,970 for the fiscal year ending September 30, 1978, $17,110,205 for the fiscal year ending September 30, 1979, and $17,363,050 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of pharmacy.

"(8) There are authorized to be appropriated $2,267,750 for the fiscal year ending September 30, 1978, $2,270,645 for the fiscal year ending September 30, 1979, and $2,285,120 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of podiatry.".

(d) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry under section 770(a) of the Public Health Service Act (as in effect on September 30, 1977) based on the number of enrollment bonus students (determined in accordance with subsections (d) and (e) of section 770 of such Act (as so in effect)) enrolled in such schools who were first-year students in such schools for school years ending before September 30, 1977, except that the amount of any grant made to such a school from sums appropriated under this subsection may not exceed the amount of the grant the school received in the fiscal year ending September 30, 1977, based on the number of such students enrolled in it.

(e) Effective October 1, 1977, the heading for part E of title VII is amended to read as follows:

"Part E.—Grants To Improve the Quality of Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry".

(f) The amendments made by subsections (a), (b), and (c) shall apply with respect to appropriations under section 770 of the Public Health Service Act, and grants under that section, for fiscal years beginning after September 30, 1977.

GRANT REQUIREMENTS

Sec. 502. Effective with respect to fiscal years beginning after September 30, 1977, part E of title VII is amended (1) by striking out sections 771, 772, 773, 774, and 776, and (2) by adding after section 770 the following new section:

"ELIGIBILITY FOR CAPITATION GRANTS

"Sec. 771. (a) In General.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

"(1) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

"(2) the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for whch such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(b)(1) Medical Schools.—To be eligible for a grant under section 770 each school of medicine shall, in addition to the requirements of subsection (a), meet the applicable requirements of paragraphs (2) and (3).

"(2)(A)(i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical residency training programs in primary care is at least 35 percent of the number of filed first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraph (B), and (b), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(ii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1978, in direct or affiliated medical residency training programs in primary care is at least 40 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1979, a school year of medicine shall have on July 15, 1979, at least 40 percent of its filled first year positions, as determined under subparagraph (B), and (b), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(iii) Unless, as determined under subparagraph (B) the number of filled first year positions on July 15 of any year (beginning with 1979) in direct or affiliated medical residency training programs in primary care is at least 50 percent of the number of filled first year positions on that date all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending on September 30 of the following year, a school of medicine shall have on July 15 of such following year at least 50 percent of its filled first year positions as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(B) The Secretary shall determine what percent of all the positions filled, as of July 15, 1977, and July 15 of each subsequent year, in all direct or affiliated medical residency training programs are filled positions in such programs in primary care. In determining the number of such positions on July 15, 1978, or on July 15 of a subsequent year, the Secretary shall deduct from such number a number equal to the number of individuals who were in a first year position in any direct or affiliated medical residency training program in primary care as of July 15 of the previous year and who on the date for which the determination is to be made were not in any direct or affiliated medical residency training program in primary care. Each determination under this subparagraph shall, not later than 45 days after the date for which the determination is made, be published in the Federal Register and reported in writing to each school of medicine in the States and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

"(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in primary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies are not in a direct or affiliated medical residency training program of such school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

"(D) The percent of filled first year positions which a school is required to have on a date under subparagraph (A), in order to be eligible for a grant under section 770, shall be waived by the Secretary if he determines (i) that such school has made a good faith effort to comply with such percent requirement, and (ii) the school has at least 98 percent of such percent of its positions filled on such date.

"(E) The Secretary shall not make any grant under section 770 to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that in the preceding fiscal year such school—

"(i) terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements of this paragraph, and

"(ii) after such a termination or failure to renew, provided support for such medical residency training program (including any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program).

"(F) For purposes of this paragraph:

"(i) The term 'direct or affiliated medical residency training program' means a medical residency training program with which a school of medicine is affiliated or has a similar arrangement (including any arrangement which provides for any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program), as determined under regulations of the Secretary, or which is primarily conducted in facilities owned by a school of medicine.

"(ii) The term 'primary care' means general internal medicine, family medicine, or general pediatrics.

"(3)(A) To be eligible for a grant under section 770 a school of medicine shall, in its application for such grant, give assurances satisfactory to the Secretary that, except as provided in subparagraph (C), the school will reserve positions in the school year beginning immediately before the fiscal year for which such grant is applied for students described in subparagraph (B).

"(B) No later than August 15, 1977, and August 15 of each of the next two years, the Secretary shall identify the citizens of the United States who, before September 15, 1976, were enrolled in a school of medicine not in a State and who by the date of the identification is made under this subparagraph—

"(i) successfully completed at least two years in such school of medicine, and

"(ii) successfully completed part I of the National Board of Medical Examiners' examination (or any successor to such examination).

The Secretary shall equitably apportion a number of positions adequate to fill the needs of students described in subparagraph (B) among the schools of medicine in the States.

"(C) A school of medicine shall not be required to enroll a student described in subparagraph (B) if—

"(i) the individual does not meet, as determined under guidelines established by the Secretary by regulation, the entrance requirements of the school (other than requirements related to academic qualifications or to place of residence), or

"(ii) enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body result in the school's not meeting the accreditation standards of such body.

"(D) The Secretary may waive the requirements of this paragraph upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, compliance by such school with such assurances will prevent such school from providing high quality clinical training for the students added by the application of this paragraph to such school.

"(c) SCHOOLS OF OSTEOPATHY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of osteopathy shall, in addition to the requirements of subsection (a), submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made and in areas osteographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which has joined with the applicant in the submission of the plan), areas in which medically underserved populations reside.

"(2) More than one applicant may join in the submission of a plan described in paragraph (1). No plan may be approved by the Secretary unless—

"(A) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received, in an area geographically remote from the main site of the training facilities of such schools, at least 6 weeks (at least 3 of which shall be consecutive) of clinical training or in areas in which medically underserved populations resides;

"(B) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(C) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas; and

"(D) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

"(d) SCHOOLS OF DENTISTRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of dentistry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and of subparagraphs (A) or (B) of paragraph (3).

"(2) In the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, at least 70 percent of a school of dentistry's filled positions in dental specialty programs which are in excess of the number of filled positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be positions in dental specialty programs in general dentistry or pedodontics.

"(3) A school of dentistry shall maintain an enrollment of full-time first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 10 percent of such number if such number was not more than 100, or

"(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100.

"(4)(A) A school of dentistry shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made and in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of dentistry, which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

"(B) More than one applicant may join in the submission of a plan described in subparagraph (A). No plan may be approved by the Secretary unless—

"(i) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received, in an area geographically remote from the main site of the training facilities of such school, at least 6 weeks (in the aggregate) of clinical training or in areas in which medically underserved populations reside;

"(ii) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in dental education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(iii) the plan contains a specific program for the hiring, as members of the faculty of the school or schools submitting the plan, of practicing dentists to serve as instructors in the training program in such areas of the teaching facilities of such school; and

"(iv) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

"(e) SCHOOLS OF PUBLIC HEALTH.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of public health shall, in addition to the requirements of subsection (a), maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(2) The Secretary may waive (in whole or in part) application to a school of public health the requirement of paragraph (1) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (as defined in section 721(b)(1) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

(f) SCHOOLS OF VETERINARY MEDICINE.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of veterinary medicine shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and paragraph (3) or (4).

"(2) An application of a school of veterinary medicine for a grant under section 770 shall contain or be supported by assurances satisfactory to the Secretary that the clinical training of the school shall emphasize predominantly care to food-producing animals or to the fire-producing animals, or to both types of animals.

"(3) A school of veterinary medicine shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(4) An application of a school of veterinary medicine shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 30 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

"(g) Schools of Optometry.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of optometry shall, in addition to the requirements of subsection (a), meet the requirement of paragraph (2) or (3).

"(2) A school of optometry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number is not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(3) An application of a school of optometry shall contain or be supported by assurances satisfactory to the Secretary that for the school year ending in the fiscal year for which a grant is made under section 770 at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry.

"(h) Schools of Podiatry.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of podiatry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) or (3).

"(2) A school of podiatry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(3) An application of a school of podiatry shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 40 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry.

"(i) Schools of Pharmacy.—To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of pharmacy's application for such a grant shall, in addition to the assurances required by subsection (a), contain or be supported by assurances that each student who is enrolled in the school will before graduation undergo a training program in clinical pharmacy, which shall include (1) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting; (2) interaction with physicians and other health professionals; (3) training in the counseling of patients with regard to the appropriate use and reactions to drugs; and (4) training in drug information retrieval and analysis in the context of actual patient problems.".

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 503. (a) Section 775 is redesignated section 772 and is amended—

(1) by striking out "section 770, 771, 772, or 773" each place it occurs and inserting in lieu thereof "section 770",

(2) by inserting ", public health" after "dentistry" in subsection (b),

(3) by striking out "this part" in subsection (c) and inserting in lieu thereof "section 770",

(4) by striking out "section 770, 771, or 773" in subsection (d)(1) and inserting in lieu thereof "section 771", and

(5) by amending subsection (d)(3) to read as follows:

"(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information, as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.".

(b) Sections 312 and 313 are repealed.

(c) The amendments made by this section shall take effect October 1, 1977.

TITLE VI—FOREIGN MEDICAL GRADUATES

LIMITATION ON IMMIGRATION OF FOREIGN MEDICAL GRADUATES

Sec. 601. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)) is amended by (1) striking out the period at the end thereof and inserting a semicolon in lieu thereof, and (2) by adding at the end thereof the following new paragraph:

"(32) Aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted for permanent residence), to nonpreference immigrant aliens described in section 203(a)(8), and to preference immigrant aliens described in section 203(a) (3) and (6).".

(b) Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended as follows:

(1) Subparagraph (H)(i) is amended by inserting before the semicolon ", and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

(2) Subparagraph (H)(ii) is amended by inserting before the semicolon ", but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession".

(3) Subparagraph (H)(iii) is amended by inserting before the semicolon ", other than to receive graduate medical education or training".

(4) Subparagraph (J) is amended by inserting "and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j)" before ", and the alien spouse".

(c) Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended—

(1) by striking out "whose (i)" and inserting in lieu thereof "(i) whose";

(2) by striking out "or" immediately before "(ii)";

(3) by inserting immediately before "shall be eligible" in the first sentence the following: "or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training,"; and

(4) by inserting ", except in the case of an alien described in clause (iii)," immediately after "provided further, That".

(d) Section 212 of such Act (8 U.S.C. 1182) is amended by inserting at the end thereof the following new subsection:

"(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

"(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

"(B) Before making such agreement, the accredited school has been satisfied that the alien has passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environmental in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

"(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of his education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the countr of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that upon such completion and return he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country; and

"(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the request of the government of his nationality or last residence, if (i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country, and (ii) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (iii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

"(2) (A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirement to enter the United States to participate in such program.

"(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection.".

(e) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding the following at the end thereof:

"(41) The term 'graduates of medical school' means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.".

(f) The amendments made by this section shall take effect ninety days after the date of enactment of this section.

TITLE VII—PUBLIC AND ALLIED HEALTH PERSONNEL

PUBLIC AND ALLIED HEALTH PERSONNEL

SEC. 701. (a) Effective October 1, 1977, part G of title VII is amended to read as follows:

"PART G—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

"SUBPART I—PUBLIC HEALTH PERSONNEL

"GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"SEC. 791. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

"(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (c) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

"(c) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(2) The Secretary may not approve an application submitted under paragraph (1) unless—

"(A) such application—

"(i) contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) ending in the fiscal year for which the applicant receives a grant under subsection (a) that—

"(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted and;

"(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs;

"(ii) contains assurances satisfactory to the Secretary that such entity shall maintain a first-year enrollment of full-time students in the programs, for the school year ending in the fiscal year ending September 30, 1978, and for each school year thereafter ending in a fiscal year for which a grant under this section is applied for, which exceeds the number of full-time, first year students enrolled in such programs in the school year ending in the fiscal year ending September 30, 1976—

"(I) by 5 percent of such number if such number was not more than 100, or

"(II) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100; and

"(iii) contains such other information as the Secretary may by regulation prescribe; and

"(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meet such other quality standards as the Secretary shall by regulation prescribe.

"(3) The Secretary may waive (in whole or in part) the requirements of paragraph (2) with respect to any school upon written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such paragraph will prevent such school from meeting the accreditation standards of such body or bodies. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Health Professions Education.

"(d) There are authorized to be appropriated for payments under grants under this section $3,250,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $3,750,000 for the fiscal year ending September 30, 1980.

"SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"SEC. 792. (a) The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.

"(b) (1) The Secretary may make grants to assist those public or non-profit educational entities (including graduate schools of social work) which have accredited programs in accordance with paragraph (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(A) biostatistics or epidemiology,

"(B) health administration, health planning or health policy analysis and planning,

"(C) environmental or occupational health, or

"(D) dietetics and nutrition.

"(2) For purposes of this section, an accreditated program is a graduate program accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and meets such other quality standards as the Secretary may by regulation prescribe.

"(c) There are authorized for the purpose of making payments pursuant to grants under this section $5,000,000 for the fiscal year ending September 30, 1978; $5,500,000 for the fiscal year ending September 30, 1979; and $6,000,000 for the fiscal year ending September 30, 1980.

"STATISTICS AND ANNUAL REPORT

"SEC. 793. (a) The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

"(1) detailed description of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity as the case may be and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the program under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

"(c) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a), and

"(2) the activities conducted under this subpart, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines is needed to improve the programs authorized under this subpart. The Office of Management and Budget may review such report before its submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report. The first report under this subsection shall be submitted not later than December 1, 1978.

"(d) For purposes of this section, the term 'public and community health personnel' means individuals who are engaged in—

"(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

"(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

"(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

"(4) the planning and development of a healthful environment and control of environmental health hazards.

"SUBPART II—ALLIED HEALTH PERSONNEL

"DEFINITIONS

"SEC. 795. For the purposes of this subpart:

"(1) the term 'allied health personnel' means individuals with training and responsibilities for (A) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (B) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

"(2) The term 'training center for allied health professions' means a junior college, college, or university—

"(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or equivalent degree, (ii) of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Secretary,

"(B) which provides training for not less than a total of twenty persons in such curriculums,

"(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

"(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation by such junior college,

except that an applicant for a grant under this subpart which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Secretary finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit.

"(3) The term 'nonprofit' as applied to any training center for allied health profession means such a training center which is an entity, or is owned and operated by an entity, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and as applied to any entity means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"PROJECT GRANTS AND CONTRACTS

"SEC. 796. (a) The Secretary shall make grants and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to:

"(1) Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that allied health and nurse manpower needs of such region or State are substantially met.

"(2) Establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

"(3) Establishment of new or improved methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

"(4) Establishment of methods of recruitment, training, and retraining of allied health personnel.

"(5) Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel.

"(6) Establishment of continuing education program for practicing allied health personnel.

"(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

"(c)(1) For purposes of subsection (a), the term 'eligible entities' means entities which are—

"(A) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe;

"(B) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both; or

"(C) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in subparagraph (A).

"(d)(1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $22,000,000 for the fiscal year ending September 30, 1978; $24,000,000 for the fiscal year ending September 30, 1979; and $26,000,000 for the fiscal year ending September 30, 1980.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, not less than 50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

"TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL

"SEC. 797. (a) The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(2) Payments under such grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $4,500,000 for the fiscal year ending September 30, 1978; $5,000,000 for the fiscal year ending September 30, 1979; and $5,500,000 for the fiscal year ending September 30, 1980.

"EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

"SEC. 798. (a)(1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the costs of—

"(A) identifying, recruiting, and Selecting such individuals with a potential for education or training in the allied health professions;

"(B) facilitating the entry of those individuals into such an entity;

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such an entity;

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such an entity, preliminary education designed to assist them to complete successfully such regular course of education at such an entity, or referring such individuals to institutions providing such preliminary education; and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such an entity or who are undertaking training necessary to qualify them to enroll in such a program.

"(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall be regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

"(c) For payments under grants and contracts under subsection (a) there are authorized to be appropriated $1,000,000 for fiscal year ending September 30, 1978, $1,000,000 for fiscal year ending September 30, 1979, and $1,000,000 for fiscal year ending September 30, 1980.".

STUDIES AND STATISTICAL REPORT ON ALLIED HEALTH PERSONNEL

SEC. 702. (a) The Secretary of Health, Education, and Welfare shall conduct and complete, not later than two years after the date of enactment of this Act, studies—

(1) to identify the various types of allied health personnel and the activities in which such personnel are engaged and the various training programs currently offered for allied health personnel;

(2) to establish classifications of allied health personnel on the basis of their activities, responsibilities, and training;

(3) using appropriate methodologies, to determine the cost of educating and training allied health personnel in each such classification; and

(4) to identify the classifications in which there are a critical shortage of such personnel and the training programs which should be assisted to meet that shortage.

(b) In addition, the Secretary shall, in coordination with the National Center for Health Statistics (established under section 306 of the Public Health Service Act), develop, publish, and disseminate on a nationwide basis a report containing statistics and other information respecting allied health personnel, including—

(1) detailed descriptions of the various types of such personnel and the activities in which such personnel are engaged,

(2) the current and anticipated needs for the various types of such health personnel, and

(3) the number, employment, geographic locations, salaries, and surpluses and shortages of such personnel.

(c)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, gnown to the Secretary or program entity as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the studies made or information collected under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

(d) The Secretary shall submit, not later than two years after the date of enactment of this Act, to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate—

(1) a report on the results of the studies conducted under subsection (a);

(2) the report developed under subsection (b); and

(3) a report on, including an evaluation of, activities conducted under subpart II of part G of title VII of the Public Health Service Act (relating to allied health personnel).

The report described in paragraph (3) shall contain such recommendations for legislation as the Secretary determines is needed to improve the programs authorized under such subpart. The Office of Management and Budget may review such report before the submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report.

(e) For the purposes of this section, the term "allied health personnel" means individuals with training and responsibilities for (1) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

TITLE VIII—SPECIAL PROJECTS

GRANTS AND CONTRACTS

SEC. 801. Effective October 1, 1976, part F of title VIII is amended to read as follows:

"PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

"PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE

"SEC. 780. (a) The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

"(b) The Secretary may not approve an application for a grant under subsection (a) unless such application contains—

"(1) assurance satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy which amount is determined by the Secretary to be comparable to the amount of curriculum required for other major clinical specialities in the school, (C) have a number of full-time faculty which is determined by the Secretary to be sufficient to conduct the instruction required by clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved medical residency training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

"(2) such other information as the Secretary shall by regulation prescribe.

"(c) There are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1978, $15,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants under subsection (a).

"AREA HEALTH EDUCATION CENTERS

"SEC. 781. (a) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of the health professions schools, the Secretary may enter into contracts for projects to assist in the planning, development, and implementation of area health education center programs.

"(b) An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

"(c) Each medical or osteopathic school participating in an area health education center shall—

"(1) provide for the active participation in such program by individuals who are associated with the administration of the school, each of the departments (or specialties of the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(2) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center.

"(3) be responsible for, or conduct, a nurse practitioner or physician assistant training program which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

"(4) provide for the active participation of at least 2 other health science disciplines (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

(d)(1) Each area health education center shall specifically designate the geographic area in which it will serve, or shall specifically designate the medically underserved population it will serve (such area or population with respect to such center in this section referred to as 'the area served by the center').

"(2) Each area health education center shall—

"(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

"(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

"(C) provide for or conduct a medical residency training program in family medicine or general internal medicine and in which no fewer than six individuals are enrolled in first-year positions in such program;

"(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

"(E) provide continuing medical education and other support services to the National Health Service Corps members serving within the area served by the center;

"(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

"(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

"(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

"(e) The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In making contracts under this section the Secretary shall assure that—

"(1) 75 percent of the total funds provided to any school shall be expended by an area health education program in the area served by the centers;

"(2) not more than 75 percent of the total operating funds of the program in any year shall be provided by the Secretary; and

"(3) no contract shall provide funds solely for the planning or development of such program for a period of longer than two years.

"(f) For the purpose of this section the term 'area health education center program' means a program which is organized and operated in a manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in subsection (d)(2). The Secretary shall, by regulation, establish standards and criteria for the requirements of such subsections.

"(g) There are authorized to be appropriated to carry out the provisions of this section $20,000.000 for the fiscal year ending September 30, 1978, $30,00,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980.

"EDUCATION OF RETURNING UNITED STATES STUDENTS FROM FOREIGN MEDICAL SCHOOLS

"SEC. 782. (a) The Secretary may make grants to schools of medicine and osteopathy in the United States to plan, develop, and operate programs—

"(1) to train United States citizens who have been enrolled in medical schools in foreign countries before the date of enactment of the Health Professional Educational Assistance Act of 1976, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the United States as full-time students with advanced standing; or

"(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before the date of enactment of the Health Professions Educational Assistance Act of 1976, and who have enrolled in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made may include the cost of identifying deficiencies in the medical school education of the United States citizens who have been enrolled in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

"(b) More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a).

"(c) Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979, submit to the Congress his analysis and evaluation of the information contained in such reports.

"(d) There are authorized to be appropriated for the purposes of this section $2,000,000 for the fiscal year ending September 30, 1977, $2,000,000 for the fiscal year ending September 30, 1978, $3,000,000 for the fiscal year ending September 30, 1979, and $4,000,000 for the fiscal year ending September 30, 1980.

"PROGRAMS FOR PHYSICIAN ASSISTANTS, EXPANDED FUNCTION DENTAL AUXILIARIES AND DENTAL TEAM PRACTICE

"SEC. 783. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine, osteopathy, dentistry and other public or nonprofit private entities to meet the costs of projects to—

"(A) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7);

"(B) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 701(8)); and

"(C) plan, develop, and operate or maintain a program to train dental students in the organization and management of multiple auxiliary dental team practice (T.E.A.M.) in accordance with regulations of the Secretary.

"(b) No grant or contract may be made under subsection (a) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract, has appropriate mechanisms for placing graduates of the training program, with respect to which the application is submitted, in positions for which they have been trained.

"(c) The Secretary shall assure that the making of grants and entering into contracts under this section shall be integrated with the making of grants and entering into contracts under section 830.

"(d) The costs for which a grant or contract under this section may be made include costs of preparation of faculty members respecting programs for the training of physician assistants and expanded function dental auxiliaries.

"(e) For payments under grants and contracts under this section, there is authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980.

"GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

"SEC. 784. (a) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs of projects—

"(1) to plan, develop, and operate an approved medical residency training program in internal medicine or pediatrics, which emphasize the training of residents for practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations);

"(2) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending September 30, 1977, $15,000,00 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

"OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

"SEC. 785. (a)(1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities, to establish, operate, and administer occupational health training and education centers through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section).

"(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members trained in the occupational health sciences and other relevant disciplined and medical and public health specialties and that it will substantially carry out activities including, but not limited to—

"(A) the establishment and operation of a new graduate training program, or where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

"(B) the development of curricula and operation of continuing education for physicians, nurses, and industrial hygienists, and other professionals, practicing full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

"(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

"(D) the establishment of traineeships for industrial hygiene students;

"(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to such individuals for residencies in other medical specialties;

"(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians, and other relevant disciplines;

"(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for any of the health profession disciplines dealing with problems of occupational health; and

"(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

"(b) To the extent feasible, the Secretary shall approve, in accordance with the requirements of subsection (a), at least 10 such centers and at least one of which shall be located in each region of the Department of Health, Education, and Welfare.

"(c) For the purpose of making grants to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $8,000,000 for the fiscal year ending September 30, 1979, and $10,000,000 for the fiscal year ending September 30, 1980.

"FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

"SEC. 786. (a) The Secretary, may make grants to, or enter into contracts with, any public or non-profit hospital, school of medicine or osteopathy, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract).

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including a continuing education program or an approved residency internship program in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

"(b) Secretary may make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(c) Not less than 10 percent of the amount appropriated to make grants under this section shall be made available for grants under subsection (b).

"(d) There are authorized to be appropriated to make grants under this section $40,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980.

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 787. (a) (1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health educational entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in the health professions,

"(B) facilitating the entry of those individuals into such a school,

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

"(b) There are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants and contracts under subsection (a).

"PROJECT GRANT AUTHORITY FOR START-UP ASSISTANCE, FINANCIAL DISTRESS INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT

"SEC. 788. (a) (1) In the case of any new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry which begins instruction after July 1, 1974, the Secretary may, after taking into account—

"(A) the ability of such school to use a grant under this subsection to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

"(B) the other resources available to such school, make a grant to such school for each year such school is a new school (as determined under paragraph (5)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

"(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

"(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

"(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of $7,500 and the number of full-time students enrolled in such school in such year;

"(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year;

"(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

"(3) A grant may not be made under this subsection unless an application for such grant is submitted to, and approved by, the Secretary. The Secretary shall give priority to applications which provide for projects which—

"(A) assist in the planning, development, or initial operation of a new school of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in ambulatory primary care in cooperation with accredited psychiatric practitioners or programs, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds;

"(B) assist in the planning, development, expansion, or initial operation of a regional health profession school granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health; or

"(C) the Secretary determines will meet a national or regional need for members of the profession to be trained in the new school for which the application is submitted.

"(4) The Secretary shall give special consideration to each application of a school for a grant under this subsection—

"(A) which application contains or is reasonably supported by assurances, that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), it will be able to accelerate the date on which it will begin its teaching program;

"(B) which school will be located in a health manpower shortage area (designated under section 332); or

"(C) which school is a school of medicine or osteopathy which will be located in a State which has no other such school.

"(5) For purposes of this subsection, any school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

"(b) (1) The Secretary may make grants to and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health for the purposes of assisting in—

"(A) (i) meeting the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

"(ii) meeting accreditation requirements, if they have special need to be assisted in meeting such requirements, and

"(B) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in comprehensive cost analysis study or on the basis of other relevant information.

"(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

"(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

"(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

"(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the securing of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

"(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function of a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health as the case may be, during the fiscal year for which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

"(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this section in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

"(5) The Secretary may provide to any school eligible for a grant under this subsection technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, or to develop or carry out appropriate operational, managerial, and financial reforms.

"(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of the cost analysis study carried out under paragraph (2)(B) and the operational, managerial, and financial reforms instituted under paragraph (2)(C).

"(c) The Secretary may make grants to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the encouragement of the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, emphasizing—

"(1) the use of the team approach to the delivery of health services,

"(2) the training of physician assistants and extenders and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and

"(3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such extenders, practitioners, and auxiliaries.

"(d) The Secretary may make grants and enter into contracts with any health profession, allied health profession, or nurse training institution, or any other public or nonprofit private entity for projects and programs such as—

"(1) speech pathology, audiology, bioanalysis, and medical technology;

"(2) establishing humanism in health care centers;

"(3) biomedical combined educational programs;

"(4) cooperative human behavior and psychiatry in medical and dental education and practice;

"(5) bilingual health clinical training centers;

"(6) curriculum development in schools of optometry, pharmacy and podiatry;

"(7) social work in health care;

"(8) health manpower development;

"(9) environmental health education and preventive medicine;

"(10) the special medical problems related to women;

"(11) the development or expansion of regional health professions schools;

"(12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the United States;

"(13) psychology training programs;

"(14) ethical implications of biomedical research;

"(15) establishment of dietetic residencies;

"(16) regional systems of continuing education;

"(17) computer technology;

"(18) training of professional standards review organization staff;

"(19) training of health professionals in human nutrition and its application to health;

"(20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and

"(21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

"(e)(1) There are authorized to be appropriated to carry out the provisions of this section (other than the provisions of subsections (f) and (g)) $25,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

"(2) From the sums authorized to be appropriated under paragraph (1) not more than—

"(A) $5,000,000 may be obligated or expended for the purposes of subsection (a), and

"(B) $5,000,000 may be obligated or expended for the purposes of subsection (b).

"(f)(1) The Secretary may make grants to any school of medicine to meet the planning costs for projects for the training of students, enrolled in the last two years of such school, in facilities—

"(A) which are other than the principal teaching facilities of the school receiving the grant and which are existing Federal health care facilities or are other public or private health care facilities; and

"(B) which are located in a health manpower shortage area.

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made the project has received at least $100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

"(2) For payments under grants under paragraph (1), there are authorized to be appropriated $400,000 for the fiscal year ending September 30, 1977.

"(g)(1) The Secretary may make grants to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist such institutions and facilities in meeting the costs of employing faculty, acquiring equipment, and taking such other action related to the initial operation of a school of medicine as may be necessary for the proposed schools to meet the eligibility requirements for a grant under subsection (a) of this section.

"(2) No application for a grant under paragraph (1) may be approved by the Secretary unless the application contains or is supported by assurances satisfactory to the Secretary that—

"(A) with the assistance provided under the grant applied for the applicant will be able to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program,

"(B) there is a reasonable indication of non-Federal financial resources for development and operation of such school, and

"(C) the school of medicine will emphasize training programs in family medicine and will improve access to health care for residents of the geographical regions in which such training programs are located.

The Secretary may not approve or disapprove an application unless he has consulted with the body recognized by the Commissioner of Education as the accrediting body for schools of medicine respecting approval of the application.

"(3) No institution or facility may receive more than one grant under this subsection. For payment under grants under this subsection, there is authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1977 and $1,500,000 for the fiscal year ending September 30, 1978.

"(4) Upon graduation of the second class from each school of medicine for which a grant was made under this subsection, the Secretary shall report to the Congress on the ability of the school of medicine to improve access to health care for residents of the geographical regions in which the clinical training programs of the school are located.

"GENERAL PROVISIONS

"SEC. 789. Except as otherwise provided in this part:

"(1) No grant may be made or contract entered into under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.

"(2) Payments by recipients of grants or contracts under this part for (A) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees; and (B) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(3) The amount of any grant or contract under this part shall be determined by the Secretary. Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).".

TRANSITIONAL PROVISIONS AND REPORT ON AREA HEALTH EDUCATION CENTERS

SEC. 802. (a) For the fiscal year ending September 30, 1978, and for the next fiscal year there are authorized to be appropriated such sums as may be necessary to continue payment to entities under contracts entered into under section 774 of the Public Health Service Act (as in effect on September 30, 1977) for projects for area health education centers, except that no payment shall be made to an entity under such a contract in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1979, the project for which the payment is to be made will be a project described in subsection (a) of section 781 of such Act (as added by this Act) and the entity and its application will meet the requirements of subsections (b), (c), and (d) of such section. Such payments may only be made from such sums for the periods and amounts specified in such contracts.

(b) After October 1, 1978, the Secretary of Health, Education, and Welfare shall assess the program of contracts under section 781 of the Public Health Service Act (as so added) to determine the effect of the projects funded under such contracts on the distribution of health manpower and on the access to and the quality of health care in the areas in which such projects are located. Not later than September 30, 1979, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection.

TITLE IX—MISCELLANEOUS

NURSE TRAINEESHIPS

SEC. 901. (a) The second sentence of section 830(b) is amended to read as follows: "In making grants for traineeships under this section, the Secretary shall give special consideration to applications—

SEC. 901. Section 830 is amended—

(1) by striking out in subsection (a) "There are authorized" and all that follows through "1978," and inserting in lieu thereof "(1) The Secretary may make grants to public or private nonprofit institutions";

(2) by redesignating paragraphs (1), (2), (3), and (4) of subsection (a) as subparagraphs (A), (B), (C), and (D);

(3) by striking out subsection (b) and inserting in lieu thereof the following:

"(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs (A) for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332), and (B) for traineeship programs which conform to guidelines established by the Secretary under section 822(a)(2)(B).";

(4) by striking out "section" in subsection (c) and inserting in lieu thereof "subsection";

(5) by redesignating subsection (c) as paragraph (3); and

(6) by adding at the end thereof the following:

"(b)(1) The Secretary may make grants and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 332).

"(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 332).

"(c) There are authorized to be appropriated for the purposes of this section $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, and $25,00,000 for the fiscal year ending September 30, 1978.".

HEALTH PLANNING

SEC. 902. (a) Section 1512(b)(3)(C)(ii)(I) is amended by inserting "optometrists," after "nurses,".

(b) Section 1513(3)(A) is amended by inserting "optometrist," after "podiatrist,".

(c) The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act.

STUDY RELATING TO CHIROPRACTIC HEALTH PROFESSIONS

SEC. 903. (a)(1) The Secretary shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of providing education programs which lead to a degree of doctor of chiropractics.

(2) Such study shall be completed and an interim report thereby submitted not later than March 30, 1978, and a final report not later than January 1, 1979, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

(3) Such study shall develop methodologies for ascertaining the average annual cost of chiropractic education, and the factors that affect any variation among schools with respect to their average annual per student educational costs. The study shall employ the most recent data available from the chiropractic schools in the United States at the time of the study.

(4) The study shall also determine the current demand for chiropractic services throughout the United States and shall develop methodologies for determining if current supply of chiropractors is sufficient to meet this demand.

(5) The study shall include an analysis of the current costs of chiropractic services by type of service and shall include an analysis of such costs over the past five years.

(b) The Secretary shall enter into an agreement with an appropriate nonprofit group or association to conduct such a study under an arrangement which reimburses for actual expenses incurred by such group or association in conducting such a study. Such expenses will be paid by the Secretary.

(c) The provisions of this section shall take effect on the date of enactment of this Act.

STUDIES OF TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND OF ADMISSIONS EXAMINATIONS OF PERSONS FROM POPULATION GROUPS OF LIMITED ENGLISH-SPEAKING ABILITY

SEC. 904. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study of the adequacy of the efforts of health professions schools which provide training in facilities which serve populations of limited English-speaking ability (1) in recruiting and training individuals who are competent in the predominant language (other than English) spoken by such populations, and (2) in conducting programs to increase the awareness of such individuals of the cultural sensitivities of such populations.

(b) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies or determine the effectiveness of health training institution admissions examinations in evaluating accurately the potential and ability of the student applicant from a population group of limited English-speaking ability to participate in and successfully complete the educational program. Such study or studies shall particularly consider the extent of any cultural bias in admissions examinations utilized by such institutions.

(c) Within one year of the date of enactment of this Act the Secretary shall report to the Congress the findings made in the studies conducted pursuant to subsection (a) and (b), recommendations for administrative action and legislation, and the steps taken to carry out such action.

DEFINITION OF STATE

SEC. 905. (a) Section 2(f) is amended to read as follows:

"(f) Except as provided in sections 314(g)(4)(B), 317(h)(2), 318(c)(1), 331(h)(3), 355(5), 361(d), 701(9), 1002(c), 1201(2), 1410(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands."

(b)(1) Section 361(d) is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'State' includes, in addition to the several States, only the District of Columbia.".

(2) Section 1410 is amended by adding after paragraph (12) the following new paragraph:

"(13) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.".

(3) Sections 314(g)(4)(B), 317(h)(2), 355(5), 1002(c), 1201(2), and 1683(1) are amended by inserting "The Commonwealth of the Northern Mariana Islands," immediately after "Puerto Rico," in each such section.

(4) Section 318(c)(1) is amended by inserting "The Commonwealth of the Northern Mariana Islands," immediately after "American Samoa,".

LABOR CERTIFICATION

SEC. 906. (a) The Secretary of Health, Education, and Welfare shall (not later than one year after the date of the enactment of this Act) develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

(b) The data required under subsection (a) shall include the number of physicians (by specialty and by percent of population) in a geographic area necessary to provide adequate medical care, including such care in hospitals, nursing homes, and other health care institutions, in such area.

(c) The Secretary of Health, Education, and Welfare shall develop such data after consultation with such medical or other associations as may be necessary.

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ANDREW MAGUIRE,
SAMUEL L. DEVINE,
TIM LEE CARTER,
JAMES T. BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.

EDWARD KENNEDY,
HARRISON WILLIAMS,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
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RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
J. GLENN BEALL, Jr.,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII of such act for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report: The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text. The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment.

The principal differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below.

SHORT TITLE

The House bill provided that the act was to be cited as the "Health Manpower Act of 1975".

The Senate amendment provided that the act was to be cited as the "Health Professions Educational Assistance Act of 1976".

The conference substitute conforms to the Senate amendment.

EXTENSION OF EXISTING AUTHORITIES

The House bill extended, without substantive revision, existing authorities relating to health manpower through fiscal year 1975 at the fiscal year 1974 authorization levels.

The Senate amendment extended most existing authorities through fiscal year 1977, and made substantive revisions through such fiscal year in the authorities for construction of teaching facilities. It extended the existing authority for loans and scholarships to United States students enrolled in foreign medical schools through fiscal year 1980. It also extended, with substantive revisions, the existing authority for grants for training in family medicine through fiscal year 1980. Under the Senate amendment, the fiscal year 1976 authorizations reflected the higher of the fiscal year 1975 appropriation and the fiscal year 1975 budget request. The fiscal levels reflected the higher of the fiscal year 1976 appropriations times 1.072 (the cost of living increment, as determined by the Senate Budget Committee) and the fiscal year 1977 budget request.

The conference substitute provides for an extension of existing programs through fiscal year 1976 at the fiscal year 1974 authorization levels. It includes the line-item authorizations for fiscal year 1977 provided by the Senate amendment, and makes substantive revisions for fiscal year 1977 in the existing construction authority. As noted below, the substantive revisions with respect to grants for traineeships and fellowships in family medicine are made applicable beginning in fiscal year 1978. Finally, under the conference substitute, the programs of loans and scholarships for United States citizens studying abroad are extended only through fiscal year 1976.

TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND STUDY OF ADMISSIONS EXAMINATIONS

The Senate amendment required that any entity seeking assistance under the Public Health Service Act which provides training in facilities providing health services to an area where a substantial portion of individuals served is of limited English-speaking ability shall include in its application for assistance assurances that it will (1) place special emphasis on the recruitment and training of personnel who are competent in the predominant language other than English spoken by such individuals and (2) plan and operate projects to increase the awareness of their trainees of the cultural sensitivities of such individuals. The Senate amendment also required the Secretary to arrange for the conduct of a study to determine the effectiveness of the admissions examinations of health training institutions in evaluating the potential and ability of applicants from population groups of limited English-speaking ability to participate in and successfully complete the educational program of the institution.

The House bill contained no comparable provisions.

Under the conference substitute, the Secretary is required to arrange for the conduct of two studies; the first to determine the effectiveness of admissions examinations in evaluating the potential of applicants from population groups of limited English-speaking ability and the second to determine the adequacy of efforts by health training institutions which provide training in facilities serving populations with limited English-speaking ability to recruit and train health personnel who are bilingual and to conduct programs to increase the awareness of those trainees of the cultural sensitivities of population groups with limited English-speaking ability. The conferees agreed that if the findings of either study indicate a need for legislation, they will give serious consideration to remedial legislation without awaiting expiration and reconsideration of action to renew the authorities in the conference report. The conference substitute also provides special project grant authority, described below, designed to encourage the recruitment and training of bilingual personnel and the establishment of programs to increase awareness of cultural sensitivities.

INTERDISCIPLINARY HEALTH PERSONNEL TRAINING

The Senate amendment required that, in providing assistance under the Public Health Service Act to any entity for the training of health personnel, the Secretary take affirmative steps to encourage the development of programs for cooperative interdisciplinary training among the various health professions.

The House bill contained no comparable provision.

In lieu of the provisions of the Senate amendment, the conference substitute authorizes the award of special project grants, described below, for the development of programs of interdisciplinary health personnel training.

PRESERVATION OF ACADEMIC FREEDOM

The Senate amendment included a provision whereby it was expressly declared to be the intent of Congress to supersede any laws of States or political subdivisions insofar as they prevent training authorized under the Public Health Service Act.

The House bill contained no comparable provision.

The conference substitute does not include the Senate provision.

ADVISORY COUNCIL

The House bill amended the provisions of existing law with respect to the composition of the National Advisory Council on Health Professions Education to require that, of the appointed members of the council, twelve shall be representatives of health professions schools, two shall be full-time students enrolled in such schools, and six shall be members of the general public.

The Senate amendment contained no comparable provision.

The conference substitute conforms to the provisions of the House bill except that of the twelve representatives of health professions schools, at least four are to be representatives of schools of veterinary medicine, optometry, podiatry, pharmacy and public health.

The conferees view the efficient implementation of the various programs for grants authorized by the conference substitute as a top priority of the National Advisory Council. In this regard, the conferees fully expect that each of the programs will be administered expeditiously and in a way that will insure that only quality programs which have passed the rigors of scientific review will be approved. It is, therefore, the intent of the conferees that sufficient advisory committees be established as complements to the Advisory Council in order that grant applications may be evaluated in a timely manner with appropriate advice and recommendations prepared for final action by the National Advisory Council. It is intended that separate advisory committees be established so that they represent the disciplines of (1) medicine and osteopathy, (2) dentistry, and (3) veterinary medicine, optometry, pharmacy, podiatry, and public health. The conferees feel strongly that review of grants by experts in the discipline which is the subject of the grant application is necessary if sufficient technical expertise is to be available to insure that each application receives thorough review by qualified persons.

Both the House bill and the Senate amendment included provisions which prohibited the Secretary from delegating to regional offices his authority to (1) review and prepare comments upon the merit of any grant or contract under any health manpower program for the purposes of presenting such application to the National Advisory Council on Health Professions Education, and (2) to make such a grant or contract.

The conferees made their intention clear that this provision precludes only the making of comments on such applications for purposes of presenting them to the Advisory Council, and does not constitute a blanket prohibition of regional office comment on grant or contract applications.

HEALTH PROFESSIONS DATA

The Senate amendment contained a provision requiring the Secretary to establish a program to collect, compile, and analyze data on health professions personnel (including data respecting their training, licensure status, place of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background). It authorized the Secretary, in the collection of such data, to enter into contracts for the conduct of analytic and descriptive studies of the health professions as well as to make grants and enter into contracts with States (or appropriate nonprofit private entities within States) for the purpose of establishing a uniform health professions data reporting system. Further, the Senate amendment required any school receiving institutional support under the bill to make reports annually to the Secretary respecting students which attend such school. The Senate amendment required an annual report to the Congress and to the President on the status of health professions personnel in the United States. Finally, the Senate amendment provided for the confidentiality of personal data secured for the purposes described above.

The House bill contained no comparable provisions.

The conference substitute includes the provisions of the Senate amendment with technical amendments.

SHARED SCHEDULE RESIDENCIES

The Senate amendment required that any entity which maintains a post-graduate physician training position in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology and which receives financial support under title VII of the Public Health Service Act shall, in the fiscal year in which it received such financial assistance, establish a reasonable number of such positions as "shared schedule positions." "Shared schedule positions" was defined as a post-graduate training position which is shared by two individuals in which each individual (1) engages in at least two-thirds but not more than three-fourths of the total training for such position, (2) receives for each year in such position an amount of credit for certification in the medical specialty equal to the amount of training in which the trainee was engaged, (3) receives one-half of the salary for such position, and (4) receives all applicable employee benefits.

The House amendment contained no comparable provision.

The conference substitute conforms to the Senate amendment, except that the requirement to maintain shared schedule residency positions is applicable to all entities that receive Federal assistance.

PAYMENT FOR INCREASES IN TUITION FOR WHICH THE SECRETARY IS RESPONSIBLE

The Senate amendment required the Secretary, by regulation, to establish criteria for determining allowable increases in tuition and other educational costs for which he would be responsible for payment under the Public Health Service Act.

The House bill contained no comparable provision.

The conference substitute adopts the provision of the Senate amendment except that the determination is limited to tuition and other education costs for which the Secretary is responsible for payment under title VII of the Public Health Service Act.

ACCREDITATION OF NONAFFILIATED RESIDENCIES

Under the Senate amendment the Commissioner of Education was directed not to recognize any entity for the purposes of accrediting graduate medical education, or to revoke recognition, in the case where he has recognized such an entity for such purposes, where the entity has either accredited or proposed to accredit a graduate medical residency training program in a hospital which is not contractually affiliated with an accredited school of medicine or osteopathy.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision. However, as described in more detail below, the conference agreement does contain broad authorities to enable the Secretary to determine whether a medical residency training program is, in fact, affiliated with a school of medicine for purposes of determining compliance with eligibility requirements for capitation support. Moreover, the conference report contains a requirement that, if the Secretary determines that a school of medicine has disaffiliated with a medical residency training program solely for the purpose of compliance with such requirements but continued to provide training support for such a program, he is to deny such school capitation support.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

The House bill contained a provision which equated active service of commissioned officers of the Public Health Service with active service in the armed forces of the United States for the purpose of rights, privileges, immunities, and benefits under the Soldiers' and Sailors' Civil Relief Act of 1940.

The Senate amendment contained no comparable provision.

The conference agreement contains no such provision since the conferees noted that the provision was included in Public Law 94–278, enacted after the passage of the House bill.

ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

The House bill continued the existing program of assistance for construction of teaching facilities with the following revisions: (1) it added facilities for the training of professional public health personnel as entities eligible for such assistance; (2) it required that grants for construction projects for teaching facilities for the training of physicians located in a State which has no such facilities shall cover 80 percent of the construction costs unless the Secretary determines that such percent is not needed; (3) it required that, in considering grant applications for the cost of construction of teaching facilities for the training of physicians, the Secretary give special consideration to projects in States which have no such facilities and (4) it authorized $25 million per year for fiscal years 1976, 1977, 1978 for the construction program.

The Senate amendment extended the existing program through fiscal year 1977 with revisions which authorized (1) that, for such fiscal year, an application for the construction of a clinical facility affiliated with a school of veterinary medicine, optometry, podiatry, or pharmacy, which has as its purpose the establishment or expansion of a regional health professions school may be filed by any public or other nonprofit agency if the application is approved by the school with which the facility is to be affiliated and that, in connection with such an application, (2) that only that portion of the project which the Secretary determines to be reasonably attributable to the need of the regional health professions school for teaching facilities shall be regarded as the project with respect to which the application is submitted and (3) that, in considering applications for grants under the construction authority, the Secretary afford special consideration to applications for facilities for the establishment or expansion of regional health professions schools.

In addition, the Senate amendment repealed the existing construction authority beginning in fiscal year 1978 and replaced such authority with authority to make grants (not to exceed the lesser of $1 million or 50 percent of costs) to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists. The Senate amendment authorized $80 million for fiscal year 1978 and $40 million for fiscal year 1979 for this purpose.

Under the conference substitute, the existing program is continued through fiscal year 1980 with the following revisions: (1) the conference substitute adopts the provisions of the Senate amendment with respect to regional health professions schools and makes such authority effective only during fiscal year 1972; (2) the amendment of the House bill to existing authority which added facilities of schools of public health as eligible entities and the authority of the Senate amendment with respect to construction of ambulatory primary care teaching facilities for the training of physicians and dentists are added to the existing authority, and (3) authorizations of $40 million per year for fiscal years 1978, 1979, and 1980 are provided with the stipulation that 50 percent of sums appropriated shall be obligated for grants for the construction of teaching facilities and the remaining 50 percent shall be obligated for grants for the construction of ambulatory, primary, care teaching facilities.

During their deliberations with respect to the construction authority, the conferees expressed interest in the concept of establishing "twilight medical schools" whereby, in effect, two separate student bodies could attend one medical school at the same time through utilization of the school's facilities during evening hours. The conferees direct the Secretary of Health, Education, and Welfare to conduct a study of this concept and to submit a report of his findings with respect to its feasibility to the appropriate House and Senate committees within six months of the date of enactment of the conference report.

AUTHORIZATIONS OF APPROPRIATIONS FOR LOAN GUARANTEES AND INTEREST SUBSIDIES

The House bill continued the existing program authorizing loan guarantees and interest subsidies to assist nonprofit private entities to carry out approved construction projects for teaching facilities, and authorized appropriations of $2 million for fiscal year 1976, $3 million for fiscal year 1977, and $3 million for fiscal year 1978 for the program.

The Senate amendment also continued the loan guarantee and interest subsidy program, with authorizations of $3 million for each of fiscal years 1978, 1979, and 1980.

The conference substitute authorizes $2 million for fiscal year 1978, $3 million for fiscal year 1979, and $3 million for fiscal year 1980 for the program.

REVISIONS OF STUDENT LOAN PROGRAM

Both bills contained extensions and revisions of the existing program authorizing the Secretary to assist schools of the health professions in establishing student loan funds for the purpose of making loans to students in such schools.

Under the House bill, the following appropriations were authorized for Federal capital contributions to student loan funds: $30 million for each of fiscal years 1976, 1977, and 1978.

Under the Senate amendment, the following appropriations for Federal capital contributions to student loan funds were authorized: $22 million for fiscal year 1978, $24 million for fiscal year 1979, and $26 million for fiscal year 1980. Further, the Senate amendment made the following revisions in the program: (1) it repealed the prohibition against health professions students receiving both a health professions student loan and a national defense education loan; (2) it required that no student of medicine or osteopathy who would graduate after June 30, 1978 would be eligible to receive a health professions student loan after October 1, 1976 unless such student were of exceptional financial need; and (3) it limited the existing loan forgiveness provisions to allow repayment only of health professions student loans through service in a shortage area.

The conference substitute conforms to the Senate amendment except that (1) it prohibits assistance to any medical or osteopathic student who will graduate after June 30, 1979 unless such student is of exceptional financial need, and (2) it authorizes the following appropriations for Federal contributions to student loan funds: $26 million for fiscal year 1978, $27 million for fiscal year 1979, and $28 million for fiscal year 1980.

LISTER HILL SCHOLARSHIPS

The Senate amendment established a program whereby up to ten Lister Hill scholarships each year would be awarded to medical students who agree to enter into the family practice of medicine in health manpower shortage areas and authorized appropriations for such program as follows: $80,000 for fiscal year 1977, $160,000 for fiscal year 1978, $240,000 for fiscal year 1979, and $320,000 for fiscal year 1980.

The House bill contained no comparable provision.

The conference substitute conforms to the Senate provision, with technical amendments.

REVISIONS TO NATIONAL HEALTH SERVICE CORPS PROGRAM

Administrative provisions

The House bill retained the provisions of existing law which require the Secretary to conduct recruiting programs for the National Health Service Corps at health professions schools, authorize the Secretary to reimburse applicants for positions in the Corps for expenses incurred in making one trip to an area in which they would be assigned, and provide that personnel of the Corps engaged in the provision of health services to underserved populations shall not be counted against employment ceilings affecting the Department of Health, Education, and Welfare.

The Senate amendment did not contain the provisions described above. The Senate amendment did require that the identifiable administrative unit within the Department of Health, Education, and Welfare which administers programs relating to construction, capitation grants, and grants for family medicine programs concur in administrative actions, prior to the issuance thereof, with respect to the National Health Service Corps Program and the National Health Service Corps Scholarship Program.

Under the conference substitute, the three administrative provisions contained in the House bill are adopted. In addition, the conference substitute provides that the administrative unit within the Department of Health, Education, and Welfare which administers the program relating to capitation grants shall participate in the development of administrative actions, prior to their issuance, with respect to the National Health Service Corps Program and the Scholarship Program.

Adjustment of pay

Under the House bill, the Secretary was authorized to adjust the monthly pay of each National Health Service Corps physician and dentist engaged directly in the delivery of health services, following the termination of any obligatory service incurred as a result of NHSC scholarship support, by an amount not to exceed $1,000 per month so that such pay would be competitive with that of members of their professions with equivalent training and time experience. Upon expiration of the thirty-six month period, such bonus support would continue only to the extent necessary to make the National Health Service Corps member's monthly pay equal to the income he received for the last month of the thirty-six month period.

The Senate amendment contained no comparable provision.

The conference substitute includes the House provision, except that it is made applicable to all members of the National Health Service Corps.

Designation of medically underserved populations or health manpower shortage areas

Under the House bill, the population of an urban or rural area which the Secretary determined to have a critical health manpower shortage or a population group determined by the Secretary to have such a shortage was to be designated as a "medically underserved population" and, thus eligible for service from a National Health Service Corps assignee.

The Senate amendment, using the term "health manpower shortage area", defined such an area as (1) an area in an urban or rural area which the Secretary determines has a health manpower shortage, (2) a population group which the Secretary determines has such a shortage or (3) a public or nonprofit private medical facility or other public facility (including a Federal facility) which the Secretary determines has such a shortage.

The conference substitute adopts the provisions of the Senate amendment, except that it adds a definition of the term "medical facility".

Review of applications for assignment of Corps personnel

Under the House bill, the Secretary could not approve an application for the assignment of a National Health Service Corps member to an area unless he had afforded each health systems agency for a health service area which includes any or part of the area in which the population for which the application is submitted resides (or, if there is part of such area within a health service area for which no health systems agency has been designated, the State health planning and development agency of the State in which such part is located) is afforded an opportunity to review the application and submit comments respecting the need for and proposed use of the Corps personnel requested.

The Senate amendment contained no comparable provision.

The conference substitute includes the provisions of the House bill except that health systems agencies (and where appropriate State health planning and development agencies) are afforded 90 days to review and comment upon applications.

Participation of medical and other health professions societies in assignment of Corps personnel

The House bill required the certification of a State or district medical, osteopathic, dental, or other appropriate health society for a designated area to certify to the Secretary that assignment of Corps personnel is needed for the area prior to the assignment of a National Health Service Corps member. The House bill provided for a waiver of this requirement if the Secretary determined that certification had clearly been arbitrarily and capriciously withheld.

The Senate amendment required that, in considering an application for assignment, the Secretary take into consideration comments from medical, osteopathic, dental or other health professions societies or individuals in such professions serving the appropriate area.

The conference substitute directs the Secretary to take into consideration the comments of such societies or individuals prior to making an assignment of a National Health Service Corps member to a designated area.

Waiver of cost sharing provisions

Both bills provided authority for the Secretary to waive requirements that an entity to which a National Health Service Corps member has been assigned pay to the United States an amount equal to the assignee's salary, any scholarship support he might have received under the National Health Service Corps Scholarship Program, and any amount paid to the entity by the Secretary in order that the entity could prepare for the arrival of the National Health Service Corps member.

Under the House bill the Secretary was authorized to waive, in whole or in part, such repayment requirements if he determines that compliance would unduly limit the ability of the entity to maintain the quality of the services it provided.

Under the Senate amendment, the Secretary's determination was to be with respect to the ability of the entity to provide for the support of the provision of health services by Corps members. In addition, the Senate amendment exempted from the repayment requirement entities located in a health manpower shortage area in which a significant percentage of the residents were elderly, living in poverty, or had other characteristics which would indicate an inability to repay the required amount.

Under the conference substitute, the Secretary is authorized to waive, in whole or in part, the repayment requirement if he finds that the requirement would unreasonably limit the ability of the entity to provide for the *adequate* support of the provision of health services by Corps members. In addition, the Secretary is authorized, but not required, to grant such a waiver to an entity located in an area in which a significant percentage of the residents of the area are elderly, living in poverty, or have other characteristics bearing upon ability to repay.

Loans and grants to entities to which National Health Service Corps personnel will be assigned

The House bill authorized the Secretary to make single grants, not in excess of $25,000, to entities to which National Health Service Corps personnel had been assigned for the purpose of establishing medical practice management systems, acquiring equipment, and establishing continuing education programs for National Health Service Corps personnel. As noted above, the amount of such grants was required to be repaid by the entity, although the repayment requirement could be waived in whole or in part.

The Senate amendment authorized the Secretary to make one loan, without interest, to any entity to which a National Health Service Corps member has been assigned for purposes comparable to those for which the House bill authorized grants except that such a loan could also be utilized for the renovation of buildings. No such loan could exceed $75,000, and repayment could be waived. In addition, the Senate amendment authorized the Secretary to make one grant in lieu of a loan to an entity that was financially unable to meet the full cost of providing facilities. The amount of any such grant could not exceed $15,000 or 50 percent of the cost of providing such facilities, whichever is less.

The conference substitute conforms to the House bill except that (1) the term "grant" is changed to "loan" (2) the Senate provision which authorized as one of the purposes for a loan the renovation of buildings is included and (3) the amount of the loan may not exceed $50,000.

Denial of hospital privileges to National Health Service Corps members

The Senate amendment contained a provision, not included in the House bill, making it unlawful for any hospital to deny admitting privileges to a physician or dentist member of the National Health Service Corps when such member otherwise meets the professional qualifications established by the hospital and agrees to abide by the bylaws of the hospital and medical staff. Further, the Senate amendment provided that any hospital which is found by the Secretary to have violated this requirement shall cease to receive and be eligible to receive federal funds under the Public Health Service Act, and shall be liable to the United States for civil penalty of $10,000.

The conference substitute includes the Senate provision.

Advisory council

The House bill repealed the provisions of existing law which establish the National Advisory Council on Health Manpower Shortage Areas and established in its place a council to be known as the National Advisory Council on the National Health Service Corps.

The Senate bill repealed the authority for the National Advisory Council on Health Manpower Shortage Areas.

The conference substitute conforms to the provisions of the House bill.

Authorization of appropriations for the National Health Service Corps program

The House bill authorized appropriations as follows for the Scholarship Program: $30 million for fiscal year 1976, $36 million for fiscal year 1977, $45 million for fiscal year 1978.

The Senate amendment authorized the following appropriations for the program: $47 million for fiscal year 1978, $57 million for fiscal year 1979, and $70 million for fiscal year 1980.

The conference substitute conforms to the Senate amendment.

The conferees intend that persons who volunteer for the National Health Service Corps should be given greater consideration in matching their preferences for assignment among all health manpower shortage areas than persons who acquire an obligation to serve in such areas because of receipt of scholarship support.

The conferees further intend that scholarship recipients should be assigned to areas of greatest need. In determining assignments, the Secretary should establish groupings of areas of greatest need and authorize limited assignment choices for scholarship recipients among such groupings.

REVISIONS IN THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

Period of obligated service

The House bill required each applicant for participation in the National Health Service Corps Scholarship Program to agree to provide one year of service for each academic year of training for which a scholarship was received, or two years of service, whichever is greater.

The Senate amendment required each participant in the program to serve for a period equal to one year of such service for each year for which the scholarship was received, but required each applicant to accept no less than two years of scholarship support.

The conference agreement conforms to the House provision.

Application, provisions of offer, and contract

The Senate amendment required that, to be eligible for acceptance in the National Health Service Corps Program, an individual must submit an application for acceptance in the program and enter into a written contract with the Secretary.

In addition, the Senate amendment contained a provision requiring the Secretary to transmit an offer to each person whose application for participation in the Scholarship Program had been approved. The offer was required to include (1) a copy of the approval, (2) necessary forms, (3) a summary of the rights and liabilities of the individual upon acceptance of the scholarship, and (4) a copy of the contract to be entered into by the individual. The contract was required to contain (1) an agreement whereby the Secretary agrees to provide the individual with scholarships for a specified number of years and the individual agrees to accept such scholarships and serve for the period of obligated service in an area to which he is assigned by the Secretary, (2) a provision that any financial obligation of the United States and if the student is contingent upon sufficient funds being appropriated to carry out such obligation, (3) provisions for liquidated damages, (4) applicable administrative and judicial procedures, and (5) other significant matters affecting the rights and liabilities of the parties.

The House bill contained no comparable provision.

The conference substitute combines the provisions of the Senate amendment into one provision whereby the application for acceptance into the program includes the provisions of the offer and a copy of the contract which must be signed by the applicant prior to acceptance into the program.

Priority and award of scholarships

The Senate amendment required that, in awarding National Health Service Corps scholarships, the Secretary give initial priority to an individual who has previously received such a scholarship or who had received a scholarship for persons of exceptional financial need, and thereafter priority to individuals who will be entering their first year of school, and, finally, special consideration to individuals who reside in designated medically underserved areas.

The House bill contained no comparable provision.

Under the conference substitute, the Secretary is required to give priority in acceptance of applicants for participation in the program (1) for the academic year which begins September, 1978, first to individuals who have previously participated in the Scholarship Program or who have received scholarships under the program for students of exceptional financial need, and, secondly to individuals who will be entering their first or second year of training at an accredited health professions school; and (2) for each academic year which begins September, 1979 and thereafter, first to individuals who have previously participated in the Scholarship Program or who have received scholarships for persons of exceptional financial need and secondly to those individuals entering their first year of training at an accredited health professions school.

Amount of scholarship

The House bill provided that a National Health Service Corps scholarship was to consist of (1) an amount equal to the basic pay and allowances of a commissioned officer of the Public Health Service on active duty in pay grade O-1 with less than two years of service and (2) payment of the tuition expenses of the participant and all other reasonable educational expenses.

The Senate amendment provided that the scholarship of a participant in the National Health Service Corps Scholarship Program was to consist of (1) a stipend of $400.00 per month (with a provision for an annual increase of a percentage equal to the percentage of the increase in the salaries of Federal employees) and (2) tuition and all other reasonable educational expenses.

The conference agreement adopts the provisions of the Senate amendment.

Deferral of obligated service

The House bill provided that the Secretary shall, at the request of participants in the NHSC Scholarship Program, defer the beginning of obligated service for the time required for the participant to complete internship, residency, or other advanced clinical training.

Under the Senate amendment, the Secretary was authorized but not required, to defer the beginning of obligated service for such persons for a period required for a participant to complete internship, residency, or other advanced clinical training, except that such period could not exceed three years. Under the Senate amendment, the Secretary was to give priority in granting a deferral to participants who requested such deferral for the purpose of completing such training in a medically underserved area, or for the purpose of receiving training in family medicine, general internal medicine, general pediatrics, and general obstetrics and gynecology.

The conference substitute conforms to the House provision except that the period of deferral may not exceed three years.

Reports

The Senate amendment required each member of the National Health Service Corps during his period of obligatory service and each individual released from his service requirement as a member of the Corps to serve in private practice to file a report with the Secretary each year which shall include his activities over the previous year.

The House bill contained no comparable provision.

The conference report does not contain the Senate provision. However, the conferees do not intend that this action be construed as prohibiting reasonable requests for information from such individuals by the Secretary.

Release to engage in research

The Senate amendment contained a provision, not included in the House bill, which authorized the Secretary, if he determines that a participant in the National Health Service Corps Program demonstrates exceptional promise for medical research, to permit such individual to perform his service obligation under the requirements of the National Research Service Award program obligation established under section 472(c) of the Public Health Service Act.

The conference substitute conforms to the Senate provision, except that the Secretary may permit such individuals to perform their service obligation through participation in the National Research Service Award program.

The conferees intend that the Secretary would use his authority to release such individuals who demonstrate extraordinary promise respecting biomedical research, given the fact that the principal purpose of awarding National Health Service Corps scholarships is to provide health services to medically underserved areas and not simply to provide financial support for health professions students. It is the intent of the conferees that, in his annual report to the Congress with respect to the Scholarship Program, the Secretary report as to the number of individuals released from their service obligations under the Program during the previous year.

Release from obligation to enter private practice

Both bills contained provisions authorizing the release of persons from their service obligation in order to enter the private clinical practice of their profession in a health manpower shortage area.

Under the House bill, the Secretary was required to release such an individual from his service obligation and was authorized to make one grant to any such individual who has agreed to extend the period of practice under such agreement by a period of not less than one year to assist in the costs of beginning the practice of his profession. The amount of the grant was authorized to be $12,500 if the individual agreed to practice his profession for a period of at least one year but less than two years; such amount was to be $25,000 if the individual agreed to practice his profession for a period of at least two years.

The Senate amendment permitted but did not require the Secretary to release such an individual, conditioned upon the existence of a sufficient financial base in the area in which the individual intended to practice his profession. It contained no provision authorizing the award of a grant to such an individual.

Under the conference substitute the Secretary is required to release from his service obligation a member of the National Health Service Corps who agrees to enter into the private practice of his profession in a health manpower shortage area which has a sufficient financial base to sustain such practice. The conference substitute contains no provision with respect to the award of a grant to such an individual.

Good medical practice requirements

The Senate amendment required that agreements entered into between the Secretary and persons released from obligated service in order to enter private practice contain provisions in order to assure that the medical practice of such person will be in accordance with the requirements of good medical practice in effect for Corps members, including requirements relating to medical records systems, professional coverage arrangements, and hours of practice.

The House bill contained no comparable provision.

The conference substitute does not contain this provision. However, the conferees noted that this action does not preclude the establishment of reasonable regulations by the Secretary to insure that persons released for purposes of private practice engage in the full time clinical practice of their profession and that such practice be of high quality.

Grants for persons who have completed obligated service

The House bill contained a provision authorizing grants to persons who have completed their service obligation and who agree to engage in the private practice of their profession in a medically underserved area to assist such persons in meeting the costs of beginning the practice of their professions. The authorized amount of such grant was $12,500 if the individual agreed to practice his profession for a period of at least one but less than two years; such amount was to be $25,000 if such individual agreed to practice his profession for a period of at least two years.

The Senate amendment contained no comparable provision.

The conference substitute includes the House provision.

Recovery of damages upon default

The House bill contained a provision which entitled the United States to recover from a person failing to begin or complete his service obligation an amount equal to two times the amount paid under the scholarship training program, plus interest at the maximum prevailing legal rate, within a three year period beginning on the date the United States becomes entitled to recover such amounts. Repayment was to be in accordance with a formula designed to encourage participants not to fulfill only a portion of their service obligations.

The Senate amendment contained a comparable provision, except that repayment was to be at an amount equal to three times the amount paid under the scholarship training program plus interest, repayable within 60 days of the period in which the United States becomes entitled to recover the amount.

Under the conference substitute, the amount the United States is entiled to recover is an amount equal to three times the amount paid under the scholarship training program, plus interest, payable within one year from the date of the breach of the contract entered into between the United States and the individual.

Termination of studies

The House bill provided that when a participant in the scholarship program is dismissed for failure to meet academic standing requirements or for disciplinary reasons or voluntarily terminates academic training, he shall be liable for repayment to the government for an amount equal to the scholarship which he received.

Under the Senate amendment, the obligation of such individual would be cancelled without prejudice, although if the individual subsequently received a health professions degree, the obligation which had been cancelled would be reinstated.

The conference substitute conforms to the House bill.

Liquidated damages

The Senate amendment contained a provision providing that any individual who entered into a written contract to accept a National Health Service Corps scholarship and who failed to enroll as a first year student shall be liable to the United States for the sum of $1,500 in liquidated damages. Further, it provided that whenever an individual submitted an application for a National Service Corps scholarship, agreed in writing to accept the scholarship, enrolled as a student in a school of the health professions and failed to accept such scholarship, if offered, such individual would be liable to the United States for the sum of $1,500 in liquidated damages.

The House bill contained no comparable provision.

The conference substitute does not contain the provisions of the Senate amendment with respect to failure to enroll as a first year student. It does, however, contain the provisions with respect to the liability of an individual who enrolls in a health professions school and fails to accept a scholarship after agreeing in writing to do so.

Authorization of appropriations for national health service corps scholarship program

The House bill authorized the following appropriations to carry out the National Health Service Corps Scholarship Program: $40 million for fiscal year 1976, $80 million for fiscal year 1977, and $120 million for fiscal year 1978. Further, the House amendment required that sums appropriated under the authority for National Health Service Corps scholarship for any fiscal year must remain available for obligation in the succeeding fiscal year.

Under the Senate amendment, the following appropriations were authorized for the National Health Service Corps Scholarship Program: $85 million for fiscal year 1978, $150 million for fiscal year 1979, and $233 million for fiscal year 1980. The Senate amendment further required that not less than $68 million for fiscal year 1978, $120 million for fiscal year 1979, and $190 million for fiscal year 1980 be used for scholarships for medical and osteopathic students and that not less than $12 million for fiscal year 1978, $24 million for fiscal year 1979, and $36 million for fiscal year 1980 be used for scholarships for dental students.

Under the conference substitute, the following appropriations are authorized for the National Health Service Corps Scholarship Program: $75 million for fiscal year 1978; $140 million for fiscal year 1979, and $200 million for fiscal year 1980. In addition, under the conference substitute, not less than 90 percent of funds appropriated in any of the above fiscal years must be for the purpose of awarding scholarships for medical, osteopathic, or dental students, of which 10 percent must be reserved for dental students. Finally, the conference substitute includes the House provision which required that sums appropriated for any fiscal year shall remain available for obligation for the succeeding fiscal year.

FUNDING PRIORITY

Under the Senate amendment, funds appropriated under the authorization of appropriations for National Health Service Corps scholarships and scholarships for students of exceptional financial need could not be less than 50 percent of the funds appropriated for capitation grants to schools of medicine, osteopathy, and dentistry.

The House bill contained no comparable provision.

Under the conference substitute, if 75 percent or more of the sum of the amounts authorized to be appropriated for such fiscal year for the purpose of making capitation grants to schools of medicine, osteopathy and dentistry is appropriated for any fiscal year, no funds appropriated for such fiscal year may be obligated or expended for the purpose of carrying out any provisions of title VII of the Public Health Service Act unless the amounts appropriated for National Health Service Corps Scholarships and scholarships for students of exceptional financial need are less than the lesser of (1) the amounts authorized to be appropriated for such fiscal year for such programs or (2) 50 percent of the total amount appropriated for such fiscal year under title VII of the Public Health Service Act.

REVISION OF SCHOLARSHIP AUTHORITY

Under the House bill, the existing authority for grants to schools for the provision of scholarship awards to students was repealed, and appropriations were authorized only for the purpose of making payments to students who had received such awards from grants made to schools prior to fiscal year 1975.

Under the Senate amendment, the existing scholarship authority was repealed and replaced by authority for grants to public or non-profit private schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, and veterinary medicine for scholarships to be awarded to students who are of exceptional financial need and who are in their first year of study at such schools. Scholarships were to consist of a stipend of $400 per month, tuition, and all other reasonable educational expenses. Authorizations of $16 million for fiscal year 1978, $17 million for fiscal year 1979, and $18 million for fiscal year 1980 were provided for such purpose.

Under the conference substitute, both the provisions of the House bill and the Senate amendment are adopted with technical changes.

GUARANTEED STUDENT LOANS

The Senate amendment contained provisions which would establish a new program of Federally insured loans for students enrolled in health professions schools, modeled on the program established by the Higher Education Act but with substantially increased ceilings on the amounts that could be borrowed by health professions students. Students in schools of medicine, osteopathy, dentistry, veterinary medicine, podiatry, optometry, and public health were authorized to borrow up to $10,000 a year with a total loan limit per student of $50,000. Students in schools of pharmacy were permitted to borrow up to $7500 a year with a total loan limit per student of $37,500. The Senate amendment provided for principal payments on such loans to be deferred while the borrower was in school, and during a period not to exceed three years, while in training as an intern or resident or while serving in the Armed Forces, the Peace Corps, or under the Domestic Volunteer Services Act of 1973, but required that interest payments be made during the period of deferral. It limited the amounts of new loans that could be insured in each of the fiscal years covered by the legislation to $500 million during fiscal year 1978, $510 million during fiscal year 1979, and $520 million during fiscal year 1980, and it provided that not more than 50 percent of the students in any class of a medical, dental, or osteopathic school were authorized to obtain such insured loans. In addition, the Senate amendment authorized the marketing of such loans in the secondary market established by the Student Marketing Association, permitted institutions to use capitation payments to subsidize the interest costs of students holding such insured loans, and auhorized the Secretary to permit borrowers under the program to discharge their loan obligation after graduation by providing service in a medically underserved area either as a member of the National Health Service Corps or in private practice in such an area.

The House bill contained no comparable provision.

The conference substitute includes the provisions of the Senate amendment with the following changes:

(1) Health professions schools participating in the program may do so only if they meet the conditions prescribed by the conference report respecting eligibility for capitation.

(2) The schools themselves are designated as eligible lenders, unlike the provision of the Senate amendment which excluded such institutions as being lenders.

(3) Lenders are required to make substantial efforts at collecting on loans insured under the program before the Federal gov-

ernment may pay the amount owed under the guarantee.

(4) In the event that the Secretary enters into an agreement with a borrower for payment of a portion of a loan obligation in return for service and the borrower breaches his contract obligation under such agreement, he is required to pay damages in an amount equal to three times the amount paid by the Secretary under the agreement to him or on his behalf.

The conferees were particularly concerned that schools not use the guaranteed student loan program as a substitute for the capitation program. Thus, the conference substitute provides that only the students of schools that are in compliance with the capitation conditions for receipt of capitation support are eligible for participation in the program.

In the view of the conferees, the new guaranteed loan program will be of material assistance to health professions schools by providing private sources of income for students to meet the ever rising costs of education. This program should be of particular value to those institutions which receive relatively little public support and, consequently, are obliged to charge high tuition fees. Thus, the conferees expect that, in the administration of the program, the Secretary will pay particular attention to the needs of high tuition schools.

Finally, the conferees noted that the guaranteed student loan program offers the Secretary a source of personnel for service in under-served areas in addition to persons who are under obligation due to receipt of National Health Service Corps scholarships. Although borrowers under the program are not entitled to repay their loans through service as a matter of right, the Secretary is authorized to enter into agreements with them to discharge their loan obligations in return for service under terms and conditions identical to those of the NHSC program. In all likelihood, most of the loans insured under this program will be repaid in the normal course, however, there may be circumstances under which the Secretary seeks to obtain additional personnel for service in underserved areas. This program enables the Secretary to obtain such personnel by contracting with borrowers for such service.

The conferees stress that provision is made to limit the possibility of avoidance of repayment by restricting borrowers under the program from discharging their obligation through bankruptcy for a period of five years after repayment commences and, further, by authorizing denial of reimbursement under any Federal program to providers who have defaulted on loan obligations incurred under the program.

TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH AND OTHER GRADUATE PROGRAMS

The House bill contained two provisions which authorized traineeship support for students in schools of public health and other graduate programs in health. The first provision authorized appropriations of $6 million for each of fiscal years 1976, 1977, and 1978 for grants to schools of public health for traineeships to train students enrolled in such schools. The second provision authorized appropriations of $2.5 million for each of fiscal years 1976, 1977, and 1978 for grants to public or nonprofit private entities (except schools of public health) training students in graduate educational programs in health administration, hospital administration, health planning, environmental health, and preventive medicine for traineeships to train public and community health personnel for which the Secretary determines there is unusual need.

The Senate amendment combined the two authorities into one authority for traineeships. Under the Senate provision, the Secretary was authorized to make grants to accredited schools of public health and to public or nonprofit private educational entities (including schools of social work) which have accredited programs in health administration, hospital administration, and health planning for traineeships to train students in such schools and programs. It provided that eighty percent of the traineeships were to be awarded to individuals who either had a postbaccalaureate degree or had worked for three years in health services, and were pursuing courses of study in biostatistics, epidemiology, health administration, health planning, health policy analysis and planning, environmental health, occupational health, dietetics, or nutrition. The Senate amendment authorized appropriations of $10 million for fiscal year 1978, $11 million for fiscal year 1979, and $12 million for fiscal year 1980 for such traineeships.

The conference substitute provides for two separate traineeship programs, one for students in accredited schools of public health and one for students in accredited programs of health administration, hospital administration, and health planning. With respect to traineeships to students in accredited schools of public health, 45% of the awards in fiscal year 1978, 55% in fiscal year 1979, and 65% in fiscal year 1980 are to be reserved for awards to the individuals eligible under the Senate amendment. Eighty percent of the awards for students in accredited programs of health administration, hospital administration, and health planning are earmarked for individuals who either have a postbaccalaureate degree or three years of work experience in health. The conference substitute authorizes appropriations of $7.5 million for fiscal year 1978, $8 million for fiscal year 1979, and $9 million for fiscal year 1980 for traineeship awards for students in schools of public health, and $2.5 million for each of fiscal years 1978, 1979, and 1980 for traineeship awards to students enrolled in graduate programs of health administration, hospital administration, and health planning.

The conferees recognize that the report contains several references regarding accreditation of schools of public health and programs in health administration, hospital administration, and health planning. These references are in no way intended to imply that any changes in policy or direction with respect to HEW's Office of Education respecting the recognition it chooses to grant regarding accreditation are necessary.

CAPITATION GRANTS FOR SCHOOLS OF MEDICINE, OSTEOPATHY AND DENISTRY AND ELIGIBILITY FOR SUCH GRANTS

Under both the House bill and the Senate amendment, schools of medicine, osteopathy, and dentistry were eligible for Federal institutional support based on a formula of a statutory amount of money times the number of full time students enrolled in such schools (and thus termed "capitation" support). Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of medicine, osteopathy, and dentistry were eligible for institutional support of $2100 per full time student for fiscal year 1975, $2100 per full time student for fiscal year 1976, and $2000 per full time student for fiscal year 1977.

The House bill provided that a school of medicine, osteopathy, or dentistry was not eligible for capitation support unless one of the following three conditions were met:

(1) That for the second school year beginning after the fiscal year in which the grant was to be made the first year enrollment of such school would be increased over the 1975 enrollment level by 10 percent if the enrollment in fiscal year 1975 was under 100 students, or by 5 percent or 10 students, whichever is greater, if such year's enrollment was over 100 and maintained for each school year thereafter;

(2) That for the second school year beginning after the fiscal year in which the grant was to be made and the third year enrollment of such school would be increased over the 1975 enrollment level by 10 percent if the enrollment in fiscal year 1975 was under 100 students, or by 5 percent or 10 students, whichever is greater, if such year's enrollment was over 100 and maintained for each school year thereafter; or

(3) That such school would have approved a plan to train students in ambulatory care settings in areas geographically remote from the main site of teaching facilities of the school. Under this option, a minimum of 50 percent of graduating students were required to receive at least six weeks of training (in the aggregate) in such areas; if 60 percent of the students were to receive such training, the required period was shortened to five weeks; if 75 percent of the students were to receive such training, the required period was shortened to four weeks.

Senate amendment

Under the Senate amendment, capitation support for schools of medicine, osteopathy, and dentistry was established at $1800 per student for fiscal year 1978, $1900 per student for fiscal year 1979, and $2000 per student for fiscal year 1980.

The Senate amendment required the following as conditions for receipt of capitation support by schools of medicine, osteopathy and dentistry:

Schools of Medicine and Osteopathy

Each such school would be required to provide assurances that an established number of positions available to students enrolled in such school would be reserved for students (excluding fourth-year students) who had applied for and agreed in writing to accept National Health Service Corps scholarships. The required number in academic year 1977–78 would be 25 percent of the number of first year students enrolled in the preceding academic year; in 1978–79, 30 percent of such number; and in 1979–80, 35 percent of such number. Further, the Senate amendment provided that these school-by-school requirements would not apply if "assured national goals" were "substantially met". "Assured national goals" meant that the national average of full-time first year students submitting applications for National Health Service Corps scholarships and entering into written contracts constituted at least the following percentages: 25 percent in academic year 1977–78; 30 per cent in 1978–79; and 35 percent in 1979–80. "Substantially met" was defined to mean either that 92.5 percent of funds authorized to be appropriated for National Health Service Corps scholarships for medical and osteopathic students had been obligated, or that at least 92.5 percent of the assured national goal for each academic year had been met.

In addition, each school of medicine would have been required to have the following percentages of all of its filled residency positions (including both direct and affiliated positions) in the specialties of family practice, general internal medicine, general pediatrics, and general obstetrics and gynecology: 42 percent in academic year 1977–78; 47 percent in 1978–79; and 57 percent in academic year 1979–80; with not more than 7 percent each year attributable to residencies in general obstetrics and gynecology (calculated on a school-by-school basis). Further, in applying these requirements, the Secretary was required to seek to assure that calculated in the national aggregate for each academic year there were an appropriate percentage of residencies in psychiatry.

Schools of Dentistry

Under the Senate amendment, schools of dentistry were required to meet the following conditions:

First, each such school would be required to provide assurances that an established number of positions available to students enrolled in such school would be reserved for students (excluding fourth year students) who applied for and agreed to accept National Health Service Corps scholarships. The number was to be a percentage of first year positions to be determined by the Secretary (which could not be more than 20 percent, but not less than 10 percent). This school-by-school requirement would not apply if the national average of full-time first year students who applied for and agreed to accept National Health Service Corps scholarships was equal to or exceeded the percentage established by the Secretary or if 92.5 percent of the funds authorized to be appropriated for such scholarships for dental students were obligated. The percentage of first year positions which was to constitute the requirements under the Senate amendment was to be determined by the Secretary in cooperation with appropriate national dental organizations.

Second, each dental school would be required either (1) to develop a program to train dental students in the organization and management of multiple auxiliary dental team practices in accordance with regulations of the Secretary, or (2) to increase (beginning in academic year 1977–78) the number of first year students above 1976–77 levels by 10 percent if such level was 100 or less, or by 5 percent or 10 students, whichever is greater, if such level was more than 100. Further, the Secretary was authorized to waive either of these requirements in cases in which dental schools would face the loss of accreditation due to compliance with such requirements.

Third, dental schools would be required to provide assurances that at least 70 percent of filled positions in dental specialty programs in excess of academic year 1976–77 levels would be in either general dentistry or pedodontics.

Conference substitute

Under the conference substitute, the following appropriations are authorized for capitation grants to schools of medicine, osteopathy and dentistry: $2000 per full time student for fiscal year 1978; $2050 per full time student for fiscal year 1979; and $2100 per full time student for fiscal year 1980.

The requirements of the conference substitute with respect to eligibility for capitation support are modifications of the provisions of the House bill with respect to enrollment increases and of the Senate amendment with respect to requirements for percentages of residency training programs in primary care. The requirements of the Senate amendment with respect to the reservation of certain percentages of positions in schools for students who apply for and agree to accept National Health Service Corps scholarships are not included in the conference substitute; however, due to the provisions of the conference substitute with respect to funding priorities for National Health Service Corps scholarships, (described above) the intention of the Senate amendment—to insure that adequate numbers of students receive scholarships in return for an agreement to practice their professions in medically underserved areas—will, in the opinion of the conferees, be fulfilled.

The conference substitute provides as follows:

Requirements for Schools of Medicine

Requirements for Primary Care Residency Positions: Unless, on July 15, 1977, the number of filled first year residency positions in primary care (defined as family medicine, general internal medicine and general pediatrics) is at least 35% of the total number of first year filled positions on that date in all direct or affiliated medical residency training programs, then in order for a school of medicine to be eligible for capitation grants for the fiscal year 1978, it must have, on July 15, 1978, at least 35% of its filled first year positions in its direct or affiliated medical residency training programs in primary care.

Unless, on July 15, 1978, the number of filled first year residency positions in primary care is at least 40% of the total number of filled first year filled positions, then in order for a medical school to be eligible for a capitation grant for fiscal year 1979, it must have, on July 15, 1979, 40% of its filled first year residency positions in its direct or affiliated medical residency training programs in primary care.

Unless, on July 15, 1979, at least 50% of all filled first year medical residency positions are in primary care, then in order for a medical school to be eligible for capitation support for fiscal year 1980, it must have July 15, 1980 at least 50% of its filled first year positions, in its direct or affiliated medical residency training programs in primary care.

Under the conference substitute, the Secretary is required to determine what percent of all first year filled positions as of July 15, 1977 and July 15 of each succeeding year in direct or affiliated medical residency training programs are filled positions in primary care. In making his determination each year, the Secretary is to deduct from the number of filled first year positions in primary care, a number equal to the number of individuals who were in a first year filled position in primary care in the previous year and who are, at the time the Secretary makes his determination, not in a residency training program in primary care. Each such determination is required to be published in the Federal Register not later than 45 days after the determination is made and reported in writing to each school of medicine in the United States and to the appropriate Committees of the Congress. The Secretary may in instances in which a school is required to have a specified percentage in primary care positions, determine that such requirement is met if (1) he determines that a school has made good faith efforts to meet the requirement and that at least 98 percent of the required percentage has been met. In addition, the conference substitute provides that the Secretary may not make a capitation grant to a school of medicine for any fiscal year if in the preceding year such school terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements for eligibility for capitation grants relating to residency positions continued to provide training support for such a residency training program.

Requirements to Enroll Students from Foreign Medical Schools: In order for a school of medicine to be eligible for capitation support, it must in its application for such support provide assurances satisfactory to the Secretary that it will participate in a national program whereby it will reserve positions in the school year beginning immediately before the fiscal year for which the grant is applied for students who were enrolled in a school of medicine outside of the United States prior to the enactment of the conference report which students (1) are citizens of the United States, (2) successfully completed at least two years in such a school of medicine, (3) successfully completed Part I of the National Board of Medical Examiners examination (or its equivalent) and (4) have applied to the Secretary for assignment to a school of medicine in the United States. The Secretary is required to apportion equitably among the schools of medicine in the United States the number of positions for individuals eligible for admission under this provision and must report to the schools not later than 15 days after the identification is made of such individuals; schools of medicine are not required to enroll an individual apportioned to it if such individual does not meet the school's entrance requirements (other than requirements with respect to academic standing or place of residence) or, if enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body, result in the school's not meeting the accreditation standards of such body. In addition, if the Secretary determines that there is an inadequate population in the area served by the medical school hospital to provide an adequate patient load so quality clinical training can be provided to students in the medical schools.

It is not the conferees intent, in including this requirement, either to encourage or condone the practice of U.S. citizens receiving their medical education in foreign medical schools if such persons intend to practice medicine in the United States. Rather, it is intended to remedy an unfortunate situation which currently exists. In the view of the conferees, the current situation, in which thousands of U.S. citizens are presently enrolled in foreign medical schools where, in most cases, the education they are receiving is not of the quality provided by U.S. medical schools and is being taught in a language other than English, is a situation which deserves the immediate attention of the Department of Health, Education, and Welfare, the American Medical Association, and the Association of American Medical Colleges. The conferees believe that it is in the best interests of the U.S. health care system to permit those U.S. citizens who have successfully completed two years of medical education in a foreign medical school and who have passed Part I of the National Board of Medical Examiners' Examination to complete their education in U.S. medical schools. The conferees intend that this provision not be extended beyond the life of the conference report and that individuals planning a career in medicine become cognizant of this fact.

Although the conference substitute does not include the provisions of the Senate amendment with respect to emphasis on residencies in psychiatry and obstetrics and gynecology, the conferees do not intend that this action be construed as prohibiting the development of appropriate numbers of such residencies to meet national needs.

Schools of Osteopathy

The requirements of the conference substitute with respect to receipt of capitation support by schools of osteopathy build upon the remote site training requirements of the House bill. Under the conference substitute, in order for a school of osteopathy to be eligible for capitation support for fiscal years 1978, 1979, or 1980 such school must submit to the Secretary and have approved a plan to train full time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant was made and in each school year thereafter beginning in a fiscal year for which a grant is made. Such training must be in an area geographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which is joined with the applicant in the submission of the plan or areas in which medically underserved populations reside. This provision authorizes more than one school of osteopathy to join in the submission of the plan. It requires that no plan may be approved unless (1) each school which joins in the submission of the plan submits assurances that all of the full time students who graduate from the school will upon graduation have received, in such areas, at least six weeks (of which at least three weeks must be consecutive) of clinical training, (2) the plan contains a list of the areas where the training is to be conducted, a detailed description of the type and amount of training to be given in the areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and the quality of training rendered in such areas, (3) the plan contains a specific program for the hiring, as members of faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas, and (4) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

School of Dentistry

The conference substitute provides that no school of dentistry will be eligible to receive capitation support for fiscal years 1978, 1979, or 1980 unless the following requirements are met.

First, in the school year beginning in fiscal year 1978 and in each school year ending in the fiscal year for which a capitation grant is applied for, at least 70 percent of such school's filled positions in dental specialty programs which are in excess of the number of filled positions in its program in the school year beginning in fiscal year 1977 must be in general dentistry or pedodontics.

Second, a school of dentistry must either increase its enrollment during fiscal year 1978 or submit and have approved a plan for remote site training of its students. The enrollment increase must be a percentage of the number of full time students enrolled in the school in the school year beginning in fiscal year 1977. The increase must be by 10 percent of the academic year 1976-77 enrollment if the enrollment was not more than 100 or 5 percent of such number (or 10 students) whichever is greater if such number was more than 100. Requirements with respect to remote site training are identical to those described above with respect to schools of osteopathy except that the requirement to provate at least three consecutive weeks of training is not included. However the conferees anticipate that this requirement could and should be met in most instances. It is the intention of the conferees that, to the maximum extent feasible, remote site training should be conducted in areas which are in need of dentists. The conferees anticipate that the Secretary would use as a guideline counties (or equivalent political units) in which the dental to population ratio is 1 to 2,000 or more and that the area be an area in which training support in general dental practice and pedodontics is available.

CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH

Under both the House bill and the Senate amendment, schools of public health were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of public health were eligible for capitation grants of $1,500 per student equivalent for fiscal years 1976, 1977, and 1978.

The House bill required that no school of public health would be eligible for capitation support unless it agreed that the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter would exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. The Secretary was authorized to waive such requirement if he determined that such school could not increase its first year enrollment without lowering the quality of education provided in the school.

Senate amendment

Under the Senate amendment, capitation support for schools of public health was established at $1,225 per student equivalent for fiscal year 1978, $1,300 per student equivalent for fiscal year 1979, and $1,375 per student equivalent for fiscal year 1980.

The Senate amendment's requirements for eligibility for capitation support were comparable to the requirements of the House bill, except that the enrollment increase was to be by 5 percent of the number of students enrolled in the preceding school year if such number was not more than 100, or by 2.5 percent of such number or five students, whichever was greater, if such number was not more than 100.

Conference substitute

Under the conference substitute, appropriations of $1,400 per student equivalent are authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of public health.

The requirements of the conference substitute with respect to eligibility for capitation grants conform to the Senate amendment.

CAPITATION GRANTS FOR SCHOOLS OF VETERINARY MEDICINE

Under both the House bill and the Senate amendment, schools of veterinary medicine were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of veterinary medicine were eligible for capitation grants of $1,500 per year for each full time student for each of fiscal years 1976, 1977, and 1978.

The House bill required that one of two conditions were required to be met in order for a school of veterinary medicine to be eligible for capitation support. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number of the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 20 percent of the first year enrollment of full time students in such school would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year thereafter beginning in a fiscal year in which the grant was to be made, be comprised of student who were residents of States in which there were no accredited schools of veterinary medicine.

Senate amendment

Under the Senate amendment, capitation support for schools of veterinary medicine was established at $1,350 per full time student for fiscal year 1978, $1,425 per full time student for fiscal year 1979, and $1,500 per full time student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever was greater, if such number was more than 100, and that at least 40 percent of the first year enrollment of full time students must be comprised of students who are residents of States in which there are no accredited schools of vetrinary medicine. In addition, the Senate amendment reare no accredited schools of veterinary medicine, in order to be eligible for capitation support, provide assurances to the Secretary that the clinical training provided by such school emphasize predominantly care to food producing animals or to fiber producing animals or to both types of animals. Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment or enrollment of students from States in which there are no accredited schools of veterinary medicine (or both such requirements) if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

Conference substitute

Under the conference substitute, $1450 per full time student is authorized for fiscal years 1978, 1979, and 1980 for capitation grants for schools of veterinary medicine.

The requirements of the conference substitute with respect to eligibility for capitation support conform to the Senate amendment, except that (1) the requirement with respect to enrollment of students from States which have no accredited schools of veterinary medicine is that 30 percent of the first year enrollment of such schools be comprised of such students and (2) that the Secretary is not authorized to waive either requirement.

CAPITATION GRANTS FOR SCHOOLS OF OPTOMETRY

Under both the House bill and the Senate amendment schools of optometry were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of optometry were eligible for capitation grants of $700 per full time student for fiscal years 1976, 1977 and 1978.

Under the House bill, one of two conditions was required to be met in order for a school of optometry to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 25 percent of the first year enrollment of full time students in such school (or, in the case of a private school, 50 percent of such enrollment) would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year thereafter beginning in a fiscal year in which the grant was to be made, be comprised of students who were residents of States in which there were no accredited schools of optometry.

Senate amendment

Under the Senate amendment, capitation support for schools of optometry was established at $775 per student for fiscal year 1978, $830 per student for fiscal year 1979, and $885 per student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number were less than 100, or 2.5 percent of such number or 5 students, whichever was greater, if such number was more than 100.

Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

Conference substitute

Under the conference substitute, $765 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of optometry.

The requirements of the conference substitute with respect to eligibility for receipt of capitation support conform to the Senate amendment, except that the conference substitute does not provide for a waiver of the requirements.

CAPITATION GRANTS FOR SCHOOLS OF PODIATRY

Under both the House bill and the Senate amendment schools of podiatry were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of podiatry were eligible for capitation grants of $1,100 per full time student for each of fiscal years 1976, 1977, and 1978.

Under the House bill, one of two conditions was required to be met in order for a school of podiatry to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 40 percent of the first year enrollment of full time students in such school would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year thereafter beginning in a fiscal year in which the grant was to be made, be comprised of students who were residents of States in which there were no accredited schools of podiatry.

Senate amendment

Under the Senate amendment, capitation support for schools of podiatry was established at $775 per full time student for fiscal year 1978, $830 per full time student for fiscal year 1979, and $885 per full time student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever was greater, if such number was more than 100.

Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

Conference substitute

Under the conference substitute, $965 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of podiatry.

The requirements of the conference substitute with respect to eligibility for receipt of capitation support conform to the Senate amendment except that the conference substitute does not provide for a waiver of the requirements.

CAPITATION GRANTS FOR SCHOOLS OF PHARMACY

Under both the House bill and the Senate amendment schools of pharmacy were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

House bill

Under the House bill, schools of pharmacy were eligible for capitation grants of $700 per full time student for each of fiscal years 1975, 1976, and 1977.

Under the House bill, one of two conditions was required to be met in order for a school of pharmacy to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, of 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to have a plan approved by the Secretary for the establishment, expansion, improvement, or operation of at least two of the following programs: (1) a program to teach pharmacy in a hospital, extended care facility, or other clinical setting; (2) a program of training in clinical pharmacology; or (3) a program to train pharmacist to assist physicians and patients on the appropriate use of and reaction to drugs.

Senate amendment

Under the Senate amendment, capitation support for schools of pharmacy was established at $650 per full time student for fiscal year 1978, $690 per full time student for fiscal year 1979, and $730 per full time student for fiscal year 1980.

The requirements of the Senate amendment with respect to eligibility for capitation support were that each such school must provide each student with a training program in clinical pharmacy which includes one clinically trained full-time faculty member for every fifteen students in the last year of the porgram; inpatient and outpatient clinical pharmacy clerkship experience, and training in drug information retrieval and analysis in the context of actual patient problems.

Conference substitute

Under the conference substitute, $695 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of pharmacy.

The requirements of the conference substitute with respect to eligibility for receipt of capitation grants are that each student enrolled in such school must undergo a training program in clinical pharmacy which shall include inpatient and outpatient clinical pharmacy clerkship experience in a hospital, extended care facility, or other clinical setting; interaction with physicians and other health professionals; patients on the appropriate use of and reactions to drugs, training in drug information retrieval and analysis in the context of actual patient problems.

TRAINING IN THE COUNSELING OF REQUIREMENTS THAT STUDENTS IN HEALTH PROFESSIONS SCHOOLS REPAY CAPITATION GRANTS RECEIVED BY SUCH SCHOOLS

The House bill contained a provision which required that, as a condition for receipt of capitation support, each school of the health professions enter into agreements with each of its students to repay, beginning two years after such student graduates or completes postgraduate clinical training, the amount of capitation grants paid on his behalf, in annual installments equal to the number of such grants. It provided for forgiveness of one annual installment for each year of service in the National Health Service Corps or Indian Health Service, in private practice for a designated medically underserved population, or in military service.

The Senate amendment contained no comparable provision.

The conference substitute does not include the provision of the House bill.

INSTITUTIONAL GRANTS FOR GRADUATE PROGRAMS IN HEALTH

Both bills contained provisions providing new authority for the Secretary to make annual grants to public or nonprofit private educational entities (except schools of public health) to support the graduate programs in health of such entities.

Under the House bill, grants were to be for the purpose of supporting the graduate educational programs of such entities in health administration, hospital administration, health planning, environmental health and preventive medicine. In addition, the House bill required that the Secretary could not approve an application for assistance to such entities unless they provided assurances to the Secretary that they would increase overall enrollment, as well as increase enrollment in programs for the training of needed types of health personnel (as determined by the Secretary). The House bill authorized the following appropriations for such grants: $3 million for fiscal year 1976, $3.5 million for fiscal year 1977, and $4 million for fiscal year 1978.

Under the Senate amendment, funds were authorized to support graduate educational programs in health administration, hospital administration, and health planning. The Senate bill contained no provisions with respect to requirements for increases in enrollment. The Senate amendment authorized the following appropriations for such programs: $3 million for fiscal year 1977, $3.25 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $3.75 million for fiscal year 1980.

Under the conference substitute, grants for graduate programs in health are to be for the purpose of supporting programs in health administration, hospital administration, and health planning. In addition, an application for assistance may not be approved unless the program maintains a first year enrollment of full time students in such program for the school year ending in fiscal year 1978 and for each school year thereafter ending in a fiscal year in which a grant is applied for exceeds the number of such students enrolled in such program ending in fiscal year 1977 by 5 percent of such number if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100. Provision for waiver if accreditation status is threatened is included in the conference substitute. Finally, under the conference substitute, the following appropriations are authorized for institutional grants for graduate programs in health: $3.25 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $3.75 million for fiscal year 1980.

SPECIAL PROJECT GRANTS AND CONTRACTS

Both the House bill and the Senate amendment authorized funds for special project grants and contracts. The House bill provided detailed authority for ten programs with discrete line item authorizations of appropriations for each program. The Senate amendment, with a few exceptions, combined all special project authorities into a single line item authorization of appropriations with priority for certain purposes.

House bill

The House bill provided for a line item authorization of appropriations for each of the following programs at the specified funding level and repealed all other existing special project authority:

1. Revised and extended the existing program of start-up assistance and authorized $10 million for each of fiscal years 1976, 1977, and 1978 for the program.

2. Extended the existing authority for financial distress awards, included schools of public health as entities eligible to receive such awards, and authorized $5 million for each of fiscal years 1976, 1977, and 1978 for such purpose.

3. Extended the existing program of support for family medicine residency programs, added authority for the support of residency programs in the general practice of dentistry and authorized $40 million for each of fiscal years 1976, 1977, and 1978 for the program.

4. Extended the existing program of grants for computer technology health care demonstration programs and authorized $3 million for each of fiscal years 1976, 1977 and 1978 for the program.

5. Extended the existing program of support for emergency medical services training, added authority for support of postgraduate physician training, and authorized $10 million for each of fiscal years 1976, 1977, and 1978, of which one-third of the monies appropriated was to be obligated for postgraduate physician training program support.

6. Added specific authority for the following two programs which had previously been funded under the general authority entitled "Health Manpower Educational Initiative Awards":

(a) Area Health Education Centers at $15 million for fiscal year 1976, $20 million for fiscal year 1977, and $25 million for fiscal year 1978; and

(b) Training of physician assistants and expanded function dental auxiliaries at $25 million for fiscal year 1976, $30 million for fiscal year 1977, and $35 million for fiscal year 1978.

7. Added new authority for the establishment and support of family medicine departments in schools of medicine and osteopathy and authorized $10 million for fiscal year 1976, $15 million for fiscal year 1977, and $20 million for fiscal year 1978 for such purposes.

8. Added new authority to award grants to schools of medicine and osteopathy to train U.S. citizens who had been enrolled in foreign medical schools prior to July 1, 1975, to enable such individuals to enroll in U.S. schools and to encourage such schools to enroll such individuals with advanced standing, and authorized $2 million for fiscal year 1976, $3 million for fiscal year 1977, and $4 million for fiscal year 1978 for such awards.

9. Added new authority to award grants and enter into contracts with schools of optometry, pharmacy, and podiatry for specified special projects and authorized $5 million for each of fiscal years 1976, 1977, and 1978 for such purposes.

Senate amendment

The Senate amendment contained a broad, general special project grant authority which specified, in detail, twenty-three purposes which could be funded by special project grants and contracts. It authorized the Secretary to make grants and enter into contracts with public or nonprofit private hospitals, schools of medicine, osteopathy, and dentistry, graduate schools of psychology and social work, and other public or nonprofit private entities for special projects for the following purposes:

1. Programs for physician assistants and expanded function dental auxiliaries.
2. Start-up grants.
3. Area Health Education Center programs.
4. Financial distress.
5. Grants for training, traineeships, and fellowships in general internal medicine and general pediatrics.
6. Human behavior and psychiatry in medical and dental practice.
7. Speech pathology, audiology, bioanalysis and medical technology.
8. Humanism in health care.
9. Biomedical educational programs.
10. Education of United States citizens returning from foreign medical schools.
11. Grants for bilingual health clinical training centers.
12. Project grants and contracts for schools of optometry, pharmacy, and podiatry.
13. Grants to schools of social work in health care.
14. Health manpower development grants and contracts.
15. Environmental health education grants
16. Problems relating to women.
17. Regional health professions schools.
18. Primary dental care development.
19. United States citizens trained abroad.
20. Psychology training programs.
21. Implications of advances in biomedical research.
22. Dietetic residencies.
23. Regional systems of continuing education.
24. Health manpower development in the trust territories.
25. Problems of the aged.

The Senate amendment authorized $110 million for fiscal year 1978, $120 million for fiscal year 1978, and $130 million for fiscal year 1980 for such programs, and required that, of funds appropriated in each fiscal year, not less than 50 percent were to be obligated for the purposes of (a) programs for physician assistants and expanded function dental auxiliaries, (b) start-up grants, (c) area health education center programs, and (d) financial distress.

In addition, the Senate amendment contained provisions which:

(1) Extended the program of support for family medicine residencies, and authorized $40 million for fiscal year 1978, $45 million for fiscal year 1979, and $50 million for fiscal year 1980 for such program;

(2) Added new authority to award grants to assist public or private nonprofit colleges or universities in the establishment, operation, and administration of occupational health training and education centers and authorized $5 million for each of fiscal years 1977 and 1978, $8 million for fiscal year 1979, and $10 million for fiscal year 1980 for such purpose.

(3) Added new authority for special project grants to accredited schools of public health, and public or nonprofit private educational entities (including graduate schools of social work) which have accredited programs of health administration, health planning, or health policy analysis and planning, and authorized $5 million for fiscal year 1978, $5.5 million for fiscal year 1979, and $6 million for fiscal year 1980 for such program.

(4) Added new authority for grants to public or nonprofit private agencies, institutions, or organizations which can demonstrate the ability to assist in carrying out a program to select and train effective lay staff of professional standards review organizations and authorized $2.5 million for each of fiscal years 1978, 1979, and 1980 for such purposes.

(5) Added new general authority (under section 301 of the Public Health Service Act) to award grants to universities, hospitals, laboratories, and other public or private institutions for such projects as are recommended by the National Environmental Health Sciences Council for institutional support for manpower development programs.

Conference substitute

The conference substitute provides for a line-item authorization for each of the following programs at the specified funding level:

(1) It continues the program of assistance for family medicine residency programs, adds authority for support of general dentistry residency programs, and authorizes $45 million for fiscal year 1978, $45 million for fiscal year 1979, and $50 million for fiscal year 1980 for such purposes, of which not less than ten percent of funds appropriated must be obligated for support of general dentistry residency programs;

(2) It adds new authority to make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units to provide instruction in family medicine, and authorizes $10 million for fiscal year 1978, $15 milion for fiscal year 1979, and $20 million for fiscal year 1980 for such purposes.

(3) It adds specific authority for the support of area health education center programs and authorizes $20 million for fiscal year 1978, $30 million for fiscal year 1979, and $40 million for fiscal year 1980 for such purposes.

(4) It adds new authority to award grants to schools of medicine and osteopathy to train U.S. citizens who had been enrolled in foreign medical schools prior to the date of enactment to enable such individuals to enroll in U.S. medical schools, or to encourage such schools to enroll such individuals, and authorizes $2 million for each of fiscal years 1977 and 1978, $3 milion for fiscal year 1979, and $4 million for fiscal year 1980 for such purposes.

(5) It adds specific authority to support programs for the training of physician assistants and expanded function dental auxiliaries and to support training in the TEAM approach to the delivery of dental care, and authorizes $25 million for fiscal year 1978, $30 million for fiscal year 1970, and $35 million for fiscal year 1980 for such purposes.

(6) It adds new authority to support general internal medicine and general pediatric residency programs and authorizes $10 million for fiscal year 1977, $15 million for fiscal year 1978, $20 million for fiscal year 1979, and $25 million for fiscal year 1980 for such purposes.

(7) It adds new authority for grant support for the establishment, operation, and administration of occupational health training and education centers, and authorizes $5 million for each of fiscal years 1977 and 1978, $8 million for fiscal year 1979, and $10 million for fiscal year 1980 for such purpose.

(8) It adds a new general authority for the following purposes;

(a) start-up assistance,
(b) financial distress,
(c) interdisciplinary training, and
(d) projects and programs such as—
(1) speech pathology, audiology, bioanalysis, and medical technology,
(2) establishing humanism in health care centers,
(3) biomedical combined educational programs,

(4) cooperative human behavior and psychiatry in medical and dental education and practice,

(5) bilingual health clinical training centers,

(6) curriculum development in school of optometry, pharmacy, and podiatry.

(7) social work in health care,

(8) health manpower development,

(9) environmental health education and preventive medicine,

(10) the special medical problems related to women,

(11) the development or expansion of regional health professions schools,

(12) training of citizens of the United States from foreign medical schools to enable them to enroll in residency programs in the United States,

(13) psychology training programs,

(14) ethical implications of biomedical research,

(15) establishment of dietetic residencies,

(16) regional systems of continuing education,

(17) computer technology,

(18) training or professional standards review organization staff, and

(19) training of health professionals in human nutrition and its application to health.

The conference substitute authorizes $25 million for each of fiscal years 1978, 1979, and 1980 for such purposes of which not more than $5 million of the funds appropriated in each fiscal year may be obligated for startup assistance and not more than $5 million may be obligated for financial distress awards.

(9) It adds new authority for special project grants to accredited schools of public health, and public or nonprofit private educational entities (including schools of social work) which have accredited programs of health adminstration, health planning, or health policy analysis and planning, and authorizes $5 million for fiscal year 1978, $5 million for fiscal year 1979, and $6 million for the fiscal year 1980 for such purposes.

As noted above, many of the provisions of the Senate amendment which provided detailed authority for a variety of special project grant programs are included in the conference substitute, but are mentioned only briefly as examples of projects which may be funded under broad, general authority. The conferees intend that, if applications are submitted under this broad authority for the specific programs derived from the provisions of the Senate amendment, they be considered under the detailed terms and conditions as required in the provisions of the Senate amendment and the legislative history respecting such programs set forth in Senate Report 94-887.

The conferees believe that the TEAM approach to the delivery of dental services is one which increases the capacity of the current dental system to increase the productivity and thereby obviate the necessity for producing more dentists. The TEAM concept is based on increasing efficiency and productivity through incorporation of management philosophies and utilization of expanded function auxiliaries. Basic to achieving these efficiencies is the necessity for dental students to work with auxiliaries, in a clinical environment, who are performing expanded functions; without the clinical experience and the ability to work with expanded function dental auxiliaries, the productivity increases will not be realized. It is therefore the intent of the conferees that any school applying for special project support to institute a TEAM program must demonstrate a capacity for clinical training and insure that expanded function dental auxiliaries are participants in the training program. Research demonstrates that in order to increase the productivity of the TEAM to a meaningful degree, it is imperative that the EFDA's pack, carve, and finish amalgams.

The conferees are impressed with the potential that preventive dental care has on preventing dental disease and thereby greatly lessening the cost of dental care to the public. It is therefore intended that the dental TEAM program include at least one dental hygienist and the clinical experience incorporate the provision of preventive care.

In addition, the conferees recognize that virtually all of the expertise with respect to the special training needed for top management and data handling in Professional Standards Review Organizations exists among those who are working in a PSRO. Thus, the conferees intend that, if the Secretary awards a grant or contract for the training of Professional Standards Review Organization personnel, that such grant or contract stipulate that training be conducted by or through organizations of PSROs and those with experience working in a PSRO.

It is also the expressed intent of the conferees that the Secretary of HEW establish coordinating mechanisms which will insure that the training and education functions of the National Institute of Occupational Safety and Health and the National Institute of Environmental Health Science will be coordinated with the development and operation of the Occupational Health Training and Education Centers program authorized by the conference report.

The conferees recognize that the provisions of the new authority for Area Health Education Center programs are such that many existing area health education centers are not in compliance with them. In the view of the conferees, these centers have been given sufficient time under the provisions of the conference report to meet the new requirements. It may be, however, that in the case of the AHEC program located in New Mexico, the principal thrust of the program—the training of Indian people in health professions—can not be continued under the new provisions. If this becomes the case, then it is the intent of the conferees that the Secretary afford special consideration to the funding of the program under other provisions of law.

PROVISIONS WITH RESPECT TO TRAINING IN ALLIED HEALTH

Both the House bill and the Senate amendment contained provisions authorizing support of project grants and contracts and traineeships with respect to schools and students of the allied health professions.

Definition

Under the House bill, the term "allied health personnel" was defined as individuals responsible for (1) supporting, complementing, or supplementing the professional activities of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

The definition of "allied health personnel" in the Senate amendment was identical to that of the House amendment except that it did not include reference to assistance to environmental engineers and other personnel in environmental health control and preventive medicine activities.

The conference substitute conforms to the provisions of the House bill.

Project grants and contracts

Both the House bill and the Senate amendment authorized the award of project grants and contracts with respect to training in the allied health professions. The provisions of the House bill and the Senate amendment were comparable except that:

(1) The House bill authorized the award of project grants and contracts to public and nonprofit private entities while the Senate amendment defined entities eligible for receipt of project grants and contracts as schools, universities, other educational entities, States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions, and any entity which has a working relationship with such entities. The conference substitute conforms to the provisions of the Senate amendment.

(2) The House bill provided that project support could be for the purposes of coordination of training programs for allied health personnel with other educational institutions and for State and regional coordination and monitoring of education and training of allied health personnel. The Senate amendment authorized project grant support for such purposes for the training of nurses, as well as allied health personnel. The conference substitute conforms to the Senate provision.

(3) The House bill provided that one of the purposes for which project grants and contracts could be awarded was the support of educational programs leading to a degree in the various fields within the allied health professions and the expansion or establishment of new educational programs in the allied health professions for which the Secretary determined there was a critical national need. The Senate amendment contained no comparable provision, and the conference substitute contains no comparable provision.

(4) One of the purposes for which project grants and contracts could be awarded under the House amendment was for continuing education programs for practicing allied health personnel. The Senate amendment contained no comparable provision. The conference substitute includes the provision of the House amendment.

(5) Under the House bill, $20 million for each of fiscal years 1976, 1977, and 1978, was authorized for the purpose of making payments under grants and contracts for projects relating to allied health. The Senate amendment contained the following authorizations: $27.2 million for fiscal year 1978, $30 million for fiscal year 1979, and $32.5 million for fiscal year 1980. Under the conference substitute, the following authorizations of appropriations are provided for project grants and contracts for projects relating to allied health: $22 million for fiscal year 1978, $24 million for fiscal year 1979, and $26 million for fiscal year 1980.

(6) The Senate amendment required that not less than 50 percent of funds appropriated for projects in the allied health professions be reserved for awards to training centers for allied health professions. The House bill contained no comparable provision, and the conference substitute conforms to the provision of the Senate amendment.

Traineeships for Advanced Training of Allied Health Personnel

Both the House bill and the Senate amendment contained provisions authorizing the Secretary to make grants for traineeships for the advanced training of allied health personnel. The provisions of the House bill and the Senate amendment respecting such traineeships were identical except that the House bill authorized $6 million per year for fiscal years 1976, 1977, and 1978 for such purposes and the Senate amendment authorized $4.5 million for fiscal year 1978, $5 million for fiscal year 1979, and $5.5 million for fiscal year 1980 for such purposes.

The conference substitute conforms to the provisions of the Senate amendment.

GRANTS FOR EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

Both the House bill and the Senate amendment authorized the Secretary to make grants to and enter into contracts with State and local educational entities and other public or private nonprofit entities for the recruitment and training of such persons in the allied health professions.

Under the House bill, $1 million per year was authorized for fiscal years 1976, 1977, and 1978 for such purposes.

Under the Senate amendment, the following appropriations were authorized for such purposes: $1.1 million for fiscal year 1978, $1.2 million for fiscal year 1979, and $1.3 million for fiscal year 1980.

The conference substitute conforms to the House bill.

STUDIES AND REPORTS

The House bill required the following studies and reports:

(1) A continuous compilation of statistics, and an annual report to the Congress, of information respecting activities, needs and other characteristics with respect to public health personnel.

(2) A continuous study, and an annual report to the Congress, with respect to descriptions of anticipated need for, and the number, employment, geographic locations, salaries, and surpluses and shortages of allied health personnel.

(3) A study of the current distribution of physicians by specialty, a projection of the expected distribution of physicians by specialty and subspecialty, an examination of the various methods for estimating the optimal distribution of physicians and the development of a methodology to establish such distribution.

(4) A report describing the allied health personnel program supported by the Secretary and a requirement that assistance be provided only to programs which meet quality standards.

(5) Studies with respect to the types of allied health personnel and the activities in which they are engaged, classifications of allied health personnel, methodologies to determine the cost of educating and training allied health personnel, and an identification of the classifications in which there is a critical shortage of allied health personnel.

(6) A study of funding alternatives to Federal and State support which may be developed to meet the costs of training within schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy.

The Senate amendment contained no comparable provisions. However, the Senate amendment contained a provision requiring the Secretary to arrange for the conduct of a study to determine the national average per student educational cost of providing education programs which lead to a degree of Doctor of Chiropractics, and recommendations concerning how the Federal government can utilize educational cost per student data to determine the amount of capitation grants which might be provided under the Public Health Service Act.

Under the conference substitute, the following studies and reports are mandated: (1) the provision of the House bill with respect to public health personnel, (2) a study of data and characteristics with respect to allied health personnel, combining the requirements of the two studies of allied health personnel contained in the House bill, (3) the provision of the Senate amendment with respect to chiropractic education, except that the report to the Congress is not to contain information concerning how the Federal government can utilize costs per student to determine the amount of capitation grants which might be provided under the Public Health Service Act.

NATIONAL COUNCIL ON POSTGRADUATE PHYSICIAN TRAINING

The Senate amendment provided for the establishment of a National Council on Postgraduate Physician Training consisting of various officers of the Federal government and members of the public. Duties of the council included the making of studies and other activities (and the making of recommendations to the Secretary of Health, Education and Welfare) with respect to distribution and goals for the distribution of postgraduate physician training positions among the various medical specialties, the development of working relationships with speciality organizations with respect to number and location of specialists, assessment of the need for financial support for postgraduate physician training, and assessment of the service needs of hospitals and other health institutions for graduate physician trainees, an assessment of the educational components of postgraduate physician training programs, and an assessment of the impact of practice in the United States by graduates of foreign medical schools. Not later than 6 months after the completion of the study by the National Council, the Secretary was to report to the Congress on the status of specialty and geographic maldistribution of postgraduate physician training programs, any changes in the goals recommended by the National Council, and any authority the Secretary may require to implement such goals.

The House bill contained no comparable provision.

The conference substitute does not include the Senate provision.

STANDARDS FOR LICENSURE, RELICENSURE AND CONTINUING EDUCATION

The Senate amendment required the Secretary, in consultation with appropriate professional organizations, to develop and establish model standards for State licensure of physicians and dentists, prepare appropriate examinations for the licensing and procedures for the relicensing of physicians and dentists, and develop appropriate standards for continuing educational programs for physicians and dentists. Standards were to include a level of satisfactory performance on examinations, the demonstration of written and spoken proficiency in the English language, and completion of a specific number of hours of continuing education. In addition, under the Senate amendment, the Secretary was authorized to make grants to State agencies to assist States in planning, developing, or operating systems for licensure and relicensure of physicians and dentists which would meet the standards established by the Secretary. Authorizations of $3 million for fiscal year 1978, $4 million for fiscal year 1979, and $5 million for fiscal year 1980 were provided for such grants.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision.

AMENDMENTS TO NURSE TRAINING ACT WITH RESPECT TO NURSE PRACTITIONERS

The Senate amendment contained a provision which would amend the Nurse Training Act with respect to nurse traineeships to (1) require the Secretary, in awarding such traineeships to give special consideration to programs for the training of nurse practitioners who will practice in health manpower shortage areas and (2) to authorize the Secretary to make grants and enter into contracts with schools of nursing, medicine, and public health, hospitals, and other nonprofit entities to establish traineeship programs to train nurse practitioners who are residents of urban or rural health manpower shortage areas.

The House bill contained no comparable provision.

The conference substitute conforms to the provisions of the Senate amendment.

INCLUSION OF OPTOMETRISTS AS PROVIDERS UNDER HEALTH PLANNING AUTHORITY

The Senate amendment contained a provision which (1) specifically included optometrists as providers of health care eligible to be appointed to the governing bodies of health systems agencies under section 1512 of the Public Health Service Act and (2) included optometrists within the definition of "provider of health care" under section 1531 of such Act.

The House bill contained no comparable provision.

The conference substitute includes the provisions of the Senate amendment.

RADIATION HEALTH AND SAFETY

The Senate amendment contained a provision which required the Secretary to develop criteria for minimum standards for accreditation of educational institutions for the training of radiologic technologists and for use in the accreditation of educational institutions conducting programs for the training of medical and dental practitioners, dental hygienists, and dental assistants. In addition, the Secretary was required to develop and issue to the States criteria and minimum standards for licensure of radiologic technologists. If such standards for accreditation of institutions or licensure of personnel were not met by States within two years, standards developed by the Secretary were to become standards to be applied within such States.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision. However, the protection of patients from unnecessary radiation exposure in the provision of radiologic services is a matter of considerable concern to the conferees. The general public's exposure to radiation in medicine and dentistry amounts to over 90 percent of all human exposures to man-made ionizing radiation. Testimony before the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Public Welfare indicates that such patient exposure can be significantly reduced without impairing the provision of radiologic services, such as X-ray examinations, which are essential to effective medical and dental services.

Concern for the public health implications of present practices has spurred no less than seven national bodies between 1966 and 1974 to recommend that the qualifications of the operators of radiologic equipment be upgraded. In response, eight States have enacted legislation and four other States have been judged by their Attorney Generals to possess sufficient authority to require the mandatory licensure of radiologic technologists.

In the judgment of the conferees the programs of the Department of Health, Education, and Welfare to promote model legislation to encourage State licensure of radiologic technologists have been inadequate, compared to the potential risks associated with unnecessary radiation exposure of consumer-patients. Thus, the conferees expect the Secretary to intensify his efforts with respect to offering encouragement and assistance to States to upgrade their standards with respect to the provision of radiologic services.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

The Senate amendment contained provisions which amended the Immigration and Nationality Act with respect to the eligibility of alien physicians to immigrate into the United States. These provisions rendered such aliens ineligible for preference priorities under section 203(a) (3) and (6) of such Act (relating to preferences for persons of exceptional ability in the sciences or the arts and to persons capable of performing labor for which a shortage exists in the United States) and for the nonpreference category unless such aliens have passed Parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination) and are competent in the English language. In addition, the Senate amendment added new provisions to such Act which required that in order for an alien physician to enter the United States on an exchange visitor visa (a so-called "J-visa"), he must (a) participate in a program sponsored by a United States school of medicine or other recognized educational institution, (b) have passed parts I or II of the National Board of Medical Examiners Examination or an equivalent examination, and (c) make a commitment to return to the country of his origin upon completion of his education in the United States. In addition, such alien physician may not participate in an educational program in the United States for more than two years (with provision for extension of this period for an additional year). Until December 31, 1980, these additional requirements with respect to the J-visa program would not preclude participation by aliens in an accredited program of graduate training in a medical facility where such program would otherwise be substantially disrupted.

The House amendment contained no comparable provision.

The conference substitute includes the Senate provisions, with technical amendments, including an amendment requiring the Secretary of Health, Education, and Welfare to develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

The conferees recognize that successful legal challenges have been made to Department of Labor determinations under section 212(a)(14) of the Immigration and Nationality Act. As a result, future case-by-case determinations should be supported by data and information relating to the availability of physicians, and the conferees expect the Department of Health, Education, and Welfare to provide the necessary assistance in accumulating such data.

Harley O. Staggers,
Paul G. Rogers,
David Satterfield,
Richardson Preyer,
James W. Symington,
James Scheuer,
Henry A. Waxman,
James J. Florio,
Charles J. Carney,
Andrew Maguire,
Samuel L. Devine,
Tim Lee Carter,
James T. Broyhill,
Edward Madigan,
Managers on the Part of the House.

Edward Kennedy,
Harrison Williams,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Claiborne Pell,
William D. Hathaway,
John A. Durkin,
Richard S. Schweiker,
Jacob K. Javits,
J. Glenn Beall, Jr.,
Robert Taft, Jr.,
Robert T. Stafford,
Paul Laxalt,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Gilman (at the request of Mr. Rhodes), for today, on account of participation, as a member of the House Select Committee on Narcotics Abuse and Control, in an inspection tour of the Harlem Drug Pits.

Mr. Lloyd of California (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Rangel (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Snyder (at the request of Mr. Rhodes), for today, on account of a death in the family.

Mr. Wolff (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Cotter (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Beard of Tennessee (at the request of Mr. Rhodes), from 2:30 today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Myers of Pennsylvania) to revise and extend his remarks and include extraneous material:)

Mr. Derwinski, for 5 minutes, today.

(The following Members (at the request of Mr. Harris) to revise and extend their remarks and include extraneous material:)

Mr. Morgan, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. O'Neill, for 5 minutes, today.
Mr. Harkin, for 5 minutes, today.
Mr. McDonald, for 5 minutes, today.
Mr. Leggett, for 30 minutes, today.
Mr. Burlison of Missouri, for 60 minutes, September 21.
Mr. Waggonner, for 60 minutes, September 27.
Mr. Waggonner, for 60 minutes, September 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Seiberling, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $858.

Mr. Miller of Ohio, immediately prior to the vote on H. Res. 1540 today.

(The following Members (at the request of Mr. Myers of Pennsylvania) and to include extraneous matter:)

Mr. Crane.
Mr. Michel in two instances.
Mr. Symms.
Mr. Vander Jagt in two instances.
Mr. Wiggins.
Mr. Steiger of Wisconsin.
Mr. Gilman.
Mr. Conte.
Mr. McCollister in 10 instances.
Mr. Rhodes in two instances.
Mr. Heinz.
Mr. Derwinski.
Mr. Quie.
Mr. Bob Wilson.

(The following Members (at the request of Mr. Harris) and to include extraneous material:)

Mr. Jones of Oklahoma.
Mr. Mathis.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Ryan in two instances.
Mr. Roe.
Mr. Alexander.
Mr. Miller of California in two instances.
Mr. Won Pat.
Mr. Koch in five instances.
Mr. Lundine.
Mr. Fisher in two instances.
Mr. Drinan in two instances.
Mr. McDonald in two instances.
Mr. Ginn.
Mr. Rogers in five instances.
Mr. Roncalio in 10 instances.
Mr. Ottinger in three instances.
Mr. Breckinridge.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3799. An act to establish an Antitrust Review and Revision Commission; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty;

H.R. 3348. An act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes; and

H.R. 14232. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 16, 1976, present to the President, for his approval, bills of the House of the following titles.

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code; and

H.R. 9811. An act to designate the Veterans' Administration hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital," and for other purposes.

ADJOURNMENT

Mr. HARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, September 20, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4039. A communication from the President of the United States, transmitting a proposed supplemental appropriation for the transition quarter for the Department of Justice; to the Committee on Appropriations and ordered to be printed.

4040. A letter from the Secretary of Health, Education, and Welfare, transmitting a report covering fiscal year 1976 on personal property donated to public health and educational institutions and civil defense organizations under section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and real property disposed of to public health and educational institutions under section 203(k) of the act, pursuant to section 203(o) of the act [40 U.S.C. 484(o)]; to the Committee on Government Operations.

4041. A letter from the Administrator, Federal Energy Administration, transmitting a draft of proposed legislation to provide temporary authority for the Federal Power Commission and the Federal Energy Administration to institute emergency measures to minimize the adverse effects of natural gas shortages; and for other purposes; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 15059. A bill to amend the Emergency Livestock Credit Act of 1974 (Rept. No. 94–1598). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Currency and Housing. H.R. 14756. A bill to establish a national commission on neighborhoods; with an amendment (Rept. No. 94–1600). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. H. Res. 1495. Resolution providing salary adjustments for the official reporters of debates and official reporters to committees (Rept. No. 94–1601). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2743. A bill to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, Calif., to the Madera Cemetery District; with amendments (Rept. No. 94–1602). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.J. Res. 1096. Joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes (Rept. No. 94–1603). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. S. 12. An act to amend section 376 of title 28, United States Code, in order to reform and update the existing program for annuities to survivors of Federal Justices and judges; with amendments (Rept. No. 94–1604). Refererd to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. S. 14. An act to provide cost-of-living adjustments in retirement pay of certain Federal judges. (Rept. No. 94–1605). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 1365. An act to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands. (Rept. No. 94–1606). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. S. 2923. An act to amend title 28 of the United States Code to provide that full-time U.S. magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates; with an amendment (Rept. No. 94–1607). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15563. A bill to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)), and for other purposes (Rept. No. 94–1608). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. S. 1283. An act to improve judicial machinery by further defining the jurisdiction of U.S. magistrates, and for other purposes; with amendments (Rept. No. 94–1609). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15558. A bill to authorize the study of certain areas by the Secretaries of Agriculture and the Interior; with amendments (Rept. No. 94–1610). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 9288. A bill to amend the Perishable Agricultural Commodities Act, 1930; with an amendment (Rept. No. 94–1611). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 5546 (Rept. No. 94–1612). Ordered to be printed.

Mr. MAHON: Committee on Appropriations. H.R. 14773. A bill to amend title 10, United States Code, to authorize cost-of-living adjustments of annuities under the retired serviceman's family protection plan, to suspend retired-pay deductions under the survivor benefit plan when there is no eligible spouse beneficiary, to reduce the duration-of-marriage requirement under the survivor benefit plan from 2 years to 1 year, and for other purposes (Rept. No. 94–1458 pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953 (Rept. No. 94–1436, pt. II). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD of California. Committee on the Judiciary. S. 3380. An act for the relief of Miss Mary Vance Trent (Rept. No. 94–1599). Referred to the Committee of the Whole House.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. MAHON: Committee on Appropriations. H.R. 14772. A bill to amend section 313 of title 37, United States Code, to pay variable incentive pay to medical officers who participated in the Berry plan, and for other purposes (Rept. No. 94–1438, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 4105. A bill to amend section 1402(a) of title 10, United States Code, to revise the rule for computation of retired or retainer pay to reflect later active duty (Rept. No. 94–1435, pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina:

H.R. 15604. A bill to grant a Federal charter to the National Humanities Center; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 15605. A bill to provide that certain areas in the Flushing Meadows-Corona Park, located in the city of New York, shall become part of the Gateway National Recreation Area; to the Committee on Interior and Insular Affairs.

By Mr. BLOUIN:

H.R. 15606. A bill to establish a procedure for congressional review of rules and regulations which carry criminal sanctions; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. Montgomery, Mr. Collins of Texas, Mr. Paul, and Mr. Steiger of Arizona):

H.R. 15607. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

By Mr. CRANE (for himself, Mrs. Holt, Mr. Martin, Mr. Paul, Mr. Abdnor, Mr. Robinson, and Mr. Steiger of Arizona):

H.R. 15608. A bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes; to the Committee on Education and Labor.

By Mr. DOMINICK V. DANIELS:

H.R. 15609. A bill to strengthen State workers' compensation programs, and for other purposes; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 15610. A bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference; to the Committee on Interstate and Foreign Commerce.

H.R. 15611. A bill to amend section 1114 of title 18 of the United States Code to make the killing, assaulting, or intimidating of any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions a Federal criminal offense; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 15612. A bill to amend the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. HARKIN:

H.R. 15613. A bill to amend the Internal Revenue Code of 1954 to impose an additional excise tax on fuels used in commercial water transportation on the inland waterways of the United States; to the Committee on Ways and Means.

By Mr. KREBS (for himself, Mr. Bedell, Mr. Roncalio, Mr. Baucus, Mr. Abdnor, Mr. Traxler, Mr. Grassley, Mr. Blouin, Mr. Runnels, Mr. Cornell, Mr. Harkin, Mr. Burgener, Mr. Mezvinsky, Ms. Keys, and Mr. Melcher):

H.R. 15614. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976; to the Committee on Ways and Means.

By Mr. McCOLLISTER:

H.R. 15615. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976; to the Committee on Ways and Means.

By Mr. NOLAN:

H.R. 15616. A bill to authorize the Secretary of Agriculture to provide for the purchase of hay and grain to alleviate distress caused by natural disaster; to the Committee on Agriculture.

By Mr. PAUL:

H.R. 15617. A bill to establish a new flood insurance program; to the Committee on Banking, Currency and Housing.

H.R. 15618. A bill to repeal the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973; to the Committee on Banking, Currency and Housing.

H.R. 15619. A bill to repeal the estate tax; to the Committee on Ways and Means.

By Mr. PEPPER (for himself and Mr. Diggs):

H.R. 15620. A bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to establish regional demonstration programs to encourage secondary school students from a disadvantaged background to pursue careers in the health professions; to the Committee on Education and Labor.

H.R. 15621. A bill to amend the Higher Education Act of 1965 to provide grants to certain eligible institutions of higher education for regional medical academic summer enrichment programs to prepare undergraduate students from disadvantaged backgrounds for careers in the several medical professions; to the Committee on Education and Labor.

H.R. 15622. A bill to provide capitation grants to medical, osteopathic, and dental schools for increasing the enrollment of students from disadvantaged backgrounds; to the Committee on Education and Labor.

By Mr. RICHMOND (for himself, Ms. Burke of California, and Mr. Waxman):

H.R. 15623. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 15624. A bill to direct the Secretary of the Army to conduct a study of the feasibility of extending navigation upstream on the Sabine River from the vicinity of Orange to Longview, Tex.; to the Committee on Public Works and Transportation.

By Mr. ROBERTS (for himself, Mr. Wright, Mr. O'Hara, Mrs. Collins of Illinois, and Mr. Seiberling):

H.R. 15625. A bill to demonstrate the practicability of increasing the Chicago diversion in order to alleviate water damage to the shoreline of the Great Lakes, and to improve water quality in the Illinois Waterway; to the Committee on Public Works and Transportation.

By Mr. SHARP (for himself, Mr. Moss, Mr. Maguire, Mr. Jones of North Carolina, Mr. Harris, and Mr. Wirth):

H.R. 15626. A bill to amend the Federal Power Act to provide for interim modification of the Federal Power Commission's procedures for considering proposed eletcric utility rate increases, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN (for herself and Mr. Fisher):

H.R. 15627. A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMINGTON (for himself and Mr. Price):

H.R. 15628. A bill to require the Secretary of Transportation to make grants to the Bi-State Development Agency, Illinois and Missouri, which are necessary for the planning, purchase, and restoration of certain bridges crossing the Mississippi River; to the Committee on Public Works and Transportation.

By Mr. BLOUIN:

H.J. Res. 1100. A resolution proposing an amendment to the Constitution of the United States to establish a new procedure for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself and Mr. Davis):

H.J. Res. 1101. A resolution making an emergency supplemental appropriation for the District of Columbia for the fiscal year, ending September 30, 1977, and for other purposes; to the Committee on Appropriations.

By Mr. RISENHOOVER for (himself, Mr. Patterson of California, Mr. Cochran, Mr. Beard of Rhode Island, Mrs. Collins of Illinois, Mrs. Chisholm, Mrs. Spellman, Mrs. Burke of California, Mr. Paul, Mr. Baldus, Mr. Yatron, Mr. Yates, Mr. Santini, Mr. Bowen, Mr. Ketchum, Mr. LaFalce, Mr. Lagomarsino, Mr. Gude, Mr. Winn, Mr. Runnels, Mr. John L. Burton, Mr. Nolan, Mr. Young of Alaska, Mr. Ford of Michigan, and Mr. Roybal):

H.J. Res. 1102. A resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. RISENHOOVER (for himself, Mrs. Meyner, Mr. English, Ms. Abzug, Mr. Abdnor, Mr. Brown of Ohio, Mr. Howe, Mr. Traxler, Mr. Treen, Mr. Allen, Mr. Van Deerlin, Mr. Conte, and Mr. Nix):

H.J. Res. 1103. A resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. McHUGH:

H. Con. Res. 754. A resolution expressing the sense of the Congress that the President should urge the Soviet Union to allow Dr. Sergei Kovalev to accept the invitation of Cornell University to be a visiting scholar; to the Committee on International Relations.

By Mr. ROSENTHAL (for himself, Mr. Dellums, Mr. Dodd, Ms. Holtzman, Mr. Koch and Mr. Ottinger):

H. Con. Res. 755. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–15); to the Committee on International Relations.

H. Con. Res. 756. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–21); to the Committee on International Relations.

H. Con. Res. 757. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–39); to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. DAN DANIEL introduced a bill (H.R. 15629) for the relief of Dr. Vajapeyam S. Achar, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

580. The SPEAKER presented a petition of the Kansas Independent Oil and Gas Association, Wichita, Kans., relative to the price of oil, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 22

By Ms. ABZUG:

Page 90, line 26, strike out the colon and all that follows through line 31, and insert in lieu thereof a period.

By Mr. DODD:

Page 109, line 22, strike out "one copy or phonorecord" and insert in lieu thereof "ten copies or phonorecords".

Page 109, line 23, insert immediately before the comma the following: "or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8)".

Page 109, line 24, strike out "the" the first place it appears and insert in lieu thereof "any such".

Page 109, line 25, insert immediately after the comma the following: "or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8),".

Page 109, line 26, strike out "and".

Page 109, line 27, strike out "the" and insert in lieu thereof "any such".

Page 109, line 29, strike out the period and insert in lieu thereof "; and".

Page 109, immediately below line 29, insert the following new paragraph:

"(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use."

By Mr. ENGLISH:

Amendment 1: Strike section III (c)(4) beginning on line 35 of page 99 and continuing through line 13 of page 100.

Amendment 2: Amend section III (c)(2) on page 98, line 39, striking "willful or repeated" and inserting "willful and repeated"; and on page 99, line 8 of Section III (c)(2) insert after the semicolon, "provided, where there is a dispute as to the permissibility of carriage of a particular signal, the transmission is actionable only after resolution of the dispute by the Federal Communications Commission."

By Mr. FRASER:

Page 109, line 22, strike out "one copy or phonorecord" and insert in lieu thereof "ten copies or phonorecords".

Page 109, line 23, insert immediately after "performance" the following: "or to distribute any such copy or phonorecord to any other governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8)".

Page 109, line 24, strike out "the" the first place it appears and insert in lieu thereof "any such".

Page 109, line 25, insert immediately before "and" the following: "or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8),".

Page 109, line 27, strike out "the" and insert in lieu thereof "any such".

Page 109, line 22, insert "or section 110(9)" immediately after "110(8)" and strike out "one copy or phonorecord" and insert in lieu thereof "ten copies or phonorecords".

Page 109, line 23, insert immediately after "performance" the following: "or to distribute any such copy or phonorecord to any other governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8) or section 110(9)".

Page 109, line 24, strike out "the" the first place it appears and insert in lieu thereof "any such".

Page 109, line 25, insert immediately before "and" the following: "or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8) or section 110(9),".

Page 109, line 27, strike out "the" and insert in lieu thereof "any such".

Page 109, line 28, insert "or section 110(9)" immediately after "110(8)".

By Mr. SEIBERLING:

Page 127, line 16, strike ", including" and all that follows down through line 20, and insert in lieu thereof a period.

H.R. 12048

By Mr. ANDERSON of Illinois:

On page 12, at line 7, strike all after the word "resolution" through line 16, and insert in lieu thereof the following: "stating in substance that the Congress disapproves such rule because it contains provisions which are contrary to law or inconsistent with the intent of the Congress, or because it goes beyond the mandate of the legislation which it is designed to implement or in the administration of which it is designed to be used; or".

On page 13, beginning at line 23, strike all of section 603, "Resolution for reconsideration," through line 5 on page 16.

Technical and conforming amendments: On page 9, at line 7, strike the letter "s" at the end of the word "sections," and on line 8, strike the words, "and 603(b)".

On page 16, at lines 7 and 8, strike the words, "or directs reconsideration of."

On page 17, at lines 6 and 7, strike the words, "and 603" and the letter "s" at the end of the word "sections".

On page 17, at lines 14 and 15, strike the words, "and resolutions for reconsideration".

On page 18, at lines 22 and 23, strike the words, "or for reconsideration".

On page 19, at line 9, strike the words, "or for reconsideration".

On page 16, redesignate sections 604, 605 and 606, as sections 603, 604, and 605, respectively.

On page 17, strike line 23 through line 10 on page 18, and insert in lieu thereof the following:

"(2) The report of any committee to which is referred a resolution of disapproval of a rule under the provisions of this chapter shall include the text of the rule submitted to the Congress together with the agency's statement pursuant to section 553(d)(1) of this title, and a statement of the committee's reasons for recommending disapproval. Such statement shall identify whether the committee's recommendation is based on a finding (A) that the rule is contrary to law or inconsistent with the intent of the Congress, (B) that it goes beyond the mandate of the legislation which it is designed to implement or in the administration of which it is designed to be used, or (C) that elements of both clause (A) and clause (B) are involved, and such finding shall be supported by a detailed and documented discussion of the legislative history."

Technical and conforming amendments: On page 13, at lines 3 and 4, strike the words, "or been discharged from further consideration of".

On page 13, at lines 7 and 8, strike the words, "or been discharged from further consideration of".

On page 18, line 13, strike "15" and insert in lieu thereof "25".

On page 18, at lines 18 and 19, strike the words, "must be supported by one-fifth," and insert in lieu thereof the words, "may be made by any."

On page 20, after line 2, insert the following new section:

§ 606. Delivery to Comptroller General

"A copy of each rule transmitted under section 602 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under this chapter, the Comptroller General is authorized to inform the House of Representatives and the Senate as promptly as practicable, either on his own initiative or at the request of a committee, as to whether in his judgment such rule is contrary to law or goes beyond the mandate of the legislation which it is designed to implement or in the administration of which it is designed to be used."

H.R. 12112

By Mr. OTTINGER:

(Amendment offered to the Teague amendment in the nature of a substitute.)

Strike the requisite number of words.

Strike the penultimate word.

Strike the last word.

H.R. 14932

By Mr. HECHLER of West Virginia:

On page 63, after line 5, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 402. (a) Each officer or employee of the Secretary of Transportation, and the United States Railway Association who—

"(1) performs any function or duty under this Act or the Regional Rail Reoganization Act of 1973, which is amended by this Act; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who receives or applies for any financial assistance or contract pursuant to such Acts;

"shall, beginning on February 1, 1977, annually file with the Secretary or the Association a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) the Secretary and the Association shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary and the Association of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary and the Association may identify specific positions within each agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

H.R. 15377

By Mr. BURLISON of Missouri:

Page 23, immediately after line 9, insert the following new section:

"EXPORT CONTROLS ON AGRICULTURAL COMMODITIES

"SEC. 19. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is further amended by adding at the end thereof the following new paragraph:

"'(3) In any case in which the exportation of any agricultural commodity is limited or prohibited under this Act, the exportation of any fertilizer, tools, tractors, combines, or other material or implements used in the production of that agricultural commodity shall be limited in corresponding amount or prohibited, as the case may be. If the limitation or prohibition on exportation of the agricultural commodity is applicable with respect to specific nations, the limitation or prohibition pursuant to this paragraph shall be applicable with respect to the same nations.'."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 16, 1976, page 30928:

HOUSE JOINT RESOLUTIONS

H.J. Res. 1061. August 25, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day."

H.J. Res. 1062. August 25, 1976. Government Operations. Directs the President to call a National Leadership Conference on Energy Policy to consider alternate policy approaches available to the United States with respect to energy.

H.J. Res. 1063. August 25, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1064. August 25, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 2065. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1066. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1067. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1068. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1069. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1070. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1071. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1072. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1073. August 26, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1074. August 26, 1976. International Relations. Directs the Agency for International Development to devise and carry out in partnership with developing nations a multifaceted strategy designed to promote breast feeding within the context of integrated programs of nutrition and heatlh improvement for mothers and children.

H.J. Res. 1075. August 26, 1976. Post Office and Civil Service. Designates September 19, 1976 as "National Family Day."

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 700. August 3, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 701. August 3, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 702. August 3, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 703. August 3, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 704. August 5, 1976. Public Works and Transportation. Authorizes the Joint Committee on Arrangements for Commemoration of the Bicentennial to use the Capitol Building for a Bicentennial reception.

H. Con. Res. 705. August 5, 1976. Judiciary. States that the Attorney General should parole into the United States those Lebanese aliens not participating in the fighting in the civil war in that country who are in danger of losing their lives as a result of such war.

H. Con. Res. 706. August 5, 1976. Judiciary. Expresses the sense of the Congress that the U.S. Constitution does not grant any immunity from arrest or prosecution on a charge of violation of any criminal statute of any jurisdiction to a Member of either House of the Congress.

H. Con. Res. 707. August 9, 1976. Provides for a conditional adjournment of the House from August 10 until August 23 1976, and the Senate from August 11 until August 23, 1976.

H. Con. Res. 708. August 9, 1976. Post Office and Civil Service; Educational and Labor. Expresses the sense of the Congress that experience in volunteer work should be taken into account by public and private employers in the consideration of applicants for employment.

H. Con. Res. 709. August 10, 1976. Directs the Clerk of the House to make corrections in the enrollment of H.R. 12169.

H. Con. Res. 710. August 10, 1976. Veterans' Affairs. Expresses the sense of the Congress that no individual whose social security or railroad retirement benefits are increased should suffer a loss of or reduction in any pension such annuitant is entitled to receive under laws administered by the Veterans' Administration.

Stipulates that the House and Senate Committees on Veterans' Affairs should without delay consider and report legislation eliminating the possibility of any loss of or reduction in such pensions on account of increases in social security or railroad retirement benefits.

H. Con. Res. 711. August 10, 1976. International Relations. Expresses approval of the Israel rescue mission at Entebbe Airport. Condemns efforts being undertaken by certain nations to condemn Israel for the mission.

H. Con. Res. 712. August 10, 1976. International Relations. Calls for the establishment of an international policy by the United Nations, imposing on the government of a country a duty to make every reasonable effort to free any hostage held by international terrorists seeking sanctuary in such country.

H. Con. Res. 713. August 10, 1976. International Relations. Expresses the sense of Congress that the Soviet Union should release Georgi Vins from imprisonment and allow freedom of religion in that nation.

H. Con. Res. 714. August 23, 1976. International Relations. Calls upon the President to furnish assistance to the Peoples Republic of China for relief of the damage and injuries suffered in that country as a result of the earthquakes occurring on July 27 and 28, 1976.

H. Con. Res. 715. August 23, 1976. Ways and Means. Expresses the sense of Congress that the President should, and is hereby urged to, provide effective import relief to the domestic nonrubber footwear industry.

H. Con. Res. 716. August 23, 1976. District of Columbia. States that the House of Representatives disapproves of the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia.

H. Con. Res. 717. August 24, 1976. Interstate and Foreign Commerce. Calls upon the Consumer Product Safety Commission to undertake a study of the sealing capabilities of container lids used in the canning of food in homes.

H. Con. Res. 718. August 24, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 719. August 24, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 720. August 24, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

HOUSE RESOLUTIONS

H. Res. 1461. August 4, 1976. Expresses the condolences of the House of Representatives on the death of the Honorable Jerry L. Litton, Representative from the State of Missouri.

H. Res. 1462. August 4, 1976. Sets forth the rule for consideration of H.R. 8532.

H. Res. 1463. August 24, 1976. Sets forth the rule for consideration of H.R. 13372.

H. Res. 1464. August 5, 1976. Rules. Amends rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1465. August 5, 1976. Rules. Establishes the House Committee on Health which shall have the responsibility for investigating health measures generally, health facilities, health care programs, national health insurance, public health and quarantine, and biomedical research and development.

H. Res. 1466. August 9, 1976. Rules. Amends rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution. Allows Members to add or delete their names as sponsors anytime prior to enactment or adoption.

H. Res. 1467. August 9, 1976. Sets forth the rule for the consideration of H.R. 8911.

H. Res. 1468. August 9, 1976. Sets forth the rule for the consideration of H.R. 12169.

H. Res. 1469. August 10, 1976. Post Office and Civil Service. Provides that this resolution shall serve as a permanent monument to the memory of Major General Arthur St. Clair.

H. Res. 1470. August 10, 1976. House Administration. Directs that there be printed as a House document a record of the Bicentennial Captive Nations Week proclamations.

H. Res. 1471. August 10, 1976. Rules. Amends rule X of the Rules of the House of Representatives to limit the number of years a Member may serve as chairman of a standing committee.

H. Res. 1472. August 10, 1976. House Administration. Authorizes expenditures by the Select Committee on Narcotics Abuse and Control for investigations and studies.

H. Res. 1473. August 10, 1976. Sets forth the rule for the consideration of S. 3735.

H. Res. 1474. August 10, 1976. District of Columbia. States that the House of Representatives disapproves of the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia.

H. Res. 1475. August 10, 1976. Rules. Amends Rule X of the House of Representatives to provide that any Member of the House Committee on Standards of Official Conduct may, at his own discretion, disqualify himself from participating in any investigation of the conduct of any Member, officer, or employee of the House.

H. Res. 1476. August 10, 1976. Ways and Means. Directs that continuation of the 1975 United States-Romanian Trade Agreement and the most-favored-nation treatment of the Socialist Republic of Romania shall be contingent upon measures taken by the Romanian Government to ameliorate the condition of minorities in that nation.

H. Res. 1477. August 10, 1976. Ways and Means. Directs that continuation of the 1975 United States-Romanian Trade Agreement and the most-favored-nation treatment of the Socialist Republic of Romania shall be contingent upon measures taken by the Romanian Government to ameliorate the condition of minorities in that nation.

H. Res. 1478. August 23, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1479. August 23, 1976. International

Relations. Condemns the Soviet Union's failure to observe the spirit of existing international conventions to which it is a party, especially the restriction respecting the delivery of parcels.

H. Res. 1480. August 23, 1976. International Relations. Calls for a termination of specified maritime agreements between the U.S. and U.S.S.R. unless the U.S.S.R. ceases to deny the nation-flag vessels of the United States the right to carry an equal share of the ocean-borne commerce between the two countries.

H. Res. 1481. August 23, 1976. District of Columbia. States that the House of Representatives disapproves of the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia.

H. Res. 1482. August 24, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1483. August 24, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1484. August 24, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1485. August 24, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1486. August 24, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1487. August 24, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1488. August 24, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1489. August 24, 1976. Sets forth the rule for consideration of H.R. 14578.

H. Res. 1490. August 24, 1976. Sets forth the rule for consideration of H.R. 15194.

H. Res. 1491. August 25, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1492. August 25, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1493. August 25, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1494. August 25, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1495. August 25, 1976. House Administration. Increases the gross salary of an official reporter of debates or an official reporter to Committees by an amount equal to 5 percent of his per annum gross rate of pay. Makes such reporters eligible for comparability adjustments in Federal statutory pay systems.

H. Res. 1946. August 25, 1976. Sets forth the rule for consideration of H.R. 14844.

H. Res. 1497. August 26, 1976. House Administration. Authorizes the Sergeant at Arms to employ a special counsel to represent the Sergeant at Arms in all civil proceedings relating to the pending action entitled Larry Pressler against William E. Simon, et. al.

H. Res. 1498. August 26, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the ax murders of two American officers and the wounding of five others.

H. Res. 1499. August 26, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1500. August 30, 1976. House Administration. Authorizes the expenditure of funds for the further expenses of specified investigations conducted by the House Committee on Standards of Official Conduct.

EXTENSIONS OF REMARKS

SENIOR CITIZENS' GARDENS "GOOD FOR THE POCKETBOOK AND GOOD FOR THE SOUL"

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. HARKIN. Mr. Speaker, the Department of Agriculture has taken the lead in disseminating information on part-time farming and gardening. In addition, through its office of communications, it provides information on such related activities as canning and preserving foods.

The House will soon consider the conference report on the farmer-to-consumer direct marketing bill, H.R. 10339, of which I am a cosponsor. This bill expands the role to the Department to technical assistance to communities which desire to start a farmers market. In Iowa, the part-time farmers who own small garden plots will find these markets extremely useful in expanding their incomes.

In addition to a money-making proposition, part-time farming in many areas has become a social event. I wish to share with my colleagues the following article from the Des Moines Sunday Register:

SENIOR CITIZENS' GARDENS "GOOD FOR THE POCKETBOOK AND GOOD FOR THE SOUL"

(By Patricia Cooney)

"I've gardened since I was 10 years old," says Mrs. Susan Laughlin, 70. "It's a way of life with me. I'd die off without a garden to work in."

"We haven't bought any vegetables all summer," says Harold Darnley, 79, "And in winter we eat what we freeze and what we can from the garden. But Mom does most of the work." "Mom" is Myrtle Darnley, 66, "a farm girl."

"Gardening always has been my hobby and it's a hobby with monetary value. Have you watched the price of tomatoes and corn in the stores?" asked Charles Hall, 70. "Besides, it is good exercise."

These enthusiastic gardeners all are residents of Jan's Manor Apartments, a low-rent housing complex for senior citizens, on the west edge of Indianola. Max McCord, owner of Jan's and nearby low-rent Robin Manor Apartments, provides about five acres of garden space for his residents. He has the land plowed, limed and disked and then the gardeners take over.

GARDENS WELL-TENDED

There are between 40 and 50 plots. Each gardener is provided as large a space as he or she wants. The Darnleys' garden is a large one—55 by 100 feet. All are well-tended, neat as a pin and enough to make many a younger gardener sit up and take notice.

The gardens and the two housing complexes command a breath-taking pastoral view of Warren County, with green rolling hills, lush trees and cornfields in the distance. Occasionally a deer comes up for a look over the white rail fence.

McCord believes the garden work is good therapy for his residents. But the residents don't call it therapy. They call it fun.

Mrs. Alice Foust, 69, a widow, has 30 tomato plants, onions, peas, beets, cucumbers, peppers, potatoes and "you name it." She says her garden is "good for the pocketbook and good for the soul. And it keeps me out of trouble." A daughter, Maxine Robinson of Knoxville helps her mother can and freeze vegetables, and stores them for her.

PRIVILEGE TO SHARE

As do many of the other gardeners, Alice considers it a privilege to share some of her produce with the elderly folks there who cannot get out and garden themselves.

Darnley, a retired railroad engineer from Boone and known around the place as "Old No. 8," says he and Myrtle, so far, have won their battle with the raccoons who love the sweet corn. They have covered each ear with a brown paper bag.

The spicy aroma of dill pickles in the making came from Darnley's garden apartment. Myrtle already had frozen 30 quarts of peas. The tomatoes are coming on fine. There always are cukes to pick and insects to battle. Later there will be the rutabagas, turnips and spaghetti squash. "It's a lot of work, but it certainly helps," says Mrs. Darnley.

Charles Hall, the hobby-gardener, has done all of the work in their plot this year, even canning 25 jars of green beans and some pickled beets. His wife, Veda, 71, is recovering from knee surgery.

Hall grows about every vegetable Iowa soil will produce—including Swiss chard, which he doesn't like to eat, "but it looks nice growing." He has 160 hills of potatoes. "What we can't eat, we give away." His garden is 50 by 70 feet and includes 75 tomato plants.

GOOD EATING

For John Sorenson, 77, and his wife Daisy, 73, it is their third year with a garden at Robin Manor. Besides all of the good eating ("There is no taste in the world like a home-grown tomato"). Sorenson, a retired Des Moines TV repairman, says he just likes to watch all of the things grow. "It certainly beats sitting around," says Mrs. Charles Vance, 66, another "farm girl." Of the dozen rows of corn, the melons, carrots and all of the other good things to eat, she and her husband like the ground cherries best. "There is nothing like them."

They enjoy planting things you seldom see in grocery stores. And they let their two granddaughters, Sheryl Turner, 9, and Shelia, 11, have a row to plant all their own "for the experience."

Gardening is something of a social event there, too. "I have met and become friends with a lot of folks down here at the garden," remarked Susan Laughlin, the gardener-philosopher.

"Just getting out in the fresh air is wonderful," she says. "And no one could hate anyone while working in a garden. It's rewarding in mental and spiritual ways. I think about a lot of things while I'm out here.

"Another thing, most of us have had homes of our own," says Susan, a widow. "A garden is something you can call your own. People need something that is just theirs."

JOBS AT DECENT WAGES FOR ALL UNDER FULL EMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. HAWKINS. Mr. Speaker, one of the critical elements of a full employment program is the level of wages. In order to have a positive net effect, a comprehensive full employment program must aim at the development of jobs at fair rates of compensation. Fair wage levels for all is one of the important goals of the Full Employment and Balanced Growth Act of 1976 (H.R. 50). H.R. 50 is greatly needed in order to insure that as we reduce the numbers of those persons on the welfare rolls, and those receiving unemployment compensation, we do not increase, but rather decrease, the numbers of those living in poverty. The New York Times, on July 17, 1976, contained an article on this subject, written by Andrew Levison. The article follows:

Where's the Dilemma? Full Employment Must Mean Jobs at Decent Wages for All

(By Andrew Levison)

Atlanta.—The most notable feature of congressional debate over the Humphrey-Hawkins Full Employment & Balanced Growth Act has been the lukewarm response of liberal economists. Although the bill's goal—reducing adult unemployment to 3 percent by 1980—makes it the first major employment legislation since the mid-1960s, it has not gained the political or intellectual support that the goal of overcoming poverty and achieving social justice did ten years ago.

The stumbling block remains inflation. To many, the bill, sponsored by Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus F. Hawkins (D-Calif.), simply amounts to an aggressive choice of the inflationary facet of the trade-off dilemma between unemployment and inflation, and not a solution to the problem of stable full employment. But the presence of a serious legislative proposal has focused the debate on the central practical issue: wages and full employment.

Charles L. Schultze of the Brookings Institution in Washington, for example, cited as the bill's inflationary Achilles' heel the provision that the pay for any specially created government jobs be at prevailing wages.

"The 'dilemma,'" said Mr. Schultze, "is that if you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program. . . . If you set the wage somewhat higher , . . it will still exceed the wages of many people in private industry. If so, it will begin to cause an exodus from private industry and drive up wages and prices."

But what this indicates in fact is that full employment involves a profound social choice. The issue of wages divides two profoundly different conceptions of full employment and what kind of society would result from it.

The first, which might be called "laissez-faire full employment," is subscribed to by the economic advisers to the Ford Administration, the major business organizations, and defended in The Wall Street Journal. Its central notion is that full employment ought to be achieved by workers accepting whatever work is available, at whatever wages and conditions that are offered. Viewing the unregulated operation of the free market as in some sense "right," this approach carried to its logical conclusion aims at essentially forcing the unemployed to accept jobs at whatever wages will induce business to hire them.

Lowering or eliminating unemployment compensation and removing the minimum wage for teenagers and other such measures are standard elements of these full employment proposals. The proposal of the Federal Reserve chairman, Arthur F. Burns, to employ the jobless "at a rate of pay somewhat below the minimum wage" and fund the program by reductions in unemployment compensation and other social programs is illustrative.

This "full employment" program would have the paradoxical consequence of increasing poverty even as it increased employment. The comparisons critics have made to the medieval workhouse are not unfair.

The other concept of full employment is recognizable as a genuine liberal reform. For the labor movement and church and social action groups supporting the Humphrey-Hawkins bill, full employment means jobs at decent wages. Rather than accepting the currently available jobs and the resulting distribution of income as inevitable, the progressive vision of full employment insists that it is the proper function of government to modify the free market if that is necessary to provide a minimum level of decency for every American.

While this strategy does require a more equitable distribution of income, it need not entail inflation. At the simplest level, funding the entire program by a progressive tax increase would avoid any general inflationary consequences.

The Humphrey-Hawkins bill is undergoing revision, probably to include additional anti-inflation measures and a modification of the prevailing wages section. But whatever form the final version takes, the debate reveals that employment without inflation can be achieved. The issue is whether it should be done by forcing the unemployed to take low-wage jobs, using the whip of accepting reduced unemployment compensation, or by recognizing that a fairer distribution of income must be part of the overall adjustments needed to provide a job at a decent wage for all Americans.

If a dilemma is a choice between two equally distasteful alternatives, then for the millions of Americans who have not given up the hope for a just society there is no dilemma. If full employment is to be a social advance, rather than a retrogression, it must mean jobs at decent wages for the millions seeking work.

LIFE SUPPORT CENTERS ACT OF 1976

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. FISHER. Mr. Speaker, lately a lot of attention has been given to changes in American society which are leading to a loss of a sense of family and community. I believe that the family is the cornerstone of a responsible and compassionate society. The future of our society depends on the well-being and aspirations of our young people. While recognizing that basic strengthening of the family as an institution must come from within each family, I think that there are some steps that the Federal Government can take to lend support to families.

One social phenomenon which is a problem in this context is the growing number of teenage pregnancies. Because the pregnant adolescent girl does not fit into the traditional picture of American family life, our society is not as well equipped as it should be to help these girls. As a consequence many of the babies born to teenage mothers do not get the best possible start in life and the mothers are not helped to be the best parents they can be.

The Life Support Centers Act of 1976 is intended to deal with the difficulties faced by pregnant adolescent girls, many of them unmarried. The bill authorizes grants to State agencies and nonprofit organizations to establish or continue programs for coordinated medical, social, and counseling services to pregnant teenagers before and after childbirth. The life support centers would offer: Health care to the mother, including nutrition programs; health care to the infants during their preschool years; referral services to other agencies if necessary; social services including educational, vocational, legal, and social counseling; and funds to provide adoption services for adolescent mothers who are considering placing their babies for adoption.

I believe that this legislation, which I have cosponsored, is an important step in helping to improve the physical and social well-being of a sizable group of young pregnant girls, mothers and children. If their health is improved and their ability to cope with the responsibility of family life is improved, then the chances of the mothers and children leading decent, constructive lives is greatly enhanced.

Not incidentally, the availability of services specially tailored to the needs of teenage girls will be an important and attractive alternative to abortion. Girls who know there is a place where they can receive medical assistance and counseling may be encouraged to have their children.

MEXICO CELEBRATES 166 YEARS OF INDEPENDENCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. McDONALD. Mr. Speaker, the people of Mexico today are celebrating 166 years of independence. On September 16, 1810, Father Miguel Hidalgo proclaimed Mexico's independence from Spain, and the Republic was established on December 6, 1822, after the War for Independence.

As we too are celebrating our independence in this our Bicentennial Year, it is appropriate to call attention to the many values and goals shared by the people of Mexico and the people of the United States. Both fought valiantly for their independence and established new nations that became leaders in the progress of Western civilization. The progress of both nations was well served by the people's common adherence to the principles of individual liberty, Christian ethics and private property rights. And although our two nations were once at war, these common values have been the basis of the cordial relations and mutual respect between our two peoples for the past 100 years.

Thus I would like to join the people of Mexico in celebrating their independence and wish them good fortune and success in defending their liberty in the future.

CONTINUED WORK AGAINST AUTOMATIC ANNUAL PAY RAISE

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. PRESSLER. Mr. Speaker, in the past year I have worked closely with my colleague Charles Grassley, to prevent automatic pay raises for Members of Congress. Our efforts were culminated recently by the House and Senate actions preventing the congressional automatic pay raise connected with the cost-of-living raises for members of the executive and judicial branches.

However, there is much misunderstanding about this recent vote—taxpayers are told it will prevent a raise for the next year. Not true, because the Quadrennial Pay Board is now meeting and will undoubtedly include a healthy $10,000 to $12,000 per year increase for Congressmen January 1, 1977. This increase will go forward automatically unless Congress strikes it down.

I have filed a lawsuit to declare the automatic nature of congressional pay raises unconstitutional. Next Tuesday, September 21, I shall argue the constitutional questions before a three-judge court. It is my contention that our Constitution, plus Madison's notes, clearly raises. I am not opposed to Congressmen being well paid, but I contend that the elaborate automatic pay machinery this Congress has set up—including two pay boards—is misleading to the public, and more importantly, in violation of our Constitution. The language of our Constitution, plus Madison's notes, clearly prohibit automatic pay raises for Members of Congress.

Mr. Speaker, the National Observer commended my colleague, Mr. Grassley, for his work. I am proud to say that I was an early cosponsor and supporter of his efforts.

I would like to share with you this excellent article written by Mark R. Arnold, which was published for the week ending September 18, 1976. Mr. Arnold is to be commended—he is one of the few journalists who dug into the real facts concerning the recent vote. The article follows:

[From the National Observer, Sept. 18, 1976]

SINCEREST FLATTERY—HOW A GOP LAWMAKER LOST AN ISSUE

(By Mark R. Arnold)

For more than a year, first-term Rep. Charles Grassley of Iowa has been tilting at windmills, playing the part of a Republican Don Quixote armed only with a batch of "Dear Colleague" letters and a conservative's standard rhetoric about fiscal responsibility.

Grassley, 43, wants to repeal a 1975 law that allows Congress to receive automatic pay increases twice a year without having to vote for them. His cause has not made him the House's most popular member.

Grassley thinks the law's a scandal, and he has been saying so ever since Congress approved it. In particular, he has been trying to head off the approaching Oct. 1 pay hike, which would lift the salaries of senators and representatives to $46,800 from $44,600.

Until recently, no one paid much attention. Then, in what Grassley calls a "resort to thievery," congressional Democrats came down with a severe case of pre-election jitters, appropriated Grassley's pay freeze as their own, and rammed it through Congress.

RISKY VOTES

So Grassley will get his pay freeze, but the Democrats are taking the credit for it. And, as he admits, "a lot of the pressure has gone out" of the drive to repeal the law itself, which will continue these pay raises in the future.

There are sound arguments on both sides. The law's proponents say it is simply too risky for politicians to vote themselves periodic pay raises; it makes them vulnerable to demagogic attacks by their opponents. Congress in fact, hasn't been able to directly vote itself a salary boost since 1969, and the cost of living has risen considerably since then.

But several years ago, Congress voted to give high-level executive-branch officials and Federal judges automatic cost-of-living adjustments, and no one balked at that. So last year, in a maneuver that may have set a legislative speed record, both houses voted to make lawmakers eligible for the automatic pay boosts, which are tied to the Labor Department's Consumer Price Index.

"A BAD EXAMPLE"

Grassley and the 83 cosponsors of his repeal bill, however, insist that the law violates an unwritten promise to the voters that a congressman should not raise his pay in the term to which he was elected. In addition, says Grassley, "it sets a bad example for us to get a raise when our constituents are suffering from unemployment and inflation and the nation is running huge deficits." He, 15 other House members, and 8 senators have all returned their cost-of-living pay hikes to the Treasury.

Critics say Grassley is exploiting the pay issue to enhance his re-election prospects, and there's no question he's locked in a tough battle to hold the seat he won with less than 51 percent of the vote two years ago. The lone Republican left in Iowa's congressional delegation, he's a lanky, plain-speaking farmer who helped support his wife and five children through 16 years in the state legislature (salary $5,500 a year) by working on a factory assembly line. "Public service," he says, "sometimes involves a little sacrifice."

APPEAL FOR COSPONSORSHIP

A lot of people didn't think he was serious about his repeal campaign at first. His first Dear Colleague letter—an appeal for cosponsorship of his repeal bill—was sent to the 213 lawmakers who originally opposed the automatic pay boost for members. Only 10 agreed to back the legislation. Though 83 eventually signed on—most of them Republicans—many members still regard his cause as an exercise in grandstanding. "By gosh," Grassley says, "one fellow even stopped me in the cloakroom and said "This kind of thing is all right for home consumption, but you're overdoing it."

Grassley continued to "overdo" it. When hearings weren't called on the bill, he wrote the committee chairman to inquire why not. He wrote President Ford asking for support, and when he got no answer, he wrote again only to be told the President would take no position on the issue.

So he tried another tack. "The basic thing was to have an up-and-down vote on a pay increase," says Grassley. So he readied an amendment to bar use of any funds for the next congressional pay boost, due Oct. 1. That was in late May. Then things began to change.

SCORING POINTS

For one thing, the Republican platform incorporated a call for repeal of the automatic pay boost for lawmakers. Next, Democrats began finding their opponents were scoring points against them in the primaries by calling attention to their support of the pay hike. Then, the same day Grassley filed his amendment, House Democratic leaders decided to file an almost identical one. Grassley heard about it first from a reporter for NBC News.

"They wanted him (Grassley) to appear on the morning *Today* show to argue against the pay increase, along with a Democrat who was for it," recalls an aide to the Iowa lawmaker. "We were thrilled. We'd been trying for months to focus attention on the issue. Then this reporter called to say the Democrats had decided that they were against the pay boost too. We were flabbergasted." NBC called off the debate.

The final irony was that the House voted overwhelming for a Democratic proposal to freeze the Oct. 1 pay boost, and the basic automatic pay mechanism remained intact. The Senate followed suit last week; the fate of the salary increases for judges and top officials remains to be ironed out.

So Grassley, whose target is the payboost mechanism, goes back to tilting at windmills. "I suppose it's sort of a compliment when someone steals your idea", he says. "But I can't help but believe a lot of that support will disappear after the election."

PROPOSED AMENDMENTS TO S. 22

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. YATRON. Mr. Speaker, the Subcommitte on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary is to be highly complimented on their dedication and perserverance in revising the copyright law extending over a period of many years. Nevertheless, because of inconsistencies and inequities in the proposed treatment of cable television systems and the public they serve, it is essential that the bill be amended in five important particulars.

The theory of the legislation is that only distant nonnetwork programs are subject to a royalty fee. The definition of "local service area of a primary transmitter" attempts to distinguish between local and distant signals. Amendments are offered to implement and carry out the laudable purposes of the bill.

In addition, the bill discriminates against nonmetropolitan areas in continuing to limit the number of independent stations to a smaller number than those authorized for large population centers. It also assesses higher fees for the increased use of distant signals in nonmetropolitan areas.

The remaining three amendments deal with the standing of broadcasters to sue in situations in which they have no interest; the jurisdiction of the Copyright Royalty Commission to adjust the percentage of gross receipts and the freezing for copyright purposes of the Federal Communications Commission's rules on syndicated and sports program exclusivity.

The first of the amendments proposed is to provide that the royalty fees paid by all cable systems for the privilege of carrying distant signals, include a minimum number of signals in order to insure a basic complement of service to all of our citizens. This will avoid discriminating in favor of the metropolitan or first 50 markets.

It is, therefore, proposed to insert on page 35 of S. 22, line 9, a new paragraph which will guarantee to all sections of the country a minimum of three independent stations so far as copyright liability is concerned.

The second amendment replaces the arbitrary definition of "local service area of a primary transmitter" with an accurate definition which will have the effect of converting the arbitrary definition with a realistic definition which carries out the valid purposes and theory of the bill to distinguish between actual distant signals and local signals. The definition proposed will avoid use of the several different definitions of local signals by the Commission in its rules as of April 15, 1976, to accomplish other regulatory purposes.

Neither of these amendments encroach upon the regulatory authority of the Commission. They merely establish the royalty fee and leave the communications regulatory aspects for resolution by the appropriate committees of Congress, and the Commission.

The third amendment eliminates the standing given to any broadcaster to sue for an infringement in his service area whether or not he has any rights to vindicate. The elimination of this provision will, in no way, weaken the enforcement provision of the bill or limit the appropriate remedy to either the copyright owner or the legitimate interests of the broadcasters. No useful purpose is served by providing broadcasters with the capacity to harass cable system operators when they have no proprietary rights involved.

The fourth amendment eliminates the authority of the Copyright Royalty Commission to adjust the rates—percentage—of gross receipts to reflect national monetary inflation or deflation or changes in the average rates for basic service. The use of a percentage of gross receipts as the basis for cable television royalty fees rather than of a fixed sum was originally suggested to provide a flexible return to the copyright owner tied to inflation, deflation, and increase revenues. As a result, there is no need to give the Copyright Royalty Commission any jurisdiction to alter the rates because royalty fees will, by use of percentages, automatically adjust for the various factors.

The fifth amendment is offered to eliminate the authority of a Copyright Royalty Commission to make adjustments in the rates—percentage—in the event the Commission changes its rules regarding syndicated and sports program exclusivity after April 15, 1976.

The provisions of the bill, as presently drafted, would chill any attempts by the Commission to modify the syndicated and sports exclusivity provisions of its rules in the public interest. Moreover, this provision will subject cable systems to additional unknown and indeterminable fees because of a total lack of standards by which to adjust such rates. The Congress has never considered the policy questions involved in the Commission's authority or treatment of the subject. It seems highly improper for legislation to be recommended by the Judiciary Committee involving this sensitive regulatory matter without having given the Commerce Committee an opportunity to conduct hearings and determine the impact of these provisions on national communications policy. Consequently, an amendment is offered to eliminate section 801(b) (2) (C).

I have given these proposed amendments careful thought and I believe each of them is essential to carry out the purposes of the bill to impose a reasonable royalty fee on each system for the privilege of retransmitting truly distant signals. It is only fair that each system should have a minimum complement of signals for such fees. In short, these amendments will eliminate the discrimination inherent in the bill which, I am sure, was unintended. Moreover, the amendments will strike the provision granting standing to broadcasters to sue where they have no interests. Finally, the amendments will eliminate the provision for subsidizing copyright owners by maintenance of their constant dollar return and effecting communications policy by the adjustment in rates if the Commission changes its Rules on syndicated and sports program exclusivity.

Each of these amendments will remedy what I consider to be serious defects in the bill and perfect what is otherwise excellent legislation:

AMENDMENTS TO CHAPTERS 1, 5 AND 8 OF THE AUGUST 6, 1976 COMMITTEE PRINT OF S. 22

Page 35, line 9, insert a new paragraph as follows:

(v) Where the community of the cable system is not, in whole or in part, within the local service area of three independent stations and one noncommercial educational station, the royalty fee imposed under paragraph (1) above shall include payment for a sufficient number of additional independent stations or a noncommercial educational station to provide the above complement of station signals to such cable system.

Page 43, strike lines 14 through the word "authorizations" in line 24 and substitute the following:

The "local service area of a primary transmitter" in the case of a television broadcast station, for the purposes of this Title, comprises the area in which the primary transmitter can be or is received by the direct interception of a free space radio wave emission by such broadcast television station, provided such television station antenna is located within 120 miles from the community of the cable system.

Page 114, line 22, strike all of clause (ii) subsection (d).

Page 141, line 18, strike all of subparagraph (A) on page 141 and page 142, lines 1 through 20, and reletter subparagraph (B) as (A) and subparagraph (D) on page 144 as (B).

Page 144, line 14, strike all of subparagraph (C).

THE PRO-AMERICAN PANAMANIANS SEEK TO OVERTHROW RED RULER

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. SNYDER. Mr. Speaker, for about 2 weeks now, the situation in the Republic of Panama has been rapidly deteriorating. The anti-Torrijos student riots have been confirmed. It appears that Colonel Garcia and Colonel Flores are on top; Noriega is on the bottom and General Torrijos is somewhere in between. Much of what I hear and believe is difficult to confirm. However, I commend the following article to my colleagues from the September 27, 1976, issue of the Spotlight:

PRO-AMERICAN PANAMANIANS SEEK TO OVERTHROW RED RULER

WASHINGTON.—A national protest—in collaboration with an effort to oust Gen. Omar Torrijos from office—has crippled Panama.

The move to oust Torrijos is undertaken by patriots determined to replace the communist dictator with a pro-American government. The new government would favor continuation of the present Panama Canal Treaty instead of giving title to Panama.

The canal itself is undisturbed by the revolt in Panama. Outside the Canal Zone, everything is at a standstill in Panama.

Elements in the Panama National Guard are poised to stage a coup at the right moment. The moment will come when $200 million which Torrijos secretly shipped out of the country to locations in the U.S. is recovered. Torrijos has been hiding the money at the rate of $50 million annually.

Waiting to step into office after Torrijos is booted out is Arnulfo Arias, the pro-American who was elected president in Panama's last free election eight years ago. Torrijos overthrew Arias's legally elected government after 11 days.

Panama's prospective new government is eager for America to retain sovereignty over the Canal Zone. They point to the $235 million in annual "direct benefits" that the Panama share of the tolls generates.

They also expressed fear that, if Torrijos remains in power and the Ford administration succeeds in giving the canal to Panama, the waterway would be nationalized under control of the Soviet Union through Cuba.

Torrijos has joined Fidel Castro in "exporting" the Soviet brand of communism "throughout Latin America" as the Cuban dictator has loudly boasted over the years. The Soviet Union is seeking military dominance of the high seas and has passed the U.S. in warships. The canal is of vital military and economic value.

Although the strike and coup campaign has been suppressed in the American press, it has been confirmed by sources both within Panama and inside the U.S. State Department. The State Department officials said there was cooperation with the movement from the American government.

Source said that the "heavy majority" of Panamanians oppose the canal giveaway. Pressed to estimate the margin of sentiment, one source put it at "far more than 75 per cent," another at "more than 90 per cent" and all agreed that the great mass of Panamanians outside communist circles oppose a return of the canal.

Secretary of State Henry Kissinger, long a champion of the effort to give away the canal, was kept ignorant of the efforts to oust Torrijos until the strike began on Sept. 14.

Since the "Red-led riots" of 1964, the negotiations to surrender U.S. sovereignty in tie Canal Zone have been defended on grounds that it is necessary to prevent violence.

Kissinger and his aides have loudly argued that the canal cannot be defended against terrorist attacks, which they darkly predict will happen if the canal is not surrendered. Sources in Panama and in Washington insist that, rather than riot, most Panamanians would celebrate.

Torrijos was informed that a military coup was being planned on Aug. 24, when he was in Colombia. Torrijos switched landing sites on returning to Panama and jailed Col. Manuel Noriega, head of the National Guard's intelligence wing. Torrijos has been seen only once since then—in a brief TV appearance. The impending coup has been planned for four years.

Panama's embassy in Washington at first denied the national strike or coup plans. Then a spokesman acknowledged "some rumors" and that "people are talking" but said they had "no official information."

The spokesman said "no positive answers had come from Panama. Asked if the embassy had made inquiries in Panama, the spokesman consulted with other embassy officials at length and then asserted that "nothing was happening."

A news dispatch from Prague quoted the Communist Party as warning Torrijos that "the right wing is getting ready to cause him problems."

A high American official said the strike was led by students enraged at Torrijos because of the economic problems created by his procommunist government. This official disagreed with the sources saying it was a total national strike but predicted it would escalate to that point within hours. An employee of the Panama Canal Co. in Washington concurred with the U.S. official's version.

"Nobody can stay in power long in these conditions," a Panama source said. He expressed hope that the coup would be accomplished within a week.

Meanwhile, the U.S. military garrison in the Canal Zone, the Panama National Police and the National Guard have been placed on the alert.

EXPORT ADMINISTRATION ACT AND THE ARAB BOYCOTT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ROSENTHAL. Mr. Speaker, the House is scheduled to consider tomorrow the Export Administration Act amendments, H.R. 15377. This is an excellent piece of legislation and I commend it to my colleagues. I wish to focus my remarks, however, on the provisions of this bill which would prohibit American compliance with the Arab boycott.

My feelings on the urgent need for legislation to end our participation in the boycott is set forth at length in my supplemental views to the International Relations Committee report on the bill (H. Rept. No. 94–1469). In summary, I wish to point out that the Congress, in 1965, made cooperation with foreign boycotts against U.S. policy and gave the Commerce Department far-reaching authority to implement this policy. For 12 years, we have waited vainly for the Department to take strong action. During this time, we have witnessed the swelling of the blacklist until today it is estimated that more than 1,500 American businesses and individuals are effectively excluded from trade with the Arab States. We have been left to wring our hands as our appointed policeman, the Commerce Department, has become a willing bystander, if not an accomplice, to the evasion of U.S. policy.

In connection with its responsibility to oversee the operations of the Commerce Department, the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair, held hearings this June on the pervasiveness of American compliance with Arab boycott demands.

The subcommittee found that banks are the principal enforcers of the Arab boycott—that virtually all banks doing international business handle letters of credit containing restrictive boycott conditions directed against U.S. firms. There banks exact compliance with the boycott as the price for payment to the American exporter.

According to the most recent figures released by the Commerce Department to the subcommittee, during the period from April 1 through June 30, 1976, 131 U.S. banks reported that they had engaged in 8,026 transactions involving 15,392 requests to enforce restrictive trade practices. The total amount involved in these transactions was $479 million. Equally troubling, the number of transactions conditioned on compliance with the boycott had grown by over 25 percent from the immediately preceding 4-month period.

Based upon statistics such as the above, the Los Angeles Times recently made a dire prediction:

> Not too many years in the future, the Nation could have two kinds of auto companies, steel makers, trading firms and banks: those that deal with the Arabs, and those that don't. If that happened, the two groups would be hampered by the black list in their dealings with each other. Imagine the effects on the Nation's economy, its sense of nationhood, its integrity.

Opponents of the antiboycott provision, before you, make two arguments. They allege that it would interfere with Arab internal policies and that it would hurt American business. The first argument is highly disingenuous. The second is unsubstantiated.

This bill says nothing about the direct Arab boycott of Israel. That is the concern of the Arab governments. They can refrain, if they wish, from doing business with Israel, its companies and its nationals. But it is an interference with vital American interests when these Arab governments force their boycott upon American businesses—when they tell American industry that it cannot trade with a longstanding friend of the United States. This is extortion and an affront to American principles and prerogatives. No foreign government has this right.

The claim that American business will suffer if this bill is passed is simply not supported by the facts. I would be naive if I did not admit some risk in the course of action embodied in this bill. There could be some short-term diversion of trade as the Arabs express anger that their scheme no longer enjoys tacit, if not explicit, American support. But there are several grounds for optimism that the disruption of trade would be neither severe nor long term.

First, the longstanding and generally amicable commercial relations between this country and the Arabs have survived earlier political vicissitudes. Iraq currently offers a fine example where radical rhetoric and divergent political philosophies have not interfered with a thriving American business relationship. The Arabs have become used to the high quality goods and services which only this Nation can provide in such abundance. Any major shift in commercial dealings would, I believe, work an unacceptable hardship upon the Arab business community and its customers.

Second, numerous Arab businessmen have expressed private misgivings about the operation of the boycott. They feel it unnecessarily restricts their dealings with blacklisted companies. It also alienates executives of other companies who resent being questioned about their company's business relations or who find it morally repugnant. No fewer than 22 large American firms have recently pledged not to comply with Arab boycott demands. These include American Brands, Beatrice Foods, El Paso Natural Gas, General Motors, Greyhound, Kennecott Copper, G. D. Searle, Texaco, Textron, and U.S. Gypsum. Typical of this pledge was that of the chairman of General Motors, T. A. Murphy, who said:

> General Motors has received occasional requests from Arab countries that it agree not to participate in future dealings with Israel or with Israeli companies . . . General Motors has made no such agreements and would not make any such agreements.

Third, Arab companies have demonstrated in past dealings that an objection to a boycott request would not necessarily lead to a termination of relations. When the Commerce Department in November 1975 outlawed compliance with requests involving discrimination on ethnic or religious grounds, banks were forced to reject letters of credit containing objectionable language. Morgan Guaranty testified before my subcommittee that in 23 of the 24 instances where the bank refused to process such letters of credit the offensive boycott language was voluntarily stricken by the Arab or other foreign banks involved. There is considerable reason to believe that Arab countries would waive boycott conditions rather than deprive themselves of vital American goods and services.

Fourth, it is by no means clear that all European and developed countries would welcome compliance with the Arab boycott as a price of additional Arab trade. Indeed, some developed countries appear to have taken a harder line against boycott compliance than the United States.

While no one can predict to a certainty the impact on United States/Arab trade relations of antiboycott legislation, the above evidence suggests any trade diversion would be small and short-lived.

These remarks are long but I feel compelled to make the strongest possible case for the favorable consideration of the bill in general and the antiboycott provisions in particular. Our Nation can no longer acquiesce in the shameful, extortionist pressures of the Arab boycott which offend American principles of free trade and fair play and which are having a destructive, divisive, and anticompetitive effect upon American business.

USIA PROVIDES HOME AWAY FROM HOME FOR FOREIGN JOURNALISTS

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. TREEN. Mr. Speaker, it was recently my privilege to serve as cochairman of the subcommittee which forged a foreign policy plank for the Republican Party at the Kansas City Convention. In that capacity, I was frequently aware of the large number of foreign journalists covering that convention. There were, in fact, several hundred of them, sending stories back to newspapers in nearly 40 countries.

They were aided greatly in their efforts by officers of the U.S. Information Agency. USIA provided a fully equipped press room in Kemper auditorium, complete with typewriters, telephones, television sets, a Xerox machine and a table laden with ready reference materials. Agency officers were on hand to assist with unfamiliar terminology and equipment, to interpret or explain as needed, and to help the journalists provide full and timely coverage to their local papers.

The Agency did an outstanding job, and I ask unanimous consent that the full text of an article which appeared in the Kansas City Star be printed at this point in the Record:

[From the Kansas City (Mo.) Star, Aug. 16, 1976]

Home Away From Home Provided for Journalists of 38 Nations

(By Harry Jones, Jr.)

The United States Information Agency (USIA) has taken on a new responsibility this year which, logic suggests, should result in the U.S. receiving a slightly better press abroad for its Democratic and Republican conventions than in the past.

The USIA is sponsoring a foreign press convention center and it will be in full operation here convention week in the Exhibition Hall of Municipal Auditorium.

Thomas Elliston, who carries a title he regards as too stuffy—federal election coordinator—remembers the exact date the idea took shape in his mind. It was April 29, 1975, and he was sitting in the foreign press center in Washington chatting about election coverage. Elliston covered his first political convention in 1948 for the USIA and since then has covered seven others, always by himself.

"Covering one of these conventions can be confusing for an American," he said "but for a foreign correspondent, it can be chaotic."

Until this year the foreign newsmen have pretty well had to cover the conventions on their own, usually in unfamiliar cities and without the conveniences most of the U.S. press enjoys.

It struck Elliston what a convenience it would be for the foreign journalists if the USIA opened a press room at each convention just for the use of the foreign press. He suggested it to his superiors and they not only bought the idea but also put Elliston in charge.

He tried it for the first time at the Democratic National Convention last month in New York and, looking back on that experience now, he regards it as a smashing success.

The center will be even more useful here, he said, because virtually all of the visiting foreigners do not know their way around Kansas City as many do New York.

The foreign press convention center covers 561 square feet (he had asked for 600) and is one of only two such areas in the auditorium enclosed by wooden partitions (the other is that of the New York Times).

Inside are tables with 12 typewriters for the correspondents' use; two color television sets; a Xerox machine; a table with background information on American politics and history, data about Kansas City and press releases and the texts of speeches delivered or about to be delivered at the convention; U.P.I. telex "A wire," which clicks off the nuts-and-bolts data about the convention, and two water coolers.

Downstairs within easy access are Western Union and I.T.T. facilities for transmitting their words to their home offices. Ten telephones are positioned in the press center for their use if they wish to reach their offices more quickly (calling collect, of course).

If a correspondent from Switzerland or Japan wants to know who lost the 1920 election and by how many votes or how to spell Sen. Roman Hruska's last name, one of the USIA staffers present will gladly look it up for him.

When Elliston covered the conventions for the USIA, he had only the vaguest idea where what he wrote would appear in print. His copy would be sent to United States Information Service (USIS) offices in embassies around the world and would be made available to the news media in those countries free of charge. Some used it. Some did not.

Now Elliston is available to help between 400 and 450 foreign journalists from at least 38 countries who are trickling into Kansas City this week.

The countries now known to be represented here next week by foreign journalists are: Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, the Republic of China (but not the People's Republic of China), Czechoslovakia, Denmark, Egypt, Great Britain, France, the Federal Republic of Germany, the German Democratic Republic, Hungary, India, Israel, Italy, Japan, Korea, the Libyan Arab Republic, Luxembourg, Malta, Mexico, New Zealand, The Netherlands, Norway, Poland, Portugal, South Africa, Spain, Sweden, Switzerland, Turkey, the U.S.S.R., Venezuela and Yugoslavia.

Elliston reports no real difference in the foreign correspondents and their American counterparts—"There are nice guys and there are pains in the . . ." he said.

Most, he noted, are professionals who are among the best in their countries because they would not have been assigned such a beat if they were not good. Once in a while, he said, someone comes in and starts demanding this and that and saying how important he is, but Elliston treats such a person just as he would an American with the same attitude. "I show 'em the door," Elliston said.

Before the conventions Elliston took groups of 20 U.S.-based foreign correspondents on trips to cover the primary campaigns in New Hampshire, Florida and California. After the G.O.P. convention he will start planning two trips for 40 foreign newsmen each with the Democratic and Republican nominees as they campaign around the country. Then he will set up facilities in New York and Washington to assist them in covering the election night returns.

By giving all of these journalists a place to hang their hats, type up their stories, obtain speech texts quickly and transmit their reports smoothly by telephone or telex, Elliston said, he is enabling them to avoid the pitfalls of retiring to their hotel rooms and covering the convention from what they see on T.V. This was not an uncommon practice in past conventions, he said.

The USIA is not the only organization taking pains here to make the foreign press welcome. The states of Missouri and Kansas have provided hospitality rooms for them above the Golden Ox restaurant near Kemper Arena, with teletypes and telephones. Complimentary coffee and snacks also are being offered there.

The Chamber of Commerce rushed to the rescue earlier this month when it discovered that the Republicans had placed some foreign correspondents in hotels without TVs, telephones, air-conditioning units or combinations of these three conveniences. It arranged for new housing for all who needed it.

As Elliston explained the USIA service, Renato Machado and Silio Boccanera, foreign editor and correspondent, respectively, for the Jornal Do Brasil of Rio de Janeiro, volunteered their observations about the setups.

Boccanera, who had covered the Democratic convention, said that because of the USIA service he was able to obtain a copy of Jimmy Carter's acceptance speech two hours in advance. Machado was on the other end of the line in Rio then, saving space on Page 9 for the entire text. Their deadlines were such that the 2-hour advantage enabled them to print the speech in the following morning's newspaper.

CANDIDATE CARTER AND FEAR OF "PUBLIC WORKER STATE"

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. CONABLE. Mr. Speaker, a mysterious columnist, known as the "Culpeper Colonel," who writes for the Culpeper News, down in a place appropriately known as Culpeper, Va., has written a column about candidate Jimmy Carter and the South, which makes good reading for us Republicans. I commend this column, attached herewith, to the attention of my colleagues:

Candidate Carter and Fear of "Public Worker State"

(By Culpeper Colonel)

Most people, including the Colonel, figured that Jimmy Carter would romp through the South. Most people probably figure the same thing now, but the Colonel has begun to have some very serious doubts about it.

Republicans have latched on to a column by Neal Peirce, whose field is the problems of cities and states. The column, which Republicans and conservative Southern Democrats are having duplicated and distributed, raises the specter of this country becoming a public worker state. He asks the question: are government employees, their ranks swollen to record highs, and now led by increasingly militant unions, gaining so much power within a dominant Democratic party that no political force could be their match for years to come?

In Washington the feeling is that if Carter is elected, as the odds indicate he will be, one of the first drives will be to repeal or sharply dilute the Hatch Act. This is the law which prevents federal employees from engaging in partisan political politics.

Once this law is repealed then government employees become a vibrant, perhaps even domineering political force in this country.

Barry Goldwater has been devoting many of his recent speeches to what he describes as the effort of organized labor in this election year to "deliver a killing blow to the two-party system." As Goldwater sees it "labor aims at a knockout of the Republican party, and a virtual end to the two-party system as we have known it."

One way this is happening is labor's use of its three million dollar computer, using voter lists from about 45 of 50 states. The Senator claims that the use of this computer and other campaign help, both direct and indirect, will total between 40 to 60 million dollars this year.

How, then, does all of this sit with voters in the South?

That is what the Colonel has been wondering about, and why he has moved from the opinion that the South will rally behind Jimmy Carter simply because he is from Georgia.

Can geography overcome the fear of a unionized federal government? Or of a shifting of power from the White House to the big building directly across from LaFayette Park where George Meany holds forth as President of the AFL–CIO?

The caution about Carter's Southern chances are compounded by something else that few if any campaigners have gotten around to talking about: Carter owed his success in the primaries to being the "most moderate," even, perhaps "the most conservative." In the tough fights—Michigan for example—it was Carter against a campaigner who said, "I am the Liberal." Mo Udall. And Udall lost.

Carter was generally regarded as much more conservative than the most conservative of the liberal front-runners, Henry Jackson.

Once the nomination had been secured Carter was no longer the moderate, conservative candidate.

Which Carter will the voters in the South be voting for?

Or against?

CYPRUS: AMERICA MUST STAND FAST

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. MURPHY of New York. Mr. Speaker, the current situation in the Aegean Sea is much more distressing than a mere "disagreement," as some have called it, and its roots go much farther back than the Turkish seizure of the northern half of Cyprus just 2 years ago. There is, in this conflict, the distinct danger of war. While Mr. Kissinger flits about among the capitals of the world, and the administration fumbles with a lack of a sound foreign policy in the Aegean, the Congress is attempting to keep the pressure on Turkey to resolve the problems it created by its seizure of Cyprus.

The U.S. Congress placed an embargo on military assistance to Turkey in February 1975, halting the allocation of $101 million for that fiscal year. In October of last year, the embargo was lifted by an administration-backed measure which I most decidedly opposed. I do not believe that recent Turkish actions—or nonaction—warrant any kind of support by the United States. Following the hostile action on Cyprus, Turkey has made absolutely no attempt to remedy the resulting problems. Over 180,000 Greek-Cypriots remain under appalling conditions in Turkish controlled refugee camps, and Turkey has given no assurances that any continuing aid would not be used against a fellow NATO member, which Greece happens to be.

The Republican administration tells us that lifting the ban on military assistance to Turkey is essential to prevent further Turkish action against U.S. military installations which would jeopardize U.S. and NATO security interests. And, they tell us that the suspension of the embargo will be effective only as long as Turkey observes the Cyprus cease fire and does not increase its forces on the island. Perhaps then, we are told, the Turks will take a few steps toward a settlement of the difficulties.

While I would hope that the administration's rather simplistic point of view might prove to be correct, I can find no reason in the realm of reality to believe it will be so.

Turkey has refused to make any concessions in Cyprus, and the only chance for progress lies in strong American pressure on Turkish leaders in Ankara. And the issue is not simply black and white on Cyprus, but goes farther than that, into such disputes as oil drilling and exploration rights on the Aegean Sea's continental shelf, and other territorial differences, of which Cyprus is only the most urgent and most visible.

There is a move afoot in Congress, which I fully support, to defer action on a pending billion dollar aid package to Turkey, until the Congress is also ready to act on a $700 million military aid package to Greece. The Greek Government of Premier Constantine Karamanlis has indicated it is willing to meet some sort of compromise. The Greek economy has been damaged, social and economic programs have been impeded, and scarce governmental resources have been wasted in attempts to meet the Turks half way.

The United States cannot afford to endanger its alliance with Greece. The Turkish policy of expansion would be disastrous for NATO. Therefore, the United States must not produce a situation whereby the Turkish Government is receiving a massive amount of aid, which could easily be diverted to anti-Greek purposes, while the assistance to Greece is held up by the administration.

The Greek Government will negotiate—but we cannot allow them to negotiate from a position of weakness. If this administration permits the crisis to deterioriate to the point of hostility, and if the Turks should become even more unreasonable in their demands, we could very well witness the demise of yet another of our allies.

That cannot be allowed to happen. Washington must maintain a stand of strength. The Congress has already imposed embargoes on assistance, which the administration has unwisely removed. The possible use of the 6th Fleet in the Aegean Sea is yet another threat which could be used to support the Greek position.

But the end result must be an end to hostile actions such as the Turkish occupation of Greek territory. The administration's hope that the problem will simply go away if it is ignored long enough is totally unrealistic. America is the world's linchpin of democracy, and it is up to us to demonstrate by our actions and alliances that we mean to keep a lasting peace.

HENRY IN THE PULPIT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. McDONALD. Mr. Speaker, as our Secretary of State shuttles off into the African night in his attempts to rearrange everyone's life in Rhodesia and South Africa, it is appropriate to consider the position from whence Mr. Kissinger speaks. Patrick J. Buchanan recently whote a column in which he concluded that Mr. Kissinger's skirts are not clean and his policy is not consistent as regards interference in the internal affairs of other nations. The column as it appeared in the Richmond Times-Dispatch of September 12, 1976 follows:

HENRY IN THE PULPIT

(By Patrick J. Buchanan)

COPENHAGEN.—"South Africa's internal structure is incompatible with any sense of human dignity."

In our time, the remark is unexceptional. But the author and the timing were indeed noteworthy. According to the International Herald Tribune, the comment came from Henry Kissinger on the very eve of negotiations with Prime Minister John Vorster of South Africa.

The prime minister reacted angrily, as well he might. For the remark of the U.S. secretary of state was gratuitous, foolish, inconsistent and hypocritical.

Foolish, because if one is genuinely seeking South African assistance in resolving the Rhodesian-South-West Africa problems, one does not insult their prime minister on the eve of discussions. Indeed, one recalls that Kissinger was gracious to the point of being obsequious toward Minister Le Duc Tho prior to negotiating the Paris Accords, following which both won the Nobel Peace Prize and the North Vietnamese won the war.

The insult to South Africa was inconsistent because Kissinger has himself preached loudest the lesson that alternations in the internal structures of foreign powers are not the business of American diplomacy.

The remarks were hypocritical because South Africans should not be required to sit still for a lecture on morality in politics from the man who persuaded President Ford not to see Aleksandr Solzhenitsyn lest the visit give offense to the moral and political heirs of Joseph Stalin.

Our Secretary of State's credentials as a lecturer on international morality are not especially impressive.

Indeed, how does one berate South African segregationists after being photographed beaming happily in the presence of the late Mao Tse-tung, one of the genuinely great mass murderers of this bloodiest of all centuries? What are the sins of Vorster to compare with those of the late Chou En-lai, responsible for the deaths of millions of Chinese and thousands of Americans in Korea, who was accorded by Kissinger a deference that might have been justified perhaps for Mother Teresa of Calcutta?

Has anyone anywhere heard Henry Kissinger, on the eve of a flight to Moscow for negotiations, declare, "The Soviet Union's internal structure is incompatable with any sense of human dignity?"

Never.

But if Vorster is to be chastised publicly for his nation's sins, then let us hear Kissinger lecture the Saudi king on anti-Semitism; let us hear our secretary of state profess publicly his abhorrence of the police-state methods sometimes employed by our good friend, the shah.

Don't wait up for these lectures, however. For it is almost axiomatic that the more powerful, ruthless and autocratic the ruler in whose presence Henry finds himself, the bigger the grin that wreathes his face in the official photograph.

This is no brief for apartheid. But the racial segregation in South Africa is hardly the worst situation in the world. And we Americans who held slaves for almost our entire first century and practiced official segregation for most of our second are really not in an especially formidable position to be lecturing other countries on how to handle race relations.

In salvaging South Africa for the benefit of his black audience in Philadelphia and his buddies in Georgetown, Kissinger was indulging in that "selective moral indignation" which has become the trademark of the United Nations, against which Daniel Patrick Moynihan inveighed so eloquently.

As it has become in the nation's interest to have the United Nations relocated outside the United States, so it is increasingly in the nation's interest to have some publisher come forward and advance Kissinger the $2 million he is said to be asking for his memoirs, so that he may retire from public life, begin his writing and instruct us all on the lofty moral principles that have guided his conduct of foreign policy lo, these many years.

PRESERVING A FREE PRESS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. HEINZ. Mr. Speaker, CBS newsman Daniel Schorr testified yesterday to the House Committee on Standards of Official Conduct. In the course of his appearance, Mr. Schorr declined to say how he came into possession of a report by the Select Committee on Intelligence, asserting his prerogatives under the first amendment protection of a free press. As a result of his refusal to reveal his sources, Mr. Schorr has been warned that he faces a contempt of Congress citation.

Earlier this week, 35 Members of the House joined me in asking Chairman Flynt to allow Mr. Schorr to protect his sources of information without any threat of punishment. If the committee chooses to disregard our advice and votes to cite Mr. Schorr for contempt, we may soon witness a potentially disastrous constitutional confrontation between the freedom of the press and Congress' right to investigate.

I believe we must avoid this needless and destructive confrontation. In resolving this unfortunate situation, we must insure that Congress does not establish any precedent which will damage the public's right to know. For that reason, wisdom dictates that any effort to cite Mr. Schorr for contempt be resisted.

Mr. Speaker, I was encouraged to read in this morning's paper that a majority of the members who serve on the Ethics Committee will oppose reporting a contempt resolution against Mr. Schorr to the full House. I deeply hope this remains the committee's final position when all the votes are counted. If a contempt resolution does reach the floor, however, I will ask my colleagues to join me in waging a vigorous fight against its passage.

For my colleagues' benefit, the text of the letter that 36 Members of the House sent to Chairman Flynt in regard to this matter follows. I am also including for the Record a factsheet on the Newspaper Guild's activities in support of Daniel Schorr's first amendment rights, the text of a statement by Guild president Charles Perlik, as well as several letters and telegrams expressing concern over the consequences this episode may have for a free press:

House of Representatives,
Washington, D.C., September 14, 1976.

Hon. John J. Flynt, Jr.,
Chairman, Committee on Standards of Official Conduct, U.S. House of Representatives, Washington, D.C.

Dear Chairman Flynt: On September 15th, Daniel Schorr will testify under subpoena to the House Committee on Standards of Official Conduct. Mr. Schorr's testimony will be a part of your Commtitee's continuing investigation into the unauthorized publication of a report prepared by the House Select Committee on Intelligence.

While we are aware of the need to discover how a report which the House voted to keep confidential came to be published in The Village Voice, we believe that the House must not abridge the privileges and prerogatives of a free press in the course of this investigation. Because we believe that government must not impinge upon the ability of the professional news media to gather information, we think it is particularly important to respect the journalist's duty to treat his relationship with certain sources confidentially. Only in this way can we help preserve the public's "right to know."

In light of our concern in this matter, we specifically ask that you extend to Mr. Schorr the protections due him as a member of the journalistic profession. It is our firm hope that Mr. Schorr will not be forced to testify under duress or threat of punishment if he chooses to exercise his prerogatives not to reveal his sources.

The First Amendment to the Constitution establishes a free press as a cornerstone of American liberty. While the courts have differed on whether the freedom of the press protects the confidentiality of the journalist's relationship with his sources, we believe that the public is best served by a vigorous press that can provide the American people with access to the truth. In this case—like any other involving the Bill of Rights—we must side with Justice Black in his statement that: The only conclusion supported by history is that the unqualified prohibitions laid down by the framers were intended to give liberty . . . the broadest scope that could be countenanced by an orderly society.

While the courts continue to deliberate on the precise implications of the constitutional protections of a free press, we believe it would be a grave mistake for the House of Representatives to act in a fashion which would tend to restrict press freedoms. For this reason, and for the reasons mentioned above, we urge your Committee to allow Mr. Schorr to protect his sources of information without any threat of punishment.

Thank you for your consideration in this matter.

Sincerely,

Bella S. Abzug, John B. Anderson, James C. Corman, Robert F. Drinan, Dante B. Fascell, Gilbert Gude, Michael Harrington, H. John Heinz III, Berkley Bedell,
Christopher J. Dodd, Don Edwards, Donald M. Fraser, Mark W. Hannaford, Ken Hechler, James M. Jeffords, Helen S. Meyner, Norman Y. Mineta, Charles A. Mosher,
James L. Oberstar, Edward W. Pattison, Patricia Schroeder, Stephen J. Solarz, Morris K. Udall, Charles W. Whalen, Jr., Joel Pritchard, Edward I. Koch, Edward Mezvinsky,
Parren J. Mitchell, Stephen L. Neal, Richard L. Ottinger, Benjamin S. Rosenthal, Paul Simon, Fortney H. Stark, Henry A. Waxman, Michael T. Blouin, Phillip Burton.

Factsheet Distributed by Newspaper Guild

The following petition was circulated nationally during the past week by The Newspaper Guild and some Locals of the American Federation of Television and Radio Artists:

"To the House Ethics Committee:

"We, the undersigned, oppose the subpoenas by the House Ethics Committee of Daniel Schorr, CBS correspondent Clay Felker, editor of New York Magazine and editor-in-chief of The Village Voice; Shelly Zalaznick, senior editorial director of New York Magazine, and Aaron Lathan, contributing editor to New York Magazine.

"We believe these editors and reporters have every right to refuse to disclose the source of the Pike Committee report that dealt with the activities of the Central Intelligence Agency.

"The right to freedom of the press is being jeopardized by this Congressional hearing. We urge that the committee's investigation into these reporters' and editors' confidential news sources be stopped."

Total number of signatures collected as of September 15: 5,742.

Some of the newspapers and television offices where signatures were collected, with total signers in parentheses:

Time Magazine (113); Sports Illustrated (23); San Francisco Examiner (100); New York Times (231); Long Island Free Press (50); San Francisco Chronicle (53); Memphis Press-Scimitar (35); New York Post (101); Associated Press (66); Minneapolis Star and Tribune (108); Cleveland Plain Dealer (58); San Juan Star (30); ABC–TV (6); El Diario, N.Y. (41); Wisconsin State Journal (32); Mutual Black Network (9); Modesto Bee (31); NBC News (13); Providence Journal (200); Philadelphia Daily News (13); Detroit Free Press (129); Chicago Sun-Times and Daily News (209); Washington Star (35).

Telegrams have been sent to the House Ethics Committee (with copies to the Schorr defense) by the following individuals: (Copies are in news packet)

Walter Cronkite, John Chancellor, Barbara Walters, George Meany, Roger Mudd, Rod Steiger, Gore Vidal, Norman Lear, David Rintels (Pres., Writers Guild of America), Henry Fonda, Jane Fonda, Carl Reiner, Lee Grant.

Some of the signers of the petition include the following:

Howard K. Smith (ABC), Tom Pettit (NBC), Catherine Machin (NBC), William Randolph Hearst III (Reporter, San Francisco Examiner); James Naughton (New York Times); Thomas Ross (D.C. bureau chief, Chicago Sun Times); Robert Hatch

(Exec. Editor, The Nation); Michael B. Howard (Editor, Rocky Mountain News); Charles Bailey (Editor, Minneapolis Tribune); David Nimmer (Managing Editor, Minneapolis Star); Megan Rosenfeld (Washington Post); Thomas Lask (New York Times); David Binder (New York Times); Seymour Hersh (New York Times); Jacqueline V. Jones (Editor, Mutual Black Network); Joe Rosenthal (photographer, San Francisco Examiner); Grace Schulman (poetry editor, The Nation); Peter Stoler (Assoc. Editor, Time); Landon G. Jones (Assoc. Editor, People Mag.); Peter Lisagor and William Eaton (Chicago Daily News); James Hoge (Editor, Chicago Sun-Times), and the Fresno Four.

STATEMENT BY CHARLES A. PERLIK, JR., PRESIDENT, THE NEWSPAPER GUILD, AT PRESS CONFERENCE OF THE SCHORR DEFENSE

The summer of '76 appears to be open season on journalists.

In Fresno, Calif., four reporters and editors are serving an open-ended sentence on a prison farm for their refusal to transgress the ethics of their profession and disclose a confidential source.

Here, at the opposite end of the country, Daniel Schorr and three editors of New York magazine face the possibility of a similar fate for the same adherence to principle. We'd like to think it unthinkable that Congress would vote to put Dan Schorr behind bars—but Congress did the unthinkable at least once before, in 1857, when it imprisoned a New York Times reporter for 19 days for refusing to tell a House committee his sources.

We want to make sure that doesn't happen to Dan Schorr or the editors of New York magazine, and because of that we undertook what will probably go down as the most frenetic petition campaign in recent history. Just 11 days ago, we mailed out hundreds of petitions to The Newspaper Guild's U.S. locals, asked them to circulate them for signature among their members in the two or three days' time available and get them back to us here today.

Here's how the petition reads:

"We, the undersigned, oppose the subpoenas by the House Ethics Committee of Daniel Schorr, CBS correspondent; Clay Felker, editor of New York Magazine and editor-in-chief of The Village Voice; Shelly Zalaznick, senior editorial director of New York Magazine; and Aaron Latham, contributing editor to New York Magazine.

"We believe these editors and reporters have every right to refuse to disclose the source of the Pike Committee report that dealt with the activities of the Central Intelligence Agency.

"The right to freedom of the press is being jeopardized by this Congressional hearing. We urge that the committee's investigation into these reporters' and editors' confidential news source be stopped."

Given the near-zero time available, we would have been gratified to receive hun- thousands, from newspaper, magazine and dreds of signatures. But we have received broadcasting offices across the country, crammed with signatures from reporters, editors and others. In addition, messages of support for Schorr have been sent to us and the House ethics committee by dozens of prominent individuals and organizations—the Writers Guild of America, the Society of Professional Journalists (Sigma Delta Chi), the Associated Press Managing Editors Association, among others. The names and numbers are all set forth in the fact sheet you will find in your press kits.

I think the incredible speed and volume of the response generated by this one-week campaign is a measure of the deeply felt concern journalists and others feel about the House committee's inquiry and the threat it poses to a free and unrestricted press. We think it contains a clear message to the committee: Drop the investigation of a reporter's confidential sources before it leads down a trail none of us wants to see this country tread.

Schorr and the others are scheduled to appear before the committee tomorrow. This afternoon, immediately upon the conclusion of this conference, we plan to take these petitions upstairs to the committee and leave them for its consideration.

We cannot believe they will be disregarded.

Hon. JOHN J. FLYNT, JR.,
House Committee on Standards of Official Conduct, Rayburn House Office Building, Washington, D.C.

Deeply regret that schedule will not permit my presence at tomorrow's news conference. I wholeheartedly support all efforts to prevent the infringement of first amendment rights which the House Ethics Committee hearing represents.

WALTER CRONKITE,
CBS News.

This telegram was sent by Barbara Walters and was read to us by her office in New York: Message from Barbara Walters—ABC News (To the House Ethics Committee).

Daniel Schorr's insistence that he not be required to reveal his confidential sources is in the tradition of American journalism. I urge that you not press this natter because of the ultimate negative effect on a free and independent press, radio and television. If a free press is to have meaning, reporters must be free from harassment by the Government and free to gather and disseminate information.

BARBARA WALTERS,
ABC News.

Telegram sent today to Congressman Flynt. "I respectfully but emphatically want to add my voice to the others who oppose the House Ethics Committee subpoenas of Daniel Schorr and the editors of the Village Voice. I support the right of those under subpoena to uphold the ethics of their craft and to refuse to disclose their journalistic sources. I speak not for NBC News but as a concerned citizen."

JOHN CHANCELLOR.

AFL–CIO President George Meany today sent the following telegram to Chairman John Flynt of the House Ethics Committee:

"Any attempt by Congress to force Daniel Schorr or other reporters to reveal their sources would, in my opinion, constitute an attack on the constitutional protection of freedom of the press. Therefore, I urge that the Committee not consider contempt-of-Congress citations based on their anticipated refusal to identify sources." You are free to make this public at tomorrow's press conference.

ALBERT J. ZACK,
Director, Department of Public Relations.

DEAR DAN (Schorr). We four Fresno Bee newsmen, now serving an indefinite term in the Fresno County Industrial Farm for refusing to reveal a confidential news source, applaud you in your stand.

Sooner or later, we must make judges, congressmen and others in official positions, aware that newsmen, like lawyers, doctors and clergymen adhere to professional ethics which we cannot ignore.

The public's right to know what their government is doing is of paramount concern in a free democracy and the need for confidential sources is an important tool of our profession.

We sincerely hope that you will not wind up in jail as we have and as Bill Farr of Los Angeles did and as other reporters have and will.

Keep the faith.

With highest personal regards,

GEORGE GRUNER,
Managing Editor.
JAMES H. BORT, Jr.,
Ombudsman.
JOE HOSATO,
Reporter.

UNITED PRESS INTERNATIONAL,
New York, N.Y., September 10, 1976.

Hon. JOHN J. FLYNT,
Chairman, House Ethics Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: The Society of Professional Journalists, Sigma Delta Chi, strongly protests efforts by the House Ethics Committee to compel CBS correspondent Daniel Schorr to reveal how he obtained a copy of a report by the House Intelligence Committee on the Central Intelligence Agency.

The Society, representing more than 30,000 journalists and journalism students, believes reporters have an obligation as well as right to inquire into the operations of such agencies as the CIA and their tremendous influence on national policy.

The Society also believes reporters have every right to refuse to disclose their sources of information. Otherwise, many news sources would refuse to talk for fear of reprisal, depriving Americans of information they urgently need to evaluate their government's performance.

The Society had hoped that Watergate would forever erase any question as to the public's right to know. It apparently has not, meaning that reporters and editors must be constantly vigilant against actions, however well meant, which tend to undermine that principle.

We believe your committee could take an important step toward upholding freedom of information by quashing the subpenas against Daniel Schorr and the three other journalists involved in publication of the report by the Village Voice.

Sincerely,

GRANT DILLMAN,
Chairman, Freedom of Information Committee, Society of Professional Journalists, Sigma Delta Chi.

Hon. JOHN J. FLYNT,
House Ethics Committee,
Washington, D.C.

I oppose the subpoenas issued to Daniel Schorr et al in the Ethics Committee investigation of the Pike report.

Every editor and reporter is guaranteed certain constitutional protections and one of them is protection against disclosing confidential sources.

The committee's pursuit of Schorr et al is jeopardizing freedom of the press and I urge that the committee's interrogation of them be cancelled.

ROGER MUDD,
Washington, D.C.

The following was sent to the Honorable John J. Flynt, House Committee on Standards of Official Conduct, Room 2360, Rayburn Office Bldg., Washington, D.C. 20515.

The Associated Press Managing Editors Association Freedom of Information Committee has consistently opposed efforts to compel journalists to reveal confidential news sources. While it is impossible for me to canvas the entire committee at this time, as its chairman and as an individual newspaper man I would urge you to reconsider your decision to subpoena Daniel Schorr and the other journalists involved in the controversy over the news of the Pike committee report for the purpose of compelling disclosure of news sources. A free and independent press cannot serve the people as a watchdog over Government without obtaining information from confidential news sources.

WARREN LERUDE,
Executive Edtior, Reno Evening Gazette and Nevada State Journal, Reno Nev.

The following individual telegrams were sent this date to John J. Flynt, Chairman, House Committee on Standards of Official Conduct by the individuals listed below:

"I believe that Daniel Schorr, Clay Felker, Shelly Zalaznick, and Aaron Latham as editors and reporters have every right to refuse to disclose the source of the Pike committee report. The right to freedom of the press is jeopardized by your congressional hearing."

Lee Grant, Actress; Carl Reiner, Performer, Director, Producer; Barry Farrell, Writer; Rod Steiger, Actor; Henry Fonda, Actor; Haskell Wexler, Producer, Director; Abby Mann, Writer; Gore Vidal, Writer; Robert Wise, Producer, Director; Bud Yorkin, Producer, Writer; Phyllis Kirk, Actress; Marilyn and Alan Bergman, Composers; Michael Jackson, Radio Broadcaster; Phylis Kirk.

STANDARDS OF OFFICIAL CONDUCT,
Rayburn House Office Building,
Washington, D.C.

I applaud the current efforts of the Standards of Official Conduct Committee to formulate and enforce for the House Standards of Ethics of which we can all be proud. It is with regret however that I note that this current state of activity is focused upon an attempt to extract information regarding confidential sources from a number of nationally prominent reporters and editors. In my view this seriously jeopardizes the first amendment rights of these individuals and therefore of all U.S. Citizens. It might even affect the credibility of the committee itself. I urge your most careful attention to the enforcements of our constitutional rights.

NORMAN LEAR,
5752 Sunset Boulevard,
Los Angeles, Calif.

DISCRETIONARY KILLING

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. HYDE. Mr. Speaker, in the continuing dialog on abortion, the following article by George F. Will appears in the September 20 issue of Newsweek. As usual with Wills writing this article makes a significant contribution to the discussion and I urge my colleagues to read it carefully.

DISCRETIONARY KILLING

(By George F. Will)

It is neither surprising nor regrettable that the abortion epidemic alarms many thoughtful people. Last year there were a million legal abortions in the U.S. and 50 million worldwide. The killing of fetuses on this scale is a revolution against the judgment of generations. And this revolution in favor of discretionary killing has not run its course.

That life begins at conception is not disputable. The dispute concerns when, if ever, abortion is a *victimless* act. A nine-week-old fetus has a brain, organs, palm creases, fingerprints. But when, if ever, does a fetus acquire another human attribute, the right to life?

The Supreme Court has decreed that *at no point* are fetuses "persons in the whole sense." The constitutional status of fetuses is different in the third trimester of pregnancy. States constitutionally can, but need not, prohibit the killing of fetuses after "viability" (24 to 28 weeks), which the Court says is when a fetus can lead a "meaningful" life outside the womb. (The Court has not revealed its criterion of "meaningfulness.") But states cannot ban the killing of a viable fetus when that is necessary to protect a woman's health from harm, which can be construed broadly to include "distress." The essence of the Court's position is that the "right to privacy" means a mother (interestingly, that is how the Court refers to a woman carrying a fetus) may deny a fetus life in order that she may lead the life she prefers.

Most abortions kill fetuses that were accidentally conceived. Abortion also is used by couples who want a child, but not the one gestating. Chromosome studies of fetal cells taken from amniotic fluid enable prenatal diagnosis of genetic defects and diseases that produce physical and mental handicaps. Some couples, especially those who already have handicapped children, use such diagnosis to screen pregnancies.

ABORTION AS ALTERNATIVE

New diagnostic techniques should give pause to persons who would use a constitutional amendment to codify their blanket opposition to abortion. About fourteen weeks after conception expectant parents can know with virtual certainty that their child, if born, will die by age 4 of Tay-Sachs disease, having become deaf, blind and paralyzed. Other comparably dreadful afflictions can be detected near the end of the first trimester or early in the second. When such suffering is the alternative to abortion, abortion is not obviously the greater evil.

Unfortunately, morals often follow technologies, and new diagnostic and manipulative skills will stimulate some diseased dreams. Geneticist Bentley Glass, in a presidential address to the American Association for the Advancement of Science, looked forward to the day when government may require what science makes possible: "No parents will in that future time have a right to burden society with a malformed or a mentally incompetent child."

WHO MUST DIE?

At a 1972 conference some eminent scientists argued that infants with Down's syndrome are a social burden and should be killed, when possible, by "negative euthanasia," the denial of aid needed for survival. It was the morally deformed condemning the genetically defective. Who will they condemn next? Old people, although easier to abandon, can be more inconvenient than unwanted children. Scientific advances against degenerative diseases will enable old people to (as will be said) "exist" longer. The argument for the discretionary killing of these burdensome folks will be that "mere" existence, not "meaningful" life, would be ended by euthanasia.

The day is coming when an infertile woman will be able to have a laboratory-grown embryo implanted in her uterus. Then there will be the "surplus embryo problem." Dr. Donald Gould, a British science writer, wonders: "What happens to the embryos which are discarded at the end of the day—washed down the sink?" Dr. Leon R. Kass, a University of Chicago biologist, wonders: "Who decides what are the grounds for discard? What if there is another recipient available who wishes to have the otherwise unwanted embryo? Whose embryos are they? The woman's? The couple's? The geneticists? The obstetrician's? The Ford Foundation's? . . . Shall we say that discarding laboratory-grown embryos is a matter solely between a doctor and his plumber?"

But for now the issue is abortion, and it is being trivialized by cant about "a woman's right to control her body." Dr. Kass notes that "the fetus simply is not a mere part of a woman's body. One need only consider whether a woman can ethically take thalidomide while pregnant to see that this is so." Dr. Kass is especially impatient with the argument that a fetus with a heartbeat and brain activity "is indistinguishable from a tumor in the uterus, a wart on the nose, or a hamburger in the stomach." But that argument is necessary to justify discretionary killing of fetuses on the current scale, and some of the experiments that some scientists want to perform on live fetuses.

Abortion advocates have speech quirks that may betray qualms. Homeowners kill crabgrass. Abortionists kill fetuses. Homeowners do not speak of "terminating" crabgrass. But Planned Parenthood of New York City, which evidently regards abortion as just another form of birth control, has published an abortion guide that uses the word "kill" only twice, once to say what some women did to themselves before legalized abortion, and once to describe what some contraceptives do to sperm. But when referring to the killing of fetuses, the book, like abortion advocates generally, uses only euphemisms, like "termination of potential life."

Abortion advocates become interestingly indignant when opponents display photographs of the well-formed feet and hands of a nine-week-old fetus. People avoid correct words and object to accurate photographs because they are uneasy about saying and seeing what abortion is. It is *not* the "termination" of a hamburger in the stomach.

THE DEGRADATION OF MAN

And the casual manipulation of life is not harmless. As Dr. Kass says: "We have paid some high prices for the technological conquest of nature, but none so high as the intellectual and spiritual costs of seeing nature as mere material for our manipulation, exploitation and transformation. With the powers for biological engineering now gathering, there will be splendid new opportunities for a similar degradation of our view of a man. Indeed, we are already witnessing the erosion of our idea of man as something splendid or divine, as a creature with freedom and dignity. And clearly, if we come to see ourselves as meat, then meat we shall become."

Politics have paved the way for this degradation. Meat we already have become, at Ypres and Verdun, Dresden and Hiroshima, Auschwitz and the Gulag. Is it a coincidence that this century, which is distinguished for science and war and totalitarianism, also is the dawn of the abortion age?

PRICE DISCLOSURE: THE CONSUMERS RIGHT TO KNOW

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ROSENTHAL. Mr. Speaker, we are facing a revolutionary change in the retail food industry, a change that has much potential for good but contains a threat of much harm to consumers and, I believe, to the industry itself.

The industry is planning to spend some $400 million over the next few years to install automated checkout systems in supermarkets. At the heart of the system is the universal product codes, the now familiar line markings that appear on the majority of packages in the stores.

The new system is intended to speed up checkouts, make them more accurate, improve inventory efficiency, and generally reduce costs to retailers. Unfortunately, in the words of one veteran observer of the grocery industry, the "drive toward front-end automation is motivated more by the 'almost endless' dividends it will reap than by consideration for the consumer."

Ironically, the industry in its preoccupation with increasing profits has been remarkably silent about passing any of these dividends on to consumer in the form of lower prices.

Along with the promises this system holds is the threat of needless confrontation with consumers. This is because of the industry's apparent insistence on removing price markings from individual packages as part of its computerized conversion.

Mr. Speaker, I think the conversion to universal product codes and computerized checkouts is potentially one of the best things that ever happened to grocery shoppers, if the savings are shared with consumers and not just used to swell profits. But using it as an excuse to remove item prices could well be one of the worst hoaxes ever to happen to consumers.

Individual price markings are something consumers already have—and use—and are infinitely more important than any savings that would accrue by their removal—even if those savings were passed on through lower prices, something, I doubt would ever happen.

Industry figures estimate that the difference between price marking and removal is about $225 a week per store. A major confrontation with consumers hardly seems worth such a small sum for a store with over $60,000 a week in receipts.

Before greed gets the best of them, I urge the grocery industry to think twice about price removal. Half-hearted trade association endorsements of price markings frankly appear designed to make this legislation look unnecessary, and I predict that if this bill is allowed to die, industry's pledge to continue item pricing will die with it.

Legislation is necessary because it provides consistent, clear standards, and offers both oversight and enforcement. It is written down for all to see and cannot be abrogated by a trade association or simply ignored by those who dislike it.

I am pleased, Mr. Speaker, that my own State of New York is one of those which have taken the lead in mandating clear and visible price markings on retail food packages.

When the trend is toward greater disclosure, as exemplified in laws mandating truth in lending, truth in advertising, and so on, what the grocery industry proposes would be a giant step backward to the days of customer-bedamned.

The industry recently paid $75,000 for a study of consumer reaction to computerized checkout and the elimination of price marking. The study told them the same thing we have been saying all along. It is not the greatest thing since sliced bread.

The section on store loyalty showed that in a 6-week period, 47 percent of the customers at computer-scanner stores switched while only 31 percent of the shoppers at conventional stores switched. This 16-percent loss must be devastating for the proponents of secret price codes.

In these times of high inflation and unemployment, we must do everything possible to give the consumer the tools needed to maximize the value of each dollar. The elimination of item pricing is inconsistent with that goal.

It would make virtually impossible the consumer's tallying of purchases while shopping. It also prevents shoppers from comparing prices in the store and previous purchases at home. In addition—and this is probably what appeals to retailers most—it reduces the all-important consumer consciousness of food prices and price increases.

Retailers contend shelf labels will be able to take the place of item pricing. That is absurd. Shelf pricing has been notoriously sloppy and would require platoons of stock clerks to keep packages and prices together.

Repeated studies have shown that shelf markings are not a good substitute for item pricing because they are such an inaccurate source of information. An investigation by the Government Accounting Office found that between 17 and 50 percent of the shelf labels in 100 stores surveyed may have been unusable by the consumer.

There are no safeguards that shelf labels will be accurate or kept from sliding around in their slots. Anyone who has ever gone shopping can tell you that merchandise does not stay neatly stacked throughout the day and that it is virtually impossible to memorize the price on every item in the grocery cart.

Once the customer gets ready to check out, he probably will discover that several of the registers have been closed because the store has found that automation allows a fewer number of clerks to handle the same number of customers in the same amount of time as before. For the customer, that means the wait will be just as long. And when he finally gets to the counter, the speed of items being passed over the optical scanner and their prices being flashed on the visual terminal will hardly allow him time to check the price.

One of the greatest potential abuses in the new system comes when the latest price is entered on the computer before it gets marked on the shelf. A typical 10,000-item supermarket may have 300 price changes a week. A store manager whose sales are lagging might be reluctant to post promptly newer and higher prices that already are registered in the computer. Or he might just be too busy to get to it right away.

To protect consumers against such abuses and to protect their right to know, I have introduced H.R. 4551, the Price Disclosure Act. This bill, cosponsored by more than 60 of our colleagues, would require the retention of visible price markings on individual items on grocery store shelves.

The legislation also deals with another and equally important aspect of price marking: unit pricing. Because it is often confused with item pricing, let me briefly describe the differences: unit pricing is the price per pound, per quart, or similar measure; under H.R. 4551 it would appear on the product itself or on the shelf where the product is displayed. Item pricing is the price for the entire package, regardless of size; and this bill mandates that the item price must be on the product itself.

As the person who introduced one of the first unit-pricing bills ever before the House of Representatives, I consider this a fundamental anti-inflationary measure that is essential to the consumer's effort to combat the tide of rising prices.

Unit pricing is long overdue and much needed. It permits shoppers to make precise price comparisons among the multitude of sizes and varieties of the same product, and select the one that most economically fits his needs.

One manufacturer's output of a single product like soda pop or breakfast cereal or tea bags or beans often comes in a half-dozen or more sizes. It is hard enough choosing which among them is the best buy, let alone comparing all of them to the packages of another brand. And then there's the difficulty of selecting among the various forms in which foods may be available—fresh, frozen, or in cans. Even a math whiz with a pocket calculator would have to make dozens of computations for each selection.

All too often, Mr. Speaker, opposition to unit pricing is a shield behind which many ripoffs are concealed. No honest businessman should be unwilling to tell his customers just how much he is really charging for any given product.

Many enlightened supermarkets already have adopted unit pricing on their own and are to be commended. And a number of State and local governments, including New York City, have mandated unit pricing. The latter situation confronts many retailers with a maze of potential conflicting regulations they must observe. Enactment of this legislation will aid both industry and consumers by establishing a consistent and uniform system of unit pricing, and I urge its adoption.

We hear industry spokesmen piously testify that they are not opposed to item pricing or unit pricing. They tell us they have the consumer's best interest at heart and want to defeat this legislation in an effort to defend the consumer's "freedom of choice."

True freedom of choice does not mean denying vital information. It means making all the information available—in this case, individual item pricing markings and retail unit prices—and letting consumers choose for themselves what use they wish to make of that data.

I am tired of hearing big business tell us just how great it is and how all its new innovations are there just because we consumers demanded them. I wonder who the miracle makers of Madison Avenue were listening to when they fulfilled our every wish by giving us Pam aerosol cooking spray, 5-day deodorant pads, sugar-coated cereals like Frute Brute, ballpoint pens that write in butter and under water, feminine deodorant sprays, flavored shampoos, squeezably soft and scented toilet paper, artificial potato chips and aerosol cans of artificial cheese to spread on artificially flavored crackers.

Another aspect of this "freedom of choice" myth is that customers who do not like UPC and the removal of item prices will bring the industry to its knees by shopping elsewhere.

This is a fraud perpetrated by an oligopolistic industry. As the current FTC antitrust case against several large supermarket chains indicates, a select handful of big grocery chains dominate many metropolitan areas. The choice simply is not there. And neither is the competition.

One supermarket executive said that customers at his automated stores who want prices marked on the products they pick up can do it themselves and he will supply the crayon. He is my candidate for the Marie Antoinette award for public understanding.

Opponents of item pricing like to refer to it as "duplicate pricing." Let us clear up that fallacy right now. For those of us who do not own million dollar optical scanners and computers, the choice is between pricing and not pricing. We are not asking for duplicate pricing. We want the price marked just once—right there on the package we are buying.

Those much-touted "descriptive" register tapes also are a farce. With space for only a dozen computerized characters, they can hardly tell the name of the product, the brand, the size, and the other information consumers need to make price comparisons in the home. In fact, those tapes are so incomplete as to be misleading in many cases. This was effectively demonstrated in the testimony of Mr. Walter Davis of the Retail Clerks International Association and his examples of tapes recording purchases of different varieties or sizes of identical items, but failing to distinguish among them.

Mr. Speaker, H.R. 4551 is designed to protect and preserve the consumer's basic right to know the price he is being charged for the food he buys. This is especially important in these days of high inflation and constant food price fluctuation.

Without mandatory price marking, it is altogether conceivable that prices could go up between the time the customer picks an item off the shelf and the time he gets to the checkout counter, and he would never know it.

We must not permit this to happen.

REGAINING DIGNITY

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. BRINKLEY. Mr. Speaker, we have heard a lot about jobs in the past several months. But as we ponder the many proposals to put people to work—call them jobs bills or what you will—do we stop often enough to think about the "jobs ethic?"

As I said on the floor of the House last February 19, in taking out a special order on the subject of jobs, we must somehow reverse the process and pattern of Federal assistance without a work requirement. Moreover, we pointed out then, earning one's livelihood is conducive to pride and character; to national backbone, when considered nationally.

In the September 12 edition of the Sunday Ledger-Enquirer in Columbus, Ga., my good friend Paul Timm, the distinguished Sunday editor of that newspaper, wrote a most convincing and revealing column on this very subject.

Paul Timm's editorial column reflects my thoughts on the subject exactly, for he believes, as I do, that the goal of public service as an alternative to welfare has a great deal of merit. In order that my colleagues might have the benefit of his thinking, I place in the Record Paul Timm's Sunday column on "Regaining Dignity":

Regaining Dignity: A Better Way

(By Paul A. Timm)

The Associated Press transmitted a photo early last week showing hundreds of workers in Bangladesh carting dirt from a canal excavation in small baskets on their heads.

The accompanying caption explained that the canal is being built to help control the disastrous monsoon flooding in that country. Further, in an effort to reduce out and out food handouts by the government, the workers are trading their labors for wheat.

The going rate is one ton of dirt moved in return for a single pound of wheat.

At first glance it seemed preposterous. One wonders how many trips, and of what length, it takes a worker to move a ton of dirt. All for one single pound of wheat.

Suddenly the realization struck home—these people were working for a living. Even at that exorbitant rate of exchange, it would be safe to assume that the bread they work for will taste better than any bread which is given.

Reminiscent in many ways of the 1930s—bread lines, apple vendors, the WPA, PWA, CCC.

Most people are not too proud to humble themselves and work for a living as opposed to accepting a dollop of welfare. Of course a few will continue to take and take and take without ever giving, but most people would rather work.

That evening after seeing the picture of the Bangladeshians (or whatever people from Bangladesh are called) toting baskets of earth on their heads for wheat for their bellies, I passed a street cleaner here in Columbus.

It was one of those gray monstrosities that have brushes whirling in different directions and planes, all topped off by water to keep down the dust. And as I watched it trying valiantly to clean the curb side of the street it struck me that it wasn't doing a particularly good job at that.

It was keeping one man busy, but the streets weren't really being cleaned. Maybe the old ways were better.

One wonders how many on welfare would jump at the chance to swap street cleaning hours for food stamps, or clothing, or lodging, or whatever.

It might just solve a lot of problems—cleaner streets, more work for a living, less welfare, a resurgence of human dignity and pride.

Oh, I'm fully aware that such suggestions border on the heretic. But are they that all-fired far fetched? I don't think so.

And not only could the streets be cleaned, but there are all sorts of municipal services that could be rendered by our welfare recipients—and rendered better than now being done.

The possibilities of a work-for-food swap are endless: guarding our schools during nonschool hours; rebuilding the nation's deteriorating railroads; manicuring the medians along our highways; cleaning the government center; washing city-owned automobiles—yes, the list is endless.

And this swap-out program could be tailored at all levels of government—city, county, state, national. Perhaps it is not the utopian answer, but certainly it deserves some consideration.

Maybe I'm wrong, but I don't think the generation gap is all that great . . . I think that there would be a lot more people who would rather sweep a street for a living than sit idly by with hand and palm outstretched.

Think about it!

GET SET TO EXPORT TWICE AS MUCH MEAT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. HARKIN, Mr. Speaker, the American cattle producer has suffered severe economic hardship during the past 3 years. Low cattle prices have resulted primarily from excess supply. While the supply of beef worldwide seems to be excessive, foreign nations will demand more and higher quality beef as incomes rise around the globe.

The demand for meat has resulted in a number of nations initiating programs to expand meat production. The U.S. Feed Grains Council has worked closely with other nations and individuals in this effort because expanded livestock numbers abroad mean stable and large markets for American feed grain. However, should the meat be produced in the United States, the same quantity of grain would be used and the American farmer would reap the economic return of converting grain to the valued meat products which American consumers often take for granted.

The principal obstacle to expanded beef and pork exports is foreign protective tariffs and quotas. Hopefully, the newly formed U.S. Meat Export Federation will help reduce these barriers. The Foreign Agricultural Service has wisely contributed $200,000 to the $100,000 put up by member producing and processing associations.

I feel the enclosed article from the September Farm Journal outlines the challenge:

[From the Farm Journal, September 1976]

Get Set To Export Twice as Much Meat

The United States can double meat exports in five years and become the world's largest meat exporter in ten. Who says so? Darwin Stolte, president of the U.S. Feed Grains Council.

Stolte extolled this idea at the recent annual convention of the American Feed

Manufacturers Association in New Orleans. "We have the productivity, processing and marketing capability," he declares. The vision he has, based on an enviable record of shuttling feed grains around the world, warrants a look whether you produce beef or pork.

The demand for your product is there. "It's appalling to see the stature that red meat is gaining even in countries you wouldn't expect to be markets," says world traveler Stolte. "Look at Indonesia—population 140 million, per capita annual income around $110. The government there is putting priority on development of a beef industry!"

He thinks that's ridiculous. It would be much more economical for such a country to import meat from the United States. "We've proven the economics of bringing livestock and processing to the centers of grain production," he says.

Here's the big question: Is the industry willing to consider changes essential to a meat export program? Three areas he sees as crucial:

We must establish an export image. We're considered importers now. The value of meat imports last year exceeded exports by $207 million.

We still need commitment from everyone—cow-calf men, feeders, financiers, marketers. "We must motivate the market to identify and serve our commitments to exports," says Stolte. "The grain industry's marketing structure is equaled by none. All we need to do is add meat commodities to the list of products."

We must learn to think of what foreign consumers want—not what we happen to have to sell.

Important to him: "A labor market advantage is returning to the United States—just look at Volkswagen," he reasons.

The meat industry can learn from feedgrain experience, Stolte believes. Feed-grain exports totaled only $650 million in 1960. "We were so busy complaining about the lack of government supports we failed to look at overseas potential," he says. "Then one day we addressed the subject. Last year, we exported $6.5 billion worth of feed grains."

It takes a dedicated, unified effort, he affirms. "The feed industry must support a meat export policy because it has most to gain next to meatmen," Stolte told the feedmen.

Trade barriers will thwart our efforts. Producers in other countries don't like imports any more than you do. "The European Community persists with an agricultural policy that supports small and inefficient farmers," observes Dick Lyng, president of the American Meat Institute. "I think foreign consumers and taxpayers will grow tired of that."

Variable levies on meat there now range from 50c to $1.25 per pound. "Add that to the wholesale price and you can see why we can't move meat there even if they didn't have other barriers regarding animal health and disease," he says.

An improving trade balance already is helping. Japan cut its livestock production drastically in 1973 and 1974 because of the high cost of raw material imports. A meat shortage resulted and a clamor arose. Now consumers are getting more.

We shipped $17 million worth of pork to Japan in 1974, says Robert Mannion, Foreign Agricultural Service (FAS). That jumped to $97 million in 1975. In the first three months of this year, exports were up 200% over the same period in 1975.

A new organization to develop meat exports should speed market development. "We hope the new U.S. Meat Export Federation (MEF) will resemble the U.S. Feed Grains Council," says Lyng.

MEF signed a cooperator agreement with the Foreign Agricultural Service last spring. Its 20 members put up $100,000, and FAS is adding $200,000. Members include American Meat Institute, American National Cattlemen's Association, National Independent Meat Packers Association and the National Pork Producers Council.

What if we don't push exports? Stolte says other countries would continue to develop livestock economies. "Ultimately you'll face what we've seen in the grain industry—new production will turn around and become world surplus. It will compete with us at every doorstep."

Consumers here could throw up a howl about meat exports as they did with grain. But if Lyng is right, "we will all be better off in the long run. Exports could increase meat prices here in the short run. But if we get the price up some, it will increase production and we will add wealth all along the line," he notes.

Last year, our limited meat exports totaled about $1.8 billion—about one tenth of farm exports. That's a long way from the $5 billion export market for corn and milo. But Lyng shares Stolte's feelings that we can double meat exports in five years.

—John Russell.

SYNFUELS AMENDMENTS SUBMITTED IN RESPONSE TO REQUEST BY CHAIRMAN ULLMAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. DINGELL. Mr. Speaker, our colleague, Mr. Ullman, chairman of the House Ways and Means Committee, has requested that a series of amendments, substantively identical to those recommended by that committee in its report on H.R. 12112, be included in the amendment offered by the Interstate and Foreign Commerce Committee during consideration of H.R. 12112. I have informed him that we will be happy to accede to his request, and on September 15, 1976, I inserted the necessary amendments in the Congressional Record. They appear on page 30558.

Chairman Ullman's letter goes on to make clear that the Ways and Means Committee has taken no position on any of the various versions of H.R. 12112, except insofar as they deal with matters within the jurisdiction of the Ways and Means Committee. More particularly, Chairman Ullman states that the Ways and Means Committee "has taken no position on the relative merits of the Commerce Committee and Teague substitutes."

This statement may be of particular interest to Members of the House who are under the impression that the Ways and Means Committee has endorsed the Teague substitute.

Chairman Ullman's letter follows:

Committee on Ways and Means,
Washington, D.C., September 15, 1976.

Hon. John D. Dingell,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives.

Dear John: The purpose of this letter is to request that the amendment or substitute which you offer on the floor on behalf of the Interstate and Foreign Commerce Committee during the consideration of H.R. 12112 include the changes made by the attached amendment. The suggested changes are substantively identical to those our Committee recommended to the version reported by the Committee on Science and Technology.

As you know, the Committee on Ways and Means has taken no position on the various versions of H.R. 12112 except insofar as they deal with matters within our Committee's jurisdiction. If the changes in the attached amendment are included in the Commerce Committee's substitute, it will have the same standing relative to the items in the Committee on Ways and Means' jurisdiction as does the Teague substitute which was published in the Congressional Record of August 26, 1976. The Committee on Ways and Means has taken no position on the relative merits of the Commerce Committee and Teague substitutes.

Sincerely,

Al Ullman,
Chairman.

AMENDMENTS

Page 108, line 36, strike out "(s) and (v)" and insert in lieu thereof "and (u)".

Page 109, line 37, strike out "(y), and (z)" and insert in lieu thereof "and (y)".

Page 123, beginning on line 6, strike out "The Secretary of the Treasury" and all that follows down through "such notes or obligations." on line 11.

Page 123, line 13, strike out "All redemptions," and all that follows down through line 15.

Page 124, strike out line 32 and all that follows down through line 8 on page 125.

Page 125, line 9, strike out "(t) (1)" and insert in lieu thereof "(s) (1)".

Page 126, line 6, strike out "(u)" and insert in lieu thereof "(t)".

Page 126, line 11, strike out "(v)" and insert in lieu thereof "(u)".

Page 126, line 14, strike out "(w)" and insert in lieu thereof "(v)".

Page 126, line 23, strike out "(x)" and insert in lieu thereof "(w)".

Page 126, line 32, strike out "(y)" and insert in lieu thereof "(x)".

Page 127, line 1, strike out "(z) (1) (A)" and insert in lieu thereof "(y) (1) (A)".

Page 133, insert after line 8 the following new title:

TITLE IV.—AMENDMENT TO INTERNAL REVENUE CODE OF 1954

Sec. 401. Taxability of Interest on Certain Federally Guaranteed Obligations.

Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"Sec. 85. Certain Federally Guaranteed Obligations.

"(a) In General.—Gross income includes interest on any obligation of any State or local government—

"(1) the interest or principal (or both) of which is guaranteed in whole or in part under section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, or

"(2) the payment of the interest or principal (or both) of which is to be supported by tax payments to such government which are guaranteed in whole or in part under section 18 of such Act.

"(b) State or Local Government Defined.—For purposes of this section, the term 'State or local government' means a State, a possession of the United States, any political subdivision of any of the foregoing, and the District of Columbia."

SEC. 402. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Section 103(f) of such Code is amended by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(24) Certain federally guaranteed obligations, see section 85."

(b) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following:

"SEC. 85. CERTAIN FEDERALLY GUARANTEED OBLIGATIONS."

SEC. 403. EFFECTIVE DATE.

The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

RADICAL THINK TANK COORDINATION OF NEW LEFT PUBLIC OFFICIALS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. McDONALD. Mr. Speaker, the Institute for Policy Studies—IPS—is a consortium of Marxists New Leftists working for the destruction of the existing American society and imposition of a new revolutionary system—one in which the elitist bureaucrats of IPS will be major functionaries. In his 1971 book, "Think Tanks," Paul Dickson wrote of IPS:

> The Institute for Policy Studies is attempting to lay the groundwork for the new society that will replace the present collapsing one. It has not only dedicated itself to ushering in the new society by inquiry and experimentation but it is also doing what it can to hasten the demise of the present one.

The Institute for Policy Studies and its spinoffs have more than matched that description.

IPS has spawned several subsidiary New Left think tanks. These include the Cambridge Policy Studies Institute in Massachusetts; the Bay Area Institute in San Francisco; the Institute for Southern Studies in Atlanta; and the Institute for Women's Policy Studies in Washington, D.C. With the organization of the Transnational Institute, which has offices in Amsterdam but which remains firmly under the control of the parent IPS, the institute moved overtly into the area of international politics.

IPS has the funding and manpower to develop a variety of tactics to implement the "new world order." These academic study projects on the development and use of "antimilitary movements and resistance within NATO armies"; a sort of "subversion from the top" in which IPS attempts to gain influence in Congress through direct contacts with staff aides and legislators, and direct community agitation through such longstanding institute-controlled projects as the Adams-Morgan Organization—AMO.

The Institute for Policy Studies has never discounted the role of violence and terrorism in what it terms "social change." Since the 1960's, IPS has numbered among its full-time staffers which it terms "fellows" and part-time staffers—"associate fellows"—assorted terrorists, Communists of several tendencies and factions, and other supporters of revolutionary violence. Among them have been—

I. F. Stone—long the publisher of a procommunist newsletter who was cited by the Senate Internal Security Subcommittee 20 years ago as one of the eighty-two most typical and active sponsors of Communist fronts. Stone wrote an incredible book in 1952, *The Hidden History of the Korean War*, in which he claimed that the Korean War was the result of South Korean aggression against the North Korean communists and their Red Chinese allies. During the 1960s and 70s, Stone joined with the New Left in support of the Communist tyrannies in Cuba and North Vietnam. As an "independent" revolutionary, Stone has played with the Trotskyite communists of the Socialist Workers Party, endorsing activities of its anti-Vietnam front, the National Peace Action Coalition, and recently being instrumental in obtaining House Press Gallery credentials for the *Militant*, the SWP newspaper.

Andrew Kopkind—a known Weather Underground supporter, was arrested and convicted in 1969 of offenses in Chicago during the Weatherman "Days of Rage" riots. Kopkind was later active with Rennie Davis's Mayday group which, using a scenario developed by IPS, staged a week of protests in Washington in 1971.

Robert "Bo" Burlingham—of the Cambridge Institute's *Working Papers for a New Society* was indicted in 1972 by a federal grand jury with other members of the Weathermen on bombing conspiracy charges, (the charges were dropped because most of the other defendants went underground and have successfully avoided arrest). In 1974 Burlingham said, "I don't feel that I've particularly changed my attitudes * * *. I don't think an equitable, fair, free, democratic world order is going to happen any other way than through violence."

Ivanhoe Donaldson—was a leader of the Student Non-Violent Coordinating Committee (SNCC), a violence-prone, extremist organization. In 1969, as chairman of the New York SNCC chapter, Donaldson accompanied SNCC head Stokely Carmichael to Puerto Rico where a "protocol of agreement" between SNCC and the Cuban-controlled, Marxist-Leninst MPI (now Puerto Rican Socialist Party) was signed.

Michael Klare—an IPS/TNI fellow is a long-time leading member of the North American Congress on Latin America (NACLA), named by SDS leader Carl Davidson as the "intelligence gathering arm" of the New Left. CIA defector Philip Agee credited the production of his "expose" to "representatives of the Communist Party of Cuba" and materials gathered by NACLA. It is noted with interest that NACLA materials are printed by Prompt Press, the in-house publishers of the Communist Party, U.S.A. and that Cuban publications frequently cite NACLA studies of U.S. defense matters. Michael Klare of IPS/TNI and NACLA has taught seminars on U.S. arms policies in Havana.

Roberta Salper is a member of the General Committee of the U.S. Zone of the Castroite Communist Puerto Rican Socialist Party. PSP leaders have openly supported the terrorist FALN which evidence indicates is the armed branch of the PSP. A Cuban-trained Puerto Rican terrorist, Filiberto Ojeda Rios, is being sought for the FALN bombing of the Fraunces Tavern.

Paul Jacobs—publicly admitted some years ago while a witness in a court suit that he was a member of the Communist Party, U.S.A. Since that time he has been active in Castroite circles.

Basker Vashee—of the TNI in Amsterdam appeared last Friday as a featured speaker in a Congressional conference organized by the Fund for New Priorities. During the conference, Vashee was identified as a "member of the national executive" of a Marxist terrorist organization, the Zimbabwe African People's Union, operating against Rhodesia and supported by the Soviet bloc.

Tariq Ali—another IPS/TNI employee, is the head of the British section of the Trotskyite Fourth International, an internationally active communist organization involved in terrorism and revolutionary violence in many countries. Tariq Ali's International Marxist Group has provided both manpower and logistical support to the Irish Trotskyite "urban guerrilla" terrorists of Saor Eire.

One of the Institute for Policy Studies' more recent projects has been to set up a national network to coordinate socialist-oriented public policies being proposed at the State and local level by New Left appointed and elected officials.

The National Conference on Alternative State and Local Public Policies—NCASLPP—operates from room 204 in the headquarters of IPS at 1901 Q Street, NW., Washington, D.C. 20009 (202/234-9482). This operation, also called the National Conference Coordinating Center on Alternate State and Local Public Policies and Legislative Clearinghouse, states:

> This new network has been established to strengthen the programmatic work of the Left. It should end the sense of isolation felt by elected and appointed officials, organizers and planners who share a populist or radical outlook. Its further goal is to enlarge the base committed to policies for a restructured America.

The "restructured America" is IPS's decentralized, socialist, communal system. It is noted that IPS prefers to speak of and work for "alternatives" rather than communism and socialism.

The national director of the NCASLPP is Lee Webb of the Greatwood Campus of Goddard College, Plainfield, Vt. 05667 (802/454-8531). A graduate of Andover and Boston University—1963, Lee Webb was 1963-64 national secretary of SDS. He was active with the SDS economic research and action project—ERAP, and the Chicago-based Jobs or Income Now—JOIN. In 1968, Webb worked with Tom Hayden and Rennie Davis to organize the National Mobilization Committee which with considerable Communist Party, U.S.A., logistical support effectively disrupted the 1968 Democratic National Convention with a 5-day riot in Chicago. Subsequently Webb became Washington, D.C., "bureau chief" for the Guardian, a Marxist-Leninist newspaper and remained active in the anti-Vietnam movement of the 1970's. Webb has long been associated with IPS-related projects as an "activist-organizer."

While Webb works from the Goddard campus, IPS has two other staffers working on NCASLPP in its Washington offices: Ann Wise and Barbara Bick, who serves on the staff of IPS's Political Economy Program Center and its project on alternate State and local public policies, NCASLPP's parent project.

The first NCASLPP conference was held in Madison, Wis., in June 1975. Several regional followup meetings were held in the fall. A claimed 1,200 people in toto attended at least one meeting.

NCASLPP's Marxist intentions are clear despite the euphemistic rhetoric used. The NCASLPP has described its areas of interest in the following terms:

> Politically, we are seeking for political and programmatic ways that the questions of the maldistribution of power and wealth in America can be addressed by activist state and local political movements. While we are interested in responding to the requests of public officials for information on alternative legislation in such "non-controversial" areas such as utility regulation, election reform, and educational financing reform, we are particularly interested in intiatives involving the control of capital, tax restructuring and the control of governmental institutions themselves.

Although IPS/NCASLPP claims that an invitational letter and draft agenda were sent to some 4,000 persons it believes share "a populist or radical outlook," a mere 450 officials and observers, many of them local students and activists, turned up at St. Edwards University in Austin, Tex., for the second annual conference on June 10–13, 1976.

Hosted by Austin Mayor Jeff Friedman, the conference was organized with the assistance of his office. Among the well-known figures from the leftist movements of the 1960's taking a leadership role were Tom Hayden, who was defeated in the California Democratic primary; District of Columbia City Councilman Marion Barry, a former SNCC leader; Vermont Director of Occupational Health and Safety John Froines, one of the Chicago 7 defendants; Detroit's Marxist-Leninist Judge Justin Ravitz; and several recent travelers to Communist Cuba—Texas Zavala County Judge Jose Angel Gutierrez; Madison, Wisconsin Mayor Paul Soglin, and his assistant, Jim Rowen.

Approximately 40 workshops were held which dealt with such topics as public ownership of utilities, public control of natural resources, growth control strategies, public control of capital, public control of development and growth, and "issue community organizing."

The mass media extensively covered the alternatives conference. An article in the New Republic, July 3 and 10, 1976, reported comments by former National Moratorium Committee Organizer Sam Brown, now Colorado State treasurer, and Paul Soglin of Madison on New Left political hopes:

> Brown and Paul Soglin also insisted that [the campaign of Democratic Presidential candidate] Carter should be regarded as an opportunity. "If he keeps his promises to the left, explicit or implicit, the opportunities are great. If he turns out to be as conservative as some people fear," Brown said, "Our work becomes still more important because the only people out to change things in the long run are in this room."

Sam Brown's comment is a rather damming admission—that radical alternatives to America's economic and political institutions have virtually no support among the American people and that only a relatively small New Left clique is working to take over from the top. However, the size of the movement is not the best indication of its potential threat. Salvador Allende's minority regime in Chile had only one-third of the popular vote and his Marxist coalition was composed of a number of leftist parties—Socialist, Communist, Radical, et cetera.

One of the most objective mass media reports on the Austin meetings was by Ellen Hume, a reporter for the Los Angeles Times, June 21, 1976. She wrote:

> They insisted that the "system" had not co-opted their old New Left convictions: "If there's one thing I've learned, year in and year out," said Justin Ravitz, Detroit's irreverent Marxist judge, "it's that I've got to get more radical. Because the system's even worse than I believed it was the year before."

One of the purposes of the conference was to exchange practical experience in "bringing down the system through the system," as William Kunstler calls it. The Hume article cites an anonymous Berkeley activist as saying:

> In Austin for four days, the conferees taught each other "how to use establishment tricks to get at the establishment.

She reported oddly that West Virginia State Senator Si Galperin "hopes his constituents would not find out he was consorting with 'radicals,'" and continued:

> Someone said it seemed like a National League of Cities meeting, except for that special ideological twist: everyone was talking about "greater public control" of the economy and the government. But unlike the rhetoric-mad days of the '60s, this gathering avoided such words as "radical" and "socialist."
>
> * * * Robb Burlage, a fellow of the Institute for Policy Studies who in 1962 had helped Tom Hayden found the Students for a Democratic Society, * * * looking across the grass at the mix of socialists, populists, Democrats, Marxists and progressives at the conference, lamented the disunity of the American left. "We've been so purged . . . we've lost any sense of how to reintegrate," he said.

James Rowen, one of the NCASLPP's more active "resource people," wrote a glowing account of the Austin conference which appeared in the August issue of the Progressive:

> The National Conference itself, working closely with the Institute for Policy Studies in Washington, D.C., has produced, in one year, draft bills concerning utility ownership and management, occupational health and safety, and national cooperative banking. It prints and distributes a national newsletter and regional reports. It has also published a Left-oriented analysis of the Federal budget, and assisted in the publication of the eighty-two page "Cities' Wealth" program for progressive change in Berkeley. * * *
>
> State and national administrations which preach * * * having government "do" less and private citizens (and corporations do more * * * cannot be expected to champion public enterprises which expand the role of government into areas traditionally ruled by the private sector. * * *
>
> * * * Hayden proposed a new national coalition with two balanced "wings"—one made up of the growing domestic movements for consumer power and environmental protection, and the other composed of foreign policy-minded veterans of the antiwar movement. "We have to prepare ourselves to run our country," he said, and many many persons felt that national conditions in 1976 compelled them to do nothing less. Just how the state and local activists' group fits into that analysis is a question to be pursued at a winter meeting.

The conference participants placed considerable emphasis on the need for more leftists to run for the so-called minor State and local offices in which campaign expenses are very small. The activities of Florence McDonald, the Berkeley, Calif., auditor, were cited as an example of the "reform" uses to which such offices could be put.

The NCASLPP organization states it has two goals:

> A. To learn of and study the concrete programs and policies of local governments, and in some cases national governments in other countries, in areas such as banking, public ownership, land and tax policy, housing, transportation, decentralization, natural resources and other areas. The best ideas and proposals would then be publicized through our publications, our conferences, and our National Clearinghouse for discussion and introduction by local and state public officials in the United States.
>
> B. To learn and study the character of political organization of radical and progressive parties at the local level in other countries to offer experiences, examples, and models to state and local activists in the United States who want to build issue oriented local political organizations.

THE CUBAN CONNECTION

According to Lee Webb, the NCASLPP has three projects for 1976, all of them related to NCASLPP's program to develop "connections between international questions and American movements" and in offering as "models" foreign "radical and progressive parties." The NCASLPP projects are:

> 1. To deepen our contact and understanding of alternative programs and political organization in Canada. Our contracts with the New Democratic Party and the Montreal Citizens Movement are significant.
>
> 2. To initiate contacts of American local public officials with Cuba, particularly concentrating on structure and function of local government. Matanzas would be a key site for the visit. Jim Rowan, Assistant to the Mayor of Madison, Wisconsin, and son-in-law of George McGovern, received an initial inquiry from the Cubans about the National Conference and an expression [of interest] in a possible delegation.
>
> 3. To open up contacts with local government and political officials in Europe, particularly England, Sweden, Italy, Portugal, and some Eastern European countries, aimed at studying specific local programs for communication to local public officials in the United States.

Here we have a leading figure of the Institute for Policy Studies casually noting that his new project has been approached by Cuban agents who want contacts with New Left U.S. officials, who then follows this statement with the notation that he hopes to "Open up contacts" with officials of the Soviet satellites in Eastern Europe to provide "models" for local U.S. officials.

The FBI has been harshly criticized for its interest in the Institute for Policy Studies. Ignorant bureaucrats refused to defend the investigation, although clearly vast amounts of information on the institute's connections with foreign terrorists, domestic terrorists, and hostile Communist governments was available.

I call upon my colleagues to join with

me in demanding a full and continuing investigation of the Institute for Policy Studies and its subsidiaries.

ARMY CORPS OF ENGINEERS MOVES TO DEAUTHORIZE LAFAYETTE LAKE

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. FITHIAN. Mr. Speaker, I am gratified by the Army Corps of Engineers decision not to oppose H.R. 13689, the bill to deauthorize the Lafayette Lake project in Indiana's Second District.

Within the next 2 weeks, I will offer this bill as an amendment to the Water Resources Development Act of 1976. The Army Corps of Engineers announced that "there appears to be no basis to oppose the bill," and cited three reasons for this decision:

1. Governor Bowen withdrew State support for the project;
2. Community sentiment is opposed to the project; and
3. There is no prospect for obtaining local cooperation for the project.

Unfortunately, the Army Corps of Engineers would like to see deauthorization take place under the provisions of Public Law 93-251, section 12, which requires that projects can be deauthorized if they have not received funding for 8 consecutive years. I disagree with this position.

It is neither fair nor just to ask the Lafayette community to wait 8 years for deauthorization under Public Law 93-251. Deauthorization would permit State and local authorities to pursue alternatives such as a State park or recreational area or other uses. Several alternatives are closed to them until after the corps project is removed from authorized status. In addition, homeowners are presently prevented from acquiring building permits if they live in the area authorized for this project.

I include the letter from Mr. Victor V. Veysey, Assistant Secretary of the Army for Civil Works, in the Record for the benefit of my colleagues in the House:

Department of the Army, Office
of the Assistant Secretary,
Washington, D.C., July 19, 1976.

Hon. Floyd J. Fithian,
House of Representatives,
Washington, D.C.

Dear Mr. Fithian: Thank you for your recent letter and views on H.R. 13689, to deauthorize Lafayette Lake.

The Committee on Public Works and Transportation, House of Representatives, has referred a copy of H.R. 13689 to the Department of the Army with a request for our views. Our response to the Committee's request is receiving staff consideration given to all requests of this kind.

Although we have not yet completed review of the matter, there appears to be no basis to oppose the bill for the following reasons:

a. Governor Bowen of Indiana unequivocally withdrew State support for the project on 22 April 1976.

b. Sentiment in the immediate locality, as evidenced by individuals and locally elected officials, is strongly opposed to the project.

c. There is no present prospect for obtaining required local cooperation.

I believe, however, that existing Army policy should be followed. This policy would reclassify the project and permit it to be considered as a candidate for deauthorization under Section 12 of Public Law 93-251.

Sincerely,

Charles R. Ford,
For Victor V. Veysey,
Assistant Secretary of the Army (Civil Works).

REPUBLICAN CANDIDATE FOR VICE PRESIDENT

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. RHODES. Mr. Speaker, the following editorial comment was forwarded to me by a concerned citizen of Kansas. It is a heartening account of one town's feelings toward a fellow citizen as well as good insight into the character of the Republican Party's candidate for Vice President.

[From the Veneta (Oreg.) West-Lane News, Aug. 26, 1976]

Editor's Corner

(By Joe Cannon)

Will the nation have to be subjected to a bath of pineapple juice before its voters recognize the name of Robert Dole?

The pineapple juice gimmick worked in Kansas when Dole twice overcame a name recognition problem, once to win a U.S. House of Representatives seat in a new district and again to win his U.S. Senate seat.

I'm not ordinarily guilty of the common vice of name dropping, but before anyone figures out that it's because I just don't have many names to drop, let me explain that Robert Dole is probably the only political figure of national stature that I've met, interviewed and photographed many times while I was in newspaper work in Kansas.

He has my respect and will have my vote come November. Contrary to the views of many political columnists of national fame who are deriding President Ford's selection of Dole as his running mate, I look on it as an act of political honesty that compares well with Ronald Reagan's bold but losing gamble in picking the liberal Richard Schweiker as his choice for a vice president.

Reagan represents the wing of the Republican party which supposedly will not compromise its principles, and yet the nod to Schweiker was an obvious move to swing some badly-needed uncommitted delegates into the Reagan camp and with little thought to the succession to the presidency should Reagan not live out his term.

And those who believe Schweiker's statements that he would have carried out Reagan's conservative policies in the event he would have to step in as president should also go into the forest and expect to find leopards combing Grecian Formula into their fur to change their spots.

Dole, on the other hand, is in the image of the President in political philosophy, and isn't that what the voters have a right to expect when they choose a president, that the mandate will be left in the same philosophical camp?

The country could be in a far worse position for leadership than having Bob Dole in the wings as president should Ford's term be cut short.

Dole has shown an ability to compromise- and to work compromises in both the Senate and in his roles as party leader and temporary convention chairman. And he has given his support to opposition measures when he thought they were best for the party or the country.

He is a rough and tumble campaigner whose sarcasm and biting remarks about Jimmy Carter may grate some of those who think politicking should be a nicey-nice business.

But from the time he was first elected to the Kansas Legislature when he was 26 years old and still a student in Washington University Law School. Dole has never lost an election. And conservative Kansas voters are not known to suffer long fools in public office.

After a stint in the state legislature, Dole was elected to four terms as a county attorney, then to a seat in Congress, all from an area where he was well known.

When his Congressional district was combined with another district to form a huge new district, he had his first problem with name recognition, and his campaigners trotted out the Dole pineapple juice.

The gimmick worked and Dole won a tough campaign. In 1968 Dole ran for the U.S. Senate and faced an uphill battle as a Western Kansan, relatively unknown in the far more populous and more liberal eastern part of the state. He won again.

The odds seem even greater against the Ford-Dole ticket.

After his nomination as vice presidential candidate television commentators could not seem to mention Dole's name without adding a phrase about "his loyalty to President Nixon almost to the end."

What they didn't say, or know, is that while Haldeman and Ehrlichman were still being hailed publicly for the efficiency with which they were running the White House, Dole had broken with them and told intimates of his fears for the presidency and for his own position as Republican party chairman because he had dared to cross them.

At the post convention barbecue last week in his hometown of Russell, Kansas, Dole cried when he arose to talk to the homefolk.

Cynics might think it was a bit staged.

I believe Dole's thoughts as he stood before his friends and neighbors, went much further back than his glittering career in politics, back to dark days during World War II.

News accounts since his nomination have told how the battle decorated infantry officer was severely wounded in Italy and spent 39 months in hospitals.

A little-known part of that story, however, is that at one point, Dole was wasting away from the effect of his wounds, down to 120 pounds and apparently near death.

At that time streptomycin had not been sufficiently tested for acceptance by the military doctors, but was available elsewhere.

The Russell townspeople staged their own fund drive, rounding up about $5,000 to secure the new wonder drug and some advanced surgical techniques to help save the life of the young war hero.

I think that's where Dole's thoughts were when, at the peak of his political career, he stood before those same friends and neighbors more than 30 years later.

Bob Dole knows what it means to fight long odds, both personal and political.

—Joe Cannon

FARM BUREAU RATINGS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ASHBROOK. Mr. Speaker, the importance of the farmer to our Nation cannot be overstated. He is one of the most productive individuals in the world. The American farmer not only feeds the people of this country but also produces much for export.

In the Congress I have supported legislation to help agriculture and opposed other legislation that only would harm it. I have fought for reform of the estate tax law. In its present form it has resulted in hardships for many farm families. I also have pushed a successful amendment to remove criminal penalties from the agricultural census. Unfortunately, the Senate has not yet acted on this bill. These are only two of many activities.

The American Farm Bureau Federation is our country's largest organization of farmers. Unlike so many organizations, it is really grass roots oriented. Most organizations like unions or activist consumer groups become what the leaders want them to become rather than the rank and file. A good example is that most rank and file union members are against busing and against gun control but the leadership speaks out in favor of both. Local councils really have an input of policy and national leaders of the Farm Bureau reflect that common sense, conservative thinking. In its most recent analysis of votes in Congress, Farm Bureau listed 15 of the most crucial issues. I am pleased, Mr. Speaker, that again, as in the past, I find myself in virtually total agreement with Farm Bureau, 14 of 15 on this latest rating.

The analysis of the 15 votes follows:

ANALYSIS OF 15 VOTES

(1) REAP—The Bill (H.R. 2107) required the Secretary of Agriculture to carry out a rural environmental assistance program (REAP), including the spending of all funds appropriated in fiscal 1973. Farm Bureau supported a nay (N) vote because the legislation failed to offer any opportunity for "timely and necessary" constructive review and revision of the REAP program; it also expressed concern over the "far-reaching fiscal implications, including the forced spending aspect." The bill passed by a vote of 251 yeas to 142 nays.

(2) Overriding rural-sewer-water veto—By a vote of 225 yeas to 189 nays—51 short of the two-thirds majority required—the House sustained the President's veto of a bill (H.R. 3298) to mandate spending of $120 million of the $150 million appropriated by Congress for rural water and waste disposal grants in 1973, and to spend $300 million for the program over the next three years. Farm Bureau supported a nay (N) vote not to override the veto in the interest of "achieving price level stability through control of inflation without a federal tax increase.

(3) Minimum wage: Erlenborn substitute—A motion by Representative John Erlenborn (R., Ill.) to substitute a bill to stretch out the proposed increase in the minimum wage, retain all existing exemptions from overtime, eliminate new coverage of government workers and household domestics, and set reduced minimums for teenagers. Farm Bureau supported a yea (Y) vote in favor of the Erlenborn substitute. It was rejected by a vote of 218 yeas to 199 nays.

(4) Minimum wage: final vote—The bill (H.R. 7935) provided a sharp boost in the minimum wage rates and expansion in minimum wage coverage. Farm Bureau supported a nay (N) as the proposed changes "would exert upward pressures on costs and prices, increase unemployment of those least skilled, and adversely affect our position in world commerce, international trade, and balance of payments." The bill passed by a vote of 287 yeas to 130 nays.

(5) Farm program: Michel amendment—An amendment offered by Representative Robert H. Michel (R., Ill.) to the farm program bill (H.R. 8860) which contained Farm Bureau's proposed revisions for an orderly transition to a market oriented farm program for wheat, feed grains, and cotton. Farm Bureau strongly supported a yea (Y) vote. The proposed amendment was rejected by a vote of 220 nays to 186 yeas.

(6) Banning food stamps to strikers—An amendment by Representative William L. Dickinson (R., Ala.) to the farm program bill to ban food stamps for strikers. Farm Bureau supported a yea (Y) vote as "workers on strike should be ineligible to receive food stamps in order to avoid placing the government on one side of a labor dispute."The amendment passed by a vote of 213 yeas to 203 nays.

(7) Target price concept—Farm program bill (H.R. 8860) providing a new target price and compensatory payment concept, thus substituting political pricing for market prices. Farm Bureau supported a nay (N) vote. The bill passed by a vote of 226 yeas to 182 nays.

(8) Farm program: final vote—Final vote on a four-year government farm program bill (S. 1888) following Senate passage of a conference report on House-Senate versions. The bill provided for the new target price-compensatory payment concept; no mention was made of banning food stamps to striking workers. Farm Bureau supported a nay (N) vote and sought a temporary extension of the Agricultural Act of 1970 with modifications. The bill passed by a vote of 252 yeas to 151 nays.

(9) Expanded export controls—A bill (H.R. 8547) to increase the President's authority to control exports of materials and agricultural commodities. Farm Bureau supported a nay (N) as its passage would likely result in "a loss of some hard-won markets due to shattered faith" on the part of foreign buyers in the dependability of the U.S. as a source of farm commodities, and would discourage U.S. farmers from increasing production. The bill passed by a vote of 220 yeas to 133 nays.

(10) Overriding minimum wage veto—By a vote of 259 yeas to 164 nays—23 short of the two-thirds majority required—the House sustained the President's veto of the bill (H.R. 7935) raising the minimum wage from $1.60 to $2.20 an hour by steps and extending minimum wage coverage to additional workers. Farm Bureau supported a nay (N) vote as "the net effect of expanded overtime coverage and higher minimum wages would be detrimental rather than helpful to the economy and to those intended to be benefited."

(11) Trade reform—A trade reform bill (H.R. 10710) providing the President with additional authority to enter into effective trade negotiations. Farm Bureau supported a yea (Y) vote as "American agriculture has an important stake in a high level of mutually advantageous world trade." The bill passed by a vote of 272 yeas to 140 nays.

(12) CPA substitute.—An amendment offered by Representative Clarence J. Brown (R., Ohio) in the nature of a substitute bill providing for a consumer protection agency with limited authority. Farm Bureau urged a yea (Y) vote as it opposed the establishment of any consumer agency or council having other than advisory powers. The amendment failed by a vote of 223 nays to 176 yeas.

(13) Consumer Protection Agency.—A bill (H.R. 13163) providing for creation of a "super agency" with power to intervene in actions and proceedings, formal and informal, of virtually all other government agencies on behalf of "consumers." Farm Bureau supported a nay (N) vote as creation of a "super agency" is not good government as it "would become an enormous roadblock in the administrative processes of government," and the provision that exempts labor disputes from the agency's jurisdiction "makes it clear that this bill does not constitute a balanced evenhanded approach to the issues involved." The bill passed by a vote of 293 yeas to 94 nays.

(14) Federal land use.—A vote on a rule which in effect was a vote in support of, or in opposition to, federal land use planning. Farm Bureau supported a nay (N) vote because of its opposition to the federal control features of the bill (H.R. 10294). The vote of 211 nays to 204 yeas killed the rule and in effect killed the land use planning bill.

(15) Banning food stamps to strikers.—An amendment by Representative William L. Dickinson (R., Ala.) to the Agriculture appropriations bill (H.R. 15472) to deny food stamp eligibility to striking workers. Farm Bureau supported a yea (Y) vote in favor of the amendment to avoid placing the government on one side of a labor dispute. The amendment failed by a vote of 169 nays to 147 yeas.

On only one vote did I disagree with the Farm Bureau and that was on the Trade Reform Act. In my opinion this bill contained some weak provisions and it did not adequately protect American interests including those of the farmer.

Too often the American farmer does not get the credit that is his due for being responsible for the most productive agricultural system in the world.

JAMES M. McSWEENEY

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. EARLY. Mr. Speaker, James "Mac" McSweeney was born in Killarney, County Kerry, Ireland in 1898. He moved to Worcester, Mass.—via Halifax, Nova Scotia, Calgary, Alberta, Canada, and Montreal—in 1924. Since that year there is not a handball player in Worcester who does not know his name, and few who have not learned everything they know about the game from Mac. You can find him today—as you would have found him in 1924—at the Green Hill Park courts in Worcester.

On Sunday, September 12, the handball courts at Green Hill were renamed the James M. McSweeney Handball Courts. It is a well-deserved tribute to Mac McSweeney and it is truly an honor for me to include in the RECORD, at this time, the colorful biography of James M. McSweeney written with love by his close friend JOHN DURKIN. To JOHN's remarks I want to add my personal thanks to Mac for his energy, his enthusiasm and his devotion to Worcester, and to its young people, and to the game of handball.

The biography follows:

MAC

Everyone calls him Mac and he still hits that little black ball hard and low into the corner of the court at Green Hill Park. He can't bend as low, or run as swiftly as he used to, but it's little wonder when you consider that the kids he competes with today are the grandsons of those he played and beat back in 1924. That's when he came to Worcester. Oh, but then he was as swift as the deer, and had the eye of an eagle, and there were few to match him at his beloved game—Handball.

Born in the town of Killarney in County Kerry, Ireland before the turn of the century he worked as a young lad on the farms of his native county, and adjoining counties of Ford and Limerick. His widespread knowledge of the countryside was a great asset to the insurgent army when the troubles came, and the I.R.A. were in combat with the Forces of the Brown, and trying to establish a free state after 700 years of servitude. Though not a member of the I.R.A., he did sterling work carrying dispatches through the enemy lines. Due to his remarkable resemblance to Tim O'Leary, an I.R.A. leader who was featured in the movie "Ryan's Daughter" he was picked up many times, drilled and interrogated, but managed to come through unscratched.

When the truce was signed in 1921, he turned down the offer of Civic Guard as the Irish Police are called under the new free state Government because his loyalty was with the Republican side, and he like them wanted a full and complete Ireland of 32 counties free from the center to the sea. He often speaks of the dark days of the Civil War, when brother fought brother, and father fought son, and when I ask him why did that happen he said simply "There were those who were satisfied with partial freedom, and there were the others of us who were not".

In the summer of 1923 Mac and a friend went to a football game in Dublin where they met a man looking for help to herd sheep in Canada, so very shortly thereafter he found himself on a boat bound for Halifax, Nova Scotia and after docking, he was on a train bound for Calgary, Alberta, which he reached after a stopover for a short while in the wheatfields of Manitoba.

Living out on the prairie with 2 dogs and 28,000 sheep for company was not Mac's idea of life for a young man, so pretty soon he was bound for Montreal, and one day shortly before Christmas of 1923 he and his companion crossed into the U.S.A. at the Derby Line, and walked through the snow for seven hours. He boarded a train at Orleans, Vermont for Boston. On the advice of a man they met on their trip they paid a couple of dollars extra for a sleeping berth and were not disturbed by the immigration officials who come aboard all the southbound trains to flush out the illegal immigrants, and so Mac duly arrived in Boston, and a little later at Salem Square in Worcester where he lived and worked till 1929 mostly for the consolidated railway which began to lay off the help as the banks began to fail and the stock market came tumbling down.

Before he left Worcester again, he helped to lay the 16 inch steel main on South Quinsigamond Avenue in Worcester and also the length of May street for the Worcester Gas Light Company. Then the digging was done all by hand. When Mac left Worcester he was one of the few Irishmen to own a car, which he drove to Chicago, south to Indiana, through Kentucky, into Missouri to Kansas to try for a job in the wheatfields. One farmer told him even if he fed himself, he couldn't pay him 2 dollars a day, so Mac drove through Nebraska into the Dakotas, but no work. He had an address somewhere in the region north of Bismark, North Dakota, of a relative who had a farm, but when he got to Bismark he had lost the address so he headed west through Montana into Idaho, and on to another address which he did have in Oregon where he did find a job to tide him over for a while.

Considering the roads and availability of gas stations and many other hazards, it was a remarkable journey and eventually the car "died" and Mac came south to California. He said you couldn't even buy a job there so Mac, with whatever few dollars he had, left and headed back to Worcester in 1932 when things would get brighter. Roosevelt got elected that year, and things began to look up. He had jobs delivering coal, working in meathouses, and eventually back into the consolidated railway which eventually became the Worcester Bus Company and from which he retired.

After his many wanderings, he did eventually settle down and married a Donahue girl from his native County Kerry and has one daughter, Virginia. He bought himself a house at 15 Forbes Street where even if the car doesn't start he can still walk to his beloved handball court. He speaks of the big one 30 feet high and 60 feet long which was blown down in the hurricane of 1938. This was replaced by the wooden double court which lasted till 1965 and was not replaced till 1968 during which time he visited Maloneys field many a time and oft. I asked him why did they build the new one so short and so low, and he said "Maybe they knew I was getting old and couldn't hit the ball so far anymore." But the real reason was "They didn't know any different. I told them what the specifications should be. I could tell them the "Specs" of every outdoor court in New England, but do you think they'd listen?—No, they went to Mac Ben's and got a book, and they ignored the old man. I did feel bitter about that, but at last they did build one that the vandals couldn't destroy". They steal and smash the benches, but Mac gets concrete blocks and old planks and improves the benches. He picks up the beer cans and the litter, and watches the youngsters play, and coaches and guides quite a few. He can quickly spot the ones with potential, and the others that don't have it, and he is a father to them all.

To the youngsters Mac must seem as ageless as the old man of the mountain. They think of him and handball with the same breath. He drives his daughter to work in the morning, and on his way back stops to pick up the litter of the night before, and tidy up the place, and I'm sure some of the kids must think he actually lives there or is assigned the duty of taking care of the place. To those of us who know him better he's been a wonderful neighbor all through the years. When your car breaks down or you need a ride to the auto body shop or the registry, it's always Mac and you don't call his house—no you head for the handball court and you always find him and he's always available. Maybe he is ageless and will be there forever, but some of us won't and before we get any older we would like to dedicate the Green Hill Handball Court to him, to be known henceforth as the "Jim Macsweeney Handball Court". It is indeed a small tribute to a man who has played all the outdoor courts of New England and upper New York State in the various tournaments, and has held in his time the singles championship of "L Street" in south Boston which might be considered equivalent to the World Series in baseball, or the Stanley Cup in hockey, or the Golden Gloves of the boxing world—God Bless You Mac.

We would like to have every kid you ever coached and every player you ever played to sign this, but that wouldn't be possible. Some are gone on the long journey and those that are not are scattered over the face of the earth, but I'm sure when their thoughts drift back to home and Greenhill Park, they think of the tall skinny guy who could hit equally well with right or left hand, and whom they all tried to emulate. To be remembered in the minds of so many with pride, fondness and respect is indeed the greatest tribute. How many men have a thousand or more sons.

IMPROVING OUR RAIL SERVICES

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. BINGHAM. Mr. Speaker, as one who has long supported upgrading of rail services to the southern tier of New York State, I read with great interest the lead article in Monday's Wall Street Journal entitled "ConRail Hope to Post Profit May Be Derailed by Local-Service Pleas." The Journal piece properly notes the concern of many Members who represent New York, Connecticut, and other regions which have suffered the inattention of ConRail officials. The southern tier of New York State is one of these regions; we have endured cutbacks of rail freight services while ConRail pursues profits elsewhere. These rail services are vital to the transportation needs of the southern New York State region, generally, and New York City's harbor, specifically. There is a pressing need for ConRail to maintain, if not improve their services to this region, lest the area suffer still more economic hardship. If ConRail fails to address these needs, it can only fall to New York State officials and the U.S. Congress to step in once again and remedy the weaknesses in the rail systems which link the eastern seaboard.

I commend the thoughtful Wall Street Journal piece to colleagues' attention:

CONRAIL HOPE TO POST PROFIT MAY BE DERAILED BY LOCAL-SERVICE PLEAS

(By Harry B. Anderson)

PHILADELPHIA.—When Congress created Consolidated Rail Corp. to take over and rejuvenate the Northeast rail system, it had visions of a privately run, money-making concern.

ConRail was to become a "financially self-sustaining . . . for-profit corporation," the lawmakers said, and not a government agency, despite its $2.1 billion of federal funding.

But less than six months after ConRail began operating, its plans for financial independence are colliding with politicians' quite-different priorities. These Congressmen and state officials, troubled by some of ConRail's early decisions, now believe that ConRail intends to pursue profits at the expense of rail freight service in their regions. So they are pressing ConRail—dropping hints about congressional hearings and new state regulations, for example—to make the railroad think less about money and more about local service.

Connecticut officials want ConRail to spend at least $6.9 million to repair a burned-out bridge at Poughkeepsie, N.Y., to restore an important rail link to their state. New York State officials, convinced ConRail is slighting a line in southern New York, are pressing the railroad to sell it, perhaps even to the state itself. Pennsylvania officials want extra rail service that they believe would spur industrial growth in sparsely developed areas. Officials in Massachusetts, Maryland and Delaware are applying similar pressures.

KEY TO THE FUTURE?

Although some of this pressure seems to involve mere pork-barrel disputes, the issues may hold a key to ConRail's future. How such issues are resolved, ConRail watchers say, will help determine whether the new railroad operates essentially as a regulated utility or as the hard-nosed, privately managed corporation it wants to be.

"If the dam is broken," warns a Washington lobbyist for a competing railroad, "ConRail will become fully politicized and give up all hope of profit."

U.S. Transportation Secretary William T. Coleman agrees that local pressures "obviously pose a threat" to ConRail's financial outlook. He notes that federal transportation planners expect the railroad to operate at a loss until 1979, but thereafter he declares, "the public shouldn't have to subsidize freight movements that aren't profitable."

But some local politicians disagree. "We care far less about (ConRail's) profitability than service," says Peter Metz, Massachusetts' assistant transportation secretary in Massachusetts. He says the state never believed ConRail had much chance of making money anyway.

BATTLE JUST BEGUN

Thus far, ConRail hasn't buckled noticeably under the pressure, perhaps partly because the protesters are just beginning to unite for a concentrated attack on its policies. Edward G. Jordan, ConRail's chairman, says he likes to think "we're smart enough and sensitive enough" to derail any unreasonable demands. Nevertheless, the protests seem to be picking up steam, and Mr. Jordan was adamant when he testified in June before a House subcommittee on transportation:

"I want to emphasize my concern," he told the lawmakers, "that ConRail not be forced to make decisions against the business interest of the corporation because of concerted political action."

To understand why some politicians are angry, consider what Congress had originally envisioned in its Northeast rail reorganization plan. That plan called for two big, solvent railroads, the Chessie System and the Southern Railway, to acquire large chunks of trackage in ConRail's service area and provide competition to the government-sponsored line.

The Chessie would have gained access to New York City and southern New England via the old Erie Lackawanna main line running along the New York-Pennsylvania border. The Southern would have gained access to potentially lucrative chemical traffic in northern Delaware by extending its system north over the Delmarva Peninsula, comprising Delaware and parts of Maryland and Virginia.

UNSOUGHT MONOPOLY

But last Feb. 12, the Chessie and Southern, unable to reach satisfactory labor agreements, pulled out of the plan. ConRail was forced to acquire nearly all of six bankrupt railroads, and therefore practically a monopoly in the mid-Atlantic and southern New England states. As a result, routes that would have been vital to the Chessie or the Southern because they provide access to the Northeast aren't so important to ConRail, which has the choice of several routes in the region. Thus local officials believe that ConRail will downgrade service on lines originally earmarked for competitors, and that local rail service may suffer.

"This will mean a lack of competitive equality for many of the region's businesses," Raymond T. Schuler, New York state commissioner of transportation, says. "It will inhibit plant expansion and the ability to attract new businesses, and could ultimately cost jobs and tax revenues."

ConRail's Mr. Jordan acknowledges local-service problems, but insists the railroad will be "responsive" as long as its financial performance isn't threatened. He adds that he never wanted a monopoly in the first place. "The political turmoil in which we find ourselves today is in itself sufficient reason for not advocating" one, he declares.

Much of the turmoil swirls around southern New York state, which is served by the old Erie Lackawanna line that the Chessie would have acquired under the original plan. This line, one of three primary east-west ConRail routes, complements one that runs through northern New York and another that goes through southern Pennsylvania. But the southern New York line is in relatively bad repair, contains several steep grades and historically has carried less traffic than the other two routes.

As a result, New York officials allege, ConRail is trying to downgrade service on the southern New York route to enhance its own financial outlook. They contend, for instance, that ConRail had deferred rehabilitation along the route. They also cite ConRail's unsuccessful attempt to get permission from the Interstate Commerce Commission to drop the route's piggyback service—the transporting of truck trailers on rail flatcars.

ConRail's Mr. Jordan denies any plans to de-emphasize the southern New York line. He says ConRail sought to abandon the piggyback service because it's "totally unprofitable." Otherwise, ConRail is offering "equal or improved local service" to communities previously served by the Erie, he asserts.

WATCHDOG COMMITTEES

Even so, New York officials aren't taking any chances. They have established watchdog committees—made up of labor officials and shippers, among others—to keep tabs on the quality of service. If these groups don't like what they find, says an official of the state transportation department's railroad bureau, ConRail may face some bothersome state regulatory actions—suspensions of proposed intrastate rate boosts, for example, and increased opposition to any schedule changes it proposes.

The dispute is generating pressure at the federal level, too. Just recently, several New York Congressmen proposed legislation that would require ConRail to keep intact for one year the southern New York line and all other lines originally intended for other railroads. This would give New York and similarly affected states time to find a buyer that then could compete with ConRail. As a last resort, a state itself could acquire a line.

The proposed legislation has received support from some other states. Delaware is a strong backer, mainly because it still wants the rail service across the Delmarva Peninsula that Southern Railway would have provided under the original reorganization plan. And New York Commissioner Schuler testified that all 16 states served by ConRail had "formally endorsed" the measure. Mr. Schuler also says he has received a positive response to a New York proposal that the 16 states seek representation on ConRail's board.

TEMPORARY VICTORY

For the time being, ConRail seems to have beaten back the proposed legislation. The bill is bottled up in a subcommittee headed by Rep. Fred Rooney, a Pennsylvania Democrat and ardent ConRail supporter who attributes the dispute to election-year politics. But New York officials say the battle won't end there.

"I don't intend to sit idly by and see my region suffer economically," declared Democratic Rep. Stanley Lundine, who represents a district in the southwestern part of the state. Mr. Lundine acknowledges that ConRail's Mr. Jordan "has a responsibility to operate a railroad which is at least self-sufficient. But he also has a public responsibility, and dammit, I intend to see he discharges his responsibility, at least within *my* district."

Meanwhile ConRail is fighting still another political battle, one that John L. Sweeney, ConRail's vice president for governmental affairs, calls a "classic" conflict between the legitimate concerns of state officials and those of the new railroad.

The dispute involves a bridge spanning the Hudson River at Poughkeepsie, which used to be a major gateway for the old New Haven Railroad. In 1969, the New Haven was merged into the newly created Penn Central Railroad, and the Pennsy, to cut costs, began routing traffic away from the bridge. On May 8, 1974, the bridge was badly damaged by fire, and service over it was ended altogether. Because nearly all traffic to and from Connecticut now is routed through Springfield, Mass., Connecticut shippers are vexed by delays of a day or more.

Penn Central ignored pleas of Connecticut officials to repair the bridge. However, the state believed it would have to wait only until the government's rail plan took effect. Connecticut expected the bridge would be repaired and once again become an important rail link to New England, this time through connections with the Chessie System.

But the Chessie plan fell through, of course, and ConRail now says it doesn't want to foot the estimated $6.9 million repair bill for the bridge. It cites a federal study showing that restoration of bridge traffic could complicate its route structure and damage its overall finances by forcing it to spend additional money, beyond the repair cost, for capital improvements to the route.

Not surprisingly, Connecticut officials are bitter. State transportation commissioner James Shugrue charges that ConRail "is being run by the same Penn Central people who turned Connecticut into a few branch lines."

OTHER THREATS

To soften ConRail's opposition, Mr. Shugrue is urging his New England counterparts to band together on the issue. And in Washington, Connecticut's congressional delegation is threatening other reprisals, such as stepped-up opposition to any supplemental federal appropriations ConRail may request. Still further, Connecticut Rep. Toby Moffett, a Democrat, is seeking congressional hearings aimed at determining whether ConRail is providing adequate rail services, says Deborah Gotthell, a legislative assistant.

Such a move is backed by New York Republican Rep. Hamilton Fish, whose home district includes Poughkeepsie. The hearings would help in "keeping the heat" on ConRail, he says. Arthur Shenefelt, transportation adviser to Pennsylvania Gov. Milton J. Shapp, a long-time ConRail foe, adds that ConRail officials "would get tired of going to hearings." Mr. Shenefelt has been pressing for beefed-up rail services in a little-developed area of northeastern Pennsylvania that he believes is ripe for industiral expansion.

For its part, ConRail seems to recognize political realities. It believes its best defense is to cooperate with politicians whenever possible. ConRail's Mr. Sweeney says some actions, such as the legislation now hung up in Rep. Rooney's subcommittee, "have to be resisted." But on issues like the Poughkeepsie bridge, "By God, everybody's right," he adds. And what ConRail must do is to demonstrate that its "rightness serves the most people," he says.

ST. JOSEPH CHURCH, KAMALO, MOLOKAI, HAWAII

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mrs. MINK. Mr. Speaker, the St. Joseph Church in Kamalo, Molokai, Hawaii, will be celebrating their centennial anniversary on September 26, 1976. The 100th anniversary of any institution is, indeed, an auspicious occasion, providing opportunity for recall of its proud history and reminiscing over significant events of the past.

In the case of the St. Joseph parish, it is even a more cherished day as they honor and memorialize the founder and builder of the church, the late Father Damien who left a legacy of selfless service in aiding those suffering from leprosy. His long and dedicated service to the people of Kalaupapa, which was established more than a century ago as a treatment center, has led to proceedings for his beatification by the Catholic Church.

Kalaupapa, Molokai, may be known to my colleagues through discussion of legislation I have introduced to establish a national historical park to preserve the area for its unique historical signficance, mainly encompassing the efforts of Father Damien and his work there.

Father Damien established and built the St. Joseph Chapel shortly after arriving on Molokai in 1873. The church was eventually completed in 1876, and is one of the four that Father Damien successfully established on the island while serving the people of Kalaupapa. St. Joseph, although not located in the settlement area, stands as a living memory of his divine work and his tireless efforts on the east end of Molokai, and is used for services about three times a year on special designated days.

The neighboring St. Sophia's Catholic Church congregation will be sponsoring the day's celebration with Mr. Steve Petro as chairman. A Hawaiian feast called a luau will be included as part of the festivities following morning mass which will be conducted by Bishop John J. Scanlan of Honolulu, Hawaii.

To a large degree, the observance might be referred to as a "Father Damien Day," dedicated to the immortal work of the "Holy Man of Molokai." His deeds are a part of our proud history and must be cherished with dignity and reverence. It is with this in mind that St. Joseph celebrates its 100th anniversary.

THE KRMG GREAT RAFT RACE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. JONES of Oklahoma. Mr. Speaker, for the past 4 years, residents of my district and the surrounding area have celebrated Labor Day by participating in the fun-filled KRMG Great Raft Race.

This year, 3,500 raftsmen floated down the Arkansas River from Sand Springs River City Park to the pedestrian bridge in Tulsa, Okla., in 600 rafts of every size and description. The cheering crowd lining the 9.3-mile course was estimated at 150,000.

The following editorial from the Tulsa Daily World gives a colorful description of the event:

> GREAT GREAT RAFT RACE
>
> Tulsa's Great Raft Race No. 4 couldn't have been better unless there had been free watermelon. It was a great day for all the float-freaks, Huck Finns and sun-soakers who like to pretend they're cruising on the Mediterranean.
>
> The weather was beautiful, and the traffic situation was greatly improved by shuttle-busing. The crowds were family-type and friendly; the Arkansas was close at hand and provided a perfect setting for this kind of fling to end the summer vacation season.
>
> One thing we noticed; the rafts are getting fancier. The race is bringing out the floating artists and craftspeople. The race is developing into a kind of parade with—permit the expression—floating floats.
>
> To the surprise of some, the pedestrian bridge held about as many people as could crowd on it. And that other scientific proof was reestablished; Beer helps people float in the sun.
>
> All in all, a fine, wholesome outing—we congratulate all the sponsors and participants. Let's get started, now, on those rafts for next year.

While some of the crews were only interested in a leisurely ride down the river, others raced on to victory. The overall speed award went to the John Zink Co. raft, which clocked a time of 58 minutes, 50 seconds. Winners in the remaining categories were as follows: double hull, one or two persons, Pilot Jim Staves, time 1:23:50; double hull, three or four persons, Pilot Larry Friese, time 1:34; double hull, five or more persons, Pilot Bruce Murray, time 1:39:40; single hull, one or two persons, Pilot Dan Creel, time 1:21:14; single hull, three or four persons, Pilot Bob Thorne, time 1:16:35; single hull, five or more persons, Pilot Don Jones—C-E NATCO, time 1:25:44; rubber Raft, Pilot Ray English, time 1:41:29; kayak, Pilot Tom Sutfflebeem, time 1:40:20, and paddlewheel, Pilot Dave Henderson—TELEX, time 1:25:15.

Trophies will be presented on September 16 at Woodland Hills Mall.

Fifteen trophies will also be presented to outstanding rafts which took part in the Great Raft Race Parade, an event of September 4. Two of the more outstanding rafts singled out by the judges include a styrofoam raft carved to resemble the U.S.S. *Enterprise* from the television program Star Trek and a horse-drawn, covered wagon raft. The U.S.S. *Enterprise* raft, piloted by Lael Latta, won the largest number of awards, and the covered wagon raft, piloted by Ron Grecco, won the best original design prize in the Bicentennial category.

The success of this year's parade and race is due to the cooperation of a large number of community organizations and individuals. As usual, the KRMG staff, including Executive Vice President and General Manager Ron Blue, Program Director Jerry Vaughan, News Director Ed Brocksmith, and Raft Race Coordinator Paula Kennedy, did an outstanding job.

Other participants contributing time and energy to the events include the Service and Community Action Team, Steve McKim of Lease-a-Plane, Erwin Phillips of the Sand Springs Park and Recreation Department, the Tulsa River Parks Authority, the Southwest Power Administration, the U.S. Army Corps of Engineers, and the Tulsa County Commission.

Over 200 individuals, in connection with the following organizations, cooperated in safety and security operations: Tulsa Chapter of the American Red Cross, Tulsa Central Ambulance Co., U.S. Coast Guard Auxiliary, Tulsa Ham Repeater Organization, Tulsa Fire Department, Tulsa Police Department, Tulsa Auxiliary Police, Oklahoma Highway Patrol, Sand Springs Police Department, Sand Springs Fire Department, and the U.S. Navy.

I join with the many participants in this year's KRMG Great Raft Race in thanking those responsible for this outstanding event and in looking forward to continuation of this community activity.

JUDGE HARRY T. ALEXANDER RETIRING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. CLAY. Mr. Speaker, the distinguished Judge Harry T. Alexander is retiring from judicial office. I would like to share his official media statement with my colleagues:

> MEDIA STATEMENT OF JUDGE HARRY TOUSSAINT ALEXANDER
>
> Upon reconsideration of my earlier position and following prolonged deliberation, I have, on this date, advised the President of the United States of my retirement from judicial office effective November 2, 1976. I have also, on this date, instructed the District of Columbia Commission on Judicial Disabilities and Tenure to withdraw my declaration of candidacy for reappointment to the Superior Court of the District of Columbia. My lovely wife and wonderful children concur in what is for our family a difficult decision.
>
> Primarily because of financial reasons, and a desire to speak out on today's issues, unrestricted by the judicial robe, I have chosen not to seek reappointment for a second term on the Bench. The decision, however, is not without mixed emotions.
>
> The past 10 years on the Superior Court bench have been for me a unique and fulfilling experience. My 1949 application for admission to Georgetown Law School stated that I hoped to effect changes in the legal system. Of course, momentous legal precedents most often result from appellate action, rather than at the trial judge level. But in hundreds of large and small ways, the daily operations of a trial court determines the quality of justice administered for the people.
>
> I am therefore grateful to have had the opportunity to have made the following contributions toward improving the quality of justice in the District of Columbia:
>
> (1) The appointment of free counsel to indigents in Small Claims and Landlord and Tenant Branches;
>
> (2) The elimination of unnecessary racial designations in court documents;
>
> (3) The expungement of unjust arrest records;
>
> (4) The curtailment of retaliatory prosecutions against those who complained of police brutality;
>
> (5) The exoneration of numerous police officers wrongly accused of brutality;
>
> (6) Insisting that all persons appearing in

my courtroom be treated with dignity, requiring that all citizens be addressed as "Mr." and "Mrs."

(7) Ending the practice of police officers sitting in the jury box rather than with other witnesses, and

(8) Increasing the facilities for treatment of alcoholics.

I want publicly to express my affection for the many people who encouraged me. Among these gallant people, too numerous to mention, are my wonderful wife and family who sustained me over many years; my Chief Judge, Harold H. Greene, and Chief Judge Gerard D. Reilly, from whom I could seek counsel; the courageous lawyers who volunteered to represent me and my high ideals, the late Civil Rights Advocate Frank Reeves, the late Honorable David G. Bress, James H. Cobb, Esq., and Ralph Temple, Esq., the law firm of McDaniel, Burton, Daniels and Brady, Claude Roxborough, Esq., B. Franklin Kersey, IV, Esq., Jan Peterson, William McLain and my friend and counsel, Benton L. Becker, Esq.

My sincere gratitude must, of course, be extended to Xavier University of New Orleans, Louisiana, and Georgetown University which prepared me for my legal career; but foremost for my philosophy of life. Nothing could have been more important than the latter.

To the late President John F. Kennedy, and his brother, the late Honorable Robert F. Kennedy; the Honorable Herbert J. Brownell, the late Honorable Leo A. Rover, the Honorable Oliver Gasch, the Honorable David A. Acheson, the Honorable Nicholas J. Katzenbach, I extend my debt of gratitude for their affording me the opportunity of representing the greatest government in the world, in several Circuits, in the District of Columbia, across many cities and in Puerto Rico.

To Chief Judge David L. Bazelon, and Judge J. Skelly Wright of the United States Court of Appeals for the District of Columbia Circuit, to the late Judge Alexander Holtzhoff, Judge Burnita S. Matthews, and Judge John J. Sirica, and other judges who taught me the majesty and dignity of the courtroom, and the necessity for skilled and quality advocacy, on the trial as well as the appellate level, I am eternally grateful. But certainly, no one did more for my legal career than the saintly Honorable Andrew J. Howard, who nurtured me early as an Assistant United States Attorney, and administered to me the Oath of Office on three separate occasions.

To the late Civil Rights President Lyndon B. Johnson, and the Honorable Ramsey Clark, I extend my heartfelt appreciation for affording me the privilege of judicial office; but first that of First Assistant United States Attorney.

My expressions of gratitude would not be complete without mentioning Mr. Justice Douglas who not only expressed his empathy, but sympathized with my personal struggles in his 1973 dissent in *Palmore* v. *United States*. His understanding will forever be appreciated, and I wish him a speedy recovery from his present illness.

Words cannot express the deepest gratitude I have to ministers and hierarchy of many denominations, who have counseled and consoled me through the years; to the many organizations and thousands of people, the church, civic, professional and fraternal organizations who have given their support—the Yango Sawyers, as well as the Lillian Wiggins', the Calvin Rolarks', the Black Caucus, the City Council, and Members of the Board of Education. The courage they gave helped to fortify my concern, commitment, and conviction for improving the quality of justice.

Finally, through all of this, it is fitting and proper to acknowledge God and my nine year old departed Beatrice Ann; for they have been my guidling lights; my refuge in the storm, my comfort in the hours of darkness. She and He have been the rock and the staff.

In looking back, I believe that what I most enjoyed in being a judge was the opportunity to help the steady flow of people who came to my chambers during the past 10 years seeking help in their frustrations with the administration of justice. This multitude of small victories over inequality meant the world to me.

It is my intention to continue to work toward the elimination of discriminatory practices and effecting equal justice under law. I shall do so through teaching, publications, the private practice of law, and through our political machinery, until equity and equality are indeed realities, and all people are free to enjoy their God-given constitutionalized rights.

President Kennedy once said, "A journey of a thousand miles must begin with the first step." For the past ten years, in some small measure, I have taken that first step. With God's help, I shall continue.

WHY WE MUST NOT RUSH INTO SALT II

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. KEMP. Mr. Speaker, Dr. Fred Ikle, Director of the Arms Control and Disarmament Agency, has brought to our attention Soviet deployment of a new ballistic nuclear missile—the mobile SS–X–20 with multiple, independently targetable warheads. Dr. Ikle called the Soviet expansion of the new missile as "massive, unwarranted and unexplained."

Dr. Ikle points out that the possible mission by the Soviets of this new missile raises questions which must be carefully examined by the administration and by the Congress and publicly aired. We must be careful that the Soviets do not use SALT negotiations to distract our attention from Soviet achievement of regional military superiority. As Dr. Ikle says, the Soviet Union's "strength in regional nuclear bombers and missiles grows like a towering dark cloud over Europe and Asia."

I am inserting the New York Times report by David Binder in the September 1 issue in the Record at this time:

[From the New York Times, Sept. 1, 1976]

U.S. Aide Accuses Soviet on New Missile

(By David Binder)

Washington, Aug. 31.—The Ford Administration's top arms control official accused the Soviet Union today of attempting to alter the strategic nuclear weapons balance with the United States by introducing a new missile in Eastern Europe.

The official, Fred C. Iklé, director of the Arms Control and Disarmament Agency, said that the deployment of the new missile, with multiple independently targetable warheads, was "a massive, unwarranted and unexplained expansion."

He said in a speech that the deployment could jeopardize efforts to achieve a new agreement limiting strategic arms between the Soviet Union and the United States.

Negotiations on a second strategic arms agreement have been stalled for 10 months because of a conflict over inclusion of a new Soviet bomber, called Backfire by the Atlantic alliance, and of United States cruise missiles.

Existence of the new Soviet regional missiles was disclosed last month in a report to Congress by President Ford.

The new missile is identified by United States authorities as the SS–X–20, an intermediate-range modification of the SS–X–16, which is classified as an intercontinental ballistic missile. The SS–X–20 is said to employ the first two stages of the SS–X–16 and is reported to be mobile.

In its intermediate-range version, the new missile is considered to have a range of less than 3,000 miles.

Commenting Aug. 4 on the Ford report, Konstantin Georgiyev wrote in Pravda, the Soviet Communist Party daily, that there was no foundation for the suggestion that the Soviet Union's activities in missile development represented a change in strategic arms policy.

Mr. Iklé, in a speech in Los Angeles before the Town Hall of California, declared that the Soviet Union's "strength in regional nuclear bombers and missiles grows like a towering dark cloud over Europe and Asia."

Mr. Iklé added:

"What is the military mission of their new medium-range ballistic missile? Why are they adding to this arsenal? What—we must ask with deep concern—is the possible political purpose?"

Mr. Iklé recalled that the Soviet Union's negotiating position in the strategic-arms talks demanded restrictions on United States medium-range nuclear forces but without agreement to comparable restrictions on the Soviet side.

HOW AMERICA IS BECOMING A REGULATED SOCIETY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mrs. HOLT. Mr. Speaker, recently, our colleague from Idaho, Mr. Symms, was featured in an article which appeared in Government Executive magazine. I have had the privilege to know and work with Steve Symms since 1973. Though only a second-term Member, he is already the ranking minority member on the Forests Subcommittee of the House Committee on Agriculture. His leadership in pending legislation, the Forest Management Act (H.R. 15069), proves that he has ability and grasp of difficult issues. That legislation, vital for the First District of Idaho, bears his mark as he assisted the late gentleman from Missouri, Mr. Litton, who was then the chairman of the subcommittee.

Steve Symms is a leader in fighting for the freedom of choice for the individual. Taxpayers, businessmen, people on fixed incomes, and farmers can thank the gentleman from Idaho for his continuing courage in the face of terrifying opposition to his stands for economic, political, and social freedom.

I commend the following article to Members:

[From Government Executive Magazine, August 1976]

How America Is Becoming a Regulated Society

He seems smiling and friendly enough, met in a Capitol Hill corridor or meeting room. But when he rubs up against another Government regulation, he can and does fire off articulate one-line bullets that show, if nothing else, he (a) is not bashful; (b) has done a lot of homework.

He is Congressman Steven D. (for Douglas) Symms, 38, Republican Representative from the first district of Idaho, which includes 19 counties from Nevada State line in the south to the Canadian border, a sprawling area whose main industries are agriculture, mining and forest products.

Sample sharp indictments:

"Government is a bunch of Gestapos out to put the small businessman out of business;"

"We (the United States) are becoming a regulated society, a 'Controlled Enterprise' system, with bureaucrats and politicians playing feudal lords. If it goes on long enough, it'll put us back in the dark ages."

"We had the best working conditions in the world without OSHA (Occupational Safety and Health Administration.) Instead of passing OSHA, we'd have been a lot better off if Congressmen had taken a two-week trip during National Safety Week and gotten out to talk to the workers, themselves."

"The real solution to pollution is design and technology; the real problem is sewage dumped into waterways. Instead, we've got 1,100 activist bureaucrats in EPA (Environmental Protection Agency)—with only one scientist on the staff."

"The word 'incubus' (1. 'an imaginary demon or evil spirit supposed to descend upon sleeping persons') seems particularly apt in describing the Federal agency (Food and Drug Administration, FDA, for short) and the Federal laws which seek to protect Americans from unsafe and ineffective drugs."

"Individuals are bitter. The future John D. Rockefeller can't get started in the United States. Government regulation and control preclude the little guy with the better idea from getting the capital and getting into the market."

First elected to Congress in 1972, Symms, in spite of his short term in office, has fought successfully against Federal land control, against allowing the Consumer Product Safety Committee to handle gun control and has gotten emergency approval of the use of DDT to combat weevil and moth infestations of nearly one million acres of forest.

"DDT was banned in the first place," he claims, "on strictly political considerations. They talk about the horrors of DDT but they don't mention the 'wonders' of malaria, sleeping sickness and the fire ants that are literally taking over the South since DDT was banned."

In short, "Pesticide control should be over in Agriculture, not in EPA." As in the drug field, he points out, "all kinds of products can't get on the market because of the millions (of dollars) it costs to get one approved." And the denials, he says, defy common sense.

Example: an apple spray being used in Europe which can't be used here because a rat in a laboratory eventually got liver cancer "probably" from eating it. Former Idaho fruit ranch production manager Symms points out, "You do a systemic spray about once a year. A person would have to eat 150 tons of apples to get as much of the chemical as the rat ate."

Currently, Symms has introduced legislation to repeal 1962 amendments to the Food and Drug Act (which say in effect a proposed drug must not only be safe to use but effective in what it is supposed to do.) The "efficacy" measure, he contends, is too subjective and as riddled with exemplary flaws as his "apple spray" case.

"Penicillin, digitalic, aspirin and fluroxene might have not received FDA approval," he argues, "if they had been introduced after 1962. Penicillin has a markedly toxic effect upon guinea pigs and the other drugs have appreciable toxic effects upon both animals and man."

Besides, he adds, studies as early as 1962 strongly suggest FDA's virtually unquestioned reliance on the predictive value of tests on animals may be badly ill-founded. "A Litchfield study" in 1962, "found that more than half the toxic effects of six drugs upon man were missed by animal screens. And 20% of the toxicity predictions based upon animal studies were incorrect when applied to man."

He can quote a raft of British doctors who support his view, in effect, that current "censorial functions" of the FDA are, at best, counterproductive and at worst probably allowing as many or more people to die as their prevention of a drug's use are saving.

One such doctor, Sir Derrick Dunlop, hoped, recently, "we (in Britain) will not imitate the FDA . . . I believe there is evidence of increasing doubt, even in quarters antagonistic to industry, that these (U.S.) regulatory efforts may not only fall short of their objective but may actually undermine it."

Besides frustrating the doctor-patient individual relationship as all blanket regulations applied to everybody do, the whole business, says Symms, is costing the consumer a bundle. "Professor Sam Peltzman of the University of Chicago estimates the FDA required nearly $15 million to carry out the requirements of the (1962) amendments in 1970."

Another doctor, Lewis Sarrett, has indicated the cost of developing a new NCE (new chemical entity) rose from $1.2 million in 1962 to $11.5 million in 1972 and total development time stretched out from 2.5 years on the average to 7.5–10 years.

Author H. A. Clymer has estimated, with all the "exhaustive testing and regulatory compliance costs," the price of bringing a "new biological" to market has gone up from $1.3 million in 1968 to from $2.5 to $4 million today. And for each one which makes it to market, 6–10 additional ones are aborted along the development path.

In short, drug companies estimate where it once cost $1.5 million in productive plus discarded research to introduce a successful product, it now costs $15 million. Adding up all these and some related figures, Government regulation has added about $12 billion in administrative and additional testing expenses to drug costs in the dozen years since the 1962 FDA amendments went into effect.

Moreover, says Symms, one estimate, at least, of consumer "benefits-losses" says the consumer has saved annually about $100 million from ineffective drugs being taken off the market—and lost between $300 and $400 million in prolonged sickness and death from existing new drugs that the consumer couldn't obtain in America.

Besides that competition has sharply decreased, artifically inflating drug prices to the consumer by another $50 million annually. Prior to 1962 an average of 301 new drugs came on the market. The average today is about 92. Moreover, the average lead time for new drug introduction is from one to two years faster in France, Germany and Britain compared to the U.S.

In short, the researchers, technology and product availability have moved overseas. Reason, claims a paper delivered at American University last year: "The greater reliance (in the United Kingdom) on medical judgment rather than formal regulatory controls has meant a system with much shorter time lags in the introduction of new products than has been the case in the U.S."

Says Symms succinctly, "I believe far more Americans want to be protected from *government* and *politicians* (his emphasis) than want to be protected from their own physicians! The garden variety American's common sense tells him that the most unsafe and the most inefficacious drug is the one which is simply not on the market when *he* needs it."

At the drop of a challenge, Symms will recite an encyclopaedia of examples within his own State, in drugs, pesticides, worker safety, cleaning up the rivers, where the voluntary free enterprise system and local government, left to their own devices, "are taking care of the problem—unless the Feds come in. Then we have problems."

What's the larger answer? "The people have got to wake up and elect a free enterprise Congress. Then you'd get deregulation overnight." He doesn't see much hope for the batch of deregulation bills on Capitol Hill at the moment. "Given time, the special interests have time to mount objections." And "one of the real problems right now is we can't generate nearly enough enthusiasm from the businesses that a deregulation proposal covers."

But the basic headache, as Symms sees it, is simply "The Feds are just trying to do too many things." In any human society, he argues, "it is the individual who is paramount, not the group, not the special interest and not the government. I reject all attempts to dehumanize and collectivize individuals into homogenous interest groups, whether those groups be based on race, sex, age, profession, economic standing or party affiliation."

Thus, he says, "I believe it is the utmost purpose of government to protect the life, liberty and property of the individual, and to otherwise leave him alone to run his own life in his own way."

How well has this Congress lived up to Symms' personal code? "This Congress normally doesn't do things right. There never has been a Congress that has run up a debt, refused to face issues, like this one." If Symms has any single problem in his almost lonely war on "collectivism and the coercion of big government," it is that the "other side" has more voices and bigger megaphones.

CONGRESSIONAL ACTION TO ALLEVIATE SUFFERING OF LEBANESE PEOPLE BY REACTIVATING HOSPITAL SHIP U.S.S. "SANCTUARY"

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. ROE. Mr. Speaker, I wish to call to your immediate attention and to that of my colleagues, a situation which compels our paramount and humane concern—the recent civil strife in Lebanon. So often we, as a body and as individuals, are relegated by law or circumstance to the bystander's bleacher as world events play before us. Rarely can we assign ourselves, legitimately and rightly, the role of the sympathetic catalyst and in some way lessen the sufferings of a people caught up in a devastating struggle which scatters its impact among countless innocent victims. We have such an opportunity before us in Lebanon through House Resolution 1515.

Literally, the vehicle for this assistance is the U.S. last-active hospital ship which is in the first stage of deactivation in Philadelphia. This ship, the U.S.S. *Sanctuary*, is ideally suited to serving the emergency medical needs resultant from the raging civil war in Lebanon. More than 40,000 people have been killed and thousands wounded in that country since April 1975. Doctors in Pennsylvania have already generously volunteered to serve with this vessel in its mission to Lebanon. What is needed beyond this admirable commitment, of course, is an appropriation of up to $10 million to recondition, activate, and operate the ship. The resolution I have cosponsored with Congressman KOCH of New York expresses the sense of the House of Representatives that the necessary funds be appropriated.

Mr. Speaker, I wish to emphasize not only the immediate short-term need for this type of vessel but the long-term applicability of the U.S.S. *Sanctuary* in the broader spectrum of U.S. ongoing humanitarian assistance efforts worldwide. It is regrettable, but a fact of life, that the need for on-the-spot medical aid will continue regardless of whether it is generated by civil conflict or natural disaster. It strikes me as not only decent but wise to utilize such a suitable resource for such deserving humanitarian purposes.

Mr. Speaker, you will note in House Resolution 1515 that the Congress, in expressing its support for the $10 million appropriation, would also be affirming an explicit commitment to keep the *Sanctuary* as a permanent active duty hospital ship to provide emergency assistance as the necessity arises. I fully support this intent. I enthusiastically and compassionately urge you and my colleagues here in the House to join with me and quickly approve this resolution. There are services to be rendered and expectations to be met if the United States is to maintain its leadership in the abatement of human suffering and anguish. Let us put the U.S.S. *Sanctuary* back to sea and provide a visible expression of intent and concern on the part of the United States to Lebanon and the world. Our business is truly people and, at times, rightly surmounts geographic and political limitations. This is such a time and the U.S.S. *Sanctuary* is surely one major effort to minimize the plight of those who suffer and to affirm our commitment to international human dignity.

H. RES. 1515

Whereas the United States is about to deactivate its last active duty hospital ship; and

Whereas more than forty thousand people have been killed and many thousands wounded in Lebanon since April 1975; and

Whereas doctors in Pennsylvania have volunteered to man this vessel in its mission to Lebanon; and

Whereas there is always a need for similar emergency medical assistance abroad: Now, therefore, be it

Resolved, That it is the sense of the House that there should be appropriated $10,000,000 to recondition, activate, and operate the United States ship Sanctuary as a permanent active duty hospital ship to provide immediate assistance to the wounded in Lebanon and to other areas of the world that will need similar emergency medical assistance.

HISPANIC HERITAGE WEEK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1976

Mr. OTTINGER. Mr. Speaker, as requested by a joint resolution approved September 17, 1968, the President has issued the annual proclamation designating the week including September 15 and 16 as "National Hispanic Heritage Week." Accordingly communities across the country are this week observing the occasion with appropriate ceremonies and activities in recognition of the tremendous contributions that this ethnic group has made to the history and development of our country.

I would like to take the opportunity during Hispanic Heritage Week to extend to my own constituents of Spanish-speaking ancestry, as well as to those in other parts of the country and abroad, my heartfelt gratitude for their enrichment of our cultural heritage. I would also like to reiterate the pledge that I have made in the past on similar occasions of continuing to work to insure that equality of opportunity is afforded to this group in all areas in which the Federal Government has a role.

Spanish-speaking Americans form the second largest minority group in our country. Even conservative estimates of the Spanish-speaking population in the United States make their total number higher than the populations of most individual Latin American countries where Spanish is the official language. This group has played an active and vital role in the development of our country—in its exploration and early settlement; in its defense through outstanding work in the Armed Forces—there are proportionately more Congressional Medal of Honor winners from the Spanish-speaking community than from any other single ethnic group—through development of numerous national leaders and personalities from many fields; and in setting an example as a nation where all are free to retain their unique culture while still working for the betterment of society as a whole.

This Bicentennial Year also marks the sesquicentennial of the Inter-American System, which was initiated 150 years ago with the Congress of Panama. During my career with the Peace Corps I had the opportunity to live and travel in Latin America, where I made lasting friendships and had many wonderful experiences. It is important that we reflect also this week on the ties of friendship and interdependence that bind us to other Western Hemisphere nations.

I hope we can all take a moment to rededicate ourselves during Hispanic Heritage Week to the principles of freedom and equality of opportunity that, on both a national and an international scale, should be our most basic goals.

I would like at this time to insert into the RECORD an article which appeared last Monday in a newspaper in my district describing the growing Spanish-speaking population of Westchester County, N.Y.:

[From the Standard-Star, Sept. 13, 1976]

HISPANICS' COUNTY POWER GROWING

(By Michael Roddy)

Westchester's Hispanic community has come of age and is beginning to exert influence in county affairs.

The number of Hispanics-defined primarily as Spanish-speaking persons of Latin American or Caribbean origin—is growing faster than any other segment of Westchester's population. There are an estimated 80,000 Hispanics in the county, which is nearly one-tenth of the population and double the number of Hispanics here a decade ago.

They have come for many reasons. Some, like the Cubans, came to escape a political system that was not to their liking. Others from many South American countries have come to seek a standard of living higher than was possible in their native land.

Hispanics have not exerted anywhere near the influence their numbers would seem to warrant. But signs of change are apparent:

The number of Hispanic-owned businesses, most of them small retail stores, is growing rapidly.

Political involvement by Hispanics is on the rise, most significantly at the local level in community action agencies.

Employment of Hispanics in large corporations is increasing as a result of federal "affirmative action" programs that require hiring minority group individuals in order to qualify for federal contracts. The county government also is making efforts to employ more Hispanics and other minorities.

"Hispanics are at the bottom of the totem pole," says Wilson Perez, executive director of the Westchester Hispanic Coalition, "but the future is bright."

However, life at "the bottom of the totem pole" has not been easy for Westchester's Hispanics. In the 1970 census, nearly a quarter of the county's Puerto Rican families, which account for a significant portion of the Hispanic community, were found to be living on incomes of less than $3,000 a year (considered to be the poverty line). Another 30 per cent were receiving public assistance income from the county social services department or other welfare sources.

If the census were taken today, conditions would doubtless be found to be worse because of inflation and the intervening recession, some observers say.

Those Hispanics who hold jobs often have had to work harder than other county residents to make ends meet because the size of Hispanic households tends to be larger. Instead of the average of 3 persons per houshold in Westchester, Puerto Rican and other Hispanic households have closer to four persons or more.

Income pressures force Hispanics to seek the least expensive housing possible, most of which is located in Westchester's city or village centers. There are an estimated 23,000 Hispanics in Yonkers, the largest concentration in the county, and other pockets are in Port Chester, Mount Vernon, New Rochelle, Ossining, Tarrytown, White Plains and Peekskill.

In their efforts to hurdle the low-income barrier, Hispanics have been faced with an obstacle other minorities usually do not encounter: Language.

"Language is a problem (for Hispanics) but I don't think it's entirely their problem. It's also our problem to a degree," says Louis W.

Jones 3d, coordinator of the county's Equal Employment Opportunity program.

Until recently it was assumed that ability to speak, read and write English was a reasonable requirement for employment. But with the influx of Hispanics into Westchester and the New York City metropolitan area, changes are being made to accommodate those for whom English is not their native tongue.

Some county school systems are offering so-called English as a second language course, and signs in county and state offices are written in English and Spanish. The county government, using federal funds, is offering a program called Project Command to teach English and basic management skills to Spanish speaking residents.

Jones thinks the language barrier could be lowered further by giving civil service examinations in Spanish as well as English. Lack of fluency in English would hamper a government employe who deals with the public, he says, but there are many jobs ranging from laboratory research to operating elevators in which only marginal knowledge of English would be acceptable.

However, there is more than a language barrier to be overcome before Hispanics become influential in Westchester. There are an estimated 1.5 million illegal aliens—many of them Hispanics—in the New York City area. A significant, though unknown, number of them are in Westchester.

A large proportion of illegal aliens are Hispanics because it is easy for them to enter the country as domestics or to cross the border from Mexico. It is not easy, however, to become an American citizen, so those Hispanics who remain here without citizenship papers do so illegally.

Arrests of illegal aliens occur regularly in Westchester, and when they happen, Perez says, "Everybody stays indoors for awhile."

The immigration raids contribute in part to the reluctance of Hispanics to become involved in public affairs, Perez says, but there is another factor as well.

"I think it's because of our experiences in Cuba," says Ricardo Hernandez of Ossining, who is president of the Liceo Cubano in North Tarrytown. "To us politics is a dirty business."

However, most of the Cubans in Westchester who came to this country after Castro rose to power 15 years ago now have full citizenship. Many hold responsible positions: the Rev. Antonio Sagrista of Yonkers heads Catholic Charities; Carmen Goncalez of Yonkers founded the Puerto Rican Council; and Hector Ghimenti of Yonkers heads the Westchester Hispanic Coalition. Others are following in their footsteps.

IMPORTANT ISSUE TO BE CONSIDERED

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. GINN. Mr. Speaker, there is an especially important issue that will be considered when conferees are appointed on S. 2710, amendments to the Federal Water Pollution Control Act. This issue involves reimbursement of funds to 62 communities in 18 States which have been declared ineligible for what I consider to be their equitable share of Federal assistance for waste treatment works projects.

These communities should have been eligible for full 55 percent matching Federal grants for their water pollution control projects under section 206(a) of Public Law 92–500 because they had begun construction of the projects prior to July 1, 1972. However, the Environmental Protection Agency on June 26, 1973, issued regulations which had the effect of redefining the definition of initiation of construction. As a result, these 62 communities were ruled ineligible for 55-percent funding. Most of those communities could have taken steps to meet the new definition, but, of course, the definition was announced after the cutoff date.

To correct this inequity, the House of Representatives passed section 8 of S. 2710 to set the construction date at July 1, 1973, rather than July 1, 1972. It is my hope that all Members of Congress will give this matter their closest attention and will work to persuade the Senate conferees to yield to the House by agreeing to section 8 without changes.

As a matter for further information, I include a listing of those communities affected by section 8 in the RECORD at this point.

These figures represent a correction of statistics provided by EPA and printed in the RECORD on September 15. The revised statistics that follow reflect the correction of a typographical error in the earlier EPA calculations which inaccurately indicated that a project in Raleigh, N.C., was involved in the reimbursement problem:

PROJECTS THAT WOULD QUALIFY FOR REIMBURSEMENT UNDER SECTION 206(a) PL 92–500 IF THE CUT-OFF DATE IS CHANGED FROM JULY 1, 1972 TO JULY 1, 1973

PROJECT, CONSTRUCTION DATE, REIMBURSABLE AMOUNT

Alabama

Alabama WSPFD: August 15, 1972, $255,833.

Connecticut

Department of Mental Health: February 28, 1973, $108,800.

Florida

Jasper: May 1, 1973, $52,965.
South Bay: July 11, 1972, $129,075.
Dunedin: August 31, 1972, $357,000.
Hollywood: October 1, 1972, $1,595,000.
Manatee County: December 6, 1972, $1,965,920.
Green Cove Springs: August 21, 1972, $144,175.
Florida total, $4,244,135.

Georgia

Port Wentworth: November 3, 1972, $59,914.
Garden City: December 20, 1972, $174,551.
Brunswick: February 16, 1973, $762,740.
Fort Oglethorpe: July 14, 1972, $366,850.
Grantville: August 10, 1972, $75,387.
Cairo: May 9, 1973, $140,118.
Thomaston: February 1, 1973, $139,700.
Augusta: August 7, 1972, $545,473.
Fulton County: November 1, 1972, $1,316,328.
Bibb County: October 6, 1972, $104,316.
Colquitt: November 24, 1972, $82,496.
Floyd County: April 18, 1973, $121,815.
Edison: March 19, 1973, $15,075.
McRae: May 22, 1973, $149,600.
Hazelhurst: October 16, 1972, $84,867.
Reidsville: January 24, 1973, $31,460.
Statesboro: April 1, 1973, $277,200.
Warner Robins: August 17, 1972, $740,599.
Covington: October 19, 1972, $318,780.
E. Dublin: June 20, 1973, $110,000.
Conyers: November 15, 1972, $245,290.
Macon: October 13, 1972, $893,910.
Georgia total, $6,756,469.

Indiana

Cedar Lake: August 1972, $151,500.
Grand View: September 1, 1972, $31,510.
Indiana total, $183,010.

Kentucky

Russell Springs: March 1, 1973, $59,800.

Mississippi

Quitman: August 28, 1972, $54,000.
Biloxi: June 29, 1973, $177,700.
Prentiss: October 9, 1972, $3,830.
Mississippi total, $235,530.

Montana

Havre: September 1, 1972, $98,200.

New Mexico

Taos: April 2, 1973, $18,536.

Oklahoma

Oklahoma City: September 1, 1972, $6,313,105.
Tulsa: January 11, 1973, $2,118,750.
Oklahoma total, $8,431,855.

Oregon

Wallowa: November 2, 1972, $49,132.
Astoria: August 22, 1972, $1,920,600.
Oregon total, $1,969,732.

Pennsylvania

Upper Allen TWP: May 7, 1973, $346,005.
Berun: August 1, 1972, $90,450.
Manheim: June 1, 1973, $33,600.
Cambridge Springs: November 1, 1972, $46,350.
Lemoyne: August 1, 1972, $780,080.
Orbisonia-Rockhill Authority: October 6, 1972, $45,815.
Pennsylvania total, $1,342,300.

South Carolina

St. George: March 13, 1973, $5,000.
Mullins: May 1, 1973, $194,400.
South Carolina total, $199,400.

Texas

Needville: August 13, 1972, $28,203.
Dallas: September 25, 1972, $23,020.
Texas total, $51,323.

Virginia

Wakefield: July 1, 1972, $6,350.

Washington

N. E. Lake: December 11, 1972, $486,430.
Sedro Wolley: November 8, 1972, $246,397.
Kelso: July 14, 1972, $59,825.
Milton: July 7, 1972, $180,980.
Tacoma: November 20, 1972, $251,540.
Concrete: October 1, 1972, $63,874.
Washington total, $1,289,046.

West Virginia

Raleigh County Airport: January 1, 1973, $42,400.

Wyoming

Gillette: October 1, 1972, $183,905.
Grand total, $25,476,624.

FINANCIAL DISCLOSURE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. LUNDINE. Mr. Speaker, while these disclosures are not required by law, I think they should be made and that the public trust which I have can only be properly discharged by doing so voluntarily. Similar disclosures by all Members of Congress and candidates for office would go a long way toward restoring public confidence in their elected representatives.

A statement of my net worth computed

jointly with my wife as of August 1, 1976, follows:

ASSETS	
Real estate	$19,500
Savings accounts	450
Checking accounts	1,180
Personal property including automobiles	7,200
Cash value—life insurance	800
Common stock—Dowcraft and Odsonia Corp	4,600
Total assets	33,730
LIABILITIES	
House mortgage	7,400
Demand note	3,750
Miscellaneous personal bills	1,850
Total liabilities	13,000
Estimated net worth	20,730

My joint tax statement for 1975 is summarized below:

Gross income	$25,968
Less: business expenses	1,033
Adjusted gross income	24,935
Deductions (interest, local taxes and contributions)	3,489
Federal income tax	4,154
N.Y. State income tax	1,220

I have always believed that public officials should be open to absolute scrutiny and I hope that this financial disclosure will contribute to that objective.

FOREIGN MEAT IMPORTS GLUTTING MARKET

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. McCOLLISTER. Mr. Speaker, today, I am introducing legislation to put a halt to the flow of millions of pounds of beef entering this country through the free trade zone of Mayaquez, Puerto Rico.

Right now, frozen beef and veal from Australia and New Zealand are being shipped at an alarming rate into the packingplant at Mayaquez. There it is being processed into "stew meat" which allows it to enter the United States as "prepared and preserved" meat which is not limited by the Meat Import Act of 1964. This meat comes into the United States without any tariff or credit to existing voluntary restraint levels. These countries are taking advantage of a loophole in the 1964 Meat Import Act and glutting our meat market to the severe detriment of the American cattle industry. This unfair competition is contributing to one of the worst price slumps our cattle producers have faced in several years.

On August 17, the Department of Agriculture put forth a regulation which would immediately begin to count any such imports against the voluntary quota level established by the Meat Import Act. This regulation, set to take effect today, September 17, would have taken significant presure off our livestock industry. Last week, however, a Federal judge in Roanoke, Va., granted a temporary restraining order on this regulation and a halt to the executive action to correct this mounting problem.

Since the attempts by USDA have not been successful, I believe it is necessary to take immediate legislative action. My bill will close the loophole in the Meat Import Act by adding these prepared and preserved meats to the list of importable quantities. The bill will set a base amount for this processed beef and veal. If that amount exceeds 110 percent, quotas will be imposed.

When we passed the Meat Import Act of 1964, we assured U.S. cattlemen that foreign meats would not be allowed to dominate the American market and threaten their livelihood. We should live up to that promise and expedite passage of this noncontroversial bill. With the court's blocking the administration's efforts to help the American cattlemen, relief can only come through speedy consideration and passage of this emergency measure. I urge the Ways and Means Committee to give this bill priority consideration and bring the bill to the House floor under suspension of the rules in time to allow the other body to also give its approval before adjournment.

OKLAHOMA SENATE ENDORSES McDONALD SCHOOL BILL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. McDONALD. Mr. Speaker, the Oklahoma Senate has passed a resolution endorsing H.R. 12365, my bill to restrict the jurisdiction of the Federal courts with respect to forced school attendance. This is just one more example of the overwhelming opposition to forced busing in our public schools that exists at the State and local level.

It is an interesting coincidence that this resolution was passed on May 10, 1976, the same day I filed a discharge petition on H.R. 12365. This petition is still available for Members who would like to go on record against a Government policy of forcing schoolchildren to attend certain schools because of their race.

The resolution follows:

SENATE RESOLUTION No. 63

A resolution relating to the Federal Judiciary and busing; memorializing Congress to pass House Resolution No. 12365; and directing distribution

Whereas, the forced busing of school children has produced an atmosphere of controversy and turbulence in this country; and

Whereas, action must be taken to restore confidence and respect in this nation's government and laws; and

Whereas, after years of rhetoric and inaction an opportunity has been presented to correct this injustice by the introduction of the McDonald School Bill, House Resolution No. 12365; and

Whereas, continued congressional inaction in the face of judicial tyranny constitutes a shirking of responsibility in our system of checks and balances; and

Whereas, the second paragraph of Section 2, Article III of the Constitution of the United States, which reads:

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

empowers the Congress to remove the appellate jurisdiction over busing.

Now, therefore, be it resolved by the Senate of the 2nd session of the 35th Oklahoma Legislature:

That the United States Congress be, and hereby is, memorialized to take affirmative action and pass House Resolution No. 12365, the McDonald School Bill.

That copies of this resolution be distributed to the Oklahoma Congressional Delegation.

RELOCATION OF MILITARY BASES

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Friday, September 17, 1976

Mr. MATHIAS. Mr. President, the new section 612 to the military construction authorization bill, provides a way for the Congress to exercise appropriate oversight of major changes in the size or locations of military installations. With this amendment, a proper constitutional balance will be struck between congressional oversight of major base realinements the prerogative of the Chief Executive to make such moves.

Further, this amendment can provide a way in which local communities to be affected by military moves will be informed early of the actions that are planned through their Senators and Congressmen who serve on the Armed Services Committees. It is the local community, after all, which is most directly affected by such changes and which needs adequate advance warning to prepare for a readjustment.

My own State provides examples of the need for this amendment. The Naval Oceanographic Office, a major installation in Suitland, in Prince Georges County, is being moved to Bay St. Louis, Miss. The Army is presently considering the possible move of its Ordnance School from the Aberdeen Proving Ground, in Harford County, to the Redstone Arsenal in Alabama. I have strongly resisted these moves, but, as I have said before, it appears that there is a new confederacy in America, and it is attracting all the military facilities in the country to the Southern States. I question whether there is any economy involved in this, and I question whether it is good for the military preparedness of the country. I raised these questions repeatedly in the case of the Maryland instalaltions. If this amendment had been in effect when the decisions on these Maryland facilities were being made, the Congress would have been able to obtain the answers in its own right and to evaluate the fiscal, environmental, and other consequences of these moves.

Maryland is not alone in this situation. Virtually every State that contains major military installations within its borders runs the same risks unless Congress has the oversight that this amendment provides.

In these days of modern management decisionmaking, we cannot afford to have the Federal Government's largest department—the Defense Department—not look at all the potential ramifications of decisions like these. This amendment would require such a look.

We have all been reading in the press lately about the increasing imbalances in economic growth occurring among regions of our country. Certain regions are experiencing "negative cash flows." That is, they are paying more Federal taxes per capita than are being returned by the Federal Government to that region in terms of programs, construction, services, and employment. At the same time other areas of the country are experiencing high rates of growth, partly due to Federal decisions to locate Government facilities there or award contracts to companies located there.

The DOD Office of Economic Adjustment is there to provide technical assistance to communities whose economic base is threatened with instability due to military relocation decisions. Among the services this office can provide are inventorying available Federal programs which may fill the gap caused by a relocation or reduction in a military base; recommending alternative uses for base facilities declared surplus as a result of a move; and recommending alternative employment opportunities to replace those lost due to a move or reduction in force.

Section 612 would allow the Armed Services Committee to take a detached look at decisions on military base moves and to asses their long-range impact on regional growth.

OCEANS '76 FORUM

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. ALEXANDER. Mr. Speaker, on Monday and Tuesday of this week the Oceans '76 Forum met in Washington to discuss ocean policy and ocean-related matters. This gathering brought together congressional leaders in marine related matters and scientists, engineers and administrators of 12 nations.

The oceans are literally the last frontier, taking up 70 percent of the Earth's surface, possessing riches that are expected to trigger a new kind of gold rush before this century is out.

Already American mining companies are pushing for exclusive rights to mine vast tracts of ocean bed for nickel, copper, and other minerals. One nation's mining claims could be jumped by another country in this rush to exploit the last frontier.

There are some important statistics that are well worth noting:

The whole North American Continent of 9,390,000 square miles would sink out of sight in just one corner of the Pacific ocean, which takes up 64,186,300 square miles of the unexploited frontier. Add in the Artic, Atlantic and Indian oceans and the frontier grows to 131,062,500 miles—or 14 times the area of North America.

The value of the ocean riches to the United States alone is estimated to be $45 billion by the year 2000, with oil, gas, and manganese nodules accounting for about $19 billion of the total, and fish $4 billion, according to estimates made by Robert R. Nathan Associates.

At the present time approximately 17 percent of petroleum is obtained from offshore resources. With a decline in surface production, it is expected that this figure will increase to more than 40 percent in less than 10 years. The ocean floor could very well become the major source of oil and gas.

The nickel and cooper extracted from manganese nodules lying on the ocean bottom could transform the United States from an importer of these minerals that we presently obtain from four exporting countries, to an exporter, according to the Interior Department's Ocean Mining Administration.

Because of the vast potential that the oceans offer to industrial nations like the United States for providing the energy and other resources necessary for running our farms and factories there has been a new enlightenment that is evidenced by numerous articles and publications that are appearing all over the country. In June I noticed an article in the American Way, by Isaac Asimov entitled "The Endless Mine," which simply states the case. I commend that article to my colleagues.

POSSIBILITY OF CHANGING OUR NATIONAL ANTHEM

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. FISHER. Mr. Speaker, for some time the possibility of changing our national anthem to a new composition has been discussed. The Star Spangled Banner is a marvelous piece with stirring words, but exceedingly difficult for the average person to sing.

Several compositions have been proposed as alternatives. Some suggest that the Battle Hymn of the Republic has the most stirring theme of any of our well-known songs and could be scored and played in ways appropriate to a variety of patriotic and national situations. If the Battle Hymn of the Republic were chosen as the official national anthem, new words would be appropriate.

Mrs. Vinton Liddell Pickens of Ashburn, Va., has composed new words for the Battle Hymn of the Republic to be used as an alternate national anthem. I am bringing this subject to the attention of my colleagues in the belief that this issue is a most appropriate topic during the Bicentennial Year:

PROPOSED NATIONAL ANTHEM

(By Vinton Liddell Pickens)

Proposed new words for The Battle Hymn of the Republic as an alternate national anthem.

Our eyes have seen the glory of the freedom of the world,
We stand for freedom everywhere our banner is unfurled.
Whatever creed we follow we uphold the worth of man
In freedom marching on.
Glory, glory, halleluja!
Glory, glory, halleluja!
Glory, glory, halleluja!
In freedom marching on.
As native or as immigrant, long here or newly come,
We shout the shout of freedom as we march to freedom's drum.
We have a faith in freedom that we hope the world will share
As we go marching on.
Glory, glory . . .
As we go marching on.
Men fought for freedom long ago, our birthright to secure.
We keep alive their memory, our loyalties endure.
The light they lit for liberty is ours to guard today
As time goes marching on.
Glory, glory . . .
As time goes marching on.

A LEGISLATIVE VETO

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, this morning's New York Times contains an editorial which deserves thoughtful consideration by all my colleagues. So that all may review this discussion of the legislative veto, I want to include it at this point:

A LEGISLATIVE VETO

In an effort to regain powers that seem to have slipped away to the White House and the executive branch, Congress in recent years has become intrigued with the idea of a legislative veto. Under this concept, the legislators delegate authority but keep a string on it by requiring that any decision or regulation be referred back to Congress for approval or disapproval within 60 days.

This concept is embodied in the War Powers Act of 1973 and the Budget Control and Impoundment Act of 1974. It is sound and desirable in those specific instances because Presidents had become accustomed to dispatching military forces abroad and to impounding appropriated funds on their own authority. There was no way for Congress to regain authority in those fields except by regularizing the practice and subjecting it to a legislative veto.

Congress also has long had a veto over a President's power to merge or reorganize executive agencies. This, too, is a legitimate safeguard against arbitrary executive action.

The legislative veto is much more dubious, however, when applied routinely to the rule-making powers of the independent regulatory agencies. It is a close question whether a Congressional veto of specific regulations promulgated by, for example, the Environmental Protection Agency or the Securities and Exchange Commission, is a permissible exercise of Congress's right to set the terms by which it delegates its rule-making legislative powers or whether it is an unconstitutional invasion of executive authority.

Whether constitutional or not, the practice is probably unwise. Congress lacks the technical expertise to review the complicated issues which result in administrative agency rulings and, presumably, it lacks the time as well. Adding the research staffs needed to review all these rules would be extremely costly and duplicative.

In theory, the concept would give every interest group and defeated claimant a second chance to argue against a regulation on Capitol Hill after losing its case in an administrative forum. In practice, only the most zealous or those who could afford a Washington lobbying campaign would actually approach Congress to seek a reversal of a regulation. In short, if everyone appealed to Congress, it would be an inefficient way of conducting the public's business; if only the most determined or well-heeled appealed, it would be a discriminatory way.

Nevertheless, the idea of a legislative veto over new and controversial agency regulations has strong appeal in both parties and across the ideological spectrum on Capitol Hill. Senator Edward M. Kennedy, Massachusetts Democrat, and Representative Walter Flowers, Alabama Democrat, have introduced identical bills to carry out this idea, and other members have offered somewhat similar proposals.

The House Judiciary Committee has approved the Flowers Bill, but the House Rules Committee has deferred action, and no floor vote is expected in this Congress. Meanwhile, however, adherents of the concept have been attaching it piecemeal to many bills. The House last year included a veto provision covering all regulations to be issued by the Consumers Product Safety Commission, but this provision was dropped in the House-Senate conference. This month, the House added it to a bill extending the Federal Insecticide, Fungicide and Rodenticide Act and also to the Toxic Substances bill, both of them to be administered by the Environmental Protection Agency.

President Ford is strongly opposed to the Congressional veto on constitutional grounds, viewing it as a violation of the separation of powers doctrine and an impairment of Presidential power. At the very least, Congress ought to refrain from moving further in this direction until both the legal implications and the practical consequences have been much more carefully studied.

SALUTE TO JOHN W. WARNER AND THE ARBA

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. MOAKLEY. Mr. Speaker, it is with great pleasure that I extend my congratulations to the American Revolution Bicentennial Administration and its Administrator John W. Warner. The success of our great Nation's Bicentennial was in large part due to Mr. Warner's able and inspiring leadership of the ARBA. By visiting every State and Territory in our Nation, Mr. Warner oversaw a celebration which has been participated in and cherished by all of us.

The ARBA deserves recognition in its own right as it was responsible for generating the public enthusiasm that made the Bicentennial what it was. The response of the American people to the programs and events sponsored by the ARBA was overwhelming and something that we as a Nation can be proud of.

The Boston 200 Bicentennial Committee is proud to have been associated with such a successful operation, as were the people of Boston. A great deal of community effort went into making the Boston Bicentennial a success for all.

The progress of our Nation over the last 200 years has been immense. Our system of Government has remained intact longer than any other in modern history. The Bicentennial celebration was a message to all of us that we are and will continue to be a great Nation.

I once again congratulate the efforts of the ARBA under its Administrator John W. Warner.

SOVIETS PUBLISH BLUEPRINT FOR AMERICA'S DESTRUCTION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. BOB WILSON. Mr. Speaker, for years I have been alarmed by the increased buildup of the Soviet fleet and the concurrent decline in the number of ships in our own Navy. According to San Diego Union Military Affairs Editor Kip Cooper's article in the August 22 issue of the newspaper, my concern has not been without foundation.

I have said that the Russian increase in their navy went far beyond that necessary to protect her shores and her international trade, and indeed, portions of Russian naval chief Adm. Sergi Gorshkov's book, as quoted by Mr. Cooper, bear me out.

I commend Mr. Cooper's article to all my colleagues as another hint of what the Soviet Union has in mind for the United States of America:

SOVIETS PUBLISH BLUEPRINT FOR AMERICA'S DESTRUCTION

(By Kip Cooper)

Russia sent shock waves rippling through the Western world when it exploded its first atomic bomb in August 1949.

Now a prominent Soviet military strategist is equating that event with the building and deployment of a Soviet navy capable of strangling the United States through a devastating nuclear attack on cities and blockade of ports after crippling the U.S. Navy in a strategic assault.

The blueprint for the destruction of "American imperialism" is detailed in a 463-page book by Adm. Sergei Georgievic Gorshkov, father of the modern Soviet navy and its chief for 21 years.

In his book, "The Sea Power of the State," Gorshkov specifically identifies for the first time the United States as the previously nameless "enemy" of Soviet propaganda.

Gorshkov minces no words when he writes in direct language, that:

The Soviet navy can saturate U.S. military-industrial complexes (like San Diego) with nuclear weapons from platforms on and beneath the sea.

The Russian fleet can interdict and cripple the flow of oil and other strategic materials to the U.S. and Western Europe. (The U.S. depends on imports for 87 of 93 strategic materials.)

It has the capability of blockading U.S. ports and isolating outlying islands and territories in case of war.

In preparation for a possible war, the USSR is positioning task forces in strategic locations on the world's oceans and building overseas bases in "friendly countries" to support them.

The Soviet navy is a major instrument in the Kremlin plan to communize other nations.

Russian seapower has a "critical role" to eliminate imperialists' attempts to control the world's oceans and their natural resources.

"Seapower will determine the success of political measures and the accomplishment of strategic missions," Gorshkov states.

Gorshkov characterizes the building of the blue-water Soviet navy as the "outstanding event which has shattered the illusions of the imperialist aggressors that they had no strong opponent in the sphere of naval warfare."

Pentagon officials, who have been stressing the growing strength of the Soviet navy in comparison to the decline of U.S. seapower, have seemed almost conspiratory in their silence on Gorshkov's grand design for conquest and the effect it might have on the U.S. naval shipbuilding program.

Navy Secretary J. William Middendorf, however, has made very brief reference to Gorshkov's book in two recent speeches.

"Like Mein Kampf, which spelled out Hitler's intentions, when the history of this age is written, Goshkov's 'Sea Power of the State' may have been the most prophetic statement over the last part of the 20th Century," Middendorf said.

Further than that, however, Pentagon officials are unwilling to be interviewed or to discuss Gorshkov's book, even on a background basis.

This includes the Pentagon's top intelligence specialist on the Soviet Union, Maj. Gen. George Keegan, USAF, who made national headlines in a speech on Russia in San Diego last January to the San Diego Council of the Navy League.

(Keegan said here that Russia already had pulled the rug from under one of the United States chief hopes for averting nuclear war—the doctrine of passive deterrence or the retaliatory strike—by her own preparations for nuclear war and the steps she has taken to survive a nuclear attack.)

In response to a query, a spokesman for Keegan said "the general is not willing to comment on the book at this time."

There has been almost no comment on Gorshkov's book in the press. The book is in Russian and copies of it are difficult to come by in the West.

Almost half of its 463-pages are devoted to the history of the Russian navy and how the navy was methodically built to reach the goal of making the Soviet Union a major seapower.

The portions of the book dealing with Russia's designs for emerging victorious in a war with "imperialism" have been translated and copies of that have reached a few Western journalists including columnists Evans and Novak and Lt. Gen. Ira C. Eaker, USAF, ret., and The San Diego Union.

Eaker believes that Gorshkov's book "revealing plans for destroying the United States and its allies would be headlined in every newspaper in the United States were we not so preoccupied with politics.

Citing unnamed Washington officials, Evans and Novak said while contradicting the Kremlim policy on detente, Gorshkov's grand strategy is regarded as an accurate mirror of Kremlin design.

"Mix Gorshkov's fearsome naval potion with the quixotic brew of detente and the result could be deadly for the West," the columnists said.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on September 17, 1976, the Continental Congress approved a plan of treaties outlining American foreign commercial interests. John Adams, in his autobiography, considered the document "one of the most important transactions that ever came before Congress." A student of the American Revolution has recently suggested that Congress, fully aware of the balance of power concept, conceived the treaty "as an instrument to play the European balance of power for their own advantage."

The plan of treaties served, with a few modifications, as the model for the treaty of amity and commerce signed with France in 1778, and for nearly all the other treaties of the United States prior to 1800.

PRESIDENT FORD'S REMARKS AT THE UNIVERSITY OF MICHIGAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. MICHEL. Mr. Speaker, "The American people are ready for the simple truth, simply spoken, about what the Government can do for them and what it cannot and should not do." These are President Ford's words at the kickoff of his campaign on Wednesday in Ann Arbor, Mich. I believe these words form the crux of this year's Presidential and congressional elections.

For too long the people have been told "trust me." Jimmy Carter smiles and says "trust me." When this Congress approved President Ford to assume the Vice-Presidency, Jerry Ford did not say "trust me." Both the House and the Senate, Democrats and Republicans alike, demanded specifics and examined the performance of Jerry Ford's long record of service to the American people. And after the most thorough examination of the life of any public official in our American history, Jerry Ford received your overwhelming approval.

Do the American people in 1976 not deserve more than smiles and promises? Do they not deserve decisive and proven leadership?

In closing his spech at the University of Michigan, President Ford defined the trust that all Americans expect from their leaders:

It is not enough for anyone to say "trust me." Trust must be earned.

Trust is not having to guess what a candidate means.

Trust is leveling with the people before the election about what you're going to do after the election.

Trust is not being all things to all people, but being the same thing to all people.

Trust is not cleverly shading words so that each separate audience can hear what it wants to hear, but saying plainly and simply what you mean and meaning what you say.

President Ford has earned that trust by his actions not only in the last 2 years, but during his entire public career. Mr. Speaker, I insert the text of the President's speech at this point in the RECORD:

TEXT OF REMARKS BY THE PRESIDENT DELIVERED AT CRISLER ARENA, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH., SEPTEMBER 15, 1976

I have come home to Michigan to share with you my views of America in 1976 and my hopes for America in the next four years and beyond.

During the last two years, in the aftermath of a difficult war and a painful ordeal of economic adversity and political crisis, we reached a critical turning point in America's history.

Throughout most of your lives, America has faced turmoil. Some of our most beloved leaders have been assassinated. There was a war we could not either win or end. There were destructive riots on our streets and campuses. We suffered runaway inflation and the worst recession in 40 years. We were betrayed by corruption at the highest levels of government.

Through all of this, we found in ourselves a basic strength which has proven mightier than all our armaments, more precious than our great store of national wealth, and as enduring as our Constitution.

As I said on taking the oath of office as President two years ago, "our long national nightmare is over." In the last two years, the United States of America has made an increadible comeback—and we're not through yet.

In 200 years as a free people, much has changed in our Nation but America's basic goals remain the same:

Americans want a job with a good future.

Americans want homes in decent neighborhoods—and schools where our children can get a quality education.

Americans want physical security—safety against war and against crime, safety against pollution in the water we drink and the air that we breathe.

We want medical and hospital care when we are sick, at costs that will not wipe out our savings.

We want the time and opportunity to enlarge our experience through recreation and travel.

We Americans are a proud people. We cherish our inalienable rights: the right to speak our minds—the right to choose the men and women who enact and enforce our laws—the right to stand equal before the law, regardless of sex, age, race or religion—the right as a farmer, businessman, worker and consumer to bargain freely in the economic marketplace—the right to worship as we choose.

It all adds up to the "American dream".

These are the goals which every politician and every citizen has for America. They are not some mystic vision of the future. They are the continuing agenda for action today.

And so, the question in this campaign of 1976 is not "who has the better vision of America." The question is "who will act to make that vision a reality."

The American people are ready for the simple truth, simply spoken, about what the government can do for them and what it cannot and should not do. They will demand specifics—not smiles; performance—not smiles; performance—not promises.

There are some in this political year who claim that more government, more spending, more taxes and more controls on our lives will solve our problems.

More government is not the solution. Better government is.

It is time we thought of new ways to make government a capable servant and not a meddling master.

Let's get down to cases.

Let's talk about jobs.

Today 88 million Americans are gainfully employed—more than ever before in our history. But that's not good enough.

My immediate goal is two and a half million new jobs every year with emphasis on our youth, especially the minorities. Not demeaning, dead-end jobs paid for out of the Federal Treasury, but permanent jobs with a future generated by the demands of a healthy economy.

Can we do it? We have done it.

We proved once and for all that you can cut inflation in half and add four million new jobs in just 17 months. We did it with tax cuts that allowed Americans to spend more of their own money. We did it with tax incentives that encouraged job production. We did it by letting our free economic system do what it does better than any other system in the world—produce!

But I won't be satisfied until every American who wants a job can find a job.

I am particularly concerned that there are too many young Americans who cannot find a good job, or get the training and experience they need to find a good job.

Americans have long since recognized the importance of assuring that every high school graduate who is willing, able and qualified be able to go to college. We have done so through grants, loans and scholarships.

I believe we can apply this same principle to a program for young people who choose not to go to college, but want a job at which they can learn a trade, a craft or practical business skills.

Let's put America—all of America—to work!

Once a good job is secured, it's an American tradition to put some of those earnings toward a family home. But nowadays, with interest rates too high, down-payments too high, and even monthly payments often too high—home-ownership is not within the reach of many Americans, particularly young Americans beginning a career or marriage.

My goal is home-ownership for every American family that wants to own a home and is willing to work and save for it.

Here is how I will meet that goal: First—I will continue to pursue economic policies, including tight control of unnecessary Federal spending, which will hold inflation down, reduce interest rates, cut your taxes, increasing your purchasing power and making more funds available for home mortgages.

Second—It's time we did something more about the down-payment requirements which so many people can't afford. I will recommend changes in the FHA law to reduce down-payments on lower- and middle-price houses, by up to 50 percent.

Third—I will direct the Department of Housing and Urban Development to accelerate implementation of a new federal guaranty program to lower monthly payments in the early years of home-ownership and gradually increase them as the family income goes up.

A good job. A good home. Now let's talk about the good health we must have to appreciate both. My goal is an America where health care is not only the best in the world—but is both accessible and affordable. But raising Federal taxes by 70 billion dollars a year for a government-dominated national health insurance program is not the way to do it. That path leads to more bureaucracy, more fraud, more taxes and second class medical care.

That's what I'm against. Here's what I'm for:

As our first priority, I have recommended protection against the costs of a catastrophic or prolonged illness for the aged, and the disabled—insuring that never again will they have to pay more than $750 for medical care in any year. People should not have to go broke just to get well.

Next, I proposed to the Congress last spring, a major reform in federal health programs. We should combine sixteen overlapping and confused Federal health programs—including the scandal-ridden Medicaid program—into one $10 billion program that distributes the federal funds more equitably among the states and insures that those who need these services get first class care.

America is still awaiting action by the Congress on this urgently needed legislation.

Now let's turn to an area of special concern to this audience—education.

One of the most urgent problems is to create a climate in every classroom where teachers can teach and students can learn.

Quality education for every young American is my Administration's goal. Major reforms are necessary in the relationship between the national, state and local units of government so that teachers can spend their time teaching instead of filling out Federal forms. Federal aid is necessary, but Federal aggravation should stop.

Nine months ago, I proposed to the Congress that we replace 24 paper-shuffling, educational bureaucracies with a single federal program, which would provide 3.3 billion dollars in direct aid to elementary and secondary schools.

They have not acted. Once again this Congress has shown itself to be sitting dead in the water—addicted to the status quo. The American people deserve better representation that that! They will demand it on November 2.

We must ensure that low-income students have access to higher education.

We must also find ways through the tax system to ease the burden on families who choose to send their children to non-public schools and to help families cope with the expenses of a college education. In my Administration the education needs of America's middle-income families will neither be forgotten nor forsaken.

Education is the key to a better life. The prevention of crime is essential to making our lives secure.

The Constitution demands that we ensure domestic tranquility, and that is what I called for in my crime message to Congress. Most crimes are committed by hardened career criminals who know no other life than the life of crime. The place for those people is not on the streets, but in jail. The rights of a law-abiding society, the rights of the innocent victim of crime, must be fully protected.

And finally, we must give Americans the chance to enjoy America. I have outlined a 1.5 billion dollar program to expand and improve our national park system over the next ten years. This means more national parks, more recreation areas, more wildlife sanctuaries, more urban parks and historic sites. Let's make this America's Bicentennial birthday gift to all of our future generations.

Today America enjoys the most precious gift of all: we are at peace. No Americans are in combat anywhere on earth, and none are being drafted—and I will keep it that way.

We will be as strong as we need to be to keep the peace, to deter aggression, and to protect our national security.

But if our foreign policy is to have public support, it must represent the moral values of the American people.

What is more moral than peace with freedom and security?

As the leader of the free world, America has a special responsibility to explore new paths to peace for all mankind. It is a responsibility we have not shirked. We have been a force for peace in the Middle East, not only in promoting new agreements, but in building a structure for a more lasting peace.

We have worked for peace with the Soviet Union, not only in resolving our many conflicts, but in building a world where nuclear armaments are brought under control.

We are working for peace in Europe, where the Armies of two major coalitions confront each other.

We will continue to build our relationship with the People's Republic of China, which contributes importantly to peace and stability in the world.

Now, in the face of a new challenge, we are embarked on a mission for peace in southern Africa.

This is the first Administration in America's history to develop a comprehensive, affirmative African policy. This policy has won respect and trust on that troubled continent.

At my direction, Secretary Kissinger is now engaged in an intensive effort to help all the parties—black and white—involved in the mounting crisis in southern Africa, find a peaceful and just solution to their many and complex differences.

The African parties in the very grave and complicated problems of Namibia and Rhodesia have encouraged us to help them in the search for peace and justice. We are also backed in our efforts by our European Allies with traditional bonds to the African Continent. In particular we are working in close collaboration with the United Kingdom which has an historical and legal responsibility in Rhodesia.

Success will depend fundamentally on the cooperation of the parties directly concerned. We will not and we cannot impose solutions, but will depend upon the goodwill and determined efforts of the African parties themselves to achieve negotiated settlements.

We seek no special advantage for ourselves in these negotiations. We do share with the people of Africa these fundamental objectives: a peaceful outcome; a future of majority rule and minority rights; a prospect of widening human dignity and economic progress; and a unified and an independent Africa free from outside intervention or threat.

The path that leads to these goals is not an easy one. The risks are great. But America's interests and America's moral purpose summon our effort.

Despite the rigors of a great national election, I have persisted in carrying out this new policy toward Africa—not because it is expedient—because it is right.

I pledge to you that under my Administration, American foreign policy will serve the interests of our country and our people—it will be true to our great heritage of the past, fulfill our purposes in the present, and contribute to our best vision of the future.

It is not enough for anyone to say "trust me." Trust must be earned.

Trust is not having to guess what a candidate means.

Trust is leveling with the people before the election about what you're going to do after the election.

Trust is not being all things to all people, but being the same thing to all people.

Trust is not cleverly shading words so that each separate audience can hear what it wants to hear, but saying plainly and simply what you mean and meaning what you say.

I am proud of the maturity of the American people who demand more honesty, truthfulness and candor of their elected representatives.

The American people, particularly its young people, cannot be expected to take pride—or participate—in a system of government that is defiled and dishonored—in the White House or in the halls of Congress.

Personal integrity is not too much to ask of public servants. We should accept nothing less.

As we enter the last seven weeks of this national election, a new poll indicates that as many as 65 million Americans will not vote in November.

Some peoople have said that they are not excited about any of this years' candidates. Let them be excited about America.

Let them be excited about their own capacity to grow and change—about our Nation's capacity to grow and change—and even about the evolution, with their help, of the candidate of their choice.

In this year of 1976, I stand before you as the last President of America's first 200 years. But with your help, I also intend to be the first President of America's new generation of freedom.

Working together we can build an America that does not merely celebrate history, but writes it—that offers limited government and unlimited opportunity that concerns itself with the quality of life—that proves individual liberty is still the key to mutual achievement and national progress.

And when the history of this era is written, future generations will look back at America in 1976 and say—yes—they were two hundred years old—but they had really only just begun.

OPPOSITION TO CLEAN AIR ACT AMENDMENTS OF 1976

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. McCOLLISTER. Mr. Speaker, I am taking this opportunity to go on record in opposition to the Clean Air Act Amendments of 1976 as passed by the House. Like everyone else in this body, I am concerned that we enact effective legislation which protects the American public from environmental hazards. The Federal Government has a positive role to play. In achieving our national goal of clean air, however, it is essential that we not jeopardize the attainment of other national priorities. I believe this bill, H.R. 10498, would, indeed, be a step forward in meeting national clean air standards. But it would also represent a giant step backwards in our attempt to achieve other national objectives.

In recent years, nearly every adult American has come to appreciate fully the vital need of energy independence and full economic recovery, especially in light of the impact on jobs. This bill does not strike an appropriate balance between these concerns and the need to clean up the air. In my view, the proponents of the bill are engaging in "tunnel vision." They are not looking around themselves, not even ahead of themselves as to what the potential consequences will be. We should not be so blind. This bill will have far-reaching social, economic, and energy implications beyond the requisite standards to clean up the Nation's air.

The fact that the House Interstate and Foreign Commerce Committee, on which I serve, spent 22 sessions alone to make up the bill is a good indication of the complexity and controversy that surrounds it. Without question, it is one of the most difficult and complex issues brought before the Congress in years. In fact, the complexity of this year's bill is a direct reflection of our naivete in passing the original Clean Air Act in 1970.

Hopefully, the emotionalism which resulted in several of the ill-conceived portions of the act which this bill hopes to correct will have abated in the last 6 years. By no means is this simply a vote for or against clean air. As responsible legislators, we should not let the emotionalism of the issue obscure the need for objective analysis.

Section 108 of H.R. 10498, "significant deterioration," is perhaps the most controversial issue in the entire bill. This provision would require State implementation plans to restrict deterioration of air quality in areas of the country where the air quality is already better than the national standard. Implementation would be through the establishment of Federal zoning classifications of clean air areas: Class I, in which virtually no deterioration would be allowed, and class III, in which additional deterioration would be permitted.

This section would have a considerable impact in the clean air States of which my State, Nebraska, is one. The provision apparently would guarantee air quality, but at the expense of future development and growth. Even if sources of pollution use the best available technology, industrial development will be severely limited in many areas. For the average man, this translates into fewer jobs, postponement of full economic recovery and continued reliance on expensive foreign oil due to restrictive controls on energy exploration.

The potential adverse, indeed disastrous, effects on unemployment and on energy consumption merit serious and objective analysis. Before such a far reaching proposal is implemented, we need to have more conclusive answers. To date, the proponents have not been able to answer these questions adequately. There is no concensus as to what will happen if section 108 is implemented. Therefore, I firmly believe that the proper and wise course at this time would have been the adoption of Congressman CHAPPELL's amendment. The amendment by the gentleman from Florida would establish a National Commission on Air Quality to conduct a comprehensive study of the entire nondeterioration issue, and report back to Congress in 1 year on its findings. In the interim period, existing EPA regulations would remain in force thus assuring protection of the Nation's clean air areas.

I also object to this section, because it will become a bureaucratic nightmare for States and localities. Proponents claim this section would allow States to retain authority for making air quality decisions. In fact, though, it would give little authority to the States and what little it would give is more than offset by what it would take away. The section would severely limit States' authority to permit changes in air quality in order to promote economic development. Under current EPA regulations, the States can permit changes in air quality up to the national primary and secondary standards that protect human health and welfare. Under this section, with its more stringent class III limitation, they could not. This section will simply prevent States from achieving national air standards that best suits the economic, social, and environmental needs of its citizens. And if States want to redesignate either class II or III areas, certain difficult and time-consuming procedures need to be followed. Preparation of health, environmental, economic, social, and energy impact statements, public hearings and approval by State legislatures or local governments are some of the burdensome procedures necessary before redesignating an area. And all of this is subject to "review" by the EPA. As my colleague from Florida says:

> It will become a bureaucrat's dream come true.

Another section that equally disturbed me was section 203 dealing with automobile emission standards. This section represented another unrealistic approach. I support the Dingell-Broyhill—train—amendment as a necessary balance between clean air and energy conservation and am pleased the House agreed to adopt this amendment by a 55-vote margin. This amendment contains the same strict auto emission standards as presently proposed in H.R. 10498. The difference is that the standards in Dingell-Broyhill are gradually phased in over an extended period of 2 years in order to minimize the potential adverse impact on the auto industry. This amendment is critical to the millions of auto-related jobs in America. Automotive related employment accounts for approximately one out of every five jobs in the country. And as we recently saw with the oil embargo, the health and vitality of the auto industry plays an integral part in the health of the national economy.

The adverse consequences of section 203 would have been staggering. As Mr. DINGELL reported, Government experts in the EPA, the Federal Energy Administration and the Department of Transportation supplied an objective analysis for Congress of the effects on health, employment, costs to consumers, and fuel efficiency relating to auto emission control. That analysis clearly demonstrates that section 203 standards would waste energy, produce negligible air quality benefits, increase consumer costs, and impose a technological straitjacket on the auto industry.

For example, in model years 1980 through 1985, cumulative fuel consumption differences between the two standards amount to 9.27 billion gallons of gasoline. While total consumer costs are $22.3 billion more under section 203 than under the Dingell-Broyhill amendment. That is almost as much as we pay the Arabs every year to import their oil. While these enormous costs will ultimately be exacted from consumers, they will buy only a negligible decrease in the amount of regulated pollutants from auto emissions.

The impact of this legislation is going to be felt the most in the pocketbooks of the American people. Passage of this legislation will escalate costs to the electric utility industry which will be passed on to consumers. H.R. 10498 is estimated to increase electricity costs by $132.2 billion over the period 1975 to 1980, and by $14.1 billion in 1990. For the average household the costs between 1975 and 1990 will be reflected in a $457 cost increase. I do not think these figures represent "small" increases as the proponents of the bill would have us believe.

Not that the bill is all bad. Some remedial measures have been included. I would like to compliment the Rogers subcommittee particularly for rectifying a gross error in the 1970 version of the act regarding the performance warranty. It is a tribute to the diligence of the subcommittee in examining this issue, that section 209 of this bill, including the corrective language, was accepted unanimously by the full Interstate and Foreign Commerce Committee.

Briefly stated, the problem is the anticonsumer and anticompetitive monopoly situation which would result when one of the two automotive warranties required in the original act was implemented. The House Small Business Committee in the 93d Congress studied this matter thoroughly and concluded that the length of the performance warranty should be reduced while the protection of the production warranty, requiring the manufacturer to produce an emissions systems which will last for 5 years or 50,000 miles, should continue unchanged. This would prevent what the committee found would be an emerging Government-mandated monopoly for dealer's shops and a squeezing out of the marketplace for independent garages and parts manufacturers. To correct this problem, the bill provides a reduced term for the performance warranty to 18 months or 18,000 miles, encouragement of a voluntary parts certification program and calls for a study of the potential monopoly by the Federal Trade Commission. If the FTC finds no significant diminution of competition would result from a 5-year warranty, that finding would automatically trigger a return of the warranty to a full 5 years in duration. In this way, the committee has protected both the consumer and the small business component of the auto aftermarket while assuring that warranty coverage is maintained and will be strengthened if it does not detract from other important goals. I salute the committee for its attention to this concern. And I urge the members of the House-Senate conference committee to retain the Commerce Committee's unanimously adopted solution to this problem.

CENTER FOR INDEPENDENT LIVING

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. MILLER of California. Mr. Speaker, the people of northern California, and particularly residents of the San Francisco Bay area, have come to know an impressive group of people whose achievements I would like to share with other Members of the House. The

Center for Independent Living, a Berkeley based coalition of men and women providing extensive services to several thousand physically and emotionally handicapped people, is a model for community-based service activities.

The men and women of the center have not only provided support services and counseling to other handicapped people in the bay area, but have become effective spokesmen for this group in Sacramento and Washington. One of the moving forces in the creation of the center, and a friend of mine for a long time, Ed Roberts, now serves as the director of rehabilitation, a testament to the center's impact throughout California.

A recent article in the New York Times illustrates how, through the activities of the Center for Independent Living, these men and women have become the strongest advocates for millions of Americans who may profit from the establishment of similar programs throughout the country.

The article follows:

BERKELEY TURNS INTO MECCA FOR HANDICAPPED PERSONS

(By Nancy Hicks)

BERKELEY, CALIF., September 5.—The Free Speech and People's Park struggles are long gone, but Berkeley has become a mecca for a new, equally radical movement—the growing numbers of handicapped people who are determined to live independent lives in the community, out of their family basements, out of the institutions that have kept them hidden for so long.

Armed with new antidiscrimination legislation that protects the 25 million physically and emotionally handicapped Americans, and working with a sympathetic City Council here, the handicapped are pushing to open up this town to accommodate their wheelchairs and accept their disfigurements, and they are succeeding.

"Berkeley ought to be the kind of place where people feel free to create something and be whatever they want to be," said City Manager Elijah Rogers, in explaining why this municipality is spending $250,000 this year to put an elevator in City Hall so that citizens in wheelchairs can attend City Council meetings and to continue the program of constructing sidewalk ramps for wheelchairs.

UNUSUAL STUDENT BODY

They have a friend in Sacramento, the state capital—Edward V. Roberts, a quadriplegic who runs the state's programs for the handicapped as director of rehabilitation. Mr. Roberts, a controversial figure, is credited with beginning the Berkeley movement for the handicapped when he convinced the university here to admit him as a student against its will in 1962.

The disabled have now swelled their ranks in the student population at the university to what is probably the largest concentration of handicapped people on a campus in the country—409 students, 150 of them in wheelchairs.

And they have set up an unusual service and support center, the Center for Independent Living, which is complete with peer counseling, job and housing referral and a kind of travel service for wheelchairs. It has become a model replicated around the state, the country and the world.

The center, C.I.L., as it is known, is the hub of activity for the handicapped here. An out growth of the campus radicalism of the 1960's, it has been a driving force to challenge traditional charity groups, to help define issues, and to provide nuts and bolts answers to problems that keep the disabled out of circulation, it does the following.

Operates a 24-hour-a-day wheelchair repair program, complete with emergency road service, to enhance mobility, which center leaders believe is the key to integrating the handicapped into mainstream life. Recognizing that most wheelchairs are designed for indoor use and break down often as a result, it has made prototype of a new, smaller, more sturdy chair built with longer-lasting parts that are cheap and easily available in bicycle shops and department stores.

Modifies cars and vans to allow the handicapped to drive. It modifiies wheelchair controls so that those who are unable to use their hands or fingers can use their chins, cheeks or foreheads—whatever moves—to propel themselves to their destination. The center is training other handicapped people to make these repairs so that they become the nucleus for staffing other centers like theirs across the country.

Operates an attendant referral services that screens and develops a pool of reliable aides who help immobile people bathe, dress and eat.

Seeks to remove sections of Federal welfare laws that discourage persons from workink. While Federal rehabilitation law is supposed to encourage work opportunities for the disabled, Federal programs that provide allowances for living, for help and for attendants are often cut off once the disabled person earns more than $3,000 a year. Government agencies estimate that a pariplegic has to earn $12,000 a year to recover lost benefits through income.

Sponsors bachelor's and master's degree programs in health administration and psychology with the Center for Health Studies at Antioch College.

The essence of C.I.L.'s approach is its federally funded peer-counseling research project, headed by Don Galloway, a blind black man.

Mr. Galloway, who was blinded in childhood play at age 13, is also the local president of an organization called BOLD—the Blind Outdoor Leisure Development project—which sponsors skiing, white water rafting, tandem bicycle groups and backpacking parties for the blind.

In 1973, Congress passed a law designed to reduce discrimination in jobs, housing, educational opportunities and in public accommodation for the handicapped around the country.

Implementing regulations have only been drafted in the last few months and Federal civil rights officials are holding town meetings around the country to bring special interest groups and concerned citizens to comment on them.

The center, situated in a former auto showroom on Telegraph Avenue, just south of the campus, opened in a one-bedroom apartment in 1972 as an outgrowth of the Disabled Students Organization on campus.

When Mr. Roberts, a teen-age victim of polio, applied to the school he was bound to an iron lung at least 12 hours a day. A doctor at Cowell Hospital on campus offered to house him there, and he eagerly accepted.

Once the hospital residential unit was set up, other students who wanted to get away from home were drawn to the school, too. Once their number increased, the students organized, applied for and received Federal and state money to begin doing the kinds of things that the center does now.

As student services became better known in the bay area, more and more nonstudents began trying to make use of its services, so a group of students who included Mr. Roberts and the center's current director, Philip Draper, set up a parallel community program run by and for its consumers. It has now grown to a $600,000-a-year operation, serving up to 1,800 bay area residents a month.

KTUL-TV MUSCULAR DYSTROPHY TELETHON

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. JONES of Oklahoma. Mr. Speaker, for the seventh year in a row, KTUL-TV in Tulsa, Okla. has participated in the annual Jerry Lewis Telethon to raise funds for the Muscular Dystrophy Association. I take great pride in the record-breaking success of this year's KTUL-TV effort.

A record total of $182,021 was raised in our area, through the combined efforts of the KTUL-TV staff and the hard work of approximately 400 generous volunteers. John Chick, emcee, and Hugh Finnerty, telethon chairman, did outstanding jobs for this year's telethon. Security was provided for the seventh year in a row by the Tulsa Auxiliary Police.

Once again, the telethon demonstrated the willingness of hundreds of citizens to join the fight against muscular dystrophy, and I want to express my thanks and congratulations to all who participated in this event.

USIA AIDS FOREIGN JOURNALISTS

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. RYAN. Mr. Speaker, in recent months the USIA has come under criticism before several subcommittees of this House. Without attempting to make judgment upon the validity of such criticism, it is important for us all to give praise where it is deserved within the federal system.

At the Democratic Convention in New York a little-noticed but important service was recently undertaken by the USIA. Well over 150 reporters, from 39 different countries, were in town to cover the convention proceedings, and to interpret for their readers back home the significance of this part of the political process.

USIA set up a fully equipped press room for these journalists in the convention headquarters hotel. In addition to typewriters, wire service tickers, telephones, and other equipment, USIA officers were on hand to help answer questions, look up references, and if necessary even secure the services of a translator.

This kind of service can greatly help to increase international understanding of American politics. I believe the Agency should be commended for this effort, and I insert the text of an article which appeared in the Wall Street Journal to be printed at this point in the RECORD:

CONVENTION READY FOR FOREIGN PRESS

(By William May)

WASHINGTON.—They are here from Bulgaria, Spain, San Salvador, Kuwait, Malta and other parts of the globe to cover the Democratic National Convention.

"In all there will be reporters from 39 countries representing daily newspapers," Tom Elliston, who is in charge of the U.S. Information Agency foreign press center, said.

"The interest in the 1976 presidential election has been so great that we decided to set up a special center for foreign journalists for the first time at a national convention. We will have a similar setup for the Republican convention in Kansas City."

There are 157 reporters from foreign newspapers accredited to cover the convention, plus several hundred more who work for periodicals or radio and television. Many are based in Washington or New York, but a number came just for the convention.

They found a fully equipped press room in the Statler Hilton, the headquarters hotel for the Democrats.

There are typewriters, wire service tickers, telephones and television sets.

"We provide the space and the typewriters, but the journalists, of course, pay all the costs of transmitting their copy," Elliston said.

Many of the foreign reporters at the convention have received detailed briefings at the USIA's foreign press center in Washington on the way American political conventions are run.

"We had officials of the Democratic National Committee, professors of political science and people like Richard Scammon, the political analyst, at our briefings," Elliston said. "Here in New York we are making the USIA news wire available to the correspondents."

Language may be a problem for some of the visiting reporters, but Elliston doesn't expect any serious trouble.

"In a pinch we can call on translators from our New York foreign press center or from the United Nations," he said.

The question most often asked as the foreign newsmen check in at their special press room is:

"What is Jimmy Carter like?"

FOREIGN INTELLIGENCE SURVEILLANCE ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. DRINAN. Mr. Speaker, although two committees of the Senate have modified and approved the Foreign Intelligence Surveillance Act of 1976 (S. 3197 and H.R. 12750), the opposition to the bill continues to mount. As more citizens and organizations have the opportunity to study this bill and reflect upon its implications, a large number are opposing it.

Two recent items in respected publications examine this measure with a critical eye and conclude that, despite the actions of the Senate committees, it is still seriously deficient. The first is an editorial which appeared in the September 13 edition of the Los Angeles Times. The other is an article by Judith Miller from the October issue of the Progressive.

The article follows:

OFF TARGET

Personal liberty is always a fragile and vulnerable thing; protections for liberty are of no use unless they are solid and secure. Such is the problem with S 3197, a bill by Sen. Edward M. Kennedy (D–Mass.) to impose the first legislative controls on what intelligence officials call national-security wiretaps. The bill's controls are vague and loose, too susceptible to evasion or distortion.

It appears now that the bill will not be enacted this year because of the singular efforts of Sen. John V. Tunney (D–Calif.) in opposing Kennedy's legislation.

The bill was an important idea gone astray. Congress had imposed controls in 1968 on most forms of electronic surveillance, but not in cases where law enforcement officials claim national security is at stake. Controls are needed here—controls that work.

But the Kennedy bill leaves too many openings for abuse. Court approval would be necessary before an agency tapped the telephones of suspected foreign agents, or of people believed to be helping them; but no evidence of suspected wrongdoing would be required to obtain the court order. And the administration in power could shop among eight different tribunals to get that approval, going from one judge to another until the order was granted.

All this could become an invitation to circumvent the law's intent, a way of obtaining empty formal recognition for the invasion of innocent people's privacy, a detour around the Fourth Amendment. So Tunney's apparent success in stopping the bill is welcome.

The next Congress should have another try at this dangerous area, where successive Presidents have made the baseless claim of inherent rights to disregard the law's protections if they think the nation's security is threatened. As long as that claim persists, unambiguous controls are needed.

A NEW THREAT TO FREEDOM

(By Judith Miller)

In one of Washington's rare legislative love-ins, President Ford, Senator Edward M. Kennedy, and Attorney General Edward H. Levi assembled at the White House recently to unveil a bipartisan bill ostensibly aimed at protecting American civil liberties by limiting warrantless "national security" wiretaps. Each of these unlikely political collaborators lauded the virtues of the "Foreign Surveillance Intelligence Act"—the first piece of legislation to result from two years' disclosures of gross violations of constitutional rights by the nation's intelligence agencies and the Executive branch.

But the bill, scheduled for Senate debate this fall, presents a clear and present danger to civil rights and liberties, and threatens to expand rather than curtail the Government's authority to wiretap. Even the bill's title is a misnomer, for though the measure supposedly concerns the wiretapping of foreign agents in the United States, it would actually permit the electronic surveillance of American citizens engaged in lawful political activities at home.

A growing number of labor, religious, civil liberties, and public interest organizations have denounced the bill, but S. 3197 has been warmly endorsed by the Senate Judiciary Committee, including its "liberal" members. Only Senator John Tunney, California Democrat, chairman of the Judiciary Subcommittee on Constitutional Rights, has opposed the legislation, and has been waging a single-handed battle to block the measure during this legislative session. In August, he issued a thirteen-point statement of dissent, calling attention to the measure's staggering potential for abuse.

The bill's principal virtue is that it would, for the first time, require that warrants be obtained from Federal courts to wiretap suspected foreign agents. But apart from the long overdue provision, the bill is so vague that it would authorize unprecedented violations of the Fourth Amendment, which protects citizens from such "unreasonable searches" as wiretapping.

Under the legislation, Americans could be wiretapped without any prior indication that they are engaged in criminal activity. To obtain a warrant to wiretap a conversation, the Government would merely have to demonstrate that the subject might be engaged in illegal "clandestine intelligence activity" a fuzzy phrase which is not defined by the bill and which Justice Department spokesmen have acknowledged might encompass lawful political activity.

Moreover, the measure would explicitly permit wiretapping of "foreign powers"—allied as well as hostile—to obtain "foreign intelligence information" or intelligence essential to the "conduct of foreign affairs." This, as Tunney points out, could cover anything from ping-pong to wheat prices. The bill would permit the wiretapping of professors at foreign universities, foreign civil servants, and officials of foreign political parties. "And, of course," Tunney notes, "such a bug or tap would intrude upon all those Americans who talk with such foreigners, including reporters, political activists, members of Congress, and many others."

One of the bill's most worrisome features is the provision for judicial review of wiretap requests. Under S. 3197, seven judges would be selected by the Chief Justice of the United States to hear warrant applications; other Federal judges would be denied jurisdiction. "The Justice Department would enjoy the right of judge shopping," Tunney says. Even now, judges rarely reject wiretap requests. According to the Administrative Office of the United States Court, judges turned down only thirteen of 4,863 taps requested in the last six years for criminal investigations under the Omnibus Crime Control Act of 1968.

Under S. 3197, judges would have access to only half of the information they now receive in ruling on tap requests. A judge could be asked to determine whether there is reason to believe the target is an "agent," and whether he uses a certain place or telephone. But he would not be permitted to evaluate a critical factor: the wiretap's potential for picking up "foreign intelligence information." This determination would be made by the Attorney General, the director of the FBI, or another authorized Government official. Thus, the key decision on the *need* for such monitoring would be made by the Executive branch, not the judiciary. "Under S. 3187," Tunney notes, "if the CIA director wanted to bug the hotel room of the Speaker of the British House of Commons while he was bringing to the Capitol the copy of the Magna Carta, the only issues the judge would get to decide would be whether the Speaker was indeed an employe of the British Government and whether that was in fact his hotel room."

The warrants could also be used in unprecedented ways. Under the cover of a "foreign intelligence" warrant, the bill would permit the eavesdropping agent to conduct a fishing expedition for evidence of any crime at all. The measure, moreover, would permit such evidence to be used against a defendant in a criminal trial; the accused would not even be given an adequate right to challenge the legality of the wiretap.

Another provision would require those living near a potential target—neighbors, landlords. custodians, and "other specified persons"—to cooperate with Government agents in installing microphones and bugs. The bill would also authorize the use of "other surveillance devices" to acquire "information"—neither term defined. It would impose no constraints on the National Security Agency's monitoring of overseas telephone calls and telegrams. It would allow the Government to eavesdrop on the microwave portion of long distance calls for ninety days without a warrant, as long as the operation is conducted to "test the equipment."

The feature of the bill most hotly contested by Tunney and the American Civil Liberties Union, however, is what is known as the "Presidential prerogative" section. Although it is accompanied by some twenty-two pages of limitations and disclaimers, the bill clearly leaves unchallenged the President's claim of "inherent power" to act beyond the scope of the legislation. If the President decides that any incident is of an urgent nature, he may claim a power to disregard even the bill's minimal restraints. "The notion of a Presidential prerogative to violate the laws on national security grounds," says Tunney, "is similar to the theory used to burglarize the office of Daniel Ellsberg's psychiatrist."

Why do Kennedy and other Senate "liberals" favor this dangerous bill? They contend that it does place important restrictions on invasions of privacy, at least establishes the principle that court warrants are needed even in "national security" cases, and creates procedures to protect Fourth Amendment rights. There is an additional consideration, not openly expressed: Liberals fear that the Supreme Court might permit more extensive electronic surveillance without warrants. Hence the rush to get a measure, any measure, through Congress.

Such "half a loaf" reasoning is familiar, of course; more often than not it results in no loaf at all. In the case of S. 3197, Congress could easily take a bad situation and, in the name of "reform," make it infinitely worse.

REPRESENTATIVE BOB POAGE AND THE PALM OIL SITUATION

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. MATHIS. Mr. Speaker, few individuals in history have been as dedicated and effective in their service to American agriculture as the Honorable W. R. "Bob" Poage of Texas. On any issue or at any time when the American farmer is being treated as a second-class citizen, you can be sure that Bob Poage will be at the forefront of efforts to insure equitable treatment for agriculture. Both producers and consumers of agricultural products are getting a better deal today because of the more than three decades of work of Congressman Poage in their behalf.

Right now he is fighting the U.S. policy of subsidizing foreign palm oil production through development loans by the World Bank and other international financial institutions. Palm oil competes directly with U.S.-produced soybean, peanut, sunflower, cottonseed, and other vegetable oils. Millions of dollars worth of our products are being displaced from the market because of this foreign production subsidized by American tax dollars.

Meanwhile, the administration has attempted to flim-flam the American farmer by publicly proclaiming opposition to loans while privately continuing to encourage them. On September 15, Congressman Poage testified before a House Banking subcommittee on this issue, and I request that his statement be inserted in the Record for the benefit of those with an interest in this subject and to inform the public of Congressman Poage's untiring effort to correct the administration's untenable position on the palm oil question:

Statement of Hon. W. R. Poage Before the Subcommittee on International Development Institutions and Finance

I appreciate this opportunity to appear before this distinguished Subcommittee on International Development Institutions and Finance to discuss the palm oil situation. This issue is one of great concern to me since the continued escalation in palm oil imports threatens not only to ruin our nation's vegetable oil industry but to impair the health of our people. Therefore, I feel it is important that I appear here today to express my support for House Resolution 1399 which recommends a study of the effects upon the agricultural economy of foreign palm oil development through loans from the various international financial institutions.

The problem as I see it is one of whether the major international financial institutions—the International Bank for Reconstruction and Development, the Inter-American Development Bank and the Asian Development Bank—should continue to provide funding for foreign palm oil grove development when the production from these groves is crippling our own agricultural economy, and is clearly misleading our American people to believe that they are eating a wholesome product when they are, in fact, eating a very highly saturated fat. I feel that they should not and hope that these lending institutions will cease lending money for palm oil development.

I have long felt that more and more of our foreign aid to undeveloped countries should be directed toward allowing those nations to produce more of their food needs. If we are to feed the hungry people of the world, we must develop the agricultural resources of the undeveloped nations so that these nations can grow more of their own food. However, I do not feel that the development of palm oil accomplishes this goal. Unlike this nation's oilseed crops—soybeans, cottonseed, peanuts and sunflowers—the palm fruit produces very little protein—the nutrient most needed by starving people of the world. In addition, very little of the oil produced in these countries is actually consumed there since the greatest majority is exported.

Another problem with palm oil is that it, in fact, may be harmful to the health of those who consume it. Medical scientists have long known that increased cardiovascular disease is linked with the amount of saturated fats in the diet. Our consumers have been advised to use unsaturated vegetable oils like soybean oil, cottonseed oil, and peanut oil instead of lard—a highly saturated animal fat. As a result, very little lard is consumed in America today since housewives have elected to buy unsaturated vegetable oils. Under current regulations, palm oil can, of course, legally be sold as vegetable oil because it comes from a plant. However, it has little similarity with the vegetable oils with which our American consumers are acquainted.

Of the vegetable oils produced in the United States, corn oil is 10% saturated, sunflower oil 12%, soybean oil 15%, peanut oil 18%, and cottonseed oil 25%. Lard, on the other hand, is 38% saturated. However, palm oil is 45% saturated. Therefore, in reality, palm oil is considerably more saturated than lard and drastically more saturated than most vegetable oils. Thus, by increasing palm oil production overseas and the resulting increase in U.S. palm oil imports, we may possibly be causing more Americans to suffer heart disease.

I have introduced legislation (H.R. 14921) which requires all products containing palm oil to carry labels noting that the product "contains palm oil, a highly saturated imported vegetable product", as well as to require all imported palm oil to meet the same sanitary standards required of domestically produced oils. While my legislation will not solve the problem of lending for palm oil development, I feel it will at least allow our consumers the opportunity to choose less saturated products.

Your Committee must deal with the financial problem, and I congratulate you on your recognition of the problem.

Thus, Mr. Chairman, the development of foreign palm oil does not meet the real objective of increasing food production in developing countries. But it does result in a great increase in palm oil production—much of which is imported into the United States to compete with our already troubled agricultural economy. In the last two years, palm oil imports have more than doubled and it is expected that by 1985, palm oil imports will triple again. These imports are having a profound effect on our domestic vegetable oil prices. For example, in the last year the price of soybean oil has dropped 49 percent, cottonseed oil 29 percent, peanut oil 36 percent, and corn oil 33 percent.

Clearly, these palm oil importations have cost American farmers far more than they have brought to the foreign producers. The total value of palm oil exports is estimated at near $300 million. The estimated loss to American oilseed producers as a result of palm oil imports is about $1.5 billion. Does this make any sense whatsoever? Actually it would have been much cheaper for the U.S. to simply give the palm oil producers the full value of the exports than to purchase the product from them. Since so little of the palm oil and palm meal is used at home, our giving them the money would have been more helpful to the producing nations. Maybe they could have used the money to produce food crops which would supply more nutrition to their people than palm oil.

Therefore, Mr. Chairman, I urge this Subcommittee to approve H. Res. 1399 and continue our effort to stop loans by the World Bank to foreign nations for palm oil development. It is time that we pay more attention to our own agricultural economy before we begin to see a reduction in our food production ability. Farmers just cannot afford to produce for the amount they are today receiving for their oilseeds—all as a result of foreign palm oil development. Nor can the American public afford to ingest the quantity of saturated oil that is incident to the widespread use of palm oil.

THE RIGHT TO FOOD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. DERWINSKI. Mr. Speaker, next week, this body will be called upon to consider House Concurrent Resolution 737, the "right to food" resolution. The central theme of this controversial resolution is to establish U.S. policy that all persons in this country and throughout the world have a "right" to food. On Monday of this week, the New York Times published a timely article on this concept.

The author, Mr. James C. Thomson, is the editor of the much respected Prairie Farmer magazine published in Chicago, Ill. In his article, he points out that the United States cannot guarantee the world's population an adequate diet and that those nations with the greatest food scarcity are those whose political and economic policies discourage food production.

Mr. Thomson concludes that rather than guaranteeing a right to food, which we cannot possibly fulfill, we "could do more to help solve the basic problem by calling for the reforms needed to unshackle foreign farmers and encourage them to produce food in abundance."

I urge all of my colleagues to read the entire article and consider the thought-provoking arguments it contains. The full text of the article follows:

THE RIGHT TO FOOD

(By James C. Thomson)

OAK BROOK, ILL.—Does everyone have the right to a supply of food? In the United States, the question is almost academic. Food-stamp eligibility already has been extended to strikers in labor disputes.

Some Congressmen see food guarantees as a right not only of the people of the United States but also of the rest of the world. They suggest that the right to food should not be considered charity but justice. A right-to-food resolution has just been introduced into the Congress by Senator Mark O. Hatfield, Oregon Republican, and Representative Donald M. Fraser, Minnesota Democrat. More than two dozen prominent religious leaders have endorsed the idea. It is difficult to argue the issue. The advocates wear halos. They enjoy their humanitarianism and it doesn't cost very much. The critic is made to feel like Ebenezer Scrooge and the enemy of hungry widows and orphans.

The suggestion itself is degrading to American farmers. It assumes that they are obliged to produce a cheap necessity to which everyone is entitled for little or nothing. Things for which we pay little or nothing are valued in the same light.

The fact is that the United States cannot guarantee the world's rapidly increasing four billion people an adequate diet or a standard of living near our level. Any such effort would mean a serious reduction in our own living standards.

Most frustrating in any such discussion with politicians and religious leaders is their woeful lack of understanding of the economies of agriculture and the food industry. The nations with the greatest food scarcity problems, including the Soviet Union, are those whose political and economic policies discourage food production.

In the developing countries, food prices are set at low levels ostensibly to curb economic unrest by assuring large urban populations that they will eat cheaply. Unhappily, low prices paid to farmers are a signal to them that less food is wanted and so they tend to produce less.

This price-ceiling practice seemed logical to the pharaohs of Egypt in 6000 B.C. It was tried by the Roman emperor Diocletian in A.D. 300. It was tried by the American Colonies and by President Nixon. All discarded the idea as impractical, because the result is lower production, higher prices and a flourishing black market for those who can afford high prices.

The result is that farmers produce little, earn little, invest little, and therefore cannot get bank credit. The result is that they can feed few more than their own families.

Take Peru. It is a potential Garden of Eden, but most of its farm people earn less than $1,000 a year. Peru is about ten times the size of Illinois. A third of it has a climate like California.

There is in Peru another unstable dimension. It plans to take over about 10 million acres from larger farmers to cut up into smaller, less-productive farms. More than seven million acres have been taken already. This has frightened farmers into even less production and greater stagnation.

Farmers have virtually no social standing in South America. This compounds the problems. When United States specialists point out pitfalls in these policies, they are told to mind their own business.

Guaranteeing food supplies for countries such as Peru with three times the birth rate of the United States would encourage even greater expansion of Peru's population.

It would also discourage Peru's farmers even further. More likely it would continue the status quo. Our well-meaning but economically naive politicians and clergy could do more to help solve the basic problem by calling for the reforms needed to unshackle foreign farmers and encourage them to produce food in abundance. When farmers earn little or nothing, they will produce little or nothing.

SPEECH BY PRESIDENT FORD AT UNIVERSITY OF MICHIGAN

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. RHODES. Mr. Speaker, on September 15 President Ford gave a thoughtful and significant address at Ann Arbor, Mich., in which he made some telling observations about the record of his administration and the state of government today.

Among them was the statement that the American people are ready for the simple truth, simply spoken, about what the Government can do for them, and what it cannot and should not do. There has been much rhetoric afloat during the campaign to date that stresses the idea that Federal tax dollars and increased Federal regulation through more new Federal programs can solve whatever problems we face. The multiple programs now in existence, our growing deficits and public concern over Federal profligacy and seizure of power attest otherwise.

The President succinctly summarized the central issue of the coming election when he said:

> The American people will demand specifics—not smiles; performance—not promises.

This speech laid out the basic decision to be made by the voters—pie in the sky versus a proven record of performance.

For the edification of my colleagues, I place this speech in the RECORD for their perusal. Text of the President's address is as follows:

TEXT OF REMARKS BY THE PRESIDENT DELIVERED AT CRISLER ARENA, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH., SEPTEMBER 15, 1976

I have come home to Michigan to share with you my views of America in 1976 and my hopes for America in the next four years and beyond.

During the last two years, in the aftermath of a difficult war and a painful ordeal of economic adversity and political crisis, we reached a critical turning point in America's history.

Throughout most of your lives, America has faced turmoil. Some of our most beloved leaders have been assassinated. There was a war we could not either win or end. There were destructive riots on our streets and campuses. We suffered runaway inflation and the worst recession in 40 years. We were betrayed by corruption at the highest levels of government.

Through all of this, we found in ourselves a basic strength which has proven mightier than all our armaments, more precious than our great store of national wealth, and as enduring as our Constitution.

As I said on taking the oath of office as President two years ago, "our long national nightmare is over." In the last two years, the United States of America has made an incredible comeback—and we're not through yet.

In 200 years as a free people, much has changed in our nation but America's basic goals remain the same:

Americans want a job with a good future.

Americans want homes in decent neighborhoods—and schools where our children can get a quality education.

Americans want physical security—safety against war and against crime; safety against pollution in the water we drink and the air that we breathe.

We want medical and hospital care when we are sick, at costs that will not wipe out our savings.

We want the time and opportunity to enlarge our experience through recreation and travel.

We Americans are a proud people. We cherish our inalienable rights: the right to speak our minds—the right to choose the men and women who enact and enforce our laws—the right to stand equal before the law, regardless of sex, age, race or religion—the right as a farmer, businessman, worker and consumer to bargain freely in the economic marketplace—the right to worship as we choose.

It all adds up to the "American dream".

These are the goals which every politician and every citizen has for America. They are not some mystic vision of the future. They are the continuing agenda for action today.

And so, the question in this campaign of 1976 is not "who has the better vision of America." The question is "who will act to make that vision a reality."

The American people are ready for the truth, simple truth, simply spoken, about what the government can do for them and what it cannot and should not do. They will demand specifics—not smiles; performance—not promises.

There are some in this political year who claim that more government, more spending, more taxes and more controls on our lives will solve our problems.

More government is not the solution. Better government is.

It is time we thought of new ways to make government a capable servant and not a meddling master.

Let's get down to cases.

Let's talk about jobs.

Today 88 million Americans are gainfully employed—more than ever before in our history. But that's not good enough.

My immediate goal is two and a half million new jobs every year with emphasis on our youth, especially the minorities. Not demeaning, dead-end jobs paid for out of the Federal Treasury, but permanent jobs with a future generated by the demands of a healthy economy.

Can we do it? We have done it.

We proved once and for all that you can cut inflation in half and add four million new jobs in just 17 months. We did it with tax cuts that allowed Americans to spend more of their own money. We did it with tax incentives that encouraged job production. We did it by letting our free economic system do what it does better than any other system in the world—produce!

But I won't be satisfied until every American who wants a job can find a job.

I am particularly concerned that there are too many young Americans who cannot find a good job, or get the training and experience they need to find a good job.

Americans have long since recognized the importance of assuring that every high school graduate who is willing, able and qualified be able to go to college. We have done so through grants, loans and scholarships.

I believe we can apply this same principle to create a program for young people who choose not to go to college, but want a job at which they can learn a trade, a craft or practical business skills.

Let's put America—all of America—to work!

Once a good job is secured, it's an American tradition to put some of those earnings toward a family home. But nowadays, with interest rates too high, downpayments too high, and even monthly payments often too high—home-ownership is not within the reach of many Americans, particularly young Americans beginning a career or marriage.

My goal is home-ownership for every American family that wants to own a home and is willing to work and save for it.

Here is how I will meet that goal: First—I will continue to pursue economic policies, including tight control of unnecessary Federal spending, which will hold inflation down, reduce interest rates, cut your taxes, increasing your purchasing power and making more funds available for home mortgages.

Second—It's time we did something more about the down-payment requirements which so many people can't afford. I will recommend changes in the FHA law to reduce down-payments on lower and middle-price houses, by up to 50 percent.

Third—I will direct the Department of Housing and Urban Development to accelerate implementation of a new federal guaranty program to lower monthly payments in the early years of home-ownership and gradually increase them as the family income goes up.

A good job. A good home. Now let's talk about the good health we must have to appreciate both. My goal is an America where health care is not only the best in the world—but is both áccessible and affordable. But raising Federal taxes by 70 billion dollars a year for a government-dominated national health insurance program is not the way to do it. That path leads to more bureaucracy, more fraud, more taxes and second class medical care.

That's what I'm against Here's what I'm for:

As our first priority, I have recommended protection against the costs of a catastrophic or prolonged illness for the aged, and the disabled—insuring that never again will they have to pay more than $750 for medical care in any year. People should not have to go broke just to get well.

Next, I proposed to the Congress last spring, a major reform in federal health programs. We should combine sixteen overlapping and confused Federal health programs—including the scandal-ridden Medicaid program—into one $10 billion program that distributes the federal funds more equitably among the states and insures that those who need these services get first class care.

America is still awaiting action by the Congress on this urgently needed legislation.

Now let's turn to an area of special concern to this audience—education.

One of the most urgent problems is to create a climate in every classroom where teachers can teach and students can learn.

Quality education for every young American is my Administration's goal. Major reforms are necessary in the relationship between the national, state and local units of government so that teachers can spend their time teaching instead of filling out Federal forms. Federal aid is necessary, but Federal aggravation should stop.

Nine months ago, I proposed to the Congress that we replace 24 paper-shuffling, educational bureaucracies with a single federal program, which would provide 3.3 billion dollars in direct aid to elementary and secondary schools.

They have not acted. Once again this Congress has shown itself to be sitting dead in the water—addicted to the status quo. The American people deserve better representation than that! They will demand it on November 2.

We must ensure that low-income students have access to higher education.

We must also find ways through the tax system to ease the burden on families who choose to send their children to non-public schools and to help families cope with the expenses of a college education. In my Administration the education needs of America's middle-income families will neither be forgotten nor forsaken.

Education is the key to a better life. The prevention of crime is essential to making our lives secure.

The Constitution demands that we ensure domestic tranquility, and that is what I called for in my crime message to Congress. Most crimes are committed by hardened career criminals who know no other life than the life of crime. The place for those people is not on the streets, but in jail. The rights of a law-abiding society, the rights of the innocent victim of crime, must be fully protected.

And finally, we must give Americans the chance to enjoy America. I have outlined a 1.5 billion dollar program to expand and improve our national park system over the next ten years. This means more national parks, more recreation areas, more wildlife sanctuaries, more urban parks and historic sites. Let's make this America's Bicentennial birthday gift to all of our future generations.

Today America enjoys the most precious gift to all: we are at peace. No Americans are in combat anywhere on earth, and none are being drafted—and I will keep it that way.

We will be as strong as we need to be to keep the peace, to deter aggression, and to protect our national security.

But if our foreign policy is to have public support, it must represent the moral values of the American people.

What is more moral than peace with freedom and security?

As the leader of the free world, America has a special responsibility to explore new paths to peace for all mankind. It is a responsibility we have not shirked.

We have been a force for peace in the Middle East, not only in promoting new agreements, but in building a structure for a more lasting peace.

We have worked for peace with the Soviet Union, not only in resolving our many conflicts, but in building a world where nuclear armaments are brought under control.

We are working for peace in Europe, where the Armies of two major coalitions confront each other.

We will continue to build our relationship with the People's Republic of China, which contributes importantly to peace and stability in the world.

Now, in the face of a new challenge, we are embarked on a mission for peace in southern Africa.

This is the first Administration in America's history to develop a comprehensive, affirmative African policy. This policy has won respect and trust on that troubled continent.

At my direction, Secretary Kissinger is now engaged in an intensive effort to help all the parties—black and white—involved in the mounting crisis in southern Africa, find a peaceful and just solution to their many and complex differences.

The African parties in the very grave and complicated problems of Namibia and Rhodesia have encouraged us to help them in the search for peace and justice. We are also backed in our efforts by our European Allies with traditional bonds to the African Continent. In particular we are working in close collaboration with the United Kingdom which has an historical and legal responsibility in Rhodesia.

Success will depend fundamentally on the cooperation of the parties directly concerned. We will not and we cannot impose solutions, but will depend upon the goodwill and determined efforts of the African parties themselves to achieve negotiated settlements.

We seek no special advantage for ourselves in these negotiations. We do share with the people of Africa these fundamental objectives: a peaceful outcome; a future of majority rule and minority rights; a prospect of widening human dignity and economic progress; and a unified and an independent Africa free from outside intervention or threat.

The path that leads to these goals is not an easy one. The risks are great. But America's interests and America's moral purpose summon our effort.

Despite the rigors of a great national election, I have persisted in carrying out this new policy toward Africa—not because it is expedient—because it is right.

I pledge to you that under my Administration, American foreign policy will serve the interests of our country and our people—it will be true to our great heritage of the past, fulfill our purposes in the present, and contribute to our best vision of the future.

It is not enough for anyone to say "trust me". Trust must be earned.

Trust is not having to guess what a candidate means.

Trust is leveling with the people before the election about what you're going to do after the election.

Trust is not being all things to all people, but being the same thing to all people.

Trust is not cleverly shading words so that each separate audience can hear what it wants to hear, but saying plainly and simply what you mean and meaning what you say.

I am proud of the maturity of the American people who demand more honesty, truthfulness and candor of their elected representatives.

The American people, particularly its young people, cannot be expected to take pride—or participate—in a system of government that is defiled and dishonored—in the White House or in the halls of Congress.

Personal integrity is not too much to ask of public servants. We should accept nothing less.

As we enter the last seven weeks of this national election, a new poll indicates that as many as 65 million Americans will not vote in November.

Some people have said that they are not excited about any of this year's candidates. Let them be excited about America.

Let them be excited about their own capacity to grow and change—about our Nation's capacity to grow and change—and even about the evolution, with their help, of the candidate of their choice.

In this year of 1976, I stand before you as the last President of America's first 200 years. But with your help, I also intend to be the first President of America's new generation of freedom.

Working together we can build an America that does not merely celebrate history, but writes it—that offers limited government and unlimited opportunity that concerns itself with the quality of life—that proves individual liberty is still the key to mutual achievement and national progress.

And when the history of this era is written, future generations will look back at America in 1976 and say—yes—they were two hundred years old—but they had really only just begun.

VON STEUBEN DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. ANNUNZIO. Mr. Speaker, September 17 is the anniversary of the birth of Gen. Friedrich Wilhelm von Steuben, one of the leading patriots of the Revolutionary War.

General von Steuben received a great estate from New York State and a large award from Congress for his outstanding contributions to the winning of American independence. Along with General Lafayette he was second only to General Washington as a shaper of the Continental Army.

Indeed, it was George Washington himself who, in his final act as general of our Revolutionary Army, wrote:

> I wish to make use of this last moment of my public life to signify, in the strongest terms, my entire approbation of your conduct, and to express my sense of the obligations the public is under to you, for your faithful and meritorious services.

That letter was addressed by George Washington to Gen. Friedrich Wilhelm von Steuben.

Von Steuben came to America in 1777 to offer his talents to that great cause then being born on this continent. In so doing he set an example for all time for millions of other Americans of German origin, who have contributed untold wealth, energy, and talent to their adopted Nation.

During the bitter days at Valley Forge, General von Steuben sustained the courage of his men and contributed his private funds for their well-being. He drilled and taught them so that when winter subsided the American troops emerged more prepared than ever to engage the best army of the day in equal combat.

During that winter he also wrote the "Regulations for the Order and Discipline of the Troops of the United States." In 1781 von Steuben served with Lafayette in the battle against Cornwallis' invasion of Virginia, and at the battle of Yorktown he commanded one of the three divisions of the Continental Army.

The U.S. Senate passed a joint resolution in 1961 authorizing the President to proclaim September 17 of each year as General von Steuben Memorial Day. A copy of that resolution follows:

RESOLUTION

Whereas the successful conclusion of the struggle of American colonists for liberty was immeasurably aided by sacrifices and services of freedom-loving nationals of many countries; and

Whereas General Friedrich Wilhelm von Steuben, following a brilliant military career in his native Germany, responded to the appeal for assistance from the beleaguered Colonies; and

Whereas General von Steuben, drawing upon his experience and his vision, instructed forces mobilized by the Continental Congress, directed training at Valley Forge, and established discipline and morale which enabled disordered, retreating forces to rally and reorganize following the Battle of Monmouth; and

Whereas General von Steuben served with distinction as inspector general of the colonial forces, in command of the district of Virginia, and during the siege of Yorktown; and

Whereas the drill regulations and rules of order and discipline for troops of the Colonies conceived and promulgated by General von Steuben were formally adopted by the Continental Congress as the governing code for forces of the Revolution; and

Whereas the ideas and methods advocated and perfected by General von Steuben were reflected in the establishment of the United States Military Academy; and

Whereas the United States regularly shows appreciation to heroes of other nationalities who were conspicuous in the fight for independence; and

Whereas the anniversary of the birth of General von Steuben and the anniversary of the completion of labors of the Constitutional Convention coincidentally fall on September 17: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized annually to issue a proclamation calling upon officials of the Government to display the flag of the United States on all governmental buildings each September 17 and urging the people of the United States to observe the day with appropriate ceremonies commemorating the birth and the service of General Friedrich Wilhelm von Steuben.

I am pleased and honored to join with German Americans in the 11th Congressional District of Illinois, which I am proud to represent, in the city of Chicago, and all over the Nation who are celebrating German-American friendship and the brilliant accomplishments of this German-American patriot, Gen. Friedrich Wilhelm von Steuben, and extend to them my best wishes and congratulations. America is a Nation of immigrants, and Americans of German descent have contributed mightily to the greatness of our country.

FEDERAL RESERVE SYSTEM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. SCHULZE. Mr. Speaker, Dr. Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System today dedicated a new Federal Reserve Building in Philadelphia.

In his remarks at the dedication, Dr. Burns reiterated the need to preserve the independence of the Federal Reserve System.

Under leave to extend my remarks, I included the text of Dr. Burns' address:

REMARKS OF ARTHUR F. BURNS

It is indeed a pleasure for me to join you today at the dedication of this new Federal Reserve building. The directors of the Federal Reserve Bank of Philadelphia showed great foresight when they selected the site for this beautiful structure—a site symbolic of the independence that is so cherished by us all. And it is the subject of independence that I would like to comment on briefly today.

It was in Independence Hall of this city that our forefathers, having already adopted the Declaration of Independence, went to work on a Constitution for the new nation. In the course of their labors, they developed a series of checks and balances for our government that has survived virtually unchanged for almost 200 years. They created a system free of the dangers of executive controls such as enslaved and impoverished much of the world during earlier times.

The founders of the Federal Reserve System also had the wisdom to benefit from historical experience. Aware of the need to protect the integrity of the Nation's finances, aware of the dangers of political abuse of the power to create money, aware of the wreckage of nations that had mismanaged their currency, the founders of the Federal Reserve saw to it that the monetary authority would not become subservient to the executive branch of government and thus subject to political manipulation.

The principle of independence of the monetary authority within the structure of our Federal Government was embodied in the original Federal Reserve Act. Long terms were provided for members of the Federal Reserve Board, and the Board was required to account for its actions to the Congress—not to the Administration. Also, the operations of the Federal Reserve System were to be financed from its internal sources, so that the System would be protected from the political pressures that may be exercised through the congressional appropriations process. Finally, power within the Federal Reserve System was to be diffused, with the interests of borrowers, lenders, and the general public duly recognized and blended in the new regional Federal Reserve Banks.

In the years that followed creation of the Federal Reserve System, particularly during the Great Depression, experience suggested that the degree of independence assigned to the monetary authority was insufficient. The Banking Acts of 1933 and 1935 rectified this and produced the structure of the Federal Reserve that we have today.

I believe that our system of monetary management has been working in the way the founders of the Federal Reserve intended. They expected the Federal Reserve to be a nonpartisan organization wholly divorced from politics, and so it has been throughout its history. Its activities have been conscientiously directed to fostering a high level of production and employment in our country, and to serving as the principal guardian of the integrity of the dollar.

Nonetheless, there are now, as there have been over the years, some well-meaning individuals in our country who believe that the authority of the Federal Reserve to make decisions about the course of monetary policy should be circumscribed. The specific proposals that have been put forth over the years differ greatly, but they usually have had one feature in common—namely, control by the Executive Branch of government over the monetary authority.

A move in this direction would be unwise and even dangerous. I doubt that the American people would want to see the power to create money lodged in the presidency—which may mean that it would in fact be exercised by sundry political functionaries in the White House. Such a step would create a potential for political abuse on a larger scale than we have yet seen. Certainly, if the spending propensities of Federal officials were given freer rein, the inflationary tendency that weakened our economy over much of the past decade would be aggravated.

It is, of course, essential that the Federal Reserve, particularly its Chairman, consult frequently with key officials of both the Executive and legislative branches of our government. The Nation's monetary authority must observe the spirit as well as the letter of our laws. In our democratic society the independence of a governmental agency can never be absolute. The Federal Reserve System is thus subject not only to the provisions of the Federal Reserve Act, but also the Employment Act and other statutes.

The original design of the Federal Reserve System recognized that the Federal Reserve must account for its stewardship to the Congress. The oversight responsibilities of the Congress for the conduct of the monetary authority do not, however, require congressional involvement in the details of implementing monetary policy. The technical complexities of adjusting monetary or credit instruments to the needs of a modern industrial economy are far too great to be dealt with by a large deliberative body. At the same time, there is a significant role for the Congress in setting forth the economic and financial objectives that the monetary authority is expected to observe and honor.

This, then, is the message I want to bring you today: We must avoid political tinkering with the Nation's money. The Federal Reserve must retain the independence to make the hard decisions that might be avoided by decision-makers subject to the transitory pressures of political life. This does not mean total independence for the Federal Reserve, but an independence carefully prescribed by the Congress through the checks and balances that have evolved over the years. It is an independence that must be preserved for the good of our economy.

There is much to be done in dealing with the economic and financial problems that face our Nation. But I, for one, am optimistic about the future. My optimism rests in my faith in the good sense of our people—their foresight, their resourcefulness, and their energy to strive for a better life. As we dedicate this new Federal Reserve building today, let us also dedicate our efforts to the restoration of sound national finances and a stable dollar. For unless we accomplish that, the objective of full employment will prove elusive and even our political liberties may suffer.

PRESIDENT FORD ADDRESSES THE ITALIAN-AMERICAN FOUNDATION

HON. ROBERT H. MICHEL

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Friday, September 17, 1976

Mr. MICHEL. Mr. Speaker, last night President Ford paid special tribute to Italian Americans in emphasizing the many significant contributions which these vigorous and able people have made to the growth and progress of this wonderful country of ours.

The President spoke at the Bicentennial Tribute Dinner sponsored by the Italian-American Foundation and included among those Italian American citizens being honored were our colleagues from this House, Congressman RODINO and Congressman DANIELS. In paying tribute to our colleagues, as well as the other honored guests, Senator JOHN PASTORE and Judge John Sirica, the President alluded to the parents of these fine public servants when he said:

> When you stop for a minute and think about those parents, about the sacrifices they made, about the hardships they endured, about the dreams they had for their children, and then you see those dreams come true in the careers of these fine men, that is when you know exactly what America is all about . . .

As a first generation American myself, I have a special appreciation and understanding of the President's message and for the benefit of those who were unable to be in attendance, I include the text of the President's remarks in the RECORD at this point:

REMARKS OF THE PRESIDENT AT THE ITALIAN-AMERICAN FOUNDATION BICENTENNIAL TRIBUTE DINNER, WASHINGTON, D.C.

Thank you very, very much, Jeno.

Senator John Pastore, Congressman Pete Rodino, Congressman Dominick Daniels, Judge Sirica, Reverend Clergy, distinguished platform guests, ladies and gentlemen:

First, let me thank the members of the Italian-American Foundation and your national chairman, Jeno Paulucci, for inviting me to be a part of this very special evening. In many ways, my good friend, Jeno Paulucci symbolizes the magic of America. His first great success was a company called Chun King. What could be more American than a business built on a good Italian recipe for chop suey. (Laughter.)

The Bicentennial dinner pays tribute to the extraordinary contribution Italian-Americans have made to our country. The men you are honoring tonight are the distinguished offspring of a culture that was once transplanted, but is now deeply rooted in American soil, to the benefit of all Americans.

Long before we were a nation, Italians began making new lives for themselves in America as teachers, merchants, craftsmen, artists, musicians and writers. From our first honorary Italian-American, Christopher Columbus, to contemporary figures as diverse as Enrico Fermi and Vince Lombardi, the Italian fiber is woven very deeply into the fabric of the United States of America.

Italian-Americans have made their marks in many different areas, but they have all shared at least one common quality, uncommon pride; pride in their country, pride in themselves, pride in the roles they played in making America what it is.

In every century and in every field of endeavor, Italian-Americans have given their country their energy, their talents and their devotion and their blood.

When the earthquake struck Italy earlier this year, the American response was swift and bipartisan. Just this morning, Jeno Paulucci and Ambassador John Volpe reported to me on the way our $25 million of disaster relief assistance is being spent to relieve suffering in the country which has given America so much. I congratulate Jeno for his observations and recommendations which included not only his views as to how our program was being administered, but his very constructive recommendation that you needed something more than Government to just do the job; his proposal that Italian industry contribute in this situation—as it has through his leadership in Minnesota—in alleviating some of the problems and making some progress in that State.

I hope and trust, Jeno, that the proper authorities in Italy will follow your recommendations, and not only have the Italian Government and our aid through our Government agencies do the job, but do the same with the help and assistance of the private sector in Italy, itself.

I remember also, if I might, something Vice President Rockefeller told me after he visited the earthquake site at my request in May. He was struck by the fact that in the midst of destruction and personal tragedy one of the first concerns of the people was to protect their monuments, their churches and their cultural heritage. There is a lesson in that for the United States, for we also risk seeing some of our cultural heritage destroyed not by a sudden shock of an earthquake, but by a gradual erosion.

We must be aware of the growing danger of conformity of American thought and American behavior. We need to encourage and protect individuality.

Our national wealth of culture, ethnic and religious traditions, is a valuable counterbalance to the overwhelming sameness and subordination of totalitarian societies. Let me add, if I might, a comment or two on that subject.

Italy and the United States share a firm dedication to democratic government and the principles of freedom and liberty. We, in America, value the role of Italy in the world itself, Italy's contribution to the Atlantic Alliance and Italy's contribution to a stronger and more cohesive Europe, working with the United States.

We have been hearing a lot recently about the new character of some Communist parties in Western Europe, that they believe in democratic multi-party government, that they are independent nationalist parties with no loyalties or affiliations beyond national borders.

Lest we succumb to this beguiling message, I remind you that we were hearing these same reassuring messages from the heads of Communist parties in Eastern Europe right after World War II. We all know what happened when these parties actually came into power in the late 1940's. It is a history lesson we should not forget.

The history of our own country teaches us another important lesson, the value of diversity as well as unity among our people. At a meeting in the White House last month, Italian-American leaders spoke to me of our need to encourage culturalism without diminishing Americanism. I agree completely.

Our neighborhoods are the place to start. On the first of this year, I had the privilege of signing into law a bill passed by the Congress called the Mortgage Disclosure Act, to prevent red lining. Last May, I met with a group of ethnic leaders to see what more could be done. As a result of that meeting, I created the President's Committee on Urban Development and Neighborhood Revitalization. I charged that Committee with developing a sound Federal policy to help preserve our neighborhoods and to prevent urban decay.

Our policy will be based upon local initiative and local control. I was very pleased and very encouraged the other day when I read in the New York Times about major new efforts, including proposed new zoning rules to revitalize New York City's Little Italy. As I read from that article, the City Planning Commission and a neighborhood group spent some two years coming up with this plan. I wish them every success. I hope other groups and other communities will follow their example.

But let me say with emphasis and reemphasis: I am committed to maintaining the strength and vitality and the unique contributions of America's communities. In my search for Americans to help us with this very major task, now and in the next four years, I will continue to look for Americans of high caliber from all cultural backgrounds. I will continue to look for Americans with the talents of John Pastore, Peter Rodino, Dominick Daniels and Judge John Sirica.

May I say to all four of them: It has been a very special pleasure for me to join with you in honoring these outstanding Americans.

As enjoyable as this evening is for all of us present, we might take just a moment to remember certain people who can only be here in spirit—people who would have gotten an even bigger thrill on this occasion than you or me—the parents of John Sirica, Dominick Daniels, John Pastore and Peter Rodino.

When you stop for a minute and think about those parents, about the sacrifices they made, about the hardships they endured, about the dreams come true in the careers of these fine men, that is when you know exactly what America is all about and you know if these parents could only be here with us tonight they could be very proud, and deservedly proud indeed.

By your contributions and those of all Italian-Americans to our arts and sciences and Government, to business life and family prosper, and become an even better place in which to live.

Thank you very, very much.

ENERGY HOPES DIMMING

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. SYMMS. Mr. Speaker, the struggle for energy independence goes on and the Congress does nothing—nothing that is; but interfere and intervene with reasonable solutions to our energy problems.

For example the U.S. Government directed by the Congress has made it legal to burn low-sulfur coal in the West—but illegal to dig it. In the East we have high-sulfur coal legal to dig—but illegal to burn it.

What we have, Mr. Speaker, is an energy shortage brought on by an aimless, indecisive Congress, that does nothing but dim any hope of a brighter future.

I commend the following article for my colleagues' attention:

[From the Wall Street Journal, Sept. 17, 1976]

POWER OR DARKNESS

It seems that every time we pick up a newspaper these days we read about someone's power project that is being delayed, or scrubbed entirely, because of lawsuits, regulatory red tape or what have you.

Our Mr. Hill wrote recently, for example, about the Kaiparowits project, a horror story if we ever heard one. After 13 years and $5 million just for "impact statement" paperwork, utilities planning the big coal-fired plant in Utah finally decided to drop the whole idea. The Sierra Club, which had fought the project, was overjoyed.

The club had reason to cheer again a short while later when Congress ruled that North Carolina's New River is a "scenic" river, thus blowing up American Electric Power's proposed hydroelectric project on the river.

Then there are a number of nuclear plants sitting around waiting for the courts and Congress and untold numbers of regulatory commissions to say yea or nay. Pacific Gas & Electric's Diablo Canyon nuclear plant in California, which has to have clearance from 36 different agencies of one kind or another, is virtually complete but because of attempts by so-called "public interest" groups to block issuance of an operating license, may not be able to go on stream before next spring. The project, which has been plagued with strikes and other troubles, already has required eight years since construction work began.

In the light of all this it should not be surprising that the National Electric Reliability Council (NERC) a utility industry research group, has just warned of a possible shortage of electrical generating capacity developing in some parts of the country by the late 1970s and in others by the early 1980s.

The Southwest is most likely to feel the first effects; it has been growing rapidly and utilities there have had some of the greatest difficulties overcoming environmentalist objections to new units. But other regions may face a dim future, literally, as well. Not only delays of power plants, but associated problems in developing sources of fuels for power plants—coal, uranium, oil—are part of this uncertain outlook.

It is very common in some circles to portray this doubtful future as a problem for the the electric utilities. It would be more realistic to portray it as a problem for everyone who would like to lift his living standards or even retain the amenities he has now. Energy and living standards are inseparable; as with all economic problems, the poor and defenseless will be hit hardest by an electricity shortage. It will not necessarily mean that there will be fewer jobs—some economic theorists argue that rising energy costs create more demand for labor although we have a few doubts about that theory. It does mean that there will be fewer opportunities for workers to move up to more productive (and remunerative) jobs out of the kind of labor that depends mainly on human muscle and sweat. And it means that they will buy less with their hard labor.

When huge and costly projects are tied up or scrubbed as a result of endless litigation, the result is enormous economic waste. That has an impact on capital markets and electric bills right now, even before actual shortages. Pacific G&E estimates that every month of delay at Diablo Canyon will cost it $28 million. Multiply that by all the other hamstrung projects and the bill is a very large one.

It is of course true that all the litigious red tape that costs jobs to construction workers and factory hands represents added work for lawyers, lobbyists and advocates. A very shallow economic analysis might hold that we thus are creating better jobs. That theory doesn't hold up unless the upgraded jobs are also useful to the public and we have very serious doubts about that.

Lacking, of course, is a clearcut commitment, endorsed by Congress, that the nation wants continued economic development and is willing to give utilities clearance to proceed with their projects within sensible guidelines having to do with safety and environmental pollution. Unless such a policy is forthcoming soon—and another session of Congress is slipping by without any definitive action—it may not be very long before things start getting a bit dim in the Southwest.

THE PRESIDENT ON TARGET

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. VANDER JAGT. Mr. Speaker, last Wednesday President Ford returned home to Michigan to share with an audience at the University of Michigan Crisler Arena what he called "my views of America in 1976 and my hopes for America in the next 4 years and beyond." It was a dramatic moment for our President and our former colleague here in the U.S. House of Representatives, and at a dramatic time in his Presidency of our great country.

It was a wonderfully warm moment for the President and the lovely and gracious First Lady. The President was at home at a school and campus where some 40 years ago he was the "big man on campus," the football hero and a school leader. Well, he was the "big man on campus" once again and the Michigan crowd embraced him with open hearts. It was a happy family reunion.

Of even greater importance was the major address by the President. The entire address will follow this brief statement. But, I would like to bring to the attention of my colleagues some of the highlights of that talk.

The President told his audience, composed primarily of University of Michigan students—

> Throughout most of your lives, America has faced turmoil. Some of our most beloved leaders have been assassinated. There was a war we could not either win or end. There were destructive riots on our streets and campuses. We suffered runaway inflation and the worst recession in 40 years. We were betrayed by corruption at the highest levels of government.

Then the President stressed:

> The American people are ready for the simple truth, simply spoken, about what the government can do for them and what it cannot and should not do. They will demand specifics, not smiles; performance—not promises.

He then added a comment which all Americans share:

> More government is not the solution. Better government is. It is time we thought of new ways to make government a capable servant and not a meddling master.

It was a good speech, not only because it expressed the President's vision of a better America—and not only because it contained major new housing initiatives—but because he spoke plainly and simply of his administration's outstanding record of achievement and its goals. Further, by talking about jobs—Home ownership, health care, education, recreation, and peace at home and abroad—the President spoke directly to the concerns of the American people today. He did not waffle and he did not evade the issues—he pinpointed them.

As one who was there, I was especially glad to hear the President speak of his administration's all-out peace efforts in foreign affairs. He has sent Secretary of State Henry Kissinger on a mission for peace in Africa as part of a comprehensive effort that has won respect, trust, and appreciation for America on that vital continent. It is the same kind of respect and trust that the President has earned for himself at home. At this time, I would like to insert the President's complete address:

TEXT OF REMARKS BY THE PRESIDENT, UNIVERSITY OF MICHIGAN, SEPTEMBER 15, 1976

I have come home to Michigan to share with you my views of America in 1976 and my hopes for America in the next four years and beyond.

During the last two years, in the aftermath of a difficult war and a painful ordeal of economic adversity and political crisis, we reached a critical turning point in America's history.

Throughout most of your lives, America has faced turmoil. Some of our most beloved leaders have been assassinated. There was a war we could not either win or end. There were destructive riots on our streets and campuses. We suffered runaway inflation and the worst recession in 40 years. We were betrayed by corruption at the highest levels of government.

Through all of this, we found in ourselves a basic strength which has proven mightier than all our armaments, more precious than our great store of national wealth, and as enduring as our Constitution.

As I said on taking the oath of office as President two years ago, "our long national nightmare is over." In the last two years, the United States of America has made an incredible comeback—and we're not through yet.

In 200 years as a free people, much has changed in our nation but America's basic goals remain the same:

Americans want a job with a good future.

Americans want homes in decent neighborhoods—and schools where our children can get a quality education.

Americans want physical security—safety against war and against crime, safety against pollution in the water we drink and the air that we breathe.

We want medical and hospital care when we are sick, at costs that will not wipe out our savings.

We want the time and opportunity to enlarge our experience through recreation and travel.

We Americans are a proud people. We cherish our inalienable rights: the right to speak our minds—the right to choose the men and women who enact and enforce our laws—the right to stand equal before the law, regardless of sex, age, race or religion—the right as a farmer, businessman, worker and consumer to bargain freely in the economic marketplace—the right to worship as we choose.

It all adds up to the "American dream".

These are the goals which every politician and every citizen has for America. They are not some mystic vision of the future. They are the continuing agenda for action today.

And so, the question in this campaign of 1976 is not "who has the better vision of America." The question is "who will act to make that vision a reality."

The American people are ready for the simply truth, simply spoken, about what the government can do for them and what it cannot and should not do. They will demand specifics—not smiles; performance—not promises.

There are some in this political year who claim that more government, more spending, more taxes and more controls on our lives will solve our problems.

More government is not the solution. Better government is.

It is time we thought of new ways to make government a capable servant and not a meddling master.

Let's get down to cases.

Let's talk about jobs.

Today 88 million Americans are gainfully employed—more than ever before in our history. But that's not good enough.

My immediate goal is two and a half million new jobs every year with emphasis on our youth, especially the minorities. Not demeaning, dead-end jobs paid for out of the Federal Treasury, but permanent jobs with a future generated by the demands of a healthy economy.

Can we do it? We have done it.

We proved once and for all that you can cut inflation in half and add four million new jobs in just 17 months. We did it with tax cuts that allowed Americans to spend more of their own money. We did it with tax incentives that encouraged job production. We did it by letting our free economic system do what it does better than any other system in the world—produce!

But I won't be satisfied until every American who wants a job can find a job.

I am particularly concerned that there are too many young Americans who cannot find a good job, or get the training and experience they need to find a good job.

Americans have long since recognized the importance of assuring that every high school graduate who is willing, able and qualified be able to go to college. We have done so through grants, loans and scholarships.

I believe we can apply this same principle to create a program for young people who choose not to go to college, but want a job at which they can learn a trade, a craft or practical business skills.

Let's put America—all of America—to work!

Once a good job is secured, it's an American tradition to put some of those earnings to ward a family home. But nowadays, with interest rates too high, down payments too high and even monthly payments often too high—home-ownership is not within the reach of many Americans, particularly young Americans beginning a career or marriage.

My goal is home-ownership for every American family that wants to own a home and is willing to work and save for it.

Here is how I will meet that goal: First—I will continue to pursue economic policies, including tight control of unnecessary Federal spending, which will hold inflation down, reduce interest rates, cut your taxes, increasing your purchasing power and making more funds available for home mortgages.

Second—It's time we did something more about the down-payment requirements which so many people can't afford. I will recommend changes in the FHA law to reduce down-payments on lower and middle-price houses, by up to 50 percent.

Third—I will direct the Department of Housing and Urban Development to accelerate implementation of a new federal guaranty program to lower monthly payments in the early years of home-ownership and gradually increase them as the family income goes up.

A good job. A good home. Now let's talk about the good health we must have to appreciate both. My goal is an America where health care is not only the best in the world—but is both accessible and affordable. But raising Federal taxes by 70 billion dollars a year for a government-dominated national health insurance program is not the way to do it. That path leads to more bureaucracy, more fraud, more taxes and second class medical care.

That's what I'm against. Here's what I'm for:

As our first priority, I have recommended protection against the costs of a catastrophic or prolonged illness for the aged, and the disabled—insuring that never again will they have to pay more than $750 for medical care in any year. People should not have to go broke just to get well.

Next, I proposed to the Congress last spring, a major reform in federal health programs. We should combine sixteen overlapping and confused Federal health programs—including the scandal-ridden Medicaid program—into one $10 billion program that distributes the federal funds more equitably among the states and insures that those who need these services get first class care.

America is still awaiting action by the Congress on this urgently needed legislation.

Now let's turn to an area of special concern to this audience—education.

One of the most urgent problems is to create a climate in every classroom where teachers can teach and students can learn.

Quality education for every young American is my Administration's goal. Major reforms are necessary in the relationship between the national, state and local units of government so that teachers can spend their time teaching instead of filling out Federal forms. Federal aid is necessary, but Federal aggravation should stop.

Nine months ago, I proposed to the Congress that we replace 24 paper-shuffling, educational bureaucracies with a single federal program, which would provide 3.3 billion dollars in direct aid to elementary and secondary schools.

They have not acted. Once again this Congress has shown itself to be sitting dead in the water—addicted to the status quo. The American people deserve better representation than *that!* They will demand it on November 2.

We must ensure that low-income students have access to higher education.

We must also find ways through the tax system to ease the burden on families who choose to send their children to non-public schools and to help families cope with the expenses of a college education. In my Administration the education needs of America's middle-income families will neither be forgotten nor forsaken.

Education is the key to a better life. The prevention of crime is essential to making our lives secure.

The Constitution demands that we ensure domestic tranquility, and that is what I called for in my crime message to Congress. Most crimes are committed by hardened career criminals who know no other life than the life of crime. The place for those people is not on the streets, but in jail. The rights of a law-abiding society, the rights of the innocent victim of crime, must be fully protected.

And finally, we must give Americans the chance to enjoy America. I have outlined a 1.5 billion dollar program to expand and improve our national park system over the next ten years. This means more national parks, more recreation areas, more wildlife sanctuaries, more urban parks and historic sites. Let's make this America's Bicentennial birthday gift to all of our future generations.

Today America enjoys the most precious gift to all: we are at peace. No Americans are in combat anywhere on earth, and none are being drafted—and I will keep it that way.

We will be as strong as we need to be to keep the peace, to deter aggression, and to protect our national security.

But if our foreign policy is to have public support, it must represent the moral values of the American people.

What is more moral than peace with freedom and security?

As the leader of the free world, America has a special responsibility to explore new paths to peace for all mankind. It is a responsibility we have not shirked.

We have been a force for peace in the Middle East, not only in promoting new agreements, but in building a structure for a more lasting peace.

We have worked for peace with the Soviet Union, not only in resolving our many conflicts, but in building a world where nuclear armaments are brought under control.

We are working for peace in Europe, where the Armies of two major coalitions confront each other.

We will continue to build our relationship with the People's Republic of China, which contributes importantly to peace and stability in the world.

Now, in the face of a new challenge, we are embarked on a mission for peace in southern Africa.

This is the first Administration in America's history to develop a comprehensive, affirmative African policy. This policy has won respect and trust on that troubled continent.

At my direction, Secretary Kissinger is now engaged in an intensive effort to help all the parties—black and white—involved in the mounting crisis in southern Africa, find a peaceful and just solution to their many and complex differences.

The African parties in the very grave and complicated problems of Namibia and Rhodesia have encouraged us to help them in the search for peace and justice. We are also backed in our efforts by our European Allies with traditional bonds to the African Continent. In particular we are working in close collaboration with the United Kingdom which has an historical and legal responsibility in Rhodesia.

Success will depend fundamentally on the cooperation of the parties directly concerned. We will not and we cannot impose solutions, but will depend upon the goodwill and determined efforts of the African parties themselves to achieve negotiated settlements.

We seek no special advantage for ourselves in these negotiations. We do share with the people of Africa these fundamental objectives: a peaceful outcome; a future of majority rule and minority rights; a prospect of widening human dignity and economic progress; and a unified and an independent Africa free from outside intervention or threat.

The path that leads to these goals is not an easy one. The risks are great. But America's interests and America's moral purpose summon our effort.

Despite the rigors of a great national election, I have persisted in carrying out this new policy toward Africa—not because it is expedient—because it is right.

I pledge to you that under my Administration, American foreign policy will serve the interests of our country and our people—it will be true to our great heritage of the past, fulfill our purposes in the present, and contribute to our best vision of the future.

It is not enough for anyone to say "trust me". Trust must be earned.

Trust is not having to guess what a candidate means.

Trust is leveling with the people before the election about what you're going to do after the election.

Trust is not being all things to all people, but being the same thing to all people.

Trust is not cleverly shading words so that each separate audience can hear what it wants to hear, but saying plainly and simply what you mean and meaning what you say.

I am proud of the maturity of the American people who demand more honesty, truthfulness and candor of their elected representatives.

The American people, particularly its young people, cannot be expected to take pride—or participate—in a system of government that is defiled and dishonored—in the White House or in the halls of Congress.

Personal integrity is not too much to ask of public servants. We should accept nothing less.

As we enter the last seven weeks of this national election, a new poll indicates that as many as 65 million Americans will not vote in November.

Some people have said that they are not excited about any of this years' candidates. Let them be excited about America.

Let them be excited about their own capacity to grow and change—about our Nation's capacity to grow and change—and even about the evolution, with their help, of the candidate of their choice.

In this year of 1976, I stand before you as the last President of America's first 200 years. But with your help, I also intend to be the first President of America's new generation of freedom.

Working together we can build an America that does not merely celebrate history, but writes it—that offers limited government and unlimited opportunity that concerns itself with the quality of life—that proves individual liberty is still the key to mutual achievement and national progress.

And when the history of this era is written, future generations will look back at America in 1976 and say—yes—they were two hundred years old—but they had really just begun.

JUDGE JOHN J. SIRICA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. CONTE. Mr. Speaker, at the national Italian American Bicentennial tribute dinner last night, I had the distinct honor and privilege of presenting the special award of the Italian American Foundation to U.S. District Court Judge John J. Sirica.

In introducing Judge Sirica, I made these remarks:

I have the great honor to introduce a man who shall always exemplify the highest courage and integrity of our generation: Judge John J. Sirica.

At our nation's darkest hour, Judge Sirica was a ray of brilliance and a guiding light. Almost single-handedly, he restored the faith of Americans in their Constitution, their Government, and their nation.

One hundred and thirty years ago, in my hometown of Pittsfield, Mass., author Herman Melville wrote a sentence that symbolizes the esteem we share for Judge Sirica.

Wrote Melville: "Be true! Be true! Be true! Against the proud Gods and Commodores of this Earth, ever stand forth your own inexorable self."

Tonight we honor and thank Judge Sirica for standing up to the proud gods of this Earth, and for being his own "inexorable self."

Mr. Speaker, at this point in the RECORD, I am submitting the text of the resolution that accompanied the special award given to Judge Sirica by the Italian American Foundation:

JUDGE JOHN J. SIRICA

Who, since February 1957, during his tenure as a judge of the United States District Court, District of Columbia, having served as a Chief Judge of that Court from 1971 to 1974 when required by law to step down as Chief Judge, demonstrated in the discharge of his judicial duties,

That, law, order and morality in our nation and society can and must be preserved through tolerant, impartial and courageous discharge of the enforcement responsibilities entrusted to our judiciary by the people of this nation,

That, our nation is governed by the rule of law, and that no one individual, class or race of people, of whatever origin, rank or position, private or public station in life, can be permitted to determine which laws are exempt from obedience, and that, however worthy be the end proclaimed, no means violative of law can justify the attainment,

That, whatever the color, race or creed of the wrongdoer, the guarantee of due process and equal justice, under our system of law, is inviolable and redressable in our judicial system with all entitlements bestowed by our Constitution,

That, to assure justice and to preserve respect for law within an ordered society, our judicial tribunals must safeguard and secure our people from those who would commit lawless invasions and trespasses upon rights and liberties guaranteed to us by our constituted authority, and,

That, compassion, tolerance, impartiality and knowledge are the cornerstones and firm pillars for equal justice, indispensable to the discharge of the awsome burdens and grave responsibilities of those who are called upon to exercise judcial judgment.

CAPITAL PUNISHMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. DRINAN. Mr. Speaker, Dostoevsky once stated that a civilization may be judged by the manner in which it treats its prisoners. Imposing the death penalty on some of those convicted of crime, I doubt, would satisfy the high standard implied in his observation.

In a recent edition of Commonweal, Robert Pugsley explores some of the implications of the use of capital punishment in our society. By imposing the death penalty upon the theory of retribution, its only certain foundation, we are in effect emulating the murderers by imitating "their cheapening of human life." I recommend this important statement to each of my colleagues:

CAPITAL PUNISHMENT—BRINGING BACK DEATH

(By Robert A. Pugsley)

The fate of over 600 death-row prisoners in 30 states now hangs in precarious balance by virtue of the U.S. Supreme Court's July 2 companion decisions concerning capital punishment. The Court made clear what had been in considerable legal question since its last major pronouncement on the subject in 1972. Then, in the case of *Furman* v. *Georgia,* a bare majority of five Justices found all existing state capital punishment laws unconstitutional because of the arbitrary and "freakish" manner in which the death penalty was imposed. That decision went only to the distribution of death as punishment, and did not deal with the nature of the practice itself.

In response to *Furman,* 35 states and the federal government passed various capital punishment laws designed to eliminate the capricious selection processes which the Court found unconstitutional under the Eighth Amendment's ban on cruel and unusual punishment. Essentially, these statutes removed from judge and jury the discretionary choice as to which of those convicted of certain crimes would die, and required the sentence of death upon conviction for specified offenses. But that, as Justice Stewart's opinion this month recognized, merely pushed discretion back a step or two on the chain of events we call criminal justice. Knowing the inevitable result of their returning a guilty verdict, many juries undoubtedly found ways of acquitting an offender they might otherwise have convicted or of finding him guilty only to a lesser charge.

One of the main criteria which the Court relied on in finding arbitrary the sentencing pattern in *Furman* was the disproportionate number of minority-group members who were meeting the executioner. Interestingly, the statistics show that in the four years since that decision, the so-called "mandatory" laws have yielded an even more disproportionate number of minority citizens sentenced to die. By its own earlier narrow standard, the Court could thus reasonably have been expected to finally outlaw capital punishment.

Instead, it has merely banned mandatory death sentences for every murder convict, and openly returned the decision, on a case-by-case basis, to judges and juries who must now operate within statutory sentencing guidelines. These statutes must provide judges and juries with adequate information and guidance for determining whether the sentence is appropriate in a particular case; those deciding will have to take account of mitigating as well as aggravating circumstances surrounding the murder's commission. What all this in practice means is that capital punishment is constitutionally available, and that even slightly-modified versions of the "mandatory" laws will probably be acceptable for its imposition.

All of this relates to procedure, not substance. There had been good reason to hope during the past four years that the Court would eventually find the death penalty *per se* in contravention of the Eighth Amendment, not to mention the moral sensibilities of a large segment of the American people. The Court has, for the foreseeable future at least, dispelled such hopes. It has left instead a host of legal problems to be sorted out in that atmosphere of moral ambiguity which characterizes most of the Court's recent determinations with regard to matters of life and death.

Unless and until a future Court majority can bring itself to declare death an inherently cruel and unusual punishment, the practice of state-sanctioned killing will continue in this country. As long as capital punishment remains a constitutionally permissible option, the majority of states will devise ways of employing it which pass muster under the new guidelines. All other questions concerning the issue, no matter what their relative importance, are subordinate to the fundamental moral and philosophical determination. Thus, it is to that aspect of the controversy that I would like now to turn.

During oral argument on the consolidated appeals last spring, the Justices reportedly evidenced lively interest in the death penalty's alleged effectiveness as a deterrent to violent crimes, particularly murder. The academic arguments made in this connection have long since passed the point of wearisome predictability and inconclusiveness. Competing views rooted in differing political and social values come cloaked in the trappings of intellectual "objectivity," as though even if there *were* a definitive empirical answer on the deterrent value of death, that alone would end discussion.

In fact, an ethically principled resolution of the death penalty controversy can never be based solely or primarily on considerations of deterrence. That penal theory asks only: How can we punish this offender so as to most effectively inhibit potential offenders; how can we use this offender's case for purposes of example? The formulation itself suggests the inherent risk, borne out in practice, of discounting an individual's rights now in favor of some projected collective agenda. But deterrence-minded advocates of the death penalty simply *assume* the morality of such a scheme, and quickly proceed to their statistical calculations. They can do so only because their prime goal is general utility, not individual justice.

In their majority opinion, the Justices claim to have set little store by the deterrence argument in reaching their result. They rested their philosophical case, rather, on the penal rationale known as retribution. But in so doing, they fixed upon one, but by no means the only or most persuasive, implication of that theory for capital punishment. Retribution alone among the justifications for criminal punishment is concerned first and foremost with doing justice in the individual case. It concerns itself with meting out punishment according to the offender's just deserts, measured with reference to the past: retribution shapes his punishment according to what the offender actually did, not according to what he, or others, might possibly do in the future. This approach by no means excludes the additional major penal goals of deterrence and rehabilitation, so long as they are not pursued at the expense of certain human rights and concepts of justice which the Constitution guarantees. Of these, none could be more fundamental than the right to life.

Society clearly has the right (indeed, obligation) to fairly punish a criminal who deserves it. But the correlative questions are no less important than the basic proposition: *Which* punishments are moral, just, and constitutional? The argument here is not that a particular murderer might not justly deserve to die. Rather, the question must be: Can our society impose such a punishment without thereby corroding the very bases of human dignity and respect for life which it is part purpose of a retributivist punishment scheme to preserve? Is the society's general duty to protect human life more compelling than any obligation it might have to administer the otherwise just punishment of death? Still more basic: Can a punishment which takes life be truly just?

I contend that one may consistently uphold the state's general right to punish in society's behalf, and at the same time argue that the state should not have the right to punish by death. Many modern retributivists make a similar argument. They stress that the more important component of a particular punishment is its condemnatory function, its symbolic underscoring of society's serious disapproval of certain conduct. Less important is the actual penalty part of the sentence; it should certainly be commensurate with, but need not be exactly proportionate to, the gravity of the offense. They advocate, in short, a return to punishment based on the concept of just deserts, without a rigidly mechanical adherence to the biblical *lex talionis* ("an eye for an eye, a tooth for a tooth").

Paradoxical though it might seem to those who automatically associate retribution with the harshest sentences imaginable, it is the only theory of punishment which has a coherent, principled basis from which to oppose their imposition. Two recent retributivistly-oriented proposals to make punishments fair and certain have recommended a generally shorter sentencing scale than that currently prescribed (though rarely enforced) in most American jurisdictions. The key difference is that a sentencing-and-punishment policy grounded on retribution would eliminate plea-bargaining, and, generally, probation and parole. Simply put, a sentence imposed would be a sentence served. Significantly, neither of these proposals called for capital punishment as the appropriate response to murder, thereby taking a position well within the spirit and logic of the retributivist penal theory. The Court, unfortunately, has just chosen a different path.

The main concern in discussion of the death penalty is the value we as a society choose to assign human life, even, and maybe especially, the life of someone found guilty of taking another's life. I say "especially," because the temptation to repay in kind is never stronger, the test of our commitment to preserve life never greater than in this situation. If we collectively allow the state to kill a convicted murderer in our name, it can be on one morally justifiable basis only: because we honestly and strongly believe that justice requires it and that justice will be satisfied by no lesser punishment, however severe.

As we proceed to resolve the myriad of legal complexities left in the wake of the Court's opinion, let us, our legislatures, and our courts no longer hide in the mists of unresolvable, and secondary, debate about deterrence. Let's face the moral issue up-front. If we agree that this convict's just deserts and society's legitimate right to punish him can find mutual fulfillment only in death, then the Supreme Court has not left the door open in vain. But I think we can and must do better than that in devising appropriately severe and certain punishment for this society's murderers, punishment that does not imitate their cheapening of human life.

H.R. 15390 TO ESTABLISH OFFICE OF INSPECTOR GENERAL FOR HEW

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. FOUNTAIN. Mr. Speaker, it is my expectation that H.R. 15390, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare, will be considered under suspension of the rules next week.

This legislation is urgently needed, and I want to call it to the attention of the Members.

H.R. 15390 is based upon information obtained during more than 18 months of study and investigation by the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations, which included extensive hearings and the preparation of a comprehensive oversight report.

HEW administers around 300 separate programs with expenditures totaling about $145 billion annually. A substantial percentage of this amount is disbursed by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees. These operations present a vast potential for fraud, program abuse, waste and mismanagement.

The record of our investigation—as well as the work of other congressional committees, Government agencies, and the press—demonstrates beyond any conceivable doubt that fraud and abuse in HEW programs has reached crisis proportions.

When we began our hearings more than a year ago, HEW officials could not even provide estimates as to the extent of losses from fraud and abuse. Since that time, the Secretary has estimated that such losses on a single program—medicaid—total $750 million annually. Other estimates are substantially higher; for example, the New York State welfare inspector general has estimated medicaid losses in that State alone at more than $500 million per year.

Effective action to combat the tremendous losses being incurred on medicaid and other programs is long overdue.

Unfortunately, the steps being taken are far from adequate.

HEW units responsible for combating fraud and abuse and for promoting economy and efficiency have been scattered through the Department in a haphazard, fragmented and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership; most such units lack independence because they are under the direct control of program officials. Investigative resources have been ridiculously inadequate and information needed by the Secretary and Congress for effective action against fraud and abuse has not been available. Action to correct known deficiencies has sometimes been delayed for years, if taken at all.

I would be the first to acknowledge that H.R. 15390 is not the answer to all HEW's problems. However, its enactment will provide a very important—and very badly needed—step in the right direction.

H.R. 15390 will establish in HEW for the first time a high-level official with no program responsibilities who is charged with giving undivided attention to the prevention of fraud and program abuse and the promotion of economy and efficiency in the administration of HEW's programs and operations.

If properly implemented, it will provide effective leadership which does not now exist.

It will help to coordinate the work of the many units with some degree of responsibility for preventing fraud, abuse, and mismanagement which are presently scattered throughout HEW in disorganized fashion.

It will provide a means for informing the Secretary and the Congress about serious problems and for helping to insure prompt corrective action.

H.R. 15390 was favorably reported by the Committee on Government Operations by a unanimous vote on September 14, and I would like to include with my remarks a copy of the statement I made in support of the bill at that meeting.

H.R. 15390 is accompanied by House Report 94–1573 which fully explains the provisions of the bill.

I include the following:

STATEMENT BY CHAIRMAN L. H. FOUNTAIN, INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES SUBCOMMITTEE, BEFORE THE COMMMITTEE ON GOVERNMENT OPERATIONS

(H.R. 15390, A Bill to Establish an Office of Inspector General for the Department of Health, Education, and Welfare)

I am pleased to present H.R. 15390, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare. H.R. 15390 is a clean bill incorporating subcommittee amendments to H.R. 14761, and the subcommittee has unanimously recommended its approval by the full committee.

A comprehensive statement concerning H.R. 15390 was provided to each member last Friday. Consequently, I will present a relatively brief statement at this time and ask unanimous consent that the full statement be included in the record.

H.R. 15390 is the result of a great deal of work by the subcommittee. We held extensive hearings on HEW fraud and abuse procedures and resources during 1975. In January 1976, as you know, a comprehensive report on our continuing investigation was approved unanimously by the full committee. Later in 1976 we held hearings relating directly to establishment of an HEW Office of Inspector General.

Serious deficiencies disclosed by the subcommittee's investigation include the following:

FRAGMENTED ORGANIZATIONAL STRUCTURE

We found that units responsible for combating fraud and abuse were scattered throughout HEW in a haphazard, fragmented and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership. Moreover, many such units lacked independence because they reported directly to officials responsible for the programs involved.

LACK OF INFORMATION

We found that information needed by both HEW and Congress for effective action against fraud and abuse was simply not available.

INADEQUATE RESOURCES

HEW's investigative resources were ridiculously inadequate. We found that its central investigative unit had only ten investigators, with a ten-year backlog of uninvestigated cases.

FAILURE TO TAKE PROMPT CORRECTIVE ACTION

Even when serious deficiencies became known to responsible HEW officials, we found that corrective action was sometimes not taken until literally years later, if taken at all.

At this point, I would like to quote some brief excerpts from a very perceptive analysis of deficiencies in HEW's fraud and abuse procedures provided to the subcommittee by the United States Attorney for the District of Arizona, Mr. William Smitherman. Mr. Smitherman stated:

"The HEW fraud and abuse matters handled by this office are so rare that they have, to date, not generated a significant statistic in terms of our overall caseload. We attribute this to the fact that the Department of Health, Education, and Welfare has no viable internal enforcement arm comparable in staff or funding to, for example, the Inspector General's Office of the Department of Housing and Urban Development."

"It is apparent to this office that even within a single Administration under the Department of Health, Education, and Welfare there is a critical lack of centralized direction as to the kinds of abuse which should be investigated, the conduct of investigations, and the method of reporting. If the Congress is seriously concerned with protecting the integrity of its programs, it should endow the Inspector General's Office of the Department of Health, Education, and Welfare with sufficient funds, manpower, prestige and autonomy that it can function independently of the Program oriented Agencies, and charge it with the responsibility for protecting those programs from fraud and abuse."

In its January 1976 report, the Committee on Government Operations unanimously recommended that action be taken to place overall responsibility for coordination and leadership of HEW auditing and investigative activities in a single individual with no program responsibilities who would report directly to the Secretary. The committee further recommended that this official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.

H.R. 15390 would accomplish this objective by providing for a high-level official with no program responsibilities, reporting directly to the Secretary, who would be responsible for giving undivided attention to preventing and detecting fraud and program abuse in HEW programs and operations and to promoting economy and efficiency in the administration of such programs and operations.

While only the Audit Agency and the Office of Investigations would initially become units of the Office of Inspector General, the Inspector General will have responsibility for coordinating and providing leadership for related activities of other units. Moreover, additional units and functions could be transferred to the Office by the Secretary. To promote objectivity and prevent possible conflicts of interest, the bill prohibits assignment of program operating responsibilities to the Office.

The Inspector General is specifically charged with responsibility for reporting to the Secretary and the Congress on the progress of necessary corrective actions, and for calling attention to unjustified delays in implementing important recommendations.

Although not directly affecting the level of resources available, H.R. 15390 will help achieve more effective use of resources through better coordination and provides for Congress to be informed without delay in the event of serious shortages.

The record of the subcommittee's investigation—as well as the work of other Congressional committees, the General Accounting Office, Federal, State and local prosecutors and the press—has demonstrated beyond any conceivable doubt that fraud and abuse in HEW programs has reached crisis proportions.

As all of us recognize, the enactment of H.R. 15390 will not solve all HEW's problems. However, it will provide a very important and very badly needed step in the right direction.

RIGHT ON: KILPATRICK GETS THE RIGHT CURRENT, BUT THE FEDERAL GOVERNMENT LAGS BEHIND

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. OTTINGER. Mr. Speaker, I call attention to the exhortation by Mr. Kilpatrick that we should be on a three-shift schedule to accomplish harnessing the "infinite sources of energy in the sun, the wind, the tides, and in the conversion of hydrogen." And I agree. We could not only put to work the Federal agencies but those many people who are now out of work throughout the country if we could only get a firm commitment to a conservation and renewable energy policy—this is not the capital intensive route we have now but instead a labor intensive energy solution.

The article follows:

ENERGY POLICY OUT OF STEAM

(By James J. Kilpatrick)

What ever became of a national energy policy? It hasn't been heard from lately. An uneasy impression will not go away that in terms of both conservation and development, we are drifting.

Here in Washington, one listens for the impact of hard decisions; and one hears mainly the soft shuffle of papers. The several agencies concerned with energy appear to be laboring mightily, whatever shortages one hears about, there is no shortage of statements, reports, speeches and miscellaneous publications. Talk is in over-supply. But of action, one perceives very little.

Two or three years ago, it appeared that a small sense of urgency was beginning to take root. The oil embargo that began in October of 1973 had some good effect: For the first time, great numbers of our people became aware of certain truths that should have been evident all along. These were truths about the nature of the world, and about the nature of energy. We had never thought much about them.

Suddenly there was recognition that the United States, which depends upon oil for its economic life, was critically dependent upon oil from foreign sources. It began to sink in that conservation and development were problems not only for America, but for the world. The think tank experts had been warning for 30 years that time was running out on "cheap energy." Now the warnings were being heard. The government leaped to its saddle and rode off in all directions.

The embargo ended in mid-March of 1974. What happened to the fired-up sense of urgency? The steam leaked out. Little remains of the conservation programs of 1974. Our cities are brilliantly lighted by night. The 55-mile speed limit is universally disdained. Nobody even talks much about conservation anymore.

The American Petroleum Institute has the most authoritative figures on the oil picture. This is the sobering fact: We are now importing 41 per cent of our demand. In the period immediately before the embargo, imports from the Arab nations averaged 1.1 million barrels per day. That figure is now 2 million barrels per day. Despite significant improvements in automobile engines, demand keeps rising steadily.

Urgency has faded not only on the conservation side, but on the development side also. We ought to be far along in the drilling of test wells in promising offshore areas; progress is exceedingly slow. The development of nuclear power plants is hobbled by endless red tape. We ought to be investing billions in bold programs—space age programs—to harness infinite sources of energy in the sun, the wind, the tides, and in the conversion of hydrogen. Some interesting and promising work is being done, but we are working mostly nine to five.

What will it take to revitalize the effort? Another embargo? Massive brownouts? Rigorous restrictions upon consumption? No ready answers are forthcoming. Once they get good and galvanized, the American people are the greatest bunch of three-shift, full-throttle miracle workers in the world. It takes a lively shock to get them going. Mere exhortations accomplish little; and statistics are a bore.

So we muddle along. The Alaskan pipeline should be in operation in another 15 to 18 months, bringing in 600,000 to a million barrels per day. Four or five years hence, offshore wells may make an important contribution. If a free market were permitted to operate on oil and gas prices, sharp price increases might have a useful shock effect on the development of competitive sources.

It is all pretty iffy, ho-hum, and may-and-might. When it comes to an energy policy, the image of America is the visage of Mad magazine's Alfred E. Newman. Who? Me worry? It's no way to lead the free world.

NATIONAL CLEANERS ASSOCIATION AIDS THE FIGHT FOR BETTER CARE LABELING IN GARMENTS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. KOCH. Mr. Speaker, I would like to call attention to what the Neighborhood Cleaners Association, a trade association located in my congressional district, has been doing on behalf of the consumer. The association represents some 2,800 neighborhood drycleaners in the five-State areas of New York, New Jersey, Connecticut, Pennsylvania, and Delaware. At the direction of its executive director, William Seitz, the association has been active in the fight for improved Federal fabric care labeling regulations.

Four years ago the Federal Trade Commission instituted the "care labeling rule" which required manufacturers to sew basic maintenance information into garments. But, the rule was too weak to insure that accurate and complete information was provided.

The Federal Trade Commission is aware of the inadequacy of today's regulations and plans to revise them. It is preparing to hold hearings in order to recommend changes. The following are the basic two changes under consideration:

First. A requirement that alternate care methods where applicable be listed on the label.

Second. The inclusion of two categories of fabrics previously exempt from the regulations: homefurnishing fabrics, yarn and suede and leather goods.

These consumer protection regulations are supported by the Neighborhood Cleaners Association. In addition the association has advocated that "appropriate penalties" be imposed for violations of the rules.

I would agree that manufacturers should be held responsible for the information provided. That if a label indicates the fabric can be washed or dry cleaned that in either case the consumer can be assured that it will come out in wearable condition after either of these processes. Similarly, if there is no way the fabric can be cleaned, the consumer is entitled to know it. And if a fabric is going to lose its sizing in cleaning, this too should be indicated.

Too often the consumer and the drycleaner are left to shift for themselves. Once the product has been purchased, the manufacturer feels it is absolved of all responsibility. This is not right.

The poor who are the least able to afford mistakes in care labeling is the group most often to suffer from improper, nonexistent, inadequate, or false labeling. This group requires the most protection. A dress or suit of clothing to a working man or woman is a major expenditure. She or he may have one or perhaps two. And, should it clean poorly because of improper labeling, he has suffered the most.

The FTC received over 9,000 comments from consumers when it published in the Federal Register a notice of opportunity to submit written comment and data regarding specific questions on care labeling.

The quality and number of comments received, according to the FTC, indeed are interesting. Fifty-six percent indicated that care information is often inaccurate. Seventy-nine percent found the information incomplete. Eighty-five percent wanted household furnishings to be included and ninety-four percent favored inclusion of suede and leather apparel. Ninety-one percent asked that piece goods used for homesewing be included.

This shows that the consumer is concerned with obtaining dollar value for the dollar expended, and the consumer looks to the Government for help in insuring that at least basic standards are met.

The drycleaner's visual examinations, chemical, and physical tests are often inadequate to determine the fiber content, the finishing process, dye performance, and reaction to previously safe spotting chemicals and formulae. Pretesting and labeling is the only assurance the consumer can have.

The NCA, in its efforts to help the drycleaner help the consumer issues regular technical bulletins to its members in which it reports the various properties of new fabrics, how to best clean them and what to avoid in the cleaning process. This is a vital service not only for the consumer but for the manufacturer, as well.

It is interesting to note that the Neighborhood Cleaners Association which maintains its own laboratories, also within my constituency, analyses as many as 5,000 different garments and fabrics per year for its members and for a number of consumer groups, governmental and civilian. There is no other comparable facility to my knowledge.

It is my hope that we who are concerned about protecting the consumer's interests in this field are successful in strengthening the FTC's "care labeling rule" so that more specific instructions are provided and manufacturers are responsible for insuring that their products will wash or dryclean as directed.

NO FEDERAL STRIP MINE BILL LEAVES WYOMING WITHOUT PROTECTION FOR ITS RANCHERS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. RONCALIO. Mr. Speaker, Wednesday the Rules Committee declined by a vote of 9 to 6 to issue a rule which would give us a chance for an opportunity for the third time in 3 years to pass a law which would meld State and Federal interests for the mining of large reserves of Federal coal under non-Federal surfaces in the public land States in the Rocky Mountain West.

I have long maintained and will continue to insist that the surface owners of Wyoming are without protection and will be at the mercy of the mining industry in the decades to come unless this matter is satisfactorily resolved now, before the resumption of leasing takes place of the Federal coal in the public land States.

I therefore, Mr. Speaker, have asked Mr. Andy Weissner of the Mines and Mining Subcommittee to assist me in setting forth the specific and exact reasons why the present Department of Interior regulations will not suffice for the protection of Wyoming's surface owners. I am indebted to Mr. Weissner for the following and I believe every citizen of Wyoming who has an interest in this matter should read this. Every publication within Wyoming has a duty to publicize this dialog and should carry the following verbatim. I hope they will.

Mr. Speaker, the Department of Interior's proposed adoption of Wyoming reclamation laws is inadequate to protect the people of the State of Wyoming.

On August 24, 1976, Secretary Kleppe announced proposed rulemaking which would seemingly require Wyoming's coal reclamation laws and regulations to be applied to operations involving Federal coal. Secretary Kleppe states:

> We promised to adopt State reclamation requirements where they are as stringent as those of the Federal Government, and we are pleased to have determined that Wyoming's law qualifies for adoption.

The proposed rules published to implement the incorporation of Wyoming's law and regulations, however, are so narrow in their interpretation as to what constitutes laws "relating to reclamation," that the whole exercise appears to be one of futility.

In reality, Wyoming will have no more control over mining operations involving Federal coal than if the proposed rules had never been published. The Secretary's action is akin to enactment of the performance standards section of H.R. 13950, the strip mining bill, alone, without any of the other sections of the bill. In short, the proposed rules will have no dramatic effect on mining and reclamation in Wyoming, nor will they give the State a greater control over Federal coal.

The major problem with the proposed rules is that they are so limited in scope. The Department of Interior has determined that those provisions of Wyoming's Environmental Quality Act of 1973—as amended in 1974, 1975, and 1976—dealing with mining plan requirements, performance bonds, bond release, surface owner consent, lands unsuitable for surface mining and variance procedures are "procedural" in nature, and therefore will not be incorporated into the Federal regulations.

Indeed, only the specific provisions of Wyoming law directly relating to performance standards have been proposed for adoption. The effect of this is to totally emasculate any control the State of Wyoming might have had over Federal coal operations if its 1973 act had been applied intact.

The following summarizes the weakness of the proposed rules in areas of major concern:

1. SURFACE OWNER CONSENT

Under Sec. 35–502.24(b)(xi) of Wyoming Law, a mining permit application will not be granted unless the operator obtains the written consent of the surface owner, if the surface owner acquired title to the property prior to January 1, 1970, or if he acquired title by inheritance or gift from an immediate family member.

Section 35–502.24 relates to mining permit applications, however, and will not be incorporated under the Proposed Rules, as it is allegedly not directly "related to the reclamation of lands disturbed by surface mining".

Nevertheless, the final environmental impact statement on the Federal "211" Regulations (published in final form on May 17, 1976) stated:

"The *position* of the administration of the Department (of Interior) is that the rights of surface owners should be determined under, and implemented by application of, the provisions of State common and statutory law."

This "position" was reaffirmed by Department officials during oversight hearings on coal leasing held by Mines and Mining in April.

It is now appears that this "position" is untenable (in spite of the earlier Department assertions) because under the Stockraising and Homestead Act (43 U.S.C. 299) surface owners can be deemed to have given consent to entry and mining when they first took the land subject to a reserved right to the minerals in the United States. Officials at DOI believe this a correct interpretation of the Stockraising and Homestead Act, and that only action by the Congress can effectively give surface owners a veto over mining on their lands—a strong reason for swift enactment of H.R. 13950.

In summary, the Proposed Rules will not apply Wyoming's surface owner consent requirements to Federal coal operations, and, even if they did, they might be in violation of the Stockraising and Homestead Act. Protection of surface owners over Federal coal in Wyoming can only come from enactment of H.R. 13950, or similar legislation containing surface owner consent requirements.

2. LANDS UNSUITABLE FOR SURFACE MINING

Section 35–502.12(a)(v) of the Wyoming law directs the Environmental Quality Council to "designate at the earliest date and to the extent possible those areas of the state which are of a unique and irreplaceable, historical, archeological, scenic or natural value". Under Section 35–502.24(g)(iv) a mining permit application will be denied if the proposed mining would "irreparably harm, destroy, or materially impair" any area so classified.

DOI's Proposed Rules do not incorporate these two provisions of the Wyoming statute, and therefore, the Environmental Quality Council's determinations as to lands unsuitable for surface mining will not be binding on Federal coal lands. Instead, the Department's "211" regulations will apply, and the "211" regs. contain no criteria for designating lands unsuitable for surface mining, other than a rather weak prohibition on mining in areas where reclamation is not "attainable and assured". The Department has promised to publish "guidelines" for determining lands unsuitable for surface mining, but these have not appeared to date.

Thus, unless the Department revises the Proposed Rules to honor the Environmental Quality Council's designations, no criteria will exist to deny mining plan applications for Federal coal lands where other values such as agriculture, recreation, wildlife, forestry, or water recharge might constitute a superior use of the land. Discretion in this regard will lie solely in the USGS Mining Supervisor, who will have no criteria to guide him, and might find himself totally powerless to deny a permit application even where he believed protection of any of the above mentioned values was paramount. Once again, H.R. 13950, would address this problem by setting forceful requirements to protect lands unsuitable for surface mining, including Federal coal lands.

3. VARIANCES

Unbelievably, the Department has decided that the variance procedures of its "211" Regulations "are not regulations relating to reclamation of lands disturbed by surface mining of coal", and that they will not be superseded by Wyoming law. In effect, DOI is saying: "We will adopt Wyoming's law, but remain totally free to gut it with our variance provisions".

To add insult to injury, the Proposed Rules avoid eliminating one of the "211" regulation's biggest loopholes by transferring language from section 211.40, which is to be superseded by Wyoming law, to section 211.74, which is not. The language in question permits a variance from backfilling requirements to allow the leaving of the initial cut-open pit, and high wall, a la Kemmerer mine, throughout all the rest of Wyoming, and has been denounced as a total emasculation of the "211" regulations by environmental groups as well as the Interior Committees of both Houses of Congress.

Once again, the Department has acted in favor of leaving incredible discretion on mining plans in the hands of the USGS Mining Supervisor and USGS and BLM personnel in Washington—and discretion means a potential for abuse. Based on the Department's past and present record of administering leasing and reclamation on the Federal coal lands, discretion usually means abuse.

To be fair here, it must be pointed out that Wyoming's law also is very lax on the granting of variances, and gives regulatory personnel great discretion, but at least section 35–502.45 of the Wyoming law places a one year limit on the duration of most variances, and establishes strict renewal procedures. Both Wyoming law and the "211" regulations are thus very loose on variances when compared to H.R. 13950.

4. PERFORMANCE BONDS

Both H.R. 13950 and section 35–302.34 of the Wyoming law require performance bonds to be in an amount sufficient to meet the cost of bringing in a third party to perform reclamation and revegetation work in the event the operator fails to meet his obligations.

The Department's "211" regulations contain no such requirement, and adequacy of the performance bond is left solely to the discretion of the USGS Mining Supervisor and appropriate BLM officials. According to Wyoming Land Quality Administrator Walter C. Ackerman, USGS and BLM personnel set bond amounts which are totally inadequate, and in many cases "wouldn't even cover the cost of buying the seed necessary for successful revegetation," much less the costs of backfilling, regrading and returning the land to approximate original contours.

Once again, the bonding requirements of Wyoming law have been deemed by DOI to be "unrelated to reclamation", and, therefore, will not be adopted under the Proposed Rules.

5. WILDLIFE PROTECTION

Wyoming Land Quality Regulation VI–4 (a–c) requires a mining permit applicant to list all "invertebrate wildlife species . . . within 1 mile of the proposed permit area" and to pay special attention to the "possible presence" of Endangered Species. As this requirement is part of permit application procedures, and therefore, by DOI reasoning, "unrelated to reclamation", the Proposed Rules will not adopt this requirement.

DOI's "211" regulations contain no similar requirement which pays such close attention to wildlife values.

6. WRITTEN COMPLAINTS

Section 35–502.46 of the Wyoming law requires state regulatory personnel to promptly investigate any alleged violations of the law or regulations filed in a written complaint. Prompt action must also be taken to correct the violation, if one is found.

The Proposed Rules do not incorporate this requirement of Wyoming law, and the "211" regulations, while providing opportunity for public involvement in the planning and permitting stages of operations, do not contain a similar provision whereby citizen complaints must be promptly investigated.

From the above, it becomes abundantly clear that the proposed rules to adopt Wyoming's law are primarily cosmetic, and will result in little or no increased State control over mining operations on Federal coal lands. The Department of Interior proposes only to adopt those aspects of Wyoming's 1973 law which are admittedly virtually identical to its own "211" regulations. The crucial aspects of surface mine regulation involving selection of areas suitable for surface mining, approval of mining plans, granting of variances, determination of performance bonds, inspection and investigation of alleged violations, and abandonment of operations, will all be controlled exclusively by the weak "211" regulations.

Wyoming will have gained nothing, therefore, if the proposed rules are finalized, and the Department of Interior, in drafting the proposed rules has generated voluminous paperwork which will be of little or no practical use.

The lesson to be learned from this exercise in futility is that the States can only hope to gain some semblance of control over Federal coal lands within their jurisdiction through the enactment of H.R. 13950, or similar legislation, which will require application of all aspects of State law which meet minimum Federal standards. The Department of Interior will not surrender jurisdiction in matters pertaining to surface mining of Federal coal. The proposed rules attest this fact.

In conclusion, Mr. Speaker, it appears now too late for the 94th Congress to make another attempt at the passage of a Federal strip mine law. This makes four times since January 1, 1971, that the Congress of the United States has missed passage by a hair's breadth, the passage of such legislation.

The first bill died in the Senate after passage in the House. The second was pocket vetoed by President Ford while vacationing in Vail; the third (H.R. 25) was again vetoed by the President and an override vote on the veto failed by a tragic two vote margin.

The fourth, H.R. 13950, will apparently die a cruel death in the closing days of this Congress for the failure of a rule to permit its consideration on the floor of the House.

PROBLEMS OF CITIZENS BAND RADIO

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. FISHER. Mr. Speaker, a major issue in the area of telecommunications is the phenomenal growth of citizens band radio. Critical problems have accompanied this growth; one of the most serious deals with enforcement of CB regulations by the Federal Communications Commission.

I have advocated several approaches to curbing the often flagrant violations of existing CB radio regulations. Additional funding is warranted to upgrade the FCC enforcement capabilities through traveling investigative teams and licensing processing facilities and staff. Also, the FCC requires clearer legal authority to prosecute violators. We must begin to meet these needs now as there is every indication that the popularity of CB radio will continue to mushroom.

The legal, economic, and social effects of the rapid growth of CB radio were considered in a recent study, "Telecommunications and Society, 1976–1991," prepared by Arthur D. Little, Inc., for the Office of Telecommunications Policy of the Executive Office of the President. The study presents a series of scenarios on the future of telecommunications. Future policy questions involving electronic mail, broadband distribution, a public service satellite system and citizen's band radio are developed. The hypothetical scenarios are not intended to be forecasts or predictions, but do serve to draw attention to long-range possibilities and problems in these areas.

The following excerpts are from chapter III of the study titled "Limits of Regulation—The Chaos of Citizens Band Radio." I believe the chapter points out the importance of formulating policy decisions now which will point the way of the future of citizens band radio:

[Report to Office of Telecommunications Policy, Executive Office of the President, by Arthur D. Little, Inc.]

CHAPTER III—LIMITS OF REGULATION—THE CHAOS OF CITIZENS BAND RADIO

INTRODUCTION

Within the past several years, Citizens Band (CB) radio has given signs of becoming another communications phenomenon in the United States. The extremely rapid growth of this form of short-range, two-way radio to provide mobile communications between individuals, including motorists on the highways and between motorists and fixed stations, has caught equipment manufacturers by surprise. The responsible regulatory authority, the Federal Communications Commission (FCC), has been virtually overwhelmed with applications for licenses. CB's unpredicted popularity has raised a number of social questions, regulatory issues, and economic changes that were not anticipated and whose eventual outcome is uncertain.

The scenario that follows is an attempt to outline the plausible events and consequences set in motion by a national policy aimed at giving every U.S. citizen over the age of 18 years the right to own and operate CB radio equipment. Its purpose is to explore the social, legal, and economic effects that might result.

SCENARIO

During the early fall of 1973 comments were filed with the FCC on its Docket No. 19759 which proposed the establishment of a new Class E Citizens Radio Service in the upper VHF radio spectrum between 224 and 225 MHz. A total of 40 channels would be made available. This proposal was the result of a petition filed in 1971 with the Commission by members of the Electronic Industries Association (EIA). Although this organization made a strong case for relieving congestion in Class D service by providing new channels that would be better suited for mobile communications, the underlying motivation of the EIA was to create a new market for electronic communications equipment. At the time, most of the Class D radio equipment being sold in the United States and the rest of the world was manufactured either in Japan or Taiwan. The EIA estimated that 250,000 license applications would be received in the first year for the new Class E service and a total of three to four million over the first ten years of operation. The retail value of the equipment would be on the order of five billion dollars over this period, and presumably the bulk of the market for these technically more sophisticated products would be captured by U.S. manufacturers.

The rapid growth in CB sales proved to be a bonanza for those manufacturers, distributors, and retailers who were positioned to take advantage of the seller's market between 1974 and 1977. However, the influx of license applications and pressing CB regulatory problems placed a heavy burden upon the FCC, who did little to relieve the congestion and lack of discipline prevalent in the Class D service. The use of the channels as a hobby and for random communications was not the original intent of the Commission in authorizing the service, and its virtually universal use for these purposes proved to be beyond the FCC's power of control. In fact, the FCC did not bother to charge violations on this count unless some other violation also existed.

Lack of station identification remained a major headache, as pseudonyms were being substituted for call signs in all but a few percent of the transmissions monitored. Excessive transmission durations and misuse of channels were also common. FCC monitoring to locate violators resulted in the punishment of only a few hundred violators each year, which had no discernible effect upon the hundreds of thousands of violators that escape punishment. Repeated requests by the FCC for increased budgets to expand the scope of its monitoring and enforcement activities were largely ignored in Congressional appropriations. Clearly, the regulatory and enforcement battle was being lost by the FCC. As time passed, its decisions suggested a growing willingness to adapt to the realities and modify the rules to recognize accepted usage where possible. Examples of this were the expansion of the number of channels authorized for conversations between different licensees from 7 to 21 of the 23 channels, and relaxing the call sign identification requirement to that of the calling station only. . . .

By the end of 1976, with an estimated total of over fifteen million CB transceivers in operation (both licensed and unlicensed), the pervasiveness of this new form of communications was beginning to have a social impact upon the general public. The average person on the street, if not a CB operator, had at least been a passenger in a vehicle equipped with a CB transceiver, or had been exposed to the product through the advertising media and during shopping trips to his or her local discount store. Advertising promotion of CB radio was primarily directed toward motorists for highway emergency communications and for hobby communications, a popular pastime for teenagers, housewives, the elderly, and even the President's wife (CB name: "First Mama"). . . .

The use of CB radio by criminals had become widespread by 1977. Short-range radio communication proved invaluable to lookouts for warning accomplices inside buildings during burglaries and hold-ups. Car thieves used CB communication to coordinate the stealing or stripping of vehicles. In fact, theft of CB radios from parked automobiles was rampant from 1973 through 1977, when manufacturers were finally able to catch up with consumer demand. . . .

Several suppliers of simple speech scrambling equipment had products on the market by 1977 that could protect communications between two equipped stations at a cost of $120 for two scrambler units. Other manufacturers provided sophisticated selective calling equipment that obviated listening to a noisy channel for a call directed to one's station. With this equipment, and with the squelched transceiver left in standby mode, it was possible for CB stations to be dialed much like conventional telephones. The use of these attachements and modifications to the transmitted signal were in violation of the Rules and Regulations, which called for establishing connections individually; use of such equipment was specifically prohibited by an FCC ruling issued in February 1978, but their employment continued to grow nevertheless. In December 1978 the FCC obtained injunctions against the public transport and sale of this illegal equipment. The injunctions were upheld in a court battle, and the overt manufacture and sale of scramblers and selective calling equipment for CB stations ceased during 1979. However, clandestine manufacture and sale to the public continued.

During 1978 a proposal was made to the FCC by the Southern California Citizens Radio Council requesting the right to establish CB message centers. These centers were to be financed by monthly club dues and were to relay messages by CB radio or by telephone to or from club members. The FCC ruled that such centers could be operated, but on a non-for-profit basis and not on a cost-of-service basis. . . .

In 1979 the new channels authorized two

years earlier were approaching saturation in all urban areas. The Personal Communications League, which had over a million members and was the largest of the CB radio operator organizations, was exerting pressure on the FCC through Congress to allocate still more channels for Class D service. The FCC had by this time virtually abandoned efforts to enforce rules and regulations. Licenses had been bought by the CB radio buyer at the time of purchase since 1976, when applications swamped the Commission's limited facilities and personnel. Point-of-sale licensing was just one more example of an expedient concession to a radio service that had grown beyond all expectations of the Commission.

In late October 1978, a "Citizens for CB" march on the FCC in Washington, organized by the Personal Communications League, ended in a riot. Subsequent Congressional pressures on the Commission stirred up action on the old Class E band concept that had been sidetracked when the Class D service was expanded in 1977. A new "super" docket, consolidating eight outstanding CB-related dockets, was opened in 1979. At the hearing, General Motors blamed sunspot activity and frequency congestion for the fact that orders for class D CB factory-equipped automobiles in 1978 leveled off at 50% of new vehicles sold. The EIA argued in FCC hearings for a Class E service to increase the volume of consumer electronics sales. The Personal Communications League, demanding more spectrum in the 26-, 27-, and 28-MHz bands, called for an end to government-mandated obsolescence of radio equipment, which would occur if the 27-MHz band was abandoned in favor of Class E Citizens Band.

By July 1980 the "super" docket was reported; the verdict predictably authorized a new Class E band in the UHF spectrum by sacrificing another UHF TV channel. The new service provided 100 FM channels using 30-kHz deviation, which insured high-quality, reliable short-range communications. At the same time, the FCC announced 'realistic, enforceable rules' for the new service and stated that the band would be 'policed by a special staff with facilities adequate to do the job.' The new rules and regulations imposed stiff penalties for violation of the operating rules.

In reporting on this docket and establishing these rules and regulations, the Commission cited the use of photographs and fingerprints on drivers' licenses and ID cards as a precedent for its actions. The new rules were immediately challenged in the federal courts, in a variety of contexts, by the ACLU and the American Rifle Association—strange bedfellows indeed! There was, however, extreme judicial reluctance to deal with the delicate privacy and free speech issues which were raised. As a result, some of the issues were still dragging through the courts in 1986, along with related cases dealing with access to government computer files on individuals.

Other impacts of CB radio were observed during this period. It was estimated that the listening audience for both AM and FM radio had declined 15% over 1970. The decline was judged to be mainly in the category of automobile listeners on the way to and from work, who preferred to monitor the local CB "highway" channels rather than broadcast radio. In an effort to retain their mobile listening audience, some local broadcast stations started monitoring these same channels to supplement their broadcasts of local traffic conditions based upon helicopter and police reports.

Perhaps one of the most important applications of the new Class E service resulted from the setting aside of 10 channels exclusively for paging. The intent was to promote on-site paging, such as had been available on the Class C service in the 27-MHz band. In addition, these channels were intended to be used by mobile stations for "selective call paging," alerting the operator to communicate on a prearranged voice communication channel. The personal paging service proved to be so popular that the FCC had difficulty in preventing business users, who were entitled to use Industrial Service paging * * * from using the Class E service. The reason for the attraction was, of course, the * * * produced paging receivers made for Class E users; selling for $100 each, these compared very favorably with "professional" products costing over $300. The availability of this limited range service resulted in a surprising variety of new applications that could be supported by the lower cost structure of private paging service, especially around the home to summon family members nearby and in office buildings and factories to communicate with employees. By 1985 over five million paging receivers had been sold, and sales volumes were increasing at 25% per year. . . .

In January 1986 the president of a large U.S. corporation, and a major supplier of CB radio equipment, accused the FCC of "postponing chaos, nòt curing it, through their muddling policies and nearsighted approach to rule-making concerning the use of the radio spectrum." This statement proved to be prophetic when in March the Supreme Court declared unconstitutional the FCC's use of voiceprint identification, thereby wiping out an investment of over $30 million in special monitoring equipment and leaving the question of enforcement of the new Class E service to be resolved after some 10 million transceivers had been purchased by the public.

COMMENTARY

The above scenario demonstrates, through a plausible (yet improbable) chain of events, the outcome of a national policy aimed at providing a citizens radio service in an environment that is beyond the enforcement abilities of the authorities responsible for this policy. The events and developments are intended to suggest most of the far-reaching issues that must be considered in evolving a workable policy. These are summarized below.

FREE SPEECH

Does the FCC have the right to dictate the duration, timing, or content of messages transmitted over two-way radio? In a practical sense, if it does have this right, can the FCC possibly enforce it on a Citizens Band Service? Might the courts not view Citizens Band Service differently from other two-way radio services, and give precedence to the rights of free speech specified in the First Amendment? Does the First Amendment really apply to CB? What about CB radio jamming by the police to maintain law and order in dealing with crime or civil disturbances? Should the FCC outlaw this practice on technical grounds, or should rules be promulgated to regulate it? If such rules are developed, will they be struck down by the right to free speech established in the First Amendment? In the case of clearly illegal uses of CB, should transceivers and related equipment be the proper subject of confiscation by FCC field personnel? . . .

REGULATION AND ENFORCEMENT

The Federal Communications Commission is responsible for providing rules and regulations for radio communications services and for enforcing these rules. Prosecution is handled with the help of the Justice Department once violators have been located and evidence is acquired. The first and perhaps most fundamental issue is whether the FCC should allow the existence of a service that it is unable to regulate by virtue of the fact that the size and nature of the service are beyond the practical reach of enforcement measures. Should such a service be expanded without rectifying this deficiency? Should the FCC continue to soften the regulations in order to decrease the level of violations? If a real enforcement effort is to be mounted, a significant FCC budget increase will be needed. Congress has not seen fit to provide these funds in the past, and increased license fees have been rolled back. Should authorization of an expanded CB service be contingent upon a meaningful enforcement budget?

An alternative policy that is deceptively alluring is to forego any attempt to regulate CB operators. Instead, the emphasis would be shifted to the manufactured product to insure that out-of-band operation was highly unlikely and that unauthorized equipment was not allowed to reach the public. The rationale is that several hundred manufacturers could be more readily monitored than tens of millions of stations.

A likely consequence of this policy would be a more rapid approach toward chaos in the Citizens Band. CB operators would become frustrated and disillusioned with the inadequacies of the service. Many would abandon their stations, as they would be virtually useless in all but rural areas. The sales of radios would quickly decrease, and the bonanza for the manufacturers would be over—leaving many with excess capacity. Both the station owners and the EIA would probably then demand that the FCC adopt and enforce operational rules as well as expand the number of available channels. Abdication of the responsibility to generate and enforce radio rules and regulations does not appear to be a viable alternative for the FCC.

LEGISLATIVE

Should the Communications Act of 1934 be amended for a variety of reasons, including the need to remove some of the inconsistencies regarding punishment for violations of the rules and to provide for the seizure of equipment? The present law concerns only the right to control the properties of transmitters and does *not* allow the FCC to make rules regarding receiver performance (except for local oscillator leakage). Yet both transmitter and receiver performance affect the quality of communications. The CB radio licensee deserves some protection when he purchases his transceiver; EIA standards are not adequate, and it is unreasonable to expect manufacturers to be self-regulating. Although they have helped fill the voids left by the FCC concerning equipment standards, their two-way-radio standards are generally the lowest common denominator of the products available.

SPECTRUM MANAGEMENT

Our radio spectrum is a resource that must be shared with all people on earth. Demands upon the use of the spectrum are increasing at an exponential rate. Where local wireline telephone services can replace short-range two-way radio, do we have a duty to make technological changes in our methods of communications? Changes in technology are occurring over periods as short as a decade; however, major changes in spectrum allocations require two or more decades to allow for a gradual, coordinated phasing out of existing radio services to obtain the maximum return on public investment. Fortunately, many of the newer radio services require so much bandwidth that practical exploitation is possible only at the highest and least-used end of the frequency spectrum, where there is little problem with the displacement of existing services.

Should we develop longer range policy guidelines for our FCC spectrum managers instead of continuing to "play it by ear?" Is there danger that effort to expand the CB radio spectrum will become a completely arbitrary exercise—an effort to please the public and equipment manufacturers while disaccommodating as few present users of the spectrum as possible?

DEMANDS OF THE ELECTRONICS INDUSTRY

A former Secretary of Defense was quoted as stating that "what is good for General Motors is good for the country." No one in public administration is likely to make any such statement today, yet there is full recognition in the United States of the impact of regulatory decisions upon industry. The EIA makes its views and market forecasts known to the FCC in all matters concerning mobile radio. The pending decision to expand the CB radio spectrum could have an unusually large and favorable impact upon the mobile communications equipment industry in the United States and in Japan, and could more than double the size of this market in only one or two years. To what extent should this stimulus to the consumer electronics industry be weighed by the FCC in making this decision, and in future decisions? . . .

SENIOR CITIZENS AND THEIR GROWING POWER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. OTTINGER. Mr. Speaker, Harry Schwartz, a resident of my congressional district, is devoting his retirement years to studying the problems of senior citizens. He recently wrote an excellent series of articles on older Americans for one of our local newspapers. Among these was an article on the growing political influence of seniors as their numbers increase and they become more and more aware that through political action they can obtain much-needed relief in the struggle to survive on limited resources.

I insert this particular article into the Record, since I think it is most appropriate in an election year:

[From the Mamaroneck (N.Y.) Daily Times, Aug. 26, 1976]

Potential Clout at Polls—A Growing Power

(By Harry Schwartz)

With the national political conventions behind us, it is time for the candidates to develop straightforward plans to deal with the problems of the elderly. And it is up to the elderly, who are becoming increasingly aware of the power they can wield at the ballot box, to make sure that the candidates develop such plans and follow through on them.

One example of older Americans organizing to achieve their purposes occurred in Port Chester earlier this summer. A small but determined group of seniors forced a reversal of Port Chester's official decision to fire the popular director of the nutrition program for the elderly.

"We are picketing for what we want and will settle for nothing less," said 81-year-old Sarah McIntyre, the leader of the group. This was Senior Power in action.

There are other instances throughout the country of older Americans organizing to achieve their purposes. The movement is gathering momentum and emerging as an effective political force. For instance, the American Association of Retired Persons, headquartered in Washington, has a paid membership of eight million and is growing rapidly. It is becoming a potent factor in asserting the rights of older persons.

Another group, more militant and aggressive, is the "Gray Panthers." There are numerous others.

According to federal figures, an estimated 26 million of the 86 million who voted in 1972 were 55 and older, about 30 per cent of the total voting population. The June-July issue of "Modern Maturity" notes that "Older citizens tend to vote in a higher percentage than do the young."

Perhaps the presidential campaign managers are too young to remember the "Townsend Plan" that sprang up during the Depression years of the 1930s. A California physician proposed a monthly pension of $150 for everyone over 60. Townsend clubs appeared throughout the nation and became an overnight sensation—and that in a period when the aged constituted an insignificant percentage of today's vast and more assertive older population, and senior power was unheard of.

I do not mean to imply that the older generation votes as a bloc, that there is no diversity of political judgment or that all its demands are valid and practical. But it is true that, as one ages, one's interests and activities tend to become more narrowly focused on such basic survival needs as heatlh and security. Thus, seniors could be the largest single cohesive voting bloc.

If an astute candidate were to find and exploit a common denominator that would attract this great, growing segment of the voting population, imagine the effect on the outcome of the election in November. This is not meant to imply that the only or most important issue is the problems of the aged; rather, to call attention to the fact that our seniors are the largest potential voting bloc and that they are becoming increasingly aware of their potential political clout.

Every other major political problem facing the nation can be argued pro and con. Our defense needs could be revised by changing world conditions. The tax structure could be modified by fluctuating economic conditions. Employment could be modified by fluctuating industrial activity and planning. These and other issues are subject to differences of opinion, opportunism, evasion of rhetorical obfuscation.

But the astute candidate will face the problems of the aged forthrightly and squarely. He will bring to the attention of the electorate the social and economic chaos that will develop if we fail to deal with these problems.

Harry Truman had the foresight and guts to grapple with such problems. In 1950, he called a meeting of hundreds of persons from all over the country to develop guidelines for the next 10 years. This effort was the forerunner of the 1965 "Older Americans Act" and other related legislation.

I offer the following blueprint for a "knock-out" punch in the forthcoming campaign:

A commitment to deal with the problems of the aged as top priority.

Immediate study and action to improve the welfare of the elderly in the fields of health, nutrition and housing.

Appointment of a planning commission of highly qualified persons of unquestioned integrity and investigative ability—people of the caliber of Ralph Nader, Morris Abrams and Archibald Cox. I would also appoint some members of Congress whose records indicate long and diligent interest in the subject.

Elimination of waste and skulduggery in Medicare and nursing homes.

Development of a master plan for the next 10 or 20 years.

Study of the present proliferating old-age programs, which have the potential to develop into an unresponsive, labyrinthine bureaucracy.

MEDICAL EVALUATION OF THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. MILLER of California. Mr. Speaker, I am submitting into the Record today a copy of recent testimony by Dr. Joseph C. Edozien, of the Department of Public Health, University of North Carolina—Chapel Hill—which was presented to the Subcommittee on Elementary, Secondary, and Vocational Education. That subcommittee, of which I am a member, has been conducting a series of very profitable hearings on the school lunch and other feeding programs.

Dr. Edozien informed the committee of the results of a survey he conducted which was designed to evaluate the merit of the women, infants, and children program, which provides nutritious food supplements to pregnant women, lactating mothers, and children up to the age of 4 years.

Dr. Edozien's test group included over 41,000 women and children who were examined every 3 months during pregnancy, and periodically after delivery. He reported conclusive results that the segment of the population which was financially eligible for WIC was receiving subnormal nutrition, because of inadequate income. The results of this poor diet included lower birth weights, slower infant growth, and higher infant mortality.

Participation in the WIC program, in Dr. Edozien's opinion, produced "measurable improvements in the nutritional status and health of the participants." He concludes that—

> The WIC program is one of the most important and successful of the food assistance programs.

The WIC program is one of the outstanding Federal programs which really works which perhaps makes it a unique Federal program, too. It would work even better if the Federal agency with responsibility for its development, the Department of Agriculture, would encourage its growth, rather than doing everything in the power of Secretary Butz to restrict the program.

I would like to share the results of Dr. Edozien's survey with my colleagues who, by reading his conclusions, may gather an idea of a beneficial program which many of their constituents are not able to utilize because of the administration's opposition:

Medical Evaluation of the Special Supplemental Food Program for Women, Infants, and Children

(By Joseph C. Edozien, M.D.)

The Special Supplemental Food Program for Women, Infants and Children (WIC program), authorized by a September 26, 1972 amendment (Public Law 92–433:86 Stat 724) to the child nutrition act of 1966 (42 U.S.C. 1786), provided cash grants to state health departments and approved local health clinics for the purpose of providing special nutritious food supplements to low income pregnant and lactating women, infants and children up to four years of age who are nutritional risks. The program is administered by the Food and Nutrition Service of the United States Department of Agriculture.

Under the program infants under one year of age were allowed iron-fortified formula, iron-fortified cereal and fruit juices while one to three year old children and women were provided milk, eggs, iron-fortified cereal and fruit juices. The food packages were thus designed to correct known inadequacies of iron, vitamin A and vitamin C in the diets of low income individuals in the country.

In order to fulfill the congressional mandate to assess the benefits of the WIC program, the Department of Agriculture contracted, on November 28, 1973, with the University of North Carolina at Chapel Hill for the Department of Nutrition, School of Public Health to perform a detailed medical evaluation of the program. The study was carried out between November 28, 1973 and June 1, 1976.

Participating in the detailed medical evaluation were 19 projects located in 14 states. The projects and states were: Alabama (Coffee County); Arizona (Cocoino County and Pima County); Connecticut (Stamford); Indiana (Indianapolis); Minnesota (Minneapolis and Bemidji); Mississippi (Sharkey-Issaquena County); Missouri (Kirksville); New Jersey (Newark); New York (Nena Health Council); Ohio (Cleveland and Dayton); South Carolina (Lancaster County); Texas (Robestown near Corpus Christi, Cameron County, Hidalgo County); Vermont (statewide) and Wisconsin (Great Lakes Intertribal Council, Lac du Flambeau). Two of the projects (Kirksville and Dayton) provided data only for infants under one year of age while one other project (Bemidji) provided data for infants and children of all ages (0–48 months) but not for women. The locations of the projects are shown in Figure 1.

The participants lived mostly in urban locations; 91.6% were urban, 2.6% rural farm and 6.0% rural non-farm. They came predominantly from very low income households having an average yearly after-tax income of $3,757. The average household size was 4.6 persons. About 66.1% of the households fell below the OEO Income Poverty Guideline which is widely used to classify low-income families for eligibility for various welfare programs. At least 84.2% of the households were found to be eligible for food stamps when the USDA "Food Stamp . . . Eligibility Requirements" were applied to them.

The basic operational plan was to obtain information on selected measures of the nutritional status of the study population, initially and after participation in the program for a specified interval. Comparisons of the results of measurements taken before and after program participation provided an estimate of the impact of the program.

The infants and children were examined at the time of enrollment and after receiving food supplements for six and eleven months. The indices selected for their assessment were:

1. Growth. Weight, Height and head circumference were the body measurements taken. A weight/height (Nutritional) index was calculated as weight in kg/height in cms$^{1.6}$ x 10^{4}. This ratio was used to monitor weight for height changes associated with the program.

2. Dietary intakes. Dietary data were obtained on 25% of the infants and children initially, and from the same subjects at the time of their 6 month and 11 month revisits.

3. Biochemical indices. The parameters of interest were: hemoglobin, hematocrit, mean corpuscular hemoglobin concentrations (MCHC), total plasma iron, plasma transferrin, percent saturation of plasma transferrin (PSAT), plasma complement 3 (C3), plasma immunoglobulins A, G and M (IgA, IgG, IgM), plasma albumin, total plasma protein, plasma cholesterol, and plasma folacin. Blood was collected by finger or heel stick from all participants and at all visits.

The women were examined at the time of enrollment and thereafter approximately every three months until the time of delivery. Each woman was also examined once after delivery usually between four and eight weeks postpartum. The indices selected for their evaluation were:

1. Vital statistics (abortion and miscarriage rate, stillbirth rate, prematurity rate, low birth weight rate and infant mortality).

2. Medical complications of pregnancy (edema, proteinuria, hypertension, convulsions).

3. Weight gain during pregnancy (total amount as well as the rate of gain).

4. Birth weight of the baby.

5. Dietary intakes. Dietary data were obtained from half of the participants initially and from the same participants at all follow-up visits.

6. Biochemical indices. The parameters of interest were: hemoglobin, hematocrit, mean corpuscular hemoglobin concentration (MCHC), total plasma iron, plasma transferrin, percent saturation of transferrin (PSAT), plasma complement 3 (C3), plasma immunoglobulins A, G and M (IgA, IgG, an IgM), plasma albumin, total plasma proteins, plasma cholesterol, plasma vitamin A, plasma carotene, plasma vitamin C and plasma folacin. Blood was collected from all participants at all visits.

Well-established and standardized survey, laboratory and statistical procedures were used to collect and analyze the data. These are presented in detail in Volume 1 of the WIC report (Medical Evaluation of the Special Supplemental Food Program for Women, Infants and Children (WIC): Volume 1, Study Design, Methods and Performance Data by J. C. Edozien, B. R. Switzer and R. B. Bryan. Published July 15, 1976 and obtainable from Department of Nutrition, School of Public Health, University of North Carolina, Chapel Hill, N.C.)

In the course of the evaluation a total of 41,330 infants and children were examined. Eleven thousand three hundred and ninety of these participants were re-examined after six months of receiving food supplements and 6,256 after eleven months in the program. A return rate of 49.1% was achieved for the six-month evaluation and 43.9% for the 11-month visit. The participants were approximately 21% white, 34% black, 42% Spanish American and 3% American Indian. Also investigated were 9,867 pregnant/lactating women, including 4,125 with completed pregnancies. After the initial examination, the women returned for 5,417 revisits at an estimated compliance rate of 40%. They were mostly young women with a mean age at enrollment of 23.1 ± 5.7 years. They were 24.5% white, 38.6% black, 33.8% Spanish Americans and 2.5% others.

While the results did not reveal any clinical cases of nutritional deficiencies similar to those which are commonly seen in developing countries, they provided conclusive evidence that a substantial segment of the American population represented by the recipients of the WIC foods were receiving less than optimal nutrition mainly because of inadequate income. For examples:

1. The average birth weight of the infants and children was about 3,225 grams (both sexes) and this was about 125 grams less than the average birth weight of babies of well-nourished economically privileged women.

2. After birth, the infants and children continued to be slightly retarded in growth; there were, for instance, about 50% more infants and children than expected below the tenth percentile for weight and height and about twice the expected percentage below the 10th percentile for head circumference.

3. The reported birth weights of the enrolled infants and children indicated that 10.5% were of low birth weight (i.e. had birth weights less than 5.5 lbs.).

4. The infant mortality rate was estimated at 32.5 infant deaths per 1000 live births; this figure is more than 50% above the national level.

5. Anemia (i.e. blood hemoglobin concentration below 11g/100ml) was highly prevalent. About 26% of the infants and children beyond the age of three months were anemic. The anemia rate for ages 3–5, 6–11, 12–23, 24–35 and 36–47 months were 31%, 31% 33%, 21% and 16% respectively. It was highest among black and American Indian children followed closely by Spanish-American children and then white children.

6. The energy intakes of the pregnant/lactating women were generally lower than suggested by the recommended dietary allowances, but appeared to be adequate for the needs of the women. However, the diets were of inadequate quality since they provided the women with less protein, several minerals and several vitamins than the amounts required for optimal pregnancy outcome.

7. Initially, 13.4%, 28.7% and 26.8% respectively, of women pregnant for <17 weeks, 17–28 weeks and >28 weeks and 23.3% of postpartum women were anemic, i.e., had hemoglobin concentration less than 11.0g/100ml if pregnant or <12.0g/100ml if postpartum.

It is of special importance that for several indices measured in the study, the dividing line between "high" risk and "low" risk groups was not at an income poverty ratio of 1.0 but at a ratio of about 1.5. The findings therefore support the contention that the income levels currently used to define poverty do not provide sufficient money to enable families to purchase enough food for optimal nutrition.

The WIC program produced measurable improvements in the nutritional status and health of the participants. The principal conclusions can be summarized as follows:

1. The WIC program was associated with an acceleration of growth in weight and height. An increase in head circumference occurred in infants enrolled within one month of birth.

2. There was a consistent increase in the mean blood hemoglobin concentration of participants in the program and a reduction in the prevalence of anemia. The main effect occurred during the first six months of participation.

3. Pregnant women who participated in the WIC program gained more weight during pregnancy than women in the initial population. The maximum difference of about 2 kg (4 lbs., 6 oz.) occurred in women who were pregnant for 24–31 weeks.

4. The WIC program was associated with an increase in the mean birth weight of babies. The impact of the program was greater on black and Spanish American babies than on white babies.

5. There was an increase in mean hemoglobin concentration and a reduction in the anemia rate in women who were pregnant for more than 28 weeks and in postpartum women.

In summary, the WIC program is one of the most important and successful of the food assistance programs. It insures the size and health of the infants at birth as well as their normal growth and development after birth.

The eligibility criteria can be simplified and the certification process speeded up by eliminating the requirement for medical evidence of the need for food supplements. The results of the medical evaluation indicate that inadequate income is sufficient justification. It should not be necessary to diagnose malnutrition first in order to justify that WIC is a medical program in the same way that it is unnecessary to wait for an epidemic or to diagnose an infectious disease to prove that vaccination is a legitimate medical responsibility.

The program can also be made more flexible by increasing the number of approved food items. There is ample evidence that most of the anemia found among WIC participants was iron-related, i.e., the anemia was associated with biochemical evidence of iron deficiency. This does not, however, necessarily imply that dietary iron intake was inadequate. Acute infections can produce low plasma iron values by causing iron to disappear from the circulation. The results of the medical evaluation also suggest that infections and other stresses which induce the acute phase response can interfere with iron transport by elevating plasma transferring concentration. A recent study has further shown that in the rat, hemoglobin concentration and MCHC are significantly related to the level of dietary protein. While therapeutic doses of iron may have an impact on iron related anemia which is not due to inadequate dietary intake of iron, the results of the detailed medical evaluation indicate that the amounts of iron provided in dietary supplements are ineffective. Hence, the emphasis which the program placed on dietary iron supplements may not be entirely justified. There is need for additional studies on this aspect of the program.

HOLDER-IN-DUE-COURSE RULE

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. McCOLLISTER. Mr. Speaker, in November 1975, the Federal Trade Commission issued a trade regulation rule on preservation of consumer claims and defenses—the holder-in-due-course rule. The rule which went into effect on May 14, 1976, provides that it is an unfair practice within the meaning of the Federal Trade Commission Act for a seller to negotiate a consumer credit contract or accept the proceeds of a purchase money loan unless the contract evidencing the indebtedness includes a provision preserving the consumer's right to assert against the creditor any claim or defense the consumer may have against the seller. Under the terms of the rule, as it is now in effect, only the seller has an obligation to insure that notice of preservation of claims and defenses is in the contract. However, in a proposed amendment to the rule which was published at the same time that the original rule became effective, the Commission has proposed to extend the effect of the rule to creditors.

The Commission argues, in justifying the rule, that the lender is in a better position than is the consumer to assess the ability or willingness of a seller to stand behind the goods which he sells. However, a number of questions have been raised since the rule went into effect as to what effect the rule may have on the cost and availability of consumer credit.

Further, questions have been raised as to how the rule will impact on a new business' ability to get credit and to what extent the rule may foreclose to consumers with marginal credit records, the less expensive types of commercial credit, thereby forcing them to patronize the more expensive finance companies. Questions have also been raised as to whether the Federal Trade Commission followed the proper procedures in promulgating this rule.

The Consumer Protection and Finance Subcommittee, on which I serve as ranking minority member, recently held 2 days of hearings—August 26 and 31—on this subject. At these hearings, we heard not only from representatives of the Federal Trade Commission and various consumer groups but also from several banking organizations and from groups representing retailers and automobile dealers. The Federal Reserve Board also submitted comments generally criticizing the FTC's rule. I believe that these hearings clearly showed that the FTC has little appreciation for the problems and uncertainties that its rule is causing.

In anticipation of these hearings, I wrote to a number of bankers across the State of Nebraska soliciting their comments on the FTC's rule. Frankly, the response I received from these bankers is extremely troubling. Almost without exception, the Nebraska bankers opposed the FTC's rule. Further, my survey indicated that the rule very well may have an adverse impact on consumers, since 66 percent of the bankers who responded and who indicated that they buy paper also indicated that they planned to tighten up their policy in this regard.

Further, a substantial number indicated that they believed the FTC's rule will have an adverse impact on small businesses and new businesses. Further, these effects of the rule are not unique to Nebraska. Surveys conducted by the Independent Bankers Association of America and the American Bankers Association indicate that a number of banks have curtailed their lending due to the FTC's regulation.

Although I recognize that it is probably too soon to have reliable information on what impact the FTC rule is having on the cost and availability of consumer credit, these preliminary findings indicate that the FTC's rule, as a consumer protection device, may be backfiring.

The Federal Reserve Board has been a strong critic of the FTC's holder-in-due-course rule pointing out that the FTC in its zeal to protect consumers may have been somewhat shortsighted as to what impact the rule will have on affected businesses. In a statement submitted to the subcommittee, the Board points out:

> The more stringent standards being applied by lenders apparently have led them to end business or referral relationships with some sellers; the affected firms consequently have had to turn to less preferred sources of finance, presumably at higher cost. It seems likely that, over time, some marginal firms will be forced out of business. Moreover, entrepreneurs attempting to establish new retail firms without proven financial and service records are likely to encounter greater barriers to market entry.

The Board indicates that it also fears that consumers may soon be feeling the adverse impact of this FTC rule. It states that it has received reports that some lenders are cutting their loan maturities and are even putting pressure on retailers to shorten product or service warranty periods in an attempt to decrease their exposure to possible consumer claims. If this does indeed happen to any great extent, certainly the consumer is not well served by the FTC's rule.

Because of the many questions which have been raised about the rule, I recently joined two colleagues (Mr. BROYHILL and Mr. JOHNSON of Pennsylvania) in cosponsoring legislation on this subject. The bill, H.R. 15082, would suspend the effect of the rule until we have a clearer picture of how it will impact on the credit market. I am most disturbed, that the Commission, after more than 40 States have already successfully addressed this subject, would issue a rule resulting in so much unnecessary chaos and confusion. When the Congress granted the FTC rulemaking authority, we did not foresee nor did we intend that it would be used in such a fashion.

Frankly, if the holder-in-due-course rule typifies the kinds of rules which the FTC will be issuing in the future, I, for one, would strongly urge that the Congress reconsider the wisdom of granting the Commission authority to issue these kinds of quasi-legislative rules. I have long argued that this kind of substantive rulemaking authority was inappropriate in the hands of the FTC. The Commission, with its holder-in-due-course rule, is living up to my worst fears.

I hope that the Members of the House will support H.R. 15082. If, however, it is too late in the session for Congress to act in this area, it is, I believe, a question worthy of Congressional attention early in the next Congress.

NATIONAL HEALTH INSURANCE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. OTTINGER. Mr. Speaker, Morris Stern is a constituent of mine in the city of Mount Vernon, N.Y. Three years ago he discovered that he is suffering from an incurable form of cancer. Though the disease has now drained him of much of his energy and most of his financial resources, he continues to wage a lonely battle in support of relief for those who suffer the economic consequence of a catastrophic illness.

Recently an article about Mr. Stern's struggle to call public attention to the need for national health insurance appeared in local papers in my district. I insert this into the RECORD as further evidence of the need for the Congress to enact legislation of this type. I fear that the 94th Congress will not now go down in history as establishing a comprehensive program of national health insurance. I can only express the wish that the 95th Congress will take that vital step to relieve the emotional anxiety which adds such a burden to the lives of those who contract tragic diseases that rob them of all financial security.

The article follows:

[From the Mt. Vernon (N.Y.) Daily Argus, Aug. 23, 1976]

CANCER VICTIM FIGHTS FOR INSURANCE

(By David Copithorne, Staff Writer)

Morris Stern is waging a lonely campaign.

The retired plumber from Mount Vernon has been, as he puts it, "banging my head against the wall" to drum up support for a federal insurance progam aiding people with incurable illnesses.

He's got company, of course, among those who are pushing for a national health insurance program.

Sympathetic legislators have put forward proposals for all kinds of aid to people with cancer, respiratory diseases, kidney ailments and other catastrophic illnesses.

But in one respect, Morris Stern's campaign is among the loneliest a man can face. Three years ago, he found out he has lymphoma, incurable cancer of the lymph nodes.

The disease has drained him of his strength, so much that at times he must rest as he walks from his kitchen to his living room.

But it hasn't drained a defiant spirit and a determination to do what he can to see a day when others will be able to avoid at least the financial hardship that catastrophic illness brings.

He has written letters to public officials and the press, he has visited city councilmen and state legislators, and he has exchanged letters with Mount Vernon's representative in Congress.

"I'm willing to continue hitting my head against the wall," Stern says. "If I loosen one brick, I'll be happy."

Stern knew from the beginning how expensive monthly chemotherapy treatments can be, along with all the other attendant medical costs.

But the real financial costs weren't driven home to him until early this year, when union pension benefits that had covered many of his expenses ran out.

"The costs have been phenomenal," Stern says, citing rates he has paid for comprehensive hospital care that have averaged as much as $300 a day.

Although he has no specific figure on how much he has spent over the years, he has used up thousands of dollars of his life savings.

"Do you realize how many thousands of people in the U.S. this affects? The elderly, the young, from one day old to 100 years old. And don't forget, a lot of them can't speak up for themselves," he says.

Stern, a 67-year-old who insists on maintaining a vigorous pace in spite of fatigue, is capable of speaking for them.

His shoulders are rounded and he walks with a slight limp, but he is a convincing speaker. Recently, he prompted Mount Vernon's City Council to send a resolution to the New York State legislature, Congress and the President voicing its support for a federal catastrophic health insurance program.

Meanwhile, Congress has been mulling a number of pieces of legislation that would provide for people whose medical bills go beyond what Medicare, Medicaid, or their personal savings will cover.

Currently Medicare, for which Stern pays about $140 a year, has no provision for people afflicted with incurable illnesses.

The most widely discussed of the bills dealing with the problem is one sponsored by Sen. Edward Kennedy, D-Mass., who favors near-total comprehensive national health insurance.

But an aide to Congressman Richard Ottinger, D-Westchester, who has mentioned Stern when speaking about catastrophic health insurance on the floor of the house, says prospects for passage of such legislation soon are dim.

Stern has promised to keep at it. "If I can see this go through, I'll know I will have done something else in my life," he says.

"Sometimes a little man beats a big drum and if he can beat it long enough and loud enough, people will hear."

THE CASE AGAINST ECONOMIC PLANNING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 1976

Mr. CRANE. Mr. Speaker, more and more politicians have been speaking in recent days of the need for what they call "national economic planning."

It is the thesis of such spokesmen that free enterprise is chaotic and unplanned and that we must have governmental intervention in and planning of the economy in order to make it rational.

The fact is that free enterprise embodies the best economic planning possible, that made by each individual and businessman. Every day economic planning takes place. Americans decide whether to spend their money or save it, whether to invest it in real estate or the stock market. Businessmen determine what to produce on the basis of what American consumers wish to purchase. In reality, free enterprise is simply democracy applied to economics. Each citizen votes with his dollars for the products he wishes to purchase.

Those economic systems which are planned by Government are those in which the individual citizen has nothing to say about his own economic well-being. These range from the rapid declining socialist economy of England, to the stagnant planned economy of the Soviet Union, in which collective farms fail to produce enough food to eat and in which such standard consumer items as automobiles, television sets, and air-conditioners are luxuries for the select few.

For the United States, which under free enterprise has produced more wealth for more people, to even consider a step in the direction of national planning is hard to understand.

Under national planning, writes Dr. Herbert Stein, one of our most distinguished economists—

> The economy would become more inflationary, less free, and less efficient. Meanwhile, the unemployment problem would not have been solved, because we would not have ended the rise of inflationary expectations which make full employment impossible without intolerable acceleration of inflation. And we would not have solved the problem of shortages, because we would have suppressed the free price movement which, by attracting production and discouraging use, would help to cure shortages.

Dr. Stein declares that—

> The essential point is that comprehensive planning will lead to comprehensive controls.

It is necessary for American business, Dr. Stein points out, to make the case for free enterprise clear to the American public. He notes that—

> I believe it will be essential for business to take a consistent stand against government planning and controls. Business must not be in the position of opposing all controls except those that it thinks beneficial to business or to some segment of business. The record is not good on this.

Free enterprise is the only form of economic organization which is consistent with freedom in other areas of life. Those who advocate national planning would, whether they knowingly seek to do so or not, give Government vast new powers which would challenge our traditional liberties.

I wish to share with my colleagues the article, "The Case Against National Planning," by Dr. Herbert Stein, which was originally delivered at a conference sponsored by the U.S. Chamber of Commerce, as it appears in the August 1976 issue of Nation's Business and insert it into the RECORD at this time:

THE CASE AGAINST NATIONAL ECONOMIC PLANNING

(By Dr. Herbert Stein)

Interest in planning as a solution for national economic problems is always latent in the United States, like interest in astrology, and for the same reasons.

The persistence of this interest does not reflect any successful experience or convincing analysis, because there has been none. It simply rests on intuition and hope and on continuing faith in the possibility of beating the odds.

SPURRED BY SETBACKS

This latent interest in planning comes to the surface from time to time, usually when the economy does not seem to be performing as well as it might.

The poor performance of our economy, beginning in the fall of 1974, heightened interest in planning again. Unemployment was rising sharply and would reach a peak much higher than in any earlier post-war recession. Also, we were still near the highest peacetime inflation rate of our history.

The combination seemed to lend support to the idea that something different had to be done. As a result, a new drive for national economic planning got under way last year.

There was also a special aspect to the economic situation of 1974—the appearance of shortages on a scale which seemed unusual and which the private market did not foresee or forestall. Energy was the leading case.

One tangible result of this interest was that Congress last year passed a law creating a commission to study material shortages.

This was evidence of a tendency to view the oil problem as representative of the general state of the economy. In addition, it showed a tendency to dismiss the possible role of the free market as a problem-solver, and not to do so after careful thought, but without any comprehension of the issues.

It also showed a tendency of some legislators to enact laws and create new agencies as if the legislators were millionaires passing out $100 tips at a fancy hotel.

Perhaps of most relevance to the 1975 planning movement is the fact that, although the movement relied heavily on the shortages as an argument for a national economic planning system, the planning proponents gave no recognition of the existence of the commission created to study the problem.

The planning drive was promoted by a private group, the Initiative Committee for National Economic Planning.

TOKEN BUSINESSMEN

Among the committee members were enough token businessmen to permit the argument to be made that there is nothing radical or antibusiness about the proposal, since it is supported by "leading" businessmen. Such an argument is often wrong, even when the businessmen involved are much more numerous and much more "leading" than in the case of planning.

Members of the Initiative Committee assisted members of congressional staffs in drafting the Balanced Growth and Economic Planning Act of 1975. The legislation was introduced in the Senate on May 21, 1975, and in the House two weeks later. The best-known sponsors of the bill, which is listed as S. 1795 in the Senate, are Sens. Hubert H. Humphrey (D.-Minn.) and Jacob K. Javits (R.-N.Y.)—which makes it nonpartisan. Hearings have been held on the bill by the Joint Economic Committee.

Similar planning principles are written into a later bill, the equally controversial Full Employment and Balanced Growth Act of 1976. Rep. Augustus F. Hawkins (D.-Calif.) introduced H.R. 50 in the House and Sen. Humphrey sponsored the same bill, known as S. 50, in the Senate.

Both the Humphrey-Javits bill and the Humphrey-Hawkins bill would institute national economic planning. The basic concepts of both bills are similar. However, S. 1795 spells out in more detail the goals, organization, and procedures envisioned by the latest movement. And while some of the original goals and trappings of the planning advocates have been submerged in the later bill, the Humphrey-Javits bill remains the most specific picture of the path they would have us take.

S. 1795 would create an Economic Planning Board in the Executive Office of the President. This board would draw up an economic plan to achieve objectives, which it would also establish, with respect to the goals of economic policy.

GOALS GALORE

The board would be charged with "paying particular attention to the attainment of the goals of full employment, price stability, balanced economic growth, an equitable distribution of income, the efficient utilization of both private and public resources, balanced regional and urban development, stable international relations, and meeting essential national needs in transportation, energy, agriculture, raw materials, housing, education, public services, and research and development."

These are only the goals to which particular attention is to be paid.

The plan would be reviewed by a Council on Economic Planning, composed of most of the cabinet-level people in the administration. Thereafter, the President would submit the plan to the Congress. The plan would be referred to the Joint Economic Committee, which would receive and evaluate comments from all the other committees of the Congress. Then, the Joint Economic Committee would report the original or revised plan to the Congress, which would approve, reject, or revise it.

Once a plan is approved, the President would make sure that all the executive agencies act in conformity with the plan. He would also encourage state and local governments and the private sector to conform to the plan. The participation of state and local governments and of private leaders is also to be sought at various stages in the formulation of the plan.

BLANK CHECK FOR PLANNERS

To describe the implications of all this with certainty is impossible. The bill is vague or ambiguous at key points. It does not tell what objectives are to be sought, but only lists some of the matters for which objectives are to be stated. It does not tell in what detail the plan is to be drafted, or give any other hint as to what the plan would look like—would the plan be more like a 1,000 by 1,000 input-output table or more like a State of the Union message? The bill does not tell how forcefully the President is to "encourage" conformity with the plan.

In a sense, the bill is a blank sheet of paper on which any of a variety of pictures could be drawn. But I think we can estimate pretty well what kind of picture would be drawn. There would be a picture of how the economy should operate, drawn by planners who are confident of their ability to outdo the market, in an environment of public opinion which neither understands nor values the market process very highly. Also, there would be an atmosphere of political competition in promising the economic benefits to be delivered by the government.

RESULTS: MORE SPENDING

What results would the planning process lead to, if such a bill were passed and taken seriously?

Goals for government policy that do not now exist, or more ambitious goals than now exist, would be increasingly advanced. They would represent the views of the politicized experts who would run the Economic Planning Board, the relevant congressional staffs, and the staffs of the private national organizations that would constitute the advisory layer.

The goals ostensibly would not determine policy, but they would lead policy in the direction of more government spending and more government controls.

Management of the existing economic instruments of government would be increasingly supervised by the Executive Office, to the derogation of the departments and agencies, and would be addressed to the central goals, rather than to the more limited objectives which may have originally led to the creation of the instruments.

FIRST ASK, THEN ORDER

Estimates would be made of required production and investment in some key sectors of the economy—meaning sectors in which the firms are large, because it is easiest for government to deal with them—and these requirements would be compared with forecasts. The government would try to correct the deficiencies that the comparisons reveal. Initially, it would do this by talking to the firms involved, but increasingly, it would rely on incentives of various kinds in order to achieve the results.

High-pressure goals for employment, growth, and public services would cause more and more inflation, leading to repeated efforts at income policies, which would seem more congenial to the system as it became more planned. However, the incomes policies would yield no durable results.

Uncertainties about government policy increasingly would depress private investment, requiring more and more government incentives to stimulate such investment. At some point, the government would become unwilling to pay private businesses to do what it could order them to do. The system of incentives would yield to the system of command.

So the economy would become more inflationary, less free, and less efficient. Meanwhile, the unemployment problem would not have been solved, because we would not have ended the rise of inflationary expectations which make full employment impossible without intolerable acceleration of inflation. And we would not have solved the problem of shortages, because we would have suppressed the free price movement which, by attracting production and discouraging use, would help to cure shortages.

PLANNING MEANS CONTROLS

The essential point is that comprehensive planning will lead to comprehensive controls. Many proponents of economic planning argue that they merely seek to have the government do better, with more information and foresight, what it is doing already.

In this sense, there can probably be little disagreement with the case for planning.

But the planning bill would direct a government agency to make plans for things the government does not now control to achieve objectives the government does not now have.

This makes no sense, if an extension of the area of government control is not intended. And whether intended or not, extension of the area of government control is almost certain to be the result, because there will be a natural tendency to try to correct deviations of performance from the plan, by controls if necessary.

MAKING MATTERS WORSE

There is probably no need to elaborate on the evils that would result from further significant extension of government controls over the economy.

We have a well-developed theory which predicts that a free market system will deliver efficient and expanding production of things the population wants. That prediction has been brilliantly realized, in our experience.

The other side of this coin, the limited competence of government, even in areas where its responsibility is inescapable, has also been amply demonstrated.

How shall we prevent a greater and greater extension of government controls?

First, we should take actions which will help convince the American people of the merits of the market system.

These actions would be of two kinds. First would be actions to make the market system work better. Second would be actions to demonstrate that advocacy of the market system and opposition to government intervention is not simply a cloak for the protection and subsidization of special, perhaps monopolistic, interests.

With respect to improving the operation of the market system, we have to recognize that, even in the most free market system we can conceive of, the government would have important functions. Performing these functions well is essential to the survival of the free market system. This may seem paradoxical. But as long as the public generally turns to government to solve its problems, we should try to minimize problems, if we want to minimize government.

WHAT GOVERNMENT CAN DO

One area in which the government has a clear responsibility is the stabilization of the economy. This is an area in which performance has been poor. It is this poor performance, as much as anything else, which accounts for the current interest in economic planning.

It is continued poor performance which would be most likely to cause a major step toward more controls, in the form of price and wage controls.

I think one can fairly say that much of the economic instability of the past decade was due to the unusual shocks that the economy suffered. One can also say that the inadequacy of our policy responses to those shocks was due in part to public misunderstanding and political shortsightedness. Also, one must attribute part of our failure to the fact that we—specifically, I mean we economists—do not know enough.

For one thing, we do not know enough about the past behavior and present condition of the economy. Much good work goes on in statistical agencies, in and out of the federal government. But relative to our needs, our economic statistics are inadequate and unreliable.

NEEDED: BETTER INFORMATION

The federal government could do a great deal to improve the statistical base with which we all work. It could do less, but still do something, to promote economic research on questions relating to economic stability. I think the federal government should devote more money and effort to each of these fields.

Business's attitude toward the improvement of economic statistics will be important, because business will be the source of much of the needed information.

However, the action needed from business to make acceptance of the free market system probable is much bigger and more important than this attitude toward statistics.

The idea that an economy can be efficiently and equitably organized by the spontaneous interaction of private individuals is itself difficult to comprehend. It becomes difficult to believe if it seems to imply that 200 million lambs can safely lie down with 500 lions in the form of large, monopolistic corporations.

COMPETITION IS THE KEY

And it becomes incredible when the sermon is preached by the lions.

What makes the system legitimate and acceptable is competition. It is competition that makes the system safe for the lambs. There are, of course, arguments that competition sometimes impairs efficiency.

It can also be argued that much of the governmental effort to maintain competition is petty and more disruptive than useful. One can also maintain that competition will assert itself without the need for government enforcement.

In my opinion, these arguments are insignificant as against the necessity to cling to competition as the element of the system which keeps it from being chaotic and exploitive.

Also, I believe it will be essential for business to take a consistent stand against government planning and controls. Business must not be in the position of opposing all controls except those that it thinks beneficial to business or to some segment of business. The record is not good on this.

WHERE BUSINESS ERRS

Throughout most of our history, for example, businessmen have been the main supporters of government interference with freedom of international trade. There are many similar examples—such as business support of regulation of entry into the transportation and banking industries, the ceilings on interest rates paid and the wholesale subsidization of the housing industry.

Business is not less consistent and not more guilty of a gap between professed principles and practice than other groups in the society, such as intellectuals, journalists, labor leaders, and politicians.

But the advocates of the free market have a difficult case to make. It is easily represented as being the special pleading of the rich and powerful.

If businessmen are going to carry this banner, they will have to be beyond reproach.

SENATE—*Monday, September 20, 1976*

The Senate met at 12 noon and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

As the seasons come and go, be with us, O Lord our God, to keep us faithful to the command of the Master, *"Seek ye first the kingdom of God and his righteousness and all these things shall be added unto you"*.—Matthew 6: 33.

Spare us from attempting to build the kingdom of God without the King. May Thy presence pervade all that we think and do. In the contests of these tense times may we separate the expedient from the eternal and give our loyalty to that which endures. Be Thou our Guide and Judge that we may be steadfast and true until the evening comes and our work is done and we rest at peace with Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 20, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 17, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the legislative calendar for unobjected-to measures be waived under rules VII and VIII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICARE-MEDICAID ANTIFRAUD AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a bill that has been cleared on both sides of the aisle, Calendar No. 1176, H.R. 12961. I do this at the request of Mr. TALMADGE.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12961) to amend the Social Security Act to repeal the requirement that State's plan for medical assistance under title XIX of such act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following:

Section 1. (a) Subsection (g) of section 1902 of the Social Security Act and subsection (l) of section 1903 of such Act are repealed.

(b) The amendments made by subsection (a) of this section shall take effect as of January 1, 1976.

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TITLE II—MEDICARE-MEDICAID ANTI-FRAUD MEASURES

Sec. 2. Short title.
Sec. 3. Office of Central Fraud and Abuse Control.
Sec. 4. Prohibition against assignment by physicians and others of claims for services.
Sec. 5. Disclosure of ownership and financial information.
Sec. 6. Penalty for defrauding medicare and medicaid programs.
Sec. 7. Amendments related to professional standards review organizations.

SHORT TITLE

SEC. 2. This title may be cited as the "Medicare-Medicaid Anti-Fraud Amendments of 1976".

OFFICE OF CENTRAL FRAUD AND ABUSE CONTROL

SEC. 3. (a) Section 702 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "SEC. 702", and

(2) by adding at the end thereof the following new subsection:

"(b) There shall be established, within the Department of Health, Education, and Welfare, an Office of Central Fraud and Abuse Control. Such Office shall have the overall responsibility for (i) directing, coordinating, monitoring, and establishing policies with respect to the undertaking of activities which are designed to deal with fraud and abuse, at all Federal organizational levels of the various programs, established by or pursuant to titles V, XVIII, and XIX, and the renal disease program established by section 226, (ii) initiating and conducting investigations with respect to alleged, actual, or potential fraud or abuse in any such programs, and (iii) assisting State agencies, at their request, in the establishment and operation of State antifraud and abuse activities. Such Office shall also provide all appropriate investigative support and assistance (including temporary delegation and assignment of personnel) to United States attorneys and State law enforcement authorities, upon their request, in the development of fraud cases arising out of any of such programs.".

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES

SEC. 4. (a) Section 1842(b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any payment for a service, which under the provisions of the preceding sentence may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude an agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billings or payments (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(b) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any payment for a service, which under the provisions of this title, may be made directly to a provider of services furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from the provider of services furnishing such service); but nothing in this subsection shall be construed to preclude any agent, of the provider of services furnishing such service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billing or payment (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(c) Section 1902(a)(32) of such Act is amended—

(1) by inserting "(A)" immediately after "provide that".

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

(3) by adding immediately before the semicolon at the end thereof the following: ", and (B) any payment for a service, which may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude any agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the payment (or the aggregate of similar billings or payments) and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(d) The amendments made by subsections (a) and (b) of this section shall take effect on the first day of the first calendar month which begins not less than sixty days after the date of enactment of this Act, and the amendments made by subsection (c) of this section shall take effect on July 1, 1977.

DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

SEC. 5. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

"SEC. 1132. (a)(1) The Secretary shall by regulations (or by contract provision) provide that any entity (other than a public agency) which is—

"(A) a provider or supplier of items or services (including any **'shared health facility'** as defined in section 1133, or any practitioner or supplier affiliated with such a facility), which furnishes, or which arranges for the furnishing of, items or services with respect to which payment is claimed under title XVIII, under any program established pursuant to title V, or under a State plan approved under title XIX; or,

"(B)(i) a party to an agreement with the secretary entered into pursuant to section 1816 or 1842 (a), or (ii) a party to an agreement, with a State agency administering or supervising the administration of a State plan approved under title XIX, under which such party serves as a fiscal agent for the State in the operation of such plan;

shall promptly comply with any request, made by the Secretary or the Comptroller General of the United States, for any or all of the following:

."(C) full and complete information as to the identity (i) of persons having (directly or indirectly) 5 per centum or more ownership interests, or lease or rental interests in such entity and the nature and extent thereof or (except in the case of a supplier, not affiliated through direct or indirect common ownership or control in whole or part, with a provider of services) who is the owner (in whole or in part) of an interest of 5 per centum or more of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such entity or any of the property or assets thereof, (ii) in case such entity is organized as a corporation, of each officer and director of the corporation, and (iii) in case such entity is organized as a partnership, of each partner;

"(D) full and complete information (except in the case of a supplier, not affiliated through direct or indirect common ownership or control in whole or part with a provider of services) as to any business dealings between such entity (and in the case of a shared health facility, between any practitioner or supplier affiliated therewith) and persons referred to in clause (C), and

"(E) except in the case of a supplier or a shared health facility, not affiliated through direct or indirect common ownership or control, in whole or part, with a provider of services a consolidated certified costs report with respect to its costs and charges, including costs and charges of related organizations (as that term is employed for purposes of title XVIII);

except that, in the administration of this paragraph, no such request shall be made of an entity described in paragraph (A) if such entity does not furnish a significant volume (as defined by regulations of the Secretary) of the items or services referred to in such paragraph.

"(2)(A) If at the close of the sixty-day period which begins on the date a request (as described in paragraph (1)) is made of an entity described in paragraph (1) (A), or (B), such request has not been fully complied with, then—

"(i) in case such entity is an entity described in paragraph (1)(A), the Secretary may notify such entity that no payment will be made to such entity under title XVIII, and no Federal funds shall be available with respect to any expenditures made under or pursuant to title V or XIX (or a program or plan approved thereunder), for or on account of any services furnished by such entity on or after the first calendar month which begins not less than thirty days after the date such notice is sent,

"(ii) in case such entity is an entity described in paragraph (1)(B)(i), the Secretary may notify such entity that any agreement between such entity and the Secretary entered into pursuant to section 1816 or section 1842 is terminated effective on the first day of the first calendar month which begins not less than thirty days after the date such notice is sent, and

"(iii) in case such entity is an entity described in paragraph (1)(B)(ii), the Secretary may notify the State having an agreement with such entity that no Federal funds shall be available with respect to any expenses incurred to compensate such entity for or on account of services performed by it pursuant to such agreement (or any similar agreement) on or after the first calendar month which begins not less than thirty days after the date such notice is sent.

In case the Comptroller General of the United States makes a request (as described in paragraph (1)) which is not fully complied with prior to the sixty-day period described in the preceding sentence, then he shall, at the earliest practicable date after the close of such period, advise the Secretary of the fact that such request was made by him and was not complied with within such period, so that the Secretary may notify the entity involved as provided in clause (i), (ii), or (iii).

"(B) Notwithstanding any other provision of law—

"(i) payments otherwise authorized to be made under title XVIII, and Federal funds otherwise available with respect to expenditures under or pursuant to title V or XIX (or a program or plan approved thereunder) shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A)(i),

"(ii) agreements referred to in subparagraph (A)(ii) shall be terminated as indicated by the Secretary in a notice sent by him pursuant to subparagraph (A)(ii), and

"(iii) Federal funds otherwise available with respect to expenditures under a State plan approved under title XIX shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A)(iii);

except that the Secretary, for good cause shown, may terminate the application of such limitation.

"(b) Notwithstanding any other provision of law—

"(1) no payment shall be made on the basis of an assignment of benefits under title XVIII, and

"(2) no Federal funds shall be available under title V or XIX with respect to expenditures made under a State program or plan approved thereunder,

for goods and services furnished, on or after the first day of the first calendar month which begins not less than ninety days after the date of enactment of this subsection, to a patient (directly or indirectly) by any entity which is an independent pharmacy, independent laboratory, or an independent supplier of durable medical equipment unless such entity agrees to give the Secretary or in the case of title XIX the State agency under which such entity agrees to provide to the Secretary (or any authorized officer or employee of the Department of Health, Education, and Welfare) and to the Comptroller General reasonable access (including the right to duplicate) to the books and records thereof which pertain to the provision of billing and payment for goods and services supplied or rendered by such entity in relation to programs established under title V, XVIII, or XIX.".

(b) Part A of title XI of such Act is amended by adding after section 1132 thereof (as added by subsection (a) of this section) the following new section:

"SHARED HEALTH FACILITY

"SEC. 1133. For purposes of this Act, the term 'shared health facility' means any arrangement whereby two or more health care practitioners, one or more of whom receives payment on a fee for service basis under titles V, XVIII, and XIX of this Act which are substantial in amount (as determined in accordance with regulations of the Secretary)—

"(a)(1) practice their professions at a common physical location; or where a substantial number of the patients of one or more practitioners are referred to such practitioner(s) by other practitioners or persons at a common physical location;

"(2) share (i) common waiting areas, examining rooms, treatment rooms or other space, (ii) the services of supporting staff, or (iii) equipment, and

"(3) a person other than all of such practitioners is in charge of, controls, manages, or supervises, substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by such practitioners to their patients, or a person makes available to such practitioners the services of supporting staff who are not employees of such practitioners;

except that such term does not include a provider of services (as defined in section 1861(u)) or a health maintenance organization (as defined in section 1876), or an arrangement under which two or more health care practitioners practice their profession as a partnership, professional service corporation, or other legal entity, if members of the supporting staff are employees of such legal entity and in case there is an office manager, or person with similar title, he is an employee of the legal entity whose compensation is customary and not excessive for such services and there is no person described in clause (3), or,

"(b) where a person referred to in subsection (a)(3) or any other person is compensated, in whole or part, for the use of such physical location or services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location.".

PENALTY FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 6. (a) Section 1877 of the Social Security Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$10,000" and inserting in lieu thereof "$25,000", and

(C) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "(in cash or in kind)" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge, or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing",

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(G) by striking out "$10,000" and inserting in lieu thereof "$25,000", and

(H) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$25,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

(b) Section 1909 of such Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$10,000" and inserting in lieu thereof "$25,000", and

(C) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "in cash or in kind" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge, or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing",

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(G) by striking out "$10,000" and inserting in lieu thereof "$25,000", and

(H) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$25,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 7. (a) Section 1155(g) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The Secretary, where a Professional Standards Review Organization (whether conditionally designated or qualified) requests review responsibility with respect to services furnished in shared health facilities (as such facilities are determined by the Secretary in accordance with this Act) shall give priority to such request, with the highest priority being assigned to areas with substantial numbers of shared health facilities.".

(b) Section 1861(w)(2) of such Act is amended by inserting "under part B of this title or under" immediately after "entitled to have payment made for such services under".

(c) Section 1158 of such Act is amended by adding at the end thereof the following new subsecttion:

"(c) Where a Professional Standards Review Organization (whether conditionally designated or qualified) is found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues for purposes of payment under this Act, and no reviews with respect to such services, providers, or practitioners shall be conducted with respect to those issues relating to specific patients for purposes of payment by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or State agencies administering or supervising the administration of State plans approved under title XIX.".

(d) Section 1152(e) of such Act is amended—

(1) by insertiing "(1)" immediately after "(e)", and

(2) by adding at the end thereof the following new paragraph:

"(2) Such a waiver shall not be required where the Secretary finds a Professional Standards Review Organization (whether conditionally designated or qualified) to be competent on the basis of performance to assume review responsibilities with respect to specified providers of health care services. Upon such an assumption of review responsibilities by a Professional Standards Review Organization (whether conditionally designated or qualified) the following provisions of this Act (but only to the extent they involve duplicative review and certification activities) shall not be applicable (except to the extent otherwise specified by the Secretary):

"(A) the provisions with respect to physician certifications required under section 1814(a)(2) through (7), (h), and (i), and section 1835(a)(2),

"(B) the provisions with respect to utilization review plans required under section 1861(e)(6) and (j)(8),

"(C) the provisions with respect to medical evaluation and audit procedures required under section 1861(j)(12), and

"(D) the provisions of section 1902(a)(26), (30), (31), and (33), and section 1903(g) and (i)(4).".

(e) Section 1166 of such Act is amended by redesignating subsection (b) thereof as subsection (c), and by inserting immediately after subsection (a) the following new subsection (b):

"(b) A Professional Standards Review Organization (whether conditionally designated or qualified) shall provide data and information (unless such data or information are confidential and not to be disclosed pursuant to section 1166) to the responsible State and Federal agencies at any such agency's request to assist such agencies in identifying or investigating suspected cases or patterns of fraud or abuse.".

(f) Section 1155(b)(3) of such Act is amended by inserting "or abstract" after "examine".

(g) Section 1160(b)(1) is amended by striking out "practitioner or provider" wherever it appears and inserting in lieu thereof "health care practitioners or any hospital, or other health care facility, agency, or organization".

(h) Section 1168 of such Act is amended by inserting, immediately after the first sentence thereof, the following: "Nothing herein shall be construed to authorize or require any contribution by a State (or any political subdivision thereof) toward, or as a condition of the availability for purposes of the administration of this part, any of the funds described in clause (c) of the preceding sentence.".

(i) Section 1167 of such act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes professional counsel or services to such organization, equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function of such organization, member, or employee (as described in section 1155).".

Mr. TALMADGE. Mr. President, H.R. 12961, as it came over from the House, repealed a provision which has had onerous effects on States. That is a section of the medicaid statute which requires States to waive their constitutional immunity to suit by hospitals where hospitals allege that States are paying them less than is required under medicaid law.

Quite simply, the House believed that, while there are problems with respect to adequacy of payments, a requirement that States waive constitutional immunity to suit is an inappropriate way to deal with the problem. The Finance Committee agrees and has approved, as did the House, repeal of that provision in the law.

I am also very pleased that the Finance Committee agreed without dissent to add to this bill the medicare and medicaid antifraud amendments which I sponsored along with 41 other Members of the Senate. As I told the Senate when these amendments were introduced,

> Fraud cheats virtually all of us. It cheats the taxpayers of this Nation who see billions of dollars going down the drain. It cheats the poor and elderly who often receive what can best be characterized as marginal care from the fast buck artists. It cheats our State and local governments, many of whom are desperately trying to maintain fiscal stability. And, it cheats the large majority of health care practitioners and institutions who are doing an honest professional job.

The provisions dealing with fraud and abuse in the committee bill are as follows:

The first provision establishes within the Department of Health, Education, and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate, and make policy with respect to fraud and abuse monitoring and investigation at all Federal organizational levels in medicare and medicaid.

The committee bill also clarifies that the prohibition against assigning medicare and medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney.

The next committee provision would require disclosure by providers and suppliers of services under medicare and medicaid—including so-called medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees—to the extent that interests exceed 5 percent or more; business dealings between the facilities and owners, and where appropriate certified cost reports.

This provision would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. Additionally, Federal personnel and the Comptroller General would have direct access to provide records under medicaid and could duplicate such records during the course of an investigation.

A committee amendment would define fraudulent acts and false reporting as felonies punishable by up to 5 years imprisonment and up to $25,000 in fines.

The final committee provision would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called medicaid mills.

This provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both medicare and medicaid; all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to medicare and medicaid review activities.

The amendment would also require the Secretary to make payment for expenses incurred in defense of any suit, action or proceeding brought against a PSRO or to any member or employee in the performance of their duties and functions under the law.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1240), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT 94–1240

I. SUMMARY OF THE BILL

H.R. 12961 as passed by the House contained a provision to repeal the requirement that a State's plan for medical assistance under the medicaid program include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services. The Committee approved this repeal without modification, but added certain provisions dealing with fraud and abuse.

OFFICE OF CENTRAL FRAUD AND ABUSE CONTROL

The first provision establishes within the Department of Health, Education and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate and make policy with respect to fraud and abuse monitoring and investigation at all Federal organizational levels in Medicare and Medicaid.

PROHIBITION AGAINST ASSIGNMENT OF CLAIMS FOR SERVICES

This Committee provision clarifies that the prohibition against assigning Medicare and Medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney.

DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

The next Committee provision would require disclosure by providers and suppliers of services under Medicare and Medicaid—including so-called Medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees (to the extent that interests exceed five percent or more); business dealings between the facilities and owners, and where appropriate certified cost reports.

This provision would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. Additionally, Federal personnel and the Comptroller General would have direct access to provider records under Medicaid and could duplicate such records during the course of an investigation.

PENALTY FOR FRAUD

The Committee amendment would define fraudulent acts and false reporting as felonies punishable by up to five years imprisonment and up to $25,000 in fines.

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

The final Committee provision would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called Medicaid mills.

This provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both Medicare and Medicaid; all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to Medicare and Medicaid review activities.

The amendment would also require the Secretary to make payment for expenses incurred in defense of any suit, action or proceeding brought against a PSRO or to any member or employee in the performance of their duties and functions under the law.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The ACTING PRESIDENT pro tempore. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 12961) was read the third time and passed.

The title was amended so as to read:

> An Act to amend the Social Security Act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs and to repeal the requirement that a State's plan for medical assistance under title XIX include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services.

Mr. TALMADGE. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1162, 1173, 1174, 1177, 1178, 1182, and 1185.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1976

The Senate proceeded to consider the bill (H.R. 14299) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans Disability Compensation and Survivors Benefits Act of 1976".

TITLE I—VETERANS DISABILITY COMPENSATION

Sec. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$35" and inserting in lieu thereof "$38";

(2) by striking out in subsection (b) "$65" and inserting in lieu thereof "$70";

(3) by striking out in subsection (c) "$98" and inserting in lieu thereof "$106";

(4) by striking out in subsection (d) "$134" and inserting in lieu thereof "$145";

(5) by striking out in subsection (e) "$188" and inserting in lieu thereof "$203";

(6) by striking out in subsection (f) "$236" and inserting in lieu thereof "$255";

(7) by striking out in subsection (g) "$280" and inserting in lieu thereof "$302";

(8) by striking out in subsection (h) "$324" and inserting in lieu thereof "$350";

(9) by striking out in subsection (i) "$364" and inserting in lieu thereof "393";

(10) by striking out in subsection (j) "$655" and inserting in lieu thereof "$707";

(11) by striking out in subsection (k) "$52" and " "$814" and "$1,139" each time they appear and inserting in lieu thereof "$56" and "$879" and "$1,231", respectively;

(12) by striking out in subsection (l) "$814" and inserting in lieu thereof "$879";

(13) by striking out in subsection (m) "$896" and inserting in lieu thereof "$968";

(14) by striking out in subsection (n) "$1,018" and inserting in lieu thereof "$1,099";

(15) by striking out in subsection (o) and (p) "$1,139" each time it appears and inserting in lieu thereof "$1,231";

(16) by striking out in subsection (r) "$489" and inserting in lieu thereof "$528"; and

(17) by striking out in subsection (s) "$732" and inserting in lieu thereof "791".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Sec. 102. Section 315(1) of title 38, United States Code, is amended—

(1) by striking out in subparagraph (A) "$40" and inserting in lieu thereof "$43";

(2) by striking out in subparagraph (B) "$67" and inserting in lieu thereof "$72";

(3) by striking out in subparagraph (C) "$85" and inserting in lieu thereof "$92";

(4) by striking out in subparagraph (D) "$105" and "$19" and inserting in lieu thereof "$113" and "$21", respectively;

(5) by striking out in subparagraph (E) "$26" and inserting in lieu thereof "$28";

(6) by striking out in subparagraph (F) "$45" and inserting in lieu thereof "$49";

(7) by striking out in subparagraph (G) "$67" and "$19" and inserting in lieu thereof "$72" and "$21", respectively;

(8) by striking out in subparagraph (H) "$32" and inserting in lieu thereof "$35" and by striking out in such subparagraph after the semicolon "and";

(9) by striking out in subparagraph (I) "$61" and inserting in lieu thereof "$66"; and

(10) by redesignating subparagraph (I) as subparagraph (J) and inserting the new subparagraph (I) as follows:

"(I) notwithstanding the other provisions of this subsection, the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $78 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection; and".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

Sec. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*monthly rate*
E-1	$260
E-2	268
E-3	275
E-4	292
E-5	300
E-6	307
E-7	322
E-8	340
E-9	[1]355
W-1	328
W-2	341
W-3	352
W-4	372
O-1	328
O-2	340
O-3	364
O-4	384
O-5	423
O-6	476
O-7	516
O-8	565
O-9	607
O-10	[2]664

"[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $382.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $712.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $31 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $78 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

Sec. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) one child, $131;

"(2) two children, $189;

"(3) three children, $243; and

"(4) more than three children, $243, plus $49 for each child in excess of three.".

Sec. 203. Section 414 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$72" and inserting in lieu thereof "$78";

(2) by striking out in subsection (b) "$121" and inserting in lieu thereof "$131"; and

(3) by striking out in subsection (c) "$62" and inserting in lieu thereof "$67".

Sec. 204. (a) The Administrator shall carry out a thorough and detailed study of the dependency and indemnity compensation program authorized under chapter 13 of this title and of its beneficiaries to measure and evaluate the adequacy of benefits provided under this program and to determine whether, or to what extent, benefits should be based on the military pay grade of the person upon whose death entitlement is predicated.

(b) The report of such study shall include such full statistical data as may be obtained concerning surviving spouses and dependents in receipt of dependency and indemnity compensation other than under section 415 of title 38, United States Code, and in each instance the data shall include a breakdown of the distribution of the surviving spouses and dependents amongst the pay grade levels set forth in section 411(a) of title 38, United States Code. Data concerning such surviving spouses and dependents shall include (1) full statistical information concerning the number and ages of surviving spouses and dependents, the number of surviving spouses that remarry, the number of surviving spouses with dependents, and the number of surviving spouses in receipt of aid and attendance; (2) full statistical information concerning the number of surviving spouses and the number of dependents in receipt of old-age, survivors, and disability insurance (OASDI) cash benefits and the amount and type thereof, the number of surviving spouses and the number of dependents in receipt of other Federal or State assistance and the amount and type thereof, the number of surviving spouses in receipt of State survivor benefits and the amount and type thereof to include a breakdown by State, and the number of surviving spouses who work and their earnings therefrom; (3) full statistical information concerning the educational attainment of the survivor's deceased spouse; and (4) full statistical information concerning those surviving spouses whose veteran spouse was in receipt of disability compensation pursuant to chapter 11 of title 38, prior to death and the rating of disability thereof.

(c) The report together with such comments and recommendations by the Administrator for improving the program as are appropriate shall be submitted to the Congress and the President not later than October 1, 1977.

TITLE III—OTHER DISABLED VETERANS PROGRAM IMPROVEMENTS

Sec. 301. Section 362 of title 38, United States Code, is amended by striking out "$175" and inserting in lieu thereof "$190".

Sec. 302. Section 806 of title 38, United States Code, is amended by striking out in subsection (c) "$30,000," and inserting in lieu thereof "$40,000,".

Sec. 303. Section 1901 of title 38, United States Code, is amended—

(1) by striking out in paragraph (1) before the colon at the end of clause (A) "during World War II or thereafter" and insert-

ing in lieu thereof "on or after September 16, 1940"; and

(2) by striking out in paragraph (1) before the period at the end of clause (B) "during World War II or thereafter" and inserting in lieu thereof "on or after September 16, 1940".

Sec. 304. (a) Chapter 23 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 908. Transportation of deceased veteran to a national cemetery

"Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Administrator may pay, in addition to any amount paid pursuant to section 902 or 907 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"908. Transportation of deceased veterans to a national cemetery.".

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS AND EFFECTIVE DATE PROVISIONS

Sec. 401. Chapter 11 of title 38, United States Code, is amended—

(1) by striking out in the table of sections at the beginning of such chapter 11

"356. Minimum rating for arrested tuberculosis.";

(2) by striking out in paragraph (3) of section 301 "Leprosy" and inserting in lieu thereof "Hansen's disease";

(3) by striking out in paragraph (4) of section 301 "Leprosy", and by inserting in paragraph (4) of such section "Hansen's disease" between "Filiariasis" and "Leishmaniasis, including kala-azar";

(4) by striking out in clause (o) of section 314 "in combination with total blindness with 5/200 visual activity or less,"; and

(5) by striking out in clause (r) of section 314 "3203(f)" and inserting in lieu thereof "3203(e)".

Sec. 402. Section 3012(b) of title 38, United States Code, is amended—

(1) by inserting in clause (2) "annulment," immediately before "divorce" each time it appears; and

(2) by striking out in clause (9) "his" and inserting in lieu thereof "the beneficiary's".

Sec. 403. (a) The Administrator of Veterans' Affairs shall conduct a scentific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such relationship; and (2) an analysis of statistically valid samples of disability claims of veterans having service-connected extremity amputation matched by age, sex and war period with nonamputee veterans.

(c) The report, together with such comments and recommendations as the Administrator deems appropriate, shall be submitted to the Speaker of the House and the President of the Senate not later than June 30, 1977.

Sec. 404. Chapter 11 of title 38, United States Code, is further amended—

(1) by striking out in clauses (A) and (B) of section 301(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in section 302(a) "widow of a veteran under this chapter unless she was married to him" and inserting in lieu thereof "surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran";

(3) by striking out in section 302(b) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(4) by striking out in the catchline of section 302 "widows" and inserting in lieu thereof "surviving spouses";

(5) by striking out in the table of sections at the beginning of such chapter 11.

"302. Special provisions relating to widows."
and inserting in lieu thereof
"302. Special provisions relating to surviving spouses.",

(6) by striking out in clauses (m) and (o) of section 314 "him" and inserting in lieu thereof "such veteran";

(7) by striking out in section 314(p) ", in his discretion,";

(8) by striking out in clauses (r) and (s) of section 314 "he" and "his" each time they appear and inserting in lieu thereof "such veteran" and "such veteran's", respectively;

(9) by striking out in clauses (A), (B), (C), (D), (E), (F), and (G) of section 315 (1) "wife" each time it appears and inserting in lieu thereof "spouse";

(10) by striking out in section 315(1)(H) "mother or father, either or both dependent upon him" and inserting in lieu thereof "parent dependent upon such veteran";

(11) by striking out in section 315(2) "his";

(12) by striking out in section 321 "widow" and inserting in lieu thereof "spouse";

(13) by striking out in paragraphs (1) and (2) of section 322(a) "Widow" and inserting in lieu thereof "Surviving spouse";

(14) by striking out in paragraphs (3), (4), and (5) of section 322(a) "widow" and inserting in lieu thereof "surviving spouse";

(15) by striking out in section 322(a)(6) "mother or father" and inserting in lieu thereof "parent";

(16) by striking out in section 322(a)(7) "Dependent mother and father" and inserting in lieu thereof "Both dependent parents";

(17) by striking out in section 322(b) "widow" and inserting in lieu thereof "surviving spouse";

(18) by striking out in section 341 "widow" and inserting in lieu thereof "spouse";

(19) by striking out in section 351 "him", and by striking out in such section "his" and inserting in lieu thereof "such veteran's";

(20) by striking out in section 354(a) "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively;

(21) by striking out in section 358 ", in his discretion,", and by striking out in such section "his wife" and "a wife" and inserting in lieu thereof "such veteran's spouse" and "such spouse", respectively;

(22) by striking out in section 360 "his" each time it appears and inserting in lieu thereof "such veteran's";

(23) by striking out in section 361 "his" and inserting in lieu thereof "such former member's"; and

(24) by striking out in section 362 "he" and inserting in lieu thereof "the Administrator".

Sec. 405. Chapter 13 of title 38, United States Code, is amended—

(1) by striking out in subsections (a) and (b) of section 402 "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively;

(2) by striking out in subsections (c) and (d) of section 402 "he" and "his widow" and inserting in lieu thereof "such veteran" and "such veteran's surviving spouse", respectively;

(3) by striking out in section 402(e) "his" and "he" each time they appear and inserting in lieu thereof "such person's" and "such person", respectively;

(4) by striking out in section 404 "widow", "she", and "him", and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectfully;

(5) by striking out in the catchline of section 404 "widows" and inserting in lieu thereof "surviving spouses";

(6) by striking out in the table of sections at the beginning of such chapter 13
"404. Special provisions relating to widows."
and inserting in lieu thereof
"404. Special provisions relating to surviving spouses.";

(7) by striking out in subsections (a) and (b) of section 410 "his widow", "widow", "he", and "his" and inserting in lieu thereof "such veteran's surviving spouse", "surviving spouse", "such veteran", and "such veteran's", respectively;

(8) by striking out in the table of sections at the beginning of such chapter 13

"411. Dependency and indemnity compensation to a widow."
and inserting in lieu thereof
"411. Dependency and indemnity compensation to a surviving spouse.";

(9) by striking out in subsections (a) and (b) of section 412 "his", "he", and "widow" each time they appear and inserting in lieu thereof "such veteran's," "such veteran", and "surviving spouse", respectively;

(10) by striking out in subsections (a), (b), and (c) of section 414 "him", "woman", "widow", and "her deceased husband" each time they appear and inserting in lieu thereof "such child", "person", "surviving spouse', and "such person's deceased spouse', respectively;

(11) by striking out in paragraphs (1) and (2) of section 416(a) "widow" and "his" and inserting in lieu thereof "surviving spouse" and "such person's", respectively;

(12) by striking out in section 416(b)(1) "widow" and "her" and inserting in lieu thereof "surviving spouse", and "such surviving spouse", respectively;

(13) by striking out in section 416(c) "him" and inserting in lieu thereof "such child";

(14) by striking out in section 416(d) "him" each time it appears and inserting in lieu thereof "such parent";

(15) by striking out in section 416(e)(1) "he" and "his" and inserting in lieu thereof "such person" and "such beneficiary's" respectively;

(16) by striking out in section 416(e)(3) "his" and "he" and inserting in lieu thereof "such child's" and "the Administrator", respectively;

(17) by striking out in section 421 "him" and inserting in lieu thereof "the Administrator";

(18) by striking out in section 422(a) "his" and "him" and inserting in lieu thereof "such veteran's" and "such Secretary", respectively; and

(19) by striking out in section 423 "him" and "he" each time they appear and inserting in lieu thereof the Administrator".

Sec. 406. The provisions of this Act shall become effective on October 1, 1976.

Mr. HARTKE. Mr. President, I rise in support of H.R. 14299, the Veterans Disability Compensation and Survivor Benefits Act of 1976, reported for the committee which I am privileged to chair.

Mr. President, to briefly review the background of this measure, the Subcommittee on Compensation and Pensions, so ably chaired by the distinguished hard-working Senator from Georgia (Mr. Talmadge) conducted a hearing on July 23, 1976. This hearing reviewed the Veterans' Administration service-connected disability compensation and dependency and indemnity compensation programs. The hearing also examined pending legislation including my bill, S. 1539, the Veterans

Disability Compensation and Survivor Benefits Act of 1976.

The subcommittee received testimony in person or by submission from representatives of the Veterans' Administration, the Disabled American Veterans, the American Legion, the Veterans of Foreign Wars, American Veterans of World War II, Korea, and Vietnam, and the Paralyzed Veterans of America.

By agreement of the Subcommittee on Compensation and Pensions, both S. 3596 and the House-passed companion bill, H.R. 14299, were reported without recommendation to the full committee for its consideration. The full committee on Veterans' Affairs met in open executive session on September 1, 1976, to consider compensation legislation. After careful consideration, the committee unanimously approved and ordered favorably reported H.R. 14299, with an amendment, in the nature of a substitute. That amendment generally contained the provisions of S. 3596, together with two minor provisions which were contained in H.R. 14299 as previously passed by the House of Representatives.

Mr. President, the basic provisions of the Veterans Disability Compensation and Survivor Benefits Act of 1976 would:

First, provide an 8-percent cost-of-living increase for disabled veterans both in basic compensation rates and in the statutory awards relating to more serious disabilities;

Second, provide an 8-percent increase in the additional allowances for spouses, children, and dependent parents paid to veterans rated 50 percent or more disabled;

Third, provide an 8-percent increase in dependency and indemnity compensation—DIC—benefits payable to surviving spouses of veterans where deaths were service connected—including the additional allowance payable for dependent children and those in need of aid and attendance;

Fourth, provide an 8-percent increase in benefits, when there is no surviving spouse, payable to children of veterans whose deaths were service connected;

Fifth, provide an 8-percent increase in DIC benefits paid to children who have become permanently incapable of self-support due to disability incurred prior to the age of 18;

Sixth, direct the Administrator to carry out a thorough study of the dependency and indemnity compensation program to measure and evaluate the adequacy of benefits and to determine whether such benefits should be based on the former military pay grade of the deceased veteran;

Seventh, increase from $175 to $190 the annual clothing allowance paid certain seriously disabled veterans whose disability tends to wear out or tear their clothing;

Eighth, increase from $30,000 to $40,000 the VA mortgage protection life insurance available for certain severely disabled veterans eligible for and living in specifically adapted housing;

Ninth, extend eligibility for the VA automobile and adaptive equipment program to certain disabled veterans who served prior to World War II;

Tenth, authorize VA payment for the cost of transportation to a national cemetery for burial of the remains of deceased disabled veterans;

Eleventh, authorize additional allowances for those spouses of veterans rated 50 percent or more disabled who require the aid and attendance of another person;

Twelfth, include "annulment" as a form of dissolution of marriage in application of the "end of the year" rule in establishing the effective date of reduction or discontinuance of compensation, DIC, or pension as a result of such action;

Thirteenth, direct the Administrator to conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders; and

Fourteenth, make numerous technical amendments to chapter 11, disability compensation, and chapter 13, dependency and indemnity compensation including the elimination of unwarranted or inappropriate gender references.

Mr. President, based on informal conversations with the members of House committee I believe the amendments made today will be acceptable to the House. If so, favorable action on this bill today could mean that the bill could be to the President by the end of this week.

Mr. President, I urge favorable consideration of H.R. 14299.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee report be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION AND SUMMARY OF H.R. 14299, AS AMENDED

The Subcommittee on Compensation and Pensions chaired by Senator Herman E. Talmadge conducted a hearing on July 23, 1976. This hearing reviewed the Veterans' Administration service-connected disabiilty compensation and dependency and indemnity compensation programs. The hearing also examined pending legislation including Chairman Hartke's bill, S. 3596, the "Veterans Disability Compensation and Survivor Benefits Act of 1976".

The Subcommittee received testimony in person or by submission from representatives of the Veterans' Administration, the Disabled American Veterans, The American Legion, the Veterans of Foreign Wars, American Veterans of World War II, Korea, and Vietnam, and the Paralyzed Veterans of America.

By agreement of the Subcommittee on Compensation and Pensions, both S. 3596 and the House-passed companion bill, H.R. 14299, were reported without recommendation to the full Committee for its consideration. The full Committee on Veterans' Affairs met in open executive session on September 1, 1976 to consider compensation legislation. After careful consideration, the Committee unanimously approved and ordered favorably reported H.R. 14299, with an amendment, in the nature of a substitute. That amendment generally contained the provisions of S. 3596, together with two minor provisions which were contained in H.R. 14299 as previously passed by the House of Representatives.

The basic provisions of the Veterans Disability Compensation and Survivor Benefits Act of 1976 would:

1. Provide an 8 percent cost-of-living increase for disabled veterans both in basic compensation rates and in the statutory awards relating to more serious disabilities;
2. Provide an 8 percent increase in the additional allowances for spouses, children and dependent parents paid to veterans rated 50 percent or more disabled;
3. Provide an 8 percent increase in dependency and indemnity compensation (DIC) benefits payable to surviving spouses of veterans where deaths were service-connected (including the additional allowance payable for dependent children and those in need of aid and attendance);
4. Provide an 8 percent increase in benefits, when there is no surviving spouse, payable to children of veterans whose deaths were service-connected;
5. Provide an 8 percent increase in DIC benefits paid to children who have become permanently incapable of self-support due to disability incurred prior to the age of 18;
6. Direct the Administrator to carry out a thorough study of the dependency and indemnity compensation program to measure and evaluate the adequacy of benefits and to determine whether such benefits should be based on the former military pay grade of the deceased veteran;
7. Increase from $175 to $190 the annual clothing allowance paid certain seriously disabled veterans whose disability tends to wear out or tear their clothing;
8. Increase from $30,000 to $40,000 the VA mortgage protection life insurance available for certain severely disabled veterans eligible for and living in specifically adapted housing;
9. Extend eligibility for the VA automobile and adaptive equipment program to certain disabled veterans who served prior to World War II;
10. Authorize VA payment for the cost of transportation to a national cemetery for burial of the remains of deceased disabled veterans;
11. Authorize additional allowances for those spouses of veterans rated 50 percent or more disabled who require the aid and attendance of another person;
12. Include "annulment" as a form of dissolution of marriage in application of the "end of the year" rule in establishing the effective date of reduction or discontinuance of compensation, DIC, or pension as a result of such action;
13. Direct the Administrator to conduct a scientific study to determine if there is a casual relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders; and
14. Make numerous technical amendments to chapter 11, Disability Compensation, and chapter 13, Dependency and Indemnity Compensation including the elimination of unwarranted or inappropriate gender references.

BACKGROUND AND DISCUSSION

Increases in disability compensation

The Veterans' Administration disability compensation program provides income for 2,583,700 veterans who have service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 44,000 disabled World War I veterans, 1,269,000 World War II veterans, 240,000 Korean conflict veterans, and 469,000 Vietnam era veterans. Compensation is paid according to the degree of disability. Section 355 of title 38, United States Code, provides that the ratings of disability which range from 10 to 100 percent (with additional allowances for statutory awards) for certain disabilities shall be based "as far as practical on the average impairment of earning capacity resulting from such injury for civilian occupation". In addition, other less tangible factors have also traditionally been considered by Congress in establishing compensation rates for those who sustained service-connected disabilities in the defense of their country.

The following table reveals average cost and caseloads for disabled veterans:

TABLE 1.—AVERAGE COST AND CASELOAD OF VETERANS, DISABILITY, AND SURVIVOR COMPENSATION CASES

Total costs	Fiscal year 1975			Fiscal year 1976 (estimate)			Fiscal year 1977 (estimate)		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Compensation (total)	2,583,749	$1,803	$7,544,382 4,657,497	2,586,572	$1,994	$8,253,205 5,157,332	2,583,700	$2,013	$8,153,417 5,199,961
Veterans (total)	2,213,887	1,715	3,797,330	2,218,616	1,896	4,207,168	2,217,512	1,914	4,246,038
Spanish-American War	11	7,139	79	7	7,996	56	5	7,996	40
Mexican border period	11	8,040	88	9	9,005	81	7	9,005	63
World War I	56,657	2,352	133,262	49,900	2,590	129,239	43,700	2,604	113,812
World War II	1,318,136	1,589	2,094,047	1,294,500	1,759	2,276,669	1,269,000	1,779	2,257,983
Korean conflict	240,034	1,932	463,762	239,800	2,128	510,337	239,700	2,142	513,451
Vietnam era	405,812	1,823	739,926	440,000	2,011	884,995	469,000	2,023	948,893
Peacetime service	193,226	1,895	366,166	194,400	2,087	405,791	196,100	2,099	411,796
Survivors (total)	369,862	2,326	360,167	367,956	2,582	950,164	366,188	2,605	953,923
Indian wars	1	2,064	2	1	2,312	2	1	2,312	2
Civil War	9	2,446	22	8	2,739	22	5	2,739	14
Spanish-American War	264	2,753	727	245	3,083	755	230	3,083	709
Mexican border period	3	2,010	6	2	2,251	5	2	2,251	5
World War I	35,358	2,756	97,462	34,400	3,048	104,834	33,500	3,074	102,967
World War II	194,091	1,977	383,777	190,200	2,181	414,786	186,400	2,191	408,494
Korean conflict	39,274	2,251	88,392	39,200	2,490	97,627	39,150	2,509	98,208
Vietnam era	52,348	2,925	153,129	55,500	3,256	180,730	58,600	3,268	191,522
Peacetime service	48,514	2,817	136,650	48,400	3,128	151,403	48,300	3,147	152,020

The Committee periodically reviews the service-connected disability compensation program to ensure that authorized benefits provide reasonable and adequate compensation for disabled veterans.

Traditionally, this review of disability compensation and dependency and indemnity compensation (DIC) program has occurred biennially. But continuing inflation in recent years has led to review on an annual basis. The rates were adjusted 2 years ago by the Veterans Disability Compensation and Survivors Benefits Act of 1974 (Public Law 93–295).

Benefits were increased again last year with the enactment of the Veterans Disability Compensation and Survivor Benefits Act of 1975 (Public Law 94–71). That Act provided increases of 10 percent in the rates for disability compensation for those veterans rated 50 percent or less disabled and a 12-percent increase for more severely disabled veterans rated 60 percent to totally and permanently disabled. A 10 percent cost-of-living increase was also provided in the rates of additional compensation for dependents of veterans whose disability was rated 50 percent or more. In addition, the law provides a 12-percent cost-of-living increase in the rates payable for dependency and indemnity compensation—DIC—for widows and children, as well as for additional allowances for those in receipt of DIC and death compensation in need of aid and attendance.

Compensation and DIC rates were last increased effective August 1, 1975. Based on changes in the consumer price index to date, together with projected increases to October 1, 1976, as estimated by the President's Council on Economic Advisers, an 8 percent increase in rates will be required to protect the purchasing power of benefits paid to disabled veterans and survivors.

Disabled veterans and their survivors during the past year have continued to experience an increase in the cost-of-living. Following the hearing on this matter, the Committee believes that the 8 percent cost-of-living increase in compensation payments is both warranted and necessary to protect disabled veterans and their survivors from a continued loss of purchasing power. The following table shows the change in the cost-of-living that has occurred both since May 1, 1974, the effective date of Public Law 93–295 and from August 1, 1975, the effective date of Public Law 94–71 to August 1, 1976:

TABLE 2.—U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX

[In percent]

	1974	1975	1976
January	139.7	156.1	166.7
February	141.5	157.2	167.1
March	143.1	157.8	167.5
April	144.0	158.6	168.2
May	145.6	159.3	169.2
June	147.1	160.6	170.1
July	148.3	162.3	171.1
August	150.2	162.8	
September	151.9	163.6	
October	153.2	164.6	
November	154.3	165.6	
December	155.4	166.3	

Under the reported increase, all disabled veterans would receive an 8 percent increase in the rates to which they were entitled. The following table shows the current rates for disability compensation and those proposed in H.R. 14299, as amended, as reported, together with the number of veterans placed in each rating:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER H.R. 14299, AS AMENDED

	Increase		Number of veterans
	From—	To—	
Percentage of disability or subsection under which payment is authorized:			
(a) 10 percent	$35	$38	868,986
(b) 20 percent	65	70	345,985
(c) 30 percent	98	106	313,717
(d) 40 percent	134	145	181,671
(e) 50 percent	188	203	112,816
(f) 60 percent	236	255	118,559
(g) 70 percent	280	302	80,453
(h) 80 percent	324	350	38,816
(i) 90 percent	364	393	13,409
(j) 100 percent	655	707	122,719
Higher statutory awards for certain multiple disabilities:			
(k) (1) Additional monthly payment for anatomical loss or loss of use of any of these organs: 1 foot, 1 hand, blindness in 1 eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss.	$52	$56	85,488
(2) Limit for veterans receiving payments under (a) to (j) above	814	879	
(3) Limit for veterans receiving payments under (l) to (n) below	1,139	1,231	
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	814	879	6,695
(m) Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance	896	968	2,846
(n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent, use of prosthesis or anatomical loss of both eyes	1,018	1,099	357
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment or either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less)	1,139	1,231	29
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed			
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 40 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear next intermediate rate is payable, but in no event may compensation exceed	1,139	1,231	6,611

	Increase From—	Increase To—	Number of veterans
(q) [This subsection repealed by Public Law 90–493.]			
(r) If veteran entitled to compensation under (o) or to the maximum rate under (p), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to (o) or (p) rate	$489	$528	8,303
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	$732	$791	6,946

For a broader perspective the following tables show statutory increases in the compensation program since 1933:

TABLE 4.—HISTORY OF WARTIME SERVICE-CONNECTED COMPENSATION INCREASES—1933 TO 1952

Sec. 314, title 38, subpar.—	Percent	July 1, 1933	Plus percent increase equals—	Jan. 19, 1934	Plus percent increase equals—	Public Law 312, 78th Cong., June 1, 1944	Public Law 182, 79th Cong., Oct. 1, 1945	Plus percent increase equals—	Public Law 662, 79th Cong., Sept. 1, 1946	Plus percent increase equals—	Public Law 339, 81st Cong., Dec. 1, 1949	Plus percent increase equals—	Public Law 356, 82d Cong., July 1, 1952	Plus percent increase equals—	Public Law 427, 82d Cong., Aug. 1, 1952	Plus percent increase equals—
(a)	10	$9	11.1	$10	15	$11.50		20	$13.30	8.7	$15	5	$15.75			7.9
(b)	20	18	11.1	20	15	23.00		20	27.60	8.7	30	5	31.50			4.8
(c)	30	27	11.1	30	15	34.50		20	41.40	8.7	45	5	47.25			5.8
(d)	40	36	11.1	40	15	46.00		20	55.20	8.7	60	5	62.00			4.8
(e)	50	45	11.1	50	15	57.50		20	69.00 60.00	8.7	75	15	86.25			5.5
(f)	60	54	11.1	60	15	69.00		20	82.80	8.7	90	15	103.50			5.3
(g)	70	63	11.1	70	15	80.50		20	96.60	8.7	105	15	120.57			5.2
(h)	80	72	11.1	80	15	9.20		20	110.40	8.7	210	15	138.00			5.0
(i)	90	81	11.1	90	15	103.50		20	124.20	8.7	135	15	155.25			5.0
(j)	100	90	11.1	100	15	115.00		20	138.00	8.7	150	15	172.50			4.9
Subpar. (s) (housebound cases) Public Law 85–663, effective Sept. 1, 1960																
(l)		150			33.3		$200	20	240.00					10.8	$266	4.9
(m)		175			34.3		235	20	282.00					11.0	313	5.1
(n)		200			32.5		265	20	318.00					11.0	353	5.1
(o)		250			20.0		300	20	360.00					11.1	400	5.0
(p)							300	20	360.00					11.1	400	5.0
Subpar. (r) "A and A" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958																
(k)		25			40.0		35	20	42.00					11.9	47	
(q)															67	

TABLE 5.—HISTORY OF WARTIME SERVICE-CONNECTED COMPENSATION INCREASES—1954 TO PRESENT

Sec. 314, title 38, subpar.—	Public Law 695, 83d Cong., Oct. 1, 1954	Plus percent increase equals—	Public Law 85–168, Oct. 1, 1957	Plus percent increase equals—	Public Law 87–645, Oct. 1, 1962	Plus percent increase equals—	Public Law 89–311, Oct. 31, 1965	Plus percent increase equals—	Public Law 90–493, Jan. 1, 1969	Plus percent increase equals—	Public Law 91–376, July 1, 1970	Plus percent increase equals—	Public Law 92–328, Aug. 1, 1972	Plus percent increase equals—	Public Law 93–295, May 1, 1974	Plus percent increase equals—	Public Law 94–71, Aug. 1, 1975	Percent increase from Jan. 1, 1969
(a)	$17	11.8	$19	5.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	$32	9.4	$35	52.2
(b)	33	9.1	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59	10.2	65	51.2
(c)	50	10.0	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89	10.1	98	50.8
(d)	66	10.6	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122	9.8	134	50.6
(e)	91	9.9	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171	9.9	188	54.1
(f)	109	10.1	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211	11.9	236	60.5
(g)	127	10.2	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250	12.0	280	60.9
(h)	145	10.3	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289	12.1	324	61.2
(i)	163	9.8	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325	12.0	364	61.1
(j)	181	24.3	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493	18	584	12.2	655	63.8
Subpar.(s) (housebound cases) Public Law 86–663, effective Sept. 1, 1960			265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654	11.9	732	62.7
(l)	279	10.8	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727	12.0	814	62.8
(m)	329	9.1	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800	12.0	896	62.9
(n)	371	8.1	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909	12.0	1,018	62.9
(o)	420	7.1	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862	18	1,017	12.0	1,139	62.7
(p)	420	7.1	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017	12.0	1,139	62.7
Subpar.(r) "A and A" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958			150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437	11.9	489	63.0
(k)														10	52	0	52	10.6
(q)																		

Increases in monthly dependents allowances

Under existing law, additional allowances are provided for dependents of veterans who are rated 50 percent or more disabled. H.R. 14299, as amended, provides 8 percent increases in dependency allowances to 365,000 veterans currently in receipt of these benefits. The additional compensation rates payable for dependents under present law and the Committee bill are shown in the following table:

TABLE 6.—ADDITIONAL DEPENDENTS ALLOWANCES PAID TO CERTAIN DISABLED VETERANS

	Increase	
	From	To
If and while veteran is rated totally disabled and—		
(a) Has a wife but no child living	$40	$43
(b) Has a wife and one child living	67	72
(c) Has a wife and two children living	85	92
(d) Has a wife and three or more children living	105	113
(plus for each living child in excess of three)	19	21
(e) Has no wife but one child living	26	28
(f) Has no wife but two children living	45	49
(g) Has no wife but three or more children living	67	72
(plus for each living child in excess of three)	19	21
(h) Has a mother or father, either or both dependent upon him for support for each parent so dependent	32	35
(i) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	61	66

This will result in an additional first year cost of $10.7 million decreasing somewhat to $10.5 million at the end of 5 years. The bill also contains a new provision addressed to the needs of a few service-connected veterans who are rated 50 percent or more disabled and who have spouses who are patients in a nursing home or who are so helpless as to require the regular aid and attendance of another person. This provision would pay additional compensation at a base rate of $78 for the veteran who is 100 percent disabled, and proportionately less to those veterans rated from 50 percent to 90 percent disabled. This rate is in lieu of, not in addition to, the $43 rate recommended in the bill for a spouse not so disabled.

Increases in survivors dependency and Indemnity compensation

The dependency and indemnity compensation (DIC) program was created in 1965 with the enactment of the Servicemen's and Veteran's Survivor Benefits Act (Public Law 84–881).

DIC payments are authorized for widows, unmarried children under the age of 18 (as well as certain helpless children and those between the ages of 18 and 23 enrolled in school under chapter 35), and certain parents of servicemen or veterans who died on or after January 1, 1957, from: (a) A disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or (b) an injury incurred or aggravated in line of duty while on inactive duty training; or (c) a disability otherwise compensable under laws administered by VA.

Widows, children, and parents who are on the rolls, or found to be eligible, for death compensation by reason of a death occurring before January 1, 1957 may elect to receive DIC payments in lieu of death compensation. They cannot thereafter choose to receive death compensation.

Prior to enactment of the DIC programs, the survivors of military personnel whose deaths were due to service-connected causes might have been eligible for as many as five different survivor benefits.

In 1969, Public Law 91–96 was enacted replacing the original DIC formula with a table of specific dollar rates related to the pay grade of uniformed services. An effort was made at that time to increase all widows payments by an amount equal to the increase in the cost of living since the effective date of the 1965 act. Subsequent adjustments occured with: Public Law 92–197, which provided an additional 10-percent increase in benefits; Public Law 93–295, which provided a 17-percent increase; and Public Law 94–71, enacted last year, which provided a 12-percent increase in benefits.

The current DIC program provides benefits to more than 368,000 beneficiaries. The following table shows the current and anticipated survivor caseloads and costs by fiscal years:

TABLE 7.—AVERAGE COST AND CASELOAD OF SURVIVOR COMPENSATION CASES

[Total cost in thousands]

	Fiscal year 1975			Fiscal year 1976			Fiscal year 1977		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Indian wars	1	$2,064	$2	1	$2,320	2	1	$2,064	$2
Civil War	9	2,446	22	8	2,867	23	6	2,750	17
Spanish-American War	264	2,753	727	238	2,941	700	195	3,029	591
Mexican border period	3	2,010	6	3	4,866	15	2	2,400	5
World War I	35,358	2,756	97,462	34,699	3,066	106,371	34,100	3,058	104,278
World War II	194,091	1,977	383,777	190,099	2,212	420,409	187,000	2,216	414,392
Korean conflict	39,274	2,251	88,392	39,360	2,504	98,544	39,400	2,514	99,052
Vietnam era	52,348	2,925	153,129	55,818	3,217	179,556	59,495	3,234	192,407
Peacetime service	48,514	2,817	136,650	48,147	3,122	150,337	47,700	3,138	149,683
Total	369,862	2,326	860,167	368,373	2,595	955,957	367,899	2,611	960,427

Title II of H.R. 14299, as amended, thus, provides a uniform cost-of-living increase of 8 percent in dependency and indemnity compensation rates for widows and children effective October 1, 1976, similar to that provided disabled veterans under title I. Additional allowances for widows in need of aid and attendance, helpless children, children between the ages of 18 and 23 attending schools, and widows and dependent parents in receipt of death compensation in need of aid and attendance are also increased by 8 percent. Existing and proposed rates are shown in the following table:

TABLE 8.—COMPARISON OF DIC RATES UNDER PRESENT LAW AND H.R. 14299, AS AMENDED

	From	To
Pay grade:		
E-1	$241	$260
E-2	248	268
E-3	255	275
E-4	270	292
E-5	278	300
E-6	284	307
E-7	298	322
E-8	315	340
E-9	329	355
W-1	304	328
W-2	316	341
W-3	326	352
W-4	344	372
0-1	304	328
0-2	315	340
0-3	337	364
0-4	356	384
0-5	392	423
0-6	441	476
0-7	$478	$516
0-8	523	565
0-9	562	607
0-10	615	664

Comprehensive survivor benefits study

The reported bill would also direct the Administrator to carry out a major study of the dependency and indemnity compensation program authorized under chapter 13 of title 38, United States Code. The study will evaluate the adequacy of benefits provided under the program and determine whether, or to what extent, benefits should be based on the military pay grade of the person upon whose death entitlement is predicated. As noted earlier, DIC benefits currently range from $241 a month for the survivor of a private (E–1) up to $615 a month for the widow of an officer with a rank of O–10. The study required by this section is to contain full statistical data as to the financial situation of those in receipt of DIC. This study is also to include information as to the number of surviving spouses who have remarried, the number of surviving spouses in receipt of social security benefits or other Federal or State assistance, and their educational attainment. This information, together with an analysis and evaluation of it by the Veterans' Administration, will enable the Committee to be in a better position to gage the adequacy of survivor benefits and whether, or to what extent, they should continue to be based upon the former military pay grade of the decreased serviceman.

Veterans' groups generally are in strong support of this study provision. The Disabled American Veterans testified:

"The DIC benefits for surviving spouses are currently based on the military pay grade of the deceased veteran. This system obviously results in much higher rates for the widows of high ranking officers than are paid to the widows of lower ranking enlisted men. . . .

"As the purpose of the DIC program is to provide financial assistance for the survivors of veterans who have died from service-connected causes, we can see little justification for paying different rates to eligible beneficiaries who may be in identical financial circumstances.

"The DAV therefore urges your approval of the proposed study, and we await with interest the report which, we believe, could form the basis for the future equalization of DIC rates."

The American Legion in testimony said that:

"We believe that such a study would be useful not only to the Subcommittee, but also for the Congress and to The American Legion. It may suggest a departure from the military pay grade structure. Many service-connected deaths occur many years after termination of active duty. As you know, the history of the DIC program was related to a career oriented Armed Forces member."

And finally, the legislative director of AMVETS, while acknowledging that that organization had no official policy with respect to DIC benefits, testified that it was his belief that there would "be strong sentiment in favor of a more equitable system of payment over the present military pay grade criteria to determine the amount of benefit a survivor of a deceased service-connected veteran should receive."

The report, together with such comments and recommendations by the Administrator for improving the program as are appropriate, is to be submitted to Congress and the President not later than October 1, 1977.

Clothing allowance increase

Section 301 increases the annual clothing allowance from $175 to $190. This is a special clothing allowance for veterans who, because of a compensable disability, wear or use a prosthetic appliance which tends to wear out or tear their clothing. The clothing allowance was first authorized in 1972 by enactment of Public Law 92–328. Prior to that time, the Administrator had been authorized to furnish "special clothing" made necessary by the wearing of prosthetic appliances. However, the law did not authorize the furnishing of a replacement of conventional clothing made necessary by the extraordinary wear and tear resulting from the use of a prosthetic appliance. For that reason, Congress first authorized a $150 annual clothing allowance and subsequently increased it to $175 in Public Law 94–54.

Although the Veterans' Administration was, and still is, unsure as to the number of severely disabled veterans who are eligible for this allowance, it sent 61,378 computer-generated letters to prospective entitlees, who were identified by "anatomical loss" and "loss of use" codes. In fiscal year 1975, 53,165 veterans had been awarded the clothing allowance. Thus, according to VA supplied information, over 9,000 veterans, or approximately 15 percent of those veterans tentatively identified as eligible, had not been awarded the clothing allowance. Consequently the Committee in its report accompanying the 1975 compensation legislation urged greater outreach efforts to contact potential eligible recipients.

In fiscal year 1976, 56,012 clothing allowances were made, an increase of 2,847 over the 1975 figure. The Committee is encouraged by this increase but intends that additional outreach efforts will be made by the Veterans' Administration to identify and contact all those disabled veterans who are eligible for the allowance and encourage them to apply for it.

The Committee believes that the modest $15 increase in the clothing allowance is justified by changes in the consumer price index.

Increasing the clothing allowance also gives further recognition to the difficulties these veterans must endure because of the special nature of their service-incurred disabilities. The first year additional cost of this provision will be $0.8 million, slowly increasing to $0.9 million at the end of 5 years.

Increased mortgage protection life insurance for severely disabled veterans

Another provision contained in title III of the reported bill increases the mortgage protection life insurance amount for certain service-connected disabled veterans.

Currently, the Veterans' Administration, under section 806 of title 38, United States Code (Public Law 92–95) is authorized to purchase a commercial policy to provide mortgage protection life insurance for those seriously disabled veterans who have received grants for specially adapted housing under chapter 21, title 38 of the United States Code. The program is supervised by the VA and administered by the Bankers Life Insurance Co. of Lincoln, Nebraska. Veterans eligible for housing assistance grants under chapter 21 are principally service-connected quadriplegics, paraplegics, and others who require the use of a wheelchair.

The Administrator is authorized to issue life insurance in the maximum amount of $30,000 covering mortgages of veterans who receive grants (under chapter 21, title 38) for specially adapted housing necessitated by certain service-connected disability conditions. Under this provision, the veteran pays the standard premium rate and it is deducted from the veteran's compensation payment. The Veterans' Administration pays the additional premium occasioned by the veteran's disability. Individual coverage under the group policy of insurance is automatic for eligible veterans with such mortgages, unless declined by the veteran, and continues until the veteran reaches age 70 or until earlier termination of the mortgage. Amount of coverage, subject to the general ceiling, is limited to that of the outstanding mortgage loan, with interest, and is reduced as the loan is amortized. In testimony before the Committee on Veterans' Affairs, when the committee was originally considering mortgage protection life insurance coverage, the Veterans' Administration stated:

"Few, if any, of these veterans can obtain mortgage protection from commercial sources. The veterans have suffered greatly and deserve our most sympathetic understanding and consideration."

The Veterans' Administration spokesman further acknowledged that:

". . . the life expectancy of many of the veterans of this group have been shortened by their service-connected disabilities, and that following their death, the income of their widows or other survivors generally is substantially reduced."

The cost of the Veterans' Mortgage Life Insurance program is rather small and is estimated at $2.4 million for fiscal year 1976. As of December 1975, 315,335 veterans held mortgage protection life insurance in the amount of $147.5 million.

H.R. 14299, as amended, would increase the protection from $30,000 to $40,000. Mortgage protection life insurance was first approved on August 11, 1971, when it was estimated that the then average cost of specially adapted houses was between $30,000 and $35,000. According to the Bureau of Labor Statistics, the Consumer Price Index (Housing) rose from 131.6 in 1971 to 188.6 in May 1976, an increase of 43 percent. Applying this to 1971 VA estimates, the average cost of such housing is projected to be between $42,500 and $50,050. Since that time the cost of living has increased by almost 38 percent, an increase which the Committee believes more than justifies the increase provided in this section.

In the next 5 years, approximately 600 eligible veterans a year will both qualify for specially adapted housing and obtain VA supervised mortgage protection life insurance. Of that number, 450 a year can be expected to contract for such insurance at the maximum $40,000 rate.

Extended eligibility for VA automobile and adaptive equipment program

Title III also amends chapter 39 of title 38, United States Code, to extend eligibility under the VA automobile and adaptive equipment program to veterans who served on or after September 16, 1940, the date the first federalized National Guard units entered upon active duty.

Currently, only veterans who served during World War II or thereafter (that is, on or after December 7, 1941) are eligible for assistance in providing an automobile or other conveyance.

The program of basic automobile assistance grants was established by the Congress in Public Law 79–663 and enacted on August 8, 1946. Under that law, certain disabled veterans of World War II—with service between December 7, 1941, and December 31, 1946—were provided with, or assisted in the purchase of an automobile or other conveyance.

Public Law 82–187, enacted on October 20, 1951, extended these benefits to veterans of the Korean conflict—with service between June 27, 1950 and January 31, 1955, Public Law 90–77, effective October 1, 1967, and further extended these benefits to any veteran with service after January 31, 1955. Eligible veterans with service after January 31, 1955 had to qualify on the more restrictive criterion of having a disability incurred in line of duty as a direct result of performance of military duty, rather than under the standard service-connected criterion applied to World War II and Korean conflict veterans of having a disability resulting from an illness or injury sustained or aggravated in service in the line of duty.

Public Law 91–666, enacted December 31, 1970, and effective on January 11, 1971, increased the maximum amount payable toward the purchase of an automobile or other conveyance from $1,600 to $2,800. For the first time the law also provided for VA payments for necessary adaptive equipment as well as for the maintenance, replacement, and installation thereof. The 1971 Act also mandated the VA to establish safety standards for that equipment in order to assure the safe operation of the automobile or other conveyance and to satisfy the applicable standards of licensure by the proper licensing authority.

Public Law 93–583, enacted December 22, 1974, changed the definition of "eligible person" to include any veteran of service after World War II. The effect of that law was, first, to extend eligibility for benefits to veterans of service between the date of termination of World War II and the date of the beginning of the Korean conflict; and second, to provide that all determinations of eligibility under chapter 39 are to be based on a single service-connected standard—the disability is the result of service—rather than the more restrictive criterion applied to post-Korean conflict veterans of the Vietnam era. The maximum assistance was raised from $2,800 to $3,300. Assistance was also increased by directing the Administrator of the Veterans' Administration to provide, directly or by contract, for the conduct of special driver training courses at every VA hospital and, where appropriate, at VA regional offices and VA medical facilities other than hospitals.

It is estimated that approximately 200 veterans would qualify and apply for these benefits (a large number of potentially eligible veterans are receiving institutional care) as a result of the amendment contained herein. The average cost per recipient is estimated to be $3,800 for the purchase and adaptation of an automobile.

Transportation of deceased veterans to a national cemetery

Title III of the reported bill also authorizes payment of the cost of transportation of the body of a deceased veteran who dies as result of the amendment contained herein. or was in receipt of (or but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, for burial in a national cemetery. The payment shall not exceed the cost of transportation from the veteran's last place of residence to the nearest national cemetery with burial space available. This payment would be in addition to any amount paid pursuant to the provisions of sections 902 and 907 of title 38, United States Code.

It is estimated that there will be approximately 12,000 eligible veteran deaths during each of the first 5 fiscal years as shown in the following table:

	Fiscal year—				
	1977	1978	1979	1980	1981
Estimated deaths	11,440	11,898	11,374	11,868	13,383

Of this number, it is estimated that about half of these veterans will be buried in a national cemetery.

Transportation costs derived from the 1976 edition of "Funeral Services Facts and Figures" are estimated to average approximately $93. The first year cost is estimated at $0.5 million increasing to $0.8 million in the fifth year.

Technical amendments

A number of technical amendments are made to chapter 11, Compensation for Service-Connected Disabilities or Death and chapter 13, Dependency and Indemnity Compensation for Service-Connected Deaths, to remove obsolete references and to remove unwarranted or inappropriate gender references.

The reported measure also amends section 3012(b)(2) by providing that reductions or discontinuances of compensation, dependency and indemnity compensation or pension by reason of annulment of a marriage of a dependent of a payee shall be the last day of the year in which such annulment occurs—just as in the case of divorce or death under current law.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee, based on information supplied by the Congressional Budget Office, the costs attributable to this bill, H.R. 14299, as amended, are approximately $388.7 million in fiscal year 1977, gradually decreasing to $384.7 million in fiscal year 1981, all as shown in the following table:

TABLE 9.—5-YR COST OF H.R. 14299, AS AMENDED

[In millions]

	Fiscal year—				
	1977	1978	1979	1980	1981
Sec. 101	297.6	296.7	295.5	294.0	292.2
Sec. 102	19.1	19.1	19.0	18.9	18.8
Secs. 201–203	70.0	70.3	70.6	70.9	71.4
Sec. 204	.2				
Sec. 301	.8	.9	.9	.9	.9
Sec. 302	.1	.2	.3	.5	.6
Sec. 303	.4			(1)	
Sec. 304	.5	.6	.6	.7	.8
Total	388.7	387.8	386.9	385.7	384.7

(1) Less than $50,000.

The full text of report of the Congressional Budget Office can be found in "Agency Report," *infra*.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report H.R. 14299, as amended, with an amendment, favorably to the Senate:

Yeas—9

Vance Hartke
Herman E. Talmadge
Jennings Randolph
Alan Cranston
Richard (Dick) Stone
John A. Durkin
Clifford P. Hansen
Strom Thurmond
Robert T. Stafford

Nays—0

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF H.R. 14229, AS AMENDED

Section 1

This section provides that the proposed act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1976."

TITLE I—VETERANS DISABILITY COMPENSATION

Section 101

Subsection (a) provides an 8 percent increase in the basic rates of service-connected disability compensation payable under section 314 of title 38, United States Code. Currently, a veteran with a 10-percent disability receives $35 monthly and a veteran with a disability rated at 100 percent receives $655. The rates would be increased to $38 and $707, respectively. An increase of 8 percent is also provided for all higher statutory awards involving combinations of severe disabilities. An 8 percent increase is provided for the statutory awards payable under section 314(k).

Subsection (b) authorizes administrative adjustment consistent with the rate increases specified in subsection (a), of the rates of disability compensation payable to persons under section 10 of Public Law 85-857 who are not in receipt of compensation under chapter 11 of title 38, United States Code.

Section 102

This section provides increases in the additional allowances payable under section 315 of title 38, United States Code, to service-connected disabled veterans with spouses, children, and dependent parents when the veteran is rated 50 percent or more disabled. These allowances are increased by 8 percent and would affect approximately 365,000 veterans. A new paragraph "I" is added which would authorize an additional monthly payment of $78 in the case of any veteran disabled 50 percent or greater who has a spouse in need of aid and attendance.

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

Section 201

Subsection (a) increases the rates of dependency and indemnity compensation (DIC) payable under section 411 to the widows of veterans who died of service-connected causes. Currently, the minimum amount of DIC payable for the widow of a veteran who attained the grade of E-1, is $241 monthly, ranging upward to $615 per month to the widow of a veteran who attained the grade of O-10. These rates would be increased by 8 percent or $269 per month for an E-1 up to $664 per month for an O-10.

Subsection (b) increases the additional monthly allowance payable under section 411 (b) to a widow receiving DIC for each child under 18 by 8 percent from $29 to $31.

Subsection (c) provides an 8-percent increase in the additional allowance payable under section 411(c) to a widow in receipt of DIC who is in need of aid and attendance from $72 per month to $78.

Section 202

This section provides an 8-percent increase in the rates of DIC payable under section 413 for children when there is no widow entitled. Currently the rates range from $121 for one child to $225 for three children plus $45 per month for each additional child. The increases would provide rates of $131 to $243, respectively, with $49 for each additional child.

Section 203

Clause 1 provides an 8-percent increase in the additional allowance payable under section 414(a) to a child eligible for DIC who had attained the age of 18 and is permanently incapable of self-support from $72 to $78 per month.

Clause 2 provides an increase of 8 percent in the additional allowance (from $121 to $131 per month) payable under section 414 (b) to a widow receiving DIC when there is a child eligible who has attained the age of 18 and is permanently incapable of self-support.

Clause 3 provides an 8-percent increase from $62 per month to $67) in the additional allowance payable under section 414(c) to a widow in receipt of DIC when there is a child pursuing a course of education approved under section 104.

Section 204

This section directs the Administrator to carry out a thorough and detailed study of the dependency and indemnity compensation program to measure and evaluate the adequacy of benefits provided beneficiaries and to determine whether, or to what extent benefits should be based on the military pay grade of the person upon whose death entitlement is predicated. The comprehensive study, which shall include full statistical data as to the income characteristics and situation of beneficiaries under the chapter 13 program, is to be submitted with such comments and recommendations by the Administrator for improving the program, as are appropriate, not later than October 1, 1977.

TITLE III—OTHER DISABLED VETERANS PROGRAM IMPROVEMENTS

Section 301

This section increases by $15 the clothing allowance payable under section 362 to any veteran who because of his compensable disability wears or uses a prosthetic or orthopedic appliance, including a wheelchair which tends to wear out or tear his clothing, from $175 to $190.

Section 302

This section amends section 806(c) of title 38 to increase from $30,000 to $40,000 the maximum mortgage protection life insurance available to certain service-connected disabled veterans who have specially adapted homes pursuant to chapter 21 of title 38.

Section 303

This section amends section 1901 of title 38 to extend eligibility for automobile and adaptive equipment for certain disabled veterans authorized by chapter 39 to those veterans who served on or after September 16, 1940. Under current law, eligibility is limited to those who served on or after December 7, 1941.

Section 304

Subsection (a) amends chapter 23 relating to burial benefits to add a new section 908 which would authorize payment of transportation expenses for any veteran who dies as a result of a service-connected disability or was in receipt of (or but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation to pay for burial in a National Cemetery. These payments are in addition to the amounts provided by sections 902 and 907.

Such payment, however, is not to exceed the cost of transportation to the National Cemetery nearest the veteran's last place of residence in which burial space is available.

Subsection (b) amends the table of sections at the beginning of chapter 23 to reflect the addition of new section 908.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS AND EFFECTIVE DATE PROVISIONS

Section 401

This section makes a number of technical amendments, including replacing certain outdated medical terms.

Section 402

This section amends section 3012 of title 38 by providing that reductions or discontinuances of compensation, dependency and indemnity compensation or pension by reason of annulment of a marriage of a dependent of a payee shall be the last of the year in which such annulment occurs—just as in the case of divorce or death under current law.

Section 403

This section directs the Administrator to conduct a scientific study to determine if there is a casual relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders. The study is to review existing studies already conducted or under way as well as analyze a statistically balanced sample of disability claims of veterans having service-connected extremity amputation matched by age, sex, and war period with non-amputee veterans. The report, together with such comments and recommendations that the Administrator deems appropriate, shall be submitted to Congress no later than June 30, 1977.

Section 404

This section makes technical amendments to chapter 11 of title 38 to remove unwarranted or unnecessary gender references. Those sections affected are: 302, 314, 315, 321, 322, 341, 351, 354, 358, 360, 361, and 362.

Section 405

This section makes technical amendments to chapter 13 of title 38 to remove unwarranted or unnecessary gender references. Those sections affected are: 402, 404, 410, 412, 414, 416, 421, 422, and 423.

Section 406

This section provides that the provisions of this Act shall take effect on October 1, 1977, the start of fiscal year 1977.

Mr. HANSEN. Mr. President, a principal concern of the Veterans' Affairs Committee has always been to provide adequate compensation for veterans with service-connected disabilities and their dependents, and for the survivors of veterans who have died as a result of service-connected injuries or diseases.

H.R. 14299 provides a needed 8-percent cost-of-living increase in benefits payable under the compensation program. This adjustment is considered vital in assisting individuals who are qualified for compensation to offset the increases brought about by inflation.

Additionally, of great humanitarian concern to veteran and nonveteran alike is the direction in the act for the Veterans' Administration to conduct a study to determine the extent of any causal relationship between amputation and cardiovascular disease.

Mr. President, H.R. 14299 is strongly endorsed by every major veterans organization. I fully support this measure and urge my colleagues to do likewise.

Mr. THURMOND. Mr. President, H.R. 14299 represents the fulfillment of a continuing commitment by the Veterans' Affairs Committee to place highest priority on meeting the needs of veterans with service-connected disabilities.

Because of their disabilities, these individuals are frequently unable to engage in any gainful employment and are often the helpless victims of inflation. H.R. 14299 seeks to accommodate these deserving individuals by providing an 8-percent, across-the-board increase in benefits payable under the compensation program. Also of considerable importance is section 403 of the act which directs the Veterans' Administration to conduct a scientific study to determine if there is any causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders.

Mr. President, I support this needed measure and urge my colleagues to do the same.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TIJUANA RIVER FLOOD CONTROL PROJECT

The bill (H.R. 14973) to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 12–1237), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

H.R. 14973 amends Public Law 89–640 (Tijuana River Flood Control) to authorize the expenditure of Federal funds for the acquisition of lands and the construction and maintenance of a modified flood control project for the Tijuana River.

BACKGROUND

At the request and urging of the City of San Diego, California, Congress, in 1966, approved legislation authorizing (1) the negotiation of an agreement with Mexico to enter into a joint flood control project for the Tijuana River, and (2) the implementation of the U.S. portion of the project estimated to cost $12.6 million. The City of San Diego, with the backing of the State of California, initiated the project with the idea in mind that it would provide not only flood control protection, but expand business and recreational opportunities as well.

The Senate report which accompanied the 1966 legislation described the need for the project in this way:

The Tijuana River, which is only 8 or 9 miles long, is formed in Mexico by the confluence of two tributaries, one of which originates in the United States, the other in Mexico. It flows generally north and west through the city of Tijuana, across the international boundary and through the cities of Imperial Beach and San Diego to the Pacific Ocean. Its wide, shallow, meandering course is subject to flooding, and this is inhibiting further urban development on both sides of the border.

After the legislation was approved and the initial plans for the project were drawn, there was a change of administration in San Diego. The new administration asked that the project be reviewed, and following the review, it asked that the original plan be scrapped in favor of a modified project that would be more environmentally sound and less urban-development oriented. This project would involve construction of a less-than-mile-long concrete channel with north and south levees adjoining it, rather than the 5.5-mile long channel emptying into the Pacific Ocean, as proposed in the original project.

With the change in the scope of the project, local and State officials argue that they should not be required to bear the financial burden of paying all the rights-of-way costs, as they committed themselves to do with respect to the initial, larger project. For the modified project, these costs are estimated at $3.6 million, of which local and State officials say they will pay no more than 60 percent or $2.2 million. This level of funding has already been approved by the City of San Diego and the California State Legislature and is available for land acquisition.

Because of these changes, the 1966 authorizing legislation must be amended if the project is to go forward. Hence, the State Department proposed draft legislation to authorize funding (1) for the modified project, and (2) for land acquisition. The Department states it has no choice at this point because of the agreement with Mexico, which has already completed its portion of the project.

There is opposition to H.R. 14973 from some of the smaller communities surrounding San Diego. These communities, led by Imperial Beach, want the original project implemented. This project would provide greater flood control benefits for them, plus additional economic benefits by expanding their potential commercial and recreational areas. The cost of the original project to the Federal government is now estimated at $27.8 million vs. $12.4 million, including a federal expenditure of $1.6 million for land acquisition.

The original authorization of $12.6 million was followed by a $5.8 million appropriation, of which $4.8 remains available.

In order to stay within the Congressional budget ceiling, the House amended the draft legislation to prohibit the appropriation of funds authorized by the bill until fiscal 1978. The Administration has no objection to the amendment.

The House passed H.R. 14973 on August 24, 1976, by voice vote.

COST ESTIMATE

The Department of State estimates that the total Federal outlay for the Tijuana Flood Control Project will be $12.4 million at 1976 prices. Of this amount, $10.8 will be used for construction and $1.6 for land acquisition.

To date, the U.S. Section of the International Boundary and Water Commission has obligated funds totalling $1,038,000 for this project. These funds were spent on designing both the original project and the subsequent modified project, plus the environmental impact statement for each. These funds were drawn from earlier appropriations.

In fiscal year 1977, the Commission plans an expenditure of $3,850,000 (which will be drawn from prior appropriations). For fiscal 1978, when the project is to be completed, the Department anticipates a total outlay of $7,403,000. Thereafter, the Department estimates an annual outlay of $45,000 for operation and maintenance.

COMMITTEE ACTION

On September 14, the Committee received testimony on H.R. 14973 in open session from J. F. Friedkin, U.S. Commissioner, International Boundary and Water Commission, United States and Mexico. In addition, Senators Cranston and Tunney individually wrote to the Committee supporting H.R. 14973 and urging quick approval of it. Commissioner Friedkin's prepared statement is appended to this report, as are the letters received from the two California Senators.

Following Commissioner Friedkin's testimony, the Committee, by voice vote without objection, ordered H.R. 14973 to be reported favorably to the Senate.

COMMITTEE COMMENTS

The Committee gives its full support to passage of this legislation because of the long-standing commitment to Mexico to undertake a joint flood control project for the Tijuana River. Mexico has fulfilled its commitment, while the United States has done virtually nothing, despite passage of legislation for such a project a decade ago.

Because Mexico has lived up to its part of the bargain, it now runs the potential risk of greater flood damage because of the inaction on the U.S. side of the border.

Passage of H.R. 14973 will rectify the situation.

ADDITIONAL INCOME FOR THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

The Senate proceeded to consider the bill (H.R. 13549) to provide for additional income for U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the home to collect a fee from the members of the home; by appropriating nonjudicial forfeitures for support of the home; and by increasing the deductions from pay of enlisted men and warrant officers, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert the following:

That the Board of Commissioners of the United States Soldiers' and Airmen's Home shall collect from members of the home a fee which may be used solely for the operation of the home. The amount of the fee shall be determined by the Board of Commissioners on the basis of financial needs of the home and the ability of the members to pay, but in no case may the fee collected in any month in the case of any member exceed an amount equal to 25 per centum of the monthly—

(1) military retired pay paid to such member;

(2) civil service annuity paid to such member where such annuity is based in part on years of military service;

(3) disability compensation or pension paid to such member by the Veterans' Administration; or

(4) military retired pay and disability compensation or pension where such member is receiving both retired pay and disability compensation or pension.

SEC. 2. (a) There shall be deducted each month from the pay of each enlisted man and warrant officer on the active list of the Regular Army and Regular Air Force a sum not to exceed 50 cents which shall be deposited to the credit of the permanent fund, United States Soldiers' and Airmen's Home (trust fund) in the Treasury of the United States. The sums to be deducted shall be fixed from time to time, within the limit prescribed above, by the Secretary of the Army and the Secretary of the Air Force in consultation with the Board of Commissioners of such home so as to meet the annual operating requirements of such home. Such sums may be fixed at different amounts for such enlisted men and warrant officers on the basis of grade or time in service, or both, except that the sums fixed shall be the same for both the Army and Air Force.

(b) The Act entitled "An Act to provide further for the maintenance of United States Soldiers' Home", approved February 13, 1936 (49 Stat. 1137; 24 U.S.C. 44a), is repealed.

SEC. 3. (a) The Comptroller General of the United States shall conduct a study of the operations of the United States Soldiers' and Airmen's Home with a view to determining the short- and long-term financial needs of such home, the appropriate functions of such home, and the operating efficiency of such home.

(b) The Comptroller General shall transmit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives on or before August 1, 1977, together with such comments and recommendations as he deems appropriate.

SEC. 4. The Act of August 29, 1974 (Public Law 93-397; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1976" and inserting in place thereof "through September 30, 1978".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1238), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The legislation would provide additional income for the United States Soldiers' Home to eliminate the operating deficits which the home has been experiencing over the last several years.

LEGISLATIVE HISTORY

Senator Thurmond, along with Senators Goldwater, Tower, and Young, introduced S. 2441 on October 1, 1975. The original House bill, H.R. 9767, was introduced on September 22, 1975. The House Committee on Armed Services reported H.R. 13549, a clean bill drafted by the committee to replace H.R. 9767. H.R. 13549 passed the House on May 18, 1976. Due to time limitations and the lateness of the current session, the committee acted on the House bill.

BACKGROUND

The United States Soldiers' Home was originally designed to provide a home for the relief and support of certain old, invalid or disabled soldiers. The modern-day facility is located on approximately 300 acres in Washington, D.C.

The Soldiers' Home was established in 1851 when Congress passed "An Act to Found a Military Asylum for the Relief and Support of Invalid and Disabled Soldiers of the Army of the United States." During the Mexican War the Commanding General of the U.S. Army in Mexico, Winfield Scott, collected $118,000 in tribute from Mexico. Congress subsequently appropriated from the U.S. Treasury the $118,000 as well as an unexpended balance of $54,136 from an earlier appropriation for disabled and wounded soldiers to be placed in trust for the use of the home.

The Soldiers' Home currently receives by law revenue from the following sources: a monthly contribution of 25 cents from each enlisted member and warrant officer of the Regular Army and Air Force while on active duty; fines and forfeitures collected from active duty personnel by sentence of courts-martial which are "set apart and appropriated"; and interest of about 7 percent per annum on the trust fund balance of the home.

The policy and procedures of the Soldiers' Home are formulated by the Board of Commissioners whose statutory members are the Surgeon General, the Adjutant General, the Chief of Engineers, the Judge Advocate General, the Chief of Finance and the Governor of the Soldiers' Home. The Governor and all officers of the home are selected by the President. The Board's responsibilities include examining and auditing the accounts and establishing regulations, subject to the approval of the Secretary of the Army, for the general and internal direction of the home.

CURRENT FINANCIAL SITUATION

Through its annual income, the trust fund of the Soldiers' Home has increased over the years to $110.1 million as of 1969. Figures furnished to the committee by the home indicate that in 1971 for the first time in recent history the home's operating expenses exceeded its income by $2.1 million. Annual operating deficits have continued to date.

Contributing to this reversal were higher costs for goods and services, a reduction in the size of the active forces which decreased the total income to the home from active duty personnel, and a reduction since 1963 in the amount of judicial forfeitures turned over to the home. Figures furnished by the home indicate that if this trend continues, the trust fund will be depleted in fiscal year 1986. The fund is now at $93 million. The home projects a fiscal year 1976 deficit of $1.4 million.

DISCUSSION

Users' fee

In order to avoid an annual operating deficit for the Soldiers' Home in fiscal year 1977, the committee felt it was essential to levy a monthly fee on members of the Soldiers' Home. The Board of Commissioners shall be authorized to determine the amount of the fee based on the needs of the home and the ability of the members to pay. Specifically, this fee is not to exceed 25 percent of the monthly income received from military retired pay, civil service annuity and veterans' compensation and/or pension.

The committee felt that a users' fee would be an equitable way to maintain the financial stability of the Soldiers' Home and its useful role in fostering care for retired enlisted personnel of the Army and Air Force. With the establishment of the All-Volunteer Force, pay and retirement benefits in the military are comparable to those in the private sector. Therefore, present members of the home should be in a position to contribute towards their care and support.

This provision is not a new precedent. During the early days of the Soldiers' Home members surrendered their pensions to the institution while they were receiving the benefits of the home.

A users' fee assessed at a rate of 25 percent of a member's military retired income or pension would result in approximately $2.5 million additional income to the home. This additional income should be sufficient to overcome any operating deficit for fiscal year 1977.

Levy on active duty personnel

The committee authorizes increasing the monthly deduction from the pay of enlisted and warrant personnel of the active Army and Air Force in an amount not to exceed 50 cents. This deduction should be increased only to the extent required to reduce the operating deficit of the Soldiers' Home. This deduction must not be used, for example, to expand or to upgrade the facilities of the Soldiers' Home. It is the intent of the committee that increasing the monthly sum levied on enlisted personnel will be a last resort. Hopefully, sufficient funds will be gained through the collection of the users' fee on home members and through continuing economies to offset any operating deficits in the short term.

The Secretary of the Army and the Secretary of the Air Force are authorized to fix the sum for different amounts based on grade and/or time in service. For example, a private during his first enlistment could have a smaller deduction than a sergeant with fifteen years of service who has a greater potential to use the Soldiers' Home. Notwithstanding grade and time in service, members of the Army and Air Force will, with the same grade or time in service, have the same amount deducted monthly.

The Secretaries of the Army and Air Force are given discretionary authority to increase the monthly deduction up to 50 cents. It is the intent of the committee that this deduction be adjusted one time and then remain stable.

A 25 cent deduction from a private's salary of $361.00 per month in 1975 should not be a hardship when compared to the 25 cents deduction from a private's salary of $7.00 per month in 1859.

Nonjudicial forfeitures

Modifications in the Uniformed Code of Military Justice permit unit commanders to administer nonjudicial punishment to members of their command for minor disciplinary infractions in lieu of courts-martial. Forfeitures of pay are levied upon enlisted and warrant personnel who agree to accept the so-called "Article 15" punishments. Nonjudicial forfeitures approximate $10 million annually.

Funds imposed through nonjudicial forfeitures represent assets of the United States Government and presently revert to the military personnel account. These funds offset increases in the Defense budget request, thereby reducing the burden on the taxpayers. The Committee was not prepared to authorize these funds to the home without further inquiry and study.

GAO study

While this legislation would authorize adequate funds to remedy the short term deficit of the Soldiers' Home, the committee feels that additional information is needed before decisions can be made on a long-term financial arrangement for the home.

The Comptroller General is therefore authorized to conduct a study to determine the short and long-term financial needs of the home. The purpose of this study is not to assess whether a Soldiers' Home is warranted. The committee believes that the home fulfills a useful mission. Rather, the committee is requesting that the Comptroller General undertake a broad study of the financial needs of the home and recommend ways to increase revenues and decrease costs. This study should include an examination of the structure of the home and opportunities for operating improvements.

AIR FORCE GRADE EXTENSION

The bill would provide authority for 2 more years for the number of Air Force colonels and lieutenant colonels currently authorized by Public Law 93-397, which expires on September 30, 1976. Public Law 93-397 authorizes an increase in the number of colonels and lieutenant colonels serving in active duty in the Air Force above the permanent authorization of 10 U.S.C. 8202. The number of authorized colonels and lieutenant colonels is based on the total officer strength of the Air Force.

The temporary extension of this authority should, barring extreme fluctuations in the total strength of the commissioned officer force, allow the Air Force to adequately man its officer force and to maintain predictable promotion patterns for commissioned officers pending enactment of permanent legislation. Failure to enact legislation extending this authority would mean that the number of officers allowed to serve in the field grades would be based upon the table established in permanent law by the Officer Grade Limitation Act (OGLA) of 1954, substantially below current strengths.

The extension of the authority will permit the Air Force to promote their officers for the next 2 years to the grade of major, lieutenant colonel, and colonel at about the same career points and with approximately the same percentage of promotion opportunity as has been the case in the recent past and as is comparable to the Army and the Navy.

Background on the Air Force field grade officer problem

The original Officer Grade Limitation Act (OGLA), which placed limits in the number of field grade officers in the Armed Services, was passed in 1954. At that time, the Air Force was a comparatively younger branch of the Armed Services, and thus needed fewer grade authorizations to provide adequate career progression. Aware of this fact, Congress provided substantially fewer field grades for the Air Force than for the Army and Navy, but it also realized that the Air Force would need to seek relief in the form of additional authorizations as the force matured. The Congress has provided this additional authorization on seven previous occasions. The most recently authority was provided by Public Law 93-367 which expires September 30, 1976.

The proposed defense officer personnel management system

The Defense Officer Personnel Management System (DOPMS) proposed by the Department of Defense, is far-reaching, complicated legislation to provide permanent and more uniform promotion systems among the Services and new field grade authorization tables. It would include new grade authorization tables for the Air Force, and thus obviate the need for temporary grade relief legislation. While the DOD proposal would overhaul or eliminate more than 300 sections of current law, it would not make a major shift from the present officer management system.

The Subcommittee on Manpower and Personnel has studied the DOPMS proposal at length. The Subcommittee found that the proposal in its present form does not meet the stringent criteria by which such an important defense officer management system should be judged. Therefore, the Subcommittee is developing alternatives to the Defense Department proposal. This process will take time. The Committee therefore finds it prudent to act on the needed Air Force grade relief extension pending action on the broader DOPMS proposal.

Effects of the bill

Field Grade Authorizations.—This bill will affect the maximum number of officers authorized to serve on active duty in each of the Air Force field grades. Under the Officer Grade Limitation Act of 1954 (OGLA), the Air Force is authorized field grade officers based on the total commissioned officer strength. However, the OGLA authorization would not allow the Air Force to adequately man its officer force based on today's force levels and current authorizations. The following table explains the effect of the proposed legislation on the Air Force OGLA grade authorizations.

COMPARISON OF 1954 OFFICER GRADE LIMITATION ACT AND PROPOSED MAXIMUM GRADE AUTHORIZATIONS AT PROJECTED FISCAL YEAR 1977 OFFICER STRENGTH LEVELS[1]

	Committee bill[2]	1954 OGLA	Difference
0-6	4,811	4,323	488
0-5	11,273	8,499	2,774
0-4	17,030	17,030	0

[1] Includes all commissioned officers on active duty except the Medical Corps and Dental Corps. ,

[2] These figures are the same as those in Public Law 93-397 projected for fiscal year 1977.

This legislation would provide the Air Force with field grade authorizations comparable (in percentage) to such authorizations in the Army and Navy. The following table presents the present maximum field grade authorizations in the three Services.

PERCENT OF OFFICERS ALLOWED BY GRADE UNDER OFFICER GRADE LIMITATION ACT SERVICE COMPARISON FISCAL YEAR 1977 PROJECTED STRENGTHS[1]

			Air Force	
	Army	Navy[2]	With relief	Without relief
Colonel	5.7	5.9	5.3	4.8
Lieutenant colonel or commander	13.0	11.5	12.4	9.3
Major or lieutenant commander	17.8	17.8	18.7	18.7
Total commissioned officer strength	78,713	55,109	90,941	90,941

[1] All figures are minus physicians and dentists.

[2] As authorized under current OGLA. Navy OGLA applies only to unrestricted line officer population constituting 60 percent of total commissioned officers.

Promotion Opportunity.—The proposed legislation also provides the Air Force with promotion opportunity in the field grades comparable to the opportunity presently available in the Air Force and the other Services. With the bill, promotion would come in approximately the same years for all the Services.

Effect if no extension is authorized

If no extension of increased grade authority is granted there would be demotions, RIF's no promotions, or a combination of all three for large numbers of Air Force field grade officers. The Air Force will lose authorizations for 488 colonels and 2,774 lieutenant colonels and may be required to adjust to 1954 field grade authorizations by demoting approximately 1,320 lieutenant colonels and 560 majors.

In addition, fiscal year 1977 promotions to colonels would be cut in half with 340 planned promotions prohibited. Promotions to lieutenant colonel would be stopped completely with 1,940 planned promotions prohibited in fiscal year 1977 alone. Promotions to major would slow as well, with 2,700 promotions halted. All totalled over 6,800 Air Force officers will be affected if the extension is not granted. Thus, the extension is needed to retain and attract qualified Air Force officers.

In addition, the extension will provide needed stability in the Air Force promotion program until the Defense Officer Personnel Management System (DOPMS) restructures the grade limitation system in the military Services and establishes permanent limitations.

Finally, extension of the present authority will allow the Air Force to continue promoting their officers to the grade of major, lieutenant colonel and colonel at comparable career points and percentage of promotion opportunities as the Army and the Navy.

COMMITTEE ACTION

H.R. 13549 was referred to the General Legislation Subcommittee. On September 7, 1976, the subcommittee received testimony from Lieutenant General F. T. Unger, Governor of the Soldier's and Airmen's Home and Vice Admiral J. G. Finneran, Deputy Assistant Secretary of Defense for Military Personnel Policy.

The committee met to discuss the legislation including the amendment by Senator Nunn for an Air Force Grade Extension. The bill was approved unanimously at a subsequent meeting.

DEPARTMENTAL POSITION

The Department of Defense submitted the following report on this legislation.

GENERAL COUNSEL
OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., March 22, 1976.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 2441, 94th Congress, a bill "To provide for additional income for the maintenance and support of the United States Soldiers' and Airmen's Home by appropriating nonjudicial forfeitures of play for the support of such home, by authorizing the Board of Commissioners of such home to collect a fee from the members of the home; and by increasing the amount that may be deducted from the pay of enlisted men and warrant officers for the support of such home."

The Department of Defense strongly supports the concept of the Soldiers' and Airmen's Home and believes it essential that its growing financial plight be remedied. Over the years, the Home has provided a residence, as well as medical, spiritual and moral care for many aged and infirm former Regular enlisted personnel and warrant officers of the

Army and Air Force. Many of these services are not available to the members of the Home through other sources or Federal programs. As the cost of other private and public institutions engaged in similar activities continues to increase, the Home, despite its growing financial difficulties, remains a relatively economical method for caring for such former Regular members wherein they may live their declining years in dignity.

The Department of Defense is very appreciative for the interest and concern of the Congress in providing financial relief to the Home. We do not necessarily agree, however, that the revenue producing provisions of S. 2441 represent the most suitable solution to the financial problems of the Home.

Section 1, clause (2) of the bill would authorize the appropriation of nonjudicial forfeitures for support of the Home. This provision would result in additional revenue for the Home of about $10 million per year. The appropriation of these forfeitures for use of the Home will add to Defense expenditures in an indirect manner, in amounts not necessarily related to the needs of the Home, and for a purpose which has not been established as a financial responsibility of the Department of Defense. In this regard, it is entirely possible that the smaller, better motivated, all volunteer force of the future could result in lower revenues from nonjudicial forfeitures, even though the operations and maintenance costs of the Home are higher.

In view of the effort to reduce the Defense budget, and manpower costs in particular, the Department is reluctant to assume any additional financial responsibility especially in instances where the expenditures involved do not contribute directly to the current national defense. It is believed, therefore, that every effort should be made to meet the financial needs of the Home without the appropriation of funds for this purpose. We are not convinced that efforts to date have fully explored all feasible alternatives for doing this.

For reasons cited above, this Department does not support Clause (2) of Section 1 of the bill which would authorize the use of nonjudicial forfeitures by the Home.

Clause (3) of Section 1 of the bill would add a new subsection authorizing the Board of Commissioners of the Home to impose and collect a fee from inmates of the Home which would be used solely for the operation of the Home. The amount of the fee would be determined by the Board of Commissioners based on the financial needs of the Home and the ability of the inmates to pay. Such authority seems fully justified in view of the financial difficulties being experienced by the Home. The Department would prefer, however, that the fees collected be designated for the sole and exclusive use of the Home, rather than solely for its operation. This would likely be of assistance in accounting procedures. It would also appear appropriate to refer to occupants of the home as "members" rather than "inmates". The latter term stems from old provisions of law and is somewhat degrading by present standards of usage.

Section 2 of the bill would authorize increasing from $.25 to $1.00 the involuntary monthly deduction from the pay of Regular enlisted members and warrant officers of the Army and Air Force for support of the Home. The Department of Defense does not support this provision as written in view of its application to a very substantial portion of the enlisted force of the Army and Air Force, who can be expected to serve only one enlistment. Only under unusual circumstances could such members be eligible for admittance into the Home at some future date. It is for this reason that the Department of Defense opposes increasing the involuntary deduction from the pay of those generally considered as comprising the noncareer enlisted force. This Department will not object to an amendment of the bill to provide the Secretaries of the Army and Air Force discretionary authority to increase the involuntary deduction from $.25 per month to $1.00 per month for enlisted members of the Army and Air Force in pay grades E-4 (with over 4 years of service) and above, and for warrant officers. Since careerists are the primary beneficiaries of the Home, and the great majority of enlisted members in pay grades E-4 (with over 4 years of service) and above are in the career category, it can be persuasively argued that it should be this group that should be subjected to any increased assessment to maintain the fiscal viability of the Home.

For reasons cited above, the Department of Defense opposes Section 2 of the bill as written, but would support an amendment to that section which would grant authority to increase involuntary monthly deductions from $.25 to a maximum of $1.00, provided that that authority applies only to enlisted members of the Army and Air Force in pay grades E-4 (with over 4 years of service) and above, as well as to warrant officers of these Services. The authority for a $.25 monthly deduction from the pay of enlisted personnel of the Army and Air Force in pay grades E-4 (with less than 4 years of service) and below should remain unchanged. It should be noted that each $.15 increase in the deductions from careerists' pay results in additional annual revenue to the Home of approximately $900,000.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

RICHARD A. WILEY.

FISCAL DATA

The committee bill would result in no increased costs to the Government. The funds for the promotions allowed by the bill are included in the President's budget for fiscal year 1977.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted men and warrant officers, and for other purposes.

NATIONAL PORT WEEK

The joint resolution (S.J. Res. 173) authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976, as "National Port Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas United States coastal and inland ports make a direct significant contribution to our national economic well-being; and

Whereas much of the history of the United States has been shaped by its ports and interconnecting inland waterways and greatly influenced the growth of various communities; and

Whereas ports, in serving United States waterborne commerce, generate significant employment and direct dollar income to the local and regional economies they serve, as well as have a major impact on employment and production in areas far distant from their location; and

Whereas United States ports provide a wide variety of services and activities essential to the smooth and efficient conduct of foreign trade and have a direct impact on our balance of payments; and

Whereas American ports are a vital asset in maintaining a strong posture in national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the seven-day period beginning September 26, 1976, as "National Port Week", calling upon the people of the United States and all interested groups and organizations to observe that week with appropriate ceremonies and activities designed to direct public attention to the important role our Nation's ports continue to play in the economic development of America.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1241), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of the bill is to authorize and request the President to issue a proclamation designating the seven calendar days beginning September 26, 1976, as "National Port Week."

STATEMENT

Much of the history of our country has been shaped by our ports, and it is especially fitting as we celebrate the Bicentennial that we also recognize the significant and unique contributions our ports have made to the development of this Nation.

The sheltered harbors and connecting inland waterways along the east and gulf coasts attracted our first permanent settlements, and ports subsequently grew because of America's reliance on waterborne commerce as a fledgling nation. In turn, other communities developed, and lines of transportation and communication extended into the interior, ultimately stretching across the continent, linking the two great oceans.

As a result, ports on the seacoasts and along our inland waterways evolved into the major urban centers of population, industry, commerce, finance, distribution, education, and culture they are today.

The ports of this country handle ever-increasing volumes of commerce. Between 1950-74, the total domestic foreign waterborne trade moving through the U.S. ports more than doubled. Looking ahead, the U.S. Maritime Administration projects that total U.S. waterborne trade, exclusive of Public Law 480 shipments and military cargoes, will increase more than 50 percent by 1980.

Ports have major impacts on employment and production in areas far distant as imports and exports are funneled through their facilities. Wheat produced in Great Plains States, coal produced for exports in West Virginia, cotton grown in the South and lumber from the Pacific Coast must find their way to coastal or inland waterway ports. These areas depend on the ports to move their production into export markets and to provide imports for both industrial and personal consumption.

In 1974, President Nixon declared September 29 to October 5 as National Port Week.

It was the first time that our Nation's ports had been recognized in this manner and was highly successful. Ports responded by organizing harbor trips, ship inspections, community displays, seminars, and other promotional and educational activities. In observance of National Port Week in 1975, President Ford urged that public attention be directed to the important role our Nation's ports play in the American economy.

The highly competitive U.S. port industry is a moving force which is to a significant degree directly related to this Nation's economic health and prosperity. It is fitting, therefore, that the President proclaim the last week of September in this, our 200th year, as National Port Week to allow Americans to become more aware of and reflect on their personal stake in the continued operations and development of U.S. ports.

The Committee on the Judiciary finds this joint resolution to be meritorious and recommends favorable consideration.

DISPOSAL OF SURPLUS PEANUTS

The joint resolution (S.J. Res. 214) to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 407 of the Agricultural Act of 1949, as amended (63 Stat. 1055, as amended; 7 U.S.C. 1427), is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision of this section, the Secretary is directed to use the powers and authorities of the Corporation to make peanuts received under loan or acquired by the Corporation through its price support operations (and which are not needed for domestic food and related uses) immediately available for crushing and export at competitive market prices.".

SEC. 2. The Secretary of Agriculture shall, within ninety days after the enactment of this resolution and not later than August 1 of each year thereafter, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate with respect to the action taken to carry out this resolution.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BLACK LUNG HEARING OFFICERS

The joint resolution (S.J. Res. 213) to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) The first sentence of section 422(a) of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, is amended by adding after the words "as amended" the following: "including the amendments made by Public Law 92-576 and any further amendments or extensions thereto, except that, for the period commencing July 1, 1973, and ending December 31, 1977, qualified individuals appointed by the Secretary shall be authorized to hear and determine claims for benefits under this part and section 415 of this title notwithstanding the requirements for hearing examiners appointed pursuant to section 3105 of title 5, United States Code, contained in section 19(d) of Public Law 92-576".

(b) The amendments to section 422(a) made by subsection (a) of this section shall be effective July 1, 1973.

AMERICAN LEGION'S FREEDOM BELL

The Senate proceeded to consider the joint resolution (S.J. Res. 181) to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 1, in line 4, after "Columbia" insert "and its environs on lands owned by the United States".

On page 2, strike out lines 1 through 8, and insert:

SEC. 2. All plans for the choice of the site and the placement of the freedom bell pursuant to the first section of this bill are subject to (1) the approval of the Secretary of the Interior, the Commission on Fine Arts, and the National Capital Planning Commission, and (2) the placement of the bell is begun within five years after the date of enactment of this Act.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the American Legion is authorized to erect on lands of the park system of the District of Columbia and its environs on lands owned by the United States and to present to the Congress of the United States on behalf of the children of America, the American Legion's Freedom Bell, in honor of the Bicentennial celebration of the signing of the Declaration of Independence.

SEC. 2. All plans for the choice of the site and the placement of the freedom bell pursuant to the first section of this bill are subject to (1) the approval of the Secretary of the Interior, the Commission on Fine Arts, and the National Capital Planning Commission, and (2) the placement of the bell is begun within five years after the date of enactment of this Act.

AUTHORIZATION FOR TECHNICAL AND CLERICAL CORRECTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3430.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that my time may be transferred to the Senator from Michigan.

Mr. GRIFFIN was recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold for a moment?

Mr. GRIFFIN. Yes.

THE U.S. CAPITOL

Mr. ROBERT C. BYRD. Mr. President, I note that Calendar No. 1152, House Concurrent Resolution 688, is a measure which has been cleared. It has the notation to notify Senator GRIFFIN thereon. The Senator is in the Chamber. If there is no objection, I would ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1152.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 688) authorizing the printing of a folder "The United States Capitol" as a House document.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment No. 466:

The amendment is as follows:

On page 1, line 8, insert the following: strike the period at the end of the sentence and insert: "of which at least 200,000 copies will be available for the use of the United States Senate."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1219), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows

House Concurrent Resolution 688 would provide (1) that a visitors' information folder entitled "The United States Capitol" be revised and printed as a House document, and (2) that there be printed 1,884,000 additional copies of such document, of which amount 884,000 copies would be for the use of the House of Representatives (2,000 per Member), and 1,000,000 copies would be for the use of the Capitol Guide Board.

The printing-cost estimate on House Concurrent Resolution 688, as agreed to by the House of Representatives, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$1,561.49
1,884,000 additional copies, at $20.12 per thousand	37,906.08
Total estimated cost, H. Con. Res. 688	39,467.57

Mr. GRIFFIN. Mr. President, this amendment has been cleared with the distinguished acting majority leader and merely seeks to assure that the Senate will have equitable treatment in the distribution of this particular document to be printed.

Mr. ROBERT C. BYRD. May I ask the Senator whether or not this amendment has been cleared with the chairman?

Mr. GRIFFIN. I am sorry; I cannot say that it has been. Should we hold it up?

Mr. ROBERT C. BYRD. Perhaps we should.

Mr. President, I ask unanimous consent that further action on Calendar Order No. 1152 be temporarily delayed.

The VICE PRESIDENT. Without objection, it is so ordered.

(Later in the day, the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed again to the consideration of Calendar Order No. 1152, House Concurrent Resolution 688.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution will be stated.

The resolution was stated by title.

The ACTING PRESIDENT pro tempore. Is there objection to its immediate consideration? The Chair hears none.

The Senate proceeded to consider the resolution.

Mr. GRIFFIN. Mr. President, now I can say that I have conferred with the chairman of the Committee on Rules, the Senator from Nevada (Mr. CANNON). I send an amendment to the desk and ask for its consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Michigan (Mr. GRIFFIN) proposes unprinted amendment No. 466.
>
> On page 1, line 8, insert the following: strike the period at the end of the sentence and insert: "of which at least 200,000 copies will be available for the use of the United States Senate."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

GOVERNOR CARTER: A BIG QUESTION MARK

Mr. GRIFFIN. Mr. President, Governor Carter is a big question mark as far as a lot of Americans are concerned. Republicans and Democrats as well as Independents have been perplexed by his statements. One reason he is a big question mark is that he leaves so much unsaid; he is so vague and ambiguous about his positions and promises. I must say, however, that question mark is compounded by suspicion and fear when the public is given a glimpse of the specifics he has in mind.

For example, on Friday, the Associated Press reported on an interview with Governor Carter. Reading from the Associated Press report:

> Carter said in the interview that he plans a drastic reform and simplification of the Tax Code to curtail exemptions and reduce rates.
>
> "The overall effect would be to shift a substantial increase toward those who have the higher incomes and reduce the income of the lower and middle income taxpayers," Carter said. . . .

At another point, the report says:

> In the interview, Carter was asked to explain what he meant about shifting the tax burden.
>
> "That means people who have a higher income would pay more taxes at a certain level," he said.
>
> ". . . What are you thinking of as higher?" he was asked.
>
> "I don't know," Carter replied. "I would take the mean or median level of income and anything above that would be higher and anything below that would be lower."
>
> Q. "The median family income today is somewhere around $12,000, somebody earning $15,000 a year is not what people commonly think of as rich. . . ."
>
> CARTER. "I understand. I can't answer that question because I haven't gone into it. I don't know how to write the Tax Code now in specific terms. It is just not possible to do that on a campaign trail."

After consulting with the Treasury Department, my staff advises that the mean adjusted gross income in this country is $12,114; and that the median family income is approximately $14,000. I suggest that the specifics of Governor Carter's so-called tax reform program are frightening, particularly when he advocates higher taxes for half the families in America, those with incomes above $14,000 per year.

To say the least, that is quite a contrast with the tax program of President Ford, who has consistently advocated reduced spending and a reduction of taxes for all Americans.

I would suggest that President Ford is moving in the direction that the people of the United States want to go.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield to the minority leader.

THE TAX CODE

Mr. HUGH SCOTT. Mr. President, I would have equal concern that the Governor does not know how to write a tax code. Mr. Ford has been working on tax codes for 27 years, so he does know how to write a tax code, and he knows who works with them and he knows who in Congress knows how to write a tax code.

I think Governor Carter owes the American people a statement as to who would help him write a tax code, and where he would go to find them—to the middle, to the right, or to the left—and to get his tax philosophy from; what he would put in the Tax Code; whom he is going to tax and whom he is not going to tax; what reforms he wants; and what he thinks of the tax bill passed by Congress; whether he would support all the features of it, and if not, what he would change.

I would have further concern about someone who says, "I don't know much about taxes, but give me a year and I will find out and tell you later."

I do not know that tax reform waits for anyone's convenience. It certainly ought not to wait on the convenience of candidates for public office. So I would suggest that the whole interview gives cause for considerable concern, not only for ambivalence but for a confession of ignorance.

NEGATIVE STRATEGY

Mr. ROBERT C. BYRD. Mr. President, I think what we have here, of course, is a situation in which Governor Carter's performance is making a mountain out of a mole hill. Governor Carter has no intention of increasing the tax burden on middle income Americans. He has so stated. And furthermore, I do not believe that Congress would go along with any such proposal.

I think the real question here is the strategy of Mr. Carter's opponents. It is a negative strategy, just as it has been in many respects, in my judgment, a negative administration. The plan is obviously to keep Mr. Ford in the White House, away from the people, and away from expounding on his record, and to have others play the role of political hit men, following Governor Carter around and attempting to discolor and have misinterpreted any of his proposals.

I do not think the strategy is going to work. For one thing, people are going to get tired of hearing the candidate for Vice President going around the country and doing all the talking for the side of the administration, and they are going to want to hear what Mr. Ford has to say. I think they also realize that while the Ford administration has been one of inaction and cynicism, the present campaign, as we are seeing it unfold, is becoming one of groundless attacks on the Democratic nominee for President. I think that the forthcoming debates will have a tremendous bearing on the outcome, and I think that both candidates, when face to face, will be expected to show down on the issues and where they stand. I hope they will, and I hope the issue will be clear as to where they stand and what the record has been, and then let the American people, Republicans, Democrats, and Independents, make a judgment based thereon.

TAX LEGISLATION

Mr. CURTIS. Mr. President, it has been my privilege to serve for more than a quarter of a century in the committees charged with recommending the tax program: 10 very happy years on the Ways and Means Committee of the House of Representatives, where tax bills must originate, and 15 years in the Committee on Finance. Americans at every particular level of income honestly and sincerely feel that they are paying too much. The answer, Mr. President, is that they are. The individual with a small income—and that has been relieved a great deal—finds his tax burden very heavy. Those in a level of income just a little above that find their tax burden heavy. Those who get just a little higher, who are successful, are people who are taking on additional burdens, and they find their tax load heavy.

Those people that the country must look to to use their savings to make investments and provide jobs are handicapped, because the tax rates are high. Taxes are too high on everyone.

The average American is an individual of good will, but he is also very busy, doing his work, making a living, carrying on as a productive citizen, and he does not always have time to study and inquire what other people are paying. But the facts are that our tax program is very much graduated. The higher the income, the greater the tax. The only relief that the American taxpayers will ever get is if we lower expenditures. So it rather irks me for someone to participate in the formulating of a platform and endorse a platform calling for hundreds of millions of dollars of additional expenditures in addition to our deficit position and then at the same time in a ray of piety speak up for downtrodden taxpayers.

Once in a while the cat gets out of the bag. The news reports carry a statement that the gentleman from Plains, Ga., Jimmy Carter, wants a shift in the tax burden.

Mr. President, every ruthless spender has done that for years. They have gone out, campaigned for office, and said: "Here we will spend a lot of money. We will do this, but it will not cost you. We will lower your taxes. We will tax somebody else."

It is unbecoming to a candidate for President to do that.

He says he is going to shift taxes and put it higher on the median-income taxpayers. I do not know where it is. Maybe it is $12,000; maybe it is $15,000.

He ought to investigate what the tax is in those various brackets. There is nobody getting a free ride.

There is this about it. There are probably enough people in the United States who pay no direct income tax to elect a President, if he can add to that those people who he could fool and say, "Here we are going to take it off of you and put it on somebody else. You have it made."

But, Mr. President, we are facing too serious a situation for any deception like that. It will not come about. It cannot come about.

The Committee on Finance and the Committee on Ways and Means worked for months. It took 7 months work on the tax bill. Hearings were started in March. There were 5 weeks of debate on the floor here. Then there was the conference. There was not a single secret session. Every one of them was public. Yet this man from Plains, Ga., tells the public that their tax system is wrong and it is written in secret. There was not a word of truth in it that it was written in secret. All of the meetings, the conference committee meetings, and the executive markup sessions were in public.

Mr. President, call it partisan if you want to. What it is is simple arithmetic. It is simple arithmetic. It is political chicanery. It is telling the people something that will never come about. It is deceiving individuals or an attempt to so do. But, Mr. President, they are not that easily fooled.

The human ingredient that has made this country survive all through the years is that the American people are a lot smarter than some politicians think.

I yield the floor.

ROUTINE MORNING BUSINESS

The VICE PRESIDENT. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 5 minutes each.

PRIVILEGE OF THE FLOOR—H.R. 3035, H.R. 12934, S. 2304, AND S. 2849

Mr. HELMS. Mr. President, in connection with H.R. 3035, H.R. 12934, S. 2304, and S. 2849, I ask unanimous consent that Sylvia Castellanos and Dick Bryan be accorded the privilege of the floor when these measures, any or all of them, are taken up and that Ms. Castellanos and Mr. Bryan be allowed the privileges of the floor during any votes thereon.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HELMS. I further ask unanimous consent, Mr. President, that when any or all of these measures are taken up that the requirement of germaneness be applied to any amendment proposed thereto.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. What was the request, may I ask?

Mr. HELMS. I say to the distinguished assistant majority leader that I simply asked that all amendments to any of the banking bills be germane.

Mr. ROBERT C. BYRD. Mr. President, there is no agreement on any of the banking bills. No agreement has been entered on any of them.

Mr. HELMS. There is now, as to the germaneness of any proposed amendment to the bills specified.

Mr. ROBERT C. BYRD. No. There is no agreement on any of them. So I think it would be well if we did not attempt to attach this one caveat.

Mr. HELMS. I will say to the able Senator that I will abide by his wishes concerning the unanimous-consent request propounded by me, which has already been agreed to by the Chair's ruling.

Mr. ROBERT C. BYRD. Will the Senator do this: Will the Senator wait until the principals who are involved in these bills are in the Chamber and then make his request?

Mr. HELMS. I will do that, of course.

Mr. ROBERT C. BYRD. I certainly have no objection to his request personally myself.

Mr. HELMS. I think it would be of assistance to the able assistant majority leader, but, Mr. President, I withdraw the unanimous-consent request in light of the suggestion by the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator.

SENATE RESOLUTION 555—SUBMISSION OF A RESOLUTION RELATING TO TRADE WITH ROMANIA

(Placed on the calendar by unanimous consent.)

Mr. HELMS. Mr. President, I submit a resolution, and I ask unanimous consent that it go directly to the calendar.

The VICE PRESIDENT. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, what is the resolution, may I inquire?

Mr. HELMS. It has to do with the 1974 Trade Act, I will say to the able minority whip. I have discussed this matter with the distinguished chairman of the Committee on Finance.

The VICE PRESIDENT. Is there objection?

Mr. ROBERT C. BYRD. What is the request? I am sorry. I beg the Senator's pardon. I have been distracted.

The VICE PRESIDENT. A resolution is to be placed on the calendar.

Mr. ROBERT C. BYRD. Which resolution is it?

Mr. HELMS. I will hand the Senator a copy of it to save time.

Mr. GRIFFIN. Mr. President, further reserving the right to object, and I shall not object, I think it should be observed that under the rules of the Senate—this being a Senate resolution as I understand it—merely by asking for its immediate consideration and having an objection interposed, the Senator from North Carolina could accomplish in a more indirect way what he is seeking to accomplish directly.

Mr. HELMS. That is correct.

Mr. GRIFFIN. I wish to explain, and I think the acting majority leader will join me in this observation. We are hopeful that toward the end of this session to keep the calendar as free as possible from legislative matters particularly—a resolution may fit into a different category, especially the one the Senate can act on—but if we were to add more and more legislative items to the calendar, circumventing the committee jurisdiction, I think it would be unfortunate and I think the leadership on both sides will be reluctant to have items go directly to the calendar under ordinary circumstances.

Mr. ROBERT C. BYRD. Yes, I agree with my friend. I will not object because the Senator eventually can get his resolution on the calendar under the rules. So, while he may be delayed, he would not be delayed to the end of the session.

So I will not object.

The VICE PRESIDENT. Without objection, the resolution will be placed on the calendar.

The resolution, which was ordered placed on the calendar, reads as follows:

S. Res. 555

Resolved, That the Senate of the United States of America does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 2, 1976, with respect to the Socialist Republic of Romania.

Mr. HELMS. I thank the able Senators from West Virginia and Michigan.

This resolution has to do with the denial of liberties of some people living in Romania who, by a little legislative legerdemain in this Chamber when the Trade Act was passed in 1974 have been inhibited in their right of escaping the bondage of communism.

I have discussed this matter with the distinguished chairman of the Committee on Finance. I have no intention of taking up a great deal of time. But this is a matter of principle, Mr. President I want to make my case on behalf of these people in Romania—particularly relatives of persons residing in the United States—and I intend to do so at the appropriate time. The Senator from

North Carolina does not have a reputation for delaying the Senate, and I shall not do so in this instance.

I thank the Chair, and I yield back the remainder of my time.

RESOLUTIONS AUTHORIZING DEPOSITION AND TESTIMONY

Mr. NUNN. Mr. President, I submit two resolutions, one regarding a deposition requested of John J. Walsh, a former investigator of the Permanent Subcommittee on Investigations, and the other regarding grand jury testimony requested of four General Accounting Office employees who were previously assigned to the subcommittee, and ask for their immediate consideration.

The VICE PRESIDENT. The resolutions will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 556) to authorize a former staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and be deposed in the matter of Joe Zinser, et al. against Continental Grain Company.

A resolution (S. Res. 557) to permit four General Accounting Office auditors to testify before a grand jury sitting at Orlando, Fla., as to information gathered while on assignment to the Senate Permanent Subcommittee on Investigations.

The VICE PRESIDENT. Is there objection to the present consideration of the resolutions?

There being no objection, the Senate proceeded to consider the resolutions.

Mr. NUNN. Mr. President, attorney for the plaintiffs in the case captioned *Joe Zinser et al.* v. *Continental Grain Company* (W. D. Oklahoma), has requested that Mr. WALSH, who headed the subcommittee's investigation of the 1972 grain sales to the Soviet Union, be deposed on that subject. The proposed resolution authorizes Mr. WALSH to be deposed on the public record of those hearings.

The U.S. attorney has requested that four General Accounting Office employees, who were assigned to the subcommittee during its investigation of the civilian health and medical program for the uniformed services (CHAMPUS), testify before a grand jury examining activities of an organization which was also the subject of the subcommittee's investigation. The proposed resolution authorizes the GAO employees to testify as well as make available to the grand jury documents and work papers obtained and/or produced as a result of their assignment to the subcommittee.

Pursuant to Rule XXX of the Standing Rules of the Senate, information secured by staff members pursuant to their official duties as employees of the Senate may not be revealed without a resolution of the Senate.

Accordingly, Mr. President, I offer these resolutions, approved by the Committee on Government Operations, and urge their adoption.

The ACTING PRESIDENT pro tempore (Mr. BUMPERS). The question is on agreeing to the resolutions en bloc.

The resolutions were agreed to en bloc.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 556

Whereas, John J. Walsh, formerly a staff investigator of the Senate Permanent Subcommittee on Investigations, has been formally notified by plaintiffs in the matter of *Joe Zinser, et al.* v. *Continental Grain Company*, pending before the United States District Court for the Western District of Oklahoma, of their intent to take his deposition; and,

Whereas, the subject matter of that deposition pertains to information obtained by Mr. Walsh in the course of his employment as a staff investigator for the Senate Permanent Subcommittee on Investigations; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That John J. Walsh be authorized to present himself and be deposed with regard to the public hearings of the Senate Permanent Subcommittee on Investigations on sales of grain to the Soviet Union held on July 20, 23, and 24 and October 9, 1973, and to take with him copies of exhibits received for the record at said hearings.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to James W. Witherspoon, Esq., 140 East Third Street, Hereford, Texas, 79045.

S. RES. 557

Whereas the United States Attorney for the Middle District of Florida has formally requested in writing the appearance of Arthur P. Mitchell, Jr., Wayland L. Catrett, G. William Noel, and Danny F. Pugh, to testify before a Grand Jury sitting at Orlando, Florida, investigating criminal fraud concerning a private school which was the subject of an investigation by the Senate Permanent Subcommittee on Investigations; and

Whereas these individuals, who are employees of the General Accounting Office, were on assignment to the Senate Permanent Subcommittee on Investigations when they obtained information pertinent to said Florida Grand Jury inquiry; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That Arthur P. Mitchell, Jr., Waylon L. Catrett, G. William Noel, and Danny F. Pugh are authorized to appear before the Grand Jury sitting at Orlando, Florida, and give testimony on Green Valley Schools of Florida and related matters and are further authorized to make available to said Grand Jury documents and work papers obtained and/or produced as a result of their assignment to the Subcommittee.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States Attorney, Middle District of Florida, P.O. Box 2593, Orlando, Florida 32802, attention Harrison T. Slaughter, Jr.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aerospace Technology and National Needs of the Committee on Aeronautical and Space Sciences be authorized to meet on September 27 and 28 on "Alternative Fuels for Aviation."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Commerce be authorized to meet on September 21 to consider nominations to the Corporation for Public Broadcasting.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet on September 21 to hear testimony from the DAV on their legislative program.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet on September 24 to consider several wilderness and wild and scenic river bills.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States delivered by Mr. Roddy, one of its secretaries, announced that on September 17, 1976, he approved and signed the enrolled bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498) relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

MESSAGES FROM THE HOUSE

MESSAGES RECEIVED DURING ADJOURNMENT

Under authority of the order of September 17, 1976, the following messages from the House were received during the adjournment of the Senate:

ENROLLED BILLS SIGNED

On Friday, September 17, 1976, a message stating that the Speaker had signed the following enrolled bills:

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the peformance of duty.

H.R. 3348. An act ot amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes.

H.R. 14232. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

The above enrolled bills were signed by the Acting President pro tempore (Mr. METCALF) on September 17, 1976.

On Saturday, September 18, 1976, a message stating that the Speaker had signed the following enrolled bill:

H.R. 8532. An act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.

The enrolled bill was signed by the Acting President pro tempore (Mr. METCALF) on September 18, 1976.

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes; and that the House recedes from its disagreement to the amendment of the Senate numbered 1 and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1976, and for other purposes.

The message further announced that the House insists upon its amendment to the bill (S. 3219) to amend the Clean Air Act, as amended; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SYMINGTON, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. CARNEY, Mr. MAGUIRE, Mr. DEVINE, Mr. CARTER, Mr. BROYHILL, Mr. HEINZ, and Mr. MADIGAN were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendment to the bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. MELCHER, Mr. WEAVER, Mr. VIGORITO, Mr. KREBS, Mr. BROWN of California, Mr. MATHIS, Mr. WAMPLER, Mr. SYMMS, and Mr. JOHNSON of Colorado were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 522. An act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes.

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENTS TO BUDGET REQUEST FOR THE LEGISLATIVE BRANCH—(S. DOC. NO. 94–257)

A letter from the President of the United States transmitting proposed amendments to the request for appropriations for the legislative branch for fiscal year 1977 in the amount of $39 million; to the Committee on Appropriations, and ordered to be printed.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting a report showing the listing of contract award dates for the period September 15, 1976 to December 15, 1976 (with accompanying report); to the Committee on Armed Services.

REPORT OF THE EXPORT-IMPORT BANK

A letter from the Chairman of the Export-Import Bank transmitting a report on certain transactions supported by Eximbank during July 1976 to Communist countries (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

AMENDMENTS TO PROPOSED LEGISLATION BY THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting draft of proposed amendments to the proposed "Natural Gas Emergency Standby Act of 1975" (with accompanying papers); to the Committee on Commerce.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a progress report on the implementation of the State of National Transportation Policy issued on September 17, 1975 (with an accompanying report); to the Committee on Commerce.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter dated September 16, 1976, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting copies of international agreements other than treaties entered into during the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a report covering personal property donated to public health and educational institutions and civil defense organizations from the period July 1, 1975 through June 30, 1976 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE FEDERAL TRADE COMMISSION

A letter from the Secretary of the Federal Trade Commission transmitting a report concerning the impact on competition and on small business of the development of voluntary agreements relating to the national energy program (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION BY THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act (with accompanying papers); to the Committee on Public Works.

REPORT OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting a report on average daily subsistence costs incurred during travel within the conterminous United States (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting a report of a proposed change in equipment of the passport records (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a report concerning the effectiveness of the civil aviation security program (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 544. A resolution authorizing the printing of additional copies of the committee print entitled "Rehabilitation and Developmental Disabilities Legislation" (Rept. No. 94–1261).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs:

With an amendment:

H.R. 9719. An act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality (title amendment) (Rept. No. 94–1262).

By Mr. CANNON, from the Committee on Rules and Administration, without recommendation:

Without amendment:

S. 2925. A bill to provide for the elimination of inactive and overlapping Federal programs, etc., and for other purposes (Rept. No. 94–1263).

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

With an amendment:

H.R. 3954. An act to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the armed forces, and for other purposes (title amendment) (Rept. No. 94–1264).

By Mr. LONG, from the Committee on Finance:

With an amendment:

H.R. 10210. An act to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes (Rept. No. 94-1265).

H.R. 7929. An act relating to the deduction of interest on certain corporate indebtedness to acquire stock or assets of another corporation (title amendment) (Rept. No. 94–1266).

By Mr. McGOVERN, from the Committee on Agriculture and Forestry:

With an amendment:

S. 3713. A bill to extend the Emergency Livestock Credit Act of 1974 (title amendment) (Rept. No. 94-1267).

ARTS, HUMANITIES, AND CULTURAL AFFAIRS ACT OF 1976—CONFERENCE REPORT (REPT. NO. 94–1260)

Mr. PELL submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes, which was ordered to be printed.

BILL PLACED ON THE CALENDAR

The Committee on Post Office and Civil Service having been discharged from its further consideration, the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes was placed on the calendar.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 20, 1976, he presented to the President of the United States the following enrolled bill:

S. 522. An act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CANNON:

S. 3830. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air service, and for other purposes. Referred to the Committee on Commerce.

By Mr. JOHNSTON:

S. 3831. A bill to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)), and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3832. A bill for the relief of Wong Fon-Chiau Shih. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 3833. A bill to authorize the appropriation of $12.4 million at July 1976 prices for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MUSKIE (for himself, Mr. Roth, Mr. Glenn, Mr. Bellmon, Mr. Ribicoff, Mr. Abourezk, Mr. Allen, Mr. Baker, Mr. Bayh, Mr. Beall, Mr. Bentsen, Mr. Brock, Mr. Buckley, Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Chiles, Mr. Church, Mr. Cranston, Mr. Culver, Mr. Curtis, Mr. Domenici, Mr. Durkin, Mr. Eagleton, Mr. Eastland, Mr. Fannin, Mr. Garn, Mr. Goldwater, Mr. Hansen, Mr. Hartke, Mr. Haskell, Mr. Hatfield, Mr. Helms, Mr. Hollings, Mr. Huddleston, Mr. Humphrey, Mr. Johnston, Mr. Kennedy, Mr. Laxalt, Mr. Leahy, Mr. McClure, Mr. McGee, Mr. McGovern, Mr. McIntyre, Mr. Mansfield, Mr. Mathias, Mr. Mondale, Mr. Moss, Mr. Nunn, Mr. Percy, Mr. Pearson, Mr. Proxmire, Mr. Schweiker, Mr. Hugh Scott, Mr. Stafford, Mr. Stevens, Mr. Symington, Mr. Taft, Mr. Tunney, and Mr. Weicker):

S. 3834. An original bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zerobase review and evaluation of Government programs and activities every 4 years, and for other purposes. Placed on the calendar.

By Mr. JAVITS (for himself and Mr. Pell):

S. 3835. A bill to authorize the Secretary of Agriculture to make grants to States for urban forestry and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. WILLIAMS:

S. 3836. A bill to provide for the regulation and control of sludge, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and for other purposes. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 3830. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air service, and for other purposes. Referred to the Committee on Commerce.

Mr. CANNON. Mr. President, I introduce a bill entitled the Aviation Improvement Act of 1976.

I ask unanimous consent that the bill and an accompanying digest be made a part of the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, this bill provides a framework for a major restructuring of the regulatory system which regulates the Nation's domestic airlines. It is designed to change the direction of regulation rather than abolish it. The intent of this bill is to revitalize the airline industry with competition so as to make it reasonably profitable and efficient which will make the system more responsive to the public's need for a variety of air transport services at reasonable fares.

Our airline system today is showing all the signs of incipient failing health. Poor earnings over the years, wasteful service competition, rigid price regulation, and restrictive entry policies have created an airline system which basically provides good service—but often wasteful service, without returning a fair profit to the airline companies themselves and service in many instances which is excessively priced. If the current regulatory pattern continues—one founded 38 years ago when the industry was struggling to get onto its feet—my fear is that our airline system will go the way of the railroad industry with enormous Federal bailouts required and finally Government ownership.

Fortunately, there is still time to take remedial action. The cornerstone of this bill is to encourage and promote efficiency rather than waste. The keys to efficiency are pricing freedom without the rigidities of CAB control and the opportunity for new entry which will promote competition, increase efficiency and hopefully provide the public with service alternatives containing an array of services at prices reflecting the quality of service.

The bill is the product of weeks of hearings my Subcommittee on Aviation held earlier this year on the issue of regulatory reform in air transportation and reflects my best present judgment on where the system should be directed in the future.

In reviewing this legislation, I point out to my colleagues that one area of considerable interest in the regulatory reform debate is the future of airline service to small communities. While my bill does not appear to deal with the problem directly, I believe that present authority in the Federal Aviation Act is adequate to meet the future needs of air service to small communities with Federal subsidy assistance for that service which is not self-supporting. I will strongly encourage the CAB to find a method of providing limited Federal certification to commuter airlines who wish to serve communities which have lost air service from certificated airlines. Those commuter operators who now operate without Federal subsidy should be eligible for it if the Board finds the service they propose is needed by a community. The Board appears to support this plan. If the Board should need further authority in this area I will promptly introduce legislation as needed.

While it is too late for further legislative action on this proposal in the 94th Congress, I am introducing this bill so that my colleagues and those in the aviation industry will have the opportunity to review my proposal and prepare extensive comment for hearings I plan to hold early in 1977. While I strongly support this bill, my views are not cast in stone, and I am anxious to explore with Government leaders, with industry, and with members of the public whether this bill is the best available vehicle to reform the regulatory system which governs our domestic airline system.

S. 3830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Improvement Act of 1976".

REFERENCES

SEC. 2. Except as otherwise specified, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958, as amended.

TABLE OF CONTENTS

SEC. 3. The table of contents for titles I, IV, VIII, and X of such Act is amended to read as follows:

"TABLE OF CONTENTS

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Definitions.
"Sec. 102. Declaration of policy: The Board.
"(a) Interstate and overseas air transportation.
"(b) Foreign air transportation.
"Sec. 103. Declaration of policy: The Administrator.
"Sec. 104. Public right of transit.
"Sec. 105. Federal preemption.

"TITLE IV—AIR CARRIER ECONOMIC REGULATION

"Sec. 401. Certificate of public convenience and necessity.
"(a) Certificate required.
"(b) Application for certificate.
"(c) Notice of application.
"(d) Issuance of certificate.
"(e) Terms and conditions of certificate.
"(f) Effective date and duration of certificate.
"(g) Authority to modify, suspend, or revoke.
"(h) Transfer of certificate.
"(i) Certain rights not conferred by certificate.
"(j) Termination or suspension of service.
"(k) Compliance with labor legislation.
"(l) Requirement as to carriage of mail.
"(m) Application for new mail service.
"(n) Additional powers and duties of Board with respect to supplemental air carriers.
"Sec. 402. Permits to foreign air carriers.
"(a) Permit required.
"(b) Issuance of permit.
"(c) Application for permit.
"(d) Notice of application.
"(e) Terms and conditions of permit.
"(f) Authority to modify, suspend, or revoke.
"(g) Transfer of permit.
"Sec. 403. Tariffs of air carriers.
"(a) Filing of tariffs required.
"(b) Observance of tariffs; rebating prohibited.
"(c) Notice of tariffs change.
"(d) Filing of divisions of rates and charges required.
"Sec. 404. Rates for carriage of persons and property.
"(a) Carrier's duty to provide service, rates, and divisions.
"(b) Discrimination.
"Sec. 405. Transportation of mail.
"(a) Postal rules and regulations.
"(b) Mail schedules.
"(c) Maximum mail load.
"(d) Tender of mail.
"(e) Foreign postal arrangement.
"(f) Transportation of foreign mail.
"(g) Evidence of performance of mail service.
"(h) Emergency mail service.
"(i) Experimental airmail service.
"(j) Free travel for postal employes.
"Sec. 406. Rates for transportation of mail.
"(a) Authority to fix rates.
"(b) Ratemaking elements.
"(c) Payment.
"(d) Treatment of proceeds of disposition of certain property.
"(e) Statement of Postmaster General and carrier.
"(f) Weighing of mail.
"(g) Availability of appropriations.
"(h) Payments to foreign air carriers.
"Sec. 407. Accounts, records, and reports.
"(a) Filing of reports.
"(b) Disclosure of stock ownership.
"(c) Disclosure of stock ownership by officer or director.
"(d) Form of accounts.
"(e) Inspection of accounts and property.
"Sec. 408. Consolidation, merger, and acquisition of control.
"(a) Filing required.
"(b) Power of the Attorney General.
"(c) Certificates.
"(d) Exemptions.
"Sec. 409. Prohibited interests.
"(a) Interlocking relationships.
"(b) Profit from transfer of securities.
"Sec. 410. Loans and financial aid.
"Sec. 411. Methods of competition.
"Sec. 412. Pooling and other agreements affecting foreign air transportation.
"(a) Filing of agreements affecting foreign air transportation required.
"(b) Approval by Board.
"Sec. 413. Form of control.
"Sec. 414. Legal restraints.
"Sec. 415. Inquiry into air carrier management.
"Sec. 416. Classification and exemption of carriers.
"(a) Classification.
"(b) Exemptions.
"Sec. 417. Special operating authorizations.
"(a) Authority of Board to issue.
"(b) Terms of authorization.
"(c) Procedure.

"TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

"Sec. 801. The Department of State.
"Sec. 802. Weather Bureau.".

TITLE X—PROCEDURE

Sec. 1001. Conduct of proceedings.
Sec. 1002. Complaints to and investigations by the Administrator and the Board.
(a) Filing of complaints authorized.
(b) Investigations on initiatives of Administrator or Board.
(c) Entry of orders for compliance with Act.
(d) Power to prescribe rates and practices of air carriers.
(e) Rule of ratemaking.
(f) Removal of discrimination in foreign air transportation.
(g) Suspension of rates.
(h) Power to prescribe divisions of rates.
(i) Power to establish through air transportation service.
(j) Suspension and rejection of rates in foreign air transportation.
Sec. 1003. Joint boards.
(a) Designation of boards.
(b) Through service and joint rates.
(c) Jurisdiction of boards.
(d) Power of boards.
(e) Judicial enforcement and review.
Sec. 1004. Evidence.
(a) Power to take evidence.
(b) Power to issue subpena.
(c) Enforcement of subpena.
(d) Contempt.
(e) Deposition.
(f) Method of taking depositions.
(g) Foreign depositions.
(h) Fees.
Sec. 1005. Orders, notices, and services.
(a) Effective date of orders; emergency orders.
(b) Designation of agent for service.
(c) Other methods of service.
(d) Suspension or modification of order.
(e) Compliance with order required.
(f) Form and service of orders.
Sec. 1006. Judicial review of orders.
(a) Orders of Board and Administrator subject to review.
(b) Venue.
(c) Notice to Board or Administrator; filing of transcript.
(d) Power of court.
(e) Findings of fact conclusive.
(f) Certification of certiorari.
Sec. 1007. Judicial enforcement.
(a) Jurisdiction of court.
(b) Application for enforcement.
Sec. 1008. Participation in court proceedings.
Sec. 1009. Joinder of parties.
Sec. 1010. Procedures for title IV applications.

DEFINITIONS

SEC. 4. Section 101 of such Act is amended—

(a) by striking out paragraphs (35) and (36);

(b) by redesignating paragraphs (13) through (32), (33) and (34), and (37) and (38) as paragraphs (15) through (34), (36) and (37), and (38) and (39), respectively; and

(c) by inserting in the appropriate places the following new paragraphs:

"(13) 'Charter air transportation' means charter trips, including inclusive tour trips of one or more stops in air transportation.

"(14) 'Charter trip' means air transportation performed under regulations prescribed by the Board in which the entire capacity of an aircraft has been engaged for the movement of persons, property, or mail by one or more persons, each of whom has engaged a substantial portion of such capacity. Such regulations shall not be unduly restrictive and shall not be more restrictive in terms of accessibility, variety, and flexibility than the regulations regarding charter transportation in effect on the date of enactment of this sentence.

"(35) 'Scheduled air transportation' means flights in regular route service which are not charter trips.".

DECLARATION OF POLICY

SEC. 5. Section 102 of such Act is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"Interstate and Overseas Air Transportation

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The maintenance of an efficient air transportation system responsive to the present and future needs of the public, of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The phased and progressive transition to an air transportation system which relies on competitive market forces to determine the variety, quality, and price of air services.

"(3) Reliance on entry of new carriers to provide a variety of efficient and innovative low-cost transportation services.

"(4) The provision of a variety of adequate, economic, and low-cost services by air carriers without unjust discrimination, undue preferences or advantages, or unfair or deceptive practices.

"(5) The promotion of safety in air commerce.

"Foreign Air Transportation

"(b) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

FEDERAL PREEMPTION

SEC. 6. Title I of such Act is amended by adding at the end thereof the following new section:

"Federal Preemption

"SEC. 105. No State or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States, shall enact any law, regulation, or standard relating to rates, routes, or services in interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.".

NOTICE OF APPLICATION

SEC. 7. Subsection 401(c) of such Act is amended to read as follows:

"Notice of Application

"(c)(1) Upon the filing of any application for a certificate to engage in interstate or overseas air transportation, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. The Board shall dispose of such application in accordance with procedures set forth in section 1010 of this Act.

"(2) Upon the filing of any application for a certificate to engage in foreign air transportation, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible.".

ENTRY

SEC. 8. Subsection 401(d) of such Act is amended to read as follows:

"Issuance of certificate

"(d)(1) In the case of an application for a certificate to engage in scheduled interstate or overseas air transportation, the Board shall issue a certificate authorizing the whole or any part thereof (or, in the case of an application for a temporary certificate, for such periods as the Board may specify) if it finds that the applicant is fit, willing, and able properly to perform such transportation, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, unless the Board finds that such transportation is not required by the public convenience and necessity.

"(2) In the case of an application for a certificate to engage in foreign air transportation, the Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application (or, in the case of an application for a temporary certificate, for such periods as the Board may specify) if it finds that the applicant is fit, willing, and able properly to perform such transportation, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

"(3) In the case of an application for a certificate to engage in charter interstate or overseas air transportation, the Board shall issue a certificate authorizing the whole or any part thereof (or, in the case of an application for a temporary certificate, for such periods as the Board may specify) if it finds that the applicant is fit, willing, and able properly to perform such transportation, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, unless the Board finds that such transportation is not required by the public convenience and necessity.

"(4) In any proceeding upon an application for a certificate under paragraphs (1) or (3) of this subsection, the burden of proof shall be upon the applicant to show that it is fit, willing, and able properly to perform the transportation applied for, and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board hereunder; and upon the Board to show that the transportation for which a certificate is sought is not required by the public convenience and necessity. In determining whether the proposed transportation is not required by the public convenience and necessity, the Board shall give weight in favor of the applicant where it finds that the transportation applied for would (A) involve new or innovative methods, (B) provide reduced rates, fares, or charges, (C) achieve increased efficiencies over existing services, or (D) be offered in markets found by the Board to have prevailing rates, fares, or charges significantly higher on the date of application than the rates, fares, or charges prevailing in economically comparable markets.

"(5)(A) If an air carrier holding nonstop authority to engage in scheduled interstate or overseas air transportation between any two points listed on its certificate does not exercise that authority by providing such transportation pursuant to published flight schedules for a minimum of 5 round trips per week for at least 180 days during the immediately preceding 12-month period, upon application the Board shall issue a certificate authorizing such transportation to any applicant that is fit, willing, and able properly to perform such transportation, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. The Board shall issue at a minimum the same number of certificates pursuant to this paragraph that it previously issued for scheduled air transportation between the two points which are not being used as such, and for which authority is being sought pursuant to this paragraph.

"(B) Upon the filing of any such application, the Board shall promptly give notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any person seeking the same authority pursuant to this paragraph shall file an application for such authority within 30 days of the date on which notice of the initial application was published. If no additional application is received within the 30-day period, and if the initial applicant holds a certificate under this subsection, the Board shall issue its final order granting the authority within 60 days of the date on which notice of the application is published. If, at the end of the 30-day period after notice of the initial application is published, more than one application has been filed for the same authority, or if any applicant does not hold a certificate under this subsection, the Board shall issue its final order in accordance with the procedures and deadlines set forth in section 1010 of this Act.".

RESTRICTION REMOVAL

SEC. 9. (a) Paragraph 401(e)(1) of such Act is amended (1) by striking "shall" the second time it appears and inserting in lieu thereof "may"; and (2) by inserting the parenthetical phrase "(other than closed door restrictions)" immediately following "and limitations".

(b) Paragraph 401(e)(3) of such Act is amended by striking the term "supplemental" and inserting in lieu thereof the term "charter".

(c) Paragraph 401(e)(4) is amended by striking "; except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section".

(d) Paragraph 401(e)(6) is amended to read as follows:

"(6) Any air carrier other than a charter air carrier may perform charter trips pursuant to regulations prescribed by the Board, including off-route charter trips not to exceed in any calendar year 3 percent of the total number of revenue plane miles operated by such carrier in scheduled air transportation during the previous calendar year. Such percentage limitation may be increased as the Board from time to time finds in the public interest.".

(e) Subsection 401(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(7) Within 30 days after the effective date of this paragraph, the Board shall eliminate all closed door restrictions attached to any certificate. Upon application of any air carrier seeking removal of any other term, condition, or limitation attached to its certificate to engage in interstate or overseas air transportation, or upon its own initiative, the Board shall eliminate any such term, condition, and limitation which is obsolete or inconsistent with the criteria set forth in subsection 102(a) of this Act.".

TRANSFER OF CERTIFICATE

SEC. 10. Subsection 401(h) of such Act is amended to read as follows:

"Transfer of Certificate

"(h)(1) No certificate may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

"(2) Notwithstanding paragraph (1) of this subsection, on or after January 1, 1978, any air carrier may transfer any of its authority to engage in scheduled interstate or overseas air transportation to—

"(A) any air carrier; or

"(B) any person that the Board finds is fit, willing, and able properly to perform such transportaion and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board hereunder,

unless the Board disapproves such transfer, in accordance with procedures and deadlines set forth in section 1010 of this Act. The Board may disapprove the transfer only if it finds that its effect in any section of the country may be substantially to lessen competition or to tend to create a monopoly. Failure of the Board to disapprove a transfer under this subsection shall not be considered evidence as to whether such transfer is in compliance with the "antitrust laws," as defined in section 1 of the Act of October 15, 1914, as amended commonly known as the Clayton Act, nor shall it be deemed to relieve any parties to the transfer from the operation of such laws.".

TERMINATION OR SUSPENSION OF SERVICE

SEC. 11. Subsection 401(j) of such Act is amended to read as follows:

"Termination or Suspension of Service

"(j) (1) No air carrier shall terminate any interstate or overseas air transportation service required by its certificate of public convenience and necessity except upon a minimum of 90 days notice filed with the Board and served upon each community directly affected by such termination. The Board may, upon complaint or upon its own initiative, suspend such termination for a period not to exceed 360 days after notice is filed with the Board, in order to allow arrangements to be made for alternative service. The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.

"(2) No air carrier shall abandon any route, or part thereof, for which a certificate to engage in foreign air transportation has been issued by the Board, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.".

MERGERS, AGREEMENTS, AND CONTROL RELATIONSHIPS

SEC. 12. (a) Section 408 of such Act is amended to read as follows:

"CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL

"Filing Required

"SEC. 408. (a) Every person desiring to engage in any of the following transactions shall file a notification of such transaction with the Attorney General, containing such transaction with the Attorney General, containing such information as the Attorney General by regulation may require, at least 30 days prior to the effective date of such transaction:

"(1) the consolidation or merger, of the properties, or any part thereof, of two or more air carriers, or of any air carrier and any other common carrier or any other person engaged in any other phase of aeronautics, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

"(2) the purchase, lease, or contracting to operate the properties, or any substantial part thereof, or any air carrier, by any other air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any phase of aeronautics;

"(3) the purchase, lease, or contracting to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics, by any air carrier or person controlling an air carrier;

"(4) the acquisition of control of any air carrier in any manner whatsoever, by any other air carrier or any person controlling an air carrier, any other common carrier, any person engaged in any phase of aeronautics, or any other persons; or

"(5) the acquisition of control of any person engaged in any phase of aeronautics otherwise than as an air carrier, by an air carrier or person controlling an air carrier.

"Power of the Attorney General

"(b) If the Attorney General reasonably believes that a transaction which is the subject of a notification filed pursuant to subsection (a) may violate the antitrust laws, he shall notify the Board, the parties to the transaction, and other interested persons of this fact within 30 days. If such notice is given the transaction shall be stayed for 60 days or until the disposition of any proceedings brought by the Attorney General. Within 60 days following notice by the Attorney General he may institute a suit for relief under the antitrust laws in an appropriate district court. The Board may intervene as of right as a party or as an amicus curiae, in any such suit brought by the Attorney General.

"Certificates

"(c) If any transaction specified in subsection (a) goes into effect, the Board shall issue as a matter of course any certificates required by section 401 of this Act.

"Exemptions

"(d) (1) The Attorney General may by regulation determine that a class of transactions specified in subsection (a) does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Such a class of transactions shall be exempt from the premerger notification provision of subsection (a).

"(2) The Attorney General may, in individual cases, terminate the waiting period specified in subsection (b) of this section and allow any person to proceed with any transaction subject to this section, and promptly shall cause to be published in the Federal Register a notice that he does not intend to take any action within such period with respect to such acquisition.".

(b) (1) The side heading of section 412 of such Act is amended to read as follows:

"POOLING AND OTHER AGREEMENTS IN FOREIGN AIR TRANSPORTATION

"Filing of Agreements in Foreign Air Transportation Required."

(2) Section 412(a) is amended by inserting the term "foreign" between the terms "affecting" and "air transportation".

(c) Section 414 of such Act is amended by striking "408,", and by striking the comma that appears after "409".

EXEMPTION AUTHORITY

SEC. 13. Paragraph 416(b) (1) of such Act is amended to read as follows:

"(b) (1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that—

"(A) the exemption is or will be justified by special and unusual circumstances, or by reason of the limited extent of the activity sought to be exempted; and

"(B) the exemption is not inconsistent with the public interest.".

PRESIDENTIAL AUTHORITY

SEC. 14. Section 801 of such Act is repealed, and sections 802 and 803 of such Act is redesignated as sections 801 and 802, respectively.

RATES, FARES, AND CHARGES

SEC. 15. (a) Section 1002(d) of such Act is amended by striking the proviso and inserting in lieu thereof the following new proviso: "*Provided*, That (i) the Board shall not find any rate, fare, or charge to be unjust or unreasonable on the basis that it is too high unless the rate, fare, or charge is more than 20 percent higher than the rate, fare, or charge in effect for the service at issue 1 year prior to the filing of the rate, fare, or charge; and (ii) the Board shall not find any rate, fare, or charge to be unjust or unreasonable on the basis that it is too low unless, for the service at issue, the rate, fare, or charge is predatory.".

(b) Subsection 1002(e) of such Act is amended to read as follows:

"(e) In exercising and performing its powers and duties in respect to the determination of rates pursuant to subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in subsection 102(a) of this Act;

"(2) the quality and type of service required or preferred by the public in each market;

"(3) the desirability of a variety of price and service options such as peak and off-peak pricing;

"(4) the effect of such rates upon the movement of traffic; and

"(5) with respect to maximum fares and charges, the need of each carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.".

(c) Subsection 1002(g) of such Act is amended by striking the last period and inserting the following proviso: ": *Provided further*, That the Board may not suspend any proposed tariff because of the proposed rate, fare, or charge stated therein unless the Board is empowered to find such proposed rate, fare, or charge unlawful.".

SEC. 16. Title X of such Act is amended by adding at the end thereof the following new section 1010:

"PROCEDURES FOR TITLE IV APPLICATIONS

"SEC. 1010. (a) Whenever an application pertaining to interstate or overseas air transportation is filed with the Board pursuant to title IV of this Act, the Board shall, within 30 days of receipt of such application, determine whether the public interest requires that the application be set for a public hearing.

"(b) If the Board determines that a public hearing is not required, the Board shall issue an order, within 90 days of its decision not to set the application for a public hearing, (1) granting or denying the application, or (2) dismissing the application. The Board may, by regulation, adopt procedures for the expeditious handling of such applications. If the Board fails to make its decision within the time prescribed by this subsection the application shall be deemed granted as applied for. Any order of dismissal under this section shall be deemed a final order subject to judicial review as prescribed by section 1006 of this Act.

"(c) If the Board determines that the application or petition should be set for a public hearing, the Administrative Law Judge or other presiding officer shall issue an initial or recommended decision within 150 days of the date of the Board's decision that the application be set for public hearing. Within 60 days of the date the initial or recommended decision of the Administrative Law Judge is issued, the Board shall make its final order with respect to such application. If the Board does not act within the 60-day time period, the initial or recommended decision of the Administrative Law Judge shall become the final decision of the Board, subject to judicial review as prescribed by section 1006 of this Act.

"(d) Notwithstanding the time deadlines specified in subsection (c) of this section, where the application raises one or more issues of unusual complexity or difficulty the Board may issue an order with a statement of the reasons therefor, extending for not more than 30 days the time period within which the Administrative Law Judge is required to issue an initial or recommended decision. In addition, the Board may extend any deadline stated herein if delay results from the failure of an applicant to comply in a timely manner with procedural orders issued by the Board. Any such extension shall be for a period of time not to exceed the time of such delay.

"(e) The provisions of sections 554, 556, and 557 of title 5, United States Code, shall not apply to proceedings under this section.

EFFECTIVE DATE

SEC. 17. This Act shall become effective 6 months after the date of its enactment.

DIGEST: THE AVIATION IMPROVEMENT ACT OF 1976

DECLARATION OF POLICY FOR THE CAB

The policy statement giving guidance to the Board in Sec. 102 of the Act is modified to indicate the public interest requires the "phased and progressive transition to an air transportation system which relies on competitive market forces to determine the variety, quality, and price of air services and the reliance on entry of new carriers to provide a variety of efficient and innovative low-cost transportation services." The policy statement is limited to domestic air transport only; international air transport policy will continue to be guided by the present policy statement in the 1958 Act.

FEDERAL PREEMPTION

The bill states that no state government or other governmental unit shall regulate, in any manner, airline operations in interstate, overseas or foreign air transportation.

ENTRY

In the case of scheduled and charter air transportation, the public convenience and necessity test contained in present law is reversed. Under terms of the 1958 Act, the Board must find the service proposed meets the public convenience and necessity. In this bill, the Board, in denying a certificate application, must find that the grant of such application would "not be required by the public convenience and necessity."

The entry standard for foreign air transportation is not changed; the Board must find the proposed service meets the public convenience and necessity.

In applying the reversed PC & N test for passenger and charter transportation authority, the burden is placed on the Board to show that such application is not in the public interest. In making a determination on new entry, the Board is required to give weight to an applicant who proposes new or innovative service methods, service which would be provided at reduced fares or charges, services which would be operated more efficiently than are existing services and services proposed in markets found by the Board to have fares significantly higher than fares in economically comparable markets.

DORMANT AIR CARRIER AUTHORITY

The Board is required to approve the application of any person who is fit, willing and able who applies for non-stop authority held by a carrier who has not, for the past 6 months, exercised such non-stop authority. In a case in which more than one applicant applies for such dormant authority, the Board must approve the application of at least as many applicants as there are certificated carriers not exercising the authority in such market. For example, if two certificated carriers hold dormant non-stop rights between two points, the Board would be required to certificate not less than two applicants who applied for the dormant authority.

REMOVAL OF RESTRICTIONS IN AIR CARRIER CERTIFICATES

The Board's authority to impose certificate restrictions is limited so that the Board may not, in the future, impose closed-door restrictions and requires that within 30 days of passage of the bill all existing closed-door restrictions be eliminated.

The bill also liberalizes the current restriction on off-route charters performed by scheduled airlines from 2 percent of total revenue plane miles to 3 percent.

The Board is also required to eliminate other certificate restrictions which are obsolete or inconsistent with the policy mandate of the new section 102 of the Act.

TRANSFERS OF ROUTE AUTHORITY

The Board's authority over route transfers or swaps is maintained but disapproval of a transfer may only be justified on the basis of a Board finding that "its effect in any section of the country may be substantially to lessen competition or to tend to create a monopoly." However, failure of the Board to disapprove a route transfer would not immunize such transfer from the provisions of the anti-trust laws.

TERMINATION OF AIR CARRIER SERVICE

Air carriers are granted authority to terminate serivce to communities on their certificates after 90 days advance notice to the Board and to the affected communities. The Board may, at its discretion, suspend the termination proposed for a period of 270 days to allow it and the community affected to consider alternative air service opportunities.

MERGERS, AGREEMENTS AND ACQUISITION OF CONTROL

The Board's authority to approve or disapprove agreements, mergers and acquisitions of control is eliminated. The bill requires, in the case of mergers, acquisitions, and acquisition of control that the Attorney General be notified at least 30 days prior to the transaction being consummated by the person proposing such a transaction. The Attorney General, if he believes that such transaction may be a violation of the anti-trust laws, may suspend the consummation, after notice to the Board and the parties, for up to 60 days or until disposition of any proceedings brought by the Attorney General in court. If he is to bring anti-trust action in court, the Attorney General must do so within 60 days after giving notice to the parties. In any case in which the Attorney General seeks court action under the anti-trust laws involving mergers, acquisition of control, etc., the CAB will have automatic standing as a litigant.

The Attorney General may also, by regulation, exempt certain transactions from the advance-notice requirement as he sees fit.

Existing section 412 of the Act, which authorizes the Board to approve or disapprove agreements among air carriers, is eliminated. Implicit is the assumption that the anti-trust laws, administered by the Attorney General, are adequate to prohibit anti-competitive agreements among air carriers to interstate and overseas air transportation. The authority of the Board to approve or disapprove agreements among carriers in foreign air transportation is retained.

EXEMPTION AUTHORITY OF THE BOARD

The Board's exemption powers to grant authority to operate in air transportation without a certificate is broadened so as to include special and unusual circumstances or because of the limited extent of the proposed operations as long as the exemption is not inconsistent with the public interest.

REMOVAL OF PRESIDENTIAL AUTHORITY OVER CAB ORDERS IN FOREIGN AIR TRANSPORTATION

Section 801 of the Federal Aviation Act which authorizes the President to approve or disapprove CAB orders in foreign air transportation is repealed.

BOARD AUTHORITY OVER RATES AND FARES

The Board's authority over the level of rates and fares is limited to two areas. The Board has no authority to suspend fares or to set fares at the low end of the spectrum—it has authority only to order nullified rates, fares and charges which it finds to be predatory. At the high end of the spectrum, the Board only has authority to suspend fares and/or to establish rates if a fare, rate or charge filed in an airline tariff is more than twenty percent higher than the fare, rate or charge in effect one year earlier.

The Board's authority over discriminatory, preferential and prejudicial tariffs is retained as its authority over discriminatory preferential or prejudicial rules and regulations pertaining to airline tariffs.

EXPEDITING PROCEDURES AT THE CIVIL AERONAUTICS BOARD

The bill requires the CAB to act within 30 days on all petitions and applications filed before it. The Board may or may not elect to set the petition down for a hearing. If it does not order a hearing, the Board must, within 90 days following its order not to set a hearing, decide the issue by granting, denying or dismissing the application or petition. If the Board fails to issue its order within the deadline, the petition is automatically granted.

If the Board determines to set a matter down for hearing, the Administrative Law Judge is required to render a recommended decision within 150 days of the date of the Board's decision to set the application for hearing.

Within 60 days of the Administrative Law Judge's recommended decision, the Board must issue a final order on the decision. If it does not, the recommended decision of the Law Judge becomes the final order of the Board.

On matters of unusual complexity or difficulty, the Board may extend for 30 days the time in which the Law Judge must render the initial decision. The provisions of sections 554, 556 and 557 of title 5, United States Code, shall not apply to proceedings under this section.

EFFECTIVE DATE

The bill becomes effective 6 months after the date of enactment.

By Mr. JOHNSTON:

S. 3831. A bill to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)), and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JOHNSTON. Mr. President, I introduce for appropriate reference legislation proposed by my good friend and colleague Congressman ROY TAYLOR. It is my understanding that identical legislation is presently being considered by the House. This measure would amend the act of July 9, 1965, and I am introducing it so that Senate consideration may begin pending final House action.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3833. A bill to authorize the appropriation of $12.4 million at July 1976, prices for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize the appropriation of $12.4 million at July 1976, prices for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes.

Mr. President, I ask unanimous consent that the executive communication accompanying this proposal from the Secretary of the Interior be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. September 15, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill, "To authorize the appropriation of $12.4 million at July 1976 prices for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes."

The proposed legislation was introduced in the second session of the 93rd Congress. The Senate passed the bill in modified form and hearings were held in the House. We recommend renewed consideration of the measure and strongly urge that it be enacted.

Enewetak Atoll lies among the Marshall Islands, which are a part of the Trust Territory of the Pacific Islands administered by the United States acting on behalf of the United Nations. The atoll had been fortified by the Japanese during World War II and was captured by the United States in 1944, with the local inhabitants being placed under the jurisdiction of the U.S. Armed Forces. After the war, in 1947, the United States decided that the entire atoll was required for its atomic weapons testing program, so notified the United Nations Security Council, and resettled the atoll's inhabitants on nearby Ujelang Atoll. The testing, carried out between 1948 and 1958, severely damaged Enewetak and rendered it uninhabitable.

The United States is committed to rehabilitating Enewetak, whose former residents are most anxious to return. Discussion among various Federal agencies has resulted in this task being allotted in the following manner: Department of Defense—maintaining ongoing facilities and operations in Enewetak, and for cleanup operations; Department of the Interior—rehabilitation of the atoll; Energy Research and Development Administration—radiological monitoring and surveying.

This bill would authorize the appropriation of $12.4 million (July 1976 prices) to enable the Department of the Interior to fulfill its portion of the Federal commitment. Such sum would be plus or minus the amount, if any, as may be justified by ordinary fluctuations in costs as indicated by engineering cost indices applicable to the types of construction involved. Since the nuclear use of Enewetak was primary for the benefit of the United States, we request that a special authorization (separate from the authorization for the Trust Territory) be enacted. Such a procedure would show that the funds are specifically for rehabilitation and that they are not being siphoned from programs already slated for Micronesia under our Trusteeship commitments.

Based upon our master plan, prepared by a private consulting firm, we estimate the operation will cost $12,400,000. Included in this amount is approximately $4,400,000 for replanting of the area and for construction of housing and community facilities; approximately $5,500,000 for facilities, equipment, and operations pertaining to the rehabilitation effort and the remaining $2,500,000 for overhead, profit, and contingencies. These figures are based on July 1976 prices.

The people of Enewetak have requested that the Trust Territory Government grant them Ujelang in fee simple as it has been their home for 28 years and will be their key source of food for many years to come. The Department and the Trust Territory Government will grant that request and will quit claim Ujelang to the people of Enewetak as well as rehabilitate Enewetak.

Under section 2 of our proposed bill, any award of compensation to a Micronesian inhabitant of the Trust Territory of the Pacific Islands (as defined in section 101(b) of Public Law 92-39, as amended) would be subject to certain offsets for previous monies and considerations. One purpose of this section is to avoid payment of double compensation to the people of Enewetak in judgments which have been awarded or may be awarded on pending or future claims for property damage against the United States. Among the monies and considerations to be taken into account as offsets against future awards would be: $175,000 paid the people of Enewetak in 1956 for use and occupancy of their atoll for the United States' atomic testing program, a $1,020,000 ex gratia payment in 1969 to compensate the people of Enewetak for hardship and suffering caused by removal from their home atoll; the final amount of any award payment by the Micronesian Claims Commission for post secure damages to the atoll pursuant to the Micronesian Claims Act of 1971 (85 Stat. 94); and the value of Ujelang Atoll, which is current valued at $425,000 although such value is subject to fluctuation, where the people of Enewetak have resettled. Further it will cost approximately $20 million for the United States, using military personnel, to clean up Enewetak and approximately $12.4 million at July 1976 prices to rehabilitate and resettle the atoll.

The language in section 2 would apply to awards to all Micronesian inhabitants on claims for property damage against the United States. We believe that this provision should apply equally to all Micronesians in preventing double compensation on all awards and not just one group of people such as the people of Enewetak. Thus, the result of section 2 would be an equitable one.

The Office of Management and Budget has advised that this legislative proposal is consistent with the Administration's objectives.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

By Mr. JAVITS (for himself and Mr. PELL):

S. 3835. A bill to authorize the Secretary of Agriculture to make grants to States for urban forestry and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE URBAN TREES ACT OF 1976

Mr. JAVITS. Mr. President, I introduced the above bill on behalf of Senator PELL and myself. It is being introduced today in the House of Representatives by Representatives RICHMOND and FISH. The financial crisis that has impaired the ability of State and local governments to continue to provide essential services to their citizens has had a deleterious effect on the urban environment. Programs to make our cities more esthetically attractive has been counted among the first casualties of budgetary stringencies. One such program, to refoliate congested urban communities through the establishment of miniparks and the widespread planting of trees and shrubs was an early victim.

Senator PELL notes that on our visit to the People's Republic of China in August 1975 as members of a Senate-House delegation, the impressive planting and maintenance of trees in the cities—formerly almost denuded of them by the need for fuel—was a signal attraction of the cities of the People's Republic of China.

Some cities have all but terminated their arbor cultural activities and, thus, have discarded one of the few programs left designed to appeal to our sense of the esthetic and improve the quality of urban life.

As a result, many of our cities are in danger of losing any of the grace and charm they have remaining that is so necessary to soften the acres of concrete.

Meanwhile, continuing air and noise pollution, coupled with sanitation service cutbacks, have intensified the need for more tree and plant life in our urban communities.

The burden of responsibility for the continued development of urban foliation programs seems to have been passed on to the private sector—to individual and corporate residents. I believe that city people are willing to contribute what they can to improve and beautify urban landscapes. But the private sector is fragmented and is unable alone to coordinate its resources sufficiently in this regard to develop a comprehensive plan for each city. Thus, it is necessary for government to marshal the resources of the private sector in planting and maintaining urban trees.

For these reasons, I am introducing the Urban Trees Act, to authorize the Secretary of Agriculture to make grants to urban areas for tree planting and general arboricultural activities. These would be in the form of grants to match 100 percent of what cities may receive in tree planting contributions from their residents and others and 50 percent of the public funds appropriated for tree planting. The bill would provide $10 million a year for these purposes, to encourage cities to formulate and implement urban aboreal development plans to best utilize citizens' contributions. If the Urban Trees Act becomes law, urban Americans will be encouraged to make contributions to their cities which will be used specifically for the planting and maintenance of trees to beautify and otherwise improve the quality of their urban environments.

Mr. President, there is ample precedent for legislation of this kind. The U.S. Forestry Service now operates a program whereby matching grants are made to individuals for the planting of trees in rural areas. These matching grants are intended to prevent soil erosion near our farmlands.

Though arboricultural financial assistance is needed for different reasons in urbanized areas, the need is no less important, and the social benefits are no less significant. Trees provide shade during the hot, summer months and thus help to reduce the use of air-conditioning and the consumption of electricity, thereby freeing some of our scarce energy resources. H. T. Odums, graduate research professor of environmental engineering at the University of Florida, has estimated the energy saving from one moderately sized tree to be $128 per year in the United States.

Trees also absorb noise from vehicular traffic and other sources and thus contribute to our ability to deal with noise pollution. Finally, through the process of removing carbon dioxide and other noxious elements from the environment and replacing them with oxygen, trees help to improve the quality of the air we breathe in cities.

A federally assisted program of matching grants for the planting of trees, therefore, not only would improve the esthetic quality of urban life but also would help to reduce air and noise pollution and the consumption of electricity.

This law would have broad, regional benefits. For example, the casual traveler through New England cannot help but notice that the stately elm trees which once lined the streets of New England towns have all but disappeared, victims of the dreaded Dutch elm disease. In Florida, the "lethal yellow disease" threatens to wipe out the palm trees that characterize the landscape. And throughout the cities of the South, the majestic Georgia pine trees are slowly succumbing to infestation. Unless this unfortunate national trend of tree deterioration is halted and reversed by an aggressive program of urban refoliation, in which private citizens and the Federal Government are given an incentive to cooperate for their mutual benefit, our cities can one day become only concrete places, that lack the esthetic qualities that make them fit places to live and to work.

I have always believed that the dynamism, vigor, and vitality of the private sector could be brought to bear on many more problems—if its resources and energies where channeled and coordinated by appropriate Government incentives.

The Urban Trees Act of 1976 represents still another example of public-private cooperation, which will produce environmental and aesthetic benefits which will benefit all Americans.

On Arbor Day this year, my colleague, Senator HRUSKA, of Nebraska, observed that, the strong and flowering tree has always been the very embodiment of life. Our war dead have been honored on Memorial Day with the planting of trees as living monuments to their memory. It is said that during colonial times a bride would replant a tree from her father's garden in the soil of her new home. This surely, if unconsciously, was a symbol of the transplanting of life and of the start of the married couple's life together.

We should ponder Senator HRUSKA's eloquent message today and strive to comprehend what it means for the rebirth of our cities. Our trees are symbols of the same qualities of resilience, tenacity, determination, and strength of character that are the hallmarks of America's cities and its people.

Today I introduce legislation that can help to reverse the decline of America's urban trees and restore those existing which need it.

Mr. President, I ask unanimous consent to have printed in the RECORD two newspaper editorials germane to this subject, as well as a report entitled "Trees in Urban Environments," prepared at the request of myself and Representatives RICHMOND and FISH of New York, by Dr. Thomas S. Elias of the Cary Arboretum of the New York Botanical Garden.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A PARABLE FOR NEW YORK

In a garden of Turtle Bay grows an old, much-cherished willow tree whose fate has been linked in the literature of New York to the fate of the city itself.

E. B. White, the essayist, who once lived in an East 48th Street house overlooking the garden, in 1948 immortalized the willow in the closing paragraph of his classic, "Here Is New York":

"It is a battered tree, long suffering and much climbed, held together by strands of bailing wire but beloved by those who know it. In a way it symbolizes the city: life under difficulties, growth against odds, sap-rise in the midst of concrete, and steady reaching for the sun. Whenever I look at it nowadays, and feel the cold shadow of planes, I think: 'This must be saved this particular thing, this very tree. If it were to go, all would go—this city, this mischievous and marvelous monument which not to look upon would be like death'."

* * * * *

With the approach of Hurricane Bell this week, prospects were not bright for survival of the Turtle Bay willow, already considerably reduced from the multi-trunked splendor of the accompanying drawing but encumbered still with an excess of top-heavy growth.

Then something remarkable happened.

Monday morning before the storm struck, with a heart-rendering crack, a heavy branch of the willow tore off and fell into the courtyard. Tree surgeons, hastily summoned, pruned away other weakened limbs and deadwood. That night, the willow survived the storm.

Neighbors, saddened by the willow's diminished appearance, were nevertheless assured by the experts that timely pruning may have saved the tree from destruction. Drawing strength from an old underground stream that still flows beneath its roots, the willow will likely re-emerge next spring stronger and more luxuriant than ever.

As the tree endures, so can the city—painstakingly pruned to weather its fiscal storms, but confident still of "growth against odds, sap-rise in the midst of concrete, and steady reaching for the sun."

[From the Washington Post, July 25, 1976]

IF A TREE FALLS . . .

If a tree falls in a forest and no one hears it, does it make a sound? Now that has always struck us as a dumb question (never having been aware of not hearing a tree fall in the forest, we wouldn't know how to answer it) and we only raise it this morning as a way of getting into the question of what happens when a tree falls in a city. What happens is that it makes not only a lot of noise but quite often a terrible mess, and robs us, as well, of some beauty, shade and life that cannot be quickly replaced. Thus the recent storm, which toppled so many lovely trees, prompted us to check up on how the city is tending to the parks and public space that are so vital to the community's health and attractiveness.

When we had last looked in on the subject, things were in a sorry state. Budgets had not kept pace with rising costs. Responsibility was broken up and lying all over the place. The quality of maintenance and care had declined. Diseased and damaged trees were not getting proper treatment, and dead trees were not being replaced. Playgrounds and parks were full of weeds and litter and in a state of disrepair. Valuable beautification and gardening projects, started through citizens' initiatives, had not been kept up.

Our inquiries last week show that sadly little has changed. The Transportation Department's tree and landscaping division may be doing better; about 3,000 little trees were planted along the city's streets last year, and the department is much closer to being able to plant something in the place of every tree that succumbs to age, storm, Dutch elm disease or whatever. Maintenance, though, remains a problem, and the division's responses to complaints are still too slow—at least in the view of almost every citizen who worries about a scrawny or shaky tree along his block.

Over at the Recreation Department, however, things have clearly gotten worse. The maintenance staff is shrinking. The budget is so tight that there is little money for cleaning swimming pools, sweeping up broken glass on baseball diamonds and otherwise keeping safe the 127 or so areas in the department's custody. There are a few dollars for cutting weeds and removing dead trees; there is nothing at all for greenery and landscaping.

The situation at the public schools is about as bad, except where individual principals and custodians have been able to work small miracles. Other public spaces are equally neglected. Dozens of small patches of ground have been orphaned, abandoned by the National Park Service but not really adopted by any local agency.

All this is most discouraging to the citizens who have tried to fix up public property in their own neighborhoods. Through the community beautification program and the bicentennial project CURB, hundreds of trees have been planted and other improvements made all over town. If citizen enthusiasm dwindles, however, no city agency steps in to save these projects from decline.

The basic problem is the short-sighted view that maintenance of the city's public spaces is dispensable—or at least can be deferred until there is more money, or until some important official is about to pay a call. Besides being uneconomical, that attitude encourages erosion of the city's resources and of community pride and self-regard. With respect to trees, it ignores the hard fact that the older and more beautiful they are, the longer it takes to replace them.

One partial answer is to create a parks department to take charge of all of the District's public lands. This would not automatically make more money available (we are not, in fact, talking about something that requires huge sums of money) but it would give greater emphasis to maintenance and elementary care for the cityscape—and would also give citizens a single place to call with their concerns. As far as we can tell, however, this idea has fallen victim to the same lethargy that makes the existing system so inadequate. A task force on the matter, set up last fall under city administrator Julian Dugas, has apparently never even met. In other words, when a tree falls in the District, it doesn't much matter how much sound it makes or even whether anybody at city hall is listening. The question is whether anybody at city hall really cares.

TREES IN URBAN ENVIRONMENTS

(By Thomas S. Elias)

Trees play an essential role in the man-made urban environment. Psychologically, they serve as a link between human beings and their natural surroundings, providing a more pleasant and healthful place to work, live and visit. Biologically, they serve to reduce air pollution, modify extremes of temperature and humidity, and provide shade. Economically, trees serve to increase land values and ameliorate extremes of heat and cold, thus reducing energy consumption in homes and buildings.

Today, however, trees in urban areas are in trouble. In addition to the multifaced environmental stresses acting upon urban trees, they are now suffering also from neglect due to growing constraints experienced by cities and usually expressed by a cessation of tree planting, tree maintenance and a reduction in the number of public employees responsible for publicly owned trees.

Furthermore, urban tree populations are increasingly vulnerable to destruction by tree diseases and insect blights because of over concentration in most cities of a very few species. The tragedy of the Chestnut Blight and Dutch elm disease, which have destroyed millions of prized trees within the present century, could happen again to another large, popular type of street tree, unless tree planting practices change.

On city streets and in urban parks, the individual planted tree is usually under great stresses not present when the species evolved in the wild. In ecological perspective, a curbside tree on a street lined with towering multistoried buildings is, in effect, growing at the base of a rocky chasm. With limited exposure to sunlight, ventilation ranging from very little to raging gales, these trees must endure fluctuating levels of gaseous and particulate air pollutants, subnormal water supply—and that often contaminated with dog urine and de-icing salt. The root system is expected to thrive with limited access to soil that is physically and chemically variable, with the total absence of humus, the prior churning up of deep subsoil strata which are either relatively sterile or even toxic. The problem is further compounded by the addition of foreign substances (chunks of concrete and other construction waste), often compacted to pavement-like hardness. Tree roots can be poisoned by copper or brass pipes and even heated by steam conduits. It should not be surprising that the catalog of possible species for successful culture under these conditions represents a tiny fraction of the world's northern tree flora.

During the last century, urban centers have been growing with the advent of new and wider roads, hordes of automobiles and rapidly expanding industrial developments. The construction of new highways and the reconstruction, especially widening, of older roads have probably resulted in the loss of more street trees than all other factors combined. The increased dependency upon automobiles and trucks has necessitated greater road maintenance, especially in the removal of snow and ice from traffic ways. The accelerating use of sodium chloride, and more recently other salts and de-icers, adds one more element of stress for urban trees to tolerate.

Densely populated areas in cities also support large dog populations, whose excretions constitute a major factor in the decline and even death of trees along streets. Too often, the plots and bases of street trees are used as urinal stations for pets. The repeated deposits of urine and uric acid frequently raise the salt level beyond the tolerance limits of trees, resulting in their slow death.

An additional urban stress is soil compaction, a result of incessant pedestrian traffic on the soil over the roots of trees. Soil compaction lowers or even eliminates the air spaces among the soil particles, reducing water penetration and depriving the root system of sufficient air. In major cities, high-rise buildings form artificial canyons which concentrate and redirect winds, often at high velocities, against curbside plantings. A tree must either have a well anchored root system or be guyed with wires to prevent leaning or even toppling; furthermore, a maze of underground conduits, ducts and passageways all serve to impede proper root growth and formation.

In addition to the numerous soil stress factors, trees are subject to numerous aboveground stresses, including air pollutants such as sulfur-dioxide (SO_2), and ozone (O_3). The widespread use of coal in the generation of electricity and other industries, with lesser but increasing amounts used for space heating, are the primary sources of sulfur dioxide (SO_2), a major phytotoxic air pollutant. Sulfur dioxide taken into the leaf may react with the cells, causing injury or even death at high levels or at low levels over a long period of time. In recent years, utility companies and other industries have been required to convert back to coal-fired facilities in response to the undependable, high-priced oil supplies in contrast to the vast coal deposits available within the United States.

The growing array of physical environmental limitations coupled with the chemical and biological pressures upon trees has necessitated advances in the selection and breeding of trees genetically suited for urban use. Successful selection procedures depend upon locating races exhibiting the desired characteristics from among the often vast range of genetic variability of given species. The majority of trees currently planted in metropolitan areas are produced from selected clones, trees produced asexually by cuttings or other methods from selected individuals. If these trees were bred, their progeny from seeds would not necessarily exhibit the favorable characteristics of the parents. Hybridization programs, aimed at producing exceptional trees, can take more than twenty-five years to yield and allow time to thoroughly test a new street tree. The Ginkgo tree (Ginkgo biloba), being used in cities are selected from many clones of different male populations. On the other hand, the popular, if not overused, London plane (Platanus acerifolia), is considered to be a natural hybrid between the Oriental plane (P. orientalis) and the American plane (P. occidentalis).

The form or shape of the tree, along with the growth rate, are key elements to many selection and breeding programs. The limiting conditions of multistoried buildings with sidewalks extending to the curb and pedestrians and vehicular traffic restricted to set routes necessitate that any tree planted in this situation be of columnar form with a trunk clean of branches to at least six feet above the ground and then with the branches sharply ascending. Other urban streetside areas require trees of maturity that will not exceed 20 to 30 feet in height, to eliminate interference with overhead utility lines. In still other areas, tall trees with wide-spreading branches may be suitable. Thus, metropolitan areas require different forms of trees to meet the various physical conditions and environmental constraints found in all cities.

Resistance to insect pests and disease is a prime consideration in breeding and selection programs directed toward the production of an improved clone of city trees. While many insect pests and diseases of urban trees can be partially controlled with spraying programs, these are not only costly labor-intensive operations but they can introduce potentially serious environmental stresses or hazards to other life forms in and around cities.

Wood strength and related characteristics are also important in street or shade tree improvement programs. The silver maple (Acer saccharinum), and the closely related box elder (Acer negundo), both have wood that is soft and brittle which will easily split under occasional winter conditions of heavy wet snow and ice buildup in freezing rain. The ability of a tree to withstand wind, snow and ice storms without sustaining excessive damage is yet another important feature required of recommended trees for city conditions. In conjunction with this, the angle at which the principal branches diverge from the trunk is another trait of consequence. Wide branching angles are usually associated with weaker branch-trunk junctions and with more frequent splitting or breaking in adverse weather conditions.

In recent years, the United States has become the foremost producer of new selections and clones of shade and street trees. Species native to North America as well as introduced Old World species have been used in tree improvement programs.

To help assure a city of healthy, aesthetically pleasing trees which have been chosen for their compatibility with environmental constraints and to make more efficient use of funds allocated for urban trees, an urban tree program or master plan is needed.

Currently, municipal approaches to urban tree programs vary widely, ranging from assigning administrative responsibility for an office of urban forestry or arboriculture to the city engineer, highway superintendent or some other staff member with little or no background for the task. Successful planning, planting and care of city-owned trees can only be pursued with the same thorough standards that are used for siting, installation and maintenance of street lighting, sidewalks or corridors for utility services.

The underlying theme of any city-wide master plan should be diversity of species not only as means of more successfully meeting environmental strictures are also to promote visual interest. Unfortunately, the trend in urban tree planting has been towards a reduction in the numbers of species planted. This is due partly to a reduction in the number of trees initially available to cities from nurseries (or can be purchased at lower unit cost in large lots) and the pragmatic argument that one or two species of trees are easier to plant and maintain than a diversity of species. The London plane tree (Platanus acerifolia) and the male ginkgo are the principal street trees of New York City. In Poughkeepsie, New York, probably a typical small city, 57% of the 8027 street trees are Norway maples, 11.6 are flowering crabapples and another 11.2% are sugar maples. Three species comprise almost 80% of all street trees in this city. In the small southeastern New York State village of Millbrook, sugar maples account for 58% of the total street tree flora, while in the nearby town of Hyde Park this species totaled 65.8%. Large, closely assembled populations of one species are particularly susceptible to the rapid buildup and spread of a disease or insect attack.

Finally, the ultimate success or failure of well-planned efforts can be lost eventually by the lack of a proper maintenance program. Street trees, like nearby street lights, sidewalks and street pavement, require periodic attention to continue functioning as originally designed. Because of their photosynthetic function, trees are often viewed as self-maintaining elements of the city which can simply be allowed to go their way without maintenance. Yearly programs of ground maintenance under the trees, pruning, spraying and fertilizing when needed will result in healthier, more aesthetically pleasing trees. The trees will live longer, eventually reducing the labor-intensive, costly, and environmentally disruptive removal of dead or dying specimens and their replacement, and will also help avert or at least minimize major damage or hazards caused by wind.

By applying our expanding knowledge of the ecological relationships between trees and city conditions, we can maintain the connection between plants and people by enhancing urban exterior spaces with an expanded catalog of tree species that have been selected or bred to meet the harsh demands of the urban environment. Trees can and should be considered essential elements of cities, for they serve as links between man and his recently separated natural heritage.

By Mr. WILLIAMS:

S. 3836. A bill to provide for the regulation and control of sludge, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and for other purposes. Referred to the Committee on Public Works.

NATIONAL SLUDGE CONTROL ACT

Mr. WILLIAMS. Mr. President, I am introducing today legislation aimed at controlling sludge disposal and providing assistance to State and local authorities for removing sludge discharged into waters and adjacent shorelines. Additional provisions would require EPA to develop a comprehensive plan for current waste disposal strategies. My bill would also provide assistance for a demonstration project to determine the feasibility of sludge dumping beyond the Outer Continental Shelf.

Sludge is undeniably one of the Nation's environmental problems. The methods and techniques of sludge treatment, storage, transportation, and disposal have been the subject of endless debate and discussion. We know the problems. What we lack is a definitive means of controlling and managing that sludge until more advanced alternatives are technologically and economically feasible. Unfortunately, environmentally acceptable methods must take into account the economics of processing and disposing of sludge. The Senate has recognized this in the past and most recently adopted S. 3266, the Solid Waste Utilization Act of 1976, which emphasizes the use of Federal financial assistance to States to expedite the establishment of new resource recovery and waste disposal techniques.

Control and disposal of sludge is clearly a part of a much larger problem. It is critical that we implement better resource conservation and improved resource recovery systems. The intelligent use of our virgin materials and maximum recovery efforts to recycle these materials could radically reduce the amount of waste with which we must now contend. Breakthroughs in recovery techniques and new technology for disposing of what is left would go a long way to ending current hazardous disposal problems. Given the means to speed up sludge and other waste disposal technology, I am certain that we can end the use of existing offensive disposal procedures. However, the realities of sludge disposal dictate that the Congress establish a program to stringently control sludge disposal to eliminate the unhealthy situation which now exists.

Of immediate concern to me is the appalling effect sludge dumping has had off the shores of New Jersey. Ocean dumping is the most popular method for disposing of sludge. Although much controversy surrounds the impact of sludge dumping, one point is painfully clear: it can no longer be considered the most acceptable means of disposal. While I wholeheartedly believe that ocean dumping must be entirely curtailed as soon as possible, I feel even stronger that we must better regulate all sludge activities from treatment to disposal to determine and monitor who dumps what where. It would serve little purpose to phase-out one method of disposal only to aggravate the problems involved with another method. That is why my bill calls for developing a comprehensive plan for controlling all the problems associated with the various sludge disposal methods.

Until we can eliminate ocean dumping as a method of disposal, we are limited to pursuing the protections afforded under the present ocean dumping laws. The Marine Protection, Research and Sanctuaries Act states that in recommending ocean dumping sites, the Administrator of EPA shall "utilize wherever feasible locations beyond the edge of the Continental Shelf." I understand the potential difficulties of dumping this far off the coast, and I certainly do not subscribe to the "out of sight, out of mind" philosophy. But I believe that, until we can phase out ocean dumping altogether, every effort must be made to investigate the advantages of deepwater dumping sites. By providing direct Federal assistance to those engaged in ocean dumping for demonstrating the feasibility of dumping beyond the Continental Shelf, we can ultimately determine the practicality of deepwater dumping as an interim measure to protect our precious coastlines.

This bill also establishes a program for removing sludge discharges which are hazardous to human health and welfare or dangerous to other living organisms. Recently, many beaches in New Jersey were closed due to sludge and other solid wastes which washed ashore. While the effective prevention of such discharges is the only sure way to avoid recurrences, a mechanism is also needed to expedite the cleanup of these dangerous spills which have occurred. The sludge removal provision in my bill would provide Federal financial aid and establish a strike force for assisting States and local governments in removing sludge discharges. It is unconscionable that either the inability to fix the responsibility for removing such unhealthy discharges or the lack of funds and technical expertise to undertake cleanup activity postpones immediate action to remove a sludge spill. By directing EPA to devise a plan to coordinate and assist in cleanup programs, we can eliminate delays and minimize adverse health or environmental impacts.

If we are to solve the many problems of sludge disposal, it is essential that the problems of solid waste management be reviewed in a comprehensive manner. In doing so, we must avoid piecemeal solutions and realize that solid waste disposal is one of many broad environmental issues which are all interrelated. What we must develop is a policy requiring continued reevaluation and analysis to provide programs which will attain the highest possible quality of life. I am hopeful that a comprehensive sludge study plan required by this bill will both produce a workable framework for dealing with sludge disposal and provide a coherent basis for comprehensive programs designed to meet our overall environmental goals. In particular, I would expect that such a study would focus on the feasibility of detoxifying sludge. While no form of sludge, however harmless, is desirable, any toxic component in sludge is most hazardous and requires every immediate effort to investigate methods for its complete extraction.

Mr. President, as we develop new and improved air and water technology we discover that more and more toxic and unusable wastes end up as sludge. I believe it is incumbent upon us to develop an effective means for controlling this waste material. This legislation would be an important step in providing just such a sludge control policy.

ADDITIONAL COSPONSORS

S. 3205

At the request of Mr. TALMADGE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 3205, to reform the administrative procedures under medicare and medicaid programs.

S. 3581

At the request of Mr. TAFT, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3581, to establish an office of maritime affairs.

S. 3812

At his own request, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 3812, to grant a charter to the American GI Forum of the United States.

AMENDMENTS SUBMITTED FOR PRINTING

PUBLIC WORKS AUTHORIZATIONS—S. 3823

AMENDMENT NO. 2327

(Ordered to be printed and to lie on the table.)

PINE MOUNTAIN LAKE

Mr. BUMPERS. Mr. President, this amendment would correct an unfortunate situation that has arisen in connection with the Pine Mountain Lake project on Lee Creek in Arkansas and Oklahoma. This project was authorized by section 204 of Public Law 89–298, the Flood Control Act of 1965. My amendment would make explicit what everyone had assumed for years: That no cost-sharing by local interests in the recreational development at this lake will be required, because the recreational facilities will be located entirely within the boundaries of the Ozark National Forest.

Under the Federal Water Project Recreation Act, Public Law 89–72, local interests are required to bear at least one-half of the allocable costs of recreational development at Federal multipurpose water resource projects. Cost-sharing is not required when "such * * * facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of the national forest system * * *"

As I have already noted, the Pine

Mountain project clearly falls within this exception. Unfortunately, the Chief of Engineers, at the time he recommended the Pine Mountain project to Congress, was apparently not aware of this. Accordingly, his recommendations include a reference to cost sharing.

Despite this, the corps proceeded for more than 10 years on the assumption that cost sharing would not be required. In 1965, the Little Rock District of the corps entered into an agreement with the Forest Service for recreational development at Pine Mountain; under the agreement, all recreational development was to be federally funded, with no local participation required.

Ten years later, the corps was continuing to adhere to its original interpretation of the law. The corps' most recent justification for the Pine Mountain project states explicitly that cost sharing will not be required.

The corps made an abrupt about-face early this year, when the Forest Service asked that it be released from its agreement to construct the recreational facilities at Pine Mountain because of budget constraints. The corps has released the Forest Service from three similar agreements within the last few years. When the Forest Service's request was forwarded to the Chief of Engineers by the Little Rock District, the authorizing legislation was reexamined, and the corps interpreted the law as requiring cost sharing. Public Law 89-298 says that the Pine Mountain project is authorized "substantially in accordance with the recommendations of the Chief of Engineers * * *," and since these recommendations include a reference to cost sharing, the corps contends that cost sharing is required.

I believe strongly that this question should be clearly resolved now. The Chief's recommendation on cost-sharing was based on erroneous information, since Congress has clearly indicated in Public Law 89-72 that cost-sharing should not be required in these circumstances. I believe, too, that the authorizing language for the Pine Mountain project is sufficiently flexible to permit the corps to proceed without requiring cost-sharing. Unfortunately, time is short. Preconstruction planning is to be completed in fiscal year 1977, with construction of the dam to begin in fiscal year 1978.

Under the circumstances, corrective legislation seems to be the most effective means of dealing with this problem. I therefore have prepared and now send to the desk an amendment to S. 3823, the omnibus rivers and harbors authorization bills. I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 2327

At the appropriate place in the bill add the following:

"Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by Section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed operated, and maintained in accordance with the Federal Water Project Recreation Act Public Law 89-72, as amended."

INTEREST RATES ON BUSINESS AND FARM LOANS—H.R. 3035

AMENDMENT NO. 2328

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS. Mr. President, 2 years ago this body saw fit to pass the so-called Brock bill to authorize interest rates that banks and savings and loans could charge on business and farm loans of $25,000 or more. The maximum rate was set at the Federal Reserve discount rate, that is, the rate it costs banks to borrow money from the Federal Reserve, plus 5 percent. For example, today, assuming the Federal discount rate is 5½ percent, this would mean that the maximum on this limited category of loans would be 10½ percent. This bill had the practical effect of increasing usury limits for substantial farm and business loans in the States of Arkansas, Montana, and Tennessee. The bill was sponsored by Senators BROCK, MANSFIELD, and Fulbright, and signed into law on October 19, 1974, with an expiration date of July 1, 1977. A provision was included to allow those States affected to opt out from under the bill's purview by act of the State general assembly.

My amendment is for the purpose of extending the law for 2 more years until July 1, 1979.

Mr. President, the year this act was first passed, the prime rate for banks ranged as high as 12 percent and the Federal discount rate hovered at times at 13 percent and even higher. As we all remember, capital under those conditions was in short supply and financial institutions were paying substantial interest rates on borrowed funds. Interest paid on certificates of deposit, for example, generally exceeded 10 percent. Arkansas banks, as a consequence, were caught in the perverse squeeze of borrowing money which cost in excess of 10 percent and then lending it out at a rate limited by Arkansas' 10 percent usury ceiling. If there ever were a formula for how to become a "problem bank" in short order, that was it. At that time, there was a need for the Brock bill and, happily, it passed quickly.

Now, economic conditions have changed somewhat. The prime rate is at 7 percent and the Federal Reserve discount rate at about 5½ percent. Some say these conditions will continue, but with inflationary pressures still continuing to plague our economy, we could well see a repeat of 1973 and 1974 economic conditions with interest rates soaring again to 10 percent or higher. If that happened without the relief of the Brock bill, investment capital would again flee my State as it did in 1973 and 1974 in search of higher interest rates in neighboring States, and this would cause the capital available to Arkansas farmers for planting and harvesting and to Arkansas businesses for growth and expansion to be in short supply. Quite simply, the economic well-being of my State and the States of Tennessee and Montana could well suffer another devastating blow.

Let me emphasize that I am not talking here about mortgage loans or consumer loans. For these borrowers State usury laws would continue to control. But for loans of $25,000 or more to farm and business interests, the formula of the Federal Reserve discount rate plus 5 percent would apply. Thus, only substantial borrowers who can take care of themselves and who do not need the protection of State usury laws would be affected. Moreover, these borrowers would be subject to one of the fairest economic indicators, the Federal Reserve discount rate, which the Federal Reserve Board adjusts according to the economic situation of the time.

As I say, my amendment is limited to a 2-year extension. Tennessee and Montana are already in the process of attempting to amend their usury laws. But, in any case, we would be assured during the interim that the relief of the Brock bill would be available, if necessary, to the farming, business, and financial interests of my State and to the States of Tennessee and Montana.

Mr. President, Senators McCLELLAN and MANSFIELD join me as cosponsors in this effort. I urge my colleagues to adopt what is essentially a bipartisan, noncontroversial measure.

Mr. President, I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 2328

SEC. 3. (a) Section 206 of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions and for other purposes", approved October 29, 1974 (Public Law 93-501), is amended by striking out "1977" and inserting in lieu thereof "1979".

(b) Section 304 of such Act is amended by striking out "1977" and inserting in lieu thereof "1979".

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENTS NOS. 2329 THROUGH 2332

(Ordered to be printed and to lie on the table.)

Mr. FANNIN. Mr. President, I am submitting to the desk today a series of amendments to S. 1302, the Federal Mine Safety and Health Amendments of 1976. These amendments are designed to improve that legislation as it was reported by the Labor and Public Welfare Committee.

The language has been drafted to meet the needs and serious objections of many small mining operators and mine employees in Arizona who have written to me about this legislation. The amendments I am offering are based upon some of the ideas contained in the Labor Committee report on S. 1302 as reflected in the minority views of the distinguished Senator from Nevada, Senator LAXALT.

Although I wish to defer lengthy discussion of these amendments until floor consideration of S. 1302, I would like to make a few brief remarks concerning my principal amendment which deals with the issue of MESA's transfer.

As my colleagues are aware, sections 301, 302, and 303 of S. 1302 would, in effect, transfer the Mining Enforcement and Safety Administration, MESA, from the Department of the Interior to the Department of Labor. The purpose of my amendment is to prevent that transfer by deleting those sections from the bill.

Mr. President, the creation of MESA in 1973 separated the Interior Department's responsibility to promote mineral development in the United States. I am convinced that the present administrative organization within the Department of the Interior eliminates the possibility of the conflicts often espoused as reason for the proposed transfer.

Under the present operation of Interior, there exists a constructive relationship between MESA, which is responsible for mine safety enforcement, and the mineral research functions of the Department of the Interior. The enforcement of mine health and safety regulations by MESA has been greatly enhanced by the immediate availability of the Bureau of Mines, an invaluable source of consultative and research capability within that same Department. This resource would be lost by the proposed transfer of MESA to Labor.

The effect of my amendment would be to retain MESA within the Department of the Interior so that the resources available to it that I have referred to will not be lost. Retention of MESA's responsibilities within Interior will thus insure greater improvement of health and safety enforcement within the mining industry and better working conditions for mining personnel throughout America.

Mr. President, I ask unanimous consent that the text of my amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2329

Beginning on line 3 on page 101, strike through line 19 on page 140.

AMENDMENT No. 2330

On page 120, insert between lines 4 and 5 the following new subsection: "(c) Except where the Secretary declines to exercise his authority over certain facilities on or contiguous to a mine, no provision of the Occupational Safety and Health Act of 1970 shall be applicable to any mine which is subject to this Act nor shall any rule, regulation or standard promulgated pursuant to such Act be applicable to any mine subject to the provisions of this Act."

AMENDMENT No. 2331

On page 84, lines 12 and 13, strike out the words "or the Secretary of Health, Education and Welfare, or an authorized representative of either".

AMENDMENT No. 2332

On page 70, line 4, strike "and". On page 70, line 6, strike the period and substitute "; and". On page 70, between lines 6 and 7, insert the following:

"(p) The term "milling" means the process of treating any mixture of minerals extracted from the earth to produce therefrom the primary consumer derivations. The principal operation in milling is the separation of one or more valuable desired constituents of the mineral mixture from the undersized contaminants with which it is associated. Milling includes, but is not limited to, one or more of the following processes: crushing, grinding, pulverizing, sizing, concentrating, washing, drying, roasting, pelletizing, sintering, evaporating, calcining, kiln treatment, sawing and cutting stone, heat expansion, retorting, cyaniding, leaching, and briquetting."

NOTICES OF HEARINGS

MONOPOLY SUBCOMMITTEE OF THE SMALL BUSINESS COMMITTEE

Mr. NELSON. Mr. President, I wish to announce that the Monopoly Subcommittee of the Senate Small Business Committee has scheduled hearings on the Anti-Obesity Drugs.

The hearings will be held on Tuesday, Wednesday, and Thursday, November 9, 10 and 11, and on the following Thursday and Friday, November 18 and 19, at 10 a.m. in room 318 (caucus room), Russell Senate Office Building. The witnesses will be announced at a later date.

WOMEN, MINORITIES, AND THE SMALL BUSINESS ADMINISTRATION

Mr. President, I wish to announce that the Senate Small Business Committee will hold a hearing on women and minorities and on the Small Business Administration on October 8, 1976, from 10 a.m. to 12 noon, and from 2 p.m. to 5 p.m. in the board room of the Liberty National Bank, 100 Broadway, Oklahoma City, Okla.

Senators BARTLETT and LAXALT have been designated to cochair the hearing.

Representatives of the Small Business Administration, the Office of Minority Business Enterprise, and representatives of various small businesswomen's associations and minority business association have been invited to testify.

THE SUPPLEMENTAL AIRLINE INDUSTRY

Mr. NELSON. Mr. President, I announce that the Subcommittee on Monopoly of the Select Committee on Small Business will hold public hearings next month on the decline of the supplemental airline industry in the United States. The hearings will begin at 9:30 a.m. on Wednesday, Thursday, and Friday, October 6, 7, and 8, 1976, in room 1114, Dirksen Office Building, Washington.

The Senator from South Dakota (Mr. ABOUREZK) has been designated to serve as acting chairman of the subcommittee for purposes of these hearings. The witness list and further details will be announced in the near future.

For further details, the committee offices at 424 Russell Office Building, Washington, D.C. 20510—telephone area code 202 224-5175—may be contacted.

ADDITIONAL STATEMENTS

THE COST OF KEEPING CONGRESS

Mr. TALMADGE. Mr. President, it is not at all uncommon—in fact, it is a very frequent practice for Members of Congress to fire verbal salvos against big government and the vast Federal bureaucracy that is sprawled all over Washington, throughout all the Nation, and in many parts of the world.

Now comes a study by the Tax Foundation, Inc., that one of the biggest, and the fastest growing, and the most costly operations in the Federal Government is Congress itself.

According to the Tax Foundation, the cost of running Congress has tripled since 1970. The congressional staff has increased 44 percent in the past 6 years, and that is where most of the money goes.

When we criticize the executive branch for excess and needless spending of the taxpayers' money, we ought to keep in mind that the taxpayers pay for Congress too. That was precisely the point I and other Members of the Senate tried to make about a year and a half ago when there appeared before the Senate an outrageous proposal for adding something like a thousand new staffers to Senatorial payrolls, at a cost of many additional millions of dollars.

We live in a time when the American worker has to spend about half a day every day on the job just to pay his taxes.

This of course is a result of runaway Government growth and spending. But, Congress is part of Government too, and we ought to be more diligent and careful with the taxpayers' money in our own operations.

I am in the process of reading the Tax Foundation's report, and I recommend it to my colleagues in the Senate and the House of Representatives.

Also, I ask unanimous consent that there be printed in the RECORD an editorial from the Washington Evening Star of September 16 on this issue.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE COST OF KEEPING CONGRESS

Anyone wondering why Congress keeps gobbling up Capitol Hill real estate might take a look at a study just released by the Tax Foundation, Inc.

According to the foundation, a non-profit research organization, Congress spent nearly $1 billion on itself during the last fiscal year, $925 million to be more precise. That is triple what it spent in 1970 and five times more than in 1960.

Growth of Congress' spending on itself has outpaced the increase in the overall federal budget (up 305 per cent since 1960) and the cost-of-living (up 93 per cent since 1960).

The biggest part of the increase has been for personnel. The congressional staff has grown 44 percent in the past six years, which accounts for the legislative sprawl over Capitol Hill. The help doesn't work for peanuts, either. Congressional staff salaries "are high by any standards," according to the foundation, which estimated the average income of Senate employes at $15,000 a year and House employes at $14,000.

The foundation calculated that it cost each man, woman and child in the United States about $4.30 last year to maintain Congress in the fashion to which it has become accustomed. At the rate things are going, it'll take another half-dollar in a year or so.

Based on the foundation's figures, we calculate it cost $1.7 million last year to keep each of the 535 members of Congress in business.

There's no real check on congressional spending. Congress controls the purse strings for all other federal agencies, but the only control on what Congress spends on itself is its own self-control. The House and Senate decide what their budgets should be and, said the Tax Foundation, "seldom, if ever, does either body challenge the operations of the other."

Perhaps the budget for congressional operations ought to be determined at auction. Put each member of the House and Senate on the block and let the people of the districts and states bid on what they think each one is worth. Would any one go for $1.7 million?

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1976

Mr. PELL. Mr. President, today the Senate will consider the conference committee report on the Health Professions Educational Assistance Act of 1976. This is a long-awaited and badly needed revision, improvement, and extension of Federal programs to support the education and training of capable young men and women in the health professions of medicine, osteopathy, dentistry, podiatry, veterinary medicine, optometry and pharmacy, as well as in programs of public health, and I would urge my colleagues to support it.

This legislation is the product of more than 3 years of hard work and honest compromise in the Senate and the House. As a member of the Senate Health Subcommittee and as an original cosponsor of the legislation which formed the foundation for this bill, I know how much time, energy, and careful thought have been put into reaching a workable agreement, and I commend both Senators KENNEDY and JAVITS for their leadership in this endeavor. This legislation addresses solutions to significant problems which have long troubled and impeded the educational process of health care professions in our country, and which have impeded the distribution of these graduates, both in terms of geographical distribution and in terms of specialization within their profession.

This conference bill makes some sound beginnings, and I believe it will provide the basis for further refinement of our health professions educational system in the future.

This legislation contains much that is of special interest to my own State of Rhode Island and to New England, and I would like to briefly describe some of these new programs.

The first broad area in which this bill makes improvements in existing law is in the area of financial aid to students in colleges of medicine, osteopathy, dentistry, podiatry, veterinary medicine, optometry, and pharmacy, as well as in schools of public health care. We have authorized three board programs of financial support to these students.

We will be providing capitation support to their schools of medicine, osteopathy, and dentistry, of up to $2,000 per student per year to assist these schools in defraying the costs of instruction. Without this capitation support, tuition in these schools would probably increase by $2,000 next year. Schools of veterinary medicine, optometry, podiatry, and pharmacy will receive assistance proportional to their costs of instruction under the capitation provisions of this bill.

Next we have authorized up to $200 million per year for medical school scholarships under the National Health Service Corps program to aid students and assure their service in the National Heath Service Corps after graduation. This provision will lead to a significant expansion of the National Health Service Corps to enable participating doctors to serve in "health manpower shortage areas." We have further improved the law by specifically defining these shortage areas so that they can be either urban or rural, and can even include institutions or public medical facilities which have a shortage of trained medical staff. A student who receives a National Health Service Corps scholarship will be expected to serve 1 year in a shortage area for each year of scholarship support that is received. This is a practical and fair method of assisting these highly committed students to attend medical school and also of assuring a better geographical distribution of medical care than is currently the case.

In addition we have established through this bill a large new program of guaranteed student loans for health professions students. We will be insuring up to $510 million of new loans each year, guaranteeing up to $10,000 per year with a $50,000 limit for students in colleges of medicine, osteopathy, dentistry, veterinary medicine, optometry, and podiatry and guaranteeing loans of up to $7,500 per year with a total of $37,500 for students of pharmacy.

Because of the Federal guarantee of repayment of these loans, students will not have to begin to repay the principal on them until 3 years after they have graduated from school, so that they can have time to establish their practice.

The second major problem we have approached in this legislation is the problem of having too many overspecialized doctors, and the lack of primary care, general practitioners, and family doctors among recent graduates of medical school. We take steps to guarantee that there will be more general practitioners and family doctors and proportionally fewer specialists, and we require that by 1979 at least 50 percent of all residencies which are affiliated with medical schools be for training in primary care practice and in general medicine.

I have received a great deal of comment from my constituents in Rhode Island on three other matters, each of which is addressed in this legislation.

New England is the only region in the country which does not have a college of veterinary medicine and consequently, students from my State have an extremely difficult time in attending veterinary schools in other sections of the country. This legislation provides two types of assistance to these highly qualified would-be veterinarians.

First of all it requires all colleges of veterinary medicine, as a condition of receiving Federal capitation support, to reserve 30 percent of the spaces in their freshman classes for students from States which do not have a college of veterinary medicine. Additionally, it provides, under a special project grant authority, funds for the development of regional health professions schools, such as the proposed New England College of Veterinary Medicine.

Another subject which has been of great concern to the residents of Rhode Island has been the wholesale influx to this country of foreign medical graduates who leave their own home nations to obtain the higher salaries and better training which is afforded here. This legislation would stop this exodus from countries which badly need their own doctors, by limiting the foreign medical graduates' stay in this country to 2 years in most cases and requiring a commitment from them to return to their country of origin after completion of this term of service.

Another group of students who have been too often neglected are U.S. students who, in order to pursue a medical education, find that they must leave this country and study at a foreign medical school. We have provided two types of relief for them in this bill. First of all, we have required American medical schools to participate in a national program to provide spaces for U.S. students studying abroad who, after their second year of study in a foreign school and after successful passage of part I of the National Board of Medical Examiners examination, wish to return to the United States to complete their studies at home. To assist in this return, we have provided an authorization of funds to American medical and osteopathic schools to assist in providing special supplemental educational training programs for these students upon their return and to assist the schools themselves in locating and enrolling these additional students.

Mr. President, this is a complex bill which begins to take some badly needed and long postponed steps to make medical education more broadly available to American students and to insure, in return for the enormous financial investment which the American taxpayer has made in this education process, that these would-be doctors and health care specialists reach out to every portion of our country, and serve people near their homes by providing family and general medical care, where and when it is needed. I urge my colleagues to fully support this bill.

A BALANCED BUDGET

Mr. CURTIS. Mr. President, I am unhappy, but not surprised, that the 94th Congress is nearing its close without any substantive move toward balancing the budget. On the contrary, Congress recently approved a budget resolution which calls for a spending level of $412.8 billion, and will create a Federal deficit of $50.8 billion.

No one seems upset about this continuation of inflationary policies. Yet this country may be on a suicide course, and I hope we can reconsider before pulling the trigger.

I would like to draw the attention of my colleagues to an article brought to my attention by a concerned constituent. It is a condensation of the book, "Dying of Money: Lessons of the Great German and American Inflations," by Jens O. Parsson.

It is the story of the devaluation of the German reichsmark following World War I and it is a story that bears remembering. It tells of unmanageable inflation caused by growing deficits in government spending. When German leaders began to attempt to bring the budget into balance, the inflation had become self-sustaining. In the words of the author, "the final convulsion * * * became a sheer nightmare."

It was a nightmare that set the stage for Adolf Hitler, and as the article points out, "What happened in Germany can happen anywhere."

We need a constitutional amendment requiring a balanced budget. We need such a discipline. No one opposes a balanced budget. But a lot of people do not want to balance it yet.

Mr. President, I ask unanimous consent to have the aforementioned article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The Risk of Uncontrollable Inflation: Lessons From Germany, 1921 to November 1923

When the debacle finally stopped in 1923, the old mark, which had once been worth a solid 23 U.S. cents, was worth one-trillionth of that. Money was worthless. It would buy nothing. All debts were effectively canceled, all mortgages were paid off, all bank accounts were useless. Nothing could be bought or sold.

The whole system ground to a halt. Factories closed. The middle class disappeared. Only barter was left. There were food riots and terrorism. Hitler's famous beer hall putsch of November 1923 was only one of many and not the worst.

How did it happen?

Germany started by not paying adequately for the 1914–1918 war by taxes. Instead, it covered its deficits with war loans and issues of new paper Reichsmarks. Scarcely one-eighth of the wartime expenses had been covered by taxes.

After the war, Germany and all the other combatants underwent price inflations which served as partial corrections for their wartime financing practices. The year 1919 was a year of violent inflation in every country, including the United States. By the spring of 1920, German prices had reached seventeen times their prewar level. From this point, however, the paths of Germany and the other nations diverged.

The other nations stopped their deficit financing and took their medicine by an acute recession in 1920 and 1921. Their prices fell steeply from the 1920 level.

Germany continued to inflate.

Prices in Germany temporarily stabilized and remained rock steady during fifteen months in 1920 and 1921. There was, therefore, no surface inflation at all. But the government had begun again to pump out money at a renewed rate. Germany's money supply doubled once more during this period of stable prices.

The catastrophe of 1923 was begotten not in 1923 or at any time after the inflation began to mount, but in the relatively good times of 1920 and 1921.

Easy money spread. There was a boom. Industry and business were going at fever pitch. Great fortunes were made by "profiteers." Unemployment became non-existent.

While many workers were able to keep up with inflation through union activity, many others fell behind and into real poverty. Salaried and white collar workers lost ground. Regional separatism was so strong it came close to breaking Germany into fragments. The crime rate soared.

The ratio of office and administrative workers to production workers rose out of all control. Incessant labor disputes and collective bargaining consumed great amounts of time and effort. Whole industries of fringe activities and middlemen sprang up. Almost any kind of business could make money. The boom had suspended the normal processes of natural selection. That was during the boom. After the boom all of this vanished.

Inexorably inflation had begun to stalk the boom. After holding steady for fifteen months preceding July 1921, prices doubled in the next four months and increased by ten times through the summer of 1922.

The government's actual deficits were relatively innocuous. The national budegt was closer to balance at the brink of the crash in 1922 than at anytime since 1914. But the inflation had become self-sustaining. The government was unable to refinance its existing debts except by printing new money.

The final convulsion, when it began, was at first bizarre, and then it became a sheer nightmare.

Beginning in July 1922, prices rose tenfold in four months, two hundred fold in eleven months. Near the end, in 1923, prices were at least quadrupling every week. In the end, the total real value of all the Reichsmarks in the world was smaller than it had ever been, a phenomenon which enabled the government's economists to argue that there was no true inflation at all, just numbers.

The new Rentenmark which was issued alongside the devalued Reichsmarks carried no real value except the naked avowal that there would be only so many Rentenmarks and no more. The Germans miraculously believed it, and still more miraculously it turned out to be true.

The granddaddy of all credit squeezes followed Dr. Schacht's order of April 7, 1924 which stopped all credit from the Reichsbank. Inflation was finally stopped.

Unemployment temporarily skyrocketed. Government spending was slashed, taxes raised, working hours increased and wages cut. Almost 400,000 government workers alone were discharged. The shock to the German people of the final inflation followed by unemployment was so great that in the election of May 1924, six months after the close of inflation, millions of voters flocked from the moderate center parties to either the Communists or Nazis on the extremes. These parties gained dramatic strength.

Germany very quickly began to feel better economically, however, as the stabilization medicine did its work. New elections only seven months later, in December 1924, repudiated the Nazis and Communists and restored the strength of the middle class parties.

Schacht warned against relying on foreign loans. He was ignored. The revival was based to a significant degree on foreign loans. The world depression which followed 1929 knocked debtor Germany flat again, and Hitler followed close behind.

The expansion of Germany's money supply always led the way in the inflation. When it abated temporarily, the inflation abated temporarily. When it stopped permanently, the inflation stopped permanently.

The above background on the German inflation of 1920–23 is an authorized condensation of the first chapter of the book, *Dying of Money: Lessons of the Great German and American Inflations,* by Jens O. Parsson, published by the Wellspring Press, Boston, 1974, Library of Congress Catalog Card Number 73-92727.

What happened in Germany can happen anywhere. If the money supply grows faster than outut of real goods and services, there will inevitably be an equivalent inflation sooner or later, usually after a lag and a temporary boom.

All politicians who wish to cure unemployment by an increase in money supply, please take notice. It can happen again.

—BRUCE D. HENDERSON.

LABOR-HEW CONFERENCE REPORT

Mr. LAXALT. Mr. President, last Friday the Senate passed a motion to concur in the House amendment, thus resolving the issue of whether the Federal Government, through the medicaid program, should pay for abortion. While I supported the amendment as the only reasonable solution to one of the most trying issues of our day, I wish to make clear that I remain opposed to the excessive sums appropriated in the conference report.

In presenting his budget to the Congress, the President requested $52.6 billion for the Department of Labor, HEW, and other related agencies; as passed by the Congress this bill appropriates $4 billion more than that request. While that amount is somewhat less than the sum appropriated by the Senate, which I voted against, it remains, in my view, totally unacceptable.

Clearly, the Federal Government does have responsibilities in the vital areas of health research and care, a more dignified life for our elderly, expanded opportunities for the handicapped, educational opportunities for our young people, and in a host of other areas. However, we in Congress have an equal responsibility to the citizenry at large to pass legislation which we can afford. I find it most ironic that during an election year amid all the pledges to reduce Federal spending, to balance the budget, to control the size of the Federal establishment, legislation which will promote precisely the opposite ends, passes so easily.

The specific deficiencies of this legislation were well stated in the minority views to the House report. First, this bill will increase the reliance of local officials and individuals on Federal sources, thus stifling the ability of those same persons to meet the problems at hand. Second, it will perpetuate programs which have either largely accomplished their intended effect or yielded a return not commensurate with our investment. Third, this bill will either increase the already enormous tax burden on the American people or inflict similar damage through the ravages of inflation.

Mr. President, this bill is based upon the same false assumptions and misguided thinking which has pervaded the Congress for so many years. It is with the deepest conviction that I register my opposition to it.

WORLD CHAMPION OYSTER SHUCKER

Mr. MATHIAS. Mr. President, on September 8, Cornelius Mackall came home to Prince Frederick, Md., bringing to this country the International Oyster Opening Championship. Six nations were represented in the contest, held on September 7 in the village of Clarenbridge, County Galway, Ireland.

Mr. Mackall had spent a week in County Galway, practicing with Galway Bay oysters. He is a shucker by trade, but he had never opened a Galway Bay oyster, his expertise having been developed in the shucking of the famous Chesapeake Bay oyster. Martin Neyland, the Irish champion, took Mr. Mackall in hand and instructed him in the intricacies of prying open the local oyster.

On September 15 the Maryland Independent ran a story by Dick Meyers, reporting on Mr. Mackall's triumph. As his success redounds not only to Maryland but to the country, I think it appropriate to apprise my colleagues of the recent contest in Ireland, and I ask unanimous consent that the story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOCAL OYSTER SHUCKER BECOMES WORLD CHAMP

(By Dick Myers)

Cornelius Mackall, 30, of Prince Frederick, became the International Oyster Opening Champion on Saturday afternoon, at the 22nd annual event in the village of Clarenbridge, County Galway, Ireland. Mackall went up against contestants from five other countries; Ireland, Canada, Brittany (in France), Switzerland and Holland.

The contest was made up of two parts, speed and presentation. After the speed portion of the event, Mackall was in third place. The Irish Champion, Martin Neyland shucked 30 oysters in two minutes and 33 seconds, with the Canadian representative second with three minutes and 11 seconds. Mackall was a close third with three minutes and 15 seconds.

The presentation segment was judged without knowing which country they were looking at. Unlike the St. Mary's County Contest, the International event requires the shucker (or as they are called in Ireland, the opener) to leave the oyster in the half-shell. The membrane has to be cut and the oyster placed on a tray ready for eating by the customer. Points are added for chipped shells, improperly cut oysters, and for placement on a tray.

It was thus in the presentation section that Mackall won the contest. He was only docked 24 seconds while Neyland was penalized one minute and eight seconds and Smith 45 seconds.

The announcement of the winner was a popular one for the more than 1,000 people in attendance in a large tent behind Paddy Burkes Oyster House and Pub. The contest has been held at Burke's for a number of years, appropriately, because it was at Burke's that the Galway Oyster Industry began. The handfull of Americans in attendance were joined by the partisan Irish crowd in singing the National Anthem and several other American songs.

Mackall had been in Galway all week practicing for the big event. The Galway Bay oyster is quite different from the Chesapeake Bay oyster. It is smaller, and its shell is more fragile. Because of the size, Mackall had to cut down the size of the glove he used in the contest. He also took his shucking knife to a blacksmith and had it shortened slightly. Mackall is a shucker, waterman and farmer by profession. He works during the season for Joseph Dutton of the Warren Dutton and Sons Seafood Company of Broomes Island.

"Morans, The Weir" is a small pub and oyster bar located back a winding country lane, several miles from Paddy Burkes. It was at Morans, that Mackall was introduced to Willie Moran, last year's Irish champion. Willie, and his brother John, and this year's champ Martin Neyland, took Mackall under their wings and showed him their methods of opening the oyster, a tutoring which eventually was helpful in the win, according to Mackall.

While Mackall was learning how to open a Galway Bay Oyster, Lexington Park Rotary Club representative Bert Fenwick, who is also President of the St. Mary's County Chamber of Commerce, was meeting with his fellow Rotarians and also with the Festival Committee. Fenwick was hopeful that he could persuade the Committee to create an ongoing exchange between the two Oyster Festivals.

After the contest on Saturday, the offer was made for the Irish champion to be sent to the St. Mary's County Oyster Festival. Fenwick offered for the Rotary to pay for his stay in America, if some organization in Galway would pay for the trip over. Fenwick was hopeful that at least one other person would accompany Neyland on the trip.

At a closing banquet Saturday evening at the Great Southern Hotel in downtown Galway, the mayor of the city, Jerry Colgan, appeared to take Fenwick up on his offer. Colgan says he would like to visit St. Mary's County on his next trip to the United States, which is expected soon. Fenwick would also like Galway's tourist promotion officer to come to the county.

Fenwick feels the communities have much in common, and that an exchange would be mutually beneficial to both, not only for promotion of both Oyster Festivals, but also for tourist and industrial promotion. Fenwick feels that for a small amount of money, a large amount of return can be the outcome.

The presence of the St. Mary's County contingent in Galway, and Mackall's winning the contest did generate considerable publicity for St. Mary's County. Galway's major weekly, the "Connact Tribune," had a front page story in last week's edition. The Tribune's circulation is 30 thousand and about ten per cent of that circulation is distributed outside of Ireland to persons who have left the area, to live in America or the continent. Over one hundred of the papers are sold over the counter at newsstands in New York City.

Fenwick and Mackall were interviewed by the National Radio of Ireland and the interviews appeared on an evening newscast. In addition, the National Television station taped the oyster shucking contest for later use. Stories also appeared in the Sunday Dublin newspapers, all of which are circulated across the entire country of over three million people.

The total cost of the week's stay in Ireland was five hundred dollars out of taxpayers' money, with the rest of the cost being absorbed by the Rotary Club. The contingent stayed at the home of John Buckley in Spiddal for the first two nights and then stayed at a motel in Galway.

Mackall returned to the United States on Sunday and was enthusiastically greeted by his wife, son, and Mr. and Mrs. Joseph Dutton. He intends to enter next month's United States Championship at the St. Mary's County Oyster Festival, October 9 and 10. He hopes that Irish Champion Neyland will be at the contest, so he can reciprocate, and teach Neyland about opening Chesapeake Bay Oysters. Mackall says, however, that he would love to return to Galway next year.

SYNTHETIC FUELS COMMERCIALIZATION PROGRAM

Mr. JACKSON. Mr. President, the General Accounting Office recently issued a report to Congress entitled "An Evaluation of Proposed Federal Assistance for Financing Commercialization of Emerging Energy Technologies." Of particular importance to Members of Congress is the conclusion made in the report that synthetic fuels production, when analyzed by an incremental cost standard, is not cost-effective. Last year the Senate enacted a loan guarantee program to stimulate the commercial development of, first, synthetic fuels from coal and oil shale; second, energy from solar, biomass, geothermal, municipal solid waste; and third, more enenergy-efficient conservation methods. That program which was incorporated by the Senate as a part of the fiscal year 1976 authorization bill for ERDA was deleted during consideration of the conference report in the House of Representatives. The House is about to consider another loan guarantee bill (H.R. 12112) which is similar to the measure enacted by the Senate last year. In the event that measure passes the other body the Senate will have another opportunity to consider a loan guarantee program of the magnitude called for in last year's ERDA authorization bill.

Because the GAO report raises certain questions regarding a loan guarantee commercial demonstration program for synthetic fuels, I asked the Administrator of ERDA to examine the GAO report and to provide the Interior Committee with ERDA's comments. For the information of the Senate, I ask unanimous consent that the response I received from ERDA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 9, 1976.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: In response to your request of August 31, 1976, to Dr. Seamans for ERDA's comments on the recent GAO report, I am enclosing the following materials which we have prepared:

1. A letter from Dr. Seamans to the Comptroller General summarizing ERDA's major concerns with the GAO report.
2. A copy of testimony presented last week to two House committees, again outlining the major problems ERDA found with the GAO report.
3. A detailed point-by-point critique by ERDA of the GAO report.

As you will find from these materials, it is ERDA's general view that the GAO report does not present the results of any new objective analysis but rather presents a one-sided viewpoint as to how our Nation can meet its future projected energy short falls.

If you require further information regarding ERDA's views on the GAO report, please let us know.

Sincerely,
WILLIAM T. MCCORMICK, Jr.,
Director, Office of Commercialization.

WASHINGTON, D.C.,
August 19, 1976.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office.

DEAR MR. STAATS: ERDA has reviewed the draft GAO report entitled "Are There Better Choices?" which is concerned with Federal proposals to finance the commercialization of advanced energy technologies.

We are deeply concerned about this report because it presents strong conclusions and recommendations to the Congress without a sound underlying basis of analysis supporting them. The draft report represents in our view a presentation of a point of view rather than any new, independent analyses of alternatives.

This lack of underlying objective examination is particularly important since the opinions expressed in the report have implications not only with respect to important legislative proposals now pending before the Congress for synthetic fuels and other technologies, but also with respect to the broader matter of the overall balance among ERDA's energy, R D&D programs.

In particular, I wish to call your attention to the following major concerns which we regard as serious deficiencies in the draft report:

1. In arguing that it is not necessary to provide now a Federal guaranty program for synthetic fuels, GAO has used for its analysis a very optimistic estimate of the future effects of conservation (i.e., Ford Foundation technical fix case) and coupled this with an equally optimistic high estimate of domestic conventional oil and gas production in the year 2000 (20 million b/d greater than today's domestic production). We believe such unrealistic demand/supply cases cannot prudently be used as a basis for national energy policy. Nevertheless, even using such optimistic projections, the GAO report still admits to a substantial synthetic fuel production requirement beginning in the 1990's if we are to avoid a further increasing dependence on foreign oil. With this requirement, lack of certainty as to the future price and availability of imported fuels, and with the long lead times associated with the growth of such a large new capital intensive industry, uncertainty facing investment must be resolved by the middle 1980's if we are to maintain a capability to have plants in operation in the early 1990's. This means that we cannot delay taking action now to obtain needed information regarding the environmental, regulatory and overall economic characteristics which can affect the commercial viability of this option.

2. The GAO draft report has numerous assertions about the favorable comparative economics of new and emerging conservation and renewable energy resource technologies vis-a-vis synthetic fuels. Such discussion is hardly germane to an evaluation of synthetic fuels technologies. Indeed, ERDA shares GAO's enthusiasm concerning the attractive features of conservation and renewable resource technologies. However, even if these technologies are very rapidly introduced, they, by themselves, cannot obviate the indicated need in the 1990's for substantial quantities of synthetic fuels, or alternatively, continued imports.

3. The GAO report fails to either present or analyze the underlying rationale for the financial incentive program for synthetic fuels and other technologies embodied in H.R. 12112. Repeatedly, the draft GAO report characterizes this program as one which is aimed at augmenting domestic fuel supplies through subsidized synthetic fuel production. While one effect of the program would be to supplement domestic fuel supplies by some modest amount, the primary purpose of the program is to maintain the option to develop a synthetic fuel industry that can meet a projected demand in the 1990's of several million barrels per day of synthetic liquids and gaseous fuels. The quaranty program, therefore, is designed to acquire critical information and, to the extent possible, resolve at an early date regulatory, environmental, financial, political and other barriers which may preclude later private sector investment because of the lack of information concerning the commercial viability of these plants. The Nation's experience with commercializing nuclear power has demonstrated that early attention to these matters is essential to preclude later delays. The report continually refers to a production program which "chooses" or "commits" to synthetic fuels. Such choices, as we see it, are to be made by the Nation, not today, but at a later date. The Synthetic Fuels Commercialization Program is designed to provide a needed meaningful basis for that decision, not to preempt it.

4. The draft GAO report compares the costs of snythetic fuels with *today's* price of imported crude oil and today's regulated price of natural gas. We believe the price of synthetic fuel products should be compared with the price of *future* alternatives against which they will compete beginning in the late 1980's. They should also be compared with products that will realistically compete in the end use markets which they are likely to serve. For example, synthetically produced gas from coal should be compared with alternatives to natural gas such as Alaskan gas, LNG (now priced at about $3 per million Btu) and gas made from petroleum products, as well as higher priced depleting domestic conventional resources. When these comparisons are made, one finds that these other alternatives to natural gas are projected to be equally expensive and even more expensive in the case of gasification of petroleum products which is already occurring in the U.S. While over the next 20 years some substitution for natural gas will occur among electric utilities and large industrial users, we see no way in which these conversions can be assured to be large enough to offset a steady or rising demand for liquids and gaseous fuels and a steadily declining domestic supply.

5. In Chapter 5, we found the comparisons of alternative Federal financial incentives to lack objectivity and to be without a systematic basis for comparison. For example, the incentive analysis did not contain criteria against which the incentives were compared. Furthermore, although advantages and disadvantages were cited for some incentives, in the case of loan guarantees the disadvantages were cited without noting some of the major advantages. Also in the case of tax incentives which were later recommended in the report for accelerating the introduction of conservation technologies, the report did not cite any major disadvantages, not the least of which is the permanent status tax subsidies generally assume and the general failure of tax incentives to be focused on individual projects. We continue to believe that in many situations where capital availability and project scale relative to the sponsor's net worth are the major financing problems, that loan guarantees are the most effective, efficient, and least costly financial tool available to the Government.

Finally, we believe that the draft GAO report is so substantially lacking in analysis and information supportive to its conclusions, that publication of the report would only serve to confuse and further obfuscate the issues discussed. Furthermore, the publication of the report in anything near its present form will be damaging to the early implementation of our needed energy supply programs.

My staff has transmitted more detailed concerns regarding the report in the nature of factual, editorial and judgmental material.

Sincerely,

ROBERT C. SEAMANS, Jr.,
Administrator.

STATEMENT OF DR. WILLIAM T. MCCORMICK, JR., DIRECTOR, OFFICE OF COMMERCIALIZATION, U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION BEFORE THE COMMITTEE ON SCIENCE AND TECHNOLOGY AND THE SUBCOMMITTEE ON ENERGY AND POWER OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, AUGUST 30, 1976

Mr. Chairman and Members of the Committee: I am pleased to be with you today to provide ERDA's views on the recently released GAO report entitled, "An Evaluation of Proposed Federal Assistance for Financing Commercialization of Emerging Energy Technologies." Attached to my testimony is a letter from Dr. Robert Seamans to the Comptroller General summarizing ERDA's major concerns about the GAO report. In addition, as attachment two, we are providing the Committee a detailed critique of the GAO report.

Mr. Chairman, in general we are deeply concerned about this report because it presents strong conclusions and recommendations to the Congress without any substantial underlying basis of analysis. The report represents, in our view, a discussion of a particular point of view rather than the result of an objective analysis of real energy alternatives for the Nation.

In our review of the GAO report we have found no analysis which seriously questions the basic rationale for undertaking a limited commercial demonstration program for synthetic funls and other energy technologies such as is embodied in the legislation considered by this and other committees; i.e., H.R. 12112. There are several major points in this regard. First and most important is the national need for synthetic fuels and the timing of such need. Second, is the question of whether or not Federal financial assistance is needed and last is the issue of the least costly and most efficient form of such assistance. Let me address each of these issues separately.

NEED FOR SYNTHETIC FUELS

With respect to the need for synthetic fuels, several facts should be clearly kept in mind. First, is the fact that domestic production of oil and natural gas peaked in the early 1970s and continues to decline. A second fact is that imports of foreign oil have been steadily rising over the past 15 years. Just before the Arab oil embargo of October 1972, 29 percent of all oil consumed in the U.S. was imported; today, that figure exceeds 40 percent. As pointed out last week in a New York Times editorial, we have as a Nation developed an alarming complacency with respect to our growing oil import dependency.

Now consider the future. All major forecasts of domestic supplies of oil and gas project that even with complete decontrol of oil and gas prices, vigorous exploration and development of our Outer Continental Shelf and Alaskan resources and extensive use of tertiary oil and gas recovery technologies, domestic conventional oil and gas production will resume its decline some time in the late 1980s or early 1990s. This means that even assuming rather optimistically that conservation efforts can reduce total demand growth for energy from the historical rate of over 3 percent to 2 percent, the requirement for synthetic fuels in the mid-1990s will be on the order of four to five million barrels per day. If this capacity of synthetic fuels is not available then the only other alternative for the Nation is to import more Arab oil at an unknown cost both in economic terms and national security terms. The GAO report fails to make this clear. It also fails to admit that a consensus exists among major forecasters—FEA, ERDA, the Synthetic Fuels Task Force, the Ford Foundation's Energy Project and Bankers Trust—that it is less than two decades before this country will require a new domestic industry to supplement our dwindling conventional oil and gas supplies if we are to avoid large increases in imported oil. The report does not recognize that even vigorous conservation measures cannot obviate the need for either substantial increases in oil imports or substantial production of domestic synthetic fuels. This choice is clear, it is simple and it is unavoidable.

NEED FOR FEDERAL ASSISTANCE

The second major issue is the question of whether Federal financial assistance is needed to lay the foundation for initiating and industry which might need to grow to a capacity of five million barrels per day by 1995 and ten million barrels per day by the year 2000. Bear in mind that five million barrels per day implies 100 major plants and ten million barrels per day implies 200 plants. If we started today to build this industry, it would have to grow at a compounded annual rate of 17 percent per year to meet these projected capacity requirements. Such a sustained growth rate for a large capital intensive industry is, by all measures, an enormous undertaking. One only needs to consider the present contribution of nuclear power 20 years after the first commercial power reactor in Shippingport, Pennsylvania came on line in the late 1950s. Today, two decades later, nuclear power is providing only 9 percent of our electricity generation although its contribution is projected to grow to 45 percent by year 2000. The point of this comparison is that there are long lead-times in launching a completely new industry.

Questions have been raised concerning the comparative economics of synthetic fuels and industry attitudes toward making the investments in these technologies. We believe that, in general, the prices of synthetic fuels are close to being competitive today with foreign oil and with alternatives to natural gas such as imported LNG and conversion of naphtha into gas. Both are expected to be more expensive than coal gas and less reliable because they must be imported. The GAO report incorrectly compares the estimated prices of synthetic fuels with regulated well-head gas prices and imported crude oil. The report should have compared the price of synthetic fuels with the price of alternatives with which they would compete at the margin. For example, while it is true that regulated interstate gas prices are presently at $1.42 per million Btu's this gas, which is the cheapest of all domestic gas supplies, provides only a fraction of the total domestic gas requirements—a fraction which is continuing to shrink. This means that an increasingly large share of gas consumed must come from higher priced alternatives of which synthetic fuels is one. Failure to recognize this fact is a serious deficiency in the GAO report. A second major deficiency in this connection is the implied assumption of easy substitutability of one fuel type for another. The country has over $100 billion invested in its gas transmission, distribution and end-user equipment systems. In economic terms this means that keeping the gas pipelines full even with higher priced gas alternatives will in many cases be cheaper for the American consumer than retrofitting to accommodate electricity or imported oil. In any case, such substitution would occur only gradually and its extent, effects, and cost have been ignored in the GAO report.

Without Federal assistance, it is clear from numerous witnesses before this and other committees that the environmental, regulatory and political uncertainties are such that potential investors are faced today with major financial risks and will not make commitments to synthetic fuel plants. These risks stem from the absence of any domestic experience with the construction and operation of synthetic fuels plants. Even through in many cases the technology is well in hand and entails minimal risk, a major synthetic fuel project faces serious potential delays and even non-completion simply because the regulatory rules have not yet been agreed upon. So although industry may see the future need for synthetic fuels and view the technology as likely to be competitive in the near future, investors simply will not commit the necessary huge sums without some risk-sharing in the case of the first few plants. The recent announcement last week by the Secretary of Interior of the suspension of development of the two richest oil shale lease tracts in Colorado further illustrates the fragile nature of these initial projects. The companies involved complained of a plethora of environmental, legal and other uncertainties in the development of oil shale leases.

TYPE OF FINANCIAL ASSISTANCE

The last major issue is simply which financial incentives are most effective and least costly to accelerate the construction of these plants. Bear in mind that the proposed synthetic fuels program is not an effort to permanently subsidize the ongoing production of synthetic fuels but rather a carefully limited demonstration of a critical number of "first-of-a kind" plants.

Last year the Interagency Task Force on Synthetic Fuels under the President's Energy Resources Council analyzed, for each major snythetic fuels technology, the comparative costs and benefits of each major incentive type including loan guarantees, direct loans, price guarantees, purchase agreements, tax incentives, etc. We believe this analysis forms a comprehensive basis for the legislative proposals contained in H.R. 12112 and the Banking Committee amendments. While the GAO suggested that loan guarantees are not an effective or preferred approach, again there is no analysis to dispute the recommendation for loan guaranties made in the Synthetic Fuels Interagency Task Force's extensive analysis.

In summary, the GAO report consistently understates the future requirements for synthetic fuels and overstates the degree to which conservation and renewable energy resources can satisfy this future energy gap. We believe that the GAO assertions regarding relative cost effectiveness of various technologies are without basis and are nowhere supported in the report. We further believe that GAO's assertion that synthetic fuels production is not cost effective is erroneous because it fails to recognize the future sources of supply and likely costs of alternative energy sources. Finally, we strongly urge the Congress to reject GAO's recommendation that "government financial incentives for commercial development of synthetic fuels . . . not be provided at this time." The conclusion is unsupported and clearly not in the best interest of a prudent National energy program.

Mr. Chairman, this completes my prepared remarks. I will be pleased to answer any questions that you or other members of the Committee may have.

ERDA—Page by Page Comments on GAO Report

Page i, para 4: In making the "right" choice among financing mechanisms, GAO has ignored as criteria the factors of risk, credit and rate of return. These were carefully evaluated by the President's Task Force last year, but are not even addressed in the GAO report.

Page ii, Para 3: ERDA agrees that the nation should explore all promising supply and conservation alternatives. However, the agency believes that conservation alternatives, even if aggressively pursued cannot obviate the need for substantial quantities of synthetic fuels in the early 1990's. This conclusion is supported by all major supply/demand analyses in recent years.

The reference to the slowdown in the rate of growth in demand for energy is largely due to the post-embargo measures and more recently the national and world recessions. However, this year demand is rising rapidly as evidenced by the Edison Electric Institute figures (see August 16 Wall Street Journal) of a growth of 5.2% in electricity demand in the first 32 weeks of this year.

The GAO emphasis on conservation does not take into consideration how much of the potential for price-induced conservation has already been captured.

Page ii, para 4: The GAO conclusion that certain conservation measures are the most cost-effective and others are more cost-effective than synthetic fuels is based on an "appearance" (last line) rather than on a sound analytic analysis. Neither the measures of cost-effectiveness are discussed in the report nor are the quantitative comparisons shown.

Page iii, para 1: This is the first of several instances in which all synthetic fuels are asserted to be not cost-effective when the cost of their output is compared to that of foreign oil.

Two points must be made:

1. The economic comparison of high Btu gas produced from coal with alternatives should, as is later noted in the report, use LNG and synthetic gas from naphtha as the alternatives rather than imported oil. These are the real alternatives that are available.

2. Where oil is the appropriate competing fuel the economic comparisons should be made as of the time that the synthetic fuel plants come into operation in the early 1980's rather than at the present time. All major forecasts project world oil prices to continue to rise.

Page iii, para 3: The GAO questions the prudence of ". . . any national commitment . . ." H.R. 12112 does not represent a commitment but rather a preservation of the option to proceed in a timely manner with development of a synthetic fuel industry to meet the projected requirements of about 5 million barrels per day in 1995.

Page iii, para 4: This paragraph appears to confuse the economic evaluation of emerging technologies on an incremental (or marginal) basis with the later pricing of the output of such plants on an incremental versus a rolled-in pricing basis. In any event, the administrative analysis showing the desirability of synthetic fuels was not based on rolling in these products.

Page iv, para 6: The GAO report makes the statement ". . . the projected prices are not competitive with existing or other emerging energy sources." ERDA believes that high Btu gas is now competitive with existing higher priced alternative sources such as LNG and naphtha conversion. Moreover, at least one potential builder of a shale oil modular plant (Union Oil) indicates that the output of the plant will, with only a government loan guaranty, be competitive with existing world oil prices.

Page v, para 2: The possible 15% cost reduction which the GAO report cites, would be applicable only to that part of the investment which represents process technology. Infrastructure, socioeconomic impact assistance, financing costs, and other elements which are insensitive to the specific coal conversion process used will not be affected.

Page v, para 3: ERDA does not agree that it is possible to gain the information sought by the H.R. 12112 program from smaller plants under government control. Only commercial-scale plants operating in the private sector will acquire a credible body of information addressing the environmental, regulatory, socioeconomic, and other uncertainties which restrain private investments without Federal assistance. GAO has not presented any evidence suggesting that the information desired from the commercial demonstration program can be obtained any other way.

Page vi, para 2: The GAO report recommends that Congress ". . . place the highest priority on . . . obtaining better cost/benefit data on the whole range of conservation opportunities." This directly contradicts the numerous assertions in the GAO report about the "cost-effectiveness" of conservation opportunities.

Page 1, para 1: The GAO report does not recognize that the purpose of H.R. 12112 includes commercialization of renewable resources as well as synthetic fuels and demonstration of energy efficient facilities and equipment.

Page 1, para 3: This paragraph states that ". . . the price of synthetic fuels is almost certain to be higher than the price of energy produced from traditional energy sources, . . ." This assertion is presented without supporting analysis. ERDA believes the assertion to be not true with regard to synthetic high Btu gas which ERDA now believes to be competitive with the alternative sources of LNG and synthetic gas from naphtha. Although it appears, with regard to non-high Btu gas synthetic fuels, to be at least partially true now, and may remain so in the near-term, the correct timeframe for this analysis is the post-1985 period when synthetic fuels will begin to be ready for substantial market penetration. Further, this discussion ignores the dimensions of risk, credit, and uncertain world oil pricing, and the part that they play in discouraging private sector investment in synthetic fuel.

Page 2, para 4: GAO lists three factors which they believe to be important in ". . . determining the incentive which would 'best' stimulate a particular energy or conservation technology. . . ." A fourth factor which ERDA believes to rank equally with these in importance is the assessment of the financial barrier to be addressed by the incentive, i.e. is the financial incentive needed because of risk, credit limitation, or a rate of return problem?

Page 3, para 1: The GAO report states that ". . . no one bill . . . considers all costs associated with development. . . ." It fails to note that H.R. 12112 covers a broad range of technologies and requires consideration of all costs associated with development including socioeconomic and environmental costs.

Page 5, para 3: The GAO report states that the recent and perceived reduction in historical energy growth rates indicates that ". . . conservation actions may buy time to fully consider tradeoffs and make choices. . . ." A large part of the observed and perceived reduction is the consequence of conservation resulting from post-embargo and one-time measures, the sharply increased price of energy, and the recent world and national recessions. The reductions have reduced the severity of the problem somewhat, but they have not eliminated it. ERDA is of the opinion that the Nation is not yet in a position to make choices and must maintain the integrity of all of our major options. If synthetic fuels demonstrations are not vigorously pursued now, there is no way we can meet the projected demand of the 1990's.

Page 7, para 4: The table on page 8 is described in the GAO report as illustrating ". . . the range of choices available for the United States energy future. . . ." It should be noted that even in Scenario I which is an optimistic case for the effect of conservation measures, that oil imports would rise in year 2000 to 21 quads. This clearly demonstrates that even with aggressive conservation and renewable resource development, these measures cannot obviate the need for synthetic fuels if we are not to increase our foreign oil dependence. In fact, all of the major supply-demand analyses including FEA's and the Ford Foundation scenarios all project a substantial requirement for synthetic fuels by the end of the century, if we are not to increase imports.

Page 9, para 1: ERDA agrees with GAO's assertion that both emerging supply and conservation technologies have vast potential, but disagrees with the implication that the requirements for increased imported oil and gas can be made up through conservation and application of renewable resource technologies. These approaches are not focused toward ameliorating the "liquids and gaseous fuels gap." Elsewhere in the report, GAO also fails to address the makeup of demand by energy sector.

Page 9, para 3: Many conservation technologies are described in this paragraph as being ". . . potentially cost-effective alternatives to developing new energy supplies. . . ." On page ii, such technologies are asserted to be cost-effective. Nowhere in the GAO report is this assertion substantiated by analysis.

Page 9, para 5: This paragraph cites "estimates" of the Ford Foundation Technical Fix scenario. As previously noted, these are not really estimates, but rather boundary conditions. Further, the Ford Foundation Technical Fix scenario is generally regarded as being highly optimistic with regard to the effects of conservation and is conceded by GAO to be "dated" at this time. Finally, even granted that the savings which appear in this scenario could be achieved, there is still a large deficit in liquid and gaseous fuels in the millions of barrels that must be met by either imports or synthetics in the mid-1990's.

Page 10, para 4: This paragraph compares natural gas production in ERDA Scenarios I and V with a GAO report. The GAO report expects natural gas production to decline to levels well below those of Scenarios I and V. The nation's need for synthetic high Btu gas or imports of LNG will be even greater than ERDA or FEA projects to the extent that GAO's expectation proves correct, or alternatively, will require higher expensive and possibly unmanageable fuel switching by consumers.

Page 11, para 5: This paragraph states that ". . . certain solar technologies appear to be cost-effective on a life cycle basis. . . ." Page ii states that these are cost-effective. Further, since no analysis is presented it is not clear what life cycles are being compared and what fuel prices are being assumed in the comparison. ERDA believes that with the possible exception of solar hot water heating in certain parts of the country, * * *

Page 12, para 2: This paragraph and those which follow quote ERDA's plan with regard to energy conservation. ERDA believes that the quotations cited are correct. It is important, however, to understand that ERDA's plan still envisions the need for aggressive development of the synthetic fuels options because all energy saved is not in the form of oil or natural gas, and that the focus of the synthetic fuels program is on oil and gas.

Page 13, para 3: The GAO report states "The physical potential for energy conservation has been estimated in a number of studies. However, the questions of how much of the potential can be realized, in what timeframe, at what cost, and with what approaches, requires much more examination." ERDA agrees with this observation.

However, page ii states "GAO concluded that certain conservation measures are by far the most cost-effective way to 'produce' energy and therefore should have the top priority for government financial assistance." It is hard to reconcile these two statements.

Pago 13, para 4: GAO characterizes the Ford Foundation's Energy Policy Project as "dated" and as providing "useful estimates". Despite this, GAO leans heavily on it as a basis for its conclusions.

Page 15, para 1: GAO states that insulation retrofitting is "cost-effective in 'tens of millions' of American houses". This statement is made without backup or analysis.

Page 15, para 5: The Ford Foundation Technical Fix and Historical Growth scenarios are described as "projections". As previously noted, the Ford Foundation report disclaims this and calls them only "possible energy futures" and states that ". . . they are illustrative, to help test and compare the consequences of different policy choices . . . and it is not likely that the real energy future will closely resemble any of our scenarios."

Page 16, para 2: In this paragraph and many which follow that describe conservation savings, a statement is made regarding the level of energy consumption without Federal action. These statements are ascribed by GAO to the Ford Foundation Technical Fix. These statements contain phrases such as "would grow" or "is expected to grow to". It should again be noted that Ford disclaims any claim to prediction.

Page 16, para 4: The use of the words "can" and "could" are very significant. It does not appear that consumers are implementing the strategies outlines (such as setting back thermostats) to nearly the extent needed to achieve GAO's quoted savings.

Page 19, para 3: This paragraph and the following one are concerned with savings in the electric utility sector. The fifth paragraph on page 22 notes certain institutional barriers which stand in the way of achieving certain conservation goals. GAO fails to mention the role of state regulation in electric utility conservation as it is a formidable barrier to achieving the conservation goals established.

Page 20, para 4: The statement is made that "many of the conservation strategies discussed above are cost-effective today". This contradicts previous paragraphs in which uncertainty was expressed regarding the costs and benefits of conservation strategies. Further, here as in other statements of a like nature, the assumptions and analysis underlying the statement are not presented. There are, of course, many conservation strategies such as lowering the thermostat or turning off the lights which would be cost-effective since their cost (to the consumer) is zero. These measures are necessarily voluntary and recent experience suggests that they cannot be sustained over a long period of time. With regard to others of a lasting nature, such as home insulation, we do not feel that most of the analyses properly account for the personal discount rate which consumers, particularly homeowners, apply to a proposed investment.

Page 21, para 4: GAO states that ". . . many potential energy conservation actions are now cost-effective." Later in this same paragraph GAO states there is a ". . . lack of incentive for many users to improve their energy efficiency." It is difficult to reconcile these two statements.

Page 22, para 3: GAO asserts without supporting analysis that ". . . the total life cycle cost of buying and operating an energy efficient house, car, appliance, or other product would be lower." This statement, like other similar ones in the report, carries with it embedded assumptions about the life of the equipment and of future prices of competing fuel systems. Such analyses are also, as noted above, sensitive to personal discount rates.

Page 24, para 2: The statement is made that "However synthetic fuels technologies appear to us to be the only ones which could need all three levels of financial assistance, front-end money, construction assistance, and product price support". The word "could" puts the assertion of the quotation beyond debate, but one could as easily have said could not. It is important to note that "front-end" money for socioeconomic impact assistance would be needed for only four to six large-scale, synthetic fuel plants which are expected to be built in remote areas.

Product price supports will not be needed for plants, such as high Btu coal gasification, which produce regulated fuels but might be needed for plants producing unregulated fuels. In this regard, the words "product price support" implies the need for a product price differential above predicted world price to be paid. With the possible exception of industrial fuel gas, product price guaranties (the preferred term), where required, will serve as a protection against aberrant pricing of world oil and not to provide a production cost subsidy.

ERDA disagrees with the assertion in this paragraph that synthetic fuels technology cannot compete with conventional energy sources. ERDA believes that high Btu gas presently competes successfully with its alternatives, LNG and synthetic gas from naphtha. At least one potential builder (Union Oil) of a modular shale oil plant believes that shale oil can be economically competitive. In any event, the time when these plants will come on stream is a significant factor in making comparisons of this type because the price of competing world oil is generally expected to continue to rise.

Page 25, para 1: The GAO report states that the cost of solar space heating, solar hot water heating, energy from municipal waste, tertiary oil recovery, and geothermal energy (hydrothermal) ". . . appear favorable . . .". The report does not state what they are favorably compared to, and does not offer any analysis to support this assertion.

Page 26, para 6: The statement that "Tertiary oil recovery techniques may be used after primary and secondary methods no longer yield economic quantities of oil" says nothing about the economics of tertiary recovery. Tertiary recovery is not always economic. Tertiary recovery is far from an exact science. Fields differ markedly from reservoir to reservoir. Different chemicals and different techniques may be indicated for each field. Most importantly, there is no methodology for predicting from field to field which, if any, techniques for tertiary recovery will be most suitable.

Page 29, para 1: The cost estimates given in this paragraph for tertiary recovery technologies are significant. The $8.00 to $18.00 per barrel unascribed estimates, and the more authoritative Oil and Gas Journal $20.00 to $25.00 per barrel estimate indicate both the uncertainty and the extent of the cost range for tertiary recovery. These cost estimates are not used in any analysis when discussing the relative economics of synthetic fuels and tertiary recovery.

Page 30, para 1: The GAO report states that the environmental problems of tertiary recovery are, except for chemical disposable problems, the same as those associated with primary recovery. This statement fails to note the environmental hazards of leaking gas and leaching chemicals associated with tertiary recovery.

Page 30, para 2: The statement that certain solar techniques appear to have economic application today is an assertion and is not supported by analysis or economic information. As noted earlier, ERDA generally does not subscribe to this view.

Page 30, para 3: This paragraph notes that a ten-year payback is assumed assessing the cost-effectiveness of solar. This is an extremely long payback period and undoubtedly contributes to the reluctance of consumers to invest in solar equipment.

Page 31, para 4: The GAO report makes the statement concerning solar technology that "Evaluations of system efficiency and durability, storage subsystems, backup system requirements, aesthetics and mass production costs are not complete." The next paragraph states "Life cycle costs of solar hot water and space heating are less than conventional systems in many areas of the country." The two statements are in conflict. Further, the GAO report presents no analysis of life cycle costs.

Page 33, para 5: The GAO report states that ". . . synthetic fuel technologies are the least economical (sic) of all the new energy supply technologies." This does not appear consistent with a tertiary oil cost of up to $25.00 per barrel. Further, the statement is not supported by any comparative analysis. Extensive analysis carried out by the Synthetic Fuels Interagency Task Force suggest that synthetic fuels will be an economically competitive option.

Page 35, para 3: The statement "In many foreign countries where domestic oil and gas is not as abundant as in the United States, gasification processes have been able to survive.", implies something about the potential commercial viability of synthetic fuels in the United States and the need for the sectoral analysis which is missing from the GAO report. These low and medium Btu gasification plants in Europe are generally used for industrial application where liquid fuels such as foreign imported oil cannot compete economically.

Page 36, para 1: This paragraph speaks of ERDA's national plan "projections". ERDA's national plan scenarios are boundary or limiting case conditions and are not expectations of the future.

Page 36, para 4: The statement that the Synfuels Interagency Task Force estimated the prices of synfuels on a discounted cash flow basis after taxes on entire capitalization is incorrect. Prices for regulated fuels were estimated on a utility rate base method.

Page 36, para 6: This paragraph notes ERDA's high estimate for shale oil at $18.00 per barrel, and states that recent industry estimates range up to $18.90 per barrel. The report fails to note ERDA's central estimate of $15.00 per barrel for shale oil and further does not note some of the lower industry estimates at $13.75 per barrel. The price range, whether up to $18.00 or $18.90, is fully competitive with oil produced by tertiary processes. This is the only liquid fuel technology favored by GAO. It should be noted that ERDA recommends against inclusion of high-grade coal liquids in the H.R. 12112 program since they are clearly uneconomic.

Page 37, para 1: This paragraph overemphasizes the technical uncertainty of the processes for manufacturing synthetic fuels as a constraint to private sector financing. The regulatory, environmental and institutional factors, the licensing requirements, and the questions of capital investment, risk and credit are more important than technical uncertainties. This viewpoint was repeatedly emphasized in testimony by project sponsors and the financial community.

Page 37, para 4: The discussion in this paragraph about environmental impact is out of context because it does not compare the impacts from synthetic fuels plants with those of conventional energy conversion processes. Again, there is no quantitative or other backup to give an indication of the relative seriousness of environmental impacts produced by these plants.

Page 37, para 5: This paragraph discusses socioeconomic considerations. It fails to state that H.R. 12112 contains provisions to mitigate the socioeconomic impacts expected from large synthetic fuels facilities.

Page 39, para 2: GAO makes the assertion that loan guaranties ". . . generally result in only moderate shifts in cost benefit ratios. They are not normally best suited to assist technologies which require large advances to become economically competitive." This assertion seems to indicate a lack of understanding of the capital budgeting process. Investors who bear the ultimate financial risk of a project assume a 100% equity investment, since financial failure will convert any indebtedness into equity. Loan guaranties serve the function of transferring part of the ultimate financial risk from the investor to the taxpayer. In doing so, they permit calculation of investments which show returns only on the equity portion. The effect on project costs is significant and is indicated in Tab J of the Fact Book which ERDA prepared for this program.

Page 40, para 4: The thrust of this paragraph is that the major effect of loan guaranties on investment decisions is their effect on reduction of borrowing costs. With regard to the H.R. 12112 loan guaranties two factors should be noted. First, the probable elimination of any risk premium because of the Federal guaranty will in all likelihood be more than offset by the at least 1% guaranty fee charged and the increased administrative costs which the recipient of such a guaranty will, without question, bear. The second important point is that the effectiveness of loan guaranties is in the transfer of risk for the reason noted previously, and in the provision of credit in instances when it is otherwise not available. A clear-cut example of this would be the availability of $750 million in debt to a coal gas investor whose total net worth may be half of that figure.

Page 40, para 5: See GAO's footnote 2 regarding this paragraph.

The continuation of this paragraph on the top of page 41 implies that investments in certain energy projects (such as synthetic fuels) because of loan guaranties may come at the expense of investment in oil or gas development. This statement should be viewed in the context of recent major oil company diversifying investments. Some of these are: Mobil Oil in MARCOR Corporation (Montgomery Ward); Gulf Oil in real estate ventures, and Tenneco in an agricultural division. These investments clearly show that these companies are not restricted from oil and gas investments because of difficulty in obtaining capital, but rather are attracted to these investments because of their favorable rate of return. GAO's next paragraph concedes this point: if firms can obtain a higher rate of return on other activities, they won't invest in synthetic fuels whether or not loan guaranties are available.

Page 41, paras 3 & 4: GAO incorrectly states that loan guaranties do not compete for funds in the budget. However, 25% of the face amount of the guaranties authorized by H.R. 12112 have been requested to be appropriated as a fund in case of defaults, and will appear in the budget and counted in the budget authority totals. The recommended budget approach is fully consistent with the spirit and letter of the Budget Act.

The GAO report further asserts that loan guaranties frustrate budgetary discipline because they do not compete for Federal tax money in the same manner as other programs. The GAO report fails to address this question for tax incentives.

Page 41, para 5: As previously noted, ERDA does not agree with the blanket statement that synthetic fuel plant output is not expected to be competitive with the price of energy from traditional sources. This paragraph incorrectly asserts that synthetic fuels will need price guaranties. No price guaranties would be needed for High Btu Gas Plants. The implication of this paragraph is that price guaranties would be of a cost reimbursing nature applicable to the difference between cost of production and market prices. The principal use of price guaranties will be to protect investors in non-regulated fuels projects against aberrant reductions in world oil prices. There is a possibility that such guaranties might be used to pay higher than world prices for Industrial Fuel Gas Project (low or medium Btu gas). These, however, would not be of an open-end cost-reimbursement nature, but rather would provide support up to a fixed or indexed dollar price.

Page 42, para 2: This paragraph implies that the program might expand to subsidize an entire industry. In doing so, it thereby indicates a lack of understanding of the very limited nature of H.R. 12112; that is to construct and operate a few plants of each type to gather the critical information and resolve uncertainties in order to permit future timely industry investment without Federal assistance.

Page 43, paras 2 & 3: Under the government ownership case, it should be pointed out that costs would be all on budget. The government would take all risks and, therefore, there would be no efficiency incentive. The GAO also fails to note the loss of tax revenues to the Treasury which should be considered in assessing government ownership.

Page 44, para 2: In recapping the focus of the report, GAO broadly overstates what was done. The report inaccurately states "For each technology, we have attempted to define and assess its potential role in filling energy needs by both 1985 and 2000." Instead, the report merely quotes and agrees with selected supply and demand figures from other studies. The report contains no assessment in the sense of analysis but it contains numerous unsupported assertions and conclusions.

Page 44, para 4: Discussion of the "slowdown" in the growth rate for energy demand should be tempered by such considerations as price inducted conservation and the recession that the United States and indeed the world has recently suffered. This slow-down as previously discussed, appears to have ended.

We agree with the GAO report that all promising supply and conservation sources should be explored. We do not agree with the characterization of the H.R. 12112 program as commercializing synthetic fuels. We characterize it rather as an initial effort focused on resolution of uncertainties which, unless resolved, will inhibit timely private sector investment in synthetic fuel projects. The synthetic fuel production of this program is trivial when compared with our import requirements in the 1985 timeframe. No one has suggested the program as relieving that situation. It is the uncertainty of impact beyond 1985, both for synthetic fuels and for all other technologies, which requires that all be explored. The same uncertainty constrains the private sector from unassisted investment.

Page 45, last para: H.R. 12112 limits development of initial shale plants to modular plants of 6,000 to 10,000 barrels per day capacity. The characterization of a 50,000 barrel per day plant as ". . . one small plant . . ." is highly questionable.

Page 46, para 1: The price of synthetic gas is characterized as being twice the recently announced FPC price for newly discovered regulated gas. However, as noted by FEA in its review of the GAO report, synthetic fuels should not be compared with the cheapest source of market supply, but rather with those sources at the margin such as LNG and naphtha conversion. It should be noted that the price of high Btu gas from coal is equal to or less than the price for gas from new LNG or naphtha conversion sources.

Page 46, para 4: This paragraph and those which immediately follow it describe three important factors which should be carefully examined in determining financing incentive mechanisms. As previously noted, the nature of the constraint to unassisted investment must also be examined; viz: is the barrier to private sector investment a question of risk, credit, or return on investment?

Page 47, para 2: This paragraph is true. Companies may be able to invest in synthetic fuel projects, but will not because of more attractive investment opportunities elsewhere. Providing such companies with loan guaranties which transfer risk from them to the taxpayers permits them to calculate return on only the equity portion and thereby enhances the desirability of the investment.

Page 47, para 4: This paragraph repeats the assertions of page ii. The text, as has been pointed out above, is inconsistent with the assertion.

Page 48, para 2: The report again asserts that synthetic fuel production is not price competitive with foreign oil. As previously noted, only certain synthetic fuel technologies should be compared with foreign oil and then only at the time of completion of the plant. High Btu gas plants when completed are presently competitive with alternative sources of gas.

Page 48, para 3: Neither ERDA nor H.R. 12112 is proposing any "deep national commitment to uneconomic high-cost supply technologies." What both do propose is a program to resolve at or near full-scale the regulatory, socioeconomic, environmental, and other uncertainties which presently inhibit private sector investment, but which must be resolved if the private sector is to invest in a synthetic fuel industry in the mid-1980's. The purpose of the H.R. 12112 program is to preserve the synthetic fuel option, not to elect it.

Page 49, para 3, numbered point 3: Again, the unsupported assertion that synthetic fuels are not cost-effective.

Page 50, paras. 2 and 4: On the one hand the GAO report describes the economic desirability of conservation and on the other notes its relatively unfavorable payback. This is a contradiction. ERDA does not debate the desirability of conservation as a contributor to national energy goals. We do have problems with assertions of cost-effectiveness.

Page 50, para. 3: The discussion in this paragraph regarding tax credits should include the cost to the nation of such credits. This same paragraph notes the long payback period for conservation investments. Payback is an important measure of favorability in investment analysis. This contradiction appears several times in the GAO report.

Page 52, para. 2: This paragraph is in error when it addresses loan guaranties as the appropriate incentive to relieve concerns that the product price will not compete economically with manipulated world oil prices. The appropriate incentive to address this concern is a price guaranty.

Loan guaranties do address the questions of risk transfer, credit, and return on investment.

Page 52, para. 5: GAO believes that adequate information can be gained from smaller plants under government control. However, regulatory, environmental and socioeconomic information will not be credible coming from small plants. There is a critical cut-off size below which this information cannot be extrapolated to the full-size plant. Several witnesses testified on this point before the Economic Stabilization Subcommittee of the House Banking, Currency and Housing Committee.

Page 54, para. 2: This paragraph again makes the assertion that solar hot water and solar space heating are currently economic in certain instances, but then says that they are not being implemented because of long payback periods. The two statements are inconsistent.

Page 55, para. 4: The GAO report characterizes itself as an analysis. It appears to us rather to be a series of assertions unsupported by analysis. It is really an expression of philosophy regarding energy policy. To make an effective case, GAO should provide an analysis which demonstrates that the work of the Synthetic Fuel Task Force and the continuation of that work by ERDA, is deficient or incorrect.

LABOR IN TROUBLE

Mr. GOLDWATER. Mr. President, Mr. Robert G. Kaiser of the Washington Post wrote in the September 5 issue of that paper a very interesting, cogent, and I believe, important article on the situation organized labor now finds itself in. Because we are one of the few countries in the world that has compulsory unionism, we also have fewer members in percentage to our population and other countries who allow freedom in the movement. Years ago I used to make speeches on this subject trying to warn labor that compulsion could result in nothing but failure and now we are finding the average labor man, the new affluent citizen of this country, possessing the loudest of all voices against the high expenditures of his Government and the overregulating of our lives by that same Government. I have the feeling that the average labor leader does not agree with his national labor bosses when they endorse candidates for office who only beg for more and more spending and more and more power concentrated in Washington. I would hope that many of my colleagues would read this article and I hope that many more will appear because I would hate to see the labor movement fall apart in this country in spite of what some leaders may believe. I am a union member myself and rather proud of it, but I hope we can bring some sanity into the leadership before the whole thing crumbles of its own weight. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Labor in Trouble: Has Success Spoiled the Movement?

(By Robert G. Kaiser)

It was a happy moment last Tuesday in the Regency Ballroom of the Shoreham Hotel. A pale but beaming George Meany, 82-year-old scion of the American labor movement, reached out warmly to greet Jimmy Carter, the Democratic nominee for President. The audience—several hundred of Meany's senior associates from most of the country's important trade unions—stood and applauded.

There should have been a band playing "Happy Days Are Here Again," for they surely seemed to be. The Democratic Party has been organized labor's protector and promoter for nearly 50 years, but for the past eight years their relationship often has been strained, and both have suffered as a result. Now, on the eve of Labor Day, the labor movement's annual festival, the marriage appeared renewed and revived—cause enough for the celebration at the Shoreham on Tuesday.

Or was it? Can bygones be declared bygones so quickly—have happy days returned so fast? Probably not. Despite the superficial revival of the Democratic-labor alliance, despite the hope so fervently expressed by George Meany that labor's banner would again lead a triumphant parade to 1600 Pennsylvania Avenue, this Labor Day is not an occasion for unreserved celebration for organized labor.

The fact is that the American labor movement has many grave problems, some connected to its standing in the public eye, some the result of an uncertain transition—just beginning—to a new generation of leadership, some caused by labor's own successes in the past. All of them ominous.

LOSS OF SUPPORT

Labor has lost the reflexive support of many elements of the American population which once thought of unions as benevolent protectors of the working man and woman. This loss of popularity is reflected in public opinion surveys of many kinds and in labor's declining ability to accomplish its objectives in local, state and federal governments. With a few notable exceptions, labor unions have stopped growing—another sign, arguably, that they are losing some of their appeal.

Ironically, the fastest-growing segment of the labor movement, the public employee unions, has made perhaps the greatest single contribution (usually unwittingly) to labor's declining popularity. Strikes by public employees and well-publicized—though usually unrepresentative—examples of excessive wages and benefits paid to them have aggravated the public. Labor leaders readily acknowledge the new public relations problems they face, even if they dispute the justice of accusations against the public employee unions. "We've been injured very seriously," admits Jerry Wurf, president of the American Federation of State, County and Municipal Employees.

Public employee unions are not the only source of anti-labor sentiment. In San Francisco, where militant labor leaders have alienated what was once a staunchly pro-labor community, an old-line liberal Democrat with years in politics behind him observed recently that people are angry at the cost of unionized services. "I can't afford to hire union labor to do repairs on my house," he observed. "No ordinary person can these days. That's serious."

The Washington Post, in conjunction with Harvard University's Center for International Affairs, has just completed a survey of "elites" in American society—leaders of industry, the professions, education, the mass media, etc. The survey asked these groups to rank each other in terms of the influence they now have in American life, then in terms of the influence they ought to have.

Every elite group questioned thought that labor unions were one of the most powerful two or three groups in the country. At the same time, every elite group but one felt that labor's influence should be much less than they perceived it to be; many said labor should be stripped of any real influence. The one exception was leaders of big industry, who felt that labor was powerful and that it ought to be powerful—though not quite as powerful as they thought it now.

Intellectuals—professors and leaders in the arts and sciences—joined the others in registering the opinion that big labor was too big and too powerful.

This would not surprise Quentin Kopp, the conservative Democrat who is president of the Board of Supervisors (the city council) in San Francisco. Kopp is the leader of what amounts to an anti-labor faction which now dominates the San Francisco city government. A visitor asked him last June if the success of his faction meant that San Francisco could no longer be called a liberal town. "I think it is still a liberal city," he replied, "but liberal and labor aren't synonymous any more."

Organized labor has also lost ground with the institutions in American society which can influence its activities. The Burger Supreme Court is regarded by union lawyers as a dangerous patch of quicksand, to be avoided whenever possible. Union attorneys often try to duck court fights on the theory that any court decision could be appealed to the Supreme Court, where an unfavorable precedent can now be expected. Similarly, the National Labor Relations Board, dominated by Nixon-Ford appointees, has an anti-labor reputation among unions, which tend to feel that NLRB decisions have been running on management's side for some years now.

Barely a year ago the labor movement had high hopes that Congress would pass important legislation that could help the unions—the "common site" bill that would have transformed labor relations in the construction industry and some kind of legislation authorizing and governing collective bargaining by federal, state and local government workers. The construction trades legislation did pass Congress, but President Ford vetoed it under pressure from a variety of lobbying groups. Hopes for the public employee bargaining legislation have evaporated—the victim of hostile public opinion and a Supreme Court decision this summer which held that the interstate commerce clause does not apply to local governments.

Meany's appearance at the Shoreham on Tuesday testified to another of organized labor's problems. The irascible old plumber from the Bronx, probably the strongest and most domineering personality ever to lead American labor, looked pale and tired. He has spent much of this summer in the hospital or recuperating at home from what is usually described as a respiratory ailment. His doctors reportedly advised him not to appear at the Shoreham Tuesday, but he ignored them.

Only a certified prophet would dare predict the end of Meany's 60-year career in the labor movement, which may indeed last several years more. But he is 82, so it can't be more than several years. A new generation will have to assume command.

This is also true in many of the country's biggest unions. I. W. Abel, once thought of as a possible successor to Meany, is now 68, and will retire next year as the president of the Steelworkers' Union. Leonard Woodcock, president of the United Auto Workers, is also due to step down early in 1977, and he might leave earlier. Woodcock seems interested in a job in a Carter administration, if Carter wins in November.

In all three of these coming transitions of leadership, the likely successors represent essentially the same viewpoints—and sometimes the same generations—as the men they will succeed.

The man now expected to succeed Meany is Lane Kirkland, the AFL–CIO's secretary-treasurer. He is a solf-spoken southerner a product of the maritime industry and not the construction trades, but he has been an intimate Meany associate for years. If chosen, Kirkland would be a symbol of continuity for the AFL–CIO, not of change.

The next president of the UAW will almost certainly be another member of the group brought into the union's hierarchy by Walter Reuther, Woodcock's predecessor. Reuther might himself still be president of the union had he not been killed in a plane crash in 1970. Again, no significant change.

REFORM FROM OUTSIDE

Only the Steelworkers, it appears now, might choose a new leader who would represent a real break from the past, and this would be a surprise. An insurgent 38-year-old from Chicago, Edward Sadlowski, is expected to run against the representative of what Abel has called the steelworkers' official family." The establishment candidate is Lloyd McBride of St. Louis.

Sadlowski is an unusual figure in today's American labor movement. He speaks in unabashedly class-conscious terms. He accuses the union's present leaders of forgetting the needs of the ordinary men, whom he claims to represent actively in Chicago. Sadlowski was elected president of the Steelworkers' Chicago district—handily defeating the "official family's" candidate—and he is now expected to declare his candidacy for the presidency of the entire union. The vote will be held early next year.

Ironically, to press his case as the true representative of the rank and file, Sadlowski has turned to advisers and financial backers outside the Steelworkers' union. The "official family," including Abel, denounce him for this. Others in the labor movement who hold no particular brief for Abel or the steelworkers' establishment wonder about the implications of a "reform" movement which cannot support itself from within the union.

Sadlowski defends his reliance on "outsiders" as a practical necessity. To reach 1.2 million Steelworkers, he argues, he would need more money than he could hope to raise from rank-and-file supporters. Moreover, he contends, the "official family's" candidates enjoy the support of union newspapers, which can ignore him. He must compensate for his opponents' built-in advantages, Sadlowski says, and if it takes outside help to do so, he will accept outside help.

Sadlowski's image of the Steelworkers as a closed society successfully dominated by a self-perpetuating group of leaders who are out of touch with the membership may or may not be fair, but it echoes complaints made against many other American trade unions.

In some unions leadership has become a family affair. The Laborers, for example, recently chose Angelo Fosco, a son of their late president, to succeed his father, Peter. In other unions, years go by without changes in the hierarchy at all.

Last June the Teamsters' convention re-elected every sitting officer of the union—each one unanimously, not least because each one ran unopposed.

A man who has spent more than 30 years in the labor movement describes "the gulf between leadership and membership" as one of organized labor's gravest ills. There is evidence of it at every level. On this newspaper, members of the Newspaper Guild rebelled against their local union leaders last year largely because of the feeling that those leaders were pursuing parochial interests without regard for the needs and desires of the members. The United Rubber Workers' long and painful strike against the major tire manufacturers was complicated by the independence of several important locals which defied the national leadership and refused to join the walkout.

Indifference to union affairs is endemic in many, probably most, unions. Membership meetings are sparsely attended, and a few activists often dominate union locals. Scientific evidence is not available, but there is certainly a substantial percentage of young people who join unions today primarily to acquire the ticket of admission to the job they seek and not out of any personal commitment to the trade union cause.

Anyone who spends time around the officers of America's big unions knows that they are, to generalize, a lethargic group. The dynamic powerhouse—the young Walter Reuther, even the young Jimmy Hoffa—is a rare bird in the labor movement today. It is revealing that two of the young labor leaders who do have reputations for energy, originality and enthusiasm are John Ryor and Terry Herndon of the National Education Association, a teachers' union which would not have allowed itself to be called a union just a few years ago and which remains outside the AFL–CIO.

NO TALENT MAGNET

The big unions have difficulty attracting bright young people to come to work for them. Public employees in Massachusetts find themselves with an able, attractive and industrious young leader only because Paul Quirk didn't know what to do when he came home from the Peace Corps. He decided to become a social worker, which got him into the Service Employees International Union, where his colleagues soon elected him an officer.

Harvard Business School graduates go to work for big corporations in droves, but few if any choose to help any of the unions. The graduate of any Ivy League law school who did end up in one of the big industrial unions' headquarters—the sort of young man any executive would want to keep in his organization—thinks his few years in the labor movement are probably enough; he's interested in finding a new job. Not all the best talent comes from the schools with fancy names, naturally, but the fact is that little of the best talent graduating from any of the country's universities and colleges looks for work on the staff of a labor union.

The gulf between membership and leadership helps to explain why unions don't have the political influence they once did. Except in rare circumstances, unions cannot deliver a "labor vote" to political candidates. A Louis Harris poll of union voters in Pennsylvania found that the state AFL–CIO's endorsement of Sen. Henry M. Jackson in the Democratic presidential primary last spring wasn't even widely known, let alone acted on. Jackson had the support of nearly every labor leader in Pennsylvania, a state in which union families could account for the majority of votes in a Democratic primary. Jackson was trounced in Pennsylvania.

The most profound danger facing the American labor movement may be a consequence of its own accomplishments—and its limitations. Union members make up less than a quarter of the country's workforce and they are generally an elite group. A member of the United Auto Workers earns about twice as much in wages and benefits as a non-unionized industrial worker in the South. In some larger cities union scales for construction work are more than double the non-union wage rates.

The proselytizing era of the labor movement is over. A few unions—particularly the public employee unions and the Teamsters—are aggressively organizing new members, but most are not.

Many of the country's strongest unions find themselves in the position of protecting middle-class and even upper-middle-class incomes for an elite slice of the working class. The consequences of this can be serious, eventually even for the members who think they are doing so well.

"It's a simple proposition," observed a man who has been negotiating contracts for various trade unions for many years. "You price yourselves out of the market." This old hand, who asked not to be identified by name, complains that unions are too easily swept away by "demagogic" members or officers who continually demand more, regardless of the ultimate consequences. "You can push your temporary advantages to the point where your gains become paper gains," he said.

This has happened in the performing arts, in the newspaper industry, in the building trades and many other sectors where the high cost of union labor has eventually contributed to an absolute decline in the number of available jobs. Even the huge industrial unions—the Steelworkers and Auto Workers, for example—have seen employment opportunities decline as imports have taken an increasing share of the American market, Imports are cheaper in part because American labor is so expensive.

DEFENSIVE MOOD

This Labor Day, at what the unions hope is somewhere near the end of the worst recession since the war, a defensive mood dominates American labor. The Auto Workers' union is trying to negotiate a new contract that would spread the available work among more men and women—a clear sign of the UAW's expectations for the future of its industry.

The leadership of the Mine Workers' union is struggling to hold that giant and anarchic institution together. The public employee unions, which seemed to be doing so well just a year or two ago, are nursing their unexpected wounds, though they continue to grow. In Pittsburgh and New York, construction unions have negotiated voluntary reductions in existing wage scales for some kinds of work in hopes of getting more jobs.

Last spring the House Subcommittee on Labor held hearings on proposed technical changes in the National Labor Relations Act. Many of these changes were written to help unions organize workers in non-union plants and industries. The subcommittee staff had a difficult time persuading the AFL–CIO to take these hearings seriously and send someone to testify. "The Teamsters were interested," one staff member recalled. "So was the UAW and some of the other aggressive unions, but not 16th Street"—labor shorthand for AFL–CIO headquarters.

The AFL–CIO did eventually produce testimony for those hearings, and the subcommittee did produce tentative legislative recommendations which may be introduced in the next Congress. But there seems to be a revealing lesson in that story, a lesson about a venerable labor movement which has lost a great deal of its enthusiasm and much of its popular appeal as well.

CONCORDE NOISE LEVELS AT DULLES AIRPORT

Mr. BAYH. Mr. President, on September 14 the Federal Aviation Administration of the U.S. Department of Commerce issued its August report on Concorde operations at Washington's Dulles International Airport. I quote the following from a Department of Transportation news release about that report:

> The report shows 44 Concorde operations in August with departure noise levels varying from 113 to 127 PNdb (preceived noise decibels) at the 3.5 mile measuring point. This compares with July readings of 120 to 131 PNdb.
>
> Approach noise levels, meanwhile, ranged from 111 to 129 PNdb at the one nautical mile point from the runway threshold. The previous month's readings were 114 to 130 Pndb.
>
> The average preceived noise levels (in EPNdb) during August were 119.7 for departures and 117.4 for approach. FAA's Environmental Impact Statement listed average values of 119.5 for departures and 116.5 for arrivals at the same locations based on previous operations and data from the manufacturers.

Mr. President, when the Department of Transportation was first considering granting U.S. landing rights to the Concorde, many Members of the Congress expressed reservations. As chairman of the Transportation Appropriations Subcommittee, I reviewed the matter carefully and came to the conclusion that the disadvantages of Concorde landings and takeoffs far outweighed the advantages to the American public. In addition to safety factors, air pollution, and energy waste, one of the major disadvantages of the Concorde supersonic plane is noise pollution.

Many of us inside and outside of the Congress based our opposition to Concorde landings in part on the findings presented in the environmental impact statement prepared for DOT by the Federal Aviation Administration. Now it appears that the noise levels generated by the Concorde at Dulles Airport are even higher than we first believed.

In February, Secretary of Transportation Coleman decided to grant landing privileges to the Concorde on a 16-month trial basis. I hope that the information provided by FAA's monitoring of Concorde noise levels at Dulles will not be lost on Secretary Coleman: the noise is worse than both its opponents and supporters thought it would be.

DOT's news release on this subject goes on to report that the number of complaints about Concorde operations increased during August to 115, compared to 68 during July. This is further indication of the inconvenience and discomfort to citizens living in and about airports visited by the Concorde.

DEFENDERS' DAY IN MARYLAND

Mr. MATHIAS. Mr. President, the people of Maryland on September 12, 1976, celebrated Defenders' Day, the anniversary of the battles of North Point and Fort McHenry in which the gallant citizens of Baltimore successfully defended their city against British attack.

The battles of North Point and Fort McHenry were decisive to the outcome of the War of 1812 and marked a turning point in the tide of battle in favor of America. They are a proud chapter in the history of Baltimore, the history of Maryland, and the history of this Nation.

Today, with 81 percent of the people on Earth living under some kind of authoritarian government, Americans comprise one-fourth of the world's free people.

Woodrow Wilson observed that "Liberty has never come from government." "Liberty," he said, "has always come from the subjects of government. The history of liberty is the history of resistance."

We, in America, owe our liberty to the resistance of many brave men and women in the past. In this Bicentennial Year, we are particularly mindful of the debt we owe the soldier-patriots of the revolution.

Now, Defenders' Day gives us occasion to recall our debt to those who have fallen on other battlefields of this Nation, defending the liberty secured to us by our revolution.

SECRETARY GENERAL ORFILA SPELLS OUT NEW AGENDA FOR THE AMERICAS

Mr. HUMPHREY. Mr. President, the United States and Latin America have been attempting in recent years to adapt their relationship in this hemisphere to changing times and conditions. This is a difficult process but it must become a matter of primary importance to the new administration which will assume office next January, as well as to the Congress.

For too long we have permitted our relationship with our neighbors to the south to drift from the friendly foundations established under the Kennedy and Johnson administrations.

The United States must come to understand that today's hemisphere is not that of a few short years ago. Latin American countries are everywhere recognized in international forums for the leadership they are providing to help resolve global issues of importance to all mankind: the food crisis, the world's energy future, reform of the international monetary system, trade expansion, and industrialization policies.

Many of the outstanding issues now dividing our globe are viewed from different perspectives by the northern and southern halves of our planet. Were the United States and Latin America to cooperate in such a new way as to offer a regional model for resolving key isues separating the industrial from the developing countries, we would not only help move this hemisphere onto new levels of cooperation but also jointly provide global leadership on the world's development change.

The Secretary General of the Organization of American States, speaking before the National Press Club in Washington, D.C., has recently spelled out the new agenda before the Americas. I think the points dealt with by Ambassador Orfila as the hemisphere's principal spokesman are well made. Mr. Orfila observes that he concurs with the assertion that development is the new name for peace and that, in consequence, the OAS has an obligation to speak out wherever peace is threatened. The Secretary General has done this with conciseness, feeling, and eloquence in his Press Club address.

The United States is a full partner in the OAS—the world's oldest regional forum. We therefore have an obligation, I believe, not only to participate actively, but to listen to the new and fresh views of our neighbors in this hemisphere.

For this reason, Mr. President, I would like to include Secretary General Orfila's remarks with my statement so that Members of this body may see for themselves the most pressing issues which are on the mind of Latin America. I also include a recent article by Ambassador Orfila from the Washington Sunday Star which provides greater detail concerning some of the central questions which have recently been pulling Latin America and the United States into separate directions.

I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEW AGENDA BEFORE THE AMERICAS: AN ADDRESS TO THE NATIONAL PRESS CLUB, WASHINGTON, D.C.

(By Alejandro Orfila, Secretary General, Organization of American States)

It is a pleasure for me to meet again with the members and friends of the National Press Club.

May I underscore that today we celebrate a new anniversary of the independence of the five Central American countries—Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica. Since the unfortunate war between El Salvador and Honduras in 1969 the OAS has played a decisive role in restoring peace and provided a forum for the two countries to solve their problems.

Last year—as Ambassador of Argentina—I spoke to you in a different capacity than I do today. However, then as now I have found myself not only among friends but regretting that your profession is not mine.

As one who shares your conviction that effective communication is the first step to mutual understanding, I have long admired the profession of journalism for helping us all to better know and relate to each other. In my view journalism stands in the same relationship to human society as the medical profession stands to the human body: it discovers changes taking place, it carries out research, it reports its findings and it helps cure ills.

When he invited me to speak to you again, the Press Club President, Robert Alden, suggests that I deal with some of the main multilateral issues of concern in our hemisphere today and their impact on the future of relationships between the United States and Latin America.

Before discussing some of today's major issues, however, I suggest we should not overlook that Latin America and the United States have had many ups and downs in their relationship. This perspective should not only give us cause for some optimism but it may also help us to recognize that the past is not necessarily prologue. The future, in other words, is what we make it.

I make this point specifically because I believe that—even though they have forged a spirit of cooperation to make this region the most peaceful on our planet—Latin America and the United States may be at a historical crossroads where they can either go forward in cooperaton or backward in disarray.

Within this framework, there are several pressing challenges which, I believe, require critical examination. These include:

The challenge of the new development agenda before the Americas.

The strengthening of the OAS' role as the principal multilateral forum of the Americas.

The resurgence of hemispheric concerns for the protection of human rights.

THE NEW DEVELOPMENT AGENDA

The foremost challenge ahead is that beyond long-standing security issues a new agenda is at hand in the Americas—not just the traditional one of the past but the agenda of integral human development: political, cultural, economic and social, for the millions of Americans who remain outside the mainstream of contemporary life and opportunity.

We of the Americas concur with the frequent assertion that development is the new name for peace. And the OAS, I believe, has the obligation to speak out if that peace is in any way threatened.

Throughout the post-war period Latin America has, of course, made economic and social progress. There has been a reasonable growth of production, economies and exports have been diversified, and non-traditional industries have appeared upon the scene. These advances have coincided with growing complexities in the social structure and with greater opportunities for individual advancement.

But this is only part of the picture. The more important part is evident from a comparison of the hemisphere's past with its future. Twenty-five years ago Latin America had the same population as the United States. Twenty-five years from now Latin America will have 600 million people—twice the number projected for the United States. In this situation the crucial test for Latin American countries will be to provide millions of new jobs, increased food production, further reduce severe poverty, educate millions of citizens and modernize their societies.

Not everyone is fully aware of the dimensions of this new agenda. However, I think it critical for us to grasp that hemispheric debate is centering around several major areas of concern which are closely linked to each other. Aside from pending bilateral matters such as the future of the Panama Canal, Latin America now believes that to confront this agenda it must discover newer and more adequate instruments so as to increase income from exports while stabilizing markets for primary products; rapidly accelerate the expansion of trade; transfer technology in ways adapted to national needs; provide a code of conduct for multinational corporations; promote joint venture investment; and re-channel foreign assistance so that debt financing becomes less burdensome and alternative financing opportunities are opened up.

We in this hemisphere especially recognize that the priority issue on the development agenda is for Latin America to generate more foreign exchange without going deeper and deeper into debt. It seems evident that Latin America must seek ways and means to expand export earnings to help finance the heavy international debt burden.

THE UNITED STATES AND THE NEW AGENDA

I lay bare no diplomatic secrets when I take note that during the past decade Latin America has generally found the United States wanting in confronting this newer, more complex and less tractable hemispheric development agenda. While we can take some comfort that the OAS has provided the forum for heated debate, as, for example, on the exclusionary provisions of the U.S. Trade Act, we should be concerned that solutions have not been easy to come by.

It would be wrong not to observe that in some major ways the United States has supported Latin America's development initiatives and given them strong encouragement and support. It must be pointed out, however, that the great experiments in multilateral cooperation such as the Alliance for Progress, have withered away.

Newer attempts to lay different bases for collective effort, such as the Dialogue of Tlatelolco in 1974, have not achieved a level of organized endeavor comparable to that of the Alliance for Progress, nor have they helped institute a process for making significant response to urgent problems that await solutions.

Nonetheless, this year Secretary Kissinger has made a number of major policy overtures and important proposals to reverse that situation of drift and indecision. Congressional bodies have also been re-evaluating the U.S. "special relationship" with Latin America in the light of these changing conditions. We at the OAS welcome this renewed U.S. interest in Latin America and we agree that further U.S. neglect of our region could only imperil hemispheric peace and harmony.

While bilateral solutions to hemispheric problems are indeed necessary and useful from time to time, the long-lasting inter-American forum provided by the OAS should be the bulwark of hemispheric relationships. It is within this framework where the new development agenda of the Americas should be realistically thrashed out and dealt with.

If the OAS is to expand and the hemisphere's dialogue on the development question and enlarge is ability to open the door for new cooperative relationships between Latin America and the United States in a whole range of areas, its capacities must be strengthened and maintained on a secure and sound basis.

In June, in Santiago, Chile, the General Assembly—the supreme organ of the OAS—gave the OAS Secretariat greater responsibility for revamping OAS programs and personnel needs and requirements to meet the newer challenges faced by our Organization.

We are proceeding on schedule to modernize OAS policies, programs and practices. As the OAS is streamlined and modernized, a number of projects which no longer serve their original purpose are being revamped or reorganized. In some cases this also means displacement, regrettably, of employees with records of long and satisfactory service to the cause of hemispheric unity.

As Secretary General I am attempting to carry out this reorganization with a sense of fairness and openness.

THE DEFENSE OF HUMAN RIGHTS

Since 1960, critical leadership in protection of human rights in the Americas has been provided by the OAS Commission on Human Rights. The independence, thoroughness, and objectivity with which it goes about its business are widely acknowledged. This year, its work gained for it new recognition within the OAS General Assembly.

It is essential that the OAS provide such hemispheric leadership, giving real meaning to the words "human rights" and "human dignity." These must be perceived not as mere legal concepts or rhetorical expressions; they must be deeply felt, and honored in practice.

I think that a right whose violation finds no thorough redress in the administration of justice is a right with no real meaning or existence. Old civilizations have understood that full protection of human rights requires an international judicial instance. The European Court of Human Rights is the most outstanding example of how at an international level it is possible to provide complete enforcement for human rights.

So, true protection of human rights among us may involve the creation of a judicial body of an inter American nature which may be called upon to investigate and to judge alleged violations of human rights.

In this sense, an important precedent was established in November 1969 when twelve Latin American countries signed the Inter-American Convention on Human Rights.

Only two nations—Colombia and Costa Rica—have so far ratified this convention and it has therefore not entered into effect. The Convention authorizes the creation of an Inter American Court of Human Rights, an international juridical organism endowed with faculties for determining violations of rights or liberties protected by the Convention. The Court would be able to order measures for redressing violations of human rights.

I believe an important way for us to demonstrate respect for the protection of human rights in this hemisphere is not only to identify every alleged violation but also to encourage the implementation of an international judicial process to fully guarantee the respect of those rights.

I think we must do everything possible to expand our inter American standards and practices to defend human rights wherever they are threatened. No persons, group or movement, no matter what their motives, no matter what their objectives, no matter what their role in society, can justify themselves if their actions rely upon violence and destruction of human life.

Human rights is an all embracing, indivisible concept. It requires protection against violation of human rights and redress once those rights are violated. It cannot be restricted to certain beneficiaries. It encompasses all citizens without qualifications. Thus, with the same eagerness, due process of law should be demanded for those who have not received the benefit of a fair trial, and effective defense for the innocent bystander or the public servant threatened by the blow of treacherous violence should be provided.

CONCLUSION

All Americans have a mutual obligation to build up hemispheric solidarity and this obligation applies equally to all our peoples. Our hemisphere should not be one where two great forces—the United States and Latin America—are in contention. It must, rather be a fully integrated continent, where Costa Ricans and Chileans, Ecuadorians and Panamanians, Jamaicans, and Bolivians, north and south Americans all must work together, cooperate and understand one another. Latin America and the United States have no choice but to be equal partners in a combined and permanent commitment to integral development of this hemisphere.

This means we must put a permanent end to an isolation from each other. We should strive to fashion the entire hemisphere—including the United States—into a single community—America. Latin America has no doubt that all of us as Americans must seek to fulfill Bolivar's dream of an "America fashioned into the greatest nation in the world, greatest not so much by her area and wealth as by her freedom and glory."

We celebrate two central hemispheric milestones this year, the Declaration of Independence of the United States in 1776 and the convening of the Congress of Panama in 1826—the first inter-American assembly. However, it would hardly be appropriate not to sense that the Jeffersonian right to life, liberty and the pursuit of happiness is not yet a reality for millions of Americans in this hemisphere.

[From the Washington Star, Aug. 1, 1976]

WARNING FROM THE HEAD OF THE OAS: UNITED STATES BLIND TO CHANGING LATIN GOALS

(By Alejandro Orfila)

Changes in hemispheric concerns and priorities have in recent years been perceptibly accompanied by a greater cohesiveness of purpose and action among the Latin American countries themselves and by a growing sense of distances from the United States. For its part, the U.S. has found it extremely difficult to understand what changes have been taking place and to develop adequate policies and strategies for dealing with them.

A number of observers believe the multilateral premises underlying the inter-American system are being eroded, perhaps beyond repair. Some affirm that Latin America and the United States have reached such an impasse that the Organization of American States, the world's oldest regional organization, may well prove unable to surmount the difficulties it has experienced.

The United States and Latin America now perceive inter-American relations from different, although not necessarily opposing, viewpoints. A paramount concern in Latin America is the extent to which it is inexorably dependent on international and extranational forces and influences over which it has little or no control.

This question is posed in multiple ways. It is argued, for instance, that the most dynamic sectors of our countries are subject to decisions arrived at unilaterally by foreign financial, investment or trade centers. These foreign centers may be helping to propel the industrialization and modernization of certain social and economic institutions. But, they also bind major sectors of Latin America to dependence on the industrialized countries and world markets. This means, of course, that hemispheric countries are dependent to a large extent on U.S. initiatives, particularly private sector ones, which often fail to take Latin American development priorities into account.

Specific U.S. actions have poured fuel on the fires of Latin American dissatisfaction with the general U.S. stance on hemispheric development needs. Generally, Latin Americans argue that:

The OAS Charter revisions of 1967 did not help produce the kind of results hoped for in the areas of trade, technology, and a transfer of additional U.S. resources.

Amendments made by the U.S. Congress to both the Inter-American Development Bank Act and the Foreign Assistance Act, particularly those affecting the interests of nations which nationalize or restrict U.S. private investments, have accelerated hemispheric antagonisms.

The threat to suspend foreign aid to retaliate against expropriations of the assets of private U.S. businesses abroad is a continuation of the discredited view that the flag follows property. (The same holds true for the legal provisions that when a country seizes or fines fishing vessels owned by U.S. companies or U.S. nationals, the U.S. government must halt all deliveries of products under its economic aid program.)

The U.S. imposition in 1971 of a 10 percent surcharge on imports was a form of outright and unwarranted economic aggression, especially outrageous because the one area of the world where the U.S. had a surplus in its balance of trade was with Latin America.

Certain provisions of the 1974 U.S. Trade Act were wrongly directed against countries such as Venezuela and Ecuador, which although they are members of OPEC, did not participate in the oil embargo.

Many Latin Americans believe that the United States earlier this year continued to demonstrate insensitivity when it reduced its contributions to OAS education, science and technology programs, backing abruptly away from what Latin America considered to be a previous commitment in this area. Reductions have occurred in this economic and social area as well.

As both the United States and Latin America have come to realize that their perceptions of the inter-American system have not been coinciding in major respects, ways for overcoming the sharp and growing differences have been sought.

Indicative of this search for new directions have been the abortive New Dialogue, called for in October 1973 by U.S. Secretary of State Henry Kissinger; the response to this U.S. initiative set forth by the Latin American foreign ministers in their Bogota statement of November 1973; and new OAS Charter revision discussion which began in 1973 under the leadership of the OAS' Special Committee to Study the Inter-American System and to Propose Measures for Restructuring It.

The need to revise the OAS charter has arisen because:

The substantive security objectives which originally formed the basis for the inter-American system's accomplishments have now declined in relative importance.

For Latin America the challenges posed by the need to achieve national, regional, and interdependent global development have now become of paramount and overriding value and importance.

Within our hemisphere questions related to security are now being given subsidiary attention, yielding to the more pressing, urgent and concrete issues of education, trade, export promotion, regional economic integration, the transfer of technology and the development of indigenous technology, and the problems created within Latin America by the power and influence of transnational enterprises.

Latin America is particularly concerned that increases in national growth rates are insufficient to decrease serious unemployment and under-employment problems. Growth in agricultural production stubbornly remains below the population growth rates—a serious challenge, since some 45 percent of Latin America's people belong to the rural sector. During 1974 and 1975 the situation grew worse as the negative effects of the worldwide recession in the industrial countries struck hard blows against Latin American economies, which rely heavily on their export sectors.

With economic and political security now dominant Latin American goals, the OAS Special Committee accepted a proposal submitted by Peru to revise the OAS Charter to include the concept of "collective economic security" and conclude a special treaty on the subject. The existing charter already precludes hemispheric signatories from undertaking action which would adversely undermine the economic development of other OAS members. The proposal of enforcement by a kind of judicial mechanism has not been enthusiastically greeted by all nations, especially the United States.

At the recent OAS General Assembly in Santiago, these issues concerning integral development, trade, transfer of technology, collective economic security and general U.S.-Latin American perspectives were debated at length. So serious and wide-ranging were the discussions and the emerging consensus among the foreign ministers that the Assembly agreed to convoke two Special General Assemblies: the first, to consider reforming the OAS Charter to include the concept of collective economic security; and the second, to deal with cooperation for development. This second conference will deal with such questions as creating mechanisms for financing the development of Latin America's basic resources, examining international financing and cooperative economic programs for middle- and high-income countries, and establishing special financing mechanisms for those countries which lack outlets to the sea.

Looking beyond Santiago, whether or how various major development-related issues will be resolved will depend upon many factors. There is a common feeling in Latin America that the United States seems momentarily uncertain about how to proceed from here. When the United States now looks at the increasingly unified articulation of development goals by Latin America, its responses seem to vacillate between defensiveness and attempts to ignore the voices to the south. In the view of some influential Latin Americans, this U.S. indecisiveness is particularly reflected in an inability or a disinclination to seek solutions to development issues utilizing a multilateral—rather than a bilateral—framework.

Latin American countries are no longer content to participate in world affairs under the paternalistic umbrella of the United States. They realize that, while they cannot control the actions of the United States, various experiences both within and outside the hemisphere demonstrate that a significant degree of influences over U.S. actions is possible. Only a few short years ago this would have been considered unthinkable. But Latin American countries have acquired great sophistication and expertise during their long history of involvement in diplomatic intercourse. At present the growing economic and political strength of other Western Hemisphere countries is enabling them to shoulder the greater responsibilities to which they have aspired.

In short, then, a deep and worsening crisis is upon the inter-American system. It has been recognized by the nations of this hemisphere and many of its salient features have been identified. Even though I am convinced that a failure to understand and to grapple with the newer issues at stake can only compound present differences, I find it difficult to accept the pessimism of those who suggest that the inter-American system or the OAS no longer serve the purpose of the nations of this hemisphere.

Our hemisphere has created its own appropriate and unique forum, the Organization of American States, which in the words of Simon Bolivar is "a council in great conflicts, to be appealed to in case of common danger, and be a faithful interpreter of public treaties, when difficulties should arise, and conciliate, in short, all our differences." If they use this forum wisely and well, Latin America and the United States should be able to provide a model whereby all regions can seek to resolve the greatest struggle of our times—that between the industrialized "north" and the developing "south" of our planet.

SPEECH BY POSTMASTER GENERAL BENJAMIN FRANKLIN BAILAR AT THE NATIONAL POSTAL FORUM X, WASHINGTON, D.C.

Mr. FONG. Mr. President, because the U.S. Postal Service has been the target of criticism for some time, it is refreshing and necessary to hear "the other side of the story." It is a story of progress despite problems, of hope despite handicaps.

As related by Postmaster General Benjamin Franklin Bailar before the National Postal Forum X last week:

Chauvinistic though it may be, the fact is that the United States postal system, despite its problems, is the best in the world.

No other nation handles as much mail, and few others deliver it over such a huge area as that which stretches from Maine to Hawaii and from Florida to Alaska.

No other nation can match our record of dependability and efficiency, characterized by a history of delivery virtually without interruption and a productivity rate that rivals any other.

And only one nation in the Western world, Canada, is able to do this job at cheaper rates, and a review of their financial statements indicates that if subsidies are taken into account, the actual Canadian rate would be more like 20 cents.

The Postal Service's accounting of its performance was delivered last Tuesday before an audience of 3,000 registrants and representatives of 90 exhibiting participants in a three-and-a-half-day program in Washington, D.C., sponsored by the National Postal Forum, Inc. It was the 10th such successful forum held by the nonprofit, educational corporation chartered for the purposes of improving the Postal Service and for developing a close working relationship between the service and its customers.

I commend Postmaster General Bailar for giving a straightforward and timely report on the progress and problems of the Postal Service. He places in proper perspective the reorganization, in 1971, of the old Post Office Department into the new Postal Service, why and how it came about, and why he believes postal reform is working and will continue to work.

As the ranking minority member of the Senate Post Office and Civil Service Committee and as one who has been involved in the inception and development of the reorganized postal system, I congratulate Postmaster General Bailar for his able performance since taking over management of the Postal Service 19 months ago under most difficult circumstances.

His speech before the Postal Forum should be widely read. I ask unanimous consent to have the text of his address printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SPEECH BY POSTMASTER GENERAL BENJAMIN FRANKLIN BAILAR AT THE NATIONAL POSTAL FORUM X

There has, of course, been a great deal written and said about the problems of the Postal Service. In fact, if one had only these public accounts to go by, he would be amazed to learn that everyday we successfully deliver some 300 million pieces of mail. The result of all this attention to postal problems has been to create a bleak picture of the Postal Service—a picture almost devoid of any hope.

Today, confident in the knowledge that you have heard about our problems, I want to tell you about our progress. I want to tell you why I believe the postal system is in the best shape it's been in for a decade and some of the things we are doing to make it even better.

Chauvinistic though it may be, the fact is that the United States postal system—despite its problems—is the best in the world.

No other nation handles as much mail, and few others deliver it over such a huge area as that which stretches from Maine to Hawaii and from Florida to Alaska.

No other nation can match our record of dependability and efficiency, characterized by a history of delivery virtually without interruption and a productivity rate that outrivals any other.

And only one nation in the Western world, Canada, is able to do this job at cheaper rates, and a review of their financial statements indicates that if subsidies are taken into account, the actual Canadian rate would be more like 20 cents.

About 10 years ago, however, with the well-publicized breakdown in Chicago, the American people and their leaders began to see that the postal system was faltering—and faltering badly.

The issue became very visible in 1967 when Postmaster General Lawrence O'Brien confirmed that the Post Office Department was on a collision course with disaster. To prevent this disaster, he urged an overhaul of the system. Subsequently a panel of distinguished citizens, led by Frederick Kappel, studied the problems and recommended that the system be restructured along lines resembling those in private industry.

Poll after poll indicated that the public—by margins of two and three to one—favored such an overhauling.

"The system is antiquated, wasteful, loosely organized and inefficient," said one editorial at the time, pretty much summing up the general sentiment.

But postal reform did not come automatically. There were many interests to reconcile, and there were 200-year practices to overcome. Further, as the Washington Post put it in a 1969 editorial, postal reform struck many people "about as lively and fun and mind-grabbing an issue as the hog surplus disposal problem."

Would-be postal reformers, however, persisted, and when a strike in 1970 exposed the mail's crucial importance to the economy, it provided the spark for action. The Postal Reorganization Act became law, giving birth the following year, 1971, to the Postal Service.

Perhaps because of the long odds against its enactment, postal reform was almost universally applauded. Some members of Congress, some major mailers, and some editorial writers heeded the repeated warnings of then-Postmaster General Winton Blount that it would take time to undo the deficiencies that had accumulated over decades. But in the euphoria of the occasion, there was a general feeling that at last the postal problem had been solved once and for all.

Now, several years later, we see a widespread concern, with some people even claiming that postal reform has failed.

I submit, ladies and gentlemen, that those who believe this are entirely wrong and that, in focusing only on the faults, they have ignored a wealth of progress.

Postal reform is working . . . and will continue to work. In five years under the Reorganization Act, the system has been steered off its collision course with disaster and put on the road of recovery. But it is still only a start.

We must recognize that there were practical limits to the benefits postal reform was expected to produce.

It was not expected to remake human nature and provide flawless service, not in a system where there are 90 billion chances for mistakes in a year.

It did not call for reduced or giveaway rates (which would require extra billions of dollars in subsidies), but rather fair and reasonable rates, reflecting true costs.

It did not intend to escalate these costs by installing a collection box on every street corner or a post office at every crossroads, but rather to provide services that meet realistic needs and are measured against the reasonableness of providing them.

Nor does postal reform mean a free ride

for any employee, but rather a fair day's pay for a fair day's work.

When we streamlined our operations and were able, in the last 18 months to trim more than 40,000 jobs off our rolls at a savings of $690 million—that was postal reform.

When we re-evaluated service needs and were able in five years to close more than 1,400 post offices without reducing the overall level of service—that was postal reform.

When we halved the system's percentage of dependency on the tax dollar—advertising the true cost of postage for all to see on the face of each stamp—that, too, was postal reform.

And when we installed a personnel system based on merit—that was postal reform.

But above all, postal reform has meant planning, building, mechanizing, motorizing, modernizing and introducing improved work methods and industrial engineering techniques on an unprecedented scale. As a result, the postal system, which in 1970 belonged essentially to the 19th Century, has properly moved into the modern era.

Ironically, the major criticism leveled at the Postal Service has come not from a failure to live up to our legal mandate, but rather from pursuing it closely. Thus our efforts to increase efficiency, as we are required by law to do, have variously and wrongly been called a "speedup" or "a callous disregard for employees" or falsely interpreted as a lack of concern about rural or other citizens. And our efforts to trim costs, in order to meet our requirements to try to break even, has been branded an over-emphasis on (and I quote) "making a profit" at the expense of service.

Clearly, the Postal Service has made no profit to date, and what these remarks reflect is a failure to recognize that service and financial responsibility go hand-in-hand . . . that the only way to insure good service long-term is to build it on a solid financial foundation. For years, New York City lavished excellent services on its citizens, but now that the bottom has almost fallen out of the city treasury as a result, an unprecedented austerity has been imposed. It is precisely that kind of boom-and-nearbust, feast-and-near-famine cycle that the Postal Service has been trying to desperately to avoid by balancing and reconciling both our service and our financial responsibilities.

We believe this is what postal reform is all about, and we mean to continue to make the hard decisions it requires—even when these decisions may not be popular.

One of the fundamental problems of the old Post Office Department, tied as it was to political apron-strings was that it never learned to say "no." A classic example of this failing took place during the Christmas mail season of 1952. As you probably know, it was traditional for the Post Office Department to hire so-called "Christmas casuals" during this peak period.

In 1952, an addition 407,000—I repeat, 407,000—Christmas casuals were hired. This was at a time when total regular workforce numbered only 520,000. Most of the Christmas casuals that year worked for only a day or two—not long enough to do the system any good. The Post Office, in short, could not say "no."

In contrast, last Christmas we hired 30,000 such casuals as temporary supplements to our workforce of 700,000.

The temporary hiring of 407,000 persons over several weeks represents an extreme example, but it points to the kind of situation that, even in its most subtle forms, must be avoided and which the Postal Service is avoiding.

Because of the extremely rapid change during this period, it has been a difficult time for our employees. Yet they have responded well under trying circumstances, and I am proud of the fact that the U.S. postal worker is the most productive in the entire world, leading postal workers of all other nations by wide margins.

For these reasons, it remains a mystery to me why, as frequently happens, the Postal Service is charged with being inefficient.

Perhaps it is because—considering our major purpose to be delivery of the mails and not public relations—we have failed, as they say in media circles, to "get our message across."

Perhaps it is that, as the most visible arm of the federal government, the public finds us a handy target on which to exercise its inalienable right to criticize.

And perhaps—just perhaps—the public's expectations of the services it wants from government have exceeded its understanding of the need to pay the costs of this service or its willingness to do so.

We have all along since discovered that nothing is free, including what we get from government, yet it may be that we never stop hoping.

I am particularly proud of the achievements of the Postal Service when they are matched against those of the other agencies of government and private industry.

Unique among these agencies, the Postal Service has a publicly announced standard of performance, promising, for example, to deliver local letter mail overnight at least 95 per cent of the time. And our performance against this standard is easily measured, through the postmark. Nationally, we met this standard in Fiscal 1976, as well as 1975, and that, I maintain, indicates a record of performance that no other agency can touch. If you have never sought to replace a lost Social Security card or apply for federal assistance of any kind, I think you will agree. I might say also that our record matches well against much of the private sector, if you consider the on-time records of the railroads, the quality and cost of auto repairs, the disappearance of doctor's house calls, and the like.

Further, I think it note worthy that during the last five years, while postal employment was declining by more than 7 per cent, all other federal employment increased 4 per cent, and state and local government, more than 16 per cent.

Further, I take pride in the fact that the Postal Service has met more stringent fiscal disciplines than any other agency in the federal sector. The consequences are most apparent in what it costs us to provide our employees with social insurance—that is, workmen's compensation, retirement contributions, health and life insurance premiums and the like.

While we fully support such benefits and believe our employees are entitled to them, we have also become concerned about their skyrocketing cost. In our first fiscal year, 1972, these costs totalled $748 million; last year, they rose to $2 billion. One of the biggest dollar increases has been in Workmen's Compensation, which jumped from an annual cost of $94 million in 1974 to $241 million in 1975 and to an estimated $370 million in 1976 as a result of a liberalization of requirements enacted in law.

The new law requires federal agencies to continue an employee's pay for up to 45 days when a job-related injury is claimed. It also gives the employees a free choice of physician, including chiropractors, to certify this claim and extends the employee's right to file a written claim from one year to three years.

The point is that these costs are borne directly by the mail user; in fact, everytime he or she buys a first-class stamp, 1.5 cents of that 13 cents goes for social insurance for postal employees. This is in vivid contrast to every other federal agency, where these costs appear as a line item in appropriations requests.

In short, the Postal Service—alone among major federal agencies—is called upon to pass almost all its expenses on to users of its service. If these costs were more visible in government services, it might be useful in that it would pinpoint the true cost of each of these services. But the effect now is simply to make it appear that postal prices are unreasonably high, which is not the case.

In a real sense, therefore, the Postal Reorganization Act was a kind of Truth-in-Postal-Pricing Act. And what it chiefly revealed is that postal service is expensive, involving as it does a payroll of 680,000 persons, the maintenance of some 40,000 facilities and a motor fleet of some 200,000 vehicles, the cost of paying airlines to transport some 1.4 billion pounds of mail a year, and so on.

In the days of the old Post Office Department, these expenses, if adjusted to today's dollar, were just as great, but they were disguised by annual appropriations that covered any shortfall between costs and revenues.

As a result, the nation had a 3-cent stamp for two decades. But it was a stamp that was heavily subsidized during the latter part of that period—and a stamp that, in reality, cost the average citizen much more.

If postal reform had not taken place when it did, I am convinced that the nation would today be saddled with a Post Office Department that would be both insolvent and incapable of meeting national mail needs.

Instead of reducing its workforce by 50,000, as the Postal Service has done through mechanization and other means over the last five years, it is reasonable to assume that if the Post Office Department were in business today it would be lumbering along with a greater—not a lesser—workforce than it previously had.

This speculation is supported by the fact that during the last five years of the Post Office Department letter carrier productivity actually declined 2.7 per cent, while clerk-mail handler productivity fell 1.7 per cent. In contrast, during the five years of the Postal Service, carrier productivity has risen 23.8 per cent and clerk productivity by 13.6 per cent.

Thus, I believe that if the old Post Office Department had had to contend with the recent period of energy crisis, double-digit inflation and recession, the nation's mail problems would today be multiplied many times over. This is especially the case, since this period has also seen an end to the era of rapidly increasing mail volume, which was the chief factor that kept Post Office Department finances from going totally out of whack. Put another way, the Post Office Department foundered in a period of what was, in mail terms, prosperity, and if it had been around for the last five, difficult years, I believe it would today be in chaos. It is my strong belief therefore that the postal structure under which we now operate allows us to deal far better with our problems than did the structure of the Post Office Department.

Some people are fond of pointing out, however, that since the Postal Service, like its predecessor, has run up a large deficit, nothing has changed. But what they neglect is that while the Post Office Department did so by perpetuating waste and inefficiency, the Postal Service's debt has been incurred by meeting the mandate of postal reform and paying for the improvements that have made the postal system structurally sound again.

In fairness to past postal managements, it must be noted that they operated under a fundamentally different law with some different goals than we have today. Also, they operated with an annual appropriation process that effectively prevented any long-term planning for capital expenditures. The removal of these handicaps has given us a major advantage, and it is one we have exploited.

As we look to the future, we recognize that it will be characterized by significant changes in the ways Americans communicate with each other, and we believe the Postal Service must adapt to these changes.

How we adapt is still far from certain, and it is one of the prime matters that will confront the study commission created by the postal legislation that was recently passed by Congress. The commission will have to weigh the effects of a possible significant loss of mail volume in the future and how this loss would impact traditional mail services and the present system of postal financing.

As part of our own examination of future directions, we have been exploring the possible role the Postal Service can play in the future world of telecommunications.

Let me stress that we have no interest or desire to intrude in any way in existing telecommunications as they are conducted by American business. Not only would that be a practical and financial impossibility, but it would also run directly counter to the notions of free enterprise that have made the United States the world leader in communications.

Instead, our studies are directed toward determining ways in which the Postal Service might encourage and enhance the efforts of private industry in telecommunications . . . while providing a genuine service to the public and increasing the viability of the Postal Service in a changing environment.

As you know, the Postal Service has already taken a small step in the direction of electronic messages by taking part in the successful establishment of Mailgram.

Beyond this, we are exploring two possible avenues.

The first is the mass electronic transmission of printed matter at a low cost from point to point, with delivery by letter carrier to the ultimate recipient. This is the so-called electronic mail concept. Last June, we let a contract for a feasibility study on the technical and economic aspects of such a system. The results are expected in approximately 18 months.

In addition, we began about six months ago our own internal research and development effort in the technological areas where we believe the current state of the art is inadequate. Specifically, we are studying whether the hardware needed for high-speed scanning, printing, and conversion to letter form is technologically possible on the scale that would be necessary. We are also currently engaged in Chicago in developing a test with six airlines to speedily provide delivery of airline tickets through a combination of electronics and carrier service.

The second area where the Postal Service may usefully capitalize on its existing unique capabilities is in Electronic Funds Transfer.

Acknowledging that EFT will almost certainly come to pass, we must examine whether there is a role for the Postal Service to play in the same way it does today with billions of pieces of mail.

We are intrigued by the possibility that, in capitalizing on the unique strengths of the present system in a manner that is very unlikely to be duplicated in the private sector, we may be able to expand our contribution to American communications.

Whether in fact it would serve the national interest for the Postal Service to enter these is open to question. But I do know that the Postal Service must look beyond this year and the next and try to plan its course as intelligently as possible. And that is what we are trying, in the spirit of postal reform, to do.

In five years, we believe that, we have come a long way, yet we also are well aware that there is a long way to go.

In closing, I give you my guarantee that we will not relent in our attempt to bring the process of postal reform to full fruition—and as soon as possible.

THE CONTINUING CONTRIBUTIONS OF SENATOR MOSS

Mr. JACKSON. Mr. President, as chairman of the Interior Committee, I would like to take time to laud the continuing contribution of my colleague, Senator Moss.

Ted served on the Interior Committee for 14 years and was instrumental in the enactment of many bills which have been of great importance in managing the public lands.

Even though he is no longer a member of the committee, his influence is as strong and effective as ever.

Recently, for example, an amendment to S. 1302 has been adopted through his efforts. This amendment eliminates preferential treatment originally accorded eastern administrative law judges over western judges in the Department of Interior and will insure that the Department's work in adjudicating cases relating to the management, use, and disposition of the public lands and mineral resources will be accorded equal status with the adjudicative work of other agencies under the Administrative Procedure Act.

THE ERADICATION OF RELIGION IN COMMUNIST CHINA

Mr. GOLDWATER. Mr. President, the patronizing eulogies of Chairman Mao in the liberal press indicate to me the need for placing before the American people once again a truthful account of exactly what developments occurred during the reign of Mao. If all the public has to go on is the glowing histories of Mao and his little red book that one finds in the current eulogies, he will have a one-sided impression of Chinese communism that is colored with visions of idealism and morality. This is particularly so of youth who were not even born in the years of Mao's rise to power and who lack the personal memories of actual happenings in Communist China by which they can make their own evalutions of the worth of what they read.

In order to try to shed some light from history which may balance the darkness over the news which has blurred so much that has been written recently about Mao and his brand of communism, I plan to discuss, from time to time, in the Senate various aspects of the human costs of communism in China. I hope that these brief reminders or real events will help to restore a proper perspective to views in America on Communist China.

Now, I do not think there is any better starting point than to examine what has happened to religion in Communist China. Faith in religion and faith by Americans in the moral purpose of their experiment with self-government have been a determining factor in shaping the development of American society since the first settlers reached this continent. The widespread devotion to an almighty Supreme Being and a faith in His benevolence towards our Nation has stood out as a unique characteristic of the American people in every period of our history. Even the minority of nonbelievers have always shared with the great majority many of the same high ethical and moral values, both as precepts of their own lives and as standards of conduct for those in government.

Any society which is totally antagonistic to all organized religion and disdainful of ethical tradition is in direct conflict with the religious and ethical character of the American public. Knowledge of religious persecution in other political communities is relevant to the natural interest of Americans and to their ability for making judgments which may influence what kind of foreign policy our Government shall have with respect to such alien societies.

With this said, let us review the status of religion in Communist China. At the onset of Communist rule on the mainland, there were 1 million Protestant Christians, 3.2 million Catholics, and 50 million Moslems in China. There were also at least 500,000 monks and 100 million lay followers of the Buddhist religion, which included most of China's farmworkers outside the Moslem areas and many city dwellers. In addition, there was widespread belief in Taoism, an indigenous folk religion, and countless adherents to Confucianism, an ethical way of life, if not a religion.

By the time of the cultural revolution of 1966, open religious practice had been totally suppressed. With but 2 minute exceptions, religious buildings of all kinds had either been destroyed or converted into warehouses, stables, dormitories, and the like. There is one Roman Catholic cathedral and a single mosque still open in Peking, primarily for small numbers of visitors from foreign nations. Aside from that, for the first time in centuries, there is no open practice of any religion in mainland China today.

The desecrations of the Red Guard in 1966 and 1967 were not sudden changes of policy. Persecution, intimidation, thought-reform—a Chinese Communist term for brainwashing—and murder of religious leaders and followers had become a growing and customary practice of the Chinese Communists since the mid-1940's. Even before their actual takeover of control on the mainland, as various parts of China came under Communist hegemony in the late 1940's, Christians particularly experienced increasing interference, ranging from intimidation, imprisonment, beatings, and murders.

One conspicuous example is that of Christians in the village of Siwantze who were imprisoned and beaten until a missionary pastor who was in jail, agreed to sign away the mission property. The first issue of the China Missionary Bulletin, dating from the late forties, tells that in Jehol province, priests were being hung by their thumbs and beaten and one was seen being dragged over roads and fields with a man on his chest.

One of the first things the Communists did to suppress religion after they assumed power was to expropriate or nationalize all Christian properties and buildings. All rural churches were closed during the initial land reform. And the great majority never reopened. They were used as meeting halls, schools, hospitals, stables or graineries. Or they were left unused or demolished. After 1958, the same thing happened to the majority of city churches.

Christian schools and hospitals were also taken over by the Communists in 1951 and 1952. The complete elimination of religious buildings for practicing use came as the storm of the Cultural Revolution broke in 1966. During the wave of the Red Guard, churches were stripped of their crosses, statutes, and decorations. Crosses and other religious symbols were removed even from tombstones by the Red Guard. Youths wearing red arm bands broke into the small number of Christian churches that had been allowed to reopen after land reform, removed bibles and archives out into the streets and started bonfires.

China Notes, a Protestant publication, describes the suffering of individuals at the hands of the Red Guard:

> Boiling hot tea was poured on the head of an evangelist's wife while she, her husband, and the minister were made to kneel all night next to a fire fed by Bibles, hymnbooks and religious materials.

The same article states:

> Red Guard groups tore down the cross from the church in this same city, broke all the windows, and forced the old pastor to kneel on the broken glass. Then he was shot.

A Protestant church leader in central China told of mistreatment of his wife while he was serving sentence as a political prisoner on a prison farm. His wife was beaten by Red Guards who then placed her for 2 hours in a wooden box on which they poured water. She soon died of illness brought on by the mistreatment.

But I am running ahead of events. When discussing the suppression of religion by the Chinese Communists, however, it is difficult to separate 1 year from another. Harshness early became the order of the day. Obscenities were shouted at priests and plastered on church walls from the beginning of the Communist period. People were warned not to take the sacraments at mass because of possible poisoning. A 1951 report of the Chung King diocese states that "Catholics are forbidden to possess rosaries, holy medals, or crucifixes. Homes are searched and prayerbooks, catechisms, and holy pictures are destroyed if found." Sound familiar? Is it the Red Guard of 1966 or the Red Army of 1951? No matter, as far as religious worshippers were concerned, it was all the same.

Catholic bulletins of the same period described the ordeal of Father Chang, who was imprisoned in August of 1951, for resisting Communist control of Catholic schools. Father Chang was educated at the Sorbonne, served as rector of Saint Ignatius College, dean of the arts faculty and director of the Bureau of Chinese Studies. He died in a Communist prison in November 1951. The China Missionary Bulletin states that his "emaciated body" was so "black with bruises, that even his brother could not recognize him."

A report to the Church of Scotland in 1953 reveals the persecution Protestants faced:

> Fear is widespread—fear of saying something that will reveal the wrong kind of thoughts . . . fear of being considered less enthusiastic than others in acclaiming the new liberators of the people; fear of being out of step in anyway with what is the done thing; fear of the informer and fear of being placed in such a position that one must inform on others or be regarded as an enemy of the people. Fear is kept acute by dispossession of property, by bringing suspects before "the People's Courts," where no proper process of law is observed, or by holding accusation meetings where individuals are denounced for real or invented offenses.

The letter of a Catholic girl in Shanghai, written in 1956, gives a description of what Christian youth had to endure:

> We, the Catholic youth, were especially sought out. We were locked up in a branch of the police bureau for interrogation and to make a confession. We were forbidden to return to our homes. We spent a week in prison, and it was very hard. After that we had to participate in the indoctrination meetings of the district . . . This indoctrination went on for three months . . . We had to go out in the morning and didn't return until night . . . Sometimes the meetings lasted until early morning . . . Finally we had to make out a written confession. This was the last thing we had to do but it was terrifying. Now that the group indoctrination is over, we must continue to attend individually. The difference is that we only have to go to the police bureau two or three times a week.

These study sessions increased in intensity from 1957 to 1959. There were five distinct sessions from August 1957 to February 1959, ranging in duration from 3 weeks to 5 months. Participants were involved from 6:30 a.m. to 10 p.m. By the fourth session, the participants signed confessions. In the fifth session, they presented skits which ridiculed missionaries and "reactionary" priests. Religious believers who suffered through this experience thought they would be allowed to return to normal life, but they soon discovered that they still had to undergo harsh "reform by labor" in prison camps.

Needless to say, missionaries were eradicated early on. The exodus of Protestant missionaries was virtually complete by late 1951. In the spring of 1953, there were only 10 American Protestant missionaries still in Communist China and 8 of them were in jail.

Although some Catholic missionaries lingered on a short while longer, like their Protestant colleagues, three-fifths had departed by the end of 1951. In 1948, there had been 5,496 Catholic foreign missionaries in China, including 3,046 priests, 414 brothers and 2,036 sisters. By January 1952, the number on the continent had been reduced to 1,848. There were only about 750 a year later, less than 250 by 1954, and less than 90 at the beginning of 1955. In 1956, only 16 priests and 11 sisters remained and 13 of the priests were in prison. It was during this period that the Belgian missionary, Father Sohier, had his back broken by soldiers jumping up and down on him to get him to confess. The priest laid paralyzed for 6 months afterward.

A similar fate met other Catholic institutions. The China Missionary Bulletin of January 1953, reported that "of the 13 Catholic universities, 189 secondary schools, 2,011 primary schools, and 2,234 prayer schools providing education for some 320,000 students, hardly 1 school remains in Catholic hands today." With the exception of a few seminaries which stayed open until the late 1950's, Roman Catholic formal education in Communist China had ended by 1953. The last seminary closed its doors in 1957. It was converted into an anti-Catholic museum in 1958.

By the end of 1951, only 12 of the 216 Catholic hospitals which had existed in China in 1948 were still functioning under the church. More than half of 180 Catholic orphanages were also taken over by the Communists by 1952. Nuns who worked in orphanages were falsely accused of murdering children, selling their blood for transfusions, and plucking out eyes. Of course, no evidence at all was offered to support these charges. All church-run orphanages, as well as hospitals and religious studies institutes, disappeared completely in 1966.

The persecutions of Christians by Mao can be likened to the oppressions of Manchu Emperors who before him had tried to destroy the growth of Christianity in China. Mao fits the same mold as the 17th century Emperor Shun-Chih, who directed that catholicism should be prohibited in China, missionaries banished from Peking, and churches closed. Atrocities committed by the Red Army and Red Guard in the name of Maoism during the previous 30 years resemble nothing more than the cruelties of past Emperors, such as Chia-h'ing, who in 1815 arrested more than 800 Christians in Szechwan, put two church leaders to death by strangulation, and ostracized numerous religious believers by compelling them to wear large wooden boards around their necks for life.

Mao was but the modern incarnation of the feudal dictators he so piously inveighed against. The only difference is he attacked all religions, not just Christianity.

Buddhists suffered equal tragedy with Christians. Monks were expelled from monasteries and put into forced work. Buddhist temples and monasteries were converted to secular purposes, such as military barracks, all over the country. Land was confiscated from the monasteries and redistributed among farmers. Some appearance of keeping Buddhism alive was maintained in the early 1960's in order to delude peace groups from abroad, but even the guise of using Buddhism to improve Communist China's foreign relations disappeared with the cultural revolution.

The true status of Buddhism in Continental China today is disclosed in a Communist document entitled, "Mao Tse-tung Replaces Buddha in Tibet." This article includes such gems of information as the following:

> "The Mao Tse-tung's Thought propaganda teams organized by PLA units in Tibet have helped spread the invincible thought of Mao Tse-tung wider than ever in the cities and mountain villages and in the farming areas and grasslands. The brilliance of Mao Tse-

> tung's thought illuminates the hearts of one million emancipated serfs . . .
>
> "Whereas previously clay Boddhisattvas were worshipped in most families, they are now replaced by Chairman Mao's portrait. Whereas statues of gods and spirits filled villages and streets, they are now replaced everywhere by quotations from Chairman Mao. Whereas previously the Tibetan people carried bundles of Buddhist scriptures, everyone now holds the 'red precious book.' . . . Whereas before the Tibetan people burned joss sticks, worshipped the Buddha, and chanted Lamaist scriptures, they now seek the advice of Chairman Mao every morning and report to him every evening, and sing 'The East is Red,' every day before Chairman Mao's portrait.

And so on and so on goes the nauseating report about the complete extermination of Buddhism in Tibet and its replacement with Mao-worship.

The 50 million Moslems in China were treated most carefully of all religious groups. For one thing, Moslem armies had defeated the Communists in 1937. For another, the Mao regime tried to make use of the Moslems in order to deceive and influence diplomatic relations with Moslem nations.

Even so, intensive efforts were made to bring all Moslem children into Red schools. In 1956, a group of Pakistani Moslems who toured Communist China found that teaching of religion was banned in the schools. By 1966, the Red Guards had formed a new organization called "the Revolutionary Struggle Group for the Abolition of Islam." Wall posters called for mosques to be closed and for abolition of all Moslem feasts and holidays. In fact, today there is only a single mosque left open in all of mainland China, and this one for visitors from Moslem nations.

The attacks upon Confucianism are well known. Confucius is labeled the "number one of feudal thinking." Portraits of Confucius have been carried through the streets labeled: "I am an ox, a demon, a snake and a devil." The Confucian emphasis on eternal human values, inner knowledge and morality were too much for Mao, who announced a "struggle to the death" against Confucianism. All Confucian temples or shrines that had remained were converted into schools, cultural centers or storage depots. After 2,500 years, Confucianism has, at least temporarily, been removed from mainland China.

In their urge to eliminate all competition with worship of Maoism, the Chinese Communists have not even left the grave alone. Ancestral tombs long regarded as sacred have been removed. Grave stones and coffins are used by collective farms for building irrigation works, pig sties, latrines, sheds, and so forth. This from the first Secretary of the Communist Party Committee for Waton. Communist Party functionaries have gone around the countryside forceably convincing the masses of the great cost of funerals, the amount of land consumed by graves, and even the tremendous amount of wood which goes into a traditional Chinese coffin.

Such is the "moral society" and "dignity which liberal journalists tell us Mao has brought to mainland China. Such is the great virtue which Mao possessed, according to his apologists in the American press.

When will they face the facts? When will they honestly serve the American public's right to know by disclosing the unpleasant side of left-wing dictators? The truth is there for all to see if one wants the truth to be seen.

THE RURAL ELDERLY

Mr. CLARK. Mr. President, I recently spent several days in the Midwest assessing the needs of the rural elderly during hearings of the Senate Special Committee on Aging which I conducted in South Dakota, Nebraska, and Iowa.

I was impressed with the aging services programs which operate in these three States. The Older Americans Act, the title XX social services program, title IX and X manpower programs, ACTION, Housing and Urban Development, and Department of Transportation programs have all contributed significantly to the particular needs of rural elderly residents. However, I was also impressed with the obvious disadvantages and problems that face older American who live in less densely populated areas. We heard principally from persons who were 60 years of age and older about the services and benefits that exist for them, the particular problems they have, what is expected for the future, and what the Federal role should be in these areas. Regardless of their concerns, our witnesses all agreed that one's place of residence often impedes availability to services. This should not be.

In all three States, we heard over and over again about the necessity of having adequate transportation systems for the elderly. Many of the areas have a minibus for transporting older persons. However, there is usually one bus per county, if that; and this is far from serving the needs of the residents. A reliable means of transportation is still needed in many rural communities to allow the elderly to make a visit to the doctor, to the grocery store, to their churches, and so forth. But, like the rest of us, they also need transportation for recreational purposes. Albert Burrows of Oskaloosa, Iowa, stated it well:

> We need opportunity for new experience. We don't have buses enough in our county or I guess any other county to give the aged opportunities to go to the State Fair or over to Mount Pleasant, the old reunion, or to go up to some other corner of the State and see the beauty of Arnold's Park or something. We need more new experience.

Shortcomings of health services in rural areas can be devastating. Witnesses told the committee about day-long trips to see a doctor. Some said they had not seen a doctor or a nurse for over 5 years. Miss Helen Storms of Western, Nebr., described it vividly:

> In years past we had three doctors. We had a dentist, we had a registered nurse—we had two or three. . . . We had two trains a day and we were pretty well served. Today we have no doctor, no dentist, no RN. We are 18 or 19 miles away from any of those services and that has changed very decidedly the life of the people that live in our rural community.

Ann Snell, a regional supervisor nurse for Iowa Department of Health, cited the results of a recent survey showing the length of time persons had gone without seeing a physician in the rural areas. The survey of the well-elderly clinics in Powesheik County revealed that of 245 elderly persons seen at the clinics, 43 had last seen a physician 1 year ago, 67 between 1 and 2 years, 78 between 2 and 5 years and 57 had not seen a physician for over 5 years. Mrs. Snell commented: "Just stop and think, these persons are 60 and over."

I visited several federally assisted housing projects for the elderly. One in Winterset, Iowa, was particularly impressive and it was evident by the comments of the elderly residents. But not all communities had such facilities and many who did had waiting lists of substantial numbers. Our witnesses all knew of many friends who would like to move into more convenient quarters that would help them overcome their lack of mobility, their lack of income to meet high rents, their inability to care for the yard and up-keep of the house, and their need to be closer to many services. But often, the housing is not available.

Mayor Theodore Murphy of Ida Grove, Iowa, told the committee of his attempts to secure housing for the elderly: "We have moved away from any attempt to developing housing the so-called HUD program. It just seemed like we could not get HUD interested in a small community that needed a lesser number of units."

Former Gov. Robert D. Blue of Eagle Grove, Iowa, summed up:

> Housing is more than four walls, a roof and the other things that we think of. Housing is neighbors; it's sidewalks; it's roads; it's sewer; it's water, but most of all it's services, and a building that is not located where services are reasonably available is not good housing. The accessibility, of course, that I speak of is churches, lodges, doctors, lawyers, dentists, drug stores, grocery stores and schools and all manner of things that people are interested in because older people are interested in the same kinds of services that other people are and if they are deprived of those services or of their location then they are being made second class citizens, so to speak.

Often mentioned as another place the elderly very much like to go is their senior center. Multipurpose senior centers, particularly since the funding of title V of the Older Americans Act, have become very popular in many rural communities. The center often serves as a meeting place for the older residents, a congregate meal site, a health screening clinic, a place for counseling assistance and just a place to sit and play bingo or cards with their friends.

Mrs. Marge Stine of Grand Island, Nebr., described the senior center's worth to her community:

> At one time most of our activities centered in the Grand Island area. We have had a very difficult time getting the very rural elderly involved. We tried news media through human interest stories, etc., to no avail. Outreach was sent out from the Grand Island area. It seemed everything failed. We then decided to take the programs to the rural community towns. We hired a part-time community aide from each town with

> the idea of developing an informational center for each area. The community became involved by providing space either in churches, fire halls, or town halls, etc. The centers became a focal point for all activities. The seniors were able to get information regarding services available to them in the community. The seniors feel most comfortable with their own peer group and seem to develop a good rapport with the community aides at the centers. Even the most timid and withdrawn individuals become involved in one or more of the activities.

Mrs. Stine's endorsement of the concept of senior centers was echoed throughout the other States. Mr. C. E. Judd of Thompson, Iowa, was concerned that the centers meet the particular needs of each individual older person. Mr. Judd stated that "these older people vary greatly in their backgrounds, education, mental, and physical capacities and do not all care to do the same thing at the same time. A senior center should allow ample time and space for each to do his own thing either alone or in small groups. The area agency on aging working with organized groups can be most effective in bringing its programs to the elderly if there is a senior center in the community, and in this manner the whole program can be more visible."

I visited such senior centers and wholeheartedly agree with Mrs. Stine and Mr. Judd. I urge my colleagues to visit such centers in their own States and discover the worth of these central community centers for their elderly constituents. Title V of the Older Americans Act supports multipurpose senior centers for local communities. The Congress was finally successful this year in obtaining funding for this title in the transitional quarter and fiscal year 1977 appropriations legislation. I strongly support the need and worth for such funding and hope that every community will soon be able to benefit from the likes of a senior center.

I also hope that many of my colleagues visit the rural areas of their States and get to know the problems and concerns of their rural elderly. I hope to continue this series of hearings throughout other areas of the country and welcome their efforts in this series of hearings, and I thank the chairman of the committee, FRANK CHURCH, for agreeing with me on the need for such an inquiry.

The rural elderly have much to tell you. They speak for themselves, and the rural areas in which they live. They know their communities, its problems, and its successes. They are the ones we should be listening to about their needs. I am hopeful that the Committee on Aging's efforts to hear their opinions results in constructive recommendations for making their problems less severe. They deserve that and more.

GENOCIDE AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, I strongly believe that the most important fundamental human right is life. Our Founding Fathers 200 years ago declared the self-evident truths:

> That all Men are Created equal and that they are endowed by their Creator with certain unalienable Rights, that among these are life, liberty, and the pursuit of happiness. . . .

Throughout our history, the United States has recognized the importance of these individual rights, and especially the right to life, for all people of every nation. Committed to the principle of human rights, the United States was instrumental in the drafting of the United Nations Universal Declaration of Human Rights which provides that "human beings are born free and in equal dignity and rights," and that "everyone has a right to life, liberty, and security of person."

But we have also seen throughout history, and particularly in the last century, horrible violations of the right to life against entire groups of people. The systematic extermination of the Jewish people by Hitler is a tragic example of this terrible crime.

Mr. President, our commitment to human rights demands that we act now to condemn genocide as a crime against mankind. I urge the swift approval of a very necessary treaty to outlaw genocide.

THE EFFECT OF THE TRANS-ALASKA PIPELINE ON THE WEST COAST CRUDE OIL SUPPLY

Mr. JACKSON. Mr. President, on Tuesday, September 21, the Senate Interior Committee and the Senate Commerce Committee will hold a joint hearing to take testimony concerning the effect that completion of the trans-Alaska pipeline system will have on the west coast crude oil supply. Secretary of Interior Kleppe, Secretary of Commerce Richardson, and Federal Energy Administrator Zarb have been requested to testify.

As my colleagues will recall, Congress passed legislation in November 1973, which removed the legal obstacles to granting a right-of-way permit for the trans-Alaska pipeline system. We amended the Mineral Leasing Act to provide for granting a wider right-of-way than the previous law had allowed. That action was necessary because of the holdings in a series of court decisions stemming from a suit filed in March 1970 challenging the width of the right-of-way permit. An amendment offered and passed on the Senate floor specifically authorized construction of the trans-Alaska pipeline and declared the Interior Department's environmental impact statement on the proposed project to be adequate, thus halting litigation originally filed in 1971 challenging the adequacy of that statement.

Actual construction of the pipeline system began in April 1974, with road construction. Construction has continued since that date and the pipeline is now over 80 percent complete. The project is scheduled for completion in 1977. Alyeska Pipeline Service Co. hopes to begin transportation of 600,000 barrels per day of North Slope crude oil from Prudhoe Bay to Valdez in June 1977 and then increase throughput to 1.2 million barrels per day in November 1977.

When the Congress took the extraordinary action of authorizing construction of the pipeline in 1973, the oil companies who owned the Prudhoe Bay oil field, the Department of the Interior, the State of California and others projected that the west coast demand for crude oil would exceed the amount to be supplied by the trans-Alaska system. However, in today's postembargo period, increased crude oil costs combined with successful energy conservation programs have reduced the Nation's demand for crude oil below the preembargo projected levels. Though some economists had pointed out that the Midwest would be relatively more dependent—as a percent of total demand—than the west coast on insecure foreign sources for crude oil, there was a general consensus in the administration and among the oil companies that the west coast would need all the oil that Alaska could supply. Even those who argued with the projections did not believe there would be a surplus of crude oil on the west coast in 1977 or 1978 upon completion of the pipeline.

There is, however, now growing evidence that there will be a crude oil surplus on the west coast. No one knows for sure how large that surplus will be due to a variety of factors. For example, Congress has recently authorized production from the Elk Hills Naval Petroleum Reserve which will have an effect upon the west coast supply picture. Expected production resulting from the Outer Continental Shelf leasing program must also be taken into consideration. Recognizing these uncertainties, there are estimates that the surplus could be as large as 1.3 million barrels per day in 1985.

In order to get a clear picture of the state of planning and preparation for the pipeline's completion, Senator MAGNUSON, Senator STEVENSON, and I sent a comprehensive questionnaire to concerned Federal and State officials and private parties. We stressed that there are a number of very critical issues associated with completion of the pipeline which merit careful attention. The questionnaire was sent to each Federal agency or department that has responsibility for some aspect to crude oil production, transportation, or regulation; to the Governors of the States of Alaska, Washington, and California; to the four largest producers on the North Slope who are also the four largest co-owners of the pipeline company; and to each of the private parties proposing some type of transportation system to handle a portion of the crude oil once it reaches the west coast.

Replies to the questionnaire are now being received. A compilation and an analysis of the replies will be completed following the hearing and published as a committee document. Mr. President, I ask unanimous consent that the questionnaire be printed in full following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, at a very minimum, the issues which must be addressed in dealing with this situation include:

The timing for and anticipated levels of North Slope oil production;

The capability of west coast refineries to process Alaska crude oil;

The plans, if any, of the producing

companies to export or exchange Alaska crude oil;

The policy of the administration toward oil export or exchange agreements with Japan or other nations;

Whether Alaska crude oil which is surplus to west coast needs, or not capable of being refined on the west coast, will be transshipped to other areas of the United States;

The need, if any, for new legislative authority to deal with potential problems associated with the delivery of crude oil from Alaska's North Slope; and

Whether the appropriate units of the Federal Government are fully and properly exercising their responsibility for expeditiously resolving these issues in a manner which serves the national interest.

Mr. President, examination of the information currently available indicates that there has been a breakdown in both Federal and private sector planning necessary to accommodate North Slope crude oil and to insure equitable crude oil distribution to all parts of the Nation.

Finally, we are once again faced with the spectre of possible exports of a domestic crude oil resource to Japan or elsewhere. Though the Alaska pipeline legislation provides very strict limitations on potential exports by requiring an express Presidential finding "that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969," exports of crude oil are still possible. These exports could be in the form of direct exports to a foreign country or in the form of an exchange agreement whereby one North Slope producer would be authorized to export to a country such as Japan in return for an agreement to import a like amount of crude oil from Venezuela or the Mid-East to the east coast or Texas gulf coasts.

Mr. President, the projected west coast crude oil surplus raises serious questions about the Nation's present ability to plan for and take appropriate actions to meet critical energy needs. I hope that the hearing will make clear what actions, if any, the executive branch and the Congress need to take in this area.

The questionnaire follows:

Exhibit 1

U.S. Senate,
Washington, D.C., August 23, 1976.

Hon. Elliot L. Richardson,
Secretary, Department of Commerce,
Washington, D.C.

Dear Mr. Secretary: As you know, the trans-Alaska pipeline system is scheduled for completion in 1977. Alyeska Pipeline Service Company hopes to begin transportation of 600,000 barrels per day of North Slope crude oil from Prudhoe Bay to Valdez in June, 1977 and then increase throughput to 1.2 million barrels per day in November, 1977. While there may be some question whether that precise schedule will be met, there is no question that at some point in the near future there will be a substantial amount of North Slope crude oil available for shipment to the West Coast or elsewhere under the terms and conditions of the Trans-Alaska Pipeline Authorization Act.

The Senate Committees on Interior and Insular Affairs and Commerce have been concerned for some time now about the effect this crude oil will have on the overall West Coast supply and transportation system and whether adequate planning and preparation have been undertaken in order to fully accommodate this new domestic source of supply. The general supply situation in Petroleum Administration for Defense District V (PADD V) will also be affected by recently authorized production from the Elk Hills Naval Petroleum Reserve and expected production resulting from the Outer Continental Shelf leasing program. There are a number of very critical issues associated with completion of the trans-Alaska pipeline that merit careful attention. These include:

The timing for and anticipated levels of North Slope oil production;

The capability of West Coast refiners to process crude oil;

The plans, if any, of the producing companies to export or exchange Alaska crude oil and the policy of the Administration toward oil export or exchange agreements with Japan or other nations;

Whether Alaska crude oil which is surplus to West Coast needs, or not capable of being refined on the West Coast, will be trans-shipped to other areas of the United States;

The need, if any, for new legislative authority to deal with potential problems associated with the delivery of crude oil from Alaska's North Slope; and

Whether the appropriate units of the Federal government are fully and properly exercising their responsibility for resolving these issues in a manner which serves the national interest.

In exercise of our oversight responsibilities and to undertake a structured examination of these issues, the enclosed questionnaire has been prepared. We would appreciate it if you would respond to all of the questions.

We request that you return the completed questionnaire by no later than September 13, 1976. Any questions you or your staff may have in answering the questionnaire should be directed to Betsy Moler of the Interior Committee's professional staff at (202) 224–0611 or Steve Flajser of the Commerce Committee's professional staff at (202) 224–8146.

We appreciate your cooperation in this effort.

With best wishes.

Sincerely,

Henry M. Jackson,
Warren G. Magnuson,
Adlai E. Steveson,
U.S. Senators.

Questionnaire

POTENTIAL PROBLEMS ASSOCIATED WITH THE DELIVERY OF CRUDE OIL FROM ALASKA'S NORTH SLOPE

I. West coast petroleum supply

A. Crude oil

1. Alaska:

(a) What is your best current estimate of the date of first deliveries of North Slope crude oil at Valdez through the Trans-Alaska pipeline?

(b) To what extent does this estimate reflect questions now being raised concerning pipeline welds or other potential or anticipated technical delays?

(c) What are your best current projections of production and deliveries of North Slope crude oil at Valedz from their commencement for each year through 1985 (taking into account producing capacity in the field, pipeline transport capacity, deliveries within Alaska and use for pipeline fuel)?

2. West coast production:

(a) What is the current production of crude oil in Petroleum Administration for Defense District V (hereinafter PADD V)?

(b) What are your best current projections of production of crude oil in PADD V other than from the North Slope for each year through 1985 (taking into account Elk Hills production and the Outer Continental Shelf)?

3. Imports:

(a) What is the current level of crude oil and product imports into PADD V by country of origin? (Please indicate whether the crude oil imports have relatively high or low sulphur content).

(b) What are your best current projections of crude oil and product imports into PADD V by country of origin for each year through 1985? (State assumptions behind those projections regarding measures identified in question IV A).

B. Refinery Capacity

1. What is the current refinery capacity and throughput in PADD V?

2. What are your best current projections for refinery capacity and throughput in PADD V for each year through 1985?

3. What part of the current and projected PADD V refinery capacity is capable of processing Alaska crude oil or crude oil of similar grade?

II. West coast petroleum demand

A. What is the current demand for crude oil and refined petroleum products in PADD V?

B. What are your best current projections for crude oil and refined petroleum product demand in PADD V for each year through 1985?

III. West coast surplus

Assuming that none of the measures identified in question IV A is implemented:

A. What are your best current estimates of the PADD V net surplus or deficit of crude oil for each year through 1985 in PADD V (i.e., the difference between total PADD V production and refinery runs plus addition to stocks)?

B. What are your best current estimates of the PADD V surplus of North Slope crude oil and crude oil of similar grades for each year through 1985 (i.e., the difference between PADD V production and refinery runs plus additions to stocks of such crude oil)?

IV. Proposed responses to the projected west coast surplus

A. Proposed responses to deal with the projected surplus of North Slope grades of crude oil on the West Coast have included one or a combination of the following:

1. Construction of the proposed Trans-Provincial pipeline from Kitimat, British Columbia connecting with the Inter-Provincial pipeline at Edmonton;

2. Construction of the proposed Northern Tier pipeline from Port Angeles, Washington to Clearbrook, Minnesota;

3. The proposed Sohio project to convert and reverse an existing El Paso Natural Gas pipeline and build necessary connecting pipelines from Long Beach, California to Midland, Texas;

4. Construction of a pipeline across the Isthmus of Panama or across Guatemala to connect tanker routes from Alaska with tanker routes to the U.S. Gulf Coast;

5. Use of small tankers through the Panama Canal or VLCCs around Cape Horn to the U.S. Gulf Coast;

6. Retrofitting existing District V and/or Northern Tier refineries to run North Slope or comparable grades of crude oil;

7. Construction of one or more facilities (at Valdez, Kitimat, Port Angeles or elsewhere) to desulphurize and raise the gravity of North Slope Crude oil, in order to use it in existing West Coast and/or Northern Tier refineries;

8. Shutting in of producing capacity in the field and/or postponement of the increases in pipeline capacity on a short-term basis pending increases in PADD V crude oil demand to absorb the surplus); and

9. Exports or exchanges with Canada, Japan or other countries either on a short-term basis (pending implementation of one or more of the foregoing systems) or on a long-term basis (pending increases in PADD V crude oil demand to absorb the surplus).

B. If you have knowledge of those proposals, evaluate and compare the foregoing responses and any other relevant alternatives with respect to:

1. The current status of each project or proposal;

2. The estimated time for approval and implementation including a description of:

(a) any required federal regulatory proceedings, approvals, leases or permits;

(b) any required state regulatory proceedings, approvals, leases or permits;

(c) any required regulatory proceedings, approvals leases or permits which must be processed in other countries;

(d) any treaty requirements; and

(e) construction schedules, including if necessary, tanker construction schedules.

3. Direct capital and operating costs;

4. Financing arrangements;

5. Refiner and consumer costs of crude oil nationally and by region;

6. Wellhead price for North Slope crude oil, cash flow to the operating companies and revenues to the State of Alaska;

7. Net overall national economic costs and/or benefit;

8. Promotion of the capacity for long-term domestic self-sufficiency;

9. Environmental and safety impacts; and

10. Any other relevant factors.

C. Implementation

1. (a) Considering the foregoing factors which of the alternatives or combination of them currently appears on balance to be best?

(b) Which appear to be workable and acceptable?

(c) Unworkable or unacceptable? (Why?)

2. a) Among those alternatives identified as workable and acceptable which are now under active consideration by producers, refiners or others?

b) Which have reached the stage of applications for necessary certificates, licenses or permits?

3. For each of those alternatives identified as workable or acceptable what appear to be most significant critical hurdles to implementation (for example, demonstration of technical or economic feasibility; Federal or State air quality standards; obtaining competent and credible corporate sponsors; throughout commitment; legal authority; financing; Federal approval of required certificates, licenses or permits; foreign country, State or Provincial approvals or certificates, licenses or permits).

4. For each of those alternatives identified in IV A, what is your understanding of the time frame for completion? At what capacity?

D. Federal Policy Role

1. If none of the pipeline systems listed in IV A 1–3 (Kitimat, Northern Tier, and Sohio) is approved and constructed in time to transport any of the anticipated West Coast surplus in PADD V created by North Slope crude oil production, how would you recommend the surplus be dealt with on an interim basis? On a long-term basis? (Please comment specifically upon each of the proposed responses set forth in IV A 4–9).

2. What, if any, are the specific policy objections to authorization of temporary crude oil exports pending completion of transportation facilities or other systems for efficient domestic utilization of North Slope crude oil?

3. a) Is there a need for Federal legislation to expedite approval and construction of a transportation system or other arrangement to deal with the potential crude oil surplus in PADD V?

b) What, if any, constraints should such legislation address?

Costs and prices

A. What is the full anticipated cost of constructing and equipping the Trans-Alaska pipeline and terminal facilities to carry up to 1.2 million barrels per day (including interest or funds used during construction)? To 1.6 and 2.0 million barrels per day?

B. What are the anticipated crude oil transportation tariffs per barrel from Prudhoe Bay to Valdez, for each year through 1985. (Specify throughput assumptions)? What are the anticipated tanker tariffs from Valdez (a) to Kitimat, (b) to Puget Sound, and (c) to Southern California?

C. To what extent, if at all, would a wellhead price ceiling on North Slope crude oil (a) at the composite domestic average price specified by the Energy Policy and Conservation Act, or (b) at the upper tier price established by FEA, be expected to constrain West Coast refinery prices? Refinery prices East of the Rockies?

D. If refining prices for North Slope crude oil are determined by prices of alternative supplies (e.g. imports) rather than by FEA price ceilings, will such oil command more than one wellhead price, depending upon its destination or a single wellhead price?

E. To what extent, if at all, would the alternative measures identified in question IV A affect average prices of North Slope and similar grade crude oil produced in PADD V (a) at the wellhead, (b) at West Coast refineries, and (c) at refineries East of the Rockies?

ALASKAN OIL AND AIR QUALITY

Mr. STEVENS. Mr. President, recently a great deal of attention has been focused upon the surplus of Alaskan oil which will result on the west coast when the trans-Alaska pipeline operates at the 1.2 million barrel a day level. Hearings have been held in the House and are planned in this body. The executive branch will shortly complete an extensive report on the problem and numerous articles have appeared in the press.

On several occasions I have discussed this matter on the floor of the Senate. There are those who assert that this extra oil reflects a basic mistake made when the oil line was approved. The truth, as I have pointed out, is that the demand for oil in California for a variety of reasons has not increased. This leveling off in demand is unprecedented and could not have been predicted when the pipeline was approved. Also, added production from Elk Hills and increasing imports have resulted in less demand in California for Alaskan crude.

But my purpose today is to discuss again the potential problems the Nation faces in making full use of this extra Alaskan oil. On August 2 I inserted in the Record an article which indicated that certain officials in California were holding up approval of a pipeline from Long Beach to Texas to handle this oil until California was promised more natural gas.

After that statement I was contacted by Tom Quinn, chairman of the California Air Resources Board, who was quoted in that article. Mr. Quinn and I met and the results of that discussion appeared in the Record on August 10. As I reported then, Mr. Quinn told me that California did not want to obstruct the use of the excess Alaskan oil by the rest of the Nation. He expressed concern about air pollution but indicated that those problems appeared soluble.

I feel compelled to bring to the Senate's attention again the position of California and Mr. Quinn. He recently visited Alaska and press reports of his statements in the State give rise to further concern about California's willingness to assist the rest of the Nation to take advantage of our resources. Apparently Mr. Quinn has unilaterally decided that the Sohio project should not be built, even before, he says, applications have been filed. In truth, numerous permits have been sought but the tone of these reports indicates that California may not be willing to cooperate to insure national energy needs are met.

Mr. Quinn uses the argument that the oil terminal should not be built because it would cause enormous air pollution in the Long Beach area.

I would like to have printed in the Record a study I recently received which indicates that construction of the Sohio project's terminal would result in a decrease in air pollution. This is so largely because clean American tankers will be transporting Alaskan crude to California to back out foreign crude currently arriving in dirtier foreign vessels. The report was prepared by Sohio and many of my colleagues may doubt it, but the concept has been discussed with a variety of Federal and State officials and they agree that the approach and analysis are sound.

It appears then that the concern about air pollution which Mr. Quinn mentions and bases his decision on is a smokescreen which attempts to obscure the real issue: Will California cooperate with the rest of the Nation in making sure that all regions have adequate energy? I sincerely hope so—as the need for energy is critical and we cannot allow one State to block development elsewhere.

I ask unanimous consent that the recent articles which appeared in the Anchorage News and the Los Angeles Times and the summary of the air quality report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Air Quality Implications in the Los Angeles Basin of Alaskan Crude Oil and the Long Beach to Midland Pipeline

Much concern has been expressed regarding the possible deterioration of air quality in the Los Angeles Basin resulting from the flow of Alaskan crude oil and the construction of a pipeline to transport some 500,000 barrels per day (bpd) of this oil from enlarged port facilities at Long Beach, California, to Midland, Texas. It is tempting and seemingly natural to assume that more oil must mean more emissions. This is not the case. With the transition to Alaskan crude oil, modern tankers will replace older ones now being employed and Alaskan crude oil deliveries to California actually will result in significant air quality improvements. A study of the air quality effects of the proposed distribution of Alaskan crude oil has been made and is being reviewed with all concerned Federal, state, and local agencies. This brief writing is intended to point out some of the more important features in that study.

Prior to the flow of Alaskan crude oil, foreign flag tankers will be delivering approximately 475,000 bpd of high sulfur foreign crude oil into the general area of the Los Angeles Basin to serve local refining requirements. The hydrocarbon emissions associated with tanker operations result almost solely from ballasting operations in port. After unloading their crude oil cargoes, tankers ride high in the water on very little draft. Prior to leaving port, therefore, each ship must take on ballast water to provide the stability necessary for safe navigation. These foreign flag tankers typically draw water into selected cargo tanks for ballasting purposes and in so doing displace a portion of the hydrocarbon vapors which are remaining in those cargo tanks to the surrounding environment.

With the flow of Alaskan oil, this 475,000 bpd of foreign oil will be displaced with Alaskan oil, which will be delivered in American flag tankers, most of which will be large, modern vessels specifically constructed for the Alaskan trade. A key feature of these American flag vessels is that they are generally equipped with segregated ballast tanks. All of these American flag ships above 80,000 dead weight tons (DWT) are equipped with segregated ballast tanks and a percentage of those under 80,000 DWT also have segregated ballast capability. The importance of this factor is that with separate compartments set aside solely for water ballast and which, therefore, are not used to carry petroleum, no hydrocarbon vapors are present and therefore emitted when ballast is drawn into these tanks. The result will be that with the flow of Alaskan oil, air quality in the Los Angeles Basin will improve as less hydrocarbon vapors will be emitted.

The current dock and tank facilities within San Pedro Bay, however, cannot handle all of the larger, "cleaner" vessels. Furthermore, until a west-to-east pipeline is in place, the larger vessels will be used to transport Alaskan oil on the Pacific leg of the Valdez-to-Panama route where the portion of the oil which is surplus to West Coast needs will be offloaded into smaller vessels for delivery to the U.S. Gulf Coast via the Panama Canal. Once the Long Beach to Midland Pipeline port and facilities are in place, specifically the three deep draft berths which will service that line, all of the larger American flag Alaskan trade vessels can call on San Pedro Bay. These larger vessels will be equipped with segregated ballast facilities and the result will be a further reduction in hydrocarbon emissions even though an additional 500,000 bpd will be being delivered for transshipment eastward.

This net improvement includes consideration of the hydrocarbon emissions which will result from the on-shore tankage associated with the terminal facilities. The emissions from the modern floating roof tanks which will constitute the transit storage at the terminal site are relatively low and will be more than offset by the net reduction in tanker emissions.

A detailed study of the factors associated with the air quality impacts of the Long Beach to Midland Pipeline is available from Mr. F. G. Garibaldi, The Standard Oil Company (Ohio), Midland Building, Cleveland, Ohio 44115.

INTRODUCTION

In the period between now and 1978 two new important sources of crude oil will become available on the west coast—specifically Alaskan crude from the North Slope will be flowing at the rate of 1,200,000 barrels per day, and crude oil from the Elk Hills reserves is expected to be flowing at the rate of 250,000 barrels per day. Both of these crude oils are characterized primarily as high sulfur heavy oils, although a portion of the Elk Hills production from the lower or "Stevens" zone might not be categorized as such. Once these crudes come on stream, it is anticipated that they will displace all west coast imports of high sulfur foreign crude oil. After this displacement process is completed, it is projected that 300,000 to 600,000 barrels per day of surplus crude will remain which cannot be accommodated in the west coast refining system.

The Long Beach to Midland pipeline is designed to provide a means for transporting that surplus production into the mid-continent area of the United States where large quantities of crude of that quality are refined and further displacement of foreign crude can therefore take place. In analyzing the air emissions associated with the development of the Long Beach port facilities and the Long Beach to Midland pipeline, it is necessary to consider how this crude displacement will occur and how the overall distribution of crude oil, particularly within the Los Angeles Basin, will be affected by these two new important sources. Of particular importance, as will be seen later, is the manner in which Elk Hills production will be transported to market.

Supply for local Los Angeles area refiners

As a result of current refining needs plus certain expansions which are now under construction, approximately 475,000 barrels per day of high sulfur foreign crude oil will be coming into the general area of San Pedro Bay just prior to the flow of North Slope crude oil. This oil is presently and will continue to be delivered in foreign flag tankers. This factor is important since foreign flag tankers have little or no segregated ballast capability, and as a result they emit hydrocarbon vapors. The hydrocarbon emissions associated with tanker operations result from ballasting operations in port. After unloading their crude oil cargoes, tankers ride high in the water on very little draft. Prior to leaving the port, each ship takes on ballast to provide the stability necessary for safe navigation. Tankers without segregated ballast compartments draw water into selected cargo tanks and in doing so displace the hydrocarbon vapors remaining in the tanks to the surrounding atmosphere. The importance of this point results from the fact that the American flag tankers which are now under construction for the Alaskan trade are segregated ballast tankers. In segregated ballast tankers separate compartments are set aside for water ballast and are not used to carry petroleum. This means that when segregated ballast tankers take on ballast there are no hydrocarbon vapors emitted which could contribute to deterioration of air quality. Most of the Alaskan trade vessels above 80,000 DWTs have fully segregated ballast capability. Jones Act vessels in the 50,000 to 80,000 DWT range generally have partial segregated ballast capacity, and small vessels below the 50,000 DWT class typically have no segregated ballast capacity.

The berthing facilities which currently exist within San Pedro Bay can accommodate some of the larger Alaskan trade vessels but not all. The result will be that if just enough North Slope crude was produced to displace foreign high sulfur oil and if that oil was delivered through existing facilities only, the foreign vessels now calling to bring in high sulfur crude to San Pedro Bay will be replaced with a mixture of large and small Jones Act vessels, most of which would have at least partial segregated ballast capacity. The consequences of this will be a significant improvement in air quality as it relates to hydrocarbon emissions, but essentially no change in sulfur dioxides, nitrogen oxides, and particulates.

In reality, of course, the oil which is surplus to West Coast needs would not be shut-in but would be transported to the Panama Canal in the largest and most modern Jones Act tankers. These tankers are too large for existing West Coast berthing facilities and would provide the most economic transportation for this 5,000-mile Pacific Coast journey. In the Panama Canal area the crude would be trans-shipped to smaller "canal-sized" Jones Act vessels for movement to ports in the U.S. Gulf Coast. Our analysis of the available supply of Jones Act tankers suggests that sufficient tonnage will be available to transport some 200,000–250,000 barrels per day in this manner in early 1978. The San Pedro Bay air quality impact of landing 475,000 B/D of foreign high sulfur crude oil is treated in the attached Case I. In Case II, the air quality impacts of replacing this foreign oil with North Slope oil are presented.

In considering the air quality impacts of foreign crude displacement, it is necessary to consider the impact of both the flow of North Slope crude and the flow of Elk Hills crude. The Department of Navy announced in July of 1976 that two alternatives are being developed relative to the transportation of Elk Hills crude to market. The first of these alternatives is a pipeline from Elk Hills to the shallow-water port of Port Hueneme. From Port Hueneme, Elk Hills production would be taken to market in small 40,000 DWT tankers. Every barrel of Elk Hills oil being marketed on the West Coast would result in a like barrel of North Slope oil being surplus to West Coast needs. The surplus crude—be it Elk Hills crude or North Slope crude—would flow through the Panama Canal in small vessels to the extent that American flag vessels are available for that movement. The remaining oil could not be accommodated without specific governmental approvals. Such approvals might allow the utilization of foreign flag vessels in U.S. service or perhaps allow North Slope crude to flow to a non-U.S. destination, presumably as the basis of a trade for other oil to be delivered to the eastern portion of the United States.

The other alternative which the Navy has under development is the construction of a pipeline which would flow southeast from Elk Hills, intersecting with the proposed Long Beach to Midland pipeline in the general vicinity of Redlands, California. This alternative, of course, is only functional in the event that the Long Beach to Midland pipeline is constructed. Since the Navy is mandated by Congress to have Elk Hills transportation facilities in place by April of 1979, they will need assurances in the very near future that the Long Beach to Midland pipeline will be in place if they are to elect the Elk Hills to Midland alternative for Elk Hills crude.

Case 3 in the attached schedules analyzes the impact of Elk Hills production upon air emissions in the San Pedro Harbor area. Again, in this case, the emissions are analyzed with the Long Beach to Midland, Texas project not in operation. In this case it has been assumed that approximately half of the Elk Hills production (125,000 barrels per day) is marketed locally in the San Pedro area with the remainder trans-shipped through the Panama Canal or shipped north to San Francisco. As can be seen, there is a slightly positive impact in hydrocarbon emissions which would result from this operation versus having no Elk Hills production on line, and a slightly negative impact on sulfur dioxide and nitrogen oxide emissions. Basically, however, the impacts are small; and this case also represents an improvement over the foreign flag, foreign crude case. It has been assumed in this case that the small Navy vessels, since they are making a short haul, would be equipped with permanent ballast and would not be taking on and unloading ballast water in the operations. Should the Navy vessels not operate in this fashion, but instead discharge ballast at Port Hueneme and take on ballast at San Pedro, the high hydrocarbon emissions in the San Pedro area would result. Further, regardless of how the ships are ballasted, significant levels of hydrocarbon emissions will result from the operation at Port Hueneme when the vessels take on crude oil. These emissions have not been specifically shown on the schedule, although they would be in excess of 1,000 tons per year. Depending upon meteorological conditions, Port Hueneme impacts upon Los Angeles Basin air quality. To this extent, then, it should be considered in Los Angeles Basin air quality analyses.

Long Beach to Midland Pipeline project

Once the entire displacement of high sulfur foreign imports has taken place as mentioned earlier, some 300,000 to 600,000 barrels per day of crude oil will remain surplus to the West Coast needs. The remaining cases that have been detailed in the attachments analyze the impact upon air emissions associated with utilizing the proposed Sohio port and pipeline for handing this surplus crude oil. The facilities proposed by this project included there new deep draft berthing facilities (62-feet water depth), additional tankage for transit storage, and a pipeline capable of transporting 500,000 barrels per day of surplus crude eastward into the Midcontinent area. The resultant air quality from these facility additions can be summarized in the simple form as follows: The new port facilities will allow the larger, low emitting Jones Act vessels to call on San Pedro Bay rather than the mix of smaller, higher emitting vessels which call on the existing facilities. At the same time, there will be some additional emissions from the additional quantities of oil which will be coming into San Pedro Bay for trans-shipment via interstate pipeline and from new storage facilities. The analyses summarized in this writing sum up the positive and negative impacts of the proposed facilities with respect to four key parameters: hydrocarbons, sulfur dioxide, oxides of nitrogen, and particulates. The results reveal that if Sohio is willing to equip their tankers to burn low sulfur bunkers when in port, the overall net effect of the Long Beach to Midland pipeline project will be a significant improvement in air quality.

The onshore tankage required to support the proposed port and pipeline operation will be eight 615,000 barrel floating roof tanks. The only currently available and generally accepted method for estimating the storage tank emission losses is the API method (Bulletin 2517). Using this method the losses from the new tanks are estimated to be approximately 1 ton per day or 360 tons per year. It is the general consensus that the API method overestimates vapor losses since it was empirically developed during the 1940's and 1950's to demonstrate the conservation effects of floating roof tanks. Sohio and Chicago Bridge & Iron are jointly sponsoring ongoing research to gain a better understanding of tank emissions. The program is based on Chicago Bridge & Iron's broad experience in the storage of many liquids (oil, LNG, ammonia) and is attempting to verify the actual expectation that storage tank losses are significantly less than the 1 ton per day API estimate and, in fact, may be a small fraction of that estimate. Development of these data, coupled with the use of the most modern floating roof tank seals, should reduce storage tank emissions to a very low level.

In order to place the tank emissions in perspective relative to tanker emissions, for the purposes of this paper we can assume the 360 tons per year figure. As in the cases of the permanent ballast assumption for the Port Hueneme alternative and the exclusion of emissions from Port Hueneme loading operations, we are erring on the conservative side or understating the potential reduction in emissions which can be attributed to the Long Beach to Midland project.

Case 4 indicates the impact upon Los Angeles Basin air quality of constructing the Sohio facility, assuming that the Elk Hills production is flowing to Port Hueneme. Two factors are of significance in this analysis. First, the construction of the Sohio facility will insure that the larger Alaskan fleet tankers can call on San Pedro to the extent necessary to deliver 500,000 barrels per day of crude oil to the pipeline and 200,000 barrels per day of crude oil for local consumption. As indicated earlier, there are essentially no hydrocarbon emissions associated with these larger Alaskan fleet vessels. Secondly, Sohio has agreed, as a mitigating measure for sulfur dioxide emissions, to use low sulfur bunker fuel (0.5 percent by weight) while in port. The consequence, then, although more crude oil will be flowing into San Pedro under this scenario, is an improvement over the previous case in both sulfur dioxide emissions and hydrocarbon emissions. However, due to the increased volume of oil and the increased amount of tanker traffic, a slight increase in nitrogen oxides and particulates occurs.

The final case, Case 5, illustrates the impact if authorizations for the Long Beach to Midland, Texas pipeline are obtained promptly enough to allow the Navy to construct a pipeline from Elk Hills to Redands so that the Elk Hills production can move directly east without crossing the California coast line. This case is somewhat dramatic, since the total volume of oil to be moved through the facilities is substantially decreased since half of the 500,000 barrels per day flowing through the pipeline does not have to go across the port and terminalling facilities in the San Pedro Harbor. As can be seen in this instance, hydrocarbon emissions remain at essentially insignificant levels; sulfur dioxide emissions are substantially reduced; nitrogen oxide emissions, while slightly increased from the no Sohio project levels, are reduced from the Case 4 analysis; and particulates are similarly reduced from the Case 4 analysis.

The following pages contain a table summarizing the five case studies and a brief development of each case. Supplemental information is also available which develops all of the data necessary to estimate tanker emissions and provides the basis for analyzing any variations of the specific cases we have presented herein.

SUMMARY TABLE

[Case I-III—Use of existing facilities; Case IV-V—With proposed Sohio Port & Pipeline]

	Los Angeles/Long Beach air emissions (tons per year)			
	HC	SO_3	NO_x	Particulates
Case I: Import of 475,000 barrels per day of foreign high sulfur oil in 1978	794	1, 054	93	43
Case II: Replace foreign high sulfur oil with 475,000 barrels per day of North Slope oil (surplus through canal)	496	1, 054	93	43
Case III: 125,000 barrels per day Elk Hills oil; 350,000 barrels per day North Slope oil	368	1, 259	102	43
Case IV:				
725,000 barrels per day of North Slope oil; 250,000 barrels per day of Elk Hills oil via marine route to Long Beach	<20	1, 286–1, 557	199	74
New crude oil storage tank emissions (surplus of 500,000 barrels per day in pipeline)	[1] 360			
Case V:				
725,000 barrels per day of North Slope oil	<20	331–602	134	52
New crude oil storage tank emissions (surplus of 500,000 barrels per day North Slope and Elk Hills oil in pipeline)	[1] 360			

[1] Test program in progress may significantly reduce this estimate.

[From the Anchorage Daily News]

A "ROULETTE GAME" WITH ALASKA'S OIL

(By Sally W. Jones)

One of the trans-Alaska pipeline's major owners is playing "a dangerous game of Russian roulette, gambling that Congress and "the President will let them sell (Alaska oil) to Japan," California Gov. Jerry Brown's chief advisor on environmental issues said Thursday.

Tom Quinn, chairman of the state of California Air Resources Board and Brown's special assistant for environmental protection, said a combination of factors relating to a Standard Oil of Ohio (Sohio) port and pipeline plan in California have led him to believe that Alaska oil is bound for Japan.

Sohio will own a 49 per cent share of Prudhoe Bay oil when the Alaska pipeline begins operating at the rate of 1.2 million barrels per day.

The pipeline is scheduled to produce at that rate late next year. To move its oil inland to markets where it is needed, Sohio has proposed expanding the Port of Long Beach, Calif., and building a pipeline system to Midland, Texas. No pipeline on the West Coast currently can deliver oil inland.

Quinn, who is in Alaska this week to study the pipeline and natural gas line proposals, said in an interview Thursday that there is no question in his mind that Sohio's plan cannot be approved at Long Beach.

Air pollution emissions from tanker unloading and tank farm operations will exceed federal and state standards and therefore cannot be approved either by his board or the federal Environmental Protection Agency, he said. Quinn traveled to Valdez Wednesday to view the pipeline terminal there. He said the terminal is "probably among the cleanest in the world; but it is impossible to build a facility—even like the one at Valdez—that will comply with federal and state law" at Long Beach.

He said a consulting firm that studied likely air pollutant emissions from a terminal facility in Long Beach projected that emissions from tanker and tank farm operations would be equivalent to pollutants emitted by 3.9 million cars. "The Los Angeles-Long Beach area has the worst smog of anywhere in the world," he said, and such a large pollution source would violate state-federal clean air laws.

"Anybody who's talking about this kind of facility in Long Beach has failed to read the Clean Air Act or California law," said Quinn. "They are either fooling themselves or perpetrating a fraud on the public," he said.

The State and Air Resources Board met with Sohio more than 18 months ago and told the firm the Long Beach port plan would never gain approval in California, he said. "we located other sites for them (Sohio) that probably would be approved," said Quinn, but the firm said the other sites would be too costly because additional construction would be needed to build a large enough port.

The trans-Alaska Pipeline Act requires Presidential and Congressional approval before Prudhoe Bay oil can be exported, but such an export—in exchange for crude to be delivered on the East Coast—currently is the only clear alternative to getting Alaska oil inland and avoiding a surplus of up to 600,000 barrels per day on the coast.

Quinn said Sohio's plan cannot be completed in time to accept the Alaska pipeline's first oil flow. "It (the Sohio plan) will take two years to build. Sohio has not yet applied for the key permits that will be needed. The West Coast terminals (for Alaska oil) should have been decided two to three years ago; and construction should have been under way long before now," said Quinn. He said federal and state agencies have not impeded the project because no permits to build such a port have ever been filed.

"The reluctance of Sohio to bargain in good faith with California has raised some suspicions on our part that they just don't want a West Coast terminal," said Quinn.

"They're playing a dangerous game of Russian roulette, gambling that Congress and the President will let them sell (oil) to Japan. But if Congress decides this oil cannot go to Japan and Sohio refuses to take a look at ports we find acceptable, it's going to be impossible to take this oil anywhere a year from now. Japan is the only safety valve," said Quinn, unless Alaska oil is held to half production until a pipeline is built to the Midwest.

Quinn met with Gov. Jay S. Hammond and other Alaska officials on the West Coast port issue this week.

[From the Los Angeles Times]

Is L.A.'s Choice Oil or Clean Air?

(By Dan Fisher)

A $500 million Standard Oil Co. of Ohio project to bring North Slope Alaskan crude oil into the "lower 48" states by way of Long Beach has run into a snag.

The snag's name is Tom Quinn.

As chairman of California's Air Resources Board and manager of Edmund G. Brown Jr.'s 1974 gubernatorial campaign, Quinn is both the state's top air pollution control official and an influential adviser to the governor. And in recent weeks, he has seemed to go out of his way to criticize the Sohio Long Beach project.

As proposed, he charges, it would be "tantamount to ending all efforts to restore healthy air to the Los Angeles area." While it is theoretically possible that the environmental problems can be overcome, it's "almost inconceivable" that all the necessary steps will actually be taken, Quin contends.

As a result, the ARB official now calls the proposed Long Beach terminal the "least likely alternative" to handle a West Coast crude oil surplus that's expected to develop when that North Slope oil begins to flow at the planned 1.2 million-barrel-per-day rate in 1978.

Quinn's critics—including Sohio, the city of Long Beach, and some federal Officials—contend that the project is in the national interest, and that the ARB chief vastly overstates the associated environmental problems. Actually, they charge, the air pollution issue is at best secondary to Quinn's real motives.

"It's strictly Madison Avenue for him to be doing what he's doing," says Don Bright, director of environmental affairs for the Port of Long Beach.

Some of the critics say Quinn is trying to use the project as a lever to win new natural gas supply commitments to the state. Others argue that he's simply trying to score political points for (1) the Brown administration, or (2) himself, as a potential Los Angeles mayoral candidate.

Whatever his motives, Quinn's power to halt, or at least delay, the project is not in question. Under state and federal clean air laws, permits from both the U.S. Environmental Protection Agency and the local Air Pollution Control District are required before a potential new source of pollution can be built in California. And the local APCD decision is subject to review by ARB.

Sohio hasn't even applied for permits yet, and no final decision on the plan is expected until next year. So what's going on now is thus a bit like the early rounds of a boxing match, with the protagonists feeling each other out.

Even if California does ultimately reject the project, it's possible that Congress could override the state's decision through the same type of emergency legislation which, in 1973, cleared the way for the trans-Alaska pipeline to be built.

That seems unlikely at the moment, however. Instead—and even though the fate of the Long Beach project is still uncertain—all involved appear to be looking much more seriously at alternatives.

As it stands, the Sohio proposal includes docking and unloading facilities for three huge oil tankers at the Port of Long Beach. There would also be six giant crude oil storage tanks there and two more 11 miles inland at the site of an existing oil storage facility.

The Long Beach terminal would be designed to handle up to 700,000 of those 1.2 million barrels of North Slope oil daily. Up to 500,000 barrels daily would go into a 1,000-mile pipeline—most of it converted natural gas lines—for shipment to Midland, Tex. At Midland, the oil would be fed into existing oil lines serving the Midwest and East.

Sohio's plan to take over those existing gas lines is the key to its push for the Long Beach alternative. For one thing, it will save the company about $500 million compared with the cost of building a completely new line to Midland. For another, it will cut construction time—an important consideration with the trans-Alaska line scheduled to reach the 1.2 million-barrel-per-day rate by early 1978.

The gas lines were also at the heart of Quinn's first objections to the Long Beach project. Originally constructed to bring natural gas from Texas to Southern California, the lines involved are now idle due to increasing curtailments of the fuel.

Quinn has contended that there are a number of possible developments which would make more Texas gas available here in the future, however. Allowing Sohio to take over the lines would mean that if additional supplies did become available, there would be no way of getting them here.

The less clean-burning natural gas that's available in Southern California, the more fuel oil business and industry will have to use. And the more fuel oil they burn, the more smog-forming pollutants will be released into the Southland atmosphere.

Later, Quinn shifted his criticism to those huge storage tanks. Vapors leaking from the roofs of the eight tanks could prove a significant source of noxious emissions, he said.

Last month, the focus of the ARB official's comments changed once again—this time to the tankers that will unload their Alaskan oil at the proposed Long Beach terminal. An analysis done by Pacific Environmental Services Inc., a Santa Monica firm, indicates that under the most adverse conditions, operations at the proposed terminal could themselves generate an average of more than 60 tons of hydrocarbon emissions daily—most of them tanker-related. That would be enough pollution by itself to put Los Angeles in violation of federal clean air laws, even if all existing sources were ignored, Quinn said.

After reading the PES report, Quinn wrote FEA Administrator Frank Zarb that "sound public policy would seem to indicate that even if (requirements of state and federal environmental laws) could be overcome, the Sohio facility should not be built in the Los Angeles basin." Copies of the letter were selectively distributed to the press.

Those who believe Quinn is using air quality arguments against the project merely as a smokescreen point to his shifting focus from the gas lines to the storage tanks to the tanker ships as evidence.

The ARB chief concedes that his perception of the potential problems has changed as he's learned more about the project. "I wish I'd known all the problems a year ago," he says.

His earlier concern over conversion of one set of natural gas lines to carry oil is no longer shared by most other state officials who have studied the situation, Quinn concedes. He adds that his own nagging doubts might be eased if Sohio agreed that it would pay for a new gas line should one ever be needed to bring new supplies here from Texas. And he has so informed Sohio.

Quinn remains strongly opposed to a related proposal, however. Sohio has said it might want to take over a second set of gas lines later, if output from the Prudhoe Bay field increases as hoped to 2 million barrels of oil per day. Giving up a second set of gas lines is "just not acceptable to California," he says.

As for the storage tanks, it's now expected that newer roof designs could help minimize emission problems, Quinn indicates. However, he adds, what's left would still require that Sohio seek out and nullify other pollution sources in the area as an emissions "tradeoff." Whether it can do so is uncertain.

Analysis of the tanker emissions issue comes down to a question of who to believe. Under the "worst case" assumptions used in the PES study, it was projected that three of the largest tankers proposed to carry Alaskan oil would all be in the Long Beach port, purging their cargo tanks of residue oil simultaneously.

Sohio says that in fact, tankers won't purge their tanks until they are well out to sea. Quinn argues that, according to the PES research, tankers do occasionally purge in port and as long as there's no law against it, it must be assumed that those ships using the proposed Sohio terminal will do so as well.

According to a separate study done for the Port of Long Beach by Socio Economic Systems Inc., the likelihood of the scene PES envisions actually occurring is one day every 13 years.

Long shot or not, Quinn insists that he won't be satisfied until purging and other tanker operations associated with high emissions are outlawed within the international boundaries of the United States, which extend 12 miles out to sea. He's met with Coast Guard officials in both Washington and Long Beach to see if that agency could issue such regulations, but he's apparently not satisfied. Now he suggests that a federal law be passed permitting the state to regulate tankers out to the international boundary.

If the Sohio/Long Beach project truly depends on conditions like those being met, it's probably in hopeless trouble. The question is: is Quinn serious?

In a thinly veiled reference to some comments the ARB official made in an interview earlier this year, Sen. Ted Stevens (R-Alaska) charged in a recent speech on the Senate floor that the state is "playing a game" with the rest of the country in order to get more natural gas, and that it's using the Sohio project as a pawn.

Under the formula by which Alaska will

collect its Prudhoe Bay oil revenues, the cheaper Sohio and the other North Slope producers can ship the crude to lower 48 state markets the more Alaska stands to gain.

Since that rebuff, Quinn has seemed to waffle on the subject of a gas tradeoff. He said in an interview that while he would still consider assurance of new gas supplies from another source as offsetting the loss of the first set of gas lines to Sohio, the latest pollution studies of the terminal and tanker indicate that's not enough. "With the kind of numbers we're talking about now, no amount of gas can help," he said.

He also visited Stevens in Washington, after which the Alaska lawmaker reported back to his colleagues that he now has "the impression . . . that California does not intended to hold the rest of the nation hostage in return for more gas."

Yet, at a recent meeting with Zarb on the Sohio project, Quinn also urged that FEA reverse its earlier opposition to California's efforts to gain emergency natural gas allocations.

Another state official says that in part, at least, Quinn's opposition to the Sohio/Long Beach project may be intended to enhance his image as a clean air champion prior to running for the office of Los Angeles mayor.

Quinn flatly denies such speculation. "I doubt that I'll ever run for any office," he said. "I don't have the drive for it. I don't have it in me to do what Jimmy Carter did for four years."

A Quinn antagonist brands him "highly suspicious of oil companies." Comments by the ARB man himself tend to indicate some truth in that assessment. He says that it's the oil companies which claim he is influenced by political ambition because "they think anyone who doesn't bow down to them has ulterior motives."

Quinn has also charged privately that Sohio's selection of a consulting law firm in which former Gov. Edmund G. (Pat) Brown is a partner was an effort at political manipulation. (A Sohio spokesman says it hired the firm because it was impressed with its past work on coastal zone problems.)

There is also no doubt, however, that there are definite air quality hazards with the Sohio/Long Beach project—even if they aren't as great as the ARB official's remarks might suggest. The Los Angeles basin already exceeds air pollution levels considered hazardous to health more than half the time. Any new source is thus a problem. And even the analysis done for the Port of Long Beach indicates that Sohio is going to have to come up with more emissions "tradeoffs" than it has thus far proposed in order to assure that smog won't get worse.

Quinn is also concerned that a Long Beach terminal will act as a "magnet" to attract additional oil from the Navy's Elk Hills field and from new discoveries in Alaska and off the Southern California shore. "If there are problems, those problems will be magnified," Quinn says.

Quinn touches on a significant point. For years the country's primary source of domestic oil and gas supply has been the South, and Southwest. And a sophisticated distribution system has been developed to bring fuels from those sources to heavily populated regions in the North, Midwest and East.

Prudhoe Bay—which will account for about 10% of domestic supplies—marks the beginning of what most energy experts see as a long-term shift of oil and gas supply sources to the North and Northwest. And it will take a whole new distribution system to move that fuel to the people who need it.

"We don't see this as a short-term Prudhoe Bay problem," says FEA's assistant administrator for energy resource development, William G. Rosenberg. "We think there are other Alaskan fields whose development will be based in part on having a reasonable, economic system for bringing the oil to market."

In that broader context, it's clear that there will continue to be enormous federal pressure for some sort of a west-to-east oil distribution system. Most expect that there will ultimately be at least two major pipelines as part of that system—one from a northern U.S. or Canadian port serving the so-called "Northern tier" states and another from the southern port into the Midwest and East.

It thus seems unlikely that the Sohio project in Long Beach will be scuttled unless an alternate system can be agreed upon. Quinn's attacks on the project have already intensified consideration of alternatives by all concerned—Sohio, the state, and the FEA. In fact there's already a surprising amount of agreement that an alternate California site looks promising.

WOMEN'S RIGHTS

Mr. BAYH. Mr. President, in 1975 I had the privilege of being one of four congressional Members appointed to serve on the International Women's Year Commission. I was most pleased with this appointment since one of my legislative priorities since entering the Senate has been to further the cause of women's rights.

When the Commission was formed by an executive order one of our mandated functions was to study the status of women and upon completion of this task file a comprehensive report with the President. This report was to include specific recommendations designed to improve women's role in all social, economic, and cultural areas.

On July 1 of this year the Commission presented the President and the Congress with a detailed report entitled "To Form a More Perfect Union, Justice for American Women." The Commission and staff spent over a year holding extensive hearings and interviewing individuals from around the country in an attempt to find the best possible solutions to the many different types of problems which confront women daily. There are 115 recommendations contained in this thorough report. The recommendations are of such a comprehensive nature as to touch on all aspects of women's role in our society. Therefore, I feel that these recommendations should be shared with my Senate colleagues and in turn their constituents. I ask unanimous consent that the introduction to the report and the chapter on women as homemakers "be printed in the Record."

There being no objection, the material was ordered to be printed in the Record, as follows:

Part I: Introduction

THE HERITAGE AND THE DREAM

Two centuries ago the noble experiment began—a republic known as the United States of America . . . whose citizens were to govern themselves by the principles of representative democracy . . . who were to thrive on a land blessed beyond measure with natural bounties.

The words of the Founding Fathers rang through the civilized world and down through the pages of history. To this day, the heart leaps to hear, "the right to life, liberty and the pursuit of happiness . . . with liberty and justice for all."

That was the dream.

The heritage—for many Americans—has been something less.

The power of the ballot, on which the noble experiment rested, was given only to certain Americans—to propertied males, but not females, to whites, not blacks. The practice disenfranchised Indians, slaves, the mentally unfit, criminals—and women.[1]

It was a time in which men dominated all affairs, including those of the home. A woman's brain was generally believed to be smaller in capacity and therefore inferior in quality to that of a man.

Inded, in the view of John Adams and others who framed the laws of the new states, women were bracketed with children and apprentices.

A woman was expected to obey her husband or nearest of male kin. For her, marriage was "civil death," because her person and her property would be owned by her husband—a concept rooted in English common law and brought to this country by the colonists.

Only a few women were strong enough to perceive the injustice for what it was, and courageous enough to speak out against it.

Those indomitable few who sought equal treatment for themselves and their sisters were ignored, more often than not, as well as ridiculed, humiliated, and always bitterly opposed.

Although their numbers were few in the beginning, the women persisted. There were many setbacks. Hopes were dashed when the 14th amendment extended the right to vote only to male citizens. Two years later, in 1870, black males achieved suffrage through the 15th amendment.

It was to take another half century before all women won the right to vote in 1920 through the 19th amendment. Women continue to be denied the full protection of the 14th amendment by the Supreme Court itself.

In the decade that followed, women were becoming better educated . . . national organizations were formed and grew. . . . In the forties and fifties their numbers in the labor force climed dramatically . . . Almost always, if they were married, they did double duty at work and at home.

World War II brought new, traumatic experiences to women—early marriage, psychological problems, family separations, divorce, early widowhood—forging, in many instances, new strengths.

And now, the modern-day daughters of those early heroines are moving forward with a new self-esteem and sense of sisterhood, embodying a new power in the Nation's affairs.

These women have used the law of the land, as blacks did before them, to win access to education, to employment, to full personhood. The doors are swinging open to a share of the nation's economic and political leadership.

They have won impressive rights—but, those rights are far from complete.

The women's movement of the seventies is the most recent phase in a groundswell to achieve the equality promised by the Declaration of Independence.

It is reaching to the far corners of the earth, where other countries now hear the demands of women.

In 1972 the U.N. General Assembly proclaimed 1975 International Women's year (IWY).[2] President Ford named 35 prominent men and women to serve as the U.S. Commission on the Observance of International Women's Year. Four congressional members were named—two from the Senate and two from the House.

To promote equality for women, to speed their full integration in social and economic

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Footnotes at end of article.

development, and to recognize their importance in the pursuit of peace, a World Conference of International Women's Year was held in Mexico City from June 19 to July 2, 1975.

The Conference bore fruit in a World Plan of Action, portions of which were endorsed in December 1975 by the U.N. General Assembly.[3]

In capsule form, that is the heritage.

The dream is still in the making.

It is spelled out in these pages, in the vision of a better and more just life for women and men in the Nation, based on the studies and recommendations of the U.S. Commission on the Observance of International Women's Year.

Full partnership for the homemaker . . . and for the woman in the work place . . ., reproductive freedom, as well as responsible choice . . ., passage of the Equal Rights Amendment—all these and many more are part of the dream. It is the duty of every citizen who cherishes the Declaration of Independence to help it come true.

The Commission and the writer-editor are pleased to acknowledge that this section was written by Vera Glaser, a reporter and columnist who was a member of the 1969 President's Task Force on Women's Rights and Responsibilities.

HISTORICAL NOTES ON THE GROWTH OF THE WOMEN'S MOVEMENT

Early in 1776, as patriots were demanding a Declaration of Independence, Abigail Adams wrote her husband John:

". . . in the new Code of Laws . . . I desire you would Remember the Ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If particular care and attention is not paid to the Ladies we are determined to foment a Rebelion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.

That your Sex are Naturally Tyrannical is a Truth so thoroughly established as to admit of no dispute, but such of you as wish to be happy willingly give up the harsh title of Master for the more tender and endearing one of Friend. Why then, not put it out of the power of the vicious and the Lawless to use us with cruelty and indignity with impunity. Men of Sense in all Ages abhor those customs which treat us only as the vassals of your Sex. Regard us then as Beings . . . "

John's bantering reply called his wife "saucy." "Depend upon it," he wrote her, "we know better than to repeal our Masculine systems."

Abigail Adams' letter spoke for those colonial women who wove cloth, preserved food, farmed, butchered, and often worked side by side with their husbands in trade. Even though these women were subordinate, they were highly valued for skills they performed in the labor-short economy. By contrast, a wellborn woman's worth was measured by the prestige she could bring her husband through her birth and family connections.

The Revolution and, a few decades later, Jacksonian democracy unleashed ideas that gave ordinary people a new view of their own potential. Small shops expanded into great stores; industry grew; the manufacture of cloth moved out of the home. Men moved from a home-oriented, stable culture into an expanding world of educational, business, and financial opportunity.

Women, on the other hand, found their spheres had narrowed; they were now less important to men. Their sense of self-worth suffered. Shut out of the larger world, many began to find that the qualities that counted most were piety, purity, submissiveness, and domesticity.

A few women found expression for their nonconformist intellectual drives in the reform movements which were surging through the churches. They became this nation's crusaders in missionary work; education societies; and the movements for antislavery, temperance, and eventually women's rights.

The Seneca Falls convention of 1848, the first women's rights meeting in America, drew more than 250 women and about 40 men, who arrived in buggies and wagons drawn by farm horses. They met for 2 days and demanded opportunities for women in education; trade; commerce; the professions; and rights in property, free speech, and the guardianship of their children. After much controversy, they took the daring step and asked for suffrage.

But many setbacks marked the struggle that followed. In particular women's hopes were dashed when the 14th amendment extended the right to vote only to all male citizens.[4] Two years later, in 1870, black males achieved suffrage through the 15th amendment. But it took 50 more, long years before all women won the right to vote.

Some historians say that feminism died after the woman's suffrage amendment (the 19th) was passed in 1920. Actually there were new forces at work which were reordering and extending women's interests in relation to socioeconomic events.

Prime among them were the women's organizations, some of which had their beginning in the 19th century.

In 1882 a group of women who had obtained college degrees despite great obstacles came together to see how they could make education useful. Their first study was of women's health and physical education. They sought to counter the attitude that young women could not undergo the intellectual strain of schooling without damaging their health. This group later became the American Association of University Women.

Churchwomen founded the Young Woman's Christian Association out of concern for the plight of women flocking to eastern city factory jobs where they endured sweatshop conditions.

The General Federation of Women's Clubs formed in 1890, was the outgrowth of the Sorosis Club organized 21 years earlier by a newspaperwoman, Mrs. Jane C. Crolly, because the all-male New York Press Club would not admit her to a dinner honoring Charles Dickens.

Early 20th century organizations also laid much of the groundwork for the women's movement of the 1960's. The National Women's Party, founded in 1913 to advance the suffrage movement, also spearheaded the introduction of the First Equal Rights Amendment in Congress in 1923.

In 1920, the League of Women Voters was formed by former suffrage workers to educate the new women electorate.

The National Federation of Business and Professional Women's Clubs, one of the strongest forces behind the drive for ERA ratification today, was formed in 1919. Its roots go back to World War I when the U.S. War Department organized a Woman's War Council to mobilize business and professional women to support the war effort.

All of these groups gained strength and status throughout the twenties and thirties when millions of American women came together in weekly or monthly meetings to discuss civic, business, cultural, and personal problems and their solutions. While those meetings were nothing like the consciousness-raising sessions of the sixties, these organizations built a broadbased constituency and leadership for later action.

At the same time, many American women were applying the feminist momentum to their private lives.

The family sociologist Alice S. Rossi describes the thirties as a time when "women earned the highest proportion of advanced degrees in the history of American higher education. So too, the proportion of women in the labor force continued to climb dramatically throughout the 1940's and 1950's . . . Strong-minded descendants of the suffragists between 1920 and 1960 were pouring much of their energy into education and employment, and if they were married they did double duty at work and a home; such a profile leaves little time and energy for political involvement."[5]

Women went into the labor market as never before during World War II. When the war was over, however, Rosie the Riveter was urged to go home. Many Rosies did. Women's focus was once again on homemaking and babies.

Eleanor Roosevelt, who had been speaking to readers in a daily newspaper column ever since 1935, became an inspiration and role model to thousands of women.

Other elements entered the American scene. Black Americans were protesting their second-class citizenship. Women, who had long recognized the parallel between injustice to blacks and injustice to women, were encouraged by the success of the civil rights movement.

Advances in contraceptive technology gave women a chance to space their children. Better family planning resulted in better health and allowed women to participate more fully in public life.

Women were beginning to recognize that full-time homemaking was not the best of all possible worlds for everyone, especially after children went off to school. And women alone—divorced, widowed, or separated—found it hard to support themselves in a society where businesses, industries, and universities often did not regard women as full partners.

Authors such as Margaret Mead, Virginia Woolf, Simon de Beauvoir, Jessie Bernard, and others began to examine the conflicts and injustices. Betty Friedan's *Feminine Mystique*, captured a popular audience. And the drive for self-fulfillment and equal justice was launched with new vigor.

In 1963 the President's Commission on the Status of Women, which had been chaired by Eleanor Roosevelt until her death in 1962, documented many inequalities, especially in education, employment, legal status, and politics.[6]

The demand for justice grew. New and powerful women's rights groups were formed, and the older, established women's organizations renewed their interest in the movement for equality. Among the powerful new women's groups were the National Organization for Women, the Women's Equity Action League, the National Women's Political Caucus, and the National Association of Commissions for Women.

Under pressure from women's groups, Congress enacted a series of laws beneficial to women. Among them were the Equal Pay Act, title VII of the Civil Rights Act of 1964, passage of the Equal Rights Amendment and subsequent submittal to the States for ratification, and title IX of the Education Amendments of 1972 banning sex discrimination in education.

Status of Women Commissions were established by practically all governors, and the Federal Interdepartmental Committee and Citizens Advisory Council on the Status of Women provided leadership and held conferences of the State Commissions.

The Federal Government began expanding its antidiscrimination orders involving Federal contracts, so that women were included. In one landmark case, American Telephone and Telegraph Company (AT&T) agreed in 1973 to provide goals and timetables for increased utilization of women and racial/ethnic minorities. The agreement reached by AT&T, the Equal Employment

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Footnotes at end of article.

Opportunity Commission, the Labor Department, and the Justice Department awarded $15 million in back pay to some 15,000 employees.

Meanwhile, the momentum continued on a worldwide basis and culminated with a U.N. conference in Mexico.

The World Conference held in Mexico City in the summer of 1975 drew 1,300 delegates from 130 countries and 7,000 persons, mostly women who came at their own expense, to the unofficial Tribune. Both of these bodies got mixed reviews. There was inadequate funding and a lack of serious commitment from the governments of member countries, lack of adequate space and technical assistance, and lack of power on the part of women attending.

It is important to realize, however, that these large bodies of diverse women did unite on goals. The unofficial Tribune debated various women's issues, and the Conference produced the World Plan of Action, many points of which were endorsed in December 1975 by the U.N. General Assembly.

Senator Charles H. Percy of Illinois, a Congressional adviser to the U.S. delegation, has pointed out that—

"The Conference was an opportunity for women to meet, find reassurance in each other's experiences and gain new challenges in each other's ideas. The Conference toughened and matured the international women's movement. Women . . . began . . . building the informal associations and networks so important in the exercise of influence and power."

U.S. participation in International Women's Year got underway in 1972 when the U.S. Department of State set up an informal inter-agency group to plan for U.S. Government observance of IWY. This group made a number of proposals including suggested IWY activity for U.N. member states, creation of the U.S. Center for IWY, and establishment of the National Commission.

Things now began to move quickly.

A Presidential proclamation called upon the country to take stock of women's roles and "to provide for the observance of International Women's Year with practical and constructive measures for the advancement of the status of women."[7]

The Department of State established the IWY Secretariat, responsible to Deputy Secretary Robert S. Ingersoll, to assist in preparing materials for the U.S. delegation to Mexico City and to act as staff for the National Commission. The U.S. Center for IWY at Meridian House was established to share information and to be a bridge between government and many nongovernmental organizations. Before 1975 was over, thousands of IWY programs had taken place throughout America.[8]

Early in the year, President Ford created the National Commission, saying, ". . . Americans must now deal with those inequities that still linger as barriers to the full participation of women in our Nation's life . . ."

Thirty-five members were appointed from the private sector and four from Congress. Jill Ruckelshaus was named presiding officer. Funding came in the form of staff services or money contributed by Executive Branch agencies as their share in the government's observance of IWY.

Two hundred nongovernmental organizations concerned with women were asked to suggest areas the Commission should deal with, and as a result the Commission set up 13 work committees. An Interdepartmental Task Force to implement IWY projects within government departments was created.

The committees then went to work, broadening their expertise by adding public members and by holding many long, concentrated sessions. They called in expert witnesses, authorized certain original research and participated in a number of public hearings, under various auspices.

Among the larger hearings were:

The Southwest Indian Women's Conference in Window Rock, Arizona, Annie Dodge Wauneka, Commission member and member of the Navajo Tribal Council, was the keynote speaker.

Massachusetts public hearings for IWY held in Boston through the efforts of Representative Margaret Heckler, Congressional Commission member, and in Norton, Massachusetts, with the added sponsorship of Wheaton College.

The Conference on Women in Public Life, sponsored by the Lyndon B. Johnson School of Public Affairs and the Lyndon Baines Johnson Library at the University of Texas in Austin. The Commission's Women in Power Committee participated extensively.

By early 1976 the Commission had adopted recommendations as those most imperative to eliminating the "barriers" to full justice.

But as one public Commission member said: "Sexism is still so rampant throughout our country, we could not possibly address ourselves to all the areas that need action in the few short months the Commission has had."

Two hundred years ago the Declaration of Independence said: "We hold these truths to be self-evident, that all men are created equal . . ." Commission members believe that women and men together will strive earnestly to make that principle a reality. They also believe it is urgent to extend full justice to American women in order "to form a more perfect union," as the Constitution promises.

FOOTNOTES

[1] Thomas Jefferson put it this way: "Were our State a pure democracy there would still be excluded from our deliberations women who, to prevent deprivation of morals and ambiguity of issues, should not mix promiscuously in gatherings of men."

[2] U.S. delegates to the U.N. Commission on the Status of Women helped initiate the resolution which the General Assembly later acted upon.

[3] See World Plan of Action—a Decade for Women and Development (summary), in Part VI.

[4] The second section of the 14th amendment placed in the Constitution for the first time the word "male." Three times the word "male" was used in conjunction with the term "citizens." In 1874 the U.S. Sup. Ct., in the case of *Minor* v. *Happersett*, held that the Constitution did not confer the right of suffrage on those who were citizens at the time it was adopted, and that the States, having withheld voting rights from certain classes of males, were equally within their rights in withholding suffrage from all women.

[5] Alice S. Rossi, *The Feminist Papers*, N.Y.: Columbia University Press, 1973, p. 617.

[6] President Nixon's 1969 Task Force on Women's Rights and Responsibilities also summarized progress and outlined the job ahead.

[7] President Nixon issued his proclamation on Jan. 30, 1974.

[8] Some of these programs were given in connection with U.N. Day, since the United Nations Association of the United States stressed IWY as a theme of the 1975 observance.

PART II: TODAY'S REALITIES

FULL PARTNERSHIP FOR THE HOMEMAKER

Mary Heath and her husband, Floyd, were ranchers outside Cody, Nebraska, working side by side for 33 years. Theirs was hard work because Cody is in the Nebraska sandhills where it seldom rains and 20 acres of grazing land is needed to supply just one cow.

Mary worked the cattle, helped with the haying, and raised hogs as a sideline.

The Heaths managed, with the help of their children, to build their farm up to 3,395 acres, not large in this age of agribusinesses, but large enough to support a family, providing the rains came.

Then in 1974, Floyd died and Mary inherited the property. She didn't expect any real problems since they had worked the farm together and the property was in both their names.

So it was a bitter blow when she learned she would have to pay $25,000 inheritance tax. Internal Revenue Service (IRS) explained that unless she could prove she had contributed money to the purchase or improvement of the ranch, it belonged entirely to her husband. Her years of work on the ranch did not count and the joint title was meaningless. (She had, of course, been given a marital deduction of one-half the estate plus the standard $60,000 exemption.) Mrs. Heath also learned that if she had died first, Floyd would not have had to pay one penny of inheritance tax.

Besides the bill from IRS, Mrs. Heath inherited a $40,000 debt and she has had to borrow another $5,000 to make the first payment to IRS. With cattle prices depressed, she is afraid she'll have to sell in order to pay the tax; the dream that she and Floyd had of leaving the property to their two sons will never come true. She also knows that with the high price of land what it is today and with the high interest rates on borrowed money, it is unlikely that either of the boys can ever farm a spread of their own, though that is what they have prepared themselves to do.

Mrs. Heath's problem is one common to many widows, not just farm women. Whenever an estate is more than $120,000, a widow must prove she has contributed money to the purchase or improvement of the estate or face estate taxes. A homemaker's contribution to the family worth does not count, no matter how many meals she has prepared, no matter how many hours she has cleaned house, cared for the children, or spent in making and mending her family's clothing. (And if you think a $120,000 estate is a large one, just consider the cost of houses today.)

Mary Heath's problem, of course, is complicated by the fact that her living comes from the ranch. She wrote to Mrs. Doris Royal, who is organizing farm families to seek tax reform:

"I don't know where I can get a job at my age [55] and I'm not old enough for Social Security. This is all the work I know how to do. I wouldn't even be able to get housework, for I'm not much good at that either. My work has been with cattle and hogs.

"I had worked alongside of him from the time we got this place. I don't consider this place a gift. It makes me sick to think I'll lose everything my husband and I worked for. Unless times get better it could very well happen."[1]

Stories like Mary Heath's and her own experiences have moved Doris Royal of Springfield, Nebraska to action. During the blizzard of 1975, she says,

"I was out in the snow all day helping get the cattle into the barn and throwing hay to them and getting everything ready for the storm.

"I got back in the house after dark, worn out, and I said, 'Lloyd, do you realize that I haven't contributed a dime to this farm today, according to the IRS?' "

Mrs. Royal is a good example of the countless women, past and present, who have become angry at inequities and organized to bring about change. She has organized her

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Footnotes at end of article.

neighbors and farm wives all over the country and sent a petition to Congress.

Her efforts are directed at curing or improving the problem for farm wives. But the same tax laws apply to all homemakers, and the principle underlying them is demeaning to all homemakers.

Thus the IWY Commission, as one of many important actions resulting from its deliberations, recommends that those provisions of the Internal Revenue Code relating to estate and gift taxes be amended to eliminate taxation on all transfers of property between husband and wife at death, and on all gifts between a husband and wife during their lifetimes. The Commission also recommends that State legislatures take similar action.

Full partnership in marriage has been a major goal of the women's movement since the first women's conference in Seneca Falls in 1848. A substantial part of the Declaration of Sentiments and Resolutions adopted there relates to the disabilities of married women.[2]

Elizabeth Cady Stanton in 1870 envisioned woman as an "independent, equal partner with man in the State, the church, the home." [3]

The President's Commission on the Status of Women in 1963 saw "marriage as a partnership in which each spouse makes a different but equally important contribution" with each spouse having a "legally defined substantial right" in the earnings of the other, in the property acquired during marriage, and in their management.[4]

In 1968, the Citizen's Advisory Council on the Status of Women had the same vision and pointed to specific reforms.[5]

But reform has been slow in coming, slower than in many other institutions in our society. There has been improvements since 1848, but much of the law still reflects the old common law concept of wife as the property of the husband.[6]

Married women without independent income are still by and large dependent on their husband's generosity and good will for their economic and even physical well-being.

The law in all but the eight community property States counts the homemaker's contribution for little or nothing.[7]

The Homemakers Committee (one of the 13 working groups of the Commission) and the Commission are committed to the proposition that a homemaker's contribution is equal in importance and value to the contribution of the spouse who works outside the home and that the Nation's laws should be based on this principle.

SOCIAL SECURITY COVERAGE FOR HOMEMAKERS

The Social Security Act, and until recently its amendments, have reflected the prevailing image of the homemaker as an appendage of the husband—not a fully equal partner. Had she been considered an equal partner, the system would have credited her with half the benefits accruing from her husband's coverage with a right to keep the accrual at divorce, or at early widowhood.

The whole system has been built on a concept of the family structure that never was realistic or equitable for many families and is in urgent need of fundamental change.

Mrs. Marilyn Albrecht [8] of West Allis, Wisconsin, is an example of one type of inequity resulting from lack of social security coverage for the homemaker.

After working 12 years in positions covered by social security, she quit in 1960 to provide the special care and schooling required by her handicapped child. Mrs. Albrecht is now disabled with a heart condition and other serious medical problems. She is unable to care for her family, yet she is not eligible for a social security benefit, nor can she get Medicare. If her husband should die after her youngest child reaches 18, she would not be eligible for a benefit based on his employment until she reached 50.

As Mrs. Albrecht says, a person who becomes disabled while working is eligible for a disability benefit with fewer years of coverage than she had. Because she stayed home to care for her child with special problems. She is ineligible. A disabled child with no employment is eligible for a benefit on the death of a covered parent, but a homemaker like Mrs. Albrecht, with 12 years of covered employment, is a "nothing."

There are several other types for inequities arising from the lack of coverage for homemakers. A homemaking wife, divorced after fewer than 20 years' marriage, has no social security protection based on her husband's employment. If she has been married more than 20 years prior to the divorce, she is eligible for a benefit only when he retires or dies.

The Commission, therefore, recommends that the homemaker be covered in her own right under social security to provide income security for the risks of old age, disability, and death. The Commission further recommends that the Secretary of Health, Education, and Welfare be directed to give a high priority to developing an administration proposal for achieving this purpose.

DIVORCE

In few areas of women's concerns is there more mythology than in divorce. A September 1975 survey conducted for the Commission by Market Opinion Research[9] revealed that only 14 percent of divorced women were awarded alimony and of his 14 percent only 46 percent were collecting regularly.

Only 44 percent of the divorced mothers were awarded child support, and of these only 47 percent were collecting regularly.

Put another way, this means that of every 100 divorced mothers only 44 were awarded child support and fewer than 21 were collecting it regularly.

Sixty-two percent of the divorced mothers reported they had less income than their former husbands. Other studies of child support indicate that fathers by and large are contributing less than half the support for children in divided families.[10]

In a 1975 hearing Judge Tim Murphy of the District of Columbia bluntly told a divorced mother with five children living at home that she must accept a "radical change" in her lifestyle because of the divorce. Although her husband made over $30,000 a year (more than $2,500 per month), Mrs. Klara Bolden had been awarded only $750 a month a alimony and child support (less than one-third of the income to support six-sevenths of the family). Mrs. Bolden had been married 29 years and had spent her life rearing 10 children. She had no marketable skills.

The judge had threatened to jail her for contempt of court because she had not moved out of the family home, which she had "voluntarily" agreed to sell at the time of the divorce. Proceeds from the sale were to be split with the husband.

However, Mrs. Bolden had been unable to find a landlord who would rent to her because they did not consider her alimony and child support reliable income—a conclusion warranted by the facts. Mrs. Bolden's attorney asked her former husband to cosign the lease; he refused. Judge Murphy would not require him to sign it and threatened to jail Mrs. Bolden if she did not immediately try to sell the house.

In view of the fact that prior precedent-setting cases in the District of Columbia had awarded property to the spouse who contributed cash to it, Mrs. Bolden did better than most homemaking wives. It was, however, a little unfair of the judge to say that she voluntarily signed the agreement, implying that she "willingly" would give up the family home.

Mrs. Bolden's case is not unusual. In most States the laws relating to division of property at divorce, alimony, and child support simply do not take into account the contribution of the homemaker or the needs of children.

Law and practice relating to economic arrangements at divorce are important to all women because they are the concrete evidence of the support rights of a homemaker. The obligation of a husband to support his wife in an ongoing marriage has been inferred from the results in divorce proceedings, as pointed out in a leading text on family law.[11]

For reasons stated in more detail in the full recommendations of the Homemaker Committee in Part V of this report, the growth of nofault divorce since 1933 has eroded or eliminated the leverage that dependent spouses had in divorce. That is, under former "fault" laws, a dependent wife was often able to strike a bargain for better support settlement from a husband who was anxious to obtain the divorce.

Only a few States adopting no-fault divorce have accompanied such action with other legal changes providing for more equitable division of property, maintenance, child custody and support, and enforcement of support orders.

The Uniform Marriage and Divorce Act proposed in 1970 by the American Bar Association is an improvement over the law in most States for reasons stated in the full recommendations.

The Commission therefore recommends the enactment of the economic provisions of the Uniform Marriage and Divorce Act with certain modifications.

UNFINISHED BUSINESS

There are a number of other problems of the homemaker the committee would have considered, given more time.

1. Should a homemaking wife (or husband) in an ongoing marriage have a means of enforcing support? Should there, for example, be drafted a model law requiring that creditors accord married women credit based on their husbands' credit standing, and that husbands be obliged to pay?
2. What are the ways for a community to provide assistance to a victim of wife assault?
3. Should judges be given less discretion in dividing property at divorce and settling alimony and child support?
4. Should the law require that the home be awarded to the spouse with custody of the children unless a different arrangement would be better for the children?
5. Should judges be required to set maintenance and child support so that the spouse with custody of children has no lower standard of living than the noncustodial spouse?
6. Should deductions by employers of maintenance and support from wages be automatic rather than at the discretion of the court?
7. Should maintenance be based on some formula taking into account the number of years spent primarily in homemaking and the income of the providing spouse?
8. Should Federal assistance to States in collecting child support be extended to include alimony (Section IV–D of Public Law 93–647)?

The committee hopes that these topics will be explored by other interested organizations, such as State, county, and city commissions on the status of women, bar associations, committees of State legislatures, and women's organizations.

FOOTNOTES

[1] *New York Times*, Feb. 15, 1976, p. 1, and telephone calls to Mrs. Heath and Mrs. Royal.

[2] Hole and Levine, *Rebirth of Feminism*, N.Y.: Quadrangle Books, p. 6.

[3] Elizabeth Cady Stanton, "Anniversary of the National Woman Suffrage Association," *Revolution*, May 19, 1870, p. 306.

[4] President's Commission on the Status of

Women, *American Women*, U.S. Government Printing Office, Wash., D.C. 1963, p. 47.

[5] Citizen's Advisory Council on the Status of Women, *Report of the Task Force on Family Law and Policy*, U.S. Government Printing Office, Wash., D.C., 1968, pp. 6 and 8.

[6] Blanche, Crozier, "Marital Support," 15 Boston University L.R. 28, 1935.

[7] Notable exceptions in the economic sphere exist in the five community property States in which women have recently won joint rights of management: Ariz., Calif., Idaho, N.Y., and Wash. In these States, wives, whether employed or unemployed, can pledge the husband's credit, and it is a violation of the Federal Equal Credit Opportunity Act for the creditor to refuse credit to a wife when it would be given to the husband. Thus, in these States homemakers have a means of enforcing support rights. In the eight community property States—La., Nev., and Tex., in addition to the five listed above—homemakers are joint owners of the property acquired during marriage, but traditionally have not had joint rights of management. For a more detailed explanation of property law see Anne K. Bingaman's article in the *Pepperdine Law Review* for Nov. 1975.

[8] Letter from Mrs. Albrecht, Nov. 12, 1975, and telephone conversation of Mar. 9, 1976.

[9] See "Where Women Are Heading," summary of a poll of 1,522 U.S. women, 1975, Market Opinion Research in Part III.

[10] Citizens' Advisory Council on the Status of Women, "The Equal Rights Amendment and Alimony and Child Support Laws," Labor Department, Wash., D.C. 20210, 1972.

[11] Foote, Levy, and Sander, *Cases and Materials on Family Law*, p. 308.

HOMEMAKER COMMITTEE[13]

ESTATE, INHERITANCE, AND GIFT TAX LAWS[14]

The IWY Commission recommends that the provisions of the Internal Revenue Code relating to estate and gift taxes be amended to eliminate taxation on all transfers of property between husband and wife at death, and on all gifts between husband and wife during their lifetimes. The Commission further recommends that State legislatures amend their tax laws to eliminate laws that provide for inheritance or gift taxes in transfers between husband and wife.

Background

Federal estate and gift tax laws and State inheritance tax laws generally assume that the homemaker makes no economic contribution to the family.

For example, for Federal estate and gift tax purposes in a noncommunity property State, if a couple purchases a farm in joint name, the husband is treated as the owner of the entire property unless the wife can prove she has contributed money toward its purchase or improvement. If the wife dies first, the property passes to the husband free of estate taxes. If the husband is the first to die, the farm passes to the wife free of estate taxes only to the extent that its value does not exceed the marital deduction (equal to one-half of the estate) plus the $60,000 exemption.

Another inequality in existing tax law is that if the husband dies first, estate tax is paid on the property not only upon transfer to the wife, but also a second time when the wife dies and wills the property to children. Estate tax laws have become an important issue in agricultural States, as widows frequently are forced to sell a portion of the farm in order to pay estate taxes.

In a community property State, each spouse is generally treated as owner of a one-half interest in the property acquired during the marriage. And the estate tax consequences are basically the same for the husband and the wife, regardless of who is the first to die.

The Committee is committed to the proposition that what a homemaker contributes has economic value, and that estate and gift tax laws should reflect this proposition. To eliminate the inequality in noncommunity property States, either marital property could be assumed to be owned half and half for purposes of estate and gift taxes, or taxes on transfers of property between husband and wife could be eliminated entirely.

One basic purpose of estate and inheritance taxes is to prevent transfers of undue wealth between generations,[15] and this purpose obviously is not served by taxing transfers between husband and wife. Gift taxes, which are designed to prevent, as far as possible, evasion of the estate tax[16] should therefore be consistent with estate and inheritance tax laws.

COVERAGE OF HOMEMAKERS UNDER SOCIAL SECURITY[17]

The IWY Commission recommends that the homemaker be covered in her own right under Social Security to provide income security for the risks of old age, disability, and death. The Commission further recommends that the Secretary of Health, Education, and Welfare be directed to give a high priority to developing an administration proposal for achieving this purpose.

Need for coverage

The basic plan of the Social Security Act reflected the prevailing belief that the wife was an appendage of the husband—not a fully equal partner. If she had been considered equal, the system would have given her at a minimum a separate account with half the accruing right to benefits credited to her. The whole system has been built on a concept of the family structure that never was equitable for much of the population.

The change to a system that views the homemaker as a full partner will be very complex and difficult, but it is necessary, not only for the tangible inequities it will correct but also for the psychological benefit to the whole society. Following are the tangible inequities under present law that coverage of the homemaker would resolve or alleviate:

1. Homemaking wives who become disabled are not now entitled to benefits though their services to their families must be replaced. Likewise the family of a homemaker wife who dies receives no benefit.

2. Wives who are employed outside the home, except while their children are young, may have so small a benefit of their own that their benefit based on their husbands' service is greater. This can occur because absence from the labor force of more than 5 years is heavily penalized in the formula for computing Social Security benefits. Low earnings of women also contribute.

3. Wives divorced after fewer than 20 years of marriage may, even if they return to the labor force, be entitled to only a very small benefit because of the penalty for years out of the labor force. They get no credit for the years they were homemakers and no benefits based on their former husbands' employment.

4. Even a divorced wife who has been married 20 years may not be eligible for a benefit until she is very old, as she cannot draw a benefit until her former husband retires or dies.

Coverage of homemakers would provide added dignity and status. A wife would be recognized as an equal partner in the marriage rather than a dependent or junior partner. As the 1972 Report of the Women's Action Program (Department of Health, Education, and Welfare) stated,

> "A major theme of the women's movement is a plea for recognition of the achievements and needs of individuals. When women's roles and economic well-being are assumed to be tied to men's, they are not fully recognized as individuals."

The Secretary of the Department of Health, Education and Welfare, (HEW) asked the Social Security Administration in 1972 for a study on coverage of homemakers. To date, such a study either has not been made or if made has been withheld from publication.

Proposal for coverage

A number of policy issues and technical problems need to be resolved to develop a legislative proposal for covering homemakers under Social Security. For example, how should the coverage be financed?[18] On what level of assumed earnings should the coverage be based?[19] How should "homemaker" be defined?

Under the Jordan-Burke bill, H.R. 3009, 95th Congress, homemakers are treated as self-employed workers, who pay a tax of 8 percent. The tax may be based upon one of three options: (1) the maximum amount payable by self-employed workers ($14,000 with a yearly tax of $1,128); (2) the median amount of wages earned by all individuals who worked four quarters of the most recent year for which satisfactory data are available ($7,000 with a yearly tax of $560); or (3) the median amount of wages earned by all women who worked four quarters of the most recent year for which satisfactory data are available ($4,800 with a yearly tax of $384).

The companion bill, H.R. 3010, provides a tax credit for workers with total incomes of less than $8,000 per year. The tax credit would be 10 percent of income for those paying Social Security tax on incomes of $4,000 or less. The percentage of the credit would decrease at incomes above $4,000 and disappear at $8,000. The combined impact of the bills would be to give low income, one-worker families coverage for both members at less tax than the one member pays under existing law.[20]

Representative Bella Abzug (New York) introduced H.R. 252 in the 93d Congress and H.R. 11840 in the 94th Congress. The bills would have covered homemakers at a rate to be set by the Secretary of HEW under a formula which would take into account wages being paid to persons performing services for pay customarily performed by homemakers. The cost would be funded out of general revenues, recognizing that "a homemaker has neither salary nor employer but that her work benefits our entire society."

Another proposal for covering homemakers under Social Security would allow couples to have the option of dividing their earnings between the spouses and crediting each with quarters of coverage annually. Each partner would be allowed to credit 75 percent of the wages of the worker(s).

The committee does not have the time or the detailed knowledge of the Social Security Act necessary to propose a sound system for including the homemaker under the act. Therefore, the recommendation asks the President to require HEW to produce a feasible proposal.

INHERITANCE RIGHTS OF SPOUSES[21]

The IWY Commission recommends that State inheritance laws on disposition of property when a person dies without a will (intestate) be amended to provide that the surviving spouse's share is:

1. The entire estate if there is no surviving child or parent of the person who dies;

2. The entire estate if there are surviving children, all of whom are children of the surviving spouse;

3. One-half of the estate if there are surviving children, one or more of whom are not children of the surviving spouse.

The Commission recommends further that State bar associations, especially women members, and the National Conference of Commissioners on Uniform State Laws, in order to provide greater considerations of equity review and redraft (a) the provisions when there are no surviving children but

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Footnotes at end of article.

there are surviving parents; and (b) the provisions for a "forced share," or "widows election."

Sources of information

At its December 1 meeting, the Homemaker Committee considered two types of laws by which many States fail to recognize properly the contribution of the homemaker. They are laws that (1) provide for the disposition of property of persons who die intestate (without a will), and (2) laws that provide a minimum share of the estate to which a widow is entitled when there is a will ("forced share" or "widow's election"), often leaving the widow with little or nothing.

The committee considered the relevant provisions of the Uniform Probate Code, a model law proposed by the National Conference of Commissioners on Uniform State Laws [22] and endorsed by the American Bar Association. The Committee also heard testimony on marital property law from Anne K. Bingaman, Associate Professor of Law at the University of New Mexico Law School and Ford Foundation Fellow for 1975.

Intestacy Provisions of the Uniform Probate Code

Relating to Surviving Spouses. The Uniform Probate Code, which is the source frequently turned to by State legislatures considering amendment of their probate laws, recommends to the *common law States* [23] that if the decedent dies without a will, property should be disposed of as follows (Section 2-102):

The intestate share of the surviving spouse is:

(1) if there is no surviving issue (child) or parent of the decedent, the entire intestate estate;

(2) if there is no surviving issue but the decedent is survived by a parent or parents, the first ($50,000), plus one-half of the balance of the intestate estate;

(3) if there are surviving issue, all of whom are issue of the surviving spouse also, the first ($50,000), plus one-half of the balance of the intestate estate;

(4) if there are surviving issue, one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

Provisions recommended for adoption by *community property* States are (section 2-102A):

The intestate share of the surviving spouse is as follows:

(1) as to separate property:

(i) if there is no surviving issue or parent of the decedent, the entire intestate estate;

(ii) if there is no surviving issue but the decedent is survived by a parent or parents, the first ($50,000), plus one-half of the balance of the intestate estate;

(iii) if there are surviving issue all of whom are issue of the surviving spouse also, the first ($50,000), plus one-half of the balance of the intestate estate;

(iv) if there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

(2) as to community property:

(i) one-half of community property which belongs to the decedent passes to the (surviving spouse).

"Forced Share" Provision of Uniform Probate Code Where the Decedent Has Left a Will. Section 2-201 of the Uniform Probate Code, relating to the minimum share of the estate to which a surviving spouse is entitled when the decedent has left a will, gives the surviving spouse one-third of the "augmented" estate. It reads as follows:

Section 2-201. (Right to Elective Share).

(a) If a married person domiciled in this State dies, the surviving spouse has a right of election to take an elective share of one-third of the augmented estate under the limitations and conditions hereinafter stated.

Committee conclusions

Although the provisions of the Uniform Probate Code would be an improvement over the existing law in many States,[24] it is apparent that the Code was drafted from a strictly male point of view.

The Committee does not agree with the intestacy provisions for a surviving spouse (a) when there are children of the marriage; (b) when there are no children but there are surviving parents; and (c) the provisions for a "forced share."

When the decedent's only surviving children are those of the marriage to the surviving spouse, the committee believes the surviving spouse should receive the entire estate. If the children are minors or unable to earn a living, the surviving spouse will be responsible for their support. When they are able-bodied and grown, they are no longer dependent, and the surviving spouse is likely to be at least approaching old age.

The provision on disposition of an estate when there are surviving parents but no children is arbitrary and may result in great inequity. In this case the Uniform Probate Act gives the surviving spouse the first $50,000 plus one-half of the balance, with the remainder going to the parent or parents. Suppose the parent or parents of a decedent husband have been dependent completely on the couple for a number of years and the marriage is of long duration; shouldn't the wife receive everything? On the other hand, if the decedent husband is young and the marriage has been of short duration and the parents have been partially supporting the couple, shouldn't the parents receive all the estate?

The "forced share" provision of one-third may be equitable in some circumstances but not in many. Suppose a farm wife has worked along with her husband for 30 years to make the farm a success, and he becomes senile and tries to leave her out of his will. Shouldn't she be entitled to the whole estate? Any wife who has had a long marriage and has contributed to her husband's success is certainly entitled to at least the amount she would have received if he had died intestate. On the other hand, if a young woman has been married to a wealthy man only a few years and has squandered his wealth during that period, contributing nothing to his welfare or to acquisition of the money, should she receive as much as one-third? Here again the committee believes that the law should be redrafted to recognize a variety of circumstances.

ECONOMIC PROVISIONS OF DIVORCE LAWS [25]

The IWY Commisison urgently recommends that: 1. State, county, and city commissions on the status of women and other organizations concerned with the welfare of children and dependent spouses actively seek amendments in State divorce laws where necessary to assure that as a minimum the economic protections of the Uniform Marriage and Divorce Act [26] for dependent spouses and children be included.

2. State legislatures review and revise their divorce laws, adopting as a minimum the economic protections of the Uniform Marriage and Divorce Act.

3. In addition to the protections of the Uniform Marriage and Divorce Act, the following additional items be seriously reviewed and considered: (a) an effective proviso requiring disclosure of assets, such as that in the New York State law (section 250 of the Domestic Relations Law effective September 1, 1975); (b) authorization of child support until age 26 for children who are attending school; (c) the property division provisions included in the 1970 version of the Uniform Marriage and Divorce Act; (d) specific mention of loss of pension rights as a factor to be considered in distribution of property; and (e) inclusion of a statement of intent, such as that in Assembly Bill 995 introduced in the Wisconsin Assembly in 1975.

Introduction

These recommendations are based on testimony on the Uniform Marriage and Divorce Act from Dr. Herma Hill Kay, Professor of Law at the University of California at Berkeley and coreporter on the Uniform Marriage and Divorce Act; testimony on the New York divorce reform bill [27] from Dean Judith Younger, Deputy Dean and Professor of Law at the Cornell Law School; and testimony on a Wisconsin reform bill,[28] from Representative Mary Lou Munts, member of the Wisconsin Assembly.

The Homemaker Committee also had before it position papers of the Citizens Advisory Council on the Status of Women on the "Recognition of the Economic Contribution of Homemakers and Protection of Children in Divorce Law and Practice" and "The Equal Rights Amendment and Alimony and Child Support Laws." [29]

Growth of no-fault divorce

Before 1933 all States permitted divorce only for serious fault on the part of one spouse. The trend toward easier divorce began in 1933 when incompatibility became a ground for divorce in New Mexico. Divorce after a separation period, another form of no-fault divorce introduced shortly thereafter, was permitted in 21 States by 1961. The trend toward no-fault divorce has been greatly accelerated by the 1970 publication of the Uniform Marriage and Divorce Act by the National Conference of Commissioners on Uniform State Laws. The Act provides only one ground for divorce—"irretrievable breakdown" of the marriage. The Uniform Act was endorsed by the American Bar Association, with some amendments.

The growth of no-fault divorce, without concurrent changes in provisions for division of property, alimony, and child support, has eroded the economic protection of dependent spouses and children, which has always been minimal.

Contrary to common belief, alimony has been granted only in a very small percentage of cases, and fathers generally are contributing less than half the support of children in divided families. Furthermore, alimony and child support awards are very difficult to collect.[30]

A poll of 1,522 women conducted by the IWY Commission indicated that only 14 percent of divorced wives are awarded alimony and only 46 percent of those collect it regularly. Only 44 percent of divorced mothers are awarded child support; and of these only 47 percent are collecting regularly.[31]

The common belief in large and widespread alimony and child support payments has apparently taken root because of publicity about a small percentage of cases arising under the so-called fault system. Under that system a husband is sometimes willing to make a more generous settlement than a court would allow because he wants to avoid the publicity of a contested case, or because he needs the cooperation of the dependent spouse in procuring the divorce. Under the fault system a dependent spouse has some leverage in securing better economic arrangements than the very inadequate arrangements usually made by the courts. This leverage is lost or seriously eroded by any legislation providing for no-fault divorce at the option of one party.

The Uniform Marriage and Divorce Act provides greater economic protection for dependent spouses and children than exists in most States. Sections of the law relating to division of property, maintenance, child support, child custody, and enforcement (hereafter referred to as the economic provisions) strengthen the rights of homemakers and children.

Footnotes at end of article.

Most States adopting the "irretrievable breakdown" grounds of the act have not, however, adopted the economic provisions.

None of the States having separation or incompatibility as no-fault grounds has adopted the economic provisions. Currently four States have only fault grounds.[32] Of the 46 States having some form of no-fault divorce, only nine recognize the "contribution of the homemaker" as a factor to be considered in economic arrangements at divorce.[32] The Uniform Marriage and Divorce Act, as indicated below, includes this as a factor to be considered by the court in dividing property.

One of the primary objectives of the Homemaker Committee has been to alert the public to the realities of the economics of divorce. The committee's papers for each State on the legal status of homemakers, which are being published separately, and the State conferences directed by Public Law 94–167 will be useful in this respect.

Major Economic Provisions of the Uniform Marriage and Divorce Act. Section 307 of the Uniform Marriage and Divorce Act provides for division of property. In 11 States judges do not have authority to divide property titled in only one spouse's name.[32]

There are two alternative sections of the act, one for common law States and one for community property States. Both alternatives provide as one factor to be considered in dividing the property "the contribution of the spouse as homemaker"—a new concept in divorce law and an important advance for women. The alternative for the community property States includes, in addition, "the desirability of awarding the family home or the right to live therein for a reasonable period of time to the spouse having custody of any children." The alternative for the common law States does not include this section, an omission that may be of great importance to many families in which the only property owned is the home.

The Homemaker Committee prefers the 1970 version of this section which did not have alternatives. It authorized the courts to divide marital property "in just proportions" considering a number of relevant factors, including both the "contribution of the spouse as homemaker" and the "desirability of awarding the family home or the right to live therein for a reasonable period of time to the spouse having custody of any children."

Section 308 provides for "maintenance" for either spouse if the spouse lacks sufficient property to provide for his or her "reasonable needs" and is unable to support himself or herself through "appropriate" employment, or is the custodian of a child whose condition makes it inappropriate for the custodian to seek employment outside the home. Six factors to be considered by the court in determining the amount and duration of maintenance include the standard of living established during the marriage; the duration of the marriage; and the age, physical, and emotional condition of the spouse seeking maintenance.

Section 309 authorizes the court to order child support from either or both parents and lists five relevant factors to be considered, including the standard of living the child would have enjoyed had the marriage not been dissolved.

Section 311 establishes procedure for payment of support or maintenance orders through a court officer and for enforcement by the appropriate prosecuting attorney. Also, the person to whom support or maintenance is due may initiate support to collect arrearages.

Section 312 authorizes the court to order the person obligated to pay support for maintenance to assign part of his or her earnings or trust income to the person entitled to receive the payments. Such an assignment may be ordered at the time the award is made before there is any default. The payor (employer) is authorized to deduct from each payment $1 as a reimbursement for costs and is forbidden to discharge or discipline an employee as a result of an assignment.

This is an important provision, particularly for impecunious dependent spouses who have difficulty in engaging a lawyer to collect arrearages and difficulty in getting the attention of court officers for arrearages which may appear small to the court but are important to the dependent spouse and children. Furthermore, this provision could reduce court work and would not be harmful to the reputation of the obligor as are the attempts to collect arrearages.

Section 316 provides that a decree ordering maintenance or support can be modified "only as to installments accruing subsequent to the motion for modification and only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable." Maintenance provisions may not be modified if the original decree so stated. Child support may extend beyond the age of majority, and alimony may extend beyond remarriage and death of either party if the decree so provides or the spouses have so agreed in writing.

Disclosure of Assets. The Uniform Marriage and Divorce Act does not have a section on disclosure of assets, and a number of States that authorize courts to divide property have very inadequate provisions for disclosure of assets by both parties. The New York Legislature in 1975 enacted very strict legislation with penalties for failure to disclose (section 250 of the Domestic Relations Law). The committee believes that such a proviso should be included in all State laws.

Statement of Intent. Assembly Bill 995, introduced in the Wisconsin Legislature in 1975, grew out of six regional homemakers conferences in Wisconsin and included a statement of intent. The Homemaker Committee believes this or a similar statement should be included in all State laws. It reads as follows:

"It is the intent of the legislature that a spouse who has been handicapped socially or economically by his or her contributions to a marriage shall be compensated for such contributions at the termination of the marriage, insofar as this is possible, and may be reeducated where necessary to permit the spouse to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage. It is further the intent of the legislature that the standard of living of any minor children of the parties be maintained at a reasonable level, so that insofar as is possible, the children will not suffer economic hardship."

Child Support Until Age 26. In some States in which age 18 has been adopted as the age of majority, it has been held that child support does not continue beyond age 18. Thus a mother having custody of children is left with complete responsibility for post-high school education. The New York reform bill, which is backed by a number of women's organizations, proposes that age 26 be the cutoff for child support for young people who are in school.

Pension Rights. With the growth of public and private pension plans a considerable portion of a family's assets may have been contributed to the plan. Even when the employer pays the entire amount, families take into account the entitlement to a pension in determining how much of their assets should be set aside for investment. Upon divorce the wife loses all rights to share in the pension. The Homemaker Committee believes that this asset should be one of those taken into account in making an equitable division of property. The New York reform bill includes such a provision. If the committee had had time to do the necessary research for submitting a plan, it would have recommended amending Federal pension laws to give the divorced wife a right to a proportion of the pension based upon years of marriage.

Summary

In summary, the Uniform Marriage and Divorce Act gives greater recognition to the economic contribution of the homemaker and greater protection to children than do present laws in most States. Furthermore, the sponsorship of the National Conference of Commisioners on Uniform State Laws and the American Bar Association facilitates efforts of womens' organizations seeking reform in State legislatures. Nevertheless, there are improvements in the Wisconsin and New York bills that should be considered and enacted if possible. Hence the committee endorses the Uniform Marriage and Divorce Act and at the same time suggests serious consideration of additional provisions.

DISPLACED HOMEMAKERS BILL [33]

The IWY Commission recommends that the Administration endorse H.R. 10272, known as the "Equal Opportunity for Displaced Homemakers Act," which provides for establishing multi-purpose service programs for displaced homemakers to help them through a readjustment period in order to become self-sufficient members of society.

Background

The Homemaker Committee heard testimony on H.R. 10272 from Laurie Shields of Oakland, California, Coordinator for the Alliance for Displaced Homemakers and Coordinator for the Displaced Homemakers Committe of the National Organization of Women (NOW) Task Force on Older Women; and from Renee Montgelas, Legislative Assistant to Representative Yvonne Burke of California.

Homemaking is still the occupational preference for most women. Fifty-seven percent of married women are still employed full time as homemakers.[34]

Homemakers are an unrecognized and unpaid part of the national work force who make an invaluable contribution to the welfare and economic stability of our Nation but who receive no health, retirement, or unemployment benefits as a result of their labor.

More and more homemakers are displaced in their middle years from their family role and are left without any source of financial security after divorce, the death of their spouses, or after other loss of family income.

Although there are no data on how many widows and divorced women have been full-time homemakers, the total number of such women indicates the size of the problem. In 1973 there were 9,851,000 widows and 3,275,000 divorced women, a 41 percent increase in widows since 1950 and a 166 percent increase in divorced women since 1950.[35] Furthermore, no fewer than one-fourth of the divorces take place after 15 years of marriage.[36]

Displaced homemakers find it very difficult to get employment because of their sex, lack of vocational skills, age, and lack of any recent paid work experience. Many displaced homemakers are without any source of income because:

1. They are ineligible for Social Security benefits, because they are too young or because they are divorced from family wage

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Footnotes at end of article.

earners after being married fewer than 20 years;

2. They are ineligible for Federal welfare assistance if they are not physically disabled and their children are past 18 years of age;

3. They are ineligible for unemployment insurance or health plan benefits because they have been engaged in unpaid labor at home;

4. They may have lost their rights as a beneficiary under a spouse's pension and health plans.

In other words, displaced homemakers "fall between the cracks" of all existing Federal income security programs.

Provisions of H.R. 10272

H.R. 10272 directs the Secretary of HEW to establish multipurpose service programs (job training, counseling, placement, health education, financial management, and legal counseling) so that displaced homemakers may enjoy the independence and economic security vital to a productive and self-sufficient life.

The bill also directs the Secretary of HEW to cooperate with the Secretary of Labor in conducting a study to determine feasible and appropriate procedures for alolwing displaced homemakers to participate in programs under the Comprehensive Employment and Training Act, in work incentive programs, in unemployment compensation, and in programs under the Emergency Job and Unemployment Assistance Act of 1974, and the Emergency Unemployment Compensation Act of 1974.

A displaced homemaker is defined in the bill as an individual who has worked in the home for a substantial number of years providing unpaid household services for family members; is not gainfully employed; has had or would have difficulty in securing employment; and has been dependent on the income of another family member but is no longer supported by such income, or has been dependent on Federal assistance, but is no longer eligible for such assistance. As indicated earlier, the number of women who would be eligible for participation is not known.

One important aspect of the bill envisages creation of new jobs utilizing the homemaker's experience, such as home health care aides, consumer education aides, and other needed public services.

Summary

Given an opportunity to work in appropriate occupations, these women can use those years of homemaking in new ways to fill a socially useful function and at the same time provide independence for themselves and pay taxes rather than being supported at taxpayer expense.

Enactment of the Displaced Homemakers bill would by no means solve all problems experienced by displaced homemakers. Broad changes will have to be made in laws and in attitudes even to begin righting the wrongs experienced by this neglected segment of the population and in order to recognize fully the importance of the homemaker's role. But such legislation does aim at eradicating some of the immediate problems by providing for re-entry services and training in job skills so that displaced homemakers may become productive, self-sufficient members of society.

GOVERNMENT COLLECTION OF DATA ON DIVORCE, ALIMONY, PROPERTY DIVISION, CHILD CUSTODY, AND CHILD SUPPORT [37]

The IWY Commission strongly urges that the 1976 Survey of Income and Education,[38] which is to be conducted by the Census Bureau, include questions which will provide answers to the following:

How are children of divorced parents being supported; i.e., what proportion of the support is being contributed by each parent and by the government as welfare?

In what proportion of divorces is alimony awarded and in what amounts?

In what proportion of cases is child support awards being collected?

How is property divided?

To what extent are alimony and child support being collected?

To what extent are fathers getting custody of children? Are mothers paying child support in such cases?

What are the relative economic situations, after divorce, of the spouse with custody of children and the other spouse?

What is the economic status of women who are divorced after many years of homemaking and have little labor force experience?

The Commission further recommends that such data be secured in each decennial census.

BACKGROUND

In order to devise effective and equitable policies in this area, the public as well as Federal, State, and local authorities need reliable information on the economic consequences of divorce. Because marriage and divorce are bound by State laws, analysis of these data are needed on a State by State basis as well as nationally.

There are three recent sources of useful information. A 1975 poll conducted by Market Opinion Research for the IWY Commission showed that 14 percent of divorced wives surveyed were awarded alimony, and of these only 46 percent were collecting it regularly.[39]

In 1922 alimony was awarded in 14.7 percent of cases. This was the last year in which the Federal Government collected such data. Child support data were not collected. In 1916, 15.3 percent of divorced women were awarded alimony. This was the highest figure between 1883 and 1922, the period during which such data were collected.[40]

The Market Opinion Research Poll indicated that 44 percent of divorced mothers were supposed to be receiving child support payments, but of these only 45 percent were collecting it regularly.

A second recent source of national information is the study by the Survey Research Center of the University of Michigan, "Five Thousand American Families." The authors reported that the financial status of husbands improved following divorce whereas the situation of the wife deteriorated, probably, the study suggests, because the wife had custody of the children. Thirteen percent of the divorced wives were receiving some type of welfare payment.[41]

The General Accounting Office in recent years conducted a study of nonsupport by the absent parent of welfare families. This study was requested by Representative Martha Griffiths, who was then Chairperson of the Subcommittee on Fiscal Policy of the Joint Economic Committee. Although the study is not available to the public, Representative Griffiths reported some of its preliminary findings in a speech on the House floor. Of 149 absent parents under support order or agreement, their median monthly earnings were $172 and their median ordered or agreed-to child support payment was about $95 per month, or $50 per child. About one quarter of these absent parents were paying 90 percent or more of the ordered or agreed-to payments and half were making practically no payments.[42]

No consistent relationship was found between compliance with support orders and the income of the absent parent. In the under $6,000 income bracket, 81 percent of the parents were not in substantial compliance. Of those earning between $6,000 and $12,000, 66 percent were not in substantial compliance, nor were 70 percent of those earning $12,000 or more.

A study of single parent families in Michigan revealed that 47 percent of divorced women who head households and 73 percent of such separated women received no alimony or child support payments.[43] If further found that for those who received payments, the median amount was about $1,350 per year.

Congress has enacted legislation intended to improve the reliability of alimony and child support payments.[44] The legislation provides that the wages of Federal employees as well as all government benefits, such as Social Security checks, will be subject to garnishment for enforcement of child support and alimony obligations. In addition, the law provides support for State units and Federal assistance in collecting child support. This law received its impetus from the large numbers of children supported with taxpayers' money through welfare programs, but the State programs to be implemented through this law will be available to nonwelfare recipients as well. It will be January 1, 1977, before the State programs go into effect, and some time after that before their effectiveness and their usefulness as sources of data on the subject of child support can be evaluated. For further details on this program, see the recommendation "State Help in Collecting Child Support for Families Not on Welfare."

In summary, the national data available clearly indicate that contrary to popular beliefs, women and children are bearing disproportionately the economic dislocations of divorce and that the public is supporting a number of families where the former husband is able to provide. More precise information on a State basis is needed.

STATE HELP IN COLLECTING CHILD SUPPORT PAYMENTS FOR FAMILIES NOT ON WELFARE [45]

The IWY Commission recommends that Section 455(2) of Public Law 94–88, which requires the termination on June 30, 1976, of Federal support to administrative costs for child support collection services for non-Aid to Families With Dependent Children (AFDC) mothers, be amended to eliminate the deadline.

Background

On January 4, 1975, the Social Security Act was amended to strengthen collection of child support payments both for families receiving Aid to Families with Dependent Children and for those not receiving such aid. This program is usually referred to as the "IV–D Program" because it was set up under Title IV–D of the amendments to the Social Security Act (Public Law 93–647). The major components of the IV–D program are:

1. Each State must establish and have efficiently operating by January 1, 1977, an IV–D unit or lose 5 percent of its Federal reimbursement for its entire AFDC program. The IV–D unit may be a separate organization or be included in an already existing State agency or department. All units will be under the supervision of the new Child Support Enforcement Bureau of HEW.

2. The IV–D unit will seek the cooperative efforts of district attorneys, welfare departments, and collection officials of the State or county in securing court orders for child support, establishing paternity, locating defaulting parents, and collecting the monies owing to the AFDC program or to the non-AFDC parent. The unit may charge a fee for services rendered non-AFDC parents and deduct the collection costs from the amount collected.

3. Federal reimbursement of 75 percent is available for administrative costs incurred by the State in establishing and operating the IV–D unit. In the case of costs incurred for services for non-AFDC parents, the 75 percent reimbursement will cease June 30, 1976.

Footnotes at end of article.

4. The inter-State child support collection program known as URESA (Uniform Reciprocal Enforcement of Support Act) will be reorganized for maximum effectiveness.

5. At the Federal level, a system for locating absent parents, called a parent locator service, is established.

For some unknown reason, Congress required that as of June 30, 1976, the States would no longer be reimbursed for services to families not on welfare. In view of the great difficulty faced by private citizens in collecting child support payments, and in view of the hardship incurred by the custodial parent in trying to sustain the family without these payments, the June 30 deadline should be eliminated. Without the assistance of the State in collecting child support payments, a number of these families not currently receiving welfare will probably be forced to accept welfare in order to cover everyday living expenses.

FOOTNOTES

[13] IWY Commission members: Martha Griffiths, Chair. Other Commission members: Rita Z. Johnston, Dorothy Vale Kissinger, Paula Gibson, and Ellen Groves Kirby. Public members: Dr. Jean Douglas Bandler, civic leader; Betty Berry, editor of *Marriage, Divorce and the Family Newsletter;* Ethel Washington, President of America Home Economics Association Foundation and Supervisor of Home Economics Education of Detroit Board of Education; Dr. Jessie Bernard, sociologist and author; and Marguerite Rawalt, attorney and women's rights leader.

Staff members: Catherine East and Idelle Howitt.

Contractor: Center for Women Policy Studies.

[14] Recommendation approved by Homemaker Committee, Nov. 24, 1975; by IWY Commission, Dec. 5, 1975. Secretary of the Treasury recommended such action to the Ways and Means Committee of the House of Representatives, Mar. 22, 1976.

[15] E. Rep. 558 73d Cong., 2d Sess. 1, 7 (1934).

[16] H.R. Rep. 1681, 74th Cong., 1st Sess. 2 (1935).

[17] Recommendation approved by Homemaker Committee Dec. 4, 1975; by IWY Commission Dec. 5, 1975.

[18] The cost would not be as high as that covering a new worker, because homemakers now have partial coverage as dependents.

[19] The problems of covering homemakers are not new. Military service has been counted without contribution; and nonpaid members of religious orders were covered in the 1972 amendments, with the contribution paid by the order.

[20] This proposal (H.R. 3010) was included in the temporary Tax Reduction Act of 1974. Whether it will be included in the tax reduction act currently under consideration is uncertain.

[21] Recommendations approved by Homemaker Committee Feb. 23, 1976; by IWY Commission Feb. 27, 1976.

[22] The National Conference is an influential body of lawyers with representatives from each State. It has been drafting model laws for over half a century, and its proposals are held in high regard by State legislatures and in legal circles.

[23] All States except the community property States, which are: Ariz., Calif., Idaho, La., Nev., New Mex., Tex., and Wash.

[24] For example, the laws of Ga., N. Dak., and S. Dak. provide no forced share. Therefore, a husband can completely disinherit his wife (or vice versa) in these States. In several States, e.g., Del., the District of Columbia, and S.C., a wife can be left with only the *income* from one-third of the *real estate*.

[25] Recommendations approved by Homemaker Committee Jan. 12, 1976; by IWY Commission Jan. 16, 1976.

[26] National Conference of Commissioners on Uniform State Laws, Uniform Marriage and Divorce Act (1970 version and 1973 version). Order from the National Conference of Commissioners on Uniform State Laws, 1155 East 60th St., Chicago, Ill. 60637.

[27] Revised draft not yet introduced of Assembly Bill 7840 (Blumenthal) introduced March 25, 1975.

[28] Assembly substitute amendment to 1975 Assembly Bill 995 (Munts).

[29] Available from Council at Department of Labor Building, Room S3306, Wash., D.C. 20210.

[30] In addition to Council papers, see Chap. 4 of *Five Thousand American Families—Patterns of Economic Progress,* vol. III, published in 1975 by the Survey Research Center, Institute for Social Research, University of Michigan, Ann Arbor, Mich. 48106.

[31] Poll of 1,522 women conducted by Market Opinion Research for the IWY Commission. Report to be published separately. In 1922, the last year for which the U.S. Government collected data, alimony was awarded in 14.7 percent of divorces. In 1916 it was 15.3 percent and was no higher in earlier years, according to *Marriage and Divorce,* 1922, published by Bureau of Census, Department of Commerce.

[32] *Marriage, Divorce and the Family Newsletter,* Mar. 1, 1976, P.O. Box 42, Madison Square Station, N.Y., N.Y. 10010. $7.70 per year.

[33] Recommendation approved by Homemaker Committee Jan. 13, 1976; by IWY Commission Jan. 16, 1976.

[34] U.S. Department of Labor, *Manpower Report of the President,* April 1975, Wash., D.C.: U.S. Government Printing Office, p. 254.

[35] U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the U.S., 1974,* Wash., D.C.: U.S. Government Printing Office, p. 38.

[36] Testimony of Laurie Shields, Coordinator for the Alliance for Displaced Homemakers before the Homemaker Committee, Jan. 10, 1976.

[37] Recommendation approved by Homemaker Committee by mail on Sept. 17, 1975; by IWY Commission Aug. 29, 1975; and by mail in Oct. 1975.

[38] Through the cooperation and interest of the Department of Health, Education, and Welfare, some of the information requested will be collected in the 1976 Survey of Income and Education. The Department hopes to fund collection of the additional data requested plus other information on single parent families.

[39] The Commission will publish separately a summary of the results of this poll, which covers a wide variety of topics.

[40] U.S. Department of Commerce, Bureau of the Census, *Marriage and Divorce, 1922,* Wash,. D.C.: U.S. Government Printing Office.

[41] Duncan and Morgan, eds., *Five Thousand American Families—Patterns of Economic Progress,* vol. III, Survey Research Center, Institute for Social Research, Ann Arbor, Mich.: University of Michigan.

[42] *Congressional Record,* Dec. 4, 1974, H.11291.

[43] Hugh Helco, *Single Parent Families: Issues and Policies,* Washington, D.C.: Brookings Institution, 1973.

[44] Public Law 93–647, title IV–D.

[45] Recommendation approved by Homemaker Committee on Jan. 13, 1976; by IWY Commission Jan. 16, 1976.

THE SUCCESS OF JOHN WARNER AND THE AMERICAN REVOLUTION BICENTENNIAL

Mr. HRUSKA. Mr. President, although we are still celebrating our Bicentennial Year of 1976, the magic day, July 4, has passed. Many of us now have taken the time to reflect on America's independence and its meaning.

Here is what I believe we, the citizens of this great country, have to celebrate as we prepare to enter America's third century:

Two hundred years of splendid history under a Constitution conceived by dedicated men, guided by divine providence.

It has been said before, but it bears saying again: No nation ever came into the possession of such powers for good or ill, for freedom or tyranny, for friendship or enmity among the people of the world. And no nation in history has used those powers, by and large, with greater vision, restraint, responsibility, and courage.

We should take pride not only in our political system, unmatched in history for its stability; we ought also to be proud of our economic system—the free enterprise system. Americans want a good standard of living, not simply to accumulate possessions, but to fulfill a legitimate aspiration for an environment in which their families may live full, meaningful, and happy lives. Our people are committed, therefore, to the creation and preservation of opportunity for every citizen. They are equally committed to the alleviation of misfortune and distress among their fellow countrymen.

The only system on the face of this Earth to maintain its fundamental integrity over these 200 years has been that little union of 13 colonies founded on the east coast of North America by an idealistic yet realistic band of men and women who believed in the startling heresy that "Governments are instituted among men, deriving their just powers from the consent of the governed" in order to secure for all men the "inalienable rights" of "life, liberty, and the pursuit of happiness."

That little Federal union is now the oldest continuously existing Republic on Earth operating under its original Constitution.

The people of America rose to the occasion in this, our 200th year. They went all out and had themselves a birthday party. The party, which is still going on, spread from coast to coast. Americans from all States joined in the celebration. From the smallest communities to the largest cities, people caught the spirit of the Bicentennial.

Much of the great success of this endeavor is due to the efforts of the administrator of the American Revolution Bicentennial Administration, John Warner. He did a fantastic job in organizing this huge celebration. He performed a task that many skeptics felt would be impossible to accomplish. But Mr. Warner was undaunted. He spread the word, he inspired people and he told them we would not fail. Mr. Warner was assisted by a great many dedicated, hard working people. None of them is more dedicated and hard working than ARBA Regional Administrator Frank Harrington. Mr. Harrington's region, which includes my home State of Nebraska, caught the Bicentennial spirit early and never lost it. Participation in the Bicentennial communities program was exceptionally high. The midwestern spirit and love of country showed through many times as tiny communities gathered proudly around their Bicentennial flag.

I am pleased to say that I am the chairman of the subcommittee in the Senate which first authorized the American Revolution Bicentennial Administration and I was proud to vote to confirm Mr. Warner as its first and only administrator. Mr. Warner and his fine administration far exceeded our expectations of success for the Bicentennial celebration. He and the others like Mr. Harrington are to be congratulated. So, too, should congratulations go to the American people without whose interest, patriotism, and vitality this great celebration would not have been possible.

SOME VIEWS ON THE POLITICAL-MILITARY POSTURE OF THE UNITED STATES

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the Record excerpts from a speech entitled "Some Views on the Political-Military Posture of the United States." The entire speech was delivered by Vice Adm. Howard E. Orem, USN, retired, before the Old Guard of Summit, N.J., on June 29, 1976. A copy of the speech was recently sent to me by a friend and constituent, the Honorable Ed F. McFaddin, former supreme court Justice of the State of Arkansas. I recommend the reading of these excerpts by my colleagues and all patrons of the Congressional Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Some Views on the Political-Military Posture of the United States

(Excerpts of Speech by Vice Adm. Howard E. Orem, USN, Retired)

"Last year on the first of July it was my privilege to speak to the Old Guard. Today I shall try to expand that discussion emphasizing one important essential to our economic well-being and security. I refer specifically to the potential hazard to our overseas trade. I suggest that should our overseas trade be interrupted to a major extent we would not long remain a super power. . . . I hope to indicate, in broad terms, what seems to me to be the political-military and economic objectives of the Soviet Union, as regards overseas commerce, and some of the means they are now and have been employing to gain those assumed objectives. . . .

A fundamental aim of our national security is to deter war. An almost equally important aim is to assure the economic well being of the citizens of the United States. This well being, in no small measure, depends on our access to overseas sources of oil, raw materials and trade. But the problem is compounded by the existence of areas of international tension, and by the rapid enlargement of the Soviet navy and merchant marine plus their impressive fishing and ocean research fleet. The political-military and economic leverage that those maritime achievements give the Soviets has been increasing materially during the past twenty years. . . .

Today in many respects we have become an island nation. More and more we are dependent on the resources of others across the oceans. . . .

With only 6% of the world's population, we in the United States consume more than one third of all the raw materials and energy consumed in the world. . . .

Before World War II we imported only limited quantities of minerals, energy and materials. We were in fact a net exporter. In the past thirty years the direction of the flow has changed materially. . . .

. . . the maintenance of our access to natural resources, and to move commerce across the surface of the oceans of the world, is essential to our continued well being . . . There seems to be little doubt that the Soviet Union . . . has set out to become the greatest sea power. . . .

. . . In 1953 the world's merchant fleet consisted of approximately 14,000 ships of various sizes. Of these about 3400 were U.S. owned and about 500 were Soviet. In 1973, twenty years later, there were slightly over 21,000 in the world, about 700 U.S. and 2300 Soviet. That is from a seven to one advantage to a three to one Soviety [sic] advantage. But the comparison I have drawn is not all black. In 1970, as a result of several studies concerned with the deteriorating position of our merchant marine, a federally supported ship building program was initiated. . . . Currently 77 merchant ships of the latest design totaling 4.6 million gross weight tons have been completed or are under construction in the United States. . . . Numbers alone as I have given them do not present an entirely fair comparison. For example U.S. owned ships sailing under a flag of convenience form much of the merchant marine of Liberia. . . . Including those . . . In . . . dead weight tonnage, the USSR and the United States are about the same.

. . . Morposflot, the Soviet Agency which has jurisdiction over ship traffic, will probably become the largest passenger ship company in the world, if it is not already. Official Soviet statistics set forth than [sic] in 1970 Soviet ships engaged in foreign trade visited 995 ports in 105 countries in making 23,700 individual port calls. A unique factor of those calls is that a Russian trade organization or consular representative is in some form or another frequently provided for each port visited. The presence of such a representative tends to encourage the use of Soviet products and facilitate their transfer to friendly governments. Thus while improving their political-military position the Soviet fleet is earning convertable [sic] currencies. The availability of adequate shipping also lessens the difficulty of supplying war materials to friendly overseas governments and dissident groups. For example in supporting North Vietnam it has been estimated that 100 Soviet merchant ships were used in the Hiphong [sic] run. A more recent example of their support of war materials to friendly elements overseas was in Angola.

With regard to passenger ships I believe it can be said that to some degree the passenger liners of the Western world have succumbed to the jet aircraft and in general are no longer competitive. . . .

Now let us consider the military aspects of the increasing Soviet emphasis on their seagoing forces. The Soviet fleet of 20 years ago consisted . . . largely of coastal defense craft possessing little capability on the broad expanse of the oceans. In contrast today their navy includes large, long range missile carrying submarines, amphibious craft, and surface ships. They have not only gained in sophistication but now have a numerical advantage over our navy and that advantage is constantly increasing. . . . Does not this potential the Soviets now have give them a second option should a confrontation with the West be threatened? They might no longer need risk a third world war, or a nuclear exchange to gain their apparent objectives. . . . The relative weakening of our seagoing forces decreases our ability successfully to intercede, and our creditability. I look for . . . an effort to expand Russian influence to gradually bring about political and possibly economic encirclement of the nations of Black Africa. Should such an eventuality materialize it would not bode well for the continued availability to our industries of certain raw materials. . . .

There can be little doubt that an active foreign policy implies risks but so does pacivity [sic] . . . But is it not logical for our people to hope and think that détente is the answer? Of course we should strive to that end but. . . . I suggest that the urge for détente should not lead us to underestimate the Soviet threat. . . . General Haig, the supreme NATO commander in Europe, when asked the question do you feel that NATO is being lulled into a false sense of security by détente. He answered, yes, and added the essential question today is whether the West is capable of recognizing these realities. . . .

. . . Negotiating with the Russians from a position of weakness is in my judgment an invitation to be dictated to.

. . . On various occasions the Soviets have used their Indian Ocean ships to make protrated visits which have gone beyond the time required for normal amenities. . . . Such employment of ships is not new for if we look back to the 16th, 17th and 18th Centuries . . . Some of the major countries of Western Europe employed their navies as instruments for the accumulation of wealth, plunder and colonies, and sometimes the enslavement of peoples. In contrast some Western countries now seem at times to view their navies as weapons of yesterday. The Soviet Union however is proceeding to make their fleets weapons to today and tomorrow.

. . . Their overall approach is an updated version of what happened two, three and four centuries ago. . . .

. . . It seems obvious to me that the greatest continental power has set out to become, if it not already is, the greatest sea power as well. They seem to have grasped the meaning of command of the seas, the indestructible highway. . . .

. . . Unless that trend changes and changes quickly I suggest that the problems that now face our children, and those that our grandchildren will have to contend with, will be more difficult to solution than the one that we have faced. I hope I am wrong."

ABORTION: NOT A PRESIDENTIAL ISSUE

Mr. McGOVERN. Mr. President, as a Presidential candidate in 1972, I regretted the constant introduction of abortion as an issue in that campaign. It did not seem to me to be an issue that was appropriate for political discussion in a Presidential election. Rather, I believed that it was a moral issue to be resolved by each individual in consultation with competent medical authority. That remains my position.

Many of the issues that are of deepest concern to us are highly personal and/or moral concerns which should not be brought into the political arena. Abortion is such a matter. I would hope that henceforth, both President Ford and Governor Carter, as well as other candidates, when asked about this issue, would simply state that the courts are facing the legal aspects of the issue and the moral aspects will have to be judged by each individual.

I am pleased that this point of view has been advanced recently by four of the Nation's most respected journalists. I ask unanimous consent that an article in the Washington Star of September 16 by Mr. James Dickenson, articles in the Washington Post of September 18 by Mr. Tom Braden and Mr. Clayton Fritchey, and an article in the Washington Star of September 18 by Mr. James Kilpatrick be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Star, Sept. 16, 1976]

Debate on Abortion a Campaign Disgrace

(By James R. Dickenson)

Mankato, Minn.—Jimmy Carter defines abortion as "evidence of a failure to prevent an unwanted pregnancy."

It certainly is. It's pretty tough to argue with that.

This stunning exercise in belaboring the obvious is worthy of the abortion issue as a serious topic, in a presidential campaign. It is not a presidential issue, and it certainly is not a constitutional matter despite the demands of the antiabortionists for a constitutional amendment that would prohibit abortions.

If the two presidential candidates spend much time debating this issue rather than the ones they should be concerned with, they will be defrauding the electorate. The waffling both have done in their attempts to salvage something from a no-win situation raises a question as to whether either deserves to be president.

Abortion is the Quemoy and Matsu of the 1976 election, only worse. The offshore islands were totally worthless strategically, but at least they came under the purview of foreign policy, which is the president's responsibility.

Abortion is not. It is a matter of private religious and moral beliefs. Law and order was not. It is the responsibility of local government, not of the president.

But, like Q&M and L&O, abortion is a symbolic issue. To many, Southern Baptists as well as Catholics, abortion is a symbol of the change in sexual mores, the increased permissiveness, of the past decade. To many it is a symbol of the cultural revolution of that decade, the feeling that the traditional morality and institutions such as families, church and community which are the glue that holds society together are weakened and failing.

In this sense, it's obviously proper for a presidential candidate to have a view on abortion just as he does on drinking, drugs, premarital sex and other moral questions.

To debate abortion as a constitutional issue is disgraceful, however. It is no more a constitutional issue than was Prohibition, as it is clear now what a disaster that was.

A law that can't be enforced is worse than worthless. It fosters a disrespect for law, and Prohibition gave an enormous impetus to organized crime. No one can seriously believe that a constitutional amendment against abortion would be much more successful.

Abortions would still be performed but they would be done illegally and dangerously just as bootleg whisky was consumed by the ocean in the 1920s—and killed, blinded or paralyzed many of its devotees.

To drink or not to drink or whether to get an abortion is not an issue of government such as separation of powers, presidential succession or the right of free speech. There is no issue of freedom involved when people are free to have an abortion or not.

To the contrary, writing abortion into the constitution would probably be unconstitutional. It comes close to breaching the separation of church and state that is an unquestioned cornerstone of the American system of government. It would come dangerously close to allowing one religious group to impose its views on the rest of society.

To his credit, Carter has acknowledged that the Constitution is not the place to resolve such emotional and transitory issues. He has been volunteering his view on the matter, however, whenever there is a sizable number of antiabortion signs in the audience. He seems to consider it a matter of honor to take this difficult issue head on.

He ought to quit wasting his time. He tries to please everyone by opposing abortion and by also opposing a constitutional amendment, which is a reasonable position. He didn't help himself after his unsuccessful meeting with the Catholic bishops by indicating once that he might possibly accept some sort of amendment if the wording was right. He hasn't repeated this, however.

Ford has caved in by supporting an amendment that would leave the states free to pass their own laws, which he can rationalize in terms of states rights, but in effect is meaningless. It is paradoxical to see conservatives who profess to revere the Constitution proposing that it be trifled with in such a way and opened up to equally spurious proposals.

In Phoenix Carter tried to explain his position to a half-dozen earnest ladies who told him he would win a lot of votes if he was "right" on the issue. He failed. "Your writings, Mr. Carter, show that you are for abortion on demand," said one, in nailing him with an implacable glare. "You are proabortion."

There is no arguing with the antiabortionists. "You're either with them 100 percent or you're a murderer," says one Democratic professional.

The woman is wrong about the votes, too. Not many voters will vote on abortion alone and those who oppose it will probably be offset by proabortionists. Not only is it a spurious issue in a presidential campaign, there isn't any profit in it.

[From the Washington Post, Sept. 18, 1976]

Abortion: A Private Issue Has Become Public

(By Tom Braden)

I find the current argument about abortion embarrassing because it seems to me that everyone concerned—the Catholic bishops, the right-to-lifers, Gerald Ford and Jimmy Carter—is discussing in public what ought to be private. Let me illustrate:

I've forgotten whether it was to be our sixth child or our seventh. At any rate, the doctor announced the news to my wife and then asked her to step into his office for a chat.

He could, he explained to her, argue convincingly before the medical board in the county in which we lived that having another baby might be harmful to her health. (It wouldn't be harmful, he explained, but he could argue that it might be.) He was sure the board would go along. So my wife was to choose. If she wanted the baby, fine. If not, she could have an abortion.

My wife didn't hesitate. She always welcomed babies. "Having a baby is the only thing in life that is truly wonderful."

But suppose she hadn't wanted the baby. Whose business was that besides hers and the doctor's?

What has a bishop got to do with her decision unless she asks the bishop for an opinion?

Or a couple of presidential candidates? As for the right-to-lifers, with their angry signs, they ought to be threatened with arrest for invading everybody's privacy. Surely, we are not about to permit the most personal family decisions to be influenced by street gangs. Would we permit them to assemble outside cancer wards to shout slogans at us while we confer with doctors about whether or not to let a member of the family die?

Jimmy Carter embarrasses me because I'd like to see him as the thinking man's candidate. But he has compromised and hedged and qualified on this issue to the point where you have to read the fine print to discover exactly where he does stand. Anyhow, I question his basic premise. He is personally opposed to abortion, he says. Everybody nods politely when he says that because it's his "personal view." But is it really? Suppose that nine or 10 years from now he discovered his daughter had forgotten to take the pill.

Carter has, at least so far, restrained himself from promising to impose his personal view on the rest of us. Gerald Ford, on the other hand, has invited the bishops to sit down at our dinner tables and tell everybody in the family exactly what they must do. Gerald Ford has said a constitutional amendment to ban abortion would be fine. I'm sure he knows better. I'm sure he knows about the cheap, ditry abortion mills; about the fear they generate; about the trips to Mexico or Switzerland for girls whose families can afford it, and about the dangerous home remedies that are attempted by desperate young girls whose families can't. I'm sure he knows this because Gerald Ford went to Michigan and to Yale and nobody who went to college in Gerald Ford's generation could have been oblivious to the tragedy and fear that resulted from what some young men and women were irresponsible enough to do.

Why then is Gerald Ford kowtowing to the bishops? We all know why. It's embarrassing to bear witness.

We also know that the danger of a constitutional amendment is not great. The chances of such an amendment passing the Congress would seem to be very slim, and almost equally slim in any of the states.

But we do seem to be heading toward a confrontation that will involve, to some extent at least, our religious organizations and creeds, and that will work to the detriment of our churches and will make the next generation laugh at us as we once laughed at Bryan and the Scopes trial.

I'm for calling off the argument. Let's agree that neither candidate has been wholly successful in the always difficult task of trying to square logic with religious belief, and then let's drop the subject.

[From the Washington Star, Sept. 18, 1976]

Abortion: A Poor Issue

(By James J. Kilpatrick)

The issue of abortion—as an issue in a presidential campaign—is getting completely out of hand. It is high time to sidetrack this emotional and essentially irrelevant controversy, and to get back to issues that are presidential in fact.

The abortion issue is being hotly pursued by a relatively small group of unusually zealous persons, most of them fervent Catholics. Their sincerity cannot be challenged; that is the mark of zealous advocates in any field, that they believe deeply in their cause. The "right-to-lifers" who are charging Jimmy Carter with "murder" are convinced of the moral rectitude of their position, and their right to passionate expression has to be respected.

But that position does not have to be agreed with. Evidently not all Catholics agree with the hierarchical view: My mail brings opposing arguments from an organization, Catholics for a Free Choice, whose members emphatically disagree. Obviously the zealots of women's liberation do not agree. And for every person who is absolutely against a right of abortion, or absolutely for a right of abortion, there must be a hundred persons whose inchoate views lie uneasily in between.

I count myself in this large number. Mr. Carter and President Ford are in the same big boat. As Justice Byron White remarked in his dissent to *Roe* v. *Wade*, this is an issue "over which reasonable men may easily and heatedly disagree." There are rational arguments in behalf of the woman who is pregnant with an unwanted child; and there are rational arguments in behalf of the unborn infant capable of survival beyond the womb. It is arrogant nonsense to contend that one side has all the valid arguments and the other side has none.

One difficulty is that the issue involves questions of both theology and law. I cannot speak to the first point, but I can speak with certain conviction to the second: Neither the Catholics, nor the members of any other denomination, have a right to impose their theology upon a free people through amendment of the supreme law of the land. The Constitution flatly forbids any religious test as a qualification for public office; it flatly forbids any law respecting an establishment of religion. To write the "Catholic position against abortion" into the Constitution would be profoundly wrong.

This is not to say that the anti-abortionists have no right to advocate amendment. Of course they do. In a free country, people can advocate any constitutional folly they have a mind to. Their proposed amendment says that with respect to the right to life, the word "person" as used in the Constitution "applies to all human beings, including their unborn offspring at every state of their biological development, irrespective of age, health, function, or condition of dependency."

A second section of the proposed amendment would say that "no unborn person shall be deprived of life by any person," provided that exceptions may be made "to prevent the death of the mother" or in emergency situations "when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother."

It may well be true, as a matter of theology, that a "person" of a "human being" exists from the instant of conception, but the validity of this concept is a matter for theologians and not for presidential candidates. In refusing to support any such constitutional amendment, Messrs. Ford and Carter stand on sound ground. They stand on constitutional tradition; and they remind us of the time when teetotalers in another area of human conduct, through the 18th Amendment, unhappily imposed their moral rectitude upon the supreme law of the land.

Only on peripheral questions, involving the expenditure of public funds, is abortion in any sense a presidential issue. The candidates reasonably may be asked if they approve, or disapprove, of permitting a poor woman on welfare to obtain an abortion through Medicaid. (Mr. Carter says he disapproves.) The same question rationally may be asked of a National Health Insurance plan.

But these are issues of limited scope. We ought to be hearing from Carter on defense, Carter on detente, Carter on price control, Carter on public unionism, Carter on the use of the power to pardon, and so on. When the bedeviled Georgian is pushed into discussing Carter on murder, reason flees the temple. We ought to let presidential candidates return to presidential things.

[From the Washington Post, Sept. 18, 1976]

The Amendment Is a Trumped-Up Issue

(By Clayton Fritchey)

There are, for a change, some genuine issues in this year's presidential election, but the opening of the campaign has unfortunately been dominated by a trumped-up issue—a proposed constitutional amendment to outlaw abortion—that has little or no relevancy to the election as a whole.

As nearly every politician privately acknowledges, there is no chance of such an amendment being enacted in the foreseeable future. Moreover, unless there is a radical change in the prevailing public sentiment, which decisively favors legalized abortion in one form or another, it is not likely that the proposed amendment will ever be adopted. So the present fuss over it is largely much ado about nothing.

If anything, public sentiment for the amendment is waning, not waxing, despite the organized effort of the National Conference of Catholic Bishops (NCCB) to give it priority over all other issues, including the pressing economic ones that urgently need to be resolved in the November election.

It is not surprising that there is growing concern in representative Catholic circles over the way the bishops, in their single-minded preoccupation with abortion, seem to be ignoring the great social problems—such as unemployment, health, education, child care, etc.—that deeply trouble so many of their parishioners.

The executive board of the National Federation of Priest Councils, for instance, has recently expressed "deep concern . . . that this one issue is being stressed by the U.S. hierarchy to the neglect particularly of other important issues" emphasized in the past by the bishops themselves.

This situation caught the observant eye of Marjorie Hyer, Washington Post religion editor, in a thoughtful postmortem on the bishops' separate meetings last week with President Ford and Jimmy Carter. After reporting that Archbishop Joseph Bernardin, president of the NCCB, told reporters how "disappointed" the bishops were by Carter's abortion stand, Ms. Hyer noted that "he neglected to mention—until prompted by a reporter's question—that the bishops saw virtually eye to eye with the Democratic platform on every other issue except abortion."

The archbishop, she added, "proceeded to compare unfavorably the Democrats' abortion plank with the Republican promise to work for anti-abortion legislation. But he failed to add that on seven or eight other issues, the Republicans and the bishops were at odds." In its summary of the Republican platform, the National Catholic Reporter put it this way: "Conservative GOP Convention Defends Rights Selectively—Fetuses Have Them, Hungry Don't."

Earlier this year, the administrative board of the U.S. Catholic Conference said it hoped that "voters will examine the positions of candidates on the full range of issues. . . ." It disavowed the endorsement of any candidate by the church. Archbishop Bernardin has reaffirmed this stand, but he is "encouraged" by Mr. Ford's stand on a constitutional amendment and is "disappointed" by Carter. So he is neutral—neutral against Carter, that is.

Anyone who remembers what the 18th Amendment, prohibiting liquor, did to the United States must shudder at the prospect of a similar amendment outlawing abortion. The 18th turned America into a nation of scofflaws, with literally millions violating the law daily. It led to the bribery and corruption of law enforcement officers on a vast scale, and it spawned a new type of Al Capone-organized mobdom, which has plagued the United States ever since.

Since the Supreme Court legalized abortion in 1973, more than 3 million abortions have been performed in the United States. Planned Parenthood estimates that the percentage of Catholic women having legal terminations is about the same as non-Catholics. Is it reasonable to suppose that a constitutional amendment could stamp out abortion relief, or would it simply drive it underground again, with all the dark and dreadful consequences that would ensue?

Mr. Ford seems to favor a local option amendment that would allow each state to decide for itself whether to ban abortion or not. Local option was tried with liquor, too, but it had little or no effect on the consumption of booze. It's not hard to imagine what would happen if, for example, Connecticut outlawed abortion but New York did not. Mr. Ford's half measure is as big a pipe dream as the amendment to ban abortion nationally. So let's get on with the big bread-and-butter election issues that call for early resolution.

FARMERS HOME ADMINISTRATION

Mr. BAYH. Mr. President, on Friday, September 17, 48 of my colleagues joined with me in urging Mr. Frank Elliott, Administrator of the Farmers Home Administration, to reverse an administrative action by FmHA which would have a severe negative impact on many rural areas.

The Farmers Home Administration, in a July 15 notice—AN No. 121 (444)—to its field offices concerning the 515 rural rental housing program, announced that—

> All loans to be obligated during this transition quarter must be mailed to the Finance Office before September 10, 1976.

Subsequently, FmHA changed the section 515 deadline to September 20, conforming it to the cut-off date for 502 rural homeownership loans.

If projects approved in the transition quarter are not funded from fiscal year 1976 moneys, then they will have to be funded from fiscal year 1977 funds because unused FmHA appropriations lapse at the end of the year. This would mean an absolute loss of resources provided by Congress.

As of September 10, 1976, out of a total of $3.23 billion appropriated for section 502 homeownership loans, $539 million remained unexpended; out of a total of $625 million appropriated for section 515 rental loans, $268 million remain unexpended. This early cut-off date is one more in a continuing series of FmHA actions designed to frustrate congressional intent and to preclude low- and moderate-income rural people from obtaining the benefits which Congress intended for them.

The backlog of applications which would qualify for loans is large. As long as FmHA has not obligated all of the funds made available by the Congress, it should continue to obligate funds until the end of the fiscal year.

I sincerely hope that Administrator Elliott will respond favorably to the recommendation made in the letter sent to him by 49 Senators. I ask unanimous consent that a copy of that letter, together with the names of the signatories, be printed in the Record. I also want to note that Senators Hatfield and Metcalf have expressed to me their support of the position expressed in the letter.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Appropriations,
Washington, September 17, 1976.

Mr. Frank Elliott,
Administrator, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Elliott: It has come to our attention that more than $800 million in loan authority for the Farmers Home Administration homeownership and rental programs remained unspent as of September 10. We also understand that you plan to cut off the commitment of all FmHA housing loan funds as of September 20.

We are very concerned that many *acceptable* loans will not be funded by the 20th; however, they could be funded during the remaining 10 days of the fiscal year. In fact, many of us know from conversations with our respective state offices that there are applications which would qualify for funding during the last 10 days.

We, therefore, very strongly recommend that you extend the deadline for commitments until the last day of the fiscal year.

Sincerely yours,

Birch Bayh, James Abourezk, Henry Bellmon, Joseph R. Biden, Jr., Edward W. Brooke, Quentin N. Burdick, Robert C. Byrd, Howard W. Cannon, Clifford P. Case, Alan Cranston, John C. Culver, Peter V. Domenici

Thomas F. Eagleton, Wendell H. Ford, Gary Hart, Philip A. Hart, Vance Hartke, Floyd K. Haskell, William D. Hathaway, Ernest F. Hollings, Walter D. Huddleston, Hubert H. Humphrey, Daniel K. Inouye, Henry M. Jackson, Jacob K. Javits

J. Bennett Johnston, Edward M. Kennedy, Patrick J. Leahy, Warren G. Magnuson, Mike Mansfield, Charles McC. Mathias, Jr., George McGovern, Thomas J. McIntyre, Joseph M. Montoya, Robert Morgan, Frank E. Moss, Gaylord Nelson, Sam Nunn, William Proxmire

Jennings Randolph, Richard S. Schweiker, John Sparkman, Robert T. Stafford, Ted Stevens, Adlai E. Stevenson III, Richard Stone, Robert Taft, Jr., John V. Tunney, Harrison A. Williams, Jr.

AN EFFECTIVE RESPONSE TO THE REAL SOVIET NUCLEAR THREAT

Mr. McGOVERN. Mr. President, it has become the fashion, both in the administration and among its critics on the right, to evaluate American national security by the simplistic and erroneous standard of "Who's ahead?". 1976 has been the year of heated debate over whether we are No. 1 or No. 2 in national defense, with both sides of the debate blandly and blindly assuming that to be No. 1 is to be secure and to be No. 2 is to be insecure.

In fact, in terms of strategic nuclear capability we are No. 1, and we are maintaining that position. But at the same time we are becoming progressively less secure as a result of increasing Soviet first strike capability. Deployment of our own first strike capability, which is the best response the current administration can muster, is entirely ineffective since it does nothing to deter the Soviets from starting a nuclear war; it only gives us the ability to start one.

The growing Soviet first strike threat, and a thoughtful three-point arms control solution to it, are set forth in an insightful and provocative article by Congressman THOMAS J. DOWNEY in the fall 1976 issue of Foreign Policy magazine. Unfortunately, space limitations did not permit inclusion of the qualitative assumptions and back-up data which support Mr. DOWNEY's arguments. A number of interesting but subsidary sections were also deleted because of limited space.

So that Senators and those interested in arms control may have access to the full range of Congressman DOWNEY's information on nuclear deterrence, I ask unanimous consent that the full text of his article, "How To Avoid Monad—and Disaster," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HOW TO AVOID MONAD

(By Congressman THOMAS J. DOWNEY)

For well over a decade the prime objectives of U.S. nuclear deterrence have been elimination of incentive for a Soviet strike against the United States and provision of maximum disincentive against such a strike. Beginning in January of 1974, the Nixon-Ford Administration and then-Secretary of Defense James Schlesinger also placed heavy emphasis on capability to deal with a nuclear war once it has begun, and initiated new "counterforce" strategies and weapons programs whose announced purpose is to enable the U.S. to restore deterrence and terminate an exchange at the lowest level possible.

Coincidental with the Schlesinger counterforce programs, which have not been disturbed by his successor, and providing supporting rationale for them, has been concern over possible Soviet missile developments. The chain of reasoning goes like this: (1) once the Soviets combine their present large missile throwweight with MIRV, they will have more capability than the U.S.; (2) if we cannot reach agreement with the Soviets wherein they constrain their throwweight, we will have no choice but to increase our own throwweight to avoid falling too far behind; (3) as long as we can thus maintain "essential equivalence"[1], crisis stability will be restored.

In fact, each of these three propositions is false.

Moreover, good intentions notwithstanding, inasmuch as the proposed new strategies and programs have an effect they will provide the Soviet Union with its first positive incentive to launch a first strike against the United States, will remove its greatest disincentive against such a strike, will destroy crisis stability, and will increase the probability that a "limited" nuclear exchange will quickly escalate to total spasm war.

In order to understand why this is so and what can be done about it, it is first necessary to define and measure strategic nuclear capability. We can then consider the questions of which Soviet strategic nuclear developments threaten U.S. security and which do not, and what can be done about those which do.

TABLE I.—STRATEGIC NUCLEAR CAPABILITY

Objectives	Target		Critical attack capability
	Critical characteristics	Examples	
Countervalue	Area (square miles)	Population, industrial or transportation complexes; mines and oilfields	AMTE: $nY^{3/10}$ (Soviet targets); $nY^{4/10}$ (United States. targets)
Counterforce	Escape time (minutes)	Runaway-alert bombers and tankers	Surprise time (minutes)
	Hardness (pounds per square inch)	ICBM silos	Lethality $\left(\frac{nY^{2/3}}{a^2}\right)$

n = number of identical weapons.
Y = yield (megatons).
a = inaccuracy (nautical miles).

THE BACKGROUND

As Table I indicates, there is no single definition of nuclear weapon "capability". There are at least three relatively independent measures of the capability of a strategic weapon; in order to choose which is the most appropriate it is necessary to consider whether the target's chief means of resisting destruction lies in its dispersion, its hardness, or its ability to move quickly away from the aim point.[2]

Certain caveats should be observed with regard to Table I: There are some countervalue hard point targets (e.g. dams and, to a lesser degree, some heavy industrial machinery), and there are some counterforce area targets (e.g. missile submarines whose location may be known approximately).[3] In the case of countersilo, it is assumed that at least one reliable re-entry vehicle (RV) per targeted silo is available to the attacker; if not, the number of available RVs can be a critical limiting factor. While bombers and tankers are very soft in comparison with silos, their relative hardness is nevertheless of significance since it determines how many miles away from the targeted airfield they must fly before they are safe, and thereby has some effect on their effective escape time.

With these reservations in mind, Table I provides a rough framework for evaluating strategic missile capability. Let us now put some flesh on the framework.

Countervalue targeting is the essence of nuclear deterrence. In its ultimate form, it is the ability to say to the other side, "Nothing you can do can prevent me from destroying your society". As a practical matter, a full deterrent strike has traditionally been considered as capable of destroying approximately one-third of the opponent's population and two-thirds of his industry by immediate blast and radiation effects.[4] (Long-term effects such as fallout, epidemic, starvation, etc. would of course raise total fatalities and industrial incapacitation considerably above this level.) This level of destruction can be achieved by about 200–400 weapons of 1 MT each, above which the law of diminishing returns sets in rapidly. In rough terms, a deterrent capability falling within this range can be considered sufficient, below 200 can be considered insufficient while above 400 is hypersufficient. The countervalue capabilities in the strategic arsenals of the two major powers exceeds sufficiency by such wide margins that incremental increases or decreases are of no intrinsic military significance. The problem faced by deterrent forces on both sides is not to maximize the assurance being able to deliver sufficient countervalue.

Measurement of countervalue capability is more complex than is generally assumed in public discussion of the subject.

The unit of area destruction, the megaton-equivalent (MTE), is defined as the area destructive power of a one-megaton weapon. It derives from the fact that man and almost all his works are located not more than a few feet above or below the surface of the earth.

A given yield will produce more area destruction if it is distributed among a large number of small weapons, since the available energy can thus be better concentrated near ground level. The megaton-equivalence of a given weapon is derived by taking the ⅔ power of its megatonnage.[5]

While area destruction is frequently equated with countervalue, the two are quite different since not all areas are of equal value. In the case of a very small attack against a very large target (e.g., one weapon targeted on Moscow or New York) it is true that area destruction and value destruction are synonymous. But as the scale of the attack enlarges, it becomes necessary to attack dispersed targets which are small in area, highly elongated, or both. In these cases large weapons create large circles of destruction, much of which is wasted on low-value boondocks. Area destruction can be used more efficiently if it is distributed among larger numbers of smaller weapons, which can be better conformed to non-circular or dispersed targets.[6]

Footnotes at end of article.

What is the proper measure of the countervalue capability of a nuclear weapon in a sufficiency-level attack? This can only be determined empirically, and is highly sensitive to the nature of the specific target list. But as a reasonable approximation we can say that against Soviet targets the unit of countervalue, which for lack of a better term I call the Adjust Megaton Equivalent, or AMTE, is $Y^{.3}$. Against United States targets, which tend to be somewhat larger but less numerous, thus favoring large weapons slightly, the Adjusted Megaton Equivalent can be defined as $Y^{.4}$.

Comparison of the largest-yield United States missile, the Titan II, with the smallest, the Poseidon, will surprise many readers and illustrates that absurdity of expressing missile capability in terms of "deliverable megatons".

TABLE II

	Titan II	Poseidon
Warhead	1×9 MT	10×0.04 MT MIRV.
Total MT	9	0.4.
Total MTE (area)	4.3	1.16.
Total AMTE (value)	1.9	3.8.

Time-critical counterforce is a relatively simple proposition. Escape time for a runway-alert manned bomber/tanker force is on the order of 4 to 15 minutes. Surprise time for an SLBM attack tends toward the short side of this range, particularly if depressed trajectories are used. Because of the land mass surrounding the Soviet Union, warning time for an anti-Soviet attack is somewhat longer than for an anti-U.S. attack. Warning time for an ICBM attack is on the order of 20-25 minutes in either direction. In short, SLBMs threaten bombers but ICBMs do not.[7]

Hard-target counterforce is the most complex of the three capabilities. It is also the most misunderstood, particularly regarding the relative importance of throwweight vs. accuracy.

Lethality (also known as "K"), which is defined in Table I and which has been brought to the public consciousness primarily as a result of the efforts of Dr. Kosta Tsipis[8] and my House Armed Services Committee colleague Bob Leggett,[9] is the basic measure of a warhead's ability to destroy a point target. If lethality is known, it is possible to calculate, with minor adjustments,[10] the probability that a reliable re-entry vehicle will kill a target of specified vulnerability to blast overpressure.

What about throwweight, which some commentators have described as the single most important characteristic of a strategic missile?

Footnotes at end of article.

The definition of throwweight is a subject of some dispute, at SALT and elsewhere. For purposes of this discussion it is defined as the weight of the RVs plus the MIRV bus, guidance system, penetration aids, and missile nose cone. In contrast, "payload" can be defined as the weight of the RVs alone. Thus on a MIRV missile, payload is only about ½ to ⅔ of throwweight, while on a single-RV missile, the two quantities are identical.

Intrinsically, throwweight has no significance. You can have all the throwweight in the world, and if your technology does not enable you to throw anything more advanced than a bag of rocks, you have no capability.[11]

The frequently-heard claim that, all other things being equal, throwweight is the prime determinant of missile capability, while technically true, is sophistry. If we can assume all other factors to be held constant, any lone variable, presumably down to the color of the paint on the missile, will be the prime determinant of capability. Since other factors are not constant in reality, we must ask which variable has the greatest effect.

As is obvious from the definition of lethality supplied in Table I, hard target capability can be improved in any of three ways: One can increase the numbers of missiles (equivalent to increasing throwweight per missile), one can increase the yield of each RV, and/or one can decrease the inaccuracy.

But the three avenues are not equally effective, as indicated by the exponents to which they are raised. Consider the effectiveness of the various options available to a Soviet planner contemplating a full strike against 1985-generation U.S. silos, which might conceivably be hardened to 3500 pounds per square inch.[12]

Figure 1 uses as a starting point one missile with one RV with a yield of one megaton and inaccuracy of one mile—a collection of round numbers which approximates the most widely deployed present-day Soviet missile, the SS-11.

From the base-case missile, which has a kill probability of about 2%, Figure 1 traces the effect of taking each of the three avenues to higher kill probability.

Clearly, increasing yield is a hopeless route to countersilo capability. Increasing numbers or throwweight is somewhat better but still inadequate. But reducing inaccuracy is extremely effective. Specifically, a 20-fold improvement in yield (to 20 MT) brings kill probability up to 15% while the same degree of augmentation applied to numbers of missiles gives 33%, but applied to accuracy (.05 nm.) it gives 99% kill probability.

In real-life terms, the technology of a missile is far more significant than its throwweight if countersilo or other hard target destruction is the objective. Consider, for example, the upcoming Mk. 12A re-entry vehicle for the Minuteman III ICBM. It will have the same weight, size, and shape as the presently deployed Mk. 12, but advanced technology will enable it to have twice the yield of the Mk. 12. Other technological improvements will give the 1980s-generation Mk. 12A perhaps half the inaccuracy of the 1970s-generation Mk. 12, again without increasing weight. The yield upgrade will improve lethality 59%; the accuracy upgrade will improve it by a factor of 4, giving an overall hard target capability 6.3 times that of its predecessor. Thus, this technological improvement, described as "modest" by the former Secretary of Defense, is in terms of lethality equivalent to increasing the throwweight of the "light" Minuteman III 6.3 times to a throwweight between those of the SS–9 and SS–18 Soviet "heavy" missiles.

The very limited real-life countersilo significance of throwweight can be stated as follows: If inaccuracy is worse than about .18 nm., throwweight doesn't matter because significant countersilo capability will not be possible with the throwweight expected to be available to either major power. If inaccuracy is less than about .05 nm., throwweight is likewise unimportant since near-total countersilo capability will be achievable with a fraction of the throwweight available to either major power. It is only in the narrow range between .18 and .05 nm. that throwweight can be a significant counterforce factor.

While Figure I illustrates the basic theoretical relationships between yield, throwweight, numbers, and accuracy, a realistic approach to countersilo capability requires incorporation of a number of refinements: First, RVs are not perfectly reliable; it is better to hedge by targeting multiple RVs per silo than to use a single super-lethal RV per silo. Second, fratricide (interference between RVs) sets an effective upper limit of two RVs per targeted silo. Since the U.S. has 1,054 silos and the Soviet Union approximately 1,500, optimal available countersilo forces consist of about 2,100 Soviet RVs and about 3,000 on the U.S. side. RV numbers beyond this level are primarily countervalue weapons. Third, we cannot assume that improvements in yield, accuracy, numbers, or throwweight by a given factor are equally achievable or equally expensive. Fourth, it is unlikely that either power will improve only one parameter while leaving the others unchanged; in practice, we must deal with the interaction of expected improvements in all parameters.

Accordingly, Tables III and IV list countervalue and countersilo capability of various present and possible future missiles.[13]

TABLE III.—U.S. MISSILES

							Countervalue		Countersilo				
Missile	Numbers to be operational (1)	Throw-weight (pounds) (2)	Availability (percent) (3)	Reliability (percent) (4)	RV's per missile (5)	Yield per RV (MT) (6)	AMTE per RV (7)	Operational missiles required for 200-400 AMTE deliverable (8)	Inaccuracy, (nm) (9)	Lethality (per RV) (10)	Theoretical[1] kill Probability (percent) (11)		USSR silos[2] surviving attack (percent) (12)
											Target silos 500 p.s.i.[11]		
Present:													
Titan II	54	7,000	85	80	1	9	1.93	153-306	0.5	17	73	98	[3] 52
Minuteman II	450	2,000	90	85	1	2	1.23	212-242	.3	18	71	83	
Minuteman III	550	2,400	98	90	3	.17	.59	128-256	.2	7	37	66	
Polaris A-3[4]	160	1,500	55	95	1	.6	1.01	379-757	.5	4	25	99	[3] 88
Poseidon	496	3,000	53	90	10	.04	.38	111-222	.3	1	7	90	

Footnotes at end of table.

TABLE III.—U.S. MISSILES—Continued

							Countervalue		Countersilo			
Missile	Numbers to be operational (1)	Throw-weight (pounds) (2)	Avail-ability (percent) (3)	Reli-ability (percent) (4)	RV's per missile (5)	Yield per RV (MT) (6)	AMTE per RV (7)	Operational missiles required for 200–400 AMTE deliverable (8)	Inaccu-racy, (nm) (9)	Lethality (per RV) (10)	Theoret-ical[1] kill Prob-ability (percent) (11)	USSR silos[2] surviving attack (percent) (12)
											Target silos 1,000 p.s.i.	
Early 1980's:[10]												
Minuteman III, Mk. 12A	550	2,400	98	90	3	.35	.73	106–212	.1	49	83	19
Trident I,[5] 4,500-nm. range +	[8] 768	3,000	66	90	8	.1	.50	82–165	.25	3	12	77
											Target silos 3,500 p.s.i.	
Late 1980's:												
M-X, Mk.12A[5]	450	11,000	98	95	14	.35	.73	23–46	.1	49	62	17
M-X, MARV[6]	550	11,000	98	98	7	.1	.50	59–118	.02	538	99	¼
M-X, Countervalue[7]	550	11,000	98	95	31	.1	.50	15–30	.1	22	28	73
Trident II,[5] Countervalue, 6,000-nm. range	[9] 336	6,000	66	95	14	.15	.57	36–73	.3	3	5	91
Trident II,[6] MARV, short range	(15)	8,500	66	95	14	.04	.38	54–109	.02	292	96	1
Trident I,[6] MARV, short range	(16)	3,500	53	95	7	.04	.38	146–292	.02	292	96	7

TABLE V.—USSR MISSILES

							Countervalue		Countersilo			
Missile	Numbers to be operational (1)	Throw-weight (pounds) (2)	Avail-ability (percent) (3)	Reli-ability (percent) (4)	RV's per missile (5)	Yield per RV (MT) (6)	AMTE per RV (7)	Operational missiles required for 200–400 AMTE deliverable (8)	Inaccu-racy, (nm) (9)	Lethality (per RV) (10)	Theoret-ical kill Prob-ability[1] (percent) (11)	USSR silos surviving attack[2] (percent) (12)
											Target silos 650 p.s.i.	
Percent:[10]												
SS-9	306	12,000	85	80	1	25	3.62	81–162	.7	17	66.0	87 } [3] 81
SS-11[11]	1,000–1,050	2,000	85	75	1	1	1.	313–626	1.0	1	6.0	96 }
SS-N-6 }	750–950	2,000	12	80	1	1	1.	2,000–4,000	1.0	1	6.0	99
SS-N-8 }												
											Target silos 1,000 p.s.i.	
Early 1980's:												
SS-18[12]	306	16,000	85	85	8	.67	.85	40–80	.25	12	39.0	45
SS-19[13]	(17)	7,000	85	85	6	.29	.61	76–152	.25	7	24.0	63
SS-N-?[14]	?	?	?	?	?	?	?	?	?	?	?	?
											Target silos 3,500 p.s.i.	
Late 1980's:												
SS-18, Mk. 12A technology	306	16,000	85	85	8	1.38	1.14	30–61	.1	124	86.0	78
SS-19, Mk. 12A technology	(17)	7,000	85	85	6	.62	.82	56–113	.1	72	71.0	15
SS-N-??[14]	?	?	?	?	?	?	?	?	?	?	?	?
1990's:												
SS-18, MaRV[6]	306	16,000	90	90	15	.2	.52	31–62	.02	855	99.9	1
SS-19, MaRV[6]	(17)	7,000	90	90	7	.2	.52	67–134	.02	855	99.9	1
Trident II[6] equivalent, MaRV, short range	288(7)	8,500	60	90	14	.0	.28	70–140	.02	292	96.0	2

FOOTNOTES TO TABLES III AND IV

[1] The effect of a single reliable RV upon a single silo.

[2] Assumes the entire listed missile system is used in an attempt to destroy the entire enemy silo complex. 2 RV's per silo are used to the extent permitted by available numbers.

[3] Combined attack.

[4] A 3-unit nonindependently targeted MRV, best visualized as a single RV with a triangular explosion.

[5] Aviation Week and Space Technology, Oct. 13, 1975, p. 17.

[6] Hypothetical but plausible countersilo-optimized configuration.

[7] Hypothetical but plausible countervalue-optimized configuration.

[8] 12 Trident ships with 24 missiles each plus 30 formerly-Poseidon ships with 16 missiles each.

[9] 14 Trident ships.

[10] Approximately 100 very old soft-sited SS–7 and SS–8 ICBM's, with 5MT yield, low accuracy, and dubious reliability are omitted for brevity since they are being retired and make no significant contribution to the counterforce/countervalue balance. Similarly, the approximately 60 SS–13s are omitted, as are the 21 SS–N–5 low-capability missiles.

[11] A small number of SS–11's may be deployed as a 3-unit MRV. This is omitted since it has no significant effect of force capability.

[12] While the SS–18 has been tested as a MIRV, deployed versions reportedly use single warheads. I assume all will be converted to MIRV, since this gives higher capability for both countersilo and countervalue.

[13] Some of these missiles will probably be SS–17's, SS–16's, or MIRV SLBM's. The pure SS–19 force is assumed for simplicity and because it presents a worst-case situation in that it has higher countersilo and countervalue capability than the alternatives.

[14] I have no basis for predicting the nature of future Soviet SLBM's, since they will probably differ significantly from the present rather primitive models. We can, however, assume that by 1980 Soviet SLBM's will posess countervalue sufficiency, and that they will not have a significant countersilo capability until terminal guidance is deployed.

[15] Replacing Trident II countervalue.

[16] Replacing standard Trident in Poseidon ships.

[17] SS–11 replacement.

THE THREAT

If these tables are even approximately correct, and I believe they are, a very real decline in U.S. military security is coming over the horizon. Let us examine it in some detail:

The essential purpose of a strategic nuclear force is to deter attack by threat of countervalue retaliation. Counterforce capability is significant only to whatever extent it can degrade the opponent's countervalue capability. To respond to an opponent's counterforce capability by creating one's own counterforce capability is an exercise in irrelevance since it does nothing to reduce the impact of his counterforce upon one's own countervalue.

Let us evaluate the most important single aspect of U.S. military security: the validity of our countervalue capability in light of present and probable future Soviet counterforce capabilities.

The "bottom line" of Tables III and IV is derived by examining the effect of one side's countersilo capability (column 12) upon the other side's retaliatory countervalue capability (columns 1 and 8). For example, Table IV, column 12, indicates that, at present, a countersilo attack by the entire Soviet ICBM force would allow 81% of our silos to survive. Since we have 550 Minuteman IIIs (Table III column 1), this means 445 of these missiles would survive, which is well in excess of the 131–263 missiles required (column 8) for sufficient retaliation. Similarly, we find 81% of 450, or 364 Minuteman IIs surviving, which is in itself a sufficient, albeit not hypersufficient, deterrent. Only 43 Titans would survive: a force which, while insufficient itself, adds to the total U.S. hypersufficient ICBM retaliatory capability.

Table V summarizes the total retaliatory AMTE of each of the three arms of our countervalue deterrent under ten different scenarios of Soviet counterforce first strike, using missile characteristics specified in Tables III and IV.

TABLE V.—U.S. SURVIVABLE COUNTERVALUE AMTE

Scenario No.		ICBM's[1]	SLBM's[1]	Bombers
	Present:			
	AMTE operational	1,613	2,311	[2] 2,380
1	AMT E deliverable after Soviet ICBM first strike	1,085	1,106	[3] 504
	Late 1980's:			
	AMT E operational, if:			
	A. No United States M-X or MaRV	1,861	4,601	[4] 5,791
	B. 550 countervalue M-X	9,182	4,601	5,791
	C. 550 MaRV M-X; MaRV Trident	2,582	3,064	5,791
	AMT E deliverable after Soviet first strike employing:			
	I. ICBMs or simultaneous arrival, if:			
2	A. No United States M-X or MaRV	125	2,760	[5] 1,121
3	B. 550 countervalue M-X	675	2,760	1,121
4	C. 550 MaRV M-X; MaRV Trident	188	1,763	1,121
	II. SLBM's or simultaneous launch, if:			
5	A. No United States M-X or MaRV	1,546	2,760	[6] 90
6	B. 550 Countervalue M-X	8,421	2,760	90
7	C. 550 MaRV M-X; MaRV Trident	2,334	1,763	90
	1990's:			
	AMTE Deliverable after Soviet SLBM MaRV first strike, if:			
8	A. No United States M-X or MaRV	32	2,760	90
9	B. 550 countervalue M-X	168	2,760	90
10	C. 550 MaRV M-X; MaRV Trident	46	1,763	90

[1] ICBM and SLBM characteristics as specified in tables III and IV. ASW and ABM effectiveness for both sides assumed to be zero.

[2] Assumptions:
A. B-52D/F ignored because of limited low-level capability.
B. 225 B-52G/H, each carrying a 8 SRAM (0.59 AMTE each) plus 4 gravity bombs (1 AMTE each).
C. 66 FB-111A, each carrying 4 SRAM.

[3] Assumptions:
A. B-52: 30-percent availability; no prelaunch attrition, 20-percent penetration and reliability attrition.
B. FB-111A: 20-percent penetration and reliability attrition; otherwise same as B-52.

[4] Assumptions:
A. 241 B-1, each carrying 24 SRAM.
B. B-52 and FB-111A unchanged from present generation. Popular misconceptions to the contrary notwithstanding, B-52G/H will be operable under current usage patterns into this period and well beyond.

[5] Assumptions:
A. B-1: 35-percent availability, 30-percent reliability and penetration attrition, no prelaunch attrition.
B. B-52: 25-percent availability, 50-percent reliability and penetration attrition, no prelaunch attrition.
C. FB-111A: 30-percent availability, 30-percent reliability and penetration attrition, no prelaunch attrition.

[6] Assumptions: B-1 and FB-111A, 90-percent prelaunch attrition, B-52 98-percent prelaunch attrition, otherwise as in footnote 8. Prelaunch attrition of a tanker considered to result in neutralization of the bomber the tanker would have refueled.

At the present time, (scenario 1) we are, obviously, in good shape. Our ICBMs and SLBMs each have clearly hypersufficient survivable retaliatory capability. The bombers offer a third survivable retaliatory force, smaller but nevertheless hypersufficient in its own right. Thus the triad, or three-armed deterrent, offers a double hedge against any single Soviet breakthrough in counterforce technology.

Since, as I suggested earlier, deterrent security lies not in the magnitude of the destructive force we can probably deliver but in the probability that we can deliver a sufficient destructive force, this scattering of our deterrent eggs into three independent baskets is far more effective than the sum of the capabilities of each arm would suggest. (Note the strikingly equal distribution of survivable capability between the ICBMs and SLBMs. It appears the people who planned our present deterrent knew what they were doing.) There is, of course, nothing divinely ordained about a three-armed deterrent; four or five independent arms would be better (if such a thing were technologically possible, which to the best of my knowledge it is not);[14] fewer arms would be worse.

Unfortunately, the end of the triad is in sight; the question now before us may be whether we will be able to preserve a diad.

Scenario 2 outlines an attack by late-1980s-generation inertial or stellar-inertial guided SS-18s against a U.S. early-1980s-generation ICBM force in 3500 psi silos. The surviving ICBM countervalue capability is insufficient, but the other two arms remain hypersufficient.

Alternatively, the attacker could follow Scenario 5, using his SLBMs to conduct a short-warning preemptive attack on our bombers and tankers. While analysis of counterbomber attacks[15] and of subsequent penetration attrition must necessarily be rough and conjectural, it appears probable that, even with the full B-1 program implemented, surviving deliverable AMTE would be insufficient, particularly so since a small residual force of bombers offers more severely constrained targeting options than would the same countervalue power delivered by missiles.

Fortunately, the two attacks of scenarios 2 and 5 could not be employed simultaneously; ICBMs lack the short warning time necessary for counterbomber attack, and SLBMs of the generation in question lack the high accuracy and lethality needed for countersilo attack.

Footnotes at end of article.

Because of timing constraints, a combined attack would offer no advantages. Simultaneous launch of countersilo ICBMs and SLBMs would result in the U.S. President being informed that his bomber bases had just been vaporized and Soviet ICBMs were in flight and fifteen minutes away from his ICBM fields.

Placed in this "use it or lose it" predicament, a President would almost certainly launch his ICBMs rather than see them destroyed in silo. Conversely, a simultaneous-arrival technique would have no advantage over a straight ICBM attack in terms of warning time for the targeted runway-alert bombers.

Thus, the Soviets would be in a box: They could take out either the manned bombers or the ICBMs but not both. This is the so-called "synergistic" relationship between bombers and ICBMs, wherein each lends the other a deterrent validity it would not have on its own. It is this synergistic relationship which persuades me that there is a continuing useful place for the manned bomber. (Whether that bomber should be the B-1 is another question.)

So by 1985 we could, in the absence of a new ICBM, look forward to being reduced to a diad, or two-armed deterrent.

If we were willing to pay the price, there might possibly be some benefit in replacing Minuteman III with a new heavy ICBM, the M-X, configured with large numbers of RVs of about .1MT each for maximum countervalue (Scenario 3). Using this countervalue-optimized missile, even the 8% survival rate permitted by the 1980's-generation SS-18 attack would leave us with hypersufficient surviving deliverable ICBM AMTE. However, we would still be left with a diad because of our nonsurvivable bomber force. While this would constitute a step backward, we could live with it.

Unfortunately, further developments threaten to reduce the diad to a one-armed deterrent, or *monad*. It is this danger which is the prime motivation for this article.

Since counterbomber attacks can be conducted only by short-warning SLBMs, a simultaneous counterbomber/countersilo attack can be conducted only by short-warning SLBMs with hard-target kill capability.

If we assume the lowest inaccuracy attainable with conventional stellar-inertial guidance systems in submarine-launched missiles to be about .25nm., lethality per RV for a .1 MT RV is limited to 3.4; kill probability for two 90%-reliable RVs per 3500 psi silo is limited to about 9%. Raising kill probability to 95% would require RVs of about 16 MT each. Any attempt in this direction would require single-RV (non-MIRV) missiles; placing the required 2100 available missiles on station would require a force of more than 130 Trident-type submarines: an obvious economic impossibility.

But add terminally-guided MaRV, which sights its target and homes on it, and the picture changes radically. There is a quantum drop[16] in inaccuracy down to about .02nm. Even if we assume yield-to-weight to be cut radically in order to provide weight and space in the RV for the new MaRV system, lethality is increased more than 100-fold[17] and practical kill probability rises from 14% to 99%.

For the sake of discussion, I have assumed that by 1990 the Soviets will have missiles similar to our Trident II and ships similar to our Trident. While the Trident II missile is expected to have range on the order of 6,000 miles, such range would be undesirable for counterbomber attacks where short flight time is essential.

Constriction of range for the counterbomber mission also aids in the countersilo mission, since in enables throw-weight and throw-space to be increased and the requisite number of RVs to be carried in fewer missiles. Thus counterforce-configured, 14 RVs per missile is not an unreasonable assumption.[18] With 24 missiles per ship, eight ships on station would provide the necessary 2 RVs per silo, with more than 500 spare RVs for backup or as supplements to less sophisticated counterbomber compatriots.

As is outlined in scenario 8, once the Soviets have deployed this system they will have the ability to wipe out our bombers and ICBMs in a simultaneous first strike offering little more than five minutes' warning. We will be down to a one-armed deterrent; even the countervalue M-X (Scenario 9) will be insufficient.

Clearly, the MIRV MaRV SLBM is the countersilo weapon of the future. It is ironic that our Vladivostok negotiators turned down a Soviet 1000-MIRV proposal because it could have resulted in the Soviets placing all their MIRVs on land and thus having substantially more ICBM MIRV lethality than we. If in fact we could have concluded an agreement confining Soviet MIRVs to ICBMs we would have preserved the synergistic bomber-ICBM relationship and our future would be far more secure.

I emphasize that MaRV offers more than higher expected accuracy; it also offers increased confidence that the expected accuracy will be achieved. An inertially-guided SLBM is subject to error as a result of inaccuracy in location and velocity of the point of launch, inaccuracy in mapping the irregularities in the gravitational field of the Earth under the flight path, imprecision in the separation of the various stages of the missile, inaccurate mapping of the location and elevation of the target, and unexpected winds or other atmospheric phenomena upon reentry.[19] It is the combination of these uncertainties which has caused former Secretary Schlesinger's frequently-expressed skepticism of the ability of our missiles to deliver the same accuracy against the Soviet Union as they do against Kwajalein. The former Secretary's point is well taken with respect to the present generation of missiles, and with respect to any inertial-stellar system. But terminally-guided MaRV compensates for and washes out all of the above errors, leaving only the errors of the guidance, mapping, and control systems themselves. Thus, while the lethality of a MaRV SLBM RV is more than a hundred times that of the best conventionally-guided SLBM RV, equally significant is the fact that it is less susceptible to unexpected loss of lethality in a wartime situation.[20]

MaRV is also less susceptible to fratricide. The modern trend in RV design is to use ever-higher re-entry speeds to reduce the length of exposure to accuracy-degrading atmospheric phenomena. But higher speeds also increase the energy with which dust particles impact the RV, and reduce the quantity of dust through which the RV can pass and survive. By compensating for atmospheric-induced errors, MaRV permits speed to be reduced—and dust tolerance to be increased—without sacrificing accuracy. This reduction of fratricide would relax the margin for timing error in a two RV per silo attack.

With bombers and ICBMs thus no longer valid as second-strike deterrents, we will be reduced to reliance on the countervalue capability of our submarines. Probably this will be sufficient; the missile submarine system is our most secure deterrent today, and no significant threat to it lies on the horizon or even over the horizon.

If we could have absolute confidence in the submarine-based system, we could scrap our ICBMs and bombers today and save a great deal of money. But you can never have absolute confidence in anything made by man and opposed by man; the more hedges we have against an unexpected Soviet breakthrough, the more breakthroughs are required and the more secure we are. This is why we have spent great sums to build a triadic deterrent, and why reduction to a monad will constitute a giant step backward for the United States.

THE ANSWERS

What, then, can be done? I suggest five non-solutions, one partial solution, four probably unachievable solutions, and three probably achievable solutions.

Non-solutions

1. Retain "essential equivalence" by deploying simultaneous mass countersilo and counterbomber capability concurrently with the Soviets. This is the policy overtly favored by former Secretary Schlesinger and the bulk of the defense establishment. It would move us from scenario 8 to scenario 10, which is no significant improvement. In fact, it would constitute a significant step backward because converting Trident from countervalue to counterforce MaRV configuration would cost us more surviving AMTE (997) than we would gain (14) by replacing Minuteman III with M–X MaRV and, more importantly, it would reduce the security of our one remaining deterrent by cutting the range of the missile and simplifying Soviet anti-submarine warfare. The latter problem is particularly severe in light of our politically-motivated decision to base Trident on the Pacific coast. In short, a thoroughly counter-productive non-solution even if we neglect its provocative aspects.

It is essential that we not allow ourselves to become obsessed by numbers per se, and that we understand that counterforce first strike and countervalue second strike capabilities are not merely different but under some circumstances are incompatible.

Too many in policy-making positions appear to confuse nuclear deterrence with a college football game in which the side with the most points wins. For example, retired Admirals Zumwalt and Bagley,[21] who should know better, recently informed readers of the Washington Star that ongoing Soviet programs will give 2.7 times as many missile RVs and four times as much throwweight as the U.S. The Admirals then claimed "These advantages for the USSR are similar to the ones the U.S. had at the time of the Cuban missile crisis—when both sides clearly perceived U.S. strategic superiority . . . you use strategic superiority to back the other side down in a crisis as in Cuba 1962".

This is an incredibly incorrect statement. The Soviets were not forced to back down in 1962 because our numbers were higher than theirs. They were forced to back down because we had a countervalue force sufficient to destroy their society and they lacked one sufficient to destroy ours. Today the Soviets can increase their throwweight and numbers of RVs all they please without giving themselves an advantage similar to those we enjoyed in 1962 or changing the essential strategic balance, which is one of mutual hypersufficient countervalue.

Soviet counterforce threatens us because it reduces our ability to deter war through the threat of countervalue retaliation. Our own counterforce will be useful if we plan to start a total nuclear war, but it will do nothing whatever to deter the Soviets from starting one.

2. Deploy precision MaRV in small numbers usable for limited precision attacks but not for large-scale countersilo. This nonsolution also enjoys considerable favor in the Pentagon. On first glance, it appears such restraint might lead to similar restraint on the part of the Soviets, although I find it striking that those who advance this argument are usually the first to denounce as naive any suggestion for example-setting restraint when it comes from the liberal side of the political spectrum. In any case, it won't work because there is no way, short of on-site inspection, for us to convince the Soviets of the limited nature of our deployment, or to verify the persumed limited nature of their deployment.

3. Retain "essential equivalence" by limiting Soviet throwweight to levels not far exceeding that of the U.S. This, together with the previous non-solution, is the non-solution favored by many conservative critics of the Administration's arms control policy. Paul Nitze, for example, has advocated sublimits of 50 Soviet SS–18s and of 500 "SS–19 class" missiles for each of the two major powers.

These sublimits would provide a politically effective rationale for building 500 or so M–X ICBMs to replace our Minutemen and Titan IIs. This would no doubt please those who see military expenditures and military capability as desirable ends in themselves. But it would do nothing to limit countersilo capability, since a force of this size would be able to throw more than three times the number of precision MaRVs necessary for 99%-effective countersilo. In any case, it would not address the far more serious problem of SLBM countersilo capability.

4. Air-mobile ICBMs. Assuming this program does not turn out to be astronomical in cost, it might provide an interesting countervalue alternative to the penetrating bomber. But since it is subject to pre-emptive attack just as is any other bomber, it is no substitute for a survivable hard-based ICBM.

5. Launch on Warning. Under a launch-on-warning doctrine, we would empty our silos if our warning systems indicated enemy RVs on their way to them. This is quite feasible technically, since launch time for our solid fuel ICBMs is quite short. (Minuteman is appropriately named.) Since there is nothing to be gained by striking an empty silo, and since the attempt would spell the end of Soviet society, launch-on-warning would be an effective counter to Soviet countersilo capability.

But it would constitute a net loss of our national security. For more than a decade, defense planners have recognized the value of being able to ride out an attack against our silos while the President very carefully assesses the situation and, secure in the knowledge that his strategic weapons will survive and be available if he decides to use them, communicates with enemy leaders in an attempt to terminate the conflict short of holocaust. In support of this effort, we have spent billions to harden our silos and improve the survivability of our command and control systems.

A Soviet MaRV SLBM will wash all this down the drain. Assuming the Soviets at some point also achieve an unlikely but possible breakthrough in anti-submarine warfare, we will be left with a choice between launching on little more than five minutes' warning and losing our retaliatory capability. Within the 15–25 minutes provided by a Soviet non-MaRV attack, a President can still do some fruitful thinking and communicating, and he can send the bombers safely airborne. Within the time allowed by a MaRV SLBM attack, he can do essentially nothing. His participation in the decision loop, if any, can only be nominal. The chance of throwing our ICBMs and initiating nuclear conflagration on an accidental, unauthorized, or mistaken basis will be radically increased.

Partial solution

Land-mobile ICBMs. The number of different land-mobile concepts is so large that discussion of them would require an article in itself. They are all designed to "sop up" Soviet throwweight by increasing the number of aim points required for a Soviet counter-ICBM attack. At this rather early point in the evolution of land-mobile systems, several observations can be made:

First, they will indeed multiply the lethality requirement for an enemy first strike.

Second, the potential attacker can respond by improving his accuracy and, if necessary, increasing his number of counter-ICBM RVs. He can thus increase his lethality per pound many times, and decrease the mobile system's "sopping power" accordingly. It is necessary to keep in mind that a land-mobile system, such as that suggested by Paul Nitze,[22] which looks very good against an attacker with .125 nm. inaccuracy looks less good against .07 nm. and essentially useless against .02 nm.

Third, in a race between accuracy and numbers of RVs on the one side versus proliferation and hardness of aim points on the other side, the cost to one side of countering a given degree of progress by the other is a major consideration. While it is impossible to predict the cost of terminal MaRV at this point, it is not comforting to note that the tentative cost esimates of land-mobile ICBMs have been stunning, and are still rising. I have found even those in the Department of Defense and industry who cheerfully argue for B–1 and Trident as cost-effective tend to swallow hard at land-mobile ICBM prospects and suggest that cost may well be prohibitive.

Footnotes at end of article.

Fourth, our negotiators dropped the ball when they rejected a Soviet offer to ban land-mobile ICBMs.[23] As a closed and authoritarian society, the Soviet Union can deploy land-mobile systems more effectively and cheaply than we.

Fifth, it is argued that the threat of a U.S. land-mobile system will discourage the Soviets from proceeding to a counter-silo capability. It would be nice if this were so, but I am skeptical. Consider, for example, that the Soviets are reported to be working on a land-mobile version of their SS-16 ICBM; the inhibitory effect of this upon any U.S. counterforce program is not apparent to the naked eye.

Sixth, even at their best, mobile systems constitute a step backward for deterrence. Our present silo-based systems are simple and therefore reliable; they cannot be degraded by espionage either human or satellite, nor do they require warning of attack in order to survive. Every mobile system under consideration will surrender at least one of these advantages. So while a mobile system may be the best we can do, it will mean more money for less security than we have today.

Probably unachievable solutions

1. Destroy all MIRVs and limit each side to an identical number of ICBMs. Without MIRV a first strike attacker finds his own forces reduced by the number of missiles he launches, while even if his lethality is astronomical his victim's force is reduced by the number of attacking missiles launched minus those which prove unreliable. Thus, a countersilo first strike hurts the attacker more than the victim.

Unfortunately, a MIRV bonfire would involve a downgrading of U.S. inventory capability, which would raise every hackle on every element of the military-industrial complexes of both major powers even though it would give both sides greater survivable retaliatory capability. It would also involve on-site inspection, to which the other side has never agreed.

I find it tragic to consider that the entire countersilo problem might have been avoided had the Administration not foreclosed the possibility of a MIRV ban by rushing ahead with MIRV tests in 1969. If we were worried about a possible Soviet ABM, an evader system combined with the ABM treaty which eventually was achieved would have been an effective and non-provocative solution. But like many elements of the arms race, this blunder is probably beyond recall.

2. Place radical limits on throwweight as inferred from silo volume with best conceivable technology assumed. Throwweight can be an effective limiting factor—if we are willing to take it down to a fraction of that of the present U.S. force. At 400 pounds per missile, an effective silo killing MIRV force is impossible, even with terminal MaRV.

Unfortunately, this too involves substantial reduction in capability, and it is perhaps unrealistic to expect the major powers to accept decreased inventory capability merely because it would mean increased security.

3. Deploy a massive MaRV force several years ahead of the Soviets, and persuade them to allow us a MaRV monopoly. In strictly rational terms, this isn't as crazy as it might appear. Simplistic "balance of power" theories notwithstanding, it is undeniable that, if one side achieves a true first strike capability, it is in the interest of the other side not to latch it, even if the matching could be done instantaneously.

If we were to gain a first strike capability against the Soviets, we would no doubt make life unpleasant for them by bullying them right and left, but we would be unlikely to conduct a first strike; we could accomplish our ends by threat without taking the unavoidable risk that our first strike might not be as effective as we and the Soviets expected it to be. So the Soviet Union would survive, albeit unhappily.

But consider what would happen if the Soviets also deployed a first strike capability. In a time of tension and crisis, neither side could be confident the other was not at that very moment initiating its disabling first strike. Each side would know that its best hope of avoiding annihilation would be to beat the other side to the punch and strike first. Restraint would offer total defeat; aggression would offer hope of partial survival. Therefore, the probability that both sides would refrain from initiating total war would be small. In this case, "essential equivalence" would equal extreme crisis instability.

Thus, if we get there first, it would be in the interest of the Soviet Union to allow us a counterforce monopoly. But good logic can make abysmal psychology and politics; I would rate the probability that the Soviet Union would allow us such an exploitable capability as somewhat less than zero.

Our own decision-making is far more rational and humane than that of the other side; nevertheless, the political unacceptability of this solution is suggested by the fact that I, as an elected official wishing reelection and always facing the possibility of being quoted out of context, feel compelled to discuss it only in terms of a Soviet option.

4. Limit new missile procurement to five or ten per year. This solution, suggested by David Aron in this journal,[24] would do the job. But because of the extreme increase in unit procurement costs which would result from the stretchout, it would in effect prohibit all new missile programs, and would therefore generate probably insurmountable opposition from the military-industrial complexes of both major powers.

Probably achievable solutions

1. Ban terminal-homing MaRV. In this way SLBM countersilo—and therefore simultaneous countersilo-counterbomber attacks—will be impossible.

Since MaRV, like MIRV, does not change the external appearance of a missile, its deployment is unverifiable. But MaRV testing is probably verifiable.[25] Therefore, a MaRV ban, like a MIRV Ban, must be concluded before either side has tested MaRV to such an extent that it can no longer convince the other side of its ability to deploy the system.

We have perhaps a decade before the Soviet terminal MaRV passes the point of no return.[26] According to news reports, the Soviets are still encountering serious problems in their land-based MIRV program, which is far simpler technology than is terminal MaRV, and they have no sea-based MIRV at all.

In contrast, the U.S. first successfully tested both land-based and sea-based MIRVs more than half a decade ago; today we have both in operation in large numbers and are now pressing ahead to replace our first-generation Poseidon and Mark 12 MIRVs with second-generation Tridents and Mark 12As.

There is every reason to assume we have a similar lead in MaRV technology, and therein lies the reason for urgency. First tests of the precision MaRV control systems are expected in 1978 or 1979, with full system tests possibly three or four years later. Our ability to head off a Soviet terminal MaRV is entirely dependent on our ability to convince the Soviets of our own inability to deploy it. The argument that "we would be in a much better position if we went ahead with MaRV . . . to get the Russians to enter into an agreement," which was made repeatedly on the House floor in opposition to an amendment which would have banned MaRV tests, can only be based on ignorance of the issue. Testing high accuracy MaRV will not strengthen our negotiating hand; it will destroy it forever.

We should not suspend MaRV research and development; this program is a fantastic bargaining chip if we have the sense to use it as such. But in order not to destroy this chip, we must do two things: First, we must make a MaRV ban first priority at SALT; unlike the tempest-in-a-teapot throwweight, numbers, and Backfire bomber[27] problems which have preoccupied our negotiators to date, this item really does make a difference; if we do not achieve agreement within the next three years or so we will repeat the MIRV experience and it will be too late. Second, we must structure our testing programs for related systems, including the evader MaRV and the cruise missile, so as to give the Soviets assurance that we are not conducting disguised tests of a precision MaRV.

2. Ban close-in SSBN operations. This would render an effective pre-emptive counterbomber attack impossible, or at least much more difficult.

The most legitimate—and, before the advent of precision MaRV, the only—rationale for the SSBN/SLBM system is its deterrent security. Such security is substantially increased by allowing the submarine to operate in a larger volume of water and to stand off further away from its target nation; this is the principal rationale behind the long-range Trident missile, which I support.

In contrast, an SLBM counterbomber/countersilo attack requires the submarine to be brought in close to minimize surprise time. Since this first-strike mission is not legitimate in terms of deterrent security, neither side should object to its prohibition.

This could be done by establishing a "prohibited zone" extending several hundred miles off the coasts of the United States, from which Soviet SSBNs would be banned. Another zone, extending off the Eurasian land mass, would be prohibited to U.S. submarines, with the exception of narrow corridors to be used for transit.

Any SSBN found in violation of the prohibition would be required to surface and identify itself. The ship would then be subject to confiscation and the crew sent home. If the violator refused to surface, it could then be sunk without this being considered an act of war.

While each side would, in prudence, keep its ships well outside the prohibited zones, inadvertent violation might nevertheless occur on occasion; perhaps one or two violations per year could be permitted by treaty without confiscation.

There is also the possibility of deliberate violation. This is not cause for concern, since a counterbomber/countersilo threat would require not one ship but a certainly-detectable massive submarine infiltration. This is one of those fortunate circumstances in which, if cheating is on so small a scale that verification is questionable, the cheating is of no consequence.

It would not be the intent of the ban to prohibit operations by attack submarines, which cannot carry strategic ballistic missiles. (While they can carry submarine-launched cruise missiles, and while these are expected to have lethality comparable to terminal MaRV, this is not a problem. Cruise missiles permit far too generous warning time to be useful for a massive first strike.) Since acoustic submarine detection equipment can distinguish between the sonic "signatures" of the various classes of submarines, it appears probable that a ban could be enforced upon missile submarines while leaving attack submarines free.

3. Establish "safe zones" for each side's missile submarines, from which all hostile antisubmarine equipment would be banned. Setting aside the improbable eventuality of satellite-based antisubmarine warfare, all antisubmarine warfare requires the presence

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of a ship, aircraft, or static device no more than a few tens of miles away from the submarine. By establishing areas too large for nuclear saturation, separate for the U.S./allies and for the Soviet Union, remote from but within missile range of the targeted nation, from which all anti-submarine ships, aircraft, and equipment would be banned and subject to confiscation if found, the deterrent security of our SSBN system, already very high, could be further increased.

Unlike the MaRV ban, neither the prohibited zone nor the safe zone is time-critical; either can be instituted whenever the major powers agree to it. Both become more feasible as SLBM range increases. But neither provides as much security, since both can be abrogated and collapse within a few hours time, where as abrogation of the MaRV test ban would involve a lead time of several years before the fruits of the abrogation could be brought to bear.

I suggest these three propositions make up an attractive negotiating package for both sides. The "prohibited zone" would, for geographical reasons,[28] benefit us more than the Soviets, to balance this, the MaRV ban would benefit the Soviets more than us by preventing a half decade in which we would have MaRV but the Soviets would not. Most importantly, all three elements of the package would increase the security of both major powers.

It is interesting to note that, were such a package to be adopted, a respectable argument could be made for the M–X heavy ICBM. This would not be based on puerile notions of "matching the Soviets," nor on the useless countersilo capability we could gain with an M–X MaRV. Rather, the legitimate mission of the M–X would lie in its ability, in countervalue configuration, to give us an indefinitely survivable deterrent arm wih the reliability and security of fixed basing.

But if the Soviets are not going to be constrained from deplcying MaRV SLBM countersilo capability, M–X should be flatly rejected; there is no sense in paying a very stiff price for a triad which will last us perhaps a half decade longer that would otherwise be the case.

It has been our practice to regard arms limitation agreements as ornaments which serve diplomatic and political purposes but little else. But technology has now brought us to a place wherein arms limitation agreements combined with weapons programs can, even without considering ultimate disarmament or arms reduction, provide military security unattainable by armaments alone. We made a monumental error in not recognizing this in the context of MIRV, and today the Secretary of State says he wishes he'd never heard of MIRV. Should we continue our present course and repeat the blunder with MaRV, it is entirely conceivable that by the time some future Secretary of State says he wishes he'd never heard of MaRV, he will also be contemplating the prospect that this is the kind of mistake a society doesn't make twice and survive.

In closing, I will briefly discuss what we will be giving up if we agree to a terminal MaRV ban.

First, we will give up the possibility of a massive disabling first strike against the Soviet Union. Since this is not our policy in any case, presumably we will not miss the capability.

Second, we will decrease, to a small extent, our ability to conduct a limited strategic nuclear war, in that we will give up the ability to strike hard targets with short warning and, in theory, with low collateral damage.

Is this much of a loss? Is such a war possible? In my judgment, it is most unlikely. While there may be a remote possibility that the two superpowers could conduct a limited nuclear exchange against the territory of a minor power, it seems most improbable that a direct exchange between the United States and the Soviet Union could be kept limited. It seems far more probable that whichever side had suffered the greater damage would be determined that the other side should pay at least as great a price, and that we would leapfrog each other briskly up to Armaggedon.

Moreover, precision ballistic-missile accuracy is not required for limited war.

If there is some validity to the cliche that a Soviet limited attack should not force us into a choice between doing nothing and committing suicide with a full countervalue response, there is not a shred of validity to the implication that we do not have the necessary flexibility today. There is nothing whatever to stop us from responding with one missile armed with one RV or with one bomber carrying one bomb.

We can even attack hard targets, albeit less efficiently than could be done with higher accuracy. But why we should need to do so is not at all clear. An attack against strategic forces which offers no threat of taking out all three retaliatory arms—that is, of being a disarming first strike—would function as a countervalue rather than counterforce attack.

If our objective is to deter Soviet attacks by possessing the ability to respond to any attack in such a way that we will always impose greater countervalue than has been imposed upon us and do so with minimum population loss, this can be done by striking soft remotely located targets which do not require high accuracy: mines, oil fields, pipelines, etc. I emphasize that the question is not whether there are hard targets which can be usefully struck in a limited exchange; certainly there are. The question is whether it is necessary to attack those targets or whether an equivalent effect can be obtained by striking soft targets and foregoing deployment of a massive hard-target kill capability. If displomacy has not succeeded in stopping the exchange by the time we have destroyed all soft low-population high-value targets, we will no longer be in a "limited war.

Proponents of highly accurate ballistic missiles argue that accuracy will enable us to use smaller yields and thus strike small soft targets with less collateral damage. Two things should be said of this: First, this noble humanitarian appeal appears to be largely a propaganda exercise, since all our new RV programs planned for deployment (Trident and Mk. 12A) call for larger rather than smaller yield. Second, no matter how low your nominal inaccuracy, there is always some probability of a malfunction causing a miss of several miles. If this occurred in an attempt to, say, destroy an airport without damaging an adjacent city, the result could be disastrous. The most reliable way to attack small soft high-value targets without collateral damage is to choose those which are remote from population centers and avoid the need to rest your nation's survival on the accuracy of a single missile.

Those who are concerned about the highly-publicized Soviet civil defense program should note that evacuation of cities, to whatever extent it is successful, would assist our soft-target countervalue strategy by offering us an immense array of supervalue large soft low-population targets. They should also note that the combination of Soviet city evacuation followed by countersilo attack, which has received considerable attention in conservative circles, can be neutralized without spending a dime on hardware. Since city evacuation would bring their economy to a near-stop, it should properly be considered an extreme act just short of an act of war; we should then declare a launch-targeted-ICBM-on-warning policy, to remain in effect as long as their cities remained evacuated. The Soviets would then face the prospect of trading million-dollar empty Minuteman silos for multi-billion dollar cities. If this would not deter, it is difficult to imagine what would.

Even if for some reason it is after all found necessary to attack super-hard targets, terminal MaRV is not necessary; the job can be done by the air-launched cruise missile. The fact that the process would take hours rather than minutes is an asset to the cruise missile rather than a liability; the more time is required for the nuclear push-and-shove process, the better the chance of negotiating a halt.

All this having been said, I recognize that while I have yet to hear it done, it may be possible for some science-fiction fan with a brilliant imagination to postulate a scenario in which an attack on soft targets or a slow attack on hard targets does not suffice, and deterrence requires us to be able quickly to take out three silos with one missile or to dig out the Moscow Ministry of Defense headquarters without disturbing the Bolshoi Ballet. But how significant is the evanescent need for such peripheral capabilities, compared to the need to prevent a crisis-unstable mutual first strike situation?

In any case, it now appears that even a war neatly limited in scope would be anything but limited in effects. In the fall of 1974, former Secretary Schlesinger told a Senate Foreign Relations subcommittee that a Soviet attack against our 1000 Minutemen silos would probably result in less than a million deaths. Following an examination of his figures by the Office of Technological Assessment, he was forced to revise his estimate to 6.7 million probable and 21 million possible deaths,[29] hardly an acceptable level. To bury the concept of limited war still deeper, Dr. Fred Ikle of the Arms Control and Disarmament Agency has suggested that the worldwide effects of such an attack would be prohibitively severe. For example, even if we were not to retaliate against the Soviet Union with a single weapon, the effect of their anti-Minuteman strike could well prevent them from growing wheat for six years.

So it appears that even a nice neat limited nuclear war would impose severe penalties on everybody concerned, and that the Soviet Union would have more to lose than to gain by resorting to strategic nuclear weapons—unless, of course, we and they had mutual first strike capabilities and they faced the prospect of total annihilation if they failed to strike first.

This is precisely the predicament within one technological breakthrough of which the ongoing counterforce programs will place us. While ostensibly seeking to deter a limited nuclear strike which is already deterred, these programs are immensely heightening the risk of total nuclear war.

Finally, the third item we would give up in a MaRV ban would be the ability to play some aspects of the numbers game. In the absence of MaRV, ICBM accuracies would ultimately fall within the narrow range wherein throwweight does make a significant difference in countersilo capability. The Soviets would have a more effective ICBM countersilo capability than we.

This would not be a militarily useful capability, since we would certainly retain the synergistic bomber-ICBM relationship and thus have two viable deterrent arms. Moreover, through the combination of countervalue M–X, the SSBN prohibited zone, and air-launched cruise missiles we could possibly maintain a full triad. Since the Soviet capability would not be militarily useful, the threat of employing it would not be diplomatically exploitable.

Nevertheless, it may be argued that the nominally superior Soviet countersilo ca-

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pability might psychologically encourage Soviet adventurism or that it might impress less sophisticated third countries.

The problem with this reasoning is that a factually superior Soviet countersilo capability would give them no psychological advantage the current Administration would not hand them in any case.

Throughout this discussion I have avoided comparisons of U.S. vs. Soviet countersilo and U.S. vs. Soviet countersilo capabilities since they are of no military significance; what counts is the effect of Soviet counterforce upon our countervalue. But a comparison of U.S. vs. Soviet countersilo capability clearly shows the U.S. superior, and shows us increasing this superiority with MaRV and maintaining it until well past the point where both sides have so much capability that differences are meaningless. For whatever relevance comparisons of equivalent capabilities may have, we presently exceed the Soviet Union in terms of deliverable missile countervalue capability, deliversable total countervalue capability, deliverable missile lethality, numbers of enemy silos destroyable, and percentage of enemy silos destroyable.[30]

You would never know this from listening to Administration spokesmen. Bathing the Soviet throwweight superiority in purple lights and surrounding it with trumpet fanfares, while at the same time doing everything possible to denigrate the far more effective U.S. qualitative missile superiority, is but one of many instances in which the Nixon-Ford Administration has sought to exaggerate Soviet military capability.[31] The object of this exercise, obviously, has been to scare the American people and the Congress into approving whatever major programs the Pentagon requests, and I must say the effort has been an unqualified success.[32]

The problem with this habitual poor-mouthing is that eventually our opponent begins to believe us.

In a 1974 Foreign Policy article, Paul Nitze[33] recounts how at SALT the Soviets have been unreceptive to proposals which would benefit both sides and have insisted on proposals benefiting them at our expense. They have taken this regrettable position because they believe they can afford to do so since they see the "correlation of forces" as moving in their favor.

It is undeniable that the U.S. has lost much of its world moral, political, and psychological leadership as a result of our intrusion into Indochina, and that we have suffered severe economic setbacks. But it is also undeniable that our position by all these measures is far superior to that of the Soviet Union and is expected to remain so.

The question is that of military capability. The facts notwithstanding, who could blame the Soviets for concluding we believe them to be far superior, when the Administration is constantly stressing the Soviet numerical superiority in throwweight and numbers of missiles and doing everything it its power to portray the Russians as twelve feet tall? In the words of General Maxwell Taylor, "We run the risk of talking ourselves into a sense of inferiority which can be almost as disastrous as the real thing."[34]

The political mileage we have allowed the Soviets because of their brag superiority is simply incredible. On the average of thrice weekly since I have been in Congress, someone tries to tell me how our strategic forces have been dedicated to war-deterring but the Soviets, being less naive and less pure, have announced they are working on a "war-winning" capability as well. Why anyone takes this Soviet blowhard drivel seriously is incomprehensible. As long as we retain sufficient countervalue, nobody can defeat us without at the same time destroying himself, and that is all there is to it. The whistling-in-the-dark nature of Soviet claims of war-winning capability is plain when we consider that some of the most vigorous of these claims of "decisively defeating the aggressor if war should come" were made in the early 1960s when the Soviets not only lacked the ability to defeat us—as they do today—but even lacked countervalue stalemate sufficiency and were subject to defeat by us if we attacked them.

One can, of course, establish artificial definitions of "war-winning". Paul Nitze, for example, suggests that the side with the largest remaining throwweight wins the war. (Why should the Soviets bother with a counterforce exchange, since by this standard they have "won" the war already without firing a shot?) But even Mr. Nitze finds himself drawn back to the fact that if the absolute level of forces remaining to the "weaker" side is "high, continues under effective command and control, and is comprised of an adequate number of RVs to threaten a major portion of the other side's military and urban/industrial targets, this will reinforce deterrence even if the ratios are unfavorable."[35] In the last analysis it is inescapable that he who has surviving sufficient countervalue is OK and he who lacks it is not OK.

In any case, there is clearly nothing to be gained by seeking nominal but non-useable countersilo superiority for image purposes under the Nixon-Ford Administration, since our position will be self-portrayed as inferior or imminently inferior regardless of reality. (When the Secretary of the Air Force tells the world all the Russians have to do is put two or three rounds on the U.S. mainland in two or three years and we will give up and abandon Europe[36] one wonders what is the use of having any weapons programs at all.)

On the other hand, a firm statement of confidence in the sufficiency of our forces, supported by the abundantly demonstrable reality of this sufficiency, would force the Soviets to respond to us as a capable and self-assured adversary rather than as a pitiful helpless neurotic. Once U.S.-Soviet relations were thus restructured, the hope for SALT and other agreements on terms of true mutual benefit would be substantially improved. Unfortunately, it appears such a policy change must await a new Administration.

FOOTNOTES

[1] Equivalence in overall capabilities if not in every detail.

[2] I assume for simplicity that the target's location is known and it has no significant active defense.

[3] In the present context, value targets are those things which make life profitable or enjoyable for a society's members. Force targets are those things which threaten to destroy one's own value targets or one's ability to destroy the other side's value targets. Thus, in the context of a superpower nuclear exchange, troop concentrations, tank parks, and other military complexes which do not influence the outcome of the exchange must be considered value targets rather than force targets.

[4] James R. Schlesinger, *Annual Defense Department Report*, 1975, p. 34.

[5] A useful analogy is that of a basketball filled with golf balls: The golf balls will shade more area if they are taken out of the basketball and each set on the ground.

[6] Quantitatively, this is expressed, as the scale of the attack increases, by progressively lowering the exponent applied to the megatonnage of each RV $\frac{2}{3}$ down to near-zero. That is, the countervalue effect of large vs. small weapons becomes more nearly equal; small weapons become more effective, large weapons less effective; numbers of weapons becomes more important, yield per weapon less important.

[7] For a quantitative discussion of bomber pre-launch attrition, see Alton H. Quanbeck and Archie L. Wood, *Modernizing the Strategic Bomber Force*, The Brookings Institution, Washington, 1976. My time estimates differ somewhat from Quanbeck and Wood's for two reasons: First, I assume the current number of bomber and tanker bases, while Quanbeck and Wood assume much larger numbers. Second, I believe realistic reaction times, even for the lead aircraft per base, are somewhat longer than they predict.

[8] "Offensive Missiles." Stockholm Paper 5, Stockholm International Peace Research Institute.

[9] Robert L. Leggett, "Two Legs Do Not a Centipede Make," Armed Forces Journal, February 1975, pp. 30–32.

[10] Principally, one must allow for yield-dependent factors. Since a larger weapon exerts its force over a longer time, it has somewhat more point-kill capability than would be expected from the simple formula for lethality. I highly recommend the RAND circular slide rule, officially called "Damage Probability Computer for Point Targets with P and Q Vulnerability Numbers", RAND Report R–1380–PR. With its aid, even a first-term Congressman with a degree in labor relations can calculate a reasonably accurate kill probability, including allowance for yield-dependent factors, in about 15 seconds.

[11] This is not to say that throwweight is a useless concept. Assuming a given level of MTE-to weight technology, throwweight can be used to calculated MTE. This is most easily done according to the empirical rule of thumb known as "Walsh's Law", which specifies that, at a given level of technology, the throwweight and payload of a missile are each directly proportional to the missile's MTE, or area destructive power ($Y^{2/3}$): doubling the throwweight doubles the megaton-equivalents, etc. This applies regardless of whether a throwweight increase takes the form of an increase in throwweight per missile or an increase in the number of identical missiles. Thus, increasing throwweight has exactly the same effect on kill probability and area destruction as does increasing the numbers of missiles.

Walsh's Law has certain limitations: It does not apply to very large or very small yields, wherein yield-to-weight efficiency falls off. It does not apply to MaRV systems, which devote a disproportionately large amount of weight to guidance rather than explosive. It does not apply to comparison of a MIRV system with a non-MIRV, since the former must give up a substantial amount of payload to carry the MIRV. It can, however, be used to compare two MIRV systems even if the MIRV multiplicities are widely disparate, as long as the dispersion of the RVs is roughly simlar. At a given level of technology and MIRV dispersion, the fraction of throwweight which can be devoted to payload is constant, and is independent of MIRV multiplicity.

If MIRV multiplicity as well as payload and MTE-to-weight is known, yield and AMTE can be determined; if accuracy is also known, lethality can be calculated.

[12] This has been suggested by an anonymous but high-ranking Pentagon expert as "probably the limit of feasible hardness for silos." See "More Legs on the Centipede," Armed Forces Journal, July 1975, page 13.

[13] While most of the numbers in these tables are assembled from unclassified but generally credible sources, it is undeniable that some are conjectural (e.g., reliability estimates for missiles and RVs not yet on the drawing boards). Nevertheless, it is necessary that these conjectures be made, since to do otherwise is to introduce an even larger error. For example, to ignore unreliability is to assume reliability to be 100%. which is obviously incorrect. It has unfortunately become accepted custom, in this journal and

elsewhere, for commentators to make assertions of capability (for example, that the Mk. 12A is an effective silo-killer, or that so many pounds of throwweight will destroy such-and-such a target) without specifying the assumptions of accuracy, yield, reliability, availability, hardness, and area which must have been made in order to derive the assertion. By thus blithely passing over the grubby details, criticism is made difficult and preposterous conclusion can sometimes go unchallenged.

The following observations are made by way of clarification of Tables III, IV, and V:

Future deployments are assumed consistent with Vladivostok.

An SLBM is considered operational so long as it has a launching tube in a commissioned submarine, even if that submarine is in overhaul and temporarily unavailable. An ICBM is considered operational if it has an active-duty silo; if reloading is possible under wartime conditions, which is far from certain, some Soviet silos could launch more than one missile. In contrast, all estimates of deliverable capability allow for unavailability and unreliability.

Looking to 1985 or beyond, both superpowers have wide latitude in choosing missile configurations. Obviously, no one knows what tradeoffs between yield, accuracy, reliability, etc. will be made. The purpose of Tables III and IV is not to predict what will be done but to indicate what can be done within the technological and throwweight limitations which can be expected to exist. Thus, I have suggested several possible Trident and M–X variants, each optimized for a different objective.

For simplicity, I have assumed that Minuteman II and Titan II will be continued indefinitely without improvement.

[14] The cruise missile does not present new problems to a Soviet defender or first-strike planner. It merely presents some of the same problems of the other three arms rearranged into a different combination. Thus, if the Soviets develop the ability to destroy preemptively our three existing arms, these same capabilities will neutralize the cruise missile as well.

[15] As I use this term it implies simultaneous countertanker attacks.

[16] A similar level of inaccuracy will be attainable by use of NAVSTAR Global Positioning Satellites. But this system is too insecure to be relied upon in a great-power war.

[17] This means one high-lethality RV has the same kill probability as 100 of the low-legality RV's directed against the same target and fratricide-free.

[18] I assume weight and space for the terminal MaRV mechanism can be provided, without reducing MIRV multiplicity, by reducing Trident II range and yield per RV to Poseidon levels. Some redesign of the boosters would probably be necessary to trade range for throwweight and throwspace, but there is no reason why this could not be done.

[19] An excellent unclassified discussion of missile accuracy is Kosta Tsipis, "The Accuracy of Strategic Missiles," *Scientific American*, July 1975, pp. 14–23.

[20] Even setting MaRV aside, it is not correct to assert, as is frequently done, that because accuracy is less reliable than yield U.S. countersilo capability is less reliable than its Soviet counterpart. It is incorrect to describe U.S. missiles as "relying" on accuracy and Soviet missiles as "relying" on yield, merely because these are the measures by which one force surpasses the other. In fact, all RVs, regardless of yield or accuracy, rely upon the combination of yield and accuracy according to the definition of lethality given in Table I. Thus, degradation of accuracy by a given percentage will have essentially the same effect on the kill probability of a large inaccurate RV as on that of a small accurate one.

[21] Elmo R. Zumwalt, Jr., and Worth Bagley, "Soviets Cheat, and We Turn Our Backs", *The Washington Star*, August 10, 1975.

[22] Paul Nitze, "Assuring Strategic Stability in an Era of Detente," *Foreign Affairs*, January 1976, p. 231.

[23] Allegedly we offered, as a propaganda ploy, to ban mobile ICBMs and were forced to turn around and reject our own proposal when the Soviets accepted it. See Leslie H. Gelb, "Own Arms Offer Rejected by U.S.", *New York Times*, January 18, 1976. The Administration denies Gelb's account.

[24] David Aron, "A New Concept", *Foreign Policy*, Winter 1974–75, pp. 157–165.

[25] Homing MaRV test verification, which relies both on estimation of technology and on observation of course changes, is somewhat more difficult than MIRV test verification. As was the case with underground nuclear test verification, those who do not wish it to be done will claim it cannot be done and will seek to minimize the potential for sharpening our verification capabilities in the available time. We will do well to disregard those who say it can't be done, and to proceed to do it—again, the precedent of underground test verification is instructive. A penny spent of verification and other aspects of preventing counterforce will do more for national security than a dollar spent on developing counterforce.

[26] Dr. Malcolm Currie ("Report by the Director of Defense Research and Engineering, FY 1977", p. I–7), has produced a rather misleading public statement to the effect that the Soviet Union has tested an "accuracy-improving MaRV". Unfortunately, details of this program are classified. But I can say it has little to do with the silo-killing system under discussion. It would present a semantic problem for the SALT negotiators, but the problem is not insoluble.

[27] Since we have accepted vulnerability to countervalue Soviet missiles, and since bombers have no significant counter-silo capability, whether the Soviets have two or two thousand Backfires makes little difference to the deterrent balance. Even the cruise missile, which is a more serious matter, is not to be compared with a system which creates two-thirds of a disarming first strike.

[28] Because of its larger land mass, the Soviet Union can base bombers further inland; thus, nature already provides some of the benefits we would gain from a "prohibited zone". But a bomber based further from the water is also further from its American target. Thus, it would be in the Soviets' interest to deploy a modern long-range bomber/tanker force which could fly from inland bases, conduct deep penetration at low altitude and high speed, and return. They have no such aircraft today—the highly-publicized Backfire cannot conduct a low-altitude two-way mission even from the most forward of bases—but presumably there is no reason why they could not develop one in time.

[29] "Analyses of Effects of Limited Nuclear Warfare," Subcommittee on Arms Control, International Organizations and Security Agreements of the Senate Committee on Foreign Relations, September, 1975.

[30] In due course, the Soviet MIRV program will enable them to overtake us on several of these measures. This will have no effect on the strategic balance, since in these cases comparisons of equivalent capabilities are meaningless debating exercises. But it will be interesting to watch how, as the numbers on a given index shift to favor the Soviets, that index will become correspondingly acceptable as a measure of strategic capability in Pentagon briefings and in the conservative literature, perhaps even displacing throwweight as the prime criterion.

[31] Moments of candor such as Deputy Secretary of Defense William Clements' statement that the Soviets "Built those big missiles because of their technological limitations at the time" (Air Force Magazine, October 1975, p. 27) violate the party line and are few and far between.

[32] My constituent mail suggests that, by an overwhelming margin, those Americans who are concerned about "who's ahead" militarily are convinced the Soviets are ahead and increasing their lead; Congress has yet to deny the military a major hardware program in this Administration.

[33] Paul Nitze, "The Strategic Balance Between Hope and Skepticism." *Foreign Policy*, Winter 1974–5, pp. 136–157.

[34] Maxwell B. Taylor, "The Legitimate Claims of National Security," *Foreign Affairs*, April 1974, p. 584.

[35] Paul Nitze, "Assuring Strategic Stability in an Era of Detente", *Foreign Affairs*, January 1976, pp. 207–232.

[36] Dan Partner, "Major Powers Won't Fight It Out", *Denver Post*, March 31, 1976.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

VETERANS' AND SURVIVORS PENSION ADJUSTMENT ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14298.

The ACTING PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 14298) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

(The amendment of the House is printed in the House proceedings of the Record of September 9, 1976.)

Mr. HARTKE. Mr. President, I rise to urge the Senate to concur with the House amendment to the Senate amendment to H.R. 14298, the Veterans' and Survivors Pension Adjustment Act of 1976. While the compromise measure before you does not accomplish all the improvements in the non service-connected pension program which the Senate believed was necessary and appropriate, it, nevertheless, does make significant steps forward, particularly in aiding veterans age 78 and older. Equally important, the bill commits both the administration and Congress to consider even more fundamental reforms in the coming year.

Briefly, Mr. President, the Veterans' and Survivors Pension Adjustment Act of 1976 compromise, which is before you, would:

First, make permanent the 8-percent increase of Public Law 94–169 presently scheduled to expire on October 1, 1976;

Second, provide a 7-percent increase

in pension rates effective January 1, 1976, to compensate for increases in the cost of living during calendar year 1976;

Third, increase the annual income limitations for eligible veterans, widows, children, and dependent parents by 7 percent to compensate for social security increases effective as of July 1, 1976;

Fourth, increase the disability pension housebound rate veterans from $53 to $57 a month;

Fifth, increase the aid and attendance allowance for widows and dependent parents from $69 to $74 a month;

Sixth, increase the aid and attendance allowance for veterans from $133 to $155 a month;

Seventh, provide for a graduated reduction in aid and attendance allowances for those veterans whose income exceeds a maximum allowable income limitation;

Eighth, provide a 25-percent added differential in pension rates for all eligible veterans 78 years of age or older;

Ninth, make congressional findings that the current nonservice-connected pension program does not provide sufficient assistance to meet the needs of some eligible veterans and has further developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner and that it further subjects many pensioners annually to reductions in their pensions; and

Tenth, direct a comprehensive study by the Veterans' Administration, to be completed not later than October 1, 1977, with recommendations for improving and making more equitable the nonservice-connected pension program.

This measure will provide approximately $432 million in the coming year in additional pension benefits to our Nation's veterans and their survivors. While the deficiencies with the existing program continue to exist, there are several important features in the compromise measure which deserve mention. First, of course, the temporary increases provided last December by Congress in Public Law 94–169 are made permanent. Thus, the 8-percent increase in rates and the $300 increase in annual income limitations, otherwise scheduled to expire on October 1, 1976, would become permanent. Needless to say, there has been considerable concern over this expiration date, and I am pleased that the increases will be made permanent.

Second, a 7-percent increase in pension rates and in maximum annual income limitations is provided effective January 1, 1977. The increases in the rates take into account changes in the cost of living this year. The increases in the maximum annual income limitations will help mitigate scheduled reductions in veterans' pensions which otherwise would occur as a result of the social security increases which became effective on July 1, 1976. Under this amendment, no veteran or survivor would be dropped from the pension role solely as a result of the social security increases this year. Further, according to the VA, all veterans who remain in receipt of pension should not suffer a reduction in their aggregate income which they receive from the Government.

Perhaps the most important feature of the bill, however, is the provision directed to the problems of elderly veterans. This provision would provide an additional monthly allowance determined as a percentage of the basic pension award for those veterans who have reached age 78 or older. That is, veterans 78 or older will receive an additional 25-percent income over the pension they otherwise would be entitled to. This 25-percent "add-on" is quite similar to S. 3070, the World War I Pension Act, which was reported from our committee in 1972 and unanimously passed by the Senate. That legislation would also have provided an additional monthly allowance award determined as a percentage of the basic award for all World War I veterans and their survivors. By providing an add-on for all those veterans aged 78 and older, the committee understands that virtually all World War I veterans, because of age, would receive, either in the first or second year, the additional allowance authorized in this bill. Thus, this amendment should satisfy two concerns. First, it will provide significant additional assistance to those age 78 and older, many of whom, even with their pensions, have incomes which leave them below the national minimum standard of need. Second, it does recognize, implicitly, the particular needs and concerns of World War I veterans who have, as my colleagues know, frequently contacted us about establishing special provisions for them. I am pleased that the House has at last embraced the proposal advances and passed by the Senate over 4 years ago. I believe the approach had merit then and I believe it has merit now.

Finally, for the first time there is an explicit recognition by both Houses of Congress that the present pension system is flawed and that it can be significantly improved. Of course, this comes as no surprise to the Senate which last year considered and passed comprehensive pension reform legislation.

Unfortunately, the House did not actively consider pension reform and with the short time remaining in the session, it was, as a practical matter, unable to give full consideration to our reform proposals.

Significantly, however, the House has recognized with the Senate, as a matter of congressional finding, that the current pension program, first, does not provide sufficient assistance to meet the needs of some eligible veterans and survivors; second, has developed some inconsistencies, inequities, and anomalies which prevent it from operating in a most efficient, equitable manner; and third, subjects many pensioners annually to reductions in their pensions.

A further finding is also made that Congress lacks sufficient long-range information as to actual and anticipated financial characteristics of pensioners and their families upon which to estimate costs of existing and alternative pension programs. The ability to project such income characteristics is particularly important now that the congressional budget process directs us to pay greater attention to long-range cost implications of proposals which we adopt.

Accordingly, the Administrator is directed to conduct a thorough and comprehensive analysis of income characteristics of veterans and survivors currently in receipt of non-service-connected pension as well as the actual and anticipated long-term financial characteristics of those who may become potentially eligible for such benefits during the next 25 years.

The Administrator is further directed to identify and analyze existing inequities and anomalies and inconsistencies contained in the current non-service-connected pension program. He is also to analyze current and proposed income exclusions as well as the particular problems of catastrophically disabled non-service-connected pensioners.

With this and other information he obtains, the Administrator is directed to investigate alternative pension proposals which assure, first, a level of income for eligible veterans at or above the national minimum standard of need; second, treats similar circumstanced pensioners alike; and, third, provides the greatest amount of assistance for those with the greatest need.

Members of this body will recall that those are the objectives which guided the committee in its consideration of pension reform last year. Although there may be a number of acceptable pension proposals, I believe we will be in position to adopt a pension system desired by all if these basic objectives are met.

On the basis of the investigation, analysis, and evaluation to be made, the Administrator is directed to report to Congress alternative courses of legislative or administrative action which will result in more equitable non-service-connected pension programs. The study and report is due not later than October 1, 1977. In this connection, I am pleased that without committing themselves to any particular approach the House has made a good-faith commitment to seriously study the issue of pension reform to assure a system which meets the objectives of a fair and equitable pension program.

Mr. President, I therefore urge my colleagues to adopt compromise agreement to H.R. 14298 so that it may be sent forward to the President for his immediate consideration.

Mr. President, I ask unanimous consent that a statement by the ranking Republican member of the committee, the Senator from Wyoming (Mr. HANSEN), be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MR. HANSEN

The "Veterans and Survivors' Pension Adjustment Act of 1976" as embodied in H.R. 14298 represents a realistic temporary solution to the increased needs of our veteran population who are suffering from non-service-connected disabilities.

This act provides a 7 percent cost-of-living increase in benefits payable under the VA pension program and attempts to meet the needs of World War I veterans by including an additional 25 percent to the pension rates for all eligible veterans 78 years of age or older. Additionally, the Veterans Administration is directed to conduct a study of the adequacy of the present pension program.

I support H.R. 14298 and urge my colleagues to do the same.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a statement by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MR. THURMOND

The "Veterans and Survivors' Pension Reform Act of 1976" (H.R. 14298) is a rational solution to reconciling the differing views of the House and Senate on pension legislation during this session of the Congress.

In addition to providing a 7 percent increase in benefits payable under the pension program, H.R. 14298 echoes the need for reform in this important program affecting our veterans with non-service connected disabilities by directing the Veterans Administration to conduct a study of the adequacy of the present pension program. The act also attempts to meet the needs of the World War I veteran population by providing an additional 25 percent of additional entitlement to eligible veterans 78 years of age or older.

I fully support this measure and urge my colleagues to do the same.

Mr. HARTKE. Mr. President, I move that the Senate concur in the House amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I submit a report of the committee of conference on H.R. 5546 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 17, 1976, beginning at page 31090.)

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, several Senators on both sides of the aisle who have a part in managing the bills that have been scheduled for this afternoon have contacted me to ask that the Senate not proceed to the consideration of those bills until circa 2 p.m. today. Therefore, I am prepared to ask unanimous consent at this time that the Senate stand in recess.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS FOR 5 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 5 minutes.

The motion was agreed to and, at 12:40 p.m., the Senate recessed until 12:45 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. BUMPERS).

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent that the following staff members be allowed on the floor during debate of the upcoming Banking Committee bills and during any votes thereon: Tony Cluff, Jerry Buckley, Tommy Brooks, Gil Bray, and Lamar Smith.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of morning business, because the Senator, I believe, wanted to speak, and there is nothing before the Senate right now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRADE WITH THE SOCIALIST REPUBLIC OF ROMANIA

Mr. HELMS. Mr. President, shortly after the Senate convened today, with the cooperation of the able assistant majority leader and the able assistant minority leader, a resolution submitted by the Senator from North Carolina was placed on the Calendar. I ask unanimous consent that, notwithstanding the fact that the text of this resolution will appear in the RECORD at another point, it be printed at this point in my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 555

Resolved, That the Senate of the United States of America does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 2, 1976, with respect to the Socialist Republic of Romania.

Mr. HELMS. Mr. President, on June 2, 1976, the President of the United States asked Congress to renew for 12 months his authority to waive the freedom of emigration requirement of the Trade Act of 1974. There are two sections of the Trade Act which pertain to emigration, sections 402 and 409. The mechanisms set up by both sections are very similar; they operate in parallel manner, prohibiting the President from granting MFN treatment, government credits or investment guarantees, or the negotiation of commercial agreements with any Communist country if that country harasses those who would like to emigrate.

However, there is an important difference between 402 and 409. Section 402 refers to the emigration of any citizen of the affected country whose ultimate destination is any other country in the world. Section 409 refers to the emigration only of those citizens who wish to join permanently a very close relative in the United States, such as a spouse, parent, child, brother, or sister. In other words, section 402 refers to a broad and virtually unlimited group wishing to go anywhere; section 409 refers to a narrowly defined group of persons wishing to join close relatives in the United States.

While section 402 is a laudable and highly desirable goal, section 409 restricts the conditions that the United States puts on trade only to the primary interest of the United States; namely, the humanitarian concerns that directly affect its own citizens. I am sure that all citizens of the United States would like to see every person in the world who wishes to emigrate from any country to any other country to have the right to go to any country that will accept such immigrants; but in any list of priorities, we should put our special efforts to help families living in the United States to be reunited with their loved ones. The reuniting of families living here should take precedence over broader humanitarian efforts.

Unfortunately, section 409 was linked with section 402 under the Presidential waiver system, so that whenever the President waives 402, he automatically waives 409. This is what the President did a year ago when the Romanian trade agreement was negotiated and approved, and what he is seeking to do again this year. The President has stated that waiver of 402 will essentially promote the objectives of that section, that is, it will ease immigration procedures for those wishing to leave Romania.

So the question is whether, in fact, the diplomatic activity of the United States has promoted freer immigration procedures under the waiver procedure. Indeed, the Senate, at the time that the Romanian trade agreement was approved, went on record that the sense of the Senate was that the President should terminate the Romanian trade agreement if Romania engaged in any—I repeat, any—of the practices cited in section 409 of the Trade Act.

The Senate, on July 24, 1975, unanimously approved Senate Resolution 219. The intent of the Senate was clear. In the debate on this resolution, I urged the Senate to act for the following reasons:

Because section 409 in particular deals specifically with the reunion of very close relatives, I am greatly concerned that the President has waived its requirements at a time when the best that the administration can report is that "a substantial portion" of the problem has been solved. Since Secretary Hartman admits that there are only a few hundred cases to be solved, there is no reason why the Socialist Republic of Romania cannot clear the matter up entirely before the agreement is implemented.

We therefore, should ask the President to certify to Congress that he will terminate—using the authority granted in the act—any waiver so granted when Romania engaged in any of the acts of harassment and discrimination described in section 409. In effect, the President would be putting Romania on notice that most-favored nation status would be withdrawn if the few hundred cases of very close relatives are not cleared up.

Unfortunately, Mr. President, the President of the United States did not heed the sense of the Senate. He did not certify to the Senate that he would withdraw MFN from Romania if Romania violated section 409. Nor did Romania feel pressed to stop harassment procedures against close relatives who wanted to join their families in the United States.

Indeed, Mr. President, it is highly significant that when Under Secretary Hartman testified on the Romanian trade agreement on September 8 of this year, he did not even mention section 409 and the reuniting of families. Instead, he cast doubt upon the wisdom of the Senate in linking trade and emigration. In fact, he stated, "there is a limit to what can be said about this issue publicly."

Mr. President, why should the harassment and the denial of freedom by Romania be kept hidden? What kind of unspeakable practices are being covered up? Why did the Under Secretary only cite statistics on emigration actually achieved, without discussing the number of cases of those who are actively seeking to emigrate? Why did he not discuss the practice of the Romanians of confiscating the property of would-be emigrants, of keeping them without jobs or means of support, and of subjecting them to an untenable maze of bureaucracy?

Why should we trade with Romania when there is even one family that is denied their fundamental human right to live together? The truth is that only the merciless searchlight of revelation and widespread publicity has any effect on the callous tyranny of the Romanian Government. We will not get anywhere unless there is public discussion and public understanding of Under Secretary Hartman's philosophy that freedom must be swept under the rug so that trade with the United States can strengthen the Romanian Socialists economy, and make it more difficult for the Romanian people to throw off the Communist yoke.

Indeed, when I testified on the Romanian trade agreement, I submitted a substantial list of Romanians who were having difficulty in emigrating to join their families here. It is not strange that this list suddenly got priority treatment, and special efforts were made in regard to those names. But this year, Very Rev. Florian M. Galdau, chairman of the American-Romanian Committee for Assistance to Refugees, testified that he has submitted lists of 446 names, but only 220 have been allowed to leave.

Mr. President, as long as there is one family—one family—that is prevented from being reunited we should not permit the Romanian trade agreement to stand.

It is not just the Trade Act that bears upon this matter. The Helsinki agreement was also supposed to facilitate humanitarian concerns in the so-called Basket III provisions. There was much rhetoric on the part of Secretary of State Kissinger about how the Helsinki agreement was an indication of the improvement of relations between East and West. But Solzhenitsyn and many others have been more correct in interpreting the Helsinki agreement as a ratification of Soviet conquest which slammed shut the door on the hope of freedom for millions in Eastern Europe.

It is for this reason that the Republican Party, at their National Convention in Kansas City, called for a foreign policy which would bring about the achievement of liberty under law and a just and lasting peace in the world. And the Republican platform specifically said:

> Agreements that are negotiated, such as the one signed in Helsinki, must not take from those who do not have freedom the hope of one day gaining it.

But this is exactly what the Helsinki agreement has done. Although Under Secretary Hartman comes before the Senate Finance Committee and claims that the humanitarian aims of section 402 of the Trade Act are being promoted, the internal documents of the Department of State give the lie to his assertions. The confidential foreign report of the internationally respected magazine, the Economist, published in London, recently ran long excerpts from a recent cable of the U.S. Ambassador to NATO to Secretary Kissinger reporting on the failure of the Communist countries to live up to Helsinki.

The Trade Act and the Helsinki agreement are inextricably commingled because of the linkage between trade and emigration. So when the U.S. Ambassador to NATO reports on the failure of the Helsinki agreement, he is reporting on the failure of the Trade Act procedures to work. Here is what the U.S. Ambassador said that is relevant to emigration from the Soviet Union and Romania:

> The Warsaw pact countries remain firmly in control of the degree, method and timing of Basket III implementation. The Soviet Union has recently adopted a more aggressive attitude as regards these provisions. . . . Experience up to now with the Soviet Union on specific divided family cases has been disappointing. Only a limited number of family reunification and binational marriage cases have been permitted to leave. Despite continued pressure by the west, a large number of such cases on lists presented by western governments to the Soviet Union after Helsinki still remain unresolved.
>
> Among the other Warsaw pact countries the established policies in these fields vary considerably, but the same pattern is seen of only very modest real improvements attributable to implementation of the final act during the period covered by this report. Some retrograde trends are evident here, too: In Romania, in particular, the position on human contacts has significantly deteriorated.
>
> Only Hungary has displayed a widely positive attitude, which dates from before Helsinki. Still, at least one western country has been disappointed with the limited movement by Hungary on divided families. At the other end of the spectrum, in the last few months Romania appears to have taken an even more restrictive attitude with regard to family reunification and meetings, binational marriages, and travel abroad, though two western countries have reported some progress and success in personal cases.
>
> Available western visa statistics show a consistent pattern of steady and considerable decrease of persons leaving Romania since 1973, and later in 1975 the Romanians somewhat further tightened their emigration procedures and launched an anti-emigration propaganda campaign.

Mr. President, I ask unanimous consent that the full text of the cable as printed in the Economist's Foreign Report be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. It is very strange, Mr. President, that Under Secretary Hartman claims publicly that emigration from Romania is being facilitated, while an Ambassador to NATO, in his listening post in Europe, reports that a consistent pattern of steady and considerable decrease of emigrants, and a tightening of emigration procedures—this last beginning after the Romanian trade agreement was approved.

Even the news media seem to agree with the Ambassador rather than with the Under Secretary. The New York Times, on May 30, 1976, ran an article datelined from Bucharest with the headline, "Repression Rise Seen in Romania." The article says that—

> Official repression in Romania has increased markedly during the last year, despite humanitarian agreements reached last year by European chiefs of state at Helsinki, according to Western and other observers . . . Foreign experts say that they do not know overall Romanian emigration statistics, but that in qualitative terms, they have declined.

Mr. President, I ask unanimous consent that the section of the article relevant to emigration be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, the case histories of these separated families are heart-rending, yet the Romanian Government continues to be less than responsive. A good case history is that of Constantin Rauta, an electronics engineer who came to this country in 1973, leaving his family behind. His wife with their young child wished to join them here since then, but instead of letting them leave, Mrs. Rauta and their young child have been subjected to every kind of humiliation and deprivation of basic human rights. Their apartment and belongings were confiscated. The Romanian Government attempted to force Mrs. Rauta to sign divorce papers. She was threatened with loss of her employment. When the U.S. Embasy called her up and asked her to come to the Embassy, she was arrested en route and held incommunicado, and then released without her identity documents after the Embassy closed. When a group of U.S. Congressmen visited Romania, she was not allowed even to leave her residence.

Mr. President, only a month ago on August 13, I received a letter from the vice consul of our Embassy in Bucharest which stated that Mrs. Rauta is still prohibited by the police from visiting the Embassy.

Mr. President, I ask unanimous consent that this letter and a series of letters by a wide group of Senators and Representatives concerning the Rauta case be printed in the RECORD at the conclusion of my remarks, along with an article on the case from the Washington Post.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.).

Mr. HELMS. Nevertheless, Mr. President, the President and the Secretary of State are still recommending that the waiver be continued for Romania. Think of it—Romania is the only country with which a trade agreement has been concluded under the Trade Act, yet the internal documents of the State Department themselves say that Romania is the worst country with regard to emigration and repressive practices.

In conclusion, Mr. President, when the Senate passed Senate Resolution 219 last year, it requested the President to use the authority granted in the Trade Act to discontinue the waiver himself at the first moment that the Socialist Republic of Romania violated subsection (a), (b), or (c) of section 409 of that statute.

There was a reason for the Senate's action. That reason was the Senate itself could not police Romania's compliance with the act. The Senate knew that it would have no opportunity to discontinue the waiver, if necessary, until the President's request for renewal was made. What the Senate was doing was indicating that the President should not wait until it was time to request a renewal, but should take action the moment it was necessary.

The President did not do that. Nevertheless, there is plenty of evidence that Romania has violated section 409 many times and is continuing to violate it. It is clear that the President should have long since terminated the waiver himself; yet instead he is doing the opposite, and seeking to have the waiver renewed.

Mr. President, this action is not in accord with the highest ideals of this Nation. The President has received some very bad advice from the Secretary of State. This kind of action has been repudiated by the Republican platform. Our people every day are increasingly losing confidence in their governmental institutions. They see that their Government does not do what it has claimed it will do. Surely we cannot sit idly by when the administration ignores the intent of the Senate and does the opposite of what ought to be done. The Senate at least should do its duty, and disapprove this request for the continuation of the waiver.

EXHIBIT 1

RUSSIA'S BID FOR STRATEGIC SUPERIORITY

The disclosures in last week's Foreign Report have been echoed in a number of western newspapers, and official American sources have since expressed disquiet about further aspects of the Soviet build-up, including the mass production of the SS20 intermediate range ballistic missile (IRBMs) on mobile tracks.

One reason for concern about the development of the SS20 is the possibility that it could be fairly easily converted into an intercontinental missile (ICBM) similar to the SS16, with a range of up to 4,000 miles—more than twice that of the American cruise missiles which the Russians have wanted to include in a second-stage strategic weapons agreement. Some western military analysts are convinced that the Russian SS20 programme is in fact a camouflaged ICBM programme. This suspicion is based on (a) the fact that the SS20, in its present form, resembles two of the four stages of the SS16, and (b) the fact that it is being tested with ballast in tow.

Meanwhile, Mrs. Margaret Thatcher has come under fire from Britain's defence minister, Mr. Mason, for her latest lambasting of the Soviet military build-up—and the Russians' failure to live up to the 'final act' of last summer's Helsinki conference. Her speech last weeekend is supported by a confidential report on the way the Russians have dealt with their Helsinki promises that was despatched from the American embassy to Nato to the State Department last April. Short passages from this cable have already leaked to the American press. Here are some passages on Helsinki's 'Basket 3' that have not:

The Warsaw pact countries remain firmly in control of the degree, method and timing of Basket 3 implementation. The Soviet Union has recently adopted a more aggressive attitude as regards these provisions. They have stressed their intention to implement all parts of the final act, have claimed that the humanitarian and other provisions in Basket 3 are already implemented by them to a large degree, and have attacked the west for alleged examples of non-compliance.

In fact, the real effect of these measures has been very limited. In the field of human contacts, the Soviet Union has instituted a few minor changes in emigration procedures, but so far there is no evidence that these have led to any actual improvement in freedom of movement. Indeed, some other recent administrative changes may have made emigration even more difficult. It remains to be seen what effect these various measures will have in practice, and whether the procedural improvements will prove to be more than cosmetic.

Experience up to now with the Soviet Union on specific divided family cases has been disappointing. Only a limited number of family reunification and binational marriage cases have been permitted to leave. Despite continued pressure by the west, a large number of such cases on lists presented by western governments to the Soviet Union after Helsinki still remain unresolved.

In the field of information, the few procedural changes by the Soviet Union as regards working conditions for journalists (e.g. multiple entry visas, somewhat freer travel) and as regards newspaper circulation (e.g. an increase from four to 22 western newspapers) have brought some marginal real improvements. But here also there have been some retrograde trends, such as the current campaign against certain western overseas radio stations, and the general position remains highly restrictive.

Among the other Warsaw pact countries the established policies in these fields vary considerably, but the same pattern is seen of only very modest real improvement attributable to implementation of the final act during the period covered by this report. Some retrograde trends are evident here too: in Rumania, in particular, the position on human contacts has significantly deteriorated.

The east are showing considerable activity in the cultural and educational fields, probably partly to divert attention from their inadequate performance as regards human contacts and information provisions of Basket 3. This activity is concentrated on those aspects which the east have long favoured. The west are to some extent on the defensive. For example, it is beyond the power of western governments to meet eastern demands for greater reciprocity in publishing and translating written material and in language instruction. In any case, the criterion of reciprocity is contrary to the western principle of freedom of access for all peoples. Furthermore, financial stringency makes it difficult for the west to respond to eastern demands for increased exchange quotas. The west, for their part, are keeping up their pressure on the east for greater individual contacts, but with only mixed results.

In the field of human contacts, there has been only a very modest start to implementation of the final act by the Warsaw pact countries. In January, some small improvements took place in Soviet emigration procedures but these have not yet been matched by a noticeable increase in successful family reunification and emigration cases. Indeed, the tightening of Soviet regulations on financial remittances from abroad could add to the difficulties of emigration. It remains to be seen what effect these various changes will have in practice and whether the procedural improvements will be anything more than cosmetic.

The general experience of western countries with the Soviet Union is that only a limited number of individuals involved in family reunification cases have been permitted to depart since August, 1975, leaving a large number of cases outstanding (though the Swiss have had all their outstanding cases resolved); and that in several cases the Soviet Union is still refusing exit permission for binational marriages. The UK, for example, has 45 personal cases outstanding, about five having been settled since the final act.

There has been still less action attributable to implementation of the final act in the other Warsaw pact countries. Nonetheless, their established policies are generally not as severe as those of the USSR and a few further, small, positive steps have been taken in some of these countries since Helsinki.

Only Hungary has displayed a widely positive attitude, which dates from before Helsinki. Still, at least one western country has been disappointed with the limited movement by Hungary on divided families. At the other end of the spectrum, in the last few months Rumania appears to have taken an even more restrictive attitude with regard to family reunification and meetings, binational marriages, and travel abroad, though two western countries have reported some progress and success in personal cases.

Available western visa statistics show a consistent pattern of steady and considerable decrease of persons leaving Rumania since 1973, and late in 1975 the Rumanians somewhat further tightened their emigration procedures and launched an anti-emigration propaganda campaign.

Western countries have had mixed reactions from the German Democratic Republic; some have found a more restrictive attitude to family reunification and some aspects of travel abroad; others have found a modest increase in the number of persons permitted to leave in order to join relatives, combined with a mixture of toughness and restraint in exfiltration cases.

The position in Bulgaria remains generally bad as regards binational marriages and family reunification, though one western country has obtained permission for a few members of divided families to leave. A similarly poor situation applies in Czechoslovakia. However, a positive development has been the recent permission for three Greeks to marry Czechs.

With the exception of one report of progress the Poles have not proved very responsive on divided families; indeed, one western country has found that their overall immigration visas for Poles, most of which concern divided families, have decreased in recent years, including the period since the final act.

As regards family visits, some eastern European countries, such as Czechoslovakia, refuse to grant entry visas to naturalised citizens of western countries wishing to visit their country of origin, while Poland is preventing the departure of some such visitors.

Since Helsinki, there seems to have been little change in eastern practice on travel abroad by their nationals for personal or professional reasons, including little or no apparent improvement in the difficult procedures in most Warsaw pact countries for the acquisition of passports. . . .

Eastern internal security systems would enable the east to accept more lenient western attitudes towards visas without any loss of control on the movements of their own nationals. Moreover, their effective control of foreign visitors would permit their own governments to adopt more lenient visa procedures in order to demand western governments do the same for reasons of reciprocity. The US has agreed in principle to the Hungarian proposal to reduce from 14 to seven days the processing of visas for official Hungarian visitors, and the UK expects to be able to go some way towards meeting Soviet proposals to reduce current time limits for the issue of visas.

The east is attempting to deny that the final act gives the west the right to concern itself with any aspects of human rights other than those specifically listed in Basket 3. It is in this field where the east, led by the USSR, has been most adamant in attacking the west for "interference in internal affairs". For example, the Soviet Union denies that emigration other than to reunite families is covered by the final act (such as the emigration of Soviet Jews which in 1975 fell to half the 1974 figure). They ignore the fact that Basket 1 of the final act contains a principle on human rights and also that Basket 3 contains widely-phrased preambular language including general language on facilitating freer movement.

There is no evidence that the Soviet Union has altered its basic highly repressive approach to human rights since the final act, though they continue to show themselves occasionally responsive to western pressure in specific cases. Although the established policies of other Warsaw pact countries vary considerably, there also the final act seems to have brought about no changes. In several eastern countries dissidents have tried unsuccessfully to appeal to the final act for an amelioration in conditions.

No more than a limited improvement in the availability of some western papers at news stands in places frequented by western tourists and privileged Russians has been noticed to date. These few, but highly visible, steps have resulted in little real progress in information matters and overall Soviet performance remains contradictory. The refusal of a visa in February to a Norwegian journalist to cover the Soviet Communist party's 25th congress illustrates the ambivalent attitude of Soviet officials. One positive note has been the reluctant Soviet agreement to exchange lecturers with Canada and Norway.

There has been no noticeable improvement in the information field in other Warsaw pact countries, some of which were already more open than the Soviet Union. Czechoslovakia continues to take a particularly harsh line with western journalists. East Germany has recently shown a hardening of policy, illustrated by its refusal to accredit three West German radio journalists to cover the Leipzig trade fair in March, 1976, and the expulsion of a special correspondent in December, 1975. The Bulgarian foreign minister claimed at the end of December last year that Bulgaria was importing more western publications, but so far there is no evidence of greater availability to the general public. In Hungary, there is an analogous situation as regards western newspapers, while the number of available western news magazines seems even to have declined.

The Soviet Union and other Warsaw pact countries continue to be hypersensitive to the content of western news media, and have strongly criticised them for distortion of fact and for slander of the east in contravention of the final act. They draw the conclusion that these malpractices fully justify the imposition of restrictions on the availability of western media in eastern countries. The east has even insisted that western governments must bear responsibility for the content of the news media of their countries, including material on east-west relations and on eastern countries intended only for western audiences, and have pressed this line of argument in international organisations, such as Unesco. This is, of course, contrary to the western concept of freedom of the press and other media. . . .

Exhibit 2

[From the New York Times, May 30, 1976]

Repression Rise Seen in Rumania

(By Malcolm W. Browne)

Bucharest, Rumania, May 23.—Official repression in Rumania has increased markedly during the last year, despite humanitarian agreements reached last year by European chiefs of state at Helsinki, according to Western and other observers.

Travel by Rumanians, both for emigration and on short trips outside the country, has been further restricted, they say.

"The increasing repressive atmosphere here is especially sad, considering that Rumania's independent foreign policy is generally enlightened and constructive," a diplomat said.

Foreign experts say that they do not know overall Rumanian emigration statistics, but that in qualitative terms, they have declined. Rumanian officials decline to give any information on the subject.

Local observers say that artistic expression is clearly more constrained than one year ago, that Western newspapers and magazines are no easier to obtain in Rumania, and that the Rumanian Communist Party seems less tolerant than ever of the slightest dissidence within the ranks.

PINCH ON CONSUMERS DEPLORED

Professed foreign friends of the Bucharest Government have expressed unhappiness, furthermore, over the prospect that there will be no real relief for Rumanian consumers under the new five-year plan.

"The capital investment rate could well have been reduced from 34 percent of the budget to 30 percent, thus allowing richer lives for private citizens," one expert asserted.

Rumania's access to most-favored-nation trading status and large credits in the United States is dependent partly on whether Rumania allows Jews wishing to emigrate to leave at an "acceptable" rate.

While the rate at which Jews have emigrated from Rumania has apparently declined in the last year, observers are not sure how much of the decline has resulted from tighter Government restrictions.

"Compared with the Jewish communities in other Soviet-bloc nations, the 80,000 or so Jews in Rumania are far better off," one expert said.

"They are certainly better off than either the Hungarian or German minorities in Rumania," he said, adding:

"At the same time, those who apply to emigrate to Israel or other countries still face terrible uncertainty, social problems, and loss of their professions here. They lose their jobs, their children face problems at school, they are harassed in many ways.

"But in fairness, it is probably no worse for Jews wishing to leave than for any other Rumanians."

Exhibit 3

Bucharest, Romania,
August 13, 1976.

Re your letter of July 26, 1976, about Mrs. Constantin Rauta applying to the American Consul at Bucharest.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Mr. Helms: The Embassy has received your letter of July 26, 1976, requesting assistance in obtaining exit documents for Mrs. Constantin Rauta whose husband is currently in the United States.

The Embassy has intervened with the Romanian Government on her behalf many times. The Romanian authorities are consequently very aware of our strong interest in this case, but they have not yet seen fit to give passports to her and her child.

I spoke with Mrs. Rauta last week in her apartment (she is prohibited by the police from visiting the Embassy). She is in good health (although somewhat nervous) and hopeful of her eventual re-union with her husband in the United States.

The Embassy will maintain contact with Mrs. Rauta and continue to intervene on her behalf.

Sincerely,

John C. Spiegel,
Vice Consul.

Washington, D.C.,
June 14, 1976.

Hon. Jesse Helms,
U.S. Senator, Dirksen Office Building,
Washington, D.C.

Dear Senator Helms: My letter is an appeal for humanitarian assistance on behalf of my wife Ecaterina Gabriela Rauta, 28, and my son Mihai Catalin Rauta, 3, who are both in Rumania and have been refused exit visas.

I am an electronic engineer, permanent resident in U.S. and I am working now in the data processing department of the Goddard Space Flight Center in Greenbelt. I was allowed to come in U.S. as a member of an official Romanian delegation in Nov. 1973, but my wife and son were held hostages as an insurance for the communist regime in Bucharest that I will not claim the right of my family and myself to emigrate.

Since then my wife has been harassed by the Bucharest authorities (see appendix) and they refuse to give any explanation or even to answer to my letters or requests.

I was very impressed by your Statement and position at the hearings and debates for MFN for The Socialist Republic of Romania and I see that your firm position did help many people in similar situation.

I am appealing for your humanitarian help in reunification of my family as one of my last hopes.

For your information I am enclosing some copies about my efforts in reunification of my family.

Sincerely yours,

Constantin Rauta.

Washington, *D.C.*
August 7, 1975.

Mr. Constantin Rauta,
Washington, D.C.

Dear Mr. Rauta: In reply to your letter of July 16, 1975 requesting assistance in the reunification of your family, your wife's and son's names are on the current official Representation List which our Embassy in Bucharest presented to the Romanian authorities on July 1, 1975. This constitutes a formal request to the Romanian Government for prompt and sympathetic consideration of all names on the List. We have also discussed your case on various occasions with officials of the Romanian Embassy in Washington. While we cannot be certain of obtaining a favorable outcome on divided family cases in all instances, our experience has recently been encouraging. I hope we will also prove successful in your case.

We will continue to do what we appropriately can to assist in getting your family out of Romania.

Sincerely,

Arthur A. Hartman,
Assistant Secretary for European Affairs.

Bucharest, Romania,
October 14, 1975.

Mr. Constantin Rauta,
Washington, D.C.

Dear Mr. Rauta: Thank you for your letter of September 18, 1975, regarding your desire to bring your wife and son to the United States. I am very familiar with your situation, although I should inform you straight away that I do not have the same impression as you regarding Mr. Katzen's statements.

Since your wife first contacted the Embassy on March 24, 1975, we have done everything we can to support her efforts to obtain an exit visa for herself and for your son. On May 22nd we intervened on her behalf with the Ministry of Foreign Affairs, asking that she be allowed to apply for departure. As a result of our efforts, on May 25th she was allowed to apply for departure from Romania.

After your wife had heard nothing from the Romanian Government for two months, the Embassy again intervened on her behalf on August 11th, and the Consular Officer personally discussed her case with Ministry officials on August 21st. In response to our repeated inquiries the Ministry of Foreign Affairs subsequently informed us that there would be no possibility of your wife and child joining you until (1) you adjusted your status as a Romanian citizen living abroad, and (2) you obtain a pardon for failing to return to Romania after being sent on Government service abroad.

As you yourself realize, your failure to return is considered by the Romanian authorities as a very serious offense. Frankly speaking, I do not expect Romanian officials here will grant your wife and child an exit permit until you have obtained some sort of arrangement from the Romanian Embassy in Washington regularizing your status abroad. And I am convinced this will not come without considerable time and effort on your part.

I can assure you that we will continue to do whatever can be appropriately done here. But in my judgment your own numerous and apparently good contacts in Washington will probably be of more avail in prevailing upon the Romanian Embassy in Washington to obtain permission for the granting of exit permits to your family.

Sincerely,

Harry G. Barnes, Jr.,
Ambassador.

Washington, D.C.,
September 14, 1976.

Hon. Abraham Ribicoff,
Chairman, Subcommittee on International Trade Committee on Finance, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: My name is Constantin Rauta. I am an Electronic Engineer, a Rumanian and a U.S. resident. I request that this letter be included in the printed record of the Subcommittee's hearings concerning the most-favored-nation (MFN) treatment of imports from Rumania.

On July 8, 1975, Mr. Arthur A. Hartman, Assistant Secretary of State for European Affairs, testified the Committee on Finance and agreed that a small increase in the number of persons released from Rumania did not provide a clear evidence of change in the emigration policy of the Rumanian communist regime. Mr. Hartman said that at the end of the first MFN period, the administration would have the opportunity to review whether or not MFN should be renewed, based upon an important indicator: the reunifiication of families. (See appendix.)

In the President's waiver determination of June 2, 1976, there is no reference to this important indicator, and the problem of the reunification of families is left on the same 1973 Nixon-Ceausescu declaration that served as the basis for the President's 1975 waiver.

For more than two years, my wife Ecaterina Gabriels Rauta and my son, Mihai Catalin Rauta, have been refused exit visas by the Rumanian authorities without any explanation. As a result of my wife's request to emigrate to the United States, our apartment and belongings in Bucharest have been confiscated, and my wife has been continuously persecuted and harassed by secret police.

My family is not the only example of families that are not being reunited. Many New Yorkers, as well as diplomats from all over the world, have witnessed, soon after MFN treatment was granted, many Rumanians in this country protesting, some of them through a hunger strike, in order to try to obtain freedom for their families. The reason why Party Chairman Nicolae Ceausescu ordered our families to be persecuted is very well known by the Ruman people. It is to frighten those persons who desire to exercise their basic right to emigrate.

At the present time, with the exception of the "new class", that is, the ruling class, no Rumanian can go out of Rumania without leaving behind a close family member, usually the spouse or children. These serve as hostages to guarantee that he (she) returns or that he (she) does not expose the injustices practiced by Mr. Ceausescu's regime.

Children, spouses, elderly parents, and the like are punished now because one of their relatives exercised his right to emigrate when he (she) was allowed to travel abroad under such "guarantees".

Mr. Chairman, as long as families are not allowed to be reunited, no one can talk about the changes on emigration policy nor changes in the hostages practice of Rumanian communist regime.

This practice of "guarantees" has terrible painful effects on thousands of Rumanian families all over the world, including several hundred families in the United States at the present time. It is, in fact, destroying families and their members, either morally or physically.

Mr. Chairman, you heard last year witnesses who testified that they had been struggling for 16 years to be reunited with their family members, and from some who were requested, and who paid, to the Socialist Republic of Rumania Embassy in Washington, up to $10,000 for their children, spouses or parents in order to be released from Rumania (Hearings before the Committee on Finance, S. Concurrent Res. 35. pages 38, 40, 41, 157 159, 178, etc.).

For the people who are looking for their families' reunification, for so many Rumanians who did not succeed and whose children are threatened to be persecuted all their lives in order to make "effective" this policy of hostages, for the people who are sold like animals by Mr. Ceausescu's regime, for all the Rumanians who are seeking human rights, for all of these people, Mr. Chairman, U.S. financial help granted to the Rumanian communist regime represents not only a direct acceptance of this practice of hostages, but also an indirect participation to such terrible injustice.

Therefore, Mr. Chairman the very indicator cited by Mr. Hartman—the reunification of families—does not justify the continuation of MFN. The Rumanian communist regime has not changed its emigration policy to allow the hundreds of divided families in this country and the thousands of divided families throughout the world to be reunited with their loved ones still in Rumania.

Indeed if MFN is allowed to continue, then it can only encourage Mr. Ceausescu to maintain his cruel policy and to persist in denying to the Rumanian people one of the most fundamental human rights, the right to emigrate.

Sincerely yours,

Constantin Rauta.

Appendix

Hearings before the Committee on Finance, United States Senate, Ninety-Fourth Congress First Session, on S. Con. Res. 35;

A resolution to approve a bilateral commercial agreement between the United States and the Socialist Republic of Rumania, June 6 and July 8, 1975; pages 123 and 124:

Mr. Hartman. First, Senator, let me point out that much of the 18 months have run already. If the Congress acts on this trade agreement we will only have the balance of the period between now and June of 1976 during which MFN may be extended. I would say that we do not foresee any significant change, and we will have at the end of that period an opportunity to review whether or not MFN should be renewed during the course of the period. We would undoubtedly take up such a matter if there was clear evidence that some change in policy had taken place. We would take that matter up with the Government.

Senator Brock. I will be honest with you. I am sympathetic to Senator Helms' feelings that we ought to operate on principle rather than numbers. In a very practical sense, I find that difficult to do. I think we have achieved a great deal so far. I am reluctant to jeopardize what we have accomplished or what we may accomplish in the coming months by any further statutory language which would have a counterproductive effect.

Mr. Hartman. I would like to join you in that, Senator, because I think, from a purely humanitarian point of view, the important thing is: are families being reunited?

Washington, D.C.,
June 18, 1976.

His Excellency Corneliu Bogdan,
Ambassador of the Socialist Republic of Romania, Washington, D.C.

Dear Mr. Ambassador: I write on behalf of Mr. Constantin Rauta and his family. Mr. Rauta has been granted political asylum in the United States and has been residing in this country since November, 1973. His wife, Ecaterina, age 28, and his son, Mihai, age 3, have repeatedly applied for exist visas to leave Romania and join Mr. Rauta in the United States. Their applications have been refused without explanation. This is a clear violation of the terms of Title IV of the Trade Act and the Helsinki Final Act.

While Mr. Rauta did leave Romania without official permission, he has made every effort to regularize his status in the U.S., pursuant to suggestions to that effect which he received through his attorney from members of your staff. He officially renounced his Romanian ciitzenship and exchanged his diplomatic passport for a regular passport, which was stamped with a valid visa. Mr. Rauta informed the proper authorities of his actions, but to date he has received no acknowledgement.

The plight of the Rauta family has aroused widespread sympathy and indignation among the American people. Ecaterina and Mihai Rauta have been placed on the State Department's official "representation list," which constitutes a formal request to the

Romanian government for prompt and sympathetic consideration of their visa application.

Several members of Congress including Senator Ribicoff and Rep. Green, have expressed their support for the Rauta family. Continuing silence and inaction by the Romanian government in the face of this grave injustice can only serve to intensify the growing dismay and disappointment regarding the treatment of this unfortunate family.

Failure to act decisively on this matter will surely jeapordize Romania's status as a most favored nation. Title IV of the Trade Act of 1974 clearly links Romania's trade status with freedom of emigration. I am aware of the progress which has been made recently in this regard; it would be tragic if economic relations between our two nations were disrupted due to this single instance of injustice. I can assure you, however, that failure to grant the Rautas' visa applications will prompt many members of Congress to reexamine the status of Romania as a most favored nation.

Apart from political matters, basic humanitarian concerns mandate the release of Mrs. Rauta and her son. Surely the right of a wife to join her husband and a small child to join his father cannot be denied. I do not believe that the Romanian government is so cruel as to punish Ecaterina and Mihai Rauta for the unspecified "crimes" of Constantin Rauta, which apparently amount to no more than defection. Mr. Rauta's accounts of harassment of his wife, including expropriation of her apartment, police detention, and pressure to sign a divorce paper, are extremely disturbing.

The only satisfactory means of resolving this increasingly sensitive issue is to release Ecaterina and Mihai Rauta. I trust that you will inform the proper authorities of the genuine concern which exists in the United States, and particularly in the Congress, over the plight of the Rauta family.

Thank you for your attention to this matter. I would appreciate it if you or one of your staff would inform me as to developments regarding the Rautas' visa applications.

With every best wish, I am,

Cordially yours,

ROBERT F. DRINAN,
Member of Congress.

WASHINGTON, D.C., *December 2, 1975.*

His Excellency CORNELIU BOGDAN,
Ambassador of the Embassy of the Socialist Republic of Romania, Washington, D.C.

DEAR MR. AMBASSADOR: I am writing with reference to Ecaterina Gabriela Rauta and her son Mihai Catalin Rauta who wish to emigrate from Romania.

I have spoken several times with Mr. Ionita, of your Embassy, concerning this case since late October. He has informed me that the impediment to Mrs. Rauta's emigration rests on the fact that Romanian law prohibits relatives of those convicted of crimes from exercising their right to emigrate. Although I requested a citation to the relevant provision of Romanian law in this case, I have not yet received any response. I would very much appreciate receiving that information as soon as possible.

In view of the significant improvement in relations between our countries resulting from implementation of the United States-Romania Trade Agreement and in keeping with the general humanitarian principles endorsed by your government and mine at the recent Conference on Security and Cooperation in Europe, I would like to request that should Romanian law prohibit emigration of the Rauta family, an exception be made in this case, and Mrs. Rauta and her son be permitted to come to the United States.

Sincerely yours,

WILLIAM J. GREEN.

JANUARY 22, 1976.

His Excellency CORNELIU BOGDAN,
Ambassador of the Embassy of the Socialist Republic of Romania, Washington, D.C.

DEAR MR. AMBASSADOR: I am writing with reference to my letter of December 2, 1975 in which I discussed the family reunification case of Ecaterina Gabriela Rauta and her son Mihai Catalin Rauta.

As stated in my letter, I was informed by Mr. Ionita that Romanian law prohibits relatives of those convicted of crimes from exercising their right to emigrate, and that this law was the impediment to the immediate emigration of Mrs. Rauta and her son. I requested a citation to the relevant provision of Romanian law at the time of my meeting with Mr. Ionita in late October and renewed that request in my letter of December 2.

Although I have not received a response from your Embassy, the State Department has informed me that the Rauta case was the subject of discussion at a recent high-level meeting between representatives of the U.S. Embassy in Bucharest and the Romanian Foreign Ministry. At that meeting, a responsible representative of the Foreign Ministry officially informed members of our Embassy that there is no Romanian law which extends to relatives the penalties imposed on persons convicted of crimes. I, therefore, see no reason why Mrs. Rauta and her son should be prohibited from following the ordinary procedures necessary to obtain a passport for emigration to the United States.

I would appreciate your earliest response advising me of the progress of Mrs. Rauta's case in light of this new development.

Sincerely yours,

WILLIAM J. GREEN,
Chairman, Subcommittee on Trade.

WASHINGTON, D.C.,
September 2, 1975.

Hon. WILLIAM J. GREEN,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. GREEN: During your visit to Romania, Mr. Anthony C. Perkins, Jr., US Embassy consul in Bucharest, telephoned my wife and asked her to come to the US Embassy.

After my wife left her residence, she was arrested on the way to the embassy by police of the Ceausescu regime. She was given no reason for the arrest and detained in a cell with a common criminal.

In the evening after work at the US Embassy ended, she was allowed to go home, but without her internal travel papers. At present in Romania no citizen can be out on the streets without having his internal travel papers on him. A special visa is given to him when he wants to leave the locality where he is living.

My wife was not allowed to leave her residence for even a minute until after the US Congressmen concluded their visit in Romania. Her telephone was also disconnected during this time.

An attempt by my wife to leave her apartment and visit a relative living nearby resulted in her being roughed up in front of the relative's house.

After your visit my wife's identity documents were returned to her and she was warned that if she again attempted to go to the US embassy or to telephone it, she would be locked up for good.

Mr. Green, at the time when Mrs. Ceausescu is striving to have the International Women's Year celebrated throughout the world, my wife was arrested because she sought to get your help and treated savagely by the police because she wanted to obtain a passport and exit visa.

She has been threatened that if she again tries to contact the US Embassy, she will be locked up for ever and that if she does not give up the idea of emigrating she will be fired from her job. My wife does not give up her desire to reunite our family and beginning September 1, 1975 my telephone calls to my wife are rejected by the Bucharest authorities. I have no way to communicate with my wife now.

I am sending this letter as an emergency one; my wife's and son's lives are in danger. Our apartment and furniture that we had in Bucharest was confiscated and the money which I send for her and my 2 years old son are either kept or returned.

I must beg all help possible to save my wife and son.

Very respectfully yours,

C. RAUTA.

WASHINGTON, D.C.,
May 19, 1976.

Hon. WILLIAM E. SIMON,
Secretary, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: I understand that you will be traveling to Romania to discuss the problem of Romanian emigration with Romanian Government representatives.

As you may know, I have taken a very close personal interest in individual emigration problems since my subcommittee's consideration last year of the U.S.-Romania Trade Agreement and the related application of the 1974 Trade Act's emigration waiver to Romania. One of the most flagrant cases of Romanian Government emigration denial brought to my attention is that Constantin Rauta, who has been in the United States since November 1973, and has regularized his status under U.S. emigration procedures which qualifies his wife and small son for immigration to the United States.

Despite my efforts and those of other Members of Congress with Romanian Ambassador Bogdan and our State Department through Ambassador Harry Barnes in Bucharest, absolutely no progress has been made in this tragic case. Rather, Mrs. Rauta has suffered harassment including brief police detention and threat of loss of her employment and living quarters.

Mr. Secretary, in the absence of any indication to date that the Government of Romania will even consider allowing the Rauta family to reunite in the United States, I would deeply appreciate your help in this most difficult case, in the context of your emigration discussions with Romanian officials.

Sincerely yours,

WILLIAM J. GREEN,
Chairman.

WASHINGTON, D.C.,
June 26, 1975.

His Excellency CORNELIU BOGDAN,
Ambassador of the Socialist Republic of Romania, Washington, D.C.

DEAR MR. AMBASSADOR: On behalf of my friend and client, Mr. Constantin Rauta, I wish to record the fact that on April 29, 1975, Mr. Rauta sent a letter to Mr. Ion T. Edu and enclosed the following:

(1) The unused portion of the airplane ticket that was furnished to him when he left Romania in November of 1973;

(2) A check payable to the order of the Romanian Embassy in the amount of $348.00, in repayment for the portion of the airplane ticket that he used in coming to this country; and

(3) A check payable to the order of the Romanian Embassy in the amount of $100, in repayment for that amount of currency that he was given in November of 1973 for out-of-pocket expenses.

I wish further to record the fact that the ticket and two checks were returned to Mr. Rauta by your Embassy by certified mail, number 783427, dated May 23, 1975, without any written or oral explanation.

It is therefore Mr. Rauta's understanding that he has no monetary obligation whatsoever to the Romanian Government. Unless

Mr. Rauta is officially informed in writing to the contrary, he will consider it a fact that the Romanian Government has agreed that he is in no way indebted to that Government.

Sincerely yours,

John B. Rehm.

Washington, D.C.
August 15, 1975.

His Excellency Corneliu Bogdan.
Ambassador of the Embassy of the Socialist Republic of Romania, Washington, D.C.

Dear Mr. Ambassador: In my letter to you of April 29, 1975, on behalf of my friend, Mr. Constantin Rauta, I noted that Mr. Rauta had submitted to you his application to renounce his Romanian citizenship, for the reasons given in his letter to you of early March of this year.

I wish to make it as clear as possible that Mr. Rauta is still intent upon renouncing his citizenship. We are disappointed in your failure even to acknowledge either his or my letter. Accordingly, I respectfully request that you inform us about the status of Mr. Rauta's application and the prospects for official action on the application.

In this regard, I am aware that members of your staff advised Mr. Rauta to regularize his status in order to improve the likelihood of having his wife and son issued exit visas so that they might leave Romania and join him here. Insofar as we are both aware, he succeeded in regularizing his status. He exchanged his diplomatic passport for a regular passport, which was stamped with a visa valid for the period November 1973 through February 1975. Moreover, prior to the expiration of his visa, which we had been assured by your staff would be routinely extended, Mr. Rauta submitted his application to renounce his citizenship. In short, he has done everything in his power to regularize his status.

The total silence of your Embassy in the face of all these efforts raises serious doubts about the intentions of your Government with respect to emigration policy and your Government's recent undertakings in the Helsinki agreement.

Sincerely yours,

John B. Rehm.

[From the Washington Post, May 3, 1976]

Defector's Bid To Bring Family to United States Thwarted

(By Stephen Klaidman)

Despite U.S. legislation tying trade to freedom of emigration and an international agreement on the reunification of families, Ecaterina Rauta and her son have been prevented for more than two years from emigrating from Romania to the United States where her husband has been granted political asylum.

Sen. Abraham Ribicoff (D-Conn.), Rep. William Green (D-Pa.) and the State Department have intervened with the Romanian government on behalf of Constantin Rauta and his family, so far to no avail.

In a strongly worded letter to Romanian ambassador Corneliu Bogdan dated March 17, Ribicoff, chairman of the trade subcommittee of the Senate Finance Committee, warned that failure to grant exit visas to Mrs. Rauta and her son could endanger Romania's privileged trade status with the United States.

"A case like that of Mrs. Rauta and her child," Ribicoff wrote, "is of direct concern to the Congress, in terms of its responsibilities under Title IV of the Trade Act of 1974."

The 1974 act governs trade between the United States and countries with nonmarket economies such as Romania and Title IV links trade advantages directly to freedom of emigration.

Ribicoff's letter went on to say "that later this year the Congress must pass upon the extension of most-favored-nation treatment (terms equivalent to those offered U.S. free-market trading partners) to Romania, and that in doing so it will have to consider Romania's emigration policy.

"The agreement will come before me personally for action," Ribicoff continued. "Many of my colleagues are likely to seek my advice on the progress being made on the humanitarian issues.

"I must insist, therefore, that your government give my request the most serious and high-level consideration and that your leaders act to set aside its attitude concerning Mr. Rauta and any other preoccupation in favor of the reunification of this family." The Romanians have not yet answered Ribicoff's letter. * * *

act of treason" and that his case is not purely of a humanitarian nature.

His lawyer, John Rehm, argues that even if Rauta is guilty of a crime in the eyes of his government, his wife and child should not be punished for that crime and should be allowed to emigrate.

When asked what the relationship was between Rauta's alleged crime and the right of his family to emigrate, Petre Anghel of the Romanian embassy said, "I don't have any answer for that."

Earlier, according to Green, a Romanian embassy official had said that there was a law that "prohibits relatives of those convicted of crimes from exercising their right to emigrate."

Green sought a citation of the law from the Romanians, but never received it. Subsequently he wrote to Ambassador Bogdan that "a responsible representative of the (Romanian) Foreign Ministry officially informed members of our embassy (in Bucharest) that there is no Romanian law which extends to relatives the penalties imposed on persons convicted of crimes."

When asked whether Rauta had been convicted of a crime Anghel said, "I wouldn't like to elaborate any more."

According to Rauta, his wife has been harassed by the Romanian government since he defected. He says that their apartment in effect has been expropriated although his wife and son are still permitted to live in it and that she was detained by the police and put under pressure to sign divorce papers, which she refused to do.

Rehm said that at one point she was taken to a Bucharest police station and forced to watch while "some poor devil of a gypsy" was beaten. She reportedly was told that it would happen to her if she ever tried to go again to the U.S. embassy and that she would never be allowed to leave Romania.

Rauta, who has worked as a television repairman among other things while learning English, now is employed in the data processing department of the Goddard Space Center in Greenbelt. He plans to continue his graduate studies at George Washington University in the fall.

Right now Rauta's hopes seem to rest with Congress. If Ribicoff and Green decided to go all out in trying to convince their colleagues that the Rauta case represented a significant breach of Title IV plus the Helsinki accord on reunification of families, the Romanians could get nervous enough about the possibility of losing men to grant Mrs. Rauta and her son exit visas.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS FOR 45 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 45 minutes.

The motion was agreed to, and at 12:54 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Stevenson).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:44 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Curtis).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYMENT OF INTEREST ON PUBLIC DEMAND DEPOSITS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3035.

Mr. HELMS. Reserving the right to object——

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I reserve the right to object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Case). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my unanimous-consent request.

I move that the Senate proceed to the consideration of H.R. 3035.

Mr. HELMS. I ask for the yeas and nays.

Mr. McINTYRE. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Bill Weber of my staff be granted the privilege of the floor during the debate on this measure.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ken McLean, Charles Marrinaccio, Elinor Bachrach, John Henderson, Steve Paradise, Carolyn Jordan, Carl Coan, JoAnn Barefoot, and Rob Locklin be permitted access to the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has asked for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Bob Brown of my staff be permitted the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator cannot reserve the right to object at this point.

Mr. HELMS. Mr. Presisdent, I withdraw my reservation.

SALE OF VESSELS TO KAILUA TUG & BARGE, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed to a bill which has been cleared on both sides of the aisle. I do this at the request of Mr. INOUYE. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1109.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 784) to authorize the Secretary of Commerce to sell two obsolete vessels to Kailua Tug & Barge, Inc., and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce.

UP AMENDMENT NO. 467

Mr. INOUYE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment No. 467.

The amendment is as follows:

On page 1, line 9, strike "Kailua Tug and Barge, Incorporated" and insert in lieu thereof "Mid-Pacific Sea Harvesters, Inc.".

Mr. INOUYE. Mr. President, the purpose of this legislation which I introduced on February 21, 1975, is simply to permit the Secretary of Commerce to sell two surplus Navy tankers, to a Hawaii corporation, for conversion and operation in the fisheries of the United States.

Since this bill was ordered reported by the Commerce Committee, the principals of Kailua Tug and Barge have altered their plans and desire to have another corporation, Mid-Pacific Sea Harvesters, Inc., purchase the ships.

I have, therefore, sent to the desk an amendment to S. 784 to change the name of the corporate entity from Kailua Tug and Barge, Incorporated to Mid-Pacific Sea Harvesters, Inc.

I urge adoption of the amendment and passage of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within two years after enactment of this Act, to sell, subject to such conditions he deems are appropriate in the national interest, the two obsolete vessels AOG-1 Patapsco and AOG-9 Kishwaukee for the purpose of conversion and operation in the fisheries of the United States to Mid-Pacific Sea Harvesters, Inc., corporation organized under the laws of the State of Hawaii, for their appraised value for operation or their scrap value in the domestic market, whichever is greater, as of the date of the sale: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) if the vessels are scrapped within five years after the date of sale, they shall be scrapped in the domestic market.

UP AMENDMENT NO. 468

Mr. INOUYE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment No. 468.

The amendment is as follows:

Amend the title to read as follows: A bill to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator cannot reserve his right to object. He must object or not object.

Mr. WILLIAM L. SCOTT. Mr. President, I object at this time.

The PRESIDING OFFICER. Objection is heard. The quorum call will continue.

The second assistant legislative clerk resumed the call of the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FOREST MANAGEMENT ACT OF 1976

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3091.

The PRESIDING OFFICER (Mr. CASE) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agred to; and the Presiding Officer appointed Mr. TALMADGE, Mr. JACKSON, Mr. EASTLAND, Mr. CHURCH, Mr. HUMPHREY, Mr. METCALF, Mr. CURTIS, Mr. HATFIELD, Mr. HELMS, and Mr. MCCLURE, conferees on the part of the Senate.

Mr. WILLIAM L. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 558—WAIVING SECTION 402(a) OF THE CONGRESSIONAL BUDGET ACT OF 1974 WITH RESPECT TO THE CONSIDERATION OF H.R. 9719

Mr. HASKELL. Mr. President, I submit a resolution pursuant to section 402(c) of the Congressional Budget Act of 1974, to waive the provisions of section 402(a) of that act with respect to H.R. 9719, legislation to provide for payments to local governments based on the amount of certain public lands located within their boundaries.

I ask unanimous consent that the resolution be referred directly to the Budget Committee without the necessity of being reported from the Committee on Interior and Insular Affairs.

The Interior Committee, in considering H.R. 9719, has previously recommended that the legislation, as amended, be enacted.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I do not intend to object, but is this a resolution that in effect would provide funds to the States in lieu of taxes?

Mr. HASKELL. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado?

Mr. GRIFFIN. Mr. President, reserving the right to object, the Senator indicated that this exact bill was previously passed. Is that correct, and if so, when?

Mr. HASKELL. Mr. President, I do not think that is an accurate statement. The exact bill has not passed. I am going to suggest the absence of a quorum and get some information, if I may.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. GRIFFIN. Yes; I yield for that purpose.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HASKELL. Mr. President, in answer to the inquiry of the Senator from Michigan, the best that I can find out on the short notice given to me is that this legislation, which provides for a payment in lieu of taxes, has actually been recommended by the Interior Committee in previous years, and that this particular bill is this year's bill, but all I am doing is asking that the Budget Committee consider waiving section 402(a) of the Budget Act, and I am asking that the resolution be referred to the Budget Committee.

Mr. GRIFFIN. Mr. President, further reserving the right to object, I, in the past, have introduced legislation along this line myself, and recognize that there are equities to be served; but it can be a very expensive piece of legislation, depending upon the formula, and I cannot imagine that it would not be appropriate to have hearings on a matter of this kind. If it has not been approved by the Interior Committee, it seems to me it ought to go to the Interior Committee.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes.

Mr. HASKELL. This legislation has been heard by the Interior Committee, it has been approved by the Interior Committee, and it has been reported out favorably and I believe unanimously by the Interior Committee; so we have had all the hearings on the authorization, and all I am asking now is that it be referred to the Budget Committee for the purpose of waiving the provisions of section 402(a).

Mr. GRIFFIN. The Senator has cleared up some questions in my mind. If the legislation itself has been approved and reported, that is a different situation entirely.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? Without objection, it is so ordered.

The resolution (S. Res. 558) referred to the Budget Committee is as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 9719. Such waiver is necessary to provide for payments to local governments based upon the amount of certain public lands within their boundaries.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 38 Leg.]

Allen
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Curtis
Griffin
Hart, Gary
Haskell
Hatfield
Helms
Inouye
Javits
Leahy
Magnuson
Mathias
McClellan
McIntyre
Metcalf
Nunn
Proxmire
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Talmadge
Thurmond
Young

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Ohio (Mr. GLENN), and the Senator from Florida (Mr. CHILES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 61, nays 5, as follows:

[Rollcall Vote No. 608 Leg.]

YEAS—61

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Griffin
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Moss
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—5

Goldwater
Hansen
Hart, Gary
Johnston
Weicker

NOT VOTING—34

Baker
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Chiles
Church
Cranston
Culver
Curtis
Dole
Ford
Garn
Glenn
Gravel
Hart, Philip A.
Hartke
Huddleston
Kennedy

Long
Mansfield
McGee
Mondale
Montoya
Morgan
Muskie
Pearson
Percy
Roth
Stennis
Tunney
Williams

So the motion was agreed to.

The PRESIDING OFFICER (Mr. DOMENICI). A quorum is present.

PAYMENT OF INTEREST ON PUBLIC DEMAND DEPOSITS

The Senate continued with the consideration of the motion to take up the bill (H.R. 3035) to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes.

Mr. BUMPERS. Mr. President, I have an amendment at the desk.

Mr. TOWER. Mr. President, point of order.

The PRESIDING OFFICER. An amendment is not in order until the Senate proceeds with the bill.

The question is now on agreeing to the motion to proceed to consider.

Mr. TOWER. A parliamentary inquiry, Mr. President. The question is now on the motion to take up?

The PRESIDING OFFICER. That is correct.

Mr. TOWER. Therefore, amendments are not in order at the present time?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. Mr. President, I move to table the motion to take up, and I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 39 Leg.]

Allen
Bumpers
Byrd, Robert C.
Domenici
Durkin
Goldwater
Hart, Gary
Hatfield
Hathaway
Helms
Jackson
Leahy
Mathias
McGovern
McIntyre
Moss
Nelson
Pastore
Proxmire
Ribicoff
Schweiker
Sparkman
Stevens
Stone
Talmadge
Tower
Weicker
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Hr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Florida (Mr. CHILES), the Senator from Montana (Mr. MANSFIELD), and the Senator from Ohio (Mr. GLENN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 63, nays 3, as follows:

[Rollcall Vote No. 609 Leg.]

YEAS—63

Abourezk
Allen
Bartlett
Bayh
Bellmon
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Clark
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Young

NAYS—3

Goldwater
Hansen
Weicker

NOT VOTING—34

Baker
Beall
Bentsen
Biden
Brock
Buckley
Cannon
Chiles
Church
Cranston
Culver
Curtis
Dole
Ford
Garn
Glenn
Gravel
Hart, Philip A.
Hartke
Kennedy
Long
Mansfield
McGee
Mondale
Montoya
Morgan
Pearson
Percy
Roth
Scott, William L.
Stennis
Taft
Tunney
Williams

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

PAYMENT OF INTEREST ON PUBLIC DEMAND DEPOSITS

The Senate continued with the consideration of the motion to take up the bill (H.R. 3035) to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. What is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the motion to lay on the table the motion to proceed to the consideration of H.R. 3035.

Mr. TOWER. And the motion to table the motion to take up H.R. 3035 is not debatable; is that correct?

The PRESIDING OFFICER. The Senator is correct. The yeas and nays have been ordered.

Mr. TOWER. Then the Senate must proceed to an immediate vote on the motion to lay on the table the motion to take up H.R. 3035?

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to proceed to the consideration of H.R. 3035. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. PASTORE (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from North

Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Florida (Mr. CHILES), the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from North Caroline (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 34, nays 33, as follows:

[Rollcall Vote No. 610 Leg.]

YEAS—34

Allen
Bartlett
Bellmon
Brooke
Byrd, Harry F., Jr.
Domenici
Eastland
Fannin
Fong
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
Mathias
McClellan
McClure
McIntyre
Packwood
Schweiker
Scott, Hugh
Stevens
Stone
Taft
Thurmond
Tower
Weicker
Young

NAYS—33

Abourezk
Bayh
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Durkin
Eagleton
Hart, Gary
Haskell
Hathaway
Humphrey
Inouye
Jackson
Javits
Leahy
Magnuson
McGovern
Metcalf
Moss
Muskie
Nelson
Nunn
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Stafford
Stevenson
Symington
Talmadge

ANSWERED "PRESENT"—1

Pastore

NOT VOTING—32

Baker
Beall
Bentsen
Biden
Brock
Buckley
Cannon
Chiles
Church
Cranston
Culver
Curtis
Dole
Ford
Garn
Glenn
Gravel
Hart, Philip A.
Hartke
Kennedy
Mansfield
McGee
Mondale
Montoya
Morgan
Pearson
Percy
Roth
Scott, William L.
Stennis
Tunney
Williams

So the motion to lay on the table was agreed to.

FEDERAL RESERVE REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of H.R. 12934.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the motion.

Mr. TOWER addressed the Chair.

Mr. ROBERT C. BYRD. This is the second measure that was listed on the whip notice, dealing with the Federal Reserve System.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, the motion is debatable. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, will the Senator withhold that request so that I may make a unanimous-consent request?

Mr. TOWER. I withhold the request.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Dick Gettsinger, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Marion Meyer, of the staff of the Committee on Banking, Housing, and Urban Affairs, and Mr. Rausch, of Senator BARTLETT's staff, be granted the privilege of the floor during the consideration of and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Dan Wall, of Senator GARN's staff, have the privilege of the floor during the consideration of and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. RAILWAY ASSOCIATION

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13325.

The PRESIDING OFFICER (Mr. BELLMON) laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, as follows:

Page 2, line 8 of the Senate engrossed amendments, insert: "or liabilities" immediately after "costs".

Page 2, line 16 of the Senate engrossed amendments, insert: "or liabilities" immediately after "costs".

Page 3, line 15 of the Senate engrossed amendments, insert: "Reform" immediately after "Regulatory".

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. PASTORE. Mr. President, this legislation is extremely important to the State of Rhode Island, and will clear up problems that have arisen as a result of the reorganization of the Penn Central and the other bankrupt railroads operating in the Northeast and Midwest. The final system plan of the U.S. Railway Association designated certain properties throughout the region for acquisition by States or regional transportation authorities. In the State of Rhode Island, three properties were so designated for acquisition by the State—the so-called Bristol branch line, which is some 15 miles long, the Providence terminal, and several old coaches that are used in commuter service.

Congress approved these acquisitions when it approved the final system plan, but because of technical problems the properties in Rhode Island were never transferred. The specific problem revolves around an interpretation of the existing deficiency judgment protection legislation contained in the Regional Rail Reorganization Act that was made by the Department of Transportation. The DOT held that ConRail may not be adequately protected against all the various kinds of judgments that could conceivably be rendered as a result of the transfer of the properties involved.

Accordingly, ConRail must require the States involved to make an agreement to protect ConRail in the event any judgment is rendered that is not protected by the deficiency judgment legislation. While most of the States in the region were able to do this and hence had the properties transferred to them that were so designated in the final system plan, the State of Rhode Island could not do this because of a State constitutional prohibition on assuming any unspecified future liability.

Because of the interplay between the DOT's interpretation of the law and the Constitution of the State of Rhode Island, the properties were never transferred. In order to take care of this unintended hiatus in the reorganization process, I introduced legislation which was reported as part of S. 3131 by the Commerce Committee and which the Senate passed on August 27.

While there is no question that the needed amendments will ultimately be enacted as part of S. 3131, in the meantime the need to move quickly has increased. Two projects in particular are in jeopardy if this amendment is not acted on immediately. One project involves the town of Barrington, which is in the process of making sewer improvements and needs to have the issues surrounding the title to the branch line settled so that the construction can commence. If construction does not commence soon, the town may lose its contract price and the public would be forced to ultimately pay more for the same work. The other project involves a major inner city renovation project that is planned around the Providence terminal.

This amendment will also allow this project to move forward, which will benefit not only the downtown Providence area but also the Northeast Corridor project. Finally, setting the issues of ownership of the Barrington branch line will permit the State to move ahead with application for its title IV rehabilitation moneys under the Regional Rail Act, which will improve rail transportation and help attract new industry to an area that badly needs it. Because of the need to move ahead quickly with these amendments, I moved last August 27 to amend a House passed authorization bill with these amendments and send it back to the House.

Mr. President, the House has now approved the amended version of H.R. 13325 with only technical amendments and has returned it to us. The amendments made by the House are totally acceptable, and I move to concur in these amendments so that the bill can be sent to the President for his signature.

Mr. President, this matter has been cleared on both sides. We passed this bill, it went to the House, they made some minor amendments which our staff tells us are acceptable, and I move that we concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll:

[Quorum No. 40 Leg.]

Abourezk
Allen
Bartlett
Beall
Bellmon
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Clark
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

The PRESIDING OFFICER. A quorum is present.

FEDERAL RESERVE REFORM ACT

The Senate continued with the consideration of the motion to take up the bill (H.R. 12934) to promote the independence and responsibility of the Federal Reserve System.

Mr. TOWER. Mr. President, I move to lay on the table the motion to take up H.R. 12934.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the motion to take up H.R. 12934. The clerk will call the roll.

The legislative clerk called the roll.

Mr. PASTORE (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from Florida (Mr. CHILES) are absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 38, nays 30, as follows:

[Rollcall Vote No. 611 Leg.]

YEAS—38

Allen
Bartlett
Beall
Bellmon
Brooke
Byrd,
  Harry F., Jr.
Domenici
Durkin
Eastland
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Javits
Johnston
Laxalt
Mathias
McClellan
McClure
McIntyre
Muskie
Packwood
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stevens
Symington
Thurmond
Tower
Weicker
Young

NAYS—30

Abourezk
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Eagleton
Hart, Gary
Haskell
Hathaway
Humphrey
Inouye
Jackson
Leahy
Long
Magnuson
McGovern
Metcalf
Moss
Nelson
Nunn
Pell
Proxmire
Randolph
Ribicoff
Stafford
Stevenson
Stone
Taft
Talmadge

ANSWERED "PRESENT"—1

Pastore

NOT VOTING—31

Baker
Bayh
Bentsen
Biden
Brock
Buckley
Cannon
Chiles
Church
Cranston
Culver
Curtis
Dole
Ford
Glenn
Gravel
Hart, Philip A.
Hartke
Hatfield
Kennedy
Mansfield
McGee
Mondale
Montoya
Morgan
Pearson
Percy
Roth
Stennis
Tunney
Williams

So the motion to lay on the table was agreed to.

BANKING LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, with the two votes tabling the motions to take up H.R. 3035, the interest payment on demand deposits, and H.R. 12934, the Federal Reserve System, I think it would be futile to attempt to call up S. 2304, a bill dealing with Federal banking agencies.

Therefore, I ask unanimous consent, with the understanding that there be no action thereon tonight, that the Senate proceed to the consideration of S. 2278, the Civil Rights Attorney's Fees Awards Act of 1975.

Mr. TOWER. Reserving the right to object, and I do not intend to object, I assume it has been cleared.

Mr. ROBERT C. BYRD. Yes; and it has been on the whip notice for action tomorrow, the civil right attorneys fees.

Mr. ALLEN. I object.

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the leadership will attempt to bring up this bill.

The PRESIDING OFFICER. The Senate is not in order. The assistant majority leader is entitled to be heard.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of S. 2278.

The PRESIDING OFFICER. The question is on the motion——

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, as chairman of the Banking, Housing, and Urban Affairs Committee, the committee which brought to the floor these two bills which we have been unable to take up, first, I want to thank the leadership for moving to consider these controversial bills and trying to make it possible for us to act on them.

Next, I would like to express my strong concern with what the Senate has done. The first bill, H.R. 3035, would permit banks to pay interest on the demand deposits of State and local governments, and of the Federal Government. It would not require it. It would permit it. It would be permissive.

Mr. President, I do not know how bankers who believe in the free enterprise system and believe in the marketplace can possibly object to eliminating the ban in present Federal law that now interferes with the right to pay interest on demand deposits to State and local governments.

Furthermore, Mr. President, I would like to point out that according to the committee's best estimates, our State and local governments will lose close to $1 billion in revenue because this bill did not pass. I have a letter here from the National League of Cities which strongly supports the measure. I think it is unfortunate that the Senate could not act on it.

I realize that this is a controversial bill. There are many other possible amendments that could have been added. I understand the position of those who oppose the legislation. I also recognize that having the measure brought up at this late date with only a few days left in the session put the bill in jeopardy.

I might also point out, Mr. President, that the Federal Reserve Reform Act, H.R. 12934, which was tabled a few minutes ago, was a bill which was not opposed by the Federal Reserve Board. I discussed the bill with the Chairman of the Federal Reserve Board, who indicated that he would accept it.

It would have provided that the Senate confirm the Chairman of the Federal Reserve Board when he is appointed by the President of the United States. We do not do that now. When he is made a member of the board he is confirmed, but not when appointed as chairman. I submit there is no more powerful economic position in our Government than Chairman of the Federal Reserve Board. For us to defeat a bill, one of whose principal purposes was to require Senate confirmation, seems to me to be a mistake.

There is one other point: the other provision of the bill would have increased the number of the directors of the regional Federal Reserve Banks, from 9 to 12. At the present time, banks appoint six members of the board and the public, all the rest of the population, are represented only by the remaining three. The bill would have increased the board to 12 members, and the public would have had equal representation with the banks on these very important policymaking bodies. It is most unfortunate that we could not act on this legislation.

I understand there were great difficulties in acting now. I do hope we can act on both of these bills early next year. I think they have great merit. Both measures have support in the Banking, Housing, and Urban Affairs Committee. They were both reported by the committee by a substantial majority, with only one or two members opposed to them. As I say, I regret very much that the Senate acted as it did, and I do hope that we can take these bills up again early in the next session.

Mr. ALLEN. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ALLEN. Did not the Federal Reserve bill also have a provision that the appointment of the chairman from the membership of the Board would be for 4 years to coincide with the President's term?

Mr. PROXMIRE. That provision was in the House bill. I personally opposed that provision and would have fought hard against it in conference. It was not in the Senate bill. I agree with those who would not like to see the Chairman of the Federal Reserve Board under the domination of the executive. The money power is a congressional power delegated to the Federal Reserve Board. It should not be a Presidential power. I think that provision in the House bill was wrong, and I opposed it successfully in committee.

Mr. ALLEN. But it would have been in conference?

Mr. PROXMIRE. That is correct.

Mr. McINTYRE. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. McINTYRE. As the chairman of the Subcommittee on Financial Institutions, I do want to say to my distinguished chairman that I do not like to find myself in opposition to what he is trying to do, but hidden in both of these bills which we have now failed to take up was a controversial issue regarding what is known in the banking world as the NOW account, negotiable orders of withdrawal. The NOW account is, in the opinion of this Senator, the most constructive, the most competitive, the most proconsumer banking item that has emerged in many years. Unfortunately, in the two bills we had before us, amendments added in the full committee jeopardized and were regressive insofar as NOW accounts were concerned. For that reason, and I know my distinguished chairman realizes this and understands it, I had to oppose.

I agree with the chairman on public demand deposits, that interest should be paid. But so the record will be clear, a most important issue here, as far as this Senator is concerned, as chairman of the Financial Institutions Subcommittee, is that we were being called upon again to address the question of financial restructuring in a piecemealing fashion.

This, of course, stems from the fact that the House of Representatives failed to act on the Financial Institutions Act of 1975, S. 1267, which overwhelmingly passed the Senate last December by a vote of 79 to 14. Had the Congress fulfilled its commitment to bring about meaningful and comprehensive financial restructuring legislation, we would not have been faced with the situation today.

So, Mr. President, there were many provisions in the bills which were meritorious, but I for one am sick and tired of watching this Congress avoid its responsibility of legislating in the financial area in a comprehensive and constructive manner.

I want to tell the distinguished chairman of the Banking Committee right now that I will work with him to the utmost of my ability to see to it that all of these items are addressed as early as possible in the next Congress, where they should be addressed and can be incorporated into a meaningful and forward-looking legislative package.

Several Senators addressed the Chair.

Mr. PROXMIRE. Mr. President, before I yield to the Senator from Texas let me say I agree wholeheartedly with what the Senator has said. He worked very hard in getting the act through the committee, with the cooperation of the Senator from Texas. It was a remarkable achievement. But I wish to point out, Mr. President, the reason why this legislation has failed—and it was a remarkable failure; it is rare that the leadership brings up a bill and then the Senate refuses to consider that bill. How did it happen? Because the banks wrote to the Members of this body. One Senator showed me a sheaf of letters he had received from the banks of his State. The State and local governments, on the other hand, failed to urge its passage. If we are going to get through a measure such as this, that could net them close to a billion dollars, they have to help us get it through. It will take some pressure.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Texas.

Mr. TOWER. Let me say that the Senator from New Hampshire has done more work on this measure than I have, and I congratulate him for what he has done. I think we cannot go on in a piecemeal fashion; we have to move with a comprehensive act; I think the Senator from New Hampshire is perfectly right on that goal. I think unless we enact comprehensive legislation, any legislation we enact will not be likely to be equitable or fair, and will probably fail of passage.

Mr. McINTYRE. Mr. President, I will state to the chairman of the full committee and the able and distinguished Senator from Texas that I, too, look forward to further action next year. I gladly admit to the cooperation I have had from the Senator from Texas and the Senator from Wisconsin. The chairman was very important in moving along the bill we passed in December. So I am very happy to hear from both these members of the Committee on Banking, Housing, and Urban Affairs the assurance of their further cooperation, and look forward to their assistance next year.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I agree with the distinguished Senator from Wisconsin on the desirability of local governments having the ability to put whatever funds they have to work temporarily, to help meet the expenses of the local governments.

I might state that as far is I know

there is no prohibition against the Treasury investing in certificates of deposit in the various banks, is there?

Mr. PROXMIRE. The Senator is correct; and, of course, many States have very competent financial management and have done a good job in this respect. But the smaller cities and some of the smaller States have difficulty in making use of the most sophisticated cash management techniques, either because their cash balances are too small or because they or their local banks lack the expertise. Thus they end up leaving their money on deposit in checking accounts in the various banks and because of present Federal law, they cannot get any interest on this money.

As the Senator knows, there is some degree of, if not corruption, then at least favors done by good friends of the banks that have the authority to deposit the funds of State and local governments. It is primarily the small cities and towns of 50,000 or less that have problems, have been unable to obtain earnings on their deposits of public funds.

Mr. ALLEN. Our State of Alabama earns some $5 million to $7 million a year by placing its temporary funds on deposit in the local banks. They do it in a manner approved by the FDIC on the basis of a time deposit open account, which does permit them to draw by check on these accounts, but during the time that the money is there, they do receive interest.

I will say also, to the credit of our local governments, they do place their funds in banks on interest and do an extremely good job in this regard. I did not hear from a single city or county or anybody in the State government asking me to support this bill.

Mr. PROXMIRE. No, if the Senator will yield, the Senator is correct. That is one of the reasons why we have suffered these close defeats.

I ask unanimous consent to have printed in the RECORD at this point a letter from Mayor Richard E. Carver of Peoria, Ill., who is chairman of the National League of Cities Effective Government Committee. He has written in support of this bill, H.R. 3035, and gives some very good reasons for the position taken by his committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, D.C., September 17, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On September 17, the National League of Cities' Committee on Effective Government adopted the following resolution regarding interest payments on demand deposits:

Whereas, the Senate Banking Committee has estimated that interest on demand deposits would realize $1 billion in additional revenue annually to State and local governments;

Whereas, cities, especially those without great capacity for cash management find it difficult to avoid leaving portions of their funds lying idle in demand deposit accounts;

And whereas, the payment of interest on demand deposits would eliminate a major incentive for questionable financial arrangements; Now, therefore, be it

Resolved, That Federal legislation should be passed permitting banks to pay interest on the demand deposits including those of local governments; and be it further

Resolved, That the Federal Government make its regulations concerning the management of federal funds by cities more intelligible and consistent so that these monies may be as productive as possible.

While this resolution cannot become official League policy until it is ratified at our annual convention in December, I am confident it will receive overwhelming support. As Chairman of the Effective Government Committee, I believe that it is important that our policy recommendations be communicated to the United States Senate. It is my understanding that H.R. 3035 will be on the floor of the Senate during the week of September 20. We urge the Senate to act favorably in order to assure final passage of this legislation during this Congress.

On behalf of the National League of Cities Effective Government Committee, I wish to thank you for your vigorous support of this legislation.

Sincerely,
RICHARD E. CARVER,
Chairman, NLC Effective Government Committee.

Mr. ALLEN. I would also like to say to the distinguished Senator that what the committee is doing here, apparently, is providing for one class of depositor having the right to obtain interest on a checking account, whereas the average citizen would not have that privilege. That seems to me not to be right, though the committee does mandate a study for a period of 1 year to see if this entire ban should be lifted. The thought comes to me that under this legislation, we should have the study and then act, and not act in just one particular area and not the whole field prior to a study.

Mr. PROXMIRE. If the Senator will recall, last year we did exactly that with the Financial Institutions Act. We provided for everyone to be in a position to receive interest on demand deposits. However, the House chose not to act on the bill.

We thought that meanwhile it would be in the public interest to allow State and local governments to get interest on their demand deposits. Most people are State and local taxpayers, and therefore would benefit significantly from State and local governments having this benefit. It could help hold down the need for tax increases.

Mr. ALLEN. I believe State and local governments are better able to avail themselves of techniques by which they can get interest than individual depositors.

Mr. PROXMIRE. The Senator is correct, but studies that have been made indicate that they would gain up to $1 billion in interest on their demand deposits if this bill were passed. That is exactly why the bankers do not want it; it means their excess profits on these deposits will be correspondingly reduced, and of course they are going to fight it. I think the fact that they have written so many Senators is the best indication of their interest in fighting the loss of this $18.7 billion in interest-free money.

Mr. ALLEN. I wonder, if we could have these banks bidding against each other for funds, if they would not be able to obtain interest. I wonder if the maintaining of a sound banking system is not of greater importance to all concerned.

Mr. PROXMIRE. There is no question about it; the maintaining of a sound banking system is of great importance to all of us. Of course, we achieve that in many ways. I believe we need to insist that banks develop adequate capital. We have been pushing that in our committee. We have a problem bank measure that we wanted to put on as an amendment to this bill.

We were not able to do it because the Senate denied us the opportunity to call the bill up. This was a bill recommended by the Federal Reserve Board, the Comptroller of the Currency, and the FDIC. We were unable to act on it here on the Senate floor, although the committee acted favorably on it.

Mr. ALLEN. If the Senator will pardon me for saying so, I believe that one of the reasons the Senate voted not to bring the first bill up was the fear that any number of other amendments might be added.

Mr. PROXMIRE. That is correct. The bankers did not want that problem bank bill acted on.

Mr. ALLEN. I do not know about that. I think there were other bills lurking in the wings.

Mr. PROXMIRE. This problem bank bill, S. 2304, was something the Federal Reserve Board wanted. It would be in the interest of a sound banking system. It would prevent the kind of abuse we have suffered from in the past. It would enable, for example, the Federal Reserve Board to remove grossly incompetent and dishonest bank officials, something they are not able to do as effectively now. It would enable them to issue cease and desist orders, so they would have far greater power than they have now to prevent problem banks from getting in the position which both of us deplore.

Mr. ALLEN. I say further to the distinguished Senator that I believe it might have been well had we engaged in some debate on this question prior to Senate action.

Mr. PROXMIRE. It would, but it was impossible under the parliamentary situation. The procedural situation to take up the bill, of course, was the first step that was denied us. We could not even take it up, so there was no basis for debate.

Mr. ALLEN. I thank the distinguished Senator.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. McINTYRE. I yield to the Senator from West Virginia.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3219.

The PRESIDING OFFICER (Mr. BELLMON) laid before the Senate the amendment of the House of Representatives to the bill (S. 3219) to amend the Clean Air Act, as amended.

(The amendment of the House is printed in the House proceedings of the RECORD of September 16, 1976.)

Mr. RANDOLPH. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. RANDOLPH, Mr. GRAVEL, Mr. MORGAN, Mr. CULVER, Mr. GARY HART, Mr. BAKER, Mr. BUCKLEY, Mr. STAFFORD, Mr. MCCLURE, and Mr. DOMENICI conferees on the part of the Senate.

DISCHARGE OF A CONFEREE

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senator from North Dakota (Mr. BURDICK) be discharged as a conferee on S. 2710, a bill amending the Federal Water Pollution Control Act. Mr. BURDICK was appointed a conferee in error.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT, be recognized for not to exceed 15 minutes, and he be followed by Messrs. KENNEDY, HATHAWAY, and CLARK, each to be recognized for not to exceed 10 minutes, and I then be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the conclusion of the order for recognition of Senators on tomorrow there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

On tomorrow the following measures are eligible for being called up or motioned up: S. 2278, civil rights attorneys fees; the motion before the Senate now, of course, would die with the end of the day, but it may be resumed on tomorrow; S. 2613, Small Business Investment Act, Calendar No. 1190, S. 3688, a bill to amend title 13, U.S. Code, to provide for a mid-decade census of population, and for other purposes; and other measures. So the list that I have enumerated is not all-inclusive.

Conference reports may be called up and I would anticipate rollcall votes.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. MORGAN. Are there any time limitation agreements on any of those bills?

Mr. ROBERT C. BYRD. I do not believe there is a time limitation on any of them, I say to my friend, Mr. MORGAN. I am looking now at the calendar on which three agreements are set forth, and none of the three is included in the list that I mentioned. So the answer is no.

Mr. MORGAN. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 5:05 p.m., the Senate adjourned until tomorrow, Tuesday, September 21, 1976, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1976:

DEPARTMENT OF STATE

Monteagle Stearns, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

DEPARTMENT OF EDUCATION

Edward Aguirre, of California, to be Commissioner of Education, vice Terrell H. Bell, resigned.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the board of directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982:

Charles W. Roll, Jr., of New Jersey, vice Jack Wrather, term expired.

Paul M. Stevens, of Texas, vice Thomas W. Moore, term expired.

NUCLEAR REGULATORY AGENCY

George F. Murphy, Jr., of Maryland, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981, vice William A. Anders, resigned.

SECURITIES INVESTOR PROTECTION CORPORATION

The following-named persons to be directors of the Securities Investor Protection Corporation for the terms indicated:

For a term expiring December 31, 1977:

F. Barton Harvey, Jr., of Maryland, vice Henry W. Meers, term expired.

For a term expiring December 31, 1978:

J. W. Van Gorkom, of Illinois (reappointment).

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotions to the grade of lieutenant in the line and staff corps of the U.S. Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Rylant, Arboth A.

NURSE CORPS

McColl, William D.

The following-named line officers of the U.S. Navy for appointment in the Supply Corps as permanent lieutenants (junior grade) and temporary lieutenants:

Hauser, Christopher G.
West, Paul K.
Mercier, Kevin G.

The following-named line officers of the U.S. Navy for appointment in the Supply Corps as permanent lieutenants (junior grade):

Davis, James C., III
Lindsey, Claude D., III
West, William D.
Holmes, Robert C.
McClurg, James R.

The following-named line officers of the U.S. Navy for appointment in the Supply Corps as permanent ensigns:

Stroupe, John E.
Tiller, Michael H.

The following-named line officers of the U.S. Navy for appointment in the Civil Engineer Corps as permanent lieutenants (junior grade):

Chetelat, Gary L.
Elznic, Douglas F.

Lt. Richard A. Monteith, U.S. Navy, an officer of the line, for appointment in the Judge Advocate General's Corps as a permanent lieutenant (junior grade) and temporary lieutenant.

WITHDRAWALS

Executive nomination withdrawn from the Senate September 20, 1976:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the board of directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982, which were sent to the Senate on July 22, 1976:

Charles W. Roll, Jr., of New Jersey, vice Thomas W. Moore, term expired.

Paul M. Stevens, of Texas, vice Jack Wrather, term expired.

HOUSE OF REPRESENTATIVES—*Monday, September 20, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust ye in the Lord forever: for in the Lord God is everlasting strength.—Isaiah 26: 4.

Almighty God, in whom we live and move and have our being, we thank Thee for the awakening of mind that comes to us when we turn to Thee, for the stimulation of ideas which stir our spirits and for the call to walk with Thee in the ways of truth and love. Unto Thee do we dedicate the labor of this day.

We pray for our Speaker, for the Members of Congress and those who work for them and with them. Inspire them to face this day with clear minds and courageous hearts. Help them to put truth above falsehood, good will above ill will and high principles above low prejudices—so shall they be champions of justice and freedom in our world. Unite us in a deeper devotion to our country that there may be greater fellowship among our people and true peace in our world.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 8800) an act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13035) entitled "An act to amend the National Sea Grant College and Program Act of 1966."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2735. An act to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2440. An act to amend section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes;

S. 2823. An act to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations;

S. 3441. An act to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States;

S. 3430. An act to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes; and

S. 3621. An act to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Friday, September 17, 1976, he did on Saturday, September 18, 1976, sign the following enrolled bill: H.R. 8532, to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING ACCEPTANCE BY JOINT COMMITTEE ON THE LIBRARY ON BEHALF OF THE CONGRESS, FROM THE UNITED STATES CAPITOL HISTORICAL SOCIETY, OF PRELIMINARY DESIGN SKETCHES AND FUNDS FOR MURALS, IN THE FIRST FLOOR CORRIDORS IN THE HOUSE WING OF THE CAPITOL

The Clerk called the joint resolution (H.J. Res. 967) authorizing the acceptance of the Joint Committee on the Library on behalf of the Congress, from the United States Capitol Historical Society, of preliminary design sketches and funds for murals, in the first floor corridors in the House wing of the Capitol, and for other purposes.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 967

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Joint Committee on the Library is authorized to accept, on behalf of the Congress, as a gift from the United States Capitol Historical Society, preliminary design sketches intended as a basic design for murals proposed to be painted on the ceiling and walls of the first floor corridors in the House wing of the United States Capitol.

SEC. 2. Notwithstanding any other provision of law, the Architect of the Capitol is authorized—

(1) to accept in the name of the United States, from the United States Capitol Historical Society, such sum or sums as such society may tender in full payment thereof, and such sum or sums, when so received, shall be credited to the appropriation account "Capitol Buildings, Architect of the Capitol", and

(2) subject to section 3 of this joint resolution, to expend such sum or sums for the employment, by contract, of an artist or artists, for the execution of mural decorations on the ceiling and walls of the first floor corridor in the House wing of the United States Capitol, in substantial accordance with the preliminary design sketches referred to in the first section of the joint resolution, after the acceptance by the Joint Committee on the Library, and for all other necessary items in connection therewith, subject to such modifications thereof as may be approved by such joint committee.

SEC. 3. The Architect of the Capitol, under the direction of the Speaker of the House of Representatives, is authorized to enter into contracts and to incur such other obligations and make such expenditures, as may be necessary to carry out the purposes of the joint resolution.

SEC. 4. Sums received under the joint resolution, when credited to the appropriation account "Capitol Buildings, Architect of the Capitol", shall be expended and shall remain available until expended. Any net monetary amounts remaining after the completion of the project authorized by the joint resolution, and in excess of the cost of such project, shall be returned to the United States Capitol Historical Society.

Mr. RHODES. Mr. Speaker, J. Robert Oppenheimer once wrote:

> Today, in a secular world, it is almost wholly through the arts that we have a living reminder of the terror and nobility of what we are.

Through the efforts of the U.S. Capitol Historical Society, we in Congress, and the millions of visitors to the Capitol, have had the opportunity to view impressions of our great Nation's history expressed in colorful and vibrant murals.

What was once a rather drab corridor to the House restaurant is now Capitol Mall. Muralist Allyn Cox and his assistants have presented us with a historic review of various meeting places of Congress, the men who served as Architects of the Capital, and great events in our heritage. Timeless quotations placed strategically through the Halls remind us of the statement of the past and are an inspiration to those who are stewards of the present.

Through the close cooperation of the bipartisan leadership of the House, the Joint Committee on Libraries and Museums, and the House Administration Committee, this artistic tribute to our history has become a reality.

Today we will consider House Joint Resolution 967 which gives this body an opportunity to authorize further beautification of the Capitol. The U.S. Capitol Historical Society and Mr. Cox have worked out a master plan of historic art for other hallways in this area of the Capitol. This is not a program that will cost the taxpayers, as the financing has been arranged by the Historical Society.

Phase II of the continuing arts program, which is the hallway leading directly west from the east entrance on the ground floor, is now underway.

The generous donation of $150,000 from the Daughters of the American Revolution will cover this work, and Mr. Cox is now completing drawings for this hallway. I am proud that officers of the Arizona DAR have been active in supporting this arts program and in raising funds to finance it.

Mr. Speaker, phase I, which we see every day, was a gift from the Capitol Historical Society, at a cost of nearly $100,000. The Society has pledged that it will assume financial responsibility of supplying funds necessary to complete the master plan, an expenditure in the area of $600,000.

I feel that we all have benefited from this ambitious program of portraying outstanding personages and events in our illustrious past on the walls of the center of our Government. I think the work should be carried to completion, and I urge strongly that we approve House Joint Resolution 967 to authorize this very worthwhile project for the American people.

Mr. STEPHENS. Mr. Speaker, the bill which we are considering today is one of importance not just to the people who work in the Capitol, or to those who visit it and admire in it the beauty of American art through the ages. It is important as a mark of our encouragement of the arts in America and of our interest in the history and heritage of our country. The scenes to be depicted by the renowned muralist Allyn Cox will tell the story of America's growth as a nation of people, and ideals. The work in the second phase, as was that in the first, will demonstrate the true companionship of art and literature.

The initiators of this art, the U.S. Capitol Historical Society, under the very able leadership of its president, Fred Schwengel, the former Representative of Iowa's First District, has already proved its capabilities in the area. For, in fact, the artwork we are considering today is the second phase of an extensive program of art for this building.

In the first phase of the program Allyn Cox depicted scenes from the American past that took place in or near the various buildings that have housed the Congress. This work, bold in its execution, is as careful in historical detail as a scholarly work. The praise that "Capitol Hall"—the corridor leading to the House restaurant—has received is well deserved.

The program we are now considering will be executed on the walls leading to the majority leader's office. Like the first phase of the work, this will be done without appropriation of funds by the Congress. The U.S. Capitol Historical Society donated Capitol Hall to the Congress and the American people. The Daughters of the American Revolution have raised $150,000 toward the completion of the second phase of the work. These funds were raised after Mr. Schwengel spoke with the president general, the Committee on Bicentennial Affairs, and finally the assembled convention of the DAR. Agreeing with the concept put forward by Mr. Schwengel, the DAR raised the money through a canvass of the members.

Because of the proved abilities of the artist and because of the artistic and historic worth of the program which will cost the American people nothing, I urge the speedy consideration of this bill.

Mr. Speaker, I would like to add that I have been associated with the U.S. Capitol Historical Society for over a dozen years. In that period I have seen this society grow from humble beginnings to a truly important historical society with a diversified format that appeals to all who are interested in the history of our Congress and our Capitol, from the young schoolchild to the accomplished scholar.

The society's publications for the layman: "We the People," produced in cooperation with the National Geographic Society, an organization, I might add, whose assistance to the society has been legion; "Washington Past and Present," written by society historian Dr. William M. Maury; "Magna Carta and the Tradition of Liberty, We the People Calendar," probably the most thorough historical calendar now being made; "City Out of Wilderness: Washington," an award-winning film produced by the renowned director Francis Thompson, are well known and have received their deserved recognition.

Less well known, Mr. Speaker, are the society's efforts in the field of scholarship. Of particular note in this area is Capitol Studies, the semiannual scholarly journal which focuses on the history, art, and architecture of the Capitol and the historical development and process of the Congress. Contributors to this important journal, edited by society historian William Maury and Maier Fox, are among the leaders in their fields—scholars of the rank of Joel Silbey, Barton Bernstein, Lewis Dexter, and Garrison Nelson. Our colleague in the Senate, GALE MCGEE, has contributed, and the fall 1976 issue of Capitol Studies will carry the thoughts of our respected friend CHARLES WHALEN from Ohio. I read and use Capitol Studies, and believe that its focus is particularly useful for all Congressmen and their staffs.

While Capitol Studies was developed to fill an important need, society president Fred Schwengel continued to feel that the society should broaden its base in the scholarly community. At a meeting of the editorial board of Capitol Studies, Fred Schwengel made his wishes known, and Catholic University Dean Jon Wakelyn responded to the challenge. As a result the society and Catholic University launched a joint program in congressional studies. Patterned after the interdisciplinary approach of Capitol Studies, the congressional studies program offers a master's degree in congressional studies from Catholic University. Now in the first semester of its existence, the response to the program has been excellent. Two courses, one in the history of Congress, taught by society historian Willam Maury, and the other in legislative process, taught by staff reporter of the National Journal, Dr. Michael Malbin, are being offered in this first semester. An additional three courses will be offered next semester as the program begins to grow toward full maturity.

Mr. Speaker, I make these remarks about the other aspects of the U.S. Capitol Historical Society because I am honored to be a part of it, and because what it has done and is now doing is worth knowing about for all who work here and all who might read the CONGRESSIONAL RECORD. Thank you.

Mr. HARKIN. Mr. Speaker, the Committee on House Administration has sent to the floor House Joint Resolution 967. This measure authorizes the acceptance by the Joint Committee on the Library, on behalf of the Congress, from the U.S. Capitol Historical Society, preliminary design sketches and funds for murals in the first floor corridors in the House wing of the Capitol.

This resolution provides the authority to the Joint Committee on the Library to accept the designs and masterplan drawn by the well known artist, Allyn Cox of New York, for the artistic decoration of the remaining first floor corridors of the House wing. In addition, it authorizes the acceptance of funds raised and given by the Daughters of the American Revolution for the financing of the project authorized by this measure.

I would like to point out to my colleagues that the excellent work of Mr. Cox was successfully secured by the U.S. Capitol Historical Society. Most of my colleagues are undoubtedly familiar with the very fine work that has been done by the Capitol Historical Society. The high quality of its work is most assuredly attributable to its president, former Congressman Fred Schwengel. Many of my colleagues already know Fred from his days in the House. To those who do not, I will just say that my fellow Iowan is one of the most energetic and resourceful people I have ever known. He has done a tremendous job in heading the Capitol Historical Society.

Mr. Speaker, I want to commend Fred Schwengel, the Capitol Historical Society, and the Daughters of the American

Revolution for their efforts in creating and funding this project. I urge my colleagues to support House Joint Resolution 967.

Mr. DICKINSON. Mr. Speaker, the resolution we are considering today (H.J. Res. 967) is one of importance not just to the people who work in the Capitol, or to those who visit it and admire in it the beauty of American art through the ages. It is important as a mark of our encouragement of the arts in America and of our interest in the history and heritage of our country. The scenes to be depicted by the renowned muralist Allyn Cox will tell the story of America's growth as a nation of people and ideals. The work in the second phase, as was that in the first, will demonstrate the true companionship of art and literature.

The initiators of this art, the U.S. Capitol Historical Society, under the very able leadership of its president, Fred Schwengel, the former Representative of Iowa's First District, has already proved its capabilities in the area. For, in fact, the art work we are considering today is the second phase of an extensive program of art for this building.

In the first phase of the program Allyn Cox depicted scenes from the American past that took place in or near the various buildings that have housed the Congress. This work, bold in its execution, is as careful in historical detail as a scholarly work. The praise that "Capitol Hall"—the corridor leading to the House restaurant—has received is well deserved.

The program we are now considering will be executed on the walls leading to the majority leader's office. Like the first phase of the work, this will be done without appropriation of funds by the Congress. The U.S. Capitol Historical Society donated "Capitol Hall" to the Congress and the American people. The Daughters of the American Revolution have raised $150,000 toward the completion of the second phase of the work. These funds were raised after Mr. Schwengel spoke with the president general, the Committee on Bicentennial Affairs, and finally the assembled convention of the DAR. Agreeing with the concept put forward by Mr. Schwengel, the DAR raised the money through a canvas of the members.

Because of the proved abilities of the artist and because of the artistic and historic worth of the program which will cost the American people nothing, I urge the speedy consideration of this bill.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING SECRETARY OF THE INTERIOR TO SELL CERTAIN RESERVED PHOSPHATE INTERESTS OF THE UNITED STATES IN CERTAIN LANDS IN FLORIDA

The Clerk called the bill (H.R. 300) to authorize the Secretary of the Interior to sell certain rights in the State of Florida.

There being no objection, the Clerk read the bill as follows:

H.R. 300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to the record owner thereof, in accordance with section 3 of this Act, all right, title, and interest in phosphate deposits reserved to the United States in land described as the south one-half of the northeast one-quarter and the northeast one-quarter of the southeast one-quarter of section 12, township 15 south, range 19 east, lying and being in Marion County, Florida.

SEC. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

SEC. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 4. The term "administrative costs", as used in this Act, includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the phosphate deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the phosphate rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the phosphate or phosphate interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO SELL CERTAIN RIGHTS IN THE STATE OF FLORIDA

The Clerk called the bill (H.R. 2977) to authorize the Secretary of the Interior to sell certain rights in the State of Florida.

There being no objection, the Clerk read the bill as follows:

H.R. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to the record owner thereof, in accordance with section 3 of this Act, all right, title, and interest in oil and minerals reserved to the United States in land described as the northwest quarter of the northwest quarter of section 28, township 17 south, range 28 east, in Lake County, Florida.

SEC. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, the deposit shall constitute full satisfaction of administrative costs notwithstanding that the administative costs exceed the deposit, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

SEC. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 4. The term "administrative costs" as used in this Act, includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

With the following committee amendments:

Page 1, lines 9 through 11, and page 2, lines 1 through 5, strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess."

Page 2, line 16, after "excess." add the following: "The Secretary may require that any outstanding mineral leasehold affecting lands described in this Act shall be relinquished to the United States prior to any conveyance pursuant to this Act."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO SELL CERTAIN RIGHTS IN THE STATE OF FLORIDA

The Clerk called the bill (H.R. 10613) to authorize the Secretary of the Interior to sell certain rights in the State of Florida.

There being no objection, the Clerk read the bill as follows:

H.R. 10613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to the record owner thereof, in accordance with section 3 of this Act, all right, title, and interest in phosphate deposits reserved to the United States in land described as the northwest quarter of the southeast quarter and the northeast quarter of the southeast quarter and the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter; except right-of-way for Interstate 75, all of said lands lying in section 16, township 16 south, range 21 east, lying and being in Marion County, Florida.

Sec. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

Sec. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

Sec. 4. The term "administrative costs", as used in this Act, includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the phosphate deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the phosphate rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

Sec. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the phosphate or phosphate interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

With the following committee amendment:

Page 1, line 11, strike "section 16," and insert in lieu thereof "section 26,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT OF JUNE 9, 1906, PROVIDING FOR A DESCRIPTION OF CERTAIN LANDS TO BE CONVEYED BY THE UNITED STATES TO THE CITY OF ALBUQUERQUE, N. MEX.

The Clerk called the Senate bill (S. 2286) to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act entitled "An Act granting land to the city of Albuquerque for public purposes", approved June 9, 1906 (34 Stat. 227), as amended, is further amended by striking out "A parcel of land situated within the northwest quarter" and all that follows through "containing 0.7041 acre more or less." and inserting in lieu thereof the following:

"A parcel of land situated within the northwest quarter of section 20, township 10 north, range 4 east of the New Mexico principal meridian and within tract numbered 4 and tract numbered 1 of the municipal addition numbered 2, and addition to the city of Albuquerque, New Mexico, said parcel of land being more particularly described as follows:

"Beginning at the northwest corner of tract numbered 1 of said addition, said northwest corner being the same as shown on the plat of said addition filed for record in the offices of the county clerk of Bernalillo County, New Mexico, on July 12, 1955, from which point the northwest corner of said section 20 bears north 89 degrees 29 minutes 40 seconds west, a distance of 1,355.11 feet;

"thence south 0 degrees 23 minutes 20 seconds west, a distance of 220.88 feet to a point on a curve on the new southerly right-of-way line of Lomas Boulevard Northeast as shown on the New Mexico State Highway Department right-of-way map for project numbered I–040–3(1)163, and the true point of beginning;

"thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 1,461.13 feet, a central angle of 2 degrees 37 minutes 42 seconds, and a long chord which bears south 88 degrees 17 minutes 40 seconds east, a distance of 67.02 feet) a distance of 67.03 feet to a New Mexico State Highway Department right-of-way marker (station 14+47.46) and a point on the westerly right-of-way of Herndon Street Northeast;

"thence south 1 degree 49 minutes 00 seconds west, along said westerly right-of-way line, a distance of 11.81 feet to the point of curve marked by a New Mexico State Highway Department right-of-way marker (station 0+50);

"thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 330.71 feet, a central angle of 48 degrees 55 minutes 00 seconds, and a long chord which bears south 22 degrees 38 minutes 30 seconds east, a distance of 273.85 feet) a distance of 282.35 feet to a New Mexico State Highway Department right-of-way marker (station 2+89.89);

"thence north 43 degrees 02 minutes 30 seconds east, along said westerly right-of-way line, a distance of 10.00 feet to a New Mexico State Highway marker (station 2+89.89) and a point on a curve;

"thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the southwest, having a radius of 242.58 feet, a central angle of 33 degrees 46 minutes 00 seconds and a long chord which bears south 30 degrees 04 minutes 30 seconds east, a distance of 140.09 feet) a distance of 142.96 feet to a New Mexico State Highway Department right-of-way marker (station 4+56);

"thence north 64 degrees 32 minutes 30 seconds west, a distance of 1,343.09 feet to a point on a curve on the said southerly right-of-way line of Lomas Boulevard Northeast;

"thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the southwest, having a radius of 1,361.94 feet, a central angle of 15 degrees 31 minutes 33 seconds and a long chord which bears south 79 degrees 46 minutes 46 seconds east, a distance of 367.93 feet) a distance of 369.04 feet to a New Mexico State Highway Department right-of-way marker (station 7+83.81);

"thence south 72 degrees 01 minutes 00 seconds east, along said southerly right-of-way line, a distance of 200.00 feet to a New Mexico State Highway Department right-of-way marker (station 9+83.81) and the point of curve;

"thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 1,461.13 feet, a central angle of 16 degrees 24 minutes 18 seconds and a long chord which bears south 80 degrees 13 minutes 09 seconds east, a distance of 416.93 feet) a distance of 418.35 feet to the true point of beginning.

Said parcel of land containing 3.6586 acres more or less.".

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO CONVEY CERTAIN LANDS IN THE STATE OF IDAHO, AND FOR OTHER PURPOSES

The Clerk called the Senate bill (S. 2511) to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture is authorized to convey by quitclaim deed, subject to the provisions of subsection (b) of this section, all right, title, and interest of the United States in and to the following described tract of land and the improvements thereon:

A part of the Riverside Park Addition to Boise City, Ada County, Idaho, in sections 9 and 10, township 3 north, range 2 east, Boise meridian, according to the plat thereof, filed in book 6 of plats at page 250, records of Ada County, Idaho.

All of block 6, except lots 9 and 10; all of block 3, except lots 10 to 13, inclusive; and all of the adjacent vacated streets and alleys described as follows:

Tenth Street between the south line of River Street and the north line of Park Boulevard; alley running in a northerly and southerly direction in block 3 from the south line of River Street to the south line of lot 9, block 3; all of alley running in a northerly and southerly direction in block 6; all of alley running in an easterly and westerly direction between lots 16 and 20 and lots 21 to 32, inclusive, block 6; alley running in an easterly and westerly direction between lots 13 and 17 and lots 1 to 12, inclusive, in block 6 from west line of Tenth Street to west line of lot 8, block 6; all the alley running in an easterly and westerly direction in block 3; and the following two tracts:

Tract 1: A tract 12 feet wide lying west and adjacent to lots 1 through 9, inclusive, block 3, Riverside Park Addition, more particularly described as follows:

Beginning at the northwest corner of lot 1, block 3, Riverside Park Addition; then north 87 degrees 36 minutes west 12 feet; thence south 2 degrees 24 minutes west 225 feet; thence south 87 degrees 36 minutes east 12 feet; thence north 2 degrees 24 minutes east 224 feet to the northwest corner of lot 1, the place of beginning.

Tract 2: A tract 12 feet wide lying east and adjacent to lots 36 and 15, also a tract 12 feet wide, lying along the easterly line of lot 14 and being approximately 50 feet in length along said lot 14, all in block 3 of Riverside Park Addition, more particularly described as follows:

Beginning at the northeast corner of lot 36, block 3, Riverside Park addition; thence south 2 degrees 24 minutes west 256 feet, to a point extending approximately 50 feet, more or less, southerly from the north end of lot 14, which would be intersected by the projection of the south line of lot 9; thence south 87 degrees 36 minutes east 12 feet; thence north 2 degrees 24 minutes east 249 feet; thence north 55 degrees 06 minutes west 14 feet to the place of beginning.

Containing 5.22 acres, more or less.

(b) Any such conveyance pursuant to subsection (a) of this section shall be conditioned upon the Secretary of Agriculture (hereinafter referred to as the "Secretary") entering into an agreement or other arrangement, including an exchange, sufficient to assure the Secretary that the party to whom such conveyance is to be made will cause to be constructed, for the United States, on the southeast quarter northwest quarter northeast quarter southwest quarter, section 27, township 3 north, range 2 east, Boise meridan, containing 2.50 acres, more or less (withdrawn from the public domain for administrative site purposes), or on an alternative site to be determined by the Secretary, administrative improvements of at least equal value to the lands and the improvements thereto authorized to be conveyed by subsection (a) of this section: *Provided*, That if the value of the lands and the improvements thereon authorized to be conveyed by subsection (a) exceeds the value of the administrative improvements determined necessary by the Secretary to be constructed under this subsection, the party to whom the conveyance is made shall make a cash payment to the United States in an amount equal to the difference between the two values.

(c) In carrying out the provisions of this Act, the Secretary shall solicit public offers. Such solicitation shall be made with sufficient time to permit such full and free competition as is necessary to meet the requirements of the agency concerned. All offers shall be publicly opened at the time and place stated in the solicitation notice. After considering price, value and other factors, the Secretary shall enter into such agreement or arrangement with the responsible party whose offer, conforming to the solicitation notice, is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, all offers may be rejected by the Secretary if he determines that it is in the public interest to do so.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE INTERIOR AND ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN PUBLIC AND ACQUIRED LANDS IN THE STATE OF NEVADA TO THE COUNTY OF MINERAL, NEV.

The Clerk called the bill (H.R. 10072) to direct the Secretary of the Interior and the Administrator of General Services to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ELIMINATING A RESTRICTION ON USE OF CERTAIN LANDS PATENTED TO THE CITY OF HOBART, KIOWA COUNTY, OKLA.

The Clerk called the bill (H.R. 12213) to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that a similar Senate bill (S. 2004) be considered in lieu of the House bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There being no objection, the Clerk read the Senate bill, as follows:

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of the first proviso of section 22 of the Act of May 2, 1890 (26 Stat. 91; 43 U.S.C. 1094), requiring that lands patented thereunder be maintained for certain purposes for which they were granted, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the city of Hobart, Oklahoma, all right, title, and interest remaining in the United States in block 10 of the original townsite of the city of Hobart and to issue a new patent, without restriction, upon relinquishment of patent numbered 1022741 by the city, to carry out the purposes of this Act: *Provided*, That the requirements of sections 2 and 3 of this Act have been met.

SEC. 2. No conveyance may be made and no new patent issued pursuant to this Act unless the city of Hobart has shown to the satisfaction of the Secretary that—

(1) the lands described in section 1 of this Act shall not be sold for less than fair market value;

(2) other lands of at least comparable value to block 10 and more appropriate for school purposes than block 10 will be transferred to the board of education to be used for school purposes in perpetuity; and

(3) any amount by which proceeds of any sale of block 10 exceed the fair market value of other property transferred to the board of education in accordance with clause (2) of this section will be paid to the United States.

SEC. 3. The Secretary, upon his determination that the requirements of section 2 of this Act are satisfied is authorized and directed to enter into an agreement or agreements with the city of Hobart, Oklahoma, whereby, in consideration of a conveyance of the remaining right, title, and interest of the United States in block 10 and issuance of a new patent, the city of Hobart agrees that—

(1) title to any property acquired or dedicated for school purposes pursuant to clause (2) of section 2 of this Act will vest in the United States if such property ever ceases to be used for school purposes; and

(2) the city of Hobart will include provisions to this effect in any document of transfer or conveyance to the board of education, execute a deed to this effect, and deliver said deed to the Secretary.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12213) was laid on the table.

DIRECTING SECRETARY OF AGRICULTURE TO RELEASE A CONDITION WITH RESPECT TO CERTAIN REAL PROPERTY CONVEYED BY UNITED STATES TO BOARD OF REGENTS OF UNIVERSITIES AND STATE COLLEGES OF ARIZONA FOR USE OF UNIVERSITY OF ARIZONA

The Clerk called the bill (H.R. 14227) to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona.

There being no objection, the Clerk read the bill, as follows:

H.R. 14227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act entitled "An Act to authorize the sale or exchange of certain lands of the United States situated in Pima County, Arizona, and for other purposes", approved August 28, 1958 (72 Stat. 979), the Secretary of Agriculture shall, with respect to any real property which was conveyed in the deed dated July 6, 1960, to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona, release to such board of regents on behalf of the United States the condition attached to such conveyance pursuant to that Act that such property be used only for research or educational purposes and that if it ceases to be so used the title to such property shall revert to the United States.

With the following committee amendments:

Committee amendments: Page 2, line 2, after "Arizona," insert "pursuant to section 2 hereof,".

Page 2, following line 7, insert a new section 2 as follows:

"SEC. 2. The Secretary shall release the conditions referred to in section 1 only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the board of regents in which the board of regents, in consideration of the release of said conditions as to such lands, agrees—

"(1) that all proceeds from the sale or exchange of such lands shall be used by the board of regents for the acquisition of lands or for the development or improvement of the lands referenced in section 1;

"(2) that any lands acquired by the sale or exchange or the lands covered by such agreement shall be subject to the conditions with respect to the use of such lands for research and education purposes contained in the deed dated July 6, 1960; and

"(3) that all proceeds from the sale, lease, or other disposition of the lands covered by such agreement shall be maintained by the board of regents in a separate fund and that the record of all transactions involving such fund shall be open to inspection by the Secretary."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING PLACEMENT OF BELL KNOWN AS AMERICAN LEGION'S FREEDOM BELL IN DISTRICT OF COLUMBIA ON LAND OF THE NATIONAL PARK SYSTEM, AND FOR OTHER PURPOSES

The Clerk called the joint resolution (H.J. Res. 915) to authorize the placement of the bell known as the American Legion's Freedom Bell in the District of Columbia on land of the national park system, and for other purposes.

There being no objection, the Clerk read the joint resolution, as follows:

H.J. RES. 915

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the Bicentennial celebration of the signing of the Declaration of Independence, the American Legion is authorized to place in the District of Columbia on land of the national park system the bell which is known as the American Legion's Freedom Bell (hereafter referred to in this Act as the "Freedom Bell").

SEC. 2. All plans for the placement of the Freedom Bell pursuant to the first section of this joint resolution are subject to the approval of the Secretary of the Interior.

SEC. 3. All costs which are necessary for the placement of the Freedom Bell pursuant to the first section of this joint resolution shall be borne by the American Legion. After such placement, the Freedom Bell shall be maintained by the Secretary of the Interior.

With the following committee amendments:

Committee amendments: Page 1, lines 5 and 6, strike out "on land of the national park system".

Page 1, lines 9 through 11, strike out all of Section 2 and insert in lieu thereof the following:

SEC. 2. All plans for the choice of the site and placement of the freedom bell pursuant to the first section of this Resolution are subject to (1) the approval of the Secretary of the Interior, the Commission on Fine Arts, and the National Capital Planning Commission, and (2) the placement of the bell being begun within five years after the date of enactment of this Resolution.

The committee amendments were agreed to.

Mr. TAYLOR of North Carolina. Mr. Speaker, House Joint Resolution 915 would simply permit the placement of the American Legion Freedom Bell on public land in the area of the Nation's Capital. This large-scale reproduction of the original Liberty Bell has been exhibited around our Nation in the past year on the American Freedom Train, and the American Legion has generously offered to donate it as a permanent monument to our Bicentennial.

The American Legion has raised funds to construct a suitable structure to house the bell as a permanent memorial. House Joint Resolution 915 is intended to permit the placement of the bell without Government expense at a suitable location.

In order to make sure that the location is suitable, plans for the choice of the site and the placement of the Freedom Bell will be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts and the National Capial Planning Commission.

Without cost to the Government this large Freedom Bell will be a permanent monument to our Bicentennial.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "Joint resolution to authorize the placement of the bell known as the American Legion's Freedom Bell on lands owned by the United States, and for other purposes.".

A motion to reconsider was laid on the table.

MAKING PROVISIONS OF SECTION 1331(e) OF TITLE 10, UNITED STATES CODE, RETROACTIVE TO NOVEMBER 1, 1953

The Clerk called the Senate bill (S. 2090) to make the provision of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code, and under prior corresponding provisions of law, the provisions of section 1331(e) of such title 10, relating to the date of entitlement to retired pay under chapter 67 of such title 10, shall be effective as of November 1, 1953.

SEC. 2. No benefits shall be paid to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

Mr. SIKES. Mr. Speaker, S. 2090, annuity entitlement for survivors of reserve personnel, would provide survivor benefit coverage under the Retired Serviceman's Family Protection Plan—RSFPP—to an eligible beneficiary of a reservist who, on or before August 13, 1968 was qualified for retired pay, but who died on or before the first day of the month following the month in which he attained age 60.

The bill was referred to the Committee on Appropriations under section 401(b) of the Budget and Impoundment Control Act of 1974 (Public Law 93-344).

This particular bill has been studied by both the Armed Services Committees and both have recommended that it pass. Because of a quirk in the law, it is possible that a reservist who completed all of the requirements for retired pay and who died after his 60th birthday but before the first day of the next month was unable to provide an annuity for his widow even though he selected that option. Apparently a few individuals are affected. The Committee on Appropriations also recommends this bill pass without change.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

GENERAL LEAVE TO EXTEND

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on S. 2090, the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

BILLS REPORTED AFTER MAY 15 IN VIOLATION OF BUDGET COMMITTEE DEADLINE

(Mr. ADAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADAMS. Mr. Speaker, I take this time to announce to the House that the budget resolution is now effective, having been agreed to on Thursday of last week in both the House and the Senate.

It has been called to my attention that a number of committees are reporting or have ordered reported bills which are in violation of section 402 which sets the May 15 deadline. It is my purpose to use this time to indicate that I shall personally oppose any of those actions before the Committee on Rules. I have indicated this position to the Speaker.

I have checked this with the ranking minority member of the committee, and I have written a letter to the chairman of the Committee on Rules requesting that that committee desist from waiving any more section 402 violations without referring the matter to the Committee on the Budget so we can determine whether there is an emergency and report back.

Mr. Speaker, I have asked that there be inserted in the RECORD at this point my letter of September 16, 1976, to the chairman of the Committee on Rules indicating this position. The letter is as follows:

WASHINGTON, D.C., *September 16, 1976.*
Hon. RAY J. MADDEN,
Chairman, Committee on Rules,
Washington, D.C.

DEAR MR. CHAIRMAN: It has been called to my attention that there are a number of bills reported from committee or about to be ordered reported which are in violation of section 402 of the Budget Act because they missed the May 15 reporting deadline. The Budget Committee considers this provision essential to the proper functioning of the Budget process and is generally opposed to waivers of section 402. This is especially true now that we have passed the Second Budget Resolution and spending priorities have been established.

I would therefore request that the Rules Committee refrain from reporting any waivers of section 402 without giving the Budget Committee an opportunity to meet and make a recommendation with respect to the emergency nature of a waiver request. To do otherwise could jeopardize the ability of the Congress to remain within the budget ceilings which we adopted today.

Very truly yours,
BROCK ADAMS,
Chairman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, let me ask the gentleman, how many violations are there?

Mr. ADAMS. I know of at least three that have been reported or which are potentially to go before the Committee on Rules, and I have, therefore, taken the position of blanket opposition to any more waivers of section 402.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the chairman of the Budget Committee calling this to the attention of the House, and I appreciate his diligence in this matter.

HEAVY SCHEDULE OF BILLS CONSIDERED UNDER SUSPENSION OF THE RULES

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I notice on the schedule for this week that we have almost 60 suspensions. Notice of those suspensions was only given to us relatively recently.

Across my desk has come literally dozens of "Dear Colleague" letters describing these suspensions and asking for their passage or defeat.

Mr. Speaker, this is no way to legislate. The Members of this body do not know, and have no way to find out, what are the complicated provisions of those 60 bills. Under suspension of the rules we operate under a type of gag rule by which no amendments can be offered and debate is strictly limited.

Mr. Speaker, this is a serious breach of House procedures. It is a matter that cries for reform in the House. We should not continue to pass bills which we do not understand, and on which we do not have time to make decisions.

I would implore the Speaker and the leadership of this House to cease and desist from forcing us to make these "blind" decisions. I say this with some nervousness because there are bills on the list in which I have a great interest and which are important to my State. I realize we need to pass some of these bills, but the merits of all the bills do not alter the facts that it is terribly dangerous for us to work in this manner.

Mr. Speaker, I warn the Members of the House to be particularly careful in their consideration of the long list of items on the Suspension Calendar, and I warn people of this country that this House is inevitably going to make mistakes under these abnormal, unnecessary, and high-risk procedures.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device and the following Members failed to respond:

[Roll No. 752]

Abzug
Alexander
Anderson, Ill.
Andrews, N.C.
Armstrong
Ashley
AuCoin
Badillo
Baldus
Baucus
Bell
Biaggi
Boggs
Boland
Bolling
Breaux
Burlison, Mo.
Chappell
Chisholm
Cochran
Conlan
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Dellums
Diggs
Dodd
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Fish
Fithian
Ford, Tenn.
Gibbons
Gonzalez
Green
Hanley
Hansen
Harkin
Harrington
Harsha
Hayes, Ind.
Hébert
Hefner
Heinz
Helstoski
Henderson
Hightower
Hinshaw
Holtzman
Hyde
Jarman
Jones, Ala.
Jones, Okla.
Jordan
Karth
Krueger
LaFalce
McCloskey
McCollister
McCormack
McEwen
McFall
McKinney
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Mitchell, Md.
Mollohan
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Nowak
O'Hara
O'Neill
Patterson, Calif.
Pepper
Peyser
Pickle
Pike
Quie
Rangel
Reuss
Riegle
Rodino
Rosenthal
Rostenkowski
Russo
Ryan
Satterfield
Shuster
Snyder
Solarz
Spellman
Staggers
Stark
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Thompson
Thornton
Udall
Ullman
Wampler
Waxman
Wirth
Wydler
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 305 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MINNESOTA RIVER VALLEY NATIONAL WILDLIFE REFUGE

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13374) to establish the Minnesota River Valley National Wildlife Refuge, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minnesota Valley National Wildlife Refuge Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares the following:

(1) The Lower Minnesota River Valley, which provides habitat for a large number of migratory waterfowl, fish, and other wildlife species, is a unique environmental resource.

(2) This valley is located close to a large metropolitan area and, accordingly, it is of great value as a source of environmental education, recreational opportunities, and interpretive programs for hundreds of thousands of urban dwellers.

(3) This valley is currently threatened with spoliation, removal from public access, and ecological downgrading, through commercial and industrial development.

(4) Despoilment of this valley and its flood plain will result in the permanent loss of unique social, educational, and environmental assets.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act to preserve the Minnesota River Valley through the establishment of the Minnesota Valley National Wildlife Refuge.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The terms "conserve" and "conservation" mean to use, and the use of, methods and procedures which are necessary to assure, to the maximum extent practicable, the continued existence of populations of fish and wildlife. Such methods and procedures may include, but are not limited to, all activities associated with scientific resource management, including research, census, law enforcement, habitat acquisition, and public information and education.

(2) The term "interests therein" means any property interest in lands and waters, including, but not limited to, a leasehold, an easement, a future interest, or an equitable use.

(3) The term "refuge" means the Minnesota Valley National Wildlife Refuge, established pursuant to section 4 of this Act.

(4) The term "Secretary" means the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

(5) The term "State" means the State of Minnesota and any political subdivision thereof.

(6) The term "wildlife recreation area" means the wildlife recreation area established adjacent to the refuge, pursuant to section 5 of this Act.

THE REFUGE

SEC. 4. (a) ESTABLISHMENT.—The Secretary shall establish, in accordance with this section, the Minnesota Valley National Wildlife Refuge by publication of a notice to that effect in the Federal Register upon completion of the comprehensive plan pursuant to section 6 of this Act. The refuge shall consist of—

(1) approximately 9,500 acres of lands, marshes, submerged lands, and open waters in the lower Minnesota River Valley, which are depicted as a wildlife refuge on a map dated November 1975 and entitled "Official Map—Minnesota Valley National Wildlife Refuge-Recreation Area", which shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service of the Department of the Interior; and

(2) any additional lands, waters, and interests therein, which the Secretary may acquire and designate for inclusion in the refuge.

(b) ACQUISITION AND ADMINISTRATION.—(1) The Secretary shall, within 6 years after the date of enactment of this Act, acquire lands, waters, and interests therein, within the boundaries of the refuge, by (A) donation; (B) purchase (with donated, transferred, or appropriated funds); or (C) exchange.

(2) With respect to the Black Dog Lake unit, as identified on the map referred to in subsection (a)(1) of this section, the Secretary may not acquire any lands, waters, or interests therein unless such acquisition is compatible with the continued operation of the electric power generation plant presently located within such unit. The Secretary may negotiate and enter into an agreement, with the owner of such powerplant, for the joint or cooperative conservation and management of such unit.

(3) The Secretary shall develop and administer the lands, waters, and interests therein, which are acquired for the refuge, in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd et seq.). The Secretary may also exercise any other authority available to him for the conservation and management of wildlife and natural resources, the development of wildlife recreational opportunities, wildlife interpretation, and environmental education, to the extent deemed by him to be appropriate to carry out the purposes of this Act.

(c) WILDLIFE INTERPRETATION AND EDUCATION CENTER.—The Secretary shall construct, administer, and maintain, at an appropriate site within the refuge, a wildlife interpretation and education center. Such center shall be designed and operated to promote environmental education and to provide an opportunity for the study and enjoyment of wildlife in its natural habitat.

(d) REVENUE SHARING.—Payments made, in accordance with the Refuge Revenue Sharing Act (16 U.S.C. 715s), to the counties in which units of the refuge are located shall be distributed by such counties to municipalities and townships on the same pro rata basis as is used in the distribution of real estate taxes.

THE WILDLIFE RECREATION AREA

SEC. 5. (a) GENERAL.—The Secretary shall establish, in cooperation with the State and in an area adjacent to the refuge, a wildlife recreation area by publication of a notice to that effect in the Federal Register upon completion of the comprehensive plan pursuant to section 6 of this Act. Such area shall consist of the lands, waters, and interests therein which are depicted as a recreation area on the map referred to in section 4(a)(1) of this Act. The wildlife recreation area shall, in general, consist of—

(1) those portions of the Lower Minnesota River floodplain and which are necessary for one or more of the following: public access to such area; safety; the well-being of the visiting public; and the operation and maintenance of such area; and

(2) any additional areas which are adjacent to such floodplain and which are located between the city of Jordan, Minnesota, and Fort Snelling State Park, excluding the industrialized component thereof located in the municipalities of Savage, Chaska, Shakopee, and Burnsville, Minnesota.

(b) ACQUISITION AND ADMINISTRATION.—Lands, waters, and interests therein, which are within the boundaries of the wildlife recreation area, shall, with the agreement of the State, be acquired, developed, and administered by the State (in cooperation with the Secretary) in accordance with the provisions of the comprehensive plan developed under section 6 of this Act.

COMPREHENSIVE PLAN

SEC. 6. (a) GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary shall, in cooperation with the State and political subdivisions thereof, develop a comprehensive plan for the conservation, protection, preservation, and interpretation of the Minnesota Valley National Wildlife Refuge and the adjacent wildlife recreation area.

(b) MANAGEMENT CATEGORIES.—The plan required by subsection (a) of this section shall delineate and provide appropriate management guidelines for the following two categories of property:

(1) Category I.—The Minnesota Valley National Wildlife Refuge, to be acquired and managed by the Secretary pursuant to section 4(b) of this Act.

(2) Category II.—Public nature-recreation areas, to be acquired (in fee or by lease, easement, donation, or other agreement) and managed by the State (in cooperation with the Secretary) pursuant to section 5(b) of this Act.

(c) OTHER REQUIREMENTS.—The plan required by subsection (a) of this section shall—

(1) provide for the Minnesota Valley Trail Corridor, authorized by Minnesota Statute, 1969, section 85.198, as an integral part of the Minnesota Valley National Wildlife Refuge and the adjacent wildlife recreation area; and

(2) contain such other provisions relating to public use, law enforcement, wildlife conservation, environmental education and interpretation, and other matters as the Secretary and the State deem necessary to preserve, protect, and enhance the refuge-recreation area and to carry out the purposes of this Act.

FINANCIAL ASSISTANCE

SEC. 7. (a) GRANTS.—The Secretary shall provide sufficient financial assistance to the State to enable it to acquire and develop lands, waters, and interests therein in the wildlife recreation area. A grant made under this section shall only be used with respect to lands, waters, and interests therein which are acquired by the State after the establishment of the wildlife recreation area. The Secretary may reimburse the State for lands, waters, and interests therein which are acquired prior to the establishment of the wildlife recreation area if such lands, waters, and interests therein are contained within the area at the time of its establishment. Such grants shall be subject to such other terms and conditions as may be prescribed by the Secretary. Any grants made from the Land and Water Conservation Fund shall be subject to the provisions of section 6 of the Land and Water Conservation Fund Act, as amended (16 U.S.C. 460 l-8).

(b) LIMITATIONS.—Any payment made by the Secretary under this section shall be subject to the following condition: The conversion, use, or disposal of any lands, waters, and interests therein which are required by the State, directly or indirectly, with Federal financial assistance provided under this section, for purposes contrary to the purposes of this Act (as determined by the Secretary), shall create in the United States a right to compensation from the State in an amount equal to the fair market value of the land at the time of conversion, use or disposal, or an amount equal to the Federal payment for acquisition and development of the land, whichever is greater.

SPOIL SITES

SEC. 8. The Secretary and the United States Corps of Engineers shall assist appropriate local authorities in the disposal of dredge material and in the designation of sites for deposit of dredge material, so as to minimize the disruption of wildlife and the reduction of scenic and recreational values and so as to assure the continuation of navigation on the riverway. The Secretary may acquire such alternative sites, outside the boundary of the refuge-recreation area, as may be necessary, in exchange for sites existing in the area on the date of enactment of this Act. The value of any properties so exchanged shall be approximately equal as determined by the Secretary or, if not, such value shall be equalized by the payment of cash, to the owners of the property within the refuge-recreation area or to the Secretary, as the circumstances require. The Secretary is authorized to expend not more than 20 per centum of the funds appropriated for acquisition of the refuge under section 10(a) of this Act to assist in the disposal of dredge material and to purchase alternative sites for deposit of dredge material as may be necessary outside the boundaries of the refuge and recreation area.

CONTINUED PUBLIC SERVICES

SEC. 9. Nothing contained in this Act shall be construed as prohibiting or preventing the provision of vital public services, including—

(1) the continuation of commercial navigation in the main navigation channel of the Minnesota River which lies within the refuge-recreation area;

(2) the construction, improvement, and replacement of highways and bridges, whether or not the highway is a Federal-aid highway; or

(3) any other activity which the Secretary determines to be necessary;

if the provision of such services is otherwise in accordance with law. Any activity referred to in this section shall be carried out so as to minimize the disruption of the wildlife and the reduction of recreational and scenic values of the area, consistent with economic feasibility.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 10. (a) ACQUISITION.—There are authorized to be appropriated such amounts as may be necessary for acquisition of lands, waters, and interests therein in the refuge-recreation area, pursuant to sections 4(b)(1) and (7)(a) of this Act, except that such sums shall not exceed a total of $14,500,000 for the period beginning October 1, 1977, and ending September 30, 1983.

(b) DEVELOPMENT.—There are authorized to be appropriated such amounts as may be necessary for the development of the refuge-recreation area, except that such sums shall not exceed $6,000,000 for the period beginning October 1, 1977, and ending September 30, 1986. Not more than $500,000 of such sums shall be used for the development of the comprehensive plan pursuant to section 6 of this Act.

The **SPEAKER**. Is a second demanded?

Mr. **RUPPE**. Mr. Speaker, I demand a second.

The **SPEAKER**. Is the gentleman from Michigan opposed to the bill?

Mr. **RUPPE**. Mr. Speaker, I support the legislation.

Mr. ROUSSELOT. Mr. Speaker, I am opposed to the bill, and I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentlewoman from Missouri (Mrs. SULLIVAN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Nation has experienced a revitalization of interest in our outdoor natural resources. Reports this Bicentennial Year of record-breaking attendance in our national parks and refuges only demonstrates the growing appreciation of Americans for the natural beauty with which this land has been blessed. Thus, we must be continually mindful of these assets which we hold in trust for generations to come.

Accordingly, Mr. Speaker, we must always endeavor to commit our limited resources to those areas which require our immediate attention and priority. The bill before us today, H.R. 13374, represents such a case.

The proposed Minnesota River Valley Refuge and associate recreational area lies directly adjacent to the metropolitan Minneapolis-St. Paul area. The Lower Minnesota River Valley is a unique environmental resource which provides extensive wildlife habitat in an urban setting with nearly two million people within a 30 minute drive.

Its extensive marshlands are especially noted for their large populations of waterfowl which use them as production, migration and wintering grounds. At one time or another, 24 species of waterfowl have been recorded on the marshes along with 250 other species of birds. Over 600 deer have been counted during the winter along this 30-mile stretch of river. The river valley has value to those who hunt or fish or simply enjoy wildlife. It also has value for scientific and environmental education study purposes. It provides open space; it functions as a natural system for handling flood waters; and it has high historical value for the citizens of Minnesota.

This resource is in constant danger of destruction. Annually, new plans come forth that describe the modification of this natural habitat for commercial gain. Without protection, economic development of the lower Minnesota River floodplain would occur in two major forms—river navigation development in the floodway and nonwater-oriented commercial/industrial development in the floodplain.

Cognizant of these potential threats, a local citizens group has been responsible for initiating this important legislation. Mr. Speaker, I urge the Members to act favorably on this much needed legislation.

Mr. ROUSSELOT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman from California for yielding.

Mr. Speaker, the purpose of H.R. 13374 is rather straightforward. It simply acts to preserve the natural beauty of the Lower Minnesota River Valley through the creation of a national wildlife refuge, and an adjacent wildlife recreation area. It specifically directs the Secretary of the Interior to establish and administer, through the Fish and Wildlife Service, a 9,500-acre wildlife refuge and to complete this acquisition within 6 years. It further authorizes the establishment of a wildlife recreation area, covering approximately 17,500 acres, adjacent to the refuge. That is a pretty dry description for an exciting idea.

The acreage included in this proposal will be unique among existing refuge and recreation areas. It has, of course, a great plenitude of marshy and wooded plant varieties and animal species, but its uniqueness is in its location. It is located just a few minutes from the heart of downtown Minneapolis and within easy driving distance for over 2 million residents within the surrounding 7-county area. There are other refuges in urban settings, but this would be the refuge with ready accessibility to the largest numbers of urban residents.

Local residents and the State of Minnesota have been actively laboring to preserve this resource for many years. As far back as 1934 the State administration endorsed a 42,000-acre, 24.6-mile-long hiking and riding trail. The first of several concrete steps taken toward preservation occurred in 1969 when the legislature began authorizations for a similarly conceived multiple-use trail. Total funding for that purpose has already exceeded $2 million. These actions by the State have been accompanied by heavy citizen support. Citizens and community groups along with the various municipalities and counties have been extremely active and productive in developing the final proposal before us.

The river valley has obvious value to those who hunt and fish or simply enjoy wandering in a virtually unspoiled area. However, it has also established its value for scientific research and as an environmental education center. This legislation would increase the magnitude of those contributions. Along with its open space significance is its natural function as a flood plain. This factor, in light of the normal runoff from Minnesota winters, cannot be easily discounted.

Accompanying the scenic, recreational, wildlife, and flood control benefits is its significant historical importance to the State of Minnesota. The preservation of this area would handsomely complement the existing Fort Snelling State Park and surrounding area of interest.

The bill itself seems to accurately reflect the citizen and State concerns which were well voiced at numerous meetings, factfinding gatherings, and at a series of hearings held by both the Senate committee and our Subcommittee on Fisheries, Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. Here, Mr. Speaker, I want to compliment especially, the chairman of the subcommittee, Mr. LEGGETT, for his careful and thoughtful handling of the bill, and for the time he spent in coming to Minnesota to study this question closely.

The last 16 miles of the river bordering the proposed area are channelized to 9 feet. Frequent barge trips feed extensive agricultural and power supply needs both up and down river to the powerplant and grain terminals historically located along a 5-mile stretch. The bill takes these factors into account and provides assistance to local authorities in both the designation of dredge sites and the ultimate disposal of dredged material. It goes on to further authorize the acquisition of sites outside the refuge itself where they are required.

Metropolitan growth on either side of the river valley is still continuing at a fairly rapid pace; consequently, the bill incorporates provisions to meet those needs. The bill specifically provides for the continuation of vital public services as consistent with our stated goal of minimum disruption of wildlife and recreational values. These services include possible bridges, highways, and power transmission lines.

The bill seems to meet our local needs more than adequately. Its provisions for local and State cooperation and future growth have been well received. However, the Department of the Interior, as noted in the committee report, opposes the enactment of the bill on the grounds that the recreation proposal can be more appropriately conducted under existing Lawcon authorities, and that the refurge should be accomplished by the use of the migratory bird conservation fund. These objections strike me as missing the point by a mile. In the first place the local share of migratory bird funding is stretched far beyond any ability to finance the project, and unfortunately Lawcon funds have not been used in this manner since the inception of the program. Of even greater importance is the fact that the area is being established and protected as a unified package. Its purposes will be preserved as a whole not considered in a piecemeal fashion.

Mr. Speaker, this is an area which has been attractive to wildlife. This bill seeks to protect the area so we will have in what is essentially an urban state an available, but ready access to more than 2 million people, to preserve a wildlife refuge. Absent the passage of this bill, it is likely that this area will be used for rather rapid commercial, industrial, and residential development and that the many species of animals, fish and wild fowl that frequent and breed in the area will eventually be forced from the area.

It is supported by State, local governments, local residents, and interested groups. It is a terribly important bill for the residents of my district, who have for years understood the importance of the area as a wildlife refuge. These people have worked on the area in private projects for many years, attempting to maintain small refuges, particularly to increase the wild fowl flocks that frequent the area. They have requested that the Federal Government carry out its small share in the construction of this refuge. The refuge is supported by all of the local elements, including those industries which share the use of the Minnesota River Valley.

Mr. Speaker, we have put together a bill in which we have tried to accommodate the refuge to existing industry in the valley and the residents. It seems to me that the committee, its subcommittee chairman, Mr. LEGGETT, and the author of the bill, my colleague, the gentleman from Minnesota (Mr. OBERSTAR), deserve great praise for putting together what I think is a balanced bill, which shows neutrality toward the existing activities within the valley, and yet a heavy degree of protection for these wild fowl, the fish and the animals that inhabit the valley.

Mr. Speaker, I hope that the Members of this House will pass this bill, because I think it is terribly important that we pass it now and get the protection for this refuge before development begins to take over the valley and make it impossible. This is not something which will be quite as good, even if we should pass the bill next year. We have to do it immediately.

Mr. Speaker, I urge support for H.R. 13374.

Mrs. SULLIVAN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR) who authored this bill.

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to commend the chairman of the full committee for her concern and interest in the legislation and support of it; the chairman of our subcommittee, the gentleman from California (Mr. LEGGETT), for his splendid work coming out to Minnesota, giving up his own time to conduct hearings on the spot and make a tour of the wildlife refuge area.

I also want to commend my two colleagues from Minnesota, Messrs. FRENZEL and HAGEDORN. They are the ones who really did the groundwork in putting together the basic draft of this legislation, working with the local interests within their own districts and reconciling the conflicting views of the use to which that area should be put.

This is, as the gentleman from Minnesota (Mr. FRENZEL) earlier stated, an honest and deliberate effort to reach a compromise in the use of the area, and I think it is a successful one. We have reasonably balanced the interests of industry and the local residents, as well as the natural resources, combining them into a program that will be unique in the country; the only wildlife refuge anywhere in the United States near a major metropolitan center, within half an hour driving reach of nearly 2 million people in the State of Minnesota.

Mr. Speaker, the people of Minnesota have worked long and hard for the creation of the Minnesota Valley National Wildlife Refuge. Congress will today take an important step toward establishing the refuge.

The Minnesota River Valley contains some of the finest wetland areas remaining in the State of Minnesota. H.R. 13374 will preserve 17,500 acres of that scarce land for posterity. It will create a 9,500-acre national wildlife refuge, and an 8,000-acre multiple-use recreation area.

H.R. 13374 authorizes a total of $20.5 million to be spent over a 9-year period. The $14.5 million earmarked for acquisition of lands is to be spent between fiscal years 1978 and 1983. The remaining $6 million for development of the refuge/recreation area will be spent between fiscal years 1978 and 1986.

The Minnesota Valley National Wildlife Refuge will truly be unique. It will be the first unit of the national wildlife system located so close to a major metropolitan area that it is within a half hour drive for approximately 2 million people.

The Minnesota Valley National Wildlife Refuge will benefit not only the residents of the Twin Cities area; it is a treasure that will be enjoyed by the whole State of Minnesota, and the Nation. And it is a tribute to those who would protect wildlife and other natural resources.

An interesting feature of this refuge proposal is the recommendation to establish a recreation area along with it on the same land. This arrangement will, in my view, offer the widest possible benefits not only to wildlife, but to the surrounding communities and visitors to the area as well. The primary purpose of the refuge proposal is to protect the unspoiled wildlife habitat along the Minnesota River, and the preservation of waterfowl, fish, and other wildlife resources. But it will also make important contributions to environmental education, recreation, and scientific research.

Visitors will be able to learn about wildlife production and maintenance with the use of observation blinds, elevated platforms, and interpretational aids. The refuge, because it is close to the University of Minnesota and other research- and education-oriented institutions, will prove to be a valuable wildlife laboratory as well. Fishing, and perhaps limited waterfowl hunting are other activities envisioned for the refuge/recreation area.

Mr. Speaker, over 275 species of waterfowl and other birds have been identified in the nearly 10,000 acres that will become the Minnesota Valley National Wildlife Refuge. Approximately 100 species nest locally including wood ducks, mallards, teal, and shovelers. Other waterfowl that use the area include scaup, canvasbacks, coots, black ducks, goldeneyes, and whistling swans. The development of the refuge will encourage use of the area by Canada geese. Many species of wildlife, including deer and furbearing animals, are already abundant in the refuge area.

The protection of these species, the preservation of unspoiled prairie and wetlands in the Minnesota River Valley, and the educational, research, and recreation benefits of the refuge more than justify the investment that will be made to create it.

Those property owners whose land will constitute the refuge/recreation area, and the other citizens who have worked so hard and diligently in support of this worthwhile goal, deserve praise for their foresight and their determination to see the Minnesota River Valley Wildlife Refuge become a reality.

I think it is a good program. We have worked hard to produce a reasonable piece of legislation which does meet the interests of all the parties involved, and I strongly urge its passage.

Mr. ROUSSELOT. Mr. Speaker, I yield 3 minutes to my distinguished colleague from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I thank the gentleman from California (Mr. ROUSSELOT) and appreciate his yielding to me.

Mr. Speaker, I would like to commend the entire Merchant Marine and Fisheries Committee for their work in producing this bill, especially the distinguished gentleman from my own State (Mr. OBERSTAR). The Minnesota Valley National Wildlife Refuge and Recreation Area is an extremely innovative project which will bring the experience of the wilderness close to the more than 2 million people of the Lower Minnesota River Valley.

The Minnesota Valley is a unique environmental resource comprised of a series of flood-plain marshes along the Minnesota River. It is a rare combination of beauty and diversity of wildlife, which also serves the important function of a flood plain. It is rich in vegetation, rich in its variety of small waterfowl and mammals, rich in its remnants of Minnesota history, and rich in the type of pristine, open space occasionally needed by all individuals in search of solitude. The valley offers invaluable resources for the naturalist, the sportsman, the hiker, the biker, the picnicker, and those who simply want to "get away from it all." Enhancing its value is the truly urban character of the surrounding area—Minneapolis-St. Paul—and the fact that the valley is the last remaining wildlife habitat in the Hennepin County area.

Apart from its unusual status as a genuinely urban refuge, the Minnesota Valley Wildlife Refuge and Recreation Area is also unusual in the nature of its administration. The Interior Department has indicated that it knows of no other area which combines the sort of combined Federal, State, and local management that is proposed here. The 9,500-acre four-unit wildlife refuge would be acquired and managed primarily by the Fish and Wildlife Service in the same manner.

Another 8,000 acres would compose an adjacent "recreation area" to be purchased and managed primarily by State and local governments in cooperation with the Federal Government. H.R. 13374 provides for Federal matching payments to purchase the approximately 4,500 acres in the recreation area not already under public ownership.

In conjunction, the wildlife refuge and

the recreation area should afford the administrative flexibility to develop the entire region into a showcase in which a broad range of environmental and educational goals can be pursued.

I am just as concerned, however, that a balance be struck between these and equally important commercial, navigational, and developmental goals. These are all important social objectives and should not be subordinated before those of wildlife management and environmental protection. I believe that H.R. 13374 strikes the proper balance. To assist in the continued navigation of the river, important in bringing commodities to market, the Fish and Wildlife Service is instructed to assist State and local authorities in the determination of spoil deposit sites.

Furthermore, it is stated explicitly that the refuge shall not be construed to prevent the provision of vital public services to the surrounding communities, including the construction, improvement, and replacement of highways and bridges. This language frees the Department of the Interior from the inflexible prohibitions against development which would normally exist within a refuge area. All that is demanded of such development is that it be carried out with "minimum necessary" environmental disruption.

I might state that without the inclusion of this language, this bill would have been unacceptable to both myself and, I believe, the gentleman from Minnesota (Mr. FRENZEL). All that is demanded of such development is that it be carried out with minimum necessary environmental disruption.

While I recognize the litigative possibilities for obstruction that always exist with new legislation, I believe that the statutory language is clear here. In particular, this bill imposes no new obstacles to the proposed Cedar Avenue Bridge crossing. Nor does it interfere with the utility needs of the surrounding area.

Mrs. SULLIVAN. Mr. Speaker, I yield such time as he may require to the distinguished chairman of the Subcommittee on Fish and Wildlife, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 13374. This legislation is intended to preserve and enhance wildlife habitat of migratory waterfowl, fish, and other wildlife species in the Lower Minnesota River Valley, and to provide wildlife recreational opportunities including environmental education and interpretive programs through the establishment of the Minnesota Valley National Wildlife Refuge and an adjacent wildlife recreation area.

In accordance with this purpose, the legislation would authorize and direct the Secretary of the Interior to establish and administer, through the U.S. Fish and Wildlife Service, a wildlife refuge of approximately 9,500 acres in the Lower Minnesota River Valley and to acquire such lands within 6 years. The Secretary is also authorized to establish adjacent to the refuge and in cooperation with the State of Minnesota and its political subdivisions a wildlife recreation area of approximately 8,000 acres. Lands within the recreation area are to be acquired and administered by the State and units of local government in cooperation with the U.S. Fish and Wildlife Service. The Secretary is authorized to grant financial assistance to the State for acquisition of the recreation area lands. The legislation authorizes the appropriation of $14½ million for acquisition of the refuge and wildlife recreation area and $6 million for development beginning in fiscal year 1978.

The impetus for the legislation was generated approximately 2 years ago when the Lower Minnesota River Valley Citizens' Committee, composed of Valley residents and other interested persons, requested the U.S. Fish and Wildlife Service to study the feasibility of preserving the area through the creation of a national wildlife refuge. In its report entitled "A Wildlife Resource in an Urban Environment," the Service outlined the river valley's potential as a wildlife refuge. The study noted that the area could be managed to produce important species of ducks, including mallards, wood ducks, and blue-winged teal as well as to restore area populations of other birds, like the trumpeter swan. Another important use of the proposed refuge would be for maintenance of waterfowl during spring and fall migrations. In this regard, the area could serve to improve the distribution of central Minnesota's large Canadian goose population. The study also noted that the area's unique urban location made it particularly suitable for use in environmental education and recreation program, as well as in scientific research studies related to monitoring, preserving and improving the natural environment. The report concluded that establishment of a refuge was warranted.

In addition to its importance for preserving the wildlife and other values of the lower Minnesota River Valley, this bill is significant for two other reasons. First, it provides for the direct involvement of the State and local communities in the development and administration of the refuge. Second, the bill establishes an urban wildlife refuge, of which there are presently only seven.

Numerous witnesses representing the Federal, State, and local governments, land owners and interested citizens appeared at our hearings in Minnesota and all testified in favor of this legislation; although concern was expressed by several local residents regarding the maintenance of vital public services in the area.

Mr. Speaker, the Senate is prepared to act on an identical bill at this time. Therefore, I urge the immediate enactment of this important legislation.

Mr. ROUSSELOT. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise to join with my distinguished colleagues in supporting the creation of the Minnesota River Valley National Wildlife Refuge.

During the hearing on H.R. 13374, it became all too clear that without the adoption of this legislation, about half of the wetland areas in the proposed refuge would be lost to industrial development in the next 10 years.

Such a loss, Mr. Speaker, would be tragic. The wetlands of the Minnesota River Valley serve as a unique habitat and breeding ground for over 275 species of birds, including thousands of ducks and other waterfowl. In fact, nearly twice as many ducks are produced to flight stage in these wetlands than in any other areas in proximity to the Minnesota River Valley.

In addition to these waterfowl, the proposed refuge is the home of beavers, muskrats, minks, raccoons, gray and red foxes, and white-tailed deer. If the wetlands of the Minnesota River Valley are destroyed by commercial and industrial development, many of these species will suffer. For example, it is estimated that the destruction of the wetlands could reduce by 25 percent the more than 600 deer who spend their winters in this area.

Furthermore, the wetlands of the Minnesota River Valley serve as a natural flood plain storing excess runoff water. Without these areas, elaborate and expensive control facilities could be required.

In addition to these benefits, the proposed refuge offers enormous opportunities for human enjoyment. This area represents a unique educational resource which will provide an urban wildlife area for bird watching, photography, hunting, fishing, and nature study.

Mr. Speaker, it is clear that the proposed Minnesota River Valley National Wildlife Refuge will benefit regional wildlife through the preservation and protection of important wetland areas. It is equally obvious that the nearly 2 million people living in the vicinity of the refuge will profit from the adoption of this legislation. To accomplish these purposes, I urge the adoption of H.R. 13374.

Mr. ROUSSELOT. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the committee, the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, when the first settlers came to America, they found a land which was blessed with 127 million acres of valuable wetlands. By 1955, wetland areas had decreased by over 50 million acres. This decline has continued in the past 20 years and current wetland areas are now just 55 percent of their original size. Clearly, steps must be taken to reverse this trend.

The importance of wetland areas to the Nation is without question. These lands serve as natural floodplains, thereby reducing the need for public flood control projects; they are natural water purifiers, removing toxic materials from streams in the marsh and adding oxygen to the water; and they are highly valued for stimulating waterfowl production and providing habitat for many forms of wildlife. Furthermore, visitors to treasured areas such as the proposed Minnesota River Valley National Wildlife Refuge can observe and enjoy wildlife through facilities and programs specifically designed for that purpose.

Without the creation of the Minnesota River Valley National Wildlife Refuge, the delicate ecosystem of the lower Minnesota River floodplain will probably be destroyed by river navigation and industrial projects. In fact, it is estimated that, without this legislation, approximately 50 percent of the floodplain will fall prey to development.

Among the consequences of this development are adverse impacts in two areas—the direct loss of fish and wildlife populations, and the loss of recreational opportunities. Numerous species—including mallards, black ducks, Canada geese, herons, white-tailed deer, muskrats, minks, beavers, carp, shad, and catfish—will be reduced in this region if the Minnesota Valley National Wildlife Refuge remains unrealized. The benefits of the proposed 17,500-acre refuge and recreation area to regional fish and wildlife, as well as to 2 million neighboring citizens, are clear. In light of these benefits, Mr. Speaker, I urge the adoption of H.R. 13374.

Mr. ROUSSELOT. Mr. Speaker, as the Members know, the Department of the Interior has some substantial reservations about this legislation (H.R. 13374) as to its actual need. I would like to quote from a letter from our former colleague, who is now in the Interior Department, Mr. Kyl. Mr. Kyl says:

> This Department opposes the enactment of these bills for the following reasons: (1) the refuge portion of this proposal can be acquired by the Fish and Wildlife Service under present legislative authority with funds for the Migratory Bird Conservation Funds; and (2) the acquisition of the recreation portion of the proposal can be more appropriately conducted under the existing legislative authority of the Land and Water Conservation Fund program.

Mr. Speaker, I wonder if the gentlewoman from Missouri or my distinguished colleague, the gentleman from California (Mr. LEGGETT), would wish to comment on what appear to me to be reasonable objections to this bill.

Mr. LEGGETT. If the gentleman will yield, I think the gentleman makes a good point. The administration did make objection to this legislation when our colleague (Mr. MONDALE) was urging acceleration of these hearings some months ago, over in the other body.

Mr. ROUSSELOT. The gentleman is referring to the Senator from Minnesota, also a candidate for Vice President?

Mr. LEGGETT. Yes. The gentleman knows the one.

But as the gentleman knows, as was brought out in hearing before my committee this morning, there has been a rather monumental change in game plan by the administration and what they have desired to do is to take the land.

Mr. ROUSSELOT. If I may interrupt, could the gentleman tell us what the change of game plan is?

Mr. LEGGETT. Yes. The change in game plan started, I believe, with Yellowstone National Park here a few weeks ago, when the President of the United States decided that really the efforts to curtail refuges and curtail recreation areas and curtail national parks, which had been the policy in cutting the budget as submitted by the Department of the Interior earlier this year, was no longer valid and, as a result, that all has been changed.

Mr. ROUSSELOT. If I may interrupt the gentleman at that point, my understanding is that that was a general policy decision but it did not necessarily apply to the particular land in Minnesota, is that correct?

Mr. LEGGETT. My counsel tells me that this was included.

Mr. ROUSSELOT. Mr. Speaker, that is not the message we are getting from the President or the White House staff.

Mr. LEGGETT. Mr. Speaker, the point is that the gentleman talks about projects being already authorized. All of the $700 million, relating to projects on which we are prepared to act and about which we heard in my committee this morning, has already been authorized.

The administration has plenty of authority to act, but the administration wants it very indelibly laid out that it has changed the program. Nat Reed and some of those folks over in Interior now want to come out fully in support of this, and as a result these programs are now fully supported. I am sure if the gentleman will go back and check with the administration, he will find this program does have the support of the administration.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments. That is not the signal we get from the Interior Department or the White House. We do not get the signal that this particular project was included or needed on the basis of the policy of which the gentleman speaks. However, we will check again and try to get the word before we complete this consideration.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. Mr. Speaker, I promised to yield first to my distinguished colleague, the gentleman from Idaho (Mr. SYMMS). He has a comment he wishes to make.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to ask this question of the gentleman from California (Mr. LEGGETT): This money, I take it, is not, then, coming out of the duck stamp fund?

Mr. LEGGETT. Mr. Speaker, if the gentleman from California will yield, that is my understanding.

Mr. SYMMS. Referring to this $20 million, then, where do we get it?

Mr. LEGGETT. The money would be appropriated in the budget for next year and for 1978.

Mr. SYMMS. It is not in the budget?

Mr. LEGGETT. It is not in the budget for 1977.

Mr. ROUSSELOT. Mr. Speaker, did I understand the gentleman to say that it is not in the budget?

Mr. LEGGETT. I will ask the gentleman to listen to me carefully. It is not in the budget for 1977. It will be in the budget for 1978, and I was assured today by Assistant Secretary Reed that in spite of the fact that he had not had approval from OMB, the administration or a successor administration would be submitting a revised budget for fiscal year 1977 and for 1978 which would come forth in January.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman from Idaho (Mr. SYMMS) has raised a good point. If it is not in the budget for 1977, what is the rush? We do not need the legislation today under a suspension procedure?

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will yield in just a minute. First let me say this:

The gentleman from Washington (Mr. ADAMS) was just in the well early in today's session saying that he will oppose anything that is not in the budget for 1977, and I think he is performing his function correctly as the chairman of the Committee on the Budget.

Now, the second question is: If it is not in the 1977 budget, what is the big rush? I know that our good colleague from the other body is in a hurry to become Vice President, but what does that have to do with our present needs?

Mr. Kyl has said very clearly in a letter that is in the report that this is not needed, that it is not needed legislatively, and that the actions that need to be taken can be taken without this bill.

Again, Mr. Speaker, I say we are rushing this through unnecessarily.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague, the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, we have had the question answered and have been told that this money will be appropriated and will not come from duck stamps. My question now is this:

Did Ducks Unlimited testify on this bill, and if so, what was the position of Ducks Unlimited? I am referring to that great private enterprise operation which has done so much in this country for the conservation of wetlands as duck breeding grounds.

Mr. ROUSSELOT. Does any Member want to answer that question, any Member who is knowledgeable?

Mr. LEGGETT. Yes. Mr. Speaker, if the gentleman will yield, $14 million of the $20.5 million will come from the land and water conservation fund. The balance would be appropriated.

Mr. SYMMS. The amount from the land and water conservation fund, is that appropriated money?

Mr. LEGGETT. No; that is duck stamp money. It is a separate fund.

Ducks Unlimited, as I recall, has not testified on this project. I am sure they are fully for it.

Mr. SYMMS. Mr. Speaker, has the committee ever seen any comparison of projects like this one funded by the Government as opposed to private projects like those of Ducks Unlimited so that we could see which is the most effective and which does the better job in the conservation of wetlands as breeding grounds for ducks?

Mr. LEGGETT. Mr. Speaker, we have traveled up to Saskatoon, and we have been in several places in Saskatchewan. We have found that they are doing some very good work there. They are spending their money up there, and, very frankly, they can use a hundred percent more capability. If the gentleman is interested in Ducks Unlimited, I think it would be wise for him to make a recruitment effort for them.

Ducks Unlimited has plenty of places where they can use money outside the country today to promote more breeding grounds, rather than spending their money in the State of Minnesota on a project like this. This is a hybridized project. It has full local and State support, and we are putting the burden on everybody.

Mr. SYMMS. Mr. Speaker, I thank the gentleman very much.

I would just say, Mr. Speaker, that as a duck hunter, I am interested in conservation of the duck breeding grounds.

I am wondering about one other question which the gentleman from Michigan mentioned, and that was development of the property. We are talking about ducks and beavers and so forth compared to people.

What kind of development is being pursued in this area, and what is the job factor?

Mr. ROUSSELOT. Mr. Speaker, does the gentleman mean for people?

Mr. SYMMS. Right. If the gentleman from Michigan could answer that, what is the situation with respect to unemployment in this area of Minnesota? How many jobs would be provided if we did not allow some of the duck development in connection with the game preserve? What are we giving away?

Mr. Speaker, I would just like to know, before we vote on this what we are giving away. How much of the environment are we going to be giving away for people who need jobs?

Mr. ROUSSELOT. Mr. Speaker, I will answer the gentleman.

It is 17,000 acres in which we will preserve all the beavers and the bushes and almost everything there that moves or grows. All 17,000 acres are taken over by the Federal Government and an individual literally has to have permission of the Federal Government to remove a small bush. Some people like that.

Mr. RUPPE. Mr. Speaker, I would like to state that this buffer zone is in the district of the gentleman from Minnesota (Mr. OBERSTAR) and in that of the gentleman from Minnesota (Mr. HAGEDORN), not in mine.

They said that they think it is good for this area and good for the State of Minnesota.

Mr. SYMMS. We found the inequities between the industrialists and the other folks with respect to the ducks and so on.

Mr. Speaker, if I can get this picture straight, we are going to confiscate $20 million from private enterprise or private citizens and then use it to buy land, 17,000 acres, which will interfere with the private industrial expansion in that area. Therefore, we are taking money away from them now, and we are not going to let them progress to pay for more Government programs.

Mr. Speaker, I just want to get this straight so that I know what I am voting on.

Mr. LEGGETT. All right. I would just say this: If one flies over this area, what he finds essentially is a lot of wasteland in this Minnesota River Valley area. They have improved it with a few entertainment programs. They have a coal-energy producing facility, but it is an area that has remained dormant due to the fact that it is not high-value land.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments.

I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I would like to ask a question of the gentleman from California (Mr. LEGGETT).

With respect to the $24 million or $25 million, where is this money to come from?

Mr. LEGGETT. Mr. Speaker, $14 million would come from the land and water conservation fund. The other $6.5 million would come from general appropriations.

Mr. GOLDWATER. With regard to the $14 million from the land and water conservation fund, is that in addition to the entire amount that would be received by the State of Minnesota?

Mr. LEGGETT. Mr. Speaker, would the gentleman restate the question.

Mr. GOLDWATER. The answer is no, so that that money comes out of the entitlement for the State of Minnesota?

Mr. LEGGETT. That is my understanding.

Mr. GOLDWATER. In essence, the programs that are requested to be funded under Minnesota's entitlement means that what the gentleman is requesting to do is to get this program up in the forefront, to give it priority; is that correct?

Mr. LEGGETT. It would be given priority by the State of Minnesota.

Mr. Speaker, let me review the entire letter of Mr. KYL, so my colleagues may be aware of his concerns:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 29, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This responds to the request of your Committee for the views of this Department on HR 11323, a bill "To provide for the establishment of the Minnesota Valley Wildlife Recreation Area", and HR 13374, a bill "To establish the Minnesota River Valley National Wildlife Refuge, and for other purposes." Your Committee also has before it H.R. 12310 which is identical to H.R. 11323 and H.R. 13263 which is identical to H.R. 13374.

We recommend against the enactment of these bills.

H.R. 11323 and H.R. 12310 would establish a national wildlife refuge consisting of approximately 9,500 acres along the lower stretches of the Minnesota River between Carver and Fort Snelling. These bills authorize establishment of a State and locally administered recreation area consisting of approximately 8,000 acres which would be preserved by donation, easements or acquisition with Land and Water Conservation Fund Act money. The refuge established by these bills, if enacted, would be managed in concert with other natural resource units in the river valley that are or will be managed by the State or local governmental organizations.

H.R. 13263 and H.R. 13374 authorize the establishment of a 9,500 acre national wildlife refuge along the lower stretches of the Minnesota River between Carver and Fort Snelling. The Secretary is directed, in cooperation with the State of Minnesota, to develop within three years a comprehensive plan for protection, preservation and interpretation of the refuge. Specific direction is provided in these bills to assure continued maintenance of the river for navigation and the construction of roads, bridges and other public services. An authorization of $14.5 million for the period October 1, 1978, through September 30, 1983, is provided for land acquisition. $20 million are provided for development for the period October 1, 1978, through June 30, 1986. Not more than $500,000 of this sum is to be used for development of a comprehensive plan.

This Department opposes the enactment of these bills for the following reasons: (1) the refuge portion of this proposal can be acquired by the Fish and Wildlife Service under present legislative authority with funds for the Migratory Bird Conservation Fund; and (2) the acquisition of the recreation portion of the proposal can be more appropriately conducted under the existing legislative authority of the Land and Water Conservation Fund program.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerly yours,

JOHN H. KYL,
Assistant Secretary of the Interior.

Mr. GOLDWATER. Mr. Speaker, I have one other question: Does this have the OK or the backing of the State of Minnesota and the various conservation and wildlife government agencies in the State?

Mr. LEGGETT. To answer that, Mr. Speaker, we held hearings in the capitol or I think the county building of the State of Minnesota, the highest building in town. We had virtually every officer of the State of Minnesota, every officer of the Wildlife Service in the whole State, all of the industrialists, and everybody there was in support of this refuge, including the gentleman's colleagues sitting behind him.

Mr. GOLDWATER, Mr. Speaker, I thank the gentleman.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield for a quick colloquy?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I thank the gentleman for yielding.

First, since passage of this bill by the full Merchant Marine and Fisheries Committee, it has been called to my attention that the official map upon which the wildlife refuge and recreation area is based included, inadvertently, approximately 150 acres of lands not intended by anyone for inclusion. I am referring here specifically to those lands east of the following eastern boundary description:

> Everything East of the West ½ of Section 6 and Section 7, Township 27 North Range 21 West, Scott County, Minnesota.

What discretion is there in the Fish and Wildlife Service to alter the boundaries formally contained in the official map with respect to this and other possible future errors?

I want to make it part of the record so that it will be included when the Fish and Wildlife Division establishes the boundaries.

Mr. OBERSTAR. The gentleman brings up a valid point. This is one of those minor boundary errors that can be corrected without the need for additional legislation. There is discretion for Fish and Wildlife to make changes. Nothing in the bill restricts them to those precise boundaries in the act. As I say, we have enough discretion in the act to make the changes later on.

Mr. HAGEDORN. My second question is that section 9, paragraph 2, refers to the construction, improvement, and replacement of highways and bridges. Would the term "maintenance" be subsumed under the term "improvement" in this section?

Mr. OBERSTAR. It is included in the concept of "improvement"; maintenance is certainly permitted on the existing bridge or any new bridge if and when it is built.

Mr. HAGEDORN. My next question: Are there any provisions for the treatment of commercial navigation in other than the main navigational channel of the Minnesota River which are, nevertheless, used for commercial navigation, or could be used?

Mr. OBERSTAR. I would advise the gentleman from Minnesota that section 9, subsection (3) provides that:

> Nothing contained in this Act shall be construed as prohibiting or preventing the provision of vital public services, including—

And we certainly do include and intend to include in there river navigation which is vitally important for industry and agriculture in the gentleman's district and farther downstream. That certainly is the intention of this legislation; we definitely intend to allow that vital transportation means to continue.

Mr. HAGEDORN. I thank the gentleman.

Mr. RUPPE. Mr. Speaker, if the gentleman will yield, it is my understanding that the bill does permit the administration to get additional appropriated funds for the acquisition of this property because the State of Minnesota only receives about $3 million from the land and water conservation fund, and the duck stamp moneys are not a tremendous amount of money to Minnesota. This legislation would permit the administrator or the secretary to go out for additional appropriated funds beyond the land and water conservation funds and duck stamp fund moneys, so additional moneys could be secured within a short period of time and this wildlife refuge not lost to industrial development.

Mr. OBERSTAR. That is right. We hope to have additional moneys available to preserve this unique area. That also responds to the question of the gentleman from California (Mr. Rousselot) who was asking why we needed to proceed so rapidly with this program. If we were to have the Secretary of the Interior try to proceed under the Migratory Waterfowl Act, it would take years and years. This way we will be able to move ahead speedily with the arrangements that need to be made.

Mr. RUPPE. It is important to know that the duck stamp fund money and the land and water conservation funds are not adequate to permit us to have sufficient funds to do the necessary land acquisition if those moneys alone were to be utilized.

Mr. OBERSTAR. In addition to that, we have pending a land and water conservation bill that is now in conference, I believe, and that should be completed and put into law this year, which will provide additional funds in future years, and this will increase the amount of money available to the State of Minnesota. So we have a program that can move ahead, assuring the people in the area that the wildlife refuge will be established and that the land they are giving up will be developed for the purposes of the refuge and be the asset to the State and the Nation that it should be.

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield there is one more problem when we talk about financing this out of the migratory fowl funds; that is that we cannot, without this bill, have a unified refuge in which there are some other extra activities taking place, which also came under the supervision of Game and Fish, and, of course, the Minnesota Nature Trails is especially taken into consideration. Unless we pass this bill there is no way that we can provide for this refuge. The sooner we do this the more secure the refuge will be.

I thank the gentleman for yielding, and I thank the chairman of the subcommittee for the excellent work he has done.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

We are authorizing $20½ million required for the development of this area. How many acres of land are involved?

Mr. OBERSTAR. There is a total of approximately 17,500 acres to be acquired and put into use in the wildlife refuge and recreational area.

Mr. SKUBITZ. If the gentleman will yield further, may I ask my colleague if we are to acquire this land, and if the payment in lieu of taxes bill is passed, are we then going to be forced to pay 1 percent of the value of this land for the next 5 years and then an acreage tax from there on?

Mr. OBERSTAR. The gentleman knows that wildlife refuges have their own program for payment in lieu of taxes, and the payment in lieu bill that this House passed recently does not apply to wildlife refuge programs.

Mr. SKUBITZ. Will the payment in lieu of taxes bill apply to this land?

Mr. OBERSTAR. No; not to the refuge area.

Mr. SKUBITZ. Is the gentleman quite sure of that?

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I thank the gentleman for yielding.

The gentleman from Minnesota is absolutely right. The payment in lieu of taxes bill does not help. Obviously, the hope is that the gentleman from California (Mr. Leggett), will be willing to schedule and consider this matter.

Mr. OBERSTAR. Just one moment. The gentleman from Kansas misunderstands. There is a separate payment in lieu program that is now in existence that makes payments to wildlife refuges, so that they will receive payments under that program, not additionally under the program just recently passed by the House. They do not get two payments; they get one under the existing payment in lieu program.

Mr. STEIGER of Wisconsin. If the gentleman would yield further, that is correct. The bill that just passed does not help the wildlife refuges. That is the bill the gentleman from Georgia and I have in, and I hope the gentleman from California (Mr. Leggett) will be willing to take that on, because I think it is very worthwhile, meritorious, and absolutely right.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. LEGGETT. I thank the gentleman for yielding.

Early next year we plan to take that up. The gentleman is right.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

The only point I am trying to make is that payment in lieu of taxes bill is going to be a boon-doggle which will rise to haunt this body.

Mrs. SULLIVAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. Sullivan) that the House suspend the rules and pass the bill H.R. 13374, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, of rule XXVII, and the

Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 13374, Minnesota River Valley National Wildlife Refuge.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

ENDANGERED SPECIES COMPENSATION PILOT PROGRAM

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14418) to establish a pilot program to compensate persons who suffer loss or damage from predation by endangered species, as amended.

The Clerk read as follows:

H.R. 14418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that the protection intended to be afforded to endangered and threatened species of wildlife under the Endangered Species Act of 1973 is not as effective as it should be because that Act does not provide for the compensation of persons for loss or damage suffered by them as a result of predation by endangered and threatened species. The Congress further finds that it was not the intent of such Act of 1973 to place the financial burden of protecting endangered and threatened species on farmers, ranchers, and other persons who suffer such loss or damage.

(b) It is the purpose of this Act to establish a limited pilot program in order to test the feasibility of, and to develop equitable and efficient methods for, compensating persons who are adversely affected by predation by endangered and threatened species. The costs of the pilot program, which will be limited to predation by the eastern timber wolf (which is currently listed by the Department of the Interior as an endangered species) in the State of Minnesota, will be shared by the Federal Government and such State.

SEC. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") in cooperation with, and with the assistance of, the Governor of the State of Minnesota (hereinafter in this Act referred to as the "Governor"), or an official designated by the Governor, shall establish a program under which financial compensation may be paid to any person for any loss of, or injury to, any livestock or pet which is owned by such person if the Secretary finds that such loss or injury occurred in the State of Minnestoa and was directly caused by a wild eastern timber wolf during any time in which the wild eastern timber wolf was listed as an endangered species or a threatened species pursuant to the Endangered Species Act of 1973 (hereinafter in this Act referred to as the "Act of 1973"). Such program shall, to the maximum extent practicable, be consistent with the requirements of section 6 of the Act of 1973.

(b) (1) Any person who seeks compensation under this section shall apply therefor in such a manner and form as the Secretary, after consultation with the Governor or his designate, shall by regulation prescribe.

(2) The Secretary shall not take any action with respect to any application made under paragraph (1) unless the applicant submits to the Secretary—

(1) such evidence as the Secretary may require which substantiates the claim that the loss or injury was caused by a wild eastern timber wolf;

(2) an itemization of the number of kinds of animals that were killed or injured; and

(3) such other relevant information as the Secretary may require.

(c) No compensation for any loss or injury shall be made under this section until the Secretary, after conducting an appropriate investigation, is satisfied that the facts submitted by the applicant therefor are accurate and substantiate the loss or injury as having been caused by a wild eastern timber wolf.

(d) Compensation shall not be paid under this section for any loss or injury unless—

(1) the Secretary is notified of the loss or injury within twenty-four hours after discovery of such loss or injury is first made; and

(2) application for such compensation is made before the close of the 60th day after the date of such discovery.

(e) (1) The amount of the compensation paid to any person under this section shall—

(A) if the animal was killed, be equal to the fair market value of the livestock or pet on the day before the date of death; or

(B) if the animal was injured, not exceed the medical expenses incurred by the owner in restoring the livestock or pet to health, or the fair market value of the animal as of the day before the date of the injury, whichever is less.

(2) Compensation shall not be made under this section for any loss or injury to any livestock or pet occurring before October 1, 1977, or after September 30, 1981.

(3) The Federal share of any compensation paid under this section to any person by reason of loss or damage caused by a wild eastern timber wolf may not exceed—

(A) 90 per centum of the amount of such compensation caused while such species is listed as an endangered species pursuant to the Act of 1973; or

(B) 70 percentum of the amount of such compensation caused while such species was listed as a threatened species pursuant to the Act of 1973.

(f) The Secretary, after consultation with the Governor or his designate, shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(g) (1) The Secretary shall submit to the Congress in November of each year a report on the current status of the compensation program authorized by this section. The first such report shall cover the period beginning on the date of the enactment of this Act and ending September 30, 1978.

(2) The report required by paragraph (1) of this subsection shall include, but not be limited to, an itemization of the kinds of animals lost or injured, the number of applications for compensation received, pending, granted, and denied, the reasons for denial of any applications for compensation, the amount of funds distributed as compensation, and the funds and manpower, both Federal and State, utilized in administering and operating the experimental project.

(h) Until September 30, 1982, there are authorized to be appropriated not to exceed $600,000 to carry out the provisions of this section.

SEC. 3. (a) The Secretary shall undertake a comprehensive study of all predatory and depredating endangered and threatened species for the purpose of determining the type and extent of damage caused by such species, and what methods should be implemented to reduce, eliminate, or mitigate for damages caused by such species.

(b) The study required by this section shall include, but is not limited to, determination of the economic values of such damage to property, agricultural crops, livestock, and pets caused by all predatory and depredating endangered and threatened species, analysis of the beneficial and adverse impacts such damage has on furthering the purposes of the Act of 1973, and estimates of costs, if any, of methods of reducing, eliminating, or mitigating such damage.

(c) The Secretary shall complete the study required under this section not later than two years after the date of the enactment of this Act and shall immediately submit copies thereof to Congress together with his recommendations on what methods should be implemented to reduce, eliminate, or mitigate damage caused by endangered or threatened species, and what, if any, legislative authority is needed to implement and carry out such recommendations.

(d) There is authorized to be appropriated an amount not to exceed $100,000 for fiscal year 1978 to carry out the study required by this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Missouri (Mrs. SULLIVAN) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Endangered Species Act of 1973 was enacted by this Congress to provide special protection for species which are threatened with or in danger of extinction. In so doing, the act prohibited any activity which might tend to disrupt or jeopardize these endangered species including capturing, trapping, shooting, collecting, wounding, hunting, or even pursuing them without a permit from the Department of the Interior. Moreover, under the act and regulations of the endangered species program, a permit can only be obtained for scientific purposes or to enhance the propagation or survival of the affected species.

The Merchant Marine and Fisheries Committee, which exercises legislative jurisdiction over this important act, has been vigilant in examining annually the implementation and administration of these provisions. Occasionally, the application of this law has come under criticism by some who may either misinterpret its intent or believe that its administration is not consistent with its overall purposes and goals.

Accordingly, as conflicts arise, the committee has acted to investigate and recommend appropriate steps for resolution of the problem. In that regard, the problem of predatory and depredatory threatened or endangered species has caused considerable concern to residents in those areas where protected species have caused damage or losses to livestock or pets. Such is apparently the situation in northern Minnesota with the eastern timber wolf.

H.R. 14418 was designed to address two related problems: The first problem concerns the lack of information regarding the extent and kind of damage caused by endangered and threatened predatory and depredating species and management methods available to reduce, eliminate or mitigate such damages; and the second problem of testing the feasibility of, and developing equitable and efficient methods for, compensating persons who suffer livestock and pet losses. This bill establishes a pilot program to provide limited compensation to persons for losses or damages caused by the eastern timber wolf in Minnesota upon application pursuant to regulations prescribed by the Secretary of Interior. Moreover, it directs the Secretary of Interior to prepare an annual report on the status of this pilot program, including an itemization of the kinds of losses that occur, the number of applications that are made, and other pertinent information which will be used for evaluation of the program. Finally, the bill directs the Secretary to undertake a comprehensive 2-year study of all predatory and depredating endangered and threatened species to address the questions of extent and kind of damages caused.

Mr. Speaker, I urge the prompt enactment of H.R. 14418, and yield to Mr. OBERSTAR, the author of this legislation, for additional explanation.

I yield to the gentleman from Minnesota (Mr. OBERSTAR), the author of this legislation, for additional explanation.

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman from Missouri, the chairman of our committee, for yielding this time and for her support of the legislation and for her understanding of its importance to the Endangered Species Act.

I also wish to express my appreciation to the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT), who has devoted considerable time and effort to understanding the problem and helping us reach what I think is a reasonable conclusion and solution.

The Endangered Species Act rightly and properly sets aside certain animals who are threatened with extinction from the predations of man. With respect to the Eastern timber wolf, it is the first time in the history of mankind that the wolf has been protected from man. It has always been the other way around.

The result of that protection has had some very unusual and some very difficult, economically difficult, effects on my area of northern Minnesota, which is the timber wolf preserve of America. Virtually all of the timber wolves in the States outside of Alaska are located in the State of Minnesota. It is the people of my district who have had to cope with this problem of the Eastern timber wolf, protected now by law under very stringent penalties of a $10,000 fine and 1 year in jail for killing one of them even if it happens to be eating the farmer's livestock.

But the result of the legislation is that people have begun to question the credibility of the Endangered Species Act and in some places to encourage outright defiance of the law. That is not good. I think the Endangered Species Act is a reasonable law. I also think the farmer ought to be protected against losses, particularly if the farmers are providing the feed for the timber wolves, as they are in this case because of the decline in the deer population. So I have proposed a 5-year compensation program.

My colleagues on the other side of the aisle will appreciate that this is a sunset law. This is a program that goes out of existence automatically on its expiration in 1981.

It will not go any further. Nothing can revive it, except a new act of Congress. It cannot be continued at the discretion of the administration. In the course of that 5-year program, the Department of the Interior will establish standards for making payments for losses caused by an endangered species. It will not extend to any other kind of animal, just endangered species, and then only to the Eastern timber wolf in Minnesota.

In addition, the Department will conduct a 2-year study of all endangered predators, predators that are on the endangered species list, to determine what are the effects of that kind of exclusive protection.

Basically, it is a good approach, a good piece of legislation. It will take a minimal amount of money. It does not go into effect until 1978. We respect the budget process. We have cut costs down and shaped the study and compensation proposal down to fit in the Congressional Budget Act, so we have complied with the fiscal concerns of our colleagues on the other side of the aisle.

Mr. Speaker, as our distinguished chairman, Mrs. SULLIVAN, has outlined, this legislation represents a significant step in strengthening and improving the implementation and administration of one of our most important conservation laws. The Endangered Species Act of 1973 provides special protection to animals that face threats of extinction due to natural causes as well as manmade disruptions of their ecosystems.

In providing such needed protection, the act could not have foreseen all the possible conflicts and problems that might arise during its implementation and administration. I am confident that as the U.S. Fish and Wildlife Service gains more experience and staff to do a proper job these problems and conflicts will be worked out and solved.

However, until such time as the Service and our committee achieve a "perfect" operating law, diligent efforts must continue to assure the fair and equitable application of our endangered species program. Accordingly, the bill before us today, H.R. 14418, is designed to investigate the economic and social ramifications of placing predatory and depredatory species on the endangered or threatened list, thereby extending almost total immunity from human interference. Clearly, the potential for conflicts arising from "absolute" protection causes concern under those circumstances where personal security or livelihood may be in jeopardy. In such cases, the Federal Government and the Congress must take the responsibility to investigate the magnitude and consequences of this predicament, and explore whatever means are available to mitigate and minimize the adverse consequences.

One method of minimizing the impact on persons who suffer losses is to provide limited compensation in instances where the loss can be directly attributed to an endangered or threatened species, and where self-help methods of protection are unavailable. Recognizing that a compensation scheme may prove difficult to implement and administer, H.R. 14418 directs the Secretary in cooperation with the Governor of Minnesota, to establish a pilot program to test the feasibility of such an approach. H.R. 14418 also authorizes a study of all predatory and depredating endangered and threatened species to determine the extent of damage caused by those species, and what methods should be implemented to reduce, eliminate, or mitigate the damages.

There are presently 12 listed species, including the Eastern timber wolf, that may cause harm to livestock or pets. The Eastern timber wolf of northern Minnesota, Michigan, and Wisconsin preys on cattle, sheep, dogs, and possibly other livestock and pets. Of all endangered predators, this wolf is probably one of the most destructive because of its numbers and proximity to developed areas. In 1975 reported wolf kills in Minnesota involved 6 adult cattle, 66 calves, including 22 Charolais, 5 sheep, 36 lambs, and 1 dog. The economic value of those losses was estimated by U.S. Fish and Wildlife Service to be as follows:

6 cattle (estimated 600 pounds each) at $40 per 100 pounds	$1,440
66 calves (estimated 300 pounds each) at $30 per 100 pounds	5,940
5 sheep (estimated 100 pounds each) at $50 per 100 pounds	250
36 lambs (estimated 75 pounds each) at $0.50 per pound	1,350
Total cost	8,980

Assuming the above livestock figures remain the same in 1976–77, and the estimated farm market values are accurate, a pilot compensation program would cost the Federal Government approximately $10,000 per year.

Prior to Federal management, complaints about predatory losses were handled under the State predator control program. For the years 1969 through 1973 and a portion of 1974, the State removed an average of 60 timber wolves per year under the control program.

The potential for damage caused by wolves is the most critical in the northwestern part of Minnesota where the estimated wolf population is one per

30 square miles. With complete protection as now provided and adequate food in that area, the projected wolf population will triple during the next 3 years. There will then be one wolf per 10 square miles. Thus, the damage caused by timber wolves may be expected to triple during the next 3 years and extend into more heavily farmed areas.

There is some evidence that the wolf is presently at maximum carrying capacity. Although the Minnesota Department of Natural Resources has submitted a proposal to the U.S. Fish and Wildlife Service to delist the eastern timber wolf in Minnesota, no foreseeable action is anticipated. However, even if the wolf is reclassified as threatened and regulated taking could be allowed, there is no assurance that the U.S. Fish and Wildlife Service would in fact allow such taking by regulation or permit.

Although some witnesses suggested that an undesirable precedent could be set by this legislation concerning the proposition of compensating for losses caused by resident wildlife, these arguments fail to recognize the unique circumstances created by the broad prohibition of the Endangered Species Act in that self-help remedies are not available to persons who suffer loss from protected predatory species.

H.R. 14418 serves a dual purpose: To investigate the workability of one approach to mitigating the economic impact on persons who suffer losses from predatory and depredatory endangered and threatened species; and to determine the overall impact of such species, and methods available to reduce the attendant adverse impacts.

Mr. BERGLAND. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. BERGLAND. Mr. Speaker, I thank my colleague for yielding. I want to commend my colleague for bringing this matter to the House. It is a very important proposition and I endorse it without reservation. An all important distinction must be made between the Eastern timber wolf and other predators. The wolf enjoys certain protection under the Federal Endangered Species Act while the coyote, for example, does not. While I believe the Minnesota timber wolf management plan now under consideration of the Department of the Interior would, if adopted, remove much of the need for this legislation, the fact remains that the Minnesota plan has been pending for months and I do not know when if ever the Department will approve this forward looking wolf management plan, hence we should act favorably on this bill today.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I, too, rise in strong support of this bill and thank the gentleman from Minnesota for his leadership in this matter.

Mr. Speaker, the endangered species compensation pilot program is a good piece of legislation. It is both needed and timely.

The preservation of certain endangered species is a goal that we set in the passage of the Endangered Species Act of 1973. I supported that act and have authored amendments to increase and broaden its coverage. However, it has become clear that the act is incomplete. It protects our animal population from harm while providing no compensation to those citizens who are injured or whose property is damaged by the animals protected. This situation is not necessarily applicable across the country but there are at least 12 protected animals which have been known to cause extensive damage.

The problem of damage caused by protected critters is particularly well demonstrated by the example of the eastern timber wolf in northern Minnesota, Michigan and Wisconsin. In the 4 years prior to Federal protection of the timber wolf about 60 dangerous wolves were removed in the State of Minnesota alone under the State predator control program.

Since that time they have, of course, been protected and damages including the killing of valuable livestock and occasional pets have escalated. These damages coupled with the rapid growth of wolfpacks, estimated to triple by 1979, may give rise to future demands for reclassification of the animal. Obviously a compensatory program is needed both from an equity standpoint, and to protect the 1973 act.

It is important to note that we are not taking a step here to relieve responsibility from any individual's or institution's shoulders. Instead we are acting to protect the rights of those individuals who have no way to help themselves. They cannot deal with the menace to their property but must stand aside and permit the destruction, or risk violating Federal law.

Along with compensatory provisions, this bill also provides for long-needed research by the Fish and Wildlife Service into the precise nature and extent of damages created by the various protected species. This should have been authorized long ago, but its enactment now will certainly prove helpful in the consideration of any extension of this pilot program.

I believe that my colleague, Mr. OBERSTAR, and the Subcommittee on Fisheries, Wildlife Conservation and the Environment of the Merchant Marine Committee have done a good piece of work. It is a good bill and deserves the support of this House.

Mr. SYMMS. Mr. Speaker, I yield 2 minutes to the distinguished ranking Member of the committee, the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, in 1973 Congress passed the Endangered Species Act. This landmark legislation recognized that maintaining a full and rich diversity of species in our environment is essential. Subsequent to the passage of the act, however, a troubling problem has emerged. Persons throughout the Nation have reported loss or damage as a result of predation by endangered species. By law, such species cannot be killed or captured. Consequently, property owners have virtually no recourse if their livestock or pets are damaged or destroyed by endangered or threatened species predation.

Probably the most destructive endangered species is the eastern timber wolf of northern Minnesota, Michigan, and Wisconsin. This wolf preys on cattle, sheep, dogs and possibly other livestock and pets. In 1975, reported losses attributed to eastern timber wolf predation were estimated by the U.S. Fish and Wildlife Service to be approximately $9,000. These reported losses probably represent only a portion of the damage caused throughout the Nation by endangered species.

Eleven endangered species, in addition to eastern timber wolves, are thought to cause harm to livestock or pets. These species include the American crocodile and the alligator in southeastern Florida, the Puerto Rican boa, the southern bald eagle, the peregrine falcon, the Florida panther and eastern cougar, the grizzly bear, the San Joaquin kit fox, the red wolf and the northern Rocky Mountain wolf.

Furthermore, reports of damage caused by endangered species predation are not comprehensive. It is very difficult for a livestock owner to determine the type of animal which has caused damage. Consequently, the extent of endangered species predation is very uncertain and current reports may vastly underestimate the actual damage caused by predatory endangered species.

H.R. 14418 does not blindly offer a definitive solution to this intricate problem. Rather, the bill establishes a 4-year pilot program to test the feasibility of compensating persons who suffer losses as a result of predation by endangered or threatened species. This test program will be limited to the eastern timber wolf in the State of Minnesota. The program will provide critical information about the practicality of establishing this type of program on a national scale. In the interim, much-needed relief will be provided to persons in Minnesota who suffer significant losses resulting from the activities of the eastern timber wolf.

H.R. 14418 also directs the Secretary of the Interior to undertake a comprehensive study of all predatory endangered and threatened species to determine the type and extent of damage caused by such species and what methods should be implemented to reduce, eliminate, or mitigate such damage. The Secretary must complete this study within 2 years, and report his findings to the Congress.

Mr. Speaker, it is clear that the problem of endangered species predation is difficult and complex. H.R. 14418, by establishing a pilot program, will provide the Congress with answers to these difficult questions while, simultaneously, initiating a viable program to compensate persons victimized by endangered species. In light of these facts, Mr.

Speaker, I urge the adoption of H.R. 14418.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason I take this time today is to ask some questions of the committee and to lay out for the Congress and ask some questions just where we are trying to go with respect to these predaceous animals.

I come from the West where we have a great deal of problems with coyotes, grizzly bears, cougars, wolves, and things like this that do eat sheep, lambs, calves, and have a great impact on the cattle and sheep industry in the West, as well as having an impact on the deer and elk.

I think what I would like to ask the committee, I see where we are now going to start paying the farmers, because if the grizzly bear or the wolf eat up some of the farmers crops and we pay the farmer, so we have the privilege of protecting them from this endangered species idea, is this the basic thing the gentleman from Minnesota (Mr. OBERSTAR) says we are trying to do? The gentleman nods his head. I assume basically this is what we are trying to do. Pay farmers for losing animals to predators that are protected.

I have been in a lot of supermarkets in this country, and I have spent a lot of time in the House Interior Committee listening to people talking about the problem of coyotes, but I have never seen a housewife who wanted to buy a coyote chop. They always want lamb chops, and yet they come in here and try to protect these things. Our forefathers thought they were making headway when they got rid of them. Here we are today, setting up arrangements to protect the grizzly bear, the timber wolf, and the coyote, and yet we turn around and pay the farmer whenever the coyote eats his product.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. The gentleman is right about his comment on coyotes. I just wonder if he has seen that bumper sticker that says, "Eat lamb; 2 million coyotes cannot be wrong."

Mr. SYMMS. I have seen that. I might tell the gentleman that once out in Colorado before a committee hearing, a young lady was recommending birth control to control the coyotes as being a humane way. A sheepherder said, "Young lady, I think you should be told that the coyotes are not raping the sheep, they are killing them."

I would hope that we vote down this bill and see where we are going. In my district, the Government is now proposing to set up an area to protect the grizzly bears. My great-grandfather, when he came to Idaho, really felt that he had accomplished something by getting rid of the grizzly. Idaho has always been famous for its elk and deer population, but it seems the more predators are protected, we have less elk, less deer, and it is harder on the sheepmen and cattlemen. Then, we come up with a bill to pay the farmers for damages done, because we protected the predacious animals.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I just have a question about this bill. As I understand it, if the timber wolf, let us say, kills a lamb, then the farmer is going to be paid for it. Is that approximately correct?

Mr. SYMMS. If I understand the bill correctly, that is the thesis of the bill. It is against the law to kill a timber wolf also.

Mr. KETCHUM. Suppose a pack of wild dogs kills the lamb. Is the burden of proof going to rest upon the farmer to prove whether it was a wild dog or a timber wolf? How are we going to arrive at that?

Mr. OBERSTAR. Mr. Speaker, if the gentleman will yield, I will state that is a valid question. This is what we have to demonstrate with this program, because there are so many claims made. An experienced trapper can tell the difference between a timber wolf track, a brush wolf track, and a fox track.

Mr. SYMMS. An experienced tracker or trapper?

Mr. OBERSTAR. Trapper.

Mr. SYMMS. I thank the gentleman. I want to make the point, is it still legal to trap animals, or have we made that illegal also?

Mr. OBERSTAR. We are working hard in this committee not to allow it to become wholesale illegal. There are an awful lot of traps.

Mr. SYMMS. This is legal traps. Is this becoming illegal also?

Mr. OBERSTAR. Our committee, under the leadership of the gentleman from California, has held extensive hearings on legislation to ban the steel jaw leg hold trap, and has not reported that legislation out.

Mr. SYMMS. What does the prospectus on that look like?

Mr. OBERSTAR. Let us hope it does not become law, because I think it would be a great disservice to the country.

Mr. SYMMS. I agree, because after all, these animals are a renewable resource, just like sugarbeets, timber, and other crops. They will grow another crop next year.

I think it would be a shame to allow the trappers to be legislated out of business like a lot of other people have been in this country, but I still point out, Mr. Speaker, here we are at the height of congressional, Federal Government interference and intervention. We will have to pass one law to offset the problems created by another law which we have already passed. Here is a case where we protect the endangered species to the degree where they are now becoming a threat.

Sheep graze on grass; the coyotes graze on the sheep. Housewives are demanding lamb chops instead of coyote chops, and we have to pay farmers for losses that have been incurred, because of these protected predators. I have yet to see one of these species suffer great damage.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman yielding to me. Can the gentleman from Minnesota tell us the cost of this bill?

Mr. OBERSTAR. If the gentleman will yield, the study provided for in the legislation is $100,000.

Mr. ROUSSELOT. $100,000 for a study?

Mr. OBERSTAR. A study.

Mr. ROUSSELOT. A study?

Mr. OBERSTAR. Yes.

Mr. ROUSSELOT. Why should such a study cost $100,000?

Mr. OBERSTAR. Over a 2-year period. It is a very economical study.

Mr. ROUSSELOT. It does not sound economical to me. What about the cost of reimbursement?

Mr. OBERSTAR. $600,000 over a 5-year period.

Mr. ROUSSELOT. $600,000 over a 5-year period?

Mr. OBERSTAR. The total cost of the bill, $600,000, plus $100,000, is $700,000.

Mr. ROUSSELOT. I see. Do we have to have a study for $100,000? Why cannot appropriate State agencies take testimony and perform studies on this subject. The game commissioners from all of the States can easily perform these studies at less cost. Why does the Federal Government have to do all of the studying? Usually Federal studies cost more. Why cannot the State organizations that clearly have this "problem" do the studying?

Mr. OBERSTAR. If the gentleman will yield further, the study will be conducted by the U.S. Fish and Wildlife Service, in conjunction with all of these State agencies and outside individuals, because the Fish and Wildlife Service have the expertise, they know the subject matter well, as do the State game and fish departments, and it is convenient to sort of consolidate this all in one agency of Government and to disseminate it for all of the public.

Mr. ROUSSELOT. I cannot agree that this is really necessary. Why should we spend money out of the Federal Treasury. We are short of money resources now. We are going into debt $50 billion a year to just fund these types of things.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. SYMMS. Mr. Speaker, I yield 3 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. The reasons the States cannot do it themselves is that this is a national problem. We are dealing with studying a problem of predators which are endangered species. We cannot expect the State of Minnesota to go down to Florida to study the alligator.

Mr. ROUSSELOT. They do not have many grizzly bears in New York City, do they? Why should urban centers be interested in these studies?

Mr. OBERSTAR. That is correct.

They have other things that are more dangerous, though.

Mr. ROUSSELOT. That is the gentleman's statement and not mine.

We certainly do not need these studies in the urban areas, where most of the people live.

So I still do not understand why we cannot leave this funding of this study to the State governments where those game wardens or game commissions feel that it is absolutely necessary to be carried on in their State.

Mr. OBERSTAR. If the gentleman will yield further, the States are not the ones that enacted the Endangered Species Act. The gentleman was in the 93d Congress that enacted that law.

Mr. ROUSSELOT. I certaintly did not vote for the bill.

Mr. OBERSTAR. That exonerates the gentleman somewhat, but he and I have to live with that law.

Mr. ROUSSELOT. I think I have been proven to be correct, that it was bad legislation and these amendments are not needed.

Mr. OBERSTAR. And since it is a national law to protect these endangered species, then it is incumbent upon the National Government to study them and study their effects.

Mr. ROUSSELOT. I do not think the gentleman has failed to make his point. I do understand that it was a bad Federal act that requires these so-called corrective amendments. I clearly understand that, but I do not see the necessity for the Federal funding of the study. I think that that can be done by the State governments that want the studies. I think when we take into consideration the number of States that may be involved, if they each took their share of the cost of the study and were willing to do it, that would be more than adequate to cover the objectives of this bill. I do not believe my good colleague has made the point that we need Federal funding for this study.

Mrs. SULLIVAN. Mr. Speaker, I have no further requests for time.

Mr. SYMMS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, the Endangered Species Act of 1973 has greatly benefited the Nation by protecting and preserving valuable species which otherwise might become extinct. A problem arises, however, when an endangered or threatened species preys upon livestock or pets. Justified complaints of this nature have been registered, providing impetus for the legislation we are now considering.

The issue, Mr. Speaker, is equity. The Endangered Species Act established an important national program which recognized the value of our natural heritage. The act also prohibits livestock owners from killing a predator which happens to be an endangered species. The question is whether livestock owners should be forced to suffer large financial losses if their livestock is ravaged by endangered species predators. The answer to this question is obviously no.

In this context, it should be pointed out that programs already exist to protect livestock owners from species which are not endangered or threatened. The Fish and Wildlife Service has a budget of $5.4 million for nonthreatened animal damage control assistance. This program aids groups in safely, selectively, and efficiently controlling predatory animals. Yet, no remedy or assistance is available for individuals suffering losses as a result of the activities of an endangered species.

Even a brief review of the legislative history of our great Nation indicates that important legislative programs, which benefit the Nation as a whole, demand sacrifices from private or local interests. For example, the creation of new national refuges or parks is sometimes done at the expense of private land use. However, private landowners are justly compensated for their hardship.

The Endangered Species Act of 1973 carries similar implications for private landowners, who cannot legally prevent an endangered species from causing property damage. H.R. 14418 recognizes the inequity of this situation and takes steps to rectify a perplexing problem. However, instead of establishing a full-blown national program, H.R. 14418 calls for the establishment of a pilot program—a pilot program designed to answer many questions about the practicality of a nationwide compensation program for predatory endangered species. Such action is sorely needed and I firmly believe this legislation should be adopted.

Mr. Speaker, I think one of the important points may not have come out as fully as it should, and that is that it is Federal action that has created the problem specifically referred to in this legislation.

By protecting certain species and by mandating certain practices in our forests, we have as a matter of fact reduced the game that the wolf needs to survive. That has forced the wolves out of the forests and into the lands of the farmers. This, I believe, is the key problem and it is the only reason why I came to support this bill. I would bring the attention of the Members to the limited nature of this legislation as an orderly means of restoring the balance.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague from New Jersey for yielding. So, the gentleman is saying that what this Congress did in passing the endangered species legislation of 1973 was to force the wolf out of the forest so that he had to go after other game rather than survive on game in his natural habitat; is that correct?

Mr. FORSYTHE. Not quite.

Mr. ROUSSELOT. Mr. Speaker, I wish the gentleman would explain his statement that the 1973 act had the effect of forcing the wolf out of the forest.

Mr. FORSYTHE. Mr. Speaker, it was the forestry practices that mandated the reduction of the habitat for the wolf, and as a result the deer population was not expanding sufficiently to feed the wolf. It was under the Endangered Species Act that the wolf became labeled as an endangered species.

In other words, we may be able to reach the point that we are concerned about, and that is if we are in a very practical sense unbalancing nature and we are going too far in this whole field, this, I believe, may be one very important way we can get out of it.

Mr. SYMMS. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, will some member from the committee answer a question: Is this authorization included in the budget for 1977?

Mr. OBERSTAR. Mr. Speaker, if the gentleman will yield, the authorization is not included.

Mr. ROUSSELOT. Then what is the necessity and the great rush for this legislation?

Mr. OBERSTAR. The purpose is to authorize the program now so that it can be included in the budget for fiscal year 1978.

Mr. ROUSSELOT. So the gentleman admits we could easily take care of this authorization next year. There is no great need for this legislation this year 1976.

Mr. OBERSTAR. Mr. Speaker, I believe it is important to get it started now.

Mr. ROUSSELOT. Is it the gentleman's understanding that the Senate will act on this so-called needed legislation?

Mr. OBERSTAR. Mr. Speaker, I would not necessarily describe it as "crisis" legislation, but I believe the Senate will act. The other body will act, yes,

Mr. ROUSSELOT. Mr. Speaker, we really do not need this legislation. 1977 would provide more than adequate time to work on the legislation. It is not in the budget, and I urge my colleagues to vote against the bill.

Mrs. SULLIVAN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, if we follow the logic of the gentleman from California (Mr. ROUSSELOT) and legislate only in a crisis, there would be very little legislation enacted by Congress, very little good and needed legislation.

This is one good piece of legislation that is needed.

As to the gentleman's concern over its cost, let me point out that the gentleman is a strong supporter of the military budget which amounts to $104 billion. This $700,000 that we are talking about here, I submit, would amount only to a clerical error in the Defense Department budget.

This is a very minimal program. It is one that is needed, and it will restore the credibility of the Endangered Species Act, as the gentleman from New Jersey (Mr. FORSYTHE) has correctly pointed out. It will correct two actions of the Federal Government, the action of the Congress in enacting the Endangered Species Act without adequate protection for property losses, and the action of the executive branch and the judicial branch in suspending timber harvesting in the Boundary Waters Canoe Area, the two actions that have created the problem of lack of forage for the wolves, forcing them out of the Superior National Forest and into the yards of the farmers and ranchers in northern Minnesota.

Mr. Speaker, I must point out again that since the Federal Government created this problem the Congress and the other branches of the Federal Government must correct the problem.

Mrs. SULLIVAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. (Mr. McFall). The question is on the motion offered by the gentlewoman from Missouri (Mrs. Sullivan) that the House suspend the rules and pass the bill H.R. 14418, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 14418, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT AMENDMENTS

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1414) to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes, as amended.

The Clerk read the Senate bill as follows:

S. 1414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is amended—

(1) by striking out "and Guam" in section 2 and inserting in lieu thereof "Guam, and the Trust Territory of the Pacific Islands";

(2) by inserting "initial" immediately after "receive an" in the second sentence of section 5(a);

(3) by amending section 5(b) to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, so much of any apportionment for any fiscal year to any State which is not obligated during such year remains available for obligation to that State to carry out the purposes of this Act until the close of the succeeding fiscal year, and, if unobligated at the end of that year, the funds shall not be considered thereafter to be apportioned to that State and shall remain available unil expended to carry out the purposes of this Act as determined by the Secretary without regard to any provision of subsection (a) of this section.

"(2) If any State—

"(A) notifies the Secretary that it does not wish to receive all or any part of any funds apportioned to it for any fiscal year pursuant to subsection (a) of this section, or

"(B) returns to the Secretary funds received by it pursuant to any apportionment pursuant to such subsection (a),

such funds shall not be considered to be apportioned to that State and shall immediately be available, and remain available until expended, to carry out the purposes of this Act as determined by the Secretary without regard to any provision of such subsection (a). Any notification or return of funds made by any State pursuant to this paragraph is irrevocable."; and

(4) by amending section 6(c)—

(A) by inserting "or where he otherwise deems it appropriate," immediately after "completed," in the first sentence; and

(B) by striking out the second and third sentences thereof.

Sec. 2. The amendments made by the first section of this Act shall take effect October 1, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Missouri (Mrs. Sullivan) and the gentleman from New Jersey (Mr. Forsythe) are recognized for 20 minutes each.

The Chair recognizes the gentlewoman from Missouri (Mrs. Sullivan).

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1414, a bill to amend the Commercial Fisheries Research and Development Act in order to improve the operation of the programs under the act and to make the Trust Territory of the Pacific Islands a participant in such programs.

Mr. Speaker, the Commercial Fisheries Research and Development Act—better known as Public Law 88–309—came into being in 1964. That act authorizes the Secretary of Commerce to assist the 50 States, the Commonwealth of Puerto Rico, and the Governments of the Virgin Islands, Guam, and American Samoa in conducting programs intended for the enhancement of our Nation's commercial fisheries.

Section 4(a) of the act authorizes $5 million per year to be appropriated through fiscal year 1978 to carry out the purposes of the act. Appropriated funds are apportioned among the States based on the value of the raw fish harvested and processed in each State as compared to all States. Approved projects are carried out with the States on a 75–25 matching fund basis and no State may receive more than 6 percent nor less than one-half of 1 percent of the funds to be apportioned.

Mr. Speaker, this act has been of valuable assistance to the States in developing their commercial fisheries. The bill would allow the Trust Territory of the Pacific Islands, for the first time, to participate under the act and, based on prior appropriations, it is estimated the trust territory would receive approximately $19,000 as its pro rata share of the funds to be apportioned.

Mr. Speaker, the impact of this bill will have an insignificant impact on the apportionments to other States and I think it is only fair that the Trust Territory of the Pacific Islands—which the Department of the Interior administers on behalf of the United States pursuant to a trusteeship agreement with the United Nations—be provided this assistance in order to allow it to move ahead in developing its fishing industry.

Mr. Speaker, this legislation has the unanimous support of my committee and I urge its prompt enactment.

Mr. Speaker, I now yield such time as he may consume to the gentleman from California, the chairman of the subcommittee that handled this legislation, who will explain the bill in more detail.

Mr. FORSYTHE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I fully concur with my distinguished colleagues in recognizing the tremendous advantages S. 1414 will bring to the fisheries program in the Trust Territory of the Pacific. In addition to the beneficial impact for the trust territory, this legislation is important for the revisions and improvements it brings to the Commercial Fisheries Research and Development Act of 1964.

As the law presently stands, funds appropriated and apportioned to the States remain available for 2 years. If these funds are not used during this 2-year period, they revert to the U.S. Treasury. S. 1414 would modify this aspect of the act, and funds not needed by some States could be directed to States which urgently need additional support for their commercial fisheries research and development programs.

However, the existing law limits any State to a maximum share of 6 percent of the available funds. S. 1414 would allow States receiving the maximum initial apportionment to be eligible for additional funds released by other States. Since States receiving the maximum apportionment are often in dire need of additional funding, S. 1414 takes steps to ensure that the allocation of surplus funds is done in the most equitable manner possible.

An additional problem with the act as currently written is that States and territories receiving Federal assistance through grants cannot obtain advance payments for approved projects. Rather, these States must first spend their moneys to finance approved work. Then, States submit a voucher requesting reimbursement for completed work. This procedure greatly constricts the flexibility of States in the operation of fisheries programs and is inconsistent with OMB circular 74. The legislation we are considering today includes a much-needed amendment to the Commercial Fisheries Research and Development Act in this regard.

Mr. Speaker, the Commercial Fisheries Research and Development Act has proven itself to be a useful vehicle for increasing the effectiveness of the fisheries programs of our Nation's States and territories. In the 12 years of this act's existence, however, a number of inequities have been identified. S. 1414 pinpoints these inequities and responds with valuable and timely amendments to the act. Mr. Speaker, the merits of these remedies are indisputable and I urge the adoption of this legislation.

Mrs. MINK. Mr. Speaker, I rise to urge passage of S. 1414, the Pacific Islands fisheries program and amendments to the Commercial Fisheries Research and Development Act, which contains a provision I authored including the Trust Territory of the Pacific Islands within the definition of "State."

The effect of my provision would be to make the trust territory eligible to receive Federal funds under the act. Under the present legislative formula, the trust territory would receive the minimum apportionment, which, at present funding levels, is approximately $19,000.

When this country accepted stewardship for the islands of the trust territory three decades ago, we pledged to the United Nations that we would develop the economy of the islands. To date, however, our efforts have not counted for much and our performance has been less than outstanding. While there has been considerable growth in the fledging tourist industry, the potential for agriculture and fisheries lies yet untapped.

Within the last few years, the territorial legislature, the Congress of Micronesia, has taken the initiative to establish fishing authorities in each of the administrative districts of the territory to spur development of the fisheries industry throughout this vast ocean area. As the administering authority for the territory, we have the obligation to provide every measure of support we can where it is lacking. Extension of this grant-in-aid program under the Commercial Fisheries Research and Development Act of 1964 is long overdue and I labored for inclusion of the trust territory by introduction of H.R. 6275.

Shortly after I introduced the bill, I received a letter from the chairman of the Executive Committee of Micronesian Fishing Authorities in support of the legislation. He said, in part:

> As you probably know, fisheries has taken a back seat in the development programs of the Trust Territory Government, but prospects do not look promising without the assistance that could be forthcoming if your bill is passed and approved. At the moment, the fisheries programs account for about 1 percent of the total Trust Territory budget. What can we do with this amount? We need to build fisheries docks, reefers, and processing plants and purchase boats.

Mr. Speaker, our responsibility is clear. I am pleased the House Committee on Merchant Marine and Fisheries took action in reporting this bill and urge early enactment toward speedy assistance to the trust territory.

Mr. LEGGETT. Mr. Speaker, the purposes of S. 1414 are twofold.

First, it would allow, for the first time, the Trust Territory of the Pacific Islands to participate as a "State" under the Commercial Fisheries Research and Development Act. This provision of the bill has the strong support of our colleagues—Mrs. Mink and Mr. Matsunaga—who introduced similar legislation to accomplish this purpose. It also has the strong support of the administration.

Mr. Speaker, although the $19,000—estimated to be received by the trust territory as its annual apportionment under the act—would be made up of deductions from the shares of 21 affected States, the committee has received no objection from any of those States, nor from any other States, to the inclusion of the trust territory under this program.

I think it is a highly desirable provision and, these funds will be of valuable assistance to these islands in developing their fisheries.

Mr. Speaker, the bill has as its second purpose to change certain procedures regarding the administration of the act in order to provide for more efficient management of the programs carried out under the act. The language to accomplish this purpose was provided by the Department of Commerce—pursuant to an executive communication—and was introduced in the form of H.R. 10883 by the chairman of our committee.

S. 1414 was amended by the committee to incorporate the language of H.R. 10883 since both of these bills amend this same act.

Briefly explained, S. 1414, as amended, in addition to including the Trust Territory of the Pacific Islands under its coverage, would do the following:

First. It would provide that any funds not used by a State would not revert to the general fund of the Treasury—as provided by present law—but would remain available for other States to use.

Second. It would allow States receiving the maximum 6 percent of the funds initially apportioned to use funds voluntarily released or returned by other States. The NOAA General Counsel has already ruled that States receiving less than the maximum 6 percent are eligible to utilize funds released by other States. The bill would have the effect of incorporating this ruling into law; thereby making it clear that all States, whether they receive less than 6 percent of the funds initially apportioned or not, would be eligible to compete for those unused funds.

Third. It would authorize advance payments to States on projects that have been approved by the Secretary. Present law only allows the Secretary to make payments on projects as they progress or upon their completion.

Mr. Speaker, S. 1414 would result in no additional cost of the Federal Government; it was unanimously reported by our Committee on Merchant Marine and Fisheries, and it has the strong support of the administration.

Mr. Speaker, I urge the prompt passage of S. 1414, as amended.

Mr. DON H. CLAUSEN. Mr. Speaker, as the ranking minority member of the Interior and Insular Affairs Committee's Subcommittee on Territorial and Insular Affairs, I rise in strong support of this legislation.

The 1964 Commercial Fisheries Research and Development Act provides funding to each State for programs to improve commercial fisheries.

Puerto Rico, the Virgin Islands, Guam, and American Samoa are also eligible to receive moneys under this act. However, the Trust Territories of the Pacific Islands do not.

The purpose of this legislation is to broaden the coverage of the act to allow the trust territories to participate in this program.

I have had the opportunity to become acquainted with the resources of these islands.

There is no doubt in my mind but that the marine resources of this area are vast and that their development could add tremendously to the economic strength of the islands.

Most of us recognize that the future lies with our ability to wisely manage and protect the resources of the sea.

The trust territories are inescapably linked to the sea. We should recognize and encourage the development of this economic potential.

I urge my colleagues to support this legislation.

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time.

Mrs. SULLIVAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McKay). The question is on the motion offered by the gentlewoman from Missouri (Mrs. Sullivan) that the House suspend the rules and pass the Senate bill S. 1414, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the subject of the Senate bill S. 1414, just under consideration.

The SPEAKER pro tempore (Mr. McKay). Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

REGULATORY REFORM FOR DOMESTIC WATERBORNE TRADES

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10841) to amend the Intercoastal Shipping Act, 1933, by revising its suspension provisions and by authorizing periodic promulgation of rate of return guidelines, as amended.

The Clerk read as follows:

H.R. 10841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843), is amended by inserting "(1) immediately before "The term"; and by adding at the end thereof the following—

"(2) The term 'general increase in rates' means any change in rates, fares, or charges which will (A) result in an increase in not less than 50 per centum of rate, fare, or charge items in the tariffs per trade of any common carrier by water in intercoastal commerce; and (B) directly result in an increase in gross revenues of such carrier of not less than 3 per centum.

"(3) The term 'general decreases in rates' means any change in rates, fares, or charges which will (A) result in a decrease in not less than 50 per centum of the rate, fare, or charge items in the tariffs per trade of any common carrier by water in intercoastal commerce; and (B) directly result in a decrease in gross revenues of such carrier of not less than 3 per centum.".

SEC. 2. The second paragraph of section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), is amended—

(1) by striking out "Provided," and inserting in lieu thereof the following: "Provided, That no general increase in rates or general decrease in rates shall take effect before the close of the sixtieth day after the day on which such general increase in rates or general decrease in rates is posted and filed with the Commission: Provided further,"; and

(2) by inserting "or sixty days" immediately after "thirty days" in the second proviso thereto.

SEC. 3. Section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), is amended—

(1) by inserting "(a)" immediately before "Whenever" at the beginning of the first paragraph thereof;

(2) by amending subsection (a) (as so designated by paragraph (1)) by—

(A) striking out "complaint" each place it appears therein and inserting in lieu thereof "protect";

(B) striking out the colon after "practice" and inserting in lieu thereof a period; and

(C) striking out the proviso and inserting in lieu thereof the following:

"The Commission shall not order a hearing pursuant to this subsection—

"(1) upon its own initiative unless the Commission publishes in the Federal Register the reasons, in detail, why it considers such a hearing to be necessary; or

"(2) upon protest unless the Commission finds, on the basis of the facts set forth in the verified protest, that the protestant has established that—

"(A) the proposed rate, fare, charge, regulation, or practice may cause substantial injury to the protestant, and

"(B) it will likely prevail on the merits.

For purposes of facilitating the administration of this Act, the Commission shall, within one year after the effective date of this sentence, by regulation prescribe guidelines for the determination of what constitutes a just and reasonable rate of return or profit for common carriers by water in intercoastal commerce. After the regulations referred to in the preceding sentence are initially prescribed, the Commission shall from time to time thereafter review such regulations and make such amendments thereto as may be appropriate.";

(3) by inserting "(b)" immediately before "Pending" at the beginning of the second paragraph thereof;

(4) by amending subsection (b) (as so designated by paragraph (3)) by—

(A) inserting ", except as provided in subsection (c)," immediately before "from time to time" in the first sentence thereof;

(B) striking out "four months" and inserting "one hundred and eighty days" in lieu thereof in the first sentence thereof;

(C) striking out "and decide the same as speedily as possible" at the end of the last sentence thereof; and

(D) inserting at the end thereof the following new sentences:

"Notwithstanding any other provision of law, the Commission shall complete such hearing under this section within sixty days; the initial decision resulting therefrom, if any, shall be submitted in writing to the Commission within one hundred and twenty days; and the Commission shall issue a final decision thereon within one hundred and eighty days. The sixty-day, one hundred and twenty-day, and one hundred and eighty-day periods referred to in the preceding sentence shall each begin on the day on which such rate, fare, charge, classification, regulation, or practice first takes effect or, in the case of suspended matter, shall begin on the day on which such matter would have otherwise gone into effect. However, the Commission may, in its discretion and for good cause, extend the time period or suspension period for a period of not more than sixty days, if three or more Commissioners agree to such an extension. If such extension is granted, the Commission shall report in writing to Congress within ten days from the granting of such extension together with—

"(A) a full explanation of the reasons for the extension.

"(B) the issues involved in the matter before the Commission.

"(C) the names of personnel of the Commission working on such matter, and

"(D) a record of how each Commissioner voted on the extension.

If a final decision is not issued by the Commission within the one hundred and eighty-day period, or by the end of any extension period, such rate, fare, charge, classification, regulation, or practice shall, for purposes of this section, thereafter be deemed to be just and reasonable. However, if the Commission finds that it is unable to issue a final decision within such period or within such extension due to delays which are directly attributable to the proponent of such rate, charge, classification, regulation, or practice, the Commission may disapprove such rate, fare, charge, classification, or practice, upon the expiration of such period or extension. This provision shall not preclude any remedies available pursuant to section 22 of the Shipping Act of 1916. Notwithstanding any other provision of law, in providing a hearing for the purposes of this Act, it shall be adequate to provide an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties. Any such conference may be chaired by an individual Commissioner, an Administrative Law Judge, or any designated employee of the Commission.".

(5) by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this section, the Commission may not suspend—

"(A) any tariff schedule or service which extends to any additional port, actual service at the rates of the carrier involved for similar service already in effect at the nearest port of call to such additional port; or

"(B) the operation of that portion of any changed rate, fare, or charge representing an increase or decrease of 7 per centum or less and filed as part of a general increase in rates or a general decrease in rates, except that the aggregate of such changes exempt from suspension shall not exceed 7 per centum during each period of twelve consecutive months following the date of the enactment of this subsection; nothing in this subparagraph shall be construed as establishing a presumption that any increase or decrease in excess of 7 per centum is not just and reasonable, or that any increase or decrease less than 7 per centum is just and reasonable.

"(2) If the Commission finds, as a result of any proceeding under this section with respect to a general increase in rates, that any unsuspended portion of the increase in the carrier's operating revenues resulting therefrom is not just and reasonable, the Commission shall order the carrier involved to refund to any person who was charged on the basis of such general increase before the date of the decision by the Commission thereon an amount equal to that portion thereof found to be not just and reasonable plus interest on such amount computed on the basis of the average yield, in effect on the date such general increase was filed, of marketable securities of the United States having a duration of ninety days.".

SEC. 4. This Act shall take effect six months after enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentlewoman from Missouri (Mrs. SULLIVAN) and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes each.

The Chair recognizes the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10841, a bill which I introduced, together with several cosponsors, during the first session of this Congress, to amend the Intercoastal Shipping Act of 1933, to eliminate the power of the Federal Maritime Commission to suspend general rate increases of 7 percent or less by ocean carriers in our domestic offshore commerce, and to authorize periodic promulgation of rate of return guidelines by the Commission for these carriers.

This legislation is intended to update certain aspects of the manner in which the Federal Maritime Commission regulates ocean carriers in our domestic offshore commerce. Since the enactment of the Intercoastal Shipping Act in 1933, ocean shipping has undergone profound technological changes and become highly capital intensive. When combined with the effects of inflation, the risk and uncertainty for those providing the investment capital necessary for the further modernization of our offshore, ocean transportation system has increased dramatically. On the other hand, the shipping public has every right to expect reliable service at just and reasonable rates. I believe that the interests of both carriers and shippers are adequately addressed and protected in this bill.

Mr. Speaker, H.R. 10841 was the subject of hearings and thorough consideration by the Merchant Marine Subcommittee. After extensive deliberations, several sound amendments to the bill were developed and unanimously passed by both the Merchant Marine Subcommittee and the full Committee on Merchant Marine and Fisheries. The amended bill seeks to resolve the problem of regulatory delay and to reduce the number of proceedings pending before the FMC regarding the rates charged by carriers in our domestic offshore commerce.

Rate investigations by the FMC would be required to be concluded within 180 days. At the present time, these proceedings are running from 2 to 4 years. This period may be extended for an additional 60 days but the Commission would be required to submit a detailed report to the Congress of the reasons for the extension. Any proceeding not concluded within the maximum allowable period—240 days—would automatically terminate and the rate under investigation would be deemed just and reasonable.

Mr. Speaker, I think that H.R. 10841, as amended, is a sound piece of legislation, and urge all of the Members of the House to support it. At this time, I would like to yield to the chairman of the Merchant Marine Subcommittee, the gentleman from Virginia (Mr. DOWNING) for a further explanation of the bill.

Mr. DOWNING of Virginia. I thank the Chairman.

Mr. Speaker, I join the distinguished chairman of the Merchant Marine and Fisheries Committee in full support of H.R. 10841, and urge its immediate passage.

This legislation has two primary purposes: The first is to alter the power of the Federal Maritime Commission to suspend general rate increases or decreases. At the present time, the FMC may suspend a rate filed by carriers serving our domestic offshore trades for a period of 120 days. This bill would eliminate this power with respect to the first 7 percent of a general rate increase or decrease and, should the new rate subsequently be found by the Commission to be unjust or unreasonable, the carrier would be required to make appropriate refunds to its shippers.

The second purpose of the bill is to expedite the decisionmaking process of the Federal Maritime Commission in its regulation of the domestic offshore trades. H.R. 10841 is intended to insure that the shipping public will receive the benefit of prompt adjudication of matters before the Commission and that all parties to proceedings will be spared the time and expense of unnecessarily long and complex proceedings.

As the gentlewoman from Missouri has already pointed out, H.R. 10841, as amended by the Merchant Marine Subcommittee, would require the FMC to conclude rate investigations under the Intercoastal Shipping Act of 1933 within 180 days. This period may be extended for an additional 60 days, but the Commission would be required to submit a detailed report to the Congress of the reasons for the extension.

Mr. Speaker, this bill contains a number of other technical provisions designed to streamline the process by which the FMC regulates the rates charged by common carriers by water in our domestic offshore commerce. The bill was the subject of extensive analysis by the subcommittee and staff in meetings with parties affected by the legislation, including the carriers involved, representatives of shippers, and of the FMC. I think that H.R. 10841, as amended, is a sound solution to a very complex regulatory problem, and urge its immediate passage by the House.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the full committee and the subcommittee in supporting H.R. 10841, a bill which is designed to improve the Federal Maritime Commission's regulation of rates in the domestic waterborne commerce of the United States.

During this Congress we have heard a lot about regulatory reform. Unfortunately, not much has been accomplished. This bill, while quite limited in scope, takes some significant steps in this direction.

It should be emphasized that the bill relates only to the FMC's regulation of the domestic trades. It has nothing to do with the regulation of our foreign commerce. Though the latter is probably the more important aspect of the Commission's work, I expect that far-reaching and significant improvements in that regard must await the next Congress.

A basic purpose of the bill is to reduce regulatory delay. It does this by requiring the FMC to reach final decisions on matters presented to it regarding the domestic trades within 180 days. Recognizing that this time frame could probably not be met if existing mechanisms were utilized, the committee has provided several tools which will help the Commission meet this deadline.

The first requires carriers to file general rate increases or decreases 60 days before they are to go into effect. This changes present law which only requires 30 days advance notice.

The purpose of the change is to provide the Commission and potential protesters with advance notification of pending rate readjustments. Both, then, will have an adequate opportunity to analyze the information which is required to be submitted with the rate filing and, thus, be capable of establishing a reasonable case for a challenge before an actual hearing is ordered.

Second, the bill seeks to end frivolous challenges by requiring the Commission to publish in the Federal Register the detailed reasons why a hearing is necessary. It also requires any protester to establish that it will suffer substantial injury if the rate is to go into effect and that it will likely prevail on the merits before a hearing may be ordered on its protest. The hope is that hearings, therefore, will only be necessary in cases where there are concrete and legitimate issues of fact or law to be resolved. The hearing process is not to be used as an exploration ground to determine if there might be some grounds to dispute the rate adjustment which has been filed.

Third, the bill provides an added range of additional informal procedures which may be utilized to replace the full evidentiary hearings which now result in weeks, months, or even years of delay. The bill specifies that briefs, written statements or informal conferences of the parties may be used in many cases to supplant the full evidentiary hearings now utilized.

A final tool is a requirement in the bill that the Commission promulgate rate of return and profit guidelines within 1 year after the effective date of the act.

This is designed to require the promulgation of regulations regarding such issues as when depreciation is to be determined, what are appropriate accounting periods and what types of equipment may be part of the rate base. This is intended to insure that the same complicated and controversial issues will not have to be argued and redecided every time a hearing is held. Instead these matters can be resolved through appropriate rulemaking procedures.

Another major purpose of the bill is to alter the authority of the Commission to suspend pending rate adjustments. It prohibits the suspension of general rate increases or decreases of 7 percent or less. Because these rate adjustments are general, across the board, and limited to 7 percent, their immediate application should not seriously disadvantage any shipper. The bill does provide, however, that if such a general rate adjustment is subsequently found unlawful, the portion determined to be unlawful plus any interest thereon is to be repaid by the carrier to those who have been overcharged.

In other than general rate increases or decreases, that is, for specific rate adjustments or general rate adjustments of more than 7 percent, the bill extends the present suspension period from 120 to 180 days. Such individual shippers may suffer more substantial harm in these cases, the suspension period is extended to 180 days. This extension also makes the suspension period run during the same period in which the Commission is required to make a decision. Therefore, these adjustments, if challenged, must be found lawful before they can ever go into effect.

In summary, this bill takes significant steps to improve the regulation of our domestic waterborne commerce. It provides a fair balance between the interests of shippers and carriers and should benefit all parties concerned. I ask that all Members join me in supporting this bill.

Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I also rise in support of H.R. 10841, which would amend the Intercoastal Shipping Act of 1933. Since the details of the bill have been explained by others, I would merely like to indicate how this bill has balanced the interests involved.

As introduced, the bill sought to limit the FMC's power to suspend general rate increases and required it to promulgate numerical guidelines for determining appropriate rates of return. While addressing the carrier problem of arbitrary interference in legitimate rate increases, it did not address the other problem of regulatory delay. The amended bill does this by requiring the Commission to conclude its decisions in 180 days.

Shippers objected to the original bill's removal of the suspension power. This problem is addressed in the amended bill in two ways. A strengthened refund section now requires carriers to identify the individual shippers and the amounts owed each and to send a check in the specified amount to each shipper if a rate which is not suspended is later found unlawful. This protects small shippers who might not know that challenges to rate increases have been made or might not be able to properly document the amount of overcharge. The amended bill also extended the suspension period from 120 to 180 days in those cases where the committee felt the suspension power continued to provide legitimate safeguards.

The Federal Maritime Commission objected to the original bill, among other reasons, because the requirement for promulgation of numerical rate of return guidelines would appear to require a case-by-case determination of appropriate rates of return through rulemaking. The amended bill changes this so that the guidelines need not give numerical rates of return but need only identify common areas of controversy which can be resolved through rulemaking, rather than being decided again and again at each rate hearing. Furthermore, to satisfy Commission objections, the bill's implementation was delayed 6 months to give it an opportunity to gear up to meet the new requirements.

The bill before you today is the product of many drafts, and comments have been solicited from carriers, shippers, and a broad spectrum of interested Government agencies. It represents a good balance of the interests involved and I ask that all Members vote to support it.

Mr. RUPPE. Mr. Speaker, I also rise in support of H.R. 10841. This bill is designed to reduce regulatory delay and alter the Federal Maritime Commission's authority to suspend general rate adjustments. The bill then makes significant improvements in the statutory framework contained in the Intercoastal Shipping Act of 1933.

The bill requires that all decisions of the FMC relating to the domestic offshore trades be concluded within 180 days. To assist the Commission in meeting this deadline, it authorizes informal hearing procedures, requires advance notification of rate filings, limits frivolous protests, and requires the promulgation of rate of return and profit guidelines so that many matters can be decided through rulemaking rather than in lengthy hearing processes.

The other significant change is the alteration of the Commission's power to suspend general rate increases. Currently the Commission has the authority to suspend rates for 120 days in all cases. Yet, the Commission customarily takes from 2 to 4 years to reach decisions. In nearly all cases, rate adjustments go into effect before the Commission has the opportunity to determine their lawfulness and no authority is provided to order refunds. Therefore, the only real effect of the suspension power is to arbitrarily delay the rate adjustment for 120 days, and little protection is provided to shippers.

The bill changes this situation by providing that general rate increases of 7 percent or less are immune from suspension. The purpose is to avoid unnecessary interruptions of carriers' rates. However, if general rate increases are later found unlawful, carriers must refund the overcharged amount with interest. In other instances such as specific rate adjustments or general adjustments greater than 7 percent. The suspension period is increased to 180 days to correspond to the period in which the Commission must conclude its decisions. In these cases, the threat of immediate application of rate adjustment is greater either because the amounts involved are greater or because individual shippers' rates are singled out. Therefore, the Commission should have the authority to determine the lawfulness of a rate before it ever goes into effect. This is provided in the bill.

H.R. 10841 should provide benefits for shippers, carriers, and consumers. I ask all Members to join me in supporting it.

Mrs. SULLIVAN. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill H.R. 10841, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 10841.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

FEDERAL BOAT SAFETY ACT AMENDMENT

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13585) to amend the Federal Boat Safety Act of 1971, as amended.

The Clerk read as follows:

H.R. 13585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) is amended as follows:

(1) Section 4 is amended by adding a new subsection to read as follows:

"(d) Until such time as there is a final judicial determination that they are navigable waters of the United States, the following waters lying entirely within the State of New Hampshire, to wit: Lake Winnisquam, Lake Winnipesaukee, portions of the Merrimack River, and their tributary and connecting waters, are declared not to be waters subject to the jurisdiction of the United States, within the meaning of this section.".

(2) Section 5 is amended by striking the word "eighteen" in paragraph (1) of subsection (b) thereof, and by inserting in lieu thereof "twenty-four".

(3) Section 8 is amended by inserting, immediately after "8.", the subsection designation "(a)", and adding a new subsection to read as follows:

"(b) The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes, and the subsequent sale thereof.".

(4) Section 15 is amended, in subsection (a), by striking, at the end thereof, "defect.", and by inserting in lieu thereof "defect: *Provided,* That the manufacturer's duty of notification under subsection (b)(1) and subsection (b)(2) of this section applies only to defects or failures of compliance discovered by the manufacturer within one of the following periods, as appropriate:

"(1) in the case of a boat or associated equipment required by regulation to have a date of certification affixed, five years from date of certification, or

"(2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, five years from date of manufacture.".

(5) Section 15 is amended, in subsection (e), by striking, at the beginning of the third sentence thereof the word "Upon", and by inserting in lieu thereof "If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon".

(6) Section 15 is amended, in subsection (g), by striking "this section.", and by inserting in lieu thereof "this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by this section: *Provided,* That a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.".

(7) Section 18 is amended, in subsection (a), by inserting, following the second sentence thereof, a new sentence to read as follows: "In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, 'model year' and 'date of manufacture' established by the Secretary by regulation.".

(8) Section 20 is amended, in subsection (a), by striking, in the second sentence the words "twenty-four hours", and by inserting in lieu thereof the words "seven days".

(9) Section 23 is amended by inserting at the end of the first sentence a new sentence to read as follows: "The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State.".

(10 Section 27 is amended, in subsection (a), by striking "July 1", and by inserting in lieu thereof "October 1".

(11) Section 27 is amended by adding a new subsection (f) to read as follows:

"(f) In addition to the allocation provided for in subsection (d), the Secretary may allocate not more than one per centum of funds appropriated in any fiscal year for the support of activities of a national association of State boating law administrators: *Provided,* That, regardless of the percentage calculation under this subsection, the allocation shall not be less than $70,000 in any fiscal year.".

(12) Section 28 is amended, in subsection (a), by striking the first sentence thereof and by inserting in lieu thereof, the following: "Notwithstanding the allocation ratios prescribed in section 27, the Federal funds allocated to any State in any fiscal year may not exceed fifty per centum of the total cost of that State's boating safety program in that year.".

(13) Section 28 is further amended by adding a new subsection to read as follows:

"(d) For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year."

The **SPEAKER** pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Missouri (Mrs. SULLIVAN) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the passage of H.R. 13585, a bill to amend the Federal Boat Safety Act of 1971. The basic act was passed in 1971, and has now been in effect for approximately 5 years. It was designed to create a uniform boating safety program in the United States, and to involve in that program the Federal Government, the various States, the boating industry, and the boating public. The act has amply demonstrated its value. Not only are the boats being produced adhering to more rigid safety standards, but the boating public is better informed and more safety conscious. The result has been that casualties involving recreational boating have been proportionately less than the increase of boating activities. We still have some distance to go to bring recreational boating to the level of safety which it should attain, and with more support for State programs, I believe that we can achieve that goal.

The bill in question is designed to amend the basic act in order to clarify certain of its original provisions and to correct minor deficiencies in other respects to make it more workable.

The bill contains 13 amendments to the Federal Boat Safety Act of 1971, in order to make that act more responsive to the needs of boating safety and to follow its declared intention of promoting boating safety in the most practical and expeditious manner. The amendments in question are generally routine in nature and do not change the basic purposes of the act, rather they are designed to make the act more flexible in achieving boating safety needs without imposing unduly strict burdens on those involved.

Four of the amendments involved relate to the duty of manufacturers in connection with the ascertainment, notification, and correction of discovered defects in their product. In connection with these amendments, the manufacturers are, in no way, relieved of their obligation to maintain adequate boating standards and to correct any failures to meet those standards. These four amendments do, however, make the attainment of those goals somewhat easier by relating requirements to needs. For instance, one of these amendments changes a provision in the basic law which authorizes the Secretary to postpone for 18 months the effective date of a new safety standard involving a major product design or retooling. The amendment would authorize the delay of that date to 24 months should the circumstances warrant it, in order that the required product redesign could be accomplished in coincidence with normal industry retolling cycles. Another of those four amendments authorizes the Secretary to issue regulations requiring dealers and distributors of boating products to assist manufacturers in obtaining purchaser information so that the manufacturers may meet their obligations to notify such purchasers of any discovered defects in the boats or equipment that they have purchased.

Three of the amendments relate to allocation of Federal funding. One authorizes the Secretary to allocate funds to a national association of State boating law administrators in order to support that coordinated mechanism in its goals of improving State programs in boating safety regulations, and to assist the Federal Government in the overall implementation of the purposes of the act.

Several other amendments relax minor requirements in the act, such as extending the time for which a small rental boat may be used without requiring the certificate of number actually to be carried on board during the use. Another specifically authorizes research and testing of boats and equipment by the Coast Guard, in order to make certain that equipment on the market does, indeed, satisfy safety standards.

In sum, the amendments contained in this bill are to improve what has already proved to be a good piece of legislation, promoting recreational opportunities in boating in a rational, safe environment.

I urge the passage of the bill.

Mr. FORSYTHE. Mr. Speaker, I yield to the gentleman from New Hampshire (Mr. CLEVELAND) such time as he may consume.

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding.

I would like to thank the committee for having included in this bill section (1) thereof. This legislation includes legislation sponsored by my colleague, the gentleman from New Hampshire, Congressman D'AMOURS and myself. I very much appreciate the committee incorporating that legislation H.R. 13516 into the first section of this bill. I congratulate my colleague, Congressman D'AMOURS, a distinguished member of your committee, for his important help.

The purpose of our legislation was to take care of a very troublesome situation that came up in New Hampshire recently when the Coast Guard by administrative ruling declared major portions of our inland lakes and rivers, for example, Lakes Winnipesaukee and Winnisquam and portions of the Merrimack River as navigable waters. Although the Coast Guard has since come to its senses and postponed the effective date of their administrative decision, this legislation will give us necessary time and hopefully will settle finally what most of us in New Hampshire thought was a rather outrageous bureaucratic decision.

Mr. Speaker, this is particularly so, because for a long time now the Coast Guard has had jurisdiction over the Connecticut River and has failed totally to exercise that jurisdiction; so for this reason, I do thank the committee for incorporating the legislation introduced by the gentleman from New Hampshire (Mr. D'AMOURS) and myself H.R. 13516 as the first section of this act.

Mr. D'AMOURS. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I yield at this time to the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Speaker, I thank the gentleman. I have no particular remarks at this time, except I merely wish to associate myself with the approach of the gentleman from New Hampshire (Mr. CLEVELAND) and urge the passage of the amendments, as written.

Mr. Speaker, we introduced this amendment to the Federal Boat Safety Act in the Merchant Marine and Fisheries Committee some months ago in order to keep the U.S. Coast Guard from taking jurisdiction over New Hampshire's lakes.

The people of New Hampshire are very concerned about attempts by the Department of Transportation to usurp the State of New Hampshire's sovereignty over its lakes, and I share that concern. We are concerned because the U.S. Coast Guard has no business being on these inland bodies of water. We are concerned because a Coast Guard takeover would mean a substantial loss of revenue to the State. We are concerned because a Coast Guard takeover would result in a lowering of New Hampshire's boat safety code, which is stricter than the Federal code.

The Coast Guard's use of the vague official definition of the term "navigable" in this instance is but another example of the way the Federal bureaucracy has steadily moved in to encroach on local authority. We do not need the Coast Guard on those lakes. We do not want the Coast Guard on those lakes.

Without the passage of this amendment, and this bill, the autonomy of New Hampshire's lakes depends on the whim of a Washington bureaucrat's decision. My bill would permanently keep the Coast Guard off our lakes, unless and until the Coast Guard gets the U.S. Supreme Court to rule that these specific lakes are navigable. I urge my fellow Members to consider this bill carefully, and to vote for its passage. Thank you.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman from New Jersey, or the chairman of the committee, the distinguished gentlewoman from Missouri, assure us this is not just another OSHA bill of some type?

Mrs. SULLIVAN. Mr. Speaker, if the gentleman will yield, I assure the gentleman it is not. Perhaps the gentleman from New Jersey would like to comment on that.

Mr. FORSYTHE. Mr. Speaker, I make the same statement. This applies and makes more simple, rather than more complex, the regulations in this area and they will help, rather than hinder the act.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, the gentleman is saying it simplifies the act of 1971?

Mr. FORSYTHE. Yes.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, it makes it a more appropriate and fair approach for the manufacturer to report said defects; is that correct?

Mr. FORSYTHE. That is a burden we have limited in this bill, but it will provide for some system of informing people operating these boats of defects that are lately discovered after delivery. I think it is very important and reasonable by limiting the time to do this.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate my colleague's response. The gentleman knows, coming from the State of California as I do, there are a substantial number of boatowners, large, small, medium size, in the State of California. These boatowners are very concerned about overregulation. Many of them are hearty people who like to go to sea and are very much concerned about too much Federal regulation.

The gentleman from New Jersey and the gentlewoman from Missouri can assure me we are not, by voting for this bill, somehow imposing irrational problems upon both the manufacturer and upon the boatowners; is that correct?

Mr. FORSYTHE. Mr. Speaker, I can assure the gentleman that is so. It is not an irrational kind of a regulation, but through the use of this safety law, they are ironing out some of the laws that were made in the beginning to make this more reasonable.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate that comment and assurances from my colleague, the gentlewoman from Missouri, and the gentleman from New Jersey, who I know comes from a State that has great interest in private boating. I appreciate those reassurances that we are in fact reducing unneeded and unnecessary regulation.

Mr. FORSYTHE. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, I rise in support of the motion to suspend the rules on H.R. 13585, a bill which makes numerous amendments to the Federal Boat Safety Act of 1971.

The Federal Boat Safety Act authorized the U.S. Coast Guard to establish safety standards for the construction of recreational boats and authorized Federal assistance to the States for upgrading existing boat safety programs and encouraging the development of new programs where they did not exist.

Utilizing the authority granted by this act, the Coast Guard has made substantial progress in the regulation of boat construction to insure higher levels of safety. The financial assistance program has been successful in encouraging the expansion of many State programs and improving the quality of State boat safety efforts.

Boating accident statistics indicate the act has been successful in stemming the tide of boating accidents and fatalities, despite the ever-increasing level of recreational boating activity. Boating statistics were first kept in 1961. By 1974, 3 years after enactment of this program, the lowest rate of boating fatalities per 100,000 boats was recorded.

In addition to these encouraging statistics, the State participation in this program has been exemplary. Fifty-one jurisdictions have now met all the established criteria for an acceptable boating program. Four jurisdictions do not meet the basic criteria since they lack an approved numbering system. Two of these States—New Hampshire and Washington—however, do have boating programs and participate partially in the financial assistance programs. The other two jurisdictions—Alaska and American Samoa—do not participate due to an inability to meet matching fund requirements.

While one must conclude the program has been successful, 5 years of experience has indicated the need to make some modifications in the basic act. This legislation is designed to make what the committee considers relatively minor and noncontroversial changes to assist the Coast Guard, the industry, and the States in implementing an effective boat safety program.

As our chairman has already described these amendments in some detail, I will not be repetitive. I simply want to point out that in a number of instances, we have strengthened this act.

One of the most important goals of the act was to improve the construction standards of recreational craft. An integral part of such a safety program is the notification to consumers of defects that are discovered after sale. Section 15 of the act has been amended to give the Secretary the authority to establish procedures to be followed by dealers and distributors in assisting manufacturers in obtaining information about defects or failures of compliance by boats or associated equipment.

Recognizing that the duty to notify purchasers of defects may be burdensome, the committee placed a limit of 5 years on the duty to notify purchasers of defects or failures discovered within 5 years from the date of Coast Guard certification or 5 years from the date of manufacture. No limit is placed on the manufacturer's duty to notify dealers and distributors of defects. Since most defects are usually discovered within 3 years of manufacture, this 5-year limit of duty to notify on the part of manufacturers strikes a reasonable balance between the consumers' interests and the industry's interests.

I would also like to draw attention to the increase in the maximum Federal share from 33⅓ to 50 percent. Although the appropriation levels have not been high enough for the 33⅓-percent matching limitation to come into effect, testimony indicated that an increase to 50 percent Federal share might encourage some of the small State programs to expand and might allow jurisdictions like Alaska and American Samoa to participate in the program.

The other changes, which are largely technical, are fully discussed in the committee report and I would urge that at this time the Members of the House vote to suspend the rules so that enactment into law may be expedited. It is a bill that has the support of industry, State governments, and the administration and its passage will bring about some necessary changes in the basic act.

The SPEAKER pro tempore (Mr. McKay). The question is on the motion offered by the gentlewoman from Missouri (Mrs. Sullivan) that the House suspend the rules and pass the bill, H.R. 13585, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 13585, just considered.

The SPEAKER pro tempore (Mr. McKay). Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

COAST GUARD OVERSEAS HOUSING LEASES

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3050) to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property in a foreign country, as amended.

The Clerk read as follows:

S. 3050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 475(a) of title 14, United States Code, is amended by inserting, immediately after the first sentence, a new sentence to read as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multi-year basis, for a period not to exceed five years.".

The SPEAKER pro tempore. (Mr. McKay). Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the enactment of S. 3050, a bill to authorize the Secretary of the department in which the Coast Guard is operating to lease housing facilities for Coast Guard personnel in a foreign country on a multi-year basis.

The purpose of this bill is to correct a situation under which the Secretary of Transportation and the Coast Guard, in order to meet the Coast Guard needs for housing of Coast Guard personnel in foreign countries, is forced to operate indirectly through other departments, because he does not have the authority under present law to satisfy those needs directly. The bill is a simple one, and its enactment is justified.

Under present law, when it is necessary to provide for the housing of Coast

Guard personnel stationed in Merchant Marine detachments or engaged in the operation of Loran stations in foreign countries, the Secretary of Transportation arranges for such leases through a reimbursement procedure with the Secretaries of military departments, who have the authority to enter into overseas multiyear real estate leases. The Coast Guard, at the present time, has 24 such leases for personnel in 6 different areas.

In order to give the Secretary the authority to deal with such leases on a direct basis with the lessor, S. 3050, as passed by the other body, proposed to amend the basic authority of the other Secretaries, in title 10, by extending the same authority to the Secretary of the department in which the Coast Guard is operating. In lieu of that solution, the Committee on Merchant Marine and Fisheries chose the alternative of making the same amendment in the basic housing leasing authority of the Coast Guard contained in title 14. This amendment serves the extension of authority sought by the Department of Transportation, but provides that extension authority in the basic law related to housing, rather than by amending a somewhat broader authority in a different title.

I urge the passage of S. 3050, as reported by the committee.

Mr. FORSYTHE. Mr. Speaker, I rise in support of the motion to suspend the rules on S. 3050, a bill relating to the Secretary of Transportation's authority to lease housing on a multiyear basis.

This is a very simple housekeeping measure that was requested by the Secretary of Transportation which should result in some cost savings to the Federal Government and should reduce some unnecessary paperwork.

As our chairman has pointed out, the Coast Guard often needs to locate some of its personnel overeas. This usually involves marine inspection detachments or Loran stations. Particularly in the case of Loran stations that are located at remote sites, housing is at a premium and it is necessary for the Coast Guard to enter into leases in order to establish quarters for Coast Guard personnel and their dependents.

Present statutory authority limits the Secretary of Transportation to making lease commitments for only 1 year at a time. This has proved to be uneconomical and in some areas, 1-year lease arrangements are not available. In order to overcome these difficulties, the Coast Guard has utilized the multiyear leasing authority that has been conferred upon the Secretaries of the other military departments under title 10 of the United States Code.

Title 10, section 2675, specifically authorizes the Secretaries of the military departments to enter into leases in foreign countries for structures and real property that are needed for military purposes on a multiyear basis, not exceeding 5 years. Under this arrangement other military departments must arrange multiyear leases and the Coast Guard must, in turn, reimburse them annually. This indirect form of leasing involves unnecessary paperwork and overhead.

This bill simply amends title 14 and permits the Coast Guard to enter into multiyear housing leases in foreign countries thereby eliminating the 1-year restriction which exists under present law. Enactment of this bill will not impose any additional personnel or budgetary requirements on the Secretary of Transportation. Rather, it will authorize direct payments for future multiyear leases in lieu of the cumbersome indirect method now implemented.

This bill was reported out of subcommittee and full committee on a unanimous voice vote and it is a truly noncontroversial measure which should be expedited so that it can be signed by the President and eliminate the unnecessary complications caused by the present statutory scheme.

I urge my colleagues to suspend the rules.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the Senate bill S. 3050, as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

SAVING THE GRAY AND BOWHEAD WHALES

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15445) to save the gray whale, as amended.

The Clerk read as follows:

H.R. 15445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Save the Gray and Bowhead Whales Act".

Sec. 2. The Congress finds that—

(1) whales form a resource which is of esthetic and scientific value to mankind, and are a vital part of the marine ecosystem;

(2) whales have been overexploited by commercial whalers for many years, severely reducing several species, including the California gray whale and the bowhead whale;

(3) the California gray whale has been designated the official California State marine mammal;

(4) the California gray whale provides esthetic enjoyment to millions of Americans;

(5) energy development and other commercial activities along the west and Arctic coast of North America have caused significant concern as to their impact on the gray and bowhead whale;

(6) the California gray whale and the bowhead whale, protectd by special treaty for several decades, may be again threatened by harassment and habitat destruction and;

(7) there is inadequate knowledge of the ecology, habitat requirements, and population dynamics of the California gray whale and the bowhead whale and factors which influence their healthy maintenance and development as species.

Sec. 3. The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, shall make comprehensive studies of the gray whale (Eschrichtius robaustus) and the bowhead whale (Balaena mysticetus) taking into consideration, among other things, the distribution, migrations, and population dynamics of these mammals and the effects of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages on them, for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve such mammals. The Secretary of Commerce shall submit through the President, reports on the studies, together with such recommendations, inclduing suggested legislation, that he deems appropriate, to the Congress no later than January 1, 1980.

Sec. 4. Until such time as the studies have been completed and the recommendations of the Secretary are implemented by appropriate legislation or regulation, all Federal agencies shall, to the fullest extent feasible, and in consultation with, and with the assistance of, the Secretary of Commerce, utilize their authorities in furtherance of the protection of the California gray whale and the bowhead whale to insure that actions authorized, funded, or carrier out by them do not jeopardize their continued existence or result in the destruction or significant adverse modification of the habitat of such species.

Sec. 5. The Secretary of Commerce, through the Secretary of State, shall initiate negotiations immediately for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of the California gray whale and the bowhead whale.

Sec. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated the total sum of $1,000,000 for fiscal year 1978 and 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the United States has made significant progress in the last several years toward achieving international protection for the great whales which roam our oceans. Our delegation to the International Whaling Commission has been instrumental in reforming this international forum from a "whalers club" to an important conservation and management organization.

Although the United States does not engage in commercial whaling and has led the fight to protect these mammals from foreign whalers, we must not be neglectful of two particular species of the great whales which live at our side—the California gray whale and the bowhead whale. It would be sad irony, indeed, if, having finally saved these whales from commercial exploitation, we were to allow the negligent destruction of their habitat and ecosystem, and ultimately the species itself.

H.R. 15445 represents an important commitment to see that inadvertent harm does not come to these two species of great whales. This bill would require the Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, to conduct a comprehensive study of the California gray whale and the bowhead whale to investigate their general needs and habitat requirements, and to recommend to the Congress by January 1, 1980, conservation measures to assure their protection and survival.

Moreover, until such time as these studies are completed and effective conservation measures are implemented, H.R. 15445 would place a special responsibility upon all the Federal agencies to see that its activities do not unduly interfere with or destroy these species. And finally, the Secretary of Commerce acting through the Secretary of State, is directed to begin immediate negotiations with Mexico and Canada for the purpose of developing appropriate bilateral agreements to protect the California gray whale and the bowhead whale.

Mr. Speaker, I urge the immediate enactment of H.R. 15445.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. I thank the distinguished chairman for yielding.

Mr. Speaker, I rise in support of H.R. 15445.

As our country moves toward achieving energy independence and our oceans are exploited for the natural resources and energy they hold, we must be ever mindful of the fact that these oceans also contain other natural resources which provide economic, social, and esthetic benefits to mankind. One of these resources is the marine mammal and, in particular, the great whales.

H.R. 15445—a bill to save the California gray whale and the bowhead whale—was introduced and recommended for action by the Merchant Marine and Fisheries Committee in order to assure that these two species are maintained and continue to thrive off our coasts.

The California gray whale is one of California's most valuable resources and is growing in popularity as it makes its annual migration of some 5,000 miles along the California coast from its summer range in the Arctic. Each year hundreds of thousands of spectators crowd to viewpoints or take boats to the whales' offshore migration paths. The calving and mating grounds in the lagoons of Baja California, have drawn ever-increasing numbers of scientists and spectators since the completion of Baja California's first transpeninsular highway. The State of California, in 1975, designated the California gray whale as the State marine mammal, thus further recognizing it as a valuable recreational and biological resource.

The bowhead whale, also known as the Greenland or Arctic right whale, is very rare and found in the Arctic waters of North America. In comparison with the other great whales, scientists know the least about the bowhead whale. A relic population of 1,000 or less regularly migrates along the Arctic coast of Alaska in spring and fall.

Although both of these species are protected by international agreement, as well as listed for special protection as endangered species, the possibility of habitat destruction is a major reason for this legislation. Outer Continental Shelf-development of our energy resources and other commercial activities near the breeding grounds of the gray whale and the habitat of the bowhead whale could threaten their future survival. Because of the absence of basic biological information, procedures to mitigate potential harm have not been developed. The comprehensive study required by this bill should provide some answers to this and other questions.

Some countries have been critical of the United States for what they regard as our hypocritical position. On the one hand, we have led the charge against those countries which have engaged in commercial whaling; while, at the same time, ignored and possibly threatened the well-being of these two important species that migrate off our coast. Therefore, this bill represents an important commitment to the protection of these two species—not so much in terms of simply dollars, but also a commitment in terms of developing bilateral agreements with Mexico or Canada for their protection and of assuring that our Federal programs do not knowingly or negligently violate the habitat and migrations of the California gray whale and the bowhead whale.

I understand that the Senate is prepared to act promptly on this bill. Therefore, I urge the immediate enactment of H.R. 15445.

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the distinguished ranking minority member of the committee, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the habitat and range of the California gray whale and the bowhead whale is along the western coast of North America. I will not belabor the points already made by my colleagues regarding the magnificence of these unique American species. However, I do wish to point out the fact that the research which will be undertaken pursuant to H.R. 15445 will be of enormous benefit to all marine mammals.

One of the general weaknesses of our entire marine mammal management program is the lack of adequate data regarding the migration patterns and the population dynamics of various marine mammals. Animal tracking and other technologies which will be developed in the course of this research will no doubt have practical applications for many other marine mammals.

Mr. Speaker, this is an extremely important piece of legislation and I urge its adoption.

Mr. LEGGETT. Mr. Speaker, I have no further requests for time.

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I notice in the report that there is a letter from the General Counsel of the Department of Commerce suggesting that this legislation is not needed. I know that many Members wish to save whales, and that those Members who favor preservation of gray and bowhead whales are convinced that such preservation actions are important. However, I wonder if the gentleman could answer this statement of the Department of Commerce which says:

> While this agency supports the research and protection for gray and bowhead whales called for by H.R. 15445, we believe it could be appropriately accomplished under existing Federal law. Accordingly, we oppose enactment of H.R. 15445.

Mr. Speaker, the reason I ask this question is this: I know the Democratic candidate for President, Mr. Carter, supported by the gentleman from California (Mr. LEGGETT) has said over and over again that we do not need to pass laws that create unnecessary bureaucracy and call for extra action in the Federal executive branch. If we do not need this and even the Department of Commerce says we do not need it, why do we have this legislation up for consideration here today?

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, again I suggest that if the gentleman will look back at the date of that letter, he will find it is September 16, and that was just about the time the administration was changing its policy.

Mr. ROUSSELOT. Mr. Speaker, the gentleman is correct. The letter is dated September 16, 1976. It is a most up-to-date statement.

Mr. LEGGETT. Mr. Speaker, if the gentleman wants an answer to that question, I will merely state that it is true—and I frankly admit it—that in some of these areas such as the billion and a half dollars for the refuges in parks, we do not in fact need the authorizing legislation.

However, if we want to work within the framework of the budget program, by which the Congress and perhaps the President both give an indication of what their intent is on the preparation of budgets, I believe, since we are now talking about a program that will come to maturity in 1978 and 1979, that this indication will help the administration to formulate its budget with respect to that time frame. That is true whether it be the existing administration or a new and viable successor administration. Either way we will come out at the same place, and we will know more about where we are going.

So, Mr. Speaker, this is in exactly the same category again as that of the Yellowstone refuge program.

Mr. ROUSSELOT. Mr. Speaker, if I might comment further, I do not really think this legislation is in the same category. I do not think that we can say that whales, which the gentleman wants to preserve, are in the same category as fish or wildlife in Yellowstone or Yosemite National Park.

Mr. LEGGETT. Mr. Speaker, I am not sure I understood the gentleman.

Mr. ROUSSELOT. I really do not think the gentleman from California thinks that there are any whales in Yellowstone or Yosemite or in any of our national parks.

Mr. LEGGETT. Is the gentleman saying that geysers are more important than whales?

Mr. ROUSSELOT. No, I am not making any claims about what is more important. It is up to the gentleman who is advocating this bill, to prove the need for this legislation.

My point again is that I do not understand the necessity for this legislation on the basis of the history of which I know the gentleman is aware. On the basis of the statement of the General Counsel of the Commerce Department alone, it is clear there is already adequate legislation covering this subject. I say further that in my judgment, on the basis of what I have read in the report, this legislation is clearly duplicative. Is that not correct?

Mr. LEGGETT. Mr. Speaker, if the gentleman will yield, I know that the gentleman is very much concerned about unnecessary legislation. I am sure he reviewed this report. It took me, I think, 3 or 4 minutes to get through that report.

Our committee, bipartisan as it is, reviewed this matter for a whole afternoon; and we took testimony from all of the administration witnesses.

Somebody at the Department of Commerce did write the letter which is included in the report. There were other people from the administration who, in fact, testified in favor of the bill, as amended. They were subjected to rather thorough cross-examination.

The bill did pass out of the subcommittee unanimously and out of the full committee unanimously, and it is on the floor here with unanimous support from both sides.

Mr. ANDERSON of California. Mr. Speaker, I rise in strong support of H.R. 15445, a bill to protect the California gray whale and the bowhead whale.

Although the California gray whale has been protected from commercial slaughter since 1947, and has survived to a healthy population of 11,000 mammals, the need for this bill is evidenced by present and potential threats to the whale's habitat.

Man's encroaching pollution, offshore oil activity, possible deep seabed mineral mining, all affect these eastern Pacific mammals.

That is why the Secretary of Commerce is directed to study the distribution, migration patterns, and population in order to determine the impact of habitat destruction and other detriments to the whales. On January 1, 1980, the Secretary must submit reports, with appropriate recommendations for legislation or other action, to the Congress.

Moreover, until such time as the studies are complete and recommendations are implemented, Federal agencies must cooperate in protecting these species; and the Secretary of Commerce, through the Secretary of State, is to initiate immediately negotiations with Mexico and Canada for appropriate bilateral agreements.

Mr. Speaker, the annual migration of the California gray whale from the frozen Arctic to Scammon's Lagoon in Baja California is a true spectacle of nature. The people in our area, especially along the cliffs of Palos Verdes, marvel at the gray's annual migration.

The bowhead whale, which migrates annually along the northern Alaska coast, is perhaps in greater danger. During the last meeting of the International Whaling Convention, a resolution was passed expressing concern over the plight of the bowhead whale and requesting an immediate study of the status of the animal and of the impact of their killing. I am pleased our subcommittee—Fish, Wildlife Conservation, and the Environment—recognized this problem and complied with this international body's request during the markup phase.

Mr. Speaker, a comprehensive study designed to prevent the destruction of these magnificent mammals, habitat is needed. I urge all Members to join with me in passing H.R. 15445.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of H.R. 15445, a bill to provide for comprehensive studies by the Department of Commerce of the gray and the bowhead whales.

Residents of my congressional district are particularly aware of the beauty of these whales and the need to insure their protection. We have the distinct pleasure of witnessing each December and January the migration of the gray whales off our coast on their way south to calving grounds at Scammons Lagoon in Baja California and again in March and April with their young on their way north to waters off Alaska.

While these species are not commercially hunted, they face another danger as a result of new and continuing commercial and energy development along the Pacific coast.

The purpose of this legislation is to gather sufficient information on this problem to permit us to take the necessary steps to insure the protection of the whales.

The gray and bowhead whale faced extinction a short time ago but since receiving the protection of the International Whaling Commission which prohibits their being hunted, they have made a miraculous recovery. It would be a tragedy indeed if we were to allow their numbers to again fall dangerously low as a result of man's discharge of pesticides and other chemicals and as a result of increased use of motorized boats in their calving lagoons.

I commend my colleagues on the House Merchant Marine and Fisheries Committee for their willingness to address this important issue and I urge passage of this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill H.R. 15445, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 15445, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR CONSTRUCTION OF FACILITIES ON GUAM

Mr. ICHORD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15136) to authorize appropriations for construction of facilities on Guam, and for other purposes, as amended.

The Clerk read as follows:

H.R. 15136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MILITARY CONSTRUCTION

SEC. 101. (a) The Secretary of the Navy and the Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, equipment, and planning and design for the following acquisition and construction:

Naval Complex, Guam, $71,400,000.

Andersen Air Force Base, Guam, $24,400,000.

(b) There is authorized to be appropriated for the purpose of this section an amount not to exceed, $95,800,000.

TITLE II—MILITARY FAMILY HOUSING

SEC. 201. In addition to the funds authorized to be appropriated by section 507 and section 602 of Public Law 94–107 for military family housing, there is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(1) For demolition, construction, improvements, minor construction, and planning of family housing facilities on Guam an amount not to exceed $32,371,000.

(2) For support of military housing on Guam an amount not to exceed $8,002,000 for the period July 1, 1976, through September 30, 1976.

TITLE III—GENERAL PROVISIONS

SEC. 301. Authorizations in this Act shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1976 (Public Law 94–107), in the same manner as if such authorization had been included in that Act.

SEC. 302. This Act may be cited as the "Supplemental Authorization Act for Military Construction on Guam".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITEHURST. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. ICHORD) and the gentleman from Virginia (Mr. WHITEHURST) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Missouri (Mr. Ichord).

Mr. ICHORD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 15136 authorizes supplemental appropriations under the fiscal year 1977 and the transition quarter for construction of facilities on Guam. The Department of Defense requested a total of $144,864,000 in new authorization for restoration and replacement of military facilities and military family housing on Guam which were destroyed by Typhoon Pamela on May 12, 1976.

Mr. Speaker, before I describe the features of the bill, I want to express my appreciation to the ranking member of the Subcommittee on Military Installations and Facilities, the distinguished gentleman from Virginia (Mr. Whitehurst) and all of the other members of the committee for their efforts in bringing this legislation to the House floor.

Our subcommittee met on August 25 and 26 to receive testimony from Navy, Air Force, and Department of Defense witnesses and to adopt several amendments to the bill. These amendments produced an across-the-board reduction of the amounts requested by the Navy and Air Force under title I to repair or replace damaged facilities other than family housing. Under title I the Navy originally requested $77,869,000 and the Air Force requested $26,622,000. The amendments reduce the Navy total to $71,400,000 and the Air Force figure to $24,400,000, making a total reduction of $8,691,000 in the original bill. The grand total authorized in the bill is, therefore, reduced to $136,173,000. In effect, all of the restoration projects proposed in the bill would be authorized but would have to be constructed within the reduced amounts recommended by the Committee.

It is the committee's opinion that these reductions should be made because the significant size of the restoration program should bring about savings by enhancing competition and permitting bulk buying of material at a lower cost than that of single projects included in a regular year's program. In view of these potential savings, the committee believes that the area cost factor for Guam may be reduced from the anticipated 1.80 to 1.65 which would reduce the Navy authorized amount to $71,400,000, and the Air Force amount to $24,400,000. The cost factor relates the cost of construction for a particular area to that in Washington, D.C. For example, if an area has a cost factor of 1.80, that implies that it will cost 80 percent more for construction in that area as compared to Washington, D.C.

The committee does not question the need for any of the facilities requested for restoration or replacement, but if the services are not able to construct all of the facilities within the amounts authorized, we believe those facilities normally constructed from nonappropriated funds should be deferred. Other facilities that are not mission essential should be the next order of priority for deferral if the services are not able to construct all facilities within the authorized amounts.

Title II of this bill provides $40,373,000 for the restoration of more than 3,000 military family housing units damaged by the typhoon. Since this construction requires less design and the repairs are likely to occur coincident with similar reconstruction in the civilian section, we do not anticipate the savings that should be realized in regular construction under title I. Therefore, the committee recommends approval of the amounts requested by the Navy and Air Force under title II.

Mr. Speaker, I urge the passage of this disaster relief measure so that reconstruction of these necessary facilities can begin as soon as possible.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman would yield, I would like to commend the gentleman from Missouri (Mr. Ichord) for moving this legislation forward. Those of us who are familiar with the situation on Guam due to typhoon damage not only to military facilities, but to civilian structures as well, think this legislation is needed. I hope it receives the approval of all of the Members.

There is one question that I would like to pose to the gentleman from Missouri. As the chairman of the Subcommittee on Territorial Affairs, I sincerely hope the military will cooperate to the fullest extent permitted under law with the civilian side to improve the infrastructure of such islandwide utilities as water lines, sewerlines, and the powerlines. I would hope the gentleman from Missouri (Mr. Ichord) would agree with me, that in developing this absolutely necessary rehabilitation of the military facilities that appropriate consideration be given to linking them into those anticipated needs in the civilian sector.

Mr. ICHORD. Mr. Speaker, in reply to the gentleman from California (Mr. Phillip Burton) let me say that the committee did discuss those matters with the various military witnesses who appeared before the committee. As the gentleman well knows, the people on the island of Guam depend very heavily upon the Air Force and the Navy as a great part of their economy. Recently the Navy transferred power generating facilities to the civilian sector in Guam so that there is close cooperation between the civilian sector and the military sector. That is being watched by the committee.

Mr. PHILLIP BURTON. If the gentleman will yield further, I would also hope that to the extent authorized by law that appropriate assurances from other executive agencies could be obtained that they will cooperate with the military in proceeding with an island-wide kind of development of this infrastructure. I do not believe it to be an exclusive military responsibility where there are other executive agencies involved. However, if other executive agencies can reach agreement with the military, towit, that there be islandwide construction of facilities, particularly if there be an understanding as to payment by these other executive agencies, then I would expect the military would give consideration to such construction.

Mr. ICHORD. I agree with the gentleman from California but only to the extent that it would not be disruptive of the military mission and the military units stationed on Guam.

Mr. PHILLIP BURTON. I thank the gentleman.

Mr. ICHORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Speaker, the House Committee on Appropriations supports the restoration and repair of military facities and the replenishment, repair, and replacement of equipment and supplies on the island of Guam. A supplemental appropriation bill has been reported by the committee to support the authorization which is proposed in the bill currently before the House and hopefully it will be voted on under suspension on tomorrow.

Guam represents our most secure outpost in the western Pacific. It is the westernmost military base which is directly under U.S. control. Members of the House are fully aware of the problems which arise constantly regarding our tenure in other areas not under U.S. control. Because of the location of Guam and its significant place in our western Pacific defenses, it supports highly essential and strategic Navy and Air Force activities. In the event of an emergency, activities there would have to be expanded many times over within a very short period. Consequently it is doubly essential that the facilities which were damaged or destroyed by Typhoon Pamela be replaced as quickly as possible.

We will recommend funds to replace many old World War II facilities which were not typhoon proof and which suffered severely or were completely destroyed by one of the most destructive typhoons in the history of the area. We propose to replace only those facilities which are needed to carry out the ongoing missions on Guam. Thus, the present authorization and appropriation are not intended to provide expanded facilities.

Military and civilian personnel on Guam are to be commended for the valiant effort they have made to restore damaged facilities, particularly in the area of family housing. However, these efforts are far from adequate because of the extensive damage and destruction which have been suffered. Efficient operations are impossible without replacement and rebuilding, and this should be accomplished as quickly as possible.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished chairman of our Military Installations and Facilities Subcommittee (Mr. Ichord) has given you the basic reasoning of the Committee on Armed Services in bringing this bill, H.R. 15136, up for consideration under suspension of the rules.

On May 12, 1976 Typhoon Pamela destroyed or severely damaged a large part of the military installations and military family housing facilities on Guam. The wind intensity of that storm was over

170 miles per hour and the rainfall was over 30 inches. This emergency authorization provides for the restoration and replacement of those installations and facilities. This action is necessary so that the devastated areas can be rebuilt as quickly as possible.

Mr. Speaker, this is a bill that is needed now. I support it and I urge my colleagues to vote for its passage.

Mr. Speaker, I yield back the remainder of my time.

Mr. ICHORD. Mr. Speaker, I have no further requests for time.

I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. ICHORD) that the House suspend the rules and pass the bill H.R. 15136, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECALCULATION OF RETIRED OR RETAINER PAY TO REFLECT LATER ACTIVE DUTY

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4105) to amend section 1402(a) of title 10, United States Code, to revise the rule for computation of retired or retainer pay to reflect later active duty, as amended.

The Clerk read as follows:

H.R. 4105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1402(a) of title 10, United States Code, is amended by amending footnote 1 of the table therein as follows:

(A) Amend the second sentence of the footnote to read as follows: "Except as provided in the last sentence of this footnote, for a member who has been entitled to basic pay for a continuous period of at least two years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active.".

(B) Insert the following new sentence at the end of the footnote: "For a member who, having been called to active duty after October 1, 1963, was released from active duty before October 1, 1973, after having served on active duty for a continuous period of at least two years, compute under the rates of basic pay in effect upon that release from active duty.".

SEC. 2. No person shall receive less retired or retainer pay by reason of enactment of this Act.

SEC. 3. The amendment made by section 1 of this Act is effective on October 1, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. O'BRIEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4105, which was introduced by the gentleman from California (Mr. SISK) would correct an unfortunate situation involving approximately 2,800 retired members of the Armed Forces who were recalled to active duty during the Vietnam war.

During that war, there were a number of critical military skills which were in short supply in the Active Forces. In order to fill these shortages, persons on the retired rolls or in the Fleet Reserve were invited to apply for recall to active duty. At least some of those recalled to duty were advised in writing that if they accepted recall, they could, when released from duty, recalculate their retired pay on the basis of the pay rates in effect at the time of their release.

Those assurances, while given in good faith, could not be fulfilled.

Under governing law, the retired pay of persons who are recalled to duty from a retired status can be recalculated based on the pay rates in effect when they are released only if they serve on active duty for at least 2 years and, furthermore, only if those pay rates have been in effect for 2 years or more.

This latter requirement effectively precludes any retired individual who was recalled to active duty after October 1, 1963, from recalculating retired pay on rates in effect when released—for the simple reason that there have been military pay raises at least once a year since October 1, 1963. Accordingly, no pay rate could be in effect for 2 years as required by the statute. Accordingly, no retired member could recalculate his pay based on the pay rates in effect when he was released from duty.

H.R. 4105 as originally introduced would authorize any person who was recalled to active duty and served for 2 years or more to use the pay rates in effect at the time of his release from active duty to calculate his retired pay.

During the 92d and 93d Congresses, the Department of Defense supported this kind of legislation. Now, however, the Department's position is opposed to H.R. 4105. The Department's letter states:

> Although it would seem reasonable and proper to correct the disparity in retired pay of this group, there are other inequity corrections in the military retirement system which vie with H.R. 4105 for limited retired pay appropriations.

Mr. Speaker, I and other members of the Armed Services Committee have consistently opposed any proposals for unwarranted liberalization of the already liberal military retirement system. Consistent with that viewpoint, H.R. 4105 was amended by the committee to limit its application to persons who were recalled to active duty during the period October 1, 1963, to October 1, 1973, and to ban any retroactive pay.

Mr. Speaker, I strongly urge that the House take favorable action on this bill and thereby fulfill the promises made to these men who, during the Vietnam war, came back on active duty and made their skills and talents available to the Armed Forces when they were needed.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. O'BRIEN. Mr. Speaker, I wish to associate myself with the remarks of my colleague from New York (Mr. STRATTON).

H.R. 4105 would permit these retired members of the Armed Forces who were recalled to active duty during the Vietnam war and served for 2 years or more to recalculate their retired pay based on the pay scale in effect when they were released.

The bill would provide these members of the Armed Forces what, in simple justice, they are entitled to and which they would have received except for a quirk in the law which requires 2 years of service at a pay rate in order to retire at that rate. Since pay has been increased every year since 1963, no one could qualify regardless of how long he served. Clearly, the intent of the law was to require a 2-year minimum period of service for recalculation of retired pay. H.R. 4105 carries out that intent.

I support the bill and strongly urge favorable action by the House.

Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in support of H.R. 4105, a bill to revise the rule for computing retired or retainer pay to reflect later active duty service. I am a sponsor of identical legislation, H.R. 277 and I have been since 1971. This legislation is directed to only a small number of persons and it would correct an inequity that has existed since 1966.

During the peak of the Vietnam conflict, men experienced in combat techniques were desperately needed to train young men being sent into combat. Therefore, the Navy and Marine Corps sent letters inviting several thousand selected men to return on active duty. Most of these men had combat experience and outstanding prior military records. In return for leaving their communities and returning to active duty, these men were promised by both Navy and Marine Corps officials that:

> Upon your future separation from active duty, your retainer pay will be recomputed using the current pay scales and crediting your additional active service.

For example, a constituent of mine served from 1943 until 1962. He was asked to return on active duty in 1966. He served for a second time until his retirement in 1971, devoting over 25 years of service to his country. It was not until after he retired for the second time that he learned that the promise made to him could not be kept.

H.R. 4105 applies to only about 2,800 individuals who served a minimum of 2 years during the Vietnam conflict after their first retirement. The Department of Defense estimated the bill's cost at about $1.7 million for fiscal year 1977. The funds do exist in DOD's retirement fund to accommodate this legislation.

Mr. Speaker, this is a simple bill and it is an equitable bill. It is one that Mr. SISK and I have proposed for many years and it is not a costly bill. Several thousand retirees returned to active duty to serve their country for 2 years when they were needed. They were promised in writing that their entitlement to retired or retainer pay would be on the basis of their later active duty. This promise could not be kept without changing the law. In passing this legislation, we would be correcting an injustice that these brave and faithful Americans have suffered for the past several years.

In my opinion, this legislative proposal recognizes the contribution of these men and it meets every test of fairness and good conscience. It would restore in the minds of those small number of men concerned that their Government is as good as its word. I therefore urge you to vote in favor of H.R. 4105.

Mr. STRATTON. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. SIKES), a member of the Appropriations Committee.

Mr. SIKES. Mr. Speaker, this bill and two others which the House will address today are referred to the Committee on Appropriations under section 401(b) of the Budget Control Act of 1974. This particular section provides that when an authorizing committee reports a bill containing entitlement authority in excess of the amount allocated to the authorizing committee under the budget resolution, the bill is referred to the Committee on Appropriations.

The recommendation of the Committee on Appropriations are contained in a report which bears the same number as the report supporting the bill as it left the Armed Services Committee, however, the Appropriations Committee report is labeled part II.

Unfortunately, there is an error in Friday's CONGRESSIONAL RECORD on page H10457 under the heading "Adverse Reports" which states that the Committee on Appropriations reported adversely on all four entitlement bills referred to it. This is incorrect, the committee has reported two bills adversely. They are H.R. 14772, bonus for Berry plan doctors and H.R. 4105, recalculation of retired pay to reflect late active duty. S. 2090 was reported favorably and H.R. 14773, making improvements in the survivors benefit plan, was reported favorably with an amendment. I understand that the Committee on Armed Services will offer the necessary amendment when H.R. 14773 is called later today. With the amendment striking section 3, this bill has the full support of the Appropriations Committee.

RECALCULATION OF RETIRED PAY TO REFLECT LATER ACTIVE DUTY H.R. 4105, REPORT 94-1435, PARTS I AND II

This bill proposes to allow personnel who were called to active duty for 2 or more years during the period 1963 to 1973 to recalculate their retired pay on the pay rate in effect when they were released from active duty. Current law required that the member who is called from retirement to active duty may recalculate his retired pay when he enters retirement again on the basic pay in effect at the time of his latest release from active duty only when he has been on active duty continuously for 2 years and has been under the basic pay schedule for the same 2-year period. Since 1963, there has been an increase in basic pay at least once each year. Therefore, retirees could not be entitled to the basic pay in effect at the time of their release because they could not have been entitled to that rate for a continuous 2-year period. Thus, the Department of Defense allows them to recalculate their retired pay on the rate in effect at the time they were recalled to active duty rather than at the time they left active duty.

The Department of Defense is opposed to this legislation. The Department believes that persons called to active duty during this period bettered their positions substantially compared with their retired pay rates before they entered active duty. The Department also belives that the entire matter of recalculating—recomputation—of retired pay should be done in conjunction with consideration of the overall Defense Department proposed Retirement Modernization Act. The Committee on Appropriations also believes that passage of this legislation would in fact represent a partial recomputation of military retired pay. In past years there have been numerous proposals to recompute retired pay for various personnel who retired at various times. None of these bills has ever been passed by the Congress. I support recomputation but I feel the subject should be considered in its entirity and not piecemeal.

The Committee on Appropriations has held hearings on this proposal and has concluded that the Department of Defense is correct in opposing the bill. Therefore, the Committee on Appropriations has recommended that this bill do not pass.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I wish to join my colleague from the Subcommittee on Defense in opposing this bill. We do look on it as piecemeal recomputation. We do believe if we get into the subject of recomputation, we should do it in its entirety and look at all the retirees' pay plans and programs at one time. For that reason, we have concluded this bill should not be passed.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Texas, the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I rise to support the opposition to this measure which has been expressed by the gentleman from Florida and the gentleman from Alabama.

Mr. Speaker, I hope that the House will not pass this bill.

Mr. O'BRIEN. Mr. Speaker, I have no further requests for time.

Mr. STRATTON. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. SISK), the author of the bill.

Mr. SISK. Mr. Speaker, I thank the gentleman from New York (Mr. STRATTON) for yielding this time.

I recognize that we are up against some pretty tough competition, but, actually, their reasons for opposing this are exactly the same old story that I have been listening to for 10 years in the Department of Defense.

It seems to me that it is about time that they updated their excuses. The Department of Defense has, from time to time, actually supported this. We are not talking about recomputation here across the board. I have great respect for my good friend from Florida (Mr. SIKES), as well as my colleague from Texas (Mr. MAHON)—in fact he is my own Congressman, almost, down in that part of the country—but here is an issue where we are dealing with a very few people.

Let me hasten to say that I guess I could say that I have no personal interest in this. I understand that of the 2,800 people, I have one of these people who happens to live in my district. But, these 2,800 people come from throughout this country. They were told flatly, and told in writing, exactly what they would receive if they, in fact, were willing to leave retirement and come back to active service and give of their service in a time of need.

Now, all we are attempting to do is set that record straight. These people have been lied to; the Department of Defense admits that they have been lied to, and all we are trying to do is to correct a situation and give a little bit of credibility. It is no wonder to me sometimes that I find people as critical of our Department of Defense as I find them to be, and particularly among our young people. I think this kind of action and this kind of failure on the part, not only of the Department of Defense but on the part of the Congress if, in fact, we go along with this kind of shell game, is the very thing that is creating a credibility gap with a lot of our young people.

In other words, it seems to be, "Promise anything to get the man into the service, and then to heck with him after that." I know that is not the attitude of my good friend from Florida (Mr. SIKES) and my good friend from Texas (Mr. MAHON), who are honorable men, but I know that is the implication I hear as I talk to young people.

Let me close, Mr. Speaker, on this note: We are talking about a very few number of dollars. I am reading now from the appropriations report itself, from the Subcommittee on Appropriations:

"The Department of Defense agrees that 2,800 persons affected is the correct number, but estimates that the ratio of officers to enlisted called to active duty is not comparable to the grade mix currently on active duty. The numbers of enlisted persons called to active duty during this period was much higher than their portion of the current force on active duty with 22 years or more of service. Thus, the Department of Defense now estimates the cost of the bill to be about $700,000 with increases due to cost-of-living pay raises adding about $40,000 each year. A completely accurate determination of cost could be obtained only through identification of each affected member and an individual calculation in each case. The DOD estimate would provide an average monthly retired pay increase of $20 or $240 annually."

It is a matter of about $20 per month for 2,800 people. When I look at the fantastic amounts of money we pass—and I have voted for, because I believe in a strong defense, a strong national security—I just deplore the fact that we are not able to go ahead and take care of the commitment made to a group of worthy individuals who came in and gave at a time when we needed them. So, my plea would be that, in spite of the remarks of my good friends on the Appropriations Committee, let us meet our responsibility in this case. We are not talking about recomputation on hundreds of thousands of people; we are talking of a recalculation and setting right of a wrong that was done a number of years ago to some 2,800 individuals who gave above and beyond the normal call of duty.

Mr. O'BRIEN. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Speaker, could I have the attention of the gentleman from California (Mr. Sisk)? Would the gentleman agree with me that the word "recomputation" has been used here, but that I do not agree that this is a recomputation bill. I see it as a recalculation of retirement benefits that, in most cases, were promised people who came back into the service at the request of the Department of Defense.

Does that thinking agree with the gentleman from California?

Mr. SISK. If my colleague will yield, that is exactly what we are talking about here. We are not talking about recomputation. We are talking about recalculation in arriving at a record in which a group of people were wronged by virtue of a promise and which, unfortunately, could not be carried out. It is not recomputation. Unfortunately, the idea here of piecemeal recomputation, I think, is an unfair charge. I agree completely with my colleague.

Mr. BROYHILL. I have in my hand a report of the hearings which were conducted on this bill in the Committee on Armed Services, and in those hearings we included in the record, samples of communications which were sent to individuals in which they were promised that "Upon your future separation from active duty, your retainer pay will be computed using the current pay scale in crediting your additional active service."

Is it not true, I would ask the gentleman from California, that in his experience and in his examination of those cases, those 2,800 cases, most of them had promises just like this, if not all of them?

Mr. SISK. If the gentleman will yield, so far as I know, I only have one living in my district, but I know for a fact I saw letters in writing, and it was very clearly stated what the conditions were when he was called back into the service. There is no question about it.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. I thank the gentleman for yielding.

Mr. Speaker, as I look at the report submitted by the gentleman from New York (Mr. Stratton), and as I read the opening language, it says, "The Committee on Armed Services, to whom was referred the bill (H.R. 4105) to amend section 1402(a) of title 10, United States Code, to revise the rule for computation of retired or retainer pay. . . ."

Computation is what the report calls it. Recomputation, recalculation, there is absolutely no difference. There in fact was a recomputation or a recalculation of retired pay at the time they left active duty. They were not promised a second recalculation. They were allowed to recalculate or recompute, whatever the case may be, when they left active duty and returned to the retired rolls. Now they are asking for a second recomputation based on a slightly different pay scale.

The SPEAKER. The time of the gentleman has expired.

Mr. O'BRIEN. Mr. Speaker, I yield 1 additional minute to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Speaker, I point out that the title of the report is "Recalculation of Retired or Retainer Pay To Reflect Later Active Duty."

We are not talking about a recomputation of all of the retirement pay of everyone who has ever retired from the service. We are only talking about recalculating the pay of about 2,800 individuals who voluntary agreed to return to service to provide needed services to the various branches of the armed services for training of men in the Vietnam conflict, and then when they retired the second time they were not given what they were promised.

Mr. SIKES. Mr. Speaker, will the gentleman yield for about 15 seconds?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, I have the highest regard for my friend, as he well knows. But the computation he continues to speak of is spelled in the report c-o-m-p-u-t-a-t-i-o-n.

Mr. BROYHILL. I can read it very clearly. It says recalculation.

Mr. O'BRIEN. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Speaker, I rise in favor of this, not because pensions may have been recomputed or recalculated, but because the Government of the United States has promised something in writing. It is a matter of honor. It should not require the intervention of a lawyer. If people have been called back into the service under certain conditions, those conditions must be met. Promises must be kept.

Mr. O'BRIEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think the gentlewoman from New Jersey and the gentleman from California have said it exactly right. I do not think we need be concerned with words that may have become "terms of art." I think, as a matter of morality, it becomes a question of good faith. I also believe that in private life were it a legal matter, we would find ourselves confronted with a situation in which certain persons were asked to do something for their country and were promised something in return. Those who were asked, acted on the promise and performed in good faith. Now the promisor in the contract is walking away from its obligation.

Mr. Speaker, I consider that these servicemen acted in reliance on the promise made them, and I think we should be estopped from denying them their rights.

Mr. Speaker, I have no further requests for time.

Mr. STRATTON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I wish to second what the gentleman from Illinois (Mr. O'Brien) has said with respect to this piece of legislation. I think the gentleman from North Carolina (Mr. Broyhill) has made a very good point.

I will point out to my friend, the gentleman from Florida (Mr. Sikes), that he did not read far enough in our report. It does say, "to revise the rule for computation of retired or retainer pay," but the following words are: "to reflect later active duty."

I think that now with the retirement of our good friend, the gentleman from Louisiana (Mr. Hébert), I am probably the outstanding opponent in Congress of recomputation. I have been fighting it for years, and I have been blasted by a number of organizations and journals for that position. I am not in favor of recomputation which raises the pay of retirees without any additional service.

However, in this case, as the gentleman from Illinois (Mr. O'Brien) has pointed out, we are dealing with people who came back to active duty and who were not able to get the pay that was payable at that time because of the technicality that we were increasing pay rates annually that they could not serve for 2 years at the same pay.

This does seem to me to be a real injustice. As the gentlewoman from New Jersey (Mrs. Fenwick) has already indicated, they received a solemn commitment, certainly what they thought was a solemn commitment, from the Government, and then we welshed out of it.

If the Members will take a look at the report, I would like to point out to the House that the original estimate in terms of cost was something over $5 million. After our committee had added its changes the cost dropped to $1.7 million. Then, the Defense Department pointed out some facts that had been overlooked, and the cost estimate was reduced to only $700,000.

Mr. Speaker, I think that is a small amount to pay to uphold the honor and the integrity of the United States, and I urge the adoption of the bill.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from New York (Mr. Stratton) that the House suspend the rules and pass the bill H.R. 4105, as amended.

The question was taken.

Mr. CLANCY. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule

XXVII, and the Chair's prior announcement, further proceedings on the motion will be postponed.

INCENTIVE PAY FOR ARMED SERVICES MEDICAL OFFICERS

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14772) to amend section 313 of title 37, United States Code, to pay variable incentive pay to medical officers who participated in the Berry plan, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313 of title 37, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) Notwithstanding the provisions of clause (4) of subsection (a), a person in the Armed Forces who participated in the Berry Plan and who is serving an initial active-duty obligation of two years may, if otherwise eligible under this section, be paid an amount not to exceed $9,000 for each full year of his remaining active-duty obligation, and for periods of remaining active-duty obligation, if he executes a written twelfth of that amount for each month or fraction thereof of his remaining active-duty obligation, if he executes a written active-duty agreement to remain on active duty for one or more years beyond such obligation."

SEC. 2. This Act becomes effective October 1, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. O'BRIEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) and the gentleman from Illinois (Mr. O'BRIEN) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 14772 will authorize payment of a bonus of $9,000 per year to those military physicians who participated in the Berry plan for any remaining active duty obligation which they may have by reason of their participation in that plan.

In order to understand the need for this legislation a brief explanation of the Berry plan is needed.

That plan which was established in 1954 was an arrangement in which a young man completing medical school would be guaranteed a draft deferment while he was undergoing training in a medical specialty. In exchange for that deferment, the young doctor agreed to serve on active duty for 2 years after completion of his specialty training.

This program was of great benefit both to the Armed Forces and to the young doctor. It provided the Armed Forces with a physician trained in a needed specialty and enabled the young physician to complete his medical education without interruption by military service. One point should be noted. The Berry plan doctor's medical training was at his own expense—it was not financed by the Government.

With the end of the draft, the Berry plan, of course, also ended as far as new entrants into the plan was concerned. However, there are 3,400 of these young doctors who are either now serving their obligated service or who are still taking their advanced specialty training and will be entering on active duty in the future.

Now to explain the problem which gave rise to the Armed Services Committee's action in proposing H.R. 14772, a word of explanation of how the Armed Forces are meeting their requirements for doctors is in order. A scholarship program has been inaugurated and the Uniformed University of the Health Sciences has been established. However, the input from these sources is not yet large enough to provide the required number of physicians needed by the Armed Forces. Accordingly, the Congress enacted legislation authorizing a variable incentive pay under which doctors could volunteer to serve on active duty and receive a bonus of up to $13,500 per year. However, that law barred payment of the bonus to any doctor serving a period of obligated service of 4 years or less.

As a result, the Berry plan physicians who are serving on a 2-year service obligation are ineligible for the bonus. This has created a serious morale problem among Berry plan physicians who, as a group, are more highly trained than those volunteering under the variable incentive plan.

H.R. 14772 is designed to encourage Berry plan physicians to continue to serve after they complete their 2-year obligation. Under the bill, any Berry plan doctor who volunteers to serve for one or more years completing his obligated service will receive $9,000 for each remaining full year of his present service obligation. In addition, of course, for the years he serves after completing his present obligated service he will receive the same bonus as any other doctor coming on duty under the variable incentive plan.

This bill will provide these highly skilled Berry plan physicians with an incentive to agree to serve for at least one more year after they have fulfilled their current obligation.

Admiral Curtis, the Surgeon General of the Navy, has stated that Berry plan physicians represent some of the most talented medical officers and yet they are receiving less than well-qualified doctors. H.R. 14772 will help to alleviate this situation.

I strongly urge favorable action on the bill.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 14772 and the comments of our distinguished chairman of the subcommittee, the gentleman from New York (Mr. STRATTON).

Mr. Speaker, let me read from the report of the Committee on Appropriations:

> These physicians enrolled in the Berry Plan of their own free will, knowing that they would likely be drafted if they did not participate. They were allowed to complete their advanced training as a specialist much earlier than someone who did not participate in the program and was drafted.

Mr. Speaker, nobody quarrels with that statement. That is absolutely true.

However, we are looking for an extension of the obligation of highly skilled specialists well beyond the time the Berry plan provided for. We should not work strenuously to plant a crop, and simply let someone else harvest it.

Keep in mind, Mr. Speaker, that the object of this legislation is to keep highly qualified medical personnel with the military to take care of our military needs. Competition for such medical specialists is intense.

In my home community, for example, consider a medical specialist, such as an allergist, who has just completed his allergy training, arriving in Joliet, Ill., to settle and practice. He can demand and secure at any medical group a salary of $45,000 a year, plus insurance, plus 4 weeks ordinary vacation, plus 2 weeks additional study-type vacation, and to top it off, an automobile.

It is hard to compete against that. The purpose of this particular legislation, and our effort, is to try to keep highly qualified medical specialists, those particularly who got the chance to become specialist qualified by the military to continue in the military.

Mr. Speaker, I strongly support H.R. 14772 which, as the distinguished gentleman from New York has stated, will provide an incentive bonus for a group of highly skilled medical officers—provided they agree to serve on active duty for 1 or more years after completion of their initial period of obligated service.

These young doctors—all of whom have completed training in a medical specialty before coming on duty—are more highly skilled than most of the doctors being recruited under the variable incentive plan and yet doctors recruited under that plan are receiving a substantial bonus of from $12,000 to $13,500 per year for each year they serve on active duty. The Berry plan doctors do not receive this bonus while serving their initial 2 years of duty.

H.R. 14772 will authorize payment to any Berry planner of $9,000 for each year of his remaining obligated service provided he agrees to serve for 1 year beyond his current service obligation.

One point which should be stressed is that while it is probable that the Department of Defense will be able to recruit the total number of doctors they need in the next few years, the quality of medical care may deteriorate because of the inability to recruit doctors with desired specialty training. Berry planners who are now serving—or who will come on active duty in the future—provide an unexcelled source of medical expertise. H.R. 14772 is designed to provide these young specialists with an incentive to agree to serve for 1 or more years after completing their initial 2 years of obligated service.

I cannot stress too strongly that this bill will make a significant contribution to the efforts of the Department of Defense to recruit the skilled physician who can provide the kind of medical care and treatment to which our Armed Forces personnel are entitled.

I urge my colleagues to support this legislation.

Mr. STRATTON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I would like to outline the position of the Committee on Appropriations on H.R. 14772.

Mr. Speaker, most of the Members of the House are aware of the Berry plan which permitted physicians to complete specialty training on an uninterrupted basis while they were guaranteed a draft deferment. Following the deferment, the physician served on active duty for 2 years. During the draft era, this program was a tremendous success and continues to be an invaluable source of physician specialists for the Armed Forces. While the draft has ended, about 500 doctors who joined the program during the draft era will enter on active duty in fiscal year 1977. About 200 will enter in fiscal year 1978 which will for all intents and purposes complete this program.

The bill before you proposes to pay up to a $30,000 bonus for 1 additional year of medical service from doctors who are currently obligated under the Berry plan. This bonus is about two-and-one-half times the bonus currently paid to a doctor for a 1-year extension of his tour.

The Department of Defense strongly objects to this legislation. The Department contends that the legislation is not necessary and that it will not have any significant impact on the retention of Berry plan doctors. In addition, the current shortage of doctors in the Department of Defense is the lowest it has been in at least 10 years. Also,the Department of Defense is progressing on a plan which could reduce the total number of physicians employed by the Department from 11,600 to under 10,000.

This legislation is estimated to cost between $3.3 and $3.5 million next fiscal year.

The lack of support on the part of the Department of Defense plus the fact that these doctors received longevity and pay credits while completing their medical training and thus entered military service at a grade level above other physicians caused the committee to reach a decision that this legislation is not required. These physicians enrolled in the Berry plan of their own free will knowing that they would likely be drafted if they did not participate. They were allowed to complete their advanced training as a specialist much earlier than someone who did not participate in the program and was drafted.

Under these circumstances, the Committee on Appropriations has recommended that this bill do not pass.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in other words, the Berry plan doctors were obligated to serve 2 years and it is now proposed to go back and pay them, retroactively, up to $9,000 a year, which is $18,000, if they agree to serve an additional year. They will also receive $12,000, more for that year or a $30,000 total bonus for 1 additional year of srevice.

The testimony indicated, Mr. Speaker, and I heard the testimony, that there was very little likelihood that anyone of these doctors would stay, anyway. Most of them want to get out of the service and become civilian doctors where, as we all know, they can make very high salaries in the practice of their profession. It seems to me just a waste of money and an irresponsible act on our part to provide this retroactive pay of $18,000, plus $12,000, provided they elect to stay. They can still elect to stay and get from $12,000 to $13,500 whether we pass this legislation or not. So I would hope that the recommendation of the gentleman from Florida would be accepted by the House.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I would be glad to yield to the distinguished gentleman from Alabama, the ranking minority member of the Defense Subcommittee on Appropriations.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I want to join with the gentleman and the chairman of the committee in their remarks.

The subcommittee feels very strongly that this bill should not pass. I think we ought to point out and reiterate the fact that there are only about 500 doctors involved in this program this year, and there will only be 200 next year and then the program will terminate simply because the law calling for the draft has been terminated. It has been a good program, but in by view the Berry plan doctor, who has been given certain benefits to allow him to continue his education now has a commitment to his country based on the benefits that he was given. I think that he should come under the same bonus plan as any other military doctor who desires to extend, and that is the plan that allows him $13,500 bonus each year if he does extend. There is no reason to put the Berry plan doctor on a par above the 2-year military doctor.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SIKES. I yield 1 additional minute to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I think we should also keep in mind that in most cases the Berry plan doctor did come into the service at a grade level higher than the other doctors in the same general category, so he has not been discriminated against. I would hope he would stay in. I think that $30,000 or up to a $30,000 bonus is a bit much to try to keep him in.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to comment on some of the remarks that the distinguished chairman of the Committee on Appropriations made. No. 1, this is not retroactive. It does not mean that one gets $9,000 for each year of service in his duty as a Berry plan doctor. Were I a Berry plan doctor in the last 3 months of my second year, I would not get $18,000, I would get three-twelfths of $9,000. That would bring me up to the point of the end of my Berry plan service. The point is that the Berry planners have done their thing. They are doing what the law provided for them. What we are trying to do is to keep whoever they are—highly qualified specialists—in the military to care for the military. I think that is our fundamental obligation.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Of course, what the gentleman says about dollars is correct, but if we take an example of a doctor just now going into the military service under the Berry plan, then in fact he could get up to $30,000. It is true if he is in the last 3 months of his 2-year tour of duty, he is not going to get $30,000. But there will still be a number of doctors just coming into the military service who would be eligible for this entire $30,000.

Mr. O'BRIEN. I think there are about 500 who are about to enter on active duty. But I think what we are worrying about is the wrong side of the coin. The Berry plan doctor is going to make out very well, whatever he does. If we let him go, fine; he will go back home to Joliet or wherever he came from and earn at least $45,000, probably more. The issue at stake is the care of the people in the services, and that is what we ought to be looking at instead of the Berry plan doctor himself.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STRATTON. I think the gentleman from Illinois has once again put his finger on the nub of this problem. It is not a question of what is going to happen to our Berry plan doctor; it is a question of whether we in the Government are going to be smart enough to try to take advantage of their ability and keep people in the armed services rather than allow them to go out somewhere else.

The gentleman from Alabama (Mr. EDWARDS) said it is possible for somebody coming in under the Berry plan to get $30,000. That is $30,000, not for 1 year but $30,000 over a period of 3 years, or $10,000 a year.

But I would point out to the gentleman from Alabama that a doctor fresh out of medical school who completed his internship would come in for $36,000. It seems to me a little bit wasteful of us to be quibbling over these figures if for $30,000 we can get someone who may have had 4 or 5 or 6 years of advanced training in a specialty such as urology or cardiology or any of these other things.

The report that the gentleman from Florida has referred to is the report of the Defense Department. They had civilians who were testifying under constraints from the Office of Management and Budget to the effect that we have all the doctors we need. But our committee called in the Surgeon General of the Navy, who knows something about the medical picture, and he pointed out what we are facing in the medical services of the armed services today is a serious quality gap. Yes, we may have as a result of the bonus enough warm bodies to fill the requirements but many of these are foreign doctors. But there is a shortage in quality. The people from the Office of Management and Budget who are supporting the position taken by the gentleman from Florida are the same people who have been trying to cut down the armed services medical establishment and prevent them from taking care of retirees and dependents, and limiting the medical forces to peacetime requirements without recognizing the need for a surge capability for wartime.

Let me call to the attention of the House our report here, page 3, where Admiral Custis, Surgeon General of the Navy, is quoted as saying:

> As this major source of accessions dwindles, the new source in terms of the H.R. 2 scholarship graduates, the buildup there does not happen soon enough for us. So that whereas last year we had to recruit "off the street" 187 doctors, this year our recruiting quota, to maintain our end strength, is over 525.

He goes on to say:

> I think it is ironic that we are in a situation where we are authorized to recruit off the street a physician who is a graduate of a foreign medical school, who is predominantly trained in a foreign curriculum, who, in most cases does not have specialty certification. We are authorized to bring that man off the street and pay him $13,000 in bonus, whereas, we have Berry planners on active duty who receive not one penny subsidy for the education through college, medical school or residency training for board certification as a specialist, who is working side by side with this first active-duty member that I described, and yet receiving as much as $13,000 less income for his services.

Let us give our people a break. As long as we are spending the money anyway, let us spend it where it will give our people the quality they need and not have a quality gap.

I think this is a wise and cost-effective measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Stratton) that the House suspend the rules and pass the bill H.R. 14772, as amended.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5546) entitled "An act to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purpose."

SURVIVOR BENEFITS FOR RETIRED MILITARY PERSONNEL

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14773) to amend title 10, United States Code, to authorize cost-of-living adjustments of annuities under the retired serviceman's family protection plan, to suspend retired-pay deductions under the survivor benefit plan when there is no eligible spouse beneficiary, to reduce the duration-of-marriage requirement under the survivor benefit plan from 2 years to 1 year, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 73 of title 10, United States Code, is amended as follows:

(a) Section 1434 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(e) Whenever retired or retainer pay is increased under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or a child of a member who died on or before March 20, 1974, shall be increased at the same time by the same total percent."

(b) Clauses (3)(A) and (4)(A) of section 1447 are each amended by striking out "two years" and inserting in place thereof "one year".

(c) The second sentence of section 1448(a) is amended by inserting ", or elects to provide an annuity for a dependent child but not for his spouse" after "maximum level".

(d) Section 1450 is amended as follows:

(A) Subsection (a) is amended by striking out "or" at the end of clause (2), renumbering clause (3) as clause (4), and inserting the following new clause (3):

"(3) the dependent children in equal shares if the person to whom section 1448 of this title applies elected to provide an annuity for dependent children but not for the spouse; or".

(B) by adding the following new subsection "(j)" at the end thereof:

"(j) Where the annuity has been adjusted under subsection (c) of this section and there is no entitlement to compensation under section 411(a) of title 38, due to remarriage of the spouse after reaching age sixty, annuity shall be readjusted to the rate of entitlement existing prior to the adjustment under subsection (c) of this section, if any amounts refunded under subsection (e) of this section are repaid.".

(e) Sections 1450(f), 1451(b), 1452(a), and 1452(c) are each amended by striking out "(a)(3)" and inserting in place thereof "(a)(4)".

(f) Section 1451(a) of title 10, United States Code, is amended to read as follows:

"(a) If the widow or widower is under age sixty-two, the monthly annuity payable to the widow, widower, or dependent child under section 1450 of this title shall be equal to 55 percent of the base amount. When the widow or widower reaches age sixty-two, the monthly amount shall be reduced by an amount equal to 50 percent of the amount of any survivor benefit which the widow or widower receives under subchapter II of chapter 7 of title 42 based solely upon service by the person concerned as described in section 410(l)(1) of title 42 and calculated assuming that the person concerned lived to age sixty-five. The reduction prescribed by the second sentence of this subsection shall not be made if the only service by the person concerned as described in section 410(l)(1) of title 42 involved periods of service of less than thirty continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of title 26 of the social security tax which he had paid.".

(g) Section 1452 of title 10, United States Code, is amended by—

(A) further amending subsection (a) by—

(i) striking out the first word and inserting the following in place thereof: "Except as provided in subsection (b), the"; and

(ii) adding the following new sentence at the end thereof: "The reduction in retired or retainer pay prescribed by the first sentence of this subsection shall not be applicable during any month in which there is no eligible spouse beneficiary";

(B) amending subsection (b) by inserting "or who has a spouse but has elected to provide an annuity for dependent children only," after "spouse,"; and

(C) further amending subsection (c) by adding the following sentence at the end thereof: "The reduction in retired or retainer pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(3) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f).".

Sec. 2. Section 4 of Public Law 92–425, September 21, 1972 (86 Stat. 712), is amended as follows:

(a) Subsection (a)(3) is amended by striking "$1,400" and inserting "$2,100" in place thereof.

(b) The first sentence of subsection (b) is amended by striking "$1,400" and inserting "$2,100" in place thereof.

(c) Subsection (c) is added as follows:

"(c) Subsection 1450(i) and section 145 as added to title 10, United States Code, by clause 3 of the first section of this Act, are applicable to persons covered by this section.".

Sec. 3. Except for subsections (a) and (f), section 1 is effective from September 21, 1972. Subsections (a) and (f) of section 1 and section 2 are effective October 1, 1976. No pay shall accrue to any person by virtue of the enactment of this Act for any period prior to October 1, 1976.

Sec. 4. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on October 1, 1976, to a spouse or a child of a member who died on or before March 20, 1974, shall be increased effective October 1, 1976, by the total percent that retired or retainer pay has been increased under section 1401a of that title since September 21, 1972.

The SPEAKER pro tempore. Is a second demanded?

Mr. O'BRIEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

The gentleman from New York (Mr. Stratton) and the gentleman from Illinois (Mr. O'Brien) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Louisiana (Mr. Hébert).

Mr. HÉBERT. Mr. Speaker, I rise in

support of this particular amendment, but especially at this time to insert in the RECORD the announcement of an amendment to title X which is included in this amendment, which will repeal the so-called McCormack amendment to the Armed Services Act of 1958.

Mr. Speaker, this is the act which gives the Pentagon complete control over the Congress. It is about time the Congress takes back its own control from the Pentagon.

Mr. Speaker, for some time I have been concerned over the manner in which congressional control over the organizational structure of the Department of Defense has eroded, and the fashion in which some individual service functions have been diminished or eliminated through the unilateral establishment of new offices and Defense agencies.

In many instances, these moves have been accomplished by invoking the provisions of the original 1958 McCormack amendment to the National Security Act which now appears in title 10, United States Code, section 125(d). The basic purpose of that amendment was to provide for unified and economical procurement of common items, and where advisable, for one military department to operate for the benefit of all. The statement made by the chairman of the House Armed Services Committee during floor discussion on the amendment made that purpose clear. Nonetheless, that language was used as a basis for the unilateral establishment of the Defense Intelligence Agency, the Defense Communications Agency, and others. In addition, I recall that the Department of Defense contended that the language was not intended to limit procurement by the defense supply agency to common use items.

Mr. Speaker, as I retire from Congress, I wish to do something concrete to restore to the Congress its basic authority to oversee organization changes in the Department of Defense. Thus, I have introduced a bill which will, if enacted, goes a long way toward reaching that goal. In effect, it would repeal the McCormack amendment of 1958.

While I realize committee action on that bill may not be possible in the 94th Congress, I have been assured that it will be introduced and considered by the committee in the 95th Congress. I urge my colleagues who return, both to the Armed Services Committee, and to the House, to give it their full support.

Mr. STRATTON. Mr. Speaker, H.R. 14773 is a bill which would make a number of changes in the survivor benefit plan for members of the Armed Forces which the Congress already has made for other Federal retirement systems and would make a number of other urgently needed improvements in that plan.

In the interest of conserving the time of the House, I will only briefly touch on the provisions of the bill.

First, there were two recent changes in the civil service survivors benefit plan which H.R. 14773 would extend to the military plan. When a retired military member's spouse dies or they are divorced, the deductions from his retired pay continue notwithstanding the fact that he has no eligible beneficiaries. This has already been corrected for civil service retirees by discontinuing deductions from retired pay when there is no eligible spouse. H.R. 14773 would make similar provisions for military retirees.

In addition, in the case of a retired member who married after retirement and elected to provide an annuity for his newly acquired spouse, she is not entitled to benefits if the retiree dies within 2 years after the marriage. The Congress recently reduced the 2-year delay in coverage to 1 year for Federal civilian personnel. H.R. 14773 would make a similar change in cases of military retirees.

Another problem area addressed by the bill is the lack of a mechanism for cost-of-living increases in benefits for surviving widows and children of deceased military members who participated in the retired serviceman's family protection plan.

That plan, which was closed to new entrants when the new survivor benefit plan for military retirees was enacted in 1972, is the only Federal retirement-related survivor benefit plan which does not have a cost-of-living adjustment feature. There are about 12,000 beneficiaries under the retired serviceman's family protection plan. Equitable treatment of these beneficiaries requires that they be given the same cost-of-living increases received by survivors under other Federal retirement plans.

In addition, H.R. 14773 would provide equality in the treatment of the widow of a retired member who died from a service-connected cause with that accorded to the widow whose husband died from nonservice-connected conditions.

Under present law, the widow of a retired member who remarries after age 60 is entitled to continue to receive the benefits under the survivor benefit plan to which she was entitled based on her deceased husband's participation in that plan. Through a technicality in the law, that privilege is not available to the widow of a retired member whose death was service connected. Because she was entitled to dependency and indemnity compensation, such a widow is entitled to benefits under the survivor benefit plan only to the extent those benefits exceed dependency and indemnity compensation payments. She is entitled to reimbursement for all, or part, of the deductions which were made from her deceased husband's retired pay by reason of his participation in the survivor benefit plan. The inequity arises in that if a widow receiving dependency and indemnity compensation remarries after age 60, her right to dependency and indemnity compensation ends. Since she received a reimbursement of the deductions made from her deceased husband's retired pay, she is not eligible to receive an annuity under the survivor benefit plan. H.R. 14773 would correct this situation by authorizing payments of benefits under the survivor benefit plan provided she repays the amount of the reimbursement which she received.

H.R. 14773 also clarifies the survivor benefit plan by eliminating an ambiguity in the statute to clearly authorize the retired member to designate his children as the beneficiaries under the plan even though there is an eligible spouse. This clarification is needed because the Comptroller General has ruled that the current law does not clearly authorize a retired member to designate children as beneficiaries when there is an eligible spouse. H.R. 14773 provides the needed clarification and would validate the current practice of the Department of Defense in implementing the plan.

Another major change in the survivor benefit plan which would be made by H.R. 14773 is to replace the present 100-percent social security offset with a 50-percent offset. Under present law, the payment by the Department of Defense to the widow of a retired member is reduced by an amount equal to 100 percent of a hypothetical social security benefit to which she would be entitled based solely on her husband's military service. H.R. 14773 would reduce that offset from 100 percent to 50 percent. In addition, it would completely eliminate that offset in four instances: First, when there is a dependent child; second, when the only military service performed by the retiree involves periods of active duty of 30 days or less; third, when no social security benefits are payable because the beneficiary is employed in social security covered employment; and fourth, when the widow is entitled to a greater social security benefit based on her own employment.

Last, H.R. 14773 would provide much-needed assistance to a group of needy widows of retired members who died before March 20, 1974. The widows who would benefit have little or no outside income and accordingly are receiving a pension from the Veterans' Administration. Under present law, certain of these widows are entitled to a supplemental payment from the Department of Defense so as to insure they will receive a total annual income of about $2,400. H.R. 14773 would amend that law to provide an annual income of approximately $2,700.

Mr. Speaker, the committee reported this bill on August 31, 1976, by a voice vote with various amendments. However, under the provisions of the Budget and Impoundment Control Act and the implementing procedures established by the House, H.R. 14773 was sequentially referred to the Committee on Appropriations in respect to the fiscal considerations involved.

That committee, on September 17, 1976, agreed to the legislative recommendations of the Committee on Armed Services but apparently had reservations concerning a provision in the bill which would establish a new enrollment period of 270 days for former retirees to participate in the revised survivor benefit plan as proposed for revision by this legislation. That committee, therefore, recommended that consideration be given to the possible elimination of the language relating to the enrollment period which appeared in section 3 of the bill as originally reported by the Committee on Armed Services. As a consequence of the reservations expressed by the Committee on Appropriations, I discussed this matter with the chairman of our committee and the various members who expressed no objection whatsoever to striking out section 3 of the bill as reported by the Committee on Armed Services. Therefore, the bill now being considered by the House does include within the amendments, elimination of the language to which I have referred.

Under the circumstances, and in view of this action that I have just explained, I understand that there is no objection to this legislation by either the members of the Appropriations Committee or the Committee on Armed Services and I therefore hope that the bill will be passed, as amended.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, the gentleman from New York has covered the points very well. In effect, on page 6 of the bill as printed, the printed section 3 is stricken and sections 4 and 5, as printed now, become sections 3 and 4.

Mr. STRATTON. The gentleman is absolutely correct. Those changes are available at this table, and have been supplied to the Clerk.

Mr. O'BRIEN. I thank the gentleman.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, the bill H.R. 14773, entitled "Improvement in the Survivor Benefit Program for Retired Military Personnel" includes a number of provisions—nine to be exact—which have the effect of liberalizing the current military survivor benefit program. This is done in an attempt to persuade more servicemen to participate in the program. Currently participation is less than 50 percent of the total retired population.

The Committee on Appropriations has held detailed hearings on this bill and while the proposals are expensive, about $30 million in 1981 and $20 million this year, we believe that they are justified. However, there was one provision in the bill which provided for a 270-day open enrollment period in which personnel who are presently not participating and who have at least on one other occasion refused to participate would be given another opportunity to join the program. The Committee on Appropriations recommends the bill pass with an amendment which will strike this particular provision—section 3—of the bill.

The committee is concerned that while the costs of reopening enrollments cannot be determined, they are likely to be excessive. In addition, the whole idea of this bill is to aline the military survivor benefits plan with that of the civil service. Recently, when the civil service plan was liberalized, an open enrollment period was not provided because of the future year cost implication.

The principal changes in the proposed legislation are:

First. Provide cost-of-living increases to a certain group of survivors receiving benefits under the retired serviceman's family protection plan—RSFPP;

Second. Eliminate the irrevocable election provision of the survivor benefit plan, or SBP, which requires continuous deductions from the retired pay of a participating member on behalf of a spouse even if that spouse predeceases him; and

Third. Reduce from 2 years to 1 year the duration-of-marriage requirement for a new spouse of a military retiree to be eligible for benefits under the SBP.

Fourth. Increase the minimum income widows annuity under SBP from $1,400 to $2,100 a year;

Fifth. Suspend SBP deductions when the beneficiary is an insurable interest and that person predeceases the plan holder, and

Sixth. Reinstate SBP to widows who opted for Dependency Indemnity Compensation in lieu of SBP who remarry after age 60, thereby losing the DIC entitlement.

Further amendments were added which either reduced from 100 percent to 50 percent or entirely eliminated the reduction made in payments to the annuitant in various categories when social security benefits are received, or the recipient is eligible to receive them. These particular offset requests for social security payments are probably the single most important reason why large numbers of military personnel refuse to select the survivor benefit plan. Reducing the offset requirement to 50 percent will add $3.2 million to the estimated fiscal year 1977 cost.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for striking section 3. I do support the bill and I urge the Members of the House, now that section 3 has been stricken, to support the bill.

Mr. STRATTON. I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. O'BRIEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, it is with great pleasure that I rise to support the passage of H.R. 14773, which makes several critical revisions in the military survivor benefit plan. I feel very strongly about the merits of this legislation, which is one of the most important measures approved by the House Armed Services Committee during this Congress. H.R. 14773 will affect every career serviceman or woman and their spouses and dependent children.

When we wrote the survivor benefit plan in 1972, our basic purpose was to make the plan as similar as possible to the survivor annuity plan already in operation for many years for civil service retirees. In the 4 years since that time, some problems have come to light; correcting these is the thrust of H.R. 14773.

First, the bill parallels two changes made in the civil service survivor annuity plan in 1974:

First. It removes the "lock-in" provision, which requires the continuation of a survivor reduction in retired pay, despite the fact that there is no longer a designated survivor.

Second. It redefines the length of marriage requirement for a widow or widower to be entitled to a survivor annuity under the civil service program from 2 years to 1 year. These revisions in the civil service program were made in October and April of 1974, respectively.

Second, the bill authorizes cost-of-living raises for widows receiving benefits under the retired serviceman's family protection plan. RSFPP, unlike the civil service survivor plan, was fully financed by the retired member's reductions in retired pay plus interest.

In other words, it was actuarially sound. The costs were quite high, particularly in relation to the benefit provided, resulting in very low participation in the plan. Those who did participate paid dearly for the coverage, which provides no cost-of-living increases. We made a serious omission by failing to provide cost-of-living raises for RSFPP widows when the survivor benefit plan was enacted in 1972. H.R. 14773 adds a cost-of-living clause to these annuities, with the first raise equal to the percentage by which retired pay has been increased since September 21, 1972, the effective date of the survivor benefit plan. This cost-of-living provision will apply to any RSFPP widow whose husband died before the end of the enrollment period for the survivor benefit plan, March 20, 1974.

Unfortunately, because of the large deduction required from an often small retired pay, many retirees were unable to join in the retired serviceman's family protection plan. Participation was only 15 percent in the final years of the program. As a result, we have a large number of widows of career military retirees—men who served their country for 20, 30, 40 years—who are destitute.

The survivor benefit plan established a minimum income widows' program to assist those widows at the lowest end of the scale and to assure them a minimum level of income. I regret there is no provision for any type of future cost-of-living raise, and the meager payment provided by the minimum income widows' program has been severely eroded by inflation. H.R. 14773 increases the Defense Department's minimum income payment from $1,400 to $2,100 annually, which when combined with the Veterans' Administration nonservice-connected pension, will mean an actual cash increase to the widow of $300 per year.

While I strongly support this provision and, in fact, proposed this change in the formula, I want to state unequivocally that I do not consider this the final answer to assisting the pre-1972 widows and I fully intend to offer further corrective legislation early in the new Congress.

The fourth major thrust of the bill deals with the social security offset. Under the survivor benefit plan, at age 62 the widow's survivor benefit plan annuity, for which her husband had paid by reductions in his retired pay during his lifetime, is reduced dollar-for-dollar by the social security attributable to the husband's military service.

This offset applies even in the case of a widow who receives no social security from her husband's military service because her own social security benefits are higher. In addition, the offset applies at age 62 for a widow who is not receiving any social security at all, either because she is still working or because she wants to defer receipt of social security benefits until age 65 in order to receive 100 percent of her husband's benefit, as authorized by Congress several years ago.

H.R. 14773 reduces from 100 percent to 50 percent the current reduction for social security benefits attributable to military service. This is the Government's share of the cost of the individual's social security entitlement and a much fairer approach. When we originally wrote the survivor benefit plan, I urged that the offset be no more than 50 percent, as did the Defense Department, and I feel it is paramount that we make this correction in the program now. The social security offset is the reason most frequently cited by retiring servicemen for opting out of the survivor benefit plan. I am confident that the reduction in the offset will have a substantial impact on future enrollment trends.

Additionally, the bill eliminates the reduction entirely in the case of a widow who is not actually receiving social security benefits based on the late husband's military service. Also removed are the offset for a widow under age 62 with one child, since widows with two or more children are already subject to no offset, and the offset for Reserve retirees whose only active service after 1956 consisted of short periods of training.

It is important to emphasize that these changes merely seek equity with other Federal retirement programs. Although it is often assumed that civil service retirees have no social security entitlement, this is not, in fact, the case. In 1972, 58 percent of civil service retirees over age 65 had at least minimum social security benefits. In addition, many wives of civil service retirees have worked in social security-covered employment. As widows, they receive the full civil service survivor annuity and their own full social security benefits, with no reduction. What H.R. 14773 seeks is simple equity by applying an offset based on the Government's contribution to the social security benefit.

In order to get this bill approved today, the Armed Services Committee has agreed to remove one provision of the bill to which the Appropriations Committee objected as a part of its review authority provided by the Budget Control Act. The Armed Services Committee had included a section reopening the enrollment period for the program for an additional 9 months. We felt that the changes envisioned in H.R. 14773 were far reaching and that they corrected the several serious impediments to participation contained in the original survivor benefit plan, primarily the pay-forever provision and the 100-percent offset for social security benefits.

In addition, the cost estimates prepared by the Congressional Budget Office showed that even a very modest increase in participation would result in substantial short-term savings to the Government and, with a slightly greater increase in enrollment, postpone the date for any financial contribution on the part of the Government until the end of the century because of the sizable reserve fund to be accrued through reductions in retired pay.

As a result of the Appropriations Committee's concern over the long-term budgetary implications of the reopening period, in order to assure that the bill is considered today on the Suspension Calendar, the Armed Services Committee has agreed to eliminate the 270-day reopening period. I am pleased to note that the Appropriations Committee wholeheartedly endorsed the equity involved in the remainder of the bill, with which I fully concur.

I feel that in the long run the failure to reopen the enrollment period now, while the survivor benefit plan is still in its infancy, will prove costly to the Government. We should be encouraging these retirees to sign up now, take a reduced retired pay, and provide for their widows. We should be willing to admit that there were several flaws in the original law, which H.R. 14773 recitifies, and based on these improvements, reopen the plan one additional time. Commonsense tells us that, in the long run, the Federal Government will probably pay the cost through welfare, instead of through a contributory survivor benefit plan.

In conclusion, I want to reemphasize the critical importance of the changes provided by H.R. 14773 to the widow or widower of every future military retiree, as well as those retirees already participating in the survivor benefit plan, and to urge favorable House action on this measure.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I want to commend the gentleman from California (Mr. Bob Wilson), who has worked very strenuously to get this bill passed. I want the Members to know the great work he has done on the Committee on Armed Services and also before our Subcommittee on Defense Appropriations.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 14773, as amended.

The gentleman from New York has explained details of the bill. I am aware of the present schedule of the House, and I will not repeat the detailed explanation.

Let me briefly explain a few points:

This bill is necessary to bring the military retirees survivor benefit plan—SBP—into conformity with the civil service retirees survivor benefit system. The military system was originally modeled after the civil service system. The civil service system was improved earlier in this Congress. H.R. 14773 would make conforming changes for the military system. These include eliminating the military retired-pay deduction when the beneficiary predeceases the retiree or otherwise becomes ineligible for benefits under the program and reducing from 2 years to 1 year the required time for a new spouse to be eligible for benefits.

The bill is important because it makes some important improvements in the survivor benefit plan relating to the social security offset. It removes various inequities—such as eliminating the offset for widows who are receiving social security as a result of their own employment—inequities which were not foreseen when the SBP was enacted four years ago.

We are indebted to our colleague from California (Mr. Bob Wilson) for bringing these important changes forward and convincing the committee of the need for these improvements. Mr. Wilson is the acknowledged expert in the House on survivor-benefit matters, and all military personnel are indebted to him for the monumental work he has done on their behalf.

We hear concern expressed by military people because of the possibility of adverse changes in their benefit programs—such as the possibility of reducing the support for the military commissaries. I think it is important for military people to know that we are concerned with making improvements in their programs, and the passage of H.R. 14773 would be a healthy antidote to the complaints of erosion of benefits.

I urge the House to pass the bill as amended.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 14773, legislation calling for improvements in the survivor benefit program for retired military personnel. The bill authorizes cost-of-living adjustments for those receiving benefits under the retired serviceman's family protection plan, suspends deductions from retired pay when there is no eligible beneficiaries, and reduces the duration of marriage requirement under the survivor benefit plan from 2 years to 1 year, permits payment of full benefits under the survivor benefit plan to a spouse who remarries after age 60, reduces the "social security offset" against the survivors benefit plan payments from 100 percent to 50 percent of the amount attributable to military service and eliminates that offset in certain cases, and increases minimum income payment from $1,400 to $2,100.

I would like to point out that it was my intention to seek a more equitable annuity plan for survivors covered under the retired serviceman's family protection plan through the introduction of H.R. 2521, and to insure continued payment of such annuities to widows or widowers who remarry at age 60 or thereafter. I am happy to see that H.R. 14773 contains such provisions, and call on my colleagues to support the adoption of this bill.

I am of the opinion that passage of H.R. 14773 will correct an inequity brought about by the recent adoption of legislation to provide a new survivor's benefit plan for the spouse of service members. This act includes a cost-of-living escalator for pension. Thus, service members who are recent retirees have had an opportunity to provide for dependent spouses through a survivors annuity plan whose benefits would be adjusted automatically to reflect increases in cost of living. The adoption of this bill would provide this same benefit to those covered under the retired serviceman's family protection plan.

This bill will also allow survivors to retain their benefits even if they remarry after age 60. Those presently receiving payment under the retired serviceman's family protection plan are not allowed this privilege. Instead, each year they must answer probing questions by the Government as to their marital status to prove they are still entitled to their annuity. Civil service annuitants may remarry past the age of 60 with no loss of income, and I feel those covered under the old military survivors plan should be allowed to do so as well.

Mr. LEGGETT. Mr. Speaker, I am pleased to join my colleagues on the Armed Services Committee in recommending these changes to the survivor benefit program. Reform of this valuable program is long overdue, and both the plan and its recipients have suffered as a result of some rather onerous provisions which we have modified here.

There is no need for me to belabor the specifics of the bill. I do, however, want to point out that what is proposed is to bring SBP in line with some broad principles which we have adopted in connection with annuities generally. These include a cost-of-living escalator for those participants in the retired servicemen's family protection plan who do not currently enjoy this inflation-proofing protection and a treatment of social security annuities which takes account of the stake both the individual and the Federal Government have in that program. It is worth pointing out here that a similar formula to that which appears in this bill has been proposed as a part of the proposed Military Retirement Modernization Act.

These changes, along with the addition of means of flexibility regarding beneficiaries, are all important improvements which would serve well in any annuity plan. I wish to commend my colleagues on the Committee on Armed Services for the vision they have shown in writing this bill, and I enthusiastically urge its passage.

Mr. SPEAKER, I have no further requests for time, and I reserve the balance of my time.

Mr. STRATTON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill H.R. 14773, as amended.

The question was taken.

Mr. EDWARDS of Alabama, Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL STOCKPILE DISPOSAL

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15081) to authorize the disposal of various materials from the national stockpile and the supplemental stockpile, and for other purposes.

The Clerk read as follows:

H.R. 15081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, the following materials now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607):

(1) Approximately ten thousand short tons of antimony.

(2) Approximately eight million five hundred thousand carats of industrial diamond stones.

(3) Approximately twenty-eight thousand long tons of tin.

(4) Approximately one hundred eighteen million troy ounces of silver.

Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act; except that the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. (a) All moneys received on account of the disposition of the materials listed in paragraphs (1) through (4) of the first section of this Act shall be covered into the Special Strategic and Critical Materials Procurement Fund (hereinafter in this section referred to as the "Fund") which is hereby established in the Treasury of the United States.

(b) (1) Moneys covered into the Fund shall be available, when appropriated therefor, only for expenditure for the acquistion of materials to be acquired under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1).

(2) Any moneys covered into the fund which are appropriated shall remain available, without fiscal year limitation, to carry out the purposes for which appropriated until expended.

The SPEAKER pro tempore (Mr. BROWN of California). Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill under consideraation today provides for the disposal of approximately 10,000 short tons of antimony, 8,500,000 carats of industrial diamond stones, 28,000 long tons of tin, and 118 million troy ounces of silver, which have been determined by the executive branch to be excess to our national security requirements.

In addition, the bill provides for the establishment of a special strategic and critical materials procurement fund.

This is the first stockpile disposal bill presented to Congress under the new criteria which bases the stockpile objectives on a 3-year mobilization period rather than the previous policy of 1 year.

The committee was very much concerned with the change in the administration's stockpile policy established by the National Security Council in March 1973, which reduced the mobilization planning period from the original 3-year requirement to 1 year. Since that change in policy, the committee has been reluctant to consider stockpile disposal legislation until an interagency study of the Nation's stockpile requirements, initiated by the National Security Council over a year ago, was completed and new stockpile policy planning guidance was approved and established by the President.

Administration witnesses testified that the study has now been completed. Based upon this study, the committee was assured that the quantities of materials authorized for disposal by this bill are clearly in excess of our defense requirements and would not be required to support the industrial base of the United States.

The committee was also assured that the best available data on defense and civilian requirements were used in the study, including supply levels, transportation losses, and the substitution of nonstrategic materials. In planning the levels of strategic and critical materials which should be held in the stockpile, the most severe crisis situation, encompassing a 3-year war period was used. Based upon these assurances, the committee supports the disposals which this bill authorizes.

One very significant revelation that emerged from the study was the conclusion by the administration that there are many items in the stockpile not required for our national defense needs. It was also determined that there are many items which are greatly needed for national defense purposes but which are not currently in the stockpile. This situation will require for the first time in many years substantial acquisitions of additional stockpile materials. The cost of these acquisitions will greatly exceed the value of materials authorized for disposal in this bill.

In fact, the additional acquisitions will cost billions of dollars. As my colleagues know, receipts from the sale of previous disposals were returned to the general Treasury. Since 1958 cumulative sales resulting from stockpile disposals have totaled over $7 billion. However, there have been very few acquisitions.

In anticipation of the need for these acquisition funds and to provide some assurance that there will be moneys available for this program, the committee supports section 2 of the bill which establishes a special strategic and critical materials procurement fund. The revenues realized from the sales of these materials, authorized for disposal in this bill, would be placed in the fund and would be used only to acquire materials, determined by the executive branch to be in short supply and needed for the stockpile, upon congressional appropriations. ●

By placing these moneys in the special fund rather than in the general Treasury to be used for other purposes, the possibility of the stockpile being used for purposes other than originally intended will be eliminated. The Strategic and Critical Materials Stockpiling Act had one objective, to insure an adequate supply of critical materials for the security to the Nation. Section 2 is intended to assist in meeting that objective.

I urge the House to take favorable action on this bill today.

Mr. SYMMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of this bill authorizing the disposal of various materials from the national stockpile. As the author of H.R. 306, a bill to authorize the disposal of silver from the stockpile, I am pleased to note that the committee has included the provisions of my bill in this measure.

Because of present levels of domestic supply and production, the National Security Council recently decided that no strategic stockpile of silver was necessary. This bill, which authorizes the disposal of 118 million of the 139.5 million troy ounces of silver presently in the stockpile, is therefore well within the limits set by the Security Council.

The disposal of this silver from the stockpile will bring an estimated $349 million into the U.S. Treasury. I think we would all agree that any measure which would increase revenues without increasing taxes is desirable.

In recent years there has been significant price instability in the silver market, resulting in unemployment in that industry. The release of these materials from the stockpile will have a beneficial impact on market stability and will contribute to employment.

By easing an occasionally thin market, this disposal will help prevent speculative activity, and the gainers will be the American consumers who use products containing silver—from mirrors and flatware to cameras and electronic equipment.

Mr. Speaker, I believe this is a carefully researched and necessary bill, and I urge my colleagues to support it.

Mr. SYMMS. Mr. Speaker, I yield 7 minutes to the gentleman from Georgia (Mr. MCDONALD).

Mr. McDONALD. Mr. Speaker, I rise in strong opposition to H.R. 15081.

I have great respect for the gentleman from Florida (Mr. BENNETT), the chairman of the Subcommittee on Seapower and Strategic and Critical Materials of the Committee on Armed Services. I respect the gentleman's interest in building a realistic strategic materials stockpile and also his concept of an escrow account or fund for the purpose of purchasing items now short or absent in the stockpile. This refers to section 2 of this bill.

However, I think that the peculiar background of this bill should be considered.

H.R. 15081 is a lumping together of four materials considered surplus to the stockpiles of industrial diamonds, tin, antimony, and silver.

When this bill was considered by the subcommittee, by a vote of 4 to 5, the subcommittee adopted a substitute which struck or moved from the bill the sale of tin, antimony, and silver due to a concern by the subcommittee members over the current stockpile level. The subcommittee was in general agreement that the industrial diamonds were in the surplus category.

Then when H.R. 15081 came before the full Committee on Armed Services, the subcommittee action was reversed in the full committee by a vote of 12 to 10, and with the change, it put back into the bill the sale of silver, tin, and antimony.

Mr. Speaker, at that time the Secretary of Defense had sent a letter to the full committee urging the sale of all four items; but the administration did continue in its opposition to section 2, the escrow account provision of H.R. 15081.

Therefore, this bill is one that has been highly controversial, within both the subcommittee and the full committee.

The major controversy, I think, revolves around the matter of the sale of silver. Silver is absolutely essential to the uses of a modern society. If we believe that there is a petroleum shortage, then you know there is a tremendous and growing silver shortage. World usage today has an annual shortfall of approximately 200 million ounces or approximately twice that of newly mined silver.

Mr. Speaker, the demand is growing in the fields of photography, electronics, silverware, medicine, dentistry, and the brazing alloys.

A bit of background, Mr. Speaker, in World War II we used far in excess of 1 billion ounces of silver. Over 400 mililon ounces of silver were sent to the Soviet Union under the lend-lease program, which, as we know, turned out to be neither lend nor lease, but outright charity, since it was never returned.

After World War II, the United States found itself with a general stockpile of approximtaely 2 billion ounces of silver. This has now been sold off largely, except for the remaining stockpile of 140 million ounces in the special strategic stockpile.

Mr. Speaker, we should think back and remember that we used almost 2 billion ounces in World War II. Even 10 years ago the Department of Defense study stated that we need 500 million ounces available in the strategic stockpile, but at that time we were already below the 500-million-ounce level.

There was even talk at that time of impeachment of the Secretary of the Treasury for allowing it to go below the one-half-billion-ounce level.

Three years ago there was an administration study stating that a 1-year war need would be 21 million ounces. Now we have a new study from the administration that sets a 3-year war need at 1 million more ounces than what they would estimate for a 1-year war, or 22 million ounces.

Therefore, Mr. Speaker, we can take whatever figure we wish of either the 1-billion-ounce need reflected for World War II or the 500-million-ounce need of the study of 10 years ago or the approximately 21-million-ounce need of 3 years ago, or the current figure estimated by the administration of 22 million ounces.

Mr. Speaker, if we sell this off at the running price of approximately $4 an ounce, we may well be forced to buy this back for the strategic stockpile and for the military need at a price of from $12 to $20 or $25 an ounce.

Mr. Speaker, again, silver is absolutely essential in the field of missiles, electronics, photography, and in the military effort. Due to the small amount of silver used in the areas of photography and electronics, the demand is inelastic with relation to the price. Also it is inelastic with relation to supply.

Mr. Speaker, in the 18th and 19th centuries, the major portion was mined from silver mines right on the surface. These mines have, by and large, been mined out and are no longer in existence. Today 75 to 80 percent of new silver comes from a byproduct of the mining particularly of lead, zinc, and especially copper.

Mr. Speaker, silver is frequently a byproduct of copper and zinc mining; and, is found in the outer core of the general metal deposit. The deeper one goes into the mines of copper or zinc, for example, the less silver will be realized as a byproduct; but 75 to 80 percent of the new silver mined today comes to us as a byproduct, not as direct silver mining.

Silver is therefore unique in that the supply is also inelastic as to price. This Nation is currently importing 69 percent of the new silver coming from Peru, Mexico, Canada and Australia.

I urge the rejection of H.R. 15081.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding to me. I ask the gentleman to yield to me so that I could make one point about the inelasticity of the supply. That is that in 1967 to 1970 we sold over 305 million ounces of silver. During that period the average price was $1.84 an ounce. That was $752 million worth from the sale of the same silver. Today if we put one million ounces per week on the market, we will only depress the price further and hurt our domestic mining companies. Then at some future time we will find ourselves scrambling to buy that at a higher price.

Mr. McDONALD. Mr. Speaker, I thank the gentleman from Idaho for bringing up that point. Silver also is not going to decrease in value because history has shown that it has increased in value. The fact is that the sale of this is not a sale of a perishable item, but of a material that will continue to be, in effect, money in the bank.

Mr. Speaker, today in Peru they have some 250, T–54 and T–55 tanks and Russian military technicians. Mexico is showing increased closer ties with Castro's Cuba. We have already had experience of Australia and scarce metals, as far as that country having joined the bauxite cartel.

The SPEAKER pro tempore (Mr. BROWN of California). The time of the gentleman has again expired.

Mr. BENNETT. Mr. Speaker, I yield 2

minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I rise in strong support of this legislation. It is absolutely essential to the success of the budget process. I want to express my appreciation to the chairman of the subcommittee, and to the full Committee on Armed Services for reporting it, and I hope it will be passed by the House.

As stated in the first concurrent resolution, on page 24, the sum of $746 million is in the defense budget based on the results from these sales in order to meet the budget target. This was specifically reaffirmed in the budget resolution conference report which was approved last Thursday, on page 6.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, is the gentleman saying that according to this bill that the sale of this silver will be used and put in escrow for the purchase of materials for the strategic stockpile in the future, but if that is correct, there will be no amount available for the purpose of defense.

Mr. ADAMS. Yes, if the sale of the silver is used for the Department of Defense, or if it is not, it has the same effect, because if it is not sold, then naturally this amount will have to be made up from other sources. So it is essential that it be sold and if placed in escrow whether it is used for one purpose or another, it would make no difference.

Mr. McDONALD. I thank the gentleman, and if the gentleman would yield for a further question, might I ask was there any item in the budget made available for the purchase of new items for the strategic stockpile?

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

It is my understanding that this action will be responsive next year. In other words, there will be, as I understand it, requests for expenditures under this next year.

But, whether the gentleman likes the budget bill or not, we passed it, it was designed to do what is now being done, and thus it does meet the requirements of the budget law.

I must say that it was not from any budgetary matter that the committee brought this bill out, but instead the committee acted on the best Department of Defense testimony we could secure; and we had that evidence before our committee. It was not a question of balancing budgets but of selling excess materials to finance needed materials.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

I would just state that we have based this on the reports we have from the Committee on Armed Services, from the Department of Defense, and from the executive branch. Insofar as I know, all are in agreement on this position, and I am reiterating that.

I compliment the Chairman for bringing forth the bill. I hope the House will adopt it.

Mr. BENNETT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, as chairman of the Joint Committee on Defense Production and of its Subcommittee on Materials Availability which has been investigating misuse and manipulation of the national and supplemental stockpiles, I oppose H.R. 15081 as, at best, premature and, at worst, potentially dangerous in case of national emergency.

The author of H.R. 15081, the gentleman from Florida (Mr. BENNETT), chairman of the Subcommittee on Seapower and Strategic and Critical Materials which held hearings on the legislation in the House Armed Services Committee, knows from long association of my regard for him as a conscientious watchdog of the public interest. I am sure he is convinced by the assurances of Secretary of Defense Rumsfeld, as quoted in the committee report on H.R. 15081, that the proposed sales of antimony, industrial diamonds, tin, and silver authorized in the bill on recommendation of an interagency task force "in no way endanger our national security."

Perhaps they would not endanger national security. But there is nothing in the committee report to indicate that these proposed disposals from the stockpiles would in any way whatsoever contribute to national security.

Why, then, the insistence on getting rid of those valuable resources at this particular time? What is the urgency for such action in the dying days of this Congress and this administration? The whole question of materials availability for defense and economic purposes is under review by the National Commission on Supplies and Shortages created 2 years ago in an amendment to the Defense Production Act. That Commission, on which two Members of this House serve, Mr. REES and Mr. J. WILLIAM STANTON, has not finished its work. It will not make its final report until the end of this year.

As I said, the Joint Committee on Defense Production, through its Subcommittee on Materials Availability, has been investigating past manipulations of the stockpile objectives and has been weighing the advisability of legislation to establish stockpiles for economic as well as national security purposes. The National Commission on Supplies and Shortages is also looking into this aspect. The Commission and the Joint Committee have been operating in close consultation with each other.

That is why I say it is premature to go ahead with H.R. 15081 while these studies are still underway. If we are eventually to establish economic stockpiles to protect the American economy against erratic fluctuations in raw materials prices in times of shortage, international tension, or intrigue, any materials excess to national security needs in the strategic and critical materials stockpiles should be available for transfer at original Government cost to the new economic stockpiles if stockpiling for domestic stability is considered necessary or desirable.

Once we dispose of surplus materials from the strategic and critical materials stockpiles we would probably have to spend far more than original cost—and far more than they would bring today on the open market—in order to acquire them later for economic stockpiles.

THE SELL-OFF OF SILVER

I am particularly concerned over the provisions of the bill to authorize the selloff of nearly all of the silver now held in the national and supplemental stockpiles. The silver stockpile was created in 1968 by the Committee on Banking and Currency, not the Armed Services Committee. The silver came from Treasury supplies held up to then for coinage and for the redemption of silver certificates. The stockpile objective was cited at that time as 165 million troy ounces.

Two years later, when the House and Senate were locked in bitter dispute over the very controversial Bank Holding Company Act, and were also in disagreement over a coinage bill which would have removed all silver from coinage, some western Senators seeking to keep some token silver in our coins tacked their version of the coinage bill onto the House-passed bank holding company bill and thereby got the coinage issue into conference. The Senate version of the coinage bill provided for use of 40 percent silver content in 150 million Eisenhower proof and uncirculated dollars, to be sold at a premium by the Treasury. Since the Treasury did not have sufficient silver to produce such coins, the legislation proposed that the additional amount of silver needed be taken from the silver stockpile.

By "coincidence"—a remarkable accident of timing—the Nixon administration thereupon reassessed the stockpile objective for silver for military and defense purposes and suddenly discovered that the stockpile contained 25½ million ounces excess to national security needs. This happened, again by "coincidence," to be exactly the amount of additional silver the Treasury would need to satisfy the demand of some Republican Senators to produce 150 million silver dollar coins.

HOW THE SILVER STOCKPILE OBJECTIVE WAS JUGGLED

Earlier this year, at hearings of the Joint Committee on Defense Production on stockpile matters, I asked the official who was in charge of the stockpiles in 1969–70 how this decision was made. He replied:

> I guess we made a quick review of the requirements of supply and we found we suddenly had 25.5 million ounces too much in the stockpile. I don't remember all the details but I do remember enough to remember that we suddenly found in our review that we had 25.5 million ounces of surplus silver.

The House conferees went along with the Senate amendments on silver coins in 1970 in response to some extremely important Senate concessions to the House on the Bank Holding Company Act, and 25.5 million ounces of silver were subsequently transferred out of the stockpile for 150 million coins which the Treasury was never able to sell in the anticipated quantity. Later, at the Senate's insistence, we authorized the Treasury to take what was left unused out of the 25.5 million ounces of silver—earmarked for Eisenhower proof and uncirculated silver dollars which could not be sold at $10 and $3 each, respectively—and use it for production of 45 million dollar, half-dollar, and quarter-dollar Bicentennial silver proof and uncirculated coins. Selling those in quantities anticipated by the Senate has also been difficult, despite the Treasury's decision to offer the uncirculated sets at "wholesale" rates on order of 50 or more.

ANOTHER STOCKPILE OBJECTIVE MANIPULATION

I tell this story, Mr. Speaker, only to call attention to the manner in which stockpile objectives have been manipulated and juggled for political or other nonsecurity purposes. In our joint committee hearings last June we heard that a subcabinet officer in the Eisenhower administration had singlehandedly brought about a revision in the zinc and lead stockpile objectives. This happened to be very helpful to an industry he had previously been associated with and was later to go back to.

Now these are not the purposes of the national and supplemental stockpiles. Neither economic nor political considerations are supposed to go into the determination of stockpile objectives for security purposes. Yet the evidence is clear that the stockpile objectives have been misused for such improper purposes.

My opinion is that the Ford administration wants to use H.R. 15081 primarily for the purpose of improving its budget position—to pick up anywhere from three-quarters of a billion to a billion dollars through the sale during fiscal 1977 of vast quantities of antimony, industrial diamonds, tin, and silver. These commodities were bought at comparatively low prices; they would be sold at far higher prices. But unless Congress changes the law on stockpiles to authorize their use as a moneymaking scheme for the Government—which might be a good idea, of course, but is not now the reason for the stockpiles' existence—then I object strenuously to the administration using them in this manner.

THE MANIPULATIONS OF 1973 OBJECTIVES

During the hearings of the Joint Committee on Defense Production in June, testimony indicated that all of the data on overseas supply availability, used to determine new objectives in 1973, were deliberately manipulated to present a much better picture than actually existed. Partly as a result of this deliberate use of false information, stockpile objectives were greatly lowered in 1973 by the Nixon administration.

In the process which led to issuance of new objectives in 1973, the Department of Defense was kept out of all the deliberations and ruled out of any connection with the stockpile objectives. In fact, according to a witness from the American Mining Congress, the 1973 stockpile decision had little to do with national security. This decision was almost certainly designed, once again, to help balance the budget from the sales of materials made excess by lowered stockpile objectives.

Mr. Speaker, I will not give further examples of such abuse and manipulation, though many more exist. The 30-year history of strategic and critical stockpiling in this country has shown considerable deviation from its intended and legal purpose: protection of national security.

The Stock Piling Act of 1946 wisely invests the Congress with authority to approve disposals from the strategic stockpile. In the light of this past history, I believe that we should exercise this authority very cautiously.

I have doubts about the wisdom of granting disposal authority for any of the four materials proposed in this legislation, especially until we have had the chance to satisfy ourselves more fully about the reasoning in the administration's latest stockpile study and in the recent stockpile policy decision. We must make sure that this is not another attempt to subvert the intended purpose of the strategic stockpile by using it for budget-balancing or other purposes.

IN WHOM ARE WE PLACING TRUST ON STOCKPILE OBJECTIVES?

Mr. Speaker, it is clear that members of the Armed Services Committee were concerned over some of the points I am raising, including the misuse of the stockpiles as a budget-balancing tool. That is why, I am sure, Mr. BENNETT insisted on the requirement that all receipts from sale of stockpiled antimony, industrial diamonds, tin, and silver go into a newly created revolving fund earmarked only for the purchase of additional materials for the stockpiles as needed for national security purposes, rather than be returned to the General Treasury fund.

But even with this safeguard in the bill, I find it necessary to oppose it. I know that silver is an extremely critical and unique metal in time of national emergency and it is also uniquely necessary for many domestic industrial purposes, particularly photography. During World War II, silver was even used extensively by the Manhattan project for electric wiring in Oak Ridge, Tenn., because of the shortage of copper.

I think before we get rid of the silver stockpile, we know for sure whether we may want to go back to the use of some silver in coinage, also. This is a matter within the jurisdiction of the Banking, Currency and Housing Committee, not Armed Services.

Mr. Speaker, I mentioned earlier my high regard for the gentleman from Florida (Mr. BENNETT). I remember more than 20 years ago helping him write into law a requirement that the national motto "In God We Trust" appear on our currency. He and I went together to the Bureau of Engraving and Printing later to see the first issue of U.S. notes containing the motto coming off the presses.

But in this instance of stockpile disposals, I wonder in whom we are placing trust in H.R. 15081. I am afraid we are putting too much trust in bureaucrats and officials who, in past operations of the stockpiles, allowed political and other improper considerations to determine stockpile objectives. This is too important an issue to be taken on bureaucratic faith.

I urge defeat of H.R. 15081 for these reasons.

Mr. SYMMS. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I yield to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I thank the gentlewoman for her excellent statement and wish her well in her coming retirement.

I think the gentlewoman made an excellent statement, right on target, and I commend her for it.

The SPEAKER. The time of the gentlewoman has expired.

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, today we have an opportunity to review one of the best examples of congressional economics. I agree with everything the gentlewoman from Missouri said. She spoke eloquently and outlined clearly the facts because she is interested in the defense of this Nation.

As I heard the gentleman from Georgia carefully review our country's history, I just wondered how we could today even consider, in the face of our history and all the factual background we have; how can we consider a bill of this type.

The gentleman from Idaho spoke questioning what we are going to do in the way of replacing this essential stockpile. Let us face the facts. We know what is involved here. Some people who are using silver in their business would like to temporarily depress the price of silver. What they want to do is force extra silver onto the market temporarily, so over the next 2 years this excess supply will be able to force the silver price down. But just as sure as God made little green apples, we will then see that price go up from $4 to $6 and to $8 and to $10.

The folks back home understand economics, I think, sometimes better than we do here. If we have silver in the stockpile and available for this country for which we paid $4, they do not want Congress to go out and sell it and then come back in a few years from now to buy it back at $12.

Many times when questions of economics are raised throughout the country we may answer with a 10-page statement and talk for an hour to confuse the issue. But today is one example when the economics of the situation are going to be right on the line. We are having an opportunity today where we can vote on the issues, where our vote will be on the line to answer the questions:

First. Are we interested in the defense of America?

Second. Are we interested in building up a stockpile for the security of this country?

Third. Are we interested in saving money for this country by not having to go out and buy replacements which will cost three times as much?

I am reminded of the story of the man who sold his soul for a few pieces of silver.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, I thank the gentleman for his very lucid comments on this legislation.

There was one point in the testimony by the chairman of the Silver Users Association which made no sense to me. Perhaps the gentleman in the well might be able to state what the spokesman for the silver users meant. He said that by selling off this stockpile and dumping the Government hoard that we have for strategic purposes, it would help to restore the supply and demand relationship to the cost. It made no sense to me. Does it make sense to the gentleman in the well?

Mr. COLLINS of Texas. Obviously the silver users are being very shortsighted because as this silver is used up we will then see price escalation with much higher prices for silver, and probably in 4 years the price of silver will be double the price today.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I am glad to yield to the gentleman.

Mr. SYMMS. Mr. Speaker, another point the gentleman is making with respect to the economics of this is that silver mining is a very capital-intensive operation. I have silver mines in my district, as many Members know. I had the experience a few years back of working in a silver mine before coming to Congress. I can tell the people here in the House, the members of this committee, that it takes years to develop a silver mine. We are talking about drilling down 8,000 feet underground and extracting ore at a cost of $25 to $30 a ton just to get the ore out where we can get it to a mill where it may only have a few meager ounces of silver in it.

It is a highly capital-intensive operation. If everything works right, they might get the silver mine operating in 5 years. That is not looking at things like a national emergency or shortages of things like drill bits, which are very important in production. Here we are selling off the family jewels instead of going to work to balance the budget, the way we should do it. This may look good on paper, but we are not going to get an aircraft carrier back in exchange for this silver. We are not going to get a few more destroyers on the line somewhere. All we will get is a balance on paper that makes it look a little better.

It is absolutely ridiculous to sell this silver. From an economic standpoint, it is foolish at best and hypocritical at worst.

Mr. COLLINS of Texas. Mr. Speaker, I agree with the gentleman from Idaho, we should vote this bill down.

Mr. SYMMS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Ms. SCHROEDER).

Ms. SCHROEDER. Mr. Speaker, I rise in opposition to the national stockpile disposal bill—H.R. 15081.

My opposition to the bill now before the House is prompted by two very different reasons: First, this bill is a highly controversial one and has no business being placed on the suspension calendar at all. Second, the administration has failed to present the House Armed Services Committee with a coherent explanation for its proposal to sell off significant portions of our tin, antimony, diamond, and silver stockpiles.

H.R. 15081 was originally reported out of the House Armed Services Subcommittee on Seapower and Strategic Materials by the narrow vote of 5 to 4. And even then, the bill was only approved after the subcommittee struck from the bill three of the four items proposed for sale: silver, tin, and antimony. The three materials in question were returned to the bill by the full Armed Services Committee only after another sharp division and close vote a week later. This time the bill ended up being approved by the Armed Services Committee by the vote of 14 to 10.

Clearly, the bill is anything but noncontroversial.

The reason for the controversy surrounding the bill is basically this: The administration's objectives in proposing the disposal of the materials from our stockpile are very unclear. The only really obvious thing about this proposal is that it would net the administration a windfall revenue of $746 million if everything they wanted to sell off was authorized. That is to say, if the administration sells off about 10,000 short tons of antimony, about 8,500,000 carats of industrial diamond stones, about 28 thousand long tons of tin, and about 118 million troy ounces of silver. However, money should not be the overriding reason to support this bill if the national security consequences have not been completely examined. I do not think that they have been.

Instead, I think the administration is looking for a way to take some of the sting out of their recently revised defense budget estimate of more than $116 billion, or $116.3 billion to quote the exact estimate sent over to Congress by the President in his August 23 message. Selling off our stockpile is not the way to go about it.

If the administration has suddenly become interested in economizing on our defense expenditures, I suggest that it would make much more sense for them to start out by eliminating items such as the $1,532.2 million that they requested this year for the B-1 bomber. At least this alternative would have the administration eliminating a program which has been thoroughly studied for a long period of time, and which has been determined by numerous defense experts to be unnecessary. Unfortunately, the administration proposal to eliminate completely certain items from the national stockpile has received no such thorough examination. If it had, I cannot bring myself to believe that the administration would be advocating it.

There is a special irony to the administration's proposal to sell off portions of our stockpile for the relatively paltry sum—in terms of defense budget figures—of $746 million. If we actually do proceed to sell these materials now—before we have carefully reviewed our potential requirements for them during a war situation—then we will only find ourselves having to buy new quantities of these materials at some time in the near future. Unfortunately, future purchases would be at higher prices than those we would be selling the materials at now, since no one is arguing that in the years to come the prices of silver, tin or antimony are going to stay where they are today.

The issue underlying our decisions affecting our national stockpile is not if we would need these materials, but is instead how much of these materials will we be needing and how will we be able to supply these needs. Because of this, the future of our critical materials stockpile should not be dealt with either so lightly or so quickly.

Of the four materials affected by this bill, it is one in particular that has prompted the bulk of the controversy surrounding it—silver. The administration plan for our silver stockpile is, to say the very least, drastic. Right now the U.S. stockpile has 139.5 million troy ounces of silver. However, the Ford administration has told the Armed Services Committee that they have revised the requirement for silver in the stockpile all the way down to zero. This is a zero requirement for a material that is used in the production of virtually all sophisticated weapon systems. This seems very odd to me.

Even more odd is the logic which led the administration to this conclusion that we have a zero requirement for silver in our national stockpile. The administration is suddenly assuming that our stockpile requirements—which are planned to provide us with the likely quantities of critical materials that would be needed during an ongoing war—should now be based on estimates assuming that would be involved in a 3-year mobilization period. Should we find ourselves in the midst of a war that lasts 3 years, the thinking goes here, it would not be necessary for us to have silver in our stockpile because we could simply be mining it within our own borders during that period. This comfortable assumption was not held to be true, however, when we were thinking along the lines of preparing for a much shorter war outbreak.

Quite frankly, I find it amazing that in an era of instant war—where conflicts can escalate from minor clashes to all-out holocaust in just a matter of hours—people in this administration are sitting back and complacently planning our stockpile requirements based on a 3-year mobilization period. I find it more than amazing; I find it downright incredible. The logic is even more incredible when we consider its source; the very same administration which has consistently followed the just-in-case theory of weapons acquisition, a theory which I do not agree with. This theory goes, build and buy every available weapon system just in case it might come in handy. Well, even by the most conservative estimates, the materials we now have in the stockpile might come in very handy indeed. Something very strange is going on here with this bill.

To conclude, I will oppose this bill to authorize disposal of these four items from our national stockpile, and I urge my colleagues to do so, too. I feel very strongly that the question is a serious enough one to warrant a thorough investigation by both Congress and hopefully a new administration next year. Should the House fail to kill this bill today, I can only hope that our colleagues in the Senate will be more discriminating when they consider it.

Mr. SYMMS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I take this time to inquire of the chairman about several things. One is that when this material is sold, is it all sold within this country? Is there a possibility of its being exported?

Mr. BENNETT. Mr. Speaker, if the gentleman will yield, there is no restriction. It is sold under the conditions designed to see to it that the market is not disturbed. If it is going to disturb the market, they just do not sell it. They just hold it until such time it can go on the market. It is just an asset and is sold anywhere at the best price, as long as it does not disturb the market.

Mr. MILLER of Ohio. As long as it does not disturb the market?

Mr. BENNETT. We buy most of it abroad and we sell it, too. If it is in excess, it does not make much difference where they sell it.

Mr. MILLER of Ohio. That is true, providing we do not turn around and import silver later when we find we may need it and we bring the silver back in at twice the price.

Mr. BENNETT. Mr. Speaker, if the gentleman will yield further, the first problem is whether it is needed for national defense. The Department of Defense has said that these commodities are not needed in excess of what is left after what is to be sold under this bill. The surveys show we get enough silver from our own sources including recycling things, like photographic film, to take care of all the national defense needs of this country each year on a permanent basis. The administration advises that we do not have to have any silver stockpiled for purely national defense purposes, because we can produce it from local sources, including recycling.

Mr. SYMMS. Mr. Speaker, will the gentleman from Ohio yield?

Mr. MILLER of Ohio. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to say to the distinguished chairman, for whom I have the greatest respect, we have had so many changes in the stockpile goals that I think it gives a great credible doubt whether these things are for national strategic defense or for budget considerations.

The SPEAKER pro tempore (Mr. BROWN of California). The time of the gentleman from Ohio has expired.

Mr. SYMMS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio.

The gentlewoman from Missouri made this point. Coincidentally, when we start getting budget pressure, suddenly we decide that we ought to auction off some more jewelry from the family jewelry box instead of balancing the budget in another way. I know that if we were getting, as I said, an aircraft carrier in return for the silver, or something like that, maybe it would be all right, but we are talking about selling 1 million ounces of silver per week for 118 weeks. This is 1½ times U.S. annual production of silver.

If anyone thinks that is not going to cause a dislocation and distortion of the market, he is naive. In the long run, it is going to be good for the mining companies, because we are going to pay $25 per ounce more down the road, but for the national security we cannot just snap our fingers and go out and produce silver. It is too difficult, it is too capital intensive, there is too much technology involved.

Mr. MILLER of Ohio. Again, I would ask the question of the chairman of the committee, whether we have considered the possibility of bartering with other nations. I know that is not in this bill. I know, however, that the gentleman did mention that we do have some strategic metals that may be needed later, and we could use the fund to purchase those metals. We know very well we have that problem, and in our Foreign Assistance Act about 2 years ago we had language that would allow the administration to barter with other nations our foreign assistance for strategic metals. Has the gentleman considered that at all in his committee?

Mr. BENNETT. Yes. As a matter of fact, one of the items here, the diamonds, are 100 percent bartered. We did not have any desire for any diamonds at the time we got them. We just traded our wheat for diamonds to help an African country, and now we have five or six times more than we need for defense purposes.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. SYMMS. Mr. Speaker, I reserve the balance of my time.

Mr. BENNETT. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Speaker, I rise in support of H.R. 15081, and join Chairman BENNETT in advocating its passage. The extensive interagency examination of strategic stockpile goals and procedures, to which the gentleman has referred, has produced two major innovations which will provide the Congress with greater ability to review the stockpile for national defense purposes.

First, from the policy standpoint, a major interagency review is called for every 4 years, or sooner if required. The stockpile goals enunciated by these reviews are not planned commitments by the United States to buy or sell any specific quantities of material. Rather, they are flexible targets toward which progress will be made. The goals are not static. They can be adapted to changes in national security factors, market accommodations, internatioanl events and for budgeting considerations.

Second, there is a provision for an annual materials plan of acquisition and disposal based on the new policy goals. Stockpile actions for a given year will be determined in the annual materials plan, which will be subject to congressional review, budget restraints, and changes in market conditions. Acquisition and disposal for a given material may vary, therefore, from year to year, even if the goals are unchanged.

I cite these innovations so that Members may be reassured as to the sophistication and depth of the major review of the stockpile program recently completed. The four materials listed for disposal in H.R. 15081 are a result of this extensive study.

Mr. Speaker, I urge favorable considerations and action on H.R. 15081.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, I know the gentleman from South Carolina is also a member of the subcommittee, and we did just discuss the aspect regarding the fact that diamonds were used as barter by the country of Zaire and, actually, that was never really a surplus or a shortfall for our stockpile. Zaire did have diamonds to use as barter. In other words, we would not trust the paper money of Zaire. But the point the gentleman has brought up, that in times of international stress, if the dollar as paper money came under suspicion, would we indeed have adequate silver in the strategic stockpile for the use of bartering for strategic items, unforeseen in advance, but necessary to the national defense? And on that basis would silver be available for barter?

In my attendance of the subcommittee, this was never even mentioned.

Mr. SYMMS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to go one step further with the question of the gentleman from Georgia and ask this question here: If the Soviet Union would see us in a position where we did not have adequate minerals and reserves, does anyone think they would be willing in times of international crisis confrontation to sell their silver?

We have already brought out in the subcommittee that there were 900 million ounces or 1 billion ounces of silver used in World War II for strategic purposes, plus some 200 million ounces that we exported. What are we going to do when the time comes and we have only 22 million ounces to use, we have demands put on this country for several hundred million ounces of silver, our mining companies have been beaten down by low prices and they cannot produce it? Are we just going to be beaten down when our adversaries want us to sell it and weaken our very heritage?

Mr. SPENCE. If the gentleman will yield, I have a little bit of difficulty in the way the question is asked, but I would like to answer it.

Mr. SYMMS. Mr. Speaker, I yield 30 seconds to the gentleman from South

Carolina, if he wishes to answer the question.

Mr. SPENCE. Mr. Speaker, the strategic stockpile is by law kept solely for military and industrial use during wartime. When we have commodities which are not needed, we are required to sell them to get them into the market and to avoid the cost of storing them. The strategic stockpile is not an economic stockpile. Congress has not authorized an economic stockpile.

We are concerned about things we need in wartime, about national defense. I am concerned about national defense. The Department of Defense has told us they do not have a requiremtnt for as much of these materials as we have in the stockpile. We are, therefore, obligated I think, to dispose of the materials we are holding in excess of our requirements, as determined by the people who are concerned with our national defense.

Mr. SYMMS. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I would like to make the point that we are talking about our national security when we talk about strategic metals and strategic minerals. The price will be depressed. The record shows that if we look at the chart of silver prices, every time we have had these auctions we have depressed the price. This forces capital out of a particular industry so that we slow down our production if we need any of these strategic minerals for production. We are producing less silver than we are using. So what we are doing is putting the United States of America in a position that we have 22 million ounces of silver left, which is not enough to flag the breadwagon, if the Members will pardon the expression. I think what we are talking about is that we have an adversary in the Soviet Union, they have tremendous reserves, and mining potential, and here we are, auctioning off our strategic and important minerals and metals at a time when we are living in a world that is living on a paper dollar syndrome. We know that sooner or later we are going to come back to real money: gold and silver.

We are getting closer and closer to it all the time. I think it would be the height of ridiculousness for this country to auction off these precious resources that we have in this country, because the supply of these materials is infinitely small when it comes to the basic situation that we might confront.

Mr. Speaker, I urge the Members, for security reasons alone, to vote down this bill. The Government at a minimum should sell this silver in 1 ounce medallions so the working people of the country could acquire some real money.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from Idaho (Mr. SYMMS) has expired.

The gentleman from Florida (Mr. BENNETT) has 4 minutes remaining.

Mr. BENNETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, H.R. 15081 would authorize the GSA to dispose of excess stocks of industrial diamond stones, silver, antimony, and tin. Following a study of our Nation's stockpile objective over the the next 3 years, it has been determined that the amounts specified in the bill are superfluous to our security needs.

We have been assured that the disposal of these commodities will be in an orderly fashion so as not to disrupt world markets. It is my view that the disposal will in fact have beneficial economic effects. It has come to my attention, for example, that an artificial shortage exists in the lesser quality diamond gem stones which are used for novelty items. World demand for these diamonds has burgeoned in recent years. Without this legislation, these gem stones along with the other excess commodities will remain stored at Government expense serving no useful purpose.

It is also important to note that at the insistence of Congressman BENNETT, chairman of the Subcommittee on Seapower and Strategic and Critical Materials, all proceeds from the sale of these commodities will be put into a special fund which will then be available for the acquisition of materials deemed necessary for the national stockpile in the future. This is a significant innovation and I wish to commend Congressman BENNETT on his efforts.

Mr. BENNETT. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, this morning I received a letter from President Ford on the subject of this bill. The letter states that the bill "insures that our Government will have available the necessary raw materials to support military requirements and the basic civilian economy"—both of them—"during periods of extended conflict and where normal foreign supplies of these materials are disrupted."

Attached to that letter I have a statement here which says as follows:

> These DoD needs can be met entirely from primary and secondary resources within the United States. Essential and General Civilian needs can easily be met from the United States and the free world.

With regard to the free world, the statement goes on to say:

> The domestic production of silver, supplemented by imports from Canada and Mexico, would suffice for U.S. consumption for all end uses except jewelry, sterling ware, and electroplated ware.

So the President has made a strong plea for the necessity of this bill.

Some Members have made some statements, and I should address myself to those. One of them is concerning a depressed price. The gentleman from South Carolina (Mr. SPENCE) has adequately dealt with that matter, stating that this is not an economic stockpile. It is a defense stockpile. If we want to create an economic stockpile, that is another matter, not in this legislation.

It has been mentioned many times on the floor that 900 million ounces of silver were used during World War II. Of course, that quantity was used during World War II because in World War II we did not have any copper supply available and we had to use silver in place of copper. Luckily, it carried electricity, so it was not stolen. We used silver extensively in high-volume electrical activities, and that is where most of that silver went. Some of it went for Lend-Lease.

The United States is, of course, not going to get rare commodities for ourselves by shipping silver to other countries, in all probability. We will ship instead wheat and other commodities that are in excess in our country. We did not get these diamonds for silver; we got these diamonds for wheat. That is the manner in which we have bartered.

It has been said that this sale will depress the market if we sell this material. That is the function of the General Services Administration to see that it does not. We sold 100 million ounces in 1968, and the price actually went up. The price went up in 1968 and 1969 when we got rid of 100 million ounces. I would not say that was the result of it, but it certainly did not depress the market.

I, as chairman of the Subcommittee on Seapower and Strategic and Critical Materials, approached this matter with great reluctance. I wanted to be sure that we had enough in our national defense stockpile to take care of our national defense needs, and for years I postponed action on this until we could get a breakdown analyses of our needs. We now have that analysis from the administration.

Mr. Speaker, I want to make one other point before I finish. The question has been asked, "Why dispose of this? Why not keep it there because it might have some defense value in the future? There is no defense value in getting rid of it?"

As a matter of fact, there is a very great defense need to get rid of it. I say that because I know of no other way we can get the hundreds of millions of dollars which we can use to buy other stockpile materials that we need to buy.

Mr. Speaker, I say there is no probability of getting the funds in any other way that we need to finance our stockpile needs for the future. Our needs run into many times the amount or the value of the stockpile we are now disposing of. I simply do not believe we can otherwise get the funds from the Committee on Appropriations. That is the reason we put in this bill the provision that everything sold under this legislation will be turned into a fund which must be appropriated for further stockpile needs. So these disposals do in fact have a positive defense thrust.

Mr. Speaker, at this point I include the letter today received from President Ford:

THE WHITE HOUSE,
Washington, D.C., September 20, 1976.

Hon. CHARLES E. BENNETT,
House of Representatives,
Washington, D.C.

DEAR CHARLIE: I have received your letter of September 9, 1976 regarding our new strategic stockpile policy, and appreciate your interest in this important matter. As you know, I have recently issued guidance based upon an extensive interagency examination of strategic stockpile objectives and management. This guidance ensures that our government will have available the necessary raw materials to support military requirements and the basic civilian economy during periods of extended conflict and where normal foreign supplies of these materials are disrupted.

As General Bray has told you, the assumptions which we have used to set new stockpile objectives are based upon conservative estimates about possible future wars, and go well beyond the stockpile guidance issued in 1973. Specifically, our new policy calls for a materials stockpile capable of supporting U.S. defense requirements:

During a major war;

Over a three-year period;

Assuming large-scale industrial mobilization (and the associated increased materials demands); and

Providing at the same time for a broad range of basic civilian economic needs to ensure the health and vitality of the wartime economy.

In dollar terms, our new stockpile objectives exceed the current inventory. Of perhaps greater importance is the fact that a significant portion of the present stockpile, in terms of dollar value, consists of materials not required under the guidance I have just described.

In order to fully implement our new policy, we must therefore conduct major programs of both acquisitions and disposals. As you know, market considerations constrain us significantly as to the rate of which we can buy or sell these materials. Achievement of all of our new objectives will be a long-term proposition, stretching over a number of years.

I appreciate very much your efforts on behalf of our current legislation, which represents an important first step toward our new stockpile goals. In the coming months, we will be developing FY 1978 stockpile proposals through the new Annual Materials Plan, a coordinated interagency process which ensures that acquisions and disposals are consistent with our basic stockpile objectives. The process also sees to it that changing defense, market, foreign policy, and other relevant factors are considered.

I feel strongly that our new stockpile policy strengthens our national security by improving our preparedness. I hope that you agree, and that we can continue to work together in this important area.

Sincerely,

GERALD R. FORD.

Mr. CONTE. Mr. Speaker, I rise in support of this bill authorizing the disposal of various materials from the national stockpile. As the author of H.R. 306, a bill to authorize the disposal of silver from the stockpile, I am pleased to note that the committee has included the provisions of my bill in this measure.

Because of present levels of domestic supply and production, the National Security Council recently decided that no strategic stockpile of silver was necessary. This bill, which authorizes the disposal of 118 million of the 139.5 million troy ounces of silver presently in the stockpile, is therefore well within the limits set by the Security Council.

The disposal of this silver from the stockpile will bring an estimated $349 million into the U.S. Treasury. I think we would all agree that any measure which would increase revenues without increasing taxes is desirable.

In recent years there has been significant price instability in the silver market, resulting in unemployment in that industry. The release of these materials from the stockpile will have a beneficial impact on market stability and will contribute to employment.

By easing an occasionally thin market, this disposal will help prevent speculative activity, and the gainers will be the American consumers who use products containing silver—from mirrors and flatware to cameras and electronic equipment.

Mr. Speaker, I believe this is a carefully researched and necessary bill, and I urge my colleagues to support it.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill H.R. 15081.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 15081, just under consideration.

The SPEAKER pro tempore. (Mr. McFALL) Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR THE DEPARTMENT OF COMMERCE TO BE AVAILABLE UNTIL EXPENDED OR FOR PERIODS IN EXCESS OF 1 YEAR

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11570) to authorize appropriations of the Department of Commerce to be available until expended or for periods in excess of 1 year, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That appropriations for the Department of Commerce are hereby authorized to be available without fiscal year limitation, or for periods in excess of one fiscal year, whenever so provided for in an appropriation Act.

SEC. 2. The provisions of this Act shall apply with respect to any authorization of appropriations for the Department of Commerce enacted after the date of the enactment of this Act, unless such authorization specifically provides that funds appropriated pursuant thereto shall revert to the Treasury of the United States if such funds are not obligated or expended during the fiscal year for which they are authorized.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. I assume, Mr. Speaker, that the gentleman from Maryland is opposed to the bill; is that right?

Mr. BAUMAN. The gentleman is right.

Mr. DINGELL. As I am.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Maryland (Mr. BAUMAN) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 11570, would legitimize the action which we in the House have taken in past years. H.R. 11570 would authorize appropriations made to the Department of Commerce to remain available for obligation beyond the end of the fiscal year for which they were appropriated, if, and only if, the Appropriations Committee specifically provides for this in its appropriations language.

In years past, the Commerce Department appropriations have been subject to a point of order under rule XXI of the House which forbids substantive language in these types of bills. The enactment of this bill would remove the requirement that a waiver for no-year funding be granted—an action which we have taken each year since the mid-sixties.

Perhaps just as important as what this bill does is what it does not do. H.R. 11570 does not change amounts authorized or appropriated for the programs affected, or the period of time for which the programs are authorized. In fact, it specifically reserves to authorizing committees the power to limit appropriated funds to 1-year availability.

It does not authorize the use of the funds for any purposes other than those for which they were originally authorized and appropriated. It does not eliminate the requirement that the Department of Commerce must continue to justify its authorizations before the authorizing committees of jurisdiction.

Our subcommittee asked each of the House committees with substantive jurisdiction over Commerce Department programs to comment on H.R. 11570. In every case, the reply was either favorable or without objection to enactment. In addition, members of the Appropriations Committee have urged the passage of this type of legislation for the past several years.

Under present law, the Commerce Department cannot obligate or expend funds beyond the year for which they were appropriated. Therefore, funds for major long-term projects such as hurricane research, export promotion, and periodic censuses, long-range research planning, and contract negotiations, must be reauthorized and reappropriated for the exact same purpose. For a department with major programs under the jurisdiction of nine House committees, this is a complex, time-consuming, and expensive proposition.

I urge your support for passage of H.R. 11570.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. SKUBITZ)

Mr. SKUBITZ. Mr. Speaker, I have always looked with a jaundiced eye on an open end authorization of appropriations; and I am sure that my colleague, the gentleman from Pennsylvania (Mr. ROONEY) feels the same way about it.

However, in this instance we feel that a case has been made justifying the passage of this legislation.

It is difficult and unnecessary for me to repeat what the gentleman from Pennsylvania (Mr. ROONEY) has just said, but I do want to point out that this bill does not change the amount of the authorization appropriated. It does not release or permit the use of the funds for any other purpose.

I was opposed to the original bill and can only accept it now because of an amendment I proposed and which the committee accepted. By that amendment an authorizing committee can deny the possibility of open end appropriations for a given program if it sees fit to do so. Also the Appropriations Committee may also restrict the use of open end appropriations to programs for which it has been specifically justified.

As the gentleman from Pennsylvania (Mr. ROONEY) has said, it does not eliminate the requirement for the department to justify its requirements.

I urge the Members to pass this bill.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Abraham Lincoln said at Gettysburg, "The world will little note nor long remember what we say here," this afternoon primarily because there is no one here to listen to the debate. When the rollcall vote is finally taken later tonight on this legislation I am sure its consideration will fall into the category of the other 30 or so bills. Someone will run through the Chamber door saying, "What is this? How do I vote?" And, upon the basis of the confidence one might have for the Member with whom one happens to be speaking, the late arrival will vote one way or the other. Nevertheless, the majority leadership has decided that we should handle our legislation in this unfortunate manner.

Mr. Speaker, I am not the chief opponent of this legislation and I know that the Members will be hearing shortly from the gentleman from Michigan (Mr. DINGELL).

Mr. Speaker, I find it a bit inconsistent for the various committee and subcommittee chairmen who have signed their views printed in the report in support of the legislation, because in so doing, many of them are abdicating the legislative jurisdiction which their committees have.

I personally oppose the bill, because the Committee on Merchant Marine and Fisheries, on which I have the honor to serve, is one of the committees which would be abdicating its control over numerous statutes and the annual funding of many programs if this legislation is passed.

Mr. Speaker, I would make one other point. We have recently enacted into law the new congressional budget process. Although I do not agree with the net results of that process, I do think it bears special relationship to the bill before us. If we pass this bill, the authorizing committees will be losing control over the budgets of many of the most important statutes under their jurisdiction and, instead, ceding it to another subcommittee of the Committee on Appropriations. This I think is a mistake. I hope the bill is defeated. I hope that several hours hence when the actual vote is finally taken, that some of the Members will remember the objections now being raised against this legislation.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague, the gentleman from Maryland for yielding to me.

Mr. Speaker, it is with a great deal of sorrow that I have to oppose my very dear friend, the able gentleman from Pennsylvania (Mr. ROONEY), the sponsor of this legislation, because that gentleman is an exceedingly knowledgeable and able Member of this body.

The hard fact of the matter is that this is an outrageous piece of legislation. What does it do? It takes 42 statutes under the jurisdiction of nine committees and it confers upon the Committee on Appropriations the authority to write appropriations without annual yearly limitations. Which means that the extremely valuable and enormously important authorization process in the hands of these legislative committees is very largely abolished and abandoned. It allows one committee, a subcommittee of the Committee on Appropriations, the authority to write authorizations and appropriations as it deems necessary without having annual limitation. Which means that the review of the House, the careful scrutiny that goes with that kind of process is eliminated.

Does it do this across the board for all Government agencies? Absolutely not. It does it for one agency, the Department of Commerce. Proponents say that the Department of Commerce has many technical, difficult, and long-term programs under its jurisdiction which require it to get this special treatment. The hard answer is there is no special expertise, no special difficulty, no special need in the Department of Commerce that requires that it get this kind of exemption from the annual authorization process. If the legislative committees, the committees other than the Commerce Commmittee, wish to give authorizations without yearly limitation for appropriations, they can freely and easily do so. That would be the proper way in which it should be done.

This eliminates from the ordinary Member of this House the right, which has long existed in each Member, to reach by point of order the attempts of the agency to escape annual authorization and to get without limitation authorization for the expenditure of appropriations money. There is no program in the hands of the Department of Commerce which is so complex, so difficult, and so technical, and of such long duration that it requires the kind of sweeping relief that is proposed here. It would be my urgent plea to my colleagues in the name of fiscal responsibility that we reject summarily this excessive, outrageous, and unnecessary piece of legislation.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. SLACK), the chairman of the State, Justice, Commerce, and Judiciary Subcommittee of the Committee on Appropriations.

Mr. SLACK. Mr. Speaker, H.R. 11570 is a bill to authorize appropriations for the Department of Commerce to remain available for periods in excess of 1 fiscal year when so provided for in an appropriation act. I believe that such authority is needed for the orderly administration of the Department's major programs. Under present law, authorizations for many Department programs are limited to single-year appropriations. The programs may be authorized for more than year, but, under the terms of such authorizations, appropriations are limited to a given fiscal year and do not remain available for additional fiscal periods. For the Department's major long-term projects such as hurricane reserach, export promotion, periodic censuses as well as other major activities, it is desirable to have the authority to appropriate funds to remain available until expended.

The process of obtaining such authority on an individual program basis can be a complex, time-consuming, and expensive proposition since the Department has major programs under the jurisdiction of nine House committees. The Department has in the past met this problem by asking the Appropriations Committee to provide funds for certain projects on a no-year basis. Such an approach is, however, a "makeshift" solution since the granting of no-year authority in appropriation bills is subject to a point of order under the provisions of rule XXI that prohibit substantive legislation in appropriation bills.

The enactment of H.R. 11570 would provide a better, more permanent solution to the problem. Under this legislation, the Department will still be required to justify its programs to the authorizing committees with jurisdiction and these committees will retain the power to limit the time for which funds will be available. Moreover, this legislation in no way affects the power of the Congress to decide how much money will be authorized and for what purpose. The enactment of this bill, however, will make it in order for the Appropriations Committee to recommend to the House that a given appropriation remain available beyond the fiscal year.

Let me emphasize that this authority will not influence the levels of appropriation which may be recommended by the Appropriations Committee for the Department's programs, nor will it affect our requirements that sound justifications be submitted to support a request for no-year or multiyear authority. We will continue to scrutinize requests for such authority very closely. Moreover, we will continue our usual practice of closely reviewing unobligated balances or for each of the appropriations which have no-year authority in order to determine if there are sound reasons for these balances and whether they can be used to offset appropriation requests.

In summary, I firmly believe that this legislation will help to assure that the funds appropriated for programs of the Department of Commerce are used efficiently, and that its enactment will in no way diminish the authority of the appropriate committees of the House for carrying out their responsibilities for authorizing and appropriating funds for the Department's programs.

I urge your support for this bill.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield 3 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, I thank the gentleman from Maryland.

Mr. Speaker, I rise in opposition to this legislation. I think there is only one thing that can further erode the powers of the Congress, and not only the powers but also the responsibilities of the Congress, and that is to give the no-year appropriation authority to the Appropriations Committee.

The Department of Commerce has a great many responsibilities and they do fall under the jurisdiction of nine committees of this House. There is no reason why this Department should be relieved of the obligation to come in and fully justify its requests for authority. We in the Commerce Committee have been trying for quite a number of years to move toward authorizing for 3 years at a time in order to review these departmental activities and agency requests to insure that they are carefully reevaluated by the authorizing committees. I do not mean to infer that the Appropriations Committee is not composed of very able Members of this body, but they do not have the time nor do they take the time to go into the detail necessary to intelligently arrive at program authorization, to evaluate the performance of the Department.

I believe it is total error to fall into that pattern.

The distinguished gentleman from West Virginia said this was quite appropriate. I think if it is appropriate to the Department of Commerce, then it is appropriate to every department and agency of the Government. Then let us do away with any kind of congressional review and let them go directly to the Appropriations Committee and not have to go into the kind of justification they do before the authorizing committees.

I hope the House will not fall into this kind of error and particularly not under a suspension of the rules where there is not the development of proper legislative history and where we do not have the time to examine fully the pertinent facts of the programs. There are far too many important pieces of legislation that are touched by this authorization. It is ill conceived and should be overwhelmingly rejected.

Mr. ROONEY. Mr. Speaker, this legislation does not degrade any powers of the Congress, as the gentleman from California has stated. The Department of Commerce will still be required to justify its program before the authorizing committees with jurisdiction over Department of Commerce programs. If such authorization is not granted, those programs affected will cease to exist. In addition, an amendment adopted in subcommittee—section 2—which was offered by the gentleman from Kansas, the ranking minority member on the committee (Mr. Skubitz), specifically retains the power of the authorizing committee to limit the time for which funds will be available. If this occurs, the Appropriations Committee will be precluded from providing funds "until expended."

Finally, this legislation in no way affects the power of the Congress to decide how much money will be authorized and for what purposes.

I might say to the gentleman from Maryland this is not a majority bill. This is an administration bill that has been approved by the Office of Management and Budget and approved by the administration.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. Mr. Speaker, I yield to the gentlewoman from Missouri (Mrs. Sullivan).

Mrs. SULLIVAN. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

Mr. Speaker, I have had time in the past few weeks to study the bill as it was voted out of the committee. I now rise to support the position taken by the gentleman from Michigan (Mr. Dingell), who is a member of the Merchant Marine and Fisheries Committee which I chair, in his opposition to this bill, since it does affect programs that come upder the jurisdiction of our Merchant Marine and Fisheries Committee, such as the NOAA and the Maritime Administration and other items.

Mr. BINGHAM. Mr. Speaker, I join Mr. Dingell and Mr. Moss in opposing this bill. I believe that the decision as to the period of time during which funds may be obligated for particular programs and agencies is one that should be made by the appropriate authorizing committee. The committee amendment to this bill which spells out that the authorizing legislation may limit the period for which funds should remain available is an improvement over the original administration version of H.R. 11570. Nevertheless, I see no reason why we should establish the presumption that, in the absence of a limitation by the authorizing legislation, funds should remain available until expended. That is not the case for most programs of the Federal Government, and I find no evidence in the report as to why it is particularly necessary and advisable for Commerce Department programs.

I would note, Mr. Speaker, that the International Relations Committee, of which I am a member, has authorizing jurisdiction over the export control and promotion programs of the Department of Commerce. H.R. 15377, which amends the Export Administration Act of 1969 and is scheduled for House floor action this week, provides for specific authorization of funds beginning in fiscal year 1978 for those programs. Those authorizations may be for 1 or more years, as the International Relations Committee may determine. However, I see no reason to set down, as this bill would, a broad principle which is then likely to be reversed in many instances by the authorizing committees. I urge my colleagues to oppose this legislation.

Mr. ROONEY. Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from Pennsylvania (Mr. Rooney) that the House suspend the rules and pass the bill, H.R. 11570, as amended.

The question was taken.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GOLD LABELING ACT OF 1976

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3095) to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold, as amended.

The Clerk read as follows:

S. 3095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gold Labeling Act of 1976".

Sec. 2. Section 2 of the Act of June 13, 1906 (34 Stat. 260; 15 U.S.C. 295), is amended—

(1) by striking out "one-half of one carat" and inserting in lieu thereof "three one-thousandth parts";

(2) by striking out "; except" and all that follows through "incased or inclosed" immediately before the first proviso;

(3) by striking out "in the case of any article mentioned in this section" in the second proviso;

(4) by striking out "in such article" in the second proviso and inserting in lieu thereof "in an article mentioned in this section"; and

(5) by striking out "that one carat" in the second proviso and inserting in lieu thereof "than three one-thousandth parts, in the case of a watchcase or flatware, or than seven one-thousandth parts, in the case of any other such article,".

Sec. 3. The amendments made by section 2 of this Act shall take effect five years after the date of enactment of this Act and shall not apply with respect to any article of merchandise which is sold by any manufacturer or importer before the effective date of such amendments.

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Murphy) and the gentleman from Kansas (Mr. Skubitz) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today concerns apparently noncontroversial amendments to a 1906 law setting standards for the marking of articles made of gold and silver.

Under that turn-of-the-century law, gold articles are now permitted to be marked as containing a given amount of gold—14 carat gold, for instance, but in fact they can be very considerably short of what is marked. A gold ring containing any solder and stamped 14 carat may legally actually be only 13 carat, a difference of 7 percent in the quantity of gold. If the article contains no solder, it may nevertheless be 13½ carat and be marked 14 carat.

The reason for this is the technology that prevailed at the time the law was originally passed. But that technology has improved so that gold articles may be made to within very much closer tolerances. The standard in most of Europe has for some years been at least as strict as this bill.

S. 3095 would reduce the tolerances permitted for both soldered and unsoldered articles—from 1 full carat for soldered gold pieces to 7 parts per thousand, approximately one-seventh of a carat; and from one-half carat for unsoldered pieces to 3 parts per thousand, about one-fourteenth of a carat.

Mr. Speaker, the bill, which is supported by the affected industry, would require no additional Government spending, and would give the consumer what he now believes he is getting—articles whose markings accurately reflect their contents.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, the purpose of the bill is to tighten up the tolerances within which an article which is labeled as gold must fall. As the chairman of the subcommittee has indicated, at the present time if an article is labeled as 14-carat gold, it may actually only contain 13 carats if it contains solder, and 13½ carats if it contains no solder.

The hearings, of course, indicated that it is now technologically feasible to produce an article with much more precision with solid gold. Thus, it appears to the committee that the cost to the consumer will be negligible. They will be getting articles that are more truly marked or labeled as to their content.

Therefore, I support this legislation and urge that it pass.

Mr. SKUBITZ. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman yielding to me. Can my colleague from New York tell me how many hearings the committee had on this bill?

Mr. MURPHY of New York. We had 1 full day of hearings.

Mr. ROUSSELOT. One full day?

Mr. MURPHY of New York. Yes.

Mr. ROUSSELOT. There is no committee report. Why did the committee not vote out a bill?

Mr. MURPHY of New York. The committee bill has not been printed as yet, but it has been filed.

Mr. ROUSSELOT. The disturbing thing to me is that this may be the greatest bill since sliced bread, but where is the committee report? How do we know what we are doing? Just because the Senate passed this legislation does not make it necessarily a good idea whose time has come. Can the gentleman tell me how long he had this bill before the committee?

Mr. MURPHY of New York. We had the hearings in May, and had a substantial time prior to that when the Senate bill came over.

Mr. ROUSSELOT. May I ask my good colleague, who I know is a very responsible legislator, why did the committee vote out a bill? The committee has had adequate time to take action.

Mr. MURPHY of New York. We voted the Senate bill out by voice vote from the full committee.

Mr. ROUSSELOT. Was there a quorum present?

Mr. MURPHY of New York. Yes, a quorum was present. The problem was that American industry is being prejudiced by the higher quality standards of European industries particularly, and this legislation will give the same mark of approval of a 14-carat American piece that a 14-carat European piece now has.

Mr. ROUSSELOT. In other words, the gentleman is telling us that American industry in this field will be damaged if we do not pass this legislation?

Mr. MURPHY of New York. That is the testimony we have had, and I am convinced that it would be.

Mr. ROUSSELOT. Can the gentleman explain to us then, since the hearings of one day were held in May and the bill was this important, why we do not have a committee report? Why has the committee not given the House a better chance to review the bill?

Yesterday—Sunday—when I went through the suspension bills listed for today, I was unable to find a committee report. Therefore, one always becomes somewhat hesitant to just jump in and support something that comes over from the Senate without the proper House consideration and review. Could the gentleman explain why the committee did not produce a report?

Mr. MURPHY of New York. Yes, the minority staff had a full opportunity to review the report, and expressed no objection to the report language at all.

Mr. ROUSSELOT. When did the minority review the report?

Mr. MURPHY of New York. Friday.

The SPEAKER pro tempore. (Mr. McFALL). The time of the gentleman from California has expired.

Mr. SKUBITZ. Mr. Speaker, I yield 3 additional minutes to the gentleman from California.

Mr. ROUSSELOT. Evidently, the minority staff and members only reviewed the report last Friday, September 17. I hope that the minority side had more time to review this legislation than we did the "conference report" on the so-called tax reform bill. We had less than a day to review that bill and it was very complicated. The gentleman can assure me that this bill is nowhere near as complicated as the tax bill?

Mr. MURPHY of New York. I do not think we could put a 14-carat stamp of approval on the tax bill, according to the gentleman's judgment.

Mr. ROUSSELOT. The gentleman is correct on that last comment. Could the gentleman from North Carolina assure me that he has reviewed the committee report; that he is aware of all the ramifications of this bill; that it is not an anti-free-market bill; that it will enhance the free market?

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield.

Mr. BROYHILL. As the gentleman knows, the gentleman from North Carolina is a strong supporter of the concept of a free market, but it certainly does not help free enterprise and the free market concept to say that an article is one thing when it may not be that. In this particular case, what we are trying to do is to make sure that the product, as labeled, is what it says it is. That is all that this bill will do. That does not seem to me in any way to disturb the free market concept or the free enterprise concept. In fact, on the contrary, it seems to me that it strengthens it.

Mr. ROUSSELOT. As the gentleman knows, our good colleague, the minority leader, the gentleman from Arizona (Mr. RHODES) and the minority whip, the gentleman from Illinois (Mr. MICHEL), sent us a letter this morning, and stated that there were concerns about the method by which this bill has been scheduled.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the minority leader, if he opposes this bill, is not opposing it on the substance of what is in the bill but for procedural reasons.

Mr. ROUSSELOT. The gentleman knows, as well as I do, that he received a letter from our colleague, the gentleman from Arizona (Mr. RHODES) who stated to the effect that this was far ahead of schedule and we were moving improperly. I would like to have assurances from my two colleagues that there has been in fact adequate hearings, that we know what we are doing and that we are not legislating in the dark.

Mr. BROYHILL. If the gentleman will yield, of course all committees are not perfect, and I know that this committee does not pretend that it is. Sometimes bills do fall between the cracks, they do not get out as quickly as we would like. I think this is one of those occasions where a bill has been pending for some time and it should have been considered earlier. Unfortunately, it was not. We would like to see it passed, if we can do so.

Mr. ROUSSELOT. Mr. Speaker, would the gentleman from New York be willing to comment on my question?

Mr. MURPHY of New York. Yes. Unfortunately, the full committee had a difficult schedule going through the clean air bill, the energy bill, other public health legislation, and it was difficult to bring this matter before the full committee with enough time for us to get a report filed. But I can assure the gentleman that it is good legislation, that it was carefully considered in the subcommittee, that all aspects of the industry's feelings were taken into account.

Mr. ROUSSELOT. Does the gentleman understand that we have been very concerned, many of us, about the listing of 26 suspensions today? Our leadership has expressed a desire to review this legislation more carefully before the House rammed them through. This may not be one of those bills that should be resisted because of inadequate committee attention, but I want to make it clear that my distinguished minority leader listed this as one of the bills that he thought was an unnecessary suspension action. Mr. Rhodes felt the House might be robbed of the ability to have an adequate discussion of the bill.

And so with the assurance of my colleague, the gentleman from New York (Mr. Murphy) and my colleague, the gentleman from North Carolina (Mr. Broyhill), two respected members of the committee, I will withdraw my reservation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Murphy) that the House suspend the rules and pass the Senate bill (S. 3095), as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (S. 3095) just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 521

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RAILROAD RETIREMENT AMENDMENTS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14041) to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204(a) of Public Law 93–445 is amended—

(1) By striking out paragraph (1) and inserting in lieu thereof the following:

"(1) that portion of the individual's annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual's annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937 or (B), if less in a case where such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity under section 2(a) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such individual would have received for the month of January 1975 if this Act had not been enacted: *Provided, however,* That such annuity amount shall be subject to reduction in accordance with the provisions of section 3(m) of the Railroad Retirement Act of 1974 in the same manner as other annuity amounts provided under section 3(a) of the Railroad Retirement Act of 1974;" and

(2) By inserting "no greater than" after "paragraph shall be" in the proviso to paragraph (2).

(b) Section 204 of Public Law 93–445 is further amended by adding at the end thereof the following new subsection:

"(d) The annuity amount provided an individual by paragraph (1) of this subsection as increased from time to time shall be deemed to be the primary insurance amount of such individual for purposes of computing the annuity of the spouse of such individual under section 4(a) of the Railroad Retirement Act of 1974.".

(c) Section 206 of Public Law 93–445 is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937 or (B), if less in a case where such spouse is not entitled to an annuity amount provided by paragraph (3) of this section, the amount of the annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such spouse would have received for the month of January 1975 if this Act had not been enacted: *Provided, however,* That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i) of the Railroad Retirement Act of 1974;".

(d) The amendments made by this section shall be effective January 1, 1975: *Provided, however,* That the increases in annuities effective June 1, 1975, and June 1, 1976, shall be in the amount which would have been provided if this Act had not been enacted.

Sec. 2. (a) Section 4(g) of the Railroad Retirement Act of 1974 is amended—

(1) By striking out "subsections (a) and (b) of this section" each time it appears therein and inserting in lieu thereof "subsections (a), (b), and (e)(3) of this section"; and

(2) By inserting immediately after "*Provided, however,*" the following: "That if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed ten years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue: *Provided further,*".

(b) Section 4 of such Act is further amended by striking out subsection (h) and all that appears therein and inserting in lieu thereof the following:

"(h) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act of December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section as to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act: *Provided, however*, That, if a widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) to an annuity amount under subdivision (1) or (2) of subsection (e) of this section in the month preceding the employee's death, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section and the preceding provisions of this subsection as of the date such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue to equal (B) the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reductions on account of age) in the month preceding the employee's death.".

(c) The amendments made by this section shall be effective with respect to annuities accruing for months after the month in which this Act is enacted: *Provided, however*, That the amendments made by subsection (b) of this section shall not operate to decrease any annuity amounts awarded under section 4(h) of the Railroad Retirement Act of 1974 prior to the date on which these amendments become effective.

SEC. 3. (a) Section 15(c) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentences: "Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 2(b) of this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Suplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on that last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such transfer.".

(b) The amendment made by this section shall be effective on the enactment date of this Act.

SEC. 4. (a) Section 1(h)(6) of the Railroad Retirement Act of 1974 is amended by striking out the word "and" after paragraph (iv), by changing the period at the end of paragraph (v) to a semicolon, and by adding the following new paragraphs after paragraph (v):

"(vi) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability; and

"(vii) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.".

(b) Section 3231(e) of the Internal Revenue Code of 1954 is amended by striking out the second sentence and inserting in lieu thereof the following: "Such term does not include (i) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability, (ii) tips (except as is provided under paragraph (3)), (iii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201, or (iv) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.".

(c)(1) The amendments made by subsection (a) of this section shall be effective January 1, 1975.

(2) The amendments made by subsection (b) of this section shall apply with respect to taxable years ending after December 31, 1953: *Provided, however*, That any taxes paid under the Railroad Retirement Tax Act prior to the date on which this Act is enacted shall not be affected or adjusted by reason of the amendments made by such subsection (b) except to the extent that the applicable period of limitation for the assessment of tax and the filing of a claim for credit or refund has not expired prior to the date on which this Act is enacted. If the applicable period of limitation for the filing of a claim for credit or refund would expire within the six-month period following the date on which this Act is enacted, the applicable period for the filing of such a claim for credit or refund shall be extended to include such six-month period.

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Kansas (Mr. SKUBITZ) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was agreed to by representatives of railroad labor and railroad management and is supported by the Railroad Retirement Board.

The primary purpose of the bill is to correct unforeseen inequities discovered by the Railroad Retirement Board in their attempts to administer the provisions of the Railroad Retirement Act of 1974.

The Board discovered that, in some cases, individuals may be eligible for increases in their annuities which were in no way foreseen or intended by the 1974 act. In other cases, some widows suffered decreases in their annuities contrary to the express purposes of the 1974 act.

This bill corrects these inequities and all parties are in agreement that this bill is urgently needed to correct the deficiencies discovered by the Board.

In addition to correcting these deficiencies, this bill would permit the Railroad Retirement Board to borrow from the railroad retirement fund to make supplemental annuity payments and would require the Board to repay the borrowed amounts plus interest.

It also amends the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act to provide that sick pay and travel expenses will not be considered as wages for the purposes of either of those laws. This is similar to a provision in the Social Security Act and the Committee on Ways and Means is in agreement with this provision.

The first section of the reported bill would amend existing law retroactively to January 1, 1975, to provide that the Railroad Retirement Board would not be required to pay certain annuity increases which were not intended under the Railroad Retirement Act of 1974. This section would affect an estimated 6,000 annuitants and would result in a savings to the railroad retirement fund.

Section 2 would guarantee certain widows that they will not receive less benefits as a widow than they received as a spouse in the month preceding the employee's death. This provision is estimated to cost $6 million annually.

Section 3 permits the Railroad Retirement Board to borrow from the railroad retirement fund to make supplemental annuity payments and requires the board to repay the borrowed amounts plus interest.

Section 4 would amend the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act to provide that sick pay and travel expenses will not be considered as wages for the purposes of either the Railroad Retirement Act of 1974 or the Railroad Retirement Tax Act.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Pennsylvania (Mr. ROONEY), the chairman of the subcommittee, who has worked hard in the consideration of this bill.

Mr. ROONEY. Mr. Speaker, I thank the committee chairman for yielding.

Mr. Speaker, the reported bill merely makes technical amendments to the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act.

The first action of the reported bill would amend existing law retroactively to January 1, 1975, to provide that the Railroad Retirement Board would not be required to pay certain annuity increases which were not intended under the Railroad Retirement Act of 1974. This section would affect an estimated 6,000 annuitants and would result in a savings to the railroad retirement fund. These amounts have not been paid to the recipients so there is no question of refunds. Rather, it would merely preclude payments of amounts that were not intended by Congress to be paid.

Section 2 would guarantee certain widows that they will not receive less benefits as a widow than they received as a spouse in the month preceding the employee's death. This provision is estimated to cost $6 million annually.

Section 3 permits the Railroad Retirement Board to borrow from the railroad retirement fund to make supplemental annuity payments and requires the Board to repay the borrowed amounts plus interest.

Section 4 would amend the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act to provide that sick pay and travel expenses will not be considered as wages for the purposes of either the Railroad Retirement Act of 1974 or the Railroad Retirement Tax Act. A similar regulation is already in effect for social security purposes and therefore this amendment would bring the two programs into conformity.

I would like to emphasize that this bill in no way violates the agreement reached with railroad labor and management during the deliberations on the Railroad Retirement Act of 1974 to the effect that no changes would be made in the formula for determining retirement benefits before 1978. The amendments in this bill merely clarify the original congressional intent by assuring that recipients receive amounts to which they are entitled—no more and no less.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, in the absence of Chairman ULLMAN of the Committee on Ways and Means, I would like to take this opportunity to explain that committee's role concerning H.R. 14041.

Mr. Speaker, H.R. 14041 was jointly referred to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means because it contains amendments to the Railroad Retirement Act which is within the jurisdiction of the former committee and the Railroad Retirement Tax Act which is a part of the Internal Revenue Code, and therefore, falls within the jurisdiction of the Committee on Ways and Means.

The only provisions of the bill which fall within the jurisdiction of the Committee on Ways and Means are contained in section 4 of the bill which would amend the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act provisions of the Internal Revenue Code of 1954. These amendments would modify the definition of "compensation" in the Railroad Retirement Act and the Railroad Retirement Tax Act so as to exclude from the definition payments to an employee pursuant to a nongovernmental sickness insurance plan and legitimate travel expenses.

Under the Social Security Act (section 209(b)) and the Federal Insurance Contributions Act (section 3121(a)(2) of the Internal Revenue Code) payments, including amounts paid for insurance, to or on behalf of an employee or his dependents because of sickness, accident disability, or for medical or hospital expenses in connection with sickness or accident disability are not included as wages for social security purposes when they are made under a plan or system of general applicability.

Although exclusion of this type of payments from the definition of compensation has been the practice under the Railroad Retirement Act, the lack of an explicit provision in that act has led to some uncertainty as to the treatment which should be afforded such payments. The change proposed is intended to put an end to this uncertainty by adding to the Railroad Retirement Tax Act provisions similar to those contained in the Social Security Act and the Federal Insurance Contributions Act which exclude sickness payments from the definition of taxable wages.

There is no explicit provision in the law governing the treatment of legitimate travel expenses under either the social security program or the railroad retirement program. Under Rev. Rul. 75-279 these expenses are included as compensation under the railroad retirement program unless the employee proves they were incurred and accounts for them to his employer. A similar regulation was in effect for social security purposes during the early years of the program but was replaced in 1950 by regulations which exempt travel expenses from the definition of wages when they are identified as such by the employer. Section 4 of H.R. 14041 would amend the Railroad Retirement Tax Act and the Railroad Retirement Act to provide that travel expenses would be treated similarly under the railroad retirement program.

The Committee on Ways and Means, after having considered section 4 of H.R. 14041, instructed the chairman of the committee to communicate to the Speaker its decision that because the proposed changes to the Internal Revenue Code in section 4 would conform the provisions of the Railroad Retirement Tax Act to the policies and purposes of the Railroad Retirement Act—a matter within the jurisdiction of the Committee on Interstate and Foreign Commerce—the Committee on Ways and Means defers to that committee with regard to the desirability of adopting such changes. The committee took this action, rather than filing a separate report on H.R. 14041, to expedite its consideration under suspension of the rules procedures.

The Committee on Ways and Means, of course, retains its jurisdiction over those portions of the bill that are presently within its jurisdiction.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the chairman of this subcommittee that H.R. 14041, as reported, does in fact correct some existing inequities under the Railroad Retirement Act. Those inequities arose out of the amendments made in 1974. Those amendments were in effect a complete rewrite of the Railroad Retirement Act. It was only natural that there would be some oversight in such a massive undertaking.

At the time we acted on the 1974 act, both rail management and labor assured us that they would not come before this Congress asking for additional changes. When this proposal was first given to the subcommittee, I, for one, was skeptical as to whether or not the brotherhoods and rail management had gone back on their word. After carefully considering the provisions of H.R. 14041, I concluded that the charges were justified and should be acted on by this Congress.

There is one change in H.R. 14041 which came about as a result of an amendment I offered at subcommittee. My amendment struck section 4 of the bill as originally introduced. That section was put forth as a section which could save as much as $6 million, thereby offsetting the additional cost of $6 million incurred in other sections of the bill. I looked carefully at how unfair the savings were to be achieved. Stated simply, the savings were to be achieved by denying some individuals benefits to which they were entitled merely because they failed to file for benefits with both Social Security and the Railroad Retirement Board. I thought that that took unfair advantage of those older Americans who are entitled to benefits under both systems. The subcommittee agreed with me and section 4 was stricken from the bill. I would be remiss if I did not give due credit to my colleague and the chairman of the subcommittee for the compassion and the support he gave in striking his amendment.

There is, Mr. Speaker, a final matter concerning railroad retirement which is not addressed by the bill before us. You may recall that several weeks ago, the Washington Post ran a front page article about some of the so-called inequities which resulted from the 1974 act. In many cases, the so-called inequities cited by the Washington Post were exceptions affecting very few people. In other cases, there were in fact no inequities. In virtually every case, the beneficiaries under railroad retirement were better off as a result of the 1974 act than they would have been had the law not been changed. Nevertheless, Mr. Speaker, there has been some confusion and justifiable concern that some individuals may have been inadvertently shortchanged as a result of the 1974 act.

I know that the Members of this body share my concern for the individual beneficiary under railroad retirement. I would hope that between now and the beginning of the next session of Congress, the committee staff, in conjunction with the Railroad Retirement Board, would clearly identify those situations where beneficiaries may have been inequitably treated by the 1974 act. Furthermore, I think we should have available at the beginning of the next Congress exact dollar figures as to how much it would cost to further amend the Railroad Retirement Act so that no individual is worse off now than he would have been under the old act. As I have said, I do not believe we are dealing with large numbers of individuals. However, since the railroad retirement's benefit system is geared to a variety of work situations, I believe that we should ferret out all of those situations which require some equitable adjustment by this committee.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I want to compliment my colleague, the gentleman from Kansas (Mr. SKUBITZ), for his alert consideration in making sure that section 4 was stricken from this bill. If section 4 had remained in the bill, a recipient or an annuitant would have unnecessarily had to apply to both the Railroad Retirement Board and the Social Security Administration. This type requirement is an obviously unnecessary duplication of effort and a good example of bureaucratic redtape.

I want to compliment my colleague, the gentleman from Kansas (Mr. SKUBITZ), for his alertness and for his responsible attitude in making sure that there was not an unnecessary duplication and burden put upon the recipients of this retirement fund.

Mr. SKUBITZ. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. ROUSSELOT).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 14041, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CLINICAL LABORATORY IMPROVEMENT ACT OF 1976

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14319) to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those acts for the regulation of clinical laboratories, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Clinical Laboratory Improvement Act of 1976".

FINDINGS

SEC. 2. The Congress finds that—

(1) clinical laboratory testing is a vital element of health care throughout the Nation;

(2) health care in this Nation will only be effective and of high quality if procedures utilized for testing by clinical laboratories assure accurate and reliable results;

(3) it is essential to the public interest that the health and welfare of consumers of health care be protected by requiring that all clinical laboratories comply with uniform standards of performance;

(4) testing in laboratories which do not comply with standards to assure accuracy and reliability can be performed at less expense and thus such laboratories are able to compete unfairly with the laboratories which do comply with such standards;

(5) requiring compliance with standards to assure accuracy and reliability by laboratories which operate in interstate commerce without provision for requiring such compliance by other laboratories would discriminate against and depress interstate commerce and adversely burden, obstruct, and affect such commerce; and

(6) all clinical laboratory testing is either in interstate commerce or substantially affects such commerce and regulation by the Secretary in cooperation with the States as contemplated by the amendment made by this Act is appropriate to prevent and eliminate burdens upon interstate commerce, to effectively regulate interstate commerce, and to protect the health and welfare of consumers of health care.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. Section 353 of the Public Health Service Act is amended to read as follows:

"REGULATION AND LICENSING OF CLINICAL LABORATORIES

"SEC. 353. (a) DEFINITIONS.—As used in this section—

"(1) The terms 'laboratory' and 'clinical laboratory' mean (A) a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man, or (B) a facility for the collection, processing, and transmission of such materials for such purposes, other than a facility exclusively engaged in the collection, processing, or transmission of human whole blood or its components.

"(2) The term 'interstate commerce' means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

"(b) NATIONAL STANDARDS AND PROFICIENCY EXAMINATIONS.—(1) Within one hundred and eighty days of the date of the enactment of the Clinical Laboratory Improvement Act of 1976 the Secretary shall publish proposed national standards for clinical laboratories. Within one year after such date of enactment, the Secretary shall promulgate such standards with such modifications as the Secretary deems appropriate and such standards shall take effect upon their promulgation. Standards under this subsection may be amended from time to time.

"(2)(A) National standards promulgated under paragraph (1) for clinical laboratories shall be designed to assure consistent performance by the laboratories of accurate laboratory tests and other procedures and services and shall—

"(i) require laboratories subject to the standards to maintain appropriate quality control programs,

"(ii) require such laboratories to maintain such records, equipment, and facilities as may be necessary for the proper and effective operation of the laboratories,

"(iii) include requirements for periodic proficiency testing of such laboratories,

"(iv) prescribe qualifications (which may include licensure, training, and experience requirements or any combination of such requirements) for directors of such laboratories,

"(v) prescribe qualifications for supervisory personnel of such laboratories, which qualifications shall require such personnel—

"(I) to meet specified experience requirements, and

"(II) to meet specified training requirements, or successfully complete the applicable proficiency examination developed under paragraph (3),

"(vi) prescribe qualifications for technologists employed in such laboratories, which qualifications shall require such technologists to—

"(I) meet specified experience requirements,

"(II) meet specified training requirements,

"(III) meet a combination of specified training and experience requirements, or

"(IV) successfully complete the applicable proficiency examination developed under paragraph (3),

"(vii) prescribe qualifications for technicians employed in such laboratories, which qualifications shall require such technicians to—

"(I) meet specified training or experience requirements or a combination thereof, or

"(II) successfully complete a practical examination which is related to the technician's duties, which is administered by the director of the laboratory, and which is developed under paragraph (3) or developed by a State under an agreement with the Secretary (pursuant to section 1864(a) of the Social Security Act) or by a State having primary enforcement responsibility for the regulation of clinical laboratories, and

"(viii) contain adequate provisions for the enforcement of the standards, including provisions for inspections and quality control.

Qualifications prescribed under clauses (v), (vi), and (vii) shall include as alternative requirements each of the alternative requirements listed in such clauses.

"(B) For purposes of subparagraph (A)—

"(i) the term 'technologist' means an individual employed in a laboratory who in performing tests or procedures in such laboratory is required to exercise independent judgment, and

"(ii) the term 'technician' means a person employed in a laboratory who is not required to exercise independent judgment in the technician's employment by the laboratory.

"(C) Standards prescribed under subparagraph (A) for clinical laboratories may vary on the basis of the type of tests, procedures, or services performed by such laboratories or the purposes for which such tests, procedures, or services are performed. Such standards shall also require laboratories to provide assurances satisfactory to the Secretary that all technical personnel—

"(i) will perform their duties under supervision, where appropriate, and

"(ii) will perform only those duties for which they are qualified, as determined in any case in accordance with the individual's experience, training, and performance on the applicable practical examination.

"(D) The Secretary shall, in accordance with subsection (c), administer and enforce the national standards promulgated under paragraph (1).

"(3) Within one year of the date of the enactment of the Clinical Laboratory Improvement Act of 1976, the Secretary in consultation with appropriate professional organizations shall (A) develop job-related proficiency examinations for supervisory personnel and technologists in laboratories, and (B) develop practical examinations (including reasonable standards for determining successful completion of such examinations) for technicians directly related to the duties to be performed by technicians in laboratories.

"(c) Application of National Standards.—(1) National standards for clinical laboratories in effect under subsection (b) shall, except as provided in paragraph (2) and subsection (h)—

"(A) apply to each clinical laboratory which is engaged in business in interstate commerce, and

"(B) apply to any other clinical laboratory which is located in a State which (as determined under subsection (d)) does not have primary enforcement responsibility for the regulation of clinical laboratories.

"(2)(A) The Secretary upon request of a State which has primary enforcement responsibility for the regulation of clinical laboratories shall authorize such State to regulate under the standards of the State described in subsection (d)(1)(A)(i) clinical laboratories located or doing business within the State, as determined by the State, which are described in subparagraph (A) of paragraph (1).

"(B) During the two-year period beginning on the date that national standards first take effect under subsection (b) such standards shall not apply to clinical laboratories which are not engaged in business in interstate commerce.

"(C) During the two-year period beginning on the date that national standards for clinical laboratories first take effect under subsection (b) (or, in the case of a clinical laboratory which is not engaged in business in interstate commerce, during the two-year period beginning on the date such standards are first made applicable to such laboratories), the provisions of such standards prescribing qualifications for supervisory personnel or the provisions of such standards prescribing qualifications for technologists, or both provisions, shall not apply to a clinical laboratory which—

"(i) the Secretary determines is located in a rural area (as defined by the Secretary) in which individuals with the qualifications prescribed by such provisions are not available,

"(ii) performs services solely for hospitals and physicians, dentists, or podiatrists (or any combination of such practitioners) located within such rural area, and

"(iii) provides the Secretary satisfactory assurances that it will take such actions as may be necessary to train individuals to meet such qualifications or to employ individuals with such qualifications.

"(D)(i) The national standards for clinical laboratories shall not apply to any clinical laboratory—

"(I) which is located in the office of, and operated by, a licensed physician, dentist, or podiatrist, or a group of such practitioners, and

"(II) in which the only tests or procedures which are performed are tests or procedures performed by such a practitioner in connection with the treatment of his patients.

"(ii) The Secretary shall, upon application exempt from the national standards for clinical laboratories any laboratory—

"(I) which is located in the office of, and operated by, a licensed physician, dentist, or podiatrist, or a group of not more than five such practitioners and in which the only tests or procedures which are performed are tests or procedures performed in connection with the treatment of the patients of such practitioner (or practitioners), and

"(II) in which the only tests or procedures which are performed are tests or procedures described in clause (i)(II) of this subparagraph and routine tests or procedures, as determined by the Secretary, or only such routine tests or procedures.

An application for the issuance of an exemption under this clause shall include an estimation of the number and a specification of the type of tests and procedures conducted in the laboratory for which the application is submitted, a description of the qualifications (including the educational background, training, and experience) of personnel who are not physicians, dentists, or podiatrists and who participate in the conduct of tests and procedures, the collection of specimens, and the transmission of specimens; a specification of the quantity and type of tests and procedures conducted by such personnel; the type of proficiency testing (if any) participated in by such personnel and the scores received in such testing; and a description of the quality control programs in effect in the facility for which the application is submitted.

"(iii) The Secretary shall, upon application, exempt, on such terms and conditions as may be appropriate, from the national standards for clinical laboratories any laboratory in which the only tests or procedures which are performed are tests or procedures for research (other than research to determine the course of treatment for an individual patient).

"(iv) The national standards for clinical laboratories shall not apply to any laboratory in which the only tests or procedures performed are tests or procedures for persons engaged in the business of insurance for the purpose of determining whether to write an insurance contract or determining eligibility for payments under an insurance contract.

"(3) Except as authorized under subsection (d), no State or political subdivision may adopt or continue in effect requirements (other than licensing requirements applicable to directors, supervisory personnel, technologists, or technicians in clinical laboratories) which—

"(A) are applicable to clinical laboratories, and

"(B) are different from or in addition to the national standards for clinical laboratories in effect under subsection (b).

"(4) Any clinical laboratory which is engaged in business in interstate commerce shall, during the period beginning on the date of the enactment of the Clinical Laboratory Improvement Act of 1976 and ending on the date such laboratory is required to have in effect a license issued under this section as amended by such Act, comply with the licensing requirements in effect under this section before such date of enactment.

"(d) Primary Enforcement Responsibility.—(1)(A) For purposes of this section, a State has primary enforcement responsibility for the regulation of clinical laboratories described in paragraph (2) during any period for which the Secretary determines (pursuant to regulations prescribed under paragraph (3)) that such State—

"(i) has adopted (I) standards for clinical laboratories which are no less stringent than the national standards promulgated under subsection (b), and (II) a system for the licensure of laboratories which meets the requirements of subparagraph (B) of this paragraph and of paragraph (1)(B) of subsection (e) and provisions respecting the suspension, revocation, and eligibility for licenses which provisions are no less stringent than the provisions of paragraph (2) of subsection (e),

"(ii) has adopted and is implementing adequate procedures for the enforcement of such State's standards, including conducting such monitoring and making such inspections as the Secretary may require by regulation,

"(iii) will keep such records and make such reports with respect to its activities under clauses (i) and (ii) as the Secretary may require by regulation,

"(iv) if it permits exemptions from the requirements of its standards which meet the requirements of clause (i)(I), permits such exemptions under conditions and in a manner which are no less stringent than the conditions and the manner in which exemptions may be granted under subsection (c)(2).

"(v) has adopted and can implement adequate procedures for the effective and timely control of health hazards which may result from an activity of a clinical laboratory within the State, and

"(vi) has designated a single agency of the State to enforce its standards and to administer its system for licensure of clinical laboratories.

"(B) For the purpose of primary enforcement responsibility under this subsection, a State system for the licensure of clinical laboratories—

"(i) shall prescribe that licenses issued under such system shall be valid for such period (but not in excess of twenty-four months) as is prescribed under the system, and may require a fee for the issuance or renewal of a license inan amount (not in excess of $500) determined under the system;

"(ii) may provide for variances in such fees based on the volume of tests of procedures performed by the clinical laboratories subject to such fees; and

"(iii) shall provide that licenses issued for a clinical laboratory shall specify the categories of tests and procedures which such laboratory may perform.

"(2) The clinical laboratories subject to regulation by a State which has primary enforcement responsibility are—

"(A) clinical laboratories (other than clinical laboratories described in subsection (h)) which are located within such State and which are not engaged in business in interstate commerce, and

"(B) if authorized under subsection (c)(2)(A), any other clinical laboratory (other than a clinical laboratory described in subsection (h)) engaged in business in interstate commerce and located or doing business within the State, as determined by the State.

"(3)(A)(i) The Secretary shall, by regulation (proposed within one year of the date of the enactment of the Clinical Laboratory Improvement Act of 1976), prescribe the manner in which a State may apply to the Secretary for a determination that the requirements of paragraph (1) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Secretary may determine that such requirements are no longer met. The Secretary shall, at least every two years, review the clinical laboratory regulatory activities of a State with primary enforcement responsibility to determine if the State continues to meet the requirements of paragraph (1).

"(ii) Regulations under this subparagraph shall require that before a determination of the Secretary that the requirements of paragraph (1) are not met or are no longer met with respect to a State may become effective, the Secretary shall notify such State of the determination and the reasons therefor, shall provide an opportunity for public hearing on the determination, and, in the case of a determination that such requirements are no longer being met by a State, shall prescribe the period within which such State must comply with such requirements to retain its primary enforcement responsibility. Such regulations shall be promulgated (with such modifications as the Secretary deems appropriate) within ninety days of the publication of the proposed regulations in the Federal Register. The Secretary shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this subparagraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this section when it is determined to have primary enforcement responsibility for clinical laboratories.

"(B) When an application is submitted in accordance with the Secretary's regulations under subparagraph (A), the Secretary shall within ninety days of the date on which such application is submitted (I) make the determination applied for, or (II) deny the application and notify the applicant in writing of the reasons for the denial.

"(e) Licenses.—(1) (A) The Secretary shall establish a system for the licensure of clinical laboratories subject, as determined under subsection (c), to national standards promulgated under subsection (b). A license issued under such system for a clinical laboratory (i) shall specify the categories of tests and procedures which such laboratory may perform, and (ii) shall be valid for such period (but not in excess of twenty-four months) as the Secretary may prescribe. A fee may be required by the Secretary for the issuance or renewal of a license in an amount not to exceed $500. The Secretary may prescribe variances in such fees based on the volume of tests or procedures performed by the clinical laboratories subject to such fees.

"(B) The system established under subparagraph (A) shall require the following as a condition to the issuance or renewal of a license under the system:

"(i) The submission of an application in such form and manner as may be prescribed by the Secretary.

"(ii) A determination by the Secretary that the applicant meets the national standards promulgated under subsection (b).

"(iii) The submission by the applicant to the Secretary and to the health systems agency serving the area in which the applicant is located of (I) a schedule of the fees the applicant charges for the laboratory services it provides, and (II) such information as may be necessary to disclose any contractual relationships in effect between the applicant and physicians and other health professionals respecting the laboratory's services and the terms of any contracts between the applicant and such persons.

"(C) From the information submitted in accordance with subparagraph (B)(iii) a health systems agency may not disclose—

"(i) the identity of any person for whom an applicant for a license performed services except in response to a request of an officer or employee of the United States or a State made in accordance with regulations of the Secretary and in connection with the functions or duties of the officer or employee in the enforcement of this section or of a Federal or State criminal law; and

"(ii) any contractual relationship described in subclause (II) of such subparagraph, except that, in accordance with regulations promulgated by the Secretary, the health systems agency may disclose (I) a contractual relationship between the applicant and any physician for the performance of services if the applicant receives compensation under title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act for the performance of clinical laboratory services, and (II) any contractual relationship described in such subclause (II) in response to a request of an officer or employee of the United States or a State made in connection with the functions or duties of the officer or employee in the enforcement of this section or a Federal or State criminal law.

"(2) (A) If the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of a clinical laboratory licensed under this subsection, that—

"(i) such laboratory is not in compliance with applicable national standards promulgated pursuant to subsection (b), or

"(ii) such owner or operator has (I) failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, the Secretary deems necessary to determine the laboratory's continued eligibility for its license under this subsection or continued compliance with applicable national standards in effect under subsection (b), or (II) refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect, under subsection (l), the laboratory and its operations and pertinent records at any reasonable time,

the Secretary may suspend such laboratory's license until the owner or operator of such laboratory has demonstrated to the satisfaction of the Secretary that the laboratory is in compliance with such national standards or such requests will be complied with, as the case may be.

"(B) If the Secretary finds, after reasonable notice and opportunity for a hearing to the owner or operator of a clinical laboratory licensed under this subsection, that such owner or operator—

"(i) has been guilty of misrepresentation in obtaining the license;

"(ii) has engaged or attempted to engage in, or represented himself as entitled to perform, any laboratory test or procedure or category of tests or procedures not authorized by the license; or

"(iii) has engaged in a billing practice under which charges for laboratory services provided a patient, on whose behalf reimbursement (in whole or in part) for such charges is provided under a program receiving Federal financial assistance, are made at a higher rate than charges for such services provided a patient for whom such reimbursement is not made,

the Secretary may revoke such license for the remainder of its term or may make such persons ineligible to apply for a license under this subsection for such period (not to exceed two years) as the Secretary may prescribe, or take both such actions. A billing practice which results in different charges for the same laboratory services solely because of differences in administrative costs related to receiving reimbursement for the provision of such services shall not be considered a billing practice described in clause (iii).

"(C) Any person who is convicted under paragraph (1) or (2) of subsection (j) of this section or under section 1877(b) or 1909(b) of the Social Security Act after the date of enactment of the Clincial Laboratory Improvement Act of 1976 for a violation occurring after such date shall not be eligible to apply for a license under this subsection for a clinical laboratory during the ten-year period beginning on the date such person's conviction became final and the license of the laboratory involved in such violation shall be revoked.

"(f) Judicial Review.—(1) Any person aggrieved by any final action taken under subsection (e)(2) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has the principal place of business for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

"(2) If the petitioner applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

"(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(g) Agreements.—The Secretary and any State which has primary enforcement responsibility for the regulation of clinical laboratories may enter into agreements with qualified public or nonprofit private entities which have adopted standards at least as stringent as those in effect under this section (or in the case of agreements to be entered into by such a State, at least as stringent as those in effect in such State under subsection (d)) under which agreements such entities would—

"(1) make such inspections as the Secretary or such State may require to assure clinical laboratories are in compliance with applicable standards,

"(2) administer such proficiency tests and periodic examinations as the Secretary or such State may require for clinical laboratories and the personnel of such laboratories, or

"(3) do both.

"(h) Federal Clinical Laboratories.—(1) Federal clinical laboratories under the jurisdiction of the Secretary shall be subject to national standards in effect under subsection (b) and any other Federal clinical laboratory in a State shall be subject to such standards unless (A) the laboratory is under the jurisdiction of any of the Armed Forces of the United States or the Administrator of Veterans' Affairs, or (B) the agency which has jurisdiction over such laboratory has in effect standards for such laboratory which are no less stringent than the national standards in effect under subsection (b).

"(2) The Secretary shall bring the national standards established under subsection (b) to the attention of the Secretary of each military department and the Administrator of Veterans' Affairs so that such standards may be considered and applied as appropriate by such Secretaries and Administrator to clinical laboratories under their jurisdiction. The Secretary, not later than twelve months after he adopts final regulations under subsection (b) shall report to the appropriate committees of the House of Representatives and the Senate the results of his efforts pursuant to the first sentence of this paragraph.

"(i) Injunction.—Whenever the Secretary has reason to believe that continuation of any activity by a clinical laboratory required to be licensed under this section by the Secretary would constitute a significant hazard to the public health, he may bring suit in the United States district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order by the court shall be granted without bond.

"(j) Prohibited Acts.—(1) Any person who solicits or accepts, directly or indirectly, any specimen for a laboratory test or other laboratory pocedure by a laboratory which is required to have in effect a license issued by the Secretary under this section and which does not have such a license in effect or which is not authorized by its license to perform such test or procedure, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(2) Any owner or operator of a clinical laboratory, or any employee thereof, who willfully engages in any false, fictitious, or fraudulent billing practice for the purpose of obtaining payment for laboratory services providing under title XVIII of the Social Security Act, a program established pursuant to title V of such Act, or a State plan approved under title XIX of such Act shall be fined not more than $10,000 or imprisoned for not more than three years, or both.

"(3) No clinical laboratory which is required to have in effect a license issued by the Secretary under this section or a license issued by a State with primary enforcement responsibility for the regulation of clinical laboratories and which does not have such a license in effect may—

"(A) receive a grant, contract, or other form of financial assistance under this Act, or

"(B) charge or collect for laboratory services for any entity which receives a grant, contract, or other form of financial assistance under this Act.

The charges of such a laboratory may not be included in determining Federal payments under title XVIII or XIX of the Social Security Act.

"(k) Employee Protection.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation or the terms, conditions, or privileges of his employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced or caused to be commenced a proceeding under this section or a proceeding by a State in carrying out its primary enforcement responsibility;

"(B) testified or is about to testify in any such proceeding; or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this section.

"(2)(A) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within thirty days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If the response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to make affirmative action to abate the violation, (II) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (III) the award of compensatory damages, and (IV) where appropriate, the award of exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

"(B) An order of the Secretary, with respect to which review could have been obtained under subparagraph (A), shall not be subject to judicial review in any criminal or other civil proceeding.

"(4)(A) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts of the United States shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this paragraph shall be heard and decided expeditiously.

"(B) Any nondiscretionary duty imposed by this subsection is enforceable in mandamus proceeding brought under section 1361 of title 28, United States Code.

"(5) Paragraph (1) shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this section or of a clinical laboratory regulatory requirement of a State with primary enforcement responsibility.

"(l) Inspection Authority.—(1) For purposes of enforcement of this section, officers, employees, or agents designated by the Secretary are authorized to enter and inspect, at reasonable times and in a reasonable manner, any clinical laboratory in a State which is subject to national standards established under subsection (b). Such an inspection may extend only to pertinent equipment, materials, containers, records, files, papers (including financial data, sales data, and pricing data), processes controls, facilities, and all other things in the clinical laboratory bearing on whether it is being operated in compliance with this section and the regulations issued hereunder. Before such an officer, employee, or agent may make such an entry and inspection of a clinical laboratory he shall give notice, and present appropriate credentials, to the owner, operator, or agent in charge of the laboratory.

"(2) Upon completion of any such inspection and prior to leaving the premises, the officer, employee, or agent making the inspection shall give to the owner, operator, or agent in charge a preliminary report which summarizes any conditions or practices observed by him which, in his judgment, indicate a violation of national standards in effect under subsection (b). He shall also prepare a written final report of his findings and send it to such owner, operator, or agent within thirty days of the completion of the inspection.

"(3) No officer, employee, or agent designated by the Secretary to enter a laboratory and conduct an inspection pursuant to this subsection shall be required to obtain a search warrant from any judicial officer prior to entering any laboratory and conducting any inspection which is authorized by this subsection.

"(m) Grants.—(1) In addition to the financial assistance provided to States under title XVIII of the Social Security Act for the enforcement of standards applicable to clinical laboratories under such title, the Secretary may also make grants to States with primary enforcement responsibility to assist them in meeting the cost of administering and enforcing their programs for the regulation of clinical laboratories.

"(2) The amount of any grant made under this subsection shall be determined by the Secretary, but no such grant to any State may exceed 75 per centum of such State's cost of administering and enforcing its program of regulation of clinical laboratories.

"(3) No grant may be made under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be submitted in such form and contain such information as the Secretary may reasonably require.

"(4) For the purposes of making payments under grants under this subsection there are authorized to be appropriated $3,750,000 for the fiscal year ending September 30, 1979, $3,750,000 for the fiscal year ending September 30, 1980, and $3,750,000 for the fiscal year ending September 30, 1981.

"(n) Advisory Council.—There is established in the Department of Health, Education, and Welfare an advisory council on clinical laboratories which shall advise, consult with, and make recommendations to, the Secretary with respect to—

"(1) regulations promulgated under this section,

"(2) the implementation and administration of this section, and

"(3) coordination between the Federal and State clinical laboratory regulatory programs for the purpose of avoiding duplicate enforcement.

The advisory council shall be composed of individuals who, as a result of their training, experience, or attainments, are well qualified to assist in carrying out the functions of the advisory council. The membership shall include representatives of nationally recognized laboratory accrediting bodies; directors of State laboratory licensing programs; owners, operators, or directors of laboratories; members of professional and other associations concerned with laboratories and laboratory personnel; representatives of laboratories which are engaged in research; representatives of hospitals; and members of the public. The Secretary shall make appointments to the advisory council in such a manner that the membership of the interests described in the preceding sentence. Members of the advisory council to be appointed from the public shall be individuals who are not employed by, or do not receive (either directly, or through a spouse) any income from, clinical laboratories or any entity which is a supplier of clinical laboratories. Section 222(b) shall apply with respect to members of the advisory council.

"(c) REGIONAL LABORATORIES.—The Secretary, acting through the Center for Disease Control, may enter into contracts with State public health laboratories to assist such laboratories in the conduct of tests to determine the presence and quantity of carcinogenic and other toxic substances in humans. There are authorized to be appropriated for the fiscal year ending September 30, 1978, $3,000,000 for controls under this subsection.

"(p) AMINISTRATION OF SECTION.—The Secretary shall establish within the Department of Health, Education, and Welfare and under the direct supervision of the Assistant Secretary for Health an identifiable administrative unit which shall be responsible for coordination of the regulatory functions authorized by this section and the laboratory certification and regulatory functions authorized by titles XVIII and XIX of the Social Security Act.

"(q) ANNUAL REPORT.—Not later than January 1, 1979, and January 1 of each succeeding year the Secretary shall make a report to the Congress (1) respecting the accuracy of tests and procedures performed by clinical laboratories during the preceding fiscal year, and (2) evaluating the effect of the costs of clinical laboratory tests and procedures on the overall cost of health care services and the relation of the costs of such tests and procedures to the costs of the health care services for which the tests and procedures are conducted.".

AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 4. (a) Part A of title XI of the Social Security Act is amended by adding after section 1131 the following new section:

"PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

"SEC. 1132. In determining the amount of any payment for a clinical laboratory service (other than such a service which is provided by a clinical laboratory which is located in a hospital which provides services primarily in connection with the furnishing by the hospital of other inpatient or outpatient services) furnished under title XVIII, under a program established pursuant to title V, or under a State plan approved under title XIX, no reimbursement will be available for any element of the cost or charge for such service to the extent that such element is—

"(1) a commission or finder's fee, or

"(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement, where such amount (A) is unrelated or disproportionate to the market value of the facility (or part thereof), or (B) is, directly or indirectly, determined, wholly or in part, as a per centum, fraction, or portion of the charge or cost attributed to the laboratory service.".

(b) (1) Section 1902(a) (23) of the Social Security Act is amended by inserting "(A)" before "has entered into" and by inserting before the semicolon at the end following: ", or (B) has made arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a) (3), if the Secretary has found that (i) adequate services will be available under such arrangements, (ii) such laboratory services will be provided only through laboratories which during the three-year period beginning on the date of enactment of the Clinical Laboratory Improvement Act of 1976 meet the requirements of section 1861(e) (9) or paragraphs (10) and (11) of section 1861(s) and after the expiration of such period are licensed in accordance with section 353 of the Public Health Service Act, and (iii) charges for services provided under such arrangements are made at the lowest rate charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) for comparable services by the provider of such services, or, if charged for on a unit price basis, such charges result in aggregate expenditures not in excess of expenditures that would be made if charges were at the lowest rate charged for comparable services by the provider of such services".

(2) Section 1902(a) (28) of such Act is amended by inserting before the semicolon the following: ", and provide that any laboratory services paid for under such plan must be provided by a laboratory which during the three-year period beginning on the date of enactment of the Clinical Laboratory Improvement Act of 1976 meet the requirements of section 1861(e) (9) or paragraphs (10) and (11) of section 1861 (s) and after the expiration of such period are licensed in accordance with section 353 of the Public Health Service Act".

(3) Section 1902(a) (30) of such Act is amended by inserting before the semicolon the following: "and, in the case of laboratory services referred to in section 1905(a) (3), such payments do not exceed the lowest amount charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) to any person or entity for such services by that provider of laboratory services, and in the case of laboratory services billed for by a physician or laboratory but performed by another person or entity which is not in the employ of the physician or laboratory, do not exceed the lowest amount charged to any person or entity for the service plus, at the option of the State and if it is determined to be reasonable under regulations prescribed by the Secretary, a nominal charge for any necessary professional service performed by the physician".

(d) (1) (A) The second sentence of section 1861(s) of the Social Security Act is amended to read as follows: "No diagnostic test performed in any laboratory shall be included in paragraph (3) unless such laboratory meets applicable Federal or State licensing requirements under section 353 of the Public Health Service Act.".

(B) (i) Paragraphs (12) and (13) of section 1861(s) of such Act are redesignated as paragraphs (10) and (11), respectively.

(ii) The first sentence of section 1864(a) of such Act is amended by striking out "paragraphs (10) and (11)" and inserting in lieu thereof "the second sentence".

(2) (A) Section 1861(e) of such Act is amended—

(i) by striking out "and" after the semicolon at the end of paragraph (8);

(ii) by redesignating paragraph (9) as paragraph (10); and

(iii) by inserting after paragraph (8) the following new paragraph:

"(9) meets applicable Federal or State licensing requirements under section 353 of the Public Health Service Act with respect to any laboratory (as defined in subsection (a) (1) of such section 353) which is a part of the institution; and".

(B) Section 1861(j) (15) of such Act is amended by inserting after "physical facilities thereof" the following: "(including applicable Federal or State licensing requirements under section 353 of the Public Health Service Act with respect to any laboratory which is a part of the institution)".

(C) (i) Subparagraphs (C) and (D) of section 1814(a) (2) of such Act are each amended by striking out "and (9)" and inserting in lieu thereof "and (10)".

(ii) Section 1861(f) (2) of such Act is amended by striking out "(3) through (9)" and inserting in lieu thereof "(3) through (10)".

(iii) Section 1861(g) (2) of such Act is amended by striking out "(3) through (9)" and inserting in lieu thereof "(3) through (10)".

(iv) Section 1865(a) (4) of such Act (prior to its redesignation by subsection (e) (1) (B) of this section) is amended by striking out "pursuant to paragraph (9)" and inserting in lieu thereof "pursuant to paragraph (10)".

(3) The first sentence of section 1864(a) of such Act is amended by inserting before the period at the end thereof the following: "; except that the Secretary may not make an agreement with a State under this sentence for the purpose of determining whether a laboratory meets the requirements of the second sentence of section 1861(s) or the requirements of section 1861 (e) (9) (or include provision for such purpose in any such agreement) unless, as determined, under section 353 of the Public Health Service Act, such State has primary enforcement responsibility for the regulation of clinical laboratories".

(4) (A) The amendments made by paragraphs (1) and (2) of this subsection shall become effective on the date on which the national standards for clinical laboratories are promulgated and take effect under section 353(b) of the Public Health Service Act (as amended by section 3 of this Act); except that such amendments shall not apply to laboratories specified in section 353 (c) (2) (B) of the Public Health Service Act during the two-year period beginning on such date.

(B) The amendment made by paragraph (3) of this subsection shall become effective four years after the date of the enactment of this Act.

(e) (1) The first sentence of section 1865 (a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting the following immediately after paragraph (3):

"(4) paragraph (9) thereof, and".

(2) The second sentence of such section is amended—

(A) by inserting immediately before "or imposes" the following: ", or imposes standards with respect to laboratories which the Secretary (and the applicable State agency designated under section 353 (d) (1) (A) (vi) of the Public Health Service Act, in the case of any laboratory in a State which has primary enforcement responsibility under section 353(d) of such Act) determines are at least equivalent to the national standards for clinical laboratories under section 353(b) of such Act,";

(B) by inserting ", section 1861(e) (9)," immediately after "section 1861(e) (6)"; and

(C) by striking out "paragraph (4)" each time it appears and inserting in lieu thereof "paragraph (5)".

(3) The third sentence of such section is amended by inserting immediately after "the Secretary" the following: "(and the applicable State agency designated under section 353(d) (1) (A) (vi) of the Public Health Service Act, to the extent that licensing requirements for laboratories under section 353 of such Act, as specified in section 1861(e) (9) or 1861(j) (15) of this Act, are involved, if the institution or agency is located in a State which has primary enforcement responsibility under section 353(d) of such Act)".

STUDY OF PROCEDURES RESPECTING CERTIFICATION OF LABORATORY PERSONNEL

SEC. 5. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), in cooperation with appropriate public and private entities, shall conduct a study of (1) existing vountarly certification standards and State licensure laws for clinical laboratory supervisors, technologists, and technicians; and (2) qualifications of entities that certify such personnel as qualified to perform laboratory procedures in clinical laboratories licensed under section 353 of the Public Health Service Act.

(b) The study required by subsection (a) shall include—

(1) an assessment of the need for certification of such personnel pursuant to national standards;

(2) development of national standards which the Secretary determines should be used as guidelines for entities which certify such laboratory personnel;

(3) a determination of the numbers of technical laboratory personnel who would meet standards developed by the Secretary under paragraph (2) and a projection of the numbers of such personnel in the calender years 1980, 1985, and 1990;

(4) an analysis of the effect on the costs of laboratory tests and procedures and quality of such tests and procedures of a requirement that only such laboratory personnel which meet such standards meet the qualifications necessary for clinical laboratories licensed under section 353 of the Public Health Service Act; and

(5) an analysis of the various entities who certify such laboratory personnel, including an analysis of (A) the need for participation in certification procedures of such entities by members of the public and (B) the financial interests of such entities in clinical laboratories.

(c) Within one year of the date of the enactment of this Act the Secretary shall submit to the Congress the results of the study conducted pursuant to subsection (a) and recommendations for legislation which the Secretary considers necessary.

REPORT ON EXEMPTIONS

SEC. 6. The Secretary of Health, Education, and Welfare shall report to the Congress a summary of the information received by the Secretary under applications submitted under section 353(c)(2)(D)(ii) of the Public Health Service Act (as amended by this Act) during the three-year period beginning on the date national standards are promulgated under section 353(b) of such Act (as amended by this Act) and, on the basis of such information, make recommendations (1) as to whether clinical laboratories granted exemptions under clause (ii) of section 353(c)(2)(D) of such Act (as amended by this Act) should be required, as a condition to their exemption, to have laboratory procedure manuals, participate in laboratory proficiency testing programs, and maintain quality control programs prescribed under such standards, and (2) as to whether such section 353(c)(2)(D) should otherwise be revised. Such report shall be submitted within three months of the expiration of such period.

STUDY OF FINANCIAL ARRANGEMENTS MADE BY HOSPITALS FOR CLINICAL LABORATORY SERVICES

SEC. 7. (a) The Secretary shall conduct a study of the financial arrangements entered into by hospitals, reimbursed for the provision of health services under title XVIII of the Social Security Act or a State plan for medical assistance under title XIX of such Act, for the provision of clinical laboratory services by persons who provide such services in such hospitals to determine if such arrangements are in the public interest. Such study shall include an examination of—

(1) arrangements between hospitals and providers of clinical laboratory services under which the fee for the provisions of such services is based on a percentage of the gross revenues received by the providers for such services,

(2) leasing arrangements for facilities and equipment entered into by hospitals and providers of such services, and

(3) arrangements by hospitals for salaries and other forms of compensation for the providers of such services.

(b) Within six months of the date of enactment of this Act, such study shall be completed and a report made to the Congress setting forth the findings of the study and recommendations of the Secretary for such corrective legislation as the Secretary determines to be necessary.

Mr. SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

Mr. CARTER. Mr. Speaker, I demand a second.

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is each of the gentleman who request a second opposed to the bill?

Mr. SYMMS. I am opposed to the bill, Mr. Speaker.

Mr. BROYHILL. I am opposed to the bill, Mr. Speaker.

Mr. CARTER. Mr. Speaker, so am I, in its present form.

PARLIAMENTARY INQUIRY

Mr. SYMMS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SYMMS. Mr. Speaker, did the gentleman from Kentucky (Mr. CARTER) say that he is opposed to the bill?

The SPEAKER pro tempore. The Chair will state that the gentleman from Kentucky (Mr. CARTER) did say he is opposed to the bill, in its present form.

Mr. CARTER. Mr. Speaker, I withdraw my demand for a second.

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from North Carolina opposed to the bill?

Mr. BROYHILL. I am, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. BROYHILL) and the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass the bill H.R. 14319, the Clinical Laboratory Improvement Act of 1976.

This is an important piece of legislation which is intended to improve the quality of laboratory services. The clinical laboratory industry is a major contributor to the cost of health care services in this country. Nearly 5 billion lab tests were performed last year at a total cost of approximately $12 billion. Of these nearly 5 billion tests, the center for disease control estimates that 15 percent were inaccurate.

H.R. 14319 also contains provisions which would amend the antifraud provisions of the Social Security Act to tighten the prohibitions on fraudulent activities. There is growing evidence that kickbacks, bribery, and other abusive practices are widespread within the laboratory industry such that almost $1 out of every $5 paid for lab services under medicaid is for fraudulent or unnecessary services. H.R. 14319 is designed to stop these activities.

Mr. Speaker, this is important legislation for the health of the American people, and I urge its adoption.

At this time I would yield such time as he may consume to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank my distinguished chairman for yielding me this time.

Mr. Speaker, I am sorry for the error I made a moment ago regarding demanding a second on this legislation because I do support the legislation. I think it is quite necessary. That is why I withdrew my demand for a second.

Mr. Speaker, we have seen throughout our country the need for legislation such as we have at the present time, covering our clinical laboratories.

Clinical laboratories, of course, are those clinics in which blood, tissue, bone, or any part of the human body is examined for diagnosis and treatment. We have found that many of the laboratories in our country are not adequately staffed and that in many cases the independent laboratories have been reported to have cozy relationships with physicians. As a result of this, there have been many, many ripoffs of medicaid and medicare funds. Actually the intent of this legislation is to improve clinical laboratories throughout the country. This bill would make it a felony for anyone who solicits, offers, or receives any kickback or bribe in the form of money or any other thing of value in connection with the furnishing of such items or services under medicare and medicaid. If a person is convicted, the bill provides a penalty of a $10,000 fine or 3 years in the penitentiary, or both.

Mr. Speaker, in this case the States will have an opportunity to enforce this legislation. The bill authorizes $3.75 million each year for this purpose.

Mr. Speaker, in many States which assume primary enforcement responsibility, this legislation will probably be enforced through the State health department, as it is in my State. Labs may also be inspected by private nonprofit entities which have adopted standards at least as stringent as national standards. Of course, it is extremely necessary that every laboratory in our country have personnel who are dedicated to their work and who are capable of performing their jobs. This legislation will require that all clinical laboratories have appropriately qualified personnel.

We found that many technologists and technicians have been trained in hospital settings and have become as proficient as many graduates of schools throughout our country. To mention one instance, at the world renown Mayo Clinic, the young ladies in the laboratory who do the urinalyses have only a high school education. As we all know, this is one of the most prestigious and greatest clinics in our country. But these youngsters are well trained, and certainly I would not want to require further training of such people who have received good training in an excellent setting. This legislation provides that proficiency testing will be one of the acceptable alternative means of determining competence of technologists.

Further, Mr. Speaker, in many areas in many States of our country, pathologists are required to visit small rural hospitals and clinics on a weekly basis, also radiologists. I think this is very necessary and extremely helpful. It is also good that this legislation requires national standards to include requirements for periodic proficency testing of laboratories whereby clinics would submit to the State specimens for examination to determine whether the testing done by those clinics or those laboratories is accurate. It has been found that many clinics' testing is not accurate. In fact, in one study of 35,000 laboratory tests performed by 225 intrastate labs, only 20 of these labs showed acceptable results more than 90 percent of the time and only half of these labs showed acceptable results 75 percent of the time. Another study showed that 26 percent of the sample tests performed by medicare and medicaid certified laboratories were inaccurate. This is indeed a serious problem since physicians must depend upon the accuracy of their laboratory technicians.

Mr. Speaker, I think this is good legislation, and I personally support it and urge the Members to support it.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I recall during the hearings on this bill, I will say to the gentleman from Kentucky, that it was pointed out that last year there was $4.5 billion in laboratory tests that were conducted at a cost of about $12 billion and that there was a tremendous amount of fraud involved. It was the purpose of this committee to correct that evil; is that correct?

Mr. CARTER. If the gentleman from West Virginia would yield further, I feel this would help, yes, but we need more legislation. It will be introduced, as I understand, and brought to the floor soon. This bill will help, and it goes in that direction a good way, but not enough. Forty-five million dollars was taken from the taxpayers of this country by medicare and medicaid fraud last year—and we must do something to prevent similar abuse in the future.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

The very purpose of this legislation then, is to try to get rid of fraud. If we do not do anything, this fraud will continue.

And although the bill does not go as far as the gentleman in the well or the chairman of the subcommittee would like to have it go, at least this is a step in the right direction. If we do not do anything with this legislation, then the fraud and the abuse will continue. Is that not correct?

Mr. CARTER. The gentleman is exactly correct.

Mr. SKUBITZ. I support the gentleman.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Idaho.

Mr. SYMMS. I know the gentleman in the well is a physician. Taking a small town hospital or laboratory for example, in rural America, how much is this going to increase the cost of simple tests like urinalysis or blood tests? We will have an avalanche of regulation put on the backs of these small town establishments and increase the already heavy burdens of medical care for our people.

Mr. CARTER. It is not going to cost very much and it is very, very necessary. We are losing right now about $45 million in fraud and this will save a great portion of that amount.

Mr. SYMMS. We are losing $12 billion to whom?

Mr. CARTER. Through medicaid fraud right now we are losing that, and this legislation is to correct that. We are losing about $45 million as a result of fraud.

Mr. SYMMS. I understand over half the States already have regulations. Why then, I wonder, does the Federal Government have to get into this?

Mr. CARTER. Some 24 States do not have clinical laboratory legislation. Some, however, do have very efficient systems and excellent legislation, and these States will be able to assume primary enforcement responsibility under this bill.

It is just absolutely necessary that whenever a test comes to the physician that it be accurate. This bill will not increase the cost of medicare or medicaid; rather it will help to diminish the cost and save the taxpayers' money.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, I thank the gentleman for yielding.

At the time standardization tests were conducted through the private laboratories, were similar tests simultaneously conducted in the VA hospitals, as far as the Government-run hospitals?

Mr. CARTER. I am not sure as to whether that was done or not, but the Center for Disease Control has found that 15 percent of all laboratory tests are in error.

Mr. McDONALD. Will the gentleman yield further for a question?

Mr. CARTER. Yes. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, in the area of accuracy, what was determined as being inaccurate enough to be within the 75 percent?

Mr. CARTER. This is a study in the report which we have here which was done by the Center for Disease Control. It is reported fully here.

Mr. McDONALD. The reason why I am going into this area with the gentleman in the well is I have been associated with the VA staffs as well as in the private hospitals. My experience has been the reliability in private hospitals is much higher than in the VA or Government hospitals.

Mr. CARTER. It may very well be.

Mr. McDONALD. Then why are we shackling the private area more than the Government area?

Mr. CARTER. We are not shackling anyone. At the present time many of our States have clinical laboratory regulations. The Secretary will be empowered to set standards to which they should conform but the enforcement is left up to the State itself. Funds are appropriated for that reason.

Mr. McDONALD. Will the VA hospitals be covered? Are they also going to have to meet the same standards?

Mr. CARTER. This does not apply to the Veterans' Administration hospitals. As the gentleman knows, they come under a different committee. I would hope that their accuracy would be equal to that of the accuracy of some of our hospitals and clinical laboratories in our country.

Not long ago, I would say to my distinguished friend, the gentleman from Georgia, who happens to be a medical doctor, I was back in Kentucky where we had a young lady with a rather unusual condition. She was having difficulty walking and was stumbling. Also she had lost some sensation in her lower limbs. After examining her rather carefully and having a blood count by a licensed technician, I found she had macrocytic hyperchromatic anemia.

With vitamin B-12 injections, she improved, as long as she would take them. In other words, she had pernicious anemia.

Mr. Speaker, I think we all should have that type of laboratory in Kentucky or Georgia or anywhere else.

Now, I will insert by prepared statement for the RECORD.

Mr. Speaker—I support the goal of this legislation which is to assure quality performance in our Nation's clinical laboratories.

Moreover—I share the concern of the committee and the public about the evidence of fraud and abuse in certain medicaid-reimbursed laboratories.

I have also been disturbed by reports which document frequent inaccuracies in lab work, with error rates ranging from 7 to 26 percent of the tests done, depending on the study cited.

Last year, 4½ billion lab tests were conducted at a total cost of $12 billion, an amount roughly equal to 10 percent of the Nation's entire cost of health care in 1975. Certainly—it is important that we try to assure the quality of these services, and that we make every attempt to eliminate fraud and abuse from this area.

For these reasons, Mr. Speaker, I support the legislation before us today, H.R. 14319.

This bill would require the secretary of HEW to establish national standards for the licensure of clinical laboratories both interstate and intrastate—with certain exceptions.

Several of these exceptions resulted from amendments I proposed and which were accepted. I feel their inclusion in the final committee-reported bill helps to strengthen this legislation by recognizing the scope and variety of clinical labs in this country—and thereby the need to legislate accordingly.

For example—the bill exempts from the national standards any physicians, dentists, and podiatrists who do lab tests for their own patients. It is my belief that these professionals should be exempt from the national standards since quality work can be assured by other existing methods. Such professionals already undergo lengthy educational training, followed by testing and licensure in their field of expertise. I see no need to bring the Federal Government into individual physicians' offices when they are doing tests for their own patients.

Second, the bill requires that the Secretary of HEW shall exempt from the national standards—upon application—groups of five or less physicians, dentists, or podiatrists whose employees perform routine tests solely in connection with the treatment of the physicians' or dentists' or podiatrists' patients.

While I actually would have preferred that the application requirement be deleted, I am glad that we were able to limit this procedure to a one-time application requirement.

In addition, the subcommittee accepted my amendment to increase the number exempted from three to five, although I would have preferred an even larger group to be eligible for the exemption if they were still serving only their own patients.

Third, I am pleased that this legislation incorporates the concept of proficiency testing and recognizes its importance as a valid way of determining competence.

The subcommittee heard testimony from an administrator of the world renowned Mayo Clinic in Rochester—who reported that many of the employees doing lab tests such as urinalyses, are only high school graduates. Thus it is their ability to do high-quality work which is most important—not whether or not they have extensive academic credentials. This is also why I believe that proficiency testing should be an alternative to formal educational certification whenever it serves as an appropriate means of assuring competence performing laboratory tests.

With this approach in mind, the bill requires that the national standards prescribe qualifications which would allow technologists to complete the applicable proficiency exam as an alternative to other requirements.

Similarly, techncians will be required to complete job-related practical examinations. The requirements for supervisory personnel also include proficiency examinations as an option.

Fourth, the national standards do not take effect for intrastate labs until 2 years after their promulgation.

The effect of these standards is also delayed for an additional 2 years with respect to supervisory personnel and technologists for clinical labs in rural areas where qualified personnel is not available.

Fifth, there is an exemption for research laboratories from the national standards—as long as the tests performed are those other than to determine the course of treatment for an individual patient.

Sixth, there is also an exemption for clinical labs in insurance companies, under certain circumstances. Since this exemption does not appear in the Senate bill, the conferees might want to reconsider the need for excluding these labs.

Thus, Mr. Speaker, although this legislation calls for the development and application of national standards, I feel the committee has reviewed the issues involved very carefully, and has made appropriate exceptions to this policy.

Furthermore, any individual State can be given "primary enforcement responsibility" when the Secretary of HEW determines that such State has adopted standards for clinical laboratories which are no less stringent than the national standards, and when it meets comparable national guidelines for administration and enforcement.

Thus, Mr. Speaker, while I felt that the original draft of this legislation went "too far," I feel that this bill, as amended, is certainly reasonable and acceptable.

Nevertheless, there are some provisions about which I remain concerned. For example, the provision which authorizes the Center for Disease Control to contract with State and public health laboratories to test carcinogenic and toxic substances in humans is not necessary. HEW already has authority to do this and it adds another $3 million in authorizations to the bill.

I also have reservations about the "employee protection" provision in this bill which could make it difficult for an employer to discharge employees if he found they were not performing well.

Also, the section which authorizes grants to the States for enforcement activities was too expensive in the original bill. However, with the assistance of the subcommittee chairman, we reduced the authorizations from $15 million each year, to $3.75 million each year.

In conclusion, Mr. Speaker, I support this legislation and I would urge its favorable consideration.

Mr. BROYHILL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, this bill does not belong on the Suspension Calendar. There are a number of features to this bill that should be fully debated under the normal processes under which Members not only can be heard fully, but have opportunity to offer amendments if they so desire. Under the procedure which we are debating at the present time, Members do not have that privilege or right to offer amendments if they should desire to do so as a result of the findings that they make during general debate.

Mr. Speaker, it has been stated that one of the reasons for this bill is because of some of the revelations that have been made of overcharges to the Government under the medicare and medicaid programs for lab fees that have been charged as a part of that program. I would point out to the Members that there is only one section in the bill that would deal directly with that particular problem. That issue, in providing regulation of this service for those who qualify for medicaid and medicare services, is on page 69 of the bill in section 4. This is a section which deals with the procedures for determining reasonable cost and reasonable charges for clinical laboratory services or fees under those two programs.

The bill goes on to regulate labs in all parts of the country. There is a section which would have the effect of exempting labs which are operated by licensed physicians where not more than five practitioners are in practice together; however, if Members will read on in that section they will find that the requirement for obtaining exemption from the licensing provisions in effect, Mr. Speaker, brings these labs under the provisions of the regulations of the Secretary.

So, Mr. Speaker, I feel that this bill should be defeated and should be put over for debate under the regular procedures that we usually use, so that we can use the 5-minute rule for the purpose of not only debating, asking questions, getting answers, but also getting the Members to understand why this bill is necessary.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS), a member of the committee, whose minority views are included in the committee report.

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from North Carolina.

Mr. Speaker, today we have before us the bill, H.R. 14319, and on those big pages it took 76 pages to print up this bill. This is a real legislative confused document. I do not know how many people fully understand it. I know the subcommittee chairman, the gentleman from Florida, understands it and I am sure the chairman of our general committee, the gentleman from West Virginia, understands it; but this is a very serious, deep bill, and here we are trying to run this through during a day when we have 25 bills coming on the floor.

Someone said that they call this the "greased pig special day." It is just like greasing a pig and turning it loose at a county fair and watching it run. That is about what happens to legislation which comes up on suspension with 25 bills. We have a bill here talking about clinical laboratories. It is of a very sensitive nature as it is a health bill.

The first thing that comes vividly to mind is the fact that it gives us another layer of duplication of Government, and so when we study this bill and when we finally bring it up for passage, we would like to delete as much duplication as we can. We already have interstate—I repeat, interstate—clinical laboratories. What we are doing now is trying to bring in the intrastate, giving everybody the double system. There are many places where we do not need the double special. There are many sections in this bill where we do not need more regimentation.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Kentucky.

Mr. CARTER. At the present time, as

I understand it, we have the American Society of Ecologists doing part of the work—that is, at the present time. Part of the examination of the clinics and of open laboratories is by a Joint Committee on Accreditation of Hospitals. We have the Clinical Laboratory Act of 1967. We have this group. We also have two other groups which are examining laboratories throughout the country. We have at least five.

This would consolidate them and leave all of this enforcement up to the State itself. That is exactly what we are wanting to do. We are not putting another layer on, I would say to my good friend from Texas. We are going to save some money, and we are going to consolidate. The Communicable Disease Control Center is in on the act also.

Mr. COLLINS of Texas. I appreciate the gentleman's remarks. I think the gentleman, who is a doctor of medicine, is the greatest in medicine, but his knowledge of what happens to Government agencies, I am afraid, is a little limited. I have been in Congress for five terms, and the gentleman has been here longer than I have. I have never seen an agency die a natural death. They give them a different name, but they all stay in business and multiply. Bureaucracy grows bigger under any name.

I would remind the gentleman today, as we are discussing politics, about a distinguished gentleman from Georgia who keeps talking about how he did away with agencies. They added it up down in Georgia, and found out that there were more people working there than there were when he came into office. What this country wants is not fewer titles, but fewer bureaucrats and fewer regulations from the Government.

One other point I would like to emphasize is about the employee protection section. We have here, which should be very seriously considered, a problem with a clinic. In all likelihood the clinic problem is going to be due to some personnel inefficiency where they are careless, where they do not follow through. Suppose the manager of the clinic wants to fire that fellow. What that inefficient fellow would do the first thing is to file a complaint against the clinic, because when he does that he has tenure. He has the Department of Labor protecting him, and he is protected to stay on the job.

This employee protection phase of this bill is one of the very worst features that we started putting in present law. This is another reason why this bill should be improved by an amendment basis. It should be handled section by section and reviewed carefully in an orderly way.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding to me, and want to compliment him for the great statesmanship with which he wrote his minority views here. He makes a very good point when he says:

> Though I regret any inaccuracies, I am not persuaded that the proper remedy for the pursuit of the perfectibility of man is action by the Federal Government.

Mr. Speaker, I have in my district many small hospitals and laboratories, and I would like to have some of them excluded from this legislation.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from Texas has expired.

Mr. BROYHILL. Mr. Speaker, I yield 3 additional minutes to the gentleman from Texas.

Mr. SYMMS. I would just say here that we have some towns such as Sand Point, McCall, Cottonwood, Idaho, which have small hospitals and laboratories. These people are telling me that it is going to double, triple, and quadruple the costs of simple laboratory tests on those people because of arbitrary and capricious government regulations that are going to come from this bill. I would urge all Members to read the minority views submitted by the gentleman from Texas. I think he made the case very well that no matter how well intended this bill is, here we are with 76 pages to be considered in 40 minutes, with no opportunity for amending out some of these little laboratories and clinics which are going to be burdened with additional costs they are going to have foisted upon them by the Federal Government.

It increases the cost of a simple urinalysis and blood test to the point where the poor, little guy, who is on a fixed income, cannot even afford to get sick because of regulations. Maybe he would rather have the laboratory the way it works instead of having it closed down because of some bureaucrat in Washington thinking that he knows what is best for the people in the boondocks.

Mr. Speaker, I think this bill should be sent back to committee, and at least we should have an opportunity to amend the thing. We have only 20 minutes to debate it, with no opportunity to amend it. I think it is an outrage.

The minority views went on further:

> In short, this legislation goes to excessive lengths to correct perceived problems. The American people today want less government. They want less bureaucracy. Americans want lower taxes. We do not need this additional level of legal regulation.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman in the well. The history of the Federal Government has not been one of simplifying procedures nor decreasing cost of medical care, but exactly the opposite. It is exactly as the gentleman from Texas outlined it. The record of the Federal Government in the field of medicine and medical care has been one of increasing paperwork bureaucracy, harassment, and massive increases in cost to the American patients. This has always been done to the American patients under the guise that it is good for the patient. But people across the land today are complaining about skyrocketing costs and redtape. This is an example. Government medicine is bad medicine, and this is an extension of government medicine.

Mr. Speaker, I commend the gentleman from Texas for his remarks and observations on this bill.

Mr. COLLINS of Texas. I thank the gentleman for his remarks.

Mr. Speaker, I include at this point the minority views.

MINORITY VIEWS ON H.R. 14319—CLINICAL LABORATORIES IMPROVEMENT ACT OF 1976

> The Clinical Laboratories Improvement Act of 1967 has resulted in the licensing by the Federal Government of those approximately 900 laboratories in this country which are engaged in interstate commerce.
>
> H.R. 14319 as amended, the Clinical Laboratories Improvement Act of 1976, would extend the power of the Federal Government to thousands of intrastate laboratories as well. This bill ignores the fact that over half of the states now regulate clinical laboratories within their jurisdictions. Therefore, this legislation would be illustrative of the fact that too often the Federal Government over-extends its supervision where individual states could better handle the varying problems around this country. Contrary to the findings of the Committee, I am far from convinced that intrastate compliance with laboratory standards made mandatory by this legislation is necessary to prevent depressing interstate commerce or, indeed, that all clinical laboratory testing substantially affects interstate commerce.
>
> The quality of laboratory services is admitted by proponents of this bill to be considerably better than it was a decade ago. Yet, apparently this improvement is overlooked by those who place unlimited trust in the judgment of the Washington bureaucrats of the administrative unit within HEW which would be created to enforce this bill should it be enacted. This bureaucracy would, of course, generate many burdensome administrative requirements and expenses which would further inflate soaring health costs.
>
> It is alleged that the error rate for laboratory tests is too high. Though I regret any inaccuracies, I am not persuaded that the proper remedy for the pursuit of the perfectability of man is action by the Federal Government. Indeed, in light of experience, there is every prospect that the Federal bureaucracy will, through duplicated and burdensome regulations, lead to more confusion.
>
> One of the ill-advised portions of H.R. 14319 is that which provides for employee protection. Actually, employee perpetuation would be a more apt characterization. By that provision no employer may discharge or otherwise penalize any employee because such employee assisted or participated in any action to carry out any of the purposes of the bill. Needless to say, an involved administrative and judicial procedure is set forth to implement this provision.
>
> It is unpersuasively argued that the employee protection portion of the bill is necessary to encourage the pursuit of national goals. The recent unfortunate actions of the Committee on Interstate and Foreign Commerce in adopting similar sections in the Clean Air bill this year and the Safe Drinking Water Act in the 93rd Congress are scarcely supportive of the efficacy of such a provision. For, these unwelcome precedents have not yet been digested by experience in the real world. Rather, it is only a demonstration of an unhappy tendency to liberal doctrine that is not pragmatic. This part of the bill would greatly complicate employer-employee relations by making it more difficult to dislodge incompetent or unsuitable employees because of the spectre of a burdensome discharge process. Perhaps it would be indelicate to dwell at length upon the obvious potential for blackmail by disgruntled employees.

In short, this legislation goes to excessive lengths to correct perceived problems. The American people today want less government. They want less bureaucracy. Americans want lower taxes. We do not need this additional level of legal regulation.

JAMES M. COLLINS.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today, H.R. 14319, the Clinical Laboratory Improvement Act, consists of the bill as reported by the Committee on Interstate and Foreign Commerce on September 8, 1976, and incorporates amendments to that bill requested by the Ways and Means Committee.

The American health care system is becoming increasingly dependent upon the services of clinical laboratories, which play an important role in assisting physicians to determine the presence or extent of disease by conducting tests on specimens from the human body. In 1975, for example, 4½ billion specimen tests were conducted by clinical laboratories in this country at a total cost of approximately $12 billion, or 15 percent of every dollar spent for health last year. The cost of laboratory services is expected to rise at an annual rate of 15 percent for the rest of this decade while costs for all health services rise at a rate of 11 percent.

Under provisions of existing Federal laws, the approximately 950 laboratories, both independent and hospital-based, engaged in interstate commerce must be inspected and licensed by the Center for Disease Control and must conform to stringent Federal standards. Any independent laboratory, whether interstate or intrastate, which receives reimbursement under medicare or medicaid is subject to standards under the medicare program and must be inspected and certified by State authorities as conforming to the medicare standards. Hospital-based laboratories receiving medicare or medicaid payments are required to be inspected and accredited by the Joint Commission on Accreditation of Hospitals. An additional 5,000 intrastate laboratories which do not receive medicare or medicaid reimbursement are subject to no Federal regulation.

While the quality of laboratory services is considerably better today than it was a decade ago before Federal programs were established, the Center for Disease Control estimates that nationally 15 percent of all laboratory tests are in error. A recent National Bureau of Standards study concluded that, in microbiology performance, 7.6 percent of interstate laboratory determinations were in error, while 16.5 percent of the determinations by other large laboratories were incorrect. The study also found that 26 percent of sample tests performed in medicare and medicaid certified laboratories were inaccurate. Recent congressional investigations in both the House and the Senate have brought to light evidence of widespread fraudulent and abusive practices such as double billing, kickbacks, bribes, higher fee schedules on the part of a significant number of clinical laboratories participating in the medicaid program.

H.R. 14319 would consolidate existing regulatory programs into a single regulatory mechanism under the supervision of the Assistant Secretary for Health thus eliminating much of the overlapping and duplicative regulatory activity which presently exists. It would mandate the development of uniform national standards applicable to all commercial laboratories and require Federal inspection and licensure of such facilities unless a State demonstrates that it has adopted and is enforcing standards that are at least as stringent as the Federal standards. It would exempt physician office laboratories in which physicians perform all procedures themselves for their own patients and exempt, upon application, physician office laboratories in which physicians perform all procedures themselves or permit nonphysician personnel to perform only routine tests or procedures. It would permit variances in the standards depending on the type of tests performed by laboratories and the purposes for which such tests are performed, thus enabling the Secretary to develop standards for laboratories which are primarily engaged in research activities but which also perform routine laboratory procedures or small laboratories which perform only a few procedures. Such standards, however, would have as their purpose the protection of the public health. It recognizes the difficulties which laboratories located in rural areas might experience in meeting standards with respect to qualified personnel and provides for a delay in the effective date of the personnel standards for such facilities. Finally, it amends the Social Security Act to increase the penalties for fraudulent practices such as bribery, and to prohibit practices which either cause unreasonably high charges for laboratory services in general or result in higher charges for medicaid patients than for private patients.

A summary of H.R. 14319 follows:

SUMMARY OF LEGISLATION

1. It would require the Secretary of Health, Education, and Welfare to establish national standards for clinical laboratories (defined as any facility for examining materials derived from the human body for purposes of diagnosis, prevention or treatment of disease or for assessing human health) designed to assure accurate procedures and services. These standards would—

(a) require laboratories to maintain quality control programs,

(b) require laboratories to maintain records, equipment and facilities as necessary for effective operation,

(c) include requirements for periodic proficiency testing of laboratories,

(d) prescribe qualifications for directors, supervisors, technologists and technicians, and

(e) contain adequate provisions for the enforcement of the established standards.

Such standards are to be proposed within 180 days after the date of enactment and promulgated within one year after the date of enactment.

2. It would require all clinical laboratories to comply with the national standards with the following five exceptions:

(a) standards would not take effect for intrastate laboratories until two years after their promulgation;

(b) requirements with respect to qualifications of supervisory personnel and technologists are to be delayed for four years with respect to a clinical laboratory which the Secretary determines is located within a rural area in which supervisory personnel and technologists with the prescribed qualifications are not available, which performs services only for hospitals and health professionals located within the area, and which provides assurances that it will take action to train or employ individuals who will meet the qualifications;

(c) national standards would not apply to clinical laboratories located in the office of, and operated by, physicians, dentists or podiatrists in which the only tests or procedures which are performed are tests or procedures performed by such practitioners in connection with the treatment of their patients.

(d) the Secretary would be required to exempt, upon application, clinical laboratories located in the office of a group of not more than five physicians, dentists or podiatrists in which the only tests or procedures performed are by such practitioners or routine tests or procedures performed by non-practitioners;

(e) the Secretary would be required to exempt laboratories in which the only tests or procedures which are performed are tests or procedures for research; and

(f) national standards would not apply to clinical laboratories in which the only tests or procedures which are performed are tests or procedures for the purpose of writing insurance contracts.

3. It would permit a State to assume primary enforcement responsibility for the regulation of laboratories located within or doing business within its jurisdiction in instances in which the State has adopted standards that are no less stringent than the national standards and has adopted and is implementing an adequate enforcement mechanism.

4. It would require the Secretary to establish a system of licensure of clinical laboratories and sets forth the circumstances under which such a license could be suspended or revoked.

5. It would authorize the Secretary and any State with primary enforcement responsibility to enter into agreements with qualified public or nonprofit private entities to inspect and administer proficiency tests and periodic examinations required by the legislation.

6. It would provide that individuals who solicit or accept a specimen for a laboratory which does not have a license shall be fined not more than $10,000 or imprisoned for not more than one year, or both. It further provides that owners or operators of clinical laboratories who engage in false, fictitious or fraudulent billing practices under Medicaid or Medicare shall be fined not more than $10,000 or imprisoned for not more than three years, or both.

7. It would prohibit an employer from discharging or otherwise discriminating against an employee because the employee commenced or testified in a Federal or State proceeding relating to violations of the legislation, and it would require the Secretary of Labor to investigate charges of discrimination and authorize him to order reinstatement and damages in appropriate instances.

8. It would authorize the Secretary, or his designee, upon written notice, to inspect any clinical laboratory subject to national standards.

9. It would authorize the Secretary to make grants of up to 75% of costs to States with primary enforcement responsibility to assist such States in meeting the costs of administering and enforcing their programs and would authorize $3.75 million for each of fiscal years 1979, 1980, and 1981 for such purposes. Such sums would be in addition to funds made available to States under the Social Security Act to inspect Medicare and Medicaid laboratories.

10. It would establish within the Department of Health, Education, and Welfare an advisory council on clinical laboratories and an identifiable administrative unit within the Department, under the direct supervision of the Assistant Secretary for Health, which shall be responsible for coordination of the regulatory functions authorized by the legislation and the laboratory certification and regulatory functions authorized by the Social Security Act.

11. It would authorize the Secretary, acting through the Center for Disease Control, to contract with State public health laboratories to assist such laboratories in the conduct of tests of human issue to determine the presence of carcinogenic and other toxic substances and would authorize $3 million for fiscal year 1978 for such purposes.

12. It would require the Secretary to report to the Congress annually with respect to the accuracy and costs of laboratory tests and procedures during the previous fiscal year.

13. It would amend the Social Security Act as follows:

(a) to provide that reimbursement for laboratory services (other than such services provided in a hospital) could not include any element of a cost or charge which is a commission, finders fee, or an amount payable for rental or lease of a facility which amount is unrelated or disproportionate to the fair market value of the facility or where such amount is set as a percent or fraction of the cost of laboratory services;

(b) to authorize a State to engage in competitive bidding for the purpose of purchasing laboratory services;

(c) to require that, to be eligible for reimbursement under the Medicaid program, a laboratory must bill at rates no higher than its lowest rates for the same services; and

(d) to provide that violations of the antifraud provisions of title XVIII and XIX of such Act are felonies, not misdemeanors, punishable by a maximum sentence of three years.

14. It would require the Secretary to conduct a study respecting certification of laboratory personnel and a study of financial arrangements made by hospitals for clinical laboratory services, and to provide the Congress with a summary of the information received under applications for exemption submitted by physician, dentist, and podiatrist owned laboratories.

Mr. Speaker, my good friend from Kansas (Mr. SKUBITZ) and I have just discussed a concern of his relative to this legislation. During committee consideration of this bill, the gentleman from Kansas offered an amendment which would have provided for a waiver in individual cases based upon demonstrated experience and technical competence. The gentleman withdrew his amendment with the understanding that language would be included in the committee report concerning the subject matter of his amendment.

Thus, the committee report points out on page 13 that the type of training or experience required of the director of a laboratory may appropriately vary depending upon the type of tests performed in the laboratory. Further, on page 14, it is expressly stated that the bill is intentionally structured so that qualifications for personnel will include options. For example, qualifications for directors of laboratories may include licensure, training, experience, or any combination thereof.

During committee consideration, my colleague from Kansas referred to the case of one William H. Archer, who is a lifetime resident of Winfield, Kans. Mr. Archer has a B.S. degree from Southwestern College and over 28 years of experience with the H. L. Snyder Memorial Research Foundation. While I cannot dictate the regulations of HEW, from what I know of the situation, the requirements of this bill are certainly flexible enough to allow such an individual to qualify as director of a laboratory.

Mr. Speaker, H.R. 14319 is an important piece of legislation which addresses itself to improving the quality and eliminating the negative aspects of an essential part of our health care system. It would authorize only $14.25 million over the next 4 fiscal years while, under the proposed amendments to the Social Security Act, it would result in savings of more than $251.6 million over the same period according to the Congressional Budget Office cost estimate. H.R. 14319 is a measure that every Member of this body can support, and I urge its adoption.

Mr. Speaker, I am somewhat at a loss to understand why the Members could not have read the committee report, evaluate what the committee has done and participate in this debate in a positive way. As I stated earlier, the reason this legislation has been brought to the House so that we can act this year is twofold:

First, if the Members will read the report, it will show that clinical laboratory tests now are not being properly done. And when I hear the talk about all of this governmental interference, I do not hear anybody talking about what happens to a person when the laboratory tests he is supposed to have, which may determine the future of his life, are incorrect when they could be correct. There are cases right here in the report. This is not new knowledge. There is the case, for example, having to do with an incorrect reading on an RH negative baby, so that the child was not transfused. Do the Members know what happened to that baby? The child is now severely mentally retarded.

Do the Members know what that means to the taxpayer? It means all of us are going to have to take care of that child, and it means tragedy for that child and tragedy for that family, when it all could have been prevented.

That is what this bill can do.

There is another case of a diabetic—there are 20 million of them in this country—who was suffering from diabetes and who died when a doctor relied on a faulty blood sugar test, a simple test.

There is no reason why there should be a mistake, no reason at all. Because of the mistaken result, the physician prescribed the wrong medication.

Here is another one: This is a case of controllable cancer spread as a result of delay in treatment due to an erroneous Pap smear result. This is what we are talking about. Let me give the Members some examples here of the studies which have been done.

Mr. SYMMS. Mr. Speaker, will the gentleman yield on that point?

Mr. ROGERS. I will ask the gentleman to wait for just a minute. If he will let me give the facts first, then I will yield.

Twenty-six percent of the sample tests performed by medicare and medicaid certified laboratories were inaccurate. They were simply not correct, resulting in adverse effects. That was 26 percent, and that is just one study.

Unsatisfactory performance has been demonstrated by 10 to 40 percent of all laboratories in bacteriological testing.

Does the gentleman mean that we should not want to correct the quality of laboratory performance? It is unbelievable.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. Mr. Speaker, if the gentleman will permit, I wish he would let me first give him some more facts. Obviously he must not have them.

There was unsatisfactory performance in 30 to 50 percent in simple clinical chemistry tests. They were incorrect, there is no reason for that. We know how to do them right, and that is all we are asking for in this bill. Let us just see that they are done right.

Twelve to 18 percent in blood groupings and typing were in error; 20 to 30 percent in hemoglobin measurements were in error; and 20 to 25 percent in measurement of serum electrolytes were in error.

Mr. CARTER. Mr. Speaker, will the distinguished gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. The gentleman mentioned blood typings. Of course, whenever blood is typed wrong or mismatched and we have a transfusion, as a usual thing the patient dies immediately. That is what happens.

We must, of course, have this legislation passed. I represent a poor portion of Kentucky; there are areas there that are as isolated as any in the United States. Yet we have the technicians there, and we can do it.

We want to give those same benefits to the State of Idaho, and we want to improve the health facilities there also.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SYMMS. Mr. Speaker, will the gentleman yield now?

Mr. ROGERS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

I appreciate the gentleman's emotional discussion here on the floor, but I want to present some of the facts.

Mr. ROGERS. No, this is not emotional. These are facts. They are in the committee report, and they are available to everyone.

Mr. SYMMS. What the gentleman is saying is that we have human error.

Mr. ROGERS. Well, should it be 50 percent?

Mr. SYMMS. As I read the report, the proponents of the bill admit the situation is getting better, not worse, and that lab tests are better now than they were 10 years ago; is that not correct?

Mr. ROGERS. But 50 percent error is still too much.

Mr. SYMMS. So the point is that we are going to pass it along and correct the problem; is that it? We just pass it along, and that will solve the problem and it will just go away?

Mr. ROGERS. No, that is not what I said.

Mr. CARTER. Mr. Speaker, will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I will say that not only do we have this great percentage of error throughout our country, but we have $45 million in medicaid fraud that we want to get rid of in the laboratory services area.

Mr. ROGERS. Of course.

Mr. CARTER. How can anyone not oppose fraud?

Mr. ROGERS. Mr. Speaker, I thank the gentleman. That is the second point I was going to make.

Mr. SYMMS. Mr. Speaker, will the gentleman yield on that point?

Mr. ROGERS. Not at this moment. I want to give an answer on that point.

Mr. Speaker, in this law we are proposing to take corrective steps, with the assistance of the States, to eliminate once and for all fraudulent billing practices associated with laboratories.

Mr. BROYHILL. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. Symms).

Mr. Speaker, will the gentleman yield for a comment?

Mr. SYMMS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, some of the issues that have been brought up here show us why this bill should be debated under the normal procedures in order to give us a chance to ask questions. I am not sure about this. Perhaps this bill is needed, but I cannot vote for it under the present circumstances and in its present form, particularly under this procedure where we are prohibited from offering amendments.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for his comment, and I would just like to make this point:

I think the gentleman from North Carolina (Mr. Broyhill) has made an important statement. I have a great deal of respect for the gentleman from Florida (Mr. Rogers) and for the gentleman from Kentucky (Mr. Carter), but the gentleman from Kentucky has just made the allegation that those Members, including the gentleman from Texas (Mr. Collins) and others, who are opposed to this bill are in favor of fraud.

Surely, the gentleman does not mean that. Here we are in an area in which we are supposed to be legislating for the people of the United States, and we are doing it in a haphazard manner.

Mr. Speaker, this bill should be defeated.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, certainly I did not want to give the gentleman from Idaho (Mr. Symms) the wrong impression.

Mr. SYMMS. Did not the gentleman say, though, that he did not understand how anybody could be in favor of fraud?

Mr. CARTER. I asked that question. Of course, I would not accuse my distinguished friend, the gentleman from Idaho, of supporting fraud. However, this is what this bill is all about. It is against fraud, and I am against fraud. That is why I support this legislation.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, we are talking about a bill here which has an interesting parallel or comparison. This bill says, "Let the Government advise us on what medic tests should be administered. Everything can be all right if the Government runs the system."

Mr. Speaker, all we have to do is look at our good friends, over in the country of England. They have had the benefit of letting the specialist government do it, and if that is not the sorriest medical system I can think of, I do not know where it is.

Mr. Speaker, if we want to have a real large deficit and a really weak health system, let us go in for socialized medicine. Let the Government do it all, as they do in England. However, I am proud of private medicine, and I would like to have us maintain private practice.

Mr. SYMMS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, here we are talking about interfering with the doctor-patient relationship and somehow helping that along by adding a GS-12, a GS-13, or a GS-14.

Mr. Speaker, I know that the gentleman from Florida (Mr. Rogers) has a greater understanding about error, but the error here is going to be when the bureaucrats get involved and we have cookbook medicine handled by bureaucrats in Washington, D.C., bureaucrats who have never been to medical school, and they will be taking that sacred relationship away from the patients and doctors of this country.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, if I understand my colleague, the gentleman from Texas (Mr. Collins) correctly, he is suggesting that if we pass this legislation we will "Britanize" the clinical laboratories of this country.

Mr. Speaker, I thnk we have had so many clear examples of the bad experiences in the government-managed medical systems of Great Britain to know that that is not the direction in which this country ought to go. I hope we have learned that lesson by now.

Mr. Speaker, many of my colleagues went to England to see how those medical systems are working. Most of our colleagues when they returned said, "I will be grateful if I never get sick in England."

They said that, Mr. Speaker, because the system there does not work in as positive a way as our American system.

Therefore, again, Mr. Speaker, I commend my colleague, the gentleman from Texas (Mr. Collins), a distinguished member of the committee, who has had the fortitude to oppose this legislation. Other members of the committee have voiced strong reservations: Mr. McCollister from Nebraska and the gentleman from North Carolina (Mr. Broyhill), all active members of this committee, who say that this is the wrong direction for our country to take. Mr. Broyhill has stated that we have not had adequate time to amend this bill.

Mr. Speaker, I commend them for their forthright discussion of this legislation. We clearly do not want to "Britanize" the clinical laboratories of America.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Of course, this is not an effort to Britanize. This is merely to say, "Let us do something."

Mr. SYMMS. Mr. Speaker, I cannot yield further at this time. I am about out of time. I would like to yield further, but I cannot.

Mr. Speaker, the gentleman said this is not an effort to Britanize. However, clearly it is an effort to have the Federal Government set the rules, regulations, standards, and guidelines in this area.

On the gentleman's own admission, 26 States have already done it.

Therefore, Mr. Speaker, I think we should try to relieve the burden that has been put on the American people and not be out to try to confiscate all the money they have—and it just might be that people would do on their own.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield further, I suppose the gentleman will agree that page 24 of the report shows that savings will come about if the bill is enacted.

Mr. Speaker, I certainly think that everyone will support the bill if it will bring about savings and stop fraud and will bring about more competence in laboratory tests.

Mr. SYMMS. Mr. Speaker, I thank the gentleman, but I just say that legislation like this is what is giving this country a $50 billion Federal deficit budget.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. McDonald).

Mr. McDONALD. Mr. Speaker, I would like to point out to those listening to this debate that the question of Rh factor incompatibility in blood transfusions and potential brain damage, which have been stressed so much on the floor of this House, constitutes a very emotional plea. Certainly that is an emotional subject to the family involved. However, the Rh factor itself or the Rh factor incompatibility, causing the need for the transfusion itself, carries a high incidence of brain damage. Therefore, deliberately trying to ascribe that damage to a faulty blood transfusion is statistically difficult to ascertain.

Mr. ROGERS. Mr. Speaker, would the gentleman yield?

Mr. McDONALD. No, not at this time.

Mr. Speaker, in the whole matter on the accuracy of blood sugar determinations and on the whole matter of hemoglobin determination and urinalysis determination, the degree of error was stressed, but there was no type of double blind study that was presented to this House.

Having served on the staff of the VA hospital and on the staff of private hospitals, it has been my experience that laboratory determinations coming from private hospitals were far more reliable than that of VA hospital laboratories.

The fact also is that there is always going to be a certain degree of human error that will not be totally wiped out regardless of what we do in this House of Representatives.

Mr. Speaker, I would like to ask the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) in the study with regard to chemistry, and with regard to the hemoglobin determinations, was a double blind study conducted with the VA hospital to determine how the government hospitals were on the same studies?

Mr. ROGERS. Mr. Speaker, if the gentleman from Georgia will yield, I think we can say to the gentleman that the VA was not included in this study. As the gentleman knows, they are run separately as a hospital facility so we do not include the VA in this study.

Mr. McDONALD. The point is very significant that we may be dealing with a degree of human error in determination of what constitutes an accurate test and what constitutes human error. The element of accuracy we might very well show, had a double blind study been conducted, that indeed the private clinics or private hospitals were running more accurate studies than the VA.

Mr. ROGERS. But the VA is not included in this bill. I do not know why the gentleman is discussing the VA.

Mr. McDONALD. The value being this: We may be dealing within the realm of human error if we can find that the Federal Government run hospitals are allowing equal or greater errors with respect to hemoglobin, then we may be dealing with unnecessary Government controls.

Mr. ROGERS. The gentleman means enough to kill a person with?

Mr. McDONALD. Did the gentleman say enough hemoglobin to kill people with?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROYHILL. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from North Carolina has 1 additional minute remaining.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would urge that the House reject this bill. Under the procedures that we are using at this time we do not have an opportunity to offer amendments or have amendments considered. Notwithstanding that, the time has already been cut off. I believe we should have an opportunity to consider this bill under the normal procedures where Members would have a chance to get up and have their questions answered, as they should. So I would urge we reject this bill and bring it back under the normal procedures under which we usually operate.

Mr. SCHEUER. Mr. Speaker, I would like to add my enthusiastic support for the passage of H.R. 14319, the Clinical Laboratory Improvement Act of 1976.

Both the quality and cost of tests conducted by the Nation's clinical laboratories have been a matter of Federal concern for a long period of time. Eight cents out of every health dollar is spent on laboratory services, an annual expenditure of $8 billion.

During our deliberations on this legislation we were not only alarmed by the testimony we heard on the high price tag of clinical laboratory services but also appalled to discover that of the 3 billion clinical tests performed each year, up to 25 percent of these tests may be inaccurate due to inadequate regulations and quality standards. Mistakes in laboratory tests cause unnecessary expenditures, hospitalization, surgery, and perhaps even needless deaths.

Our subcommittee saw an obvious need for upgrading standards and quality controls in the Nation's clinical laboratories. I think H.R. 14319 is a giant step in that direction. With more and more Federal dollars invested in our health care system it is our responsibility to see that high quality standards as well as cost effectiveness are essential aspects of medical services paid for by our taxpayers.

I would like to call special attention to a provision of this bill which would amend the Social Security Act and give State medicaid programs the option of procuring laboratory services for medicaid recipients through the competitive bidding process. The laboratory tests that would be purchased through such competitive bidding would be only those "push button" automated tests which do not require the subjective interpretation of a physician.

Through competitive bidding, medicaid programs can not only improve the quality of clinical tests procured under the program but also save a great deal of money as well. New York City, for example, is spending $12 million on medicaid lab fees, with a 30-percent annual increase in these costs. Through competitive bidding, the price tag could be reduced to $5.8 million, a saving of almost 50 percent or $40 million over the next 3 years.

I urge all my colleagues to join me in support of this legislation which will greatly improve the quality, economy, and effectiveness of services performed in our Nation's clinical laboratories.

Mr. ROSTENKOWSKI. Mr. Speaker, I want to commend my distinguished colleague from Florida and the members of the Committee on Interstate and Foreign Commerce for the valuable work they have done in fashioning this important bill. No one can dispute the fact that there is an urgent need for legislation to remedy the several problems that have come to light in the clinical laboratory field. The recent disclosures of abuse, excessive costs, and errors in the performance of laboratory tests have served to make us all most acutely aware of the need for action. The bill now before us represents, I believe, a judicious and effective response to this need.

The bill includes the several perfecting amendments I recommended on behalf of the Committee on Ways and Means to assure its consistent application in the context of the medicare program. I believe that as it now stands the bill provides an effective mechanism for achieving reliability, accuracy, and quality in clinical laboratory performance and I, therefore, urge its acceptance by the House.

I would like also at this point to take note of an issue concerning the organization of the Department of HEW to carry out implementation of this program which I believe warrants comment. My interest in this issue derives, of course, from the major role medicare has played and will continue to play in the enforcement of quality assurance standards, not only in the clinical laboratory setting, but in all types of health care facilities.

I am in full concurrence with the provision in the bill which directs the Secretary to establish an identifiable administrative unit under the Assistant Secretary for Health to coordinate the regulatory functions authorized in this bill and by the medicare provisions of the Social Security Act. I agree that such coordination is essential.

The Commerce Committee's report on this bill, however, appears to go beyond this provision and to advise the Secretary to designate a particular operating agency now in existence in the Department as the coordinating agency. I believe such advice is unwise in this case for two reasons:

First, the most appropriate means for achieving coordination of the several complex and interrelated programs involved in applying laboratory standards is a matter, it seems to me, best left to the administrative judgment of the Assistant Secretary for Health who must necessarily take into account the availability and capacity of the Department's resources.

Second, advising the Secretary to designate an existing component would appear to be inconsistent with the statutory provision which wisely, I believe, directs the Secretary to "establish" an administrative unit with responsibility for "coordination" of existing operational components. I suggest that this latter approach is a more appropriate course in view of the steps the Assistant Secretary for Health has already taken to make the most efficient use of existing component manpower and resources and to bring about effective coordination, under his direction, of all component activities in this area.

Mr. WAXMAN. Mr. Speaker, I urge my colleagues to support the Clinical Laboratory Improvement Act of 1976.

The American health care system is

becoming increasingly dependent upon the services provided by clinical laboratories. The accuracy and reliability of clinical tests in the diagnosis and treatment of diseases play a significant role in assuring quality medical care.

Our experience with the Clinical Laboratory Improvement Act of 1967 indicates that the imposition of national standards and Federal licensure requirements for interstate laboratories has led to significant improvement in the quality of services provided by such laboratories. The legislation before us, now, builds upon this record. H.R. 14319 requires that intrastate clinical laboratories, also, comply with national standards for Federal licensure.

Although the quality of laboratory services is considerably better than it was 9 years ago when the Clinical Laboratory Improvement Act of 1967 was enacted, the error rate in testing continues to be higher than acceptable. The Center for Disease Control estimates that nationally 15 percent of all laboratory tests are in error. The Bureau of Standards conducted a study of medicare- and medicaid-approved laboratories and concluded that 26 percent of the sample tests performed were inaccurate.

In 1975, the cost of services provided by the more than 65,000 laboratories was $12 billion. This cost represents approximately 10 percent of the national expenditures for health care services. A sizable portion of this cost is unnecessary due to fraudulent practices on the part of certain clinical laboratories. Recent congressional studies have revealed the potential for fraud and abuse on the part of clinical laboratories participating in medicaid. Questionable billing practices include charging medicaid for tests not authorized by the physician, brokering or subcontracting laboratory tests, and charging medicaid more than private patients. H.R. 14319 provides specified penalties for those who engage in false, fictitious, or fraudulent billing practices under medicaid or medicare.

Under this bill, national standards for intrastate clinical laboratories would be established by the Secretary of Health, Education, and Welfare. National standards would include requirements respecting the maintenance of records, equipment, and facilities necessary for effective operation of the laboratory, the establishment of quality control programs, periodic proficiency testing of laboratories, and prescribed qualifications for directors, supervisors, technologists, and technicians. National standards would not apply to clinical laboratories located in the office of, and operated by, physicians, dentists, or podiatrists in which the only tests or procedures performed are those provided by such practitioners in connection with the treatment of their patients.

The intent of this legislation is to insure uniform standards for clinical laboratories, and thereby assure quality in the performance of testing by both interstate and intrastate laboratories. Only 900 of the 65,000 laboratories are currently regulated under the 1967 interstate clinical laboratory standards. Twenty-six States regulate clinical laboratories within their jurisdiction, but few of the State statutes could be termed "comprehensive." Twenty-four States have not enacted any legislation regulating clinical laboratories. Our increasng commitment to improving the quality of medical care services should be reflected in our decision to require that all laboratories, intrastate as well as interstate, meet national standards for proficiency and quality control.

The Clinical Laboratory Improvement Act of 1976 enables us to move another step forward toward achievement of better medical care for all Americans. The public has become more sophisticated in its desire for and appreciation of quality medical care. The Congress should be responsive to the need for providing minimal national standards for assuring quality in the delivery of clinical laboratory services.

I, therefore, urge my colleagues to join me in support of H.R. 14319, the Clinical Laboratory Improvement Act of 1976.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 14319, as amended.

Mr. COLLINS of Texas. Mr. Speaker, on that I demanded the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 14319.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1976

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1174) to reduce the hazards of earthquakes, and for other purposes, as amended.

The Clerk read as follows:

S. 1174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Earthquake Hazards Reduction Act of 1976".

SEC. 2. FINDINGS.

The Congress finds that:

(a) Earthquakes have caused, and can cause in the future, enormous loss of life, injury, destruction of property, and economic and social disruption. Although some States are particularly vulnerable, all 50 States may suffer damaging earthquakes.

(b) Loss of life, property destruction, and economic and social disruption from future earthquakes can be substantially reduced through the development and implementation of earthquake hazards reduction measures, including improved construction methods and practices, prediction techniques and early-warning systems, coordinated emergency preparedness plans, and public education and involvement programs.

(c) In order to insure that appropriate measures are developed and implemented, it is necessary to institute through public and private efforts a coordinated and comprehensive national program of earthquake hazards reduction. The expertise required to address the many facets of earthquake hazards reduction is distributed throughout the public and private sectors. Although concentration of this expertise is not desirable, its coordination is required for a successful program of earthquake hazards reduction.

(d) Recent discoveries in the earth sciences promise development of methods of earthquake prediction. Further research in the fields of geology and geophysics is needed to realize this promise. The consensus of experts in earthquake studies is that a well-funded seismological research program in earthquake prediction could provide data adequate for the design, within 10 years, of an operational capability that would be able to predict the time, place, magnitude, and physical effects of earthquakes in selected areas of the United States. In addition to earthquake prediction research itself, regular, careful, scientific evaluation of earthquake predictions will be needed to insure the effective development of earthquake prediction capabilities.

(e) To realize the benefits of earthquake prediction capabilities and to use present knowledge of earthquakes effectively, more knowledge of engineering and social behavior is required. Research in the fields of economics, sociology, law, and engineering is needed.

(f) The implementation of earthquake hazards reduction measures would, as an added benefit, also reduce the risk of loss, destruction, and disruption from other natural hazards and manmade hazards, including hurricanes, tornadoes, accidents, explosions, landslides, building and structural, cave-ins, and fires.

(g) Because severe earthquakes are a worldwide problem but occur infrequently in any one nation, international cooperation is necessary for mutual learning from limited experiences.

SEC. 3. PURPOSE.

It is the purpose of the Congress in this Act to reduce the risks of life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "Program" means the National Earthquake Hazards Reduction Program established by this Act;

(2) the term "agency" means any department, part of a department, independent agency, or other establishment in the executive branch of the United States Government;

(3) the term "Committee" means the National Advisory Committee on Earthquake Hazards Reduction established by this Act;

(4) the term "Office" means the Office of Earthquake Hazards Reduction established by this Act;

(5) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States;

(6) the term "earthquake prediction" means a prediction in definite or probabilistic terms, of the time, place, and magnitude of an earthquake; and

(7) the term "earthquake warning" means a recommendation that normal life routines should be changed for a time because an earthquake is believed imminent.

Sec. 5. National Earthquake Hazards Reduction Program.

(a) Establishment.—In order to reduce loss of life, property destruction, and economic and social disruption from future earthquakes, the President shall establish and direct to be maintained in accordance with the provisions of this Act—

(1) a coordinated National Earthquake Hazards Reduction Program, which shall be administered as set forth in subsection (b) and shall include each of the elements described in subsection (c);

(2) an Office of Earthquake Hazards Reduction, which shall be part of an existing agency, and shall be administered as set forth in subsection (b)(2);

(3) a National Advisory Committee on Earthquake Hazards Reduction which shall be constituted and administered as set forth in subsection (b)(3; and

(4) an Earthquake Prediction Evaluation Board composed of scientists, representing the most knowledgeable experts in various disciplines involved in earth sciences related to earthquake studies, whose functions, as described in subsection (c)(1), shall be part of the Program.

(b) Administration.—

(1) Program.—The President shall, by rule, within 180 days after the date of enactment of this Act—

(A) identify the agency which shall contain the Office of Earthquake Hazards Reduction; and

(B) assign and specify the role and responsibility of the United States Geological Survey, the National Science Foundation, and each other agency in the Program, including the responsibility for unified review of the Program budget.

Until the President identifies the agency which shall contain the Office, the Office shall be lodged in the Executive Office of the President.

(2) Office of earthquake hazards reduction.—The Office shall have the following duties and any others that may be assigned to it by the President:

(A) to develop and maintain a Program plan, which shall include a description of: the overall strategy of the Program, the elements of the Program, agency responsibilities in the Program, a detailed Program budget, and other information deemed pertinent; and to present such Program plan to the Congress within 180 days after constitution of the Committee;

(B) to provide staffing and other assistance to the Committee;

(C) to coordinate the earthquake activities of all agencies, with particular attention to those agencies specified in paragraph (4) of this subsection;

(D) to provide for cooperation and coordination with interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk; and

(E) to provide for cooperation and coordination with private interests, including the insurance and construction industries, concerned with earthquake hazards reduction.

Activities undertaken by the Office in performance of the duties specified in subparagraphs (C), (D), and (E) shall include interagency meetings among those agencies with responsibilities in the Program. Activities shall also include meetings among representatives of any or all groups interested in earthquake hazards reduction, including private industry, State and local government, and the Federal Government.

(3) National advisory committee on earthquake hazards reduction.—

(A) The President shall designate the chairman and other members of the Committee. The Committee shall have not fewer than ten members, including persons concerned with earthquake hazards reduction who are representative of the research community (including the design professions), private industry (including insurance and construction), and government (Federal, State, and local), and shall include qualified individuals experienced in earthquake hazards reduction planning, implementation, or preparedness.

(B) The Committee shall serve as an advisory body to the Office, to review and advise on the progress, implementation, and coordination of the Program and shall perform such other duties as the President may assign.

(C) At least annually the Program plan shall be submitted to the Committee, and the Committee shall evaluate the plan.

(D) The annual report required by section 6 of this Act shall be submitted to the Committee before the report is in final form and the Committee shall comment on the report.

(E) Membership on the Committee shall be for staggered, rotating terms.

(F) Members of the Committee shall be reimbursed for actual expenses incurred in the performance of their duties.

(4) Agency involvement.—Agencies which may be assigned responsibilities in the Program shall include—

(A) the Department of Commerce (National Bureau of Standards, National Oceanic and Atmospheric Administration);

(B) the Department of Defense (Defense Civil Preparednes Agency);

(C) the Department of Housing and Urban Development (Federal Disaster Assistance Administration);

(D) the Department of the Interior (United States Geological Survey);

(E) the Energy Research and Development Administration;

(F) the General Services Administration (Federal Preparedness Agency);

(G) the National Aeronautics And Space Administration;

(H) the National Science Foundation;

(I) the Nuclear Regulatory Commission;

(J) the Office of Science and Technology Policy; and

(K) the Veterans' Administration.

(c) Program Elements.—The Program shall include each of the following elements:

(1) Physical studies.—Studies of the nature and behavior of the Earth to promote understanding of earthquakes and to form a knowledge base for earthquake hazards reduction, including—

(A) development of methods of earthquake prediction with the objective of making official earthquake warnings feasible;

(B) development of methods of determining the likelihood of earthquakes in all States with the objective of zonation and microzonation of the States into areas of greater or lesser earthquake risk;

(C) development of theories, devices, and practices designed to promote understanding of the modification or control of earthquakes;

(D) basic and applied research in tectonics, seismology, and geology; and

(E) development of instruments, systems, computer programs, and theories for the collection, analysis, storage, and distribution of physical data related to earquakes.

For purposes of subparagraph (A) the Earthquake Prediction Evaluation Board shall evaluate individual earthquake predictions, compile and maintain a public record of the performance of prediction methods and persons who make predictions, and issue authenticated earthquake predictions if and when earthquake prediction becomes a sufficiently reliable science.

(2) Structural studies.—Studies of structural matters related to earthquakes, including—

(A) the development of technologically and economically feasible design and construction methods and procedures to make new and existing structures, in areas of seismic risk, earthquake resistant;

(B) the characterization of the earthquake vulnerability of individual structures, groups of structures, and construction types; and

(C) the development of improved methods of earthquake engineering analysis.

(3) Social, legal, and economic research.—Research into social, legal, and economic aspects of earthquake hazards, including—

(A) the identification of groups of people particularly vulnerable to the hazards of earthquakes;

(B) the relationship between laws (including tax laws) and earthquake hazards;

(C) the relationship between insurance and earthquake hazards;

(D) the societal effects of earthquakes;

(E) the behavioral and psychological effects of earthquakes on individuals;

(F) the social and economic effects of earthquake warnings and predictions; and

(G) risk management techniques and methods for making decisions under uncertainty.

(4) Implementation.—Putting knowledge concerning earthquakes to use in reducing the hazards of earthquakes by means including—

(A) development of model building codes, recommended building standards, recommended building regulations, and model zoning provisions related to earthquakes for use by the Federal Government, States, localities, trade associations, and others;

(B) development of recommended regulations to govern the practices of corporations or individuals offering services which reduce or are asserted to reduce the damaging effects of earthquakes;

(C) development, in areas of seismic risk, of improved understanding of, and capability with respect to, earthquake-related issues, including risk control, pre-event planning, warning dissemination, emergency services, reconstruction, and redevelopment;

(D) education of the public, including State and local officials, as to earthquake phenomena, the identification of locations and structures which are especially susceptible to earthquake damage, ways to reduce the adverse consequences of an earthquake, and related matters;

(E) assistance to States in carrying out their responsibilities under section 201 of the Disaster Relief Act of 1974 (42 U.S.C. 5131), by making available the results of research and other activities undertaken under this Act;

(F) recommendations for legislation to improve the Program;

(G) maintenance of an earthquake information clearinghouse to provide construction design and analysis information, planning aids, representative plans for protecting large hazardous facilities such as natural gas lines or dams, sample earthquake evacuation plans, and other pertinent information;

(H) efforts to insure that national needs for people trained in specialties related to earthquake hazards reduction are met (and for this purpose the use of persons for whom earthquake hazards reduction is an avocation should be considered); and

(I) an analysis of the disaster preparedness of State and local units of government in areas of high seismic risk, and the submission of such analysis to the Committee on Science and Technology and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Commerce and on Interior and Insular Affairs of the Senate. Such analysis shall be submitted no later than 180 days after constitution of the Committee and shall be carried out in conjunction with the Federal Disaster Assistance Administration of the Department of Housing and Urban Development and the Federal Preparedness Agency of the General Service Administration.

(5) OTHER ELEMENTS.—

(A) Studies of foreign experience with all aspects of earthquakes; and

(B) post-earthquake investigations of all aspects of actual major earthquakes.

SEC. 6. ANNUAL REPORT.

The President shall, within 90 days after the end of each fiscal year, submit an annual report to the Congress describing and evaluating progress achieved in reducing the risks of earthquake hazards. Each such report shall include—

(1) an account of the earthquake-related activities and expenditures of each agency involved in the Program during the preceding fiscal year;

(2) an assessment of the effect of Federal activities on earthquake hazards:

(3) any recommendations for legislative or other action; and

(4) any comments which individual members of the Committee may wish to add.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL.—There are authorized to be appropriated to the President to carry out the provisions of sections 5 and 6 of this Act (in addition to any authorizations included in other Acts and the authorizations set forth in subsections (b) and (c) of this section), not to exceed $1,000,000 for the fiscal year ending September 30, 1977, not to exceed $2,000,000 for the fiscal year ending September 30, 1978, and not to exceed $2,000,000 for the fiscal year ending September 30, 1979.

(b) UNITED STATES GEOLOGICAL SURVEY.—There are authorized to be appropriated to the Secretary of the Interior for purposes of carrying out section 5(c) of this Act not to exceed $15,000,000 for the fiscal year ending September 30, 1978 (in addition to any authorization included in other Acts), and similar amounts for the fiscal year ending September 30, 1979.

(c) NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the National Science Foundation for the purposes of carrying out section 5(c) of this Act—

(1) not to exceed $15,000,000 for the fiscal year ending September 30, 1977 (in addition to any authorizations included in other Acts);

(2) such sums as may be necessary for the fiscal year ending September 30, 1978, not to exceed the total amount authorized by this Act and any other Acts for the fiscal year ending September 30, 1977; and

(3) such sums as may be necessary for the fiscal year ending September 30, 1979, not to exceed the total amount authorized by this Act and any other Acts for the fiscal year ending September 30, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from California (Mr. BROWN) and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. BROWN).

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration, S. 1174.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I will not be long. S. 1174, the Earthquake Hazards Reduction Act of 1976, has now been approved, nearly unanimously, by the Senate, by the Committee on Science and Technology, which amended S. 1174 substantially, without losing any of its original contents, by the Committee on Interior and Insular Affairs, which added a few amendments which also improved the bill, and by the House Budget Committe, which concurred with our views that this bill is urgently needed, and an emergency waiver of the Budget Act was necessary. Few bills have received as broad a review and support as has S. 1174.

As a convert to the belief that there is an urgent need for this legislation, I believe my own views on this subject may be of interest to you.

Although the science of seismology is not new, and Federal support is already existent, the possibility of accurately predicting earthquakes is quite new. The U.S. scientific community has only this year verified that Chinese can and do accurately predict major earthquakes. The techniques used by the Chinese are not being used in the United States, which is apparently behind in seismology. Recent visits by U.S. scientists have given us some idea on what the Chinese are doing right, but the shortage of funds have made the verification and application of these techniques in the United States impossible.

Another new development has been discovery earlier this year of a major earth uplift in the area of southern California that has been associated with the most severe earthquakes. As if this telltale sign of a major quake was not enough, a California Institute of Technology seismologist has predicted, on the basis of certain scientific measurements of wave patterns, that the same area of southern California will be hit by a major earthquake by the spring of 1977.

Our problem is that although we now know enough to predict where major quakes will occur, we have not been able to narrow the time down to allow steps to be taken to prevent massive death tolls. The Chinese, who have devoted far more resources to this problem, have several times succeeded in accurately predicting the day and place of a major quake. They have also failed to predict major quakes which demonstrates that much more needs to be done beyond what they now do.

Nevertheless, hundreds of thousands of lives have been saved in China because of the successes in their earthquake prediction program. Over 7 million people live in the area where a major quake is predicted in southern California. The minimal funds authorized in S. 1174 might save, and if the program is successful, will save many of these lives.

As has been said by the distinguished chairman of the Committee on Science and Technology, this bill should really be called the Cranston-Mosher Earthquake Hazards Reduction Act of 1976. This is because S. 1174, as amended by the House, reflects the legislation of our colleague, Mr. MOSHER, as well as the legislation developed by Mr. CRANSTON in the Senate. Both gentlemen have been legislative leaders in an effort to improve and enhance the Federal earthquake research and hazard reduction efforts. Both have been sincere in working out their differences, where any existed, and both have succeeded in their goals. The Cranston-Mosher bill, as this should be called, is good legislation. I urge my colleagues to give it the overwhelming endorsement it deserves.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the distinguished gentleman from Ohio who did so much work on this legislation.

Mr. MOSHER. I thank the gentleman for yielding.

Mr. Speaker, I do support the suspension of the rules and the passage of S. 1174, the Earthquake Hazards Reduction Act of 1976.

Mr. Speaker, earthquakes present dramatic but devastating evidence that our planet is still in the process of stabilizing internally. In scientific terms, earthquakes result from the movement of the Earth's outer crust over a molten interior which is slowly solidifying.

In human terms earthquakes can result in the wholesale loss of human life and severe property damage.

The recent earthquakes in China, Italy, and Central America illustrate that this is a worldwide phenomenon and not isolated geographically.

Looking at the United States alone, the Members can see from the map of earthquake events which is in the Speaker's lobby that virtually all 50 States are vulnerable to earthquakes. It is incorrect to think of earthquakes as being a hazard only for the west coast. Over 70 million persons in 39 States are living in zones where moderate to severe earthquakes could occur. The problem is truly nationwide and calls for a nationwide response.

The initial hurdle in coping with earthquakes is to overcome the psychological state of mind that we are utterly helpless to alleviate them. The same scientific discipline and dedication which has brought answers to other great challenges; for example, space exploration, can result in real progress in earthquake hazard reduction.

S. 1174 is designed to integrate the Federal effort on earthquakes. Currently, Federal activities are not only fragmented in an organizational sense, but they lack the strong national commitment necessary to foster continued progress. Interested Federal groups include the National Science Foundation, the U.S. Geological Survey, the Federal Disaster Assistance Administration, and the Federal Preparedness Agency. Each of these groups has its own mission and contribution.

This legislation addresses the coordination objective by establishing an Office of Earthquake Hazards Reduction. The Office will be part of an existing Federal agency.

Because there are several good candidate agencies in which to place the Office, S. 1174 temporarily places it in the Executive Office of the President. Within 180 days, the President shall specify the exact agency to house the Office. This will permit the President and interested agencies an opportunity to examine the legislation and sort out their priorities and capabilities.

The Office of Earthquake Hazards Reduction will oversee the development of a program plan for earthquake research and coordination. Elements of the program will address these five major categories:

First. Physical studies will concentrate on examining the geophysical properties related to earthquakes. The understanding from these studies will improve our ability to predict earthquakes and perhaps even discover ways to defuse potentially severe earthquakes before they occur. This will require many years of study but it will result in a long-term approach to dealing with earthquakes.

Second. Perhaps the most important category for immediate attention is the study of structural properties of buildings and other manmade construction such as bridges and dams. The collapse of physical structures is the leading cause of deaths from an earthquake.

The other categories for study are: Third, the social and economic effects of earthquakes; fourth, studies of coordinated implementation procedures, including public education; fifth, the post-earthquake analysis of earthquakes.

These studies will consider a broad spectrum of topics, such as psychological effect of earthquakes on individuals; development of model building codes; risk management techniques and reduction of hazards through improved zoning.

A National Advisory Committee on Earthquake Hazards Reduction is established as an advisory body to the Office. It will be made up of not less than 10 persons from all levels of government and the private sector. The Committee will advise the Office on its activities and will review the office's program plan.

Another feature of the bill is to establish an Earthquake Prediction Evaluation Board. The Board will review individual predictions of earthquakes in order to give independent, authoritative evaluations. The prediction of an earthquake can cause significant economic and social dislocations in an area. Consequently, the Board will act to prevent premature or scientifically doubtful forecasts of impending earthquakes.

The Office, the Committee, and the Board will provide the framework for addressing the earthquake issue. Working together they can formulate a methodical approach to understanding earthquakes, mitigating the potential human and property loss, and searching for clues on how to accurately predict earthquake events.

S. 1174 authorizes $16 million in fiscal year 1977. The NSF is designated to receive $15 million of this amount to augment its current earthquake program—about $10 million. The remaining $1 million is for the Office to administer the overall program.

Mr. Speaker, here in the RECORD, of interest as legislative history, I want to call attention to our understanding of the intent of the House and Senate concerning this legislation. I am confident that the gentleman from California (Mr. BROWN) will agree with my concluding remarks here.

We believe it is important to emphasize the intent of the House Science and Technology Committee with respect to the level of funding authorized by S. 1174 for the earthquake hazards reduction program. The Senate passed version of S. 1174 authorized a 3-year program for the lend agencies totaling $150 million. The specific language of the Senate bill, however, was ambiguous as to whether the authorizations were intended to be additions to funds appropriated under existing authority or whether the annual authorization levels were intended to be a total amount of the Federal earthquake hazards reduction program authorized by S. 1174.

In the Science Committee we took a different route, but I believe we ended at the same destination as the Senate. The bill, as amended by the House Science and Technology Committee and subsequently by the Interior and Insular Affairs Committee authorizes total new appropriations of $80 million for the next 3 years for the earthquake hazards reduction program.

We intend, however, that the authorizations in the House version of S. 1174 are to be in addition to funds already appropriated under existing authority.

Currently, the U.S. Geological Survey conducts an earthquake hazards reduction program, funded in 1977 at $11.1 million, under authority of the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) which provides for the "classification of the public lands and the examination of the geologic structure, mineral resources and products of the national domain." The act of September 5, 1962 (76 Stat. 427; 43 U.S.C. 31(b)) expanded this authority to include such examinations outside the national domain.

Therefore, the $15 million in new authority for the USGS in fiscal years 1978 and 1979 created by S. 1174 will be added to the already existing authority for expenditures of $11 million annually so that the total expenditures for the USGS earthquake hazards reduction program are intended to be $26 million annually.

In support of this interpretation I call the attention of my colleagues to page 6 of the report from the Committee on Science and Technology (H. Rept. No. 94–1440, pt. I).

Again, on pages 33 and 34 of the same report, the committee repeats its intention that the USGS annual program expenditures for earthquakes should be $25 million. Subsequently, the Interior Committee amended the Science Committee authorization by adding $1 million for fiscal year 1978 and fiscal year 1979, making the intended level of spending $26 million, instead of $25 million referred to in the Science Committee report.

The Science and Technology Committee reported S. 1174 on August 26 and it was subsequently referred to the Interior and Insular Affairs Committee which deleted the USGS authorization for fiscal year 1977 but raised it from $14 million to $15 million for each of the 2 fiscal years ending in 1978 and 1979. The Interior Committee, in reporting S. 1174 favorably on September 8 (H. Rept. No. 94–140, pt. 2), clearly stated its intention the authorization for the Geological Survey be considered as in addition to any existing authorizations under other acts. I believe it is therefore clear that the intention of the House in passing S. 1174 is to establish within the USGS an earthquake program with total expenditures in fiscal years 1978 and 1979 of $26 million each year.

A similar intention affects the authorizations for the National Science Foundation under S. 1174. The Science and Technology Committee recommended authorizing $15 million in new authority for the National Science Foundation for each of the fiscal years 1977, 1978, and 1979. On page 6 of the Science and Technology Committee report, the intention is stated explicitly that the $15 million annual authorization is in addition to existing authority under which the NSF has budgeted about $10 million for earthquake-related programs in fiscal year 1977.

Therefore, the House version and the Senate version of S. 1174 with respect to the level of annual spending intended for the earthquake hazards reduction program are not far apart. The Senate bill authorizes a total appropriation of $150 million over the next 3 years—$40 million, $50 million and $60 million for fiscal years 1977, 1978, and 1979, respectively. The House bill adds new authority of $80 million over the next 3 years to already existing authority, bringing the total annual authorization for the earthquake hazard reduction program to the $50 million level. The House and the Senate thus agree that an appropriate level of spending for this program over the next 3 years is approximately $150 million.

Finally, the House committees obviously intend that while the authorizations are for only 3 years, the earthquake hazards reduction program outlined in S. 1174 will require a sustained level of funding for at least 10 years. The House Science and Technology Committee report pp. 34–35 contains the following pertinent comment:

> The amounts authorized to the Survey and the Foundation are believed to be adequate for an effective Program, but they are not excessive. A committee that is advising the Foundation and the Survey has recommended a fiscal year 1978 program for those two agencies in its draft report costing roughly $100 million, twice the cost of the program envisaged by the bill for those agencies in that year. Because these authorizations are modest, priorities and relative funding levels will have to be carefully established among the program elements required by the bill. If the United States is struck by a major earthquake in the next three years, the Federal government should reassess the adequacy of these authorizations.
>
> The authorizations of this bill are given for three years only. The intent is not that the Program should end in three years. It appears that development of earthquake pre-

> diction to maturity will require at least ten years, and many functions, such as public education, should continue indefinitely. The authorization is limited to three years in order that Congress will have to evaluate the Program and consider extending its authorization after the Program has been established.

Certainly, if new information comes to our attention within the next 3 years suggesting that spending should be accelerated, then we in the Congress must consider amending the law to reflect that fact. At the end of the next 3 years, after the earthquake hazards reduction program is well underway, we will be in a better position to assess the adequacy of the $50 million annual authorization and to determine what levels will be most appropriate in future years. Also, by that time, we will have the benefit of guidance from the new Office of Earthquake Hazards Reduction and its affiliate bodies.

Mr. SYMINGTON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the distinguished subcommittee chairman who considered the legislation, the gentleman from Missouri (Mr. SYMINGTON).

Mr. SYMINGTON. I thank the gentleman for yielding.

Mr. Speaker, the bill we are considering at this time is designed to reduce the harm that might be done by future earthquakes in the United States. I do not think we should appear to suggest to the American people that Congress is going to eliminate earthquakes. We do not claim that, but when we looked at the structure in the Government that is available to inform people, to guide people with respect to structural design, to learn more about the effects of earthquakes on both highly populated and less populated areas, we discovered not too much was known and not too much had been studied. Perhaps many people in the country feel that if there is an earthquake hazard, it is likely to be concentrated along the west coast, the California area, because in San Francisco from 1906 on, that happened to be where the stories were told.

But I would like to point out this is not the case. While it is true that the west coast—including the States of California, Oregon, Washington, and Alaska—has the most earthquakes, many other parts of the country have a long record of earthquake occurrences. Few people realize that the largest earthquake known to have occurred in the United States took place not on the west coast but in the middle of the country, centered just about where Kentucky, Missouri, and Tennessee meet. This was known as the New Madrid earthquake and happened in the winter of 1811 to 1812. The New Madrid earthquake was capable of structural damage over an area roughly 20 times the size of the comparable area for the great San Francisco earthquake of 1906. Fortunately, there were not many structures around to be damaged in 1812. But there are now. If the New Madrid earthquake recurred today, estimates are that losses could range from $5 billion to $50 billion, to say nothing of the possible loss of lives which would result. Since that time several hundred earthquakes have been observed in that general area, the area surrounding the Mississippi River from the southern tip of Illinois to the northern tip of Arkansas. Most of those earthquakes were minor, but a major earthquake in the vicinity is certainly possible. We had clear testimony to that effect. There has been no question of it. Some witnesses indicated they were positive there would be a major quake in this country before the end of the century.

Even on the east coast there are two areas which have significant earthquake problems. These are centered on the cities of Boston, Mass., and Charleston, S.C. In the Charleston area over 400 earthquakes have been felt by residents and 60 people were killed by a quake in 1886. Massachusetts has recently worked on the adoption of earthquake resistance provisions for building codes.

Earthquakes are not regional, earthquakes are not local, and earthquakes are not statewide. They are national, and they are a problem of the world, as we have seen recently. As such they require a response by our full Government acting in coordination with all its members. To insure that this national approach occurs and is funded at a level adequate for the rapid development of the sciences of earthquake prediction and earthquake engineering, I urge adoption of this bill.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. SYMINGTON. I yield to my distinguished friend, the gentleman from northern California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of S. 1174, the earthquake hazards reduction bill.

The need for this legislation cannot be overemphasized, especially as we look at the increasing incidence rate of earthquakes in many regions of the United States. Coming from a part of the United States that is no stranger to the destruction that results from earthquakes, I can certainly attest to the need for not only refining our predictive abilities, but also for increasing our efforts at identifying unsafe structures, revising building codes and land-use regulations to comply with seismic constraints, developing plans for the shutdown of sensitive structures and devices—pipelines, nuclear powerplants, dams—and increasing the public awareness about earthquake hazards.

As a member of the House Public Works and Transportation Committee which has jurisdiction over disaster relief legislation, I have visited the areas affected by earthquakes and concluded that fault-mapping detail is totally inadequate and has left a great deal to be desired.

In depth geological information is going to be required and this legislation is directed toward a more comprehensive and coordinated hazard reduction approach.

The architectural designs of the future will be in need of this information. The dams and reservoirs to be constructed are in need of the best in engineering information to handle the reoccurring threat of earthquakes.

The cost of this legislation is small in comparison to the number of lives and property which can be saved by adequate advance planning.

I commend the gentleman for his efforts in this field.

Mr. SYMINGTON. I thank the gentleman very much for his comments.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. SYMINGTON. I am pleased to yield to the gentleman from California whose own district has been the site of a major earthquake within the recent past. I yield the gentleman 3 minutes.

Mr. GOLDWATER. Mr. Speaker, I rise in support of S. 1174, the Earthquake Hazards Reduction Act of 1976. As an original cosponsor of the Science and Technology Committee version of this bill and a representative of a district in the State of California, I am acutely aware of the tremendous hazards which earthquakes impose on this Nation. Based on our exhaustive review of the existing Federal program for earthquake hazard reduction, I am convinced that there is a compelling need for this bill. The excellent committee report on the bill fully documents this need and provides a detailed explanation of our proposed solution. The resulting establishment of the Office of Earthquake Hazard Reduction and its associated program will be a major step forward in this country's efforts to combat the continuing risks and threats of earthquakes. I want to commend my colleagues on the committee, Congressmen MOSHER, SYMINGTON, and BROWN for their great wisdom and leadership in bringing this bill to the House floor. I particularly want to acknowledge their assistance in providing full consideration of the several concerns which I have had about this program.

There is one remaining aspect of this bill which I am convinced is worthy of some additional attention at this point and that is the earthquake hazard reduction related to our Nation's dams and associated water resource projects. Let me develop that aspect for a moment.

Mr. Speaker, the Teton Dam in eastern Idaho failed on June 5 of this year during initial filling. The Teton Dam disaster cost 11 lives and made thousands homeless. It destroyed over 100,000 acres of farmland, more than 16,000 head of livestock, and thousands of buildings including homes, farm structures, and businesses. Estimated property damage exceeds $1 billion and the loss in human terms is incalculable.

My fellow California representative LEO RYAN, who is heading the congressional investigation of the disaster, has described the almost incredible scene which occurred when the dam failed, as follows:

> The huge reservoir covering 17 miles of the upstream river and holding 8 billion gallons of water burst through the collapsing wall and tore into the Idaho countryside with an almost unbelievable force. It stripped top-soil from fields; it tore the pavement from roads; it twisted railroad tracks from their beds; it lifted houses and barns from their foundations; it uprooted trees;

and it swept thousands of livestock along in its flood.

In the end, 11 people were dead. Thousands were homeless. Whole towns were destroyed—literally ripped apart by the force of the water—then coated and littered with tons of mud and silt and debris.

Mr. Speaker, this Nation should never allow another Teton Dam-type disaster like that to occur again, whether by earthquake, by man-made error, or otherwise.

To that end, immediately following the failure of Teton Dam, the Conservation, Energy and Natural Resources Subcommittee of our Committee on Government Operations, chaired by Congressman RYAN, began an exhaustive investigation of the disaster. The investigation has included extensive site visits and a series of hearings in Idaho and here in Washington. The latest hearing was on August 31. Preliminary results of the investigation were reported by the subcommittee last Thursday in a report entitled "Teton Dam Disaster." The full committee is scheduled to consider the report later this week.

Mr. Speaker, I have closely followed the progress of this investigaton. I have reviewed the testimony and the transcripts and, with the kind cooperation of Subcommittee Chairman RYAN, I have reviewed the draft of the subcommittee's Teton Dam disaster report. My great interest and concern in this investigation is based on the tremendous importance of dam safety to the Nation generally, to my home State of California and to my district.

I also have personal experience with the earthquake threat to dams as a result of the 1971 earthquake that cracked the base of the Van Norman Dam in the San Fernando Valley, which at that time was in my congressional district, threatening the valley and Los Angeles.

The Federal aspect is particularly important because a total of eight different Federal agencies have authority and responsibility for construction of dams and because the Federal Government builds the majority of the large dams in the country. I can characterize the result thus far of the Government Operations committee investigation, in the light of that interest and concern, in one word: "devastating."

Four examples will illustrate the devastating nature of those results. First, the subcommittee located a recent letter from the president of the Association of Engineering Geologists to the Federal Commissioner of Reclamation about the plans for the Auburn Dam in California. The letter stated, in part:

> The AEG Seismic Hazards Committee has, therefore, thoroughly investigated the design and early stages of construction of the Auburn Dam by the U.S. Bureau of Reclamation. This 685-foot-high concrete-arch dam on the American River will impound 2.2 million acre-feet of water about 1,100 feet above the city of Sacramento. Failure of this dam would send a 100-foot wall of water down the River, topping the Folsom and Natomas dams and crossing metropolitan Sacramento. Study of the earthquake resistant design of the proposed dam by the AEG Committee shows that the Auburn Dam as presently designed, would be unsafe in even a moderate earthquake, such as that at Oroville on August 1, 1973.

While I will not prejudice the efforts of the Bureau of Reclamation at the Auburn Dam, the AEG letter raises grave concerns.

The Auburn Dam concerns are heightened by a recent dam siting problem in Arizona. The Orme Dam is a $223 million earth-fill structure intended by the U.S. Bureau of Reclamation to be a major part of its Central Arizona project. The Arizona Bureau of Mines, prompted by the failure of the Teton Dam, examined the geology at the Orme site. The examination identified seven possible fracture trends at or near the site which had not been included in the Bureau of Reclamation's environmental impact statement. The Bureau, as a result of the Arizona findings, announced that it was abandoning the original Orme site and would consider alternatives.

Also, there was a 1972 Geological Survey indication that, because the Teton Dam was cited in an area of highest seismic risk, the water loading by the dam itself might trigger seismic activity. In effect, then, our Federal dam building may even have the potential for creating the hazard of an earthquake in a given area. It is particularly noteworthy that this information, along with other relevant geological warnings were bureaucratically "lost" within the Survey for 6 months at a critical time in Teton's construction.

Finally, my own State of California has been urging the Bureau of Reclamation and other Federal agencies to adopt its dam approval and inspection procedures, particularly as they related to earthquake hazards, and to include the State in implementing those procedures in California. I am attaching the testimony of the State's representatives in the Government Operations Committee hearings and a letter to Interior Secretary Kleppe entered into that record. The testimony and letter clearly point out the urgent need for Federal adoption of similar procedures and for the active involvement of States, such as California, in the Federal program.

The Government Operations Committee investigation strongly indicates that the Teton disaster may only be the tip of the iceberg. While there is still no consensus agreement on the exact cause of the disaster, it is clear that the failure of the dam is symptomatic of a very real problem in our Federal dam program. Importantly, in the context of this bill, the investigation also has surfaced some very real problems on the earthquake hazards reduction aspects of both our Federal dam program and our other national efforts in dam siting, construction, operation, and maintenance. I am convinced that this Congress must act affirmatively to insure that the lessons of the Teton Dam failure are incorporated in the earthquake hazards reduction program under this bill.

This bill, as reported by the two committees, covers the broad spectrum of earthquake hazards reduction. One of the specific earthquake hazards expressly identified in the bill and the committee report are dams. While these dam-associated aspects of the bill are commendable, recently, available information indicates a need to strengthen the focus on dams in the implementation of the bill. This information was developed by the Committee on Government Operations in the course of its continuing investigation of the Teton Dam failure. Unfortunately, the concurrent timing of that investigation with the Science and Technology Committee's consideration of this legislation has precluded an orderly amendment procedure to statutorily reflect the information, findings, conclusions, and recommendations of that investigation, as they relate directly to the earthquake hazard reductions program for dams. Accordingly, I would now like to engage in a colloquy with my cosponsors and the floor managers of this bill to develop some specific actions which should be taken under the program to reflect the results of the Teton Dam disaster investigation.

Accordingly, Mr. Speaker, I would like to engage in colloquy with my cosponsors and the managers of this bill to develop some specific actions which should be taken under the program to reflect the results of the Teton Dam investigation.

Mr. Speaker, I am wondering if the gentleman from Ohio (Mr. MOSHER) and the gentleman from California (Mr. BROWN) would be willing to respond to a number of questions in regard to efforts in the area involving dam construction and related projects.

Would the gentlemen agree that the earthquake hazard reduction as related to dams is an important element of the Federal program established by this bill?

Mr. BROWN of California. Yes.

Mr. MOSHER. Yes, dams are clearly intended to be one of the items studied by the Office of Earthquake Hazards Reduction and its associated bodies. The subject of dam safety in the event of an earthquake provides a good case study of the sort of problems we are seeking to correct with this legislation.

Presently, at least eight different Federal agencies bear some responsibilities for the siting, construction, operation, and maintenance of dams; plus, there is often non-Federal involvement, too, and some dams are built entirely independently of the Federal Government. To my knowledge, there is not now any systematic effort to coordinate or even review these activities from an earthquake hazards vantage point, despite the obviously great danger that is posed by a seismically unstable dam.

Mr. GOLDWATER. Would the gentlemen agree that there should be full consideration given to establishing a functional organizational element within the Office of Earthquake Hazard Reduction to focus specifically on dams and to have responsibility for promoting action to insure that the Federal dam programs in eight different Federal agencies, as well as non-Federal activity, adequately consider earthquake hazard reduction in the siting, construction, operation, and maintenance of dams?

Mr. BROWN of California. Yes.

Mr. MOSHER. Yes.

Mr. GOLDWATER. Would the gentlemen agree that the Office of Earthquake Hazards Reduction in its dam-related efforts, should review and focus on the earthquake-related lessons learned from the various investigations of the Teton Dam disaster, including those of the House Committee on Government Operations, the GAO, and the internal and external ones by the Department of Interior; and also the forthcoming guidelines of the Corps of Engineers for evaluating the seismic stability of dams?

Mr. BROWN of California. Yes.

Mr. MOSHER. Certainly. Anyone who is familiar with the recent Teton Dam disaster must be aware that many suspect the problem was caused by a failure to anticipate and protect against likely seismic activity. I believe that we can learn much from the studies and reports now being prepared, and I trust that the new Office of Earthquake Hazards Reduction will take advantage of the work being done.

We believe that these studies will help underscore the great need for paying more attention to seismic activity and earthquake hazards when planning Federal projects.

Mr. GOLDWATER. Would the gentlemen agree that the Office of Earthquake Hazards Reduction specifically should review the pending report of the House Government Operations Committee, "Teton Dam Disaster," and any subsequent reports of the committee resulting from its continuing investigation, and, further, should take for action the earthquake hazard-related findings and conclusions and recommendations, such as any related to—

First, deficiencies in geologic examinations of sites;

Second, earthquake safety problems in dams under construction;

Third, use of State dam safety inspection programs, such as that of California, which have an earthquake hazards-reduction focus;

Fourth, coordination of earthquake hazard-reduction information and procedures among the eight Federal dam building agencies;

Fifth, adequacy of the general procedures for environmental impact statements for dams in general as well as individual dams, as related to earthquake hazards; and

Sixth, the formulation and implementation of the program under Public Law 92-367, the Federal Dam Inspection Act.

Mr. BROWN of California. Yes.

Mr. MOSHER. Yes.

Mr. GOLDWATER. Would the gentlemen agree that the Office of Earthquake Hazards Reduction should become an active participant in the current formulation within the administration and subsequent implementation of the Federal and national programs of dam safety, as they relate to earthquake hazard reduction, under Public Law 92-367, the Federal Dam Inspection Act?

Mr. BROWN of California. Yes.

Mr. MOSHER. It is our hope that the Office of Earthquake Hazards Reduction will quickly become recognized as the Federal clearinghouse for information about earthquake hazards. To that extent, it probably would and should be consulted by a number of Federal and other agencies.

Actually, the manpower and financial resources will continue to reside in a number of different Federal offices, but the Office of Earthquake Hazards Reduction should have the unique capability of bringing together the appropriate experts from various disciplines and formulating unbiased, comprehensive responses to requests for information and/or help.

Moreover, the new office will hopefully also actively promote better understanding of earthquake hazards by other agencies. I can anticipate a time when the office will be consulted, for instance, as an element in the preparation of certain environmental impact statements.

Mr. GOLDWATER. Would the gentlemen agree that the Office of Earthquake Hazards Reduction should participate actively in the EIS procedure for Federal dams under the National Environmental Policy Act to promote adequate focus and emphasis on earthquake hazard reduction aspects, including, first, siting; second, earthquake resistant design; third, construction; fourth, operation and maintenance, reflecting advances in earthquake resistance; and fifth, earthquake contingency planning.

Mr. BROWN of California. Yes.

Mr. MOSHER. Yes.

Mr. GOLDWATER. Would the gentlemen agree that the Army Corps of Engineers and the Bureau of Reclamation, as the major Federal dam building agencies and those responsible for the Nation's dam safety program should be considered for particular coordination and attention by the Office of Earthquake Hazard Reduction under section 5(b)(4).

Mr. BROWN of California. Yes.

Mr. MOSHER. Yes. The list of agencies identified in section 5(b)(4) of the bill is not at all intended to be a definitive list. This list is intended instead to identify the absolute minimum roster of agencies to be included amongst those whose activities would be coordinated with the office.

In light of the Teton Dam disaster and the very real potential for even greater damage being done by future seismic problems with a dam or dams, it certainly would make sense for the Army Corps of Engineers and the Bureau of Reclamation to be included in the more comprehensive list that ultimately will be drawn up.

Mr. GOLDWATER. I thank the gentlemen for their comments.

The SPEAKER pro tempore (Mr. YATES). The time of the gentleman from California (Mr. GOLDWATER) has expired.

Mr. BROWN of California. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Finally, Mr. Speaker, I have a series of specific recommendations for action under the authority of this bill which the Office of Earthquake Hazards Reduction should take, at a minimum, with respect to dams. The Office should give full consideration to these actions and, certainly, they will provide a point of departure for the Science and Technology Committee's subsequent oversight of dam-related earthquake hazard reduction.

Section 5(b)(2). The program plan should positively include a specific element for dams.

Section 5(b)(2)(D). The Office should monitor the response of the Interior Department to the attached California letter.

Section 5(b)(3). The Office should give full consideration to including a representative of the State of California dam-responsible authority, in light of the attached testimony.

Section 5(b)(4). The Office should ensure the strong involvement and participation of the Bureau of Reclamation and the Corps of Engineers in the formulation and execution of the program, and provide liaison with the six remaining Federal dam building agencies. The corps' responsibilities under Public Law 92-367 should especially be coordinated under the Office.

Section 5(c)(1). The Office should review the evidence that the Geological Survey had an indication that, because Teton Dam was sited in an area of high seismic risk, it might have triggered seismic activity. It should also review the Orme Dam evidence.

The Office should also closely review the corps' forthcoming guidance for the evaluation of the seismic stability of existing dams and guidelines for future dams. See Subcommittee on Conservation, Energy and Natural Resources transcript of August 31, 1976, hearing, pages 57 and 58.

Section 5(c)(2). The Office should focus specific attention on the programs of the Corps of Engineers and the Bureau of Reclamation in dams.

Section 5(c)(3)(B). The Office should give specific attention to the relationship of the program under Public Law 92-367, the Federal Dam Inspection Act, and the need for a specific earthquake-oriented subprogram under that act. Specific attention should also be given to the respective roles of the Federal Government and the States, as discussed by the attached California testimony.

Section 5(c)(4)(A). The Office should review the California regulatory procedures for dams, as related to earthquakes.

Section 5(c)(4)(D). The Office should insure the wide dissemination of the forthcoming Corps of Engineers guidelines—see above—and all of the pertinent material from the Government Operations Committee—GAO—and other investigations.

Section 5(c)(4)(F). The Office should consider the need for legislation in the form of amendment of Public Law 92-367, this act, or others to reflect the conclusions of the Teton Dam investigations.

Section 5(c)(4)(G). The clearinghouse should include an easily accessible source of information on the Teton Dam investigation.

Section 5(c)(5). The Office should consider procedures for notification of and procedures for participation in the investigations of other major facility accidents, such as the Teton Dam, to ensure the full focus and emphasis on the earthquake-related aspects, since the Teton investigation has surfaced much important information.

Section 6. The annual report should include specific responses to the earthquake-related aspects of the Teton Dam investigations and Federal agency reactions to them. The report should also focus on the actions under Public Law 92-367 and the new Corps of Engineers guidelines, and should include recommendations for any associated legislation.

Section 7. The Office should propose authorizations, jointly with other agencies as necessary, to insure the effective and expeditious implementation of earthquake-related aspects of the Federal dam safety program and any subsequent activities resulting from the Teton Dam investigations.

I include the following:

STATEMENT BY ROBERT W. JAMES, DEPUTY DIRECTOR

(Statement of the California Department of Water Resources Before the Conservation, Energy, and Natural Resources Subcommittee of the Committee on Government Operations, Congress of the United States, House of Representatives)

Mr. Chairman, Members of the Subcommittee, we are pleased to accept your invitation to provide your subcommittee with a description of the California program of dam safety and provide recommendations as requested in your letter of July 27, 1976.

California has had a dam safety program for over 46 years. The Legislature passed dam safety legislation in 1929 following the catastrophic failure of St. Francis Dam in Los Angeles County the year before. The Act has been amended over the years with the principal change being made in 1965 to include offstream dams and the reservoir itself. 1,100 dams are under State supervision.

The Act excludes federal dams from State jurisdiction. It includes all other dams and reservoirs which are in excess of 25 feet high and store in excess of 50 acre-feet of water. The provisions of the Act are contained in Division 3 of the California Water Code (Attachment A). There are 114 dams of federal agencies which are excluded. These are owned by the Bureau of Reclamation, Corps of Engineers, Forest Service, Sport Fisheries and Wildlife, California Debris Commission, and the Bureau of Indian Affairs. The exclusive intention of the Act is to protect life and property. The law is administered by the State Department of Water Resources through its Division of Safety of Dams.

The Department acts under the police power of the State to supervise the construction, enlargement, alteration, repair, maintenance, operation and removal of dams and reservoirs for the protection of life and property. It is unlawful to engage in any of these activities except upon approval of the Department. Acts in violation of the law are punishable as misdemeanors by provisions for fines and imprisonment.

The Department of Water Resources is also the constructor of dams under its powers and authorities with specific reference to development of the State Water Project. These are also subject to the provisions of the dam safety act. The Division of Safety of Dams operates autonomously in this regard, so as to assure that there is no preference given to the Department in administering the act. Administrative safeguards have been established with the intent of avoiding any conflict of interest. There is a provision in the Water Code requiring a board of three consultants to make an independent post-construction finding to the Director of Water Resources on the safety of any dam owned by the Department. Furthermore the Department has followed consistently a practice of retaining consultants to advise it on design and construction of the dams it constructs. We believe that there is independent consideration of Department dams.

The Governor's budget has consistently, in recent years, approved support for a staff of about 55 to administer the dam safety act (The Program Statement is Attachment B). With the exception of a few clerical personnel and technicians, this is a professional staff. There are about 35 State registered civil engineers and three registered engineering-geologists. It is common practice to retain consultants for professional advice. Under the Division Engineer there are design, field, geology, and staff services branches (the Organization Chart is Attachment C). The Division provides an interdisciplinary approach to problem solving.

Before a new dam can be built, or an existing dam is altered in any way, written approval must be obtained. The owner submits an application (Attachment D) describing his project which must include a detailed set of plans and specifications and a filing fee. Before approval is given to proceed with the work, the plans and specifications are reviewed in detail as to safety related factors and changes are made as necessary to assure safety. These reviews are quite comprehensive and consider carefully the regional site geology and seismology as it would affect the design and performance of the dam. In the area of seismology the services of a consulting board for earthquake analysis is occasionally obtained. Upon finding that the plans and specifications are satisfactroy for the work to be performed the application will be approved.

As the work moves through the construction stage the Division assures that the plans and specifications are being followed and that unforeseen conditions are recognized as foundations are prepared so that the design is modified appropriately. It is a general practice that all foundations must be observed and approved by Division field engineers before construction may proceed.

Upon a finding that the dam has been constructed safely, a Certificate of Approval is issued to the owner authorizing use of the reservoir. At this time surveillance inspection of the dam and reservoir is commenced and will continue for the life of the project. It is the objective of the Division of Safety of Dams to inspect each dam at least annually. Some are visited more frequently where necessary.

The Department attaches particular significance to the fact that these inspectors are conducted by competent engineers who have satisfied State professional registration requirements. They are more than observers, inspectors, or technicians. The field engineer includes in his inspection report findings on safety of the dam. This includes interpretation of performance based on instrumentation with which the dam may be equipped.

There is a large quantity of instrument data transmitted to the Division from the owners. We request that each owner reduce all basic data to a form where evaluations can be made and then make conclusions regarding performance of the dam. Upon its receipt the Division makes its own evaluation from the data submitted. This is done by a unit in the Staff Services Branch as an assistance to the field engineer. This close and analytical scrutiny of instrumentation and field performance provides an adequate base for the field engineer to make his final judgment on the safety of the dam.

As indicated, upon completion of construction, a Certificate of Approval is issued (Attachment E). This document attests to the safety of the dam. The certificate will contain any terms and conditions relating to safety by which the dam and reservoir are required to be operated. It may also include conditions pertaining to environmental matters. A certificate may be amended at any time by addition of new terms and conditions as appropriate. The certificate is also revocable after public hearing. It is illegal to operate without a valid certificate. The field engineer is required to be informed fully so as to recognize conditions that may result in imposing new restrictions.

The Division does not provide written standards or codes for the design and construction of dams. We believe that such efforts have the disadvantage of inhibiting or discouraging the development of the state-of-the-art in dam engineering and restrict independent thought and ingenuity. There is under preparation, however, a volume on "Guidelines for the Design and Construction of Small Dams" for low hazard locations. The purpose of these guidelines is to give indication of criteria that would be acceptable to the Division for members of the public who do not usually come in contact with this kind of work. It is the experience in California, however, that each damsite represents a unique geologic and engineering situation which must be considered on a case-by-case basis.

The Division subjects all dams to comprehensive reevaluation when new and improved criteria are appropriate in fields such as hydrology and seismology. As land development and new urbanization develops in downstream areas new hazards are created which represent changes from that which existed at the time of original dam construction. For example, in the recent past, there has been a concerted effort to upgrade spill-ways to accommodate greater floods than were designed for originally.

Of particular importance at the present time, is a comprehensive effort regarding seismic safety. California is the location of about 90 percent of the earthquakes occurring in the United States. With the location of population centers in respect to active faults, and with the existence of important water storage facilities to serve them, seismic safety is a matter of paramount importance. The experience of the San Fernando earthquake in February 1971 stimulated a greatly accelerated program of reevaluation of dams for seismic safety. In that earthquake, Lower San Fernando Dam was heavily damaged and threatened a large population with catastrophic losses.

The damage to Lower San Fernando Dam proved that we do not always know where all the active earthquake faults are located and that the analytical techniques in use in the past may be inadequate to predict the performance of older dams during earthquakes. Extensive study and consideration was given to that failure and resulted in development of techniques for dynamic analysis of embankment dams where liquefaction of the soil materials could occur.

All other dams under State jurisdiction, built by the hydraulic fill method used at Lower San Fernando Dam, were required to be evaluated by the newly developed dynamic analysis techniques. This has resulted in findings of inadequacy for many of these projects, particularly those located within the influence of strong ground shaking from earthquakes. Several of these dams have been restricted to operate at safe levels. Some have been completely drained. A number have been reconstructed or rehabilitated so that they will be competent to withstand any earthquake to which they could be subjected.

The Division has extended this program of seismic reevaluation to all dams in the State on a priority basis. The owner is required to fund and to perform the work.

Because of the complicated nature of this kind of investigation, the staff of the Division has become familiar with techniques for performing dynamic analysis and other specialized studies. It has also built a competence in seismological matters.

It is the opinion of the State of California that the special merit of its program on dam safety is that it provides an independent review to consider a project from the standpoint of safety without any vested interest in the work proposed to be done.

Your subcommittee requested our recommendations as to those features of the California program that we believe might be appropriate for federal agencies. We recommend a program be adopted for an independent review of federal dam building activities. In that regard, the Secretary for Resources of the State of California, Mrs. Claire T. Dedrick, wrote to the Secretary of Interior and the Chief of the Army Corps of Engineers on July 12, 1976 (Attachment F), proposing each agency undertake a cooperative dam safety program with the State of California. Such a program would be similar to that now conducted by the State and would involve design review and approval, construction inspections, and periodic maintenance, operation, and performance evaluations. This program would require additional staff for the Department. While we are prepared to seek budgetary authority to augment our staff, we would hope for at least partial payment of additional costs by the federal agencies involved.

We cannot predict whether such a proposal would have ready acceptance in other states. We suggest, nevertheless, that this might be accomplished under the program for national inspection of dams being administered by the Corps of Engineers under Public Law 92–367.

Under this law, an inventory of all dams has been completed and we understand the next phase to be a nationwide inspection program to identify those dams in need of specific attention. The Corps will look to the states to provide the inspections and any requirements for follow-up work as a nonfederal responsibility on all nonfederal dams. This will require all states to develop the capability to perform such work. Such program could easily be extended to cover federal projects.

We understand federal financial support is proposed in the Corps of Engineers' report to be released in response to PL 92–367. This funding might include support of independent state safety review of federal projects and would amount to federal provision for independent engineering audits for safety.

We strongly recommend a program for review of all federal dams. We recommend further that it be as independent a review as possible and that wherever the expertise exists it be done by the state in which the dam is located.

THE RESOURCES AGENCY OF CALIFORNIA,
Sacramento, Calif., July 12, 1976.
Hon. THOMAS S. KLEPPE,
Secretary of the Interior,
Interior Building,
Washington, D.C.

DEAR MR. KLEPPE: The State of California requests your consideration of a cooperative safety program involving federal dams within California. There is an increasing public expression of concern in California for the protection of life and property from dam failure. This is accentuated by earthquake potentiality to which our state is particularly vulnerable.

California has administered a widely recognized dam safety program for many years through the Department of Water Resources' Division of Safety of Dams. It has a staff of engineers and geologists with many years experience in dam engineering and an intimate knowledge of the state. A present focus of attention is on earthquake engineering with its related geologic and seismologic aspects.

We would like to see a formal working relationship develop between the federal and state dam safety programs. There would be obvious mutual benefits to the State and the United States if a cooperative state-federal effort were implemented. We suggest the adoption of procedures for review and comment by California on plans and specifications for dam construction by the Bureau of Reclamation. This would include an opportunity for site inspection and consultation with your professional staff. We think that this cooperative effort should be extended logically to State participation in periodic inspection and safety evaluation of operational dams.

This proposal has a precedent in established procedures for State review and comment on federal water planning reports. We think these relationships are essential and are in the public interest.

I would appreciate your comments. If you concur that this suggestion has merit, an early meeting of our representatives should be set.

Sincerely,

CLAIRE T. DEDRICK,
Secretary for Resources.

Mr. BROWN of California. Mr. Speaker, could I ask the objector to use some of the gentleman's time?

Mr. SYMMS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, this bill, S. 1174, is intended to reduce the risks to life and property resulting from future earthquakes in the United States by establishing an Office of Earthquake Hazards Reduction within the Federal Government and by increasing authorizations for the earthquake programs of the National Science Foundation and the U.S. Geological Survey.

This bill was originally considered by the Committee on Science and Technology. Because legislation concerning the Geological Survey is within the jurisdiction of the Committee on Interior and Insular Affairs, the bill was sequentially referred to the Interior Committee for a brief period.

I believe that adequate authority to conduct research and to coordinate existing Federal efforts already exists within the Geological Survey and the National Science Foundation. However, I am sympathetic to the need for additional funding in improving our capability for predicting earthquakes. Certainly, the tremendous loss of life and property caused by the recent earthquake in China points to the need for expanded efforts in developing the science of earthquake prediction.

My primary concern with this legislation is that all funds authorized for earthquake-related activities, whether authorized under this bill or any other act, be spent in a coordinated fashion and in a manner which complements but does not duplicate activities being undertaken at the State or local level. I am aware that California has an active ongoing program in reducing the risk of earthquake hazards and I believe it is important that we coordinate and integrate the Federal, State, and local programs as much as possible.

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I take this time to ask some questions of the members of the committee which passed this bill out. Coming as I do from the State of California, and indeed from an area that is prone to earthquakes, the southern San Joaquin Valley and northern part of Los Angeles County, which has been the subject of some discussion over recent months, I wonder if the gentleman from California (Mr. BROWN) could tell us how much money this bill is going to cost.

Mr. BROWN of California. Yes. The figures are in the report, I think on the first page. In fiscal year 1977, there is a provision for $1 million for general coordination; $14 million, which was subsequently removed by the amendment of the Committee on the Interior, for 1977; and $15 million in fiscal year 1977 for the National Science Foundation. So actually $16 million is authorized for fiscal year 1977, and it is intended that approximately the same amount plus $15 million for the USGS, will be authorized for the succeeding 2 fiscal years.

Mr. KETCHUM. I thank the gentleman. Correct me if I am wrong, but it creates two offices, the Office of Earthquake Hazards Reduction and the National Advisory Committee on Earthquake Hazards Reduction; Earthquake Prediction Evaluation Board. Have we got someplace to put all these people?

Mr. BROWN of California. Well, the gentleman puts a little too much emphasis on this. An advisory committee is already in existence. The new organization of the Office of Earthquake Hazards Reduction is placed in the executive office of the President for him to locate in such agency as he feels would be most appropriate. We worked very closely with the administration in an effort to provide the maximum amount of flexibility for the efficient administration of the program.

Mr. KETCHUM. Can the gentleman tell me, did the Department of Mines and Geology of the State of California testify on this bill?

Mr. BROWN of California. The Department of the Interior and the U.S. Geological Service testified. I do not think the specific bureau the gentleman indicated testified.

Mr. KETCHUM. The reason I asked that question of my good friend from California is that I know that he is familiar with the enormous amount of work done in this field by the Department of Mines and Geology for the California Office of Resources Agency.

Mr. BROWN of California. The State agency the gentleman referred to did not testify. The State Disaster Preparedness Office testified on behalf of the State, for the Governor.

Mr. KETCHUM. In favor?

Mr. BROWN of California. Yes.

Mr. KETCHUM. The reason I bring that to mind is that the Department of Mines and Geology of the State of California has been involved in these studies for at least 6 or 8 years to my knowledge. They have done a considerable amount of work in earthquake prediction which, hopefully, they will complete in the next year or two.

I am just wondering why we want to now add a Federal agency on top of one that is doing a very good job, and we could perhaps learn about this and it would not cost anything.

Mr. BROWN of California. The basic purpose for the single new entity of Office of Earthquake Hazards Reduction is to bring about a more adequate coordination between these various organizations which are now engaged in various aspects of earthquake research and development, but without having the benefit of a coordinated program which could properly develop all of these different types of new knowledge into a program to benefit the people of this country.

Mr. KETCHUM. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. SYMMS. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, my fear really is the fact that in fiscal year 1977 we are talking about $30 million of new money to accomplish something that perhaps some of the bureaucrats here at the Federal level could accomplish with a telephone call to the Department of Mines and Geology in California.

I am not trying to minimize the dangers of earthquakes. But let me give the Members a classic example. We just had an earthquake in the district of the gentleman from California and a veterans' hospital was destroyed. What happened after that? California probably has as much knowledge as to where and where not to build as any State in the Union. Yet they are in the process of building a new hospital near Loma Linda, and that particular hospital was advised against by the Division of Mines and Geology as being built on sedimentary soil. And that, as the Members know, is where earthquakes really cause damage; when the ripple starts out from the epicenter, that is where the damage occurs. That advice was totally disregarded by the previous administration. And by the previous administration, I mean the Nixon administration.

Mr. SYMMS. If the gentleman will yield, I would like to compliment all of the Members from California for being the leaders in this earthquake control, and I am just wondering if the people in California also have a lightning division.

Mr. KETCHUM. No. But we could have used one a few weeks ago when we had a severe lightning storm.

Mr. Speaker, in 1906 we had the greatest earthquake ever in the city of San Francisco, and yet if we go to the city of San Francisco and if we go to the city of Los Angeles we will not find those 10-story buildings; they are going to 30 stories. This bill is not going to do a thing, in my opinion, to minimize that kind of hazard. I really think we are doing a disservice by spending this kind of money, when a simple telephone call will accomplish the same thing.

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I thank the gentleman for yielding.

Mr. Speaker, S. 1174, the Earthquake Hazards Reduction Act of 1976, deserves our prompt attention. Passage of S. 1174 will ensure that we are on the road to maximum protection for these natural disasters.

The two recent earthquakes in Guatemala and China are examples of the horror and destruction of which we are all potential victims. We must devote ourselves now to mitigating the hazards of earthquakes. Indeed, it would be a sad fate if we were to delay our research efforts until after it was too late.

There exist many ways to safeguard against earthquake damage. Efforts exist in the areas of earthquake prediction and control, construction of earthquake-proof buildings, zoning research and an earthquake emergency preparedness program that includes a public education program. Although research and development efforts in these areas do exist, it is important to note that at this date, the United States has not channeled enough moneys into an effectual earthquake hazards reduction program that could sufficiently reduce earthquake hazards through advance prediction.

By channeling moneys into an adequate earthquake hazards reduction program, the benefits from having the prior knowledge of an earthquake could result in hundreds of millions of dollars, not to speak of the countless lives. The Government would indeed do well to safeguard its own investments of the billions of dollars poured into construction facilities. In fact, the destruction of buildings is the greatest hazard resulting from an earthquake.

A public education program would be initiated to assuage unreasonable fears of earthquakes, and to educate persons in the case of such a disaster. Prior knowledge of simple, precautionary safeguards can result in saved lives. Indeed, this good earth provides us with many good things, but she gives us no readily identifiable external signs to warn us of a violent cataclysm that can reek demolition, death, and destruction in only a few seconds.

S. 1174 establishes a well-coordinated effort among the Federal and State governments and private industry toward earthquake hazards reduction, through the establishment of a National Earthquake Hazards Reduction program. The program will be overseen by an Office of Earthquake Hazards Reduction, temporarily located in the new Office of Science and Technology Policy in the White House. Coordination between Government and industry will be enhanced through the creation of a National Advisory Committee on Earthquake Hazards Reduction, which will advise the office. An Earthquake Prediction Evaluation Board will be comprised of an expert team of scientists in the field who will assess prediction methods and will eventually issue confirmation of earthquake predictions "if and when earthquake prediction becomes a sufficiently reliable science."

Appropriations in the bill are authorized as follows: $15 million to the National Science Foundation, and $1 million to the Office of Earthquake Hazards Reduction for operations work. This is in addition to the $20 million already authorized to numerous other Government agencies, whose already existing hazards reduction program would be incorproated into the new program. Therefore, a total of $36 million for fiscal year 1977 is authorized for earthquake hazards reduction work. Authorizations for fiscal year 1978 and fiscal year 1979 shall not exceed the total fiscal year 1977 authorization.

If we can alleviate any of the enormous destruction to human lives and property and lessen the economic and social disruption caused by earthquakes, then $36 million appears a modest sum in relation to the substantial reductions made possible through our research and planning.

Mr. Speaker, I urge your strong support of S.1174.

Mr. SYMMS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from California (Mr. BROWN) said the cost is $16 million for fiscal year 1977, but the report from the Committee on Interior and Insular Affairs authorizes, according to the Budget Office of the Congress, $32 million for 1978, and $32 million for 1979. Am I mistaken that over a 3-year period it is an $80 million authorization?

Mr. BROWN of California. If the gentleman will yield, the bill as originally reported out the committee did contain the $30 million figure. The Committee on Interior and Insular Affairs amended the bill to postpone the $14 million for the USGS from fiscal year 1977 to fiscal year 1978, and increased it to $15 million. The fiscal year 1977 figure is $16 million, not the $30 million figure.

Mr. BAUMAN. What is the total multiyear authorization in the bill before us?

Mr. BROWN of California. It will be approximately $90 million for the 3 years.

Mr. BAUMAN. The gentleman has added $10 million to my concern; $90 million I think was his answer. I would point out to the Members of the House that the report of the Committee on Interior and Insular Affairs also indicates that presently in the Office of Earthquake Studies in the Geological Survey there are 450 permanent and temporary employees dealing with nothing but earthquakes.

How many more employees will be necessary under this consolidated treatment of this problem?

Mr. BROWN of California. Mr. Speaker, I cannot give the gentleman the exact figure, but recognizing that there is an ongoing program both in the National Science Foundation and in the Geological Survey, and that there has been an explosion of knowledge in this field in the last 2 to 3 years, the bill proposes about a 50-percent increase in the level of effort that is now going on. Therefore, I think that would probably translate into a 50-percent increase in the number of personnel.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

Mr. SYMMS. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I just want to ask this question of the gentleman once more: The bill proposes that there will be roughly a 50-percent increase in the number of employees dealing with this problem?

Mr. BROWN of California. Mr. Speaker, if the gentleman will yield, I am making an estimate of that magnitude.

Mr. BAUMAN. That is over and above the existing 500 or more employees?

Mr. BROWN of California. The gentleman is correct.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do not like to disagree with the gentleman from California (Mr. BROWN), but it is my understanding that the additional funds are needed more for instrumentation than for personnel, and that this uplift northeast of Los Angeles that has recently occurred and is being watched is a prime example of the need for much better instrumentation.

Mr. Speaker, this is a superb and a dramatic opportunity for us to understand these phenomena much better, and the money is needed for that purpose.

Mr. SYMMS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to ask the gentleman from Maryland (Mr. BAUMAN) this question. There was quite a bit of noise on the House floor, and I am not sure I understood the answer.

How many millions of dollars did the gentleman finally conclude that this Federal Government of ours is spending on earthquake matters?

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, it is proposed under this legislation, the gentleman from California (Mr. BROWN) stated, that roughly $90 million will be spent for the purpose of preventing earthquakes or for the purpose of having the executive branch predict and research earthquakes over a period of 3 years.

Mr. SYMMS. Mr. Speaker, I will just point out that we are, therefore, spending $90 million, money that we will have to go out and take away from some people, so that somebody can somehow come back and predict earthquakes. And this is money we do not have; this is money we will have to borrow, is that correct?

Mr. BAUMAN. The gentleman is correct.

Mr. SYMMS. We either borrow the money or we print it.

Mr. BAUMAN. I understand that animals in the zoo are quite good at predicting impending earthquakes. They seem to sense the danger.

Mr. SYMMS. Animals in the zoo?

Mr. BAUMAN. Yes. Perhaps they could predict earthquakes for us or perhaps interested individuals could come around and watch Congress legislate against earthquakes. I am not sure which would be more amusing.

Mr. SYMMS. Mr. Speaker, I thank the gentleman.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to my friend, the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding.

I think one of my primary concerns, Mr. Speaker, with legislation of this type is that we are right back to the nice-name-for-a-bill kind of legislation. Who is against "clean air"? Who is against "clean water"? We give it a nice title, and it sounds good.

Earthquakes have been attracting an enormous amount of attention due to the Palmdale bulge. I will point out to the body that there is a bulge in the Wheeler Ridge area that has been there for many years.

There are going to be more earthquakes. There will be more earthquakes in the State of California, and nothing this body can do is going to stop them.

I am telling the Members, Mr. Speaker, that the information is available in the Division of Mines and Geology in California, and we should avail ourselves of it and not create another big bureaucracy. Believe me, the U.S. Geological Survey is a great outfit, but it is becoming a big bureaucracy, and I will bet 2 to 1 that most of the Members do not know where it is located.

The SPEAKER pro tempore. The time of the gentleman from Idaho (Mr. SYMMS) has expired.

Mr. SYMMS. Mr. Speaker, I yield myself 2 additional minutes.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, it is difficult tc support this bill with any degree of enthusiasm.

True, the objectives are laudable.

I quote from section 3:

> It is the purpose of the Congress in this Act—to reduce the risks of life and property—from future earthquakes in the United States—through the establishment and maintenance—of an effective earthquake hazards reduction program.

That sounds good enough.

The Natonal Science Foundation contends that it already has the necessary funding and authority to carry on the activities.

The Geological Survey reiterates this, and adds that given current technology a major operational program in all aspects of earthquake mitigation is premature.

On the other hand, my colleagues from California, the State with the greatest earthquake danger, feel strongly that this bill is needed.

They want a strong, well-coordinated earthquake hazard reduction program.

They point to the need for accelerated research in earthquake prediction and engineering design.

Mr. Speaker, the strength of this bill is that it is an attempt to establish the needed coordination under the Office of Earthquake Hazards Reduction.

The expenditures are modest, but I believe unnecessary. What is proposed can be accomplished by a few telephone calls to the appropriate agencies.

Mr. SYMMS. Mr. Speaker, I would just like to say that I think the biggest earthquake of all is going to come when this country some day has to face up to reality, when we realize that 2 and 2 equals 4, not 22 and we have to balance the Federal budget.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I am very sensitive to the point the gentleman from Idaho (Mr. SYMMS) makes. I think it is a good point, but I think it overlooks the fact that the Federal Government paid out $500 million in 1971 for earthquake relief in the San Fernando Valley, and if just 10 percent of that amount can be saved by coordinating and focusing our earthquake research, which this program will do, it will more than pay for the program.

Mr. SYMMS. Mr. Speaker, I think the gentleman from California (Mr. BROWN) has made a good point. None of us are in favor of earthquakes. However, let me ask this question:

Just because we gather up all this data, does the gentleman think we can stay back here and push a button and pass another law and that will stop earthquakes? I do not think the gentleman believes that.

I think the problem we are faced with is that if we have an earthquake, we just have to realize we have an emergency and we have a disaster, and then we have to pay that cost as a part of the societal problems we have. It is a price we have to pay for living on this planet.

Mr. Speaker, we could do away with imperfection.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I am just wondering whether the gentleman is saying that this is Earth-shaking legislation.

Mr. SYMMS. It certainly is Earth-shaking.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I am well aware of the gentleman's concern about Federal funds.

However, does the gentleman realize that in the case of the Chinese, they successfully predicted the time of the earthquake, but they did not change it. This legislation will not change the time of occurrence of a single earthquake. However, by successfully predicting the time, the Chinese were able to evacuate a major city and save literally thousands of lives and tens of millions of dollars.

Mr. Speaker, we are behind the Chinese in that respect. Does the gentleman want an earthquake gap between us and the Chinese to develop?

Mr. SYMMS. We have a missile gap. Maybe we might just as well have an earthquake gap.

Mr. BROWN of California. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the enactment of S. 1174—a bill to establish the machinery for an effective earthquake hazards reduction program.

This legislation was processed primarily by the Committee on Science and Technology. Without going deeply into the details of the proposal, I want to advise the Members of the House of the interest of the Committee on Interior and Insular Affairs in this matter and acquaint them, briefly, with our recommendations.

Following the filing of the Science Committee's report on S. 1174, the Committee on Interior and Insular Affairs requested and received a sequential referral of this bill because of the current and prospective involvement of the U.S. Geological Survey in this program. We agreed that the objectives of the program were most laudable, but we felt that the provisions involving the Survey required some modifications.

Time did not permit the Subcommittee on Mines and Mining to hold public hearings on this measure, but the full committee did have an opportunity to review it and to formulate its recommendations. Our colleague from Hawaii (Mrs. Mink) studied the matter and proposed the amendments which were agreed to by the committee.

Mr. Speaker, our recommended amendments, as now proposed, deal with the activities of the Geological Survey and with the continued recognition of the interest of the Interior Committee in this issue.

Our first amendment deals with the Earthquake Prediction Evaluation Board. If our recommendation is approved, the members serving in this capacity will be experts representing the various scientific disciplines relating to earthquakes. It was the general feeling that the members of our committee that such expertise would be essential if the Board is to be successful.

The second amendment recommended by the Interior Committee requires the submission of the disaster preparedness analysis to be developed by the National Advisory Committee to be submitted to the Committee on Interior and Insular Affairs, as well as the Committee on Science and Technology. Since the U.S. Geological Survey has a central role in the earthquake hazards program, it was generally agreed by the Members of our committee that this information should be transmitted to both committees having an interest in the program.

The last Interior Committee amendment deals with the appropriation authorization for the Geological Survey for this program. This agency, as everyone knows, has the principal responsibility for earthquake assessment, data collection, and information dissemination. Presently, it has the authority it needs for its current program. The amendment of the committee simply makes it clear, that the authorization contained in this legislation is to supplement, and not to replace, the programs presently authorized and underway.

Mr. Speaker, all of these amendments have been agreed upon with the Committee on Science and Technology. They are a constructive effort to satisfy and deal with the programs and interests of the Committee on Interior and Insular Affairs. I want to thank the chairman of the Science Committee (Mr. Teague) and our colleague from California (Mr. Brown) for their courtesy and cooperation in working out this jurisdictional problem. As we proceed with this program in the future, I am confident that this spirit of friendship and cooperation between our two committees will continue.

I urge, on behalf of the Committee on Interior and Insular Affairs, the adoption of this legislation with the amendments I have described.

Mr. BROWN of California. Mr. Speaker, I yield the remainder of our time, 3 minutes, to the distinguished gentleman from California (Mr. Ryan).

Mr. RYAN. Mr. Speaker and Members of the House, I can understand the objections and the concerns of the gentleman from Idaho (Mr. Symms) and others who have said, "This is another bureaucracy."

Mr. Speaker, they are right; it is. However, I think the problem lies not so much in the creation of an occasional bureaucracy that may have some valuable function as it is to try to make one which we already have do something that is positive and useful.

Mr. Speaker, there is no better example to me than what happened recently in Idaho, in the gentleman's own State, where we had the Teton Dam blow before it was even finished.

The dam exploded and failed. It has already cost the Government not just the cost of the construction of the dam which was some $55 million, but also other costs. For instance, we have already appropriated in this body and the other body more than $200 million to help to begin pay for the cost of property and lives lost in that disaster, which we certainly ought to do as the builder of the dam. And we will probably have to send them another $800 million, conservatively, to take care of the lost property and damages that have occurred, and that was in a remote and rural area of our country.

Mr. Speaker, as an example of what is going on now, they are building the Auburn Dam on the Sacramento River. Downstream we already have the Folsom Dam in the lower Sacramento Valley. That dam is right below the Auburn Dam and it has about 1 million acre-feet of water backed up. Now the Government and the Bureau of Reclamation are building a second dam at Auburn, a few miles upstream. This is a high dam, some 635 feet high. As designed, it is among the great concrete and stone arch dams of the world. They are going to build it in this way because they cannot build an earthen dam. The cost of the surrounding earth where they would get their fill would cost too much. So they are going to the concrete, high-arch type.

I had a geologist tell me that an earthquake of 4.2 magnitude, that is just enough to shake this room a little bit, would do no damage in this room, but that would be enough to cause a shattering of the dam, which would cause it to leak badly. It would not fall, but it would leak badly. And if a second quake would come along a few days later, as they very often do, the dam would go down with its water on the Folsom Dam and then into the city of Sacramento with a wall of water 100 feet high.

Mr. BROWN of California. Mr. Speaker, would the gentleman yield?

Mr. RYAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I think it needs to be mentioned and emphasized, that the bill provides for research on earthquake resistant structures, specifically including dams, as was brought out in my earlier comments, and my colloquy with the gentleman from California (Mr. Goldwater).

Mr. RYAN. Mr. Speaker, that is just the reason why I believe this particular legislation is vital in the real meaning of the word "vital."

The Bureau of Reclamation finds itself unable to stop construction once they get past the stage where the dam is actually under construction; such an agency properly constituted could be most useful in providing a check on over enthusiastic dambuilders in the Federal Government.

I think that particular kind of a study that is provided in this legislation would be very useful.

The legislation is worth supporting if the Members believe in saving money and lives in the immmediate future, as our need for dams continues to grow in this country.

Mr. SYMMS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. John L. Burton).

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman from Idaho for yielding to me. I rise in strong support of this legislation. I would point out that there is now available, with a minimum amount of investment, the type of procedure that, in the event of even the slightest of tremors, could shut down gas mains, gasoline refining plants, and powerplants so that the damage from an earthquake would be ameliorated. We know we cannot stop earthquakes, but we can limit the damage.

I urge an aye vote on the bill.

Mr. ANDERSON of California. Mr. Speaker, when I meet with people from outside my home State of California and our State is mentioned, three things seem to come immediately to mind: sunshine, smog, and earthquakes.

We are quite happy with the sunshine, and we are working on the smog. But today marks the first time that Congress has directly addressed the problems inherent in a zone of intense seismic activity.

The year 1976 has been a year which has amply demonstrated the destructive capability of major earthquakes. Just last week, northern Italy was shocked by a series of major tremblers that followed major catastrophes earlier this year. Japan, the South Pacific, Soviet Central Asia, and Guatemala have all been stricken with major earthquakes this year.

In the United States, California, Alaska, and Hawaii are usually thought to be the regions associated with seismic activity. Nothing could be further from the truth. Approximately 70 million Americans live in the 39 States that lie wholly or partly in earthquake zones, and this legislation should be of vital interest to them. During our 200-year history, major earthquakes have hit San Francisco, 1906; Charleston, S.C., 1886; New Madrid, Mo., 1811–12; Cape Ann, Mass., 1755; Seattle, Wash., 1949; and Hebgen Lake, Mont., 1959.

Among the U.S. cities considered to lie in areas susceptible to major earthquake damage are Los Angeles, San Francisco, Salt Lake City, Seattle, and Tacoma in the western States, and also Charleston, Memphis, Boston, and even Buffalo, N.Y. in the Eastern United States.

S. 1174, the Earthquake Hazard Reduction Act, authorizes a total of $16 million for fiscal year 1977 with additional authorizations for 1978 and 1979 to reduce risks to life and property in the United States. The bill establishes an Office of Earthquake Hazards Reduction to develop and maintain a program specifically designed to lessen the public dangers of major earthquakes, coordinating the plan with State and local agencies. A National Advisory Committee on Earthquake Hazards Reduction is established to advise the Office, and an Earthquake Prediction Evaluation Board is set up to effectively develop a system for predicting major tremblers. This body will be made up of expert scientists representing disciplines relating to earthquake knowledge.

Mr. Speaker, I strongly feel that this legislation is long overdue. To date, the United States has been extremely fortunate to have lost only 1,200 lives due to earthquakes throughout its history, but that is a highly misleading statistic. The San Francisco earthquake of 1906 took about 700 lives, and the San Fernando earthquake we in southern California experienced in 1971 resulted in a death toll of 65.

The potential for disaster is overwhelming. North of Los Angeles, 4,500 square miles of mountainous terrain has been uplifted during the past ten years along a 100 mile stretch of the San Andreas Fault. This area has been dormant since a massive earthquake struck in 1857.

No one really knows what this "Palmdale Bulge" signifies. But the Federal Disaster Assistance Administration has estimated that if a great earthquake were to strike along the "bulge", it could result in as many as 12,000 deaths, 48,000 serious injuries, and $15 to $25 billion in property damage in the Los Angeles metropolitan area.

Anyone who has experienced an earthquake, even a small one, finds it a difficult thing to describe. The feeling of awe and helplessness in the face of a great wonder of nature is truly amazing, as the ground shudders beneath us. Most quakes are harmless: but it would take only one major seismic movement to turn any populated area of our Nation into a disaster zone.

We cannot afford to wait until nature forces us to act. S. 1174 is a major step toward protecting lives and property from a threat that is all too real, and I strongly urge my colleagues to join with me in supporting this vitally important legislation.

Mrs. MINK. Mr. Speaker, this year has been marked by an unprecedented series of great earthquakes and by the death and destruction which they bring. There have been quakes in Guatemala, in Europe, in the Philippines, and in China, and altogether about 130,000 people have died this year as a result of earthquakes. This is the greatest death toll in 50 years.

However, this record of destruction is accompanied by more hopeful developments. Scientists have accumulated new knowledge about the causes of earthquakes, and about the physical phenomena which accompany them. And this new knowledge has brought within view the prospect that the world will soon have techniques allowing reasonably accurate predictions of when and where earthquakes will occur.

Obviously, such a predictive ability will be of the greatest value in minimizing the tragic consequences of unexpected earthquakes, just as our new knowledge about the forces involved in earthquakes is enabling us to work to reduce the damage which they can cause.

Mr. Speaker, Members are no doubt aware of the strides being made toward accurate earthquake predictions, especially in China. One official of the U.S. Geological Survey has named the Chinese work on earthquake prediction their "Apollo project," and we have information to the effect that more than 10,000 people are at work in China on improving their ability to predict earthquakes. Their record is of course not perfect, as the apparently unpredicted great earthquakes in northern China show; but they also have had some apparently considerable successes.

In this country, too, Mr. Speaker, earthquake studies are going forward. Of course, we have reason to be concerned: All 50 States are exposed to some degree of risk of earthquake damage, and in the West particularly there are reasons to believe that the danger is particularly pressing. As a result, for the present fiscal year about $21 million has been allocated in the Federal budget for earthquake research, with about half of that being directly appropriated to the Geological Survey, which is under the oversight jurisdiction of the Subcommittee on Mines and Mining, which I chair. In addition, the Geological Survey receives money from the National Science Foundation.

The USGS's Office of Earthquake Studies contains the vast majority of the Federal Government's in-house expertise on earthquake hazards. The office has a total of 450 permanent and temporary employees and a budget for fiscal year 1977 of $11.1 million. Although the Survey does contract out some of its work and makes some grants to universities and other non-Federal groups, most of its annual funding is used to finance the work of Survey employees in earthquake-related fields. The major thrust of the Survey's earthquake programs has been to collect seismic engineering data, to map and evaluate earthquakes hazards, and to develop the capability of predicting time, place, and magnitude of earthquakes.

Under the Disaster Relief Act of 1974 the Department of Housing and Urban Development was assigned the responsibility of issuing warnings of disasters to State and local officials. The President reassigned that part of this responsibility dealing with earthquake warnings to the Department of the Interior, which assigned it to USGS. The Survey has a five-man Earthquake Prediction Council to advise the President and other Government entities of impending earthquakes as the interpretation of anomalies would warrant.

Mr. Speaker, the bill before us now, S. 1174, does not alter or expand the programmatic authority which already exists in the Geological Survey and elsewhere in the Federal Government. However, it does give the President the authority—and the mandate—to establish a coordinated program of earthquake hazards reduction, involving Federal, State, and local Governments. The President would be directed to establish within an existing agency, an Office of Earthquake Hazards Reduction to take charge of this coordinating function.

He would also establish an Advisory Council which would include representatives of the research community, private industry, and government. And there would also be established an Earthquake Prediction Evaluation Board, to be composed of the most expert scientists in the various fields relevant to earthquake studies, which would compile the various predictions being made, keep abreast of all advances in predictive techniques, and someday—when earthquake prediction does become a reliable science—issue authenticated predictions.

For fiscal 1977, the bill would authorize $1 million for setting up this coordinating mechanism. I support that authorization.

However, Mr. Speaker, when this bill was sequentially referred to the Committee on Interior and Insular Affairs—because of our exclusive jurisdiction over the U.S. Geological Survey, whose activities are central to the subject matter of this bill—I urged the adoption of some amendments which would change the pattern of authorizations as developed by the Committee on Science and Technology in their consideration of this legislation. The Interior Committee adopted the amendments I suggested. These amendments would delay authorizing additional funding for earthquake research to be authorized to the Geological Survey until fiscal year 1978. I believe that this accurately reflects the needs and priorities which are appropriate at this time—the area that needs additional funding now is with regard to coordinating Federal, State, and local efforts.

Furthermore, the Geological Survey already has authorization for the research and other activities which are part of the earthquake program; so if an increase in appropriations is thought desirable for those activities, that can be done through the regular appropriations process without the necessity of additional authorizing legislation.

In addition, the amendments which I sponsored and which were adopted by the Interior Committee, are intended to make it absolutely certain that the additional authorizations which this bill establishes are supplemental to, and do not in any way limit, the existing programmatic authorizations of the Geological Survey. The report of the Committee on Science and Technology seemed to me to leave some room for doubt on that point, and to suggest that enactment of the bill as set forth therein could be construed as setting a ceiling not only on funds authorized by S. 1174, but also on funds authorized under any other act which might be spent in ways relating to earthquake studies. That was not the intent of the legislation, and I believe that the amendments suggested by the Interior Committee make clearer that that is not to be this bill's effect.

Finally, Mr. Speaker, let me state that I believe that this is a worthwhile measure and one which is perhaps overdue. Certainly it is timely, as is shown by the unanimous vote of the Budget Committee to waive objections which might be based on the fact that it comes after the Budget Act deadline for the reporting of authorizing legislation.

Certainly, those of us from the Western States know the importance of acting now to put in place a coordinated research and implementation effort. In California in particular, there is a sense of urgency because of an anomalous situation along the San Andreas fault, where a vast area of land has been gradually thrust upwards by titanic forces until it now is some 25 centimeters above its normal elevation and above surrounding areas. Based on this and other evidence, one seismologist at the California Institute of Technology has predicted a major earthquake—one which would certainly involve enormous destruction and many deaths—in the area by April of 1977.

As things stand now, we cannot say that this prediction is well-founded, and in fact it has not attracted general support. But we cannot rule it out, either; and enactment of this bill will help to bring closer the day when we can properly evaluate such predictions, and when we will have a coordinated approach to reducing the hazards which accompany earthquakes such as that which this scientist has predicted.

Mr. Speaker, I urge my colleagues to support S. 1174 and pass it with the amendments recommended by the Interior Committee.

Mr. TEAGUE. Mr. Speaker, the purpose of the bill, S. 1174, is to reduce the risks of life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program.

This bill should really be called the Cranston-Mosher Earthquake Hazards Reduction Act of 1976. The bill was introduced in the Senate by Senator Cranston. My colleague Charles Mosher introduced his own earthquake bill in the House. The Committee on Science and Technology held three days of hearings on these bills and wrote a new bill which combines features of the Cranston and Mosher bills. The new bill has had strong bipartisan support in our committee. It is before the House now as an amendment to S. 1174. Mr. Mosher discussed the bill with Senator Cranston frequently while the committee was working on the bill, and I believe the Senate will accept the House amendment.

Mr. Symington, who chairs the subcommittee which reported this bill, and Mr. Brown of California, who has helped at every turn, are to be congratulated for moving this bill quickly but carefully to the floor.

I would also like to thank and congratulate Mr. Haley and Mrs. Mink for their very prompt attention to the bill when it was sequentially referred to the Interior Committee.

This bill is needed to mitigate the severe threat posed to the United States by earthquakes. Although some States are particularly vulnerable, all 50 States may suffer damaging earthquakes. About a third of the population of the United States lives in areas identified as being subject to moderate or severe earthquake damage.

The most damaging recent earthquake in the United States hit San Fernando, Calif., in 1971. It killed 65 people and caused about half a billion dollars in property damage. Scientific studies indicate that a repeat of the 1906 San Francisco earthquake could cause 20,000 deaths and $20 billion in property damage.

Compared with other countries, the United States has been lucky. Just since the beginning of this year five different countries have suffered earthquakes, each of which killed over 1,000 people. The greatest of these may have killed as many as a million in China.

There are ways to prevent deaths if it is known that an earthquake will occur.

Just moving outdoors and out of the way of falling objects is the easiest way to avoid harm. Tens of thousands of lives are estimated to have been saved in China during 1975 when people were moved outdoors just before a large quake occurred as predicted. The key to safety is accurate prediction. The United States needs improved prediction capabilities.

There are also ways to prevent or lessen property damage. Some of these require a prediction to be made, but others do not. For instance, houses and other structures can be designed and built to resist earthquake damage. But not enough is known about earthquake resistant design, especially inexpensive design.

In relation to the severity of the earthquake threat in the United States this country has not provided adequate funds for earthquake programs and has not adequately coordinated the programs that do exist.

The bill, S. 1174, authorizes the funding of Federal earthquake programs at an adequate but not excessive level. The bill also establishes an Office of Earthquake Hazards Reduction to coordinate Federal earthquake programs and to keep Federal efforts in step with State, local, and private efforts to reduce earthquake hazards.

The bill establishes four things: A national earthquake hazards reduction program, an Office of Earthquake Hazards Reduction, a National Advisory Committee on Earthquake Hazards Reduction, and an Earthquake Prediction Evaluation Board.

The Office of Earthquake Hazards Reduction is to develop and maintain a program plan and to coordinate the program by working with all Federal agencies, State and local governments, and private industry.

The National Advisory Committee on Earthquake Hazards Reduction is to provide advice to the Office on the progress, implementation, and coordination of the program. The committee is to review the program plan annually.

The Earthquake Prediction Evaluation Board is to evaluate individual earthquake predictions, compile and maintain a public record of the performance of prediction methods and persons who make predictions, and issue authenticated earthquake predictions if and when earthquake prediction becomes a sufficiently reliable science.

The bill sets forth a number of functions to be included in the program beyond those just mentioned. The functions are in five categories.

First. Physical studies: Studies of the nature and behavior of the Earth to improve understanding of earthquakes and to form a knowledge base for earthquake hazards reduction.

Second. Structural studies: Studies of things that are engineered and built—houses, pipelines, dams, and so forth—including their vulnerability to earthquakes, methods of building-in earthquake resistance, and ways to analyze the likely effect of earthquakes on structures.

Third. Social, legal, and economic research: Research into social, legal, and economic aspects of earthquake hazards and their reduction.

Fourth. Implementation: Most earthquake hazards reduction measures are the responsibility of individuals, localities, or States. Nevertheless, there is a Federal role. It includes primary responsibility for earthquake hazard reduction research, shared responsibilities with States for earthquake warnings and post-earthquake relief and rehabilitation, the provision of incentives for others to reduce earthquake hazards, and responsibility for the earthquake safety of Federal facilities.

Fifth. Other: Post-earthquake studies of all aspects of earthquakes and studies of foreign earthquake experience.

The bill authorizes appropriations for earthquake activities in fiscal years 1977, 1978, and 1979.

The authorizations include a modest amount intended for the Office of Earthquake Hazards Reduction, namely: $1,000,000 in 1977, $2,000,000 in 1978, and $2,000,000 in 1979.

For the U.S. Geological Survey $15,000,000 is authorized in 1978 in addition to any authorization included in other acts, and similar amounts are authorized for 1979. By action of the Interior Committee there is no authorization for the U.S. Geological Survey in fiscal year 1977. An amount of about $11 million is planned to be spent for earthquake work at the Survey in fiscal year 1977 under an appropriation made in Public Law 94-373.

The National Science Foundation is authorized to be appropriated $15,000,000 in fiscal year 1977 in addition to amounts authorized in other acts. The Foundation is authorized to be appropriated such sums as may be necessary in fiscal years 1978 and 1979 subject to the limitation that the amounts appropriated in each of those years shall not exceed the total amount authorized by all acts for fiscal year 1977. An appropriation for fiscal year 1977 has already been made to the Foundation under Public Law 94-378. About $10,000,000 of that is budgeted for earthquake work. The intent of the bill is that the program level at the Foundation should be $25,000,000 in each of the 3 fiscal years 1977, 1978, and 1979.

These amounts are by no means excessive. An advisory committee to the Foundation and the Survey has recommended a total earthquake program at low, medium, and high levels. The fiscal year 1978 authorization of this bill lies between the advisory committee's low and medium levels for that year. I believe, however, that the bill's authorizations are adequate to meet the national needs.

In conclusion, this is an urgently needed bill. It should be passed today by the House.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the Senate bill, S. 1174, as amended.

Mr. McDONALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HAZARDOUS MATERIALS TRANSPORTATION ACT EXTENSION

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 13124, to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1976".

SEC. 2. Section 106(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1805 (c)) is amended by striking out "extremely" each time it appears.

SEC. 3. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by striking out "and not to exceed $1,750,000" and inserting in lieu thereof "not to exceed $1,750,000" and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1978.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUSTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HOWARD) and the gentleman from Pennsylvania (Mr. SHUSTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 13124, as amended. The bill would amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes.

The bill was jointly referred to the Committee on Public Works and Transportation and to the Committee on Interstate and Foreign Commerce.

On May 14, 1976, the Committee on Public Works and Transportation reported a bill authorizing $3 million for fiscal year 1977 and an identical amount of money for fiscal year 1978. It made no other changes.

On May 15, 1976, the Committee on Interstate and Foreign Commerce reported a bill authorizing $7 million for each of the fiscal years 1977 and 1978. Also, the committee made one technical change in existing law, and it extended the authority of the Secretary of Transportation to grant exemptions from regulations to manufacturers of hazardous material containers.

The two committees have agreed upon a compromise bill, the text of which is contained in H.R. 15570. That text has been substituted for the language of the bill as reported by both committees. It includes the technical change in existing law recommended by the Committee on Interstate and Foreign Commerce. The technical change is to amend section 106(c) of the Hazardous Materials Transportation Act so as to eliminate the word "extremely" in that section wherever it appears. This change is necessary to rectify a clerical error in that section, and it will make section 106(c) consistent with the other provisions in section 106 of the act.

The second change authorizes $5 million for fiscal year 1977 and $5 million for fiscal year 1978. This money will be used by the Department of Transportation to carry out its mandate under the Hazardous Materials Transportation Act (Public Law 93-633, 49 United States Code 1801).

These are the only two changes in existing law that will be affected by enactment of this bill.

Mr. Speaker, I urge passage of the bill H.R. 13124, as amended.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. ROONEY), chairman of the Transportation and Commerce Subcommittee of the Committee on Interstate and Foreign Commerce, which jointly handled this bill with our committee.

Mr. ROONEY. Mr. Speaker, this bill was jointly referred to the Committees on Interstate and Foreign Commerce and Public Works and Transportation because the transportation of hazardous materials is performed by all modes of transportation and, therefore, falls within the jurisdiction of both committees.

The Committee on Interstate and Foreign Commerce reported a bill authorizing $7 million for 2 years—1977 and 1978. We also made one technical change in existing law and extended the authority of the Secretary of Transportation to grant exemptions from his regulations for manufacturers of hazardous materials containers.

The Committee on Public Works and Transportation reported a bill authorizing $3 million for 2 years—1977 and 1978. It made no other change in existing law.

This bill represents a compromise agreed upon by both committees and authorizes $5 million for 2 years—1977 and 1978. It includes the technical change in existing law recommended by the Committee on Interstate and Foreign Commerce, but omits the provision extending the authority of the Secretary of Transportation to grant exemptions from regulations for container manufacturers. The omission of this exemption authority is not intended to prevent the Department of Transportation from continuing any administrative practice of granting exemptions which may be permitted under existing law. It is omitted from this bill solely to permit the Committee on Public Works and Transportation to hold further hearings on this matter before acting on specific statutory authority for such exemptions.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13124.

This bill is a simple one, designed to give the Materials Transportation Bureau improved capability to meet the mandates established in the Hazardous Materials Transportation Act. It would achieve this goal in two ways: First, it would authorize appropriations for the

Materials Transportation Bureau of $5 million for each of fiscal years 1977 and 1978. Second, it would strike the word "extremely" each time it appears in section 106(c) of the Hazardous Materials Transportation Act.

The latter change, while technical in nature, broadens the application of the section requiring shippers and carriers to file statements of registration before transporting hazardous materials. Under present law, only those participating in the shipment of "extremely" hazardous materials are required to register, even though the word "extremely" does not now appear in comparable sections of the act.

The most important way this bill will help improve the MTB's capability to meet congressional mandates, however, is in increasing the Bureau's authorization for funding. The Materials Transportation Bureau was created on July 7, 1975, to centralize this important safety element of the Department of Transportation. Prior to its creation, the responsibility for monitoring, regulating, and inspecting hazardous materials was dispersed by mode. Thus, the all-important safety feature had no cohesiveness, no centralized authority, and no long-range direction.

Nevertheless, hazardous materials inspections climbed steadily, placing an even greater burden on a fragmented bureaucracy. In 1975, the number of hazardous materials inspections performed by the Federal Aviation Administration increased more than 50 percent, so did those performed by the Federal Railroad Administration. In the case of highway transportation, the Federal Highway Administration's Bureau of Motor Carrier Safety conducted more than twice as many inspections in 1975 as it did in 1974.

The consolidation of responsibility into one centralized office was designed to streamline the procedures and promote greater activity in providing for the safe transportation of hazardous materials. Only one thing was lacking: Sufficient funds to do a good job.

In fiscal 1976, the actual operating costs of the MTB were approximately $2 million with that budget, the bureau used the following terms to describe its present situation in meeting the congressional mandates: "React to a few," "to eventually process," "to conduct a limited number," "to prepare no enforcement cases," "to provide little assistance," "to develop no laboratory testing." It is pretty clear that the MTB is a long way from accomplishing what we, in the Congress, asked it to accomplish.

We are authorizing $5 million in this bill, Mr. Speaker, which is $2 million less than requested by the MTB. The reduction is not due to any lessening of emphasis on our part, but rather in anticipation of hearings at some future date of just how far away the Bureau is from meeting the mandates of Congress.

I need not remind the Members of this body about the importance of hazardous materials technology and enforcement. Its implications are apparent from its name. I would remind the Members, however, that despite the intent of Congress as expressed in the Hazardous Materials Transportation Act, this important safety function is not being satisfactorily carried out, due to its unrealistically low budget. Therefore, I urge adoption of this bill so that we can at least make progress toward the eventual goal of meeting our mandates.

Thank you, Mr. Speaker.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I have no objection to the substitution of H.R. 15570 for H.R. 13124. H.R. 15570 represents a compromise arrived at between the Committee on Interstate and Foreign Commerce and the Committee on Public Works and Transportation.

As you know, our committee has joint jurisdiction over the Hazardous Materials Transportation Act with the Committee on Public Works. Earlier this year we reported a bill containing an authorization of $7 million.

In addition, our bill contained two technical amendments, one of which would have permitted the Secretary to exempt manufacturers from requirements under the act on a case-by-case basis. At that time we were of the opinion that the Secretary could not grant such exemptions under his general powers for administering the act. The Secretary preferred to have the law clarified since the original act of 1974 specified that he had the power to exempt carriers from any regulations but was silent with respect to manufacturers.

The Committee on Public Works, having newly acquired jurisdiction over this subject matter, was reluctant to grant statutory exemption power until the need for such power had been examined in open hearings. The bill now being substituted does not contain the exemption power originally requested by the Secretary. Since I am convinced that he has this power anyway, I do not believe its omission creates any serious problem. I might add, Mr. Speaker, that the regulations of which we are speaking involve such things as the packaging and labeling of hazardous substances to be transported in interstate commerce. In no way does any exemption permit the transportation of materials in a hazardous fashion. The exemption power is simply a mechanism whereby we permit commonsense to be used when it is called for.

Finally, Mr. Speaker, our two committees differed originally as to the amount of money to be authorized. We called for an authorization of $7 million; Public Works called for an authorization of $3 million. Actual expenditures for the program are approximately $2.8 million. I think we now spend too little in this important area and believe that our original authorization can be amply justified. However, the $5 million figure agreed on in a compromise between our committees should be more than adequate to permit the Department of Transportation to upgrade the entire area of hazardous materials transportation control.

I urge the passage of this bill as amended.

Mr. SYMMS. Mr. Speaker, will the gentleman yield for a question?

Mr. SHUSTER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to know how much more it is going to cost for trucking rates for shipping powder to the mining area. After we get through loading on all this Government regulation, how much will we be adding to the cost by this Government regulation?

Mr. SHUSTER. In the long run this bill should reduce the freight cost, because if we have safer trucking the insurance rates should be going down.

Mr. SYMMS. The gentleman is not going to tell me that somehow the Government is going to make it safer by passing laws and making regulations.

Mr. SHUSTER. Absolutely.

Mr. SYMMS. Does the gentleman not think the freight lines can do it better now?

Mr. SHUSTER. I think when hazardous materials are being transported it is certainly proper for the Federal Government to play a role.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 13124, as amended.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation (H.R. 13124) just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL WEATHER MODIFICATION POLICY ACT OF 1976

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3383) to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Weather Modification Policy Act of 1976".

SEC. 2. DECLARATION OF POLICY

(a) FINDINGS.—The Congress finds and declares the following:

(1) Weather-related disasters and hazards, including, drought, hurricanes, tornadoes, hail, lightning, fog, floods, and frost, result in substantial human suffering and loss of life, billions of dollars of annual economic losses to owners of crops and other property,

and substantial financial loss to the United States Treasury;

(2) Weather modification technology has significant potential for preventing, diverting, moderating, or ameliorating the adverse effects of such disasters and hazards and enhancing crop production and the availability of water;

(3) The interstate nature of climatic and related phenomena, the severe economic hardships experienced as the result of occasional drought and other adverse meteorological conditions, and the existing role and responsibilities of the Federal Government with respect to disaster relief, require appropriate Federal action to prevent or alleviate such disasters and hazards; and

(4) Weather modification programs may have long-range and unexpected effects on existing climatic patterns which are not confined by national boundaries.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to develop a comprehensive and coordinated national weather modification policy and a national program of weather modification research and development—

(1) to determine the means by which deliberate weather modification can be used at the present time to decrease the adverse impact of weather on agriculture, economic growth, and the general public welfare, and to determine the potential for weather modification;

(2) to conduct research into those scientific areas considered most likely to lead to practical techniques for drought prevention or alleviation and other forms of deliberate weather modification;

(3) to develop practical methods and devices for weather modification;

(4) to make weather modification research findings available to interested parties;

(5) to assess the economic, social, environmental, and legal impact of an operational weather modification program;

(6) to develop both national and international mechanisms designed to minimize conflicts which may arise with respect to the peaceful uses of weather modification; and

(7) to integrate the results of existing experience and studies in weather modification activities into model codes and agreements for regulation of domestic and international weather modification activites.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "State" means any State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

(3) The term "weather modification" means an activity performed with the intention and expectation of production changes in precipitation, wind, fog, lightning, and other atmospheric phenomena.

SEC. 4. STUDY.

The Secretary shall conduct a comprehensive investigation and study of the state of scientific knowledge concerning weather modification, the present state of development of weather modification, the problems impeding effective implementation of weather modification technology, and other related matters. Such study shall include—

(1) a review and analysis of the present and past research efforts to establish practical weather modification technology, particularly as it relates to reducing loss of life and crop and property destruction;

(2) a review and analysis of research needs in weather modification to establish areas in which more research could be expected to yield the greatest return in terms of practical weather modification technology;

(3) a review and analysis of existing studies to establish the probable economic importance to the United States in terms of agricultural production, energy, and related economic factors if the present weather modification technology were to be effectively implemented;

(4) an assessment of the legal, social, and ecological implications of expanded and effective research and operational weather modification projects;

(5) formulation of one or more options for a model regulatory code for domestic weather modification activities, such code to be based on a review and analysis of experience and studies in this area, and to be adaptable to State and national needs;

(6) recommendations concerning legislation desirable at all levels of government to implement a national weather modification policy and program;

(7) a review of the international importance and implications of weather modification activities by the United States and other individual nations;

(8) a review and analysis of present and past funding for weather modification from all sources to determine the sources and adequacy of funding in the light of the needs of the Nation;

(9) a review and analysis of the purpose, policy, methods, and funding of the Federal departments and agencies involved in weather modification and of the existing interagency coordination of weather modification research efforts;

(10) a review and analysis of the necessity and feasibility of negotiating an international agreement concerning the peaceful uses of weather modification; and

(11) formulation of one or more options for a model international agreement concerning the peaceful uses of weather modifications and the regulation of national weather modification activities; and a review and analysis of the necessity and feasibility of negotiating such an agreement.

SEC. 5. REPORT.

(a) IN GENERAL.—The Secretary shall prepare and submit to the President and the Congress, within 1 year after the date of enactment of this Act, a final report on the findings, conclusions, and recommendations of the study conducted pursuant to section 4. Such report shall include:

(1) a summary of the findings made with respect to each of the areas of investigation specified in section 4;

(2) other findings which are pertinent to the determination and implementation of a national policy on weather modifications;

(3) a recommended national policy on weather modification and a recommended national weather modification research and development program which is consistent with, and likely to contribute to, achieving the objectives of such policy;

(4) recommendations for levels of Federal funding sufficient to support adequately a national weather modification research and development program;

(5) recommendations for any changes in the organization and involvement of Federal departments and agencies in weather modification which may be needed to implement effectively the recommended national policy on weather modification and the recommended research and development program; and

(6) recommendations for any regulatory and other legislation which may be required to implement such policy and program or for any international agreement which may be appropriate concerning the peaceful uses of weather modification, including recommendations concerning the dissemination, refinement, and possible implementation of the model domestic code and international agreement developed under the specifications of section 4.

Each department, agency, and other instrumentality of the Federal Government is authorized and directed to furnish the Secretary any information which the Secretary deems necessary to carry out his functions under this Act.

(b) OPERATION AND CONSULTATION.—The Secretary shall solicit and consider the views of State agencies, private firms, institutions of higher learning, and other interested persons and governmental entities in the conduct of the study required by section 4, and in the preparation of the report required by subsection (a).

SEC. 6. AUTHORIZATIONS FOR APPROPRIATIONS.

(a) There is authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act not to exceed $1,000,000.

(b) Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 88 Stat. 1212; 15 U.S.C. 330e), is further amended by striking out "1973, 1974, 1975, 1976, and 1977," and inserting in lieu thereof "1973 through 1980,".

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair will recognize the gentleman from California (Mr. BROWN) for 20 minutes and the gentleman from Idaho (Mr. SYMMS) for 20 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I will be brief and then yield to the distinguished gentleman from Kansas, a member of the subcommittee which reported out this bill.

Mr. Speaker, I rise in support of S. 3383, as amended by our Subcommittee on the Environment and the Atmosphere of the Committee on Science and Technology.

Our subcommittee has prepared a report to the full committee, which is in the nature of a legislative report, and is available today to all Members.

I would like to take this opportunity briefly to describe the purpose of the bill under consideration, indicate the relatively minor amendments adopted by our subcommittee, and explain why I believe it is important that Congress act on this legislation this year.

S. 3383 passed the Senate last May 21. It was referred to our subcommittee early in June. Extensive hearings were held in mid-June on weather modification, in general, but with special emphasis on two bills on this subject, one of which was S. 3383. The subcommittee favorably reported S. 3383, with minor modifications, on September 1.

Essentially, S. 3383 would direct the Secretary of Commerce to undertake a comprehensive study of weather modification and within 1 year after enactment of this bill submit a report to the President and the Congress with his findings and conclusions, including recommendations for a national policy on weather modification.

Mr. Speaker, the Federal Government has been engaged in relatively small-scale, fragmented, poorly coordinated weather modification research and experimentation during the past 30 years. The largest programs are conducted by the National Science Foundation, the National Oceanic and Atmospheric Administration, and the Bureau of Reclamation. Smaller efforts are also underway in the Departments of Agriculture, Defense, Transportation, and ERDA. Total funding will amount to approximately $20,000,000 during the forthcoming fiscal year.

Mr. Speaker, the members of our subcommittee believe that the time has come to develop an integrated framework of national policy on weather modification. We believe that the formulation of coherent policy should be undertaken without delay. The basic purpose of this bill is to bring about the development of a comprehensive and coordinated national weather modification policy, and a national program of weather modification research.

Our subcommittee amended the bill as passed by the Senate in a couple of minor ways. First, because we believe that Federal regulation of weather modification may ultimately be needed, we included a requirement that the study mandated by the bill formulate a model regulatory code, as well as a model international agreement; and that the report also include recommendations for such regulation. While it may be far too early for stringent regulations, it is not too early to study the problem.

Second, our subcommittee amended the bill to include authorization of appropriations in the amount of $200,000 per year to support work within the Department of Commerce under Public Law 92-205, a law which requires the reporting of weather modification activities. This latter amendment was included in response to an administration request.

Mr. Speaker, S. 3383 as amended by our subcommittee has strong bipartisan support. In my judgment, this bill is not controversial, and should have the support of all our colleagues. I urge its passage.

Mr. Speaker, I yield 5 minutes to my friend and colleague on the Subcommittee on Environment and the Atmosphere, the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I support the suspension of the rules and the passage of S. 3383, the "National Weather Modification Policy Act of 1976."

Mr. Speaker, weather can have a significant effect on our agricultural output, economic growth, and the general public welfare. Extremes in the weather produce devastating results: too much rain causes flooding while too little causes drought; violent wind such as tornados and hurricanes can ruin a city while no wind can stifle a city in accumulated smog and pollution.

S. 3383 is a bill which recognizes the importance of weather and seeks to take the first small step toward understanding and implementing a weather modification policy. The bill directs a comprehensive study of the technical and nontechnical aspects of weather modification. The study will include: First, a review and analysis of present and past weather modification research programs; second, an evaluation of the legal, social, and ecological implications; third, a review of the international ramifications, and fourth, a review of current Federal activities. The responsibility for this study is assigned to the Secretary of Commerce with the understanding that its actual execution will be carried out by the National Oceanic and Atmospheric Administration—NOAA.

The study will be submitted within one year after enactment of S. 3383. It will provide a solid foundation upon which to base our future legislation and policy. All too often weather modification evokes an uneasy response from persons who are not familiar with the facts. This legislation will dispell any lingering apprehensions.

S. 3383 authorizes $1 million for the comprehensive weather modification study. It also extends the authorization in weather modification activity through fiscal year 1980. The level of this activity is $200,000 per year.

Mr. Speaker, I believe S. 3383 is a straightforward and modest bill which will improve our understanding of weather modification. I urge the passage of S. 3383.

Mr. SYMMS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would just like to ask the gentleman from California, how much money is this going to cost?

Mr. BROWN of California. $1,200,000 is authorized.

Mr. SYMMS. Annually?

Mr. BROWN of California. The $1 million is a one-shot deal. The $200,000 is an annual figure.

Mr. SYMMS. I would like to say to the gentleman that at least he dispelled some of my concerns which I had over the Earthquake Hazard bill, because now that we have the Weather Modification bill the gentleman from Idaho feels that the Congress is trying to get into everybody's business including Mother Nature.

Mr. BROWN of California. We want to cover all fronts, including lightning.

Mr. SYMMS. Mr. Speaker, I just think that for simple budgetary requirements, for the fact that the real weather problem in this country is that weather problem caused by paper dollars running out of 14th and Independence Avenue down here. I would urge the Members to vote this bill down and save the taxpayers a million dollars. There are some things they can do very little about, and this would be one of them.

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Speaker, I am aware of the gentleman's attitude on spending and his concern, and I am also, but I am also aware that the administration decided to pick this bill, weather modification, as one of nine they said they wanted to oppose. When I have been checking around the day after that notice came around, I can find absolutely no requirement. They said that it was picked out of thin air. I think it is pretty obvious that while we are dealing with air and water, it is one bill that we should pass.

Mr. SYMMS. I thank the gentleman. I would say, Mr. Speaker, that this country is being avalanched by a flood of socialistic legislation costing the taxpayers money. We are to the point where 44 cents of every dollar earned in America goes to support government at some level. With that 44 cents, the people have to give up the government, so they let the bureaucrats and politicians determine how to spend their wealth and their money.

I think any place we can draw the line would be a good place. This is one of them. Let us just let rain come from God, and not from the Government, for a change.

Mr. BROWN of California. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I also am aware of the very strong convictions that the gentleman from Idaho has with respect to fiscal sanity, and I hope that I share in some degree that concern. But I am sure the gentleman did not mean to imply, when he used the term "socialistic spending schemes," that the distinguished Senator from Kansas, Senator PEARSON, the author of this bill, is guilty of sponsoring a socialistic spending scheme. Would the gentleman care to comment on that?

Mr. SYMMS. No, I am not talking about this bill in particular. I am talking about this avalanche of legislation passing through Washington, D.C., which goes out to the people. We have had several of them here this afternoon. A good example would be the bill we had on clinical laboratory improvement—not this bill, per se, although technically I would say it probably could qualify.

Maybe studying the weather is a good function of the Government, but I would just say to the gentleman that one of the great things about America is that the weather comes from God in this country, not from the Federal Government. If one goes over to Russia, one will find that they have bad weather every year. Ever since 1917 they have had lousy weather every single year, year after year after year, at least that is what Pravda says, and they have crop failures there because of their bad weather.

I do not know what we are doing with this weather modification situation, but on the face of it I think the gentleman from Idaho prefers to vote against it.

Mr. BROWN of California. I must say to the gentleman that the activities of the Weather Bureau and the other activities regarding weather, which are historic activities of the U.S. Government, are among the most cost-effective activities conducted by the Government.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I am certainly pleased to hear that the gentleman from Idaho does not label this bill as a socialistic endeavor. It seems to me that we have gone in time and again, making studies, trying to improve the land, the air, and that sort of thing for the benefit of humankind.

This, I think, is an approach in the right direction: to try to find out in what way we could help the environment by taking care of the weather situation.

Mr. BROWN of California. Mr. Speaker, the gentleman is absolutely correct.

Mr. TEAGUE. Mr. Speaker, I rise in support of S. 3383 as amended by our Subcommittee on the Environment and the Atmosphere.

This bill passed the Senate last spring. After being referred to our Committee on Science and Technology, extensive hearings were held by our Environmental Subcommittee under the distingiushed charmanship of our colleague from California, GEORGE BROWN.

Mr. BROWN has discussed this bill in detail. Let me say simply that this bill is designed to require a comprehensive study of all aspects of weather modification, and development of a national policy on weather modification activities.

This bill has strong bipartisan support. It is a sensible bill which does not commit the Government to any partioular policy, but which will lead to a realistic national policy, something many interested persons believe is overdue.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the Senate bill (S. 3383) as amended.

The question was taken.

Mr. McDONALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill (S. 3383) just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RELIGIOUS REPRESSION IN THE SOVIET UNION: DISSIDENT BAPTIST PASTOR GEORGI VINS

Mr. MORGAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 726) to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience.

The Clerk read as follows:

H. CON. RES. 726

Whereas Christians and other religious believers in the Soviet Union are being persecuted simply because they desire to worship God according to the dictates of their conscience and the precepts of their faith rather than according to the dictates of the state;

Whereas a symbol of the denial of basic human rights by the Soviet Union is the imprisonment for five years at hard labor of Georgi Vins, Secretary for the Council for the Evangelical Christians and Baptists for the alleged crime of administering to the congregation that elected him as their pastor, and the continuing persecution of the Vins family, which for three generations has suffered imprisonment and death in imprisonment for preaching the Baptist faith;

Whereas the continued denial of this fundamental human right in the Soviet Union could have adverse implications for the growth of amicable relations between our two countries; and

Whereas such Soviet policy contravenes the spirit, if not the letter of the Helsinki agreement and by so doing raises serious doubts as to the commitment of the Soviet Union to that agreement; and

Whereas the activities for which Georgi Vins has been imprisoned would not be considered crimes in most of the civilized world and under no circumstances could justifiably result in the imposition of such a harsh sentence; and

Whereas Georgi Vins' release is essential on humanitarian grounds given his poor health and the likelihood that he cannot survive his present imprisonment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that Georgi Vins should be released from imprisonment and that the Government of the Soviet Union should allow him and all other Christians and other religious believers within its borders to worship God freely according to their own consciences, as the Soviet Union is committed to do by the provisions of its constitution and by the provisions of the United Nations Covenant on Civil and Political Rights which the Soviet Union has ratified.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. MORGAN) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Speaker, Georgi Vins is one of the best known religious leaders in the Soviet Union.

He has been sentenced to a lengthy prison term for activities which—in the United States and in most other countries—would be regarded as his normal pastoral duties.

His family has been discriminated against in the Soviet system; and he himself, in poor health, may be unable to survive his present imprisonment.

Pleas for Vins' release from prison have been voiced in many lands, and he has become a symbol of a substantial number of believers in the Soviet Union who are persecuted because of their religious beliefs and practices.

We in the U.S. Congress cannot ignore or condone such repression of man's fundamental right of freedom of religion—to worship according to his own conscience—wherever such repression may take place.

House Concurrent Resolution 726 urges the Soviet Union to release Georgi Vins, and to permit religious believers in that country to worship God according to their own consciences, as the Soviet Union is committed to do under its own constitution.

Mr. Speaker, I am pleased with the widespread and bipartisan support for this resolution from the leadership and Members of the House.

I particularly wish to commend the gentleman from Alabama (Mr. BUCHANAN) a distinguished member of the International Relations Committee, for introducing this legislation and for his efforts in its behalf. Because of his own background as a religious leader, his testimony and insights concerning this matter have been especially helpful.

I urge passage of the resolution.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin by thanking the distinguished chairman of the Committee on International Relations for his leadership not only in the important matter of this resolution, of which he is a cosponsor, but for his leadership through the years in so many, many matters of vital importance to the United States. His sound judgment and his statesmanship has made him an inspiration to us all, and it has been a great privilege to serve with him on this committee.

Mr. Speaker, I also want to express my appreciation to the gentleman from Minnesota (Mr. FRASER) and the gentleman from Florida (Mr. FASCELL), whose subcommittees held hearings on this resolution and who are also cosponsors, each demonstrating a consistent concern for human rights, including human rights behind the Iron Curtain in the Soviet Union.

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Speaker, I want to commend the gentleman for his efforts in bringing this resolution from the committee to the floor of the House. The hearings we held, I think, show beyond any question that, despite the professed adherence by the Soviet Union to the idea of religious freedom, in practice it is really severely curtailed. It is not only State practice to discourage people from pursuing their religious beliefs, it is fueled and buttressed by official party policy which discourages people from remaining true to their religious convictions. The state of affairs in the Soviet Union is deplorable, and it is my hope that through the efforts of the committee and the Congress we can encourage the Soviet Union to turn back toward a full observance not only of the rights guaranteed in their own constitution for full religious freedom but also the same rights set forth in the Universal Declaration of Human Rights and other international conventions.

Mr. Speaker, I commend the gentleman very much.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman from Minnesota (Mr. FRASER).

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 726 denouncing religious repression in the Soviet Union, repression which affects and severely demoralizes, dehumanizes, and irreparably damages many citizens of that nation simply because they choose to worship God according to their own consciences. We as Americans have never truly confronted religious persecution, and indeed, many of us take for granted our religious freedom, being protected as we are by the first amendment which insures our right to worship God in any manner, and with any denomination.

This worthy resolution calls for the release of Soviet "dissident" Georgi Vins, a man arrested for his beliefs and actions in connection with his pastoral duties. In reality, his crime is nonexistent. His actions would incite no hostility and opposition in most other parts of the world. It is only in the Soviet Union, and in other Soviet dominated nations that such inhumanity is tolerated, encouraged, and rampant. Because Georgi Vins chooses to worship God, like other men, in the only way he is truly able, it is only just and fitting that Members of Congress voice their opposition to such inhumanity. As a participant in the Helsinki Agreement, the United States should object fervently to the abridgement of human rights by the Soviet Union. This concurrent resolution is a necessary vehicle for expressing the outrage and sympathy that Americans feel, not only for Mr. Vins and his family, but for the thousands of others subjected to religious oppression in the Soviet Union.

I have consistently supported the rights of Soviet minorities to emigrate on the basis of religious persuasion, and I once again lend my voice to those who call for the release of Georgi Vins and nameless others who share his pain of persecution and incarceration, pain which is needless and inhuman, pain which is so foreign to most Americans who share the blessings of religious freedom. Let us not tolerate the abridgement of rights and the propensity for suffering which officials of the Soviet Government advocate.

Accordingly, Mr. Speaker, I urge my colleagues to support this denunciation of oppressive Soviet policy, and to join in support of this measure.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I gladly yield to the distinguished gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I rise on behalf of House Concurrent Resolution 726, which urges the Soviet Government to live up to its own laws and behave with at least minimal decency toward its Christian citizens. The case in point of Georgi Vins is a good example of a despicable practice. Georgi Vins is a Baptist minister who has been persecuted beyond belief by a government which is supposed to have abandoned the dark and destructive acts of the Stalinist era. To a greater or lesser extent, the same fate has befallen hundreds of thousands of others, whether they be Orthodox, Catholic, Protestant, Moslem, or Jew.

Mr. Speaker, the only way Christians can escape the sort of treatment meted Pastor Vins, Janis Smit—a Latvian pastor—and many others, is to accept the dictates of church organizations which are manipulated by the state. These institutions are so proscribed by official Soviet policy that their religious soil is sadly enervated. These "tame" church leaders have been so coopted that they are unable to provide the leadership and teaching that thousands of Christian believers want and need so badly. I mention it to point how heinous it is for a regime which purports to guarantee freedom of religion to use these organizations to destroy the very soul of their existence.

Not satisfied with this insidious sort of "extermination by management," the Soviets callously and without second thought resort to even more brutal methods. Unsanctioned religious gatherings, which is to say most services with any vitality, are subject to hooliganism and police interruption.

Religious instruction is forbidden for those under 18 years of age. Baptisms must be registered with the authorities, and adults who are baptized normally lose their jobs. By every means at their disposal, the leaders of the Soviet Union are bent on destroying Christianity in the Soviet Union. By extension the same is true throughout Eastern Europe, to greater or lesser extent.

Mr. Speaker, as long as the Soviet law calls for the instillation of the "spirit of socialism" as a part of the education of Soviet youth, there is no way in which the Soviet society will grant even minimally real religious freedom unless we from time to time and regularly take good hard looks at how they are treating their believers. I repeat, Mr. Speaker, that the Soviets are and have been systematically seeking to eliminate vital religion. They have not succeeded, thank God, nor will they be able to succeed. I am reminded of a statement that appears in the early history of the church—when a member of the Jewish Sanhedrin cautioned his fellows that other enemies of the state had tried and failed to lead uprisings. In the case of followers of Jesus Christ, he went on,

> . . . I tell you, keep away from these men and let them alone; for if this plan or this undertaking is of men, it will fail; but if it is of God, you will not be able to overthrow them.

The Soviets might be advised to follow this advice as well.

Mr. Speaker, I also wish to take this time to express my personal appreciation to the gentleman from Pennsylvania (Mr. MORGAN), the chairman of our committee, for the great leadership he has provided in his record tenure as chairman. We are going to miss him. We are going to miss his wise counsel and the stability he brings to the committee.

I am pleased that one of the last actions of the gentleman from Pennsylvania as chairman of our committee has been the bringing of this resolution to the floor.

I would like to point out, Mr. Speaker, that the Soviet Union as a matter of official policy persecutes all religions, and in so doing, they make a mockery of the many declarations they have signed. They make a mockery of the Helsinki Accords. I think it is important that the committee, by agreeing to this Georgi Vins resolution, dramatize the deplorable record the Soviet authorities continue to maintain.

I believe this action by the House is a very necessary and positive emphasis of our dedication to the principles of religious freedom which are totally denied in the Soviet Union.

Mr. Speaker, I commend the gentleman from Alabama (Mr. BUCHANAN) for his leadership in this matter.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman from Illinois.

Mr. Speaker, House Concurrent Resolution 726 will place this body on record as urging the Soviet Union to release Georgi Vins from prison and to permit religious believers within its borders to worship God according to their own consciences. The resolution asks the Soviet Union to honor its own commitments for human rights and religious freedom contained in its Constitution and in various international agreements which it has signed.

This resolution in its original version—House Concurrent Resolution 606, first introduced on April 6, 1976—and in this slightly revised version, has as cosponsors approximately 140 distinguished members of the House of Representatives, including the majority and minority leaders, the majority and minority whips, many committee chairmen and other members of the leadership of both parties.

The main difference in House Concurrent Resolution 726, compared with House Concurrent Resolution 606, is the addition of two paragraphs which point out that the Soviet Union is virtually alone in the world in its harsh treatment of religious believers, and that Vins' release is essential on humanitarian grounds given his poor health and the likelihood he cannot survive his present imprisonment.

Mr. Speaker, I do not need to repeat the comments I made on March 30 of this year as I prepared to introduce the resolution. Then I briefly outlined the depressing circumstances surrounding the dissident Soviet Baptist leader, Georgi Vins, and how he spent most of the past 10 years either in jail or in trouble for attempting to exercise his calling, a calling holy in his eyes and in the eyes of Christians everywhere.

I will not repeat the testimony which I offered before the joint meeting of the Subcommittees on International Organizations and International Political and Military Affairs, in which I chronicled Georgi Vins' background and reported on efforts in this country and in Western Europe on his behalf.

Among the witnesses were two Soviet Baptist ministers now in exile in Germany as well as distinguished members of the academic community. All of the witnesses agreed that despite the Soviet constitutional guarantees for freedom of worship, believers are harassed, discriminated against in education and employment and severely limited in the expression of their religious convictions.

Pastor Georgi Vins is both a symbol and a representative of a substantial number of believers in the Soviet Union who have suffered imprisonment or other repression because of their religious beliefs and practices.

Pastor Vins, 48, is the best known leader of the 100,000 or more "Initiators," the group which split from the main body of Soviet Baptists in the mid-sixties. This group is sometimes referred to as the "unregistered" Baptists to distinguish it from the officially-tolerated group.

Vins was first arrested in 1966 when he helped organize a massive demonstration for civil rights and religious liberty. He and another pastor marched openly into the offices of the central committee and were arrested, tried and sentenced to 3 years in prison. Vins came out with his health severely damaged.

In 1974 Vins was again arrested, this time for continuing to do the work normally connected with pastoral duties in the United States and other countries—preaching, teaching, writing and evangelizing. After waiting many months for a trial, he was sentenced to 5 years in prison to be followed by 5 years in exile with the first part of the term to be served in a "strict regime" labor camp in Siberia.

Vins' family has suffered since he was imprisoned. Their furniture was sold to pay court costs, his wife has had a difficult time finding employment and his children have had educational and employment opportunities closed to them because of their religious activities. His mother, Mrs. Lydia Vins, has served a prison sentence because of her work in organizing prisoners' families and recent word from the Soviet Union is that she expects to be arrested again.

The testimony at the committee hearings and the statement of the outstanding witnesses provide an ample record and a shocking indictment of the practice of the Soviet Government toward its religionists.

The Soviet Government signed the United Nations Covenant on Civil and Political Rights and, last year, it subscribed to the Helsinki Agreement which puts it on record as guaranteeing certain human rights and religious freedom. To the extent that we reproach the Soviets for their restrictions on religious freedom and persecution of Christians and other believers we are only asking them to obey their own constitution and to live up to their international promises.

Mr. Speaker, experience has shown that the government of the Soviet Union is sensitive to the scrutiny of others in circumstances such as these, and while it is difficult to apply more rigorous sanctions, in my opinion, we can in a matter which is at root one of political morality exert moral pressure which is even more effective.

It is difficult to measure or to express the concern which many, many Americans have about the fate of Georgi Vins and his family. In our country, hundreds of thousands of petitions have been signed on his behalf. And in Western Europe there has truly been an outpouring of concern. In May, 13 countries took part in a demonstration with the presentation of petitions totaling more than 600,000 names to Soviet Embassies, requesting the government to release Georgi Vins from prison. And 15,000 persons reportedly marched in Hyde Park in London, and in Dublin a petition was signed by 85 members of the Irish Parliament. In Bonn, Germany, 8,000 gathered for a march and rally while 2,000 marched in West Berlin. A motion on Vins' behalf is before the British Parliament (No. 68), titled the "Right to Believe."

Mr. Speaker, let us here express the concern of the American people and of the Congress. I urge the passage of House Concurrent Resolution 726.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I gladly yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I think the same passion for justice and religious freedom that the gentleman from Alabama (Mr. BUCHANAN) has just expressed is one of the noblest and best parts of our country's heritage. I wish to associate myself with the gentleman's remarks.

Mr. BUCHANAN. Mr. Speaker, I thank the distinguished gentlewoman for her contribution.

Mr. Speaker, I ask that the rules be suspended and that the House agree to this concurrent resolution.

Mr. ASHBROOK. Mr. Speaker, the resolution before us—House Concurrent Resolution 726—takes notice of persecution that this body has been silent on for too long. The issue is religious persecution in the Soviet Union. The persecuted are Christians, Jews, and members of other religious faiths.

First, let us recognize what we are talking about. We are concerned with the systematic persecution of religious believers. But after this many years of Communists doing just that we should not be surprised. We should recognize what the Communist systems of the Soviet Union is. Too often, many in this body and in other policymaking positions in Washington want to forget the true nature of the Communist system.

Second, let our consideration of this resolution on religious persecution in the Soviet Union reawaken us to the barbarity that is communism. Examples are legion of Soviet religious persecution. I have included two statements that I first brought to the attention of this body on July 29, 1974. One from Radio Liberty tells how chilrden of practicing Christians in the Soviet Union have been removed from the custody of their parents. The other is a letter to Kremlin leaders from the children of Georgi Vins protesting his being rearrested.

The material follows:

Soviet Christians Deprived of Parental Rights

Unlike in any other communist country in Europe, Soviet children are still being removed from the custody of their parents on the grounds that they are being brought up as Christians. An account of the trial of four Russian Baptists in connection with the education of children was published in *Sovetskaia Belorussia* on April 27, 1973.

Among the defendants was Nina Masiuk, a member of an unregistered Baptist congregation in Soligorsk. Her son Sergei was removed from custody of his mother in 1971, and in November 1972 she was formally deprived of parental rights. The boy, the article reports, has suffered severe physical and moral harm from being forced to attend numerous meetings from an early age and from the narrowness of his religious upbringing.

Consequently he himself, we are told, greeted his admission to a children's home "with great joy." Despite his mother's attempts to abduct him he is now more healthy in every way, doing well at school and, leaving his religious beliefs behind him, being active in the Komssomol. "Yes," the article concludes, "this boy has been saved."

The names of Sergei and his mother, however, are not unknown in the West, thanks to the Council of Prisoners' Revelatives, whose Bulletin No. 10, compiled in October 1972, devoted a considerable amount of space to the mother and son's own statements about the affair. Such information from the Bulletin means that one can now often cross-check information from Christian and hostile atheist sources in Russia. Sergei's account is as follows:

"On April 4, 1972, the headmaster of school No. 3, Nikolai Nikolaevich Daigot, called me from classes and took me to the children's department at the police station. Then a policeman arrived with some other people, including my father. The policeman took me by the arm and made me get into a car. They took me to a boarding school at Krasnaia Sloboda in the Soligorsk district, Minsk region. When they took me I cried a lot. . . ."

Sergei's father, an irresponsible and violent man, left his wife and two sons in 1968, visiting them subsequently from time to time only to threaten and mistreat them. It was he who began to persuade the authorities to deprive his wife, Nina, of the custody of their younger son. His weapon against her was none other than her Christian belief. Although the father was declared by the court to be unfit to care for a child, Sergei was nevertheless sent away "to isolate him from the influence of religion." He ran away to his mother, which resulted in reprisals in the form of fines and the deprivation of visiting rights.

The authorities claim that Masiuk allowed her son to be educationally influenced by the church, but she maintains that religious education is the legitimate right of parents, and that she as a parent has the constitutional right to bring up and educate her child by the very article which has been invoked against her. This is the "Decree on the Separation of the Church from the State and the School from the Church," promulgated by Lenin himself in 1918. The education of children is declared to be "the exclusive right of the family, the school and the state, but not the church."

Sergei's mother gives fuller details of the case in an appeal to the highest authorities which is impressive in its sound knowledge of constitutional law and clear vision of the situation:

"I have already forwarded a complaint to the government, but my complaint was passed on to the Supreme Court of the Belorussian Republic, and the Vice-President of the Court, Comrade Shardyko, replied to me: 'It has been proven that you involved you son Sergei in a Baptist-Evangelical sect, and took him to meetings of the sect. In the interests of your son Sergei, the court rightly decided to place him in the care of the welfare and medical authorities.'

"This answer speaks for itself. In this answer not a word is said about the basic documents on the rights of the case—the Constitution of the USSR, the above-mentioned 'Decree' (on the separation of school from church) and the 'Convention' (on the struggle against discrimination in education).

"The attitude of Comrade Shardyko is not that of a man standing in the strength of his duty of safeguarding the laws of the country and the principles of justice. It is the attitude of an atheist, who, setting aside all laws, public opinion and social practice, wants forcibly to prevent people from believing in God and removes children from their parents for the sole reason of their belief in God."

The Bulletin also sets forth the case of the Berdnik family of Kaliningrad. All five of the children of Ivan and Anna Berdnik, aged between twelve and under one year, were taken away from them in 1971. Like Sergei's mother, the Berdniks were accused of causing "moral harm" to the children by bringing them up as Christians and encouraging them to attend "Sunday school" lessons held on Saturdays in the houses of various members of their church. The submission of the local education authority to the regional court states that:

"In the Berdnik family, children learn to pray from the age of two. As soon as they can write they are given the task of copying psalms, which they are forced to learn by heart and then recite at the prayer meetings in front of the believers.

"On an investigation of the Berdnik household, a commission consisting of members of the Parents' Committee of the school submitted that the family consisted of seven persons. . . . The family was not well off. Five children slept in one dark, smoke-blackened room."

The implication of the report is that the parents' beliefs are being painfully imposed upon the children.

In another part of the document the Sunday school is described, where the children were taught to sing songs and hymns, which, from the titles quoted, sound very much like those sung by Sunday school children the world over—yet the description succeeds in making the whole thing take on a sinister air:

"It has been established that Mr. and Mrs. Berdnik permitted their sons to attend religious instruction and prayer meetings, where they were taught the fundamentals of religion and performed poems, psalms and other forms of religious music. During the lessons the children became familiar with, and were made to learn by heart, such religious dogmas as 'Be careful, little mouth, what you say,' 'Our Father gave us salvation,' . . . etc. Children were inveigled into the group by various methods:

"1. By setting the children religious questions with the aim of instilling in them a submissive attitude.

"2. By the preparation of special cards with questions on religious subjects.

"3. By drawing the children into 'meetings' for adult believers, using these to teach the children religious dogmas."

Apropos of the report just quoted, it is worth noting that the accusation of overcrowding in the Berdnik household, with its implication that religion is conducive to dirt and poverty, is refuted elsewhere in the Council of Prisoners' Relatives' Bulletin. The family, it states, had three spacious rooms in their flat—a generous provision in the conditions of acute housing shortage prevalent in the Soviet Union.

The church in Barnaul illustrates in a particularly poignant way the dilemma of Christian parents in the USSR today. The Barnaul Christians want to live their faith and to pass it on to their children. The result has been, for themselves, harassment and persecution, and for their children, mockery and ill-treatment at school. This became so bad that the Christian parents removed their children from school, refusing to send them back until the situation changed. This tense state of affairs lasted for about a year. These children have now returned to school, but it is not known whether their situation has really improved.

A more recent case which may be mentioned is that of Zoia Radygina of Perm. A court order depriving Mrs. Radygina of her three younger children was passed on June 8, 1973; the police came to the house on August 1. When she appealed against this cruel action, she was told that she had failed to educate her children in the spirit of the "Moral Code of a Builder of Communism" (the Soviet guidelines to the education of the young). Her two boys, Sasha and Vasia, were taken away by the police. Eleven-year-old Tamara was not at home, and is said to be in hiding with relatives.

Zoia Radygina's plight has called forth appeals from all over the Soviet Union. Many groups of believers have written to the Soviet leaders asking that her children be returned to her. These appeals were echoed in London by demonstrations outside the Soviet Embassy on March 8 and 23, 1974, organized by "Aid to the Russian church."

Some appeals on behalf of Mrs. Radygina recently received in the West mention a number of similar cases, though without giving many details. Two families from the Crimea, Romanovich and Zdorov, are said in an appeal to Podgorny and Rudenko dated January 1974 to have lost their parental rights. Another appeal on behalf of Mr. Radygina mentions a family called Ivanov which suffered a similar fate in April last year.

These and other accounts of a similar nature seem to provide evidence that the practice of depriving believers of parental rights is spreading.

[From East-West Digest, July 1974]

Georgi Vins Arrested Again

One of the world's outstanding Christian leaders has just been arrested in the Soviet Union. Georgi Vins is one of the founders of the Soviet "reform Baptists." The Soviet press calls them initsiativniki. This group split from the official Baptists in 1961, stating that the official Church had compromised with the authorities. Vins, now aged 46, has been one of the leaders from the beginning.

In 1966 there took place one of the most remarkable events in the life of this movement, the May demonstration outside the Central Committee building of the Communist Party in Moscow. Vins was one of those arrested at that time. He was later sentenced to three years in the labour camps. A transcript of his trial is included in Michael Bourdeau's book Faith on Trial in Russia—the biography of Georgi Vins. His health became worse and worse. His relatives and friends appealed urgently on his behalf and a campaign began in the West. It may well be due to this that Vins remained alive. Released at the end of his term, he returned home to convalesce. He then took up leadership of the Church again. In 1970 a new case was opened against him, but he refused to obey summonses to appear at government offices. In order to continue his church work, Vins was forced to leave home and live in hiding, seeing his wife and family only on occasional visits. Other reform Baptist leaders live under similar conditions.

News has just reached the West that Georgi Vins has been found and arrested in Kiev. This took place at the end of March and the details are still shrouded in mystery. Even the family does not know his condition and they have issued urgent appeals to the government and believers. His mother, Lidia, herself released only recently after three years in detention, has said that he has been arrested as a "state criminal." His church has joined in fasting and prayer. Vins has four children and they have written this moving letter to the Soviet leaders.

April 18, 1974.

To: A. N. Kosygin, the Kremlin, Moscow,
N. V. Podgorny, the Kremlin, Moscow.

Copies to: Council of Church of Evangelical Christians and Baptists, Council of ECB Prisoners' Relatives.

"In violation of the Constitution of the USSR and of international conventions on human rights, our father Georgi Petrovich Vins has again been illegally arrested for his religious convictions and his work in the Church.

"For thirteen years our father has constantly been subject to persecutions from the authorities. He served a term of imprisonment from 1966 to 1969, from which he returned with his health seriously undermined. This new arrest causes us to fear for his life. We do not want to see our father posthumously rehabilitated like our grandfather, Pyotr Yakovlevich Vins, who was sentenced for his religious convictions and tortured to death in the camps, but later rehabilitated.

"Our whole family has been suffering persecutions for many years now. Our grandmother, Lidia Mikhailovna Vins, served a term in the camps from 1970 to 1973 because she campaigned for our father during his imprisonment and for other believers who had suffered repressions. Our mother, Mrs. N. I. Vins, was dismissed from her job in 1962 because of her religious convictions and for some years she was unable to get work anywhere. She is now working, but not in her own profession.

"The repressions also affect us children. Natasha Vins was illegally dismissed from work on 9 January, 1974. During a preliminary conversation the senior doctor of Kiev Hospital No. 17, Khryapa, declared that he would find a pretext for dismissing her, since religion and medicine were incompatible. Petya Vins has finished the tenth form (i.e. he is now 17—Ed.) but cannot find work anywhere.

"All these actions against our family are an attempt to annihilate us. Our father's preset arrest is impermissible, and if you do not release him immediately, we will take all possible steps, beginning with an appeal to all believers, telling them what has happened.

"We have full reason to suppose that he is in bad health. All responsibility for his life and continued imprisonment rests with you. If our father is not released and if measures are taken against him in prison which endanger his health, then we want to inform you and believers throughout the world that our whole family is fully resolved to die with him."

Our address: Kiev-114, ul. Soshenka 11b.
NATASHA VINS.
PETYA (PETER) VINS.
LIZA VINS.
ZHENYA (EUGENE) VINS.

The fact that Vins' family has been under official scrutiny is revealed in official sources too. An article in the June 1971 issue of the Soviet atheist magazine Science and Religion lamented that: "Teachers at the Kiev Intermediate School No. 16 did not even know that the father of one of their pupils, Petya Vins, was one of the leaders of the initsiativniki, although the boy had been studying there for two years, did not take part in cultural outings and refused to join the Pioneers."

Under détente the United States has let down its guard against the Soviet Union. Not only has this country let down its guard, but also some in our Nation would have us close our eyes to the continuing persecution in the Soviet Union. The Soviets have gained numerous advantages including advanced technology while continuing their totalitarian practices. We in the Congress should recognize the Soviet system for what it is and let the American people and the world know where we stand. Continuing Soviet persecution of religion should be exposed by U.S. officials in all possible forums.

Persecution by the Communists is the dominant form of persecution in the world today. We must recognize that and our foreign policy must recognize it. If we are to be true to our country's basic principles, we cannot accept nor ignore the Soviet treatment of its own subjects.

Mr. MORGAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN) that the House suspend the rules and agree to the concurrent resolution—House Concurrent Resolution 726.

The question was taken.

Mr. WALSH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 13374, H.R. 14418, S. 1414, H.R. 10841, H.R. 13585, S. 3050, H.R. 15445, H.R. 4105, H.R. 14772, H.R. 14773, H.R. 15081, H.R. 11570, S. 3095, H.R. 14041, H.R. 14319, S. 1174, H.R. 13124, S. 3383, and House Concurrent Resolution 726.

Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rule on which the Chair has postponed further proceedings.

MINNESOTA RIVER VALLEY NATIONAL WILDLIFE REFUGE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 13374), as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill H.R. 13374, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 337, nays 40, not voting 53, as follows:

[Roll No. 753]

YEAS—337

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Cornell
Cotter
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—40

Armstrong
Ashbrook
Burleson, Tex.
Clawson, Del
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Devine
Grassley
Hammerschmidt
Holt
Hutchinson
Kelly
Kemp
Ketchum
Kindness
Lujan
McClory
McDonald
Martin
Michel
Miller, Ohio
Myers, Ind.
Paul
Rhodes
Risenhoover
Robinson
Rousselot
Satterfield
Schneebeli
Sebelius
Shriver
Skubitz
Snyder
Symms
Taylor, Mo.
Teague
Wiggins
Young, Fla.

NOT VOTING—53

Archer
AuCoin
Badillo
Boggs
Butler
Conlan
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fish
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jacobs
Jordan
Karth
Keys
Krueger
Landrum
McCloskey
McCollister
McCormack
Madden
Madigan
Matsunaga
Meeds
Meyner
Mink
Mosher
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Ryan
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Green.
Mr. Nix with Mr. Matsunaga.
Mrs. Boggs with Mr. Hébert.
Mr. Badillo with Mrs. Mink.
Mr. Corman with Mr. Conlan.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Esch.
Mr. Fithian with Mr. Eshleman.
Mrs. Spellman with Mr. Heinz.
Mrs. Meyner with Ms. Jordan.
Mr. Krueger with Mr. Madigan.
Mr. AuCoin with Mr. Butler.
Mr. Eckhardt with Mr. McCloskey.
Mr. Conyers with Mr. Helstoski.
Mr. Hefner with Mr. Madden.
Mr. Jacobs with Mr. Fish.
Mr. Murtha with Mr. Archer.
Mr. Pickle with Mr. Hansen.
Mr. Ryan with Mr. Conte.
Mrs. Keys with Mr. Landrum.
Mr. Ullman with Mr. Udall.
Mr. Meeds with Mr. Riegle.
Mr. McCormack with Mr. Henderson.
Mr. Patterson of California with Mr. McCollister.
Mr. Steelman with Mr. Mosher.
Mr. Steiger of Arizona with Mr. Karth.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title was amended so as to read: "A bill to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provision of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

ENDANGERED SPECIES COMPENSATION PILOT PROGRAM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 14418.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 14418, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 152, nays 228, not voting 50, as follows:

[Roll No. 754]

YEAS—152

Abdnor
Abzug
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blouin
Boland
Bolling
Brademas
Breaux
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Chisholm
Clay
Cohen
Collins, Ill.
D'Amours
Danielson
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Ind.
Fascell
Fish
Fisher
Flood
Flynt
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Gilman
Ginn
Gradison
Hagedorn
Harkin
Harrington
Hawkins
Hayes, Ind.
Hicks
Hightower
Holtzman
Howard
Hubbard
Hungate
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Koch
Leggett
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McFall
Madden
Maguire
Mathis
Melcher
Metcalfe
Mezvinsky
Mikva
Mills
Mitchell, Md.
Mollohan
Morgan
Murphy, N.Y.
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Poage
Price
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roybal
Ruppe
St Germain
Sarbanes
Scheuer
Schroeder
Schulze
Shipley
Simon
Sisk
Smith, Iowa
Solarz
Stark
Steed
Stephens
Studds
Sullivan
Symington
Thompson
Thornton
Van Deerlin
Waxman
Weaver
Wilson, C. H.
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—228

Adams
Addabbo
Alexander
Allen
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Blanchard
Bonker
Bowen
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Drinan
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fenwick
Findley
Flowers
Ford, Tenn.
Fountain
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hillis
Holland
Holt
Horton
Howe
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Mahon
Mann
Martin
Mazzoli
Michel
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Passman
Paul
Pepper
Pressler
Preyer
Perkins
Pettis
Peyser
Pike
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Robinson
Rostenkowski
Roush
Rousselot
Runnels
Russo
Santini
Sarasin
Satterfield
Schneebeli
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stokes
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Traxler
Treen
Tsongas
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Young, Fla.

NOT VOTING—50

AuCoin
Badillo
Boggs
Butler
Conlan
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jacobs
Jordan
Karth
Keys
Krueger
Landrum
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mink
Mosher
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Ryan
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

On this vote:

Mr. Dominick V. Daniels and Mr. Florio for, with Mr. Krueger against.

Mr. Conyers and Mr. Helstoski for, with Mr. Hébert against.

Mr. du Pont and Mr. Matsunaga for, with Mr. Hansen against.

Mrs. Meyner and Mr. Nix for, with Mr. Conlan against.

Mr. Badillo and Mrs. Mink for, with Mr. Butler against.

Mr. Corman and Mr. Patterson of California for, with Mr. Henderson against.

Until further notice:

Mrs. Boggs with Mr. Green.
Mr. Fithian with Mr. Landrum.
Mr. Duncan of Oregon with Mr. Riegle.
Mr. Jacobs with Mr. Ullman.
Ms. Jordan with Mr. Ryan.
Mr. Hefner with Mr. Eshleman.
Mr. McCormack with Mr. Heinz.
Mr. Meeds with Mr. Esch.
Mrs. Keys with Mr. Mosher.
Mr. Murtha with Mr. Conte.
Mrs. Spellman with Mr. Steiger of Arizona.
Mr. AuCoin with Mr. Karth.
Mr. Madigan with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mr. Steelman with Mr. Udall.

Messrs. EVANS of Colorado, SIKES, HANNAFORD, GOLDWATER, COTTER, PRESSLER, BLANCHARD, DRINAN, and HOLLAND changed their vote from "yea" to "nay."

Mr. BRECKINRIDGE changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1414, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the Senate bill S. 1414, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 360, nays 20, not voting 50, as follows:

[Roll No. 755]

YEAS—360

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Collins, Tex.
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—20

Archer
Ashbrook
Bevill
Carney
Clancy
Clawson, Del
Cohen
Conable
Crane
Devine
Dickinson
Emery
Kelly
Kindness
McDonald
Michel
Miller, Ohio
Myers, Ind.
Paul
Symms

NOT VOTING—50

AuCoin
Badillo
Boggs
Butler
Cederberg
Conlan
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jacobs
Jordan
Karth
Keys
Krueger
Landrum
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mink
Mosher
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Nix with Mr. Esch.
Mr. Dominick V. Daniels with Mr. Green.
Mr. Florio with Mr. du Pont.
Mr. Matsunaga with Mr. Hébert.
Mrs. Meyner with Mr. Hansen.
Mrs. Spellman with Mr. Conte.
Mr. Hefner with Mr. Steiger of Arizona.
Mr. Badillo with Mr. Ullman.
Mr. AuCoin with Mr. Hansen.
Mr. Murtha with Mr. Eshleman.
Mr. McCormack with Mr. Eckhardt.
Mr. Helstoski with Mr. Heinz.
Mr. Corman with Mr. Steelman.
Mr. Fithian with Mr. McCollister.
Mr. Udall with Mr. Henderson.
Mr. Pickle with Mr. Madigan.
Ms. Jordan with Mr. Mosher.
Mr. Conyers with Mr. Riegle.
Mr. Duncan of Oregon with Mr. McCloskey.
Mr. Krueger with Mr. Landrum.
Mrs. Mink with Mr. Meeds.
Mr. Patterson of California with Mr. Karth.
Mr. Cederberg with Mrs. Keys.

Mr. ROUSSELOT changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An act to amend the Commercial Fisheries Research and Development Act of 1964 to change certain procedures in order to improve the operation of the programs under such act and to make the Trust Territory of the Pacific Islands eligible to participate in such programs."

A motion to reconsider was laid on the table.

REGULATORY REFORM FOR DOMESTIC WATERBORNE TRADES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10841, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill H.R. 10841, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 1, not voting 46, as follows:

[Roll No. 756]

YEAS—383

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn

Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon

Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe

Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Clancy

NOT VOTING—46

AuCoin
Badillo
Boggs
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green

Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Karth
Krueger
Landrum
McCloskey
McCollister
McCormack
Madigan
Matsunaga

Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Nix with Mr. Esch.
Mr. Dominick V. Daniels with Mr. Green.
Mr. Florio with Mr. du Pont.
Mr. Matsunaga with Mr. Hébert.
Mrs. Meyner with Mr. Hansen.
Mrs. Spellman with Mr. Conte.
Mr. Hefner with Mr. Steiger of Arizona.
Mr. Badillo with Mr. Ullman.
Mr. AuCoin with Mr. Hansen.
Mr. Murtha with Mr. Eshleman.
Mr. McCormack with Mr. Eckhardt.
Mr. Helstoski with Mr. Heinz.
Mr. Corman with Mr. Steelman.
Mr. Fithian with Mr. McCollister.
Mr. Udall with Mr. Henderson.
Mr. Pickle with Mr. Madigan.
Ms. Jordan with Mr. Mills.
Mr. Conyers with Mr. Riegle.
Mr. Duncan of Oregon with Mr. McCloskey.
Mr. Krueger with Mr. Landrum.
Mrs. Mink with Mr. Meeds.
Mr. Patterson of California with Mr. Karth.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Intercoastal Shipping Act, 1933, and for other purposes."

A motion to reconsider was laid on the table.

FEDERAL BOAT SAFETY ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13585, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 13585, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 12, answered "present" 1, not voting 46, as follows:

[Roll No. 757]

YEAS—371

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin

Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay

Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.

Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta

Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino

Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—12

Burleson, Tex.
Hall, Tex.
Ichord
Lujan

Mahon
Milford
Paul
Runnels

Satterfield
Taylor, Mo.
Teague
Waggonner

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—46

AuCoin
Badillo
Boggs

Butler
Conte
Conyers

Corman
Daniels, N.J.
Duncan, Oreg.

du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
Landrum
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Stephens
Udall
Ullman

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Nix with Mr. Hébert.
Mr. Dominick V. Daniels with Mr. Eshleman.
Mr. Matsunaga with Mr. Landrum.
Mrs. Spellman with Mr. Conte.
Mr. Corman with Mr. McCloskey.
Mr. Hefner with Mr. Heinz.
Mrs. Meyner with Mr. Pickle.
Mr. Helstoski with Mr. du Pont.
Mr. Conyers with Mr. Madigan.
Mr. AuCoin with Mr. Hansen.
Mr. Badillo with Mr. Esch.
Mr. Florio with Mr. Steiger of Arizona.
Mr. Fithian with Ms. Jordan.
Mrs. Mink with Mr. Stephens.
Mr. McCormack with Mr. Steelman.
Mr. Meeds with Mr. McCollister.
Mr. Murtha with Mr. Patterson of California.
Mr. Henderson with Mr. Ullman.
Mr. Eckhardt with Mr. Udall.
Mr. Duncan of Oregon with Mr. Riegle.
Mr. Krueger with Mr. Mills.

Mr. YOUNG of Texas changed his vote from "nay" to "yea."

Mr. MAHON changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COAST GUARD OVERSEAS HOUSING LEASES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 3050, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the Senate bill S. 3050, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 354, nays 27, not voting 49, as follows:

[Roll No. 758]

YEAS—354

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—27

Archer
Ashbrook
Brodhead
Burleson, Tex.
Clancy
Clawson, Del
Collins, Tex.
Conable
Conlan
Devine
Findley
Gonzalez
Goodling
Hayes, Ind.
Jeffords
Kelly
Ketchum
Kindness
Martin
Michel
Miller, Ohio
Myers, Ind.
Paul
Quillen
Rhodes
Schneebeli
Shuster

NOT VOTING—49

AuCoin
Badillo
Boggs
Breckinridge
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, N.C.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Ryan
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Udall
Ullman
Young, Alaska

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Nix with Mr. Hébert.
Mr. Dominick V. Daniels with Mr. Eshleman.
Mr. Matsunaga with Mr. Ryan.
Mrs. Spellman with Mr. Conte.
Mr. Corman with Mr. McCloskey.
Mr. Hefner with Mr. Heinz.
Mrs. Meyner with Mr. Pickle.
Mr. Helstoski with Mr. du Pont.
Mr. Conyers with Mr. Madigan.
Mr. AuCoin with Mr. Hansen.
Mr. Badillo with Mr. Esch.
Mr. Florio with Mr. Steiger of Arizona.
Mr. Fithian with Ms. Jordan.
Mrs. Mink with Mr. James V. Stanton.
Mr. McCormack with Mr. Steelman.
Mr. Meeds with Mr. McCollister
Mr. Murtha with Mr. Patterson of California.
Mr. Henderson with Mr. Ullman.
Mr. Eckhardt with Mr. Udall.
Mr. Duncan of Oregon with Mr. Riegle.
Mr. Krueger with Mr. Mills.
Mr. Young of Alaska with Mr. Green.
Mr. Breckinridge with Mr. Jones of North Carolina.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title was amended so as to read: "To authorize the Secretary of the Department in which the Coast Guard is operating to lease housing facilities for Coast Guard personnel in a foreign country on a multiyear basis."

A motion to reconsider was laid on the table.

SAVING THE GRAY AND BOWHEAD WHALES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 15445).

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 15445, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 314, nays 70, answered "present" 1, not voting 45, as follows:

[Roll No. 759]

YEAS—314

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conlan
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hughes
Hutchinson
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Martin
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—70

Abdnor
Allen
Archer
Armstrong
Ashbrook
Bauman
Bevill
Burleson, Tex.
Burlison, Mo.
Byron
Chisholm
Clancy
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Devine
Downing, Va.
Duncan, Tenn.
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Flowers
Goldwater
Hall, Tex.
Hammerschmidt
Hanley
Howe
Hubbard
Hungate
Ichord
Jarman
Jones, Okla.
Jones, Tenn.
Kelly
Ketchum
Kindness
Landrum
Lloyd, Tenn.
Lott
McDonald
Mann
Mathis
Michel
Miller, Ohio
Myers, Ind.
Natcher
Nichols
Paul
Randall
Rhodes
Risenhoover
Roberts
Rousselot
Runnels
Satterfield
Schneebeli
Shuster
Spence
Stratton
Symms
Taylor, Mo.
Thornton
Treen
Waggonner
Whitten
Wiggins
Young, Tex.

ANSWERED "PRESENT"—1

Holland

NOT VOTING—45

AuCoin
Badillo
Boggs
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Scheuer
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Butler.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Steiger of Arizona.
Mr. Udall with Mr. Scheuer.

Messrs. BAUMAN and HANLEY changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to save the gray and bowhead whales."

A motion to reconsider was laid on the table.

RECALCULATION OF RETIRED OR RETAINER PAY TO REFLECT LATER ACTIVE DUTY

The **SPEAKER** pro tempore (Mr. McFALL). The unfinished business is the question of suspending the rules and passing the bill, H.R. 4105, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill, H.R. 4105, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 244, nays 141, not voting 45, as follows:

[Roll No. 760]

YEAS—244

Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Baldus
Bauman
Beard, R.I.
Bell
Bennett
Bergland
Bevill
Biester
Blanchard
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Chappell
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Collins, Tex.
Conlan
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Derrick
Derwinski
Dickinson
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Edgar
Eilberg
Emery
English
Evans, Colo.
Fascell
Fenwick
Findley
Fish
Fisher
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hanley
Hannaford
Harris
Harsha
Hawkins
Hayes, Ind.
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Koch
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McDonald
McFall
McHugh
Madden
Martin
Mathis
Melcher
Metcalfe
Mezvinsky
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, N.Y.
Myers, Ind.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Paul
Pepper
Perkins
Pettis
Peyser
Poage
Price
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Richmond
Rinaldo
Risenhoover
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rousselot
Roybal
Runnels
Ruppe
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sharp
Shipley
Sisk
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Van Deerlin
Vander Veen
Walsh
Wampler
Weaver
Whalen

White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—141

Abdnor
Abzug
Adams
Addabbo
Anderson, Ill.
Annunzio
Armstrong
Ashley
Aspin
Baucus
Beard, Tenn.
Bedell
Biaggi
Bingham
Blouin
Boland
Bolling
Brademas
Brodhead
Broomfield
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Byron
Carr
Carter
Cederberg
Chisholm
Clawson, Del
Cohen
Collins, Ill.
Conable
Cotter
Coughlin
Delaney
Dellums
Devine
Dingell
Drinan
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Flood
Fraser
Frenzel
Giaimo
Gradison
Grassley
Hall, Tex.
Hamilton
Hammerschmidt
Harkin
Harrington
Hechler, W. Va.
Heckler, Mass.
Holtzman
Hutchinson
Jacobs
Jarman
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
LaFalce
Landrum
Latta
Long, La.
McClory
McDade
McEwen
McKay
McKinney
Maguire
Mahon
Mann
Mazzoli
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Moore
Moss
Mottl
Murphy, Ill.
Myers, Pa.
Neal
Ottinger
Pattison, N.Y.
Pike
Pressler
Preyer
Railsback
Regula
Reuss
Rhodes
Robinson
Rodino
Rosenthal
Rostenkowski
Roush
Russo
Ryan
Schneebeli
Sebelius
Seiberling
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Staggers
Stanton, J. William
Stanton, James V.
Stark
Studds
Symington
Tsongas
Vander Jagt
Vanik
Vigorito
Waggonner
Waxman
Whitten
Wiggins
Winn
Wirth
Wydler
Yates
Yatron

NOT VOTING—45

AuCoin
Badillo
Boggs
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Mosher
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Butler.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Steiger of Arizona.
Mr. Udall with Mr. Mosher.

Messrs. MINISH, BLOUIN, SYMINGTON, and PRESSLER, and Mrs. COLLINS of Illinois changed their vote from "yea" to "nay."

Messrs. ROBERTS, POAGE, and MADDEN changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

INCENTIVE PAY FOR ARMED SERVICES MEDICAL OFFICERS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14772, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill H.R. 14772, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 102, nays 283, answered "present" 1, not voting 44, as follows:

[Roll No. 761]

YEAS—102

Alexander
Allen
Anderson, Calif.
Bafalis
Bauman
Bell
Bennett
Bergland
Bevill
Biaggi
Bowen
Brinkley
Brooks
Brown, Ohio
Broyhill
Burke, Mass.
Byron
Clausen, Don H.
Daniel, Dan
Daniel, R. W.
de la Garza
Dickinson
Diggs
Downey, N.Y.
Fisher
Ford, Mich.
Gaydos
Gonzalez
Hamilton
Harris
Hayes, Ind.
Hicks
Hillis
Holt
Howe
Hubbard
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Kazen
Lagomarsino
Leggett
Levitas
Lloyd, Tenn.
Lott
Lundine
McDonald
McFall
Melcher
Metcalfe
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Morgan
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Oberstar
O'Brien
O'Hara
O'Neill
Pepper
Perkins
Preyer
Price
Pritchard
Quillen
Randall
Risenhoover
Rogers
Roncalio
Rooney
Rose
Runnels
Schroeder
Schulze
Seiberling
Sisk
Solarz
Spence
Staggers
Steed
Stephens
Stratton
Symms
Thompson
Traxler
Walsh
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—283

Abdnor
Abzug
Adams
Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hightower
Holland
Holtzman
Horton
Howard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Landrum
Latta
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Ind.
Natcher
Neal
Nolan
Nowak
Obey
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pettis
Peyser
Pike
Poage
Pressler
Quie
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Weaver
Whalen
Whitten
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Ga.
Zeferetti

ANSWERED "PRESENT"—1

Paul

NOT VOTING—44

AuCoin
Badillo
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithhian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Teague
Udall
Ullman

The Clerk announced the following pairs:

Mr. Teague with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.

Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Butler.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Steiger of Arizona.

Messrs. EDGAR, BRECKINRIDGE, MITCHELL of Maryland, HUTCHINSON, and SMITH of Iowa changed their vote from "yea" to "nay."

Mr. SYMMS changed his vote from "nay" to "yea."

Mr. MOAKLEY changed his vote from "present" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MAKING IMPROVEMENTS IN THE SURVIVOR-BENEFIT PROGRAM FOR RETIRED MILITARY PERSONNEL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14773 as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill H.R. 14773, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 6, not voting 45, as follows:

[Roll No. 762]

YEAS—379

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—6

Dingell
Harrington
Moss
Myers, Pa.
O'Hara
Wiggins

NOT VOTING—45

AuCoin
Badillo
Butler
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman
Waxman

The Clerk announced the following pairs:

Mr. Waxman with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Butler.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McClory.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Steiger of Arizona.
Mr. Udall with Mr. Jones of Alabama.

Messrs. BLOUIN and DELLUMS changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes.".

A motion to reconsider was laid on the table.

STOCKPILE DISPOSAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 15081.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill H.R. 15081, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 204, not voting 46, as follows:

[Roll No. 763]

YEAS—180

Abdnor
Adams
Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Butler
Carr
Cederberg
Chisholm
Clay
Cleveland
Collins, Ill.
Conable
Cornell
Coughlin
D'Amours
Daniel, R. W.
Danielson
Derrick
Dickinson
Diggs
Downey, N.Y.
Drinan
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Foley
Ford, Mich.
Forsythe
Fountain
Fraser

Frenzel
Giaimo
Gibbons
Goodling
Gradison
Hagedorn
Hall, Ill.
Hamilton
Hawkins
Hayes, Ind.
Hicks
Hillis
Horton
Howard
Hughes
Hutchinson
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Karth
Kastenmeier
Keys
Koch
LaFalce
Landrum
Leggett
Lehman
Long, La.
Long, Md.
Lundine
McClory
McDade
McFall
McHugh
Maguire
Mazzoli
Melcher

Metcalfe
Mikva
Miller, Calif.
Mollohan
Moore
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Patten, N.J.
Pattison, N.Y.
Pepper
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Rees
Rinaldo
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal

Russo
St Germain
Scheuer
Schneebeli
Schulze
Sebelius
Seiberling
Sharp
Shriver
Simon
Skubitz
Smith, Nebr.
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stokes
Stratton
Symington
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Van Deerlin
Vanik
Weaver
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wolff
Wydler
Zablocki

NAYS—204

Abzug
Alexander
Allen
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bedell
Bell
Bevill
Blouin
Boggs
Boland
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Davis
de la Garza
Delaney
Dellums
Dent
Devine
Dingell
Dodd
Downing, Va.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evins, Tenn.

Fish
Flowers
Flynt
Ford, Tenn.
Frey
Fugua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Haley
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hightower
Holland
Holt
Holtzman
Howe
Hubbard
Hungate
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McDonald
McEwen
McKay
McKinney
Madden
Mahon
Mann
Martin

Mathis
Mezvinsky
Michel
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Morgan
Mottl
Myers, Ind.
Natcher
Neal
Nichols
Nolan
Ottinger
Passman
Paul
Perkins
Pettis
Peyser
Pike
Poage
Quie
Regula
Reuss
Rhodes
Richmond
Risenhoover
Roberts
Roe
Rousselot
Runnels
Ruppe
Santini
Sarasin
Sarbanes
Satterfield
Schroeder
Shipley
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Snyder
Stark
Steed
Stephens
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Teague

Thornton
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman

White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wylie
Yates

Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zeferetti

NOT VOTING—46

AuCoin
Badillo
Conte
Conyers
Corman
Daniels, N.J.
Derwinski
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen

Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner

Mills
Mink
Moss
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Ryan
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Jones of Alabama with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Steiger of Arizona.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Derwinski.
Mr. Moss with Mr. Udall.

Messrs. STUCKEY, OTTINGER, and ARCHER changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

AUTHORIZING APPROPRIATIONS FOR DEPARTMENT OF COMMERCE TO BE AVAILABLE UNTIL EXPENDED OR FOR PERIODS IN EXCESS OF 1 YEAR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 11570, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill, H.R. 11570, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 118, nays 268, not voting 44, as follows:

[Roll No. 764]

YEAS—118

Addabbo
Anderson, Ill.
Andrews, N. Dak.
Beard, Tenn.

Biester
Boggs
Brinkley
Buchanan
Burgener

Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler

Carter
Cederberg
Chappell
Cohen
Collins, Tex.
Conable
Cotter
Coughlin
Delaney
Dickinson
Downey, N.Y.
Edwards, Ala.
Emery
Erlenborn
Evans, Colo.
Fenwick
Findley
Fish
Flood
Forsythe
Fraser
Frey
Fuqua
Ginn
Goodling
Gradison
Hammerschmidt
Hawkins
Heckler, Mass.
Holland
Horton
Howard
Hutchinson
Hyde
Jeffords

Jones, N.C.
Karth
Kasten
Kelly
Kemp
Levitas
Long, La.
Lundine
McClory
McDade
McEwen
McFall
McKinney
Melcher
Metcalfe
Michel
Miller, Ohio
Mollohan
Moore
Morgan
Mosher
Murphy, N.Y.
Ottinger
Pressler
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Rinaldo
Risenhoover
Robinson
Roe
Rooney
Roush

Roybal
Ruppe
Ryan
Sarasin
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Sikes
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Steiger, Wis.
Stephens
Symington
Talcott
Thompson
Treen
Walsh
Wampler
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wylie
Yatron
Young, Alaska
Young, Ga.
Zablocki

NAYS—268

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carr
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Collins, Ill.
Conlan
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis

de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Eilberg
English
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hicks
Hightower
Hillis
Holt
Holtzman
Howe
Hubbard
Hughes
Hungate
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.

Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McDonald
McHugh
McKay
Madden
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Pepper

Perkins
Pettis
Peyser
Pike
Poage
Preyer
Price
Pritchard
Randall
Rangel
Reuss
Richmond
Roberts
Rodino
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Sisk
Smith, Nebr.
Snyder
Solarz
Spence
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Yates
Young, Fla.
Young, Tex.
Zeferetti

NOT VOTING—44

AuCoin
Badillo
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Ichord
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Jones of Alabama with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Ichord.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Steiger of Arizona.

Messrs. JENRETTE, SOLARZ, ENGLISH, ASPIN, OBERSTAR, and JACOBS changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

GOLD LABELING ACT OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 3095, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the Senate bill S. 3095, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 22, not voting 43, as follows:

[Roll No. 765]

YEAS—365

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—22

Conable
Conlan
Crane
Findley
Gonzalez
Hutchinson
Jeffords
Kelly
Kindness
McDonald
Martin
Michel
Mottl
Paul
Quillen
Rhodes
Schneebeli
Spence
Symms
Wiggins
Wilson, Bob
Young, Fla.

NOT VOTING—43

AuCoin
Badillo
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Jones of Alabama with Mr. Green.
Mr. AuCoin with Mr. Conyers.
Mr. Nix with Mr. Eckhardt.
Mr. Murtha with Mr. Hébert.
Ms. Jordan with Mr. Heinz.
Mr. Dominick V. Daniels with Mr. Esch.
Mr. Duncan of Oregon with Mr. du Pont.
Mr. Florio with Mr. Eshleman.
Mr. Fithian with Mr. Hansen.
Mr. Matsunaga with Mr. Steiger of Arizona.
Mr. McCormack with Mr. Steelman.
Mrs. Meyner with Mr. Riegle.
Mr. Meeds with Mr. Conte.
Mr. Hefner with Mr. Madigan.
Mr. Helstoski with Mr. Patterson of California.
Mrs. Spellman with Mr. Mills.
Mr. Ullman with Mr. McCloskey.
Mr. Pickle with Mr. McCollister.
Mrs. Mink with Mr. Krueger.
Mr. Corman with Mr. Henderson.
Mr. Badillo with Mr. Udall.

Messrs. REUSS, DE LA GARZA, BRODHEAD, and WALSH changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RAILROAD RETIREMENT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14041, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 14041, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 4, not voting 47, as follows:

[Roll No. 766]

YEAS—379

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mahon
Mann
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Collins, Tex.
Martin
Paul
Wiggins

NOT VOTING—47

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman
Wylie

The Clerk announced the following pairs:

Mr. Jones of Alabama with Mr. Green.

Mr. AuCoin with Mr. Conyers.

Mr. Nix with Mr. Eckhardt.

Mr. Murtha with Mr. Hébert.

Ms. Jordan with Mr. Heinz.

Mr. Dominick V. Daniels with Mr. Esch.

Mr. Duncan of Oregon with Mr. du Pont.

Mr. Florio with Mr. Eshleman.

Mr. Fithian with Mr. Hansen.

Mr. Matsunaga with Mr. Steiger of Arizona.

Mr. McCormack with Mr. Steelman.

Mrs. Meyner with Mr. Riegle.

Mr. Meeds with Mr. Conte.

Mr. Hefner with Mr. Madigan.

Mr. Helstoski with Mr. Patterson of California.

Mrs. Spellman with Mr. Mills.

Mr. Ullman with Mr. McCloskey.

Mr. Pickle with Mr. McCollister.

Mrs. Mink with Mr. Krueger.

Mr. Corman with Mr. Henderson.

Mr. Badillo with Mr. Wylie.

Mr. Brademas with Mrs. Chisholm.

Mr. Maguire with Mr. Udall.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CLINICAL LABORATORY IMPROVEMENT ACT OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14319, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 14319, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 193, nays 188, answered "present" 1, not voting 48, as follows:

[Roll No. 767]

YEAS—193

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Baucus
Beard, R.I.
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chappell
Clay
Collins, Ill.
Conable
Cotter
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Downey, N.Y.
Drinan
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hicks
Holtzman
Howard
Howe
Hungate
Jacobs
Jenrette
Johnson, Calif.
Karth
Kastenmeier
Keys
Koch
Krebs
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McDade
McFall
McKay
Madden
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nolan
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Staggers
Stark
Stokes
Stratton
Studds
Sullivan
Symington
Thompson
Thornton
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—188

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bevill
Bonker

Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conlan
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Evans, Ind.
Findley
Flowers
Flynt
Foley
Forsythe
Fountain
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Harsha
Heckler, Mass.
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
LaFalce
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Tenn.
Lott
McClory
McDonald
McEwen
McHugh
McKinney
Mahon
Mann
Martin
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Moakley
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Neal
Nichols
Nowak
O'Brien
Passman
Paul
Pettis
Poage
Pritchard
Quie
Quillen
Railsback
Randall
Rhodes
Risenhoover
Roberts
Robinson
Roncalio
Rousselot
Runnels
Ruppe
Russo
Sarasin
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Traxler
Treen
Tsongas
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Winn
Wright
Young, Alaska
Young, Fla.
Young, Tex.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—48

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Dodd
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Stephens
Udall
Ullman
Wylie

The Clerk announced the following pairs:

Mrs. Chisholm with Mr. Green.

Mr. AuCoin with Mr Conyers.

Mr. Nix with Mr. Eckhardt.

Mr. Murtha with Mr. Hébert.

Ms. Jordan with Mr. Heinz.

Mr. Dominick V. Daniels with Mr. Esch.

Mr. Duncan of Oregon with Mr. du Pont.

Mr. Florio with Mr. Eshleman.

Mr. Fithian with Mr. Hansen.

Mr. Matsunaga with Mr. Steiger of Arizona.

Mr. McCormack with Mr. Steelman.

Mrs. Meyner with Mr. Riegle.

Mr. Meeds with Mr. Conte.

Mr. Hefner with Mr. Madigan.

Mr. Helstoski with Mr. Patterson of California.

Mrs. Spellman with Mr. Mills.

Mr. Ullman with Mr. McCloskey.

Mr. Pickle with Mr. McCollister.

Mrs. Mink with Mr. Krueger.

Mr. Corman with Mr. Henderson.

Mr. Badillo with Mr. Stephens.

Mr. Brademas with Mr. Udall.

Mr. Dodd with Mr. Maguire.

Messrs. BELL, BRINKLEY, RUSSO, HYDE, and EMERY changed their vote from "yea" to "nay."

Messrs. PIKE, PATTEN, and ASHLEY changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REDUCING THE HAZARDS OF EARTHQUAKES

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1174, as amended.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the Senate bill S. 1174, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 192, nays 192, answered "present" 1, not voting 45, as follows:

[Roll No. 768]

YEAS—192

Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Biaggi
Bingham
Blouin
Boggs
Bolling
Breckinridge
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Cornell
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Edgar
Edwards, Calif.
Eilberg
Emery
Evins, Tenn.
Fary
Fish
Fisher
Flood
Ford, Mich.
Fraser
Frey
Fuqua
Gibbons
Gilman
Goldwater
Gradison
Gude
Hall, Ill.
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Karth
Kastenmeier
Kemp
Keys
Koch
Krebs
Lagomarsino
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McDade
McFall
McHugh
McKinney
Madden
Mazzoli
Melcher
Metcalfe
Mezvinsky
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Nolan
Oberstar
O'Hara
O'Neill
Ottinger
Passman
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Price
Pritchard
Randall
Rangel
Rees
Regula
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schulze
Seiberling
Shipley
Simon
Sisk
Smith, Iowa
Snyder
Solarz
Staggers
Stanton, J. William
Stark
Stephens
Stokes
Stratton
Sullivan
Symington
Teague
Thornton
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Wampler
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki

NAYS—192

Abdnor
Abzug
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bevill
Biester
Boland
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Findley
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Gaydos
Giaimo
Ginn
Gonzalez
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Hanley
Harrington
Hightower
Hillis
Holland
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Ketchum
Kindness
LaFalce
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McDonald
McEwen
McKay
Mahon
Mann
Martin
Mathis
Michel
Mikva
Miller, Ohio
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Mottl
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Obey
O'Brien
Patten, N.J.
Paul
Pike
Poage
Pressler
Preyer
Quie
Quillen
Railsback
Reuss
Rhodes
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Russo
Santini
Satterfield
Schneebeli
Schroeder
Sebelius
Sharp
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Spence
Stanton, James V.
Steed
Steiger, Wis.
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Vigorito
Walsh
White
Whitehurst
Whitten
Wiggins
Wolff
Wydler
Yates
Yatron
Young, Fla.
Zeferetti

ANSWERED "PRESENT"—1

Blanchard

NOT VOTING—45

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Eckhardt.

Mr. Nix with Mr. Mills.
Mr. Brademas with Mr. Hébert.
Mr. Corman with Mr. Heinz.
Mr. Badillo with Mr. Esch.
Mr. AuCoin with Mr. du Pont.
Mr. Duncan of Oregon with Mr. Eshleman.
Mr. Florio with Mr. Madigan.
Mr. Fithian with Mr. Pickle.
Mr. Krueger with Mr. Conte.
Mrs. Spellman with Mr. Riegle.
Mr. Murtha with Mr. Hansen.
Mr. Matsunaga with Mr. Steelman.
Mr. Hefner with Mr. McCloskey.
Mr. Conyers with Mr. Green.
Mrs. Chisholm with Mr. Helstoski.
Mrs. Meyner with Mr. McCollister.
Mr. McCormack with Mr. Steiger of Arizona.
Mr. Meeds with Mrs. Mink.
Mr. Patterson of California with Ms. Jordan.
Mr. Ullman with Mr. Henderson.
Mr. Maguire with Mr. Udall.

Mrs. FENWICK and Mrs. SCHROEDER and Messrs. STUDDS, DOWNEY of New York, DUNCAN of Tennessee, SHARP, YATES, BOLAND and NEAL changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HAZARDOUS MATERIALS TRANSPORTATION ACT EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 13124, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill, H.R. 13124, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 346, nays 39, not voting 45, as follows:

[Roll No. 769]

YEAS—346

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conlan
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—39

Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Brodhead
Burlison, Mo.
Butler
Chappell
Collins, Tex.
Conable
Crane
Flynt
Frenzel
Hall, Tex.
Hightower
Hubbard
Hutchinson
Ichord
Johnson, Pa.
Ketchum
Kindness
McDonald
Mahon
Michel
Passman
Paul
Poage
Robinson
Rousselot
Satterfield
Schneebeli
Sebelius
Stuckey
Symms
Taylor, Mo.
Treen
Waggonner
Young, Alaska
Young, Fla.

NOT VOTING—45

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Eckhardt.
Mr. Nix with Mr. Mills.
Mr. Brademas with Mr. Hébert.
Mr. Corman with Mr. Heinz.
Mr. Badillo with Mr. Esch.
Mr. AuCoin with Mr. du Pont.
Mr. Duncan of Oregon with Mr. Eshleman.
Mr. Florio with Mr. Madigan.
Mr. Fithian with Mr. Pickle.
Mr. Krueger with Mr. Conte.
Mrs. Spellman with Mr. Riegle.
Mr. Murtha with Mr. Hansen.
Mr. Matsunaga with Mr. Steelman.
Mr. Hefner with Mr. McCloskey.
Mr. Conyers with Mr. Green.
Mrs. Chisholm with Mr. Helstoski.
Mrs. Meyner with Mr. McCollister.
Mr. McCormack with Mr. Steiger of Arizona.
Mr. Meeds with Mrs. Mink.
Mr. Patterson of California with Ms. Jordan.
Mr. Ullman with Mr. Henderson.
Mr. Udall with Mr. Maguire.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2991) to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1976".

SEC. 2. Section 106(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1805(c)) is amended by striking out "extremely" each time it appears.

SEC. 3. Section 107(a) of the Hazardous Materials Transportation Act (49 U.S.C. 1806(a)) is amended by striking out the phrase "transports or causes to be transported or shipped hazardous materials in a manner so as to achieve" and insert in lieu thereof "will provide for".

SEC. 4. The text of section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended to read as follows: "There are authorized to be appropriated to the Secretary to carry out programs relating to the transportation of hazardous materials and for other activities carried out pursuant to this Act not to exceed $1,750,000 for the transition period of July 1, 1976, through September 30, 1976, not to exceed $7,000,000 for the fiscal year ending September 30, 1977, and not to exceed $7,000,000 for the fiscal year ending September 30, 1978.".

MOTION OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HOWARD moves to strike out all after the enacting clause of S. 2991 and insert in lieu thereof the text of H.R. 13124, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13124) was laid on the table.

NATIONAL WEATHER MODIFICATION POLICY ACT OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 3383, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the Senate bill, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 292, nays 91, not voting 47, as follows:

[Roll No. 770]

YEAS—292

Abdnor
Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashley
Aspin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Cornell
D'Amours
Danielson
de la Garza
Delaney
Dellums
Dent
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Fish
Fisher
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McDade
McFall
McHugh
McKay
McKinney
Madden
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Myers, Ind.
Neal
Nedzi
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Runnels
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—91

Allen
Annunzio
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bevill
Bowen
Brinkley
Burlison, Mo.
Butler
Byron
Chappell
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Derwinski
Devine
Duncan, Tenn.
Erlenborn
Fary
Findley
Flynt
Fountain
Gibbons
Grassley
Hall, Tex.
Hicks
Hightower
Holland
Holt
Hutchinson
Hyde
Ichord
Jeffords
Jenrette
Johnson, Pa.
Jones, N.C.
Kasten
Kelly
Kindness
Lagomarsino
Lloyd, Tenn.
McClory
McDonald
McEwen
Mahon
Mann
Michel
Miller, Ohio
Mitchell, Md.
Montgomery
Moorhead, Calif.
Murphy, Ill.
Myers, Pa.
Natcher
Nichols
Obey
Paul
Pike
Poage
Randall
Rhodes
Roberts
Rostenkowski
Rousselot
Ruppe
Russo
Satterfield
Schneebeli
Shuster
Spence
Stratton
Stuckey
Symms
Taylor, Mo.
Whitehurst
Whitten
Wiggins
Wydler
Yates
Young, Alaska

NOT VOTING—47

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Seiberling
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Eckhardt.
Mr. Nix with Mr. Mills.
Mr. Brademas with Mr. Hébert.
Mr. Corman with Mr. Heinz.
Mr. Badillo with Mr. Esch.
Mr. AuCoin with Mr. du Pont.
Mr. Duncan of Oregon with Mr. Eshleman.
Mr. Florio with Mr. Madigan.
Mr. Fithian with Mr. Pickle.
Mr. Krueger with Mr. Conte.
Mrs. Spellman with Mr. Riegle.
Mr. Murtha with Mr. Hansen.
Mr. Matsunaga with Mr. Steelman.
Mr. Hefner with Mr. McCloskey.
Mr. Conyers with Mr. Green.
Mrs. Chisholm with Mr. Helstoski.
Mrs. Meyner with Mr. McCollister.
Mr. McCormack with Mr. Steiger of Arizona.
Mr. Meeds with Mrs. Mink.
Mr. Patterson of California with Ms. Jordan.
Mr. Ullman with Mr. Henderson.
Mr. Jones of Alabama with Mr. Maguire.
Mr. Udall with Mr. Seiberling.

Mrs. LLOYD of Tennessee changed her vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RELIGIOUS REPRESSION IN THE SOVIET UNION: DISSIDENT BAPTIST PASTOR GEORGI VINS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 726.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 726, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 2, not voting 47, as follows:

[Roll No. 771]

YEAS—381

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.

Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Kastenmeier
Poage

NOT VOTING—47

AuCoin
Badillo
Brademas
Chisholm
Conte
Conyers
Corman
Daniels, N.J.
Duncan, Oreg.
du Pont
Eckhardt
Esch
Eshleman
Fithian
Florio
Green
Hansen
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Howe
Johnson, Colo.
Jordan
Krueger
McCloskey
McCollister
McCormack
Madigan
Maguire
Matsunaga
Meeds
Meyner
Mills
Mink
Murtha
Nix
Patterson, Calif.
Pickle
Riegle
Spellman
Steelman
Steiger, Ariz.
Udall
Ullman

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Eckhardt.

Mr. Nix with Mr. Mills.

Mr. Brademas with Mr. Hébert.

Mr. Corman with Mr. Heinz.

Mr. Badillo with Mr. Esch.

Mr. AuCoin with Mr. du Pont.

Mr. Duncan of Oregon with Mr. Eshleman.

Mr. Florio with Mr. Madigan.

Mr. Fithian with Mr. Pickle.

Mr. Krueger with Mr. Conte.

Mrs. Spellman with Mr. Riegle.

Mr. Murtha with Mr. Hansen.

Mr. Matsunaga with Mr. Steelman.

Mr. Hefner with Mr. McCloskey.

Mr. Conyers with Mr. Green.

Mrs. Chisholm with Mr. Helstoski.

Mr. Meyner with Mr. Steiger of Arizona.

Mr. McCormack with Mrs. Mink.

Mr. Meeds with Ms. Jordan.

Mr. Patterson of California with Mr. Henderson.

Mr. Ullman with Mr. McCollister.

Mr. Udall with Mr. Maguire.

Mr. FOLEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I rise to announce the program for tomorrow.

We will begin with the Private Calendar and then go into suspensions. The No. 1 suspension for Tuesday is H.R. 15246, Service Contract Act. Then we will go back to the bills listed for today, starting with No. 21 and going through Nos. 22, 23, 24, 25, and 26.

At that point we will take up the second suspension bill listed for Tuesday.

Mr. Speaker, it is my hope that we will be able to come in at 10 o'clock tomorrow morning. I will ask unanimous consent that we come in at 10 o'clock tomorrow morning, with the idea that we would stop the suspensions at 5:15 p.m. and then we would start to vote. At the conclusion of the votes, we would not have any further legislation tomorrow. We would hope that we would be able to adjourn by 7 o'clock tomorrow night.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, it was my understanding, from previous conversation, that we would begin to vote tomorrow at 5:30 p.m.

Mr. O'NEILL. Mr. Speaker, if the gentleman from Arizona wants it to be 5:30, it is all right with me. As I understand, there is a soybean conference going on tomorrow, with 85 Members participating.

Mr. RHODES. Mr. Speaker, if the gentleman wants to give me an extra half hour, I will be glad to accept it.

Mr. O'NEILL. Mr. Speaker, there is agreement, then, that we will stop the suspensions at 5:30 tomorrow night.

REQUEST FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. O'NEILL. Mr. Speaker, I wish the gentleman would withhold his objection. If we come in at noontime and we intend to go through with the suspensions until 7 o'clock tomorrow night, the voting would end at about the same time tomorrow night, about 9 p.m.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield, the gentleman can always pull the bills.

CONFERENCE REPORT ON H.R. 12838, ARTS, HUMANITIES, AND CULTURAL AFFAIRS ACT OF 1976

Mr. LEHMAN, on behalf of Mr. PERKINS, filed the following conference report and statement on the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94–1613)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

TITLE I—ARTS AND HUMANITIES

SCOPE OF PROGRAMS CARRIED OUT BY CHAIRMAN OF NATIONAL ENDOWMENT FOR THE ARTS

SEC. 101. Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by striking out "in the United States".

ALLOTMENTS FOR PROJECTS AND PRODUCTIONS RELATING TO THE ARTS

SEC. 102. Section 5(g)(4)(A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting immediately after "(4)(A)" the following new sentence: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1).".

APPOINTMENT OF MEMBERS OF NATIONAL COUNCIL ON ARTS AND NATIONAL COUNCIL ON HUMANITIES

SEC. 103. (a) The first sentence of section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting ", by and with the advice and consent of the Senate," immediately after "President".

(b) The first sentence of section 8(b) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting ", by and with the advice and consent of the Senate," immediately after "President".

STATE HUMANITIES PROGRAM

SEC. 104. (a) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f)(1) The Chairman, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

"(2) In order to receive Federal financial assistance under this subsection in any fiscal year, any appropriate entity desiring to receive such assistance shall submit an application for such grants at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

"(A) provides assurances that the grant recipient will comply with the requirements of paragraph (3) of this subsection;

"(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;

"(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

"(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

"(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient and which complies with the provisions of paragraph (3)(C) of this subsection;

"(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

"(G) establishes procedures to assure public access to information relating to such activities; and

"(H) provides that such grant recipient shall make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.

"(3)(A) Whenever a State desires that an appropriate officer or agency of such State appoint 50 per centum of the membership of the governing body of the grant recipient involved, such State shall—

"(i) for the first fiscal year with respect to which such State desires to make such appointments, match, from State funds, 50 per centum of that portion of the Federal financial assistance received by such grant recipient under this subsection which exceeds $100,000;

"(ii) for the second fiscal year with respect to which such State desires to make such appointments, match, from State funds, that portion of the Federal financial assistance received by such grant recipient under this subsection which exceeds $100,000; and

"(iii) with respect to each fiscal year thereafter, match, from State funds, the total amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

"(B) In any State in which the State does not desire to comply with the requirements of subparagraph (A) of this paragraph, the grant recipient shall—

"(i) establish a procedure which assures that two members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State; and

"(ii) provide, from any source, an amount equal to the total amount of Federal financial assistance received by such grant recipient under this subsection in the fiscal year involved.

"(C) In any fiscal year in which a State fails to meet the matching requirement from State funds made by subparagraph (A) of this paragraph, the number of members on the governing body of the grant recipient who were appointed by an appropriate officer or agency of such State shall be reduced so that the governing body complies with the provisions of subparagraph (B) of this paragraph.

"(4) Of the sums available to carry out this subsection for any fiscal year, each grant recipient which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

"(A) the amount of such excess is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available to the Chairman for making grants under this subsection to entities applying for such grants;

"(B) the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under subparagraph (A) shall be allotted among the grant recipients which have plans approved by the Chairman in equal amounts, but in no event shall any grant recipient be allotted less than $200,000.

"(5)(A) Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any allotment made under paragraph (4) for any fiscal year—

"(i) which exceeds $125,000, but

"(ii) which does not exceed 20 per centum of such allotment, shall be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

"(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

"(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

"(D) For the purposes of this paragraph, the term 'regional group' means any multistate group, whether or not representative of contiguous States.

"(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

"(7) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

"(A) a grant recipient is not complying substantially with the provisions of this subsection:

"(B) a grant recipient is not complying substantially with terms and conditions of its plan approved under this subsection; or

"(C) any funds granted to any grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid.

the Chairman shall imediately notify the Secretary of the Treasury and the grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

"(8) Except as provided in paragraphs (4), (5), and (6), the Chairman may not make grants under this subsection to more than one entity in any State."

(b) The amendment made by subsection (a) shall be effective with respect to fiscal year 1977 and succeeeding fiscal years.

PAYMENT OF PERFORMERS AND SUPPORTING PERSONNEL

SEC. 105. Section 7 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 104(a), is further amended by adding at the end thereof the folowing new subsection:

"(g) It shall be a condition of the receipt of any grant under this section that the group, individual, or State entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 106. (a)(1)(A) Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended to read as follows:

"SEC. 11. (a)(1)(A) For the purpose of carrying out section 5(c), there are authorized to be appropriated $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g).".

(B) Section 11(a)(1)(B) of such Act is amended by striking out all that follows "Humanities" and inserting in lieu thereof the following: "$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f).".

(2) Section 11(a)(2) of such Act is amended (A) by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1980"; and (B) by striking out all that follows "not exceed" and inserting in lieu thereof "$20,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980."

(3) Section 11(c) of such Act is amended by inserting before the period a comma and the following: "or any other program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible".

(b) The amendments made by subsection (a) shall be effective with respect to fiscal year 1977 and succeeding fiscal years.

TITLE II—MUSEUM SERVICES

SHORT TITLE

SEC. 201. This title may be cited as the "Museum Services Act".

PURPOSE

SEC. 202. It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

INSTITUTE OF MUSEUM SERVICES

SEC. 203. There is hereby established, within the Department of Health, Education, and Welfare, an Institute of Museum Services. The Institute shall consist of a National Museum Services Board and a Director of the Institute.

NATIONAL MUSEUM SERVICES BOARD

SEC. 204. (a)(1) The Board shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. Such members shall be broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational, and cultural resources of the United States, and of the general public.

(2)(A) In addition to members appointed by the President under paragraph (1), the following persons shall serve as members of the Board—

(i) the Chairman of the National Endowment for the Arts;

(ii) the Chairman of the National Endowment for the Humanities;

(iii) the Secretary of the Smithsonian Institution;

(iv) the Director of the National Science Foundation; and

(v) the Commissioner of Education.

(B) The members of the Board listed in clause (i) through clause (v) of subparagraph (A) shall be nonvoting members.

(b) The term of office of the appointed members of the Board shall five years, except that—

(1) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment; and

(2) in the case of initial members, three shall serve for terms of five years, three shall serve for terms of four years, three shall serve for terms of three years, three shall serve for terms of two years, and three shall serve for terms of one year, as designated by the President at the time of nomination for appointment.

Any appointed member who has been a member of the Board for more than seven consecutive years shall thereafter be ineligible for reappointment to the Board during the three-year period following the expiration of the last such consecutive year.

(c) The Chairman of the Board shall be designated by the President from among the appointed members of the Board. Eight appointed members of the Board shall constitute a quorum.

(d) The Board shall meet at the call of the Chairman, except that—

(1) it shall meet not less than four times each year; and

(2) it shall meet whenever one-third of the appointed members request a meeting in writing, in which event eight of the appointed members shall constitute a quorum.

(e) Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for grade GS-18 set forth in section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

(f) The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this title. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(g) The Board shall, with the advice of the Director, take steps to assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government.

DIRECTOR OF THE INSTITUTE

SEC. 205. (a)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall perform such duties and exercise such powers as the Board may prescribe.

(2) The Director shall report to the Secretary of Health, Education, and Welfare with respect to the activities of the Institute. The Director shall not delegate any of his functions to any other officer who is not directly responsible to the Director.

(b) The Director shall advise the Board regarding policies of the Institute to assure coordination of the Institute's activities with other agencies and organizations of the Federal Government having interest in and responsibilities for the improvement of museums. Such Government agencies shall include the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation, appropriate units in the Department of Health, Education, and Welfare, the Library of Congress, and the Smithsonian Institution and related organizations.

ACTIVITIES OF THE INSTITUTE

SEC. 206. (a) The Director, subject to the policy direction of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as—

(1) programs to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining professionally-trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting them in conservation of artifacts and art objects; and

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

(b) Grants under this section for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant is made, except that not more than 20 per centum of the funds available under this section for any fiscal year may be available for grants in such fiscal year without regard to such limitation.

CONTRIBUTIONS

SEC. 207. The Institute shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Institute. Such grants, gifts, or bequests, after acceptance by the Institute, shall be paid by the donor or his representative to the Treasurer of the United States whose receipt shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Institute for the purposes in each case specified.

FUNCTIONS OF FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 208. Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 is amended—

(1) by redsignating paragraph (2) through paragraph (4) as paragraph (3) through paragraph (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

"(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;";

(2) in paragraph (3) thereof, as so redesignated by paragraph (1), by striking out "and" immediately after "Arts" and inserting in lieu thereof a comma, and by inserting "and the Institute of Museum Services," immediately after "Humanities,"; and

(3) in paragraph (4) thereof, as so redesignated by paragraph (1), by inserting "and the Institute of Museum Services" immediately after "Foundation".

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. (a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $15,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for each of fiscal years 1979 and 1980.

(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this title.

(c) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(d) For the purpose of enabling the Institute to carry out its functions under this title, duing the period beginning on the date of the enactment of this Act and ending October 1, 1980, there is authorized to be appropriated an amount equal to the amount contributed during such period to the Institute under section 207.

DEFINITIONS

SEC. 210. For the purpose of this title, the term—

(1) "Board" means the National Museum Services Board established under section 203;

(2) "Director" means the Director of the Institute established under section 203;

(3) "Institute" means the Institute of Museum Services established under section 203; and

(4) "museum" means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthethic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

TITLE III—CHALLENGE GRANT PROGRAMS

ESTABLISHMENT OF PROGRAMS

SEC. 301. (a) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

"(l)(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

"(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

"(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

"(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions:

"(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; and

"(E) fostering greater citizen involvement in planning the cultural development of a community.

"(2) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

"(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Arts shall have the same authority as is established in section 5(c) and section 10."

(b) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 105, is further amended by adding at the end thereof the following new subsection:

"(h)(1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

"(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

"(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

"(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

"(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

"(E) fostering greater citizen involvement in planning the cultural development of a community; and

"(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

"(B) The Chairman, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 11(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment on the Humanities for the purpose of this subsection.

"(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section 10.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is authorized to be appropriated for each fiscal year ending before October 1, 1980, to the National Endowment for the Arts an amount equal to the total amounts received by such Endowment for the purposes set forth in section 5(l)(1) pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed $12,000,000 for fiscal year 1977, and $18,000,000 for fiscal year 1978. Such sums as may be necessary are authorized to be appropriated for fiscal years 1979 and 1980.

"(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1980, to the National Endowment for the Humanities an amount equal to the total amounts received by such Endowment for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed $12,000,000 for fiscal year 1977, and $18,000,000 for fiscal year 1978. Such sums as may be necessary are authorized to be appropriated for fiscal years 1979 and 1980.

"(C) If either Chairman determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, he shall transfer such funds to the other Endowment for the purposes described in section 5(l)(1) or section 7(h)(1), may be necessary.

"(D) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.".

TITLE IV—AMERICAN BICENTENNIAL PHOTOGRAPHY AND FILM PROJECT

AMERICAN BICENTENNIAL PHOTOGRAPHY AND FILM PROJECT

SEC. 401. (a) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 301(a), is further amended by adding at the end thereof the following new subsection:

"(m)(1) From funds appropriated to the Endowment and apportioned to each State pursuant to section 11(a)(4), the Endowment is authorized to provide, by grant or contract, financial assistance to the State arts agency of each State, pursuant to such regulations and guidelines as the Endowment shall establish, to permit such State agency to support one or more photography or film projects meeting the purposes of this subsection. Such assistance shall also be available for acquiring essential supplies, and for administrative or supervisory personnel, and for processing and cataloging, and for the display (and related activities) of the photographs and films produced with assistance under this subsection.

"(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner and containing or accompanied by such information, as the Endowment determines is reasonably necessary.

"(B) In providing financial assistance under this subsection, each State shall give consideration to proposals which involve promising and qualified photographers or film makers who are unemployed or underemployed.

"(3) From funds allotted to the Endowment pursuant to section 11(a)(4), the Endowment shall pay the costs of administration, provide for collection and dissemination of a representative collection of photographs and films produced pursuant to this subsection, provide direct assistance to applicants for photography or film projects of special merit which meet the purposes of this subsection. The Endowment shall assure that representative photographs and films (including, where appropriate, negatives) produced with assistance furnished under this subsection are made available for the permanent collection of the Library of Congress.".

(b) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 302, is further amended by adding at the end thereof the following new paragraph:

"(4)(A) For the purposes of carrying out section 5(m), there are authorized to be appropriated to the National Endowment for the Arts $4,000,000 for fiscal year 1977 and $2,000,000 for fiscal year 1978. Sums appropriated pursuant to this subparagraph shall remain available until expended.

"(B) Not more than 75 per centum of the amounts appropriated pursuant to subparagraph (A) shall be allocated among the States in equal amounts for fiscal year 1977, and not more than 50 per centum of the amounts appropriated pursuant to subparagraph (A) shall be allocated among the States in equal amounts for fiscal year 1978.".

TITLE V—ARTS EDUCATION

AMENDMENT TO THE EDUCATION AMENDMENTS OF 1974

SEC. 501. Section 409 of the Education Amendments of 1974 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Notwithstanding the provisions of section 402(b)(3)(G) and section 402(b)(4) of this Act, and in addition to sums reserved under that section and made available under subsection (a) of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1978 to carry out the purposes of this section.".

And the Senate agree to the same.

Carl D. Perkins,
John Brademas,
Patsy T. Mink,
Lloyd Meeds,
Shirley Chisholm,
William Lehman,
Robert J. Cornell,
Edward P. Beard,
Leo C. Zeferetti,
George Miller,
Tim L. Hall,
Albert H. Quie,
Alphonzo Bell,
Peter A. Peyser,
James M. Jeffords,
Larry Pressler,
Managers on the Part of the House.

Claiborne Pell,
Gaylord Nelson,
Tom Eagleton,
Walter F. Mondale,
William D. Hathaway,
Harrison A. Williams, Jr.,
Jacob K. Javits,
Bob Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Short title

The House bill, the Senate amendment, and the conference substitute provide that this legislation may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

TITLE I—ARTS AND HUMANITIES

State humanities program

House bill

The House bill authorized the Chairman of the National Endowment for the Humanities to establish programs of grants-in-aid in each of the several States to support not more than 50 percent of the cost of existing activities which meet the standards established in section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (hereinafter in this statement referred to as the "Act"). The House bill provided that, in order to receive assistance in any fiscal year, any person or entity desiring to receive such assistance may submit an application to the Chairman.

The House bill required an applicant to submit a plan which (1) provides that funds will be used solely on programs which carry out the objectives of section 7(c); (2) establishes a membership policy designed to assure broad public representation; (3) provides a nomination process which assures nomination to membership from various groups within the State involved; (4) provides for the rotation of the membership on a regular basis; (5) establishes appropriate reporting procedures; (6) establishes procedures to assure public access to information relating to activities carried out by the applicant; (7) provides that the applicant will make reports to the Chairman; and (8) provides that 2 members of the executive body of the applicant shall be appointed by an appropriate officer or agency of the State involved.

The House bill provided that each grant recipient which has a plan approved by the Chairman shall be allotted at least $200,000 out of sums available to carry out subsection (f) of section 7 of the Act, as added by the House bill, in any fiscal year. An equal allocation among grant recipients must be made in any case in which insufficient sums are appropriated.

In any case in which sums available to carry out subsection (f) exceed the amount necessary to make allotments of $200,000 to grant recipients (1) the amount of the excess which does not exceed 25 percent of the sums available to carry out subsection (f) for the fiscal year involved are made available to the Chairman for making grants under subsection (f) to persons and entities applying for grants; and (2) any remaining amount must be allotted among grant recipients which have plans approved by the Chairman in equal amounts, except that no grant recipient may receive less than $200,000.

The House bill also provided that any part of an allotment made under subsection (f) (3) for any fiscal year which exceeds $125,000, but which does not exceed 20 percent of the allotment, is available (at the discretion of the Chairman) to pay up to 100 percent of the cost of programs under subsection (f). This provision applies, however, only if the programs involved otherwise would not be available to residents of the State involved.

The House bill also provided that funds made available under subsection (f) may not be used to supplant non-Federal funds. Any amounts available under subsection (f)(3) for a fiscal year which are not granted to any person or entity during the fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out section 7(c) of the Act.

The House bill also provided that whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(1) a grant recipient is not complying substantially with the provisions of subsection (f);

(2) a grant recipient is not complying substantially with the terms and conditions of its plan; or

(3) any funds granted to any person or entity under subsection (f) have been diverted from the purposes for which such funds were allotted or paid;

the Chairman must notify the Secretary of the Treasury and the grant recipient involved that no further grants will be made under subsection (f) to the grant recipient until there is no longer a default or failure to comply or until the diversion of funds has been corrected. If it is impossible to achieve such compliance or correction, the Chairman is required to bar any further grants until the grant recipient repays or arranges for the repayment of any Federal funds which have been improperly diverted or expended.

The House bill prohibited the Chairman from making grants to more than one person or entity in any State.

The House bill provided that the amendment made by the House bill would be effective with respect to fiscal year 1977 and succeeding fiscal years.

Senate amendment

The Senate amendment differed from the House bill in the following respects:

1. The Senate amendment provided for a single program of grants-in-aid to assist the several States in supporting activities in the humanities.

2. The Senate amendment provided that only States may submit applications to the Chairman, in accordance with the laws of the State involved.

3. The Senate amendment provided that the plan which must accompany any application must be an annual plan.

4. The Senate amendment required the plan to designate one of the following entities to be the sole agency for administering the State plan: (1) an existing State agency for the arts and the humanities; (2) a State committee on the humanities or some other appropriate entity; or (3) the State humanities committee in existence on the date of the enactment of this legislation.

5. The Senate amendment provided that any funds paid to a State must be used for programs which (1) are approved by the State agency or State committee administering the State plan; and (2) carry out the objectives of 7(c) of the Act.

6. The Senate amendment provided that a State committee or similar entity may be designated if the plan (1) is submitted for the approval of the Governor of the State before it is submitted to the Chairman; (2) establishes procedures permitting the Governor to appoint a majority of the members of the committee; (3) establishes a membership policy designed to assure broad public representation; (4) provides a nomination process which assures nomination to membership from a variety of segments of the population of the State; (5) provides for rotation of the membership on a regular basis; (6) establishes adequate reporting procedures to the Governor of the State; and (7) establishes procedures for public access to information. The House bill contained similar provisions but applied them to any person or entity applying for assistance.

7. The Senate amendment provided that a State humanities committee in existence on the date of the enactment of this legislation may be designated if it submits assurances that (1) satisfactory grievance procedures have been established regarding the activities and plans of the State humanities committee; and (2) the provisions specified in paragraph 6 are met, other than the provisions of subparagraph (1) and (2) of paragraph 6.

8. The Senate amendment provided that amounts allotted to a State which are not obligated by the State before the last 60 days of a fiscal year may be used by the Chairman to make grants to regional groups. The term "regional group" was defined to mean any multistate group, whether or not representative of contiguous States.

Conference substitute

The conference substitute retains important features of the House bill and provides incentives for State participation. It differs from the House bill in the following respects:

1. The conference substitute provides for a single program of grants-in-aid.

2. (a) The conference substitute permits a State to provide for the appointment of 50 percent of the membership of the governing body of a grant recipient in such State if the State meets the following requirements: (1) for the first fiscal year in which the State desires to make such appointments, the State must match (from State funds) 50 percent of that portion of the Federal financial assistance received by the grant recipient which exceeds $100,000; (2) for the second fiscal year, the State must match (from State funds) 100 percent of that portion of the

Federal financial assistance which exceeds $100,000; and (3) in each fiscal year thereafter, the State must match (from State funds) the total amount of Federal financial assistance.

(b) If a State does not desire to comply with the requirements which would permit it to appoint 50 percent of the membership of the governing body of the grant recipient, the conference substitute requires the grant recipient to (1) establish a procedure under which 2 members of the governing body of the grant recipient are appointed by an appropriate officer or agency of the State; and (2) provide (from any source) an amount equal to the total amount of the Federal financial assistance received by the grant recipient.

(c) The conference substitute also provides that, in any fiscal year in which a State fails to meet the matchinig requirements which would permit it to appoint 50 percent of the membership of the governing body of the grant recipient, the number of members on the governing body must be reduced so that no more than 2 members of the governing body are appointees of an officer or agency of the State.

3. The conference substitute retains the provisions in the House bill and the Senate amendment which permit any part of an allotment to an entity within a State for any fiscal year which exceeds $125,000, but which does not exceed 20 percent of the allotment, to be used to pay up to 100 percent of the cost of the program in the State involved. The conference substitute applies this provision to an entity within a State where State participation and matching is not involved. In cases where combined State and Federal support for the humanities is developed, the conferees believe that this combination can serve as a stimulus to increase private support for the humanities and to an expansion of program activities.

4. The conference substitute retains the provision of the Senate amendment relating to regional groups, under which amounts allotted to a State which are not obligated by the State before the last 60 days of a fiscal year may be used to make grants to regional groups.

The purpose of the conference agreement is to encourage and stimulate the development of a Federal-State partnership in the broad cultural areas of the humanities, so that this partnership may be increasingly beneficial to our people in each State. The conferees have taken note of the dramatic growth of the Federal-State partnership with respect to the programs of the National Endowment of the Arts, exemplified by a 15-fold increase in annual State funding for the arts in 10 years—from $4 million to $60 million—and by the development of more than 1,000 community arts councils. The conference agreement envisages the development of similar challenges and opportunities for the Humanities Endowment.

The Chairman of the National Endowment for the Humanities is directed to help encourage State participation and to work more closely than in the past with State governments and State officials so that the values, particular to the humanities can gain better entrance to the mainstream of our democratic processes and make a more vital contribution to American life.

The Chairman is urged to study State needs in the humanities with State leaders, so that these needs can be met in the broadest sense, through programs representing the full scope of the humanities, and through programs which will be addressed to a multiplicity and variety of worthwhile projects. It is the position of the conferees that the 20 percent of the total funding allocated to the States is of deep importance in bringing the values of both the arts and the humanities into local communities and to groups whose needs may be relatively modest, but who have potentially great significance.

Existing combined State arts and humanities entities are eligible for Endowment support, provided they fully meet the provisions of section 7(f) of the Act, as added by the conference substitute.

Scope of programs carried out by chairman of National Endowment for the Arts

House bill

The House bill eliminated the restriction that projects and productions supported by the Chairman of the National Endowment for the Arts must be located within the United States.

Senate amendment

The Senate amendment provided that grants may be made to include international activities so long as the primary purpose of the grant is to support the arts in the United States.

Conference substitute

The Senate recedes, in order to maintain consistency in the statutory language which applies to the two Endowments. The conferees, however, do not intend that either Endowment make grants or contracts which include international activities unless the primary purpose of such grants or contracts is to support the arts or the humanities in the United States.

Administrative provisions with respect to surplus property

House bill

No provision.

Senate amendment

The Senate amendment gave to the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities the authority to receive and dispose of excess and surplus Federal personal property without regard to the Federal Property and Administrative Services Act of 1949.

Conference substitute

The Senate recedes, based on the requests of the Committees on Government Operations of the House and the Senate, which currently are considering revisions of present law governing the distribution of surplus property. The conferees believe that cultural institutions should be included in the distribution of Federal surplus properly and urge full consideration as a part of this overall review.

Authorizations of appropriations

House bill

The House bill authorized the following amounts in order to carry out section 5 of the Act: $100,000,000 for fiscal year 1977; $113,500,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980. Not less than 20 percent of any such sums which are appropirated in any fiscal year shall be available for carrying out section 5(g) of the Act.

The House bill authorized the following amounts to carry out section 7(c) of the Act; $100,000,000 for fiscal year 1977; $113,500,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980. Not less than 20 percent of such sums which are appropriated in any fiscal year must be available for carrying out section 7(f) of the Act.

The House bill established the following limitations on appropriations which may be made based on section 10(a)(2) of the Act: $20,000,000 for fiscal year 1977; $25,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980.

The House bill provided that the amendments made by the House bill shall be effective with respect to fiscal year 1977 and succeeding fiscal years.

The Senate amendment authorized the same total amounts as the House bill, although distribution among programs differed because the Senate amendment included in separate titles amounts for arts and bicentennial challenge grants, bicentennial photography, and arts education.

The Senate amendment specifically authorized the appropriation of the following amounts:

1. To carry out section 5 of the Act: $92,500,000 for fiscal year 1977; $105,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980. Not less than 20 percent of any such sums which are appropriated in any fiscal year shall be available for carrying out section 5(g) of the Act.

2. To carry out section 7(c) of the Act: $82,500,000 for fiscal year 1977; $95,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980. Not less than 20 percent of such sums which are appropriated in any fiscal year must be available for carrying out section 7(f) of the Act.

3. For the matching of donated funds under section 10(a)(2) of the Act: $15,000,000 for fiscal year 1977; $20,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980.

The Senate amendment also provided that the authorization for administration applies to any program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible.

Conference substitute

The conference substitute authorizes the appropriation of the following amounts:

1. To carry out section 5 of the Act: $93,500,000 for fiscal year 1977; $105,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980. The conference substitute retains the provision that not less than 20 percent of appropriated funds be available for carrying out section 5(g) of the Act.

2. To carry out section 7(c) of the Act: $93,500,000 for fiscal year 1977; $105,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980. The conference substitute retains the provision that not less than 20 percent of appropriated sums must be available for carrying out section 7(f) of the Act.

3. For the matching of donated funds under section 10(a)(2) of the Act: $20,000,000 for fiscal year 1977; $25,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal year 1979 and fiscal year 1980.

The conference substitute also retains the provisions of the Senate amendment which provided that the authorization for administration applies to any program for which the Chairman of either Endowment is responsible.

The conferees take note that in both the House and Senate committee reports relating to the House bill and the Senate amendment, respectively, emphasis was placed on the accomplishments and growth of the American Film Institute, especially with regard to increased private support. The conferees note with approval the plans which have been developed during the past year between the National Endowment for the Arts and the American Film Institute to further increase the potentials of the Institute, on behalf of the major art form of film. It is clear that these plans, and the funding levels involved, have been carefully considered by the Endowment with the advice of the National Council on the Arts and citizen panelists expert in film. The conferees believe that these plans should be given every opportunity for full implementation.

TITLE II—MUSEUM SERVICES

Purpose

House bill

The House bill provided that it is the purpose of title II of this legislation to (1) encourage and assist museums in their educational role, in conjunction with formal and informal educational systems; (2) assist museums in modernizing their methods and facilities; and (3) ease the financial burdens experienced by museums.

Senate amendment

The Senate amendment provided that it is the purpose of title II of this legislation to encourage and assist museums in their educational role so that they may better serve the communities in which they are located.

Conference substitute

The Senate recedes.

Institute of Museum Services

House Bill

The House bill established within the Department of Health, Education, and Welfare, an Institute of Museum Services (hereinafter in this statement referred to as the "Institute"). The Institute consists of a National Museum Services Board (hereinafter in this statement referred to as the "Board") and a Director of the Institute (hereinafter in this statement referred to as the "Director").

Senate Amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. The Senate amendment provided that the title of the institute is the "Institute for the Improvement of Museum Services".
2. The Senate amendment established the Institute within the National Foundation on the Arts and the Humanities.

Conference Substitute

The Senate recedes.

National Museum Services Board

House Bill

The House bill provided that the Board will consist of 15 members appointed by the President, by and with the advice and consent of the Senate. The members of the Board must be broadly representative of (1) various museums, including museums relating to science, history, technology, and art, and also including zoos and botanical gardens; (2) the curatorial, educational, and cultural resources of the United States; and (3) the general public.

The House bill also provided that the members of the Board shall serve for terms of 5 years, except that (1) a member appointed to fill a vacancy shall serve only for the unexpired term of his predecessor; and (2) of the members first appointed, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 3 shall serve for terms of one year, as designated by the President at the time of nomination for appointment.

A member of the Board who has served for more than 7 consecutive years shall not be eligible for reappointment to the Board during the 3-year period immediately following the expiration of the last such consecutive year. The Chairman of the Board shall be designated by the President from among the members of the Board. Eight members of the Board shall constitute a quorum.

The House bill also provided that the Board will meet at the call of the Chairman of the Board, except that (1) the Board shall meet not less than 4 times annually; (2) if the Director determines that a meeting of the Board is necessary, the Board must meet whenever one-third of the members requests a meeting in writing, in which case one-half of the members shall constitute a quorum; and (3) in any case in which one-third of the members of the Board requests a meeting in writing, the Board shall meet and one-third of the members shall constitute a quorum.

The House bill permitted members of the Board who are not regular full-time employees of the United States to receive compensation at a rate to be fixed by the President. The rate of compensation, however, may not exceed the rate specified for grade GS-18 in section 5332 of title 5, United States Code, including travel time. Members of the Board are allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons employed in the service of the Federal Government.

The House bill gave the Board the responsibility for establishing general policies regarding the powers, duties, and authorities vested in the Institute under title II of this legislation. The Director was required to make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

Senate amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. Under the Senate amendment, the Board consisted of 9 members.
2. The Senate amendment provided that the Chairman of the National Council on the Arts, and 2 members of such Council selected by the Chairman, shall be members of the Board.
3. The Senate amendment provided that the Chairman of the National Council on the Humanities, and 2 members of such Council selected by the Chairman, shall be members of the Board.
4. The Senate amendment provided that 3 additional persons who are not members of either Council would be appointed to the Board by the President, by and with the advice and consent of the Senate.
5. The Senate amendment provided that the appointed members of the Board must be broadly representative of (1) curatorial, education, and cultural resources of the United States; and (2) the general public.
6. The Senate amendment provided that, in the case of initial appointed members, one would serve for a term of 5 years, one would serve for a term of 3 years, and one would serve for a term of one year.
7. The Senate amendment provided that 5 members would constitute a quorum.
8. The Senate amendment provided that the Board must meet whenever 5 members request a meeting, in which case 5 members would constitute a quorum.
9. The Senate amendment required the Board to take steps to coordinate the policy of the Institute with other activities of the Federal Government.

Conference substitute

The conference substitute is the same as the House bill, except for the following differences:

1. The conference substitute provides that the following persons may serve as nonvoting members of the Board: the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Commissioner of Education.
2. The conference substitute provides that, of the members first appointed to the Board, 3 shall serve for terms of 5 years. This provision was not included in the House bill.
3. The conference substitute provides that the Board shall meet whenever one-third of the appointed members of the Board requests a meeting in writing. In the case of any such meeting, 8 appointed members of the Board shall constitute a quorum.
4. The conference substitute retains the Senate amendment relating to coordination of policy.

Director of the Institute

House bill

The House bill provided that the Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall serve at the pleasure of the President. The Director was required to perform such duties and exercise such powers as the Board may prescribe.

The House bill also provided for a Deputy Director of the Institute appointed by the President. The Deputy Director was required to exercise such powers as the Director may prescribe, and was required to serve as Director during the absence or disability of the Director, or in the event of a vacancy in the office of Director.

Senate amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. The Senate amendment provided that the Director of the Institute would be compensated at the rate of level V of the Executive Schedule.
2. The Senate amendment did not establish the position of Deputy Director of the Institute.
3. The Senate amendment required the Director to advise the Board regarding policies of the Institute to assure that the advice would be coordinated with the advice of certain agencies and organizations of the Federal Government.

Conference substitute

The conference substitute is the same as the House bill, except for the following differences:

1. The conference substitute retains the Senate amendment provision relating to the compensation of the Director of the Institute.
2. The conference substitute provides that the Director must report to the Secretary of Health, Education, and Welfare with respect to the activities of the Institute. The conference substitute also provides that the Director shall not delegate any of his functions to any other officer who is not directly responsible to the Director.
3. The conference substitute does not establish, in law, the position of Deputy Director of the Institute. The conferees intend that the Director and the Board should determine the necessity for the establishment of this position.
4. The conference substitute retains the Senate amendment provision requiring the Director to advise the Board regarding policy of the Institute to assure appropriate coordination.

Activities of the Institute

House bill

The House bill permitted the Director (with the advice of the Board) to make grants to museums to increase and improve museum services through such activities as (1) programs for the construction of displays and exhibitions; (2) assistance for staff development; (3) assistance regarding administrative costs; (4) assistance regarding the development of traveling exhibitions; (5) assistance regarding the conservation of artifacts and art objects; and (6) assistance regarding the development of specified programs.

The House bill also provided that grants may not exceed 75 percent of the cost of the program involved.

Senate Amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. The Senate amendment provided that

the Director may make grants subject to the management of the Board, rather than subject to the advice of the Board.

2. The Senate amendment provided that a grant may not exceed 50 percent of the cost of any program.

3. The Senate amendment provided that the ceiling on grant amounts applies for any fiscal year. The provision in the House bill did not refer to fiscal years.

Conference Substitute.

The conference substitute is the same as the House bill, except for the following differences:

1. The conference substitute provides that the Director may make grants subject to the policy direction of the Board.

2. The conference substitute provides that a grant may not exceed 50 percent of the cost of any program, except that not more than 20 percent of funds available for any fiscal year may be available for grants in that fiscal year without regard to the 50 percent limitation.

3. The conference substitute retains the Senate amendment provision which clarified that the ceiling on grant amounts applies for any fiscal year.

Functions of Federal Council on the Arts and the Humanities

House Bill

The House bill amended section 9(c) of the Act to require the Federal Council on the Arts and the Humanities to advise and consult with the Board and with the Director on major problems arising in carrying out the purposes of the Institute. Such Council was also required to coordinate the policies and operations of the Institute with the policies and operations of the National Endowment for the Arts and the National Endowment for the Humanities. Such Council was also required to promote coordination between the programs and activities of the Institute and related programs and activities of other Federal agencies.

Senate amendment

The Senate amendment did not contain the amendment made by the House bill. The Senate amendment, however, required the Board to take steps to coordinate the policies of the Institute with other activities of the Federal Government and required the Director to advise the Board regarding policies of the Institute to ensure that the activities of the Institute are coordinated with activities of Federal agencies and organizations.

Conference substitute

The conference substitute incorporates the approaches taken by both the House bill and the Senate amendment.

Authorization of appropriations

House bill

The House bill authorized the following amounts for grants for the museum program; $15,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980.

The House bill also authorized to be appropriated for the period beginning on the date of enactment of this legislation and ending October 1, 1978, an amount equal to amounts contributed to the Institute during such period under section 207 of this legislation.

Amouns appropriated under the House bill were required to be used for the purpose of enabling the Institute to carry out its functions under title II of this legislation.

Senate Amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. The Senate amendment authorized such sums as may be necessary to administer the museum services program. Under the House bill, funds for administration would be drawn from the general authorization.

2. The Senate amendment provided that sums appropriated for any fiscal year shall remain available for obligation and expenditure until expended.

3. Regarding authorizations for amounts equal to amounts contributed under section 207, the cutoff date in the Senate amendment was October 1, 1980.

Conference Substitute

The conference substitute is the same as the House bill, except for the following differences:

1. The conference substitute retains the Senate amendment provision relating to administration of the museum services program.

2. The conference substitute retains the Senate amendment provision relating to the availability of funds for obligation and expenditure until expended.

3. The conference substitute retains the Senate amendment provision relating to the cutoff date in connection with authorizations for amounts equal to amounts contributed under section 207.

Definitions

House bill

The House bill defined the terms "Institure", "Board", "Director", and "museum". The House bill defined the term "museum to mean a public or private nonprofit agency organized for essentially educational and esthetic purposes which (through the use of professional staff) owns or uses tangible objects, cares for such objects, and exhibits such objects to the public on a regular basis.

Senate amendment

The Senate amendment was the same as the House bill, except for the following differences:

1. In the Senate amendment, all the definitions were contained in a separate section.

2. In defining the term "museum", the Senate amendment provided that the term means any agency or institution which owns and utilizes tangible objects for inspection.

Conference substitute

The conference substitute is the same as the House bill, except that the conference substitute follows the Senate amendment in placing all the definitions in a separate section.

TITLE III—CHALLENGE GRANT PROGRAM

Establishment of program

House bill

The House bill amended the Act by adding a new section 12. Section 12(a) permits the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Arts and the National Council on the Humanities, to establish a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations.

The contracts and grants-in-aid shall be for the purpose of (1) enabling cultural organizations to increase levels of support and increase the range of contributions; (2) providing administrative and management improvements for cultural organizations; (3) enabling cultural organizations to increase audience participation in, and appreciation of, programs sponsored by such organizations; (4) stimulating greater cooperation among cultural organizations; and (5) fostering greater citizen involvement in planning the cultural development of a community.

Section 12(d) limits the total amount of any payment under section 12 to 50 percent of the cost of the program involved.

Section 12(c) provides that the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities shall, in carrying out the program under section 12, have the same authority as is established in section 10 of the Act.

Senate Amendment

The Senate amendment differed from the House bill in these respects:

1. The Senate amendment established the program through inclusion of a separate title in this legislation, rather than through an amendment to the Act.

2. The Senate amendment authorized only the Chairman of the National Endowment for the Arts to establish and carry out a separate program similar to the provisions of the House bill.

3. The Senate amendment authorized a program of bicentennial challenge grants to be carried out by the Chairman of the National Endowment for the Humanities, designed to (1) maintain and strengthen democratic processes through the encouragement of citizen participation; (2) develop innovative insights regarding the resolution of social, political, and economic problems; and (3) develop new approaches for citizen involvement in the democratic system.

4. The Senate amendment authorized to be appropriated to both the National Endowment for the Arts and the National Endowment for the Humanities, for each fiscal year ending before October 1, 1981, an amount equal to amounts received by the Endowment for bicentennial challenge grants pursuant to section 10(a) of the Act. Appropriated amounts could not exceed the following limitations for either Endowment: (1) $15,000,000 for fiscal year 1977; (2) $20,000,000 for fiscal year 1978; and (3) such sums as may be necessary for fiscal years 1979 and 1980.

5. The Senate amendment provided that Federal payments for any program or project could not exceed 50 percent of the total cost of the program or project. The Senate amendment, however, permitted the Chairman of the National Endowment for the Humanities to waive this requirement if he determines that highly meritorious proposals for grants and contracts could not otherwise be supported.

6. The Senate amendment provided that the Chairman of the National Endowment for the Arts must establish the program with the advice of the National Council on the Arts. Under the House bill, this requirement was imposed upon the Chairmen of both the National Endowment for the Arts and the National Endowment for the Humanities.

7. In discussing the purposes of the grants and contracts, the Senate amendment provided that the grants and contracts would be made to stimulate greater collaboration and cooperation among cultural organizations and institutions. The House bill contained the same provision, but the House bill did not use the term "collaboration".

8. With respect to the matching funds provision, the Senate amendment provided that the matching funds provision may be waived, with respect to not more than 20 percent of funds appropriated in any fiscal year, if the Chairman of the National Endowment for the Arts determines that highly meritorious proposals could not be supported without such a waiver. The waiver by the Chairman must be made with the advice of the National Council on the Arts.

9. The Senate amendment provided that section 5(i) of the Act (relating to minimum wage and safe working conditions requirements) and section 5(j) of the Act (relating to Davis-Bacon Act requirements) shall apply to the program.

Conference substitute

The conference substitute establishes a separate challenge grant program under the basic authority of each Endowment. In addition, the conference substitute authorizes the funding of bicentennial projects by the National Endowment for the Humanities. The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, will make appropriate determinations regarding the distribution of funds under section 7(h)(1), taking cognizance of section 7(h) (1) (F) of the Act, dealing with bicentennial programs. The Chairman, with the advice of the Council, may waive up to 15 percent of the matching requirements with respect to the funding of bicentennial projects.

In creating two separate challenge programs, the conferees wish to stress that each Endowment carry out two distinctly different missions relating to the arts and the humanities, as defined in section 3(a) and section 3(b) of the Act. Two wholly different programs will result, based on these distinct missions, and the authority pursuant to section 7(h)(1) for bicentennial programs which applies to the National Endowment for the Humanities.

Authorization of appropriations

House bill

The House bill amended section 11(a) of the Act to authorize to be appropriated for each fiscal year ending before October 1, 1981, an amount equal to the amounts received by the National Endowment for the Arts and the National Endowment for the Humanities for the purposes set forth in section 12(a) of the Act. The amendment, however, established the following ceilings for such authorization: $15,000,000 for fiscal year 1977, and $20,000,000 for fiscal year 1978. Such sums as may be necessary were authorized for fiscal year 1979 and 1980. The amendment also provided that sums appropriated for any fiscal year shall remain available for obligation and expenditure until expended, and that sums available to one Endowment may be transferred to the other Endowment upon mutual agreement by the Endowments.

Senate amendments

The Senate amendment differed from the House bill in the following respects:

1. Separate authorizations were made to the National Endowment for the Arts and the National Endowment for the Humanities.

2. Since separate authorizations were provided, the Senate amendment did not provide that appropriated funds may be transferred between the two Endowments by mutual agreement.

Conference substitute

The conference substitute provides for separate authorizations as follows: $12,000,000 for the National Endowment for the Arts for fiscal year 1977, $18,000,000 for fiscal year 1978, and such sums as may be necessary for the following two fiscal years. The conference substitute makes the same authorizations for the National Endowment for the Humanities. The conference substitute also provides that, if the Chairman of either Endowment determines at the end of the ninth month of any fiscal year that funds available to the Endowment cannot be used, the Chairman must transfer such funds to the other Endowment.

TITLE IV—AMERICAN BICENTENNIAL PHOTOGRAPHY AND FILM PROJECT

House bill

No provision.

Senate amendment

The Senate amendment established a bicentennial photography and film project in order to create a photographic and film portrait of the people and communities of the United States. The Senate amendment authorized the following amounts to be appropriated to the National Endowment for the Arts to carry out the project: (1) $5,000,000 for each of fiscal years 1977 and 1978; and (2) such sums as may be necessary for fiscal years 1979 and 1980. One-fifth of appropriated amounts was reserved for a national photography and film project. The remainder was apportioned to the States as follows: (1) the first $3,000,000 was allocated to the States in equal amounts; and (2) the remainder was apportioned on the basis of population.

Conference substitute

The House recedes with an amendment establishing a 2-year bicentennial photographic and film project. The conference substitute authorizes to be appropriated to the National Endowment for the Arts $4,000,000 for fiscal year 1977, and $2,000,000 for fiscal year 1978, in order to carry out the project. Not more than 75 percent of appropriated amounts shall be allocated to States in equal amounts in 1977, and not more than 50 percent of appropriated amounts shall be allocated to States in equal amounts for fiscal year 1978.

TITLE V—ARTS EDUCATION

House bill

No provision.

Senate amendment

The Senate amendment established a program to provide financial assistance to improve the quality and availability of arts education. The Senate amendment authorized the following amounts to be appropriated to carry out the program: (1) $10,000,000 for each of fiscal years 1977 and 1978; and (2) such sums as may be necessary for fiscal years 1979 and 1980.

Conference substitute

The House recedes with an amendment which amends section 409 of the Education Amendments of 1974 (relating to elementary and secondary school education in the arts) to authorize the appropriation of $2,000,000 for fiscal year 1978 to carry out the purposes of such section. This authorization is in addition to any other sums reserved to carry out the purposes of section 409.

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
LLOYD MEEDS,
SHIRLEY CHISHOLM,
WILLIAM LEHMAN,
ROBERT J. CORNELL,
EDWARD P. BEARD,
LEO C. ZEFERETTI,
GEORGE MILLER,
TIM L. HALL,
ALBERT H. QUIE,
ALPHONZO BELL,
PETER A. PEYSER,
JAMES M. JEFFORDS,
LARRY PRESSLER,
Managers on the Part of the House.

CLAIBORNE PELL,
GAYLORD NELSON,
TOM EAGLETON,
WALTER F. MONDALE,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
JACOB K. JAVITS,
BOB TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, as I was unavoidably absent from Washington and in my district during several recorded votes taken in sessions on Thursday, September 16, and Friday, September 17, I would like to take this opportunity to note for the record my positions on measures voted on by the House on those dates.

On Thursday, September 16, I would have voted "yes" on the motion to recede and concur to a Senate amendment to H.R. 10612, tax revision, which was in effect to agree to the revisions in gift and estate tax law recommended by the House-Senate conference committee. Prior to that vote, I was present and voted against the motion to order the previous question on the above-described motion. I did so in order to permit an amendment to be offered which would have deleted the controversial valuation provision for calculating capital gains taxes that would be imposed on inherited property that was sold.

Also, on that date I would have voted "no" on the previous question on the motion to agree to the Senate amendments to H.R. 8532, Antitrust Parens Patriae Act, in order to open the measure for amendment.

After the previous question was passed, however,

I would then have voted "yes" on the motion to agree to the Senate amendments consistent with my support for the parens patriae concept and the CID and premerger notifications bills which were also included in this measure and for which I have already been recorded in favor.

On the question of agreeing with a motion to accept language in the Labor-HEW appropriations conference report (H.R. 14232), which prohibits the use of Federal funds to pay for abortions except to save the life of the mother, I would have voted "no" consistent with my previous position on this issue.

On Friday, September 17, I would have voted "yes" on passage of H.R. 15069, National Forest Management Act of 1976, which I strongly support; "yes" on H.R. 15194, the conference report making appropriations for public works employment consistent with my earlier recorded vote in favor of this legislation.

Similarly, I would have voted "yes" on the conference report to H.R. 12987, Emergency Jobs Programs Extension Act of 1976 which I also supported on initial passage. I would also have voted "yes" on House Resolution 1540, creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr.

ANTIBOYCOTT PROVISIONS TO THE EXPORT ADMINISTRATION ACT AMENDMENTS MUST BE PASSED INTACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Heinz) is recognized for 5 minutes.

Mr. HEINZ. Mr. Speaker, I rise in support of H.R. 15377, the Export Administration Act Amendments which contain significant revisions of the current ineffective antiboycott provisions in the law.

In June of this year I testified before the House International Relations Committee and urged more stringent antiboycott provisions. It had become increasingly apparent that the Arab boycott of Israel was being transformed into an American boycott of Israel, discriminating against many of our own citizens and corporations. Therefore I implored the committee to accept proposals outlawing complicity with secondary and tertiary boycotts, requiring strict public reporting and imposing criminal and civil penalties on violators. I was greatly encouraged when the committee reported a bill containing the Bingham-Rosenthal antiboycott amendments which I had supported.

As the law is now written, the Export Administration Act vaguely declares our policy to be against restrictive trade practices upon countries friendly to the United States. These laws weakly "discourage" compliance; they do not "prohibit" it. While a weakly worded policy statement may have been adequate in the past, more stringent regulations are now needed to preclude interference of foreign trade restrictions into our internal affairs.

Recently, the House Commerce Subcommittee on Oversight and Investigations issued a report substantiating the need for tougher antiboycott laws. The study, based on Department of Commerce statistics, concluded that during 1974–75 American businesses knowingly and actively participated in 90 percent of Arab boycott requests. Furthermore, the report contended that during the same year our corporations transacted at least $4.45 billion of exports in compliance with Arab trade restrictions.

After so many years of fighting to secure equal rights for all Americans we cannot allow Arab blackmail which pits American against American, Christian against Jew, to continue. If we ignore the situation, or if we compromise ourselves on this issue, we will be opening up a virtual Pandora's box of demands by other nations to comply with their trade restrictions too.

In order to insure the autonomy of our commerce and to protect the civil rights of all Americans, we must take a strong stand against foreign intrusion into our internal affairs. Not only must we pass the bill with the Bingham-Rosenthal provisions intact, but we must also insist upon strong antiboycott language when the bill goes to conference. Because the Senate bill does not directly outlaw compliance, gaps in the law will invite further abuse by other nations. For once and for all, the Congress must demonstrate our commitment towards safeguarding the rights of all Americans by passing the Export Administration Act Amendments with the strongest possible antiboycott language.

I have included for my colleagues information the text of my testimony before the International Relations Committee and two of the many editorials I have read in support of antiboycott legislation:

Testimony of H. John Heinz III, M.C. 18th Congressional District of Pennsylvania Before the House International Relations Committee

Mr. Chairman, I am grateful for the opportunity to testify before the International Relations Committee concerning the Arab trade boycott of Israel and its effect on American businesses and corporate morality.

Congressional interest in strengthening the Export Administration Act was revised when it became apparent that compliance with Arab boycott demands was growing. Allegations were heard that U.S. companies were engaging in discriminatory practices not only against Israel, but against American firms as well.

My own interest in this question was heightened late last year during hearings held by a Subcommittee of the Interstate and Foreign Commerce Committee, of which I am a member. At that time a confrontation took place between the Subcommittee on Oversight and Investigations and then Commerce Secretary Rogers Morton over the release of information on companies that were compyling with the embargo.

Along with Congressman Tim Wirth, who shared my concerns, we succeeded in helping to bring a possible constitutional crisis to a positive solution. The showdown between Secretary Morton and the Subcommittee illustrated two points:

1. If the current law had contained proper reporting and oversight provisions, much of the controversy could have been avoided, and

2. A discriminatory and repugnant act by foreign countries was creating divisiveness within our government.

Let me say at the outset that I am disturbed that these hearings are even needed. Through compliance with the Arab boycott demands, some American corporations have violated the civil rights of American citizens. These corporations have bowed to the economic dictates of the same countries which only a few months ago piously decreed Zionism to be a form of racism.

Yet it is clear by the Department of Commerce's own figures that deep concern is not unfounded. It is shocking to me—and to the American public—to read that American firms are answering 91% of Arab nation's boycott related requests for information—requests that infringe upon the civil rights of over 2000 blacklisted corporations in addition to those of countless American citizens.

Prior to the Arab oil embargo, it was clear that U.S. businesses were paying scant attention to the Arab call for world discrimination against the state of Israel.

The artificially induced oil shortage changed that—allowing the Arabs and their allies to flex their economic muscle for the first time and, tragically, to bring some American firms to their economic knees.

Arab boycott restrictions have already begun to have an impact on our domestic affairs. In my own state of Pennsylvania, ARAMCO refused competitive bids from private companies associated with the Delaware River Port Authority after anti-boycott legislation was introduced in the state legislature. With this refusal, the Port lost an estimated 200,000 work hours per year on a contract expected to last five to ten years. While being only one subtle example of discrimination, states such as Maryland and New York with similar antiboycott laws, have found that companies doing business with Arab nations simply avoid using their ports. At a time when the employment picture is beginning to look a little brighter, loss of business will have a devastating effect on the economy of Philadelphia as well as the entire state. The fact that this situation is occuring—that American multinational corporations are discriminating against the people of one state—demonstrates the need for stronger *federal* laws to outlaw boycott related discrimination that only benefits the Arab nations.

It is clear Mr. Chairman, that we cannot allow this type of discrimination to continue. We cannot allow another country to pit state against state, American against American, Christian against Jew.

As we celebrate the anniversary of our first freedoms, it is unthinkable that we would allow the rights of even one American citizen to be rolled back to the witch hunt/black list era of the early 1950's or the days when some American citizens were only three-fifths of a man. Our rights and independence were bought at too dear a price to permit any country or individual to violate them.

While I do not approve of over-regulation of commerce between our businesses and foreign nations, there is little doubt of the need for stronger laws to protect American firms from pressure or temptation to discriminate.

As the law is presently written, the Export Administration Act vaguely declares U.S. policy against restrictive trade practices and boycotts upon countries friendly to the United States. But these laws, while strong in declaratory statements, only weakly "encourage" or "request" U.S. firms not to comply with boycott requests. They merely *discourage* participation, but they do not *prohibit* it.

I find this subtle discrimination in our policies unconscionable. The Export Administration Act must be strengthened to outlaw participation in the boycotts and restrictive trade practices of foreign nations whether they be secondary or tertiary boycotts—by forbidding companies to release discriminatory information.

In addition, I appeal to the Committee to report legislation which would not only make it illegal to participate in a foreign boycott but would also institute, as in the Koch-Scheuer bill, strong disclosure provisions and stiff penalties for those corporations found participating.

Since the temptation to go along with the boycott is in most cases economic rather than moral, there would be justice in legislating major disincentives for compliance. As in the Koch-Scheuer bill which I cosponsored, increasing penalties to $10,000 and possible loss of a company's export license may be strong enough to prevent many American companies from participating in an illegal boycott. Yet to ensure that a corporation will not run the risk of these penalties to reap the economic benefits of discriminatory foreign trade, I suggest that additional provisions for major *tax* disincentives for participation be included in related legislation.

Under a bill introduced by Mr. Corman, which I cosponsored, a company knowingly found complying with the Arab boycott would lose its eligibility for foreign tax credits, tax credits on foreign source income and DISC benefits for one year. Since companies would stand to lose thousands of tax exempt dollars, inclusion of this provision would be another major economic incentive not to discriminate against our allies, corporations and citizens.

Everyone in this room knows what happens when "just one" blackmail demand is given in to. The blackmail is repeated again and again, broadening in scope with each new demand. Today, America and our corporations are being blackmailed by the Arab states to knuckle under to their "just one" demand concerning Israel. If we acquiesce today, tomorrow there will be new demands to change U.S. policy in areas far different than our Midest policy.

Autocracy knows no limits. If we knuckle under to the economic dictatorship of Mideast oil, we will invite Arab intimidation of every corporation, every religious and ethnic group, and every individual in our country. The time to stop it is now and the way to do it is by strengthening the Export Administration Act.

After so many years of struggle to guarantee the civil liberties and equality of all American citizens we cannot allow the battle to be lost through Arab intrusion into our internal affairs. The restrictive trade practices of the Arab nations affect our relations with other countries and affect this country when they pit American against American. While we may not be able to change the foreign policies of other nations, we can change and strengthen our own laws to protect American citizens and dissuade them from discriminatory practices.

[From the Washington Post]

NO AMERICAN BOYCOTT

The Arabs' decision to establish an Arab boycott of Israel is their business. But their attempt to establish an American boycott of Israel is something very different. It runs against American interests, American values and the American grain. That is the elementary distinction made by the Congress in writing anti-secondary-boycott provisions into the tax reform bill. Whether a tax bill should be the vehicle for a measure related to foreign policy is an interesting question for the lawyers. The rest of us can take satisfaction that legislative teeth are being put into the diplomatic jawbone wielded quietly by the administration in the last few years. It is precisely in those last few years of course, that the Arabs' practice of a secondary boycott, one directed at American firms that trade with Israel or that have Jewish or "Zionist" officers, has spread to encompass business deals measured in the hundreds of millions of dollars. Seldom has the inadequacy of diplomacy and the necessity for legislation been so overwhelmingly demonstrated.

Opponents of the new legislation argue, in effect, that Arab nations are so determined to compel Americans to support their boycott of Israel that, if flouted, they will take their billions in business elsewhere and perhaps even diminish the flow of their oil. No one would be surprised if some Arab-American deals are junked in conspicuous and symbolic protest. But it is demonstrably false that gaining American support of their boycott is so important to the Arabs that, to that end, they will jeopardize the thick economic and political ties they have built up so carefully with the United States in recent years. Arabs are spending billions on arms produced by the very manufacturers who sell to Israel, for instance. They are doing so presumably because they see more advantage to themselves in ignoring the boycott than in enforcing it. In the past, American companies had little incentive to help bring the Arabs to this sensible view of their own self-interest. Now the American companies have an incentive. Now, too, an American company declining to participate in the Arab boycott will not face the same risk of paying a financial penalty for honoring the United States' longstanding anti-secondary-boycott policy.

One needs to step back a pace. We think it entirely healthy and useful that the boycott issue has come to the fore. It goes to the basic framework in which the United States and the Arab world are trying to expand and deepen a relationship that has been, until relatively recently, narrow and formal and sometimes even antagonistic. That there is potential for great mutual advantage in the relationship is evident to everyone. That is all the more reason to try to move it forward on the basis of mutual respect. It makes no more sense for Arabs to demand that Americans now boycott Israel than for Americans to demand that Arabs now trade with Israel. We would not contend that, for all Arabs, it is easy to accept the ways of the open international system they are trying to join. Arab states have made impressive progress, however, in halting discrimination against American (or other foreign) firms and individuals on strictly religious or ethnic grounds. The administration's diplomacy, by the way, has been quite effective in this regard. It will be harder for Arabs to accept that they cannot force Americans to discriminate in trade against a third country. But it denigrates their intelligence, and it underestimates their general passion for modernization, to say that they must stick fast in their traditional ways. Certainly Americans should not be encouraging them to do so.

[From the New York Times]

THE ARAB BOYCOTT

The Arab boycott against Israel raises difficult political, economic, legal and moral issues for the United States. The boycott is repugnant. It violates American principles and laws when it requires American companies, as a condition for doing business with Arab countries, to discriminate against American citizens because of their nationality, religion or race. It unfairly imposes secondary boycotts against American companies that hire Jewish employees or directors, or trade with Israel.

Efforts to prevent American companies from acceding to boycott rules imposed upon them by a foreign power are unfortunately complicated by the fact that the United States has itself engaged in secondary boycotts against other countries—for example, for trading with Cuba. Such extraterritoriality is a threat to liberal trade and investment, to the rights of innocent people in other countries, to the sovereignty of other nations, and to peace itself.

All of this makes more difficult, but no less relevant, the question whether the United States can effectively prevent its own businesses from yielding to Arab pressures that abridge the rights of other American citizens and companies. The route taken by Senator Ribicoff in amending the pending omnibus tax bill with a requirement to impose tax penalties on companies that participate in secondary or tertiary boycotts seems to us the wrong solution. Using the tax code as a punitive device establishes a dangerous precedent. The tax laws are not intended to be part of the law-enforcement system; their purpose is to provide revenues and to improve the economy's stability and growth.

Although certain types of activities are encouraged by the tax laws (as through the investment tax credit), stretching that principle into a new system to punish corporations or individuals for alleged misdeeds is a questionable course. Under the Ribicoff amendment, moreover, determination of guilt would be made by the Secretary of the Treasury "or his delegate." Such powers, if granted to an agency administrator, might be employed arbitrarily, especially in dealing with such complex questions as whether a firm did or did not participate in a secondary or tertiary boycott.

Unfortunately, the Ribicoff amendment has now been embedded in the tax bill adopted by the House-Senate conference committee, and the President may have no choice but to accept it or risk killing the tax bill and endangering the economic recovery. Over the coming months, however, Congress and the President should develop a more effective and legally sound attack on the boycott.

The antitrust laws, the civil rights laws and the banking and security laws give the United States Government the means of curbing conspiracies and discriminatory practices by American companies that cooperate with the Arab boyott. Enforcement of those laws would do much to stiffen the resistance of American firms to foreign economic blackmail. The Government has recently stepped up its actions to penalize firms that violate American laws in response to the Arab boycott. This may signal a welcome change from past attitudes when, as a report by the House Subcommittee on Oversight and Investigations shows, the U.S. Commerce Department actually helped and encouraged American firms to uphold the Arab boycott and winked at violations of the disclosure requirements of the Export Administration Act, intended by Congress to fight the boycott. Secretary Elliot Richardson insists that under his administration such conduct has ceased.

Congress nevertheless should strengthen the Export Administration Act by making it illegal for American firms to engage in secondary or tertiary boycotts. The threat of economic reprisal by the Arabs cannot be accepted as a basis for permitting American firms to submit to odious terms that violate the rights and interests of other Americans, or abridge this nation's sovereign powers.

16TH SURVEY OF 20TH DISTRICT OPINION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, ever since I first came to Congress in 1961, I have sent an annual questionnaire to each household in Illinois' 20th Congressional District. In it, I ask some of the most important questions which will be considered by the Congress during the year. Included have been questions dealing with the Vietnam war, taxes, inflation, Government spending, and farm policy.

The responses weigh heavily with me when I decide how to cast my vote on these important issues. Seldom have I voted in direct contradiction to the views of the majority of my constituents.

In turn, Illinoisians realize how important the questionnaire is and respond in large numbers each year. Many add additional comments which help to explain their views on the questions asked.

This year, almost 25,000 people responded. Included were questions dealing with abortion, gun control, foreign policy, and food stamps. It was the largest response ever.

Tabulating the responses is a monumental task, indeed. This year it required keeping a running total of 70 different responses on each of 15,760 individual questionnaires from over 24,000 constituents for a grand total of three-quarters of a million individual tallies. That is no small task, even for a computer.

All these years I have been fortunate to have a "human computer" take care of this responsibility—my mother-in-law, Mrs. Kathryn Gemme, of Stoughton, Mass. Each year Kate takes all of the questionnaires and tabulates the responses to each question. In addition, she serves as a check to see to it that no constituent's comment goes unanswered.

She does a remarkable job—far better than any ordinary computer. She is swift and accurate, and counts the tallies as carefully as if they were dollars in her own bank account.

At the youthful age of 81, she is eagerly awaiting the time when returns will start coming in next year.

Here are the results from my 1976 survey:

RESULTS OF 1976 SURVEY OF 20TH DISTRICT OPINION

	His	Hers	Total
1. Abortion (check 1 or more):			
(a) Should be decided by the woman and her doctor	7,302	7,414	14,716
(b) Should never be permitted under any circumstances	845	984	1,829
(c) Should be permitted only to save the life of the mother	3,674	3,536	7,210
(d) Should be permitted if there is likelihood the baby will be born severely deformed or mentally retarded	4,115	4,550	8,665
(e) Should be permitted if pregnancy results from rape or incest	5,466	6,123	11,589
2. Firearms are frequently used for criminal purposes. To help meet this problem, do you favor a law (check 1 or more):			
(a) To mandate a jail term for a person who possesses a firearm during the commission of a crime	11,231	10,421	21,652
(b) To prohibit the ownership of all handguns	800	917	1,717
(c) To prohibit the ownership of cheap handguns known as "Saturday night specials"	3,758	4,311	8,069
(d) To require Federal registration of all handguns	2,562	3,291	5,853
3. Daylight savings time, in effect for 8 mo in 1975, should be:			
(a) Extended to year-round	3,454	3,190	6,644
(b) Remain at 8 mo each year	4,681	4,314	8,995
(c) Reduced to 6 mo each year	1,825	2,131	3,956
(d) Dropped completely	2,521	2,767	5,288
4. When should controls be placed on agricultural exports?			
(a) Only when needed to assure enough for domestic needs in a national emergency	7,048	5,879	12,927
(b) When needed to keep U.S. agricultural commodity prices from rising	2,864	3,198	6,062
(c) When necessary to achieve U.S. foreign policy objectives	986	821	1,807
(d) Never	1,519	1,184	2,703
5. Our relationship with the Communist Chinese has improved but stopped short of diplomatic recognition. What should be United States policy?			
(a) Seek diplomatic recognition even if it requires ending our commitment to Formosa	1,853	1,379	3,232
(b) Continue present low level of diplomatic contact but increase trade	8,114	7,449	15,563
(c) Reduce our contact with the Communist Chinese	1,845	2,334	4,179
6. Our policy of détente with the Soviet Union has been:			
(a) Too compromising	9,188	8,725	17,913
(b) Too firm	282	246	528
(c) About right	2,545	2,582	5,127
7. Several recent U.N. resolutions, such as the one condemning Zionism, have prompted some Congressmen to urge U.S. withdrawal from the United Nations. What action do you recommend?			
(a) Withdraw from the U.N	2,041	1,661	3,702
(b) Keep our financial support of the U.N. at a minimum while maintaining a vigorous voice in the organization	5,953	5,629	11,582
(c) Stay in the U.N. and try to improve it	4,030	4,416	8,446
	Yes	No	Undecided
8. Federal judges can now be removed from office only by impeachment. Should Congress authorize a procedure to permit the judiciary to remove judges it finds to be incompetent or lacking in good behavior?			
His	11,094	831	391
Hers	11,143	648	516
Total	22,237	1,479	907
9. Should food stamps be issued only to those people whose annual income is at or below the poverty level?			
His	11,036	901	328
Hers	10,960	914	418
Total	21,996	1,815	746
10. The Revenue Sharing Act expires this year. The program now costs about $6 billion a year, with the money divided among almost all units of local government. Should the Act be extended?			
His	6,377	3,749	1,571
Hers	5,974	3,448	2,378
Total	12,351	7,197	3,949

GOV. JIMMY CARTER'S STATEMENT ON GREECE AND CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, in a statement here in Washington, D.C., last Thursday, September 16, 1976, Gov. Jimmy Carter declared that the Nixon-Ford administration policy of "tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the eastern Mediterranean." Governor Carter said:

> The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

Mr. Speaker, I insert at this point in the RECORD the text of Governor Carter's excellent statement and commend it to the attention of my colleagues:

STATEMENT BY JIMMY CARTER ON GREECE AND CYPRUS

WASHINGTON, D.C.,
September 16, 1976.

The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the Eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the Eastern Mediterranean.

Despite repeated warnings, the Administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The Administration failed to prevent or even limit the Turkish invasion that followed. The Administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

Today, more than two years later, no progress toward a negotiated solution on Cyprus has been made.

The lack of progress is disappointing and dangerous. Peace must be based upon the United Nations General Assembly Resolution 3212 of 1 November 1974, endorsed by Cyprus, Greece and Turkey, calling among other things for the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish military and civilan forces should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greece and Turkish Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

Greece and Turkey are and must remain our allies within the NATO and neighbors at peace with each other within the community of nations.

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

DISABILITY INSURANCE AMENDMENTS OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, today I introduce H.R. 15630 which is a reflection of my thinking to date on amendments of the Social Security Act to avert the crisis we are facing in the disability insurance program. I realize that it is too late in the session to expect action on this legislation, but I hope this bill will focus discussion on areas of the social security disability program that will need attention very early in the next Congress.

As you are aware, we have major financing problems in both the old age and survivors and the disability insurance programs. In this session of Congress, the Social Security Subcommittee, which I chair, has tried to deal with the long-term financing problems through consideration of various legislative alternatives, but at this date, we have not been able to develop the degree of consensus necessary for approval of some type of "decoupling" legislation. Similarly, as to short-term financing, we attempted in the Budget Act process to provide modest additional revenue increases so that the trust funds would not be exhausted in the near future. However, the views that have prevailed are of those who believed that an additional social security tax would interfere with the national economy and that there was ample time to take care of the short-term financing of the program in 1977.

I myself believed that we should have "bitten the bullet" this year to reassure the American people that their social security system is in sound condition.

Although both cash benefits programs have fiscal difficulties, the condition of the disability insurance program is considerably worse than that for old-age and survivors insurance both on a short-term and long-term basis. The following table shows the unanticipated growth of the disability insurance program in terms of additional beneficiaries, benefit expenditures, and estimated long-term cost.

TABLE 1

	Number disabled beneficiaries per thousand insured workers	Disabled workers awards	Benefit cost percent of payroll (long range)	Benefit expenditures calendar year (billions)
1976		254,000	0.67	$1.6
1967	19.7	323,000	.95	2.3
1970	19.3	350,000	1.05	3.8
1973	23.4	492,000	1.54	5.7
1974	25.1	536,000	1.92	6.9
1975	27.3	592,000	2.97	8.4
1976			3.51	[1] 9.5

[1] Estimated.

Moreover, "decoupling" will have less of an ameliorative effect on the disability program than on old-age and survivors insurance. The long-term deficit of the disability program of 1.97 percent of payroll exceeds, in itself, the total long-term revenues for the disability program of 1.54 percent of payroll. To put it another way, the program's long-term cost, 3.51 percent of payroll, is 227 percent of current long-term revenues. The administration's "decoupling" bill will reduce the long-term cost to only 2.67 percent of payroll for the disability program, leaving a deficit of 1.13 percent of payroll.

In the next 25 years, financing for the old-age and survivors program in present law provides 87 percent of what the program will cost during this period. On the other hand, financing for the disability program for the same period provides only 66 percent of its costs.

The bill I introduce today is aimed at the immediate, early year, and long-term problems of the disability insurance program.

INCREASED REVENUES FOR THE DISABILITY INSURANCE TRUST FUNDS

It can be argued that the provision of more resources for the disability insurance trust fund is the most urgent social security item facing the Congress. The latest trustees report indicates that the fund will be exhausted in mid-1979 while the Congressional Budget Office is even more pessimistic, indicating that early 1979 is more realistic.

In order to provide additional financing for the short term, the bill would provide an additional 0.20 percent of combined employer-employee tax receipts for disability beginning in 1977. H.R. 15630 would establish an earmarked tax for the disability insurance program in the same manner as is done for the hospital insurance program. The Ways and Means Committee followed this route in the medicare bill in the 1965 amendments to clearly separate the programs for cost purposes and to provide that an actual change in the tax rates was necessary rather than a reallocation which might be given more perfunctory consideration by the Congress. This reasoning is equally applicable to disability insurance which now substantially exceeds medicare in cost.

The following table shows the tax rates proposed under H.R. 15630. It should be emphasized that the combined old-age and survivors, disability, and hospital insurance tax rates would be the same as those under existing law. The proposal merely creates a separate and higher tax for disability insurance, with a corresponding reduction for old-age and survivors insurance.

TABLE 2.—SOCIAL INSURANCE TAXES: OLD AGE, SURVIVORS AND DISABILITY INSURANCE

	Present Law OASDI	Proposal	
		OASI	DI
Employee: (percent)			
1976	4.95	4.375	0.575
1977	4.95	4.275	.675
1978	4.95	4.250	.700
1979	4.95	4.250	.700
1980	4.95	4.250	.700
1981	4.95	4.200	.750
Employer plus employee (percent):			
1976	9.9	8.75	1.15
1977	9.9	8.55	1.35
1978	9.9	8.50	1.40
1979	9.9	8.50	1.40
1980	9.9	8.50	1.40
1981	9.9	8.40	1.50
Self-employed:			
1976	7.0	6.185	0.815
1977	7.0	6.045	.955
1978	7.0	6.010	.990
1979	7.0	6.010	.990
1980	7.0	6.010	.990
1981	7.0	5.940	1.060

	Employee	Employer plus employee	Self-employed
Hospital insurance (present law):			
1976	0.90	1.80	0.90
1977	0.90	1.80	.90
1978	1.10	2.20	1.10
1979	1.10	2.20	1.10
1980	1.10	2.20	1.10
1981	1.35	2.70	1.35
OASDHI—Combined (present law and proposal):			
1976	5.85	11.70	7.90
1977	5.85	11.70	7.90
1978	6.05	12.10	8.10
1979	6.05	12.10	8.10
1980	6.05	12.10	8.10
1981	6.30	12.60	8.35

The following table shows that the disability trust fund under my bill would not be exhausted until 1982, as opposed to 1979 under present law. Of course, the old-age and survivors trust fund would be exhausted earlier than is projected under present law, which would be in late 1983 and/or early 1984.

Most assuredly, the Congress will take action on legislation to strengthen the financing of the social security program next year which will result in increases in revenues for both the disability program and the old age and survivors program and the figures contained in table 3 will be altered. Nevertheless, the basic ideas I am presenting—a shift in revenues from the OASDI trust fund to the DI trust fund and a separate identifiable tax to finance the disability program—will still be worthy of consideration.

TABLE 3

DISABILITY INSURANCE TRUST FUND—CALENDAR YEARS 1975–81

[In billions]

Calendar year	Income		Outgo		Net increase in fund		Assets at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation
1975	$8.0	$8.0	$8.8	$8.8	−$0.8	−$0.8	$7.4	$7.4	92	92
1976	8.7	8.7	10.3	10.3	−1.6	−1.6	5.8	5.8	71	71
1977	9.7	11.3	11.7	11.7	−1.9	−.4	3.8	5.4	49	49
1978	11.0	13.0	13.3	13.2	−2.2	−.2	1.6	5.1	29	40
1979 [1]	12.1	14.4	15.0	14.9	−2.9	−.5	−1.3	4.6	11	34
1980 [1]	13.1	15.8	16.8	16.8	−3.8	−1.0	−5.0	3.6	(2)	27
1981 [1]	15.2	18.3	18.8	18.8	−3.6	−.4	−8.7	3.1	(2)	19

OLD-AGE AND SURVIVORS INSURANCE TRUST FUND—CALENDAR YEARS 1975-81

Calendar year	Income		Outgo		Net increase in fund		Assets at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation	Present law	Increase in DI allocation
1975	$59.6	$59.6	$60.4	$60.4	−$0.8	−$0.8	$37.0	$37.0	63	63
1976	65.1	65.1	67.9	67.9	−2.7	−2.7	34.3	34.3	55	55
1977	73.3	71.8	75.3	75.3	−2.0	−3.5	32.3	30.7	46	46
1978	80.6	78.6	83.6	83.6	−3.0	−5.0	29.3	25.8	39	37
1979	88.9	86.5	91.9	91.9	−3.1	−5.4	26.3	20.4	32	28
1980	97.6	94.8	101.0	101.0	−3.4	−6.2	22.8	14.2	26	20
1981	105.4	102.3	110.4	110.4	−5.0	−8.1	17.9	6.1	21	13

[1] Figures for 1979-81 under present law are theoretical because it is estimated that the DI trust fund will be exhausted in 1979.

[2] Fund exhausted in 1979.

Note: The above estimates are based on the intermediate assumptions set forth in the 1976 trustees report.

STATE-FEDERAL DISABILITY MECHANISM

When the program was established in the 1950's, an effective rehabilitation program and good working relationships with the medical profession were deemed essential. For these reasons, Congress indicated that it wanted the actual determination of disability to be carried out by the State vocational rehabilitation agencies. Thus, the law directed the Secretary of Health, Education, and Welfare to contract with the State vocational rehabilitation agency, or another agency the State might designate, to carry out the function of determining disability under the Federal program. This same system has been carried over into the SSI program.

Criticism of the existing system and the rationale for its establishment has persisted over the years. The relatively few rehabilitations and even fewer terminations from benefit status have been one of the most disappointing aspects of the program. GAO reports to the subcommittee in the last year have been quite critical of both the rehabilitation aspects and the current administration of the State agency system of making disability determinations. One GAO report emphasized the lack of uniformity in decisionmaking between the various State agencies and Federal adjudicators. It stated:

> The function of State agencies in the disability determination process is the same—deciding whether or not a claimant is disabled. However, the means used in reaching those decisions differ significantly among the States.
>
> The differences result, in part, because the agreements between the Secretary of HEW and the States provide that the State can (1) determine, with the Social Security Administration's concurrence, where the State agency will be located within the State hierarchy, (2) establish its own organization and staffing mix, and (3) determine its own case-processing procedures.
>
> The Social Security Administration has not conducted an overall study of the differences that exist among the State agency operations nor developed a model or standard organization which could provide the States guidance.

Some groups, such as the National Association of Disability Examiners, which represents some 2,500 State disability examiners, believe that more fundamental steps are necessary and that Federalization of the system is essential. Others believe that there is still validity in the State agency operation and a near-zero capacity in social security to take on any additional administrative burdens. The current Commissioner of Social Security apparently sees no particular advantage in a change to full Federal administration at this time, while former Commissioner Robert M. Ball believes that such a development is long overdue. These issues have been discussed at length in various Social Security Subcommittee staff documents.

Pending a more definitive study of the feasibility of federalization, what is proposed is a beefing up of the Federal role in the supervision of the State agency operation and the provision for alternative mechanisms of administration if a particular State falls below acceptable levels.

H.R. 15630 would make it optional for the Secretary to enter into agreement with a State and he could only enter into such an arrangement where there were agencies which could efficiently and effectively carry out the required functions. Moreover, the bill would require that the agreement "contain such terms and conditions which will assure effective and uniform administration throughout the United States." This would give a statutory underpinning for the GAO suggestion that more Federal leadership and control could be achieved by the more aggressive use of Federal-State contract mechanisms. For instance, the Social Security Administration could set and enforce standards for, first, quality control; second, a uniform training program; and third, model administrative structures, personnel requirements, and claims processing procedures.

The Secretary would also, under the bill, be able to provide for State agreements to cover disability determinations for applicants in contiguous areas of other States. Thus, it could be arranged by agreement that all determinations for Kansas City would be undertaken by either Kansas or Missouri. Administration of the disability program by a small State, which did not have a particularly efficient operation, could be terminated and a neighboring State or States could assume the responsibility. During the hearings, there was a suggestion made that there should be a federalization demonstration project conducted in a relatively small jurisdiction such as the District of Columbia. This is an excellent suggestion that should be pursued by the Social Security Administration.

A corollary provision in H.R. 15630 is specific authority in the Secretary to terminate an agreement because of unsatisfactory performance or because such an agreement is inconsistent with effective administration. Notice and a hearing would be required. The Social Security Administration does have the authority to terminate under provisions incorporated in the agreements themselves, but it has never taken such a step relying on negotiation and gentle persuasion. H.R. 15630 would underline the Federal responsibility for assuring satisfactory State agency administration.

Finally, the proposal would authorize the Secretary to reverse all State agency determinations. Under present law, the authority of the Secretary is limited to reversal of allowances or in making the onset of disability more recent. The bill would allow the Secretary to reverse both allowances and denials. Some might question the necessity for this amendment—or even the present reversal authority—inasmuch as the Federal Government today is examining only a small sample of cases and sending an infinitesimal number back to the States for a change in decision. This minimal review and return policy, which has been questioned as abdicating effective supervision of State agency decisionmaking, may be modified in terms of a larger sample and a broader case return philosophy. With this as a potential development, it seems appropriate that the Federal Government be given authority to reverse both allowances and denials.

DEFINITION OF DISABILITY

Many believe that lack of uniformity of decisions and control over the adjudicative process is not merely a matter of administration but also is related to the generality of the statutory definition of disability and its highly individualized application without adequate guidelines. This may have also been related to the great growth of the incidence rates in disability over the last 10 years. Since the definition's adoption in the 1954 and 1956 amendments, the language "inability to engage in substantial gainful activity by reason of a medically determinable impairment" had admittedly been one of the most subjective concepts in the social security program. Moreover, experience over recent years indicates that more and more cases are being determined on the basis of the nonmedical factors. These are much more subjective than the medical factors which are spelled out in listings published in regulations.

At least conceptually, the 2½ million determinations of disability a year under the social security and SSI programs are done on an "all or nothing" individualized basis where it must be determined whether the particular individual is able to engage in any substantial gainful activity by reason of his physical or mental impairment, taking into account his age, education, and work experience.

Guidelines differ between the State agencies, which make the initial determination, the ALJ's on administrative appeals, and the courts on judicial review. Furthermore, there are very substantial differences in interpretation between persons and agencies at the various levels in application of the guidelines. In view of this fact, the Committee on Ways and Means requested that the Congressional Research Service enter into a contract to see if it was possible to develop a more objective definition of disability. The CRS contracted with Mr. Edwin Yourman, former Associate General Counsel, Social Security, who concluded that—

> There is a basic problem under the present statute * * * because it assumes that a determination can be made as an absolute of whether each particular individual is able to engage in substantial gainful activity.

And suggested that—

> * * * more reliable determinations could be made by abandoning the pretense of deciding whether each particular individual is able to engage in substantial gainful activity and instead establishing classification which would describe the situations in which there usually would be inability to engage in such activities.

The Yourman suggestion which is generally incorporated in H.R. 15630 would authorize the Secretary to establish by regulation levels of severity of impairments and criteria for vocational classification of individuals. Eligibility would be based upon meeting a severity of impairment listing for the vocational class determined under the criteria. The most vocationally disadvantaged, with age as a factor, could qualify on the basis of the lower severity of impairment but a minimum level of medical impairment would always be required. This should reduce the subjectivity in the application of the definition and increase uniformity of decisionmaking.

It should be emphasized that this proposal is not a liberalization or deliberalization of the current definition of disability. Its objective is to simplify an extremely complicated adjudicative process and make the application of the disability definition more uniform and reliable at all levels of adjudication.

WORK DISINCENTIVES

One of the problems of the disability program is that during a period when the number of disabled workers coming on the rolls has been rapidly expanding, we are experiencing a declining number of terminations in benefits because of the recovery of the disabled workers. More benefits were terminated because of work or medical recovery in 1967 when there were about 1.5 million disabled workers on the rolls than in 1974 when there were about 2.5 million workers on the rolls. Moreover, the small number of benefits terminated—about 35,000 a year—raises the basic question as to some of the structural aspects of the program such as the benefit formula and the amount of earnings which determine ability to engage in substantial gainful activity.

In the 1974 Ways and Means staff report, it was noted that work incentives problems are being exacerbated by rapidly growing benefits amounts for younger disabled workers. This is due to the fact that the wage base has gone up rather precipitously in recent years and that younger disabled workers can qualify on the basis of as little as 2 years of coverage at the new wage base levels.

The results can be quite startling. An extreme case would be the young worker, age 25, who had worked at the maximum taxable wage base and was disabled in February 1977. He would be entitled to a monthly benefit of $566.90, and, if he had a wife and child, a maximum family benefit of almost $1,000 a month. This family benefit would constitute about 78 percent of his preretirement earings before taxes and, when the income tax exemption for disability benefits is taken into account, almost 100 percent of these earnings. The actuarial consultant to the subcommittee, Mr. John Miller, describes the benefit situation as one of the basic defects in the system not susceptible to cure by improvement in administrative and review procedures. He states that—

> These excessive benefits not only encourage claims in borderline or invalid cases, but also, in all cases on which awards are granted, include malingering, and discourage recovery or rehabilitation.

Mr. Edwin Yourman, the legal consultant to the subcommittee, also notes this defect in his study.

The decision of the individual to seek rehabilitation or accept work, which is difficult enough in view of these benefit amounts, is further compounded by the HEW regulation which provides that after a "trial work period" earnings in excess of $200 a month will result in a termination of his family's cash benefits. If the individual has been disabled for 2 years and is entitled to Medicare and then he is terminated on the basis of his earnings, he also loses his Medicare benefits. Moreover, if he once again becomes entitled to disability benefits, he must wait another 24 months before he can regain his Medicare eligibility.

H.R. 15630 has three provisions which are designed to deal with the work incentive elements of the system.

First. Reduction of excessive disability benefits for younger workers: This provision is designed to accomplish two objectives, remedy the situation whereby benefit amounts are so high as to be against the economic self-interest of beneficiaries to attempt rehabilitation and work; and eliminate a situation whereby retired workers and other older disabled workers who have contributed all their lives to social security receive benefits substantially lower than young disabled workers who worked only a few years at the same wage level. H.R. 15630 would provide that in the case of a worker becoming disabled after the effective date, say February 1977, he would not be entitled to a benefit in excess of $412.70 a month—and a family benefit of $722.20 a month. This is the maximum amount that a person age 65 retiring at the same time could receive who had been contributing at the maximum his entire working life. Of course, the maximum primary and family benefit for disabled workers would increase in subsequent years as the maximum old age benefit increased. As can be seen, there will be a very substantial difference in treatment between people qualifying before and after such a limitation was imposed. Removing the differential gradually will be accomplished under the legislation by not granting cost of living increases to those who had previously qualified for benefits over the limit established by the proposal until their awarded benefits fell below the limit.

COMPLEMENTARY LEGISLATION TO DECOUPLING BILL

Under the administration's decoupling bill, H.R. 14430, the great disparity in benefit levels between disability and death cases as compared to retirement cases would be greatly reduced since past earnings would be indexed. In this regard, legislation such as the administration bill for indexing by wages rather than prices is much more effective. However, the transition provision in the administration bill would guarantee higher benefit levels in early disability and death cases coming on the rolls for 10 years. A comparison of retirement and disability levels under the present law and under the wage indexing in the administration bill is shown in the following table. The difference between retirement and the disability benefits under H.R. 14430 is due to the fact that maximum creditable earnings have increased faster than average covered wages in recent years, and, therefore, a short averaging period still advantages the early death or disability case, even after earnings are indexed.

TABLE 4.—COMPARISON OF WORKER'S PRIMARY BENEFIT IN RETIREMENT AND YOUNG DISABILITY AND DEATH CASES IN JANUARY 1978[1]

	Present law		Administration decoupling bill	
	Retirement at 65	Disability or death at 29 or earlier	Retirement at 65	Disability or death at 29 or earlier
Maximum earnings	$460	$622	$445	$495
Average earnings	369	495	358	368

[1] Estimated.

It should be emphasized, however, that during the transition period—1978–87—under the administration bill the young disabled worker will get the higher benefit of the new decoupled formula or the formula which was in effect at the end of 1977. Thus, the young disabled worker under the administration bill in our example would get a benefit of $622—family benefits of about $1,100 a month—if he had maximum earnings. H.R. 15630 would place a limit on these disability and survivor benefits so that they could not exceed the benefit of a person retiring at age 65 who had contributed at the maximum his entire working life. In the case shown in the above table, the limit would be $460 a month.

To accompany the limit proposed in

H.R. 15630 I would suggest the possibility of an amendment to the administration's decoupling bill so that the transition provision would not be applicable for persons who did not have at least one quarter of coverage before 1978. This provision would be operative toward the middle and end of the transition period and would affect, in the main, disability and survivor benefits based on low and average earnings for younger workers. For instance, a low wage earner under age 30 becoming disabled in 1983 would be entitled to benefits under wage-indexing of about $305 a month instead of $350 under the "guarantee" in the transition.

Table 5 shows the operation of the administration's decoupling bill and the asterisks indicate whether the "guarantee" or "wage-indexing" is the operative provision which authorizes the greater benefit. Of course, if the requirement of some quarters of coverage prior to 1978 was adopted, the benefits under wage-indexing would be the operative provision toward the end of the transition period. This would have the greatest effect on low wage workers who otherwise would have been on the "guarantee" the entire period and to average wage workers to a slightly lesser degree. Replacement rates—benefits as a percentage of final year earnings—are also shown.

Table 6 shows the effect of H.R. 15630 which would impose the "retirement benefit limit" and affects only those at maximum wage. It shows both the primary benefit for the worker and the family maximum. It should be noted that the suggested amendment would provide a lower but stable replacement level during the transition period in contrast to a higher but sharply declining replacement level under the administration's decoupling bill.

Tables 5 and 6 follow:

TABLE 5.—COMPARISON OF PRIMARY BENEFIT AND REPLACEMENT RATES FOR WORKERS BECOMING DISABLED BEFORE AGE 30[1]. DURING THE TRANSITION PERIOD UNDER THE GUARANTEE AND WAGE-INDEXING PROVISIONS OF THE ADMINISTRATION'S DECOUPLING BILL (H.R. 14430) AT VARIOUS WAGE LEVELS—Continued

	Low wages [2]				Average wages [3]				Maximum wages [4]			
Year of disablement	Guarantee	Replacement [5] rate (percent)	Wage-indexing	Replacement [5] rate (percent)	Guarantee	Replacement [5] rate (percent)	Wage indexing	Replacement [5] rate (percent)	Guarantee	Replacement [5] rate (percent)	Wage-indexing	Replacement [5] rate (percent)
1978	[6] $273.20	82	$207.50	62	[6] $495.30	59	$367.90	44	[6] $621.70	45	$494.80	36
1979	[6] 288.30	79	225.70	62	[6] 514.10	56	400.30	44	[6] 631.70	43	535.60	36
1980	[6] 305.70	77	247.60	62	[6] 535.90	54	438.00	44	[6] 631.70	39	585.60	37
1981	[6] 320.20	75	266.50	62	[6] 555.10	52	472.10	44	631.70	36	[6] 634.70	36
1982	[6] 336.50	74	288.00	63	[6] 573.30	50	508.40	44	631.70	33	[6] 686.70	36
1983	[6] 350.70	73	305.60	63	[6] 590.30	49	539.90	45	631.70	31	[6] 735.40	36
1984	[6] 361.90	71	323.20	63	[6] 606.10	47	571.10	45	631.70	29	[6] 781.80	36
1985	[6] 378.10	70	341.50	63	[6] 620.70	46	603.20	45	631.70	27	[6] 827.10	36
1986	[6] 392.10	69	360.10	63	631.70	44	[6] 637.00	44	631.70	26	[6] 872.90	36
1987	[6] 410.20	68	382.30	63	631.70	42	[6] 675.00	45	631.70	25	[6] 925.40	36

[1] Primary insurance amount of workers who become disabled at ages older than 29 generally are lower; the later the age at which the worker becomes disabled, the less likelihood there is that the guarantee would apply.

[2] $3,400 in 1975. Wages are assumed to rise according to the intermediate earnings assumption in the 1976 trustees' report.

[3] $8,600 in 1975. Wages are assumed to rise according to the intermediate earnings assumption in the 1976 trustees' report.

[4] $14,100 in 1975. Wages are assumed to rise according to the intermediate earnings assumption in the 1976 trustees' report.

[5] Benefit as a percentage of final year earnings.

[6] Benefit paid under guarantee or wage-indexing during transition period.

TABLE 6.—COMPARISON OF PRIMARY BENEFITS AND REPLACEMENT RATES FOR WORKERS BECOMING DISABLED BEFORE AGE 30 DURING THE TRANSITION PERIOD UNDER THE GUARANTEE OR WAGE-INDEXING PROVISIONS OF THE ADMINISTRATION'S DECOUPLING BILL AT THE MAXIMUM WAGE LEVEL[1] TOGETHER WITH THE EFFECT OF THE "RETIREMENT BENEFIT LIMIT" OF H.R. 15630

	Administration bill (H.R. 14430)				H.R. 15630 "Retirement Benefit Limit"			
Year of disability	Primary benefit	Replacement rate (percent)[2]	Family maximum	Replacement rate (percent)[2]	Primary benefit[3]	Replacement rate (percent)[2]	Family maximum	Replcaement rate (percent)[2]
1978	[4] $621.70	45	$1,088.00	79.1	[4] $459.80	33	$783.70	57
1979	[4] 631.70	43	1,105.50	74.9	486.60	33	859.10	58
1980	631.70	39	1,105.50	69.0	534.90	33	942.90	59
1981	634.70	36	1,115.80	64.0	580.50	33	1,020.90	58
1982	686.70	36	1,208.30	64.0	628.90	33	1,107.10	58
1983	735.40	36	1,294.00	64.0	673.00	33	1,184.80	58
1984	781.80	36	1,375.70	63.0	714.30	33	1,257.60	58
1985	827.10	36	1,457.70	63.0	757.40	33	1,335.70	58
1986	872.90	36	1,529.90	63.0	802.20	33	1,406.10	58
1987	925.40	36	1,629.50	63.0	851.80	33	1,500.70	58

[1] $14,100 in 1975; $15,300 in 1976; and increasing in subsequent years according to assumptions in trustees' report.

[2] Benefit as percentage of final years earnings.

[3] Amount based on amount payable to retired worker at age 65.

[4] Payment based on "guarantee", all others are based on "wage-indexing."

Second. Liberalization of earnings amount which will terminate disability: The high level of benefits is not the only provision in the social security program which may inhibit work activity. The General Accounting Office, in its report and its testimony before the subcommittee, pointed to the regulations which terminate benefits when earnings exceed $200 a month as making a difficult transition for the beneficiary from "depending on disability payments plus other benefits he might be receiving to depending solely on his earned income which may be less than his benefits." On February 18, the Department of HEW announced proposed new regulations—not yet finally approved—which would increase the amount of SGA—the earnings guide for determining when work is substantial gainful activity—allowable earnings from $200 to $230 monthly.

Moreover, the monthly amounts would be put on a dynamic basis subject to the mechanism whereby monthly amounts would automatically increase as wages rise. Also, the GAO in its testimony and report stated:

> We believe that the Congress may wish to consider the feasibility of establishing a formula method to reduce disabled beneficiaries monthly benefits according to their demonstrated earnings capacity.

Moreover, a recent study of the Office of Research and Statistics, Social Security Administration, indicates that the low level of earnings which currently constitutes a month of "trial work"—$50 a month in wages or $50 a month in earnings or 15 hours in self-employment—may be a major disincentive to seeking employment—"Impact of Substantial Gainful Activity Level on Disabled Beneficiary Work Patterns, Social Security Bulletin, August 1976."

H.R. 15630 would provide: First, statutorily for a $230 SGA monthly amount, increasing in the future as wages increase and second, replace the 9-month "trial work" provision in the existing law with a 24-month "trial work" provision during which the retirement test—$1 in benefit for $2 in earnings—reduction will be applicable after the exempt monthly amount is reached. The exempt amount would also determine whether a month of trial work had been completed.

Examples of how these provisions would work are shown by the following table:

TABLE 7—COMBINED EARNINGS AND BENEFITS PAYABLE AT SELECTED BENEFIT AND EARNINGS LEVELS IF THE RETIREMENT TEST PROVISIONS WERE APPLICABLE DURING THH TRIAL WORK PERIOD

Monthly benefit	Earnings per month		
	$400	$500	$1,000
Disabled worker:			
$107.90[1]	$422.90 ($22.90)	[2] $500.00	[2] $1,000.00
$200	515.00 (115.00)	565.00 ($65.00)	[2] 1,000.00
$300	615.00 (215.00)	665.00 (165.00)	[2] 1,000.00
$400	715.00 (315.00)	765.00 (265.00)	1,015.00 ($15.00)
$500	815.00 (415.00)	865.00 (365.00)	1,115.00 (115.00)
$548.20[3]	863.20 (462.20)	913.20 (413.20)	1,163.20 (163.20)

Monthly benefit	Earnings per month		
	$400	$500	$1,000
Disabled worker and family:			
$161.90[1]	$476.90 ($76.90)	$526.90 ($26.90)	[2] $1,000.00
$200	515.00 (115.00)	565.00 (65.00)	[2] 1,000.00
$400	715.00 (315.00)	765.00 (265.00)	1,015.00 ($15.00)
$800	1,115.00 (715.00)	1,165.00 (665.00)	1,415.00 (415.00)
$900	1,215.00 (815.00)	1,265.00 (765.00)	1,515.00 (515.00)
$959.40[3]	1,274.40 (874.40)	1,324.40 (824.40)	1,574.40 (574.40)

[1] Minimum benefits payable to a family for June 1976 and after.

[2] Represents earnings only; at this earnings leve l, no benefits would be payable.

[3] Maximum disability benefits payable to worker or family for June 1976 and after.

Third. Elimination of second waiting period for medicare for disabled workers: H.R. 15630 would eliminate the second 2-year waiting period for disabled workers who must go back on the rolls after an unsuccessful work attempt and would allow them credit toward the 24-month requirement for any previous waiting period. In its report on the rehabilitation program, the GAO stated that the present law could be a: "disincentive to beneficiaries who are doubtful of their ability to maintain competitive employment. On this matter, the Congress might wish to consider rescinding the requirement that disabled beneficiaries wait another 24 months for medicare eligibility if after their benefits are terminated, they return to the disability rolls because they are unable to continue work."

Under the 1972 amendments, medicare was extended to disability annuitants. The committee report states that the Congress was proceeding on a "conservative basis" because of cost considerations and that it was necessary to provide assurance that the protection would be available only to those whose disabilities have proven to be severe and long lasting. Thus, the legislation provided that health protection would be available to disabled workers only after they had been entitled to benefits for not less than 24 consecutive months. The way the law has been interpreted is that if an individual attempts to return to work and does so and then, say a year later, regresses and once again becomes entitled to disability benefits, he will have to wait another 24 months before he is entitled to health insurance benefits.

It should be noted that Congress in 1960 eliminated the second waiting period for disability cash benefits for those who had gone back to work and then within 5 years—7 years for widows—once again become eligible for benefits. The elimination of the second 24-month requirement would be similar in purpose to that provision relating to the disability waiting period.

LIMITS OF REHABILITATION EXPENDITURES UNTIL PROGRAM EFFECTIVENESS CAN BE SHOWN

Through the years, Congress has tried to encourage rehabilitation by enacting provisions which would make return to work easier for the disabled worker. H.R. 15630's work incentive provisions continue this tradition.

In the Social Security Amendments of 1965, Congress provided that disability insurance trust fund money could be used to reimburse the States for the cost of rehabilitation services to disability beneficiaries. Under this provision, the total reimbursement could not, in any year, exceed 1 percent of the amount of social security disability benefits for the previous year. The Senate Finance Committee report on the 1965 act stated that only about 3,000 disability beneficiaries were "rehabilitated" in any previous year mainly because of the lack of State funds to match the available Federal funds.

At that time, Congress was assured by the Department of Health, Education, and Welfare that the money spent on rehabilitation services would actually produce a savings to the disability trust fund as a result of the increase in the number of disabled beneficiaries who would be returned to covered employment after having received these services. Given a similar assurance in 1972 by HEW that the trust fund was realizing savings due to the money spent on vocational rehabilitation—in December 1970, HEW had reported a savings of $1.60 for every dollar spent and in January 1972, the savings were reported as $1.93—Congress increased the authorization for use of trust fund money to 1.25 percent of benefit expenditures for fiscal year 1973 and to 1.5 percent for fiscal year 1974 and subsequent years.

Although the amount of trust funds available for beneficiary rehabilitation has increased from about $15 million in 1967 to almost $100 million in 1976, the bottom line—terminations due to rehabilitation—has been disappointing. Cumulatively over these 9 years, only 20,000 disabled workers who have been "rehabilitated" have been terminated from the rolls. This was during a period of time when the number of disabled workers on the rolls was increasing from 1.5 to 2.5 million.

In 1974, the committee asked the GAO to look into the operation of the beneficiary rehabilitation program—BRP—to determine whether the savings claimed by the Social Security Administration were realistic. The GAO testified before the subcommittee on February 3, 1976, after an examination of some 350 cases in 4 States. The cases surveyed were those of persons that State agencies claimed to have been rehabilitated and who had been terminated from the program. GAO found that 51 percent of the cases did not meet the criteria for selection for the BRP in that these cases had been "diaried" for expected recovery.

Another 11 percent of cases returned to work without being given rehabilitation services. But, in the remaining 38 percent of the cases, the GAO found that the rehabilitation did indeed lead to the termination of benefits. Basing their calculation on only this last group and using the social security actuary's formula, the GAO estimated that there were trust fund savings of $1.15 for every $1 of rehabilitation service expenditure. The Department's earlier estimates of savings had been much more favorable. In June 1974, they reported a savings of $2.50 for every $1 spent.

The GAO in its testimony recommended that Congress temporarily freeze the funding level for the program at the fiscal year 1976 level plus providing a factor for inflation. In their view, this should provide sufficient funding until the Department can insure that the program is being properly administered. My understanding is that the Department of HEW agrees basically with the GAO recommendation in that current formula basis for financing rehabilitation services has outlived its usefulness and is providing more money than can be prudently expended by the VR agencies.

H.R. 15630 incorporates the GAO proposal together with a requirement that HEW report back to Congress at the end of 1 year on the status of the beneficiary rehabilitation program together with any recommendation for permanent amendments of the law.

PAYMENT FOR MEDICAL EVIDENCE

H.R. 15630 provides that any hospital, doctor, or other medical source would be reimbursed by the Government for supplying the records of an applicant for social security disability benefits on a reasonable cost basis.

At the present time, a claimant or his doctor or hospital must bear the cost of preparing and photocopying his medical record and transmitting them to Social Security. In certain instances, this has inhibited the collection of needed medical evidence. The payment of such costs under SSI is authorized, but not under social security. Dr. William Roemmich, the subcommittee's medical consultant, stated that extending this authority to Social Security would help in the better documentation of claims. The GAO report on State agency decisionmaking was particularly unsettling because in 50 percent of the sample of claims examined by the Social Security Administration it was found that the case was not adequately documented so that a decision could be made. It can be argued that the ability to get full medical records already in existence may be a less costly alternative to the purchase of consultative medical examinations at

Government expense and that it would speed up the adjudicative process.

CHARLIE SMITH: STILL ACTIVE AT 134 YEARS OLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, the House Select Aging Committee's Subcommittee on Health and Long-Term Care, on which I have the privilege of serving as chairman, is deeply concerned with the quality of life and health of our Nation's elderly. Demographers and health experts indicate that the advance of biomedical research and medical science in combatting such killers as heart disease and strokes will become even more critical than today in increasing life expectancy.

As we consider the vast needs of the elderly for top quality health care, housing, food, transportation, and protection against crime, we should keep in mind that the latest census figures show that the proportion of people 65 and over has grown to 10.5 percent of the population.

Mr. Charles Smith, of Bartow, Fla., is the Nation's oldest citizen. I would like to submit for the RECORD the enclosed article from the Virginia Pilot which indicates that Mr. Smith, although 134 years old, remains a healthy and active member of his community. I am particularly pleased to be standing before you bearing good news of this outstanding elderly person. Mr. Smith is conclusive proof that people can, and must be involved, wherever possible, in their communities beyond the age of 65, or even 135:

[From the Virginia-Pilot, Monday, July 5, 1976]

OLDEST AMERICAN—CHARLIE STILL LIVELY AT 134

BARTOW, FLA.—Charlie Smith, the oldest American, celebrated his 134th birthday Sunday with a new cowboy hat; a red, white, and blue cake; tall tales; and an occasional verbal shot at a questioner.

Parrying reporters' questions with the ease of a seasoned politician and waving away those he didn't want to answer, Smith stopped to pose nobly for photographers seeking closeups of his weathered face.

"I ain't God," he snapped, when asked how he managed to stay so healthy. "I wouldn't ask such a question as that."

Another reporter asked Smith what he does with his money. "Why?" he retorted and changed the subject.

He sat behind a small table decorated with two small American flags and a Mount Rushmore tablecloth in the dining room of the Bartow Convalescent Center. He was clad in a white baggy fringed cowboy shirt and the new cowboy hat that he receives every July 4.

He doffed the Stetson to reveal a bald head. His startling blue eyes surrounded by a leathery black skin stared intently at each questioner.

Asked why he had lived so long, Smith replied, "I hope I will die, as far as that's concerned. I ain't ever seen a person wanting to die. I want to live as long as the Lord will let me."

Smith observes his birthday July 4 because he says that is the anniversary of his sale to a benevolent Texas rancher at a New Orleans slave auction in 1854. Smith says he was lured from his home in what is now Liberia aboard a slave ship that had "a fritter tree with pancakes dangling like Christmas ornaments."

He regaled reporters with a favorite mythical tale of how he traveled with outlaw William (Billy the Kid) Bonney when he was a 19th Century cowboy. "Me and Billy the Kid got the man who killed the President (Garfield). We got him in Long Branch, Mo. The United States named me 'Trigger Kid.'"

As the wispy, stooped Smith left the table, he spurned all questions about where he spent the Centennial celebration in 1876 and walked off, carrying his briefcase and a black change purse.

JIMMY CARTER'S STATEMENT TO THE AMERICAN ASSOCIATION OF RETIRED PERSONS AND NATIONAL RETIRED TEACHERS ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD a statement on problems of the elderly made to the members of the American Association of Retired Persons and the National Retired Teachers Association:

JIMMY CARTER FOR AARP-NRTA "OPINION"

I am pleased to send this message to the memberships of AARP and NRTA. You are part of an important, growing segment of our population. There are now 23 million Americans over the age of 65—and senior citizens constitute an increasing percentage of the nation's population. Living on fixed incomes in a time of rising costs—for food, for health care, for housing—you are increasingly forced to struggle for even the necessities of life.

Gerald Ford's record on the elderly leaves little doubt that he has made your struggle even more difficult. As a Congressman, Ford voted against every increase in social security benefits, including the 1972 legislation that now provides automatic cost-of-living increases in Social Security benefits. He led the last ditch battle in the House against the passage of Medicare, voted against every bill containing language to provide government subsidized housing construction for the poor and elderly, and voted against the establishment of the Older Americans Act and the public service employment programs for the elderly under the Act.

Among his proposed cutbacks while President were:

An arbitrary 5% cap on the July 1975 social security cost-of-living increase;

"Cost sharing" in Medicare, which would increase medical and hospital charges for aged and disabled Americans by about $1.3 billion;

An increase in food stamp charges in 1975—to the point where most elderly recipients would find it uneconomical to participate in the program;

A $25 million cutback in funding for a hot meals program at senior citizens centers;

A $6 million cutback for the State and Community Services programs under the Older Americans Act;

An attempt to phase out community service jobs programs for older workers;

The impoundment of funds for the section 202 housing for the elderly program; and finally, Ford's Administration resisted Congressional efforts to halt a 13% hike in hospital and nursing home charges for Medicare patients. Now, Medicare beneficiaries must pay the first $104 of their hospital bills.

Senior citizens like yourselves have contributed much during their career years to the strength and vitality of America. You have the right to expect in your later years that you will have an adequate income, comfortable housing, access to expert and affordable health care, and adequate transportation.

The most important guarantee of a secure income to our elderly comes through the Social Security program. Recently, however, the system has been damaged by inflation, resulting in severe deficits.

I pledge to you, and to all Americans, that I will preserve the financial integrity of the Social Security system. To solve the system's current problems, we must energetically insure that we preserve the present cost-of-living adjustments for those receiving benefits and stabilize the "replacement rate" of benefits to wages, by guaranteeing to present contributors that their benefits at retirement will fully reflect increases in their wages.

But our program for senior citizens cannot stop there.

We must move toward a national health insurance for all Americans, which will insure that the elderly, whose medical expenses are particularly burdensome, need never fear that they cannot afford necessary medical care.

I am committed to an increase in the Section 202 housing program for the elderly, funds for renovation of existing structures, and strong federal protection against the displacement of senior citizens by landlords seeking to convert rental housing into condominiums. 30% of America's elderly live in substandard housing and we cannot tolerate the present Administration's failure to deal with this problem.

Since senior citizens so often lack the mobility essential to enjoy the benefits of our country, they must be involved in transportation planning. I believe that it is appropriate for the federal government to subsidize low-cost fares for the elderly on financially financed public transit systems.

But perhaps this country's most serious neglect of her senior citizens, is the failure to tap their priceless, often unappreciated natural assets; experience and wisdom as teachers, administrators, craftsmen—in all areas of endeavor.

My mother, Lillian, served in the Peace Corps in a medical dispensary in India, when she was 68. Government and industry both could offer our senior citizens, through volunteerism, a great opportunity to continue to lead productive and meaningful lives while sharing the wisdom of their years with others.

If elected President, I will establish in the White House a Counselor on the Aging. This Counselor would develop innovative and necessary programs for the elderly and insure that government action takes their concerns fully into account.

Most important, we need a President who is truly concerned with and sympathetic to the problems of older Americans. Senior citizens must never again feel ignored. Under my Administration, they never will.

RESOLUTION ON MONITORING ROMANIA'S HUMAN RIGHTS AND EMIGRATION RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 15 minutes.

Mr. KOCH. Mr. Speaker, today I am introducing on behalf of Congressman ROBERT F. DRINAN, Congressman CHRISTOPHER J. DODD, and myself, a resolution calling on the Socialist Republic of Romania either, to improve its record in emigration and its treatment of minorities or to risk losing its most-favored-nation status. Briefly, for those who may not be fully informed about this controversy, the United States extended most-favored-nation treatment to the Socialist Republic of Romania in 1975. Our

Government did this under the authority provided by the Trade Act of 1954, which allowed the extension of most-favored-nation status and other trade privileges to the so-called "nonmarket" or socialist nations, provided those nations either showed that they had a free emigration policy or were making substantial progress toward such a goal. In the latter case, the President is allowed to recommend to the Congress that most-favored-nation staus be granted, notwithstanding the fact the nation receiving our tariff advantages has a less than free emigration policy, if the President determines that the policies of the government in question, Romania in this case, will "lead substantially" to the objectives of free emigration.

Recently the President recommended that Romania receive most-favored-nation status for another year. The Congress has until October 15, 1976, to "veto" this extension through a disapproval resolution that may be offered by either House of Congress. Such a resolution would countermand the President's determination that Romania deserves to continue to receive most-favored-nation status, based on the Congress own evaluation of Romania's record in emigration and other matters.

In addition, I have been concerned about the status of minorities, including linguistic minorities, in Romania, most notably the Hungarian-speaking Romanian minority. In urging that the Congress recognize their complaints as part of the spirit of the human rights section of the Trade Act of 1974, I have been asking that the Congress consider the fundamental rights of this minority as part of the overall situation that should be reviewed, when the trade status of Romania is considered.

The resolution that we are introducing today would ask the President to submit to Congress and to the newly established Commission on Security and Cooperation in Europe—the Helsinki Monitoring Commission established this past summer—a report on the status of both the freedom of emigration and minority rights in Romania. Such a report would be requested immediately and also each time the President made an application for extension of most-favored-nation treatment for Romania.

In addition, the Commission on Security and Cooperation in Europe is requested by this resolution to transmit a report to each House of Congress on both the freedom of emigration in Romania and the status of minorities in that country. This Commission was established to help monitor the Helsinki Agreement, particularly the promise of human freedoms contained in that document, and the duties assigned to it by this resolution are in keeping with the goals and purposes of the Commission. At the present time, the Congress must rely on the very imperfect device of annual hearings before the Trade Subcommittees of the House Ways and Means Committee and the Senate Finance Committee to attempt to monitor the performance of Romania under the Trade Act of 1974 with respect to emigration and the other human rights encouraged by that legislation. The Commission can provide a timely and useful additional monitoring device.

This resolution also asks that additional money be made available to the Subcommittee on Trade of the House Ways and Means Committee, in order that it might better perform its duties with respect to the Trade Act of 1974. This is not meant in any way as a criticism of that subcommittee, its chairman, or its staff, who have done a first-rate job of dealing with the provisions of section 402, the human rights section of the Trade Act. However, the increasing volume of people seeking assistance from the Congress in expediting the applications of friends or relatives for visas to leave Romania means that additional staff is needed in order to make sure that both our own State Department and the Romanian Ambassador to the United States are aware of the congressional interest in those who are seeking to leave Romania.

I am concerned that if most-favored-nation status is continued for Romania, there must be monitoring of that country's emigration and human rights policies. Many names of those who are seeking to come to the United States have been submitted to the Romanian Government by Members of Congress on behalf of constituents. The Romanian Government has provided adequate explanations in some cases, inadequate in others, and in some cases none at all. As a condition of receiving most-favored-nation status, the Romanian Government must provide full information with respect to all those whose names have been submitted for emigration.

Finally, Mr. Speaker, this resolution declares that if the Socialist Republic of Romania continues to restrict the freedom of its citizens in the exercise of their fundamental human rights and cultural freedom, especially the right to emigrate, then it is the sense of the House of Representatives that most-favored-nation treatment for Romania should be terminated. Unfortunately, as I have requested information from the Romanian Ambassador on the status of many emigration cases in which I am interested, I have concluded that the Congress must be willing to take the drastic step of halting the most-favored-nation treatment of Romania in order to impress on the Romanian Government that section 402 does impose a meaningful obligation on the Government of Romania to make its best efforts in the areas of emigration and human rights.

I am appending a copy of the resolution we are introducing today:

H. Res. 1556

Whereas section 402 of the Trade Act of 1974 establishes the dedication of the United States to the protection of fundamental human rights and cultural freedom, especially the right to emigrate;

Whereas such dedication has been reconfirmed by the signing by the United States of the Helsinki Agreement (The Final Act of the Conference on Cooperation and Security in Europe) which agreement was also signed by Canada and thirty-three European nations, including the Socialist Republic of Romania;

Whereas the Socialist Republic of Romania has restricted the freedom of its citizens in the exercise of their fundamental human rights and cultural freedom, including the exercise of such rights and freedom with respect to education, religion, emigration, and language; and

Whereas such restriction by the Socialist Republic of Romania is inconsistent with the goals of the Trade Act of 1974 and the Helsinki Agreement: Now, therefore, be it *Resolved*, by the House of Representatives—

That the President is requested to transmit to each House of Congress and to the Commission on Security and Cooperation in Europe a report with respect to the freedom of the citizens of the Socialist Republic of Romania to exercise their fundamental human rights and cultural freedom, especially the right to emigrate;

That the President is requested to transmit to the Congress a report with respect to the freedom of the citizens of the Socialist Republic of Romania to exercise their fundamental human rights and cultural freedoms, especially the right to emigrate, each time the President makes a request for authority to waive the application of section 402 (a) and (b) of the Trade Act of 1974 or for authority to extend the United States-Romanian Trade agreement itself;

That the Commission on Security and Cooperation in Europe is requested to transmit to each House of Congress a report with respect to the freedom of the citizens of the Socialist Republic of Romania to emigrate and the status of minorities in the Social Republic of Romania;

That it is the sense of the House of Representatives that if the Socialist Republic of Romania continues to restrict the freedom of its citizens in the exercise of their fundamental human rights and cultural freedom, especially the right to emigrate, then the 1975 United States-Romanian Trade Agreement and the most-favored nation treatment of the Socialist Republic of Romania by the United States should be terminated; and

That there shall be made available from the contingent fund of the House, $50,000 for the Trade Subcommittee of the Committee on Ways and Means of the House of Representatives for the expenses of acquiring additional staff to assist such subcommittee in carrying out its duties under the Trade Act of 1974. Payment of such amount shall be made upon vouchers signed by the chairman of such subcommittee.

RESOLUTION ON HUMAN RIGHTS IN ROMANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, today I join with two of my colleagues, Representative Koch and Representative Dodd, in introducing a resolution which will formally notify the Romanian Government that it must ease its restrictions on the emigration of its citizens and on the human rights and cultural freedom of its national minorities, particularly its Hungarian, Jewish, and German communities, or risk the loss of its most-favored-nation trade status. The resolution would also establish an effective mechanism by which to monitor the progress toward freedom of emigration, as required by the Trade Act of 1974.

Sections 402 (a) and (b) of the Trade Act of 1974 prohibit the granting of most-favored-nation treatment or the extension of Government credits to any nonmarket economy country which denies its citizens the right or opportunity to emigrate. The Socialist Republic of Romania became the first nation to receive most-favored-nation status under the terms of the Trade Act on July 28, 1975, when Congress approved the President's exercise of his authority under section 402(c)(1) of the act to waive the freedom of emigration requirements, based upon his determination that emigration practices would improve and lead substantially to the goal of freedom of emigration. Assuming that neither House of Congress votes to terminate the extension of the waiver by October 15, 1976, Romania will retain its most-favored-nation status, subject to annual waiver by the President and approval by the Congress.

The available figures on emigration from Romania since it received most-favored-nation status do not indicate progress toward freedom of emigration. While the number of individuals permitted to emigrate to the United States has increased from 357 in 1973 and 528 in 1974 to 849 in 1975 and 672 for the first 7 months of 1976, the number of Jews permitted to emigrate to Israel has declined sharply.

In 1973 and 1974, over 3,700 Jews were permitted to leave for Israel annually. In 1975, the figure dropped to slightly over 2,000, and available figures for 1976 suggest that a similar number will be permitted to leave in 1976. This decline is entirely inexcusable. Assertions that the emigration rate has declined because of a corresponding decline in the number of individuals who seek to emigrate are contradicted by the facts.

From various sources, I have been informed of over 500 individuals who have applied for and have not received permission to emigrate from Romania; some of these individuals have been waiting over a year. I have also been informed of 22 cases of alleged harassment endured by individuals as a result of their applications for exit visas and passports. It is abundantly clear than many Romanians are being denied the fundamental right to emigrate freely, a right embodied not only in the Trade Act of 1974, but also in the Helsinki Final Act, to which Romania is a signatory.

Along with several other Members of Congress, I have in recent months expressed my deep concern over this matter to the representatives of the Romanian Government. On September 1, I met with His Excellency Nicolae M. Nicolae, Ambassador of the Socialist Republic of Romania to the United States. On that occasion, I transmitted to the Ambassador the list of over 500 names, together with an expression of concern with the disappointing emigration record on behalf of 35 Members of Congress. I received from the Ambassador positive assurances that he would investigate each case and expedite the emigration process whenever possible.

Since September 1, I have recevied from the Ambassador a list of 75 individuals whose names have appeared on various lists of would-be emigrants which the Ambassador received from me and several of my colleagues in recent months. These people have received permission to emigrate from Romania since June of this year. These 75 names represent no more than a small fraction of those desiring to emigrate from Romania. The actions of the Romanian Government simply do not match its stated policies or its legal and moral obligations.

There is absolutely no excuse for the denial of the fundamental right to emigrate freely. The provision for annual congressional review of Romania's compliance with the freedom of emigration requirements of the Trade Act provides us with a ready instrument through which to emphasize that Romania's record during the first year of its status as a most favored nation is inadequate. It is essential that we in the Congress bring home to the Romanian authorities in the strongest terms the necessity for immediate and continuing action toward the achievement of freedom of emigration. Declining emigration figures, unexplained denials of hundreds of applications to emigrate, and extremely disturbing reports of Government harassment are totally unacceptable and clearly violative of the act by which Romania derives substantial economic benefits.

Assurances by the Romanian Ambassador and other officials of prompt and positive action must be matched by concrete acts. We in the Congress must monitor carefully the Romanian Government's progress toward the required goal of free emigration. Romania is the first nation to receive most-favored-nation status and government credits under the terms of the Trade Act of 1974. If we in the Congress do not insist on genuine compliance with section 402 of that act, then other nations desiring similar trade benefits will be on notice that rhetoric alone will be sufficient to fulfill the act's freedom of emigration requirements.

On June 3, 1977, the President will be required to request and the Congress will be authorized either to approve or to disapprove another waiver of section 402 (a) and (b). Between now and that date, Romania must demonstrate genuine compliance with section 402(c)'s requirement of substantial progress toward the achievement of freedom of emigration. Continuation of present emigration practices will not suffice. The probable extension of this initial waiver must not be interpreted by the Romanian Government as approval of the past year's record on emigration. On the contrary, we must utilize this opportunity to communicate to the Romanian Government the deep concern of the Congress over its failure to achieve true freedom of emigration and of the need for substantial improvement in order to insure retention of most-favored-nation status.

In addition to the central question of freedom of emigration, the religious and cultural rights of Romania's ethnic minorities certainly fall within the spirit of the Trade Act's human rights provisions. Recent reports of the denial of these rights raise issues of grave concern to all those who feel strongly about fundamental human rights. There is evidence that minority language educational institutions and language classes are being systematically curtailed; that the opportunity to preserve cultural identity through publications has become increasingly limited; and that the law nationalizing all documents has been used as a pretext to eliminate the historical tradition of many minority churches.

The resolution which we introduce today would express the Congress deep concern with the issue of minority rights and would provide for the investigation of the highly disturbing reports of denials of minority rights.

The resolution which my colleagues and I introduce today directs the President to submit to the Congress and to the newly created Commission on Security and Cooperation in Europe a detailed report on the Romanian Government's record in providing its citizens with their fundamental rights: the right to emigrate and the right to exercise religious and cultural freedom. The resolution would require the submission of such a report upon each request by the Romanian Government for an extension of its status as a most favored nation. In order to more effectively monitor the reccord of the Romanian Government in these urgent humanitarian matters, the resolution directs the Commission on Security and Cooperation in Europe to investigate and report to the Congress on freedom of emigration and the rights of national and religious minorities, and it provides an additional appropriation of $50,000 to the Trade Subcommittee of the House Ways and Means Committee for a continuing investigation of the performance of all nonmarket nations in emigration and other matters related to the Trade Act of 1974.

The resolution expresses firmly the intent of Congress to terminate Romania's most-favored-nation status if the reports established by this measure do not reveal significant progress toward freedom of emigration and other fundamental human rights. Nothing less than the future viability of the Jackson-Vanik amendment to the Trade Act and the seriousness of Congress commitment to basic human rights is at stake in this matter. Romania represents a test case; either we in the Congress will serve notice on the rest of the world that we insist on genuine compliance with the freedom of emigration requirement of the Trade Act, or we will serve notice that unfulfilled promises of progress and rhetoric unmatched by action will suffice. The resolution which Representatives KOCH, DODD, and I introduce today would clearly express the intent of Congress and would provide the tools for thorough, ongoing oversight of Romania's compliance with section 402 of the Trade Act. As such, its adoption would represent a significant positive step toward the establishment of a firm American policy on the fundamental issue of human rights.

COMMISSARS AND CAPITALISTS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the magazine, Sea Power, the official publication of the

Navy League of the United States, carries in its current issue, a down-to-Earth, commonsense editorial on the folly of allowing our Merchant Marine to be pushed to the wall by Communist competition. It is getting late if we are to make an effective effort to insure a capable and effective U.S. merchant marine.

I submit the editorial for reprinting in the RECORD.

COMMISSARS AND CAPITALISTS

Question: Should the United States turn over its non-military air transportation network to some other country—to the Soviet Union, perhaps—and rely on the friendly skies of Aeroflot from now on to carry American passengers and American air cargo?

Better yet, should we turn over our land transportation—trains, trucks, and taxicab fleets—to the USSR?

No? Why not? That's what we're doing with our water transportation, with our U.S.-flag merchant marine.

All else taken equal, it's cheaper to use Soviet ships to carry goods across the ocean, if only because of the USSR's lower standard of living—which, of course, readily translates into lower operating costs.

But all else is not taken equal. The Kremlin has also demonstrated a clear willingness to cut shipping rates to ridiculously low levels for a number of other reasons—to gain diplomatic entry into Third World countries, for example, or to earn the hard Western currencies the Soviet leaders need to pay for the grain and technology they buy from us to rescue them from their other economic blunders.

We're not just idly standing by, of course, while all this is going on, wringing our hands in helpless self-pity. No, indeed. Much worse than that: We're actually helping them do it to us. We are letting Soviet ships come into our U.S. ports and take our hard-earned U.S. dollars to carry our U.S. cargo—and not necessarily to Russia. It could just as easily be "cross-trade" cargo, earmarked for France, or England, or any one of 100 other countries.

But we don't have reciprocal privileges, U.S.-flag ships which happen to be in the area can't pop into Leningrad or Vladivostok to take on some Russian cargo.

It's a virtual maritime war, with one side fighting bare knuckles, and the other side—us—fighting under what we laughingly call "free trade" Marquis of Queensberry rules.

We wouldn't let the same thing happen to our airlines. We wouldn't let Aeroflot come into JFK or LaGuardia or Baltimore-Washington International and, by offering half-price fares, take all the business away from Pan Am and TWA. But given the opportunity, Aeroflot probably could carry the passengers more cheaply, maybe a whole lot more cheaply, and get them there just as safely.

But we don't let Aeroflot in. Not on that basis. We make sure that, where airlines are involved, international agreements, particularly with Communist countries, are handled on a strictly reciprocal basis—and that a uniform rate schedule is established which will permit our guys, the U.S. airlines, to meet all operating costs and even make a reasonable profit.

We do that not to gouge the tax-paying public, but to insure that our airlines stay prosperous and healthy, and are available when we might really need them.

But we're inconsistent. We—quite rightly—protect our airlines, despite the fact that only about 2 percent or so of our international cargo goes by air.

And we ignore our merchant marine, despite the fact that the other 98 percent of our two-way international cargo goes by ship.

It's a curious double standard we follow. And it's an exceedingly dangerous one, as well. In wartime the U.S.-flag merchant marine is vitally needed as a naval auxiliary—today more than ever before, perhaps, at a time when the Navy's own ship inventory is down to its lowest level in 37 years. But to save a few dollars in peacetime we use foreign-flag ships—including a lot of Communist-flag ships, incidentally—and let our own merchant marine rust and rot alongside the pier.

It's not necesarily, or completely, the fault of our businessmen, the big importers and exporters, most of whom, we're sure, want to and do "ship American" when the rates are the same—as they are in the various shipping "conferences" which, like airline conferences, establish standard rate structures for their members.

But businessmen are businessmen. In the profit-motivated capitalist Western democracies, moreover, they're responsible to their stockholders. When lower shipping rates are available, as they are, for the reasons stated, when non-conference Soviet ships are in port, they'll take the lower rates, make the stockholders happy, and realize that, under the right circumstances, maybe you really can do business with Russia.

It's not the businesman's job to save the U.S. merchant marine; it's the government's. Besides, sending one cargo shipment by Soviet bottom isn't going to mean the difference between maritime poverty and prosperity in any case.

But sending thousands of cargo shipments will. And when it's kept up over a long period of time it will insure that the U.S.-flag merchant marine is dealt its final death blow—also that, when those same shippers are ready to send out a new batch of cargo, the only ships which then might be available would be Communist-flag ships. Only then the rates might not be quite so low any more.

A bit alarmist? Too melodramatic or overly imaginative? Too much of a piece with that "gigantic conspiracy" myth we've heard all heard about?

Perhaps. But a pamphlet, "Red Ensign versus Red Flag," recently published by the General Council of British Shipping, points out that "If the present trend of rate cutting and fleet expansion continues unchecked during the next five years, Eastern Bloc shipping could attain a dominant position in world trades. . . . If the Eastern Bloc gained a monopoly and the opportunity to capitalize by raising rates to whatever levels it chose, there is little doubt that it would so act."

Ask yourself this: If the Arab bloc, generally friendly to the West, and fiercely hostile to Communist doctrine, saw fit, with its virtual oil monopoly, to raise oil prices to their present stratospheric levels, might not the less kindly disposed Communist bloc, if it gained a shipping monopoly or near monopoly, try the same thing?

Those wily and inscrutable Russian commissars, it seems, are better capitalists than we are. They hog-tie us with our own theories of free trade, persuade us to accept a double standard for our merchant marine which we wouldn't tolerate for one second if applied to any other component of our national economy, and may yet end up owning not only all the ships, but all the cargo and all the money as well.

So the real question is this: What are we going to do about it?

THE WAYWARD PRESS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Mr. Charles B. Seib is a veteran Washington newspaperman. Earlier in the year in the Washington Post he commented on the press as seen through the eyes of the readers. It is a rare thing when a member of the newspaper profession is willing to admit shortcomings. Mr. Seib is honest about what he found. I submit his comments for reprinting in the RECORD:

THE WAYWARD PRESS

(By Charles B. Seib)

The public is far more perceptive in its newspaper reading than many editors realize. Readers are quick to detect flaws in news handling—an out-of-context use of a quotation, a headline that sensationalizes a story or misrepresents its content, a decision on display or placement that overemphasizes a story or buries it.

Unfortunately, they are likely to assign the wrong reason to such aberrations. Often a reporter's carelessness or an editor's mistake in judgment is seen by the reader as evidence of a policy decision handed down from the top.

There are two main reasons for this. One is a traditional reluctance of newspapers to be open with readers about themselves and to admit error—or even the possibility of error. Infallibility is an institutional pose.

The news business is fascinating and complex but not infallible. Producing a totally new product every twenty-four hours has been called the daily miracle, with reason. If the public were told more about the process, it might be less inclined to accept every quirk and stumble as evidence of a conspiracy to distort the news.

The second reason for a tendency to think the worst is a pervasive distrust of the press which must be evident to every journalist who has extensive dealings with the public.

Many readers feel that the media generally, newspapers and broadcasters alike, are on a destructive rampage. They feel that the zeal that exposed Watergate is being directed toward all public institutions (except the press), and they find it frightening.

They feel further, that in concentrating on official misbehavior, much of it long past, the press is subordinating more pressing and immediate matters: the economic bind many people find themselves in, the real problem with the quality of life in today's world. And they feel that the press is imposing on them a burden of woe beyond reason.

Newspaper people react with professional indignation to the question, "Why don't you print more good news?" They say, rightly, "Our job is to present the world as it is, warts and all." But they should give some thought to the reader behind the question and the very real danger that more and more readers—and television viewers, too—will turn away from a lugubrious news diet that doesn't really interest them or concern them.

Which brings me to what I have learned about newspaper people in the past year.

Although attitudes are slowly changing, they are still resistant to responding openly and swiftly to charges of unfairness or inaccuracies.

The front page error followed by the tiny correction tucked away inside the paper is still very much with us. And the leisurely, even foot-dragging, handling of complaints contrasts strikingly with the enthusiasm with which a tip on a juicy story is explored.

Recently it took me over a month to get

the editors I work with to make a decision on how to handle what I considered to be a serious complaint. It is true that they were coping with a particularly troublesome strike at the time, but even so the priority given this major complaint was much too low.

I also have come to conclude that newspeople are not sufficiently worried about the public mistrust I mentioned earlier.

Standard journalistic response is to say that distrust and even hatred are the fate of the messenger who must deliver bad news. But there is more to it than that.

The press does not need to be loved, nor should it expect to be. As a messenger, it indeed must deliver a great deal of bad news.

But trust is another matter. It is essential if the press is to fulfill its role in this society.

There is concern these days among journalists about threats to press freedom. But there is not a broad enough recognition that public mistrust, allowed to grow and fester, creates a climate favorable to such threats.

An atmosphere of public distrust encourages police officials to attempt to conceal arrest records, judges to issue gag orders, bureaucrats to withhold information, and Congress to consider restrictive legislation.

One way to reduce this distrust is for the press to examine some of its present practices and to be more responsive to its public and more open about its operations and its failings. If public scrutiny is healthy to the other institutions of society, it should be healthy for the press itself. And that brings me full circle to the reason for my job and for this column.

AN INFORMATIVE LOOK AT THE BYRD AMENDMENT

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to share with my colleagues an excellent paper written on the Byrd amendment. The author, Douglas Moore, of Walter Johnson High School, was one of my 1976 high school interns. This paper was the product of an intense 3 week research effort, and represents Douglas' analysis and proposed solution of this difficult problem.

I think that this, and the many other excellent papers in the program show how much these students can and do ben- effort, and represents Douglas' analysis leagues, especially those from the Washington area, to try similar programs next year.

The paper follows:

AN INFORMATIVE LOOK AT THE BYRD AMENDMENT

(By Douglas Moore)

The Byrd Amendment was introduced and attached to the Military Procurement Act of 1971 (P.L. 92-156) by Senator Harry Byrd, Jr. (Ind.-Va.). It permits the United States to import Rhodesian chrome ore and ferrochrome in violation of a United Nations sanction program established in 1966. Under the United Nations Participation Act of 1945, the United States is required to participate in this program. Chrome is necessary in the production of stainless steel since it provides the non-corrosionary element. Recent political developments in Southern Africa have focused attention on the policy of the United States toward Rhodesia. On April 27, 1976, Secretary of State Kissinger called upon the repeal of the Byrd Amendment as part of a 10-point Rhodesian policy. Many other attempts have been made to repeal the Byrd Amendment but all have failed except S. 1868 which was passed by the Senate in December 1973 by a vote of 54–37. An identical bill was introduced in the House in 1974 but the 93rd Congress adjourned before a vote could be taken. The Byrd Amendment states:

"Nothwithstanding any other provision of law, on and after January 1, 1972, the President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in general headnote 3(d) of the Tariff Schedules of the United States (19 U.S.C. 1202), so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provisions of law." [1]

Proponents of the Byrd Amendment, including lobbyists from the manufacturers and importers involved with chrome, support their stand on the issue primarily from the standpoint of its economic meaning.

The key argument for the supporters of the successful Byrd Amendment in 1971 was that the United States was becoming too dependent on the Soviet Union for its chrome (over 50%).[2] Supporters insisted that such reliance was not in the national interest of the United States. Since chrome is necessary for stainless steel production. Stainless steel was an official strategic material needed in the production of weapons such as jet aircraft, nuclear submarines, and missiles. Any problem that might arise with the Soviet Union could result in an undesirable situation for the United States.

In addition supporters claim that the sanctions apply no economic pressure. According to the Rhodesian Information Office the sanctions have had no affect and are merely "emotional and political." [3] According to the Information Office, Rhodesia would simply sell the chrome to some other country if the U.S. repealed the Byrd Amendment. If sanctions are reimposed, supporters claim that Russia will immediately raise its chrome prices, causing inflation in the U.S. They also argue that if the U.S. stops the importation of chrome, Rhodesia will sell it to some other country who will in turn sell it to the U.S. at an even higher price. Supporters feel that since members of the United Nations violate the sanctions the U.S. can as well. Senator Byrd continues to support this amendment declaring that 67% of the world's chrome resources exist in Rhodesia. He has also questioned the reasoning and justice behind the sanctions imposed upon Rhodesia because of her white minority government while, at the same time, Russia, a minority ruled country, with whom the U.S. also trades, is not pressured by any economic sanctions.

Opponents claim that the United States is completely irresponsible as a member of the United Nations. The Byrd Amendment amended the Military Procurement Act of 1971 (P.B. 92-156). However, it violated a treaty that the U.S. made with the United Nations, section 5(a) of the United Nations Participation Act of 1945, which states:

"Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Charter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations or rail, air, sea, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States." [4]

Opponents claim that, by this treaty, the Byrd Amendment is in violation of international law. According to well-known Professor of Law, Edward S. Corwin, treaties "may be repealed by act of Congress," [5] However, he also has stated that "any such one-sided procedure still leaves the question of their international obligation outstanding. The United States has the same right as any other nation has, and no more, to determine the scope of its obligations under International Law." [5] With this interpretation of the constitution in mind, opponents cite violation of international law as one of their arguments against the Byrd Amendment. They also declare that the amendment is completely inconsistent with the policy of the U.S. toward Africa, especially Southern Africa.

Secretary of State Kissinger recently visited Africa to discuss U.S. policy toward that continent. He made a speech in Lusaka, Zambia on April 27, 1976, in which he proposed a ten-point "just and durable" [6] Rhodesian solution upon which the U.S. would act. His third point clearly states:

"The United States will take steps to fulfill its obligations under international law to mandatory economic sactions against Rhodesia. We will urge the Congress this year to repeal the Byrd Amendment which authorizes Rhodesian chrome imports to the United States, an act inconsistent with United Nations sanctions. In parallel with this effort, we will approach other industrial nations to ensure the strictest and broadest international compliance with sanctions." [7]

Opponents of the Byrd Amendment say that failure to repeal the amendment now would be disastrous to U.S. foreign policy. Kissinger also denounced the Ian Smith regime and supported the countries which opposed it. Opponents have capitalized on the fact that the United States is presently trading with a regime that it neither supports or officially recognizes.

If the U.S. stops importing Rhodesian chrome, repealers doubt that other countries will purchase it for resale to the U.S. They claim that there is a distinct and clearly identifiable difference between Rhodesian chrome and chrome from any other part of the world.

THE OVERALL VIEW

The Republic of Rhodesia, a country which the United States does not recognize and one with which the State Department has been completely forbidden to communicate is ruled by fewer than 270,000 whites. Also inhabiting the country are 6.2 million blacks (the ratio is approximately 22 blacks to every white). In November 1965, Ian Smith, newly elected Prime Minister, declared the country's independence without the consent of Britain, their Commonwealth ruler. Britain had been negotiating with Smith but did not feel that the country as a whole wanted the new government. Soon after separation, Britain referred the problem to the United Nations Security Council. In December 1966, the U.N., for the first time, imposed mandatory sanctions on Rhodesia. The U.S. supported both this and the stricter 1968 resolutions. The 1968 resolutions imposed a virtual total embargo. In 1971 President Nixon signed the Military Procurement Authorization Act (P.L. 92-156) which includes the Byrd Amendment. This move by the U.S. Government was disastrous. In retrospect, the U.S. ruined its African relations and did not, in any way, become less dependent on Russian chrome.

Footnotes at end of article.

Russian chrome has averaged more than 50% of imports. The Byrd Amendment has made the U.S. more dependent on fewer exporters, such as Iran, from which the U.S. has stopped importing. Congress' failure to repeal the amendment has made the U.S. an irresponsible member of the United Nations since the U.S. violates the United Nations Participation Act of 1945. In our rush for economic security we have ignored the principles of a democratic government and sacrificed the respect of African nations. Reverend Canaan Banana, representative of the African National Council and the United Nations has stated that, "the United Nation's sanctions against the illegal Ian Smith regime is a vital diplomatic pressure."[8]

Although, Mr. Henry J. C. Hooper, one of two unofficial diplomats at the Rhodesian Information Office, claimed that the sanctions have no economic results, the State Department maintains that they do damage the economy of Rhodesia. The "emotional and political"[3] effect on Rhodesia also pressured the Smith regime. This pressure implied that the U.S. gave no support to the white minority rulers. But the Byrd Amendment, according to the State Department has given Smith confidence that America really does support him and his racist actions. This assumption must be corrected by the repeal of the Byrd Amendment.

Members of Congress interested in the economic meaning of the Byrd Amendment must start looking beyond the next shipment of chrome and consider the finite existence of the Smith regime. This is probably the most important long-run consideration. According to Temple Cole, a representative for African Affairs at the State Department, the importation of chrome is "an insecure situation." Since Mozambique closed its borders to Rhodesia in March 1976, all surrounding countries but South Africa has shut off Rhodesia's trade routes. South Africa is a larger exporter of chrome to the U.S. than Rhodesia. The State Department has reason to suspect that South Africa, which feels that the Smith regime should concede, will pressure the Rhodesians by limiting the allowance of Rhodesian chrome to be passed through their country. U.S. access to Rhodesian chrome could be completely cut. From a logistic and economic standpoint, let the U.S. cut off the chrome now before it is cut off to the U.S. By stopping importation now, the U.S. will look much more angelic when the successors of Smith's regime take over.

Opponents of repeal for economic reasons must look at what disastrous things could befall the U.S. if black nationalists take over tomorrow. The U.S. would be in a terribly embarrassing position with the new holders of "over 67 percent of the world's chrome resources."[9] The prices might skyrocket and the U.S. could become even more heavily dependent on the Soviet Union. The U.S. could be discarded as a nation friendly to South Africa while the Soviets and Chinese use their influence to overtake the new government. The U.S. could lose a part of the $5.9 billion in trade with other African countries, including such crucial materials as petroleum. Finally, the U.S. would probably have little or no respect in Rhodesia and many other African countries, as well as the United Nations. The Congress must now look towards the future and repeal the Byrd Amendment before Smith falls.

According to the State Department the economic hardship of repeal would be slight. If the U.S. would cut off Rhodesia tomorrow it would only lose approximately 9 percent of imported chrome ore and 14 percent of ferrochrome.[10] The U.S. strategic stockpile has a supply of 1,953,000 tons of chrome ore and 1,000,000 tons of ferrochrome at its disposal,[11] which if no other sources could be found Congress could appropriate.

The case given by many supporters of the Byrd Amendment is that since other countries violate U.N. sanctions so can the United States. Hasn't our country always tried to set standards of morality and conscience? Shouldn't the Congress set an example by showing Africa that the United States is able to make a few sacrifices for the sake of humanity?

Political considerations heavily outweigh economic ones. Congress should act quickly to repeal the Byrd Amendment. It is necessary from a moral and foreign policy standpoint as well as from an economic one. Those members of Congress favoring a bill of repeal claim that they must wait first for Presidential support and pressure before they push it. These leaders of repeal are inclined to believe that Dr. Kissinger's call for the repeal have fallen victim to President Ford's re-election campaign setbacks in Texas and elsewhere. Congress should take the job upon itself now to repeal the Byrd Amendment. In this case it would be most beneficial if Congress be consistent with the State Department in order to reestablish respect for the United States in its foreign policy in Africa and the United Nations.

FOOTNOTES

[1] U.S. Congress—92nd. *Military Procurement Act,* 1971. (P.L. 92–156) Sec. 503–10. Government Printing Office, Washington, D.C.

[2] Mowle, Susan M. *Rhodesia: U.S. Imports of Chrome Ore.* IB74031. Library of Congress—Congressional Research Service, Washington, D.C. May 7, 1976. p. CRS 2.

[3] Personal Interview with Mr. Kenneth Towsey, Rhodesian Information. June 28, 1976.

[4] U.S. Congress—79th. *U.N. Participation Act,* 1945. (P.L. 264) Sec. 5(A). Government Printing Office, Washington, D.C.

[5] Corwin, Edward S. *The Constitution and What It Means Today.* Princeton University Press, Princeton, N.J., 1973. p. 135.

[6] Department of State. Address by Hon. Henry A. Kissinger, Lusaka, Zambia, April 27, 1976. Department of State, Washington, D.C. p. 3.

[7] Ibid. p. 3.

[8] U.S. Congress—94th. House (First Session), Committee on Foreign Affairs Subcommittee on International Relations, February 26, March 11, 1975. Government Printing Office, Washington, D.C. p. 18.

[9] Byrd, Sen. Harry F., Jr., *Rhodesian Chrome,* May 6, 1976. Office of Sen. Harry F. Byrd, Jr., Washington, D.C.

[10] U.S. Bureau of Mines. Expert on Chromium. Personal telephone interview. July 2, 1976. Washington, D.C.

[11] Lewis, Paul. "Kissinger's Stance on Rhodesian Chrome—Merely Promises, Promises?" *National Journal,* New York, N.Y., May 15, 1976. p. 656–657.

SEX DISCRIMINATION ON CAPITOL HILL

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to share with my colleagues an excellent policy paper written by a member of my 1976 high school intern program. The author, Diana Stone, of Bethesda-Chevy Chase High School, wrote on "Sex Discrimination on Capitol Hill." Her paper is the product of an intense 3-week effort and represents her analysis and proposed solution to this difficult problem.

SEX DISCRIMINATION ON CAPITOL HILL

(By Diana Stone)

Although sex discrimination in employment practices is often subtle and hard to detect, as Dr. Alice Rivlin, Director of the Congressional Budget Office, says, "You'd have to be blind not to observe that there are very few women on Capitol Hill."[1] Because there are no standards of hiring and firing for a Congressional office and virtually none for duties and salary expected from a certain position it is difficult, to get to the root of the problem and find a specific Congressperson at fault. However, the subtleties of the abuses are recognized by many Congressional employees.

In general, women start at secretarial or other clerical work, whereas men may begin as legislative assistants. Marilyn Harris, Chief Clerk of the Senate Government Operations Committee, told Spencer Rich of the Washington Post that at the Capitol, "It's easier for a man to be treated as a professional." One Congressional staffer said that 90 percent of the women receptionists have a college degree. However, they are required to begin as typists and work their way up. It is extremely difficult for a woman to enter on a professional level, regardless of her abilities and educational background. Whereas it is almost impossible to find male receptionists or personal secretaries, it is equally as hard to find women in top positions; there are only six women who are administrative assistants in the one hundred senators' offices.[2] It is apparent, therefore, that there are discriminatory practices in that a female must "work her way up", but a male is generally hired into a position suitable to his ability.

Another discriminatory abuse which women must suffer in hiring practices is the idea of their use only as a sex object. Although this abuse is difficult to prove, it is the widespread belief of the staffers and, in some cases, the Congresspeople themselves would acknowlege it. It is a very subtle point, but some staffers know that the Congresspeople hired them on their looks and turned others down because they were less attractive. This attitude toward women as a sex symbol just helps contribute to the already prevalent idea that women can not be professionals. Obviously this concept will not be changed overnight; however, as one Congressional staffer said, "We are working hard and have made a lot of progress."

Although discrimination in firing is less blatant than discrimination in hiring, there are a few cases in which women might have cause to grieve. One of the most obvious examples would be that a Member of Congress could choose to fire a woman because she is pregnant. A staffer related the story of a receptionist who become pregnant and planned to stay on until the eighth month. After three months, however, she was told to leave because it was "not attractive" for a receptionist to be pregnant. Staffers report other cases of Members who fire women more easily because they do not have a family to support.

Women also find promotions slow in coming. This is one of the reasons many female secretaries hold college degrees. It is very difficult for a woman to break into the male-dominated professional ranks from the position of advanced typist.

However, the major complaints of sex discrimination come under two categories: job assignment and wages. Of course, these two areas are closely related in that salary is dependent upon the type of work the employee does.

In general, because women are in clerical jobs (as opposed to professional positions), they receive less money. The median salary for females on the Hill is $10,260, as contrasted to $17,670 for males. In addition, even in the higher salary brackets, women earn significantly less than men. For employees earning $18,000 or more, the female median salary is $22,627 while the male median salary is $28,091.[3] According to a survey which appeared in The Washington Post on June 8,

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Footnotes at end of article.

1976, women hold only 6.2% of the jobs paying more than $28,896 and only 33.6% of the jobs in the pay range of $18,060 to $28,896. These facts show that the general trend not only puts females in lower-paying jobs, but even in the professional jobs women earn less.

However, it must be pointed out that except in individual cases it is presently hard to argue for a general "equal pay for equal work" concept on Capitol Hill because there is such little standardization of job description. Also, it is rare for two people to be doing the exact same job in one office. Members of Congress choose individually how much to pay their employees.

One of the main grievances of women is that they do not hold enough high positions on Congressional staffs. The Capitol Hill Women's Political Caucus found that in thirty Senate offices only males were employed in higher positions, whereas no offices employed only females. In a different survey, Federally Employed Women, Inc. found that in only 8% of the senators' offices did women hold the highest position: in the House they held the highest position in 18% of the cases.[4]

Women are also generally typecast to deal with "women's issues"—home, families, consumers, children and the elderly. Carrie Johnson of the The Washington Post points out:

"But, with some notable exceptions, men still handle the heavy questions such as foreign policy, taxes, crime, and political strategy—especially political strategy, and most especially anything where campaign funds might be involved."

After talking with Capitol employees, it is apparent that a main concern is the injustice of stereotypes and expected behavior of women. Besides the previously discussed sex object syndrome, women are expected to know how to type and always do their own typing (which is generally not expected of male professionals). It is the common belief that that is how the women got her job, even if she is a professional. One staffer admits that although she is a professional, in a rush she is given typing to do by the other male professionals. Men are almost never even asked if they can type, and as Carrie Johnson writes:[5]

"If the question comes up, it is probably because the interviewer wants to be sure that he could pound out the rough draft of a statement if war were declared while the girls were at lunch."

Johnson goes on to explain, "That's why typing is shorthand for unequal treatment, for all the disparaging, discouraging patterns that are still prevalent on Capitol Hill."

Sex discrimination in employment on Capitol Hill is a problem which Congress can no longer ignore. Congress has exempted itself from anti-discrimination legislation, such as Title VII of the Civil Rights Act of 1964, the Equal Pay Act, and Title IX of the Education Amendments of 1972, by calling for the exceptions of public officials, their personal staffs, or appointees on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office.[6] During a debate on Title VIII of the Civil Rights Act of 1964, Senator Robert Byrd observed that "the exclusion of the Federal and State government does not mean that they are free to discriminate with regard to public employment opportunities."[7] Nevertheless, discrimination has taken place and must be rectified immediately.

The most obvious solution to the problem would probably be the inclusion of Congress in Federal antidiscrimination laws. However, even the Congressional employees themselves will agree that this anwser may not be feasible. The "Separation of Powers" Doctrine would make it virtually impossible for an executive commission to enforce its rulings on a legislator. In addition, there are various other special considerations. A Congressperson hires his or her own personnel, but the job may only last for one term. A new Congressperson will hire new staff members. The personnel hired are not in the competitive civil service. The Congresspeople say they only hire a few staffers and a close personal relationship "in which compatibility with the elected member's needs and outlook is the essential qualification for the job."[8] On the other hand, more cynical staffers explain the Congressional exemption as the easier way out and that if they can get away with it, why do it?

Another policy option would be to continue the use of the Committee on Standards of Official Conduct in accordance to the Amendment to Rule XLII of the Civil Rights Act of 1964. According to the Capitol Hill Women's Political Caucus, to file a complaint with this committee involves a lengthy procedure in which a Member *must* submit a letter, and after a preliminary inquiry the committee considers the grievance. This system is quite inefficient and impractical.

Congress could also opt to wait for the ratification of the Equal Rights Amendment; however, it could be along wait (possibly forever), and most employees concede even the amendment would not solve their problems. Many staffers express the feeling that the Equal Rights Amendment is worthwhile, but they need a committee to deal specifically with their complaints on Capitol Hill. Also, an amendment to the Constitution does not change attitudes (which are very important) overnight.

One Congressional employee suggests the formation of a committee of neutral arbitrators, which sounds like an excellent idea except for the fact that the Congress would never agree to it. They feel that their staffs are their personal business and a committee with at least some of their own Members on it would be more feasible. It would be easier to keep negotiations private, too.

There are many policy options available to Congress, but I would recommend the formation of standardized guidelines of employment practices with a subsequent Employee Rights Committee to take care of grievances.

Congress is unique in that each office employs different types of personnel, according to its needs; therefore, it is quite difficult to have inflexible, standardized job descriptions. However, some guidelines are necessary to protect both employer and employee. Several Congresspeople note that it would be virtually impossible to have a grivance board unless they first establish guidelines for job descriptions. Once the Members begin to standardize basic job descriptions, employees will know how much money to expect from a particular position, and the Member would have to pay it. Standardization would also tend to minimize the underemployment of women and forbid typing requirements for one sex only.

However, a committee would definitely be necessary to guarantee that the Members do not infringe upon the employees' rights. Such a committee is feasible and could be expected to pass through Congress. It would set up a route of appeal and deal directly with discriminatory abuses on Capitol Hill. A committee consisting of an equal number of employees and Members could ensure justice to both parties. If an employee of a Member of the Committee had a grievance, the Member would agree to exempt himself or herself. This Member would be temporarily replaced by another. At first, negotiations would be kept private in an attempt to persuade the Member to correct discriminatory practices. Then, if the Member refuses to settle, the committee would bring the matter to public scrutiny through the ensuing arbitration. And therein lies the committee's real power: the threat of exposure would deter many Members from allowing complaints to go unsettled. In conclusion, a committee to deal specifically with discrimination grievances of Congressional employees is necessary and can be best dealt with after Members agree upon employment guidelines.

FOOTNOTES

[1] Spencer Rich, The Washington Post, "Women Hold Fewer Top Senate Jobs", (Washington, D.C., June 8, 1976).

[2] Ibid.

[3] Capitol Hill Women's Political Caucus, "Sexists in the Senate?: A Study of Differences in Salary by Sex Among Employees of the U.S. Senate" (Washington, D.C.: May, 1975), p. 11.

[4] Carrie Johnson, The Washington Post, "But Can He Type" (Washington, D.C.: June 5, 1976).

[5] Ibid.

[6] American Law Division, "Equal Employment Opportunity in the Congress", (Washington, D.C.: June 27, 1975), p. 3.

[7] Ibid. p. 2.

[8] Ibid. p. 9.

PERSONAL EXPLANATION

Mr. GILMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GILMAN. Mr. Speaker, on Friday, September 17, 1976, I was granted a leave of absence to participate as a member of the House Select Committee on Narcotics Abuse and Control in an inspection tour of the Harlem Drug Pits, and consequently, I missed two recorded votes: Rollcall No. 750, the conference report to accompany H.R. 15194, the public works employment appropriations, fiscal year 1977, and rollcall No. 751, the conference report to accompany H.R. 12987, the Emergency Jobs Programs Extension Act of 1976. Mr. Speaker, had I been present, I would have voted "yea" on both measures.

PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, I have recently missed several rollcall votes and would like the Record to show how I would have voted had I been present.

TUESDAY, AUGUST 10, 1976

Rollcall No. 630. House Resolution 1468, the rule waiving points of order against the conference report on the Federal Energy Administration Act. Passed by a vote of 267 to 117. I would have voted "yea."

Rollcall No. 633, H.R. 14232, making appropriations for the Departments of Labor, Health, Education, and Welfare for fiscal year 1977—conference report. Passed by a vote of 279 to 100. I would have voted "yea."

Rollcall No. 634. Disagreement to a Senate amendment to H.R. 14232, Labor-HEW appropirations. Failed by a vote of 150 to 233. I would have voted "aye."

Rollcall No. 635. House Resolution 1473, the rule under which S. 3735, swine flu immunization, was considered. Passed by a vote of 293 to 70. I would have voted "yea."

Rollcall No. 637. House Resolution 1473, the House agreed to consider the rule under which S. 3735, swine flu immunization was voted on. Passed by a vote of 293 to 70. I would have voted "yea."

Rollcall No. 638. S. 3735, to amend the Public Health Service Act to authorize the establishment and implementation of an emergency national swine flu immunization program. Passed by a vote of 250 to 83. I would have voted "yea."

THURSDAY, SEPTEMBER 2, 1976

Rollcall No. 691. An amendment to H.R. 13636, Law Enforcement Assistance Administration authorization, that strikes language prohibiting funds for improving State and local correctional institutions, unless such improvements comply with administration and State standards. Passed by a vote of 211 ayes to 159 noes. I would have voted "no."

THURSDAY, SEPTEMBER 9, 1976

Rollcall No. 706. An amendment to the Clean Air Act, H.R. 10498, which sought to substitute language for the section on new construction in air quality control regions exceeding national ambient air quality standards. Failed by a vote of 103 ayes to 198 noes. I would have voted "aye."

Rollcall No. 707. An amendment to the Clean Air Act, H.R. 10498, that sought to strike language providing for local government involvement in the designation process. Failed by a vote of 32 ayes to 263 noes. I would have voted "no."

Rollcall No. 708. An amendment to the Clean Air Act, H.R. 10498, that sought to restore the 100-percent level for primary air quality standards set by the Administrator in more heavily polluted areas. Failed by a vote of 100 ayes to 183 noes. I would have voted "no."

TUESDAY, SEPTEMBER 14, 1976

Rollcall No. 723. H.R. 15319, to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code. Passed by a vote of 360 yeas to 4 nays. I would have voted "yea."

WEDNESDAY, SEPTEMBER 15, 1976

Rollcall No. 735. H.R. 366, conference report on Public Safety Officers' Benefits Act of 1976, clearing the measure for Senate action. Passed by a vote of 290 yeas to 71 nays. I would have voted "no."

PRESIDENT NOMINATES AN AGRICULTURAL SCIENTIST TO THE NATIONAL SCIENCE BOARD

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, during hearings last February before the House Agriculture Committee on H.R. 11743, the National Agricultural Research Policy Act of 1976, testimony was given to the effect that there is no one on the National Science Board of the National Science Foundation representing the agricultural scientific community, nor was there an agricultural advisory committee or panel to advise the Foundation on agricultural matters.

On March 30, Chairman FOLEY and myself joined in a letter to the President urging the appointment of an agricultural scientist on the National Science Board to fill the vacancy of at least one of the eight Board members whose terms were due to expire on May 10. We also recommended that the National Science Foundation be required to establish an Agricultural Advisory Panel for Research Applications and also name agricultural representatives to the National Science Foundation staff and, as appropriate, its many advisory committees and panels.

Today, Mr. Speaker, I am pleased to note that the President has nominated Dr. W. F. Hueg, Jr., dean of the Institute of Agriculture and director of the Agricultural Research Station, University of Minnesota, to the Senate for appointment to the National Science Board.

Dr. Hueg, an agronomist, is a specialist in forage physiology and management and seed production. The selection of Dr. Hueg with his wide background in agricultural science and extension should bring a new and much needed dimension to the National Science Foundation, which has heretofore been dispensing research funds for programs and recommending policies and strategies which vitally affect agriculture void of such expert advice. The President is to be congratulated on his choice and commended for his action to again recognize the agricultural scientist as a vital part of our scientific community. The President by this nomination has gone a long way toward restoring the morale and prestige of our many fine agricultural scientists, who had been denied recognition as true scientists for years by their peers. Yet, it has been these same agricultural scientists that have developed the very processes and products that have placed our Nation at the top in agricultural production.

The importance of agriculture in our national economy and the importance of food production to meet the future requirements of an expanding world population demands increased research efforts on the part of our agricultural scientists.

Mr. Speaker, the President has made an excellent beginning toward restoring agricultural science to its proper position in American science.

CONFERENCE REPORT ON S. 521

Mr. MURPHY of New York submitted the following conference report and statement on the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1632)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1976".

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas resources of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States;

(11) policies, plans, and programs developed by States in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign energy sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oil spill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf of the United States;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring in the outer Continental Shelf of the United States;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals in commercial quantities, including geophysical activity, drilling, platform construction, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources of the outer Continental Shelf;

"(5) the rights and responsibilities of all States to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and by adding at the end of that paragraph the following: "The determination and publication of the projected lines defining the area shall be completed within one year after the date of enactment of this sentence.

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(e) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary."

(f) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf and shall prescribe such regulations as necessary to carry out such provisions, and the Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources in the outer Continental Shelf, and the protection of correlative rights therein. Such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. At each stage in the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the interest of conservation, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) for the cancellation of any lease or permit, at any time, when it is determined, after hearing, that continued activity pursuant to such lease or permit would cause serious harm or damage, which would not decrease over a reasonable period of time, to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, or to the marine, coastal, or human environment, except that the cancellation of any lease pursuant to such regulations (A) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee, and (B) shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability of clean-up costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement);

"(3) for the assignment or relinquishment of leases;

"(4) for the sale of royalty, net profit share, or purchased oil and gas accruing or reserved to the United States in accordance with section 27 of this Act;

"(5) for the utilization of different bidding systems in accordance with section 8(a) of this Act;

"(6) for the procedures for citizen suits in accordance with section 23 of this Act;

"(7) for the establishment of and procedures for Regional Outer Continental Shelf Advisory Boards in accordance with section 19 of this Act;

"(8) for unitization, pooling, and drilling agreements;

"(9) for subsurface storage of oil and gas other than by the United States Government;

"(10) for drilling or easements necessary for exploration, development, and production; and

"(11) for the prompt and efficient exploration and development of a lease area.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location, and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded on the basis of the value of the bid per share, with a fixed share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(H) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded on the basis of the value of the bid per share, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale or no later than the date of the approval of the development and production plan, whichever date first occurs.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4) At least ninety days prior to notice of any lease sale under subpagraphs (D), (E), (F), and (G) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. In determining the attribution of profits as between oil and gas, costs, other than those directly attributable to the production of either oil or gas, shall be allocated proportionately based on the Btu equivalent values of the respective amounts of oil and gas produced.

"(5)(A) In the event bids are accepted for less than 100 per centum of the lease area offered under subparagraph (G) or (H) of paragraph (1), the Secretary may reoffer the unleased portion for such period of time as he determines to be reasonable.

"(B) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (G) or (H) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.

"(C) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (G) or (H) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.

"(6) (A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C) (i) Except as provided in clause (ii), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 66⅔ per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off southern California outside the Santa Barbara Channel.

"(ii) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay development of the oil and gas resources of the outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If, in any other year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay efficient development of the oil and gas resources of the outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may thereafter, for that year, exceed such limitation if either the Senate or the House of Representatives passes a resolution of approval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session).

"(iii) Clauses (iv) through (xi) of this subparagraph are enacted by Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the Rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this subparagraph, and they supersede other Rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the Rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other Rule of that House.

"(iv) A resolution approving the request of the Secretary to exceed the limitation shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(v) If the committee, to which has been referred any resolution approving the request of the Secretary to exceed the limitation has not reported the resolution at the end of 10 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same request which has been referred to the committee.

"(vi) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(vii) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same request.

"(viii) When the committee has reported, or has been discharged from further consideration of, a resolution as provided, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ix) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(x) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to a request, and motions to proceed to the consideration of other business, shall be decided without debate.

"(xi) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a request shall be decided without debate.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 66⅔ per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(7) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquefied petroleum products.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon.

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas resources contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease pursuant to section 5 of this Act; and

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (g) through (m), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued for an initial period until at least thirty days after the Secretary notifies the Attorney General of the United States and the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease may create or maintain a situation inconsistent with the antitrust laws. If the Attorney General or the Federal Trade Commission advises the Secretary, within such thirty-day period, that a proposed lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may issue such lease only if—

"(1) he commences a public hearing on the record within sixty days after the date of the receipt of such advice, in accordance with chapter 5 of title 5, United States Code; and

"(2) he makes a finding, pursuant to such hearing, that the overall benefit to the public from the issuance or extension of such lease clearly outweighs any possible adverse effect upon competition and that there is no reasonable alternative which would have a lesser adverse effect upon competition.

"(d) No lease may be issued if the Secretary finds that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. Innocent or nonnegligent parties to any joint lease which is cancelled due to the failure of one or more partners to exercise due diligence on other leases may seek damages for such loss from the responsible partner or partners.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geograpical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) Upon receipt of nominations for any lands within three miles of the seaward boundary of any coastal State, the Secretary shall offer the Governor of such coastal State the opportunity to jointly lease any area which the Secretary approves for lease which he concludes, in consultation with the Governor of the coastal State may contain a field, geological structure, or trap which may be located within both Federal and State owned lands.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to jointly lease any such area. If the Governor accepts the offer, the Secretary and Governor shall jointly offer such area for lease under mutually acceptable terms which shall be consistent with the provisions of this Act, applicable regulations and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to such terms within a reasonable period of time, the Secretary may lease the federally owned portion of such area in accordance with this Act.

"(4) All bonuses, royalties, rents, and net profit shares obtained pursuant to a lease for lands within three miles of the seaward boundary of any coastal State, whether or not such lease is issued jointly by the Secretary and the Governor of such coastal State, shall be placed in an escrow account until such time as the Secretary and the Governor of such coastal State determine, on the basis of geological or other information, the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) Any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (c) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.

"(g) At least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary, upon the basis of information available to him and advice of the Geological Survey of the Department of the Interior, regards as having the greatest likelihood of containing significant oil and gas accumulations. The Secretary shall, by regulation specify the length of time during which he will seek such applicants.

"(h) The Secretary is authorized and directed to contract for exploratory drilling on geological structures which the Secretary, in his discretion, determines should be explored by the Federal Government for national security or environmental reasons or for the purpose of expediting development in frontier areas. Such exploratory drilling shall not be done in areas included in the leasing program prepared pursuant to section 18 of this Act.

"(i) For purposes of subsections (g) and (h) of this section, neither the Gulf of Mexico nor the Santa Barbara Channel shall be considered to be frontier areas.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to increase the supply of oil and gas to independent refiners and distributors.

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

Sec. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"Sec. 18. Outer Continental Shelf Leasing Program.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographic, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, intracoastal navigation, existing proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) which have been specifically identified by the Governers of such States as relevant matters for the Secretary's consideration;

"(H) recommendations and advice given by any Regional Outer Continental Shelf Advisory Board established pursuant to this Act; and

"(I) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Governors of affected States, and the Regional Outer Continental Shelf Advisory Boards, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, Regional Outer Continental Shelf Advisory Board, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State, local government, or Regional Outer Continental Shelf Advisory Board was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(c) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas leases and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and to assure consistency, to the maximum extent practicable, with the management program of any State which has been approved pursuant to section 306 of such Act.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"Sec. 19. Regional Outer Continental Shelf Advisory Boards.—(a) The Governors of affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.

"(b) Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section.

"(c) Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 25 of this Act, implementation of baseline and monitoring studies, and the preparation of environmental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If any Regional Advisory Board or the Governor of any affected State—

"(1) makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposal development and production plan; and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease sale or of such development and production plan,

the Secretary shall accept such recommendations, unless he determines they are not consistent with national security or the overriding national interest. For purposes of this subsection, a determination of overriding national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner, consistent with the policies of this Act. If the recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept any of those recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommedations. The Secretary's determination that recommendations are not consistent with the national security or the overriding national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"Sec. 20. Baseline and Monitoring Studies.—(a) (1) The Secretary of Commerce, in cooperation with the Secretary, shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held before such date of enactment. The Secretary of Commerce may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) The Secretary of Commerce shall, after being notified of the submission of any development and production plan in an area or region under study, complete such study and submit it to the Secretary prior to the date for final approval of any development and production plan required by section 25 of this Act for any lease area. Failure of the Secretary of Commerce to complete any such study in a lease area shall not be a basis for precluding the approval of a development and production plan by the Secretary, unless the Secretary, in his discretion, finds such failure to be an appropriate basis for such preclusion.

"(4) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary of Commerce shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary of Commerce shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary of Commerce may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary of Commerce may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary of Commerce may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary of Commerce shall submit to the Secretary and to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"Sec. 21. Safety Regulations.—(a) (1) (A) Safety regulations which apply to the construction and operation of any fixed structure and artificial island on the outer Continental Shelf shall be promulgated and periodically revised. Except as provided in subparagraph (B), such regulations shall be developed by the Secretary with the concurrence of the Administrator of the Environmental Protection Agency, the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating.

"(B) Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor.

"(2) In promulgating regulations under this section, the Secretary shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology, wherever failure of equipment would have a significant effect on occupational or public health, safety, or the environment.

"(b) Upon the date of enactment of this section, the National Academy of Engineering shall commence a study of the adequacy of existing safety regulations and of technology, equipment, and techniques for operations with respect to the outer Continental Shelf, including the subjects listed in subsection (a) of this section. Not later than nine months after the date of enactment of this section, the results of such study and recommendations for improved safety regulations shall be submitted to the Congress, the Secretary, and the Secretary of the Department in which the Coast Guard is operating.

"(c) (1) Within one year after the date of enactment of this section, the applicable Federal officials, in consultation with other affected Federal agencies and departments, shall complete a review of existing safety regulations, consider the results and recommendations of the study required by subsection (b), and promulgate a complete set of new safety regulations (which may incorporate outer Continental Shelf orders) which shall apply to operations on the outer Continental Shelf or any region thereof. Such complete set of new safety regulations—

"(A) shall take effect so that there is no period of time between the expiration of such existing safety regulations and the effective date of such new safety regulations; and

"(B) shall include any safety regulation in effect on the date of enactment of this section which such Federal officials find should be retained.

No safety regulation (other than a field order) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

"(2) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"Sec. 22. Enforcement.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. The Secretary and the Secretary of Labor shall strictly enforce occupational and public health regulations promulgated pursuant to this Act. All operations authorized pursuant to this Act shall be regularly inspected for purposes of enforcing applicable regulations.

"(b) All holders of leases and permits under this Act shall—

"(1) be responsible jointly with any employer or subcontractor for the maintenance of occupational safety and health, environmental protection, and other safeguards, in accordance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf pursuant to this Act, and any other Act applicable to activities in or on the outer Continental Shelf; and

"(2) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary, with the concurrence of the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, shall, within one hundred and twenty days after the date of enactment of this section, promulgate regulations applicable to the outer Continental Shelf to provide for representatives of the Federal Government to undertake—

"(1) physical observation, at least once each year, of all installations, fixed or mobile, including rigs, platforms, diving boats, and apparatus;

"(2) the testing of all safety equipment designed to prevent or ameliorate occupational hazards, blowouts, fires, spillages, or other major accidents; and

"(3) periodic onsite inspection without advance notice to the lessee or permittee, to assure compliance with occupational and public health, safety, or environmental protection regulations.

"(d) (1) The Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and he may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(2) The Secretary of Labor shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(3) For purposes of carrying out their responsibilities under this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of Labor, shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than 90 days after receipt thereof, stating whether or not such alleged violation exists and, if so, what action has been taken.

"(f) In any investigation conducted pursuant to this section, the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States district court. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations.

"(h) Subject to judicial review, whenever the Secretary finds, after notice and a hearing, that the owner or operator of any lease—

"(1) has, by a repeated course of conduct, failed to comply with safety regulations promulgated under section 21 of this Act, and such failures have resulted in a clear and present danger to occupational or public health, safety, or the environment; or

"(2) has established an overall pattern of failing to comply, without lawful justification, with regulations which are to assure the maximum, efficient, and safe development of such lease or leases;

the Secretary shall cancel any such lease or leases which are the subject matter of such violations. Cancellation of a lease pursuant to this subsection shall not entitle a lessee to any compensation.

"Sec. 23. Citizen Suits, Court Jurisdiction, and Judicial Review.—(a) (1) Except as provided in this section, any person having an interest which is or can be adversely affected may commence a civil action on his own behalf—

"(A) against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(B) against any Federal official referred to in section 21(a) (1) of this Act where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary.

"(2) No action may be commenced—

"(A) under subsection (a) (1) (A) of this section—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the appropriate Federal official and to any alleged violator; and

"(ii) if such official or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any such action any person adversely affected or aggrieved may intervene as a matter of right; or

"(B) under subsection (a) (1) (B) of this section prior to sixty days after the plaintiff has given notice of such action, in writing under oath, to the Federal Government official, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the violation alleged constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(3) In any action commenced pursuant to this section, the appropriate Federal official or the Attorney General, if not a party, may intervene as a matter of right.

"(4) A court, in issuing any final order in any action brought pursuant to subsection (a) (1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(5) Except as provided in subsection (c) of this section, nothing in this section shall restrict any right which any person or class of persons may have under this or any other Act or common law to seek enforcement of any provision of this Act and any regulation promulgated under this Act, or to seek any other relief, including relief against appropriate Federal official.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c) (1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if such objections have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceedings pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"(e) Notwithstanding any other provision of this section, this section shall not apply to any action which is commenced to require compliance with any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"Sec. 24. Remedies and Penalties.—(a) At the request of the Secretary, the Secretary of Labor, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary, the Secretary of Labor, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect occupational or public health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a) (1) Prior to development and production pursuant to an oil and gas lease issued or maintained under this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for interpretive data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information, the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and to an appropriate Regional Outer Continental Shelf Advisory Board established pursuant to section 19 of this Act, and (B) make such plan and statement available to any other appropriate interstate regional entity, the executive of any affected local government area, and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) (1) After review of a plan submitted pursuant to this section in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall declare his findings as to whether development and production pursuant to the lease or set of leases (which set includes such lease and other leases which cover adjacent or nearby areas to the area covered by such lease) is a major Federal action.

"(2) The Secretary shall at least once, prior to major development in any area or region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, declare development and production pursuant to a lease or set of leases to be a major Federal action.

"(3) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If development and production pursuant to a plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If development and production pursuant to a plan is not found to be a major Federal action, the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g) (1) After reviewing the record of any public hearing held with respect to a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or one hundred and twenty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, except that any modification requested by the Secretary shall be, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455). The Secretary shall disapprove a plan only (A) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal law, (B) if the plan is not and cannot be made, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), or (C) if because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, the proposed plan cannot be modified to insure a safe operation. If a plan is disapproved under clauses (A) or (B) of this paragraph, the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) of this paragraph, the term of the lease shall be duly extended, and at any time within five years after said disapproval, the lessee may reapply for approval of the same on a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease, and the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations in operating waters, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). The Secretary may at any time within the five-year period, described in subparagraph (C), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(2) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the operator if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, as the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be served in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell an such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States as cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained. In the event that net profit share oil or gas produced pursuant to the bidding system authorized in subparagraphs (G) and (II) of section 8(a)(1) of this Act is sold back to the lessee or lessees, each party shall be eligible to purchase a pro rata share according to its per centum interest.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Adminisistration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity, subject to regulation under this Act.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government or to any foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Pollution Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b) (5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw upon the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2)(A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owner and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity).

(e)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this section, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligent or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogations all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to and State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308 (b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(c) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a) (1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall, from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b) (1) Whenever the Secretary receives information from any person alleging the dicharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegation, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c) (1) If a denial is not made pursuant to subsection (b) (1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owner and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d) (1) Any claim presented to any person under subsection (e) (1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be stated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e) (1) Except as provided in subsection (f) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent ot the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes or other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 401. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommenadtions to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 402. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 403. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 404. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under Title VI of the Civil Rights Amendments of 1964.

SUNSHINE IN GOVERNMENT

SEC. 405. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the method by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year or both.

RELATIONSHIP TO EXISTING LAW

SEC. 406. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN M. MURPHY,
MORRIS K. UDALL,
PATSY T. MINK,
JOSHUA EILBERG,
GERRY E. STUDDS,
CHRISTOPHER J. DODD,
WILLIAM J. HUGHES,
GEORGE MILLER,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
JAMES ABOUREZK,
FLOYD K. HASKELL,
JOHN GLENN,
RICHARD (DICK) STONE,
DALE BUMPERS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the House amendment and the conference substitute are noted below, except for clerical corrections and conforming changes made necessary by agreements reached by the conferees. In addition, an explanation of the differences and a discussion of the conference committee's intent as to certain provisions are also noted below. The amendments, the discussion of the intent of the managers as to certain provisions are keyed to the pages and lines of the House amendment to the text of the Senate bill.

1. TECHNICAL AMENDMENT—ELIMINATION OF "COASTAL"

Page 4, beginning on line 19, strike out "the various coastal States and other States" and insert in lieu thereof "various States".

Page 4, line 22, strike out "coastal and other".

Page 19, line 21, strike out "coastal".

Page 20, line 2, strike out "coastal".

Explanation

These amendments strike out the word "coastal" in describing certain types of states. The House amendment to S. 521 does not contain a definition of "coastal state" but rather includes coastal states within the definition of "adjacent states".

2. TECHNICAL AMENDMENT—ELIMINATION OF FINDING AND PURPOSE OF FINANCIAL ASSISTANCE TO STATES

Page 5, strike out lines 3 through 8 and redesignate the succeeding paragraphs accordingly.

Page 7, strike out lines 12 through 14 and redesignate the succeeding paragraphs accordingly.

Explanation

These amendments strike out the Congressional Finding and Purpose relating to federal financial assistance to the States to deal with the impact of offshore development and production. Such a federal financial assistance provision was deleted from the final House version of S. 521, and this deletion was accepted by the Senate in conference. Financial assistance to impacted states was provided in the Coastal Zone Management Act Amendments of 1976, recently enacted into law, P.L. 94-370.

3. TECHNICAL AMENDMENT—RELOCATION OF "SUNSHINE IN GOVERNMENT" SECTION

Page 7, strike out line 23 and all that follows down through line 13 on page 9.

Page 128, strike out lines 16 through 22 and insert in lieu thereof the following:

Sunshine in Government

"SEC. 405. (a) Each officer or employee of the Department of the Interior who—

"(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

"(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary of the Interior shall—

"(1) within ninety days after the date of enactment of this Act—

"(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

"(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or non-policymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.".

Page 129, after line 22, insert the following:

"Relationship to Existing Law

"SEC. 406. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.".

In the table of contents on the first page, strike out "Sec. 103. Sunshine in Government.".

In the table of contents on page 2, strike out "Sec. 405. Relationship to existing law." and insert in lieu thereof.

"SEC. 405. Sunshine in Government.

"SEC. 406. Relationship to existing law.".

Explanation

This amendment moves section 103 (Sunshine in Government) to title IV of the bill (Miscellaneous Provisions) and makes certain technical changes in that section. This amendment also moves section 405 (Relationship to Existing Law) to the end of title IV, and makes appropriate modifications in the table of contents to reflect these changes. This section more properly belongs in the "Miscellaneous Provisions" title than in the title "Findings and Purposes".

4. TECHNICAL AMENDMENTS—PRINTING ERRORS AND CLERICAL CHANGES

Page 17, strike out lines 12 through 15 and insert in lieu thereof the following:

(1) by striking out "and fixed structures" and inserting in lieu thereof, "and all installations and other devices permanently or temporarily attached to the seabed,"; and

Page 20, line 3, strike out "isand" and insert "island".

Page 24, line 1, insert "an" immediately before "oil".

Page 26, line 2, strike out the period after "8".

Explanation

These amendments correct printing errors in the House engrossed bill.

5. AMENDMENT—APPLICABILITY OF STATE LAW

Page 17, strike out line 21 and all that follows down through line 7 on page 19, and insert the following:

(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and by adding at the end of that paragraph the following:

"The determination and publication of the projected lines defining the area shall be completed within one year after the date of enactment of this sentence."

Explanation

The Senate bill did not change the existing law with respect to applicability of state law to OCS activity. Section 19(f) of the Deepwater Ports Act of 1974 (88 Stat. 2126) amended Section 4 of the Outer Continental Shelf Lands Act to provide that current state law would apply. The House amendment would apply state civil law only as updated every five years. This amendment would delete this provision and thus maintain the status quo.

6. AMENDMENT—COAST GUARD AUTHORITY TO MARK OBSTRUCTIONS

Page 20, line 25, strike out "shall" and insert "may".

Explanation

This amendment will readopt the original language of the Outer Continental Shelf Lands Act of 1953, leaving the Coast Guard with discretionary authority to mark obstructions to navigation. This is consistent with existing Coast Guard authority as to all other aids to navigation. In many cases, due to the close proximity of OCS structures, not all such structures need be marked, and marking all devices could possibly confuse the navigator.

7. TECHNICAL AMENDMENT—GENERAL REGULATORY AUTHORITY

Page 22, line 3, strike out "findings, purposes, and".

Explanation

The House amendment states that leasing regulations shall be "in furtherance of the findings, purposes, and policies of this Act." The Senate bill had no comparable provision. This amendment deletes the reference to "findings" and "purposes" as they are not included as sections of the Outer Continental Shelf Lands Act, but rather only as sections of the 1976 Amendments.

Section 204, amending section 5 of the Outer Continental Shelf Lands Act, provides that "in the enforcement of . . . laws and regulations, the Secretary shall cooperate with the relevant agencies of the . . . affected states." The managers on the part of the House and the Senate, in accepting this language, wished to insure that states would be adequately consulted as to enforcement procedures. There was no intent to require the Federal Government to enforce compliance by permittees and lessees with state conservation or other laws or regulations as to activities on the Outer Continental Shelf.

8. AMENDMENTS—RATES OF PRODUCTION

On page 27, line 17, strike out words "which is efficient and" and insert the following:

"Which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles and which is".

Explanation

This amendment essentially adopts the language of Section 106(e)(1) of the Energy Policy and Conservation Act (P.L. 94-163) in defining the maximum efficient rate of production and is similar to the language used in Section 7420(6) of the Naval Petroleum Reserves Production Act of 1976 (P.L. 94-258). This amendment recognizes that engineering, economic and safety factors must be considered in setting such a rate.

9. TECHNICAL AMENDMENT—PAYMENT OF CASH BONUS INSTALLMENTS

Page 30, line 12, strike out "authorization of development and production" and insert "approval of the development and production plan".

Explanation

This amendment makes a clarifying change in the provision dealing with deferment of cash bonus, to make it clear that the date for final payment of any installment cash bonus is the date of approval of the development and production plan.

10. AMENDMENT—ALLOCATION OF COSTS FOR NET PROFIT BIDS

On page 31, lines 1 through 3, strike "shall be allocated proportionately to the value of the respective amount of oil and gas produced" and insert the following:

", other than those directly attributable to the production of either oil or gas, shall be allocated proportionately based on the Btu equivalent values of the respective amounts of oil and gas produced."

Explanation

Rather than allocating costs between oil and gas strictly on the basis of dollar value of production, this amendment (1) allows allocation of identifiable costs to the appropriation of common costs on the Btu equivalent basis of the respective amounts of oil and gas produced. This allocation of costs common to both oil and gas recognizes that the regulated price of interstate natural gas is usually lower on a Btu-equivalent basis than the price of oil.

11. AMENDMENT—PRICE AT WHICH LEASES UNDER SO-CALLED "PHILLIPS SYSTEM" ARE AWARDED

Page 29, lines 17 to 20, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" and insert "on the basis of the value of the bid per share".

Page 29, line 25, to Page 30, line 3, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" and insert "on the basis of the value of the bid per share".

Page 31, line 4, to page 32, line 21, delete from "(5)(A) In the case of" to "to the initial bidding process.", and insert:

"(5)(A) In the event bids are accepted for less than 100 per centum of the lease area offered under subparagraph (G) or (H) of paragraph (1), the Secretary may reoffer the unleased portion for such period of time as he determines to be reasonable."

Page 32, line 22, change (C) to (B).

Page 33, line 3, change (D) to (C).

Explanation

The House amendment required bidders to pay more than they bid, if they bid less than the average, and this could have caused serious administrative problems impairing experimentation with this bidding system. Many such bidders would drop out. Reoffer of the remaining shares at the average price might or might not result in sale of 100 percent of the working interest. While this problem could also arise under the "Phillips plan", as now provided in this amendment, it is far less likely to do so.

Selling a one percent interest to different people at different prices is a business phenomenon that occurs regularly, and is a generally accepted practice wherever auctions or bargaining take place. No unfairness, either actual or apparent, exists as long as participants are aware of the rules by which the sale will be conducted, and can adjust their bidding strategies accordingly.

12. AMENDMENT—USE OF ALTERNATIVE BIDDING SYSTEMS

Page 34, strike out line 25 and insert the following:

"(ii) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay development of the oil and gas resources of the outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If in any other year following the date of enactment of"

Explanation

The Senate bill limited the use of cash bonus bidding to not more than fifty percent of the acreage offered in frontier areas. The House amendment put this requirement at 66⅔ percent. Both versions provide for exceptions after Congressional Review. The proposed Senate amendment would adopt the House approach with one modification taken directly from the Senate bill. This would allow the Secretary, during the first year after enactment, without Congressional approval, to use cash bonus bidding for more than two-thirds of the areas offered for lease if he found that compliance with the limitation would unduly delay OCS oil and gas development.

13. TECHNICAL AMENDMENT—APPROVAL OF THE BONUS BID SYSTEM

Page 35, strike out lines 13 through 24 and insert the following:

"(iii) Clauses (iv) through (xi) of this subparagraph are enacted by Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the Rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this subparagraph, and they supersede other Rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the Rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other Rule of that House.

Page 36, line 6, strike out "Committee" and insert "committee".

Explanation

This amendment rewrites clause (iii) as to the approval of use of the bonus bid system in more than one-third of the leases offered so as to conform this provision to the standard language used in provisions relating to the approval resolution process.

14. AMENDMENT—TERMS OF LEASES

Page 39, line 16, to page 40, line 3, strike out from "(2) be for a period" to "lease;" and insert:

"(2) be for an initial period of

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;"

Explanation

The Senate bill provided for lease terms of up to ten years in areas of unusually deep water or unusually adverse weather conditions. The House amendment only allowed for a five-year extension of a five-year lease in such cases. This amendment adopts the Senate provision.

15. AMENDMENT—ANTI-TRUST PROVISION

Page 41, line 5, strike out "would" and insert "may".

Explanation

The House amendment added provisions for antitrust review of proposed leases, which were not in the Senate bill. These provisions were modeled on those in the Naval Petroleum Reserves Production Act of 1976 (P.L. 94–258) and the Federal Coal Leasing Amendments Act (P.L. 94–377).

Among other things, Section 205(b) of the House amendment requires the Secretary of the Interior to notify the Attorney General and the FTC thirty days before the issuance or extension of any proposed lease, and "(s)uch notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease or extension *would* create or maintain a situation inconsistent with the antitrust laws" (emphasis added).

From a technical antitrust standpoint, the correct word is "may". The object of the antitrust section of the OCS bill is to permit the Justice Department and the Federal Trade Commission to challenge potentially anticompetitive leases before they are issued, *i.e.*, in their incipiency. In this regard, the purpose is identical to that of section 7 of the Clayton Act, which prohibits corporate acquisitions "where . . . the effect of such acquisition *may* be substantially to lessen competition. . . ." (emphasis added.)

This amendment simply substitutes "may" for "would".

16. DISCUSSION—JOINT FEDERAL STATE LEASING

The House amendment added a provision, page 42, line 8, to page 45, line 25, allowing joint federal/state leasing of lands "within three miles of the seaward boundary of any coastal State." The Managers on behalf of both the House and Senate retained this provision in the conference report. Under this provision, the Secretary of the Interior must supply "all information", about the characteristics of the adjacent zone if there is a potentiality of a joint lease. This information, the Managers agreed, would not be of an unlimited scope, but rather would be limited to the geographical, geological, and ecological characteristics deemed relevant and important in an evaluation by the coastal states as to agreeing to a joint lease.

The requirement that "all information" be supplied must be read in light of Section 26, requiring regulations as to confidential or privileged information. Regulations as to confidentiality, to be prepared pursuant to Section 26, should require that the Secretary make a preliminary determination, as promptly as possible and certainly no later than immediately after soliciting nominations for an area, as to whether a proposed federal lease area contains a field or geological structure or trap that extends into state tidelands. Only if the existence of such a common formation is so determined, all information, including otherwise confidential or privileged data, is to be made accessible to the Governor or his designated representative. Knowledge so obtained would be subject, under Section 26, to applicable federal confidentiality provisions. Individuals securing permits, or other authorization, to conduct pre-lease studies would, through these regulations, be aware of this limited pre-lease availability. Thus, a Governor, as a potential joint lessor, would have the same information available as the Federal Government, and private survey and exploration firms would be assured of confidentiality

17. AMENDMENT—ON-STRUCTURE PERMITS—DEFINITION OF FRONTIER AREAS

On page 47, after subsection (h), add the following new subsection:

"(i) For purposes of subsections (g) and (h) of this section, neither the Gulf of Mexico nor the Santa Barbara Channel shall be considered to be frontier areas.".

Explanation

It was the intention of the House in its amendment to limit the provision providing for the Secretary to seek qualified applicants for on-structure drilling permits to frontier areas, and not to require such action by the Secretary in previously-developed regions. This amendment clarifies the language of the provision so as to conform with its intent.

18. AMENDMENT—DRILLING

Page 47, strike out line 6 and insert the following:

"and gas accumulations. The Secretary shall, by regulation, specify the length of time during which he will seek such applicants.

"(h) The Secretary is authorized and directed to contract for exploratory drilling on geological structures which the Secretary, in his discretion, determines should be explored by the Federal Government for national security or environmental reasons or for the purpose of expediting development in frontier areas. Such exploratory drilling shall not be done in areas included in the leasing program prepared pursuant to section 18 of this Act.".

EXPLANATION

In connection with oil and gas exploration on the OCS, the House amendment contains a provision (Sec. 206) which requires the Secretary "at least once in each frontier area" to "seek qualified applicants" to conduct geological explorations, including core and test drilling, in areas having the greatest likelihood of containing oil and gas. The Senate bill has no comparable requirement.

While this provision for possible on-structure stratigraphic drilling by private industry is reasonable, it appears desirable to set a specific limit on the length of time during which the Secretary must "seek qualified applicants." This amendment would authorize and direct the Secretary to set a specific deadline.

In addition, the Senate bill (new Section 19) provides for a comprehensive OCS oil and gas information gathering program, including requirements for detailed mapping and an experimental program of exploratory drilling under government contract. $500 million was authorized to be appropriated for such drilling. The House amendment has no comparable provision.

This amendment would allow a federal exploratory drilling program to be carried out under contract with private industry. This would be limited to situations where the Secretary of the Interior, in his discretion, determined that government exploration was needed for national security or environmental reasons or to expedite development in frontier areas. Areas included in the five-year leasing program would be excluded from federal exploration.

19. TECHNICAL AMENDMENT—LEASING PROGRAM

Page 53, strike out line 1 and all that follows down through line 25 on page 54, and insert in lieu thereof the following:

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Governors of affected States, and the Regional Outer Continental Shelf Advisory Boards, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, Regional Outer Continental Shelf Advisory Board, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State, local government, or Regional Outer Continental Shelf Advisory Board was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act."

Page 49, line 17, strike out "subsection (c)" and insert in lieu thereof "subsections (c) and (d)".

Explanation

This amendment rearranges subsections (c) and (d) of new section 18 of the Outer Continental Shelf Lands Act so that the requirements of such subsections with respect to the procedures to be followed by the Secretary in the preparation, publication, and approval of the leasing program are set forth in chronological order.

20. AMENDMENT—RECOMMENDATION OF GOVERNORS AND REGIONAL ADVISORY BOARDS

Page 58, strike out lines 12 through 20 and insert the following: in a balanced manner, consistent with the policies of this Act. If the recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept any of those recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations. The Secretary's determination that recommendations are not consistent with the national security or the overriding national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

Explanation

Both the Senate bill and the House amendment provide for establishment of Regional OCS Advisory Boards, and require the Secretary to accept the recommendations of such Boards and of State Governors unless he determines such recommendations are not consistent with the national interest.

The Senate bill provided that the Secretary's determination of overriding national interest would be final unless determined in a judicial review to be arbitrary or capricious. The House amendment broadened the scope of judicial review of the Secretary's determination.

This amendment retains the House language but adds the original Senate limitation on judicial review of the overriding of a State Governor or Regional Board recommendations.

21. AMENDMENT—DEVELOPMENT OF SAFETY REGULATIONS

Page 31, line 19, insert "(A)" immediately after "(a)(1)".

Page 61, strike out line 23 and all that follows down through line 10 on page 62, and insert in lieu thereof the following:

Except as provided in subparagraph (B), such regulations shall be developed by the Secretary with the concurrence of the Administrator of the Environmental Protection Agency, the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating.

"(B) Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor.

Explanation

The Senate bill provides for the safety regulations to be prepared by the Secretary of the Interior with the concurrence of the Environmental Protection Agency and the Coast Guard.

The House amendment splits up this responsibility. Regulations are to be developed by the Secretary (1) for the protection of the environment with the EPA or the Secretary of Commerce (NOAA), (2) for the avoidance of navigational hazards, with the Army or Coast Guard, (3) for occupational safety and health with the Secretary of Labor (OSHA) or Coast Guard.

This amendment adopts the original Senate approach but specifies, as did the House amendment, that regulations relating to occupational safety and health will be developed with the concurrence of the Secretary of Labor.

It is the intention of the managers that OSHA, with primary jurisdiction over occupational safety and health industry-wide and having its special expertise, not be displaced in exercising primary responsibility in development, enforcement and promulgation of regulations concerning occupational safety and health on the Outer Continental Shelf by action of any other agency. Expressed differently, the Coast Guard and the Interior Department, by cooperating with OSHA in matters concerning occupational safety and health, or independently regulating, should not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health, so as to totally exclude OSHA.

Accordingly, under the final version of S. 521 should the Coast Guard or the Interior Department or any other Federal agency act to regulate occupational safety and health on the Outer Continental Shelf, OSHA will retain its joint enforcement authority and its power to veto regulations concerning occupational safety and health affecting the Outer Continental Shelf, notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 197C.

22. AMENDMENT—STANDARD OF TECHNOLOGY

Page 62, line 15, strike out "economically achievable,".

Explanation

The Senate bill provides that the Secretary's safety regulations must require use of the best available technology on all new OCS operations and, wherever practicable, on already existing operations.

The House amendment retained this provision but refers to best available and safest technology *"economically achievable"*. (emphasis added).

This amendment would retain the House language except for the words "economically achievable". There is no need for this qualification with respect to existing operations where the "whenever practicable" test would apply. With respect to new operations, adding an "economically achievable" test could lead to use of less safe equipment in marginal development situations.

23. TECHNICAL AMENDMENT—SAFETY REGULATION PROMULGATION

Page 63, line 9, insert "new" immediately before "safety".

Page 63, line 12, strike out "Any safety regulation" and all that follows through line 16, and insert in lieu thereof the following: Such complete set of new safety regulations—

"(A) shall take effect so that there is no period of time between the expiration of such existing safety regulations and the effective date of such new safety regulations; and

"(B) shall include any safety regulation in effect on the date of enactment of this section which such Federal officials find should be retained.

"No safety regulation (other than a field order)"

Explanation

This amendment clarifies the procedure to be followed with respect to the review of existing safety regulations and the promulgation of a complete set of new safety regulations. The provisions require that the existing safety regulations not expire before the new set of safety regulations take effect and that the new set of safety regulations include any existing safety regulations which the applicable federal officials determine should be retained.

24. AMENDMENT—INSPECTION FREQUENCY

Page 65, line 23, strike out "twice" and insert "once".

Explanation

The Senate bill requires the Secretary to provide for physical observation of OCS installations at least once a year. The House amendment provides for twice a year inspection. This amendment adopts the original Senate requirement. This is a statutory minimum and does not preclude more frequent inspections where appropriate.

25. AMENDMENT—RESPONSE TO ALLEGATION OF VIOLATIONS

Page 67, strike out lines 9 through 13 and insert the following:

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of Labor shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than 90 days after receipt thereof, stating whether or not such alleged violation exists and, if so, what action has been taken.

Explanation

Both the Senate bill and the House amendment require the relevant official to consider any allegation of the existence of a violation of a safety regulation. The Senate bill specifically required that an allegation be answered within 90 days.

This amendment adds this requirement to the House amendment.

26. AMENDMENT—CITIZEN SUITS—STANDING

Page 69, line 5, between "agency" and "for", insert "(to the extent permitted by the eleventh amendment to the Constitution)".

Explanation

Previous Acts, such as the Federal Water Pollution Control Act and the Clean Air Act, specifically contain a parenthetical phrase limiting standing where the Constitution so requires. This amendment is intended to conform the citizen suits provision of S. 521 to its original intention by adding the parenthetical phrase, so as to avoid any unintentional inference.

27. AMENDMENT—CITIZENS' SUITS—COMMON LAW REMEDIES

Page 70, line 23, insert after "Act" the first time it appears therein the following: "or common law".

Explanation

Both the Senate bill and the House amendment contain similar provisions relating to citizen suits to enforce the OCS law and regulations. This amendment is a technical one. It is simply designed to assure that the provisions of the bill (new section 23) do not restrict any right to relief which anyone may have under common law.

28. TECHNICAL AMENDMENT—APPLICABILITY OF DEVELOPMENT AND PRODUCTION PLAN REQUIREMENT

Page 76, lines 1 to 4, after "Shelf" delete from "where" to "Channel" and insert "other than the Gulf of Mexico or the Santa Barbara Channel,"

Page 77, line 5, after "Act" insert the following: "in any region of the outer Continental Shelf other than the Gulf of Mexico or the Santa Barbara Channel,"

On page 78, lines 15 to 18, after "Shelf" delete from "where" to "Channel,"; and insert "other than the Gulf of Mexico or the Santa Barbara Channel,"

Explanation

It was the intention of the House in its amendment to not require submission and approval of a development and production plan in any developed OCS region. The only two such regions are the Santa Barbara Channel and the Gulf of Mexico. This amendment explicity names these two areas as excluded from the development and production plan requirements so as to conform to the original intent of the provision.

Thus, the development and production plan requirement does apply to leases for areas on the Atlantic Coast; off of Alaska, and, except for the Santa Barbara Channel area, off of Southern California and the Pacific Coast.

29. TECHNICAL AMENDMENTS—GRAMMATICAL AND CLERICAL ERRORS

Page 82, line 25, insert a comma after "Act".

Page 87, line 20, strike out "to".

Page 89, line 6, strike out the comma.

Explanation

These amendments make conforming grammatical and clerical changes to the engrossed House bill.

30. DISCUSSION—SMALL REFINER

The House amendment, in a new Section 27, grants authority to the Secretary of the Interior to dispose of oil he obtains under the Act to "small refiners". A "small refiner" is defined on page 93, lines 18 to 24, as an owner of a refinery or of refineries "who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil . . ."

It is intended that the Secretary, from time to time, classify those refiners eligible for preferential access to OCS oil obtained under Section 27 and that, while the refiner must be a small business concern, the Secretary is to have the discretion to adopt the definitions of "small refiner", either as employed by the Small Business Administration, or in any other manner consistent with federal policy as to refineries reflected in the Mineral Leasing Act of 1920, as amended on July 13, 1946; in the Small Business Act; in the Emergency Petroleum Allocation Act of 1973; and in various federal antitrust laws and federal programs.

31. AMENDMENT—OIL SPILL LIABILITY—"ACT OF GOD" DEFENSE

Page 105, line 15, insert "or" immediately before "(2)"; and strike out lines 17 and 18 and insert in lieu thereof "tity)."

Explanation

The Senate bill contains an oil spill liability provision (new Section 23) modeled after the Trans-Alaska Pipeline Authorization Act of 1973 (Title II of P.L. 93–153) and the Deepwater Port Act of 1974 (P.L. 93–627).

The House amendment contains a more extensive provision (Title III) which applies to oil spills from any OCS facility, and any transportation device, including vessels, for delivery of oil and gas from such a facility. This Title is modeled after the Comprehensive Oil Pollution Liability and Compensation Act of 1975 proposed by the President on July 9, 1975.

This amendment would accept the House amendment with one change. The House amendment provides that a lessee is not liable for damage from an oil spill caused by "a natural phenomenon of an exceptional, inevitable, and irresistable character." This would eliminate this "secular act of God" defense which was not included in the Senate bill. This would encourage OCS operators to make their installations as earthquake and hurricane proof as possible.

32. TECHNICAL AMENDMENTS—OIL SPILL LIABILITY

Page 110, line 25, strike out "collection of such fee may be suspended" and insert "imposition of such fee may be suspended by the Secretary".

Page 120, line 16, strike out "(A)" and insert "(1)".

Page 120, line 20, strike out "(B)" and insert "(2)".

Page 121, line 12, strike out "agency" and insert "department, agency, or instrumentality".

Page 125, line 20, strike out "agency" and insert "department, agency, or instrumentality".

Explanation

These amendments clarify certain provisions in the oil spill title by making it explicit that it is the Secretary of Transportation who has authority to suspend the imposition of the three-cents-per-barrel fee; by applying the provisions to any "department, agency, or instrumentality" of the United States; and by making certain technical numerical changes.

33. AMENDMENT—RULE AND REGULATION REVIEW

Page 128, strike out line 23 and all that follows down through line 15 on page 129; and on page 2, strike out "Sec. 406. Rule and Regulation Review.".

Explanation

The House amendment contains a provision (Section 406) providing for Congressional veto of any rule or regulation issued under the Act if either House of Congress passes a resolution of disapproval within 60 days after its adoption. The Senate bill has no such provision.

This amendment would delete Section 406 of the House amendment. The constitutionality of Congressional vetoes of Executive regulations is currently being litigated. In addition, there is general legislation on this subject currently pending in both Houses. Inclusion of a specific veto provision in S. 521 at this time is not appropriate.

John M. Murphy,
Morris K. Udall,
Patsy T. Mink,
Joshua Eilberg,
Gerry E. Studds,
Christopher J. Dodd,
William J. Hughes,
George Miller,
Members on the Part of the House.
Henry M. Jackson,
Frank Church,
Lee Metcalf,
James Abourezk,
Floyd K. Haskell,
John Glenn,
Richard (Dick) Stone,
Dale Bumpers,
Mark O. Hatfield,
Members on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Henderson (at the request of Mr. O'Neill), for this week, on account of official business.

Mr. Corman (at the request of Mr. O'Neill), for today, on account of of- official business.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for this week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALSH) to revise and extend their remarks and include extraneous material:)

Mr. CLEVELAND, for 5 minutes, today.

Mr. HEINZ, for 5 minutes, today.

Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. HUBBARD) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 30 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. KOCH, for 15 minutes, today.

Mr. DRINAN, for 15 minutes, today.

Mr. FOUNTAIN, for 60 minutes, on September 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TAYLOR of North Carolina, immediately prior to passage of House Joint Resolution 915 on the Consent Calendar today.

(The following Members (at the request of Mr. WALSH) and to include extraneous matter:)

Mr. RHODES.

Mr. WIGGINS.

Mr. QUIE.

Mr. WYDLER in two instances.

Mr. BURGENER.

Mr. DERWINSKI in two instances.

(The following Members (at the request of Mr. HUBBARD), and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. BROWN of California in 10 instances.

Mr. GONZALEZ in three instances.

Mr. FAUNTROY.

Mr. HAWKINS.

Mr. MCDONALD in four instances.

Mr. FITHIAN in two instances.

Mr. TEAGUE in two instances.

Mr. BRECKINRIDGE.

Mr. STEPHENS.

Mr. RIEGLE in two instances.

Mr. ASPIN in 10 instances.

Mr. BURKE of Massachusetts.

Mr. BERGLAND.

Mr. DOWNEY of New York.

Mr. RANGEL.

Mr. FARY.

Mr. CARNEY in five instances.

Mr. ROE.

Mr. DAVIS in two instances.

Mr. JAMES V. STANTON.

Mr. SANTINI.

Mr. ROSENTHAL.

Mr. HARRINGTON.

Mr. RUSSO.

Mr. BAUCUS.

Mrs. KEYS.

Mr. VANIK in three instances.

Mr. BRADEMAS.

Mr. MOORHEAD of Pennsylvania.

Mr. LLOYD of California.

Mr. JONES of Tennessee.

Mr. DODD.

Mr. LEGGETT.

Mr. ROSE.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2440. An act to amend section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes; to the Committee on Agriculture.

S. 2823. An act to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations; to the Committee on Agriculture.

S. 3441. An act to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8532. An act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes;

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes; and

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 522. An act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes; and

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 17, 1976:

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty;

H.R. 3348. An act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes; and

H.R. 14232. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

On September 18, 1976:

H.R. 8532. An act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.

On September 20, 1976:

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes; and

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

ADJOURNMENT

Mr. HUBBARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 44 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 21, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4042. A communication from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1977 for the Department of the Interior (H. Doc. No. 94–617); to the Committee on Appropriations and ordered to be printed.

4043. A communication from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1977 for the General Services Administration (H. Doc No. 94–618); to the Committee on Appropriations and ordered to be printed.

4044. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period September 15 to December 15, 1976, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

4045. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on Federal contributions to States for civil defense personnel and administrative expenses during fiscal year 1975, pursuant to section 205(f) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286 (f)); to the Committee on Armed Services.

4046. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed change in the

Department's passport records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4047. A letter from the Administrator of General Services, transmitting the annual report on the investigations of the cost of travel and the operation of privately owned vehicles to Federal employees while engaged on official business, pursuant to 5 U.S.C. 5707 (b) (1), and the determinations of the average actual cost per mile for the use of a privately owned motorcycle, automobile, and airplane, pursuant to 5 U.S.C. 5707(b) (2); to the Committee on Government Operations.

4048. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Jack B. Olson and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4049. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on International Relations.

4050. A letter from the Chairman, National Commission on Arthritis and Related Musculoskeletal Diseases, transmitting the Commission's long-range plan for the use and organization of national resources to combat arthritis, pursuant to section 3(j) (1) of Public Law 93-640; to the Committee on Interstate and Foreign Commerce.

4051. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 311(k) of the Federal Water Pollution Control Act to increase the authorization of appropriations for the revolving fund established to finance the removal of oil and hazardous substances discharged into navigable waters, adjoining shorelines, and the contiguous zone; to the Committee on Public Works and Transportation.

4052. A letter from the Commissioner, Public Buildings Service, General Services Administration, and the Public Printer, transmitting a copy of the final environmental impact statement for the proposed Government Printing Office relocation project in Washington, D.C., pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 16, 1976, the following report was filed on September 18, 1976*]

Mr. PRICE: Joint Committee on Atomic Energy. H.R. 15419. A bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended; with an amendment (Rept. No. 94-1613). Referred to the Committee of the Whole House on the State of the Union.

[*Filed September 18, 1976*]

Mr. HUNGATE: Committee on the Judiciary. H.R. 15552. A bill to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes (Rept. No. 94-1614). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13000. A bill to provide for the protection of franchised distributors and retailers of motor fuel; to prevent deterioration of competition in gasoline retailing; and to encourage conservation by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers; with amendments (Rept. No. 94-1615). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNGATE: Committee on the Judiciary. H.R. 15531. A bill to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings (Rept. No. 94-1616). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold; with an amendment (Rept. No. 94-1617). Ordered to be printed.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 11303. A bill to designate the Herman T. Schneebeli Federal Building (Rept. No. 94-1618). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 15372. A bill to amend the Communications Act of 1934 to provide just and reasonable rates, terms, and conditions for the use of certain rights-of-way by persons desiring to lease space for wire communication, and with respect to penalties and forfeitures; with an amendment (Rept. No. 94-1630). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on H.R. 12838 (Rept. No. 94-1631). Ordered to be printed.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 521 (Rept. No. 94-1632). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 4583. A bill for the relief of Rosina C. Beltran (Rept. No. 94-1619). Referred to the Committee of the Whole House.

Mr. DODD: Committee on the Judiciary. H.R. 7881. A bill for the relief of Marcial Caceres Ortiz (Rept. No. 94-1620). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 7909. A bill for the relief of Jennet Juanita Miller (Rept. No. 94-1621). Referred to the Committee of the Whole House.

Mr. COHEN: Committee on the Judiciary. H.R. 8118. A bill for the relief of Chin-Ho-An (Rept. No. 94-1622). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 8771. A bill for the relief of Patricia R. Tully; with an amendment (Rept. No. 94-1623). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 9592. A bill for the relief of Gunther Griffel (Rept. No. 94-1624). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 10778. A bill for the relief of Rogelio M. Encomienda (Rept. No. 94-1625). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11283. A bill for the relief of Ernest L. Green; with an amendment (Rept. No. 94-1626). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 11858. A bill for the relief of Mrs. Chong Sun Yi Rauch (Rept. No. 94-1627). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 12707. A bill for the relief of Barry Ray Leftwich Dibling; with an amendment (Rept. No. 94-1628). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 13583. A bill for the relief of Christopher Robert West (Rept. No. 94-1629). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Massachusetts:

H.R. 15630. A bill to amend title II of the Social Security Act to provide separate and increased financing for the disability insurance program, to modify and perfect work-incentive and vocational rehabilitation provisions affecting disabled workers, to provide regulatory authority for a more explicit definition of disability, to require that the contractual agreements with the State agencies determining disability are consistent with effective and uniform administration of the disability program and provide the Secretary with authority to terminate agreements with State agencies which do not carry out their agreements, and otherwise to improve the soundness and administration of such program, to amend title XVIII of such act to eliminate the requirement that months in the medicare waiting period be consecutive, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN (for himself, Ms. Chisholm, Mr. Dent, Mr. Diggs, Mr. Eilberg, Mr. Florio, Mr. Mitchell of Maryland, Mr. Nix, Mr. Ottinger, Mr. Pepper, Mr. Reuss, and Mr. St Germain):

H.R. 15631. A bill to provide a special program for financial assistance to opportunities industrialization centers in order to provide new skills training opportunities, and to other national community based organizations to provide comprehensive employment services to create 1 million new training and job opportunities; to the Committee on Education and Labor.

By Mr. HOLLAND:

H.R. 15632. A bill to require the Federal Communications Commission to increase the channels available for use in the citizens radio service, to prohibit the Commission from preventing the alteration of existing equipment used in the citizens radio service to accommodate such increased channel capacity, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 15633. A bill to provide benefits to the survivors of any rescue squad worker who has died as a result of injury sustained in the performance of duty; to the Committee on the Judiciary.

By Mr. HUNGATE (for himself, Mr. Mann, Ms. Holtzman, Mr. Mezvinsky, Mr. Drinan, and Mr. Hyde):

H.R. 15634. A bill to amend title 28 of the United States Code to provide for the appointment of a special prosecutor in appropriate cases, and for other purposes; to the Committee on the Judiciary.

By Mr. McDADE (for himself, and Mr. Broyhill):

H.R. 15635. A bill allowing tax credit for certain expenses incurred in providing education; to the Committee on Ways and Means.

By Mr. JONES of Alabama (for himself, Mr. Roberts, and Mr. Don H. Clausen):

H.R. 15636. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. Boland, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Conyers, Mr. Diggs, Mr. Edgar, Mr. Edwards of California, Mr. Fraser, Mr. Karth, Ms. Keys, Mr. McCloskey, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Rangel, Mr. Richmond, Mr. Riegle, Mr. Roybal, Mr. Seiberling, Mr. Stark, and Mr. Wirth):

H.R. 15637. A bill to amend the Civil Rights Act of 1964 to provide that, except in certain limited circumstances, it shall be an unlawful employment practice for an employer to request that an employee or applicant for employment provide military discharge papers or other service-connected records; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Brademas, Mr. Simon, Mr. Lloyd of California, Mr. Dodd, Mr. Wolff, Ms. Heckler of Massachusetts, Mr. McHugh, Mr. Russo, Mr. Bedell, Mr. Stokes, Mr. Ryan, Mr. Burke of Massachusetts, Mr. Anderson of California, Mr. Gilman, Mr. Miller of California, Mr. Diggs, Mr. Findley, Ms. Chisholm, and Mr. Fithian):

H.R. 15638. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Harrington, Mr. Stark, Mr. Drinan, Mr. Ford of Tennessee, Mr. Moffett, Mr. Symington, Mr. Carney, Mr. Nix, Mr. Hechler of West Virginia, Mr. Frey, Mr. Sarbanes, Mr. Mottl, Mr. Bafalis, Mr. Fascell, Mrs. Pettis, Mr. Ottinger, Mr. Van Deerlin, Mr. Ketchum, and Mr. Dent):

H.R. 15639. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. RISENHOOVER:

H.R. 15640. A bill to amend title 28, United States Code, to allow certain civil actions against the United States to be prosecuted in the district courts of the United States; to the Committee on the Judiciary.

By Mr. ROGERS (for himself, Mr. Preyer, Mr. Symington, Mr. Scheuer, Mr. Waxman, Mr. Florio, Mr. Carney, Mr. Maguire, Mr. Carter, Mr. Broyhill, Mr. Heinz, and Mr. Madigan):

H.R. 15641. A bill to amend the Public Health Service Act to revise and extend the provisions respecting arthritis, diabetes, and digestive diseases; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 15642. A bill to make a clarifying correction in an amendment made by the Tax Reform Act of 1976 relating to the tax treatment of gains and losses in futures transactions in commodities; to the Committee on Ways and Means.

By Mr. WIRTH (for himself, Mr. Alexander, Mr. Baucus, Mr. Bedell, Mrs. Burke of California, Mr. Drinan, Mr. Duncan of Oregon, Ms. Holtzman, Mr. Jeffords, Mr. Kindness, Mr. Metcalfe, Mr. Mikva, Mr. Miller of Ohio, Mr. Miller of California, Mr. Murphy of New York, Mr. Ottinger, Mr. Riegle, Mr. Simon, Mr. Stark, and Mr. Charles Wilson of Texas):

H.R. 15643. A bill to amend the Interstate Commerce Act, with respect to recovery of a reasonable attorney's fee in case of successful maintenance of an action for recovery of damages sustained in transportation of property; to the Committee on Public Works and Transportation.

By Mrs. COLLINS of Illinois:

H. Con. Res. 758. A resolution expressing the sense of the Congress that the Secretary of State should direct his diplomatic efforts in southern Africa toward a rapid settlement of the Namibian issue and that any discussion of independence for Namibia must include representatives of the South West African People's Organization; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Mr. Phillip Burton, Ms. Abzug, Mr. Stokes, Ms. Chisholm, Mr. Diggs, Mr. Solarz, Ms. Meyner, Mr. Metcalfe, Mr. Derwinski, Mr. Mitchell of Maryland, and Mr. Hawkins):

H. Con. Res. 759. A resolution expressing the sense of Congress that the President should furnish disaster assistance to the Peoples Republic of China; to the Committee on International Relations.

By Mr. HARRINGTON (for himself, Mr. Dellums, Mr. Drinan, Mr. Badillo, Mr. Brodhead, Mr. Conyers, Mr. Harkin, Ms. Holtzman, Mr. Kastenmeier, Mr. Mitchell of Maryland, and Mr. Roybal):

H. Con. Res. 760. A resolution disapproving certain proposed sales to Iran of defense articles and services; to the Committee on International Relations.

By Mr. TAYLOR of North Carolina (for himself and Mr. Skubitz):

H. Con. Res. 761. A resolution authorizing the printing as a House document of proceedings of the Committee on Interior and Insular Affairs of July 27, 1976; to the Committee on House Administration.

By Mr. WYDLER:

H. Con. Res. 762. A resolution calling upon the President to establish a strike force for medicare and medicaid review to investigate and audit the operations of the medicare and medicaid programs, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H. Res. 1554. A resolution disapproving the determination of the Secretary of the Treasury not to impose countervailing duties on imports of leather handbags from Brazil; to the Committee on Ways and Means.

By Mr. EILBERG:

H. Res. 1555. A resolution opposing the granting of permanent residence in the United States of certain aliens; to the Committee on the Judiciary.

By Mr. KOCH (for himself, Mr. Drinan, and Mr. Dodd):

H. Res. 1556. A resolution relative to the freedom of the citizens of Romania, and for other purposes; jointly, to the Committees on International Relations, Ways and Means, and House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

464. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the elimination of barriers to the physically handicapped at postsecondary educational institutions; to the Committee on Education and Labor.

465. Also, a memorial of the Legislature of the State of California, relative to the Santa Monica Mountains and seashore; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON:

H.R. 15644. A bill for the relief of Michelle Lagrosa Sese; to the Committee on the Judiciary.

H.R. 15645. A bill for the relief of Grace Maria Salazar Santos; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 15646. A bill for the relief of Drugs, Inc.; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 15

By Mr. FLYNT:

(Amendment in the nature of a substitute (on behalf of the Committee on Standards of Official Conduct) to the Judiciary Committee amendment to H.R. 15 pursuant to the provisions of House Resolution 1551.)

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Public Disclosure of Lobbying Act of 1976".

DEFINITIONS

Sec. 2. As used in this Act—

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "organizational relationship" means any relationship between an organization and any Federal officer or employee in which—

(A) such Federal officer or employee is a partner in such organization; or

(B) such Federal officer or employee is a member of the board of directors or similar governing body of such organization, or is an officer or employee of such organization.

(3) The term "exempt travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent, employee, or other person engaging in activities described in section 3(a), plus such amount of any sum received by such agent, employee, or other person as a per diem allowance for each such day as is not in excess of the maximum applicable allowance payable under section 5702(a) of title 5, United States Code, to Federal employees subject to such section.

(4) The term "expenditure" means—

(A) a payment, distribution (other than normal dividends and interest), salary, loan, advance, deposit, or gift of money or other thing of value, other than exempt travel expenses; or

(B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in subparagraph (A).

(5) The term "Federal officer or employee" means—

(A) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee, or officer of the Congress; and

(C) any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code.

(6) The term "identification" means—

(A) in the case of an individual, the name, occupation, and business address of the individual and the position held in such business; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the executive officers and the directors of the organization, regardless of whether such officers or directors are paid.

(7) The term "organization" means any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, national organization of State or local elected or appointed officials (excluding any national or State political party and any organizational unit thereof, and excluding any association comprised solely of Members of Congress and congressional employees), group of organizations, or group of individuals, which has paid officers, directors, or employees.

(8) The term "filing period" means as applicable, the calendar half year beginning on January 1 or July 1.

(9) The term "solicitation" means any oral or written communication directly urging, requesting, or requiring another person to advocate a specific position on a particular issue and to seek to influence a Federal officer or employee with respect to such issue.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

APPLICABILITY OF ACT

SEC. 3. (a) The provisions of this Act shall apply to any organization which—

(1) makes an expenditure in excess of $2,500 in any filing period for the retention of another person to make oral or written communication directed to a Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, investigation (excluding civil or criminal investigations or prosecutions by the Attorney General and any investigation by the Comptroller General authorized by the provisions of this Act), rule (as defined in section 551(4) of title 5, United States Code), rulemaking (as defined in section 551(5) of title 5, United States Code), or the award of Government contracts (excluding the submission of bids), or for the express purpose of preparing or drafting any such oral or written communication:

(2) employs at least one individual who on all or part of six or more calendar days in any filing period engages on behalf of that organization in those activities described in paragraph (1); or

(3) makes aggregate expenditures in excess of $10,000 in any filing period to solicit, orally or otherwise, other persons to engage in activities described in paragraph (1).

(b) This Act shall not apply to—

(1) a communication (A) made at the request of a Federal officer or employee, (B) submitted for inclusion in a report or in response to a published notice of opportunity to comment on a proposed agency action, or (C) submitted for inclusion in the record, public docket, or public file of a hearing or agency proceeding;

(2) a communication or solicitation made through a newspaper, book, periodical, or magazine published for distribution to the general public, or through a radio or television broadcast: *Provided*, That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public, or of a paid radio or television advertisement;

(3) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion;

(4) practices or activities regulated by the Federal Election Campaign Act of 1971; or

(5) a communication on any subject directly affecting any organization to a Member of the Senate or of the House of Representatives, or to an individual on the personal staff of such Member, if such organization's principal place of business is located in the State, or in the congressional district within the State, represented by such Member, so long as that organization (A) acts on its own initiative and not at the suggestion, request, or direction of any other person, and (B) the costs incurred are not paid by any other person.

REGISTRATION

SEC. 4. (a) Each organization shall register with the Comptroller General not later than fifteen days after engaging in activities described in section **3(a)**.

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization and a general description of the methods by which such organization arrives at its position with respect to any issue, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the members of an organization;

(2) an identification of any person retained under section 3(a)(1) and of any employee described in section 3(a)(2);

(3) the financial terms and conditions (including any contingent fee arrangement) of any agreement or arrangement for the retention of any person under section 3(a)(1);

(4) a general description of the subject matter of each category of issues which the organization intends to influence through the services of any person described in section 3(a)(1) and of any employee described in section 3(a)(2); and

(5) a general description of the subject matter of each category of issues which the organization intends to influence through any solicitation described in section 3(a)(3) which is intended to reach or could reasonably be expected to reach, in identical or similar form, five hundred or more persons or twenty-five or more officers or directors of such organization.

(d) If, at any time, the information contained in a registration filed under subsection (a) by an organization is not completely accurate and up to date, the organization shall file with the Comptroller General, within fifteen days after the change has occurred, such amendment or amendments to the registration as may be necessary to make the information contained in the registration completely accurate and up to date, including notification of termination of such activities.

RECORDS

SEC. 5. (a) Each organization and each person retained by such organization shall maintain such records for each filing period as may be necessary to enable such organization to file the registrations and reports required to be filed under this Act. Such records shall be maintained in accordance with regulations prescribed by the Comptroller General. Any officer, director, employee, or retained person of any organization shall provide to such organization such information as may be necessary to enable such organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retained person shall be deemed to have complied with this subsection.

(b) The records required by subsection (a) shall be preserved for a period of not less than five years after the close of the filing period to which such records relate.

REPORTS

SEC. 6. (a) Each organization shall not later than thirty days after the last day of each filing period, file a report with the Comptroller General concerning any activities described in section 3(a) which are engaged in by such organization during such period. Each such report shall be in such form as the Comptroller General shall prescribe by regulation.

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization filing such report;

(2) the total expenditures which such organization made with respect to activities described in section 3(a) during such period, including an itemized listing of each expenditure in excess of $25 made to or for the benefit of any Federal officer or employee and an identification of such officer or employee, but not including any contribution to a candidate as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e));

(3) a disclosure of those expenditures for any reception, dinner, or other similar event paid for, in whole or in part, by the reporting organization for Federal officers or employees regardless of the number of persons invited or in attendance, where the total cost of the event exceeds $500;

(4) an identification of any person retained by the organization filing such report under section 3(a)(1) and of any employee described in section 3(a)(2) and the expenditures made pursuant to such retention or employment;

(5) a description of the twenty-five issues concerning which the organization filing such report engaged in activities described in section 3(a) and upon which the organization spent the greatest proportion of its efforts;

(6) a description of solicitations made or paid for by such organization, and the subject matter with which such solicitations were concerned, where such solicitations reached or could be reasonably expected to reach, in identical or similar form, five hundred or more persons or twenty-five or more officers or directors or one hundred or more employees, of such organization, except that this paragraph may be satisfied with respect to a written solicitation, at the discretion of the reporting organization, by filing a copy of such solicitation;

(7) disclosure of each organizational relationship of the organization with a Federal officer or employee whom such organization has sought to influence during the filing period involved; and

(8) an identification of any chief executive officer or any principal operating officer of the organization who, on all or part of twelve or more calendar days in the filing period, engages in activities described in section 3(a)(1) on behalf of the organization, and a description of each issue with respect to which such activities were engaged in; and

in the case of any such officer who engaged in such activities with respect to more than ten issues, the officer shall describe only those ten issues which the officer estimates accounted for the greatest proportion of time devoted to such activities.

(c) If an organization which is required to register under this Act directs an organization which is not required to register to engage in a solicitation relating to an issue with respect to which such organization (which is required to be registered) is engaging in any activity described in section 3(a), or reimburses such an organization (which is not required to register) for expenses incurred in such a solicitation, then such organization (which is required to be registered) must report such solicitation as if it were made by such organization (which is required to be registered).

(d) If any item of expenditure is attributable in part to activities described in section 3(a) and in part to other purposes, such item shall be reported in conformity with regulations prescribed by the Comptroller General by a reasonably accurate allocation which sets forth that portion of the item respecting activities described in section 3(a) and the basis on which the allocation is made.

JOINT REGISTRATION AND JOINT FILING OF REPORTS

SEC. 7. Where organizations are related to each other in any manner or where an organization is a subpart of another organization, then, upon the request of such organizations and for purposes of convenience to them, the Comptroller General may, under regulations prescribed by him, permit the joint registration under section 3 of such organizations. Any organizations which jointly register under section 3 must jointly file reports under section 6.

POWERS OF COMPTROLLER GENERAL

SEC. 8. (a) The Comptroller General, in carrying out the provisions of this Act, is authorized—

(1) to informally request or to require by subpena any individual or organization to submit in writing such reports, records, correspondence, and answers to questions as the Comptroller General may consider necessary to carry out the provisions of this Act, within such reasonable period of time and under oath or such other conditions as the Comptroller General may require;

(2) to administer oaths or affirmations;

(3) to require by subpena the attendance and testimony of witnesses and the production of documentary evidence;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Comptroller General who has the power to administer oaths and to compel testimony and the production of evidence in any such proceeding or investigation in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(6) to petition any United States district court having jurisdiction for an order to enforce subpenas issued pursuant to paragraphs (1), (3), and (4) of this subsection.

(b) No individual or organization shall be civilly liable in any private suit brought by any other person for disclosing information at the request of the Comptroller General under this Act.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 9. (a) It shall be the duty of the Comptroller General—

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including (A) a cross-indexing system which, for any person identified in any registration or report filed under this Act, discloses each organization identifying such person in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such person each identification of such person in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy; but no information contained in any such registration or report shall be sold or utilized by any individual or organization for the purpose of soliciting contributions or business;

(3) to preserve the originals or accurate reproductions of such registrations and reports for a period of not less than five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such period in a manner wihch clearly presents the extent and nature of the activities described in section 3(a) which are engaged in during such period;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each quarterly filing period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(6) to conduct investigations with respect to any registration or report filed under this Act, with respect to alleged failures to file any registration or report required under this Act, and with respect to alleged violations of any provision of this Act; and

(7) to prescribe such procedural rules and regulations, and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner.

(b) For purposes of this Act, the duties of the Comptroller General described in subsections (a)(6) and (a)(7) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code.

ENFORCEMENT

SEC. 10. (a) If the Comptroller General has reason to believe that any individual or organization has violated any provision of this Act, the Comptroller General shall notify such individual or organization of such apparent violation, unless the Comptroller General determines that such notice would interfere with effective enforcement of this Act, and shall make such investigation of such apparent violation as the Comptroller General considers appropriate. Any such investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the individual or organization involved.

(b) If the Comptroller General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any acts or practices which constitute a civil violation of this Act, he shall endeavor to correct such violation—

(1) by informal methods of conference or conciliation; or

(2) if such methods fail, by referring such apparent violation to the Attorney General.

(c) Upon a referral by the Comptroller General pursuant to subsection (b)(2), the Attorney General may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate relief in the United States district court for the district in which such individual or organization is found, resides, or transacts business. The Attorney General shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding the apparent violation involved.

(d) The Comptroller General shall refer apparent criminal violations of this Act to the Attorney General. In any case in which the Comptroller General refers such an apparent violation to the Attorney General, the Attorney General shall act upon such referral in as expeditious a manner as possible, and shall transmit a report to the Comptroller General describing any action by the Attorney General regarding such apparent violation.

(e) The reports required by subsections (c) and (d) shall be transmitted not later than sixty days after the date the Comptroller General refers the apparent violation involved, and at the close of every ninety-day period thereafter until there is final disposition of such apparent violation.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 11. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

CONGRESSIONAL DISAPPROVAL REGULATIONS

SEC. 12. (a) Upon proposing to place any regulation in effect under section 4, 5, or 6, the Comptroller shall transmit notice of such regulation to the Congress. The Comptroller General may place such regulation in effect as proposed at any time after the expiration of ninety calendar days of continuous session after the date on which such notice is transmitted to the Congress unless, before the expiration of such ninety days, either House of the Congress adopts a resolution disapproving such regulation.

(b) For purposes of this section—

(1) continuity of session of the Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety calendar days referred to in subsection (a).

SANCTIONS

SEC. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than $5,000 for each such violation.

(b) Any individual or organization who knowingly and willfully violates section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, or who, in any statement required to be filed, furnished or maintained pursuant to this Act, knowingly and willfully makes any false statement of a material fact, omits any material fact required to be disclosed, or omits any material fact necessary to make statements made not misleading, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, for each such violation.

(c) Any individual or organization knowingly and willfully failing to provide or falsifying all or part of any records required to be furnished to an employing or retaining organization in violation of section 5(a) shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

(d) Any individual or organization selling or utilizing information contained in any registration or report in violation of section 9(a)(2) of this Act shall be subject to a civil penalty of not more than $10,000.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 14. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

SEPARABILITY

SEC. 15. If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 17. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the first day of the first calendar half year which begins more than one hundred and eighty days after enactment of this Act.

(b) The provisions of this Act requiring the issuance of regulations to implement this Act shall become effective upon enactment.

H.R. 12112

By Mr. DOWNEY of New York:

(Amendment to amendment by Mr. Teague.)

On page 27908 of the Congressional Record of August 26, 1976 strike that part of the second sentence of subsection 19(b)(1) up to the colon in said sentence and insert therein the following: "The amount of obligations authorized for guarantees or guarantee commitments under this section shall not exceed $800,000,000 each in fiscal years 1977 and 1978, and such obligations shall not be purchased by the Federal Financing Bank pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281, *et seq.*), unless such purchase is authorized by Act of Congress enacted after the date of enactment of this section:".

On page 27911 of the Congressional Record of August 26, 1976, strike "June 30, 1976," in subsection (k)(9)(B) and insert "September 1, 1977".

By Mr. FUQUA:

On page 58 (which is part of the Science and Technology Committee amendment) strike subsection (r), lines 10 through 13, and redesignate the following subsections accordingly.

On page 99 (which is part of the Banking, Currency and Housing Committee amendment) strike subsection (r), lines 11 through 14, and redesignate the following subsections accordingly.

On page 124 (which is part of the Interstate and Foreign Commerce Committee amendment) strike subsection (r)(1), lines 11 through 13, and redesignate the following subsections accordingly.

On page 124 (which is part of the Interstate and Foreign Commerce Committee amendment) strike subection (r)(2), lines 14 through 31, and redesignate the following subsections accordingly.

By Mr. HARKIN:

(Amendment to the amendment offered by the Interstate and Foreign Commerce Committee to section I of the amendment, in the nature of a substitute offered by Mr. Teague)

1 On page 112, line 19, strike "initiated by the Governor".

By Mr. HUGHES:

(Amendment to the amendment by Mr. Teague in the nature of a substitute, as it appears at page 27908 of the Congressional Record of August 26, 1976.)

Strike the period and quotation mark at the end of section 1 and add at the end thereof the following new subsection:

"(aa)(1) No full-time officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section.

"(2) Any person who violates this subsection shall be assessed a civil penalty of the amount of compensation received by such person in the course of, or as a result of, such violation.".

By Mrs. SCHROEDER:

(Amendment to amendment by Mr. Teague.)

On page 27908 of the Congressional Record of August 26, 1976, in subsections 19 (a) (1) and (2) and (b)(1)(A) strike "oil shale," and after the words "domestic resources," insert "(other than oil shale)".

On page 27908 of said Record in subsections 19(b)(1)(A) strike the first proviso.

On page 27909 of said Record in subsection 19(b) strike all of paragraphs (5) (A) and (B) and insert therein the following:

"(5) Nothing in this section shall be construed to authorize financial assistance for facilities of any kind for the conversion of oil shale to synthetic fuels."

That part of section (b) of the substitute amendment by Mr. Teague to H.R. 12112 (which was printed in the August 26, 1976, Congressional Record at pages 27908 through 27913) which is designated as Section 19(t) is amended to read as follows:

"(t) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water and health and safety laws and regulations or to obtain Federal and State permits, licenses, and certificates: *Provided,* That the Administrator shall not issue any guarantee or commitment to guarantee or enter into an agreement under subsection (b) of this section unless the Administrator, in consultation with the appropriate Governor or Governors where such facility is located, is satisfied that the demonstration or modular facility will be constructed and operated in compliance with such laws and regulations and that all such permits, licenses, and certificates have been or will be obtained in a timely fashion."

On page 27912 of the Congressional Record of August 26, 1976, strike the word "applicable" in subsection 19(t).

On page 27912 of the Congressional Record of August 26, 1976, strike the period at the end of subsection 19(t) and insert a colon and the following proviso: "*Provided,* That the Administrator shall not issue any guarantee or commitment to guarantee or enter into an agreement under subsection (b) of this section unless the Administrator, in consultation with the appropriate Governor or Governors where such facility is located, is satisfied that the demonstration or modular facility will be constructed and operated in compliance with such laws and regulations and that all such permits, licenses, and certificates have been or will be obtained in a timely fashion."

By Mr. WIRTH:

(Amendment to Amendment by Mr. Teague).

On page 27908 of the Congressional Record of August 26, 1976, strike the first proviso in the first sentence of subsection (b)(1).

On page 27908 of the Congressional Record of August 26, 1976, strike the word "further" in the second proviso in the first sentence of subsection (b)(1).

On page 27909 of the Congressional Record of August 26, 1976, strike all of subsection (b)(5) and insert in lieu thereof the following:

"(5)(A) The Administrator shall not enter into any guarantee or commitment to guarantee with respect to any obligation for any facility for the demonstration of conversion of oil shale into synthetic fuels unless such facility is a modular facility, the production of which is not less than 6,000 and not more than 10,000 barrels per day. No such modular facility may receive both loan guarantees under this section and any direct or indirect financial assistance under any other section of this Act.

"(B) The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), and (y) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels,

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act, in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section."

On page 27912 of the Congressional Record of August 26, 1976, after the period at the end of the final sentence in subsection (y), insert " ". ".

On pages 27912 and 27913 of the Congressional Record of August 26, 1976, strike subsection (z).

H.R. 12808

By Mrs. HECKLER of Massachusetts:

Page 7, line 17, strike the figure "70" and insert in lieu thereof the figure "60".

S. 22

By Mr. YATRON:

(Amendments to Chapter 1, 5, and 8 of the August 6, 1976 Committee Print of S. 22 as follows:)

Page 35, line 9, insert a new paragraph as follows:

(v)) Where the community of the cable system is not, in whole or in part, within the local service area of three independent stations and one noncommercial educational station, the royalty fee imposed under paragraph (1) above shall include payment for a sufficient number of additional independent stations or a noncommercial educational station to provide the above complement of station signals to such cable system.

Page 43, strike lines 14 through the word "authorizations" in line 24 and substitute the following: The "local service area of a primary transmitter" in the case of a television broadcast station, for the purposes of this title, comprises the area in which the primary transmitter can be or is received by the direct interception of a free space radio wave emission by such broadcast television station, provided such television station antenna is located within 120 miles from the community of the cable system.

Page 114, line 22, strike all of clause (ii) subsection (d).

Page 141, line 18, strike all of subparagraph (A) on page 141 and page 142, lines 1 through 20, and reletter subparagraph (B) as (A) and subparagraph (D) on page 144 as (B).

Page 144, line 4, strike all of subparagraph (C).

EXTENSIONS OF REMARKS

CALIFORNIA ENERGY COMMISSION SUPPORTS LOAN GUARANTEES FOR NEW ENERGY TECHNOLOGIES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. TEAGUE. Mr. Speaker, I wish to call to the attention of all of my colleagues a recent resolution by the California Resources Conservation and Development Commission. This resolution calls on all members of the California delegation to support the bill reported by the Science and Technology Committee, H.R. 12112, a bill to provide loan guarantees for new energy technologies.

I wish to congratulate the California commission on this action. It is a very responsible step and one which squarely addresses many of California's energy problems and places them in the perspective of what is possible.

Today, California, with 9.8 percent of the Nation's population, uses 8.3 percent of the Nation's energy. Nearly all of this energy is supplied by oil and natural gas with 60 percent of the gas and 45 percent of the oil supplied from outside the State.

According to a study of February 6, 1976, conducted by the Lawrence Livermore Laboratories, California's oil and gas production is insufficient to meet present and future State needs. Oil and natural gas production in California and the Nation will irrevocably decline during this century, requiring the Nation to change its energy base to other resources.

In its recommendations, that report said that coal and oil shale are the only U.S. resources that can meet the needs for fossil fuels into the next century because they can be converted into synthetic oil and gas.

In light of these facts and its responsibilities, the California Energy Commission passed the following resolution:

STATE OF CALIFORNIA STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION RESOLUTION

Whereas, the Legislature mandated in Public Resources Code Section 25400 that, "The Commission shall encourage the balanced use of all sources of energy to meet the State's needs and shall seek to avoid possible undesirable consequences of reliance on a single source of energy."; and,

Whereas, the Energy Resources Conservation and Development Commission held hearings on the potential impact of declining natural gas supplies on public health and safety in Southern California and heard substantial testimony on the adverse effects on air quality of switching from natural gas to other fossil fuels; and,

Whereas, such effects on air quality in already critical air basins would endanger public health and safety; and,

Whereas, substitution of oil for natural gas would perpetuate and further increase reliance on insecure supplies of foreign oil and associated burdens on the nation's balance of payments; and,

Whereas, availability of synthetic fuels would mitigate the need for increased reliance on fuel oil and dependence on foreign sources of energy; and,

Whereas, a federal loan guarantee program would remove important barriers to development of synthetic gas and other alternative energy sources; and,

Whereas, Congressional Bill H.R. 12112 would provide such guarantees for demonstration facilities: (a) for conversion of domestic coal, oil shale, biomass and other domestic resources into synthetic fuels; (b) for production of energy from renewable and geothermal sources, and (c) for energy efficient industrial equipment and facilities;

Therefore be it resolved: That the State Energy Resources Conservation and Development Commission urge the California Congressional Delegation to support H.R. 12112 as reported by the house committee on Science and Technology.

BRITAIN'S SNAKE-OIL OVERDOSE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DERWINSKI. Mr. Speaker, the economic ailments of Great Britain are in large part caused by consistent overspending by government and overregulation of its economy. These same problems are growing in the United States as a result of actions by this Congress and previous Congresses in ignoring fiscal responsibility and passing laws which add to the overregulation of individuals and businesses. The Chicago Daily News, in an editorial, "Britain's Snake-Oil Overdose" on September 11–12 discusses Great Britain's economic problems.

As we enter the closing days of the session with much politically motivated legislation pending, I hope the Members will ponder this message:

BRITAIN'S SNAKE-OIL OVERDOSE

Two things in Britain that work well are its backyard gardens and the financial houses that have prospered since the mercantile era. That country's socialist-minded government is now after the banks and insurance companies, which might give the gardeners cause to start worrying early. The trendsetters in Britain's governing party will propose nationalizing the financial houses at the party's convention later this month.

Banks and insurance companies are major sources of cash for businesses that want to build new plants and buy new hardware. Such investment precedes economic growth. But in Britain the growth rate is lagging far behind rival nations, and the Labor Party says "a major part of the explanation lies in our poor investment record." No argument there. Britain's factories are old, their equipment ancient. That puts English-produced goods at a distinct disadvantage when competing against goods produced by more efficient, modern equipment.

"All our experience of managing the mixed economy," says the Labor Party, "demonstrates that there is no substitute for (government) ownership when it comes to engineering a radical change in attitudes to investment priorities."

No argument there either. When it comes to thoroughly fouling a whole economy, the British government can do it like nobody's business. Government ownership of coal, steel and shipbuilding, plus heavy investment in oil and other industries, has produced such a "radical change in attitudes" that most Britons—and British financial institutions—know it doesn't pay to invest in British businesses.

The solution, as the Labor Party perceives things, is to do the investing for its citizens. After all, if a liberal dose of economic snake oil has failed to cure the malaise of the British economy, an even stiffer dose must be called for.

CONGRESSMAN JOHN W. WYDLER REPORTS VOTING RECORD FOR THE 94TH CONGRESS TO THE FABULOUS FIFTH CONGRESSIONAL DISTRICT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. WYDLER. Mr. Speaker, I am proud of my voting record and wish to make it available to every one of the people I represent in the "fabulous Fifth Congressional District." This is part of my continuing effort to communicate with all the people who live in my district. To achieve this close communication, during the past 14 years of my service in Congress I have sent "Fabulous Fifth" reports to the people of the district. These are mailed many times each year. I have also sent special reports, as well as an annual questionnaire seeking the opinion of those I represent here in the Nation's Capital.

Two years ago, I sent my voting record to the people in my district and received a warm response and an indication of great interest. I am therefore spreading on the CONGRESSIONAL RECORD and making available to those I represent the votes that have been cast by me in the last 2 years. There have been over 1,100 votes recorded to date during the current Congress. Unfortunately, this record cannot be complete because of the fact that the second session is still continuing.

I am also proud to state that my attendance record on rollcall votes is over 90 percent, a record I have maintained steadily throughout the 14 years of my congressional service.

I do not expect that everyone will agree with me on every vote I have cast. I try to make my votes count by taking into careful account all the letters, questionnaire results, and information I receive from the people in my district. I am trying to do my level best to represent their interests here in the Congress.

I would, of course, be very pleased to hear from any of my constituents in the "fabulous Fifth Congressional District" regarding this voting record or any question pertaining thereto.

The voting record follows:

MR. WYDLER'S VOTING RECORD—94TH CONG., 1ST SESS., 1975 (JANUARY THROUGH DEC. 18, 1975)

Bill and description	Wydler's response	Yea	Nay
H. Res. 5—Adoption fo the Rules of the House (ordering the previous question).	Nay	247	172
H. Res. 5—Adoption of the Rules of the House (on agreeing to the resolution).	Nay	259	150
H.R. 1589—To amend the Food Stamp Act of 1964	Yea	374	38
H.R. 1767—Prohibiting imposition of tariffs, fees, and quotas on oil imports.	Nay	309	114
H.R. 2634—Increase the debt limit until June 30, 1975	Yea	248	170
H.R. 2051—Regional Rail Reorganization Act Amendment	Yea	270	137
H. Res. 138—To establish a Select Committee on Intelligence (on agreeing to the amendment).	Yea	141	265
H. Res. 138—To establish a Select Committee on Intelligence (on agreeing to the resolution).	Nay	286	120
H.J. Res. 210—Supplemental appropriations for fiscal year 1975 (on agreeing to the amendment).	Nay	170	236
H.J. Res. 210—Supplemental appropriations for fiscal year 1975 (on passage).	Yea	273	134
H.J. Res. 219—Making further appropriations for fiscal year 1975	Yea	308	75
H.R. 3260—To rescind certain budget authority recissions	Yea	389	3
H. Res. 259—Resolution providing for consideration of H.R. 2166, Tax Reduction Act of 1975.	Nay	242	162
H.R. 2166—Tax Reduction Act of 1975 (amendment to retain the depletion allowance indefinitely for regulated natural gas.)	Nay	157	254
H.R. 2166—Tax Reduction Act of 1975	Yea	317	97
H. Con. Res. 133—To lower interest rates	Yea	367	55
H.R. 1767—Prohibiting imposition of tariffs, fees and quotas on oil imports (refer the veto message to Ways and Means Committee).	Yea	364	57
H.R. 4481—Emergency Employment Appropriation Act (recommit with instructions for amending).	Yea	109	315
H.R. 4481—Emergency Employment Appropriation Act	Yea	313	113
H.R. 4592—Foreign Aid Appropriations Act	Yea	212	201
H.R. 25—Surface Mining Control and Reclamation Act of 1975	Yea	333	86
H. Res. 310—Resolution providing for the consideration of H.R. 4296. A bill to adjust target prices, loan and purchase levels on certain 1975 crops and provide price support for milk at 85 percent of parity with quarterly adjustments.	Nay	369	35
H. Res. 314—Appointment of 6 Members to the Federal Election Commission.	Yea	366	43
H.R. 4296—A bill to adjust target prices, loan and purchase levels on certain 1975 crops and provide price support for milk at 85 percent of parity with quarterly adjustments.	Nay	259	162
H. Res. 267—Funds for the Judiciary Committee (recommit with instructions).	Yea	169	206
H.R. 4485—Emergency Middle Income Housing Act	Yea	259	106
H.R. 4592—Foreign Aid Appropriations Act (conference report)	Yea	193	185
H. Con. Res. 133—Lower interest rates (conference report)	Yea	335	46
H.R. 3260—Budget authority rescissions (conference report)	Yea	346	59
H.R. 2166—Tax Reduction Act (recommit the conference report)	Yea	197	214
H.R. 2166—Tax Reduction Act (conference report)	Yea	287	125
H.R. 3922—Older Americans Act amendments	Yea	377	19
H.J. Res. 148—Proclamation of "National Day of Remembrance of Man's Inhumanity to Man," Apr. 24, 1975.	Yea	332	55
H.R. 4700—NASA Authorization Act	Yea	318	72
H.R. 4723—National Science Foundation Authorization Act	Yea	390	22
S. 1310—Special food service program for children	Yea	396	2
H.R. 37—Standard Reference Data Authorization Act	Yea	386	2
H.R. 4005—Developmental disabilities amendments	Yea	398	5
H.R. 5398—Emergency Homeowners' Relief Act	Yea	321	21
H.J. Res. 375—Additional appropriations for Veterans' Administration	Yea	386	0
H.R. 5899—2d supplemental appropriations fiscal year 1975	Yea	380	14
H. Res. 46—House of Representatives, code of official conduct	Yea	360	37
H.R. 46—Youth Camp Safety Act	Yea	197	174
H.R. 5541—Small Business Emergency Relief Act	Yea	402	0
H.R. 4296—Agriculture target prices loan and purchase levels (conference report).	Nay	248	166
H.R. 4222—School Lunch and Child Nutrition Act	Yea	335	59
H.R. 6096—Vietnam Humanitarian Assistance and Evacuation Act (conference report).	Yea	162	246
H. Con. Res. 218—1st concurrent resolution on the budget	Nay	200	196
H.R. 5158—Authorizes ex gratia payment to Bikini Atoll, Marshall Islands	Yea	346	10
S. 326—Pacific Islands Trust Territory	Yea	334	27
H.R. 4510—Foreign Service buildings fund transfer	Yea	389	2
H.R. 5810—Foreign Service Buildings Authorization Act	Yea	392	9
S. 1236—Expand Emergency Livestock Credit	Nay	363	42
S. Con. Res. 23—Printing of "The Congressional Program of Economic Recovery and Energy Sufficiency".	Nay	262	138
H.R. 25—Surface Mining Act (conference report)	Yea	293	115
H.R. 4114—Public Health Service Act	Yea	399	4
H.R. 4115—Nurse Training Act of 1975	Yea	384	17
H.R. 6209—Variable interest rate mortgages	Nay	291	104
H.R. 6573—Budget authority rescissions	Yea	379	1
H.R. 3902—Funds for fiscal year 1976 for maritime programs	Yea	328	59
H.R. 4296—Agriculture target prices (Presidential veto)	Nay	245	182
H.R. 5357—Authorize appropriation for tourist travel promotion	Nay	287	132
H.R. 6755—Indochina Migration and Refugee Assistance Act	Yea	381	31
H.R. 4481—Emergency Employment Appropriation Act (conference report).	Nay	293	109
H.R. 4073—Appalachian Regional Development Act amendments	Nay	309	88
H.R. 12—Increase in size of the Executive Protective Service	Nay	276	123
H.R. 5710—Marine Protection, Research and Sanctuaries Act authorization.	Nay	377	17
H.R. 5247—Local Public Works Capital Development and Investment Act	Nay	312	86
H.R. 6674—Authorize appropriation for DOD	Yea	332	64
H.R. 5727—Parole Reorganization Act	Nay	260	137
H.R. 6900—Emergency Compensation and Special Unemployment Assistance Extension Act.	Yea	381	8 5
H.R. 5899—2d supplemental appropriation (conference report)	Yea	317	34
H.R. 4481—Emergency Employment Appropriation (Presidential veto)	Nay	277	14
H.R. 6219—Voting Rights Act Amendments	Yea	341	70
H.R. 4485—Emergency Middle Income Housing Act, 1975 (conference report).	Nay	253	155
H.R. 4035—Presidential decisions removing existing controls regarding petroleum products.	Nay	230	151
S. 818—Authorize U.N. peacekeeping forces in Middle East	Yea	350	21
H.R. 25—Surface Mining Act (Presidential veto)	Nay	278	143
H.J. Res. 492—Summer jobs appropriations	Yea	408	8
H.R. 1607—Lottery prohibitions	Yea	250	125
H.R. 7222—Increase Government contribution to 50 percent for Federal employees group life insurance.	Nay	245	145
H.R. 7767—Veterans Disability Compensation and Survivor Benefits Act	Yea	389	0
H.R. 7545—Temporary debt limit increase	Yea	175	225
H.J. Res. 499—Continuing Appropriation, 1975	Yea	400	16
H.R. 6860—Energy Conservation and Conversion Act	Nay	291	130
H.R. 3474—ERDA authorization	Yea	317	9
H.R. 6799—Federal Rules of Criminal Procedure Amendments Act	Yea	372	1
H.R. 6676—Credit Uses Reporting Act	Nay	183	205
H.R. 5358—Railroad Safety Authorization Act	Yea	387	0
H.R. 7500—State Department Authorization Act	Yea	336	46
H.R. 6334—Peace Corps Authorization	Yea	303	70
H.R. 8070—HUD Appropriations	Yea	391	25
H.R. 8030—Increase debt limit	Yea	223	196
H.R. 8122—Appropriation for public works for water and power development and energy research.	Nay	377	28
H.R. 4485—Emergency Middle Income Housing Act (Presidential veto)	Nay	268	157
H.R. 8069—Labor, HEW appropriations	Yea	368	39
H.R. 8121—State, Justice, Commerce, the Judiciary appropriations	Yea	395	4
H.R. 5608—To increase and extend through close of 1983 the acquisition of wetlands.	Yea	400	0
H.R. 49—Develop energy, petroleum reserves on public lands	Yea	391	20
S. 555—Consolidated Farm and Rural Development Act amendments	Yea	403	0
H.R. 7567—Arms Control and Disarmament Act	Yea	382	28
H.R. 5884—Council on Economic Policy Authorizations	Yea	345	58
H.R. 8365—Appropriation for Transportation Department	Nay	392	13
H.R. 7108—Environmental Protection Agency R. & D. authorization	Yea	383	15
H.R. 5546—Health Manpower Act of 1975	Nay	296	58
H.R. 8561—Agriculture appropriation	Nay	353	38
H.R. 5901—Education appropriation (conference report)	Yea	370	42
H.R. 8597—Treasury—Postal Service—General Government appropriation	Yea	393	18
H.R. 4035—Removing existing controls on petroleum products (conference report).	Nay	239	172
H.R. 6971—Consumer Goods Pricing Act of 1975	Yea	380	11
H.R. 8240—Veterans, Physicians and Dentists Comparability Pay Act	Yea	382	3
H.R. 8598—Child support program	Yea	357	37
S.J. Res. 23—Restore posthumously citizenship to Gen. Robert E. Lee	Yea	407	10
H.R. 6950—Appropriation for legislative branch (conference report)	Yea	374	45
H.R. 8773—Interior Department appropriation	Yea	417	8
H.R. 8714—Railroad Unemployment Insurance Act amendment	Yea	420	0
S. 846—Suspend prohibition against military assistance to Turkey	Nay	206	223
S. 555—Consolidated Farm and Rural Development Act (conference report).	Yea	398	0
H.R. 5900—Common situs picketing	Nay	230	178
S. Con. Res. 35—Socialist Republic of Romania. Bilateral commercial agreement with U.S.	Yea	355	41
H. Res. 640—Providing for agreeing to Senate amendments to H.R. 6219 (voting rights amendment).	Yea	346	56
S. Con. Res. 54—Adjournment of Congress	Yea	293	109
H.R. 5210—Military construction authorization	Yea	369	47
S. 66—Nurse Training and Health Services Act (Presidential veto)	Yea	384	43
H.R. 3130—To amend National Environmental Policy Act of 1969 (Conference report).	Yea	279	143
H.R. 7217—Education for All Handicapped Children Act	Yea	375	44
H.R. 5272—Noise Control Act authorization	Yea	390	35
H.R. 6674—Military procurement authorization (conference report)	Yea	348	60
H.R. 8597—Treasury appropriations	Yea	337	79
H. Res. 653—Postal Service executives' pay	Nay	214	213
S. 1849—Emergency Petroleum Allocation Extension Act to Mar. 1, 1976	Yea	303	117
H.R. 8731—Wage and Price Stability Act amendments	Yea	235	188
H.R. 4723—NSF Authorization Act (conference report)	Yea	321	79
H.R. 3884—National Emergencies Act	Yea	388	5
H.R. 8650—Energy Conservation in Buildings Act of 1975	Yea	258	130
H.R. 6673—American Folklife Preservation Act	Nay	272	117
H.R. 5901—Education Appropriations (Presidential veto)	Yea	379	41
S. 331—To redesignate Nov. 11 as Veterans Day	Yea	410	6
H.R. 9005—Foreign aid authorization	Yea	244	155
H. Res. 335—Establishing a select committee to study the problem of U.S. servicemen MIA in SE Asia.	Yea	394	3
H.R. 8150—Drug Abuse Office and Treatment Act amendments	Nay	382	11
H.R. 4222—School Lunch and Child Nutrition Act amendments (conference report).	Yea	380	7
H.R. 5620—Relating to the construction of mint buildings	Nay	236	111
H.R. 7014—Energy Conservation and Oil Policy Act	Nay	255	148
H.R. 1287—To amend the U.N. Participation Act of 1945 to halt the importation of Rhodesian chrome.	Nay	187	209
H.R. 9524—To extend the Emergency Petroleum Allocation Act of 1973	Yea	342	16
H.R. 9861—Defense appropriations	Yea	353	61
H.R. 9861—Defense appropriations (on a point of order against an amendment to strike funding for the F-18).	Yea	173	243
H.R. 7656—Beef research and information	Nay	229	189
S. 2230—Aid to Turkey	Nay	237	176
H.R. 9070—HUD appropriations (conference report)	Yea	334	41
H.R. 9576—Veterans educational benefits	Yea	298	106
H.R. 4222—School Lunch and Child Nutrition Act amendments. (Presidential veto).	Yea	397	18
H.R. 9500—To stabilize labor-management relations in the construction industry.	Yea	302	95
H.R. 10029—Military construction appropriations	Yea	353	51
H.J. Res. 683—American technicians in Sinai (to limit the duration of the assignment of technicians to 2 years).	Nay	122	287
H.J. Res. 683—American technicians in Sinai	Yea	341	69
H.R. 7706—To suspend the duty on natural graphite until June 30, 1978 (conference report).	Yea	383	10
H.R. 8841—Federal Insecticide, Fungicide, and Rodenticide Act	Yea	329	80
H.R. 200—Marine Fisheries Conservation Act	Yea	208	101
H.R. 9924—National Women's Conference	Nay	233	157
H.R. 7988—Heart, lung, blood research programs under the National Heart and Lung Institute.	Yea	375	5
H.R. 8617—Federal employees' political activities	Nay	288	119
H.R. 7222—To increase the contribution by the Federal Government to the costs of employees' group life insurance.	Nay	172	225
H. Res. 780—Election Commission regulations	Nay	257	148
H.R. 6844—Consumer Product Safety Act	Yea	313	86
H.R. 8672—Railroad improvement and employment assistance	Nay	261	129
H.R. 6227—Federal employees' representation	Nay	217	163
H.R. 8835—Truth in Lending Act	Yea	339	41

Bill and description	Wydler's response	Yea	Nay
S. 2195—National Productivity and Quality of Working Life Act of 1975	Yea	208	188
H.R. 10049—To increase the temporary debt limitation until Mar. 31, 1976.	Yea	178	217
H.R .8603—Postal reorganization. (An amendment to provide for annual authorization of public service appropriation to limit the next temporary rate increase to 20 percent.)	Nay	196	207
H.R. 8603—Postal Reorganization. (An amendment to repeal private express statutes and thereby allow private carriers to compete with the Postal Service in carrying first-class mail.)	Yea	68	319
H.R. 8603—Postal Reorganization. (A motion to recommit the bill to the committee with instructions to hold hearings on it.)	Yea	129	250
H.R. 8603—Postal reorganization (passage)	Yea	267	113
H.R. 7575—Consumer Protection Agency. (An amendment that exempts businesses with less than $1,000,000 in net assets or with fewer than 25 employees from the provisions empowering the ACP.)	Nay	401	6
H.R. 7575—Consumer Protection. (An amendment to delete language prohibiting the ACP from intervening in labor disputes or agreements.)	Yea	175	233
H.R. 7575—Consumer protection (passage)	Nay	208	199
H.R. 10230—Science and Technology Policy Act	Yea	362	28
H.R. 9019—Health maintenance organization amendments	Yea	309	45
H.R. 1753—State legislative apportionment	Yea	356	2
H.R. 6346—Rural Development Act authorization	Nay	323	11
H. Res. 955—Relating to the United Nations and Zionism	Yea	384	0
H. Con. Res. 466—2d concurrent resolution on the budget. (A substitute amendment to the agreed to amendment to lower new budget authority by $12,500,000,000.)	Yea	159	257
H. Con. Res. 466—2d concurrent resolution on the budget (passage)	Nay	225	191
H. Res. 861—Rule providing for consideration of H.R. 10585 (debt limit increase).	Nay	257	149
H.R. 10585—To increase the temporary debt limitation until Mar. 15, 1976.	Yea	213	198
H.R. 10647—Supplemental appropriations for the fiscal year ending June 30, 1976.	Yea	334	47
H.R. 5512—To suspend the National Wildlife Refuge System Administration Act of 1966.	Yea	341	10
H.R. 10031—To amend the Defense Production Act of 1950	Yea	318	1
S. 2327—Real Estate Settlement Procedures Act amendments	Yea	379	21
H.R. 10561—Fair Credit Billing Act amendments	Yea	398	3
H.R. 9691—To make certain disability retirement determinations by the Secretaries of the military departments.	Yea	398	4
S. 2114—Special pay for nuclear qualified officers	Yea	372	34
H.R. 8089—Per diem expenses of members of the uniformed services traveling on official business.	Yea	351	55
H.R. 9573—Pay for accrued service leave	Yea	399	3
H.R. 10229—Military construction appropriation (conference report)	Yea	349	59
S. 1517—Foreign Relations Authorization Act (conference report)	Yea	358	52
S. 6—Education of handicapped children. (To suspend the rules and agree to the conference report.)	Yea	404	7
H.R. 8841—Federal Insecticide, Fungicide, and Rodenticide Act. (Suspension of the Rules to agree to the conference report.)	Yea	334	76
H.R. 30—To establish Hells Canyon Recreation Area	Yea	342	53
H.R. 8578—To increase the Federal share of financial assistance to community action agencies.	Yea	244	172
H.R. 3922—Older Americans Act amendments of 1975	Yea	404	6
H. Res. 864—Expressing the sense of the House regarding the Soviet annexation of the Baltic area.	Yea	407	0
H.R. 10481—Intergovernmental Emergency Assistance Act (the New York City bill).	Yea	213	203
S. 1537—To amend the Defense Production Act of 1950 (conference report).	Yea	404	4
H.R. 10612—Tax Reform Act	Yea	257	168
H.R. 8069—Labor/HEW approriations bill (conference report)	Yea	321	91
H.R. 8631—Amendments to the Price-Anderson provisions of the Atomic Energy Act. (An amendment to eliminate the $560,000,000 limitation of liability and require the industry to carry full protection for losses.)	Yea	176	217
H.R. 8631—Amendments to the Price-Anderson provisions of the Atomic Energy Act (passage).	Yea	329	61
H.R. 9721—Inter-American Development Bank	Yea	249	166
H.R. 9005—Foreign aid authorization (conference report)	Yea	265	150
H.R. 10624—To revise ch. IX of the Bankruptcy Act	Yea	373	29
H.R. 9924—National Women's Conference	Yea	252	162
S. 95—Overseas Citizens Voting Rights Act of 1975	Yea	374	43
H.R .5900—Common situs picketing (conference report)	Nay	229	189
H.R .8773—Interior and related agencies appropriations	Yea	407	5
H. Con. Res. 466—2d concurrent resolution on the budget (conference report).	Nay	189	187
H.R. 8122—Public works appropriations (conference report.)	Nay	339	31
H.R. 9861—Defense appropriations (conference report)	Yea	314	57
H.R. 10647—Supplemental appropriations (New York City included)	Yea	275	130
H.R. 8529—Rice Production Act of 1975	Yea	311	104
H.R. 5559—Revenue adjustment (conference report)	Nay	256	160
S.J. Res. 121—Milk price supports	Nay	307	111
H.R. 6461—Public broadcasting (conference report)	Yea	313	72
H.R. 5559—Revenue adjustment bill (Presidential veto)	Nay	265	157
H.R. 8235—Federal aid to highways	Yea	410	7
H.R. 9771—Airport and Airways Development Act of 1970	Yea	368	16
H.R. 9968—Irrigation facilities, revenue adjustment	Yea	372	10
S. 2718—Railroad Revitalization and Regulatory Reform Act of 1975 (conference report.)	Nay	205	150

PART II

MR. WYDLER'S VOTING RECORD—94TH CONG., 2D SESS. 1976 (JAN. 19 TO SEPT. 16, 1976)

H.R. 7897—Indochina refugee children assistance	Yea	311	75
H.R. 10537—To authorize and modify various Federal reclamation projects and programs.	Nay	284	110
S. 1847 (in lieu of H.R. 3710)—To authorize the 101st Airborne Division Association to erect a memorial in the District of Columbia.	Yea	400	0
H.R. 6721—To amend the Federal Leasing Act of 1920 (coal leasing)	Nay	344	51
H.R. 10807—Odometer tampering	Yea	369	18
H.R. 8069—Labor/HEW appropriations bill (Presidential veto)	Nay	310	113
H.R. 9861—Department of Defense appropriations bill (Senate amendment to the House amendment re Angola).	Nay	323	99
S. 2718—Railroad Revitalization and Regulatory Reform Act of 1976 (conference report).	Yea	353	62
H.R. 5247—Public works capital development and investment program. A motion to strike title II (countercyclical).	Yea	133	268
H.R. 5247—Public works capital development and investment program (conference report).	Yea	321	80
H.R. 9464—Natural Gas Emergency Act	Yea	205	194
H.R. 11453—Emergency employment projects amendments	Nay	239	154
H.R. 11233—Library Services and Construction Act	Yea	378	7
H.R . 11645—Library of Congress Madison Memorial Bldg., to provide additional authorization for.	Nay	342	48
H.J. Res. 801—Supplemental railroad appropriations for fiscal year 1976	Yea	298	95
H.R. 5247—Public works capital development and investment program (Presidential veto)	Yea	319	98
H. Res. 1042—CIA Report, investigating committee	Yea	269	115
H.J. Res. 811—Making supplemental appropriations for the legislative branch for fiscal year ending June 30, 1976.	Nay	336	52
H.R. 11893—Temporary debt limit	Yea	212	189
H.R. 10760—Black Lung Benefits Reform Act	Nay	210	183
H.R. 11963—International Security Assistance Act of 1976. (An amendment to prohibit any military or security supporting assistance to Chile.)	Nay	139	266
H.R. 11963—International Security Assistance Act of 1976. (An amendment to strike the section providing for trade with Vietnam.)	Yea	185	223
H.R. 11963—International Security Assistance Act of 1976 (passage)	Yea	240	169
H.R. 12203—Foreign aid appropriations. (An amendment to strike out $85,500,000 for the U.N. Development Program.)	Yea	179	208
H.R. 12203—Foreign aid appropriations. (An amendment that forbids any funds for planning or carrying out any assassination or financing any political activity or to otherwise influence any foreign election during peace time.)	Nay	250	129
H.R .12203—Foreign aid appropriations. (An amendment to reduce military aid to Israel by $200,000,000.)	Nay	32	342
H.R. 12203—Foreign aid appropriations. (An amendment that prohibits funds to any country which is delinquent 1 yr or more in the repayment of debts owed to the United States.)	Nay	229	139
H.R. 12203—Foreign aid appropriations (passage)	Yea	214	152
H.R. 6516—Consumer credit protection (Equal Credit Opportunity Act) amendments of 1976—(conference report).	Yea	384	3
H.R. 11124—Medical device amendments	Yea	362	32
H.R. 3981—Coastal zone management	Yea	370	14
H.R. 11481—Maritime authorization. (An amendment to increase the subsistence allowance to students in State maritime academies from $600 to $1,200.).	Yea	53	292
H.R. 11481—Maritime authorization (passage)	Yea	315	42
H.R. 12188—To amend the Community Services Act of 1974	Yea	346	2
H.R. 7743—To amend the Pennsylvania Avenue Development Corporation Act of 1972.	Nay	149	201
H.R. 12455—To extend from Apr. 1 to Oct. 1, 1976, the maximum period during which recipients of services on Sept. 30, 1975, under titles IV-A and VI of the Social Security Act may continue to receive services under title XX of that act without individual determinations (means test).	Yea	383	0
H. Con. Res. 580—Magna Carta delegation. (An amendment to limit expenses to $10,000 and the number of the delegation to 5 members.	Yea	94	306
H. Con. Res. 580—Magna Carta delegation (passage)	Yea	294	98
H.R. 8532—Antitrust amendments (parens patriae). (A motion to recommit the bill.)	Yea	150	223
H.R. 12226—To amend further the Peace Corps Act	Yea	274	75
H.R. 12046—Guatemala relief	Yea	357	3
H.R. 12453—NASA authorization	Yea	330	35
H.R. 9803—Child day care services (conference report)	Yea	316	72
H.J. Res. 280—Representation for the District of Columbia	Nay	229	181
H.R. 10799—Economic Opportunity Act amendments	Nay	256	143
H.R. 11598—USIA authorization	Yea	327	81
H.J. Res. 801—Making supplemental railroad appropriations for fiscal year 1976 (conference report).	Yea	288	105
H.R. 12566—National Science Foundation authorization for fiscal year 1977. (An amendment to exclude curriculum development from being authorized to direct funds for upgrading the knowledge of teachers (MACOS).)	Aye	160	232
H.R. 12566—National Science Foundation authorization for fiscal year 1977.	Yea	358	33
H. Res. 1060—Investigative funds for the Committee on Standards of Official Conduct.	Yea	278	87
H.R. 8617—Federal employees political activities (conference report)	Nay	241	164
H.R. 200—Marine fisheries conservation (conference report)	Yea	346	52
H.R. 49—Naval Petroleum Reserves Production Act of 1975 (conference report).	Yea	390	5
H.R. 12406—Federal Election Commission. (An amendment to add language providing for public financing for Members of the House and Senate in general election only beginning in 1978.)	Nay	121	274
H.R. 12406—Federal Election Commission (passage)	Nay	241	155
H.R. 11722—To prohibit deprivation of employment or other benefit for political contribution.	Yea	358	3
H.J. Res. 670—To designate Apr. 13, 1976, as "Thomas Jefferson Day"	Yea	363	2
S.J. Res. 35—To designate the week beginning Mar. 13, 1977, as National Employ the Older Worker Week.	Yea	365	2
S.J. Res. 101—Designating the week in November which includes Thanksgiving Day as "National Family Week."	Yea	362	5
H.R. 11670—Coast Guard authorization	Yea	358	9

MR. WYDLER'S VOTING RECORD—94TH CONG., 2D SESS. (JAN. 19 TO SEPT. 16, 1976)—Continued

Bill and description	Wydler's response	Yea	Nay
H.J. Res. 890—Making emergency supplemental appropriations for preventive health services (swine influenza) and also title IX of the Older Americans Act (employment).	Yea	354	12
S. 3108—ERDA supplemental authorizations	Yea	311	66
S. 1941—Animal Welfare Act amendment (conference report)	Yea	332	31
H.R. 10686—Census records	Yea	376	4
H.R. 11337—Mid-decade census	Yea	248	140
H.R. 12438—Military procurement authorization. (An amendment to defer the expenditure of funds for 3 B-1 manned bombers until Congress approved the expenditure.)	Nay	177	210
H.R. 12438—Military procurement authorization. (An amendment to reduce the overseas troop commitment by 47,000.)	Nay	88	275
H.R. 12438—Military procurement authorization (passage)	Yea	298	52
H.R. 12132—Medical and dental manpower bill for the District of Columbia.	Yea	264	90
H.R. 7988—Heart, lung and blood research (conference report)	Yea	360	0
H.R. 13172—2d supplemental appropriations. (An amendment that appropriates an additional $60,000,000 for education for the handicapped.)	Yea	318	68
H.R. 13172—2d supplemental appropriations (passage)	Yea	352	35
S. 644—Consumer Product Safety Commission Improvement Act (conference report).	Yea	177	192
H.R. 12838—National Foundation on the Arts and Humanities Act	Yea	279	59
S. 2662—International Security Assistance and Arms Export Control Act of 1976 (conference report).	Yea	215	185
H. Con Res. 611—1st concurrent resolution on the budget (An amendment that increases the budget for veterans benefits and services by $1,200,000.)	Yea	397	6
H.R. 8617—Federal employees political activities (Presidential veto)	Nay	243	160
H. Con Res. 611—1st concurrent resolution on the budget (an amendment to reduce defense spending by $2,500,000.)	Nay	85	317
H. Con. Res. 611—1st concurrent resolution on the budget (passage)	Nay	221	155
S. 3065—Federal Election Commission (Conference report)	Nay	291	81
H.R. 7656—Beef Research and Information Act (Conference report)	Nay	200	170
H.R. 5523—Fish and wildlife programs	Yea	360	0
H.R. 11505—Marine Protection, Research and Sanctuaries Act of 1972	Yea	362	0
H.R. 13035—National Sea Grant College and Program Act	Yea	326	34
H.R. 11920—To terminate the use of exchange funds as a means of escaping income taxes or realized capital gains.	Yea	348	14
H.R. 12168—To amend the Natural Gas Pipeline Safety Act of 1968	Yea	277	88
H.R. 12216—Domestic Volunteer Service Act	Yea	367	31
H.R. 12704—EPA authorization	Yea	381	16
H.R. 12234—Land and water conservation fund	Yea	392	3
H.R. 12834—Military construction authorization	Yea	299	14
H.R. 10451—Nuclear Career Incentive Act	Yea	322	27
H.R. 12387—Nuclear Regulatory Commission authorization	Yea	356	5
H.R. 12934—Federal Reserve Reform Act	Yea	279	85
H.R. 12851—Higher Education Act amendments	Yea	388	7
S. 2498—Small Business Act amendments (conference report)	Yea	392	0
H.R. 12972—Public works capital development and investment program	Yea	339	57
H.R. 13308—War risk insurance	Yea	392	1
H.R. 13724—Veterans direct and mobile home loans	Yea	386	2
H.R. 13172—2d supplemental appropriations (conference report)	Yea	286	100
H.R. 9721—Inter-American Development Bank, (conference report)	Yea	257	120
H.R. 13350—ERDA authorization	Yea	316	26
H.R. 12453—NASA authorization (conference report)	Yea	255	20
H.R. 12677—To extend for 3 fiscal years the programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.	Yea	271	3
H.R. 12679—Public Health Service Act	Yea	268	8
H.R. 10138—Youth Adult Conservation Corps	Yea	291	70
H.R. 12945—Housing and Community Development bill (an amendment that exempts social security cost-of-living increases in computing the rent paid by senior citizens in public housing).	Yea	260	99
H.R. 12945—Housing and Community Development bill (passage)	Yea	332	27
H.R. 12169—Energy authorization	Yea	270	94
H.R. 13680—International Security Assistance and Arms Export Control Act of 1976.	Yea	255	140
H.R. 13655—Automotive Transport Research and Development Act of 1976.	Yea	296	86
H.R. 9560—Water Pollution Control Act	Yea	339	5
H.R. 13567—To amend the Small Business Act and the Small Business Investment Act of 1958.	Yea	341	2
H.R. 5621—To establish the Valley Forge National Historical Park in Pennsylvania.	Yea	364	4
H.R. 2177—Exemption from duty of certain components and material installed in aircraft previously exported from the United States.	Yea	359	4
H.R. 13500—To provide requirements to determine charitable organizations excessive lobbying activities.	Yea	355	14
H.R. 9549—Old Ninety-six Star Fort National Battlefield (provide establishment of).	Yea	359	7
H.R. 13367—Revenue sharing (an amendment that strikes out provisions for supplemental fiscal assistance; modernization of State and local governments; and the provision applying to State and local government construction projects to Davis-Bacon prevailing wage rates.)	Yea	233	172
H.R. 13367—Revenue sharing (an amendment to earmark 20 percent of the revenue sharing funds for local property tax relief.)	Nay	64	340
H.R. 13367—Revenue sharing (an amendment that would provide when localities are identical in terms of their power and duties, they be treated identically under the formula).	Nay	158	229
H.R. 13367—Revenue sharing (an amendment that would make the revenue sharing program subject to annual appropriations after fiscal year 1978).	Nay	150	244
H.R. 13367—Revenue sharing (an amendment to extend Davis-Bacon prevailing wage provisions to all construction projects using any revenue sharing funds).	Yea	174	218
H.R. 13367—Revenue sharing (passage)	Yea	361	35
H.R. 14261—Treasury/Postal Service appropriation (an amendment to prohibit funds appropriated to the IRS to be used for its informer program).	Nay	160	187
H.R. 14261—Treasury/Postal Service appropriation (an amendment to prohibit funds appropriated to the IRS to be used for compiling and making public records of contracts made by a Member of Congress with respect to matters pending before the IRS).	Yea	67	291
H.R. 14261—Treasury/Postal Service appropriation (passage)	Yea	261	99
H.R. 14114—Temporary debt limit increase	Yea	184	177
H.R. 14236—Public works appropriations	Nay	378	20
H.R. 14237—Agriculture appropriations (an amendment to limit the peanut subsidy program for the 1977 crop to $59,000,000)	Yea	175	229
H.R. 14237—Agriculture appropriation (an amendment to reduce the food stamp program by $794,400,000).	Yea	184	222
H.R. 14237—Agriculture appropriation (passage)	Nay	377	26
H.R. 12384—Military construction authorization (conference report)	Yea	375	20
H.R. 14235—Military construction appropriation (an amendment that proposed a 5-percent cut in new obligational authority and not more than 10 percent in nonobligated authority).	Yea	151	232
H.R. 14235—Military construction appropriation (passage)	Yea	361	22
H.R. 14262—Defense appropriations (an amendment that adds $10,100,000 for the Army operating budget and cuts $17,500,000 from the Navy operating budget for the consolidation of helicopter pilot training programs).	Yea	288	110
H.R. 14262—Defense appropriations (an amendment that eliminates the 1 percent add-on to retired pay by striking $111,700,000 for retired military personnel)	Yea	331	64
H.R. 14262—Defense appropriations (an amendment to cut $350,000,000 for long leadtime procurement of "Nimitz"class attack carrier).	Nay	179	213
H.R. 13179—State Department authorization (an amendment to strike out "protect the vital interest" and insert perpetuate the sovereignty and control").	Nay	157	197
H.R. 13179—State Department authorization (an amendment that specifies that any new Panama Canal treaty or agreement negotiated must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal).	Yea	229	130
H.R. 13179—State Department authorization (an amendment that forbids funds for any renegotiation of the Panama Canal Treaty).	Yea	339	12
H.R. 13179—State Department authorization (passage)	Yea	327	22
H.R. 13589—USIA authorization	Yea	313	25
H. Res. 1216—Expressing the sense of the House regarding the closing of post offices.	Yea	399	14
H.R. 8125—Cigar excise tax	Yea	269	138
H.R. 13955—Bretton Woods Agreements Act amendments	Nay	264	147
H.R. 10051—Tax treatment of certain distributions of life insurance companies.	Yea	339	66
S. 2853—Food stamp vendors	Yea	407	0
H.R. 12254—To suspend the duties on certain bicycle parts	Nay	370	41
H.R. 14394—Federal Energy Administration Act	Nay	194	216
H.R. 13680—International Security Assistance and Arms Export Control Act of 1976 (conference report).	Yea	258	146
H.R. 14233—HUD/Independent agencies appropriations	Yea	369	18
S. 3201—Public Works Employment Act of 1976 (conference report)	Yea	328	83
H.R. 14231—Interior appropriations (an amendment that increases the appropriations for ERDA's energy conservation programs by $67,500,000).	Nay	170	157
H.R. 14231—Interior appropriations	Yea	295	1
H.R. 14234—Transportation appropriations (an amendment to prohibit commercial flights of SST aircraft to U.S. airports).	Yea	126	269
H.R. 14234—Transportation appropriations (an amendment to prohibit commercial flights of SST to J.F.K. unless such flights can comply with established noise standards).	Yea	170	228
H.R. 14234—Transportation appropriations (passage)	Yea	376	21
H.R. 12203—Foreign assistance appropriations (conference report)	Yea	231	158
H.R. 14235—Public works appropriations (conference report)	Yea	381	15
S. 3184—To amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (conference report).	Yea	386	6
H.R. 14237—Agriculture appropriations (conference report)	Nay	372	27
H.R. 14260—Foreign Aid appropriations (an amendment to reduce the appropriation for the International Development Association from $320,000,000 to $192,000,000).	Yea	165	229
H.R. 14260—Foreign Aid appropriations	Yea	238	169
S. 3168—Foreign relations authorization (conference report)	Yea	358	45
S. 268—Eagles Nest Wilderness	Yea	388	13
S. 3625—Federal Energy Administration Act extension	Yea	283	122
S. 3295—Housing authorization (conference report)	Yea	341	68
H.R. 14261—Treasury/Postal Service/Executive Office appropriations (conference report).	Yea	318	82
H.R. 9771—Airport and airway development (conference report)	Nay	309	103
H.R. 12438—DOD authorization (conference report)	Yea	339	66
S. 586—Coastal Zone Management Act amendments of 1976 (conference report).	Yea	391	14
H.R. 14239—State/Justice/Judiciary appropriations (conference report)	Yea	360	42
H. Res. 1368—Commission on Administrative Review	Nay	220	190
H. Res. 1372—To limit the authority of the Committee on House Administration to fix and adjust allowances.	Yea	311	92
H.R. 14235—Military construction appropriation (conference report)	Yea	357	26
H.R. 12455—Social Security Act (title XX).	Yea	281	71
H.R. 12939—Coast Guard personnel	Yea	375	1
H.R. 13720—To amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors.	Yea	201	175
H.R. 14311—Establishing certain accounting standards relating to the Panama Canal Company.	Yea	271	132
S. 2447—To make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected.	Nay	310	84
H.R. 10210—Unemployment compensation (an amendment to strike language which requires coverage to State and local government employees).	Nay	186	212
H.R. 10210—Unemployment compensation (an amendment that reduces the taxable wage base to $6,000).	Yea	283	114
H.R. 10210—Unemployment compensation (passage)	Yea	237	157
H.R. 6218—Outer Continental Shelf Lands Act amendment (an amendment to leave the authority for issuing safety regulations applying to the construction and operation of offshore oil rigs to the Coast Guard.)	Yea	193	193
H.R. 6218—Outer Continental Shelf Lands Act amendment (passage)	Yea	247	140
S. 3201—Public works capital development and investment program (Presidential veto).	Yea	310	96
H.R. 12384—Military Construction (Presidential veto)	Nay	270	131
H.R. 13777—Federal Land Policy and Management Act of 1976 (an amendment to give Congress review and possible veto of only those land withdrawals exceeding 25,000 acres).	Yea	191	193

Bill and description	Wydler's response	Yea	Nay
H.R. 13777—Federal Land Policy and Management Act of 1976 (passage).	Yea	169	155
H.R. 7743—Pennsylvania Avenue development	Nay	225	149
H.R. 11743—Agricultural research	Nay	373	7
H.R. 10133—USDA executive adjustments (an amendment to raise the position of Administrator, Food and Nutrition Service from GS–18 to Executive Level V).	Nay	171	207
H.R. 10133—USDA executive adjustments	Nay	356	18
H.R. 13955—Bretton Woods Agreement	Yea	289	121
H.R. 14233—HUD/Independent Agencies appropriations (conference report).	Yea	390	15
H.R. 13720—Debt collection practices	Yea	239	162
H.R. 13555—Mine Safety and Health Act	Yea	309	86
H.R. 11656—Government in the Sunshine Act	Yea	390	5
H. Res. 1350—Narcotics Abuse (establishing a Select Committee on)	Yea	361	10
H.R. 2525—Indian health care	Yea	310	9
H.R. 3605—To reduce the beer tax for small brewers	Yea	236	144
H.R. 14469—To permit agreements providing special pay to physicians and dentists in the VA to be entered into until Oct. 1, 1977.	Yea	379	1
H.R. 13676—To establish in ERDA an Energy Extension Service	Yea	323	55
H.R. 14234—Transportation appropriation (conference report)	Yea	384	9
H.R. 11909—Indian claims authorization	Yea	347	13
H.R. 12944—Insecticide, Fungicide and Rodenticide Act	Yea	347	33
H.R. 8401—Nuclear Fuel Assurance Act of 1976 (an amendment to strike those sections which provide for ERDA-private industry uranium enrichment contracts).	Nay	192	193
H.R. 8401—Nuclear Fuel Assurance Act	Yea	222	168
S. 391—Coal Leasing Amendments Act (Presidential veto)	Nay	316	65
H.R. 9719—Payment in lieu of taxes (to provide certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality).	Nay	270	125
H.R. 11552—Voter registration (an amendment to postpone the implementation date until Jan. 3, 1977).	Yea	172	199
H.R. 11552—Postcard registration (an amendment that eliminates the House from the approval mechanism for administrators).	Nay	223	148
H.R. 11552—Postcard registration (an amendment to authorize $35,000,000 for States to implement their own methods to improve voter registration systems).	Yea	77	313
H.R. 11552—Postcard registration (passage)	Nay	239	147
H.R. 12169—Federal Energy Administration (conference report)	Yea	293	88
H.R. 13372—Wild and scenic rivers bill	Yea	311	73
H.R. 14232—Labor/HEW appropriations (conference report)	Yea	279	100
H.R. 14232—Labor/HEW appropriations (Hyde amendment on abortion receding from disagreement with the Senate).	Nay	150	223
S. 3735—Swine flu	Yea	250	83
H.R. 14971—With respect to the borrowing authority of the District of Columbia.	Nay	221	122
H.R. 12261—Criminal laws (an amendment which includes the police department within the restrictions of the bill).	Yea	262	92
H.R. 14032—Toxic substances (an amendment which provides for a congressional veto of rules promulgated pursuant to the bill).	Yea	210	157
H.R. 14032—Toxic substances (passage)	Yea	319	45
H.R. 7929—Relating to the deduction of interest on certain corporate indebtedness to acquire stock or assets of another corporation.	Yea	356	38
H.R. 8046—Taxes on a parsonage	Yea	359	32
H.R. 10155—Respecting the exempt function income of a political organization.	Nay	134	261
H.R. 10902—Relating to the income tax treatment of securities which are acquired for business reasons and not as an investment.	Yea	356	39
H.R. 13828—To strengthen the authority of the Administrator for General Services with respect to records management by Federal agencies.	Yea	394	0
H.R. 14451—Federal surplus property	Yea	340	51
H.J. Res. 519—To provide for the appointment of George Washington to the grade of General of the Armies.	Yea	275	107
H.R. 14070—Guaranteed student loans (an amendment to restore the $15,000 income base for eligibility in the loan program).	Nay	30	357
H.R. 14070– Guaranteed student loans (an amendment that permits lending institutions to require endorsement for their loans if their default rate under the program exceeds 10 percent).	Yea	161	231
H.R. 14070– Guaranteed student loans (passage)	Yea	391	3
H.R. 15194—Public works appropriations (an amendment that strikes language prohibiting funds being made available for projects where 10 percent of the personnel to be employed on the project have resided in the project area for less than 30 days).	Nay	239	149
H.R. 15194—Public works appropriations (a motion to recommit the bill).	Nay	108	276
H.R. 15194—Public works appropriations (passage)	Yea	311	72
H.R. 14578—Federal reclamation projects authorization	Nay	346	35
H.R. 8911—SSI amendments (an amendment to increase SSI benefits by not more than $600 a year for recipients whose housing costs exceed ⅓ of their income).	Yea	114	269
H.R. 8911—SSI amendments (an amendment that provides full Federal funding for State services to disabled children under age 6 covered by SSI).	Nay	219	146
H.R. 8911—SSI amendments (an amendment that requires States to pass-through Federal cost-of-living increases for supplemental security income to the beneficiaries).	Yea	317	52
H.R. 8911—SSI amendments (passage)	Yea	374	3
H.R. 9398—Economic Development Administration	Yea	372	5
H.R. 14844—Estate and gift taxes (on certain amendments)	Yea	218	157
H.R. 8410—Livestock producers (conference report)	Nay	352	3
S. 5—Government in the sunshine (conference eport)	Yea	384	0
H.R. 13655—Automotive Transport Research and Development Act of 1976 (conference report).	Yea	344	39
S. 217—Relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico (conference report).	Yea	387	0
H.R. 14238—Legislative appropriations (an amendment that prohibits funds to be used for Members' salary increase).	Yea	325	75
H.R. 14238—Legislative appropriations (a motion to recommit the bill)	Yea	195	199
H.R. 14886—Presidential transition	Yea	325	58
H.R. 13636—Law enforcement assistance (an amendment that strikes language prohibiting funds for improving State and local correctional institutions, unless such improvements comply with administration and State standards.	Yea	211	159
H.R. 13636—Law enforcement assistance (an amendment to require States to establish a bill of rights for law enforcement officers).	Yea	148	213
H.R. 13636—Law enforcement assistance (passage)	Yea	324	8
H.R. 10498—Clean Air Act (Waxman-Maguire amendment)	Aye	107	247
H.R. 10498—Clean Air Act (an amendment providing for the establishment of a National Commission on Air Quality).	Nay	301	57
H.R. 10498—Clean Air Act (an amendment to strike the section on significant deterioration and replace it with a 1 yr. scientific study of nondeterioration).	Nay	156	199
H. Res. 1526—Requesting a Rules Committee investigation of certain alleged violations of House Floor privileges.	Yea	371	1
H. Con. Res. 728—2d budget resolution (an amendment to produce a balanced budget for FY 1977 by reducing budget outlays to $362,500,000,000).	Nay	111	264
H. Con. Res. 728—2d budget resolution (passage)	Nay	227	151
H.R. 14262—Defense appropriations (conference report)	Yea	323	45
H.R. 10498—Clean Air Act (an amendment to substitute language for the section on new construction in air quality control regions exceeding national ambient air quality standards).	Nay	103	198
H.R. 10498—Clean Air Act (an amendment to strike language providing for local government involvement in the designation process).	Yea	32	263
H.R. 10498—Clean Air Act (an amendment to restore the 100 percent level for primary air quality standards set by the Administrator in more heavily polluted areas).	Nay	100	183
H.R. 10498—Clean Air Act (passage)	Yea	324	68
H.R. 366—Public Officers' Benefits Act (conference report)	Yea	290	71
H.R. 8800—Electric vehicle bill (Presidential veto)	Nay	307	101
H.R. 10612—Tax reform (conference report)	Yea	383	26
H.R. 8532—Parens Patriae	Yea	242	138
S. Con. Res. 139—2d budget resolution	Nay	234	143
H.R. 14232—Labor/HEW appropriations bill (Hyde amendment to prohibit the use of Federal funds for abortions).	Yea	256	114

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on September 20, 1776, the Continental Congress replaced the existing articles of war with a new set of articles which codified army regulations concerning prisoners, military justice and discipline. Based almost totally on the British articles of war, they were a further step in the development of a professional Continental army in time of war.

John Adams, who had been instructed by Congress to prepare the new articles of war, years later felt that the approved articles had, "laid the foundation of discipline which, in time, brought our troops to a capacity of contending with British veterans, and a rivalry with the best troops of France."

HE IS ONE WAY, THEN THE OTHER

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. RHODES. Mr. Speaker, over the weekend I made a great discovery which I feel is my bounden duty to share with the Members of the House. A great many people have expressed puzzlement over the vacillation of Presidential aspirant Jimmy Carter on the issues. He is one way, then the other.

The reason turns out to be quite simple. Early in the campaign, someone told Mr. Carter there was a great undecided vote. He's been appealing to it—by emulation. There's no one more undecided than Governor Carter.

I also note that Mr. Carter has dragged out the old soak the rich ploy that has become the most shop-worn of the Democrats' stock in trade.

I would like to remind the American people that the taxes they pay are Democrat taxes. For 40 years Congress has been run by the Democrats, and the tax laws have been enacted by the Democrats. The onerous burden on America's middle class, which Mr. Carter now pledges to lighten, was placed on their backs by Democrats in Congress. The loopholes, the complexities and everything else that makes our tax system a fearsome, omniverous arm of Government, was put in by Democrats.

Mr. Carter cannot disown his party's

tax record. You Democrats are not going to leave your tax baby on the Republican doorstep. You have made your record as the high-tax, big-spending, inflatable party—and you have to stand in it.

HELMUT SONNENFELDT CHANGES THE RECORD ON RUSSIAN INSTITUTE ATTENDANCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. McDONALD. Mr. Speaker, Helmut Sonnenfeldt has long been a controversial figure in our Government. This controversy deepened rather than diminished when Henry Kissinger joined the Nixon administration. After teaming up with Dr. Kissinger in the Nixon administration, Sonnenfeldt was instrumental in making several disastrous economic agreements with the Soviet Union, the most infamous being the "wheat steal." Then there was his enunciation of the now infamous "Sonnenfeldt doctrine" wherein Eastern Europe should forever be captive of the Soviet Union. Far from looking after the U.S. interests, Mr. Sonnenfeldt has proved he cannot even keep his own watch when negotiating with Brezhnev. Amongst scholars on Eastern Europe and the Soviet Union, Mr. Sonnenfeldt's academic credentials are, to say the least, considered to be rather pedestrian, but what is plain for all to see is that his major qualification is his long friendship with Henry Kissinger. Make no mistake about it, Mr. Sonnenfeldt has friends in high and powerful places who even succeeded in years past in getting his security clearances completely restored after he was called in for questioning for revealing classified information to a foreign power.

Given the aforementioned items, it was with more than casual interest the other day that I learned that during his confirmation hearings before the Senate, when he was proposed as Under Secretary of the Treasury, Mr. Sonnenfeldt made the following claim in his official statement before the Senate Finance Committee: "He has been associated with the Russian Institute at Columbia University as a senior fellow." See page 14 of the hearings held May 15, 1973. Dr. John Nelson Washburn, suspecting this item was not truthful, undertook to contact the Russian Institute at Columbia University and by way of response received the following letters:

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,
New York, N.Y., February 18, 1975.

DR. JOHN NELSON WASHBURN,
1823 Quincy Street, N.W.,
Washington, D.C.

DEAR DR. WASHBURN: Professor Shulman has asked me to respond to your letter of February 5 as he is out of the country. Our records indicate that Helmut Sonnenfeldt has never been affiliated with the Russian Institute.

Sincerely yours,

LINDA DANSER,
Administrative Assistant.

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,
New York, N.Y., November 13, 1975.

DR. JOHN N. WASHBURN,
1823 Quincy Street, N.W.,
Washington, D.C.

DEAR JOHN: Helmut Sonnenfeldt has never held a Russian Institute senior fellowship.

Sincerely,

WILLIAM E. HARKINS,
Director.

It would be interesting to learn if Mr. Sonnenfeldt considers this to be correct or whether he stretched the record a little bit. The cumulative effect of the record of Mr. Sonnenfeldt in any case is bad news for the United States.

FAUNTROY SEEKS TO HAVE FIRE HOUSES REOPENED

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. FAUNTROY. Mr. Speaker, I have today introduced a bill to seek an emergency appropriation to assure that the fire department of the District of Columbia will be able to provide full and complete services to the citizens of this community.

The tragedies which have been so vividly placed in front of us in the past few weeks must not be permitted to occur any more. I call upon the appropriate committee to which this resolution has been referred to take immediate action to protect against the unnecessary loss of life and property.

Whether we like to admit the facts or not, some five persons have died as a result of fire. I do not know whether these persons could all have been saved if additional fire services were readily available. I do know, however, that I do not want to read about additional people dying and the additional loss of property. I certainly do not want to read about firemen who must stand helplessly outside because they are awaiting additional equipment which must come from some distance because the closest station is out of service. It will not be long before some fireman will lose his life seeking to effect a rescue of a person who believes that taxes he or she has paid provided them with adequate fire services.

This Congress has an opportunity to speak out affirmatively in support of adequate fire protection and of its concern for the loss of life and property caused by fire. The United States has one of the highest records of life and property loss of any Western nation. A part of that arises from the fact that we do not place as high a priority on fire protection as I think it deserves.

Thus, while I must admit I have taken a drastic step of directing funds toward a given public service, I do not believe I had any other choice. The lives of our citizens are too valuable to waste while we fiddle around seeking a way to provide adequate fire protection. We have an existing mechanism to provide this protection now, and I think we ought to use it without any further hesitation.

INDIANA GOV. OTIS R. BOWEN SUPPORTS DEAUTHORIZATION OF LAFAYETTE LAKE

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. FITHIAN. Mr. Speaker, in addition to the 10 members of the Indiana congressional delegation which have supported H.R. 13689, the bill to deauthorize the Lafayette Lake project in the Second District of Indiana, Gov. Otis R. Bowen has recently announced his support for deauthorizing this project.

I request that three documents indicating the Governor's opposition to the project and support for deauthorization be reprinted in the CONGRESSIONAL RECORD for the benefit of my colleagues:

[Telegram]

APRIL 23, 1976.

Col. JAMES ELLIS,
District Engineer, Army Corps of Engineers,
Louisville, Ky.:

I recommend that the Army Corps of Engineers not proceed with plans or funding for the Lafayette Lake Project in Indiana. I do not foresee that the Indiana General Assembly will fund the State share of this project because of unrelenting opposition by citizens and legislators of the affected area. In addition cost estimates for the project have increased substantially while the cost benefit ratio has narrowed. The section 221 problem presents another barrier that likely cannot be removed for a number of months. Finally it is my philosophy that the priorities for reservoir construction should place water supply first, flood control second, and recreation third. Since Lafayette Lake does not include provision for water supply it is not a priority.

OTIS R. BOWEN, M.D.,
Governor of Indiana.

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., September 3, 1976.

Hon. FLOYD J. FITHIAN,
U.S. Representative, Longworth House Office Building, Washington, D.C.

DEAR REPRESENTATIVE FITHIAN: In April, I urged the Army Corps of Engineers to take no further action with regard to plans or funding for the Lafayette Lake project, citing several major objections to the proposal. You will recall that I was among one of the first state or federal officials to do so.

Recently, deauthorization bills have been introduced in Congress by several combinations of Indiana Congressional sponsors.

On Tuesday, August 31, I wrote Representative Roberts, who chairs the subcommittee that will consider these bills, of my support for deauthorization of the project. I cited the reasons given in my April letter to the Army and noted that deauthorization was a prerequisite to any meaningful recreational planning and development for the Wildcat Valley.

Kindest personal regards,

OTIS R. BOWEN, M.D.,
Governor.

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., September 1, 1976.

Hon. RAY ROBERTS,
Chairman, Water Resources Subcommittee of House Committee on Public Works and Transportation, Rayburn Building, Washington, D.C.

DEAR REPRESENTATIVE ROBERTS: I write in reference to pending legislation that would deauthorize the Lafayette Lake project of the Army Corps of Engineers in Indiana.

Several months ago, I concluded that a combination of factors argued against further action on this project and so advised the Army Corps of Engineers. In my telegram to the Corps, I stated that I do not foresee that the Indiana General Assembly will fund the state share of this project because of unrelenting opposition by citizens and legislators of the affected area. In addition, cost estimates for the project have escalated substantially, while the cost-benefit ratio has narrowed. It also is the general position of the State Administration that water supply represents the primary justification for reservoir projects. Water supply is not a component of the Lafayette Lake project.

Since that time, support for the project has continued to erode. Local interests in the area that would be affected by Lafayette Lake have undertaken studies of recreational alternatives. Deauthorization legislation at the state level will be pressed in the next session of the Indiana General Assembly in order to clear the way for possible state participation in the determination of recreational alternatives.

Congressional enactment of deauthorization legislation would be an appropriate step at this time. I would urge its enactment.

Kindest personal regards,

Otis R. Bowen, M.D.,
Governor.

EDWARD S. HEKMAN RESIGNS

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. QUIE. Mr. Speaker, all of us, I know, share a strong interest in the way our legislation is administered in the executive branch, and in the caliber of program administration in the agencies downtown.

I would, therefore, call your attention, with regret, to the fact that Edward J. Hekman has tendered his resignation as Administrator of the Food and Nutrition Service in the Department of Agriculture. Friday, September 17, was his last day in that position.

Administrator Hekman has been manager of the Department's food assistance programs during a time when we and the people have been very much interested in such activities of Government.

We in the Committee on Education and Labor are quite familiar with Mr. Hekman's work, because a significant part of his job has been the administration of the child nutrition programs which are so important a part of the responsibility of our committee.

He has done a fine job, and we on the committee regret to see him go. But, as he leaves, I am sure that Administrator Hekman can look with satisfaction on the great good that he has been able to accomplish in his effective administration of the structure of child nutrition programs that our committee and this House have been able to construct.

Over the 7 years of his administration, the school lunch program has been expanded so that lunches are now available to 94 percent of the children in schools. More children have breakfasts available to them. We also have a summer feeding, special milk, child care, and equipment assistance programs.

All of you know how important are the benefits of these activities—because you have consistently given near-unanimous votes of support to our committee's recommendations.

And we appreciate the benefits that have derived to the Nation's children because of the effective program management that Mr. Hekman has provided. He has proved that Government activities can be managed as effectively as those of private business, in which he had earlier enjoyed a distinguished career.

In noting his leaving, I would like to thank him for his fine spirit of cooperation, and to wish him well in his new endeavor.

FARM ESTATE TAXATION REFORM

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BYRON. Mr. Speaker, with the recent passage of the Tax Reform Act of 1976, the Congress has stated its interest in seeing the family farm continue to survive. This is one of the most important achievements of the 94th Congress.

As one of the original sponsors of legislation to provide for alternate valuation of farmland for estate tax purposes, I felt the tax reform bill sent to the President embodied many of the best features of the legislation I introduced. It was for this reason that I supported passage of the tax reform bill.

The estate tax provisions of the tax reform bill provide:

First. That existing exemptions for gifts and estate transfers are changed to a credit applied to taxes. This credit would rise to $47,000 by 1981—equivalent to an exemption of $175,000.

Second. An increase in the size of the estate a person could leave tax-free to a spouse up to $250,000 or half the estate, whichever is greater.

Third. That under certain conditions, farm property or a closely held business in an estate could be valued on the basis of its current use, rather than its potential highest and best use. The special valuation could not reduce the estate by more than $500,000. The tax benefits from such valuation would be recaptured by the Government if the farm or closely held business passed out of the family within 15 years.

Fourth. An increase to 15 years from the generally applicable 10 years for the payment of estate taxes on farms and closely held businesses. The interest rate on the extended period was reduced to 4 percent from the present 7 percent.

These are extremely important changes to existing estate tax law. At the present time, a farm is valued for estate tax purposes at its highest and best use. Under the bill passed by the Congress, the valuation would depend on the land's present use and not its development potential. This legislation will help reduce the pressure on our family farmers to sell their land for development purposes. It will assist those families who have farmed for generations in maintaining their farms and passing them on to their children.

The passage of H.R. 10612 may well be the most important contribution of this Congress to the future of this country. Estate tax reform was badly needed. Protection of the family farm had become a universally applauded goal, and with approval of this bill that goal will be achieved in large measure.

MR. HERBERT TAX, JR., ADDRESSES CONSERVATION DISTRICT

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BERGLAND. Mr. Speaker, last Saturday evening I had the pleasure of addressing the annual meeting of the East Ottertail Soil and Water Conservation District. At that time, I had the good fortune of sharing the platform with one of my younger constituents, Mr. Herbert Tax, Jr., of Richville, Minn. Herbert, discussed conservation farming and conservation energy with wisdom far exceeding his years. I found his insight and creative thinking so extraordinary, I would be remiss if I did not take this opportunity to share this young mans prize winning speech with my colleagues in the House of Representatives:

How Conservation Farming—Conservation of Energy

A few days ago I read an article in "Fate" magazine about the production of "cheap" protein from the sea. The article at best was a case for experimental farming of the sea and at worst a condemnation of the American farmer as an outdated, wasteful person who uses up our precious oil reserves in the production of inefficient animal protein. "The sea is the answer to our world food problems, for in the sea is a plentious supply of inexpensive protein free for the taking."

Well after I cooled down a bit, I decided to check out the claim as to oil's role in the production of proteins. This is what I found. Using my encyclopedias as source material I found that one barrel of oil equals 18 gallons of gasoline, 3 quarts of motor oil and two pounds of grease. Then I added up all our food slips from the last year, and checked how much gas we used to run our farm. This I divided by the number of tillable acres on our farm in production. I found out that we used 48½ barrels of crude oil to operate our farm. That is less than one barrel to each acre.

Now here's the hard part figuring our average crop production of 95 bushels of corn and 180 bales of hay per acre. I found I used 3 barrels of crude oil to provide all the feed required by one 1500 lb. milk cow and her calf. In the year, the cow produced 12,000 lbs, of milk and the calf grew into 1,000 lbs. of beef.

All that milk and meat really doesn't mean much until you convert it into calories and see how long they can power a "man." The answer was astounding. The milk provided enough energy to power this man for 3½ years and the meat provided another one and one month.

Remember that three barrels of crude oil, well it powers a car for 24 hours straight or about 1200 miles, but thanks to the American farmer it can power the average American for over 4 years.

Oil plays an important part in the production of food by running our machinery, true, but it still would be needed to "harvest" the seas. And as a matter of fact, I would rather eat the delicious meal we just had rather than a substitute made of seaweed and bone meal.

By 1980 when they say we are supposed to have just "faded away," I believe that we will not only be a self-sufficient source, but will be a self contained source for the world.

The raw materials are around us right now, and the American farmer is just the person to put it together into food.

Scientists talk of wind powered generators and methane fuels. I sincerely believe that in five years, I will see cows being milked by wind generators. That these same cows will be producing gas for heating and tractors in the form of manure which is transformed by methane generators leaving a dry fertilizer better than the original.

Our farmers won't die out, they will grow and prosper. Conservation has always been the cornerstone of good farming and the conserving of fuel has always been an important part of successful farming.

We are on the threshold of a great adventure in conservation. Five years from now, or only five months, it doesn't matter, we will be equal to the task. So harvest your oceans, but remember, my cows will still feed you, and probably provide you with 20% of your fuel. Think about it. Farming will still be our bread and butter.

THE BALANCE(S) OF POWER: IV (VIII)—STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BRECKINRIDGE. Mr. Speaker, to continue my discussion of the strategic defensive balance in my series on the "Balances(s) of Power," I wish to insert an article written by Patrick J. Friel that explores the U.S. response to the development—and deployment—of an intercontinental ballistic missile—ICBM—delivered thermonuclear weapon by the People's Republic of China or any limited-resource nation, and that outlines those options available to the United States should it need to rely upon the ICBM leg our strategic nuclear Triad of forces. Mr Friel also assesses the deployment of an "area type" ballistic missile defense—BMD—system and the Safeguard system against a small attack, as expressed in an article, "The Merits of a Limited Ballistic Missile Defense," that appeared in the October, 1970, issue of Astronautics and Aeronautics.

Patrick J. Friel was appointed Director of Ballistic Missile Defense—Project Defender—an ARPA in 1966 and the next year Deputy Assistant Secretary of the Army—R. & D.—for Ballistic Missile Defense and the first Director of the Advanced Ballistic Missile Defense Agency. He was president of Sadtler Research Laboratories, Philadelphia, and now is a private consultant.

The article follows:

THE MERITS OF A LIMITED BALLISTIC MISSILE DEFENSE

(By Patrick J. Friel)

How should the U.S. respond to the development of the ICBM-delivered thermonuclear weapon by the Chinese People's Republic (CPR) or any limited-resource nation? I believe that the most reasonable response is the deployment of an "area type" ballistic missile defense (BMD) system. This article discusses an area BMD system. It also covers the possible response of the Soviet Union to the deployment of Safeguard; the value of a limited BMD as an alternate (other than a massive retaliatory strike by our strategic offensive forces) U.S. response to a small accidental attack by the Soviet Union; the role of the Safeguard system in protecting our strategic forces and thus limiting their size; and some technical approaches to arms control.

U.S. Response to the CPR Nuclear Threat: The U.S. has at least three options in responding to the deployment of ballistic missiles by the Chinese People's Republic or, for that matter, any limited-resource nation.

1. A massive-retaliation deterrent (the so-called "assured destruction" policy).

2. Preparations to destroy a potential attacker's missile forces themselves at some level of provocation (the "counter force" policy).

3. A limited ballistic-missile defense.

There is a fourth alternative, i.e., a policy of doing nothing, which may be tantamount to forcing the U.S. into a formal assured-destruction policy.

An assured-destruction policy with respect to the CPR could well involve the destruction of upwards to 200-million people, if we apply the same criteria as we have to the Soviet Union (25% to 30% fatalities)—an incredible holocaust. Even so, it is not clear that the Chinese would be deterred by the existence of such forces, since they have publicly stated that they believe that thermonuclear weapons are "paper tigers." (This, of course, is one reason for admitting the CPR into the United Nations. Presumably, they could learn and hopefully understand the disaster of a thermonuclear exchange.) For credibility, it would be necessary for the President or the Secretary of Defense to announce formally the massive-retaliation policy with respect to the CPR or other nuclear-armed limited-resource action. This would mean that a rich, powerful, Western, and predominantly white nation would threaten to destroy an Eastern poor, non-white nation in the event of a limited thermonuclear attack. Even if such a policy is justified from the U.S. viewpoint, its very existence could heighten the tensions between whites and non-whites in the world.

The second option would be to develop the ability to destroy any missile force developed by the CPR. If this were our only response to the potential Chinese threat, then the U.S. would be put in the position of being the aggressor, even though the target would be "inanimate" missiles. The U.S. attack would have to occur at some unpredictable level of provocation—a very difficult, if not impossible, policy to implement. In fact, this policy might even require a willingness to absorb damage from a few missiles before destroying the remainder of the CPR forces.

The third option, a limited BMD, prevents reliably blackmailing the U.S. into some untenable position with a threat to destroy a few of our cities and some 5-20-million Americans. Its principal disadvantages include the cost—it would consume national resources that could go to other and possibly more pressing problems—and the possibility that it would push another spiral in the arms race with the Soviet Union.

I think that it has been shown quite clearly that it is not technically feasible to build a ballistic-missile defense, within any cost, that would provide adequate protection against a determined attack on our urban centers by a nation with the resources of the USSR. A simple calculation would show that an effective terminal urban defense against even 10,000 missiles (both the Soviet Union and the U.S. now have about 1000 ground-based missiles) would fail if the opponent built only a few hundred more and casualties could still be in excess of 100 million, even assuming a defense effective against sophisticated penetration aids.

Thus, within the state of our technology, an urban defense against a nation with large technical and material resources does not seem to be practical, and therefore, an assured-destruction policy with respect to the Soviet Union is the only reasonable response. (I might add that the limiting technology appears to be the traffic-handling ability of radars, and more basically, the fact that an interceptor missile must be used to destroy the attacking missile. As long as a "flying machine" must be used as a defensive weapon, the defense will always be "saturated" at some attack level. A vast change in our technology—e.g., the introduction of some sort of radiation weapon—would be required to change this fundamental technical fact.)

However, a limited defense system aimed at defending ourselves against a Chinese attack (or an attack by any limited-resource nation) would escalate the cost of developing an effective force on the part of the Chinese to prohibitive values—beyond their resources. In fact, the possession of a limited defense by the Soviets and ourselves would make an entrance into the "thermonuclear club" too expensive for almost all the nations of the world. Thus, the temptation on the part of any nation to invest their resources in the development of thermonuclear weapons would be substantially reduced and the effectiveness of any small missile force alone would be essentially nil.

The fourth possibility, to do nothing, I would repeat, means implementing an assured-destruction policy with respect to the CPR. I think we should realize that many of those who are on principle opposed to any form of ballistic-missile defense are in fact the architects of our present assured-destruction policy with respect to the Soviet Union. It is not certain that the extension of this policy to the Chinese and any other limited-resource nation will be as effective as it has been with respect to the Soviet Union.

Safeguard Against a Small Attack: Thus I see compelling reasons for deploying a limited BMD. The proposed Safeguard program will include, of course, the long-range Spartan missile, designed to make an interception outside the atmoshpere. An important technical variation on the basic Spartan design will also be deployed and will substantially increase its range, by redesign of only its upper stage—a change which has been in development for some time. The greater range will enable one Spartan battery to assist another in the event of a concentrated attack of many tons of missiles on one urban area. Thus, if the Chinese should target all of their small force in one metropolitan area, it should be possible to bring to bear more than one battery in the defense of that area. The improved missile will also have the ability to counter a threat from sea-launched ballistic missiles or a fractional orbital bombardment system (FOBS). The performance characteristics of this modified Spartan will also make it possible to counter some the elementary penetration aids which the Chinese may introduce, such as balloons and chaff. In addition, the Safeguard system will be designed to accommodate any reasonable radar-blackout attack which could be mounted by the potential Chinese forces. The frequency of Safeguard acquisition radar has been chosen to minimize such effects. Moreover, the system will be "* * *" to permit one perimeter radar to assist the other in the initial acquisition and tracking of the threat in a "blackout" attack.

With this limited-area BMD system, the President would not be forced into untenable negotiations with the Chinese or any limited-resource nation with a small number of missiles. Thus, the area-defense part of the proposed Safeguard with the improved Spartan will provide a significant capability against the limited Chinese forces, even if they should employ elementary penetration aids with a small blackout attack or should concentrate their entire force on one section of the country.

I should emphasize that larger forces and technical sophistication would eventually allow the Chinese to penetrate the Safeguard system. If, however, the CPR constructs such a large force—substantially larger than our projections (a few tons of missiles in a few years)—we would have no alternative but to formally turn to massive retaliation through the development of an overwhelming assured-destruction capability with respect to the Chinese mainland. Hopefully, in the interim, the CPR will see the folly of entering into an ever-escalating thermonuclear arms race with the U.S. or, for that matter, the Soviet Union.

Therefore, by creating the area-defense portion of the Safeguard system, we will not be placed in the position of publicly implementing an assured-destruction policy with respect to the Chinese upon the appearance of a few ballistic-missile systems on the mainland of China or, in any hostile limited-resource nation.

PHYSICIAN OF THE YEAR

HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DAVIS. Mr. Speaker, I would like to call to your attention a recent honor bestowed upon a dear friend of mine from North Charleston, S.C. Joseph L. Goodman, M.D., who has been named "Physician of the Year" by the President's Committee on Employment of the Handicapped. Dr. Goodman will receive his award at the American Medical Association's 36th annual Congress on Occupational Health in Rochester. N.Y., on September 21, 1976.

In making the announcement of the award, Mr. Harold Russell, chairman of the President's Committee said:

> Dr. Goodman is a tireless worker in the effort to bring together the disabled job seeker and the company that is looking for an employee." Russell continued, "He is a pioneer in industrial medical programs which work to the advantage of both handicapped people and employers. He is a remarkable humanitarian."

Dr. Goodman is a graduate of the Citadel and the Medical College of South Carolina. He was cited as the outstanding intern of the year at the University of Colorado Medical School.

He specializes in industrial medicine, writes for medical journals, and speaks frequently on the subject of the abilities of handicapped people. He has been honored for his work in industrial medicine and in the employment of disabled people on several occasions. I am proud to have him for a friend.

O. C. CARMICHAEL DEVOTED TO EDUCATION AND QUALITY OF LIFE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BRADEMAS. Mr. Speaker, my home community of South Bend, Ind., lost one of its most distinguished leaders in the recent death of Dr. Oliver C. Carmichael.

Mike Carmichael, as his friends knew him, was a leader in a wide variety of fields—business, politics, philanthropy, and higher education.

I insert at this point in the RECORD an article paying tribute to Dr. Carmichael by John M. Duggan, president, St. Mary's College, Notre Dame, Ind.

The article, which was published in the South Bend Tribune of September 3, 1976, follows:

MICHIANA POINT OF VIEW—O. C. CARMICHAEL DEVOTED TO EDUCATION AND QUALITY OF LIFE

(By John M. Duggan)

Nearly a month has gone by since O. C. Carmichael's death. I still find it hard to believe that he is no longer among us and I suspect I'm not alone in this feeling. His death shocked all segments of our community. Part of the shock stemmed from his age—at 56 he was hardly in his dotage. Part was a result of our own expectations—we expect our leading citizens to keep on leading, somehow to escape the fate of lesser mortals. Perhaps the real depth of shock came from experience of his seemingly inexhaustible vitality. Mike Carmichael lived his life with brio—he was a man impossible to ignore.

I knew Mike for only one year and in a sense it is presumptuous of me to eulogize him. But, he impressed me as one of those rare human beings endowed with an abundance of ability as well as energy. In a world increasingly specialized, he was a "gifted generalist." He understood business; that is evident, and he would have been amazing had he devoted himself entirely to business.

But he also understood business's obligations to a community. He understood service. Most of all, he understood what education means to a community. South Bend and especially its educational institutions are considerably better for his devotion.

Dr. Carmichael's business and civic careers are well known. Less well known perhaps is the fact that during his younger years he was indeed an educator, dean of students at Vanderbilt University and later president of Converse College for four years.

As a former chief administrator of a private, liberal arts college for women, he understood the problems of a new president and went far out of his way to help me when I assumed the presidency of St. Mary's college.

Mike used his considerable talents, influence and power to strengthen the varied educational institutions of this community. A Presbyterian, he devoted time and money to help the University of Notre Dame and St. Mary's College maintain their positions as leaders in Catholic higher education; he served on the board of trustees of both institutions and as general chairman for Notre Dame's highly successful SUMMA campaign which raised more than $50 million for the university.

He was an early supporter of Indiana University at South Bend during its expansion into a four year, degree-granting institution, realizing that a community is immeasurably strengthened by the presence of a strong university providing quality education for all its citizens.

Carmichael's appreciation of and devotion to higher education did not stop with his immediate surroundings. In the mid-60's he formed the Citizens National Committee for Higher Education to focus attention on the unique problems of this sector. He chaired the Steering Committee on Higher Education in North Central Indiana and was the first chairman of the Indiana Commission on Higher Education. He was a trustee of the Independent College Funds of America, Inc. and a director of the United Negro College Fund. He pioneered the still pending tax credit for college tuition.

All of us in education owe an extraordinary debt of gratitude to this man who devoted such a large part of his life to improving our lot.

In the final analysis, however, it is not what O.C. Carmichael did for higher education in his community, his state and his country that is of major importance. What is more significant is what he did with his life. He was intelligent; many men and women are intelligent. He was educated; so are many. He was rich in a country where wealth is not an uncommon phenomenon. He was a hardheaded, instinctive businessman in a world of good businessmen.

He had, indeed, great gifts but he used them—his education, his mind, his wealth—not simply for his own pleasure or aggrandizement but to help make the world in which he found himself a better place, to make life worth living for himself and others. He was not a "do-gooder" but a doer of good; whenever he promised help he gave it, with energy and expertise.

Men like Mike Carmichael leave, on their passing, a challenge to all of us to examine our own lives and our commitment to the quality of life in this community.

AMERICA'S AFRICAN POLICY: A NEED FOR FIRM COMMITMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. RANGEL. Mr. Speaker, in light of the growing crisis in South Africa we have seen much concern with regard to the position of American interests on this matter. The United States, up to the present time, has clearly failed to form a coherent African policy. However, events in recent days make it imperative that our Nation speak up load and clear.

Secretary of State Kissinger's visit to several African nations provides us with the opportunity to correct the inconsistencies of America's past African policy.

Vocal support of popular rule is not enough; we must further be prepared to act decisively if the minority regimes do not move immediately toward establishing egalitarian rule. Our moral duty is to support the cause of popular rule in all of Africa, to take appropriate and effective action to make that goal a reality, and to join in partnership with the continent's developing nations to help them overcome economic and political dependence and instability through peaceful means.

We have already seen the tragic results of the intransigence of the minority governments in Africa on the matter of extending equal rights to all Africans. This is the first example of black resistance to the oppressive regimes. Clearly such resistance will only increase if the minority governments refuse to negotiate.

The United States does indeed have a role to play in these developments. We must be encouraging the minority regimes to enter into discussions with the majority leaders so as to produce an end to this violence, which if continued is destined to destroy much of Africa. The column which follows was written by Vernon Jordan. In it he clearly discusses the role which we as a nation should be taking in this struggle. I commend his comments to my colleagues.

The article follows:

AMERICA'S SOUTH AFRICAN POLICY

(By Vernon E. Jordan, Jr.)

America's declared policy toward Africa has as one of its main points majority rule throughout the Continent. This means that our government supports black participation in Rhodesia, where blacks outnumber the whites that control the country by 25 to 1, and in South Africa, where blacks make up 70 percent of the population.

Both countries are white-ruled today, and blacks have no rights at all. Whether our nation's policy is made up of empty words or of action is still in question.

An immediate ban on trade with Rhodesia should be implemented, and pressure on South Africa should be increased. For starters, the U.S. ought to take the lead in getting South Africa out of Namibia, a former German colony unlawfully occupied by South Africa.

We can also refuse to recognize the Transkei when it gets its so-called independence later this year. Transkei is one of the African "homeland" areas, a mini-state created by South Africa as a device to keep blacks from their share of all of South Africa.

If South Africa is permitted to get away with creating a separate black state in the Transkei, the other "homelands" will be granted independence too, and South Africa itself will be all-white except for the 13 percent of the land area, much of it surrounded by white areas, set aside for the black majority.

The private sector's role is more complex; it is unrealistic to expect American companies with investments in South Africa to pull out of the country. But they can do a lot to help bring about changes in the vicious apartheid system.

That's why I've called on all American companies doing business in South Africa to come together in a Corporate Alliance for Black Progress, a declaration that would include:

A statement to the South African Government opposing apartheid,

Demands for changes in the labor laws that prevent equal treatment for black workers.

Standards of social responsibility that would set standards of affirmative action, and education and housing programs for the black community,

Pledges to disobey the petty apartheid regulations that segregate employees (the South African government would look the other way if Americans companies took down the "white" and "black" signs and integrated their public facilities),

A moratorium on future investment in the country until signs of real change appear, and

Refusal to invest in the "homeland" areas so long as they remain the cornerstone of a policy that denies citizenship in all of South Africa to blacks.

The leaders of the corporate community are uneasy about their role in South Africa. They're troubled by charges of collaborating with a racist regime and defend their presence there by claiming that the jobs and economic advancement they bring will help foster changes.

The black South Africans I talked to don't want to see those jobs leave the country; they're needed by black people who have few economic opportunities. And I was told that if the Americans pull out they'll be replaced by European and Japanese firms less amenable to social responsibility.

But the blacks I spoke with, while wanting the Americans to stay, unanimously agreed U.S. companies should do a lot more to help blacks. And since the companies claim they want to help the country toward peaceful change, my proposed declaration can become a vehicle that allows them to exercise the maximum pressure in that direction.

It's not all altruism either. South Africa will face its day of reckoning sooner or later and the black majority will eventually have self-determination. If it comes peacefully and is helped by our nation, then American interests will be protected.

But if it comes over American opposition, our nation's prestige and its economic interests throughout Africa may be swept away in righteous indignation.

WASHINGTON POST SAYS NO TO AMERICAN BOYCOTTS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. ROSENTHAL. Mr. Speaker, the House will consider this Wednesday an extension of the Export Administration Act. One of its most important features is a provision prohibiting all American compliance with the Arab and other foreign boycotts.

In an editorial today, the Washington Post reaffirms the need for this legislation. It declares that the attempt by Arab States "to establish an American boycott of Israel * * * runs against American interests, American values, and the American grain." It concludes:

> Seldom has the inadequacy of diplomacy and the necessity for legislation been so overwhelmingly demonstrated.

In adopting this stand, the Post joins newspapers from every corner of the country in urging an end to this divisive, discriminatory, and anticompetitive boycott of American business. The journalistic list includes the New York Times, the Wall Street Journal, the Los Angeles Times, the Portland Oregonian, and the Charlotte Observer.

The full text of the Post editorial folows:

NO AMERICAN BOYCOTT

The Arabs' decision to establish an Arab boycott of Israel is their business. But their attempt to establish an American boycott of Israel is something very different. It runs against American interests, American values and the American grain. That is the elementary distinction made by the Congress in writing anti-secondary-boycott provisions into the tax reform bill. Whether a tax bill should be the vehicle for a measure related to foreign policy is an interesting question for the lawyers. The rest of us can take satisfaction that legislative teeth are being put into the diplomatic jawbone wielded quietly by the administration in the last few years. It is precisely in those last few years, of course, that the Arabs' practice of a secondary boycott, one directed at American firms that trade with Israel or that have Jewish or "Zionist" officers, has spread to encompass business deals measured in the hundreds of millions of dollars. Seldom has the inadequacy of diplomacy and the necessity for legislation been so overwhelmingly demonstrated.

Opponents of the new legislation argue, in effect, that Arab nations are so determined to compel Americans to support their boycott of Israel that, if flouted, they will take their billions in business elsewhere and perhaps even diminish the flow of their oil. No one would be surprised if some Arab-American deals are junked in conspicuous and symbolic protest. But it is demonstrably false that gaining American support of their boycott is so important to the Arabs that, to that end, they will jeopardize the thick economic and political ties they have built up so carefully with the United States in recent years. Arabs are spending billions on arms produced by the very manufacturers who sell to Israel, for instance. They are doing so presumably because they see more advantage to themselves in ignoring the boycott than in enforcing it. In the past, American companies had little incentive to help the Arabs to this sensible view of their own self-interest. Now the American companies have an incentive. Now, too, an American company declining to participate in the Arab boycott will not face the same risk of paying a financial penalty for honoring the United States' longstanding anti-secondary-boycott policy.

One needs to step back a pace. We think it entirely healthy and useful that the boycott issue has come to the fore. It goes to the basic framework in which the United States and the Arab world are trying to expand and deepen a relationship that has been, until relatively recently, narrow and formal and sometimes even antagonistic. That there is potential for great mutual advantage in the relationship is evident to everyone. That is all the more reason to try to move it forward on the basis of mutual respect. It makes no more sense for Arabs to demand that Americans now boycott Israel than for Americans to demand that Arabs now trade with Israel. We would not contend that, for all Arabs, it is easy to accept the ways of the open international system they are trying to join. Arab states have made impressive progress, however, in halting discrimination against American (or other foreign) firms and individuals on strictly religious or ethnic grounds. The administration's diplomacy, by the way, has been quite effective in this regard. It will be harder for Arabs to accept that they cannot force Americans to discriminate in trade against a third country. But it denigrates their intelligence, and it underestimates their general passion for modernization, to say that they must stick fast in their traditional ways. Certainly Americans should not be encouraging them to do so.

DEDICATION OF LAKE HABEEB

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BYRON. Mr. Speaker, it was my pleasure to participate last Saturday at the dedication of Lake Habeeb at Maryland's Rocky Gap State Park in Allegany County. This was a special event for many reasons the most important of which is the dedication of the lake to Edward Habeeb, a citizen of nearby Cumberland, Md.

Born in Beirut, Lebanon, in 1895, Mr. Habeeb moved to Westernport in Allegany County in 1913 and then went into the florist business in West Virginia. In 1919, Mr. Habeeb moved to Cumberland and established his florist business there. In recent years, he moved his business to Route 40 east of Cumberland.

Mr. Habeeb has been extremely active in community affairs, and he has been particularly effective as a leader of citizen support for the improvement of Route 40 in Allegany County and for the development of Rocky Gap State Park.

Mr. Habeeb well deserves the honors given him last week. He is a man of courage and a man dedicated to the betterment of his community. I congratulate him again on these achievements.

SPEAKING OUT: AMERICANS IN RHODESIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. McDONALD. Mr. Speaker, recently the Sunday Post of September 12, 1976, ran a very interesting article about a number of Americans who have either taken up residence in Rhodesia or are serving in the Rhodesian armed services. These Americans feel our policy is wrong and that we are on the wrong side. I agree with them. No opinion poll shows that the American people support interference in the internal affairs of this African nation. This is similar to our so-called policy on the Panama Canal wherein the State Department could not possibly be more out of step with American opinion. In our rush to turn Rhodesia into another tin horn dictatorship, we should pause and rethink our policy.

The article from the Post follows:

SPEAKING OUT: AMERICANS IN RHODESIA

(By Robin Wright)

SALISBURY.—Red Parham is one of Rhodesia's wealthiest and most prominent residents, a man who, along with brothers "White" and "Black" Parham, developed Rhodesia's tobacco industry in the 1920s.

Mary Jane Woram is a past president of the Salisbury Women's Club and chairman of a new letter campaign appealing for international support of Rhodesia's white minority government.

Dave and Mike are soldiers in Rhodesia's army, members of a special division fighting black nationalist guerrillas who have been waging war against the government of Prime Minister Ian Smith since December 1972.

Bruce Glenn is one of Rhodesia Broadcasting Corporation's top reporters, host of a new "Psychological War and You" weekly program on Rhodesia's rapidly escalating guerrilla war.

All five were born and brought up in the United States, and are now among some 1,200 American residents and 250 American soldiers in the troubled southern African territory.

All five are planning to stay, despite a U.S. State Department warning issued last April to Americans in Rhodesia, advising them to leave since no official protection could be provided if their lives were endangered by the guerrilla war.

Each one feels strongly that there is a future for whites in Rhodesia—where Africans outnumber them by over 20 to 1—despite the increasing international pressure to bring majority rule to the former British colony.

COMMUNIST AGGRESSION

Mrs. Woram has made this clear in a letter she drafted for distribution to families and friends in the United States. The letter appeals for pressure on the State Department and Congress to reverse their position on Rhodesia.

Other Americans in Rhodesia expressed interest in the idea, so Mrs. Woram had copies printed and in the past few weeks over 5,000 have been sent.

Entitled "A Plea from Americans in Rhodesia," it warns:

"Your fellow Americans living in Rhodesia are deeply concerned for the future of this beautiful country, a country which like America treasures the ideals of justice and liberty.

"The terrorists have now abandoned the pretense of fighting for democratic ideals and openly state that they want no democracy, no voting, no parliament, but will establish a socialist society amongst their people by force.

"The black nationalist movements are now controlled and manipulated by their white Communist masters . . . Rhodesia stands in grave peril of falling a victim of the U.S.S.R.'s expansionist goals."

A native of New Jersey, Mrs. Woram came here eight years ago with her Rhodesian husband and seven sons. Her disappointment with the new U.S. policy on Africa announced by Secretary of State Henry Kissinger in Zambia last April led her to launch the letter campaign.

"We've had such bad press we felt a need to straighten people out on what's happening here, to let them know it's not a black-white race war as it's played in the papers and that there's more at stake.

"The terrorist activity is straightforward Communist aggression. We want to urge Americans to come here to see for themselves and help prevent a tragedy, a bloodbath, a takeover by the Communists."

SOLDIERS OF FORTUNE

Dave and Mike are among those Americans who have recently arrived in response to a similar appeal. Both Vietnam veterans and former Green Berets, they traveled over 10,000 miles from Indianapolis and Seattle to join the Rhodesian army after seeing recruiting ads in Soldiers of Fortune magazine.

Mike explained his involvement idealistically: "The West isn't doing its job. The U.S. especially isn't doing its duty. If they're too scared to fight the Communists, then people like me have to act independently. I consider it my duty to fight in Rhodesia. After Vietnam and Angola, we can't afford to lose any other countries."

He acknowledged that he was technically breaking U.S. law by serving in a foreign army, but said that none of the boys who had fought in the Rhodesian army and then returned home had been persecuted.

For Dave, politics was not involved: "I had five contracts to choose from and this seemed to be the one with the best possibilities. These people are organized, they won't screw you like the Angolans messed up the British [mercenaries].

"If you're going to be paid to kill, you choose the employers with the lowest risks of getting yourself killed."

The conditions are not all that attractive in comparison with American army standards. The pay scale begin at $337 a month for a private and runs up to $1,194 for a major, according to an army recruiting brochure now available at the Salisbury airport.

But the offer has so far lured more than a thousand "foreign volunteers," according to unofficial estimates, mainly Britons, Americans, Australians, Portuguese and Greeks. New American recruits are coming in rapidly.

ABSOLUTE CONFIDENCE

Bruce Glenn is also fighting, but on the psychological side of the war. A native of Knoxville, Iowa, who came to Rhodesia two years ago, he has become what a South African publication called Rhodesia's leading "Communist critic" on the air waves and one of the most outspoken optimists about the white presence in Rhodesia.

"I have absolute confidence that this government can hold back the terrorists. Even if the war escalates and urban terrorism is introduced, we can withstand it. This army is on a par with the best in the world."

Like many of the Americans interviewed in Salisbury, Glenn said he felt U.S. policy on Rhodesia was wrong. "They don't understand that what we have here is an ideal core of [white] people who are able to raise the standard of living among the Africans. Without us, conditions will decline rapidly."

He also charged that the term "discrimination" had been "seized by psycho-politicians" and used in the wrong context.

"Discrimination is simply a necessary part of every human being, from his choice of food to his choice of friends. But in the last 10 to 20 years the word has been completely reversed to connote a repression of black races by the white. It has been blown up out of all proportion."

Glenn added that he did not feel majority rule was inevitable in Rhodesia, because even if blacks came to power they would not allow majority rule. "Look at the rest of Africa. There is no semblance of democratic institutions in any black African country. What makes anyone believe Rhodesia will be different?"

BOTH SIDES OF THE STORY

But Red Parham may be the most outspoken American in Rhodesia on the subject of the white presence. "I first saw Salisbury in 1925, when it was dirt roads and temporary buildings. I've seen what the whites did for this country and I know what will happen to it if they are forced to go.

"Africans in Rhodesia are better off than in any other country on the continent. I hate to think about their future if the black nationalists take over."

Born in North Carolina and a graduate of Duke University, Parham said that the American government had no right to meddle in Rhodesian affairs until officials saw the situation firsthand.

"They just believe everything the African governments tell them. Nobody ever comes here to see what the problems really are. They're passing judgment without hearing both sides of the story, so naturally Rhodesia is found guilty. I think that the American standard of justice and fair play would make them feel an obligation to what is going on here. They also should have a special understanding for the situation here. After all, the United States declared independence from Britain in much the same way Rhodesia did."

TREASURY DEPARTMENT RENEWS ITS SUPPORT FOR THE LOAN GUARANTEE BILL, H.R. 12112

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. TEAGUE. Mr. Speaker, the debate that has been underway on the bill reported by the Committee on Science and Technology, H.R. 12112, has involved several Federal agencies, including the Treasury Department.

Recently I received a letter from the Department of the Treasury which reemphasizes its support for our bill. Apparently, over the past several months the views of Treasury have been misrepresented because of an internal communication that was circulated last year.

In a statement before the Subcommittee on Energy Research, Development and Demonstration—Fossil Fuels—chaired by KEN HECHLER, last October 22 Treasury said:

> Accordingly, a range of incentives, including loan guarantees, are necessary to achieve the early commercialization of synthetic fuels.

This clear statement of strong support for the loan guarantee program is underlined again by the following letter, which I am inserting for the benefit of my colleagues:

DEPARTMENT OF THE TREASURY,
Washington, D.C., June 24, 1976.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science, and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to correct a major misrepresentation of the Treasury Department position concerning loan guarantees for synthetic fuels which is apparently circulating among Members of the House of Representatives.

The enclosed flyer, which I understand has been distributed to Members of the House, implies that the Treasury is opposed to the use of loan guarantees to encourage the accelerated commercialization of synthetic fuels. This is not the case. Representatives of the Treasury Department have testified in favor of loan guarantees on three occasions before House Committees or Subcommittees.

The flyer fails to point out that the opinion expressed in the August 8, 1975 Parsky/Zarb communication is not the current Treasury Department position. The quotation contained in the flyer was taken from a memorandum prepared last summer which contained Treasury comments on papers circulated by the President's Task Force on Synthetic Fuels Commercialization. Our August 1975 conclusion that loan guarantees were not necessary as a part of the package of federal financial incentives was based on the assumption that needed regulatory reform (e.g., decontrol of oil and gas prices; general acceptance of the all-events-full-cost-of-service contract by the FPC and relevant state regulatory agencies) would take place in timely fashion. Events since that time have made it clear that we were too optimistic about the possibility of early regulatory reform and that realistically such action will not be taken in time to accelerate the development of the commercial demonstration phase of synthetic fuels.

Assistant Secretary Parsky explained the reasons behind the current Treasury Department position in his October 22, 1975 testimony before the House Committee on Science and Technology, Subcommittee on Energy Research, Development, and Demonstration (Fossil Fuels). The relevant portion of that testimony reads as follows:

"The Interagency Task Force concluded, after careful evaluation, that loan guarantees were a necessary type of incentive for the commercialization of certain types of synfuels. All interested agencies were asked to comment on the Task Force conclusions and Treasury opposed the use of such guarantees in its comments. Given the Secretary of the Treasury's responsibility as the Government's chief financial officer, we are particularly concerned with the impact that government action will have on the capital markets and overall debt management. We believe federal guarantees and other financial assistance with similar market effects should be kept to a minimum and used only in special cases. Underlying our comments to the Synthetic Fuels Task Force was the belief that regulatory reform and other actions which would remove impediments to the free functioning of the market place might make loan guarantees unnecessary. We would still hold to this hope, but it appears that appropriate regulatory reform may not be achieved in the near future. Accordingly, a range of incentives, including loan guarantees, are necessary to achieve the early commercialization of synthetic fuels."

It is indeed unfortunate that the opponents of H.R. 12112 have felt it necessary to misrepresent the Treasury Department views. I hope that this letter makes it clear that the Treasury Department supports loan guarantees to accelerate the commercialization of synthetic fuels.

Sincerely,

JOHN M. NIEHUSS,
Acting Assistant Secretary.

Enclosure.

FACTS ABOUT SYNTHETIC FUELS LEGISLATION (H.R. 12112)

Head of ERDA states $2 billion loan guarantee only part of $11.5 billion program:

". . . it should be clearly understood that the $2 billion in loan guarantees provided by H.R. 12112 would only initiate the program recommended by the Administration. Additional authorizations are included in the President's budget for FY 1977 under the proposed Energy Independence Authority. We remain firmly convinced that in order to achieve the objectives of the full 350,000 barrels per day program, that $6 billion in loan guaranty authority will be required along with about $4.5 billion in price guaranty authority and about $600 million in grants." (Dr. Robert Seamans, testimony before the House Science and Technology Committee, March 31, 1976).

Treasury opposes loan guarantees:

"The Treasury Department believes that the best approach in moving towards the commercialization of synthetic fuels production is one that places maximum reliance upon the marketplace and minimizes the possible disruptions of the capital markets and the overall amount of Federal support involved. We believe that the synfuels program should incorporate a strong effort to obtain regulatory reform and decontrol of energy prices, in order to accelerate the date at which large-scale synfuels production becomes commercially viable. Decontrol is also needed so that energy prices will more accurately reflect actual costs and thus encourage more efficiency in energy use.

We also recommend increased emphasis on support for research and development directed at the development of commercially viable synfuels technology.

Treasury opposes non-recourse guaranteed loans and feels that much further study is needed with respect to the grant and subsidy portion of the incentives.

In general, Treasury continues to view the granting of non-recourse loan guarantees as a bad precedent and unnecessary. (Memorandum from Assistant Secretary of the Treasury Gerald L. Parsky to Frank Zarb, FEA Administrator, August 8, 1975).

DR. EARNEST PERRY, YOUNGSTOWN SURGEON, TO BE HONORED AT TESTIMONIAL DINNER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. CARNEY. Mr. Speaker, one of my constituents, Dr. Earnest Perry, a distinguished Youngstown surgeon, will be honored for his dedication to community improvement at a testimonial dinner at 6:30 p.m., Saturday, September 25, at the Mahoning Country Club.

Dr. Perry, a 1959 graduate of South High School, is a diplomate of the American Board of Surgery and a member of the medical staff of the Youngstown Hospital Association—YHA.

He took his undergraduate studies at Youngstown State University and graduated cum laude from Meharry Medical College in Nashville, Tenn., in 1964. Dr. Perry served his internship with YHA from 1964 to 1965 and was a surgical resident there from 1965 to 1969. He then served as chief resident in surgery from 1968 to 1969.

Dr. Perry is a former second lieutenant with the Army Reserve and holds membership in the Mahoning County and Ohio State Medical Societies, the American Medical Association, the NAACP and St. Andrews AME Church. He is also director of the Youngstown Area Development Corp., and is affiliated with many other civic organizations.

In 1961, he was chosen one of the "Men of the Year" by the Youngstown Chapter of the American Negro Police Association for his work in inspiring many youths to go to college and become leaders in the community.

Mr. Speaker, Dr. Perry is truly a man

of compassion who has both financially and morally supported a number of humanitarian causes over the years. I have known him for many years, and I am truly pleased to be able to call him a good friend. I look forward to attending his testimonial dinner this coming Saturday. At this time, I would like to also wish Dr. Perry the very best of luck and continued good success in his career. He is an outstanding individual whose work in the community makes Youngstown a better place in which to live and raise a family.

CONTRIBUTIONS MADE BY IRISH TO BUILDING OF UNITED STATES

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BURKE of Massachusetts. Mr. Speaker, may I take this opportunity to bring to the attention of the Members of the U.S. Congress an article that appeared in today's Boston Herald American. I know the Members will understand my interest in this news story because my father's forebears emigrated to Ireland during the 11th century from Normandy, France, they left the Scandinavian countries in the third century. My mother who was a "Collins" had an ancestry which I am sure descended from the Irish Kings also bore a proud name in Irish history. With approximately 40 million Americans of Irish heritage in our great country today, it is fitting to learn of the contribution those of Irish descent made over the 200 years of our Nation's history.

CONTRIBUTIONS MADE BY IRISH TO BUILDING OF UNITED STATES HAILED

The contributions Irish emigrants made in the building of America were described yesterday during a Bicentennial salute honoring the Irish at St. Joseph's Church in Boston's West End.

It was the third in a series of Bicentennial salutes to prominent ethnic groups. Earlier celebrations honored the French and Polish, and plans are being made to honor the Italians and Portuguese.

Pastor Rev. Gerald L. Bucke told the gathering that 1,250,000 Irish emigrants came to America between 1820 and 1870.

"From the 1620 landing of Pilgrims at Plymouth Rock to 1776, America was taking shape," Father Bucke said. "And from 1620 on the forces which were to determine the destiny of America were coming together."

Father Bucke pointed out that there were Irish in Gen. Washington's Continental Army, and of the 52 regiments in the Union Army in 1860 35 carried Irish names.

"Thousands of them helped build the Erie Canal, and hundreds of thousands explored the great plains of our country, and settled it," he said.

"The unique contributions of the Irish emigrants involved their hunger for freedom, a commitment to education and a love for the church and the Holy Father," Father Bucke said.

He said the Irish helped build a system of education which by 1950 was unmatched in the rest of the world. In addition, he said 180 years after the Declaration of Independence, and a long struggle for the Irish, John F. Kennedy was sworn in as President of the United States.

Auxiliary Bishop John M. D'Arcy, Vicar for Spiritual Development in the Archidiocese of Boston, was principal celebrant of a concelebrated Mass.

He was assisted by Msgr. Joseph Grant, chaplain of the Ancient Order of Hibernians; Msgr. John Dillonday, chaplain of the Erie Society of Boston; Rev. Sean McLaughlin, chaplain of the Gaelic Society of Boston, Rev. Dainel Bowen and Father Bucke.

A feature of the celebration was the unveiling and blessing of a recently commissioned statue in wood of the newest Irish saint, St. Oliver Plunkett, canonized by Pope VI on Oct. 12, 1975.

Also unveiled was a bronze sanctuary plaque which records the celebration of Mass within St. Joseph's parish in colonial times. It was a gift of the Erie Society of Boston.

The Ancient Order of Hibernians, Mass. Chapter, presented the parish with the Irish tricolor, which becomes part of the permanent decor of the church.

The Irish flag will be displayed with flags of those nations whose sons and daughters have figured prominently in St. Joseph's history since the mid-18th century.

Representatives of the Irish including Asst. Irish Consul General of Boston Daniel Mulloy, were guests of honor.

SOCIAL SECURITY TELESERVICE CENTERS: FAST AND ACCURATE SERVICE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. VANIK. Mr. Speaker, during the past year, the Ways and Means Oversight Subcommittee has been reviewing the operations of Social Security in the administration of the SSI program. I have frequently been very critical of management procedures in that and other social security programs. Today, however, I am pleased to be able to report on what appears to be an outstanding level of service by Social Security Administration teleservice centers. Throughout the Nation, Social Security has offices which specialize in the handling of telephone inquiries from beneficaries and the public. These Social Security employees are expected to deal with a wide range of questions covering the full scope of social security programs. I have been concerned that the quality of answers provided by these centers might be less than adequate.

Therefore, at my request, the Ways and Means Oversight Subcommittee staff has conducted a study into the quality of services provided by these Social Security offices. The results of this inquiry are most encouraging.

This inquiry was made in the form of a telephone survey of 15 SSA teleservice centers by subcommittee staff members asking a series of different questions. The survey questions were typical of questions which district office personnel might have to handle frequently. The calls were made anonymously so that SSA personnel did not know they were being tested. The staff evaluated responses for accuracy, length of time before service, and courtesy of services.

Of the 100 calls placed by the staff during the past month, erroneous information was received in only 3 instances. There was little trouble with the length of time before service. Only in 1 out of 7 calls were staff members forced to wait over 1 minute and in only 1 out of 20 calls did the wait last over 5 minutes. With the exception of calls to the Berkeley, Calif. office, a majority of the calls were handled with no wait whatsoever. This is particularly encouraging as the SSA's "Analyses of District/Branch Reports of Trends," for the period October 1974 states that some offices were "less than enthusiastic about teleservice" and that more lines were necessary to avoid unacceptable delays.

The level of courtesy received by the subcommittee staff was also very good. There were only two reports of any discourteous Social Security office personnel and several reports of very courteous responses. While this factor may not be essential to the actual processing of SSA claims, it does encourage a favorable public attitude toward the SSA, and aids public patience with real claims problems.

Overall, the inquiry indicates that the Social Security Administration is to be commended for providing a high level of service to the public. The SSA seems to be reversing the deterioration in service quality which occurred after the implementation of the SSI program.

The level of accuracy, courtesy, and speed is in the finest tradition of public service.

CENTURY OF DECISION IN MENTAL RETARDATION

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BURGENER. Mr. Speaker, the President's Committee on Mental Retardation—PCMR—was created by Executive order in May of 1966 by President Lyndon Johnson. It was, at least in large part, the culmination of efforts by his predecessor, President John F. Kennedy, who provided strong leadership in this vitally important field. The Executive order creating the committee, has been reissued and expanded upon by President Nixon and by President Ford. I am confident that future Presidents of the United States will continue this extremely valuable committee and will continue to give additional meaning to its role in the prevention and treatment of mental retardation. I was privileged, before becoming a Member of the House of Representatives, to serve as a member of this committee—PCMR—and for a time as its vice chairman.

The committee is now 10 years old,

and will this Bicentennial Year, produce its most comprehensive and useful report. It is titled "Century of Decision." Since mental retardation directly affects some 4 to 6 million of our citizens and almost as directly their families and friends, this report has monumental national significance. I commend to my colleagues and all who read the CONGRESSIONAL RECORD, the following excellent article on this subject, written by the executive director of PCMR, Mr. Fred Krause:

CENTURY OF DECISION IN MENTAL RETARDATION

(By Fred J. Krause)

When the 200th birthday of the Nation and the 10th birthday of the President's Committee on Mental Retardation fall in the same year, a major celebration is in order. Especially since, by coincidence, PCMR's Executive Order is Number 1-1776!

The President's Committee is commemorating the occasion with a massive report on the past, present, and future of mental retardation, titled *Century of Decision*.

Issued in several volumes, the *Century of Decision* series is the result of almost 2 years of concentrated effort by committee members, consultants, staff, and a broad cross section of experts in the mental retardation professions and other fields as well. Coordinator and senior writer is PCMR member Henry V. Cobb, Ph.D., former president of both the National Association for Retarded Citizens and the International League of Societies for the Mentally Handicapped.

Mental Retardation: The Known and the Unknown was the first to be published in the series. It presents current knowledge and gaps in knowledge of the many aspects of the subject.

The core volume is titled, *Mental Retardation: Century of Decision*, which examines the issues in mental retardation and sets national guidelines for the next quarter century. In arriving at goals, objectives and recommendations, the committee drew upon the thinking of many of the best and most informed minds in the country.

A companion publication in this PCMR Bicentennial series is an historical perspective of the mental retardation field and a related assessment of the current situation, with a review of shifting trends in the treatment of retarded persons.

Rounding out the series will be a report on state programs. As of this writing, the latter two are untitled. An update of an earlier PCMR report on federal programs is also being considered.

The entire series is designed to be not an end in itself, but a starting point to stimulate discussion and action that will lead toward a better life for those who are retarded and to lower the risk of retardation for those yet unborn.

The goals and recommendations in the main volume relate to all levels of the public and private sector. The report will be of significance to federal, state, and local governments; to program planners and providers of services; legislators; educators; the medical and legal professions; news media; and relevant professional and volunteer organizations.

Central throughout the series are the major goals of the President's Committee on Mental Retardation: to reduce the occurrence of disability from mental retardation; to promote humane services that will enable retarded persons to achieve their potential in the most normal, least restrictive setting possible; and to help retarded persons achieve the rights of full citizenship and public acceptance.

The committee worked with a group of "futurists" in making an educated analysis at what the future holds for society, and the mentally retarded population in particular. In a series of brainstorming sessions and resultant papers, the futurists tackled such questions as the social and economic future of society as a whole and how a changed economy and social climate will affect retarded persons. They discerned trends—some of them conflicting—on labor, leisure time, attitudes, individual rights vs. the rights of society, and so on. In general, their outlook was optimistic.

While there were no firm conclusions on the shape of things to come, provocative questions were explored: Will a future society place more emphasis on the values of achievement or on the acceptance of each human being? How will retarded people be affected by changes in the "work ethic"? Food production? Housing? Transportation? Technology? These subjects, among others affecting the future, are discussed in the report.

The PCMR regional forums, conducted over the past several years across the country, were a major source of information on current strengths and weaknesses in the mental retardation field. From them came the voices of those on the front lines in the battle against mental retardation. They are heard in the report.

Equally potent, but with a different perspective, were the ideas that the committee sought from leaders of national organizations active in mental retardation.

The *Century of Decision* series attempts to distill the information gleaned from every quarter. The resultant goals, objectives, and recommendations represent the concerted thinking of several thousand people—including retarded persons themselves. It is the committee's hope that these proposals will act as a call to action and will form the basis of policy for the coming decades.

The major subjects covered in the report which have stated goals are: Full Citizenship and Legal Rights; Prevention: The Right to Be Well Born (biomedical); Prevention: The Right to a Good Start in Life (environmental); Humane Service Systems; Mental Retardation as an International Problem; The Role of Government; and Public Attitudes.

The goal for "Full Citizenship and Legal Rights" is: The attainment of full citizenship status, in law and in fact, for all mentally retarded people in the United States, exercised to the fullest degree possible under the conditions of disability.

Objective I (excerpted and paraphrased in some cases) of that goal is: The assurance of maximum freedom to exercise legal and constitutional rights and responsibilities.

Objective II calls for the assurance of maximum access to a free and open community.

Among the recommendations (excerpted and paraphrased in some cases and too numerous to list here) are a review and revision of all state statutes relating to mentally retarded and other handicapped persons; prevention and corrective programs for retarded offenders; and state laws and local ordinances to protect the rights of handicapped persons to appropriate housing, free of discriminatory zoning regulations, inappropriate licensing standards and codes.

The goal for "Prevention: The Right to Be Well Born" is: Reduction of the incidence of mental retardation from biomedical causes by no less than 50 percent by 2000.

The four objectives dealing with biomedical prevention are: Full commitment of the people of the United States to the prevention of mental retardation which develops in the prenatal period; a health delivery system which assures equal access to quality care at reasonable cost; continued advancement of knowledge through research; and a total campaign of public education on the known means of preventing mental retardation.

Recommendations in part call for family planning; genetic, diagnostic, and counseling services for high-risk parents; comprehensive maternal and child health care; early screening and immunization; continued and improved research in reproductive biology, nutrition, and the effects of toxic agents.

The goal for "Prevention: The Right to a Good Start in Life" is: To reduce the incidence and prevalence of mental retardation associated with social disadvantage to the lowest level possible by century's end.

Objectives include: Elimination of prejudice and discrimination based on race, ethnic membership or social class; improvement of environment and living experience through attacking conditions which impede or distort full development among poor and minority groups; equal educational opportunity for all; adequate controls on allocation and use of public funds, to safeguard the interests of disadvantaged populations.

Included in the recommendations: A national program to assist low-income parents in the early developmental training of their children; improvement of the total home and community environment for minority, poor, and otherwise deprived people; better access to child development centers; culturally sensitive assessment rather than inappropriate standardized tests for placement of children in special classes; research and development on individualized education for all children; retraining of teachers and school personnel to sensitize them to the needs of disadvantaged children.

The goal for "Humane Service Systems" is: Adequate and humane service systems for all retarded persons in need of them.

Under this heading, there are six objectives: A comprehensive array of service resources to meet the needs of retarded persons in all sections of the U.S.; free choice and decisions by every retarded person or his personal representative, regarding residence, services, and choice of representative; a personal representative for every retarded person who wishes or needs one; maximum opportunity for every retarded person to live in a local community setting of his choice; maintenance by all serving agencies of standards of quality and accountability acceptable to the community and to the retarded person served; adequate research maintenance and utilization and manpower development to implement the most effective service delivery possible.

Among the recommendations: Federal action in collaboration with states to guarantee essential developmental, supportive, and protective services; coordinated, simplified, and unified procedures to ease the way for applying for services and to determine eligibility; recognition by federal and state agencies of the right of a retarded person to choose services needed; statutory and financial support for recruitment and training of service brokers for retarded clients; appropriate and adequate community services to help retarded persons remain in homes of their choice.

The goal for "Mental Retardation as an International Problem" is: The attainment of international cooperation to prevent and ameliorate MR.

Objectives are: Full participation of U.S. governmental and nongovernmental agencies and organizations in international bodies concerned with mental retardation; international assistance programs to utilize any country's resources in the mental retardation field; international information exchange on all aspects of mental retardation, as a U.S. policy.

Recommendations encompass: Use of United Nations agencies, AID, Partners of the America's PREP program, and other similar agencies as channels for international exchange; attendance at relevant international scientific meetings; support for exchange of visiting groups to this and other countries.

The goal for "Public Attitudes" is: To achieve a firm and deep public acceptance of mentally retarded persons as members in common of the social community and as citizens in their own right.

Objectives that follow the goal are: Emphasis on the individual worth of every human being and recognition of the right to be different; confidence in solution of economic and energy problems that will allow a shift toward human values; use of new communications techniques to promote greater understanding of handicapped persons as individuals and to spread the knowledge of prevention of handicapping conditions.

Among the many recommendations: Education of teachers and students to include a deeper awareness of the feelings of all children who are in any manner handicapped; expansion of education for parenthood; encouragement of voluntary action; a continuing public education program, including a built-in community relations component in every agency.

The goal for "The Role of Government" is: Equitable, coordinated, efficient, and effective use of public resources in MR programs.

Objectives include: Establishment of planning systems for mental retardation on federal, state, and local levels; development of means within each agency to execute such plans; federal and state accountability for effective services to consumers.

The recommendations include: An advocate for retarded clients in each major relevant department; a case-finding and access program to find and guide retarded persons to services to which they are entitled; periodic monitoring of program achievements in terms of client improvement.

The concluding chapter of the report deals with costs and results. It points out that the major portion of America's retarded people are mildly or moderately retarded. With support and encouragement, they can become producers rather than users of community resources.

Public and private money invested in developmental programs for these mildly and moderately handicapped people can produce returns both in economic and human terms.

Returns on investment in prevention yield even higher dividends. For every dollar spent on preventive health care, public education, and research, $100 can be saved.

The estimated 300,000 severely and profoundly retarded persons require total care at an annual average cost approaching $18,000 each.

"If by the year 2000, prevention could cut their number in half," according to the report, "the annual savings would be $2.7 billion." The savings in emotional distress, family disruption, and quality of life would be incalculable.

It is most important that political, professional, and public attention be focused on mental retardation as a problem that can and will be solved. All the goals in this major PCMR report may not be reached by the year 2000, but in the next 25 years we can make dramatic progress. We must foster attitudes that will guarantee a secure and happy future for retarded persons.

In this Century of Decision, the decision is ours to make.

WELCOME POLISH BISHOPS: HANDS AND HEARTS ACROSS THE SEA

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. FARY. Mr. Speaker, recently, the Polish-American people of Chicago had the distinct pleasure of meeting with a distinguished group of Polish bishops visiting the United States to attend the 41st International Eucharistic Congress. It was a most memorable occasion, and I would like to relate to my colleagues the contributions of the Polish people to the human community which has been extraordinary rich and diverse since the beginning of their recorded history 1,000 years ago.

It was in 996 that the first historic ruler of that nation adopted the Christian faith. The Roman Catholic Church was formally established in the year 1000 and the way was prepared for the life and work of St. Stanislas, Bishop of Cracow, Patron Saint of the Polish nation and symbol of their unity. Through long centuries of triumph and tragedy, the Polish people have survived to the present day, due in large part to their unshakable faith in God. The character of that faith has been the secret of their strength in every age.

Poles have been in America since the 17th century. They take pride in their wholehearted participation in American life. In this Bicentennial Year they recall the dedication of Polish patriots such as Kosciuszko and Pulaski to the cause of American independence and to the freedom of Poland alike.

It is in this spirit that Americans of every faith have welcomed the recent visit to these shores by 16 bishops of the Catholic Church in Poland, headed by Karol Cardinal Wojtyla, Archbishop of Cracow.

The delegation, representing the Polish Episcopate, were invited guests of the American Catholic bishops, at the 41st International Eucharistic Congress, held in Philadelphia last month. Their presence and participation in the Congress, gathering in the birthplace of American liberty, witnessed to that unity and charity in faith which is symbolized in the Eucharist itself. For Americans, the "Church of Silence" in Poland and other lands under Communist rule was suddenly made real in a personal way. For our Polish visitors, the freedom and pluralism of American democracy was strikingly evident.

The visit coincided with annual collections received in all Catholic parishes that minister to American Catholics of Polish descent by the Catholic League for Religious Assistance to Poland, for almost 35 years a tangible symbol of the ties which unite Polish Catholics in Poland and in the United States. In the words of Bishop Alfred Abramowicz, executive director of the league: "Charity enkindles love, revises hope, sustains faith." This has been the guiding philosophy of the league since its founding in response to an appeal of Pope Pius XII for Poland during World War II.

During their trip to the United States and Canada, the bishops, individually and as a group, visited 17 American dioceses with heavy concentrations of Polish Americans, celebrated a Polish language mass at the National Shrine of the Immaculate Conception in Washington, and shared in the Eucharistic Congress celebrations in Philadelphia. For me personally, and for millions of Americans, the visit to Chicago—as guests of John Cardinal Cody, Archbishop of that great city—was a dramatic and unforgettable climax to the tour.

Welcomed by Cardinal Cody, Mayor Daley, and a host of dignitaries, civil and religious, Catholic and non-Catholic, the bishops were greeted with the traditional Polish gifts of bread, salt, and flowers, in behalf of the Chicago Archdiocese and the Polish community. They were able to celebrate masses throughout the metropolitan area in Polish Catholic churches and at Holy Name Cathedral. It was my privilege to greet Cardinal Wojtyla at Five Holy Martyrs Church in the Fifth Congressional District and to attend the testimonial dinner at the Conrad Hilton at which some 2,300 people were present to honor His Eminence.

Cardinal Wojtyla—one of the "papabili" or prelates most frequently mentioned as a possible successor to Pope Paul VI—created a deep impression of reverence, spirituality, and strength of character. Formerly a worker-priest and factory hand, he has served on the faculties of the Universities of Lublin and Cracow and is an ardent patron of the arts and sciences and of Polish cultural life. He is expected to succeed Cardinal Wyszinski on the latter's retirement as Primate of Poland, a crucially important office in this troubled era of crisis and change.

Bishop Boydan Bejze, Auxiliary Bishop of Lodz, was the guest of Five Holy Martyrs parish during the last part of his visit and celebrated daily mass there. After most of the delegation had returned to Poland, he remained behind and was able to further his knowledge and contact within the Chicago community. He was particularly interested in the people's participation in the Eucharistic Liturgy, the upkeep of churches and Catholic schools, and the high level of cultural development in the city. He expressed his admiration for the pastoral work of Chicago priests, the interior design of the churches, and the ways in which modern technology is utilized for human betterment. He praised the program prepared for the delegation in Chicago for enabling the bishops to acquaint themselves with the different neighborhoods of the city, with the various parishes, and with individual priests and lay persons in great number throughout the archdiocese.

In retrospect, the visit represents an affirmation of spiritual freedom and of faith by Polish and American Catholics alike. It celebrated the heart of our American experiment in democracy—ethnic pluralism, the pride and strength which all Americans feel in their many and distinctive cultural, religious, and ethnic traditions. It inspired among us fresh admiration for the courage of Poland, her people, and her ancient church, steadfast in faith despite all adversity. May God give to us in the Bicentennial Year of our liberties a like courage and a like devotion that will kindle a deeper faith among all our people as we face the challenges of our third century.

REDRESSING AN INEQUITY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. HARRINGTON. Mr. Speaker, increasing attention is coming to focus on the regional imbalance in Federal spending policies. On July 29, 1976, I inserted in the Record a National Journal report which identifies and analyzes current economic trends resulting from unequal Federal spending patterns. I wish today to draw my colleagues' attention to an editorial published September 8, 1976, by the Philadelphia Evening Bulletin, entitled, "Redressing an Inequity," which appeals to Congress for action on this very matter.

The editorial calls upon Congress to counter Federal policies which are diverting jobs and people from industrialized regions of the Northeast and Midwest. As is justly noted, all regions are part of an interdependent union. National economic health requires the continuous economic growth of all our units. The Northeast-Midwest Economic Advancement Coalition, which I am honored to chair, was recently formed to address these problems, in hopes of reviving lagging regional economies.

I ask for my colleagues' support in these efforts, and direct their attention to the following text:

THE "SUNBELT" ISSUE: REDRESSING AN INEQUITY

It is a pity that more of the Penjerdel area's members of the U.S. Congress did not attend the founding meeting of a congressional coalition to revise federal spending patterns that have been penalizing the Northeastern and Midwestern states.

The coalition that Representatives Henry Reuss (D-Wis.) and William S. Moorhead (D-Pa.) are trying to put together may never draw its full potential strength of 204 U.S. House votes in the Northeastern and Midwestern states.

Nonetheless, there is more of a community of interest between the two regions than many of their congressmen realize.

The 16 Northeastern and Midwestern states cover the nation's industrial heartland and include its oldest, most economically depressed cities. Yet, along with jobs and people, federal tax dollars have been draining out of these Heartland states to the Sunbelt states of the South and West.

Congressional clout can help counter the undue partiality the Federal Government has been showing the Sunbelt states in the flow of federal largess. Only about 10 percent of the Northeastern and Midwestern congressmen were on hand for the launching of the new coaltion, however.

Besides Mr. Moorhead, only Representative Robert Edgar, of Delaware County, represented Pennsylvania, and Representative James J. Florio, of Gloucester and Camden counties, was New Jersey's sole participant. Delaware's Congressman Pierre S. du Pont would have attended, but was not invited. The meeting's sponsors regarded Delaware as a Southern "Sunbelt" state.

All three Penjerdel states are heavy "losers" in terms of federal aid. A new study of Federal Government spending in fiscal 1975 shows New Jersey and Delaware getting back only 66 cents for every dollar of federal taxes paid by their residents and businesses, just a penny above bottom-ranked Michigan. The study showed Pennsylvania getting 87 cents, 40th on the list. Overall, the Heartland states had an adverse federal "payments balance" of $30 billion in 1975–76, compared to a $22 billion "surplus" for the Sunbelt states.

We don't cite these figures to foment new sectional rivalries. All regions are part of an interdependent union. The point is that the Northeast and Midwest are in no position to be underwriting the new prosperity of the South and West.

Not only congressmen from the Northeast and Midwest, but the two major presidential candidates need to be pinned down on how they would redress the new imbalance between booming and lagging regions.

Federal defense and welfare policies, programs of rural and urban investment, techniques of job creation and the impact of federal payrolls all require fresh thinking.

As the candidates, presidential and congressional alike, scour the Northeast and Midwest for votes, let them address these compelling issues.

INTRODUCTION OF A CONCURRENT RESOLUTION TO INVESTIGATE MEDICARE AND MEDICAID

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. WYDLER. Mr. Speaker, today I am introducing a concurrent resolution calling on the President of the United States to initiate an immediate investigation and review of the operations of the medicare and medicaid programs.

As a result of hearings before the Subcommittee on Intergovernmental Relations and Human Resources chaired by Representative L. H. Fountain of North Carolina and other investigations conducted by several committees of the Congress, it is estimated that at least $4.5 billion of taxpayers' funds are lost annually through fraud and abuse in these two programs. I believe it is time to admit that these programs need a drastic overhaul and not await a new Congress or reorganization of the Department of Health, Education, and Welfare to initiate a major investigation.

The resolution I have introduced recommends that the President create a strike force composed of investigative and auditing personnel from the Department of Health, Education, and Welfare, the Department of Justice, the Internal Revenue Service, the Office of Management and Budget and any other appropriate agency which he may deem necessary.

The strike force would report to the President and each House of Congress within 90 days after it was established with a preliminary progress report.

A final report of the strike force would be submitted no later than 1 year after the date of the executive order by which it was created.

By using existing resources of the Federal Government, this investigation would require no additional expenditure of resources and would place the entire Nation on notice that continuation of fraud and abuse in the medicare and medicaid programs will not be tolerated.

Mr. Speaker, tomorrow I will distribute a dear colleague letter to the Members of the House urging them to join me in this resolution.

THE UNITED STATES AND AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. McDONALD. Mr. Speaker, in support of the case that our African policy is pure hypocricy of the worst order, the Richmond Times-Dispatch of Sunday, September 12, 1976, had a short, but excellent editorial, which again points out the highly selective nature of our moral indignation against Rhodesia and South Africa. Include the editorial at this point as a matter of interest to my colleagues:

THE UNITED STATES AND AFRICA

As the United States self-righteously intensifies its interference in the internal affairs of South Africa and Rhodesia, consider the following facts:

(1) The first whites settled in South Africa, at what is now Cape Town, in 1652, only a few years after whites established the first permanent English settlement in North America at Jamestown. Thus, whites have as much right to be in southern Africa today as they have to be in America. If South Africa is to be "returned" to the blacks and if the white residents are to be treated as interlopers, which is what some extremists seem to favor, the United States should revert, forthwith, to the Indians—most of whom, incidentally, now live in designated areas apart from whites. Those areas are called "reservations." In South Africa, this sort of thing is called "apartheid."

(2) Until the early 1950s, racial segregation was practiced widely in the United States, including many areas outside the South. Even in the nation's capital it was illegal for black and white children to attend school together. Was this grievous social problem solved as a result of external pressure? Did the United Nations and shuttling foreign ministers from other countries force the United States to end official segregation? No, the problem was resolved internally by domestic institutions that functioned in accordance with the United States Constitution.

(3) While the United States works feverishly to force internal changes in South Africa and Rhodesia and free blacks there from white "oppression," it is doing nothing to free Lithuanians from Russian oppression. Or the Latvians. Or the Estonians. Or the Hungarians. Or the Czechs. If we are going to get indignant about the immoral sociopolitical practices of other countries, shouldn't we throw a little indignation at Moscow?

Enough. These points show that the United States has no right to be smug about its African policies. On the contrary, such facts as these strengthen the argument that the United States should stop meddling and permit Rhodesia and South Africa to solve their own domestic problems.

A HARD NEW LOOK AT AVIATION POLICY

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. LLOYD of California. Mr. Speaker, a sad picture of the state of the American aviation industry emerged this year in House hearings on the future of aviation, but the hearings have produced a set of bold recommendations giving this Nation a blueprint for restoring this vital segment of the American economy to the international preeminence it should enjoy.

The hearings were held by the Subcommittee on Aviation and Transportation Research and Development of the Committee on Science and Technology, of which I am a member.

We heard witnesses from all segments of the aviation industry, and had the benefit of the thinking of many more of our outstanding aviation experts in papers submitted to the subcommittee.

Last week our chairman, Congressman DALE MILFORD, of Texas, released the subcommittee's findings and recommendations to the public.

Mr. Speaker, I would like to have these findings and recommendations appear in the RECORD today, along with Chairman MILFORD's statement which accompanied the release.

I hope each of our colleagues will read these findings, which tell the disheartening truth of slippage in the American aviation industry; and these recommendations which mark a clear path for overcoming the slippage and moving forward the rest of this century.

Please remember as you read this report that manned flight is the invention of America, and that America enjoyed an undisputed leadership position in the field until very recently.

Please also remember that aircraft and aviation-related products rank No. 2 in export sales for the United States, second only to agriculture.

These findings show us where we need to go; the recommendations show how we can get there.

The material follows:

[Press conference, Sept. 16, 1976]

REMARKS OF HON. DALE MILFORD, CHAIRMAN, SUBCOMMITTEE ON AVIATION AND TRANSPORTATION R. & D.

Before beginning, I would like to publicly express my sincere appreciation for the excellent cooperation of three officers in the Administration; Secretary William Coleman, Secretary of Transportation; Dr. John McLucas, FAA Administrator; and Dr. James Fletcher, Administrator of NASA.

At a time when the "in thing" seems to be squabbling between the Legislative and Administrative branches of our government, this Committee Report stands as a living example of an outstanding cooperative effort between the two branches.

From the beginning of this committee effort (over a year ago) to this date, key personnel in DOT, FAA and NASA have worked hand-in-hand with our committee staff to make this report meaningful.

While Administration personnel may not necessarily agree with the findings and recommendations of this report, they certainly are to be commended for their whole hearted effort in making it possible.

I think that the members of the Subcommittee will agree that we do not claim to have all of the answers to aviation's problems. And even the ones that we offer, may not be the "best" answers.

Hopefully, we have gathered enough basic data and ideas from our national experts that either the Administration or thoughtful citizens can come up with different or improved answers.

There has been a lot of talk over the past several years concerning the problems of the American aviation industry.

Generally, such talk has produced two conclusions: First, the American air transportation system is the best in the world, and second, the American aviation industry is being severely threatened.

The Subcommittee agrees with both of these conclusions. However, we also believe that there is no need for constant reiteration of these points.

What we need now is positive action.

I personally think that it is a sad commentary when the United States has to go over to Japan and disassemble a fighter aircraft, from an advisary nation, in order to learn how they can fly higher and faster than we can.

If we are to maintain America's preeminence in world aviation, which provides over one million direct jobs and at least two million indirect jobs for Americans, and adds billions of dollars to our balance of trade, we can no longer delay.

The American aviation industry is faced with serious immediate problems that threaten to drastically reduce its contribution to the American economy.

Air carrier profitability, foreign competition, fuel costs, environmental concerns, and capital formation problems have all combined to bring American aviation industry to a critical crossroad.

This Subcommittee, which has jurisdiction over all civil aviation R&D matters, has been acutely aware of both the opportunities and problems facing American aviation at this point in time.

We were also aware of the need for less talk and more action.

Therefore, approximately one year ago, we began to lay the basis for what we hoped would be a real and positive contribution to the future of aviation in America.

Last spring, the Subcommittee conducted extensive hearings which included witnesses from all sectors of American aviation.

In addition to oral testimony, the Subcommittee also received over forty papers from recognized aviation experts in government, industry, and universities.

Both the hearings and the papers will be published in full in two separate volumes.

The third volume of this set is a summary of the testimony, and the Subcommittee's findings and recommendations.

It is these findings and recommendations of course, that are the thrust of the Subcommittee's report.

In keeping with the Subcommittee's desire to keep talk at a minimum and action at a maximum, I will highlight for you a few of the findings and recommendations.

First, the Subcommitee recognized that aeronautics and the economic health of the Aviation industry is clearly a national concern.

In order to maintain a healthy aviation industry, we found that it is absolutely essential to maintain a strong cohesive research and development base.

We can no longer afford the luxury of disjointed, discontinuous research and development programs.

We feel that the Federal government must seek to achieve a comprehensive national civil aviation R&D policy that will allow for the maintenance of a firm research and development base.

This policy must be coordinated with other modes of transportation and aviation must be given focus in a national transportation policy.

We feel strongly that government-sponsored research and development efforts should also establish long-term stabilized goals and identify the Federal resources needed to fulfill those goals.

Th Subcommittee recommended that the Secretary of Transportation assemble a study group to examine a wide range of government measures which could assist the American aviation industry.

Specifically, we recommended studies in reduction of regulation and trade barriers, federally sponsored world-wide market surveys to aid American industries in the early identification of aircraft demand, the possibility of government-sponsored design competitions for new generation aircraft, and innovative funding mechanisms that will assist manufacturers in developing new generation aircraft.

The study group is to report their findings to the Secretary and to the appropriate congressional committees at the earliest practical date.

The Subcommittee also found that current government institutional arrangements are inadequate to provide a systematic input, on behalf of aeronautics, into national planning and decisionmaking.

Therefore, a strong centralized policy-level office should be established which would have jurisdiction over all federal agencies dealing with civil aviation.

Moving to the area of technology transfer, the Subcommittee found that there is an increasing trend among U.S. aircraft and engine manufacturers to seek joint ventures with foreign companies, many of which are government-owned.

The Subcommittee believes that there are certain disadvantageous aspects to such ventures and therefore recommended that an economic study be made to determine the impact of foreign joint ventures on American jobs and balance of trade.

In addition, maximum efforts must be made to control the export of new technology that has been developed under American government sponsorship.

The Subcommittee also recognized that some form of government assistance must be provided to the legitimate problems of capital formation that are now forcing U.S. manufacturing to go overseas in joint ventures.

One other very important area which the Subcommittee addressed and which I would like to highlight this morning is that of supersonic technology.

The Subcommittee found that the supersonic field has virtually been abandoned to the Europeans and Russians.

In my own personal opinion, this is a travesty.

Five years ago, Congress terminated our supersonic transport program just as it was nearing completion.

For the amount of money it cost to cancel that program, we could have flown our SST and gathered several hundred hours of flight data.

But time did not stand still, just because we did.

Recorder history teaches us that man has always tried to get from point A to point B more swiftly, efficiently, and conveniently.

When we lost this perception of history, three other countries were ready and eager to move into the void.

Certainly, their supersonic transports are having economic, environmental, and efficiency difficulties.

But every new technology is fraught with new problems, because by its very nature, it is at the forefront of knowledge.

The important point to remember is that the technology that makes supersonic flight a reality can be readily adapted to making such flight economical, efficient, and environmentally acceptable.

The Subcommittee found that the United States now has the ability to develop a civil supersonic air transport aircraft that would be economically viable, fuel efficient and environmentally acceptable. In other words, we have the ability to build one that will work.

Therefore, the Subcommittee has recommended that the government should accelerate efforts aimed at developing the technology necessary for a supersonic transport and at reducing barriers to development by the private sector.

We have titled the report "Future of Aviation." I would now like to present the findings and recommendations of the report.

FUTURE OF AVIATION: FINDINGS AND RECOMMENDATIONS

FINDING 1

Aeronautics and the economic health of the aviation industry is clearly a national concern and the maintenance of United States predominance as the world's leading aircraft manufacturer and supplier is in the national interest. This is evident when considering that:

1. Over a million direct American jobs result from aviation manufacturing, airline operations, and groundbased aeronautical activities.
2. Many additional service and support jobs are created as a result of direct aviation activities.
3. Export sales of aeronautical products rank first among all manufactured goods, exceeded only by agricultural products.
4. Safe, reliable, fast air transportation is essential to our national way of life.
5. Aeronautical technology has been applied to a wide variety of beneficial products from industries totally unrelated to aviation.
6. Aviation has made a vital contribution to our national defense.
7. Aeronautical design teams, laboratories, and production facilities represent an irreplaceable national asset.

RECOMMENDATION

National policy must clearly declare that maintenance of the United States preeminence in aeronautics is absolutely vital to the national interest.

FINDING 2

Research and development of new aeronautical technologies is vital to the future of the industry because:

1. Today's investments in R&D are the single most important determinant of the nation's future air transportation options.
2. Extensive R&D is a prerequisite to the delivery of the new aviation products that are needed to retain our worldwide commercial leadership.

RECOMMENDATION

The Federal Government must recognize the direct relationship between well-planned effective R&D and the future health of the aviation industry through creation of a National Civil Aviation R&D Policy.

FINDING 3

Current Government-sponsored civil aeronautical research and development efforts have failed to respond to changing conditions and cannot succeed in maintaining American technical superiority in the future. This is evidenced by the following:

1. Current R&D is primarily limited to technology development and is seldom extended to the point where results can be readily applied by industry.
2. Government-sponsored aeronautical R&D often has been oriented toward short-term goals which have failed to recognize that development of viable new generation air transport aircraft, engines and products now require several years and substantial long-term financial commitments for success.
3. The costs of developing new aircraft and engines are approaching the net worth of individual manufacturers, seriously inhibiting such projects.
4. Foreign governments are spending increasing sums on aeronautical R&D (often exceeding U.S. spending), posing a real threat to continued U.S. supremacy.

RECOMMENDATION

Government-sponsored aeronautical research, development and demonstration (R, D&D) programs and activities must be totally restructured and reoriented into a new and comprehensive national effort that will:

(1) Be coordinated with other modes of transportation and gives focus in the National Transportation Policy.

(2) Expand past practices of conducting only basic research and technology development into other areas of aeronautical development that are beyond the capacity of private enterprise:

(3) In close coordination with private enterprise, establish long-term stabilized goals and identify the Federal resources needed to fulfill these goals.

FINDING 4

Foreign nations are clearly making a major effort to capture a greater share of the very large future world civil transport market, currently dominated by the U.S. They are especially interested in increasing their penetration of the European market. This determination is manifested in the following:

1. Foreign government contributions to the research, development, testing, and marketing of new aircraft and aviation technologies, now exceed those of the United States.
2. There has been considerable growth in the size of the European aerospace industry as indicated by markedly increased employment figures.
3. The Europeans and the Russians each have developed, and are now operating, civil supersonic air transport aircraft in regular commercial service.
4. Recent European attempts at forming joint ventures have achieved a new level of success, raising, for the first time, the possibility of formidable foreign aero consortia.
5. Political pressure by European governments on their national carriers to "buy European" may become more widespread.
6. Recent products have demonstrated considerable competitive appeal and are being offered to American air carriers on very favorable terms.

RECOMMENDATION

The United States Government can no longer ignore foreign government subsidies to their aircraft industries and air carrier operations. The United States must:

1. Substantially boost its efforts in the development of new technology.
2. Accelerate the conversion of new technology into operating hardware.
3. Reevaluate national policy toward the development of supersonic air transports.
4. Reevaluate national policy toward the export of American-developed technology.
5. Closely examine the national interest involved in joint-ventures between American manufacturers and foreign subsidized firms.
6. Reexamine present treaties involving agreements for the operation of international air carrier flights.

FINDING 5

From the very earliest days of civil aviation there has been a vast and a rich transfer of technology and hardware from the research and development activities of military aviation. While some technology fall-out is expected to continue in the future, there will be a considerable decrease in the direct transfer of easily adaptable hardware for the following reasons:

1. Present military aeronautical R&D often involves increasingly complex total "weapons systems" that are designed for specific missions and therefore cannot be easily nor economically adapted to civil use.
2. The design aims, goals, and missions of military supersonic and hypersonic fighter aircraft will have little in common with civil aircraft needs.
3. Military aircraft designs are not strongly driven by such civil concerns as noise and pollution.

RECOMMENDATION

Federally-sponsored civil aeronautical research, development and demonstration efforts must be expanded to compensate for reduced military fall-out and must be pursued independently, with appropriate national priority.

FINDING 6

In the past, U.S. air carriers have always been the "launching customers" that prompted civil air transport aircraft manufacturers to design and manufacture new generation aircraft. Because of the confluence of several adverse factors, American air carriers are now unable to provide the necessary guarantees to enable a manufacturer to produce a new generation aircraft.

1. Recent general economic conditions have severely depressed the profits of air carriers, leaving them with insufficient capital to buy new aircraft.
2. The industry's traffic volume projections in the late 1950's and early 1960's were overly optimistic, resulting in over purchase of new equipment (excess capacity), that must be operated at reduced efficiency or disposed of at a financial loss.
3. All air carriers have been affected by a leveling off of the previous trend that saw substantial airline expansion at the expense of other transportation modes.
4. Future growth is expected to be related primarily to growth of the economy.
5. All air carriers have been seriously affected by inflation, especially the tripling of fuel prices, that has occurred within the past three years.
6. Major financial institutions and investors have found air carriers to be unattractive, making it impossible for them to form the capital needed for new equipment purchases.

RECOMMENDATION

The National Civil Aviation R&D policy must recognize that the single most important ingredient needed to open the way for development of new generation aircraft is the ability of U.S. air carriers to purchase new equipment.

FINDING 7

The present national transportation system has been shaped as much by government action as it has by free market forces. In the past, government action in the transportation field has been characterized by a patchwork approach to R&D and a labyrinth of direct and indirect subsidies. Without a coordinated effort to guide government actions in the future, this process will continue and inevitably will yield a result that fails to serve the best overall interests of the nation.

RECOMMENDATION

The Subcommittee believes that the Department of Transportation should take a forceful leadership role in providing a focus for civil aviation R&D. It can do this by addressing the proper role of aviation within the national transportation system, especially the classes of markets that can be best served by air. Such activity should be accomplished with full participation by all those affected and should include the necessary flexibility to respond to changing conditions, and new R&D derived opportunities.

FINDING 8

Current institutional arrangements are inadequate to provide a systematic, aviation input into national planning and decision-making. This is evident by the following:

1. There are many examples of government action in diverse areas including tax law, regulation and trade policy that have had profound and often unanticipated side effects on the aeronautical industry, and thereby the R&D process.
2. The full potential of civil fall-out from military aircraft developments is not realized, in part because civil requirements are not focused nor factored into such developments during the R,D&D.
3. The recommendations of past studies of civil aviation R&D policy have been frequently ignored.

RECOMMENDATION

A strong centralized policy-level authority, with jurisdiction over all federal agencies dealing directly and indirectly with civil aviation must be established. Such an office would:

1. Coordinate all Government-sponsored aeronautical R&D to assure that the national interest is served.
2. Oversee Government actions in diverse areas such as regulation, trade policy and tax law to assess possible effects on aviation.
3. Provide a coordinated aviation input into national transportation policy and planning.

FINDING 9

The Subcommittee found a wide range of available government measures, beyond the traditional role of technology development, which would assist the American aircraft industry in developing new generation aircraft. Among these are:

1. Reduction of regulatory and trade barriers that now prevent or hinder application of new technology in the marketing of aircraft and aviation products.
2. Extension of the traditional federal role of development of new materials, concepts, and processes to a stage where they can be readily applied by industry.
3. Federally-sponsored worldwide market surveys to aid American industries in the early identification of aircraft demand.
4. Government-sponsored design competitions of new generation air transport aircraft and engines.
5. Government assistance to American industries, in the form of innovative funding mechanisms that will ease the cost of developing and testing new generation aircraft and engines.
6. Adaptation of the military concept of independent R&D funds to solve civil aeronautical problems that are of national concern.

RECOMMENDATION

While the Subcommittee felt that it did not have sufficient information to offer a specific formula, the evidence strongly indicates the need for accelerated federal support in the areas identified. Therefore, the Subcommittee recommends that:

1. The Secretary of Transportation assemble a study group consisting of knowledgeable professionals from each Federal agency involved in aeronautics and appropirate individuals from industry.

2. The study group carefully evaluate the potential and the implications of the listed measures, and, when appropriate, reflect their findings in the National Civil Aviation R&D policy.

3. The study group report their findings and recommendations to the Secretary and to the appropriate Congressional committees at the earliest practical date.

FINDING 10

There is an increasing trend among U.S. aircraft and engine manufacturers to seek partnerships and joint ventures with foreign companies in developing new products. The reasons for this are:

1. The conviction on the part of U.S. manufacturers that the world's industrialized nations, especially the European countries, are committed to developing new aircraft.
2. A fear that foreign governments will direct procurement of locally produced aircraft by their national airlines.
3. To retain market access in Europe, U.S. manufacturers feel that they must be prepared to cooperate with overseas companies.
4. A need for American aircraft manufacturers to augment domestic sources of capital to help defray the prohibitive costs involved in the design and development of new generation air transport aircraft and engines.

RECOMMENDATION

The Subcommittee believes that the trend toward foreign joint ventures may be an overly conservative reaction on the part of American manufacturers aimed at assuring market access in a few European countries. In the past, the American aircraft industry has maintained world preeminence because of superior technology, better manufacturing processes, extensive marketing and servicing organizations and extremely reliable equipment, all of which have combined to produce superior aircraft at lower prices. Retention of these factors is necessary to insure U.S. dominance. In lieu of joint ventures, the Subcommittee recommends:

1. Additional federal support in the R,D&D of new generation American air transport aircraft and engines.
2. Federal action to accelerate the delivery of new technology to the market place.

FINDING 11

The Subcommittee found that some aspects of foreign joint ventures are disadvantageous to the national interest because:

1. Technology that is often derived at taxpayer expense, is exported to competing nations.
2. American jobs may be lost to foreign countries.
3. The national defense may be endangered through the conveyance of advanced technology to potential adversaries.
4. American technological progress will be reduced in the areas where the foreign partners are working.
5. American customers will become dependent on foreign suppliers.

RECOMMENDATION

The issue of foreign joint ventures is a complex one requiring the attention of several Congressional committees. Therefore, this Subcommittee will not presume to address the entire question; but will concentrate on those aspects that affect the R&D process.

1. Some form of government assistance must be provided to ease the legitimate problems of capital formation that are now forcing U.S. manufacturers to go overseas in joint ventures.

2. Maximum efforts must be made to closely control the export of new technology that has been developed under government sponsorship.

3. An economic study must be made to determine the impact on American jobs and our balance of trade that will result from the formation of joint ventures.

FINDING 12

The supersonic transport field has been abandoned to the Europeans and the Russians. The United States has the ability to readily develop the technology needed to build an economically viable, environmentally acceptable and fuel efficient advanced supersonic transport. The early experience with regular commercial operation of supersonic air transport aircraft shows a high degree of passenger acceptance of supersonic flight.

RECOMMENDATION

It is clearly in the national interest for the U.S. to build an environmentally acceptable, fuel efficient and economically viable supersonic air transport aircraft. Government action in the near term should be aimed at accelerating the technology availability date for such a project and at reducing barriers to development by the private sector.

FINDING 13

The most important need for aeronautical R&D, in the near term, is in the area of increased operating efficiency. Improvements in fuel efficiency and other operating factors are absolutely necessary for the long-term health of U.S. air carriers and for the competitive position of U.S. manufacturers.

RECOMMENDATION

The Subcommittee heartily endorses the objectives of the NASA Aircraft Energy Efficiency program, but urges that its scope be expanded so that the results may be readily and quickly applied by industry without undue risks.

FINDING 14

Regulation, per se, is not within the jurisdiction of this Subcommittee and we have no desire to enter the debate surrounding the various economic regulatory reform proposals now before the Congress. Nevertheless, there is ample evidence to show that the R&D process and consequently the U.S. technological position is affected adversely by the current regulatory structure:

1. There are examples in which regulation has inhibited the development of new aeronautical technology.
2. Delays in promulgating new rules and regulations have frequently hindered the R&D process.
3. The current regulatory structure has restricted or, in some cases, overstimulated airline competition which has in turn had adverse effects on the R&D process.
4. In some cases regulation has unnecessarily hindered the formation of capital by airlines which in turn adversely affects the R&D process.

RECOMMENDATION

The Subcommittee favors the early modernization of economic regulations and the streamlining of promulgation procedures which would permit appropriate competition and thereby enhance the development of new technology. This action should assure the quality service is provided to the public. Furthermore, it should be completed quickly to restore the stability that is necessary to investor confidence in U.S. airlines.

FINDING 15

Aircraft noise and pollution along with land use considerations represent increasingly important constraints on the growth of aviation, particularly the needed expansion of airport capacity.

RECOMMENDATION

Civil aviation R&D policy must emphasize the need to develop and quickly apply new technology to aircraft and airports to respond to requirements for reduced emissions and noise and more effective land use control.

FINDING 16

Manufacturers have had little guidance that would require them to incorporate the most advanced noise and emission suppression technology in their design for future aircraft and engines. Without adequate regulatory standards that precede the development of new aircraft, design tradeoffs are generally made which favor other parameters. Furthermore, the effect of late regulatory action has been to increase development and production costs.

RECOMMENDATION

FAA, EPA and other regulatory agencies must devlop mechanisms to assure that regulatory standards are developed in time to

> permit the incorporation of the best available noise and emission suppression technology in future aircraft and engines.

ACHIEVER AWARDS BALL

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. RUSSO. Mr. Speaker, on September 24, the Chicago South Chamber of Commerce will hold its annual Achiever Awards Ball. More than 500 people will be present to pay tribute to eight outstanding citizens who have contributed to the growth and development of Chicago's far south side.

I look forward to this evening with great anticipation. Not only will it be a gala occasion but I will have the opportunity to present one of the outstanding citizens awards to a most deserving man who I am proud to call my friend.

Mr. Tom Dombro representative of Equitable of Iowa Insurance Co. will be named the chamber's outstanding young businessman of the year. What a singular honor to be so named by this exceptional chamber of commerce for the area has produced some of the finest industrial and community leaders in the entire Nation.

President Robert Swaney summed up the event nicely in a recent news release. He said:

> As the oldest chartered chamber in the State of Illinois, representing the greatest industrial complex in the nation, it is only fitting that we pay tribute to those who have contributed so significantly to our development. It was very difficult to select the eight leaders to be honored, because the Greater Roseland Area of Chicago's far south side has produced many, many more business and community leaders than those selected.

I commend the chamber for its choice of Tom for of all the young businessmen our area has produced none is more worthy of recognition during our country's Bicentennial Year. Our country, strong and proud after 200 years, owes much of its greatest to people such as Tom. His commitment and dedication are an inspiration to those who would seek to serve their community and their country.

Here are some of the organizations in which he has held active positions: Most Holy Redeemer School Board, Holy Redeemer Church, Evergreen Park Chamber of Commerce, Chicago Association of Life Underwriters, National Association of Life Underwriters, Chicago Chartered Life Underwriters Chapter, American Society of Chartered Life Underwriters, Most Holy Redeemer Holy Name Society, Most Holy Redeemer Athletic Association, Evergreen Park Fin and Gun Club, Crawford Gardens Improvement Association, Million Dollar Round Table, and Equitable of Iowa's President's Cabinet.

In the Chicago South Chamber of Commerce. he has served as a member of the board of directors and as the organizer and first president of the young businessmen's committee. In this capacity, Tom provided leadership and direction to the young businessmen during the early years of the organization and he spearheaded many special projects.

This will be a memorable evening for Tom and his lovely wife Maureen. I know my colleagues join with me in commending Tom and congratulating him on this award.

A $600 BILLION NATIONAL DEBT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. ASPIN. Mr. Speaker, the public is widely aware of the $600 billion national debt. But how many are aware that there is another, virtually secret, debt on top of that—the $300 billion in pension promises made to the military and civil service.

Private firms are now required by law to fund their pensions, that is, they must set up a fund and pay enough money into the fund each year to pay off their pension promises as they come due. This law does not apply to any governmental units. As a result, many politicians find they can make gravy out of public pensions. They can win friends among public employees by promising generous pensions and then tell the other voters they have not voted to raise taxes. It is the next generation of taxpayers who will get socked with the bill. Unfortunately, this practice has been going on for some time and so in many communities, like New York City, we are the next generation.

Just one example: Even before World War II Hamtramck, Mich., was making generous pension promises—and neglecting to fund them. Fiscal reality caught up with Hamtramck in 1970 when 70 percent of the payroll was required for pensions alone. The city actually stopped paying either its retirees or its working employees until the State came to its rescue. But taxes in Hamtramck are now much higher.

All our citizens ought to be covered by adequate pensions. But many lack them while others enjoy lavish pensions. The military pension system is probably the most generous anywhere. The average enlisted man is only 41 when he begins to collect a pension check; the average officer is only 46.

In the past when virtually all servicemen were in the field, this might have made sense. You do not want a 60-year-old leading cavalry charges. But the bulk of our enlisted men now push pencils and not caissons; the bulk of our officers maneuver paper rather than battalions. The early retirement is an anomoly—and an expensive one at that. Only 12 years ago military pensions consumed $1.2 billion or 2½ percent of the defense budget; this year they will absorb $8.4 billion or 8½ percent of the military budget. By the year 2000, the annual cost is expected to have risen to $34 billion.

Numbers like this are too large to grasp. But a particular case illustrates the generosity of the military pension: last January a chief petty officer retired from the Navy. He was only 35, but he immediately began collecting a pension of $100 a week.

As Senator THOMAS F. EAGLETON of Missouri recently said:

> Unless we act now, in future years the classic question of ecnomic priorities could become "guns or pensions."

The Pentagon itself agrees. An official pamphlet says, "The current—pension—system provides excessively liberal benefiets when compared with most civilian sector plans."

Why was the pension allowed to get that way? Basically because no one was looking. For years military pay was poor and a high percentage pension was essential or the military retiree could not survive. Then the military was given social security coverage in the 1950's and in the 1960's pay scales were raised radically. But the basis for calculating pensions has not changed.

The average couple retiring on social security at 65 this year can expect to receive $69,000 over the rest of their lives, assuming no change in the rates. The average enlisted man retiring this year will get $153,000 in pension money before he turns 65 while the average officer will collect $293,000 before reaching 65.

The average military retiree will actually get more money in retirement than he received during all his years in uniform. Compare various men who have worked 20 years. The private sector retiree can expect to receive during his retirement years 20 to 30 percent of all he earned while working. Federal civil servants can expect 49 percent and New York City teachers 106 percent. Congressmen, who are not noted for being sparing with their own needs, will get 49 percent. But an enlisted man will receive 132 percent of all he earned while in uniform while the officer will receive 144 percent.

These calculations all assume there is no future inflation. Federal retirees all receive full cost-of-living coverage while no private sector plan I have ever seen analyzed gives anything approaching full protectioin.

When the military's more generous cost-of-living protection is cranked into the calculations, the gap widens considerably.

Compare two men, one in uniform and one in the private sector, who retire after working the same number of years at the same pay. The military retiree can expect to receive about seven times more over all his retirement years than the private sector retiree.

I am not suggesting that we should take pensions away from our military retirees or any other retirees. They were promised these pensions for past work and that promise must be redeemed. But as a nation we ought to be reviewing these pension promises. Do we really want to continue these promises into the future forever?

Reforming the military pension system in not easy. Efforts to make changes in programs as dull and arcane as pension systems often fail because the only persons interested and the only persons who lobby are those who stand to benefit. If any change is to be assured the general public ought to be aware that a continuation of these overly generous pension promises means higher taxes down the road for everyone.

The accompanying chart highlights the great gulf between the provisions of private pensions and the benefits granted military and other Government retirees:

Private pensions are normally paid at age 65, military pensions on average at age 42;

With 30 years of service, most private pensions give less than 35 percent of the final paycheck while the military pension pays about 60 percent of the last paycheck;

Two-thirds of private pensions are reduced by some portion of the social security benefits while military pensions are unaffected;

The best private pension covered three-quarters of inflation in the past 5 years, the average providing protection covered only one-quarter, while Federal pensions covered about 101 percent of the inflationary impact;

Few private plans offer any fringe benefits while the military offers a whole host that add significantly to the value of the pension—free medical and dental care, access to subsidized groceries in commissaries, free airplane travel when space is available, et cetera.

Only in the final category—vesting—is the military pension plan less generous than other pension schemes. Vesting is the amount of time a person must work before he qualifies to receive a pension. A civil servant with only 5 years on the job qualifies to receive some sort of pension when he reaches 62. But those persons leaving the military shy of 20 years will never receive any pension.

As the chart indicates there are many different ways the military pension plan can be reformed. For example, it can be integrated with social security; the base for calculating the pension can be shifted from the final paycheck to a period of years; a fund can be established out of which the pensions would be paid.

But the key issue is the early age at which pensions are now paid. That is the single most costly feature. Any reform must address that issue squarely and ask if we should continue the practice of offering pensions to men in their thirties and forties.

The list follows:

Persons with normal retirement below age 65, private, 5 percent; State and local, 70 percent; Federal civil service, 100 percent; military, 100 percent.

Persons under age 50 eligible to receive a pension, private, virtually none; State and local, a few; Federal civil service, none; military, all.

Average pension as percentage of "final salary" after 30 years of service, private, 40 percent; State and local, 50 percent; Federal civil service, 56 percent; military, 59 percent enlisted, 62 percent officer.

"Final salary" defined as average of, private, high-5 years; State and local, high-5 years; Federal civil service, high-3 years; military, final paycheck.

Pension as percentage of final paycheck, private, <35 percent; State and local, 44-percent; Federal civil service, 51 percent; military, 59 percent enlisted, 62 percent officer.

Frequency that pensions reduced by some part of social security, private, two thirds; State and local, one-third; Federal civil service, none; military, none.

Workers covered by automatic cost of living clauses, private, 2½ percent; State and local, 50 percent; Federal civil service, 100 percent; military, 100 percent.

Proportion of inflation in last 5 years covered by Cost of Living raises (for those so protected), private, 25 percent; State and local, unknown; Federal civil service, 101 percent; military, 101 percent.

Proportion of workers required to contribute to fund pension plan, private, 25 percent; State and local, 94 percent; Federal civil service, 100 percent; military, none.

Fringe benefits for retirees, private, rare; State and local, rare; Federal civil service, rare; military, lots.

Vesting, private, 10 years; State and local, 10 years; Federal civil service 5 years; military, 20 years.

BOB HILLYER—OUTSTANDING CIVIC LEADER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. ANDERSON of California. Mr. Speaker, one of the fondest moments in anyone's life undoubtedly comes when a grateful community offers recognition to a person's accomplishments and contributions. On October 29, 1976, such a moment will come to Bob Hillyer, when the Los Angeles harbor area will come together at a testimonial dinner to thank him for his 46 years of leadership in community affairs and political activity.

Many of us in the harbor area, especially the communities of San Pedro and Wilmington, are very familiar with Bob's cheerful presence. Indeed, the Wisconsin native has been a moving force in our district for so long that it is hard to imagine what it would be like without him.

Bob Hillyer was born in Park Falls, Wis., on April 15, 1897. He served in the U.S. Navy during World War I as a chief machinist mate, and held the same position in the Philippines during World War II. Bob remains active in veteran's associations; he is currently first vice commander of American Legion Post No. 287, and in 1946 was commander of the World War II Veterans of San Pedro, Post No. 29—AMVETS. In addition, he is a past commander of the Wilmington American Legion Post No. 287, and is a former president of the Associated Patriotic Societies of San Pedro.

A former candidate for the California State Senate, Bob Hillyer has been an active force in harbor area politics for over 46 years. In 1932, he was the organizer and first president of the Wilmington Roosevelt Democratic Club—still the oldest existing Democratic club in the harbor area.

Displaying one of his many talents, Bob organized the Los Angeles Harbor District Band, which entered the Tournament of Roses Parade in Pasadena on New Year's Day, 1933. The band took first place for bands that year in the tournament against some of the outstanding talent in Southern California. In 1937–38, Bob served as Chamber of Commerce Parade Chairman for the Wilmington Fiesta.

In 1952, Bob Hillyer was elected as a delegate to the Democratic National Convention, which was held in Chicago that year. He also served as chairman of the Democratic County Central Committee in the 68th assembly district for 4 years, where his leadership was instrumental in maintaining a strong Democratic effort in the Harbor area. Bob was a member of the Los Angeles Mayor Sam Yorty's Advisory Committee in 1965, and was cochairman of the Vincent Thomas Bridge Dedication Parade.

Next April 15, Bob Hillyer will celebrate his 80th birthday. Despite the fact that he has reached an age long past what most of us would view as retirement time, Bob is still an active realtor-associate, selling real estate with Rainbow Realty in Wilmington.

Bob has been an outstanding civic leader throughout his many years in the San Pedro-Wilmington area. His accomplishments and contributions have been many, but probably his greatest assets are his boundless enthusiasm and energy which he brings to his every activity.

On October 29, those of us in the Harbor community who have been fortunate enough to know this outstanding individual will have an opportunity to thank him for his efforts to better our area. My wife Lee joins me in offering Bob Hillyer our personal congratulations, and wish him many more productive and fulfilling years to come.

A SLAP IN THE FACE OF NEW YORK'S MIDDLE-INCOME FAMILIES

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. KOCH. Mr. Speaker, the New York City Board of Education has once again chosen to travel the path of least resistance in its decision to end free transportation for 113,500 students and to boost fees for 63,000 others receiving reduced fare privileges.

With the school year about to commence, the Board's action can only be seen as a slap in the face for middle-income families with school aged children struggling to remain in New York. The imposition of fees is, in effect, another highly regressive and discriminatory tax on the working poor and middle class. And let us face it, the people who will relocate out of the city because of this additional expense are overwhelmingly middle class. The new policy will add an average of $400 to these families' living costs this school year and it joins the growing list of economic disincentives driving the middle class backbone of New York to suburan school districts, not to mention the declining quality of public education. Furthermore, the inevitable white flight attendant with the implementation of this plan can only make more difficult the board of education's efforts to achieve racial balance.

The board of education's own figures underscore this disturbing trend: some 100,000 fewer students will re-enroll in the city's public schools this year than did last September. Not surprisingly, a significant portion of the decline in student enrollment is attributable to the loss of white middle class families from the city. An estimated 31 percent of the school system's student body will be white this September, compared with 36.8 percent in 1971.

Equally disturbing as the implications of the new fare policy for our city's middle class, is the board's inability to reduce unnecessary expenditures in areas where entrenched interests or long standing practices are involved. At a time when the analysis of the educational priorities panel, a distinguished body of education budget experts, recommends savings of $160 million in the city's school system, the board of education has chosen to cut an easy target: free pupil transportation, for a projected savings of $18 million. The consequent effects of this policy in terms of polarization of communities, the flight of middle income families, and so forth, cannot, of course, be measured in dollars and cents.

Rather than squeeze dollars from middle income families, I would urge the board of education to give careful consideration to proposals by the educational priorities panel for concrete, realizable savings in the following areas:

The board of education has enough unused space in its school buildings to handle the education of an additional 111,000 children. At the same time, it spends $9.1 million a year to lease approximately 2.9 million square feet of privately owned building space.

The board of education spends $121 million a year to provide lunches to children. Of that amount, $85.5 million is covered by Federal and State subsidies, providing up to 86 cents per lunch. If the board were to implement better management to reduce the cost to less than 86 cents per lunch, all $35 million in city funds would be freed for reallocation to classroom services.

Despite the fiscal crisis facing the city and its schools, the board of education is considering contract demands by custodians who maintain the city's 1,020 school buildings that will cost in excess of $72 million.

Unless the board of education acts to defer cost-of-living adjustments and longevity increases for school personnel, increases costing over $60 million will soon take effect.

My purpose, Mr. Speaker, is not to suggest that savings in pupil transportation costs cannot be realized. I do believe however, that at a time when the confidence of middle-income families in the quality of public education is already at a low ebb, that the board of education would be wise to avoid cuts in services which so directly affect the public's pocketbook—and with it the future of our city's middle class.

Free public transportation for students who live outside of walking distance of school has been traditionally provided by local boards of education in our country. It is part of the concept of free public education which we offer all students of kindergarten through high school age. Eliminating free transportation for some students unjustly discriminates against them in that it reduces their educational opportunities. For the poor, this will provide another incentive to leave school before they receive their diplomas, and at the least, it will literally put out of reach the city's specialized schools that are supposed to be available to all educationally qualified students. What other result can be expected when welfare families will have to deduct the cost of transporting their children to school from their meager budgets. For the middle class, the new transportation fees will impose an enormous financial burden in support of educating their children that are in fact entitled to free education.

In many parts of our country students who live more than a half mile or a mile away from school are provided with free or reduced fares. The public would think it unconscionable if, for example, Montgomery County were to simply discontinue its school bus runs and tell students they had to get to school on their own—but somehow what is effectively the same proposal is now to be the policy in New York and is thought to be acceptable to some. I find it to be unconscionable.

PEACE ENDANGERED

HON THOMAS J DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DOWNEY of New York. Mr. Speaker, in a recent book entitled "Peace Endangered," Dr. D. J. Rummel of the University of Hawaii has claimed that the Soviet Union has, or shortly will have, the ability to conduct a disarming first strike against the United States.

This conclusion, which contradicts the views of both the current Department of Defense and of its probable successor, is based on at least two assumptions which I find surprising. The first is what is called pin-down; the second is the utility of a Fractional Orbital Bombardment System, or FOBS, against manned bombers and ICBM's.

I have written to Dr. Rummel, asking him to explain how and why he sees these tactics as being effective. I have also solicited his views on the possibility of United States first strike against the Soviet Union. My questions are inserted in the RECORD at this point; I will insert Dr. Rummel's response when it arrives:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 8, 1976.

RUDOLPH J. RUMMEL,
Department of Political Science,
University of Hawaii,
Honolulu, Hawaii.

DEAR DR. RUMMEL: Your recent book, "Peace Endangered," certainly seems to have stirred some interest on Capitol Hill. I had to wait two weeks before I could get a copy from the Library of Congress, and even so I was requested to keep it no longer than ten days because of the high demand for it.

I have written an article on a related subject, which will be published next week in the Fall issue of Foreign Policy. I would welcome your comments on it. In the interim, your book has stirred several questions in my mind, particularly regarding your preclusive first strike analysis in Appendix A.

(1) Reading Appendix A before the rest of your book, it seemed to me that, in specifying three minutes' warning from a FOBS counter-bomber attack, you discounted our satellite warning systems, which can detect any Soviet missile launch in its initial stage. But reading your initial scenario (page 10), you appear to assume this system would be effective. However, you also assume a flight time of 11 to 13 minutes, which is short for a minimum-energy ICBM and much too short for a FOBS coming around the long way. I would be interested in a more detailed explanation of how a counterbomber FOBS attack could catch the bombers still on the ground.

(2) While the accuracy requirement for a counterbomber attack is modest, the accuracy of a long-way FOBS is very poor. What assumptions of yield, accuracy, numbers of RVs, and types of launchers are involved in your projected FOBS attack?

(3) Your second key assumption is ICBM pindown. What is your assumption of the number of MTE per minute per ICBM wing needed for successful pindown?

(4) What would be the conclusion you would draw from a similar analysis in the opposite direction; that is, a first strike attempt by the U.S. against the Soviet Union? I would be interested in specifics on this.

(5) On page 160, you describe the SS–19 as carrying five MIRVs of 2MT each. If one assumes the SS–19 to have 7000 pounds throwweight and Minuteman III/Mark 12 technology, range, and dispersion, application of Walsh's Law produces a 5-MIRV SS–19 with .38MT per RV. Assumption of Mark 12A technology, which might be valid for the middle or late 1980s, would produce RVs of .76MT each. In order to use RVs of 2MT each, it seems a radical reduction in range and/or dispersion would be necessary. On what basis do you expect the SS–19 to carry 2MT MIRVs?

(6) Setting aside for the moment the possibility of a Soviet look-down, shoot-down capability, you appear to reject the thesis that Soviet ground-based peripheral radar coverage has so many low-altitude blind areas that a low-flying bomber would have no trouble flying through them undetected, and that Soviet terminal defenses are unable to deal with the SRAM. What is the basis for this rejection?

(7) What is your estimate of the probability that the Soviet Union will have a substantial deployed look-down shoot-down capability before 1980?

(8) Your three damage levels are based on the assumption that it is necessary to cover the entire area of a given city with a specified level of overpressure. Suppose, instead, we were to concentrate on those specific targets which have the greatest importance to Soviet economic recovery, and on Soviet leadership. What do you see this as doing to the required level of retaliatory destructive capability?

(9) What level of effectiveness are you defining as "improved ASW"?

(10) How would this be achieved?

(11) How would the exoatmospheric Galosh system be effective against U.S. RVs with chaff and other penetration aids?

(12) You attribute "high ABM capability" to the SA–5, although the Chairman of the Joint Chiefs of Staff has described it as "not currently suitable" for that role. You also attribute ABM capability to the SA–2, which performed very poorly against relatively slow aircraft both in Vietnam and the Mideast,

and the SA-6 which lacks both the range needed for area defense and the very high Sprint-type acceleration needed for point defense. On what basis do you assume these systems to have effective ABM capability? What influence do you see the Evader MaRV as having on this capability?

(13) Why do you assume no Trident 1 missiles will be retrofitted into Poseidon ships?

(14) On page 77, you describe the SS-N-8 as equivalent to Trident. How would you compare the two missiles in terms of soft target and hard target capability? How would you compare the SS-N-8 with Poseidon, if the latter's throwweight were reduced to permit 4,200 mile range?

(15) On page 64, you refer to our reduction in megatonnage since 1962 as "disarmament". On page 69, you refer to our reduction in MTE as giving the Soviets an "advantage". Is it your view that the rather large sums we have spent on newer but smaller-yield weaponry has been wasted, and that we would be in better shape if we had retained our 1962-vintage weapons or produced similar replacements?

As part of my continuing effort to stimulate discussion of nuclear deterrence, I am inserting this letter in the CONGRESSIONAL RECORD, and will insert your reply when it arrives. Until then, congratulations on a well-written and articulate piece of work.

Sincerely,

THOMAS J. DOWNEY,
Member of Congress.

XM-1 TANK PROGRAM

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. RIEGLE. Mr. Speaker, Defense Secretary Rumsfeld's decision to delay the XM-1 tank program has many important implications for our national security, the cost-effectiveness of our defense budget, and my own State of Michigan.

The House Armed Services Committee has been conducting a thorough and much-needed examination of this delay. On September 17, I testified on the XM-1 tank program before the Armed Services Committee, and I would like today to share my testimony there with other Members of Congress:

STATEMENT OF CONGRESSMAN DONALD W. RIEGLE, JR. ON THE XM-1 TANK PROGRAM

Mr. Chairman, and Members of the Committee, I appreciate this opportunity to testify on the delay in the XM-1 Tank Program. You are to be commended for your prompt attention to this problem, and your efforts to resolve it. This kind of close examination of the XM-1 program will, I am sure, lead to a better procurement decision.

Let me begin by briefly reviewing the situation as I see it. Last July 22nd, the Secretary of the Army stated at a news conference that the decision in the XM-1 competition between the Chrysler and GM prototype tanks would be delayed. The decision to build a new, better tank had been expected in July 1976. On August 3rd of this year, the U.S. and West Germany signed an agreement to standardize major components of the XM-1 and the Leopard II, a West German tank, and GM and Chrysler were given until the end of the year to come up with information on how—and at what cost—they could meet these new specifications.

I believe that Secretary Rumsfeld's decision to delay the XM-1 Tank program, and to seek more commonality with the West German tank, has a number of significant implications for our own national security, and the cost-effectiveness of this weapons system. In addition, the decision would have considerable impact on the State of Michigan and its economy. I would like to take a few minutes today to address some of these Michigan issues and how they are affected by Secretary Rumsfeld's decision. Finally, I would like to suggest an alternative course of action that the Congress might follow to effectively deal with the problems now being experienced by the XM-1 Tank program.

IMPACT OF XM-1 DELAY ON NATIONAL SECURITY

Any delay in a weapons system of this magnitude has ditsturbing implications for our national security. The battle tank today is an integral element of a modern fast-moving army. This was recently demonstrated in the Yom Kippur War. The Secretary of the Army has estimated the delay caused by the standardization agreement at four months. Other observers, noting the difficulty of redesigning complex tanks, have suggested the delay might be as long as one to two years. United States XM-1 Tank production could not probably begin until 1981, instead of the present schedule of late 1979. Furthermore, engineering design changes could push this schedule out even further.

Meanwhile, the Soviets continue to increase their already heavy numerical advantage over the U.S. and NATO in main battle tanks. Acording to the International Institute for Strategic Studies, the Warsaw Pact forces possess approximately 26,250 tanks, 2½ times NATO's force of 10,250 tanks. And the Soviet Union is each year producing thousands of T-72's, a tank which is one generation ahead of our present M-60 tank.

To meet the entire free world's defense needs, the U.S. Army has spent nearly half a billion dollars since 1963 on the development of a new main battle tank. Since 1964, millions of dollars have been spent on jointly designing an MBT-70 tank with Germany. This project, apparently considered to be a "false start" was officially abandoned as unworkable in January, 1970. I believe that the MBT-70 illustrates the difficulty of standardizing a prime weapon system with another country.

Another concern of mine is the effect that standardization would have on the military preparedness of our own forces. Under the standardization agreement with Germany, both the Federal Republic and the U.S. will have 120 mm. guns, turbine engines, metric fasteners, and other common parts. But the new XM-1 tank will then not share commonality with our current main battle tank, the M-60, which has a 105 mm. gun, and a diesel engine. Since the M-60 will be in our tank inventory for some time to come, the new standardization agreement will increase possible battlefield repair and supply problems for U.S. forces.

STANDARDIZATION OF XM-1 COULD CAUSE COST-OVERRUNS

A number of people who have examined this program are concerned about the cost of standardizing the XM-1 tank with Germany. The Secretary of the Army has estimated standardization will add 15% to the per unit cost, raising total program cost by hundreds of millions of dollars. But if past experience is any guide, the cost could be much higher. The XM-803 tank program—the U.S. successor to the U.S./West German MBT-70 program—is only one example of a program that was killed because of high unit costs. It is my understanding that the high cost resulted from the Army overdesigning the characteristics of this complex tank.

To keep costs down in the XM-1 program, the Army wrote relatively broad design objectives for this tank, thus allowing Chrysler and GM to equitably compete and try to meet those objectives with considerable engineering freedom. GM and Chrysler each built prototype tanks, which were exhaustively tested earlier this year at Aberdeen Proving Ground, and the Army was then going to make its decision on the basis of these extensive tests. But with the new standardization agreement, we are moving back into the era of an over-emphasis on specification. After three years of designing and building the XM-1 tank, GM and Chrysler engineers must now go back to the drawing board, and develop rather quickly the major design modifications needed to meet the Army's new requirements.

The potential for huge cost overruns under this kind of procurement process is apparent, I believe, to everyone on the Committee. Tank design is an extremely difficult process, involving numerous and complex trade-offs. For example, the need for a larger gun and heavier armor must be balanced off against lost maneuverability. Such sudden and fundamental changes in the design of the XM-1 tank will, in all likelihood, increase its cost, and possibly reduce its military effectiveness. Furthermore, the new requirements mean that the Army must choose an American manufacturer on the basis of a paper design rather than a prototype. We have seen numerous examples of weapons designs that, when interrupted by continued and sudden engineering changes, forced completely new assessments as to their technical and military feasibility.

All these extra costs could easily impair the mission capability of the XM-1 tank program and again take us down the road of the MBT-70 and the XM-803.

SECRETARY OF DEFENSE DECISION QUESTIONED

I am disturbed by how the Defense Secretary's decision was reached. It was reported that the Army was about to award the XM-1 contract to the General Motors Corporation. The project was well on schedule, and meeting its cost objectives when, on July 20th, reports were informed that the contract award would be announced the next day. But then a last minute decision—surrounded by considerable confusion—brings us to where we are today.

Many people in my own state were surprised that there was no prior consultation with Congress before the Pentagon made this decision because the resulting delay runs contrary to Congressional intent. This lack of prior consultation prevented any open public exploration of the advantages and disadvantages of standardization, and the resulting cost impact. To my knowledge, a cost impact study has still not been done.

JOBS IN MICHIGAN THREATENED

As citizens and taxpayers, the people of Michigan, like all Americans, are concerned about any unnecessary delays and added costs to government programs. But the people of my state are equally concerned about the XM-1 because it affects the livelihood of thousands of employees in the Muskegon and Warren, Michigan areas.

In Muskegon, thousands of workers at Teledyne Continental Motors could lose their jobs because of the Secretary of Defense's decision. Teledyne manufactures the diesel engines that are used in our current M-60 tanks, and developed an engine to be used in the General Motors version of the XM-1. Chrysler's XM-1 uses a gas-fueled turbine engine.

From the information available to the public, this sudden interruption of a major defense program does not make sense. From a technical point of view, turbine engines are not ready to be adapted to tanks. Turbine engines have never been used in a tank anywhere in the world, and have yet to be proven on the battlefield. The Secretary of the Army explicitly stated before this committee that "while, in general, automotive turbine development is somewhat behind that of diesel technology, turbine developments appear very promising and we would plan to take advantage of this important growth option if and when it proves itself." The diesel power plant was also demonstrated to be more suitable for tank design because of the General Motor's tank's victory over Chrysler's turbine model.

Cost effectiveness studies have shown that turbine engines are far more expensive than diesels. And thus, it is puzzling to me that the Pentagon agree to standardize around a turbine engine that lost out to the diesel in American field tests and was never incorporated in a Leopard II tank.

Some of the Defense Department's statements on the turbine vs. diesel appear somewhat ambiguous. I have read that XM-1 production might begin with a diesel package and later substitute the turbine. But if that is the case, it then becomes unclear why the Pentagon didn't award the contract to the diesel-powered U.S. tank, with plans to modify the turbine engine when it has proven to be an advantage.

If the diesel is not chosen, the Muskegon area in Michigan will be economically devastated. Already, the Muskegon SMSA has an unemployment rate of 9.4%, or over 7000 people. Over each of the past 6 years, the unemployment rate in this city has never averaged below 6.7%.

The Pentagon's recent decision to pull back from the diesel program and ask for turbine design could cause the loss of 1500–2000 jobs at Teledyne Continental Motors in Muskegon as early as 1979–81. Recent studies of the Muskegon economy indicate that each manufacturing job generates 1.79 additional jobs in the Muskegon economy—which, when extrapolated, shows a loss of an additional 3500 jobs. This would add 6% to the Muskegon unemployment rate, throwing the area into a double-digit unemployment zone and chronic economic stagnation. Perhaps most important, the loss of these thousands of jobs would be a symbolic blow to people in the Muskegon area, since it would wipe out a major component of their economy.

Another disturbing decision in the XM-1 Tank program concerns the choice of an initial production site. The cost-effectiveness of a production site could depend on the particular contractor and components selected for the XM-1, and so Congress has adopted statutory language barring facilitation work on any production site until a particular model of the XM-1 is chosen. Yet despite this, the Army, on August 9th, announced the selection of the Lima, Ohio, Army Modification Center as the initial production site for the XM-1 tank.

On the same date, the Army announced futuristic plans to use the Warren tank plant as a second production site. But the Army has never attempted to secure congressional approval for a second-site plan, which raises serious doubts as to whether a second production site is a real alternative.

The Army's choice of a Lima, Ohio, manufacturing site does not take advantage of the federal government's existing investment in tank production facilities. The tank plant in Warren, Michigan, currently uses only one of its three production lines to produce the M-60. This plant could readily be adapted to produce the XM-1 Tank as was demonstrated by the building of the XM-1 prototypes in Warren. Lima, Ohio would require up to $100 million in capital investment to facilitize it for XM-1 production. The Warren plant could be adapted at 40% less cost to the government. The Army's decision to manufacture in Lima could eventually throw 1700 people out of work. This would wipe out a payroll of approximately $60 million in the Detroit area.

A number of Congressmen, including myself, have written to the General Accounting Office to request a review of the Army's selection process and decision in this matter. It is my hope that these efforts will lead to the selection of the best and most cost-effective possible production site for the XM-1 tank. The Army's decision on a production site should only be made on technical and economic grounds, and should await final selection of a contractor for the XM-1.

CONCLUSION

Mr. Chairman, the problems and delays in the XM-1 tank program have serious implications for our future ability to provide an adequate and cost-effective national defense. Furthermore, the decision-making process has encouraged skepticism among citizens as to whether important decisions affecting our defense posture are being made in an open, businesslike manner, without being adversely affected by international politics.

Many people in my state are skeptical about defense spending and whether we are getting the most cost-effective defense. This attitude is further exacerbated by the federal government's spending policies which seem to rob the economically depressed industrial states of the Northeast and Midwest. The people of Michigan only receive 65¢ back from the federal government for every $1 they pay in taxes. On that scale, Michigan ranks lowest of all the 50 states. And defense spending plays a big role in this inequitable distribution. National Journal recently reported that on a per capita basis, the federal government spends three times as much for defense purposes in the western as in the Midwestern states.

We can restore public faith in cost-effective decision-making in the Defense Department by taking action on the current delays in the XM-1 Tank program. I again commend this committee for its attempts in these hearings to reexamine the Secretary of Defense's decision to delay. The Defense Department should be asked to answer the tough questions I have raised here today. Let me briefly summarize them:

The effect of delays in the XM-1 program on our national defense;

The effects of standardization on our national defense;

The true potentialities for cost-overruns in this modified program;

The role of international politics, rather than the need for international security, in the decision to delay the program;

The reasons for the decision to standardize around the turbine rather than the diesel.

I believe Congress has the right and duty to insist that the XM-1 contract be awarded to the company that truly has the best, most cost-effective tank. All of the technical, financial and strategic information I have and that has been made available to the public indicates that the Army should be allowed to move ahead with a diesel powered tank.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mrs. KEYS. Mr. Speaker, on Friday, September 17, 1976, I was unavoidably absent from the House.

Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on rollcall No. 749, final passage of the National Forest Timber Management Reform Act of 1976;

"Yea" on rollcall No. 750, agreeing to the conference report to accompany H.R. 15194, making appropriations for public works employment for fiscal year 1977;

"Yea" on rollcall No. 751, agreeing to the conference report to accompany H.R. 12987, Emergency Jobs Programs Extension Act of 1976.

SOIL EROSION

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. JONES of Tennessee. Mr. Speaker, as this Congress draws near the end of its legislative work, we begin to think of the issues that we will be faced with in the next Congress. One of those issues of particular interest to me is the farm bill particular interest to me is the "farm bill" that will expire next year and have to be replaced.

In the last few years the United States has called on its farmers to produce from fence-row to fence-row to help feed a hungry world. And the American farmer has responded admirably. However, a policy of producing from fence-row to fence-row is like most other programs—it has some problems. To me one of the most serious of these problems is that of soil losses and erosion. In many areas of the country we are row cropping lands that should either never be row cropped or at best should be row cropped only once in every 3 or 4 years.

Erosion is, of course, not a new problem but it is one that has become much worse in recent years with increased use of large equipment and emphasis on row crops. Hopefully, when we pass new farm legislation next year we will have some provisions in it to address the erosion problem and commit us to a policy that would seek to eliminate the problem.

Reporter Eve Sparks of the Jackson Sun in Jackson, Tenn., in three recent articles vividly described the erosion problem as it exists in western Tennessee. I would like to share those articles with you:

Soil Erosion

Soon crops will be harevsted. Bringing the cotton, corn and beans to market is a major undertaking in West Tennessee, where agriculture is still the basis of the economy. As attention is focused on the fields one is reminded of the importance of the soil which nourishes these plants. In nature it takes 100 years to form one inch of top soil. If the right conditions exist, however, that one-inch layer will erode in less than a year. As top soil erodes it fills stream beds and lakes, leading to flooding in bottom land. When this level bottom land floods farmers are forced to cultivate the more easily eroded hillsides. This vicious cycle is expensive to break, yet in the long run it may be more expensive to ignore the situation. In West Tennessee many factors combine to make soil erosion a formidable problem. Some experts consider it the foremost economic problem in the region. In this Insight Sun reporter Eve M. Sparks examines the causes of soil erosion and what is and can be done to conserve this natural resource.

Erosion often causes . . . literally millions of acres of American land are so badly eroded they cannot be tilled. But farm land is not the only thing we lose when soil erosion goes unchecked. As the topsoil is washed downhill it collects in stream and riverbeds, reducing their water-carrying capacity. In the fall or early spring when rainfall is heavy the rivers overflow their banks. The flood season has become longer and longer as a result of silted stream and river banks. This hurts crop productivity in fertile flood plain. Meanwhile the hillsides which have eroded are less and less fertile.

AREA'S ECONOMIC BASE IS FADING AWAY

Soil that melts like sugar—it's a simile commonly used among West Tennesseans who work with the earth. A number of factors combine to make the soil in this region highly erosive, leading many to be greatly concerned with this threat to a precious natural resource.

Some consider soil erosion the biggest problem facing West Tennesseans. "Soil is the basic resource," explained Ray Bryant, area conservationist. "*West Tennessee's economy is built on agriculture. Agriculture is built on soil.* If you take agriculture away from the Golden Circle, look at what you would do to Jackson. Even Memphis is based on agriculture. It's an agrarian culture. All of it."

This economy is one of the very factors that contributes to soil erosion locally. Of hundreds and thousands of soil types, some 6,500 types have been identified nationally. About 20 types are commonly found in Madison County. Most of these 20 soils (as is true throughout West Tennessee) are loess (windblown) soils. A soil has three characteristics that affect its erosiveness. Loess soil scores poorly on each.

Its particle size, adhesiveness and the energy required to transport it are all conducive to erosion. This means that when it rains, or if the wind blows, tiny particles of topsoil are pulled from the surface. In rainy weather the soil particles run downstream with the water, stopping where they are not needed or wanted.

While the particles of soil that erode are miniscule, the total amount of soil moved is not. In the Obion-Forked Deer river basin, for instance, 26 million tons of irreplaceable topsoil are lost annually.

The climate also contributes to the problem. "There is no period in winter when ground is frozen and can't erode," said soil scientist Bill Brown. "Often heavy rainfall comes when land is in crop and is unprotected from runoff."

The nature of the crops grown further aggravates the problem. Cotton, soybean and corn, the predominant crops in the area, have poor soil-holding capability. Furthermore, they are row crops. Often the rows are dug up and down hillsides, creating natural gullies for rain water.

As rain carries rich topsoil downstream a vicious circle is begun. "The result of erosion is sedimentation, which results in flooding," said Charles Leslie, district conservationist for Madison County.

"If we didn't have flooding we could farm the flatland. If we could farm the flatland we wouldn't have to farm the hillsides which aggregates erosion which causes sedimentation which causes flooding."

It is not difficult to miss tons of topsoil. So the problem of soil erosion is insidious. As Bryant said "erosion sneaks up on you like a thief."

A three to five ton loss an acre per year is considered acceptable. Yet studies show that an average loss in West Tennessee is 30 to 40 tons an acre per year. On an acre of land an inch of topsoil is comprised of 160 tons of dirt. Even a 40 ton per acre loss is difficult to discern. Yet it can easily take 100 years for an inch of topsoil to be formed.

It is also difficult, at first, to discern through diminished productivity. "The resource was so great to begin with that the loss of productivity was not great," Bryant said. "But in Madison County a small loss now makes a big difference."

Brown said that some farmers here have had poor crops for several years. "If the trend continues they will have to go out business," he said.

Diminished productivity is not the only penalty soil erosion exacts, Bryant pointed out. Besides the loss to crops there are costs for repairing gullies. Roads, bridges and streams sometimes are damaged. Other soils sometimes are damaged as dirt from an upland area is deposited in a new spot. We lose the good drainage characteristics that have helped agriculture flourish here.

Soil erosion encourages the growth of unwanted shrubs. As fertile topsoils erode we lose wildlife habitats. As streams, lakes and rivers fill up we lose fish habitats.

"Certainly we lose a lot of timber," Bryant added. "Those areas (where sedimentation has occurred) hold water. Deciduous timber can't stand water on it during the growing season. So we lose valuable oaks, hickory and the like, and get willows instead."

Farmers are the first to feel the loss from soil erosion. But all of society bears the cost, however indirectly.

"Our fertilizers are getting more expensive," Brown said. "If you don't have the fertilizer you'll have to have more land. It gets harder and harder to find more of that good land."

The quality of soil, Bryant said, "affects the whole standard of living. Soil is the basic resource, and we're mining our resources just as surely as we've mined our coal.

The person who lives in urban or suburban areas may not believe soil erosion is costing him anything but, Bryant said, "every time he goes to the grocery store it affects him. Every time he buys clothing it affects him."

Richard Swaim, executive director of the Obion-Forked Deer River Basin Authority, agrees with other estimates of the severity of the problem. He looked at the historical perspective. The Bad Lands of South Dakota, he said, were once fertile. "But they were eroded by wind and rain to the point they won't grow anything.

"It's just like Rome—it passed into the Dark Ages."

Soil Conservation—What Has Been Done

The effects of soil erosion are felt so gradually that many fail to link the cause and effect. This century has seen a dramatic reversal, however, in the concern society has taken in its soil. On all levels of government as well as on the personal level, measures to control soil erosion have been initiated.

Federal services are extensive. In Tennessee alone over 250 employes offer tecnical assistance to farmers, developers and others interested in preserving that natural resource.

In recent years the demand for assistance from the federal Soil Conservation Service has increased markedly. Ray Bryant, area conservationist, who supervises 11 soil conservation districts, a resource conservation and development (RC&D) project and several watershed projects, said "We're getting more acceptance every year. One of the biggest problems is getting enough technical assistance to the people."

Charles Leslie, district conservationist, who is responsible for giving such technical assistance in the Madison County soil conservation district, can testify to that problem.

His phone starts ringing sometimes as early as 6:30 a.m. Most of his time is spent on the site which needs treatment. Those who want to ask his advice over the phone, or want to make an appointment for him to survey their problem area resort to calling him at home.

And the busy season (after harvest) is yet to come.

"We get 200 requests for cost sharing (projects which the government helps finance) every year. I can't do that many in a year."

The requests are made at the Agriculture Stabilization and Conservation Service Office. Leslie, however, does the engineering work that qualifies such projects for cost sharing.

The biggest demand is for terracing. Others want help building ponds, drainage ditches and waterways. Besides engineering advice Leslie draws up farm plans. He can also help real estate developers plan where to build housing and how to do so without squandering too much top soil.

The resource Conservation and Development (RC&D) Project, coordinated by *Glenn Headden,* is one of four such projects in Tennessee (of 168 in the nation). RC&Ds were established by Congress in 1962 to aid organizations (municipalities, airport authorities, etc.). In many cases erosion problem areas cross county lines. RC&Ds were established to deal wtih that sort of problem on a comprehensive basis.

The RC&D project has three goals; critical area treatment (treating badly eroded sites—for which cost sharing is available), flood prevention, and promotion of water-based recreation.

"We're supposed to provide accelerated treatment," Headden explained, "both technically and financially."

The Clover Creek project, to be excuted through the Chickasaw-Shiloh RC&D that Headden directs, has been approved. It is designed to check erosion in a 57,000 acre area.

A similar philosophy lies behind the Obion-Forked Deer River Basin Authority. An agency funded by state and local governments only, that organization has three objectives; to open channels and enable them to carry more water, to build dams to store water upstream, and to help resolve "this tremendous soil erosion problem."

To achieve these goals the authority funds a variety of projects. It has contracted for dozens of miles of channelization—snagging and clearing trees and shrubs from streambanks so silt is less likely to collect.

It has helped remove beaver dams from streams, which back water up and kill valuable hardwood trees. It is involved in building a lake at Tennessee Sheriff's Youth Town, which will help halt runoff and provide recreation for the Youth Town residents.

All its work is done without having eminent domain, the power to buy property. "We've got so much demand for the kind of work we're doing that if the landowner doesn't want us we'll go somewhere else," Swaim said.

The Beech River Watershed Development Authority, which serves Henderson and Decatur counties, is still another organization which has soil conservation as a primary goal. This authority, funded almost exclusively from receipts from services it provides (it receives only a small contribution from the Tennessee Conservation Department), was established in 1961.

Although much of the authority's attention is now directed toward recreation, the soil erosion problem was an important factor behind its establishment.

Seventeen thousand acres of land are protected by Beech River Watershed Development Authority projects. "There is no doubt about it," said Bob Henderson, the authority's executive director, "the erosion problem has been checked as a result of the authority's work.

"We did a lot of pine tree planting and check dam building in eroded ditches," Henderson explained. "We also did 70 miles of channelization. Now we are involved in extensive maintenance."

Many other organizations exist to help citizens better understand and cope with the soil erosion problem. The University of Tennessee Agricultural Extension Service, for example, can offer limited practical and general advice on soil conservation practices.

The local library has several books and publications that explain soil conservation methods. Many similar pamphlets are available from the U.S. Government printing office. Persons interested in what titles are available and at what cost can get more information from the U.S. Soil Conservation Service Area Office, which will also provide the address from which such booklets can be ordered.

WHAT'S LEFT TO BE DONE—MORE AWARENESS

Soil conservation practices have come a long way in the twentieth century, but experts agree that much remains to be done.

The earth still is abused in places, known conservation methods often are ignored and many persons remain unaware or unconvinced of the seriousness of the situation.

One problem has been the lack of maintenance of past projects. Channels dug by the U.S. Army Corps of Engineers 40 or 50 years ago, for example, were not maintained, said Richard Swaim, executive director of the Obion-Forked Deer River Basin Authority.

"Right after the completion of the Panama Canal," Swaim said, "there was an after glow of success. The Corps began work on the Mississippi and its tributaries. Drainage districts were created, but there was no real provision for maintenance. They got the initial work done and the channels were immediately forgotten."

The problems which led to that channelization returned, yet some people complacently believed the original channels were sufficient to cope with the problem.

Others remain blissfully aware that soil erosion is a problem at all.

"This is where the story will be told," said Ray Byrant, U.S. Soil Conservation Service area conservationist, "whether we're successful in getting the message to people who aren't directly involved in this."

Bryant explained that city and suburban dwellers often do not see or feel the effects of erosion firsthand. These citizens tend to view the erosion problem as something which does not concern them.

But, Bryant argued, it does. Erosion "could affect the whole standard of living," Bryant said. Food, building material and fiber for clothing all depend on the quality of the soil. When the quality of soil is diminished productivity drops. Prices, consequently, rise, So those who don't see the effects of erosion in the field see it in the marketplace.

Charles Leslie, district conservationist for Madison County, pointed out that "to eat you must produce. To produce you must make money. You can't make money on subsoil." In other words, as our topsoil erodes so does our food-producing capability.

Even some persons who work the soil and have seen the damage erosion does are slow to adopt good conservation practices. "You don't get resistance when you talk to people about conservation, the problem is getting them to do anything about it," Bryant said.

"People seem to have a natural resistance to change. When it costs money that resistance is even greater."

"We know a lot of people are using land beyond its capability," Bill Brown, soil scientist, added.

Often habit and convenience cause good conservation practices to go unused. As more and more large machinery is used for cultivation, the problem is aggravated. We have long known, for instance, that erosion is slowed if furrows are dug across hillsides rather than up and down them. It takes longer though, to plow across the hill, especially when large equipment is used. And the soil loss is practically invisible, so habits that are simpler prevail.

The question "The question is, can we get a dollar's worth of benefits from a dollar's worth of money we spend on conservation," Bryant said. Soil conservationists are convinced we can, but studies are being conducted that will help determine actual bushel per acre yields from good soil versus eroded soil.

Soil conservation is, however, an investment in the future, and its cost is often high. "Some of these costs cannot be borne by farmers alone," Bryant said. "Society has to pay some of the cost some way."

CF POSTER GIRL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. BYRON. Mr. Speaker, it is with deep sadness that I note the death of 9-year-old Cindy Lynn Stevenson of cystic fibrosis. As the cystic fibrosis poster child of Frederick County, Cindy courageously gave herself to the cause of fighting the genetic lung disease which continues to take the lives of so many young children.

I submit the following news article from the Frederick News-Post as a tribute to Cindy Stevenson with the hope that her fight will be carried on by others. I know you join me in extending deepest sympathy to her parents, Mr. and Mrs. Richard Stevenson of Gapland, Md. Cindy Lynn Stevenson will be missed, but not forgotten.

CF POSTER GIRL CINDY STEVENSON GAVE CAUSE LIFE

(By Lee Short)

The stark realities of the genetic lung disease, Cystic Fibrosis, became painfully evident Monday when Cindy Lynn Stevenson, twice the Cystic Fibrosis Poster Child for Frederick County, died.

Cindy was only nine years old.

She had freely given much of these too few years fighting the disease that was to cut her life so short.

Cindy Stevenson gave herself to the cause of defeating Cystic Fibrosis, and, in so doing as the courageous little poster girl, gave life to the cause in Frederick County.

Her parents, Mr. and Mrs. Richard L. Stevenson of Gapland, said Tuesday that Cindy's respiratory difficulties accompanying the disease had worsened in recent weeks.

She died in one of the nation's most sophisticated available centers of Cystic Fibrosis treatment, the National Institutes of Health, Bethesda.

Readers may recall her pictured in local newspaper promotions for the Cystic Fibrosis Foundation, most notably the 1975 "Kiss Your Baby" campaign for public awareness of the childhood respiratory disease.

Cindy was born July 8, 1967, in Washington, D.C., to Richard (Steve) and Diana Stevenson, and was a member of the Wesley United Methodist Church, Urbana.

Besides her parents, she is survived by one sister, Miss Marie Stevenson; paternal grandparents, Mr. and Mrs. L. V. Stevenson Jr., Bethesda; and maternal grandmother, Mrs. Maude Lawrence, Crownsville.

Funeral services will be held at 2 p.m. Saturday, Sept. 18, at Wesley United Methodist Church, with her pastor, the Rev R. Craig Miller, officiating. Interment will be in Bethel United Methodist Church Cemetery, Rohrersville.

Stauffer Funeral Home, Motter Avenue extended, Frederick, is in charge of arrangements. There will be no calling at the funeral home.

Cystic Fibrosis, commonly accompanied by pneumonia-like respiratory congestion, is a genetic disease that afflicts approximately one in every 1,500 children born in this country.

The symptoms usually become manifest in the first six years of life, and, until the last decade, life expectancy of a CF patient was such that the child could not expect to live long enough to attend junior high school.

Although medical technology has advanced so that symptoms can be dealt with extending the life expectancy another five or 10 years in many cases, the mechanism of the genetic changes that cause the disease remains a mystery, and children, like Cindy, continue to die before reaching their teens.

There is something about the experience of raising a cystic child that causes the Stevensons to remain determined in helping the National Cystic Fibrosis Foundation's efforts to fund research, although their bitter personal struggle with the child-killing affliction has come to a heart-breaking conclusion.

Recognizing that Cindy's fight against Cystic Fibrosis is being duplicated by thousands of children in the nation, the Stevensons want to forego the pleasantries of floral donations at their daughter's funeral. Instead, they ask that cash donations be made to the Cystic Fibrosis Foundation to provide medical ammunition in the ongoing war their daughter could not win, so others might.

Those donations should be sent to the Cystic Fibrosis Foundation, 7525 Bel Air Road, Baltimore 21236.

CONFERENCE REPORT ON LABOR/HEW APPROPRIATION—HYDE AMENDMENT

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. SANTINI. Mr. Speaker, the abortion issue is unquestionably a most controversial and complex concern, and one that deserves rigorous and thoughtful consideration. As the House of Representatives has again recently dealt with this matter, I felt it important to outline my position and perspective regarding the Hyde amendment, which deals with the Federal funding of abortion through the medicaid program.

I have consistently held that certain extenuating circumstances—such as rape, endangerment of the mother's life, and incest—are in my opinion, deserving of special consideration, and should be appropriately provided for within the Hyde amendment. Responding to these issues, Representative HYDE has stated:

> Let me make it crystal clear that this amendment is not intended to prohibit any abortion deemed necessary to save the life of the mother. Such operations do not even fall within the medical terminology of abortion. . . . Let there be no doubt about the legislative intent of this amendment: It does not apply to those abortions necessary to save the life of the mother nor is it intended to apply to the IUP, the intrauterine device, nor to the so-called "morning after" pills.

Thus, I believe that these rare circumstances that require special consideration are provided for adequately under the Hyde amendment.

Now, allow me to address myself to what I believe is the real issue raised by the Hyde amendment, as I believe that there is more involved than just the question of whether abortion is "right or wrong." The questions that are really being raised here are these: Should Federal money be spent to provide abortions to those who otherwise might not be able to afford it? Should every taxpayer be forced to subsidize abortion in contravention to many beliefs that the unborn child should have basic human and civil rights?

The Supreme Court has ruled that the unborn have no legal rights until the third trimester. The Hyde amendment does not change that ruling. For those who wish to challenge the Supreme Court decision, the proper channel is through constitutional amendment process. I personally feel that the legality of abortion is a matter for each of the individual States to decide at the State level. However, the matter of taxpayer subsidization of abortion is very much a Federal issue, and one to which this Congress must address itself.

There has been widespread debate and speculation over the constitutionality of the Hyde amendment. Many have alleged that it is unconstitutional, because it purportedly discriminates against the indigent by not providing them a health service that the courts have ruled is a legal health service. This is not an extraordinary consequence of "yes" or "no" on abortion access. There are a host of services and facilities that are not realistically available to the poor but enjoyed by those in better economic status because of that economic status. Does this constitute discrimination? If so, then only a completely socialistic state would ever eradicate such a "prejudice." Regarding the constitutionality of denying Federal funds for abortion, I must concur with the Solicitor General of the United States, who states:

> The fact that a woman has a qualified right to an abortion does not imply a correlative constitutional right to free treatment. Individuals presumably have a right to undergo many recognized medical procedures by a licensed physician, but the Equal Protection Clause does not affirmatively require a State to cover the costs incurred by indigents undergoing such procedures.

Others might argue that the Federal taxpayer has a moral responsibility to subsidize abortion, thereby keeping the poor from resorting to the "back alley butchers" for a "criminal abortion." This emotional appeal, however, does not seem to be substantiated by fact. Statistics indicate that the legalization of abortion and the Federal funding of it has not decreased abortion morbidity or mortality rates.

The greater argument for moral responsibility, in my opinion, is reflected by the basic human rights of the preborn child. Does the fact that this unborn child may be a welfare child, or black, or an "inconvenience," or unwanted, or deformed, mean that child is to be excised and flushed away? The courts have held that this practice is legal, although that does not change the fact that millions of Americans recognize this unwanted fetus as a human being, and do not want their tax dollars to be used in its destruction. Since Federal funding of abortion was initiated, over $177 million have been spent on abortions through the medicaid program. Last year, 275,000 abortions were paid for by tax money at a cost of $50 million. It has been estimated that the curtailment of Federal subsidization of abortion may cost over $500 million for medical care and public assistance for those children who might otherwise have been aborted.

Thus, the "cost-benefit" analysis indicates that abortion is "cheaper" for the Federal taxpayer. Even the most ardent advocate of subsidized abortions would have to acknowledge that human life versus the cost is elevating dollar values above life values. However, I believe that in the discussion of human life, it is demeaning to assign a value to a living being, and then attempt to find the least expensive way. To me, such an attempt would not only be inhuman, but also utilitarian, and would establish a most frightening precedent for dealing with other social problems.

What, then, regarding increased funding for welfare, maternal and infant care, the food stamp program, day care programs, foster care, sex education, contraception, and family planning? Certainly, I cannot make a blanket statement that, because I am opposed to Federal funding of abortion, I will automatically support all of the social services possibly needed by some infants. Such an approach seems to place the role and responsibility of parenthood upon Government rather than upon those who created the child. However, these areas are of overwhelming social concern and cannot be ignored. When such social needs are not being fulfilled, and a true need does exist and there are not other channels of relief, I believe that the Government should become involved, initially at a local and lastly at the Federal level.

Most assuredly, the termination of Federal abortion funds, will not, in and of itself, eliminate the many and complex social problems that accompany unwanted pregnancy. However, I do think that it will set an extremely necessary precedent by demonstrating that when one exercises such liberties as the power of procreation, that individuals must accept the subsequent consequences, in this case the responsibility for the human life that has been created. The Federal Government has no business involving itself in matters that are of a personal and family concern; and those who choose abortion have no right to expect others to pay for and support a process that kills the inconvenient and the unwanted—a practice that infringes upon the moral and ethical beliefs of so many. This shrinking sense of responsibility is illustrated by the doctor who states, "young people ask for abortion as if it were requesting aspirin for a headache." One-third of all abortions are for teenagers, thousands of which the taxpayer finances.

The apparent disregard for preborn life is carried one step further as we find that abortion is increasingly being used to terminate unborn infants simply because they are not of the sex that their parents prefer. The technology of modern science now enables doctors to determine the sex of an unborn child through examination of fetal cells. Consequently, in some instances we find that parents who, for example, would like for their first child to be a son, may abort female fetuses until science confirms that the mother has conceived a male child. Where will these trends end?

In many communities, there are now more abortions each year than there are live births, and the abortion rate has skyrocketed since Federal moneys have made it increasingly available. It seems that as the Federal Government has encouraged abortion, it has thereby endangered parental irresponsibility. I fully recognize that I am in no position to determine or mandate what an individual's moral standard should be. However, I will fully exercise my position to assure that the primary responsibility for one's actions remain where they belong—with the individual.

It is my belief that the most effective and positive approach to alleviating the complex social problem accompanying unwanted pregnancy is to devote far more effort and funding into the areas of family planning and birth control education. This does not mean compulsory sex education within the schools, nor does it mean providing free contraceptives to minors or adults. It does mean that adequate and appropriate educational materials can be made available for those who wish to use them.

By again ratifying the Hyde amendment, the Congress has sent the message to the American public that the Federal Government will not assume the decisions and responsibilities that rightfully belong with the individual and family. It is now up to local, State, and Federal Governments alike to provide the social relief that is compatible with a majority of the American public.

ELECTRIC CAR VICTORY

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. ROSE. Mr. Speaker, I am pleased to see that my colleagues saw fit to override the Presidential veto of H.R. 8800, the electric car bill. The following commentary gives an apt description of the purpose of the bill, and attempts to explain President Ford's reasoning for vetoing it. I submit this article from the Energy Daily for the information of my colleagues:

Ford Unplugs Electric Car; But Congress Gives Him a Shock—A Commentary

Since assuming the Presidency, Gerald Ford has vetoed 56 pieces of legislation and seen 10 of those vetoes overturned. Yesterday (Thursday) he saw the House of Representatives do it again, for the eleventh time, overriding his veto last Monday of H.R. 8800, the Electric and Hybrid Vehicle Research, Development and Demonstration Act. The vote to override on Thursday morning was 307–101 and a well-deserved rebuke it was, too.

The electric car bill is, by any standard, a modest proposal. It sets up a three-phase program, covering five or six years and is expected to cost about $160 million. During the first phase, the Energy Research and Development Administration would canvass the field of electric cars available today and establish some performance criteria. Then ERDA would buy 2,500 of the cars and lease them around the country. This is the second phase: the vehicles used in phase two probably would be the "hybrids" to which the bill's title refers—conventional auto bodies with a retrofitted electric drive train. Then, about four years into the program, phase three would begin. ERDA would buy an additional 5,000 electric cars—new ones, designed from scratch, based on the operating experience derived from the second phase of the program.

And that's it. The intention is very simple and the logic is inescapable. If you want to find out whether electric cars have any future, the best way to get them out in service among ordinary people, "to find out what real, live people think of them," in the words of one Congressional staff member. That way you can avoid having the government develop a technology and then, having developed it, spend another few years studying how to commercialize it.

But Ford said no. He called the electric car bill "a massive spending program which I believe private industry is best able to undertake." It is not clear how $160 million spread over five or six years could be called "massive spending" when, in fact, it works out to less than a dollar per capita spread over the population of the U.S. Nor is it clear that private industry is going to do the job: it would have done so already if it intended to. And more important, the American people will not start buying some newfangled electric vehicle unless there exists some substantial body of experience with electric car operation—the sort of experience that would be gained by placing 7,500 of them in service at government expense.

In his veto message, Ford argued that ERDA already has the authority to initiate a program like the one proposed in the bill. True. But ERDA also had the authority to start a solar heating and cooling program and a geothermal demonstration program—but didn't do either until Rep. Mike McCormack (D-Wash.) pushed them into it, as he is now trying to push them into an electric car program.

But the real problem with Ford's veto of the electric car bill is something else. It shows the President to be lacking in simple political commonsense. When the bill passed originally (308–60 in the House, 72–16 in the Senate), it did so with overwhelming support from both majority and minority members. The letters urging an override of the veto flowed as fast from Republicans in the House as they did from Democrats. Even among Democrats, it inspired some unlikely coalitions. "Guess who agree the President is wrong," began a joint letter from McCormack and Rep. Richard Ottinger (D-N.Y.) urging an override. Until now, McCormack (who favors energy development, trusts in high technology and is indifferent about the big energy companies) and Ottinger (who is indifferent about energy development and high technology and openly hostile to the big energy companies) haven't agreed on anything.

It is sad also that the President, casting around for some excuse to veto this bill, should have turned again to the dogma about free enterprise. Private industry can do the job, he says. In those six words are contained the energy policy of the last two Republican Administrations. But what a worn-out and impoverished substitute for vision that phrase has become. If the years since the oil embargo of 1973 have shown anything, they have shown that private industry cannot do the job or will not do the job—not just in electric cars but every other technology as well. Either industry will not do the job because the risks are too high, or industry cannot because the government is not there when it's needed or gets in the way when it isn't. So the White House says, private industry can do the job. The problem with dogma is that it tends to become cant; worse, it tends to create a lack of vision, in which we are forced to repeat into an indefinite future the mistakes of the past.

And electric cars? They might help the energy situation a little, probably less than the enthusiasts think, more than the skeptics allow. Because their batteries would be charged at night, they would allow better utilization of base load (coal and nuclear) generating capacity. Use of electric cars might help the electric utilities to level their load. Because their power supply would be derived from base load coal and nuclear plants, they would reduce oil consumption. They would shift the source of pollution from countless exhaust pipes to single power plants, where it can be more easily controlled. And they might represent a quicker way to achieve conservation. Energy conservation in buildings is a desirable goal, to be sure, but many of today's buildings were not designed with conservation in mind and it takes 50–100 years to replace the building population. Many of today's cars were not designed with energy conservation in mind either, but it takes only about 10 years to roll over the automobile population of this country.

Those are the advantages of electric cars: conserving oil; shifting electricity generation to coal and nuclear; leveling the peaks in a utility's load; reducing the ambient filth that passes for breathable air in most cities. We had understood that these were also the Ford Administration's energy policy objectives. This is the worst of the President's veto—that, with it, he managed to negate a large part of his own energy policy.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE PEOPLE OF HISTORIC WAYNE, N.J., UPON THE CELEBRATION OF WAYNE'S BICENTENNIAL HERITAGE FESTIVAL, SEPTEMBER 27 TO OCTOBER 2, 1976

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. ROE. Mr. Speaker, in celebration of our Nation's Bicentennial, as we reflect upon the history of our great country and the deeds of our people who have made our representative democracy second to none among all nations throughout the world, I am pleased to call your attention to the outstanding efforts of the people in my hometown of Wayne, N.J., in planning and presenting the main event—Wayne's Bicentennial Heritage Festival, "Festival 200," for the celebration and reflection of our community's contribution to the cultural heritage and historic advancements of America.

At the outset, let me commend to you the diligence, foresight, and hard work that has been extended by Wayne's Bicentennial Committee under the able direction of Gretchen (Mrs. Robert K.) Tiedeman, chairman and cochairmen Fran Schenkman and Gay Serwin; the A. L. Levine Organization represented by Justine Sadowski; Wayne Civil Air Patrol represented by Lt. Marvin Goldberg; and the Wayne Hills Mall Association which comprised the executive committee for "Festival 200." In observance of our Nation's Bicentennial Year they have been working with many of the leading citizens in our community in devising an outstanding program and seeking full citizens participation in the Wayne's Bicentennial Heritage Festival which will be held at Wayne Hills Mall, beginning Monday, September 27, through Friday, October 1, culminating with a Bicentennial Costume Ball on Saturday evening, October 2.

Mr. Speaker, I am proud and honored to have been selected to share the honorary chairmanship of this most exciting event with the distinguished mayor of Wayne, the Honorable Newton Miller, who joins with me in the highest personal commendation of the residents of our community who are participating in Wayne's Bicentennial celebration. With your permission, I would like to insert at this point in our historic journal of Congress the "Festival 200" program and committee roster of these exemplary community leaders and highly reputable citizens of Wayne, as follows:

TOWNSHIP OF WAYNE, N.J., BICENTENNIAL COMMITTEE

HONORARY CHAIRMAN

Hon. Robert A. Roe and Mayor Newton E. Miller.

CHAIRMAN

Gretchen Tiedeman.

Heritage '76—Fran Schenkman and Gay Serwin.

Festival '76—Charles Kelly and Joseph Cironi.

Horizons '76—Gratia Mahony, Dr. Robert Brubaker and John Weiss.

FINANCIAL CHAIRMAN

Charles Jackson.

Wayne Museum—Dorcas Bascombe.

Public Schools—Peter Law.

William Paterson College—Dr. Kenneth Job.

Dey Mansion—Raymond Dey.

Wayne Public Library—Bette Punshon and Patricia Kell.

Packanack Lake Country Club—William Lynn.

ENDURING REMINDERS ACHIEVED

Museum Complex—Research and Preservation of 1706 Van Duyne house, Marcia Sills. Archeological Laboratory, Edward Lenik. Bicentennial gift of flower bulbs from the Government of the Netherlands.

Bicentennial Hallway—Municipal Building, Sculpture by Michael De Nike.

Time Capsule—Mayor Miller and Bernice Kiehling.

Thompson Point—Monument to Sgt. Daniel Thompson erected by Packanack Lake Country Club.

Hobart Manor—Listed on National Historic Sites. Dedicated by William Paterson College.

West Point Glee Club in Concert.

West Point Football Reunion—Oliver P. Minihane, Charles Haas, William Lynn, Edith Stein, Gladys Warner, Joan Weissmann, Joseph Quigley, Edward Moore, Ann Gerhold, Red Moseley, and Peter Law.

Wayne Time Capsule—Bernice Kiehling.

The Mayor's Bicentennial Ball—Joseps McGovern and Daniel Dolan.

Festival 200—Fran Schenkman, Gay Serwin, Lt. Marv Goldberg, Justine Sadowski, Charles Kelly, Arthur Ham, Peter Levine, Grace Guersic, Claire Unger, Lois Grillo, Janice Van Gelder, Jackie Mullholland, Gwen Hazel, Martha Gordon, Ann Gerhold, and Mitzi Schroeder.

Senior Citizens Party—David Joachim, Sidney Millburn, and Evelyn De Walshe.

Grand Parade Committee—Charles Kelly, Richard Teeling, Joseph Cironi, Oliver Minihane, Jack Littleton, Edward Moore, Joseph Quigley, Norman Dollbaum, Harry Avogardo, William Lynn, Karl Halye, Gladys Warner, George Driscoll, Fred Skelding, Red Moseley, Brian Murphy, and Robert Booth.

Grand Marshals— Dr. Jane Colfax and Raymond Dey.

Commemorative Town Council Meeting—Joan Weissmann, Carl Werner, Charles Jackson, John Phelan, Dr. Robert Brubaker, Walter Modes, Harry Butler, Jack Shepherd, Dr. Fred Bauer, and Jack Hulse.

Harmony Singers Concert—Harvey Gerlach and Ronald Birdsall.

"Mad Anthony" Musical Play—Steven Krupka, Fred Sharkey, Edith Mc Sally, and David Ringle.

WAYNE HISTORICAL COMMISSION BICENTENNIAL PUBLICATIONS

"A Wondrously Beautiful Valley"—Gratia Mahony, Dr. Robert Brubaker, and Ann Brubaker Lund.

Commemorative Pewter Medallion—Gretchen Tiedeman.

Coloring Book of Historic Wayne—Ruth Jasinski and 30 local artists contributed their work.

"Historic Houses of Wayne" printed on linen towel—Gratia Mahony.

Republican of "The George Washington My Great Grandfather Knew" by Albert Payson Terhune and Gretchen Tiedeman.

"Centennial 1876"—Special exhibition at the Wayne Museum featuring inventions by Thomas A. Edison on loan from Edison Museum, Ruth Jasinski, and Gretchen Tiedeman.

Mr. Speaker, the A. L. Levine Organization is compiling a yearbook—a pictorial and literary record—that will capture the essence of Wayne's Bicentennial Year. The following distinguished organization will provide a grand exhibition and special demonstrations at "Festival 200" to fully reflect upon the wealth of Wayne's resources and contribution of its diversified achievements to our quality of life here in the United States of America:

Wayne Public Library.
Van Riper-Hopper Museum.
Way Counselling Center.
The Industrial Commission.
Department of Parks & Recreation.
Wayne Public Schools.
Wayne Adult School.
William Paterson College.
Preakness Reformed Church.
Mountain View Gospel Church.
Temple Beth Tikvah.
Orthodox Church of the Holy Resurrection.
First Seventh Day Adventist Church.
Wayne Conservation Congregation.
Lakeland Ethical Humanist Fellowship.
Salvation Army.
Wayne Kehilla.
Wayne Hadassah.
Women's American Ort.
B'nai B'rith Men.
B'nai B'rith Women.
North Jersey Opera Guild.
Monarchs Drum and Bugle Corps.
Civil Air Patrol.
Paterson Evening News.
United Artists Cablevision.
Kurt Orban, Inc.
Wayne First Aid Squad.
Greater Paterson General Hospital.
Chilton Memorial Hospital.
Wayne Foundation for the Handicapped.
Dey Mansion.
Knights of Columbus.
Big Brothers of Wayne.
Wayne Jaycees.
Daughters of the American Revolution.
League of Women Voters.
National Association of Secretaries.
Packanack Lake Country Club and Homeowner's Association.
Newcomer's Club of Wayne.
Newton E. Miller Organization.
Garden Club of Packanack Lake.
Pines Lake Garden Club.
Riverview Garden Club.
Boy Scouts of America.
Wayne Boy's Club.
Pines Lake Women's Club.
Twin and Triplets Mothers' Club of the Lake Area.
Senior Citizen's Day Care Center.

Mr. Speaker, it is also most appropriate to applaud the elected representatives of the Township of Wayne who have earned the respect and esteem of our people for their outstanding public service and administration of a most important all-American community in the interest of all of our citizens. The current members of the governing body are as follows:

The Honorable Newton E. Miller, mayor; Estelle Perry, council president; James Duggan, councilman; Thomas Elm, Jr., councilman; Walter Jasinski, councilman; Charles Kabbash, councilman; Thomas A. Lauricella, Jr., councilman; Edward Morris, councilman; Harry F. Rudiger, councilman; David Waks, councilman; Jack Harman, business administrator; and John Phelan, township clerk.

Mr. Speaker, the story of Wayne is the story of America. The Township of Wayne is steeped in the history of the early settlers of our country and richly endowed with America's historic beginnings. We do indeed salute all of the people of Wayne who throughout their lifetime have sought and achieved a quality of excellence in our hometown which bespeaks the pioneering efforts of our forefathers and the traditions of a freedom-loving people dedicated to the American principles of democracy and a good family life for themselves and future generations to enjoy.

Mr. Speaker, I know that you and our other colleagues here in the House will want to join with me in extending our heartiest congratulations and best wishes to the governing officials, the Wayne Bicentennial Committee and other members of the committee for the Wayne Bicentennial Festival on the excellence of their program for the celebration of our Nation's Bicentennial—Wayne's Bicentennial Heritage Festival—"Festival 200."

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I was not in the Chamber for rollcall No. 750.

Had I been present, I would have voted "yea."

REOPENING THE ASSASSINATION INVESTIGATIONS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DODD. Mr. Speaker, I would like to take this opportunity to express my strong support for the House's action last week to establish a special "Select Committee on Assassinations" to reopen the investigations into the tragic deaths of President John F. Kennedy and the Reverend Martin Luther King, Jr.

I cast my vote along with many of my colleagues in favor of establishing this committee. That the resolution setting up the committee was passed overwhelmingly, with strong bipartisan support, is a clear demonstration of the wisdom of renewing these investigations.

As an early cosponsor of two congressional resolutions calling for such a committee, and for these renewed inquiries, I have long felt that there remain many unanswered questions surrounding these assassinations, especially regarding the role of the Federal agencies charged with investigating these crimes.

For example, the House Judiciary Civil Rights Subcommittee, on which I serve and which has oversight responsibility for the Federal Bureau of Investigation—FBI—found it necessary last year to hold hearings regarding that agency's role before and after the assassination of President Kennedy.

After participating in those hearings, I can say that our subcommittee probably raised more new questions than we received answers to old ones. And since that time, other pressing legislative responsibilities, such as FBI surveillance guidelines and bankruptcy reform, have prevented our subcommittee from fully pursuing these new questions, and the unanswered old ones, as fully as we would have liked.

I think this new, select committee represents a unique opportunity for Congress and the American people to finally get to the bottom of these assassinations.

The American people have a right to know the full story behind these acts, Mr. Speaker. They have a right to know the motives and reasons for them, how the deeds were accomplished, and who was responsible for them.

The allegations of possible conspiracies and of the possible withholding of relevant evidence are but some of the many questions about these assassinations which should be laid to rest once and for all, so that these unfortunate chapters in American history can at last be closed.

Congress has a great responsibility in this effort, also, Mr. Speaker, because the entire Nation will be watching how we conduct these renewed investigations. Throughout its deliberations, the Committee on Assassinations must go about its business in the most considered and careful manner possible—eschewing making judgments and conclusions until all the evidence is gathered and evaluated.

Only in this way can this select committee maintain its own credibility and the credibility of its investigation. Only in this way will this committee's work be acceptable to the American people as proper answers to these continuing, disturbing questions of history.

Mr. Speaker, I also at this time would like to say that my colleagues from Virginia. Mr. DOWNING, and from Texas, Mr. GONZALEZ, should be commended for their continued effort to sponsor and promote the resolution which resulted in the creation of this select committee.

Both of our colleagues worked very hard for more than a year in this endeavor, and they should be well recognized for this public service.

BLACKLISTING AND JOHN HENRY FAULK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. McDONALD. Mr. Speaker, the communications media have told us for years about a so-called blacklist of leftist entertainers. The real fact is that for years the Communist element in Hollywood prevented anti-Communists from getting jobs. Morrie Ryskind, the writer of some of the funniest and best loved comedies of our times, the early Marx Brothers movies, testified before the House Committee on Un-American Activities in 1947 that he and other anti-Communists had been blacklisted by the Communist cliques which had a stranglehold over the movie industry.

The September 11, 1976, New York Times printed an obituary of Dalton Trumbo. According to the Times, he served a year in Federal prison and was "blacklisted" because he refused to tell the House Committee on Un-American Activities "about his political leanings." Actually, Trumbo was one of the commissars in Hollywood for many years, denying other writers the opportunity to work.

The Times admitted that he had been a member of the Communist Party from 1943 to 1948, and then rejoined the party in 1954 for a period of time. The Times neglected to say that during the Soviet-Nazi Pact, Trumbo's moving antiwar novel, "Johnny Got His Gun," was serialized in the Communist Party newspaper, the Daily Worker. On June 22, 1941, when Soviet Russia was attacked by Nazi Germany, the serialization abruptly ended. Trumbo did not protest, as now that Russia was in danger, antiwar propaganda had to cease. The Communist slogan changed from "The Yanks are not coming" to "The Yanks are not coming too late."

In radio and television too, the Communists had taken control of the union representing entertainers. A revulsion against this enabled an anti-Communist slate to defeat the Reds. However, in 1956, a so-called middle of the road slate ran against the anti-Communists, defeating them. The leaders of this slate were Charles Collingwood, Orson Bean, and John Henry Faulk.

Orson Bean described the incident in an article in National Review on February 23, 1971. Bean, who had been a liberal, was against both the Communists and the anti-Communists. The middle-of-the-road slate supposedly consisted of people who had never collaborated with the Communists. Bean had been embarassed because he had once joined a Communist front for silly personal reasons.

Bean was sure that John Henry Faulk had never been involved with Communist fronts, as he had said nothing at the meeting where he was picked as a candidate when other potential candidates had withdrawn because of Communist connections.

After winning the election, the members of the middle-of-the-road slate found themselves under attack by an anti-Communist group called AWARE. According to the AWARE report, John Henry Faulk had been reported in the Communist press as a sponsor of seven Communist fronts. Bean wrote:

> I ran over to John's office at CBS. "It isn't true, is it, Johnny? You didn't appear at those places, did you?" "Oh, honey," he said, "what does it matter? Don't you see those people are fascists. If they didn't have something on us, they'd have made something up."
>
> I stood in Johnny's office staring at him with my mouth open. I could feel my ears burning. I wanted to cry or hit him in the face or shake him. Instead I just walked out of his office and went home.

Faulk sued AWARE and won a substantial libel award against the organization and some of its leaders. Bean described how—

> I spoke to Johnny in the courthouse hall, and he remarked on how Nizer had demolished the other side that morning. Was the other side right, I asked. "The point is they didn't prove it," said Johnny. "They were sloppy and they were bad detectives, and we're gonna kill 'em."

The intellectual dishonesty of Faulk came as a great shock to Orson Bean. He was even more shocked when he became involved in conservative activities and found the blacklist working full blast. As Bean put it, "all the blacklisting in the communications media has always been done by the liberals."

Bean described the experience of being blacklisted:

> By 1969, I had become, among other things, one of the hot voices in the TV commercial "voice-over" field. Producers at advertising agencies would tell their casting directors to "get me an Orson Bean type." One of my best accounts was a large and prestigious bank in New York. Mine was the voice on the award-winning commercials made for this bank by the most creative advertising agency in the business.
>
> In the years since 1955, my political views had changed with the times. As dissent had turned into disorder, I had become more conservative. One day I signed a petition for an ad in the *New York Times* supporting the President's position on the Antiballistic Missile system (ABM). The ordure hit the fan up at the Agency when they saw the ad. A friend of mine, highly placed in the firm, reported to me that the "Creative Boys," the High Priests of advertising, had sworn they would never use me in the commercials they made for any other client.
>
> We had an election for mayor of New York that year and I supported John Marchi, the Republican-Conservative candidate, one of the finest men I've ever met. My name was sent out on a fund-raising letter headed "Conservatives for Marchi." The president of one large New York bank received a copy and, circling my name on the letterhead with his pen, mailed it to the president of my bank with the notation: "Is this the kind of man you want as your spokesman." The president of my bank good-naturedly wrote back, "I didn't get one of these. Apparently I'm not on Bill Buckley's mailing list."
>
> The Creative Boys at the Agency were not so good-natured. I had gone too far. "The sonofabitch is a fascist," they said. A decision was made to go through the laborious and expensive process of replacing me as spokesman for the bank. A number of my commercials were re-made, taking my name off the bank's credit card where it had appeared as a sort of endorsement and changing the voice to another which sounded enough like mine to ease the transition. Overnight, my desirability as a commercial voice dropped from sky high to zilch. In the week before my voice was removed from the bank commercial, I had done nine "voice-over" jobs. In the three months following, I did none, not one. How they managed it, I don't know. After three months, I was able, here and there, to pick up four or five commercials, but my career as a "voice" was obviously through. I believe I am the first actor in history to have been blacklisted as both a Communist and a fascist. I think it's hilarious. The same Creative Boys who volunteer their services to do campaigns for peace candidates and grape pickers, suddenly drop the concept of freedom of political expression like a hot grape when the views expressed are not their own.

After winning the lawsuit, Faulk became a welcome guest all over the television screen. He wrote a book on the case and a television and stage play was written about him. He is presently a regular commentator on the taxpayer supported National Public Radio network.

The untold part of the Faulk libel suit was the fact that he had a very friendly judge, whose son, Bruce Geller, subsequently had a very successful and lucrative career in television. Faulk also had an excellent lawyer, Louis Nizer.

Faulk reported in his book that AWARE had made the following accusations against him:

> (1) According to the Daily Worker of April 22, 1946, "Jack Faulk" was to appear at Club 65, 13 Astor Place, N.Y.C.—a favorite site of pro-Communist affairs.
>
> (2) According to the Daily Worker of April 17, 1947, "Johnny Faulk" was to appear as an entertainer at the opening of "Headline Cabaret," sponsored by Stage for Action (officially designated a Communist front). The late Philip Loeb was billed as emcee.
>
> (3) According to the Daily Worker of April 5, 1948, "John Faulk" contributed cabaret material to "Show-Time for Wallace," revues staged by the Progressive Citizens of America (officially designated a Communist front) in support of Henry A. Wallace's candidacy for the presidency of the U.S. Although Wallace was the officially endorsed candidate of the CP, by no means all his supporters were Communists or pro-Communists. What is in question here is support of any candidate given through a Communist-front setup.
>
> (4) A program dated April 25, 1946, named "John Faulk" as a scheduled entertainer (with identified Communist Earl Robinson and two non-Communists) under the auspices of the Independent Citizens Committee of the Arts, Sciences and Professions (of-

ficially designated a Communist front, and predecessor of the Progressive Citizens of America).

(5) Vol. 3, Nos. 1 & 2, of the Bulletin of People's Songs (officially designated a Communist front) named Faulk as one who had sent greetings to People's Songs on its second anniversary.

(6) "Johnny Faulk" was listed in a circular as an entertainer or speaker (with Paul Robeson and two others) to appear at "Spotlight on Wallace" to be held in Room 200 of the Jefferson School of Social Science on February 16, 1948. The Jefferson School has been found by the Federal Government to be what it is, the official training school of the Communist conspiracy in New York.

(7) "John H. Faulk" was a U.S. Sponsor of the American Continental Congress for Peace, staged in Mexico City, September 5–10, 1949, as shown by the official "call." The Congress was later described by the HUAC as "another phase in the Communist world 'peace' campaign, aimed at consolidating anti-American forces throughout the Western Hemisphere."

Faulk did not sue the Communist Party's newspaper for taking his name in vain. Instead he sued those who compiled the Communist press statements about him.

John Henry Faulk continues to spread his intellectual dishonesty to the American public. In 1963, he was a guest speaker for the Communist front, Emergency Civil Liberties Committee, at their annual dinner, December 13, 1963. In 1964, he joined in an ECLC-sponsored letter defending those members of the Maoist Communist Progressive Labor Party, PLP, who had made a trip to Communist Cuba in violation of State Department regulations.

While John Henry Faulk screams about the "blacklist," he and his friends continue to blacklist those who oppose their leftist political philosophy.

ETHNIC UNITS MAKE NATION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DERWINSKI. Mr. Speaker, I have reported consistently to the Members my belief that our Bicentennial commemoration was the tremendous success it was because it was principally organized, directed and observed at the grassroots level across the country. Therefore, I am pleased to insert into the Record a report in the DesPlaines Valley News serving suburban Cook County on a recent Bicentennial picnic held in the Village of Summit, Ill., under the auspices of that community's Bicentennial commission. It typifies the grassroots vitality of this year's Bicentennial commemorations.

The material follows:

Ethnic Units Make Nation

(By Harry Sklenar)

Summit Bicentennial Commission completed a rather successful program of activities to mark the nation's birthday, but the Sunday ethnic community picnic was well designed to portray the various cultures that have merged to make our nation unique.

It seems that the only local ethnic group missing was the Dutch who were among the first settlers of this area. It is regretted that the old Dutch Reformed Church which once was the center of village local social and religious affairs situated in Chicago near the shopping center will be demolished to make way for stores. The Germans, Polish and Irish ethnic groups soon followed that first wave of emigration when the local area was opened to settlement with canal building shortly after the Revolutionary War.

Ray Douglas of the Tribe of Delavan was attired in his colorful Indian costume, representing the first occupants of the area.

Displays of the various community ethnic groups attracted a large number of persons. There were the Russian, the Mexican, the Japanese, the Czechoslovakian, the Polish, the Negro, the German beer garden, and the Irish display.

Entertainment provided by the various ethnic units was enjoyed by all who attended.

Handicraft displays were exhibited by Chester Stelman and a sea shell art exhibit by John Mical.

Attired in their native costumes, the ethnic entertainers were a colorful sight.

Somehow, a few shy ethnic units such as the new Yugoslav and Punjab groups failed to attend.

The program began with the St. Joseph's church choir under the direction of Sister Avertine and James Baricovich, and concluded with a Polka dance exhibition with some audience participation.

Together the various ethnic groups demonstrated that the community has a wide variety of nationalities who are now Americans cooperatively making the United States the envy of every foreign nation.

Perhaps the community ethnic picnic like the township affair should become an annual event to remind all area residents that together we are a nation willing to work together.

SENATE—*Tuesday, September 21, 1976*

The Senate met at 11 a.m. and was called to order by Hon. Patrick J. Leahy, a Senator from the State of Vermont.

PRAYER

The Reverend Robert K. Wilson, Chaplain to the Corps of Cadets, Virginia Military Institute, Lexington, Va., offered the following prayer:

Eternal God, into the calm of Thy presence, we lift for a moment our restless spirits. Let quietness and responsiveness open doors of insight and inspiration.

Speak to us in conscience that the words of our mouths may be free from duplicity and evasion—that we may be honest with ourselves and our colleagues.

Speak to us in memory which so often takes us by the hand and leads us safely through the uncertainties and temptations of the moment.

Speak to us in our hopes and ideals that we may seek for and find a more excellent way.

Speak to our wills as we wrestle with decisions which affect the whole human family.

Speak to us through the needs of our constituency, and forgive us that sometimes we are fatigued by their needs, worn out by their sheer numbers and the insistence of their demands.

Restore our confidence that justice can conquer greed; that the structures of peace are stronger than the forces of war; that love is mightier than hate; that life is mightier than death.

In this renewed faith may harmony prevail among us as we go forward together as soldiers of the common good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 21, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Patrick J. Leahy, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 20, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures that have been cleared for action, by unanimous consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1181, 1193, and 1196.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPRIVATION OF EMPLOYMENT ON ACCOUNT OF POLITICAL CONTRIBUTIONS

The Senate proceeded to consider the bill (H.R. 11722) to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 7, strike out through page 2, line 21, and insert in lieu thereof:

"(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

"(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

"(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

On page 4, line 3, strike "(1)" and insert "(A)";

On page 4, line 4, strike "(2)" and insert "(B)";

On page 4, line 6, strike "(3)" and insert "(C)";

On page 4, line 8, strike "(4)" and insert "(D)";

On page 4, line 10, strike "(5)" and insert "(E)";

On page 5, line 10, strike "Purposes on" and insert "purposes, on".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1245), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

H.R. 11722 is designed and intended to protect public servants, prospective public servants, and certain other beneficiaries of government programs from extortionate political kickback practices where the employment or benefit is made possible in whole or in part by an Act of Congress. The purpose of the first amendment is to simplify subsection (a) of the proposed new section 601 of title 18 of the United States Code and to remove an ambiguity with respect to the scope of the offense to make it clear that completion of the crime is not conditioned upon the victim's refusal to comply with the extortionate demand for payment.[1] The other amendments are to correct drafting errors.

GENERAL STATEMENT

There have been many incidents, in the past, of major political parties obtaining funds using the "lug", a method of extracting a portion of an employees wages. The evidence received by the Subcommittee on Criminal Justice of the House Committee on the Judiciary indicated that in Indiana the employees are expected to contribute 2 percent of their gross salary to the political party in control at any given time.[2] In some areas of Indiana, the local party organization may collect a 1 percent lug in addition to the State party's 2 percent.[3] The Office of Federal Elections of the General Accounting Office made an audit and a field investigation of one State Central Committee covering the period from April 8 to December 31, 1972, and found that, during 1972, patronage contributions to this Committee aggregated approximately $375,000, or 46 percent of the total contributions received.[4]

The employees who are subjected to this form of political patronage harassment are threatened with termination if they do not make their 2 percent payments. If the threats fail, the employee may actually be fired.[5]

At present, there are two statutes directed at protecting federally-funded employment and programs from partisan favoritism. One is 18 U.S.C. 600, which makes it a crime to promise employment or other benefits made possible in whole or in part by an Act of Congress, on account of a person's political activity.

The other statute is 18 U.S.C. 601. It provides:

"Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

The "work relief and relief purposes" limitation makes section 601 much narrower than section 600. For example, if A goes to B, who is already employed by the Federally-funded highways construction program, and threatens to fire him if he does not contribute to A's party, the Justice Department cannot prosecute A. The reason is that section 601 is inapplicable because the Federal funds are not being used for "work relief and relief purposes." Section 601 must be expanded to include more than "work relief purposes" situations, if it is to provide adequate criminal sanctions.

DEPARTMENT OF JUSTICE POSITION

The Department of Justice supports H.R. 11722 with the Senate amendment. In a letter dated July 1, 1976, to Chairman Eastland, the Assistant Attorney General for Legislative Affairs states:

"The Department of Justice supports the enactment of legislation along the lines of H.R. 11722, for we consider that the United States has an obligation to insure that none of the jobs and benefits which are funded in whole or in part by federal appropriations is the subject of discrimination on the basis of whether the victim makes a political contribution. An additional justification for a federal proscription in this area is the fact that when abuses of this nature arise, they are frequently locally sanctioned, either in law or customs, so that federal intervention is often the only means of halting the extortionate practice.

"While we generally favor the enactment of H.R. 11722, we do note that the legislation is somewhat awkwardly drafted and is subject, through the use of the phrase 'on account of such person's refusing to make a contribution', to the unfortunate construction that the criminal penalty is applicable only in the case where the victim is courageous enough to 'refuse' to make the demanded contribution. Clearly, the conduct of the defendant in threatening the victim with loss of employment or a benefit, or in depriving the victim of such employment or benefit, if he does not make a political contribution merits punishment irrespective of whether the victim surrenders to the extortion. Moreover, the manner of defining the three categories of persons falling within the ambit of the proposed statute seems unduly verbose.

"Although making technical changes of this kind would not alter the scope of the proposal, it would, we believe, substantially improve its clarity and thus would serve the interests both of those persons whose conduct will be regulated by the legislation, as well as prosecutors, judges and jurors, who must interpret it in legal proceedings. The Department, if desired by your Committee, would be more than willing to cooperate with its members and staff in seeking to arrive at a more technically perfect version of the legislation.

"If such amendments as suggested above were made to H.R. 11722, the Department of Justice would strongly favor its prompt enactment."

BILL PASSED OVER

The bill (S. 798) to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures, was announced as next in order.

Mr. ALLEN. Mr. President, will the Senator agree that this bill be passed over temporarily, so that I may have an opportunity to look at it?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I withdraw the request on that bill.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

REHABILITATION AND DEVELOPMENTAL DISABILITIES LEGISLATION

The resolution (S. Res. 544) authorizing the printing of additional copies of the committee print entitled "Rehabilitation and Developmental Disabilities Legislation," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare one thousand nine hundred additional copies of its committee print of the current session entitled "Rehabilitation and Developmental Disabilities Legislation".

BILLS PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two bills which ran into a brier patch on yesterday be transferred to the calendar, under "Subjects on the Table," and they are as follows: H.R. 3035 and H.R. 12934.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice

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[1] The House usage of the phrase "on account of such person's refusing to make a contribution" (page 2, lines 16–17) could be construed to limit the offense to the unsuccessful extortion.

[2] See statement of Representative J. Edward Roush in Hearing on Legislation Relating to Deprivation of Employment on Account of Political Contribution Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 94th Congress, 1st Session, October 21, 1975, at 9 (hereinafter cited as "House Hearing").

[3] See House Hearing at 33, 73–77 (letter of Murrel Meadows).

[4] See House Hearing, at 10–11 (testimony of J. Edward Roush).

[5] See House Hearing, at 73.

President, appoints the Senator from Virginia (Mr. William L. Scott) to attend the annual meetings of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development, to be held in Manila, Philippines, October 4–8, 1976.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. Bartlett) is recognized for not to exceed 15 minutes.

A CRISIS OF HONOR

Mr. BARTLETT. Mr. President, on August 30, 1976, Mr. Fred Ruth of my staff traveled to the U.S. Military Academy at West Point to gather firsthand evidence on the depth and breadth of the controversy surrounding violations of the honor code. Mr. Ruth has reported to me on his findings, and I ask that a copy of that report be printed in the Record at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, this report and the previous information and evidence available to us on the West Point cheating controversy confirms some previous conclusions and leads to additional conclusions. I will now summarize briefly these tentative conclusions, using sparingly supportive facts and reasons.

Our foremost conclusion must be that a crisis of honor has existed and continues to exist at West Point. I do not consider it coincidental that this crisis of honor occurred at West Point during a period when our Nation seemed to suffer a crisis of honor and integrity at the highest levels of our society. While this certainly does not excuse the problems at West Point it may help to understand them. Hopefully it will remind us of the importance of tempering the character of our youth with a sense of personal honesty and integrity, and of devising a workable system under which this may again be done at West Point.

Our first step toward resolving this crisis of honor at West Point is to acknowledge that it exists. This cannot be done by maintaining that "the honor system is alive and healthy" as some have said, and proposing minor changes in the existing system, such as disallowing future take-home exams, as the one in EE 304 on which so much cheating occurred.

We are forced to this conclusion first because of the pervasiveness of honor code violations. On the EE 304 exam 103 cadets have been found guilty of cheating, and 49 cadets resigned rather than face officer review boards for a total of 152 honor casualties. Cheating on examinations had apparently become so common that peer pressure, which should be influential in the enforcement of the honor code, instead worked to encourage violations of the code.

Second, over 500 additional cadets have allegedly violated the honor system according to affidavits signed by 65 cadets.

Finally, the total disregard for the nontoleration clause of the honor code is conclusive evidence that the honor system has failed. Surely we have learned that no code, no convention, no rule or law can endure without the consent and support of those who are governed by it. Explicit in that support is not only willingness to observe the law, but intolerance of those who violate it. An honor system cannot be forced on a group and expected to work.

Many student honor systems began at the insistence of students outraged with massive cheating and lack of trust which accompany many proctorial systems. The college and university would grant approval on the condition that the students would assume full responsibility. This obviously means that the overwhelming majority of students would be willing to report fellow students who violate the honor code.

For a code or law to endure, those who are governed by it must also be certain that the system and the sanctions provided for its enforcement are fair and just. This has clearly not been the case with the honor system at West Point, and in particular, its single sanction of dismissal from the Academy for any honor code violation.

I disagree with those who say the honor system is absolute and that violations must be dealt with absolutely by dismissal. Certainly honor, just as truth, is absolute. But the structure under which we administer a code of honor and judge violations of that code must be flexible enough to account for the frailty of human nature, and the varying degrees by which we all fall victim to that frailty.

Recognizing that the honor system at West Point has failed to command the support of the cadets, West Point officials must look to them to devise a totally new system. In doing so, they should consider the possibility that a total suspension of the present system, replaced by a proctorial system, might produce the most favorable atmosphere in which to meet this challenge. Beginning anew to construct the framework under which the honor code may be administered, the cadets at West Point may very well question the scope of a new honor system—whether that system is reasonably applicable only or primarily to academic matters.

It is going to be most difficult for the West Point officers and cadets to convince the American public that, after not one cadet reported another in at least 152 violations of the honor code, all of a sudden, the cadets will report their friends who cheat. In order for the cadets themselves to know that they will report violations, they must believe it is a fair and just system and do want an honor system.

One advantage of going to a proctorial system is that it puts the responsibility on the cadets to develop their own system, rather than accept the current one, which clearly is not a cadet system. A short experience under the proctorial system will help stimulate the desire for and the development of a sound honor system that will have overwhelming cadet support.

In the meantime, serious questions remain regarding the manner in which violations of the present honor system are investigated and penalized. Intervention by Secretary of the Army Hoffman, and the creation of the "Blue Ribbon" Committee to investigate honor code violations can help to resolve this crisis. However, these efforts do not relieve the Committee on Armed Services of its responsibility in this matter. I believe the investigation by the Subcommittee on Manpower and Personnel is warranted, should continue, and that such an investigation would complement the efforts of the Department of the Army and the independent investigative committee.

As we work together to assess the present problems at West Point, we must recognize that our course of action in addressing current violations must be fair and just. Violations must be judged not by the standards of a system of the past, which has clearly failed, but by the standards we know are essential to any successful system of the future. The single sanction provided for honor violations has been part of the problem in the past. We cannot look to it for a solution, either to today's dilemma or tomorrow's challenge of establishing a new workable honor system.

Only when we have admitted that the present honor system has failed, only when we have investigated fully the violations of that system and proceeded on a course of action that is fair and just, and only when we have placed the matter of a new honor system in the hands of those who will be governed by it because they respect and want it, will we have resolved the crisis of honor at West Point.

Mr. President, I also ask unanimous consent to have printed in the Record the letter of transmittal to myself from my legislative assistant, Mr. Ruth, and the itinerary of his West Point visit.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C.,
September 14, 1976.

Senator Dewey F. Bartlett,
Russell Office Building,
Washington, D.C.

Dear Senator Bartlett: Pursuant to your request I visited the U.S. Military Academy at West Point during the period August 30 through September 2. The purpose of my visit was to discuss relevant matters with various individuals relating to the problems of the current honor "scandal" at the Academy. I also reviewed the cadet affidavits containing allegations of cadet honor violations in order to ascertain the pervasiveness of honor violations among cadets at the Academy.

Attached is a report of my visit and a copy of my itinerary.

Sincerely,

Fred A. Ruth,
Legislative Assistant to Dewey F. Bartlett, U.S. Senate.

Itinerary, West Point Visit

30 Aug:
2200, Arrive West Point.
31 Aug:
0845, Office Call Commandant.
0930, Office Call Superintendent.

1000, Discussions with cadets from 1st, 2nd, 3rd class (total of 9 cadets not involved in EE304).

1115, Discussions with selected officers (company tacs—one each regiment).

1215, Lunch with cadets (Mr. Swanson).

1300, Discussions with Honor Committee representatives (5).

1400, Discussions with defense attorneys, one permanent party and one temporary.

1500–1630, Discussions with Father Curley, Catholic chaplain.

1700–1830, Cadet Miller, Cadet Brigade Commander.

1930–2100, Class of '77 meeting with Commandant.

1 Sept:

0900, Discussions with cadets "found" of honor violation in connection with EE 304 take-home examination.

0945, Chaplain Richard Camp, Protestant Chaplain.

1015, Col. Joe Beasley, History Department.

1115–1730, Capt. Dom Thomas; Review cadet affidavits.

2 Sept:

0830–0900, Office Call, Commandant.

0900–1000, Office Call, Superintendent.

Exhibit 1

West Point Honor

On August 30, 1976, I went to West Point, New York, in order to talk with Academy officials, Cadets and other individuals about the current honor problem that has arisen at the U.S. Military Academy. The interviews and discussions took place over a three-day period during which time I was able to form general impressions about the problem at the Academy.

I. THE HONOR VIOLATIONS

After talking with individual Cadets, members of the defense counsel team, and a cursory review of affidavits containing allegations of honor violations prepared by Cadets, my impression is that the current honor "scandal" was not the result of a well-organized group of "cheaters", but rather was an incident that evolved independently among various Cadets.

Cadets who have not been involved in matters relating to honor violations expressed genuine surprise at the extent of the honor violations that have been reported to have occurred. However, Cadets who have completed affidavits in which they allege to have knowledge of honor violations paint a different picture. Many Cadets were named in the affidavits as having violated the honor code at West Point to some degree or other. I shall add that many of the affidavits I reviewed would have no value in any type of legal proceeding, because they were based on "hearsay". However, the affidavits are sufficient to show the extent or pervasiveness of honor violations that have occurred. To the best of my knowledge the following data is the most up-to-date available:

687 Allegations of *total* honor violators.

464 Allegations of total honor violators in Class of '77.

296 EE 304 Violation and other.

168 Violations other than EE 304.

135 Allegations of honor violations in Class of '76.

43 Allegations of honor violations in Class of '78.

11 Allegations of honor violations in Class of '79.

15 Allegations of honor violations in Class of '74.

19 Allegations of honor violations in Class of '75.

104 Cadets had resigned as of 9/9/76.

It can be concluded from this data that there have been many violations of the honor code at West Point; further, it can be inferred that many other violations have occurred also, but simply have not been reported.

II. WEAKNESSES IN THE CURRENT HONOR SYSTEM

A. The "toleration clause"

The "toleration clause" of the honor code at West Point has been alluded to as being the "strength" of the code. However, the toleration clause is Janus-faced in my opinion, because it is also the weakness in the code under the present honor system. This conclusion is based on discussions I had with Cadets wherein there was concern expressed about the conflict between a Cadet's individual moral judgment and the honor code and system. The obvious best example of this conflict is illustrated by the example of a Cadet refusing to report a fellow Cadet (a friend) for a minor infraction of the honor code knowing that the only penalty for that violation is expulsion from the Academy.

Therefore, in the sense that the system is rigid; i.e., it provides for no flexibility, it is weak.

B. The "double standard"

Most of the violations that have been reported in the current honor "scandal" involved Cadets who had served in an active army program (field training) for a summer. During that experience Cadets were able to observe first-hand that soldiers who violated army regulations or laws could be dealt with by any number of punishments from a simple oral reprimand for a minor violation to a court martial for a serious violation, with other punishments between the extremes. While this situation may not be articulated as having validity, it is my opinion that it is a factor, albeit subtle, that has a bearing on a Cadet's attitude toward honor vioaltions.

III. DEFENSE LAWYER'S OBSERVATIONS

A. There is apparently little doubt in the minds of the military defense lawyers that Captain Lincoln and Captain Sharphorn may have had their careers as military officers prejudiced because of their vigorous defense of Cadet clients. I make no judgment on this issue; however it is my understanding that the Secretary of the Army is looking into these allegations.

B. There was concern expressed to me about the shortcomings in the procedures of, and tactics used by, the internal review panels. These are matters which must be addressed by the Secretary of the Army and his legal counsel.

C. Concern was expressed also that the Secretary of the Army's plan to deal with honor violators may suffer from legal deficiencies. This matter is currently pending before the courts, and therefore I shall not address the merits of this allegation.

IV. ACADEMY ACTIONS TAKEN IN RESPONSE TO CURRENT HONOR PROBLEM

A. "Shuffling" of companies—It is apparently the plan to "shuffle" Cadet members of companies among other companies every two years. This action will allegedly help prevent "cliques" from forming and will also allow Cadets to broaden their base of acquaintances and friendships.

B. Collaboration on assignments will be allowed at all times outside the classroom. There will be no more "EE 304" problem type situations.

C. Only essay-type examinations will be given in the classroom. I am uncertain how a course like mathematics will be tested under this plan.

D. Company tactical officers and Cadets alike have been admonished not to put Cadets "on honor" by the use of improper questions.

E. The Cadet Honor Committee is going to present to the Corps of Cadets for referendum the question: Shall the Cadet Honor Committee have the power to recommend punishment other than expulsion for a violation of the honor code?

This question will have to receive a ⅔ vote of the Corps to go into effect.

V. THE SECRETARY OF THE ARMY'S SPECIAL ADVISORY PANEL

In my opinion, this group must make a thorough investigation of the underlying causes of the current honor problem. It must also examine the changes that have been taken by the Academy to treat the problem and determine their efficacy.

Just as important as the investigation and report of the panel will be the willingness of the Secretary of the Army and the Military Academy to implement changes that are recommended. One only needs to observe that the recommendations found in the Buckley Commission Report have been ignored to be concerned that the recommendations forthcoming from the Special Advisory Panel may suffer the same fate.

VI. CONCLUSION

It is my opinion that the likelihood of another outbreak of an honor problem of the same magnitude as that encountered with the EE 304 problem recurring in the near future is remote. This does not mean, however, that all is well. There are basic weaknesses in the honor system which must be corrected if the system is to be strengthened ultimately. The fact that there is weakness in the system is illustrated by the large number of Cadets alleged to have committed honor violations (see I., above).

Within the Academy is an honor system whose purpose should be to mold, develop, and instill a sense of "honor" and "duty" in a Cadet. In order to be efficacious it must naturally be a continuing process. Mistakes will be made during the process, but the goal is still there and can be achieved over a four-year period if a proper degree of flexibility and reasonableness are utilized.

Nonetheless, honor is personal. As Coleridge once said, "Our own heart, and not other men's opinion, forms our true honor".

Addendum No. 1

Since my visit to West Point, a large amount of activity involving cadets has taken place. In order for my report to be complete I have added the following information:

DATA ON EE 304 CASES

Cases referred to Board of Officers	202
Cases completed by Board	154
Cadets "found" of honor violations	103
Cadets exonerated by Boards	52
Cadets resigned prior to Secretary of Army's plan	18
Cases dismissed by Superintendent	**28**
Case pending before Board	1
Cadet separated for reason other than honor	1
"Found" cadets have resigned (total as of 9/15/76)	62
Cadets have taken no action in their cases (resignation or otherwise)	40
Cadets resigned rather than appear before Boards of Officers	49

Mr. BARTLETT. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, does the Senator have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may have control of that 7 minutes, if the Senator will consent.

Mr. BARTLETT. I yield the time to the Senator from West Virginia.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is recognized for not to exceed 10 minutes.

HEALTH CARE

Mr. KENNEDY. Mr. President, health care should be a right and not a privilege for every American. Long ago we guaranteed a decent education as a matter of right. As a society, we have said a decent education should not depend on whether a family can afford to pay for it. We must assure the same for health care. Health care as a right must be a part of the vision we cherish for our people. Health care is basic to a full life in our free society. The freedom and opportunities we offer every American are hollow promises to those whose minds are darkened or whose limbs are twisted by unnecessary illness or deferred care.

Health care must be a right for all in our society and not merely a privilege for a few. But while they have used these same words—the Nixon/Ford administration has, in fact, denied that health care is a right. Through their refusal to lead, and their active opposition to the positive programs developed and supported by the Congress, the Nixon/Ford administration has denied basic health care to millions of Americans.

The problems we face in health care are evident. Only gross insensitivity to the needs of the people and an absence of commonsense could lead to the health care policies of this administration. Today:

More than 20 to 40 million Americans have no health insurance. These families have no protection against the costs of physician visits and hospital bills and all too often delay getting the care they need for themselves and their children.

More than 2 million families a year incur catastrophic health care costs—costs that can bankrupt, and destroy a family's security for years.

Health care costs continue to take a bigger and bigger bite out of the family budget—last year, health costs rose more than half again as fast as the economy as a whole. Next year, Federal cost of the medicare and medicaid programs will increase more than $5.8 billion—in just 1 year. And these higher costs will provide no new benefits, no additional coverage for our elderly.

And it is getting harder to find a doctor if you live in the country, or the inner city. The situation gets worse year by year. We do not have enough family doctors and pediatricians to serve our Nation and we have too many surgeons.

And we have no assurance of the quality of the health care provided us when we get it in the United States. Fewer than 50 physicians, of more than 300,000 nationwide, lose their licenses each year. This in spite of the fact that even a former president of the American Medical Association admits that perhaps 3 to 4 percent of all physicians—more than 10,000 nationwide—are "bad apples."

Indeed, the list is endless—unnecessary hospital beds, excess surgery, inaccurate laboratory examinations, on and on. The recent investigations of fraud in the medicaid program dramatize many of our problems.

In view of these problems—lack of ability to pay for cure, increasing costs, decreasing availability, erratic quality—any administration sensitive to the needs of the people, and a President concerned with guaranteeing opportunity in a free society, would take some action to set things right.

But President Ford has done nothing. In fact, his actions have been worse than nothing.

The President says that we cannot afford national health insurance. Every Western industrialized nation has NHI—but the United States, the wealthiest nation in the world, cannot afford national health insurance. The Nation that spends the greatest percentage of the greatest per capita GNP in the world for health care cannot afford national health insurance. It is unbelievable.

In fact, not only does the President believe we cannot afford national health insurance, he apparently believes we cannot afford the programs we already have. He proposes, in fact, to cut back medicare and medicaid to bail out the Federal budget, and to retreat from the social gains that we have already made.

The President wants the elderly of America to pay hundreds of millions more out of their own pocket for their health care—in order to save money on medicine. He tells us that he favors catastrophic insurance for the elderly. But his medicare proposals would actually require the vast majority of the elderly to pay more, and would help only 1 in 300. And when the ledger sheet is totaled up, he requires the elderly to pay an additional $500 million a year for health care. This, when the medicare program today pays less than 45 percent of the total health bill for the elderly to start with. This, when the elderly now pay more out of their own pockets today for health care than before medicare was enacted. Inflation is already watering down medicare's benefits—and the President wants to water them down even more.

And what of the poor? What does the President propose to do for low-income Americans? He proposes to wrap up medicaid and 15 other programs in "block grants" for the States. He says this will give States freedom to meet their individual needs. In fact, what these grants would mean is less Federal support for the major industrial States, and reductions over a period of years for all of the States. What it really gives the States is freedom to pull out of these programs with the President's blessing—for it abolishes all of the standards for medicaid—even the requirement for the early and periodic screening of children.

This block-grant program would result in doctors refusing to see poor patients. It would result in hospitals excluding poor patients from their facilities. It would result in more fraud and abuse. And, most important, it would result in the greatest retreat in decades from social justice—and from the ideas of health care as a right for all.

This philosophy of retreat is clear in other actions of this administration—such as President Ford's vetoes of two important health bills in this session of the Congress. In January of this year he vetoed the fiscal year 1976 Labor-HEW appropriations. By his veto he said "no" to medical research, nurse training, neighborhood health centers, migrant health centers, immunization programs, health planning, and all the other health programs of DHEW. In fact, he has fought to keep these programs on a starvation budget for years—and would like to see most of them cut way back—or killed—to save money. Similarly, in March, President Ford vetoed the Health Services and Nurse Training Act. This bill revised and continued such vital Federal programs as neighborhood and migrant health centers, community mental health centers, and the nurse training program. Again, the President argued we could not afford better health for our people. Again and again President Ford shows his lack of sensitivity to pressing needs, the lack of priority he gives improved health care for the American people, and his refusal to offer leadership in this area.

So this is the President's program: No national health insurance, greater payments by the elderly, retreat from Federal support for health care for the poor, dumping of responsibility on the States—and vetoes.

I am proud to have been part of a Democratic Senate that has fought to preserve what is good in Government. I am proud to have led the successful fight to override the President's veto of the health services bill—and I count it a victory that neighborhood health centers, mental health centers, and others have survived with the Senate's help—though times have been tough and left scars.

I am proud that we have pushed ahead with innovative health planning legislation, HMO legislation—and a fundamental reform of medical education in our health manpower bill passed just yesterday.

I am proud that we have insisted upon adequate funding for our important health programs.

Mr. President, in health care, the leadership, the imagination, and the sensitivity to our people's needs have come from the Democratic Congress.

And we have a clear agenda ahead of us. We must establish a policy guaranteeing health care for all Americans. Specifically, we must adopt a national health insurance program based on the principles of:

First, universal coverage of all Americans under the same program regardless of income, where they work, age, past medical history, or any other factor;

Second, comprehensive benefits including care in the doctor's office as well as in the hospital—and to encourage preventive care and early diagnosis and treatment;

Third, reform of the health care system to eliminate waste, to encourage efficiency and economy, and to control total health expenditures under strict public budgets;

Fourth, development of needed health care resources in every community of our Nation so that good health care is not only well-insured, but easily available; and

Fifth, public administration of this insurance program building on social security and medicare.

Only such a program would guarantee that health is a right and not a privilege for all Americans, and the President is dead wrong. We can afford such a program—in fact—without such a program, we are all going to go bankrupt on health care.

In fact, this program of NHI would cost no more than what we are paying for health care today. In fact, the Congressional Budget Office has estimated that such a program could, by 1981, result in savings of health care costs of more than $23 billion. This is true because real cost containment-prospective budgeting and the elimination of waste—could be implemented with such a program. These reforms, in fact, cannot be accomplished any other way.

Health care costs can be contained. A prospective budgeting system would insure that increases in costs parallel increases in the gross national product and represent true increases in the value of service provided. The program would be organized to maximize the efficiency and effectiveness of services. Programs to consolidate unneeded bureaucratic claims processing, to provide drugs on an economical basis would be instituted.

Also, the program would increase the services in rural and inner-city areas. Heavy emphasis would be placed on efficient and effective primary care. Incentives would be provided to move doctors from areas where there are too many to areas where there are not enough.

And finally, acting as a prudent buyer, the Federal Government would help assure the quality of care. Physicians, like airline pilots, would be required to stay up to date. Continuing education programs would be developed. Standards for performance would be established. In areas in which only professional peer review is appropriate, the peer review program would be strengthened.

In summary, we face enormous problems in our health care system. But these problems can be solved. They need not continue. What is needed is commitment to the needs of our people—and the leadership to develop a program—commitment and leadership which this administration lacks. The program I have described will not cost more than what we are spending now. It will not result in escalating costs in the future. It will result in health care as a right for all Americans.

Mr. President, I withhold the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for not to exceed 10 minutes.

HEALTH CARE PROGRAMS

Mr. HATHAWAY. Mr. President, when a patient is sick, the first thing the doctor does is to try and find the cause of the illness. Then he determines the most effective method of treatment. If the patient is not treated soon enough or not enough medication is given, serious complications are sure to arise.

America's biggest medical problem today is the critical condition of its health care programs. Millions literally cannot afford the medical care they need, but the doctors in charge for the past 8 years—the Nixon and Ford administrations—have refused to give the proper treatment. Instead, they have delayed implementing essential new programs and cut back on others.

One need only look at the record to know that we need a new doctor now.

Republican attempts to cut health programs have made the needs of the poor, the sick and the aged the scapegoats for budget balancing and the false promises of fiscal prudence. It appears the Nixon and Ford administrations believe we cannot have a healthy America and a healthy budget at the same time.

And they have given us neither.

During the past 8 years of Republican administration, health care costs have continued to gallop ahead of the ever-increasing consumer price index.

At the same time, Federal inaction has taken its toll on the efficiency of the administration of this Nation's health care system.

Rather than give us new programs, the Republican administrations have consistently retreated.

We have seen the retreat in the administration's withdrawal from the modest national health insurance proposal they put forth last year.

It was markedly similar to the Nixon administration retreat in 1973 when it offered a wholly inadequate health insurance program and then sent it back to the drawing boards because there were too many gaps in the coverage.

All those retreats have meant delays and those delays have amounted to incalculable costs in terms of effective health care for all Americans.

What is the administration doing now that health expenditures have risen from $77 billion to over $118 billion in a 2-year period?

First, it wanted to increase the share of medical bills the aged and disabled pay under medicare. Then it retreated, but only because the Democratic Congress opposed saddling those groups having the greatest need for medical treatment and the least ability to pay with these higher costs.

Second, it has responded with vetoes. The veto of the Health Services Act which would fund a variety of health service programs to help many of these people to obtain the treatment at a reasonable cost is a classic example.

With that veto, the Ford administration said no to funds for neighborhood health centers; no to grants to States for local health programs; no to community mental health programs and services to migrant workers; and no to training additional health manpower to end the severe doctor and nurse shortages in our urban and rural areas.

The Ford administration would rather see all of these essential programs take their chances for funding under a block grant system through special revenue sharing proposals, the Financial Assistance of Health Care Act.

The administration wants to shift the burden of medicaid and 16 other health care programs to the States. These are programs that would be severely jeopardized without the guarantee of Federal revenue. Under this proposal, uncontrolled medicaid expenditures would have consumed the lion's share of the block grant funds, leaving programs such as environmental health, preventive health services, alcoholism treatment, and mental health with as little as 80 percent, 50 percent, and then 25 percent of their current allotments in successive years.

Furthermore, this proposal would have relieved the States of any required matching arrangement and greatly exacerbated the glaring inequities and gaps in care for the aged and disabled. Only the strong opposition of the Democratic Congress prevented this from happening.

If the Republican administration's priority is reorganization and consolidation, when it comes to Federal health care programs, their approach is killing this country.

If further proof is needed, let us examine the President's budget requests for health. Once again essential programs to the vulnerable—the young, the poor, the aged, and the disabled—have been cut.

One-third of our children are not immunized against the childhood diseases of polio, measles, and diphtheria, and experts are predicting new epidemics of these easily preventable diseases. Nevertheless, the Republican administration advocates cutting immunization and other disease control programs.

For example, community health centers, rat control, emergency medical services, mental health services, community alcoholism programs all have sharply reduced budget requests this year. When one considers the impact of inflation on existing funds for these programs, the severity of such reductions is underscored. Such budgetary surgery is definitely not curative and it could very well be fatal to the effectiveness of these programs. Budget cutbacks alone do not bring about greater government efficiency. In this case, they reflect inept administrative planning and they are symptomatic of a Republican administration suffering from acute mismanagement and grossly misplaced priorities.

The failure of the previous Republican administrations to address the issue of the need for a universal health insurance system and the continued absence of any clear cut proposal in the 1976 Republican Party platform epitomizes their ostrich-style approach to adequate health care management.

America's health problems will not disappear if they are ignored, and they are clamoring for immediate attention.

We spend over 8 percent of our GNP on health care; 23 percent of this amount is spent by the Federal Government. While this Federal share is growing, Federal cost saving controls are not.

The Republican administrations seem to have no problem in proposing that the patients pay a greater share of the burgeoning cost of health care. Yet, they seem equally undisturbed about the cost-increasing abuses perpetrated by certain providers of health care. These same providers determine how much care is used and what prices are charged for these services.

Consequently, the Republican Party platform does not press for vigorous enforcement of utilization review and accountability for fiscal intermediaries in health care programs paid by the taxpayers.

It is quite apparent that the Federal Government must develop an equitable, controllable, and cost effective national health program. As both a humane and technologically innovative nation, we can wait no longer. We can and must get better health care for our money and more access to health care resources for all our citizens. But the administration's treatment of Federal health care programs gives us no such hope or direction.

It gives us two aspirin and tells us to call again in another 4 years.

Mr. President, I reserve the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 10 minutes.

The Senator from Iowa.

Mr. CLARK. Mr. President, I would like to be reminded at the end of 5 minutes because I would like to yield to the Senator from South Dakota at that time.

FEDERAL ROLE IN RURAL HEALTH CARE

Mr. CLARK. Mr. President, I am pleased to have this opportunity to speak on the Federal role in rural health care. Almost every recent public opinion survey of priority issues finds health care at the top of the list. Americans place it ahead of almost every other area in terms of where additional Federal funding and support should be placed.

Through hearings held in Vermont earlier this year and through my travels in Iowa, I have learned that health care is especially problematic for Americans living in the countryside. Every month I receive letters from constituents who ask for our help to get their community a physician or some other health practitioner. This situation is certainly exasperating and frustrating for rural Americans. I share their disillusionment, for I see the present powerlessness of the Federal Government to address their problems.

Most will agree that the root of the rural health problem is the nonavailability of health care personnel who can provide basic, primary health services.

So far our Nation has failed in its attempts to motivate young health professionals to practice in rural communities. The time has come for us to face this problem directly and forcefully without delay.

As the first step, we must fund existing health programs at adequate levels, so that their effectiveness will not be limited due to a lack of sufficient resources.

In several key areas, the Congress has responded to the rural health care situation and has increased the funds for these programs.

The community health centers program provides financial assistance to primary health clinics, two-fifths of which are located in rural medically underserved areas of the country. More than 1.8 million Americans, who previously had little or no access to basic health services, are now benefiting from this fine program at 177 community health centers.

Despite an overriding need to extend these health clinics to many more areas of the country, the administration proposed that the program be cut some 40 percent, causing nearly 100 centers to close.

Congress chose to ignore the administration's suggestion, and, instead, we decided to expand the program to allow for a continuation and expansion of community health services.

To cite another clear example of the Congress' commitment to resolving the rural health dilemma, let us consider the migrant health center program. Much like the community health center's program, the migrant program provides funds for primary health services. However, this program is focused on the critical health needs and unique circumstances of migrant workers and their families.

While President Ford recommended a budget cut that would sharply reduce the activities of the migrant health program, the Congress voted to expand the program in the coming fiscal year.

The administration also hopes to cut other programs that are helping to improve health care for people in rural America. Among these are the popular emergency medical services program, financial aid programs for medical students, and the nurse training program. Although Congress has yet to enact an appropriations measure for these programs, I am confident that we will strengthen, rather than curtail them.

There are two bright spots in President Ford's 1977 health budget. Proposed increases in the National Health Service Corps, the National Health Service Corps scholarship program, and the nurse practitioner training program are welcome signs that the administration does want to improve access to health care in rural America.

Congress has decided to expand the nurse practitioner training program beyond the administration's goal. It will likely do the same for the other two programs that are aimed at correcting the problem of geographic maldistribution of health personnel.

This year the Congress has made a major new commitment to rural health care by acting on health manpower legislation. In the Senate committee report to the health manpower bill, the following statement summarizes this commitment:

> The committee regards the geographic maldistribution of health professionals—especially physicians and dentists—as the Nation's most serious health manpower problem. Because health professionals are not available and accessible, health care remains beyond the reach of all too many families. Even the citizen's ability to pay for services becomes meaningless if services are not actually available.

In recognition of this problem, Congress will, within the next week or two, complete action on legislation to substantially expand the National Health Service Corps and its scholarship program. This would increase the number of young doctors practicing in rural and inner-city areas with physician shortages. Other segments of the health manpower legislation would encourage doctors to enter primary care fields like family practice medicine.

I also want to note that the new legislation would expand our Nation's use of nurse practitioners and other forms of physician extenders. These health personnel provide high-quality primary health care, often in satellite clinics in remote rural areas. The expanded programs of training and placement have my unqualified support, and I will work to further facilitate the utilization of physician extenders through changes in the medicare reimbursement policies.

To summarize, we are just now laying the groundwork for an expanded, improved, and integrated system of rural health care. We are still far from that goal, but with continued support from Congress and the Nation, and with an administration sensitive to the needs of rural Americans, I believe that goal is attainable.

Mr. President, I yield the remainder of my time to the Senator from South Dakota.

DEATH OF ORLANDO LETELIER

Mr. ABOUREZK. Mr. President, less than 3 hours ago a friend of mine was murdered here in Washington, D.C., on Sheridan Circle. Orlando Letelier, who was in a car this morning with two other people, died as a result of a bomb explosion. The bomb, with a timing device was planted in the car. Ronni Karpen Moffitt, who was in the front seat with him died also, and Michael Moffitt, her husband, who was in the back seat, is presently in the hospital in serious condition.

The police do not know at this time who committed the murder, although they have an idea who it was.

Orlando Letelier had been Minister of Defense in Chile during the regime of President Salvador Allende prior to the takeover by the junta in 1973. For a time he was Chile's Ambassador to the United States. At the time of his murder, he was Director of the Transnational Institute for Policy Studies headquartered here in Washington, D.C., and in Amsterdam.

He spent a year in a Chilean prison following the junta's takeover, undergoing torture until his release and his subsequent entry into the United States, which had provided a safe haven for him—or so he believed.

He leaves behind him his wife Isabel, and four children.

Orlando Letelier, as I knew him, was a very gentle, kind, civilized, and nonviolent person, who was dedicated only to two things: To democracy and to the truth. I am convinced that is why he was murdered. He was a threat to no one, except to those who fear the truth. He was stripped of his Chilean nationality last week by the dictators in Chile. There were threats at that time emanating from the Government in Chile which indicated that they would be after his life. And they succeeded today.

The tragedy goes beyond the cold-blooded murder of Orlando Letelier and Ronni Moffitt. It means that the tyranny of the dictatorship in Chile has now been extended in part to the United States. After the thousands of people who died after the overthrow in 1973, after the other thousands who were imprisoned and tortured simply because of their political beliefs, it seems almost too much that the unfortunate victims of the dictatorship must be hounded and murdered wherever they might be found.

Beyond finding the murderers, and beyond even tracing them back to their source within the Chilean dictatorship, I am hopeful the people of the United States can put an end to support by this country for the dictators there.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time has the Senator remaining?

The ACTING PRESIDENT pro tempore. The Senator's time was just about to expire.

Mr. ROBERT C. BYRD. How much time do I have, Mr. President?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia has 10 minutes plus 2 minutes remaining which have been yielded to him. He is recognized for not to exceed 12 minutes.

Mr. ROBERT C. BYRD. Mr. President, two additional measures have been cleared for action by unamious consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 1184 and 1193.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL SOCIETY OF THE DAR

The bill (H.R. 11149) to amend section 2 of the act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1249), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to amend the Act passed by Congress on February 20, 1896, that incorporated the National Society of the Daughters of the American Revolution (NSDAR) in two ways:

(1) remove the limit of $10,000,000, now contained in section 2 of the Act, on the amount of real and personal property which the NSDAR is permitted to own in the United States, and

(2) add a new section to the Act that would provide the NSDAR with the sole and exclusive right to the use of its name and emblem.

STATEMENT

This legislation which was passed by the House on July 19, 1976, and was referred to this Committee is needed in order to bring the NSDAR's incorporating statute into conformity with those of other similar organizations, to relieve the NSDAR from the burden of repeatedly seeking the passage of legislation amending the Act, to modernize the type of protection previously accorded its badge, and to broaden the scope of its authorization to hold property.

As originally passed by Congress in 1896, the Act incorporating the NSDAR authorized it to hold real and personal property in the United States in an amount not exceeding $500,000. Since that time the Act has been amended three times in order to increase the amount of authorized property holdings. In 1915 the amount was increased to $1,000,000; in 1926 to $5,000,000; and in 1951, to its present level of $10,000,000. The proposed legislation would delete the $10,000,000 limit and authorize the NSDAR to "acquire by purchase, gift, devise or bequest and to hold, convey, or otherwise dispose of such property, real or personal, as may be convenient or necessary for its lawful purposes."

Of the 50 private corporations listed in title 36 of the United States Code, the NSDAR is presently the only one that is restricted to a dollar limit on the amount of its property holdings. Three organizations incorporated around the turn of the century originally had dollar limitations of this kind, but in each of these cases Congress has removed the limits. The American Historical Association's (incorporated 1889) limit was removed in 1957 (Pub. L. 85–83, § 1, 71 Stat. 276) the Sons of the American Revolution's (incorporated 1906) limit was removed in 1961 (Pub. L. 87–214, 75 Stat. 489), and the General Federation of Women's Clubs' (incorporated 1901) limit was removed as recently as last December (Pub. L. 94–151). The proposed amendment would, therefore, relieve the NSDAR from the burden, which it alone bears among these organizations, or repeatedly seeking the passage of legislation increasing the level of authorized property holdings.

The proposed legislation would provide the NSDAR with the exclusive right to the use of its name and its badges or emblems. Historically, the emblem or badge, of the NSDAR has been protected from unauthorized use by a design patent. This form of protection is cumbersome, archaic and may no longer be available to the NSDAR. The proposed legislation would obviate the need for a design patent by protecting the emblem of the NSDAR through amendment of the NSDAR's corporate charter.

The design patent, numbered 21,053, was granted to George Brown Goode on September 22, 1891 and was subsequently assigned to the NSDAR. The term of the patent was extended several times by Congress, and was last extended on July 12, 1960 (Private Law 412, 86th Congress, 74 Stat. A 70). The NSDAR attempted to obtain yet another extension of the design patent through the introduction of H.R. 7584 in the 93d Congress, and H.R. 1652 in the 94th Congress. Before Congress acted on either of these bills, however, the term of the patent expired on July 12, 1975.

In correspondence with the Chairman of the House Judiciary Committee, Peter W. Rodino, Jr., the Department of Commerce has suggested that protection under the patent laws may no longer be available to the NSDAR. However, Mr. Parrette, Deputy General Counsel of the Department of Commerce, has stated that the Department "would not object to the enactment of appropriately drafted legislation along the lines of that which protects emblems of associations without reference to the patent laws, e.g., the federal statute relating to the improper use of the emblem of the United States Olympic Association." In addition to the U.S. Olympic Association, other samples of organizations whose emblems are protected by recent federal legislation includes the Paralyzed Veterans of America (incorporated 1971, 36 U.S.C.A. § 1160), the National Woman's Relief Corps, Auxiliary to the Grand Army of the Republic (incorporated 1962, 36 U.S.C.A. § 1017), and the Blue Star Mothers of America (incorporated 1960, 36 U.S.C.A. § 956). A provision protecting the organization's emblem was also considered appropriate to such legislation as early as 1916, when the Boy Scouts of America was incorporated by Congress (36 U.S.C.A. § 27).

The proposed legislation conforms with the recommendation of the Department of Commerce. Furthermore, amending the NSDAR's corporate charter to protect the corporation's name and emblem clearly is appropriate for three reasons: First, the amendment would provide the NSDAR with more appropriate protection than that available through the more antiquated means of a design patent, which protection may not be available. Second, it would remove the necessity of seeking an extension of protection every fourteen years. Third, as in the case of the deletion of the property holding limitation, such an amendment would achieve conformity with the statutes of other organizations incorporated by Congress.

For these reasons, the Committee recommends the enactment of S. 3489.

Attached and made a part of this report is the letter from the General Counsel of the Department of Commerce to the Committee on the Judiciary, House of Representatives, in regard to the bill.

GENERAL COUNSEL
OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 9, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Commerce on H.R. 1652, a bill:

"To extend the term of design patent numbered 21,053, dated September 22, 1891, for a badge, granted to George Brown Goode, and assigned to the National Society, Daughters of the American Revolution."

The above identified design patent has been subject to numerous extensions by Congress and was last extended by the act of Congress, approved July 12, 1960, Private Law 412, 86th Congress (74 Stat. A 70).

A bill identical to H.R. 1652 (except for one technical point) was introduced in the 93d Congress (H.R. 7584, May 7, 1973) and this department recommended its enactment. Our recommendation was largely based on reasons recited in House Report No. 1973, 86th Congress, a photocopy of which is attached.

However, the design patent subject of that bill, and of the present bill, expired on July 12, 1974, 14 years from the date of approval of the last extension by the Congress. With the expiration of that term it is our view that there is no right existing under the patent law which is capable of extension because of the well established principle that expiration of the term of a patent is tantamount to a dedication of the subject matter of the patent to the public.

It appears that the principal reason for the continuing legislation enacted on behalf of this and other similar institutions, extending the terms of design patents in respect of their emblems, is to prevent confusing or deceptive use of these emblems by others. This kind of protection is more properly achieved under the unfair competition law and trademark statutes rather than under the patent law. We recognize the concern which gives rise to the extension bill results from certain federal court decisions holding that all proprietary rights are dedicated to the public upon expiration of a design patent. (E.g. *Kellogg Co.* v. *National Biscuit Co.*, 305 U.S. 111 (1938), involving a design patent on the well known "pillow" shape of the Shredded Wheat product.)

Thus, as a result of these decisions, certain rights in the design of the DAR badge may already have been adversely affected by the expiration of the extended term of the design patent on July 12, 1974. For example, should anyone have imitated and used the DAR emblem after the expiration of the design patent, enactment of this bill could raise serious questions regarding the intervening rights of that user who may have begun his activities in reliance on the termination of patent protection with respect to the design in question.

More important, the ruling of the court in the *Kellogg* case is not necessarily the prevailing authority on this question. The most current interpretation is that expiration of a design patent is not inconsistent with enforcement of trademark rights in the subject matter of the design patent or the bringing of an unfair competition action to prevent the confusing or deceptive use of features of the patented article which are non-functional and have acquired a secondary meaning as an indication of source of origin. *In re Honeywell, Inc.*, 181 U.S.P.Q. 821 (CCPA 1974), cert. denied 184 U.S.P.Q. 129 (1974). In view of this decision, and others, it seems to us appropriate that the National Society, Daughters of the American Revolution should seek to secure protection of its badge under the trademark and unfair competition laws. Thus, we do not believe that enactment of legislation following expiration of the subject design patent is a recommended course of action.

We would not object to the enactment of appropriately drafted legislation along the lines of that which protects emblems of associations without reference to the patent laws, e.g., the federal statute relating to improper use of the emblem of the United States Olympic Association. Such legislation has the advantage of not being subject to periodic extension bills referenced to the patent statute and the further advantage of not being subject to the deficiencies peculiar to the patent laws as indicated above.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

BERNARD V. PARRETTE,
Deputy General Counsel.

AGENCY SEPARATION OF FUNCTIONS

The Senate proceeded to consider the bill (S. 798) to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 9, strike "shall" and insert "may";

On page 2, line 1, strike the period and insert a comma and "or the entire record may be certified to the agency for decision.";

On page 2, line 10, strike "(g)" and insert "(f)";

On page 2, line 12, strike "(g)" and insert "(f)";

On page 2, line 20, strike "prosecuting" and insert "litigating";

On page 2, line 23, strike "prosecuting" and insert "litigating";

On page 3, line 3, strike "ratemaking and cognate proceedings and";

On page 3, line 6, strike "prosecuting" and insert "litigating";

On page 3, beginning with line 10, insert:

"(3) This subsection does not apply to the agency or any member of the body comprising the agency.";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That section 554(d) of title 5, United States Code, is amended to read as follows:

"(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency, in which case such decision *may* be made by an employee qualified to preside at hearings pursuant to section 556 of his title, or the entire record may be certified to the agency for decision. This subsection does not apply—

"(A) in determining applications for initial licenses;

"(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

"(C) to the agency or a member or members of the body comprising the agency.".

SEC. 2. Section 556 of title 5, United States Code, is amended by adding a new subsection (f) to read as follows:

"(f)(1) Except to the extent required for the disposition of ex parte matters as authorized by law, the employee who presides at the reception of evidence may not—

"(i) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

"(ii) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or litigating functions for an agency.

"(2) An employee or agent engaged in the performance of investigative or litigating functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings or as authorized by section 557(b)(1), except that in cases not subject to section 554(d) of this title, an employee shall not be deemed to have engaged in the performance of investigative or litigating functions solely by virtue of his general organizational or supervisory responsibility for such functions.".

"(3) This subsection does not apply to the agency or any member of the body comprising the agency.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1259), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

HISTORY OF THE BILL

Revision of the Administrative Procedure Act safeguards relating to separation of functions has been considered by the Congress for over a decade. Legislation introduced in the 88th Congress proposed amending the provisions on separation of functions (*see*, proposed amendments to section 1005(c) of title 5, United States Code in S. 1663 and S. 2335, 88th Congress), and subsequent bills to amend the Administrative Procedure Act have followed suit (*e.g.*, S. 518, 90th Cong., 1st sess.).

The American Bar Association, following a study lasting over 14 years, adopted a specific resolution in August 1970 that legislation be adopted "providing that agency employees engaged in investigative or prosecuting functions in an adjudicatory proceeding or formal rulemaking proceeding cannot ex-parte participate in or advise in the decision of that proceeding by agency heads, review boards or hearing examiners." In June 1973 the Administrative Conference of the United States adopted a formal statement on the ABA resolution approving it in part but indicating that the Conference did not believe "that agency officials having general organizational or supervisory responsibility for such functions should, solely by virtue of that responsibility, be barred from performing their customary function of advising agency members in proceedings not presently covered by 5 U.S.C. 554(d)."

On February 22, 1975, Senators Edward M. Kennedy and Charles McC. Mathias introduced S. 797 and 7. 798, which reflected alternatively the ABA and Administrative Conference positions on this issue. The bills were referred to the Committee on the Judiciary and hearings were held on these and other proposals to amend the APA on April 28 and May 3, 1976. The subcommittee favorably reported S. 798, with amendments, to the full committee in July 1976.

On September 16, 1976, the Committee on the Judiciary met and ordered reported S. 798, as amended, without objection.

PURPOSE

The second and third sentences of section 554(d) of the Administrative Procedure Act contain three distinct provisions for protecting the independence of the decisiona process in formal, on-the-record agency adjudication:

First, the presiding officer, ordinarily an administrative law judge, may not consult a person or party on a fact in issue except on notice to all parties.

Second, the presiding officer must not be responsible to or subject to the supervision of agency officials engaged in the performance of investigative or prosecuting functions. Thus, as a practical matter, an agency's administrative law judges must be placed in an organizational unit separate from those to which investigative and prosecuting personnel are assigned under the supervision of the agency itself or of agency officers who exercise no investigative or prosecutive functions. (See, *AG Manual* 55–56).

Third, no employee who has performed investigative or prosecuting functions, in a case may participate or advise off-the-record in the agency decision in the same or a factually related case. He cannot, in other words, participate first as an investigator or advocate and then turn around and act as decisionmaker or confidential adviser to the decisionmaker in the same case. This principle is not limited to the decision by the presiding officer, but is applicable at all decisional levels within the agency.

Since section 554 is addressed only to formal adjudications, the three provisions described above are not applicable to formal rulemaking proceedings, nor are they applicable to certain categories of adjudication—initial license proceedings and proceedings to determine the validity of past rates—which are excepted from the coverage of section 554 (d) because of their similarity to rulemaking in the relative significance of policy as against purely factual issues. (*See, AG Manual* 50–51.) It was the judgment of the drafters of the APA that to impose the requirements of section 554(d) on formal rulemaking and initial licensing would undesirably restrict the flexibility of such proceedings.

Experience, however, has belied these fears. In point of fact nearly all agencies in conducting formal proceedings not covered by section 554(d) nevertheless follow procedures consistent with the requirements of the subsection. The Congress has already enacted a provision to apply the ex parte prohibitions in the Administrative Procedure Act to formal rulemaking proceedings. (*See*, Public Law 94–409.) Further, both the American Bar Association and the Administrative Conference of the United States have proposed that the separation-of-functions requirements contained in section 554(d) be expanded in their application to cover all formal proceedings, both adjudication and rulemaking. S. 798 would accomplish this objective.

The committee had before it alternative bills dealing with separation of functions. S. 797, the bill proposed by the American Bar Association, would have extended without qualification to all formal proceedings the three provisions of section 554(d) described above. S. 798, the bill proposed by the Administrative Conference, would do the same, with a single qualification: The bar on participating or advising in the agency decision would not extend to agency officials who have not personally been involved in the case but who have general supervisory responsibility over employees who have participated in the case. For example, the general counsel of an agency would not be disqualified from advising the agency members with respect to a formal rulemaking proceeding simply because attorneys in the general counsel's office participated in the hearing.

It should be pointed out that it is not entirely clear that section 554(d) regards such general supervisory responsibility as disqualifying in and of itself. The *AG's Manual* raised but did not answer the question. (*See, AG Manual* 57–58; *see also,* Davis, *Administrative Law Treatise* sec. 13.07; *R. A. Holman* v. *SEC,* 366 F.2d 446, 453 (2d Cir. 1966) cert, denied, 389 U.S. 991 (1967).) However, in those agencies which conduct adjudications subject to section 554(d), the problem does not arise because of strict organizational separation between prosecuting and advisory functions.

However, if the separation-of-functions requirements of section 554(d) are extended to all formal proceedings, the question of disqualification because of supervisory responsibility will create problems in at least one major agency, the Federal Power Commission. It is Commission practice to require every staff member who is specifically assigned to work in the investigation or trial of a case set for a hearing to enter his appearance upon the record. Each such person must exclude himself from any Commission meeting involving that or a factually related case. However, the top staff members, the General Counsel, Assistant General Counsels, and Bureau chiefs, who might supervise those who are engaged in trying a case, usually attend Commission meetings at which the resolution of cases is discussed and are available to give legal advice to the Commission on request or on their own motion. Thus, these senior agency officials who may have had contact with the staff trying the case may later give legal or policy advice to the Commission.

The Commission vigorously opposes being required to sever either the advisory link between the Commissioners and the senior staff or the supervisory link between senior and trial staffs. Either separation would create both budgetary and personnel problems, since it would require separate advisory and supervisory staffs, and the Commission anticipates significant difficulty in recruiting additional staff with the legal and technical expertise required by the Commission's work. Furthermore, it must be recognized that even if a separate advisory staff were obtained, cutting off the Commission from the advice of its top officials with operating responsibilities would not be an unmixed blessing. (*See,* Federal Power Commission Report on S. 797 and S. 798 in 1976 Hearings.) Finally, apart from the particuar needs of the Federal Power Commission, complete separation of supervisory and advisory responsibilities may create problems in those agaencies which conduct formal rulemakings only occasionally and consequently have a need for some organizational flexibility. (*See,* Hamilton, "Procedures for the Adoption of Rules of General Applicability: The Need for Procedural Innovation in Administrative Rulemaking," 2 ACUS 834 (1972).) For these reasons, and in reliance of the deliberate judgment of the Administrative Conference, the committee has decided to adopt the Conference rather than the bar association proposal.

Accordingly, S. 798 provides specifically that in proceedings not subject to section 554(d), that is, in those formal proceedings to which the separation-of-functions provisions are being extended by this bill, general organizational or supervisory responsibility for investigative or litigating functions will not disqualify an agency official from advising the agency on the disposition of a case if the official has not personally participated, including actual exercise of supervisory authority, in the investigation or litigation of the same or a factually related case. In specifying that these circumstances are not to be deemed a violation of the principle of separation of functions in cases not subject to section 554(d), it is not the intent of the committee to alter in any way the law applicable in cases subject to section 554(d).

COST

The committee believes that there will be no additional cost imposed on any agency of the Federal Government by virtue of enactment of S. 798.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. Pell be recognized for not to exceed 15 minutes and that I be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my remaining time as the Senator may wish to consume to Mr. Kennedy.

DEATH OF ORLANDO LETELIER

Mr. KENNEDY. Mr. President, I have just learned that Orlando Letelier, the former Ambassador of Chile to the United States and a man who survived more than a year in prison in Chile under the military junta, has been killed in a bomb attack here in Washington early this morning.

I can only express my own personal sadness and my outrage at this action. I extend my deepest sympathy to his widow and his children. And I pray that the other innocent victims wounded in this attack will recover.

I want to tell my colleagues that this kind of political terrorism is absolutely unacceptable and I expect the most intensive and detailed investigation of this crime.

It is ironic that I was submitting for the attention of my colleagues an article that Ambassador Letelier recently wrote for the Nation magazine, one which demonstrates why he was considered by all to be a distinguished economist. He had worked in the development needs of Latin America for many years before the Allende regime, serving with distinction in the Inter-American Development Bank for many years.

I was going to note as well in my statement for the Record that his criticism of the junta's violation on human rights had produced a rare and totally unjustified removal of his Chilean citizenship by the junta—now, his murder follows.

I condemn this most recent against a man whose only crime was his belief in the freedom of his people.

Mr. President, the recent history of Chile has seen a military junta come to power through a violent coup and then compile an unequaled record of human rights violations against many foreigners, including several American citizens, as well as its own people.

It has been condemned by independent international commissions and by the United Nations and the Inter-American Human Rights Commissions for its gross violations of human rights. It has ripped apart the Democratic fabric of Chilean institutions.

Recently, several Ford administration officials have tried to separate its economic policies from its political character and to defend those policies.

A thoughtful and heavily documented article by Orlando Letelier, former Ambassador to the United States from Chile and a respected economist, criticizes those defenders of the Chilean "new economic order."

What underlines the character of the junta is that his analysis and his other critiques of this regime—many of them submitted to congressional committees—have now become the basis upon which the junta has withdrawn his Chilean citizenship. Apparently not satisfied with having imprisoned Mr. Letelier for more than a year, the junta issued an order a few days ago, in contravention of its own laws as well as in violation of international standards, to deprive him of his citizenship.

I ask unanimous consent that his article from the Nation magazine be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

The "Chicago Boys" in Chile—Economic "Freedom's" Awful Toll

(By Orlando Letelier)

It would seem to be a common-sensical sort of observation that economic policies are conditioned by and at the same time modify the social and political situation where they are put into practice. Economic policies, therefore, are introduced *in order* to alter social structures.

If I dwell on these considerations, therefore, it is because the necessary connection between economic policy and its sociopolitical setting appears to be absent from many analyses of the current situation in Chile. To put it briefly, the violation of human rights, the system of institutionalized brutality, the drastic control and suppression of every form of meaningful dissent is discussed (and often condemned) as a phenomenon only indirectly linked, or indeed entirely unrelated, to the classical unrestrained "free market" policies that have been enforced by the military junta. This failure to connect has been particularly characteristic of private and public financial institutions, which have publicly praised and supported the economic policies adopted by the Pinochet government, while regretting the "bad international image" the junta has gained from its "incomprehensible" persistence in torturing, jailing and persecuting all its critics. A recent World Bank decision to grant a $33 million loan to the junta was justified by the President, Robert McNamara, as based on purely "technical" criteria, implying no particular relationship to the present political and social conditions in the country. The same line of justification has been followed by American private banks which, in the words of a spokesman for a business consulting firm, "have been falling all over one another to make loans." (See Ann Crittenden: "Loans from Abroad Flow to Chile's Rightist Junta," *The New York Times*, February 20.) But probably no one has expressed this attitude better than the U.S. Secretary of the Treasury. After a visit to Chile, during which he discussed human rights violations by the military government, William Simon congratulated Pinochet for bringing "economic freedom" to the Chilean people (*The Times*, May 17). This particularly convenient concept of a social system in which "economic freedom" and political terror coexist without touching each other, allows these financial spokesmen to support their concept of "freedom" while exercising their verbal muscles in defense of human rights.

The usefulness of the distinction has been particularly appreciated by those who have generated the economic policies now being carried out in Chile. In *Newsweek* of June 14, Milton Friedman, who is the intellectual architect and unofficial adviser for the team of economists now running the Chilean economy, stated: "In spite of my profound disagreement with the authoritarian political system of Chile, I do not consider it as evil for an economist to render technical economic advice to the Chilean Government, any more than I would regard it as evil for a physician to give technical medical advice to the Chilean Government to help end a medical plague."

It is curious that the man who wrote a book, *Capitalism and Freedom*, to drive home the argument that only classical economic liberalism can support political democracy can now so easily disentangle economics from politics when the economic theories he advocates coincide with an absolute restriction of every type of democratic freedom. One would logically expect that if those who curtail private enterprise are held responsible for the effects of their measures in the political sphere, those who impose unrestrained "economic freedom" would also be held responsible when the imposition of this policy is inevitably accompanied by massive repression, hunger, unemployment and the permanence of a brutal police state.

THE ECONOMIC PRESCRIPTION AND CHILE'S REALITY

The economic plan now being carried out in Chile realizes an historic aspiration of a group of Chilean economists, most of them trained at Chicago University by Milton Friedman and Arnold Harberger. Deeply involved in the preparation of the coup, the "Chicago boys," as they are known in Chile, convinced the generals that they were prepared to supplement the brutality, which the military possessed, with the intellectual assets it lacked. The U.S. Senate Select Committee on Intelligence has disclosed that "CIA collaborators" helped plan the economic measures that Chile's junta enacted immediately after seizing power ("A Draconian Cure for Chile's Economic Ills," *Business Week*, January 12). Committee witnesses maintain that some of the "Chicago boys" received CIA funds for such research efforts as a 300-page economic blueprint that was given to military leaders before the coup. It is therefore understandable that after seizing power they were, as *The Wall Street Journal* (November 2, 1973) put it, "champing to be unleashed" on the Chilean economy. Their first approach to the situation was gradual; only after a year of relative confusion did they decide to implement without major modification the theoretical model they had been taught at Chicago. The occasion merited a visit to Chile by Mr. Friedman himself who, along with his associate, Professor Harberger, made a series of well-publicized appearances to promote a "shock treatment" for the Chilean economy—something that Friedman emphatically described as "the only medicine. Absolutely. There is no other. There is no other long-term solution." (The quotation is from *El Mercurio* of Santiago, March 23, 1975.)

These are the basic principles of the economic model offered by Friedman and his followers and adopted by the Chilean junta; that the only possible framework for economic development is one within which the private sector can freely operate; that private enterprise is the most efficient form of economic organization and that, therefore, the private sector should be the predominant factor in the economy. Prices should fluctuate freely in accordance with the laws of competition. Inflation, the worst enemy of economic progress, is the direct result of monetary expansion and can be eliminated only by a drastic reduction of government spending.

Except in present-day Chile, no government in the world gives private enterprise an absolutely free hand. That is so because every economist (except Friedman and his followers) has known for decades that, in the real life of capitalism, there is no such thing as the perfect competition described by classical liberal economists. In March 1975, in Santiago, a newsman dared suggest to Friedman that even in more advanced capitalist countries, as for example the United States, the government applies various types of controls on the economy. Mr. Friedman answered: "I have always been against it, I don't approve of them. I believe we should not apply them. I am against economic intervention by the government, in my own country, as well as in Chile or anywhere else" (*Que Pasa*, Chilean weekly, April 3, 1975).

This is not the place to evaluate the general validity of the postulates advanced by Friedman and the Chicago School. I want to concentrate only on what happens when their model is applied to a country like Chile. Here Friedman's theories are especially objectionable—from an economic as well as a moral point of view—because they propose a total free market policy in a framework of extreme inequality among the economic agents involved: inequality between monopolistic and small and medium entrepreneurs; inequality between the owners of capital and those who own only their capacity to work, etc. Similar situations would exist if the model were applied to any other underdeveloped, dependent economy.

It is preposterous to speak about free competition in Chile. The economy there is highly monopolized. An academic study made during President Frei's regime pointed out that in 1966 "284 enterprises controlled each and every one of the subdivisions of Chilean economic activities. In the industrial sector, 144 enterprises controlled each and every one of the subsectors. In turn, within each of these 144 manufacturing enterprises which constituted the core of the industrial sector, a few shareholders controlled management: in more than 50 percent of the enterprises, the ten largest shareholders owned between 90 and 100 percent of the capital." (*Politica y Espiritu*, No. 356; 1975.)

On the other hand, studies also conducted during the pre-Allende period demonstrated the extent to which the Chilean economy has been dominated by foreign-based multinationals. As Barnet and Müller put it in *Global Reach*, "In pre-Allende Chile, 51 percent of the largest 160 firms were effectively controlled by global corporations. In each of the seven key industries of the economy one to three firms controlled at least 51 percent of the production. Of the top twenty-two global corporations operating in the country, nineteen either operated free of all competition or shared the market with other oligopolists."

From 1971 to 1973, most of the monopolistic and oligopolistic industries were nationalized and transferred to the public sector. However, the zeal with which the military dictatorship has dismantled state participation in the economy and transferred industries to foreign ownership suggests that levels of concentration and monopolization are now at least as high as they were before the Popular Unity (Allende) Government.

An International Monetary Fund Report of May 1976 points out: "The process of returning to the private sector the vast majority of the enterprises which over the previous fifteen years, but especially in 1971–73, had become part of the public sector continued [during 1975]. . . . At the end of 1973 the Public Development Corporation (CORFO) had a total of 492 enterprises, including eighteen commercial banks. . . . Of this total, 253 enterprises . . . have been returned to their former owners. Among the other 239 enterprises . . . 104 (among them ten banks) have been sold; sixteen (including two banks) have already been adjudicated, with the completion of the transfer procedure being a matter of weeks; the sale of another twenty-one is being negotiated bilaterally with groups of potential buyers. . . ." Competitive bidding is still to be solicited for the remaining enterprises. Obviously the buyers are always a small number of powerful economic interests who have been adding these enterprises to the monopolistic or oligopolistic structures within which they operate. At the same time, a considerable number of industries have been sold to transnational corporations, among them the national tire industry (INSA), bought by Firestone for an undisclosed sum, and one of the main paper pulp industries (Celulosa Forestal Arauco), bought by Parsons & Whittemore.

There are many other examples to show that, as far as competition goes, Mr. Friedman's prescription does not yield the economic effects implicit in his theoretical model. In the first half of 1975, as part of the process of lifting regulations from the economy, the price of milk was exempted from control. With what result? The price to the consumer rose 40% and the price paid to the producer dropped 22%. There are more than 10,000 milk producers in Chile but only two milk processing companies, which control the market. More than 80% of Chilean paper production and all of certain types of paper come from one enterprise—the Compañia Manufacturera de Papeles y Cartones, controlled by the Alessandri interests—which establishes prices without fear of competition. More than fifteen foreign brands are offered in the Chilean home appliances market, but they are all in the hands of only three companies, which assemble them in Chile and determine their retail prices.

Of course, any of the followers of the Chicago School would say that, with the liberalization of the international market, as prescribed by the model, Chilean monopolies and oligopolies would be exposed to competition from abroad. However, that does not happen. Chile so lacks foreign currency that it cannot import what it needs of even the most essential goods. Still more important is the fact that foreign enterprises are not interested in sending to Chile goods which could compete with those manufactured by their own Chilean subsidiaries. Besides, in Chile the economic interests which control the manufacturing industry also control the financial apparatus and import activities. These groups are not disposed to compete with themselves. In short, the application of Friedman's theories to the real world of Chile means that the industrialists can freely "compete" at whatever price levels they choose.

Other aspects of the brand of economics taught at the University of Chicago are conveniently ignored by the junta's economic advisers. One is the importance of wage contracts freely negotiated between employers and workers; another is the efficiency of the market as an instrument to allocate resources in the economy. It is sardonic to mention the right of the workers to negotiate in a country where the Central Workers' Federation has been outlawed and where salaries are established by the junta's decree. It may also seem grotesque to speak of the market as the most effective instrument for allocating resources when it is widely known that there are practically no productive investments in the economy because the most profitable "investment" is speculation. Under the slogan "We must create a capital market in Chile," selected private groups enjoying the juanta's protection have been authorized to establish so-called "financieras," which engaged in the most outrageous financial speculations. Their abuses have been so flagrant that even Orlando Saez, former president of the Chilean Industrialists' Association and a staunch supporter of the coup, could not refrain from protesting. "It is not possible," he said, "to continue with the financial chaos that dominates in Chile. It is necessary to channel into productive investments the millions and millions of financial resources that are now being used in wild-cat speculative operations before the very eyes of those who don't even have a job." (*La Tercera*, April 9, 1975.)

But the crux of Friedman's prescription, as the juanta never ceases to emphasize, is control of inflation. It should, according to the junta, enlist "the vigorous efforts of *all* Chileans." Professor Harberger declared categorically in April 1975: "I can see no excuses for not stopping inflation: its origins are well known; government deficits and monetary expansion have to be stopped. I know you are going to ask me about unemployment; if the government deficits were reduced by half, still the rate of unemployment would not increase more than 1% (*Que Pasa*, April 10, 1975). According to the junta's official figures, between April and December 1975, the government deficit was reduced by approximately the 50% that Harberger recommended. In the same period, unemployment rose six times as much as he had predicted. The remedy he continues to advocate consists of reducing government spending, which will reduce the amount of currency in circulation. This will result in a contraction of demand, which in turn will bring about a general reduction of prices. Thus inflation would be defeated. Professor Harberger does not say explicitly *who* would have to lower their standard of living to bear the costs of the cure.

Without a doubt, excessive monetary expansion constitutes an important inflationary factor in any economy. However, inflation in Chile (or any underdeveloped country) is a far more complex problem than the one presupposed by the mechanical models of the monetarist theorists. The followers of the Chicago School seem to forget, for example, that the monopolistic structure of the Chilean economy allows the dominant firms to maintain prices in the face of falling demand. They also forget the role that so-called inflationary expectations play in generating price increases. In Chile, inflationary expectations have lately been approximating 15% per month. Looking ahead, firms prepare for rising costs by raising their own prices. This continuous price "leap-frogging" feeds a general inflationary spiral. On the other hand, in such an inflationary climate, no one with liquid assets wants to hold them. Powerful interest groups, operating without government control, can thus manipulate the financial apparatus. They create institutions to absorb any available money and use it in various forms of speculation, which thrive on and propel inflation.

THE ECONOMIC RESULTS

Three years have passed since this experiment began in Chile and sufficient information is available to conclude that Friedman's Chilean disciples failed—at least in their avowed and measurable objectives—and particularly in their attempts to control inflation. But they have succeeded, at least temporarily, in their broader purpose: to secure the economic and political power of a small dominant class by effecting a massive transfer of wealth from the lower and middle classes to a select group of monopolists and financial speculators.

The empirical proof of the economic failure is overwhelming. On April 24, 1975, after the last known visit of Messrs. Friedman and Harberger to Chile, the junta's Minister of Finance, Jorge Cauas, said: "The Hon. junta have asked me to formulate and carry out an economic program primarily directed to eradicate inflation. Together with a numerous group of technicians, we have presented to the Chilean authorities a program of economic revival which has been approved and is beginning. The principal objective of this program is to stop inflation in the remainder of 1975." (The "group of technicians" is obviously Friedman and company.) By the end of 1975 Chile's annual rate of inflation had reached 341%—that is, the highest rate of inflation in the world.* Consumer prices increased that same year by an average 375%; wholesale prices rose by 440%.

Analyzing the causes of Chilean inflation in 1975, a recent report of the International Monetary Fund (IMF) says: "The cutback in government spending, with its adverse effects on employment, in housing, and public works, went significantly further than programmed in order to accommodate the large credit demands of the private sector. . . ." Later on it states: "Overall monetary management remained expansionary in 1975. Moreover, continued high inflationary expectations and the public's attendant unwillingness to increase its real cash balances greatly complicated the implementation of the monetary program." Referring to private organizations which have begun to operate without any control, the report adds that the "financieras" have been allowed to operate beside the commercial banking system and at interest rates up to 50% higher than the maximum permissible banking rate. According to the same source, the "financieras" were operating in 1975 at an interest rate of 14% a month, or 168% a year; they obtained loans in New York at 10% to 12% a year.

The implementation of the Chicago model has not achieved a significant reduction of monetary expansion. It has, however, brought about a merciless reduction of the income of wage earners and a dramatic increase in unemployment; at the same time it has increased the amount of currency in circulation by means of loans and transfers to big firms, and by granting to private financial institutions the power to create money. As James Petras, an American political scientist, puts it (*New Politics*, Winter 1976): "The very social classes on which the junta depends are the main instrumentalities of the inflation."

The inflationary process, which the junta's policies stimulated immediately after the coup, was slightly reduced in 1975 as compared to the unbelievable rate of 375.9% in 1974. Such a minor reduction, however, does not indicate any substantial approach to stabilization and seems on the whole utterly irrelevant to the majority of Chileans who must endure the total collapse of their economy. This situation recalls the story of a Latin American dictator at the beginning of this century. When his advisers came to tell him that the country was suffering from a very serious educational problem, he ordered all public schools closed. Now, more than seventy years into this century, there still remain disciples of the anecdotal dictator who think that the way to eradicate poverty in Chile is to kill the poor people.

The exchange rate depreciations and the cutbacks in governmental expenditures have produced a depression which, in less than three years, has slowed the country's rate of development to what it was twelve years ago. Real Gross Domestic Product (GDP) contracted during 1975 by nearly 15% to its lowest level since 1969, while, according to the IMF, real national income "dropped by as much as 26%, leaving real per capita income below its level ten years earlier." The decline in the overall 1975 GDP reflects an 8.1% drop in the mining sector, a 27% decline in the manufacturing industries and a 35% drop in construction. Petroleum extraction declined by an estimated 11%, while transport, storage and communications declined 15.3%, and commerce fell 21.5%.

In the agricultural sector production appears virtually stagnant in 1975–76, with only an 0.4% variation from the previous agricultural year. This stagnation has been caused by a combination of factors, including the continued rise in the cost of imported fertilizers and pesticides. The use of fertilizer dropped by an estimated 40% in 1975–76. The increase in import prices also accounted for the decline in production of pork and poultry, which are almost entirely dependent on imported feed. The return to the former owners of several million hectares of farm land that had been expropriated and transferred to peasant organizations under the 1967 Agrarian Reform Law, has also reduced agricultural production. As of the end of 1975 almost 60% of all agricultural estates affected by the land reform—equivalent to about 24% of total expropriated land—has been subject to the junta's decisions. Of this total, 40% of the agricultural enterprises (75% of the physical acreage and more than 50% of the irrigated land) have entirely reverted to former owners.

In the external sector of the economy, the results have been equally disastrous. In 1975 the value of exports dropped 28%, from $2.13 billion to $1.53 billion, and the value of imports dropped 18%, from $2.24 billion to $1.81 billion, thus showing a trade deficit of $280 million. Imports of foodstuffs dropped from $561 million in 1974, to $361 million in 1975. In the same period domestic food production declined, causing a drastic reduction in food for the masses of the population. Concurrently, the outstanding external public debt repayable in foreign currency increased from $3.60 billion on December 31, 1974, to $4.31 billion on December 31, 1975. This accentuated Chile's dependence on external sources of financing, especially from the United States. The junta's policies have burdened Chile with one of the highest per capita foreign debts in the world. In the years to come the nation will have to allocate more than 34% of its projected exports earnings to the payment of external debts.

But the most dramatic result of the economic policies has been the rise in unemployment. Before the coup, unemployment in Chile was 3.1%, one of the lowest in the Western Hemisphere. By the end of 1974, the jobless rate had climbed beyond 10% in the Santiago metropolitan area and was also higher in several other sections of the country. Official junta and IMF figures show that by the end of 1975 unemployment in the Santiago metropolitan area had reached 18.7% the corresponding figure in other parts of the country was more than 22%; and in specific sectors, such as the construction industry, it had reached almost 40 percent. Unemployment had continued to climb in 1976 and, according to the most conservative estimates, in July approximately 2.5 million Chileans (about one-fourth of the population) had no income at all; they survive thanks to the food and clothing distributed by church and other humanitarian organizations. The attempts by religious and other institutions to ease the economic desperation of thousands of Chilean families have been made, in most cases, under the suspicion and hostile actions of the secret police.

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*The two countries with the next highest rates of inflation in 1975 were Argentina, with 312%, and Uruguay with 68.1%. Both are countries with dependent capitalist economies that apply junta-style models of political repression and "economic freedom."

The inhuman conditions under which a high percentage of the Chilean population lives is reflected most dramatically by substantial increases in malnutrition, infant mortality and the appearance of thousands of beggars on the streets of Chilean cities. It forms a picture of hunger and deprivation never seen before in Chile. Families receiving the "minimum wage" cannot purchase more than 1,000 calories and 15 grams of protein per person per day. That is less than half the minimum satisfactory level of consumption established by the World Health Organization. It is, in short, slow starvation. Infant mortality, reduced significantly during the Allende years, jumped a dramatic 18% during the first year of the military government, according to figures provided by the U.N. Economic Commission for Latin America. To deflect criticism from within its own ranks against the brutal consequences of layoffs, the junta in 1975 established a token "minimum employment program." However, it covers only 3% of the labor force, and pays salaries amounting to less than $30—a month!

Although the economic policies have more mercilessly affected the working classes, the general debacle has significantly touched the middle class as well. At the same time, medium-size national enterprises have had their expectations destroyed by the reduction in demand, and have been engulfed and destroyed by the monopolies against which they were supposed to compete. Because of the collapse of the automobile industry, hundreds of machine shops and small industries which acted as subcontractors have faced bankruptcy. Three major textile firms (FIAD. Tomé Oveja and Bellavista) are working three days a week; several shoe companies, among them Calzados Bata, have had to close. Ferriloza, one of the main producers of consumer durable, recently declared itself bankrupt. Facing this situation, Raul Sahli, the new president of the Chilean Industrialists' Association, and himself linked to big monopolies, declared earlier in the year: "The social market economy should be applied in all its breadth. If there are industrialists who complain because of this, let them go to hell. I won't defend them." He is so quoted by André Gunder Frank in a "Second Open Letter to Milton Friedman and Arnold Harberger," April 1976.

The nature of the economic prescription and its results can be most vividly stated by citing the pattern of domestic income distribution. In 1972, the Popular Unity Government employees and workers received 62.9% of the total national income; 37.1% went to the propertied sector. By 1974 the share of the wage earners had been reduced to 38.2%, while the participation of property had increased to 61.8%. During 1975, "average real wages are estimated to have declined by almost 8%," according to the International Monetary Fund. It is probable that these regressive trends in income distribution have continued during 1976. What it means is that during the last three years several billions of dollars were taken from the pockets of wage earners and placed in those of capitalists and landowners. These are the economic results of the application in Chile of the prescription proposed by Friedman and his group.

A RATIONALE FOR POWER

The economic policies of the Chilean junta and its results have to be placed in the context of a wide counterrevolutionary process that aims to restore to a small minority the economic, social and political control it gradually lost over the last thirty years, and paricularly in the years of the Popular Unity Government.

Until September 11, 1973, the date of the coup, Chilean society had been characterized by the increasing participation of the working class and its political parties in economic and social decision making. Since about 1900, employing the mechanisms of representative democracy, workers had steadily gained new economic, social and political power. The election of Salvador Allende as President of Chile was the culmination of this process. For the first time in history a society attempted to build socialism by peaceful means. During Allende's time in office, there was a marked improvement in the conditions of employment, health, housing, land tenure and education of the masses. And as this occurred, the privileged domestic groups and the dominant foreign interests perceived themselves to be seriously threatened.

Despite strong financial and political pressure from abroad and efforts to manipulate the attitudes of the middle class by propaganda, popular support for the Allende government increased significantly between 1970 and 1973. In March 1973, only five months before the military coup, there were Congressional elections in Chile. The political parties of the Popular Unity increased their share of the votes by more than 7 percentage points over their totals in the Presidential election of 1970. This was the first time in Chilean history that the political parties supporting the administration in power gained votes during a midterm election. The trend convinced the national bourgeoisie and its foreign supporters that they would be unable to recoup their privileges through the democratic process. That is why they resolved to destroy the democratic system and the institutions of the state, and, through an alliance with the military, to seize power by force.

In such a context, concentration of wealth is no accident, but a rule; it is not the marginal outcome of a difficult situation—as they would like the world to believe—but the base for a social project; it is not an economic liability but a temporary political success. Their real failure is not their apparent inability to redistribute wealth or to generate a more even path of development (these are not their priorities) but their inability to convince the majority of Chileans that their policies are reasonable and necessary. In short, they have failed to destroy the consciousness of the Chilean people. The economic plan has had to be enforced, and in the Chilean context that could be done only by the killing of thousands, the establishment of concentration camps all over the country, the jailing of more than 100,000 persons in three years, the closing of trade unions and neighborhood organizations, and the prohibition of all political activities and all forms of free expression.

While the "Chicago boys" have provided an appearance of technical respectability to the *laissez-faire* dreams and political greed of the old landowning oligrachy and upper bourgeoisie of monopolists and financial speculators, the military has applied the brutal force required to achieve those goals. Repression for the majorities and "economic freedom" for small privileged groups are in Chile two sides of the same coin.

There is, therefore, an inner harmony between the two central priorities announced by the junta after the coup in 1973: the "destruction of the Marxist cancer" (which has come to mean not only the repression of the political parties of the Left but also the destruction of all labor organizations democratically elected and all opposition, including Christian-Democrats and church organizations), the establishment of a free "private economy" and the control of inflation a la Friedman.

It is nonsensical, consequently, that those who inspire, support or finance that economic policy should try to present their advocacy as restricted to "technical considerations," while pretending to reject the system of terror it requires to succeed.

ORDER OF BUSINESS

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, do I have any remaining time?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 3 minutes remaining.

Mr. ROBERT C. BYRD. Would the Senator from North Carolina like me to yield?

Mr. HELMS. A half minute.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from North Carolina for a unanimous-consent request.

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent that Carl Anderson of my staff be accorded the privileges of the floor during the discussion of S. 2278 and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. HELMS. Gladly.

UNANIMOUS-CONSENT AGREEMENT—S. 2613

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2613, the Small Business Investment Act, is called up and made the pending business of the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the Senator from North Carolina (Mr. MORGAN) and the Senator from Utah (Mr. GARN); that there be a time limitation on any amendment of 30 minutes, and a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate for discussion, of 20 minutes; and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, may we have a short quorum call?

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unamous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have no objection.

The ACTING PRESIDENT pro tempore, is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 41 Leg.]

Abourezk
Allen
Byrd, Robert C.
Durkin
Hathaway
Helms
Kennedy
Leahy
Packwood
Pearson
Stone
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississppi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Georgia (Mr. TALMADGE), the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I move the Senate adjourn, and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to adjourn.

Mr. ALLEN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to adjourn. On this question the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Maryland, (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 5, nays 74, as follows:

[Rollcall Vote No. 612 Leg.]

YEAS—5

Goldwater
Helms
McClure
Thurmond
Tower

NAYS—74

Abourezk
Allen
Bartlett
Bayh
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
McClellan
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams
Young

NOT VOTING—21

Baker
Beall
Bentsen
Brock
Buckley
Cannon
Church
Eastland
Ford
Glenn
Hart, Philip A.
Hartke
Long
Mansfield
Mathias
McGee
McGovern
Mondale
Montoya
Talmadge
Tunney

So the motion was rejected.

The PRESIDING OFFICER (Mr. HOLLINGS). A quorum is present.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of S. 2278.

The PRESIDING OFFICER (Mr. HOLLINGS). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2278), the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Kentucky (Mr. FORD) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Maryland (Mr. MATHIAS), and the Senator from from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 69, nays 12, as follows:

[Rollcall Vote No. 613 Leg.]

YEAS—69

Abourezk
Bartlett
Bayh
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fong
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams
Young

[NAYS—12]

Allen
Eastland
Fannin
Goldwater
Hansen
Helms
McClellan
Morgan
Scott,
  William L.
Stennis
Thurmond
Tower

NOT VOTING—19

Baker
Beall
Bentsen
Brock
Buckley
Cannon
Church
Ford
Glenn
Hart, Philip A.
Hartke
Mansfield
Mathias
McClure
McGee
McGovern
Mondale
Montoya
Tunney

So Mr. ROBERT C. BYRD's motion was agreed to.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon S. 2278, the Civil Rights Attorneys' Fees Awards Act of 1975.
>
> Hubert H. Humphrey, Birch Bayh, Quentin N. Burdick, Alan Cranston, Robert C. Byrd, Patrick J. Leahy, William D. Hathaway, Dick Clark, Edward M. Kennedy, James Abourezk, Hugh Scott, Harrison A. Williams, John A. Durkin, James B. Pearson, Bob Packwood, Frank E. Moss, Jacob K. Javits, William Proxmire, Henry M. Jackson, Lowell P. Weicker, Mark O. Hatfield.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. HUGH SCOTT. Mr. President, I rise in support of S. 2278.

I believe it ranks among the most important measures we will act on this year. Simply stated, S. 2278 is designed principally to allow the courts to award attorneys fees to prevailing plaintiffs in civil rights cases. Such a provision would greatly aid the cause of human rights in this country, would cost the Government nothing, and would make the civil rights laws almost self-enforcing.

If we pass this worthwhile measure, we will do a great service in the continuing battle to eradicate discrimination in the United States. And we will do so without an increase in the Federal budget or in the bureaucracy.

Each of the provisions covered by S. 2278 relies upon private enforcement. Recently, spiraling court costs have created an absolute necessity of attorney's fee provisions in those civil rights statutes which contain citizen suit provisions. Congress should encourage citizens to go to court in private suits to vindicate its policies and protect their rights. To do so, Congress must insure that they have the means to go to court and to be effective once they get there. This is particularly true in the civil rights area, where those men and women whom the laws protect are rarely, if ever, in a financial position to undertake the costly task of enforcement of their rights.

The enactment of S. 2278 is needed to assure that attorney's fees will be available in suits brought under the reconstruction-era civil rights laws, title VI of the 1964 Civil Rights Act, and title IX of the Education Amendments of 1972 in the same fashion and to the same extent as the statutes presently provide in cases brought under title VII of the 1964 Civil Rights Act. Mr. President, as a nation of laws, and as a government of laws, we should welcome citizen suits which succeed in enforcing the laws. Attorney's fees have proven to be a singularly effective and flexible way to encourage private enforcement of public rights, and I strongly urge this body to accept S. 2278.

My one regret is that the distinguished Senator from Michigan (Mr. PHILIP A. HART), who has been at my side so often in the past fighting for the cause of civil rights, cannot be with us for the last battle of this final campaign. His efforts on behalf of the bill earlier in the session proved decisive, however. Without his powerful intellect and moral suasion, the bill would have languished in committee. I know he too joins us in urging its passage.

Mr. MATHIAS. Mr. President, as a supporter of civil rights for all Americans, I support S. 2278, the Civil Rights Attorneys' Fees Awards Act.

The goal of S. 2278 is clear and compelling—to insure that the high cost of litigation does not bar the Federal courts to citizens who seek to enforce their rights under our civil rights laws. By passing S. 2278, the Senate can transform this goal into a reality.

The need for this bill arises from a recent Supreme Court decision which has erected a formidable financial barrier against those seeking access to Federal courts and has consequently dealt a serious blow to the effective enforcement of our civil rights laws. Specifically, in *Alyeska Pipeline Service Co.* v. *Wilderness Society,* 421 U.S. 240 (1975) the Supreme Court held that Congress, not the judiciary, should authorize the award of attorney fees in cases arising under Federal laws. The Court found that in the absence of clear statutory language the courts were powerless to award attorney's fees.

Given the often staggering costs of litigation, this decision has predictably slowed the number of private suits brought to enforce federally mandated rights, including cases premised upon our civil rights laws. Alyeska presented Congress with an opportunity to enact legislation to help insure that one's financial resources need not be a prerequisite to access to Federal court.

I believe that S. 2278 constitutes a much needed response to Alyeska and is necessary to guarantee the proper enforcement of our civil rights laws which the Congress has so earnestly labored for in the past. Unless the Congress enacts S. 2278, one of the groups of potential litigants most severely affected by Alyeska—those persons seeking to assert their rights under Federal civil rights statutes—will frequently be denied access to Federal courts.

Mr. President, we must bear in mind at all times that rights that cannot be enforced through the legal process are valueless; such a situation breeds cynicism about the basic fairness of our judicial system. Consequently, Congress must be vigilant to insure that our legal rights are not hollow ones.

This vigilance is especially important at a time when access of individuals to our Federal courts has been severely limited by several recent Supreme Court decisions interpreting Federal statutes. Mr. Justice Brennan poignantly described in inequities flowing from such restrictive judicial rulings:

> A series of decisions have shaped the doctrines of jurisdiction, justiciability and remedy, so as to increasingly bar the federal courthouse door in the absence of showings probably impossible to make. It is true of course that there has been an increasing amount of litigation of all types filling the calendars of virtually every state and federal court. But a solution that shuts the courthouse door in the face of a litigant with a legitimate claim for relief, particularly a claim for a deprivation of a constitutional right, seems to be not only the wrong tool, but a dangerous tool for solving the problem. The victims of the use of that tool are most often the litigants in need of judicial protection of their rights: the poor, the underprivileged, the deprived minorities. The very life blood of courts is the popular confidence that they mete out evenhanded justice and any discrimination that denies these groups access to the courts for resolution of their meritorious claims, unnecessary risks loss of that confidence.

I fully concur with the views expressed by Justice Brennan and I urge my colleagues to keep his eloquent words in mind when considering S. 2278 and related legislation.

Mr. President, I believe that it is incumbent upon Congress to do its part to insure the proper enforcement of our civil rights laws. By providing for reasonable counsel fees to prevailing parties in civil rights cases, the Congress can take a giant step in that direction by minimizing the formidable barrier erected by the Court's decision. I urge my colleagues to act favorably upon S. 2278.

UP AMENDMENT NO. 469

(Subsequently numbered amendment 2347)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 469:
>
> Strike out all after the enacting clause and insert in lieu thereof the following:
>
> That this Act may be cited as "The Civil Rights Attorneys' Fees Awards Act of 1976".
>
> SEC. 2. That the Revised Statutes section 722 (42 U.S.C. 1988) is amended by adding the following: "In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, title IX of Public Law 92-318, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

Mr. KENNEDY. Mr. President, I yield for a unanimous-consent request to the Senator from Maine without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE addressed the Chair.

Mr. ALLEN. Mr. President, there will be no unanimous-consent requests granted in the Senate until this matter has been disposed of as long as I am on the floor. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts has the floor.

Mr. KENNEDY. Then, Mr. President,

I ask that Jim Davidson be granted privilege of the floor.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, the purpose of this amendment is rather simple, yet it is important. It has the support of the administration. It is, basically, to conform this legislation to the legislation that is presently before the House. It will thus expedite final enactment of this bill.

Mr. President, the Civil Rights Attorneys' Fees Awards Act authorizes Federal courts to award attorneys' fees to a prevailing party in suits brought to enforce certain civil rights acts. This bill would close a series of loopholes in our civil rights laws created by the Supreme Court's Alyeska decision last year, and would reestablish a uniformity in the remedies available under Federal laws guaranteeing civil and constitutional rights.

The basic principle embodied in this bill is not obscure or novel. The Supreme Court ruled in the Alyeska case that courts may award attorneys' fees to successful litigants only where Congress has specifically authorized "fee-shifting" by statute. Although prior to this decision Federal courts had been awarding fees to successful plantiffs in cases brought under a broad variety of civil rights laws, the Court's Alyeska ruling created enormous incongruities in that private citizens can now afford to seek enforcement of only those civil rights laws which contain explicit provisions for fee-shifting. The result is plain: few private civil rights enforcement actions can now be brought under these Federal statutes not providing for fee awards. The bill before us today would eliminate this anomaly by permitting courts to make discretionary fee awards under all Federal civil rights statutes.

The Senate and House versions of the bill differ in only one substantive respect: in addition to those civil rights statutes included within the coverage of the bill reported by the Senate Judiciary Committee, the House bill includes coverage of title IX of Public Law 92-318, the Education Amendments of 1972. Inclusion of cases brought under title IX would mean that where educational programs which receive Federal assistance discriminate on the basis of sex or blindness, courts would be able to make discretionary awards of attorneys' fees to successful litigants in order to assist private enforcement efforts in this crucial area of the law.

I am therefore offering an amendment in the nature of a substitute to S. 2278, which would confirm the language of the bill precisely to the House bill, H.R. 15460. Inclusion of title IX cases provides a useful improvement in the bill, and one which has the full support of the bill's Senate sponsors. The administration itself also expressed support for this amendment when it was offered during the House Judiciary Committee markup on the bill.

In recent years, there has been a growing recognition that discrimination on the basis of sex is both pervasive and persistent. For that reason Congress has banned sex discrimination in such areas as employment, housing, credit, and, in title IX of the Emergency School Aid Act, education programs or activities which receive Federal assistance. The title is the analog, in the field of education, of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race or sex, they violate fundamental rights which are at the bedrock of our society's notions of fair play and human decency. It is Congress obligation to enforce the 14th amendment by eliminating entirely such forms of discrimination, and that is why both title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 have been included. As basic provisions of the civil rights enforcement scheme that Congress has created, it is essential that private enforcement be made possible by authorizing attorneys' fees in this essential area of the law.

Where title IX is violated by a public school system, section 1983 is also involved, as in *Lau* v. *Nichols*, 414 U.S. 563 (1974). But in many cases title IX involves other situations, for example, a private vocational school receiving Federal assistance which discriminates on the basis of sex in its admissons policy. In these cases, only title IX would reach this pernicious form of discrimination.

Title IX also reaches another pernicious form of discrimination—that against blind people and those who are visually impaired—and in these circumstances the same fundamental principles apply.

Mr. President, the bill now before the Senate addresses the issue of citizen access to the courts in a direct and effective manner. As chairman of the Subcommittee on Administrative Practice and Procedure, I have been concerned with removing legislative and judicial barriers which have the effect of denying citizens full access to the courts in order to secure their legal rights. It is of little moment for the Congress to enact laws expanding the protections afforded citizens in securing jobs, housing, credit, or education without insuring that the beneficiaries of our laws have the means of enforcing compliance with them. Legal battles to vindicate basic human rights—congressionally secured rights—can be as costly as any other form of litigation, and the costs frequently outrun the economic benefits ultimately obtained by successful litigants. Inevitably this leads to the inability of the victims of discrimination to obtain legal redress because they cannot shoulder the full costs of vindicating their rights.

Fee-shifting is a time-honored judicial remedy. And Congress has already provided for recovery of attorneys' fees in over 50 pieces of legislation. Where Congress decides to emphasize certain policies, and correspondingly to secure private rights or encourage more vigorous enforcement of Federal laws, Congress frequently includes fee-recovery provisions in its enactments. An attorneys' fees provision was most recently included for example, in the Hart-Scott-Rodino Antitrust Improvement Act for injunctive actions brought under the Clayton Antitrust Act.

I believe that it is especially important that the availability of fee awards be expanded to encompass all major Federal civil rights laws. Not just a select few—chosen through historical accident—but all the civil rights laws of this country must be complied with. Long experience has demonstrated, however, that Government enforcement alone cannot accomplish this. Private enforcement of these laws by those most directly affected must continue to receive full congressional support. Fee shifting provides a mechanism which can give full effect to our civil rights laws, at no added cost to the Government.

Mr. President, while I hope this bill can be passed by both Houses and signed into law before Congress adjourns, I think it is important that we realize that our efforts to improve citizen access to the courts will not end with the enactment of this legislation. Earlier this year the Judiciary Committee reported S. 2715, which would authorize, among other things, awards of attorneys' fees in judicial actions for review of certain Federal administrative decisions. While I do not anticipate that the Senate will be able to act on this bill before the end of this session, I consider it to be essential to Congress' overall effort to involve citizens in the enforcement of our laws, and I intend to press for prompt Senate action in the next session.

The bill now before us, Mr. President, does not create any new legal remedies, nor does it expand our civil rights laws into new areas which Congress has not previously considered. It merely lends substance to the private enforcement of rights already authorized under existing civil rights laws.

Furthermore, the bill will not create any new burdens for the courts. Rather, it is intended simply to expressly authorize the courts to continue to make the kinds of awards of legal fees that they had been allowing prior to the Alyeska decision.

It is a fundamental axiom of law that where there is a right the law should provide a remedy. Yet, without a provision to permit awards of attorneys' fees to successful parties, the rights secured by those civil rights laws covered by this act are hollow rights indeed. Enactment of this legislation would do much to assure all the citizens of this Nation that the words "equal protection of law" mean what they say, and that Congress firmly intends that all our civil rights laws be vigorously enforced.

Mr. President, I do not intend to spend any more time discussing this particular amendment because it is well understood. It involves issues the Senate has acted on it in the past.

It does seem to me to be an extremely important amendment. It will expedite the passage of this legislation. It does have the support of the administration. I am very hopeful it will be accepted here this afternoon.

The PRESIDING OFFICER. The question is on the adoption——

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, may I inquire of the Chair if this is a printed amendment or if this is an unprinted amendment?

The PRESIDING OFFICER. It is an unprinted amendment.

Mr. ALLEN. I wonder if copies might be made available to Senators.

The PRESIDING OFFICER. A copy will be provided to the Senator.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I am delighted to find the distinguished Senator from Massachusetts (Mr. KENNEDY) acting as floor leader for the administration with respect to this particular amendment.

It is interesting that he would represent the administration on the floor of the Senate. It is interesting to see he is doing that.

I am interested to see that his views correspond with the views of the administration with respect to this particular subject.

Mr. President, this Congress may well go down in history as the Congress that provided more bonanzas to the legal profession than any other Congress in history.

We have already passed antitrust legislation which provides that the attorneys general of the various States may farm out these antitrust cases to attorneys of their choice as political favors, if they so desire, and I assume they would, and, in some cases, treble damages are available.

Mr. President, inasmuch as we did not accept the House language with respect to banning contingency fees, these attorneys can collect, these favored few can collect, in some cases—and it is not beyond the realm of the possible—literally millions of dollars for their services. Here, again, we are providing not one single additional substantive civil right or the enforcement of one single civil right provision but are, instead, providing for attorney fees in civil rights cases, attorney fees to be set by the court.

Frankly, Mr. President, I do not know what has happened to this idea from the time it was considered by the Subcommittee on the Representation of Citizen Interests of the Judiciary Committee in 1973. According to the committee report, this matter was considered in 1973.

If it was such a good idea, Mr. President, it seems to me that the Senate would have been called upon to act on it before now; 1973 was the last Congress. Apparently nothing happened to the bill in the last Congress. It does not say that the Judiciary Committee ever reported it after the subcommittee studied it. If it was such a great idea, I wonder why it did not get out of the Judiciary Committee back in 1973 to come to the Senate floor. There must have been some good reason because I am sure there were plenty of advocates to the legislation.

I am wondering if a person advocating this legislation is interested in civil rights or if he is interested in attorney's fees.

Mr. President, I am a member of the legal profession, having been admitted to the bar in Alabama in 1935. When I came to the Senate I ceased all law practice, directly and indirectly, with the exception of the fact that I have, on occasion, filed amicus curiae briefs in the Supreme Court on matters affecting the well being of the people of the State of Alabama. But I still retain my high regard, my deep interest, in the legal profession and in the welfare of the legal profession. I like to see lawyers make fees. I have absolutely no objection to that. I want to see it.

Mr. President, I do not see any reason for bringing up a Senate bill which was considered by the subcommittee back in 1973. I do not have the record of what happened to it in the committee. I am going to try to find out if it was defeated in the committee. In 1973 it was passed out of the subcommittee of the Judiciary Committee. It has not arrived on the floor from 1973 until this very day, unless I am mistaken. I do not see any indication that it has. I am sure if it has arrived, I will be corrected in time.

Mr. KENNEDY. If the Senator will yield at that point——

Mr. ALLEN. No, I do not yield. The Senator will have an opportunity to speak.

Mr. KENNEDY. If the Senator does not want to yield for a question, I will wait.

Mr. ALLEN. Very well, I will yield for a question.

Mr. KENNEDY. Was this the same provision included in the voting rights of 1975 which passed the Judiciary Committee and actually came before the Senate?

Mr. ALLEN. I am talking about this bill. It was never considered on the Senate floor.

Mr. KENNEDY. It was passed out of the Judiciary Committee and included in the Voting Rights Act of 1975.

Mr. ALLEN. It never came out on the floor here.

Mr. KENNEDY. The Senator is not correct. It was included in the Voting Rights Act and it passed the Judiciary Committee. It was not enacted as part of the final Voting Rights Act because the Senate actually accepted the House provisions. But I think it is quite clear that it was already considered in the Judiciary Committee.

Mr. ALLEN. The Senator answers his own question. What the Senator from Alabama said was that this bill had never been considered on the Senate floor. The Senator from Massachusetts has added no information contrary to that. He states that this provision was in the Senate bill which passed the Judiciary Committee, not in a separate bill, but he also says that the Senate did not consider that bill and instead considered the House bill.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. ALLEN. For a question.

Mr. KENNEDY. The record of the previous discussion was the point where the Senator said that it was considered in the Senate Committee on the Judiciary, that it passed the Senate Committee on the Judiciary and it was reported. The Senator is correct that it was not considered on the floor because the Senate considered the House-passed bill.

The record will show whether the Senator stated that or whether the Senator said that the Senate Committee on the Judiciary did not consider it.

I am correcting the Senator's suggestion that the Judiciary Committee did not consider it. It did consider it. It did report it and it did feel that it was a good idea at that particular time.

Mr. ALLEN. In answer to what the Senator from Massachusetts said, the Senator from Alabama said that this bill, apparently, and I am referring to the committee report, was not acted upon by the full committee. I will stand by that and back it up with this committee report from the Senator's own committee, the Committee on the Judiciary.

He is saying that this was a provision in another bill having to do with an entirely different matter. I had stated that it was never acted upon here on the Senate floor. It was never considered here on the Senate floor. I will stand by that statement. The Senator has not produced any evidence that the bill or this provision was ever considered on the Senate floor.

Now, Mr. President, if it was reported by the Senate Committee on the Judiciary and it was so important, why did the Senate not act on it? It seems like a pretty easy bill to bring up. All they have to do is put in a nondebatable motion that it come up and it will. So here it is.

This bill apparently laid dormant from the subcommittee hearing in 1973 until it was passed in this Congress, but had never before been considered, before today here on the floor of the Senate, from 1973 on.

This particular provision, Mr. President, the Senator says was in another bill. Well, that bill, though reported out of the Committee on the Judiciary, has never been considered on the Senate floor. So if it is such a great bill, if it is an idea whose time has come, if these attorneys need their fees, I guess they needed them back in 1973, and they needed them in 1974, and they needed them in 1975, and they needed them in the first 8 months of 1976; but nothing was done to help these poor attorneys under that bill. No action on the Senate floor.

Advocates of the bill having full control of the Senate machinery, advocates of the bill having full control of the committee system, advocates of the bill having a topheavy vote on bringing the matter up, why has it not been considered on the Senate floor, if it is so great? That is what puzzles the Senator from Alabama.

So now, Mr. President, as the Senate is supposed to be racing toward adjournment on October 1 or October 2, here we are, taking up the time of the Senate and taking up the time of Congress on a Senate bill that I assume will go to a committee over in the House of Representatives after it passes here. I assume it will, though they seem to have a way of shortcutting committees when they want to. I assume this matter will go to a committee over there, and maybe they will have an amendment, and it may go to conference. But how are we going to work all those things in, in the short time that remains to the Senate on this matter?

Also, if it was such an important bill, I wonder why the author of the bill is not here to vouch for the bill, and why it is necessary for him to pass the mantle of leadership on this important attorneys' fees bill over to the distinguished Senator from Massachusetts, who also is a lawyer, as is the distinguished Senator from California (Mr. TUNNEY).

You know, Mr. President, I kind of hate to embarrass the distinguished Senator from California (Mr. TUNNEY) by bringing this bill up in his absence. I just do not feel that the proponents of the bill should have embarrassed our good friend from California, who is in a life-and-death struggle out in California to retain his seat. But I predict that before this bill is passed—and it will be several days before it passes, I assure the Senate—before this bill passes, the distinguished Senator from California (Mr. TUNNEY) will show up to make a speech in behalf of his brother attorneys, because mistake it not, this is a lawyers' bill.

I hazard the guess that they are not satisfied with the action by Congress in providing windfalls in the tens of millions of dollars for the bar throughout the 50 States of the Union under the antitrust bill. They are not content with that, Mr. President. They come forward and say, "Oops, the Supreme Court has said that in many cases attorneys' fees in civil rights cases are not allowed. We have got to do something about that."

That is what the Supreme Court said. The Supreme Court held, in the case mentioned by the distinguished Senator from Massachusetts, the Alyeska case, that the courts do not have the power under their equity powers to grant attorneys fees in cases unless there is a specific authorization by Congress for such fees to be paid.

Mr. President, you can imagine the consternation that this ruling by the Supreme Court caused in legal circles. "Why, the Supreme Court says we can't collect attorneys' fees when we prosecute civil rights cases." I do not know that these attorneys came to be sponsors of this legislation here in the Senate. They said, "We have got to straighten this out; we have got to make provision for attorneys' fees." There is not one single additional civil rights protection in this measure; so what is the concern? Is the concern for protecting civil rights, or is it for protecting the fees of attorneys, who have grown fat on litigation of this sort?

Mr. President, there is a term in the law or a word in the law called "barratry." That is a word that is applied to the stirring up of litigation.

Mr. President, barratry is unethical if not illegal. So we might conclude, Mr. President, that this bill would constitute, if there could be such a designation, legal and ethical barratry, if that were not a contradiction in terms, which it is. This bill would stir up litigation, because, with all due respect to my brothers at the bar, the average attorney is not going to work up too much enthusiasm about bringing a civil rights case unless he sees a prospect of obtaining a fee.

There are organizations that in many cases do good work in furnishing legal counsel. The Civil Liberties Union has made a notable contribution in furnishing counsel unpaid by the litigant in many areas where the legal rights of an individual are being trampled upon. But here, Mr. President, we have a bill whose sole purpose is to provide attorneys fees for attorneys who file suits under the various sections mentioned in the bill.

So, I do not believe this bill for the aid of attorneys ought to be taking up the important time of the Senate. Let us let them suffer along for a few months. We will have another Congress convening January 3. I do not know, though, whether this measure will fair so well in another Congress or not.

I do not propose to predict the outcome of the November Presidential election, but if the Democratic candidate should be elected—and the chances are that he will—I do not know whether he would look with such great favor on a bill providing attorney's fees for lawyers. One of his standard statements, in identifying himself at speeches that he has made from time to time, is that he is these various things—these various things being a peanut farmer and a Christian. He is not a lawyer, though, he is quick to emphasize. So I do not know what the Democratic candidate thinks he might gain from saying he is not a lawyer, unless there are many who feel that lawyers are able to take care of themselves, and it is my observation that they are. I do not believe we need this legislation that would add more areas open for attorneys fees.

We have not had an explanation of the bill, Mr. President, of course. It was immediately brought up. There was not one word of explanation about it. There is an amendment, I guess a substitute. I have not had an opportunity to examine it too closely. Yes, it is a substitute, and, of course, it will wipe out the provisions of the other bill.

But there has been not one word of explanation about the bill—not one. There has been scant explanation of the substitute. Then it is up for a quick vote unless someone should see fit to address some remarks with respect to the bill.

I might state, also, that since this is a substitute, if it should be adopted—and it looked as if it were pretty well on track to be adopted—it would cut the Senate off from any amendment whatsoever on this bill. There would be no further amendments. Ram it through. Take care of the attorneys. Add no more civil rights. Protect no more civil rights. Only see that the attorneys get paid. That is what this bill does. And here we are in the Senate considering a bill to provide attorneys fees for attorneys.

Mr. President, there are a number of provisions now under which attorneys fees can be paid. As a matter of fact, I see here at the bottom of page 3 of the report that the last two lines has this interesting sentence:

> Since 1964 every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

Mr. President, if that be true, why are we working on this? I am simply taking the Committee on the Judiciary at its word. They prepared the report. I did not.

But the report says:

> Since 1964 every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

So there is not one word of explanation of what civil rights provisions do not have attorneys fees attached to them, and the very wording of the committee report on this very bill—it is not on something else—says that

> . . . every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

That being true, what is the need of this bill? It provides attorneys fees for every civil rights law that has passed since 1964. How much farther back need you go? That is when the great breakthrough came—in 1964.

And it gives some examples of these acts that do have attorney's fees, but I am relying on this statement in the Judiciary Committee report that all of these civil rights laws, all the major ones, passed since 1964 have fee provisions attached.

That being true, what is the need of this bill?

At the top of page 4 they give some specific examples, without limiting the generality of the other statement which says "All major civil rights laws when passed had attorney's fees provided, or were later amended to provide attorney's fees," then, as I say, without limiting the generality of that statement, they give examples of some of the civil rights laws that do have attorney's fees attached.

I note that throughout all the bills of this type, very high in the priority of those pushing bills of this sort is that there be a provision for paying attorney's fees. Let us take care of the attorneys. Civil rights take care of themselves. Let us take care of the attorneys. That is what this bill does. Let us see some of the acts that the Judiciary Committee says have attorney's fees.

They say that title VIII of the Civil Rights Act of 1968, codified in 42 U.S.C., section 3612(c), has attorney's fees attached. Then the Emergency School Aid Act of 1972, which is codified in 20 U.S.C., section 1617, has attorney's fees attached. Then Equal Employment Amendments of 1972, codified in 42 U.S.C., section 2000 (e) 16(b) has attorney's fees. Then there is the Voting Rights Act Extension of 1975, 42 U.S.C., section 1973(e). Those laws specifically have attorney's fees provided.

However, the report, itself, says that all major civil rights acts have attorney's fees attached. What do we conclude from that? Also, what is a major civil rights law and what is a minor civil rights law? If, as the Judiciary Committee on the report says, every major civil rights law passed by Congress has included or has been amended to include one or more fee provisions and they are bringing in another bill, I would have to assume from that, by a process of reasoning, by a process of logic, by use of a syllogism, that this bill must refer—in the language, not of the Senator from Alabama, but in the language of the Committee on the Judiciary—to minor civil rights laws. It said that all major civil rights laws have that attached. So what is a minor civil rights law?

I do not regard any civil rights law as being minor. It has to do with the rights of an individual, the rights to equal protection under the law. It is a major civil rights. There are no minor civil rights. I will have to disagree with the Judiciary Committee in apparently branding the civil rights referred to in these sections as minor civil rights. That does not follow the reasoning of the Senator from Alabama.

The Senate has voted to proceed to the consideration of this bill by a top-heavy vote. Having done so, it is going to continue to stay on this bill. I say to the distinguished Senator who made the request a moment ago that as soon as the Senator from Alabama sits down, it would not take unanimous consent to bring up a House message. He could call it up and move——

Mr. PASTORE. Not while the Senator is on his feet.

Mr. ALLEN. I stated that as soon as the Senator from Alabama gives up the floor, he could comply with the request of the distinguished Senator.

Mr. PASTORE. I do not have to be told that.

Mr. ALLEN. That being the case, we will not worry about it.

Mr. PASTORE. I was only asking for a courtesy. I know the rules.

Mr. ALLEN. I thank the Senator. I want to accommodate him, but apparently he does not want to be accommodated.

Mr. President, what we are dealing with here—and I am somewhat in the dark, because there has been no explanation given as to the thrust of this bill, other than that it provides attorneys' fees in civil rights cases—is that, somewhere along the line, I would like the proponents of the bill to explain what minor civil rights are involved in the bill, inasmuch as the report says that all major civil rights laws passed by Congress have included a fee provision. So somewhere along the line, I assume, Mr. President, we will find out.

At this time, I move to table the substitute offered by the distinguished Senator from Massachusetts (Mr. KENNEDY), and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second There is not a sufficient second.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER (Mr. ABOUREZK). Objection is heard.

Mr. KENNEDY. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of the absent Senators.

Mr. ALLEN. The motion is out of order, Mr. President.

The PRESIDING OFFICER. Until the rollcall is completed, that motion is out of order.

The clerk will continue to call the roll.

The assistant legislative clerk resumed and completed the call of the roll and the following Senators answered to their names:

[Quorum No. 42 Leg.]

Abourezk
Allen
Bayh
Kennedy
Leahy
Muskie
Percy
Stennis

The PRESIDING OFFICER. A quorum is not present.

The Clerk will call the names of the absent Senators.

Mr. KENNEDY. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Does the Senator make a motion to instruct?

Mr. KENNEDY. I move that the Sergeant at Arms be instructed to request the presence of the absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 79, nays 3, as follows:

[Rollcall Vote No. 614 Leg.]

YEAS—79

Abourezk
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—3

Allen
Goldwater
Weicker

NOT VOTING—18

Baker
Beall
Brock
Buckley
Cannon
Church
Ford
Glenn
Hart, Philip A.
Hartke
Mansfield
McGee
McGovern
Mondale
Montoya
Stevens
Symington
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. ABOUREZK). A quorum is present.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. I have an amendment at the desk.

The legislative clerk resumed calling the roll.

Mr. ALLEN. I have an amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The rollcall is in progress.

The legislative clerk resumed calling the roll.

The PRESIDING OFFICER. The clerk will suspend until there is order in the Senate Chamber.

I ask Senators—the Senator from Maine and the Senator from Iowa—I am going to ask for order in the Chamber and the clerk will suspend the rollcall until order is achieved.

Mr. NELSON. Mr. President, the Senators obviously have not been able to hear the Chair, to have order in the Senate.

The PRESIDING OFFICER. The point of the Senator from Wisconsin is well taken. Would the Senate please come to order? Would the Senate show the courtesy to the other Senators who would like to vote and have their vote recorded?

The clerk will not proceed until order has been achieved in the Chamber.

The clerk may proceed.

The legislative clerk resumed and concluded calling the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the

Senator from South Dakota (Mr. McGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 25, nays 57, as follows:

[Rollcall Vote No. 615 Leg.]

YEAS—25

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Dole
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Johnston
Laxalt
Long
McClellan
McClure
Nunn
Scott, William L.
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—57

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Gravel
Griffin
Hart, Gary
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Taft
Weicker
Williams

NOT VOTING—18

Baker
Beall
Brock
Buckley
Cannon
Church
Ford
Glenn
Hart, Philip A.
Hartke
Haskell
Mansfield
McGee
McGovern
Mondale
Montoya
Stevens
Tunney

So the motion to lay on the table was rejected.

GOLD LABELING ACT OF 1976

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3095.

The PRESIDING OFFICER (Mr. PACKWOOD) laid before the Senate the amendment of the House of Representatives to the bill (S. 3095) to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

(The amendment of the House is printed in the House proceedings of the RECORD of September 20, 1976.)

Mr. ALLEN. I object to its consideration, Mr. President.

The PRESIDING OFFICER (Mr. PACKWOOD). Objection does not lie.

Mr. ALLEN. Objection lies to proceeding.

The PRESIDING OFFICER. Under rule VII, the Chair has the right to lay before the Senate at any time a message from the House of Representatives.

Mr. ALLEN. Yes, but I object to proceeding with its consideration.

The PRESIDING OFFICER. Objection to proceeding is heard.

Mr. PASTORE. Mr. President, a parliamentary inquiry. What is the decision of the Chair?

The PRESIDING OFFICER. Will the Senator withhold his inquiry for a moment?

The ruling of the Chair is that it is in order to move to concur in the House amendment, upon objection, after the Senate, on motion, has proceeded to its consideration.

Mr. PASTORE. I so move.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. PASTORE. I move to concur in the House amendment.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 79, nays 0, as follows:

[Rollcall Vote No. 616 Leg.]

YEAS—79

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—21

Baker
Beall
Brock
Buckley
Cannon
Church
Ford
Glenn
Goldwater
Hart, Philip A.
Hartke
Hruska
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Stevens
Taft
Tunney

So the motion to concur was agreed to.

Mr. PASTORE. Mr. President, this is a very simple matter to explain. As a matter of fact, it has nothing at all to do with the controversy that we had on the bill previous to this.

This is a message from the House. This has to do with the stamping of gold, not only to help the consumer but also, at the same time, to assist us in the export of our American products.

Today, if you mark a piece of jewelry "14 carat," under existing law, if it is 13 carat actual gold content it still would be legal to affix the 14-carat label.

This bill provides that where the gold item of jewelry is unsoldered, it must be no more than 3 parts per 1,000 less than the marking; and if it is soldered, it must be within 7 parts per 1,000 of the marked carat amount. This change will assist the American industry to meet the requirements of foreign countries, thereby enhancing our foreign exports.

We passed this bill in the Senate. It went to the House, and they revised it only in writing style. In other words, where we rewrote the entire section of the original act, they merely inserted these new levels of tolerance after striking the existing levels in the 1906 law. But it is substantially the same bill.

I hope we will not have a fracas over this, and I hope we will pass it.

At this time, I ask unanimous consent that my complete explanation be placed in the RECORD, and I will answer the questions of anyone who is curious or inquisitive.

Mr. ALLEN. I object.

Mr. PASTORE. Object to what?

The PRESIDING OFFICER. The Senator from Alabama objects to what the Senator from Rhode Island wants inserted in the RECORD.

Mr. PASTORE. The Senator does not want an explanation?

Mr. ALLEN. I announced——

Mr. PASTORE. Give it back to me. I will read it.

Mr. President, this bill is designed to increase consumer protection and foster competition by domestic manufacturers of gold articles in international markets, by reducing the tolerances permitted by the National Gold and Silver Stamping Act of 1906. The 1906 act requires that any article of merchandise made in whole or in part of gold or silver, which is shipped in interstate commerce, must be properly marked as to its actual fineness. A tolerance is permitted for articles without solder and 1 full carat for articles with solder. The proposed legislation would reduce these tolerances to 3 parts per 1,000 for articles without solder, and to 7 parts per 1,000 for articles with solder. Three parts per thousand is equivalent to approximately one-fourteenth carat and 7 parts per 1,000 is equivalent to approximately one-seventh carat.

In order to enable manufacturers to accommodate this change, the requirements would not become effective for 5 years.

Near the turn of the century, the manufacturers of gold and silver products sought legislation to enable consumers to purchase manufactured articles with some measure of certaintly. The 1906 act requires that articles of gold and silver which are identified by a carat mark of fineness guaranty meet certain standards. The tolerances permitted for gold are one-half carat for gold articles without solder and 1 full carat for gold alloys with solder. For example, a 14-carat gold mark can be placed on a soldered jewelry article that is only 13 carats gold—7 percent less gold than the mark indicates. If the article stamped 14 carat has no solder, it can contain as little as 13½ carats gold—3.5 percent less than the mark indicates.

Mr. MATHIAS. Mr. President, will the Senator please use his microphone? [Laughter.]

Mr. PASTORE. I can do just as well with or without. [Laughter.]

With technological advances, it has become apparent that the liberal gold tolerances permitted by the National Gold and Silver Stamping Act are no longer necessary from a technical viewpoint. An additional concern has been that certain foreign markets have been closed to domestic manufacturers of gold articles. Countries such as France and Switzerland have close controls on gold articles entering the country and permit considerably smaller tolerances than permitted under the 1906 act. As the Department of Commerce noted in a memorandum of July 30, 1975, entitled "Exportation of U.S. Manufacturer Carat Gold Jewelry"—

> Amending the National Gold and Silver Stamping Act to permit a smaller deviation from the carat standard and to provide for enforceable penalties against violators would result in greater acceptance of U.S. gold jewelry in European countries and worldwide. Exports would increase over time.

I introduced this bill on March 9, 1976, and the Committee on Commerce held hearings on the bill on March 24, 1976. Subsequently, it was reported by the committee and passed the Senate by unanimous consent on May 13, 1976. In the House, the Committee on Interstate and Foreign Commerce held hearings on June 29, 1976, and the bill was subsequently reported and passed by the House yesterday.

The House amendment is purely technical in nature and reflects merely a different drafting style than the bill as passed by the Senate. There are no substantive differences between the House and Senate bills. It is purely a question of drafting.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The motion already has been agreed to.

Mr. PASTORE. I want to thank the Senator from Alabama.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

UP AMENDMENT NO. 470

Mr. HELMS. Mr. President, I call up an unprinted amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 470 to the amendment of Mr. KENNEDY numbered 469.

The amendment is as follows:

> SEC. 3. The Congress finds that serious inequities and inequalities exist between—
>
> (1) the Federal Government; and
>
> (2) individuals, companies, unions, other organizations and State and local governments in terms of the relative ease with which each is able, without economic hardship, to prevail or secure vindication in civil and criminal actions in the courts and in administrative proceedings. It is the purpose of the Congress in this Act to diminish these inequities and inequalities by providing for the payment by the United States of attorney fees, expert witness fees, and other costs in specified situations.
>
> SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:
>
> "§ 2412. Attorney and witness fees and costs
>
> "(a) Except as otherwise provided by subsections (b) and (c) of this section and in section 2678 of this title, a judgment for costs, as specified in section 1920 of this title (but not including the fees and expenses of attorneys), may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action.
>
> "(b) A judgment for costs as specified in section 1920 of this title, for the reasonable expenses of any witnesses or expert witnesses, for the reasonable cost of any studies analyses, engineering reports, tests or projects which the court finds necessary to litigation of the action and for a reasonable attorney fee, based upon the actual time expended by any attorney of a party and his or her staff in advising and representing a party (at prevailing rates for such services, including any reasonable risk factor component), may be awarded to any party, other than the United States or any agency or official thereof, who prevails in any civil action including an action for judicial review of agency action brought by or against the United States or any agency or official thereof in any court having jurisdiction of such action.
>
> "(c) In actions, including actions for judicial review of agency action, instituted by or against the United States or any agency or official thereof, in which a party other than the United States or any agency or official thereof—
>
> "(1) prevails partially, such party may be awarded a judgment for costs and fees, as specified in subsection (b), to the extent to which he prevails.
>
> "(2) does not prevail, such party may be awarded a judgment for costs and fees, as specified in subsection (b), in any case in which such an award would be in the interests of justice.
>
> "(d) Any amount awarded for costs and fees shall be in addition to the compensation, if any, awarded in any judgment.
>
> "(e) A judgment for costs and fees shall be paid in the form and manner provided, in sections 2414 and 2517 of this title, for the payment of judgments against the United States.".
>
> (b) The analysis of chapter 161 of title 28 of the United States Code is amended by amending the item relating to section 2412 of said title to read as follows:
>
> "2412. Attorney and witness fees and costs.".
>
> SEC. 5. Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:
>
> "(a) Any final judgment and any final judgment for costs and fees which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".
>
> SEC. 6. Section 2678 of title 28, United States Code, is amended to read as follows:
>
> "(a) If any judgment is rendered, or if any settlement, award, compromise or recommendation in favor of any party other than the United States is made, after the United States or a Federal agency has received notice that a party has retained a specified attorney, such party shall be awarded a reasonable attorney's fee, based upon the actual time expended by such attorney and his or her staff in advising and representing such party (at prevailing rates for such services, including any reasonable risk factor component) and all costs (including witness fees, studies, analyses, engineering reports, tests and projects) necessary to litigation. In any other case, the court may award such costs and fees as are, in its discretion, in the interests of justice.
>
> "(b) Any amount awarded under this section for costs and fees shall be in addition to the compensation awarded in any judgment, settlement, award, compromise, or recommendation.".
>
> SEC. 7. (a) Subchapter I of chapter 5 of title 5 of the United States Code is amended by adding at the end thereof the following new section:
>
> "§ 504. Costs and fees of parties
>
> "(a) A party other than the United States or any agency or official thereof participating in an agency proceeding shall be granted by the agency conducting the proceeding and said agency may pay, an award for fees and costs incurred in order to participate in the proceeding if:
>
> "(1) said party is successful in his defense against imposition of a sanction;
>
> "(2) in a proceeding in which the agency is a moving party, he is successful in opposing issuance of an order, or in proposing an amendment to an order, which—
>
> "(A) affects the freedom of said party;
>
> "(B) withholds relief from said party;
>
> "(C) imposes a penalty or fine on said party;
>
> "(D) requires the destruction, taking, seizure or withholding of property of said party;
>
> "(E) assesses damages, reimbursement, restitution, compensation, costs, charges, or fees against said party;
>
> "(F) requires, revokes, or suspends a license of said party; or
>
> "(G) otherwise compels or restricts said party; or
>
> "(3) a review or appeal is determined substantially in favor of the party which appeals a decision or which is subject to the decision reviewed.
>
> "(b) As used in subsection (a) of this section, an 'award for fees and costs' shall include the reasonable expenses of witnesses and expert witnesses and the reasonable cost of any studies, analyses, engineering reports, tests, or projects necessary to determination of the proceeding together with a reasonable attorney's or agent's fee based upon the actual time expended by such attorney or agent and his or her staff in advising or

representing a party (at prevailing rates for such services, including any reasonable risk factor component).".

(b) The analysis of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

SEC. 8. (a) Chapter 201 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3013. Fees and costs of defendants

"(a) A defendant in a criminal case shall be granted by the court having jurisdiction of the case and the United States may pay, an award to compensate said defendant for the reasonable attorney fees and costs incurred by him in his defense against a charge at trial and on any appeals if:

"(1) said defendant pleads not guilty to said charge and

"(A) said defendant is found not guilty, or

"(B) the charge against said defendant is dismissed; or

"(2) said defendant is found guilty at trial and said finding is set aside on appeal.

"(b) No award shall be made pursuant to paragraph (2) of subsection (a) of this section unless the prosecution certifies to the court that no further appeal will be made or unless the time for further appeal has expired.

"(c) No award shall be made except on motion of the defendant with notice to the prosecution.".

(b) The analysis of chapter 201 of title 18, United States Code is amended by adding at the end thereof the following new item:

"3013. Fees and costs of defendants.".

Mr. HELMS. Mr. President, this amendment would grant successful litigants in civil cases or agency hearings against the Federal Government, and acquitted criminal defendants, the right to an award of legal fees and other expenses incurred in preparing and pursuing the litigation or the defense against prosecution for a Federal crime.

Mr. President, this amendment, in the main, is quite similar in its thrust to S. 2871, introduced by the able Senator from New York (Mr. BUCKLEY) on January 26 of this year. There have been some modifications, which will be obvious to Senators comparing the two pieces of legislation.

It is my feeling that this legislation is necessary in order to combat the growing tendency of escalating legal costs to deter Americans from enforcing and defending their legal rights against the U.S. Government in the Federal district courts.

There is no question but that the Federal Government today possesses an institutional power comparable to no other in our society. It spends more than $370 billion annually, which constitutes more than one-quarter of the Nation's total annual expenditures. The Federal Government employs millions of persons, among whom are thousands of lawyers assigned to enforce and defend the often lengthy arbitrary regulations and rulings of hundreds of Federal departments and agencies.

The annotated laws of the United States take up dozens of thick volumes. Furthermore, the Federal Government's departments, agencies, and bureaus profound regulations which are counted in the hundreds of thousands, mandating such disparate requirements as product safety standards, affirmative action programs, marketing practices, and so forth.

Concurrent with the growth of Government, there has grown up a feeling of helplessness among a large portion of the population. People do not know how to cope with an institution the size and complexity of which is so great that, literally, no one can come to terms with it. Whether one is involved with a question regarding social security entitlement or a highly technical income tax regulation, or complex antitrust practices, or welfare regulations, or the withholding of categorical grant formula funds, or Government contract disputes many of which have nothing to do with the commercial terms of the contract—there is literally almost no limit to how, where, and why a private party, State or local government, a labor organization, or a business corporation might find itself confronted with the realization that the only practical way to protect one's rights under the law is to go to court. The consequences of such a dilemma are that in the usual case, an aggrieved party has to weigh the high cost of litigation against the value of the rights to be protected. In far too many cases, a party will knuckle under a Federal order he knows to be wrong because he cannot afford the cost of taking the matter to court. In the case of a private citizen it is only the most wealthy who could even begin to contemplate the possible costs. State and local government, and therefore taxpayers, normally operate on tight budgets, as do labor organizations and business corporations. However, the Federal Government is not under similar constraints. Normally, the agency or bureau is funded to bring suits, to enforce the laws, to implement social policies. The imbalance is clear.

This problem is exacerbated by the fact that the income and assets of the private litigant, that is to say, the average American citizen—and a defendant's ability to defend himself with such assets is extremely limited and therefore the individual citizen can be subject to a war of attrition on the part of a determined Federal bureaucracy. Justice for the citizen requires that the cost of securing justice not outweigh the value against the Government. It is important, also, that the expense of correcting error on the part of the Government—a task which could have wide-ranging beneficial implications for other Americans—not rest wholly on the party whose willingness to go to court has helped define the limits of Federal authority.

This proposal for awarding legal fees and costs in civil actions applies to all actions in which the United States or an agency or official is a party, including tort claims and judicial reviews of agency actions. Awards of fees and costs may be made by courts in favor of parties prevailing over the Government in actions instituted or defended by the Government. If the private party prevails partially, he must be awarded an amount for fees and costs incurred by him in the action commensurate with his success. In cases in which the private party fails, he may be awarded fees and costs when it is in the interest of justice. No provision is made for a maximum limit on awards, or for denying or decreasing awards to prevailing parties. The costs subject to an award are elaborated in the amendment and the criteria for fees are delimited; fees and costs are subject to the overriding consideration of reasonableness.

The provision regarding fees and costs of parties in agency proceedings is intended to provide for reimbursement to persons who initiate such proceedings in order to compel recognition of a right which is denied to them by the agency either directly or indirectly. Also benefitted are those parties who must participate in a proceeding in order to defend a vested right against either direct or indirect agency infringement. Only those parties who are placed in the situation of being an adversary of an agency are eligible for awards of fees and costs. The fees and costs of intra-agency reviews and appeals of decisions may be awarded if those proceedings culminate in a holding in favor of a private party, along with fees and costs of proceedings prior to review or appeal. Again, awards of fees and costs are governed by the criterion of reasonableness. Items to be included in awards are elaborated in the bill. All awards are to be made by the agency conducting the proceeding, and are to be paid out of the appropriation for that agency.

The awarding of legal fees to successful private litigants will not in any way deter Government attorneys from pursuing meritorious claims. Similarly, it can hardly be regarded as an incentive to spurious litigation, as the nonprevailing party will be awarded legal fees only when the interests of justice manifestly dictate.

What this amendment will do is deter the governmental tendency to dispute meritorious claims in the expectation of outlasting an adversary. This is a practice which should be discouraged.

CRIMINAL ACTIONS

A substantial number of criminal defendants already receive, as a sixth amendment matter, the services of a Government-subsidized attorney, irrespective of the strength of the case or the actual outcome on the merits. It can only be viewed as ironic that a middle-income acquitted defendant in a misdemeanor case may be required to expend virtually all of his assets in order to finance a defense in his case, whereas an indigent convicted minor felon will be furnished his legal fees, and will frequently be released on probation with only a small fine.

This amendment provides for awards of fees and costs for defendants who plead not guilty and are acquitted at trial or on appeal or who have the cases against them dismissed. The award of fees and costs would cover both trials and appeals if the defendant ultimately prevails. No provision is made for awarding fees to defendants pleading no contest, or who are found guilty. No maximum limit is placed on awards other than the award must stand to the test of reasonableness. There are no conditions under which awards to successful defendants would be denied or decreased, as, for example, when they succeed on a technicality of the law rather than on the merits.

Mr. President, I hope that the amendment to the amendment of the Senator from Massachusetts may be accepted without a rollcall vote.

Mr. MATHIAS. Mr. President, I am wondering if the distinguished Senator from North Carolina could advise the Senate what he feels would be the cost of this amendment to the amendment?

Mr. HELMS. The Senator from North Carolina has no estimate of that. I do not know that you can place a price tag on fair play to the individual citizen who is, under existing circumstances, being harassed and intimidated by Federal bureaucrats.

Mr. MATHIAS. I agree with the distinguished Senator from North Carolina that fair play for the average citizen is simply beyond price, that it ought to be a basic consideration of everything that we do here, in the Senate and throughout the Government, and certainly in the courts. But there still has to be a bill paid. It appears to me that this would be one of the most expensive provisions and the fact that it extends to criminal cases as well as to civil cases, I think, raises some very serious questions.

What it does, of course, is change a very fundamental concept of American jurisprudence. Perhaps it should be changed—the concept of casting the burden of cost in criminal cases which have been borne by defendants up to this time. There are other rules prevailing in other countries. Perhaps they should be studied.

But the fact is that this would be a very casual way to undertake one of the most fundamental changes in the procedures of the U.S. courts—without hearings, without any careful study, without getting the judgment of judges, of lawyers, of people who are going to be intimately involved, and the general public, whom the Senator's amendment seeks to help.

I think it should be given consideration. I would not want to make a judgment out of hand on it. I would not want to make the judgment either way.

I think, of course, as the Senator says, fair play is beyond price. But there is a price tag on the last amendment, and I am wondering, in the absence of any kind of estimate of the cost of the amendment, whether it is within the budget authorization. Can the Senator advise the Senate as to whether there is authorization?

Mr. HELMS. I am sure that neither the cost of the proposal of the distinguished Senator from Massachusetts nor this modification is without cost. But I will say to the Senator, I hope the Senator from North Carolina probably may be regarded by his voting record as one of the more prudent spenders of the taxpayers' money in this body. But when it comes down to giving fair play to the average citizen—who is daily intimidated by Federal bureaucrats and Federal agencies, the relatively small cost will be worth it if it restrains the Federal bureaucrats, agencies, and bureaus, if it makes the bureaucrats exercise more fairness in filing charges which have no merit. So often, these charges are brought on the theory that, "This poor sucker will not have the money or the time to contest the Federal Government, the almighty Federal Government. Even if it costs $1 billion, which it certainly will not, it would be money well spent." Of course, to assume that it would cost an immense amount of money is to admit that there are, indeed, swarms of Federal bureaucrats who now feel no restraint in bringing flimsy, unfair, and even frivolous actions against citizens and small businessmen who have neither the funds nor the time to defend themselves against such an onslaught.

Mr. MATHIAS. Let me say if the Senator's object is to prevent the filing of charges that have no merit, I will go a lot further than this bill with him. I agree with the Senator that $1 billion would be cheap if that is the kind of situation we have. I think more than just being willing to spend a little money, we ought to get rid of the people who are making the mistakes. If they are repetitively making mistakes which result in the harassment of citizens, they ought to go.

Mr. HELMS. Mr. President, if the Senator will yield——

Mr. MATHIAS. If the Senator and I make mistakes, we go.

Mr. HELMS. If the able Senator will yield, if the Senator's proposition were put into effect, it would require hundreds of Greyhound buses to move the bureaucrats out of Washington, D.C.

Mr. MATHIAS. Without any lack of sympathy for what the Senator is trying to do, I would point out, however, to take the Senator's own figure of $1 billion, that is a substantial amount of money to be raised outside the budget.

I wanted to inquire of the Senator whether there had been a budget waiver.

Mr. HELMS. There has not. I do not believe a waiver is necessary, but I may be in error. In case I am, would the Senator be willing to send both my amendment and the amendment of the Senator from Massachusetts to the Budget Committee? Would he be willing to offer such a motion?

Mr. MATHIAS. I do not believe we have to make that motion. I do think—and I want to be completely fair with the Senator from North Carolina—this amendment to the amendment would create new obligations for the Federal Government, and it would constitute an authorization without a hearing.

Mr. HELMS. The same may be true of the Kennedy amendment.

Mr. MATHIAS. I think it is subject to a point of order.

I do not want to restrict the debate on this subject, but I would be constrained to make a point of order whenever the Senator has completed his observations on this subject.

Mr. HELMS. I would ask the Senator, does he hold the same position regarding the original Tunney bill, to which the Kennedy amendment in the nature of a substitute has been submitted?

Mr. MATHIAS. The difference the Senator will find on page 7 of the committee report:

> The Congressional Budget Office, in a letter dated March 1, 1976, has advised the Judiciary Committee that: "Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2278, a bill to award attorneys' fees to prevailing parties in civil rights suits.
>
> "Based on this review, it appears that no additional costs to the government would be incurred as a result of the enactment of this bill."

Mr. HELMS. I think the Senator may be talking about another piece of legislation.

QUORUM CALL

Mr. President, while we resolve this, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 43 Leg.]

Allen
Burdick
Byrd, Robert C.
Chiles
Culver
Eastland
Garn
Hart, Gary
Hatfield
Helms
Hollings
Kennedy
Long
Mathias
McClellan
Packwood
Pearson
Schweiker
Scott, William L.
Stone
Thurmond
Tower

The PRESIDING OFFICER (Mr. HATFIELD). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 617 Leg.]

YEAS—78

Allen
Bartlett
Bayh
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—3

Biden
Metcalf
Weicker

NOT VOTING—19

Abourezk
Baker
Beall
Brock
Buckley
Cannon
Church
Ford
Glenn
Goldwater
Hart, Philip A.
Hartke
Mansfield
McGee
McGovern
Mondale
Montoya
Stevenson
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. FONG. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may yield to the Senator from Hawaii for a unanimous-consent request.

Mr. ALLEN. I object.

Mr. FONG. I ask unanimous consent——

The PRESIDING OFFICER. Objection is heard. The Senator from Maryland has the floor.

Mr. MATHIAS. The administration has taken a position strongly opposed to the Helms amendment. As the sponsor of the amendment has explained, the language is substantially similar to S. 2871.

The Department of Justice has commented at length on S. 2871 and I think it would be useful to acquaint the Senate with the opinion set forth in a letter addressed to the chairman of the Committee on the Judiciary under date of September 20, 1976.

I ask unanimous consent to include a copy of that letter at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Justice,
Washington, D.C., September 20, 1976.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of the Department of Justice on S. 2871, a bill, "To provide for equal access to courts in lawsuits involving the Federal Government, and for other purposes".

The bill amends Sections 2412, 2517, and 2678 of Title 28, United States Code. The bill also adds new Sections, 504 to Title 5, and 3013 to Title 18, United States Code. This proposed legislation would substantially alter and enlarge recoverable items in "a judgment for costs" in actions by or against the United States, or any agency or official thereof, to any non-governmental party who prevails in whole or in part. Allowable costs would include: "the reasonable expenses of any witnesses or expert witnesses,", "the reasonable cost of any studies, analyses, engineering reports, tests or projects which the court finds necessary to litigation of the action", and "a reasonable attorney fee . . . at prevailing rates for such services, including any reasonable risk factor component." Similar recovery is provided for in criminal actions and certain agency proceedings.

An award of attorneys' fees against the United States, or any agency or official thereof, absent 'Congressional authorization', is expressly precluded under existing law. 28 U.S.C. 2412. See *Alyeska Pipeline Co.* v. *Wilderness Society*, 421 U.S. 240 (1975); *Pyramid Lake Paiute Tribe of Indians* v. *Morton*, 163 U.S. App. D.C. 90, 499 F.2d 1095 (1974), *cert. denied*, 420 U.S. 962. Traditionally, American courts have, for the most part, resisted the inclusion of attorneys' fees and other litigative expenses in costs taxed against the losing party. See *Fleishmann* v. *Maier Brewing Co.*, 386 U.S. 714 (1967). It is the view of the Justice Department that the American rule should continue to be the prevailing standard, with exceptions limited to specific areas, carefully identified and considered, where strong public policy reasons indicate the appropriateness of the exceptions. The bill, however, does not address specific areas where such exceptions might be warranted. Instead, the proposed legislation would encompass all civil litigation (as well as criminal actions and certain administrative orders). While the Justice Department is not primarily concerned with administrative proceedings and the awarding of attorneys' fees and other costs in such proceedings, we express our objection on the broadness of the proposed statute.

The bill's provisions run contrary to its preamble. Finding "serious inequities" in providing "for equal access to courts in lawsuits involving the Federal Government", the bill does not distinguish between the categories of litigants engaged in suits involving the Federal Government. Indeed, this proposed legislation would allow for recovery of attorneys' fees and other expenses where such disparity is presumably absent, *e.g.*, suits brought by or against "companies, unions, other organizations and State and local governments." Beyond the obvious drain on the Treasury, the bill also threatens to encourage litigation involving the Government when the Executive and the Judiciary are currently tasked with substantially increased caseloads.

A further major concern is the provision in section 7 of the bill for the awarding of attorney fees and costs to defendants in certain criminal cases. When a criminal trial or appeal results in a defendant being found not guilty or in the charges being dismissed, the bill provides that the court shall award to the defendant ". . . reasonable attorney fees and costs incurred by him in his defense . . .". A finding of not guilty at trial, the setting aside of a guilty finding on appeal, or dismissal of the charges may occur for many reasons other than lack of guilt on the part of the defendant. To compensate the defendant in all such cases represents a radical departure from the long standing current practice. We are not aware of any justification for placing this burden on the Government. There are, of course, adequate provisions in current law for providing for attorneys and attendant costs when the defendant is financially unable to meet such expenses.

The Department of Justice therefore recommends against enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Michael M. Uhlmann,
Assistant Attorney General.

Mr. MATHIAS. Mr. President, I move to lay the pending amendment on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. HELMS. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. (Mr. Hatfield). The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina (Mr. Helms). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 54, nays 27, as follows:

[Rollcall Vote No. 618 Leg.]

YEAS—54

Abourezk
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—27

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Metcalf
Morgan
Nunn
Packwood
Roth
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—19

Baker
Beall
Brock
Buckley
Cannon
Church
Dole
Ford
Glenn
Goldwater
Hart, Philip A.
Hartke
Mansfield
McGee
McGovern
Mondale
Montoya
Taft
Tunney

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 471

Mr. ALLEN. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 471:

On line 6 after the comma following the word statutes add the following: "title IX of Public Law 92-318."

Mr. ALLEN. Mr. President, this amendment would put into effect the stated purpose of the substitute offered by the distinguished Senator from Massachusetts, and it would add title IX—that is, enforcement of rights under that—as an area calling for the payment of attorney's fees where action is brought to enforce those rights.

If the bill is to be passed, there is no reason why it should not contain this; but it is not necessary to offer a substitute which would cut off all other amendments. So this amendment would bring title IX under the provisions of the bill and would make unnecessary, and possibly out of order, the amendment of the Senator from Massachusetts. It would allow other amendments to be offered to the bill itself.

On this amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MATHIAS. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. MATHIAS. As I understand the Senator's amendment, it would be to add on line 6, after the comma, at the end of the line, the words "title IX."

Mr. ALLEN. That is correct, yes.

Mr. MATHIAS. Is this an amendment to the bill or to the pending amendment?

Mr. ALLEN. It is an amendment to the bill. It would make unnecessary the Kennedy substitute. This puts into effect the thrust of the substitute of the distinguished Senator from Massachusetts. In other words, it is not only the Civil Rights Act referred to in the bill. This would add the title IX provisions as well.

Mr. MATHIAS. I understand. I thought originally that the amendment went to the amendment of the Senator from Massachusetts.

Mr. ALLEN. No.

Mr. MATHIAS. Would it not be necessary to dispose of the amendment of the Senator from Massachusetts before we undertook——

Mr. ALLEN. No, because if the amendment of the Senator from Massachusetts is adopted, no further amendment will be in order. That would not quite serve the public interest.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Abourezk
Allen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Culver
Durkin
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Huddleston
Jackson
Javits
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Moss
Nunn
Pearson
Schweiker
Scott, William L.
Sparkman
Stevens
Stone
Symington
Talmadge
Thurmond
Williams
Young

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

The second assistant legislative clerk resumed the call of the roll.

Mr. ALLEN. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I call for the yeas and nays.

The PRESIDING OFFICER (Mr. LAXALT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. STEVENSON), and the Senator from Colorado (Mr. GARY HART) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Ohio (Mr. GLENN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 74, nays 3, as follows:

[Rollcall Vote No. 619 Leg.]

YEAS—74

Abourezk
Allen
Bayh
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—3

Bartlett
Biden
Weicker

NOT VOTING—23

Baker
Beall
Brock
Buckley
Cannon
Church
Ford
Glenn
Goldwater
Hart, Gary
Hart, Philip A.
Hartke
Hruska
Johnston
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Stevenson
Taft
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I have not had the opportunity to explain this amendment. I am pleased that the Chair saw fit to recognize me rather than the distinguished Senator from Maryland because I do not believe there has been an opportunity to explain the amendment.

What the amendment does is to add to the original bill reported by the committee the words "title IX of Public Law 92-318."

What the bill does is to provide that in any proceeding under certain sections of the revised statutes—and it lists the sections, sections 1977, 1978, 1980, 1981, of the revised statutes, these having no reference to a year—the court may, in its discretion, allow the prevailing party, other than the United States, a reasonable attorney fee as part of the cost.

What this amendment does is to add title IX of Public Law 92-318 as one of the sections, one of the provisions of law, where an action can be brought and the prevailing party would, in the discretion of the court, be allowed attorney fees. In other words, it adds a section to the civil rights section.

This is a different approach from the substitute of the distinguished Senator from Massachusetts (Mr. KENNEDY). His substitute would do the same thing, but it would be a substitute and not a simple amendment.

If his substitute is adopted, then no further amendments can be offered to the bill. I feel sure that other amendments will be offered. Senator HELMS and I have an amendment at the desk that would make this same rule apply on the court in its discretion allowing attorney fees to the prevailing party in cases where the IRS brings an action against a person, charging the existence of tax liability to the Government on the part of that person, and the result of the action is found in favor of the person being sued or harassed by the IRS in the judgment.

Then in the judgment of the court and in the discretion of the court attorney fees could be added to the prevailing party.

That is a very fine amendment in the opinion of the Senator from Alabama, and one that should be added to this bill. With the long arm of the Federal Government reaching out against our citizens and charging income tax liability, if it develops on the trial of the case that there is no liability, or that the action was frivolous, then under my and Senator HELMS' amendment the court, in its discretion, could allow attorney fees to the citizen who has been harassed by the Government.

That is not a farfetched situation. We see instances where suits by IRS or the Treasury Department, as the case might be—and the terms can be used interchangeably, I assume—have brought actions against citizens who owed no tax, as it developed, but they may well have been impoverished by defending against an action of the Government in this matter.

The amendment that we hope to offer would allow attorney fees to this citizen who may have been harassed by the Government.

If the Kennedy substitute is adopted, then there will be no opportunity to offer amendments. On the other hand, Mr. President, if the pending amendment of the Senator from Alabama is adopted, it does say that in sex discrimination cases, title 9 cases, where an action is brought to assert the rights of a citizen under this title, in addition to the civil rights section, attorney fees could be added to the prevailing side.

The distinguished Senator from Massachusetts pointed out that to do this was something that the administration approved, that it was supported by the administration. I called to the attention of my colleagues at the time that I was delighted to see the distinguished Senator from Massachusetts acting as floor leader for the administration, pushing this concept.

When I speak of the distinguished Senator from Massachusetts, I have reference to the distinguished senior Senator from Massachusetts. I see the distinguished junior Senator from Massachusetts (Mr. BROOKE) in the Chamber.

All my amendment would do would be to put into the bill as an amendment, allowing still further amendments to the bill, the thrust of the Kennedy substitute. The Kennedy substitute would cut off all further amendments.

Mr. President, I am not going to speak unduly long on this amendment. May I inquire of the Chair if the yeas and nays have been ordered on the Kennedy substitute?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Kennedy substitute.

Mr. ALLEN. I ask unanimous consent that it might be in order at the conclusion of my remarks that I might request the yeas and nays on the Kennedy substitute and on my own amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the distinguished Senator has not consented to any request today on the part of others.

Mr. ALLEN. I appreciate the Senator's calling my attention to that.

I appreciate his calling that to my attention. I would hate to establish a precedent to make a request for myself that I am denying to other Senators. I will wait until the proper time to make that request.

The PRESIDING OFFICER. The Senator is advised that unanimous consent has already been obtained with regard to his own amendment, the request for the yeas and nays.

Mr. ALLEN. I withdraw the unanimous-consent request on the other.

That being true, Mr. President, the issue which is before the Senate, as put into effect by the amendment of the Senator from Alabama, is shall the right to be free from sex discrimination as guaranteed by title IX be protected to the extent of giving the court the authority in its discretion to grant attorney fees in an action under that section to assert such rights to the prevailing side?

Mr. President, I yield the floor.

Mr. BROOKE. Mr. President, I move to lay on the table the amendment of the distinguished Senator from Alabama.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. ALLEN. Had not the quorum call started? I request that the Chair continue the quorum call. Mr. President, the quorum call had started.

The PRESIDING OFFICER. The Senator is correct, it had started.

The clerk will continue calling the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was resumed and concluded and the following Senators answered to their names:

[Quorum No. 45 Leg.]

Allen
Bayh
Brooke
Burdick
Byrd, Robert C.
Chiles
Griffin
Hart, Gary
Haskell
Helms
Inouye
Jackson
Kennedy
Laxalt
Leahy
Magnuson
Nelson
Pearson
Percy
Randolph
Ribicoff
Scott, Hugh
Stone

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I move to lay on the table the motion to direct the Sergeant at Arms, and I call for the yeas and nays.

The PRESIDING OFFICER. The motion is not in order.

The question is on agreeing to the motion of the Senator from West Virginia that the Sergeant at Arms be directed to request the attendance of absent Senators. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. Montoya), the Senator from Illinois (Mr. Stevenson), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Ohio (Mr. Taft), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 620 Leg.]

YEAS—72

Abourezk
Allen
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Williams

NAYS—3

Bartlett
Biden
Weicker

NOT VOTING—25

Baker
Bayh
Beall
Brock
Buckley
Cannon
Church
Dole
Ford
Glenn
Goldwater
Hart, Philip A.
Hartke
Johnston
Mansfield
McGee
McGovern
Metcalf
Mondale
Montoya
Stevenson
Symington
Taft
Tunney
Young

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to table the Allen amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from California (Mr. Tunney), the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 54, nays 24, as follows:

[Rollcall Vote No. 621 Leg.]

YEAS—54

Abourezk
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—24

Allen
Bartlett
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Metcalf
Morgan
Nunn
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—22

Baker
Bayh
Beall
Brock
Buckley
Cannon
Church
Dole
Ford
Glenn
Goldwater
Hart, Philip A.
Hartke
Johnston
Mansfield
McGee
McGovern
Mondale
Montoya
Randolph
Taft
Tunney

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, am I recognized? I am recognized, am I not?

The PRESIDING OFFICER (Mr. Culver). The Senator is recognized.

REQUEST FOR COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 22 to consider committee business; that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet on September 22 to consider the Forest Service's performance in the preparation of the plan for the East River Unit of the Gunnison River National Forest in Colorado; that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on September 27 on the Occupational Safety and Health Act; and that the Permanent Subcommittee on Investigations of the Committee on Government Operations be authorized to meet on September 29 and 30 to examine HEW's Medicaid Management Information System.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

REQUEST FOR SPECIAL ORDERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators that have already been entered, the following orders be entered: Mr. Muskie 10 minutes, Mr. Proxmire 10 minutes, Mr. Kennedy 10 minutes, and Mr. Hathaway.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, Mr. President, I have notified the distinguished assistant majority leader since we are on this bill I feel like we ought to stay on it until we get through. I have stated that I will object to unanimous-consent requests until the bill has been disposed of and, therefore, I object.

The PRESIDING OFFICER. Objection is heard.

REQUEST TO PROCEED FOR 1½ HOURS ON S. 2925 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for recognition of Senators have been completed, and with the understanding that there will be no action on the bill, the Senate proceed for not to exceed 1 hour and 30 minutes on S. 2925, the sunset legislation, with the understanding that there be no action on the bill, and it will be set aside at the expiration of 1½ hours.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, until the question of germaneness is disposed of——

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no problem with germaneness at this particular time.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Florida (Mr. Chiles).

DISTRICT OF COLUMBIA APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on H.R. 15193 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Is this debatable?

The PRESIDING OFFICER. This particular request is not debatable.

Mr. ALLEN. After it is laid before the Senate I hope the presiding officer will recognize the Senator from Alabama.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request for the immediate consideration of this conference report?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. It is in order to move the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I move the consideration of the conference report, and I ask for the yeas and nays.

Mr. ALLEN. Mr. President, I wish to be heard.

The PRESIDING OFFICER. That motion is not debatable.

Mr. ALLEN. I have no objection to proceeding. I just want to be heard before the conference report is adopted.

Mr. CHILES. If there is no objection to proceeding——

Mr. ALLEN. I have no objection.

Mr. CHILES. I ask unanimous consent that the request for yeas and nays be withdrawn.

Mr. ALLEN. I have no objection to proceeding. I just want to be heard.

The PRESIDING OFFICER. Without objection, the yeas and nays are withdrawn.

Mr. CHILES. Mr. President, I move the adoption of the conference report.

Mr. ALLEN. Mr. President, I wish to be heard, please.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator will be advised that this motion is not debatable.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

Mr. ALLEN. The motion to adopt it is debatable.

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. The motion to proceed has not been agreed to. The question is on agreeing to the motion to proceed.

Mr. ROBERT C. BYRD. The yeas and nays have been withdrawn.

The PRESIDING OFFICER. The yeas and nays have been vacated. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 10, 1976.)

Mr. CHILES. Mr. President, I am pleased to have the opportunity to bring to the Senate the conference report on the District of Columbia Appropriations Act of 1977.

As the Senate will recall, the city's budget request for the District of Columbia for fiscal year 1977 amounted to $1,092,280,900 for operating expenses and $35,794,700 for capital outlays for a total request of $1,128,075,600. The amount agreed to by the conference is $175,900 less than the Senate bill with regard to operating expenses and $300,000 more than the Senate bill with regard to capital outlay. The total amount agreed to by the conference report is $1,120,107,400, which is $124,100 more than the Senate bill and $7,968,200 less than the total city request of $1,128,075,600.

The Federal payment recommended by the conference report is $259,797,400 which is $175,900 less than the amount recommended by the Senate bill and $10,202,600 less than the amount recommended by the House bill. While the Federal payment agreed to by the conference report is $20,202,600 less than the $280,000,000 requested by the city, it is $10,848,700 more than was provided to the city in 1976. The Federal payment provided by the conference report represents a 4-percent increase over the level provided in fiscal year 1976. The increase provided for in the Federal payment corresponds on a percentage basis almost exactly with the increase provided by the conference in the funds for overall city operating expenses.

The financial plan approved by the conference for 1977 is balanced on a cash basis and there will be approximately $193,100 left in the city's treasury on September 30, 1977. The budget total as recommended by the conference is $33,097,600 less than the ceiling provided in the second concurrent resolution for the District of Columbia appropriations bill.

The House/Senate conference spent a great deal of time discussing the merits of four separate items. I would like to report to the Senate on the substance and outcome of each of these four items.

First, with regard to Forest Haven—the D.C. home for the mentally retarded—the Senate bill provided $3,213,200 and 188 positions more than the House to permit Forest Haven to meet all Federal standards and to remedy all significant deficiencies at the institution. The House receded to the Senate on this item. I have been appalled by continuing reports of the generally primitive conditions that exist at the institution and the city's lack of action to remedy the situation. I have called for monthly reports from the city on the use of these funds and on the city's progress to fill any vacant positions at Forest Haven. I plan to monitor this situation closely until the city has remedied the appalling deficiencies at Forest Haven.

Second, the conferees spent a long time discussing the merits of reducing the city contribution to the Metrobus operating subsidy. This action, proposed by the Senate, should require the District of Columbia to increase the bus fare during peak hour periods from 40 cents to 50 cents. This action was recommended by the Metro Board last year and would permit peak hour bus fares to be increased for the first time in 7 years. I am pleased to report to the Senate that the House receded on this item.

For the last 7 years the bus fare in the District has remained at 40 cents while the Metrobus operating deficit has gone from approximately $1,000,000 in 1969 to over $54,000,000 in 1976. Also during this period of time, cost-of-living adjustments have been made to welfare payments in the amount of approximately 30 percent and overall price inflation has been approximately 55 percent nationwide.

The conference committee discussed at some length the socioeconomic arguments relating to a fare increase. The fare increase, however, is for peak periods only. During peak periods the ridership is primarily made up of working people, and a fare increase during these hours of the day should therefore not work an economic hardship on the citizens of the District. During the last 7 years fares have been increased in both Maryland and Virginia and hearings have been scheduled to consider additional fare increases for Maryland and Virginia later this month. No hearings have been scheduled by the city to even consider fare increases in the District of Columbia.

Increasing the bus fare to 50 cents during peak hour periods will correspond to the current peak hour fare on Metrorail of 55 cents. As the city has already agreed to a 55-cent fare on Metrorail during the peak periods, an increase of the base fare in the District for the bus system to 50 cents is now all the more appropriate. Additionally, as the current fares in Maryland and Virginia range from 60 cents to $1.20 depending on the distance traveled, a 50-cent fare in the District will bring the District of Columbia into closer alinement with the surrounding jurisdictions.

The third major point of discussion was funding for the police department. The Senate bill had approved the full city request while the House had included $901,600 more than requested by the city. The conferees debated the need for this additional amount of funds for the police in view of the fact the metropolitan police force is the largest in the Nation on a per capita basis. While the Senate receded to the House on this item, we will continue to review the program and budget needs of the police department with the same attention as we devote to other city programs with the focus on facts and with an examination of the total base budget. While it is important to maintain an effective police force in the District, it is also important to realize that the turbulent conditions of the 1960's that saw the large buildup in the police force no longer exists in the District today. It is also important to remember that there are 24 other police forces and numerous private guard forces that operate in the District of Columbia.

Fourth, the conferees discussed the merits of eliminating the 2 cents per kilowatt-hour limitation on the amount that the city can pay Potomac Electric Power Co.—Pepco—for street lighting in the city. While the D.C. appropriations bill has included a limitation on the amount that the city can pay Pepco for street lighting since 1912, the limitation until last year was always higher than the actual kilowatt-hour charge and the city has therefore always been able to pay its bills. The dramatic fourfold increase in energy prices since the Arab embargo in 1973 has rendered the 2 cents per kilowatt-hour limitation as outmoded. Pepco has filed a suit to recover past amounts due to it from the city but which the city could not pay because of the limitation. The House argued for the continuation of the 2 cents per kilowatt-hour limitation. The House indicated that it would reconsider its position on this item during consideration of the 1978 budget based on the outcome of the pending court case. Based on this understanding, the Senate receded to the House on this item.

I believe that the District must take every effort to collect the taxes and fees that are due to it and to periodically adjust its many fees for the effects of inflation. As long as the city makes every good effort to raise the revenue that is due to it, I believe that we in the Congress can provide the city with a Federal payment that comes from the tax dollars of all of our constituents around the country in good conscience. The Senate bill included several items designed to encourage the District to raise more of its own revenue by collecting delinquent taxes and by implementing a proper billing system at the city's hospitals and clinics. The Senate held a special zero base review of the health care delivery system that operates in the District of Columbia. One of the findings of that special hearing was the fact that the city provides all services at its clinics free, regardless of the income of the recipient, and the billing system at the hospitals is so chaotic that millions of dollars due to the city from medicaid, medicare, and third party insurance are lost each year.

The Senate bill also included funds for additional welfare case workers which will permit a reduction in the high overpayment and ineligibility rates and will permit a reduction in the unnecessary expenditure of welfare funds that amount to some $10,000,000 each year. I am happy to report to the Senate that the House receded to the Senate on all of these revenue increasing and expenditure reducing items.

I would like to highlight the $52,100 and the three positions provided by the Senate bill to the Office of the Mayor for the purpose of providing a Latino Community Affairs activity. This new activity will provide an ombudsman function in the Office of the Mayor to help advance the interests of the Latino community in Washington, D.C. While the House had not provided any funds or positions for this city requested activity, the House conferees agreed to recede to the Senate on this item.

Finally, with regard to title I of the bill, I would like to report the changes made in accordance with our efforts to restructure the budget on a mission basis. We found that more than 50 percent of the dollar total associated with transportation activities were not included in the transportation account. The Senate bill put all transportation activities together in the transportation account which will aid the Congress and the public in understanding what the city's request is in this functional category. The subcommittee plans to continue its efforts to restructure the budget on a mission basis when we consider the 1978 budget request. I am happy to report that the House receded to the Senate's actions in this regard.

Title II of the Senate bill provided $36,450,000 for the Pennsylvania Avenue Development Corporation and was included in the bill at the request of Senator BYRD. The House conferees acting on the advice of the House Appropriations Subcommittee on Interior and Related Agencies argued for elimination of the item from the D.C. bill. This item will be funded at a later time in the appropriation bill for Interior and Related Agencies. The Senate receded to the House on this item.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table comparing the conference agreements with the amounts for fiscal year 1976, the budget estimates for fiscal year 1977 and the amounts recommended in the House and Senate versions of the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE I									
DISTRICT OF COLUMBIA									
Federal Funds									
Federal payment	$248,948,700	$280,000,000	$270,000,000	$259,973,300	$259,797,400	$10,848,700	−$20,202,600	−$10,202,600	−$175,900
Payment in lieu of reimbursement for water and sewer services to Federal facilities	5,688,000	2,707,000	2,707,000	2,707,000	2,707,000	−2,981,000			
Loans to the District of Columbia for capital outlay	210,000,000	114,187,000	100,000,000	101,292,000	101,292,000	−108,708,000	−12,895,000	1,292,000	
Total, Federal funds	464,636,700	396,894,000	372,707,000	363,972,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−175,900
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
General operating expenses	116,366,400	114,194,300	112,870,700	84,550,800	84,453,300	−31,913,100	−29,741,000	−28,417,400	−97,500
Public safety	243,059,100	246,176,300	247,160,400	246,258,800	247,160,400	4,101,300	984,100		901,600
Education	237,325,900	247,293,200	245,287,700	245,287,700	245,287,700	7,961,800	−2,005,500		
Recreation	16,520,000	17,729,600	17,674,400	17,674,400	17,674,400	1,154,400	−55,200		
Human resources	264,074,500	268,288,800	267,955,800	268,475,600	268,475,600	4,401,100	186,800	519,800	
Transportation	26,919,400	27,177,900	25,810,900	55,162,600	54,182,600	27,263,200	27,004,700	28,371,700	−980,000
Environmental services	63,492,300	69,331,600	69,078,000	69,036,000	69,036,000	5,543,700	−295,600	−42,000	
Personal services	10,000,000	17,100,000	16,245,000	16,245,000	16,245,000	6,245,000	−855,000		
Settlement of claims and suits	304,500	143,100	143,100	166,600	166,600	−137,900	23,500	23,500	
Repayment of loans and interest	63,380,600	84,846,100	80,839,100	80,839,100	80,839,100	17,458,500	−4,007,000		
Bicentennial services	700,000					−700,000			
Total, operating expenses	1,042,142,700	1,092,280,900	1,083,065,100	1,083,696,600	1,083,520,700	41,378,000	−8,760,200	455,600	−175,900
Capital Outlay									
Capital outlay	117,706,500	35,794,700	35,794,700	36,286,700	36,586,700	−81,119,800	792,000	792,000	300,000
Total, District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	1,247,600	124,100

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE II									
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Land acquisition and development		(25,000,000)		25,000,000					−25,000,000
Public development		(11,450,000)		11,450,000					−11,450,000
Total		(36,450,000)		36,450,000					−36,450,000
Summary									
Grand total, new budget (obligational) authority:									
Consisting of—									
Federal funds	464,636,700	396,894,000	372,707,000	400,422,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−36,625,900
District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	1,247,600	124,100

Mr. MATHIAS. Mr. President, the conferees on H.R. 15193, the District of Columbia appropriations bill for fiscal year 1977, engaged in some very tough bargaining. The House side won some points and the Senate side prevailed on other issues—but as I look back over our actions it seems that the District in many cases was the loser.

Under the Constitution, Congress has ultimate responsibility for the Nation's Capital. I believe that this responsibility includes taking certain steps to help insure the financial stability of the District government. Congress must monitor the general trends in the District of Columbia budget, the thrust of major programs, and the adequacy of revenues to cover projected operating costs. In addition, we must take care that a basic standard of public services is maintained to protect the health, safety, and welfare of District residents as well as the Federal interest. The vast majority of decisions with respect to the District budget are, however, purely matters of municipal management that should be made by the locally elected officials charged with responsibility for running the District of Columbia government.

When Congress adopted the District of Columbia Self Government and Governmental Reorganization Act in 1973, "Home Rule" was granted to the District in the belief that democracy should exist here in our Nation's Capital. In addition to the need for an extension of certain basic rights to the citizens of the District, I believe the Home Rule Act was intended to transfer to local authority the responsibility for the day-to-day management of the local government.

The Senate Legislative Committee on the District of Columbia, on which I serve, has—and I believe rightly so—undertaken efforts to provide support for management and financial accounting improvements in the District. We have examined some of the financial pressures on the District government from the perspective of the city's long-range fiscal health. But we have not become involved in specific administrative decisions on how the city is to be operated.

The Senate Appropriations Subcommittee on the District of Columbia has a tough job to do with respect to the city's budget requests. The chairman of the D.C. Appropriations Subcommittee has worked very hard in a sincere effort to bring the city into a position of financial stability. It seems clear that some cuts must be made in the city's budget requests each year, and wielding the ax is not a very popular or rewarding task. Senator CHILES has, nevertheless, faced up to the challenge with what I believe is a real commitment to making improvements in the Nation's Capital.

Unfortunately, I find that more and more of the actions on D.C. appropriations are addressing details of local management that should be the responsibility of the officials elected by District residents.

In signing the conference report on H.R. 15193, I felt compelled to take exception to amendment 12 that withholds a portion of the District's contribution to Metrobus operating costs. By withholding $2.4 million of the District's share of Metrobus operating costs, the conferees intended to force the city into raising peak hour bus fares from 40 to 50 cents. This action was taken on a day when the Washington metropolitan area was experiencing its seventh air pollution alert of the season and the 41st day of the year when our air was considered "hazardous" to breathe. In these circumstances, I find it lamentable that the conferees would accept a proposal to increase the cost of public transit—a move that will undoubtedly result in fewer transit riders, more cars, more congestion, and more pollution in the Nation's Capital.

There is no question that the increasing costs of Metrobus operations demand attention. I would readily concur with any strong direction to the District government to explore what steps can be taken to minimize their share of Metrobus operating losses. The record of our hearings indicates there are many creative approaches to bus operations—directed toward increasing ridership, improving routes, service, and basic system management—that could help to hold down operating losses. But when Congress suggests that bus fares in Washington, D.C. be increased 10 cents between the hours of 6 and 9:30 a.m. and 3 to 6:30 p.m. on weekdays, we are going too deeply into the details of transportation policy and administration.

If the locally elected officials in the District of Columbia determine as a matter of social, economic, environmental, and transportation policy that bus fares should be 40 cents, then I do not believe that Congress should interfere—as long as the local government is willing to produce the revenues to support a 40 cents bus fare. Progressive cities throughout the Nation including Atlanta, Cincinnati, Cleveland, Los Angeles, Louisville, Seattle, St. Louis, and Topeka have been lowering their bus fares to increase ridership. In many cases operating costs are being supported by a special tax rather than the farebox.

The substantive arguments against increases in transit fares—in light of the impact on lower income people who must depend on the bus and the fact that those people who can afford to pay more are likely to switch to their cars—are compelling to anyone who is concerned about maintaining quality in the urban environment. In this case, however, the issue of procedure overshadows the problems of substance.

Bus fares in the District of Columbia are established by the Washington Metropolitan Area Transit Authority—an interstate compact agency. By withholding a portion of the District's just share of bus operating expenses, Congress is putting pressure on the relationship among the three partners—Maryland, Virginia, and the District of Columbia—that have joined together in an effort to provide transportation services to the Washington area.

A change in Metrobus fares can only be implemented through action by the WMATA Board following complete public hearings. The public hearings on a proposal to change Metrobus fares should produce a record with clear data about the impacts on lower income riders, air quality, traffic congestion, total revenues, and the entire regional transportation system. Until those public hearings are completed—at least 4 months in the future—any decision about a bus fare increase should be withheld.

I do not believe that the District of Columbia appropriations bill should be a vehicle for congressional ratesetting for the transportation system of the Washington metropolitan area, nor do I believe that we should use the District of Columbia appropriations bill as an indirect approach to having Congress resume responsibility for the day-to-day management of local affairs in the District of Columbia.

In the future I am hopeful that the attention of the District of Columbia Appropriations Subcommittee will be directed to the long-range outlook for city finances, broad issues of program priorities, and involvement with the details of local administration will be avoided. I also hope that our subsequent actions will make it clear that the District's contributions to metropolitan compact agencies are not going to be held as a hostage by Congress.

Mr. CHILES. Now, Mr. President, I move the adoption of the conference report and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I am for the motion to concur in the House amendments. I believe that is the motion, that we concur in the House amendments and adopt the conference report.

CIVIL RIGHTS ATTORNEYS' FEES AWARD ACT

(At this point Mr. CULVER assumed the chair.)

Mr. ALLEN. Mr. President, I do feel that inasmuch as the Senate has moved to proceed to the attorney fee bill, that matter should be disposed of before other matters are disposed of. I feel that that bill needs to be discussed a little bit more because we have been having too many quorum calls, too many rollcalls, and not enough debate.

I am delighted that we have a sufficient number of Senators here to hear some of this debate. I hope they will stay around for a while and listen to some of this debate because this is an important bill.

It is a bill that the leadership has set great store by because it has moved to proceed to this measure. That motion was made at a time in the proceedings when it would not be debatable—a motion to proceed. There was no debate on that motion, none permitted under the rules. That is perfectly all right.

Of course, it was built up that way, so that there would be no debate on that. No business was laid down at the end of the session yesterday, so even if the motion had been made and dilatory tactics used—and I hope that would never occur—but had they been used and carried the matter beyond 2 hours after the convening of the Senate, the motion to proceed would still have been nondebatable.

This is about the only time we are going to have to debate this important issue. It is important, Mr. President, because it is putting the Senate in a position of, apparently, being more interested in taking care of our friends in the legal profession than most anything else that we have been concerned with.

The big hassle over the antitrust bill was the matter involving attorney's fees—the matter of State attorneys general throughout the country having the right to farm out these antitrust actions to a favored few among the lawyers—and a matter of contingency fees. We were very careful here in the Senate to leave a great big loophole whereby contingency fees could be permitted.

So we have tried again and again to take care of the attorneys.

I am a member of the legal profession, but I do not practice law. I have great respect for the legal profession. I want to see them make fees. I want to see lawyers well compensated. But I do not think that should be a primary concern here in the U.S. Senate—and all too often it is.

While the distinguished Senator from Massachusetts (Mr. KENNEDY)—I say that to identify him further because I see the distinguished junior Senator from Massachusetts here—has a bill (S. 2715) scheduled to be brought up.

What does it provide? It takes care of the attorneys. Of course, it does. It provides that in agency proceedings—and we have them by the thousands—attorney's fees may be allowed. Out of the taxpayer's pocket. Not out of the litigant's. Out of the taxpayer's pocket.

That is what we are faced with here this evening.

As I say, I have absolutely no objection to the conference report. I hope it will be passed unanimously. To show that I was not trying to resort to dilatory tactics, even though the assistant majority leader was calling for the yeas and nays on motion to proceed, I had no desire to have a rollcall and kill time. I thought we ought to get on with the debate, get on with this measure that the leadership is placing above all other bills on the calendar.

Is this a matter of making provision for civil right? No. Not one single civil right is enunciated in this bill. Not one single civil right is protected in this bill.

While we are considering the bill and proceeding like sheep to vote for it, let us see what we are voting for.

A very fine amendment, in my judgment, was turned down by the Senate just a moment ago. This amendment, apparently, the distinguished Senator from Massachusetts (Mr. KENNEDY) favored because he has a substitute that does nothing but put that amendment in. But he went a circuitous route on it.

He did not go the simple route of merely a very few words. Let us see how many words it would have taken. It would have taken seven words. In seven words he could have carried into effect what his substitute does.

I do not believe there would have been a great deal of opposition to it. But instead of adding these seven words to the bill by amendment, putting title IX, the antisex discrimination provision, under this same bill and providing that attorney's fees could be paid to the prevailing side where an action is brought to protect the rights guaranteed by this section—instead of merely putting those words as an amendment to the Tunney bill—I might say I have an amendment a little later on to name this bill for the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from California (Mr. TUNNEY). I feel they should be honored in that fashion. This bill should be named for them.

So somewhere along the line, probably sometime tomorrow, sometime by midnight tonight possibly, that amendment will be offered.

But I have another amendment that I am going to offer before I offer that, and I will get to that in a moment. I shall explain the amendment that was turned down by the Senate.

Why? Because the Senate opposed the revision of my amendment? No. Because when this bill finally passes it will have in it my amendment, but it will not be the amendment offered by the Senator from Alabama. It will probably be the Kennedy amendment that is going to stay there, just like the laws of the Medes and Persians—unchangeable, no amendments to be acceptable to it.

It has this very same provision in it that I sought to offer to the bill. The difference between my approach and the approach of the Senator from Massachusetts (Mr. KENNEDY) was that my amendment would permit of other amendments.

Well, this is a deliberative body. It used to be called the greatest deliberative body in the world. I do not suppose anybody would make that statement today.

This is a deliberative body of sorts, and we ought to deliberate on these matters and not just ram a bill through without any thought of its contents.

There is too much polarization here in the Senate. At the time an amendment is offered there are some four or five Senators in the Chamber. Senators stream in in the last 5 minutes of the rollcall period, and they say, "Well, whose amendment is it? Who is for it?"

When it is found that the Senator from Alabama offered the amendment, immediately it has serious opposition. That is not on its merits, Mr. President, because I say eventually the Senate will adopt this amendment. Mark my word, it will eventually adopt it—if the matter stays before the Senate.

I am hopeful, Mr. President, that we will not have something of a logjam here of lawyer subsidization bills. I have another bill that seeks to call this legislation what it is. It seeks to amend the title by calling it the Civil Rights Attorney's Relief Act of 1976. We are going to have an opportunity to vote on that, I daresay.

Had the Kennedy amendment been adopted, being a substitute, the possibility of other amendments would have been wiped out.

Mr. President, my amendment, which was defeated by a large margin—I did not bother to look because I knew it would be tabled by the distinguished assistant majority leader—would have provided what? It was a simple amendment.

The bill says that in any action or proceeding to enforce a provision of section 1977, 1978, 1980, or 1981 of the revised statutes, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost.

My amendment would have said we would also put in the provision for title

IX that guarantees one and all as to any program that is financed directly or indirectly by the Federal Government; there shall be no sex discrimination.

Well, sometimes there is sex discrimination. Sometimes it is thought there is sex discrimination when there is no sex discrimination. But these matters can be decided where an action is brought by the person who feels aggrieved by some entity that receives support directly or indirectly from the Federal Government. They have a right to bring action against the offending employer, the offending agency, or the offending entity.

Without my amendment, Mr. President, such a person seeking to strike down the discrimination against her or against him would have to pay his or her own attorney fee, whereas those who sue on other civil rights actions would, under the bill, have their attorney fee paid.

Mr. President, come to think of it, it looks to me as if the Senate, in turning down my amendment, was guilty of sex discrimination right there. We do not have to go out to an outside entity to show sex discrimination because the Senate has turned down an effort by the Senator from Alabama to give those who are aggrieved as a result of sex discrimination the same right to have their attorney fees paid as are those who are complaining of discrimination under other civil rights statutes.

I wonder if the Senate, in its haste to table this amendment, realizes what it has done. It may be that the way to reach that would be to move to reconsider the vote by which the amendment was tabled so that the Senate would have an opportunity to right this little bit of discrimination in which those voting to table the amendment of the Senator from Alabama have indulged.

What was wrong with the amendment? Senators went to great lengths to table it because it was an amendment of the Senator from Alabama. In doing so they refused to give those who are injured through sex discrimination an opportunity to have their attorney fees paid when they seek redress while giving others feeling aggrieved by other civil rights statutes, an opportunity to have their attorney fees paid. Maybe we will hear something about that before long when some of our lady groups realize what has happened to them here by a vote of the Senate.

I do not see the logic of denying attorney fees in sex discrimination cases and providing attorney fees in discrimination by race, color, nationality, or religion.

Why discriminate against the ladies? That is what the Senate has done, those who voted to table.

The vote was 54 to table, 24 not to table. Apparently some few Senators realized what they were doing and got over on the nay side, because that is a little bit more than some of these votes have been running—24 opposition votes. Twenty-four Senators said that attorneys' fees should be allowed to those bringing actions against sex discrimination to a like extent as attorneys' fees are paid for those bringing actions for other civil rights discriminations. I would have felt that the Senate, having a long record of opposition to sex discrimination, would have voted for this amendment.

If the amendment had been adopted, there would be absolutely no necessity for the Kennedy substitute, because that is the only thing it does; it puts in that amendment. Perhaps the Senate is awaiting an opportunity to vote on that amendment. But what the Senator from Massachusetts said he was trying to accomplish would have been accomplished by the amendment of the Senator from Alabama.

Mr. President, we have a number of important measures on the calendar. We have a number of important conference reports to take up. But in the face of all of that, what is the Senate confronted with? A bill to provide for paying attorneys. That is all it is. Not one single bit of other substantive matter; not one single thing other than paying attorney's fees.

By and large, I say that attorneys have a way of taking care of themselves and making good fees. I do not believe they need a whole lot of protection. They do not need a whole lot of subsidization, Mr. President.

All the Senator from Alabama was trying to do by his amendment was put those who are victims of sex discrimination on the same basis of those who are victims of other types of discrimination. But the Senate has denied this right or this concession to those who are victims to sex discrimination. So I assume that no amendment, no matter how good, that is offered by the Senator from Alabama—or I daresay the Senator from North Carolina (Mr. HELMS), because we are cosponsors of some amendments—I doubt that any of those amendments would be accepted, no matter how good they are, because they did not think of them. An amendment offered by the Senator from Alabama or the Senator from North Carolina on this bill would not fare nearly so well as an identical amendment offered by those who are sponsors of the legislation. That is the reason why I say, Mr. President, that we have too much polarization here in the Senate. These measures ought to be considered on their merits, not on who offers the amendments.

I will say, too, Mr. President, that a bill such as this before the Senate, which has been singled out from all the bills on the calendar to be given the top priority, should not have a substitute adopted, as proposed by the Senator from Massachusetts (Mr. KENNEDY), that would cut off the right of Senators to offer amendments to the bill. That is a provision of the rules, Mr. President; and they are followed here in the Senate except when the shoe pinches a little bit, and then possibly there are variations from the rules. I doubt if they will vary that. Because once a substitute to a bill is adopted, no more amendments are in order. So what the Senator from Alabama was trying to do was get this amendment adopted without cutting off other amendments, and that is exactly what would happen now if no further debate were held on the amendment of the Senator from Massachusetts, and I am speaking on his amendment at this time.

So I do not feel that the matter of providing a method by which attorneys can bring actions on behalf of clients and assure them of collecting an attorney's fee—I do not believe that is the most important bill before the U.S. Senate or before the House of Representatives, to make provision for a method by which attorneys can be sure of obtaining fees for their services.

Mr. President, I was somewhat intrigued by the recital in the committee report to the effect that since 1964 every major civil rights law passed by Congress has included or has been amended to include one or more fee provisions.

What does that say? It says that every major civil rights law, and I am going to comment on the word "major" in a moment, passed by Congress since 1964 has included or has been amended to include one or more fee provisions.

What is the necessity of this bill if every bill passed since 1964 contains provision for attorneys' fees? What is the need of this bill providing for attorneys' fees under certain specified sections of section 722 of the Revised Statutes?

If in every major civil rights law passed by Congress they have a fee provision, it does not seem to me that there should be need for reenacting such a provision.

I do not know. I am simply going by what the Judiciary Committee that acted on this bill has to say about the bill. I am wondering, Mr. President, if the key to the matter is the phrase here that every major civil rights law makes provision for attorneys' fees?

I am wondering if the sponsors of this legislation, being the majority members of the Judiciary Committee, who I imagine were in on the writing of this committee report, they feel that these civil rights are minor civil rights. They say every major civil rights law has a fee provision. So I am wondering if they consider these sections minor. Mr. President, I disgress a moment. I might say that not one single word of explanation has been offered for the need for this bill, not one word. They call it up. Senator KENNEDY offers his amendment-killing substitute, and it would have been passed in a matter of seconds if there had not been a few Senators who wanted to discuss the matter.

So not one word of explanation has been given about this bill, S. 2278. The author of the bill is not even here. That was not necessary. Simply call it up and it will pass. What is the use having the author here to explain it?

I do not believe legislation ought to be stampeded through the Senate in that fashion.

I think we need to study these bills a little bit and find out the purpose of them. Why this great interest in attorneys' fees?

The Senator from Alabama on coming to the Senate retired completely from the legal profession as an active practitioner, certainly as an active practitioner for compensation. He has, a I believe, filed three amicus curiae briefs for public bodies in his State and that had matters pending before the Supreme Court, feeling that such talents that he might have were at the disposal of the people of Alabama, without compensation.

So I did file these amicus curiae briefs on important legal points before the Supreme Court of the United States. That has been the extent of the law practice of the Senator from Alabama since he has been in the Senate.

As I say, I have great regard, respect, and love for the legal profession.

Mr. President, I am at a loss to know or to understand what is the need for this legislation and what is the reason for the haste at this time after delay of some 3 years with respect to this bill. I will give a little history of that in a moment.

Yes, I have great respect for the legal profession. I want to see them adequately compensated. The committee report says that every major civil rights law that has passed since 1964 has a fee provision in it.

Now they come along with this and, in the face of this statement that all civil rights, major civil rights, laws passed since 1964 have attorneys' fees provisions in them, they bring up this bill.

Let us study the history of this bill a little bit, and I got by the committee report and that is, in the main, what I am relying on.

The committee report says this very same bill, not the same number, because we are in a different Congress, but the very same bill came up in a subcommittee of the Judiciary Committee in 1973. That was a subcommittee called Subcommittee on Representation of Citizen Interest of the Judiciary Committee. Then, Mr. President, there is a great big hiatus after that paragraph. The subcommittee acted on it, so says the report, and then nothing is said about committee action in 1973, and nothing is said about committee action in 1974. So what happened to it in committee? Did the full committee kill it? What happened to it? That is something I believe the Senate needs to know.

Is the champion of the bill present on the floor? If so, when I get through with my remarks I hope he will speak on the matter and tell us what happened to this bill in 1973 after the subcommittee approved it.

They do not say the Judiciary Committee approved it. They say the subcommittee approved it.

So, nothing happened to it in 1973. Nothing happened to it in 1974, which closed out the 93d Congress and, of course, the bill died as provided by law.

If, Mr. President, it had already been killed by the committee, the report is silent. If this was such a good bill back in 1973 and they said there were more than 30 witnesses who testified, I make this point:

I looked at the hearings, and a large number of lawyers came in and testified. I do not believe that even one lawyer testified against this bill back in 1973. Why would they be expected to do so? It provides that they are going to get paid for their services in certain areas—not on fighting sex discrimination. The Senate has decided that that could not be done. They do not want to do it, at any rate. It provides for attorneys' fees in other areas, but nobody says why it is necessary to have this bill, in the face of the fact that the committee report says that every major civil rights bill since 1964 has had an attorney's fee provision in it. So why is this bill necessary?

I wish that a champion of the bill, if there be such, would come forward and explain some of these matters after I have concluded my remarks. This would be very interesting to hear as to that.

They say that in 1975, the provisions of this bill were incorporated in a proposed amendment to S. 1279, extending the Voting Rights Act to 1965; and they reported it as a part of S. 1279 in the 94th Congress, back in 1975. They reported it on July 18, 1975.

Mr. President, that bill never was brought up on the Senate floor. So here we have a bill with a hiatus from 1973 to 1976. There is no explanation of why they wait until now to bring it up. This bill has been on the Senate calendar since June 29 of this year—almost 3 months. During that time, we had short sessions.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question only?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Can the Senator state how long he will talk on the D.C. appropriations conference report? Senators would like to vote on the conference report and go home.

Mr. ALLEN. I would be willing to yield for a motion to adjourn or recess, right now.

Mr. ROBERT C. BYRD. How about a vote on the D.C. appropriations conference report now?

Mr. ALLEN. And then adjourn until tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. At what time?

Mr. ROBERT C. BYRD. Eleven o'clock.

Mr. ALLEN. The Senator has made a fine proposal, and I wish he had made it earlier. However, there are a few more facts I should like to bring into play. The adjournment motion will be made immediately, and there will be no more business transacted?

Mr. ROBERT C. BYRD. That is correct. We would like to vote on the D.C. appropriations conference report first.

Mr. ALLEN. I said at the outset of my remarks that I favored the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. LONG. I do believe, Mr. President, that the Senator has made some very significant points that the Senate would do well to consider and think about overnight and during the next day or so, before this matter is disposed of.

In my judgment, this idea of having the Federal Government pay everybody who sues somebody can really create havoc with this great country of ours. We have had this type situation where we paid lawyers to try to get people off the welfare rolls who did not belong there and who tried to do something about fraud on our system.

For example, the Senator from Louisiana has been trying to get the Government to prosecute some of these people who are fraudulently using other people's social security numbers to obtain improper benefits. So far as I know, they have not yet made the first successful prosecution. They have had thousands of cases and have recommended only about six to be prosecuted.

One of those cases involves more than 7,000 violations. That is just what the Government has charged the person with. For all we know, the person might be guilty of 70,000 violations of using other people's social security numbers. The Government is alleging 7,000 violations in that particular case. That is what the Government thinks it knows. The person might have been committing 10 times that much fraud, for all we know.

In a case in New Orleans, which I think is not at all unusual, 1 person is on the welfare rolls under 18 names. The Government proceeds to pay somebody, in the first instance, to try to protect the people and to try to bring this mischief to an end; and not much is accomplished in that respect many times—altogether too little. On the other side, the Government is then proceeding to pay the lawyers to defend the culprits.

Mr. ALLEN. That is the truth.

Mr. LONG. I have contended—and I believe this to be true—that nobody but an absolute idiot would pay somebody to sue himself. Yet, that is what this Government does—it pays lawyers to sue the Government. If the Government is wrong, it should cease its course of wrongful conduct, rather than pay a lawyer to sue itself. Think of what a waste of Government money it is to pay someone to sue the Government and then pay another lawyer to defend the Government.

We have just seen this fiasco, which surprised me, but it was voted on the revenue sharing bill, to encourage everybody in America to sue every little town. Podunk will be sued, Cripple Creek will be sued, Dry Prong will be sued. Every little town in America will be sued, and by the time they get through spending the money to defend themselves, it may exceed the revenue sharing money—to be sued on any sort of basis that anyone thinks he might be discriminated against because of religion or because of age or because of disability or whatever.

As the Senator knows, the amendment on that bill says that if the person is successful in the suit, the Government will have to pay him an attorney's fee.

Mr. ALLEN. That is correct.

Mr. LONG. To encourage the people to sue every little county, every little municipality, no matter how small, in the entire United States, even if they are getting only $5 of revenue-sharing money. The Government still can be paying somebody an attorney fee to sue them for their entire budget because they are alleged to have discriminated in some respects, on four or five different grounds.

Mr. ALLEN. That is certainly true.

Mr. LONG. I am not contesting one's right to sue, but a great number of these cases are not well taken. In fact, I think that most of the people who feel sorry for themselves and feel discriminated against would do well to reconcile themselves by recognizing that everybody has this problem. Everybody feels at one point or another in life that he is disappointed; something does not go his way. One would like to feel that he is discriminated against, so he wants to go to court and sue about it. For the Government to be paying the lawyers to sue people and to sue every little municipality and then to sue everybody that one can think of, on whatever basis, can be a never-ending thing and absolutely ridiculous.

People expect us to give them an accounting of their tax money. One could say, "Well, the Government only pays when the person is successful in the suit." But the Senator knows that a lot of these cases are compromised. So if someone is being sued and wants to get the litigation off his back, then, of course, the amount that he would settle for would be higher because the plaintiff knows that if he is successful in a lawsuit, he can make them pay a lawyer's fee.

Mr. ALLEN. That is exactly right. That is what I am trying to fight.

Mr. LONG. Now, a plaintiff lawyer, starting out just like anyone, hoping to make it through a starvation period in the practice of law—I can recall those days when I would sue anybody about anything, just at the drop of a hat.

One lawyer stopped me on the street one time to express his outrage that I was suing his client and the case was so farfetched. I asked him this question: "Did you have that man as your client before I filed the lawsuit against him?"

He said, "No, he came to me when you sued him."

I said, "What are you complaining about? I got you a client by filing that lawsuit."

I am not the only young plaintiff lawyer, I am sure, who started out practicing by just suing people about anything that somebody might want to allege. If I did not have anything better to do, I would go sue them.

Mr. ALLEN. The Senator did not have any guarantee by the Government that he would be paid an attorney's fee out of the taxpayers' pockets; did he?

Mr. LONG. I would drive somebody wild, just to be active. A young fellow, just starting a law practice, if he did not have anything else to do, felt, if he had a client in court, after a while, people would get acquainted with the idea that he was around and see him down there. They might bring their business to him. It would sort of get a young lawyer publicity. Lawyers were not supposed to advertise, but they would read your name in the legal news, that sort of thing. So people know you are active, that you are around.

Young people are known to be pretty busy, just stirring up activity in their early days as a lawyer.

Here, the Government would be paying the lawyers' fees and subjecting people——

Mr. ALLEN. Stirring up litigation.

Mr. LONG. Theoretically, they do not stir it up, but as a practical matter, they do, because if one knows that they make a settlement, this is the point of what they would have to pay if they lost the lawsuit, so they would have to pay more to settle a nuisance suit, because the Government is there to pay the lawyers' fee.

Mr. ALLEN. That is true.

I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I had indicated that the Senate would come in at 11 tomorrow. Will the Senator object if we come in at 9:30?

Mr. ALLEN. I would rather stick to what the Senator said, come in at 11 o'clock.

Mr. ROBERT C. BYRD. I had promised Senator PELL we would come in at 9:30 a.m.

Mr. ALLEN. The other order was not entered. It would not take unanimous consent.

Mr. ROBERT C. BYRD. No, but I had told Senator PELL we would come in at 9:30 a.m. I think he canceled a dental appointment on that basis.

Mr. ALLEN. All right.

Mr. ROBERT C. BYRD. If the Senator will not object——

Mr. ALLEN. Are we going to recess or adjourn?

Mr. ROBERT C. BYRD. Adjourn.

Mr. ALLEN. I have no objection, but let us not ask unanimous consent; let us just move it. That is all right with the Senator.

Mr. ROBERT C. BYRD. Will the Senator not request a yea-and-nay vote on it?

Mr. ALLEN. No, sir. I did not request it.

Mr. ROBERT C. BYRD. I say the Senator would not request a yea-and-nay vote on a motion to adjourn until 9:30 a.m.?

Mr. ALLEN. No.

Mr. LONG. Mr. President, I see no point to a yea-and-any vote on it. I ask unanimous consent that the yea-and-nay order be vacated.

Mr. ROBERT C. BYRD. Mr. President, the Senators have waited with the understanding that we would have a rollcall vote. I am not interested in a yea-and-nay vote. As a matter of fact, we are 10 votes over the alltime record today: 611 votes have been cast until today, and today there have been 10 votes, making 621.

I will not object, but Senators have stayed around, thinking there is going to be a vote. I shall not object.

Mr. JACKSON. Let us vote. I have waited 2 hours.

Mr. LONG. Mr. President, it seems to me we would do well just to vacate the order and it will save that much more time.

I ask unanimous consent that the yeas and nays be vacated.

Mr. JACKSON. I object.

The PRESIDING OFFICER. Objection is heard.

QUORUM CALL

Mr. LONG. Then, Mr. President, I suppose we shall just have to take a little more time, because it seems to me it is a waste of time to have a rollcall vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 46 Leg.]

Abourezk
Allen
Burdick
Byrd, Robert C.
Chiles
Durkin
Hart, Gary
Helms
Huddleston
Jackson
Long
Magnuson
Mathias
McClellan
McIntyre
Moss
Nelson
Pearson
Ribicoff
Sparkman
Stone

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota

(Mr. McGovern) are absent because of official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Fannin), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 66, nays 3, as follows:

[Rollcall Vote No. 622 Leg.]

YEAS—66

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Durkin
Eagleton
Eastland
Fong
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Thurmond
Williams
Young

NAYS—3

Biden
Metcalf
Weicker

NOT VOTING—31

Baker
Bayh
Beall
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Church
Dole
Domenici
Fannin
Ford
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Johnston
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Pell
Randolph
Stennis
Taft
Talmadge
Tower
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Stone). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1977—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 15193, making appropriations for the government of the District of Columbia.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from West Virginia (Mr. Randolph), the Senator from Mississippi (Mr. Stennis), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Montana (Mr. Mansfield), the Senator from Ohio (Mr. Glenn), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 69, nays 0, as follows:

[Rollcall Vote No. 623 Leg.]

YEAS—69

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fong
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Thurmond
Weicker
Williams
Young

NAYS—0

NOT VOTING—31

Baker
Bayh
Beall
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Church
Dole
Fannin
Ford
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Johnston
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Pell
Randolph
Stennis
Taft
Talmadge
Tower
Tunney

So the conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$259,797,400".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert: "$84,453,300".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$36,586,700".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ", exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Title II—Department of Transportation Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

Mr. CHILES. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate in disagreement numbered 3, 6, 16, 48, and 60.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed without amendment the following bills:

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiwo County, Okla.;

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953;

S. 2286. An act to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.; and

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

The message also announced that the House has passed the bill (S. 3095) to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1414) to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

The enrolled bills was subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 6:20 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following bills:

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953.

S. 2286. An act to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

H.R. 14973. An act to provide for acquisition of lands with the international Tijuana River flood control project, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL— (S. Doc. No. 94-256)

A letter from the Comptroller General reporting on deferral No. D-76-54B contained in the President's 21st special message for fiscal year 1976; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Labor and Public Welfare, and ordered to be printed.

REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General transmitting a list of reports of the General Accounting Office of the month of August 1976 (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE HOOVER INSTITUTION OF WAR, REVOLUTION AND PEACE

A letter from the Secretary of the Treasury transmitting the report on the expenditure of funds received by the Hoover Institution on War, Revolution and Peace (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petition, which was referred as indicated:

A resolution adopted by the South Central Louisiana Council of Chambers of Commerce relating to the policy of the Federal Energy Commission in regulating energy; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

S. 3819. A bill for the relief of Commander Edward White Rawlins, U.S. Navy (retired) (Rept. No. 94-1268).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 547. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1302 and H.R. 13555 (Rept. No. 94-1269).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with amendments:

S. 3204. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness (title amendment) (Rept. No. 94-1270).

By Mr. MORGAN, from the Committee on Public Works:

S. Res. 560. An original resolution waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of H.R. 14360, an act amending the John F. Kennedy Center Act to authorize funds for repairs.

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Rept. No. 94-1271).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

The following-named persons to be Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

William W. Scranton, of Pennsylvania.

W. Tapley Bennett, Jr., of Georgia.

George McGovern, U.S. Senator from the State of South Dakota.

Howard H. Baker, Jr., U.S. Senator from the State of Tennessee.

Rev. Robert P. Hupp, of Nebraska.

The following-named persons to be Alternate Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

Albert W. Sherer, Jr., of Illinois.

Jacob M. Myerson, of South Carolina.

Nancy V. Rawls, of Georgia.

Stephen Hess, of the District of Columbia.

ERSA Hines Poston, of New York.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. SPARKMAN. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 9, 1976, at the end of the Senate proceedings.)

By Mr. PASTORE, from the Committee on Commerce:

Louis P. Terrazas, of Texas; Clyde M. Reed, of Kansas; and Charles W. Roll, Jr., of New Jersey, to be members of the Board of Directors of the Corporation for Public Broadcasting.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 21, 1976, he presented to the President of the United States the following enrolled bill:

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McINTYRE:

S. 3837. A bill for the relief of Lewis & Saunders, Incorporated. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 3838. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. THURMOND:

S. 3839. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery. Referred to the Committee on Veterans' Affairs.

By Mr. TAFT:

S. 3840. A bill for the relief of Wing Fai Yan. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 3841. A bill for the relief of Alaska Methodist University in Anchorage, Alaska. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 3842. A bill to amend title 38 of the United States Code relating to condominium home loans. Referred to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McINTYRE:

S. 3837. A bill for the relief of Lewis & Saunders, Incorporated. Referred to the Committee on the Judiciary.

Mr. McINTYRE. Mr. President, I introduce for appropriate reference a bill for the relief of Lewis and Saunders, Inc., of Laconia, N.H.

I would like to make some brief comments regarding the purpose of this legislation.

Lewis and Saunders, Inc., is a very fine, small business engaged in the precision bending, coiling, welding, and other fabrication of metal tubing.

This company has performed work for companies throughout the country and it has done much work which has gone into our defense structure.

Lewis and Saunders had a subcontract with Murdock Machine and Engineering Co. of Utah. This contract was to provide supplies for the U.S. Navy. After carrying out its responsibility under this contract Lewis and Saunders found that Murdock had gone bankrupt and left this small business holding a $91,914.27 commitment from Murdock.

I contacted the Small Business Administration, the Senate Select Committee on Small Business, the Navy Department, and others. No relief for Lewis and Saunders is available through the Small Business Emergency Relief Act or other procedures. I believe this is unfair to a small business attempting to do its part in our defense effort. I believe it is not right that Lewis and Saunders should suffer because the prime contractor has failed.

I realize that $91,000 does not seem a large amount of money but to one of our Nation's small businesses this can be the difference between profit and loss. We have had enough losses to our small businesses. We must begin to put a stop to it.

I urge early, and I hope, serious consideration can be given this bill.

By Mr. BIDEN:

S. 3838. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. BIDEN. Mr. President, I am today introducing a bill to regulate the practices of independent debt collectors. This legislation would add a new title to the Consumer Credit Protection Act, and resembles H.R. 13720 which has been carefully considered and passed by the House. Although, because of the press of Senate business, we will be unable to act on the bill this year, its introduction now will serve notice of my intent to pursue this subject early in the 95th Congress, and will permit interested parties to review and comment on the proposed law.

My bill addresses the problems of harassment, threats, misrepresentation, and invasion of privacy which are too often associated with the practices of professional debt collectors. These are the people who undertake to collect overdue accounts for others, and who sometimes prey upon the fear and ignorance of vulnerable consumer debtors in efforts to milk the last possible nickel of repayment. The bill specifies the nature and number of contacts which debt collectors may have with the consumer and with others, and prohibits a whole array of harassing, deceptive, and unfair collection techniques. It also bars certain of the procedural gimmicks debt collectors often use when they take a debtor to court.

The bill calls for primary enforcement by the Federal Trade Commission, and complementary enforcement powers are given to individual consumers and State law enforcement officials.

Like the House bill, this legislation deals exclusively with the independent, third-party debt collection agency, and does not directly regulate the practices of the creditor who originates the debt or who undertakes his own collection efforts. This distinction is both understandable and appropriate. The independent collectors, by common practice, are recognized as a separate industry. They have no particular concern for maintaining good customer relations with the debtors they pursue. And, above all, the independent collectors generate a disproportionate number of the complaints about collection practices.

Mr. President, it is critical that the American public understand the purpose and need for this legislation. The House hearings, and my own investigation, have documented some intolerable collection practices engaged in by third-party debt collectors:

Constant harassment of the consumer debtor by phone calls at all hours of the day and night, at home and at work;

Foul, insulting and abusive language;

Devious tricks used to get friends and neighbors to provide information about the debtor; Outright impersonation of government officials, either by oral statements or by the use of sham "official" documents;

Threats of bodily harm, or arrest, or of publication of the consumer's financial plight;

Tacking unauthorized charges onto the balance owing;

Taking postdated checks and then depositing them before the due date in order to threaten criminal prosecution;

Using aliases or "desk names" so that consumers can never identify the individual collector.

These are the kinds of practices at which this bill is aimed. I believe it is imperative that we pass legislation to curtail these practices, and here is why:

The States have failed to provide adequate protection in this area. Data compiled in the House indicates that only 37 States have any legislation at all dealing with debt collection practices, and a number of these jurisdictions have only modest licensing laws which contain no limitations on collection practices. A number of supposed State regulatory bodies are made up dominantly of collectors themselves.

My own home State of Delaware, I am sorry to say, does not even have a licensing requirement for debt collectors. Yet of 60 companies whose collection practices generated complaints to the Consumer Protection Division in Wilmington, 33 were independent collectors. There is a civil case now pending in Delaware in which a widow is suing certain collectors on grounds her husband was literally hounded to death for a $20 debt.

Some of the worst practices are effectively beyond State's control where the collector works from outside the jurisdiction—by phone, letter, or telegram. Thus the authorities in the consumer's State are powerless to reach the offending collector. This interstate dimension of the problem itself justifies Federal action.

My contact with the offices of several State attorneys general, and State consumer protection offices, indicate that there is support for Federal legislation in those States which have strong collection practices laws as well as in those which have none. In the former, a Federal law will enhance local efforts and assure control over interstate collection practices; in the latter it will fill a void and take some pressure off of the bankruptcy courts and the consumer debt counsellors who have been the only ones to give solace to consumers targeted by unscrupulous collectors.

On any scale of human values, the practices addressed in this bill ought to offend our sensibilities. And we ought to note that the consumers who are the beneficiaries of this bill are human beings, entitled to human dignity and compassion in what are often financial difficulties beyond their control.

Some will say that this bill provides a haven for deadbeats. I do not believe it. As prestigious a group as the recent Bankruptcy Commission concluded that few consumers intentionally avoid their legitimate debts. Rather, their delinquencies follow from industry layoffs, from unexpected medical bills, or from good faith disputes over the obligation itself. Professor Caplovitz, in his landmark study of "Debtors in Default," concludes that a good measure of the resistance to debt collectors arises from anger at their collection techniques. Indeed it defies belief to think that the true deadbeat would be complaining of collection methods. But until our society can assure its members stable employment, adequate health care, and high quality goods and services, I believe that society must exhibit some compassion for the debtor in trouble.

I applaud my colleagues in the House, and particularly the distinguished chairman of its Consumer Affairs Subcommittee, for taking the lead on this legislation. But I believe there are additional provisions needed to make this the best possible law, and for this reason my bill differs somewhat from the House bill. For example, it makes clear that it applies to both pre-judgment and to post-judgment collection practices; it adds several specific items to the list of prohibitions—for example, threats to destroy credit ratings, and refusals to accept good-faith partial payments—and it flatly prohibits the taking of post-dated checks.

My bill also would apply to all collectors who use any instrumentality of interstate commerce—the phone and the mail, particularly. This aspect of my bill corrects what I believe is an unfortunate loophole in the House version: H.R. 13720 does not apply to collectors who do substantially all their work within one State. That exception means that one-State collectors are more favorably treated than others. It also creates an inducement for collectors to avoid this law by incorporating separately in each State and thus artificially limiting their activities to that State. Just as the Truth in Lending Act applies to all credit transactions, this bill should cover all collection practices.

More substantively, my bill provides for joint liability on the part of the creditor who assigns the debt for collection where that creditor has reason to know that the debt collector engages in unlawful practices. I believe this provision is particularly important, for it forces the original creditor to exercise care and oversight in the selection of the debt collectors he uses.

My bill also permits enforcement of its provisions by State and local officials authorized to do so under the State law. This limited "parens patriae" idea adds a useful dimension to the enforcement structure under the act, for local officials may be better able to deal with those small, one- or two-person collection agencies, perhaps operating out of a private home—agencies which might escape supervision by the Federal Trade Commission.

Mr. President, I look forward to receiving comments and critiques on this legislation and I hope that the Banking Committee and the full Senate will be able to act expeditiously on it next year.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—DEBT COLLECTION PRACTICES

"Sec.
"801. Short title.
"802. Definitions.
"803. Acquision of location information.
"804. Communication in connection with debt collection.
"805. Harassment or intimidation.
"806. False or misleading representation.
"807. Unfair practices.
"808. Validation of debts.
"809. Multiple creditors.
"810. Legal actions by debt collectors.
"811. Civil liability.
"812. Criminal liability.
"813. Administrative enforcement.
"814. Reports to Congress by the Commission and Attorney General.
"815. Relation to State laws.
"816. Exemption for State regulation.
"817. Effective date.

"§ 801. Short title

"This title may be cited as the 'Debt Collection Practices Act'.

"§ 802. Definitions

"(a) The definitions set forth in this section are applicable for purposes of this title.

"(b) The term 'Commission' means the Federal Trade Commission.

"(c) The term 'consumer' means any individual oligated or allegedly obligated to repay any debt.

"(d) The term 'creditor' means any person who offers or extends credit creating a debt or to whom a debt is owed.

"(e) The term 'debt' means any obligation to pay money arising out of a transaction in which credit is offered or extended to an individual, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

"(f) The term 'debt collector' means any person who engages in any business the principal purpose of which is the collection of any debt or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, and who uses any instrumentality of interstate commerce in connection with such collections. The term includes a person who furnishes or offers to furnish forms or a written demand service represented to be a collection technique, device, or system to be used to collect debts, if the forms or other writing contain the name of a person other than the creditor in a manner indicating that a request or demand for payment is being made by a person other than the creditor even though the form directs the consumer to make payments directly to the creditor rather than to the other person whose name appears on the form. The term does not include any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties, or any attorney acting in a professional capacity on behalf of a client.

"(g) The term 'location information' means, with respect to any individual, his place of abode, his telephone number at such place, and his place of employment.

"(h) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

"(i) The term 'communication' means conveying information directly or indirectly to any person through any medium, except that with respect to section 804(a)(3), the term 'communication' means actual contact with the consumer which includes a brief statement in any manner of the present intentions of the consumer with respect to the repayment of the debt. The term does not include conveying information—

"(A) to a consumer reporting agency as defined in the Fair Credit Reporting Act, or

"(B) to an employer of the consumer in the course of garnishment or other post-judgment judicial proceedings.

"§ 803. Acquisition of location information

"(a) No debt collector may, in connection with the collection of any debt, communicate other than by telephone, mail, or telegram with any person for purposes of acquiring location information about any consumer.

"(b) Any debt collector communicating with any person for the purpose of acquiring, location information about any consumer shall—

"(1) identify himself and, if expressly requested, his employer;

"(2) not state that such consumer owes any debt;

"(3) not communicate with such person more than once unless expressly requested to do so by such person, except for one additional communication to reconfirm location information;

"(4) not communicate by post card or similar device;

"(5) not use any language or symbol, other than the debt collector's address, on any envelope when using the mail or telegrams, except a debt collector may use his company name provided that such name does not indicate that the company is in the debt collection business;

"(6) not use any language or symbol in the contents of mail or telegrams that indicates that the communication relates to the collection of a debt, other than the identification of the person as a debt collector; and

"(7) not communicate with any person pursuant to this section, once the debt collector knows the consumer is represented by an attorney.

"§804. Communication in connection with debt collection

"(a) Communication With the Consumer Generally.—No debt collector may initiate communications with a consumer in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) before 8 antemeridian or after 9:00 postmeridian or at any unusual time or time known to be inconvient to the consumer;

"(2) after the initial communication, if the debt collector knows the consumer is represented by an attorney, unless such attorney is unjustifiably nonresponsive to communication from such debt collector; or

"(3) after the initial communication, more than two times during any seven-calendar-day period.

"(b) Communication With the Consumer at the Place of Employment.—Without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) no debt collector may communicate with a consumer in connection with the collection of any debt at the place of employment of the consumer more than one time; or

"(2) if the debt of a consumer is in the amount of $100 or more, and such debt is at least sixty days overdue, and if the consumer has not furnished the creditor with a telephone number where the consumer can be reached during the consumer's non-working hours, after 8 antemeredian and before 9 postmeridian, no debt collector may communicate with a consumer in connection with the collection of any debt more than twice in any thirty-day period at the place of employment of the consumer.

"(c) Communication With Third Parties.—Except as provided in section 803 with regard to location information, no debt collector may communicate with any person other than the consumer or his attorney in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction.

"(d) Ceasing Communication.—When a consumer absolutely refuses to pay or even discuss an account a debt collector shall cease further direct collection efforts with the exception of advising the consumer that the collector's further efforts are being terminated and that there is a possibility of an attorney invoking the creditor's remedies locally available.

"(e) For purposes of subsections (a), (b), (c), and (d), the term "consumer" shall include the consumer's spouse, parent (if the individual is a minor), guardian, executor, or administrator.

"(f) PLEADINGS AND PROOF.—In any action brought by a consumer against a debt collector for failure to comply with this section, it shall be the duty of the consumer to plead both the existence of a communication from the debt collector and the lack of consent of the consumer thereto, and to make a prima facie showing that the communication took place and that there was no such consent. A prima facie showing that consent was not obtained may consist of testimony by the consumer. Upon such a prima facie showing, the burden of going forward shall be with the debt collector.

"§ 805. Harassment or intimidation

"No debt collector may harass or intimidate or threaten or attempt to harass or intimidate any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of abusive or profane language.

"(3) The publication of a list of consumers who allegedly refuse to pay debts.

"(4) The advertisement for sale of any debt to coallegedly refuse to pay debts.

"(5) Any communication to acquire location information about a consumer if the debt collector has such information or does not reasonably believe that the person contacted has access to such information.

"(6) The making of harassing or threatening phone calls or visits to the home or place of employment of a consumer or his spouse or calling any person repeatedly or constantly.

"§ 806. False or misleading representation

"No debt collector may make or threaten or attempt to make any false or misleading representation to any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) Any false representation indicating that the debt collector is acting for or on behalf of the United States or any State, including the use of any badge, uniform, or any facsimile thereof of any law enforcement agency.

"(2) The false representation of—

"(A) the character, amount, or legal status of any debt; or

"(B) any services rendered or compensation which may be received by any debt collector for the collection of a debt.

"(3) The false representation that any individual is an attorney.

"(4) The false representation that nonpayment of any debt will result in the arrest or imprisonment of any consumer or the seizure, garnishment, attachment, or sale of any property or wages of any person.

"(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

"(6) The false representation that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

"(A) lose any defense to payment of the debt; or

"(B) become subject to any practice prohibited by this title.

"(7) The false representation that the consumer committed any crime or other conduct in order to disgrace the consumer.

"(8) The false statement to any person (including any consumer reporting agency) that a consumer is willfully refusing to pay a debt.

"(9) The false representation that any writing (including any seal, insignia, or envelope) is authorized, issued, or approved by any court or agency of the United States or any State.

"(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

"(11) The false representation that any person is seeking information in connection with a survey.

"(12) The false representation that any person has a pre-paid package for the consumer.

"(13) The false representation that a sum of money or valuable gift will be sent to the addressee if the requested information is presented.

"(14) The false representation that accounts have been turned over to innocent purchasers for value.

"(15) The false representation that any debt has been turned over to an attorney.

"(16) The false representation that documents are legal process forms.

"(17) The use in any communication by any debt collector or his employees or agents of any alias or fictitious name.

"(18) The false representation that the debt collector will communicate adverse credit information to any person.

"§ 807. Unfair practices

"No debt collector may engage in the following practices with respect to any person in connection with the collection of any debt:

"(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) by such debt collector unless such amount is expressly authorized by the agreement creating the debt and is legally chargeable to the consumer, or unless such amount is expressly authorized by a court of competent jurisdiction.

"(2) The solicitation or acceptance by a debt collector from a consumer of any check or other payment instrument that is postdated more than three days.

"(3) Except as otherwise provided for communications to acquire location information under section 803—

"(A) The use or causing to be used in a debt collector's behalf in connection with the collection of any debt, of any forms, letters, questionnaires, other printed or written material, or other forms of communication which do not clearly and conspicuously disclose that such are used for the purpose of collecting or attempting to collect a debt or to obtain or attempt to obtain information concerning a consumer.

"(B) The placement in the hands of others for use in connection with the collection of any debt, of any forms, letters, of questionnaires or other printed or written material which do not clearly and conspicuously re- which do not clearly and conspicuously repose of collecting or attempting to collect a debt or to obtain information concerning a consumer.

"(4) The selling of any debt collection related form to any person who is not a debt collector.

"(5) The refusal by any debt collector to accept any good faith tender of a partial payment, except that such acceptance alone shall not constitute a waiver of any rights of the debt collector.

"(6) Causing charges to be made to the consumer for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

§ 808. Validation of debts.

"Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall send the consumer a written notice containing the following information:

"(1) The amount of the debt.

"(2) The name and address of the creditor to whom the debt was originally owed as it appeared in the original credit agreement and the name of the creditor to whom the debt is currently owed.

"(3) A statement that unless the consumer, within thirty days, disputes the validity of the debt, or any portion thereof, the debt will be assumed as valid by the debt collector.

"(4) If the consumer notifies the debt collector in writing within the thirty-day period that the debt is disputed, the debt collector shall cease collection of the debt until such debt collector obtains certification of the validity of the disputed portion of the debt from the creditor and a copy of such certification is mailed to the consumer by the debt collector.

§ 809. Multiple creditors.

"If any consumer owes debts to more than one creditor and makes any single payment to any debt collector with respect to such debts, such debt collector shall not apply such payment to any debt disputed by such consumer.

§ 810. Legal actions by debt collectors.

"(a) A debt collector shall not bring any action on a debt against any consumer—

"(1) in the case of any action to enforce an interest in real property securing the consumer's obligation, in a court that does not have jurisdiction in the judicial district or similar appropriate legal entity in which such real property is located; or

"(2) in the case of any action not described in paragraph (1), in a court that does not have jurisdiction in the judicial district or similar appropriate entity—

"(A) in which such consumer signed the contract sued upon; or

"(B) in which the consumer resides at the commencement of the action.

"(b) A debt collector shall not cause process in any action on a debt to be served on a consumer unless such process is served—

"(1) by an officer or employee of the United States or any State in the course of the official duties of such officer or employee;

"(2) by an individual appointed or approved by the appropriate court for that purpose; or

"(3) by an individual authorized to serve process under the State law in which process is to be served.

"(c) A debt collector shall not utilize, in connection with the collection of any debt, any officer or employee of the United States or any State whose duties include the service of legal papers, except in the course of such duties.

"§ 811. Civil liability

"(a) Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of such failure;

"(2) (A) in the case of any action by any individual, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this paragraph shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the debt collector; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of award in any class action under subsection (a)(2) (B), the court shall consider, among other relevant factors, the frequency and persistence of failures of compliance by the debt collector, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's failure of compliance was intentional.

"(c) A debt collector may not be held liable in any action brought under this title if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the violation occurs.

"(e) No provision of this section or section 812 imposing any liability shall apply to any act done or omitted in good faith in conformity with any interpretation thereof by the Commission, notwithstanding that after such act or omission has occurred, such interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(f) Any action which may be brought under this section against any debt collector may also be brought against the creditor who assigned, sold, or otherwise transferred to the debt collector his right to collect the debt out of which the action arose, if, at the time of such assignment, sale or transfer the creditor has knowledge or, from his course of dealing with the debt collector, notice of substantial complaints by consumers of the debt collector's failure to comply with any portion of this title. Provided that:

"(1) Any aggrieved person shall be entitled to but one recovery of the damages permitted under this section; and

"(2) The creditor and the debt collector shall have rights of contribution with respect to each other.

"§ 812. Criminal liability

"Whoever willfully and knowingly—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 813. Administrative enforcement

"(a) Compliance with this title shall be enforced by the Commission. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed a violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title.

"(b) Compliance with the requirements of this title may also be enforced by any state officials having such functions and powers under state law.

"§ 814. Reports to Congress by the Commission and Attorney General

"Not later than twelve calendar months after the effective date of this title and at one year intervals thereafter, the Commission and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Commission and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken by the Commission under section 813 of this title.

"§ 815. Relation to State laws

"This title does not annul, after, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collecting practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

"§ 816. Exemption for State regulation

"The Commission shall by regulation exempt from the requirements of this title any class of debt collection practices within any State if the Commission determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 817. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment, and section 808 shall apply only with respect to debts for which the initial attempt to collect occurs after such effetive date.".

By Mr. THURMOND:

S. 3839. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery. Referred to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, recently one of my constituents contacted me concerning his mother's request to be buried next to his father in a military cemetery. This was an unusual situation. His father had died in 1940 and was buried in a church cemetery. Since that time, Fort Jackson annexed this property and made it a post cemetery. Since this cemetery is now a military cemetery, this lady could not be buried next to her husband because she did not meet the requirements spelled out in the provisions of an act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes," (62 Stat. 234; 24 U.S.C. 281). A private relief bill had to be passed to allow this lady to be buried next to her husband.

I am sure there are other individuals in this same situation at Fort Jackson and other areas across the country. I do not believe a private relief bill should have to be passed in each such instance. For this reason, I am introducing this bill which would allow any surviving spouse of a person buried in a post cemetery or the post section of a national cemetery located in the United States or any Territory of the United States to be buried in the gravesite or the adjoining gravesite of such person.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 3841. A bill for the relief of Alaska Methodist University in Anchorage, Alaska. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. STEVENS. Mr. President, I am today introducing legislation to give the Alaska Methodist University in Anchorage, Alaska, greater flexibility to function as an independent university. This bill would grant AMU forgiveness on indebtedness to the Department of Housing and Urban Development for service payments on the dormitories and the student union building.

Alaska Methodist University was founded in 1959. It is a small accredited university emphasizing studies in the liberal arts, business administration, and nursing. AMU is located on 505 acres and consists of eight buildings, including three dormitories that house about 165 students and a student union building. AMU is the only 4-year independent university located in the entire State of Alaska.

Alaska Methodist University is presently undergoing a complete reorganization which is quite unique in higher education in America. Faced with extreme financial difficulties, AMU has zealously begun to reorganize and plan for a new future as an effective postsecondary institution.

Presently AMU is about 2 years delinquent in meeting HUD payments on the dormitories and the student center building. If AMU is to survive as a viable, and most of all, independent university, it must be allowed the flexibility to plan with a clean slate. If not, its future will be highly doubtful. In fact without this flexibility, the university would almost assuredly be forced to close its doors as an independent institution.

Mr. President, I would like to emphasize that AMU has the ability to continue functioning as an educational entity. Administratively, AMU is in the process of reorganizing its fiscal management affairs. Furthermore, there is the desire among Alaskans to see the continued operation of the only independent university in the State's largest city and population center. AMU is close to the lives of many Anchorageites and public opinion toward the university is very supportive.

No other State has as many unmet education needs as does Alaska. We have the opportunity to see that these needs are developed. This bill that I am introducing today will be a great step toward helping to meet the higher education needs for the present and the future.

I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall cancel the unpaid principal amount, together with any accrued interest, of the obligation of Alaska Methodist University in Anchorage, Alaska, to the United States insofar as such obligation applies to the construction or purchase of the student union building and dormitories of such University.

By Mr. MATHIAS:

S. 3842. A bill to amend title 38 of the United States Code relating to condominimum home loans. Referred to the Committee on Veterans' Affairs.

Mr. MATHIAS. Mr. President, I am introducing today a bill to permit the Veterans' Administration to guarantee home mortgages for the purchase of homes converted to condominiums.

Presently the VA will only guarantee home loans for new condominiums and not condominium conversions. This is an inequitable situation which excludes from VA guarantee many substantial homes and apartment buildings which have been converted from rental to the condominium form of ownership.

The apparent reason for excluding condominium conversions from VA loan eligibility was an interpretation by VA that it was not the congressional intent to permit VA loans for condominium conversions. This bill serves to correct this mistaken impression.

Mr. President, I need not reiterate the numerous statistics on our inflationary housing market and the fact that three-fourths of our Nation's families cannot afford the median-priced new home today. The condominium form of homeownership offers one way for some of those people to participate in homeownership because frequently the financing terms and sales price are less expensive than the terms for a conventional fee simple house.

As of March 1975, there were 125,000 condominium conversions in the country, most of them concentrated in the Boston-Washington corridors. This is less than 10 percent of the total housing stock nationwide.

Nevertheless, Mr. President, they are a housing resource which should be made available with all of the financing and ownership options available which are also available for the purchase of a conventional home.

Many of our veterans have not been able to afford a home and are presently renters. This bill would provide them with the one homeownership option which could make owning a home within their financial means.

ADDITIONAL COSPONSORS

S. 1634

At the request of Mr. ROBERT C. BYRD (for Mr. MONDALE), the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1634, to amend the Immigration and Nationality Act.

S. 3759

At the request of Mr. Moss, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3759, the Earth Resources Information Satellite Systems Act of 1976.

AMENDMENT NO. 2302

At the request of Mr. METCALF, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of amendment No. 2302, intended to be proposed to the bill (S. 2849), the Investment Advisers Amendments Act.

SENATE RESOLUTION 559—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF H.R. 10760

(Referred to the Committee on the Budget.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 559

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 10760, the "Black Lung Benefits Reform Act of 1976." Such waiver is necessary because the bill includes two provisionsns authorizing appropriations for fiscal year 1977. In section 6(a) of the bill, proposed section 424(d)(1) of the Federal Coal Mine Health and Safety Act authorizes the appropriation of "such sums as may be necessary to provide the funds with advance amounts which the Secretary estimates are necessary for the payment of benefits pursuant to section 424(a)(2) and expenses of operation and administration of the fund under this section." The "fund" is the Black Lung Disability Fund which, after repayable advaces are made by appropriations, will be supported entirely by assessments on coal mine operators.

Section 7(f) of the bill continues for reach fiscal year a $10 million authorization of appropriations for black lung clinical facilities under section 427(c) of the Federal Coal Mine Health and Safety Act. Under current law appropriations have been authorized for three fiscal years—1973, 1974 and 1975.

The Black Lung Benefits Program (title IV of the Federal Coal Mine Health and Safety Act) is an entitlement program. Both the House-passed bill (H.R. 10760) and the Senate measure (S. 3183), propose to continue such program with modifications, including the establishment of a trust fund to insure the transfer of residual liability for the non-Federal part of the program (part C) from the Department of Labor to the coal mining industry. Although little new Federal financial responsibility remains in the bill reported by the Committee on Labor and Public Welfare, entitlements to benefits under the trust fund remain with respect to claims allowed under part C.

Therefore, H.R. 10760 as reported by the Committee on Labor and Public Welfare contains both authorizations of appropriations for new budget authority for fiscal year 1977, under section 401(c)(2)(C) of the Congressional Budget Act of 1974.

Since section 303(a) of the Congressional Budget Act of 1974 provides that it is not in order for either House to consider any measure providing new spending authority until adoption of the First Concurrent Resolution; since H.R. 10760 is in primary purpose a bill providing new spending authority; and since H.R. 10760 as reported by the Committee on Labor and Public Welfare is collaterally a bill providing authorization for new budget authority, a waiver of section 402(a) of the Congressional Budget Act of 1974 is required.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 10760 as reported by the Committee on Labor and Public Welfare.

Mr. RANDOLPH. Mr. President, I submit a resolution waiving certain provisions of the Congressional Budget Act of 1974 with respect to authorizations of appropriations contained in H.R. 10760, the Black Lung Benefits Reform Act of 1976, as reported by the Committee on Labor and Public Welfare, and I understand that the resolution will be referred to the Committee on the Budget.

I ask unanimous consent that a letter from the chairman of the Committee on the Budget (Mr. MUSKIE), dated May 25, 1976, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., May 25, 1976.

Hon. JENNINGS RANDOLPH,
Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR JENNINGS: This letter is in response to your inquiry concerning the procedural sections of the Budget Act which might have an impact upon the consideration of the Black Lung legislation on which you and the subcommittee have been working.

Both H.R. 10760, as passed by the House, and S. 3183, as introduced, provide for new entitlements in both the Part B and Part C sections of the Black Lung Benefits program.

Section 401(b)(1) of the Budget Act provides that it shall not be in order in the Senate to consider any bill or resolution creating new entitlements which are to become effective "before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported." Therefore, if the Black Lung reform legislation is to avoid being subject to a point of order under this section of the Budget Act, these new entitlements cannot become effective before October 1, 1976.

In addition, section 401(b)(2) of the Budget Act provides that the Black Lung legislation may have to be referred to the Senate Appropriations Committee if the estimated new budget authority for Black Lung benefits exceeds the level of new budget authority allocated to the Labor Subcommittee by the Committee on Labor and Public Welfare under section 302(b) of the Budget Act. This section provides that as soon as practicable after a concurrent resolution on the budget is agreed to, each committee of the Senate to which an allocation of spending authority was made in the Joint Explanatory Statement accompanying the Conference Report shall "subdivide such allocation among its subcommittees or among programs over which it has jurisdiction."

The Joint Explanatory Statement accompanying S. Con. Res. 109, the First Concurrent Resolution on the Budget for Fiscal Year 1977, allocated a total of $3.2 billion of new budget authority to the Senate Labor and Public Welfare Committee for entitlement programs. The Black Lung legislation will therefore have to compete with other existing and new entitlement programs within the jurisdiction of the Labor and Public Welfare Committee for the limited amount of new budget authority allocated in the First Concurrent Resolution on the Budget. If the projected new budget authority for the Black Lung benefits exceeds the remaining amount of budget authority allocated to the program pursuant to Section 302(b) by the Labor and Public Welfare Committee, then the Black Lung legislation would have to be referred to the Appropriations Committee for a period up to 15 days. The Appropriations Committee would have jurisdiction under Section 401(b)(3) of the Budget Act to report the legislation with an amendment limiting the total amount of new spending authority provided in the legislation.

Finally, both H.R. 10760 and S. 3183 contain some provisions authorizing the enactment of new budget authority for fiscal 1977. Section 402(a) of the Budget Act provides that it shall not be in order in the Senate to consider any bill or resolution authorizing the enactment of new budget authority for a coming fiscal year unless the bill or resolution is reported on or before May 15 preceding the beginning of such fiscal year.

A waiver procedure in the Senate is available under Section 402(c) of the Budget Act in which the committee reporting a bill after the May 15 deadline may also report a resolution to the Senate waiving Section 402(a) of the Budget Act with respect to the consideration of such bill or resolution and stating the reasons why the waiver is necessary. This resolution is then referred to the Senate Budget Committee which has 10 days in which to report the resolution, accompanied by the Budget Committee's recommendations and reasons for such recommendations.

I hope that this discussion clarifies the applicability of the Congressional Budget Act to the Black Lung Benefits Reform Act of 1975.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.

SENATE RESOLUTION 560—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 14360

(Referred to the Committee on the Budget.)

Mr. **MORGAN**, from the Committee on Public Works, reported the following resolution:

S. RES. 560

Resolved, That the prohibition of section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing the enactment of new budget authority for a fiscal year if such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the bill to amend the John F. Kennedy Center Act (H.R. 14360) reported by the Committee on Public Works on September 17, 1976. The waiver is necessary for the Senate to complete action on legislation which provides an authorization of $3 million to the Secretary of Interior for repairs to the roof and terrace areas of the Kennedy Center.

The authorization of funds in H.R. 14360 was not taken into consideration in the March 15 report to the Senate Budget Committee by the Public Works Committee because such funding was not anticipated at that time. This reported bill provides for emergency funding for repairs to the roof and other areas at the Kennedy Center which need repair to prevent substantial damage to the interior of the building.

SENATE RESOLUTION 561—SUBMISSION OF A RESOLUTION RELATING TO THE MURDERS OF ORLANDO LETELIER AND RONNI KARPEN MOFFITT

(Referred to the Committee on the Judiciary.)

Mr. **KENNEDY** (for himself, Mr. ABOUREZK, and Mr. HUMPHREY) submitted the following resolution:

S. RES. 561

Whereas, the United States has always opened its doors to refugees from countries suffering from tyranny; and

Whereas, acts of violence and terrorism are the ultimate attack against democracy and against legitimate democratic expression; and

Whereas, on September 21, 1976, Orlando Letelier, former Foreign Minister, Defense Minister, and Ambassador to the United States of the elected government of Chile, and Ronni Karpen Moffitt, administrative assistant at the Institute for Policy Studies in Washington, D.C., were brutally murdered and Michael Moffitt of the Institute was injured by a bomb placed by terrorists, Now, therefore be it

Resolved, That the Senate of the United States condemns the brutal and senseless murders of Orlando Letelier and Ronni Karpen Moffitt and the serious injury of Michael Moffitt, and urges a complete and thorough investigation by Federal authorities of the circumstances surrounding the bombing.

AMENDMENTS SUBMITTED FOR PRINTING

VETERANS' EDUCATION AND EMPLOYMENT ASSISTANCE ACT—S. 969

AMENDMENT NO. 2333

(Ordered to be printed and to lie on the table.)

Mr. **DURKIN** submitted an amendment intended to be proposed by him to the bill (S. 969) to amend chapter 34 of title 38, United States Code to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 34 from 36 to 45 months.

AMENDMENT NO. 2334

(Ordered to be printed and to lie on the table.)

Mr. **DURKIN** (for himself, Mr. CLARK, Mr. EASTLAND, Mr. MATHIAS, Mr. HUGH SCOTT, and Mr. ALLEN) submitted an amendment intended to be proposed by them jointly to the bill (S. 969), supra.

AMENDMENT NO. 2335

(Ordered to be printed and to lie on the table.)

Mr. **DURKIN** (for himself, Mr. TAFT, Mr. MATHIAS, and Mr. HUGH SCOTT) submitted an amendment intended to be proposed by them jointly to the bill (S. 969), supra.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976—H.R. 10210

AMENDMENT NO. 2336

(Ordered to be printed and to lie on the table.)

Mr. **BELLMON** submitted an amendment intended to be proposed by him to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax, and for other purposes.

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENTS NOS. 2337 THROUGH 2345

(Ordered to be printed and to lie on the table.)

Mr. **NELSON**. Mr. President, the Senate Public Works Committee has reported S. 3823 to the Senate. This omnibus rivers and harbors bill contains in section 4 authorization for replacement of Locks and Dam No. 26 on the Mississippi River near Alton, Ill.

I am strongly opposed to section 4 of this bill for five major reasons.

First, every fact involving the engineering, economic, and environmental affects of this replacement project is in dispute. A clear record has not been developed.

Second, there is no need to authorize now. While the dam is old and in need of either repair or replacement, according to the Corps own engineering reports, the structure is stable and is in no imminent danger of failure.

Third, four expert Federal agencies—the Environmental Protection Agency, EPA; the President's Council on Environmental Quality, CEQ; the Department of the Interior, DOI; and the Department of Transportation, DOT—have all recommended that Congress defer action on this replacement until more information is available. CEQ has recommended that action on the proposed replacement be deferred until the pending NEPA litigation has been concluded and the adequacy of the impact statement has been determined. These expert Federal agencies have been joined by the State of Wisconsin, the Illinois Department of Transportation, the Minnesota Department of Natural Resources, and the Minnesota Pollution Control Agency in asking that no action be taken at this time.

Fourth, the General Accounting Office's evaluation of engineering alternatives requested by the Water Resources Subcommittee is not available. It is scheduled for completion in approximately 30 days.

Fifth, because S. 3823 is not assumed by the second concurrent budget resolution, the authorization will not become effective until October 1, 1977, a full year from now. Under present law, the Corps will be prohibited from spending any money on this project until then. Given the significance of the issues in dispute, it makes no sense to authorize a project that cannot be funded for a year.

Section 4 should be stricken from the bill and the question of Locks and Dam No. 26 reconsidered during the first session of the 95th Congress. I submit an amendment (No. 2337) together with the Senator from Colorado (Mr. GARY HART) to strike section 4 of S. 3823.

I ask unanimous consent that the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2337

On page 13, line 8,

(a) Strike everything after "Sec. 4(a)" through "section." on page 19, line 24;

(b) Renumber subsequent sections accordingly.

AMENDMENT No. 2338

On page 13, line 15,

(a) After the words "March 15, 1976," add the following: "provided that the lower lock sill elevation of said lock shall be 12 feet (383.0) below minimum tailwater elevation (395.0) and that the upper sill elevation of said lock shall be 12 feet (402.0) below minimum pool drawdown, elevation 414.0,"

AMENDMENT No. 2339

On page 15, line 7,

(a) After "July 1, 1980," add a period, "." and strike "and" on line 8 through "State." on line 9;

(b) Insert after "1980." the following:

"Public participation in the development, revision, and enforcement of said plan established by the Council under Section 4(d)(2) of this Act shall be provided for, encouraged, and assisted by the Council. The Council shall develop and publish final regulations in the Federal Register within 150 days of the date of enactment of this Act specifying minimum guidelines for public participation in such processes."

(c) On page 15, line 9 after "all" insert "public" and strike "presented at such hearings," and insert in lieu thereof "and".

Amendment No. 2340

On page 16, line 13,

(a) Strike everything after "(A)" through "Illinois;" on page 17, line 4 and insert in lieu thereof "studies to determine (1) the long and short-term systemic fish, wildlife, water quality, wilderness, and public recreational impacts of the project authorized by Section 4(a) of this Act, operation and maintenance on the Mississippi River system, (2) the means and measures that should be adopted to prevent or minimize loss of or damage to fish, wildlife, recreational, or wilderness values and provide for mitigation and enhancement of such resources, and (3) a specific analysis of the immediate and systemic environmental effects of any new navigation-related construction, specifically including any second look at Alton, Illinois;"

Amendment No. 2341

On page 16, line 23,

Strike the entire subsection through "Illinois;" on page 17, line 4, and insert in lieu thereof the following:

"(B) The Council shall undertake a study to determine (1) the relationship of any expansion of navigational traffic on the Mississippi River system to national transportation policy, (2) the direct and indirect effects of any expansion of navigational traffic on the Mississippi River system on the nation's railroads and on shippers dependent upon rail service, and (3) the transportation costs and benefits to the Nation to be derived from any expansion of navigational traffic on the Mississippi River system. The Council is directed to immediately initiate a specific evaluation of the systemic direct and indirect economic effects and need for a second lock at Alton, Illinois;"

Amendment No. 2342

On page 17, line 5,

Strike everything after "(C)" through "activities," on line 10 and insert in lieu thereof "studies and demonstration programs including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil, studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities."

Amendment No. 2343

On page 17, line 16,

(a) Strike "(E)" and insert in lieu thereof "(F)".

(b) On page 17, line 16, add the following new subsection:

"(E) The Council shall immediately initiate a wilderness feasibility study to determine whether any of the federally held lands of the Upper Mississippi Fish and Wildlife Refuge meet the criteria established by the 1960 National Wilderness Preservation System Act (16 U.S.C. 1131). The development and implementation of said study shall be performed in cooperation with state and local government and members of the public. Within six months of date of enactment of this Act the Council shall submit to the Congress the results of said study. The lands identified by the Council as meeting the criteria for wilderness shall be managed to protect these qualities unless directed otherwise by a specific Act of Congress."

Amendment No. 2344

On page 19, line 5,

(a) After "The", strike "secretary of the Army" and insert in lieu thereof "Council";

(b) On page 19, line 10, after "center of such structure," insert "and review and comment on the technical feasibility of rehabilitation and the General Accounting Office engineering study of the Illinois Department of Transportation's, Western Railroad Association's, and Corps of Engineers' rehabilitation alternatives that will be submitted to the Senate Water Resources Subcommittee on October 31, 1976";

(c) On page 19, line 10, after "recommend to the" insert "Congress and the";

(d) On page 19, line 11, after "interest of" strike "expeditions improvements to the waterway and" on line 12;

(e) On page 19, line 13, after "report to the" insert "Congress and the" on line 14;

(f) On page 19, line 15, after "against such" strike "alternative," and insert in lieu thereof "alternatives,";

(g) On page 19, line 21, strike everything from "If" through "section" on line 24 and insert in lieu thereof "Following the submission of such a report construction shall not proceed on any facility authorized by subsection (a) of this Act."

Amendment No. 2345

On page 22, line 8,

(a) Strike "50" and insert in lieu thereof "100";

(b) On page 22, line 12, strike "50" and insert in lieu thereof "100";

(c) On page 22, line 18, strike "10" and insert in lieu thereof "20";

(d) On page 22, line 20, strike "10" and insert in lieu thereof "20";

(e) On page 22, line 21, strike "50" and insert in lieu thereof "100";

(f) On page 23, line 1, strike "10" and insert in lieu thereof "20";

(g) On page 23, line 3, strike "10" and insert in lieu thereof "20";

(h) On page 23, line 4, strike "50" and insert in lieu thereof "100".

Mr. NELSON. Mr. President, amendment No. 2338 speaks to the question of the 12-foot navigation channel.

Everyone agrees on this point. No one publicly, except perhaps the Corps, wants to establish a 12-foot navigation channel on the upper Mississippi. However, there is disagreement as to how adequate safeguards may be enacted to prohibit the establishment of the 12-foot navigation channel.

The Corps' record on similar issues on the Ohio is not encouraging. Therefore, it seems to me the only way to prohibit the 12-foot channel is to make it physically impossible for a 12-foot barge to navigate Locks and Dam No. 26.

This amendment mandates that the proposed replacement authorized in section 4(a) be built with 12-foot lock sills. Documents on file with the District Court for the District of Columbia show that 3 feet of clearance is needed from the bottom of a barge in a lock to allow for proper navigation. A 12-foot sill will allow a 9-foot barge to traverse Locks and Dam No. 26.

Mr. President, amendment No. 2339 speaks to the role the public shall play in developing the master plan for the Mississippi River system.

This amendment borrows language from section 101(e) of the Federal Water Pollution Control Act Amendments of 1972—Public Law 92-500—and establishes a strong mandate for public participation in all phases of the master plan process. It requires the Council to publish in the Federal Register specific guidelines for participation.

Mr. President, amendment No. 2340 speaks to the studies that the Council shall perform in developing the master plan.

This language is revised from S. 3425 and provides for strong systemic environmental impact studies of any increase in navigation on the Mississippi River system. It calls for a specific study of the systemic environmental effects of any second lock at Alton.

Mr. President, amendment No. 2341 speaks to the economic studies that the Council will perform in developing the master plan.

Again, this language is revised from S. 3425 and is more specific in requirements for intermodal economic studies that will be performed on a systemic basis prior to authorizing any new expansion of navigation on the Mississippi River system. It specifically provides for a systemic analysis of the need and impact of any second lock at Alton.

Mr. President, amendment No. 2342 speaks to the demonstration program study section of the master plan.

Rather than emphasizing acquisition of new equipment to solve the dredge spoil program, this language emphasizes environmentally compatible demonstration programs to develop secondary uses for dredge spoil material.

The corps, on the upper Mississippi, is under court order because of their dredge spoil practices. They are doing less dredging now than ever before. The answer is not the acquisition of new equipment—that would only perpetuate the mistakes of the past. The answer is a change of values and the development of environmentally compatible dredge spoil disposal systems.

Mr. President, amendment No. 2343 speaks to the study section of the master plan and adds a new subsection dealing with wilderness.

This language directs the Council to immediately initiate a wilderness feasibility study to determine whether any of the upper Mississippi fish and wildlife lands comply with the criteria of the 1960 National Wilderness Preservation Systems Act. A report shall be submitted to the Congress within 6 months of the beginning of the study and the lands identified by the Council as meeting the criteria for wilderness shall be managed to protect these qualities unless directed otherwise by a specific act of Congress.

The question of wilderness on the upper Mississippi has been a chronic point of dispute between the Interior Department and the Corps. There is no question that the Corps' operation and maintenance procedures are destroying the values of this unique resource. Therefore, it seems only logical to have the master plan that will outline Federal, State, and local objectives speak directly to the question of wilderness.

Mr. President, amendment No. 2344 revises the 120-day procedure established by S. 3823 for reviewing rehabilitation alternatives to the proposed replacement authorized by section (4) a of the act.

This language removes the Secretary of the Army and the Corps from the selection of the Engineering Board. It places that responsibility with the Upper Mississippi River Council, a more impartial group. Furthermore, it mandates that the Engineering Board review the General Accounting Office's engineering evaluation requested by the Water Resources Subcommittee, as well as the recommendation of the Illinois Department of Transportation, and submit its report directly to the Congress.

Finally, if the Board recommends reconsideration of alternatives other than the replacement of Locks and Dam No. 26 this language mandates that construction of the replacement shall not proceed until the Congress makes a firm decision one way or the other.

Mr. President, amendment No. 2345 speaks to section 5 of S. 3823, the user charge provision.

This amendment raises the maximum contribution for operation and maintenance activities, as well as capital requirements, from 50 percent to 100 percent. It maintains the sequential phase-in of payments.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENT NO. 2346

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT—S. 2278

AMENDMENTS NOS. 2348 AND 2349

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted two amendments intended to be proposed by him to amendment No. 2347, proposed to the bill (S. 2278) entitled "The Civil Rights Attorneys' Fees Awards Act of 1975".

NOTICES OF HEARINGS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

September 21.—Joint hearing, Commerce and Interior, 10 a.m., room 3110, hearing, oversight hearing on West Coast crude oil surplus.

September 22.—Environment and Land Resources Subcommittee, 9 a.m., room 3110, closed business meeting. To consider report on Forest Service preparation of East River Unit Plan.

September 22.—Full committee and national fuels and energy policy study. 11 a.m., room 3110, hearing S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

September 23.—Full committee. 10 a.m., room 3110, business meeting. Pending calendar business.

September 24.—Environment and Land Resources Subcommittee. 10 a.m., room 3110, hearing S. 3613, S. 2708, S. 3788, Wild and Scenic River system legislation.

September 28.—Energy Research and Water Resources Subcommittee. 10 a.m., room 3110, hearing, oversight hearing on ERDA long-range plan.

AMENDED NOTICE OF HEARING

SUBCOMMITTEE ON LABOR

Mr. DURKIN. Mr. President, in the CONGRESSIONAL RECORD of September 17, 1976, I announced, on behalf of the Committee on Labor and Public Welfare, oversight hearings to be held by the Subcommittee on Labor on the Occupational Safety and Health Act.

I would like to amend the time and place of the hearings as follows: The hearings are now scheduled to be held in the Jacksonville City Council Chambers, 200 East Bay Street, Jacksonville, Fla. The hours for the hearing are from 9 a.m. to 1 p.m. The date remains Sepetmber 27, 1976.

Persons wishing to testify or wishing additional information should contact Peggy Taylor of the Labor Subcommittee staff room G-237, Dirksen Senate Office Building, 224-3674.

ADDITIONAL STATEMENTS

SIGNIFICANCE OF SWEDEN'S ELECTIONS: LET'S END ONE-PARTY RULE IN AMERICA

Mr. FANNIN. Mr. President, on Sunday, September 19, 1976, an historic election was held in Sweden. Results of that election are significant, because, for the first time in 44 years, the Social Democratic Party has been removed from power.

According to the latest election returns, a coalition of three moderate-to-conservative political parties will dominate the new Swedish parliament. The ruling coalition, with 179 seats, will consist of members of the center party, the Conservatives and the Liberals. This coalition will have a nine-vote margin over the Social Democrats and their allies, the Communists. Since the last Swedish elections in 1973, the moderate-conservative coalition, which garnered 50.7 percent of the total vote on Sunday, gained 1.8 percent overall while the Socialist bloc received only 47.7 percent, or down 0.2 percent overall. It should further be noted that the parties making the most significant gains, four seats each, were the Conservatives and the Liberals, both of which represent a free-enterprise, less-government approach to domestic problems.

Mr. President, it is noteworthy that the Swedish voters, most of whom had never known anything but Socialist rule, decided it was "time for a change" and voted out the Social Democrats and their Communist allies and with them, Prime Minister Olof Palme, who is, by any standards, a stridently anti-American politician. What is even more significant, I think, is that the Swedish people finally decided that they had had enough of government regulation and control over their lives and property. In short, the Swedes have opted for a freer market economy.

According to reliable press accounts, one of the principal factors in the Socialist defeat was the growing irritation among the people with the ever-expanding bureaucracy that administers the Swedish welfare state. Stories of high-handedness on the part of arrogant petty bureaucrats are not unusual. It was shocking to read that a highly respected film director like Ingmar Bergman should have gone into self-imposed exile in another country because of harassment by tax authorities who badgered him at all hours and places, demanding further explanation concerning his taxes.

The welfare state has become so bloated in Sweden that an average worker must pay 60 percent rate on the last thousand crowns he earns. The heavy burden of taxes needed to support such a system has created wide disenchantment with the government. At the same time the Swedish economy has stagnated, as workers and entrepreneurs suffocate under mounds of official paperwork, Government redtape and regulations. Mr. President, it is fervently hoped that this dramatic shift toward the right will bring welcome changes to Sweden's internal economic policies and a new look in its policy toward the United States and Western Europe.

Mr. President, the issues that faced the Swedish people in their national elections—big government, big bureaucracy, excessive government spending, unchecked trade union power, oppressive taxation, and a sluggish economy—are very similar to the issues that will be facing the American electorate in November. There is still another important factor: Apparently many Swedish voters took to heart the argument that the unbroken rule of one party since 1932 threatened Swedish democracy. In our own country the Democrats have controlled both Houses of Congress during all but four out of the past 44 years.

Mr. President, the American people are confronting the same kind of important questions of policy that faced the Swedish people when they went to the polls. The Nation's economic, political, and social problems that have been caused principally by one-party rule in the Congress. Whether we consider the Democrats in the U.S. Congress or the Social Democrats in the Swedish Riksdag, it is clear that 44 years is long enough for any political party to control the national legislature. I hope that the taxpayers across America will, like the electorate in Sweden, vote for a change in November.

NUCLEAR/SOLAR REPRINTS AVAILABLE FROM SENATOR GRAVEL

Mr. GRAVEL. Mr. President, since 1970 I have been making available information on nuclear and solar power. I believe this information has helped and will help concerned citizens and Members of Congress understand fully why we must get rid of nuclear power and start serious efforts in solar energy. I welcome requests for reprints from anyone.

Mr. President, I ask unanimous consent that a list of the available reprints be printed in the RECORD.

There being no objection, the list was ordered to be printed in the Record, as follows:

Nuclear/Solar Reprints Available From Senator Mike Gravel

NL, Feb. 76: Proposed energy budget (FY 77), Senators' votes on Price-Anderson Act.

NL, Nov. 75: Alert on the Price-Anderson nuclear insurance renewal.

NL, Aug. 75: Voting records for Senators on FY 1976 ERDA budget amendments to decrease breeder reactor funding, increase solar funding, and restrict new plutonium production.

NL, Mar. 75: General Nuclear News.

NL, Oct. 74: Costly nukes, warning from nuclear insider, insurance, nuclear politics.

NL, Sept. 74: Solar "breeder" concept, budget, need for solar construction now.

NL, Apr. 74: Rasmussen defects, British rejection of nukes, insurance, 850 "abnormal events", national security & nukes, quality control, moratorium bill.

NL, Dec. 73: Solar news: Farming for fuel, competitive solar power within 10 years, energy budgets.

NL, Nov. 73: Windpower, budgets (esp. nuclear breeder); boron fission.

NL, Oct. 73: (2): Nukes too dangerous for Philadelphia, nuclear "surprises", national security & nukes, cost-benefit analyst endorses nuclear phase-out.

NL, Oct. 73: (1): Nuclear warning from 100 Pugwash scientists, Nader.

NL, Sep. 73: National security & nukes, consequences of nuke accidents, warning from PA Insurance Commissioner Denenberg, proposal for when experts disagree.

NL, Jul. 73: (2): Unions and newspaper endorse moratorium, AEC public "information" program.

NI, Jul. 73: (1): Moratorium lawsuit by Nader & Friends of the Earth, summary of ECCS problem, electric power from trash in St. Louis.

NL, May 73: (3): Do-it-yourself methane-makers and wind generators, budgets.

NL, May 73: (2): Solar energy vs. land area, atom-bombing for gas, solar home in NM.

NL, May 73: (1): Prof. Heronemus on windpower vs. nukes; Sweden anti-nuclear action, human error and nuclear "safety".

135: Nuclear power: The Unviable Option—Book review.

134: Nuclear Power: Too Expensive—articles by Robert Gillette and Egan O'Connor on economic advantages of not building nukes—easily understandable by laymen.

133: Miller Memo—NRC Consultant urges moratorium; calls Rasmussen Report "Disgrace."

132: Jimmy Carter's Nuclear Position.

131: Wall St. Journal Confirms Uranium Shortage and Disincentives for Solar Energy by Nicholas Von Hoffman.

130: Progress on the Nation-wide Petition-drive—includes number of anti-nuclear signatures counted according to Congressional District.

129: Nuclear Power Quotes—14 brief quotes on nuclear power.

• 128: Plutonium and Civil Liberties by Sen. Mike Gravel.

127: Radiation Doses & Effects in a Nuclear Economy: Myths vs. Realities, by Dr. John W. Gofman—Case for rejecting nukes due to low-dose emissions, leaks.

126: Browns Ferry Reactor Fire—From the Reader's Digest.

125: The Nuclear Fuel Scandal by Egan O'Connor—Explores probability that more nukes are being built than can be fueled economically.

124: Alice In Blunderland by Dr. John W. Gofman—Refutes many claims of nuclear advocates concerning radiation hazards, energy efficiency, plutonium, etc.

123: Fish/Gravel Testimony 2/26/76—Rep. Hamilton Fish, Jr. (NY) and Sen. Gravel urge moratorium; includes chronology of Browns Ferry fire and particular problems of sabotage and national security.

122: Nuclear Weapons Sufficiency Act—Sen. Gravel's bill to stop more production of plutonium for weapons without affecting national security by using Pu from outdated weapons.

121: Solar Energy Source List—Over 30 sources of solar information.

120: GE Engineers—Testimony before the Joint Committee on Atomic Energy by 3 resigned General Electric engineers charging hair dryers and toasters are more thoroughly tested than nuclear plant controls.

119: National Council of Churces Statement—Opposes plutonium economy.

118: Price-Anderson Changes Needed.

117: Costly Nuclear Power—New York Times article on rising nuclear costs.

115: Solar Promise—Including FEA Task Force report, Ocean Thermal testimony, and OR State Planning Report advocating solar power.

114: Plutonium—2 technical papers by Dr. John Gofman on the extreme toxicity of plutonium, including estimate that one million people may be committed to fatal lung cancer in the N. hemisphere due to weapons testing, and that permissable doses of Pu could cause an extra 200,000 lung cancer fatalities annually in the U.S.

113: Scientists Urge Slow-Down—Petition of 2,300 scientists urging "drastic reduction" for nukes.

112: Nuclear Power: The Moral Issue—Address by Egan O'Connor to religious leaders explaining the unique and urgent need to stop nuclear power.

111: Price Anderson Questions and Answers—By Sen. Mike Gravel.

110: Nuclear Power Reappraisal Act—Senate version of 5 year nuclear moratorium bill.

109: The Anti-Nuclear Movement—List of moratorium supporters and Sen. Gravel's analysis of the movement.

108: Bypassing the Breeder—The case against the breeder by Nat. Resources Defense Council.

107: Proliferation—Sens. Cranston & Gravel on worldwide proliferation of nuclear weapons due to nuclear power plants.

105: Nuclear Economics: More is Less—includes report by Dr. Peter Chapman suggesting that ambitious nuclear construction programs may consume more energy than they produce.

106: California Initiative—Text and news articles on 1976 CA Initiative.

103: Nuclear Energy Reappraisal Act of 1975—House version of 5 year moratorium bill introduced by NY Rep. Hamilton Fish Jr. and 40 colleagues, with Rep. Fish's introduction justifying the bill.

102: 1972 Testimony of Dr. Ralph Lapp—In 1974 a nuclear advocate, he had some very deep concerns in 1972 on nuke safety.

101: AIF Memo—Atomic Industrial Forum plans to push nukes, including doubling their budget, ghost-writing "news" stories, and lobbying.

99: Nuclear power and terrorism.

98: New electric rate plans & conservation vs. nukes, cancellations.

97: GAO evaluates usefulness of reliability predictions (vs. actual performance) in space and military systems.

96: Radioactive Waste—A Problem Forever, including national security.

95: Nuclear Insurance—Discussion of Price Anderson Act and amendments.

94: Natural Resources Defense Council report on plutonium fuel cycle, 10/74.

93: Public opinion poll on nuclear power.

92: Low-dose nuclear pollution (PA monitoring scandal, "permissable" dose-permissable murder).

91: Fiasco in nuclear fuel reprocessing.

90: Defects in the Rasmussen Report—testimony of engineer William Bryan, 2/74.

90A: Catastrophic Nuclear Accidents, by the Union of Concerned Scientists, 10/73.

90B: Testimony by former Green Beret Dr. Bruce Welch on sabotage, Rasmussen, safety; "go-slow" editorial from the Dayton (OH) Daily News.

89: Britain Rejects American Nukes.

88: Introduction to solar energy.

87: Summary of 850 "abnormal events" at nukes by the Union of Concerned Scientists, 1 page flyer about the choice of solar vs. nuclear power.

86: Text of AEC's Sub-panel IX report, 10/73 admitting 100% of U.S. energy demand can be met by harvesting 5% of the solar energy falling on 4% of the U.S. (3 chapters on windpower, bioconversion, ocean-thermal).

85: Nuclear Insurance—Text of the Price-Anderson Act.

82: Human Error and Nuclear Power by Dr. John W. Gofman.

81: The Case for a Nuclear Power Moratorium, by Dr. John W. Gofman.

80: Text of S. 1217, the 1973–4 nuclear power phase-out Senate bill; a summary of solar alternatives that make nuclear power totally unnecessary.

78: Nuclear Power: A Hard Way to Boil Water—warnings from Dr. Hannes Alfven, Dr. Alvin Weinberg, Dr. Albert Crewe.

75: Protest to Federal Trade Commission about Westinghouse breeder ad, Dr. Gofman's calculation showing 1 nuke produces equivalent radioactivity as 1,000 Hiroshima bombs each year, "Energy and the Environment" by Dr. Alfven from the Bulletin of the Atomic Scientists.

74: Energy budgets, 1969–73—Starr and Gaucher on solar power.

73: Solar cells, solar shingles (photovoltaics).

72: Solar power via algae (biconversion).

71: "Just How Safe is a Nuclear Power Plant?" from Reader's Digest, 6/72.

70: "Nuclear Power and Environmental Law" by Dr. John W. Gofman, from Environmental Law Journal, winter 1971.

69: ECCS problem, warning from the American Journal of Public Health, 2/72.

68: Aerojet Nuclear Lab lists safety uncertainties, AEC censorship.

66: ECCS hearings 3/72, Dr. Weinberg urges realistic tests.

65: Dr. Henry Kendall's summary of Nuclear Operations (close-calls).

61: Nuclear Sabotage—arson at Con Ed's second nuke near NYC, 11/71.

60: Constructions deficiencies, ECCS, fallacy of nuke advocates' claims of "perfect safety record".

59: 4 stories on ECCS problem from Nucleonics Week, 2/17/72.

56: Adversary Science, AEC censorship.

55: Solar power—amendment to increase budget:

54: Solar power—windpower and ocean-thermal power.

53: AEC advises witnesses: "Never disagree with established policy."

52: Nuclear power vs. war on cancer: Technical paper by Dr. John Gofman and Dr. Arthur Tamplin explaining "permissible dose" of radiation and that it may mean 104,000 extra cancers per year.

51: Solar homes in Washington, D.C.. by Harry Thomason.

50: Solar energy: Low sulfur oil from trash and sewage.

47: Solar Energy: The Meinel Proposal for the Southwest desert.

46: Solar Energy: The Ford/Kane Proposal to get the nation's electric power from 2% of the U.S. Desert.

44: Energy Conservation.

43: Clean Power Coalition—a suggestion.

41: The need for adversary science—Article by Dr. John W. Gofman from the Bulletin of the Atomic Scientists, 9/71.

39: Solar Energy: Ocean-thermal power by J. H. Anderson.

33: Warning about catastrophic accidents by the Union of Concerned Scientists, 7/71.

30: Solar electricity: Amendment to increase the budget 7/71; plus classic statement on nuclear power by Dr. Alfven.

001: 20 page introduction explaining hazards of nukes, and advantages of clean, safe solar alternatives.

Not numbered:

1 page introduction to nuclear power, available in bulk; includes nuke locations.

List from the AEC 3/74 of 31 kinds of information which must be in public document rooms near each nuke.

Barnwell, S. C. nuclear fuel reprocessing plant.

Testimony by Sen. Gravel on the Price-Anderson Act (5/74)—includes warning to nuclear advocates that so long as the nuclear industry fails to accept full responsibility for nuclear accidents citizens will demand a halt to their reckless activity.

7/8/71: Article on fuel cells; 2 articles on solar power.

4/29/71: The nuclear breeder and plutonium—with footnotes.

10/22/70: A 10% increase in genetic mutations from the "permissible dose" of radiation—a warning from Nobel laureate Dr. Joshua Lederberg.

5/13/70: Cancer and genetic hazards of the "permissible dose."

8/5/70: Nuclear fusion (vs. fission).

A STAUNCH ALLY

Mr. STEVENS. Mr. President, the Flying Tigers of the 14th Air Force Association—of which I am a proud member—recently staged a reunion in Taipei, Taiwan. The purpose of this meeting was to renew the association's undying friendship with our wartime comrades in Taiwan. Because of a prior commitment I could not join my fellow Flying Tigers in thanking the people of Taiwan for their loyalty and comradeship. I ask unanimous consent that the Association's adopted resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

EXPRESSION OF APPRECIATION

The members of the 14th Air Force Association and their families who have been assembled from August 2 through August 9, 1976 in the city of Taipei, Republic of China, have observed at first hand all over Taiwan a remarkable industrial, commercial, military, political and social progress. Everyone has witnessed that the Republic of China stands as a shining example of democracy in action for all of Asia.

Each of us will return home a proud ambassador of goodwill, heralding to friends and neighbors and all Americans that the continued benefit not only to our own two nations, but to the whole free world, requires the maintenance and strengthening of the long-standing friendship and treaty of alliance between the United States and the Republic of China.

GENOCIDE: AN INTERNATIONAL CONCERN

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have claimed that genocide is not properly an international concern and so should not be outlawed by an international treaty

The original United Nations resolution justified the treaty by declaring "that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law." Furthermore, the act of genocide, even when committed in other countries, does affect our country. Not only can we be inundated with refugees, as after World War II, but all of civilization is impaired when entire human groups are exterminated. Most importantly, the act of genocide has often been associated with threats to or breaches of international peace and security. Therefore, the occurrence of genocide anywhere in the world is as much a matter of international concern as the spread of nuclear weapons.

The Genocide Convention, as international legislation, is not unique. Although it is a relatively new concept, the idea that practices of states themselves could be illegal has gained force since the atrocities of World War II. Since then, the United States has ratified international treaties dealing with slavery, refugees, arms and drug traffic, and the protection of seals and migratory birds. Surely the time has come to assert our position on the extermination of groups of people.

The Genocide Convention does not subvert the processes of the U.S. Government. Rather, it is an international treaty that seeks to prevent genocide by asking each ratifying country to condemn genocide under its own law. When we ratify this treaty we will show our commitment to an international concern. Let us not delay any longer.

DISABLED AMERICAN VETERANS' LEGISLATIVE PROGRAM

Mr. THURMOND. Mr. President, today the national commander of the Disabled American Veterans, Frank J. Randazzo, presented to the Committee on Veterans' Affairs, the legislative program of the DAV for the first session of the 95th Congress.

In his remarks, Commander Randazzo commended the Veterans' Affairs Committee for its responsiveness during this Congress to the needs of the disabled veteran. However, he urged the committee to continue to update its programs and to make specific, needed adjustments in the disability and death compensation program, the hospital and medical care system, in educational benefits, as well as in the fields of VA housing, insurance, and burial benefits.

Commander Randazzo's remarks are consistent with the commitment of the DAV since its organization in 1932, to champion the cause of the disabled veteran, his widow, and his dependents.

Mr. President, in order to share Commander Randazzo's presentation with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF FRANK J. RANDAZZO

Mr. Chairman and members of the committee: It is a distinct pleasure to appear before you on behalf of the 517,000 members of the Disabled American Veterans to present our legislative program.

As the distinguished members of the Committee are well aware, the Disabled American Veterans was organized in 1920 and chartered by the Congress in 1932, to work for the physical, social and economic rehabilitation of all disabled veterans.

Our objectives, which have remained unchanged throughout the years, are to obtain for those veterans who have been disabled in the wartime service of our Country:

Fair and just compensation for disabilities incurred, or aggravated by military service;

Proper medical care and treatment for such disabilities;

Suitable and gainful employment to offset the effects of such disabilities;

Adequate benefits for the widows, children, and dependent parents of veterans who die as a result of service-connected disabilities.

It therefore follows that our legislative program is designed to advance the interests and promote the welfare of all wounded, injured and disabled veterans, their widows and dependents.

Mr. Chairman, it is appropriate to note that this is our second appearance before this Committee in 1976—a "unique" circumstance necessitated by the newly instituted Congressional Budget Process that requires all Standing Committees to determine their legislative initiatives very early in each new Session of the Congress.

Mr. Chairman, our most recent National Convention held in Miami Beach, Florida, adopted a variety of resolutions calling for improvement in the various benefit programs afforded to our Country's service-connected disabled veterans, their dependents and survivors. I shall discuss these Convention mandates in a moment, but I would be remiss if I did not first express the DAV's sincere appreciation for the veterans' legislation initiated by this Committee and approved by your colleagues in the 94th Congress.

Your endeavors during this period have resulted in meaningful improvements in all of the major VA benefit programs. Additionally, your aid and support have been instrumental in the ability of the DAV to achieve two other important objectives which were not within the jurisdiction of your Committee—retention of the tax-exempt status for all VA benefits and the return of the observance of Veterans Day to November 11.

The record of this Committee during the last two years is indeed a testimonial to its genuine concern for promoting the continued welfare of our Nation's service-connected disabled veterans and their families. It instills in me the confident knowledge that the legislative proposals which I shall now discuss will receive your sympathetic and serious consideration.

SERVICE-CONNECTED DISABILITY AND DEATH COMPENSATION PROGRAMS

Mr. Chairman, perhaps no other Federal program symbolizes the manifest concern held by the American people for their wartime disabled veterans than does the VA's disability and death compensation programs. Compensation for impaired earning capacity due to service related wounds, injuries and diseases is essential if the disabled veteran is to have his proper place in our society.

Our membership is therefore most grateful for your efforts in guiding the Veterans Disability Compensation and Survivor Benefits Act of 1976 through the Congress. The results of this legislation will soon be materially evident by the 8% increase in the benefit checks of some 2.5 million disabled veterans, their widows and orphans.

We are also very pleased that the 1976 Compensation Act contains the DAV proposal for a scientific study to determine if there is a causal relationship between amputations and subsequently developing cardiovascular conditions. Establishment of such a relationship would prove very beneficial to disabled amputee veterans in the adjudication of their claims for service-connected disability, as well as important to the cause of understanding and treating heart disease itself.

Mr. Chairman, our most recent National Convention has again mandated the DAV to seek an upward adjustment in service-connected disability and death compensation payments.

In justification of this request we would point out three facts: (1) experience has shown that the forces of inflation are constantly at work, (2) current data indicates that the unemployment rate among disabled veterans is in excess of 25 percent, and (3) our proposal concerns a legislative initiative that would not be funded or become effective until Fiscal Year 1978. With these thoughts in mind we request your continued effort to assure that these benefit payments remain adequate. We urdge that you remain cognizant of these facts as you deliberate upon veterans legislative priorities for the period October 1977 through September 1978.

Our membership has also reaffirmed a long-standing DAV objective—the presumption of service-connection for the cause of death in those cases where a veteran is permanently and totally disabled from service related conditions. Your serious consideration of this proposal in the past, as evidenced by the fact that you have twice required the VA to provide an accounting of their disposition of such service-connected death claims, is most appreciated.

Results of the second VA study are soon to be submitted to the Congress and we urge the Committee to give all favorable consideration to this beneficial and humanitarian liberalization of present law.

Mr. Chairman, we have two suggested improvements which relate to the VA's Automobile and Adaptive Equipment Award as authorized under Chapter 39, Title 38, U.S. Code.

The first would extend entitlement to this award to service-connected disabled veterans of World War I who meet the current eligibility criteria—loss or loss of use of an extremity or blindness. We think it a matter of simple justice that this benefit, long denied to World War I veterans, be extended to them just as it is to every qualifying veteran since World War II. Such an extension—the cost of which is negligible—would help to allay the criticism of those who claim that the Congress is unresponsive to the needs of veterans who fought in the First World War.

Our second proposal would extend entitlement to automotive adaptive equipment—excluding the $3,300 grant for vehicle purchase—to service-connected disabled veterans whose knees or hips are ankylosed at a "favorable" angle. Presently such veterans are not entitled to any automotive benefits as their disabilities do not meet the established criteria which govern a "loss of use" determination.

However, many of these veterans must purchase adaptive equipment at their own expense in order to meet the vehicle licensing requirements of their states. In our view, this is an unfair financial burden that could be lifted from these service-connected disabled veterans at a very low cost to the government.

Mr. Chairman, our National Convention delegates have also approved a resolution calling for the enactment of legislation which would provide for the preservation of all disability compensation rating evaluations that have been continuously in effect for ten or more years.

In this connection, we would point out that Section 359 of Title 38, United States Code now provides that service-connection for any disability which has been in force for ten or more years shall not be severed, except upon a showing of fraud or that the person concerned did not have the requisite service or character of discharge.

We are convinced that the length of time for the preservation of disability rating evaluations should be the same as that which currently applies to the protection of service-connection and we strongly urge your favorable consideration of this proposal.

Two other objectives of the DAV which relate to the VA compensation program would benefit veterans who were captured in combat and held as prisoners of war. The first would provide a minimum service-connected disability rating of 50 percent for any veteran who was a POW for six months or more. The second would liberalize and extend the presumptive period for service-connection of chronic diseases for this same category of veterans.

It is a well documented fact that lengthy detention by the enemy in all military conflicts since World War I has caused American servicemen to suffer extreme mental and physical privation. It is also true that medical evidence required by law to substantiate a claim for disabilities incurred while a prisoner of war is difficult, if not impossible, to obtain. We therefore urge your sympathetic consideration of liberalizing these benefits for this worthy group of combat veterans.

HOSPITAL AND MEDICAL CARE

Mr. Chairman, I would now like to discuss the VA program of hospital and medical care—the continuation of which is of paramount concern to the DAV and, I know, to this Committee.

In fulfilling its important mission, the VA has over the years developed a nationwide network of health care facilities that defies comparison. Beyond doubt, our VA medical system is a National resource of which we can be proud; a resource which stands ready to serve the needs of America's 29 million living veterans and their families.

Recognizing this we are truly grateful that this Committee has placed itself in the vanguard of those who maintain that the VA medical care system must never be merged with or become subservient to any other Federal agency or program.

The VA medical program is a fundamental component of our Federal benefits system. Impair its integrity and you will see the beginnings of an erosion process that could eventually include all veterans' programs.

Therefore, in the area of veterans medical care, Mr. Chairman, my first and foremost request of this Committee is that you continue to do all that you can to keep America's VA hospitals for America's service-connected disabled veterans.

In addition to this primary concern, our Florida Convention approved a number of resolutions calling for improvement in veterans health care services. Several of these are, I feel, paramount in nature and I am happy to note that some have been incorporated in legislation presently pending in the Congress.

In an effort to provide adequate salaries for VA medical personnel, the DAV strongly supported the Physicians and Dentists Pay Comparability Act of 1975. The special and incentive pay authorized by this legislation has been an invaluable aid to the VA in the recruitment and retention of highly qualified physicians and dentists. However the authority of the VA to offer these monetary incentives will expire on September 30, 1976. We therefore urge that the time limitations of P.L. 93-123 be extended until such time as the crucial problem can be resolved.

Another major legislative objective of the DAV is to achieve a priority in outpatient treatment for service-connected disabled veterans in our VA hospitals. Quite frankly we find that priority treatment for these veterans—the original beneficiaries for whom the system was created—is not uniformly applied in all VA hospitals. We therefore urge your positive action on legislation that would require the Administrator of Veterans Affairs to prescribe regulations to ensure that the highest priority for outpatient treatment shall be accorded to veterans with service-connected disabilities.

In keeping with our desire to see the VA hospital system direct its attention and resources to the service-connected veteran, we also request the enactment of legislation that would provide complete medical services for any veteran with a service-connected disability of 50 percent or more.

Finally, Mr. Chairman, we propose an increase in VA allowances paid to veterans as reimbursement for authorized travel expenses and to private and State Nursing Homes for veterans care.

In the case of travel allowances to and from VA facilities, the current stipend of 8 cents per mile is totally unrealistic and inadequate. We support a figure of 15 cents per mile which is equal to that now paid government employees travelling on official business.

Similarly, the present VA payments for nursing home care are so low that they discourage the acceptance of severely incapacitated veteran patients by these facilities. If the nursing care program is to fulfill its mission, these VA payments must become competitive and are therefore in need of an upward adjustment.

EDUCATIONAL BENEFITS

We have two National Convention mandates calling for improvement in VA educational benefits.

The first concerns Vocational Rehabilitation benefits for veterans in need of training due to a service incurred disability.

On June 30, 1975, these benefits terminated for all disabled veterans of World War II and the Korean Conflict—many of whom were in training at the time. In our opinion, termination of this training for seriously disabled veterans is counterproductive to the basic philosophy of the program. We therefore urge enactment of legislation which would repeal the June 30, 1975, termination date and give the VA Administrator discretionary authority to extend entitlement for such periods as he deems appropriate.

My second proposal, Mr. Chairman, relates to the War Orphans and Widows Educational Assistance Program. As you know these benefits are presently extended to the eligible survivors of veterans whose deaths were service related and to dependents of veterans who are permanently and totally disabled from service-connected causes. In line with the VA's classification of "serious disability", we request the extension of these benefits to the dependents of veterans rated 50 percent or more disabled.

EMPLOYMENT

Mr. Chairman, America's disabled veterans owe this Committee a special vote of thanks for its initiatives in the employment area. However, disabled veterans have been particularly hard-hit by the catastrophic rates of unemployment in the United States during recent years, and they critically need our combined efforts in this area.

More than 7 million Vietnam Era Veterans—over 400,000 of them disabled—have entered the work force, and their employment needs are vast in scope. It is generally acknowledged that the unemployment rate among disabled veterans is significantly higher than that of the general public, a tragic statistic considering that it applies to those who sacrificed physical and psychological well-being in the military service of their country.

To help solve this problem, the DAV feels that the Veterans Employment Service should be given a greater degree of authority within the Department of Labor. Specifically we strongly recommend that the position of VES Director be raised to the level of an Assistant Secretary of Labor, so that he will have the power he needs to be truly effective.

Another form of employment assistance for disabled veterans is the Affirmative Action Program which requires Federal contractors to give special consideration to the employment of disabled and Vietnam Era veterans.

For these purposes a "disabled veteran" is defined as one whose disability is rated as being 30 percent or more disabling or as one who was discharged from military service because of a disability incurred in the line of duty.

Mr. Chairman, a disability rated at 10 or 20 percent may very well constitute a more pronounced employment handicap than one rated 30 percent or more disabling. To insure the proper employment priority for all disabled veterans, we therefore recommend that the criteria for participation in this program be lowered to include any veteran with a compensable service-connected disability rating.

In discussion of employment problems, Mr. Chairman, I would like to point out that the Comprehensive Employment and Training Act—CETA—does not provide for preference to disabled veterans in its programs. Indeed, participation by disabled veterans in CETA programs has been minimal. We therefore urge that legislation be enacted to provide for enrollment of disabled veterans in CETA programs on a priority basis.

HOUSING, INSURANCE, AND BURIAL BENEFITS

Mr. Chairman, with your kind indulgence I have five other proposals which touch on the VA programs of housing, insurance and burial benefits which I would like to bring to your attention.

The first deals with specially adapted housing benefits for seriously disabled veterans as authorized by Chapter 21 of Title 38, U.S. Code. As you know, veterans who have suffered the loss or loss of use of one upper and one lower extremity are presently excluded from the $25,000 housing grant.

The DAV has long felt that these veterans are so seriously impaired that they have a definite need for specially adapted housing. We therefore urge that the eligibility criteria for the housing grant be amended to include any veteran who has suffered the service-connected loss or loss of use of two or more extremities.

In the area of insurance benefits I have two proposals. First, that the face value of National Service Life Insurance, which has been set at a maximum $10,000 since its inception in 1946, be increased to $20,000. Certainly the rise in the cost of living that has occurred since World War II more than justifies such an increase.

Second, we suggest that the present one year application period pertaining to Service Disabled Veterans Insurance (RH) be extended to two years from date of disability determination. We feel this one year period is unduly restrictive and that disabled veterans should be given this additional time in order to evaluate and act upon their life insurance needs.

Mr. Chairman, the DAV is adamantly opposed to the VA proposal which calls for suspension of the $250 burial allowance in those cases when a veteran's survivor has received a Social Security lump sum death payment. We have appreciated your past support of our position on this matter and urge that it continue in the future.

We also ask that you continue with your efforts to expand the VA's National Cemetery System. We are truly grateful for your recent efforts in this regard as evidenced by the passage of legislation authorizing new National cemeteries in the States of California and Virginia. It is the position of the DAV that all veterans should be entitled to burial in a National Cemetery that is reasonably close to their homes, and we strongly support legislation to provide at least one National Cemetery in each State.

CLOSING REMARKS

In closing, Mr. Chairman, I want to express again our grateful appreciation for giving us this opportunity to appear before you. I hope and trust that the legislative objectives that I have presented here today will receive your early and favorable consideration. I cannot emphasize strongly enough that the DAV holds the members and staff of this Committee in the highest regard. I pledge to you the complete cooperation of our organization in a mutual effort to improve and protect the benefits and services for America's service-connected disabled veterans, their dependents and survivors.

Thank you very much.

S. 2823, THE RURAL DEVELOPMENT ACT OF 1972

Mr. HUDDLESTON. Mr. President, last Friday the Senate passed S. 2823, which amends title V of the Rural Development Act of 1972 to assist small farmers in upgrading their farming operations. The intent of this bill is to reinforce the commitment of Congress toward preserving the small farm.

I realize some so-called experts would argue that there is no point in trying to help those farmers who are operating farm units which are too small to sustain a family entirely. I take exception with this view.

During the past 10 years the USDA Extension Service has supported a wide variety of small farm projects. These projects have yielded much subject matter and methodology knowledge regarding extension programs for small farmers.

Dr. Raymond C. Scott, Assistant Administrator of the Extension Service, USDA, in testimony before the House Subcommittee on Family Farms and Rural Development on H.R. 12917, the House companion to S. 2823, related the economic and social results of a recent study of the Missouri small farm extension program. Dr. Scott indicated the study showed a benefit-cost ratio of 3.5 to 1 for public investments in a program to upgrade farming operations of small farmers.

Dr. Scott further stated that:

> To date this clientele group—the small farmers—has not been given a high enough priority in the use of public resources to support a program of sufficient magnitude to have a significant impact on improving farm operations and income.

Mr. President, 80 percent of all farmers are small farmers. If we want the family farm to survive in America, Congress must make a commitment to preserve those farming units. And this legislation is intended to do just that.

There is no question that the Extension Service has in the past and is currently doing a magnificent educational job. The history of the Extension Service is filled with many, many success stories. But what we need now, in addition to the traditional functions performed, is an educational program whose target audience is small farmers.

I am not so foolish as to propose that a program of research and extension would somehow make a small unit capable of total support, but I do believe that by following the precepts of extension and cooperative State research many small farms can begin to produce more income for their owners, thereby making these farmers more economically independent.

Let us face it, after the many economic upheavals that have occurred in American agriculture in recent decades, those who remain on the land are largely there because they want to be.

They cling tenaciously to their too-few acres, because for them agriculture is a way of life, as well as a way of doing business. If we can help them stay on the land by simply refocusing our present activities slightly, then it would be foolish, cruel, and uneconomical not to take the appropriate steps.

The tragedy of New York City's economic status, and sprawling urban ghettos across the face of this land are living testimony to the fact that the mass migration of people from the farm to the cities was not without a cost to the Nation and local governments of tens of billions of dollars.

Therefore, it would seem fitting to me that we say something more to the small farmer than "adapt or die." To take the actions called for in this legislation would help the rural economy, and save the cities the agony of still more welfare recipients added to their populations.

In August 1975, the General Accounting Office submitted a report to the Congress entitled "Some Problems Impeding Economic Improvement of Small-Farm Operations." This report concludes that many small farm operators may be helped to increase their incomes through more intensive and specifically directed extension and research programs sponsored or financed by the Department of Agriculture. The report contained the following specific recommendations.

The Department should:

> Identify small-farm operators in their productive years who depend on the farm as their primary source of income and categorize them according to their resources, abilities, educational experiences, and willingness to improve their operations by using available technology and efficient management practices.
>
> Estimate the costs and benefits of programs needed to extend training and technical assistance to small-farm operators having the potential for improvement and present the information to the Congress for its consideration.
>
> Examine the potential for research uniquely designed to improve the economic position of small-farm operators and, if such potential exists, consider the priority of such research in relation to other federally funded agricultural research.
>
> Establish procedures for (1) evaluating the economic and social impacts of future research that could greatly change the productivity, structure, and/or size of existing farms, and (2) determining the assistance small-farm operators would need to plan for and adjust to the resulting changes.

The GAO report concludes:

> The consensus of knowledgeable government and nongovernment people is that, although various factors contribute to small-farm operators' having relatively low volumes of farm sales, failure to use available technology and efficient management practices effectively is a primary reason many have lower volumes of farm sales than they might have and a major factor limiting improvements in their farming operations.

Although some publicly supported extension and research projects have related to the needs of small farm operators, the Department and land-grant colleges have not made a concerted effort to solve problems impeding the economic improvement of small farm operations. Also they have not adequately: First, evaluated the economic and social impacts of production-efficiency research; nor second, determined the assistance that small farm operators need to plan for and adjust to changes brought about by such research.

Demonstration projects sponsored by cooperative extension organizations and the Tennessee Valley Authority have shown that some small farm operators are capable of increasing the productivity of their land and increasing their income.

The type and intensity of assistance provided, and resulting accomplishments, differed widely between those projects as did the abilities and resources of participating farmers.

More complete data on small farm operators is needed to determine the type and extent of assistance which would be useful and to provide the basis for planning extension and research programs oriented to the specific, known needs of small farm operators. Such programs could aid in meeting the world's food and fiber needs as well as increasing these farmers' incomes.

Mr. President, the response of the Department of Agriculture to the GAO report was similar to its implementation of the small farmer section of the Rural Development Act. Negative.

The Department said incomes of small farmers would not necessarily rise as a result of a concerted effort in a small farmer program, and therefore, no further action on the GAO recommendation is expected.

It seems to me that this kind of response gives credence to allegations that the Department of Agriculture has become the home province of factory farms and big food companies.

Now Secretary Butz has said that most of his budget goes for "welfare programs" such as food stamps and child nutrition. That is correct. Congress had to drag the Department kicking and screaming to get into nonfarm rural development, and now it uses rural development as an excuse not to help small farmers.

It seems to me that if USDA is only to be concerned with commercial agriculture, then we ought to make it a bureau within the Department of Commerce and get on with the business of helping rural people.

But Abraham Lincoln charged the USDA to be the people's department, and that is what I believe it must be. And it can be.

The Department and its cooperating State agencies are uniquely structured at the ground level to provide all kinds of assistance to all kinds of rural people. These agencies have done this in the past, and they must continue to do it in the future.

Mr. President, last October I introduced legislation which would extend the authorization of title V, the Rural Development and Small Farm Research and Education title, through September 30, 1979. This authorization extension has passed Congress and been signed by the President.

S. 2083 amends section 502(c) of the Rural Development Act to provide for a small farm extension, research and development program that consists of the following:

First. A comprehensive study and survey to identify small farmers, and to determine their resources, abilities, education, and experience.

Second. A program designed by the USDA and the Cooperative Extension Services for improving operations of small farmers.

Third. Procedures for providing for regular updating of the study, survey, and program.

Fourth. Research and development with respect to measures for upgrading small farmer operations.

Fifth. The Secretary of Agriculture is required to submit an annual report on his stewardship of this program.

Mr. President, I believe in, and will continue to support a strong American agriculture. It is essential for our nutritional well-being, for our international trading posture, and for the future of the world. And, in order to remain strong, American family farms must be economically strong. I feel the long-range benefits of this bill are of tremendous value.

U.S. LAW VIRTUALLY HALTS GREAT LAKES SHIPPING

Mr. PERCY. Mr. President, when the St. Lawrence Seaway opened up oceanic traffic to America's heartland 17 years ago, there was a hope that it would turn the five Great Lakes into America's fourth seacoast.

Unfortunately, a seemingly benign Federal law has cast a chill on that hope, according to Chicago Tribune columnist Bob Wiedrich.

Although excellent port facilities exist at Chicago, Milwaukee, Duluth, and other Midwest cities, almost all cargo of the U.S. Department of Agriculture shipped overseas moves by rail to ocean or gulf ports for shipment, according to Wiedrich.

He attributes this to the 1954 Cargo Preference Act that requires that a certain amount of federally financed freight must move on U.S.-owned ships.

Basically that goal is a worthy one. For a variety of reasons, however, U.S. shipping companies have failed to ply the Great Lakes. Hopefully, that may be changing. Foreign companies, in recent years, have shipped into Great Lakes ports. But because of the 1954 law, almost none of the foreign vessels have carried USDA exports, Wiedrich notes.

The result of this law has been a loss of jobs at Great Lakes ports and additional costs to taxpayers by requiring the expensive shipment by rail of foodstuffs from the Midwest to distant ports, Wiedrich concludes. In Chicago alone, the number of USDA-aid cargoes has dropped 59 percent during the last year, with a 29-percent reduction in the number of hours worked by longshoremen. Here is a statute designed to protect the U.S. merchant marine fleet that actually may be resulting in a loss of American jobs at Great Lakes ports and additional costs to taxpayers.

Consideration should be given to amending the law to permit the movement of U.S.-Government cargoes from Great Lakes ports in foreign ships, until U.S. shipowners decide to return their vessels to the Great Lakes in greater numbers than they are now doing, the Wiedrich column suggests.

Sometimes it is not only the regulations which agencies issue that should be called into question but, equally important, the actual laws under which they operate. If this law is not having the positive impact that Congress intended on enacting it, it should be reexamined in that light.

I ask unanimous consent to have printed in the RECORD the insightful and well-written column by Mr. Wiedrich, appearing in the July 27, 1976, edition of the Chicago Tribune.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 27, 1976]

LAW HITS SHIPPING ON GREAT LAKES

(By Bob Wiedrich)

Uncle Sam's shipments of high-protein wheat and other free food to starving Third World populations are undoubtedly a boon to mankind.

But to longshoremen and port operators on the Great Lakes, that branch of the shipping business is a bust.

Little of the United States Department of Agriculture cargo moves through ports such as Chicago, Milwaukee, Duluth, Superior, and other harbors comprising the nation's fourth seacoast.

Instead, the foodstuffs are shipped by rail at far greater cost to taxpayers because of longer distances to Gulf and West Coast ports to conform with requirements of the 1954 Cargo Preference Act that a certain percentage of government cargo must travel in U.S. ships.

That's great for the American maritime industry.

But it is a severe blow to the Great Lakes ports, whose loading docks often are closer to the grain-producing areas of the Middle West than coastal ports and seem a more logical jumping-off point for the foreign-aid cargoes.

The problem, unfortunately, is that few freighters flying the American flag call at Great Lakes ports.

In fact, from 1966 until last year, not one U.S. flag ship made a scheduled sailing between the Great Lakes and overseas ports. What traffic there was traveled aboard foreign ships.

So the Great Lakes ports, for the most part, lost out on the bulk of the USDA shipments that might otherwise have moved through them, generating jobs and revenue.

Now, fortunately, things are turning around a bit. Since last year, a handful of ships flying the Stars and Stripes have ventured through the St. Lawrence Seaway in search of cargoes with the help of federal subsidies.

Capt. Verner Soballe, Chicago Port director, reports two American shipping lines, Lykes Brothers Steamship Co., Inc., and Farrell Lines, Inc., have 15 overseas sailings scheduled from the Port of Chicago during 1976.

And there are another five American registered lines bidding for business on the Great Lakes during 1977.

"The Department of Agriculture ought to recognize that there are now enough U.S. flag ships using the Great Lakes to take care of some of the aid cargo shipments," Soballe said.

The failure of American ships to participate in hauling overseas cargo from the Great Lakes for nearly nine years was prompted by several factors.

Limits on the size of ships capable of squeezing through the St. Lawrence Seaway played a role in the decline of such service. So did labor trouble in several ports. The cost of expensive fuel needed to make the two-week round trip into the lakes was also a deterrent in recent years.

Lastly, the higher costs of American labor and ship construction made it tough for U.S. ship owners to compete with foreign vessels. And the Great Lakes and the seaway are closed for nearly four months annually by ice and that, too, reduced the profit-making margin.

Painfully, port operators on the Great Lakes had to conclude that the glowing predictions of maritime magnificence made when the St. Lawrence Seaway opened 17 years ago this month were so much hogwash.

Even Uncle Sam couldn't give a helping hand with his cargoes of free food because of being caught in a legal trap of his own making—the Cargo Preference Act of 1954.

Milwaukee Port Director John A. Seefeldt charges that mishandling of the act's provisions has resulted in staggering losses of longshoremen's work hours at several Great Lakes ports.

Diverting the USDA cargo to Gulf and West Coast ports is costing taxpayers millions of dollars more in freight bills and ports such as Green Bay, Wis., which previously handled USDA shipments, have been badly gored in the pocketbook.

Green Bay, he said, reported a loss of 67 per cent in longshoremen man-hours through last month, compared with a comparable period a year ago.

Chicago, according to figures compiled by Harrison Tyler, president of the International Longshoremen's Association, suffered a 29 per cent cut in man-hours worked in the year ended last May when compared with a year ago.

And USDA aid cargoes through the Port of Chicago dropped by 59 per cent, as more government shipments were diverted to coastal ports.

Milwaukee, according to Seefeldt, has not yet had the disastrous impact he blames on the loss of government cargo, largely because it handles more general cargo.

However, the consequences could become equally grave for Milwaukee if the agriculture department diversions continue.

As Seefeldt explained, as the volume of USDA shipments declines, so will the number of ships attracted to pick up the cargo. And the reduced frequency of sailings will force Midwestern manufacturers to use other transportation modes to coastal ports for their wares.

Local congressmen had best put their noggins to work on this one before Great Lakes overseas shipping becomes only a memory.

WINDPOWER BETTER CHOICE THAN NUCLEAR

Mr. GRAVEL. Mr. President, I would like to bring to the attention of my colleagues the testimony of Loren L. Johnson in which it is theorized, convincingly, that it would make better sense for the Portland General Electric Co. to build a wind powered system instead of the costly, dangerous nuclear one it is now considering. Mr. Johnson, who holds a degree in economics with a physics minor, concludes his testimony by saying:

To sum up, I find ample evidence that the energy needs of Oregon from 1985 onward, which the Applicant [Portland General Electric] is interested in satisfying [via nuclear power], can be provided more economically and in a more environmentally sound manner by wind energy conversion systems than by either of the thermal power systems to which the Applicant and Nuclear Regulatory Commission Staff addressed their testimony.

Mr. President, Mr. Johnson's conclusion makes a lot of sense. Nuclear advocates who loudly proclaim that without nuclear power our economy will fail, people will lose jobs, and we will all end up back in the caves are playing a cruel hoax on us because in no way can anyone predict the true costs of nuclear power—including the costs of nuclear insurance, accidents, sabotage, radioactive waste "disposal," nuclear fuel, or the billions of dollars we may need to spend for care of cancer and genetically damaged victims of radiation exposure. Since every one of the large nuclear facilities now being built produces, during normal operation, the radioactive equivalent of about 1,000 Hiroshima size bombs every year—and as many as 1,000 plants have been projected by the turn of the century for the United States—we are facing a truly monumental problem. One-thousand plants multiplied by 1,000 Hiroshima bombs' worth of radioactivity would mean the production of the equivalent of 1 million Hiroshima's radioactivity annually. Even if only 1 percent were to escape annually, it would mean the release into our environment of about 10,000 Hiroshima bombs' worth of radiation—year in and year out.

In contrast, wind power produces no radioactive garbage for us to pass on to our descendants. It is not subject to fuel embargoes, cartels, scarcity, and price increases because the "fuel"—wind—is free.

Mr. President, I ask unanimous consent that Loren Johnson's "Alternatives to Power" testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

[Docket Nos. 50-514—50-515]

UNITED STATES OF AMERICA, NUCLEAR REGULATORY COMMISSION: BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

(In the Matter of Portland General Electric Company, et al. (Pebble Springs Nuclear Plant, Units 1 and 2))

SUPPLEMENTAL TESTIMONY OF LOREN L. JOHNSON

Alternatives to power

I have reviewed the two sentence mention of windpower on page 9-7, Section 9.1.2, Alternatives Involving Creation of New Generating Capacity, of the Final Environmental Statement of the Applicant and the NRC. I have also reviewed Section 9.2 alternatives Requiring the Creation of New Generating Capacity, of the Environmental Report, Vol. 2, of the Applicant. The latter document contained no mention of Pacific Northwest wind power potential. The former contains no references documenting its two-sentence conclusions of wind energy.

In my opinion, based on my knowledge of and experience with wind energy conversion systems, such a cursory examination of wind power constitutes gross neglect of the fact-finding process we are presently engaged in and is a rude insult to the intelligence of this board, the NRC, the people of Oregon and windpower professionals who have worked long and hard to provide useful public knowledge on wind energy. All of their work has evidently been totally ignored. If these environmental impact statements are to be a comprehensive, technical, economic and environmental decision-making tool, more information on windpower and solar power alternatives should be included. Although my testimony today will provide up-to-date, state-of-the-art information on wind energy, I must point out that the solar power section is also inadequate and should be re-done in a much more comprehensive fashion.

A comprehensive understanding of what we currently know about wind energy engineering and economics is not possible without a look at important phases in wind power history. In that context, I should like to present a film from NASA archives on the 100kwe Hutter-Allgaier wind-machines, built by North German electric utilities in 1958, and the 1.25 MWe Smith-Putnam of Rutland, Vermont, built by the Central Vermont Public Service Company in 1940. (Dim lights.)

The 100kw Hutter wind turbines are quite similar to the present 100kw NASA Lewis production prototype: 111 ft. diameter fiberglass blades on an 80 ft. tower which are hydraulically actuated either manually or automatically (i.e. unattended) for setting various angles of attack or for feathering in high winds. A recent General Electric pre-production model also borrows heavily from this wind generator design. The field of wind-turbines you see here was connected into a utility network and fed power to nearby German towns.[1]

The 1.25 MW Smith-Putnam was also connected into a utility network, one which had run out of hydro-power dam locations. Built during WWII without a priority for special alloys and before we knew as much as we now know about rotor flutter in large rotating aerodynamic systems such as helicopters and wind-turbines, one of its rotor shafts broke in a storm and its 8-ton blade landed 750 feet away.[2] This is, in fact, an example of the maximum credible accident which could occur with a wind energy conversion system. Even less severe in terms of damage to health, life and property would be the overturning of an entire tower with its blades and generator.

In both of these historical examples the wind generators ran unattended, monitored only by automatic sensing and switching equipment, as well as under direct human control. In the case of the Hutter machines, three wind-turbines could be controlled, automatically if necessary, from the equipment van that you saw. And that van was located far away enough so that even a thrown blade would be unlikely to reach it. Based on this example, it appears likely that modern computer control technology could easily monitor an entire field of remotely-sited, large wind-turbines.

In this context, the 1972 NSF-NASA Solar Energy Panel noted that because wind power is an historically mature technology based on the straight-forward application of well-understood engineering principles and practices in such areas as civil, electrical, structural, control and aerodynamic engineering, any problems likely to arise can be quite completely described, subjected to a body of existing engineering knowledge and experience, and rapidly resolved.[3] The validity of this statement is backed by the fact that the 1.25 MW Smith-Putnam took only two years from drawing board to power production.[4] The NASA 100 KW Mod O Plumbrook installation took 22 months. Based on that experience, the ERDA Federal Wind Energy Program RFP (Request for Proposal) requesting candidate utility proposals for the regional installation of WECS (Wind Energy Conversion Systems) to which PGE replied, requires that the wind plant be operational 19 months after contracts are let. Therefore, relative to the longer 10-12 year lead-times required for the design, construction and engineering "debugging" of large thermal power plants such as Pebble Springs, WECS are immediately implementable, subject only to the constraints of manufacturing production engi-

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Footnotes at end of article.

neering. Unlike thermal power plants, wind plants are now mass-producible using airplane technology.

As you can see from the ERDA Wind Energy Program Summary chart (Attachment A) megawatt-sized WECS will be utility-grid operational before 1980.[5] This fact and the fact that four large aerospace companies, Boeing, Kaman, Lockheed, and General Electric, are willing and able to produce WECS for utilities suggests that WECS can meet any increased electrical energy demand in the Pacific Northwest after 1980.[6] Indeed, this was the point that Professor E. Wendell Hewson, chairman of Oregon State University's Atmospheric Sciences Department, made at the Congressional Wind Energy Hearings. Based on the Lockheed "Wind Energy Mission Analysis", Hewson stated that adding 1.9×10^{11} KWH via wind energy to our present Pacific Northwest hydro-power eneregy base of 3.3×10^{11} KWH would raise the cost of energy from its present 1.07¢ per KWH to 1.59¢ per KWH, but that adding this same 1.9×10^{11} KWH using thermal power plant energy systems would lead to an energy cost of 1.96¢ per KWH.[7] Both Hewson and the ERDA Wind Energy Mission Analysis (Attachment B) have shown that wind power can meet the Pacific Northwest regional demand estimated in West Group forecasts.[8]

However, my experience in the Seattle City Light "Energy 1990" study, the potential for energy conservation now being re-emphasized in ERDA's new national energy plan,[9] and daily contact with citizens from all walks of life ingeniously figuring out ways to save dollars and energy, lead me to believe that utilities, including PGE, are now overbuilding and will soon have unused generating capacity waiting for conserving consumers to slowly catch up. Indeed, the Oregon Department of Energy recently produced an Oregon electrical energy demand forecast which shows slow growth until 1980 and then mild decline after that year.[10] Clearly there is increasing uncertainty as to whether we will need great blocks of power as represented by Pebble Springs.

If slower electrical demand growth continues, then large WECS become an even more favorable option, as it becomes financially prudent for a utility to opt for a more flexible, shorter time-lag energy technology. The reasoning behind this is as follows: With rapid electrical demand growth, the economies of scale weigh heavily in favor of installing plants larger than immediately desired, even though a high proportion of the new capacity goes unused in the first few years. The expectation that justifies this approach in economic terms is that if demand is increasing rapidly, the delay in full utilization of capacity will be brief, and consequently the loss due to higher capital costs will be such as to be offset by the economies of scale in using one large plant as against setting up small plants at frequent time intervals. On the other hand, if demand growth is slow, construction of large generating plants will result in long initial periods of unutilized capacity and unjustified fixed costs. In such a situation the utility may install smaller sized units at shorter intervals with small scale diseconomies rather than large ones spaced over long periods of time.[11]

With all of the above points in mind, I call your attention to page 8–22, Section 8.2.3, Projected Consumption in the Pacific Northwest, of the Final Environmental Statement. New generating plants must be planned years in advance only if decade-long lead times are required to put them in place. I have just shown that wind plants have very short, less than two-year lead times, even without mass-production. Therefore, to utilize wind power economically one does not need the long-term forecasts which tend to be the most inaccurate because, of course, as we look farther into the future there is less certainty. Rather, wind power allows a utility to get very close to its minimum reserve capacity before quickly adding another MW-sized unit of generating capacity.

With windpower, one can now add power capacity two years before it must actually be there, and when WECS mass production begins after 1980 it is likely that utilities will be able to add such wind-electric capacity one year or even six months before demand requires it. This concept of "incremental power capacity" is applicable now and will become increasingly important as energy conservation and efficient energy management take hold.

WECS not only give a utility more flexibility than conventional thermal power plants due to shorter lead-times, they also allow new technological innovations to be easily and rapidly incorporated as they occur. More efficient airfoils, lighter and stronger composite materials for airfoil fabrication, more efficient alternators, generators and power transmission equipment and even new tower designs, all of which are likely to occur, can update a wind-electric system with a minimum of downtime and lost energy production. This is possible due to the likely size of an array of field of WECS in which removing only one from service for retro-fitting of new components will not mean the loss of a large block of power and due to the fact that WECS are clean, rather than radioactively hazardous, energy technologies which are no danger to human health.

Earlier, I referred to Professor Hewson's Congressional testimony on Pacific Northwest wind energy costs, which assumed the installation of 87,900 MW of WECS capacity over the entire Western State Coordinating Council region. Let us now examine a situation in which the applicant has the same acreage as at Pebble Springs, 8400 acres,[12] but in one acre easement plots, similar to the multiple land-use situation of the Hutter-Allgaier wind-turbines you saw situated amid North German farmland. Let us further assume that each small site has the average annual windspeed of 15.71 mph (or 7.04 meter per second) of the applicant's Boardman Wind Energy Demonstration Site,[13] which ERDA has already selected as one possible site for the installation of a large WECS for field testing. Although the windspeeds at some of these sites may be 1 or 2 mph slower, as they are at Pebble Springs, or 1 or 2 mph faster, as Professor Hewson has found to be the case on the higher bluffs on both sides of the Columbia River Gorge all the way to Portland, the available data suggests that many such favorable wind sites exist, most as yet undiscovered.[14]

According to Ugo A. Coty, Technical Manager, Wind Energy Program, Lockheed-California, at the present level of federal support and technological development, his company could supply and aid in the installation of the number of WECS required to satisfy the 1257 MW demand which, according to the Applicant, must be met in the 1985 time frame.[15] Lockheed-California will be able to produce wind-electric plants rated at 1.7 MW, with blade diameters of 250 ft., beginning in 1980. The cost of wind energy from these units will be 2.35c per KWH at an initial investment cost of $610 per installed KW at average annual windspeeds of 7 m/s, or slightly less than the Boardman Wind Energy Demonstration Site's 15.71 mph (7.04 m/s).[16] The presently accepted practice, based on existing aeronautical theory, on the spacing of large wind-turbines so that the first does not produce a "wind-shadow" which reduces the energy output of the second one behind it, requires that large WECS be 10 windwheel diameters apart, in this case 2,500 ft., or less than one half mile. More than 95% of the energy in the wind is recovered by that distance.

A power capacity of 1257 MWe by means of 1.7 MWe WECS with a .51 capacity requires the installation of 1450 such units. This is figured as follows: $1257\ \text{MWe}/1.7\ \text{MWe}\times.51=1257/.867=1450$ wind turbine units.

This would require 1450 acres in 1-acre plots, in multiple-use easements as explained earlier. These 1450 large 1.7 MWe WECS would produce 11,020,176,000 KWH per year at an average annual wind speed of 7 m/s and a .51 capacity factor, figured as follows: energy output in $\text{KWH/year}=(1450\ \text{units})\times(1.7\ \text{MWe})\times(.51)\times(8766\ \text{hr/yr})=(1257.15\ \text{MWe})\times(7866\ \text{hr/yr})=11{,}020{,}176\ \text{MWH/yr}=11{,}020{,}176{,}000\ \text{KWH/yr}$.

(Note: 8766 hr/yr includes 6 hrs. each year for one day in leap year.)

According to Mr. Coty, Lockheed-California will be able to begin delivery of 4 MWe WECS starting in 1984 and his company could supply and aid in the installation of the number of such large WECS required to satisfy the 1257 MWe demand which, according to the Applicant, must be met in the 1988 time frame. These 4 MWe units will have 340 ft. blade diameters, and at average annual windspeeds of 7 m/s will produce energy at a cost of 2.1c/KWH at an initial investment cost of $520 per installed KW.[17] A power capacity of 1257 MWe by means of 4 MWe WECSS with a capacity factor of .5 requires the installation of 629 such units, figured as follows: $1257\ \text{MWe}/(4\ \text{MWe})\times(.51)=1257/2=628.5$ wind turbine units.

This would require 629 acres in 1-acre easement plots, with a spacing of 3400 ft (that's 340 ft diameter multiplied by 10 spacing diameters) between units. These 629 WECS will produce, at an average annual windspeed of 7 m/s, 11,027,628,000 KWH/yr, figured as follows: energy output in $\text{KWH/yr}=(629\ \text{units})\times(4\ \text{MWe})\times(8766\ \text{hr/yr})=11{,}027{,}628\ \text{MWH/yr}=11{,}027{,}628{,}000\ \text{KWH/yr}$.

I call your particular attention to the fact that, in satisfying the Applicant's 1985 and 1988 demand, 1450 acres are required for the 1.7 MW WECS and 629 acres are required for the 4 MW WECS, a total of 2079 acres, or slightly less than ¼ of the 8400 acre area of the Applicant's site.

Evidently the NRC Staff failed to realize that the Applicant's site was in the midst of the world's largest hydropower system, as they stated that "economic methods of energy storage" must be developed before wind power can be used for baseloads.[18] The Bonneville Power Administration has such economic energy storage facilities. They are called dams. Large WECS with hydroelectric systems, such as the Bonneville Power Administration, provide inherent energy storage, as illustrated in Attachment C. Throughout the year, average hydrosystem water flow stays about the same since we cannot yet increase rainfall at will nor ignore downstream riparian rights. The added generating capacity of large WECS allow the conservation of water until it is needed for peak power demands, at which time water can be allowed to flow through turbines at a higher rate than possible without WECS. Hydroelectric capacity is thereby increased and WECS are able to utilize the existing and inexpensive energy storage represented by the entire Pacific Northwest hydropower system. When the wind blows, water is saved; when the wind stops or peak power is needed, hydropower is used. Wind power, connected to hydropower, adds to the energy capacity of the system and thus permits a capacity credit to be allowed for the installed wind energy machines.[19]

As larger and larger thermal power plants are built, and especially those such as nuclear plants in which failure of one component can shut down the entire power plant or group of plants of similar design nationwide, larger and larger spinning reserves must exist which can immediately be thrown on line in order to take up the slack of a faltering 1000 MW plant. WECS are less likely to

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Footnotes at end of article.

experience such failures due to the more conventional nature of their engineering, as previously explained. The failure of one WECS will not force the shutdown of another. The failure of one WECS in a large array of 1450 or 629 wind-turbines is a minor problem of 1.7 to 4 MW; not a major 1000 MW catastrophe.

To sum up, I find ample evidence that the energy needs of Oregon from 1985 onward, which the Applicant is interested in satisfying, can be provided more economically and in a more environmentally sound manner by wind energy conversion systems than by either of the thermal power systems to which the Applicant and the NRC Staff addressed their testimony.

FOOTNOTES

[1] Armburst, S. "Regulating and Control System of an Experimental 100KW Wind Electric Plant Operating Parallel with an AC Network", *U.N. New Sources of Energy Conference Proceedings*, Vol. 7 (Wind Power) Aug., 1961, United Nations, New York City, Pages 201–205.

[2] Putnam, Palmer C., *Power from the Wind*, Van Nostrand Reinhold, 1948.

[3] NSF–NASA Solar Energy Panel, 1972, Wind Energy Conversion, *Solar Energy as a National Resource*, NSF, Washington, D.C., pages 65–81.

[4] Putnam, op. cit., page 124.

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[15] Personal communication, Ugo A. Coty, Wind Energy Program, Lockheed-California Co., Burbank, California, July 21, 1976.

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WIND ENERGY MISSION ANALYSIS—APPLICATION OF WECS TO AUGMENT HYDROELECTRIC GENERATING CAPABILITY

[Example—WSCC region 1995]

	Forecast	Alternate 1	Alternate 2
Hydroelectric capability (megawatts)	64,600	64,600+ 87,900	64,600
Hydro plant factor	0.59	0.25	0.59
Annual hydroenergy (kilowatthours)	3.3×10^{11}	3.3×10^{11}	3.3×10^{11}
WECS annual energy (kilowatthours)	0	1.9×10^{11}	0
Fossil fuel annual energy (kilowatthours)			1.9×10^{11}
Cost of energy (cents per kilowatthour)	1.07	1.59	1.96

LOREN L. (LEE) JOHNSON: PROFESSIONAL QUALIFICATIONS

My name is Loren L. Johnson. I am a member of ECOTOPE GROUP, an organization incorporated in 1974 in the State of Washington and recognized as non-profit by the federal government under Internal Revenue Service 501(C)3 rules on organizations which do educational and scientific research and development work. Our emphasis is on the potential for energy conservation and on renewable energy sources of all kinds.

In that regard, and under contract to the Washington State Departments of Ecology, Institutional Industries, and Social and Health Services, I was involved in the design and construction of the only existing plant in the Pacific Northwest designed to produce methane gas and fertilizer from dairy cow manure. This 100,000 gallon bio-conversion plant is one of only five large-scale systems currently operational and one of only two in the nation which are not classed as experimental and located at universities. Recently we received notice from the ERDA Fuels from Biomass, Division of Solar Energy that, contingent upon ECOTOPE GROUP's agreement to participate in a national bioconversion working group, consisting of university, manufacturer, and R & D organizations which would advise ERDA on appropriate directions for its agricultural and urban bio-conversion energy programs and on our agreement to conduct related research, we will be granted a contract to update the Monroe Methane Plant engineering drawings and to incorporate them into a workbook designed to aid farmers, ranchers and feedlot owner-operators in rapidly utilizing bio-conversion energy technology in their specific situations.

I have also been involved in the solar design and engineering of two solar homes in the Portland area and am presently engaged in the engineering design and application to HUD for financing a solar hot water system on the Lennox Hotel in downtown Portland, about 4 blocks from these hearings.

Recently, I was part of an ECOTOPE GROUP team which consulted to Northwest Environmental Technology Laboratories on the Seattle City Light "Energy 1990" study, an environmental impact statement on SCL's participation in two nuclear power plants. In that study, I was responsible for the technical, economic, environmental and institutional analysis of the potential for energy conservation and solar and wind energy systems. I was also part of an ECOTOPE GROUP team which consulted to Skidmore-Owings-Merril on the feasibility of integrating large-scale solar-electric and wind-electric systems with existing nuclear, coal and hydrogeneration in the Pacific Northwest. This research was done for the Energy Conservation Study section of the Bonneville Power Administrations "Role Environmental Impact Statement". In the near future, we will be advising the State of Montana on energy conservation, and the State of Idaho on solar-geothermal and wind-geothermal energy system configurations.

Additionally, I am editor of Rain: Journal of Appropriate Technology, 2270 NW Irving St., Portland, Or 97210. In that position I read over 400 professional journals, energy newsletters and government reports for energy conservation and solar and wind energy information which is of interest to Rain's 10,000 readers, and answer hundreds of calls and letters each month on these topics. With Ken Smith of ECOTOPE GROUP, I have conducted nine solar workshops in Oregon, Washington, Idaho, Montana, Wyoming, and California in which 1500 people were taught how to build their own solar hot water heaters.

Formerly, I was an instructor in energy conservation and solar and wind energy at Portland Community College and the Oregon Museum of Science and Industry; OMSI still receives my advice on energy educational programs and energy exhibits through my participation, with other Portland engineers, in OMSI's Technical Advisory Group.

I hold a B.A. in Economics, with a minor in Physics, from Carleton College, Northfield, Minnesota. I am a member of the International Solar Energy Society and part of its Appropriate Technology working group.

STANDARDS STILL NEEDED

Mr. GOLDWATER. Mr. President, in recent months we have heard a number of suggestions that the West Point honor system be abolished, because cheating scandals at the Academy indicate that the system has not worked. I am among those who feel this would be a grave mistake. Recently a constituent of mine, Dr. John D. Chickering, placed the situation in its proper perspective in a letter published in the Arizona Daily Star. As a former graduate of the U.S. Military Academy, who is presently an administrative law judge with the State of Arizona, Dr. Chickering deplores any effort to abolish or water down the West Point honor code. I ask unanimous consent that Dr. Chickering's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STANDARDS STILL NEEDED

Editor the Star:

A prominent United States senator has recently advocated doing away with the West Point honor system as "these multiple violations show that the system hasn't worked." I suggest that doing away with the West Point honor system will throw the baby out with the bath water; will prevent the possibility of the system's continued working as it has worked for nearly 200 years. When U.S. presidents violate the U.S. Constitution, should the Constitution be gotten rid of? When West Pointers violate the West Point honor code, should the code be gotten rid of?

Recently, too, the secretary of the Army has reportedly decreed that honor violators at the military academy should simply be, in effect, suspended for a year, a suspension which the superintendent of the military academy has reportedly and compliantly vouchsafed "won't count." Do two wrongs make a right? Do 200? Do we really do our youth and our nation a service by such politically-rooted rationalization, which holds that wrong is right if enough commit it? More preferable seems the Lincolnian parody: "Resolve to be an honest West Pointer; but if you can't be an honest West Pointer, then resolve to be honest without being a West Pointer."

Daily on the bench I am struck by the way in which "truth will out." All of us have seen such in the wake of the "Nixon years." This truism, and even elementary historical logic, both impel the conclusion that to continue to dally with Pompeiian seeds of self-destruction sown in an era of extremist permissiveness—either spawned within, or brought on by some alien fifth column without—must lead inexorably to futility at best.

Sinners we all are, but may our institutions and ideals not be dragged down by and with our human frailty. Contrariwise, may our institutions and ideals, which have stood the test of time as characterological bulwarks, abide to inspire that very frailty to achievement and realization beyond the finite human dimension.

JOHN B. CHICKERING.

EDITORIALS ON DEFENSE

Mr. THURMOND. Mr. President, two recent editorials, one entitled "Red Power Grows" and a second entitled "Focus on Defense" appeared on the editorial pages recently in two outstanding newspapers in the South.

The first editorial, "Red Power Grows" appeared in the September 13 issue of the Aiken Standard newspaper, Aiken, S.C. The editorial pointed out the decisive and spiraling Soviet military buildup and took particular note of the absence of recent arms control negotiation progress.

The second editorial, "Focus on Defense" appeared in the September 13 issue of the Augusta Chronicle newspaper, Augusta, Ga. It noted recent warnings by Lt. Gen. Daniel Graham relative to the big Soviet buildup and noted as well the reluctance of Congress to more adequately respond to this challenge.

Mr. President, I ask unanimous consent that both of these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Aiken (S.C.) Standard, Sept. 13, 1976]

RED POWER GROWS

Uninhibited by agreements with the United States limiting strategic weapons, the Soviet Union has embarked on a crash program to further increase its superiority in conventional and regional nuclear forces. "There is no emerging threat in Asia or from NATO that would justify this massive Soviet investment," according to Dr. Fred C. Ikle, director of the U.S. Arms Control and Disarmament Agency, in a speech delivered Aug. 31 in Los Angeles.

Dr. Ikle disclosed that the Soviet Union is introducing a brand new regional ballistic missile, which has multiple independently targeted warheads (MIRVs). The USSR is deploying its new Backfire bomber, which it contends is intended for regional missions only.

He warned that success in the current strategic arms limitations talks (SALT) would do nothing to stop the growth of Soviet regional forces. SALT is designed to balance the intercontinental forces of the two superpowers.

"But at the very time that we bend every effort to curb these two gigantic forces," he said. "Russia's strength in regional nuclear bombers and missiles grows like a towering, dark cloud over Europe and Asia."

We have already expressed our view of the foolishness of arms limitations talks with the Soviet Union that do not cover the whole spectrum of military force. In one sense, agreements in the narrow area of intercontinental weapons are worse than no agreements at all, in that they tend to lull the American people into a false sense of security.

The overwhelming numerical superiority of Soviet ships, tanks, planes and other combat forces may or may not be balanced by the higher quality of U.S. men and material. We are troubled by reports that continue to surface about alleged deficiencies in the all-volunteer force that is one of the more questionable legacies of the post-Vietnam era. But when that Soviet numerical superiority is backed up by a "towering, dark cloud" of regional nuclear force, it is time that Americans wake up to the dangers into which they have been led.

Any intelligent assessment of the military imbalance now existing in Europe would have to concede enormous advantage to the Red Army in any future war there. Further, the Soviet navy today possesses the undoubted power to sever the great ocean highways over which Europe's—and America's—absolutely vital oil supplies move.

In our view, we are gambling heavily on (1) Russian good intentions, and (2) the credibility of our own willingness to fulfill a mutual suicide pact with the Soviet Union on that inevitable day when your bluff is called. That a nation so rich should have so limited its options is the height of folly.

[From the Augusta Chronicle, Sept. 13, 1976]

FOCUS ON DEFENSE

When the former chief of the Defense Intelligence Agency, Lt. Gen. Daniel O. Graham, says that the Soviet Union in the past decade has gone from 224 intercontinental ballistic missiles to more than 1,600, in sea-launched missiles it has gone from 29 to around 800, and in nuclear warheads it has gone from 390 to approximately 3,500, it is apparent that he has already come to accept a premise which would have been considered unthinkable only a few years ago.

That premise is, of course, that the United States can accept—as the basis of a livable if armed peace—simple parity rather than superiority in deterrent weaponry vis-a-vis the Kremlin.

And, most frightening, this comes at a time when all the indicators are that America now needs, as perhaps never before, to retain a clear superiority—both in nuclear arms and in the more conventional types. Indicators such as:

The complaint by General Graham and others that America has fallen from being 600 ahead in ICBMs to approximately 600 behind, and from 2,900 tactical aircraft ahead of the Russians to more than 350 behind in the past 10 years.

The disclosure by one top Ford Administration official that the Soviet Union today spends more money for arms than any other nation in the world since the Second World War. The Soviet Union's Communist bosses now spend 20 per cent or more of their Gross National Product (GNP) on arms. By contrast, America is allocating just over 5 per cent of our GNP to defense. And, according to this official, during the past 10 years the Soviet Union has outspent the United States in virtually every military capacity.

Reports from other quarters that the most worrisome aspect of the Soviet Communist strategy is their civil-defense program. It apparently is a high priority, with a budget of more than $1 billion a year. Furthermore, it is estimated that some 20 million young Russians receive some form of civil defense training every summer as part of annual "war games." This is compared to the United States civil defense program, which gets little money and is in sad shape.

It seems to us that the clear and present need for the United States is to upgrade, without delay, its nuclear and conventional armaments to the point of not mere parity, but clear superiority. Americans should demand that the Democratic-controlled Congress apply every dollar it can spare into the rebuilding of a U.S. fleet that is rapidly falling into obsolescence and the upgrading of nuclear defenses that apparently already are outgunned.

The American people should also demand that the B–1 bomber program be funded as quickly as possible. For, as General Graham states, replacement of America's aging B–52 fleet with the ultra modern B–1 will help immensely because it will force Moscow to keep spending heavily on air defenses. This is one of the reasons, the general further states, the B–1 is the weapons the Reds have tried hard to eliminate in the ongoing Strategic Arms Limitation Talks.

The need may be answered in full recognition of its urgency—unless the present spirit of acquiescence moves America a further step backward to accommodate a little arms inferiority in the mistaken belief that, like a "little inflation," it will be "good" for us—at which point we are undone.

SLUDGE: WHAT ARE WE GOING TO DO WITH IT?

Mr. PROXMIRE. Mr. President, as you and my colleagues know, the Federal Government has made an enormous investment in the construction of waste water treatment facilities in the States, the latest coming in the form of a $480 million appropriation for additional waste treatment construction grants, authorized under title III of the Public Works Employment Act of 1976, and appropriated in H.R. 15194, the Public Works Employment Appropriations Act. To date, well over $18 billion has been authorized for these important and necessary sewer facilities—facilities that most of us agree are desperately needed in our States.

Ironically, as Daniel Rapoport points out in an alarming article in the September 11 issue of the National Journal's environment report, the construction of more and better sewer treatment plants has led to the increasingly serious problem of what to do with the almost 300 million tons of sludge that is produced every year in and around our cities and towns. I am proud to say that for nearly a half century the city of Milwaukee has been tackling its sludge disposal problem, in part, by packaging the dried sludge and selling it as Milorganite—a natural organic fertilizer. But as Dr. Rapoport illustrates, even this resourceful and profitable method of disposing of sludge has its drawbacks and further research is necessary in order to stem this snowballing problem of sludge management.

Mr. President, I have taken many an agency to task for its failure to use its valuable research and development dollars to address our most pressing national needs, and I am certainly not suggesting that these already inflated R. & D. budgets be increased over present levels to tackle this substantial sludge disposal and management phenomena. However, I do feel that here is an opportunity for our scientific and environmental research agencies to tackle a significant, urgent, national problem, and hopefully come up with results that the average American taxpayer can touch and see. Our research agencies should reassess their funding priorities and focus more of their research efforts on problems such as this rather than throw money at the study of "why people fall in love" and "clench their jaws," or other similar projects where the results will never be concrete or particularly useful to the average American citizen.

Mr. President, we all want clean water, streams, and lakes. The mounting growth of sludge indicates that we are getting what we are paying for. Now our efforts should begin to focus on what to do with the sludge we have created as the by-product of our environmental cleanup campaign.

Mr. President, I ask unanimous consent that the text of Dr. Rapoport's article be printed in the RECORD, and I urge my colleagues to give careful consideration to the issue raised.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SLUDGE—NOW THAT WE HAVE GOT IT, WHAT ARE WE GOING TO DO WITH IT?

(By Daniel Rapoport)

And now comes sludge. The unsightly and often odorous residue of treated sewage is the newest and fastest growing environmental problem facing American cities and towns. It is also the most ironic.

Sludge's very existence is a sort of good news-bad news joke. The good news is that we wouldn't have a sludge crisis if we weren't doing such an improved job of de-polluting the waterways. The bad news, of course, is that the more efficient a community's sewage treatment facility, the more sludge it has left to dispose of. And finding acceptable places and ways to get rid of sludge is driving sanitation engineers wild.

Traditional methods of sludge disposal are coming under attack from government agencies as well as ordinary citizens. Their objections range from a seemingly esoteric concern about the heavy metals found in industrial sludge to a mundane annoyance over the smells emanating from sludge lagoons.

At the same time, the volume of sludge is almost literally reaching near-mountainous heights. According to one federal estimate, the United States is producing almost 300 million tons of wet sludge a year. It has to be put somewhere: either in the ocean, in the air (through burning) or on the land. Sludge management officials have concluded that because of environmental and health reasons, the first two options are no longer acceptable. As a result, more sludge is being put on the land, where more people are learning about it.

"The quantity is growing and the awareness is growing," said Joseph B. Farrell, a sludge management research official with the Environmental Protection Agency (EPA).

In some ways, Washington is lagging behind the rest of the country when it comes to sludge awareness. The federal government's interest in sludge is concentrated on research into new methods of disposal and enforcement of restrictions on current techniques. But there is little evidence that anyone of influence in the Administration has decided that the time has come to treat sludge separately from the general problem of sewage disposal, to pull together the individual agency approaches to sludge management and to launch a government-wide attack on the problems.

THE PROBLEM

In Congress, a few Members, mostly from the Northeast, recently introduced legislation on sludge disposal. But no committee hearings have been held exclusively on the subject. As a matter of fact, Congress seems confused over where to put sludge. A staff member of a House subcommittee recently told a reporter she wasn't sure whether sludge was a solid or a liquid waste, and therefore couldn't tell a caller which committee held legislative jurisdiction over it. A similar dispute exists in the Administration, where EPA's solid waste and wastewater offices are conducting what one participant described as a minor "turf fight" over sludge.

How it began

The bureaucratic dispute is understandable. Sludge is a liquid suspension of the solid matters removed from wastewater. Before 1972, it was not a major national waste disposal problem. The solid matter taken from wastewater during sewage treatment didn't amount to that much.

Then, four years ago, Congress passed landmark legislation amending the Water Pollution Control Act (86 Stat. 816). The legislation set clean water goals for the nation and provided the means and funds for reaching them. The heart of the program was a requirement that municipal wastewater be put through a secondary level of sewage treatment, one that would remove the dissolved pollutants that had escaped the screening and settling process of primary treatment.

Before 1972, a municipality would empty dirty water into the nearest available body of water. The sludge left over ended up being buried, stored in lagoons, dumped into bays and oceans or occasionally burned.

"The public works director would pile it up somewhere and hope that he'd get promoted or transferred so he could leave the ultimate disposal problem to his successor," said a long-time observer of sludge management efforts.

But after 1972, it became difficult to ignore sludge. Streams and lakes were growing cleaner, but sludge repositories were filling up. The cities turned to other "solutions."

Ocean dumping

"For 35 years, Philadelphia stored its sludge in lagoons until it realized that it could dump it in the ocean," said a federal sludge specialist.

Philadelphia is not the only city using the ocean for sludge dumping. So are New York City, Boston, Los Angeles and metropolitan areas of New Jersey. But the days of dumping large amounts of sludge into the ocean are drawing to a close.

After a number of incidents in recent years in which traces of sludge showed up on Long Island beaches, the EPA ordered New York City and more than 100 other communities and commercial haulers to cease dumping sludge in the Atlantic Ocean by 1982. For approximately 45 years, communities have been barging their sludge to the New York Bight, an area about 12 miles off the shores of New Jersey and Long Island. Philadelphia, meanwhile, has been given a similar deadline by which it has to halt its disposal of sludge in the ocean.

For a while, some thought had been given to carrying the sludge farther out into the ocean, to a point where it was unlikely to find its way back to the beaches. But federal scientists ruled out that option because of sludge's danger to marine life.

The East Coast experience has convinced most sludge management experts that the ocean is out as a disposal area. Similarly, national efforts aimed at combating air pollution as well as prohibitive costs have sharply reduced the feasibility of traditional sludge burning methods.

Land disposal

Because sludge contains so much water, enormous amounts of heat have to be generated to reduce it to a relatively dry state. Before the Arab oil embargo of 1973, in the days when energy in America was cheap, the burning of sludge made sense. But with fuel costs soaring, and with municipalities forced to equip their incinerators with expensive air pollution control equipment, incineration has become less economical.

The land is where most sludge historically has been dumped, and, in the opinion of most experts, it is the place where it will continue to be dumped. But it won't be done in the same way.

Traditionally, land disposal of sludge first has involved subjecting it to a process through which most of sludge's organic matter is stabilized and the worst of its odors masked. It is then transported to a site where it is plowed into, laid out or sprayed onto the soil. If the sludge contains a substantial amount of water and the same site is used over and over again, the area turns into a lagoon. If the sludge is relatively dry or if it is spread out through a nozzle over large areas, the soil will be given a chance to absorb the moisture.

One of the problems with land disposal has been the availability of land. As urban areas continue to expand, usable sites diminish. Land also becomes increasingly expensive.

Another difficulty is posed by the aesthetic objections to sludge. People do not like living near sludge sites. Sanitation engineers say that disinfecting sludge does not always help because people often are not willing to accept the idea of living in the vicinity of sludge, which they broadly equate with sewage.

Some of the more imaginative methods of sludge disposal are also facing criticism.

Chicago does not have an ocean in which to dump its sludge, and it is not using Lake Michigan as a substitute. Instead, the city and Cook County have been employing what they regard as sensible and innovative alternatives—200 miles away, in Fulton County, Ill., corn is being grown on soil enriched by Cook County sludge, and Chicago sludge is also being evaluated for use in filling the ugly scars left by strip mining.

But now objections are being raised to the Chicago approach, as well as to similar techniques utilized by other cities that want to capitalize on the valuable fertilizer properties of sludge. (For 40 years, Milwaukee has been drying and packaging its sludge and selling it as Milorganite, "the natural organic fertilizer.")

As ecologically commendable as they may be, these methods of sludge disposal carry some possible dangers unless they are carefully controlled. There are three principal problems: nitrate pollution of the ground water; heavy metal contamination of crops grown on sludge-fertilized fields; and infection of soil and ground water by viruses, bacteria and other living organisms found in the human waste that constitutes most municipal sludge deposits.

SOME SOLUTIONS

Research into new sludge disposal techniques, most of it federally funded, is aimed at finding methods that eliminate dangers, satisfy aesthetic considerations and are economically feasible. Informal coordination between the agencies has largely avoided duplication of effort.

Pyrolysis

EPA, for example, has been concentrating on a method called pyrolysis. Basically, the technique calls for subjecting sludge to a combustion process without air or with very little air—similar to the process that creates charcoal. Its main advantage is that it will reduce appreciably the sludge mass. Its drawback, at the moment, is the amount of energy—and the accompanying costs—required.

Composting

The Agriculture Department, has directed its attention to composting, where sludge is mixed with wood chips and turned over in much the same way that a gardener produces compost from leaves and other yard matter. The Agricultural Research Service is conducting experiments at its Beltsville, Md. station, and is also monitoring the actual performance of sludge composting operations in Bangor, Maine and Durham, N.H. Eliot Epstein, a soil scientist at the research service, said the result so far are good. The $50 a ton that the technique costs Bangor, he said, is partly offset by the compost with which the city can fertilize its parks and other public lands.

The drawback to composting is the amount of land that large cities would have to set aside. The present cost is also relatively high, but that might become less objectionable as Americans get used to expensive disposal methods.

Soil injection

At the National Science Foundation, research is directed at soil injection. Wet sludge is piped or trucked to a disposal site, where it is then pumped into a tractor-like device that squirts the sludge into the soil and mixes it with the dirt. The land thus is, in effect, cultivated with sludge. The city of Boulder, Colo. is using such a system.

Research at Colorado State University, where the soil injection system was developed, say that the danger of crop contamination can be avoided. Heavy metals in the sludge, for example, can be neutralized by regulating the soil pH (or alkaline level), researchers say. At the ultimate point, crop contamination can be avoided simply by not growing crops on the disposal site.

In a related project, the science foundation is funding a research project at Deer Island in Boston Harbor, where sludge is being irradiated by high energy electrons. The object is to kill the viral and bacterial agents in sludge, rendering it safe for injection into the soil.

Dr. Edward H. Bryan, who oversees the foundation's sludge management research, contends that the two processes together are sound from an economic as well as a technological point of view. The irradiation facility, he said, can be constructed for about $500,000.

Together with the soil injection process, he said, a community could handle sludge at a cost of less than $30 a ton. Bryan said this is cheaper than any of the other prospective alternatives.

The negative aspects to the NSF approach center on the familiar problems of preventing contamination of the soil and of assuring absolute safety at the irradiation facility.

Federal spending

In total, the federal government is spending less than $3 million this year on sludge management research. In terms of the scope of the problem, this is not, in the opinion of many experts, very much money.

But it nevertheless reflects a greater recognition of the problem that can be found in Congress. Capitol Hill has been extremely slow to respond to sludge problems. Reps. John W. Wydler, R-N.Y., and James J. Howard, D-N.J., have introduced legislation (HR 14775, HR 15163) on the subject, but for the most part the measures are directed toward the specific sludge disposal crisis faced by New York and New Jersey communities.

Drinan's bill

The only Member to propose a total assault on sludge has been Rep. Robert F. Drinan, D-Mass., author of the Sludge Management Act of 1976. The bill (HR 14862), which has attracted 30 co-sponsors, would authorize a major research and development program on sludge disposal and establish tight federal regulations on current sludge disposal methods.

Drinan does not foresee any action on his bill this year. But he is optimistic that the next Congress will give it serious consideration. Fellow Members, he said, are beginning to discover sludge problems back home.

Nevertheless, Drinan views sludge management as "an idea whose time has not quite come." He laments this because, he said, the problem has reached near crisis proportions.

City views

Drinan's view apparently is shared by the nation's metropolises. In a survey conducted for the Urban Consortium for Technical Alternatives, an organization of the 33 largest cities and urban counties, the nonprofit Public Technology Corp. asked local officials what they considered the 10 most pressing environmental and energy problems facing their communities.

Two of the 10 problems dealt with sludge—removing it from sewage and keeping it from seeping into drinking water supplies.

A member of the Metropolitan Sanitary District of Greater Chicago expressed his frustration with the sludge problem more pungently. Coping on one hand with the unrelenting sludge production of six million persons and facing simultaneously the growing restrictions on what to do with it, he warned that a solution had better be devised quickly.

"Or else," he warned, "some day the people of Chicago are going to flush their toilets and nothing is going to happen."

TRIBUTE TO MIKE MANSFIELD

Mr. METCALF. Mr. President, for more than four decades, I have had the good fortune to know Mike Mansfield. I have known him as a teacher, as an administrator in the same college in which I was a student, as my Representative in Congress when I was in the service, as a fellow Montanan in the Congress of the United States—both as his successor in the House of Representatives, and for the past 14 years as his colleague in the Senate—but above all and more than all that, I have known him as a valued friend.

I join with Members of the Senate in their genuine regret that we are losing a leader who has brought us through so many crises. I join the people of America in deploring the fact that a significant and important public servant is retiring from public life, but I add to these the sorrow in parting from an old friend. No longer will Mike's and my paths cross as we move about Montana; no longer will there be a little wave and a smile on the floor of the Senate. As we go our separate ways there will be more and more memories of a warm and sympathetic relationship.

Donna and I wish Maureen and Mike all the health and happiness in their new life.

ON SPENDING $4.30 FOR CONGRESS

Mr. THURMOND. Mr. President, I read with interest an editorial in the September 16 issue of the Georgetown Times of Georgetown, S.C., concerning congressional spending.

"On Spending $4.30 For Congress" by Lawrence L. McConnell, one of the finest up-and-coming young editors in the country, is an eloquent indictment of wasteful Federal spending. The Georgetown Times has been serving coastal South Carolina since 1797. Its editorials are a faithful index of the feelings of the people there, and their feelings are no different from those of the majority of Americans. This editorial expresses a strong dissatisfaction with creeping federalism and the burgeoning Federal bureaucracy. It is my pleasure to share these concerns with my colleagues.

Mr. President, I ask unanimous consent that Mr. McConnell's editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

On Spending $4.30 for Congress

Four dollars and thirty cents doesn't sound like much. But multiply $4.30 times every man, woman and child in the United States and you have the amount that Congress now spends on itself annually.

In a study developed by the Tax Foundation, Inc., Congress is shown to have quadrupled its own budget since 1960. The figure is now approaching $1 billion—just for the payroll, new agencies and operating costs.

Compared to other government spending, the $1 billion figure is miniscule. But it does reflect the meteoric growth in federal spending since the early 1960s. The very group responsible for that growth has outpaced every other facet of the federal bureaucracy. The Congress' budget increased 441 per cent from 1960 to 1976, while overall federal spending ballooned some 305 per cent during the same period.

Compounding these distressing statistics is the simple fact that the very representatives whom the public relies upon to control government spending has no check, no balance upon itself, other than a presidential veto or a vote at the ballot box.

The Tax Foundation summed up this state of affairs by commenting that the Congress "determines its own budget which, under law, must be included in the President's budget submission exactly as proposed. It makes its own rules, determines its own staff and salary levels, provides itself allowances and perquisites . . . Beyond this, each house makes these determinations for itself. When the annual legislative appropriation bill is acted upon, the House passes only upon its own funds and the Senate later adds in appropriations for its operations and seldom, if ever, does either body challenge the operations of the other."

In reviewing this report in an election year, Georgetonians should be wary of campaign rhetoric about cutting out waste and reducing spending in the federal government. It all sounds very nice, but we're afraid Congress has gotten to the point at which it—like the federal government—feeds upon itself.

It will require more than halfhearted promises to "cut spending" or "balance the budget" or "eliminate waste." It will take the united determination of all Americans to demand that their representatives give them less government instead of more. And with a mandated balanced budget—not the promise of one—less government means less taxes.

The alternative to that course is increasingly higher rates of taxation on an already overburdened American lower middle and middle class. If that taxation reaches the point at which it is considered by many Americans to be intolerable, we shudder to imagine what the consequences might be.

EFFECTS OF TAR AND NICOTINE IN CANCER

Mr. HUDDLESTON. Mr. President, during the hearings earlier this year by the Health Subcommittee of the Labor and Public Welfare Committee on the National Health Research and Development Act introduced by Senators Kennedy and Hart, testimony was presented by Dr. R. H. Rigdon, formerly a professor of pathology at the University of Texas Medical Branch at Galveston. Inadvertently, Dr. Rigdon's statement was omitted from the hearing record.

His long experience and expertise in the field of pathology make his statement pertinent to the controversy about the effects of tars and nicotine in cigarette smoke.

I ask unanimous consent that the testimony of Dr. Rigdon be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. R. H. RIGDON

I am R. H. Rigdon, recently retired Professor of Pathology at the University of Texas Medical Branch at Galveston. I received my degree in Medicine from Emory University in 1931. My postgraduate training was obtained at Duke University. In addition to the University of Texas, I have been on the medical staff of various universities, including Vanderbilt, Tennessee and Arkansas. I am certified by the American Board of Pathology.

I have read the bill recently introduced by Senators Hart and Kennedy entitled the "National Health Research and Development Act" and would like to offer my comments about the claim that "overwhelming scientific evidence exists that the harmful factors contained in cigarette smoke are tars and nicotine."

In 1969, and again in 1972, I presented to Congress my views on smoking and health. On both occasions I expressed the opinion that it had not been scientifically established that tobacco smoke is hazardous or harmful to human smokers. My opinion was based upon several observations, which can briefly be summarized as follows:

1. Health claims about the effects of tobacco smoke in man are based largely upon statistical associations without confirming scientific evidence.

2. There is a lack of persuasive experimental data referable to possible effects of cigarette smoke and its components. In my work with White Peking Ducks, I was unable to produce cancers in the respiratory tract with tobacco smoke condensate ("tar"). However, I was able to produce such cancers with other substances, such as methylcholanthrene, not found in tobacco smoke.

3. My experimental work with animals, and particularly my recent experiments with polyurethane, emphasize the wide variations that exist in the reactions of different animal species to the same agent. Therefore, while animal experimentation is a helpful tool for use in understanding the possible effects of various agents, results in animals cannot be automaticaly extrapolated to humans.

4. It has never been scientifically established that compounds, such as benzo(a)pyrene, as found in tobacco smoke are hazardous to human smokers. Nor has it ever been shown that the benzo(a)pyrene in charcoal broiled steaks and other common foods produce cancer in humans.

Since I expressed my views to Congress in 1972, I have not seen any medical data which would change my opinion that tobacco smoke has *not* been shown to be hazardous to human smokers. Nor has it ever been scientifically established that "tar" and nicotine produce disease in smokers.

In conclusion, it is my opinion that there is no scientific basis for the claim "overwhelming scientific evidence" has shown "tars" and "nicotine" to be "harmful" to smokers. I do support, however, studies referable to the pathogenesis of all cancers because such data are necessary to evaluate scientifically what role, if any, "tar" and nicotine might play in human cancer.

FISCAL YEAR 1977 DEFENSE BUDGET

Mr. GOLDWATER. Mr. President, in the defense appropriations bill for fiscal year 1977, as approved by the House-Senate conferees, a total of $25.6 billion is allocated for obligation authority for the Army. This is of course without military construction authority but it represents almost the full $26 billion requested by the Department of Defense. The Association of the U.S. Army finds that the funds will provide adequately for the Army's readiness requirements for the coming year. I ask unanimous consent to have printed in the RECORD the AUSA's analysis for the defense budget.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

[AUSA Fact Sheet, Sept. 10, 1976]

FINAL ACTION ON THE FISCAL YEAR 1977 DEFENSE BUDGET

House-Senate conferees have completed action on the FY 77 Defense Appropriations bill that provides $104.6 billions for the fiscal year which begins October 1st. The funds approved are $2.2 billions below the Defense request.

For the Army, the completed action means approval of $25.6 billion out of a request for obligation authority (less Military Construction authority) of $26.0 billion. The funds approved for the Army will provide adequately for its readiness requirements for the coming year. Notably, Operations and Maintenance accounts were funded more fully this year than in past years.

AUSA's support for realistic funding of defense programs has been both consistent and persistent. This support has been reflected in:

1. Testimony before the Congress.
2. Responses to numerous Congressional requests for information and opinion.
3. AUSA Resolutions, which go to all members of Congress.
4. Position Papers and Fact Sheets, which go to opinion leaders in all walks of life.
5. Defense Report, the AUSA weekly column, which is distributed to over 750 newspapers.
6. Letters and other communications to DOD and AUSA members.
7. AUSA's coordinated actions on military issues with other national organizations and associations.

Here are some of the Congressional actions this year on significant defense issues, together with AUSA's efforts to educate the public on these issues.

1. COMMISSARIES

Issue: Administration efforts to make commissary system self-supporting.

AUSA View: Since 1974, AUSA has engaged in an extraordinary program to educate the public and congress on the need to retain commissary subsidies. Both the headquarters staff as well as members from the chapters in the field have contributed to the defeat of this unnecessary effort to reduce a fringe funding of commissary operations.

2. ENLISTMENT BONUS

Issue: To provide funding for increased enlistment incentives, particularly for combat arms skills.

AUSA View: Since the inception of the Volunteer Force in 1970, AUSA has continuously expressed the need for enlistment incentives, particularly in the combat arms skills, to attract the necessary quality and quantity of recruits.

Outcome: The Congress has approved full funding of the program at $24.7 million. It has also added $18.3 million in anticipation of a further request by DOD.

3. RECRUITING

Issue: To provide advertising funds of $37.4 million to reach the high school source of recruits.

AUSA View: AUSA has consistently urged funding of programs to reach and attract the highest quality recruits.

Outcome: Congress approved $33.0 million of the request but authorized $7.0 million for TDY pay to recruit unit canvassing aides who it felt were more effective. Funds for the aides were not in the original Army request.

4. PERMANENT CHANGE OF STATION (PCS) TRAVEL

Issue: Provide funding necessary to maintain normal rotatitonal policies.

AUSA View: AUSA has voiced continued concern with efforts which save some defense funds but which have a detrimental effect on soldier morale and career attractiveness and has supported full funding of programs which enhance Army service.

Outcome: In approving $638.0 million of $690 million request, the Congress has delayed Army efforts to return overseas tours from their current 39 month length in Europe and 13 month length in Korea, to the desired normal 36 months and 12 months, respectively.

5. JUNIOR ROTC

Issue: Increase in the number of JROTC units authorized.

AUSA View: AUSA in its resolutions has been calling for increases in the number of junior ROTC units nationwide as a means for exerting a positive influence toward all forms of military service.

Outcome: The total number of units has been increased from 1200 to 1600. Also permitted is the establishment of more than one unit at military institutes, which increased the choice of service units that may now be offered.

6. ONE PERCENT ADD-ON TO RETIRED PAY

Issue: Administration efforts to eliminate the one percent add-on to cost of living increases in military retired pay.

AUSA View: AUSA has voiced strong opposition to piecemeal actions that would reduce levels of military compensation directly or indirectly. AUSA has worked closely with agencies sharing its viewpoint to assure equitable solution of this issue.

Outcome: Congress approved elimination of add-on on military pay contingent upon the repeal of similar provisions for civilian government retirees. The Senate has approved elimination of the add-on; action by the House is still pending.

7. LUMP SUM TERMINAL LEAVE

Issue: To establish a common policy among officer and enlisted personnel that sets a 60-day maximum accrual of leave for reimbursement at full pay and allowances and encourage increased use of earned leave.

AUSA View: AUSA acknowledges the need to assure maximum effective use of limited dollars and to make maximum use of earned leave while supporting a 60-day career limit at full pay and allowances for all personnel.

Outcome: The 60-day career limit for leave accrual has been approved. Until 14 July 1976, accrued leave will be reimbursed under existing procedures; after 14 July, accrued leave will be paid at base pay rate only for all personnel.

8. ARMY'S "BIG FIVE" PROGRAMS

Issue: Funding of Research and Development efforts for the UTTAS, AAH, MICV, SAM-D, and XM-1 Tank.

AUSA View: These weapons programs are designed to provide the Army with the ability to face the challenges on the battlefield of tomorrow. These must be supported and funded fully if the Army is to achieve maximum success in the ground battle.

Outcome: Congress approved all funding as requested. NOTE: Funds for the XM-1 Tank were approved at levels requested ($141.0 million). However, Congress, while expressing confidence in the tank program's costs, technology and schedule approved to date, has reacted critically to recently announced program changes in the XM-1 aimed at NATO standardization which would add to costs and delay the program. Congress has called for its prior approval of any program funding changes.

9. LANCE NONNUCLEAR MISSILE

Issue: Approval of funding of 360 nonnuclear Lance missiles for NATO area.

AUSA View: The retention of the full spectrum of combat power on the conventional level necessitates the acquisition of this surface-to-surface missile system.

Outcome: The Lance non-nuclear program has experienced turn-arounds in the legislative process. Initially, the Senate refused to authorize the system because it cost more than air-delivered munitions; the House okayed the program. Recently the House refused to appropriate funds for the program because of questions about costs, rates of fire, vulnerability and possible degradation of its tactical nuclear capability (due to enemy counterfire measures) while the Senate approved funding when it rejected a floor amendment to eliminate the program. House-Senate conference committees backed both authorization and appropriation of the program.

10. OVERSEAS DEPENDENT EDUCATION

Issue: Approval of $248 million funding request.

AUSA View: Through its resolutions AUSA has urged federal government recognition of its responsibilities for quality primary and secondary education of dependents of federal military and civil personnel.

Outcome: Approval of only $242.8 million for the program will necessitate cutbacks in some services and programs. Most likely to be affected by the $5.2 million cut will be supplies and equipment and certain personnel positions.

11. ADMINISTRATIVE DUTY PAY FOR CERTAIN RESERVISTS

Issue: Administration attempts to eliminate compensation for extra administrative time beyond paid drill used by Reserve Component commanders.

AUSA View: This pay is already too small to compensate adequately for the considerable amount of work commanders must do on their own. Taking it away will be another blow against retention of top notch people.

Outcome: The amount of pay in question varies from $5.00 to $20.00 per month, with a total cost of the program at $2.107 million. Congress rejected the effort to end the program.

12. MILITARY LEAVE PAY FOR CIVILIAN FEDERAL EMPLOYEES

Issue: The Administration sought to save some $45 million by eliminating pay for federal employees on active duty for training with Reserve Components in excess of that needed to prevent pay loss as a result of such duty.

AUSA View: This proposal ignores the fact that financial incentive pay plays a key role in inducing many of these employees to join and remain in a Reserve Component unit. Approval of the proposal would frustrate Reserve Component ability to recruit and retain skilled personnel from the civil service employee group.

Outcome: Congress disapproved the move.

NRC CONSULTANT BLOWS THE WHISTLE

Mr. GRAVEL. Mr. President, one of the weakest links in a weak chain known as "nuclear powerplant safety" is a device known as the emergency core cooling system, ECCS, which is supposed to flood an overheated nuclear reactor to prevent catastrophic releases of deadly radioactive poison. The system, which stands between a nuclear disaster and the public, has yet to be tested on a large scale, although it failed six out of six laboratory tests in 1971. Failure in a real reactor could lead to hundreds of thousands of deaths and injuries, and contamination of huge areas of our Nation, according to numerous reports by nuclear power advocates as well as opponents.

In a memo to the Nuclear Regulatory Commission on May 6, 1976, Dr. Keith Miller said that nuclear powerplant licensing should be suspended because of ECCS deficiencies, and that the NRC's Rasmussen Report on reactor safety was a "disgrace." Nuclear proponents cite Rasmussen as proof that their reactors are safe, but the report was hopelessly flawed from the beginning, according to many experts in the risk assessment and nuclear fields.

Dr. Miller is an expert on computer codes—the basis on which the untested ECCS is pronounced "safe" by the NRC—and professor of mathematics at the University of California at Berkeley. He wrote his memo as a consultant to the NRC itself. Mr. President, we all owe a debt of gratitude when nuclear experts "break ranks" and risk their livelihood and reputation to tell us what the nuclear establishment does not.

I ask unanimous consent that the entire text of Dr. Miller's memo be printed in the RECORD.

There being no objection, the memo was ordered to be printed in the RECORD, as follows:

UNIVERSTY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., May 7, 1976.

STAN FABIC,
Nuclear Regulatory Commision/RES,
Washington, D.C.

DEAR STAN: At one plont in the discussions winding up our January 27 meeting, in which I and others of the Advanced Code Review Group expressed some of our reservations, you asked me directly, "Then you think we shouldn't be licensing these reactors?" I demurred and said that I didn't know. Since then I have done a great deal of investigation. I have come to the firm conviction that NRC is not justified, on the basis of our present scientific understanding, in continued licensing of PWR reactors with ECCS of the present design.

I have reached this conviction by way of the following conclusions. These conclusions are based upon, first, my professional judgment as a scientist and numerical analyst experienced in large scale computer applications; second, my intensive year and a half experience with the Advanced Code Review Group; third, the very excellent analyses by the American Physical Society study group (APS), the Environmental Protection Agency (EPA), and F. Finlayson of the Environmental Quality Laboratory (EQL) of Cal Tech; and fourth, an ongoing informal canvas of many experts in the ECCS field and the numerical computation field; I hesitate to paraphrase any of them individually but I would be glad to put you in contact with them.

(1) The present design contains the basic flaw that the coolant water is injected into the cold leg rather than directly onto the core. We are thus stuck with ECC bypass (the coolant in trying to penetrate past the escaping steam in the downcomer is swept out the break with the steam), with a dangerously long delay before the coolant makes any contact at all with the core, and with only the 8 psi pressure gravity head of the coolant in the downcomer (rather than its initial 600 psi in the accumulator) to force reflooding against steambinding backpressures.

(2) There are types of loss of coolant accidents for which it is extremely likely that the present ECCS will fail, that is, a large cold leg break in which the steambinding during the reflood period is exacerbated by leakage of a few corroded steam tubes. See EQL 3-24 and APS S85.

(3) From the beginning I have been aware of the feeling within the code development community of the inadequacy of present codes to deal with LOCA phenomenae. I should add that there is quite a lot of respect for the developers of these codes; it is not so much the inadequacy of the codes as the vast complexity of the two-phase thermal-hydraulic processes involved. The internal inconsistency of these codes, between NRC and different vendors, between different nodings with the same code, etc., is well documented, see EPA 63-74. Their generally poor performance on predicting the results of standard problem experiments is also well known, see APS S93.

(4) There are some within industry and NRC who accept the official NRC posture that the codes used for licensing and evaluation purposes are definitely conservative, that is, that the simplifying assumptions which they must make always lead to errors which are on the safe or conservative side. In fact, there are some who feel that this is definitely the case, that NRC is being highly overcautious, thereby causing the industry to be uneconomic, that these billion dollars plants could safely be allowed to run at higher temperatures, and that the primary purpose of developing advanced codes is to eliminate some of these uneconomic conservatisms. However, I feel that this absolute certitude of conservatism goes unshared by many within NRC and within our own group. I know that it is certainly not shared by me, nor is it shared by the many distinguished scientists of outside review group, including those on the EPS study and the EPA review. I should also mention some disquieting recent results that best estimate codes (supposedly more realistic) can lead to higher predicted maximum cladding temperatures than corresponding evaluation model codes (supposedly more conservative).

(5) Even with the superior advanced codes being developed, and the allied experimental program, I see the possibility of getting several years down the road and still not being able to predict significant aspects of ECCS performance with a satisfying degree of confidence. The APS study warns repeatedly of this possibility. Preliminary analysis just seems to indicate that the present ECCS is too marginal to allow for much leeway for error in the analysis. In particular, there are two critical aspects of the thermal-hydraulics of a cold leg break LOCA which, in my professional judgment, are beyond our ability to compute. The first is the penetration (or not) of coolant water in the downcomer against the violent cavitating flow of escaping steam and water during the final seconds of the blowdown period. The second is the degree of water droplet entrainment and wetness of the steam as it escapes out the hot leg during the reflood period. Yet it is this subtle effect, creating a small steam binding backpressure as the droplets vaporize upon hitting the hot steam tubes of the steam generator, which seemingly will spell the difference between a satisfactory and a disastrous reflooding rate. LOFT will give valuable data on the pentration problem, but at 1/60 volume scale, which may or may not scale up well through our computer codes to full size. The PFE will of course give penetration

data at more nearly full scale. Since LOFT does not attempt to model a steam generator or the water droplet entrainment characteristics of the upper plenum, and since the FLECHT data is already hopelessly embroiled in controversy, we have little hope through current experimental programs of experimentally resolving the entrainment and steam binding problem.

(6) In short, analyzing our way past the difficulties of the present PWR ECCS design, to the satisfaction of reasonable men, seems extremely elusive. I therefore urge NRC, as quickly as possible, to get on with the business of testing and requiring a safe alternate ECCS design. I understand that the PWR industry has prepared much of the groundwork for alternate designs, for which they are to be congratulated, and that upper plenum injection is included (as an option) in their latest contracts and licensing applications. I get the impression from contacts that NRC is still far behind in this field; I would hate to see them react too slowly or too precipitously; there is undoubtedly much testing and analysis that needs to be done and there are undoubtedly pitfalls that need to be avoided.

I would urge on the NRC the statesmanlike suggestions of F. Finlayson, EQL, pages 4–16 and 4–17 regarding the advantages of ECCS redesign.

(7) BWR's suffer from a dangerously long time to begin refloodng of the fuel elements. As Finlayson points out, "Simplistically speaking, for BWR's increasing reflooding pumping capacity appears to be a satisfactory method of resolving the problem".

Now for some conclusions of a more general nature.—

(8) It seems to me that the extraordinary degree to which NRC and the nuclear industry place reliance on computer simulation of complex phenomenae is one of the weakest links in nuclear reactor safety. This criticism is repeated again and again in the APS study and it appears as the first and second criticisms among the General Observations in the EPA review of the Rasmussen report. This dependence on computer simulation is unparalleled in the field of engineering and public safety. Consider the aircraft industry—despite the much simpler more well understood and more reproducible physical processes, the vast experimental capabilities of wind tunnels, etc., the long history of fruitful interaction between experimentation and computation, my colleagues in aoredynamical computation at Berkeley, and NASA Ames each assures me that he would never agree to test fly an aircraft designed solely on the basis of these calculations. Nevertheless, the nuclear industry, with its capability of vastly greater catastrophe, sometimes seems willing to design by computers and ask the general public (at least those downwind from the first 100 nuclear reactors) to "Come fly with me".

I once again refer to the very wise suggestions of F. Finlayson, this time on the hazards of very elaborate calculations of complex situations on the advantages of large or full scale testing, EQL 3–34–3–36.

(9) I do not think that the upper levels of NRC have been entirely open with the public in these ECCS matters. I see a wide divergence between the public posture of NRC regarding reactor safety (one of almost absolute certitude) and the opinions of many individuals within NRC, its contractors, consultants, and outside scientific reviewers.

The most disturbing example of this posture is the NRC's recent Rasmussen report on reactor safety. The zeal of the authors is overwhelming. It is somewhat disquieting to discover that "WASH–1400 assumes, based on vendor calculations as approved by AEC-Regulatory (now the NRC), that adequate core cooling is provided for all small break accidents (if emergency core cooling systems operate as designed)". See EPA, p. 11 to paraphrase—if the plumbing turns on as designed, pumps, valves, etc., then ECC succeeds. In other words, WASH–1400 assumes 100% infallibility for the predictions of the vendor codes, an assumption which the EPA review proceeds to tear to shreds. One wonders how many times in the course of this voluminous study a similar blithe assumption of infallibility for some computer code has been made, and one wonders about the accumulative effect of such assumption upon the outcome.

Because of my concern I have decided to address a formal memorandum to the Commissoners of the NRC recommending a first, initiation of full public hearings to investigate the above areas and second, suspension of licensing of new plants until the ECCS question is resolved. This memorandum is enclosed, and I would appreciate your taking the responsibility of forwarding it quickly to the Commissioners, together with copies of this letter, the enclosed April 12 packet from me to my colleagues on the group (including my March 25 letter to Zuber and some pages from the APS report), and selected pages enclosed from the EPA and EQL reports.

I am sending copies of the memorandum and this letter to my colleagues on the Advanced Code Review Group in order that we can discuss them at our May 13–14 meeting. I would appreciate your making available to them copies of the EPA and EQL selections.

There are several reasons that I have decided to proceed by a formal memorandum rather than by discussions through our group. First, I find that ideas and urgings and experimental results on the desireability of ECCS redesign have been around the NRC for a long time. The APS report, and its distinguished committee, delivered what seems to me to be a devastating technical criticism on the present ECCS research effort and the strongest possible urging for a revised course of action. Yet because it was couched in polite technical language with no urgent call for action, its recommendations have been largely ignored. I find that some members of the APS panel are now quite disappointed that the panel let themselves be talked into adding softening language to the summary and conclusions. I wish to leave no doubt.

Second, I am surrounded here by the noise and the fury of the nuclear debate and am appalled at the level of misunderstanding on nuclear safety which is being spread. It is hard to stand idly by while being told in the press or media by noted and supposedly knowledgeable scientists, and straight from the executive summary of NRC's own prestigious Reactor Safety Study, WASH–1400, that I am more likely to be killed by a falling meteor than by a nuclear accident. It is evident to me that those within the NRC concerned with the realities of nuclear safety research have not been speaking up forcefully enough within the organization. It would be a pity if a study begun to help pinpoint the areas of greatest safety research need should turn out to result in complacency and the denial of system improvements which are vitally needed. I think that WASH–1400 will come to be viewed as a severe blow to the scientific credibility of the NRC. There exist already devastating criticisms of its methodology, conclusions, and misleading summary—couched now in polite technical jargon, but sure to be picked up and translated into more accessible language.

I plan to speak out openly on these issues when given the chance, and I hope that my colleagues on the group will do the same. The possibility of great strain on our collegial relations is a matter of great concern and regret to me, but I hope to continue my work with the group in the interests of a safer nuclear industry.

Sincerely yours,

KEITH MILLER,
Consultant, Advanced Code Review Group, Professor of Mathematics.

MEMORANDUM TO THE COMMISSIONERS RELATING TO THE LICENSING OF COMMERCIAL POWERPLANTS IN THE U.S.A.

(Prepared by Keith Miller)

The U.S. nuclear power program continues to face a major unresolved safety problem—the lack of an assured means of preventing a pipe rupture in a reactor's primary coolant system from developing into a catastrophic release of radiation. In my work as a consultant to the Advanced Code Review Group, I have come to several conclusions. For supporting details on these conclusions, please see 1–9 in my attached letter to Stan Fabic.

The present design of PWR emergency core coolant systems has basic flaws which promise to make its operation only marginally effective, if effective at all. Moreover, there are types of loss of coolant accidents (involving leakage of a few corroded steam tubes), for which it is extremely likely that the ECCS of present design will fail.

It seems likely that the present program of computational and experimental research will not allow us to analyze our way past the difficulties of the present ECCS design, to the satisfaction of reasonable scientists, in the foreseeable future. The present codes, which are demonstrably inadequate, predict only a small margin of safety for the present design. There is little reason to have much confidence that the presumed "conservatism" of these codes has overwhelmed the probable errors caused by our inability to accurately formulate and compute the fantastically complex two phase thermal hydraulic processes in a loss of coolant accident. The same applies to advanced codes (which won't be ready for 2 or 3 years) if used as extrapolatory devices from small scale experiments rather than as interpolatory devices from full or nearly full scale experiments. The Loss of Fluid Test (LOFT) experiments should resolve questions in certain critical areas, but not in other critical areas of greater subtlety (such as droplet entrainment and steam binding).

There are alternate ECCS designs (upper head injection, upper plenum spray) proposed for PWRs which show promise of bypassing some of the difficulties of the present design. I urge the NRC, as quickly as possible, to get on with the business of thoroughly testing and requiring a demonstrably safe alternate ECCS design.

It appears probable that the dangerously long reflooding time for BWRs could be corrected by increasing pumping capacity.

The extraordinary degree to which the NRC and the nuclear industry depend upon computer simulation of complex phenomenae, as opposed to the full scale product testing of the aircraft and other industries, is one of the weakest links in nuclear reactor safety. One tends to forget that one's computerized collective vision of reality calibrated only against model tests at small scale, could be very very far off from actual full scale reality, and yet we would never know it.

What does it take to develop some humility about computations within the nuclear industry? On the basis of computations it was never suspected, until the Semiscale tests, that the coolant water would be flushed out with the escaping steam. The seriousness of the ECCS steam binding problem was still never suspected, long after the systems were designed and installed—until the FLECHT tests. The existence of the torus jump problem was never suspected—until

GE built and tested the 1/3 scale suppression torus mockup.

I think that the ECCS controversy above has important lessons for us concerning excessive reliance on computer computations. Problems with the ECCS have been known for many years (at least internally). The AEC (and now the NRC) has maintained a public posture of almost absolute certitude on the question of ECCS effectiveness, apparently based on the assumption that the codes are conservative in all respects (a review subject to widespread skepticism both within and without the NRC) and that their continuing research would resolve the problem in a timely way. Instead the lurking difficulties of ECCS analysis have become more and more apparent and the supposed margin of safety for the present design has shrunk ever narrower.

Meanwhile, dozens of these reactors have been built and put into operation, and in all of them the first and major line of defense against a rupture in the primary coolant system is the present marginal ECCS design. Perhaps this design will work very well; perhaps it will work far better than our present primitive analysis predicts. That's not the point; the point is that we have no assurance that it will work, other than 10 years of industry optimism, the results from some very small scale systems experiments (1/1000 volume scale), some moderate scale separate effects tests, and the scale up from these experiments by computer codes which have never in any way, shape or form been verified against full scale reality because there have not been any experiments at large or full scale. This is risky business in a complex hydraulic or thermal hydraulic situation.

I would like to point out that, when an ECCS system first becomes needed, tens of thousands of human lives and the preservation of large areas from long-term radioactive contamination may depend upon the adequacy of its functioning. Scenarios of nuclear disaster in the popular press dwell on failures of hardware and plumbing; to quote a few lines from the scenario presented by Professor Rasmussen to Newsweek, April 12, 1976: "against odds of more than 1 billion to 1—all other safety systems fail to function" and "then they discover yet another billion-to-1 accident: the power system for the pumps that deliver emergency water has been knocked out." In order that catastrophe ensue, such highly improbable equipment failures are of course not really necessary; all that is really necessary is that the computerized analysis of the ECCS sequence turn out to have been inadequate (an eventuality which in my opinion is far, far more probable.)

I propose the following considerations towards a policy concerning reliance on computer computations in complex situation:

(i) That we should at least hope to expect that NRC will require a system whose scale up by computer codes from much smaller scale experiments indicates a very wide margin of safety, enough to overwhelm all aspects of our ignorance. (I don't think a reasonable scientist can say that this is the case with the present ECCS design).

(ii) If that margin is not predicted for the present design, we should quickly attempt alternate designs. There should be no ongoing optimism that, although our ignorance is great, there is probably some large (but unquantifiable) conservative effect built into the code which makes it always err on the safe side. It would be best to remove decisions on public safety from being decided by a computerized debate between the optimists and the pessimists within a federal agency.

(iii) Otherwise, the industry and NRC should rely on full or nearly full scale product testing. Here I have to agree with Fred Finlayson, EQL report No. 9, May 1976, p. 3-36:

"Though large or full scale testing is expensive, there is ample precedent for it. In fact, nearly all recent large complex systems where survivability has been important, from ballistic missiles to jet airliners, have been tested extensively in full scale (and frequently to destruction) to demonstrate their overall design conservatism. On the basis of such precedents, large scale tests, though admittedly expensive, would certainly appear to be cost effective for the nuclear power industry. It has been estimated that in the next 30 years more than 500 nuclear power plants, of approximately 1000 MW_t capacity each, will be in operation. To argue over the practicability of ECCS testing for a large scale nuclear system on the basis of expense under these circumstances seems absurd.

"If, on the other hand, the principal drawback to large or full scale testing is associated with the hazards of the experiment, then the argument becomes unsettling.

"Testing at a larger scale than LOFT seems practical, desirable, and urgently needed."

I feel that there may be severe deficiencies in the methodology and conclusions of the NRC's influential and often quoted study on reactor safety, WASH-1400, because of its assumptions regarding the reliability of predictions derived from computational codes. It is very disquieting for anyone concerned with code development to find that the study has in effect assumed 100% reliability of the vendor code predictions on small scale breaks; the total improbability of such an assumption could have been checked with almost anyone involved in large scale code development. The pervasiveness of such assumptions in the rest of the study, and their effect on its conclusions, should be carefully investigated. How NRC could have created a document so patently divorced from the healthy scientific skepticism of many of its own scientists, so zealous in its claims, so misleading in its summary, is beyond my understanding. I believe that WASH-1400 will come to be viewed as a severe blow to the scientific credibility of the NRC.

I formally recommend to the Commission:

1. Initiation of full public hearings to investigate the following areas:

(a) the adequacy of present ECCS systems, both PWR and BWR.

(b) the possible advantages and/or disadvantages of proposed ECCS redesigns (such as upper head injection for PWRs and increased pumping rates for BWRs) based upon our best present knowledge.

(c) the heavy reliance of the nuclear industry upon large scale calculations in complex situations, as opposed to a more balanced program of full or nearly full scale testing combined with computations, with a special comparison between our situation and that of the aircraft industry.

Outside intervenors should be invited to participate for the purpose of testimony and cross examination, as in the Bethesda hearings.

2. Because of the danger to public safety of inadequate ECCS designs, licensing of new nuclear plants should be suspended until such time as the investigations (1a) and (1b) are resolved. If it is determined in (1b) that an ECCS redesign is indicated, then additional public hearings should be held before final licensing of the redesign.

TRIBUTE TO BOB McCORMICK

Mr. HUGH SCOTT. Mr. President, I can think of no newsman with whom it has been more truly a joy to work than Bob McCormick. So it was with personal sadness that I learned Bob has announced his retirement from NBC News after two decades of covering Capitol Hill.

His fairness as a newsman, his astute knowledge of politics, his ready ear as a listener—most especially his good counsel as a friend and his easy laughter—all these are qualities of Bob McCormick.

I shall not forget our many, many conversations over the years. I regret that not only I, but also Bob's many other friends on Capitol Hill, will miss the opportunities we have had to work with so fine an individual over the years.

Bob is a good man—a gentle man—and I am proud to call him a friend.

Thank you, Bob, for your many kindnesses. I shall always remember them. May the Lord walk with you every day of your life and bring you every happiness.

NO AMERICAN BOYCOTT

Mr. RIBICOFF. Mr. President, last week the Congress made it clear that the widespread participation of Americans in the discrimination and exclusion of the Arab boycott of the United States and Israel and will no longer be tolerated. We passed a major tax bill which contained the first strong antiboycott provision passed by both Houses of Congress in 10 years. The importance of our actions cannot be underestimated, for now Americans will have a strong economic incentive not to allow other countries to tell them who they can hire, what companies they can do business with, and which countries they can trade with. For the first time, legislation with teeth has been passed to protect the rights of the 1,500 American companies who have been the target of the boycott's capricious, arbitrary, and racist discrimination. And in a larger sense, the antiboycott provision voted by such an overwhelming margin last week reaffirms American standards and our system of free trade.

Lately, there has been a great deal of debate about the antiboycott legislation, Arab-American relations and the realities of the boycott. Yesterday, the Washington Post discussed many of these issues in a thoughtful and thought-provoking editorial entitled "No American Boycott." That editorial pointed out and I think rightly, that the ties between Arabs and Americans go far beyond the issue of the boycott, and, as the relationship between our nations broadens and deepens, divisive trade barriers like the boycott will not serve the best interests of Arabs or Americans. By maintaining our traditional standards and by clarifying them for our companies and other nations, the important relationships between Arabs and Americans can proceed on the basis of mutual respect, instead of coercion and intimidation.

Mr. President, I ask unanimous consent that "No American Boycott," from the Washington Post, September 20, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO AMERICAN BOYCOTT

The Arabs' decision to establish an Arab boycott of Israel is their business. But their attempt to establish an American boycott of Israel is something very different. It runs against American interests, American values and the American grain. That is the elementary distinction made by the Congress in writing anti-secondary-boycott provisions into the tax reform bill. Whether a tax bill should be the vehicle for a measure related to foreign policy is an interesting question for the lawyers. The rest of us can take satisfaction that legislative teeth are being put into the diplomatic jawbone wielded quietly by the administration in the last few years. It is precisely in those last few years, of course, that the Arabs' practice of a secondary boycott, one directed at American firms that trade with Israel or that have Jewish or "Zionist" officers, has spread to encompass business deals measured in the hundreds of millions of dollars. Seldom has the inadequacy of diplomacy and the necessity for legislation been so overwhelmingly demonstated.

Opponents of the new legislation argue, in effect, that Arab nations are so determined to compel Americans to support their boycott of Israel that, if flouted, they will take their billions in business elsewhere and perhaps even diminish the flow of their oil. No one would be surprised if some Arab-American deals are junked in conspicuous and symbolic protest. But it is demonstrably false that gaining American support of their boycott is so important to the Arabs that, to that end, they will jeopardize the thick economic and political ties they have built up so carefully with the United States in recent years. Arabs are spending billions on arms produced by the very manufacturers who sell to Israel, for instance. They are doing so presumably because they see more advantage to themselves in ignoring the boycott than in enforcing it. In the past, American companies had little incentive to help bring the Arabs to this sensible view of their own self-interest. Now the American companies have an incentive. Now, too, an American company declining to participate in the Arab boycott will not face the same risk of paying a financial penalty for honoring the United States' longstanding anti-secondary-boycott policy.

One needs to step back a pace. We think it entirely healthy and useful that the boycott issue has come to the fore. It goes to the basic framework in which the United States and the Arab world are trying to expand and deepen a relationship that has been, until realtively recently, narrow and formal and sometimes even antagonistic. That there is potential for great mutual advantage in the relationship is evident to everyone. That is all the more reason to try to move it forward on the basis of mutual respect. It makes no more sense for Arabs to demand that Americans now boycott Israel than for Americans to demand that Arabs now trade with Israel. We would not contend that, for all Arabs, it is easy to accept the ways of the open international system they are trying to join. Arab states have made impressive progress, however, in halting discrimination against American (or other foreign) firms and individuals on strictly religious or ethnic grounds. The administration's diplomacy, by the way, has been quite effective in this regard. It will be harder for Arabs to accept that they cannot force Americans to discriminate in trade against a third country. But it denigrates their intelligence, and it underestimates their general passion for modernization, to say that they must stick fast in their traditional ways. Certainly Americans should not be encouraging them to do so.

SENATOR BROCK COMMENDED FOR WORK TO IMPROVE FEDERAL PROCUREMENT

Mr. FANNIN. Mr. President, I am pleased to cosponsor Senate Joint Resolution 148, introduced by Senator Brock, to clarify and reaffirm the Federal Government's purchasing policies. This important resolution reaffirms the policy of primary reliance upon the private sector for goods and services required to meet the needs of government.

Although the Senate has taken no action on this excellent resolution, I have received numerous letters from constituents of mine indicating popular sentiment in favor of the principle of reliance of free enterprise to fulfill our national needs. Moreover, I am confident that the administration supports this view. The President has expressed keen interest in pursuing executive action along this line. In addition, the General Accouting Office has recommended that a more realistic formula for calculating the actual cost of in-house work be used in making Government procurement decisions.

In this regard, Mr. President, I congratulate Senator Brock for the excellent work that he has done to bring this important matter to national attention. As we know, private business has traditionally been the primary source of goods, services, and jobs to all sectors of our national economy, including the needs of our national Government. Unfortunately this role has been jeopardized as Governmental reliance on the private sector has been reduced. As a result, the Government obtains more and more of its goods and services without the benefits of competition. In the process the taxpayers are paying more for Government-supplied goods and services than necessary. At the same time, the private sector is losing a significant volume of business which it needs to expand its plant and facilities and increase employment. Finally, the shift to in-house procurement by the Government has resulted in a gradual erosion of the technological capabilities of private industry, particularly in the area of research and development. This, in turn, affects our Nation's ability to compete in foreign markets.

Mr. President, certainly we should reaffirm our long-standing policy of relying on the private sector for essential goods and services. Senator Brock has perceived the importance of the matter and has made it a matter of high priority. I agree completely with his statement that—

> It is an important issue that can be effectively used to make our government procurement activities more efficient and more responsive to lower cost surpluses available in the private sector.

Mr. President, I commend the distinguished Senator from Tennessee for his excellent judgment and his leadership in this and in other efforts to improve the efficiency and lower the costs of Government.

THE FRAGILITY OF FREEDOM

Mr. GOLDWATER. Mr. President, on December 11, 1975, nearly a year ago, the distinguished economist of the University of Chicago, Dr. Milton Friedman, made a speech at Brigham Young University in Utah that if it has not been read by every Member of Congress it should be. He puts the situation of the United States in about as plain English as it can be put, and it cites examples around this world to back up his arguments that the United States is headed for trouble that it probably cannot get out of. I ask unanimous consent that this speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Fragility of Freedom

(By Milton Friedman)

Thank you very much. It is a special pleasure for me to be introduced to you here today by Dallin Oaks, who was not only a colleague at the University of Chicago, but a tower of strength in our times of trouble during the late 1960's when many universities in this country were subjected to disturbances and disruptions. The University of Chicago handled them particularly well, and one of the main reasons we were able to do so was because of the willingness of Dallin Oaks to serve as chairman of a committee which played a very important role in those events. We regret very much losing him, but our loss has been your gain.

Dallin Oaks referred to the Bicentennial. I trust you know that 1976 is a double Bicentennial. It is a Bicentennial of the publication of "The Wealth of Nations," that great book by Adam Smith which is a Bible of economic freedom and is closely related to political freedom. And, indeed, almost everything I am going to say today could be found in one form or another in that book.

Those of us who have been fortunate enough to be born in the United States in the twentieth century naturally take freedom for granted. It seems to us that a relatively free society is the natural state of mankind. But that is a great misconception. Freedom is very far from being the natural state of mankind. On the contrary, it is an extraordinarily unusual situation.

If you look back through history, in any place on the globe, you will find that the natural state of mankind in most periods in history has been tyranny and misery. If you look over the globe geographically at any point in time, you will find that most of the people in the world at that point of time were living in a state of tyranny and misery. The periods and places in which there has been something approaching a free society have been few and far between. There was a small example in the fifth century, B.C., on the Peloponnesian Pennisula in Athens, but that was only a partly free society. It was a society that was free for the citizens of Athens, but not for the slaves who also inhabited the city. There is a brief spurt of freedom during the Renaissance in the Middle Ages. The most extended period of freedom has been the period in the eighteenth and nineteenth and early twentieth centuries in Western Europe and the United States. Yet, look at how fragile that freedom has been. The countries in the world that have been able to maintain during that period something roughly approaching a free society are few in number. They consist almost entirely of the English speaking countries and the Scandinavian countries.

This fragility of freedom was brought home to me dramatically last April when I spent a week in the small country of Chile in South America. I was in Chile for a week as part of a group that was examining and considering the economic problems which Chile was then facing—problems which you and I have in our future (I hope in a very distant future). Problems which were epitomized by the fact that they had managed after great effort to bring the rate of inflation down from 900 percent a year to 400 percent a year. But I don't want to talk about Chile's economic problems; I want to talk about the problems of freedom.

Chile, of course, is a very different country than the United States, and a very much poorer country than the United States. Yet the history of Chile is highly relevant to our present situation and our future problems. Of all the South American countries, Chile had about the longest history of a reasonable degree of democratic government and a reasonably free society. That history dates back to the nineteenth century.

The origin of the present problems in Chile, which has lost freedom and which today is governed by an authoritarian regime, in my opinion, go back some 50 or 60 years. Chile was not only one of the countries in South America that had the longest history of freedom and political democracy, but it was also one of the earliest countries in South America to institute a welfare state and welfare state measures. I was surprised to find in reading about Chile that, like Great Britain, the class of measures that we today associate with Welfare Statism, the New Deal, and the Fair Deal, got their start in Chile about 1906, 1907 or 1908, at about the same time that these processes started in Great Britain.

The present state of Chile, in my opinion, is the end result of an expansion in the role of government over the lives of people. The important thing about that development and the main lesson I am going to try to elaborate on in this talk, is that the measure that led to that result were done by good people for good objectives. The measures that led to Chile's problems were not bad measures that were taken by bad people with the aim of grinding the poor under their heels. On the contrary, the problems of Chile derived from the attempt to use the State and the political mechanism to achieve good objectives. That development led to an increasing expansion in the role of the State in the society. It led to an increasing accumulation of legislation in which the government controlled what people could do. The obvious numerical counterpart of this was an increase in government spending until, by the time Mr. Allende came to power in Chile, government spending had reached something like 40 percent of the national income.

Since Chile was a poor country, it was difficult to impose explicit taxes to generate revenues of 40 percent of national income. As a result, taxes were imposed indirectly in the form of inflation. There is a great misconception about what happened. Mr. Allende, who produced the great confrontation and was clearly seeking to turn Chile into a communist dictatorship, was only carrying out the laws that had already been enacted by his predecessors. He introduced very little that was different. He just continued in the same direction that policy had been proceeding, ever more rapidly, during the past 30 or 40 years. However, the end result was the tipping point at which the willingness of the public to put up with increasing involvement in their own lives was exceeded. There was first, the Allende regime with its threat of a left-wing dictatorship, and then a counter-revolution with military taking over and a military junta being established, which also is very far indeed from a free society. It, too, is an authoritarian society which denies the liberties and freedoms of the people in the sense in which you and I conceive of them.

Lest you think that this tale of the history of Chile need not concern us, let me ask you to consider a case much closer. Cast your eyes across the Atlantic to the home of most of the ideas of freedom that we cherish—to the United Kingdom. The United Kingdom is a much richer country than Chile. It has a far stronger tradition of a belief in freedom and in democratic rights. Yet, the United Kingdom is going down the same path as Chile and I fear is headed for the same end. It is almost impossible for any one of us who was brought up in the great traditions emanating from Great Britain—the great tradition of freedom and democratic rights starting with the Magna Carta and coming down through the whole list of famous Englishmen who have written and taught us about free institutions—it is almost impossible for anyone brought up in that tradition to utter the words that Britain is in danger of losing freedom and democracy, and yet it is a fact! I was in Britain a little over a year ago. It was precisely because I had spent some time in Britain and had seen what was happening there that I was so much reminded in Chile this spring that I was seeing the same scene over again. It was like a continuous movie and this was where I came in. Or maybe I should say this was where I went out. What has been happening in Great Britain?

About the same time as Chile, Great Britain started on the welfare state line. In 1913, a great English constitutional lawyer, A. V. Dicey, revised and published a series of lectures he had given in this country under the title, "Relation Between Law and Public Opinion in the Nineteenth Century." In its preface, referring to the measures that Britain had already taken by 1913, particularly in the area of old age benefits and of the treatment of people in institutions, he said, "This is a road on which no reasonable man can refuse to enter, but once entered nobody can tell where it is going to lead." That was an extraordinarily prescient prediction of what was in store for Great Britain because the role of the government has, from that point to this, expanded until today (again by that simple numerical measure that I used) total government spending in Great Britain (central and local) amounts to 60 percent of the national income. And yet, there is enormous pressure for still more government spending. Nobody is satisfied; everybody is dissatisfied. Society is being polarized. It is hard to see how Britain can avoid the fate that Chile experienced. Lest I seem alarmist, I can quote (I was amazed to hear it I must confess), from one of our modern oracles, Eric Sevareid, who in one of his little pieces of wisdom over the network after a visit to Britain, made exactly this analogy and said Britain is on the verge of the Allende period of Chile. And so it is. I fear very much that within the next five years the odds are at least 50–50 that British freedom and democracy as we have seen it will be destroyed.

But again, I need not go that far away. Let me come closer to home. Consider at the moment New York City. New York City displays precisely the same trends as Chile and the United Kingdom. New York City has the dubious distinction of having the most welfare state oriented electorate in the country. New York City has been following the same policy of ever-growing governmental involvement in the affairs of its citizens and the result has been exactly the same. Wherever this path has been followed, whether in Chile or in the United Kingdom or in New York, it has two consequences. The first is financial crisis. Certainly that characterized the situation in Chile. Certainly that characterizes the situation in the United Kingdom where the rate of inflation has reached something over 25 percent; where the government budget is enormously in deficit; where Britain is able to survive primarily by borrowing from overseas. Similarly in New York, the first effect—financial crisis—is obvious.

The second effect is less obvious. This path leads not only to financial crisis, but also to a loss of liberty and freedom; and New York City has lost its liberty and freedom. New York City is no longer being governed by the citizens of New York City or by people elected by the citizens of New York City. It is now being governed by a committee of overseers appointed by the State of New York with power to overrule the elected officials of the City of New York. This loss of self-government and freedom has been concealed by the shift of power from one democratic institution, the City of New York, to another democratic institution, the State of New York. But the principle is the same: financial crisis leads to a loss of self-government. There is only one important difference between New York City on the one hand and Chile or the United Kingdom on the other and that is that New York City does not have one of those printing presses on which you can turn out green pieces of paper that people call money. It cannot issue its own money. Chile and Britain could issue their own money and, therefore, the financial crisis took form of inflation; whereas, in New York it degenerated more promptly to bankruptcy.

Let me come still closer to home. Consider the United States in general and Brigham Young University in particular. The United States has been following the same path. Again, to use a simple index which I have been using, for the period from the founding of this country to 1929, leaving aside periods of major wars such as the Civil War and the first World War and the Revolution, total government spending in the United States (federal, state and local), never exceeded 10 percent of the income of the people. State an local expenditure more immediately subject to the control of the citizenry was twice as large during that period as federal government expenditures. Total federal government expenditure in 1929 was 3 percent of the national income. In the 45 years since, total governmental expenditures have risen to 40 percent of the national income in the United States and federal government spending is twice as much as state and local spending. Federal spending today is something like 25 percent of the national income, or roughly 10 times as large as it was in 1929. We have been moving in the same direction as Chile and Britain and New York, and we have been experiencing signs of financial crisis—the emergence of inflation at a higher and higher rate. We have also been experiencing the second effect: the loss of freedom.

People always talk as if the problem is in the future; as if the problem is that individual freedom is threatened by the encroachment control of our lives by the State. It is not merely the future, it is the present! Freedom has been greatly reduced in many dimensions. After all, the spending of 40 percent of our income for us by government is a restriction on our freedom. We have nothing to say about 40 percent except through the political process which is that I am going to come to in a moment. But put aside the question of income. Go to those more fundamental freedoms of speech, of belief, of personal behavior. They, too, have been severely restricted. Consider for a moment the simple question of freedom of speech. Let me ask you how often you read in the papers any statement on public issues by a major businessman or industrialist except where it immediately concerns his own enterprise.

A little over a year ago, President Ford constructed a program, hastily buried shortly thereafter, called the WIN Program for Whip Inflation Now. Now it was a program that had some good things and some bad things, but taken as a whole it was a pretty silly program. You will research every newspaper in this country without finding a single major businessman who made a public statement against that program. Why? Was it because they agreed with it? It is inconceivable. At least it is inconceivable that they unanimously agreed with it. Surely there was some businessman who didn't.

However, if you were a businessman at the head of a great corporation you would think three times before you spoke out on a major public issue. You would look over your left shoulder and see the IRS getting ready to come and audit your accounts and you would look over your right shoulder and see the Department of Justice standing only too ready to launch an anti-trust suit against you. And then, if you have more shoulders than two, you would ask what is the FTC going to do about my advertising; and what is the FDA going to do about the products I produce; and what is the Safety Council going to do about this, that and the other thing? You are not free to speak if you are in that position.

Let me get closer to home. Let me get to my own area and your area—the academy. Is the scholar free to speak? I ask myself whether the professors who teach medicine at any medical school in this country, most of whose research is being financed by the National Institutes of Health, whether they really feel free to speak out against socialized medicine and against further involvement of the government in medicine. Some of them obviously will. But is there the slightest doubt, to use those famous words of the Supreme Court, that their dependence for the major source of their financing on the Federal Government has a "chilling effect" on the freedom of speech? About the only people who now have full freedom of speech are people in the fortunate position that I am in—a tenured professor at a major institution on the verge of retirement.

Let me come down to Brigham Young University. The bureaucratic lash which has extended from Washington has even reached here with a proposal to impose on Brigham Young various requirements of Health, Education and Welfare—requirements that, in my opinion, would interfere severely and seriously with your performance of your selected mission. Every academic institution in the United States is threatened in exactly the same way. If it were not so serious, it would be humorous because there is no group in this country that has done more to bring this upon themselves than the academic community. We have been in the forefront in persuading the public at large that the doctrine of individual responsibility is a false doctrine; that the source of all good things is Big Brother in Washington. We only complain when it comes home and hits us.

Let me go from a description of the situation to an analysis. Why? What is the explanation of the tendency for the attempt to use the political market to achieve noble objectives to go awry and destroy our freedom. Why does it happen? In the simplest form, the fundamental fallacy of the welfare state which leads to both financial crisis and the destruction of freedom is the attempt to do good at somebody else's expense. That's the fundamental fallacy. First, nobody spends somebody else's money as carefully as he spends his own. That's why trying to do good at someone else's expense leads to financial crisis.

Second, if you are going to do good at somebody else's expense, you have to take the money away from them. So force, coercion, destruction of freedom is at the very bottom, at the very source, of the attempts to do good at somebody else's expense. About seven or eight years ago, in an article published in the New York Times magazine section, John Kenneth Galbraith said that there was no problem in New York City which would not be solved if the city government's budget was doubled. In the interim the city government's budget has been quadrupled and so have the problems. And the reason is straightforward. While the city government had more to spend, the citizens had less to spend because the government can only get the money by taking it away from somebody else.

More fundamentally, to get beneath this simple description, what is at the bottom of our problem is the failure to recognize the distinction between the political market on the one hand and the economic market on the other. This distinction, which I would like to develop, is one that can be expressed in various terms. You will pardon me if my professional background leads me to put it in economic terms. The political system is a marketplace; the economic system is a marketplace. These are two different kinds of market mechanisms and they have very different consequences. Though it may seem a paradox, the economic market is a freer, more democratic market than the political marketplace.

Let me at the outset put to one side a false distinction between the two markets. We tend to be misled by words. Because we speak of a person in the economic market as having a private enterprise, we think of him as serving his private interest. Because we speak of a government bureaucrat as being a public servant, we speak of him as serving the public interest. But that is an utterly false distinction. Almost every individual serves his own private interest. That interest need not be pecuniary, it need not be monetary, or physical or material. The great Saints of history have served their private interest just as the money-grubbing miser has served his private interest. The private interest is whatever it is that drives an individual. A government bureaucrat is seeking to serve his private interest just as much as you or I or the ordinary businessman is serving his private interest. To make this point in the most extreme form, if you compare the manager of a Russian factory who is a public servant and the manager of an American factory who is supposedly a private employee, they both are serving their self-interests. The only difference is that the actions that will serve their self-interest are different. The American manager has to worry about getting fired; the Soviet manager has to worry about getting fired at! And that makes a big difference in what's in their self-interest.

In exactly the same way, the bureaucrats at HEW in Washington who are trying to extend their control and impose regulations on Brigham Young, on Chicago, on Hillsdale, on all the other colleges, are serving their private interest. They may believe thoroughly in what they are doing, but they are nonetheless serving their private interest in seeking to extend the scope of their power, their importance and their influence. It is a myth that there is a difference between the motives of the people who are employed in government and the people who are employed in the private sector. This is equally true of those who are competing for votes. The legislators are competing one with another. They are competing for votes and it is in their private interest to do those things which will get them enough votes to get elected .

A second myth about the political market is that as opposed to the economic market in which individuals vote with dollars, in the political market there is one person-one vote. That is true on a formal level, but it is obviously false on a realistic level. It is a system in which there is highly weighted voting; in which some people have an enormously greater influence on the poltical outcome than others. This is obvious in all sorts of ways. You need only look at the kind of thing that we have been talking about. Take the most dramatic example at the moment. We have a great dispute in this country about forced busing. Whatever may be said for or against it, there is not the slightest doubt that 80–90 percent of both whites and blacks in this country are opposed to forced busing. Yet we have it and we are going to continue to have it. How can you explain that on the basis of one person-one vote?

There is a highly weighted voting system and an analysis of the political market must investigate why there is such a weighted voting system. Is the problem with the political market that you have wicked people? No. The people who operate in the political market are just as wicked or just as noble as the people who operate in the economic market. They are the same people. The difference is the structure of the market. The difference is that the political market is a system under which all decisions have to be yes or no.

The fundamental difference between the political market and the economic market is that in the political market there is very little relation between what you vote for and what you get. In the economic market you get what you vote for. Let me give you a very trivial example of the kind of thing that I have in mind. Let's suppose the question at issue is whether neckties should be red or green. If that is going to be decided by a political mechanism, everybody votes. If 51 percent of the people vote that ties shall be red, 100 percent of the people get red neckties. In the economic market each one of us goes to the store separately. If 51 percent of the people vote that ties shall be red, 51 percent get red neckties and 40 percent get green neckties. Everybody gets what he votes for. Now this is a fundamental difference between the two markets.

There are some things for which the vote has to be yes or no. Those are the things which are the appropriate function and role of government. There is no way in which 51 percent of the people in the United States can be at war in Viet Nam and 49 percent of the people can be not in war. That is precisely the kind of a decision that has to be decided through a mechanism which permits a yes/no vote. The problem is that we have extended the political market beyond things of that kind and to the kind of things where it is possible for each person to get what he votes for, where we do not have to have a yes or no decision. If you have a yes or no decision, then there is almost always a very loose or no relation between your vote and the result. As a consequence, you do not in general have any incentive to examine the issue you vote on thoroughly, i.e., to vote intelligently. In the political market, this phenomenon leads to weighted voting in favor of special interests and opposed to the general interest. If I have some piece of legislation that is going to benefit a small group a great deal, the members of that small group have a real incentive to learn about the issue, to bring pressure on their legislators to lobby for it in Washington. The rest of us? Here is something which is going to mean millions of dollars separately to each of a small number of people, but to you and me it means 50 cents extra on our tax bill. What incentive do we have to find out about it or to spend any time voting intelligently, or to bring pressure on our legislators.

Let me give you a few very simple examples. About three or four years ago the then President Nixon tried to eliminate a program under which the federal government had for many years been subsidizing people who tasted tea. This is literally true. This is a program under which the government graded tea for the benefit of importers and you and I paid taxes to hire people to taste the tea and decide which grade it should get. It is very hard to see any general public interest in that. After all, the tea industry can provide those people. Mr. Nixon made the simple, obvious proposal we should eliminate it. We still have that program because the people in the tea industry got up in arms about it. They didn't want to have that little thing taken away from them. Is there anybody in this audience who would take his vote away from a representative because that representative voted to keep the tea tasting arrangement?

Let me give you a more important case. We have a post office which I would hardly suppose is distinguished for its efficiency. For many years I have been trying to propogandize for elimnating the monopoly privileges of the post office; for opening it up to competition. About a dozen years ago, I talked to a good friend of mine who was then in Congress to urge him to introduce a one sentence bill eliminating the monopoly privileges of the post office. He said to me, "You know I agree with you completely, but can you name me an organized group that will come and testify in favor of that bill? I know about the organized groups that will be there to testify against it. There will be the postal employees union; there will be the organization of newspapers and of magazines who will testify against that bill," and he went down the list. All of those organized groups would testify against it. The people who are benefited don't even know that they would be benefited. If you eliminated the monopoly on the post office, there would develop a viable active private industry carrying mail. Some of you people in the audience might at some time be employed in such an industry, but do you know it? Are you going to go down to Washington to campaign in favor of that bill? Not a chance of it. "So," he said, "there is not a chance in the world of getting that bill through. It's just a waste of my energy and time to move in that direction."

We mustn't suppose that this favoring of special interests only applies to others. Brigham Young University may be an exception in that it relies to a very limited extent upon governmental subsidies, but most institutions of higher education in this country are very much subsidized by the government.

Some of you may remember that years ago a former president of General Motors testified before Congress and was so injudicious as to make the statement, "What's good for General Motors is good for the country." My colleagues at the university hooted and scorned him for such a self-serving statement. But then the next day they were taking airplanes to Washington to testify before Congress that what was good for higher education was good for the country. And not one of them saw the irony and the inconsistency.

Each of us separately will try to use this government mechanism to get special benefits for ourselves. Again, going back to that episode last September before the WIN Program was instituted, President Ford had a summit meeting at which people from around the country came together on the subject of inflation. I heard one representative of special interests after another get on the platform and say, "What this country needs to stop inflation is to cut down government spending and the way to cut down government spending is to spend more on me." That was a universal refrain from the farmers, the trade unions, the business representatives, the representatives of the universities.

That is the fundamental defect of the political mechanism: it is a system of highly weighted voting under which the special interests have great incentive to promote their own interests at the expense of the general public. The benefits are concentrated, the costs are diffused, and therefore you have a bias in the marketplace which leads to ever greater expansion in the scope of the government and ultimately to control over the individual. The way to get elected to Congress or to the Presidency is not really to appeal to the general interest. A majority decides, but it is a special kind of majority. The way to get elected is by putting together a coalition of special interests. You go to a group that has 5 percent of the vote and say, "I will vote for what you want if you don't care what else I do." And, they say, "Oh, I don't care what else you do." You go to another 5 percent and in this way you assemble 51 percent.

The characteristics of the economic market are very different. The fundamental point is the one I mentioned before. In the economic market—the market in which individuals buy and sell from on another—each person gets what he pays for. There is a dollar for dollar relationship. Therefore, you have an incentive proportionate to the cost to examine what you are getting. If you are paying out of our own pocket for something and not out of sombody else's pocket, then you have a very strong incentive to see whether you are getting your money's worth. In addition, nobody can get money from you in the economic market unless you agree. There is nobody who can put his hand in your pocket without your permission. In the political market that is the standard way of financing everything. As a consequence, you have in the economic market true individual freedom and a true individual incentive to get what you vote for and, more importantly, the incentive to find our whether what you are getting is what you voted for and is proportional to the cost to you.

The fundamental problem of a major society, of a society like ours, is that millions and millions of people must cooperate with one another for their daily bread. Fundamentally, there are only two ways in which large groups of people can be induced to cooperate with one another. One way is the method of the army, through force and coercion and direct order. The General tells the Colonel, the Colonel tells the Major, who tells the Lieutenant, and so on down to the private. The other way is through voluntary cooperation among people, each of whom is separately pursuing his own interest. In fact, the first method cannot work. The world is simply too complicated. There are too many facts of special time and place for it to be possible to run any complicated system on the basis of direct order. So that in fact, all systems of cooperation among large groups of people involving a mixture of these two. But, it makes an enormous difference what the mixture is. You know, it is like the joke about Hassenfeffer—half horse, half rabbit—one horse, one rabbit. The character of our society is fundamentally determined by whether the horse is the political market and the rabbit, the economic market or the other way around. Paradoxically, therefore, the situation is that the economic market is a more effective means for achieving political democracy than is a political market.

Let me add one more word on that. When you think of the economic market and the political market you tend to think in narrow terms. You tend to think of the economic market as concerned with the mundane, material things; such as, producing bread or cheese, or automobiles or houses. But the principles I have described apply much more broadly. The private market, the economic market, is also the most effective means for doing good. If you go back to the period in the United States when we had the most unrestricted operation of the free private market, the nineteenth century, it was also the period of the greatest burst of eleemosynary and charitable activity in the history of our country. Brigham Young University, my own University of Chicago, many of the other colleges and universities of this country were established during the period of the nineteenth century. They were established by the private market arrangement; namely, by voluntary cooperation among people spending their own money for something they themselves believed in—to establish a university or a college. The great system of public libraries, the Carnegie Libraries, was established during that period. That was a period that saw the birth of the private eleemosynary hospital, of the foreign missions, of the society for the prevention of cruelty to animals. You name the charitable activity and you will find that in almost every case its origins go back to that time. So the private market (what I described as the economic market of voluntary cooperation), is in my opinion the most efficient and effective way of doing good as well as the most effective way of organizing economic activity.

The U.S. is coming to a crossroads. We cannot continue along the road we have been going. In going from 10 percent of the national income being spent by government to 40 percent it was possible to maintain a large element of freedom and individual liberty because it was possible to give large benefits to small groups at small costs spread over many people. But one thing you can be sure of: in the next forty years we cannot go from 40 percent to 160 percent. So, we are coming to the crossroads. We are coming to the problem that faces Chile which as a poor country tipped over at 40 percent. Britain is wealthier, but appears on the verge of tipping over at 60 percent. We still have some ruin left in us, but pretty soon we are going to be forced to face up to the issue. Where we go from here depends on you, on the generation that is going to determine.

MR. SALVATORE D'AMICO, VA'S OUTSTANDING HANDICAPPED EMPLOYEE

Mr. WEICKER. Mr. President, the citizens of Newington and Connecticut are fortunate to have working with our disabled veterans a man who himself overcame serious handicaps to continue providing greatly needed assistance to others. We are very proud that Mr. Salvatore D'Amico, social worker at the VA hospital in Newington will receive one of the Outstanding Handicapped Federal Employee of the Year Awards to be presented in Washington, D.C., on September 30.

I call upon my colleagues to pause a moment to consider the courage and perseverance of this fine young man. Here is his story:

The 36-year-old veteran was born in Bengasi, Lybia. He lived in Italy until 1956 when his family brought him to the United States to provide the opportunity for education and for a better future.

Mr. D'Amico entered military service in 1959. He lost both hands and was blinded by an explosion while on duty with the U.S. Army in Germany. He was retired on disability status in 1962 after extensive treatment of his injuries in several VA hospitals.

With the assistance of VA's Vocational Rehabilitation Service, the energetic D'Amico completed his high school education, graduating in 1966, and went on to receive a bachelor of arts degree from the University of Hartford in 1970 and, in 1972, a master's degree in social work from the University of Connecticut.

During the past 3½ years of employment as a social worker at the VA hospital, Mr. D'Amico has had a variety of assignments. He is responsible for blinded veterans as Secretary Coordinator on Visual Impairment Services Team; he assumed chairmanship of the Vietnam Era Veterans Committee and recently assumed full responsibility for rendering social services to the surgical wards.

In all these areas, Mr. D'Amico has worked diligently, efficiently and effectively in helping veteran patients with a variety of problems. His own ability to overcome serious problems and physical handicaps has given him a positive outlook and conviction in mobilizing others to help themselves.

He has received numerous awards for his work with disabled persons, including a special award from the Civil Service Commission in 1974 for his efforts in behalf of the program for employment of the handicapped.

He is active in a number of organizations devoted to the welfare of blinded or otherwise handicapped persons, including the Blinded Veterans Association, American Association of Workers for the Blind, and the Disabled American Veterans.

In 1974 he received DAV's Outstanding Disabled Veterans Award and the Blinded Veterans Association's Achievement Award. In 1975 he was named to the Department of Health, Education, and Welfare's National Planning and Advisory Council for the White House Conference of Handicapped Individuals. Recently, Mr. D'Amico was presented one of VA's highest honor awards, the Administrator's Commendation, in recognition of his daily contributions at the VA hospital in Newington, Conn., where "he has ably demonstrated his ability to overcome limiting physical factors and meet the highest standards of a Federal civil servant." Administrator Roudebush said that his achievements have brought great honor to himself and to the Veterans' Administration.

Mr. D'Amico, his wife and four daughters reside in Wethersfield, Conn.

CANON CHARLES MARTIN: A RELIGIOUS AND EDUCATIONAL INSPIRATION

Mr. PERCY. Mr. President, Canon Charles Martin is one of Washington's most distinguished and beloved citizens.

As headmaster of St. Albans School for Boys for the past 28 years, Canon Martin has touched the lives of thousands of young men. The impact that he has made on these young men and their families is almost immeasurable.

Canon Martin is one of the most devoted men I have ever known. He is devoted to God, his fellowman and the institution he serves. It is an honor and a privilege to know him.

Canon Martin will retire next spring after his long tenure at St. Albans. Recently Mr. Henry Mitchell of the Washington Post captured the personality of Canon Martin and the great contribution he has made in an excellent profile. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 15, 1976]

God and Man at St. Albans

(By Henry Mitchell)

Sort of rocky, you know, with the fever, but tomorrow will be better and at least (the boyish handwriting of the letter goes on) he has got through a day's stint of Virgil and Xenophon and is ready to hit the hay.

It was the last day of the boy's life, however, and you can't help hoping, as you read it framed in the reception room at St. Albans School for Boys, that the Virgil was knockout Virgil and the Xenophon was the best there is.

Never know, of course. The letter is framed and hung, not very prominently, in a room before you get into the headmaster's office, and you wonder why almost as much as you know why.

The headmaster is a little surprised to see you, and so is his English bulldog, since their secretary overlooked telling them you were dropping in for a three-hour chat.

Never mind. Genius consists largely of not getting too surprised. You can live through anything.

The clear glass window is centered with a colored panel that looks like Henry Tudor fixing to water some roses but may be the battle of Bosworth Field—art is shifty, like history and (they say) life.

There is certainly nothing shifty about Charles Martin, priest attached to the Washington Cathedral and headmaster who will retire next spring after 28 years on the job. This office is his, in the way that few offices bear any personal stamp these days, and the walls are quite glossied over with pictures of boys and bishops and dogs.

Canon Martin settles tentatively into his chair and Cleopatra (the dog) is quite prepared to take the best part out of your trousers if it comes to it, and yet all things work for good to them that fear the Lord, as the canon is fond of observing, along with St. Paul.

He is not sure how to summarize, in four sentences or so, what everything has meant, and whether we have all come through great movements of history and where the world should go now. So that's out, and it's just as well, since the canon is on call for three very sick people and may have to do what he can for them, leaving the wisdom to wait.

"Coffee?" he asks. Ha, a sin. There always is, if you look. There is a door just past his desk and behind it are shelves with more than one pound of ground coffee. The canon asks for it three times. It is sinner's corner there for a while.

He was not always a coffee addict, however, and he led a wholesome, blameless life in Burlington, Vt., before coming to St. Albans. Up there he had been rector of a large church, member of the school board, the city planning commission—"happiest years of my life," says Martin, who is married and the father of four children.

He came to St. Albans because it seemed to combine his two great interests, the church and education. Founded in 1909, St. Albans had always counted among its students (now numbering 500 in grades 4–12) many scions of wealthy and influential families. But during Martin's tenure as headmaster he has tried to see that the day school not become a bastion of insular privilege.

In Martin's time some of the boys began to spend their summers working, and some went to Africa and cleared brush, a departure from summer holidays in the past when many boys simply practiced their tennis. Russian was introduced to the curriculum (nobody ever thought of Russian as a learnable language until the Soviet Union became a great power) and in 1954 St. Albans announced that it would admit blacks, who now number 44.

The headmaster sets the tone of a school more than any other factor and Martin thought the school should not be laggard in following the Supreme Court decision against segregation.

Martin leans back. His dog, who has concluded that if battle has not been called for by now it probably won't be, has snuggled up to the visitor and honors him with some drooling which will probably come out in the wash.

"There was a greening of America," Martin says. A loosening. You didn't have to watch how you tied your tie, you could be less self-conscious.

It wasn't so important, any more, to go to the right college. It was more important to go where you could expand and develop from your present self, instead of some place where your energies would all be used trying to keep up, or trying to prove you were something other than yourself.

Not too much should be made of this trend—Williams is better in some ways than Yalobusha State—but some shift of consciousness did indeed occur.

Martin noticed people were a bit more generous in endowing learning—a fund to beef up a master's salary, say—and no longer thought entirely in terms of memorial gymnasia.

Parents still sometimes indicate they hope young Will can be admitted to Yale, but Martin doesn't care much about that. What some people forget is that Martin is a priest, and for more than a quarter-century now has looked at the walls of the cathedral through his windows. He has christened, married and buried human beings. People have told him things they would die if anybody else knew.

He has seen them when all the chips were down, or all called in, and he is capable of saying his job is to get people into the Kingdom of Heaven, not Harvard College.

When he meets a new boy he tries to figure out where the boy is right now, what interests him, what he's good at, how he might be encouraged and led.

Fathers, notoriously blind, sometimes want sons to be what those sons are not going to be in this world or any other.

Too often, unless there is a wise intermediary, a young person can get pushed in some parental dream direction, and this rarely works in the long run, but sometimes long enough to waste years and breed bitterness.

Martin's idea, stripped of important refinements, is to give a boy the best environment for learning and developing, and to minimize obvious hazards, and expect the boy to develop along his own lines.

This is only a shade different from what headmasters have always thought, but the difference can be critical to a boy.

Martin says hardly anything works out as he hoped it would, or thought it would. And yet sometimes the real result is better than the optimistic dream itself.

There was a lad from a deprived background who turned out extremely well, scholastically, by dint of intensive work by him and the masters determined to fill in the educational blanks of years. But Martin knows you can only do so much of that for any boy—the resources of time and energy cannot take on everybody.

How far can you go helping boys who have not had any luck? Martin sweats that unanswerable one.

A school may be like a gold treasure—should it be divided so everybody gets one penny or so one man gets a million dollars? Obviously not. But where is the breaking point, beyond which a division of the treasure means nothing to anybody? How do you divide it so it does the "most good," whatever that means?

The mere fact that there are no unarguable answers does not mean there are no real questions, and Martin's life, both as a priest and a headmaster, has been spent trying to adjust imponderables.

"I think it helps," he said, "if you can be humble about it. Open. Openminded. If I do something that is hard for me, it helps if I can think I didn't do it out of anger, or softness, or some advantage or for any other reason than that it was the best for the boy.

"For example," he begins, and then hesitates.

There was a boy, with a name familiar to everybody because of his family, who cheated once. A lot of time and talk was spent getting the boy straight, and he stayed. Then the day before graduation it was found he had cheated again, after all the straightening out. His family had come for graduation. The whole bit. He did not, of course, graduate, and yet it was hard for Martin to tell him and his family that he could not.

It would have been the most terrible injustice to the boy—it would have earned his deepest cynicism as well—to let him think it really made no difference. This kind of thing happens at any school, but it is never easy.

Martin himself went to public schools. The school should be good, public or independent, and that's that. You should learn to write an English sentence, Martin says (knowing it will alarm any writer, of course). Learn to think straight.

He is never concerned—it is not the true concern—about where the money comes from to run an independent school.

Fill a need, he says, and the means will come. Be very good, he says, and your school will survive.

But you might ask him, what of something that is good, like the Metropolitan Opera, that seems to stay in danger of going under? What of beautiful architecture that has not been saved, what of all the things that have gone, not because they weren't useful or beautiful or superior, but because they weren't profitable or massively popular?

Even so, he says, when such things happen it is because they neglected something crucial—maybe the salaries were unreasonably high, maybe there was too much snootiness toward lesser institutions, maybe they outlived their original purpose—the church itself may not ignore new worlds and new times.

Not the forms, however beautiful, but the substance, however raw, seems to be the canon's holdfast. Not the cup, but what the cup holds.

His bulldog is the fifth in a line that began with Marc Antony and settled in with Cleopatra, Cleopatra II and now Cleopatra IV, an old dog less strong for roving than a pup, but more beautiful.

It annoys Martin when people think his bulldogs are amazing looking. To him they are beautiful, like a hart on the mountain, though somewhat different, of course.

The phone has not rung. The very sick are still very sick, no worse. The interruption to his day has been accepted. It is all in God's hands, and in a sense Martin does not care in the least. His job is to be open, to put himself second, to be reasonable and not worry.

The glass windows of the corridors look out. Now it is noon, but it makes no difference, suns or moons. A man should have a light of his own.

MAO TSE-TUNG

Mr. THURMOND. Mr. President, the death of Mao Tse-tung, who remained for 27 years an undisputed dictator of Communist China, was a watershed event not only for China and Asia, but for the entire world.

Mao Tse-tung was an overpowering figure in China, in the world Communist movement and in world affairs, but he kept his country in a state of constant turmoil and "permanent revolution," and died leaving uncertainties in the political and administrative structure of China for the immediate future and for the years to come.

Mao's style of leadership was unique because of its ruthless and cold personal dictatorship and constant uncompromising scheming against his friends and enemies alike, but primarily because of his basic conviction that the revolution never ends. He started his political career in 1920 when at the age of 27 he attended a meeting in Shanghai where the Communist Party of China was formed. When later he returned to his native Hunan province, he formulated and implemented his fundamental ideas of the perpetual revolution of peasants, a basic political strategy which he never abandoned right up to his death on September 9, 1976.

By organizing and reorganizing—eliminating his opponents—Mao succeeded in building a military force of about 100,000 people under his personal command by 1934. This was the year when Mao's Communist army was almost eliminated by the superior armies of nationalist groups commanded by Chiang Kai-shek. Mao's army broke out of encirclement and in the 6,000 mile long march reached Yenan Province with only 20,000 troops, the balance of which having been decimated in the march. This ruthless sacrifice of 80 percent of his own force remained the hallmark of Mao's methodology of political operation—to rule and impose his leadership by "consolidating" his ruling circle. Mao Tse-tung and Chou En-lai remained the undisputed leaders of the Communist forces in China since the long march in 1934 until both of them died in 1976, Chou in January and Mao in September.

In the period following World War II, the United States made one of the biggest political mistakes of our postwar history—trying to mediate between the Nationalist and Communist groups in China, and influencing the Nationalists to make concessions which ultimately contributed to their defeat.

In 1949 the civil war ended with the Communist victory on the mainland and the withdrawal of the Nationalists to the Island of Taiwan.

Mao Tse-tung continued his policy of perpetual revolution and in a succession of purges eliminated all his potential rivals and former comrades-in-arms, consolidating his personal grip over the controlling military-political mechanism in the country. After a series of different "revolutions" in 1954, 1958, 1962, 1966, 1972, and the most recent one in 1975–76, the leadership of the Communist Party of China was reduced down to Mao and Chou, and the group of "newcomers" headed by Prime Minister Hua Kuo-feng and Mao's family circle, including his wife Chiang Ching, acting as the controlling link with Mao himself.

This instability of leadership did not contribute to administrative continuity and economic progress. The staggering contrast between the economic prosperity of Taiwan, under the free economic system and stability of the Nationalist administration, and the poor agricultural and industrial level of production in mainland China was primarily the consequence of Mao's dictatorial methodology of continuous revolution.

Throughout his life Mao remained suspicious, intolerant, and devious. His entire life in some way was devoted not to the construction of a better China but to guerrilla techniques, both in fighting his real or imaginary adversaries and the administration of a huge country, which became his responsibility after the victory over the Nationalists in 1949.

Mao wanted to destroy the ancient Chinese system based on the family as the center of political and social relations and its Confucian philosophy. He wanted to replace this concept of traditional China with the collective concept of leadership and administration, with the "Communist man" as the centerpiece to the construction of a new nation. He never succeeded and died a disappointed man. He admitted the failure of his life in a poem to his dying comrade Chou En-lai, the last poem of his life, in which he said, "We will go, our mission unfinished may take a thousand years."

All his life Mao cherished the "masses" and hoped the revolution would come from the bottom up. In this, he alienated the specialists in all classes, the economists, the technocrats and the ruling military. But even the "massive" of the poor peasants and workers quietly and subtly subverted all his attempts to mold them into a source of revolutionary force.

A guerrilla fighter to the very end, he launched one campaign after another, retreating if necessary, attacking again with abandon and without any consideration for the losses; in the great leap forward, in the great proletarian cultural revolutuion and in a recent attack on "imperialist roaders." His effort was in vain—the flowers did not bloom, the cultural revolution did not work, the job remained "unfinished," and the dream unfulfilled.

It seems to be clear that after Mao's death his temporary successors, like his widow, Chiang Ching, and the "newcomer" Prime Minister Hua Kuo-feng, will not last very long. Mao's permanent revolution, which swept them to the surface during his last days, will probably not sustain their political life very long, now that the master is gone.

Mr. President, there has been a report on the "Strategic Significance of Taiwan" written by Gen. Wago W. K. Chiang, president of the Armed Forces University of the Republic of China, which I feel would benefit all of my colleagues, and I ask unanimous consent that it be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

The Strategic Significance of Taiwan

(By Gen. Wago W. K. Chiang)

PART I—AN ANALYSIS OF WORLD SITUATION AND GLOBAL STRATEGY

1. The importance of having a strategic objective:

An objective must be the basis of all mental estimates of situation, planning and action. It has great bearing on the over-all situation of the decision-maker and determines his success or failure. If a decision-maker has no definite objective in mind, or he cannot stick to his objective, all his efforts will be wasted and he will certainly lose the game.

On the other hand, it is also very perilous if his objective is not clearly defined, or he erroneously takes his means as an end. For this reason, our beloved leader, the late President Chiang instructed us: "In a military operation plan, the first thing we have to do is to determine the objective. Only when the objective is determined can we decide when, where, what course of action we shall take, and how many forces we have to use to implement the operation plan to achieve the objective."

Napoleon also said: "War direction should follow a certain procedure; any war should have an objective." When we look around the globe we can see that nations the world over all have their own particular national interests, and their national interests will be achieved and enhanced through their national objectives. And national objective is achieved through the application of various elements of national strength (i.e. political, economic, psychological and military).

For this reason, in any strategic direction, we must first determine what is our own objective. If we study our relationships with given parties to decide whether the relationships are friendly or hostile in nature, we must also first find out what objectives these parties are pursuing. If their objectives agree with our own, then they are our friends. If their objectives disagree with ours, and if the degree of disagreement has reached the extent of collision or even contradiction, and their nature has become destructive and detrimental to our objectives, then they are our enemies. Therefore, to determine our own objective and to clearly identify those of others are premises or pre-requisites in our study or analysis of any strategy or of a given relationship. We will thus determine whether it is friendly or hostile.

In such a case we must decide:

a. What is the objective which my country is pursuing?

b. What endangers our national objective? In other words, what is in our way of achieving our national interests?

Only in this way can we rally our people internally and consolidate our national strength to strive for a correct and clearly defined national objective at whatever sacrifice. And only thus can we strictly identify friend and foe externally, clearly mark our camp and firmly maintain our stand to fight an all-out battle to the end for the cause of truth and peace for mankind.

The fundamental mistake which the nations of the free world have made during the past is that they have neither established their own national objectives nor have they been able to find out clearly what their enemies' true objectives are. This mistake has resulted in a mental perturbedness in the free world about where the free world should be headed, and a confused situation in which friend and foe and right and wrong are not distinguishable.

If a country cannot decide for itself where it should go (i.e. what is its national objective) then, it certainly has no stand to speak of. It is, so to speak, like a floating heart moving in the direction of wind and wave and resting at any place, regardless of friend or foe. It certainly is unable to make out which country is on its way to realizing her national objective. This is not only the mistake of the free world but it is also the tragedy and catastrophe of mankind living in this century.

2. "Red Peril," not "Yellow Peril"—the true threat to our world today:

Another mistake which the free world has made is its failure to understand fully and thoroughly the characteristics of the various areas and the historical backgrounds of various nations. This mistake has again resulted in a confused situation in the free world, where it is difficult for a nation to tell which is really a friend and which is really an enemy.

China is a case in point. The conquests of Genghis Khan of the Yuan Dynasty, which extended to as far as the present day Soviet Russia and Hungary, were really a catastrophe to the white people in Europe in that age. Therefore, they created the term "Yellow Peril" to denote their mentality of dread of aggression by the yellow race. This mentality has survived to this day. The people in the Western nations still have the wrong image that the yellow race is aggressive.

Regrettably, little do they realize the fact that the overwhelming majority of the Chinese people, especially those who resided in the central region of China, have always been a peace-loving race. Those people who followed Genghis Khan to conquer Europe were not the majority tribe but a minority tribe on the northern border—Mongols.

This minority tribe later ruled the central region of China—and became known in Chinese history as the Yuan Dynasty. But this is remote past to us now. Those who followed Genghis Khan to conquer Europe were the belligerent Mongol tribesmen and not the majority Chinese people. Today even the Mongols are no longer the same. Moreover, during the course of the development of the entire human culture, the races of both the West and the East all took part in acts of territorial expansion. Among them, the Chinese race have been the most friendly toward other peoples.

Although the Chinese extended their activities to every part of the world, their acts all were friendly intercourse, trade and commerce, and never political or military aggression. Even if we grant that there had been aggressive acts, both the races of the West and the East were committed to territorial expansion in that age. With the progress of time, these acts were no longer tolerated in the international community in the last hundred years. For this reason, since the termination of the several major wars which ravaged Europe in the past, only the First World War and the Second World War were set off by the madness and ambition of a few. Their mad acts of aggression aroused strong opposition among the nations in the world, and were severely punished at the end.

Unfortunately, however, these mad acts of aggression which endanger the welfare of mankind have been inherited by the Communist bloc. The Chinese Communist regime is most dogmatic, vicious and ruthless. And more unfortunately, the aggression of the Chinese Communists has been wrongly identified with the yellow race and not with international communism, as a new form of aggression.

This new form of aggression, the "Red Peril," has plagued many parts of the world. One hundred and nine years have elapsed since Karl Marx wrote "Das Kapital". It has been fifty-nine years since the first communist state came into being in Russia. With a 109-year-old theory and 59-year practice, the torrent of the "Red Peril" has already flooded more than half of the face of the earth and exacted a toll of more than sixty million human lives. The most recent dreadful scenes of mass destruction of human lives took place in Cambodia and Vietnam after those states were taken over by the communists.

And the "Red Peril" continues to spread toward the remaining free world. For this reason the real threat to the peace of the free world and the national interests of the United States is the "Red Peril"—the communist bloc—and not the "Yellow Peril." If, then, the Westerners still retain a wrong image of the Chinese people, and thus divert their proper attention, it is neither reasonable nor fair. What is more, they will make a fundamental mistake in their global strategy.

We sincerely hope that the far-sighted statesmen and military leaders of the free world can perceive the fact that the aggression of the Chinese communists is generated by communist ideology and not by Chinese culture, nor by the traits of the Chinese race. The essence of the rich traditional cultural heritage of the Chinese people is "Freedom, Equality and Fraternity." World peace and freedom of mankind can be founded only on the recovery of the China mainland by the Republic of China, the guardian of Chinese cultural heritages, and her growth in stature and strength. Therefore, the correct concept and direction for the world strategy of today should be full cooperation by the nations in the free world with the Republic of China to remove the Red Peril from the face of the earth.

3. Two erroneous assumptions:

Because the politicians of the free world do not have a clear understanding of communism and the characteristics of the communist countries, and especially the great difference between Russian communists and the Chinese communists, they have, consequently, made the following two erroneous assumptions:

a. Soviet Russia has been revising its policies.

b. Since Soviet Russia can make revisions, so the Chinese communists also can and will follow suit to revise their policies. The free world need only to display the reasonable way of living in the developed areas in the free world continuously before their eyes and the Chinese communists will certainly be influenced and stirred to go on revising.

These two assumptions show that in the first place many free world politicians believe that Soviet Russia has revised its goals in the past, and that the revision is still going on. It is true that communism had inherent weaknesses in its theory, and the influence of the free way of living of the free world has forced the Russian communists to make some revision. But the people of the free world have failed to realize the fact that their revision was made only in the field of tactics and in their strategic objective they have never made any revision.

The inflexible strategic objective of Soviet Russia is to communize the world—it wants to impose on the whole world the political system and the collective way of living it conceived. The people of the free world, however, still meet this new threat with their traditional philosophy. They think that for each country to have its own way of doing things is a freedom it should enjoy. Therefore, they will not mind what kind of way of living the communist countries have chosen. The free world people care only about the way of living they themselves are pursuing. As to what kind of way of living the communist countries should choose, this is not their business.

This attitude based on the considerations of equality and mutual respect is certainly proper in international practice. However, the situation and the party they are dealing with are different from those of the past. The enemies the countries in the free world are facing today are the insidious and ruthless communist countries. They use police force to maintain totalitarian government and a collective way of life in their own countries, and they also want to force all countries in the world to adopt their way of life. In other words, they want to enslave the whole world. Their system is aggressive in nature. Their intention is to change man's reasonable way of life to inhuman living to satiate their aggressive desires. This is what the politicians of the free world cannot discern, and this also is overlooked by the people in the free world.

Speaking of aggression, it may be divided into two types. One is conventional. A country may openly march its military forces into another country or area and force the government there to accept its aggressive terms. The other is unconventional. A country may secretly fulfil its aggression by infiltrative and subversive means into an area or country, to disorganize the government or to control the government and finally force it to accept the terms of aggression. Too many people of the free world are familiar only with the conventional type of aggression and fail to pay attention to and understand the second type. Little do they realize that during the last twenty years the manner of aggression which the communist world has adopted for expansion is to use the two types alternatively. The main effort is laid on the second—the infiltrative and subversive type of aggression. Through this means, one nation after another and one area after another in the free world have been communized without the rest being alarmed.

The most strange thing is that at present when the heart land of the world has been completely submerged in the red flood and enclosed behind the iron curtain, many politicians in the free world still feel that "the world is big enough for them." They do not realize that the cause of many countries in the free world being communized, one after another, in the past was infiltration and subversion by the communist bloc. They still believe that Soviet Russia and the Chinese Communists have revised their policies in the direction of promoting peace for mankind. And these politicians have busily engaged themselves in "negotiations," "appeasement," and even "normalization" with the communists. Apparently they still naively hug the hope that "the communist countries will change someday."

Now let us discuss the second erroneous assumption of the free world. In this assumption, they believe that the "Chinese communists will also revise themselves." This is indeed illusory. To this date the Chinese communists have exercised tyrannical rule on the China mainland for twenty-six years and there have been no signs of revision. And I am sure that it is absolutely impossible for the Chinese communists to make any revision at all. This is not only the case for today, it is also the case for tomorrow and forever.

The Chinese communists are very apprehensive of the dangers which could result from revision. It could be taken to be a signal of their surrender to the Three Principles of the People. This is the peculiar situation of the Chinese communists which differs diametrically from that of the Russian communists. In the case of the Russian communists, if they make some revision in their tactics and keep their strategic objective unchanged, as they have been doing, their fundamental communist stand will not be affected at all. However, this will not be the case with the Chinese communists, because on the China mainland a firm foundation which was laid for the Three Principles of the People is still there. The politics of the Three Principles of the People has its base in the traditional Chinese political philosophy, in which the economic problems and the livelihood of the people are solved in a benevolent way. This traditional political philosophy or ideology was crystallized and written down and systematized in the days of Confucius, and deeply rooted. The communist ideology has not taken root in China yet. Here we should realize why the Chinese communists should criticize and purge Confucius posthumously, and even raise the tyranny of the first emperor of Chin, and give a severe blow to Confucius' thought. The reason is that Mao is afraid of the fact that the presence of Confucius' thought will remind the people of the Three Principles of the People. In order to wipe out thoroughly the thought of the Three Principles of the People remaining on the mainland, Mao spared no efforts to carry on his "Criticize Confucius and Praise Chin" drive to destroy our traditional culture and political philosophy.

If the communists on the mainland make any revision, if they become even a little lenient in their inhuman and dogmatic way in dealing with economic problems and the livelihood of the people, there will be possibilities of rekindling the thought of the Three Principles of the People and of overall reviving of the Chinese traditional culture. Therefore, no matter how small and unimportant the beginning in revision may seem to be, the impact will be far beyond what Mao can withstand. Because Mao will have to consider even a very small beginning, so to speak, "the scene of an uncontrollable torrent which may result from a leak on the bank of the Yellow River." For this reason, the Chinese communists on the mainland can only become more ruthless and relentless. They will intensify their oppressive and tyrannical rule and will never make any revision.

Many countries and politicians in the free world have failed to realize this difference in characteristics between the Russian communists and the Chinese communists. Because of this failure they have made these erroneous assumptions and stick to their fundamental stand, thereby leading to wrong concepts for their national strategy. They have in this way fallen victims to the tragedy in which they follow the will of the enemy, dance to its music, let the enemy manipulate them at will and become, so to speak, the flesh of the enemy's carving knife.

4. Review on the success and failure of two patterns of war:

The present situation has proved clearly the truth of a philosophy of war that initiative will win victory and passivity will lead to defeat. It also has proved the fact that the countries in the communist bloc have won repeated victories because they have initiatively employed the "divide-and-conquer" pattern of war. And it is an irony that oftentimes the communist bloc has conquered because the free world has done the work of division itself.

On the other hand it has also proved the fact that the countries in the free world have suffered defeat everywhere and have been forced to the margin of war because they, in order to avoid war, have passively adopted the "balance of power" pattern of war. Despite the bloody and humiliating lessons in Cambodia and Vietnam, they are still unable to realize their mistakes and cling to the "balance of power." That they want to avoid a war is a good thing, of course, and they have every right to hope for that. But it is wishful thinking for them to believe that they can avoid war by maintaining the "balance of power." I think that to hope for avoiding a war is necessary, but wishful thinking is useless.

No elephant can be turned out of a magician's hat; similarly, no permanent peace can be obtained from the "balance of power." On the contrary, it may only produce a war. From history we can find that when two countries whose ideologies are diametrically different or two countries whose interests are conflicting have reached parity in their power, they have reached the point to set off a war. In the Warring States Period in our history the seven powerful states rivaling for hegemony set a typical pattern to show how "balance of power" leads to war and turmoil.

Japan is another clear example in modern history. In the last war, when her naval strength in the Pacific Ocean reached parity with the strong Pacific Fleet of the United States, she rashly went to war with the United States to strive for dominance in the Pacific. When a certain country in order to seek "balance of power," the chances of setting off a war among the rival countries is very great. Each of these two countries will naturally fear that the other country may become suddenly stronger, and threaten its own strategic posture. Therefore, they will become jealous rivals, and enhance their war capabilities to prevent any sudden attack.

This tendency of rivaling for supremacy cannot easily be limited or stopped by any "negotiation," "agreement," or "talk." This rivalry will continue until a certain degree of parity is reached. At this point one party will seize the opportunity to strike first and let the use of arms decide which one is to survive. For this reason I would say it is impossible to have true "balance of power" appear in this universe. Even if it appears, it can not avoid war or bring peace. On the contrary, it can only bring war and destroy peace.

5. Three enormous financial outlays and their impact on the psychology of the people:

The free world and the communist bloc, under present confrontation have rivaled each other drastically to expand their power. The financial costs of their ambitions are alarmingly enormous. These outlays mainly go to the following three areas:

a. Defense outlays:—A modern strategic weapon system is very expensive. From design, manufacture and deployment, to attrition the cost is enormous and unprecedented. When the trend of the development of arms systems on both sides is toward the destructive nuclear weaponry, the financial burdens on both sides become more and more oppressive and endless. However, this "arms race" situation cannot be easily ended by any negotiations or talks.

b. Aid to allies in various areas:—Both parties have tried very hard to support their allies within their capabilities. However, the purpose of the free world countries in support of allies is defensive in nature. Therefore, the peace they may obtain is temporary. The purpose of the communist bloc in support of allies is aggressive and offensive in nature. What they want to achieve is not temporary peace but the communization of the whole world. This is their ultimate objective, from which they have not relaxed their efforts for a moment. The manner and purpose of support for allies or satellites by the two parties is different indeed but it has constituted the same enormous financial outlays to both.

c. The financial outlays for infiltrative and subversive activities by the communist bloc against the free world and the financial outlays of the free world to counter these activities.

The financial costs mentioned are indeed great for both the parties, but in the communist bloc the impact of these outlays on the psychology of the people is far less severe. Because the political systems of the two parties are entirely different, their economic structures are also different. In the communist economy all things are owned by the state and all earnings are controlled by the state. Therefore, the people have no way to know and also no right to ask about financial outlays, no matter how big they are. For this reason the spending has little impact on their psychology.

On the contrary, in the free world all things produced by the people, besides taxation, go to the people. If the government wants to spend more money, it must increase the rate of tax and take more money out of the pockets of the people. This has a direct impact on the psychology of the people, who feel bitterly the oppressive burden of the tax. Besides, in the free world, the government must first ask for approval of the legislators before it makes any outlays. This the people will know immediately and, therefore, it has an adverse impact on the psychology of the people. For this reason, the people of the communist world are far less sensitive to government spending than the people of the free world. The government of the communist country can do what it wants to do without regard to the sufferings of the people. In the democratic country the government must listen to the will of the people and of the congress which controls the government.

What is more, in the communist bloc, especially in territory controlled by the Chinese communist regime, the many expenses are met not merely from what is squeezed from the people. A government can also net a very great sum of money from unlimited growth of poppies for opium. The narcotics traffic serves the Chinese Communist regime in two ways. It finances infiltrative and subversive activities in the free world with these earnings. It also uses the narcotics to weaken the free world—to cause the society, the psychology of the people, and the economy to break down. And finally, it can deliver its coup de grace through its skilled political subversive means, to make the political situation in the target country unstable and paralyze the whole country eventually. The free world after these set-backs, may suffer the following consequences:

Because the people are unable to withstand the economic burden psychologically, they may become impatient and choose a showdown to end their economic burden. In adopting "balance of power" as a delaying strategy to deal with the problems of today and procure a nominal peace, they in fact adopt measures which will lead to a great war.

Because the people are unable to withstand their weighty economic burdens, their confidence in their government may begin to waver. They may lose their patience and interests and become dissatisfied and indifferent—a very terrible state of low morale of the people which usually leads to a great nation's decline and fall. If we do not do something constructive, the low morale of the people, internal social unrest, communist psycho-chemical influence on the body and mind of the people and political instability may become more and more severe every day. The result will be an overall instability of our free world. This situation will certainly be utilized by the communists to overthrow governments, change governments, or set off civil wars within nations. If such situations persist, the fate of the free world is very clear—even if it is not communized, it will doubtlessly be dominated by the communist world.

6. The true source of the problems of the world:

I have pointed out briefly the three great financial outlays and their two possible adverse consequences which threaten the countries of the free world. If the free countries do not wish these consequences to materialize, they must face the problems in any part of the world realistically and no longer use the old delaying action. They should try to solve the problems they are facing today by expediency rather than by principle, they can never succeed. They can only find themselves in a great war at the end, which they certainly do not wish.

We Chinese have two very sagacious sayings warning us of the inadvisability of solving a problem by expediency and not by principle, that is, not tracing it to the source of trouble. The one goes: "apply cure to head when the patient complains of headache and apply cure to foot when the patient complains of sore foot". The other saying goes, "to try to stop the boiling of the soup in a caldron over fire by blowing to cool it."

"Delaying" is not the best strategy for the nations of the free world to use in solving problems in any part of the world, and expediencies do not agree with their best interests. They must find their best solutions to the problems by tracing them to their sources and removing them. Another Chinese saying goes, "The best way to stop the boiling of the soup in a caldron is to remove fire under it." Now, in the present world situation where is the fire under the boiling caldron?

Lenin has said, "the shortest route from Moscow to Paris is via Peiping and Calcutta." In other words, in Soviet Russia's plan for steps to communize the world, the Republic of China is its first objective and Korean Peninsula and Indian Peninsula its second objectives. Europe will be enveloped after it has dominated Asia. The next move will be to communize Africa and Latin America. And Russia will not spare the rest of the world when it finally consummates its plot.

You may still remember that the Korean war, the result of the communist aggression in Korea, broke out within a year after the fall of the China mainland into the hands of communists. Vietnam also became infested by the communists shortly after, and a protracted war broke out. Burma and India were all involved in border conflicts with the Chinese communists, one after another, shortly after the communist take-over of the Chinese mainland. Today, Vietnam and Cambodia have fallen into the hands of local communists supported by Chinese and Russian communists. The Pathet Lao (Lao Communists) have easily taken over the government of Loas in the wake of the victory of their comrades in Vietnam and Cambodia. The communist threat in Thailand has daily become more and more intensified.

Within a short span of a quarter of a century communist infiltration and subversion has become rampant not only in various areas in Asia but also in the Middle East, Europe, Africa, and Latin America. All these troubles can be traced to the fall of the China mainland into the hands of the communists as their starting points. After the Chinese communists dominated the China mainland, the whole Asia and even various other areas of the world successively suffered communist bloc political infiltration and military threats.

This happened while the Republic of China has stood firmly as the forward post of the free world to shield the blunt of Communist aggression. Had the Republic of China been gone, the situation would have been much serious. Therefore, we should be able to see very clearly that the safety and peril of the Republic of China, in a sense, is also the safety and peril for various nations in Asia, and is also the safety and peril of the free world. Indeed, whether the Republic of China is able to recover the China mainland has truly become the turning point, to decide the tranquillity or turbulance and rise or fall of the nations of Asia and the safety or peril and adversity or fortune of mankind.

Thus we may conclude that the source of the problems of the world is in Asia; and the source of the problems of Asia is in the China mainland. To reduce the situation into a single sentence, the true source of the problems of the world is in the China mainland. Only when the Republic of China is able to recover the China mainland and bring it back to constitutional rule will the communist peril in Asia be terminated. Then war and turmoil in the world can be solved, and permanent peace will truly become obtainable. It would then be possible to shift the huge military expenses to constructive works for the welfare of the people. And only then will mankind be able to enter into an era in which peace and happiness will prevail.

7. The delicate relationship between the Chinese and the Russian communists:

As I have pointed out, the source of the problems of the world is in the China mainland. It is important to our understanding of the world situation to examine the relationships between the Chinese and the Russian communists. In the past Soviet Russia alone exercised leadership in the communist world. It decided strategy and tactics in the program for communizing the whole world, and executed them. But now its leadership has been seriously challenged by the Chinese communists—Soviet Russia has its plan to communize the world but the Chinese Communists want to have their own way to do the job. The rivalry for leadership within the communist world has developed a complicated and delicate relationship between Soviet Russia and the Chinese communist regime.

With the traits and cultural background or wisdom they possess, the Chinese people will not accept or submit to other people's will and be easily communized. If the 800 million people on the mainland had maintained their traditional Confucian thought and democratic government according to the Three Principles of the People, they would not have been willing to accept an inhumane ideology and would not have been enslaved by other people. At the same time they would not impair other people's dignity and self-reliance.

On the basis of "mutual respect and reciprocity" the Chinese people seek mutual existence and prosperity and to reach the state of "tranquillity of the world." But when they are driven by a communist government they must either submit to the leadership of Soviet Russia or its rival for leadership in the communist world. This will naturally result from the communist characteristics for struggle. And the clash, struggle, and conflict between the Chinese communists and the Russian communists is a sure consequence. In fact, this consequence has become more certain since the fall of Cambodia and Vietnam.

The most painful things which the Maoist communists feel today are that on the one hand they are disturbed and threatened by the anti-Maoist and anti-communist forces which are working for the restoration of democratic and constitutional government on the mainland, and on the other hand, they have to pay attention to the Russian communists who have spared no efforts in their infiltration and subversion against the mainland. Now, they have turned against the Maoist regime and attempted to overthrow it and make the Chinese communist regime part of the Soviet Russia political structure. This struggle is being carried on drastically.

From the foregoing analysis, I believe the greatest danger which the free world could face would be for Mao-red China to become Soviet-red. In that event the 800 million people and vast natural resources on the mainland would be added to the one billion people and already enormous resources of Soviet Russia and its original satellites. The combined population of 1,800 million people and the matchless resources of the Eurasia landmass would then constitute an absolute supremacy over the population of one billion people and the comparatively smaller resources of the free world. The Soviet design of communizing the whole world might well be realized.

If the free world is unaware of this latest danger and still adopts the "balance of power" strategy, and attempts to use "negotiation instead of confrontation" measures to maintain the present status quo and hang on, it only gives the communist bloc the precious time it needs to consolidate its ranks and reconcile differences within its ranks. If this work is accomplished and the Chinese communist regime is made part of Soviet Russia, that will be the time when the free world will no longer be able to withstand the irresistible aggression of the united communist world and can only give up.

And I also believe, mind you, that the possibilities of the Chinese communist regime becoming a part of the Soviet Union are far greater than the chances of it becoming a member of the free world through the vain efforts of some to curry favor with the Chinese communist regime in an attempt to lure it to the free world. And the speed in the first case will be greater than in the second.

Today, we are witnessing the Chinese communist regime growing gradually in strength. It grows itself and it extends its strength outside its own territory continuously. If this enormous Chinese communist strength and influence one day becomes an integral part of the Soviet Union, then the strength the Chinese communist regime has developed and the sphere of influence it possesses today is also the strength and sphere of influence of the Soviet Union tomorrow. Is this still what the free world which professes to believe in "balance of power" can stand for and want? So, you see, suppositive "Balance of power" is the surest way to expedite war. It is also a foolish act, so to speak, "to tolerate a latent dangerous disease for himself to suffer at the end."

Now, let us consider the question whether a direct military clash will take place between the Chinese communist regime and Soviet Russia. First, if the Chinese communist regime is very much weaker than than Soviet Russia, the former will be controlled by the latter and confrontation and conflict will be impossible. Second, if the Chinese communists gradually grow in strength, the Soviets will either strike before the Peiping regime has grown powerful enough, for a major threat, or force a show-down at the time "balance of power" is almost reached by the Chinese. Soviet Russia will not tolerate the growth of the Chinese communist regime in strength. Here again is the proof that to strive for "balance of power" is the "detonating cord" of a war.

However, the Soviet Union is fully aware of the fact that if it rashly marches its military forces into the China mainland for a show-down with the Chinese communist regime, their combat strength will be consumed in the mutual destruction and they will give the free world an opportunity to profit from the situation as a proverbial fisherman. (Referring to the story in which a fisherman is benefited by a kingfisher fighting a clam.)

For this reason, although conflicting interests do exist between the two communist regimes, the outburst of a major war is decidedly not likely. And the fact that no major war has burst out between them is unmistakenly indicative of their delicate relationship of being complementary to each other in their respective sinister designs against the free world. In fact, they are, in the manner of a mimic play, both marching toward the free world at this opportune moment. And the victim is stil the free world.

From this we can see that the fact that both of them plotted against the free world will never become the cause for them to have a show-down with each other. Their real show-down will have to take place after they have between them communized the nations of the free world successively and have jointly communized the decisive area completely. They then might throw everything into a show-down to decide which one is going to be the master of the world. Indeed, the free world and the whole of mankind would fall victim to their inhumane attempt to build a world slave empire, but the players with fire—the communist regimes themselves, would be involved in the same ruin.

PART II—THE IMPORTANCE OF TAIWAN TO VARIOUS NATIONS AND AREAS

As I have reviewed and analyzed the world situation and global strategy, here and there I have pointed out the importance of the Republic of China in the global picture. Now, in this second part of my talk, I will point out the importance of Taiwan—the seat of the Republic of China, to various nations and areas specifically.

1. To North and South America and especially to the United States:

Taiwan is located at the central part of their forward post line in the west, namely, from Japan to Singapore. Since the super powers are naturally unwilling to involve themselves in a ruinous nuclear war, the United States cannot depend on its defense bases in Central Pacific or on its submarine forces only. Missiles will not solve problem under these circumstances and aircraft carriers are rather vulnerable. Consequently, the chain of islands and peninsulas along the coast of East Asia from north to south has become not just a Forward Post Line or Early Warning Line, but actually the western front line of defense for the Americas. I would call it the "ESJAY Line" (from Singapore to Japan). With the island of Taiwan standing at its center. Therefore Taiwan is a Strategic Point for Americas' security in the west.

2. To Northeast Asia, especially Japan:

Taiwan is the key to Japan's western strategic flank along her "Maritime Safety Zone" leading to her National Security Line in the south. For although Japan has based her strength on industry and trade and made great wealth through them, yet she depends on imports for the most of her raw materials. Her industrial products must be shipped out to the world markets by means of sea transportation. Had Taiwan fallen into the hands of Japan's adversary, the fate of Japan would have been at its mercy.

3. To Southeast Asia:

Taiwan is located at the critical strategic point on the farthest northern edge facing the direction of possible aggression where the attacker must pass and, therefore, the defender must hold. When Japan launched her offensive toward Southeast Asia in the last war, she used Taiwan as the base of operations. For this reason, whether Taiwan stands on the side of the free world becomes the key factor on which to decide the fate of the target area.

4. To Australia and New Zealand:

The ties of Australia and New Zealand to Asia and the Americas depend mainly on whether Southeast Asia is under friendly governments. The consequences of Taiwan's falling into hostile hands, will bring Australia and New Zealand to isolation from Asia, and even from the Americas as well. Taiwan is obviously the key thereto.

5. To the Indo-Chinese Peninsula:

Taiwan can be used by the free world as the base for the forces that will threaten the strategic flank of any enventual aggression launched from the Indo-Chinese area or north of that vicinity southward into Malaysia and Singapore. Therefore, Taiwan can also be used as a base for the free world to support forces for the recovery of Vietnam and Cambodia.

6. To the naval strategy for the Pacific and Indian Oceans:

Since the area of Southeast Asia (including countries such as Singapore, Malaysia, Indonesia, Thailand and Burma) commands both shores of the Malacca Strait, it becomes the key which will either facilitate or prevent a timely concentration of the navies of the super powers in the Pacific or Indian Oceans. The Indian Ocean has now become more important for the free world, especially because of the characteristics of the strategic bombers B-1 and the Air-to-surface missiles Harpoon. They can reach any part of the Indian ocean area from Diego-Garcia Island, for the Russian influence has already been extended almost all along the African and Asian-Indian coasts. And Taiwan is again the key that determines to which side Southeast Asia will sway.

7. To the Pacific Fleet of the Soviet Union:

Since the Russian Pacific Fleet is based in the vicinity of Vladivostok, even if it might be able to break through the blockade in the Tsushima Strait (or Korean Strait) between Korea and Japan, it still would be unable to escape the attack by Free World Forces which awaited it in Taiwan waters. Should it attempt to force its way southward through the area, it would have to fight a showdown battle. Should it attempt to make a left turn and head for the Pacific Ocean, its strategic flank would be seriously exposed to this area. Therefore, it would be a very imprudent strategic blunder for the democratic world to give up the strategic advantages which Taiwan possesses.

8. To Soviet Russia:

Both the Soviet Union and Communist China have arrayed their million-man-strong ground troops along their Siberian and Outer Mongolian border and they also have amassed large numbers of missiles and air force units for the confrontation. At present, the Armed Forces of the Republic of China have immobilized at least 600 thousand Chicom forces in the southeast part of the China mainland and made their re-deployment on the northern border impossible. If it were not for the immobilization of the Chinese Communist forces by the Republic of China, the numerical superiority of the Chicom forces over the Russian forces on the border would amount to 1.5 to 1.

The growing-up of the Chinese Communist regime on the mainland and the increase of Chinese Communist forces on the Chinese-Russian border tend to spur Soviet Russia to take preemptive military measure—in Russian term, a preventive war. However, if the China mainland is under a democratic government, the Soviet Union will not initiate any form of military attack. In such a case, Russia can still employ her customary infiltrative and typical subversive designs, and need not take military actions in a hurry.

But now the China mainland is under the Communist regime. Moreover, it is involving the Soviet Union for leadership in communizing the world. The Chinese communist regime will pose a greater threat to Russia when it becomes sufficiently strong, which Russia will not tolerate! However, as I mentioned previously, the Soviet Union in order not to give the free world the profit of the proverbial fisherman, mostly likely would delay the show-down until the whole world has been communized. If it should decide to take a preemptive action, it will most likely attack the Chicom regime on the mainland before it gets too strong. For only then will the Soviet Union have absolute certainty of success, even without having her western front exposed to the West European forces for too long a period. The aggression on the China mainland by Soviet Russia will have the following strategic consequences:

a. To the Pacific and Indian Oceans:

The Russian navy will be able to move its Pacific Fleet southward and base it somewhere along the east coast of the China mainland, or along the northern portion of the Chinese coast. The Pacific Ocean will then become wide open to the Russian fleet, which will be in a position to constitute a menace to the countries on the continents of America, Australia, Asia and Africa bordering Pacific or Indian Oceans.

b. To Europe:

When Soviet Russia has accomplished her aggressive policy in the East, she will then direct her offensive to the West. Consequently, Western Europe will become her next strategic objective. Hence any action or activity, purposely, or unknowingly, that would strengthen the Chicoms or raise their international prestige, will eventually stimulate the Soviet Russia for an earlier preventive war and launch her offensive on the China mainland. The free world should observe the consequences that I have just mentioned.

9. To the overseas Chinese:

The attitude and ideology of the overseas Chinese are key factors as to whether they would be constructive or destructive to the countries or areas in which they reside. The larger the Chinese population in their country or area, the deeper the influence. Their present attitude and belief will be highly affected by the type of government in Taiwan. Only when the China mainland is recovered, may the governments and peoples of the various countries or areas where overseas Chinese reside be free from worrying about this problem, and have a guarantee of their security.

10. To the recovery of the China mainland:

The democratic government of the Republic of China and the freedom and prosperity enjoyed by the people on Taiwan are the base on which rest the hopes of the people on the mainland. The promise given to them by the late President Chiang Kai-shek—the recovery of the mainland and the reconstruction of new China under the Three Principles of the People—has especially fostered their fortitude and the determination to fight against communism. Kinmen and Matsu, the two islands off the shores of the mainland, are the media through which the Republic of China has been able to keep their hope alive. And above all the name of Republic of China is the strategic key to the recovery of the China mainland! This I will explain in more detail in the next point.

11. My last point, but also the most important point of all. To the security of the world as a whole:

Before I go into the eleventh point I would suggest that we should take a quick look at the analysis of the postures of the free world and the communist world in the light of the three essential elements of war and the explanation of the three geostrategic theories—see appendices 1. and 2.

As we must be aware, the communist world was entrenched in the heartland of the Eurasia land mass from the beginning, and the high seas are open to everybody. Therefore, the fate of the free world will be decided on the rimland. I have pointed out in the first part of this talk the actions the communist bloc has taken in an attempt to dominate the rimland by an envelopment. The industrial base of the free world—Western Europe, would be enveloped after it dominated Asia. If the rimland supremacy struggle took place in Europe, the western arm of the crescent, or in the Middle East, the southwestern belly of the same, it would draw the attention of all European nations and the United States, and enormous manpower and capital would have to be thrown in by both super powers. The possibility of success to either side in such a conflict is difficult to predict. Moreover, the risk of setting off a world war, and above all a total nuclear war, is great.

If the struggle took place in Indo-China, the Southeastern belly of the new moon, or in the China mainland, the eastern arm of the same, then whether the China mainland would be drawn to the democratic world or to the totalitarian world would become the center of the question. If the democratic world lets the China mainland remain under the communist control, then the possibility for the China mainland to fall into the fold of Soviet Russia again is obviously greater than the possibility for it to join the ranks of the anti-totalitarian and democratic world. When the totalitarian world in the heartland encroaches on the sphere of the democratic world, it is their entering the high seas and, therefore, it does not constitute an aggressive act as defined in international law. But any attempt of the democratic world to encroach on the sphere of the totalitarian world will be considered as an aggression on the territories and air spaces of the opponent. This is not permissible in international law. This is a disadvantage which the democratic world must admit. This is also the reason why a war between the East and West European countries will most likely not occur.

Fortunately, East Asia, or the eastern arm of the half moon, is in the territory of China where the free world has a great asset, the Republic of China. In the first part of my talk I asserted that the chances or possibilities for the Chinese communist regime to become a member of the Soviet Union are far greater than the chances for it to become a member of the free world if free world nations vainly curry favor with the Chinese communist regime. But the case is different when the Republic of China is brought into the picture.

Let us now make a comparison between the efforts made in the name of a legitimate sovereign government, the Republic of China, to recover the mainland and to reestablish the democratic form of government, and the efforts to sovietize the China mainland. The former is naturally easier than the latter. The restoration of the China mainland to our national constitution and reestablishment of democratic government on the China mainland are matters of existing internal necessity for the Chinese people. The nations of the free world must agree, or at least not oppose. As to the pursuit of freedom and happiness by the people on the mainland, it is altogether common to human wants and nature.

The facts are numerous and countless, and known to all. According to Chicago's statistics and official reports published in Chicago newspapers, there have been an average of one uprising in every three minutes. I need not go to detail here, but I do want to point out that after one quarter of a century before we moved out from the mainland and another quarter of a century of sad experience at the price of blood after we came over to this island, the people on the mainland cherished more than ever the Constitution of the Republic of China based on the Three Principles of the People; namely: of the people, by the people, and for the people. In fact, the Republic of China with her present seat in Taiwan is the very symbol, hope, and guarantee for the pursuit of happiness by the people on the mainland.

It will be considered as an aggression when any nation other than the Republic of China launches an attack on the China mainland. As I mentioned at the end of Point 10, the name of the Republic of China is therefore the strategic asset for the recovery of the China mainland. This truth is certainly realized throughout the totalitarian world. Any attempt to eliminate the name of the Republic of China, therefore, is a deadly blow to the Free World.

Let me recapitulate: please don't forget, my dear friends, so long as the China mainland remains Mao-red, it has a larger probability of becoming Soviet-red! Hence, the return of the China mainland to the fold of the democratic world is THE KEY to a bright future for the entire world. And the job of bringing the China mainland back to the democratic world can be successfully accomplished only under the name of the Republic of China. If the leading powers in the democratic world should remain inactive and let the China mainland fall into the hands of Soviet Russia, they can make no excuse for their tragic blunder before history.

My dear friends, these are the strategic significances of our beautiful island, Taiwan. And these are the contributions we can offer to the Free World.

APPENDIX I—BRIEF INTRODUCTION OF THREE IMPORTANT GEOSTRATEGIC THEORIES—THE BASIS OF THE ARGUMENTS IN THIS PRESENTATION

1. The sea power theory

The Sea Power Theory is advanced by an American, a great naval officer, Alfred T. Mahan in his book, "The Influence of Sea Power upon History, 1660–1783". This theory is the result of his thorough investigation of general and naval history from the middle of seventeenth century to the close of the Napoleonic Wars. The period from 1660 to 1783 was selected because it marked the rise of modern European States and their struggle for existence and supremacy.

From his intensive study of the era, Mahan concluded that there had been a continuing rivalry for control of the seas; that control of the pathways of seaborne commerce was, and likely would always be, the key to world power; that sea power is more decisive than land power, and clear distinction should be drawn between sea power and naval power. Sea power includes not only military strength to rule the sea, but, equally important, the peaceful commerce and shipping from which alone a military fleet naturally and healthfully springs, and on which it securely rests. An expanding foreign commerce is essential to national power and prosperity. To compete successfully in the world-wide struggle for markets, a nation must have a strong merchant marine and a powerful navy for its protection.

A definition of sea power, therefore, includes naval forces and naval bases around the world, plus merchant shipping and seaborne trade. Accordingly, Mahan pointed out, there are three elements constituting a nation's sea power: capacity for manufacturing production, its own merchant shipping with a navy sufficient to protect it, and markets to absorb the surplus products.

2. The heartland theory

The Heartland Theory was first introduced by Sir Halford J. Mackinder in his famous paper, the Geographical Pivot of History. It was crystalized in his book, Democratic Ideals and Reality. In Mackinder's view, the age of dominant sea power had gone and the age of land power had arrived. He held that the natural center for the new epoch is in the world's greatest land mass, the immense area of Eurasia. He termed it "the pivot region of the world's politics," or "the heartland" set in the center of the "World Island." The heartland is the central region of Europe and Asia, remote from and beyond the control of sea power. It includes the Baltic Sea, the navigable Middle and Lower Danube, the Black Sea, Asia Minor, Armenia, Persia, Tibet and Mongolia.

Outside the pivot area, or heartland, Mackinder defines two "crescents." In a great "inner crescent," are placed Germany, Austria, India, and China, while in an "outer crescent" are found Britain, South Africa, Australia, the United States, Canada, and Japan.

In reality, the power of the heartland was not equivalent to that of the peripheral states, but Mackinder voiced his greatest fear, "This might happen if Germany were to ally herself with Russia. In that event, the heartland state could expand over the marginal lands of Euro-Asia, use vast continental resources for fleet-building, and the empire of the world would then be in sight." Mackinder himself reduced his Theory to the following often-quoted formula:

"Who rules East Europe commands the Heartland; who rules the Heartland commands the World-Island; who rules the World-Island commands the World."

3. Rimland theory

The Rimland Theory was advanced by Professor Nicholas John Spykman. From his works we are told that through a thorough study of the location of his country—the United States—he became convinced that the security policy of his country was unrealistic and inadequate; and that in ignoring the geographic factor she was overlooking a very important source of light on the security.

Professor Spykman also studied carefully the U.S. policy of hemisphere defense, which was strongly advocated in the United States before the Second World War as the best means of escaping involvement in Europe's wars. Superficially there seemed to be much in its favor. The broad expanses of the Atlantic and Pacific Oceans appeared to provide almost impregnable barriers to invasion from Europe or Asia, and the immense supplies of raw materials in the western hemisphere seemed to free Americans from dependence on outside sources. It seemed that all the Americans had to do was to keep the Panama Canal open and then sit back and wait for an invader to approach within range of their guns.

The analysis made by Professor Spykman showed conclusively that this was a dangerous illusion. Against a determined attack launched by a power or group of powers controlling the European mainland, the chances for the U.S. to defend herself on her side of the Atlantic were small indeed. Only if the British fleet were in complete control of the Atlantic and Pacific, and if the United States was able to use the British Isles as an advance base against the continent of Europe could she be at all sure of her chances of survival.

The point he maintained was that the most important single fact in the American security situation is the question of who controls the rimlands of Europe and Asia. Should these areas get into the hands of a single power or combination of powers hostile to the United States, the resulting encirclement would put the United States in a position of grave peril, regardless of the size of the US Army and Navy. Therefore, the US should watch the situations in Europe and Asia and adopt a foreign policy which would prevent the threat from arising in the first place.

APPENDIX II.—A BRIEF ANALYSIS OF THE POSTURES OF THE FREE WORLD AND THE COMMUNIST WORLD IN THE LIGHT OF THE THREE ESSENTIAL ELEMENTS OF WAR

As military strategists generally consider geography, weapons and manpower as the three essential elements which determine the success or failure of a war, a brief analysis of the postures of the free world and the communist world in the light of these elements is made below:

1. An analysis in the light of geography:

As the great physical features of geography cannot be altered by human ingenuity, a certain area with its control of a geographical location frequently exercises pivotal strategic influence upon its neighboring countries or areas. Such geostrategical advantage may make this position of a country or area especially salient in international strategic positions and therefore result in special relationship and influence which often gives rise to alliances and wars.

History abounds with examples. For instance, the strait of the Dardanelles is the only outlet to the Mediterranean for the Russian fleet in the Black Sea, and the Crimean War was set off as a result of the struggle for its control. The lowland area of West Europe (Holland and Belgium) has since ancient times been called an arena by the European powers. During the past several centuries the lowland countries area has frequently provided battlefields to soak with the blood of the European youths. A Kingdom of Belgium, with both Dutch and French as official languages, was planted between Holland and France to serve as a buffer among the powers. In the past, when Britain was in possession of Gibraltar and the Suez Canal, she was able to maintain supremacy in the Mediterranean and her navy was thus able to maneuver its fleet in the Atlantic and Indian Oceans with the shortest route.

Historically, Bohemia has always been an object of contention between the countries of East and West Europe. One who controls it may be able to wield one end of it, so to speak, as a sword with the other end as the point aiming at the heart of its opponent. This is why, when the people of Czechoslovakia and Hungary rose in revolt against the communists years ago. Soviet Russia had to betray her ugly face, abandoned her usual trick of using other people to fight her battles and suppressed these revolts directly with her own military forces.

The United States is a country bordering on two oceans. But for the control of the Panama Canal, the short-cut between the two oceans, it would be very difficult for her to mass her navy quickly in either ocean. However, the broad expanses of the oceans are now not a sure defense. The United States must look beyond the waves and find allies on the shores of the two continents to ensure her national security.

The security of the Britain proper is dependent on Holland, Belgium, and northern France as her buffer. And the security of these areas is again dependent on the attitude of West Germany toward the free world. When the German Third Reich turned itself against the whole world in the last war, the strategic significance of these areas became particularly evident. The moment West Germany became a member of the free world and stood at the front facing the totalitarian world, her importance was immediately recognized by the free world and she was amply aided.

The Russian-Japanese War early in this century was set off by Imperial Russia when it turned to the East for an outlet to the sea. The security of Japan proper is dependent on Korea and the northeast provinces of China as her buffer. The security of the Japan-Korea area is, in turn, dependent on whether the China mainland is on the side of the free world or the communist world.

The range of modern weapons has greatly increased and their velocity has also increased in terms of "machs", and air transportation reaches farther and farther with greater payloads and speed. In addition to missiles and satellites, the United States not only depends on the command over the waves of the two oceans but she also must push forward her defense outposts to the far shores of the two oceans, to allow early warning and defense in depth to ensure the security of the continental United States. Both the United States and Soviet Russia have pushed their radar sites as far north as the Arctic region to watch each other vigilantly. Now, both are engaged in competition for supremacy in space. They do so with no other aim than an attempt to shake off the shackles of geography.

With the development of geostrategic and geopolitical concepts since the nineteenth century, the influence of geographical factors upon the employment of strategy has been increasingly appreciated. This, of course, includes grand strategy, national strategy, military strategy and field strategy. Consequently, new theories have made their appearances one after another. The more important ones include Mackinder's Heartland Theory, Mahan's Sea Power Theory, and Spykman's Rimland (Coastal Area) Theory. These theories are used here to evaluate the free world and the communist world:

a. According to Mackinder's Heartland Theory, the land mass of Europe and Asia is the "world island." The central region of it is the "heartland." "Who rules the heart land commands the world island; who rules the world island commands the world," is often quoted. Since Soviet Russia and its satellites are entrenched in the heartland, under this theory, the supremacy is apparently on their side.

b. In his Sea Power Theory, Admiral Mahan advocates the domination of land with sea power. He thinks that since three fourths of the surface of the earth is covered by waters, one who controls the seas has in his hands the domination of the world. Since the free world, with the United States at its center so far can still barely control the seas, it may be said, under Mahan's theory, that supremacy is still on the side of the free world.

c. In the Rimland Theory, Professor Spykman emphasizes the significance of the rimland around the world island. He said: "one who wants to control the fate of the world must control the Eurasia land mass, to control the Eurasia land mass he must control the rimland." In other words the intermediate region between the heartland and the marginal seas is the pivotal area to determine one's global strategic posture. The inland needs outlets to communicate with the outside world, and the navy needs ports and harbours for mooring, maintenance, repair, and supply for the ships. Therefore, one who possesses supremacy in this region naturally has supremacy both on land and over the seas. For this reason, the free world and the communist world have contended for supremacy in this region in the last twenty-five years, and neither side has yet won supremacy decisively in this region.

2. An analysis in the light of strategic weapons:

In the military sense the term, decisive strategic weapons refers to the stockpile of nuclear weapon systems and warheads. According to statistics published in the U.S. News and World Report in 1973, the United States and Soviet Russia have in their possession more than one hundred billion tons of nuclear explosive power. Soviet Russia has nuclear warheads of heavier megatons (the heaviest nuclear warhead that the Soviet Russia has is in the 25 megaton class while the heaviest nuclear warhead that the United States has is only of the 10 megaton class). The United States nuclear warheads are several times greater in numbers than those of Soviet Russia. In the delivery systems, Soviet Russia has the lead in ICBM (land-based) and AMM, but the United States still maintains a considerable lead in the performance of the missiles (such as multiple-warheads-independent-targetability, "MIRV", and accuracy), in underwater-launched missiles, and in the strategic air force. When all these are considered, the two sides are roughly equal.

3. An analysis in the light of manpower:

Let us disregard the vast manpower on the China mainland in our analysis for the moment. We can see that the populations of the United States and the Soviet Russia are each above two hundred million. Their difference is very small. The population of the United States, plus that of her allies (with mutual defense treaty relations) such as the NATO countries, CENTO countries, SEATO countries, ANZUS Pact countries, countries in the OAS, and some bilateral treaty countries total around one billion. The population of the Soviet Russia plus that of her Satellite countries and treaty related nations like Syria, Iraq, and India also total around one billion. Both sides are also fairly balanced.

CONCLUSION

From the foregoing analysis and comparison based on the three factors, neither side has a decisive advantage over the other up to the present. Consequently, the China mainland with its eight hundred million population has become especially significant. Given no dissolution of partnership and neutralization of strength within ranks at either side, the eight hundred million population, no matter to what side they may sway, will have decisive impact on the present bi-polar confrontation.

This may be discerned from the fact that although the Chinese Communists have a standing military force far exceeding that of the United States and roughly equal to that of the Soviet Russia and also some nuclear weapons (the number is undoubtedly very small), yet they have never bragged about these things. Instead, they have frequently shouted about their "eight hundred million people," and "two hundred million militia," and called them a "super nuclear bomb." The strategic significance of their psychological war need not be questioned. Regrettably, the appeasers in the democratic camp have only negatively recognized the "eight hundred million people" as a fact, an awful fact, but have not had the good sense to make them tip the balance to our favour.

THE STRATEGIC SIGNIFICANCE OF TAIWAN, PART III—A BRIEF ANALYSIS OF THE U.S. STRATEGY IN THE ASIAN, PACIFIC AND INDIAN OCEANS AREA IN THE FUTURE

The fall of Vietnam and Cambodia has aroused a deep feeling of defeat and humiliation in every quarter of the United States, and reassessment of the situation by the President, the Secretary of State, Secretary of Defense and the Congrses. Will the United States still recognize the fact that Eastern Asia and Western Europe bear strategic significance to her, and that, emphasis should be placed on Eastern Asia? What will be the U.S. strategy in the Asian Pacific and Indian Oceans Area in the future? And what is the position of Taiwan in the U.S. overall strategic picture? These are the questions in the minds of people in this part of the world. The following analysis is an effort to try to answer these questions:—

1. The United States is situated in the New Continent bordering on two oceans. Yet the broad expanses of the oceans are now no longer the bulwarks to ensure her safety and her world-wide interests. The key to her safety and interests incontrovertibly lies in who controls the Eurasia land mass, the so-called World Island. To prevent her safety and the interests of her people from being endangered by hostility and aggression coming from the Eurasia land mass, the United States must seek and ensure the full cooperation of the nations beyond the two oceans in Western Europe and Eastern Asia. Therefore, the safety of the United States and these two areas is one and inseparable.

Should the United States consider any pull-out from Northeast and Southeast Asia, the damage done to her security would be as serious as for her to pull out from Northwest and Southwest Europe. To look at the Asian portion of the picture, Taiwan, the seat of the Republic of China which is situated at the pivotal point linking the Northeast and Southeast Asia, is closely related to the security of the United States, especially since the fall of Vietnam and Cambodia into the hands of the communists, the strategic significance of Taiwan in relations to U.S. global strategy has become even more evident.

2. After glaring debacle in the Indo-Chinese Peninsula, the United States can only maintain and increase her credibility by maintaining positive stands in Western Europe and Eastern Asia. It is very evident that the United States has made new commitments in Northwest and Southwest Europe, and it is also clearly seen that in Northeast and Southeast Asia some contacts are being made. However, if firm measures should not be taken today toward the pivotal strategic point—Taiwan, the damage to her overall strategic concept resulting from the omission would not be easily retrieved tomorrow.

3. Since the destiny of the United States is dependent on the fate of the Eurasia land mass, she has to watch vigilantly over her security both in the East and in the West. But even with her tremendous national strength, she still cannot afford either to divide her strength equally between the East and the West or to conduct war in two fronts. She must place her main efforts properly and not pursue two strategic objectives at a time. It is, therefore, an important decision in strategy for the U.S. policy-makers to select and determine the priority of one objective among many objectives.

President Ford has visited Western Europe recently. If the emphasis of U.S. strategy against communist aggression is placed in Europe in the future, it would be most desired by the Russian and Chinese communists. This is because when the attention is directed to Europe, the defense in Asia will naturally become less effective. Therefore, they may well be able to continue their aggression toward South Asia and Southeast Asia, particularly at present when there is nothing which will give rise to a war between Eastern and Western Europe. Soviet Russia is very aware of the fact that if a war takes place between Eastern and Western Europe, both sides must pour out tremendous resources, in order to ensure certainty of success. And she, besides, would have to fight the battle herself.

In view of the fact that the democratic nations in the West apparently have never had the idea to march eastward, Soviet Russia is much concerned over the growing Chinese communist challenge to its posture in the East and is very eager to extend its power and influence in Asia. The United States, therefore, should place her emphasis in Asia. In this connection the United States efforts to develop bases in Marianas Islands are certainly very significant.

4. Should the employment of ICBM and strategic bombers underlie the concept of defense by the United States, then the overall picture should be viewed from the two poles. As the United States and the Eurasia land mass are all situated in the northern hemisphere, it is easier for either side to achieve maximum effects of an attack if it is delivered across the north polar region. The attack will be far less effective if it is delivered across the south polar region simply because the distance is so great. Therefore, both sides must extend their power into the Indian Ocean and that is exactly what they have been doing. Consequently, the north polar region and the Indian Ocean have become another two focal points for the two sides in their strife.

To meet and to achieve the highest performance of the strategic bomber B-1 and missile Harpoon, the United States must obtain bases; if it is not possible to get bases on the land of South Asia, they should be at least in the Indian Ocean, from which bombers can reach any important area in the Ocean or along its coast within three hours. Hence she must maintain her naval potential there.

To ensure timely concentration of her navy in the Indian Ocean, the United States has to appreciate the strategic significance of the two waterways on the west and east sides of the ocean, the Suez Canal and the Straits of Malacca. To ensure the safe, uninterrupted passage of her navy through the Straits of Malacca, the United States must do her best to enhance the capabilities of Malaysia, Singapore, and Indonesia to guard this waterway. If necessary, she herself must be ready to intervene.

And finally, to ensure her safe and uninterrupted passage through this "Oriental Suez" (the Straits of Malacca), at the mouth of the "Oriental Mediterranean Sea" (the South China Sea), the United States should take effective measures to enhance the strategic postures of the "Oriental Gibraltar" (Taiwan), and the "Oriental North Africa" (Indonesia). As one can see from the map, these points are glaringly similar both in corresponding geographic location and in strategic significance to their counterparts in the West.

5. As it has always been a fundamental principle for the United States to avoid an all-out nuclear war, she must prepare herself for a conventional war and a local nuclear war (tactical) if necessary. Based on the requirements of her global strategy some have observed that the emphasis of the US strategy in the Asia and Pacific area will be placed in Northeast Asia in the future—that is, a defense line with Japan as the center, Korea as the forward post, and Taiwan as a supporting base.

Of course, this is but one of the lines in her defense concept. There are five lines which can be considered as the national security line (the forward edge of the area which would provide defense security for the United States). The farthest and theoretically most ideal line runs from the borders of the northeast provinces of China along Outer Mongolia to Sinkiang province. Since the Soviets can run over it any time at their convenience, this line is ruled out. Therefore, one has to consider a second line.

The second line runs from Peiping through Lanchow to Tibet. As this line is still within the territory hostile to the United States, it may be well to dismiss it. So, now one has to look for places on the sea. The third line, or the first one offshore, runs from South Korea through Taiwan to the Indo-Chinese Peninsula. This line has been known as the "containment line" for many years. It was weakened and broken on its southern end only recently with the fall of South Vietnam and Cambodia and the consequent diminishing of American influence.

The fourth line from Japan through the Ryukyus to the Philippines may be thereafter considered and has been considered by some people now as "the main defense line." However, an Asian defense line is only safe when its out-posts, namely, South Korea and Taiwan, are secured. The fifth or last line, which was conceived recently as a fallback line, involves mainly the U.S. trust territory in the Western Pacific. It runs from the Marianas Islands to New Guinea. As the United States has permanent interests on the Eurasia land mass, and as these islands were used by her in the last war to fight her way back to Asia, obviously, this line can only be considered as her last resort.

In order to respond to hostile actions from the Eurasia area with her navy, air forces, and missiles from all directions, the United States must have a well-studied strategic concept. As I have pointed out, the Indian Ocean is closely and strategically related to the Asian-Pacific area. The United States must keep up with her dominating power in the Indian Ocean, to block Soviet Russia from coming through the Indian Ocean and breaking the crescent on its belly. If the United States is to dominate and control the Indian Ocean, it is absolutely necessary to secure Singapore, Indonesia and Taiwan. They naturally become key strategic points which the United States cannot afford to give up.

6. As most of the troubles of the world today take place in the rimland of the world island, Soviet Russia and the United States can in no way stand aloof. This is especially the case where their own security is involved. And as both sides are unwilling to let these troubles develop into a direct clash between themselves and result in an all-out nuclear war, they cannot avoid intervening in the conflicts. Consequently, protracted and fruitless negotiations have taken place.

This protracted period of indecision is decidedly advantageous to the communist world. During this period the United States cannot relax her military preparedness, and the resulting oppressive financial burdens will adversely affect her economy. In time, the psychology of her people and the stability of her internal political situation will also be adversely affected. Such being the case, two consequences may follow: The people may become impatient of their oppressive economic burdens and are forced to take risks of a show down, thus setting off an all-out world war. Or they may resent their government to the extent that a revolution or civil war may result. Whatever the consequences, they will be equally unfortunate both to the United States and to the whole world (both peoples without and within the iron curtain).

7. The United States, in the present situation, may have to continue mediation to mitigate the tensions in the world caused by local problems, to see that the further development of regional conflicts will not be favorable to the Reds. The regional conflicts will remain unsolved and the continuous tension will still go on and even grow tighter than before. In the long run, it will become very disadvantageous to the democratic world, as described in the last paragraph. The United States therefore, on one hand, must seek to ease local conflicts and help her allies to blockade the Heartland holders from coming out through these regions. At the same time she must direct her focal point in solving the basic problem by removing the real source of trouble—the super power and father of all communists. The most effective measure is, as a Chinese proverb sagaciously says: (the best way to stop the soup boiling in a cauldron is) "to remove the fire under the cauldron." In this connection, the most effective and also the only practical concept is to bring the China mainland back to democracy, thereby making a new order of world peace possible. The long coast of this enormous land mass covers a great section of the rimland, or the eastern arm of the "crescent" around the Eurasia World Island. Its immense manpower can turn the balance of 10:10 between the Free and Totalitarian World to 18:10 or 10:18—to one world or the other by change in politics. With the China mainland, a great strategic asset, on its side the free world will not only regain its security but also gain a much higher potential for creating a reasonable new world order. Mind you, there are only red regimes but never red people in the entire world.

The task of bringing the Chinese people on the mainland back to freedom can be performed through their legitimate government, by supporting a revolution on the mainland, strengthened by a counterattack from the island bastion on Taiwan. This is the only approach which will not arouse any claims by the CHICOM as being an invasion. The free world does not have this advantage elsewhere on the rimland.

8. In meeting the present world situation, the United States should not be deluded by the outward signs of power of the communist world and neglect its inherent vital weaknesses, which can be used to the great advantage of the free world. First, not any government of a communist regime has ever had the approval and support of the people. It is maintained by police force. The people are not satisfied with the political, economic, and social systems of communism and psychologically they are against the communistic conception of life. If the people of any communist regime were given any opportunity to throw off their communist overlords they would do it right away. No communist regime can be exempted from this rule, particularly not the CHICOM.

Second, there is no communist regime that does not put up a belligerent outlook, but in fact each of them is afraid of being directly involved in a hot war, and especially when it would be conducted on its own soil. This is because the people would then seize the opportunity to rise in revolution against the communist regime and overthrow it. "Iron curtain," "bamboo curtain," and Berlin Wall all these are concrete examples of the communist inferiority complex growing out of this fear.

CONCLUSION

1. Based on the foregoing analysis, we may say that the measures taken by the United States to develop bases in Tinian Island, the southern point of the Marianas Islands, may be considered as a strategic strengthening to the APACIN (Asian-Pacific-Indian) area. The United States first has to do her best to urge and help the nations in the APACIN area to promote their political stability and enhance their military preparedness. Then she must go further to knit these nations together in an alliance, so that they may be able to use their united strength in a delaying action in the event of a war, to give the United States enough time to maneuver her air forces and navy for a timely concentration. Thus, her ability to exploit fully the capabilities of strategic bombers and missiles from the south and north of the world-island may be assured.

2. We, the government and the people of the Republic of China, shall stand firm on the side of the free world. During this transition period in which the world situation is held in suspense, we must remain self-reliant, resolute, determined and worthy to cooperate fully with our allies. Moreover, we should place our emphasis on supporting the people on the mainland of China to rise in an all-out revolution against the communist tyranny, thereby to accomplish our task of recovery of the mainland on which a new era for the whole world will depend.

3. The democratic nations should understand the strategic implication of Lenin's statement, "the shortest route between Moscow and Paris is via Peking and Calcutta." The free world must realize the fact that the China mainland is still the key to the problem of the world today.—All troubles of the world started here and their solution can also be found only here. The name of the Republic of China is a great strategic asset of the free world. It should not be overlooked and should be used by it to turn the present "balance" or "confrontation" decidedly to its favor.

4. The people in the countries with communist regimes are all against communism psychologically. Therefore, notwithstanding their belligerent outlook the communist regimes cannot stand the risk of the strategically deadly consequence of a war. The free world should realize these inherent weaknesses of the communist regimes and take advantage of them fully.

THE STRATEGIC SIGNIFICANCE OF TAIWAN PART IV—AN ASSESSMENT OF THE ISLAND CHAIN DEFENSE STRATEGY IN THE WESTERN PACIFIC

A China Post Interview, 20 February 1976.

General Wego W. K. Chiang recently gave a speech to the 36th meeting of the Constitution Research Committee of the National Assembly on "An Assessment of the Island Chain Defense Strategy in the Western Pacific."

In his speech he emphasized that he did not agree with that unsound and incomplete strategic concept of the Island Chain Defense strategy now asserted by most American war strategists because defense is only a supplementary measure either to support an offensive on the major front, or to gain time for the preparation of offensive as soon as superiority is established. General Chiang said, defense can never solve the problem especially when the enemy has a definite determination of destroying the democratic system of the free world—Soviet Russia may have revised her tactics or even strategy, but not her strategic objective to communize the world, and the CHICOM is her competitor. General Chiang explained to the audience that if not for the support from Taiwan area to ensure the security of maritime safety zone of Japan, Japan is in no way to obtain her energy resources from the Middle East and Indonesia. For this reason, if the United States of America only relies on Japan as the pillar in NE Asia and neglects to realize the strategic significance of Taiwan to SE Asia as well as to the Indian Ocean, the posture that the U.S.A. and Japan managed to maintain can not last long.

To obtain further understanding consequently the China Post sent reporters to General Chiang's office for an interview as follows:

Question: What is the strategic importance of Taiwan in the assessment of the Island Chain (I–C–D) Strategy in the Western Pacific?

Answer: As I have pointed out in my speech at the 36th C. R. C. meeting:

1. U.S.A. must be the leading nation of the democratic world for the following reasons—

a. The national security of U.S.A. is not separable with the defense of West Europe and the some of East Asia. They are relying on each other.

b. U.S.A. is the strongest power among the entire free world.

2. Therefore the most effective way of defending the American Continents is to support West Europe and East Asia.

3. Emphasis should be placed on East Asia for the following reasons—

a. Because Soviet-Russia is focusing her offensive on East Asia, for otherwise her hegemony in the Communist world would be endangered. This is because West Europe is rather conservative and the Red China is aggressive and intends to take over the leadership of communization of the world.

b. West Europe has a much higher potentiality than East Asia and can more easily exploit the concerted action or united strength of the nations therein than those in East Asia for political, economical, psychological as well as geo-strategical reasons, in case if they get invaded.

c. It is much easier and faster for the fleets of both sides (totalitarian and democratic worlds) to get into Indian Ocean from west Pacific than from east Atlantic route. Possession of Indian Ocean and South Asia means the fate of separation or unity of West Europe and East Asia, and the fate of U.S.A.

4. The geo-strategic importance of Taiwan:

a. Taiwan is located at the central position of the ESJAY line, a strategic point on the I–C–D. Taiwan is the utmost southern island of NE Asia and also the utmost northern island of SE Asia. The I–C–D line is obviously the last National Security Line for U.S.A. or the American Continents. Its loss means the opening of both Pacific and Indian Oceans; and falling back to the Mariana Line means at least offering the Russian Pacific Fleet a better chance to get into Indian Ocean prior to the American 7th.

b. Taiwan means the fate of unity of NE Asia and SE Asia. Taiwan protects the west flank of the Maritime Security Zone south of Japan, and therefore ensures also the national security of Japan.

c. Taiwan protects the gateway to the South China Sea—the Oriental Mediterranean.

d. Taiwan is the step stone to SE Asia—the Oriental North Africa.

e. Therefore, Taiwan ensures the security of the Strait of Malacca—the Oriental Suez Canal.

f. Strategically SE Asia has become more important than ever since the fall of the Indo-Chinese peninsular—the Oriental Italy. Taiwan has hence become the Oriental Gibraltar but far more important strategically than Gibraltar at the west entrance of Mediterranean.

5. Geo-economical importance of Taiwan.

a. Republic of China has been in very favourable terms of trade with the free world in many respects.

b. Taiwan is politically very stable and militarily very safe, and therefore an ideal place for international trade as well as investment.

c. The restoration of democracy on the mainland of China means a great release of economic pressure to the free world.

d. Loss of Taiwan will also mean a tremendous loss of energy resources of the free world, since Taiwan bears such a strategic influence on the ME and Indonesia.

6. The geo-political importance of Taiwan:

a. It is easier for Soviet-Russia to communize the mainland of China than to do the same to European nations, because it is easier to turn China mainland from Mao-red into Soviet-red, as long as the free world is leaving it communistic. Once China mainland becomes a member of the Soviet Union again, then the Pacific and also the Indian Oceans will go with it. Even a child can understand what that would mean to U.S.A. or to the whole world. Therefore, to bring the mainland of China back to the democratic world is the solution and the only solution to the free world as well as to all peoples including 13 hundred millions in the areas behind the iron curtain at present.

b. The democratic nations other than Republic of China can not take any direct action for the restoration of democracy on the mainland of China for the following reasons—

(1) When non-Chinese take part in this event they will be accused of interference of internal affairs or even of aggression.

(2) The Chinese communists can utilize that as a good reason to turn the people to fight against aggressors while the people on the mainland are now all on our side and awaiting a real liberation.

(3) When non-Chinese get involved, the Soviet-Russians can also use it as an excuse and move their forces into the China mainland too. This will again mean an opportunity for the Russian Pacific Fleet to move southward and both Pacific and Indian Oceans will become open to them.

c. Therefore the free world can only help themselves by supporting the Chinese people for a revolution through Republic of China, and also by supporting the ROC armed forces logistically. Taiwan is therefore strategically extremely important because it is at present the base of Republic of China and the bastion of the ROC armed forces, and, so to speak, Noah's ark not only for us Chinese but also for the entire world. Elimination of the name of ROC means to destroy the last trump card of the free world's hope.

CONCLUSION

Taiwan bears strategic importance not only in the assessment of the I-C-D but also, in positive sense, in the recovery of the fallen—restoration of democratic government in the fallen countries, especially that of the dignity of human civilization, which I call "The Third Crusade."

ICC REGULATION DESTROYS TRUCKING FIRM

Mr. PERCY. Mr. President, I was disheartened by a recent story in the Washington Star concerning a trucker whose business has been apparently destroyed needlessly by the misguided regulation of the Interstate Commerce Commission.

Since shortly after World War II, James H. Carter, whom I assume is no relation to a certain nominee for national office, operated a moderately large trucking firm. In 1969, Carter purchased from another firm an ICC certificate giving him the authority to transport store mannikins and supplies used in connection with store displays. Carter interpreted this liberally to mean that he could transport anything which could be displayed in a store, and this he did.

When Carter applied for an official ICC interpretation of his certificate in 1972, it was taken as an application to transport practically anything between New York City and any place east of the Mississippi. The ICC investigated Carter, and despite the fact that the firm from which Carter bought the permit had used it as he did, Carter was fined for overstepping and thus violating the terms of his certificate. The ICC decided that the certificate meant to include only mannikins and window dressing, although what it actually said was admittedly ambiguous.

On Carter's application for a broad certificate, the ICC eventually ruled that he was unfit to perform the service he proposed, despite the fact that they had previously fined him for performing that service for over 400 customers. According to Carter, "The ruling put me out of business."

Mr. President, the problem here is that a successful businessman has been financially destroyed and cannot perform a useful service. In a reversal of its usual procedure, the ICC decided in this case to stand by what it meant rather than what it said. It then ruled contrary to commonsense when it decided that Carter could not perform the service he had, in fact, performed successfully for many years.

This case crystallizes several issues concerning the need for, and the proper extent of, Government regulation of private industry. In this instance, the ICC does not seem to have promoted either the interest of the consumer or industrial efficiency and safety. Too often, in cases such as this, regulatory agencies stifle competition, impose costly delays, reduce productivity, and damage industry's adaptability and flexibility. This inevitably leads to some inflated prices and loss of jobs.

I believe far-reaching legislation to reform and make sense out of the overall mission, structure, and operation of our regulatory agencies should be a priority concern of the Congress. Nonsensical and pernicious regulation not only strangles smaller businesses such as Mr. Carter's, but cuts to the heart of even our largest corporations' ability to produce and compete in world markets. If we do not address this terribly important question soon, we face the risk of allowing our productive system to permanently lose its vitality.

During this session of the Congress, Senator Robert Byrd and I introduced S. 2812. We think it offers the correct approach to regulatory reform. It mandates a procedure for reform, leaving the actual substance flexible. S. 2812 provides that reform will be comprehensive, covering five broad areas of regulation over 5 years.

Most importantly, the bill requires certain reasonable deadlines for executive and congressional action on reform. If either branch fails to meet its deadlines, there are disciplines built into the legislation to prevent an impasse. The measure provides an incentive for special interests and the agencies themselves to cooperate in this comprehensive, action-oriented reform program.

In this light, I commend the Washington Star and its reporter Stephen M. Aug for his excellent and timely story on Mr. Carter's plight. It is but a symptom of how much in disarray are the regulatory policies of this Nation.

Mr. President, I ask unanimous consent that this article from the September 10, Washington Star be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Ruling by ICC Drives Trucker to the Wall

(By Stephen M. Aug)

Here's a case in which the Interstate Commission decided to stand by what it meant, rather than what is said—a switch from the ICC's normal stance of standing by what it said when there is some doubt as to what it meant.

Confused? So is James H. Carter, owner of Shipper's Truck Service, Inc., of Kearney, N.J. He says the ICC's decision against taking literally the terms of his operating certificate has just about put him out of business.

The story of Carter's problems with the ICC, which began in 1972, is "so far-fetched, it's unbelievable," he told a reporter. Carter, who is 56, had been in the trucking business almost all his life, starting out riding across the country with his father, who had an old gasoline-driven truck with electric brakes. "I went all over the United States with my dad," he recalled. "We were hauling general freight, everything."

That was before 1935, the year the ICC won from Congress the authority to regulate trucking. Although his father's competitors eagerly sought and received the earliest ICC certificates assuring them the right to continue hauling whatever they were then carrying without restrictions, Carter says his father never quite understood the need for obtaining an ICC certificate.

Carter himself entered the trucking business on his own after World War II. Starting with one truck, he built up the business his father had left to the point where he was taking in $1.5 million a year in revenues with a fleet of about 15 trucks and tractors.

Then, in 1969, for $30,000 in cash, he bought from another firm an ICC certificate that gave him authority to transport throughout the Eastern United States manikins and display figures used in connection with store displays.

The second portion of the certificate said further that he could transport "supplies to be used in connection with store displays." Carter says he checked with an English professor at Harvard—whose name he doesn't recall—and determined that the certificate gave him the right to carry virtually any commodity as long as it was displayed for sale in the store. Under this definition, according to the ICC, he transported commodities that included gravel, cleaning compounds, salad oil, tin cans, toys and games.

In 1972, Carter said, he applied to the ICC for an interpretation, which turned out to be an application to haul virtually anything between the New York City area and anyplace else east of the Mississippi.

The application was opposed by dozens of trucking companies already serving the East, which contended that another competitor wasn't necessary.

No sooner had Carter filed his application than ICC inspectors began checking his operation and contended that he was violating the terms of his certificate, because, in effect, he was transporting more than just window dressing. In 1973 he paid a $1,500 fine.

Carter contends that the firm that owned the certificate before he bought it "hauled general commodities and nobody bothered them. We looked up the history of the permit. The commission meant to say 'supplies to be used in connection with manikins and display figures.' That's what they meant to say—but they said 'supplies to be used in connection with store displays.' That makes the permit ambiguous."

After lengthy hearings, Administrative Law Judge Jacob Leventhal ruled a year and a half ago that Carter had overstepped his authority—although the judge said that because Carter was black the agency should consider his race as one factor and give him the certificate he wanted on a three-year temporary basis. This, the judge reasoned, would encourage minority ownership of trucking lines—an area in which the ICC has been criticized by civil rights organizations, which have said the agency has kept minority members out of the trucking business.

Again, the other truckers complained. They said race should never enter into such a case.

Last week the ICC unanimously ruled that the judge was wrong; that racial or ethnic factors should not normally be considered in such cases, and, moreover, that Carter had been operating illegally. The agency ruled that he was unfit to properly perform the service he proposed—despite the fact he had performed it for years and had, in fact, built up a substantial business that served more than 400 customers.

The ICC ruling, Carter said, "put me out of business."

Carter said he has spent about $300,000 in legal fees in the case and, since the matter began, the number of customers he has been able to serve has dwindled to perhaps 20.

Carter isn't sure just what he's going to do next. He says he has spent his life's savings in the ICC case, and has seen his business vanish. "As of right now I am out of business until I talk to my attorney and find out what I'm going to do."

What the ICC left Carter with, however, is the business of hauling department store manikins—a business, Carter says, that "went out in 1956. There just weren't any more manikins to haul. . . . Any manikins that are shipped any more are sent individually by United Parcel or parcel post."

ECONOMICS OF RACISM IN SOUTH AFRICA

Mr. CLARK. Mr. President, the Senate Subcommittee on African Affairs is currently holding hearings on the situation in South Africa, including U.S. policy and the role of U.S. business involvement there. A major focus of our hearings is the conduct of the subsidiaries of U.S. corporations. We are reviewing the constraints that South Africa's discriminatory apartheid system places on company employment practices in that country, and we are also examining efforts which corporations may be making to try to provide equal opportunity to their South African employees.

The need for U.S. companies to make special efforts on behalf of their employees in South Africa is apparent from a review of the customs, laws, and policies which affect opportunities for black workers there. A recent article by John F. Burns in the New York Times on September 19, 1976, provides useful background on the impact of apartheid on workers in South Africa. I ask unanimous consent that the article entitled "Economics of Racism in South Africa" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 19, 1976]

Economics of Racism in South Africa

(By John F. Burns)

JOHANNESBURG.—A cartoon in one of the newspapers here last week showed Prime Minister John Vorster, apron tied to his ample waist and broom in hand, greeting Secretary of State Henry A. Kissinger at the door of Mr. Vorster's official residence.

"Excuse the mess," the Prime Minister was saying, "but the help hasn't turned up."

In homes and offices, on farms and factory floors, from one end of South Africa to the other, whites are learning to take over menial tasks normally performed by blacks. Last week, a three-day protest strike in Johannesburg, the second in three weeks, halved the black labor force. It was a telling demonstration of the potential that black workers have to cripple an economy that has been underpinned for decades by an inexhaustible supply of cheap, docile and unorganized labor.

After three months of battling with heavily armed police and a death toll of more than 300, demonstrators in the black townships evidently have decided that political power for them, is more likely to grow out of idle lathes and abandoned brooms than the barrels of guns, which the law in any case denies them. The message has permeated a white community that has become inured to the daily bloodshed in the townships, prompting insistent pleas for racial reform from the normally conservative captains of industry and commerce.

The scene in Johannesburg, economic hub of the country, gave a foretaste of the disaster the corporate barons wish to avert. Building sites stood idle, textile plants barely ticked over, delivery trucks sat in rows outside warehouses.

The extent to which the country's 4.2 million whites have been sustained by the labor of its 18 million blacks is starkly apparent in the Government's own statistics, which suggest that scarcely any sector of the economy could function for long without black workers. Of the 4.9 million fulltime workers registered last year, slightly over half, 2.7 million, were black, 1.5 million were white, 526,740 were of mixed race, and 181,066 were Asian. The dominant role played by blacks is more evident from the industry-by-industry breakdown. In gold mining, the pillar of the economy, the labor force of 380,091 included 341,575 blacks. Figures for other sectors show a similar ratio: coal mining, 190,596 (134,012); construction, 446,086 (309,094); textiles, 97,628 (66,939); and food processing, 159,577 (103,286). Only in the public sector were the averages significantly lower: In public service, 461,948 (178,530); and the railways, 244,892 (113,406).

Figures for income by the various race groups show a huge disproportion. Whites, constituting 30.6 percent of the fulltime labor force, earned 68.2 percent of the wages and salaries in 1973. Blacks, 55 percent of the labor force, earned 21.1 percent.

The Government asserts, fairly, that black incomes have risen much faster in recent years than whites'. Between 1970 and 1975, the real earnings of whites increased only 1.3 percent, compared with 8 percent for blacks. However, the effort to close a gap which had been progressively widening until the late 1960's made only a vestigial impact on the disparities. Average annual income among urban whites is estimated to be about $6,000; among the urban blacks, most of whom are restricted to unskilled work, is between $860 and $1,600. In June skilled workers in the construction industry, almost all white, were earning an average of $122 a week; unskilled workers, almost all black, $39. What this means can be judged by the Johannesburg Chamber of Commerce's estimate that the subsistence income for a family of five in Soweto in May 1975 was $136 a month.

With only 5.6 million blacks living in urban areas, less than a third, a truer picture of the bleak economic circumstances in which most blacks live is given by figures for those living in the countryside. In 1973, the average annual income among black farm laborers was $250. But an equal number of blacks were living, if barely, off their own meager plots, earning less than $100 a year. In the tribal homelands, where nearly 8 million blacks live, the vast majority live outside the cash economy altogether, grazing cattle and bartering as their forebears did.

Government officials argue that the relevant comparison is not between whites and blacks in South Africa, but between South Africa's blacks and blacks elsewhere on the continent. By this standard, they say, blacks are vastly better off here than they are elsewhere. "In Johannesburg alone, blacks have a larger purchasing power than the gross national product of Sierra Leone, Malawi and Botswana, to mention only three." one official recently claimed. However, the claim is disputed by many economists. One private estimate puts the average per capita income among South African blacks 12th among African countries.

Officials also point proudly to the existence of a black middle class, claiming that it is the only one of any size on the continent. Before disorders erupted in Soweto, whites taking the official tour of the township were driven down Pioneer Avenue, described as the "millionaires row" of the township. In many ways, the street—a few dozen ranch-style homes, amid 102,000 boxlike houses built by the Government, with an average of 6.7 people in four rooms—serves as a symbol for the economic status of Soweto. At the top sits Ephraim Tshabelala, who built a fortune out of a gas station, a cinema, and a chain of grocery stores; in the middle, a small middle class; and at the bottom, a huge mass of unskilled workers.

Probably the best measure of the middle class is the Government's manpower survey, which lists the number of blacks employed in the various professions. In April 1975 the survey showed a total of 11 engineers, 31 chemists, 63 lawyers, 83 university teachers, 85 doctors, and 528 journalists and writers. Only in school teaching, where there were 74,980 blacks and 54,928 whites, and among policemen, where there were 31,109 blacks and 22,409 whites, did blacks outnumber whites.

The growth of the middle class has been artificially restrained by the limited opportunities for vocational and professional training and by the system known as "job reservation." Enshrined in law and jealously guarded by the white trade unions, the system sets aside certain skilled jobs—accounting for an estimated 2.5 percent of all industrial jobs—for whites. The restrictions are concentrated in the motor mechanics and building trades. Last year, in the construction industry, overwhelmingly dependent on blacks for heavy labor, there were only 1,424 black artisans, compared with 30,912 white ones. Attempts by employers to persuade unions to open new opportunities to blacks are strongly resisted; in construction, it took years for blacks to be allowed to lay bricks, and then only stock brick., which are covered later by plaster or stucco. A national strike in the diamond cutting industry was averted at the last minute a few months ago when the unions agreed to allow blacks to cut stones—but only small ones, accounting for a minor proportion of the total.

While they support other reforms, industrial executives are candid about their reasons for opposing wider unionization among blacks. In many sectors, especially mining, employers claim that the rapid wage increases of the past five years have already driven their profit margins dangerously low. In gold mining, where experienced black miners can earn up to $200 a week, less than half the $552 minimum paid to whites working underground, a decision to equalize minimum pay scales for the two groups would, industry experts say, bankrupt at least 16 of the 42 mines now in operation. The same is probably true for many other industries, especially when the plunging gold price has driven business into the depths of a recession.

EARTH RESOURCES INFORMATION SATELLITE SYSTEMS ACT

Mr. MOSS. Mr. President, a hundred years from now, people will look back and wonder how man ever managed his affairs on the Earth without the tools provided by the space program. In the resources area, the Landsat satellites not only provide a tool for making very good crop surveys and crop predictions for harvest periods, they also provide hitherto unavailable capability to detect natural resources such as oil, mineral, and natural gas deposits from orbit. In today's world it is vitally necessary that we understand the available supply and existing demand patterns in the food area. Hunger is one of the most pressing problems for the next decade on the Earth. In the Earth-orbiting satellites we have, for the first time, a tool which will make it possible for us to understand the nature of this global problem in all its complexity.

The glaring omission of the current program is the absence of a continuing long-range commitment to Earth resources satellite services. There now exist new technologies which can assist in better management of the Earth's resources. S. 3759, the Earth Resources Information Satellite Systems Act of 1976, is a step toward using these new technologies for the betterment of mankind.

I ask unanimous consent to add to the list of cosponsors of S. 3759 the names of my distinguished colleagues Senator Abourezk of South Dakota, Senator Mathias of Maryland, and Senator Young of North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AIR BAG ISSUE

Mr. MOSS. Mr. President, on August 3, 1976, Secretary of Transportation William Coleman conducted a hearing for the purpose of exploring the alternatives available to the Department in providing restraint protection for automobile occupants. Among the alternatives the Department is considering are mandatory seat belt laws, passive—automatic—restraint systems such as air bags, and continuation of the present seat belt requirements and reminder system.

While the Secretary is to be commended for his insightful questioning at this hearing, he is but one of a long string of former Secretaries of Transportation who, along with the Administrators of the National Highway Traffic Safety Administration, have examined this issue. For more than 7 years now, the proceedings on the restraint system issue have been pending, and the common thread that runs throughout these 7 years is approval of the automatic restraint approach by all previous DOT Secretaries and NHTSA Administrators.

Now is not the time for procrastination. This issue should have been concluded 5 years ago. Indeed, there is no other regulatory decision in the history of Federal safety regulation which has commanded so much attention and deliberation. The motor vehicle industry which must have sufficient leadtime to design and build motor vehicles, is entitled to an answer. And the American motorist, of whom more than 45,000 are killed annually, is entitled to an occupant restraint system which affords real protection.

Mr. President, I ask unanimous consent to have printed in the Record an article which appeared in the Washington Post on September 1, 1976, by Joan Claybrook entitled "The Air Bag Issue: 'Whether and When.'" I believe this article by an air bag proponent will assist my colleagues in the Senate in understanding the issues being considered by Secretary Coleman.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Air Bag Issue: "Whether and When"

(By Joan Claybrook)

The Washington Post editorial writers have been around this town long enough to know that an agency administrator can make or break a government program. For The Post to fault Ralph Nader when he challenges Transportation Secretary Coleman to have the "moral fortitude to stand up to the giant auto corporations and the White House" in deciding on passive restrains in autos reflects editorial impetuousness and factual carelessness.

The issue in controversy is not the efficacy of the air bag as The Post suggests. The life-saving capability of passive restraints is undisputed and the technical feasibility is assured. The only issue facing Secretary Coleman is political: whether or when. In view of the behavior to date of the White House, the auto industry, and Secretary Coleman on passive restraints, Mr. Nader's statement is, in fact, right on point. Please consider the facts.

1. The merits of passive restraints are widely acknowledged. Former President of General Motors, Edward Cole, and former Vice President John Z. DeLorean, have been enthusiastic supporters. The major auto insurance companies (Allstate, State Farm, Nationwide and others) have spent millions educating the public, members of Congress, and federal officials about their unique utility. The air bag device has been subjected to some 260 million miles of phenomenally successful testing in over 12,000 cars on American roads. The Department of Transportation estimates passive restraints will save about 10,000 auto crash deaths per model year and hundreds of thousands of injuries at a cost to the manufacturer of about $70 per car—the equivalent of a vinyl roof or power windows.

This means that every year of delay by Secretary Coleman condemns tens of thousands of individuals to death or serious injuries which are avoidable. In light of this senseless bloodshed, Mr. Nader pointed out that to advocates of passive restraints the cause of protecting bodily rights is as fundamental as the cause of protecting civil rights has been to Secretary Coleman. Unfortunately, as Secretary of Transportation, Mr. Coleman has had lesser priorities, concentrating for instance on allowing the supersonic Concodre to use U.S. airports for the select few who travel abroad.

2. Administrative proceedings on passive restraints have been pending in the Department of Transportation (DOT) since 1969—seven years, without resolution. In 1970 General Motors told DOT is would put air cushions as standard equipment on 1975 passenger cars, most light trucks and certain multi-purpose passenger vehicles. It never happened. The proposed standard which Secretary Coleman wants to review again is, with a few adjustments, the same standard DOT first recommended for 1972 models and first mandated for 1974 models, then extended until 1976 models, then extended until 1977 models, is now pending for 1978 models and with Coleman's accumulated delays could not become effective before 1980 models.

3. These delays were orchestrated by the auto industry (primarily Ford and Chrysler) with the assistance of the White House and over the objections of the successive administrators of the National Highway Traffic Safety Administration in the Department of Transportation (Dr. William Haddon Jr., Douglas Toms, and Dr. James Gregory) and former Transportation Secretary John Volpe. One example of delay was the order in 1971 from the White House to Volpe and Toms to substitute the safety belt ignition interlock device for passive restraints until at least 1976. Representative John Moss described it in debate on the floor of the House:

"The interlock was brought about over the objections of the Department of Transportation as a result of the visit of the presidents of two of the major manufacturers of automobiles (Henry Ford and Lynn Townsend) with the President of the United States (Richard Nixon) and at a subsequent meeting attended by Mr. Jonh Ehrlichman, Mr. Robert (sic) Flanigan, and another White House aide, the order was issued to the Department of Transportation to go along with the interlock. . . ."

Other auto industry strategies have included: appeals to the courts and the Congress, widespread advertising campaigns falsely condemning passive restraints, exaggerated cost claims, and on and on.

4. Shortly after becoming President, Gerald Ford announced he would press for a moratorium on all major auto safety and auto air pollution actions through 1980.

5. Seventeen months ago, Mr. Nader visited Secretary Coleman shortly after he took office, and described the incredible delays in implementation of the passive restraint standard. On hearing the tragic odyssey of this life-saving device, Coleman responded that he was quite familiar with claims of "all deliberate speed" (the same language used in the Supreme Court decision mandating integration of public schools. Brown vs. Board of Education). He said he would not tolerate similar delays on passive restraints, and would give the issue his personal attention. Please note that Mr. Coleman proffered the first analogy between civil rights interests and life-saving passive restraints in autos.

6. Two months after Coleman took office, in May 1975, the National Highway Traffic Safety Administration held five days of public hearings on passive restraints with 40 witnesses to thoroughly air the issues before promulgation of the final rule. Secretary Coleman did not attend the hearings and took no action for twelve more months.

7. On May 24, 1976, Secretary Coleman finally signalled his future intentions to prolong a decision at the Economic Club of Detroit, the enclave of the giant auto companies, where he sympathetically states: "As an aside, I must note that I have seen few signs of comfort in the auto industry with

the regulations you have to live with as a result of foolish congressional misdirection."

8. On June 9, 1976 Secretary Coleman formally announced he would delay the rulemaking further. He said he would personally hold additional public hearings (one day) in August with a final decision by January 1, 1977—after the November election and too late for installation of passive restraints before 1980 models, of course.

9. The Washington Post on June 10, 1976, in reporting on Coleman's determination to further delay action on passive restraints, stated:

"With Coleman's approval, Dr. James B. Gregory, departing administrator of the Department of Transportation's National Highway Traffic Safety Administration, had assured Rep. John E. Moss last February that the Secretary would make the final decision when the Congress recesses in August."

On the new delay, Gregory is quoted as saying: "I'm disappointed. . . . He's the boss and I'm a lame duck. It's his decision." And Rep. John Moss complained: "It's a cave-in to industry pressure."

If citizens can't question the intentions of senior government officials who fail to vigorously carry out their statutory mandate, civil servants will never be accountable to the interests of citizens. The Post editorial writer's bombastic response to Nader's challenge to a heretofore unresponsive cabinet officer is an example of inadequate research of the issue and even less sensitivity toward the gravity of delay.

INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, yesterday I inserted into the Record the introduction and first chapter on homemakers contained in the report to the Congress and the President by the International Women's Year Commission. Today I would like to insert the next two chapters of the report for the use of my colleagues and their constituents.

The media has an enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and aspirations. The International Women's Year Commission recommends vigorous enforcement of communications laws and adopted "Ten Guidelines to the Media," on the portrayal and treatment of women.

The Commission, as its first public action and highest priority, urged ratification of the equal rights amendment to the U.S. Constitution. The International Women's Year Commission looked at the record in States which already have ERA laws of their own to see how it affected women and men.

Mr. President, I ask unanimous consent that these two chapters of the IWY report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mass Media: Friend or Foe?

Children use television characters as role models in deciding what they want to be when they grow up.

Adults, as well as children, tend to identify most strongly with characters like themselves—characters of their own age, sex and race.

A survey of the stories in women's magazines from 1940–1970 reported that women were portrayed in one of four ways: single, looking for a husband; housewife-mother; spinster; or widowed or divorced, soon to marry.

Example is not the main thing . . . it is the only thing.[12]

The media have an enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and their aspirations. Increasingly, women have become more concerned with their limiting portrayal and employment in the media.

In drafting media recommendations, the IWY Commission analyzed not only the image of women in the mass media, but also its power to influence American society, how this power could be used to eliminate sex discrimination, and the participation of women in its employment ranks.

TELEVISION: CONTENT AND EFFECT

Probably the most all-pervasive medium is television. Ninety-seven percent of all homes in the United States have television sets. Americans—mainly the very young, the old, and the poor—tune in about 6 hours a day; that's 2,400 hours a year. Between ages 2 and 65, the average person will watch 9 full years of television.[13]

And what do we see during all those years? Communications specialist, George Gerbner says,

"Night after night, week after week, stock characters and dramatic patterns convey supposed truths about people, power and issues. About three-fourths of all leading characters on prime-time network TV are male, mostly single, middle and upper class white Americans in their 20s and 30s." [14]

News coverage, which should be the accurate reporting of events and people in the whole population, is hardly better. A monitoring project by the American Association of University Women shows that only 523 of 5,353 straight news stories (10.2 percent) were about women. And when women did appear, they were portrayed as "helpless victims of kidnaps, rapes, murders and natural disasters . . . or as opinionless, supportive wives and mothers." [15]

Joan Israel of the Detroit Media Coalition reports, "Ninety-three percent of the commercials we monitored had male voice-overs giving the authoritative word on the product, even diapers and detergents." [16]

In 1975, the National Advertising Review Board (NARB), a group that deals with industry problems, issued a report titled, *Advertising and Women*. They concluded that advertising was "one of the forces molding society . . . Those who protest that advertising merely reflects society must reckon with the criticism that much of the current reflection of women in advertising is out of date." The IWY Commission strongly endorsed the NARB report as did a number of groups, including the National Federation of Business and Professional Women's Clubs.

In order to accelerate the rate of change in the media's portrayal of women, projects, and strategies have been developed to change the status quo.[17] Donna Allen, publisher of *Media Report to Women*, told the Commission's Media Committee, on which she served as a public member,

"Since 1972 there has been an astounding increase in the number of monitoring projects, content analysis studies, legal actions, demonstrations, media change organizations, and conferences on the media, at national and local levels. Even the increase in the number of women who have founded their own media businesses reflects a dissatisfaction with coverage of women by the mass media."

She cited stockholder action as one of the newest and more creative actions now being taken by women: The United Presbyterian Church's General Assembly Mission Council filed shareholders resolutions for debate at the October (1975) annual stockholders' meeting, which read: "Be it resolved that the shareholders of Procter and Gamble request the Corporation to publish a special report which will carefully examine the images of women in the Corporation's advertising."

To date most studies of sexism on television analyze its content, i.e., how many women are presented in what roles. However, data on the effects of television also support the notion that people's attitudes are shaped by the programs they watch. For example, the Surgeon General's report on televised violence concludes that there is an indication of a causal relation between viewing violence on television and aggressive behavior.[18]

Researchers indicate that additional information is needed to gain a fuller understanding of the impact of television on sex-role imagery.[19] The Commission believes that a study, similar to the Surgeon General's on violence, could help illuminate the relationship between the portrayal of women on television and the self-image of viewers. Therefore the IWY Commission recommends that the Departmentof Health, Education, and Welfare undertake a major study to determine the impact of television programming and advertising on sex discrimination and sex-role stereotyping to determine the extent to which television causes and reinforces sexism.

Recognizing the unique creative problems in the development of entertainment programming and commercials, the Commission drew up a checklist of questions for use by writers, directors, producers, actors, actresses, and sponsors of advertising messages and the creative agencies.

Included in the 16-point checklist are:

Are the women you portray, especially in advertising, obsessive about shiny floors, clean ovens, good tasting coffee, and sparkling laundry to the exclusion of mature human values? Are homemakers portrayed with dignity?

Is the exploitative "woman as victim" theme the main entertainment value of your piece? Is she the hapless object of brutalizing forces? Does she make things worse by making panicky choices?

Do you show men responding positively to strong independent women, just as you show women who respond to men who have those qualities?

(The complete checklist for Entertainment Programming and Advertising is in Part V.)

Public Broadcasting—Noncommercial Sexism

The effort to improve the portrayal of women on television also extends to Public Broadcasting.[20] The Advisory Committee of National Organizations (ACNO), which was created in 1972 by the Corporation for Public Broadcasting (CPB) to advise them on the public's needs and interests, adopted a position paper assessing women's programming.

According to ACNO, proper and adequate representation of women is defined in three distinct but complementary areas:

1. An honest, overall image of women in all programming;
2. Integration of women into all areas of the broadcast media; and
3. Thorough coverage of issues pertinent to women.

ACNO called for immediate action by CPB to implement full integration of women in employment and programming.

In response to ACNO's position paper, the CPB Board established a National Task Force on Women in Public Broadcasting. After a year of monitoring, the task force concluded that sex discrimination in public broadcasting is overwhelming and that "programming showed few, if any, women. Women are not [only] stereotyped on public broadcasting, they are overlooked." [21]

Footnotes at end of article.

For example, 78 percent of the characters monitored on Sesame Street were male and more than 87 percent of the announcers and narrators (voice overs) were male.

The formal report of the task force was submitted to the CPB Board in October 1975; however as of April 1976 no substantial action has been taken on the recommendations.

The IWY Commission strongly endorses and calls for the immediate adoption of the task force recommendations.[22] In addition, the IWY Commission recommends that, in consideriing appropriations, the Office of Management and Budget and the Congress request statements on the progress made by CPB. Further, the IWY Commission recommends that the CPB conduct a followup study in 1980 to measure the improvements in programming and employment of women in public broadcasting.

EMPLOYMENT: DISCRIMINATION BEHIND THE SCENES

Is there a link between the absence of women in media policymaking positions and sexist coverage and programming? In 1974, 65 women who work in the media told their stories anonymously in a book, *Rooms With No View*.[23]

They documented through personal experience and reporting, sex discrimination in television, magazines, newspapers, wire services, and book publishing. Especially noted was the lack of participation by women in policymaking positions.

The Federal Communications Commission (FCC) employment figures for 1975 show that women held 26.3 percent of the positions in the broadcast industry.[24]

In the top four job categories—managers, professionals, sales, and technicians—females were in only 13.1 percent of the positions, an increase of 1.5 percent from the previous year. Furthermore, according to a study by the Office of Communication for the United Church of Christ (UCC), the number of overall clerical positions in the industry dropped by 509 between 1971 and 1975, while the overall number of managerial positions increased by 1,302. Since, as the UCC puts it, "It seems improbable that this greatly increased corps of management personnel can function with reduced clerical support," this improvement may be in job title only and not in responsibilities or salaries.[25]

Women are now organizing to fight sex discrimination in the media. Numerous newspapers, including the *Washington Post* and the *New York Times*, have had major sex discrimination complaints filed against them. But women alone or in coalition still face serious barriers whenever they challenge sex discrimination.

For example, in March 1971 the Women's Rights Committee at WRC–TV, an NBC-owned and -operated station in Washington, D.C., became the first broadcast group to file a class action sex discrimination complaint with the Equal Employment Opportunity Commission (EEOC). The women at WRC started meeting during the spring of 1970, a few months before the 50th anniversary of Women's Suffrage. Mary Catherine Kilday, WRC–TV producer of the "Woman Is" program, remembers:

"We didn't know about employment complaints, the EEOC or any of that technical stuff, but we wanted to let station management know we were not satisfied with our low paying, no responsibility jobs. The Suffrage anniversary gave us a great reason to organize and plan an action. We went from discussions, to meetings, to serious negotiations and got nowhere. We came to the conclusion that they could talk us to death. Management gave us no choice but to file formal complaints." [26]

While these activities were developing at NBC in Washington, the women at NBC in New York were also organizing. They too sought remedies through meeting with the network's President's Council, and they too got nowhere. Management refuted their discrimination charges in a time-honored corporate manner—they prepared a slide show. "They had one of those carousel projectors, with slides done up by the art department showing graphs in lots of colors," recalls Lois Farmer, a programmer and systems analyst. "After it was over, everyone sat there speechless. The next Monday, we filed our complaint." [27]

After investigating the NBC charges, the New York City Human Relations Commission made a *reasonable cause finding* in 1975. This finding was later adopted by the EEOC.[28] Since subsequent negotiations were ineffective, the employees filed suit in spring 1976 for violations of Title VII of the Civil Rights Act of 1964.[29]

A recurring theme throughout the IWY Commission's work had been the pervasiveness of employment discrimination on the basis of sex.[30] In making final recommendations to the media, the Commission stressed the importance of women participating equally with men at all job levels, especially those where policies are made. (A discussion of the Ten Guidelines to the media follows later in this section.) The Commission made a formal recommendation to the Equal Employment Opportunity Commission,[31] urging the agency to identify and attack patterns and practices of discrimination among major employers in the media, especially in commercial television.[32]

PLAYING BY FCC RULES

The Federal Communications Commission (FCC) [33] is the only Federal regulatory agency to develop formal rules for eliminating employment discrimination in the industry it regulates. However, the guidelines to implement and enforce these rules, which were developed in 1968, have not been adopted. In 1975, the FCC released proposed guidelines and solicited comments from interested groups and individuals.

Anticipating the adoption of these guidelines, the IWY Commission recommends that the FCC use the same standards as the EEOC and the Affirmative Action Program of the Federal Contract Compliance Program of the Department of Labor when evaluating a broadcaster's performance.

Without finalized guidelines to follow, citizen groups are confused as to how to proceed with employment complaints at the administrative stages.[34]

The U.S. Commission on Civil Rights, as well as feminist groups, raised this issue with Congress and the FCC and pointed out the agency's lack of commitment in enforcing their rules and in establishing guidelines on employment discrimination.[35]

If a complainant raises a "substantial issue" of employment discrimination, for example, FCC rules require an administrative hearing.[36] Without a hearing, challenging groups have no access to comprehensive data on a licensee needed to determine the underlying reasons for disparities in employment and programming. The FCC, however, has never defined "substantial issue." According to the U.S. Commission on Civil Rights, "If the FCC took action [i.e., ordering a hearing in a case], on the basis of an EEOC reasonable cause decision, it would be supportive of EEOC's administrative authority and hopefully induce companies to conciliate" (or comply with Title VII.[37]

In September 1972, after the WRC–TV employees had filed their employment complaint,[38] the National Organization for Women (NOW), with the support of 10 other organizations, filed a petition-to-deny the station's license renewal. NOW asked the FCC to hold a hearing on WRC's employment and programming practices. Before the FCC made a decision about the license renewal, however, the EEOC in 1973 decided the employees had a reasonable cause for filing their complaint.[39] Three years later, the FCC denied the request for a hearing, claiming that the station's employment profile had improved and that the station was in compliance with public interest standards. Civil rights groups feel that the FCC's public interest standards are not compatible with the current statutory and case law upon which the EEOC standards are predicated [40] and have appealed this FCC decision to the U.S. Court of Appeals.

To help remedy this kind of situation, the IWY Commission recommends that the FCC grant a hearing on the issue of employment discrimination whenever a challenger (petitioner) of a licensee shows that the EEOC has found a reasonable cause to believe the licensee has violated Title VII of the 1964 Civil Rights Act.[41] In addition, the Commission recommends several structural changes within the FCC: that it open to the public its regularly scheduled meetings; that it establish a Women's Advisory Committee to meet on a semiannual basis, and that it consolidate into one unit its three equal employment offices.

PART OF THE SOLUTION

Increasingly, the law is acknowledging women's rights to fair treatment, especially in employment. Throughout this report, the IWY Commission recommends necessary changes that can be accomplished by rigorous enforcement of these laws or by amended administrative procedures, particularly for licensed media. But much of what needs to be done is beyond the law's proper reach. The IWY Commission believes in the independence of the press. However, the media should use this essential independence more responsibly and accurately in their treatment of women.

In that spirit, the IWY Commission adopted 10 guidelines or minimum standards of fairness and accuracy for the treatment of women by the mass media. As Patricia Carbine, chair of the Commission's Media Committee and publisher and editor-in-chief of Ms. magazine, concluded, "Our hopes, our dreams, our own lives are profoundly shaped by the presentation of us by the media. What women are demanding, from this powerful, pervasive industry are accurate images and the right to participate fully in their dissemination."

The first two media guidelines relate to employment and they are basic. The next three guidelines call for the enlargement of the media's definition of how news relates to women and to the desegregation of its presentation. The last five guidelines call for changes which the committee believes managements can immediately incorporate into operating policy.

In establishing these guidelines, the committee acknowledges the interrelationship of sex and race discrimination and recognizes that women cannot work to eliminate one while acquiescing in the other.

THE TEN GUIDELINES

1. The media should establish as an ultimate goal the employment of women in policymaking positions in proportion to their participation in the labor force. The media should make special efforts to employ women who are knowledgeable about and sensitive to women's changing roles.

2. Women in media should be employed at all job levels and, in accordance with the law, should be paid equally for work of equal value and be given equal opportunity for training and promotion.

3. The present definition of news should be expanded to include more coverage of women's activities, locally, nationally, and internationally. In addition, general news stories should be reported to show their effect on women. For example, the impact of foreign aid on women in recipient countries is often

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Footnotes at end of article.

overlooked, as is the effect of public transportation on women's mobility, safety, and ability to take jobs.

4. The media should make special, sustained efforts to seek out news of women. Women now figure in less than 10 percent of the stories currently defined as news.

5. Placement of news should be decided by subject matter, not by sex. The practice of segregating material thought to be of interest only to women into certain sections of a newspaper or broadcast implies that news of women is not real news. However, it is important to recognize and offset an alarming trend wherein such news, when no longer segregated, is not covered at all. Wherever news of women is placed, it should be treated with the same dignity, scope, and accuracy as is news of men. Women's activities should not be located in the last 30–36 seconds of a broadcast or used as fillers in certain sections or back pages of a newspaper or magazine.

6. Women's bodies should not be used in an exploitative way to add irrelevant sexual interest in any medium. This includes news and feature coverage by both the press and television, movie and movie promotion, "skin" magazines, and advertising messages of all sorts. The public violation of woman's physical privacy tends to violate the individual integrity of all women.

7. The presentation of personal details when irrelevant to a story—sex, sexual preference, age, marital status, physical appearance, dress, religious or political orientation—should be eliminated for both women and men.

8. Hopefully, the day will come when all titles will be unnecessary. But in the meantime, a person's right to determine her (or his) own title should be respected without slurs or innuendoes. If men are called Doctor or Reverend, the same titles should be used for women. And a woman should be able to choose Ms., Miss, or Mrs.

9. Gender designations are a rapidly changing area of the language, and a decision to use or not to use a specific word should be subject to periodic review. Terms incorporating gender reference should be avoided. Use firefighter instead of fireman, business executive instead of businessman, letter carrier instead of mailman. In addition, women, from at least the age of 16, should be called women, not girls. And at no time should a female be referred to as "broad," "chick," or the like.

10. Women's activities and organizations should be treated with the same respect accorded men's activities and organizations. The women's movement should be reported as seriously as any other civil rights movement; it should not be made fun of, ridiculed, or belittled. Just as the terms "black libbers," "Simbionese libbers," or "Palestine libbers" are not used, the term "women's libbers" should not be used. Just as jokes at the expense of blacks are no longer made, jokes should not be made at women's expense. The news of women should not be sensationalized. Too often news media have reported conflict among women and ignored unity. Coverage of women's conferences is often limited solely to so-called "splits" or fights. These same disputes at conferences attended by men would be considered serious policy debates.

FOOTNOTES

[12] Quotes from articles contained in a symposium on "The Effects of Television on Children And Adolescents." *Journal of Communications,* University of Pennsylvania, vol. 25, no. 4, 1975.

[13] Nick Johnson, *How To Talk Back to Your Television Set,* Little, Brown and Co., Boston, 1970, p. 13.

[14] George Gerbner, "The Frightening World of the TV Addict," *Psychology Today,* Apr. 1976, pp. 41–89. Gerbner is the Dean of the Annenberg School of Communications at the University of Pennsylvania.

[15] "The Images of Women in Television," Sacramento Chapter, American Association of University Women, 27 Greenway Circle, Sacramento, Calif. 95831, 1974.

[16] Telephone interview, Mar. 1976, with Joan Israel.

[17] Nancy Stanley, "Federal Communications Law and Women's Rights: Women in the Wasteland Fight Back," 23 *Hastings Law Journal,* Nov. 1971.

[18] Surgeon General's Scientific Advisory Committee on Television and Social Behavior. *Television and Growning Up! The Impact of Televised Violence,* Wash., D.C., U.S. Government Printing Office, 1972.

[19] Linda Busby, "Sex-role Research on the Mass Media," *Journal of Communications,* University of Pennsylvania, vol. 25, no. 4, 1975, p. 127.

[20] Public broadcasting as a national institution was established in 1967 with the passage of the Public Broadcasting Act, Public Law 90–129.

[21] Carolyn Isber and Muriel Cantor, *Report of the Task Force of Women in Public Broadcasting* Corporation for Public Broadcasting, Wash., D.C. 20036, 1975, p. 22.

[22] Adopted by the Committee on the Arts and Humanities, Dec. 4, 1975. See Part V.

[23] Ethel Strainchamps, *Rooms With No View: A Woman's Guide to the Man's World of Media,* N.Y.: Harper and Row, 1974.

[24] FCC Press Release, Mar. 5, 1976.

[25] Ralph Jennings and Veronica Jefferson, *Television Station Employment Practices, 1975,* Office of Communication, United Church of Christ, Jan. 1976, p. ii.

[26] Interview with Mary Catherine Kilday, Mar. 1976.

[27] *Op. cit.,* p. xxii.

[28] The Equal Employment Opportunity Commission has the authority under Title VII of the Civil Rights Act of 1964 to investigate the complaint, report on the investigation findings, and take legal action (file suit) should they find discrimination. If the EEOC finds discrimination, it issues a final *reasonable cause finding.*

[29] 42 U.S.C. secs. 2000e, *et seq.* Title VII prohibits discrimination in employment on the basis of race, color, religion, sex, and national origin.

[30] See Enforcement of Laws Committee and Employment Committee recommendations in Part V.

[31] Adopted by the Committee on Arts and Humanities, Jan. 7, 1976. See Part V.

[32] A similar recommendation was passed by the Commission asking for the enforcement of laws requiring affirmative action programs of Federal contractors in the communications and motion picture industries. See Part V.

[33] The FCC is an independent regulatory agency with broad responsibilities for the regulation in the public interest of radio and television broadcasting, cable television, and the telephone and telegraph communication. Created by Congress under the Communications Act of 1934, the FCC is headed by seven commissioners, one a woman, and all appointed by the President with the approval of the Congress.

[34] Women's groups (petitioners) may oppose a television or radio station's application for license renewal on the basis of employment discrimination or nonresponsive programming by filing a formal complaint called a petition-to-deny license renewal. Petitioners usually request the FCC to hold a hearing on the merits of such a complaint.

[35] See rulemaking comments on FCC Docket No. 20550, 1975 and 1975 congressional hearings on FCC oversight. (Commerce Committee, Communications Subcommittee.)

[36] 13 FCC 2d 766 (1968). An administrative hearing is a "trial" procedure worthwhile to women because of the information obtainable through the discovery process. See Part V for a full description.

[37] *The Federal Civil Rights Enforcement Effort, 1974, Volume 1, To regulate the public interest.* U.S. Commission on Civil Rights, Wash., D.C. 20425, 1974, p. 30.

[38] As of Mar. 1976, WRC female employees have not proceeded to Federal Court with their case because of high legal costs. (Kilday interview.)

[39] *Reasonable cause finding* filed.

[40] See U.S. Senate hearings, Commerce Committee, Communications Subcommittee, Nov. 6, 1975, on FCC oversight.

[41] A similar recommendation was adopted by the U.S. Commission on Civil Rights. See *Volume I—To Regulate in the Public Interest,* p. 231.

MEDIA COMMITTEE [65]

GUIDELINES FOR THE TREATMENT OF WOMEN IN THE MEDIA AND CHECKLIST FOR THE ENTERTAINMENT PROGRAMMING AND ADVERTISING INDUSTRIES [66]

The IWY Commission recommends to all media the adoption and implementation of the following Guidelines for the Treatment of Women in the Media. Further, the Commission recommends to the entertainment programming and advertising industries the adoption and implementation of the following Checklist for the Portrayal of Women in Entertainment Programming and Advertising.

GUIDELINES FOR THE TREATMENT OF WOMEN IN THE MEDIA

The media have enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and their aspirations. Increasingly during the last year or so, women have become more concerned about the limiting portrayal by the media:

Women are rarely represented accurately in radio, television, newspapers, magazines, film, entertainment programming, and advertising.

Despite progress in some areas, news relating to women is still very seriously underreported.

When women's activities are covered they are usually segregated, subordinated, or ridiculed.

Women constitute only 25–35 percent of all people working in the media and only 5 percent of the media's policymakers.

Studies of media practices demonstrate that these problems are universal. A variety of women's groups has painstakingly analyzed media output—locally, regionally, and nationally. Their research substantiates a distorted portrayal and lack of news coverage of women. Public television is not significantly better than commercial television. Licensed media are no better than unlicensed media. Network programming is no better than local programming, etc.

It is important to acknowledge, however, that some progress is being made in the effort to change women's image in the media. The media's awareness of the problems is increasing and some representatives are taking steps to improve.[67] Style books are being revised and employment practices modified. And increasingly women's perceptions of themselves are changing, as myths about women's presumed limitations are being discredited. Still, the work is far from over. In spite of advances that have been made, women are not yet presented by the media in a representative fashion.

The consequences of a distorted image of women by the media are serious and far-reaching. The average school girl spends more time watching television than she spends in the classroom. Her models, her perceptions of her potential are heavily influenced. She is reminded repeatedly of presumed faults and limitations. In the same

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way, the self-image even of adult women can be shaken or reinforced by what they read and see. Media distortion is more than academically interesting. It can do immediate, serious psychic damage to the women and men who are exposed to it. It is the means by which an archaic destructive image of women becomes self-perpetuating.

Increasingly, the law is acknowledging women's rights to fair treatment in employment. Elsewhere in its report, the IWY Commission has recommended that necessary changes can be accomplished by rigorous enforcement of law or by amended administrative procedures, particularly for licensed media. But most of what needs to be done is beyond the law's proper reach. The Media Committee believes in the independence of the press. But it believes that the media should use this essential independence more responsibly and accurately in their treatment of women.

In that spirit, the committee offers to the media 10 guidelines or minimum standards of fairness and accuracy in the treatment of women. The committee further recommends a checklist of particular relevance to the entertainment and advertising communities.

The first two media guidelines relate to employment, and they are basic. The next three guidelines call for the enlargement of the media's definition of how news relates to women and to the segregation of its presentation. The last five guidelines call for changes which the Committee believes managements can immediately incorporate into operating policy.

In establishing these guidelines, the Committee acknowledges the interrelationship of sex and race discrimination and recognizes that women cannot work to eliminate one while acquiescing in the other.

The Ten Guidelines

1. The media should establish as an ultimate goal the employment of women in policymaking positions in proportion to their participation in the labor force. The media should make special efforts to employ women who are knowledgeable about and sensitive to women's changing roles.

2. Women in media should be employed at all job levels—and, in accordance with the law, should be paid equally for work of equal value and be given equal opportunity for training and promotion.

3. The present definition of news should be expanded to include more coverage of women's activities locally, nationally, and internationally. In addition, general news stories should be reported to show their effect on women. For example, the impact of foreign aid on women in recipient countries is often overlooked, as is the effect of public transportation on women's mobility, safety, and ability to take jobs.

4. The media should make special, sustained efforts to seek out news of women. Women now figure in less than 10 percent of the stories currently defined as news.

5. Placement of news should be decided by subject matter, not by sex. The practice of segregating material thought to be of interest to women only into certain sections of a newspaper or broadcast implies that news of women is not real news. However, it is important to recognize and offset an alarming trend wherein such news, when no longer segregated, is not covered at all. Wherever news of women is placed, it should be treated with the same dignity, scope, and accuracy as is news of men. Women's activities should not be located in the last 30–60 seconds of a broadcast or used as fillers in certain sections or back pages of a newspaper or magazine.

6. Women's bodies should not be used in an exploitative way to add irrelevant sexual interest in any medium. This includes news and feature coverage by both the press and television, movie and movie promotion, "skin" magazines and advertising messages of all sorts. The public violation of women's physical privacy tends to violate the individual integrity of all women.

7. The presentation of personal details when irrelevant to a story—sex, sexual preference, age, marital status, physical appearance, dress, religious or political orientation—should be eliminated for both women and men.

8. It is to be hoped that one day all titles will be unnecessary. But in the meantime, a person's right to determine her (or his) own title should be respected without slurs or innuendoes. If men are called Doctor or Reverend, the same titles should be used for women. And a woman should be able to choose Ms., Miss, or Mrs.

9. Gender designations are a rapidly changing area of the language, and a decision to use or not to use a specific word should be subject to periodic review. Terms incorporating gender reference should be avoided. Use firefighter instead of fireman, business executive instead of businessman, letter carrier instead of mailman. In addition, women, at least from age 16, should be called women, not girls. And at no time should a female be referred to as "broad," "chick," or the like.

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CHECKLIST FOR THE PORTRAYAL OF WOMEN IN ENTERTAINMENT PROGRAMMING AND ADVERTISING

There are problems in presenting women in the media that need special correction beyond enlarging an obsolete definition of news or updating style books. Recognizing the unique creative problems in the development of entertainment programming, the committee has drawn up a checklist of questions to be used by writers, directors, producers, and others, including actors and actresses. This checklist is also directed to sponsors of commercial advertising messages and to the agencies that create them:

1. Are the women you portray shown as whole people or as weak and confused and dependent upon male strength, courage, and inventiveness? Do exceptions seem to be abnormal?

2. Do you look for ways to show women in roles that are not stereotypically defined (for example, judges, doctors, telephone line workers, police, and armed services personnel?)

3. Are you writing leading parts for women?

4. Is the exploitative "women as victim" theme the main entertainment value of your piece? Is she the hapless object of brutalizing forces? Does she make things worse by making panicky choices? Would the piece work just as well if a man were in her shoes?

5. If a rape is shown, is it dealt with as a basically sexual experience, which it is not, or as a physical assault, which it is?

6. Are women presented as appealing because they are "cute," uninformed, or manipulative?

7. Do you show men responding positively to strong independent women, just as you show women who respond to men who have those qualities?

8. In a scene involving men and women, who does all the talking, speculating, problem solving? Do the women stand by and pour coffee, offering emotional support, or do they take an active part in the proceedings?

9. Are the women in a crisis portrayed as emotional or irrational?

10. If a woman has an idea, plan, solution or proposal, does she apologize first or expect to be taken at face value?

11. Are unmarried women usually presented as incomplete or inadequate?

12. Does your work reflect the fact that some women occasionally rescue men—not only emotionally but also physically?

13. When a woman takes action that reflects self-esteem, does she do so as a result of her own insight or must she rely on the paternal guidance of a man?

14. Do the women you portray have good, open friendships with other women, or do they reflect the old-fashioned stereotype that women are competitive and distrustful with each other?

15. Are the women, as you portray them in drama or advertising, excessively concerned with clothes and appearance, whereas the men are presented as achieving good grooming effortlessly?

16. Are the women you portray, especially in advertising, obsessive about shiny floors, clean ovens, good tasting coffee, and sparkling laundry to the exclusion of mature human values? Are homemakers portrayed with dignity?[68]

No checklist or set of guidelines can insure that misconceptions about women are not perpetuated. This will require conscious, sustained efforts to change fundamental attitudes. The World Plan of Action, adopted at the United Nations Conference for International Women's Year, recognizes the responsibility of the media in creating this essential change:

"A major obstacle in improving the status of women lies in public attitudes and values regarding women's roles in society. The mass communication media have great potential as a vehicle for social change and could exercise a significant influence in helping to remove prejudices and stereotypes, accelerating the acceptance of women's new and expanded roles in society, and promoting their integration into the development process as equal partners."

HEW STUDY TO DETERMINE THE IMPACT OF TELEVISION ON SEX DISCRIMINATION AND SEX-ROLE STEREOTYPING[69]

The IWY Commission recommends that the President, through the Secretary of Health, Education, and Welfare, direct the Assistant Secretary for Health to commence a major study to determine the impact of television programming and advertising on sex discrimination and sex-role stereotyping in the American society.

Background

The power of the broadcast media to influence the American society has long been recognized. There are approximately 112 million television sets in the United States in 65.8 million homes (94 percent of all homes), and the average American home watches television for 6 hours and 49 minutes per day—or approximately 2,400 hours per year. This means that the average person between their second and 64th year will watch 9 full years of television.[70]

Americans receive more eucation from television than from their elementary and high school educations. For example, during an

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average year a junior high school student attends school 980 hours and watches television 1,340 hours. By the time she or he graduates from high school, the student will have spent roughly 11,000 hours in the classroom and more than 15,000 hours in front of a television set consuming more than 350,000 commercial messages.

The President's Commission on the Status of Women, at a consultation on March 19, 1963, asked representatives of the communications industry for advice on (a) actual portrayal of women by the mass media; (b) what new needs of American women the mass media can help meet; and (c) how well women are achieving full occupational opportunity in communications—in broadcasting the press, magazines, and films. A participant of the President's Commission of 1963 noted that:

"... women are presented in an unrealistic way. They seem to be typically in the middle income groups, subservient to the male who earns the money. Women are never portrayed as a serious partner or breadwinner. You never see creative women in politics or as working mothers. So I know there is a big distortion from reality." [71]

There is still evidence that the image of women on television is severely one-dimensional and harmful to the development of a women's full potential.[72] Ten years after the President's Commission report, *Redbook* magazine reported that 74 percent of the women polled in their survey agreed with the statement: "The communications media (for example, television and the press) degrade women by portraying them as sex objects or mindless dolls." [73] Obviously, many of the problems concerning the image of women in the mass media still exist.

In the past few years many studies have been done on the image of women in the media. Invariably these studies conclude with the same statement—not enough data has been collected on the impact of television on sex-role stereotyping or the image of women. For example, an article recently published in *Journal of Communication* concluded:

The vast majority of sex-role research as it relates to the mass media has been content studies. Busby suggested five additional types of research that need to be applied to sex-role imagery. They are: cultural analysis, control analysis, audience analysis, media analysis and effects analysis.[74]

Such a study would require financial and staff resources which most universities or independent researchers do not have.

Footnotes at end of article.

In January 1972, the Surgeon General issued a report on violence and children's television [75] which was based on 23 independent research projects and more than 40 technical papers. Jessie Steinfeld, the former Surgeon General, stated: "These studies . . . make it clear to me that the relationship between televised violence and antisocial behavior is sufficiently proved to warrant immediate remedial action." [76] The report has given groups such as Action for Children's Television important data on the effects on children of violence on television. Congress, television networks, and consumer groups have become increasingly sensitive to the issue, and remedies have been proposed to reduce the amount of televised violence.

Unfortunately, the concern for sexism on television does not match the concern for televised violence. To date, research has analyzed the sex-role content of television; however, little data is available on the effects of watching sexism on the airwaves.

U.S. COMMISSION ON CIVIL RIGHTS HEARINGS ON THE IMPACT OF THE MASS MEDIA ON WOMEN [77]

The IWY Commission recommends that the United States Commission on Civil Rights hold hearings on the impact of the mass media on women.

Background

The U.S. Commission on Civil Rights (USCCR) is a temporary, independent, bipartisan agency established by Congress in 1957 to (a) study and collect information concerning legal developments constituting a denial of equal protection of laws under the Constitution; (b) appraise Federal laws and policies with respect to the denial of equal protection of the laws; and (c) serve as a clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, national origin, or sex. In carrying out its functions, the USCCR holds hearings and submits reports, findings, and recommendations to the President and Congress.

The USCCR recently held hearings on affirmative action in higher education and school desegregation in Boston. As of January 1976 the USCCR had held only one hearing on sex discrimination.[78]

USCCR hearings on the impact of the mass media on women and minorities could provide a forum for obtaining the perceptions of a wide range of the public, including professional, industry, and public interest groups. Over the past 5 years numerous reports and studies have been conducted by independent researchers, by the broadcast and advertising industries, and by performers' unions.[79] The data and information contained in these reports, many of which are unpublished or have been reproduced in professional journals that are not well known, have never been collected in a readily available format. Hearings by the USCCR could not only serve as a clearinghouse for information already obtained but could also assist social scientists and government policymakers in further determining what research should be conducted on this important subject, especially with regard to sexism and racism.

FEDERAL COMMUNICATIONS COMMISSION ADOPTION OF NONDISCRIMINATION STANDARDS AND AFFIRMATIVE ACTION PROCEDURES IN EMPLOYMENT [80]

The IWY Commission recommends that the President, pursuant to the purposes of section 715 of title VII of the 1964 Civil Rights Act (42 U.S.C. 2000e), which directs agencies and departments to insure consistency in equal employment programs, urge the Federal Communications Commission (FCC) to adopt the nondiscrimination standards of the Equal Employment Opportunity Commission and the affirmative action procedures of the Office of Federal Contract Compliance Program of the Department of Labor.

Background

The FCC was created by Congress under the Communications Act of 1934 to regulate interstate and foreign communications in the public interest. The FCC began operating on July 11, 1934, as an independent regulatory agency headed by seven commissioners appointed by the President.

The scope of the FCC's regulating authority includes licensing radio and television broadcasters, monitoring telephone, telegraph, and cable operations, and satellite communications. During license renewal periods (of radio and television stations), the FCC reviews a licensee's files to determine whether it has lived up to its obligations and to the promises it made in obtaining permission to use the public airwaves.

In 1967 the Office of Communications of the United Church of Christ (UCC) petitioned the FCC for a rule asking that "no license be granted to any station which engages in discrimination in employment practices on the basis of race, color, religion, or national origin." Subsequently, the FCC set forth Nondiscrimination Practices of Broadcast Licenses,[81] stating that discriminatory employment practices by broadcast applicants are incompatible with operation in the public interest, and that a mass media service to the public interest standard "clearly parallels the Federal policy in contract awards."

EMPLOYMENT IN THE BROADCASTING INDUSTRY BY JOB CATEGORY: 1974[1]

	Total	Non-minority male	Minority male	Total male	Non-minority female	Minority female	Total female
Officials and managers	23, 333	18, 882	1, 092	19, 974	3, 004	355	3, 359
Percent		(80. 9)	(4. 8)	(85. 7)	(12. 8)	(1. 5)	(14. 3)
Professionals	33, 071	25, 288	2, 833	28, 121	4, 172	778	4, 950
Percent		(76. 5)	(8. 5)	(85. 0)	(12. 7)	(2. 3)	(15. 0)
Technicians	23, 393	20, 354	2, 380	22, 734	532	127	659
Percent		(87. 0)	(10. 1)	(97. 2)	(2. 3)	(0. 5)	(2. 8)
Sales	12, 572	10, 177	650	10, 827	1, 621	124	1, 745
Percent		(80. 9)	(5. 1)	(86. 1)	(12. 8)	(0. 1)	(13. 9)
Subtotal	92, 369	74, 701	6, 955	81, 656	9, 329	1, 384	10, 713
Percent	[2] (77. 2)	(81. 0)	(8. 0)	(88. 4)	(10. 0)	(1. 0)	(11. 6)
Office/clerical	21, 248	1, 571	692	2, 263	15, 703	3, 282	18, 985
Percent		(7. 4)	(3. 3)	(10. 7)	(73. 9)	(15. 4)	(89. 3)
Crafts	2, 874	2, 315	365	2, 680	162	32	194
Percent		(80. 6)	(12. 7)	(93. 3)	(5. 6)	(1. 1)	(6. 7)
Operatives	1, 543	1, 098	309	1, 407	112	24	136
Percent		(71. 2)	(20. 0)	(91. 2)	(7. 3)	(1. 5)	(8. 8)
Laborers	261	121	124	245	12	4	16
Percent		(46. 4)	(47. 5)	(93. 9)	(4. 6)	(1. 5)	(6. 1)
Service	1, 291	490	601	1, 091	84	116	200
Percent		(37. 9)	(46. 6)	(84. 5)	(6. 5)	(9. 0)	(15. 5)
Subtotal	27, 217	5, 595	2, 091	7, 686	16, 073	3, 458	19, 531
Percent	[2] (22. 8)	(20. 5)	(7. 8)	(28. 3)	(59. 0)	(12. 7)	(71. 7)
Total	119, 586	80, 296	9, 046	89, 342	25, 402	4, 842	30, 244
Percent		(67. 1)	(7. 6)	(74. 7)	(21. 2)	(4. 1)	(25. 3)

[1] Source: Federal Communications Commission, April 1975.

[2] Percentage of grand total.

On June 6, 1969 (nearly 2 years after UCC's original petition), the FCC adopted formal rules[82] which require all licensees to adopt affirmative action programs. In 1970, the FCC adopted an additional rule requiring every licensee with five or more employees to file a Form 395 and an annual employment profile. In 1970, the National Organization for Women (NOW) petitioned the FCC for amendments to the equal employment opportunity rules to require stations to develop equal employment opportunity programs for women. The FCC adopted these amendments, which were effective February 1972.[83]

Proposed guidelines to implement the 1968 rules were released for comment by the FCC on July 25, 1975.[84] As of January 1976, the FCC had not issued final guidelines. These proposed guidelines fail to meet the standards of the Equal Employment Opportunity Commission,[85] which enforces title VII of the 1964 Civil Rights Act, and the Office of Federal Contract Compliance (CFR) programs of the Department of Labor,[86] which enforces Executive Order 11246, as amended. For example, the FCC's proposed guidelines do not prohibit employers from discriminating against women because of pregnancy, as do the guidelines of the EEOC. In addition, the FCC fails to require licensees to include in their EEO programs essential elements such as a comprehensive utilization analysis, narrowly defined job classifications, applicant and promotion flow data, and information on wages and salaries.

FEDERAL COMMUNICATIONS COMMISSION HEARINGS ON DISCRIMINATION IN EMPLOYMENT[87]

The IWY Commission recommends that the Federal Communications Commission grant a hearing on the issue of employment discrimination whenever a challenger to a licensee shows that the Equal Employment Opportunity Commission finds cause to believe that the licensee has violated title VII of the 1964 Civil Rights Act.

Background

Television and radio stations operate under broadcast licenses granted to them by the Federal Communications Commission (FCC) for a 3-year period. During that time, they are required under the Communications Act of 1934 to operate in the public interest.[88] At the end of 3 years, when license expires, stations must reapply to the FCC for license renewal. Section VI of a station's license renewal application requires licensees to submit to the FCC the station's Equal Employment Opportunity program.

Women and minority groups as petitioners may oppose a television or radio station's application for renewal on the basis of employment discrimination by filing a formal complaint, called a petition-to-deny license renewal. Petitioners usually request the FCC to hold a hearing on the merits of such a complaint.

When an employment discrimination complaint is filed with a petition-to-deny, the FCC refers these complaints to agencies with primary jurisdiction over such complaints. A majority of these complaints are sent to the Equal Employment Opportunity Commission (EEOC), which has the authority under title VII of the Civil Rights Act of 1964 to investigate the complaint, report on the investigation findings, and take legal action (file suit), should the EEOC find discrimination. If the EEOC finds discrimination, the agency issues a final reasonable cause finding.

The EEOC has a 200,000-complaint backlog. Though it investigates complaints and makes determinations regularly, it rarely files suit against employers with fewer than 150 employees.[89] The FCC has indicated that it will take cognizance of any final determination by the EEOC when it considers a license renewal application. However, the FCC has never defined what stage of the EEOC's complaint processes it considers to be a final determination.

According to the U.S. Commisison on Civil Rights: "if the FCC took action (i.e., ordered a hearing in a case) on the basis of an EEOC reasonable cause decision, it would be supportive of EEOC's administrative authority and hopefully induce companies to conciliate (or comply with title VII). On the other hand, for the FCC to adopt the posture of awaiting the outcome of a lawsuit before acting is extremely favorable to the licensee, since a court will either reject EEOC's position or issue an injunction ordering the company to take specific action."[90]

Thus the licensee will never be subject to any adverse action by the FCC unless it refuses to obey a court order.

By not ordering a hearing on a petition-to-deny after the EEOC issues a reasonable cause finding, the FCC develops standards which conflict significantly with those of the EEOC.[91] The EEOC standards, which have received widespread acceptance by Federal courts, apply also to virtually all broadcasters. Broadcasters who are thus faced with inconsistent Federal requirements more often than not do nothing. Many have relied on FCC standards in the mistaken belief that they will be in compliance with the requirements of title VII.

For example, the FCC has failed to adopt EEOC's position on sex discrimination, discriminatory tests, and the development of remedial goals and timetables. More significantly, the FCC has refused to adopt title VII standards on burden of proof and on the evidentiary value of statistical disparities in the employer's workforce. The courts have consistently adhered to the position of the EEOC that such statistical disparities shift the burden of proof to the employer to come forward with evidence of nondiscrimination.

By not ordering a hearing on a reasonable cause finding, the FCC creates a "Catch-22" situation. Petitioners are unable to obtain discovery (internal information) on a case until the FCC designates a hearing; however, under the FCC's present standards on employment discrimination, petitioners cannot obtain from the station adequate employment data (salary information, hires, fires, and applicant flow, etc.) to prove discrimination which justifies the FCC in holding a hearing. Petitioners have only the information available to them after the EEOC investigates a case.

The FCC has continued to embrace a view of employment discrimination which always gives the procedural advantage to the broadcaster. The agency's deviance from title VII law was recently emphasized by the EEOC as amicus curiae on behalf of the National Organization for Women (NOW) before the U.S. Court of Appeals for the D.C. Circuit. The EEOC concluded:

". . . it is clear that the standard which has evolved from the FCC's interpretation is unrealistic, unworkable, and no longer serves the FCC's original purpose of eliminating employment discrimination among its licensees in order to ensure their operation in the public interest. Moreover, it is a standard wholly inconsistent with the standards of proof which the courts have adopted in interpreting title VII of the Civil Rights Act of 1964. Since the FCC patterned its equal employment opportunity regulations on the requirements of title VII . . . this growing divergence between title VII and FCC standards not only creates confusion but also reduces the pressure on broadcasters to bring their employment practices into conformity with title VII."[92]

The FCC has a statutory obligation to determine how a licensee's employment practices bear on the licensee's character and ability to operate in the public interest. Accordingly, the FCC should devise an approach whereby it will order a hearing on the merits of the case if the EEOC or another compliance agency makes a reasonable cause finding on a petitioner's allegation of employment discrimination.

ESTABLISHING AN OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL COMMUNICATIONS COMMISSION[93]

The IWY Commission recommends that the Federal Communications Commission establish an Office of Equal Employment Opportunity which shall be directly responsible to the Chair of the Commission and which should assist the FCC in prescribing rules applicable to equal employment opportunities within the FCC and to entities which are licensed by the FCC and in implementing and enforcing such rules.

Background

Under its present structure, the FCC has three offices with Equal Employment Opportunity responsibilities—the industry Equal Employment Opportunity Unit under the General Counsel's Office (two employees); the recently organized Equal Employment Opportunity Unit under the Broadcast Bureau's Renewal and Transfer Division (three employees); and the Internal Employment Unit (two employees). These three offices clearly cannot handle the responsibilities of the FCC for enforcing equal employment practices among nearly 9,000 radio and television licensees.

Therefore, it is necessary that the FCC establish a single Equal Employment Opportunity Office which would have an increased staff and the authority to coordinate the agency's civil rights compliance program.

ESTABLISHING A WOMEN'S ADVISORY COMMITTEE TO THE FEDERAL COMMUNICATIONS COMMISSION[94]

The IWY Commission recommends that the Federal Communications Commission establish a Women's Advisory Committee, directly responsible to the Commissioners, to meet with the Commissioners at least twice a year. The advisory committee will be made up of representatives of organizations and groups and individuals concerned with improving the status of women.

Background

As of January 1976, the Federal Communications Commission has six men and one woman who serve 7-year terms. Their appointments are on a bipartisan basis, and the Commissioners normally serve for more than one term. Each Commissioner has a subject area for which she or he has certain responsibilities. For example, Commissioner Benjamin L. Hooks has equal employment opportunity responsibilities and Commissioner Charlotte T. Reid has responsibilities for developments in cable television. The FCC under its present structure could easily establish a women's advisory committee by inviting women—groups and organizations as well as individuals—to the FCC on a regular basis for input on the operations of the agency.

A precedent for such a committee is the Advisory Council of National Organizations (ACNO) to the Corporation for Public Broadcasting, which is made up of over 45 national organizations.[95] Recently ACNO proposed a "Definition of Women's Programming" that developed into a comprehensive study of women in public broadcasting. In addition a variety of local broadcast stations have established women's advisory councils that have proved beneficial to the stations as well as to the participating organizations. Such a committee advising the FCC could monitor the FCC's progress in combating sex discrimination in employment, encouraging women's ownership of stations, and imple-

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Footnotes at end of article.

menting the FCC's existing rules and regulations.

OPENING MEETINGS OF THE FEDERAL COMMUNICATIONS COMMISSION TO THE PUBLIC [96]

The IWY Commission recommends that the Federal Communications Commission open to the public each of its regularly scheduled meetings at which official action is taken. This would enable women to participate more fully in the deliberations of the Commission.

Background

Section 5(e) of the Communications Act of 1934 [97] established regular meetings for the FCC. The FCC has a policy of closing its official meetings to the public. This policy makes it difficult for women's organizations to monitor adequately the activities of the FCC.

INSURING THAT EXECUTIVE ORDER 11246, AS AMENDED, BE ENFORCED WITH RESPECT TO COMMUNICATIONS AND MOTION PICTURE INDUSTRIES [98]

The IWY Commission recommends that the President direct the Secretary of Labor to enforce Executive Order 11246, as amended, with respect to all communications and motion picture industries over which the Office of Federal Contract Compliance Programs (OFCCP) has delegated jurisdiction to the General Services Administration (GSA). Specifically, GSA should establish a task force, composed of at least 50 percent women in all job classifications, to review annually 25 percent of the Federal contractors covered under SIC [99] 483 and SIC 78.

Background

Executive Order 11246 prohibits discrimination in employment on the basis of race, creed, color, or national origin and requires government contractors (with contracts of $50,000 or more and 50 or more employees) to take affirmative action on equal employment. In 1967, sex was added as a prohibited discrimination. This Executive order, as amended, mandates the Secretary of Labor to administer and oversee an extensive program to eliminate employment discrimination by government contractors.[100]

The Secretary of Labor has delegated authority for carrying out the Executive order to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor. The Director of OFCCP has, pursuant to the Executive order, delegated some authority to contracting Federal agencies to enforce contract compliance regulations.[101]

In 1969, a system was developed which assigned compliance responsibility for supply and service contractors, based on classification by industry.[102] GSA was assigned full responsibility for monitoring all contractors in the communications and motion picture industries (SIC 483 and SIC 78).

A review of GSA's files on compliance activities found that although in 1971 and 1972 GSA instituted several reviews of media contractors, it has not conducted followup reviews nor reviewed additional facilities since 1972. It appears, therefore, that few Federal contractors in the communications and motion picture industries are currently being reviewed. GSA seems to review annually only 10–20 percent of the industries under its entire jurisdiction, which covers 23 additional major industries.[103]

WOMEN'S MEDIA INSTITUTE [104]

The IWY Commission endorses the idea of establishing a Women's Media Institute, a non-governmental center where research on changing the image and status of women in the media would be initiated, and where proposals for action in this field would take form. The Commission urges that State conferences, through workshops on the media, illuminate the specific problems a Women's Media Institute could help resolve.

Background

The Media Committee acknowledges the role all media play in helping women to realize their full human potential. It concludes that the problems involved in changing the image and status of women in the media are complex and ongoing. It believes that its recommendations to the media could mark the beginning of a continuing process of positive change. But the committee recognizes the urgent necesssity of establishing a single body that will be ever alert to media practices and will call for changes as it sees needed.

INSURING REIMBURSEMENT OF ATTORNEY FEES IN CASES WHICH COULD HELP TO ELIMINATE SEX DISCRIMINATION [105]

The IWY Commission recommends that the Justice Department review all laws prohibiting sex discrimination and propose revisions to allow the reimbursement of attorney fees to the prevailing party in any action or proceeding brought under these laws for the purpose of eliminating sex discrimination.

Background

A conflict has developed on the question of reimbursing legal fees for civil rights and public interest litigation. On the one hand, the Supreme Court in its decision in *Alyeska Pipeline Service Co.* v. *Wilderness Society* (May 12, 1975), brought to a halt a desirable trend in the Federal courts toward awarding attorney fees in public interest cases. In *Alyeska,* the court held that the Federal courts could not award attorney fees to successful plantiffs in public interest matters without express authorization from Congress. This ruling could have a detrimental effect on the development of litigation brought under laws that prohibit sex discrimination but do not provide specifically for reimbursement of attorney fees (as in title IX of the 1972 Education Amendments). On the other hand, some laws prohibiting sex discrimination, such as title VII of the Civil Rights Act of 1964, do include provisions for fees.

Federal policy on this matter should be consistent. The appropriate way of resolving this conflict is for the Department of Justice to review all laws prohibiting sex discrimination and to propose a remedy making reimbursement of attorney fees the prevailing public policy.

FOOTNOTES

[65] IWY Commission members: Patricia T. Carbine, Chair; and Alan Alda, Margaret Long Arnold, Helen K. Copley, Richard Cornuelle, Honorable Winfield Dunn, Casey Eike, Katharine Hepburn, and Lenore Hershey. Public members: Dr. Donna Allen, publisher, *Media Report to Women;* Midge Kovacs, National Organization for Women; Kathryn C. Pelgrift, Vice President of Planning, Columbia Broadcasting System.

Staff members: Kathleen Bonk and Pamela Curtis.

[66] Recommendation approved by Media Committee Feb. 27, 1976; by IWY Commission same date.

[67] The Media Committee takes particular note of "Guidelines for Equal Treatment of the Sexes in McGraw-Hill Book Company Publications." New York: McGraw-Hill Book Company, 1975.

[68] The Commission supports the recommendations of the National Advertising Review Board's study, *Advertising and Women,* released Mar. 1975.

[69] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[70] Nick Johnson, *How To Talk Back To Your Television Set.* New York: Bantam Books, 1970, p. 11.

[71] President's Commission on the Status of Women, "Consultation on the Portrayal of Women by the Mass Media," Wash., D.C.: U.S. Government Printing Office, 1963.

[72] Linda Busby, "Sex Role Research on the Mass Media," *Journal of Communication,* University of Pennsylvania, vol. 25, no. 4, 1975.

[73] "How do You Feel About Being A Woman"—the results of a *Redbook* questionnaire, *Redbook* magazine, Jan. 1973, p. 11.

[74] Busby, *op. cit.*

[75] *Television and Growing Up: The Impact of Televised Violence.* Report to the Surgeon General, U.S. Public Health Service from the Surgeon General's Scientific Advisory Committee on Television and Social Behavior. Wash., D.C.: U.S. Government Printing Office, 1972.

[76] J. L. Steinfeld, "TV Violence Is Harmful," *Readers Digest,* Apr. 1973, pp. 37–45.

[77] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[78] Hearings on Women and Poverty before the U.S. Commission on Civil Rights, Chicago, Ill., 1974.

[79] *Journal of Communications,* Annenberg School of Communications, University of Pennsylvania, spring 1974.

[80] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[81] FCC Docket No. 18244, FCC 68–702.

[82] "Report and Order" 18 FCC 2d 240 (1969).

[83] See FCC Report and Order in Docket No. 19296, Dec. 17, 1971.

[84] FCC Report and Order Docket No. 20550.

[85] 29 CFR 1604, 1605, 1606, and 1607.

[86] 41 CFR 60–2.

[87] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[88] For additional information, see "Public and Broadcasting, rev. ed.," Procedural Manual, Federal Communications Commission. *Federal Register,* Sept. 5, 1974, vol. 39, no. 173. Wash., D.C.

[89] Nearly 95 percent of the broadcast stations have fewer than 150 employees.

[90] *The Federal Civil Rights Enforcement Effect—1974: To Regulate in the Public Interest,* A Report of the United States Commission on Civil Rights, Nov. 1974, p. 30.

[91] See *Albermarle Paper Co.* v. *Moody,* 43 USLW 4480 (June 24, 1975) and *Griggs* v. *Duke Power Co.,* 401 U.S. 424 (1971).

[92] Brief for the United States Equal Employment Opportunity Commission as Amicus Curiae at 18, *NOW New York Chapter* v. *F.C.C.* no. 74–1853 (D.C. Cir. Appeal filed July 24, 1975).

[93] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[94] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[95] ACNO was established in 1972 by the Corporation for Public Broadcasting to give national support and advice to the board on the public needs and interests of public broadcasting.

[96] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[97] 47 CFR Part O.

[98] Recommendation approved by Media Committee Jan. 20, 1976; by IWY Commission Feb. 27, 1976.

[99] Standard Industrial Code.

[100] Executive Order 11246, Part II, secs. 201, 202, 203; Part III, sec. 301, 3 CFR, 1964–65 Comp., pp. 340, 341.

[101] 41 CFR sec. 60–1.46 (1974).

[102] 41 CFR sec. 60–1.6(b) (c) (e) (1974).

[103] *The Federal Civil Rights Enforcement Effort—1974 Volume V To Eleminate Employment Discrimination.* A Report of the United States Commission on Civil Rights, July 1975, p. 272.

[104] Recommendation approved by Media Committee, Feb. 26, 1976; by IWY Commission Feb. 27, 1976.

[105] Recommendation approved by Media Committee Feb. 27, 1976; by IWY Commission Feb. 27, 1976.

ERA—LET THE RECORD SPEAK

STATE ERA'S

Rose Di Florido, a Pennsylvania wife, is entitled to half the household goods at divorce even though her husband paid for them; the Pennsylvania Supreme Court has so ruled in interpreting the Equal Rights Amendment (ERA) in the State Constitution.[42]

Under Pennsylvania law, prior to that amendment, she would have been entitled only to what she could prove she had paid for. The court in 1975 said, ". . . we cannot accept an approach that would have ownership of household items on proof of funding alone, since to do so would . . . fail to acknowledge the *equally* important and often substantial nonmonetary contributions made by either spouse."[43]

Mrs. Corinne F. Cooper, a Texas homemaker for 16 years with custody of the minor children, was awarded at divorce more than half the community property and $1,500 monthly in child support, plus expenses for private school not to exceed $6,000 per year, and all medical and dental expenses incurred by them. Her husband, a wealthy physician, appealed on the grounds that the award was in conflict with the State ERA.[44] With respect to the award of property the Court of Civil Appeals said, "The difference in earning capacity and business opportunities would justify an unequal division of the community property."

The Court also upheld the child support award stating,

"If 'equality under the law shall not be denied or abridged because of sex,' it must be presumed that the legislature intended that the duty of the spouse[s] to support their minor children is equal. This does not mean, however, that the court must divide the burden of support of the minor children equally between the parties. The court's order in this respect should reflect a due consideration of the respective abilities of the spouses to contribute. The duty to support is not limited to the bare necessities. The court may consider the standards of living which the parties have maintained in the past . . ."

Bernard J. Buonocore, whose wife "separated herself from her husband and their children" leaving two minor children in his care, secured child support from his wife.[45] Her income was almost as large as his. The Superior Court of Pennsylvania said that in light of the enactment of the ERA, ". . . it is clear that both parents have an obligation to share in the support of their children to the extent of their financial capacity and ability."

The constitutions of 15 States include provisions explicitly prohibiting sex discrimination in the law.[46] The Women's Law Project of Philadelphia, under contract with the Commission, has collected the reported judicial interpretations from these States and found the fears of opponents unrealized.

Indeed, as indicated by the cases cited above, fairer decisions at divorce to homemakers, to children, and to husbands are resulting from State ERA's. The divorce cases are of great significance, for the legally enforceable support obligations of spouses toward each other and the children are spelled out at divorce.[47]

Rape laws have not been invalidated by State ERA's. State courts in Colorado, Illinois, Maryland, and Texas have all upheld rape provisions protecting only women and penalizing men, or penalizing men more severely.[48]

No laws prohibiting homosexual marriage have been invalidated,[49] and no laws providing for separate toilets have been overturned.

A member of the Board of Directors of the League of Women Voters of New York wrote to the governors of the States that have ERAs in their constitutions, asking whether women had lost any rights under the State ERA, whether public restrooms or sleeping quarters in public institutions or prison cells had been required to be integrated, and whether implementations had been costly or unwieldy.

Replies—all in the negative on all questions—were received from Alaska, Colorado, Connecticut, Hawaii, Maryland, New Mexico, Pennsylvania, Virginia, Washington, and Wyoming.

The following excerpts were particularly enlightening.

Alaska from Lou Anne Maxwell, Equal Employment Opportunity Officer, February 10, 1976:

"Women have not lost any rights in Alaska. To the contrary, although we have no actual studies to prove it, credit, housing, and employment have improved. Women are becoming more aware of their rights and the records of the State Human Rights Commission clearly indicate this—40 percent of the complaints filed are based on sex discrimination. Many women are being employed in jobs not usually open to women. For instance, there are now approximately 1,900 women employed on the Trans-Alaska Pipeline."

Maryland from Ellen Luff, Counsel, Governor's Commission to Study Implementation of the Equal Rights Amendment, January 14, 1976:[50]

"The allegations which have been made about Maryland which you repeat in your letter must be categorically denied. Specifically: (1) Maryland women have *not* lost rights or privileges because of the Equal Rights Amendment; (2) The legislature has *not* mandated sexual integration of public restrooms, prison cells, or sleeping quarters of public institutions, and (3) Implementation of the State ERA has been *neither* costly nor unwieldly."

It is unfortunate that the ERA opponents in various places have been able to make such an effective stand based on such obviously false statements.

Pennsylvania from Marie R. Keeney, Director, Commission for Women, January 21, 1976:[51]

"1. Pennsylvania women have not lost rights or privileges because of the equal rights provision, nor will they when the Federal ERA is ratified. To the contrary, women are in a stronger position, particularly in the domestic relations area as a result of the ERA. This is due to the fact that Pennsylvania is not a common property State, so before the ERA, women had no rights to the household goods in the case of divorce. Our Supreme Court has ruled that, thanks to the ERA, such property must be regarded as the equal property of husband and wife, and must be so divided in the case of divorce. In the case of alimony, new legislation has been passed that makes alimony during the divorce proceedings available to the economically dependent spouse, but this has not altered the rights of women who have not been the primary wage earners. Furthermore, in support cases, the Supreme Court has ruled that the contributions of the homemaker to the care of the children must be considered as an economic contribution in assessing the relative support obligations. So, for the first time, women's work in the home is legally recognized.

"2. There has been neither a mandate nor any action to integrate public restrooms, sleeping quarters in public institutions or prison cells. Absolutely no invasion of privacy in these areas has been encountered in the nearly 5 years the amendment has been in effect.

"3. Implementation has not proven costly or unwieldy, although the necessary statutory changes cannot be expected to occur with no special assignment of staff and effort. In Pennsylvania, the Commission for Women has the responsibility from Governor Shapp to oversee implementation of the ERA, and has completed the statutory review phase of this project. We are devoting a portion of our budget to insure that this process moves as rapidly as possible, but the requirements to date are certainly not unreasonable."

Washington from Governor Daniel J. Evans, February 5, 1976:

"I am aware of no classification of 'privileges' which a woman has lost because of adoption of the ERA. Alimony is awarded on a very limited basis in this State because of the Community Property Law. Adoption of the ERA and the implementing dissolution law merely makes it clear that either spouse may sue for support. A woman has not lost her right to be supported by her husband; rather she never had such a right. Support within a marriage has been a matter of custom and has never been guaranteed by law.

"The accusations concerning integration of facilities are so ridiculous, we in Washington have ceased to reply to them. Rights of privacy remain fully protected in this State, and thus our restroom facilities, prison cells, and sleeping quarters of public institutions remain totally segregated.

"The passage of the Equal Rights Amendment has brought Washington State a new commitment to the right of equal treatment for all our citizens. While there have undoubtedly been some costs incurred, they are far outweighed by the benefits."

With the letter from the Governor of *New Mexico* was enclosed a publication of the League of Women Voters of New Mexico summarizing the more important statutory changes resulting from the State ERA, including the right for wives of co-management of community property.[52]

The experience with State ERA's is particularly reassuring. State courts in interpreting State constitutions do not have legislative committee reports and debate in the legislature as a guide to the intent of the provision in question, as Federal courts have in interpreting the Federal Constitution. Nevertheless the State courts have almost universally made decisions in accord with the legislative history of the Federal ERA.[53]

Furthermore, the State legislatures, contrary to the predictions of opponents, have acted responsibly in legislating to implement the State ERAs. Washington has completely revised its laws with no loss of rights for women. New Mexico has an almost completed revision.

Many States without State constitutional amendments have made numerous changes in their laws since 1972 to bring them into alignment with ERA requirements. Wisconsin passed an omnibus bill not only revising its laws but directing administrative agencies to bring all of the administrative code into compliance.

ERAMERICA

The many national organizations supporting the ERA, which had long recognized the need for a national ERA educational program and a single authoritative source to provide factual information about the ERA, asked the ERA Committee to play a catalyst role. In response the Equal Rights Committee of the Commission brought together the organizations supporting the amendment and experts in carrying on campaigns.

ERAmerica was the result. ERAmerica, co-

Footnotes at end of article.

chaired by Liz Carpenter and Elly Peterson, is a private umbrella organization, privately funded, and completely independent of the Commission.

The complete report of the ERA Committee's role in establishing ERAmerica appears in Part V.

CONTINUED NEED FOR ERA

While the debate about the ERA has led to many positive changes, these do not reduce the need for the amendment.

All of the laws could be easily changed, and new threats to equality of rights under the law could be mounted under new guises if a guarantee is not enshrined in the Constitution.

Furthermore, the new laws are not universal. For example, five of the eight community property States have given wives co-management rights, but three have not. Only a few States have recognized the contribution of the homemaker as a factor to be considered in dividing property at divorce.

Another important reason why the ERA is necessary is the leverage it gives for seeking the fundamental changes in domestic relations and property law—changes that will achieve the Commission's goal of marriage as a full partnership.

ROLE OF MEDIA

Why, with the need established—an excellent legislative history and widespread support—has the ERA not already been ratified? It has the support of both parties, all recent Presidents, the American Bar Association, unions, church organizations, and practically all women's groups with a tradition of action in behalf of women.

A campaign to discredit the ERA, which has confused the public, has been mounted by ad hoc organizations, such as Stop ERA, Happiness of Womanhood, and Operation Awake. Statements of effects on the law of the ERA have been circulated. Many of the statements are distortions, half truths, or outright misrepresentations.

As Eileen Shanahan, the distinguished New York Times reporter, told a seminar for the press on the ERA,[54] it has been difficult for the press to report the ERA because the typically short press deadlines make it all but impossible to check out Phyllis Schlafly's "systematic misrepresentation." Mrs. Schlafly leads opposition to the Equal Rights Amendment.

Susan Dellar Ross, coauthor of a textbook Sex Discrimination and the Law and author of The Rights of Women, urged in the same seminar that the press must distinguish between policy and legal issues. Constitutional authorities should be consulted on legal issues, she said, and lay persons on policy issues.

Jill Ruckelshaus in a speech at the National Press Club on September 12, 1975, drew attention to the imbalance of media coverage that gives the same weight to the opinions of the Stop ERA forces as to the majority report of the Senate Judiciary Committee on the amendment. "This isn't a question of one opinion about the ERA having equal standing with a contrary opinion," she said:

"When the courts interpret the Equal Rights Amendment, they will not turn to a Stop ERA pamphlet; rather, they will look to the one authentic piece of legislative history we have: the Senate Judiciary Committee report on the Amendment, which answers well many of the questions Amendment opponents are raising. To balance a Stop ERA opinion against the Senate Judiciary Report is to be off balance in objective, informed reporting. The two just aren't equal, and to report them as such in the media is to give a misleading impression."

Again in an article in *The Bulletin of the American Society of Newspaper Editors* for March 1976, she stressed the importance of in-depth reporting:

"We are happy that many newspapers support ERA on their editorial pages, basing those endorsements on informed interpretations of what ERA will mean. But we are dismayed by the number of newspapers across the country which have not done an in-depth news analysis of ERA and which, either in ignorance or under a false assumption of fairness, have perpetuated inaccurate information spread by ERA opponents."[55]

When former Congresswoman Martha Griffiths and leaders of the opponents are quoted as equally credible authorities, the public is sadly misled. Congresswoman Griffiths was the leading proponent of the ERA in the House of Representatives and her views expressed there will be quoted by judges to support their interpretations of the ERA.

When a charge that the Colorado ERA has resulted in legalizing homosexual marriage is quoted without checking with Colorado authorities, the readers or hearers are denied the truth. This story, which has been repeated in many States, is typical of the misrepresentations. It is true that a local clerk issued marriage licenses to men, but it is also true that the Attorney General of Colorado held the licenses invalid.[56] It is also true that the District Attorney who advised the clerk thought the marriage law, not the ERA, authorized the licenses.

Another example of a misrepresentation that has gained widespread publicity is a charge that the Ohio Task Force Report for the implementation of the Equal Rights Amendment says that "ERA will require government-financed child-care centers . . ."[57]

The report says no such thing. The task force made recommendations for changes in law required to implement the ERA *and* changes that Ohio women wanted based on hearings throughout the State. It is clear in the report that the recommendation on child care is in the second category of desired changes. Even after this distinction was pointed out to opponents, they continued to make this false charge in speeches. Even a large number of letters to the editors by the Ohio Task Force cannot seem to catch up with this falsehood.

There are hopeful signs that some newspapers and radio and TV stations are attempting to give more sophisticated coverage. *The New York Times Magazine* for April 11, 1976, included an excellent article, "You'll Probably Think I'm Stupid" by Martha Veinman Lear,[58] describing the distortions and misrepresentations of the opponents.

On the other hand, the National Press Club ERA seminar referred to above attracted few reporters, although it was an excellent program designed to help reporters give intelligent coverage to the ERA.

ERAmerica and the Commission will continue to stress reliable in-depth media coverage, confident that an accurately informed public will assure that the required 38 States will have ratified by March 1979 the proposed 27th Amendment to the Constitution of the United States, the Equal Rights Amendment.[59]

FOOTNOTES

[42] Art. I, sec. 28, May 1971.

[43] *Di Florido* v. *Di Florido*, 331 A. 2d 174 (Sup. Ct. 1975).

[44] *Cooper* v. *Cooper*, 513 S.W. 2d 22g (Ct. of Civil Appeals, 1974). The following year the same court amplified its interpretation in *Friedman* v. *Friedman*, 521 S.W. 2d 111 with the following, It only provides that each parent has the equal obligation, in accordance with his or her ability, to contribute money or *services* which are necessary for the support and maintenance of his or her children" (emphasis supplied).

[45] Com. Ex. Rel. *Buonocore* v. *Buonocore*, 340 A. 2d. 579, 1975.

[46] The Wyoming and Utah provisions were adopted prior to 1900 and have not been interpreted consistent with modern understanding of an equal rights amendment. The Virginia amendment includes an exception permitting separation of the sexes and has been interpreted by the Virginia Supreme Court as permitting women to decline jury service without reason. The Illinois ERA uses the "equal protection" language of the 14th amendment to the U.S. Constitution, but the Illinois Supreme Court has interpreted the amendment in as strict a fashion as the courts of other States have interpreted ERA's worded like the Federal ERA. *People* v. *Ellis*, 311 N.E. 2d 98, 1974.

[47] Citizens' Advisory Council on the Status of Women, *Women in 1971*, U.S. Government Printing Office, Wash., D.C. 20402, p. 36.

[48] *People* v. *Green*, 514 P. 2d 769 (Sup. Ct., 1973). *People* v. *Medrano*, 321 N.E. 2d 97 (Appellate Ct. of Ill.., 1974). *Brooks* v. *Maryland*, 330 A. 2d 670 (Ct. of Spec. Appeals, 1975). *Finley* v. *Texas*, 527 S.W. 2d 553 (Ct. of Criminal Appeals of Tex., 1975).

[49] *Singer* v. *Hara*, 522 P. 2d 1187 (Ct. of Appeals, 1974).

[50] In a letter to the *Wall St. Journal* of October 29, 1975, the Governor's Commission said: "Rather than producing a loss of rights or privileges for our citizens, the Amendment has been a stimulus for constructive change, and has produced a greater equality of the sexes. Throughout the process of ERA implementation, there has been no intimation whatsoever that the legislature or the courts would thrust inequitable or preposterous measures upon the citizenry of Maryland." Copy of paper on implementation in Maryland is available from the Commission, Shaw House, 21 State Circle, Annapolis, Md. 21404.

[51] Paper on "The Impact of the State Equal Rights Amendment in Pennsylvania Since 1971" is available from the Pennsylvania Commission for Women, Office of the Governor, Harrisburg, Pa. 17120.

[52] Copies may be secured from the League of Women Voters of New Mexico, 219 Shelby St., Room 211, Santa Fe, N. Mex. 87501.

[53] For a discussion of the legislative history of the ERA and its importance, see *Women in 1973*, the annual report of the Citizens' Advisory Council on the Status of Women, U.S. Government Printing Office, Wash., D.C. 20402, p. 37.

[54] National Press Club, Seminar for the Media on the Equal Rights Amendment, Wash., D.C., Apr. 10, 1976.

[55] P. 8.

[56] Letter of Apr. 24, 1975, from Attorney General of Colo. to Honorable Ruben Valdez, Speaker, House of Representatives and call to Attorney General on Apr. 15, 1976.

[57] The *Phyllis Schlafly Report*, Nov. 1957, p. 1.

[58] P. 30 ff.

[59] At the time of this report, 34 States had already ratified the amendment.

Equal Rights Amendment Committee[8]

Report of Equal Rights Amendment Committee[9]

The ERA Committee herewith presents the report of its activities looking toward the realization of the IWY Commission's number one priority—developing a factual and educational program focusing on the Equal Rights Amendment. The ERA Committee action is the culmination of the following process:

Executive Order of the President

The Executive order from the President of the United States was issued January 9, 1975, "establishing a National Commission on the Observance of International Women's Year, 1975." This action was taken as a result of Presidential Proclamation No. 4262 of January 30, 1974, which called upon

". . . the Congress and the people of the United States, interested groups and organizations, officials of the Federal Government

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Footnotes at end of article.

and of State and local governments, educational institutions, and all others who can be of help, to provide for the national observance of International Women's Year with practical and constructive measures for the advancement of women in the United States."

The function of the IWY Commission was delineated to read: ". . . it will focus attention on the need to encourage appropriate and relevant cooperative activity in the field of women's rights and responsibilities." Specifically, it continues, "The Commission shall take as its action agenda the relevant part of the resolution adopted by the United Nations General Assembly proclaiming 1975 as International Women's Year." The first consideration was "to promote equality between men and women."

In order to be truly representative of the concerns of the American public, the Executive order states: "The Commission shall encourage the public and private sectors to set forth objectives to be achieved as part of the program observing International Women's Year, as provided in the Presidential Proclamation." The IWY Commission was given the authority to ". . . establish within the limits of available funds, such subcommittees or working groups as may be necessary for the fulfillment of its tasks."

ERA Committee

In April 1975 the IWY Commission members were appointed and on April 14 and 15 the full IWY Commission met for the first time and chose ratifications of the Equal Rights Amendment as its top priority issue. Currently ratified by 34 of the 38 States necessary for it to become the 27th amendment of the U.S. Constitution, the ERA must be acted upon in State legislatures by March 22, 1979. The following resolution was unanimously passed:

> The National Commission on the Observance of International Women's Year, as its first public action and highest priority urges the ratification of the Equal Rights Amendment.
>
> We believe the prompt ratification of the amendment is essential to the realization of full equality for women and to the fulfillment of American democracy.
>
> We commend the work of the thousands of women and men, in and out of government, whose dedication has brought the amendment so close to ratification.
>
> As our main commitment to the observance of International Women's Year, we pledge to do all in our capacity to see that the Equal Rights Amendment is ratified at the earliest possible moment. We urge all Americans to join us in this effort.

To fulfill this commitment, an ERA Committee was established. Jill Ruckelshaus, Presiding Officer of the Commission, appointed Congresswoman Margaret Heckler and Alan Alda as the Co-Chairs. The Commission members appointed to the ERA Committee included Senator Birch Bayh, Patricia Carbine, Honorable Martha Griffiths, Audrey Colom, Casey Eike, Paula Gibson, and Clare Booth Luce. Public members with expertise in varied areas were also asked to serve on the ERA Committee.

Official ruling on ERA Committee's activities

The ERA Committee's first endeavor was to outline the parameters of their charge under the guidelines established for a Presidential commission. A ruling was requested from the General Accounting Office. In the opinion of the Comptroller General of the United States:

> "The Executive order confers wide discretion upon the commission as to how it should, *inter alia*, actively promote equality between men and women. The Commission in the exercise of that discretion has resolved to favor ratification of the ERA. To effectuate the commission's resolution, the ERA Subcommittee intends to educate interested parties as to the impact of the amendment on sexual inequality in the United States and consult with experts on how to best communicate the facts about the ERA. In our view, the Subcommittee's planned activities are within the scope of the Executive order, both in letter and spirit."

The ERA Committee then began its task of developing a national program to communicate the facts concerning the ERA by creating a healthy atmosphere for discussion of the Equal Rights Amendment. The ERA Committee recognized the ERA as the necessary constitutional guarantee of legal equality for all Americans.

Request from nongovernmental organizations

Concurrent with the IWY Commission's interest in the ERA, many prominent organizations concerned with issues of significance to women were meeting to coordinate their efforts on behalf of ERA. These organizations included the National Federation of Business and Professional Women's Clubs, League of Women Voters, National Women's Political Caucus, National Woman's Party, American Association of University Women, Common Cause, National Organization for Women, and representatives from both church and labor coalitions.

The consensus from these organizations, representing a broad spectrum of the American public, was that a national ERA program was essential. The need for a single independent umbrella organization became apparent: To unify the many existing ERA programs and to draw together the available resources of expertise and talent and coordinate them for maximum effectiveness.

Thousands of women throughout the United States were calling for a single, authoritative source to emphasize the vital importance of the ERA to their futures. The facts supporting the necessity for the ERA are substantial, but the proposed amendment continues to be misrepresented and misconstrued.

The tentative structure for an independent ERA organization was formulated. However, all the separate units involved recognized the need for professional advice and for an outside force to act as convener and catalyst for the proposed organization. Because of its commitment to ERA, its own representative make-up, and because it was within the scope of the Executive order, the IWY Commission was requested to act in the catalyst role.

Role of IWY Commission

The ERA Committee determined that it must seek professional advice on a national ERA program to insure the best methods to attain its goal. The importance of such a program was further stressed by the results of a public opinion survey commissioned by IWY. The survey indicated that a majority of the women interviewed favored efforts to change women's status in society; however, a significant number of women were not familiar with the Equal Rights Amendment. Clearly an educational effort was appropriate.

To respond to the request of nongovernmental organzations and to guide the future role of the ERA Committee, a Consultant's Day was sponsored by the IWY Commission. Participants in this session included consultants from across the country with diverse areas of expertise, representatives from major national organizations, and labor and church coalitions. From this forum came the evaluation that a comprehensive ERA program would best be accomplished through an independent, national organization with the ERA Committee acting as catalyst.

Under the auspices of the ERA Committee, national organizations continued to meet to determine a viable structure for the new organization, utilizing the information received from the consultants. An efficient organizational plan was thus developed. To implement the plan, the most outstanding people available had to be involved. At the strong urging of Congresswoman Margaret Heckler and Alan Alda, two nationally prominent women, Liz Carpenter and Elly Peterson, agreed to serve as Co-Chairs of the new organization—ERAmerica.

The ERA Committee has performed the significant function of a convener and catalyst for ERAmerica, the independent focus for the Equal Rights Amendment.

ERAmerica

ERAmerica will be a separate entity from the IWY Commission. The independent organization anticipates an official announcement within the next month[10] defining its goals and strategy. This interim period is designed to gather the necessary financial resources from the over 100 organizations, representing a broad spectrum of the American public, that have endorsed the Equal Rights Amendment.

Substantial commitments of staff and office space have already been secured from the organizations that requested IWY involvement.

Summary

According to ERA Committee Co-Chairs Heckler and Alda,

> "ERAmerica represents an extremely positive response for the Equal Rights Amendment, an issue vital to the future well-being of all Americans. The ERA Committee has fulfilled its mandate to the women of this Nation—to faithfully act in their interest to provide the best possible method to communicate the facts relevant to the Equal Rights Amendment. ERAmerica epitomizes our common goal. This organization holds the promise of future legal equality for all."

Text of Equal Rights Amendment

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect 2 years after the date of ratification.

FOOTNOTES

[8] IWY Commission members: Congresswoman Margaret M. Heckler and Alan Alda, Co-Chairs; and Senator Birch Bayh, Patricia T. Carbine, Audrey Rowe Colom, Casey Eike, Paula Gibson, Honorable Martha Griffiths, and Clare Boothe Luce. Public members: Candice Bergen, photographer and actress; Carol Burnett, actress; Diahann Carroll, actress; Howard Cosell, sportscaster; Ossie Davis, actor; Ruby Dee, actress; Lee Elder, professional golfer; Kay Faucher, President of Massachusetts Federation of Women's Clubs; Valerie Harper, actress; Robert Ludlum, author; Mary Tyler Moore, actress; Tony Randall, actor; Marguerite Rawalt, attorney and member of the 1961 President's Commission on the Status of Women; Marlo Thomas, actress; Ruth Thone, executive board of the Women's Campaign Fund; Gary Trudeau, political cartoonist ("Doonesbury"); and Nancy Wilson, singer.

Staff members: Mariwyn Heath and Ellen Boddie.

[9] Accepted by IWY Commission Jan. 15, 1976.

[10] Opening press conference, Feb. 25, 1976.

S. 3823—THE OMNIBUS RIVERS AND HARBORS BILL

Mr. GARY HART. Mr. President, in the next several days, we will have the difficult task of considering S. 3823, the Omnibus Rivers and Harbors bill. This bill authorizes funding for a number of diverse water projects for fiscal year 1978. Among these projects is the controversial Locks and Dam 26 replacement at Alton, Ill.

There are quite a number of questions which remain to be answered on this issue. There is the question of whether the existing facility is in good condition. Much of the evidence received by the Committee on Public Works suggests that the present locks and dam are structurally sound.

There is the question of whether it is costlier to repair the old structure or build a new one. The Corps claims that rehabilitation of the old structure will cost more than building a new one, but two other engineering proposals submitted to the committee claim to be able to completely rehabilitate the facility for a fraction of the Corps' cost estimates.

There are questions on how this authorization will affect the pending NEPA litigation, and whether the Corps' assessment of the environmental impacts of this project is adequate.

While none of these questions have been satisfactorily answered, the committee has decided to go ahead without the answers.

But, perhaps the most perplexing problem involves the unanswered question of the economic justifications for the project. The Corps' justifications have been challenged by a wide range of witnesses before the committee, including the U.S. Department of Transportation. In addition, Dr. Robert Haveman, a well known economist submitted an 86-page statement to the committee outlining his objections to the manner in which the Corps has justified this questionable project, and I ask unanimous consent that Dr. Haveman's short synopsis of his testimony be printed in the RECORD at the conclusion of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARY HART. Mr. President, I opposed this project in committee because of the lengthy list of unanswered questions. Dr. Haveman's statement is a discussion of only one of these. I urge my colleagues to pay close attention to the debate on this project in the coming days to ascertain for themselves whether the Senate has information enough to approve this project.

The exhibit follows:

EXHIBIT 1

STATEMENT OF ROBERT H. HAVEMAN

Mr. Chairman, my name is Robert Haveman and I am a Professor of Economics at the University of Wisconsin-Madison. Currently, I am on leave from the University and am a Fellow at the Netherlands Institute for Advanced Study in The Hague. I have returned to the United States for the express purpose of testifying before this Committee.

My primary fields of research include benefit-cost analysis, water resource and environmental economics, and public finance. Prior to assuming my present position, I served as Senior Economist, Subcommittee on Economy in Government, Joint Economic Committee of the United States Congress and as a Research Associate at Resources for the Future, Inc., Washington, D.C. I have written twenty-five articles and six books in these areas (see partial bibliography, attached). Two of the books are benefit-cost analyses of water resources investment activities of the U.S. Army Corps of Engineers.

Today I wish to make a very simple, but exceedingly important point. It relates to this fundamental economic principle. *Because of the Corps' tactics in the ongoing controversy surrounding this project, this Committee and the Congress have been put in the unenviable, embarrassing—indeed, impossible—position of being pressured to approve a project for which no credible economic evaluation exists.* At a time in which increasing standards of responsibility, openness, and prudence are being demanded of the Congress—and within a year of passage of major budget reform legislation which embodies a commitment to objective evaluation prior to action—the Corps is asking your approval of a one-half billion dollar expenditure on the basis of (1) their statement that it is necessary, (2) an economic evaluation which a college sophomore would be embarrassed to submit as a term paper and (3) the pleadings of special interest groups which seek to be subsidized by U.S. taxpayers through this project. Congress' accession to the request for authorization must be interpreted as a capitulation to those vested interests.

Let me give you some evidence for my simple point. As you are well aware, litigation surrounding this project has been in process for nearly two years. In response to this opposition, the Corps has adopted tactics superbly designed to confuse and obfuscate the merits of the proposed replacement of Locks and Dam 26. They include:

1. The Corps has cited or issued at least 6 major reports on the project in two years time, totaling thousands of pages.

2. The Corps has shifted the basic rationale for the project from report to report—from provision of sufficient capacity to meet future needs to reducing delays for existing traffic to replacing a structure which has suddenly become unreliable from an engineering and safety standpoint.

3. The Corps has changed the size and design of the recommended project from report to report. Last year they proposed two 1200-foot locks in a new dam. This year they propose a build now-study later plan in which one 1200-foot lock would be built in now, with perhaps a second one added later.

4. The Corps has changed the relationship of the project to the proposed 12-foot channelization of the Upper Mississippi System—at first it was admitted to be a part of that long-run plan, now it is claimed to be but an individual project without relationship to the 12-foot channel.

5. The Corps changed the system of which this project is viewed to be a part—in 1974 construction of 15 additional locks was seen as necessary over the 50 years of project life for benefits to be realized; in 1975 construction at only 8 points was seen to be required; now, the Corps claims that no additional construction is necessary.

6. The Corps changed the estimated capacity of the existing facility—in 1974, the Corps argued that the capacity of the existing lock was 46 million tons per year; now they admit that it is 73 million tons and concede that it may be as much as 90 million tons.

7. The Corps has completely revised the economic framework for evaluating the benefits of the proposed project. In 1974, it was a lock-by lock analysis; in 1975, it was a partial system-wide evaluation with the reduction in delay costs accounting for 75 percent of total benefits; in 1976, it was a modified, partial system-wide analysis with no delay cost reduction benefits.

8. The Corps has altered the projection of future expected waterway traffic. In 1974, waterway traffic in 1985 was projected to be 77 million tons; in 1975, it was projected to be 85.8 million tons; in 1976, it was projected to be 76.2 million tons.

9. The Corps has changed the estimate of rate savings to shippers from an average of $3.97 per ton in 1974 to an average of $5.00 per ton in 1975.

10. The Corps has changed the amount which it will cost to rehabilitate the existing structure. In 1974, rehabilitation was estimated to cost $91 million; in 1975, it ranged from $346 to $402 million; in 1976, it was either $250 or $402 million.

11. The Corps has changed the estimate of the financial damage which the project will impose on other transportation modes. In 1974, it was zero; in 1975, an average annual revenue loss of $382 million per year was estimated; in 1976 the rail revenue loss was estimated to be $135 million per year.

12. The Corps has changed the method of analysis used to estimate capacities of the various alternatives. In 1974, the procedure used was a computer simulation model and an assumption that capacity was reached when average delays build up to 2½ hours per tow; in 1975, the procedure employed was a combination of the "full utilization" method and adjusted results from a non-systemic computer simulation model. Contrary to Corps' assertions, these procedures may not give similar results.

13. The Corps has changed the method used to measure the savings in delay costs. In 1974, delay costs were measured by estimating the wages, capital, and inventory losses from delays; in 1975, delay costs were estimated by increased transportation charges for shippers diverted from the waterway. As stated above, in 1976 there were no delay cost savings claimed. As a result, average annual delay cost savings were estimated to be $9 million in 1974 and $285 million in 1975.

As a result of the tactic of countering criticisms of weakness in studies by alternative, but equally weak, studies, the Corps has created a veritable grab-bag of conflicting analyses. This Committee and the Congress have been left holding that bag. Can this Committee go to the Congress and to the people and, without embarrassment, state that you know:

What the capacity of the existing facility is?

How much it will cost to rehabilitate that structure?

How much future waterway traffic will develop in future years?

What the rate savings to shippers will be?

How much reduction in delays and delay costs will be achieved?

What other complementary expenditures will have to be made to achieve the benefits of the facility?

What harmful economic effects the project will have on the railroads?

Whether the existing structure has engineering integrity?

I assert that you cannot. Any pie-in-the-sky figure you pull out from the Corps' grab-bag can be matched by an equally unreliable alternative Corps estimate. To require the American public to contribute one-half billion dollars to this enterprise with no more justification and evidence of economic effects than you now have in hand will not go far in restoring the confidence of citizens in this Committee or the Congress.

Where then does the truth regarding the effect of this project on the economic welfare of U.S. citizens lie? I must admit that I do not know with confidence. The Corps' tactics have confused me as I suspect they have confused you. However, after studying in detail each of the Corps' analyses and examining their data and evidence and that of others, I do have some preliminary professional judgments on this proposal. These judgments must be preliminary because of the Corps' refusal to release much of the evidence and calculations on which their several analyses are based.

On the basis of all the evidence now available, my preliminary professional judgments are that:

1. There is no danger of the existing facility exhausting its capacity until at least 1990 and probably later, if modest improvements in operating procedures are installed and some of the practices of the bargeline industry inducing unnecessary congestion are curbed.

2. All of the Corps' projections of future waterway traffic are excessive—probably in the neighborhood of exaggerating 1972 to 1985 growth by 300 to 400 percent.

3. Existing delays at the facility are in a very real sense engineered by the Corps through its failure to undertake any action which could streamline the operation of the facility.

4. Corps estimates of rate savings are unreliable and misleading and exaggerate calculated benefits greatly. The study on which these estimates are based violates basic principles of estimation.

5. Corps projections of delay costs and delay times at the existing facility are ludicrous. Can anyone believe that shippers will wait an average of 2.5 weeks in order to pass through Locks and Dam 26 in the year 2000 when there are ready alternative means of transportation at hand?

6. Corps estimates of the costs of rehabilitating the existing structure are grossly *over*stated; those for replacing it are grossly *under*stated.

7. Accepting the Corps' own data, *there are net benefits from delaying the start of construction until 1979. That is, the benefits of delaying an initial appropriation are in excess of costs.*

8. The quality of the economic data and analysis fails to meet minimal professional standards. It should be an embarrassment to the Corps; it would be to one of my students.

9. The Corps has failed to consider all alternatives for efficiently moving future traffic. In particular, the costs (mainly private) required of other modes to do the same task as the barge industry have been grossly misevaluated.

10. The Corps has seriously underestimated the adverse effects which the project will have on alternative transport modes and on the nation's efforts to build an efficient transport system.

In addition to these professional judgments. I have one confident forecast: if the Committee approves this project, the *same* estimates of benefits will reappear numerous additional times in justification of additional projects on the Upper Mississippi River System. They are regarded by the Corps as system and not project benefits. This project, then, is but the first in a series of 20 year proposals.

What then do I recommend? I have but two suggestions. Both of these suggestions are designed to protect this Committee and the Congress from becoming unwitting victims of the gross irresponsibility underlying this proposal.

1. This Committee should ask one simple question of both the Congressional Budget Office and the General Accounting Office—both arms of the Congress and both with extensive professional competence in the area of program and project appraisal. The question: *Does this Committee and the Congress have sufficient reliable information on the economic effects of this project on waterway shippers, railroads and other affected persons to provide a reasonable expectation that a favorable decision will be in the national interest?*

2. If the answer to this question is negative, the Committee should request the advice of these two offices on the nature and content of additional studies and analysis which should be undertaken prior to a decision.

As I have suggested, there is no need for a hasty decision. Indeed, the benefits of postponing a construction start outweigh the costs. There is time to obtain the analysis required for a sound and economic decision.

ALASKAN OIL

Mr. STEVENS. Mr. President, this morning the Senate Interior and Commerce Committees held joint hearings on the problems of the transportation of Alaskan oil. As I have discussed with the Senate before, it now appears there will be more oil on the west coast in 1978 when the Alaska oil pipeline reaches full initial capacity than the west coast can use. This extra oil is a national asset which must be used by those areas of the country which now depend heavily upon foreign oil.

There are a variety of proposals to allow the oil to be used by the rest of the Nation. The only one that offers real promise of being available when we need it and is suitable for continuing long-term use is a proposal by Sohio to convert an existing natural gas line to carry the oil from Long Beach, Calif., to Midland, Tex. That proposal can be available shortly after the surplus develops and will be completed at a very reasonable price. But opposition has surfaced to that line, allegedly based on a concern about air pollution in the Long Beach area. As I discussed with my colleagues yesterday, this opposition is really a smokescreen which diverts attention from what seems to be California's main interest, which is to stand in the way of use of this oil by the rest of the Nation.

Today, another article appeared which causes further concern about California's position on this matter. On the front page of the New York Times this morning a report on the California situation appeared which indicates that California's position remains to oppose the Sohio project.

But I am also pleased to report to the Senate that not everyone in California opposes this project. This morning, the Los Angeles Times contained an editorial entitled, "Letting the Oil In," which argues for allowing the Sohio project to proceed. The Times indicates that although the Sohio project is controversial, California should allow it to proceed so that California will be in a bargaining position when future energy shortages develop. I agree and urge those in California to carefully consider this problem.

I ask unanimous consent that both articles be placed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 21, 1976]

California Snubs Alaska Oil, Forcing United States to Reconsider

(By Edward Cowan)

Sacramento, Calif.—Unexpected opposition by the State of California to the delivery by tankers of Alaskan oil to a terminal near Los Angeles has forced Washington to reconsider basic assumptions concerning the long-awaited Alaska pipeline.

Environmental issues and also economic fundamentals, such as a projected West Coast oil surplus, have led Washington to consider whether United States oil from Alaska's Prudhoe Bay should be sent to Japan, rather than to California, or perhaps shipped via a permanent supply route through the Panama Canal to American refineries on the Gulf of Mexico and the East Coast.

California's position has stunned Washington inasmuch as there was no hint of it in the long bitter debate that preceded approval by Congress three years ago of the Alaska pipeline, a project the Government has counted on to diminish American dependence on foreign oil.

The Standard Oil Company (Ohio), which has the largest single interest in Prudhoe Bay's proven reserves of 9.6 billion barrels, wants to unload the oil at Long Beach, Calif., for pipeline relay to Texas and then onto refineries on the Gulf Coast and in the Middle West.

The Federal Energy Administration, although officially uncommitted, leans toward the Sohio proposal. California, however, contends that unloading 1.2 million barrels a day in 1977 and up to 1.6 million by 1980 could add hydrocarbons to the already dirty air of southern California.

Meanwhile, the unfolding Federal-state dispute over oil and the environment has taken on partisan overtones. Associates of Governor Edmund G. Brown Jr., a prominent Democrat who vied for his party's Presidential nomination earlier this year, have said Washington sees the problem too much through Sohio's lens.

Tom Quinn, chairman of the state's Air Resources Board and a political ally of Governor Brown, has presented the state's views in person and by letter to the Federal Energy Administrator, Frank G. Zarb.

Richard Maulin, chairman of the California Energy Commission, has suggested by letter to the Senate Interior Committee that exporting Alaskan oil to Japan "should be more carefully and objectively evaluated with respect to overall national economic costs and benefits before being prematurely rejected for ill-defined and questionable national security reasons."

Sohio has suggested that Prudhoe Bay oil could be exported to Japan as a "swap" for Persian Gulf oil that would be diverted from Japan to United States refineries. Essentially, such a swap would be an export in the usual sense, except for some small cost reduction that the American refineries presumably would realize and might possibility share with consumers.

Exportation of the oil or a swap, rather than delivery through California, would mean North Slope oil would not diminish United States dependence on imports of foreign oil, now running at more than six million barrels a day.

TRANSPORT TO BE AVAILABLE

American-flag tankers for temporary shipment of up to 250,000 barrels a day through the Panama Canal are expected to be available for 1978–79, pending completion of an overland pipeline from Long Beach. An additional 100,000 to 400,000 barrels a day may be exported or moved to American refineries by some other means, perhaps by foreign ships.

The Federal Energy Administration, in a yet unpublished study, calculates the following delivery costs from Valdez, Alaska, to Houston refineries:

By tanker and by pipeline from Los Angeles $1.82 a barrel.

By tanker through the Panama Canal, $2.14 to $2.45, depending on ship size.

By very large crude carriers around Cape Horn, $2.65.

Also pending are proposals to build pipelines to deliver crude oil to "Northern tier" refineries in Minnesota, Wisconsin and Michigan. Crude oil supplies from Canada are to be cut back to zero by 1982. Lines from Kitimat, British Columbia, or Port Angeles, Wash., have been proposed, but it appears that neither would absorb the entire West Coast surplus of North Slope oil.

LIVELY POSTSCRIPT TO DEBATE

Because of its environmental economic and political ramifications, the dispute shapes up as a lively postscript to the long debate that culminated in passage of the 1973 law that authorized an oil pipeline from Prudhoe Bay to Valdez.

Although described as 80 percent complete, that 800-mile pipeline may be unable to start carrying oil on schedule late next year because of unresolved safety problems and possible delays in terminal construction.

Congress authorized the pipeline after being told by the Administration and the oil industry that Prudhoe Bay oil would be consumed on the West Coast. Now, it appears that there will be a large West Coast surplus of up to 800,000 barrels a day by 1980, and more later as production rises to 1.6 million barrels a day.

SENATE HEARINGS DUE MONDAY

According to the industry and the Administration, the surplus results from the big 1974 jump in oil prices and the resulting slowdown in the growth of consumption, plus the start in July 1976 of commercial production at the Elk Hills Naval Petroleum Reserve in California.

The Senate Interior Committee is expected to hold hearings next Monday on the whole issue.

Sohio plans to build a 200-mile pipeline across California to join with an 800-mile El Paso Natural Gas Company line from the Arizona border to Midland, Tex., El Commission for permission to stop its intermittent use of the line in order to lease it to Sohio. The energy agency is expected to support the application, California is expected to oppose.

California officials contend that Washington does not appreciate the severity of the air-pollution problem in southern California and that Federal energy officials are too sympathetic to Sohio.

Introducing a partisan note, Eli Chernow, a special assistant to Governor Brown, said in an interview: "It's hard to believe that Jimmy Carter would be as sympathetic to every claim of the oil companies as the Federal Energy Administratin and the Interior Department have been. Sohio asserts its interest. The F.E.A. seems to accept that as in the national interest without questioning whether the national interest might call for something else."

Mr. Zarb, the F.E.A.'s head, retorted: "I represent the agency, and I say that's nonsense"

Quoting Democratic Assemblyman Charles Warren, Mr. Chernow said: "What we have here is essentially a marketing problem for one company," Sohio.

Mr. Zarb said that in a July 29 meeting with Mr. Chernow and Mr. Quinn, the chairman of the Air Resources board, he told them, I was going to keep my mind open." Mr. Zarb also said that his agency's draft report on the problem would be sent to California and other states "for discussion."

The California officials have said they could not license unloading of big tankers from Alaska unless Washington wrote regulations adequate to protect the South Coast Air Basin.

That might be feasible, Mr. Zarb said, "if their requirements are rational and reasonable. I want to see specifically what they are."

Mr. Chernow accepted the Federal contention that it was not certain that the tankers would purge their empty tanks in port and push hydrocarbon vapors into the atmosphere. However, he said, "the risk is unacceptable."

[From the Los Angeles Times, Sept. 21, 1976]

LETTING THE OIL IN

Sometime early in 1978, valves will be opened and more than a million barrels of oil per day will flow southward through pipes from Alaska's North Slope into tankers' holds at the port of Valdez. The oil's route after that is still uncertain.

Standard Oil Co. of Ohio, which controls about half the oil, wants to build a supertanker facility in Long Beach harbor. Some of the Alaska oil unloaded there would be used in Southern California, but most would be shipped through gas pipelines, now idle, to Texas for further distribution throughout the central states.

Standard's proposal is controversial. Concerns have been voiced about the risk of oil spills, the possible worsening of air pollution, the takeover of pipelines that might be needed again for gas if California ever succeeds in securing bigger supplies from the gas fields of the Southwest. Many Californians would just as soon not have another big oil facility in the state.

We think the facility belongs in California—in a safe harbor like Long Beach, if the pollution problems can be overcome. If not, then somewhere along the California coast.

Few people enjoy looking at oil terminals, or smelling them, but the nation's and California's interests will both be served by having the facility here.

The nation needs it because the alternative is shipping the oil in smaller tankers—and at greater expense—through the Panama Canal to Texas, or selling the oil to Japan in exchange for Persian Gulf oil that has been contracted to Japan. Neither arrangement would reduce the vulnerability of America's energy supply in time of international upheaval, and reducing that vulnerability is a major goal of the massive efforts to develop Alaska's oil resources.

California should accommodate the terminal because the state's refusal to help in this national effort would surely cause trouble for California in future energy shortages, when Congress and regulatory agencies have to ration short supplies among competing regional demands.

Air-pollution questions have to be answered before a site is chosen. But the Long Beach site seems satisfactory in other ways. Oil spills are less likely there than at an exposed location along the open coast, and the gas pipelines that Standard wants to use are otherwise almost sure to remain idle, for natural gas is getting scarcer all the time in New Mexico, Oklahoma and Texas. California is unlikely ever to obtain substantial new gas supplies from that area.

Standard thinks it can avoid throwing new hydrocarbon pollution into the air from its proposed Long Beach oil complex, and it is conducting research now to verify that the facility can stay within strict limits. If the answers are positive, the company's plans should get favorable consideration. If not, California must find some other place within its borders to put the terminal.

SPACE SHUTTLE MAKES ITS DEBUT

Mr. LAXALT. Mr. President, last Friday, the Space Shuttle made its debut with a rollout ceremony at Palmdale, Calif. Among those attending was the distinguished Senator from Arizona (Mr. GOLDWATER).

The Senator from Arizona has been very active in the space program since its beginning. At the outset, he knew that the single-use launchers and spacecraft were an expedient—an expedient essential for the early years of the space program and to establish a "beachhead" in space.

And he, among others, recognized that beyond this initial phase, practical use of mankind's greatest of all frontiers would await, as Von Braun put it, "an airline type of operation." Practical exploitation of space would require a reusable vehicle such as the Space Shuttle.

At the Space Shuttle rollout ceremony, the Senator from Arizona made some remarks concerning the significance of this event which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPACE SHUTTLE ROLLOUT

Dr. Fletcher, Dr. Low, distinguished guests and Star Trek fans. It is an honor to be present at the roll-out of the Space Shuttle "Enterprise."

I will make one prediction: there is going to be a great demand for a new kind of astronaut—one with pointed ears. And, NASA thinks it's got equal employment problems now. Just wait.

On history-making occasions such as this one, speakers often try to draw on history to point up the significance of the event. So, I asked the Library of Congress to research the date September 17 for its importance to aviation.

On September 17, 1911, Perry Rogers started out on the first cross country flight. At stake was a $50,000 prize offered by William Randolph Hearst for anyone who completed the flight by October 10. Rogers, flying a Wright Brothers' EX biplane "The Vin Fizz", finished after after the deadline and failed to get the prize. In fact, nobody got the $50,000.

On September 17, 1926, Army Air Corps Lieutenant, C. L. Williams, jumped out of a plane with a parachute and became the first man in the Hawaiian Islands to qualify for the Caterpillar Club.

At this point, I was getting very worried about September 17, until I found out that A. Scott Crossfield flew the X–15 for the first time reaching a speed of 1,400 miles per hour at 50,000 feet on that date in 1959.

Just 14 years ago, America put the first man in orbit around the Earth, John Glenn, who is now one of our highly esteemed Senate colleagues. Success in the Mercury program was followed by the equally successful Gemini program. Manned space flight reached its zenith with the landing of Apollo 11 on the Moon in July 1969 fulfilling a national commitment and demonstrating to the world that the United States was first in science and engineering. Five follow-on lunar landings each exceeded the previous mission in scientific exploration.

We saw the "can do" spirit of our astronauts in saving Skylab. Moreover, they went on to establish new records in manned space flight as well as carrying out those initial experiments demonstrating the promise of future space activities.

At the same time, the Nation was carrying out an equally successful program in planetary exploration with flights to Venus, Mercury, Jupiter, and culminating in the remarkable two landings on Mars in recent weeks.

As we witness today the roll-out of the Space Shuttle, we are on the verge of a new era in space flight. A flexible and economical space transportation system will replace expendable launch systems. We will have routine access to space.

How many of us here today would have imagined 14 years ago that someday we would use the word "routine" to describe manned space flight?

I submit the Space Shuttle will present us with a remarkable opportunity to exploit the new frontier of space for the benefit of mankind and to continue to expand our knowledge of the space environment in which we live.

The Shuttle combines the best of our manned and our unmanned systems. It gives us a launch system for operational weather and communications satellites, but more than that it provides an opportunity for scientists to go into space to try out new ideas—ideas that will improve the quality of life for all. And, my friends, the money we have put into the Space Shuttle is going to be a better deal for America than the purchase of Alaska, which was a very good bargain.

Let us not forget the symbolic effect of the Space Shuttle here and abroad:

It stands for the recognition that our high standard of living depends upon new and better technology.

It stands for America's determination to maintain scientific and technological excellence.

And, it stands for an optimistic nation that looks to the future unafraid.

I believe there will come a day when each of us here will proudly say, "I was present at the roll-out of the Space Shuttle."

Mr. LAXALT. Mr. President, I see the Space Shuttle as symbolizing the beginning of an exciting era, the beginning of man's practical use of space for down-to-Earth benefits. To me, it is important to note that, as a technological achievement, great though it is, this craft can be compared to the first practical airliner—the DC-3. It is enormous in potential and a rich beginning—but only a beginning.

As with all technology, the best is and will always be something that is yet to come. Most important of all, the Space Shuttle will have a symbolic effect here and abroad, because as the Senator from Arizona states:

> It stands for an optimistic nation that looks to the future unafraid.

TRIBUTE TO SENATOR PASTORE

Mr. FONG. Mr. President, today I salute our friend and colleague, JOHN O. PASTORE, the senior Senator from Rhode Island who retires in January.

In JOHN PASTORE and his political career, we have one of the brightest examples of the fulfillment of the American dream in authentic Horatio Alger style. JOHN was born in a poor Italian neighborhood of Providence. His father, a tailor by trade, died when JOHN was only 9 years old, leaving the lad as the man of Ermina Pastore's family.

From this humble and sad situation, JOHN PASTORE, through hard work, determination, and keen intelligence, went through high school, then on to Northeastern University night law school, and subsequently was admitted to the Rhode Island bar. His rise in politics was spectacular. After being elected to the Rhode Island State House of Representatives, he became successively assistant attorney general of the State, Lieutenant Governor, Governor from 1945 to December 1950, when he resigned after being elected to the U.S. Senate.

For more than a quarter century, JOHN PASTORE has been an effective and able Senator, not only for Rhode Island, but for the entire United States. He has been responsible for much of the legislation guiding the development of radio and television to serve the public as a whole.

In connection with the landmark legislation he helped write, the Federal Election Campaign Act, which became effective in 1972, it was staunchness which prevented alteration of the so-called fairness doctrine.

His influence in guiding the development of the broadcast media comes from his chairmanship of the Communications Subcommittee of the Senate Commerce Committee, a position held since 1955. He also serves with great effect on the Senate Appropriations Committee and the Joint Committee on Atomic Energy.

As chairman of this Joint Committee, the senior Senator from Rhode Island is known as one of the most knowledgeable on Capitol Hill on atomic energy matters. As early as 1955, President Eisenhower appointed him a delegate to the General Assembly of the United Nations, and as such he helped draft the U.S. resolution which first sponsored the International Atomic Energy Agency. He has also played an important role in passage of the Energy Reorganization Act of 1974, which reorganized and consolidated certain functions of the Federal Government in a new Energy Research and Development Administration and the new Nuclear Regulatory Commission.

It has been my privilege and pleasure to have known the fine Senator from Rhode Island since my arrival in Washington in 1959 as one of Hawaii's two statehood Senators.

As he and I prepare to leave for our respective homes and retirement, I extend my warmest best wishes and fond aloha to JOHN PASTORE, his gracious wife Elena, their three children, and their respective families.

JIMMY CARTER'S TAX PROPOSAL

Mr. GARN. Mr. President, tax reform should certainly be on our minds, what with the 1,500 page mouse the congressional mountain has labored to produce this year. If it is not on our minds, I suspect our constituents will remind us of it as soon as we go home and hit the hustings. The Presidential candidates have already found out how close the subject is to the hearts and minds of the voters in this election year, and some of them have produced a fair amount of nonsense about tax reform.

There is a common delusion, shared and nourished by politicians such as Jimmy Carter, that there are hordes of filthy rich running around America sucking blood from the poor and grinding their faces in the dust. It is this delusion that led candidate Carter into promising the voters in an Associated Press interview released last Sunday, that, if elected he would seek to shift the burden of taxes "toward those who have the higher incomes and reduce the income tax on the lower income and middle-income taxpayers."

I understand that the AP originally did Mr. Carter a disservice by omitting the critical "and middle-income" from the quotation, but even putting it back does not save the proposal. Carter went on the same day in Kansas City to promise that—

> We will shift the burden of taxes to where the Republicans have always protected—onto the rich, the big corporations and the special interest groups.

There are, of course, ethical and philosophical questions involved in progressive taxation, but today we are concerned with the practical aspects of political proposals. Mr. Carter is quite right to point out to reporters that he cannot, in the heat of the campaign, work out the details of his tax proposal, so that each individual could figure out his average and marginal tax rates under the Carter proposal. But we do have a right to expect, before a candidate makes statements of this kind, that he look into the question sufficiently to decide whether the proposal can at least be accomplished. In other words, we are justified in asking the candidate if his proposal is theoretically possible, and insisting on an answer to that question. In the case of Mr. Carter's tax proposal, there is considerable evidence that the proposal is not possible.

To dispose of two subsidiary points first, Mr. Carter is going to shift the burden to "the rich, the big corporations and the special interest groups." As every economist knows, corporations do not pay taxes. Taxes are one of the costs of doing business, and they are simply passed on to the consumer in the form of higher prices or lower wages. They are not without effect, for they do influence patterns of investment and the allocation of resources. In fact, some of the worst of the "loopholes" Mr. Carter (and Senator KENNEDY) complains about were pushed through the Congress as a result of corporate taxes; they are some of the distortions which flow from corporate taxes.

But the fact remains, Mr. President, that taxes cannot be levied on corporations. People pay taxes, whether Mr. Carter likes it or not. Consequently, to shift taxes onto corporations is to shift them to consumers, and there are more poor consumers than there are rich ones. Thus this part of Mr. Carter's proposal is a proposal for higher prices, to be paid disproportionately by the poor, and not a proposal for lower taxes.

The term "special interests" is just a word used by politicians to excite envy and anger in the electorate. As John Gardiner of Common Cause remarked in an article in the Washington Star last Sunday, we are all members of special interest groups. For instance, homeowners as a group benefit from the mortgage interest from taxable income. Homeowners are, therefore, a special interest group, but I doubt that Mr. Carter is proposing an end to their particular "tax loophole."

Those who receive social security benefits are also a special interest group which receives an exemption of its retirement benefits from taxable income. Would Mr. Carter close that loophole? And what about peanut farmers?

The point is not that there should not be tax reform, but that loose talk about special interest groups and how they should pay more taxes does not get us very far. We need to know specifically which groups and which loopholes Mr. Carter is going to attack, and on those specifics, he is characteristically vague.

And now to the main business at hand, shifting the burden of taxation to "the rich." The press is to be commended for the critical look it is giving to Mr. Carter's proposal, just as it looked critically at Senator McGovern's "demogrant" proposal 4 years ago. For instance, writing in the Washington Post this morning, Peter Milius notes that the Carter proposal is up against the same fact which sank the demogrant: you very quickly run out of rich people to soak. As Mr. Milius puts it:

> The "rich" in America include a lot of families who think of themselves and are commonly thought of as no more than middle-income.

Now there is no doubt that someone with an annual income of $30,000 is better off than someone with an income of $8,000. But he is not so much better off that we normally think of him as the kind who needs to be "soaked" in order to relieve the tax burdens of the working poor. The rich we usually think of as needing to be soaked are those bathing in champagne and flying off to Buenos Aires for breakfast twice a week. The problem is that there just are not many of them. Only 815,000 taxpayers in 1974 had incomes above $50,000. And even $50,000 will not get us champagne baths.

The same points have been made in much more detail in an article in the spring 1976 issue of the Public Interest by Dr. Edgar K. Browning of the University of Virginia. The article is entitled, "How Much More Equality Can We Afford?" and it makes some interesting points.

One is that there is a great deal more equality today than there used to be, in part because of redistributive policies of the Government, including the in-kind transfers, such as food stamps, which are often overlooked, in part because of the general economic progress of the Nation.

Another is that it is virtually impossible to redistribute any additional income in the United States without producing undesirable effects on productive impulses. That is so because of the impact of tax increases on marginal tax rates, especially for those at the top and bottom of the income distribution. Too few individuals understand the difference between "average" tax rates and "marginal" tax rates. Average rates are clear enough, but we should all understand that marginal rates refer to the percentage taken by taxes of any additional income. For instance, the average tax of an individual in the 50-percent bracket may be only 20 percent. But if that individual earns $1 or more, he will get to keep only half of it. Obviously, such tax rates do have an impact on productivity, incentive, and risktaking.

The Browning article is somewhat technical, but understandable, and I am going to ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

In summary, it concludes that we can redistribute, say, another 1 percent of national income, but with one or two undesirable effects. On the one hand we can do it increasing the marginal tax rate on the "poor" so steeply that incentives are destroyed, or we can do it by including in the redistribution those who are far from poor.

In short, Mr. President, tax reform is complicated by the amount of redistribution which has already taken place in the United States. There is just no more blood left to be squeezed out of that turnip. If we are to have tax reform in the future, it is going to have to proceed without the demagogic devices now in use.

A recognition of the amount of redistribution is essential, with proper attention given to the importance of in-kind transfers. And the impact of a properly growing economy must not be underestimated. For instance, Browning estimates that the redistribution of 1 percent of national income in the United States, assuming it could be accomplished without destroying incentives, would result in an increase in the standard of living of the low-income families of only 12 percent. Increases of this magnitude were accomplished every 3 or 4 years by the natural growth of the economy, without increases in marginal tax rates, until fairly recently.

And that fact, Mr. President, suggests some real tax reform which is needed: That is a climate favorable to the investment and capitalization which can produce the jobs and products necessary to a rising standard of living. Instead of trying to divide up a shrinking pie, it is time for us to cut taxes drastically, to allow the pie to grow. I am happy to see that President Ford has made such a proposal, although the Congress has refused to act on them in the past. There is no way to redistribute income without seriously affecting the "middle-income taxpayer," and in my view, we should stop exciting the passions of the voters and get busy making it possible for people to save, invest, and produce.

I ask unanimous consent that the entire Browning article mentioned be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

How Much More Equality Can We Afford?

(By Edgar K. Browning)

It is probably true, as *Business Week* recently reported, that "the greatest single force changing and expanding the role of the federal government in the United States today is the push for equality." Although some government statistics misleadingly indicate otherwise, it is clear that the distribution of income has become dramatically more equal in recent years as a result of egalitarian policies. Moreover, the massive redistribution currently taking place each year makes it very costly to attempt to move still further toward equality. I will show why by examining the economic and ethical implications of additional redistribution.

HOW UNEQUAL ARE INCOMES?

One popular index of inequality is the number of Americans officially classified as poor. In 1973, there were 23 million people classified as poor, only one third less than the 33 million in 1965. Yet there has been a tremendous expansion in government programs designed to aid the poor during this period: Social welfare expenditures by all levels of government rose from $77 billion in 1965 to $215 billion in 1973. Many people have been troubled over how such a massive commitment of resources could produce such a small reduction in the number of poor Americans.

The major reason for the apparent persistence of poverty in the face of such expenditures lies in the definition of poverty itself. A family is officially poor when its *money* income falls below a certain level—$4250 annually for a family of four in 1973, for example. Thus, because government programs dispensing benefits in the form of specific goods and services ("in-kind" transfers) do not and, cannot raise *money* incomes, they are unable to move families out of poverty, so defined. Interestingly, government in-kind transfers have expanded at a much more rapid rate in recent years than have cash transfers, following the growth of medicare, medicaid, food stamps, housing assistance, and job training programs. Table I shows this clearly in the breakdown of federal transfers to the poor for several recent years. (These tabulations give *only* those federal transfers that actually reach the poor, and not total spending on the various programs.) To see clearly why the number of poor Americans has not declined more rapidly, note that in-kind transfers per poor person rose from $42 to $657 between 1964 and 1973—or by 1464 per cent! These resources are not counted as income in the official definitions of poverty. In contrast, cash transfers, which are counted as income, rose by only 172 per cent.

TABLE I.—FEDERAL OUTLAYS BENEFITING THE POOR, SELECTED FISCAL YEARS[1]

	1964	1966	1969	1973
Federal outlays (billions):				
Cash payments	$6.4	$7.1	$8.2	$11.1
Food and housing transfers	.3	.3	.7	3.5
Education	.1	.6	1.2	1.9
Health	.7	.8	3.5	5.4
Manpower	.2	.9	1.4	2.5
Other	.2	.5	.9	1.9
Total	7.9	10.3	15.9	26.2

Footnote at end of table.

TABLE I.—FEDERAL OUTLAYS BENEFITING THE POOR, SELECTED FISCAL YEARS [1]—Continued

	1964	1966	1969	1973
Total Federal cash transfers (billions)	$6.4	$7.1	$8.2	$11.1
Total Federal in-kind transfers (billions)	1.5	3.2	7.7	15.1
Federal transfer per poor person	219	361	660	1,139
Federal cash transfer per poor person	177	249	340	482
Federal in-kind transfer per poor person	42	112	320	657

[1] Source: U.S. Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Office of Program Systems, "Federal Outlays Benefiting the Poor—Summary Tables," (March 1974), table 1.

Clearly in-kind transfers should be counted as income in defining poverty. If a $1000 cash transfer to a poor person—who proceeds to spend it on food, housing, and medical care—reduces poverty, then so does $1000 worth of these goods provided outright (or at subsidized prices). When-in-kind transfers (exclusive of public education provided by state and local governments) are counted as income, the average poor family in 1973 had an income that was approximately 30 per cent above the poverty line.[1] In terms of the average income of officially poor families, there is practically no poverty—statistically speaking—in the United States today and, indeed, there has not been for several years. It only remains for our accounting procedures to be modified to record this achievement.

Many people object to an emphasis on the number of poor Americans because the poverty lines are fixed in terms of real incomes. Consequently, a poverty-level income falls as a percentage of average income when the average rises over time as a result of economic growth. This suggests that it may be better to consider what happens to the incomes of poor people relative to the incomes of others. Table II shows a popular method of looking at the relative distribution of income. It gives the share of total money income received by families whose incomes place them in the lowest 20 per cent (lowest quintile) of the income distribution, the second lowest quintile, and so on. Not only do these figures suggest a large degree of inequality in each year, but, of more interest, they indicate that the shares of income received by the various quintiles have changed remarkably little over this 20-year period. It is this distribution which has led many observers to conclude that the distribution of income has not become significantly more equal since World War II.

This conclusion is, however, almost certainly wrong. Once again, a major part of the problem is that the Census Bureau's measures of income are based on a definition that includes only money incomes, and excludes in-kind transfers and benefits of public education. In addition, the figures are based on incomes before payment of direct personal taxes, and no adjustment is made for differences in average family size among the quintiles. Table III gives the percentage shares received by quintiles after adding in-kind transfers and education, subtracting income and social security taxes, and converting to a per capita distribution. As shown in Table III, the distribution of income is much more equal than the Census figures in Table II suggest. In 1972, for example, the adjustments more than double the share of the lowest quintile, raising it from 5.4 to 11.7 per cent.

TABLE II.—RELATIVE INCOME DISTRIBUTION (EXPRESSED AS PERCENTAGE SHARE OF TOTAL MONEY INCOME RECEIVED BY FAMILIES, BY QUINTILE) [1]

Year	Lowest quintile	2d quintile	3d quintile	4th quintile	Highest quintile
1952	4.9	12.2	17.1	23.5	42.2
1962	5.0	12.1	17.6	24.0	41.3
1972	5.4	11.9	17.5	23.9	41.4

[1] Source U.S. Bureau of the Census, "Money Income in 1972 of Families and Persons in the United States," Current Population Reports, series P-60, No. 90 1973), table 16.

Not only is the distribution of income more equal in each year than is indicated by the Census figures, but there has also been a marked trend towards equality over the 20-year period. This is particularly apparent for the lowest quintile, whose share rose from 8.1 per cent in 1952 to 11.7 per cent in 1972, an improvement of 44 per cent in the relative position of low-income families. Most of this gain occurred since 1962, largely as a result of the expansion of education benefits and in-kind transfers. In fact, by 1972 government transfers had become the largest source of income for low-income families. More than two thirds (about $50 billion) of the net income of families in the lowest quintile was in the form of cash transfers, education benefits, and in-kind transfers.

TABLE III.—ADJUSTED RELATIVE INCOME DISTRIBUTION (EXPRESSED AS PERCENTAGE SHARE OF INCOME RECEIVED BY QUINTILE) [1]

Year	Lowest quintile	2d qunitile	3d quintile	4th quintile	Highest quintile
1952	8.1	14.2	17.8	23.2	36.7
1962	8.8	14.4	18.2	23.1	35.4
1972	11.7	15.0	18.2	22.3	32.8

[1] Source: Derived from estimates presented in my "The Trend Toward Equality in the Distribution of Net Income," Southern Economic Journal (forthcoming).

INCENTIVES AND MARGINAL TAX RATES

Of the many factors to consider in evaluating redistributive programs, none is more important than the impact on the incentives of taxpayers and transfer recipients to continue producing income. If incentives are dulled sufficiently, the outcome is a reduction in the total size of the income "pie," and more equal shares of a smaller total can result in lower incomes for taxpayers and transfer recipients alike. The most common way tax and transfer programs affect incentives is through the application of high marginal tax rates to income. To understand why, it is necessary to distinguish clearly between marginal and average tax rates.

Such the government wishes to collect $4000 in taxes from a person earning $20,000. It can set out to accomplish this by exempting $15,000 (so taxable income is $5000) and applying a flat rate tax of 80 per cent on taxable income. If the person continues to earn $20,000, he will pay $4000 in taxes. Thus his average tax rate is 20 per cent; however, his marginal tax rate is 80 per cent—i.e., for each additional dollar earned above $15,000, the taxpayer keeps only 20¢. To illustrate the relationship between high marginal tax rates and work incentives, note that if the taxpayer earns $5000 less, his taxes fall by $4000. Thus, by sacrificing only $1000 in net income he could take a vacation for a fourth of the year. In this way high marginal tax rates make it much less expensive for a person to earn less—that is, they weaken the incentive to continue expending as much effort to acquire income. Average tax rates may also have some independent effect, but it is high marginal tax rates that are most likely to undermine incentives. As we shall see, redistributive programs usually involve extremely high marginal tax rates, even though average tax rates may be relatively low.

High marginal tax rates are often applied to beneficiaries of government transfers, but these rates are usually hidden in the benefit structure of the program. If the transfer a family receives is reduced when family income is increased, then this reduction in benefits has exactly the same effect as a marginal tax rate applied to income. Suppose, as is actually true in several programs, that the transfer received is reduced by $1 for every $2 earned. Then when earnings increase by $2, disposable income goes up by only $1, exactly the same as when a 50 per cent marginal tax rate is applied to earnings.

In terms of marginal tax rates, a policy of complete equality implies marginal tax rates of 100 per cent for everyone. In this case, a person's net income would not increase if he earned more and would not fall if he earned less, or even if he earned nothing. Thus, there would be no financial incentive for anyone to work. It is an understanding of the full implications of this that has led most scholars to conclude that marginal tax rates must be kept well below 100 per cent to preserve adequate incentives. This, of course, is tantamount to concluding that complete equality is undesirable.

I have been emphasizing how marginal tax rates tend to weaken work incentives of both taxpayers and transfer recipients. Actually, high marginal tax rates are inimical to productivity in general, and not just to the amount of time people work. Consider a few examples of other types of incentives that can be undermined by high marginal tax rates. The incentive to undertake job training or get a good education is weakened since the student will get to keep only part of the higher income that a better education makes possible. Insofar as the return to savings is also subject to tax, the flow of savings, so important to economic growth, can be adversely affected by high marginal tax rates. Occupational choices can also be influenced: People will be led to take lower paying jobs that do not involve as much risk or responsibility. Earlier retirement, longer vacations, and lower labor-force participation by secondary workers are other plausible responses to high rates.

Greater conversion of income into nontaxable forms (through the use of tax loopholes), and even emigration to other countries can result when the tax rates get high enough, as has recently been the case in England. Thus, there are many ways a person can utilize his skills and resources to maintain and increase his income, and high marginal rates affect all these activities. Although it is convenient to conceptualize the problem by thinking in terms of work incentives, it should not be forgotten that the incentives issue really relates to productive activity in general.

THE IMPACT ON LOW-INCOME FAMILIES

As a result of the multitude of tax and transfer programs now in existence, marginal tax rates are already very high for most people, but especially for those with very high and very low incomes. Before explaining how high the rates are, it should be stressed that the marginal tax rate relevant for incentives is the combined rate which results from all the separate taxes and transfer programs applied to a family. As an example, a family in a 20-per-cent federal income tax bracket and a five-per-cent state income tax bracket is subject to an effective marginal tax rate of 25 per cent, and it is this rate that is instrumental in affecting its economic behavior.

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[1] For a fuller discussion of the statistics concerning income distribution, see my *Redistribtuion and the Welfare System* (American Enterprise Institute, 1975), and "The Trend Toward Equality in the Distribution of Net Income," *Southern Economic Journal* (forthcoming). This estimate (as well as the ones given in Table III) counts as income in-kind transfers valued at market cost. Since an in-kind transfer may be worth less to the recipient than its market value, these estimates do not purport to measure benefits. It should be stressed, however, that the money income figures in Table II also do not measure benefits, since people may be led to spend their money incomes in ways they would prefer not to if their decisions had not been distorted by various provisions in the tax laws.

Since federal, state, and local taxes combined are now 35 per cent of net national product (national income), it seems clear that many taxpayers face marginal tax rates approaching 50 per cent. (Marginal rates will often be higher than this overall average rate of 35 per cent due to progressivity in the tax system.) Effective marginal tax rates are probably lowest for families with incomes near the average of about $15,000, but even at this income level, the combined effect of federal and state income taxes, social security, sales, excise, and property taxes will produce rates of at least 35 per cent. At higher income levels, effective rates will be even higher, perhaps reaching 60 per cent for a relatively few families. Most upper-income families are probably confronted with rates in the neighborhood of 40 to 50 per cent, however.

Therefore, effective marginal tax rates are already quite high for middle-income and upper-income families, ranging between 35 and 50 per cent, with a small proportion paying still higher rates.[2] As higher as these rates are, however, low-income families are paying even higher marginal tax rates!

The major reason low-income families face higher marginal tax rates than most other Americans is that poor families receive numerous transfers that are inversely related to their incomes. As pointed out earlier, when the amount of assistance falls as a family's own income increases, this is equivalent to applying a marginal tax rate on income. There has been a substantial growth in programs of this type in recent years. The more important of these programs are food stamps, housing subsidies, medicaid, Aid to Families with Dependent Children, Supplemental Security Income, and Social Security. The implicit marginal tax rates used, of course, vary among these programs. Housing subsidies typically use a rate of 25 per cent, Supplemental Security Income a rate of 50 per cent, and Aid to Families with Dependent Children, a rate of 67 per cent.

The individual rates in these programs are fairly high, but the effective rates for most low-income families can be even higher, for two reasons. First, low-income families also pay explicit taxes in the form of social security taxes, sales taxes, and so on. Second, and becoming increasingly important, many families are receiving benefits from several transfer programs simultaneously. As an example, a family receiving food stamps, with the implicit marginal tax rate of 25 to 30 per cent, will still pay social security, excise, sales, and possibly state income and other taxes. As a result, the effective marginal tax rate would be about 45 per cent. Even though this family may have an income too low to be subject to the federal income tax, its effective tax rate exceeds that of most middle-income and upper-income families. For families receiving transfers from other programs, and especially when a family receives aid from more than one program, effective marginal tax rates can exceed 70 and even 80 per cent.

It is a difficult matter to generalize about the "typical" effective marginal tax rate for low-income families since the rate can be expected to vary with the type and number of transfers received. Nevertheless, the rates for most families are clearly very high. A family receiving only food stamps faces a rate of about 45 per cent, while most families receiving aid under other programs, or a combination of programs, will face even higher rates. Recognizing the wide variation among families, my guess is that 65 per cent is the effective marginal tax rate confronting the "average" low-income family.

To avoid any misunderstanding, let me repeat that we are considering marginal, not average, tax rates. The average tax rate for low-income families is a large negative number, reflecting the very considerable net redistribution in their favor. Thus, they are not "burdened" in the usual sense by the high marginal rates they pay. Instead, this high rate is simply a consequence of the redistribution taking place through the various welfare programs. While the marginal rate is relevant in evaluating the incentive effects of the system, it is the average rate which is a better indication of the effects on the welfare of the recipients.

At present, then, effective marginal tax rates are already very high, especially for low-income families. Additional redistribution will produce surprisingly large increases in these rates, both for taxpayers and recipients, as we shall see.

THE EFFECTS OF REDISTRIBUTION

That a greater volume of redistribution would result in higher marginal tax rates is obvious, but the exact relationship between the amount of redistribution and the necessary rate increases is far from obvious. Many observers of American society have implied that our wealthy society could easily afford to redistribute another, say, one or two per cent of national income to low-income families. Yet redistributing even one per cent more will probably require marginal tax rates to rise by at least 10 percentage points for most, and possibly all, families. It may appear surprising that transferring only one per cent of national income to low-income families would lead to such an increase in tax rates, and that is why it is worth considering the relationship in some detail.

It may help to begin with an example. Suppose transfers totaling one per cent of national income are made to families with income below $5000. Suppose further that these families have incomes averaging $3000, and that one per cent of national income will finance a transfer of $2000 per family. What this implies is that one per cent of national income is sufficient to raise every family with an income below $5000 up to $5000. In other words, we could make a transfer of $5000 to a family with no income of its own, a transfer of $4000 to a family with a $1000 income, and so on up to a transfer of $1 to a family with $4999. Note that this describes a transfer program with a marginal tax rate of 100 per cent; the transfer falls by a dollar for every dollar of additional earnings. Thus, when we attempt to concentrate a seemingly small proportion of national income on a relatively small number of low-income families, the impact on their marginal tax rates can be surprisingly great. Although the numbers chosen are hypothetical, they do represent fairly accurately the true nature of the problem.

It might be felt that a different type of transfer program would not require marginal rates of 100 per cent. For instance, suppose that a transfer of exactly $2000 is made to every family with income below $5000. A family with a zero income would receive $2,000 and so would a family with $5,000, thus implying a zero marginal tax rate; benefits don't fall with income. Is this a way to avoid the incentive problem? As long as we are considering a redistribution only to families with incomes below $5,000, the answer to this question is definitely no. The incentive difficulties are just shifted to a different income range. Note that, under this scheme, a family with $5000 earned income would have a net income of $7000, but families earning from $5001 to $6999 would actually have lower net incomes, since they would receive no transfers. Not only is this inequitable, but it creates a tremendous incentive for all those earning between $5000 and $7000, as well as some earning above $7000, to reduce their earnings to $5000 and collect a $2000 transfer. The abrupt termination of transfer payments at $5000 creates what is called a "notch" problem, indicating the discontinuity in the relationship between earned and net income that occurs at $5000. Most analysts agree that the consequenses of such "notches," both for equity and efficiency, are worse than the high marginal tax rates that they only seem, on a superficial inspection; to avoid.

To avoid such a notch at $5000, the transfer per family must be gradually tapered off until it ultimately reaches zero when family income reaches $5000. It is this gradual tapering off of the transfer payment that produces the marginal tax rate in the program. And when transfers are made only to low-income families, the transfer must be reduced very rapidly as income rises, to make sure the transfer falls to zero at the "breakdown income level" (the income level at which the net transfer is zero) of $5000. Hence, the marginal tax rate in such a program will then tend to be very high.

As long as transfers are to be made only to families with incomes below a relatively low level, like $5000, any substantial redistribution implies either very high marginal tax rates or a "notch" problem, which is just as bad. This should explain why the tax rates are so high for low-income families in the United States. The high rates are simply the sizable transfers on these families. It will be recalled that the marginal tax rate for the average low-income family is probably about 65 per cent, even though only about four per cent of national income is being redistributed to families in the lowest quintile of the income distribution.

THE COSTS OF REDISTRIBUTION

Now that we understand why tax rates of recipients are so sensitive to the amount redistributed, we can move on from our hypothetical example to the actual situation in the United States. Suppose, then, that we wish to redistribute one per cent more of national income to families in the lowest 20 per cent of the income distribution. One per cent of national income is $13 billion, an average of about $1200 per family for the 11 million families in the lowest quintile. This group contains families with money incomes below approximately $7000 (but net income including in-kind transfers would be higher), and these families now face a wide range of marginal tax rates that average about 65 per cent. How high must marginal tax rates rise with an additional redistribution of $13 billion? By now, perhaps, it will come as no surprise to learn that marginal rates would have to rise to approximately 100 per cent, or slightly more. I do not think it is necessary to belabor the point that the economic effects—not to mention the social and political ones—of such high rates would be unacceptable. Thus, given the present size of the United States welfare system, any substantial additional redistribution concentrated on the lowest quintile would result in prohibitively high marginal tax rates.

There is one way to redistribute more to low-income families without such a great increase in their tax rates, and that is to extend transfer payments to families with incomes above $7000. By raising the "break-even income" of the additional redistribution, the transfer payment per family can be tapered off more gradually as income rises, thus implying a smaller increment in marginal tax rates. For example, we might redistribute an additional one per cent of national income to families with incomes below $10,000, thereby using a breakeven income of $10,000 instead of $7000. However, this program would still require marginal rates to rise by 15 percentage points for all families with incomes below $10,000. For low-income families the increase is from 65 per cent to 80 per cent, and for families close to $10,000, from about 35 per cent to 50 per cent. Even these rates raise very serious questions, especially since more than a third of all American families have incomes below $10,000. In my judgment, rates this high pose a danger of seriously undermining incentives that is too great to be acceptable.

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[2] I have examined in more detail the effective marginal tax rates confronting families that pay federal income taxes at different income levels in "The Marginal Cost of Public Funds," *Journal of Political Economy* (forthcoming).

By raising the breakeven income still higher, the required increments in rates can be mitigated further. With one per cent of national income redistributed to families with incomes below the average family income of $15,000, the required increase in marginal tax rates is five percentage points. Thus, rates would go from 65 to 70 per cent for low-income families and from about 35 to 40 per cent for most other families with incomes below the average. This increase would weaken somewhat further the incentives for the 55 per cent of the population with incomes below the average, but perhaps the greater equality is worth this cost. In judging whether this is so, however, it should be pointed out that only part of this redistribution goes to low-income families. In fact, with one per cent of national income redistributed in this way, somewhat less than one half of one percent would go to the lowest quintile. The result would be an increase of only about six per cent in the net income of these families, hardly a dramatic improvement in their living standards.

It turns out to be a difficult task, then, to redistribute substantially more to low-income families. Either tax rates for these families must be increased to nearly 100 per cent, or else transfers must be extended far up into the middle-income range with a still significant increment in marginal rates for all recipients. If we wish to redistribute one per cent more of national income to low-income families, it will probably be necessary to redistribute a total of two per cent, with half of that going to the nonpoor, and marginal tax rates would then increase by 10 percentage points for all these families.

So far we have been examining the impact of redistribution on the marginal tax rates of the recipients, and we have seen that the higher the breakeven income at which transfers cease, the lower the required increments in rates. The opposite is true for the taxpayers: When the breakeven income is raised, the required increment in marginal tax rates is increased. In part, this reflects the fact that a higher breakeven income implies a smaller number of families with incomes above that level to finance the transfers. More importantly, a higher breakeven income reduces the taxable income of all those above, thus requiring a higher rate to raise the necessary revenue. In other words, if the breakeven income is raised from $7000 to $10,000, families with incomes above $10,000 would have their taxable incomes fall by $3000, since only income in excess of $10,000 is taxable. This, by the way, is necessary if we are to avoid the "notch" problem.

To redistribute an additional one per cent of national income to those below $7000 would require increases of two percentage points in the marginal rates of those above $7000 to raise the necessary revenue. With a breakeven income of $10,000, the required increase is about three percentage points. These increases are not unduly great, and it is only when we look at the increases for those below the breakeven income that the entire package appears unattractive. When the breakeven income is $15,000, marginal tax rates would have to rise by five percentage points for those making more than $15,000 to raise one per cent of national income in tax revenue. In other words, redistributing one per cent of national income from those above the average to those below requires the marginal tax rates of all families, both taxpayers and recipients, to rise by five percentage points. If we wish to redistribute one per cent to low-income families, a total of two per cent of national income must be redistributed, and marginal rates must rise by 10 percentage points for recipients and taxpayers both. This would imply marginal tax rates in excess of 50 per cent for most American families.

The fundamental issue is whether greater equality is worth the cost in reduced incentives produced by these substantial increases in marginal tax rates. I do not pretend to know how responsive Americans would be to the diminution in incentives implied by a 10 percentage point increase in marginal rates, but there is clearly cause for some concern. It should be mentioned that the additional damage done by each successive increment in marginal tax rates tends to be greater than the last. A familiar proposition in economics is that the harm due to weakened incentive tends to increase with the square of the effective marginal tax rate. Thus, doubling the tax rate will at least quadruple the cost. To see this intuitively, consider a marginal tax rate of 50 per cent. This will weaken incentives somewhat compared to a zero tax rate, but it is conceivable that the effects will be moderate. (After all, some high-income and low-income families are still working, despite rates that are already this high.) If, however, the rate is increased to 100 per cent there is no doubt that incentives would virtually be destroyed. Increasing the rate from zero to 50 per cent may therefore have only a moderate effect, but increasing it by another 50 percentage points will surely have catastrophic results. This suggests that there is some critical point beyond which pushing rates still higher would be extremely harmful. Unfortunately, no one knows exactly where this point is, but before rates for most American families are pushed above 50 per cent some serious attention should be given to the question.

HOW GREATER EQUALITY CAN INCREASE INEQUALITY

Most redistributive programs involve transferring resources from families with high money incomes to families with lower money incomes. It is often taken for granted that the result is a more equal distribution of income. Of course, money incomes become more equally distributed, but it is not obvious that the distribution of real income becomes more equal. For a variety of reasons, differences in money incomes among families do not necessarily imply a difference in real incomes. This poses a very difficult problem for the evaluation of policies that tend to equalize money incomes. A few examples will indicate the nature of the problem.

If we consider a group of people with equal abilities to earn income, their actual earnings may nonetheless differ quite widely as a result of differences in their preferences. Some people, for instance, may choose to become teachers even though they could have received a higher money income by working for a private business. In such a case, the difference in money income between teachers and business employees is called an "equalizing income differential." This means that a difference in money incomes is necessary to make the net attractiveness of the jobs equal—that is, to make real incomes equal. Many differences in money income are equalizing income differentials that simply reflect differences in the attractiveness of different jobs. When this is the case, equalization of money incomes implies disequalization of real incomes. If teachers and business employees have the same money income, the teachers would have higher real incomes: equal money incomes plus a job they consider more attractive.

Another way preferences can lead to different money incomes concerns the amount of leisure time (meaning all time not spent working for money wages) that families have. Of two people who can work at the same wage rate, one may choose to work shorter hours than the other because he values leisure more highly (or, equivalently, dislikes work more). There would be a difference in money incomes, but most of us would agree that their real incomes are the same. In short, leisure time is a valuable consumption item, and should be considered a part of a person's real income. In addition to different hours of work in different jobs, two significant sources of variation in leisure time deserve explicit mention, since they are easily overlooked: the retirement decision and the decision of several members of a family to work. Retirement is an explicit decision to sacrifice money income in return for more leisure, just as is the decision of a wife to work in the home rather than for money wages in the market. Both phenomena lead to differences in money incomes in some situations where real incomes are not different.

The amount of leisure time consumed by families varies widely. Some indication of the relative magnitudes can be obtained by noting that the average number of earners per family in the lowest quintile is 0.85, and rises steadily with income until the average is 2.26 earners per family in the highest quintile. Unfortunately, these figures do not distinguish between earners who work different hours: Anyone who earns at least $1 per year is considered an earner. Thus, the figures should be interpreted with some care, but they do suggest that families with low money incomes consume larger amounts of leisure time. This should come as no surprise, since just under 50 per cent of families in the lowest quintile have family heads either under 24 years of age or over 65, age groups with a high incidence of school attendance and retirement. In the highest quintile less than eight per cent of family heads are in these age groups.

Another major source of differences in money incomes is the use of a one-year accounting period in the measurement of income. Two people may have unequal incomes in a given year, but their lifetime incomes can be identical. A person who goes to work after leaving high school will normally have a higher income at age 20 than his friend who attends college, but the reverse will probably be true 20 years later. Nevertheless, both may have the same lifetime incomes, especially when the cost of the college education is considered as a cost of the graduate's future income.

In general, incomes tend to rise with age up to about age 55, and then decline. The median income in 1972 of families headed by a person in the 14-to-24 age class was $7447, while for the the 45-to-54 age class the median was nearly double, $14,056. Above age 65 the median was $5968. Comparing people of different ages can give a misleading impression of inequality. Note that a redistribution plan based on money income would, in part, transfer income from those of middle age to those who are younger. Yet certainly the average young family today will have a higher, not lower lifetime income than the average middle-aged family. Not only will age and experience work to increase the young family's income in the future, but so too will economic growth. In all likelihood, by the time a young family today reaches middle age, the median income of middle-aged families will be at least $20,000.

While still other examples could be given. I think these suffice to make the point that differences in annual money incomes are not an accurate guide to differences in real economic position. In some cases, inequality in money income is consistent with equality in real income, and in other cases equality in money income is consistent with inequality in real income. Recognition of this has important implications for the ethical desirability of plans to produce greater equality in money incomes: Equalizing money incomes will, in many instances, produce greater inequality in real incomes. I take it for granted that any real world redistribution will be based largely on annual money incomes since almost all discussions of inequality proceed in these terms. At any rate, I would not wish to have government use its discretionary power to tax me based on what bureaucrats think my "real" income is. Although it may be wise to limit the taxing power of government by restricting it to easily measurable tax bases like money income, it must be admitted that this implies government redistribution will be a clumsy device for achieving equality in any meaningful sense.

Recognizing these factors, it may still be argued that they are not overwhelmingly significant. If we transfer money from a family with an income of $50,000 to a family with an income of $5,000, could we really believe that this would produce greater inequality in real incomes? Of course not. When considering the extremes of the income distribution, the factors discussed in this section are probably overwhelmed by the great differences in money incomes.

This does not mean, however, that the problem is unimportant. As I emphasized in the previous section, it is simply not feasible to concentrate more resources solely on low-income families, because of the implications for the marginal tax rates of recipients. Instead, additional redistribution in the United States today is almost certain to involve considerable shifting around of money incomes in the middle-income classes. The ethical justification for this redistribution is questionable, and with about 70 per cent of all families having incomes between half and double the average income, the problem is anything but unimportant.

"DEMOGRANT" PLANS

The quantitative significance of the points I have been raising can be more fully appreciated by evaluating two recent proposals for redistribution. First, consider the proposal for a cash transfer program, sometimes called a "universal demogrant." This type of program has received considerable attention since Senator McGovern advocated the adoption of a variant in the 1972 Presidential campaign.

Basically, the demogrant approach involves the payment of an equal transfer to all families of a given size. Thus, every family of four might receive $4000 regardless of the family's own income or assets. Since there is no implicit marginal tax rate in the benefit schedule—the transfer doesn't fall at higher income levels—it might appear that the tax rate problem is avoided by this approach. Actually, that is not so. Such a program requires high tax rates to finance it, and when the transfer and taxes are considered together, it is obvious that the net transfer does fall at higher income levels.

Benjamin Okner has recently considered in detail the distributional implications of several demogrant plans.[3] Table IV describes two of the plans be examined. Total outlays on these plans are quite large, as both involve (based on 1970 data) expenditures of over $200 billion. However, the total outlays do not measure the actual redistribution since families will be paying added taxes as well as receiving transfers, and it is the net effect that counts. In fact, the net redistribution is less than a fourth of the gross outlays.

TABLE IV.—REDISTRIBUTION UNDER 2 DEMOGRANT PLANS (1970 DATA)[1]

	Plan B	Plan D
Amount of demogrant:		
Single person	$1, 500	$1, 250
Married couple, no children	3, 000	1, 250
Married couple, 2 children	3, 600	4, 000
Total outlays (billions)	215. 4	200. 7
Federal income tax rate (after comprehensive reform, percent)	42. 2	40. 2
Net redistribution (billions)	47. 0	45. 3

[1] Source: U.S. Congress, Joint Economic Committee, Subcommittee on Fiscal Policy, "Studies in Public Welfare," Paper No. 9, 93d Cong., 1st sess. (November 1973). A study of "The Role of Demogrants as an Income Maintenance Alternative," by Benjamin A. Okner, table 1.

Okner examined the financing of these plans by assuming that the federal income tax would provide the revenue. However, given the current definition of taxable income—which makes taxable income less than total income because of deductions and exemptions—marginal tax rates exceeding 70 per cent would have been required to raise the necessary revenue. To avoid this, Okner assumed that a broadened tax base was used—in effect, disallowing virtually all deductions, exemptions, and exclusions to increase taxable income by 70 per cent. On this comprehensive tax base, he found that a flat rate tax of 42.2 per cent was required to finance Plan B, and a tax of 40.2 per cent for Plan D. This would be the marginal tax rate of the federal income tax that would apply to all families, rich and poor alike, since there would be almost no income exempt from taxation.

The effective marginal tax rates would be substantially higher. Actually, taxes other than the federal income tax accounted for 25 per cent of national income in 1970. Taking this figure as a rough estimate of the marginal rate due to other taxes, the effective marginal tax rates for these programs would be 65–67 per cent. Even this is likely to understate the rates for many families, since some low-income families would be confronted with additional tax rates in remaining transfer programs. Moreover, if a progressive rate structure were used in the federal income tax, or if other taxes were progressive on balance, marginal tax rates on upper-income families would be higher. It is likely, then, that effective marginal tax rates for most families would exceed 70 per cent.

The increases in marginal tax rates produced by these plans are not so clear, however, because of the significant tax reform that Okner assumed accompanied the demogrants. A fairly good idea of the impact can be obtained by assuming that the broadened tax base was used with a flat rate tax before the demogrants were introduced. In 1970, a flat rate tax of 12 per cent on this broader base would have produced the same revenue that the federal income tax raised that year. Thus, adopting the demogrant plans would have increased the rate from 12 per cent to 40 to 42 per cent, or by 28 to 30 percentage points. Since these plans redistribute just over five per cent of national income, marginal tax rates are increased by slightly more than five percentage points for each per cent of national income redistributed.

For these high tax rates we would receive a substantial redistribution of income: $47 billion with plan B and $45.3 billion with Plan D. However, less than a third of these sums is redistributed to the lowest quintile. According to Okner's detailed estimates, Plan B raises the share of the lowest quintile by 1.7 percentage points, while the gain is only 1.4 percentage points for Plan D. Thus, most of the redistribution takes place within the middle-income and upper-income classes. As was mentioned earlier, this is a virtual necessity for any large-scale redistribution, and it makes the ethical questions discussed quite important. For low-income families we get a gain of about one and a half per cent of national income at a cost of a 28–30 percentage point increase in marginal rates for all families.

It should be pointed out that the estimates given above, as well the ones mentioned earlier, are based on the assumption that family incomes are not reduced in response to higher tax rates. If reductions do occur, then the same tax rates would raise less revenue. In this event, raising marginal tax rates by 28–30 percentage points to finance the demogrant would actually redistribute less than the figures given in Table IV. Since some reduction in incomes is surely to be expected, the estimates given can be considered to be conservative indications of the difficulty of financing such programs.

A HYPOTHETICAL TRANSFER

For our second redistribution plan, consider the proposal made by Arthur Okun in *Equality and Efficiency*.

"First, consider the American families who make up the bottom 20 percent of the income distribution. Their after tax incomes in 1974 were less than $7,000, averaging about $5,000. Now consider the top five percent of families in the income pyramid; they had after-tax incomes ranging upward from about $28,000, and averaging about $45,000. A proposal is made to levy an added tax averaging $4,000 (about nine percent) on the income of the affluent families in an effort to aid the low-income families. Since the low-income group I selected has four times as many families as the affluent group, that should, in principle, finance a $1,000 grant for the average low-income family."[4]

Okun does not intend this to be a proposal for an actual program; rather, he presents it so the reader can test his attitudes toward redistribution. In particular, Okun asks the reader to consider how large the inefficiency in such a program could be and still be considered a desirable transfer.

The hypothetical income transfer is well designed to elicit a favorable response from the reader. By emphasizing a transfer from the very top to the very bottom, doubts about whether real incomes are made more equal are not very troublesome. Instead, the real problem with this income transfer is the marginal tax rates it would require. But Okun did not raise this issue at all.

For the low-income families, marginal tax rates would be pushed up to about 100 percent. (Incidentally, the figures given by Okun are for money incomes. When in-kind transfers are included, the average income of this group would be well above $5,000—probably quite close to $7,000, in fact.) The aggregate transfer to low-income families is just below one percent, and we have already explained why a transfer of that size necessitates such a high tax rate. Had Okun realized this, I doubt that he would have presented his example as a feasible policy alternative.

Also of interest is the increase in tax rates for affluent families. The average amount of income in excess of $28,000 for such families is $17,000, according to Okun's figures. An average of $4000 must be collected from this, thus requiring a supplemental marginal tax rate of 24 per cent. (Only incomes above $28,000 can be taxed; otherwise the "notch" problem occurs.) Since current marginal tax rates of this group are, at a minimum, 40–45 per cent, and range upwards to 60 per cent or so, this income transfer would produce effective marginal tax rates in the 65–80 per cent range. Most upper income taxpayers would probably be confronted with rates of 70 to 75 per cent.

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[3] Benjamin A. Okner, "The Role of Demogrants as an Income Maintenance Alternative," *Studies in Public Welfare*, Paper No. 9 (Joint Economic Committee, 1973).

[4] Arthur M. Okun, *Equality and Efficiency* (The Brookings Institution, 1975), p. 91.

What would be the impact of this dramatic increase in marginal tax rates? I would expect a significant reduction in earnings by these families, and also a conversion of income into forms that are not taxable (through the use of tax loopholes). Over the long run, probably fewer families would acquire the skills, shoulder the responsibilities, and make the effort necessary to move into this income class. The size of these effects is uncertain but the reactions do not need to be at all large to make the income transfer program counterproductive. It would not be unreasonable, for example, to expect taxable incomes to fall by 10 per cent. Yet if incomes fell by this amount, tax revenues collected from these families would not go up at all. The higher tax rates applied to a 10 per cent lower tax base would produce just the same revenue as the present system, and there would be no additional funds to transfer to low-income families. High-income families would be worse off, and no one would gain.

Thus, the implications of Okun's hypothetical transfer for both low-income and high-income families raise serious doubts about its feasibility. And the program would—assuming no reductions in income—redistribute less than one per cent of national income. The difficulty of transferring income from the very top to the bottom tends to support my earlier conclusion that any additional redistribution will involve considerable redistribution within the broad middle-income range, as well as substantially higher marginal tax rates for everyone.

HOW FAR IS ENOUGH?

Given the current system of taxes and transfers, in order to redistribute an additional one per cent of national income to low-income families a total redistribution of at least two per cent is required, and this will necessitate an increase in marginal tax rates of 10 percentage points for all families. These conclusions raise both ethical and practical questions. The ethical questions pertain to the justification for massive redistribution within middle-income classes, and the practical questions relate to the impact of substantially higher tax rates on economic incentives. On both grounds, serious doubts are raised concerning the desirability of further redistribution. Furthermore, a gain of one per cent of national income by low-income families would only raise their net incomes by about 12 per cent. It is worth pointing out that economic growth at rates experienced in the past (but not the very recent past) will raise incomes of low-income families by this much every three or four years without increases in marginal tax rates.

For those who believe the economy is going to continue churning out more and more goods and services, regardless of the incentives confronting the producers (the people), the considerations emphasized here will probably do little to dampen their enthusiasm for more government measures to redistribute income. Since current trends suggest government activity in this area will continue to grow, I can only hope that incentives are, in fact, not appreciably dulled by substantially higher marginal tax rates. But, like most economists, I have developed a healthy respect for the responsiveness of people to economic incentives; and with effective marginal tax rates nearing 50 per cent for most American families, I think there are grounds for some concern.

For years, countless reformers have been urging the adoption of measures to produce a more equal distribution of income. The call is always for more equality than we now have, but seldom is the issue of exactly how much more equality is desirable faced squarely. Since we have gone quite far in equalizing incomes in recent years, now is an appropriate time to consider this fundamental question. It may be that we have gone far enough.

NURSE PRACTITIONERS

Mr. CLARK. Mr. President, I wish to bring to the attention of the Senate a promising new aspect of this country's health care delivery system—the utilization of nurse practitioners and other physician extenders.

These health practitioners are trained in the provision of primary care—treating minor illnesses and accidents and promoting health maintenance. They have been especially valuable in rural areas of our country, serving in clinics in communities that formerly had little or no access to health services.

Congress is beginning to recognize the usefulness of nurse practitioners, physician assistants and the like. We are presently helping to fund training programs. We are also placing some extenders in communities through the National Health Service Corps. The recently passed health manpower bill authorizes loans to establish satellite clinics using extenders and grants traineeships to nurses from underserved areas.

The next logical step is to facilitate the greater utilization of nurse practitioners through more flexible medicare reimbursement policies. I plan to work with the Senate Finance Committee in the next few months so that we can act on this matter as soon as possible in the 95th Congress.

Next month, the Senate Agriculture Committee's Rural Development Subcommittee will be conducting hearings in Iowa on rural health care. We will be concentrating on the use of satellite clinics and physician extenders. Through these hearings—and others that Senator LEAHY and I intend to hold in other parts of the country—we will expand our knowldege of the health problems and needs of rural Americans.

Commitment, a publication of the Health Resources Administration of the Department of Health, Education, and Welfare, recently featured an excellent example of nurse practitioner services in the State of Washington. The article concludes:

> Knowing that a competent well-trained nurse is there has lessened the fear of accident or illness for many of these small-town people. The increasing number of return visits is one measure that persons are content with the care they receive.

Because this article presents a detailed picture of how nurse practitioners provide valuable health services to medically underserved communities, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NURSE PRACTITIONERS EARN COMMUNITY SUPPORT

(By Dee W. Jones)

Mountains and water hamper health care in the Pacific Northwest. Even towns that appear on the map as close neighbors may be, in reality, a mountain range apart. Puget Sound slashes deep into Washington, separating the thumb of the Olympic Peninsula from the main fist of the State. The Sound area is dotted with islands and the islanders depend on ferry transportation to the mainland hospitals and clinics.

On-the-scene health care is essential for economy as well as safety. Travel adds time and expense to the doctor's bill.

More than 100 small Washington communities are doctorless. Some never have had a physician's services; others have lost their solo practitioner through retirement or a move to "more rewarding" location.

Most of these towns have fluctuating populations. Summer brings vacationers. Loggers and agricultural workers come and go with the seasons. Each group has its own needs for health and accident care.

Since 1972, several Washington communities have found the services of a nurse practitioner a welcome solution.

The Washington/Alaska Regional Medical Program, a Federally funded activity, has been responsible for preparing both nurses and townspeople for this new service and for helping residents recognize that nurse clinics could survive only with community patronage and support. Now, four years after the first nurse practitioner clinic was opened in Washington, this type of facility has become an accepted and permanent feature of the State's rural health care.

Perhaps the most dramatic "success story" began in 1972 in Darrington, 80 miles north of Seattle. This logging community has a population of 4,200 living 30 miles by mountain road from Arlington, the nearest town with a hospital. Darrington's only physician had retired long ago. A small clinic built with a Sears Foundation grant had been occupied from time to time, but most often had remained unused. The town's search committee and clinic board had become discouraged with their failure to attract a physician, and they welcomed W/ARMP's staff consultation on alternatives. Hiring a Medex (physician's assistant) was not possible because no physician in the area was willing to comply with the licensing regulations then in effect. The community had a skilled ambulance crew, but citizens felt that transportation alone was not enough.

W/ARMP staff suggested trying someone from the newly emerging discipline, a nurse practitioner who could take health histories, assess the health-illness status and manage acute or chronic illnesses and emergencies by way of a phone consultation with a physician as needed. A doctor in the nearest major town agreed to act as a consultant for a nurse clinic. At that time this was a new concept in the physician-nurse profession relationship.

As discussions progressed, townspeople decided that Darrington needed not one nurse practitioner, but two. The clinic board, representing the community, accepted responsibility for paying salaries for the two nurses and a receptionist, fees for the back-up physician and clinic operating expenses. W/ARMP agreed to recruit and train the nurses, pay their first three months salary, and provide clinic start-up funds of $1,000.

Two registered nurses, both with public health experience, were found and assigned to nine weeks of individualized training in Seattle hospitals and clinics. There was heavy emphasis on emergency care, patient assessment, family planning, and maternal and child care. The two spent some time with their new physician consultant before going up the mountain to open the area's first rural nurse practitioner clinic.

Community acceptance was enthusiastic. "At first, the local residents called up at all hours," recalled Lynne Vigessa, one of the first nurses. "It was almost as though they were trying to make sure we were really there." The Arlington hospital staff praised the young women's skill in giving on-the-spot treatment for logging accident victims. "It's like having your own right hand up there," one of the doctors said.

But financial problems soon threatened the clinic's future. Start-up funds ran out. The patient load included many elderly, and because of technicalities, the nurses were not reimbursed for Medicare patients. Welfare payments did not meet actual costs.

The clinic gained some income by contracting to provide school health services. An end-of-the-first-year survey showed that more than half of Darrington's health care was being provided by the nurse practitioners, but the clinic still was not financially solvent.

When one nurse returned to graduate school in 1973, she was replaced by Kasha Barnow, who initially received 60 percent of her salary from the National Health Service Corps. At that same time the Darrington clinic, along with two others that had been established with W/ARMP help, were committed to a pilot program under which the nurses would be reimbursed for services to Medicare patients. Subsequently, arrangements were made for a more realistic contract with private third-party payers, and the financial picture was generally improved, but the clinic does show a deficit some months.

By spring of 1976 the clinic was able to provide Kasha's salary entirely, even though the school nursing contract had been relinquished. Patient fees and third-party reimbursements plus occasional industrial donations have been supporting the entire operation. However, maintaining financial solvency is a continuous struggle.

Darrington patient visits are as high as 45 per day in winter and 30 in summer—the greater clinic load is partially due to the area's loss of two physicians recently. A repeat study showed patient satisfaction remains high.

Both nurses report that they enjoy the small town life and particularly relish the opportunities for mountain climbing. Kasha said she finds "plusses" in the opportunity to practice varying levels of nursing and social work, and in the sense of closeness with her patients including the good chance for follow-up.

The local pharmacy honors the nurses' prescriptions. Their physician consultant visits the clinic for five hours twice a month, with the time being used as the need dictates. Sometimes he joins the nurses in seeing patients. At other times he reviews charts. Occasionally the nurses close the clinic and spend an afternoon with the physician improving their skills in minor surgery, making orthopedic casts or reading X-ray films.

The Darrington clinic normally is open 40 hours a week, but because the nurses live in the community, there is nearly fulltime coverage. If warranted, housecalls are made to the very ill and the aged.

About a year after the Darrington clinic opened, Clallam Bay, a coastal logging and fishing village 150 miles northwest of Seattle on the edge of the Olympic Peninsula Rain Forest, also appealed to W/ARMP for assistance. At the local Lions Club and a citizens' gathering, W/ARMP staff showed a newly made film[1] of the Darrington nurses at work. The scenes of a nurse in the ambulance attending to an injured logger had special impact in Clallam Bay. The people knew that was the kind of person they needed.

Again W/ARMP recruited and trained a nurse. Financial support was arranged and the clinic was contracted as a satellite of the community hospital at Forks, 32 miles away. The tax-supported hospital district agreed to pay the nurse's salary, rent the clinic space and handle collections.

Jo Anne Willard, who had gained experience at Seattle's Group Health Clinic, arrived at Clallam Bay in October 1973. The only health care provided along 60 miles of coast, she serves a population of 2,330, some of whom are Indians entitled to care at an Indian Health Service Clinic, but the clinic has had a physician only sporadically.

Beginning with a daily patient load of only three, Jo Anne now sees an average of 12 and acknowledges she could not survive on fees-for-service alone. The community residents consider her a worthwhile investment. Having her there saves them a 60-mile round trip to a physician for treatment of minor ills, allergy injections, Pap smears, family planning counseling and minor injuries. Clinic records show suturing of loggers is a major entry.

Another W/ARMP-trained nurse practitioner augments physician services at the Forks hospital.

Jo Anne feels the unimposing frame building where she works, with its tiny waiting room and closet-sized laboratory, discourages the more conservative patients in the area, and she looks for an increased patient load when a promised new clinic is constructed. Because of its hospital affiliation, the Clallam Bay clinic is reimbursed by the "blues" (health benefit programs) and the Indian Health Service. However, it is not certified for Medicare reimbursement.

Vashon Island, in South Puget Sound, a 30-minute ferry trip, has a year-around population of 7,000, swelled by 3,000 vacation cottagers in summer. In 1972, islanders were sharing the services of one physician, and were entirely without coverage when he was seeing patients in mainland hospitals. The community organized a health center which was open in July with two W/ARMP-supported nurse practitioners and some 20 volunteer receptionists who took turns answering the telephone.

When W/ARMP support ended three months later, patient fees were covering only 10 percent of the operating costs, so the community rallied to make up the difference. Health center "memberships" (carrying no special privileges) were sold for $5 each. Ultimately an experienced salaried office worker replaced the corps of receptionists who then began directing their efforts toward fund raising. Now they run a salvage shop, "Granny's Attic," that raises an average of $650 a month for the clinic.

After four years, the Vashon clinic has both fulltime and halftime nurse practitioners, a salaried physician three days a week, and residents who come from a Seattle hospital each afternoon at no expense to the clinic. Nurses' contracts require them to live on the island to provide 24-hour coverage. The payroll of 14 full and part-time employees includes bookkeeper, receptionists, administrator and medical assistants.

All of the nurse clinics report that they writeoff a fairly high percentage of no-pay patients—Vashon's is 15 percent—and lose money on reimbursement of welfare cases.

In early 1975, Nancy White returned to her home community, 1,500-population Orting, at the foot of Mount Rainier. She was invited back by the town's Health Council whose members had long despaired of utilizing the little white stucco structure they called the clinic.

Fruit growers, merchants and dairymen contributed to an auction that raised $1,000 for clinic equipment. The school district secured CETA (Comprehensive Employment and Training Act of 1973) funding to retain Nancy halftime as its very first school nurse. A dentist and an optometrist each agreed to rent clinic space for use one day a week.

Nancy had inherited the small farm on which she had grown up, so she became what certainly must be one of the country's few self-employed nurse-farmers.

After four summers of nursing at an Alaska fish camp 150 miles from a physician, she was accustomed to professional isolation, but this would be her first venture as an independent. The first day she advised her volunteer receptionist to bring along some knitting to avoid boredom. The patient stream was so great that the receptionist soon was put on salary—and there never has been any office time for knitting.

Nancy's physician back-up reports he is delighted with the arrangement. "I wish we had one like her in every little town in the valley," he said. "It certainly has cut down the amount of time I spend on these country roads." And, as an aside, the Orting Fire Department has welcomed Nancy as a member.

Gretchen Schodde, one of the first nurses placed in Darrington, recalls her year there as "the most challenging and rewarding of my life." She now teaches in the University of Washington's family nurse practitioner program and emphasizes the necessity of rural clinic placements during training for persons interested in this new role. Also important, she feels, is personal background. Someone with a country rearing probably will better adapt to the rural assignment. Studies have shown that to be self-sufficient, a nurse clinic should serve a minimum of 1,200 persons. Even then, as has been experienced in these communities, some source of income in addition to patient fees is essential at the outset. The University of Washington School of Nursing also recommends placing nurse practitioners in pairs—for greater community coverage, mutual support, and for utilizing opportunities for continuing education. Each of the nurse practitioners must arrange for some sort of consultative relationship with a physician.

No matter how modest the clinic facility, it must afford individual privacy since nearly all patients may be expected to know each other. A centrifuge, microscope, some mechanism for cultures and dip-sticks are essential. X-ray is desirable for fracture diagnosis, and is a potential source of income.

Gretchen warns nurse practitioners who seek rural assignments that they face the cultural and professional hazards of isolation and that they constantly must be aware of their limitations. A well prepared nurse practitioner can handle most common health problems, she feels. But the nurse should beware of thinking that, on a daily routine basis, "I can handle anything."

Knowing that a competent, well trained nurse is there has lessened the fear of accident or illness for many of these small-town people. The increasing number of return visits is one measure that persons are content with the care they receive. Other communities have heard about these clinics and are seeking nurse practitioners. Fortunately, there appears to be a sufficient supply among the confident and well prepared nurses who are eager for assignments that use all their skills.

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[1] "The Nurse Practitioner," a 20-minute color and sound film produced by Washington/Alaska Regional Medical Program, is available for loan from the Washington State Nurses Association, 117 Second Avenue, Seattle, Washington 98101.

SUNSET BILL

Mr. JAVITS. Mr. President, the Government Operations Committee has developed in committee an important reform proposal for improving the congressional review of Federal spending. This bill—S. 2925—the Government Economy and Spending Reform Act of 1976 sponsored by Senators William V. Roth, Jr., and Edmund Muskie—is now popularly called sunset reform. I am pleased that the Senate has the opportunity to debate the merits of this approach before we adjourn the second session of the 94th Congress.

We must assure that Congress exerts its role in developing and carrying out the legislative priorities on our national agenda, for this function we need procedures for review, all the good intentions of the Congress otherwise come to naught.

The sunset legislation as it is advocated by its authors has been developed to accent the role of Congress in making Government programs more effective.

Today I want particularly to commend Senator Roth for the tireless role he has played in developing this interesting sunset proposal. With the Presidential campaign in process it is easy to overlook the instances of bipartisan cooperation which make for good government. This sunset proposal is a good example of Republican and Democratic teamwork which has yielded what could be a solid proposal for fiscal reform.

Senator Roth and Senator Muskie collaborated last year, months before any bill was introduced, to reach agreement on the outlines for a comprehensive spending reform proposal. Their staffs worked in concert for weeks to refine the procedures for periodic termination and zero-base review and to draft a bill which met with their approval. On February 3, 1976, Senators Roth and Muskie introduced S. 2925 which has become the basis for the sunset reform bill pending before the Senate today. The original bill has been refined and improved considerably during its review in the Government Operations Committee.

This proposal may have to be considered again during the next session of Congress because the House may not complete any action on this bill. I am sure there will be further refinement of the basic bill developed this year. I ask unanimous consent that there be printed in the Record several articles which show the development of this bill and point out the bipartisan cooperation between Senators Roth and Muskie.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, July 21, 1976]

Programs That Self-Destruct

(By Neal R. Peirce)

The "sunset" law idea—to force government agencies and programs to justify their own existence or face extinction—is advancing rapidly in Congress and spreading like a prairie grassfire among the states.

Sunset measures were introduced this spring in California, Florida, Illinois and Louisiana—even before Colorado, in April, could complete action on its pioneering bill to put 40 state regulatory agencies on a seven-year life cycle. Maryland has set up a 15-member commission to study the feasibility of a sunset law.

The Colorado chapter of Common Cause, which originated the sunset idea, reports inquiries from 30 states. "I wouldn't be surprised if two dozen legislatures were debating sunset bills by next winter," says Rosalie Schiff, executive director of Colorado Common Cause.

On Capitol Hill, 47 senators, of every ideological hue, are sponsoring sunset legislation requiring federal government programs, grouped by functional area, to come up for renewal every five years. Programs that couldn't pass muster would be cut back or eliminated altogether. Those that proved themselves would be given a new lease on life by Congress.

The bill cleared the Senate Intergovernmental Relations Subcommittee by a 7–0 vote May 13, and sponsors Edmund S. Muskie (D-Maine) and William V. Roth (R-Del.) hope it will reach the Senate floor this summer.

On the House side, a companion bill has more than 100 sponsors including 41 members of the freshman class lined up by chief backers James J. Blanchard (D-Mich.) and Norman Y. Mineta, (D-Calif.). House committee hearings are scheduled to begin this month.

Broad support—from Common Cause to the Chamber of Commerce of the U.S.—for the sunset legislation was forthcoming during Senate hearings. Only one interest group—the veterans—had the temerity to oppose the idea in public, out of fear that Congress might cut back their benefits.

Blanchard says he's "absolutely convinced" sunset legislation will eventually pass Congress. If he's right, the results could be revolutionary: the most effective brake on federal spending and programs in modern times—perhaps ever.

Muskie and Roth see sunset as a logical extension of the new congressional budget process, now in its second year. Whereas the budget process lets Congress establish spending priorities and overall ceilings, the sunset mechanism would force Congress to make periodic decisions on whether federal programs are really working so that duplicative or unnecessary ones can be weeded out.

Up to now, bureaucratic and political pitfalls have made it almost impossible to eliminate programs or agencies once they're on the statute books.

The sunset bill tries to avoid those pitfalls in three ways. First, a triggering mechanism requires that Congress must act every five years to keep a program alive. The burden of proof is shifted to a program's backers, to show that it deserves continued life. According to Alvin From, staff director of the Senate Intergovernmental Relations Subcommittee, "it will be very hard for a committee to justify reauthorizing the Tea-Tasters Board or 228 individual health programs."

Second, the sunset measure requires that all related programs—in manpower or health or national security, for example—come up for review and a decision on extension in a single year. Under strict budget guidelines, Congress will have to decide which programs are the most worthwhile, which might be dropped or consolidated.

Finally, the sunset bill as it's now written requires a zero-based review of each federal program, to be prepared for Congress by executive agencies and the General Accounting Office. Zero-based review shows the consequences of cutting any program's budget 25 percent or more, eliminating it altogether, or providing the services another way.

The zero-based process alarms professional budget-makers. Roy Ash, former director of the Office of Management and Budget, says that zero-based review of an average of 250 programs a year "is like attempting to jump aboard a 747 in full flight." Others say the bill is overly ambitious, would set a "papermill" in motion and create "a staggering workload." They suggest more modest pilot or test runs.

Muskie and Roth show little patience with such arguments. If Congress proceeds at the pace predicted by many critics, Roth says, "I will be dead by the time the work is completed." Much of the resistance, sunset law backers believe, stems from normal bureaucratic change in their way of doing business.

Even federal tax incentives are the target of a sunset provision suggested by Ohio's Sen. John H. Glenn (D). However noble their original purpose, Glenn says, tax incentives often degenerate into loopholes that cause an annual loss of $101 billion in tax revenue—as much as the entire national defense budget.

Common Cause urges a kind of sunset for Congress itself—reorganizing committees into more clear-cut functional areas and forcing members to rotate committee assignments every few years to break up "unholy" alliances between committee members and special interest lobbyists.

Even an imperfect sunset system, however, could help breathe life into the oft-neglected oversight role of the legislature, prompt the executive to be more accountable, and begin the arduous process of rescuing government from its own cumbersome inefficiencies and the nadir of public esteem where it finds itself today.

[From the Economic Affairs, Apr. 24, 1976]

Sunset Bills: An Eye on Big Government?

(By Judy Gardner)

Citing the public's "anti-Washington" mood, members of Congress are seeking support for bills to make federal programs regularly justify their existence or come to an end.

The proposals are generally labeled "sunset" bills because they would mandate the periodic reauthorization by Congress of all federal programs, including many now taken for granted. If the activities were not reauthorized, they would fade into the sunset.

While the proposals take a number of forms, they share the common goal of improving government performance.

PUBLIC DISSATISFACTION

The proliferation of federal programs, accompanied by duplication, inefficiencies and conflicting purposes, has resulted, says Sen. Edmund D. Muskie (D Maine), "in a bumper crop of public disenchantment with government so unresponsive that it cannot even perform the simple day-to-day tasks that need to be done."

Muskie, one of the sponsors of the bill that has received most attention in Congress so far, seeks to win support for the proposal by pointing out that the 1975 Catalog of Federal Domestic Assistance listed 1,030 programs—228 health-related, 156 in the area of income security and social service, and 83 in housing; that the Government Manual lists 44 independent agencies and 1,240 advisory boards, committees, commissions and councils besides the 11 cabinet departments; that in 1974, 85 governmental bodies were established and only three subsequently abolished.

"There may have been a time when we could afford nearly a thousand different legislative solutions to a few dozen national problems—when we did not have to worry which programs were working and which ones were not, because we knew there was enough in the till for everyone," said Muskie in a Feb. 3 Senate speech. "Today, we no longer have those options."

PROPOSALS FOR CHANGE

Bills have been introduced in the House and Senate that would, in a variety of ways, require the regular review of federal activities and agencies, with an eye to improved efficiency.

The bill (S. 2925) that has received the most scrutiny so far was introduced Feb. 3 by Muskie, with bipartisan cosponsors that included John Glenn (D Ohio), William V. Roth, Jr. (R Del.), Barry Goldwater (R Ariz.) and Budget Committee members Henry Bellmon (R Okla.) and Sam Nunn (D Ga.). Muskie is Budget Committee chairman and Bellmon is the ranking minority member. By late April, the bill had 27 cosponsors, including Majority Leader Mike Mansfield (D Mont.) and Minority Leader Hugh Scott (R Pa.).

Muskie also is chairman of the Government Operations Subcommittee on Intergovernmental Relations, which held eight days of hearings in March and April on the bill.

Entitled the Government Economy and Spending Reform Act, it would build upon the budget procedures passed by Congress in 1974.

". . . I have come to believe that no matter how successful the new budget process is, the statement of national priorities which is the federal budget will not be complete until Congress improves control over the services which the budget is intended to buy," Muskie said at the opening hearing March 17. While previous efforts at increasing government efficiency focused on reorganization by the executive branch, Muskie continued, it was time for Congress to face the issue since it bore responsibility for the legislative maze of programs.

Muskie called the bill a "first draft" to stimulate discussion. As introduced, it contained these major elements:

All federal programs and activities would have to be reauthorized at least every four years or be terminated automatically. Exceptions would be made for payment of interest on the public debt and for programs in which individuals made payments to the federal government with the expectation of receiving later benefits, such as railroad and Civil Service retirement, Social Security and Medicare.

Over a four-year period beginning Sept. 30, 1979, all programs and activities would be scheduled for reauthorization, grouped by budget function. Activities within the same function would terminate simultaneously so that Congress could look comprehensively at a functional area, such as national defense or agriculture.

As part of the review process, House and Senate committees would conduct a "zero-base review" of the programs and activities in their jurisdiction every fourth year before reporting a reauthorization. Under this concept, the committees would assess the impact of no funding for a program, and then, working up from zero, evaluate the impact of incremental increases. The committees also would review the duplication of programs.

Additionally, the President would submit with his budget request a zero-base review and evaluation of the programs and activities scheduled for termination in the coming fiscal year, and specific objectives for all programs.

To help the authorizing committees initially, the General Accounting Office (GAO), the investigative arm of Congress, would report to Congress by April 1, 1977, all existing permanent authorizations; assist in the zero-base reviews; and report by July 1, 1977, on duplicative and inactive programs. Congressional committees would propose remedies by May 15, 1978.

In addition, Glenn has proposed an amendment that would extend the zero-base evaluation concept to tax expenditures—revenues lost to the government because of tax policy, such as deductions for interest on home mortgages.

NEED FOR ACTION

The supporters of S. 2927 have focused on its zero base budgeting provisions, which they describe as a logical second step to the 1974 budget act. That law gave Congress the potential for focusing on overall federal spending, they say; the provisions of S. 2927 would permit it to focus on the individual aspects of federal spending.

Roth argues that the bill "would end the unspoken rule that money spent on a program this year must be continued or increased in next year's budget," an axiom that has led the federal government "into the fool's trap of throwing good money after bad for a wasted enterprise." The new assumption instead would be that no new budget authority would be necessary until a program was proven worthwhile and cost effective, he said Feb. 3.

Roth and others also maintain that the quadrennial evaluations would help Congress to get a handle on "uncontrollable growth" in spending, since higher costs would be assessed against program goals more often.

Supporters also say the evaluations would help to consolidate overlapping programs, eliminate unnecessary ones and generally provide for more efficiency and a better use of taxpayers' money. With Congress initiating the changes, they theoretically would have more chance of passage than executive branch proposals for consolidation which tend to fare poorly in Congress.

Rep. Norman Y. Mineta (D. Calif.), saw potential improvements in federal-local relationships as well from the bill. There could be a "positive impact" on local government receiving federal aid as bureaucratic red tape was eliminated and grant programs were overhauled to revise overlapping or contradictory objectives, he told the subcommittee March 18.

Muskie observes that the proposal does not signal a retreat from the traditional Democratic commitment to a federal role in solving national problems. On the contrary, he says, many of the goals of new federal programs he has worked for in the past "are being thwarted by an unwieldy and unresponsive federal establishment." The changes represented by zero-base budgeting and "sunset" provisions would help to achieve some of those original goals. And unless changes are made, he continues, the federal government may lack both the fiscal resources and the public's trust to pursue new legislative solutions to national problems.

PRACTICAL PROBLEMS

The witnesses before the Intergovernmental Relations Subcommittee, reprsenting the executive branch, local government, citizens' groups and private business, all applauded the goals of S 2925.

They also identified a host of problems with the bill as introduced.

James T. Lynn, director of the Office of Management and Budget (OMB), said April 6 that the overriding problem with the bill was its "mechanical and inflexible" approach. Some activities, he explained, needed more frequent reviews than every four years, some less. Some evaluations could take years to do properly, some a few months. The approach embodied in the bill, he and other testified, could mean a mass of paperwork that in the end would accomplish very little.

Another problem, said Alice M. Rivlin, director of the Congressional Budget Office (CBO), was the bill's sweeping mandate for zero-base budgeting. For many federal activities, she said, there was a general consensus that they were a proper function for the federal government such as national defense and the conducting of a census. For such activities, she said, the relevant question was not whether such a program should exist. but rather whether the activity was being done in the most effective way.

A related problem that both she and Commerce Secretary Elliot L. Richardson highlighted was the difficulty of measuring the effect of federal programs. Objectives could be general, numerous or difficult to quantify, they said. Additionally, it was not always possible to judge the impact of ending a particular program or activity.

Richardson suggested that preparing evaluations every four years could "easily become a mere mechanical exercise" and suggested a more targeted approach, with initial attention on so-called "uncontrollable" programs which would be revised or eliminated only through legislation.

GAO Comptroller General Elmer B. Staats also was concerned about the workload required for an across-the-board zero-based budget evaluation, and about the difficulties in identifying overlapping or duplicative programs. He suggested a pilot test.

Several witnesses, including former OMB Director Roy L. Ash (1972–75) questioned the need for new legislation at all. "Don't wait for legislation," suggested Ash. He urged the Budget Committees, authorizing committees and OMB to start instead on selected zero-based analyses immediately, and hold off on legislation until some practical experience had been gained.

Staats and administration witnesses also observed that under the Intergovernmental Cooperation Act of 1968 (PL 90–577) GAO could, at the request of any committee, study specifically the duplicative or conflicting nature of grant programs, in addition to its general investigatory and oversight functions. (*Details, 1968 Almanac p. 505*)

OUTLOOK

The problems mentioned by the witnesses, as well as the potential political impact on favorite programs of congressional committees, created formidable obstacles to the drafting specific legislation, despite the appeal of the overall goals.

The Intergovernmental Relations Subcommittee completed hearing on S 2925 April 8 and the staff is working to revise the measure. Its efforts have included meetings with OMB Deputy Director Paul H. O'Neill.

"You can always work out the practical problems," said subcommittee staff director Alvin From. ". . . The difficulty really is in coming up with a distribution of the workload, so that good careful evaluations can be made, rather than just making paperwork."

A member of the minority staff who has worked with Roth on the bill, Douglas Barrett, said that the problem was to keep a "comprehensive approach" to evaluation without overwhelming the legislative process. None of the principal sponsors has any illusions about the difficulties such a bill would face, he continued, but added there was "a good deal of support, interest and commitment" to it.

If an acceptable approach can be worked out, the subcommittee may hold markup sessions in mid-May.

In the House, companion legislation (HR 11734) has been introduced by Mineta and James J. Blanchard (D Mich.). It has been referred to the Rules Committee which has no plans for action.

[From the Wall Street Journal, June 25, 1976]

Cleaning House: New "Sunset Laws" Seek to Curb Growth of Big Government

(By Robert L. Simison)

Denver.—Raul N. Rodriguez, executive director of Colorado's Department of Regulatory Agencies, doesn't sound like a bureaucrat. He says things like, "Regulation is bad." And, "I'd like to do away with this department."

He doesn't act like one either. Besides urging the dissolution of certain of his department's agencies, he has helped pass a law that could do away with them all: Colorado's new "Sunset Law." The experimental measure would terminate in six years the state's regulatory agencies, representing a third of all its executive units, unless they justify their existence. Some 39 agencies regulating businesses ranging from mobile home dealers to utilities are affected. If an agency fails to convince the legislature it should be reestablished, the agency's sun will set.

In a year when opposing government growth is popular, the sunset approach is catching on. "People are fed up with big government and want to do something responsible about it," says a spokesman for Common Cause, the self-styled citizens' lobby.

Thus, it's no surprise that similar proposals are dawning elsewhere. In Washington, one federal proposal already has 55 Senate and 112 House backers. Following Colorado's lead, the Florida legislature has passed a sunset measure that will apply to 108 laws that regulate 77 industries and professions, and the Maryland legislature has set up a panel to draft a sunset bill. Legislators in a score of other states are also studying the bill.

ELECTION-YEAR PIZZAZZ?

However, sunset laws may have more election-year pizzazz than long-term utility, both backers and critics point out. The concept actually is intended more to force legislatures to review their offspring than to wipe out a lot of agencies. And the workload of such reassessments may make sunset laws unworkable or ineffective.

The problem sunset seeks to remedy is that government programs and agencies often seem to mushroom out of control. "We tend to create things and then forget about them," acknowledges Rep. Gerald Kopel, who backed sunset in the Colorado House.

A case in point was Mr. Rodriguez's Department of Regulatory Agencies. The department's 31 occupational licensing boards and eight major regulatory agencies, such as the Public Utilities Commission, consist of fixed-term appointees who are usually nominated by the industries and occupational groups they regulate. Their rulings aren't subject to gubernatorial or legislative review. (The legislature does have the power to abolish the regulatory boards, but as a practical matter, inertia and lobbyist pressure mean that this option is rarely—if ever—exercised).

WHO CUTS MEN'S HAIR?

This system, common to most states, has come under harsh criticism here in recent years. "These agencies were protecting the industries they regulated, not acting in the public interest," charges Rosalie Schiff, executive director of Colorado's Common Cause chapter. As examples, critics here cite a recent jurisdictional dispute between the cosmetologists' and barbers' boards over who could cut men's hair. The critics have also charged that boards licensing electricians, plumbers and court reporters set ridiculously high standards. The medical examiners' board was criticized for failing to discipline doctors for malpractice.

The solution that caught on here developed out of some notepad scribblings by Craig Barnes, a young Denver lawyer, during a Common Cause meeting. Although the idea of automatic terminations wasn't new, Mr. Barnes claims credit for naming it sunset. "It's like the end of the day for these agencies, and it's inexorable," he says.

The resulting Colorado law, which passed with Common Cause backing, sets 13 of the 39 agencies for automatic termination every other year. But before an agency is dismantled, the law mandates public hearings at which "the agency shall have the burden of demonstrating a public need for its continued existence . . ." Agencies that pass the test can then be restructured or renewed for up to six years.

TRYING TO SHAPE UP

There's evidence the law is already having the desired effect. With the first batch of terminations looming next year, "these agencies are all trying to shape up," Mr. Rodriguez says.

An agency that has reason to try especially hard is the one that licenses court reporters. Legislative hearings aired complaints that, among other things, the Shorthand Reporters Board artificially restricted entry into the profession by making its qualifying test almost impossible to pass. (In two examinations last year, only three of 84 persons were certified.) In the face of intensive lobbying, a bill to abolish the board cleared the house. The bill died in the Colorado Senate after the sunset law slated the agency for termination next year.

Since that close call, the shorthand reporters board has been conducting a "massive housecleaning," according to John Bovarie, board secretary. In a revised examination given this year, 22 of 43 applicants passed. "It's a good thing this came up," Mr. Bovarie concedes. "Now we can correct some things that needed correcting."

The legislature's move to abolish that board was no idle threat. After overwhelmingly clearing the sunset bill, the legislature repealed statutes requiring licensing of midwives and ore buyers, eliminated boards that licensed landscape architects and tested doctors on basic sciences and buried the cemetery board (its duties were transferred to the insurance division). It also turned down licensing bids by such groups as dog groomers and massage-parlor operators.

Similar measures aimed at tightening legislative control over agencies have drawn increasing attention elsewhere in recent years. The most important of these is zero-based budgeting, a system initiated under former Gov. Jimmy Carter in Georgia and since adopted by a handful of other states. Under this system, which Mr. Carter proposes to apply to the federal government each department or activity of state government must justify every dollar it seeks to spend every year rather than simply justify proposed spending increases. The various Sunset laws seek to use a different mechanism to impose the same result top-to-bottom reassessment on a regular basis.

In Washington, the sunset bill getting the most attention combines both ideas. Initiated by Sens. Edmund S. Muskie and William V. Roth, the bill would put all government programs and activities on a five-year schedule of reauthorizations. In each year's "zero-based" review, Congress would evaluate the effects of various spending levels, including zero, on the goals of each agency and program.

However, even backers are wary of applying sunset to the entire federal government before it has been tested on a smaller scale. "We can't even guarantee to anybody that this will work," says Sidney Brooks, chairman of Colorado Common Cause, who calls the Colorado law a pilot project.

GOING SLOW

Both the Florida and California legislatures have backed away from measures that would have applied the sunset approach to most functions of state government. In both states, a feeling that the idea was premature contributed to the retreats, although the Florida legislature did enact a measure applying sunset to regulatory matters. The Louisiana legislature is still weighing a sunset bill; other sunset measures, were introduced too late for action in the Alaska, Minnesota and Illinois legislatures. Texas voters in 1975 defeated a proposed new state constitution containing a provision limiting to 10 years the life of most statutory agencies though the sunset feature isn't blamed for the defeat.

The chief doubt about sunset relates to the legislative review it seeks to force. Colorado's bill fails to set specific guidelines for evaluating agencies, contends John Reese, editor-in-chief of the American Bar Association's Administrative Law Review. And even if it did "It's ridiculous to pass a bill telling us to do what we could have been doing anyway," says Sen. Ruth Stockton, the only member of the Colorado Senate who voted against the bill.

Limited time in session would further hamper thorough review by legislatures, critics add. The result could be that "legislators will have to vote based on whatever lobbying pressure is applied," says James C. Perrill, a lobbyist for the Colorado Medical Society. Such pressure could make the renewal of terminated agencies simply a routine matter, critics believe. Further, reviews would make agencies "spend all their time fighting for their lives instead of doing their jobs," contends a Texas lawmaker.

Recognizing these limitations. Colorado intends to go slow with the concept. "We need to see how it works before we go further," says Gov. Richard D. Lamm. But, he adds, "we're going to have to tighten the belt of government. We can't raise more taxes, but we can abolish things."

[From the New York Times, Aug. 5, 1976]

Spending Review Backed in Senate. Committee Approves Bill to Restudy Programs at Five-Year Intervals

(By Edwin L. Dale Jr.)

Washington, Aug. 4.—The Senate Government Operations Committee approved today legislation, applying to Congress, that would end nearly all Government spending programs unless each one was specifically approved again over a five-year review cycle.

Known as the "sunset" bill, it is the legislative counterpart of the "zero-based budgeting" concept embraced for the executive branch of government by Jimmy Carter, the Democratic Presidential nominee.

If enacted, the bill would amount to a revolution in Congressional procedures almost comparable to the Budget Reform Act, which is in full operation this year for the first time. That reform requires Congress to set an overall spending ceiling each year and live with it.

Enactment of the "sunset" bill by both houses of Congress this year is regarded by Congressional staff experts as doubtful but not impossible. Hearings on companion legislation in the House have been conducted by both the Rules Committee and the new Budget Committee.

The bill approved today would exempt from the automatic termination, or "sunset," process only a few programs of the insurance type, such as Social Security, where individuals contribute to a retirement or other benefit.

Thus, even longstanding "entitlement" programs such as veterans' combat-related disability benefits would be subject to review every five years, though there is little expectation that cash payments now received by individuals will be taken away.

More likely to be modified or possibly terminated would be some of the more than 1,000 grant programs, often through state and local government, that deliver services of various kinds.

The committee report on the bill will begin as follows:

"The purpose of S. 2925, as amended, is to close the gap between Congress and the results of its legislative work—the actual performance and accomplishments of Federal programs paid for out of the Federal budget."

The bill sets up a schedule of "functional" programs—health, education, income security, veterans, agriculture, natural resources—for review and possible termination every five years. Under an amendment adopted today the reform itself would have to be reenacted by Congress after five years of experience. If it was not re-enacted, the old procedures would resume.

The bill must now be considered by the Senate Rules Committee. It must also be considered by the Finance Committee because one of its provisions requires a five-year review cycle of "tax expenditures"—that is special tax deductions, exemptions or exclusions that are aimed at achieving results in such areas as mining and health or home ownership outlays by taxpayers.

The chief sponsor of the legislation was Senator Edmund S. Muskie, Democrat of Maine who is chairman of the subcommittee of Government Operations that drafted the bill. Senator Muskie's perception of the need for "sunset" grew as a result of his other role as chairman of the new Senate Budget Committee.

The committee report on the bill says, "The committee would like to state at the outset that S. 2925 does not require the re-enactment of the entire United States code every five years. Rather it only affects those provisions of law authorizing the expenditure of funds. Accordingly, substantive provisions of law—antitrust, civil rights, occupational safety laws, etc.—are not affected by the termination provisions. . . . the focal point of the termination and review process in S. 2925 is intended to be those provisions of law which authorize or provide budget authority for the delivery of services or goods by the Federal Government."

The term "sunset" apparently arose as a verbal counterpart to "sunshine" legislation, which relates to the conduct of Government business in the open. Both terms originated in the states, not Washington. Colorado has just enacted the first state sunset law.

The committees that handle the basic legislation would conduct the reviews, with help from the Office of Management and Budget, the General Accounting Office and the new Congressional Budget Office.

The Ford Administration has been lukewarm to the legislation, though not overtly opposed. Paul H. O'Neill, deputy director of the Office of Management and Budget, told the House Budget Committee last week that he feared it could produce "mountains of paperwork" with few substantive results in cutting back ineffective programs.

However, there was also much skepticism about the radical Congressional budget reform. While it remains to be fully tested, there is now much more optimism than there was a year or two ago, both in and out of Congress, that it will work in restraining the Congressional "propensity to spend" under its old procedures of passing bills one at a time with no control over the total.

The committee report on the "sunset" bill says that the "number and complexity of Federal programs," the great increase in "uncontrollable" outlays and the "rapid growth in the number of Federal programs with permanent appropriations" have made the new system of review necessary.

[From the Wilmington (Del.) Morning News, Feb. 6, 1976]

ADDED SPENDING REFORM

Congress has been making significant progress this last year in developing an orderly way of handling the national budget.

The newly established congressional budget office enables legislators to draw on the kind of expertise that had previously been available only to the executive branch. Concurrent resolutions passed by the House and the Senate set overall budgetary targets. Careful scorekeeping enables legislators to understand the budgetary implications of each bill and to stay within the budget's bounds.

But however valid these reforms—and they do seem to be working—they still have not provided the kind of controls that responsible congressmen feel they should have over national programs and budgets. Delaware's Sen. William V. Roth Jr. and Maine's Sen. Edmund S. Muskie have introduced the Government Economy and Spending Reform Act, to streamline the national budget making process even further.

The proposed spending reform act has three crucial features:

Every federal program would receive a formal review every four years.

These reviews would be carried out by budget areas, so that all science programs, for instance, would be reviewed at the same time. This would uncover duplications as well as inactive programs

Pursuant to the review, the new budget would be drawn up, starting from base zero, with every expenditure having to be justified.

The only kinds of national programs that would not be subject to that kind of quadrennial re-evaluation would be Social Security, Veterans insurance and others where citizens pay in now for later reimbursement. For all other governmental activities, their worth would be checked out before another appropriation would be authorized.

The virtues of this proposed process are obvious. By looking at whole program areas together instead of different strands at different times during the year, co-ordination and comprehensiveness will become practical. Ineffective programs will be discovered more easily, because the review will include a study of program goals and achievements.

The 4-year review cycles will increase the number of projects that are authorized for more than one year; this would allow agencies longer planning and implementation periods with better knowledge of how much money is at their disposal.

Congress' workload would become divided more evenly, with areas such as defense, science, law enforcement and international affairs reviewed one year and then not needing too much study for the next three, while agriculture, commerce and transportation, education, community development and public assistance programs would have their review turn the next; and so on.

Under the proposed bill, no program could be continued beyond four years without going through the review process.

There are all sorts of fancy names in the public administration jargon for the Roth-Muskie reforms. Program budgeting is one such term; zero-base budgeting is another. But the nomenclature is really beside the point. What does matter is that Congress is searching for a method that will eliminate federal waste and will put the federal dollar where it can be most effective. The Roth-Muskie bill gives every indication of being a crucial step in that direction.

[From the Baltimore Sun, February 20, 1976]

ZERO BUDGETING

One of the most notable themes in this year's presidential electioneering is the attack on the federal government. Most candidates, even those who live and work in the nation's capital, feel it necessary to criticize "Washington." And with good reason. The federal government used to be a relatively efficient instrument of delivering social services and money to individuals and to state and local officials. But in the past few years that efficiency has been lost. The General Accounting Office says it can't even figure out in some cases how much money goes for administration and how much for services. There is a great deal of duplication and waste. One reason is that there is no coordination of many programs, nor review of them once they are initiated.

Here is a typical situation. There are several programs in the health field that duplicate one another. The programs are authorized in different laws. Administrators are not aware of each others' existence. In the District of Columbia, for one example, there are eight neighborhood health care clinics in one neighborhood, while other neighborhoods there and in other cities have none. Congress and the Presidential Office of Management and Budget don't catch up with such overlapping until it is too late, because different laws authorize such facilities, and the laws expire in different years. Similar examples could be found in the defense field, or education, or housing, or. . . .

Senators Muskie and Roth, a Democrat and a Republican have prepared legislation aimed at doing something about this, as have several freshmen members of the House. The Muskie-Roth bill would not go so far as to require all departments to go to the "zero-budgeting" concept, where every single program has to be justified from scratch every year. This concept has been used with varying degrees of success in several states. Rather, this bill would limit all authorizations to four years. At that time they would get a zero-base review by the appropriate committees of Congress. All programs in a related field, like health, would be reviewed together.

Senate Majority Leader Mansfield has been urging Congress for years to spend more time reflecting on performance rather than initiating new programs or blindly increasing the money for old ones. This bill (of which he is a co-sponsor) sounds as if it would force Congress to do just that. It deserves a hearing.

FEDERAL BANKING POLICY AND CONSUMER EDUCATION

Mr. HATHAWAY. Mr. President, I was disappointed that the Senate was unable to proceed to consider a number of bills from the Banking Committee which had been scheduled fpr yesterday. In particular, I regret we were unable to vote on S. 2304, the Financial Institutions Supervisory Act Amendments of 1976. These amendments would have strengthened and clarified a number of aspects of existing law and thereby would have provided far greater protection to all of our Nation's depositors.

This bill was aimed at curbing the abuses of so-called problem banks, which overextend and impair their assets due to imprudent loans and thereby endanger the safety and soundness of the institution as a whole.

This bill would have allowed our Federal banking agencies to issue cease and desist orders directly to individual officers involved in violations, whereas under existing law the agencies are limited to initiating proceedings against the institution only.

Modifying this to allow the individual to be reached directly would have greatly increased the deterrent value of our banking laws and regulations, and our customers would have benefited correspondingly. Along the same line, the bill would have allowed officers to be removed when they acted in a grossly negligent manner or exhibited willful disregard for the safety and soundness of their institution.

The bill also provided for the imposition of civil penalties upon individuals, banks, and institutions for violations of laws and regulations, the penalties ranging from $100 to $10,000 per day depending on the nature and extent of the violation in question.

The bill also, for the first time, would have imposed limitations on so-called insider loans. As pointed out in the committee report, excessive utilization of such loans led to many of the recent bank failures.

Since this bill was not considered yesterday, and since it now appears that it will not be brought up again until next year, I firmly hope that it will receive high priority on our agenda at that time. Its regulatory provisions are vitally important to the health of our banking system. At the same time, when the Banking Committee again considers this measure, I suggest that consideration be given to a companion policy to the regulatory provisions contained in S. 2304—namely, consumer education.

In the course of the committee's future work in this area, I would hope that it give careful consideration to increased utilization of mechanisms reasonably calculated to increase public awareness of all financial institutions' obligations to their depositors and other consumers, and, conversely, the consumers' rights and responsibilities with respect to the institutions.

In this regard I call to the attention of my colleagues the efforts of the State of Maine Bureau of Consumer Protection. This body has been in existence for only a few years, but has done an outstanding job of implementing and enforcing the State's uniform consumer credit code.

As created by the State legislature, this body has been empowered to conduct examinations of State banks for possible violations of the code, to pursue correction of such violations, to inform the consumers affected, and to conduct consumer education programs.

While authorized to employ up to five bank examiners, the bureau has in recent months been able to cut back to but one examiner.

Due to the bureau's success, its superintendent, Mr. John E. Quinn, has been invited to appear before both Senate and House committees and discuss methods for better coordinating State and Federal efforts and for adapting some of the programs of his bureau to Federal application.

Mr. Quinn testified before hearings of the Senate Committee on Banking, Housing and Urban Development, chaired by Senator PROXMIRE, in July, and more recently, last week, before Congressman ROSENTHAL's Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations.

One of the most intriguing and potentially beneficial programs Mr. Quinn has instituted is the Program for Consumer Education, which was explored in some detail before Congressman ROSENTHAL's subcommittee.

This program thus far has consisted primarily of public service television advertisements and the publication of a "Down Easter's Pocket Credit Guide," both of which efforts emphasize the potential savings that can result from an individual consumer's shopping around for credit.

The latter document has provoked considerable interest among Maine citizens. For example, its availability was recently noted in the Bangor Daily News, and the bureau was within 3 days swamped with 400 individual inquiries for copies. Employers have included the pocket guide in employee's pay envelopes. The original print of 10,000 copies made available 2 weeks ago is all but depleted, and new orders are piling up.

This response, and the bureau's ability to fulfill its duties with but one bank examiner, indicate to me that the people of Maine are truly interested in receiving greater knowledge about credit transactions in order that their decisions might be intelligent and fully informed. Equally important, I believe that the institutions coming under the jurisdiction of the Maine bureau, and more generally, all of our corporations will respond favorably and in a positive fashion, to consumers who base their market decisions on complete information of costs and benefits.

Our modern market place is far too complex for us to believe that the consumer can get along totally on his own, but in implementing Federal legislation designed to curb market abuses, we should not totally abandon the concept of "caveat emptor."

A skillful blending of sensible regulation, along with increased efforts to educate our consumers of their rights and responsibilities, could have great benefit if applied to our Federal scheme.

While I doubt we would be able to duplicate the success of Mr. Quinn's bureau in terms of cutting back on regulatory personnel, we will not know for sure until we make a vigorous effort.

I would therefore strongly urge the committees and agencies involved to give careful consideration to the idea of instituting consumer education programs, in the banking area and in all other areas where it could be useful.

In so acting, we would begin to explore the interrelationship between regulation and consumer choice, and would be taking an important step to show our constituents we are not indiscriminately committed to Federal regulation, inspection, and reporting, but rather are willing to place increased reliance on the marketplace, so long as that marketplace is increasingly inhabited by consumers who can think for themselves.

In an era when high school test results and other surveys indicate that many of our high school graduates and adults lack basis arithmetic skills, we should not delude ourselves into thinking pocket guides and tables are a complete answer, but we should be willing to upgrade our efforts.

I hope the committees involved will be able to institute pilot programs, and grants to State agencies to give us greater information in this area.

In order that my colleagues might have a better idea of the kind of programs I have in mind in this area, and to underline my belief that much can be accomplished with relatively little effort, by Federal standards, I ask unanimous consent that a copy of the "Down Easter's Pocket Credit Guide" be printed in the RECORD at the conclusion of my remarks. This document is no larger than a typical credit card and is only 32 pages long.

There being no objection, the booklet was ordered to be printed in the RECORD, as follows:

DOWN EASTER'S POCKET CREDIT GUIDE

Down Easters have a reputation of being good "horsetraders," yet when it comes to credit, they spend millions of dollars each year in unnecessary interest charges. Their "horse-sense" has been "buffaloed" by the complexities of credit. This wallet size guide is designed to put you back behind the reins. By using it, you won't apply for credit with your hat in your hand, you'll bargain for credit with an eye toward saving money.

State of Maine, Bureau of Consumer Protection, Augusta, Maine 04330. Tel: 289-3731.

SHOPPING FOR CREDIT

Imagine that you need to borrow $4000 for a new car. If financed through a car dealer, you could pay as much as 13%. But the same amount could probably be obtained through a bank or credit union at, say, 10%.

By using one of the charts provided.

Compare: 13 percent for 3 years vs. 10 percent. The following was taken from Table 1 pages 11 and 14.

13 PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$4,000	357	287	190	564	135	852	107	1, 151

10 PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$4,000	352	220	185	480	129	647	101	870

$852 vs. $647; means a savings of $205.

Let's say you need to borrow $10,000 for a mobile home. Compare the total finance charge at 13%, for 10 years, vs. 12% (Use the second set of tables, which have been designed for longer term loans.)

$7918 vs. $7218; means a savings of $700.

Before signing the "dotted-line," call several lenders to find out about their Annual Percentage Rate. Then use this Guide to compare the costs. You'll notice that the lower the Annual Percentage Rate, the lower the total Finance Charge, and the lower the monthly payments. You'll be able to make an unhurried decision at home, away from the busy loan officer, or salesperson.

CREDIT SHOPPING TIPS

Put some pressure on the lender. Many lenders think that consumers are only interested in how much the monthly payments are. Let them know you're a Credit Shopper. Your first question should be, "What's the Annual Percentage Rate?" Those who never ask usually end up paying the long dollar.

Look for "simple interest" loans. You'll pay no more nor less than you should. And if you make some payments ahead of schedule, you can reduce the total finance charge.

Explore all sources of credit. Loans secured by the cash surrender value of insurance policies, and loans secured by savings or share accounts are usually the cheapest. Insurance policy loans can be obtained from your insurance company; call your agent.

Most Bank Credit Cards carry the maximum Annual Percentage Rate the law allows, 18%. Additionally, Banks get a commission from merchants on all goods and services purchased with their cards. This extra charge, usually 2–5%, is of course, passed on to the consumer. You'll need to do some shopping to find one, but a few Maine Banks offer cards at 12%.

Dealer reserve: Mobile-home and car-dealers usually get a certain percentage of the Finance Charge on contracts they arrange. This "commission" is called a Dealer Reserve.

You can avoid paying such commissions by going directly to a Bank, Credit Union, or Finance Company to arrange for your own financing.

The lower the Annual Percentage Rate, the more you can afford to buy on credit. A $2000 loan for 3 years at 20% costs $74 per month. But for the same payment and length of time, you can borrow $2300 at 10%; that's $300 more! A $10,000 loan for 15 years at 14% costs $133 per month. But, for the same payment and length of time, you can borrow $11,100 at 12%; that's $1100 more! *Credit Shopping might mean that you can afford those little extras that seemed just out of reach before.*

Many lenders offer package deals such as, "free" gifts if you take out a loan, lower rates in return for opening a checking or savings account, or "free" life insurance. A wise credit shopper looks at the total cost. How much is the "free" gift worth, are the checking and savings accounts competitive, is the life insurance really free?

INDEX TO TABLES

TABLE I

Use for auto loans, furniture and appliance loans etc.

TABLE II

Use for mobile home loans, home improvement loans etc.

TABLE III

Use for mortgages.

Notes:

1. All figures have been rounded to the nearest dollar.
2. Amounts within the same column may be added together to find payments and finance charges for loan amounts not listed.

TABLE I

8 PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	4	5	9	3	13	2	22
$500	44	22	21	43	16	64	12	86
$1,000	87	44	45	86	31	128	24	172
$1,500	130	66	68	128	47	192	37	258
$2,000	174	88	90	171	63	256	49	344
$2,500	217	110	113	214	78	321	61	430
$3,000	261	132	136	257	94	384	73	516
$3,500	304	154	158	299	110	448	85	602
$4,000	348	176	181	342	125	513	98	688
$4,500	391	197	204	385	141	577	110	773
$5,000	435	219	226	427	157	640	122	859
$5,500	478	241	249	470	172	705	134	945
$6,000	522	263	271	513	188	769	146	1, 031

8½ PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	9	3	14	2	19
$500	44	23	23	46	16	68	12	92
$1,000	87	47	45	91	32	137	25	183
$1,500	131	70	68	137	47	205	37	275
$2,000	174	93	91	182	63	273	49	366
$2,500	218	117	114	227	79	341	62	458
$3,000	262	140	136	273	95	410	74	550
$3,500	305	163	159	318	110	478	86	641
$4,000	349	187	182	364	126	546	99	733
$4,500	392	210	205	409	142	614	111	824
$5,000	436	233	227	455	158	682	123	916
$5,500	480	257	250	500	174	751	136	1, 007
$6,000	523	280	273	546	189	819	148	1, 099

9 PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	10	3	14	2	20
$500	44	25	23	48	16	72	12	98
$1,000	87	50	46	97	32	145	25	195
$1,500	131	74	69	14	48	217	37	292
$2,000	175	99	91	19	64	290	50	389
$2,500	219	124	114	241	80	362	62	487
$3,000	262	148	137	289	95	434	75	584
$3,500	306	173	160	338	111	507	87	681
$4,000	350	198	183	386	127	579	100	778
$4,500	394	222	206	434	143	652	112	876
$5,000	137	247	228	482	159	724	124	973
$5,500	481	272	251	530	175	796	137	1, 070
$6,000	525	297	274	579	191	896	149	1, 167

9½ PERCENT ANNUAL PERCENTAGE RATE

	1 yr		2 yr		3 yr		4 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	10	3	16	3	21
$500	44	26	23	51	16	77	13	103
$1,000	88	52	46	102	32	153	25	206
$1,500	132	78	69	153	48	230	38	309
$2,000	175	104	92	204	64	307	50	412
$2,500	219	131	115	255	80	383	63	515
$3,000	263	157	138	306	96	460	75	618
$3,500	307	183	161	357	112	536	88	721
$4,000	351	209	184	408	128	613	101	824
$4,500	395	235	207	459	144	689	113	927
$5,000	438	261	230	510	160	766	126	1, 030
$5,500	482	287	253	560	176	843	138	1, 133
$6,000	526	313	275	612	192	919	151	1, 236

TABLE I—Continued

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	11	3	16	3	22
$500	44	28	23	54	16	81	13	109
$1,000	88	55	46	108	32	162	25	218
$1,500	132	83	69	161	48	243	38	326
$2,000	176	110	92	215	65	323	51	435
$2,500	220	137	115	269	81	404	63	544
$3,000	264	165	138	323	97	485	76	652
$3,500	308	193	162	376	113	566	89	761
$4,000	352	220	185	430	129	647	101	870
$4,500	396	248	208	484	145	728	114	979
$5,000	440	275	221	538	161	808	127	1, 087
$5,500	484	302	254	591	177	889	140	1, 196
$6,000	528	330	277	645	194	970	152	1, 305

10½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	11	3	17	3	23
$500	44	29	23	57	16	85	13	115
$1,000	88	58	46	113	33	170	26	229
$1,500	132	88	70	170	49	260	39	350
$2,000	176	116	93	226	65	340	51	229
$2,500	221	146	116	284	82	434	64	584
$3,000	264	173	139	339	98	510	77	687
$3,500	309	204	162	398	114	608	90	818
$4,000	353	231	186	452	130	680	102	916
$4,500	397	263	208	511	146	781	116	1, 051
$5,000	441	289	232	565	163	851	128	1, 145
$5,500	485	321	255	625	179	955	141	1, 285
$6,000	529	347	278	678	195	1, 021	154	1, 374

11 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	12	3	18	3	24
$500	44	30	23	59	16	89	13	121
$1,000	88	61	47	119	33	179	26	241
$1,500	133	91	70	178	49	268	39	361
$2,000	177	121	93	237	65	357	52	482
$2,500	221	152	117	296	82	447	65	602
$3,000	265	182	140	356	98	536	78	722
$3,500	309	212	163	415	115	625	90	842
$4,000	354	242	186	475	131	715	103	963
$4,500	398	273	210	534	147	804	116	1,083
$5,000	442	303	233	593	164	893	129	1,203
$5,500	486	333	256	652	180	983	142	1,324
$6,000	530	363	280	712	196	1,072	155	1,444

11½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	13	3	19	3	25
$500	44	32	23	62	16	94	13	126
$1,000	89	63	47	124	33	187	26	252
$1,500	133	97	70	188	50	282	39	378
$2,000	177	127	94	249	66	375	52	504
$2,500	222	161	117	314	83	470	65	632
$3,000	266	190	141	373	99	561	78	757
$3,500	310	225	164	440	116	658	91	885
$4,000	354	254	187	497	132	749	104	1, 009
$4,500	399	290	211	565	149	846	117	1, 138
$5,000	443	317	234	621	165	936	130	1, 262
$5,500	488	354	258	691	182	1, 034	144	1, 390
$6,000	532	380	281	745	198	1, 123	157	1, 514

12 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	5	3	20	3	27
$500	44	33	24	65	17	98	13	132
$1,000	89	66	47	130	33	196	26	264
$1,500	133	99	71	195	50	294	40	396
$2,000	178	132	94	260	66	391	53	528
$2,500	222	166	118	325	83	489	66	660
$3,000	267	199	141	390	100	587	79	792
$3,500	311	232	165	454	116	685	92	924
$4,000	355	265	188	519	133	783	105	1, 056
$4,500	400	298	212	584	149	881	119	1, 188
$5,000	444	331	235	649	166	979	132	1, 320
$5,500	489	364	259	714	183	1, 076	145	1, 452
$6,000	533	397	282	779	199	1, 174	158	1, 584

12½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	14	3	21	3	28
$500	45	35	24	68	17	102	13	138
$1,000	89	69	47	135	33	205	27	276
$1,500	134	104	71	206	50	309	40	415
$2,000	178	138	95	271	67	409	53	552
$2,500	223	173	119	344	84	515	67	692
$3,000	267	207	142	406	100	613	80	828
$3,500	312	242	166	482	117	721	93	967
$4,000	356	276	189	542	134	818	106	1, 103
$4,500	401	311	213	619	151	927	120	1, 246
$5,000	445	345	237	677	167	1, 022	133	1, 379
$5,500	490	381	261	757	184	1, 133	146	1, 522
$6,000	535	414	284	812	201	1, 226	159	1, 655

13 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	14	3	21	3	29
$500	45	36	24	71	17	107	13	144
$1,000	89	72	48	141	34	213	27	288
$1,500	134	109	71	214	51	320	40	437
$2,000	179	144	95	282	67	426	54	576
$2,500	224	182	119	356	84	533	67	728
$3,000	268	216	143	423	101	639	80	864
$3,500	313	255	167	499	118	746	94	1, 019
$4,000	357	287	190	564	135	852	107	1, 151
$4,500	402	327	214	641	152	959	121	1, 310
$5,000	447	359	238	705	168	1, 065	134	1, 439
$5,500	492	400	262	783	185	1, 173	148	1, 602
$6,000	536	431	285	846	202	1, 278	161	1, 727

13½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	15	3	22	3	30
$500	45	38	24	73	17	111	14	150
$1,000	90	75	48	147	34	222	27	300
$1,500	134	113	72	221	51	336	41	451
$2,000	179	149	96	293	68	444	54	600
$2,500	224	188	120	368	85	560	68	752
$3,000	269	224	143	440	102	665	91	899
$3,500	314	263	167	515	119	784	95	1, 053
$4,000	358	299	191	587	136	887	108	1, 199
$4,500	403	338	215	662	153	1, 008	122	1, 354
$5,000	448	373	269	733	170	1, 108	135	1, 499
$5,500	393	414	263	810	187	1, 232	149	1, 654
$6,000	537	448	287	880	204	1, 330	162	1, 798

TABLE I—Continued

14 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	15	3	23	3	32
$500	45	39	24	76	17	115	14	156
$1,000	90	77	48	152	34	230	27	312
$1,500	135	116	72	232	51	347	41	473
$2,000	180	155	96	305	68	461	55	624
$2,500	225	194	120	386	86	578	69	788
$3,000	269	232	144	457	103	691	82	935
$3,500	314	272	168	540	120	809	96	1, 103
$4,000	359	310	192	609	137	922	109	1, 247
$4,500	404	349	216	695	154	1, 040	123	1, 418
$5,000	449	387	240	762	171	1, 152	137	1, 559
$5,500	494	427	265	849	188	1, 272	151	1, 734
$6,000	539	465	268	914	205	1, 383	164	1, 870

14½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	16	3	24	3	32
$500	45	40	24	79	17	120	14	162
$1,000	90	80	48	158	34	239	28	324
$1,500	135	122	72	239	52	363	41	487
$2,000	180	161	97	316	69	479	55	648
$2,500	225	203	121	398	86	605	69	812
$3,000	270	241	145	474	103	718	83	972
$3,500	315	284	169	557	121	847	97	1, 137
$4,000	360	321	193	632	138	957	110	1, 295
$4,500	405	353	217	716	155	1, 089	124	1, 462
$5,000	450	401	241	790	172	1, 196	138	1, 619
$5,500	496	447	266	876	190	1, 331	152	1, 786
$6,000	540	482	290	948	207	1, 435	165	1, 943

15 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	16	3	25	3	34
$500	45	42	24	82	17	124	14	168
$1,000	90	83	49	164	35	248	28	336
$1,500	135	125	73	246	52	374	42	509
$2,000	181	166	97	328	69	496	56	672
$2,500	226	209	125	410	87	623	70	848
$3,000	271	249	145	491	104	744	81	1,008
$3,500	316	293	170	574	121	872	98	1, 187
$4,000	361	332	194	655	139	992	111	1, 344
$4,500	406	376	218	738	156	1, 121	126	1, 526
$5,000	451	416	242	819	173	1, 240	139	1, 680
$5,500	497	460	267	902	191	1, 371	153	1, 865
$6,000	542	499	291	982	208	1, 488	167	2, 016

15½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	17	4	26	3	35
$500	45	43	24	85	17	129	14	174
$1,000	91	86	49	170	35	257	28	348
$1,500	136	129	73	257	53	390	42	523
$2,000	181	172	97	339	70	514	56	696
$2,500	226	215	122	428	88	650	70	872
$3,000	271	258	146	508	105	771	84	1, 044
$3,500	317	301	171	599	123	910	98	1, 221
$4,000	362	344	195	678	140	1, 027	112	1, 392
$4,500	407	387	230	770	158	1, 170	126	1, 570
$5,000	452	430	244	847	175	1, 284	140	1, 741
$5,500	498	473	268	942	193	1, 430	155	1, 918
$6,000	543	516	292	1, 016	209	1, 541	167	2, 088

16 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	18	4	27	3	36
$500	45	44	24	88	18	133	14	181
$1,000	91	89	49	175	35	266	28	361
$1,500	136	134	74	264	53	401	43	545
$2,000	181	178	98	350	70	532	57	721
$2,500	227	224	123	440	88	668	71	908
$3,000	272	266	147	525	105	797	85	1, 081
$3,500	318	314	172	616	123	935	99	1, 271
$4,000	363	355	196	701	141	1, 063	113	1, 442
$4,500	409	403	221	792	158	1, 202	128	1, 634
$5,000	454	444	245	876	176	1, 328	142	1, 802
$5,500	499	493	270	968	194	1, 470	156	1, 997
$6,000	544	532	294	1, 051	211	1, 594	170	2, 162

16½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	18	4	27	3	37
$500	46	46	25	90	18	137	14	186
$1,000	91	92	49	181	35	274	29	373
$1,500	137	138	74	271	53	412	43	559
$2,000	182	184	98	362	71	549	57	746
$2,500	228	230	123	452	89	686	72	932
$3,000	273	276	148	542	106	823	86	1, 118
$3,500	319	322	172	633	124	960	100	1, 305
$4,000	364	368	197	723	142	1, 098	114	1, 491
$4,500	410	414	221	814	159	1, 235	129	1, 678
$5,000	455	460	246	904	177	1, 372	143	1, 864
$5,500	501	506	271	994	195	1, 509	157	2, 050
$6,000	546	552	295	1, 085	212	1, 646	172	2, 237

17 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	19	4	29	3	39
$500	46	47	25	94	18	142	14	193
$1,000	91	95	49	187	36	284	29	385
$1,500	137	143	74	282	54	428	43	581
$2,000	182	189	99	373	71	567	58	771
$2,500	228	239	124	470	89	713	72	968
$3,000	274	283	148	560	107	851	87	1, 155
$3,500	320	335	173	658	125	998	101	1, 355
$4,000	365	378	198	746	143	1, 134	115	1, 541
$4,500	411	430	223	846	161	1, 283	130	1, 742
$5,000	456	472	247	933	178	1, 418	144	1, 925
$5,500	502	526	272	1, 034	196	1, 569	159	2, 130
$6,000	547	567	297	1, 120	214	1, 701	173	2, 311

17½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	19	4	29	3	40
$500	46	48	25	96	18	146	15	198
$1,000	91	97	50	193	36	292	29	397
$1,500	137	145	75	289	54	439	44	595
$2,000	183	194	99	386	72	585	58	794
$2,500	229	242	124	482	90	731	73	992
$3,000	274	290	149	578	108	877	87	1, 190
$3,500	320	339	174	675	126	1, 023	102	1, 389
$4,000	366	387	199	771	144	1, 170	116	1, 587
$4,500	411	436	224	868	162	1, 316	131	1, 885
$5,000	457	484	249	964	180	1, 462	146	1, 984
$5,500	503	532	273	1, 060	197	1, 608	160	2, 182
$6,000	548	581	298	1, 157	215	1, 754	175	2, 381

TABLE I—Continued

18 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	20	4	30	3	41
$500	46	50	25	99	18	151	15	205
$1,000	92	100	50	198	36	302	29	410
$1,500	138	151	75	300	54	455	44	617
$2,000	183	200	100	396	72	603	59	820
$2,500	229	251	125	500	91	758	74	1, 028
$3,000	275	300	150	595	108	905	88	1, 230
$3,500	321	351	175	700	127	1, 061	103	1, 439
$4,000	367	401	200	793	145	1, 206	118	1, 640
$4,500	413	452	225	900	163	1, 364	132	1, 850
$5,000	458	501	230	991	181	1, 508	147	2, 050
$5,500	364	552	275	1, 100	469	1, 667	162	2, 262
$6,000	550	601	300	1, 189	217	1, 809	176	1, 460

18½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	20	4	31	3	42
$500	46	51	25	102	18	155	15	210
$1,000	92	103	50	205	36	310	30	421
$1,500	138	154	75	307	55	466	44	631
$2,000	184	206	100	410	73	621	59	842
$2,500	230	257	126	512	91	776	74	1, 052
$3,000	276	308	151	614	109	921	89	1, 262
$3,500	322	360	176	717	127	1, 086	104	1, 473
$4,000	368	411	201	819	146	1, 242	118	1, 683
$4,500	414	463	226	922	164	1, 397	133	1, 894
$5,000	460	514	231	1, 024	182	1, 552	148	2, 104
$5,500	505	565	276	1, 126	200	1, 707	163	2, 314
$6,000	551	617	301	1, 229	218	1, 862	178	2, 525

19 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	5	21	4	32	3	44
$500	46	53	25	105	18	161	15	118
$1,000	92	106	50	210	37	321	30	435
$1,500	138	160	76	314	55	482	45	653
$2,000	184	213	101	419	73	642	60	870
$2,500	231	266	126	524	92	803	75	1, 088
$3,000	277	319	151	629	110	964	90	1, 306
$3,500	323	372	176	734	128	1, 124	105	1, 523
$4,000	369	426	202	838	147	1, 285	120	1, 741
$4,500	415	479	227	943	165	1, 445	135	1, 958
$5,000	461	532	252	1, 048	184	1, 606	150	2, 176
$5,500	507	585	277	1, 151	202	1, 766	164	2, 393
$6,000	553	638	302	1, 258	220	1, 927	179	2, 611

19½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	5	22	4	33	3	45
$500	46	54	25	108	18	164	15	225
$1,000	92	109	51	217	37	328	30	450
$1,500	139	163	76	325	55	493	45	674
$2,000	185	218	101	434	74	657	60	899
$2,500	231	272	127	542	92	821	76	1, 124
$3,000	277	326	152	650	111	985	91	1, 349
$3,500	323	381	177	759	129	1, 149	106	1, 574
$4,000	370	435	203	867	148	1, 314	121	1, 798
$4,500	416	490	228	976	166	1, 478	136	2, 023
$5,000	462	544	254	1, 084	185	1, 642	151	2, 248
$5,500	508	598	279	1, 192	203	1, 806	166	2, 473
$6,000	554	653	304	1, 301	221	1, 970	181	2, 698

20 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	6	22	4	34	3	46
$500	46	56	25	111	19	170	15	230
$1,000	93	111	51	222	37	339	30	459
$1,500	139	167	76	332	56	509	46	689
$2,000	185	222	102	443	74	678	61	918
$2,500	232	278	127	554	93	848	76	1, 148
$3,000	278	334	153	665	112	1, 018	91	1, 378
$3,500	324	389	178	776	130	1, 187	106	1, 607
$4,000	370	445	204	886	149	1, 357	122	1, 837
$4,500	417	500	229	997	167	1, 526	137	2, 066
$5,000	463	556	255	1, 108	186	1, 696	152	2, 296
$5,500	509	612	280	1, 219	205	1, 866	167	2, 526
$6,000	556	667	305	1, 330	223	2, 035	182	2, 755

TABLE II

9 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	1	41	1	52	1	64	1	84
$1,000	15	407	13	520	11	640	10	827
$5,000	73	2, 033	63	2, 601	57	3, 195	51	4, 130
$10,000	147	4, 065	127	5, 202	114	6, 389	101	8, 257
$15,000	220	6, 097	190	7, 802	171	9, 582	152	12, 385
$20,000	293	8, 129	253	10, 403	228	12, 776	263	16, 515

9½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	44	1	56	1	68	1	89
$1,000	15	432	13	553	12	680	10	881
$5,000	75	2, 158	65	2, 764	58	3, 398	52	4, 400
$10,000	149	4, 315	129	5, 528	117	6, 796	104	8, 797
$15,000	224	6, 472	194	8, 292	175	10, 194	157	13, 195
$20,000	298	8, 629	259	11, 056	233	13, 592	209	17, 593

TABLE II—Continued

10 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	46	1	50	1	73	1	94
$1,000	15	457	13	586	12	722	11	935
$5,000	76	2,284	66	2,930	60	3,605	54	4,673
$10,000	152	4,568	132	5,859	120	7,209	107	9,345
$15,000	228	6,852	198	8,788	179	10,815	161	14,016
$20,000	303	9,135	264	11,717	239	14,419	215	18,687

11 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	52	1	66	1	81	1	105
$1,000	16	508	14	654	13	806	11	1,047
$5,000	79	2,541	69	3,266	63	4,026	57	5,229
$10,000	157	5,081	138	6,531	125	8,052	114	10,459
$15,000	236	7,620	207	9,796	188	12,078	170	15,688
$20,000	314	10,160	276	13,061	251	16,104	227	20,918

12 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	56	1	73	1	90	1	118
$1,000	16	561	14	722	13	892	12	1,162
$5,000	81	2,802	72	3,609	66	4,458	60	5,802
$10,000	163	5,603	143	7,218	131	8,914	120	11,604
$15,000	244	8,405	215	10,825	197	13,371	180	17,405
$20,000	325	11,206	287	14,434	263	17,827	240	23,207

13 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	62	2	80	1	99	1	129
$1,000	17	614	15	793	14	980	13	1,279
$5,000	84	3,068	75	3,959	69	4,899	63	6,389
$10,000	168	6,136	149	7,918	137	9,796	127	12,775
$15,000	252	9,203	224	11,876	206	14,693	190	19,162
$20,000	336	12,270	299	15,836	275	19,590	253	25,549

14 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	67	2	87	1	107	1	141
$1,000	17	668	16	864	14	1,071	13	1,398
$5,000	87	3,339	78	4,317	72	5,348	67	6,986
$10,000	174	6,677	155	8,632	144	10,696	133	13,972
$15,000	261	10,016	233	12,948	216	16,042	200	20,959
$20,000	347	13,354	311	17,265	287	21,390	266	27,943

10½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	49	1	62	1	77	1	94
$1,000	15	483	14	620	12	764	11	940
$5,000	77	2,412	67	3,098	61	3,814	54	4,697
$10,000	154	4,823	135	6,193	122	7,628	108	9,391
$15,000	232	7,235	202	9,289	184	11,443	162	14,086
$20,000	309	9,646	270	12,384	245	15,256	215	18,781

11½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	54	1	69	1	86	1	111
$1,000	16	534	14	687	13	849	12	1,104
$5,000	80	2,670	70	3,436	64	4,240	58	5,514
$10,000	160	5,341	141	6,872	128	8,481	117	11,028
$15,000	240	8,011	211	10,308	193	12,720	175	16,541
$20,000	320	10,681	281	13,744	257	16,960	234	22,055

12½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	59	1	76	1	94	1	123
$1,000	17	587	15	757	13	936	12	1,219
$5,000	83	2,934	73	3,783	67	4,677	62	6,093
$10,000	165	5,868	146	7,566	134	9,352	123	12,187
$15,000	248	8,802	220	11,348	202	14,028	185	18,278
$20,000	331	11,736	293	15,131	269	18,704	247	24,372

13½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	64	2	84	1	103	1	134
$1,000	17	641	15	828	14	1,025	13	1,338
$5,000	85	3,203	76	4,137	70	5,122	65	6,686
$10,000	171	6,405	152	8,274	141	10,244	130	13,371
$15,000	256	9,608	228	12,410	211	15,364	195	20,055
$20,000	342	12,810	305	16,546	281	20,486	260	26,741

14½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	70	2	91	1	112	1	147
$1,000	18	695	16	900	15	1,115	14	1,459
$5,000	88	3,476	79	4,498	73	5,577	68	7,290
$10,000	177	6,952	158	8,995	147	11,152	137	14,581
$15,000	265	10,427	237	13,493	220	16,728	205	21,869
$20,000	353	13,902	317	17,990	294	22,303	273	29,160

TABLE II—Continued

15 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	73	2	94	1	117	1	152
$1,000	18	723	16	937	15	1, 161	14	1, 520
$5,000	90	3, 614	81	4, 680	75	5, 807	70	6, 296
$10,000	179	7, 228	161	9, 361	150	11, 613	140	15, 193
$15,000	269	10, 842	242	14, 041	225	17, 420	210	22, 789
$20,000	259	14, 455	323	18, 720	300	23, 226	280	30, 386

15½ PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	76	2	98	2	122	1	159
$1,000	18	751	16	974	15	1, 209	14	1, 581
$5,000	91	3, 753	82	4, 865	77	6, 040	72	7, 906
$10,000	182	7, 507	164	9, 730	153	12, 080	143	15, 812
$15,000	274	11, 260	247	14, 594	230	18, 119	215	23, 718
$20,000	365	15, 013	329	19, 460	307	24, 158	287	31, 624

16 PERCENT ANNUAL PERCENTAGE RATE

	8 yr		10 yr		12 yr		15 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	79	2	102	2	126	1	165
$1,000	19	779	17	1, 011	16	1, 255	15	1, 644
$5,000	93	3, 894	84	5, 051	78	6, 275	73	8, 219
$10,000	185	7, 788	168	10, 102	157	12, 549	147	16, 438
$15,000	278	11, 682	251	15, 152	235	18, 823	220	24, 656
$20,000	371	15, 576	335	20, 204	313	25, 096	294	32, 875

TABLE III

6 PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	8	519	7	721	6	935	6	1, 160
$10,000	81	5, 190	72	7, 196	64	9, 332	60	11, 586
$15,000	127	7, 784	107	10, 793	97	13, 995	90	17, 378
$20,000	169	10, 380	143	14, 390	129	18, 661	120	23, 171
$25,000	211	12, 975	179	17, 986	161	23, 324	150	28, 960
$30,000	253	15, 569	215	21, 583	193	27, 990	180	34, 753
$35,000	295	18, 163	251	25, 182	226	32, 563	210	40, 546
$40,000	388	20, 759	287	28, 779	258	37, 319	240	46, 339
$45,000	380	23, 353	322	32, 376	290	41, 982	270	52, 128
$50,000	422	25, 947	358	35, 973	322	46, 648	300	57, 921

6½ PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	9	570	7	790	7	1, 028	6	1, 279
$10,000	87	5, 682	75	7, 894	68	10, 259	63	12, 756
$15,000	131	8, 521	112	11, 842	101	15, 387	95	19, 135
$20,000	174	11, 631	149	15, 789	135	20, 515	126	25, 511
$25,000	218	14, 200	186	19, 736	169	25, 643	158	31, 887
$30,000	261	17, 041	224	23, 683	203	30, 771	190	39, 643
$35,000	305	19, 880	261	27, 630	236	35, 899	221	44, 643
$40,000	348	22, 721	298	31, 575	270	41, 027	253	51, 019
$45,000	392	25, 560	336	35, 522	304	45, 155	284	57, 398
$50,000	436	28, 401	373	39, 470	338	51, 283	316	53, 774

7 PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	9	618	8	862	7	1, 121	7	1, 398
$10,000	90	6, 180	78	8, 607	71	11, 204	67	13, 954
$15,000	135	9, 269	116	12, 912	106	16, 806	100	20, 928
$20,000	180	12, 359	155	17, 214	141	22, 408	133	27, 905
$25,000	225	15, 448	194	21, 519	177	28, 010	166	34, 879
$30,000	270	18, 537	233	25, 822	212	33, 612	200	41, 856
$35,000	315	21, 626	271	30, 126	247	39, 214	233	48, 830
$40,000	360	24, 717	310	34, 428	283	44, 816	266	55, 807
$45,000	404	27, 806	349	38, 734	318	50, 418	299	62, 780
$50,000	449	30, 896	388	43, 036	353	56, 017	333	69, 758

7½ PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	9	670	8	934	7	1, 217	7	1, 520
$10,000	93	6, 688	81	9, 334	74	12, 170	70	15, 175
$15,000	139	10, 031	121	14, 002	111	18, 255	105	22, 760
$20,000	185	13, 374	161	18, 669	148	24, 340	140	30, 346
$25,000	232	16, 717	201	23, 336	185	30, 425	175	37, 932
$30,000	278	20, 060	242	28, 003	222	36, 510	210	45, 517
$35,000	324	23, 403	282	32, 670	259	42, 595	245	53, 103
$40,000	371	26, 746	322	37, 338	296	48, 680	280	60, 688
$45,000	417	30, 089	363	42, 005	333	54, 765	315	68, 274
$50,000	464	33, 432	403	56, 672	370	60, 850	350	75, 860

8 PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	10	721	8	1, 009	8	1, 316	7	1, 642
$10,000	96	7, 203	84	10, 076	77	13, 157	73	16, 417
$15,000	143	10, 803	125	15, 113	116	19, 734	110	24, 625
$20,000	191	14, 405	167	20, 150	154	26, 311	147	32, 834
$25,000	239	18, 006	209	25, 189	193	32, 888	183	41, 042
$30,000	287	21, 606	251	30, 226	232	39, 465	220	49, 247
$35,000	334	25, 206	293	35, 262	270	46, 042	257	57, 455
$40,000	382	28, 809	335	40, 299	209	52, 619	294	65, 664
$45,000	430	32, 409	376	45, 336	347	59, 196	330	73, 872
$50,000	478	36, 009	418	50, 375	386	65, 773	376	82, 080

8½ PERCENT ANNUAL PERCENTAGE RATE

	15 yr		20 yr		25 yr		30 yr	
Amount financed	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	10	773	9	1, 083	8	1, 418	8	1, 768
$10,000	98	7, 726	87	10, 830	81	14, 159	77	17, 684
$15,000	148	11, 590	130	16, 243	121	21, 237	115	26, 522
$20,000	197	15, 451	174	21, 657	161	28, 315	154	35, 364
$25,000	246	19, 314	217	27, 070	201	35, 393	192	44, 203
$30,000	295	23, 177	260	32, 484	245	43, 359	231	53, 045
$35,000	345	27, 039	304	37, 898	285	50, 548	269	61, 883
$40,000	394	30, 902	347	43, 311	326	57, 812	308	70, 725
$45,000	443	34, 756	391	48, 727	367	75, 037	346	79, 567
$50,000	492	38, 627	434	54, 141	408	82, 265	394	88, 406

TABLE III—Continued

9 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr		20 yr		25 yr		30 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	10	827	9	1,160	8	1,520	8	1,898
$10,000	101	8,257	90	11,595	84	15,176	80	18,969
$15,000	152	12,385	135	17,390	126	22,764	121	28,452
$20,000	203	16,515	180	23,188	168	30,352	161	37,935
$25,000	254	20,643	225	28,986	210	37,940	201	47,418
$30,000	304	24,770	270	34,781	252	45,528	241	56,900
$35,000	355	28,900	315	40,578	294	53,116	282	66,383
$40,000	406	33,028	360	46,376	336	60,704	322	75,866
$45,000	456	37,156	405	52,171	378	68,292	362	85,352
$50,000	507	41,285	450	57,969	420	75,880	402	94,835

9½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr		20 yr		25 yr		30 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	10	881	9	1,239	9	1,622	8	2,028
$10,000	104	8,797	93	12,373	87	16,211	84	20,272
$15,000	157	13,195	140	18,557	131	24,318	126	30,407
$20,000	209	17,593	186	24,743	175	32,422	168	40,545
$25,000	261	21,991	233	30,903	218	40,529	210	50,679
$30,000	313	26,389	280	37,114	262	48,633	252	60,814
$35,000	365	30,786	326	33,300	306	56,740	294	70,948
$40,000	418	35,184	373	49,486	349	64,844	336	81,086
$45,000	470	39,584	419	54,670	393	72,951	378	91,220
$50,000	522	43,982	466	61,857	437	81,055	420	101,355

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr		20 yr		25 yr		30 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	11	935	10	1,318	9	1,727	9	2,161
$10,000	107	9,345	97	13,162	91	17,264	88	21,594
$15,000	161	14,016	145	19,742	136	25,893	132	32,390
$20,000	215	18,687	193	26,322	182	34,525	176	43,187
$25,000	269	23,359	241	32,902	227	43,154	219	53,984
$30,000	322	28,030	290	39,482	273	51,786	263	64,781
$35,000	376	32,702	338	46,062	318	60,415	307	75,578
$40,000	430	37,373	386	52,642	363	69,047	351	86,371
$45,000	484	42,044	434	59,222	409	77,676	295	97,168
$50,000	537	46,716	483	65,805	454	86,308	439	107,964

10½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr		20 yr		25 yr		30 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$1,000	11	989	10	1,395	9	1,832	9	1,294
$10,000	111	9,890	100	13,952	94	18,320	92	12,940
$15,000	166	14,835	150	20,928	142	27,480	137	34,410
$20,000	221	19,780	200	27,904	189	36,640	183	45,880
$25,000	276	24,725	250	34,880	236	45,800	229	57,350
$30,000	332	29,670	300	41,856	283	54,960	275	68,820
$35,000	387	34,615	349	48,832	330	64,120	320	80,290
$40,000	442	39,560	399	55,808	378	73,280	366	91,760
$45,000	497	44,505	449	62,784	425	82,440	412	103,230
$50,000	555	49,450	499	69,760	472	91,600	458	114,700

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under morning business, I ask unanimous consent that on tomorrow, after completion of the two orders for recognition of Senators that have already been entered for Mr. PELL and Mr. ROBERT C. BYRD, the following Senators be recognized for not to exceed 10 minutes each: Mr. MUSKIE, Mr. PROXMIRE, Mr. KENNEDY, and Mr. HATHAWAY.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, I shall not object, inasmuch as we have closed the business today with respect to the attorneys' fees bill, and this has to do with the use of time tomorrow prior to the bringing up of the unfinished business. Therefore, I will not interpose an objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANK HOLDING COMPANY TAX ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time the Senate proceed to the consideration of the matter cleared on both sides of the aisle, Calendar Order No. 1126.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11997) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been completed, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ALLEN TOMORROW

Mr. ALLEN. Mr. President, I understood that the time reserved for the distinguished Senator from West Virginia was 15 minutes, and that that time and the time of the distinguished Senator from Rhode Island (Mr. PELL) of 15 minutes was to be used for tributes to the distinguished senior Senator from Rhode Island (Mr. PASTORE).

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I seriously doubt if that will be sufficient. The Senator from Alabama has some remarks he would like to make during that period. I wonder if the distinguished Senator will extend that time somewhat.

Mr. ROBERT C. BYRD. I will be glad to.

Mr. President, I ask unanimous consent that following the remarks of Mr. PELL and my own remarks, the Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 15 minutes. It is my intention to yield most of my time tomorrow to other Senators who may wish to make remarks in tribute to Senator PASTORE.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in tomorrow at 9:30 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes: Mr. PELL, Mr. ALLEN, and Mr. ROBERT C. BYRD; after which the following Senators will be recognized, each for not to exceed 10 minutes: Mr. MUSKIE, Mr. PROXMIRE, Mr. KENNEDY, and Mr. HATHAWAY; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Mr. President, the Senate on tomorrow will continue the consideration of S. 2278, the civil rights attorneys' fees, and it is hoped that the Senate might also move to other business tomorrow. I would not want to exclude other business. There may be conference reports. There may be other measures that should be called up.

Rollcall votes will occur on tomorrow, and I think the Senate should be on notice that there may be other measures and conference reports called up in addition to the civil rights attorneys' fees bill.

ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7 p.m., the Senate adjourned until tomorrow, Wednesday, September 22, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1976:

FEDERAL ENERGY ADMINISTRATION

Michael F. Starr, of Louisiana, to be Director, Intergovernmental, Regional and Special Programs, Federal Energy Administration, vice William W. Geimer, resigned.

DEPARTMENT OF JUSTICE

David Keith Rutledge, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years vice Wilbur H. Dillahunty, term expired.

HOUSE OF REPRESENTATIVES—*Tuesday, September 21, 1976*

The House met at 12 o'clock noon.

Rev. Floyd I. Enzor, Sandy Bottom Baptist Church, Kinston, N.C., offered the following prayer:

O give thanks unto the Lord; call upon His name; make known His deeds among the people.—Psalms 105:1.

Let us pray:

We thank Thee, our Heavenly Father, for this solemn occasion; for these who represent the peoples of our Nation; for our position in world leadership; for our predecessors who endeavored to begin and continue the deeds of government, designed for the governed, and for Thy smile upon our Nation.

We acknowledge that Thou art God.

We ask Thy blessings upon our national leaders so our national objectives may be reached, and our needs met.

We desire for ourselves a vision so man will not perish from the Earth. We ask for tolerance of each other in our varied opinions of life and religion.

Accept this our prayer today that Thy kingdom may come and Thy will be done on Earth as it is done in Heaven, in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association; and

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 12961. An act to amend the Social Security Act to repeal the requirement that a State's plan for medical assistance under title XIX of such act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services;

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the home to collect a fee from the members of the home, by appropriating nonjudicial forfeitures for support of the home, and by increasing the deductions from pay of enlisted men and warrant officers;

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes; and

H. Con. Res. 688. Concurrent resolution authorizing printing of the folder "The United States Capitol" as a House document.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3091) entitled "An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. JACKSON, Mr. EASTLAND, Mr. CHURCH, Mr. HUMPHREY, Mr. METCALF, Mr. CURTIS, Mr. HATFIELD, Mr. HELMS, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3219) entitled "An act to amend the Clean Air Act, as amended," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. RANDOLPH, Mr. GRAVEL, Mr. MORGAN, Mr. CULVER, Mr. GARY HART, Mr. BAKER, Mr. BUCKLEY, Mr. STAFFORD, Mr. MCCLURE, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 784. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes;

S.J. Res. 173. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976, as "National Pork Week";

S.J. Res. 181. Joint resolution to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes;

S.J. Res. 213. Joint resolution to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended; and

S.J. Res. 214. Joint resolution to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices.

The message also announced that Mr. BURDICK be removed as a conferee, on the part of the Senate, on the bill (S. 2710) entitled "An act to extend certain authorizations under the Federal Water Pollution Control Act, as amended."

THE REVEREND FLOYD I. ENZOR

(Mr. JONES of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of North Carolina. Mr. Speaker, it is indeed a pleasure to welcome the Reverend Floyd Enzor, pastor of the Sandy Bottom Baptist Church of Kinston, N.C., to the House of Representatives today. I am sure we were all impressed with his sincerity and inspiring prayer. With us here today are his wife, Mrs. Enzor, and their friends, Mr. and Mrs. William Croom. I am sure the Members join me in extending a warm welcome to these fine people.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 14260, FOREIGN ASSISTANCE APPROPRIATIONS

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 14260, a bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to

the request of the gentleman from Louisiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why is it necessary to get unanimous consent?

Mr. PASSMAN. I think it is customary to get unanimous consent to file these reports. I think we have been doing it; have we not?

Mr. ROUSSELOT. The gentleman is not going against a House rule is he?

Mr. PASSMAN. No. Under the procedures, of course, there is a usual 3-day delay.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

911 EMERGENCY TELEPHONE NUMBER

(Mr. ROUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSH. Mr. Speaker, over the past year I have included in the pages of the Congressional Record a list of all the cities, by State, throughout the United States which now have the "911" emergency telephone number. I have done this so that each Member of Congress might know where this system exists in their congressional district.

If you have ever had an emergency situation and needed the police quickly, or a fire has broken out or some member of your family has had a heart attack you realize how important it is to know that all you have to do is to dial "911" and you will be quickly in touch with help. That is, if your community has the "911" single, emergency telephone number.

As of December 1975 some 37 million Americans could reach for the phone and dial "911" and get help; 12 million more will be able to do so in the near future.

I am proud to have been associated with the idea and the implementation of "911" dating back to 1967 when I first wrote an article urging the telephone company to provide a simple, three-digit number for emergencies, preferably to be used all over the United States. A.T. & T. and the independent telephone companies at first reluctantly, now with enthusiasm, agreed to the idea. We have come a long way since then as the numbers I listed indicate, and my State of Indiana has been a leader, my hometown of Huntington the first in the Bell System to adopt "911." Indianapolis, our capital city will be added to the list on October 1.

Our near neighbor, Chicago, adopted "911" on September 16. Chicago now has a total of 156 "911" lines and 39 positions that can pick them up. Philadelphia, which I visited last year in order to observe their system, has a highly sophisticated and responsive "911" system. New York is enthusiastic about "911" having been one of the first to adopt it. Yet it is not just the large cities that find "911" saves lives and reassures people. Bluffton, Ind., Durant, Miss., Elwood, Kans., Southwick, Mass., Joplin, Mo., also have "911."

Yet I am not satisfied and I will not be satisfied until every American, every place in the United States can dial "911" to get emergency help and knows that this is available.

TRIBUTE TO LATE AMBASSADOR ORLANDO LETELIER

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, just a few hours ago early this morning a bomb went off, blowing up an automobile, killing two persons, and severely injuring another. The driver of the car was Mr. Orlando Letelier. With him in the car was Ms. Ronnie Karpen and her husband, Michael Moffett.

Mr. Letelier was a former Ambassador to the United States from Chile. Prior to that he also held the two posts of Chilean Defense Minister and Chilean Foreign Minister. After the military junta took power in Chile, he was imprisoned on Dawson Island for 1 year where he was tortured. The Chilean junta then forcibly exiled him to the United States where he has since lived with his wife and four children.

Ronnie and her husband both worked for the Institute for Policy Studies here in Washington.

Just a few days ago on September 10, the Chilean junta in violation of the U.N. Charter and U.N. Declaration of Human Rights took away Mr. Letelier's Chilean citizenship.

I had met Mr. Letelier and his wife on several occasions. I know that he was a person who had dedicated his life to democratic principles. He believed in constitutional government, the rule of law, and that the military should be subservient to the civilian government. Moreover, Mr. Letelier was a good and decent human being who had dedicated his life to the principle of human rights and social justice. It is not only with sadness that I take this time on the House floor to praise Mr. Letelier, but also in a sense of outrage and indignation that such could happen in America.

We can only speculate as to who planted the bomb that snuffed out the lives of Mr. Letelier and Ronnie Karpen. I only hope that the FBI and the local law enforcement officials are able to find the murderers and bring them to justice.

My heartfelt sympathies go out to Mrs. Letelier and their four children. They can be proud of their father and husband and the good that he brought to the world.

PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, I insert in the Record at this point a statement regarding several recorded votes I missed on Monday, September 20, 1976, and an indication of how I would have voted had I been present. Each of the following votes came on a motion to suspend the rules and pass the bill, and I note, Mr. Speaker, that a vote of two-thirds of those present and voting is required for passage under this procedure.

Rollcall No. 766, a vote on a motion to suspend the rules and pass H.R. 14041, to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases. The motion was agreed to by a vote of 379 to 4. I was paired for this motion, and had I been present, would have voted in favor of it.

Rollcall No. 767, a vote on a motion to suspend the rules and pass H.R. 14319, the Clinical Laboratory Improvement Act. The motion failed to carry by a vote of 193 to 188. I was paired for this motion, and had I been present, would have voted in favor of it.

Rollcall No. 768, a vote on a motion to suspend the rules and pass S. 1174, the Earthquake Hazards Reduction Act. The motion failed to carry by a vote of 192 to 192. I was paired for this motion, and had I been present, would have voted in favor of it.

Rollcall No. 769, a vote on a motion to suspend the rules and pass H.R. 13124, Hazardous Materials Transportation Act. The motion was agreed to by a vote of 346 to 39. I was paired for this motion, and had I been present, would have voted in favor of it.

Rollcall No. 770, a vote on a motion to suspend the rules and pass S. 3383, the National Weather Modification Policy Act of 1976. The motion was agreed to by a vote of 292 to 91. I was paired for this motion, and had I been present, would have voted in favor of it.

Rollcall No. 771, a vote on a motion to suspend the rules and pass House Concurrent Resolution 726, to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience. The motion was agreed to by a vote of 381 to 2. I was paired for this motion, and had I been present, would have voted in favor of it.

LT. COL. WILLIAM "GUS" PAGONIS REASSIGNED

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I am very sorry to report to the House that shortly after the 94th Congress adjourns, the Armed Services Committees will be losing the services of an extraordinary young officer in the office of the Chief of Army Congressional Liaison. Lt. Col. William "Gus" Pagonis is being reassigned to command the 10th Transportation Battalion at Fort Eustis, Va.

The chance to command a battalion represents a significant milestone in the career of an Army officer, and certainly Lieutenant Colonel Pagonis deserves such an opportunity. Yet, I cannot help but reflect on how difficult it is going to be for the Army to fill his shoes at OCLL after the job he has done, not only for the Army and the Congress, but for our country over the past 2 years.

It has been my privilege to work closely with Gus Pagonis during that period, and I can only say that he personifies all the things that are right about today's Army. He exemplifies the quality of leadership present in the Army today and typifies the "can do" spirit and the technical competence necessary to get a vital job done. Even while functioning as a spokesman for the Army, Lieutenant Colonel Pagonis has managed to retain the kind of objectivity necessary to provide unbiased information for the use of the Congress. Gus is an officer who understood that his mission in OCLL was to serve two masters equally well—the Army and the Congress.

I am pleased that the Army has recognized Colonel Pagonis' leadership abilities by giving him a battalion command, and I have every confidence that he will continue to excel in his new assignment. Selfishly, I hate to see him go because he will be missed by the Congress, but the Congress' loss is the 10th Transportation Battalion's gain. And, in the future, I expect to hear great things about my friend, Gus Pagonis.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 1424) for the relief of Mrs. Rose Thomas.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 1560) for the relief of Murray Swartz.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FRANKLIN R. HELT

The Clerk called the bill (H.R. 2564) for the relief of Franklin R. Helt.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CHESTER C. CLARK, MARY L. CLARK, AND DOROTHY J. WILBUR (ALSEA VENEER, INC.)

The Clerk called the bill (H.R. 6507) for the relief of Chester C. Clark, Mary L. Clark, and Dorothy J. Wilbur.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO REINSTATE OIL AND GAS LEASE NEW MEXICO 18302

The Clerk called the Senate bill (S. 2220) to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302.

There being no objection, the Clerk read the Senate bill as follows:

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of section 31 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 188), the Secretary of the Interior is authorized and directed to receive, consider, and act upon any petition of Sol West III, lessee of record of terminated oil and gas lease New Mexico 18302, for reinstatement of said lease filed within ninety days after the effective date of this Act, together with the required rental, if any, including back rental accruing from the date of the termination of the lease.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DR. DARYL C. JOHNSON

The Clerk called the bill (H.R. 6816) for the relief of Dr. Daryl C. Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 6816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Dr. Daryl C. Johnson of Atlanta, Ga., the sum of $847 in full settlement of all his claims against the United States for expenses incurred in 1972 and 1973 for storage of household goods during Dr. Johnson's service with the Newscastle Task Force of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

SEC. 2. No part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1: Strike all of lines 3 through 11 inclusive and insert:

That the Comptroller General of the United States is authorized to settle and adjust the claim of Dr. Daryl C. Johnson, Atlanta, Georgia, for the amount to which he would be entitled under section 5724(a)(2), Title 5 of the U.S. Code and the regulations issued thereunder without regard to Section 6.2c of the Office of Management and Budget Circular A–56, revised August 17, 1971, and ¶2–8.2c of the Federal Travel Regulations (FPMR 101–7) May 1, 1973, representing expenses which he incurred in 1972 and 1973 for storage of household goods incident to his detail with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, San Gabriel, California, for the convenience of the Government.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM H. KLUSMEIER, PUBLISHER OF THE AUSTIN CITIZEN, OF AUSTIN, TEX.

The Clerk called the bill (H.R. 11859) for the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Tex.

There being no objection, the Clerk read the bill, as follows:

H.R. 11859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William H. Klusmeier, publisher of the Austin Citizen, of Austin, Texas, is relieved of all liability for payment to the United States of the sum of $6,575.23, representing the difference between the amount which should have been paid and the amount actually paid by the said William H. Klusmeier for postage on second-class mailings of the Austin Citizen for the period from March 5, 1973, to August 10, 1974, such underpayment having resulted from his reliance upon postal rates specified in good faith by the appropriate postmaster although such rates were erroneous.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said William H. Klusmeier the sum of any amounts received from him on account of the underpayment referred to in the first section of this Act. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALICE W. OLSON, LISA OLSON HAYWARD, ERIC OLSON, AND NILS OLSON

The Clerk called the Senate bill (S. 3035) for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson.

Mr. ROUSSELOT. Mr. Speaker, I ask

unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MRS. HELEN WOLSKI, MICHAEL WOLSKI, AND STEVEN WOLSKI

The Clerk called the bill (H.R. 3377) for the relief of Mrs. Helen Wolski, Michael Wolski, and Steven Wolski.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GARY DAVES AND MARC CAYER

The Clerk called the bill (H.R. 4480) for the relief of Gary Daves and Marc Cayer.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CERTAIN EMPLOYEES OF THE NAVAL ORDNANCE SYSTEMS COMMAND

The Clerk called the bill (H.R. 6511) for the relief of certain employees of the Naval Ordnance Systems Command.

There being no objection, the Clerk read the bill, as follows:

H.R. 6511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated—

(1) to Donald L. Francke of Bloomington, Indiana, the sum of $442.98;

(2) to J. Keith Cane of Bloomfield, Indiana, the sum of $677.84.

(3) to Alvin E. Gilmore of Bloomington, Indiana, the sum of $861.50;

(4) to Charles H. Horrell of Bedford, Indiana, the sum of $852.67; and

(5) to Allan Hamilton of Spencer, Indiana, the sum of $560.98.

in full settlement of their claims against the United States for premium pay due them for services rendered, during an emergency situation, upon orders given by the Naval Ordnance Systems Command. Such pay has been denied them pursuant to section 5547 of title 5 which currently limits aggregate biweekly pay without regard for emergency situations requiring extended services by specialized personnel.

No part of the amount appropriated in this Act for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, line 2: Strike "852.67" and insert "$1,755.02".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT H. GLAZIER

The Clerk called the bill (H.R. 7522) for the relief of Robert H. Glazier.

There being no objection, the Clerk read the bill, as follows:

H.R. 7522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 518(b) of the National Housing Act, the property located at 228 Apsley Street, Philadelphia, Pennsylvania, which Robert H. Glazier of Drexel Hill, Pennsylvania, repaired in December 1971 and January 1972, pursuant to written authorization from the Federal Housing Administration, shall be deemed to have been covered by a mortgage insured under section 235 of the National Housing Act at the time such work was performed; and the Secretary of Housing and Urban Development is authorized and directed to pay Robert H. Glazier $1,285 in full settlement for the performance of such work.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

M. SGT. WILLIAM E. BOONE, U.S. ARMY, RETIRED

The Clerk called the bill (H.R. 11349) for the relief of M. Sgt. William E. Boone, U.S. Army, retired.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Master Sergeant William E. Boone, United States Army, retired, of Burlington, North Carolina, the sum of $1,410 in full settlement of his claims against the United States for reimbursement for amounts he was forced to pay for dental work authorized by Army medical authorities at Womack Army Hospital, Fort Bragg, North Carolina, to be performed at Government expense during his period of active service but which was not completed through no fault on his part until after his retirement.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MR. AND MRS. AARON WAYNE OGBURN

The Clerk called the bill (H.R. 13940) for the relief of Mr. and Mrs. Aaron Wayne Ogburn.

There being no objection, the Clerk read the bill as follows:

H.R. 13940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States be, and hereby is authorized and directed to settle and adjust the claim of Mr. and Mrs. Aaron Wayne Ogburn, for reimbursement of the amount they were required to pay for shipment of a privately owned vehicle from Germany to the United States incident to a permanent change of duty station. An amount not to exceed $446.45 may be allowed in full and final settlement of the claim. There is appropriated out of money in the Treasury not otherwise appropriated the sum of $446.45 for payment of said claim. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of service rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JEANNETTE GREEN, AS MOTHER OF THE MINOR CHILD, RICKY BAKER, DECEASED, AND AS WIDOW AND ADMINISTRATRIX OF THE ESTATE OF ENOCH ODELL BAKER, DECEASED; AND FOR THE RELIEF OF MARY JANE BAKER NOLAN, INDIVIDUALLY, AND AS WIDOW AND ADMINISTRATRIX OF THE ESTATE OF JOHN WILLIAM BAKER, DECEASED

The Clerk called the bill (H.R. 13964) for the relief of Jeannette Green, as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased; and for the relief of Mary Jane Baker Nolan, individually, and as widow and administratrix, of the estate of John William Baker, deceased.

There being no objection, the Clerk read the bill, as follows:

H.R. 13964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the limitations of section 745 of title 46 of the United States Code, or any other statute of limitations, suits filed within one year of the effective date of this Act in the United States District Court for the Middle District of Georgia by Jeanette Green as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased, for the deaths of Ricky Baker, a minor, and Enoch Odell Baker, and by Mary Jane Baker Nolan, individually, and as administratrix of the estate of John William Baker for the death of John William Baker and for injuries to Mary Jane Baker Nolan, arising from a boating accident that occurred on or about June 24, 1972, near the George Andrews Dam on the Chattahoochee River, near Columbia, Alabama, shall be held to be timely suits, and shall be received, considered, settled, and if meritorious, paid in accordance with the otherwise applicable provisions of sections 741 through 752 of title 46 of the United States Code. Jurisdiction is hereby conferred upon the United States District Court for the Middle District of Georgia to receive, hear, and render judgment upon any suits filed with that court under the preceding provisions of this Act. Nothing in this Act shall be construed as inference of liability on the part of the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GARY A. BROYLES

The Clerk called the Senate bill (S. 2830) for the relief of Gary A. Broyles.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Gary A. Broyles, a minor, the sum of $120,000 in full settlement and satisfaction of all his claims against the United States for compensation for permanent personal injuries suffered by him as a result of surgical procedures performed at the United States Army Hospital, Fort Sill, Oklahoma, on or about January 27, 1965.

SEC. 2. No more than 10 per centum of the amount paid in settlement of this claim shall be paid to or delivered to or received by any agent or attorney on account of services rendered in connection with this claim. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor punishable by a fine not exceeding $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EVELYN FEGI MATAYOSHI AND WILMA FEGI MATAYOSHI

The Clerk called the bill (H.R. 1761) for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi.

There being no objection, the Clerk read the bill, as follows:

H.R. 1761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi shall each be deemed to be an immediate relative within the meaning of section 201(b) of that Act and each may be issued a visa and admitted to the United States for permanent residence if each is found to be otherwise admissible under the provisions of that Act.

With the following committee amendment:

On page 1, line 5, after the name "Matayoshi" strike out the remainder of the bill and insert in lieu thereof the following: "may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. George Matayoshi, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. KYONG CHU STOUT

The Clerk called the Senate bill (S. 1404) for the relief of Mrs. Kyong Chu Stout.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Kyong Chu Stout, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 204 of such Act shall not be applicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BEATRICE SERRANO-TOLEDO

The Clerk called the Senate bill (S. 1477) for the relief of Beatrice Serrano-Toledo.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Beatrice Serrano-Toledo, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 and section 245(c) of such Act shall not be applicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA LISA R. MANALO AND ROGENA R. MANALO

The Clerk called the Senate bill (S. 1787) for the relief of Maria Lisa R. Manalo and Rogena R. Manalo.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(2) and 204 of the Immigration and Nationality Act, Maria Lisa R. Manalo and Rogena R. Manalo shall be held and considered to be the natural-born alien children of Mr. and Mrs. Olmpio Javidando, lawful resident aliens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEE MEE SUN

The Clerk called the Senate bill (S. 2322) for the relief of Lee Mee Sun.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lee Mee Sun may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Kenneth Simantel, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OSCAR RENE HERNANDEZ RUSTRIAN

The Clerk called the Senate bill (S. 2481) for the relief of Oscar Rene Hernandez Rustrian.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Oscar Rene Hernandez Rustrian shall be classified as the child of Mr. and Mrs. Jose Antonio Rustrian within the meaning of section 101(b)(1)(E) of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Notwithstanding the provisions of section 245(c) of the Act, an application for adjustment of status may be approved for Oscar Rene Hernandez Rustrian if the Attorney General finds he is otherwise eligible.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARTURO MORENO HERNANDEZ

The Clerk called the Senate bill (S. 2668) for the relief of Arturo Moreno Hernandez.

There being no objection, the Clerk read the Senate bill as follows:

S. 2668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Arturo Moreno Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Jose Jesus Palacios, citizens of the United States, pursuant to section

204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANTHONY AUGUSTUS DALEY AND BEVERLY EVELYN DALEY

The Clerk called the Senate bill (S. 2770) for the relief of Anthony Augustus Daley and Beverly Evelyn Daley.

There being no objection, the Clerk read the Senate bill as follows:

S. 2770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Anthony August Daley and Beverly Evelyn Daley, his sister, may be classified as children within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in their behalf by Mr. and Mrs. Samuel U. Daley, a lawfully resident alien and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural mother, brothers, and sisters of the said Anthony Augustus Daley and Beverly Evelyn Daley shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TERESA MARIE SALMAN

The Clerk called the Senate bill (S. 2956) for the relief of Teresa Marie Salman.

There being no objection, the Clerk read the Senate bill as follows:

S. 2956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Teresa Marie Salman may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in her behalf by Technical Sergeant and Mrs. Eugene A. Salman, citizens of the United States, pursuant to section 204 of such Act. The natural parents and brother and sisters of the said Teresa Marie Salman shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ORLANDA GARZON

The Clerk called the Senate bill (S. 3485) for the relief of Orlanda Garzon.

There being no objection, the Clerk read the Senate bill as follows:

S. 3485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Orlando Garzon may be classified as a child within the meaning of section 101(a)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Arnold Lindgren, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 8, after the "Act" insert the following: and the provisions of section 245(c) of that Act shall be inapplicable in this case.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EUPERT ANTHONY GRANT

The Clerk called the bill (H.R. 9543) for the relief of Eupert Anthony Grant.

There being no objection, the Clerk read the bill as follows:

H.R. 9543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Eupert Anthony Grant shall be held and considered to be the natural-born alien child of Ethel Maud Brown, a lawful permanent resident of the United States, and the provisions of section 21(c) of the Act of October 3, 1965, shall be inapplicable to this case: *Provided*, That the natural parents and brothers and sisters of the beneficiary of this Act shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

Beginning on line 6 after the words "United States," strike out the remainder of line 6, all of line 7 and the language "be inapplicable to this case" on line 8, and insert in lieu thereof the following: "and shall be held and considered to have a priority date for Western Hemisphere immigration as of January 22, 1973".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. JAMES V. STANTON. Mr. Speaker, I ask unanimous consent that further reading of the Private Calendar be suspended.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAKING IN ORDER PRIVATE CALENDAR ON THURSDAY, SEPTEMBER 23, 1976

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday next, September 23, 1976, to call the Private Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CALL OF THE HOUSE

Mr. CONABLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 772]

Abzug
Andrews, N.C.
Archer
Badillo
Burton, John
Butler
Chappell
Chisholm
Conlan
Conyers
Daniels, N.J.
Dellums
Derrick
Derwinski
Drinan
du Pont
Esch
Eshleman
Fithian
Ford, Mich.
Fraser
Gibbons
Goodling
Green
Harsha
Hayes, Ind.
Heinz
Helstoski
Henderson
Hinshaw
Howard
Howe
Jarman
Johnson, Colo.
Landrum
Long, Md.
McCollister
McCormack
McKinney
Matsunaga
Meeds
Mikva
Milford
Mink
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Nix
Nolan
O'Hara
Railsback
Rangel
Reuss
Riegle
Russo
St Germain
Scheuer
Schneebeli
Spellman
Staggers
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symms
Udall
Wampler
Wilson, Tex.
Wolff
Wylie

The SPEAKER pro tempore (Mr. BRADEMAS). On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

JOE L. EVINS POST OFFICE AND FEDERAL BUILDING

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill, H.R. 14956, to designate the Joe L. Evins Post Office and Federal Building.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the gentleman from Georgia (Mr. GINN) to explain the bills now being called up since I do not think a good many of the Members realized that they would be considered. I am sure there is no objection to them, but I think it would be a good idea if the Members knew what is going on.

CALL OF THE HOUSE

Mr. CONTE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. BOLLING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 773]

Andrews, N.C.
Badillo
Biaggi
Bolling
Bonker
Burke, Fla.
Butler
Cederberg
Chisholm
Conyers
Daniels, N.J.
Dellums
Derrick
Downing, Va.
Drinan
du Pont
English
Erlenborn
Esch
Eshleman
Fithian
Ford, Mich.
Fraser
Green
Hagedorn
Hansen
Harsha
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howard
Howe
Jarman
Johnson, Colo.
Landrum
McCollister
McCormack
McEwen
McKinney
Mathis
Matsunaga
Meeds
Melcher
Mikva
Milford
Mink
Mitchell, Md.
Montgomery
Murphy, N.Y.
Nix
O'Hara
Railsback
Rangel
Reuss
Riegle
Ruppe
Russo
Scheuer
Schneebeli
Sikes
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Udall
Wampler
Wilson, C. H.
Wilson, Tex.
Wylie

The SPEAKER pro tempore (Mr. BRADEMAS). On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

JOE L. EVINS POST OFFICE AND FEDERAL BUILDING

The SPEAKER pro tempore. Without objection, the Clerk will again report the bill by title.

There was no objection.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia (Mr. GINN).

Mr. BAUMAN. Mr. Speaker, reserving the right to object, and I shall not object, I do so only to have the gentleman from Georgia (Mr. GINN) explain the series of bills that are now to be brought before the House.

Mr. GINN. Mr. Speaker, if the gentleman from Maryland will yield, this is simply a clause 7 unanimous-consent agreement bill designed to name Federal facilities after Members of Congress who are either retired, retiring, or deceased.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 14956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Post Office and Federal Building at East Main Avenue and South First Street, Smithville, Tennessee, shall hereafter be known and designated as the "Joe L. Evins Post Office and Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Joe L. Evins Post Office and Federal Building.

Mr. GINN. Mr. Speaker, Congressman JOE L. EVINS was born in DeKalb County, Tenn., on October 24, 1910. He attended public schools in DeKalb County and was graduated from Vanderbilt University, Nashville, Tenn., in 1933. He obtained a law degree from Cumberland University in 1934 and conducted postgraduate work in law at George Washington University in the years 1938–40. Mr. EVINS of Tennessee served as a member of the legal staff of the Federal Trade Commission and served with distinction during World War II, and was discharged as a major.

He was elected to the 80th Congress, November 5, 1946, and served in succeeding Congresses through 1976. During his years in Congress, he served admirably as chairman of the Subcommittee on Public Works Appropriations of the House Appropriations Committee; chairman of the Subcommittee on Housing and Urban Development Appropriations Subcommittee; and chairman of the Small Business Committee. He served the Congress in a most commendable manner. It is fitting and proper that we pay this small tribute to JOE EVINS who has rendered such outstanding service, not only to Tennessee, but to the country as well.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PHIL M. LANDRUM FEDERAL BUILDING AND POST OFFICE

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 12927) to designate a Federal building and U.S. Post Office in Jasper, Ga., as the "Phil M. Landrum Federal Building and Post Office."

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 12927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building and United States Post Office bounded by Church Street, Pratcher Street, and Richards Street, Jasper, Georgia, shall hereafter be known and designated as the "Phil M. Landrum Federal Building and Post Office". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Phil M. Landrum Federal Building and Post Office".

Mr. GINN. Mr. Speaker, Congressman PHILLIP M. LANDRUM was born in Merlin, Ga., on September 10, 1909. He attended Mercer University and was a graduate of Piedmont College and Atlanta Law School.

As a private citizen and a public servant he served his community and country admirably; he served 3 years in the U.S. Army Air Force in World War II; former assistant attorney general of the State of Georgia; and served as executive secretary to the Governor of Georgia.

PHILLIP LANDRUM was elected to the 83d Congress on November 4, 1952, and was reelected to 11 consecutive terms. Congressman LANDRUM will be retiring from Congress at the conclusion of the 94th Congress. He has been a leading sponsor and cosponsor of legislative proposals enacting major tax reform as a member of the House Ways and Means Committee. He has also served on the recently created House Budget Committee, a committee whose purpose is and will be to control Federal spending and taxation. He has also served on the House Education and Labor Committee. In view of his long and distinguished career, and in view of his many years of outstanding service to the people of his district and to his country, it is fitting and proper that the Federal building and U.S. Post Office in Jasper, Ga., be named in his honor as the Phil M. Landrum Federal Building and Post Office.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL J. KIRWAN POST OFFICE

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14503) to name the new post office in Youngstown, Ohio, the "Michael J. Kirwan Post Office."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 14503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building being constructed by the United States Postal Service at 99 South Walnut Street, in Youngstown, Ohio, shall be known and designated as the "Michael J. Kirwan Post Office". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be considered to be a reference to the Michael J. Kirwan Post Office.

Mr. CARNEY. Mr. Speaker, the late Michael J. Kirwan faithfully represented and served the 19th Ohio District from 1934 to 1970 in the U.S. House of Representatives. As a fitting and proper tribute to this man, I introduced H.R. 14503, which would name the new Youngstown Post Office the "Michael J. Kirwan Post Office Building."

This new postal facility, which is being constructed at 99 South Walnut Street, will be a sectional center for all ZIP codes beginning with 444 and 445. It is being constructed at a total cost of $7.8 million and will contain 150,000 square feet of working space. This facility is now 50 percent completed, and is scheduled to open its doors to the public in February of next year.

I am sure that many members of the present Congress personally knew Michael Kirwan when he served in the U.S. House of Representatives. I am equally sure that you will recall his outstanding record as a legislator—as a man who got things done.

In honor of his many years of service in Congress, I think it is only fitting to name the new Youngstown Post Office after Michael J. Kirwan. It is my sincere hope that the U.S. House of Representatives will pass my bill when it is brought to the House floor today.

Mr. GINN. Mr. Speaker, Congressman Michael J. Kirwan was born in Wilkes-Barre, Pa., on December 2, 1886. He was educated in the public schools of Wilkes-Barre and moved to Youngstown, Ohio, in 1907. He served with distinction as a sergeant in the 348th Machine Gun Company during World War I. Following his military service Mike Kirwan was engaged in commercial enterprise during the 1930's.

Congressman Kirwan was elected to Congress in 1936, and served until his death on July 7, 1970. As chairman of the Subcommittee on Appropriations for Public Works, he served not only the State of Ohio but the entire country in helping to build America and to provide for numerous water resources, navigation, and interstate road programs. In view of his long and distinguished career as a public servant, it is fitting and proper to name the post office in Youngstown, Ohio, in his honor.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE HERMAN T. SCHNEEBELI FEDERAL BUILDING

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11303) to designate the "Herman T. Schneebeli Federal Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 11303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building at West Third Street, Williamsport, Pennsylvania, shall hereafter be known and designated as the "Herman T. Schneebeli Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Herman T. Schneebeli Federal Building.

Mr. GINN. Mr. Speaker, Congressman Herman T. Schneebeli was born in Lancaster Pa., on July 7, 1907. He was educated in the public schools of Lancaster County and was graduated from Mercersburg Academy in 1926 and Dartmouth College in 1930. During World War II he served as captain and following World War II he served as a civic leader of the community.

He was elected to the 86th Congress in 1960 and served 16 years until his pending retirement in the 94th Congress. Congressman Schneebeli served on the Ways and Means Committee and the Budget Committee of the House of Representatives. In view of his distinguished career, it is most fitting to name the Federal building at West Third Street, Williamsport, Pa., the "Herman T. Schneebeli Federal Building."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT G. STEPHENS, JR., FEDERAL BUILDING

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14977) to name the Federal office building in Athens, Ga., the "Robert G. Stephens Federal Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 14977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 355 East Hancock Avenue, Athens, Georgia, is hereby designated as the "Robert G. Stephens Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Robert G. Stephens Federal Building".

AMENDMENT OFFERED BY MR. GINN

Mr. GINN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ginn: Strike out line 5 "Robert G. Stephens Federal Building" and insert in lieu thereof "Robert G. Stephens, Jr., Federal Building", and on line 9 strike out "Robert G. Stephens Federal Building" and insert in lieu thereof "Robert G. Stephens, Jr., Federal Building".

The amendment was agreed to.

Mr. GINN. Mr. Speaker, Congressman Robert G. Stephens was born in Atlanta, Ga., on August 14, 1913. He was educated in the Atlanta public schools and was graduated from the University of Georgia in 1935. He received a master of arts degree from the university in 1937 and received a law degree, cum laude in 1941 from the University of Georgia.

He served with distinction during World War II and was on the legal staff during the Nuremberg trials following World War II. Mr. Stephens served in the General Assembly of Georgia from 1951 to 1959.

Congressman Stephens was elected to the 87th Congress in 1960 and served with distinction until his pending retirement in 1976. During his years in the Congress, he served as chairman of the Subcommittee on Historic Preservation and Coinage of the Banking, Currency and Housing Committee; Chairman of the Small Business Subcommittee of the Committee on Banking, Currency and Housing; and was a member of the Interior and Insular Affairs Committee. In his capacity as chairman of the Subcommittee on Historic Preservation and Coinage he was the driving force behind meaningful legislation designed to assist the entire country. He was forthright and eloquent in his belief in our systems of Government and the American way of life. He served the Congress and his constituents with commitments and devotion. Therefore, it is fitting and proper to name the Federal office building in Athens, Georgia, the "Robert G. Stephens Federal Building."

The bill, as amended, was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "Robert G. Stephens, Jr., Federal Building."

A motion to reconsider was laid on the table.

RAY J. MADDEN POST OFFICE BUILDING

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15546) to designate the "Ray J. Madden Post Office Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 15546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Post Office Building at 1499 Doctor Martin Luther King Drive, Gary, Indiana, shall hereafter be known and designated as the "Ray J. Madden Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Ray J. Madden Post Office Building.

Mr. GINN. Mr. Speaker, Ray J. Madden was born in Waseca, Minn., on February 25, 1892. He attended public schools and Sacred Heart Acadėmy in Waseca, and received his LL.B. in 1913, from the Law Department of Creighton University in Omaha, Nebr., where he practiced law. He was soon thereafter elected municipal judge of Omaha, and later resigned during World War I to serve in the U.S. Navy. Mr. Madden returned to practice law in Gary, Ind., and served in local elected positions.

In 1943, he was elected to his first term in the House of Representatives and began a new role of public service that became marked with various legislative accomplishments.

Mr. Madden has held various committee posts while serving in Congress. He served on the Post Office and Postal Roads Committee during the 78th Congress and the Labor and Education Committee during the 80th Congress.

In the early 1950's, Madden chaired the Forest Massacre.

He was cochairman, along with Senator Monroney, of the Legislative Reorganization Committee in the 1960's and is a past chairman of the Democratic Steering Committee.

He sponsored and cosponsored major bills including legislation on low-cost housing, salary increases for postal employees, G.I. benefits, and the Civil Rights Act of 1964. Mr. Madden was also instrumental in legislation dealing with loans, scholarships, and aid for higher education, low-income housing, medicare, the Dunes National Lakeshore, and closure of tax and oil loopholes.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GLENN CUNNINGHAM FEDERAL BUILDING

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9444) to name the Federal Building in Omaha, Nebr., the "Glenn Cunningham Federal Building" in commemoration of the many contributions of former Congressman Glenn Cunningham.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 9444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building at 215 North Seventeenth Street, Omaha, Nebraska, shall hereafter be known and designated as the "Glenn Cunningham Federal Building", and any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Glenn Cunningham Federal Building.

Mr. GINN. Mr. Speaker, Congressman Glenn C. Cunningham was born in Omaha, Nebr., on September 10, 1912. He was educated in the Omaha public schools and was graduated from the University of Omaha. Glenn Cunningham ran his own insurance agency and had an impressive list of leadership credits in Omaha civic organizations. In 1946, he was named Nebraska's Outstanding Young Man. Glenn was elected mayor of Omaha and served from 1949 to 1954 with distinction in that job, having previously served the city on the city council, the board of education, and the safety council.

Glenn Cunningham was elected to Congress in 1956 and served admirably through the next 14 years until his retirement at the end of the 91st Congress in 1971. His contributions to Omaha and the entire Nation will be remembered in his accomplishments through and as a member of the House Interstate and Foreign Commerce Committee and the House Post Office and Civil Service Committee. Designating the Federal building in Omaha, Nebr., for former Congressman Cunningham would be a most appropriate honor.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DIRECTING THE SECRETARY OF THE INTERIOR AND THE ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN PUBLIC AND ACQUIRED LANDS IN THE STATE OF NEVADA TO THE COUNTY OF MINERAL, NEV.

Mr. SANTINI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10072) to direct the Secretary of the Interior and the Administrator of General Services to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior or the Administrator of General Services, if the lands described in paragraph (1) of this section come within his jurisdiction for disposal purposes, shall issue to the county of Mineral, State of Nevada, upon the payment by the county into the Treasury of the United States, not more than five years after the Secretary or the Administrator has notified the county of the purchase price, which shall be an amount equal to the sum of the costs of extinguishing any adverse claims to the lands to be patented, the costs of any necessary survey, and the fair market value of the lands as determined by the Secretary or the Administrator after the appraisal of the lands by contract appraisal or otherwise, a patent or deed for the following described lands, situated in the State of Nevada (all range references are to the Mount Diablo base and meridian):

(1) The west half of the northwest quarter of section 26, township 8 north, range 30 east; the part of the northwest quarter of the southwest quarter of section 26, township 8 north, range 30 east, that is north of the highway 95 right-of-way.

(2) The northwest quarter of the northeast quarter and the east half of the east half of section 25, township 8 north, range 29 east; all in sections 29 and 30, township 8 north, range 30 east; the north half of the southeast quarter of section 28, township 7 north, range 30 east.

(3) The part of section 21, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 28, township 7 north, range 30 east; the part of the northeast quarter of section 28, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 27, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the east half of the northwest quarter and the north half of the southwest quarter of section 34, township 7 north, range 30 east; the part of the northeast quarter of section 34, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 35, township 7 north, range 30 east, that is west of Nevada State Highway Route 31.

SEC. 2. That conveyance authorized by this Act shall be made subject to any reservations necessary to protect continuing uses of those lands by the United States.

SEC. 3. All moneys received from the conveyance of lands under the terms of this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received, as reimbursement for costs of appraisal, surveys, and extinguishing adverse claims may be used by the Secretary for said purposes without appropriation.

SEC. 4. The lands described in the first section of this Act shall be segregated from all forms of appropriation under the public land laws including the mining and mineral leasing laws, from the date of approval of this Act until the Secretary shall provide otherwise by publication of an order in the Federal Register.

With the following committee amendments:

Committee amendments: Page 1, beginning on line 3, strike all through Page 2, line 7 and insert in lieu thereof the following:

"(a) That the officer of the United States who has the primary responsibility for the administration of the real property described in this section shall issue to the County of Mineral, State of Nevada, a patent or other instrument of conveyance for such real property, or any portion thereof, upon payment into the Treasury of the United States the appraised value of the parcel to be conveyed, *Provided*, That any of the land described in this section which remains unconveyed to the County of Mineral on and after five years from the date of enactment of this Act shall remain the property of the United States and shall no longer be subject to conveyance under this Act;

"(b) the following described lands situated in the State of Nevada, are hereby made subject to this Act."

Page 2, line 17, strike out "in" and insert in lieu thereof "of".

Page 2, line 18, after "30" strike the remainder of line 18 and all of line 19.

Page 3, line 5, strike out "southwest" and and insert "southeast".

Page 3, lines 11 through 13, strike all of section 2 and insert in lieu thereof:

"SEC. 2. Upon receipt of a request from the County of Mineral, State of Nevada, for the purchase of a parcel of real property described in the first section, the officer of the United States having primary responsibility for the administration of such parcel, shall immediately cause the same to be appraised and, upon completion of such appraisal shall notify the County of Mineral of the appraised value of such parcel and the county shall have six months from the date of such notice to complete the purchase of such parcel by payment of the appraised value into the Treasury of the United States whereupon a patent or other instrument shall be issued conveying such tract to such county subject to valid existing rights and subject to any reservation necessary to protect the continuing use by the United States of real property owned by the United States which is adjacent to the tract conveyed."

Page 3, lines 21 through 26, strike all of section 4 and insert in lieu thereof the following:

"SEC. 4. The lands described in Section 1 and subject to conveyance under the terms of this Act shall be segregated from all forms of appropriation under the public land laws including the mining and mineral leasing laws, from and after the date of approval of this Act, until the officer of the United States having primary jurisdiction for the administration of such lands shall provide otherwise as to any interest remaining in the United States by publication of an order in the Federal Register."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to direct the conveyance of certain real property of the United States to the county of Mineral, State of Nevada."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings are postponed.

SERVICE CONTRACT ACT AMENDMENTS OF 1976

Mr. THOMPSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15246) to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act, and for other purposes.

The Clerk read as follows:

H.R. 15246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended by striking out ", as defined herein,";

(b) section 2(b) of the Service Contract Act of 1965 (41 U.S.C. 351(b)) is amended by striking out "as defined herein".

SEC. 2. Section (a)(5) of the Service Contract Act of 1965 (41 U.S.C. 351(a)(5)) is amended by inserting immediately after "section 5341" the following: "or section 5332".

SEC. 3. Section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b)) is amended to read as follows:

"(b) The term 'service employee' means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I rise in support of H.R. 15246, a bill to amend the Service Contract Act of 1965 by making it clear that both blue collar and white collar employees engaged in the performance of government service contracts, other than bona fide executive, administrative, and professional employees, are to be considered service employees for purposes of the Service Contract Act. This bill was reported unanimously by the Committee on Education and labor on September 8, and enjoys bipartisan support on the committee as well as the endorsement of the administration.

The Service Contract Act was enacted in 1965 to provide labor standards protections for employees engaged in the performance of Government service contracts. The act provides that such employees must be paid at least the prevailing wages and fringe benefits paid for such employees in the locality, and that they must be protected from unsafe working conditions.

The Subcommittee on Labor-Management Relations, which I have the privilege to chair, has conducted numerous hearings in the past 3 years to oversee the functioning of the Service Contract Act. These hearings and two recent court decisions convinced the subcommittee of the need for the legislation before us today.

The U.S. district court in Delaware, In *Descomp* v. *Sampson,* 377 F. Supp. 254, held that white collar employees are not within the scope of coverage of the Service Contract Act. More recently, a U.S. district court in Florida, in *Federal Electric Corporation* v. *Dunlop,*   F. Supp.   , also held that white collar employees are excluded from coverage. These decisions exclude employees such as clerical personnel, office machine operators, technicians, persons engaged in data processing and others from the labor standards protections provided by the Service Contract Act.

In the hearings held before the Subcommittee on Labor-Management Relations in July of this year, Members of Congress, representatives of organized labor and officials of the Department of Labor uniformly testified that coverage of white collar workers is integral to the remedial purposes of the Service Contract Act.

The Department of Labor has consistently included both blue collar and white collar employees engaged in the performance of Government service contracts, other than bona fide executive, administrative, and professional employees, within the definition of service employee for purposes of the act.

Under H.R. 15246 this practice will be continued and the protections of the act will be restored to white collar workers in those places where the courts have ruled that they are excluded from coverage.

During our oversight hearings the subcommittee also heard testimony about the inequities professionals have suffered by virtue of their exclusion from coverage under existing Department of Labor regulations. By maintaining this exclusion in the bill I do not want to convey the impression that the exemption of professionals from protective labor legislation is a practice the subcommittee approves of. I believe that professional workers are in need of some protections. The time remaining in this Congress does not permit a thorough study of this situation in order to determine appropriate remedies. However, the subcommittee intends to address this issue at the first opportunity in the 95th Congress.

H.R. 15246 can thus be summarized very briefly. It is a status quo bill to clarify the act and insure that the decent standards the Service Contract Act has brought to the service contract field will be available to workers engaged in the performance of government service contracts, regardless of whether they are white collar or blue collar workers.

This bill enjoys bipartisan support and the support of the administration. I believe it will go a long way to insure the financial security of service workers and their families, and I urge my colleagues to support it.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the distinguished chairman of the committee.

Mr. PERKINS. Mr. Speaker, I wish to take this time to compliment the distinguished gentleman from New Jersey (Mr. THOMPSON), who chairs the Subcommittee on Labor-Management Relations, for his diligent work and oversight on many subject matters dealing with labor-management relations, and especially in connection with the oversight dealing with the Service Contract Act of 1965. The gentleman from New Jersey has done a tremendous job and deserves the compliments of all the Members of this Chamber for his outstanding service to this Congress in labor-management areas.

Mr. THOMPSON. Mr. Speaker, I thank my distinguished committee chairman.

Mr. Speaker, I would like to call the attention of the Members of the House to the fact that the original authors and sponsors of the service contract legislation, which has meant so much to the service contract workers in the virtually innumerable Federal, military, and other installations, were our colleague, the gentleman from Michigan (Mr. O'HARA), and the late Senator from Michigan, Senator Pat McNamara.

Mr. PERKINS. Mr. Speaker, I rise in support of the bill H.R. 15246, which makes it clear that all employees working under Government service contracts whether "blue collar" or "white collar," are covered by the provisions of the Service Contract Act of 1965.

I want to take this opportunity to commend the chairman of the Subcommittee on Labor-Management Relations for his thorough and continuing exercise of the subcommittee's oversight responsibilities, particularly with respect to the Service Contract Act of 1965.

H.R. 15246 clarifies the scope of the term "service employee," and will eliminate the uncertainty with respect to the coverage of "white collar" workers created by two recent court decisions.

The bill does this in two ways: First it makes clear the obligation of the Secretary of Labor to give due consideration to the general schedule—"white collar"—rates as well as Wage Board—"blue collar"—rates when issuing wage determinations under the act.

Second, the bill defines the term "service employee" as being "any person engaged in the performance of a contract" under the act, with certain exclusions. Bona fide executive, administrative and professional employees are excluded from coverage by present departmental regulations. H.R. 15246 maintains this exclusion and does not alter the status quo with respect to any employees presently covered.

By clarifying the term "service employee" the bill will enable several thousand workers engaged in the performance of Government service contracts to continue to enjoy the labor standards protections of the Service Contract Act.

Once again, I commend the gentleman from New Jersey and the entire subcommittee for their diligent efforts on behalf of the working men and women of this country.

I urge adoption of H.R. 15246.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I thank the gentleman for yielding.

I certainly would like to add my compliments to the chairman of the subcommittee and to the entire subcommittee for the job they have done on this most important bill.

Mr. Speaker, I might add that the gentleman in the well is very modest because he has himself been one of the leaders over the years in the service contract field. He spearheaded the 72 amendments to the Service Contract Act; presently he has a bill regarding professionals, which under the Service Contract Act will be the subject of hearings next year. Professionals need help. They should be included under certain circumstances. I am a cosponsor of this bill and intend to fight to get it passed.

Mr. Speaker, for those of us who come from areas in the States, that include military and space centers a recent court decision created chaos. It overturned what all believed was the law. It took protection away from an established 100,000 to 500,000 people nationwide.

Mr. Speaker, the gentleman from New Jersey (Mr. THOMPSON) pointed out, this is a bipartisan bill. The administration is for it, the Department of Labor is for it and the Congress is for it.

Mr. Speaker, we are trying to restore the status quo, and overturn the court decision. I just want again to compliment the gentleman from New Jersey (Mr. THOMPSON) for putting this bill together in a short period of time and for getting it through under extremely difficult circumstances.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from Florida (Mr. FREY) very much.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time to express my agreement with the statements which were just made by the able gentleman from New Jersey (Mr. THOMPSON), our subcommittee chairman.

Court decisions sometimes cut favorably and other times cut unfavorably. If decisions cut our way, we do not mind it, even if it stretches a bit. However, if it cuts against us, we do not like it.

Mr. Speaker, I do not think that is the case here. The court decision very clearly ran against the intent of the subcommittee, the intent of the Committee on Education and Labor, and the intent of the Congress when we passed the original bill.

Mr. Speaker, I would call my colleagues' attention to the fact that on page 4 of the committee report it is stated that there is no cost attached to this bill. It is simply a matter of equity and justice.

Mr. Speaker, the minority agrees completely with the report. The report was written in a cooperative effort by both the majority and the minority, with full accord reached on the views of Members on both sides of the aisle.

Mr. Speaker, I would like, for the purpose of legislative history, to have several questions directed to my friend, the able chairman of the subcommittee. In fact, I have several questions which are just for the purpose of the legislative record.

This is my first question:

To confirm the points made in the committee report (94–1571), the bill and the report simply state that our disagreement with the Descomp and Federal Electric court decisions is to the extent that those decisions adopted a rule which per se excluded the so-called white collar worker from coverage.

Is that the gentleman's understanding?

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, that is exactly correct.

Mr. ASHBROOK. Then, Mr. Speaker, it is the per se exclusion of such white collar workers that amounts to the "narrow construction" referred to in the report—page 2?

Mr. THOMPSON. Mr. Speaker, the gentleman, surprisingly, is correct once more.

Mr. ASHBROOK. Mr. Speaker, perhaps I had better not go any further because that is a slightly better average than I usually have, but I will take a chance and ask a third question.

Mr. Speaker, the amendments to sections 2 and 8 of the act are not to eliminate the definition of "service employee" but to make clear that white collar workers might also be service employees, and such an employee is a person who is actually engaged in the performance of the service contract?

Is that the gentleman's understanding?

Mr. THOMPSON. Mr. Speaker, amazingly, the gentleman is exactly correct for the third time.

Mr. ASHBROOK. Mr. Speaker, I will stretch my luck once more by asking this question:

Finally, Mr. Speaker, the amendments specifically incorporate the necessary references to the Classification Act in order that due consideration be given general schedule wage rates as those rates are affected or determined by such factors as job content, qualifications, length of service and competence?

Mr. THOMPSON. Mr. Speaker, the gentleman from Ohio again is correct. May I thank the gentleman and congratulate him.

Mr. ASHBROOK. Mr. Speaker, I think I will quite while I am ahead and I thank the gentleman from New Jersey.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Speaker, I enthusiastically add my support for the passage of H.R. 15246 and urge my colleagues to adopt this legislation.

Let me emphasize at the outset that H.R. 15246 is clarifying legislation to the Service Contract Act of 1965. It was ordered reported unanimously, by voice vote, by the Committee on Education and Labor on September 8, 1976, and it has received the endorsement of the Department of Labor and the administration.

The purpose of H.R. 15246 is to clarify the coverage provisions of the Service Contract Act by making it clear that so-called white collar Government service employees are integral to, and a part of, the remedial purposes of the act.

As my colleagues are aware, the Service Contract Act was enacted in 1965 to provide labor standards for employees engaged in the performance of Government service contracts. Among other things, the act provides that these employees must be paid at least the prevailing wages and fringe benefits paid for other employees in a particular locality, and, importantly, it prohibits contractors from taking advantage of Government contract recompetitions to undercut the wages and fringe benefits which have been paid to service workers. Current estimates of the Department of Labor—which administers the Service Contract Act—show that between 350,000 and 500,000 contract employees have benefited from the protection afforded by the act.

Unfortunately, it must be noted that uncertainty and instability have been created in the Government service industry as a result of two adverse U.S. district court decisions—one in Delaware in 1974 and another in my own district in Florida just recently on March 30, 1976. Both of these cases held that the present statutory definition of "service employee" is limited to those persons working in jobs which would be classified "blue collar" if performed in the Federal Civil Service. In other words, workers falling within the traditional "white collar" classifications—for example, technicians and clerical employees, et cetera—were deemed not to be within the scope of the Service Contract Act.

The direct and sudden effect of these decisions has been to put in jeopardy many thousands of service workers across the country who now find they may not be entitled to the protection of the Service Contract Act. Put more concretely, the Department of Labor, in a letter on September 16, 1976, to Chairman PERKINS of the House Committee on Education and Labor, indicated that an interpretation consistent with the two court opinions would exclude between 70,000 and 100,000 service workers on a nationwide basis. As the Department further notes, this exclusion would jeopardize about one out of every five service workers, based on the Labor Department's total employment estimates for service contracts.

It is also important to realize that, although the Department of Labor has filed an appeal on the Forida court decision, the question concerning the definition of "service employee" promises to take a long time to resolve—so much time, in fact, that chaos in the service industry will occur if something is not done now.

My own district in Florida is a good case in point. There are 9,000 Government service contract employees who work at the Cape Canaveral complex along Florida's "Space Coast" in Brevard County, an area which I have represented since 1969. Following the adverse U.S. district court decision on March 30 in Florida, some 3,000 of these workers faced the prospect of losing their protection under the Service Contract Act.

Moreover, the situation at Cape Canaveral demonstrates the urgent need for enactment of this legislation because millions of dollars of space contracts will be put up for recompetition at Cape Canaveral in just a few months. Unless the Congress acts right now, some 3,000 service workers in my area alone will soon be subject to the whims of the Government service contracting industry.

The plain fact of the matter is that the prevailing uncertainty and unfairness in the service industry must be brought to an end. This bill simply reaffirms the policy which, in the past, everybody agreed was the policy. We already know that the Department of Labor has consistently interpreted the Service Contract Act to include workers in white-collar job classifications. Moreover, the Congress has supported the Labor Department's interpretation of the act as a result of oversight hearings held by the House Subcommittee on Labor-Management Relations in 1974 and 1975.

Again this year the subcommittee reaffirmed the Labor Department's interpretation of "service employee" under the act. On July 19 and 20 it held additional oversight hearings, at which time the subcommittee received extensive testimony from labor groups, the Department of Labor, professional employees and other interested parties. The subcommittee also had before it for consideration a bill which I had introduced on May 10, 1976—H.R. 13661—to reverse and nullify adverse court decisions.

As a result, the subcommittee concluded that it was necessary to take legislative action to clarify the Service Contract Act's coverage provisions as they could affect white-collar employees engaged in the performance of Government service contracts. The effort is reflected in H.R. 15246 which is before the House today for consideration.

Mr. Speaker, my colleagues should be aware of the fact that, although H.R. 15246 makes it clear that both "blue collar" and "white collar" employees engaged in the performance of service contracts are provided coverage under the act, other categories of employees—namely, executive, administrative, and professional—are exempted. However, I would note that the unique problems affecting especially the professional category of service workers were aired during the hearings on the present bill in July.

Unfortunately, there was not enough time to fully examine these problems but it is my understanding that Chairman THOMPSON of the Labor-Management Relations Subcommittee has made a commitment to fully examine coverage for professional employees in our next session. I applaud Mr. THOMPSON for his efforts because professional service workers are certainly entitled to the decent standards envisioned by the Service Contract Act.

I would also observe that this group of employees have never been protected by the Service Contract Act. As a general matter, this would seem to be a wise policy since these employees, by virtue of their education, skills, or other qualifications, appear to be well equipped to fend for themselves on matters pertaining to salaries, fringe benefits, job security, et cetera. However, in my own area in Brevard County, Fla., an ugly situation has arisen as a result of reductions in the space program.

Specifically, I am talking about a large group of professional service employees—engineers, analysts, mathematicians, et cetera with advanced degrees—who have been the victims of wage undercutting by employers who have taken advantage of the labor market conditions on the "space coast."

So, I think it's a myth that professional service employees necessarily receive high wages. In fact, just the reverse can and does happen—both in my own area and in other parts of the country. Therefore, I am delighted that this problem area will be closely examined early next year, and I might add that I am cosponsoring legislation—along with Chairman THOMPSON and Mr. CORMAN—which would extend the Service Contract Act protection to professional employees.

In summary, Mr. Speaker, I have outlined for my colleagues a serious problem which deserves immediate attention and action. H.R. 15246 addresses this problem and I urge my colleagues to enact this legislation.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 15246.

This bill will clarify the scope of the term "service employee" as defined in section 8(b) of the Service Contract Act of 1965. It is necessary because of two U.S. district court decisions in Descomp against Sampson and Federal Electric Corporation against Dunlop.

These decisions cast doubts about whether "white collar" workers are covered by the Service Contract Act. I think the decisions are dead wrong, and we have a very simple bill here today which will remove those doubts.

H.R. 15246 simply makes it clear that both "blue collar" and "white collar" employees remain within the coverage of the Act and insures that all of these employees will enjoy the labor standards protections of the act.

I would like to make my colleagues aware that this legislation is supported by the AFL–CIO as well as the following labor organizations:

The Laborer's International Union of North America.

The Service Employees International Union.

The International Brotherhood of Electrical Workers.

International Association of Machinists.

The National Maritime Committee of the AFL–CIO.

Transport Workers Union of America.

International Brotherhood of Teamsters.

I urge the adoption of H.R. 15246.

Mr. BIAGGI. Mr. Speaker, I rise in support of this legislation and am proud to be one of its original cosponsors. We are making some necessary amendments to the Service Contract Act which, for 11 years, has been a protector of the wage and safety rights of employees engaged in the performance of Government service contracts.

These amendments are designed to extend the protections guaranteed under the act to most categories of so-called white collar Government service employees. Obviously, high level executive, administrative, and professional employees are excluded from coverage.

Throughout its history questions have been raised as to whether the act was designed to include white-collar employees. It is clear that it was the intention of Congress when it passed the law, to include the white-collar workers we are today providing for in this bill. Hopefully passage of this legislation will clarify this matter once and for all.

I am pleased to have been a member of the Subcommittee on Labor-Management Relations which drew up this legislation. I commend Chairman THOMPSON of the subcommittee for his efforts and urge the full support of this bill by my colleagues today.

Mr. THOMPSON. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill presently under consideration, H.R. 15246.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill H.R. 15246.

Mr. ASHBROOK. Mr. Speaker, I know that this will come as a surprise, but on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

IMPLEMENTING INTERNATIONAL CONVENTIONS AGAINST TERRORISM

Mr. HUNGATE. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 15552, to amend title 18, Under United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

The Clerk read as follows:

H.R. 15552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons".

SEC. 2. Section 1116 of title 18, United States Code, is amended to read as follows:

"§ 1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons

"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) For the purposes of this section:

"(1) 'Family' includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

"(2) 'Foreign government' means the government of a foreign country, irrespective of recognition by the United States.

"(3) 'Foreign official' means—

"(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

"(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

"(4) 'Internationally protected person' means—

"(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

"(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

"(5) 'International organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

"(6) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

"(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (34)).

"(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

SEC. 3. The analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 1116 is amended to read as follows:

"1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons.".

SEC. 4. Section 1201 of title 18, United States Code, is amended as follows:

(a) by deleting subsection (a)(4) and inserting in lieu thereof the following:

"(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title,"; and

(b) by adding at the end thereof new subsections (d), (e), and (f) as follows:

"(d) Whoever attempts to violate subsection (a)(4) shall be punished by imprisonment for not more than twenty years.

"(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

SEC. 5. Section 112 of title 18, United States Code, is amended to read as follows:

"§ 112. Protection of foreign officials, official guests, and internationally protected persons

"(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever willfully—

"(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

"(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

"(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined not more than $500 or imprisoned not more than six months, or both.

"(c) For the purpose of this section 'foreign government', 'foreign official', 'internationally protected person', 'international organization', and 'official guest' shall have the same meanings as those provided in section 1116 (b) of this title.

"(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

"(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.".

SEC. 6. The analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 112 is amended to read as follows:

"112. Protection of foreign officials, official guests, and internationally protected persons.".

SEC. 7. Section 970 of title 18, United States Code, is amended:

(a) by relettering subsection "(b)" as subsection "(c)" and amending the subsection to read as follows:

"(c) For the purpose of this section 'foreign government', 'foreign official,' 'international organization,' and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title."; and

(b) by inserting a new subsection "(b)" as follows:

"(b) Whoever, willfully with intent to intimidate, coerce, threaten, or haress—

"(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest; or

"(2) refuses to depart from such portion of such building or premises after a request—

"(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

"(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such a request;

"(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

"(D) by any person present having law enforcement powers;

shall be fined not more than $500 or imprisoned not more than six months, or both.".

SEC. 8. Chapter 41 of title 18, United States Code, is amended by adding a new section 878 as follows:

"§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

"(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 by killing, kidnaping, or assaulting a foreign official, official guest, or internationally protected person shall be fined not more than $5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined not more than $20,000 or imprisoned not more than twenty years, or both.

"(c) For the purpose of this section 'foreign official', 'internationally protected person', and 'official guest' shall have the same meanings as those provided in section 1116(a) of this title.

"(d) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).".

SEC. 9. The analysis of chapter 41 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"878. Threat and extortion against foreign officials, official guests, and internationally protected persons.".

SEC. 10. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.

SEC. 11. Section 11 of title 18, United States Code, is amended by inserting after the word "title" the words "except in sections 112, 878, 970, 1116, and 1201".

The SPEAKER pro tempore. Is a second demanded?

Ms. HOLTZMAN. Mr. Speaker, I demand a second.

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from California opposed to the bill?

Mr. WIGGINS. No, Mr. Speaker, I am not.

The SPEAKER pro tempore. Is the gentlewoman from New York opposed to the bill?

Ms. HOLTZMAN. Mr. Speaker, I am opposed to the bill.

The SPEAKER pro tempore. The gentlewoman from New York qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HUNGATE) and the gentlewoman from New York (Ms. HOLTZMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall yield in due course appropriate time to the gentleman from California (Mr. WIGGINS).

Mr. Speaker, I rise in support of the legislation.

Recent tragic events involving American diplomatic officials in Lebanon, as well as other similar incidents over the past 2 years in Cyprus, Argentina, and Greece—all underscore the need for concerted international efforts to curb and deter terrorist acts directed at diplomats. The Organization of American States and the United Nations, with the active support and encouragement of the U.S. Government, have drafted Conventions to deal with such terrorist acts.

Enough countries have ratified the OAS Convention so that it presently is in force among the parties. The U.N. Convention has been ratified by several countries—including the Soviet Union, Hungary, and Czechoslovakia—and is lacking only six ratifications to enter into force. The State Department expects new initiatives at the United Nations next month in order to secure the ratifications necessary to bring the U.N. Convention into force.

The United States signed the OAS Convention on February 2, 1971, and the Senate gave its advice and consent to ratification on June 12, 1972. The United States signed the United Nations Convention on December 28, 1973, and the Senate gave its advice and consent to ratification on October 28, 1975.

Even though it has signed both treaties, and the Senate has advised and consented to the ratification of both, the United States has not yet become a party to either the OAS or the U.N. Convention. The United States has withheld depositing the instruments of ratification until our Government could assure other countries that our federal law enabled us to meet all of our treaty obligations.

Present Federal law, however, needs to be amended if our Government is to be able to give such an assurance. This legislation makes the changes necessary to enable our Government to meet its treaty obligations. Its enactment, therefore, is necessary if the United States is to become a party to the terrorism Conventions and maintain a strong position of leadership in the international community on the issue of terrorism.

Both the OAS and the UN Conventions seek to safeguard "internationally protected persons" from certain crimes. The Conventions define the term "internationally protected person" to include:

> (A) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign state, as well as members of his family who accompany him; and
>
> (B) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.

The Conventions apply when one of these persons is the victim of murder, kidnaping, assault, a threat or attempt to commit murder, kidnaping or assault, and extortion in connection with murder, kidnaping or assault. A party to either Convention is obligated to take certain action whenever it finds within its territory someone who has committed one of these offenses against an internationally protected person. The party must either extradite the offender to another party or try him under its own criminal laws.

For example, country A is a party to the Convention. A citizen of country A kills the American Ambassador to his country. The offender then flees from country A to the United States and is apprehended here. If the United States were a party to the Conventions, it would be obligated either to extradite the offender to country A or to try him under U.S. law. The United States would have complete discretion to decide which course of action it wanted to take.

It should be noted that, in some circumstances, the United States may have to exercise extraterritorial criminal jurisdiction; that is, try someone for an act committed outside of the territory of the United States. This would occur in the example I just gave if the United States were to choose to try the offender, since the murder would have taken place in another country.

H.R. 15552 makes changes in title 18 of the United States Code that are necessary to enable the United States fully to meet its treaty obligations. For example, present title 18 of the United States Code contains no attempted kidnaping offense. This legislation amends title 18 to establish such an offense when the victim is an internationally protected person, a foreign official, or an official guest of the United States.

As I mentioned, the principal purpose of the legislation is to enable the United States to carry out its obligations under both the OAS and the U.N. Conventions. Some parts of the bill, however, make other changes. For example, section 112 (b) of title 18, United States Code, makes it criminally punishable if someone, within 100 feet of a building used by a foreign government:

> (1) Parades, pickets, displays any flag, banner, sign, placard, or device, or utters any word, phrase, sound or noise, for the purpose of intimidating, coercing, threatening, or harassing any foreign official or obstructing him in the performance of his duties, or (2) congregates with two or more persons with the intent to perform any of the aforesaid acts.

The committee believes that this provision raises serious constitutional questions because it seems to cover conduct and speech that are constitutionally protected. Therefore, the language of section 112(b) was redrafted. The committee is of the opinion that its new language is not on its face constitutionally objectionable on first amendment grounds.

Mr. Speaker, the passage of this legislation is necessary if the United States is to be a leader on the matter of terrorism in the international community. We have spoken out forcefully against terrorism in international forums, especially after the recent tragic incident in Lebanon. Unless we become a party to these conventions, our good faith and sincerity with regard to curbing terrorism are open to question. Enactment of this legislation will enable the United States to become a party to the conventions and to be a leader in the international effort to combat terrorism.

Ms. HOLTZMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I find it awkward to disagree with the gentleman from Missouri, whose leadership on the Criminal Justice Subcommittee I have long admired and respected. I also generally agree with the basic purpose of this bill, which is to implement two treaties dealing with the protection of foreign diplomats. It is quite clear, however, that in the process of trying to achieve this unobjectionable goal, the bill seriously infringes on the constitutionally protected rights of American citizens without any need to do so.

Let me be specific. The treaties we are talking about simply require that the United States enact legislation to insure that the following crimes against diplomats would be punished: murder, kidnaping and assault, threats or attempts to commit these acts, and extortion in connection with murder, kidnaping or assault.

Nothing in these conventions requires us to prevent American citizens from peaceably speaking out individually or with others in opposition to the actions of foreign governments.

I am sure each Member of the House has constituents who have peacefully and in good conscience objected to various actions of foreign governments, such as the governments of the Soviet Union, South Africa, Saudi Arabia, India, or China. Yet under this bill if Americans stand within a 100 feet of a foreign embassy or the United Nations, silently, peacefully, and quietly in a vigil of protest, they would be committing a crime.

None of us, I hope, wants to see that happen. Under the Constitution everyone is entitled peaceably to express his or her concerns about governmental policy, including the policies of foreign governments.

Mr. Speaker, I would tell my colleagues of the House, that there is no excuse to proceed with this legislation which would prevent groups of three or more Americans from congregating to object to foreign policy by standing in front of foreign embassies or the U.N.

In addition, the bill is so vaguely drawn that it would subject Americans to possible arrest for similar actions that are peaceable and legal, that in no way threaten foreign officials or hinder the conduct of foreign affairs. For example, one of the sections of this bill would make it a crime for any American to walk into a foreign-owned airline office, whether it is the airline office of the government of South Africa, Iran, or the U.S.S.R., if he had an intention to harass those people in the office. Let us say he never expresses that intention but he just walks into the airline office and walks out. Under this bill, he has committed a crime.

I do not see what purpose is served by subjecting any Americans to a penalty for simply walking peaceably and quietly into and out of, the office of a foreign government's airline.

In addition, the bill is drafted so that a policeman who arrests the Ambassador's chauffeur, let us say, for drunken driving or subjects the chauffeur to questioning on the spot, might conceivably be guilty of obstructing a foreign official in the performance of his duty, since the term "foreign official" includes all employees of the foreign official. The policeman would be committing a crime.

Take the case of a store manager who stops an Embassy cook for questioning about shoplifting.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. Holtzman) has expired.

Ms. HOLTZMAN. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, that purely innocent action would subject the store manager to the possibility of arrest and conviction for a Federal offense.

I say to my colleagues here in the House that the basic purposes of this bill, which are to strengthen the protection regarding kidnaping, assaults, threats, attempted murder, and attempted kidnapping of foreign officials are good and worthy provisions and ought to be enacted, but as this bill is drafted, we cannot enact them without at the same time subjecting Americans to unconstitutional and unconscionable jeopardy for peaceful, sincere protests, which in no way harm any foreign officials.

If anybody says this legislation is needed so quickly that we must jeopardize our citizens' constitutional rights, I would point out to the Members of this House that the first treaty under consideration here was signed by the United States in 1971 and ratified in 1972 and nothing has happened since then for almost 6 years.

The second treaty was signed in 1973 and adopted in 1975. The urgency for enacting this legislation, which at the same time seriously infringes on American constitutional rights, is not proven. This bill should not come up under suspension, a procedure which precludes us from amending this bill to protect the constitutional rights of our citizens.

Mr. HUNGATE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Wiggins).

Mr. WIGGINS. Mr. Speaker, the pending legislation is strongly supported by the administration. It is needed by this country in order to lend credibility to its position that the world community should act strongly against the vice of international terrorism. The treaty is pending. If the United States fails to implement that treaty by amending its domestic laws we, of course, will lose considerable credibility in urging other countries to do likewise.

Mr. Speaker, this bill, for purposes of analysis, could be considered in two parts. One part implements the treaty. With respect to that part, there appears to be no opposition.

The second part of the bill amends existing title 18 provisions dealing with conduct which coerces, harasses, or obstructs internationally protected persons in the performance of their duties. It is that section which raises the objection of our colleague, the gentlewoman from New York (Ms. Holtzman).

Now, Mr. Speaker, please understand that we are not enacting new law in this field. If this bill is to be sacrificed because of the opposition of the gentlewoman from New York (Ms. Holtzman) and others, then we do not have the condition of no law on the subject; but rather, we revert to the existing law.

Well, what is the existing law? In the District of Columbia since 1938 we have prohibited congregating within 500 feet of certain diplomatic premises. We have prohibited all manner of conduct within 500 feet of such premises. That language, the D.C. Code, has been tested on constitutional grounds and has been found to be constitutional.

The present proposal is much more modest, much more carefully drawn than the D.C. Code. In addition to that, the present law, enacted in 1972, Mr. Speaker, to which we would return if this bill were defeated, extended the D.C. provisions to elsewhere in our country and prohibited certain conduct within 100 feet of protected premises. That law is also loosely drawn. It does not inject as a requisite element the proof that the conduct be done willfully with the intent of harassing a diplomatically protected person.

If we defeat this bill, we return to that weaker law, and so wisdom would suggest that we not pass up this opportunity to move forward to improve existing law.

Now, the contention has been made that these amendments, and presumptively the existing law, punishes simple acts innocently performed if there is a requisite intent. Well now, ladies and gentlemen, that is not true, unless the defendant himself wishes to supply the necessary elements of proof. For example, it has been said that if someone enters into an airline office with the intent to harass and walks out, he may be guilty of the offense.

Who is going to try him for that offense, and how is it to be proved? The burden is on the prosecution, and certainly the innocent entry and exit of an airline office has proven nothing. Intent is a common element of proof in criminal prosecutions, and must be proved by objective factors and not by the subjective intent of the defendant, unless he wishes to admit it. Now, that kind of innocent conduct is not prohibited.

I wish the Members would vote on this bill on pragmatic terms. It is better than present law. It should not be faulted because it may not be perfect, because a no vote returns to an even less perfect statute. It should be supported because it is an important element of United States diplomatic endeavor abroad to bring international terrorism under control. I certainly urge my colleagues to support the bill.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from California has expired.

Mr. HUNGATE. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I am just trying to find out what is meant on page 7 of the bill, "* * * congregates with two or more other persons with intent to violate any other provision of this section;"

Does that mean that the only overt act that need be done is to congregate? Usually, when we define a crime, something has to come of it, but here apparently nothing need come of it but merely the congregation of several people.

Then, I would assume one could bring in testimony that Joe Doak told Jim Smith that he intended to engage in certain violence at this place. No violence ever occurs; he merely congregated, and intent is proved by some statement he made at an earlier time. Would that be enough?

Mr. WIGGINS. The quick answer to the gentleman's question is that the language he quoted is in present law, which has been tested by a court of considerable dignity, the Court of Appeals of the District of Columbia, and found to be constitutional. It does require proof of objective actions indicative of the intent.

Mr. Speaker, this bill implements internally two conventions, to which the United States is a signatory, directed at the problem of international terrorism.

Pursuant to these conventions, H.R. 15552 extends the scope of specific U.S. laws on murder, kidnaping, and assault so as to include internationally protected persons. It also grants extraterritorial jurisdiction to U.S. courts over these crimes when committed against internationally protected persons. Among those protected are representatives of the United States, a foreign government, or an international organization who are entitled "at the time and place concerned" to special protection pursuant to international law. Chiefs of State and foreign ministers are also protected under certain circumstances. This extraterritorial jurisdiction has already been extended by the Congress to aircraft piracy (Public Law 93-366) and comports with the traditional treatment of piracy itself (18 U.S.C. 1651).

From earliest times, international law has imposed an obligation upon nations to insure the dignity and safety of diplomats within their boundaries. In the United States, this responsibility was recognized even prior to the adoption of the Constitution in the case of *Republica* v. *DeLongchamps*, 1 Dallas 111 (Pa. 1784).

Diplomats are particularly vulnerable targets of terrorism and nations must squarely assume their responsibilities in order to safeguard the diplomatic process itself. This country should be especially receptive to an effort such as this since five American diplomats have been murdered within the past 2 years, and seven officials who would qualify as internationally protected persons have been kidnaped. A country so often victimized should be a leader in eradicating this form of terrorism.

Since we reap even as we sow, we must extend to diplomats and diplomatic premises here the same protections we seek for our envoys abroad. This is a responsibility for which we are liable under international law as a nation and which therefore is most appropriately a subject of Federal jurisdiction. Consequently, section 7 of H.R. 15552 adds to 18 U.S.C. 970 a subsection safeguarding diplomatic and consular premises from what amounts to criminal trespass.

If this new section could not pass constitutional muster, then few criminal trespass statutes could, for it is narrowly drafted to require an offender act not only willfully but also with a specific intent. As any lawyer knows, intent must be proven by objective facts and is an element of the offensive to be proven by the prosecutor.

H.R. 15552 additionally revises existing Federal law relating to the picketing of diplomatic premises, 18 U.S.C. 112. Although based upon a District of Columbia Code provision—D.C. Code 22-1115—that has repeatedly been upheld, *Frend* v. *U.S.*, 108 F.2d 691 (1938), cert. den., 306 U.S 640; *Jewish Defense League* v. *Walter Washington*, 347 F. Supp. 1300 (1972) and itself cited with approval in *Zaimi* v. *U.S.* 476 F.2d 511 (1973), the existing law is dramatically improved by H.R. 15552. By deleting a laundry list of prohibited conduct, the bill obviates first amendment questions while sacrificing no legitimate diplomatic protection. We should not let pass an opportunity such as this to improve existing law.

There is no constitutional right to coerce, intimidate, harass, or obstruct foreign officials. The prohibition in the bill against congregating within 100 feet of certain buildings requires a defendant do so with a specific intent which must be proven by objective facts by the prosecutor.

This is narrower than the District of Columbia Code provision which has been upheld by a long line of judicial precedents and which prohibits congregating within 500 feet of an embassy without requiring the prosecution show any intent. As was stated by a unanimous Circuit Court of Appeals for the District of Columbia in Frend against United States—concurred in by later U.S. Chief Justice Fred Vinson:

> These are reasonable and proper restrictions. In them there is no abridgement of the right of speech or of assembly or of any constitutional right of the citizen. It has never been considered that the right of the public to use the streets is unlimited or that it may be exercised in defiance of the laws of the United States or the States. On the contrary it has always been considered that a municipality may control and regulate the use of the streets in the general goods; and this has often been held to include the preventing of loud noises, shooting of guns, assembling of crowds, and the routing of parades. The control or prohibition of any of these things cannot be regarded as interfering with the constitutional right of assembly or of speech. 100 F. 2d at 693.

For these reasons, Mr. Speaker, I support the passage of H.R. 15552.

Mr. HUNGATE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I think we ought to point out that in that same section also there is language on page 8 which states:

> Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

In other words, in the application and construction of this language, first amendment rights are not to be violated.

Mr. Speaker, I rise in strong support of H.R. 15552.

This bill results from efforts by the United States and other countries to protect diplomats from an increasing wave of international terrorism. Just as we prod other nations to discharge their responsibilities, we must set an example by affording diplomats here the protections against physical harm, intimidation, and harassment which international law requires.

Even primitive societies recognized the necessity of protecting emissaries between tribes from harm or abuse in order to negotiate peace or facilitate commerce.

In the United States, recognition of the special duty owed diplomats predates the Constitution. In 1784 in the case of *Respublica* v. *De Longchamps*, 1 Dallas 111, Chief Justice McKean of the Pennsylvania Supreme Court stated the law clearly:

> The person of a public minister is sacred and inviolable. Whoever offers any violence to him, not only affronts the sovereign he represents, but also hurts the common safety and well-being of nations—he is guilty of a crime against the whole world.
>
> All the reasons, which establish the independency and inviolability of the person of a minister, apply likewise to secure the immunities of his house. It is to be defended from all outrage; it is under a peculiar protection of the laws; to invade its freedom, is a crime against the state and all other nations. 1 Dallas at 116–117.

Can we lecture the world on the protection of diplomats while not taking steps to safeguard diplomats here against coercion, harassment, and intimidation? Can we object to criminal trespass to our diplomatic missions abroad while not taking steps to prevent such conduct here?

The answer is, of course, no; and I urge the passage of H.R. 15552.

Ms. HOLTZMAN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in response to the gentleman from Illinois, we should not pass legislation saying that we hope it is constitutional. Vague legislation like this puts a person at his or her peril for innocent conduct such as in standing outside of embassies in silent protest against various actions of foreign countries. Vague and overly broad statutes have a chilling effect on peaceable protest. We clearly have a duty in this Congress to write statutes which plainly state what is criminal. A person is entitled to know what action he or she can legitimately engage in without fear of arrest. It is intolerable for us to require a person to be arrested and vindicate his or her rights in the Supreme Court when we know here and now that some of the conduct purportedly forbidden by this statute—such as congregating, obstructing, thrusting, harassing—is constitutional in the first place. A vague bill like this should not be brought up on the Suspension Calendar where amendment is not possible.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. I thank the gentlewoman for yielding.

Mr. Speaker, I compliment the gentlewoman from New York (Ms. HOLTZMAN) for her leadership in illustrating to the House and the Committee on the Judiciary, in her usual excellent fashion, the problems with this bill.

Mr. Speaker, I remind my colleagues who were here at the beginning of the Vietnam war how this section got into the U.S. Criminal Code, section 112 of title 18, and the big fight we had on the floor of this House at that time.

This original legislation was enacted so that peaceful protest against the war in Vietnam could be made a Federal crime, and it was. Unfortunately, the high emotions of those days prevented our defeating the bill, but to legislate in this delicate area right now, I think, is a mistake. I think we can certainly comply with the international situations that we have and deal with international terrorism without new legislation limiting peaceful protest.

Mr. Speaker, I urge a "no" vote on the resolution.

Ms HOLTZMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentlewoman from New York for yielding this time.

Mr. Speaker, I rise in opposition to the bill for the very reasons that have been cited by the gentlewoman from New York. It is hard to believe, perhaps, that some of the construction of this language that has been discussed would actually be employed. It is not difficult from the application of commonsense, however, to see that the bill is not drafted so as to be considered a carefully drafted bill dealing with constitutional rights.

It says, on page 7:

> Whoever wilfully . . . harasses . . . or obstructs a foreign official . . . attempts to . . . harass . . . or obstruct a foreign official . . . or . . . within one hundred feet of any building or premises . . . used . . . for diplomatic, consular, or residential purposes by . . . a foreign official or an official guest, congregates with two or more other persons with intent to (harass or obstruct) shall be fined not more than $500 or imprisoned not more than 6 months, or both.

The current law provides a stiffer penalty. Why is there a step-down in this case? Obviously, we have some problems with the construction of this language or there would not have been inserted on page 8, subparagraph (d), which says:

> Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the 1st Amendment of the Constitution of the United States.

There is a substantial question. This should be very carefully drafted. It may be unbelievable that some of these things could be violations of the law, sections as discussed by the gentlewoman from New York a few moments ago, but it was unbelievable also that there would be such harassment, intimidation, imprisonment, and mass slaughter of Jewish people in Nazi Germany 40 years ago too. Forty years ago it was unbelievable that the U.S. Government would have its hands so deeply as it does into the pockets of U.S. citizens, or imposing on the lives of Americans as deeply as it does. But it is here, and it is with us today.

I think there is need for action on legislation such as we have before us, but I think there is no excuse for drafting legislation in such a manner as to put in question constitutional rights of U.S. citizens. Some would say prosecution would be impossible under some of these sections, with the kind of fact situations that we have been discussing. But what is the excuse for legislating in such a manner as to raise such questions? Why could not this bill come up, not under the suspension process, the Suspension Calendar, but rather in the ordinary manner, where care can be given and attention can be given so as to draft it so that it will be acceptable?

Ms. HOLTZMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I have a question I would like to ask of the gentlewoman from New York. This troubles me, and I understand this is new language contained on page 10 of the bill. I am not so much troubled by item 1, contained on page 9, where a person forcibly thrusts any part of himself or any object within premises which are used for the purposes therein designated.

But it does trouble me that even though a person may be peaceably in such premises, if an official guest on those premises has authorized some member of his staff to call upon an American citizen to leave, no matter how unreasonable the request may be and no matter how lacking in consideration, courtesy, or restraint the deputy of a foreign guest may be, the person who is refusing to leave, although perhaps he was insulted and manhandled, then becomes guilty of an offense which would result in a $500 fine or imprisonment for not more than 6 months, or both.

Ms. HOLTZMAN. Mr. Speaker, the gentleman from Texas (Mr. ECKHARDT) makes a very good point, especially because the bill covers, for instance, an airline office owned by a foreign government. Let us take the case of an employee of a foreign government's airline office who somehow is annoyed at perfectly lawful conduct by an American who is trying to get a ticket problem resolved, and he says to the American: "You must leave" and receives the answer: "No, I want to get this ticket problem straightened out." The American can then get arrested under this bill.

I will also tell the gentleman that the language in the first section on page 9 is also not free from vagueness and ambiguity, Under this section a person could commit a crime merely by walking into the airline office of a foreign government and walking out peaceably if he had an intention to harass which was never made explicit. I believe that vagueness also creates an unfortunate situation.

Mr. ECKHARDT. Mr. Speaker, that is to me a bad feature, and then, too, the person might have come in without any intent to harass at all but just to get an airline ticket validated, and somebody does not understand what he is saying, so there is a little bit of a fuss and the customer subjects himself for a fine and imprisonment if he takes action which may be construed as a threat or harassment.

Ms. HOLTZMAN. Mr. Speaker, the gentleman makes a good point.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNGATE. Mr. Speaker, may I inquire, how much time. I have remaining?

The SPEAKER pro tempore (Mr. McFALL). The gentleman from Missouri (Mr. HUNGATE) has 7 minutes remaining, and the gentlewoman from New York (Ms. HOLTZMAN) has 6 minutes remaining.

Mr. HUNGATE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in strong support of this legislation to implement certain international conventions against terrorism.

Both the United Nations and the Organization of American States have drafted conventions designed to deal with terrorist acts directed at diplomats. These conventions deserve our support and participation. In fact, this legislation is necessary if we are to discharge our obligations under the conventions.

While neither of the conventions can guarantee against acts of violence, I believe we must do everything possible to reduce such terrorism in view of the outrages perpetrated against Americans in recent years. Within just the last 2 years, five U.S. diplomats have been brutally murdered, seven U.S. officials were abducted, an officer of the U.S. Information Agency was wounded, and two U.S. Air Force officers attached to an embassy were ambushed and killed.

I am deeply concerned over the failure of some nations to punish terrorists who commit serious crimes against diplomats. Both of the conventions that this legislation will implement have the effect of amending existing extradition treaties, between the states party to the conventions, so as to include offenses specified as extraditable offenses.

I believe these conventions will be helpful in deterring terrorism and that our action here today will demonstrate the United States is not going to tolerate such acts either here at home or against our representatives serving overseas.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, one thing we are recognizing in this legislation is that people in the diplomatic corps and official representatives of foreign governments are entitled to special immunity and special protection. That is traditional. It has existed since the most primitive civilization, and not to recognize that, it seems to me, is quite inconsistent with our modern civilized society.

I think the strained interpretation which the objectors to this legislation are endeavoring to put on it is indeed an exaggeration of what is intended. I believe that the reason for placing this paragraph in the bill, assuring that in the interpretation and construction of the language Americans will be assured that their first amendment rights will be maintained, is an attempt to overcome these strained arguments that are being made against this much needed legislation.

Mr. Speaker, this legislation is needed not only to protect foreign representatives in this country but likewise to protect Americans who are being terrorized in foreign countries. These are our own citizens and we want them afforded the same protections this bill grants foreign representatives here.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding.

I have just one parting shot. If we have some concerns about this legislation, I ask the Members to please look at the present law. I ask them to look at what we are amending, and if we have concerns about what this legislation says, we must doubly have great concerns and grave concerns about the present law.

There is no doubt that this improves the present law. We, incidentally, are not adding new language of a saving nature that we do not intend to violate the Constitution. That has been in the statute since 1972.

Ms. HOLTZMAN. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, the present law is execrable. But one cannot reasonably argue there is any excuse to pile one constitutionally void provision on top of another constitutionally void provision.

This bill should be brought up in the ordinary course, not under suspension of the rules, so that the serious constitutional arguments that my colleagues and I have raised could be solved properly and the bill properly amended.

Mr. Speaker, there is no reason that this cannot be done, and I would, therefore, urge that the bill be defeated on suspension so that it can be brought up in the ordinary course and the unconstitutional provisions eliminated.

Mr. HUNGATE. Mr. Speaker, I yield myself 2 additional minutes.

First, I would like to ask if anyone thinks that on this issue with respect to which we have debated first amendment rights, this bill is worse than what now exists. I do not believe there is anyone in the House who would rise to assert that point.

Mr. Speaker, it has been said that the perfect is the enemy of the good. I think there is a lot of merit to that. Some also say, "Since you cannot feed everybody; therefore, we won't feed anybody."

Mr. Speaker, I do not think that sort of reasoning is what we should follow here.

The gentleman from California (Mr. WIGGINS) has pointed out that the hortatory language that we should not violate the first amendment is already in the law and that this is not a change since you can read it in the present statute.

The statement that we would be punishing people for congregating is not quite accurate. At least, we have qualified it to require willfully.

Mr. Speaker, as to whether we are piling one unconstitutional provision on another, the court, as I understood my colleague, the gentleman from California, the court has already determined the statute to be constitutional.

Ms. HOLTZMAN. Mr. Speaker, if the gentleman will yield.

First, I would disagree with the gentleman from Missouri that nothing in the bill is worse than the law that now exists. Although section 112 of title 18 may be minimally improved by this bill, section 970 is made much worse. Section 970, in present law, penalizes only damage or destruction of property and does not include the vague language of this bill condemning "forcible thrusts" with intent to harass or refusal to depart from foreign airline or tourist offices upon request of one of their employees.

Second, the court, as I understand it—and perhaps the gentleman from California (Mr. WIGGINS) can correct me if I am wrong—did not uphold the "congregating" provision specifically as constitutional. Mr. Speaker, I do not think that a provision simply penalizing the congregation of people, without any overt act, could be held to be constitutional.

Mr. WIGGINS. Mr. Speaker, if the gentleman will yield, this is the law under title 22, section 1115, which is the D.C. Code; but I assure the Members that the first amendment is alive and well in the District of Columbia as well as elsewhere.

The Court of Appeals in the District of Columbia has indeed sustained the constitutionality of the D.C. Code, which is worse, in my opinion, in its terms than what is contained in this bill.

Mr. HUNGATE. Mr. Speaker, to continue, the committee approved this bill 23 to 5.

What is the urgency? The urgency is that the United Nations is going to meet next week. The Secretary of State is going to be there.

I do not believe that anyone will say that the present bill is worse than what we have right now on civil rights or on the first amendment.

Mr. Speaker, if we do not pass this bill, we are going to take a drubbing in New York next week in the United Nations, especially from all of the countries trying to reduce terrorism, who have already deposited this convention.

Mr. Speaker, the State Department supports this bill; the Justice Department supports it; and the administration supports it.

I do not argue that it is perfect, but I assure the Members that we need it, and it is better than what now exists in the law.

Therefore, Mr. Speaker, I would urge that the bill be passed.

It has been asserted that this legislation will make it a crime to walk in and out of a foreign government's airline office.

I can assure my colleagues that this would not occur. The relevant provisions require intimidation, coercion, threats, harassment, or obstruction of the performance of official duties. Simply walking in and out of an office does not, in and of itself, constitute an intimidation, a coercion, a threat, or an obstruction of official duties.

It has been asserted that a police officer arresting an embassy chauffeur for drunken driving has violated Federal law if this legislation is enacted.

I assure my colleagues that this is not so. If this assertion were true—and it is not—then a police officer would be guilty of kidnaping every time the officer arrested someone for anything and took the person to jail. To begin with, then, a police officer is privileged to arrest people and deprive them of their liberty when he is authorized by warrant or has reasonable grounds to believe that they have violated the law. This legislation does nothing to change that authority of the police.

The legislation, moreover, requires that the defendant must have "willfully" intimidated, coerced, threatened, or harassed the internationally protected person. The term "willfully" as used in the legislation refers to acts done voluntarily, intentionally, and with the specific intent to do something the law forbids—in other words, with a bad purpose. E. Devitt & C. Blackmar, Federal Jury Practice and Instructions section 16.13 (1970). See also the committee report at page 6, footnote 10. A police officer who lawfully arrests someone does not have the requisite bad purpose. The officer's purpose, rather, is a good purpose to apprehend lawbreakers so that they can be brought to justice.

It should be kept in mind that in amending section 112(b) and 970(b) and in creating section 878(a) of title 18, United States Code, the legislation requires that the prosecution prove beyond a reasonable doubt that a defendant acted with a specific intent. To show a specific intent, the prosecution must prove more than that the defendant had a general intent to do the act, it must prove that the defendant knowingly did the act purposely intending to violate the law. See E. Devitt & C. Blackmar, *Federal Jury Practice and Instructions* section 13.03 (1970).

The legislation amends section 112(b) of title 18, United States Code, to require that the prosecution prove that a defendant "willfully" intimidated, coerced, threatened, harassed or obstructed the official duties of a foreign official. The term "willfully" is also used in sections 970(b) and 878(a) of title 18, United States Code. The use of this term means that the prosecution must prove beyond a reasonable doubt that the defendant acted voluntarily, intentionally and with the specific intent to do something the law forbids—that is to say, with a bad purpose to disobey or to disregard the law. E. Devitt & C. Blackmar, *Federal Jury Practice and Instructions* section 16.13 (1970): See *Screws* v. *United States*, 325 U.S. 91 (1945); *Hartzel* v. *United States*, 322 U.S. 680 (1944); *United States* v. *Murdock*, 290 U.S. 389 (1933); *Felton* v. *United States*, 96 U.S. 699 (1877).

In order to show this specific intent, the prosecution must prove what was in the defendant's mind when he acted. As Judge Devitt and Professor Blackmar write in their treatise, *Federal Jury Practice and Instructions* (section 13:06):

> Intent ordinarily may not be proved directly, because there is no way of fathoming or scrutinizing the operations of the human mind.

A person's intent must be inferred from all of the facts surrounding what took place.

We have been offered examples of the bad results that this legislation allegedly will bring about. We have been told, for example, that the legislation makes it criminal for someone to walk into the ticket office of a foreign government's airline, say nothing, and turn around and walk out. I can assure my colleagues that this is neither the intent of the legislation nor its result. I do not see how it is possible to infer an intent to intimidate, coerce, threaten, or harass from the act of walking into an office, saying and doing nothing, and then leaving. I doubt that such a case would ever be brought, but if a prosecutor were foolish enough to bring it, I have little doubt that a Federal judge would dismiss the case before it ever got to the jury. It would be a different matter if, during the course of walking in and out, the person were to throw a bomb. Then there could be little doubt that the defendant intended to intimidate, coerce, threaten, or harass. But that is not the example offered. In short, then, the requirement that the prosecution prove a specific intent, and prove it beyond a reasonable doubt, protects such innocent conduct as entering the office of a foreign government's airline, saying nothing, and then walking out.

Mr. McDONALD. Mr. Speaker, while I am voting for H.R. 15552, I must explain that I feel that this bill is totally inadequate. A number of my colleagues have justifiably criticized this bill from a first amendment viewpoint. But, I consider it worth voting for only as a small step in attempting to cope with the serious problem of terrorism.

The bill under discussion only deals with terrorism against foreign diplomats. It does not deal with most terrorist acts. Modern terrorism can be defined as a violent or military attack on the civilian or noncombatant element of the population, for the purpose of intimidating a government or populace, to achieve political or military objectives.

The bill in no way copes with this major problem. It is a cosmetic approach which pretends that this Congress is cognizant of the terrorist problem. In fact the only effective antiterrorist bill proposed in this Congress is H.R. 1577 which was introduced by Congressman JOHN ASHBROOK. That bill has never been reported out of the Judiciary Committee, in fact no hearings have ever been held on it. The Justice Department, under Attorney General Edward Levi, has failed to provide the Judiciary Committee with its comments on the bill. The Ashbrook bill would prevent foreign terrorists from entering the United States, would penalize American citizens who receive terrorist training abroad, and would prevent the raising of funds in the United States for terrorist operations. That is the bill we should be considering today.

The bill before us is pursuant to a U.N. convention against terrorism aimed at diplomats. As the majority of the members of the United Nations favor terrorism against civilians in South Africa, Rhodesia, and Chile, they cannot be expected to pass an effective measure against terrorism. Many of the U.N. members also favor terrorism in the Middle East. The Soviet Union, its satellites, Red China, and Communist Cuba all provide material and logistical support to terrorists throughout the world.

This bill before us will have little effect on the worldwide problem of terrorism promoted and organized by the Communists.

Mr. GILMAN. Mr. Speaker, some of the most despicable and heinous crimes against innocent men, women, and children have been committed by terrorists. This country must take stronger steps in conjunction with other nations to deny a safe haven to terrorists and to establish sanctions against states which aid them, harbor them, or fail to prosecute or extradite them. I have long supported measures to put a stop to international terrorism and have recently introduced legislation, House Concurrent Resolution 697, directed at that goal. The bill before us, H.R. 15552, is a positive step in that direction.

Unless we can protect those fundamental lines of government communication, terrorism will continue to threaten the very foundation of international relations. The impact of these acts are magnified as governments are forced to stand aside, appearing helpless or heartless and unable to protect their own officials and citizens.

Just this morning, terrorism raised its ugly head once again in this very city, with the senseless bombing murders of a former Chilean Ambassador to this country and two innocent Americans that were with him.

We must fulfill those obligations toward foreign officials to whom we have extended our hospitality. As President Filmore stated in his annual message to Congress on December 2, 1851:

> Ministers and consuls of foreign nations are the means and agents of communication between us and those nations, and it is of the utmost importance that while residing in the country they should feel a perfect security so long as they faithfully discharge their respective duties and are guilty of no violation of our laws. This is the admitted law of nations and no country has a deeper interest in maintaining it than the United States . . . What is due to our own public functionaries residing in foreign nations is exactly the measure of what is due to the functionaries of other governments residing here.
>
> As in war, the bearers of flags of truce are sacred, or else wars would be interminable, so in peace ambassadors, public ministers, and consuls, charged with friendly national intercourse, are objects of especial respect and protection, each according to rights belonging to his rank and station.

This statement, over 100 years old, is of even more importance in an ever-increasing interdependent world.

While I do share some of the concerns expressed in the debate about some provisions in this legislation, its motives are laudable and I urge my colleagues to provide the needed authority for the United States to discharge its obligations under the OAS and U.N. antiterrorist conventions.

Mr. HUNGATE. Mr. Speaker, the purpose of H.R. 15552 is to implement the U.N. and OAS Conventions on terrorism. It amends title 18 of the United States Code in several respects. The opponents of the bill have raised some questions about some of the provisions of the legislation. In the interests of a full and complete legislative history of the bill, I am responding to these questions in some detail.

The legislation amends 18 U.S.C. 112 by deleting present subsection (c). As noted in the committee report—page 6, note 9—the language of subsection (c) "raises serious constitutional questions because it appears to include within its purview conduct and speech protected by the first amendment. "The legislation replaces the provisions of current subsection (c) with new language in subsection (b)—specifically with the language in subsection (b)(3). The new language, in the opinion of the committee, is not on its face constitutionally objectionable on first amendment grounds.

It has been argued that the language of 18 U.S.C. 112(b), as amended by this bill, would make it criminally punishable for someone to congregate peaceably with others if that person's intent is to harass a foreign official. The legislation intends no such result, and that result cannot be reached under any reasonable construction of section 112(b). The sanction of 18 U.S.C. 112(b)(3) would apply only if the conduct involved actually created an imminent likelihood that the prohibited intimidation, coercion, threat, harassment or obstruction would occur *Cf. Grayned* v. *City of Rockford*, 408 U.S. 104 (1972). Thus, it would not be a violation of this statute for three or more persons to conduct a silent vigil near a foreign mission to protest that country's policies.

It should be noted that in any prosecution under 18 U.S.C. 112(b)(3), the Government would face a nearly insurmountable task in trying to prove the specific intent to intimidate, coerce, threaten, harass, or obstruct—absent an admission of such intent or additional evidence of conduct indicating such an intent—such as preparation to throw missiles.

The legislation uses the term "harassment" in amending 18 U.S.C. 112, 970, and 878. It has been argued that this term is vague. As used in this legislation, however, it has a clear meaning. "Harassment" includes only that conduct which a reasonable person would perceive as having no legitimate purpose and which is unduly alarming, intimidating, or otherwise calculated to create undue disturbance of the victim. The term would, of course, include conduct known by the person who engaged in it to create an undue disturbance of the victim because of the victim's special sensitivity to such conduct. See Senate report No. 92–1105.

Booing or heckling a speaker is not "harassment" within the meaning of this legislation. A person who addresses the public must reasonably expect that others may contemporaneously express their dissent. A speaker should neither be alarmed, intimidated, nor otherwise unduly disturbed by such activity. The crude or rough expression of opinion that is mere political hyperbole and protected by the first amendment, is not "harassment" within the meaning of the legislation.

The legislation amends 18 U.S.C. 970 to provide criminal sanctions for trespasses on premises owned or occupied for official business by a foreign government, an international organization, a foreign official, or an official guest. The trespass can occur in two ways: first, when someone enters the premises without permission, 18 U.S.C. 970(b)(1); and second, when someone who entered with permission refuses to leave the premises after the permission is revoked, 18 U.S.C. 970(b)(2).

In amending section 970(b), the legislation does not make all trespasses unlawful. The trespass must be done willfully—with the specific intent to intimidate, coerce, threaten, or harass. Further, when the trespass is an entry without permission—18 U.S.C. 970(b)(1)—the entry must be forcible. Thus, a person would not violate 18 U.S.C. 970(b)(1) by merely walking into the public area of an office of an airline that is owned by a foreign government—even if the requisite specific intent could be proved—which is unlikely.

The legislation adds a new section—878—to title 18 of the United States Code. That section punishes threats and extortion directed at foreign officials, official guests, and internationally protected persons. Subsection (a) provides criminal sanctions for "whoever knowingly and willfully threatens to violate section 112, 116, or 1201 of title 18 by killing, kidnaping or assaulting a foreign official, official guest, or internationally protected persons."

The phrase "by killing, kidnaping, or assaulting" refers to the nature of the threat—"I'm going to kill you"—and not to the means by which the threat is communicated. Thus, for example, the statute does not require that a threat to violate 18 U.S.C. 112 be communicated by killing, kidnaping, or assaulting a foreign official, official guest, or internationally protected person. Rather, the statute requires that the threat to violate 18 U.S.C. 112, however communicated, be a threat to assault. It should be noted that 18 U.S.C. 112 prohibits conduct other than assaults. However, this legislation, in establishing 18 U.S.C. 878, only makes punishable those threats to violate 18 U.S.C. 112 which are threats to assault.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE) that the House suspend the rules and pass the bill H.R. 15552.

The question was taken.

Ms. HOLTZMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 15552, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

URGING PRESIDENT NOT TO EXTEND DIPLOMATIC OR OTHER RECOGNITION TO THE TRANSKEI TERRITORY

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1509) urging the President not to extend diplomatic or other recognition to the Transkei Territory.

The Clerk read as follows:

H. RES. 1509

Whereas the Government of the Republic of South Africa intends to declare the territory of the Transkei independent on October 26, 1976; and

Whereas the Transkei is one of the ten homelands or bantustans in South Africa, to which all blacks of the country are assigned on the basis of ethnic origin; and

Whereas the establishment of homelands or bantustans is the cornerstone of the universally condemned system of separate development called apartheid; and

Whereas under apartheid, the black population of South Africa, which constitutes 70 per centum of the total population, is to be assigned citizenship in bantustans, which constitute only 13 per centum of the land area of the country; and

Whereas the land assigned to the bantustans is far from areas of industrial or mineral wealth within South Africa; and

Whereas the South African Government intends to deprive blacks living in white areas of South Africa, even if those blacks continue to work and live there, of their South African citizenship once their tribal homelands are made independent; and

Whereas no referendum of the Transkei's population has been held in order to determine if the people assigned to the Transkei want independence; and

Whereas leading members of the opposition party in the Transkei who oppose independence have recently been arrested; and

Whereas the United Nations General Assembly voted overwhelmingly (100 to 0, with 8 abstentions) in November of 1975 to call "upon all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them"; and

Whereas the Organization of African Unity reaffirmed in July 1976 its appeal to all States "not to accord recognition to any bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976"; and

Whereas recognition of the Transkei by the United States would be widely regarded as endorsement of or acquiescence in the concept and practice of apartheid, and seriously alienate many governments of Africa and the world: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should not extend diplomatic or other recognition to the Transkei territory.

The SPEAKER pro tempore. Is a second demanded?

Mr. KETCHUM. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLARZ) and the gentleman from California (Mr. KETCHUM) are recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution comes before us at a critical moment in the relationship between our own country and the countries in southern Africa.

It embodies and expresses the sense of the House that the President should not extend diplomatic or other recognition to the Transkei Territory when it receives its so-called independence on October 26 of this year.

What is the Transkei Territory, and perhaps more importantly, what is the homelands policy on which it is based?

The homelands policy, of which the forthcoming independence of the Transkei Territory is the first fruition, is the major ideological prop in the whole intellectual and political foundation of apartheid. It calls for the establishment of 10 tribal homelands for each of the major tribal groupings within South Africa. It provides that all of the blacks within South Africa will ultimately become citizens, not of South Africa, but of each of the tribal homelands to which they have been assigned.

Far removed from the areas of industrial and mineral wealth within South Africa, these tribal homelands constitute only 13 percent of the territory of South Africa, even though the blacks constitute 70 percent of the population of South Africa.

Perhaps worst of all, Mr. Speaker, the Government of South Africa has declared that once each of the tribal homelands receives its independence, the members of the tribe assigned to the homeland that becomes independent will lose their citizenship in South Africa and will presumably at that point become citizens of the tribal homeland to which they have been assigned.

The reason this is so centrally related to the policy of apartheid itself is that it enables the Government of South Africa to contend that the reason the blacks in South Africa have no political and very few social and economic rights is that they are really not citizens of South Africa but are, rather, citizens of the tribal homelands to which they have been assigned. As a consequence, the South African Government argues that the blacks, even though they constitute the great majority of the population within the territory of South Africa, are only visitors in their own country. And as visitors to South Africa, the argument goes, they are presumably not entitled to the right to vote and to participate in the affairs of their own government.

Mr. Speaker, if the South African blacks, on their own volition, had determined that their opportunities for a good life would be better served as citizens of the tribal homelands rather than as citizens of an integrated South Africa, I would say that was their decision to make and that we would be obligated to respect it.

But the fact of the matter is that there has never been a referendum conducted on this question. The blacks living in the Transkei, the first of the homelands scheduled to receive its independence, have not been given an opportunity to freely vote to determine whether they want to be independent. Certainly the majority of the Xhosas, the people for whom the Transkei is being established, who do not even live in the Transkei, who live in South Africa itself, have never been given an opportunity to freely determine in a referendum whether they want to become citizens of the Transkei.

The fact of the matter is that under the homelands policy, once the Transkei receives its independence on October 26, the majority of the Xhosas, who have never lived in the Transkei, who have never been to the Transkei, who were born in South Africa, who have lived in South Africa all of their lives, whose labor has built up the economy of South Africa, will be deprived of their citizenship in South Africa whether they want to give up that citizenship or not. That is the explicit policy of the South African Government. I say that it is inequitable and it is unfair. The fact is that if a referendum were held among the Xhosa people not only in the Transkei, but outside of the Transkei, a great majority of them would vote against the independence of the Transkei.

Mr. DENT. Madam Speaker, will the gentleman yield at that point?

Mr. SOLARZ. I will yield to the gentleman from Pennsylvania later on in the debate.

Mr. DENT. Is the gentleman handling the time on this debate?

Mr. SOLARZ. Yes, I am.

Mr. DENT. Will the gentleman see that I get some time later?

Mr. SOLARZ. I will.

The fact is that most of the Xhosa people consider themselves citizens of South Africa, a country where they were born, where they have lived all of their lives, a country which they have worked to develop, and they want the fruits of citizenship in South Africa, not the alleged benefits of citizenship in a homeland hundreds of miles from where they live, where they have never been and have no intention of going.

The fact is that the homelands policy has been universally condemned by the United Nations. In 1975 they had a vote, and by a vote of 100 to 0 with 8 abstentions, the United Nations unanimously called upon all of the countries of the world not to provide recognition in any way whatsoever to the Transkei. It has been unanimously condemned by the Organization of African Unity as well.

I want to suggest to my colleagues on the committee that if we extended diplomatic recognition to the Transkei, it would be seen as an implicit endorsement of the policy of apartheid which has been universally condemned throughout the world, and which even our own Secretary of State has recently said is incompatible with any notion of human dignity.

Secretary Kissinger is currently engaged in South Africa in some very critical and signficant negotiations. The possibility of a racial confrontation and a great power confrontation hangs in the balance. All of us without exception hope that he will be successful in that effort. But I want to suggest that it would be a moral mistake and diplomatic disaster of incalculable proportions if we sold out the interests of 18 million South African blacks in order to preserve the position of 270,000 Rhodesian whites.

A number of Members have suggested that this resolution constitutes interference in the international affairs of South Africa. Nothing could be further from the truth. What South Africa wants to do is its business, but whether we extend diplomatic recognition to an artificially created territory is our business.

The purpose of this resolution is to express the sense of the House that we ought not to legitimate this effort by conferring the advantages of American diplomatic recognition on it. A number of Members have suggested that this might prejudice the possibility for the success of Secretary Kissinger's mission. Let me say quite frankly that I find it difficult to conceive of a set of circumstances under which the President of the United States would make the incredible mistake of conferring recognition on the Transkei. Consequently, if that assessment is correct and this resolution is adopted, it will not embarrass the Secretary of State in any way. He has already said he is against apartheid, and the Department of State has already indicated that it would not do anything to objectively shore up apartheid. But if there is even a remote possibility that the President is considering the possibility of conferring diplomatic recognition on the Transkei—which I assume he will not—then I would suggest to my colleagues that the adoption of this resolution is more important than ever. To the extent that the adoption of this resolution by the House might reinforce the President's determination not to extend diplomatic recognition to the Transkei, or might dissuade him from doing so if he was thinking of it, I think it would be a major service to our own Nation, since American diplomatic recognition of the Transkei would completely alienate the rest of Africa, would completely isolate us from our allies in Western Europe and in Asia, and would say to the entire world that the United States of America sees nothing wrong with this universally condemned system of apartheid.

Consequently, it seems to me that there is every reason to support this resolution and to make it clear that the U.S. House of Representatives will have nothing whatsoever to do with this artificially created Transkei homeland which is being imposed on the Xhosa people, for which their consent has never been solicited, and which is designed to enable the South African Government to justify their continued oppression of the great majority of South African blacks who have never been to these homelands and have no intention of going there.

Mr. KETCHUM. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Madam Speaker, I thank my distinguished colleague for yielding to me in this important debate.

It seems to me there are a number of very valid reasons why this resolution should be rejected under any circumstances but particularly at this time.

First. Secretary of State Henry Kissinger is presently involved in delicate negotiations in Africa which requires the United States to keep the good will of the Government of South Africa. This is the only way the United States can exercise its influence as an intermediary in this crisis situation. A rejection of the steps South Africa has been willing to take to grant independence of the Transkei would seriously jeopardize the U.S. role in Africa.

Second. After recognizing every independent Black African state, the United States will be reversing its previous policy. The denial of recognition to the Transkei would be a major insult to the black leadership of the Transkei who have worked hard to bring about independence for their people.

Third. The refusal to recognize the Transkei would be interpreted as an attempt by the United States to interfere in the internal affairs of an African state and is bound to increase tension on the African continent.

Fourth. A rejection of the Transkei would be the rejection of a black nation which has sought independence through diplomatic negotiations and peaceful means, rather than violent revolution. Refusal to grant diplomatic recognition would appear to be a setback for the moderate black leaders seeking a settlement of the problems of Africa by peaceful methods.

Now let us examine the particulars of this resolution, which will reveal the distortions contained therein:

1. Whereas the Government of the Republic of South Africa intends to declare the territory of the Transkei independent on October 26, 1976; and

False: The government of South Africa intends to recognize Transkeian independence. It is the Transkeian government, however, who will declare its own independence.

2. Whereas the Transkei is one of the ten homelands or bantustans in South Africa, to which all blacks of the country are assigned on the basis of ethnic origin; and

False: Blacks are not "assigned" to homelands any more than Italian nationals are "assigned" to Italy. The Xhosa people for example, have lived in the Transkei for more than 250 years. They were the original settlers of the region. Unlike American policies toward the Indians (where whole tribes were forcibly removed to remote reservations, the South African government is granting dejure recognition to a de facto nation.

3. Whereas the establishment of homelands or bantustans is the cornerstone of the universally condemned system of separate development called apartheid; and

False: The term "apartheid," is indeed condemned by most of the world (including the South African government), not so much for what it means, but what it implies to many observers. It is manifestly absurd to suggest, however, that "separate development" is universally rejected. Eritrian nationalists, Quebeqois, Scottish separatists, Kurdish revolutionaries, and Puerto Rican successionists to name but a few believe fervently in the cause of freedom for their own national groups. That the South African government is recognizing the concept of Black Nationhood and granting the Xhosa people independence peacefully makes the cause no less moral.

4. Whereas under apartheid, the black population of South Africa, which constitutes 70 per centum of the total population, is to be assigned citizenship in bantustans, which constitute only 13 per centum of the land area of the country; and

False: First, Blacks are not "assigned" citizenship in homelands by the South African government, but may be regarded as citizens of the Transkei for example by the Transkeian government on the basis of the circumstances of their birth, just as Americans are regarded as citizens by our government. Second, the implication that the homelands were "assigned" to the Xhosa people is ridiculous. The Xhosa chose this land themselves. The Transkei, which covers an area larger than 22 U.N. member states, is located in one of the most fertile regions of Africa. Much of the balance of South Africa is as arid as Nevada. To compare the Transkei with an area of equal size in the Orange free state would be as absurd as equating the farming potential of Iowa to that of Utah.

5. Whereas the land assigned to the bantustans is far from areas of industrial or mineral wealth within South Africa; and

False: Not only are most homelands immediately adjacent to major industrial areas, they contain enormous mineral wealth, conservatively estimated at more than $200 billion. Further, industrial development of the homelands themselves is more intense than all but a fraction of other Black African countries.

6. Whereas the South African Government intends to deprive blacks living in white areas of South Africa, even if those blacks continue to work and live there, of their South African citizenship once their tribal homelands are made independent; and

False: The South African government intends to negotiate treaties with the Transkeian government regarding the citizenship of Transkeian nationals living outside the newly independent Transkei.

7. Whereas no referendum of the Transkei's population has been held in order to determine if the people assigned to the Transkei want independence; and

False: Freely contested elections have been held in the Transkei in 1963, 1968 and 1973. The Transkei National Independence Party has prevailed each time on a platform committed to total independence from South Africa.

8. Whereas leading members of the opposition party in the Transkei who oppose independence have recently been arrested; and

False: The Opposition Party of the Transkei (The New Democratic Party) freely contests all elections, and has won seven seats in the Transkeian Parliament. None of its leaders have been arrested. The only arrests in the Transkei with political overtones have been the detention of certain leaders of a radical splinter group which has refused to participate in elections and has publicly advocated violent overthrow of the Transkeian government. Transkeian officials, not the South African government ordered these arrests.

9. Whereas the United Nations General Assembly voted overwhelmingly (100 to 0, with 8 abstentions) in November of 1975 to call "upon the Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them"; and

True: The U.N. adopted the anti-Transkei resolution shortly after condemning Israel, recognizing the PLO, and voting support for African terrorists.

10. Whereas the Organization of African Unity raffirmed in July 1976 its appeal to all States "not to accord recognition to any bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976"; and

True: The OAU, composed of 44 one-party states and military dictatorships was appalled because a Black African country could actually achieve independence peacefully while still maintaining a democratic form of government.

11. Whereas recognition of the Transkei by the United States would be widely regarded as endorsement of or acquiescence in the concept and practice of apartheid, and seriously alienate many governments of Africa and the world:

False: Recognition of the Transkei would reaffirm the basic American principle of freedom. The United States should be on record as supporting the right of the Xhosa people to govern themselves. This country should reaffirm the concept we adopted 200 years ago; the right of any nation to be free of colonialism and exploitation. Recognition of the Transkei would represent such a stand.

Mr. SOLARZ. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. Madam Speaker, again we are demonstrating that we have a penchant for picking up trouble that we need not ask for. I heard the remarks made that this is something new, that we are settling these African tribes in their homelands. Does anyone remember what happened to the American Indian tribes that were isolated, not in their homelands, they were taken from their homelands and they were set out according to the formula that has now been described by the former Speaker on our side as being the formula for the Transkei. It is not the same. The Xhosa tribes in Transkei will stay there, the Indian tribes were moved away, far away.

This independent movement has been moving for years along the very lines designed by mutual agreement between the Transkei Government and South Africa.

The Indians in this Nation are still living on reservations far from their natural homes, isolated both as to language and schooling. No occupation was ever taught them. They are still living there. If there had been, instead of a Tallyrand, a Kissinger, would we have had our independence today? I doubt it.

We were breaking the rule in the first revolution away from the mother country and it succeeded. We know, of course, that the French were taking advantage of our institutional fight with Great Britain to help their own cause, but they did help us to win our independence, how can we in good conscience vote against independence for Transkei.

How are we to say that these tribal lands ought not to be given to the tribes that grew and lived on them? Certainly, there are hundreds of thousands of Transkeis living away from Transkei.

However these former residents will be given their status after independence, October 26, by Transkei rules, regulations, and law.

To presume the action will be for or against citizenship in Transkei is to confuse this House.

The SPEAKER pro tempore (Ms. Jordan). The time of the gentleman from Pennsylvania has expired.

Mr. SOLARZ. Madam Speaker, I wish I could give more time to the gentleman, but I cannot.

Mr. KETCHUM. Madam Speaker, I yield 2 additional minutes to the gentleman.

Mr. DENT. Madam Speaker, I thank the gentleman.

It is impossible to answer all the charges made, but for this Congress, and I would gamble that at least 90 percent of us do not even know where the Transkei is, know nothing of its history, know nothing of its semi-independence for centuries, living in this land for 250 years. Now we are talking about demanding giving the right to those not living in the

Transkei to vote in the referendums. No, they did not vote in the referendums, because they do not live in the Transkei. If people live in New York, they cannot vote in Pennsylvania. This is true in any federation of states. That is what the sponsors are complaining about while objecting to forcing the nonresidents to move into the new nation.

Madam Speaker, I do not harbor the apartheid philosophy. I am opposed to it, very much opposed, because in our own way we have had a little of it in our own country, not only with the Indians, but with the emigrants that came here, growing up in an atmosphere of apartheid. Who are we to say before this nation even becomes independent that it shall not be recognized. The U.N. has condemned Israel, which we did not approve; recognize the PLO, which we did not approve? The same U.N. voted against recognizing the Transkei after the citizens voted in three referendums for this type of independence.

Now, why all of a sudden an action of the U.N., which is in my eyes in disrepute with the United States in our feelings and attitude toward other people, we are going to take their mandate? What motivated that mandate? Why have not they spoken before it comes at this late date, approximately a month before independence comes to this country, which I repeat voted on three separate occasions overwhelmingly for this type of independence, a nation that has been built in conjunction with the South African Government, a nation that will have the same money values, be tied together in all free trade between them, free exchange of peoples and free exchange of goods?

This nation is better prepared and has a greater potential for democratic government, agricultural growth, and industrial production than any African nation except Rhodesia.

There can be no reasonable case made for our legislative interference in many countries least of all in the internal affairs between both Africa and Transkei.

In my studied opinion the United States would not have become independent in 1776 if the U.N. was in existence.

Madam Speaker, I am compelled to set the record straight. The statements made by the sponsor in the whereas clauses must be answered from the record of the situation:

1. Whereas the Government of the Republic of South Africa intends to declare the territory of the Transkei independent on October 26, 1976; and

False: The government of South Africa intends to recognize Transkeian independence. It is the Transkeian government, however, who will declare its own independence.

2. Whereas the Transkei is one of the ten homelands or bantustans in South Africa, to which all blacks of the country are assigned on the basis of ethnic origin; and

False: Blacks are not "assigned" to homelands any more than Italian nationals are "assigned" to Italy. The Xhosa people for example, have lived in the Transkei for more than 250 years. They were the original settlers of the region. Unlike American policies toward the Indians (where whole tribes were forcibly removed to remote reservations, the South African government is granting dejure recognition to a de facto nation.

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False: The term "apartheid," is indeed condemned by most of the world (including the South African government), not so much for what it means, but what it implies to many observers. It is manifestly absurd to suggest, however, that "separate development" is universally rejected. Eritrian nationalists, Quebequois, Scottish separatists, Kundish revolutionaries, and Puerto Rican successionists to name but a few believe fervently in the cause of freedom for their own national groups. That the South African government is recognizing the concept of Black Nationhood and granting the Xhosa people independence peacefully makes the cause no less moral.

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False: First, Blacks are not "assigned" citizenship in homelands by the South African government, but may be regarded as citizens of the Transkei for example by the Transkeian government on the basis of the circumstances of their birth, just as Americans are regarded as citizens by our government. Second, the implication that the homelands were "assigned" to the Xhosa people is ridiculous. The Xhosa chose this land themselves. The Transkei, which covers an area larger than 22 U.N. member states, is located in one of the most fertile regions of Africa. Much of the balance of South Africa is as arid as Nevada. To compare the Transkei with an area of equal size in the Orange free state would be as absurd as equating the farming potential of Iowa to that of Utah.

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False: Recognition of the Transkei would reaffirm the basic American principle of freedom. The United States should be on record as supporting the right of the Xhosa people to govern themselves. This country should reaffirm the concept we adopted 200 years ago; the right of any nation to be free of colonialist exploitation. Recognition of the Transkei would represent such a stand.

Mr. SOLARZ. Madam Speaker, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. Diggs).

Mr. DIGGS. Madam Speaker, I wish to associate myself with the explanation of this resolution so ably presented this afternoon by the gentleman from New York. However, it is unfortunate that the same arguments are being applied to this resolution as have been applied to debates in this Chamber on the question of Rhodesia and other parts of southern Africa. The same arguments seem to fit a pattern that reflects a point of view that under our edict of free speech, obviously we can enunciate, but in terms of its credibility and accuracy are just so far from the actual facts that it is almost ludicrous.

I think that perhaps the best example of it was to see, word for word, the public relations piece put out by the South Africa Embassy read a few moments ago from the well of this House. Although the gentleman has that kind of prerogative, I am suggesting that we need to look at this matter in a much more objective form.

I think we ought to start, Madam Speaker, by trying once again to clarify the uniqueness of South African society, because everytime we get into one of these debates people talk about the Indians on reservations and about Italians, and talk about every other group in the world and how they have developed independence and how they have nurtured the peculiarities that bring them together, without recognizing that what we are talking about in South Africa is a completely different, unique kind of society; the only society in the world, if you please, that is based on the factor of race and racial separation.

I think further, Madam Speaker, that we ought to test the credibility of this whole proposition by asking ourselves, What do other homeland leaders say? This is, as the gentleman from New York indicated, just the first of a series of so-called separate development propositions that are about to be tried in the South African experiment. Outside of the Chief of the Transkei, who controls the territory that is referred to in this resolution, there is only one other homeland leader who favors separate development; but all the rest besides those two are completely opposed to the whole concept. So, they can bring in public relations explanations from the South African Embassy if they wish, but the fact of the matter is that this proposition not only has been rejected by almost every organized group outside of South Africa and in every international forum, but within the country itself. This alone should be convincing enough but when added to the persuasive arguments by the gentleman from New York, Mr. SOLARZ, is overwhelming. Finally, Madam Speaker, defeat of this resolution or less than a strong majority vote would be interpreted beyond these shores as an endorsement of the racist apartheid concept with all its unwanted diplomatic pitfalls, the implications of which is something frightening to contemplate as Secretary Kissinger is in the middle of such sensitive negotiations. I urge support of the resolution.

Mr. KETCHUM. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. I thank the gentleman for yielding.

Madam Speaker, I realize that we have very strong feelings on this issue, and I would indeed plead for tolerance. I know that those on the other side of this issue feel deeply about it. But on October 26, of this year, a new nation will be born, and the new nation is black and it is in the southern part of Africa. Whether that is good or bad or somewhere in between, it is a fact of life.

It would seem to me that this measure is ill-advised and, if not ill-advised, at least premature.

I did have the privilege of going to this country last year, with a few of my colleagues, and I went to the Transkei, I went to Umtata. I met with Kaiser Matanzima, and his counterpart, the leader of the opposition. Indeed, one visit makes no one an expert on anything, but one gains certain impressions and I would like to briefly relate mine.

I am convinced that this nation wants independence. I am convinced, more importantly, perhaps, that it is prepared for independence. In the field of politics and government and medicine and industry, the people of the Transkei have been trained by South Africans to be competent to take over the task of self-government; and that is important because I think regardless of how we feel about this new nation, I do not think any of us want it to fail.

But I just feel that it would be a gratuitous insult before this nation gets started, before it has any record of performance, good or bad, to suggest that we are not going to recognize it. It would be far better to do nothing, in my judgment, and permit a little bit of time to pass, give this fledgling nation a chance. They want independence, they are prepared for independence, and, in my judgment—and I know there are those who differ—this is not a vote for apartheid. I think it is unrelated, even though I recognize there are those who differ strongly. But I respectfully submit, Madam Speaker, that this is certainly not a subject for the Suspension Calendar.

Mr. KETCHUM. Madam Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Madam Speaker, it seems to me that this resolution is really unnecessary and an example of the kind of bureaucratic paperwork that is increasingly bogging down the work of the congressional committees and the House itself.

It took me only one telephone call earlier today to the Department of State to determine that the administration has no plans for extending diplomatic recognition to the Transkei Territory.

Instead, the proponents have gone to the time and expense of having the full International Relations Committee consider the matter, prepare and print a committee report, and now consume the time of the House which has an extremely full calendar.

I would also remind the House that the Secretary of State is now engaged, in behalf of the President, in extremely delicate negotiations in southern Africa and that this is no time for the Congress to gratuitously intervene in the situation. None of us here have a real notion of how the results of the Secretary's negotiations may affect future attitudes in southern Africa or in the United Nations toward the question of recognition or nonrecognition in this situation.

For these reasons, I think this resolution is not only unnecessary, but unwise and at this time it does not serve a practical purpose. The President has no intention whatsoever of extending diplomatic recognition to the Transkei.

Mr. KETCHUM. Madam Speaker, I yield myself 7 minutes.

Madam Speaker, I, too, like the gentleman from California (Mr. BURGENER), visited South Africa 2 years ago in January and shared the same experiences that he did.

We talk about a referendum. Can anyone remember a referendum on Hungary or Czechoslovakia when the Russian tanks rolled?

Should we now knock off all diplomatic relations with Red China and the Soviet Union? I think not. I do not think any Member here would agree that we should.

Why do we bring up a resolution such as this at such an inopportune time? I cannot answer that question. It seems to me to be a presumptuous and outrageous resolution, interfering once more with the rights of a legally constituted government—in fact, in this case, interfering with the rights of two governments.

Chief Minister Kaiser Matanzima, who is the paramount chief of the Xhosas, endorses the Transkeian independence. And who is Chief Kaiser Matanzima? He is the paramount chief of the Xhosas, the leader of the Xhosas people, and he speaks for the Xhosas people, just the same as Buthelezi, who is the paramount chief of the Zulu nation and who descends, I must presume, from Shaka Zulu is the leader of the Zulus, Shaka Zulu, the greatest African leader ever, ruled some 200 years ago, and by virtue of that succession Buthelezi is the paramount chief of the Zulus. Is was indicated before these tribal homelands were the homelands of these peoples, and that has been true for years and years.

We talk about outside nations and other African nations disagreeing. We talk in the resolution or in the report about fratricide. Has no Member in this Chamber ever heard of Idi Amin of Uganda? He has no opposition. Why does he have no opposition? He just took the other tribes out, lined them up against the wall, and shot them all.

This transition is peaceful. This transition is in the spirit of actions of the South African Government in conjunction with Chief Kaiser Matanzima, leader of the Transkei, who decides what those people want.

It is not our right to deny them recognition and deny them the right to do what they want to do.

In the resolution and in the report it is indicated that the Transkei—which means "across the Kai River"—is far removed from industrial centers, and I suppose one could presume that because it is difficult to travel in some parts of South Africa. However, it is not all that far from Durban.

Yet my own observation—and I am a farmer—is that this nation could well become the breadbasket of all of Africa, given the help that it is being given by the South African Government.

If we agree to this resolution, we in my opinion make two more countries angry at the United States by interfering in their affairs. We make both South Africa and the Transkei angry, and they are both friendly to the United States.

Madam Speaker, turning down this resolution would in no way be an endorsement of apartheid, and anyone who makes that statement make it in total arrogance.

Mr. BIESTER. Madam Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. Madam Speaker, the gentleman referred to the homelands, and the gentleman has been in the Transkei and seen these homelands. I was also in the Republic of South Africa, and I was in Soweto. I saw homes, I saw the places and the homes in which the workers who may be attached to Transkei or who may be attached to other homelands presently live.

Many live in dormitories, in small bunks, and they live with a coal stove; they are packed together for months on end. Then they go back sometimes, and sometimes they stay for a whole year. That is the home of many young men who work in South Africa and who happen to be black.

Madam Speaker, the issue, it seems to me, is not the Transkei. The issue is the totality of the relationships that all the people in South Africa, black, white, colored, Asian, British, Afrikaans, and all the rest, have with one another.

I am not one of those, and the gentleman from California knows this, who gratuitously criticizes at every juncture the difficulties that are occurring in South Africa because certainly I have tried to understand the circumstances of the past in that presently unfortunate part of the world, but I do think we have to recognize that if the U.S. Government puts its stamp of approval of recognition on the existence of this so-called independent State of Transkei, we would be, in fact, certifying, to that limited degree, the perpetuation of a system of apartheid, an expression of the system of apartheid, which I must say would be a terrible blot on the conscience of this House.

Mr. KETCHUM. Madam Speaker, I thank the gentleman from Pennsylvania for his comments. I would point out to the gentleman that just yesterday, as a matter of fact the last act this body took yesterday on suspensions, was one in which we requested the Soviet Union, through diplomatic channels, because we recognize them, to release from persecution a Baptist minister in that country. Without recognition, Madam Speaker, I submit we have no channels of communication which I know the gentleman from Pennsylvania would like us to have.

Mr. SOLARZ. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Madam Speaker, I wish the transition in South Africa was peaceful. However, the fact is it is not peaceful. Because it is true the people of the homelands do live in Soweto and they know that they will not become citizens of South Africa the country in which they live. It does not make any difference where blacks are born in South Africa, the difference is where their heritage originated.

So in Soweto when we have violence and we have people rioting, that is what is happening as the Transkei receives its alleged independence. The Bantustanization is simply a method of avoiding total majority and to maintain apartheid, this is the answer of South Africa. I do not believe that our Government has any intention of recognizing Transkei or the Bantustans, but the South Africa Government is making every effort to get this Congress, Members from all over the United States to give dignity to a country that does not represent anyone. The greatest tragedy this world would face would be the superimposing of the cold war and a race war in Africa.

That is the reason that I say we must adopt this resolution and say the United States as a representative of the free world will never accept less than full democracy for all countries of the world.

Mr. SOLARZ. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. YOUNG).

Mr. YOUNG of Georgia. Madam Speaker, I think the best thing we can do to help the efforts of Secretary Kissinger in southern Africa right now is to pass this resolution. Secretary Kissinger has received, I think, a surprising amount of acceptance, both in South Africa, and from the front-line nations of black Africa, but there is still a great deal of suspicion.

The reason I think Ian Smith is willing to try a negotiated settlement and majority rule in 2 years is that he knows that when the rainy season comes he faces a potential blood bath.

Regardless of what one thinks about Africa in general, I would like to remind them that the nation of Mozambique bordering on South Africa has refused the Soviet Union the right to have a naval base. The front line nations around South Africa have made every effort to keep the Cubans out. They do not want war, and the possibilities of any kind of rational transition, since it can no longer be peaceful now, depend on the Congress saying forthrightly that we support majority rule and will not support these schemes to avoid majority rule and give the impression of independence and freedom where there is none.

The people of South Africa really themselves have had nothing to say about this. I frankly think that Chief Minister Kaiser Matanzima is running a very nice game on the Government of South Africa. I do not think he intends to be independent, I do not think he intends to be locked out of all the resources and the riches of South Africa.

However, for us to recognize Transkei independence gives it an international stature which I think is not in the best interests of the United States.

I would urge, Madam Speaker, that we adopt this resolution because I think it supports the negotiations which the Secretary of State now has under way in the frontline black nations surrounding South Africa.

Mr. SOLARZ. Madam Speaker, I yield myself 1 additional minute.

Madam Speaker, the major flaw in the homelands policy, with which this resolution deals, is this: if the Xhosa people, the majority of whom do not live in the Transkei, have never been to the Transkei, and have no intention of going to the Transkei, were given the option of choosing either citizenship in the Transkei or citizenship in South Africa once the Transkei becomes independent, it might not be so objectionable. But on October 26, once the Transkei becomes independent, the South African Government intends to strip the Xhosa people, even if they do not live in the Transkei, of their South African citizenship.

Consequently, if we extend diplomatic recognition to the Transkei Territory, we will be legitimizing a policy which says to millions of black South Africans that, even though they were born in South Africa, have worked in South Africa, and want to remain in South Africa, they will lose their South African citizenship once their tribal homeland becomes independent.

Madam Speaker, I think that would be a diplomatic disaster of incalculable proportions and this resolution is designed to prevent it.

Mr. KETCHUM. Madam Speaker, I yield myself 2 additional minutes.

Madam Speaker, I certainly do not decry the reasons given by many of the proponents of this resolution as to why they support it. I know that some of them have, indeed, been to South Africa, and than many of the rest of them have not.

I cannot agree, however, that the so-called scheme, the homeland scheme of South Africa, can be decried by this body because we have enough problems of our own that we have not been able to solve without criticizing those of another country.

Madam Speaker, I cannot read Matanzima's mind as to whether he truly wants independence or whether he does not. He has indicated that he does. There will be a certain amount of dependence on South Africa. Indeed, the Nation of Botswana is supported by South Africa, and it is not part of South Africa.

Madam Speaker, in closing, I simply would ask the body to turn down this resolution. Let us not give over once again to interfering in the policies of a friendly foreign nation.

Mr. McDONALD. Madam Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Georgia.

Mr. McDONALD. Madam Speaker, I rise in opposition to this resolution. It is the height of hypocrisy for this deliberative body to recommend to the President of the United States that he not extend recognition to the Transkei, because we disagree with the social and political organization of the Republic of South Africa. How can we send such a message while at the same time recognizing nations such as the Soviet Union and moving toward recognition of Communist China which have butchered tens upon tens of millions and kept the security of the world in a shaky state for decades. If we are going to adopt a purely moral stance, then I would say it would make more sense to amend the resolution to include withdrawing recognition of every Communist nation in the world and see what the proponents of this resolution would say; then we could see who is consistent. Let us withdraw recognition of every Communist country and then we might show some consistency. We might then adopt a truly moral stance.

Naturally, Members of Congress can be courageous on a vote of this nature. South Africa is not a threat to the United States. But where are these same Members when a matter affecting the Soviet Union comes up? "Oh, we can't increase tensions," they say. "We must consider the threat of nuclear war," they say. This is not only selective morality—it is selective cowardice. I personally feel badly enough that our Secretary of State is busying himself in Africa while the cause of freedom and Western civilization is fading on every front. Let us not put forth another example of selective morality—or cowardice.

Further, if we read the New York Times, one would think that the Congress had learned enough about attempting to impose American standards on other nations during the long Vietnam struggle, but here we are again taking the same route. My hope is that this body will vote down this poorly conceived resolution.

Mr. RANGEL. Madam Speaker, I rise in strong support of the House Resolution 1509 being offered today by the gentleman from New York (Mr. SOLARZ). It is essential that our Government recognize that we have a responsibility in the international arena to begin to lend our support to the struggling liberation movements in South Africa. By adopting this resolution, we would be stating in quite explicit terms our intention not to take any action which would assist South Africa in her attempt to further the abhorrent policies of apartheid.

At first glance, it might appear that the idea of giving the black population in South Africa their own separate homeland would be appealing. There are those who will argue that granting independence to these black-ruled regions indicates South Africa's realization that blacks must be granted self-determination. I suggest most vehemently that this is not the case.

South Africa has announced its intentions to create 10 separate homelands to which all blacks in the nation would be assigned based on ethnic origin. One does not have to go back in history too far to find this same type of deplorable solution being offered by Hitler during his reign of terror and the establishment of concentration camps.

This proposed settlement to the racial strife currently ongoing in South Africa must be denounced by all people of the world as just another indication by the South African Government that they do not intend to deal positively with the black majority within their borders. In condemning this proposed action, the United Nations General Assembly Special Political Committee saw this effort as one designed primarily to consolidate the inhuman policies of apartheid and to perpetuate white minority domination.

The United States has neglected the continent of Africa for too long. It is essential that we as a nation support the liberation movements on that continent, just as the other nations supported our move 200 years ago. House Resolution 1509 gives us an excellent opportunity to state clearly that the United States will not be a party to this further denial of human rights by the South African Government. I urge my colleagues to vote for this resolution.

Mr. BINGHAM. Madam Speaker, I rise in support of House Resolution 1509, a resolution which urges the President not to extend diplomatic or other recognition to the Transkei Territory. The Transkei Territory is slated to become "independent" on October 26, 1976, by a decree of the South African Government. This is the first of 10 homelands or bantusalands to which the regime intends to give full "independence." Eventually, the 70 percent of South Africans who are black would no longer be citizens of South Africa, but of their assigned homelands.

True self-determination for the majority of South Africans is certainly a desirable and necessary goal, but the present policy is merely an attempt to grant a phony "independence" to South African blacks which will set in historical concrete the rule of the minority white government. Black South Africans will lose their South African citizenship but continue to work and live in South Africa, no longer as citizens, but as visitors in a country where they have lived and worked all their lives. The "homelands" constitute only 13 percent of the entire area of South Africa, and do not include most of the rich and productive areas of the country. They will be almost entirely dependent on Pretoria in economic terms; thus their freedom is a complete sham.

In the past months Secretary of State Kissinger has at long last moved U.S. policy in southern Africa toward a much more aggressive commitment to majority rule in this troubled area. At this very moment he is engaged in sensitive talks with the political leadership, both black and white, of the region.

I can only hope for a swift resolution which will lead to real independence for Namibia and an avoidance of a bloody civil war in Rhodesia. The problem of apartheid in South Africa offers no possibility of quick solution, even though there have been some recent signs of a new realism on the part of Prime Minister Vorster. The creation of the Transkei will accomplish nothing, save to turn back the clock. If Secretary Kissinger means what he says, if his Lusaka statement represents a real evolution of American thought with regard to southern Africa, then the United States will remain consistent with that policy by refusing to recognize and thus give credibility to any of the "independent" homelands. I urge the Congress to lend its voice to the stated American policy of supporting majority rule in southern Africa.

Finally, I would like to compliment the distinguished sponsor of this resolution, my colleague from New York, Representative STEPHEN SOLARZ. In his first term in Congress, he has become one of the most productive members of the International Relations Committee. His interests are far ranging, his judgment excellent, and his articulation of the issues clear and well reasoned. He is a pleasure to work with, and a real asset to our committee.

Ms. COLLINS of Illinois. Madam Speaker, I rise in support of House Resolution 1509 the resolution on the recognition of the Transkei Territory. As you and my colleagues know this resolution urges the President to withhold U.S. recognition from the Transkei Territory which is scheduled to get its independence on October 26, 1976.

It is important to withhold recognition for several reasons. To begin, the formation of the territory within the nation of South Africa is little more than a South African attempt to continue its apartheid policy of segregation in yet another manner. Those who are familiar with the situation in South Africa are nearly unanimous in their condemnation of the homeland policy that creates these separate and unequal territories within this majority controlled state.

If the United States or any other nation encourages the use of small land tracts to segregate blacks in South African society we will continue to see the isolation of the majority population to small parcels of their native land. The racial domination by a minority of the population will continue to govern the majority of the land mass, and racism will continue to crush human dignity in that region of the world.

I need not remind my colleagues that the land assigned to the blacks under the homelands policy is not choice real estate. It is not the land where development has occurred often at the cost of native exploitation. It is barren and totally undeveloped. It is a known fact that this gratuitous act of the racist government of South Africa has been undertaken without so much as a little consultation with the black population who have repeatedly let it be known that they do not want to be segregated.

To endorse this separatist policy is to depart from one that attempts to advance majority rule. It is to shun the issues of political and racial equality.

It is of special importance that the Congress take some initiatives in the issues affecting southern African for without a clear delineation of our position in this matter we may all be the unhappy recipients of a shuttle diplomacy bargain we do not like or, worst, faced with yet another international crisis affecting us all.

I respectfully urge my colleagues to join me in support of this resolution, House Resolution 1509.

Ms. ABZUG. Madam Speaker, I rise in support of House Resolution 1509.

The United States should not extend diplomatic recognition to apartheid. Yet this would be the ultimate significance of granting diplomatic recognition to the Transkei Territory in South Africa.

The world has rightly condemned the cruel system of apartheid, which condemns the black majority of South Africa to perpetual political, economic, and human inferiority to the benefit of the white minority. However, the response of South Africa to its deepening international isolation has been not to dismantle this unjust system but rather to repackage it as "separate development."

As the cornerstone or "separate development," the homelands policy—under which the Transkei is to become "independent"—is also the embodiment of apartheid. South Africa is attempting to prove to the world that it can accomodate black demands for independence and self-rule. But as this resolution makes clear, Transkei independence would produce neither real independence nor real self-rule.

We must not grant the homelands policy the legitimacy sought by South Africa. We must not give apartheid diplomatic acceptance.

Unfortunately, the State Department thus far has refused to give a definitive answer regarding American diplomatic recognition of the Transkei. No definite policy has emerged. And one of the most unfortunate aspects of shuttle diplomacy is that Dr. Kissinger rarely shuttles to Congress until the very end of the process.

It is possible to imagine conditions under which Dr. Kissinger might be tempted to use recognition of the Transkei as a carrot in his negotiations with South Africa. In exchange for the considerable political benefits of international recognition of the Transkei, Mr. Vorster might use his influence to achieve a negotiated settlement in Rhodesia and Namimbia. An arrangement of this sort is at least within the realm of possibility.

That is why Congress must use this opportunity to express its opposition to apartheid and to the homelands policy.

Ms. HOLTZMAN. Madam Speaker; I rise in support of House Resolution 1509, a resolution urging the President to withhold diplomatic recognition from the Transkei territory, a portion of South Africa which will soon be split off as a "tribal homeland."

South Africa has designated approximately 13 percent of its area as tribal homelands to which black persons in the country are assigned. South Africa intends to make these tribal homelands independent and in the process to strip the black persons assigned to those countries of their South African citizenship. Thus South Africa plans to denaturalize the 70 percent of its population who are nonwhite.

The "tribal homeland" policy is the new face which apartheid presents to the world, demonstrating, in reality, South Africa's old commitment to preserving the system.

If the homelands become independent, the black people who built the cities of Capetown and Johannesburg and created the wealth of South Africa by their toil in mines and fields, will become alien migrant laborers in their own country. Now, many black South Africans must live in squalid dormitories on the fringes of South African cities, while their families remain far away in the tribal homelands, controlled by a highly refined pass system which weakens family ties by allowing little movements, even to visit close relatives.

The United States has for too long turned its back on Africa and failed actively to oppose the repressive white regimes of South Africa and Rhodesia. Now, when white South Africa faces particular pressure to abandon apartheid, we should do nothing further to encourage the present regime to believe that, in the long term, apartheid can survive. We should firmly and finally announce our opposition to the perpetuation of white minority rule. I therefore support this resolution.

The SPEAKER pro tempore (Ms. JORDAN). The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the resolution (H. Res. 1509).

The question was taken.

Mr. KETCHUM. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INTERNATIONAL INVESTMENT SURVEY ACT OF 1976

Mr. SOLARZ. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2839) to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes, as amended.

The Clerk read as follows:

S. 2839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Investment Survey Act of 1976".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the United States Government is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment; and

(7) existing estimates of international investment, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decisionmaking.

(b) It is therefore the purpose of this Act to provide clear and unambiguous authority for the President to collect information on international investment and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this Act be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or United States investment abroad.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) "foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) "person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States;

(5) "foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) "business enterprise" means any organization, association, branch, or venture which exists for profit-making purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) "parent" means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) "affiliate" means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) "international investment" means (A) the ownership or control, directly or directly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(10) "direct investment" means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) "portfolio investment" means any international investment which is not direct investment.

AUTHORITY AND DUTIES

SEC. 4. (a) The President shall, to the extent he deems necessary and feasible—

(1) conduct a regular data collection pro-

gram to secure current information on international capital flows and other information related to international investment, including (but not limited to such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States;

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation relating to international investment; and report periodically to the Committees on Foreign Relations and Commerce of the Senate and the Committee on International Relations of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment; and

(4) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c).

(b) With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall, among other things and to the extent he determines necessary and feasible—

(1) identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) obtain (A) information on the balance sheets of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) obtain information on tax payments by parents and affiliates by country; and

(5) determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

(c)(1) The President shall conduct a comprehensive benchmark survey of foreign portfolio investment in the United States at least once every five years and, for such purposes, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of foreign private holders, diversification of holdings by economic sector, and holders of record.

(2) In addition to the benchmark surveys conducted pursuant to paragraph (1), the President shall conduct a benchmark survey of United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on the date of enactment of this Act. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys.

(d) The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit his findings and conclusions to the Congress not later than two years after the enactment of this Act.

(e) Activities shall be conducted so that information obtained pursuant to this Act shall be timely and useful in the development of policy with respect to international investment. Reporting and recordkeeping requirements imposed under this Act shall be designed in order to minimize costs to the extent feasible, consistent with effective enforcement and the compilation of information required by this Act. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(f) In collecting information under this Act, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, and shall insure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

RULES AND REGULATIONS; ACCESS TO INFORMATION

SEC. 5. (a) The authorities and responsibilities under this Act may be exercised through such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) Rules or regulations issued pursuant to this Act may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential to carrying out the international investment surveys and studies to be conducted under this Act; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the international investment surveys and studies conducted under this Act.

(c) Access to information obtained under subsection (b)(2) of this section shall be available only to officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this Act as he deems necessary to carry out the purposes of this Act. Nothing in this section shall be construed to require any Federal agency to disclose to any official exercising authority under this Act any information or report collected under legal authority other than this Act where disclosure is prohibited by law. Information collected pursuant to subsection (b)(2) may be used only—

(1) for analytical or statistical purposes within the United States Government; or

(2) for the purpose of a proceeding under subsection (d) of this section or under section 6 (b) or (c).

No official or employee designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, may publish or make available to any other person any information collected pursuant to subsection (b)(2) in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this Act, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Any person who willfully violates subsection (c) shall, upon conviction, be fined not more than $10,000, in addition to any other penalty imposed by law.

ENFORCEMENT

SEC. 6. (a) Whoever fails to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this Act, may be subject to a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears that any person has failed to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this Act, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

(c) Whoever willfully fails to submit any information required under this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this Act, upon conviction, shall be fined not more than $10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

USE OF EXPERTS AND ADMINISTRATIVE SUPPORT SERVICES

SEC. 7. (a) Any official designated by the President to carry out this Act may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) Any official designated by the President to carry out this Act may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

CONSULTATIONS AND REVIEWS

SEC. 8. (a) Officials performing functions pursuant to this Act shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this Act.

(b) It shall be the responsibility of the Council on International Economic Policy to review the results of any studies and surveys conducted pursuant to this Act and report annually to the Committee on International Relations of the House of Representatives and the appropriate committees of the Senate on any trends or developments which may have national policy implications and which in the Council's opinion warrant the review of the respective committees.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 9. To carry out this Act, there is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1978, and $1,000,000 for the fiscal year ending September 30, 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. WHALEN. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLARZ) will be recognized for 20 minutes and the gentleman from Ohio (Mr. WHALEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this bill was brought to the floor under the wise and able leadership of the distinguished gentleman from Pennsylvania (Mr. NIX), the chairman of the Subcommittee on International Economic Policy of the full Committee on International Relations, who had been expected to manage the consideration of this legislation on the floor today. Unfortunately, the gentleman from Pennsylvania's wife passed away the other day. The distinguished gentleman from Pennsylvania for very obvious reasons, therefore, was unable to be with us either yesterday when we thought the bill would originally come up or today when it is actually before us. I was asked by him to handle this legislation for the majority side in his absence. I know he would have very much have liked to have been with us. I think the consideration of this legislation is a tribute, among other things, to his effective leadership as the chairman of that subcommittee, and I truly regret not only that he has lost his wife of many years but that he also could not be with us today to see this bill pass the House, as I am sure it will. Be that as it may, I should like to take this opportunity to say a few words about this legislation.

S. 2839 was a bill that received support, interestingly enough, not only from business but from labor as well, from the Federal agencies that have jurisdictions over its subject matter, and it also has very broad-based bipartisan support within the House. The purposes of the bill are as follows:

First, to collect regular data on international investment and to publish such data;

Second, to collect and publish benchmark surveys on foreign direct investment in the United States and on U.S. direct investment abroad at least once every 5 years;

Third, to collect and publish a benchmark survey on U.S. portfolio investment abroad within the next 5 years and thereafter if the President of the United States finds such study to be feasible and necessary;

Fourth, to have the President of the United States initiate studies to test the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, and the feasibility of establishing a nationwide multipurpose land data system, and to have him submit his findings and conclusions to the Congress not later than 2 years after the enactment of the bill.

S. 2839 does not authorize appropriations during the transition quarter or for fiscal year 1977. For the fiscal years 1978 and 1979 the bill authorizes the appropriation of $1 million for each fiscal year. This legislation is necessary because present statutory authority to collect this kind of data simply is inadequate. A major source of the present statutory authority is contained in 22 U.S.C. 286(f), the so-called Bretton Woods enabling legislation. This legislation has as its primary purpose the collection of data on balance-of-payments questions for use by the International Monetary Fund, but the Bretton Woods legislation can no longer meet the diverse and ever-increasing need for information on international investment. For example, one of our most pressing needs today is to obtain data bearing on any cause-and-effect relationship between investment abroad by U.S. based companies and unemployment in our domestic economy. I would say that with an unemployment rate approaching almost 8 percent there is a greater need of this kind of analysis than ever before. The last benchmark survey taken on U.S. direct investment abroad, for the benefit of the historians in the House, was in 1966. A sample survey was taken in 1970. Our direct investment abroad has increased well over 100 percent since the last benchmark survey in 1966.

Today it is over $120 billion. Foreign investment in the United States is well over $21 billion. Therefore, of the money spent in fiscal years 1977 and 1978 pursuant to this legislation, only $2 million will be necessary and useful to industry and Government which has vastly more at stake.

I urge support of S. 2839, which has been supported by a voice vote in the U.S. Senate and in the Committee on International Relations of the House itself.

I want to conclude simply by saying that given the billions of dollars at stake and given the necessity for accurate and updated information as a basis for prudent and rational domestic and international economic policy, it seems to me that it would be in the interest of the Nation for us to proceed in the effort to systematically collect this data which, in the absence of this important legislation, we would lack the statutory ability to do.

Madam Speaker, I reserve the balance of my time.

Mr. WHALEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the bill S. 2839.

In discussing this legislation I would like to touch on three points:

First. I believe that a brief background concerning this legislation is in order.

Second. I would like to outline the status of the investment study legislation at the present time.

Third. I would like to touch on the major provisions of the bill which we are now considering.

First, with respect to the origins of this legislation, Members may recall that in 1974, as a result of the economic activities of the Japanese in the United States and as a consequence of investment of petrodollars by OPEC nations, many of our constituents became concerned about the impact of these investments upon our domestic economy and social structure. Responding to these concerns, the International Economic Policy Subcommittee developed a bill which became known as the Investment Study Act of 1974. In this legislation we, in effect, commissioned the Treasury Department to survey portfolio investment by foreigners in the United States and the Commerce Department to survey foreign direct investment in the United States.

Perhaps those who were here in 1974 may recall that when this measure was considered on the House floor, due to the urgency of the problem, an amendment was offered by the distinguished gentleman from Pennsylvania (Mr. DENT), which accelerated the reporting date of this study. This amendment was adopted. The bill subsequently was passed by the House and by the other body and signed by the President.

Second, where are we today? As the distinguished gentleman from New York (Mr. SOLARZ) has just pointed out, the authority of the Investment Study Act of 1974 has expired. The Treasury Department and the Commerce Department have issued the results of their studies. The Senate Foreign Relations Committee and the Subcommittee on International Economic Policy held hearings earlier this year to determine where we go from here. Witnesses testified in both bodies that it was desirable to continue this study. It was agreed further that it should be made a two-way survey, that we should not only continue to study foreign investment in the United States but that we also should survey U.S. investment abroad.

Madam Speaker, despite this general agreement, three specific points of difference rose. In the Senate it was felt that the frequency of these surveys should be 10 years. Legislation introduced by our distinguished colleagues, the gentleman from New York (Mr. GILMAN) and the gentleman from Pennsylvania (Mr. BIESTER) called for 5-year studies.

The second point of difference concerned who should conduct these studies. The other body believed that they should be conducted by the various departments within the executive branch, as had been done in previous legislation. On the other hand, the Gilman-Biester bill called for the Council on International Economic Policy to undertake this study.

A third point was raised with respect to the extent of the two-way survey. A witness testifying on behalf of the AFL–CIO raised the point that it would be valuable both to labor, as well as to industry, to know the impact on domestic employment of foreign investment in this country as well as U.S. investment abroad.

Finally, Madam Speaker, what is contained in this measure, S. 2839, which we are now considering? As I suggested, it calls for a two-way study of foreign investment in the United States, U.S. private investment abroad. The study is to be conducted on a 5-year rather than on the 10-year basis originally specified in the Senate bill. This is due, as the gentleman from New York pointed out, to the rapidity of change in the investment picture both here and abroad.

Second, the responsibility for undertaking the study is vested in the President, rather than in CIEP. It was felt by our subcommittee that the Commission on International Economic Policy was just not equipped to undertake and administer a study of this magnitude. The President, of course, can call upon the various resources in the executive branch to assist him in this undertaking. There is, however, an amendment incorporated in the Senate bill that calls for a CIEP analysis upon the conclusion of the executive branch study.

Third, we have also included in section 4 of this measure a requirement that the impact of investment upon domestic employment be assessed as a part of this study.

Madam Speaker, I urge adoption of S. 2839 by my colleagues. As has been pointed out by the gentleman from New York (Mr. SOLARZ), this is supported by representatives of both labor and industry. The changes to S. 2839 adopted by our subcommittee have been worked out in consultation with Members of the other body. In view of the continued growth of foreign investment in the United States and American investments abroad, it is vitally important that the surveys commenced in 1974 be continued and expanded.

Mr. DERWINSKI. Madam Speaker, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Madam Speaker, I have to ask, as a necessary question, do we not already have this information?

Mr. WHALEN. No, we do not have this information beyond 1975.

Mr. DERWINSKI. Madam Speaker, if the gentleman will yield further, is it not adding to the paper requirements?

Mr. WHALEN. As I indicated in my earlier remarks, the Treasury and Commerce Departments have concluded the benchmark survey mandated by the 1974 Investment Study Act. But the situation changes daily. It is a dynamic situation and what we are doing here is to continue this study over a period of years. The information we have now is going to be updated as a result of this measure if it becomes law.

Madam Speaker, I reserve the balance of my time.

Mr. SOLARZ. Madam Speaker, we have no further requests for time, so I yield back the balance of my time.

Mr. WHALEN. Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I rise in support of S. 2839 "to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment."

As a member of the Subcommittee on Foreign Economic Policy of the then Foreign Affairs Committee in the 93d Congress, I joined with other members of the subcommittee in sponsoring the Foreign Investment Study Act of 1973. This legislation, which resulted in the first realistic picture of foreign investment in this country, demonstrated the usefulness of collecting this information and the inaccuracy of previous estimating methods.

One of the benefits of that benchmark survey was to dispel the false rumors of harmful Japanese investments and to monitor the influx of vast amounts of petrodollars entering this country.

With today's rapid changes in the domestic and international economic pictures, we should maintain the ability to effectively deal with similar such questions in the future and be able to use this information to protect the national interest. We can no longer afford to make important decisions based on our instincts and inaccurate data. We must provide a mechanism for the permanent collection of data on foreign investment—both inward and outward.

S. 2839 requires the President to institute regular and comprehensive data collection programs. The collection of such data concerning foreign direct and portfolio investment in the United States and U.S. direct investment abroad shall be done at least once every 5 years. The collection of U.S. portfolio investment abroad is also required, but at the President's discretion after an initial "benchmark survey." The data collected from such programs will be published on a regular and periodic basis.

With the passage of S. 2839, the data that it produces will allow us to more effectively deal with future problems that effect our economy such as balance of payments and impacts on the American job market.

As an original cosponsor of H.R. 13684, now before us under the Senate title of S. 2839, I urge my colleagues to join in support of this legislation to provide the Executive with permanent authority for the collection of this needed data.

Mr. AUCOIN. Madam Speaker, on September 8 hearings were held by the Merchant Marine Committee to examine the impact of joint business ventures on the newly enacted 200-mile fisheries zone. The hearings were called at my request following news reports that a Bellingham, Wash., fish processing firm had formed a joint venture with a Soviet Government agency for the purpose of processing hake. The report triggered immediate speculation that such ventures between foreign states and U.S. firms may have the effect of circumventing the restrictions on foreign fishing which Congress painstakingly built into the new law.

What was immediately clear at these hearings was the dismaying lack of information which agency representatives had on foreign investment in the U.S. fishing industry—information which our committee needs to accurately assess the impact of these ventures on our fishing industry and on the 200 mile law.

If this legislation is enacted I will ask the President to make the collection of foreign investment data as it affects the U.S. fishing industry a priority. Only in this way can we hope to enforce the 200-mile fisheries zone as Congress intended when it passed this landmark legislation last March.

Mr. WHALEN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and pass the Senate bill (S. 2839), as amended.

The question was taken.

Mr. SYMMS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CALL OF THE HOUSE

Mr. SYMMS. Madam Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 774]

Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashley
Badillo
Beard, Tenn.
Bedell
Blouin
Boggs
Bolling
Brodhead
Burton, John
Butler
Carney
Cederberg
Clancy
Conyers
Dellums
Derrick
Derwinski
Drinan
Edwards, Ala.
Esch
Eshleman
Evins, Tenn.
Fish
Fithian
Green
Haley
Harsha
Hayes, Ind.
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holland
Holtzman
Jacobs
Jarman
Jenrette
Johnson, Colo.
Jones, Ala.
Karth
Keys
Landrum
McCollister
McCormack
Mathis
Matsunaga
Meeds
Melcher
Miller, Calif.
Mink
Montgomery
Mosher
Murphy, N.Y.
Neal
Nix
O'Hara
Pattison, N.Y.
Pickle
Pike
Pressler
Rees
Riegle
Rodino
Roybal
Ruppe
Santini
Scheuer
Schneebeli
Shuster
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Thompson
Ullman
Vander Veen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wylie

The SPEAKER pro tempore (Mr. McFall). On this rollcall 343 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

RIGHT TO FOOD RESOLUTION

Mr. DIGGS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 737) expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people, as amended.

The Clerk read as follows:

H. Con. Res. 737

Whereas in this Bicentennial Year, we reaffirm our national commitment to the inalienable right of all to life, liberty, and the pursuit of happiness, none of which can be realized without food to adequately sustain and nourish life, and we recall that the right to food and freedom from hunger was set forth in the Universal Declaration of Human Rights and in the World Food Conference Declaration of 1974; and

Whereas American agriculture, *which encourages individual initiative and efficiency in the production, processing, and distribution of food,* has been and is a major source for alleviating malnutrition and famine throughout the world; and

Whereas the report entitled "The Assessment of the World Food Situation", prepared for the 1974 World Food Conference, estimated that four hundred and sixty million persons, almost half of them young children, are malnourished; and

Whereas nearly half of the human race lives on diets seriously deficient in proteins or other essential nutrients; and

Whereas most of this hunger and malnutrition is suffered by the poor in developing countries whose poverty prevents them from obtaining adequate food; and

Whereas the demand for food is accelerating and the unprecedented growth in population will add a billion persons to the world's population in less than fifteen years; and

Whereas the Food and Agriculture Organization, and other recognized authorities, currently estimate that by 1985 the developing countries will experience an annual food deficit of eighty-five million tons, and the World Food Conference called for rational population policies to help achieve a desirable balance between population and food supply; and

Whereas it is in the interest of the United States and all nations to overcome food shortages which cause human suffering and generate economic and political instability; and

Whereas the United States proposed, and all nations at the World Food Conference of 1974 accepted, the bold objective "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas the international community has repeatedly urged the industrialized nations to increase their official development assistance; and

Whereas the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries that concentrate on means to increase food production and expand processing and distribution systems: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the United States reaffirms the right of every person in this country and throughout the world to food and a nutritionally adequate diet; and

(2) the need to combat hunger shall be a fundamental point of reference in the formulation and implementation of United States policy in all areas which bear on hunger, including international trade, monetary arrangements, and foreign assistance; and

(3) in the United States, we should seek to improve food assistance programs for all those who are in need, to insure that all eligible recipients have the opportunity to receive a nutritionally adequate diet; and

(4) the United States should increase substantially its assistance for self-help development among the world's poorest, people, especially in countries seriously affected by hunger and malnutrition, with particular emphasis on increasing food production and encouraging improved food distribution and more equitable patterns of economic growth; and such assistance, in order to be effective, should be coordinated with expanded efforts by international organizations, donor nations, and the recipient countries to provide a nutritionally adequate diet for all; and

(5) the President is requested to provide to the Congress not later than April 1, 1977, a five-year projection of United States international assistance levels consistent with the objectives set forth in this resolution.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. Diggs) and the gentleman from New York (Mr. Gilman) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. Diggs).

Mr. DIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 737 expresses concern about the continuing problems of world and domestic hunger and malnutrition.

In 1973 and 1974 the world witnessed death by starvation of some tens of thousands of people in the Sahel and Bangladesh. These African and Asian victims of drought and civil war dramatized the situation in the international community with respect to the whole basic problem of world hunger.

Mr. Speaker, the World Food Conference convened in November of 1974 in Rome to outline a series of corrective measures. At that meeting Secretary Kissinger set forth a challenge that "within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition."

During the 2 years since the World Food Conference—the nations of the globe have come together to establish the International Fund for Agricultural Development. This Congress was instrumental in spurring on this process through its appropriation of some $200 million for the contribution of the United States to this effort. This body authorized and appropriated that:

—the global flow of official development assistance and multilateral contributions for agricultural development in foreign nations was increased from some $2.1 billion in 1973 to approximately $5 billion in 1975.

—industrialized countries have taken steps to expand their grain production.

So, Mr. Speaker, this resolution really should be seen as a continuation of the efforts by this body and other institutions to arrest world hunger.

This resolution expresses the sense of the Congress that the right of every person to food at home and abroad is reaffirmed, that the need to combat hunger shall be given high priority in the formulation and implementation of U.S. policy in all areas which bear on hunger, and that we seek to improve domestic food assistance programs for those who are in need, to insure that all recipients receive an adequate diet.

It is further the sense of the Congress that this country substantially increase its assistance for self-help development.

I think it is important to underscore that point, Mr. Speaker: this resolution stresses self-help development among the world's poorest people, with particular emphasis on increasing food production and encouraging more equitable patterns of economic growth.

The President is requested to provide to the Congress not later than April 1 of next year, a 5-year projection of our Government's international assistance levels consistent with the objectives set forth in this resolution.

Mr. Speaker, the initial resolution from which this concurrent resolution, House Concurrent Resolution 737, comes, was introduced by the gentleman from Minnesota (Mr. Fraser) and was supported by 52 other Members of the House. This resolution is a bipartisan effort. It is the culmination of wide consultation with representatives of both parties, not only in the Committee on International Relations but also—since the bill was originally jointly referred to the Committee on Agriculture—there was consultation with the gentleman from Washington, Chairman FOLEY, and the ranking minority member, the gentleman from Virginia (Mr. WAMPLER).

I might add with emphasis that the resolution, as amended, has the support of the administration.

Mr. Speaker, approximately 460 million persons in the world most of them women and children, are malnourished, and it is generally recognized that unless the nations of the world work to alleviate this problem, we are going to face a major world food disaster by 1985. Most authorities agree that there will be a net food shortfall in the developing countries of some 85 million tons by 1985. Despite these grim statistics, the minimum food aid target of 10 million tons set forth at the World Food Conference has not yet reached its objective in 1976. Only half of the target of some 1 million tons of fertilizer for the most seriously affected countries was met in 1975–76. Increased food production in the developing countries remains a distant hope, and although the total flow of resources to agriculture has increased, this increase has been eroded by inflation. Our country with its vast grain supply and superior agricultural technology is particularly well placed to assist in what really must be an international effort to combat world hunger, involving not only the public sector but also the private sector. It is important that we approach this on a collective basis.

I think that the Congress can be proud of its record of accomplishments in appropriating funds that have been aimed at increasing food aid and expanding food production in developing countries.

Finally, Mr. Speaker, I think it is important to stress that "Bread for the World," which is a private Christian citizens' movement, has been a driving force behind this resolution. Many of us here in the Congress have been the recipients of its advice in connection with this general subject, and I think that this recognition of its participation in this effort really extends to all in the religious community and others who have given their support.

So, Mr. Speaker, this resolution, I believe, represents an important effort, a bipartisan effort, a public-private effort to focus more serious attention on the problems of hunger in the world. This revised resolution—which is really not as strong as I would like to have seen it and other principal sponsors of this proposal would like to have seen it—does represent give and take in the classic processes of the legislative branch of our Government. It reflects a consensus, and at the same time represents a commitment and a step that is most important in this whole operation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DIGGS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I appreciate the gentleman's yielding.

I have read very closely the language of the resolving clause in this resolution. It seems to me to express a very pious hope as to what may happen internationally insofar as nutritional needs are concerned. But could the gentleman tell me what specific obligation this expression of the sense of the Congress places upon the American people in the way of providing assistance abroad? Does it in fact commit us to x number of billions of dollars or tons of food? And in what way, if so?

Mr. DIGGS. No; it does not. We carefully discussed this particular matter in our hearings, with international legal counsel and with other people.

This is a sense-of-Congress resolution. It does not carry the force of a commitment such as the gentleman is suggesting. In that way the resolution has a moral force behind it, but no binding legal obligation.

As a matter of fact in the additional views by the gentleman from Pennsylvania (Mr. BIESTER) in the committee report, the gentleman states that the resolution is a general statement of principles, "completely lacking obligation."

So the resolution is only a sense-of-Congress resolution, and internationally, it certainly does not meet the international criteria for the kind of commitment that I think is implicit in the gentleman's question.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman. Will the gentleman yield further?

Mr. DIGGS. I would be delighted to answer further a little later on, if the gentleman could withhold.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague, the gentleman from Michigan (Mr. DIGGS) in support of House Concurrent Resolution 737. This resolution represents the culmination of an extensive bipartisan effort in the greatest tradition of compromise to focus the attention of the entire Congress on problems of hunger and malnutrition in this country and around the world.

House Concurrent Resolution 737 expresses the critical nature of the food shortages throughout the globe and the devastating effects of hunger and malnutrition. In recalling the bold objectives set forth by the United States at the World Food Conference "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition." This resolution reaffirms our national commitment to assist all nations of the world in overcoming the famine and food shortages that have plagued mankind since the beginning of time.

More importantly, perhaps, House Concurrent Resolution 737 follows the lead of this Congress past actions in setting forth "new directions" in development assistance by recognizing the fact that, "the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries" themselves.

With the passage of House Concurrent Resolution 737, the Congress reaffirms the right of every person throughout the world to food and a nutritionally adequate diet. By reaffirming that right, we pledge to assist all persons in this country who are in need and to keep in mind the worldwide fight against hunger when formulating U.S. policy. We also recognize the need to increase our assistance for self-help development.

The recognition of a "right to food" does not commit or obligate the United States to feed the world. It does, however, draw attention to the fact that every person at home and abroad needs food to sustain and nourish life. As derived from this Nation's founding principles of life, liberty, and the pursuit of happiness, House Concurrent Resolution 737 stresses the need for self-help development to enable the world's hungry to feed themselves.

This resolution, which has the full support of the executive branch, is not all things to all people, but is a realistic statement of our concern in this Congress and this country of the need to "overcome food shortages which cause human suffering and great economic and political instability."

As a cosponsor of House Concurrent Resolution 737, I urge my colleagues to support this statement of humanitarian concern.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. GILMAN. I am pleased to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the resolution suggests that the United States has an obligation to maintain standards of nutrition for every person in the world. Does the gentleman, or the authors of this resolution, suggest there is any way that the U.S. agricultural community can possibly provide for the 4 billion people of the world their nutritional needs without substantially lowering our standard of living in this country?

Mr. GILMAN. It is not the intention of the resolution to serve as any guarantee. The resolution does not obligate the United States to feed the world; rather, it authorizes self-help development to enable the hungry of the world to feed themselves.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further on that very point, it seems to me that the evidence is immense that the economic systems which have had the most trouble providing food for their people and, indeed, providing all amenities for their people, have been those where the political and economic policies discourage food production and private enterprise.

I wonder if the committee considered at all in writing the resolution the obligation of those in other countries to meet these needs?

Mr. GILMAN. Mr. Speaker, the gentleman's observation is well taken. In fact, that proposition is set forth in the dissenting views accompanying the committee report on this measure, noting that in those countries where there is such a planned economy, they have the least productivity.

Of course, it is the intent of this proposal to try to encourage self-help among the developing nations in the most productive manner and not in the manner, as the gentleman has suggested, where a planned economy has throttled production.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman. It is most difficult to quarrel with the expressed intentions of the sponsors of this resolution. However, a careful reading of its provisions suggests that it is not just an expression of humanitarian hope, but perhaps a blank check commitment to use the resources of the American people in order to feed the world. That sounds laudable, but the resolution specifically calls on the executive branch to formulate a policy which would "increase substantially" the amounts of food and assistance we will provide to every person in the world. At the same time the resolution says very little of the obligation of other nations to assist those in need or, indeed, to assist themselves.

I am most reluctant in my support of a resolution which gives prior congressional approval of such broad scope. Our primary obligation is to feed the American people and to take care of their needs before all others. We also have an obligation to permit our farmers to sell their products abroad and at home for a fair price and a just rate of return for their labors. This resolution may suggest that food is a cheap commodity which should be distributed at will to those who need it regardless of their own desire to help themselves.

I include at this point in my remarks an article written by the editor of the Prairie Farmer, James C. Thomson, which was reprinted in the record of Havre de Grace, Md.

A RIGHT TO FOOD?

(By James C. Thomson)

Does everyone have the right to a supply of food? In the United States, the question is almost academic. Food-stamp eligibility already has been extended to strikers in labor disputes.

Some Congressmen see food guarantees as a right not only of the people of the United States but also of the rest of the world. They suggest that the right to food should not be considered charity but justice. A right-to-food resolution has just introduced into the Congress by Senator Mark O. Hatfield, Oregon Republican, and Representative Donald M. Fraser, Minnesota Democrat. More than two dozen prominent religious leaders have endorsed the idea. It is difficult to argue the issue. The advocates wear halos. They enjoy their humanitarianism and it doesn't cost very much. The critic is made to feel like Ebenezer Scrooge and the enemy of hungry widows and orphans.

The suggestion itself is degrading to American farmers. It assumes that they are obliged to produce a cheap necessity to which everyone is entitled for little or nothing. Things for which we pay little or nothing are valued in the same light.

The fact is that the United States cannot guarantee the world's rapidly increasing four billion people an adequate diet or a standard of living near our level. Any such effort would mean a serious reduction in our own living standards.

Most frustrating in any such discussion with politicians and religious leaders is their woeful lack of understanding of the economies of agriculture and the food industry. The nations with the greatest food scarcity problems, including the Soviet Union, are those whose political and economic policies discourage food production.

In the developing countries, food prices are set at low levels ostensibly to curb economic unrest by assuring large urban populations, that they will eat cheaply. Unhappily, low prices paid to farmers are a signal to them that less food is wanted and so they tend to produce less.

The price-selling practice seemed logical to the pharaoh of Egypt in 6000 B.C. It was tried by the Roman emperor Diocletian in A.D. 300. It was tried by the American Colonies and by President Nixon. All discarded the idea as impractical, because the result is lower production, higher prices and a flourishing black market for those who can afford high prices.

The result is that farmers produce little, earn little, invest little, and therefore can not get bank credit. The result is that they can feed few more than their own families.

Take Peru. It is a potential Garden of Eden, but most of its farm people earn less that $1,000 a year. Peru is about ten times the size of Illinois. A third of it has a climate like California.

There is in Peru another unstable dimension. It plans to take over about 10 million acres from larger farmers to cut up into smaller, less-productive farms. More than seven million acres have been taken already. This has frightened farmers into even less production and greater stagnation.

Farmers have virtually no social standing in South America. This compounds the problems. When United States specialists point out pitfalls in these policies, they are told to mind their own business.

Guaranteeing food supplies for countries such as Peru with three times the birth rate of the United States would encourage even greater expansion of Peru's population.

It would also discourage Peru's farmers even further. More likely it would continue the status quo. Our well-meaning but economically naive politicians and clergy could do more to help solve the basic problem by calling for the reforms needed to unshackle foreign farmers and encourage them to produce food in abundance. When farmers earn little or nothing, they will produce little or nothing.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, on page 4 of the resolution at the beginning of the page it is stated that the United States should increase substantially its assistance for self-help development among the world's poorest people, and so forth.

Then in the last paragraph, paragraph 5, it says that the President is requested to provide a 5-year projection of U.S. international assistance levels consistent with the objectives set forth in this resolution.

Does the distinguished gentleman anticipate that this will cost our Nation any more in foreign aid?

Mr. GILMAN. Mr. Speaker, I am going to refer the gentleman's question to the sponsor of that amendment, the gentleman from Minnesota (Mr. FRASER), who proposed that amendment to the bill.

Mr. FRASER. Mr. Speaker, if the gentleman will yield, let me explain that the amendment as found in paragraph 5 came as a substitute to a proposal to commit the United States to an aid level of 1 percent of our gross national product, which is the target that has been established by international conferences. It did not seem feasible to commit the United States to that level at that point; so as a substitute, we asked the President to make a 5-year projection to the extent possible and the report makes clear there will be a number of contingencies in that matter. The 5-year projection is for the kind of aid level that the administration believes that the United States can maintain in relation to the problems of world hunger.

Mr. GILMAN. Mr. Speaker, I withdraw my time and yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, the resolution before us, House Concurrent Resolution 737, very graphically points out the serious levels of hunger and malnutrition that exists in the world today. These conditions have persisted despite massive food aid and development programs by this Nation and increased international awareness.

As the resolution suggests, if present conditions persist unabated, the developing countries will experience growing food deficits by 1985. The cumulative effect of these food deficits in a world already facing hunger and malnutrition would be tragic.

The resolution recalls the objectives set forth at the World Food Conference. House Concurrent Resolution 737 seeks to express the sense of Congress that we should "substantially" increase our assistance and make the need to combat world hunger a fundamental point of reference in the formulation and implementation of U.S. policy. These policy directives are aimed at the central theme of the resolution, that "the United States reaffirms the right of every person in this country and throughout the world to food and a nutritionally adequate diet."

I support the admirable goals of this resolution to eliminate global hunger and malnutrition and will probably support its passage. I am, however, concerned that we must not promise more than we can deliver.

While the passage of the resolution will not constitute a new law or guarantee any specific performance, it will be interpreted as the policy of the United States. The establishment of a universal "right to food" is a grave matter that raises serious questions, as to its effect not only on this country but the entire world.

The cause of food deficits are much more complex than the simple lack of food supplies. The United States has little or no control over many of these problems and should not assume a role it could not execute and responsibilities it cannot fulfill.

Of equal importance is the need to stress in this resolution that the final solution to the world's food problems depends primarily on the actions taken by the governments of those countries in need. The United States can only provide a fraction of the resources needed and none of the political will required.

Many of the developing nations have adopted policies that discourage full and efficient production. Even though these countries possess the natural requirements to feed their own people, they have failed to liberate their farms and farmers from the rigid controls of government master plans. We need to point out the connection between America's great harvests and the considerable freedom and incentives that U.S. farmers enjoy through the free enterprise system.

Instead of pointing an accusing finger at the United States for not doing enough when in fact we have continued to lead the world in the fight against hunger, we should point out the reasons why other countries that have favorable climatic conditions and potential consistently fail to reach their goals.

We recognize, as stated in the resolution, that the elimination of global hunger and malnutrition cannot succeed without expanded self-help efforts by the developing countries. Therefore, we owe it to the developing world to point out the differences between the state agricultural planning systems of the Communist and Socialist states and the free enterprise system that we enjoy.

The Eastern European nations and the Soviet Union have consistently faced food shortages as a result of the failure of their much acclaimed "5-year plans." While this system has failed to produce sufficient food supplies for their own people, let alone contribute to the relief of global hunger, the Communists and Socialist states continue to blame bad harvests on the weather and on everything other than the effects of state planning. It is these very effects that have required the Soviet Union, the world's leading agricultural exporter before World War I, to purchase vast amounts of U.S. grain.

The United States, on the other hand, with its free enterprise system, enjoys vast food abundance, largely because of the incentives the system provides. This has enabled it to not only feed the Nation and add substantially to our balance of payments through exports, but to provide billions in humanitarian food aid abroad.

The answer to the food crisis lies not in the straitjackets of government regulation and control through state planning organizations, but in our encouraging other nations to follow the U.S. example. This is the greatest gift we can give to the developing world.

The food policy statements of the United States are of tremendous importance throughout the world as the largest producer and exporter of basic foodstuffs. We cannot guarantee good harvests, nor can we guarantee that other governments will follow these policies needed to improve food production and distribution systems. We must take great care not to promise more than we can deliver and unduly raise the expectations of the world's hungry. Clearly, the United States alone cannot feasibly try to feed all the world's undernourished.

As the producer of nearly 75 percent of all exportable grains, this Nation has long been helping to feed a large portion of the world's population through commercial channels. In addition, the humanitarian traditions of this Nation in aiding the victims of disasters such as floods and famines is one unmatched throughout the world. It is in this great tradition that we should do everything we reasonably can to ameliorate hunger and prevent starvation anywhere in the world.

Mr. Speaker, I would like to address myself to a few points.

The nobility of thought behind the resolution is something we do not quarrel with, but the problem is the practicality, or I should say the lack of practicality. If we look at some of the figures, and I admit that I am not an agricultural expert, I am amazed that the Committee on Agriculture saw fit to pass up a legitimate review of this measure; but that, I understand, was something worked out behind the scenes.

The facts are that at the present time the United States is the producer of nearly 75 percent of all exportable grains. Now, if there is not sufficient food either available or properly distributed, and we already are exporting 75 percent of the exportable grains, who fills the gap; do we? If so, how do we do it? Do we subsidize our farmers to encourage growth and mark all that for export?

What do we do to our commercial export markets? Is there a priority between distributing the exportable grain for humanitarian purposes, or do we meet our commercial obligations first? These are all questions that automatically come up.

Another question is, why is it that the United States is this tremendous source of supply? There are many other countries in the world with equally good climatic conditions. Prior to World War I, what is now the Soviet Union, Imperial Russia, was the breadbasket of Europe. Why are they not producing for export now? Is it the economic and political system. The nations of the Third World, the so-called developing nations, instead of meeting annually and demanding more and more from the United States, ought to say to the so-called socialistic, or Communist countries, "If you comrades changed your system and gave your people some incentive, maybe you could produce enough to help us."

The United States, which has a far better record for humanitarian response in times of need than the rest of the world combined, is damned for not doing enough. Yet, when there was a drought in the Sahel, where did most of the aid come from? The United States. When there was an earthquake in Guatemala, a typhoon in Bangladesh, an earthquake in Turkey, who rushed in the aid? The United States. Who supplied the foodstuffs? The United States. Who gets the credit? Not the United States.

We are now a major exporter of food grains. When we have a bad crop year, our own considerations may require that we carefully control exports. This resolution was handled by the Committee on International Relations, and the responsibility of the Committee on Agriculture was evidently abdicated. Because we are in an era where Earl Butz is damned as much as anyone on the scene, and perhaps free enterprise is a no-no to some of the members of the Agriculture Committee, they did not want to admit that it is the present American agricultural incentive system if adopted that would give their people some economic incentive to produce and this might be the simplest way to attack the food shortage.

I suggest that with the American economic incentive, and with good climatic conditions, there is no reason in the world why Eastern Europe, the Soviet Union, and Western Europe should not be producing far more than they are now. I support this resolution, but I think it is time to set the record straight. The United States has nothing to be ashamed of; it has nothing to apologize for. We have done far more than we will ever get credit for in a humanitarian, consistent fashion. I think this resolution misses that point.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this resolution although somewhat as reluctantly as the gentleman from Illinois (Mr. DERWINSKI), because I believe that it is necessary to demonstrate this Nation's willingness to help solve the world's greatest, most pressing problem, that of hunger. But, it is particularly heartening to me to note that the drafters of this resolution were sensible enough, as compared to the original draft, to realize that the United States alone cannot eliminate malnutrition. Rather, those countries in which hunger and malnutrition are a critical problem must make an all-out effort on their own to increase their production of food as well as the distribution and processing of food.

Much food is wasted, for instance, just because nations that have hunger problems do not have adequate storage or transportation facilities.

Clearly the United States must assist these nations in developing their own internal resources so that they can become less dependent upon others. In addition, one point above all else has to be demonstrated, and it can be demonstrated through this resolution; that is, when it comes to producing food, the free enterprise system comes out way ahead of all other systems. Independent studies done, for instance, by the General Accounting Office, which were published last November, in 1975, and by researchers in my own Iowa State University, say that one of the greatest problems with the world hunger situation is that 80 percent of underdeveloped nations have disincentives in the form of public policy to the full production of food. And hopefully, through this resolution those disincentives can be eliminated.

The producers of food must be allowed to make a reasonable profit, and their agricultural activities must not be dictated by bureaucrats who live hundreds or thousands of miles away. The best fertilizer for the full production of food is individual initiative and hard work; and the worst is dogmatic preaching and centralized control of production decisions.

I believe the United States can take an active role in seeing that the hungry are fed by demonstrating that the free enterprise system is the way to accomplish this end. But I also believe that it has to be done within a concept of a balanced budget. In other words, I feel it is wrong for us to pass these highfalutin resolutions and then put off to future generations 25 years down the road the paying of the bill. I think it also gives us ample opportunity to demonstrate that there are two ways to accomplish this. We can do it like was just done in Cambodia, drive the people from the cities into the sparse areas and make them produce food, as serfs, or we can do it like we do in the United States, produce to the maximum because of our free market system. We can do it like they do in the U.S.S.R., and have everything produced on state farms, where two-thirds of it is produced in that manner and one-third in individual Russian gardens and backyards, or, as we do in the United States. The Russians can expand their own backyard and increase their production of food because of the free market incentives which are lacking in their state or collective farming operations.

I am for this resolution because it gives us the opportunity to export that which I think we are the best at exporting, our heritage of American freedom, and we can export this to solve the world's greatest problem, that of hunger.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I rise neither in support of, nor in opposition to, this resolution.

I would like to speak not for 3 minutes, but perhaps for 1 or 2 minutes, about those people whom I admire, and about what I think is important about the subject we are discussing here today.

If it is possible for the United States, enjoying the bounty it does and the surplus harvest it does, not to remember the starving of the world, something terrible has happened to this country. If we cannot recognize a duty to share, when God has blessed us with so much, we become diminished in our vision and in our capacity to understand what is going on in this world.

Mr. Speaker, I would like to say how much I admire the churches and the people who have joined "Bread for the World," who have tried to arouse the conscience of the Nation; and, even more important, the people who write me every day, who twice a week, every week, give up all meat and expensive food and send that money for food for the starving.

Mr. Speaker, these are personal, individual, humble, human sacrifices coming out of what they know is right. This is what is important here, this duty to share what we have and not to forget others who are lost and left behind and starving.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIGGS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I will say to my colleagues in the House that I wish I had the eloquence of my colleague, the gentlewoman from New Jersey (Mrs. FENWICK). Since I do not, I will make a few points less eloquently.

One is that we are not talking fundamentally about something new. It is not only that recent Presidents and Secretaries of State have enunciated basically what we are asking Congress to enunciate, but 200 years ago some people met in Philadelphia and said: "All men"—they would say today, "All men and women"—"are created equal, and they are endowed by their Creator with certain unalienable Rights, that among these are Life. * * *"

We cannot talk about the right to life without talking about the right to food. We are not creating a right; we are acknowledging what I believe all human beings recognize as a right, and we are giving ourselves a little vision.

If we read the CONGRESSIONAL RECORD, if we listen to the debates here, and if we listen to what goes on and listen to the conversations in the dining room, we would hardly guess, if we did not know it, that the dominant issue for the balance of this century is the struggle between food and population.

Here today we are hitting on that fundamental issue. We are not suggesting that the United States must export all this food. I think it is important that we read the committee report to see what is suggested.

Incidentally, I wish to commend the chairman of the subcommittee, the gentleman from Michigan (Mr. DIGGS), the gentleman from Minnesota (Mr. FRASER), and the gentleman from New York (Mr. GILMAN), for their leadership in this matter.

Mr. Speaker, the committee report reads:

> The Right to Food Resolution does not commit this country to feed the world, nor is it a food aid proposal. On the contrary, it stresses the importance of enabling the hungry of the world to feed themselves through self-help development.

Like every other Member here, I hope that my children and any generations that may come will live in a world of peace and stability. But we cannot talk about peace without talking about economic justice, and that is really what this resolution discusses. We are talking about hope for others and a sense of direction for ourselves.

Mr. Speaker, I commend the resolution and urge the Members to vote for it.

CALL OF THE HOUSE

Mr. McDONALD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. LONG of Maryland). Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 775]

Adams
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashley
Badillo
Beard, Tenn.
Blouin
Bolling
Breckinridge
Brinkley
Chisholm
Clancy
Conlan
Conyers
D'Amours
Dellums
Derrick
Derwinski
Dingell
Drinan
du Pont
Emery
Esch
Eshleman
Evins, Tenn.
Fascell
Fish
Fithian
Ford, Mich.
Frey
Gaydos
Giaimo
Green
Haley
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Horton
Hyde
Jarman
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kemp
Landrum
Leggett
Lloyd, Calif.
McCollister
McCormack
McFall
Mathis
Matsunaga
Meeds
Metcalfe
Mikva
Milford
Miller, Calif.
Minish
Mink
Montgomery
Murphy, N.Y.
Nix
O'Hara
O'Neill
Passman
Patterson, Calif.
Pepper
Pike
Pressler
Pritchard
Randall
Reuss
Richmond
Riegle
Rodino
Rosenthal
Sarbanes
Scheuer
Schneebeli
Shipley
Shuster
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Tsongas
Udall
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Wylie
Zablocki
Zeferetti

The SPEAKER. On this rollcall 326 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

Mr. DIGGS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 737, the right to food resolution. I commend the committee for improving the legislation so as to remove some provisions which some of us found to be troublesome.

It was our intention, as the gentleman from Illinois (Mr. DERWINSKI) pointed out, to offer an amendment concerning the state agricultural systems of Communist and Socialist countries. It seems to me that if there is a right to food, as indeed there must be as an essential part of the right to life, as the gentleman from Illinois pointed out so eloquently a few moments ago, that right should be fulfilled and satisfied by the countries in which the people live. The gentleman from Illinois (Mr. DERWINSKI) pointed out in his comments that much of the food shortage problem today is caused by the policies and the dogmatic regulations of those countries with their 5-year plans, their reliance on unrealistic central planning.

The fact is that many, if not most, of these countries have simply failed to do the job.

The United States on the other hand, through its free enterprise system enjoys vast food abundance, largely because of the incentives it provides. We are thus able to feed our people, add substantially to our balance of payments through food exports, but also to provide billions in overseas humanitarian food aid.

I support the goal of this resolution to eliminate global hunger and malnutrition, and especially the recognition that this will require expanded self-help efforts by the developing countries themselves.

As the producer of nearly 75 percent of all exportable grains, the United States has long been helping to feed a large portion of the world's people. Also, the humanitarian traditions of this Nation in assisting the victims of floods, earthquakes, and famines are unmatched in the world. In this great tradition, we should do everything we reasonably and responsibly can to ease hunger and prevent starvation throughout the world.

Mr. BROOMFIELD. Mr. Speaker, I rise in support of House Concurrent Resolution 737, the right to food resolution. I have long felt that the increasing congressional involvement in foreign affairs should focus on long-range, evolving issues of foreign policy. On many of these issues—food, access to commodities, Law of the Sea and Outer Space are but some examples—there is ample room for creative congressional input in the foreign policy process.

There can be no doubt that, in the coming decade, food will become an increasingly important issue in foreign policy; there is widespread agreement that—sooner or later—the international community will have a full-fledged food crisis on its hands. The possible consequences of widespread starvation, malnutrition, and a breakdown in stability are not pleasant to contemplate. A good year, a good harvest from time to time, should not divert our attention from the issue of food; it is a problem that will be with us until such time as the nations of the world can find a way to work together and achieve a balance between population growth and agricultural output.

The legislation before us will not solve the coming food crisis, but it is at least a welcome affirmation of our determination to do our share in addressing this problem. It is acceptable to the administration and it emphasizes the importance of self-help and increased agricultural production in developing nations.

I urge a vote in favor of House Concurrent Resolution 737.

Mr. BINGHAM. Mr. Speaker, I rise in support of House Concurrent Resolution 737, the so-called right-to-food resolution. This is a resolution which has been the product of several months of difficult negotiation. The term "right to food" has been removed from the House resolution, since some suggested that the United States would be making a commitment which it was not ready, or willing, to keep. As it stands at the moment, this resolution is pretty well bereft of any wording that would offend, or frighten, anyone. It avoids mentioning the fact that the Organization for Economic Development and Cooperation, which is made up of 21 industrialized nations, set as a goal seven-tenths of 1 percent of the GNP of advanced nations which should be set aside for official development assistance.

I think we should put aside such timidity, and, as the Senate has done in Senate Concurrent Resolution 138, reaffirm the "right of every person to food" and make mention of the seven-tenths of 1 percent target. This would put the Congress of the United States more clearly on record as recognizing the awesome dimensions of the world food crisis, and our responsibility on all levels to augment and streamline our assistance. We have done much in the past, but, if prognostications are correct, we will have to do much more in the future. America and the other industrialized nations, even if they should attain this percentage goal, can only succeed with the cooperation and dedication of the less developed countries, and this necessity is pointed out in the resolution. Congressman FRASER's amendment, which asks the President to provide, by April 1, 1977, a "5-year projection of U.S. international assistance levels," is a welcome addition to the House resolution. It will give AID an opportunity to assess future needs, and the Congress the occasion to view our development aid in a longer perspective.

In December of 1975, 265 Members voted for the International Development and Food Assistance Act of 1975, which authorized over 2 fiscal years $1.5 billion for the provision of overseas distribution and production of agricultural commodities and rural development. Thus, the Congress is firmly on record with a clear message that it is aware of the dimensions of the world food crisis and is committed to America's responsibility, as a rich and powerful nation, to use all means available to head off an eventual catastrophe. This resolution is another example of that continuing commitment, and I hope that it will encourage the administration to develop not merely ad hoc measures, but instead a long term and comprehensive plan to deal with this pressing problem.

Mr. BIAGGI. Mr. Speaker, I wish to indicate my support for House Concurrent Resolution 737, the "right to food" resolution. I feel its passage will definitely place the United States as the preeminent leader in the area of world hunger control.

The world community can no longer overlook the startling fact that more than 460 million persons today are suffering from varying degrees of malnutrition. The causes of world hunger are many and include natural disasters, such as droughts which have ravaged areas in Africa and Europe. In addition, the lack of advanced agricultural and technological capabilities have hindered many nations in providing enough food for all of their citizens.

House Concurrent Resolution 737 makes it a national statement of policy that every person throughout the world has the right to food and a nutritionally sound diet. It also emphasizes the fact that the United States, by virtue of its position as the most advanced agricultural Nation in the world, should increase its contributions to the cause of alleviating world hunger and promoting self-help development among the world's poorest nations and peoples.

On this latter point, I am pleased to see this resolution recognize the fact that the long-term amelioration of world hunger will not be achieved merely by doling out large sums of money each year to nations for increased food supplies. An appropriate amount of our funds and energies in this area should be devoted toward providing nations with the know-how to feed their citizenry.

The resolution also recognizes that there are still far too many in this Nation who suffer from the problems of malnutrition. In many respects, our agricultural export policies in recent years have been overly concerned with political realities at the expense of human needs. The U.S. farming community has enjoyed plentiful harvests in such basic staples as grain. Yet certain ill-founded agreements such as the now infamous Russian wheat deal, contributed to shortages within our own Nation. I am pleased that this resolution indicates that humanitarian and not political concerns will dictate where and to whom our food assistance will be directed.

It is obvious from the wide support which this resolution enjoys that many in this Nation are concerned with the problems of world hunger. This support comes from all sectors of our society. I recall a conversation I had with the popular entertainer Harry Chapin in my office about world hunger problems. His concern and commitment are shared by a great many people in this Nation, and are impressive.

I applaud the committee and especially Mr. DIGGS for their work on behalf of this resolution. Our Nation in the past has been a leader in the fight against world hunger. But with the problem intensifying, so too must our commitment. We are saying in this resolution that we, who enjoy plentiful amounts of food are not ignorant of the millions of people in this world who are starving. This resolution is an important statement of policy and is consistent with our Nation's traditional assistance to humanitarian causes. I urge its support today.

Mr. RIEGLE. Mr. Speaker, the International Relations Committee has reported out a resolution (H. Con. Res. 737) that expresses the sense of the Congress that each person in the United States and the entire world has the right to a proper and nutritious diet. In addition the bill states that the United States should assist the poorer nations in self-help development projects with an emphasis on food production. I strongly support this resolution and am convinced we must act now and with a sense of urgency to solve this problem.

While traveling around my district and the State of Michigan, I have seen firsthand the economic hardship and despair of people living on an inadequate diet. In addition, as a member of the Appropriations Subcommittee on Foreign Operations for 6 years, I was an early supporter of the Food for Peace program. The United States is the "breadbasket" of the world and we have an obligation to help people in other countries. Rather than fueling the worldwide arms race we should use more of our resources to feed the hungry people throughout the world.

The United States has historically been a leader in giving food assistance. To make future contributions that are responsive to world needs, we must do several things. We must replace Secretary of Agriculture Earl Butz with someone more sensitive to the situation facing the starving around the world and here at home. We need to adjust our agricultural policies to remove all remaining acreage limitations so that every farmer can make an all out effort to produce to maximum capacity. And we must share our advanced agricultural know how and expertise so that developing countries will be able to increase their agricultural output. If these actions are taken and Members of Congress and the American public continue to voice their support for helping the hungry nations, I feel sure we can meet this challenge and do our share to prevent starvation in the future.

Mr. DRINAN. Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 737, the right-to-food resolution. This resolution constitutes a reaffirmation and strengthening of the principles accepted by the United States and other participating nations at the World Food Conference in Rome in 1974. At that time, the United States proposed and the conference adopted a fundamental objective stating that:

> Within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition.

One-fifth of that decade has now passed, Mr. Speaker, but we are no closer to fulfilling that historic pledge. World food aid did increase during 1975–76 to 9 million tons, but that amount was still 1 million tons shy of the goal set a year earlier. Even more significantly, only half of the 1 million tons of fertilizer aid targeted for developing nations was actually contributed in the past year. Harvests were generally excellent throughout the world in both 1975 and 1976, yet world food stocks increased only slightly over their dangerously depleted levels of 1974. World fertilizer production continues to lag behind demand.

Meanwhile, the population of the developing nations continues to rise at a rapid rate. Each day the need for adequate nourishment grows more acute. Each day, thousands of human beings die of starvation and diseases brought on by malnutrition. Many climatologists and meterologists are predicting that the world is entering a period to be characterized by severe local droughts and overall poor growing conditions. All of these alarming facts make prompt and effective action essential if we are to stave off massive worldwide famine in the years ahead.

The right-to-food resolution, which I have cosponsored, does not in itself provide the solution to that enormous and critical problem. As I noted in testifying before the International Relations Subcommittee on International Resources, Food, and Energy on June 24th, "the right-to-food resolution is merely an expression of opinion by the Congress; its enactment will not in itself prevent a single person from starving." Yet, as an indication of our determination and commitment to confront this universal problem, House Concurrent Resolution 737 is an important first step.

With the passage of this resolution here today, we will join the Senate in demonstrating to the developing nations throughout the world that the United States is not going to abandon them as they seek a means of feeding their people. As the resolution states, we must increase our level of food assistance to the most seriously affected countries. We must also accelerate our efforts to join with other food exporters in establishing an international food reserve. Our scientists and engineers must expand their research to discover better fertilizers and more efficient forms of land management to help increase worldwide food production. We should also continue to provide our technological and practical expertise to developing nations seeking to improve family planning among their people. The passage of the Right-to-Food Resolution does none of these things, but it creates an impetus for all of them.

Mr. Speaker, I am pleased to note that both the House and Senate committees which considered this resolution credit the organization, Bread for the World, with formulating the right-to-food concept and actively promoting its adoption by the Congress. Bread for the World is an interdenominational Christian citizens movement working to alleviate world hunger. I am privileged to serve as a member of the board of directors of Bread for the World. At this point, I would like to insert for the benefit of my colleagues a working statement of policy on the right to food prepared by that organization:

THE RIGHT TO FOOD

A WORKING STATEMENT OF POLICY BY BREAD FOR THE WORLD

Our response to the hunger crisis springs from God's love for all people. By creating us and redeeming us through Jesus Christ, he has given us a love that will not turn aside from those who lack daily bread. The human wholeness of all of us—the well-fed as well as the starving—is at stake.

As Christians we affirm the right to food: the right of every man, woman, and child on earth to a nutritionally adequate diet. This right is grounded in the value God places on human life and in the belief that "the earth is the Lord's and the fulness thereof." Because other considerations, including the importance of work, flow from these, we cannot rest until the fruit of God's earth is shared in a way that befits his human family.

Today hundreds of millions suffer from acute hunger. Emergency food aid is imperative. For this reason Bread for the World supports the work of church and other agencies in alleviating hunger, and urges increased support for them. However, the problem is far too massive for private agencies alone. The resources that governments command must also be used if food is to reach people in most areas of famine and end starvation.

But emergency aid is not enough. We need to think in terms of *long-range strategies* that deal with the causes of hunger. These causes include poverty, illiteracy, lack of health services, technical inadequacy, rapid growth of population, and unemployment, to name some of the more serious. Church relief agencies have increasingly sponsored development projects that address these problems. But again, although there are small models of excellence on the part of those agencies, the extent of hunger makes large-scale government assistance essential.

Hunger is also rooted in privileges that may, in securing wealth for some, perpetuate the poverty of others. Because they reflect sinful human nature and are usually sanctioned by custom and law, these privileges are often the most obstinate causes of hunger. The rich can resist taxes that could generate jobs for the poor. Landless peasants may be forced to work for a few pennies an hour. Tenant farmers are often kept in perpetual debt. The powerful, with privileges to protect, can use repression to prevent change.

The problem of privileges for some at the cost of hunger for others applies not only to persons and groups within a country, but also to nations. Because the United States earns more than twice the income of the entire poor world, U.S. Christians need to be especially alert to the possibility that our privileges may come at high cost to others.

The policies of the U.S. government are especially crucial regarding world hunger. Our nation can lead countless persons out of hunger or lock them into despair and death. Citizen impact on U.S. policies is, therefore, our most important tool in the struggle against hunger.

In affirming the right to food, Bread for the World seeks:

1. *An end to hunger in the United States.* It supports:

A. a floor of economic decency under every U.S. citizen through measures such as a minimum income and guaranteed employment;

B. steps to improve existing programs, such as (1) food stamps; (2) school lunches; and (3) nutritional assistance for especially vulnerable persons, along with steps to enroll in these programs all who qualify; and

C. a national nutrition policy that enables every citizen to get an acceptably nutritious diet.

2. *A U.S. food policy committed to world food security and rural development, as proposed by the World Food Conference.*

The United States clearly shoulders a special responsibility regarding global food needs. Our country controls most of the world's grain exports. U.S. commercial farm export earnings *from poor countries alone* jumped from $1.6 billion in 1972 to $6.6 billion in 1974—an increase double the amount of our entire development assistance to those countries. While this happened, U.S. food assistance declined sharply. We now need to respond in a way that reflects the more generous U.S. tradition of two decades following World War II.

The World Food Conference charted the necessary path to world food security under a World Food Council that would coordinate both emergency relief efforts and long-range rural development. Bread for the World supports:

A. U.S. participation in a world food reserve progarm, with reserves under national control;

B. an increase in U.S. food assistance, especially the grant portion, to at least the level of a tithe (ten percent) of this country's food exports, as our share toward the establishment of a grain reserve with an initial world target of 10 million tons;

C. a substantial increase in the amount of food made available to the UN World Food Program and to voluntary agencies for distribution abroad;

D. humanitarian, not political, use of food assistance, with assistance channeled through, or in cooperation with, international agencies;

E. a fair return to the U.S. farmer for his production, with curbs against windfall profits and special measures to assist family farmers; just wages for farm workers; and

F. full U.S. participation in the International Fund for Agricultural Development, along with other steps that would promote rural development in the poor countries. Such development would, among other things, enable them to produce or secure adequate supplies of fertilizer and energy, and accelerate research relating to food production there.

3. *The reform and expansion of U.S. development assistance.*

The United States currently ranks near the bottom of Development Assistance Committee nations, when assistance is measured as a percentage of GNP. By official (and somewhat exaggerated) figures, U.S. development assistance to poor countries amounts to one-fifth of 1 percent of our GNP. We can do better than that. What is true for the United States is true for all countries: "To whom much has been given, much will be required." Further, the *quality* of assistance is crucial. Assistance should deliver self-help opportunities primarily to those living in hunger and poverty, especially the rural poor. It should be aimed at developing self-reliance, not dependency on the part of the recipient nations and people. And rather than imposing capital-intensive western technologies on those countries, assistance should make possible the development of locally appropriate technologies, usually geared to small-scale, labor-intensive methods. Bread for the World therefore supports:

A. a U.S. contribution, in proportion to our share of the world's income, to the International Fund for Agricultural Development as a major attempt to increase the food production capactiy and living standards of impoverished rural families;

B. rapid movement toward the 1-percent-of-GNP assistance goal;

C. the "untying" of assistance. Economic strings that put burdens on recipient nations should be cut;

D. honest accounting of U.S. assistance. Loans are counted as grants in aid figures. Either repayments from previous loans should be subtracted, or only a percentage of loans counted, because they are made on below-market terms;

E. channeling of development assistance through international and transnational agencies, where possible, without precluding the expansion of bilateral assistance; and

F. adoption, with other donor and recipient nations, of an internationally agreed set of standards on the basis of which the amount of development assistance would be determined. These standards should include: (a) need; (b) evidence that development is occurring among the masses of poor people; (c) willingess of leaders to institute basic reforms, such as land reform, tax reform, and anti-corruption measures, in order to reduce the disparity between rich and poor within a country; (d) de-emphasis on military spending; and (e) efforts to secure human rights.

4. *The separation of development assistance from all forms of military assistance.*

Most U.S. aid is either military assistance or assistance in which political and military considerations are uppermost. This mixing of humanitarian assistance with military and political aid gives the public an exaggerated impression of real U.S. aid to hungry and poverty-ridden countries. Bread for the World therefore proposes legislation to sever completely the connection between humanitarian development assistance and military and political assistance.

5. *Trade preferences for the poorest countries.*

Trade is not perceived by the public as a "hunger" issue, but trade, even more than aid, vitally affects hungry people. In the past poor countries have been compelled to export their raw materials at bargain prices, and import high-priced manufactured products. The terms of such trade have progressively deteriorated over the past two decades. Recent, food, fertilizer, and oil price hikes have left the 40 poorest countries, representing a billion people, in a desperate position. For them in particular trade opportunities are more important than ever. Bread for the World therefore supports the following positions, which are partly embodied in the Trade Act of 1974:

A. the lowering of trade barriers such as tariffs and quotas, especially on semi-processed and finished products. It has been estimated that these barriers cost U.S. consumers $10 to $15 billion a year;

B. special trade preferences for the poorest countries. These countries need markets for their products, if they are to work their way out of hunger; and

C. greatly increased planning for economic adjustment, including assistance for adversely affected U.S. workers and industries. Without this, U.S. laborers are made to bear an unfair burden and are increasingly pitted against hungry people.

6. *Reduced military spending.*

U.S. defense spending alone exceeds the total annual income of the poorest billion people on earth, the truly hungry children of God. Our thinking begins with them. During his presidential years, Dwight D. Eisenhower said, "Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed." Bread for the World supports:

A. greater U.S. initiative in pressing for arms limitation agreements and mutual cutbacks in existing arms as well as greater public access to information surrounding negotiations;

B. curtailment of the sale of arms, if possible by international agreement; and

C. adoption of a U.S. defense budget that would reduce military spending. For example, a 10 percent reduction could provide $9 billion for financing long-range measures against hunger.

7. *Study and appropriate control of multinational corporations, with particular attention to agribusiness.*

Multinationals are playing an increasingly influential global role. They transcend national boundaries and often bring jobs and needed development opportunities to poor countries. But they create empires that are not accountable to host countries and often impose a type of development that reinforces inequalities and, consequently, the problem of hunger, as well. Bread for the World therefore supports:

A. the principle that each country has the right to determine its own path to human and social development, including legitimate control over outside investments;

B. efforts to study and analyze the role of multinational corporations, especially as they relate positively or negatively to the problem of hunger;

C. national and international measures that seek fair means of accountability on the part of such companies; and

D. special examination of the role of corporate farming, with a view toward adequate safeguards for low-income consumers and small family farm holders.

8. *Efforts to deal with the population growth rate.*

Rapid population growth is putting great pressure on the world's food supply and on the capacity of countries to absorb the increase into their economies. Population growth will not be effectively curbed if it is dealt with in isolation, but only if placed in the context of total development needs. For example, hungry people usually have large families, in part because surviving sons provide security in old age. Only where social and economic gains include the poor, and where the rate of infant mortality begins to approximate that of the affluent nations, do people feel secure enough to limit family size. Bread for the World therefore supports:

A. greatly expanded U.S. efforts to enable the poor of the world to work their way out of hunger and poverty;

B. additional U.S. assistance for health programs abroad aimed at reducing infant mortality and increasing health security;

C. additional support for research to develop family planning methods that are dependable, inexpensive, simple, safe, and morally acceptable to all; and

D. efforts to modify our own consumption, which strains the carrying capacity of the earth no less than population increases.

9. *Christian patterns of living.*

The growing scarcity of several key resources—grain, fuel, and fertilizer in particular—that directly affect the food supply has prompted many to reassess their habits of consumption. This country, with 6 percent of the world's population, consumes one-third or more of the world's marketed resources. On the average each person in the United States buys about 4.5 times more grain—most of it indirectly as meat and dairy products, along with alcohol and pet food—than persons in poor countries do. There is often no direct connection between our using less and others having more. Nevertheless there are important psychological, symbolic, and spiritual values in reexamining our patterns of consumption. Bread for the World invites Christians to:

A. remember that along with changes in habits of consumption we have to change government policies, without which lifestyle modifications do little more than give us a misleading sense of accomplishment;

B. reconsider our personal spending and consuming, with a view toward living more simply and less materialistically;

C. reconsider a way of life in which billions of dollars are spent annually to make us crave, and in turn spend countless additional billions on products we do not need, and which in fact often harm us—all this while sisters and brothers perish for lack of bread.

These things we seek because we affirm for others a right that we enjoy: the right to food. We seek to extend to all this God-given right in obedience to Christ who has called us to follow him in loving our neighbor as ourselves.

Mr. BAUCUS. Mr. Speaker, I would like to comment on House Concurrent Resolution 737, the right to food resolution, which expresses the sense of Congress "that every person throughout the world has a right to a nutritionally adequate diet."

Since the right to food resolution was first introduced last September, I have been contacted by nearly 400 residents of my district expressing their wholehearted support of this measure. I share my constituents' concern for those in our world who suffer from hunger, and hope that the House of Representatives will act favorably on this resolution.

It is hard for many of us in the United States to fully comprehend the magnitude of the world hunger problems. The official "assessment of the world food situation" for the World Food Conference of 1974 estimated that there were at least 460 million malnourished people in the world. This figure is even more staggering when we realize that that number represents more than twice the total population of the United States.

Unless drastic remedial measures are undertaken now, the rapid increase in the world population will only serve to amplify the present hunger problem. We cannot afford this as food is an absolute necessity for physical and psychological well-being. The ability of children to experience the normal growth and development cycle which leads them into healthy adulthood may be severely retarded where food supplies are unavailable for extended periods of time. In addition, nutritional deficiencies are the root of many diseases which drain the vitality from hundreds of millions of people annually. There are too many concerns in our world which require human assistance and ingenuity for us to allow even a single person to suffer reduced productivity, alertness, and endurance as the result of an inadequate diet.

We in the United States frequently experience surplus amounts of the commodities which are most needed by the hungry people of the world. This is particularly true in the areas of wheat and feed grain products. In 1975, the United States exported over $584 million of these products for food aid programs, my own State of Montana contributing over 6 percent of this total.

The passage of this measure should bring about an increase in the amount of grain products which we export through the increase of such aid programs and should prove to be a great help to our farmers here who have been plagued with falling prices and increasing surpluses. I can think of no better way in which to utilize surplus commodities than to direct them to the people of the world who can use them and need them the most. And, if aggressively followed up, this proposal may stimulate improved agricultural productivity.

House Concurrent Resolution 737 does not commit the United States to provide food for all of the hungry people of the world. Rather, it is a statement of concern about this disturbing problem, and a commitment to investigate ways in which we can be of assistance. The right to food resolution is in full accord with the U.S. proposal, which was accepted by the World Food Conference of 1974, which stated that:

> Within a decade, no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition.

House Concurrent Resolution 737 will move us one step closer to that goal.

I am asking that my colleagues indicate their concern and willingness to help the hungry people in this world by voting in favor of the right to food resolution, and hope that the passage of this resoltuion will help us to reduce this tragic worldwide human suffering.

Mr. BOLAND. Mr. Speaker, I rise in support of House Concurrent Resolution 737. I have long felt that food production must be a major determinant of this Nation's domestic and foreign policy. Not only must we insure that people are fed now, we must insure that they are fed in the future. This two-pronged goal requires that we closely examine the present diet of the world, recognize the problems that now exist, and take the necessary steps to correct those problems.

I am most appalled by the waste we are talking about here, Mr. Speaker—the waste of lives and resources that result when people do not have adequate nourishment. A proper and nutritious diet for everyone is not an easy task to accomplish. But it is a goal to which we can and we must aspire. By passing this resolution, we are articulating that goal. I believe many Members of this House have long been aware of this goal and have acted accordingly. House concurrent resolution merely puts into words the sense which the Congress has already displayed. I urge the adoption of this resolution.

Mr. FRASER. Mr. Speaker, as the original House sponsor of the right to food resolution, I am pleased to rise in support of House Concurrent Resolution 737.

The resolution before us is very similar to the original right to food resolution, House concurrent Resolution 393. It expresses the sense of Congress that: First, every person throughout the world has the right to food and a nutritionally adequate diet; second, the need to combat hunger should become a fundamental point of reference in the formulation and implementation of U.S. policy in all areas which bear on hunger; third, the United States should seek to improve domestic food assistance programs for Americans in need; fourth, the United States should increase substantially its assistance for self-help development among the world's poorest people with particular emphasis on increasing food production and encouraging improved food distribution and more equitable patterns of economic growth; and fifth, the President is requested to provide Congress by April 1, 1977, a 5-year projection of U.S. international assistance levels consistent with the resolution's objectives.

When our office introduced the resolution last September, we had little idea of the immense interest it would generate. Most congressional offices can testify to the enormous volume of letters, calls, and telegrams which followed its introduction. This support was translated into substantial congressional interest—more than 50 offices cosponsored the resolution and almost 200 others have called our office to request information.

The gentleman from Michigan (Mr. DIGGS) and his staff deserve a great deal of credit for the initiative shown in conducting 4 days of hearings, reporting the resolution to the full committee, and bringing it quickly to the House floor. Without their diligence, the resolution would have probably died quietly.

Appreciation must also be expressed to the members of Bread for the World, an interdenominational Christian citizen's movement concerned with public policy and hunger. It was Bread for the World who approached our and Senator HATFIELD's office last year with the idea of introducing a resolution on the right to food. And, it was Bread for the World who spent considerable time and energy in encouraging persons from all religious faiths to communicate their support for the resolution to Members of Congress.

The resolution has not been free from criticism. A column which appeared in the September 13 New York Times reflects some of the most frequently raised concerns. Written by James C. Thomson of the Illinois Prairie Farmer, the column states that a congressional reaffirmation of every person's right to food would place on U.S. farmers an obligation "to produce a cheap necessity to which everyone is entitled for little or nothing." Mr. Thomson also argues that the resolution would commit this country to "guarantee the world's rapidly increasing 4 billion people an adequate diet or standard of living near our level." This line of reasoning makes two common, but fallacious, assumptions.

First, it assumes that the resolution is a food "handout" proposal. Mr. Thomson and others point out the need for developing nations to undertake indigenous efforts to increase economic growth rates and per capita purchasing power. Supporters of the resolution fully agree. The resolution should not be interpreted as emphasizing short-term food relief at the expense of self-help development. Hunger is simply the most visible manifestation of underlying social and economic powerlessness—poverty.

People with adequate financial wherewithal do not suffer from hunger. To attack hunger and malnutrition at the root, it is therefore necessary to secure more equitable patterns of income and resource distribution. In turn, this will require strategies that involve developing nations' small farmers and landless laborers in production and job opportunities.

The resolution explicitly recognizes this; in the fourth resolved paragraph it calls upon the United States to—

> . . . increase substantially its assistance for self-help development among the world's poorest people, especially in countries seriously affected by hunger and malnutrition, with particular emphasis on increasing food production and encouraging improved food distribution and more equitable patterns of economic growth.

Congress has broken important ground in targeting development assistance on the poorest segments of the poor nations. The "new directions" policy of the 1973 Foreign Assistance Act mandated a shift away from large-scale capital transfers and toward assistance in areas that directly affect the lives of the poor majorities; the International Development and Food Assistance Act of 1975 attempted to strengthen and institutionalize the new directions thrusts. Viewed in this context, the resolution would provide momentum toward meeting the policy objectives of current programs.

Second, Thomson's line of reasoning assumes that the resolution seeks to place the United States in the position of being the food supplier of last resort. The congressional acknowledgement of a right to food does attempt to insure that efforts to combat hunger will be given fundamental consideration in the formulation and implementation of U.S. policy. It does not, however, impose any binding obligations on the United States in international or domestic law or alter the nature of existent commitments. Instead, it proposes guidelines for future policy and promulgates our intention to continue to engage in efforts that will contribute to the emergence of an international order in which no one goes hungry.

Although the resolution calls upon the United States to increase substantially its assistance for self-help development, it does not call for the meeting of specific target levels within a certain time. I understand the reasons for not including the kind of target included in the original resolution, but I would like to address briefly the problem of our current level of development assistance.

In the current issue of Scientific American, W. David Hopper of Ottawa's International Development Research Center notes that the U.S. projected official development assistance for 1977 is approximately 0.22 percent of our GNP. This compares with 0.31 percent in 1970 and the more than 2.5 percent contributed at the time of the Marshall Plan. When viewed in conjunction with the United Nations target for official development assistance of 0.7 percent, this figure suggests that while our Nation's humanitarian impulses remain strong, our attitudes toward development aid have become blurred and distorted.

To argue that the state of our economy precludes increases in resource commitments is to fail to properly account, in both moral and practical terms, the cost of continued human misery and suffering. Morally, to turn away from the ravages of malnutrition and starvation is to foresake the responsibilities we share as members of the human family. Practically, the cost of increased effort must be balanced against the long-term prospect of living in an interdependent world; expanded and restricted commitments to help food-poor nations' development efforts would contribute to a less tension-filled atmosphere for international dialog and negotiations.

The need to increase assistance levels must fit within a comprehensive effort to restructure and strengthen our ties to developing nations. This effort will demand that we make serious and sustained attempts to create new mechanisms with which to manage the global food economy. Too often, developed nations have failed to implement their rhetoric with program initiatives; we have too frequently been reluctant to take the courageous and difficult steps away from the old regime and toward a system of management based upon new imperatives and sensibilities. Moral leadership is desperately needed. We must be more sensitive to the imperatives of an emerging international humanism; policies which are based on a humanitarian concern for people's economic and social needs must come to take their rightful place at the center of our Nation's decisionmaking process.

The resolution alone cannot achieve this. But if followed by decisions reinforcing its philosophical orientation, it could contribute to the development of assumptions and approaches which will seek to insure that the world of 25 years hence will not be torn by widespread strife, instability, and human misery.

I urge my colleagues to support the resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Diggs) that the House suspend the rules and pass the concurrent resolution (H. Con. Res. 737), as amended.

Mr. LAGOMARSINO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 737.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1976

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14299) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1976".

TITLE I—VETERANS DISABILITY COMPENSATION

Sec. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$35" and inserting in lieu thereof "$38";

(2) by striking out in subsection (b) "$65" and inserting in lieu thereof "$70";

(3) by striking out in subsection (c) "$98" and inserting in lieu thereof "$106";

(4) by striking out in subsection (d) "$134" and inserting in lieu thereof "$145";

(5) by striking out in subsection (e) "$188" and inserting in lieu thereof "$203";

(6) by striking out in subsection (f) "$236" and inserting in lieu thereof "$255";

(7) by striking out in subsection (g) "$280" and inserting in lieu thereof "$302";

(8) by striking out in subsection (h) "$324" and inserting in lieu thereof "$350";

(9) by striking out in subsection (i) "$364" and inserting in lieu thereof "$393";

(10) by striking out in subsection (j) "$655" and inserting in lieu thereof "$707";

(11) by striking out in subsection (k) "$52" and "$814" and "$1,139" each time they appear and inserting in lieu thereof "$56" and "$879" and "$1,231", respectively;

(12) by striking out in subsection (l) "$814" and inserting in lieu thereof "$879";

(13) by striking out in subsection (m) "$896" and inserting in lieu thereof "$968";

(14) by striking out in subsection (n) "$1,018" and inserting in lieu thereof "$1,099";

(15) by striking out in subsection (o) and (p) "$1,139" each time it appears and inserting in lieu thereof "$1,231";

(16) by striking out in subsection (r) "$489" and inserting in lieu thereof "$528"; and

(17) by striking out in subsection (s) "$732" and inserting in lieu thereof "$791".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Sec. 102. Section 315(1) of title 38, United States Code, is amended—

(1) by striking out in subparagraph (A) "$40" and inserting in lieu thereof "$43";

(2) by striking out in subparagraph (B) "$67" and inserting in lieu thereof "$72";

(3) by striking out in subparagraph (C) "$85" and inserting in lieu thereof "$92";

(4) by striking out in subparagraph (D) "$105" and "$19" and inserting in lieu thereof "$113" and "$21", respectively;

(5) by striking out in subparagraph (E) "$26" and inserting in lieu thereof "$28";

(6) by striking out in subparagraph (F) "$45" and inserting in lieu thereof "$49";

(7) by striking out in subparagraph (G) "$67" and "$19" and inserting in lieu thereof "$72" and "$21", respectively;

(8) by striking out in subparagraph (H) "$32" and inserting in lieu thereof "$35" and by striking out in such subparagraph after the semicolon "and";

(9) by striking out in subparagraph (I) "$61" and inserting in lieu thereof "$66"; and

(10) by redesignating subparagraph (I) as subparagraph (J) and inserting the new subparagraph (I) as follows:

"(I) notwithstanding the other provisions of this subsection, the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $78 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection; and".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

Sec. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E–1	$260
E–2	268
E–3	275
E–4	292
E–5	300
E–6	307
E–7	322
E–8	340
E–9	[1] 355
W–1	328
W–2	341
W–3	352
W–4	372
O–1	328
O–2	340
O–3	364
O–4	384
O–5	423
O–6	476
O–7	516
O–8	565
O–9	607
O–10	[2] 664

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $382.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $712.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $31 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $78 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no surviving spouse of a deceased veteran entitled to dependency and idemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) one child, $131;

"(2) two children, $189;

"(3) three children, $243; and

"(4) more than three children, $243, plus $49 for each child in excess of three.".

SEC. 203. Section 414 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$72" and inserting in lieu thereof "$78";

(2) by striking out in subsection (b) "$121" and inserting in lieu thereof "$131"; and

(3) by striking out in subsection (c) "$62" and inserting in lieu thereof "$67".

SEC. 204. (a) The Administrator shall carry out a thorough and detailed study of the dependency and indemnity compensation program authorized under chapter 13 of this title and of its beneficiaries to measure and evaluate the adequacy of benefits provided under this program and to determine whether, or to what exent, benefits should be based on the military pay grade of the person upon whose death entitlement is predicated.

(b) The report of such study shall include such full statistical data as may be obtained concerning surviving spouses and dependents in receipt of dependency and indemnity compensation other than under section 415 of title 38, United States Code, and in each instance the data shall include a breakdown of the distribution of the surviving spouses and dependents amongst the pay grade levels set forth in section 411(a) of title 38, United States Code. Data concerning such surviving spouses and dependents shall include (1) full statistical information concerning the number and ages of surviving spouses and dependents, the number of surviving spouses that remarry, the number of surviving spouses with dependents, and the number of surviving spouses in receipt of aid and attendance; (2) full statistical information concerning the number of suriving spouses and the number of dependents in receipt of old-age, survivors, and disability insurance (OASDI) cash benefits and the amount and type thereof, the number of surviving spouses and the number of dependents in receipt of other Federal or State assistance and the amount and type thereof, the number of surviving spouses in receipt of State survivor benefits and the amount and type thereof to include a breakdown by State, and the number of surviving spouses who work and their earnings therefrom; (3) full statistical information concerning the educational attainment of the survivor's deceased spouse; and (4) full statistical information concerning those surviving spouses whose veteran spouse was in receipt of disability compensation pursuant to chapter 11 of title 38, prior to death and the rating of disability thereof.

(c) The report together with such comments and recommendations by the Administrator for improving the program as are appropriate shall be submitted to the Congress and the President not later than October 1, 1977.

TITLE III—OTHER DISABLED VETERANS PROGRAM IMPROVEMENTS

SEC. 301. Section 362 of title 38, United States Code, is amended by striking out "$175" and inserting in lieu thereof "$190".

SEC. 302. Section 806 of title 38, United States Code, is amended by striking out in subsection (c) "$30,000," and inserting in lieu thereof "$40,000,".

SEC. 303. Section 1901 of title 38, United States Code, is amended—

(1) by striking out in paragraph (1) before the colon at the end of clause (A) "during World War II or thereafter" and inserting in lieu thereof "on or after September 16, 1940"; and

(2) by striking out in paragraph (1) before the period at the end of clause (B) "during World War II or thereafter" and inserting in lieu thereof "on or after September 16, 1940".

SEC. 304. (a) Chapter 23 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 908. Transportation of deceased veteran to a national cemetery

"Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Administrator may pay, in addition to any amount paid pursuant to section 902 or 907 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"908. Transportation of deceased veterans to national cemetery.".

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS AND EFFECTIVE DATE PROVISIONS

SEC. 401. Chapter 11 of title 38, United States Code, is amended—

(1) by striking out in the table of sections at the beginning of such chapter 11

"356. Minimum rating for arrested tuberculosis.";

(2) by striking out in paragraph (3) of section 301 "Leprosy" and inserting in lieu thereof "Hansen's disease";

(3) by striking out in paragraph (4) of section 301 "Leprosy", and by inserting in paragraph (4) of such section "Hansen's disease" between "Filiariasis" and "Leishmaniasis, including kala-azar";

(4) by striking out in clause (o) of section 314 "in combination with total blindness with 5/200 visual acuity or less,"; and

(5) by striking out in clause (r) of section 314 "3203(f)" and inserting in lieu thereof "3203(e)".

SEC. 402. Section 3012(b) of title 38, United States Code, is amended—

(1) by inserting in clause (2) "annulment," immediately before "divorce" each time it appears; and

(2) by striking out in clause (9) "his" and inserting in lieu thereof "the beneficiary's".

SEC. 403. (a) The Administrator of Veterans' Affairs shall conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such relationship; and (2) an analysis of statistically valid samples of disability claims of veterans having service-connected extremity amputation matched by age, sex and war period with nonamputee veterans.

(c) The report, together with such comments and recommendations as the Administrator deems appropriate, shall be submitted to the Speaker of the House and the President of the Senate not later than June 30, 1977.

SEC. 404. Chapter 11 of title 38, United States Code, is further amended—

(1) by striking out in clauses (A) and (B) of section 301(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in section 302(a) "widow of a veteran under this chapter unless she was married to him" and inserting in lieu thereof "surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran";

(3) by striking out in section 302(b) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(4) by striking out in the catchline of section 302 "widows" and inserting in lieu thereof "surviving spouses";

(5) by striking out in the table of sections at the beginning of such chapter 11.

"302. Special provisions relating to widows." and inserting in lieu thereof

"302. Special provisions relating to surviving spouses.";

(6) by striking out in clauses (m) and (o) of section 314 "him" and inserting in lieu thereof "such veteran";

(7) by striking out in section 314(p) ", in his discretion,";

(8) by striking out in clauses (r) and (s) of section 314 "he" and "his" each time they appear and inserting in lieu thereof "such veteran" and "such veteran's", respectively;

(9) by striking out in clauses (A), (B), (C), (D), (E), (F), and (G) of section 315(1) "wife" each time it appears and inserting in lieu thereof "spouse";

(10) by striking out in section 315(1)(H) "mother or father, either or both dependent upon him" and inserting in lieu thereof "parent dependent upon such veteran";

(11) by striking out in section 315(2) "his";

(12) by striking out in section 321 "widow" and inserting in lieu thereof "spouse";

(13) by striking out in paragraphs (1) and (2) of section 322(a) "Widow" and inserting in lieu thereof "Surviving spouse";

(14) by striking out in paragraphs (3), (4), and (5) of section 322(a) "widow" and inserting in lieu thereof "surviving spouse";

(15) by striking out in section 322(a)(6) "mother or father" and inserting in lieu thereof "parent";

(16) by striking out in section 322(a)(7) "Dependent mother and father" and inserting in lieu thereof "Both dependent parents";

(17) by striking out in section 322(b) "widow" and inserting in lieu thereof "surviving spouse";

(18) by striking out in section 341 "widow" and inserting in lieu thereof "spouse";

(19) by striking out in section 351 "him", and by striking out in such section "his" and inserting in lieu thereof "such veteran's";

(20) by striking out in section 354(a) "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively;

(21) by striking out in section 358 ", in his discretion,", and by striking out in such section "his wife" and "a wife" and inserting in lieu thereof "such veteran's spouse" and "such spouse", respectively;

(22) by striking out in section 360 "his" each time it appears and inserting in lieu thereof "such veteran's";

(23) by striking out in section 361 "his"

and inserting in lieu thereof "such former member's"; and

(24) by striking out in section 362 "he" and inserting in lieu thereof "the Administrator".

SEC. 405. Chapter 13 of title 38, United States Code, is amended—

(1) by striking out in subsections (a) and (b) of section 402 "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively;

(2) by striking out in subsections (c) and (d) of section 402 "he" and "his widow" and inserting in lieu thereof "such veteran" and "such veteran's surviving spouse", respectively;

(3) by striking out in section 402(e) "his" and "he" each time they appear and inserting in lieu thereof "such person's" and "such person", respectively;

(4) by striking out in section 404 "widow", "she", and "him", and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(5) by striking out in the catchline of section 404 "widows" and inserting in lieu thereof "surviving spouses";

(6) by striking out in the table of sections at the beginning of such chapter 13

"404. Special provisions relating to widows."

and inserting in lieu thereof

"404. Special provisions relating to surviving spouses.";

(7) by striking out in subsections (a) and (b) of section 410 "his widow", "widow", "he", and "his" and inserting in lieu thereof "such veteran's surviving spouse", "surviving spouse", "such veteran", and "such veteran's" respectively;

(8) by striking out in the table of sections at the beginning of such chapter 13

"411. Dependency and indemnity compensation to a widow."

and inserting in lieu thereof

"411. Dependency and indemnity compensation to a surviving spouse.";

(9) by striking out in subsections (a) and (b) of section 412 "his", "he", and "widow" each time they appear and inserting in lieu thereof "such veteran's", "such veteran", and "surviving spouse", respectively;

(10) by striking out in subsections (a), (b), and (c) of section 414 "him", "woman", "widow", and "her deceased husband" each time they appear and inserting in lieu thereof "such child", "person", "surviving spouse", and "such person's deceased spouse", respectively;

(11) by striking out in paragraphs (1) and (2) of section 416(a) "widow" and "his" and inserting in lieu thereof "surviving spouse" and "such person's", respectively;

(12) by striking out in section 416(b)(1) "widow" and "her" and inserting in lieu thereof "surviving spouse" and "such surviving spouse", respectively;

(13) by striking out in section 416(c) "him" and inserting in lieu thereof "such child";

(14) by striking out in section 416(d) "him" each time it appears and inserting in lieu thereof "such parent";

(15) by striking out in section 416(e)(1) "he" and "his" and inserting in lieu thereof "such person" and "such beneficiary's", respectively;

(16) by striking out in section 416(e)(3) "his" and "he" and inserting in lieu thereof "such child's" and "the Administrator", respectively;

(17) by striking out in section 421 "him" and inserting in lieu thereof "the Administrator";

(18) by striking out in section 422(a) "his" and "him" and inserting in lieu thereof "such veteran's" and "such Secretary", respectively; and

(19) by striking out in section 423 "him" and "he" each time they appear and inserting in lieu thereof "the Administrator".

SEC. 406. The provisions of this Act shall become effective on October 1, 1976.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman could explain the purpose of this request?

Mr. ROBERTS. Mr. Speaker, I appreciate the gentleman yielding in order that I might expalin.

Mr. Speaker, on June 21, without a dissenting vote, the House passed H.R. 14299, which would provide much needed increases in the monthly compensation payments made to veterans who received disabilities as a result of service-connected injury or disease. Among other things, the bill provided an 8-percent increase in rates effective October 1, 1977.

The amended bill is the same as the bill passed by the House except for the following additional provisions.

First. It would increase the annual clothing allowance to $190, an amount $3 more than the House-passed bill.

Second. It would extend the entitlement to an automobile allowance and needed adaptive equipment to eligible veterans who served after September 16, 1940.

Third. It would increase from $30,000 to $40,000 the mortgage protection life insurance available for certain seriously disabled veterans who qualify for VA assistance with specially adapted housing.

Fourth. It would authorize the VA to pay the cost of transporting the remains of deceased, service-disabled veterans to a national cemetery for burial.

Fifth. It would direct the Administrator to conduct a study of dependency and indemnity compensation to determine the adequacy of such program.

Sixth. It would also provide for various technical amendments to title 38, including elimination of unnecessary gender references.

The amendments are not very costly, less than $2 million.

The total fiscal year 1977 cost of the bill, as amended, is approximately $388.7 million and is within the committee's allocation.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 14299, as amended. I concur with the remarks of our distinguished chairman, the gentleman from Texas (Mr. ROBERTS). This bill contains essentially the same provisions as the bill passed by the House on June 21 with no dissenting vote. The bill would provide much needed increases in the monthly compensation payments made to veterans who received disabilities in the service of our country. It would provide, as well, needed increases in the dependency and indemnity—DIC—payments made to the widows and children of those veterans who have died because of service-connected injury or disease.

Their payments were last increased by Public Law 94–71, effective August 1, 1975. From that time until the end of July this year the Consumer Price Index has gone from 162.3 to 171.1 which is a 5.4-percent increase. The increases this bill provides would be effective for the month of October 1976, but would not be reflected in checks received by veterans and their survivors until the first of November. For this reason, you can see the 8-percent increase the bill offers is essential if these people who have given so much to keep our land free and strong are not to suffer the pinch of inflation.

Mr. Speaker, the House-passed bill would provide several important improvements. They are:

First, an 8-percent cost-of-living increase in disability compensation for the service-connected disabled veteran and in DIC for widows and children of veterans who die of a service-connected disability.

Second, an 8-percent rate increase in the special compensation payments usually known as statutory awards for those with the most severely disabling conditions, including amputations.

Third, an increase in the annual clothing allowance for veterans who suffer disabilities requiring the wearing or use of orthopedic or prosthetic devices which wear out or tear the clothing from the present $175 to $187.

Fourth, an increase from the present $72 to $78 in the monthly additional payment to widows who are so disabled as to require the regular aid and attendance of another person.

Fifth, a provision new to the law which would provide an additional monthly compensation payment to each service-connected veteran rated 50 percent or more disabled having a spouse who is a patient in a nursing home or is so helpless as to need regular aid and attendance.

Sixth, a scientific study by the Administrator of Veterans Affairs to determine if there is a causal relationship between amputation of an extremity and the subsequent development of cardiovascular disease.

Seventh, an extension of the present end-of-the-year rule for benefit reductions and terminations required when marriages are terminated by death or divorce to marriage terminations by annulment.

The Senate amendments to the bill do not extend to a change in any of these provisions but one. The Senate-passed bill would increase the annual clothing allowance to $190, an amount $3 more than the House-provided increase. This change does not conflict with the beneficial intention of the bill and is not, in my opinion, excessive. I support the change.

The Senate-passed bill would also provide:

First, an extension of the entitling criteria now governing the grant of automobile allowances and needed adaptive equipment. Currently, this benefit is available to veterans who have lost or lost the use of an extremity or who are blind because of disability incurred in service during World War II or thereafter. This bill would include those with service disabilities incurred on or after

September 16, 1940. That is a date recognized in other benefit areas such as home loans and for entitlement to World War II readjustment benefits. It was the effective date of the Selective Service Act of 1940.

I am advised that there are a number of very seriously disabled veterans who will benefit, particularly from the expertise the Veterans' Administration has acquired in the special adaptive equipment of automobiles for the seriously handicapped.

Second, an increase from $30,000 to $40,000 in the Veterans' Administration mortgage protection life insurance available for certain seriously disabled veterans who qualify for VA assistance with specially adapted housing.

Third, Veterans' Administration payment for the cost of transporting the remains of deceased, service-disabled veterans to a national cemetery for burial.

Fourth, certain technical amendments to title 38, United States Code, including elimination of unnecessary gender references.

Fifth, a provision requiring the Administrator to conduct a study of the benefit program providing dependency and indemnity compensation, with particular attention to the propriety of relating the amount of such benefits to the former pay grade of the deceased veteran.

The cost of the mortgage protection life insurance amendment has been estimated at $67,500 for fiscal year 1977. We have fiscal year 1977 estimates of $760,000 on the automobile amendment and $500,000 on the transportation provision. These amounts are not substantial and are within subcommittee budget allocations.

The total fiscal year 1977 cost of the bill as amended is approximately $388.7 million.

I hope you give your unanimous support to these needed compensation payment increases.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the gentleman's motion to concur with the Senate amendments to H.R. 14299, the Veterans Disability Compensation and Survivor Benefits Act of 1976.

The basic purpose of H.R. 14299 is to protect disabled veterans' and their survivors' purchasing power. The measure grants an 8-percent increase effective October 1, 1976, in rates of compensation payable to veterans for service-connected disabilities and in the rates of dependency and indemnity compensation payable to widows and children of veterans who died of service-connected causes.

As I stated when this measure initially passed the House on June 21 of this year, the 8-percent increase is dictated by the rising cost of living.

The Senate amendments offer minor additions and changes which I support. One amendment is to increase from $175 to $190 the annual clothing allowance for severely disabled veterans. This modest increase, justified by upward adjustments in the consumer price index, mainly affects veterans who wear prosthetic appliances.

A second amendment increases from $30,000 to $40,000 Veterans' Administration mortgage protection life insurance afforded certain seriously disabled veterans who are eligible for adaptive housing. This increase, justified by the $42,500 to $50,000 average cost of such housing, is expected to be required by approximately 450 veterans per year during the next 5 years.

A third amendment extends eligibility for Veterans' Administration automobile and adaptive equipment to certain pre-World War II disabled veterans. This provision is applicable to an estimated 200 eligible veterans who served between September 16, 1940, when the first federalized National Guard units entered active duty, and December 7, 1941, when the Second World War was declared.

A fourth amendment authorizes Veterans' Administration payment for the cost of transportation to a national cemetery for the burial of the remains of deceased disabled veterans. The payment would not exceed the transportation cost from the veteran's last place of residence to the nearest national cemetery which has available burial space.

Mr. Speaker, I shall vote "aye" for H.R. 14299, with its Senate amendments. I believe that the provisions of this bill reflect our commitment to service-connected disabled veterans and their survivors. I urge my colleagues to join me in approving this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate amendment to the bill, H.R. 14299, just concurred in.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENTS TO FEDERAL AVIATION ACT OF 1958

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15026) to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on space-available basis for elderly persons, young persons, and handicapped persons, as amended.

The Clerk read as follows:

H.R. 15026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 403(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person as defined by the Board.".

(b) Within six months after the date of enactment of this Act, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger,

Sec. 2. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority granted by the Public Utilities Commission of such State is authorized—

"(i) to establish service for persons and property which includes transportation by such citizen over its routes in California and transportation by an air carrier or foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

Sec. 3. Section 401(o)(2) of the Federal Aviation Act of 1958 (94 U.S.C. 1371(o)(2)) is amended by striking out "no air carrier certificated under subsection (a) of this section is" and inserting in lieu thereof "there are not at least two air carriers certificated under subsection (a) of this section which are".

The SPEAKER. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. ANDERSON) and the gentleman from Kentucky (Mr. SNYDER) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 15026, is designed to increase the availability of air service for the elderly and handicapped, to improve air service for passengers using intrastate air carriers in California, and to increase the cost effectiveness of DOD's contracts for air transportation.

The bill would permit CAB to approve reduced air fares on a standby basis for persons 60 years of age or older and for the handicapped, and would require CAB to study the economic feasibility of reduced fares for youth.

These provisions of H.R. 15026 would

make air transportation more widely available to the public. Every citizen needs the mobility which air transportation affords. Unfortunately, however, inflation has placed air transportation well beyond the reach of many consumers. The problem is particularly severe for the elderly and the handicapped. Members of these groups tend to have below-average incomes and, in many cases they are particularly dependent upon public transportation because they are unable to drive private automobiles.

The fares now charged for air transportation tend to exclude the elderly, and the handicapped. For example, a survey by United Airlines showed that only 5 percent of its passengers were 65 years of age or over, while persons in this age bracket make up 10 percent of the general population. This disparity is largely attributable to the low income levels of many of the elderly. For example, in 1973 the median income for elderly households in 1973 was under $4,600, compared to the national average of $10,500. Similar problems are faced by the handicapped.

An excellent report on the transportation needs of our senior citizens has been issued by the Subcommittee on Federal, State, and Community Services of the Select Committee on Aging, under the chairmanship of Congressman SPARK M. MATSUNAGA. The report points out that a number of Federal programs, such as the urban mass transportation program, include special provisions designed to make transportation more widely available to the elderly. In air transportation there are no programs of this nature, and under existing law the Civil Aeronautics Board is limited in its ability to authorize reduced fare transportation for deserving groups. As a consequence, there are no reduced fare programs currently in effect for the elderly.

Chairman MATSUNAGA's report also suggests that well-designed reduced-fare programs for the elderly have been highly successful. For example:

> Inter-island carriers in Hawaii . . . instituted a half-acre for persons aged 65 and over in 1967, which remained in effect until 1974. During that time one of the carriers, Hawaiian Airlines, reported a 340-percent increase in the number of senior citizens taking advantage of the fare reduction. Moreover, since the seniors were accommodated on a space-available basis, the half-fares charged more than covered the extra costs of carrying them, and returned substantial increased revenues to the carriers.

The report recommends that Congress "reaffirm the power of the Civil Aeronautics Board to permit discount standby air fares for the elderly."

H.R. 15026 is designed to meet these needs, and to insure that similar reduced fare standby service will be available for the handicapped.

H.R. 15026 should also result in improved air service for those members of the traveling public who use intrastate air carriers in California. Under present law, intrastate carriers are not permitted to offer through ticketing and baggage service for passengers who connect with interstate carriers. For example, Pacific Southwest Airlines, an intrastate air carrier, is the only carrier now serving Long Beach. If a passenger wishes to travel on PSA to San Francisco and then connect to Western Airlines to travel to Seattle, the passenger must purchase separate tickets from PSA and Western, and he must transfer his own baggage at San Francisco.

H.R. 15026 would permit PSA and Western to enter into an agreement which would permit the Long Beach-Seattle passenger to purchase a single ticket at a joint fare. The agreement could also provide that the two airlines would provide baggage transfer service.

Finally, H.R. 15026 includes a provision designed to increase the cost effectiveness of Department of Defense contracts for air transportation.

Section 401 of the Federal Aviation Act of 1958 requires that certain airlift services required by Department of Defense be provided exclusively by United States certificated air carriers. H.R. 15026 establishes an exception to the requirement and permits DOD to contract with non-certificated carriers if there are not at least two certificated carriers capable and willing of providing needed service. This provision will encourage competitive bidding for transportation contracts. Thereby sole-source procurement will be avoided and costs to the Government will be reduced.

Mr. Speaker, I urge passage of H.R. 15026.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. Mr. Speaker, I yield to the gentleman.

Mr. ADDABBO. Mr. Speaker, in this Congress I sponsored a measure to provide half-fare air transportation for disabled veterans. I had introduced a similar measure in the previous Congress as well. The intent of that bill is embodied in this bill, H.R. 15026, which has been jointly offered by the chairman of the subcommittee and cosponsored by members of that Committee on Aviation, Public Works, and Transportation. This bill, in fact, goes further authorizing the CAB for discounted airfares for the handicapped and elderly consumers.

In essence, the principle is the same—utilizing space that all airlines have on many flights to provide an opportunity for groups of citizens whose income levels ordinarily do not allow them the luxury of flying.

There is precedent to this, since the Congress has made it a part of Federal mass transit law that reduced fares be made available to the elderly and handicapped. I believe that designation by Congress was a proper one which ought to now be extended to the operation of the Nation's airlines as well.

A year ago when I was preparing the background for introduction of my bill, I wrote to a number of airlines to gage their views on the proposed legislation. As I recall the airlines generally offered no specific objections to the bill except to state that they would prefer to offer discount rates across the board, rather than to specific groups of potential consumers. I can understand that reluctance. Rates which apply only to specific groups of consumers mean that specifications for eligibility must be determined and means of producing personal eligibility must be agreed to, and implemented.

However, I believe the problems of doing so are not so considerable as to offset to the consumer the benefits. Too often, the special discount tickets offered by the airlines simply could not be used by either the elderly or the handicapped, simply because they may not be able to travel within certain hours or upon designated days.

I must add that while I have considerable sympathy for the problems encountered by the airlines in most cases, I believe the public good to be derived from discounted tickets for the elderly and handicapped far overshadows any potential problems that might surface from implementation of the program.

All of us serving in this body are only too aware of what the Nation's economic upheavals in recent years have done to those who must live on fixed incomes. There is not a day that passes that one of us does not receive a letter from a citizen who simply cannot cope with the problems of trying to make a few dollars stretch to cover all the price increases he has encountered.

In the bill before you today, we have the opportunity to provide some relief for at least some of the people who have been hit hardest by inflation over the last few years. We ought to gladly move to help those persons who have been disabled through military service. We can help those who have been disabled through disease or injury. We ought to extend relief to retired persons who generally have the time and desire to travel but all too often no longer have the money to do so.

The need has long existed. I believe the time has finally come to bring these changes into being and I urge support of H.R. 15026 as pertains to the elderly and handicapped.

Mr. Speaker, on page 2, section (b), there is a study to be made within the next 6 months relative to reduced-rate transportation on a space-available basis to persons 21 years of age or younger. Is this just for students or all persons under 21?

Mr. ANDERSON of California. All persons 21 years of age or younger.

Mr. ADDABBO. Mr. Speaker, I thank the gentleman.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to emphasize that the aviation subcommittee carefully weighed the question of authorizing reduced air fares for the elderly, handicapped, and youth. Our hearings disclosed a variety of viewpoints, but we concluded that there is ample justification for authorizing reduced air fares for the elderly and handicapped. As for reduced fares for those under 21, substantive questions remain unanswered, so we thought it best to mandate a 6-month study by the Civil Aeronautics Board. The bill before us contains these provisions, and we recommend it to our colleagues for their favorable consideration. I believe we have a special incentive to move in this area because upwards of 45 percent of available airline seats go un occupied—on the average—and it would benefit those of our citizens who are most in need of a break in the cost of their air transportation.

In addition, Mr. Speaker, we included two provisions in the bill which bear upon other subjects. The first would permit intrastate air carriers in California to interline both baggage and tickets—thereby enabling passengers who plan to continue their trips aboard interstate air carriers to check their baggage and purchase their tickets all the way through. This seems to be an entirely reasonable proposal—affording us the opportunity to test the interline concept in California, the most highly developed intrastate air transportation market in the Nation.

The second amends the provision in the recently enacted Airport and Airway Development Act Amendments of 1976 which imposes certain requirements in connection with the procurement of heavy airlift services by the Department of Defense. The amendment simply stipulates that any air carrier may contract to provide such service unless at least two certificated carriers are available. This corrects an inherent flaw in the original provision which appeared to sanction sole-source procurement—and it should limit the costs to the Government of procuring such service.

Mr. Speaker, I hope we can pass this bill promptly. There appears to be a strong chance that we can get it through the Congress this year because I know for a fact that there is strong support for reduced fares in the other body.

Mr. Speaker, I know of no opposition to the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 15026, authorizing reduced airfares on a space-available basis for persons who are 60 years or older and for the handicapped. This measure is parallel to H.R. 9957, a measure that I cosponsored during the 93d Congress, which provided for reduced airfare for individuals who are age 65 or older.

Mr. Speaker, the increased cost of air transportation has placed this mode of transportation beyond the reach of many of our senior citizens on fixed incomes and our handicapped. In 1973, there were nearly 30 million persons—or 14 percent of the total U.S. population—who were 60 years of age or older. This measure will provide some transportation assistance to these overburdened citizens. Accordingly, Mr. Speaker, I urge my colleagues to support this worthy legislation.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, it is a pleasure to rise in support of H.R. 15026, a bill which would not only benefit our elderly and handicapped citizens but would benefit all air travelers.

I have supported the concept of reduced air fares on a space available basis for senior handicapped citizens since I began my service here in the Congress. I have cosponsored legislation toward this end and I am delighted that this bill is finally coming to final consideration here today.

This House should be aware that, in our tremendously mobile society, many of our citizens have children and close relatives living in widely separated areas of the country. With the fares allowed under this bill, more of our citizens would be able to visit relatives and enjoy the experience of travel.

I would remind my colleagues that the cost of a full-fare ticket includes the expected revenue loss from vacant seats. I believe that the airlines should be encouraged to adopt programs that will hold these losses to a minimum, especially when the policy extends the opportunity to travel to many who would otherwise be unable to visit family and friends in distant places.

Additional provisions of this bill would allow intrastate air carriers in my home State of California to offer through ticket and baggage service in cooperation with interstate and foreign lines.

Thus, the net effect of this bill would be less expensive and improved air service for all citizens and I urge my colleagues to suspend the rules and pass this bill.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of legislation which would authorize reduced air fare transportation on a space-available basis for elderly persons and handicapped persons, would mandate a study on the economic feasibility of reduced air fares for our young people, and would permit California intrastate air carriers to offer through-ticket and baggage service in cooperation with interstate and foreign lines.

Proposals for reduced air fare have been before the Congress for many years. As you may remember, the other body has passed such bills, but they invariably have died in the House. I, for one, have been working for the enactment of such legislation for years and am pleased to see that through the hard work of our Public Works and Transportation Committee Chairman Hon. BOB JONES we are able to bring this measure to the full House for consideration.

We are discussing here a rather simple proposition. We are saying to the airlines that they may provide air transportation at reduced rates to those over 65 and those who are handicapped. This is permissive legislation. It does not mandate that reduced fares shall be granted. Nor does it mandate the amount of any reduced fare which is offered. And it leaves to the Civil Aeronautics Board the definition of "handicapped" for purposes of this legislation.

Mr. Speaker, I firmly believe this is a reasonable and responsible approach to this legislation. It allows the CAB flexibility to set the rates according to the current market pressures and allows our airlines a method by which they can fill otherwise empty seats. In fact, an average 45 percent of the seats on major airlines go unoccupied. The experience in Hawaii, where intrastate airlines offer reduced rates to senior citizens has been an overwhelming success. While Hawaiian Airlines' overall traffic grew by about 80 percent between 1968 and 1973, senior citizen fare traffic grew 338 percent, or more than four times faster than the overall growth rate. These reduced rates generated more than $250,000 for Hawaiian Airlines, of which only about $70,000—less than 30 percent—was needed to meet the actual additional costs of carrying the senior citizen passengers. More than $180,000, or some 70 percent, was available to offset overhead costs as well.

This new rate structure will allow these senior citizens, many who must live on limited fixed incomes and are deprived of the opportunity to travel, a new mobility. It will help the handicapped who, as a group, do not have anywhere near the earning capacity of those not similarly afflicted. Except for a relatively few they cannot operate motor vehicles and must depend solely on public transportation or stay at home. We have charted the way for the handicapped in the Urban Mass Transit Act and I am convinced that we must move in this direction in the case of air transportation.

Finally, Mr. Speaker, this measure before us today will begin a new experiment in through-ticket and baggage service in California. This service, which will serve as an example to other State air traffic, will greatly aid in the convenience of the traveling public by allowing them to check their baggage through and purchase their ticket through intrastate and interstate airlines.

In sum, Mr. Speaker, I support this legislation and hope that my colleagues will do the same.

Mr. SNYDER. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 15026. In addition to benefiting the elderly and the handicapped, the bill will help provide improve air service for those members of the traveling public who use intrastate air carriers.

The intrastate air carriers such as Pacific Southwest Airlines and Air California, are now providing valuable service to the traveling public. In some markets, intrastate carriers provide the only service, and in other markets they provide important competitive service. The intrastate carriers operate modern jet and turboprop equipment, and frequently provide service at fares below those generally offered by interstate carriers.

Because the intrastate carriers do not hold authority from the CAB, they are unable to offer through ticketing and baggage service for passengers who wish to connect from an intrastate carrier to an interstate carrier. Passengers wishing to connect to an intrastate carrier must purchase a separate ticket, generally at the airport.

Two of the intrastate carriers previous

ly applied to the CAB for authority to enter into interline agreements, but the Board denied their application.

Our amendment would allow intrastate carriers operating within the State of California to offer through-ticketing and baggage service in cooperation with interstate airlines. The scope of the authority awarded by the amendment is very limited. The intrastate air carriers would not gain authority to serve any new cities. All they would be allowed to do is to offer through-ticketing and baggage service for passengers who are connecting to an interstate airline. The amendment also includes provisions which will prevent the intrastate carriers from using their new authority to raise fares above the level established by the California Public Utility Commission.

Mr. Speaker, I urge the House to suspend the ruling and pass H.R. 15026.

Mr. ANDERSON of California. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I rise in support of H.R. 15026, the bill now before us, which would authorize reduced-fare air transportation on a space-available basis for the elderly and the handicapped. Such fares have long been available to ministers of religion, and it is now time that we extend them to these needy groups. Not only will reduced air fares remove a barrier to mobility which many elderly and handicapped persons now face, but they will permit airlines to lessen operating losses by filling empty seats.

However, my main concern today is section 2 of the bill. I fully support the concept of interlining, and believe that it will lead to greatly improved service for those passengers who travel routes served by intrastate carriers. The ability to book in advance on a flight offered by an intrastate airline, to use one ticket and to have baggage checked through should reduce some of the inconvenience of changing airlines. And, since some intrastates often fly their routes more frequently than the larger interstate carriers, it should be possible for the traveler to significantly reduce his time in transit.

H.R. 15026 as reported provides that California intrastates may interline with interstate carriers. I would like to point out that Florida, too, has an active intrastate airline, and that air passengers in Florida, too, would benefit from interlining. Although Florida is not included in the provisions of section 2, I would hope that the Subcommittee on Aviation and the Committee on Public Works would be willing to give Florida's inclusion early consideration in the next Congress.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman from Florida for yielding to me. I am familiar with the situation in Florida, and I agree with my friend that this provision could be beneficial to his State. While the situation in the two States is not identical, I feel that we should press for the inclusion of the State of Florida.

Mr. LEHMAN. I thank the gentleman for his comment.

In any case, this is a good bill, and I urge my colleagues to support its passage.

Mr. ANDERSON of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. FARY).

Mr. FARY. Mr. Speaker, I rise in support of H.R. 15026. Travel can be a broadening and enriching experience, especially for elderly and handicapped persons whose lives are confined by low incomes and a lack of mobility. Added opportunities for air travel will be especially welcome for elderly and handicapped persons who would find it difficut to withstand the extensive times involved in long distance surface travel. Finally, we know that reduced standby fares can work—as evidenced by successful experiments in Hawaii and Canada, fully discussed in the committee report.

Mr. BOB WILSON. Mr. Speaker, on behalf of the elderly and handicapped citizens of our Nation I rise in support of H.R. 15026, "reduced fare transportation for the elderly and handicapped persons."

The Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, of which I am ranking minority member, recently recommended in its report the need for this type of legislation to relieve one of the many problems relative to the transportation needs of our deserving elderly population. Adequate transportation is central to all other services, such as nutrition, health care, and other programs. Without adequate transportation, our older citizens are oftentimes forced to live in isolation and loneliness.

The subcommittee emphasized in its study the need for passage of legislation which would reaffirm the power of the Civil Aeronautics Board to permit the airlines to offer reduced standby fares for the elderly during nonpeak traveltimes, thus enabling them to fill an otherwise empty seat. This legislation envisions no expenditure of funds by the Federal Government and would work very much to the advantage of both senior citizens and the transportation industry. With reduced fares, many elderly people would be able to stretch their finances and visit distant loved ones.

Once families lived in close proximity throughout their lives; however, this is no longer the case in our present highly mobile, transient society. Today families are dispersed from coast to coast, separated by thousands of miles.

Due to our severly eroded economy, the elderly have barely enough income to provide for the mere essentials of life. For example, in 1973 the median income for the elderly households was under $4,600 compared to the national average of $10,500. This, when compounded by the increase in inflation of 82 percent over the past 9 years, leaves little doubt as to why the elderly find it difficult to manage to pay the present fares now charged for air transportation.

A survey by a major airline showed that only 5 percent of its passengers were 65 years of age or older; yet senior citizens account for over 10 percent of our general population. This legislation will allow standby fares for persons 60 and over by letting airlines provide discounts sufficient to attract these customers who would otherwise not be able to afford air fare. At the same time, since standby travel is less convenient, customers who were previously willing and able to pay the full fare for air travel will continue to do so. Older persons as a group are particularly suited to standby travel because their schedules can be flexible. Without deadlines to meet, they can plan their travel for times when airlines are least crowded and they are most likely to get a seat. They can afford to be flexible in their planning because they have no 2-week limit to their vacations, no set time by which they must return home.

The Civil Aeronautics Board has been limited in its ability to authorize reduced fare transportation for this very deserving group. Reduced fares were in operation in Hawaii from 1967 to 1974 when they were abandoned to avoid a lengthy challenge by the Civil Aeronautics Board as "unduly discriminatory." During its operation, the reduced fare program was quite successful, and the air carrier experienced an enormous increase in senior citizen customers who utilized the otherwise empty seats. Cost considerations are complex and in the final analysis the responsibility for this, and the decision on cost-effectiveness, will rest solely with the airlines themselves. I urge the passage of H.R. 15026 to permit the Civil Aeronautics Board to allow the airlines to provide discount standby fares for the elderly and handicapped.

This legislation would be a major step in relieving the terrible feelings of desolation and abandonment which beset so many elderly and handicapped.

Retirement should be the "golden years" when one can relax and enjoy the fruits of a lifetime of toil. We are always talking and asking "what needs to be done to help our elderly population." Well, here is one answer—the time has come to stop talking and asking and start doing.

During the last Congress, the Senate approved legislation authorizing reduced air fares for the elderly and handicapped. I introduced a companion bill, but, unfortunately, we did not get anywhere in the House. The time is ripe and I urge the Members of the House to lend their full support by passing this worthwhile piece of legislation.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 15026 which calls for amendments to the Federal Aviation Act of 1958. I am especially pleased to see that legislation of this nature has been called up for consideration by the Members of this body for I, too, introduced similar legislation in the form of H.R. 4917 which included the same basic provisions as contained in the bill before us today.

It was not so very long ago that travel

by air was used on only limited occasions by most Americans. Today, however, air transportation has become an important, often used, form of social mobility. Indeed, in some instances, such as those found in the State of Hawaii, air travel has become a necessity.

This is particularly true of the elderly and the handicapped whose age or handicap precludes other forms of transportation. Elimination of the discount for the elderly and for the handicapped has severely restricted the mobility of these people. For these two groups of people, access to this service, at reasonable cost, is a necessity if they are to be included in the mainstream of American life.

The rising cost of air transportation, since the elimination of discount rates, has been a particularly severe blow to the elderly and the handicapped. These groups tend to have below average incomes and above average cost of living. Because they more often live on a fixed income, they have been among the hardest hit by inflation.

Mr. Speaker, the economic question is perhaps most forcefully stated in the figures which show that of those persons over the age of 65 years of age living in Hawaii, 82 percent live on incomes of less than $5,000 annually, very close to the poverty line. Needless to say, in an area where the cost of living is already recognized as being extremely high, every dollar these people spend must be spent with the greatest care. The same case can be made for the handicapped, whose particular disability often requires special and costly medical care.

Both Hawaiian and Aloha Airlines canceled their respective versions of the discount program in 1974, as a result of a decision by the Civil Aeronautics Board, and touched off one of the most intensive public reactions which I have encountered in my many years in public service. Many thousands of individuals had benefited from discount fares in the 7 years of their existence in Hawaii. As the committee report pointed out, during the 7 years that Hawaiian Airlines offered reduced standby fares for senior citizens, "the carrier's senior citizen traffic grew 340 percent while its overall traffic was growing at a rate of only 80 percent."

Certainly, this is ample testimony to the importance of air travel as a means of social mobility in contemporary America. Air travel is no longer a luxury reserved for few occasions, but rather a much used form of transportation which everyone should have an opportunity to make use of.

Mr. JONES of Alabama. Mr. Speaker, I rise in support of H.R. 15026. The bill will make air transportation more accessible to the elderly and the handicapped, by filling airplane seats which would otherwise remain empty. The bill will also eliminate the unnecessary inconveniences suffered by passengers using intrastate carriers, who under present regulations must buy separate tickets and carry their own baggage if they wish to connect to an interstate carrier. Finally the bill should improve the cost efficiency of Department of Defense contracts for air transportation by reducing sole source procurement.

Mr. DODD. Mr. Speaker, the House today can take another important step forward to protect the civil rights and promote the well-being of two often forgotten segments of our population—the elderly and those who are physically or mentally handicapped.

We can do this by approving an important piece of legislation before us today, H.R. 15026—a bill authorizing reduced air fares, on a space available basis, for the 18 million handicapped and elderly in this country.

I urge all my colleagues in the House to vote for this measure.

Mr. Speaker, the elderly and the handicapped of this country face problems many of us rarely recognize. Because of age or handicap, they often are unfairly limited in the amount of traveling they can do, or the amount of income they might earn.

This measure before us seeks to deal with this problem, and remove these unfortunate restrictions on the lives of so many Americans.

By allowing the elderly and the handicapped to pay reduced air fares, when seating space is available, we will enable them to greatly expand their travel opportunities, as well as allow them to stretch their budgets.

I think all of us can recognize what such increased travel and budget flexibility can mean to people whose lives too often are closed in unjustly. It can mean lives of added enjoyment and fulfillment, as well as possibly increasing their opportunities to earn a better living through expanded business contacts and markets.

Mr. Speaker, this action also is not a new idea, so we are not upsetting the operations of our major airlines or creating an undue financial burden for them.

To demonstrate this, I would point out that Hawaiian Air Lines offered reduced standby fares for the elderly for 7 years, from 1967 to 1973. While this fare was in effect, the carrier's senior citizen traffic grew 340 percent while its overall traffic was growing only 80 percent.

In Canada, reduced fares for the elderly have been offered by domestic airlines for the past 8 years. Since the carriers have offered these discount fares voluntarily, I think it is reasonable to infer that the fares have been economically successful.

As a member of the House Judiciary Civil Rights Subcommittee, and the author of legislation to prohibit job and housing discrimination against the mentally and physically handicapped, I have become particularly aware of the hardships faced by the disabled of this Nation, Mr. Speaker.

This legislation is a positive effort to ameliorate these hardships, not only for the handicapped, but also for the elderly, and I think it should be approved overwhelmingly by this House.

Mr. ALEXANDER. Mr. Speaker, I am pleased to have had a part in bringing about consideration today of this legislation to improve the ability of our Nation's elderly and handicapped citizens to travel as they need and want through the provision of reduced air fares.

No groups have been hit any harder by inflation than the elderly and the handicapped. This is particularly true of our senior citizens who are living on fixed incomes that barely meet the basic needs for survival. In addition, in view of the attitude some commercial air carriers have taken toward providing services to handicapped persons the provision in this bill to allow reduced fares for persons traveling as attendants or companions of those who have vision, hearing, or other physical or mental handicaps is especially important.

As a sponsor of reduced fare legislation for our senior citizens I was disappointed when the House failed to follow the Senate's lead in the 93d Congress in approving provisions to allow the Civil Aeronautics Board to approve lower air travel costs for our elderly.

Allowing, as this bill does, airlines to charge senior citizens less, on a space available basis will serve a twofold purpose:

First. It will give scores of older Americans the opportunity to travel and visit friends and relatives from whom they have been separated by the ever-wider distances in our mobile society and for health purposes; and

Second. It will help fill seats on airline flights which would otherwise go empty, thereby increasing the income to the airlines and helping forestall future rate increases to all passengers.

A recent Select Committee on Aging study of the transportation problems of the elderly cites an airline survey which shows that roughly 5 percent of its passengers are 65 and older, compared to the 10 percent our older Americans constitute of the total population of the Nation.

I believe sheer economics explains why such a small percentage of the Nation's elderly travel by air.

The State of Arkansas has the second largest percentage of residents 65 and older. Aside from inadequate income and the high cost of medical care, I believe that their lack of mobility is the chief concern of our elderly.

By passing this legislation, the Congress can help to keep our senior citizens in the mainstream of American life by extending to them the convenience and comfort of travel by air. I am convinced that many of our elderly have both the desire and the time to travel, if only they could afford it.

Mrs. PETTIS. Mr. Speaker, several years ago when my late husband introduced legislation—which I have subsequently reintroduced—to grant reduced air fares to the elderly, he received numerous letters from senior citizens across the United States in support of such legislation. Among all of these letters, Mr. Speaker, one stands out in my mind as the most succinct and telling reason for passage of a similar measure today before the House.

Wrote Mrs. Lucy Kelley of Skyforest, Calif.:

> Senior Citizens have limited incomes . . . and unlimited time. The opportunity to travel, or visit friends and relations is now available . . . but the cost is prohibitive in comparison to their low income. Thus a reduction in cost will enable them to do and see more, while bringing added revenue not only to the airlines but to every area they visit.
>
> In various European Countries this courtesy is extended not only by airlines, but by hotels, eating establishments, local transportation and many other services. Yet the United States has just begun to make life more beautiful and interesting by giving this help to their Senior Citizens.

Mr. Speaker, the bill which we are considering today would indicate this Congress' willingness to provide persons 60 years of age or older, as well as the handicapped, a means to travel economically. I urge my colleagues not to deny our older Americans this chance.

Mr. ANDERSON of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 15026, as amended.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered, H.R. 15026.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AIRCRAFT REGISTRATION

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3647) to amend the Federal Aviation Act of 1958 to permit aliens holding permanent residence visas to register aircraft in the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) is amended to read as follows:

"(1) It is owned by a citizen of the United States or an individual citizen of a foreign country who has been lawfully admitted for permanent residence in the United States and such aircraft is not registered under the laws of any foreign country; or".

The SPEAKER. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. ANDERSON) and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 3647, as reported, is to permit citizens of foreign countries who have been lawfully admitted for permanent residence in the United States to register aircraft in the United States.

Under present law persons not citizens of the United States cannot register aircraft in the United States. The Federal Aviation Act of 1958 makes it unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner, or to operate or navigate within the United States any aircraft not eligible for registration. The law limits eligibility to: First, those aircraft owned by a citizen of the United States; second, those aircraft not registered under the laws of any foreign country; and third, those aircraft of the Federal Government, or of a State, territory, or possession of the United States, or the District of Columbia, or of a political subdivision thereof.

A foreign national can own and operate an aircraft within the United States provided it is registered in another country and provided that person complies with any permits, orders or regulations issued by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958. This has not been a satisfactory solution for permanent residents of the United States who wish to base their aircraft here because the aircraft must be maintained in accordance with the airworthiness requirements of the country of registry, including periodic maintenance and inspection. It is often difficult, if not impractical, for a foreign national to contract with qualified mechanics and repair stations in the United States in order to meet the particular requirements of the country of registry.

With respect to airman licensing there is no parallel problem. A foreign national can obtain a U.S. pilot license and a Federal Communications Commission permit to operate the radio transmitters aboard aircraft. The anomaly of the present law is that a foreign national can legally fly a U.S. registered aircraft in the United States, but he or she is prevented from owning an aircraft of U.S. registry.

As reported, the bill would extend the eligibility to register aircraft in the United States to citizens of foreign countries who have been lawfully admitted for permanent residence in the United States, provided, as is the present case, the aircraft is not registered under the laws of any foreign country. If a foreign national loses his or her status as a resident alien, the aircraft would no longer be eligible for registration, thus subjecting the certificate of registration to suspension or revocation by the Secretary of Transportation as provided by law.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pending bill simply would permit aliens who have been admitted to the United States for permanent residence to register their aircraft with the Federal Aviation Administration—much as they now register their automobiles with the States in which they reside. I might mention that aliens can and do obtain U.S. pilot licenses from FAA and they can and do obtain licenses for aircraft radio transmitters from the Federal Communications Commission.

In our hearings on this legislation, the witness who appeared in behalf of the Aircraft Owners and Pilots Association noted:

> An alien can legally fly a U.S.-registered aircraft in the United States, but he can't own one.

He also observed that the present prohibition "seems to be more an accident of legislative history than any real national interest." Based on the record we have compiled, I would agree that this is an accurate characterization of the situation—and I know of no reason for opposing the bill.

Mr. Speaker, the Aviation Subcommittee broadened the original language of the legislation to include any alien admitted to the United States for permanent residence—not just aliens from signatory nations to the Convention on International Civil Aviation. This action was entirely consistent with the initial concept and, in fact, strengthens the bill, in my view.

A corollary benefit of the legislation—perhaps the most important of all—would be the enhancement of aviation safety. If an aircraft operating in the United States is registered in a foreign country, it is not subject to U.S. airworthiness requirements. Inasmuch as foreign airworthiness standards may be less stringent than ours and/or compliance therewith more difficult in this country, safety no doubt is being compromised. U.S. registration would correct this problem because all affected aircraft thereby would become subject to U.S. safety requirements.

Mr. Speaker, I wish to commend our colleague Mr. GOLDWATER, for bringing this situation to our attention—and I take this opportunity to recognize his leadership in seeking a legislative remedy. I urge my colleagues to support this worthy proposal.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER), the author of the legislation.

Mr. GOLDWATER. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, the present prohibition seems to be more of an accident of legislation than any real national interest. Currently, aliens are prohibited from registering aircraft in the United States under section 501(b) of the Federal Aviation Act. Therefore, they are prohibited from owning registered aircraft. Even though they are able to obtain a radio license from the Federal Communications Commission and a pilot's license from the Federal Aviation Administration, they are not able to register an aircraft in the United States.

Mr. Speaker, this legislation simply would permit aliens admitted for permanent residence to register aircraft in the United States, provided such aircraft is not registered in a foreign country.

Again, it is just a quirk in the law and one which needs to be corrected. I urge support of the legislation.

Mr. JONES of Alabama. Mr. Speaker, I rise in support of H.R. 3647, a bill which will permit citizens of foreign countries who have been lawfully admitted for permanent residence in the United States to register aircraft in the United States.

The law prohibiting foreign nationals to register aircraft in the United States has been on the books since the Air Commerce Act of 1926, when aviation was in its infancy. I believe it can no longer be justified to deny individuals the right to register aircraft in the United States solely on the grounds of alienage, and I support this measure because it ends this outmoded restriction.

This bill does not open the U.S. aircraft registry to all, however—it contains several wise safeguards. First, it is limited in applicability to individuals, not companies. Second, the bill will only allow those foreign nationals who have been lawfully admitted for permanent residence in the United States to register aircraft. Third, it continues in effect the existing prohibition of dual registration consistent with our treaty obligations. Finally, the bill provides a means for the Secretary of Transportation to revoke a certificate of registration of a foreign national who has lost his or her status as a resident alien.

Mr. ANDERSON of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill (H.R. 3647), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on the motion will be postponed.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3647, just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

TIME REQUIREMENTS FOR CAB APPLICATIONS

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12484), to amend the Federal Aviation Act of 1958, to provide for expedited consideration by the Civil Aeronautics Board of applications for certificates of public convenience and necessity, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(a)) is amended by—

(1) striking out the center heading "NOTICE OF APPLICATION" and inserting in lieu thereof "APPLICATION PROCEDURE";

(2) inserting "(1)" immediately after "(c)";

(3) striking out the last sentence of such section and inserting in lieu thereof the following: "Unless the Board determines that the public interest requires that such application be dismissed within the time requirements set forth in the rules prescribed pursuant to paragraph (2)(A) of this subsection or the application requests authority to engage in foreign air transportation, the application shall be set for a public hearing and shall be decided by the Board within the time requirements for categories of cases and classes of applications set forth in such rules."; and

(4) adding at the end thereof the following new paragraph:

"(2)(A) Within 6 months after the date of enactment of this paragraph, the Board shall in accordance with chapter 5 of title 5, United States Code, prescribe rules which establish time periods within the Board will (A) issue an order dismissing an application for a certificate on the basis that the public interest requires such dismissal, and

"(B) Any order of dismissal made pursuant to this section shall be deemed a final order subject to judicial review as prescribed in section 1006 of this Act.".

(b)(1) The amendments made by subsections (a)(1), (2), and (4) shall take effect upon the date of enactment of this section.

(2) The amendment made by subsection (a)(3) shall take effect six months after the date of enactment of this section.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Application procedure.".

The SPEAKER. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12484 is designed to improve the procedures which the Civil Aeronautics Board uses to consider applications for certificates of public convenience and necessity. The Aviation Subcommittee has held extensive hearings on regulatory reform and at these hearings there was general agreement by all parties, including the CAB, that there is a great need for expediting the CAB's procedures.

The CAB's dilatory procedures have been used to inhibit the authorization of additional competition. For example, the Board took no action for 6 years on a 1967 application by World Airways to provide transcontinental service at a one way fare of $75. The application was eventually dismissed as "stale." In the early 1970's the Board imposed a "route moratorium" in which it refused to hold hearings on any new route applications. Because there was never a decision on the merits of these applications, the moratorium policy could not be reviewed in the courts.

To remedy these inadequate procedures, H.R. 12484 requires the CAB to establish deadlines for deciding its cases. The bill also requires CAB to issue a decision on all applications. The Board must either dismiss the application on the merits, or set it for hearing. A dismissal order would be reviewable in the courts.

H.R. 12484 does not establish specific time limits but leaves the CAB flexibility to establish differing time limits for different classes of cases. However, as reflected in the commitee report, we believe that one year would be more than adequate for the CAB to decide any but the most complex cases.

We also expect the Board's rules to include provisions as to the steps which will be taken if the Board fails to meet its deadlines. One possibility is that the rules will provide that if the Board fails to meet a deadline the decision of the Board's administrative law judge will become final.

I also note that the committee eliminated an "escape clause" from H.R. 12484, which would have permitted the Board to extend its time limits in any case in which the Board found such extension to be in the public interest. We believe that a clause of this nature could render procedural reform virtually meaningless, and we expect that the rules adopted by the Board will not include a broad escape clause.

Mr. Speaker, I urge passage of this needed legislation.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I fully concur with the remarks of the gentleman from California regarding the need to require the Civil Aeronautics Board to develop a schedule of time limits for Board action. Our lengthy hearings on airline deregulation disclosed, among other things, that the Board over the years has not rendered prompt and timely decisions in all too many instances. In fact, delay seems to have been the rule rather than the exception. In this important sense, the Board has not been responsive to its mandate and to the needs of the air transportation industry. As has been said many times and in many contexts: "Justice delayed is justice denied."

Examples from my own community are the Louisville-Washington service investigation (docket 21318) which was instituted by the Board exactly 7 years ago, Allegheny's Louisville-Memphis application (docket 24088) which was filed in 1971 and which the Board asked Allegheny to update 17 months ago, and Ozark's Louisville-Nashville application (docket 27828) which the Board held would be treated as a motion for an expedited hearing 15 months ago. The Louisville route investigation (docket 28253) has been pending for a year.

Mr. Speaker, I see no reason for spending much time on this bill. It simply requires CAB to develop a time schedule for acting on the various matters presented to it for action—and a 6-month deadline is established for developing such a schedule. Hopefully, our colleagues will agree that enactment of this legislation will serve to expedite CAB procedures—and I trust this is a goal which all of us favor.

Mr. JONES of Alabama. Mr. Speaker, I rise in support of H.R. 12484. There is no excuse for the CAB's practice of allowing certificate applications to remain inactive until they are dismissed as "stale." There is no reason for the extensive amounts of time now required for the CAB to complete those cases which are set for hearing. H.R. 12484 will give the CAB an opportunity to adopt its own regulations to improve the situation. If the Board's performance is unsatisfactory, we can pass additional legislation imposing specific time limits.

Mr. ANDERSON of California. Mr. Speaker, I yield myself 1 minute. Mr. Chairman, I thank my colleague, the gentleman from Kentucky (Mr. SNYDER), for his remarks, and I want to compliment the ranking minority member of the Aviation Subcommittee for the time, effort, and great expertise he brought in working on these bills. He is an expert and has a firsthand, intimate knowledge of the important issues addressed by these aviation bills.

Mr. JONES of Alabama. Mr. Speaker, before we take leave of the various aviation bills that have just been considered and passed, I certainly think it would be in order for me as chairman of the Committee on Public Works and Transportation to commend the distinguished gentleman from California (Mr. ANDERSON) and the distinguished gentleman from Kentucky (Mr. SNYDER) and the members of the Aviation Subcommittee, inasmuch as they have been wholly and totally dedicated to their examinations of the propositions that have been placed before us and that have been considered today.

To me this is a very rewarding and satisfying exhibition of what can be accomplished by Members who are earnest in their efforts and who apply themselves and who bring forward important and significant legislation for the better building of a greater Republic. They are to be commended, and it is a wholesome day for all of us in the House of Representatives to witness efforts such as have been exhibited here today.

Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 12484, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 12484, the bill just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ADMINISTRATIVE RULEMAKING REFORM ACT OF 1976

Mr. FLOWERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12048) amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Administrative Rule Making Reform Act of 1976".

SEC. 2. (a) Section 551 of title 5, United States Code, is amended as follows:

(1) Amend paragraph (4) of such section to read as follows:

"(4) 'rule' means the whole or a part of an agency statement of general applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency and includes any amendment, revision, or repeal of such a statement;".

(2) Insert immediately after paragraph (4) of such section the following new paragraphs:

"(5) 'emergency rule' means a rule which is temporarily effective without the expiration of the otherwise specified periods of time for public notice and comment and which was duly promulgated by an agency pursuant to a finding that delay in the effective date would—

"(A) seriously injure an important public interest,

"(B) substantially frustrate legislative policies, or

"(C) seriously damage a person or class of persons without serving any important public interest;

"(6) 'ratemaking and cognate proceedings' means agency process for the approval or prescription for the future of rates, wages, corporate or financial structure, or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor, or of valuations, costs, accounting, or practices bearing on any of the foregoing;".

(3) Redesignate paragraphs (5) through (13) as paragraphs (7) through (15), respectively.

(b) Section 556(d) is amended by striking out "rule making or" in the last sentence thereof and inserting in lieu thereof "ratemaking and cognate proceedings, rule making, or".

(c) Section 557(b) is amended by striking out "rule making or" in the fourth sentence thereof and inserting in lieu thereof "ratemaking and cognate proceedings, rule making, or".

SEC. 3. Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States that is (A) specifically authorized under criteria established by Executive order to be kept secret in the interest of the national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order; or

"(2) a matter relating to agency management or personnel.

"(b) (1) (A) Except as provided in subparagraph (B), general notice of proposed rule making shall be published in the Federal Register. In addition agencies shall make a reasonable attempt to inform those likely to be affected by the proposed rule making or, if the group is large, representative members thereof of the pendency of the proceeding; and agencies shall send copies of the notice of proposed rule making to all persons requesting such notice.

"(B) If all persons affected by the proposed rule making are named and either personally served or otherwise have actual notice thereof in accordance with law, published notice in the Federal Register may be omitted.

"(2) The notice shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings and the projected effective date of rules;

"(B) a brief statement of the purpose of the proposed rule making, and a reference to the legal authority under which the rule will be proposed;

"(C) a description of the subjects with which the rule making will deal and major issues it will raise;

"(D) the text of a proposed rule, if available, except that the agency may omit the proposed text in its initial notice of rule making, if, prior to the adoption of a rule, the agency publishes and distributes (as provided in paragraph (1) of this subsection) the text of the proposed rule, a reference to the initial notice, and a statement of the time, place, and nature of the public proceedings for the consideration of the text of the proposed rule; and

"(E) a list of the technical, theoretical and empirical studies, if any, on which the agency intends to rely in the rulemaking proceeding and a statement of where this material may be inspected or copies thereof may be obtained.

"(3) Unless notice and opportunity to public comment are otherwise required by statute, this subsection and paragraphs (1), (2), and (3) of subsection (c) do not apply—

"(A) to rules of agency organization, practice, or procedure; or

"(B) when the agency finds that—

"(i) public notice and comment are unnecessary due to the routine nature or the insignificant impact of the proposed rule, or

"(ii) emergency rules should be promulgated.

An agency which finds that a rule is within an exception specified in subparagraph (A) or (B) of this paragraph shall publish in the document promulgating such rule that finding and a brief statement of reasons therefor.

"(4) The requirements of this subsection shall not preclude an agency from—

"(A) inviting persons representing different points of view to submit.

"(B) creating an advisory committee to report, or

"(C) using other such devices to obtain suggestions regarding the content of proposed rules prior to notice of rule making.

"(c)(1) The agency shall give interested persons not less than 45 days after the notice required by subsection (b) to participate in the rule making. The agency may extend this period of time if it appears that such period is too short to permit diligent, interested persons to prepare comments or if the agency determines that other circumstances justify an extension.

"(2) The agency shall receive written statements on each proposed rule. The agency may hold hearings on a proposed rule to receive oral presentations. Any such hearing shall be conducted in such a manner, for such duration, and at such places and times as the agency shall direct. The head of the agency, one or more of the members of the body which comprises the agency, or one or more agency employees assigned the responsibility of recommending changes in the proposed rule shall preside at any such hearing.

"(3) If the agency determines that there is a significant controversy over a factual issue the resolution of which will materially affect the substance of the rule, the agency shall utilize a procedure for resolution of that issue which will permit different points of view to be adequately presented, will provide for agency objectivity in such resolution, and will not unduly delay the rule making. Not later than the date on which the rule is promulgated, the agency shall state its resolution of the issue and the reasons therefor.

"(4) The agency shall maintain a file of each rulemaking proceeding. The file shall include—

"(A) the notice of proposed rule making required by subsection (b) and any supplemental notice;

"(B) all relevant material and all material which the agency by law is required to retain on file in connection with the rule making;

"(C) the rule and statements required of the agency in formulating the rule; and

"(D) copies of petitions for exceptions to, amendments of, or repeal of a rule.

This file shall be available to the courts and the Congress in connection with review of the rule, and to the public as provided by law.

"(d)(1) After consideration of all relevant material, the agency shall adopt such rule as it deems appropriate, incorporating therein a concise statement of (A) the purpose of the rule, (B) the legal authority for the rule, and (C) any other statements required by law. In addition, at the time a rule is adopted, the agency shall place in the rulemaking file a statement setting forth the primary considerations interposed by persons outside the agency in opposition to the rule as adopted, together with brief explanations of the reasons for rejecting those considerations.

"(2) When rule making is required to be conducted in compliance with subsections (a) and (b), an agency may not adopt a rule substantially different from the proposed rule, unless (A) interested persons were apprised of such potential differences during the period for public participation and were afforded an opportunity to comment upon them, or (B) the agency gives notice as required by subsection (b)(2)(D) with respect to such revised rule and receives comments on such differences.

"(e) Unless a longer period of time is required by law or provided in the rule—

"(1) a rule may become effective immediately if it—

"(A) grants or recognizes an exemption to or relieves a restriction from a rule, or

"(B) is exempt from public notice and comment under subsection (b)(3) of this section; and

"(2) a rule which is subject to disapproval or reconsideration pursuant to chapter 6 of this title shall not take effect except as provided in sections 602(a) and 603(b) of such chapter.

"(f) At the time of promulgation of an emergency rule the agency shall commence rulemaking proceedings in accordance with the subsections (b), (c), and (d), except that the period for public comment shall be limited to 60 days unless the agency determines that an additional 30 days are necessary to enable diligent, interested persons to participate. Within 30 days after the close of the period for public comment, the agency shall issue a final rule to take effect as provided in subsection (c). Unless earlier withdrawn or set aside by court action, an emergency rule shall expire 210 days after its promulgation or upon the effective date of the final rule, whichever occurs first.

"(g) When rules are required by statute to be made on the record after opportunity for agency hearing, section 556 and 557 of this title apply to significant issues of fact in dispute instead of subsections (b), (c), and (d) of this section.

"(h) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

"(i) Unless a rule is adopted in conformity with this section, or is within an exception to the provisions of this section, no person shall be required to resort to or be adversely affected by such a rule, nor may such a rule be admitted into evidence or considered in any agency proceeding, or any judicial review of such proceeding, except that this shall not prevent a person from interposing such a rule as a defense to an agency proceeding or to a criminal prosecution, or from seeking agency or judicial review of such rule.".

SEC. 4. (a) Title 5 of the United States Code is amended by inserting immediately after chapter 5 the following new chapter:

"Chapter 6—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"601. Definitions.
"602. Resolution of disapproval.
"603. Resolution for reconsideration.
"604. Effect on statutory time limits.
"605. Computation of calendar days of continuous session of Congress.
"606. Procedure for consideration of resolutions.
"607. Effect on judicial review.
"608. Administrative Conference study .

"§ 601. Definitions

"The definitions set forth in section 551 to this title shall apply to this chapter except that—

"(1) those functions excluded from the definition of the term 'agency' by paragraph (1)(H) of such section are included in such definition for purposes of this chapter;

"(2) the terms 'rule', and 'emergency rule' shall not include—

"(A) rules of agency organization, practice, and procedure,

"(B) rules relating to agency management and personnel,

"(C) rules granting or recognizing an exception or relieving a restriction, or

"(D) rules adopted without public notice and comment pursuant to a valid agency finding that such notice and comment were unnecessary due to the routine nature or insignificant impact of the rule; and

"(3) the term 'promulgation' means filing with the Office of the Federal Register for publication.

"§ 602. Resolution of disapproval

"(a)(1) Simultaneously with promulgation or repromulgation of any rule, including an emergency rule, the agency shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), rules other than emergency rules shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by   dealing with the matter of   , which rule was transmitted to Congress on   .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third being filled with the date of transmittal of the rule to Congress; or

"(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If at the end of 60 calendar days, of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

"(b)(1) An agency may not promulgate a new rule or an emergency rule identical to one disapproved pursuant to this section unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule.

"(2) If an agency proposes a new rule dealing with the same subject matter as a disapproved rule, the agency shall comply with the procedures required for the issuance of a new rule, except that if less than 12 months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"§ 603. Resolution for reconsideration

"(a) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. The matter after the resolving clause of such a resolution shall be as follows: 'That the   directs   to reconsider its rule dealing with the matter of   which rule is found at .' (or, if a new rule, 'was transmitted to Congress on .'), the first blank being filled with the House of Congress adopting the resolution, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records or, if it is a new rule, the date on which it was transmitted to Congress.

"(b)(1) If a resolution for reconsideration of a rule, other than an emergency rule, is adopted by either House within 90 calendar days of continuous session of Congress after the date the rule was promulgated, the rule shall not go into effect. The agency shall reconsider the rule and within 60 days either withdraw or repromulgate the rule with such changes and with such public participation as the agency determines appropriate. If the agency takes no action within 60 days such rules shall lapse. If promulgated, the rule shall be subject to congressional review and go into effect as provided in this chapter.

"(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a resolution of reconsideration of a rule, the rule may go into effect at the end of such period. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation.

"(c) One hundred eighty days after passage of a resolution for reconsideration with respect to a rule which has taken effect, the rule shall lapse unless repromulgated by the agency. Unless excepted by subsection 553(a) of this title, the agency shall, not less than 60 days prior to repromulgating such a rule, give notice of a proceeding to consider its repromulgation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of this title, except that the provisions of paragraph 553(b)(3) shall not be available to the agency and the agency shall hold a hearing for oral presentations. Rules repromulgated pursuant to this subsection within 180 days of the passage of the resolution for reconsideration shall take effect as provided in section 602(a); and during the period for congressional review provided in that section the reconsidered rule may remain in effect.

"(d) A concurrent resolution of disapproval supersedes a resolution for reconsideration of the same rule or part thereof.

"§ 604. Effect on statutory time limits

"If a resolution of Congress disapproves or directs reconsideration of a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"§ 605. Computation of calendar days of continuous session of Congress

"For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"§ 606. Procedure for consideration of resolutions

"(a) The provisions of this section are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by sections 602 and 603 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b)(1) Resolutions of disapproval and resolutions for reconsideration of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Representatives to the standing committee having oversight and legislative responsibility with respect to the promulgating agency in accordance with the rules of the respective House; and such resolutions shall not be referred to any other committee.

"(2) If a committee to which is referred a resolution which has not been adopted by the other House of Congress does not report out such resolution—

"(A) within 45 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove or to require reconsideration of a rule pursuant to section 602(a) or 603(b); or

"(B) within 90 calendar days of continuous session of Congress after referral, in the case of a resolution to require reconsideration of a rule pursuant to section 603(c),

it shall be in order to move to discharge such committee from further consideration of such resolution.

"(3) If a committee to which is referred a resolution which has been adopted by the other House of Congress does not report out such resolution within 15 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove a rule pursuant to section 602(a), it shall be in order to move to discharge such committee from further consideration of such resolution.

"(4) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(c)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval or for reconsideration shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"§ 607. Effect on judicial review

"Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration shall not be deemed an expression of approval of such rule.

"§ 608. Administrative Conference study

"The Administrative Conference of the United States shall undertake a study of congressional review of agency rules under sections 601 to 606 and its effect on agency rule making and report its findings to Congress on or before July 1, 1982. The sum of $200,000 is authorized to be appropriated for such study.".

(b) The table of chapters for part I of title 5 is amended by inserting immediately after

"5—Administrative Procedure........ 501"

the following:

"6—Congressional Review of Agency
Rule Making.................... 601".

(c) The provisions of chapter 6 of title 5, United States Code, shall, for the duration of the period during which such chapter is in effect (as provided in section 6 of this Act), supersede any other provisions of law governing procedures for congressional review of agency rules to the extent such other provisions are inconsistent with such chapter.

SEC. 5. Section 706 of title 5, United States Code, is amended—

(1) by inserting "553(c)(3) or" after "section" in clause (E) of paragraph (2), and by striking out "or" at the end of such clause;

(2) by striking out the period at the end of clause (F) of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by inserting immediately after clause (F) of paragraph (2) the following new clause:

"(G) unwarranted by material in the rulemaking file when and to the extent an agency rule is not covered by clause (E) hereof, and a rulemaking file is required by section 553(c)(4) of this title or similar provision of law.".

SEC. 6. (a) This Act shall become effective at the beginning of the first session of the Ninety-fifth Congress.

(b) Section 4 of this Act shall lapse at the adjournment sine die of the Ninety-seventh Congress unless renewed prior thereto.

The SPEAKER. Is a second demanded?

Mr. STEIGER of Wisconsin. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Alabama (Mr. FLOWERS) and the gentlemen from Wisconsin (Mr. STEIGER) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 12048 provides for congressional review of the regulations issued by Federal departments and agencies. The provisions of a new chapter added to title 5 of the United States Code by this bill would permit the Congress to disapprove proposed regulations by passing a concurrent resolution. The new chapter would also make it possible for either House of the Congress to require an agency or department to reconsider proposed or existing regulations by passing a resolution directing such reconsideration. In order to relate these procedures to the rulemaking procedures of the Administrative Procedure Act as now set out in title 5, conforming and related amendments are made to sections governing administrative procedure and judicial review in title 5 of the United States Code.

CONGRESSIONAL REVIEW OF ADMINISTRATIVE RULEMAKING

The provisions for congressional review of agency regulations provided for by the bill in new chapter 6 to be added to title 5 of the United States Code, will provide the Congress with an effective means for supervising rule making. The authority to make such rules is based upon congressional enactments. Agency activity in connection with the formulation of those rules and their application are subject to congressional oversight. Since the rules elaborate upon the content, meaning, and application of statutes, the Congress has a vital interest in the basic policies given force and interpretation therein. Possibly because the complexities of our day require that Government have the flexibility to meet varied demands and problems, the courts have upheld regulations based upon statutory interpretations involving broad delegations of legislative authority. This situation requires that the Congress have a practical means to disspprove regultions or to require their reconsideration in a deliberate and reasonable manner.

The review of regulations contemplated by this bill would not involve examinations of all of the aspects and technicalities of rulemaking as followed by the departments and agencies. Rather the provisions of this bill are intended to provide the Congress with the means, give force to basic policy, and to place ultimate limits upon discretionary authority as exercised by agencies in the rulemaking process. The responsible supervision that these provisions would make possible is clearly the responsibility of the elected representatives of the people.

The multitude of rules and regulations issued by Federal departments and agencies have an increasing impact and effect upon our citizens. Repeatedly at the hearings on this legislation, witnesses testified as to the extent Federal regulations affect average citizens and impose a considerable degree of governmental interference in their lives.

While public notice and comment rulemaking procedures under the Administrative Procedure Act have proven their value and utility in the 30 years which have passed since enactment of that act, it is also true that the rulemaking process is in effect an independent aspect of Government activity in the sense that the President cannot veto the final rule nor basic law. This practical independence led one writer to characterize administrative activity as a "fourth branch of government." On the other hand, the very volume of regulations was pointed out by some hearing witnesses as the basis for a conclusion that the Congress could not adequately monitor or evaluate this Government activity. The committee feels that this would be a questionable interpretation of congressional function and responsibility. It would also be a startling interpretation if it did not proceed from a misconception of those functions and responsibilities, for it would infer an inability on the part of Congress to monitor and exercise appropriate legislative oversight and control over administrative power.

The standing committees of the Congress have the experience and competence to perform functions required under the bill H.R. 12048. In new section 606(b)(1) the bill provides that resolutions are to be referred to such committees. It is provided that they are to be referred "to the standing committee having oversight and legislation responsibility with respect to the promulgating agency."

This committee would be best suited to exercise the necessary review because the subject matter is directly related to its normal legislative work, and the procedures of the bill should provide for more effective oversight. The provisions are carefully drafted so that the normal public notice and comment rulemaking are followed in accordance with the Administrative Procedure Act and other applicable law prior to promulgation of the rule and congressional review.

It should also be recognized that the type of supervision contemplated by this bill can only be performed by the Congress. The executive branch cannot because the President cannot veto administrative rules. Judicial review, particularly as provided for in the Administrative Procedures Act (5 U.S.C. 706), is a separate matter. The courts cannot initiate action, but must await the filing of suit, and then must proceed case by case subject to the relatively limited basis followed in administrative review matters. However, most importantly, judicial review would normally not extend to substantive policy considerations as would congressional consideration. Because the procedures provided by this bill would give the Congress the ability to monitor agency rules from the standpoint of its responsibility for legislative policy and the means for congressional action to safeguard against administrative excesses. This need for continuing oversight and vigilance was expressed by Prof. Kenneth Culp Davis when he stated that in our form of government the safeguard against tyranny in government rests in "legislative supervision of administrative action.". Thus, it is intended that realistic congressional oversight over agency rulemakng as implemented by the procedures of this bill will serve to guard against irresponsible action and the ominous prospect of erosion of our freedoms.

With the procedures provided in this bill, the Congress would have available this ability or reserve authority to take timely and yet constitutionally appropriate action to either require reconsideration of a rule or to disapprove proposed rules when the form and content of such rules are found unsatisfactory, inappropriate or in conflict with basic policy. Such a rule could be disapproved by concurrent resolution under a procedure involving both House, or either House could require that an agency reconsider a rule and thereby reevaluate its provisions. In either event following congressional action the actual rulemaking process would be conducted by the agency concerned and the new or revised rule would be the product of administrative action of the agency. As was pointed out at the hearings, many regulations would not provoke a congressional response involving the consideration of such resolutions. In fact, such consideration would probably be relatively infrequent. It may also be observed that the existence of effective means for congressional review of rules should provide for an increased degree of cooperation and understanding between the Congress and administrative agencies because of the necessary exchange of information and views that such a review would entail.

The subcommittee heard from a number of witnesses on the constitutional implications in a procedure for congressional review of rulemaking as provided for in H.R. 12048. The following excerpt, from a statement by Prof. Nathaniel E. Gonzansky and Prof. Frank P. Samford of the Law School of Emory University, serves to emphasize the limited scope and basic purpose of a disapproval procedure:

> This seems to be a simple proposal for preventing abuses of the administrative process. It does not seek to strip the agencies of their power but, rather, implicitly recognizes that a modern government would find it very difficult to operate without administrative agencies exercising discretionary authority. Instead, it provides for a modest congressional input into the process. A House of Congress could not on its own amend, modify, or mandate administrative rules; it could onl veto a rule and, that, only by means of a resolution passed by the full House or Senate. One would not anticipate that this power would be exercised frequently, although the possibility of its exercise would operate to constrain the agencies in certain instances. If one believes that administrators should be subject to some control by elected officials, this influence can only be regarded as salutary.

The objections made to the congressional review features based on the limited view of the constitution fail to take into account current realities of administrative law and practice. The Supreme Court in the recent case of Buckley against Valeo noted that the framers of the Constitution viewed the separation of powers as a check against tyranny, but significantly, the Court further stated:

> But they likewise saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a nation capable of governing itself effectively.

The argument that congressional review and possible disapproval of agency regulations somehow assigns executive or judicial functions to the legislative branch of Government really requires an assumption that all governmental acts must be classified as executive, legislative, or judicial and reserved only to the branch of Government having that specific responsibility. This does not square with the realities of practice and procedure of administrative agencies, for these agencies clearly perform functions that are executive, judicial, and legislative in character.

This, then, is what is intended by the congressional review provisions contained in this bill. The aim is not to eliminate the executive discretion necessary to carry into effect the policies of the laws enacted by Congress, but it is intended to be a practical means to control such exercise as manifested in rulemaking to the degree that the agencies be required to submit regulations to the Congress for review and possible disapproval.

The procedures for congressional review of agency regulations provided in H.R. 12048 are intended to apply in light of modern realities. First of all the review relates to rulemaking, that aspect of administrative procedure that is obviously legislative in character and the activity most involved with the definition of policy. The determination made in rulemaking could be made in the first instance by Congress itself. Since this power has been delegated to administrators by Congress it would be anomalous if the Congress were prevented from exercising the limited oversight and option to disapprove regulations contemplated by this bill. This is quite a different thing than the exercise of a recognized executive function. This does not involve an attempt to dictate content or to participate in rulemaking procedures. The congressional review would occur after completion of statutory rulemaking procedures, and the only action which could be taken would be for the Congress to disapprove a proposed rule by concurrent resolution or for a single House to require an agency to reconsider a rule and repromulgate the rule following the same statutory rulemaking procedures. Thus the administrative functions associated with rulemaking are separate from the limited right of review accorded Congress by this bill.

The concurring opinion of Justice White in the case of Buckley against Valeo commented upon the procedure for congressional review of regulations as provided in section 316(c) of the amended Federal Election Campaign Act of 1971 (2 U.S.C. sec. 438(c)). The provisions of that statute provided for disapproval of a proposed rule by one House of Congress, and Justice White held that otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power by a statutory provision subjecting agency regulations to disapproval by either House of Congress.

DEFINITION OF RULE AS PROPOSED IN THE BILL

Section 2 of the bill provides for a change in the definition of "rule" as contained in the Administrative Procedure Act provisions of section 551 of title 5 of the United States Code.

Subsection (a) of section 2 amends the definition of "rule" to exclude agency statements of particular applicability. That is, statements applicable to named or similarly specified parties, and to delete that part of the definition which classifies any agency approval or prescription for the future rates, wages, corporate structures, and so forth as a rule. On the other hand, all actions of particular applicability would be classified as "orders" and the process of taking such actions as "adjudication." The change in the language of this definition is based upon the recommendation of the American Bar Association originally approved by that organization in 1970. In 1973, this recommendation was also approved by the administrative conference. As it was noted in the American Bar Association comment accompanying the recommended change, the present definition of "rule" in section 551 has the effect of including within the "rulemaking" category those governmental functions which historically were considered legislative in nature.

Experience under the Administrative Procedure Act since its enactment in 1946 with the present definition of rule and rulemaking, has shown that the distinction between rulemaking and adjudication based on a concept which divides administrative proceedings according to government functions which were historically legislative or judicial in nature is not appropriate where both functions are commonly performed by a single administrative agency. A more useful distinction would be that provided in this bill which makes the distinction between proceedings having general applicability and those which do not. Proceedings having general applicability are those in which the members of the public affected can be described as a class but cannot be identified because the proceedings deal with future members of the class rather than with present or past members of a class. In all other administrative proceedings, it is possible to identify all of the members of the public affected. They are either named in a proceeding of particular applicability or they represent the past or present members of a class who can be so identified. The revised definition in the amendment added by this bill will provide for a distinction based upon this functional distinction between proceedings.

EMERGENCY RULES

Section 2(a)(2) of the bill in amended section 551 provides for a new paragraph (5) defining "emergency rule." This provides for rule of temporary effectiveness which may be promulgated without being subject to the normal periods for public notice and comment when an agency finds that a delay in putting the rule into effect would—

First, seriously injure an important public interest;

Second, substantially frustrate legislative policies; or

Third, seriously damage a person or class of persons without serving any important public interest;

An emergency rule would, therefore, be available to agencies in situations fitting the above criteria and where the emergency rule would be in effect while normal procedures are followed for notice and comment rulemaking and congressional review of a proposed rule.

AMENDMENTS TO SECTION 553 OF TITLE 5 OF THE UNITED STATES CODE

The bill H.R. 12048 provides for a series of amendments to section 553 of title 5 which is the section of the Administrative Procedure Act which governs rulemaking. The section provides for public notice of proposed rulemaking and for participation by the public in that rulemaking through the submission of written comments, the amendments added by this bill are intended to increase the opportunity for public participation in rulemaking and to make necessary changes in the section to conform its provisions to those of new chapter 6 of title 5 on congressional review of rulemaking also provided for in the bill.

AMENDMENTS OF THE EXEMPTIONS APPLICABLE TO MILITARY FOREIGN AFFAIRS FUNCTIONS

Subsection (a) of section 553 of title 5 provides exemptions to the rulemaking provisions of the section. The first exemption in section 553(a)(1) is for "a military or foreign affairs function of the United States." In 1970 the American Bar Association recommended that the exemption be revised so that normal notice and comment rulemaking procedures would apply except as to "rulemaking which is specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." The administrative conference, in a recommendation adopted December 18, 1973, recommended the elimination of the present categorical exemption from general procedural requirements relating to rulemaking. In its place it was recommended that where rulemaking involves matters in which the usual procedures are inappropriate because of a need for secrecy in the interest of national defense of foreign policy, that rulemaking should be exempted on the same basis now applied in the freedom of information provision, 5 U.S.C. 552 (b)(1).

The administrative conference recommendation was that section 553(a) should be amended to contain an exemption for rulemaking involving matters specifically required by Executive order to be kept secret in the interest of national defense or foreign policy. The language of the bill follows this suggestion with the addition that the matter is "specifically authorized under criteria established" by Executive order to be kept secret as above. The bill also adds an additional requirement that the matter be "in fact properly classified pursuant to such Executive order". Accordingly, the bill would exempt:

> (1) a matter pertaining to a military or foreign affairs function of the United States that is (A) specifically authorized under criteria established by Executive order to be kept secret in the interest of the national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order; or

Section 552(b)(1) referred to above contains provisions added by the Freedom of Information Act in 1967, as further amended in 1974 by Public Law 93–502. Thus, the language of the amendment provided for in this bill is consistent with these earlier amendments to the Administrative Procedure Act.

ELIMINATION OF THE EXEMPTIONS FOR MATTERS RELATING TO PUBLIC PROPERTY, LOANS, GRANTS, BENEFITS, AND CONTRACTS

The bill would eliminate the present rulemaking exceptions for public property, loans, grants, benefits, or contracts now contained in section 553(a)(2) of title 5. Here again the purpose is to provide increased public participation in the rulemaking process under the proven procedures for public notice and comment under the Administrative Procedure Act.

In 1941, prior to the enactment of the Administrative Procedure Act, the Attorney General's Committee on Administrative Procedure concluded that the rulemaking processes of Federal agencies should be adopted to give persons adequate opportunity to present their views. That committee in its report viewed public participation in the rulemaking process as essential in order to permit administrative agencies to inform themselves and to afford adequate safeguards to private interests.

It was further pointed out that public participation assists agencies in rulemaking in that it is a means for obtaining "the information, facts and probabilities which are necessary to fair and intelligent action." This committee has concluded that 30 years of experience under the Administrative Procedure Act have proven the wisdom and practicality of this principle and that the time notice and comment procedures to matters relating to public property, loans, grants, benefits, and contracts.

In a recommendation adopted on October 22, 1969, the administrative conference recommended the elimination of these exemptions. It was pointed out that rules relating to these subjects may bear heavily on nongovernmental interests.

As has been noted, the provisions in sections 1 and 2 of the bill, H.R. 12048, include provisions similar to those included in the bill, H.R. 10194. The provisions in section 3 in providing for the revision of section 553 provide for the revision of the exception concerning military and foreign affairs functions and the elimination of the categorical exceptions for public loans, grants, benefits, and contracts. At the hearing on that bill held on December 4, 1975, Mr. Richard Berg, executive secretary of the administrative conference, stated that the two proposals implemented in the bill H.R. 10194 were those on which there is entire agreement between the American Bar Association and the administrative conference. He noted that the bill would delete entirely these so-called proprietary exemptions.

The deletion of exemptions for loans, grants, and contracts will make it possible for affected individuals and organizations to participate in notice and comment rulemaking as provided for in this section and therefore be given the opportunity for a voice and meaningful input in the formulation of regulations. It is relevant to note the specific point raised in the testimony of the witness representing the American Bar Association at the hearing on H.R. 10194 on December 4, 1975, as regards Defense Department procurement regulations. The prepared statement of Mr. William Warfield Ross of the administrative law section of that association included the following observation:

> One of the current exceptions permits agencies to omit notice and comment on rules relating to "public property, loans, grants, benefits, or contracts." The ABA proposal would eliminate this so-called "proprietary exemption."
>
> Under the present exemption, the Defense Department promulgates bidding procedures for billions of dollars of contracts without providing contractors or anyone else an opportunity to comment. The result is that rules are sometimes adopted which are either unfair or unworkable or both because they do not take account of relevant matters not known to the issuing agency. There is nothing inherently secret about these procedures and there is, therefore, every reason to subject them to public comment just like other agency rules.

OTHER AMENDMENTS TO SECTION 553 RELATIVE TO PUBLIC NOTICE AND COMMENT IN RULEMAKING

The provisions of section 553(b) presently provide that general notice of proposed rulemaking shall be published in the Federal Register unless they are personally served or have actual notice. This language is retained in revised 553(b)(1), but the revised language includes an additional requirement which is intended to alert persons likely to be affected to the fact that the procedures for proposed rulemaking have been initiated. The revised language requires agencies, in addition to giving the statutory notice, to make a reasonable attempt to inform those likely to be affected by the proposed rulemaking. In the case of large groups, the requirement is to inform representative members of the proceeding. Agencies could utilize available publications such as trade journals or financial newspapers where appropriate. It could be that the sending of news releases would serve to perform this function.

The notice requirements now set forth in section 553(b) is substantially retained in revised section 553(b)(2) with additional requirements which are intended to better inform the public concerning the proposed rulemaking. In addition to the present requirement of a statement of the time, place, and nature of the rulemaking proceedings, the projected effective date of the rules is to be included. A new requirement of a brief statement of the purpose of the proposed rule is included along with the existing provisions for a reference to the legal authority for the proposed rule. In order to give the public a better understanding of the scope and content of the rulemaking proceeding, there would be a description of the subjects with which the rulemaking will deal and the major issues it will raise.

At the hearings in October and November of last year, there were some comments that persons commenting on rulemaking proceedings had at times encountered difficulty in commenting on the substance of a particular rule because of a lack of clarity concerning the content of the rule or because its ultimate provisions were quite different from those expected in the course of the comment proceeding. New section 553b(2)2 (D) deals with the problem by requiring that the notice include the text of the proposed rule, if available. If omitted the text would be subsequently made known through a subsequent notice.

Some commentators have noted the difficulties encountered in some rulemaking proceedings where the nature of the subject matter is such that the agency will place considerable reliance on technical, theoretical, or empirical studies. Thus, it is assumed that in the notice stage of the rulemaking process, the public will be aware of important advice received from experts, and of the critical experimental and methodological techniques on which the agency intends to rely. Thus the agency should not rely on any research methods or data not presented to interested parties for comment and criticism.

The exceptions to subsection (b) of present 553 are presently found in that subsection as follows:

> Except when notice or hearing is required by statute, this subsection does not apply—
>
> (A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or
>
> (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The exceptions to the notice and comment procedures in the revised section are set out in new section 553(b)(3). It is there provided that, except as otherwise required by statute, subsection (b) and paragraphs (1) notice, (2) comment, and (3) factual determinations, of subsection (c) do not apply to the enumerated subjects. The present exception for rules of agency organization, procedure, or practice is retained. However, the exceptions for "interpretative rules" and "general statements of policy" are not contained in the revised language.

Similarly, the language of (B) in the present subsection has been revised to eliminate the so-called good cause exception. In its place is a more limited exception which would permit an agency to omit notice and comment when it finds that notice and comment are unnecessary due to the routine nature or the insignificant impact of the proposed rule. The other exception provided is a new one and relates to emergency rules when an agency finds that they should be promulgated. It should be noted that while some instances be utilized in lieu of the present "good cause" exception, notice and comment would be required in connection with the proposed rule which would be required to be promulgated to replace the emergency rule—see revised section 553(f) as contained in the bill. In paragraph 4 of subsection (b), it is made clear that agencies are free to invite suggestions as to the content of proposed rules prior to notice of rulemaking.

Subsection (c) of section 553 is revised to provide, in four subparagraphs, the requirements concerning the public comment stage of the rulemaking process, and there is included a specific requirement for a rulemaking file. Subparagraph (1) provides for a period of not less than 45 days after notice to participate in the rulemaking. This period actually increases the minimum period for such participation which is now based on the provision in the Federal Register Act, 44 U.S.C. 1501-1511 which provides for a minimum period of 15 days.

Paragraph (2) of subsection (c) provides for written statements much as in present subsection (c). Provision is made for oral presentation with more detail than in the present statute as to the authority of agencies to hold hearings for that purpose. It is further stated that the head of an agency, one or more of the members of the body which comprises the agency or "one or more agency employees assigned the responsibility of recommending changes in the proposed rule shall preside at any such hearing."

As has been indicated above, subparagraph (3) of new subsection (c) concerns resolution of factual issues. It is provided that when an agency determines that there is a significant controversy over a factual issue which will have a material effect on the substance of the rule, it shall use an appropriate procedure for the resolution of that issue. The language of the paragraph is consistent with the flexibility of informal rulemaking in that the agency is to select a procedure for that resolution which will permit adequate presentation of differing points of view, provide for agency objectivity and shall not unduly delay the rulemaking.

New paragraph (4) of revised subsection (c) provides that the agency maintain a file of each rulemaking proceeding. The file must include the notice of the proposed rulemaking and any supplemental notice, all comments received in connection with it, and transcripts of hearings or supplemental proceedings on controverted views of fact. Also included would be studies, reports or the material considered by the agency in formulating the rule, and other material deemed relevant or required by law. The file would contain the rule and statements required by the agency in formulating the rule. Finally, the file would contain copies of petitions for exceptions to, amendments of, or repeal of a rule. This file would be available to the courts and the Congress in reviewing the rule, and to the public as provided by law.

New subsection (d) of revised section 553 contains additional requirements to inform the public concerning adopted rules. The new subsection restates the present requirement of present subsection 553 (c) that an agency incorporate in an adopted rule a statement of the basis and purpose of the rule. The new subsection (d) covers this subject by requiring a statement of the purpose of the rule, the legal authority for the rule, and any other statements required by law. When the rule is adopted, the agency is to place a statement in the rulemaking file which sets forth the primary considerations asserted by persons outside the agency in opposition to the rule as adopted together with brief explanations of the reasons for their rejections.

New subection (d)(2) would bar adoption of a rule "substantially different" from the proposed rule unless interested persons were apprised of the differences and given an opportunity to comment, or the agency gives notice as provided in section 553(b)(2)(D) concerning notice including text of a proposed rule and receives comments and the differences from the original proposed rule. At the hearing on October 29, 1975, it was pointed out that it was possible for a rule to be adopted which was substantially different from the proposed rule upon which comments were received. Procedures permitting comment on the substance of all proposed rules would more nearly assure fairness and protect the rights of the public which is fundamental to the process of informal rulemaking. It is felt the provisions of subsection (d)(2) will accomplish this purpose.

New subsection (e) is a revision of present subsection (d) now providing exceptions to the present 30-day minimum delay in effect date of rules. The revised subsection (e) would provide for immediate effectiveness for rules granting or recognizing an exemption or relieving a restriction. It would also provide for immediate effectiveness for rules of agency organization, practice or procedure and rules which are of "routine nature" or have "insignificant impact." Emergency rules as defined in new paragraph (5) added by the bill to section 551 of title 5, could also be made effective immediately. As to other rules, the effective date would be governed by sections 602(a) and 603(b) in new chapter 6 on congressional review of rulemaking added to title 5 of the bill.

Subsection (f) concerns the commencement of rulemaking procedures upon issuance of an emergency rule. There is a limit of 60 days for public comment with provision for an additional 30 days if found necessary. The rule is then to be issued within 30 days. Unless earlier withdrawn, an emergency rule will expire upon the effective date of the final rule or after 210 days, whichever occurs first.

Subsection (g) provides that when rules by statute are required to be made on the record after hearing, sections 556 and 557 are to apply to significant issues of fact in dispute, instead of subsections (b), (c), and (d) of revised section 553. Present subsection (c) has similar language but does not have the reference to "significant issues of fact in dispute." This provision means that the more formal hearing procedures of section 556 are to apply in this manner as are the provisions of section 557 to hearings governed by the other section.

Subsection (h) is essentially a restatement of present subsection (g) requiring each agency to give interested persons the right to petition for a rule's issuance, amendment or repeal.

Subsection (i) provides language somewhat similar to that found in the Federal Register Act (44 U.S.C. 1507) and the Freedom of Information Act (5 U.S.C. 552) as to the effect of a rule which fails to comply with the section. The language of the subsection would provide that unless falling within an exception, a rule not adopted in conformity with section 553 cannot be admitted into evidence or considered in any agency proceeding, or in any judicial review of that proceeding, nor would any person be required to resort to or be adversely affected by such a rule. However these provisions are not to be interpreted as preventing a person from interposing such a rule as a defense to an agency proceeding or to a criminal prosecution, or from seeking agency or judicial review of the rule.

The provisions of this bill will provide the Congress with the means to disapprove regulations or to direct their reconsideration and this will be of logical and valuable assistance to the Congress in exercising oversight over administrative activity. However it is even more important to recognize that these provisions will give the Members of Congress the means to discharge their constitutional responsibility as the elected Representatives of the people to define the content and effect of laws of the Nation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, could the gentleman tell me how many rules and regulations annually would be subject to the review provisions of this bill on the basis of past performance?

Mr. FLOWERS. Mr. Speaker, I would say to the gentleman from Ohio that there is no way of knowing annually. There would be literally thousands of rules and regulations that would be subject—and the key and actionable word here is "subject"—to the review mechanisms of this bill. They would not necessarily be reviewed, but they would be subject to review.

All of these rules and regulations should be reviewed to some degree by the various committees of the House of Representatives.

This bill would not in any wise affect the jurisdiction of the committees of the House and the Senate. The committees which would naturally have jurisdiction of the subject matter would continue to have jurisdiction and review of the rules promulgated and which would be subject to review hereunder.

Mr. SEIBERLING. Mr. Speaker, if the gentleman would yield further, could the gentleman tell me whether any study has been made as to how many rules and regulations each committee might have to review each year or have submitted to it for review?

Mr. FLOWERS. There is no way of telling. This is one of the things, I would say to the gentleman from Ohio, that really prompted us to act in this field. I know the gentleman from Ohio finds fault with the legislation for the same reasons I myself think it is necessary. So we are really at loggerheads here.

There have been some 10,000 pages of rules and regulations promulgated from about a 9-month period in 1975. That is one of the things that I think calls out so loudly and clearly for this kind of legislation. The agencies, the departments and the executive branch are literally drowning us in rules and regulations in my judgment and in the considered judgment of those who support this legislation. They would be not so apt to attempt to drown us or snow us under in this way if this legislation were in place.

I think it gives the Congress, the House, and the Senate an additional tool, and a much needed tool to regulate the regulators. You know, this is doing what we say we are going to do when we speak of exercising oversight and we can do it in this way. The people who are for this are people who are the gentleman's constituents and my constituents. I dare say if you have been out in the hustings in this election year that one of the things the people in your district are concerned about and complaining about are the great morass of rules and regulations that are confronting them day in and day out, week in and week out, and year in and year out, which are put into effect by bureaucrats who are not responsible to the people. We have talked about doing something about it, this vote today is going to be evidence of whether we want to do something about it or not.

Mr. SEIBERLING. Mr. Speaker, would the gentleman yield further?

Mr. FLOWERS. Yes.

Mr. SEIBERLING. Under the bill, as I understand it, 20 percent of the membership of either body could discharge a committee of a particular rule or regulation that was within its jurisdiction and bring it to the floor for review. Has any study been made as to how many such rules might be expected to reach the floor under this type of procedure during a particular session?

Mr. FLOWERS. No, I do not know how we could make a study. I will say to the gentleman from Ohio that I think one of the very fine features of this legislation is that it is for a time certain. The legislation would come to an end in three Congresses, or 6 years. During that period of time there is authorized a sum of money for the administrative conference to study the effects of the legislation, that legislation would make it possible to study actual experiences, it would create a laboratory, so to speak. If we find it is not working we would not renew it. There is no way to study what might result from procedures for discharge by 20 percent of the Members. The only logical thing we can do is try it and see how it works.

In my judgment, Mr. Speaker, congressional oversight over administrative regulation now is not working very well. This process will give us a chance to act. I think it is important for this House to firmly set forth in that direction.

Mr. SEIBERLING. If I could ask one more question, does the legislative history of this bill give any indication as to the extent to which the staff of one of our committees, for example, with respect a particular rule submitted by an agency under this bill, would review the entire hearing record that that agency developed as the basis for promulgating its rule? Or would they just sweep that aside and start over again, without studying the agency hearing record? Is there anything in the committee report or the bill that requires a complete review of the entire record before the agency?

Mr. FLOWERS. I will say to the gentleman, utilization of this authority will be like in considering legislation. Some committees do a more thorough job than others. I do not think we can dictate to any standing committee of the House the extent of staff work they must employ on any given matter, whether it is a rulemaking review or legislation. It gives the same latitude to committees that they have now in considering legislation. It is contemplated that committee chairmen, subcommittee chairmen, members of the committee, and their staff members will be thorough and they will be fair, and that is all. It is not contemplated by this Member as one of the sponsors of the legislation and managing it here on the floor, that every rule that is promulgated would necessarily be reviewed. Committees might use a spot check mechanism. They will certainly have certain matters flagged to their attention by aggrieved parties, so to speak, but it is not also contemplated that we would have a rerun or a rehash of all of the intricate rulemaking hearings and consideration that we have in the agencies. Congress is clearly not set up to do that; have no fear of that.

Mr. SEIBERLING. Would the gentleman yield for just one final question?

Mr. FLOWERS. I yield to the gentleman for one final question.

Mr. SEIBERLING. My final question is this: If, as the gentleman says, the great majority of the agency rules will probably not be challenged by the Congress under this procedure and within the time constraints set forth in the bill, does that mean that thereafter the agency rules will be deemed to have been approved by Congress, and that Congress will then have assumed the responsibility, political and legislative, for those particular pieces of rulemaking?

Mr. FLOWERS. Clearly not. The bill clearly states on page 20, section 607, line 4:

> Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration shall not be deemed an expression of approval of such rule.

Mr. SEIBERLING. If the gentleman would yield further, as a practical matter, will our constituents not hold us responsible because they will say we had the opportunity to veto the rule and we did not do so?

Mr. FLOWERS. I think the gentleman has hit upon the real rationale behind this rule. We in the Congress pass myriad laws and pieces of legislation that go on the books, and we invest the agencies with all of this vast power to make rules and regulations, and then we stand back and say when our constituents are aggrieved or oppressed by various rules and regulations, "Hey, it's not me. We didn't mean that. We passed this well-meaning legislation, and we intended for those people out there in the Occupational Health and Safety Administration or EPA or the Department of Justice, or wherever the case may be, to do exactly what we meant, and they did not do it." The gentleman knows the responsibility is laid right at our feet where it ought to be anyway. This is in effect making us more responsible, and I think it is a part of reassuming congressional oversight that we have just begun in this Congress, and I think this carries it a giant step forward.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Speaker, as Members of Congress, we have all heard the frustrated complaints of our constituents—businessmen, farmers, senior citizens, educators, persons in the health professions—concerning various unreasonable or unrealistic bureaucratic regulations. As legislators, we recognize that all too often the intent of the laws we enact is altered, or even distorted, when the regulations implementing those laws are issued. This bill represents an effort by Congress to right that wrong. Through H.R. 12048 we can regain control over an aspect of the legislative process that we have thoughtlessly delegated and ignored.

Early in the 94th Congress I joined in cosponsoring Congressman Del Clawson's version of the "Legislative Veto" (H.R. 8231). The Clawson bill, which is a direct predecessor of the measure we consider today, is perhaps the most far-reaching legislation that has been introduced on this subject in the House. I also introduced related legislation—H.R. 10301—proposing a number of revisions in the rulemaking process. Of particular note, is a concept that later found its way into H.R. 12048. That is, the need to expand the minimum comment period allowed interested individuals and organizations under the Federal Administrative Procedure Act. Right now, the law only requires that Federal agencies allow 15 days for comment from the time of publication in the Federal Register—44 United States Code section 1508(2). Such a short comment period is clearly inadequate, given the complexity of most regulations. I urge a 60-day statutory minimum period; H.R. 12048 would require a minimum 45-day comment period.

Consequently, by the time our subcommittee began its deliberations on the various congressional veto proposals, I had some rather strongly defined ideas about both the need for congressional veto and need to reform the rulemaking process in general. H.R. 12048 addresses both of these important issues in an omnibus fashion.

The Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee held a series of seven hearings in October–November 1975. Primarily these hearings focused on the somewhat contrasting approaches taken in the two bills proposing a generalized legislative veto. These were the aforementioned H.R. 8231, sponsored by Congressman Del Clawson and H.R. 3658, sponsored by Congressman Elliott

LEVITAS. The issues surrounding the need for revisions in the rulemaking section of the Administrative Procedure Act were also extensively discussed. The subcommittee heard from congressional and administration witnesses, Constitutional-legal scholars, numerous Federal agencies, interested private organizations, as well as from members of two State Legislative Committees which conduct a similar review of regulations.

The heart of the Administrative Rulemaking Reform Act is section 4, providing for both disapproval and/or reconsideration of agency regulations. The procedure called for is broad in its impact. It would apply to all regulations, including those carrying criminal penalties, promulgated by agencies subject to the APA. The subcommittee also felt that it was not necessary to create new standing committees in the Senate and House to carry out this oversight responsibility. We rejected the idea that the existing committees of Congress had neither the will nor the expertise to scrutinize proposed rules. The procedure will not result in undue delay, as has been charged by many of its opponents. At worst, a proposed rule will be delayed in terms of its effective date by 90 days. Certainly, a 90-day period is hardly not unreasonable or an undue delay when one views it in the context of the normal time frame for the development of agency regulations.

Section 602 sets down the procedures and time periods for either, or both, Houses of Congress to adopt a concurrent resolution of disapproval—congressional veto—of new proposed rules. The basic congressional review period—delay in implementing final regulations—is set at "60 calendar days of continuous session of Congress" after promulgation of a rule—filing with the Office of the Federal Register for publication. If no committee has reported out a resolution of disapproval within those 60 days—and the committee has not been "discharged from further consideration" of the resolution, and neither House has adopted such a resolution—then, the rule may go into effect at the end of the 60-day period.

If, however, within the same 60 days, a committee has reported out, or been discharged from further consideration of a disapproval resolution—or either House has adopted the resolution—the congressional review period is extended an extra 30 calendar days. A proposed rule may not then take effect during that 90-day period.

Of course, the proposed regulation never goes into effect if it is disapproved by both Houses during the 90-day period. A resolution of disapproval is also successful if it is adopted by one House and the other House does not act to reverse the action of the first House, during the 30-day congressional review extension period.

Section 603 establishes a somewhat similar procedure and time period for either House of Congress to adopt a resolution directing an agency to reconsider a new or existing rule. Importantly, it provides for both prospective and retroactive review. Again, the basic congressional review period is 60 calendar days of continuous session of Congress after promulgation. The issuing agency must reconsider the regulation, and within 60 days after adoption of the congressional resolution, either withdraw or repromulgate the rule. If the agency takes no action, the rule lapses. If repromulgated, the rule is again subject to the full congressional review process. In the cases of retroactive review and reconsideration of an existing rule, the agency has 180 days to repromulgate, during which time it must allow a minimum of 60 days public "notice of a proceeding to consider repromulgation," and, the agency is required to conduct a formal hearing with oral presentations on the matter. During the reconsideration process, as well as the subsequent period of congressional review, the existing rule may remain in effect.

While these procedures may seem unduly cumbersome on paper, I am convinced that they can work smoothly and effectively. I remain unpersuaded by the arguments that a legislative veto is constitutionally questionable. Administrative rulemaking is in the nature of legislation, and Members of Congress are legislators. We have every right to recall part of a power which we have delegated. I strongly urge my colleagues to suspend the rules and support H.R. 12048.

Mr. FLOWERS. Mr. Speaker, I reserve the remainder of my time.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the bill that is before us at this point is designed to try and deal with the kind of frustration that we hear expressed throughout our constituency. The gentleman from Alabama has correctly stated that we have heard comments from our constituency which reflects that frustration about the bureaucracy and about the rules and regulations.

But this bill is the wrong bill at the wrong time in the wrong Congress and in the wrong way. I cannot stand still or sit idly by and see this Congress attempt what I consider to be a most serious error were we to pass this ill-considered, untimely bill. All of the consideration, all of the discussion, all of the listening has produced a product that is worse than the malaise.

The concept of the legislative veto in my judgment is subject to serious constitutional question, but perhaps from the standpoint of this time and this place, Mr. Speaker, we are asking this House, the 435 Members to make a rational judgment on a bill of profound importance that touches everyone of us, all of the executive agencies, and all of our constituents, and do this in 40 minutes of time and without amendments. This is not the day, this is not the time, and this is not the procedure by which to take up a bill of this magnitude and attempt to cram it down the throats not only of the House, but also of the agencies and all of our constituents.

We will rue the day if this bill becomes law—and I hope it will not—and I hope the President will veto it if the bill gets to him if it should happen that we pass this bill in this fashion.

I would like to point out some of the reasons why we should not pass this bill in this way today.

First, the committee reports states at some length the views of Mr. Justice White in the Buckley against Valeo decision, which is reported at pages 13 and 14, with the report of course conveniently forgetting to look at the rest of the Buckley decision.

The May 1976 Duke Law Journal has a most interesting and thoughtfully analytic view of the Buckley decision. Let me read from the conclusion of that astute article:

> Despite the Court's disclaimer,[70] the analysis developed here suggests that in *Buckley v. Valeo* the Supreme Court in fact took a significant step toward resolving, the constitutionality of the congressional veto of administrative action. The statement of philosophical premises and principles of construction necessary to the *Buckley* decision is "strong evidence of a strict view of the doctrine of separation of powers and an unwillingness to dilute the literal meaning of the constitutional provisions in which the doctrine is embodied." To uphold the constitutionality of a congressional veto provision like one of those now before Congress would be virtually impossible without doing violence to the language and logic of the lengthy, carefully reasoned, and politically sensitive *Buckley* decision.

I think that analysis is essentially correct and this bill would be subject to a serious constitutional challenge. As a matter of fact there is now a suit pending brought by Ramsey Clark with the support of the President and the Attorney General.

Second, this is not the time to attempt to deal with this important matter in 40 minutes of debate and considering the fact that we cannot offer any amendments and we are precluded from undertaking even the most minimal kind of justification for the legislation under consideration.

Third, the administration opposes this bill and has said it will be vetoed.

I think this would not be a bill we should pass at this time under these circumstances.

Also, the other body has done absolutely nothing on this except hold hearings with little expectation of any action.

We are in a sense voicing our frustration over the bureaucratic problems by attempting to pass here a bill which will not go anywhere. I think it would be ill considered to pass this bill not only because it is bad legislation but also because I think it will not go anywhere at this time.

I urge my colleagues in spite of the frustrations and the good intentions and the sense that we want to undo what we struggle with, to rise above that frustration and vote "no" on the bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the able and distinguished leader of the opposition, the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as the gentleman knows, I share his misgivings about the bill and at the same time I share his concern about some of the legislative grants of power over the years and the abuses that have been made of the power in the past by the administrative agencies, but this is not the cure.

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[70] 96 S. Ct. at 692 n.176.

As a matter of fact, looking at our proceedings in this body at this very moment, where we are struggling to keep up with our normal legislative workload, we are not making the kind of progress we should.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker. I ask the Members if they can imagine what is going to happen if, on top of the normal legislative workload, are dumped each year 15,000 to 20,000 additional rules and regulations promulgated by the administrative agencies.

The gentleman from Alabama says congressional committees do not have to report out a single agency veto legislation if they do not wish to. But if Congress is really going to assume this function, and not make it a charade, it seems to me we will have to add to the staff of every congressional committee at least one staff person, just to review the administrative rules and regulations within its jurisdiction. In fact, if the committees are really going to do their job, many of them will have to add more than one new staff person, for the staff are going to have to scrutinize the entire hearing record that each agency within the committee's oversight jurisdiction compiled in support of each agency rule submitted to the committee for review. Remember, the Administrative Procedure Act mandates that each agency have a full and fair hearing before they can promulgate a rule.

So I think we are going to end up under this bill with no better administrative rules, but we are going to undermine our own legislative process by taking on a job we cannot possibly do.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, is the gentleman's argument that we should not take up this type of review, because it is too much work? Because, if in fact, the rules passed by the administrative agency are laws and people can go to jail if they violate them, then it is nothing more than a copout, if we do not deal with these agencies and their rules just because some Members think it is too much work.

Mr. SEIBERLING. If the rules go beyond the statutory grant, they will be knocked out by the courts if challenged. Congress already has oversight and every legislative committee has oversight. If they find problems in some areas of agency rulemaking, they can recommend changing the law or the rule. But to force the agencies to submit and the Congress to review rules is going beyond the proper function of a legislative body.

Mr. Speaker, a recent exchange of correspondence between Ralph Nader's "Congress Watch" and our colleague from Georgia (Mr. LEVITAS) brings out the many grave problems and weaknesses of this ill-advised bill. I offer it for insertion in the RECORD following these remarks:

SEPTEMBER 16, 1976.

DEAR REPRESENTATIVE: The House may soon consider, under suspension of the rules, the "Administrative Rule Making Reform Act of 1976," H.R. 12048, which would grant Congress the power to veto almost all federal agency regulations by a majority vote of one House of Congress. While Congressional response to the current interest in reforming regulatory agencies and paring the bureaucracy to its essential functions is long overdue, we are writing to urge you to reject this particular bill which we view as a cure far worse than the disease.

This proposal has gained broad opposition including every Federal agency asked to express an opinion, consumer and environmental groups, the National Association of Manufacturers, the AFL–CIO, the Ford Administration, and almost every prior White House back to and including that of Franklin D. Roosevelt. There are several reasons why this bill has attracted such opposition:

The Bill Is Probably Unconstitutional. Antonio Scalia, Deputy Attorney General, Department of Justice, has testified on behalf of the Administration that this bill may be unconstitutional due to a violation of the constitutional doctrine of separation of powers and because it specifically violates Article I, section 7, clauses 2 and 3. On September 10th, 1976, the U.S. Court of Appeals for the District of Columbia, en banc, heard argument on the constitutionality of the congressional veto as it applied to the Federal Election Campaign Act. They heard the argument under an expedited procedure which means they will soon rule on the constitutional question, and the issue will be taken promptly to the Supreme Court. Surely, in view of these facts, Congressional action is premature.

The Bill Has Enormous Practical Problems. A careful review of the procedures developed in H.R. 12048 for review of agency regulations indicates that this bill has such severe practical, procedural and technical problems it is clearly not ready for floor action. For example, the effective date and substance of regulations may remain uncertain for months after the agency has promulgated it, as illustrated by the regulations issued by the Federal Election Commission. On August 1, 1975, the Federal Election Commission (FEC) passed regulations requiring Representatives to file campaign reports in the first instance with the FEC instead of the House Clerk. On October 22, 1975, the House vetoed that rule. New, comprehensive FEC rules were then repromulgated after meetings with House and Senate members, on July 29th and 30th, 1976. Congress has 30 legislative days to veto these rules, but even if they don't, the 30 days may not run by October 2nd, so these rules originally promulgated on August 1, 1975, won't be effective until January or February, 1977. The FECA veto procedures are essentially those of H.R. 12048. Even if members agree with the need to veto that rule and to have this power, any procedure which causes two years delay is not one that's ready to be applied to all agencies. The enclosed testimony of Alan Morrison and Reuben Robertson further explains this problem.

Other Objections. The enclosed concise memorandum on the congressional veto explains other serious problems with the bill. These include the cost to business, the administrative burdens it creates, and the bureaucracy it will create. Any and all of these are sound reasons to reject this legislation.

As we suggest in our memorandum on this bill, the difficulties raised by a congressional veto will only add another layer of government between a problem and its solution, and could possibly slow other, more useful attempts to restructure and streamline federal agencies. We urge you to vote against H.R. 12048.

Sincerely,

DAVE LENNY,
JOAN CLAYBROOK.

STATEMENT OF ALAN B. MORRISON AND REUBEN B. ROBERTSON OF THE PUBLIC CITIZENS LITIGATION GROUP BEFORE THE SENATE GOVERNMENT OPERATIONS COMMITTEE WITH RESPECT TO THE PROPOSALS TO ALLOW CONGRESS TO VETO AGENCY RULES, MAY 20, 1976

Mr. Chairman, we are pleased to have been afforded this opportunity to discuss with you the various proposals under which the Congress could veto regulations issued by the Executive Branch, including the independent regulatory agencies, by concurrent resolution. There can be no doubt the Congress has the power, by utilizing the procedures spelled out in the Constitution for enacting legislation, to "overrule" any agency's action simply by amending the statutory authority on which it is based. In fact, Congress has just done that with respect to motorcycle helmet requirements which the National Highway Traffic Safety Administration had sought to impose on the states and which Congress has specifically prohibited the agency from putting into effect. See Section 208(A) of Public Law 94–290. The question before this Committee is an entirely different one: should Congress seek to oversee virtually every agency rule and forbid every agency from putting those rules into effect until Congress has had an opportunity to review them first?

There are a number of proposals now pending before this Committee and other Committees of the Congress which are directed toward the same type of review process: S. 2258, S. 2716, S. 2812 (Sec. 5), S. 2878, (Title II), S. 2903, and S. 3297 (Title II). While they vary somewhat in detail, and while some appear to be less complex than others, they embody the same fundamental approach. In our view all of these proposals will inflict a cure on the Federal Government that is far worse than any illness with which it may now be afflicted. We believe that these proposals are unwise from the point of view of the agencies, the business community, the public at large, and even the Congress. We also believe that they are unconstitutional for among other reasons, those set forth at length in the testimony of Assistant Attorney General Antonin Scalia, who testified for the Justice Department on April 28, 1976, before the Administrative Practices and Procedures Subcommittee of the Senate Judiciary Committee on this very topic.

Our testimony today will not deal with the constitutionality of these proposals, but will instead deal with the wisdom of them. In our view the proponents of this legislation have failed to give proper consideration to the practical problems involved in these proposals. In order to help the Committee appreciate these difficulties, we have tried to hypothesize a situation in which a mythical agency has decided to issue a rule and wants to put it into effect, and then to attempt to dramatize for the Committee some of the problems that the agency will encounter. In order to be as concrete as possible, we have chosen a framework in which Title II of S. 3297 has been enacted, a choice we made because that bill is the most sophisticated of any of the similar proposals and because an identical bill, H.R. 12048, has been reported out by the House Judiciary Committee. In this dramatization, Mr. Robertson will assume the role of agency Chairman and I will assume that of the agency's General Counsel. We wish the record to reflect that neither of us has any aspirations toward either of those positions in this mythical agency, or in any other agency that might be seen to bear a resemblance to it.

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Chairman: What a great day! The Commission has finally reached a unanimous agreement on the airline overbooking rule, and voted to issue it at once.

General Counsel: We have been working on this for years, but it's worth it because the rule is really a good one.

Ch: The public has been very critical of us for not having dealt with this problem years ago. Also there has been tremendous pressure on us from members of Congress, demanding that we get the rule out.

GC: Even the industry leaders want us to get done with the matter.

Ch: The Commission wants to get this into effect immediately . We must give a specific effective date because the airlines need sufficient lead time to program their computers. How soon can we put the rule in force?

GC: I don't know.

Ch: What do you mean you don't know? You are our lawyer. What does the law say?

GC: That is the problem. It doesn't say.

Ch: But it must say.

GC: Let me try to explain. You see, Congress has been unhappy with some of the rules we have issued—not only our rules, but other agencies' as well. They now want to look them over before they go into force. So we have to wait 90 days for them to go into effect, to give Congress that opportunity.

Ch: In every case?

GC: Well, except for a few internal matters, rules that don't make any difference, and genuine emergencies.

Ch: Does this case qualify as an emergency?

GC: Well, bumping more than 100,000 passengers every year is bad, no doubt about that. But we have let it go on so long, I don't think the situation could pass as an emergency.

Ch: OK, I guess if we have waited this long, another 90 days won't make that much of a difference. So, why don't we just put in a date 90 days from today?

GC: It is a little more complicated than that. You see, the statute says 90 days continuous session, and that doesn't mean 90 calendar days. For instance, if either House is in adjournment for more three days at a time then those days off: don't count.

Ch: You mean every time one House goes home on Thursday afternoon and doesn't come in until Monday morning, we have an interruption?

GC: That is right. But it's even more complicated.

GC: Well, there are vacations, and of course, this year with the two conventions and the election, there is no telling whether the Congress will ever get the ninety days completed.

Ch: Well, what else?

Ch: Well, we can surely get it in force by early next year—can't we?

GC: I forget to tell you about something else.

Ch: What is that?

GC: If we don't make it by the end of this Congress, we have to start all over again next year since the continous session rule is halted when Congress adjourns *sine die*. But there is a possibility that this could take less than the 90 days.

Ch: Explain that to me.

GC: If neither House of Congress has adopted a resolution to disapprove the rule, and no committee has reported such a resolution or been discharged from further consideration within 60 days, then the rule can go into effect immediately, according to one section of the statute.

Ch: That seems a little better.

GC: Well, it is not so simple. There is a problem when reconsideration, rather than outright rejection, is ordered after 60 but before 90 days have elapsed. Frankly, the situation is so confusing, because one section says the rule is effective and another says it's not, that we just have to hope we never get confronted with it.

Ch: It is terribly confusing. What is Congress going to do with these rules when we send them over?

GC: Well, they are going to review them on the merits.

Ch: But we did that here. We had all kinds of public proceedings.

GC: But they are going to do it again.

Ch: You mean that industry, the consumer groups, and all the federal agencies are going to get a second bite at the apple?

GC: It is worse that that, even—they don't even have to show up here at all. They can save their guns for Congress.

Ch: Well, what standards are there by which the Congress might overrule us?

GC: There aren't any. They can do it for any reason—political, legal, constitutional, or simply because they don't like the agency.

Ch: Well, is it at least an up or down vote?

GC: No, as I mentioned before, they can send it back and order reconsideration.

Ch: Reconsideration? But we have already had extensive proceedings to reconsider the proposed rule.

GC: That doesn't matter. If either House passes a resolution for reconsideration, we have only 60 days to act or the rule automotically dies. And within those 60 days, we can either withdraw the rule or repromulgate it—with or without changes.

Ch: Suppose we do repromulgate it. Have we finally completed the process?

GC: No way. The whole Congressional review process starts over.

Ch: Well, what are the courts going to say about this action by Congress? Can the courts find that Congress has not acted in accordance with the statute itself?

GC: As far as I can see, the veto is absolute.

Ch: You mean they have to get ⅔ in both Houses.

GC: No, you don't understand. In effect, only one House has to disapprove it, provided that it acts within sixty days and the other one doesn't affirmatively approve the rule within ninety days.

Ch: Run that one by me again.

GC: Well, the usual time is 90 days and both Houses have to disapprove it. But if one House disapproves in sixty days, then the other House has to approve it by the end of ninety days, or the rule is disapproved.

Ch: You mean then, sometimes it can go into effect in sixty days but we won't be able to tell, so we ought to just figure 90 days?

GC: That's right.

Ch: What about a veto by the President?

GC: They seem to have left him out of this operation entirely.

Ch: Well, can Congress pick and choose part of the rule—disapprove some of it and let the rest stay?

GC: Not as I understand this statute, although some of the other proposals would have allowed it. But I'm certain that the Congress could, if it wanted, let us know what aspects of the rule bother it.

Ch: How will they possibly know what part we need, and whether we would have passed the rule at all absent the part that Congress doesn't like?

GC: They can always ask us. And in fact, we are probably going to have to defend the rule.

Ch: You mean that we are going to have to send all our experts up to the Hill to explain to Congress and their staffs—in both Houses—why we did what we did?

GC: I'm afraid so. Probably the Commissioners will also be asked to testify.

Ch: How can they possibly do this? Don't they understand that there are 60,000 pages of rules in the Federal Register every year—not to mention the hundreds of pages of backup materials for each rule—and that there are ten feet of the Code of Federal Regulations? Isn't Congress already so overworked that it can't get done everything on its agenda? Why do they want to do this?

GC: I really don't have any idea.

Ch: Say, what about those statutes that Congress is writing telling us we have to promulgate certain rules within fixed times? Is this one of those cases?

GC: No, this isn't.

Ch: Well, just what are we supposed to do in those cases?

GC: I guess if you send the rule to Congress in the time prescribed, you are OK.

Ch: Sort of makes a mockery of those firm statutory deadlines, doesn't it?

GC: I won't dispute that one with you.

Ch: Tell me about review of these rules by the courts. How does that fit in?

GC: Well, in the first place, it really gives everyone a third bite of the apple.

Ch: I understand that. What I want to know is, when are the court proceedings to take place?

GC: I was kind of wondering about that myself. The law is not at all clear. Our statute says if you don't like a final rule we have issued, you must petition the court for review within sixty days. Once that is done, the cases tend to move right along, since the judges don't like all this criticism about backlogs.

Ch: Anybody who doesn't like our rule for any reason can appeal it in court, at the same time as they stir up opposition in Congress. Are we going to have to spend a lot of time writing court briefs while Congress is reviewing the matter?

GC: Seems sort of silly, doesn't it? On the other hand, it seems sort of silly to wait until Congress gets finished, and then add court delay on top of that.

Ch: You know, almost every time we put a rule into effect, somebody is asking us or the court for a stay. Isn't it going to be pretty hard to object to another delay after all of these delays?

GC: That is not the part of my job I think I am going to relish. It certainly undercuts all of our efforts to eliminate regulatory delay, which has been such a source of criticism.

Ch: Now getting back to the problem I began with originally. What are we supposed to put in the Federal Register about the effective date of this rule?

GC: I really don't know. Maybe we should just refer to the Administrative Rule Making Reform Act of 1976, which established this whole procedural quagmire, and say that the effective date will be announced later.

Ch: I am just wondering whether the establishment of an effective date at a later time would itself be subject to the Congressional review process.

GC: It may very well be.

Ch: One more question and I will let you go back to work. Why are we bothering to issue any rules at all?

GC: Maybe that is the whole point of the statute.

ARGUMENTS AGAINST A STATUTORY POWER OF CONGRESSIONAL VETO OF AGENCY RULES

The congressional veto is a product of the recent surge in efforts to reform federal agencies and to end unnecessary and counterproductive regulation. Yet it is clear from the mass of regulations Congress will have to consider as well as the confusion, delay, uncertainty and potential Constitutional problems that Congress would not reduce government, but increase its burden. The difficulties raised by a congressional veto over agency regulations will only add another layer of government between a problem and its solution, and could possibly slow other, more useful attempts to restructure and streamline federal agencies.

An even-handed, consistent evaluation of the regulations subject to a Congressional veto would require that each Committee have its staff review virtually every regulation, with the accompanying volumes of hearing records, which falls under its jurisdiction. But because of the large number of regulations issued every day, it is inevitable that only a few rules will receive Congressional attention. Because there are no criteria laid out for the selection of these few rules those private groups with the most political influence will bring enormous pressure to bear for a veto of rules they don't favor. With the multimillion dollar budget and other resources that the oil industry, banks, National Association of Manufacturers, Chamber of Commerce, and others have available to guide any legislation affecting them, these groups will have a considerable influence on Congress as it determines which regulations should be challenged. Thus, if Congress does not review all rules promulgated by Federal agencies, Congress will abdicate responsibility for choosing regulations which need consideration to private interests.

On the other hand, review of all regulations promulgated by agencies is also undesirable. Under the existing procedures for oversight of federal agencies, Congress has wisely focused its attention on questions of whether the agency has been tenacious and effective in carrying out its statutory mission. A comprehensive review of all the detailed regulations which each agency has promulgated would be extremely time consuming without comparable accompanying benefit. In the course of 10 working days, over 250 separate regulations adopted by administrative agencies are printed in the Federal Register, and each of these rules is supported by hearing records which include volumes of substantive materials. In a single FTC rulemaking proceeding, for example, these documents comprised a record of over 30,000 pages.

ALTERNATIVES TO THE CONGRESSIONAL VETO

Proponents of a Congressional veto imply it is the only way the policies of federal agencies can be adequately reviewed and controlled. This is simply not true, as the variety of alternative means for controlling agencies illustrate:

Congress should amend, rewrite or revoke legislation which is unworkable—not subject it to piecemeal scrapping by Congressional veto of individual regulations issued to implement the law. In fact, Congress has just done this with respect to motorcycle helmet requirements which the National Highway Traffic Safety Administration had sought to impose on the states, and which Congress has specifically prohibited the agency from putting into effect. See Section 208(A) of Public Law 94–290.

Greater Congressional oversight is imperative. It should be comprehensive and conducted on a regular basis, with specific staff assigned to review agency actions. The importance and potential effectiveness of regular oversight was recognized by the Senate as its recent approval of a permanent committee to oversee intelligence activities illustrates. Energetic oversight, by itself, can provide Congress with the capacity to reign over a wayward or capricious bureaucracy.

Stricter standards for the appointment process must be developed. The present tone and format of many confirmation proceedings suggest that the Senate can only reject the nominated appointee if the Senate can show that the nominee has acted illegally or immorally. Instead, the Senate should shift the burden to the nominees, requiring them to demonstrate that they are qualified for the particular office to which they have been nominated. Both the Senate and House should include in statutes creating appointive positions the particular qualifications which the nominee must satisfy, including relevant experience, full financial disclosures, the placing of assets in "blind" trusts, and the absence of any conflicting ties with the industries or groups to be regulated.

Expanding the opportunities for judicial review of agency actions would increase accountability of federal agency actions. Provisions for greater access to the courts for citizens to challenge illegal agency actions, and for a Congressional counsel to permit legislators to file suit to enjoin unlawful agency actions, would guarantee agency behavior that more closely follows Congressional mandates. Citizens should also be reimbursed through attorney and expert witness fees for participation in agency proceedings where they represent a small economic interest and in judicial review of agency actions where the citizen substantially prevails.

Through its control of the authorizations for the federal agencies, Congress has a potent tool for dealing with recalcitrant agencies which persist in circumventing Congressional policies. Withdrawal of funding authority for actions that Congress thinks are unjustified can ensure agency actions that coincide with the will of Congress.

Finally, Congress should place greater reliance on the appropriations process. A few examples suggest that this instrument can be quite effective in controlling agency actions. The House amended the Conference Report on HEW appropriations to forbid expenditure of money to enforce sex integration of physical education classes which HEW had mandated by regulation. Congress also prevented EPA from spending its appropriations to enforce parking surcharges to discourage consumption of fuel by commuters driving to work. As EPA Administrator Russell Train said, "If you're not allowed to spend money on a program, legally you can't pursue the program."

IT WOULD CREATE INCREDIBLE PRACTICAL PROBLEMS IN IMPLEMENTING AGENCY RULES

The effective date and substance of the final, approved rule will remain totally uncertain for months after it has been promulgated:

It is unclear which rules are subject to a veto. Some Congressional veto statutes do not cover rules of "agency organization, practice, and procedure" or rules "granting or recognizing an exception or relieving a restriction." Neither Congress nor the courts have indicated or will know with greater specificity or certainty what kinds of rules would be vetoed.

It is uncertain when the veto is to take effect. The veto is effective after "90 days during which Congress is in session," but if 90 working days are not accumulated prior to the end of the session, the 90 day countdown must start anew. Delay and uncertainty are compounded because in counting "90 days," 3 day recesses, vacations, election and convention breaks further delay and confuse the process.

It is unclear which provisions of the rule will take effect. Since the rule can be sent back for agency reconsideration by either house instead of subjecting it to a veto, the individuals or groups affected by the regulation cannot even be sure that the substantive provisions of the regulation will remain unchanged.

The procedure adds substantial delay to the regulatory process. Any measure for regulatory reform should reduce rather than increase the impediments that delay agency activities.

Agencies will shift to case by case adjudication, a time-consuming, duplicative and burdensom approach rather than formulate rules which would be subject to Congressional veto.

Those opposed to the rules may no longer desire to participate at the agency level, since it may be more productive to reserve their primary efforts to seeking a Congressional veto.

Because of the time limits found in most statutes authorizing judicial review, aggrieved parties will be forced to file for judicial review before Congressional veto activity is completed, thus wasting the time of litigants and courts concerning a rule eventually vetoed. To correct this deflicency it would be necessary to postpone judicial review, and the ultimate fate of the regulation, for as much as an additional year, thus adding delay, making an accurate effective date for a regulation impossible.

IT WILL COST AMERICAN BUSINESS MILLIONS

The incredible delay, uncertainty and confusion caused by this procedure will inevitably cost businesses money. If a business begins to comply with a regulation after it is promulgated, the expense may prove wasted if the rule is vetoed. Or, if they wait for completion of the veto process instead, the cost of complying rises during the delay. Informing Congress of industry views could become a potential nightmare to any business planner: first in Congress as the bill is passed, then at the agency level as a rule is considered during the veto process, then possibly back to the agency if Congress votes to force agency reconsideration, then back to Congress, then to the courts for judicial review.

IT VIOLATES THE CONSTITUTIONAL PRINCIPLE OF SEPARATION OF POWERS

Antonio Scalia, deputy attorney general, Department of Justice, has testified on behalf of the Administration that this bill is unconstitutional in two ways: it violates the doctrine of the separation of powers, and contravenes specific provisions of Article I of the Constitution (Section 7, clauses 2 and 3) which the Department believes specifically forbids Congressional review devices such as the veto. No additional questionably constitutional veto provisions should be adopted until this issue can be tested in the courts, as President Ford has said he intends to do.

IT WILL GIVE LOBBYISTS A "SECOND CHANCE" AT UNDERMINING FEDERAL LAWS WHEN THEY FAILED TO STOP THE LEGISLATION ON ORIGINAL PASSAGE

Once this procedure is adopted, the lobbying forces which actively fought to defeat strong health, safety, antitrust, credit discrimination, environmental and other socially desirable pieces of legislation, yet failed to weaken them on original passage, will march back to Capitol Hill to legislation already passed by Congress. The hearings on this legislation are continuously laced with claims that the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulations have a different effect than envisioned when Congress wrote the original acts. There is an abundance of handwriting over the constituency mail spawned by OSHA regulations being enforced in small business establishments. And yet the legislative history of OSHA shows that all legislative attempts to differentiate between small and large businesses were defeated by Congress; the legislation unequivocably expressed the legislative intent that all employees deserved to be protected against unsafe working conditions no matter how many employees the employer has hired. The remedy for legislators' unhappiness with OSHA or EPA regulations is to amend the act, not to veto the regulations.

IT WOULD SERIOUSLY HAMPER PUBLIC PARTICIPATION IN RULEMAKING

Under the current tax laws, many groups with expertise in certain areas who actively participate in agency-level proceedings are prohibited from lobbying because their funding comes from tax-deductible contributions. Thus, although they may participate at the agency proceedings, the views of these groups could not be made to legislators when a veto of a rule is being considered. By contrast, profit-making businesses may deduct their expenses for lobbying Congress as well as for participating in agency proceedings at an incalculable cost to the Treasury.

Members of the general public, including public interest organizations, operate on extremely limited budgets, which will have to be stretched twice as far if rules are considered by Congress as well as by the agencies. Because non-tax-deductible dollars are so difficult to raise, there are very few public interest lobby groups, and with their meager funds, they will be forced to choose between expending their resources on legislation or Congressional veto activity.

IT ACTUALLY MAY REDUCE ACCOUNTABILITY OF FEDERAL AGENCIES

In practical terms, the Congressional oversight resulting from this legislation constitutes an incomplete look at individual regulations, instead of a coordinated policy review of the agency's overall activities. Oversight on a case-by-case basis neglects the long-range policies and decisions with which Congress ought to concern itself. Use of the Congressional veto will result in a dilution of the effects of Congressional oversight, as committees become bogged down with reviewing a morass of particular regulations.

IT WILL CREATE ENORMOUS ADDITIONAL ADMINISTRATIVE BURDENS FOR CONGRESS

Having decided broad public policy issues, Congress has repeatedly and prudently delegated the day-to-day decisions for implementation to federal agencies. These agencies have the staff and technical expertise to develop comprehensive and specific regulations on matters which are often highly specialized and complex, including the safety standards of airplanes, health standards for drugs or the permissible language to be used on a limited warranty. Congress has neither the personnel nor the expertise to review these regulations: the amount of time required to read, let alone adequately evaluate, these regulations is beyond the capacity of a legislative body as presently staffed and structured.

IT CANNOT FORCE MORE OVERSIGHT FROM THE SAME STAFF RESOURCES

The Congressional veto bills imply that merely authorizing the Congressional veto will result in increased agency accountability and more effective Congressional oversight. This is a false promise: no greater oversight can ensue without provisions for additional staff positions. Only a perfunctory examination of the multitude of rules subject to the veto is likely to result, and even to accomplish this, many other issues will have to be given short shift.

If the veto legislation remedied this deficiency by providing for more staff members for oversight functions, it would also render the veto provision superfluous because the additional staff should be sufficient to remedy the failures attributed to the current efforts of the various committees which now oversee federal agencies.

IT WILL INVITE "WHOLESALE POLITICIZATION" OF FEDERAL AGENCIES

Federal agencies are formed for the technical expertise they lend to problems and solutions, and independent regulatory agencies are created primarily to provide such expertise and also some insulation from political influence on federal decision making. Both these benefits are lost when agency actions are subjected to the politically influenced and cursory examination likely to result from the hurried Congressional veto process. Agency rules will reflect the viewpoint of the most powerful lobbyists and pressure groups, since the agency will strive to avoid their opposition to a rule under the Congressional veto process and will weaken the rule to accommodate opposition. The regulations which will result from such politicization will reflect the lowest common denominator of all potential political objections, and will tend to result in innocuous half-steps toward problem-solving, disappointing all parties concerned.

THE CONGRESSIONAL VETO WILL ADD ANOTHER LAYER OF BUREAUCRACY TO CONGRESSIONAL OVERSIGHT

Under current procedures, final validation of agency regulations is completed at the agency level after comprehensive hearings, tests and extensive testimony by the public and government officials. The Congressional veto provisions would require a wasteful and redundant repetition of this information-gathering process at the Congressional level as well, since the whole show would shift to Congress when the rule comes up for review. Thus, instead of controlling the growth of bureaucracy, this procedure just adds to it.

THE PROBLEMS SOUGHT TO BE REMEDIED DO NOT JUSTIFY THIS PROCEDURE

The provisions of the proposed Congressional veto will result in wasteful redundancy, extensive time delays, additional burdens on oversight committees, and prolonged uncertainty. Such extraordinary procedures could only be justified by extraordinary needs and problems. Yet, a detailed reading of the hearing record on the Congressional veto produces few examples of the need for this procedure. Rather, one finds example after example of agency regulations with which various interests were displeased which currently-available means of challenging the rule could resolve. These include appropriations, amendments or judicial review which often were not even attempted or, when they were, were successful.

(For further information on the Congressional veto, contact Dave Lenny or James Humphreys, Congress Watch, 133 C Street, SE, Washington, D.C., 20003, (202 546–4936. 6/76.)

CONGRESSIONAL VETO BILL

WASHINGTON, D.C.,
September 20, 1976.

DEAR COLLEAGUE: You have recently received a letter from Congress Watch regarding H.R. 12048, the Administrative Rulemaking Reform Act. I thought you would like to have the facts pertaining to the charges Congress Watch has levelled against this bill.

Congress Watch's position never touches the central question in considering H.R. 12048 which is: Are we going to continue to let the unelected bureaucrats pass laws/rules without effective control by the elected Congress? These administrative rules have the force and effect of statutory law; a citizen stands in jeopardy of losing property and sometimes liberty for a violation of an administrative rule. Yet these rules have never been subject to review by an elected official of the people. This bill will give that right to the Congress. That is why so many of your constituents favor this bill. . . . because it gives them a say-so (through the Congress) in the rules that run their lives.

(NOTE.—Congress Watch erroneously asserts that Congressional authority does not extend to reviewing and rejecting administrative regulations. However, just last week the House approved H. Res. 1505, a one-House resolution disapproving and vetoing certain regulations of the General Services Administration pursuant to the Presidential Recordings and Materials Preservation Act which provides this very type of Congressional veto, and I might add, was signed by President Ford in 1974. It appears to me that Congress Watch ought to do its homework a little better before making such assertions. Not only do we have the power to do this Congressional veto, we have just done it.)

With respect to Congress Watch other objections:

Charge: It would create incredible practical problems in implementing agency rules.

Fact: The agencies have already created for themselves—and the public—incredible problems in implementing rules. The enabling legislation may have been passed for a year or more before an agency promulgates regulations. The agency may take years in formulating rules. One, for example, took almost 18 years. In addition, the agency rule, itself, frequently has a delayed effective date. Another sixty or ninety-day waiting period is a small price to pay if it can better insure that the regulations are in accord with Congressional intent and forestall the even further delay of judicial review. The procedures for Congressional review strike a fine balance of giving Congress the opportunity to consider and reject ill-advised regulations without necessarily delaying the operation of the executive branch. It is the most expeditious means possible in an attempt to return to the people of this country their rightful input into the rules/laws which control their lives.

Charge: It will cost American business millions.

Fact: That's really a laugh! Those Congress Watch people have a sense of humor. To suggest that the legislative veto of oppressive regulations costs money is absurd. Regulations which clearly exceed the intent of Congress are what is costing business millions. The only alternative presently available is judicial review which is limited and even more costly. A recent Supreme Court decision (June 25, 1976) in *Union Electric Co. v. EPA* has furthermore held that judicial review cannot even consider the question of economic or technological infeasibility of regulations in its determination. Congressional review would eliminate the costs of regulations outside the intent of Congress, as well as those which are excessive and arbitrary.

To say that a business will waste money if it begins to comply with a regulation that is subsequently vetoed or that the cost of compliance will increase because of the delay caused by the review period is a smokescreen. The fact of the matter is that regulations, in general, cost business money, and there is no clear relationship between Congressional veto of administrative rules and increased costs. Certainly, a court order staying regulations would waste money for those businesses beginning to comply as well.

Charge: It violates the Constitutional principle of separation of powers.

Fact: That's really a twist! It is a "through the looking-glass" idea to suggest that the legislative branch invades executive powers by controlling legislative actions—namely, rulemaking. If anything, the 7,000 rules/law passed by the unelected bureaucrats in the executive branch invade the legislative powers of Congress. Since 1932 over 139 different Acts of Congress, with nearly 200 separate provisions mandating some type of Congressional review of or consent to executive implementation of those laws, have been passed. One of the most recent laws enacted which provides for Congressional review of administrative rulemaking is the Federal Election Campaign Act Amendments of 1976, under which FEC regulations are subject to disapproval by the Congress. As you know, the Supreme Court held the original campaign reform measure unconstitutional because of the manner in which the FEC Commissioners were appointed. The question of the constitutionality of Congressional disapproval of FEC regulations was not addressed in the decision. However, Justice White in strongly worded dicta declared that if the Commission were constitutionally appointed, the veto device would be constitutional. He said, "I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered infirm as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress." Justice White also said, ". . . in the light of history and modern reality, the provision for Congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto." The Supreme Court will ultimately decide this question, but if Justice White's dictum is an indication, we can expect that the one-House veto will be held constitutional.

Charge: It will give lobbyists a "second chance" at undermining federal laws when they fail to stop the legislation on original passage.

Fact: The federal agencies, themselves, are certainly not immune to lobbying efforts; laws can be and have been undermined at that level. The relationship between the regulatory agencies and certain industries is far too "cozy" now and may explain some of the opposition which Congressional review of administrative rules is receiving. The Administratve Rulemakng Reform Act and the provisions for Congressional review in other bills remove this kind of threat of thwarting Congressional intent. Besides, there is no reason to believe that lobbyists will be any more successful in getting their views accepted during the review period than they were during consideration of the enabling legislation.

This argument also does not take into account one of the chief benefits of Congressional review of administrative rules which is more carefully drafted legislation. Congress is far too lax in delegating authority broadly and without guidelines to administrative agencies. When hard decisions have to be made, we pass the buck to the agencies with vaguely-worded statutes. Who can vote against "safe cars", "clean air" or "nondiscrimination"? But when the implementing regulations come which load up cars with expensive equipment of little benefit, or EPA imposses parking bans in cities, or EEOC refuses to let a police department ask potential employees if they have a criminal record, the actual benefit of safe cars, clean air or non-discrimination clauses is called into question. The Congress which voted for the good intentions, would have voted down those absurd regulations. When our constituents call us to task because of the ensuing regulations, it is easy for us to join in the chorus decrying the monster bureaucracy and let it pass that that. If we realize that we have the ultimate responsibility for the administrative rules that flow from these enabling acts, we will be more careful in drafting language and more specific in detailing Congressional intent.

Charge: It would seriously hamper public participation in rulemaking.

Fact: The public would actually have a larger voice. Access to Congressmen is far easier than access to the anonymous, faceless bureaucracy. Public participation in the administrative rulemaking process is now seriously hampered. The purpose of Congressional review of administrative rules is to see that the public is given an input, through their elected representatives, in the promulgation of administrative rules. At present, should a citizen decide to balk or challenge the bureaucracy, he is in for expense, delay, frustration and probably sanction. In the case of a private citizen who does not have a staff of lawyers monitoring the Federal Register, he will likely have the comment period go by without knowing about the rule until it becomes effective. Moreover, the citizen who chooses to comment is faced with 30 days to study and respond to what may be an extraordinarily complex regulation which has been under study by the agency for more than a year. If he chooses to challenge the rule with the agency, he is more than likely confronted by the same bureaucrats who drew the rule in the first place—a meeting characterized by a bureaucratic lack of sympathy and understanding. To oppose Congressional review of administrative rules because public interest groups do not have sufficient funds to "lobby", more appropriately addresses itself to the need to change our lobby disclosure laws and does not address the merits of this proposal.

Charge: It actually may reduce accountability of federal agencies.

Fact: On the contrary, the chief benefit of Congressional review of administrative rulemaking will be found in the unquestioned realization by each agency that they cannot promulgate regulations with impunity—that they are accountable for their actions. It is axiomatic that we will begin to see more carefully drafted regulations and more attention paid to the views of citizens during the comment period. In short, we will begin to see a more responsive executive branch.

Charge: It will create enormous additional administrative burdens for Congress.

Fact: Since the beginning of the 94th Congress, over 18,000 bills have been introduced already for consideration. This amount is almost two and a half times the number of regulations promulgated in 1974. Only those bills and resolutions which were important and necessary have been considered in Committee and have eventually received attention by Congress. Only about 600 will become law. Such would be the case with Congressional review of administrative regulations. Only those which are far-reaching, oppressive or clearly exceeding the intent of Congress would receive consideration. It should not be considered an administrative burden; it is part of our legislative responsibilities under the Constitution. If we don't want to be legislators, then we ought not to be here.

Charge: It cannot force more oversight from the same staff resources.

Fact: Each Committee of the House and Senate already has a review and investigations subcommittee with the responsibility of monitoring a particular function of the bureaucracy. The staffs of these subcommittees review the activities of the federal agencies every day, as well as review the regulations promulgated by the agencies. The problem is they can't do anything about the bad ones. Congressional review of administrative rules provides a needed procedural mechanism. At the present time, Congress may undo administrative rules only through the cumbersome, time-consuming process of solemnly passing an Act of Congress to repeal or change an administrative rule. Such a mechanism is not adequate to the challenge we face in attempting to control the unbridled bureaucracy. Congressional review will be an asset to oversight activities in that it will help the Committee staff to focus in on problem areas without allowing the administrative excess or abuse to continue while long-range oversight activities get underway.

Charge: It will invite "wholesale politicization" of federal agencies.

Fact: It is naive to say that the federal agencies are not now "politicized." Certainly, they are subject to political pressures from within as well as from the executive branch. Congressional veto of administrative rules and regulations restores citizen input into the rulemaking process through their elected representatives. This must not be construed as "wholesale politicization." Finally, to the extent that rules are laws, they must be considered by elected politicians, not lifetime, unaccountable civil servants.

Several measures are needed to complete the task of regulatory reform. Greater Congressional oversight, stricter standards for the appointment of agency chairmen, and greater reliance on the authorization and appropriations process which Congress Watch suggests would be included but, most assuredly, Congressional review of administrative rules with the means of legislative veto is essential. Recently retired Supreme Court Justice William Douglas observed, "It is procedure that spells out much of the difference between rule by law and rule by whim or rule by caprice." It is such procedural safeguard against rule by caprice that we address in considering Congressional review of administrative regulations. We strongly urge you to support H.R. 12048 because, quite simply, it embodies a duty which we must not and cannot shirk.

Very truly yours,

ELLIOTT H. LEVITAS,
Member of Congress.

SEPTEMBER 20, 1976.

DEAR REPRESENTATIVE: Last week we sent a cover letter and memorandum in opposition to the proposal giving Congress the power to veto any federal agency regulation. A bill entitled "Administrative Rule Making Reform Act of 1976," H.R. 12048, incorporating the veto proposal, will be on the suspension calendar tomorrow. We urge you again to reject this sweeping proposal as a cure far worse than the disease. As the New York Times said in its September 17th editorial on "A Legislative Veto." "At the very least, Congress ought to refrain from moving further in this direction until both the legal implications and the practical consequences have been much more carefully studied."

In late July a few sponsors of this bill responded to our memorandum (printed in the June 23, 1976 Congressional Record at E3546) in a six-page letter to every member. Because the claims made in this letter do not sufficiently address the serious problems of the Congressional veto presented in our original memorandum, we have prepared some comments on the points they raised.

As we suggested in our original memorandum on this bill, the difficulties raised by a congressional veto will only add another layer of government between a problem and its solution, and could possibly slow other, more useful attempts to restructure and streamline federal agencies. We urge you to vote against H.R. 12048.

Sincerely,

JOAN CLAYBROOK,
DAVE LENNY.

REBUTTAL TO ARGUMENTS FOR THE CONGRESSIONAL VETO

THE CENTRAL ISSUE

Although regulatory reform is necessary and desirable, the Congressional veto is not the solution. It causes delay, uncertainty and confusion, it adds additional layers of government between a problem and its solution, and it has the potential to displace other, more useful attempts to restructure and streamline federal agencies. We agree with the New York Times which opposed the veto in its editorial of September 17, 1976: "In theory, the concept would give every interest group and defeated claimant a second chance to argue against a regulation on Capitol Hill after losing its case in an administrative forum. In practice, only the most zealous or those who could afford a Washington lobbying campaign would actually approach

Congress to seek a reversal of a regulation. In short, if everyone appealed to Congress, it would be an inefficient way of conducing the public's business; if only the most determined or well-heeled appealed, it would be a discriminatory way."

The proponents have failed to address that issue, and in so doing seemingly admit that Congress will either be engulfed in a morass of regulations awaiting its review or abdicate to special interests who can raise a fuss the responsibility for choosing which regulations should be subject to reconsideration. They contend, instead, that the central issue regarding the legislation is that administrative rules have the force and effect of laws and they are issued by unelected bureaucrats without any effective Congressional control.

What the proponents of the legislation essentially want is to have the Congress change places with the President: they want the Congress to be able to veto what the President and the agencies legislate through administrative rulemaking. In fact, they want even more power than the Constitution now gives the President: they want to be able to veto with no override authority as is available to the Congress when the President vetoes. Of course the Constitution does not give the Congress this power to unilaterally veto executive action except in the case of Treaties and Presidential nominations.

This does not mean the executive branch can act without accountability. The courts have held that the executive agencies can issue detailed specifications (regulations) to carry out the will of Congress only under the authority and within the confounds of enacted legislation. "Unelected bureaucrats" cannot pass rules "with the force and effect of law" unless Congress gives them that power in the first place, which it is under no compulsion to do. If the President or an executive agency acts outside the scope of the legislative authority, the courts are given the power under the Constitution to revoke their actions.

There are also at least six specific Congressional remedies available if the President acts in contradiction of Congressional pleasure. The Congress indeed can, if it wants, exercise substantial control over executive branch bureaucrats as we have previously said through its power of:

1. Authorization limitations.
2. Appropriations.
3. Oversight hearings and reports.
4. Advise and Consent to nominations.
5. Amendment, revision or revocation of the law.
6. Impeachment.

Finally, we have thoroughly reviewed the hearings held on this legislation and cannot find one single example of an act taken by an agency bureaucrat that could be repealed with a veto yet couldn't be remedied by Congress through powers it already has. In short, bureaucrats have no power Congress doesn't give them and are already accountable for the power they have. The issue is one of the will of Congress to use that power, not the necessity for a new legislative gimmic passing as a cure-all for bureaucratic ills.

PRACTICAL PROBLEMS CREATED BY A LEGISLATIVE VETO

We listed several practical problems of delay, uncertainty, confusion, etc., that would occur with use of the legislative veto. The proponents responded that (a) agencies already have problems and delays in implementing rules, (b) an extra 60–90 days is a small price to pay for this bill, and (c) delay gives Congress time to review these "ill-advised regulations." There are obvious responses to these arguments:

(a) merely because agencies already have problems in getting out rules on time is no reason to give them more;

(b) 60–90 legislative days is a high price to pay if you're a natural gas producer or airline waiting for a rate decision or a consumer waiting for a ban on a toxic pollutant. And, the delay caused by the veto provision is often far longer than 60–90 calendar days, as an example under the Fair Election Campaign Act illustrates:

On August 1, 1975, the Federal Election Commission (FEC) passed regulations requiring Representatives to file campaign reports in the first instance with the FEC instead of the House Clerk. On October 22, 1975, the House vetoed the rule, under a provision similar to the one in the comprehensive Congressional veto bill. New comprehensive FEC rules were not issued until July 30, 1976. Congress has 30 more legislative days to veto these revised rules, which may not run out by the October 2nd adjournment, resulting in a delay of the effective date until next year. Thus, rules passed on August 1, 1975 probably will not be final until 1977.

(c) Congress can still review regulations without the veto through oversight, judicial review, or any of the other methods of holding agencies accountable which we listed in our original memorandum.

(d) Finally, none of the arguments deny our original point—that this bill has serious practical problems which will not go away no matter what benefits this idea has in "theory."

THE COST TO BUSINESS

We suggested that delay caused by the veto procedure or compliance with a rule later vetoed would cost businesses money, not to mention the nightmare businesses will have informing legislators and administrators of their views at these various levels of government. The proponents countered with these responses:

(a) regulations exceeding Congressional intent are what cost business money;

(b) judicial review of these regulations is the only way business can stop them, judicial review is costly, and courts can't even consider cost and feasibility of rules;

(c) the delay caused by the veto procedure doesn't clearly cause increased costs.

While it may be true there are some rules exceeding congressional intent that cost business money, that doesn't deny our point that the veto procedure itself will create additional cost. Also, judicial review can and has been used to overturn regulations exceeding Congressional intent. Amendments to the statute and strict controls in authorizations and appropriations can also nullify regulations. The proponents admit this when they state judicial review may work but it is not "expedient." However, lack of expediency in judicial review is not an argument for rearranging the basic functions of government. And Congress for years has given the courts meager resources for doing its job. Also, it is clearly the job of the courts—not the Congress—to determine legislative "intent." And, a later Congress with a substantial change in membership from the enacting Congress has no unique ability to judge Congressional "intent." Also, the Congress can require the courts to consider cost and feasibility in any statute.

Finally, as to whether or not we've proved the relationship between use of the veto and increased costs, consider this example: in a hypothetical case the Civil Aeronautics Board grants an airline a price hike on November 1st. At that point, it could be challenged in judicial review; when judicial review is completed, it goes into effect. Under the veto, on November 1st Congress has 60 legislative days to look at the price hike; when that's finished, judicial review starts. For the airline, this means at least 60 additional legislative days without a price hike. That costs money. That is why the National Association of Manufacturers is also against this bill.

THE CONGRESSIONAL VETO IS UNCONSTITUTIONAL

We paraphrased the Department of Justice's testimony that the veto was an unconstitutional violation of separation of powers and Article 1, section 7. The proponents claimed that this argument was "really a twist" and accused the Justice Department of suggesting a "through-the-looking-glass" idea, since rulemaking is really legislating which is a legislative function. This argument misunderstands the constitutional objection, which is that a) in a "legislative process" the President has input through his veto power, whereas in the legislative veto, only the agencies and Congress are involved, with the President left out; and, b) that writing regulations is an administrative job delegated by the Congress which Congress can overrule only by additional legislation.

Quoting Justice White's separate opinion in Buckley v. Valeo that he personally thinks the veto is constitutional does not guarantee that the whole court agrees and will not make the constitutional objections go away. Any major legislation like this should await the resolution of the constitutional challenge to the veto procedure in the Fair Election Campaign Act which was heard under an expedited procedure by the United States Court of Appeals for the District of Columbia on September 10, 1976.

IT GIVES LOBBYISTS A "SECOND CHANCE" AT UNDERMINING STRONG FEDERAL LAWS

A continuing theme of those testifying at hearings on the congressional veto was that agencies like the Environmental Protection Agency and the Occupational Health and Safety Administration had gone "too far," and the legislative veto was needed to "hold the line." Our memorandum pointed out that for the most part these agencies were merely doing what they were told by the statue and Committee Reports, and what those testifying for the veto were really after was a second chance at undermining these strong laws under a quickie procedure. The proponents' letter countered by claiming the federal agencies were already subject to lobbying pressures, that there is no guarantee lobbyists could weaken laws the second time around, and that Congress would have to carefully draft legislation in the future so agencies could closely follow Congressional intent to avoid veto of regulations.

Again, these arguments do not deny our original point that a main purpose of this bill and a primary objection to its passage is that it does give well-heeled lobbyists a "second chance" at weakening strong health, safety, antitrust, credit discrimination, environmental and other legislation, in the hope that the expedited procedure will preempt citizens from organizing in opposition or raising funds to oppose such efforts twice instead of once.

As to lobbying pressures currently existing at agencies, certainly, there are such pressures, but our point is that the legislative veto adds to this pressure by bringing the regulation back to Congress for one more attempt to weaken the effect of the statute. True, there is no guarantee the bill will be weakened the second time around, but if this weakening weren't expected to happen a significant number of times, there would be no use for this legislative veto—after all, the whole purpose of the veto, we are led to believe, is to control the bureaucrats when they've "gone too far."

Finally, there has been no study by proponents of this legislation to prove their contention that when the veto provision has been used in the past, it has resulted in more carefully drawn legislation. We suspect the opposite is true—when Congress knows it can review regulations, it won't take time to draft standards for their development carefully, knowing it can review them later. Thus, it will probably end up reviewing more and more regulations rather than forcing careful work on the part of agencies.

IT WOULD SERIOUSLY HAMPER PUBLIC PARTICIPATION IN RULEMAKING

We suggested that public interest lobbyists would have severe problems raising money to participate at both the agency and Congressional level in reviewing a rule. They in turn claimed public participation would be greater because citizens have better access to Congress than to impersonal agencies, challenging a rule is more expensive and tedious at the agency level, and that the fact that public interest groups have limited funds indicates a need to change the lobby disclosure laws, not provisions for Congressional veto.

We agree that access to agencies may not be easy, but lobbying Congress in addition only costs more. Many citizens organizations participate at the agency level yet will not be able to effect a Congressional veto due to tax laws which prohibit any extensive lobbying when tax-deductible contributions are accepted. Public interest groups that are eligible to lobby cannot afford to participate both at the agency and again in Congress. They operate on very tight budgets, and reform of disclosure laws is irrelevant in the face of this reality. This means that one public interest group, if any, would be participating at the agency level and an entirely different one, if any, in Congress, on the same regulation.

IT ACTUALLY MAY REDUCE ACCOUNTABILITY OF FEDERAL AGENCIES

Our point, which we think was missed in the response to it, was well-stated by the Washington Post in its August 18, 1976, editorial opposing the legislative veto: "Endless quibbling over details of rules could only distract legislators from the broader policy-making and oversight that are their proper tasks," thus in actuality making the agencies less accountable. The proponents' suggested that the veto presently promulgate regulations with impunity, and again suggested that the veto power would result in more carefully drafted regulations responsive to citizen interests.

It is simply untrue that agencies can write regulations with impunity. They are accountable to the public and Congress through judicial review, amendment of the original legislation, oversight, the appointment process, and the possibility of withdrawal of or limitations in authorizations and appropriations. The fact is that oversight on a case-by-case basis of necessity neglects the long-range policies and decisions with which Congress ought to concern itself, and no matter how many more staff persons are hired to do this work, there aren't any more Representatives around to review and consider this extra work.

IT WILL CREATE ENORMOUS ADDITIONAL ADMINISTRATIVE BURDENS FOR CONGRESS

In response to this contention, it was argued that Congress has experience in shifting through thousands of items and choosing the important ones for consideration, plus, even if it is a burden, the burden should be accepted.

However, it is our view that Congress does not have the resources to consider thousands of bills every year and also review the massive number of regulations issued each year. Everyone is well aware of the fact that even though only 600 bills of 18,000 become law, there is substantial and time-consuming work done on thousands of others that don't get past the Subcommittee, Committee, Rules, Conference Committee, or the President but are stopped at some point along the way in spite of the work done on them. It will be the same with regulations—even if only a few may be vetoed, literally thousands will have to be reviewed and seriously considered at one or another of these various stages.

IT CANNOT FORCE MORE OVERSIGHT FROM THE SAME NUMBER OF STAFF RESOURCES

Our point was simply that if the only problem with oversight was that not enough of it was being done, hire more staff. If, on the other hand, there is enough staff, how is the legislative veto going to get more oversight from the same staff members? The response to this was a statement that oversight subcommittees are doing a fine job of oversight and review of regulations with the staff they have, but that when they find a problem they cannot do anything about it except through the cumbersome and time-consuming process of repealing it through an act of Congress.

There are several deficiencies in this response. If consideration of a bill was important enough to go through the "cumbersome legislative process" in the first place, changes in the statute are also worthy of the same thorough consideration. The response also misunderstands the oversight process—it does not consider every regulation ever issued; rather, the effectiveness of an agency in carrying out its mission with regard to particular areas of responsibility are reviewed, and it is done in an organized, systematic fashion, with suggestions for changes where problems are found. The legislative veto would add to this the job of reviewing every regulation haphazardly as they are issued, and in effect would try to force more work out of the same people. Finally, oversight can force agency action, often just by beginning an investigation. For example, between the date of the announcement and the date Representative Leggett began oversight hearings on why the Interior Department only put 11 species on the endangered species list (one of their duties) in over two years, the endangered species office proposed almost 400 species for listing.

THE LEGISLATIVE VETO WILL POLITICIZE FEDERAL AGENCY REGULATIONS

We suggested that forcing agencies to accommodate every regulation to the wishes of the current Congress through the veto provision would politicize the agencies more than they are now and would depreciate the value of their technical expertise. The argument was countered with the suggestion that agencies are already politicized. We didn't deny this; what we said was more of it is not useful, and could be detrimental. Under the veto procedure, agencies will be under constant political pressure when reviewing regulations, and lobbyists, knowing that, will be able to "bargain" for what they want or threaten to lobby for initiation of a veto resolution, under which highly technical regulations will be subject to cursory Congressional examination.

CONCLUSION

We offered several other arguments against the veto which were not even answered. We believe they are not easy to answer. We suggested that this procdure just added another layer of bureaucracy to government activity needlessly. We also noted that this extraordinary procedure could only be justified if there were several problems with agencies which could not be resolved in any other way. As we noted earlier, we could not find an example in the hearings on the bill that fit that category, and, in fact, most of the problems in the hearings had already been remedied through one of the various alternatives available to the Congress now.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California (Mr. DEL CLAWSON).

Mr. DEL CLAWSON. Mr. Speaker, I rise in appreciation of H.R. 12048, the landmark rulemaking reform legislation reported by the Judiciary Committee. My support of the bill is given with the hope that, since the Senate has held hearings, it may still be possible to meet our responsibility and the public demand for control of the arbitrary agency regulations which too often are inconsistent with or go beyond the intent of the legislation they purport to implement.

Evaluating the condition of Government in the United States today, a memorable character in a short novel by Robin Maugham entitled "The Servant" comes to mind. The servant was a model of obsequious availability to do everything and anything for the master who gratefully accepted the efficient and diligent assistance. One eventful day the "master" awakened to the uneasy realization that their roles were reversed—that control over his property, his future, and his daily life had been usurped by the servant while he existed in a state of slavery to his erstwhile employee.

The parallel is not difficult to draw. A similar realization for many Americans dawned simultaneously, it seemed, across the Nation in one of those spontaneous awakenings of consciousness which history often records. Letters of complaint against the ominious Federal intrusion of quasi-protection regulation besieged congressional offices. For the average citizen "law-writing" bureaucrats are a practical frustration. They do not stand for election and therefore defy attempts to call them to account at the ballot box for havoc they may wreak. The individual feels impotent, without recourse, especially if he is not financially capable of bearing the costs of litigation in the courts.

In the last Congress, the House Rules Committee briefly considered a statement of congressional purpose that bureaucratic edicts not usurp legislative authority. We began then to develop the idea into legislation which I introduced in final form as H.R. 8231 with the counsel of colleagues on both the Rules and Judiciary Committees. H.R. 8231 is an attempt to regain congressional functions usurped in some notable instances by the executive branch bureaucracy.

Our legislation is also intended to assure that the purpose of Government would not be obstructed, bogged down in rivalry and power struggles of branches in conflict, by providing an orderly procedure for systematic review of rules and regulations. It is anticipated that the bill will have a beneficial and deterrent effect on issuance of rules and regulations likely to be questioned by Congress.

Since our bill was obviously not to be reported from Judiciary, I joined with Chairman FLOWERS in sponsorship of H.R. 12048. The critics have pointed out that requiring all rules and regulations to be referred to Congress may increase Federal paperwork. The capability of congressional staff to handle the referrals has also been questioned. Neither criticism seems a valid reason to "junk" the basic proposal. In fact, a review of legislative vetoes in effect from 1960 through 1975 does not support the assumption that the veto power would be abused, used too often or inappropriately. Of 350 resolutions of disapproval in that time period a relatively small number have been adopted and many were in response to Presidential requests to defer expenditures under the Budget Reform Act. A review of the Index of the Federal Register also indicates many of the rules group themselves into categories easily dismissed by committee staff, knowledgeable about the original legislation, as not requiring study. The procedures are not intended to replace committee oversight, as some assume, but to give the oversight function some "teeth." Although H.R. 12048 differs from H.R. 8231, the subject legislation proposes congressional veto of rules and regulations which go beyond, or contrary to the intent of Congress. It is hard to see how there could be a constitutional argument against the suggestion that Congress retain its lawmaking power.

H.R. 8231 had the support of 140 Members of this House and since language similar to this bill has repeatedly been incorporated in and approved by the House in other legislation, it is my hope that by approving H.R. 12048 under suspension of the Rules the Senate will be enabled to make the changes in language necessary to permit this 94th Congress to deal with aspects of bureaucratic regulation which are our logical responsibility.

Mr. DEL CLAWSON. Mr. Speaker, I yield to the gentleman from Louisiana (Mr. Moore).

Mr. MOORE. Mr. Speaker, one of the biggest problems today in the Federal Government is the massive regulatory power of the bureaucracy. Let us not forget that regulations have the full force and effect of law, and often go far beyond what we intend here in Congress, in legislation we pass under which the regulations are issued.

These regulations are made by bureaucrats who are not elected and cannot even be readily removed, as many of them are employees of independent agencies and actually may well answer to no one, especially the people.

Our Government is an ingenuous one of checks and balances. We do have checks and balances for the three branches of Government, and we have had them for 200 years. But there has come upon us a fourth branch of Government, one for which we do not have any checks and balances. That fourth branch is the bureaucracy. We have no effective way today to undo an undesirable regulation, as the courts will not touch a regulation if it is in fact legal. Congress itself is not going to pass a law to reverse a regulation as it is far too cumbersome to overturn every undesirable or oppressive regulation.

The fourth branch of the bureaucracy we have today was not contemplated by our Founding Fathers. Indeed, the first regulatory agency that appeared in this country did so after this country was well over 100 years old, in 1887, when the ICC was created. Today we have over 105,000 Federal bureaucrats, according to the Office of Management and Budget, cranking out regulations on every aspect of our lives, at a cost, according to the OMB, of $130 billion a year. But far more important is the cost of our personal freedom infringed upon by the issuance of every regulation.

I point out to my colleagues that this is being done without any effective checks or balances on the great power of the rulemaking agencies. I point out to my colleagues that this problem is not just going to go away. It is not one that we can sit here and make speeches about and go home and say, "Yes, bureaucracy is a terrible thing but there is nothing I can do about it." We can do something here and now with the passage of this bill.

In the last 15 years this Congress created 236 different rulemaking agencies, while disbanding only 21. Today the number of agencies, bureaucrats, rules, and regulations are growing at an alarming rate. This problem is becoming more acute. It is not going away. The people, rightfully, want us to do something now to correct this imbalance of power. It is a very real, a very legitimate campaign issue, which we must address.

Some 10,000 people responded so far to my latest questionnaire sent out last month, and 80 percent of the people responding heartily support this proposal. They fear today the very real excessive and unchecked power of regulatory agencies, they feel a loss of personal freedom, and they feel a frustration, as they know that nothing is currently being done to check this awesome power. As one of my constituents put it, when he answered the questionnaire:

> We often could live better with the problem than we can with the Federal Government's solution to it.

This bill is not a cure-all solution, but it is a tool with which we can begin to solve this problem. It will help check the imbalance of power by giving either House of Congress at long last, as one of the three legitimate branches of Government, a veto over any rule or regulation issued by any bureaucracy. It will begin to bring into balance this out-of-balance power of the bureaucracy.

This House during the 94th Congress has already accepted this proposal in amendment form on 10 occasions. It has been rejected only once.

Some may say this "legislative veto" is unconstitutional. I simply answer by saying that Justice White of the U.S. Supreme Court, in the case of Buckley against Valeo, has said in his opinion that it is not.

I also point out that it has not been challenged successfully in 19 laws already on the books with this provision in the entire time they have existed, some as early as 1946. This matter is in the courts. Let the courts decide the constitutionality, and let us continue to press on with bureaucratic reform by passing H.R. 12048.

I have coauthored H.R. 6110 and H.R. 10166 which embody the same principles found in H.R. 12048 before us today. In addition, I have twice successfully offered the intent of this bill in amendment form during floor debate on legislation bearing upon air pollution standards and toxic chemicals. My advocacy of H.R. 12048 remains consistent with my support for amendments to apply proper checks and balances to Federal regulatory authority. I strongly support the Administrative Rulemaking Reform Act and urge my colleagues to join me in doing so.

This is the single most important piece of legislation to come before this Congress on Government reorganization or reform. It must be passed as there is no better plan in the offing and reform is badly needed.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 12048, the Administrative Rulemaking Reform Act of 1976. In my opinion, it takes a much-needed step toward bringing under control our mushrooming and unwieldy Federal bureaucracy. It is a piece of legislation that should be supported by every Member of Congress who is serious about wanting to control and reduce the size of Government. This bill gives Congress better oversight.

Clearly most Americans believe that ours is a country that is governed "by the people." Through their Representatives in Congress who consider and pass legislation, the needs and desires of the people are reflected. Indeed, this was the intent of our Founding Fathers as expressed in the Constitution. Over the years, however, this process has slowly but undeniably changed with the advent of the regulatory agencies. Through administrative rule and regulation, they not only control our individual lives but also the economic fate of small businesses and large corporations—while wielding power which challenges even that of Congress.

With the passage of the Administrative Rulemaking Reform Act, this trend will be changed. Under its provisions, any Federal regulation, other than an emergency rule, may be vetoed by a resolution of disapproval if: First, both Houses adopt within 90 legislative days a concurrent resolution disapproving the rule; or second, one House adopts a disapproving resolution within 60 days and the other House does not take contradictory action within 30 days.

Mr. Speaker, I urge my colleagues to return meaning to the constitutional definition of our Federal Government—"a government by the people," by supporting H.R. 12048.

Mr. DEL CLAWSON. Mr. Speaker, I yield to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 12048, Administrative Rulemaking Reform Act of 1976.

H.R. 12048 is very similar to amendments that the House, with my vote, has added to some nine authorization bills already in this Congress.

However, the proper and logical way to accomplish the reform so many wish to bring about is by the enactment of comprehensive legislation such as that before us, H.R. 12048.

I have discussed this legislation, legislative vetoes of Federal agency rules and regulations, at great length with my constituents. Universally, and enthusiastically, they support it.

They believe, as I do, that Congress should do a much better job of overseeing and supervising the bureaucracy, they believe, as I do, that Congress should spend more time and effort in seeing to it that existing programs are working and less time in enacting new programs.

Federal rules and regulations are issued, I am told, in such volume each year so as to fill two sets of the Encyclopedia Britannica. Each and every one of these rules and/or regulations has the force of law. Violation can lead to jail or fine. And, Mr. Speaker, each and every one of these rules and/or regulations is issued by a bureaucrat not elected by anyone.

I strongly believe the Congress should oversee this process.

Passage of H.R. 12048 will do at least three things:

First, the bureaucrats will be much more careful if they know that Congress might well review and perhaps veto their handiwork.

Second, Congress will actually veto some rules and regulations. Under somewhat similar legislation, Congress did just repeal regulations issued by the GAO with regard to Presidential papers; and

Third, and perhaps the most important, Congress, if this legislation is elected, will no longer be able to pass the buck by saying, as it can now "Gee, I agree with you. That is a bad regulation but there is not anything we can do about it."

I strongly urge that my colleagues overwhelmingly approve this legislation.

Mr. DEL CLAWSON. Mr. Speaker, I yield to the gentleman from California (Mr. Moorhead).

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of H.R. 12048.

The primary purpose of this legislation is to establish a procedure whereby Congress would review rules and regulations promulgated by Federal agencies and prevent them from going into effect, should it choose to do so.

The legislative veto or congressional veto is not a new idea. Variations on the concept are now in use in at least seven State legislatures and four foreign countries. The concept also has considerable history at the Federal level.

A Library of Congress study has traced the use of such a mechanism back to an appropriations bill passed in 1932, but probably the best known congressional review procedure began with the enactment of the Reorganization Act of 1935. It required that the President transmit to Congress any plans for the transfer, abolition, consolidation, or coordination of executive agencies and functions.

Congress, then, had 60 days to disapprove the reorganization plan. There are also numerous examples of recently enacted statutes containing a congressional veto or committee veto feature, including: First, the Budget Control and Impoundment Act of 1974; second, the Trade Act of 1974; and third, the Education Amendments of 1974.

Consequently, it should not be surprising to anyone that Congress is now seriously considering a general procedure for the disapproval of proposed regulations. Numerous bills encompassing this idea have been introduced into the 94th Congress with the number of cosponsors exceeding 200 Members. Most prominent among these proposals were H.R. 8231 sponsored by my good friend, Congressman Del Clawson, and H.R. 3658 sponsored by Congressman Elliott Levitas. Undeniably, the support these bills have received demonstrates a growing sense on the part of the Members of this House that something must be done to insure administrative compliance with legislative intent.

The Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee gave the various congressional veto proposals very thorough consideration. The result of these deliberations is the clean bill we are considering today—H.R. 12048. It applies the review procedure to all rules and regulations issued by agencies that are subject to the provisions of the Administrative Procedure Act. It covers rules carrying criminal sanctions, as well as those that do not. It specifies that the existing standing committees will exercise the required oversight.

Under the key procedure in this bill, either House may adopt a concurrent resolution disapproving a proposed rule or regulation within 60 calendar days after its promulgation and prior to its going into effect. Then, unless the second House acts in disagreement with the action of the first House within 30 days thereafter, the regulation is disapproved and does not go into effect.

The bill also contains an alternative procedure by which either House of Congress may formally request an agency to reconsider the content or advisability of an existing or proposed rule. Furthermore, this measure makes the congressional review of agency rules a temporary experiment—it is given a limited lifetime of 6 years. At the end of this trial period, presumably, Congress would then make a decision as to whether or not the procedure warrants continuation. During the 6-year time period that this general congressional review procedure would be in effect, the specific "legislative veto" provisions already enacted into law would be superseded by the general procedure.

This bill also proposes a series of amendments to the Administrative Procedure Act and makes some important revisions in the rulemaking section of the APA, 5 United States Code, section 553. The overall effect of these changes would to be greatly improve the public's ability to participate in the rulemaking process. This would be accomplished by: First, better delineation between rulemaking and adjudication in the APA; second, expansion of the quality and detail of the notice given to the public by agencies with respect to proposed regulations; and third, an increase in the number and types of rules which will be subject to public notice and comment requirements.

Without doubt, this is important legislation. It represents a sincere effort to regain congressional control over an aspect of the legislative process we have too long ignored. I urge a favorable vote on H.R. 12048.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, if this body—on the 8th day before adjournment—should devote itself to voting either up or down a bill which contains two different subject matters, each occupying some 10 or 11 pages and dealing with one of the most complex constitutional and procedural problems that we have ever faced in this body, I think this body is doing a great disservice to itself and to the Nation.

The first half of this bill purports to deal with processes by which administrative agencies adopt rules. I have shared the burden, along with the distinguished gentleman from North Carolina (Mr. Broyhill) and others on my committee of writing the rulemaking authority in several major bills. One is the Product Safety Act, and another is the bill having to do with the rules of the Federal Trade Commission.

In dealing with these problems, we immediately noticed that each agency had quite different and quite difficult problems. Now, there are some minimum standards for rulemaking that may be desirable in a general bill, but if we write a bill on this subject matter, we should take time to consider these problems most carefully, and consider most carefully the rulemaking authority of the various bills covering the various agencies.

For instance, in the Federal Trade Commission Act, and in the Product Safety Act, the requirements for rulemaking are much stricter than the requirements of this bill. They even require a decree of cross-examination.

That subject matter of the first part of this bill needs far more careful consideration and certainly needs to be placed on this floor with the opportunity for hammering out good legislation by amendment and by consideration of the problem by the various committees that treat the subject matter. But the second half of the bill is even more important and even more strongly illustrates the need for careful and deliberate consideration and amendment if necessary. That section sets afoot a rather complicated rulemaking procedure, a rather complicated means of shortening the process by which the House and the other body deal with the congressional veto. This is a subject not wholly within the realm of the Committee on the Judiciary. The question of process in the House is more appropriately a Rules Committee question.

Also, the section raises some very, very thorny and difficult questions of constitutionality. There are two ways, as I read it, that a rule of a commission or agency may be overridden. One is by a concurrent resolution of both Houses. I assume under those conditions the concurrent resolution would be subject to veto because the Constitution quite clearly states that any action taken by the concurrence of both Houses must be submitted to the President and is then subject to veto.

The other proceeding is the most peculiar proceeding I think I have ever heard of. I am not sure whether it is the action by the concurrence of both Houses or not, because it says:

> . . . within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House. . . .

Is that the concurrent action of both Houses or is it not? I do not know whether it is subject to veto or not subject to veto under the Constitution. But at least it is a serious enough question to consider in great depth.

But I oppose this hasty method of enacting sweeping legislation on more fundamental grounds. I think it is extremely important that this body take upon itself the duty of providing careful rulemaking processes in advance, not act loosely, tying its delegation powers to a yo-yo string and feeling that it may pull those powers back.

In fact, if this legislation is passed, we will delegate more power, not less, and the processes provided in this bill, being as complex, tedious, and burdensome as they are, will not actually be put into effect, but agencies will exercise greater authority with less restraint, and we will feel ourselves absolved because we have the yo-yo string attached, which usually is not effective.

Mr. FLOWERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding, and I rise in support of this legislation.

Mr. Speaker, much has been said here on the floor today of the fact that we have brought this legislation up rather rapidly.

This legislation has been before the Committee on Rules practically the entire year. We have gone through debate after debate after debate as we have attached amendments similar to this to the authorizing legislation as it has moved through this House of Representatives, and it has been adopted in every case but one.

It has been adopted in every case but one. There has certainly been no shortage of debate on this general issue.

Mr. Speaker, this bill should be passed. It is long past due, and I certainly urge the Members' support of it.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I will yield if I have time. I only have 1 minute.

Mr. ECKHARDT. Mr. Speaker, did the gentleman refer to the Committee on Rules?

Mr. KETCHUM. Yes. This measure has been before the Committee on Rules, and there was a measure before that, along with the measure that was before the Committee on the Judiciary. It was long overdue, and had it come out of the Committee on Rules when it should have come out, it would have been brought to the floor and it would have received the type of debate the Members of the House would like to have.

Mr. Speaker, I strongly urge passage of the legislation.

Mr. FLOWERS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Georgia (Mr. LEVITAS).

Mr. Speaker, before yielding this time to him, I would like to thank the gentleman for his work and tedious effort on this matter and for his great help in getting this bill in the form it is now and to the floor.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Alabama (Mr. FLOWERS) for yielding this time to me, and I would like to commend the chairman of the subcommittee for the outstanding leadership he has shown in the Congress in bringing this bill to the state it is now—pending for action before the House. I also wish to commend the other members of the committee for the diligent work they have done and for the extensive study they have given to this bill.

Mr. Speaker, there is a very simple question involved here which the gentleman from Wisconsin (Mr. STEIGER) and the gentleman from Texas (Mr. ECKHARDT) have yet to address, and that question is: Who passes the laws in this country? Are laws to be passed by unelected bureaucrats, or are laws to be passed by the elected Members of Congress who are subject to the will of the people?

An administrative rule is in force and effect a law. If one violates it, he can go to jail. It seems to me it should be a basic and simple requirement of our whole constitutional framework that before a person is put in jeopardy of loss of property or liberty, somebody who is elected by somebody else ought to have an opportunity to pass upon that regulation.

Let us see who opposes this legislation. Let us see for a moment what groups are against this legislation. First, we understand the administration and its bureaucracy are opposed to the legislation. That is not surprising.

We understand also that there are a couple of other strange coalitions involved, because I am told that the National Association of Maufacturers and the AFL–CIO are opposed to this legislation. I will tell the Members that when big business and big labor get together, the persons who lose are the average citizens of this country. I think that is another reason why we ought to consider who opposes this legislation.

This is not a revolutionary approach or a new idea. As the gentleman from California (Mr. KETCHUM) pointed out, we have already adopted it 10 times in this session of Congress. We have debated it time and time again, and we have put it in legislation. Indeed just last week we exercised the legislative veto.

I am told that the President will veto this bill if we should pass it. We will see whether he will veto it or not. The bill under which we actually exercised our authority of legislative veto last week was a bill that was signed by the same President of the United States. We will just have to wait and see whether he is going to be consistent or inconsistent.

Mr. Speaker, it has been stated that the bill is unconstitutional. There is a case pending which will resolve that issue. The Duke Law Review may say it is not constitutional, yet the Harvard Law Review has an article published just this year that says it is constitutional. The court will finally decide the issue.

The argument has been made that this is not the time and place, that this could have come out in some other manner. Congressional veto bills were referred to the Committee on Rules in March of last year, and the bill before the House today was reported out of the Committee on the Judiciary early this year and has been pending in the Rules Committee since March of this year. This is the time, this is the place, and this is one of the few opportunities the Members of this House are going to get so we can have a chance to go on record and let our constituents at home see how we really feel about who should make the laws in this country.

Committees in the other body have considered this legislation. Identical bills have been introduced in the other body. They have had hearings in two committees in the other body, and there well may be enough time remaining in this Congress to permit this bill to pass and to be signed into law.

Passage of this legislation will not only give the American people the assurance that elected officials rather than appointed bureaucrats are passing the laws, but it will do something to help restore the confidence of the people in the whole process of government, which they have come to feel is remote, is not related to them, and is not responsive to them.

Mr. Speaker, if the Members want to go back and tell their constituents that we have done something in this session of Congress to let them have a say and a voice in their Government, then this legislation is the one that we should vote to adopt.

When I arrived in Congress, as a new Member last year, the first bill I introduced on February 25, 1975, was H.R. 3658, the Administrative Rulemaking Control Act, which provided for a general power of a congressional veto over certain administrative rules and regulations—those whose violation carried penalties of fines or imprisonment. Thereafter, other Members offered other similar bills or cosponsored mine until finally over 200 Members have joined in legislative sponsorship of this idea of the need for a legislative veto—an idea whose time has come.

Under the skilled leadership of Chairman WALTER FLOWERS, the Judiciary Subcommittee on Administrative Law and Governmental Regulations, held extensive hearings on H.R. 3658 and similar proposals and established a carefully detailed and thorough record on congressional review and veto of administrative rulemaking. The subcommittee reported on March 16 a clean bill, H.R. 12048, embodying the entire concept of congressional veto in my original bill and making it applicable to all administrative rules and regulations. This bill was approved by the full Judiciary Committee by voice vote. I am pleased to be one of the prime cosponsors of this measure.

H.R. 12048 addresses a most serious question for all Americans: Who makes the laws in this country? Is it the elected Congress or the unelected bureaucrats who rule by administrative fiat?

It must not be forgotten that administrative rules and regulations have the force and effect of statutory law. A citizen stands in jeopardy of losing property and sometimes liberty for violating an administrative rule. Yet, these rules, or, if you will, laws have never been subject to review by an elected official of the people. This bill will give that right to the Congress, elected by the people, subject to their votes and who can be removed from office for passing unwise or oppressive rules.

Is there a need for this legislation? Yes—a desperate one. Let us look at the record. In 1974 Congress passed 404 laws. During that same period, the bureaucracy adopted 7,496 new or amended regulations—a ratio of more than 18 to 1. That is who is running the lives and businesses of the citizens of this country—unelected bureaucrats, not elected representatives. It is no wonder that our citizens have become cynical and angry and frustrated with their Government. But we can change that. We can restore to the people their right to govern themselves and restore their confidence in their Government.

What are the means of recourse presently available to citizens? Judicial review—a costly process prohibitive to the average citizen, particularly when the scope of judicial review is limited and the decision may be put off for years. Indeed, a recent Supreme Court decision in Union Electric Co. against EPA held that judicial review cannot even consider the question of economic or technological infeasibility of regulations in its determination. The administrative comment period—but there is nothing which requires the agency to take notice of comments submitted, and unless the average citizen reads the Federal Register daily, the comment period is likely to go by without his knowing about the rule until it becomes effective. Legislation—we know too well that this is a cumbersome, time-consuming procedure which is not adequate to repeal or change administrative rule. Why should the full mechanism of enacting laws be required to reject rules made by unelected bureaucrats?

H.R. 12048 provides an on-going procedure whereby Congress may review and reject agencies' actions. Congressional review of administrative regulations is not entirely a new idea. Since 1932, over 139 different acts of Congress, with nearly 200 separate provisions mandating some type of congressional review of or consent to executive implementation of those laws, have been passed.

On 10 separate occasions during this very Congress, the House has adopted by floor amendments to various pieces of regulatory legislation, the congressional veto concept which is embodied in H.R. 12048.

Moreover, there is ample precedent for this legislation in State law. Seven States have on their books laws which provide for legislative review of executive actions. Executive implementation of legislative acts has not grinded to a halt because of the review procedures in the States, nor has the other work of these State legislatures been stymied. The same would be true if congressional veto of administrative rules were adopted on the Federal level.

Only those rules which are far-reaching, oppressive or clearly outside the intent of Congress would receive consideration under the provisions of this bill. Indeed, if they are laws, we have the obligation to review them. We should not be intimidated by the number of these regulations. Over 18,000 bills and resolutions have been introduced since the beginning of the 94th Congress, almost two and a half times the number of rules and regulations promulgated in 1974, and have been dealt with one way or the other by the committees and the Congress. Already, each committee of the House has a review and investigation subcommittee with the responsibility of monitoring a particular function of the bureaucracy. The staff of these subcommittees read and review the rules promulgated by the agencies, but the problem is nothing can be done about the bad ones. If we believe that the number of regulations makes us incapable of this task, then I suggest that we ought not to be here. We, as the legislative branch of Government, have, under the Constitution, the ultimate responsibility for lawmaking which we must never abandon.

Any Member of Congress who thinks it is too much work for him to review, and, when necessary, reject rules or laws that exceed congressional intent or are oppressive, is not fulfilling his oath of office.

The 60-day referral period set forth in this bill strikes a fine balance of giving Congress the opportunity to consider and reject ill-advised regulations without unnecessarily delaying the operation of the executive branch. It will not serve to bottleneck the rulemaking process any more than that process is already bottlenecked when it takes a year or more after enabling legislation has been passed before an agency promulgates rules. Another 60- or 90-day waiting period is a small price to pay if it can better insure that the regulations are in accord with congressional intent and forestall the even further and costly delay of judicial review.

H.R. 12048 would remove the threat of lobbyists thwarting congressional intent by advocating their views before Federal agencies during the rulemaking process. Lobbying efforts directed at Federal agencies is far less open to public scrutiny than lobbying efforts directed at Congress. Very "cozy" relationships have developed between the regulatory agencies and certain industries, particularly since many agency employees seem to shuttle back and forth between industry and Government employment. Congressional review of regulations would prevent Federal laws from being undermined at this level.

A question of constitutionality has often been raised with respect to congressional veto provisions. This issue will ultimately be decided by the Supreme Court. Indeed, a case is already pending in court which will resolve this issue. However, if Mr. Justice White's concurring opinion in Buckley against Valeo is an indication, then we can expect that the one-House legislative veto will be held constitutional. Justice White said:

> In the light of history and modern reality the provision for Congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto.

Despite the constitutional question, Congress has repeatedly provided for congressional veto and, for example, has exercised the veto of administrative rules and regulations. Just last week, this House approved a resolution, House Resolution 1505, vetoing certain regulations of the General Services Administration pursuant to the Presidential Recordings and Materials Preservation Act which provides for this very type of congressional veto, and I might add, was signed by President Ford in 1974. So we have precedent for exercising a legislative veto already. We need to continue to exercise this power.

For the most part, we have sincere, hard-working, and dedicated people working in the administrative agencies. They do a good and responsible job, on most occasions. There are, however, a few zealots who relegate to themselves superiority and powers they do not have, such as the power to make laws despite congressional intent. Time and time again agency rules have frustrated or distorted the intent of Congress in originally passing a law.

H.R. 12048 would have a twofold effect. It would make the administrative agencies more responsive to the public and to congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with impunity. It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period.

It would also force Congress to draft legislation more carefully and to spell out its intent more clearly. Congress is far too lax in delegating authority broadly and without guidelines to administrative agencies. When hard decisions have to be made, we pass the buck to the agencies with vaguely worded statutes. Who can, or should, vote against safe cars, clean air, or nondiscrimination? But when the implementing regulations come loading cars up with expensive equipment of little benefit, or EPA imposes parking bans on cities, or EEOC refuses to let a police department ask potential employees if they have a criminal record, the actual benefit of safe cars, clean air, or nondiscrimination is called into question. If we realize that we have the ultimate responsibility for the administrative rules that flow from these enabling acts, we will be more careful.

Moreover, the public will have a larger voice in the rulemaking process through enactment of H.R. 12048. Access to Congressmen is far easier than access to the anonymous, faceless bureaucracy. The purpose of congressional review of administrative rules is to see that the public is given an input, through their elected representatives, in the promulgation of administrative rules. That is why so many of your constituents favor this bill—because it gives them a say-so in the rules that run their lives. It provides a remedy to the citizens of this country for us as their elected representatives to say when the bureaucracy has gone too far, perverted the intent of Congress and promulgated arbitrary and oppressive rules.

If you want to continue to perpetrate laws passed by administrative fiat, adopted solely by unelected bureaucrats, then vote against this bill. The record will show where you stand.

If you believe that the Representative elected by the people and responsible to them ought to have the authority to review and reject the rules and regulations which order their lives, then I urge you to join with me in supporting H.R. 12048. Again, the record will show where you stand.

It is certainly appropriate in 1976 to reflect on one of the principles for which our Founding Fathers fought 200 years ago—that is control over the executive power by the people through their elected representatives. One of the specific grievances enumerated against King George by Thomas Jefferson in the Declaration of Independence was this: "He—King George—has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance." Legislative veto over administrative rulemaking is a way to make a start toward restoring to the people those rights for which the Declaration of Independence spoke.

Stand up and be counted. Stand up for the rights of American citizens. My friends, if we do not reclaim for ourselves and our citizens the right of rule by the people and not by bureaucracy, then we surely have lost our chance to be a free people.

Mr. FLOWERS. Mr. Speaker, I reserve the remainder of my time to close debate.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself the remaining 1 minute.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding.

I commend him for his leadership in this area. I am strongly opposed to this bill.

Mr. Speaker, the question whether Congress should have the authority to "veto" regulations promulgated by an executive department is perplexing from both the constitutional and policy perspectives. On the one hand, there is a need to reduce or eliminate altogether useless and counterproductive rules adopted by administrative agencies. On the other hand, Congress must respect the constitutional prerogatives of the executive branch and allow its agencies sufficient latitude to perform their constitutional and statutory functions efficiently and without undue interference from the legislative branch.

In addition to these considerations, I am very concerned that such "veto" power would further burden scarce congressional resources, delay the regulatory process, enhance the political power of wealthy corporate interests, and politicize the entire Federal bureaucracy. Congress Watch is against such authority for these and other reasons and has released a cogent statement on the question (see Congressional Record of June 23, 1976, at 20134–20136). After a careful examination and reexamination of this question, I have concluded that granting Congress this power across-the-board would be unwise. I therefore intend to vote against this bill.

The Constitution imposes upon the President the power and responsibility to "take care that the Laws be faithfully executed." Under the doctrine of the separation of powers, it is his duty alone to execute the laws of the Union. Congressional review of regulations through an override authority runs extremely close to the constitutional line between the legislative and executive branches. While I am not convinced that such congressional power improperly invades the prerogatives of the President in all circumstances, I do believe the question is of sufficient magnitude to warrant an extremely cautious approach on the question.

H.R. 12048 cuts much too broadly on this analysis. It would give Congress veto power in all instances of rulemaking by administrative agencies. It may be that in particular circumstances Congress may and indeed should exercise that authority. We might appropriately enact such a veto provision where the particular agency has a history of ignoring congressional statutory mandates or exceeding the authority given it by the Congress. Or it may be that legislative oversight has been helpless to keep a runaway agency within the bounds of the law. I do not believe, however, that that is the case now with every agency. Thus I see no need for this bill which indiscriminately places all agencies in the same boat.

If laws establishing Federal agencies are inadequate, they should be amended or rewritten or even repealed by Congress. We can insure that these agencies operate more efficiently—and more lawfully—by expanding oversight and by carefully evaluating their accomplishments and deficiencies during the annual appropriations process. Indeed we could be more effective in oversight by reforming our own House, such as assigning appropriations authority to each legislative committee. With the Budget Committee reviewing total expenditures and providing guidance on overall spending, lodging exclusive appropriations authority with one committee is not necessary.

Finally I fear the politicization of the agencies which might occur if this bill is enacted. Members of Congress and their committees presently have a great deal of authority over, and opportunity for, participation in the administrative rulemaking process. In fact it sometimes appears that some Members exercise undue influence over the process. Providing a veto authority would add an additional element of politics to it. An immediate uproar or a momentary whim of popular passion might well result in the veto of a rule which, upon greater reflection, may prove to be quite worthwhile.

Congress annually appropriates large sums of money for the executive agencies and insists that employees be hired, assigned, and promoted based on merit. We expect that this professional corps of Government employees will perform their assigned functions dispassionately, impartially, and with a high degree of expertise. This bill begins with the assumption that such employees do not operate generally in that fashion. I do not agree with that premise.

Finally from a very practical standpoint, Congress cannot possibly do the work of the executive branch; our task is to legislate. If we allow ourselves to get bogged down in the minutiae of administrative rules and regulations, we will inevitably fail in our prime responsibilities to legislate for the Nation. That is our great constitutional duty which must not be diverted for light and transient cause.

I urge my colleagues to vote against this bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, it is not just big business, big labor, and the administration that are opposed to this bill. The National Council of Senior Citizens, the Consumer Federation of America, Ralph Nader's Congress Watch, and a number of other citizens groups are opposed to it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I trust the Members will not be beguiled by the siren song of the gentleman from Georgia (Mr. Levitas). It is so easy, and yes, it is so simple to go home and say, "Let us express our frustration at those downtown who have passed those regulations by passing this bill." But with no amendments and just 40 minutes of debate, we make a mockery of the legislative process.

Mr. Speaker, I urge a "no" vote.

Mr. FLOWERS. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I must disagree with that which the opposition has said and agree with that which those who support the bill have said.

Mr. Speaker, the gentleman from Wisconsin (Mr. Steiger) said it is ill-conceived legislation. This is no more ill-conceived legislation than the many bills he has brought us from the Committee on Education and Labor.

Mr. Speaker, where one sits is as important as where one stands. This bill has been considered in great detail by the Committee on the Judiciary and in lesser detail by the Committee on Rules. We have had similar proposals on the floor of this House many, many times.

Mr. Speaker, a gentleman from my home State ran for President a few years ago and achieved a great deal of recognition. He said, "Let us send them a message."

Mr. Speaker, one can say that this is frustration. One can call it anything he wishes, but our vote in favor of this bill here today will send them a message downtown, and it will be the kind of message that our constituents back home want us to send.

Mr. Speaker, I urge an "aye" vote on this bill.

Mr. FRENZEL. Mr. Speaker, the title of this bill "The Administrative Rule Making Reform Act of 1976" sounds good. We are all in favor of reform, and we all want to shake up the bureaucracy. I am for reform too, but I am not convinced that this bill does it.

H.R. 12048 has a couple of big problems: it may be unconstitutional; it is unwieldy; and it promises a good deal more than it can deliver.

This bill is under a constitutional cloud for several reasons. It may be a clear violation of the "presentation" clause of the Constitution which is found in article 1, section 7, clauses 2 and 3. This requires that every order, resolution or vote to which the concurrence of the House or Senate may be required shall be presented to the President for his signature. Second, it has been argued that this bill directly infringes upon the constitutional responsibilities laid to the President in article 2. Primary among these is the President's oft-cited obligation to "faithfully execute the laws."

I cannot speak authoritatively on the constitutional question, and I do not pretend to know all the right answers. However, it has been over 40 years since we initiated the first congressional veto over President Hoover's executive department reorganization. In the intervening years we have adapted and utilized the principle of "extra legislative authorities" in many different forms. None of our vetoes ever seemed to stop bad regulations, nor to stop us from encouraging more regulations by bad lawmaking.

During this session we are finally witnessing a constitutional challenge to the principle. At this point we are awaiting the determination of the court of appeals on the constitutionality of a similar provision employed in the Federal Election Campaign Act. It would seem to be unwise, or at least premature, to enact this kind of legislation when we might shortly find it useless or illegal.

I believe that the bill's provisions can be effectively divided into two categories, administrative and rulemaking alterations and congressional review of agency rules and regulations. I wish that the two had been presented individually. The provisions for expanding the opportunities for public participation in the rulemaking process, and improving our system of judicial review, have considerable merit. They are not flawless but they do deserve discussion and should be fully considered.

The congressional veto provisions would form an entirely new chapter of the law to provide Congress with the instrument to overturn rules and regulations promulgated by the executive agencies. Either House could initiate an action against any rule. The rule would be rejected if the first House disapproved the rule within 60 days and the other body either concurred or failed to act within 30 additional days. Congress could also merely pass a resolution disapproving a regulation, and returning it for reconsideration. The agency would then have an additional 60 days to rework and resubmit the bill at which time we would then begin our end of the procedure all over again. However, we should not fail to note that we are granting ourselves this authority for existing rules as well as new ones.

Although there are obvious exceptions, I believe that as a general rule the court system is the appropriate forum to judge administrative interpretations of the law. This bill would, in effect, redesignate the Congress into a court of initial review. If we cannot abide by present procedures under the Administrative Procedures Act we should act to amend them, not usurp them.

Despite our ardor to blame someone else, and to make the bureaucracy the "fall guy" for our own poor lawmaking, I doubt whether anyone here believes we can do the job properly. The director of the Federal Register, as noted in the majority report, outlined for the committee the steps followed in the rulemaking procedure. He pointed out that in 1974 the publication of rules required 10,981 pages of the Register and that by September 30 of 1975 there had already been 10,245 rules for that year. He further estimated that, as of that time the compilation of existing rules would have required about 60,000 pages.

The committee tells us that this review responsibility would not be overly burdensome because each committee would be reviewing the implementation of those areas over which it had legislative authority. In the Ways and Means Committee we have, in this session taken legislative action on over 90 bills and have had hundreds introduced for consideration. if we now had the authority which this bill provides we would have additionally been required to review heaven knows how many Internal Revenue Service regulations promulgated in this calendar year alone. The testimony and hearings would run into thousands of pages.

This review, however, would only accomplish part of our task because we also have jurisdiction over certain functions at HEW, State, Commerce, and Labor. I, frankly, do not believe that we could have done the job contemplated in this bill. If all the committees, by some minor miracle, were able to fully consider the issues involved in each promulgation we still have the question of floor consideration. The bill provides that 20 percent of either body can call for a floor vote. That means that 87 Members of this House or 20 Senators could conceivably tie up our time with hundreds of additional votes each session. We would do much better to delegate less rulemaking authority in the first place.

I also wonder whether we have sufficiently considered how we will select those rules which we review. I suppose our requests would come from the same big lobbies which seem to dominate our discussions of bills now, rather than from the little people who are hurt by rules.

Perhaps we could straighten out the bill if we could discuss and amend it at leisure. But, as it has been brought up under suspension with no such opportunity, I must oppose it.

Mr. BAUCUS. Mr. Speaker, I would like to comment on H.R. 12048, the Administrative Rulemaking Reform Act of 1976. This is an important bill, and I support it enthusiastically. Although it may increase our workload in Congress, it should bestow important benefits for the public. I would like to say a few words about the benefits that will flow from this bill. But first, I will discuss the context in which this bill arises. Specifically, what is the prognosis for the grand Government reform movement that was so much talked about in the opening days of the 94th Congress?

Public confidence in Government institutions is falling, while public perceptions that Government is bloated and wasteful are rising. There is the belief that the Government is no longer working for the people. There is the belief that too much redtape exists, that it is not worth the effort to seek assistance from the Federal Government.

A recent Harris survey graphically illustrates these points. Public confidence in Congress was 42 percent in 1966, but fell to a mere 9 percent in 1976. Confidence in the executive branch followed a similar pattern, falling from 41 percent in 1966 to 11 percent in 1976. The pervasive feeling of distrust and cynicism are based upon solid ground, and we should recognize it.

The Federal budget is growing more and more uncontrollable. Slightly higher than half the budget was uncontrolled in 1967, now it is greater than 75 percent. This does not leave much room to play with in preparation of the budget.

Programs are instituted without rhyme or reason. Programs run by different agencies have similar goals, yet instead of complementing each other, they frequently cancel each other out. More intensive congressional review of programs and rules could eliminate unnecessary programs and reconcile conflicting, and in too many cases, nonsensical rules.

Overlapping jurisdictions of departments and agencies clearly lead to a lack of accountability. Elmer Staats, in testimony before a Senate subcommittee earlier this year put it this way:

> Our experience with Federal domestic assistance programs indicate that each program is claimed to have unique characteristics which distinguish it from other programs. However, in practice, many programs serve very similar purposes . . .

With so many different agencies having domestic programs, it could literally take hours to track down the correct office. Yet, this is true in areas beyond the domestic scene.

As well as growth of overlapping programs, a number of programs have outlived their usefulness. Yet, because of a lack of periodic review, these programs are routinely funded year after year.

Congress must soon make decisions that will address the problems I have outlined above. We will make one of those decisions today as we vote on the administrative rulemaking reform bill. Tomorrow we will vote on a bill to reform lobbying practices. There is much more we can do—and must do—but we have done much already.

Congress has responded in the last few years to the calls for reform. The House is more efficient than it has been in decades. Committee jurisdictions, in most cases, are saner now than a decade ago. There has been an influx of new Members such that more than half the Members in the upcoming Congress would have first been elected in the 1970's. My new colleagues have assisted in insuring that the leadership of the committees are effective and forward looking. However, we should not be smug. We have made errors, which we have corrected. Nevertheless, if we sit back and not insist on effective leadership, all our internal reforms will have gone to waste.

The Senate has not sat back idly while we reformed this Chamber. They have recently established a commission to study the internal operations of that Chamber as well as a select committee to study the committee system of the Senate. I wish them luck in their endeavors.

The key to the reforms in Congress has been the lack of leadership in the Nation in the last couple of years. The public wants leadership, but they have not found it in the White House. We must provide that leadership—not only by enacting sensible programs, but also in improving the processes of government.

Congress has started to move Government out in the open. Most committees are now held in public session. We still, however, have conference committees closed to the public and to Members of Congress. I must recall an incident which occurred last year when a joint conference was meeting on the tax reform bills. I decided to sit in on the conference to see what was happening. To my dismay, I was asked to leave the conference because it was against the rules for a nonmember of the conference committee to be present. Yet, incredibly, there were dozens of people in the room, many of whom were not employees of Congress. We must move to open all committee meetings to the public. Results of opening meetings tend to be the same—the only change is the rhetoric used by the Members.

We must look at the Federal agencies now. Most agencies presently do not hold open meetings on routine matters. There is not reason to keep the public out of any meeting when the decisions coming out of the meeting affect the public. We are opening congressional meetings. We should open all Government meetings. Fortunately, this will be done by the sunshine bill (S. 5) which passed the House earlier this month and was approved by the President on September 13.

The House, in its recent reforms, has eliminated an obsolete committee. Now, we must take the same initiative with Federal programs. We should enact self-destruct mechanisms on programs. No program should continue beyond its usefulness—however, if it deserves to be reestablished, all that would be needed would be to enact legislation to continue the program.

Regulatory commissions are another Government area that has met with a loss of public confidence. The loss is due to a feeling that the regulators and the industry have become too friendly to render impartial decisions. One method to insure that regulatory commissions do not become pawns of the industry is to institute self-destruct provisions such that the commission will periodically come up for congressional review. The House recently passed by amendment to the Consumer Protection Agency which would limit that agency to 7 years unless Congress decided to continue its existence. Provisions such as this should be enacted for every department or agency that makes regulatory decisions.

We must not overlook the largest problem in Government today—the budget. Congress is still in the process of experimentation with the new congressional budget process. However, it appears that the experiment will be successful. We should now take budget reform to the next logical step and look into the feasibility of implementing zero-based budgeting—ZBB. ZBB may change our outlook on how budgets should be prepared. Too long we have followed a system that automatically allocates funds for programs regardless of whether they are useful or obsolete. ZBB, on the other hand, requires complete program review before appropriating funds.

Let us not be fooled, though, because zero base is relatively untried in government. Governor Carter initiated this concept in Georgia in 1971. Other States, including my own State of Montana, have been considering the proposal. I strongly believe the Federal Government should experiment on a small scale with zero base. Nothing as drastic a change as zero base should be instituted without experimentation. As former OMB Director Roy Ash stated in a Senate hearing, starting full-blown zero-based budgeting is like jumping aboard a 747 in full flight.

Congress, as I previously stated, has exercised leadership in the Nation in the last few years. We must insure that this exercise in leadership will not be lost in the next Congress. By making sure the leadership is effective and Congress takes an active role in instituting zero-based budgeting reviews, we can guarantee Congress will keep its assertive role in policymaking.

The bill before us today is an exemplary effort to reassert congressional responsibility. When our constituents complain that the Federal bureaucracy promulgates foolish regulations, we should not shrug our shoulders and send them letters expressing our sympathy and mutual frustration. We can and should do more than that. If regulations are foolish, if they are contrary to basic policies established by Congress, then they should be rescinded. This bill will do just that, and I urge my colleagues to support it.

Mr. ALEXANDER. Mr. Speaker, administrative rulemaking began with the formation of the Interstate Commerce Commission in 1888 and today it has evolved into what many term a fourth branch of Government. It is a Federal bureaucracy that pervades virtually every facet of life, in a tangle of regulations that carry the force of law without benefit of legislative consideration.

Last year alone, 67 Federal agencies, departments, and bureaus adopted 7,496 new and amended regulations while, during the same period of time, Congress enacted 404 public laws—a ratio of 18 to 1.

Congress has allowed civil servants or appointed officials to conjure up thousands of far-reaching laws that can put in jeopardy the liberty or property of the people without having anyone elected by the people involved in the process.

Congress has till now passed the buck, and the citizen must deal with people unaccountable to him and, more often than not, unresponsive to him.

An agency entrusted with a single area of responsibility has awesome powers. It can advocate its cause, and then act as judge and jury deciding on the merits of its own advocacy. Only accountability can avoid the obvious potential for self-serving, limited, or unrealistic decisions.

An OMB study estimates that the total cost of regulation to the United States economy may be as much as $130 billion. This equals 8.1 percent of the gross national product in calendar year 1976. The Commission on Federal Paperwork has estimated that the annual cost of Federal paperwork alone is on the order of $40 billion.

When an act of Congress contains a section that reads:

> The Secretary shall have the power to promulgate regulations to carry out the purposes of this Act . . .

Then the citizen is at his peril.

The major problems with most executive agencies and departments today is bureaucrats who have forgotten that they are the servants of the people, and not our masters.

H.R. 12048 improves the procedures for public participation in the rulemaking process and provides for congressional review of rulemaking.

Under the terms of the bill, the House and Senate, following adoption of an administrative rule by an agency, would have 90 days to act on a concurrent resolution to disapprove the proposed regulation.

This bill does not destroy the administrative process as some would have us believe; it will make it more responsive.

It does not substitute congressional decision for administrative decision; it assures that those administrative rules which clearly go beyond congressional intent are never inflicted on the public.

As a sponsor of similar legislation, I urge my colleagues to support this long overdue reform.

Mr. Speaker, I would like to share with my colleagues a letter I received from a constituent which pretty well sums up, I believe, what the American people are saying about the ever-increasing Federal Government influence in their daily lives:

Hon. Bill Alexander,
Member of Congress, Cannon House Office Building, Washington, D.C.

Dear Congressman: I am not usually very outspoken, but as time goes by I am becoming more concerned about government intervention into the lives of private citizens. It seems that there is a government regulation for or against about everything. There are too many highly educated and well meaning folks (bureaucrats) which should be allowed to make their contributions to society from a position within the Private sector, instead of thinking up regulations to deprive People of the right to run their lives as they personally think best. (Yes for the most part we are capable of thinking for ourselves.)

Many of the laws and regulations though well meaning and sounding good at the time, in reality turn out to be waste of hard earned tax dollars, poorly administered give-me Programs, or just one more link in the chain which joins the handcuffs to our Freedom.

People within government should work just as hard at repealing bad laws, practicing efficiency, and conducting their agencies in a business like manner as they do in thinking up new regulations and worthless programs.

The government has expressed concern from time to time about the size of big business, farming monopolies. The government has some measure of control over this with anti-trust.

What control do the people have to control the size and power of government?

Proud But Concerned Citizen,
Larry Richmond.

Keiser, Ark.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of legislation to restrict the unwieldy rulemaking powers of our Federal regulatory agencies and I would like to commend the chairmen of both the Judiciary and the Rules Committees for their timely efforts in acting on this much needed reform legislation—the Administrative Rulemaking Reform Act. The time for regulatory reform is here—the American public is behind it and I feel confident that this method—to provide new oversight authority over the sometimes arbitrary and abusive rules of independent agencies—will make this vast Federal machine more responsive to the people which it is suppose to serve.

I have worked for 13 years to decentralize the Federal Government, to put the decisionmaking powers of government back at the local and State levels where the people will have closer control over their own lives. I have long been a member of a minority in my efforts for less government. But, in the past few years we have seen the result of big government and big taxes to support this maze of bureaucracy and we now have a revolt before us of people who want to call a halt to this ever-expanding control by the "Feds."

This control can be seen best in a look at the Federal Register which publishes 60,000 finely printed pages of new rules and regulations a year. This voluminous publication is a clear indication that our Federal agencies have become a fourth branch of Government issuing regulations which have the force of law. In effect this has tipped the scales of the system of checks and balances instituted so wisely by our forefathers and in effect, has given the independent agencies the powers of legislative, administrative, and judicial functions.

As a result of this control, enterprising men and women are being told how to run their businesses—by the Federal Government—school systems are being told how and what to teach—by the Federal Government—and individual people are being told how to conduct their private lives—by the Federal Government.

This measure which we have before us is a major step forward in halting this decline of our personal and professional freedoms. This will put elected representatives—those directly accountable to the public—in the position of safeguarding these freedoms and I am encouraged by the strong bipartisan support this once "minority position" has gained.

We have indeed been vocal about the need to apply brakes on the arbitrary and abusive powers of regulatory agencies. We have introduced legislation, such as the bill before us, we have testified before committee hearings, held special debates on the floor of the House, amended agency funding legislation and, in general, spread the word to our colleagues and constituents.

These efforts have produced legislation which is a workable means to restore a responsible balance of lawmaking functions to our Government. Those regulations which are not controversial or are in line with the intent of the law would not require action taken on them by the Congress.

It is only in those few instances where a rule so adversely affects society or strays from our intent that Congress will take action, and in so doing, the administrative process which is so vital to the effectiveness of our Government will not be destroyed.

This legislation will only insure a higher degree of responsibility and responsiveness to the American people through their elected representatives in Congress and I urge my colleagues to lend their support to this important step forward in restoring a government by the people instead of by the bureaucracy.

Mr. ANDERSON of Illinois. Mr. Speaker, I must strongly object to the consideration of this rulemaking reform bill under the suspension procedure, even though I am a cosponsor of a similar bill with the gentleman from California (Mr. Clawson). The original Clawson and Levitas bills as well as this bill which was reported from the Committee on Judiciary, were all jointly referred to the Judiciary and Rules Committees. The bill before us was reported out of the Judiciary Committee on April 6 of this year and was the subject of some hearings in the Rules Committee, of which I am a member. I regret that our committee did not complete those hearings, let alone begin markup on the bill, but the intervention of business from other committees made this very difficult.

Mr. Speaker, I would be the first to admit that our Rules Committee is not without fault for not dealing with this bill in a more expeditious fashion. But I would submit to you today that we will only be compounding the problem of insufficient consideration if we consider and pass this bill under the restrictive suspension procedure. Think about it. In just 40 minutes time we are expected to adopt a new procedure which will apply to hundreds of executive agencies and thousands of rulemaking proceedings each year. And while there may be no sympathy for whatever additional burdens and delays this might impose on the executive bureaucracy, keep in mind that this bill is a twin-edged sword—it cuts both ways. It slices into the legislative process as well as the executive rulemaking process. If we are really serious about what this bill purports to do, then we are saddling our committee system with a tremendous new burden of reviewing each and every rule and regulation proposed by any agency covered by this bill. If we are not really serious about fully accepting our half of the burden implied by this bill and are only attempting to score a few points with our constituents in the game of "get the bureaucrats" then let us be honest and out front about it. Let us level with the American people and admit that we are quite often to blame for some of the rules and regulations they like to complain about. It is not that anyone is necessarily malicious in either branch. It is simply that we too often lack the foresight to consider some of the practical ramifications of the bills we pass or to specify how our lofty objectives might be achieved. We too often give the regulation writers a blank check and then we blame them when it bounces off its intended victims.

Mr. Speaker, our lack of legislative foresight is exceeded only by our lack of legislative oversight on such matters. It is argued that this bill is necessary to insure that we do a better job of oversight, but such a claim is ridiculous. We have the tools and capability now to fulfill our oversight function. Where we fail it is a failure of will or courage or both, but not for lack of means. This bill will only divert and confuse our oversight efforts by weighting our committee staffs down with the impossible task of perusing each and every rule and regulation proposed by any agency. This in turn will detract from the amount of time a committee can devote to necessary program oversight—of digging into instances of maladministration or program failures, and of recommending necessary changes in the law to correct those abuses and failures. All this bill does is to give us the opportunity to second-guess ourselves on ill-considered bills we may have enacted while providing us with a bureaucratic scapegoat aimed at diverting any blame from ourselves. In short, I think it is a cowardly and politically expedient way around admitting to our own mistakes. I think we should have the political courage to squarely confront our mistakes when we make them and tackle them head on by amending the basic law if necessary. That is the meaning of real oversight, in my opinion.

Mr. Speaker, as I mentioned earlier,

I have cosponsored a version of this bill with the gentleman from California (Mr. CLAWSON), but that bill would have limited the congressional veto to those rules and regulations which go beyond the scope or intent of the bills they are designed to implement. Here I think we have a legitimate cause for intervening in the rulemaking process. If the legislative history is clear we intended one thing and yet the regulations propose quite another thing, then we should step in before those regulations are final and put a stop to this bureaucratic abuse of a delegated responsibility. But this bill goes far beyond that limited use of the legislative veto by permitting us to veto a regulation simply because we do not like it, regardless of whether or not it complies with the legislative intent. And it in effect makes it possible for one House to block the implementation of a law if the other House does not act on the proposed regulation. It is a no win situation for the agency involved: On the one hand it is damned for trying to implement the law; and when one House stands in its way, it will be damned for not carrying out the mandate of the Congress—probably because the Congress was not sure what the execution of that mandate would entail.

Mr. Speaker, in the time remaining I would like to list four compelling reasons why I think this bill should be rejected at this time, regardless of how Members might feel about the general proposition of a congressional veto over executive agency regulations:

First, consideration of such a far-reaching and controversial bill under the suspension procedure is a travesty of the legislative process. Forty minutes is not sufficient time to debate the procedural problems involved here, let alone the substantive problems. And the no-amendment prohibition is an insult to every Member of this body. I have had some eight amendments drafted to this bill, most of which I inserted in last Friday's CONGRESSIONAL RECORD. I know other Members who are likewise interested in improving this bill by amendment yet who are precluded from doing so under this procedure;

Second, this bill does deserve more extensive consideration by the Rules Committee to which it was jointly referred. Sections 4 through 6 of this bill deal with congressional procedures for handling proposed agency regulations—a matter clearly within the jurisdiction of the Rules Committee. Especially troublesome is section 603 of the bill which would permit either House to adopt a resolution directing an agency to reconsider even existing rules. If the agency does not repromulgate a new rule after being directed to reconsider the existing rule, that existing rule lapses and presumably the program involved collapses. If the agency does repromulgate a new rule but one House disapproves it and the other does not act, we are again left with the dangerous situation of ongoing programs with no rules or regulations. This "reopener" provision alone, with its potential for throwing existing Government programs into complete disarray, confusion, and chaos, is in itself sufficient reason to defeat this bill today. The reopener provision was not in any of the original bills considered by the Judiciary Committee and was not the subject of its hearings;

Third, there is a serious constitutional question involved over the congressional veto power and a suit initiated by Ramsey Clark and joined by the administration is now in litigation. It would be foolish for us to extend the congressional veto to all agency regulations when the Supreme Court could ultimately find that such a veto is unconstitutional. Enough existing congressional veto laws are in jeopardy without our having to jeopardize the entire rulemaking process of all agencies;

Fourth, while a companion bill to this one has been introduced in the Senate, no hearings have been held on it and the other body is thus nowhere near being in a position to give this matter proper consideration before we adjourn. We are only fooling ourselves and our constituents if we think this legislation has any chance of enactment in this 94th Congress.

In conclusion, Mr. Speaker, and I speak as one who is a cosponsor of a more limited congressional veto bill, I think this is the wrong time, the wrong bill, and the wrong way to go about getting a better handle on the rulemaking process in the executive branch. Moreover, it is a poor substitute at best and probably a hindrance at worst for coming to real grips with our legislative foresight and oversight failings. In the long run I do not think we are fooling anyone by this abbreviated and frivolous exercise today; and, if by chance this bill should be enacted without proper consideration and opportunity for amendment, the real joke will be on us if we should ever seriously attempt to carry out our responsibilities under this bill. I urge its defeat.

Mr. BINGHAM. Mr. Speaker, H.R. 12048, which provides for a congressional veto of regulations issued by Federal departments and agencies, would accomplish very different goals from those expected by some of its supporters. They claim that by giving Congress the power to override agency regulations they would enhance accountability, congressional oversight, and governmental efficiency. They contend that a congressional veto of agency rules would protect the public from overzealous bureaucrats and counterproductive regulations. I disagree.

H.R. 12048 would throw a monkey wrench into the machinery of government. According to the committee report, between January 1 and September 30, 1975, there were 10,245 proposed agency rules. Congressional review of thousands of rules is as impractical as it is undesirable. Congress lacks the time, resources, and technical expertise to review specific regulations on everything from health standards for drugs to safety standards for small aircraft. Each rule printed in the Federal Register is supported by hearing records which often run to volumes of substantive materials. In a single FTC rulemaking proceeding, for example, these documents comprise a record of 30,000 pages. There is no way that Congress could read, let alone review, each rule.

In fact, only a few rules would receive congressional attention. Those would be the rules which most offend the largest and most politically potent pressure groups. The drug industry, the oil lobby, the food processors would all have another opportunity to fight those regulations which they do not like. We have all seen the delay, the killing delay, that results when Federal agencies try to ban the production of dangerous additives like red dye No. 2 or DES. The regulatory process as it now exists often takes years before a substance or a practice is proscribed. This bill would merely add one more layer of delay as powerful interests which lost an initial lobbying battle regrouped for a rematch at the office of the committee chairman or on the floor.

H.R. 12048 is unnecessary. I would be the last to argue that there is never a need for a legislative veto. It was my amendment, incorporated into the Foreign Military Sales Act of 1974, which provided for just such a review process for foreign military sales of $25 million or more. I pushed for a legislative veto over these sales because there was no other way for Congress to reassert its authority in a field that had become even more important than military assistance.

This situation is very different. Congress does indeed have the power to regulate the regulators. It uses those powers all the time. Congress has the power of authorization and appropriation. Any Congressman may submit comments to a Federal agency as it draws up and finalizes rules. Congress may conduct oversight hearings. Congress may repeal or revoke any statute which authorizes an agency to promulgate a particular kind of regulation. Beyond Congress there are the courts. Affected industries and individuals always have the option of taking a Federal agency to court to block implementation of a ruling if it is arbitrary or capricious. Neither Congress, nor the courts, nor affected parties themselves have been loath to exercise any of these powers. Congress already has the authority it needs for effective oversight. H.R. 12048 is unnecessary and, if enacted, would only contribute to legislative and administrative ineffectiveness.

Mr. FOUNTAIN. Mr. Speaker, I am pleased to join many of my colleagues in supporting H.R. 12048, the Administrative Rulemaking Reform Act of 1976.

Incorporated in this bill are two changes that would alter present administrative rulemaking procedures. It seems to me that the need for both of these has been demonstrated clearly by past experience and recent developments. First, H.R. 12048 would enable Congress to review, approve, or disapprove rules promulgated by Federal agencies and departments. Second, it would institute a number of improvements in the Administrative Procedures Act of 1946.

Although the so-called legislative veto feature is certainly the most controversial portion of this measure and has received the greatest amount of publicity, let me point out at the outset that the other suggested reforms are very important and should not be overlooked. There is time now only to emphasize briefly that the bill would correct a number of technical deficiencies in the rulemaking process by adopting such improvements as revised definitions for the terms "rules" and "emergency rules," modified notification requirements, increased opportunity for public participation, and elimination of current exemptions. There appears to be rather general agreement that these reforms are worthwhile and should be approved.

The primary innovation proposed by H.R. 12048 would be to confer on Congress the power to review and disallow rules promulgated by the executive branch before they became effective. The need for extending congressional oversight authority in this fashion has been created by a combination of well-known factors. Because of the increasing number and complexity of the functions and activities in which the National Government has become involved for various reasons, Congress has found it necessary in recent decades not only to establish many new programs but also to grant rather wide discretion and latitude to Federal officials in their administration of those programs. This in turn has led inevitably to a mammoth increase in the amount, diversity, and significance of the rules and regulations emanating from a huge Federal bureaucracy that are binding on our citizenry.

There is no need to dwell upon the major consequences which this unprecedented growth in administrative law has meant for all of the people of the United States. Other Members as well as witnesses who testified in hearings have called attention to the startling size of the Code of Federal Regulations, to the thousands of new or amended rules issued each year, and to the hundreds of pages published in the average-size daily Federal Register. Incidentally, 1 year ago the total number of Federal regulations in effect and having the full force of law, came to 60,000 pages—60,000 pages of small print.

It has been pointed out also that citizens can be subjected to criminal penalties for alleged violations of many of these rules and regulations, and that, except for lengthy statutory remedy, there is now no opportunity for elected representatives charged with the responsibility for establishing public policy to nullify any wrongful interpretations of that policy by Federal agencies, boards, or regulatory commissions. Suffice it to say that, in my opinion, the time has long since come to provide a practicable system whereby Congress can review with little delay this vast body of administrative law in order to assure that directives issued by Federal administrators comply fully with the objectives and methods intended by Congress for the implementation of any program, and with the spirit and intent of the laws we pass.

It has been argued that the new disallowance procedure authorized by H.R. 12048 would be complex, time consuming, and counterproductive. To the contrary, the provisions giving Congress the right to examine and disapprove agency rules seem to be clear and easily understood and would cause neither undue delay nor unnecessary administrative burdens. Moreover, although the disapproval sections contain certain unique features never before enacted into law, a comparison of these with similar provisions in earlier statutes reveals both their advantages and the care with which they were prepared.

Briefly, as reported by the Judiciary Committee, H.R. 12048 provides that any rules promulgated by executive agencies would become ineffective upon the occurrence of either one of two different contingencies: First, if a concurrent resolution of disapproval were adopted by both Houses of Congress within 90 calendar days of continuous session after its promulgation; second, if a concurrent resolution of disapproval were adopted by either the Senate or the House within 60 days of continuous session after its promulgation, and if the other House did not within 30 more days disapprove of that resolution. However, if neither House adopted a disapproval resolution within 60 days or if no committee in either House has either reported or been discharged from consideration of such a resolution within that period, then a rule could go into effect within 60 days.

On the other hand if a committee in either House has reported a disapproval resolution or has been discharged from considering such a resolution within 60 days of continuous session, a rule could not become effective before 90 days after its promulgation. Once disapproved, an identical rule could not be promulgated by an agency unless Congress by law modified the agency's powers with respect to the subject matter of the rule.

Especially praiseworthy, it seems to me, is the fact that the bill authorizes a reasonable alternative to outright congressional disapproval of a rule. Rather than rejecting it completely, either the Senate or the House would be empowered to direct that all except emergency rules should be sent back to their parent agencies for review and further consideration. No such rule could go into effect if either House, within 90 days of continuous session after its promulgation, should adopt a resolution calling for its reconsideration. In such cases the agency, at the end of 60 days reexamining the rule, could either withdraw or repromulgate it. If no action at all were taken, the rule would automatically lapse. If no committee in either House reported or was discharged within 60 days from a resolution for the reconsideration of a rule, the rule would become effective. If any committee did report, or was discharged from such a resolution within 60 days, it could not become effective sooner than 90 days after its promulgation. Finally, any rule for which either House passed a resolution of reconsideration would lapse at the end of 180 days unless during that time it were repromulgated by the agency.

I submit that this bill proposes a very workable, utilitarian system for checking on the implementation of public policy. First of all, it would not mean that each Senator or Representative or every staff person would have to search in minute detail every single rule or regulation issued by any agency. Any rule would be submitted first to the appropriate legislative committee that has jurisdiction over a particular agency or subject matter. The members and committee and subcommittee staffs who oversee, continuously, the work of their counterpart agencies are familiar with and understand the mandates, needs, and problems of these agencies. They are generally best qualified to interpret the intent of Congress as expressed through legislation in a particular field.

Even though these new procedures might tend to increase present workloads somewhat, they would not impose an impossible task on Congress as some have contended. To the contrary, the job of reviewing rules and regulations is one that our committees should be doing now as part of their oversight responsibilities. If it should become necessary to make some adjustments in staff size and duties, let it be done. This is a job well worth doing. It should return sizable dividends not only in producing better rules and regulations but also in reducing the number of oversight investigations and hearings now held.

Finally, it is well to keep in mind that the basic principle of congressional review embodied in H.R. 12048 is not new. For more than 40 years Congress has enacted legislation reserving to itself the right to disapprove proposed executive actions. More than 300 provisions in some 200 statutes have provided for some type of check on departments and agencies before certain programs could be executed and many of these have included an outright disapproval power within a specified period of time. The evidence is clear that Congress has not abused this power; more than half—37—of the disapproval resolutions passed by Congress during the period 1960 through 1975 were for the sole purpose of rejecting proposed deferrals of appropriated funds under one law, the Congressional Budget and Impoundment Control Act of 1974. During that 16 years only 23 other disapproval resolutions became effective through passage by one or both Houses as required by law, although approximately 350 resolutions of disapproval were introduced.

It seems to me, therefore, that Congress has demonstrated that it will use the disapproval procedure set forth in H.R. 12048 with circumspection and caution, and I have no hesitancy in advocating its approval. As a matter of fact the House of Representatives has already during this session approved similar provisions calling for congressional review of certain administrative rules in at least 10 other bills. To adopt H.R. 12048 now would merely extend this pattern we have approved to all other rules and regulations.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. FLOWERS) that the House suspend the rules and pass the bill H.R. 12048, as amended.

Mr. STEIGER of Wisconsin. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. Twelve Members have arisen, an insufficient number.

The yeas and nays were refused.

Mr. STEIGER of Wisconsin. I am sorry, Mr. Speaker. I could not hear what the Speaker said.

The SPEAKER. I said that 12 Members have arisen, an insufficient number.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Wisconsin withdraw his point of order that there is no quorum?

Mr. STEIGER of Wisconsin. Mr. Speaker, I withdraw my point of order.

GENERAL LEAVE

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 12048, the bill just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TOMORROW AND THURSDAY, SEPTEMBER 22 AND 23, 1976, DURING 5-MINUTE RULE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology may be permitted to sit tomorrow and Thursday, September 22 and 23, 1976, despite the fact that the House may be sitting under the 5-minute rule, to hear testimony on research programs to aid the handicapped only.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

INTERSTATE HORSERACING ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14071) to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Interstate Horseracing Act of 1976".

FINDINGS AND POLICY

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) horseracing in the United States is a significant industry which provides many thousands of jobs, which contributes favorably to the United States balance of trade, and which is heavily dependent upon parimutuel wagering for its income;

(2) parimutuel wagering on horseracing provides substantial revenue to the States through the direct taxation of gross wagers, and through admission taxes, other taxes applicable solely to horseracing and parimutuel wagering, and income taxes upon persons engaged in the horseracing industry;

(3) racetracks and the owners of horses racing at the tracks receive a percentage of each wager placed at the racetrack and are thus directly dependent on the amount of wagers for their income;

(4) attendance and wagering at racetracks are adversely affected by off-track parimutuel wagering, with consequent losses in revenue to the States and reductions in income to the racetracks and the owners of horses;

(5) off-track parimutuel wagering on an interstate basis will result in a severe decrease in the number of racetracks, causing substantial loss of revenue to the States and serious harm to the horseracing industry;

(6) an increase in the number of parimutuel wagering systems accepting wagers on a particular horserace provides increased opportunities to distribute wagers on a race in which the outcome might have been altered, thereby avoiding distortions in the wagering pattern and reducing the value of analysis of wagering patterns as a method of detecting illegal alterations in the outcome of a race; and

(7) interstate off-track parimutuel wagering greatly increases the availability of prerace and postrace information which would otherwise be unobtainable by illegal wagering operations, and, because such operations depend upon the ability to obtain such information, interstate off-track parimutuel wagering may lead to an increase in illegal wagering.

(b) POLICY.—It is the policy of the Congress in this Act to regulate interstate commerce with respect to parimutuel wagering on horseracing, in order to assure the continued flow of revenue from parimutuel wagering to those States which conduct horseracing, and to protect and further the horseracing industry in the United States.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity.

(2) The term "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(3) The term "parimutuel wager" means any wager with respect to the outcome of a horserace which is placed with, or in a wagering pool conducted by, a parimutuel wagering enterprise licensed or otherwise permitted under State law.

(4) The term "on-track parimutuel wager" means a parimutuel wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place.

(5) The term "interstate off-track parimutuel wager" means a parimutuel wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State.

(6) The term "takeout" means that portion of a parimutuel wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing parimutuel wagers.

(7) The term "host State" means the State in which a horserace takes place.

(8) The term "off-track State" means the State in which an interstate off-track parimutuel wager is accepted.

(9) The term "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts a horserace.

(10) The term "horse owner" means any person who owns a horse or an interest in a horse.

PROHIBITION

SEC. 4. No person may accept any interstate off-track parimutuel wager.

LIABILITY AND LIQUIDATED DAMAGES

SEC. 5. Any person accepting any interstate off-track parimutuel wager in violation of section 4 of this Act shall be liable for liquidated damages to the host State, the host racing association, and any horse owner whose horse participated in the horserace with respect to which such interstate off-track parimutuel wager was accepted. Liquidated damages for each such violation shall be as follows:

(1) If such interstate off-track parimutuel wager was of a type accepted at the racetrack at which the horserace took place—

(A) with respect to the host State or the host racing association, damages shall be in an amount equal to three times that portion of the takeout which would have been distributed to such host State or host racing association, as the case may be, if each such interstate off-track parimutuel wager had been placed at such racetrack as an on-track parimutuel wager; and

(B) with respect to any horse owner whose horse participated in such horserace, damages shall be in an amount equal to three times a pro rata share of that portion of the takeout which would have been distributed to the horse owners if each such interstate off-track parimutuel wager had been placed at such racetrack as an on-track parimutuel wager.

(2) If such interstate off-track parimutuel wager was not of a type accepted at such racetrack—

(A) with respect to the host State, damages shall be in an amount equal to three times the greater of (i) that portion of the maximum takeout permitted for any type of parimutuel wager in the host State which is distributed to the host State, as applied to each such interstate off-track parimutuel wager, or (ii) that portion of the maximum takeout permitted for any type of parimutuel wager in the off-track State which is distributed to the off-track State, as applied to each such interstate off-track parimutuel wager;

(B) with respect to the host racing association, damages shall be in an amount equal to three times greater of (i) that portion of the maximum takeout permitted for any type of parimutuel wager in the host State which is distributed to the host racing association, as applied to each such interstate off-track parimutuel wager, or (ii) that portion of the maximum takeout permitted for any type of parimutuel wager in the off-track State which is distributed to the appropriate racing association in the off-track State, as applied to each such interstate off-track parimutuel wager; and

(C) with respect to any horse owner whose horse participated in such horserace, damages shall be in an amount equal to three times the greater of (i) a pro rata share of that portion of the maximum takeout permitted for any type of parimutuel wager in the host State which is distributed to the horse owners, as applied to each such interstate off-track parimutuel wager, or (ii) a pro rata share of that portion of the maximum takeout permitted for any type of parimutuel wager in the off-track State which is distributed to the horse owners, as applied to each such interstate off-track parimutuel wager.

CIVIL ACTIONS

SEC. 6. (a) COMMENCEMENT OF CIVIL ACTIONS.—The host State, the host racing association, or any horse owner referred to in the first sentence of section 5 of this Act may commence a civil action against any person alleged to be in violation of section 4 of this Act, for injunctive relief to restrain further violations of such section 4, and for damages in accordance with such section 5.

(b) INTERVENTION.—In any civil action under this section, the host State, the host racing association, and any horse owner referred to in the first sentence of section 5 of this Act, if not a party, shall be permitted to intervene as a matter of right.

(c) LIMITATIONS.—A civil action may not be commenced pursuant to this section more than three years after the discovery of the alleged violation upon which such civil action is based.

JURISDICTION AND VENUE

SEC. 7. (a) FEDERAL JURISDICTION.—Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any civil action under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—A civil action under this Act may be brought in any district court of the United States for a district located in the host State or the off-track State, and all process in any such civil action may be served in any judicial district of the United States.

(c) CONCURRENT JURISDICTION.—The jurisdiction of the district courts of the United States pursuant to this section shall be concurrent with that of any State court of competent jurisdiction located in the host State or the off-track State.

EFFECTIVE DATE; APPLICABILITY

SEC. 8. (a) EFFECTIVE DATE.—The provisions of this Act shall take effect on the date of enactment of this Act, and, except as provided in subsection (b) of this section, shall apply to any interstate off-track parimutuel wager accepted on or after such date of enactment.

(b) EXCEPTIONS TO APPLICABILITY.—(1) The provisions of this Act shall not apply to any interstate off-track parimutuel wager which is accepted by an off-track State pursuant to a contract—

(A) which is entered into by such off-track State and the host State prior to the date of enactment of this Act; and

(B) which authorizes such off-track State to accept parimutuel wagers with respect to the outcome of a horserace taking place in the host State.

The exception to applicability granted by this paragraph shall expire on the date of the termination of the contract described in the preceding sentence, or on April 30, 1982, whichever date first occurs.

(2) The provisions of this Act shall not apply to any interstate off-track parimutuel wager on a horserace run in a State which does not permit parimutuel wagering on horseracing, if an interstate off-track parimutuel wager was accepted on a previous running of such horserace prior to July 26, 1976.

The SPEAKER. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the purpose of this bill is to prohibit a parimutuel wager being placed or accepted in one State with respect to the outcome of a horserace taking place in another State. It has nothing to do with intrastate off-track betting.

The bill specifies the liability for violations and provides for liquidated damages, as well as injunctive relief to restrain further violations. The bill also sets out the jurisdiction, venue and statute of limitations for such civil actions.

Mr. Speaker, the industry which this bill seeks to protect represents a sizable portion of our economy in the United States. The horse industry currently employs about 170,000 individuals. It spends over $13 billion annually for operating expenses, taxes, and capital investment. State tax revenue collected in 1975 is expected to amount to over $600 million. The popularity of the sport is indicated by the fact that in 1975 more than 56 million persons attended horseraces in some 30 States. This represents a 35-percent larger attendance than that at major league baseball and professional football games combined.

In essence, off-track betting is nothing more than one State poaching on the product of another State. Proliferation of off-track betting will have a debilitating effect on the horseracing industry and the equine industry in this country. For example, my subcommittee was informed that if interstate wagering is permitted to develop nationwide, it is estimated that thoroughbred horseracing would be reduced from 99 tracks to 2 or 3 in this country, thoroughbreds raced would be reduced from about 58,820 to about 5,000, and licensed racetrack employees would be reduced from 101,000 to 7,500.

The subcommittee strongly feels that a 90-percent reduction in this industry and the sport of horseracing is too high a price to pay for the convenience of interstate gambling.

Another example is that it took the breeding of 800 foals to find the right combination to produce one Secretariat. Not all horses are winners or money-makers. If we destroy the small racetracks with off-track betting, horse breeders cannot afford extensive breeding to produce horses of such a caliber as Secretariat.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I have spent a considerable time studying this subject with the gentleman from Pennsylvania (Mr. ROONEY) and I would like to associate myself with the gentleman's remarks and in support of this legislation.

Mr. Speaker, I realize that this legislation has an impact on the States neighboring upon my State, which has just opened another track, and upon which we will be relying very heavily.

I also agree with and understand the statements made by the gentleman from Pennsylvania in connection with the breeding requirements involved in horse racing, as the gentleman has so splendidly set forth.

Mr. ROONEY. Mr. Speaker, I might say that the only objections to this bill have come from the States of New York and Connecticut that have off-track betting. I do not believe the objections raised by these self-interests have merit.

New York State contends that off-track betting revenues are helping meet its severe fiscal problems and any interruption would be harmful. We all know in this Chamber who bails out the State of New York, it is the Federal Government. They have come here asking for over $2½ billion. Off-track betting has nothing to do with bailing out the city of New York or the State of New York. Actually this bill will not be harmful to the State of New York. It would merely preclude it from accepting wagers on just 10 special races each year. Previously, New York placed a heavy reliance on out-of-State races. This was necessary to provide wagering on dates when there was no racing in the State. Currently, however, New York has racing every day and State law permits accepting wagers only on 10 out-of-State major racing events.

Currently, Connecticut has no racetracks and thus relies entirely on out-of-State races for its off-track betting. The subcommittee was informed that a permit has been granted to build a racetrack in Connecticut. There is a fear, however, that off-track betting would preclude its success. This bill provides an exemption to the general prohibition of off-track betting to permit the State of Connecticut to continue its off-track betting operations for the duration of its existing contract with the State of New York. I believe this 6-year time period will be sufficient to construct a racetrack. Also during this time period it can authorize existing off-track betting equipment if it does not desire to have off-track betting on its own track.

In addition to assuring a stabilization of the horse racing and equine industries, this bill will increase revenues to State governments and help combat illegal gambling on horseraces.

The Committee on Rules did not grant a rule on this bill on a very close voice vote because it believed consideration by the House should await a report by the Commission on Review of the National Policy Toward Gambling due on October 15. This, in effect, would delay any action until next year. In view of the expected contents of this report, the harm to the racing industry that can be caused by such a delay, and certain events which occurred since the Committee on Rules considered the matter, I do not believe this bill should wait until next year.

Last week, members of the Commission on Review of the National Policy Toward Gambling appeared before the Select Committee on Sports of which I am a member. At that time I had the opportunity to question both the Chairman and Executive Director of the Gambling Commission on the subject of off-track betting.

Their responses were both surprising and alarming. First, the Executive Director testified that the Commission does not advocate off-track betting, either interstate or intrastate. Apparently, there is a great amount of dissention among the Commissioners on the subject of interstate off-track betting. I am led to believe that the recommendations of the Commission on this subject, if any, will be far from unanimous and I therefore believe that the Congress is going to receive little guidance from the Commission on the subject.

I also learned that off-track betting creates illegal wagerers. That is, the bookmakers are the ones who are profiting and gaining customers as a result of off-track betting. It was brought up that off-track betting has attracted a clientele that, after a short period of time, finds that it is preferable to gamble with illegal bookies because: First, bookies pay better odds since there is no "take-out" from a parimutuel pool; second, bookies accept bets on credit, whereas legal establishments require cash; and third, Federal and State income taxes can be easily avoided as no legal records are maintained. This fact was brought out recently when the police found a bookmaking ring operating in a New York off-track betting parlor.

Another event which quite frankly shocked me was an announcement on the front page of the sports section of the New York Times of Sunday, September 12, 1976. Accompanying the article was a picture of a theater marquee featuring the seventh race at Belmont and night racing at Yonkers. The thrust of the announcement was that the New York Off-Track Betting Corp. was going to convert at least three movie theaters into so-called teletracks which would feature live telecasts of racing with a seating capacity in excess of 10,000.

I believe that the announcement of this endeavor was deliberately delayed until after the Rules Committee had considered this matter. I can fully understand why the off-track betting people would not want to publicize this matter while the Congress was considering a bill to ban interstate off-track wagering. The director of off-track betting openly admits that the purpose of the converted movie theaters is to lure downtown office workers away from their jobs. In my opinion, this scheme has all of the earmarks of the daytime pornography theaters and massage parlors. In fact, during the hearings on this legislation, it was brought to our attention that a betting parlor in Times Square is situated right in the midst of these establishments.

Finally, a most significant recent development is the decision of the Massachusetts State Legislature to discontinue consideration of an off-track betting bill. One of the major reasons for tabling the matter at this time was to allow the Congress to act on the bill which we are considering at this very time.

I strongly urge your support for this bill in order to eliminate the evils attendant to interstate off-track wagering and to assure the continued economic growth of those States which depend upon parimutuel wagering revenues and upon the equine industries for both revenue and employment.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this very important piece of legislation. I know that all of us, all of the Members of this House who have horseracing in their States and schools which are dependent upon these funds and who wish to retain a very viable horse betting and horse industry, will want to support this bill.

I commend the gentleman from Pennsylvania, and I hope all Members will support this bill.

The SPEAKER. The time of the gentleman has expired.

Mr. ROONEY. Mr. Speaker, I yield myself 5 additional minutes.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 14071, the Interstate Horseracing Act of 1976. Passage of this bill is of great importance to the horseracing industry in Washington State, where there are several thriving racetracks and which produces many fine thoroughbred horses. I am convinced that if a number of States begin to take wagers at their off-track betting shops on races which are run in other States, then those racetracks which now provide entertainment and excitement as well as jobs and revenue, will wither away and vanish. A fine sport will have been turned into a mechanical lottery.

The loss of the many small tracks spread through 30 States which would occur if interstate off-track wagering is allowed to spread will cost jobs and revenue. Interstate off-track wagering should be stopped.

Opponents of the bill have raised questions as to its constitutionality. I would point out to my colleagues that there might have been a potential constitutional problem in an earlier version of this legislation, but this was corrected during committee consideration of the bill. Therefore, this objection to the bill is no longer valid. I would draw my colleagues' attention to page 5 of the report on H.R. 14071, where the majority views state:

> The committee is fully aware of the action which it is taking by permitting citizens of one State to sue another State or even to sue their own State . . . Congress is exercising its powers over the States under the supremacy clause and the Commerce clause. It is exercising these powers not in disregard of the 11th amendment, but because the protection of the 11th amendment is lost when the States enter the area of interstate commerce in wagering on horseraces.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I thank the gentleman for yielding.

I want to associate myself with the gentleman's remarks and commend him for having worked on this legislation.

Mr. Speaker, I rise in support of H.R. 14071, a bill which is before the House of Representatives today on the Suspensions Calendar. This bill would permit intrastate off-track wagering, which currently exists in the States of New York and Connecticut, but outlaw interstate off-track wagering.

Thoroughbred and harness horse racing, a sound and growing industry, is absolutely critical to the economies of numerous States and communities throughout the country. These States and communities have spent a great deal of time and effort nurturing the growth of this industry. Interstate off-track wagering on horse racing can and will destroy the entire equine industry if we do not nip it in the bud, as H.R. 14071 proposes. I submit it would be unfair to the industry and many governmental entities to permit interstate off-track betting to reek havoc upon the existing structure of horse racing.

Let us take the case of Rockingham Park in Salem, N.H., as a particular, but not a typical, example of the detrimental impact interstate off-track wagering would have on the existing horse racing industry. More than 85 percent of the daily patronage at Rockingham Park comes from the neighboring States of Massachusetts, Maine, Rhode Island, and Connecticut. If persons living in those States could make wagers at "off-track" betting windows in their own States on races run at Rockingham Park, undoubtedly many of them would not attend the races in person at Salem.

The impact would be devastating for the operators of Rockingham Park, and ultimately for the town of Salem and the State of New Hampshire, since racing at Salem probably could not survive without the daily attendance of racing fans from the surrounding area. Daily admission fees, parking charges, program sales, and concession income are vital to the profitable operation of a racing organization. The curtailment of this type of income would undoubtedly drive many currently thriving race tracks across the country out of business.

The substantial revenue which horse racing contributes to the municipalities and States where horse racing tracks are currently operating and the millions of dollars injected into the economies of these areas would be siphoned off by competing States with the advent of interstate off-track wagering. This may have the effect of a "quick fix" for those States looking for additional sources of revenue. However, the long-term consequences of widespread interstate off-track wagering would be to destroy numerous race tracks and seriously and irreversibly harm the horse racing industry, which would obviously detrimentally affect any revenue-raising potential from horse racing for all States and governmental units.

I urge my colleagues to carefully consider the real issue at stake in H.R. 14071, that is, the health, stability, and long-term future of horse racing and the entire equine industry in the United States. A realization that interstate off-track wagering offers short-term revenue-raising potential for a few States at the expense of the long-term future of horse racing—and the consequent harm to those States and communities which have provided a favorable environment for the growth of this industry—leads to the conclusion that H.R. 14071 is a bill with substantial merit and worthy of passage by the House of Representatives.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

The gentleman from Washington just mentioned some small tracks around the country that would fall prey to several big tracks. Of what tracks is he speaking?

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

I am speaking of some of the smaller tracks, like, for example, we have in the State of Washington where if the bettors are just allowed to bet on the major big tracks, the local tracks lose their ability to be able to have wagers and to develop their thoroughbred industry.

Mr. MURPHY of New York. If the gentleman from Pennsylvania would yield further, what big tracks does the gentleman have in Washington?

Mr. ADAMS. If the gentleman would yield further, in the city of Seattle we have, for example, the track that is right outside of the city, a very small track named Longacres.

Mr. MURPHY of New York. If the gentleman would yield further, that is a totally intrastate industry. We are dealing here with interstate problems. The gentleman is an expert in interstate law. He should know where interstate problems exist in Washington. I will inform the gentleman they do not exist.

Mr. ADAMS. If the gentleman would yield further, I discussed this with people who are involved with that track. They are deeply concerned about it, because if we allow interstate wagering, people can go to the track and wager in interstate pools. I am very well acquainted with that.

I had the original gambling case in the 1961 interstate-intrastate gambling problems. It was a severe problem, and we certainly did not want at that time to expand it any further, so on both grounds I feel that this bill which attempts to control the problem is a good one.

Mr. MURPHY of New York. If the gentleman would yield further, the gentleman is supporting a gambling bill right here.

Mr. ROONEY. That is exactly what the Commission on Gambling said. As off-track betting goes up, illegal gambling goes up. If we want more illegal gambling in this country today, if we want to destroy the thoroughbred industry in this country today, vote against this bill. I am sure we do not want to do that.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, it is with a sense of urgency that I speak in support of and urge my colleagues to vote for this bill, H.R. 14071, which would effectively stop the prevailing threat posed against the horse racing and breeding business. The threat of interstate off-track betting or "making book" across State lines would serve to cripple the racing industry and race tracks and to denigrate racing from its rightful place as a well established spectator sport into a mere gambling practice.

Those who urge us to go slow on this bill or who tell us that there is no need for its passage at this time certainly are not familiar with any of the men or women whose jobs will be jeopardized should interstate off-track betting spread as it is expected to do by those who have studied this problem. But at a time of general unemployment, it would seem more reasonable to exploit any opportunity in which we could provide specific relief, especially when we can do so as in this instance without incurring any expense to the taxpayer. I would remind you that unlike so many bills which we consider, the legislation before us is not a request for funds, and it is not a request for a new agency. It will not even require an additional platoon of civil servants nor any other form of Federal expenditure to be used for the implementation of the act. It simply makes life tough for the illegal bookmakers and illicit gamblers who exploit legally authorized racing, and it makes more difficult the spread of illegal practices.

Again, this bill is crucial to the many families whose incomes depend on the survival of farms which breed and raise horses. The bill has the support of the Maryland Horse Breeders Associations, agricultural interests, and a number of other State groups interested in racing and horse breeding. I urge its adoption.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Speaker, this bill is not a bill asking one whether they favor off-track betting—or betting at all. It is a bill to prevent interstate gambling at the expense of the horseracing and breeding industry.

Mr. Speaker, I rise in support of the Interstate Horse Racing Act of 1976. This legislation is badly needed to prevent damages which could be caused by our inaction on the bill at this time.

This bill can legitimately be cited as an antiorganized crime measure since studies indicate, and the National Gambling Commission recently reported, that off-track betting has caused an increase in the number of customers using illegal bookies. At the present time organized crime uses off-track betting as a means of "laying off" unprofitable wagers and as a way to disguise heavy betting on a "fixed" race.

Since organized crime appears to be flourishing—the Justice Department reports that they estimate $5 billion is wagered illegally every year—I believe that it is the responsibility of this Congress to attempt to put a halt on illegal activities. This legislation would be a step in the right direction.

In addition to being necessary to prevent further illegal bookies from profiteering from interstate off-track betting, the recent situation which occured at the Kentucky Derby points to another need for this legislation. Off-track bets were taken in New York on the Derby, but neither the racetrack — Churchill Downs—the State of Kentucky, nor the owners of the horses who "placed" received one penny from the $3.6 million in bets placed at off-track betting places in New York. This does not seem right to me, but it is perfectly legal. Others may point to the fact that several tracks have entered into contracts with the New York Off-Track Betting Corp. and are receiving a portion of the New York bets as a counterpoint.

However, I have been informed that these contracts were primarily entered into because these tracks realized after the Derby that out-of-State, off-track betting would occur with or without their approval or the contracts. The racetracks and the owners had very little bargaining power.

Although about 10 percent of the racing industry could live with interstate off-track betting, the rest would suffer. The large racetracks would prosper, but the small racetracks and a large percentage of the 170,000 persons involved in the racing industry would be hurt.

I think that it is important to note that the American Horse Council is strongly supporting this legislation. It represents those organizations which are vitally interested in a prosperous racing industry. If interstate off-track betting is good, why then are those who are so intimately involved in racing opposed. Let me share with you some of the organizations who are members of the American Horse Council:

American Quarter Horse Association.
American Trainers Association.
Arabian Horse Registry of America.
Colorado Horsemen's Association.
Florida Thoroughbred Breeders Association.
Los Angeles Turf Club.
Maryland Horse Breeders Association.
Michigan Harness Horsemen's Association.
New Jersey Horse Council.
Ohio Horsemen's Council.
Virginia Thoroughbred Association.

In conclusion, let me add that very few bills come before the Congress which do not cost the Federal Government anything and do not require new regulations to be written by the bureaucracies. This bill is one of those few bills, and I urge my colleagues to support it.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Speaker, I rise in support of this legislation and associate myself with the remarks of the gentleman from Pennsylvania.

Mr. Speaker, as you know, I come from

a State that has recently instituted off-track betting in conjunction with the State of New York. This bill will protect that endeavor and afford us sufficient time to build a race track. Once completed, our OTB program will use the Connecticut track and this bill will then protect races run on that track from being used by other States. This bill will not effect revenue produced by Intrastate OTB programs. Neither New York nor Connecticut will lose revenue.

The argument that legalized off-track betting will be a useful weapon in combating illegal gambling activity does not hold water. In fact the contrary is true. Reports such as that of the National Gambling Commission conclude that off-track betting has increased the amount of illegal bookmaking in New York. The reason for this is obvious. Legalized gambling run by a State cannot compete with illegal bookies in terms of services provided. Bookies give better odds, offer credit, and permit a person to hide his winnings from the Internal Revenue Service. Legitimizing the activity introduces new bettors to OTB and they turn to the bookmaker when they learn of the advantages.

For this reason, I oppose the use of gambling to raise revenues and believe that the Federal Government should not engage in such activities.

Nonetheless, States should be able to decide for themselves how they will raise revenues and be able to protect revenue-producing industries within their borders. That is the primary thrust of this bill—to protect a State's property interest in its racing activities so that they may continue to provide revenue and jobs and support other equine activities.

Horse racing is an extremely critical industry that provides a great deal of tax revenue to local jurisdictions, State governments and the Federal Government. Any weakening of this tax base will cause unfortunate results for those jurisdictions that presently rely on such revenue.

Although the primary arguments in favor of offtrack betting suggest that it will produce a great deal of tax revenue, the corollary argument is often ignored, that the proliferation of offtrack betting on an interstate basis may effectively doom the national racing industry in the future. It is likely that interstate off-track betting will require only a handful of major tracks to support the betting of most of the Nation. The closing of tracks other than these major courses would, of course, seriously damage the tax base of the other localities involved.

Lest you think that the proponents of this bill are tilting at windmills, I refer you to an article in the New York Times of September 12, 1976. New York OTB is suggesting that city movie theaters be used to screen races for OTB. If this concept took hold across the country, we would see the demise of local tracks and their tax revenues just as we have seen the drop in attendance at other minor league sports events when major league events are telecast into the area at the same time.

For this reason, the proliferation of interstate off-track betting will ultimately kill the goose that is laying the golden eggs. I support this bill in order to prevent that.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of favorable action by the House on H.R. 14071, legislation to ban interstate off-track wagering. Failure to pass this bill will spell the end of racetracks in the State of Arkansas and, no doubt, in other States, whether or not they allow parimutuel wagering. And, the adverse impact of failing to approve H.R. 14071 on the horse breeding industry, which is found in every State, is obvious, in my view.

A prime example of why we must act to pass this measure is reflected in the recently-announced plans of the New York City Off-Track Betting Corp. to convert several downtown movie theaters into large gambling houses. This action is aimed at attracting office workers to place wagers on races through the use of live telecasts. One racetrack director in my district is aghast, and rightly so, at the impact that will occur if interstate wagering on horseracing is allowed through these telecasts. The effect on the entire industry—the racetracks, breeders and trainers—would be nothing short of disastrous. Congress, then, must act to avert such a situation.

Why would the overwhelming majority of racetracks enthusiasts go to the tracks when they can readily place a wager under the kind of system proposed by the New York City group? We know the answer.

There are other factors involved which make it imperative that we pass H.R. 14071. The Commonwealth of Massachusetts is awaiting the action of the Congress in this respect, before considering off-track betting for that State. And, it should tell us something about this form of wagering when we learn that the Gambling Commission has made it known to the Select Committee on Professional Sports recently that it is opposed to off-track betting. It is the view of the Commission that such wagering increases illegal bookmaking.

There is a good deal of support for H.R. 14071. It is entirely appropriate that Congress involve itself in the question. In fact, I believe we have a responsibility to do so. We are talking about the survival of the entire industry and the protection of jobs and revenues derived by the State from industries operating in them. I might add that this includes the farming industry, which breeds and raises horses.

Extensive hearings and review have been held on this issue by the House Commerce Committee. It is a responsible proposal. I urge its passage by the House.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I rise in opposition to this legislation.

Mr. Speaker, I only wish that some of the horses I have bet on in my time were in as much of a hurry as this bill seems to be. In fact, on three separate occassions, headlines have appeared in Connecticut newspapers reading "OTB Bill Dead For This Year."

Every time we turn around, however, there it is at the gate again. I must commend the distinguished gentleman from Pennsylvania, my good friend (Mr. ROONEY) for he has demonstrated with this bill that he is an excellent jockey. Tonight, as we come into the home stretch, I would only ask that he pause at the final turn.

In effect, Mr. Speaker, there are a number of us here in the House who simply feel that the case has not been made for this bill. I, for one, have seen many conflicting statistics, some of which call into question the bill's policy statement. In my view, when a bill states that "The Congress finds that * * *" then those findings should be accurate. I like to think of myself as a reasonable man and I am willing to listen but I think we are going to need a little more time to gather the facts on this measure.

I understand that the Rules Committee intends to give this bill another hearing but only after its members have had an opportunity to review the findings of the Commission on the Review of the National Policy Toward Gambling which deals directly with this issue.

Mr. Speaker, I think that is fair and only right since this Congress has expanded a great deal of money on this study and the Commission members, a great deal of time. What is its point if we do not take advantage of what we have asked for?

I will go beyond that though and say that I also have problems with the bill's substance for I feel the Federal Government has no business interfering in what is obviously a State issue.

I believe Mr. MURPHY of New York offered a commendable compromise when he asked the House Interstate and Foreign Commerce Committee to amend the bill allowing States to enter into mutual compacts. Why should we sit here and tell, for example, the States of Michigan and Florida that they cannot enter into an agreement between themselves, an agreement which could be financially beneficial to both?

And let me also speak to the Connecticut issue for there are those who would say that my State is covered by a special clause in this proposal. The bill "grandfathers" Connecticut for 6 years until we can build our own track. Forgive me, but I must say that a "bird in the hand is worth two in the bush" and this bill is the bush.

Let me conclude by saying that I also believe my friend Mr. ROONEY to be a reasonable man and all I ask is that he retire his "silks" for this year and try for a comeback in 1977. At that time, it is my hope that we will have the right "handle" on this subject and our findings will be more than "parimutuel."

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for yielding and providing the opportunity for me to rise in support of H.R. 14071, Interstate Horseracing Act of 1976.

This bill has been the object of in-depth hearings in the Transportation and Commerce Subcommittee of the Interstate and Foreign Commerce Committee and on the basis of their findings there is little question that this legislation is needed to prohibit the growing business of off-track betting on horseracing in the United States.

There are at least two reasons why this legislation is needed: First, there is evidence that off-track wagering contributes to illegal gambling and bookie operations—thus adding to the already serious crime problems in the United States and second, off-track betting has also been shown to contribute to the fraudulent alterations on the outcome of horse races.

For these reasons and several other, I believe that the Interstate Horseracing Act of 1976 needs to be passed in order to safeguard the legitimate racing concerns in the country, and I urge my colleagues to support it at the appropriate time later this evening.

Mr. HOLLAND. Mr. Speaker will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from South Carolina.

Mr. HOLLAND. Mr. Speaker, I rise in support of this legislation.

Mr. SKUBITZ. Mr. Speaker, I yield to the gentleman from Kansas (Mr. Skubitz) such time as he may consume.

Mr. Speaker, the State of Kansas, does not have parimutuel wagering on horse racing. Nevertheless, I fully support this bill.

Although the Rules Committee ordered to delay consideration of this bill until the next session of Congress, I believe that sufficient information is now available to provide a basis upon which the House can make a responsible decision.

The fact that this bill will stop interstate wagering, that the bill will deter the spread of organized crime which accompanies interstate wagering as well as eliminating the increase in local illegal gambling which the Gambling Commission has found results from off-track wagering. Because these things are apparent, I do not think that we need to wait further for the Gambling Commission Report. The issue which we are facing here is essentially one of economics. This bill will permit any State, including New York and Connecticut, to continue taking wagers on races run inside their borders. It will thus have no measurable adverse economic impact upon any State.

Witnesses before our committee testified that this bill is needed if we are to preserve the horse industry as we know it today. It provides many thousands of jobs for people who could not find jobs elsewhere. The horse industry fosters horse and pony activities for the youth of our country which in itself is a deterrent to many of the unwholesome activities which confront the youth of today. Horse activities teach a child to be responsible and help to round out the education of a child.

We were advised by those in the industry that, if interstate wagering spreads, the horse industry in general will suffer greatly. The racing end of the industry will be reduced to a mere fraction of its present status. Its financial contributions to the rest of the industry will be eliminated, and the farms in my State which breed and raise horses will suffer serious financial injury. In turn, the youth of our country will lose the opportunity to participate in many wholesome activities.

With all of the good that this bill does and all of the unseemly activities that it will prevent or at least prevent from spreading, I do not think that we need to await the report of the Gambling Commission since we know that it will merely echo the things that I have just stated.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, I thank the gentleman for yielding.

In Minnesota we do not have any parimutuel tracks but there are a number of breeders of race horses which do race on tracks in other States. Also we have an extremely large population of show horses and pleasure horses in the State of Minnesota.

I believe this bill is necessary if the horse industry is to continue to flourish which is good for our economy.

Also, this bill will prevent an increase in organized crime at least in this area, as the gentleman from Pennsylvania indicated.

I strongly urge support of this legislation.

Mr. SKUBITZ. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Del Clawson).

Mr. DEL CLAWSON. Mr. Speaker, I support H.R. 14071, the Interstate Horseracing Act. Californians are justifiably proud of their status as one of the leading racing States in the country. Last year, California was the second leading State in terms of attendance, purses, and money wagered at racetracks. In addition to some of the finest thoroughbred and standardbred racing in the world, Los Alamitos Race Track is the largest quarter horse track in the country. Naturally, there is serious concern about protecting the health and stability of this important industry which employs thousands of people in California and provides well over $100,000,000 in tax revenue to the State each year. The proliferation of interstate offtrack wagering poses a serious threat to the continued well-being of the sport of horseracing, and without the protection afforded to the State of California by this bill, California and other States would be unable to avoid injury from interstate offtrack operations in other States.

This bill prohibits the taking of wagers on a horserace if that race is run outside of the State in which the wager is accepted.

Mr. Speaker, I urge approval of this legislation.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I wish to commend the gentleman for his statement, associate myself with it, and point out that as a representative of an area that raises and trains not only thoroughbreds, but also quarter horses, I am in strong support of this legislation and urge its passage.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman for his contribution.

Mr. SKUBITZ. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I rise in opposition to H.R. 14071, the Interstate Horseracing Act of 1976, a measure prohibiting interstate parimutuel off-track betting on horseracing. This measure is based on conflicting evidence, and it is poorly timed.

The report of the Committee on Interstate and Foreign Commerce to accompany H.R. 14071 argues that "enactment of the reported bill will not adversely affect the economy" of New York and Connecticut, two States that permit off-track betting. Mr. Speaker, with regard to the State of New York, and contrary to the committee's report, there is evidence to indicate that enactment of this measure would cripple the State's off-track corporations, which, I have been informed, generated in 1975 "$20.9 million for the State government, $37.2 million for the racing industry, $11.8 million for various local governments in New York State, and $72.9 million for the Capitol District, Nassau, and Suffolk Counties, the Western Region, and New York City."

Furthermore, Mr. Speaker, it would seem prudent to wait until after the National Gambling Commission makes its report to Congress in order that Members can study the report and benefit from its findings before we hastily enact legislation affecting an industry that employs 170,000 individuals and spends, according to the committee's report, over $7 billion annually on operating expenses and taxes. Accordingly, Mr. Speaker, I urge my colleagues to vote against this poorly timed measure.

Mr. ROONEY. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. Moakley), a member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I rise in opposition to the motion to suspend the rules and pass the bill (H.R. 14071), Interstate Horseracing Act of 1976.

This matter was recently presented to the Rules Committee and a motion was adopted to postpone consideration of a rule. In such a context, an effort to deal with the bill under suspension of the rules must be recognized as an appeal to the full House of the committee's jurisdiction over the order of business.

I believe such an appeal is appropriate only when the committee has acted capriciously.

But, in this case, the committee's action was proper and within our appropriate jurisdiction. At the end of a Congress, more bills are reported than can be considered in the time left. The decision of which bills make it and which ones do not is not any easy one and certainly not one this committee can be accused of making lightly.

The committee held a fair and open hearing on this bill. Supporters and opponents of this bill were given an adequate opportunity to present their arguments.

And a motion was adopted to postpone consideration until October 15. I am well aware of the implication of such a motion in a Congress scheduled to adjourn October 2. But the date was chosen to make a point. It was not chosen arbitrarily. It was the date set by the 91st Congress for the 6-year study of the Commission on the Review of the National Policy Toward Gambling.

Subsequent Congresses have provided millions of dollars for this study which, in part, embraces the subject matter of this legislation.

To act on this bill at this time—in the absence of any compelling emergency—would be equivalent to discarding the study on the eve of its publication. The waste of millions implied by such a decision is not an issue any Member should feel comfortable bringing home to his or her campaign.

And why this unseemly haste? Who are the beneficiaries of this legislation? Mr. Speaker, there are only two—millionaire horsebreeders and organized crime.

This bill's supporters argue their case on the benefit to racetracks. And the racetracks would benefit if the central thesis on which this bill rests were true.

But it is not. Passage of legislation outlawing interstate bets will have no effect on attendance. The $2 bettor in Brooklyn is not going to get on a plane to go to Florida tracks.

He is not going any further than the corner candy store. At which point his money starts its way, ultimately, into the coffers of organized crime.

Not only will racetracks not benefit. They may actually be hurt by this bill. They stand to lose the commissions which off-track betting pays on every dollar it takes in.

Mr. Speaker, I am sure every Member has seen a letter from supporters of this bill warning that New York OTB intends to set up theaters for horseraces in midtown. The ironic point is that there is nothing in this bill to prevent this. If it succeeds in its principal purpose—bankrupting existing OTB operations and making similar operations in other States impossible—it may discourage the broadcasts but it certainly does nothing to outlaw them.

But I think the bill's supporters may be walking into a trap in this argument. How do they suppose the cameras are going to get into the tracks? The fact that OTB can even consider such a possibility is a clear indication of its success in negotiating mutually profitable arrangements with out-of-State tracks in the past and their anticipation of being able to continue an arrangement from which the tracks benefit greatly. I do not see any great harm in the broadcasts but if the committee wants to produce legislation dealing with the subject, I might support them. But its injection into the matter at hand is a red herring and should influence no votes in this House.

I was surprised to discover a reference to a "very narrow margin" in a discussion of the Rules Committee vote. As the person offering the motion to postpone, I paid close attention to the vote. On the chairman's request for the nays, only two members responded. A single member may demand a record vote in our committee and no supporter of the bill considered the margin narrow enough to warrant a rollcall.

I sincerely regret that the Rules Committee decision is being appealed to the full House. We acted carefully and fairly and decided—with adjournment so close—that the time of the House should not be taken up on special interest legislation.

I wish to assure my friend from Pennsylvania, the able chairman of the subcommittee, that I will make no effort to block a rule in the next Congress. I will still vote against the bill but I will certainly not stand in the way of any decision the House wishes to make on this issue.

But we have paid millions of dollars for a careful study to be delivered to the Speaker October 15. It is the taxpayers' money and they have a right to demand that we read the report before voting on an issue it addresses.

This is the position the Committee on Rules has taken and I respectfully request the support of my colleagues for that position.

Mr. Speaker, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I wish to speak this p.m. in opposition to H.R. 14071, a bill reported from the Committee on Interstate and Foreign Commerce which would extend the Federal power to regulate commerce between the States to absolutely prohibit interstate parimutuel wagering on horseraces.

This legislation would cripple the off-track betting industry in my State. But my concern is more than parochial: H.R. 14071 would abridge the rights and the responsibility of all the States to manage their own fiscal affairs. This bill, which in the opinion of the Justice Department, may violate the 11th amendment to the Constitution and which, by the testimony recorded in committee, is intended to avert a threat to the racing industry for which no factual evidence exists, would establish the most dangerous precedent of a Federal presence in parimutuel horseracing, an area that has traditionally been the prerogative of the States.

I call the chairman's attention to the opinion of the Assistant Attorney General, Michael M. Uhlmann, that a similar bill, H.R. 11610, is of questionable constitutionality. The Assistant Attorney General cites that part of the 11th amendment which reads:

> The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States citizens of another state. * * *

And finds that—

> The amendment has been consistently construed as forbidding a Federal court from exercising jurisdiction over a suit brought by a citizen against a State where the State has not consented to the suit, e.g., *Ford Motor Co.* v. *Department of Treasury of Indiana*, 323 U.S. 459 (1945); *Hans* v. *Louisiana*, 134 U.S. 1 (1890). Since H.R. 11610 authorizes a Federal court to entertain an action by a horse owner or racing association against a State, the legislation appears to run afoul of the eleventh amendment.

I have requested the Attorney General to ascertain whether the Department of Justice would view the present bill, H.R. 14071, as being similarly unconstitutional. In light of H.R. 14071's apparent conflict with the Constitution, I ask that the Rules Committee defer any action concerning this bill until the Attorney General has given his opinion as to the constitutionality of this legislation; and, in the event that the Department of Justice continues its objection, that H.R. 14071 be submitted to the Committee on the Judiciary.

If the committee chooses to act upon H.R. 14071 at this time, I ask the committee to consider the recommendation of a Federal Commission that Congress be guided by policies that serve the national interest in legislating in the areas of gambling and gambling-related industries. The Commission on the Review of the National Policy Toward Gambling, which is comprised of seven public members appointed by the President, four Members of the Senate, and four Members of this House, has recently released its interim report, in which the Commission finds that—

> The States should have the primary responsibility for determining what forms of gambling may legally take place within their borders. The only bases for Federal involvement are the protection of the national interest and the prevention of interference by one State with the gambling policies of another.

With respect to interstate off-track betting, the Commission recommends that—

> Before Federal legislation in this area is enacted, it should be shown that (1) only Federal legislation will protect the interests of a State, and (2) there is a significant national interest involved. In this context, the Congress should resist unsupported assumptions and premature conclusions, and should carefully weigh this Commission's findings before rendering final judgment.

Mr. Speaker, the testimony that has been submitted in support of this bill consists of nothing but "unsupported assumptions and premature conclusions." H.R. 14071 asks Congress to find that:

First, attendance and wagering at racetracks are adversely affected by off-track parimutuel wagering, with consequent losses in revenue to the States and reductions in income to the racetracks and the owners of horses; and

Second, off-track parimutuel wagering on an interstate basis will result in a severe decrease in the number of racetracks, causing substantial loss of revenue to the States and serious harm to the horseracing industry.

New York is the only State with extensive experience of legal parimutuel off-track betting, and it is simply untrue that OTB has caused a loss of revenue to our State. The facts are that in 1970 the government of the State of New York received $172 million from parimutuel horseracing. In 1975, the State government received a total of $183 million from on-track and off-track wagering on horseraces, an increase of 6.7 percent. In addition to this money OTB generated $85 million for municipal governments in the State. Total government revenues from parimutuel wagering were $268 million in 1975, an increase of $96 million, or 55.9 percent, over 1970. Off-track betting contributed $106 million, or 39.4 percent of New York's total government revenues from parimutuel horseracing in 1975. State and municipal government revenues have been increased, and not decreased, by off-track betting.

H.R. 14071 would make it a finding of Congress that interstate OTB will cause a substantial number of racetracks to close. This is speculation. No factual evidence of this hypothetical consequence of interstate off-track betting has been submitted by the supporters of this bill, because, although the New York City off-track betting corporation has been conducting interstate operations for 5 years No racetracks have closed or suffered any apparent net losses in revenue as a result Quite the contrary New York has recently granted licenses for two additional racetracks, one of which, a track for quarter horses at Tioga Par in Nichols, has already begun operations.

It is in fact far from clear that off-track betting has had any permanent adverse effect on racetrack handle and attendance within the State of New York On-track parimutuel handle on horseraces in New York increased from $1.62 billion in 1970 to $1.68 billion in 1974. In that year, the State's off-track betting corporations handled $815 million, and this amount, when added to the money wagered at racetracks, produced a total parimutuel handle of $2.5 billion, an increase of $871 million, or 54 percent, over New York 's parimutuel handle for 1970. The racing industry has shared substantially in New York's off-track betting handle. The industry received $31 million from OTB in 1974. Off-track betting corporations in New York generated $37 million for the racing industry in 1975, bringing cumulative total OTB revenue distributions to the industry to nearly $100 million in less than 5 years.

Those who race horses in New York have also benefited from the great increase in the State's parimutuel handle caused by off-track betting. Since OTB began operations in New York, total purse money has increased by more than $25 million, from $52 million in 1970 to $77 million in 1974. Off-track betting contributed more than $16 million—approximately 63 percent—of this increase. These facts are not consistent with the Congressional finding proposed in this bill, that the owners of racehorse have suffered reductions in income because of off-track parimutuel wagering.

It is important to understand that the off track betting corporations' handle on interstate racing constitutes a new source of revenue for both the racing industry and the State government, wagers placed with OTB in New York on races in Florida or Maryland in no way detract from on-track handle and attendance in those States.

The commissions received by racetracks from interstate on-track betting are net incremental revenues to the racing industry, revenues derived from wagers that would otherwise be handled by illegal bookmakers. Similarly, the moneys received by government from interstate OTB represent a net increase in parimutuel revenues, realized at the expense of illegal gambling operations controlled by organized crime. It is apparent that by competing with the bookmaker interstate off-track betting reduces the amount of illegal gambling.

The supposition contained in section 2 of H.R. 14071, that interstate off-track betting may lead an to increase in illegal wagering by increasing the availability of prerace and postrace information, is directly contradicted by the statement of the commissioner of the New York City Police Department, Michael J. Codd, that his department has no evidence that OTB has contributed to an increase in bookmaking, but that, on the contrary, many small bookmakers who had specialized in horseracing have been forced out of business with the advent of off-track betting.

Mr. Speaker, the record clearly demonstrates that there is no factual evidence that the national interest is endangered by interstate off-track betting today. Congress is being asked to abridge the rights of the States, not because of what has resulted from interstate OTB, but on the basis of what might, at some point in the indefinite future, result. This is surely unwise. Should any damage to the racing industry from interstate off-track betting actually occur, Congress will have ample opportunity to act, and, with material evidence in hand, a much clearer idea of what should be done. But if the Congress is determined to act now in this matter, I ask that it follow the recommendation of the Federal Commission, which finds in its report that if—

> Federal legislation (concerning interstate off-track betting) is deemed necessary, there would be merit in providing an exemption for interstate off-track betting that is agreed upon by the States involved. If States are able to reach agreement on contractual terms of compensation and services, then the Federal Government would serve no interest in preventing sulch activity. Accordingly, the Commission recommends that the States should be able to consent to their exemption from the reach of any Federal prohibitory legislation.

Congressman ECKHARDT and I have proposed amendments that would incorporate the principle of consent into this legislation. Federal recognition of this principle would provide the racing industry with adequate protection against such dangers as might possibly result from interstate off-track wagering in the future, while at the same time preserving the benefits of interstate OTB for racetracks, horseowners, and governments in those States that choose to allow this form of parimutuel wagering.

Mr. Speaker, I would caution my colleagues to tread softly and read carefully this legislation before they so easily endorse it, because this is Federal gambling. Let me read to the Members the policy in the report on page 2 of this bill, lest Members find themselves saddled in this campaign year with voting for the Federal Government to get into gambling. It says:

> Policy. It is the policy of the Congress in this Act to regulate interstate commerce with respect to parimutuel wagering on horseracing, in order to assure the continued flow of revenue from parimutuel wagering to those States which conduct horseracing, and to protect and further the horseracing industry in the United States.

Clearly, this is a gambling bill, and if the Members want to associate themselves with Federal gambling, then vote for this legislation. Otherwise, tread carefully.

Now, the National Gambling Commission was asked to complete a $6 million study by this Congress—we appropriated funds—to find out what effect gambling had on this industry. Senator Claude Pepper of Florida, and his Crime Committee, 2 years ago, brought in the racetrack industry and laid out on its record the problems of gambling and horseracing. But, the National Gambling Commission said:

> Leave racing to the States. Do not bring the Federal Government into racing. Leave it to the States.

One of the reasons we are here today on the Suspension Calendar, why we are running around the Rules Committee, is so that no amendments can come out to protect the States in this frivolous, mint julep special. Now, here is an amendment that would perhaps make this legislation viable and practical to a lot of people.

Perhaps if we said that there will be no interstate gambling without the approval of both State regulatory bodies, both States could control the extent of their participation in OTB and limit any competitive disadvantage in adjoining States. For instance, the off-track betting parlor in New York City carries the Florida races, and New York City's offtrack betting paid $875,000 to the Florida tracks last year just so that they could carry the Florida tracks in the betting parlors within the city of New York—I do not think any Floridian was going to pay $400 for a round trip ticket to a betting parlor in New York City when he could drive down the expressway to Hialeah. Clearly, the State of Florida benefited.

The State of Connecticut wanted to start an off-track betting parlor operation. They cannot operate tracks in their State, but they wanted to take advanage of the tracks throughout the 30 States, as my colleague from Pennsylvania pointed out. They cannot do it after 1982.

In the callous disregard for the rights of the smaller States, they have closed out the opportunity of those States ever to carry interstate gambling from 1977 on, except for the State of Connecticut, and then that State loses after 1982. Perhaps the State of Illinois, as advertised by the mayor of Chicago, wanted to start an off-track betting operation, and unless that State carried at least 300 days of racing they could not afford to start an off-track betting operation.

Why can they not make a contract with the State of California or the State or Kentucky or the State of Maryland?

Pimlico in Maryland for 4 years had a contract for off-track betting with New York so that that race could be carried in New York. And what was the ultimate benefit for New York? It did not hurt the Pimlico race or the Derby in Kentucky. Those races are sellouts and we cannot buy a ticket for those races. Why not permit a contract between New York and Maryland or Kentucky to carry these events.

The South Carolina Steeple Chase Race was carried, and the South Carolina people were opposed originally to this bill. So they enacted an amendment to exempt steeplechase racing only to bring the opposition down.

But what does intrastate OTB mean to the State of New York? Mainly, about $4.5 millions of revenue for the communities of New York, revenues specifically earmarked for education.

I ask my colleagues to please let equity win out and vote down this special interest bill.

Mr. SKUBITZ. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank my friend for yielding. Mr. Speaker, I rise in strong support of the position enunciated by my colleague, the gentleman from New York (Mr. MURPHY). If you do not want to end up having to pay more money supporting New York, you should certainly defeat this legislation.

Mr. Speaker, it seems amazing to me that we are now talking about a bill that, as I look at it and study it and anticipate what the results will be, is a bill that is going to promote crime, hurt education and create unemployment; and yet we are on the floor considering giving this special treatment a bill that could not get through the Committee on Rules.

It makes no sense whatsoever to create a problem like this. There is a total of $12 million involved in this, $12 million spread over the entire United States, in all of the tracks involved, which is a drop in the bucket. But $12 million to New York today is a major figure of utmost importance.

So why do we want to take this step today? We are not going to stop the betting. We are going to be putting the bookies back in business in New York. We are going to take money away from the educational system. Finally, we are going to be throwing hundreds of people out of work. It makes no sense. The bill should be defeated, and I urge the Members to vote that way.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the theme of the remarks of my distinguished colleague, the gentleman from New York, was: Leave racing for the States.

That is exactly what we want to do. If the State of New York wants to have a $1 billion intrastate horseracing procedure, let them have it, but do not let them poach off of other States, such as Pennsylvania, New Jersey, Delaware, Maryland, and all of the other surrounding States.

I believe in leaving racing to the States.

The gentleman mentioned the very distinguished mayor of Chicago favoring interstate racing. I would like to remind the gentleman from New York that the Illinois Racing Commission in response to a request by New York to have offtrack betting on races being run in Illinois, voted 5 to 0 to prohibit interstate offtrack betting.

I might say that in hearings held before the Select Subcommittee on Professional Sports, I asked a representative of the Commission on Gambling: "Does the Commission advocate offtrack betting?"

And Mr. Ritchie said: "No. I do not think that offtrack betting is any more efficient in terms of raising revenue than many of these other endeavors. I believe it creates illegal wagers. I believe that if the tax policies of this country were changed federally that they would then be allowed to be more competitive with the illegal bookmaker."

That is what the Commission on Gambling has said.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, if there is no sport of racing, there will be no business of racing.

Take racing from the racetracks, and put it into neighborhood gambling theaters across State lines and the sport of racing is gone. The business of racing is gone.

Gone, too, will be the breeding and training of horses that race, and with that, gone one of the most integral parts of American agriculture.

Two States, New York—with legalized racing—and Connecticut—without legalized racing—have contrived this issue to the detriment of racing in 30 States and horse farming in 48 States.

We must pass this bill today in behalf of 30 States with legalized racing, and 48 States where horse farming is vital to the agricultural picture. We must pass this bill in behalf of several hundred thousand farmworkers who will otherwise in a short period of time be unemployed. Let us vote today to pass this bill in the interest of horse farming and racing and vote against a mechanism contrived for one purpose alone—organized gambling.

Understand this. This bill will not interfere with New York's offtrack betting system nor any offtrack betting system devised by any State. It will merely confine each State's system to its own borders.

The place for parimutuel wagering is not in a neighborhood theater where the temptation might be too great for those who normally would not bet. The place for wagering is at the racetrack.

We must pass this bill today for horse farming, for agriculture, for employment, for free and unobstructed enterprise. Without the business of racing, there will be no sport of racing.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill. I realize that the gentleman from New York (Mr. MURPHY) is certainly making a great fight for his own State, and that is what he should do.

Mr. PERKINS. Mr. Speaker, we all agree with that, and we do not want to interfere with intrastate betting.

Mr. STAGGERS. Mr. Speaker, the gentleman from New York is a great legislator, but under his approach this would hurt the small tracks in my State. We depend upon out-of-State betting.

Mr. SKUBITZ. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LENT).

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, concerning the incorrect statements that have been made about gambling, I would like to give the Members the latest communication we have, and this is from the executive director of the National Gambling Commission. It reads as follows:

> "The National Gambling Commission has previously used a figure intended to represent the number of new illegal bettors within New York City. This figure was supplied by the University of Michigan. It now appears to the Commission that this figure was based upon a statistical error and Commission staff will shortly issue a revised position in this matter.
>
> The Commission's findings in no way single out offtrack betting as a 'causal factor' for illegal wagering. Rather, the Commission is finding that wherever there is legal wagering, including both ontrack betting and offtrack betting, there tends to be an increase in illegal wagering in the same geographic area.

Mr. LENT. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I rise in opposition to this legislation. Quite simply, I see no overriding need for it, no threat to the public welfare has been shown, and I believe this bill is an unwarranted intrusion into the responsibilities of the States and their right to manage their own fiscal affairs. Off-track betting on out-of-State races has not so far had any damaging results, but this legislation would prohibit such wagering even when it is agreed upon by the States involved. Far from causing crime, it will stifle it.

A not insignificant part of the OTB revenues in New York State is from wagering on out-of-State events. Indeed, the State of New York and the various localities in the State received a total of $15 million last year in tax revenues from money wagered on out-of-State races. If this legislation is enacted, that revenue would be lost, and no other State would receive a corresponding benefit.

This measure had been tabled by the Committee on Rules until after the release of the Federal Gambling Commission report on this and other subjects. I see no reason to bring it up now, with no chance for amendment to protect States that have invested heavily in OTB. There is no reason why this measure cannot wait until next year. In fact, I see no reason why it should be considered at all.

Mr. Speaker, I urge defeat of the legislation.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I would like to make a few remarks in support of H.R. 14071—a bill which would prevent the spread of interstate off-track betting and phase out the existing operations. This bill is of great importance not only to the citizens of my own State of Kentucky—but of all States. I submit that it merits our careful consideration—and a decision on it at this time.

Some have suggested that we wait to vote until the Commission on the review of the national policy toward gambling issues its final report next month.

The fact is that on July 28 of this year the Commission issued a preliminary report. As to what the final recommendations would be with regard to the interstate off track-betting controversy—the Commission indicated that in essence it would leave it up to Congress to decide whether to ban interstate off-track betting.

I have seen a draft of the final report from the Commission and this draft retains the position taken in the preliminary report.

Perhaps the best example of the need for this bill—and the need for it now—is the experience of the State of Kentucky.

Kentucky horse owners, tracks, and the State itself learned through bitter experience the effect that interstate off-track betting can have.

New York OTB offered Kentucky a certain amount of money to handle the Kentucky Derby in its betting parlors in New York. The amount offered was unacceptable to Kentucky and the State declined to contract with New York OTB. New York OTB then turned around and took the derby anyway.

This year New York OTB handled approximately $15 million in bets on the Kentucky Derby that it pirated—which is more than Churchill Downs itself handled.

And Kentucky did not receive any of the proceeds from the New York-placed bets.

Some would argue that we should leave it to the States to enter into contracts to handle race results in their respective States. Given Kentucky's experience, however, I submit that some States may reasonably regard an offer from an off-track betting operation as a "take-it-or-leave-it" proposition.

Let me emphasize that this is not a bill legislating against off-track betting. It is a bill legislating only against interstate off-track betting and it is within our constitutional power to do so. Not only is it within Congress power—it is Congress responsibility because of the threat that interstate off-track betting presents to the viability of the horseracing industry.

The Federal Government has a responsibility to act and to act now. There is no valid reason to delay this bill.

I urge that my colleagues join in support of this legislation.

Mr. CHAPPELL. Mr. Speaker, I rise in support of this bill and associate myself with the remarks of Mr. ROONEY of New York and urge the bill's passage. I offer some facts about the impact of the horse industry on our national economy and the threat which off-track betting poses to this thriving industry. It is also important we recognize that as off-track betting increases in a given area—so does crime.

Mr. Speaker, consider that it costs $28 a day to keep a horse in training at the track and a minimum of $8 per day to keep him at the farm level and you begin to see the impact of this industry on our economy. On a national level, more than $2.8 billion per year is spent in the maintenance of horses.

While my concern centers on the horse industry in Florida—simply because I know conditions in my State best—the problem of interstate off-track parimutuel wagering is national in scope. For example, there were 77 thoroughbred race meetings at tracks in 32 States in 1975, racing a total of 7,484 days. About 56 million horse lovers attended the 68,174 races held last year. This exceeds the number of fans attending either professional football games or major league baseball games during the same period. Parimutuel wagering in America last year totaled about $5.5 billion of which over half a billion dollars went to the 32 participating States in direct parimutuel taxes. Outlays for income and property taxes raises the taxes paid to over $1 billion per year.

The horse industry nationwide spends over $13 billion annually for operating expenses, taxes and capital investment, employing thousands of individuals. The industry produced a surplus balance of payments for 1973 and 1974 in excess of $23 million.

Even during the poor economic climate we have witnessed over the past 18 months, the horse industry has continued to grow at a constant pace. While nearly every other segment of the economy felt the squeeze, the horse industry weathered the increased costs brought on by inflation and continued to contribute to the economic well-being of all those businesses which depend on the horse farms and their employees for a profitable operation.

Parimutuel wagering on horse races has been legal in Florida for 45 years and has been of vital economic significance to the State and its 67 counties. In Florida, each county receives direct and equal shares of parimutuel revenue which is apportioned at the local level to schools, roads, or whatever purposes local officials deem most important. This may well have been one of the first revenue sharing experiences in the country, and it has worked well.

Without race tracks, Mr. Speaker, there would be no need for race horses. We see off-track wagering as a direct threat to the survival of race tracks. For example, many of these tracks are just marginally profitable and some are even operating at loss. The initiation of interstate off-track wagering and lead to racing at only a few major tracks and there would be no need for most of the approximately 56,000 horses that now race annually in America. Inevitably, this would have a serious impact on the thoroughbred breeding industry, the very foundation of thoroughbred racing which is so important to the economic structure of Florida and 31 other States where tracks are located.

To insure that thoroughbred breeding can continue to be the valuable and important segment of agriculture that it is; that racing can continue to contribute to State and local economies as it does; that racing can continue as a vehicle for tourism that is so important to many States; it is paramount that we prohibit interstate off-track parimutuel wagering on horseracing. This bill, H.R. 14071, will insure the continued growth of the thoroughbred breeding and horseracing industry in this country without doing harm to any legitimate private or public interest.

Mr. Speaker, I commend the House leadership and the Members of this distinguished body for the prompt attention given this needed legislation. Enactment is essential if we are to insure the continued healthy growth of the thoroughbred horse industry in this country and control of gambling as it relates to horseracing.

I urge the passage of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 14071, as amended.

Mr. MURPHY of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill just under consideration, H.R. 14071.

The SPEAKER pro tempore (Mr. DELANEY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DAYLIGHT SAVING TIME ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 13089, to amend the Uniform Time Act of 1966 to change the period of observance of daylight saving time, as amended.

The Clerk read as follows:

H.R. 13089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Daylight Saving Time Act of 1976".

SEC. 2. The purpose of this Act is to provide that the standard time of each time zone in the United States shall be advanced one hour during the period of each year beginning with the third Sunday of March and ending with the third Sunday of October, rather than during the period beginning with the last Sunday of April and ending with the last Sunday of October.

SEC. 3. Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "last Sunday of April" and inserting in lieu thereof "third Sunday of March" and by striking out "last Sunday of October" and inserting in lieu thereof "third Sunday of October".

SEC. 4. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make adjustments by general rules, or by interim action pending such general rules, with respect to the operation of daytime standard amplitude modulation broadcast stations, for purposes of permitting any such station which may be adversely affected by the advancement of time under the Uniform Time Act of 1966 to operate, during the period such advancement of time is in effect, at the greatest amount of power and during such extended hours of operations as may be practicable and consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules and interim action may, in addition, include variances with respect to other technical operating characteristics. Such general rules may, subsequent to their adoption, be varied with respect to particular stations and areas because of the exigencies in each case.

SEC. 5. (a) The amendments made by section 3 of this Act shall not affect any law of any State enacted under section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) to exempt such State or a part of such State from the provisions of such section providing for the advancement of time.

(b) For purposes of this section, the term "State" has the meaning given such term by section 7 of the Uniform Time Act of 1966 (15 U.S.C. 267).

SEC. 6. The amendments made by section 3 of this Act shall take effect on the third Sunday of March occurring after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, the full committee ordered H.R. 13089 reported on August 24, 1976. This bill amends the Uniform Time Act of 1966 to change permanently the period of observance of daylight saving time—DST—in the United States to begin on the third Sunday of March and to end on the third Sunday of October. Under the Uniform Time Act of 1966, the current Federal law, DST begins on the last Sunday in April and ends on the last Sunday of October.

H.R. 13089 makes clear that the States have currently effective State laws exempting themselves entirely or partially—as permitted by section 3(a) of the Uniform Time Act of 1966—from the observance of daylight saving time do not have to make any legislative changes due to the enactment of the bill.

The effective date of H.R. 13089 will be the third Sunday of March occurring after enactment, that is, March 18, 1977. This gives the transportation industries and any other industry with schedules to consider ample time to change them. The railroad, airline, and motorbus industries have no objection to this bill, as long as they have at least 60 days to change their schedules and uniformity of observance among the States is preserved. This bill satisfies both concerns.

In the 94th Congress this committee has had the benefit of comprehensive reports, from the Department of Transportation, which administers the Uniform Time Act, and from the National Bureau of Standards. This data enabled the committee to choose a daylight saving time period to accommodate the concerns of the public regarding the safety of schoolchildren and the effects of late sunrises on various regions of the Nation.

The 7-month daylight saving time period from the third Sunday in March to the third Sunday in October provides three improvements over the 6-month daylight saving time period in the Uniform Time Act of 1966. First, the latest sunrise time during the daylight saving time period under H.R. 13089 is earlier than under the Uniform Time Act. More importantly, the number of days with late sunrises will be one-half as many as under the Uniform Time Act. Second, a convenience factor is that the third Sunday in March will be close to the first day of spring, March 21. Third, the majority of the public, according to the DOT report, favor a longer daylight saving time period. This bill will accomplish that goal while reducing problems for people concerned about late sunrises.

The Senate has already passed a similar 7-month bill, S. 2931. We have been informed that the Senate will accept the House bill after passage by the House.

I urge your support for H.R. 13089, a bill we believe to be in the best interests of the public.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, this bill, H.R. 13089, would permanently change the period for observance of daylight saving time in the United States to 7 months, from the third Sunday in March to the third Sunday in October. There is a desire by many people for a longer period of daylight saving time. The current Federal law is the Uniform Time Act of 1966 under which daylight saving or advanced time is observed from the last Sunday in April to the last Sunday in October, a 6-month period. In choosing a 7-month period for DST, it is necessary to balance the concerns of Congress regarding late sunrises with the desire for a longer DST period. The possibility of danger to schoolchildren on the roads in dark early morning hours, has always been a major concern to Congress.

The 7-month period in H.R. 13089, from the third Sunday in March to the third Sunday in October was chosen to minimize the effects of late sunrises. Under this bill the latest sunrise time is 8:24 a.m., 16 minutes earlier than the latest sunrise time during the present 6-month Uniform Time Act period. This 7-month period also means that those days with late sunrises will be fewer in number in fact, one-half as many as under the Uniform Time Act.

Mr. ROONEY. Mr. Speaker, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill represents another chapter in a continuing hassle to determine when daylight saving time should begin and when it should stop. I should like to take a minute to remind this body about the origins of daylight saving time.

You will recall that daylight saving time originated in World War I so that we could get an additional hour's work out of every American. It served that purpose and served it well. Following the war, there were those who wanted to continue daylight saving time so that business executives could spend an extra hour on the golf links; so that tourists could have longer to gaze at the landscape; and so that farmers and school children could enjoy the luxury of getting up in the dark to start their daily occupations.

The inappropriateness of playing with the clock became apparent during the 1950's. Every little town and hamlet in the country had its own beginning date or ending date for daylight saving time. Airlines, bus companies, and railroads were literally driven up the wall trying to keep track of where they should be when.

By 1966, Congress had been plagued by so many complaints about daylight saving time that an allout effort was made to institute uniform daylight saving time. The 1966 Uniform Time Act which we are amending here today in effect prohibited States from beginning daylight saving time on any other day other than that provided at the Federal level or from ending daylight saving time on any date other than that provided by Federal law.

Then a little over 2 years ago the energy scare forced us to try almost anything in order to solve a problem that would not go away. One of the schemes put forth was to extend the period of daylight saving time. Needless to say, this forward and brave action by the Federal Government saved very little, if any, energy. The Department of Transportation and, more recently, the Bureau of Standards, have determined that there was practically no energy savings whatsoever from the increased period of daylight saving time. I read from page 14 and 15 of the report. On page 16—the National Bureau of Standards for one thing can do nothing about the amount of daylight that exists in this country.

Mr. Speaker, I suggest that the House defeat this bill and to return in the next session of Congress to enact a proper amendment to the Uniform Time Act of 1966 which requires the observance of advanced time between the last Sunday in April and the last Sunday in October instead of the third Sunday in March while the third Sunday in October.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, is the distinguished gentleman here on the floor trying to tell us that if we are out sleeping in the woods and find it is cold on our head, that if we cut off the bottom of the blanket and sew it on the top, that would solve our problem?

Mr. SKUBITZ. That is what this bill is trying to do.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Speaker, I appreciate very much this opportunity to comment regarding H.R. 13089, legislation to amend the Uniform Time Act of 1966 to change the period of observance of daylight saving time.

Let me say at the outset that I am a sponsor of legislation that would limit DST to the 3 summer months. I full well realize that the bill I have introduced and the main thrust of my comments are contrary to H.R. 13089, as well as, the majority opinion held by my colleagues. I confess too, that my concern is parochial but I also wish to point out that my concern is shared by a majority of citizens in my congressional district and throughout rural and small community areas in this Nation. Most important, this concern is based upon real hardship and inconvenience that these folks experience as a result of an extension of daylight saving time.

I am aware of the Department of Transportation studies analyzing the impact of DST and that the Department believes there are potential benefits that offset the costs. It is my belief that the preconceived benefits of DST have been maximized and the drawbacks minimized if not ignored; especially in regard to our rural areas.

I have introduced legislation to limit daylight saving time to the 3 summer months, because of the widespread and very real concern on the part of citizens in my district; farmers, small businessmen, those in the construction industry, the elderly, and parents of school-age children.

The hazards to small children bound for school are clear even in view of the later sunrise time in the spring provided in this legislation. In the western part of my 57-county district, children will still stand adjacent to the highway in inclement weather waiting for the schoolbus. They will wait in the dark. Understandably, the parents of these children are concerned.

Mr. Speaker, unlike the commuter who daily sets his work schedule according to the clock and unlike many urban citizens who quite naturally enjoy the leisure time for recreation that d.s.t. provides, the farmer's schedule is geared to hours of sunlight. Daylight saving time places unnecessary restrictions upon his daily routine, particularly at planting and harvesting time in the spring and fall. The stockman must gear his work schedule to his livestock and this causes problems for farmers and hired workers who have great difficulty in accommodating their normal family and social life with a work schedule that must follow daylight hours. When the professional person in an urban area leaves the office and heads for home for family recreation or to the golf course, the farmer is in the midst of his day's work.

This kind of schedule also disrupts the very active participation on the part of rural citizens in civic and community affairs. The farmer who is a member of his local school board, church, PTA, farm, or organization, et cetera, sacrifices his community responsibilities during the fall and spring; the busiest times of the year both from a work and community standpoint.

In addition, I would like to point out d.s.t. adversely affect a.m. radio broadcasting. A local community radio station may well be the citizen's only contact with weather conditions and current events. The station may not be able to broadcast until well after local citizens must make business and personal plans for the day. The same kind of problems confronts the construction industry or the small businessman who must open his store in darkness.

I think it is important to remember the great push for year-round daylight saving time came as a result of the energy embargo of 1973. It was alleged this action would result in home heating, gasoline, and electricity savings and as a result we got into the spring forward fall back business of daylight saving time. Today, years later, we find no hard evidence of energy savings.

What has been conclusive, however, are the letters I receive from rural families who have seen their energy costs increase, because the busiest and most demanding time frame of their work day is conducted in darkness or semidarkness.

I mentioned earlier that my concern regarding daylight saving time is parochial from a rural standpoint. I want to emphasize that while this is true, this concern is widespead. Consistently, over 80 percent of the citizens in my district who respond to our annual questionnaire favor limiting d.s.t. to the 3 summer months. This position is also shared by many State school superintendents and by the American Farm Bureau Federation.

I am also concerned about the attitude on the part of the Department of Transportation and my colleagues that public opposition to extending d.s.t. is nonexistent or such that does exist can be attributed to a tiny minority. That is why this legislation is on the Suspension Calendar. Let me make it clear that in the Great Plains there is no silent approbation. The majority of citizens oppose daylight saving time and are bitter about the fact that "Big Government" even gets into the business of dictating time which in turn directly affects their personal lifestyle.

It is for the above reasons that I ask my colleagues to consider the concerns on the part of many rural and small community citizens. It may well be that daylight saving time is preferred by a majority throughout our urban and metropolitan areas in this Nation. Suffice it to say, however, that the great majority of citizens in my district would prefer to be exempted from this convenience.

Mr. Speaker, I will vote "no" in regard to H.R. 13089 and ask my colleagues to consider the concerns that lie behind my opposition.

Mr. ROONEY. Mr. Speaker, I have no further request for time.

Mr. SKUBITZ. Mr. Speaker, I have no further request for time, but again I urge this committee to vote down this bill so that we can put into effect and keep in effect the 6 months daylight saving time we have today and give the kids of this country a chance and give our farmers a chance.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 13089, as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 11, noes 10.

So (two-thirds not having voted in favor thereof) the motion was rejected.

RELATING TO DISPOSITION OF CERTAIN RECREATIONAL DEMONSTRATION PROJECT LANDS BY STATE OF OKLAHOMA

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7682) relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma, as amended.

The Clerk read as follows:

H.R. 7682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That notwithstanding section 3 of the Act entitled "An Act to authorize the disposition of recreational demonstration projects, and for other purposes," approved June 6, 1942 (56 Stat. 326; 16 U.S.C. 459t), the State of Oklahoma is hereby authorized to convey oil and gas mineral leases to the following described lands in Carter County, Oklahoma: those lands situated within the project designated and known as the Lake Murray Recreational Demonstration Area, said project lands being more particularly described in a quitclaim deed of the United States of America executed on February 1, 1943 by Harold L. Ickes, Secretary of the Interior approved on February 2, 1943 by Franklin D. Roosevelt, President of the United States, and recorded in book 186, pages 312 through 320 of the records of Carter County, Oklahoma. Any conditions providing for a reversion of title to the United States that may be contained in the conveyance of such lands by the United States to the State of Oklahoma are hereby released as to oil and gas exploration and development affecting the lands herein authorized to be leased. The

State of Oklahoma shall surrender the present deed of conveyance by the United States of the lands described in this Act and the United States shall issue a new deed to the State of Oklahoma for those lands, which new deed shall incude oil and gas exploration and development as permitted uses of such lands: *Provided, however,* That it shall be a condition of such new deed that oil and gas exploration and development shall take place on the lands described in this Act only pursuant to plans which have been reviewed (such review to include preparation of a detailed statement of the type specified in section 2(a) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)), and approved by the Secretary of the Interior and which will assure that such exploration and development shall be carried out in a manner which to the maximum extent possible will assure the preservation of the natural, scenic, and recreational values of the Demonstration Area: *And provided further,* That the State of Oklahoma shall continue to use such lands in the Lake Murray Recreational Demonstration Area primarily for park, recreational, and conservation purposes.

SEC. 2. The issuance of the new deed described in section 1 of this Act shall take place only upon payment to the Secretary of the Interior by the State of Oklahoma of (1) administrative costs of issuance of the new deed and (2) the sum of $25,000 as compensation for the release of any conditions providing for a reversion of title to the United States. Moneys paid to the Secretary of the Interior for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. All other moneys paid to the Secretary of the Interior pursuant to this Act shall be deposited into the general fund of the Treasury as miscellaneous receipts.

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. KAZEN. I yield myself such time as I may consume.

Mr. Speaker, this bill would enable the State of Oklahoma to proceed with awarding of leases for oil and gas exploration and development on about 2,200 acres of land which is included within the Lake Murray State Park in Carter County, Okla., provided that certain conditions are met.

The lands in question were acquired by the United States under provisions of the Emergency Relief Appropriations Act of 1935 aimed at taking submarginal farmlands out of production. In 1943, under another congressional enactment, the lands were transferred to the State of Oklahoma by a quitclaim deed from the Secretary of the Interior. That deed contains language providing that in the event the lands were used for other than exclusively "public park, recreational and conservation purposes," then title would revert to the United States. The deed contained no reservation by the United States of any mineral or other interests in the lands.

In 1975, the State, acting through its Department of Tourism and Recreation, offered lands in Lake Murray State Park, including the lands covered by this bill, for oil and gas exploration leases. After bids were received, title lawyers for some of the successful bidders called attention to the reversionary clause in the deed from the United States. The Solicitor's Office of the Department of the Interior has since advised that any oil and gas development on the lands in question would indeed violate the exclusive-use provisions of the deed, and would cause a reversion of title to the United States.

Accordingly, Mr. Speaker, H.R. 7682 would provide for a surrender of the present deed of conveyance back to the United States, and for issuance by the Secretary of the Interior of a new deed permitting oil and gas exploration and development on the lands in question. In return, the State of Oklahoma will pay all administrative expenses involved in the transaction and also pay the United States $25,000 as compensation for the release of the reversionary interest. Furthermore, the bill also requires that oil and gas exploration and development on the lands in question take place only pursuant to plans reviewed and approved by the Secretary of the Interior which will minimize adverse environmental impacts.

To sum up, Mr. Speaker, this bill would remove a cloud on the title of the State of Oklahoma. It does not deal with Federal mineral rights, because the lands are State lands, and the minerals are owned by the State as well. It does involve the release of an indirect, contingent interest of the United States, for which the State is to compensate the Treasury. This is a convenience to the State, but not a necessity, because they can proceed with their leasing program without this bill if they choose to do so. But passage of this bill will make that leasing program go more efficiently, and at the same time it will mean that the Federal Government will play a role in making sure that any environmental impacts involved will be kept to the minimum.

Therefore, Mr. Speaker, I urge that this bill be adopted.

Mr. ASHBROOK. Mr. Speaker, I yield 12 minutes and 45 seconds to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, this is a simple bill. It merely authorizes the Secretary of the Interior to issue a new deed, conveying lands to the State of Oklahoma and permitting oil and gas exploration and development on the lands.

The Department supported the bill, if it were amended to protect recreational and conservation values.

The Department's suggestions were incorporated into the committee amendment.

I know of no opposition to the bill and I urge its adoption.

Mr. ASHBROOK. Mr. Speaker, I have no further requests for time.

Mr. RUPPE. Mr. Speaker, this bill, H.R. 7682, would authorize the State of Oklahoma to convey oil and gas leases located on approximately 2,200 acres of land situated within the Lake Murray Recreational Demonstration Area.

These lands were originally deeded to the State of Oklahoma to be used exclusively for public park, recreational or conservation purposes. If the use of these lands does not comply with the recreational restrictions, the land reverts to the Federal Government. The conveyance, made in 1943, did not reserve to the United States any mineral or other interests in the lands.

The situation we have today is that the State of Oklahoma has sought and received bids for oil and gas leases within Lake Murray State Park, including the lands described in this bill. If the leases are allowed to take effect, the land would revert to the Federal Government.

This bill would direct the State of Oklahoma to surrender the present deed to these lands in exchange for a new deed containing no reversionary clause to be issued by the Secretary of the Interior. The State would be required to pay administrative costs and the sum of $25,000 as compensation for the release of the reversionary clause.

Furthermore, the bill provides that the deed be conditioned upon the preparation of an environmental impact statement on the proposed oil and gas development. The State must continue to use these lands primarily for park, recreational, and conservation purposes.

Mr. Speaker, I have no objection to the passage of this bill under suspension of the rules. I offered an amendment in subcommittee to require the State of Oklahoma to pay a royalty of 16⅔ percent of the value of any oil and gas produced from the leases to the Federal Government. The lands were intended to be used for recreational purposes only and the Federal Government presently holds a valuable reversionary interest in the lands. If we do permit oil and gas development on these lands, I think that it is only fair that the Federal Government receive the same type of royalty that it receives from other oil and gas development it permits.

The subcommittee, however, disagreed with me that a royalty should be assessed and instead provided that the State of Oklahoma pay the Federal Government the sum of $25,000 as compensation for giving up the reversionary interest.

It is my understanding that the administration does not object to this bill as amended in subcommittee.

Mrs. MINK. Mr. Speaker, this bill deals with mineral development on lands once owned by the United States, but it does not involve any Federal mineral rights.

The bill involves about 2,200 acres in Carter County, Okla., which are now part of the Lake Murray State Park. They were acquired by the United States in the 1930's as part of a New Deal program of retiring submarginal agricultural lands from production. Under authority of an act passed in 1942, the United States in

February 1943 conveyed the lands to the State of Oklahoma.

The conveyance was effected by means of a quitclaim deed signed by the Secretary of the Interior. The United States, by terms of that deed, did not retain any mineral interests or other interests in the lands. However, the deed does contain a reversionary clause. That clause provides that the lands are to be used exclusively for public park, recreational, or conservation purposes; and it is provided that, in the event that they are not so exclusively used, the lands will revert to the ownership of the United States, together with improvements.

Now, the State of Oklahoma has developed a program of offering to lease lands included in its State parks system for oil and gas exploration and development. Such an offering of leases was made for Lake Murray State Park, which contains the lands dealt with in this bill, covering the entire park, and bids were received on that basis from a number of companies, involving a total of more than $2 million in bonus bids.

However, after things had gone that far, title attorneys for one of the successful bidders discovered the reversionary clause in the deed which transferred the lands in question to the State. The question was raised as to whether oil and gas exploration and development on these lands would be contrary to the exclusive uses specified in the deed; the State and the Solicitor's Office in the Department of the Interior are in agreement that there would indeed be a conflict, and that going ahead with the exploration or development would immediately cause the lands to revert to Federal ownership.

This bill was introduced in an effort to change this, and to remove the obstacle to oil and gas exploration and development which exists because of the reversionary clause.

On June 3, 1976, the Subcommittee on Mines and Mining which I chair held a hearing on this bill, and received testimony from the Department of the Interior and from the Director of the Division of Parks of the Oklahoma Department of Tourism and Recreation. As a result of those hearings, and our consideration of this bill, the subcommittee adopted two amendments which were also adopted by the full committee and which are discussed in detail in our report.

Mr. Speaker, the committee amendments do two things. First, they provide that the State of Oklahoma will surrender the present quitclaim deed by which it acquired these lands, and will receive back a new deed which will permit oil and gas exploration and development thereon; but, second, the amendments require that the State compensate the Federal Government for removal of this cloud on the State's title and also they impose conditions which will minimize any environmental harm which might result from the State's program of allowing oil and gas exploration and development.

The bill as amended by the committee requires that Oklahoma pay all administrative costs which are involved and in addition that the State pay $25,000 as compensation for the removal of the reversionary clause from the deed as it now stands.

Further, the amendments which the committee adopted require that the Secretary of the Interior, in drawing up a new deed, include a requirement that oil and gas exploration and development on the lands involved take place only in accordance with plans which have been reviewed and approved by the Secretary of the Interior as assuring that to the maximum extent possible the natural, scenic, and recreational values of the area will be preserved. The review by the Secretary is to include preparation of a full environmental impact statement.

Mr. Speaker, it should be emphasized that the United States does not own the minerals which underly the lands in question. The State has a full fee title to these lands, subject only to the condition that if the lands are put to some use besides park, recreational, or conservation uses, then the lands are to revert entirely to the United States. The lands involved are about 15 percent of the entire Lake Murray holdings of the State. They are not in one block, but scattered in several different areas.

Furthermore, because Federal funds from the land and water conservation fund have been used to assist the State in developing the Lake Murray State Park, the State will be required by Federal law already on the books to replace, acre for acre, any lands which are used for oil and gas exploration and development with additional State lands of equal value, usefulness, and location for recreational purposes. The State officials have told us that they are prepared to meet this requirement.

At the hearing which our subcommittee held on this bill, we particularly inquired as to just how the State would be damaged if the bill is not passed, and also attempted to develop information which would enable us to set some value on the Federal interest for which the State should pay compensation.

The State Parks Director told us that even if the bill is not passed, any oil and gas that may be under the lands involved could be recovered, by drilling on adjoining tracts and draining the oil—which, as I stated earlier, is not owned by the Federal Government but by the State. This could in fact involve more drilling, more wells, and more damaging environmental impacts than if this bill is enacted.

Furthermore, if the bill is not passed, none of the safeguards which we have included to protect the environmental values of the area will be operative. The State of Oklahoma does have an interest in passage of this bill; but that interest is one primarily of convenience and not one so pressing that their entire leasing program will stand or fall with this bill.

As to the $25,000 figure which we have suggested by way of compensation for the removal of the reversionary clause from the deed, the figure is of course to an extent an arbitrary one. The interest of the United States in these lands is not a direct interest. The United States does not own the minerals in these lands, nor does it own any surface rights. These are State lands. What the United States does have is a contingent interest, in that if the State should not continue to use the lands in the ways that were intended then the lands would revert to the United States. I would assume that that would not occur until after litigation because the State would probably contest whether or not the uses to which they put the lands do conflict with the terms of the deed.

And of course if the State simply excludes these lands—15 percent of the park lands, in scattered locations—from the leasing program, then the reversion would not occur and the United States would not be seized of the lands. So, although the United States does have this indirect, contingent interest, it is not an interest that is easily evaluated in dollar terms.

What the subcommittee did, in arriving at the figure of $25,000 for the interest of the United States, was to assess. first, the acquisition cost to the United States. That cost was put by the Department of the Interior, reflecting their records, at approximately $50,000. Second, we looked at the bids that have been received for the oil and gas leasing for the entire park—there is no estimate of the bids that might have been received on the particular lands in questions: that was about $2 million. The figure of $25,000 represents about half the acquisition cost, and it is slightly more than 1 percent of the bids which the State has received for the entire park land leasing program. I believe that it is a reasonable amount to be set for the value of the indirect, contingent interest of the United States, particularly considering that enactment of this bill will mean that the Federal Government will continue to play an important role in ensuring that the State's leasing program does not seriously impair the environmental and recreational values of the Lake Murray area.

Mr. Speaker, I urge passage of this bill.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 7682.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Texas (Mr. Kazen) that the House suspend the rules and pass the bill, H.R. 7682, as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant

to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

PROVIDING FOR CONSIDERATION OF COMPARATIVE PRODUCTION POTENTIAL OF IRRIGABLE LANDS IN DETERMINING NONEXCESS ACREAGE UNDER FEDERAL RECLAMATION LAWS

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13101) to provide for consideration of the comparative productive potential of irrigable lands in determining nonexcess acreage under Federal reclamation laws, as amended.

The Clerk read as follows:

H.R. 13101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law to the contrary, the Secretary of the Interior, for purposes of administering the acreage limitation provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplemental thereto), may establish the acreage of land held in private ownership by any one owner, which may eligibly receive project water from, through, or by means of project works as nonexcess land, at one hundred and sixty acres of class I land or the equivalent thereof in other lands of lesser productive potential as determined by the Secretary of the Interior. Standards and criteria for determination of one-hundred-sixty-acre equivalents pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture including but not limited to soil characteristics, crop adaptability, costs of crop production, and length of growing season: *Provided,* That this Act shall not apply to any project, unit, or division of a project, or repayment contracting entity if the average frost-free growing season, as conclusively determined from published Department of Commerce records, exceeds one hundred and eighty days.

SEC. 2. The Secretary of the Interior is authorized upon request of the holder of an existing contract under Federal reclamation laws (supra) to amend said contract to conform to the provisions of section 1 of this Act, and to otherwise perform any and all acts appropriate to carrying out the purposes of this Act.

SEC. 3. By March 31 of the year following the calendar year of the date of this Act, and on each March 31 thereafter, the Secretary shall report to the Congress on administrative actions taken to carry out the purposes of this Act. The report shall present on a case-by-case basis, the name of the project, division or unit of the project, the repayment entity involved, and summary information on land classification and equivalency relationships established and promulgated by the Secretary during the full calendar year immediately preceding the date of the report.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. JOHNSON) and the gentleman from New Mexico (Mr. LUJAN) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I am pleased to rise in support of H.R. 13101 which has come to be known as the class 1 equivalency legislation.

This bill, when enacted, will make desirable changes in the manner in which the 160 acres of reclamation law is implemented and administered.

It is a simple bill while at the same time a very important and desirable one.

It has no hidden meaning and is intended to do but one thing.

When this bill is passed, it will be possible for a water user on a reclamation project to receive water for somewhat more than 160 acres of land in a single ownership, provided that the land is of less than class 1 quality.

The added amount of land for which water may legally be delivered will be determined by a study authorized to be conducted by the Secretary of the Interior on each project or irrigation district that requests this consideration.

In making these studies, the Secretary will merely determine how many acres of land are required to produce the same net farm income as 160 acres of the best quality land in the project.

Mr. Speaker, I cannot overemphasize that this bill does not change the basic limitation of 160 acres so far as class 1 lands are concerned.

Also, it is most important to understand that the application of this legislation is limited to projects which have frost-free growing seasons of 180 days or less.

This limitation rules out the projects located in our southern and southwestern river valleys which high-value crops such as cotton, vegetables, and citrus can be produced.

The purpose of the legislation is to make it possible for the family farmer, operating lands of limited income-producing potential, to survive and make a decent living.

Experience has shown that the climate, soils, and adaptability of crops that are found in our high mountain valleys and northern latitudes simply will not return enough to the farmer to allow him a decent standard of living.

These natural forces, together with the economic situation confronting modern agriculture, is rapidly destroying the family-size farm.

H.R. 13101 in and of itself, is not the total answer to the problems of western irrigated agriculture.

It is, however, an important first step and one which I am happy to support.

As a matter of fact, the Congress has in recent years almost routinely authorized the class 1 equivalency concept for all new project authorizations.

Indeed, we have authorized it five times in this very session of Congress.

It, therefore, seems to me only logical to extend the same privilege to all established operating projects as we have so justifiably done for the new ones we have recently brought into being.

It has been said by some that this legislation conveys too much authority to the Secretary of the Interior to make these determinations.

I do not feel this is the case.

The bill itself requires full disclosure of the results of the equivalency studies and these results can readily be compared with similar studies of land classification and income-producing capability that have been made in countless instances by the Bureau of Reclamation as a part of its feasibility investigations.

The studies already on file with the Congress establish a pattern which, to all intents and purposes, shapes the results which we expect to come from this bill.

Mr. Speaker, this is a good bill.

It enacts into general law an idea whose time has come.

It requires no significant outlays to implement and can go a long way toward establishing western irrigated agriculture.

I sincerely urge all my colleagues to support it.

Mr. MELCHER. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Speaker, I want to join in the statement of the gentleman from California, the chairman of the subcommittee, in his excellent assessment of the bill. I concur in his findings. I want to thank him and I encourage the rest of the House, to pass this bill, because it will solve some of our problems in Montana. An equivalency formula is absolutely necessary to permit average-sized operators to continue to receive water on their land.

Mr. JOHNSON of California. I thank the gentleman for his contribution.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, I would like to make the same comment that the gentleman from Montana (Mr. MELCHER) made, and I would like to thank the chairman of the subcommittee for his work on this bill. It is very necessary and important to western reclamation States.

Mr. JOHNSON of California. I thank the gentleman from Idaho for his contribution.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ), the illustrious minority leader on the Committee on Interior and Insular Affairs.

Mr. SKUBITZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this bill represents a timely congressional response to the need of farmers of class II and III lands for sufficient acreage to achieve the same level of production as could be achieved on 160 acres of class I lands.

In recognizing and responding to this

need, Congress is in no way tampering with the 160-acre limitation concept. That limitation remains unchanged where class I lands are concerned. The bill permits the Secretary to deliver project water to acreage in excess of 160 acres when that acreage is classified as class II or III land. In so doing, he is limited by the consideration of production equivalency which we have written into the bill.

In other words, the Secretary will be able to deliver water to class II and III lands that exceed the 160-acre limitation by the number of acres required to bring the farm's production potential up to the level of the production of class I lands within the same irrigation district.

The techniques and methodology of establishing such equivalency have been refined over the years and are now virtually to the point of a science. The Bureau of Reclamation has been making such equivalency studies and findings since 1925, when Congress ordered the Bureau to adjust project repayment schedules on class II, III, IV, and V land in proportion to their productive relationship with class I lands. The same yardsticks used to establish relative production potentials for purpose of project repayment adjustments can be used in establishing the number of excess acres required to achieve proportional production. This is a good bill and I commend it to the support of my colleagues.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur fully with the remarks of the very able chairman of our Subcommittee on Water and Power Resources and am pleased to associate myself with his views.

As originally drawn, the bill contained rather broad language that appeared to give the Secretary too much latitude in deciding how much acreage would be required to comprise an "economic family-size farm." We eliminated that language so as to avoid any possible implication that it was the committee's intent to subordinate the 160-acre limitation to a secretarial judgment as to a farm's economic viability. It is our intent to maintain the 160-acre limitation on class I lands without change. But I would point out that our committee has been holding oversight hearings on the 160-acre limitation concept which may, on down the road, result in recommended changes. But this bill is not the vehicle for such change, in either language or intent.

All we are doing here is codifying the long-standing and acceptable practice of permitting the owner of class II and III land to farm the number of acres necessary to bring his production up to the same level as the production on 160 acres of class I land within the same district.

It is a good bill which strongly reinforces and reaffirms the commitment of the Congress to encourage the retention of the small family farm. Without this bill, many farmers of class II and III lands would be unable to continue farming and would be forced to sell to larger interests. This bill gives breathing room to the small farmer and I urge my colleagues to give it the support it deserves.

Mr. ABDNOR. Mr. Speaker, I rise in support of H.R. 13101, to authorize class I equivalency on reclamation projects in areas which have short growing seasons.

The economics of agriculture have changed drastically since Congress last addressed the issue of reclamation acreage limitations in 1926. Farming is no longer limited by hand labor and "horse" power. Indeed, the productivity of a single farmworker has grown by leaps and bounds and with it the cost of operation of each farm and the acreage required for each farm family to sustain a decent living.

Congress has acknowledged the need for larger irrigated farm units by including provisions such as those contained in this bill in every reclamation project authorized in recent years. Now it is only a matter of reason and equity to expand the principle to the older projects as well.

In my district, class I equivalency has already been provided for the recently authorized Pollock-Herreid unit. Also in my district, the Belle Fourche project, the Angostura unit, and the Oahe unit, which is under construction, will benefit from enactment of H.R. 13101. Accordingly, this bill has the support of the irrigation districts involved as well as South Dakota's conservation and water user groups.

As my colleagues know, much of my State is at this time a Presidentially declared drought emergency area. Times like these can only evermore whet the thirst of South Dakota's farmers for expansion of the availability of irrigation's saving benefits to the greatest extent possible throughout the State. Also, the drought can only serve to further expose the inadequacy of the current 160-acre limit on the best land, much less the poorer classes of land.

The time for enactment of H.R. 13101 has come. I urge my colleagues to support its adoption.

Mr. DON H. CLAUSEN. Mr. Speaker, I am pleased to rise in support of this bill because it will help stop the current trend toward dissolution of the small family farm in favor of huge agribusiness landholdings. I strongly believe that the small family farmer still represents an essential element in the American tradition of individual initiative and responsibility; and I believe the Congress must continue to do everything it can to encourage farming families to stay on the land.

They cannot do this if they are limited by law to acreage holdings that are too small to be farmed economically. And yet that has been the thrust of the 160-acre limitation where class II and III lands are concerned.

Under the basic Reclamation Act, water from a Federal irrigation project cannot be delivered to more than 160 acres under single ownership—320 acres in the case of a man and wife. But Congress has long recognized that there are lower classes of land, in terms of productivity, than the class I lands that comprise the bulk of most irrigation districts. These lower class lands cannot produce the same amount of crops as class I lands, and therefore the farmers of lower class lands should be able to farm more acres. In recent years, we have recognized this need and have written "equivalency" language into new project authorizations, permitting the Secretary to deliver water to class II and III lands in excess of the 160-acre limitation.

The bill before us simply writes into general law the same provision we have been writing into individual project authorizations. It is a good bill and is needed by hundreds of small farmers who would otherwise be forced to sell out to developers or agribusiness.

Mr. BAUCUS. Mr. Speaker, family farmers in our irrigation districts cannot continue to support their families while restricted to the current 160-acre limitation. In the many irrigation districts, across Montana, such as the Helena irrigation district in my congressional district, growing conditions do not allow either adequate management techniques or an adequate profit to be developed for most lands receiving federal water. In order to compete, economies of scale dictate that Montana's farmers must work larger quantities of land than they are presently permitted.

The principle of limiting access to federal irrigation water to family farmers and other small operators is still a valid one. Limitations are necessary, it is just the scope of these limitations with which I differ. In Montana, we are primarily dealing with family farmers who, even if they are able to farm 320 acres by allocating to both a husband and a wife are limited by the shortness of the growing season and the lesser productivity of the land.

I think that H.R. 13101 manages to adequately address the problem of large-scale corporate owners taking advantage of current law in high productivity areas by subdividing legal ownership of their property. This bill would not give windfall profits to large farmers or organizations, only those farmers needing additional irrigated acreage allotments to remain competitive will benefit. The combination of limiting an equivalency formula to colder areas and areas with lower soil productivity is an excellent approach which, I hope, will be adopted.

Mr. JOHNSON of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. Sisk). The question is on the motion offered by the gentleman from California (Mr. Johnson) that the House suspend the rules and pass the bill (H.R. 13101), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 13101) just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. JOHNSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 776]

Abzug
Anderson, Ill.
Andrews, N.C.
Armstrong
Badillo
Beard, Tenn.
Bingham
Bonker
Brown, Mich.
Buchanan
Burton, Phillip
Byron
Chisholm
Clancy
Clausen, Don H.
Conlan
Conyers
Coughlin
Davis
Dellums
Derwinski
Diggs
Dingell
Drinan
du Pont
Esch
Eshleman
Evins, Tenn.
Fary
Fish
Fithian
Forsythe
Fraser
Frenzel
Giaimo
Ginn
Green
Gude
Hammerschmidt
Harsha
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Howard
Jarman
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kemp
Keys
Landrum
Lundine
McCollister
McCormack
McFall
McKinney
Madden
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Michel
Mineta
Mink
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Neal
Nix
Obey
O'Hara
O'Neill
Passman
Patterson, Calif.
Peyser
Pike
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Risenhoover
Roberts
Roe
Rose
Rosenthal
Ruppe
Ryan
Santini
Scheuer
Schneebeli
Shipley
Shuster
Sikes
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Udall
Vigorito
Waxman
Whitten
Wilson, C. H.
Wright

The SPEAKER. On this rollcall 312 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ADMINISTRATION OF NATIONAL PARK SYSTEM

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11887) to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows:

(1) In subsection (e), after "within an area of the national park system," insert ", as long as such activity does not jeopardize or unduly interfere with the primary natural or historic resource of the area involved,".

(2) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

"(h) promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided,* That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior.".

Sec. 2. Such Act of August 18, 1970, is further amended by adding the following new sections:

"Sec. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

"'Sec. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States.'.

"Sec. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative jurisdiction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: *Provided,* That prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession as otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

"Sec. 7. Notwithstanding subsection 5901 (a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to $400 annually.

"Sec. 8. The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. The Secretery is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places, which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document.

"Sec. 9. Section 3 of the Act of August 21, 1935 (49 Stat. 666, 667; 16 U.S.C. 461, 463), is amended to read as follows:

"'Sec. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

"'(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.'.

"Sec. 10. (a) The arrest authority relating to the National Park Service is hereby amended in the following respects:

"(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed;

"(2) The first paragraph of that portion designated 'GENERAL EXPENSES—FOREST SERVICE' of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words 'and national park service', 'and national parks', and 'or national parks';

"(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed; and

"(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n-5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed.

"(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

"(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

"(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

"(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

"(c) The Secretary of the Interior is hereby authorized to—

"(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

"(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision; and

"(3) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system whch were rendered pursuant to paragraph (1) of this subsection.

"(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

"(d)(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

"(2) For purposes of the tort claim provisions of title 28, United States Code, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

"(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section be deemed a civil service employee of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

"(e) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.

"SEC. 11. Section 101(a) of title I of Public Law 89-655 (80 Stat. 915; 16 U.S.C. 470a), is amended by adding thereto a new paragraph to read as follows:

"'(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.'.

"SEC. 12. (a) Not later than January 15 of each calendar year, the Secretary of the Interior shall transmit to the Committees on Interior and Insular Affairs a detailed program for the development of facilities, structures, or buildings for each unit of the National Park System consistent with the general management plans required in subsection (b) of this section.

"(b) General management plans for the development of each unit of the National Park System, including the areas within the national capital region, shall be prepared by the Director of the National Park Service and transmitted to the Committees on Interior and Insular Affairs. Such plans shall include:

"(1) the facilities which the Director finds necessary to accommodate the health, safety, and recreation needs of the visiting public, including such facilities as he may deem appropriate to provide in accordance with the provisions of the Act of October 9, 1965 (79 Stat. 969);

"(2) the location and estimated cost of all such facilities; and

"(3) the projected need for any additional facilities required for such unit.

"(c) The Secretary of the Interior shall hereafter transmit to the Committees on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of $100,000 or more, or exceeding five years in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated. The Act of July 14, 1956 (70 Stat. 543) is hereby repealed.".

The SPEAKER. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 11887 is a measure containing several different changes and clarifications of authority which govern the administration of our national park system. This legislation does not propose any sweeping changes or make any great differences in the basic way in which our national parks are to be managed in the coming years. But it is significant because it will better equip the National Park Service to continue in their efforts to manage these unique national resources for the benefit and enjoyment of all Americans.

The bill contains a number of provisions such as the following: It authorizes the Secretary in accordance with standards which he may prescribe to designate various Interior Department employees to maintain law and order and protect persons and property within the national park system. These employees may, as part of their duties, carry firearms, make misdemeanor arrests for offenses committed in their presence and make felony arrests on the basis of probable cause—just as other officers are authorized to make arrests. It is not the intent that rangers in general be armed. We desire to maintain the image of the ranger as a naturalist and as a friend to the park visitors but as the same criminals who commit crimes in cities and on the highways occasionally get in the parks and there must be authority to protect the public and not permit the Parks to become a haven for retreating criminals.

The Advisory Board to the Secretary of the Interior on National Parks and Related Areas is reestablished by this legislation and the name is shortened to National Park Areas Advisory Board. This will enable this worthwhile body of interested citizens to continue to provide the advice and counsel which has been so useful to the Secretary down through the years.

Another feature of the bill is a provision which would encourage the Secretary of Interior and the appropriate State governments to begin negotiations for eventually establishing concurrent jurisdictions over many areas within the national park system.

At present, some parks have exclusive jurisdiction, just like military reservations; some have proprietary jurisdiction, just like a small historic site operating entirely under State law; and some have concurrent jurisdiction. This jurisdiction subject is important when we consider such subjects as law enforcement, fire protection, garbage pick-up service and connections to establish water and sewage systems. The Park Service needs authority to work out cooperative agreements dealing with such matters.

There is a provision in the bill which provides for more equitable treatment of dependents of employees living in government housing who have died while serving in remote areas.

Mr. Speaker, there are numerous additional small items within this measure, all designed to improve the ability of the responsible agency to protect and manage our national parks. It is a measure which should have practically no cost and yet its benefits to our national parks may be far reaching. I urge my colleagues to join me in passing H.R. 11887.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

What happens to prisoners who are arrested by the rangers after they have been arrested?

Mr. TAYLOR of North Carolina. They will be turned over to the U.S. marshals, transported to the nearest federally approved jail or detention facility.

Mr. YATES. If the gentleman will yield further, is there a provision in the bill for that to take place?

Mr. TAYLOR of North Carolina. I understand that this procedure is already followed under existing law.

Mr. YATES. Will this be a crime under the Federal law? What is the basis for the arrest to be—a crime committed on park property?

Mr. TAYLOR of North Carolina. If a misdemeanor is committed in the presence of the officer, he would have authority to arrest, just as do other officers. If he has probable cause to believe that a felony has been committed, he can apprehend the felon, just as other officers. The bill does not spell that out in particular; that is authority exercised under existing law. The bill clarifies the authority of designated National Park Service employees to function as law enforcement officers.

Mr. YATES. Mr. Speaker, does the FBI have jurisdiction for entering park property in the event of a felony?

Mr. TAYLOR of North Carolina. Yes.

Mr. YATES. I thank the gentleman from North Carolina.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, in the event we have another Human Kindness Day such as took place only a short distance from the Capitol, would the Park Police possibly be armed and able to make an arrest under that circumstance?

Mr. TAYLOR of North Carolina. If there is trouble in the parks in the National Capital, the U.S. Park Police already have such authority. Of course they could call the Metropolitan Police to their assistance. This bill also specifically gives authority to the National Park Service to work out arrangements with the local police departments and local highway patrols to come to the aid of the rangers in case of emergency.

Mr. McDONALD. Of course in the recent Human Kindness Day situation down at the Washington Monument, it was notable for its lack of police protection and lawless acts.

Mr. TAYLOR of North Carolina. The Park Police can make arrests now and do, but this bill would provide clear authority for national park rangers in similar circumstances.

Mr. McDONALD. I thank the gentleman.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill provides for numerous adjustments or additions to existing law which affect the administration of the national park system. None of the items are of great importance in their own right, but collectively they constitute a very helpful assemblage which will aid the administration of the national park system.

There are several points I would like to underscore.

First. Sale or lease of services or resource items from within park areas. A provision was added to the existing law to condition any contemplated sale or lease of any park resource on an assurance that it would in no way result in jeopardy or adverse influence upon that resource or the park in general. This is designed to assure adequate protection of natural and/or historic values of the parks through a thorough analysis of possible impact and alternatives.

Second. National Park System Advisory Board. This Board, which has been in existence since about 1935 and has performed a most valuable service to the Secretary of the Interior, has been slightly restructured and renamed. The field of expertise of its membership has been broadened, provision has been made for the Secretary to consider the nomination of appointees to come from a wide breadth of sources, its term of service has been reduced from 6 to 4 years to provide increased opportunity for contributions by more people, and the Board is specifically encouraged to develop its own identification of issues and recommendations to be brought to the Secretary. I believe these adjustments provide beneficial modernization features for a Board which has performed a most valuable service in the past.

Third. Resource studies. In 1972, the National Park Service published the "National Park System Plan," which was designed to help identify the gaps or under representations of various nationally significant natural and historic resources in our national park system. Building upon that type of effort, this bill provides that the Secretary shall continually monitor the welfare of, and call to the attention of the Congress annually, prospective candidates which may be worthy of addition to the national park system. This monitoring as to condition of resource integrity will also apply to registered national natural and historic landmarks, and will result in a greatly increased National Park Service effort to keep abreast of the ongoing condition of these landmarks. The National Park Service is the most capable Federal agent to professionally and comprehensively assess and monitor the welfare of the nation's most superlative natural and historic resources, identify any threats coming upon them, and call these matters to the attention of the Congress and the American people. This provision of this bill is designed to institutionalize a more regularly dependable and methodical approach to this matter.

Mr. Speaker, this bill contains numerous additional important features which will be of much assistance in helping the National Park Service to do a better job of protecting and managing our national park system for the public.

I urge the adoption of this bill.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. SKUBITZ), the ranking minority member of the Committee on Interior and Insular Affairs.

Mr. SKUBITZ. Mr. Speaker, first I commend the gentleman from North Carolina (Mr. TAYLOR), chairman of the Subcommittee on National Parks and Recreation, and the gentleman from Kansas (Mr. SEBELIUS), the ranking minority member of that subcommittee for the outstanding job they did in bringing about this bill.

Mr. Speaker, the administration of any large organization is complicated and challenging.

Often it is not possible to foresee specific administrative problems before they actually occur.

Thus, it is not surprising that amendments must be made to the act of 1970 in order to improve the administration in the national park system.

Early last year the Interior Committee held oversight hearings on the national park system.

In general, we were pleased with the administration of our Nation's parks and recreational areas.

But we were not surprised to find minor technical matters that need legislative action.

Therefore, Mr. Speaker, I rise in support of H.R. 11887.

No costs are specifically required by this bill.

Instead, it is hoped that the increased efficiency resulting from its adoption will outweigh the few minor expenditures.

H.R. 11887 clarifies the jurisdictions of law enforcement authorities in units of the national park system.

It recognizes and provides for certain needs for Park Service employees.

It insures that the Secretary has the authority to regulate boating activities in the parks in coordination with the Coast Guard.

The committee report gives the best reason for the adoption of this bill:

> These and other administrative adjustments are small matters individually, but they are worthwhile in that they are needed, as a part of improving the administration of the national park system.

For these reasons I urge the adoption and enactment of H.R. 11887.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 11887, as amended.

Mr. CRANE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING ESTABLISHMENT OF CONGAREE SWAMP NATIONAL PRESERVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11891) to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect for the education, inspiration, and enjoyment of present and future generations an outstanding example of a near-virgin southern hardwood forest situated in the Congaree River floodplain in Richland County, South Carolina, there is hereby established the Congaree Swamp National Monument (hereinafter referred to as the "monument"). The monument shall consist of the area within the boundary as generally depicted on the map entitled "Congaree Swamp National Monument", numbered CS-80, 001-B, and dated August 1976 (generally known as the Beidler Tract), which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundary of the monument by publication of a revised map or other boundary description in the Federal Register, but the total area may not exceed fifteen thousand, two hundred acres.

SEC. 2. (a) Within the monument the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation.

(b) With respect to any lands acquired under the provisions of this Act which at the time of acquisition are leased for hunting purposes, such acquisition shall permit the continued exercise of such lease in accordance with its provisions for its unexpired term, or for a period of five years, whichever is less: *Provided,* That no provision of such lease may be exercised which, in the opinion of the Secretary, is incompatible with the preservation objectives of this Act, or which is inconsistent with applicable Federal and State game laws, whichever is more restrictive.

SEC. 3. (a) The Secretary shall administer property acquired for the monument in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of this Act.

(b) The Secretary shall permit sport fishing on lands and waters under his jurisdiction within the monument in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this subsection shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

SEC. 4. Within three years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the monument for preservation as wilderness, and any designation of any such area as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 5. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $35,500,000 for land acquisition, and not to exceed $500,000 for the development of essential facilities. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

(b) Within three years from the effective date of this Act the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan for the use and development of the monument consistent with the purposes of this Act, indicating:

(1) the lands and interests in lands adjacent or related to the monument which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, and the estimated cost thereof;

(2) the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

The SPEAKER. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 11891 as reported by the Committee on Interior and Insular Affairs would establish the Congaree Swamp National Monument in the State of South Carolina. I must point out that the word "swamp" here cannot accurately describe the resource to be protected. The Congaree is a bottomland forest in central South Carolina not more than a short drive from the State capital, yet it represents a unique natural resource. Along the Congaree River flood plain there stands a forest which might well be called the "Redwoods of the Eastern United States." The area is filled with majestic trees, several of which are the largest known examples of their species. Some 2 dozen trees are marked as State champions, some as national champions, and some as world champions. This remarkable forest has been preserved from the timber harvesting activities which have surrounded it, but I believe its days are numbered unless we act now.

The tract of property included in this legislation has remained free of timber harvesting except for some cutting of big cyprus trees about the turn of the century until 1969, but timber harvesting operations are now being carried on at the rate of 500 acres annually. The owners of the tract have been most cooperative but they view the property as a valuable investment which must be managed for its economic benefits. It is obvious that we should act now if this property is to be protected.

Over 10 years ago the National Park Service studied this area and recommended the designation of a national monument. This year Representative FLOYD SPENCE has taken the lead in proposing full protection for a specific 15,000 acre tract in the Congaree which would provide an adequate representative of this magnificent old growth forest. H.R. 11891 is presented by the committee as a strike-all amendment so that the usual provisions which apply to the establishment of national park areas of this nature may be included.

Mr. Speaker, H.R. 11891 would authorize the expenditure of up to $35,500,000 to secure the lands within the proposed monument boundary for the permanent benefit and enjoyment of the people of this country. Although the acquisition cost is substantial it will permit the Congress to protect an example of a forest type of great significance which is nowhere else to be found in the entire national park system.

I urge my colleagues to join me in passing H.R. 11891.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, which will establish the Congaree Swamp National Monument in the State of South Carolina. I will say that I believe this is one of the most meritorious additions we will have made to the national park system during this Congress.

This area is not really a formidable swamp as the name may imply. Rather, it is a magnificent lowland deciduous forest along the flood plain of the Congaree River, which is flood free and reasonably accessible most of the year. The 15,000 acres proposed for protection by this bill is essentially the last remaining basically virgin forest of its type in the entire South. Even now, this small area is jeopardized, in that its timber is being cut at the rate of 500 acres per year.

It is the intention of the committee that this cutting and any further sales will promptly stop upon enactment of this legislation, through arrangements between the National Park Service and the single landowner. The species which make up this forest are not homogenous throughout; the area is made up of numerous differing stands and concentrations of species to comprise various forest types. The cutting of a 500-acre segment does not merely constitute a loss of 500 acres—it can constitute the total loss of a complete forest type, perhaps not duplicated elsewhere in the proposed monument. Therefore, continued cutting of any type can have serious consequences.

Mr. Speaker, this bill provides a conventional acquisition formula. I expressed concern in committee that we might need to consider an approach much more forceful—such as a legislative taking, should that be necessary to assure absolute protection of this superlative resource from further damage. Other members agreed with me. It was only as a result of reasonable assurance that the National Park Service and the landowner felt they could negotiate mutually acceptable terms under a conventional acquisition authority that the committee backed off from further consideration of a more strengthened acquisition procedure.

It should be pointed out that we have suffered some very bad experiences at the recently authorized Big Thicket National Preserve in Texas due to insufficiently prompt acquisition and protection measures taken by the Secretary—and this was under a prioritized acquisition schedule where the Congress required the acquisition to be essentially completed within 6 years. I think the committee's concern was amply clear in the case of this Congaree bill, and it certainly is my own strong intention that this type of experience will not in any way occur with this area.

There is one other factor which bears some explanation. The committee chose to not permit public hunting here due to reasons of safety, insufficient game to support public hunting, and the inconsistency of that activity with monument status. However, a private hunting lease which existed at the time of the committee's consideration of this legislation will be allowed to run its term, and should expire in about another year. Should there be activities associated with the terms of that lease which are deemed by the Secretary to be adverse to the protection of the monument's natural values, such activities are to be eliminated or properly controlled by the Secretary.

Mr. Speaker, this bill has very strong support. It will fill a void that now exists in representation of a particular forest ecosystem in our national park system. I urge its adoption by my colleagues.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I want to call attention of the House to the fact that what we are doing here is establishing another park, in a sense. I have no objection to the contents of the bill itself. I want to call attention of the House committee to the fact that here again we are establishing a project that is going to cost in the neighborhood of $35.5 million for acquisitions and another half million for development, and if the bill passes the Senate providing for payment in lieu of taxes, that we will have to pay 1 percent on acquisition to us for 5 years and then pay an acreage tax on the land in perpetuity.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I do think the House may be confused. As I understood the gentleman from North Carolina (Mr. TAYLOR), the gentleman from North Carolina said the cost was $35,000, with another $5,000 for development.

Is the gentleman from Kansas saying the same thing will cost millions of dollars?

Mr. SKUBITZ. I believe it is $35.5 million.

Mr. TAYLOR or North Carolina. Mr. Speaker, if the gentleman will yield, I am sorry if I said $35,000. It is a little more than $35 million.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, I understood the gentleman to say $35,000.

May I ask, what is this land being used for now, for which we are paying $35 million?

Mr. SEBELIUS. Mr. Speaker, if the gentleman will yield further, it is being cut for timber. We have a large number of champion trees threatened with being cut. Some of them are just outstanding. I do not have notes on all the species of trees, but the gentleman who sponsored this bill, the gentleman from South Carolina (Mr. SPENCE) does have this knowledge. I would be glad to have the gentleman respond to the gentleman from Indiana on what trees are involved.

Mr. MYERS of Indiana. If the gentleman will yield further, what concerns me—I am not opposed to or, at this point, favoring this legislation—but often we are taking worthless land off people's hands because we use this exciting word that we are going to put in a national reserve, a national park, or a conservancy district. That land really is not valued at very much. People have been paying taxes on it, so we really are not doing a service to either party by taking the land and converting it over to something that sounds exciting for environmentalists, nature lovers, park lovers. We really are not doing anything for anyone.

Mr. SEBELIUS. I appreciate the gentleman's concern, but this is an outstanding item in our inventory of superlative potential parks. It is endorsed by nearly everybody, including the gentleman from South Carolina (Mr. SPENCE), in whose district the area is located.

Mr. MYERS of Indiana. I have great regard for the gentleman from South Carolina (Mr. SPENCE), but still, what is the land being used for right now?

Mr. SEBELIUS. The timber is being harvested at the rate of about 500 acres per year now, and the owner is willing to sell the entire tract so that we can keep the trees. The next time the gentleman from Indiana and his wife have a weekend, they should go down to South Carolina and look at something really outstanding that needs to be saved.

Mr. SKUBITZ. Mr. Speaker, may I say to my colleague from Indiana that I am not opposed to the contents of this bill, but what is bothering me is that this House passed a bill, and the State of South Carolina asked us to take this land, but after the next tax bill goes through the Senate, we will be paying 1 percent of the valuation for 5 years to South Carolina in lieu of taxes, and an acreage tax from then on. Where is it going to stop?

Mr. MYERS of Indiana. If the gentleman from Kansas will yield, I completely agree. That is what concerns me. We do these things under the guise of doing something the conservationists want or the environmentalists want or society needs, but what are we doing to that local community? Is it going to cost the taxpayers every year more than the $35 million?

Mr. SPENCE. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Speaker, I would like to associate myself with the remarks of the distinguished gentleman from North Carolina (Mr. TAYLOR), the chairman of the Subcommittee on National Parks and Recreation. I also wish to express to him my very deep appreciation for the personal interest he has shown and the strong leadership he has provided in bringing H.R. 11891 to the floor for consideration today. All of us who support this legislation owe a debt of lasting gratitude to him, to the ranking minority member, the gentleman from Kansas (Mr. SEBELIUS), and to other members of the subcommittee.

The Congaree Swamp in South Carolina, unique in many ways, has been designated as a natural landmark by the Secretary of the Interior. The National Park Service recommended in 1963 that part of the swamp be added to the national park system as a national monument. Support and interest in this objective have greatly intensified in recent years.

As the committee report states, the Congaree Swamp is "the finest remaining example of our southern bottomland hardwood forests." A study of the key portion of the swamp last year by the South Carolina Wildlife and Marine Resources Department in conjunction with other State agencies, the National Park Service, and representatives of private groups and associations concluded that this was "the last major old growth stand of its type in the Southeast."

H.R. 11891 provides for acquisition of the key portion of the swamp, mentioned above, which is commonly known as the "Beidler Tract." It has been in the ownership of a single family for several generations. This land is about 15 air miles southeast of Columbia. It is 11 miles long and averages 2 to 2½ miles in width, covering approximately 15,000 acres.

The tract's best known features are its large trees, with an unusually high concentration of record and near record trees. Seventeen State record-size trees, five of which are national records or nominees, have been located within the area. Many of the trees are believed to be 300 years old or older. I include at this point table 3 from the final report of the South Carolina Wildlife and Marine Resources Department, referred to above, which lists record trees of the Beidler Tract. This table is on page 20 of the report.

TABLE 3.—RECORD TREES OF THE BEIDLER TRACT

Species	Circumference (at 4.5 ft)	Height	Spread
NATIONAL RECORDS			
Loblolly Pine (Pinus taeda)[1]	15′10″	144′	50′
Overcup Oak (Quercus lyrata)[1]	21′10″	150′	87′
Possumhew (Ilex decidua)[2]	1′ 8″	30′	45′
Laurel Oak (Quercus laurifolia)[2]	20′ 8″	111′	58′
Swamp Tupelo (Nyssa Sylvatica var. biflora)[2]	12′10″	101′	60′
STATE RECORDS			
Honeylocust (Gleditsia triacanthos)	8′ 3″	122′	36′
Ironwood (Carpinus caroliniana)	4′ 7″	60′	49′
Water Elm (Planera aquatica)[1]	6′ 6″	54′	45′
Sycamore (Platanus occidentalis)[1]	14′.8″	147′	90′
Water Tupelo (Nyssa aquatica)[1]	20′ 2″	90′	56′
Cherrybark Oak (Quercus falcata var. pagodaefolia)[1]	21′ 5″	152′	110′
Swamp Chestnut Oak (Quercus michauxii)[1]	16′ 5″	150′	87′
White Ash (Fraxinus americana)[2]	15′ 3″	135′	80′
Shumard Oak (Quercus shumardii)[2]	16′ 4″	127′	65′
American Elm (Ulmus americana)[2]	17′ 3″	120′	80′
Willow Oak (Quercus phellos)[2]	17′ 8″	147′	90′
Red Bay (Persea barbonia)[2]	5′ 5″	67′	45

[1] Nominated by John Cely and Jim Elder.

[2] To be nominated by the South Carolina Wildlife and Marine Resources Department.

Note: Several other record-size trees are reported to occur on inholdings.

Mr. Speaker, H.R. 11891 offers us the opportunity to preserve a great natural asset for ourselves and future generations. Unfortunately we cannot afford the luxury of prolonged delay in reaching a decision. Time is not a factor in our favor. The land in question is also a valuable financial holding and its owners do not feel that they can postpone indefinitely the realization of its economic benefits.

A companion bill was sponsored by the entire South Carolina delegation and both members of the other body from my State have introduced measures to preserve the Congaree Swamp. I am sure that many of you have heard about the Congaree Swamp from your own constituents. This legislation has widespread support throughout the United States. H.R. 11891 merits our approval and I urge its expeditious passage.

Mr. DENT. Mr. Speaker, will the gentleman yield on a point of information?

Mr. SEBELIUS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, it is my understanding that the record proclaims that at exactly 7 o'clock we will go into the voting on previous pieces of legislation. Without prejudice, I am saying to those interested that at 7 o'clock I am going to insist on voting.

The SPEAKER. The gentleman is correct. There is a motion to suspend the rules pending. As soon as it is disposed of, we are going into the voting procedure.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I wonder if some member of the committee can tell me the assessed valuation of this land.

Mr. SEBELIUS. Does the gentleman from North Carolina know what the assessed valuation of the land is?

Mr. WALSH. We are paying $35 million for the land. We do not know what the assessed value is.

Mr. SEBELIUS. That is the value of it. Assessed value is something else. I do not have that figure at hand.

Mr. WALSH. This is the purchase price. I would like to know the assessed valuation. I would like to know what we are receiving for our money.

Mr. SEBELIUS. Mr. Speaker, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield back the balance of my time

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 11891, as amended.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—yeas 67, nays 12.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Debate has been concluded on all motions to suspend the rules, under the announcement the majority leader made last night.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 15246, by the yeas and nays; H.R. 15552, by the yeas and nays; House Resnays; H.R. 15026, by the yeas and nays; 2839, by the yeas and nays; House Concurrent Resolution 737, by the yeas and nays; H.R. 15026, by the yeas and nays; H.R. 3647, by the yeas and nays; H.R. 12484, by the yeas and nays; H.R. 12048, de novo; H.R. 14071, by the yeas and nays; H.R. 7682, by the yeas and nays; H.R. 13101, by the yeas and nays; and H.R. 11887, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SERVICE CONTRACT ACT AMENDMENTS OF 1976

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 15246.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill H.R. 15246, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 3, not voting 32, as follows:

[Roll No. 777]

YEAS—395

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford

Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—3

Collins, Tex.
McDonald
Paul

NOT VOTING—32

Anderson, Ill.
Armstrong
Badillo
Conlan
Dellums
du Pont
Esch
Fithian
Frenzel
Goldwater
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
Landrum
McCollister
McCormack
Madigan
Matsunaga
Meeds
Metcalfe
Mink
Nix
Riegle
Steelman
Steiger, Ariz.
Stephens

The Clerk announced the following pairs:

Mr. Badillo with Mr. Karth.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. du Pont.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.
Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Frenzel.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.
Mr. Stephens with Mr. Goldwater.
Mr. Madigan with Mr. Landrum.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) (3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

IMPLEMENTING INTERNATIONAL CONVENTIONS AGAINST TERRORISM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 15552.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE) that the House suspend the rules and pass the bill H.R. 15552, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 356, nays 44, not voting 30, as follows:

[Roll No. 778]

YEAS—356

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
AuCoin
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

NAYS—44

Addabbo
Aspin
Baucus
Bingham
Burke, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Collins, Ill.
Conyers
Diggs
Eckhardt
Edgar
Edwards, Calif.
Fish
Ford, Tenn.
Harrington
Hawkins
Holtzman
Jordan
Kindness
Krueger
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moss
Myers, Pa.
O'Hara
Pattison, N.Y.
Paul
Rangel
Rees
Richmond
Rose
Rosenthal
Roybal
Seiberling
Solarz
Stark
Stokes
Waxman
Weaver
Young, Ga.

NOT VOTING—30

Anderson, Ill.
Armstrong
Badillo
Conlan
Dellums
du Pont
Esch
Fithian
Frenzel
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Nix
Riegle
Steelman
Steiger, Ariz.
Stephens
Zablocki

The Clerk announced the following pairs:

Mr. Badillo with Mr. Karth.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. du Pont.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.

Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Frenzel.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.
Mr. Stephens with Mr. Zablocki.

Mr. DENT changed his vote from "nay" to "yea."

Mr. DIGGS and Mr. JOHN L. BURTON changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

URGING THE PRESIDENT NOT TO EXTEND DIPLOMATIC OR OTHER RECOGNITION TO THE TRANSKEI TERRITORY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing House Resolution (1509).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and pass the resolution (H. Res. 1509), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 156, not voting 29, as follows:

[Roll No. 779]

YEAS—245

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mann
Mazzoli
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quie
Rangel
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—156

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Breckinridge
Brinkley
Brown, Mich.
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Dent
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Eshleman
Evans, Colo.
Flowers
Flynt
Forsythe
Fountain
Frey
Gaydos
Goldwater
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hightower
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McDonald
Madigan
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Minish
Montgomery
Moore
Moorhead, Calif.
Moss
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Quillen
Railsback
Randall
Rees
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Russo
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, James V.
Steed
Stratton
Symms
Talcott
Taylor, Mo.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—29

Anderson, Ill.
Armstrong
Badillo
Conlan
Dellums
du Pont
Esch
Fithian
Frenzel
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Nix
Riegle
Steelman
Steiger, Ariz.
Stephens
Sullivan

The Clerk announced the following pairs:

Mr. Badillo with Mr. Stephens.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. du Pont.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.
Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mrs. Sullivan.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Frenzel.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.

Messrs. O'NEILL, HILLIS, RANGEL, Mrs. BOGGS, Messrs. FISH, GILMAN, and BELL changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

INTERNATIONAL INVESTMENT SURVEY ACT OF 1976

The SPEAKER pro tempore (Mr. McFALL). The unfinished business is the question of suspending the rules and passing the Senate bill S. 2839, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and pass the Senate bill, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 380, nays 18, answered "present" 1, not voting 31, as follows:

[Roll No. 780]

YEAS—380

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Derrick
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley

Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—18

Ashbrook
Bauman
Clawson, Del
Crane
de la Garza
Devine
Gibbons
Hansen
Holt
Kindness
McDonald
Miller, Ohio
Moss
Paul
Reuss
Rousselot
Symms
Wilson, C. H.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—31

Anderson, Ill.
Badillo
Conlan
Dellums
Dent
Derwinski
du Pont
Emery
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Nix
Rangel
Riegle
Ruppe
Steelman
Steiger, Ariz.
Stephens

The Clerk announced the following pairs:

Mr. Badillo with Mr. Dent.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. du Pont.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.
Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Emery.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.
Mr. Rangel with Mr. Stephens.

Mr. HANSEN and Mr. ASHBROOK changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An act to supplement the authority of the President to collect regular and periodic information on international investment."

A motion to reconsider was laid on the table.

RIGHT TO FOOD RESOLUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 737, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DIGGS) that the House suspend the rules and agree to the concurrent resolution, (House Concurrent Resolution 737), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 340, nays 61, answered "present" 1, not voting 28, as follows:

[Roll No. 781]

YEAS—340

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—61

Archer
Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Bevill
Bowen
Brooks
Burleson, Tex.
Burlison, Mo.
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Eshleman
Flowers
Flynt
Hall, Tex.
Hansen
Hightower
Hutchinson
Ichord
Kelly
Kemp
Ketchum
Kindness
Krueger
Landrum
Lott
McDonald
McEwen
Mahon
Michel
Milford
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Nichols
Paul
Poage
Rousselot
Runnels
Satterfield
Schneebeli
Shuster
Spence
Stuckey
Symms
Taylor, Mo.
Teague
Treen
Waggonner
White
Whitten
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—28

Anderson, Ill.
Badillo
Conlan
Dellums
Dingell
du Pont
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Nix
Rangel
Riegle
Steelman
Steiger, Ariz.
Stephens

The Clerk announced the following pairs:

Mr. Badillo with Mr. Stephens.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. du Pont.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.
Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mr. Dingell.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Rangel.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.

Messrs. ROBERTS, DUNCAN of Tennessee, and BONKER and Mrs. FENWICK and Mrs. LLOYD of Tennessee changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 138, REAFFIRMING RIGHT OF EVERY PERSON TO FOOD

Mr. DIGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate Concurrent Resolution (S. Con. Res. 138) expressing the sense of the Congress reaffirming the right of every person to food and calling for U.S. foreign and domestic policies designed to combat hunger and improve nutrition, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

AMENDMENTS TO FEDERAL AVIATION ACT OF 1958

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 15026, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 15026, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 1, not voting 29, as follows:

[Roll No. 782]

YEAS—400

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Moss

NOT VOTING—29

Anderson, Ill.
Badillo
Conlan
Dellums
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Moorhead, Pa.
Murphy, N.Y.
Nix
Rangel
Riegle
Steelman
Steiger, Ariz.
Stephens

The Clerk announced the following pairs:

Mr. Badillo with Mr. Karth.
Mr. Matsunaga with Mr. Green.
Mr. Meeds with Mr. Jones of Alabama.
Mr. McCormack with Mr. Conlan.
Mr. Fithian with Mr. Anderson of Illinois.
Mr. Helstoski with Mr. Esch.
Mr. Hébert with Mr. McCollister.
Mr. Dellums with Mr. Moorhead of Pennsylvania.
Mr. Nix with Mr. Gude.
Mrs. Mink with Mr. Stephens.
Mr. Metcalfe with Mr. Heinz.
Mr. Henderson with Mr. Steelman.
Mr. Riegle with Mr. Steiger of Arizona.
Mr. Murphy of New York with Mr. Rangel.

Mr. WIGGINS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes.".

A motion to reconsider was laid on the table.

AIRCRAFT REGISTRATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3647, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 3647, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 389, nays 11, not voting 30, as follows:

[Roll No. 783]

YEAS—389

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—11

Carney
Kelly
Krebs
Maguire
Miller, Ohio
Moss
Ryan
Seiberling
Wolff
Wydler
Young, Fla.

NOT VOTING—30

Anderson, Ill.
Badillo
Conlan
Dellums
Esch
Fithian
Gilman
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mink
Nix
Pritchard
Rangel
Riegle
Rose
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Pritchard.
Mr. Meeds with Mr. Conlan.
Mr. McCormack with Mr. Anderson of Illinois.
Mr. Fithian with Mr. Esch.
Mr. Helstoski with Mr. McCollister.
Mr. Hébert with Mr. Gude.
Mr. Dellums with Mr. Rose.
Mr. Nix with Mr. Heinz.
Mrs. Mink with Mr. Steelman.
Mr. Metcalfe with Mr. Steiger of Arizona.
Mr. Henderson with Mr. Stephens.
Mr. Riegle with Mr. Rangel.
Mr. Gilman with Mr. Stokes.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 relating to eligibility for aircraft registration.".

A motion to reconsider was laid on the table.

TIME REQUIREMENTS FOR CAB APPLICATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 12484) as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 12484, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 2, not voting 30, as follows:

[Roll No. 784]

YEAS—398

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan

Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Adams
Maguire

NOT VOTING—30

Anderson, Ill.
Badillo
Conlan
Coughlin
Dellums
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Rangel
Riegle
Sikes
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.

Mr. Matsunaga with Mr. Coughlin.

Mr. Meeds with Mr. Conlan.

Mr. McCormack with Mr. Anderson of Illinois.

Mr. Fithian with Mr. Esch.

Mr. Helstoski with Mr. McCollister.

Mr. Hébert with Mr. Gude.

Mr. Dellums with Mr. Mills.

Mr. Nix with Mr. Heinz.

Mrs. Mink with Mr. Steelman.

Mr. Metcalfe with Mr. Steiger of Arizona.

Mr. Henderson with Mr. Stephens.

Mr. Riegle with Mr. Sikes.

Mr. Rangel with Mr. Stokes.

Mr. EDGAR changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADMINISTRATIVE RULE MAKING REFORM ACT OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12048, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. FLOWERS) that the House suspend the rules and pass the bill, H.R. 12048, as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

POINT OF ORDER

Mr. FLOWERS. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. FLOWERS. Mr. Speaker, on the last recorded vote there were 400 Members present. Twenty percent of that would be 80.

The SPEAKER pro tempore (Mr. McFALL). The Chair will advise the gentleman that on recorded vote the rules require one-fifth of a quorum, which is 44.

A recorded vote is ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 135, answered "present" 1, not voting 29, as follows:

[Roll No. 785]

AYES—265

Abdnor
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Butler
Byron
Carr
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dent
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Findley
Fish
Flood
Flowers
Flynt
Ford, Mich.
Fountain
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McDade
McDonald
McFall
McHugh
McKay
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Ohio
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
O'Brien
O'Hara
Passman
Patterson, Calif.
Paul
Pepper
Perkins
Pettis
Poage
Pressler
Preyer
Price
Quillen
Railsback
Randall
Regula
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rose
Roush
Rousselot
Runnels
Russo
Ryan
Santini
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Ullman
Vander Jagt
Vander Veen
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—135

Abzug
Adams
Addabbo
Allen
Andrews, N. Dak.
Ashley
Baldus
Beard, R.I.
Bell
Bergland
Biester
Bingham
Boland
Bolling
Bonker
Brademas
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carter
Chisholm
Clay
Collins, Ill.
Conable
Conte
Conyers
Corman
Delaney
Derrick
Derwinski
Diggs
Dingell
Drinan
du Pont
Early
Eckhardt
Edwards, Ala.
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Florio
Foley
Ford, Tenn.
Forsythe
Fraser
Frenzel
Giaimo
Gibbons
Haley
Hall, Ill.
Harrington
Harris
Hawkins
Hicks
Holtzman
Jarman
Jordan
Karth
Kelly
Koch
Leggett
Lehman
Lundine
McClory
McCloskey
McEwen
McKinney
Madden
Madigan
Maguire
Mikva
Miller, Calif.
Mitchell, Md.
Mitchell, N.Y.
Moorhead, Pa.
Mosher
Moss
Murphy, N.Y.
Myers, Pa.
Obey
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Peyser
Pickle
Pike
Pritchard
Quie
Rees
Reuss
Rhodes
Richmond
Rooney
Rosenthal
Rostenkowski
Roybal
St Germain
Sarasin
Scheuer
Seiberling
Simon
Sisk
Smith, Iowa
Solarz
Stark
Steiger, Wis.
Stratton
Studds
Symington
Thompson
Treen
Udall
Van Deerlin
Vanik
Vigorito
Waxman
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wylie
Yates
Young, Ga.
Young, Tex.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—29

Anderson, Ill.
Badillo
Conlan
Dellums
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Rangel
Riegle
Ruppe
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.

Mr. Matsunaga with Mr Ruppe.

Mr. Meeds with Mr. Conlan.

Mr McCormack with Mr. Anderson of Illinois.

Mr. Fithian with Mr. Esch.
Mr. Helstoski with Mr. McCollister.
Mr. Hébert with Mr. Gude.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr Heinz.
Mrs. Mink with Mr. Steelman.
Mr. Metcalfe with Mr. Steiger of Arizona.
Mr. Henderson with Mr. Stephens.
Mr. Riegle with Mr. Mills.
Mr. Rangel with Mr Stokes.

Mrs. COLLINS of Illinois, Mr. THOMPSON, Mrs. BURKE of California, Mr. HICKS and Mr. BEARD of Rhode Island changed their vote from "aye" to "no."

Messrs. MICHEL, HYDE, HAMMERSCHMIDT, RONCALIO, and KASTENMEIER changed their vote from "no" to "aye."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

INTERSTATE HORSERACING ACT OF 1976

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 14071, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 14071, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 86, not voting 29, as follows:

[Roll No. 786]

YEAS—315

Abdnor
Adams
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Blanchard
Blouin
Boggs
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McDade
McFall
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Roush
Rousselot
Runnels
Russo
Ryan
St Germain
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stuckey
Sullivan
Symington
Talcott
Taylor, Mo.
Teague
Thompson
Thone
Thornton
Traxler
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—86

Abzug
Addabbo
Ambro
Annunzio
Aspin
Baucus
Biaggi
Bingham
Boland
Bolling
Burke, Calif.
Burke, Mass.
Chisholm
Clay
Collins, Ill.
Conyers
Cotter
Crane
Danielson
Delaney
Downey, N.Y.
Drinan
Early
Edwards, Calif.
Eilberg
Fary
Fish
Fountain
Giaimo
Gilman
Hanley
Harrington
Heckler, Mass.
Holtzman
Horton
Kastenmeier
Koch
Krebs
Lent
Lundine
McCloskey
McDonald
McEwen
McHugh
McKinney
Maguire
Mikva
Moakley
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
O'Neill
Ottinger
Paul
Peyser
Pike
Price
Rees
Richmond
Risenhoover
Rosenthal
Rostenkowski
Roybal
Santini
Sarasin
Scheuer
Solarz
Stanton, James V.
Stark
Steed
Stratton
Studds
Symms
Taylor, N.C.
Treen
Tsongas
Udall
Weaver
Wiggins
Wirth
Wolff
Wydler
Yates
Young, Ga.
Zeferetti

NOT VOTING—29

Anderson, Ill.
Badillo
Conlan
Dellums
Esch
Fithian
Green
Gude
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Rangel
Riegle
Ruppe
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Conlan.
Mr. Meeds with Mr. Anderson of Illinois.
Mr. McCormack with Mr. Esch.
Mr. Fithian with Mr. McCollister.
Mr. Helstoski with Mr. Gude.
Mr. Hébert with Mr. Heinz.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr. Steelman.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Mills.
Mr. Henderson with Mr. Ruppe.
Mr. Riegle with Mr. Stephens.
Mr. Rangel with Mr. Stokes.

Mr. DELANEY and Mr. RISENHOOVER changed their vote from "aye" to "no."

Messrs. PASSMAN, HIGHTOWER, BREAUX, MITCHELL of New York, O'BRIEN, and LONG of Louisiana, and Mrs. KEYS changed their vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RELATING TO DISPOSITION OF CERTAIN RECREATIONAL DEMONSTRATION PROJECT LANDS BY THE STATE OF OKLAHOMA

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 7682, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill H.R. 7682, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 344, nays 53, not voting 33, as follows:

[Roll No. 787]

YEAS—344

Abdnor
Adams
Addabbo
Alexander
Allen
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Corman
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Hagedorn
Haley
Hall, Ill.
Hall, Tex.

Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nowak
Oberstar
O'Brien
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Rousselot
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—53

Abzug
Ambro
Anderson, Calif.
Andrews, N.C.
Aspin
Biester
Bingham
Blanchard
Burton, John
Carr
Chisholm
Cleveland
Conte
Conyers
Cornell
Coughlin
D'Amours
Downey, N.Y.
Early
Edgar
Fenwick
Fountain
Giaimo
Harrington
Hechler, W. Va.
Holtzman
Jeffords
Koch
McHugh
McKinney
Maguire
Moffett
Mottl
Myers, Pa.
Nedzi
Nolan
Obey
O'Hara
Ottinger
Pike
Reuss
Richmond
Rostenkowski
Roybal
Scheuer
Solarz
Spellman
Stark
Van Deerlin
Waxman
Weaver
Wydler
Yates

NOT VOTING—33

Anderson, Ill.
Badillo
Conlan
Dellums
Devine
Esch
Fithian
Green
Gude
Guyer
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Peyser
Rangel
Riegle
Ruppe
St Germain
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Conlan.
Mr. Meeds with Mr. Anderson of Illinois.
Mr. McCormack with Mr. Esch.
Mr. Fithian with Mr. McCollister.
Mr. Helstoski with Mr. Gude.
Mr. Hébert with Mr. Heinz.
Mr. Dellums with Mr. Jones of Alabama.
Mr. Nix with Mr. Steelman.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Mills.
Mr. Henderson with Mr. Devine.
Mr. Riegle with Mr. Guyer.
Mr. Rangel with Mr. Peyser.
Mr. Ruppe with Mr. Stephens.
Mr. Stokes with Mr. St Germain.

Mrs. FENWICK and Messrs. KOCH, SOLARZ, NOLAN, OTTINGER, Mrs. SPELLMAN, and Mr. RICHMOND changed their vote from "yea" to "nay."

Messrs. DANIELSON and TAYLOR of Missouri changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONSIDERATION OF COMPARATIVE PRODUCTIVE POTENTIAL OF IRRIGABLE LANDS IN DETERMINING NONEXCESS ACREAGE UNDER FEDERAL RECLAMATION LAWS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 13101, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass the bill H.R. 13101, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 118, nays 279, answered "present" 1, not voting 32, as follows:

[Roll No. 788]

YEAS—118

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashley
AuCoin
Baucus
Beard, R.I.
Boggs
Bolling
Breaux
Breckinridge
Brooks
Brown, Calif.
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Byron
Carter
Clausen, Don H.
Corman
Daniels, N.J.
de la Garza
Dent
Dickinson
Diggs
Duncan, Oreg.
du Pont
Eckhardt
Evans, Colo.
Evins, Tenn.
Flynt
Ginn
Goldwater
Gonzalez
Hagedorn
Hammerschmidt
Hansen
Harsha
Hawkins
Hicks
Horton
Howard
Howe
Hungate
Hyde
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kazen
Kelly
Ketchum
Krebs
Lagomarsino
Leggett
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
Lundine
McClory
McFall
McKay
Mahon
Mathis
Melcher
Miller, Calif.
Miller, Ohio
Mollohan
Moore
Morgan
Oberstar
Patterson, Calif.
Pettis
Pickle
Poage
Pressler
Randall
Rees
Rhodes
Risenhoover
Roe
Rogers
Roncalio
Rose
Rousselot
Runnels
Santini
Sebelius
Seiberling
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Staggers
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Udall
Ullman
Vigorito
Waggonner
White
Wilson, Bob
Wilson, Tex.
Winn
Wright
Yatron
Young, Alaska
Young, Tex.

NAYS—279

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashbrook
Aspin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goodling
Gradison
Grassley
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holt
Holtzman
Hubbard
Hughes
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, Okla.
Kasten
Kastenmeier
Kemp
Keys
Kindness
Koch
Krueger
LaFalce
Landrum
Latta
Lehman
Lent
Levitas
Long, Md.
Lott
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mazzoli
Meyner
Mezvinsky
Michel
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Pepper
Perkins
Pike
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sharp
Shuster
Sikes
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Studds
Sullivan
Symington
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wirth
Wolff
Wydler
Wylie
Yates
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Holland

NOT VOTING—32

Badillo
Conlan
Dellums
Devine
Esch
Fithian
Green
Gude
Guyer
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Peyser
Rangel
Riegle
Ruppe
St Germain
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Conlan.
Mr. Meeds with Mr. Devine.
Mr. McCormack with Mr. Esch.
Mr. Fithian with Mr. McCollister.
Mr. Helstoski with Mr. Gude.
Mr. Hébert with Mr. Heinz.
Mr. Dellums with Mr. Mills.
Mr. Nix with Mr. Steelman.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Peyser.
Mr. Henderson with Mr. Guyer.
Mr. Riegle with Mr. Ruppe.
Mr. Rangel with Mr. St Germain.
Mr. Stokes with Mr. Stephens.

Mr. JENRETTE, Mrs. SPELLMAN, Messrs. CARNEY, HUGHES, and PERKINS, changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ADMINISTRATION OF NATIONAL PARK SYSTEM

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 11887, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill, H.R. 11887, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 16, not voting 36, as follows:

[Roll No. 789]

YEAS—378

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—16

Ambro
Brodhead
Conable
Michel
Mottl
Paul
Forsythe
Frenzel
Hutchinson
Rosenthal
Schneebeli
Treen
Hyde
Kelly
Kindness
Wydler

NOT VOTING—36

Badillo
Conlan
Dellums
Devine
Diggs
Esch
Fithian
Gilman
Green
Gude
Guyer
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
McCollister
McCormack
Madden
Martin
Matsunaga
Meeds
Metcalfe
Mills
Mink
Nix
Peyser
Rangel
Riegle
Ruppe
St Germain
Steelman
Steiger, Ariz.
Stephens
Stokes

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Conlan.
Mr. Meeds with Mr. Devine.
Mr. McCormack with Mr. Esch.
Mr. Fithian with Mr. McCollister.
Mr. Helstoski with Mr. Gude.
Mr. Hébert with Mr. Heinz.
Mr. Dellums with Mr. Diggs.
Mr. Nix with Mr. Steelman.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Gilman.
Mr. Henderson with Mr. Guyer.
Mr. Riegle with Mr. Martin.
Mr. Madden with Mr. Mills.
Mr. Rangel with Mr. Peyser.
Mr. St Germain with Mr. Ruppe.
Mr. Stokes with Mr. Stephens.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3430) to amend the act approved August 18, 1970, providing for improvement in the administration of the national park system by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows:

(a) In subsection (e), after "within an area of the national park system," insert "as long as such activity does not in any way violate or jeopardize the integrity of the natural ecosystem or any historic resource."

(b) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

"(h) promulgate and enforce regulations concerning boating operations and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided,* That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;.

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior effective October 1, 1977.".

SEC. 2. The Act of August 18, 1970, is further amended by adding the following new sections:

"SEC. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

" 'SEC. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days' rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States. Subsection (b) of the section shall become effective October 1, 1977.'.

"SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over National Park System lands or interests in that State, Commonwealth, territory, or possession: *Provided*, That, prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

"SEC. 7. Notwithstanding subsection 5901 (a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to $400 annually effective October 1, 1977.

"SEC. 8. The Secretary of the Interior is directed to investigate and study areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. Each report and annual listing shall be printed as a House document.

"SEC. 9. Section 3 of the Act of August 21, 1935 (49 Stat. 666, 667; 16 U.S.C. 461, 463), is amended to read as follows:

" 'SEC. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

" '(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.'.

"SEC. 10. (a) The arrest authority relating to the National Park Service is hereby amended in the following respects:

" '(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed.

" '(2) The first paragraph of that portion designated "GENERAL EXPENSES, FOREST SERVICE" of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words "and national park service", "and national parks", and "or national parks".

" '(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed.

" '(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n-5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreational Area, is hereby repealed.

" '(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

" '(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

" '(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

" '(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

" '(c) The Secretary of the Interior is hereby authorized to—

" '(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemented law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

" '(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement or supervision of the laws or ordinances of that State or subdivision; and

" '(3) provide limited reimbursement, effective October 1, 1977, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

" '(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

" '(d)(1) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction with the National Park System.

" '(2) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

" '(3) For purposes of the tort claim provisions of title 28, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

"'(4) Effective October 1, 1977, for purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be deemed a civil service employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.'.

"Sec. 11. Section 101(a) of title I of Public Law 89–665, (80 Stat. 915; 16 U.S.C. 470a) establishing a program for the preservation of additional historic properties, is amended by adding thereto a new paragraph to read as follows:

"'(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.'".

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Taylor of North Carolina moves to strike out all after the enacting clause of S. 3430 and insert in lieu thereof the text of H.R. 11887, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11887) was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed and on H.R. 11891 which was passed earlier this evening.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING THE SPEAKER TO APPOINT THE DELEGATE FROM THE DISTRICT OF COLUMBIA AS ONE OF THE MEMBERS OF THE SELECT COMMITTEE AUTHORIZED BY HOUSE RESOLUTION 1540

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint the delegate from the District of Columbia as one of the members of the select committee authorized by House Resolution 1540.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT AS MEMBERS OF THE SELECT COMMITTEE TO CONDUCT AN INVESTIGATION AND STUDY OF THE CIRCUMSTANCES SURROUNDING THE DEATH OF JOHN F. KENNEDY AND THE DEATH OF MARTIN LUTHER KING, JR.

The SPEAKER. Pursuant to the provisions of House Resolution 1540, 94th Congress, and the authority of the House just granted, the Chair appoints as members of the Select Committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., the following Members and Delegate of the House: The gentleman from Virginia, Mr. Downing, chairman; the gentleman from Texas, Mr. Gonzalez; the gentleman from North Carolina, Mr. Preyer; the gentleman from Ohio, Mr. Stokes; the Delegate from the District of Columbia, Mr. Fauntroy; the gentlewoman from California, Mrs. Burke; the gentleman from Connecticut, Mr. Dodd; the gentleman from Tennessee, Mr. Ford; the gentleman from Ohio, Mr. Devine; the gentleman from California, Mr. Talcott; the gentleman from Connecticut, Mr. McKinney, and the gentleman from Nebraska, Mr. Thone.

LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have asked for this time to announce the program at this particular time for the remainder of the day and tomorrow.

Mr. Speaker, we will take up House Joint Resolution 1096, Guam typhoon supplemental appropriations, this evening.

Tomorrow we will start out with H.R. 14238, legislative branch appropriations, fiscal year 1977, conference report.

This will be followed by H.R. 15377, Export Administration Act amendments, under an open rule, with 1 hour of debate;

S. 22, copyright law provision, under a modified open rule, with 1 hour of debate;

H.R. 15, regulating lobbying and related activities, under an open rule, with 4 hours of debate; and

H.R. 6684, exclusive territorial franchises, under an open rule, with 2 hours of debate.

On Thursday we will take up H.R. 12112, synthetic fuels, under an open rule, with 4 hours of debate.

HOUR OF MEETING ON TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I take the floor reluctantly to make this point. I have been reading the Record to make sure that I am correct.

I refer back to the Record from last night, shortly before 10 p.m., in the colloquy between the gentleman from Arizona (Mr. Rhodes) and the gentleman from Massachusetts (Mr. O'Neill), where the gentleman from Massachusetts said this:

> Mr. Speaker, there is agreement, then, that we will stop the suspensions at 5:30 tomorrow night.

Now, at 7 o'clock we had not finished the suspensions.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, the agreement yesterday, as made by the leadership, was contingent upon the fact that I would ask unanimous consent to come in today at 10 o'clock. If that request had been granted, as it was anticipated it would be granted, we would follow through then until 5:30, I believe it was, and at 5:30 we would rise.

The reason for this is that we had originally agreed on 5 o'clock. We agreed then on 5:30 because there was a soybean conference going on in which many Members were interested, and extending it to 5:30 would give them a half hour to get over there and it would allow 15 minutes for voting the first time. Therefore, we anticipated everything would be through at 7 o'clock. That was the agreement I had with the minority leader, the gentleman from Arizona (Mr. Rhodes), on the opposite side of the aisle.

Mr. Speaker, I will ask the minority leader, am I correct in that?

Mr. RHODES. Mr. Speaker, if the gentleman from Indiana will yield the gentleman from Massachusetts is absolutely correct.

Mr. O'NEILL. So, Mr. Speaker, may I say that with that in mind, I asked unanimous consent to meet at 10 o'clock, and there was an objection.

Now, I had been told by many of the Members that the request would be agreed to so that we would not have to move it. However, unexpectedly, one of the Members objected to the request, and so I was not in a position to move it at that particular time.

We did have an agreement, and we would have lived up to that agreement, because as the Members can see, it is 5 minutes past 9 now. Had we come in at 10 o'clock this morning, we would have been leaving here at about 5 minutes past 7.

Mr. MYERS of Indiana. Of course, Mr. Speaker, I know nothing about the agreement the gentleman may have had, and I am not trying to impugn or question the gentleman's actions in what he is doing here on the floor. I am just a country banker, and when one's word is given that he is going to do something, I expect it will be done.

However, with the gentleman's explanation, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NATIONAL VOLUNTEER FIREMEN WEEK

Mr. CARNEY. Mr. Speaker, I call up the joint resolution (H.J. Res. 1008) authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week" and ask unanimous consent that it be considered in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. Res. 1008

Whereas volunteer firemen have played an essential role in this country all throughout its history;

Whereas one million of the country's one million two hundred thousand firefighters are volunteer firemen;

Whereas, because of their skills in applying life-supporting techniques and their awareness of fire safety precautions, volunteer firemen play an important role at their regular places of employment, especially in industrial plants, large office buildings, hospitals, and other places where there are heavy concentrations of people; and

Whereas volunteer firemen provide a lifesaving service to the communities in which they live: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUPPLEMENTAL DEPARTMENT OF DEFENSE APPROPRIATION FOR REPAIR AND REPLACEMENT OF TYPHOON-DAMAGED FACILITIES ON GUAM

Mr. MAHON. Mr. Speaker, pursuant to the order of the House on Friday last, I call up the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. Res. 1096

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, for the period ending September 30, 1976, and for other purposes, namely:

RESTORATION OF FACILITIES ON GUAM, DEFENSE

For replacement, repair, and restoration of supplies, equipment, and facilities on Guam, $163,073,000, to be immediately available to be transferred as follows:

"Operation and maintenance, Navy," $19,960,000;

"Operation and maintenance, Air Force," $10,940,000;

"Military construction, Navy," $67,400,000;

"Military construction, Air Force," $24,400,000;

"Family housing, Defense," $40,373,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts:

For the Navy and Marine Corps: Construction, $12,250,000;

For the Air Force: Construction, $20,121,000;

For Department of Defense: Operation, maintenance, $8,002,000:

Provided, That amounts provided for construction shall remain available until expended: *Provided further,* That amounts provided for operation and maintenance shall be transferred, in whole or in part, to the designated appropriations which are available for obligation through September 30, 1976, or, to the extent obligations cannot be incurred as of September 30, 1976, for the purpose of this resolution, to fiscal year 1977 successor appropriations, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, let me say to my colleagues that it is urgent that this supplemental appropriation bill proceed to the other body in order that we can undertake to complete our schedule this week and next week.

Mr. Speaker, this is a noncontroversial measure. The budget request was $189 million for construction and for operation and maintenance as a result of this devastating typhoon. The request for military construction and family housing was $144 million, and the request for operation and maintenance was $44 million.

We have had hearings on this measure which are available to the Members. We felt that in view of carryover funds into the transition period, some reduction could be made; and we did make reductions totaling about $25.9 million.

The typhoon which ravaged Guam on May 31, 1976, was one of the most destructive in the history of that island. The extensive damage to our military installations was mainly caused by the long duration of the storm. Destructive force winds continued for over 30 hours. At the height of the storm, 100-knot winds, with gusts up to 145 knots, battered the island for 6 hours.

Another reason for the severity of the damage was the nature of the construction. Many of those buildings destroyed were put up as temporary facilities during World War II, and were not in condition to withstand the force of such a storm. While many newer structures also sustained some damage, it was generally much less severe.

Wind-driven water was a major factor in causing interior damage to buildings and their contents, as well as, destroying waterfront installations. A very substantial amount of supplies and equipment was lost and will have to be replaced.

There is a substantial amount requested. It is expensive to build permanent facilities on Guam because of its isolated location and because new permanent facilities should be "typhoon proof." We are recommending funds to replace many of the old World War II facilities which were not typhoon proof, facilities which are needed to carry out the ongoing missions on Guam. These would have had to have been replaced some day. When Typhoon Pamela struck the island on May 21, the replacement of these facilities became an immediate consideration.

These funds are urgently required to reconstruct our military facilities and replace the supplies and equipment required to resume normal operations on the island.

Mr. Speaker, I should point out that while this is a single appropriation it will increase existing funds already provided the Department of Defense for specific purposes under the regular Military Construction and Department of Defense Appropriations Acts. Mr. Speaker, I will insert in the Record at this point, under permission to extend my remarks, a schedule showing the budget request, the amount authorized, and the funding recommended by the Appropriations Committee:

19TQ SUPPLEMENTAL—RESTORATION OF TYPHOON PAMELA DAMAGE

	Requested	Authorized	Committee action	
			Approved	Reduction
Military construction:				
Navy	$77,869,000	$71,400,000	$67,400,000	−$10,469,000
Air Force	26,622,000	24,400,000	24,400,000	−2,222,000
Subtotal	104,491,000	95,800,000	91,800,000	−12,691,000
Family housing, defense	40,373,000	40,373,000	40,373,000	
Navy and Marine Corps construction	(12,250,000)	(12,250,000)	(12,250,000)	
Air Force Construction	(20,121,000)	(20,121,000)	(20,121,000)	
Department of Defense: Operation, maintenance	(8,002,000)	(8,002,000)	(8,002,000)	
Total, Milcon	144,864,000	136,173,000	132,173,000	−12,691,000
Defense:				
Operation and maintenance, Navy	30,846,000	NA	19,960,000	−10,886,000
Operation and maintenance, Air Force	13,290,000	NA	10,940,000	−2,350,000
Subtotal, operation and maintenance	44,136,000		30,900,000	−13,236,000
Total	189,000,000		163,073,000	−25,927,000

Mr. Speaker, I urge the passage of this resolution.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker. I would like to vote "aye."

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I thank the gentleman for yielding.

I shall take just a few seconds simply to say that we have held hearings and gave careful consideration to this measure in the committee. I just want to say that the minority concurs in the need for this joint resolution.

Therefore, Mr. Speaker, I urge its adoption.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, the supplemental measure before you carries $163,073,000 for restoration and repair of military facilities and for the repair, replacement, and replenishment of equipment and supplies on Guam. The single appropriation includes amounts which will be transferred to operations and maintenance accounts and to military construction and family housing accounts for the Navy and Air Force. The amount requested for Guam in House Document 94–570 was $189,000,000, so the total reduction of $25,927,000 in the request represents approximately 14 percent.

The Members of the House recognize the significance of Guam to America's defense structure. Guam represents our most secure post in the Western Pacific. It is the westernmost military facility which is completely under U.S. control. Other bastions in the Pacific, in the Philippines, Okinawa, Japan, Korea, and Taiwan, are important but problems have arisen from one source or another, which could affect future U.S. tenure at those bases. Guam presently supports essential and strategic Navy and Air Force activities. In the event we need to deploy or use additional military forces in that area, our installations on Guam must be better prepared to support them adequately.

Guam is a long way from the continent of the United States so it is expensive to build permanent facilities. Because of Guam's location where typhoons are frequent, permanent facilities should be typhoon proof. Many of the structures on Guam were of World War II construction. Few of these are left following the storm, and replacement was only a matter of time. Maintenance was increasingly costly, but it was necessary to use them to carry out the ongoing mission on Guam. Many of these facilities were out of date and it would have been necessary to replace them very soon. When the typhoon Pamela struck the Island on May 21st, the process was speeded up considerably.

The storm, one of the most destructive in the history of Guam, had an unusually slow speed of advance and was of exceptionally long duration. Destructive force wind—over 50 knots—continued for 30 hours. At the height of the storm, 100 knot winds, with gusts of 145 knots, buffeted the island for 6 hours. Damage was sustained at virtually every military installation on Guam. Thirty three inches of rain fell, with 27 inches received in a 24-hour period. Wind-driven water was a major factor in interior damage to buildings and their contents. Of the total request, $144,864,000 is for military construction and family housing to restore damaged facilities. The Department of Defense also requested $44,136,000 of operation and maintenance funds to replace destroyed supplies and equipment and to repair facilities not requiring complete restoration.

Operation and maintenance appropriations are within the purview of the Defense Subcommittee. Hearings were held with Defense, Navy, and Air Force witnesses on Wednesday on the $44,136,000 requested for operation and maintenance—Navy, $30,864,000; Air Force, $13,290,000. The Defense Subcommittee feels that a total of $30,900,000 is sufficient to meet essential requirements. This represents a reduction of $13,236,000 in this area. In testimony before the Defense Subcommittee, the Navy advised that some $6,523,000 which they had requested could be absorbed within funds already appropriated. In addition, although reductions are not identified by item, the committee felt that an additional reduction of $6,713,000 should be applied to the Navy and Air Force operations and maintenance requests. The report identifies areas in which these reductions can be made. Examples are requests for furniture for airmen dormitories which may exceed that actually lost; maintenance funds for nonappropriated fund activities; purchase of supplies and equipment in cases where some of the equipment could be repaired rather than replaced; and failure to utilize funds appropriated for similar purposes in the fiscal year 1976 Defense Appropriation Act. Some of these are repair of damaged service craft with funds appropriated for work at the Ship Repair Facility at Guam and utilization of funded Military Airlift Command training flights for the delivery of materials and supplies to Guam.

I believe that the amount approved will enable the services to get the job done.

For military construction, $91,800,000 of the total appropriation would be transferred to the Navy's and Air Force's military construction accounts—Navy, $67,400,000; Air Force, $24,400,000. The Military Construction Subcommittee felt that the Air Force's request had been more rigorously screened than the Navy's. We made an additional reduction of $4 million in the Navy request while going along with the Armed Services Committee's reduction of $6,469,000 to the Navy and $2,222,000 to the Air Force requests. We have indicated certain Navy projects which our subcommittee felt could be deferred.

For family housing, $40,373,000 includes both construction and operation and maintenance. We felt that the request was well justified and perhaps somewhat conservative in that the family housing request does not include any upgrading of family housing except for stormproofing. We feel that it may be desirable to upgrade these units—for instance, installing central airconditioning or upgrading kitchens—at the same time that other work is accomplished. Nevertheless, this wasn't requested and hasn't been authorized.

This supplemental is necessary now. The forces, their families, and the civilian work force have all done a remarkable job in restoring operations and providing minimal shelter. However, permanent repairs need to be made, both to restore full operation and decent living conditions and to prevent further damage from normal weather.

I respectfully urge your support for this measure.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 1096, now under consideration.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 0, not voting 58, as follows:

[Roll No. 790]

YEAS—372

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling

Gradison
Grassley
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—58

Badillo
Beard, R.I.
Beard, Tenn.
Broomfield
Brown, Calif.
Cederberg
Cochran
Conlan
Conyers
Dellums
Devine
Esch
Fithian
Green
Gude
Guyer
Harrington
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
Landrum
McCollister
McCormack
Matsunaga
Meeds
Metcalfe
Mills
Mink
Moorhead, Calif.
Mosher
Nix
O'Brien
Passman
Peyser
Rangel
Rees
Riegle
Rosenthal
Ruppe
St Germain
Sarbanes
Schneebeli
Stanton, J. William
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Udall
Ullman
Whitten

The Clerk announced the following pairs:

Mr. Badillo with Mr. Green.
Mr. Matsunaga with Mr. Conlan.
Mr. Meeds with Mr. Ruppe.
Mr. McCormack with Mr. Esch.
Mr. Fithian with Mr. McCollister.
Mr. Helstoski with Mr. Gude.
Mr. Hébert with Mr. Heinz.
Mr. Dellums with Mr. Guyer.
Mr. Nix with Mr. Steelman.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Metcalfe with Mr. Stephens.
Mr. Henderson with Mr. Mills.
Mr. Riegle with Mr. Peyser.
Mr. Stokes with Mr. Beard of Rhode Island.
Mr. Rangel with Mr. Jones of Alabama.
Mr. Conyers with Mr. Harrington.
Mr. Hawkins with Mr. Passman.
Mr. Rosenthal with Mr. Sarbanes.
Mr. St Germain with Mr. Stuckey.
Mr. Udall with Mr. Symington.
Mr. Ullman with Mr. Whitten.
Mr. Beard of Tennessee with Mr. Brown of California.
Mr. Cederberg with Mr. Broomfield.
Mr. Cochran with Mr. Devine.
Mr. Moorhead of California with Mr. Karth.
Mr. O'Brien with Mr. Landrum.
Mrs. Sullivan with Mr. Mosher.
Mr. J. William Stanton with Mr. Rees.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DR. HAROLD W. THOMAS ELEMENTARY SCHOOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, fortunate indeed is the community of Arnold, Pa., in which resides Dr. Harold W. Thomas who has spent well over a half century in service to his country and community.

Dr. Thomas will soon be honored by having the Arnold Fourth Avenue Elementary School renamed the Doctor Harold W. Thomas Elementary School. This honor befits a man who has spent 20 years as a local school physician. This honor is appropriate for a man who has delivered over 4,000 area babies. This honor bespeaks a man who has given his entire Arnold City Council salary back to the community in the form of more than 500 trees planted to beautify parks, playgrounds, and other public areas. This honor is a fine tribute to a man who has dedicated his life to community medicine, community recreation, and community beautification and betterment.

The President of the United States has seen fit to honor Dr. Thomas with a citation which will be presented to him at the dedication ceremonies. As the President so aptly said,

> Our nation will continue to be strong, secure and free as long as Americans like you meet the responsibilities of citizenship and make use of the opportunities available under our system of self-government. Your accomplishments reflect the highest standards of public service and you can take pride in knowing that your efforts have greatly improved the quality of life for your fellow citizens.

Dr. Harold W. Thomas and his community service have also been well recognized by the Arnold City Government, the Arnold Chamber of Commerce, the Arnold Fire Department, the Arnold American Legion Baseball Club, the Arnold-New Kensington School Board, and the citizens of the Arnold community.

Mr. Speaker, Dr. Thomas exemplifies all that is good in this country. His spirit of community service and dedication is a shining example of citizenship at its best. I am proud to have Dr. Thomas as one of my constituents and I applaud the Arnold community action in renaming the school in his honor.

CORRECTION OF ERRORS IN PRINTED HOUSE REPORT ON S. 22

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the printed copy of House report No. 94-1476 on S. 22 contains a number of typographical errors, including the omission of certain material from the text which I filed in the House of Representatives on September 3, 1976. In order for the complete and accurate text of the report of the committee to be available, I asked the staff of the committee to prepare a list of these errors and omissions, with corrections. This list does not include obvious errors in spelling and punctuation where the meaning of the text is clear.

I include this list at this point in the RECORD:

CORRECTION OF ERRORS IN PRINTED HOUSE REPORT ON S. 22 (H. REP. NO. 94-1476, SEPT. 3, 1976)

Page 2: In the definition of "derivative work", following the word "fictionalization" at the end of the 2d line, add: "motion picture version, sound recording, art reproduction, abridgment,".

Page 3: In the definition of "pictorial, graphic, and sculptural works", delete "the" at the beginning of the 8th line.

Page 4: In the definition of "work made for hire", in the 11th line of clause (2) of § 101, the word "works" should read "work".

Page 4: Delete the last 2 lines at the bottom of the page.

Page 5: Delete the first 6 lines at the top of the page.

Page 10: In § 111, in the 14th line of subsection (c) (4) the phrase "the signal or such foreign station" should read "the signal of such foreign station".

Page 10: In § 111, in the 12th line of subsection (d) (1), the word "Royalty" should be inserted between the words "Copyright" and "Commission".

Page 11: Following the 1st line at the top of the page insert the following: "subclause (C) or (D), a total royalty fee for the period covered by the".

Page 14: In the 11th line, the phrase "performance and display" should read "performance or display". In the 15th line, the word "as" should be inserted at the beginning of the line and the phrase "year on which" should read "year in which".

Page 15: In § 112, in the last line, the last word "programs" should read "program."

Page 15: In § 114, in the 12th line of subsection (b), the word "copyright" should read "copyrighted".

Page 20: In § 118, in the 4th and 5th lines of subsection (d) (3), delete the repeated phrase "of section 110," and in the 4th line from the bottom of the page the phrase "body of institution" should read "body or institution".

Page 21: In the 4th line from the bottom of the page, "voluntary" should read "voluntarily".

Page 22: In § 203, following the 7th line of subsection (a)(1), insert "such author may be exercised as a unit by the".

Page 24: In § 301, in the 3d line of subsection (b)(1), the phrase "medium or expression" should read "medium of expression".

Page 25: In § 304 (a), in the 3d line, the phrase "*Provided,* That is the case" should read "*Provided,* That in the case", and in the 5th line, the phrase "the proprietor thereof, of" should read "the proprietor thereof, or of", and in the 7th line the phrase "employer of whom" should read "employer for whom".

Page 26: In the 11th line, the word "of" should be inserted between "term" and "copyright".

Page 29: In § 405, in the 2d line of subsection (a) the word "described" should read "prescribed", and in the 2d line of subsection (c) the word "obligation" should read "obliteration".

Page 29: In the 2d line from the bottom of the page, the word "provision" should read "provisions".

Page 36: In § 507, in the 1st line of subsection (a), the word "proceedings" should read "proceeding", and in the 2d line of subsection (b) the word "the" should be inserted between the words "after" and "claim".

Page 37: In § 601(b), at the end of the 4th line of clause (6), insert "or".

Page 39: In § 704, in the 4th line of subsection (b), "work" should read "works".

Page 40: In § 706, in the 1st line of subsection (b), "reproduction" should read "reproductions".

Page 41: In § 710, in the 5th line, "work" should read "works".

Page 41: In § 801, in the 1st line of subsection (b), "purpose" should read "purposes".

Page 45: In Sec. 106, in the 3d line, delete "the" between "of" and "title".

Page 45: In Sec. 110, in the 2d line, "1976" should read "1977".

Page 46: In Sec. 113, at the end of subclause (B) of subsection (a)(1), add the word "and".

Page 50: In the 4th line of the 7th full paragraph, the phrase "during the 95th Congress" should read "during the first session of the 95th Congress".

Page 51: In the 4th line of the 4th full paragraph, the phrase "of copyrightable technology" should read "of copyrightable subject matter at the present stage of communications technology".

Page 52: At the end of the page, insert "be regarded as fixed and should".

Page 54: In the 8th line of the 2d full paragraph, "work" should read "works".

Page 55: In the 7th line of the 1st full paragraph, "statute" should read "statue".

Page 56: In the 11th line of the 3d full paragraph, "fixation" should read "fixations".

Page 59: In the 14th line of the 1st paragraph, delete "is that the public should not be required to pay a "double subsidy," and substitute "in this situation, and the basically different policy considerations".

Page 61: In the 5th line from the bottom of the page, "works" should read "work".

Page 62: In the 2d line of the 5th paragraph, headed *Public distribution*, the phrase "right of publications" should read "right of publication".

Page 63: In the 2d line of the 1st full paragraph, the phrase "works records on film," should read "works recorded on film,".

Page 68: In the 1st and 2d lines of the 1st paragraph, the phrase "the minimum standards of educational fair use" should read "the minimum and not the maximum standards of educational fair use".

Page 72: In the 2d line of the 2d full paragraph, "kill" should read "will".

Page 73: In the 16th line of the 1st full paragraph, "section 70" should read "section 710".

Page 75: In the 1st full paragraph, beginning "Isolated, spontaneous . . .". in the 7th line the phrase "production or distribution" should read "reproduction or distribution", and in the 9th line the word "advantages" should read "advantage".

Page 76: In the 2d and 3d lines of the 1st full paragraph, the phrase "contribution to copyrighted collection" should read "contribution to a copyrighted collection".

Page 77: In the 5th line of the 4th full paragraph, the word "materials" should read "material".

Page 80: In the 2d line on the page, the word "views" should read "viewers".

Page 81: In the 11th line on the page, the phrase "burden" or proving" should read "burden of proving".

Page 84: In the 10th line from the bottom of the page, the reference to "section 1103 (3)" should read "section 110(3)".

Page 88: In the 6th and 7th lines of the 3d full paragraph, delete "In addition to an installation charge, the subscribers.".

Page 90: In the 1st line of the 3d full paragraph, the phrase "their transmission" should read "the retransmission".

Page 91: In the 1st line of the 3d full paragraph, the reference to "Section 11," should read "section 111,".

Page 92: In the 1st line of the 1st full paragraph, the reference to "section 11(a)" should read "section 111(a)".

Page 94: In the 11th and 12th lines on the page, the phrase "but immediately after the program," should read "but also immediately before or after the program,".

Page 94: In the 8th line from the bottom of the page, "Commission" should read "Committee".

Page 97: In the 3d and 4th lines of the 1st full paragraph, delete "Gross receipts under this provision are computed cent of gross receipts.".

Page 97: In the 10th line of the 4th full paragraph, the phrase "and copyright owner" should read "any copyright owner".

Page 100: In the 6th line of the 2d full paragraph, "exclusively" should read "exclusivity".

Page 101: In the 3d line of the 1st full paragraph, the phrase "nationwide transmission" should read "nationwide transmissions".

Page 102: In the 10th line of the 1st full paragraph, the word "make" should read "under".

Page 102: In the 8th line of the 2d full paragraph, the word "transmission" should read "transmissions".

Page 105: In the last line on the page, delete "the".

Page 107: In the 4th line of the 3d paragraph, the phrase "modifications in section 115" should read "modifications and clarifications in section 115".

Page 111: In the 5th line of the 1st full paragraph, the reference to "page 71–94." should read "pages 91–94."

Page 111: In the 6th line from the bottom of the page, the heading "PERFORMANCE OF COIN-OPERATED PHONORECORD PLAYERS" should read "PERFORMANCE ON COIN-OPERATED PLAYERS".

Page 119: Between the 1st and 2d paragraphs, insert the following: *Works affected*

Under sections 118(b) and (e) of the Committee's amendment, the establishment of rates and terms by the Copyright Royalty Commission pertains only to the use of published nondramatic musical works, and published pictorial, graphic, and sculptural works. As under the Senate bill, rights in plays, operas, ballet and other stage presentations, motion pictures, and other audiovisual works are not affected.

Section 118(f) is intended to make clear that this section does not permit unauthorized use, beyond the limits of section 107, of individual frames from a filmstrip or any other portion of any audiovisual work. Additionally, the application of this section to pictorial, graphic, and sculptural works does not extend to the production of transmission programs drawn to any substantial extent from a compilation of such works.

Page 119: In the 1st line of the next-to-last paragraph on the page, the phrase "Paragraph (3) and clause (d)" should read "Paragraph (3) of clause (d)".

Page 121: In the 5th line on the page, the phrase "right to use of license" should read "right to use or license".

Page 123: In the 18th line of the 2d full paragraph, the words "within, holding a particular geographic area" should read "within a particular geographic area".

Page 126: In the 5th full paragraph (headed "Case 2"): the reference to "August 23, 2222" in the 5th line should read "August 23, 2022"; the reference to "January 1, 2224" in the 7th line should read "January 1, 2024"; the reference to "January 1, 2214 and January 1, 2222." in the 8th line should read "January 1, 2014 and January 1, 2022.".

Page 136: In the 3d line of the 2d full paragraph, the refernce to "29 years" should read "28 years".

Page 138: In the 16th line of the 1st paragraph, the phrase "broadcasters, motion pictures, etc.," should read "broadcasters, motion picture theaters, etc.,".

Page 140: In the 1st line on the page, insert "90–141," between "89–142," and "90–416,".

Page 145: In the 6th and 7th lines of the 2d full paragraph, the reference to "subsection (e)" should read "subsection (c)".

Page 147: In the last two lines of the 3d full paragraph, the phrase "particularly copy" should read "particular copy".

Page 150: In the first line on the page, the word "on" should be inserted between "mon" and "works".

Page 150: In the 3d line from the bottom of the 1st full paragraph, the word "cause" should read "case".

Page 150: In the 2d full paragraph, in the 1st line the phrase "section 407 through all" should read "sections 407 through 411", and in the 6th and 7th lines the phrase "copies of phonorecords" should read "copies or phonorecords".

Page 151: In the 3d line from the bottom of the page, the reference to "section 407(c)" should read "section 407(d)".

Page 153: In the 9th line of the 1st full paragraph, the reference to "section 508." should read "section 408.".

Page 155: In the 1st line on the page, delete " all of the works were first published" and substitute "the renewal application and fee are received".

Page 157: In the 6th line of the 2d full paragraph, the phrase "enforce his right" should read "enforce his rights".

Page 159: In the 1st line on the page, "owner" should read "owners".

Page 159: In the 2d line of the 1st full paragraph, the phrase "owner or an exclusive" should read "owner of an exclusive".

Page 163: In the 2d line on the page "innocent" should read "innocence".

Page 163: In the 5th line of the 2d full paragraph, "infringer" should read "infringed".

Page 166: In the 7th line of the 2d full paragraph, the phrase "the real issue of whether" should read "the real issue is whether".

Page 166: In the 2d line of the 3d full paragraph, "segment" should read "segments".

Page 167: In the 6th and 7th lines from the bottom of the page, the phrase "or copies not complying" should read "of copies not complying".

Page 169: In the 1st full paragraph, in the 1st line the reference to "Subsection (a)" should read "Subsection (d)", and in the 9th line "owners" should read "owner".

Page 169: In the 10th line from the bottom of the page, "article" should read "articles".

Page 170: In the 2d line on the page, the phrase "in school" should read "in schools,".

Page 175: In the 5th line from the bottom of the page, the word "average" should be deleted, so that the phrase "increase in the average royalty fee" would read "increase in the royalty fee".

Page 176: In the 8th line of the 3d full paragraph, the phrase "rules are changes" should read "rules are changed".

Page 176: Delete the last sentence on the page, beginning "It is the intent . . ." and ending ". . . before the FCC.".

Page 180: In the 9th line of the 2d full paragraph, the phrase "rights scheduled to expire during 1976" should read "of renewal copyrights scheduled to expire during 1977,".

Page 180: In the 6th line from the bottom of the page, the phrase "dealing with free mailing" should read "dealing with the free mailing".

Page 181: In the 11th line of the 2d paragraph, the semi-colon should be replaced by a comma, so that the phrase reads "registration on that date, its copyright protection".

Page 183: In the 9th line of the 1st full paragraph, the phrase "section 108(a) or" should read "section 108(a) of".

Pages 206–209: These pages are out of order. Page 209 should be renumbered as page 206 and appear immediately after page 205, and pages 206, 207, and 208 should be renumbered as pages 207, 208, and 209, respectively, and should appear after the renumbered page 206.

PANAMA CANAL: A NATIONAL ISSUE THAT REQUIRES DISCUSSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in an address to this body of the Congress in the Congressional Record of December 9, 1975, on "Panama Canal Surrender Proposal: A Major Geopolitical Pearl Harbor," I summarized the essential facts in the highly complicated Isthmian Canal situation. Since then the question of the Panama Canal has become a national issue in the United States with the people of our country overwhelmingly opposing any dilution of their treaty-based sovereign rights, power, and authority over either the canal or its indispensable protective frame of the Canal Zone.

One of the most striking features of this interest is the number of authoritative articles or speeches by perceptive students of the subject who are not misled by deceptive propaganda that has supported the giveaway of the vital U.S. asset. Among such authors or speakers have been Dr. Donald M. Dozer, professor emeritus of Latin American history, University of California, Santa Barbara; Adm. John S. McCain, Jr., former U.S. Commander in Chief, Pacific; Harold Lord Varney, president of the Committee on Pan American Policy, Belmont, Mass.; and the late Franz O. Willenbucher, J.D., captain, U.S. Navy, retired.

In a notable address on May 27, 1976, before a seminar on the current United States-Panama treaty negotiations before a distinguished gathering cosponsored by the Fletcher School of Law and Diplomacy, the Inter American Bar Association, and other legal groups, Captain Willenbucher electrified the audience with a scholarly paper in which he described the Panama Canal challenge as a "catalyst for restoration of national will."

Captain Willenbucher's experience with canal matters started with his participation during 1935 and 1936 in the negotiations for the Hull-Alfaro Treaty of 1936–39 in connection with its defense aspects. During subsequent years, he kept in close touch with significant canal developments and thus spoke with the authority of extensive knowledge.

Because of the relevance of his address to the current national discussions of the canal question, I quote it as part of my remarks:

Panama Canal: Catalyst for Restoration of National Will

(By Franz O. Willenbucher, J.D., captain USN, retired)

The major elements for the establishment and implementation of a sound United States policy, concerning the maintenance, operation, sanitation and defense of the U.S. Canal Zone and Canal, situated in the Isthmus of Panama are: (a) Continued undiluted sovereign control of the Zone by the United States, and (b) The major modernization of the existing Canal through the completion of the temporarily suspended Third Locks Project, adapted to include a Pacific summit level terminal lake. All other matters, however important, are relatively secondary in character.

In order promptly to initiate this compelling policy, the present ill-advised negotiations with Panama for a "new" Panama Canal Treaty should be brought to a close, in as amicable a manner as possible, recognizing the colossal blunders which have thus far been committed by both the United States and Panama. At the same time, Panama should be brought to understand that the modernization program should be completed at the earliest possible time and that it (a) needs no new treaty, the existing treaty rights of the United States being fully adequate to complete the program, and (b) will bring to Panama massive economic benefits, since the cost of the modernization program will be upward of $1.5 billion, much of which will, of course, be spent in Panama.

The Canal must be kept under the sovereign control of the United States: (1) Because it is not only vital to the security of our people and the people of the whole Western hemisphere; but, because its continued operation, exclusively by the United States, is essential to its survival as a free and independent nation; and (2) to fulfill our global treaty-based obligation under the Hay-Pauncefote Treaty of 1901 to operate the Canal in the interest of world shipping, without discrimination at reasonable rates, in accordance with the terms of the Constantinople Convention for the Suez Canal.

The Canal cannot be successfully operated by a small technologically underdeveloped country, nor by one with inadequate financial competence, like Panama. Nor can the Canal be operated successfully in partnership with any other nation. Such an arrangement would prove in practice to be impossible and perhaps even disastrous. The Canal must be kept in operation by only one fully competent country, and that is the United States, unless the Canal were to fall into the hands of Soviet Russia which has been its design from the beginning of its existence.

The overriding question is whether the Caribbean-Gulf of Mexico sea area is to be reestablished and maintained as a vital United States national defense asset, or whether it is to become in its totality a Red-based area further to facilitate an invasion into the United States via its soft underbelly between Texas and Florida.

President Ford, less than nine years ago, on April 8, 1967, while he was House Minority Leader, wrote a letter to Dr. Donald Marquand Dozer, Republican Central Committee of Santa Barbara County, California, in which he said:

"We must protect our own national interests in the Canal Zone and throughout the world. I have expressed publicly my concern about the communist threat to the canal under lessened American authority.

"The Congress cannot ignore its responsibility to the American people as it examines and evaluates the decisions of the President in this matter."

Three months later, on July 7, 1967, House Minority Leader Ford, after reading parts of a new proposed Panama Canal Defense Treaty which had been negotiated by the Johnson Administration, obtained by the Chicago Tribune, while it was still under secrecy wraps, declared that the American people would be "shocked" at its surrender terms. The Tribune, on the next day, July 8, 1967, published the story on its first page, under a glaring headline: "Canal Pact Shocking: Rep. Ford," and subtitled: "Strengthens Red Threat, Leader Says." It quoted Minority Leader Ford as having said that "with Cuba under the control of the Soviet Union via Castro and increased communist subversion in Latin America, a communist threat to the Canal is a real danger." The situation with respect to communist infiltration into the Caribbean-Gulf of Mexico area is far worse today than it was at that time.

Senator Strom Thurmond (R-S.C.), to whom the Chicago Tribune furnished copies of the Johnson Administration treaties, read them to a shocked Senate. The Tribune quoted Senator Thurmond in its July 8, 1967 article as follows:

"The Communists first announced their intention to overthrow United States control of the canal as early as 1917. They have never lost sight of that goal. After last month's mid-East crisis, the Soviets repeated their demand that all strategic waterways be put under 'international' control. Yet that same crisis, and the shutdown of the Suez Canal by Egypt demonstrates how important it is to freedom that the Panama Canal remain in strong and responsible United States hands."

The Tribune article then reported as follows:

"Thurmond said The Tribune revelations raise some key questions about the treaties. Among the questions that must be asked, he said, are the following:

1. Do the new treaties provide for undiluted control and operation of the canal by American authorities? 2. Do the new treaties protect the investment of 4.9 billion dollars made by United States taxpayers between 1904 and 1966? 3. Do the new treaties put American and free world interests ahead of passing consideration of Panamanian politics? 4. Do the new treaties provide for a defense agreement which would provide protection equal to that the United States now enjoys?

"Thurmond said the Johnson administration has not yet presented the slightest case demonstrating the need for new treaties. He said he would use the text revealed by The Tribune to fight the treaties until they are provided to members of the Senate shortly before the ratification debate.

" 'These treaties justly ought to go down in history as the Johnson treaties,' said Thurmond. 'President Johnson initiated them, and is responsible for their contents. If they are approved by the Senate, a profound change will come over the operation of the canal.

" 'The President may well be judged in future generations by the soundness and workability of a new and untested concept—the concept of whether the canal can still serve United States interests if it no longer is operated under the direct control of our nation.'"

The furor caused by the publication of the treaties by the Chicago Tribune and their exposure by Senator Thurmond was so great that President Johnson did not submit them to the Senate for consideration for ratification, and they were rejected by the government of dictator Omar Torrijos in 1970, notwithstanding that they were lavishly beneficial to Panama in their terms of surrender by the United States.

Notwithstanding the debacle of the Johnson Administration's attempt to negotiate new Panama Canal treaties, President Nixon reestablished negotiations with Panama during 1971; and nothing much in the way of progress took place until 1973, when Ellsworth Bunker was appointed U.S. ambassador and chief negotiator. Thereafter, on February 7, 1974, Secretary of State Kissinger initialed the joint statement with Juan Antonio Tack, Minister of Foreign Affairs of the Republic of Panama in Panama City, covering eight principles to serve to guide the negotiators in the effort to conclude proposed new treaties.

President Ford took office on August 9, 1974. In an article in the Washington Post on May 19, 1978, titled: "Panama: Ford Gave Pledge," it is stated in the first paragraph as follows: "The day Gerald Ford was sworn in as President, he assured Panama's Gen. Omar Torrijos in writing that the treaty talks would continue under the 1974 guidelines that call for the eventual transfer of the Panama Canal to Panama and elimination of a permanent U.S. interest in it, according to a member of the Panamanian negotiating team (Carlos A. Lopez-Guevara). The Panamanian official said the assurance was contained in a letter to Torrijos delivered by Ambassador Ellsworth Bunker, head of the U.S. negotiators." Ambassador Bunker, on April 7, 1976, during hearings before the Panama Canal Subcommittee of the Committee on Merchant Marine & Fisheries, House of Representatives, testified that President Ford had on several occasions in writing specifically directed the State Department on the conduct of the current treaty negotiations with Panama.

These intensive activities by President Ford in furthering the negotiations on new treaties with Panama raise serious questions, when compared to his vehemently expressed opposition to the Johnson negotiated proposed treaties, especially in view of the greatly increased communist activities in the whole Caribbean area.

Opponents of the current treaty negotiations, since they involve surrender to Panama of the people's sovereignty over the Canal Zone and Canal, are convinced that the present negotiations should be terminated, and that the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power authority, jurisdiction, territory or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere.

Thus, from its very inception, the Ford Administration has been fully committed to an unauthorized and abject surrender of the sovereign rights of the American people over the Canal Zone.

Under our system, sovereignty resides in the people; not in the President, nor in the Congress, to be negotiated away without their consent.

Several national polls indicate that more than 80% of our people oppose surrender of U.S. sovereignty over the Canal Zone. 38 Senators and 164 members of the House have co-sponsored resolutions against surrender, and the number in both Houses is somewhat greater, especially in the House where substantially more than a majority oppose surrender.

Ambassador Bunker, in his address to the World Affairs Council, Los Angeles, California, on Dec. 2, 1975, said: "No effort to improve our policy concerning the Canal can succeed without full understanding and support of the Congress and the American people." Even had no political controversy concerning surrender to Panama taken place, the State Department's hope to persuade a majority of our people to support its proposed surrender plan would have failed; now the number of opponents has grown considerably and their opposition has solidified, until it is now evident that no amount of persuasion could result in support of the State Department's blueprint of surrender.

The Ford Administration's blueprint for surrender was exposed on October 6, 1975 by Rep. Daniel Flood, one of the nation's foremost authorities on canal matters, when he placed in the Congressional Record for all to read the exact texts of three "Conceptional" treaties negotiated in Panama by U.S. Ambassador Ellsworth Bunker with representatives of the Marxist government of Panamanian dictator, Omar Torrijos. The same three proposed treaty drafts were placed in the Congressional Record in the Senate by Senator Helms (R-N.C.).

Not one word as to these startling disclosures appeared in the news media. Had even one large newspaper or one radio-television network given this disclosure the coverage to which it was entitled, the result would have shocked the American people in the same manner and to the same degree as did the exposure of the Johnson Administration's proposed surrender treaties by the Chicago Tribune in 1967.

Not only is President Ford's determination to "give-away" this valuable United States strategically essential national defense asset ill-advised, dangerous and unjustified, but, under Secretary of State Kissinger's insistence last fall, through the National Security Council, the President silenced the Joint Chiefs of Staff from expressing any opposition to the Administration's plans to the Congress, and thus to the American people.

To further its surrender plans, our State Department would have us believe that the Canal Zone is really Panamanian property; that the U.S. pressured Panama into giving us the Canal Zone in 1903; and that the U.S. is exploiting Panamanians, robbing them of Canal operating profits that are rightfully theirs.

The truth is that the United States never has been, and certainly is not now, a squatter occupying the Canal Zone. Instead, it is the Canal Zone's lawful owner, with full sovereign rights, power and authority over the Canal Zone and the Canal, established in three treaties with Panama, the 1903 treaty and its revisions in the treaties of 1936–39 and 1955, and twice, in 1907 and 1972, so recognized by the United States Supreme Court.

These sovereign powers were first properly acquired in the 1903 treaty from Panama—a treaty urged upon the United States by those who led Panama to her independence from Colombia, for the very purpose of establishing the Canal in their country, rather than to have it go through Nicaragua, then seriously under consideration in the United States Congress.

Sovereignty is supreme and independent power as opposed to dependent and conditional power. In order to make the tremendous investment required to build the Panama Canal, the United States had to have authority to do what was necessary and to insure the security of its investment. It received sovereign powers from Panama by treaty, paying Panama and paying all individual owners for the land and property acquired in the Zone. It received these sovereign powers in perpetuity. Nothing of Panamanian ownership was left within the Zone.

This is a United States canal, not a Panamanian canal. The United States has operated it not as a trustee for Panama, but as a trustee for the world commerce served by the Canal, although Panama is by far the greatest single beneficiary.

Through the years, the United States has sought to maintain good relations with our Panama neighbors. We have, through treaties, increased dollar payments to Panama, have returned outlying land and easements, considered by the United States no longer required for the defense of the Canal, and, in mistaken gestures of friendship, we have authorized the flying of the flag of Panama alongside the United States flag in the Canal Zone.

Panama received in 1974, directly or indirectly, from the United States as the result of Canal operations, more than $236 million, an annually increasing amount. It received $342 million in foreign aid from the United States for the years 1947 through 1974. All of this, resulting solely from the Canal presence, gave to Panama with its population of about 1.63 million people, about the size of Detroit, the highest per capita income of any nation in Central America and one of the highest in Latin America.

Within the past decade, with the intensification of Marxist revolutionary activity throughout Latin America, the Government of Panama has mounted a campaign to have the United States give up its sovereignty in the Canal Zone. In January, 1964, costly rioting in Panama was accompanied by Red-led mob attacks on the Canal Zone. Canal service was not interrupted because United States forces in the Zone were able to repel the attacks.

Some high United States officials have argued that the United States can give up its sovereign powers and return the Canal Zone to Panamanian jurisdiction, keeping by treaty only the right to operate and defend the Canal. They ignore history and the realities of world power.

If the United States were to give up sovereignty and depend upon a treaty to support its presence in the Isthmus of Panama, it would merely have the same type of insecure status which Britain had before it was evicted from the Suez Canal. Were we to surrender our sovereign power over the Canal Zone, the Soviet Union would be glad to negotiate a new treaty with Panama to provide for the operation and defense of the Canal, under Soviet control. And who, except the sovereign has a right to decide how his territory will be defended?

The Canal Zone is the United States Canal Zone, bought and paid for by the United States. The proposition that a sovereign who alienates his territory has a "right" to take it back is legal nonsense.

In London, on BBC, March 1, on the Buckley "Firing Line" program, while being interviewed by very distinguished British journalists, including Malcolm Muggeridge, Aleksandr Solzhenitsyn said:

"There was a time at the beginning of the Fifties, when nuclear threat hung over the world, but the attitude of the West was like granite and the West did not yield. Today this nuclear threat still hangs over both sides, but the West has chosen the wrong path. You can be taken simply with bare hands. Why on earth, then, should one have nuclear war? If you have raised your hand and are giving in, why have nuclear war? They (Soviet Russia) will take you, simply like that, without nuclear war."

Writing in Le Monde, May 31, 1975, Solzhenitsyn said:

"The victorious Western nations have transformed themselves into vanquished nations, having ceded more countries and peoples than have ever been ceded in any surrender in any war in human history. That is why it is not speaking metaphorically to say: The Third World War has already taken place and has ended in defeat. . . . Two or three decades of peaceful coexistence (or detente I might add) as glorious as the last ones and the very concept of the West will vanish from the face of the earth."

On the opening day of the present session of Congress, Assistant Senate Majority Leader, Robert Byrd said: "Everywhere I look America is in retreat." It certainly is!

The reality is that the United States must continue to operate and defend the Canal, and that sovereignty in the Canal Zone is essential to the performance of that task. Panama's sovereignty is untrammeled in its own jurisdiction, just as that of all other countries. When it casts covetous eyes on the United States Canal Zone, we must have leaders with the courage and vision to reply to demands for weakening our soveregn control over the Zone territory with always a resounding "NO!"

The strongest substantive reasons support the necessity to terminate the present negotiations and to substitute for them the completion of the modernization program in the best interests of all concerned. Such action will also serve as the catalyst for a return of competent national leadership, and the restoration of the national will, so needed for the future security of our country!

GREAT DIFFERENCES HAVE DEVELOPED BETWEEN PENSIONS IN PRIVATE AND PUBLIC SECTORS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 5 minutes.

Mr. **ASPIN**. Mr. Speaker, there remains a considerable gap between the pensions generally available in the private sector and those available in the public sector.

A few charts will help demonstrate the wide disparity in benefits. Table 1 compares the different types of pensions by the different elements that go into a pension calculation, such as age at retirement and the percentage pension granted.

TABLE 1

	Private	State and local	Federal Civil Service	Military
Persons with normal retirement below age 65	5 percent	70 percent	100 percent	100 percent.
Persons under age 50 eligible to receive a pension	Virtually none	A few	None	All.
Average pension as percentage of "final salary" after 30 yr of service	Less than 40 percent	50 percent	56 percent	59 percent enlisted; 62 percent officer.
"Final salary" defined as average of	High-5 yr	High-5 yr	High-3 yr	Final paycheck.
Pension as percentage of final paycheck	Less than 35 percent	44 percent	51 percent	59 percent enlisted; 62 percent officer.
Frequency that pensions reduced by some part of social security	⅔	⅓	None	None.
Workers covered by automatic cost of living clauses	2½ percent	50 percent	100 percent	100 percent.
Proportion of inflation in last 5 yr covered by cost of living raises (for those so protected)	25 percent	Unknown	101 percent	101 percent.
Percentage of workers required to contribute to fund pension plan	25 percent	94 percent	100 percent	0.
Fringe benefits for retirees	Rare	Rare	Rare	Lots.
Vesting	10 yr	10 yr	5 yr	20 yr.

Trying to view all these components at the same time is like juggling eight Indian clubs. To simplify it, we can combine all the different elements, totaling up all the checks a retiree is going to receive in retirement and comparing that to everything he earned during his working years, as shown in table 2.

TABLE 2

[In percent]

	Private	State and local	Federal civil service	Military	
				Enlisted	Officer
Lifetime pension as percentage of lifetime salary	20–30	47	49	132	144

Note: Based on 20 working years. This excludes any cost of living benefit and all fringe benefits.

The great gulf is even clearer now. The single most important reason is the disparity of ages at retirement. The average military careerist is 42 at retirement while private pensions are generally paid at age 65. Many private plans will pay pensions at an earlier age—but also at a reduced rate. The calculations for private pensions in table 2 include plans paying at age 55.

Table 2 did not include the cost-of-living protection included in most public pension schemes, but few private plans. In table 3, I have included the cost-of-living provisions which shows the gap widening even more.

TABLE 3

[In percent]

	Private	State and local	Federal civil service	Military	
				Enlisted	Officer
Purchasing power of lifetime pension as percentage of lifetime salary	18–26	(1)	53	149	163

[1] Unknown.

Table 3 shows how the purchasing power of Federal pensions grows over 20 years under the kicker scheme. If we remove the kicker from Federal pensions, the figures in the two right hand columns of table 3 would then be the same as in the comparable columns of table 2.

Unfortunately, I have not been able to find sufficient data to make the purchasing power calculation for State and local pensions.

As for the private sector, the best cost-of-living protection unearthed in a recent survey covered three-quarters of the inflation in the past 5 years, which the average covered only one-quarter. As table 3 shows, on that basis the average private pension declines in purchasing power by about 13 percent over the years in which it is paid.

These are simplified charts, stripped of a number of nuances. But they demonstrate dramatically the great differences that have developed between pensions in the private and public sectors.

A TRIBUTE TO CHARLES P. GORRY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Morgan) is recognized for 5 minutes.

Mr. **MORGAN**. Mr. Speaker, Charles P. Gorry was a talented and dedicated photographer whose pictures captured news events and personalities for millions of readers in the United States and abroad.

Over a span of four decades, his camera brought us vivid firsthand details from his assignments—on the Washington scene, throughout the country, and overseas in war and peacetime. The excellence of his work won him many awards.

Charlie was not only a first class professional, but he was also a fine human being. He was kind and unselfish, sensitive and devoted. He was a personal friend of many of us in the Congress.

We in the House of Representatives were fortunate to have Charlie's coverage of our activities, and we grieve at his untimely death.

I extend my deepest sympathies to his wife and family.

THE URBAN TREE ACT OF 1976

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Richmond) is recognized for 5 minutes.

Mr. **RICHMOND**. Mr. Speaker, Congressman Fish is joining me today in the introduction of the Urban Tree Act of 1976. We have introduced this legislation because tree maintenance and planting programs in urban areas are now suffering as municipal budget cutters across the Nation designate tax levy moneys for police, sanitation, fire, and health care. Effects of cutbacks on essential services are highly visible while damage to trees due to inadequate care is not obvious at first glance. Unfortunately, the gradual shift from the blighted area is not readily noticeable until the damage is irreversible.

We are extremely concerned about the destruction and misuse of an extremely valuable resource of our Nation's cities—the millions of trees which line our streets. Urban trees are not only esthetically pleasing, but also serve to filter polluted air and abate noise pollution.

The woody trunks of trees are excellent sound absorbers while their leaves soak up noxious contaminants such as carbon monoxide and sulfur dioxide.

Temperature modification capacity of trees can be converted to real dollar savings as well as energy consumptive savings. Air-conditioning and heating costs for buildings surrounded by trees are substantially lower than for buildings surrounded by concrete. Indeed, on a hot summer day air under a tree can be 10 degrees lower than unshaded areas.

Trees in public places also represent a vital link between man and his environment. They bring a calmness and a sense of nature into a world of plastic, steel, and concrete. Undoubtedly trees permit man to view urban areas with pleasure, pride, and admiration, as he would a great painting, and to live in a more comfortable communion with nature.

The conservation, planting, and care of trees should be everyone's concern, including the Congress of the United States. We are, therefore, introducing an Urban Tree Act to authorize the Department of Agriculture to provide $10 million to urban areas for tree planting and tree maintenance.

Under this program, the Federal Government would match dollar for dollar private contributions for tree care and planting and would provide a 50 percent matching funds for municipalities. Each city would submit a coordinated arboriculture plan for the selection, planting, and maintenance of trees. That plan would outline the maintenance needs, planting opportunities, and geographic description of the communities. The Secretary of Agriculture would then be authorized to make urban tree grants to the cities.

Upon approval of the plan this legislation would provide sufficient Federal dollars to heal the badly damaged and disabled trees of our neighborhoods, while encouraging the planting of new trees along the streets of our Nation's cities.

Dr. Thomas S. Elias, Assistant Director of the Carey Arboretum, has prepared a report entitled "Trees in Urban Environments." I would like to insert this informative report into the Congressional Record to share its contents with my colleagues:

Trees in Urban Environments

(By Thomas S. Elias)

Trees play an essential role in the man-made urban environment. Psychologically, they serve as a link between human beings and their natural surroundings, providing a more pleasant and healthful place to work, live and visit. Biologically, they serve to reduce air pollution, modify extremes of temperature and humidity, and provide shade. Economically, trees serve to increase land values and ameliorate extremes of heat and cold, thus reducing energy consumption in homes and buildings.

Today, however, trees in urban areas are in trouble. In addition to the multifaceted environmental stresses acting upon urban trees, they are now suffering also from neglect due to growing constraints experienced by cities and usually expressed by a cessation of tree planting, tree maintenance and a reduction in the number of public employees responsible for publicly owned trees.

Furthermore, urban tree populations are increasingly vulnerable to destruction by tree diseases and insect blights because of over concentration in most cities of a very few species. The tragedy of the Chestnut Blight and Dutch elm disease, which have destroyed millions of prized trees within the present century, could happen again to another large, popular type of street tree, unless tree planting practices change.

On city streets and in urban parks, the individual planted tree is usually under great stresses not present when the species evolved in the wild. In ecological perspective, a curbside tree on a street lined with towering multistoried buildings is, in effect, growing at the base of a rocky chasm. With limited exposure to sunlight, ventilation ranging from very little to raging gales, these trees must endure fluctuating levels of gaseous and particulate air pollutants, subnormal water supply—and that often contaminated with dog urine and de-icing salt. The root system is expected to thrive with limited access to soil that is physically and chemically variable, with the total absence of humus, the prior churning up of deep subsoil strata which are either relatively sterile or even toxic. The problem is further compounded by the addition of foreign substances (chunks of concrete and other construction waste), often compacted to pavement-like hardness. Tree roots can be poisoned by copper or brass pipes and even heated by steam conduits. It should not be surprising that the catalog of possible species for successful culture under these conditions represents a tiny fraction of the world's northern tree flora.

During the last century, urban centers have been growing with the advent of new and wider roads, hoards of automobiles and rapidly expanding industrial developments. The construction of new highways and the reconstruction, especially widening, of older roads have probably resulted in the loss of more street trees than all other factors combined. The increased dependency upon automobiles and trucks has necessitated greater road maintenance, especially in the removal of snow and ice from traffic ways. The accelerating use of sodium chloride, and more recently other salts and de-icers, adds one more element of stress for urban trees to tolerate.

Densely populated areas in cities also support large dog populations, whose excretions constitute a major factor in the decline and even death of trees along streets. Too often, the plots and bases of street trees are used as urinal stations for pets. The repeated deposits of urine and uric acid frequently raise the salt level beyond the tolerance limits of trees, resulting in their slow death.

An additional urban stress is soil compaction, a result of incessant pedestrian traffic on the soil over the roots of trees. Soil compaction lowers or even eliminates the air spaces among the soil particles, reducing water penetration and depriving the root system of sufficient air. In major cities, high-rise buildings form artificial canyons which concentrate and redirect winds, often at high velocities, against curbside plantings. A tree must either have a well anchored root system or be guyed with wires to prevent leaning or even toppling; furthermore, a maze of underground conduits, ducts and passageways all serve to impede proper root growth and formation.

In addition to the numerous soil stress factors, trees are subject to numerous aboveground stresses, including air pollutants such as sulfur-dioxide (SO_2), and ozone (O_3). The widespread use of coal in the generation of electricity and other industries, with lesser but increasing amounts used for space heating, are the primary sources of sulfur dioxide (SO_2), a major phytotoxic air pollutant. Sulfur dioxide taken into the leaf may react with the cells, causing injury or even death at high levels or at low levels over a long period of time. In recent years, utility companies and other industries have been required to convert back to coal-fired facilities in response to the undependable, high-priced oil supplies in contrast to the vast coal deposits available within the United States.

The growing array of physical environmental limitations coupled with the chemical and biological pressures upon trees has necessitated advances in the selection and breeding of trees genetically suited for urban use. Successful selection procedures depend upon locating races exhibiting the desired characteristics from among the often vast range of genetic variability of given species. The majority of trees currently planted in metropolitan areas are produced from selected clones, trees produced asexually by cuttings or other methods from selected individuals. If these trees were bred, their progeny from seeds would not necessarily exhibit the favorable characteristics of the parents. Hybridization programs, aimed at producing exceptional trees, can take more than twenty-five years to yield and allow time to thoroughly test a new street tree. The Ginkgo tree (*Ginkgo biloba*), being used in cities are selected from many clones of different male populations. On the other hand, the popular, if not overused, London plane (*Platanus acerifolia*), is considered to be a natural hybrid between the Oriental plane (*P. orientalis*) and the American plane (*P. occidentalis*).

The form or shape of the tree, along with the growth rate, are key elements to many selection and breeding programs. The limiting conditions of multistoried buildings, with sidewalks extending to the curb and pedestrians and vehicular traffic restricted to set routes necessitate that any tree planted in this situation be of columnar form with a trunk clean of branches to at least six feet above the ground and then with the branches sharply ascending. Other urban streetside areas require trees of maturity that will not exceed 20 to 30 feet in height, to eliminate interference with overhead utility lines. In still other areas, tall trees with wide-spreading branches may be suitable. Thus, metropolitan areas require different forms of trees to meet the various physical conditions and environmental constraints found in all cities.

Resistance to insect pests and disease is a prime consideration in breeding and selection programs directed toward the production of an improved clone of city trees. While many insect pests and diseases of urban trees can be partially controlled with spraying programs, these are not only costly labor-intensive operations but they can introduce potentially serious environmental stresses or hazards to other life forms in and around cities.

Wood strength and related characteristics are also important in street or shade tree improvement programs. The silver maple (*Acer saccharinum*), and the closely related box elder (*Acer negundo*), both have wood that is soft and brittle which will easily split under occasional winter conditions of heavy wet snow and ice buildup in freezing rain. The ability of a tree to withstand wind, snow and ice storms without sustaining excessive damage is yet another important feature required of recommended trees for city conditions. In conjunction with this, the angle at which the principal branches diverge from the trunk is another trait of consequence. Wide branching angles are usually associated with weaker branch-trunk junctions and with more frequent splitting or breaking in adverse weather conditions.

In recent years, the United States has become the foremost producer of new selections and clones of shade and street trees. Species native to North America as well as introduced Old World species have been used in tree improvement programs.

To help assure a city of healthy, aesthetically pleasing trees which have been chosen for their compatibility with environmental constraints and to make more efficient use of funds allocated for urban trees, an urban tree program or master plan is needed.

Currently, municipal approaches to urban tree programs vary widely, ranging from assigning administrative responsibility for an office of urban forestry or arboriculture to the city engineer, highway superintendent or some other staff member with little or no background for the task. Successful planning, planting and care of city-owned trees can only be pursued with the same thorough standards that are used for siting, installation and maintenance of street lighting, sidewalks or corridors for utility services.

The underlying theme of any city-wide master plan should be diversity of species not only as means of more successfully meeting environmental structures but also to promote visual interest. Unfortunately, the trend in urban tree planting has been towards a reduction in the numbers of species planted. This is due partly to a reduction in the number of trees initially available to cities from nurseries (or can be purchased at lower unit cost in large lots) and the pragmatic argument that one or two species of trees are easier to plant and maintain than a diversity of species. The London plane tree (*Platanus x acerifolia*), and the male ginkgo are the principal street trees of New York City. In Poughkeepsie, New York, probably a typical small city, 57% of the 8027 street trees are Norway maples, 11.6 are flowering crabapples and another 11.2% are sugar maples. Three species comprise almost 80% of all street trees in this city. In the small southeastern New York State village of Millbrook, sugar maples account for 58% of the total street tree flora, while in the nearby town of Hyde Park this species totaled 65.8%. Large, closely assembled populations of one species are particularly susceptible to the rapid buildup and spread of a disease or insect attack.

Finally, the ultimate success or failure of well-planned efforts can be lost eventually by the lack of a proper maintenance program. Street trees, like nearby street lights, sidewalks and street pavement, require periodic attention to continue functioning as originally designed. Because of their photosynthetic function, trees are often viewed as self-maintaining elements of the city which can simply be allowed to go their way without maintenance. Yearly programs of ground maintenance under the trees, pruning, spraying and fertilizing when needed will result in healthier, more aesthetically pleasing trees. The trees will live longer, eventually reducing the labor-intensive, costly, and environmentally disruptive removal of dead or dying specimens and their replacement, and will also help avert to at least minimize major damage or hazards caused by wind.

By applying our expanding knowledge of the ecological relationships between trees and city conditions, we can maintain the connection between plants and people by enhancing urban exterior spaces with an expanded catalog of tree species that have been selected or bred to meet the harsh demands of the urban environment. Trees can and should be considered essential elements of cities, for they serve as links between man and his recently separated natural heritage.

IN SUPPORT OF H.R. 15535—THE SUGAR SUPPLY ASSURANCE ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, many are already familiar with my strong support for the U.S. sugar program in general and my active efforts in the past for the extension of the Sugar Act which terminated in December 1974. In continuation of this effort, I have joined my colleague, the Honorable BOB BERGLAND, in sponsoring the Sugar Assurance Act of 1976, a bill designed to insure the American consumer of an adequate supply and availability of sugar at a reasonable price. The version of the bill I introduced on September 13, 1976, essentially establishes a domestic base price at which raw sugar may be imported into the United States. The establishment of this domestic base price, would, in turn, reflect the average cost of producing sugar, thereby stabilizing prices of the commodity regardless of its origin.

Sugarcane is the most important agricultural crop in Hawaii. Annually, we produce about 1,500,000 tons of raw sugar, most of which is shipped to mainland refineries. Sugarcane is grown on approximately 225,000 acres of land on four of the islands in the Hawaiian chain, and the industry provides full-time employment for over 9,000 persons.

There are no alternate crops that could be economically produced for export or local consumption on the land presently being utilized for growing of sugarcane. Should curtailment of all or part of Hawaii's sugar industry become a reality, it would be a disastrous blow to the State's economy, one my State can ill afford. Sugar is the third largest industry in the State of Hawaii, contributing more than $400 million to our economy with an annual payroll of approximately $110 million.

The preamble of the expired Sugar Act states that protection of "the welfare of consumers of sugar and of those engaged in the domestic sugar-producing industry" is one of the purposes of the act. This objective is just as valid today as it was when the sugar program was started over 40 years ago.

Sugar is a deficit commodity in this country, and it is in the interest of the consumers to be assured that a substantial portion of their annual requirements is produced within our own borders. To be completely dependent on foreign suppliers, no matter how dependable some have been in the past, would subject us to the volatile world market where there is not only the usual fluctuation due to normal supply-demand factors, but also the very real possibility that the market will be influenced by political considerations as well.

To give a degree of protection to the domestic producing industry, and thereby help insure stability of supply to consumers should be one of the first objectives of any new legislation under consideration by the House.

H.R. 15535 (H.R. 15486), as introduced, would accomplish this objective. It would not propose any Government payments to growers or producers—it would not provide any outlays of tax dollars for subsidies, storage, or set-aside payments. Neither does it impose any other rules or special regulations on sugar producers that are not already in existence for all agricultural commodities. The only cost to the Federal Government would be for administrative purposes.

The price fluctuation since early 1974, culminating in the historic high of 64.50 cents per pound in November, and declining to as low as 9.30 cents per pound this past August, has been bad for sugar producers as well as consumers. It was, in part, to prevent this kind of instability that led the Congress in 1934 to enact the original Sugar Act.

I would also like to inform my colleagues that I have written to the President, requesting that he utilize his existing statutory authority to prevent the destruction of the American sugar industry. It is my opinion that by amending Executive Order No. 4334 of November 16, 1974, the President can increase the present tariff level to 1.875 cents per hundred pounds of sugar, or reduce the present foreign import quota to 3.9 million tons. Under title III of the Agricultural Act of 1949, he has the authority to direct the Secretary of Agriculture to establish a price support program for sugarcane and sugar beets. At a minimum of 70 percent of parity, the price of raw sugar would be 18.5 cents per pound, a price which would be high enough to insure the survival of our domestic sugar industry.

Congress should pass a sense of Congress resolution, urging the President to utilize his statutory authority to establish a price support program for sugarcane and sugar beets. Action on the part of the administration may spell the difference in terms of destruction or survival of the American sugar industry.

Mr. Speaker, I realize that there are no simple solutions. But we can no longer ignore the fact that sugar legislation is required. With this in mind, I call on my colleagues to support my plea for immediate consideration on the Sugar Supply Assurance Act of 1976. If we fail, long-term harm will come to the American consumer. As beet sugar production drops in the United States, through decisions to plant alternate better paying crops, prices will again rise and ultimately everyone will be hurt. If we intend to help the sugar growers stay in business, the time to act is now.

THE NATIONAL ITALIAN-AMERICAN BICENTENNIAL TRIBUTE DINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, I take this opportunity to salute the Members of Congress of Italian descent who were honored at the Bicentennial dinner in Washington last week. Seldom have I seen such an event. It was truly one of the greatest gatherings in the history of Washington. The great contributions that Italians have made toward building and sustaining the United States were very much in evidence that night and I want to share the experience with my colleagues by inserting in the CONGRESSIONAL RECORD at this point the proceedings as listed in the program:

THE NATIONAL ITALIAN AMERICAN BICENTENNIAL TRIBUTE DINNER

DAIS GUESTS

Podium left

Hon. Joseph L. Alioto, Gov. Jimmy Carter, Ambassador John A. Volpe, Ambassador Roberto Gaja, U.S. Senator John O. Pastore, Mrs. Pastore, Peter W. Rodino, Jr., Mrs. Rodino, U.S. Senator Walter F. Mondale, U.S. Senator Pete V. Domenici, Thomas P. O'Neill, Jr., M.C.

Dante S. Fascell, M.C., Silvio O. Conte, M.C., Joseph P. Addabbo, M.C., Joseph G. Minish, M.C., Joseph P. Vigorito, M.C., John Joseph Moakley, M.C., Jerome A. Ambro, M.C., James J. Florio, M.C., George Miller, M.C., Martin A. Russo, M.C., Leo C. Zeferetti, M.C., E. Howard Molisani, D. F. Antonelli, Jr., Edward T. Hanley, Mario T. Noto, Rev. Paul J. Asciolla, C.S.

Podium right

Jeno F. Palucci, President Gerald R. Ford, U.S. Senator James O. Eastland, Judge John J. Sirica, Mrs. Sirica, Robert H. Michel, M.C., Dominick V. Daniels, M.C., Mrs. Daniels, Jack Valenti, John H. Dent, M.C., Frank Annunzio, M.C.,

Robert N. Giaimo, M.C., Robert L. Leggett, M.C., Mario Biaggi, M.C., John M. Murphy, M.C., Teno Roncalio, M.C., Robert J. Lagomarsino, M.C., Matthew J. Rinaldo, M.C., Thomas J. Downey, M.C., John J. La Falce, M.C., James L. Oberstar, M.C., Jim Santini, M.C., Most Rev. Louis E. Gelineau, Robert A. Georgine, Enzo Stuarti, William E. Bufalino, Severino P. Severino, Msg. Geno C. Baroni.

PROGRAM

Introduction of Dais Guests: Mario T. Noto.

Posting of Colors: Joint Armed Forces Color Guard commanded by Sgt. William Aller.

National Anthem: Enzo Stuarti.

Invocation: Msgr. Geno C. Baroni.

Master of Ceremonies: Joseph L. Alioto.

Address: The President of the United States Gerald R. Ford.

Dinner

Entertainment: Enzo Stuarti.

Address: Governor Jimmy Carter.

Awards

Remarks: Geno F. Paulucci.

Remarks: Mario Biaggi, M.C.

Principal Address: Jack Valenti.

Special awards

Judge John J. Sirica, presented by Silvio O. Conte, M.C.

Dominick V. Daniels, M.C. presented by John H. Dent, M.C.

Peter W. Rodino, Jr., M.C., presented by Frank Annunzio, M.C.

Senator John O. Pastore, presented by Senator Pete V. Domenici.

Chairman's award

Frank Annunzio, presented by Geno F. Paulucci.

Benediction: Rev. Paul J. Asciolla, C.S.

THE ITALIAN AMERICAN FOUNDATON BOARD OF DIRECTORS

Geno F. Paulucci, Chairman.
Msgr. Geno C. Baroni, President.
Joseph L. Alioto, Vice Chairman.
Rose Basile Green, Secretary.
Mario T. Noto, Treasurer.
Antonio M. Marinelli.
John C. Spatuzza.
Jack Valenti.
John A. Volpe.

THE ITALIAN AMERICAN FOUNDATION

The proceeds from this Bicentennial Tribute Dinner will be used to launch The Italian American Foundation in Washington, D.C. The primary goal of the Foundation will be to identify specific issues and areas of concern that affect Italian Americans nationally.

Initially conceived by Mesgr. Geno Baroni, the Foundation became a reality following considerable local and national consultations with various Italian American communities. Floyd Agostinelli and Paul J. Asciolla joined Baroni as incorporators in the District of Columbia on December 22, 1975.

On July 27, 1976, the unique Foundation took another significant step when during that initial Board meeting, the Board was officially established and the executive director named.

Since 1820, Italians have been the second highest population group to emigrate to the United States. According to the U.S. Immigration and Naturalization Service, a total of 5.2 million Italians came to the United States. Italian Americans presently number approximately 12 to 14 million people, or six to seven percent of the total national population.

While we as Americans have a world-wide reputation for measuring and collecting data, there is much which is not known about Americans of Italian heritage. The Italian American Foundation plans to research the role of Italian Americans in the nation, in the government, and in all other levels of society. The Foundation hopes to sponsor scholarships and fellowships for Italian American studies at colleges and universities. For primary and secondary schools, the Foundation will try to stimulate and develop curricula and materials on the experience and contributions of Italian Americans to the dramatic history of this country.

Despite vast achievements and contributions, Italian Americans continue to be the victims of insidious, negative stereotyping. The Foundation will research and examine defamation issues to prepare a standing file of materials available for effectively dealing with examples of defamation when they arise.

The contributions of Italians to the formation of the history of the United States has been diverse. The Italian American Foundation will examine that diversity and become a resource center that will be available and useful for all Italian Americans.

The Executive Director of The Italian American Foundation is Paul J. Asciolla.

GREETINGS FROM THE GENERAL CHAIRMAN

With this dinner we pay homage and recognize those who have proven their worth—not only as Italians—but as Italian Americans. While this dinner pays tribute to all Italian Americans, we are especially saluting the contribution of the Italian American Congressional Delegation—a special recognition to three of them—as well as a Judge who made us all proud to be Italian Americans. These men we are honoring represent a lifetime of dedicated public service to their country. They honor all Italian Americans because they exemplify the best attributes of politics and government. The leadership example these men have given, proves that there are responsible, honorable men in government whose honesty, duty and dedication should be emulated by all Americans.

We are long overdue in pausing to recognize the contributions to the success of the United States that the millions of Italian immigrants made. It has been 200 years since the signing of the Declaration of Independence, and those of us sponsoring and supporting this Tribute Dinner are the living legacy of those immigrants who found a better life here where it was possible to achieve, become better educated and to benefit from hard, honest work.

This Country has given much to us and, we have given our best in return. The men we honor tonight are an example of dignity and service of which we all can be proud.

JENO F. PAULUCCI,
National Dinner Chairman.

SPECIAL AWARDS

Judge John J. Sirica

Who, since February 1957, during his tenure as a judge of the United States District Court, District of Columbia, having served as a Chief Judge of that Court from 1971 to 1974 when required by law to step down as Chief Judge, demonstrated in the discharge of his judicial duties,

That, law, order and morality in our nation and society can and must be preserved through tolerate, impartial and courageous discharge of the enforcement responsibilities entrusted to our judiciary by the people of this nation,

That, our nation is governed by the rule of law, and that no one individual, class or race of people, of whatever origin, rank or position, private or public station in life, can be permitted to determine which laws are exempt from obedience, and that, however worthy be the end proclaimed, no means violative of law can justify the attainment.

That, whatever the color, race or creed of the wrongdoer, the guarantee of due process and equal justice, under our system of law, is inviolable and redressable in our judiciary system with all entitlements bestowed by our Constitution,

That, to assure justice and to preserve respect for law within an ordered society, our judicial tribunals must safeguard and secure our people from those who would commit lawless invasions and trespasses upon rights and liberties guaranteed to us by our constituted authority, and,

That, compassion, tolerance, impartiality and knowledge are the cornerstones and firm pillars for equal justice, indispensable to the discharge of the awsome burdens and grave responsibilities of those who are called upon to exercise judicial judgment.

Congressman Dominick V. Daniels

Who, since 1958, as a member of the United States House of Representatives, has served with honor and distinction the people of the 14th Congressional District of New Jersey and of America, this award is presented in recognition of his

Dedication and contributions to the cause of legislation enacted for the betterment of all Americans,

Continued leadership in the reform of those aspects of American life which deny to individuals the opportunity to improve the quality of their lives, and,

Untiring vigilance in the pursuit of expanding opportunities for all Americans to create for themselves and their children ever-increasing health, happiness, and prosperity.

Congressman Peter W. Rodino, Jr.

Who, since 1948, has represented the 10th Congressional District from the State of New Jersey in the House of Representatives, United States Congress, for

His twenty-eight years of faithful, dedicated and devoted service as an elected representative of the people to the Congress of the United States, and his advocacy and unrelenting support of legislation for economic and social reforms designed to remove the poverty, starvation, disease and repression which still stalk some of our people,

His temperance, restraint, compassion and strength in advocacy of those progressive legislative causes of individual liberties and preservation of basic human rights the struggle for attainment of which never ends,

His public record as a legislator demonstrating that the causes of freedom and justice are paramount to all men, and that we were conceived and must exist as a nation governed by law and not by individual men, and

His judicious, tolerant, firm, and impartial leadership and judgment as Chairman of the House Judiciary Committee of the Congress of the United States, when he conducted with unparalleled dignity the Presidential Impeachment Inquiry during 1973–74, when the constitutional foundations of our nation were being threatened by wanton disregard for the rule of law, and accepted the awesome challenge with the words,

"Let us go forward. Let us go forward into debate in good will, with honor and decency and with respect for the views of one another. Whatever we now decide, we must must have the integrity and the decency, the will and the courage to decide rightly.

Let us leave the Constitution as unimpaired for our children as our predecessors left it to us."

U.S. Senator John O. Pastore

Who, since 1950, has served with honor and distinction as a United States Senator from the State of Rhode Island, and who, before his election to the United States Senate, served as a Member of the Legislature, Lieutenant Governor, and Governor of that State,

This plaque is awarded for—

His many years of distinguished and devoted public service to the people of his state of Rhode Island and of all the United States, which have earned him the respect, affection and admiration of all peoples and an abiding place in the history of our country,

His dynamic leadership and articulate voice of reason for the causes of freedom and human rights, and achievement of legislative causes for the economic, social and political advancements of all Americans, which will be long remembered by a grateful nation after his retirement from public service,

His depth of understanding, and his extraordinary human qualities of courage, ability and dignity in tireless pursuit of compassion and justice for all men,

His wisdom, warmth and courage which are a legend destined to endure in the legislative annals and history of this nation,

His distinguished record of service to our nation in the field of foreign relations, and where his humanitarianism and background were invaluable instruments in the conduct of our National Foreign Affairs, and

His contributions to the cultural, economic and political fabric of America, demonstrating that the heritage of his forefathers and their skills and talents have contributed to a better America.

Congressman Frank Annunzio

Who, since 1964, has served with honor and distinction as a Representative in the Congress of the United States from the City of Chicago and the State of Illinois, this plaque is awarded for—

His faithful and devoted service to the people of his city and state marked with leadership in promoting the ideals of liberty and justice for all;

His compassionate assistance to and humane treatment of all people in need regardless of race, religious belief, or ethnic identity;

His dynamic leadership in advancing legislative goals based upon need and reason to achieve a better way of life for all peoples, and,

His untiring efforts as Chairman of the Congressional Steering Committee of the National Italian American Bicentennial Tribute Dinner, and as a Founder of the Italian American Foundation, which will long be remembered as a living tribute and symbol of the greatness of Italian Americans who have served the United States in public and private life with honor and distinction, and with great pride in their Italian American heritage which contributed to their greatness.

ITALIAN AMERICAN CONGRESSIONAL DELEGATION: 94TH CONGRESS

Sen. John O. Pastore, Rhode Island.

Sen. Pete V. Domenici, New Mexico.

Rep. Joseph P. Addabbo, 7th District, New York.

Rep. Jerome A. Ambro, 3rd District, New York.

Rep. Frank Annunzio, 11th District, Illinois.

Rep. Mario Biaggi, 10th District, New York.

Rep. Silvio O. Conte, 1st District, Massachusetts.

Rep. Dominick V. Daniels, 14th District, New Jersey.

Rep. John H. Dent, 21st District, Pennsylvania.

Rep. Thomas J. Downey, 2nd District, New York.

Rep. Robert J. Lagomarsino, 19th District, California.

Rep. Robert L. Leggett, 4th District, California.

Rep. Romano L. Mazzoli, 3rd District, Kentucky.

Rep. George Miller, 7th District, California.

Rep. Dante B. Fascell, 15th District, Florida.

Rep. James J. Florio, 1st District, New Jersey.

Rep. Robert N. Giaimo, 3rd District, Connecticut.

Rep. John J. La Falce, 36th District, New York.

Rep. Matthew J. Rinaldo, 12th District, New Jersey.

Rep. Peter W. Rodino, Jr., 10th District, New Jersey.

Rep. Teno Roncalio, At Large, Wyoming.

Rep. Martin A. Russo, 3rd District, Illinois.

Rep. Joseph G. Minish, 11th District, New Jersey.

Rep. John Joseph Moakley, 9th District, Massachusetts.

Rep. John M. Murphy, 17th District, New York.

Rep. James L. Oberstar, 8th District, Minnesota.

Rep. James D. Santini, At Large, Nevada.

Rep. Joseph P. Vigorito, 24th District, Pennsylvania.

Rep. Leo C. Zeferetti, 15th District, New York.

Frank Annunzio, M.C. *Chairman, Congressional Steering Committee:*

As Chairman of the Congressional Steering Committee and on behalf of my Italian American colleagues in the Congress of the United States, I extend my sincerest appreciation to the Board of Directors of the Italian American Foundation and to all who have played a part in the historic Bicentennial Tribute Dinner in our Nation's Capital honoring the Italian American Members of Congress, with special awards to Congressman Peter W. Rodino, Jr. (N.J.), Congressman Dominick V. Daniels (N.J.), Senator John O. Pastore (R.I.), and Judge John J. Sirica. This is the first time in the history of our country that so large a group of Italian Americans has assembled, and it is a tribute to the progress that Italian Americans have made in America.

SPECIAL THANKS

D. F. (Nick) Antonelli, Jr.

When the history of the Italian American Foundation is written, the quiet role of D. F. (Nick) Antonelli, Jr. will have a prominent place.

Nick Antonelli, President of PMI (Parking Management Inc.), provided space and facilities for the first and current office of the Foundation and made it possible to conduct the entire coordination of The National Italian American Bicentennial Tribute Dinner from 1725 Desales Street, N.W., a prestigious Washington, D.C. address.

While the entire P.M.I. staff was most cooperative and supportive of our activity over the past six months, the role of Glenda Maxwell, personal assistant to Mr. Antonelli, especially should be singled out.

The Board of Directors of the Foundation, the Foundation staff and a host of friends send a grateful, "Thank you" to Nick Antonelli.

THE NATIONAL ITALIAN AMERICAN BICENTENNIAL TRIBUTE DINNER COMMITTEE

Jeno F. Paulucci, *National General Chairman.*

Co-Chairpersons: I. W. Abel, Hon. Joseph L. Alioto, D. F. Antonelli, Jr., William E. Bufalino, Angelo Fosco, Robert A. Georgine, Hon. Ella T. Grasso, Edward T. Hanley, Severino P. Severino, Jack Valenti, Hon. John A. Volpe.

Congressional Steering Committee:

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Congressional Liaison: Joseph T. Ventura.

Tribute Dinner Coordinator: Paul J. Asciolla.

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Escorts: James Scaldaferri, Mrs. Mary Scaldaferri, Mrs. Grace Atkinson, Andrea Gentilcore, Daniel Gentilcore, Anthony Gentilcore, Susan Libbee, Christina Reeves, Philip Gentilcore, Mrs. Margaret Thomas, Mary Jean Parker.

Ernest Catucci, Mrs. Kathy Catucci, Michael Baccala, Mrs. Pat Baccala, Pete Catucci, Mrs. Terry Catucci, Vincent Capitello, Angelo Rinaldi, Angelo Benedetti, Anthony Cicoria, Carolyn Rossi, Donna Marie Ferrante.

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WITH APPRECIATION

With appreciation and heartfelt thanks to all of you who contributed so much to making this dinner successful and especially to:

Joseph J. Barcia, William F. Bufalino, Angelo J. Catucci, Nick Ferrante, Ralph J. Gervasio, Philip A. Guarino, Antonio M. Marinelli, Mrs. Jo McAllister, David C. Sharman, Joseph Tenaglia, Louie L. Terango, Joseph T. Ventura.

Alitalia Airlines—Ira B. (Jack) Sperry.

Film Conformers—Bernard Caputo.

Hotel and Restaurant Employees and Bartenders International Union—Robert E. Juliano.

The National Conference of County Officials.

The National Conference of Governors.

Society of Real Estate Appraisers—Robert Morin.

TIME, Inc.—Ann Callahan.

The U.S. Conference of Mayors.

Table wines compliments of Anthony Paterno, Paterno Imports, Gancia Wines.

Reception compliments of Milton S. Kronheim.

Dinner Music by Rock Ferrante, Jr.

BEVERLY HOSPITAL GUILD OBSERVES 25TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on October 16, 1976, an organization of dedicated and civic-minded women from my district, the Beverly Hospital Guild, will be celebrating its 25th anniversary with a starlite ball at the Huntington-Sheraton Hotel in Pasadena.

The Beverly Hospital Guild of Montebello, Calif., a nonprofit organization, has a membership of 243 women who have demonstrated their deep concern for hospital patients by providing them with a variety of services designed for their comfort and convenience and to make their hospitalization more pleasant. The guild motto reads: "Service is the foundation of society" and it becomes quite apparent that members, who contributed over 50,000 hours of their time during 1975, have a deep moral commitment and belief in living up to the words of their motto. Through their efforts, they have also succeeded in raising and have contributed $250,000 over the years.

Mr. Speaker and my colleagues, I am proud to commend the entire membership of the Beverly Hospital Guild for demonstrating in such constructive ways their concern for the welfare of fellow human beings. I am also proud to bring their story to your attention as an outstanding example of community service, and I wish the members and friends of the guild a most successful and pleasant celebration at the 25th anniversary starlite ball.

CAN CONGRESS AT LAST CONTROL THE MONEY TREE?

(Mr. WRIGHT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, I submit for the RECORD a very excellent article from the New York Times Magazine at this point:

[From The New York Times Magazine, Aug. 22, 1976]

CAN CONGRESS AT LAST CONTROL THE MONEY TREE?

(By Edwin L. Dale, Jr.)

WASHINGTON.—On the morning of March 23, 1976, a Congressman from the state of Washington named Brock Adams—a man of little national renown—became a sort of counter-President. It was the day of the North Carolina primary, and hardly anybody paid much attention when Adams presented to the new House Budget Committee, of which he is chairman, a document of 181 pages that he dubbed "the chairman's mark." But that document was a foundation stone for something the nation has never had before—a rational Congressional budget.

The success or failure of the new Congressional budget process, in which Adams and his Senate counterpart, Edmund S. Muskie of Maine, play major roles, is likely to have more effect on the nation's economy than who is elected President this year. Spending by the Federal Government and the deficit in the budget are not the be-all and end-all of the economy, but they are of critical importance. Prior to the new process in Congress—which is off to a good start but which still faces major tests before it can be pronounced a success—Federal spending was slipping beyond anyone's control, growing by a staggering 36 percent in the two fiscal years 1975 and 1976 alone.

There are several reasons for this explosive growth. One is temporary—the automatic increase in spending in such areas as unemployment compensation at a time of recession; another is the rise in the "beneficiary population" in programs like Social Security and Civil Service retirement. But one of the key reasons is the way Congress does its business. The problem was not so much that a majority of members are "big spenders," though some are. It was not even constituents' pressure for various programs and projects, though that is always important. Rather, the problem was that Congress had no way of keeping track of what it was doing. It passed bills increasing spending one at a time, with no process for adding up or controlling the total. Presidential vetoes in recent years have acted as some check on the Congressional "propensity to spend," but this has proved only a frail defense against the hurricane.

A Presidential budget necessarily copes with the issue of priorities within some overall total. But this was exactly what Congress could not do. Bills that seemed meritorious on their face would come along, one by one, and would be passed by large majorities. The resulting, almost unchecked growth of Federal spending became a serious economic and political problem. The new reform is designed to deal with that.

Congress generates spending independently of the President in several ways. One is in the form of "program" bills. The handful of members on one of the multitude of Congressional subcommittees would decide they wanted to do something about alcoholism or mental health or children's lunches or urban transit or low-income housing. Eventually many of these bills become law. While the full amounts "authorized" in the basic legislation were not always appropriated, the Appropriations Committees would almost invariably fund the new programs to some extent. Once the program began, it developed a constituency—perhaps small at the beginning, but powerful once money began to be spent—and this made future cutbacks politically difficult or impossible.

Another way of generating spending is through the "formula" or "entitlement" bills. The process can be described as "the sleepy May Wednesday afternoon bill." The House Veterans Committee, for example, would report out a seemingly technical bill changing the formula for disability compensation. There would be only a few reporters in the press gallery—and few members on the floor—during the brief debate. The bill would pass by something like 395 to 2. But within a year or two the new formula would add several hundred million dollars a year to spending—beyond control not only of the President but of the Appropriations Committees, which could not deny veterans the benefits to which they were now entitled.

In recent years, it gradually became evident to a growing number of members of Congress that the process had become an irrational engine of ever-higher spending. The new budget process is more than anything an effort by Congress to get control of itself.

Charls E. Walker, who was dismayed by the spending momentum when he was a moderately conservative Under Secretary of the Treasury in the early 70's, wrote recently: "Many 'instant historians' rate the forced resignation of Richard Nixon as the 93rd Congress's long-term claim to fame. We disagree. Our nomination is the Budget Reform Act of 1974, which established an orderly and rational Congressional budget procedure."

Although Walker did not mention it, there was another reason for the reform, and its name was Richard M. Nixon. Nixon went far beyond any previous President in using the device of "impoundment"—refusal to spend funds approved by Congress. The limits of Presidential power in this area had always been fuzzy; Nixon not only impounded more money than his predecessors but gave justifications—such as "sound fiscal policy"—that had never been used before.

Thus, the budgetary reform had two faces. One was the new procedure for a rational Congressional budget. The other was a binding new set of rules, enforceable in the courts, greatly limiting the President's impoundment powers and establishing procedures by which Congress can block or approve any impoundments he wants to make. But the key part of the Congressional Budget and Impoundment Control Act of 1974 is the new budget procedure itself. The more the reformers looked into the problem, the more intricate the reform necessarily became.

The late Justice Felix Frankfurter said in one of his more famous opinions that "the history of liberty has largely been the history of the observance of procedural safeguards." It is equally true that in a legislative body, particularly one with such independent power as the United States Congress, procedure is crucial. And the budgetary reform, at bottom, is a revolution in procedure. The essence of the change is the establishment by Congress of a ceiling on outlays and a floor on revenues—different, no doubt, from those in the President's budget, but binding on Congress.

Every April the new Budget Committees—one in the Senate and one in the House—are required to report an overall "budget resolution." This is debated on the floor and is subject to amendment. The Senate and House versions are reconciled in conference, and this first resolution must be passed in its final version by May 15.

It is not yet fully binding, but it sets clear targets, broken down into 17 broad functional categories, for the spending actions of all the other committees. Then, in September, after Congress has, as usual, passed bills one at a time, the process is repeated. The Budget Committees take a look at the state of the economy and at what Congress has already done (including any successful Presidential vetoes of spending bills) and draw up a second budget resolution, with totals that are likely to be close to those of the May resolution—but could be significantly different. A key element of this second resolution is that it can force Congress to "roll back" spending actions already taken, by means of instructions to the relevant committees to report new legislation. In the same way, the tax-writing committees can be required to produce legislation raising revenues.

In any case, once the second resolution is adopted, it is fully binding. From then until the end of the fiscal-year period 12 months later, any bill that would raise spending or reduce revenues is subject to a "point of order," which would effectively kill it.

Almost from the beginning of the effort at reform, it became clear that the new procedure would have to deal with two entirely separate questions. One is the issue of economic policy: What magnitude of spending, revenues and deficit is best for the economy in the period ahead? (The precise term is "fiscal policy," to distinguish manipulation of the budget and its deficit from the Federal Reserve's monetary policy, affecting interest rates and the money supply.) The other is the matter of national priorities, as they are affected by Federal spending. Given the total spending "pie," with large amounts of it already spoken for as a result of past laws and commitments, where should the remaining expenditures be directed? More to defense? More to public service jobs? More to helping the world's poor? More to education? More to veterans?

It was the fiscal-policy question that was probably paramount in creating awareness of the need for reform. The Presidential budget submitted each January sought a rational—if sometimes debatable—fiscal policy, but, largely because of Congress, it had become almost meaningless. By the end of the fiscal year for which the White House budget was presented, the final figures for spending, revenues and the deficit bore no relation to the original estimates. As an instrument of economic policy, the budget was erratic, unpredictable and often inflationary. Thus it is that, under the new system, the two budget committees start their hearings with testimony by economists on the economic outlook and on what a proper fiscal policy should be.

As for the question of priorities, that arose out of the fiscal-policy problem. The authors of the Congressional reform saw that it made no sense to set an overall spending ceiling in a vacuum and then let all the committees proceed in their normal fashion. And yet they did not want to—nor could they—make the new budget committees into dictators over the entire Congress. How could this problem be resolved?

The solution was to require that the totals in the budget resolution be broken down into 17 broad "functional categories," ranging from national defense to interest on the national debt. The categories are essentially the same as those used in the President's budget. The budget committees were to tackle the priorities issue, by setting ceilings for each of these categories, but not for the specific items within each grouping. In some categories, jurisdiction is shared by as many as four or five regular committees, and a system called "cross-walking" allocates shares of the total for each category among the various committees on the basis of the priorities established by the budget committees.

Thus, such powers in the House as Carl Perkins of Kentucky, chairman of the Education and Labor Committee, Jamie Whitten of Mississippi, chairman of the Agriculture subcommittee of the Appropriations Committee, and Robert Jones of Alabama, chairman of the Public Works Committee, had to struggle at a very early stage this year, as the Budget Committee deliberated, to obtain what they wanted. "Just about everyone took a cut," said a Budget Committee staff member. "We told them all that everybody is being restrained. We were tough but evenhanded, and in the end nearly all of them accepted the figures we gave them. I have no doubt that the general public climate—a deep concern about the growth of Government spending—helped a lot."

While this procedure leaves a good deal of discretion to the regular standing committees, there is no escaping the extraordinary power and responsibility of the two Budget Committees. If the process works, the basic "shape" of a whole session of Congress—how much for defense, how much for the various domestic programs—will be largely established by these 25 Representatives and 16 Senators. And they know it; their debating and voting in committee on the first budget resolution this year made that clear. There was no way they could escape a great deal of detail—and they, in fact, voted on details, though the ceilings finally agreed upon for each category do not reflect those votes, except in the totals.

The voting was in some degree partisan, particularly in the House committee. Republicans sought bigger cutbacks than Chairman Adams proposed, and in the end they voted against the resolution itself. On the other hand, Democratic liberals, such as Elizabeth Holtzman of New York, tried and failed to allocate much greater spending for domestic programs of various kinds. The same was true of liberals like Walter F. Mondale of Minnesota in the Senate Budget Committee.

In addition to setting a lid on total spending, a rational fiscal policy also requires a floor on revenues. And so the Budget Committees this year had to tackle such matters as Social Security taxes, extension of the antirecession tax reduction and how much revenue might be raised by tax "reform"—all matters previously the unchallenged turf of the House Ways and Means and Senate Finance Committees.

Not liking one part of the Senate Budget Committee's decision on revenue in early April this year, Senator Russell B. Long of Louisiana, the powerful chairman of the Finance Committee, growled, "One day we're going to have to fight them to a showdown." Therein is a perfect illustration of the ultimate menace to the whole process.

This showed up in Senate consideration of the complicated tax "reform" bill, which, as it came from Senator Long's committee, did not raise the $2 billion of additional revenues (mainly from the wealthy and corporations) that the revenue estimates in the first budget resolution counted upon. The issue remains unresolved as this is written, but it already seems that the new process may have more difficulty on the revenue than on the expenditure side. At several crucial points, Senator Muskie fought Senator Long on the floor, and lost.

Having made the fundamental decision that the new procedure would have to deal both with overall fiscal policy and with priorities, the authors of the reform moved on to the nuts and bolts and made numerous other decisions.

They established a new Congressional Budget Office (C.B.O.), whose first head is Alice M. Rivlin. Supposed to be completely nonpartisan and barred from making any specific policy recommendations, this office provides expert analysis on the economic situation and outlook, the relation between that and the budget, and some of the issues involved in choosing among priorities—including, for example, some detailed studies of defense options. As it turns out, Mrs. Rivlin and her team of experts have aroused some grumbling in the Administration and among conservative economists by indicating in their reports and testimony that the budget for fiscal 1977 should be somewhat more expansionary than the one proposed by the President, to insure against a faltering of the recovery of the economy next year. This, the critics allege, is just what the Congressional "spenders" wanted to hear. But the C.B.O. is clearly a necessary part of the process, and no one disputes its professionalism.

Next, apart from setting up the two Budget Committees with their own professional staffs, the reformers established a series of deadlines and even a new fiscal year, which now starts on Oct. 1 instead of July 1. The Congressional appropriation process had become a scandal, quite apart from its irrationality in the fiscal-policy sense. Some appropriation bills did not pass until the fiscal year to which they applied was two-thirds over. In part, this was because the necessary annual "authorization" bills for some programs took so long to be enacted. Now a set of deadlines applies to this whole process, and the other committees are apparently making a good-faith effort this year to comply with them.

Representative Al Ullman of Oregon, the chairman of the Ways and Means Committee and one of the instigators of reform, calls the entire process a "revolution," and few members would disagree with him. How, then, has it been working up to now?

The Budget Committees were organized smoothly in early 1975, each representing the full spectrum of viewpoints in the two houses. First-rate staffs, including economists, were hired, and the committees proceeded with their first-year dry run. It was by no means a purely experimental exercise. Although the budget resolutions last year were not broken down into binding amounts for categories, the overall totals for spending, revenue and "budget authority" in the second resolution were fully binding. However, the whole process almost broke down as it was barely beginning.

In the House, virtually all of the Republicans, presumably for largely political reasons but also, in some cases, out of conviction, decided to vote against the budget resolution because they could not tolerate its proposed deficit of more than $70 billion, even at a time of recession. They were joined in opposition by a large bloc of liberal Democrats who felt that the spending permitted by the resolution was not large enough to spur the economy and create more jobs. The first budget resolution passed the House on May 1 by only four votes (200–196) and the second passed Dec. 12 by only two votes (189–187).

In the Senate, by contrast, the senior Republican on the Budget Committee, Senator Henry Bellmon of Oklahoma, was determined to see the new process succeed, politics or no politics. He brought many other Republicans with him, and the result was that both budget resolutions passed by wide margins.

In any case, the experiment had been useful. The Budget Committees were learning, and so were the other committees. Adams on several occasions succeeded in preventing "entitlement" bills that would have pushed up future spending from coming to the floor. Early this year, he angered Representative James Corman of California by blocking an otherwise noncontroversial unemployment-compensation reform bill produced by Corman's Ways and Means subcommittee, on the ground that no "entitlement" bill was in order until after May 15. In the Senate, in March, a lengthy debate between Muskie and James McClure of Idaho over a food-stamp bill (also an "entitlement" bill) established some important parliamentary precedents crucial to the new procedure.

On July 1, the day after fiscal 1976 ended, Adams and Muskie held a news conference to announce that Congress had stayed within the budget resolution ceilings for fiscal 1976. "For the first time in its history," said Adams, "the Congress of the United States has developed and operated a comprehensive national budget for the Federal Government. The successful operation of this new budget process is historic not just because of the fiscal responsibility shown but also because it marks the completion of an economic policy that is distinctly that of the Congress—not the President."

The last point is a crucial one for the new President. He will, of course, continue to establish both an economic policy and a set of priorities in his own annual budgets. But Congress now has, for the first time, a mechanism for altering both. The President's budget will continue to be a kind of "starting point," but it will in no sense be the definitive budgetary statement of the United States Government.

As the two Budget Committees began their deliberations this year, for fiscal 1977, they faced a different problem. The President had sent Congress a budget proposing significant cutbacks in spending—many of which required affirmative action by Congress to alter existing law in such areas as veterans' benefits, Social Security and Medicare—combined with the "carrot" of an additional $10 billion tax reduction beyond the antirecession tax cut of 1975. The President's proposed spending figure (regarded as unrealistically low by nearly all outside observers) was $396 billion.

On the opposite side, the Congressional Budget Office had calculated "current policy" spending at $424 billion. This is a new and useful concept that estimates what spending would be under existing law and the previous year's Congressional budget actions, adjusted only for inflation and with no new spending initiatives.

But this figure was modest compared with the spending that would be produced if all the other committees of Congress had their way. In a highly important part of the new procedure, all of the committees, including the tax-writing committees had to knuckle down early in the session and work out a report to the Budget Committees on what they proposed to do this year. On the House side, the spending total resulting from this exercise was a whopping $442 billion. Furthermore, the Ways and Means and Finance Committees gave a strong signal that they would not raise Social Security taxes as the President had proposed.

Testimony from Mrs. Rivlin and numerous private economists, including some conservatives such as Paul McCracken and Herbert Stein, had suggested that the President's budget was probably too restrictive—that it might check the ongoing economic expansion in 1977 and slow down progress toward reducing unemployment. But nearly all suggested that good fiscal policy required some reduction of the deficit from the record of about $70 billion in fiscal 1976. And that could not be done if the proposals of the other committees of Congress were followed.

It was in light of all this that Adams offered his "chairman's mark" on Mar. 23 as a starting point for his committee's voting. The document had a spending total of $413 billion—and, by rejecting the President's proposed $10 billion tax reduction (even though it was an election year) it produced an estimated $363 billion in revenues for a deficit of $50 billion. This was not much more stimulative than the President's budget, with a deficit of $45 billion.

President Ford promptly blasted the Adams proposals, partly because they included a cut of $7 billion in budget authority from the President's $112 billion request for defense. As the weeks went on, his budget chief, James T. Lynn, issued statements with words like "appalling," instead of lauding the process for producing a good deal of budgetary restraint. At one point Lynn said of Congress: "They are much more inclined to break the American taxpayer than they are to give the taxpayer a break. . . . They decided to keep taxes where they are, increase Government spending by billions and gamble with postelection double-digit inflation."

As it happened, Adams's proposed defense reduction was rejected in the Budget Committee, which, sharing the new mood of caution about the Soviet Union, approved only a token cut. Category by category, the committee plodded along, taking numerous votes. There was no escaping detail—Federal pay, postal subsidies, public-service jobs, health programs. Adams's "mark" rejected as unrealistic many of the President's proposed cutbacks in benefit programs requiring changes in existing law; that accounted for almost half of the difference of some $17 billion between his spending figure and the President's. Except for a few gestures by Republicans on the committee, this position was accepted.

In the Senate, Muskie did not use the device of a "chairman's mark," though he set out with the aim of a total figure significantly below the C.B.O.'s "current policy" estimate of $424 billion. He too rejected as unrealistic many of the President's cutback proposals.

In the end, the two committees produced remarkably similar figures, in the neighborhood of Adams's original $413 billion, though there were important differences in some of the individual categories. Both rejected the President's $10 billion tax cut and his Social Security tax increase. Both provided more for such areas as health, housing and public service jobs than the President had sought, but not nearly as much as the other committees wanted.

What would happen in the House? Early in the year, Adams had said privately that he thought the odds on passage were about even at best, and he was worried until the last moment. But suddenly a sense of responsibility reared its head. Some of the liberals and some of the Republicans who had voted against the resolution last year switched in favor of it this year, and it passed on April 29 by the surprising margin of 66 votes, 221–155.

House and Senate conferees took nearly a week to compromise their differences over the various categories, though the overall totals in the two resolutions were very similar. The target figure for outlays was set at $413.3 billion, with an estimated deficit of $50.8 billion—only $6 billion higher than the President's.

The President, in a statement after the first resolution was passed, said, "The resolution fails to check growth in Federal spending. It fails to put us on the track to a balanced budget in three years. And it ignores the additional $10 billion tax cut I recommended for the American people."

Senator Frank Moss of Utah, who has played a leading role in the Senate Committee, said during the debate that for all practical purposes, the resolution amounted to a new Federal budget, replacing the President's.

"I emphasize this point," he said, "in hopes of avoiding a long summer of futile confrontation between Congress and the White House. It will be most unfortunate, if the President, using vetoes and impoundments, tries to reshape this budget to match his original proposal. If the President wants political confrontation instead of a sound fiscal policy, these differences can become a battlefield and the public will be the loser."

Regardless of whether Senator Moss or the President is right—and it is, after all, an election year—the crucial consideration for the nation at large is that the new procedure come to a successful conclusion in September and continue to work in future years. It is quite clear that this exciting, even revolutionary development in our legislature is already having an effect in curbing the Congressional propensity to spend—or, more precisely, to spend irrationally in the sense of overall totals and deficits. If the May resolution holds up, growth of Federal spending will be held to about 11 percent in fiscal 1977—a big number, but much less than the average of 17 percent a year in the three preceding fiscal years. Furthermore, despite Ford's laments, the May resolution has established what most economists would regard as a reasonable fiscal policy for the current state of the economy.

As the new process began to work, despite the early skepticism, Congress initiated steps to go even further. Legislation called "sunset"—which would automatically terminate nearly all existing programs over a five-year review cycle unless they were specifically re-authorized—has made impressive progress, though it may not be finally enacted this year. Senator Muskie has been the major proponent of this legislation, which again applies to Congress itself, and which is increasingly seen as a companion to the new budget process. The chief purpose is to make room for the new, within severe overall limits, by reducing or eliminating some of the old.

It is not necessary to agree fully with Secretary of the Treasury William E. Simon's indictment of "uncontrolled [Federal] spending" as the chief cause of inflation to hope that the new process continues to be successful. The proper share of Government spending in the total economy (now almost 40 percent, if state and local spending is included), and "tolerable" level of taxation, the "right" amount of budget deficit in a given year are all topics of legitimate debate. But it makes no sense to have these crucial matters determined haphazardly, as was the case.

Some people, of course, do not like the actual results of the process. The A.F.L.-C.I.O. has essentially opposed it from the beginning, correctly perceiving it as a means of limiting the growth of spending. A new group called the Council on National Priorities and Resources, which is largely supported by labor, and which has done a brilliant job of reporting on this year's first budget resolution as it moved through its various stages, complained after it was all over. "The Congress is still a long way from formulating a true alternative budget to that of the President. . . . Like last year, the committees once again were preoccupied with the size of the budget deficit, to the detriment of social programs and human needs."

There is no doubt that if one is a believer in big and costly government, the new process is a setback. But it was intended to be just that. A veteran House liberal, Representative Richard Bolling of Missouri, summarized the new budget procedure this way in a recent letter to his constituents: "Since 1789 the Congress has had the constitutional responsibility to exercise close and effective control over the nation's budget and spending priorities. It has taken 187 years for Congress to provide itself with the tools to carry out this responsibility. Many say we have finally developed adequate tools because we have run out of surplus resources which used to cover up our extravagance."

FEDERAL CHARTERING OF CORPORATIONS: A HISTORICAL SURVEY

(Mr. JAMES V. STANTON asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. JAMES V. STANTON. Mr. Speaker, a great deal of attention has recently been focused on the issue of whether the Federal Government should charter large corporations, and I am certain that Congress will be giving much more attention to the issue in the coming years. On May 22, 1975, I introduced H.R. 7481, the Corporate Citizenship and Competition Act, as the embodiment of some ideas I have on the form that Federal chartering should take, and what could be accomplished through it. The CONGRESSIONAL RECORD of that date includes a detailed statement on the provisions of my bill, and why I believe that a system of Federal chartering, which would supplement the existing State system, is necessary now.

To further the debate on this issue, I would now like to insert into the RECORD an article from the Delaware Journal of Corporate Law written by Thomas F. Liotti and Richard G. Handler. It is probably the only complete and up-to-date historical survey of Federal chartering, and I commend this excellent piece to the attention of my colleagues:

COMMENTS AND NOTES: AN HISTORICAL SURVEY OF FEDERAL INCORPORATION

In this age of shareholder democracy and open capitalism, reforms continually crop up in order to alleviate the unfettered effects of managerial power. Panaceas for particular abuses are often suggested [1] and some appear to lend piecemeal remedial relief to problem areas.[2] But no reforms strike at the very heart and fundamental foundations of contemporary corporations as do federal chartering proposals. Proponents of such plans contend that major corporations are having a field day at the expense of a helpless citizenry [3] and that liberal state incorporation statutes are responsible for the amalgamation of capital into a few hands [4] as well as the perpetuation of corporate improprieties.[5] Calls for federal incorporation are by no means being heard for the first time.[6] In the past year, two bills on the subject have been introduced in Congress [7] and Ralph Nader has just completed an extensive study of the area.[8] Additionally, hearings on the proposals for federal chartering are to commence in the Spring of 1976 before the Senate Commerce and the House Government Operations Committees.[9] For the first time in thirty (30) years, federal chartering is an issue before Congress and the implication of the idea are causing considerable controversy.[10] Therefore, an updated historical survey of the concept is in order.

IN THE BEGINNING . . .

The modern business corporation, as an entity, had its origin in seventeenth century England. In the antedated medieval period when only eleemosynary and ecclesiastical "corporations" existed, rules for creating the "incorporate person" were already developing.[11] In *Case of Sutton's Hospital*,[12] Lord Coke gathered these medieval principles together and established the modern rule that the first essential for a viable corporation was a "lawful authority of incorporation." [13]

The earliest corporations, known as trading companies, were vested with governmental authority and rights to engage in commerce under the sovereign's name. Blackstone commented, "The Founder of all corporations . . . is the king alone . . . . [his] consent is absolutely necessary to the creation of any corporation." [14] The Crown had the power to define the purposes for which a corporation was created, and if any corporation acted outside the limits of its charter, its acts would be *ultra vires* and void.[15]

Although the nature of the corporate personality precluded corporations from certain activities, there was a tendency to deny the Crown authority to limit those powers naturally incident to corporate existence.[16] Because the law of corporations was in an evolving state, activities naturally incident to corporate life were largely undefined. As a result, monarchs were cautious and took a limited view of their authority. Thus, in many instances without restraint or control, early corporations grew into monopolies and endless corporate abuses regularly occurred in England's trade industry. R. W. Boyden described these trading companies as "massive, corrupt and inefficient. They grabbed power as an excuse for the failure to do business. . . . They identified themselves with ruling groups to become politically beyond challenge . . . " [17]

Monarchs soon realized that their ability to grant corporate charters was a priceless political tool and used it to reinforce royal power. A charter from the King was an enormous economic and legal insurance for merchant adventures and their commercial schemes. A corporate form assured individual liability would be limited. With this power the King could then place the malcontent baronage in check with a "new nobility [which] depended solely on royal favor for its position." [18]

The consolidation of royal power over corporations was not complete.[19] By 1720, joint-stock companies were being developed without any sanction or regulation by the Crown. They were created either without a charter, with an obsolete charter acquired from a defunct company, or by mere contract among its members.[20] After the rampant speculative fever provoked by the grandiose machinations of the ill-fated South Sea Company,[21] Parliament responded with the Bubble Act of 1720.[22] As England's first corporate statute, its primary function was to harness the rapid growth of unincorporated joint-stock companies.[23]

EARLY AMERICA

The development of the corporate idea in America is directly related to the salient features of the 18th century English corporation. These were, first, that a corporation could be created only by the will of Parliament or of the Crown, and second, that their creation was symbolized by the granting of a charter of powers.[24]

Two of the American colonies, Virginia and Massachusetts, were chartered companies incorporated in England and existed essentially as public corporations.[25] The other colonies existed either as a proprietorship or under a colonial governor appointed by the King. Whether or not the colonies had the power to incorporate is an unsettled question. One authority maintains that colonies "probably could [not] have created or authorized the formation of private business corporations [since] such powers remain[ed] . . . in the English Government." [26] Professor Paul Harbrecht, a noted legal historian, asserts that the pre-revolutionary "American corporations had normally existed by grants from colonial proprietors, governors, or assemblies and 'not by letters of patent issued from the English crown or by acts of Parliament.' " [27]

Throughout the American colonial period English trading companies and a handful of indigenous business corporations conducted business on the American continent. Only six purely native born business corporations arose prior to the American Revolution.[28] Since the provisions of the Bubble Act were not extended to the American colonies until 1741,[29] only three of these corporations were affected by its provisions. Since there were so few corporations in America, the Bubble Act never had any appreciable effect on the colonies. Furthermore, English Corporation Law was in a suspended state under the Act. Parliament exhibited great reluctance to grant corporate charters and, paradoxically, England witnessed a rebirth of the unincorporated associations which the Bubble Act had intended to destroy.[30] Serious interest in the corporate form did not evolve until after the American Revolution.

The notion that the Federal government should charter corporations first arose under the Articles of Confederation. The federal government had only expressly-delegated powers under the Articles and no express power to grant charters.[31] Nevertheless, the Continental Congress in 1781 granted a national charter to the Bank of North America, and thereafter, acquired a majority of the bank's stock for a brief period.[32]

During the Constitutional Convention of 1787, specific proposals for federal chartering were introduced, but only briefly debated. James Madison was the foremost proponent. Midway through the convention, he submitted a proposal to the "Committee of detail (sic)" that under a separate clause the general legislature should have the power "to grant charters of incorporation in cases where the public good may require them, and the authority of a single state may be incompetent." [33] Charles Pinkney of South Carolina made a more ambitious proposal which would have provided Congress with an unqualified right "to grant charters of incorporation." [34]

No formal vote was taken on either proposal. Madison was "convinced that regulation of commerce was in its nature indivisible and ought to be wholly under one authority. . . .[35] The best guard against an abuse of the power of the States, [is] the right in the General Government to regulate trade between State and State." [36] During the final week of the Convention, Madison again proposed, in a slightly different resolution, Congressional power to grant corporate charters.[37] He sought to include this provision in Art. I, Sec. 8, Cl. 7, which empowers Congress to establish post offices and post roads.[38] During debate this proposal was

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Footnotes at end of article.

amended to limit Congressional power to the single case of granting federal charters for the construction of canals.[39] Rufus King, a Massachusetts delegate, protested, contending that such a provision would jeopardize the Constitution's ratification since the states would be prejudiced and divided over the question.[40] Little debate followed and the proposition was defeated by a vote of eight states to three.[41] Other delegates believed federal incorporation was unnecessary, while some repudiated it as leading to mercantile monopolies.[42]

THE FIRST ERA

The federal government, under the Constitution, was established with no express incorporation powers, but the implied power to incorporate has been extended under Article 1, § 8 when "necessary and proper" to carry forth those powers expressly granted to Congress under the fiscal, war, and interstate commerce clauses. This implied power to incorporate was first exercised by Congress with the establishment of the first Bank of the United States in 1791.[43] The issue of whether to enact a federally chartered national bank resulted in a bitter struggle between the Jeffersonians and the Federalists led by Alexander Hamilton.[44] Jefferson opposed the bank's incorporation asserting that the Constitution nowhere specifically authorized the federal government to charter a corporation. He felt that a federally chartered bank would draw large aggregations of capital that could ultimately overwhelm the states and dominate the country's economy.[45] The charter of the first Bank of the United States expired in 1811, but Congress soon incorporated the Second Bank of the United States under a federal charter in 1816.[46] The Supreme Court of the United States, in *McCulloch* v. *Maryland*,[47] upheld the constitutionality of the Act, chartering the Bank of the United States, as within the power of Congress.

Chief Justice Marshall, in his celebrated opinion, declared,

"Although, among the enumerated powers of the government, we do not find the word 'bank' or 'corporation' we do find great powers to lay and collect taxes; to borrow money; to regulate commerce . . . The creation of a corporation, it is said, appertains to sovereignty. * * * In America, the powers of sovereignty are divided between the government of the Union and those of the states. * * * The power of creating a corporation, though appertaining to sovereignty, is not like [the enumerated powers] great substantive and independent power which cannot be implied. The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived, why [incorporation] may not pass as incidental to those powers which are expressly given, if it be a direct mode of executing them.[48]

In 1864 Congress enacted The National Bank Act [49] which still continues to provide for the establishment of national banks, or the conversion of state banks into national banks.[50]

Congressional power to incorporate privately owned corporations to carry on functions of the government had been extended to other areas besides banking. Special legislative enactments have empowered private corporations to build bridges,[51] construct and operate railroads,[52] transport resources and generally to undertake commerce.[53]

By 1800, special acts of state legislatures had created about 200 more business corporations in the United States.[54] As a natural outgrowth of colonial conditions, the commercial policy of the new states was narrow and selfish, and left the states fearful of the Crown and monopolies; that the power to incorporate became a closely guarded legislative prerogative.[55] As industry expanded in the states, businesses sought the benefits and protections of incorporation. The privilege of granting corporate status led state legislators to become politically corrupt as they accepted favors for granting corporate charters.[56] As abuses multiplied, states recognized the need to enact general incorportation statutes without special legislative favor.

The first changes came as states enacted statutes which allowed legislative approval of corporations "for any lawful purpose." [57] By 1837, North Carolina, Massachusetts, New York and Connecticut had enacted such general incorporation statutes.[58] Initially, states required that certain minima be satisfied.[59]

As commerce developed and trade among the states surged, interstate businesses began to shop around for a favorable state in which to incorporate. A new enabling, or liberal incorporation theory soon developed. "Enabling statutes were premised on the view that free enterprise acting in their own interest would serve the general social interest as well, or in the words of John Locke 'private vice makes public virtue.' " [60] Although it was " 'fear [ed] . . . that a corporation was only an artificial personality and therefore did not have a soul or a conscience . . . and primae facie dangerous,' " [61] states felt they could maintain the control necessary for the public interest to be served if corporations remained local and were contained within the restrictions of their charter.[62]

By the end of the Civil War, the network of interstate railroads had substantially increased the commerce among states. As interstate commerce increased, the question developed as to whether a state could exclude a foreign corporation from doing intrastate business. The Supreme Court in *Paul v. Virginia* [63] unanimously upheld a Virginia statute which required that foreign insurance corporations must obtain a state license before they could transact business in that state. The decision recognized that a state could fix legitimate conditions upon foreign corporations doing business within a state, but could not exclude them from interstate commerce. Mr. Justice Field carefully noted that, "Issuing a policy of insurance is not a transaction of commerce." [64] Partly as a result of the *Paul* decision interstate enterprises migrated to those states with the fewest restrictions. Because of its liberal incorporation laws, New Jersey became the leader in "corporate mongering." New Jersey offered a corporate policy which interstate business could not refuse. In 1866 it permitted the holding of property and the doing of business outside the state.[65] It eliminated the obligation to file an intention to incorporate and dispensed with capitalization ceilings.[66] By the 1880's, it legalized holding companies and removed limitations on the duration of corporate charters.[67] By relaxing state restrictions, New Jersey became known as the "mother of corporations," and nursed corporate giants like the Standard Oil Trust.

New Jersey maintained her position until the vigorous trust-busting campaigns of the early 1900's. Woodrow Wilson, then New Jersey's Governor, was ridiculed by the Roosevelt Administration for allowing the massive trusts to go unchecked within the state. In his 1911 inaugural address, Wilson urged the state legislature for a change of policy. "We are much too free with grants of charters. I urge . . . changes in state law [that will] prevent the abuses which have discredited our state in recent years." [68] The New Jersey legislature responded by enacting the so called "Seven Sisters" Act of 1913 which forbade, among other things, intercorporate stockholding.[69] As New Jersey proceeded to revise its statutes, corporations quickly crossed the river into Delaware.

Delaware was more than a likely home for these new corporate orphans. In 1899,[70] the State adopted a new act of liberal incorporation laws based on the New Jersey statute and added some further corporate protections on its own.[71]

Delaware gained a reputation for giving the most away and became the favored state for incorporation. An article in the American Law Review in 1899 described the situation as follows:

"Meanwhile, the little community of truck-farmers and clam-diggers have had their cupidity excited by the spectacle of their northern neighbor, New Jersey, becoming rich and bloated through the granting of franchises to trusts which are to do business everywhere except in New Jersey, and which are to go forth panoplied by the sovereign state of New Jersey to afflict and curse other American communities. . . . It is as though a Klondike goldmine had been discovered in New Jersey, and all Delaware were on the rush to get there. In other words, little Delaware, gangrened with envy at the spectacle of truck-patchers, sand duners, clam-diggers and mosquito wafters of New Jersey getting all the money in the country into her coffers,—is determined to get her tiny, sweet, round baby hand into the grab-bag of sweet things before it is too late." [72]

The New Jersey and Delaware theories of relaxing state restrictions on corporations in order to attract revenue from corporate taxations served as a model for other eager states.[73] Legislatures reduced the rights of shareholders to challenge management activities, eliminated preemptive rights, made shareholders' derivative suits more difficult, shifted the balance of control to management and even removed charter limitations on the scope of corporate business.[74]

FEDERAL CHARTERING

By the late 19th Century the huge corporate trusts had expanded to such an extent that calls for national regulation and federal licensing became common. Corporations had increasingly amassed the power to become autonomous self-perpetuating oligarchies. Monopolistic concerns gained control of railroads and interstate commerce by the familiar practice of railroad rebates.[75] Anti-industrialists such as Emile Zola, Ida Tarbell and later, Upton Sinclair amassed a following as the leading muckrakers, exposing the abuses of the unchecked corporate giants. Congress responded in 1890 with the enactment of the Sherman Anti-Trust Act as an alternative to federal chartering, and the Interstate Commerce Commission (I.C.C.) as the first federal regulatory agency.[76] Federal chartering and licensing developed into a national, political and economic issue. In 1899, William Jennings Bryan, a three-time Democratic presidential candidate, endorsed federal licensing by Congress.[77]

Speaking before Congress in 1905, President Theodore Roosevelt said:

"The fortunes amassed through corporate organizations are now so large and vest such power in those that wield them that it makes it a matter of necessity to give . . . the government . . . some effective power of supervision . . . ." [78]

In 1903 a federal incorporation bill was introduced in the House,[79] but Congress again chose an alternative and created the Bureau of Corporations.[80] The Bureau's purpose was to diligently investigate the conduct and management of any business corporation, joint-stock corporation or combination which engaged in interstate commerce, and to report their findings to the President. Although the Bureau had the right to subpoena, to compel the attendance and testimony of witnesses, to compel the production of documentary evidence, and to administer oaths, its power was severely limited since the Commissioner of the Bureau of Corporations was directly under the Secretary of Commerce and Labor.[81] The

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Footnotes at end of article.

Bureau of Corporations lasted only a decade, and politics can be cited for its demise.[82]

In 1902, the United States Industrial Commission issued a report endorsing federal incorporation.[83] The Commission recommended *inter alia* that states should amend their incorporation laws to require greater publicity and responsibility on the part of promoters and officers. The Commission urged that:

"If experience shall prove that these remedies are not sufficient to properly control the great corporations and combinations, it may be wise for the Congress to enact a Federal incorporation law. Should such a law be enacted, it would then be possible to increase the franchise tax upon State corporations engaged in interstate commerce so as to compel them to reorganize under the Federal law. When organized under a Federal law, it would be possible, as has been pointed out, to apply to corporations any degree of publicity or restriction that might be authorized." [84]

James R. Garfield, the Commissioner of Corporations, made the first official government pronouncement for federal incorporation two years later. Garfield's plans specifically called for a federal franchise or license system for interstate commerce.[85]

President William Howard Taft, in his message to Congress on January 7, 1910, said:

"I therefore recommend the enactment by Congress of a general law providing for the formation of corporations to engage in trade and commerce among the states and with foreign nations, protecting them from undue influence by the states and regulating their activities so as to prevent . . . those abuses which have arisen under state control." [86]

Attorney General Wickersham drafted the Taft-Wickersham Bill which was introduced in 1910 to both houses of Congress.[87] The bill provided for optional, not compulsory, incorporation. President Taft preferred this feature, believing that large corporations would choose federal charters defining their powers and duties rather than risk the chance of the offending, less definite provisions of the anti-trust law, and having to reorganize their affairs.[88]

Between 1903 and 1914, twenty major legislative proposals relating to federal incorporation or federal licensing were introduced in Congress.[89] Nearly all of the proposed legislation required the filing of annual statements with some governmental agency, usually the Departments of Commerce or Labor. Several required publicity as a deterrent to overcapitalization; some exacted severe penalties for violation of the Act, including revocation of the license or franchise; some restricted the provisions of the Act to corporations with a gross business of $1,000,000; some made $10,000,000 the point at which the corporation should be obligated to incorporate nationally; and some bills were permissive.[90]

Discussion of the need for federal incorporation and regulation was widespread during the early 1900's. The question was a popular issue forcing most business and political leaders to take a position.

President Woodrow Wilson tried to carry his New Jersey reforms into the federal government. In 1914, during an address before Congress, he firmly demonstrated his advocacy of federal incorporation by stating:

"The failure of the States to enact uniform and harmonious regulations for the guidance of these corporations creates a necessity for a proper federal incorporation law . . . The doctrine of 'State rights' with reference to trading corporations, is, in this day and generation, a jack o'lantern. That theory, when applied to the control of business and commerce, no longer dominates any of the existing political parties, whether led by a McKinley, a Roosevelt, a Taft, or a Wilson. The policy of complete central direction and control of common carriers, the telegraph, the telephone, and interstate corporations in general, has driven on with such rapidity that it has permanently eclipsed the 'State rights' doctrine of the old political schools. Artificial State lines obstruct, handicap, and needlessly burden and tax business and trade." [91]

Both major political parties endorsed modifications of federal incorporation. The Democratic Party platform of 1904 declared that trusts monopolizing any branch of business or production should not be allowed to transact business outside the state of its origin, and that such prohibition should be enforced through comprehensive law.[92] The Republican platform of 1908 provided that the federal government should be given greater supervision and control over, and secure greater publicity in, the management of that class of corporations engaged in interstate commerce.[93] By the next national election in 1912, the Democratic Party platform specifically endorsed a declaration by law of the conditions upon which corporations should be permitted to engage in interstate trade. This included the prevention of holding companies, of interlocking directors, and the control by any one corporation of a proportion of any industry causing a menace to competition.[94]

Federal incorporation was also endorsed by leading members of the bar. Francis L. Stetson, a noted lawyer and author from New York, favored the concept of voluntary federal incorporation.[95] In the President's annual address to the Kansas Bar Association, the Honorable Charles W. Smith said reform "can be accomplished through Federal control by bringing all corporations under federal incorporation laws." [96]

Judge Gary, an industrialist, and Richard Whitney, President of the New York Stock Exchange, took the stand favoring both federal incorporation and uniform laws for the several states.[97]

Despite this range of support, the Clayton Act and Federal Trade Commission Act of 1914 became law instead of federal chartering. After exhaustive hearings on the topic in 1913, the Senate Interstate Commerce Committee concluded that federal incorporation was "neither necessary nor desirable at this time." [98]

WORLD WAR I AND AFTER

During the First World War, calls for federal incorporation subsided significantly. Between 1914 and 1919, no legislation proposing federal chartering was introduced. Even the major political party platforms failed to make any reference to federal chartering or licensing. The period was marked, however, by the "rapid extension of the use of the government-owned corporation." [99]

World War I seemed to be the catalyst. Within days after war was declared on Germany in April, 1917, the United States Shipping Board Emergency Fleet Corporation was incorporated in the District of Columbia. The corporation was established under an act of Congress passed in 1916 which created the United States Shipping Board.[100]

The first government-owned enterprise incorporated, by executive order of the President, under the laws of a state, was the United States Grain Corporation previously organized in Delaware. The power to issue its order rested on the Food Control Act which authorized the President "to create and use any agency or agencies which would promote the purposes of the Act." [101]

By the end of the war, Congress had created several new government-owned corporations under the War Finance Corporation.[102] In the post-war period, Congress created twelve Intermediate Credit Banks under the Federal Farm Loan Board, and assigned capital to each bank in the amount of five million dollars subscribed by the United States.[103] By 1930 the number of government-owned corporations had grown substantially, as Congress tried to rescue an economy gripped in depression. The Cotton Stabilization Corporation was formed to take the holdings of cotton cooperatives when cotton prices plunged.[104] In order to halt the flood of home mortgage foreclosures, Congress created the Home Owner's Loan Corporation.[105] Congress also enacted the Reconstruction Finance Corporation [106] to enhance recovery, which held stocks and securities issued to it by railroads, banks, and other business institutions for loans and capital investments.

By the end of the 1930's the familiar pattern of proposed federal incorporation-alternative remedy had once again turned full circle. Although the New Deal brought major regulatory legislation like the National Recovery Act; the Securities Act of 1933 and 1934; the Federal Communications Commission, 1934; the Public Utility Holding Company Act of 1935; and the Civil Aeronautics Board of 1938, calls for federal incorporation were again revived. Senators Joseph O'Mahoney and William Borah proposed legislation [107] making it unlawful for any corporation with gross assets in excess of $100,000 to engage directly or indirectly in commerce without having obtained a license from the Federal Trade Commission. Senator O'Mahoney maintained that "a corporation has no rights; it only has privileges," [108] and "sought to return to the pre-enabling act days when charters policed as well as permitted." [109] The novel features of the O'Mahoney proposal included: disclosure of the financial affairs of the corporation; outlawing of holding companies; full disclosure of proposals altering existing rights of shareholders; and prohibition against directors having a financial interest in, or being employed by a competitor. The Bill further provided that corporations violating anti-trust laws, discriminating on the basis of sex, employing child labor or failing to bargain collectively were subject to penalties including the revocation of their federal license following Federal Trade Commission (F.T.C.) hearings and an action instituted by the Attorney General of the United States in any district court.[110]

The O'Mahoney Bill was revised in form [111] and reintroduced in Congress in 1939, but, like its predecessors, it failed to muster sufficient support to become law. In his recent study, Mr. Nader makes reference [112] to Mr. O'Mahoney's final statement before the Temporary National Economic Committee in 1941 as an indication of O'Mahoney's undying faith in the cause.

"[T]o do this it will be necessary, in my judgment, to have a national charter system for all national corporations. . . . One thing is certain: We cannot hope to stop the processes of concentration if we are willing to continue to allow the States to create the agencies through and by which the concentration has been brought about.[113]

Harold Reuschlein perceived the statements of Senator O'Mahoney differently.[114] He claimed that Senator O'Mahoney lost faith in the concept of federal chartering, but, the authors do not believe his reference supports that theory.

"There are indications that Senator O'Mahoney himself has lost faith in S. 330, for in his final statement to the Temporary National Economic Committee, he said: 'This, however, is not the place to discuss the details of a federal charter system. I am concerned now only with urging the acceptance of the principle. For the details, I think it would be wise to have Congress formally authorize a national conference on corporation law to suggest the form the statute should take.' " [115]

Three factors led to the demise of the O'Mahoney-Borah bills. First, World War II seemed to focus attention elsewhere, and Congress reasserted its support for laissez-faire economics and free enterprise in order

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to faithfully adjust to the war effort. Federal incorporation was viewed as a possible restriction upon free flowing commerce. Secondly, it was felt that federal common law already presided over areas suggested by O'Mahoney. In short, it was felt that the National Labor Relations Board (NLRB), the Wage and Hour Division, the Securities and Exchange Commission (SEC), the Anti-trust Division of the Department of Justice, the Federal Loan Agency, among others, not only overlapped Mr. O'Mahoney's bills, but also pre-empted the need for them.[116] Thirdly, it was suggested that the $100,000 eligibility requirement for incorporation under the O'Mahoney bill would not prevent smaller corporations and subsidiaries of large corporations from engaging in the abuses outlawed by the O'Mahoney proposal.[117]

THE MODERN ERA

Subsequent to the O'Mahoney-Borah legislation, the area of federal incorporation lay dormant for 30 years until, in 1971, Ralph Nader began to reconsider the concept.[118] Others soon became interested in the idea, and the first proposal in the modern era for federal chartering appeared in a student note in a 1972 issue of the Georgetown Law Journal.[119] The proposal produced little or no reaction in Washington, and Nader, still concerned over the ill effects of liberal state incorporation statutes, focused continued attention on the subject.[120] On May 22, 1975, Representative James V. Stanton of Ohio responded to Nader's concerns by introducing legislation,[121] entitled The Corporate Citizenship And Competition Act.[122]

A revised version of the bill was introduced in Congress on July 29, 1975,[123] nearly identical to the first bill but including some minor typographical changes. Hearings on these matters, as well as the general topic of federal incorporation, are scheduled for the Spring of 1976 before the Senate Commerce Committee and before the House Government Operations Committee this Summer.[124] While the bill has not yet obtained an avalanche of support,[125] some collateral effects can be seen. For example, in an apparent effort to institute annual reporting by large corporations, similar to the reporting required under many federal chartering plans, the Federal Trade Commission has ordered 450 manufacturers, including du Pont, ICI America, and Hercules to answer detailed questionnaires on price structure, the profitability of specific lines, expenses for advertising, other selling expenses, expenses for research and development, details on depreciation, cash flows, payroll and cost of materials.[126] The difference between the Federal Trade Commission reporting methods and those suggested by Representative Stanton is that the FTC has no intention of making public the information supplied.[127] Additionally, although the information is to be used in formulating an anti-trust policy, the FTC has promised firms that it will not use any of the data in a legal action against the firms.[128] More than 100 firms are suing the FTC over the orders, claiming that the questionnaires jeopardize the proprietary nature of their businesses.[129]

More recently, Ralph Nader has begun a major campaign for federal incorporation and has completed an exhaustive study of the area.[130] The Nader Plan has many of the same features of proposals previously introduced [131] and, although not transcribed into legislative language yet, it is expected that the Plan will be the subject of debate during the Congressional Hearings on federal chartering scheduled for the Spring and Summer of 1976.[132]

CONCLUSION

In summary, throughout history, federal chartering proposals have failed time and again. At the turn of the century, following the outrage against trusts in New Jersey and the attention being drawn to corporate abuses by muckrakers, alternatives to federal chartering were enacted. The Sherman Act in 1890, the Interstate Commerce Commission Act in 1887, and the establishment of the Bureau of Corporations in 1903 were enacted as remedies to problems which federal chartering was supposed to correct. After the Taft-Wickersham Bill and the commotions preceding its introduction into Congress, the Federal Trade Commission Act and the Clayton Act were passed; and considerations of federal chartering were diverted to the war effort. Besides the Taft-Wickersham era, the next significant period for federal chartering arose with the O'Mahoney-Borah legislation. Again, an alternative remedy was found and New Deal federalism took the place of federal chartering. Congress opted for the SEC, the NLRA and the FCC instead of the more drastic concept of federal incorporation. Popular movements behind the concept were again diverted in 1941 by U.S. intervention in World War II. Now, in the 1970's, the theory has appeared once again looking for new attention, and we must consider whether it is worthy of our consideration.

Despite a long absence of thirty (30) years, federal chartering has emerged as an item of significance. The Georgetown student proposal, Representative Stanton's legislation, and Nader's study make the area fertile for exploration and debate. Congressional Hearings on the matter are forthcoming and a spokesman for Nader suggests that there will be an attempt to include federal chartering in the 1976 Democratic Platform.[133]

It would seem, however, highly questionable as to whether federal chartering legislation can be seriously considered for passage at this time. At a seminar on federal incorporation held at Georgetown University in 1972, Senator Philip A. Hart of Michigan, Chairman of the Anti-trust and Monopoly Subcommittee of the Senate Judiciary Committee, indicated that he could think of no more than six senators who would vote for federal chartering.[134] Additionally, there is even some pessimism among proponents of the idea.

According to a Stanton aide, the bill [The Corporate Citizenship And Competition Act] breaks new ground by making Congress the jury which decides that certain anticompetitive industries are illegal *per se* and dictates what changes should be made.

Stanton, who staff members identify as "a practical politician," knows the bill is an idea whose time has not yet come, the aide said.

"But if it has any chance at all, it has it in this climate," he added. Any far-reaching reform takes years of building a record, he pointed out, and now is the time to get started.[135]

If federal chartering is not viable at this time, it would seem that precedent will, in all probability, be followed; and an alternative sought. Professor William Cary, in an apparent effort to accommodate competing interests, has suggested a solution in the form of a Federal Corporate Minimum Standards Act.[136] The compromise measure calls, among other things, for:

(1) federal fiduciary standards with respect to directors and officers and controlling shareholders; (2) an "interested directors" provision prescribing fairness as a prerequisite to any transaction; (3) a requirement of certain uniform provisions to be incorporated in the certificate of incorporation; for example, authority to amend by-laws, initiate corporate action, or draw up the agenda of shareholders' meetings shall not be vested exclusively in management; (4) a more frequent requirement of shareholder approval of corporate transactions, with limits placed upon the number of shares authorized at any one time; (5) abolition of non-voting shares; (6) the scope of indemnification of directors specifically prescribed and made exclusive; (7) adoption of a long-arm provision comparable to § 27 of the Securities Exchange Act to apply to all transactions within the corporate structure involving shareholders, directors and officers.[137]

While the authors find much merit in the proposals for advocating federal incorporation, we unfortunately see no ground swell of support for the idea. Indeed, at the time of this writing, the authors assert that popular sentiment in favor of the concept was much greater during the times of the Taft-Wickersham and O'Mahoney-Borah Bills. In the light of history, we note that federal incorporation has persistently failed to muster sufficient strength for passage. Nonetheless, corporate abuses resulting from enabling incorporation statutes remain unabated, and it would seem that federal chartering or a suitable alternative solution is of timely significance.

RICHARD G. HANDLER.
THOMAS F. LOTTI.

FOOTNOTES

[1] *See generally* J. PHELAN & R. POZEN, THE COMPANY STATE (*The Nader Report*) (1970).

[2] *See generally* Thomas F. Liotti, *Ralph Nader's Impact on Governmental Action for Consumer Protection*, unpublished Master's Thesis on file at City University of New York (1972).

[3] *See* J. Taylor Buckley, *Nader Wants U.S. to Charter Big Biz*, Sunday News Journal, Wilmington, Del., Jan. 25, 1976, at 8, col. 1.

[4] *See generally* Note, *Law for Sale: A Study of the Delaware Corporation Law of 1967*, 117 U. PA. L. REV. 861 (1969).

[5] *See* Note, *Federal Chartering of Corporations: A Proposal*, 61 GEO. L.J. 89 (1972), at 90 and 92, *citing* examples:

General Motors Board Chairman and Chief Executive Richard Gerstenberg and the 23 other directors of the company control assets of $14,174,360,000 and annual net profits of $609,087,000 and employ 695,796 persons. Under the corporate law of Delaware, G.M.'s state of incorporation, these 24 men may lend corporate funds to any employee, officer or director, determine their own salaries, bonuses and pensions, engage in de facto mergers without shareholders approval, and manage the daily business decisions of the company. Daily business decisions of General Motors have included the closing of the Detroit Die Plant, laying off 1,000 workers, and deciding whether or not to install safety glass in cars.

[6] *See infra* notes 89 and 107.

[7] *See infra* notes 121 and 123.

[8] *See* NADER, GREEN AND SELIGMAN, CONSTITUTIONALIZING THE CORPORATION: THE CASE FOR THE FEDERAL CHARTERING OF GIANT CORPORATIONS (1976). *See also* Point of View, *The Case for Federal Corporate Charters*, New York Times, N.Y., N.Y., May 9, 1976 at 14F, col. 1–4.

[9] *See infra* note 124.

[10] *See generally* Arsht, *Reply to Professor W. Cary*, 31 BUS. L. 1113 (1976), at Symposium on Federal and State Roles in Establishing Standards of Conduct for Corporate Management. *See also* Arsht, *A History of Delaware Corporation Law*, 1 DEL. J. CORP. L. 1 (1976); Crompton & Rosenthal, Sunday Forum, *Should Federal Chartering Be Required For Large Corporations*, Sunday News Journal, Wilmington, Del., Feb. 15, 1976, at 51, col. 3; Ralph S. Moyed, *Nader's Criticism Wrong, Lawyers Say*, Sunday News Journal, Wilmington, Del., Jan. 25, 1976, at 1, col. 2.

[11] Holdworth, *English Corporation Law in the 16th and 17th Centuries*, 31 YALE L.J. 382 (1921).

[12] Case of Sutton's Hospital (1613, K.B.) 10 Co. Rep. 1a, 29b as cited *Id.*

[13] *Supra* note 11.

[14] 1 BLACKSTONE, COMMENTARIES, ch. 18, *480, *472.

[15] *Supra* note 11, at 386.

[16] *Id.* at 385–86.

[17] R.W. BOYDEN, THE BREAKDOWN OF CORPORATIONS IN THE CORPORATION TAKE-OVER (A. Hacker ed. 1964) (as cited *infra* note 44, at 68).

[18] Paul Harbrecht & Joseph McCallin, *The Corporation and the State in Anglo-American Law and Politics*, 10 J. PUBLIC LAW 1, 22–23 (1961).

[19] *Id.* at 15.

[20] HENN, HANDBOOK OF THE LAW OF CORPORATIONS 16 (2d ed. 1970).

[21] Gower, *Some Contrasts Between British and American Corporation Law*, 69 HARV. L. REV. 1369, 1370 (1956).

[22] 6 Geo. 1, c. 18 (1719), 6 Geo. 4, c. 91 (1720).

[23] Gower, *Corporation Law in England and America*, 11 BUS. L. 39 (1955).

[24] 1 W. FLETCHER, CYC. CORP., *Development of Corp.*, § 2, n.5.

[25] *Id.* § 2, p. 5. Virginia was incorporated in 1606, Massachusetts was incorporated in 1629.

[26] *Id.*

[27] *Supra* note 18, at 25.

[28] S.E. Baldwin, *American Business Corporations before 1789*, 8 Am. Hist. Rev. 448, 450 (1902–03). Those corporations were: New York Company "For Settling a Fishery in These Parts," 1675; The Free Society of Traders in Pennsylvania, 1682; The New London Society United for Trade and Commerce in Connecticut, 1732; The Union Wharf Co. in New Haven, 1760; The Philadelphia Contributionship for the Insuring of Loss by Fire, 1768; and The Proprietors of Boston Pier, 1772.

[29] Samuel Arsht, *A History of Delaware Corporation Law*, 1 Del. J. Corp. L. 1, 2 (1976).

[30] *Supra* note 21, at 1371.

[31] Lowe Watkins, *Federalism of Corporations*, 13 Tenn. L. Rev. 89, 91 (1934–35). Between the Declaration of Independence and the Constitution only about two dozen business corporations existed in the states.

[32] *Id. See* Archt, *supra* note 29, at 8; *see* 2 J. Davis, Essays in the Earlier History of American Corporations (2d ed. 1917), wherein the author stated:

Congress, under the Articles of Confederation in 1781, purported to grant a charter to the Bank of North America. However, the bank was also chartered in Pennsylvania, its home state and in several other states. When Pennsylvania repealed its charter in 1785, the bank secured a new charter in Delaware and again in Pennsylvania in 1787.

[33] James Madison, The Debates in the Federal Convention of 1787 (ed., Gaillard Hunt and James Scott), 420 (International ed. 1920).

[34] *Id.*

[35] *Id.* at 570.

[36] *Id.* at 557.

[37] *Id.* at 564. The new resolution read "to grant charters of incorporation *where the interest of the U.S. might require and legislative provisions of the individual States* may be incompetent" (emphasis added to indicate differences between first and second proposals).

[38] *Id.* at 563–64.

[39] *Id.* at 564.

[40] *Id.* King's suspicions were well founded. "In ratifying the Constitution, four states (Mass., N.H., N.C., and R.I.) recommended that it be amended by provision that Congress should erect no company (or no company of merchants) with exclusive advantages of commerce, and New York asked for a further prohibition of all grants of monopolies. Attempts to carry such measures were made in the First Congress, and renewed in 1793, but without success." *supra* note 28, at 464.

[41] *Id.* Virginia, Pennsylvania and Georgia voted aye.

[42] *Id. See* FEDERAL TRADE COMMISSION, Report on Utility Corporations, No. 69A, at 76 (Sept. 15, 1934) [hereinafter cited as *F.T.C.* that it be amended by provision that Congress Report]. *See generally* Note, *Federal Chartering of Corporations: Constitutional Challenges*, 61 GEO. L.J. 123, 125 (172).

[43] *Supra* note 31, at 92–95.

[44] R. Nader & M. Green, Corporate Power in America 74 (1973).

[45] M. Mintz & J. Cohen, America, Inc., 360 (1973).

[46] Watkins, *supra* note 31, at 92.

[47] 17 U.S. (4 Wheat) 316.

[48] *Id.* at 407–11.

[49] 13 Stat. 12 U.S.C. §§ 21, 33, 100 (1864). The constitutionality of the National Bank Act was upheld in Bank v. Searing, 91 U.S. 29 (1875).

[50] 12 U.S.C. § 35.

[51] Watkins, *supra* note 31, at 92. *See also* Luxton v. N.R. Bridge Co., 153 U.S. 525 (1894).

[52] *Id. See also* Ames v. Kansas, 111 U.S. 449 (1884). Pacific R.R. Removal Cases, 115 U.S. 1 (1884); California v. Pacific R.R., 127 U.S. 1 (1887).

[53] Nader & Green, *supra* note 44, at 68. For a list of corporations chartered by special act of Congress, *see* Senate Report No. 30, 80th Cong., 1st Sess. 4–13 (1947).

[54] J. Davis, *supra* note 32, at 8–26.

[55] *Supra* note 20, at 18.

[56] Nader & Green, *supra* note 44, at 69; *see also* 31 Yale L.J., at 385, wherein the author states: "In the evolution of [corporate] law, the disturbing influence of semi-political considerations may be suspected."

[57] *Id.* at 68.

[58] *Id.*

[59] *See* Liggett v. Lee, 288 U.S. 517, 85 A.L.R. 699, 713–23 (1913), for a list of early statutory history. Some minima were limitations upon amount of authorized capital, limitation upon the scope of business corporation powers, filing fees, franchise taxes, etc.

[60] Nader & Green, *supra* note 44, at 69; *see also* Latty, *Why Are Business Corporation Laws Largely Enabling?*, 50 Corn. L. Rev. 599 (1965).

[61] *Id.*

[62] *Id.* Charters had limitations governing size and scope. In New York, entities seeking incorporation had to have capitalization of $100,000 and could incorporate for only one activity; furthermore, corporations had a limited existence specified in years. *See* Liggett v. Lee, *supra* note 59, at A.L.R. 714.

[63] 75 U.S. (8 Wall.) 168, 19 L. Ed. 357 (1868).

[64] *Id.* at 19 L. Ed. 361. In "Paul," a New York insurance company claimed that the Virginia statute requiring a license violated the privileges and immunities clause in that the New York corporation was a citizen within the meaning of Art. IV, § 2, of the U.S. Constitution. The court held that "The term 'citizen' as there used applies only to natural persons, members of the body politic owing allegiance to the state, not to artificial persons created by the legislature and possessing only the attributes which the legislature has prescribed. . . . Special privileges enjoyed by citizens in their own states are not secured in other states by this provision," at 361.

[65] Nader & Green, *supra* note 44, at 69.

[66] *Id.*

[67] *Id.*

[68] Minutes of Assembly of New Jersey, Jan. 17, 1911, as cited in 85 A.L.R. 721 n.37.

[69] *Id.* N.J. Laws 1913, Chap. 18. The act was repealed four years later. N.J. Laws 1917, Chap. 195.

[70] Act of March 9, 1899, Ch. 273, 21 Del. Laws 445; *see* Chicago Corporation v. Munds, 20 Del. Ch. 143, 172 A.2d 453 (1932); *see also* Arsht, *supra* note 29, at 5–7.

[71] Any class of stock could be issued with or without voting powers; shareholders lost pre-emption rights; transfer taxes were eliminated; annual meetings could be held outside the state; directors did not have to own company stock to qualify for a directorship; tax rates were lower than they were in New Jersey; directors had the power to issue new stock without shareholder's approval as well as retire preferred stock, change bylaws and change the terms of authorized stock prior to sale. As cited in Nader & Green, *supra* note 44, at 70.

[72] *Little Delaware Makes a Bid for the Organization of Trusts*, 33 Amer. L. Rev. 418, 419 (1899). *See also* Nader & Green, *supra* note 44, at 70.

[73] Note, *Michigan—To Out Delaware*, 18 Wayne L. Rev. 913, 914 (1972).

[74] Mintz & Cohen, *supra* note 45, at 358.

[75] *See* Swift & Co. v. United States, 196 U.S. 375 (1905), where the U.S. Justice Department obtained a regulatory injunction against Swift and the meat packers for getting less than lawful rates from railroads to the exclusion of competitors.

[76] Watkins, *supra* note 31, at 92.

[77] F.T.C. Report, *supra* note 42, at 58.

[78] *Id.* at 18.

[79] H.R. 66, 58th Cong., 1st Sess. (1903) by Rep. Henry W. Palmer.

[80] 32 Stat. 827 (1903).

[81] *Id.*

[82] New York Times, Feb. 13 (1903), at 8, cols. 1–2. "It will appease the public clamor against the trusts and it will do the trusts and combinations no harm. It will fool the people and that is the purpose of the Republican Congress." *See also* Nader, *supra* note 8, at 79.

[83] F.T.C. Report, *supra* note 42, at 22.

[84] *Id.* at 24.

[85] *Id.* at 4. *See also* Brabner & Smith, *Federal Incoporation of Business*, 24 Va. L. Rev. 159, 169 (1937).

[86] *Id.* at 8. It should be noted that in the presidential campaign of 1912, President Taft changed his attitude and opposed federal chartering after the Progressive Party Platform had declared for regulation through federal incorporation. F.T.C. Report, *supra* note 42, at 9. *See also* Brabner & Smith, *supra* note 85, at 152.

[87] H.R. 20142, 61st Cong., 2d Sess. (1911), S. 6186, 61st Cong., 2d Sess. (1910). The significant features of the bill were the following:

1. Incorporation was to be voluntary.
2. The Commissioner of Corporations was to be vested with authority to examine the articles and to ascertain that they comply in all respects with the terms of the law.
3. Holding companies were disallowed.
4. No corporation was to engage in the banking business.
5. A corporation could purchase any property that it needed for regular business, but would be required to file in the office of the Commissioner of Corporations information re: any stock issued in payment of such property including number of shares issued, the terms and other material information.
6. A statement of the value of property was to be made by independent appraisers and filed with the Commissioner.
7. An annual report was to be filed with the Commissioner.
8. There was a penalty for failure to supply the report.
9. The Commissioner had to approve an increase in capital stock.
10. No dividends could be paid except from surplus or net profit, and capital stock could not be released. F.T.C. Report, *supra* note 42, at 38–39.

[88] Watkins, *supra* note 31, at 93.

[89] Chronological List of Congressional Bills Proposing Federal Incorporation or License:

1. November 9, 1903; H.R. 66, 58th, 1st by Congressman Henry W. Palmer. (Introduced again as H.R. 362, 59th, 1st Dec. 4, 1905.)
2. January 5, 1904; H.R. 8883, 58th, 2d by Congressman N. D. Sperry.
3. January 4, 1905; S. 6238, 58th, 3d by Senator Heyburn. (This bill was reintroduced Dec. 21, 1905, as S. 2398, 59th, 1st.)
4. January 6, 1906; H.R. 10704, 59th, 1st by Congressman Pollard.

5. December 4, 1905; H.R. 473, 59th, 1st by Congressman Martin. (This bill was reintroduced in enlarged form on Jan. 25, 1906, as H.R. 13095; and again on Mar. 26, 1909, as H.R. 5174, 61st, 1st; again on Apr. 4, 1911, as H.R. 35, 62d, 1st; and in 1913 as H.R. 172, 63d, 1st.)

6. May 25, 1906; S. 6287, 59th, 1st by Senator Newlands.

7. December 4, 1907; S. 383, 60th, 1st by Senator McCumber. (This bill was reintroduced as S. 133, 61st, 1st, and as S. 825, 64th, 1st.)

8. February 3, 1908; S. 4874, 60th, 1st by Senator Knute Nelson. (Reintroduced as S. 1259, 61st, 1st; and again as S. 4387, 63d, 2d; and as S. 1310, 64th, 1st.)

9. February 7, 1910; S. 6186, 61st, 2d by Senator C. D. Clark; and February 7, 1910, H.R. 20142, 61st, 2d by Congressman Parker, identical (being bills known as "Taft-Wickersham bills".)

10. April 20, 1911; S. 1377, 62d, 1st by Senator John Sharp Williams. (Reintroduced Jan. 23, 1913, S. 1138, 63d, 1st.)

11. July 26, 1911; H.R. 12809, 62d, 1st by Congressman Adamson. (Reintroduced Dec. 3, 1913, H.R. 9763, 63d, 2d.)

12. January 15, 1912; H.R. 17932, 62d, 2d by Congressman E. W. Roberts of Massachusetts.

13. January 24, 1912; H.R. 18662, 62d, 2d by Congressman William Sulzer of New York.

14. April 14, 1913; H.R. 2488, 63d, 1st by Congressman Smith of Texas.

15. August 24, 1913; H.R. 26414 and 26415, 62d, 2d by Congressman A. P. Gardner of Massachusetts.

16. April 7, 1913; H.R. 1890, 63d, 1st by Congressman Morgan of Oklahoma.

17. April 28, 1913; S. 1617, 63d, 1st by Senator Cummins.

18. December 20, 1913; H.R. 11167 and 11168, 63d, 2d by Congressman Stanley and by Congressman McGillicuddy, respectively.

19. January 22, 1914; H.R. 12123, 63d 2d by Congressman Stanley.

20. February 27, 1914; S. 4647, 63d, 2d by Senator Knute Nelson. As cited in F.T.C. Report, *supra* note 42, at 32.

[90] F.T.C. Report, *supra* note 42, at 42.

[91] *Id.* at 17.

[92] The World Almanac and Encyclopedia, at 102 (1905).

[93] The World Almanac and Encyclopedia, at 158 (1909).

[94] The World Almanac and Encyclopedia, at 687 (1913).

[95] 18 Case and Comment, at 512–15 (1911–1912).

[96] F.T.C. Report, *supra* note 42, at 61.

[97] *Id.* at 22, 92. *But see id.* at 108, for contra views by the American Bar Ass'n.

[98] *Id.* at 10.

[99] Watkins, *supra* note 31, at 96.

[100] *Id.*

[101] *Id.*

[102] *Id.* The Act created the United States Spruce Production Corporation, incorporated under the laws of the State of Washington; the United States Housing Corporation, incorporated in New York; the United States Sugar Equalization Board, incorporated in Delaware.

[103] *Id.* at 97.

[104] *Id. See* Sumner H. Slichter, Modern Economic Society 440–47 (Holt ed. 1931).

[105] 12 U.S.C. §§ 1461–63a as cited *id.* at 97. For an important case decided on Tenth Amendment grounds and carrying important implications for federal incorporations, *see* Hopkins Federal Savings and Loan Ass'n v. Cleary, 296 U.S. 315, 335, 100 A.L.R. 1403 (1935), where the Supreme Court held that the provisions of the Home Loan Act of 1933 that provided for the conversion of state building and loan associations into federal savings and loans upon a majority vote of the stockholders present at a meeting legally convened and not conditioned upon the consent of the state or in compliance with state laws was unconstitutional. Justice Cardozo, speaking for the court, held that:

The Home Owners' Loan Act, to the extent that it permits the conversion of state associations into federal ones in contravention of the laws of their place of creation, is an unconstitutional encroachment upon the reserved powers of the states.

[106] 15 U.S.C. §§ 601–17.

[107] S. 3072, 75th Cong., 3d Sess. (1938). Before the O'Mahoney Bill, between 1914 and 1932, the following bills proposing legislation relating to federal incorporation or licensing were introduced:

1. August 11, 1919: S. 2754, 66th, 1st by Senator Kellogg.

2. June 6, 1929: Amendment to S. 6, 71st, 1st by Senator Couzens.

3. January 6, 1930: S. 2847, 71st, 2d by Senator Brookhart.

4. April 3, 1917: H.R. 315, 65th, 1st by Congressman Walsh (relating to interlocking directorates).

5. May 14, 1917: H.R. 4425, 65th, 1st introduced by Congressman Jones. Reintroduced as H.R. 15399, 65th, 3d on January 30, 1919 (relating to sale of securities).

6. May 20, 1919: H.R. 1186, 66th, 1st by Congressman Steele. This is same as S. 2754, introduced by Senator Kellogg on August 11, 1919 (licensing interstate corporations).

7. May 4, 1921: S. 1612, 67th, 1st by Senator Capper (regulation of sale of securities).

8. June 6, 1930: H.R. 12810, 71st, 2d by Congressman McKeown (prevention of monopolies of commodities in interstate commerce). As cited in F.T.C. Report, *supra* note 42, at 42.

[108] J. O'Mahoney, *Federal Charters and Licenses for Corporations*, 22 J. Nat'l Educ. Ass'n. 27 (1938), as cited in Nader, *supra* note 8, at 82.

[109] *Id.* NADER, *supra* note 8, at 82.

[110] *Id.* at 82. 83. Another similar bill was introduced by O'Mahoney in 1937 but it achieved no notoriety. *See* S. 10, 75th Cong., 1st Sess. (1937).

[111] S. 330, 76th Cong., 1st Sess. (1939).

[112] Nader, *supra* note 8, at 83.

[113] *Id.*

[114] H. G. Reuschlein, *Federalization—Design for Corporate Reform in a National Economy*, 91 U. Pa. L. Rev. 91 (1942).

[115] *Id.* at 115.

[116] *Id.* at 116.

[117] Stevens, *Uniform Corporations Through Interstate Compacts and Federal Legislation*, 34 Mich. L. Rev. 1063, 1088 (1966).

[118] Shanahan, *Reformer: Urging Business Change*, N.Y. Times, Jan. 24, 1971, 63 at 9, col. 1–2. *See also* Addresses by Senator Fred Harris and Ralph Nader, *The Case of Federal Incorporation* (A Presentation to the Conference on Corporate Accountability) Oct., 1971.

[119] Note, *supra* note 5, at 98–121. Specific provisions of the proposal include:

1. That a possible standard for mandatory federal chartering might follow that of the New York Stock Exchange. Under that standard, corporations with over $14 million of assets and more than 3,000 shareholders would be subject to the federal corporation law and required to obtain a charter from a Federal Corporation Commission. Corporations required to register under section 12(g) of the SEC Act of 1934 would be given the option of remaining state chartered or incorporating under federal law.

2. That a federal corporation code would limit a corporation to one line of business.

3. Conglomerates would be discouraged from holding shares in other companies and parent companies would not be permitted to control shares of a subsidiary.

4. The corporation would not have an indefinite life and would be required to renew its charter every 30 years after a determination by the Corporation Commission that such renewal would not contravene the public interest.

5. An annual report would have to be filed with the Commission including a list of shareholders with stock interests above five percent.

6. Actual voting and beneficial interests in shares would be disclosed in the report.

7. Results of affirmative action and equal opportunity plans would have to be disclosed as well as data on air, water and waste pollution. Also, data on incidence of job accidents would be included in the report.

8. Copies of the report would be made available to the public at cost and mailed to shareholders without charge.

9. Under the proposal, corporations subject to the provisions of the Act would have to clearly define the duties of its officers and agents and would be held strictly liable for breaches of duty.

10. Individual liability would not be precluded by corporate liability and negligent management which creates or allows corporate lability, would be accountable to the corporation and its shareholders for the fines, penalties and judgments assessed against the company.

11. Criminal liability would attach for breaches of supervisory duties and where a corporation has been convicted of a criminal charge, the Attorney General or any other attorney could be authorized by the trial court or the Commission to initiate proceedings to determine, collect, and distribute damages to all injured parties in the class which the statute was designed to protect.

12. Directors would be paid and not chosen from inside the corporation.

13. A shareholder committee, rather than directors, would determine executive compensation.

14. Indemnification would be permitted where it was found that a director acted in good faith and under the reasonable belief that his actions were in the best interests of the corporation.

15. Cumulative and class voting, appraisal rights, rights of inspection and access to proxy machinery would be provided for as well as a method of encouraging meritorious derivative suits.

[120] Nader & Green, *supra* note 44.

[121] H.R. 7481, The Congressional Record of The United States of America, Proceedings and Debates of the 94th Congress, First Session, Vol. 121, Washington, D.C., Thurs., May 22, 1975, No. 83, introduced at H4699.

[122] *Id.*, text of the proposed Act at H4664–H4667. Specific provisions of the bill include:

1. The bill proposes the establishment of a Federal Chartering Commission to grant to corporations with an annual sales volume of two billion dollars and with at least half of these sales derived from manufacturing or mining. (It is estimated that 100 corporations will initially have to comply with the Act and that most of these will be oligopolies in the auto, petroleum and steel industries.)

2. The Federal Corporate Chartering Commission members are to be appointed by the President with confirmation by the Senate. Two members are to be from industry, two from labor, one representing consumers, one from the academic community and one member is to be at large, but not representing industry or labor. Commission members are to be compensated and no more than four may belong to the same political party. The Commission shall have a Director appointed by itself as well as a General Counsel to act as the chief legal officer of the Commission.

3. Corporations subject to the Act must file the names and duties of the principal executive officers and the board of directors of the corporation. They must also transmit to the Commission product line reports, voting stock ownership reports, debt structure reports and Federal income tax reports. All of this information is to be made available to the public.

4. No person serving on the Board of Directors or as an officer of any corporation required to be chartered pursuant to the Act, shall serve at the same time on the Board of Directors or as an officer of any other corporation which is required to be chartered

under the Act or on the board of any financial institution.

5. The Commission shall have the power to devise plans for the reorganization of oligopolies. The purpose of the reorganization plans is to maximize competition, minimize vertical integration and not impair the economies of scale. Furthermore, in their reorganization plans Commission members must provide for the protection of employee pension, health, and other benefit plans, and shareholder interests.

6. In granting new charters to reorganized corporations, the Commission may define the permissible scope of operations by product line and provide for limitations on the holding of assets.

7. Congress may disapprove reorganization plans by concurrent resolution and corporate challenges to the plans may be brought in the United States District Court for the District of Columbia.

8. Under the Act, any interested person may bring a civil suit to compel the Commission to institute reorganization proceedings.

9. For a failure to register or for breach of director status (being a member of two boards) there is a civil penalty of not less than $10,000 for each day after the day upon which the Commission finds that a violation has occurred. Other persons who violate the Act are liable for a $1,000-diem fine from the date of the violation and persons failing to comply with reporting and public disclosure requirements may be prosecuted by the Attorney General and fined not more than $10,000, or imprisoned not more than one year or both.

10. No person shall be indemnified for such penalties from the corporation with which he is associated.

11. The Commision also has the right to revoke charters or seek injunctive relief in the District Court where the corporation is located in order to prevent it from engaging in interstate commerce and to secure compliance with the Act.

12. The Commission must report to Congress annually and make recommendations as to the inclusion or deletion of various corporations from compliance with the provisions of the Act.

[123] H.R. 9026, The Congressional Record of The United States of America, Proceedings and Debates of the 94th Congress, First Session, Vol. 123, Washington, D.C., Tues., July 29, 1975, No. 123, at p. 25599.

[124] Information supplied by Joel Seligman, The Corporate Accountability Research Group, and Congressman James V. Stanton (Democrat, Ohio).

[125] Co-sponsors include: Rep. Baucus, Bedell, Brown of California, Downey of New York, Eilberg, Gonzalez and Harris. *Supra* note 123. *See*, Editorial, *Unwise in any Form*, Sunday News, N.Y., N.Y., May 30, 1976, at 79, col. 1.

[126] *See The U.S. Economy and Corporate Giants*, 121 Cong. Rec. p. 30155, Sept. 24, 1975.

[127] *Id.*

[128] *Id.*

[129] *Id.*

[130] Nader, *supra* note 8.

[131] *Id.* at 86–326. Specific provisions of The Nader Plan include:

1. That corporations with a sales volume of $250 million would be the only companies subject to his bill. According to Nader, only 700 corporations out of 1.8 million currently operating in the United States would be affected by his proposal.

2. The plan calls for corporations under the federal system to hire a full-time, wholly outside board of directors with a full-time staff to supervise the performance of management. The board would be comprised of nine members and would have the power to set salaries and make major management decisions. Each board member would act as a general director and specialize in a particular aspect of the corporation such as employee welfare, community relations, or consumer protection. The board would also be required under the act to file environmental "impact" statements.

3. Shareholders with more than one percent of stock or representing more than 100 individuals would be permitted to nominate three persons to the board.

4. Only shareholders could vote for directors and cumulative voting would be permitted under the plan.

5. The act also would permit the affected community to vote on what to do about health hazards caused by a corporation. Only three directors or three percent of the voting shares need find that the corporation is causing a public health hazard.

6. The Nader plan would increase disclosure requirements for air pollution violations, toxic substances in work areas, minority hiring, substantiation of advertising claims, tax returns, costs and profits per product line, expenditures for lobbying, federal contracts obtained and the 100 largest security holders in each class of stock issued.

7. The plan calls for a Bill of Rights for employees encompassing First Amendment guarantees of free speech, thus protecting employees reporting violations of the federal incorporation statute. The Bill of Rights would also prohibit invasion of employee privacy on the job by use of listening devices and cameras. The Bill would also permit an employee full access to his or her personnel file for purposes of inspection.

[132] *Supra* notes 121, 123.

[133] *Supra* note 124.

[134] *See* Schwartz, *Symposium, Federal Chartering of Corporations: An Introduction*, 61 Geo. L.J. 71, 83 (1972).

[135] *The Corporate Citizenship And Competition Act*, 121 Cong. Rec. p. 19643, June 18, 1975.

[136] Cary, *A Proposed Federal Corporate Minimum Standards Act*, 29 Bus. L. 1101 (1974).

[137] *Id.* at 1115.

CHAIRMAN BROCK ADAMS OF HOUSE BUDGET COMMITTEE CALLS GOP BUDGET "FALSE"

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I believe that all Members of the House will read with interest the statement issued today, September 21, 1976, by the distinguished chairman of the Budget Committee of the House of Representatives, the gentleman from Washington, the Honorable Brock Adams.

Chairman Adams made his statement following the release today by the House Republican leadership of false figures concerning the cost of Democratic programs.

The text of Mr. Adams' excellent statement follows:

Adams Calls GOP Budget Figures "False"; Says They Count Costs of Many Programs Twice

The cost figures of Democratic programs released by the House Republican Leadership, today, are, in many instances, just plain false.

They are not just a little bit false; they are a wild flight of fantasy bearing no relation to the real world. They would know how wrong these figures are if they had participated in the budget process.

They have put a number of phoney figures in their statement. Phoney because they are counting the costs of several programs not once, but twice.

Of course, if you do this enough, you can come up with any figure you like.

The figures of the House GOP Leadership are the same false scare tactics that were used against the budget process last year when they said the deficit would be $100 billion, and we proved them wrong.

The gross error of the Republicans comes in stating that these are all additional costs. This is not true, since nearly all of these costs are already included in the budget and the projections for the next four years, as shown by the Budget Resolution Report.

These figures are already included in the budget process base, with the exception of a few programs.

Our Budget Resolution shows a surplus between $50–60 billion by Fiscal Year 1980 as these programs would be phased in.

After President Nixon in 1970, we had a recession; and again after Ford in 1974–75 we had recession. If we continue to have recessions, we will continue to have deficits, and there will never be any new programs regardless of what they may or may not cost. We don't want another recession. Our present deficit would be a surplus, if we had been at full empoyment. The Democratic program is to produce full employment which will pay for these programs without any increase in taxes.

"PEKING POLITICS: A WESTERNER'S GUIDE," AN ESSAY BY JOHN K. FAIRBANK

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the recent death of Mao Tse-tung lends added significance to an excellent article, "Peking Politics: A Westerner's Guide," by the distinguished scholar, John K. Fairbank, Francis Lee Higginson professor of history at Harvard University, and from 1959 to 1972 director of the East Asian Research Center at Harvard.

The article, published in the September 1976 issue of Harvard magazine follows:

Peking Politics: A Westerner's Guide

(By John K. Fairbank)

In 1976 the Chinese and the American peoples both await the emergence of new leadership, but new leaders emerge in China and America in rather different ways. American election procedures, though arbitrary and mystifying to foreigners, are almost too public. Jimmy's lunch enters us all. His drink is our drink. China's procedures are more secret, on the old theory that the public should be cared for but not be kept informed. For two thousand years the dynastic succession was arranged behind palace walls. Still today, when party dictatorship has taken the place of dynastic family rule, the man in power cannot retire until death mercifully removes him. It is a modern touch to show Chairman Mao's senility in photographs intended to prepare the public for his demise, but no way has yet been found for today's Son of Heaven to retire, much less be removed from office.

Peking's secrecy enhances the Chinese reputation for inscrutability but breeds uncertainty. It suggests a lack of institutional development. Personality remains dominant over procedure in the succession, as in so many other aspects of administration.

Peking's secrecy suggests something else too: that the terribly fierce "power struggle" we hear about in our media is in fact narrowly confined to the top echelon, still essentially a palace affair at the central committee or even politburo level. For example, in April an all-day riot occurred on the big square before the Gate of Heavenly Peace (T'ien An Men). It was the only news happening in months. Pundits are still debating which side started it, who let it go on all day, who stopped it. If the forces arrayed in this once-in-a-year disorder are still so imprecisely known to the Chinese public (known in reality, not merely in the propaganda diatribes of the "radical" media), one can hardly conclude that China is divided in conscious camps lined up to fight on the signal of Mao's demise.

When we are unacquainted with a foreign culture we seem condemned to understand it in terms of our own. Thus our media tells us of the Peking power struggle of radicals against pragmatists as though a Chinese Ronald Reagan and Mayor Daley were readying a High Noon shoot-out. Aside from Mao's wife, Chiang Ching, and the ghost of Chou En-lai, the cast is otherwise obscure because Chinese names look so alike in English.

OPAQUE

Peking politics is indeed made more opaque to us by the issues and terms it uses. China's political discourse is not only moralistic. It mixes together allusions to figures like the First Emperor of the Ch'in, founder of the unified empire in 221 B.C. (who may be regarded variously as a cruel tyrant or a progressive one), and recent Marxist-derived terms like "capitalist-roader" (a man who may be a faithful party member but still favors using material incentives to stimulate production; not a capitalist but someone heading in a materialistic direction). Between Chinese folklore and Marxism, both alien to the American mind, we confront a jumble of terms whose obvious vigor is matched only by their capacity to befuddle. Since Chinese political argumentation is usually indirect and allusive, its opacity is a measure of our own ignorance.

History can help us. To begin with Mao Tse-tung and Chou En-lai, in addition to being major leaders of the Chinese Communist Revolution, have performed two typical historical roles, those of emperor and loyal minister. By its end in 1912, when Mao was an advanced teen-ager in school, the Chinese monarchy had evolved for more than two thousand years. Unfortunately, our study of China is so underdeveloped that this, the world's oldest, ruling institution has not really been analyzed in political-science terms even today, partly, no doubt, because the records are too extensive for historians and too difficult for political scientists. We know that the Chinese monarchy came out of the same political tradition that produced the examination system for the selection of talent. This was under the T'ang, 200 years before Charlemagne tried to revive a central government in the West. Having been the inventor of bureaucracy almost a thousand years earlier, the Chinese state proceeded to create very sophisticated institutions for the exercise of central power. This mighty tradition, lasting into the twentieth century, overhangs Chinese politics even today.

TRAITS

We may conclude, therefore, that many of the traits demonstrated by Chairman Mao as the top power holder in the Chinese Communist Party since 1935 and in the People's Republic of China since 1949 have been derived from attitudes and practices of the Chinese past. The secret of his performance need not be sought by speculative reference to his presumed but unreported regard for his mother or his much touted rivalry with his father. Once he became the top figure in China, he was subject to the pull of traditions embedded in Chinese thought and practice over the millennia.

Typically, a Chinese emperor as Son of Heaven stood above the rest of mankind, answerable to his ancestors and to the grand principles of the polity and Confucian morality, but not easily contained or controlled by any human agency. The emperor was the final arbiter in the selection of talent for office; as the judge of men, he had to balance ability against loyalty and stand or fall by the performance of his officials. His actions were therefore unbounded by regulations. Representing the dynastic interest, he had to be a law unto himself, capricious, unpredictable, and ruthless. Officials might be cashiered for no reason (other than their excellence and the emperor's jealousy). Those who rose highest were in the most precarious position. They might wield the imperial power one day and be in chains or exile the next. The very uncertainty of the imperial favor was a device to keep officials on their best behavior.

For instance, specialists in administration have been fascinated to find that the Ch'ing emperors (1644-1912) devised a top-secret "eyes alone" communications system early in the eighteenth century. Palace memorials from officials all over the empire might be sent for opening by the emperor only, and his comments on the memorial could then be sent back for receipt only by the memorialist in person. Thus the Ch'ing emperor had his informants widespread among his bureaucrats almost before Western rulers had bureaucracies.

Chou En-lai stands forth as the ideal minister, loyal to Mao since 1935, selfless in his devotion to duty, flexible and pragmatic in administration, and charismatic in his capacity to influence Chinese and foreigners alike. Only a man of talent who had inherited the tradition of the Duke of Chou (who dutifully wielded power on behalf of a boy emperor almost three thousand years ago) could have been prime minister of the People's Republic for a quarter of a century without forming his own faction. Chou En-lai succeeded in avoiding the number-two position until the very end, but remained throughout the one individual able to settle differences, work out compromises, get things done, and keep the administration moving. Surely one key to his record was the capacity never to challenge the top authority and yet to save it from its excesses and reintegrate the administration when Maoist campaigns had torn it apart. The fact that Chou at the end began to stand forth as a leader of moderates against radicals suggests that even he could not forestall the decline of Mao's leadership. When both were still competent, they made a balanced team, and retrospect will probably enhance Chou's contribution to the Mao-Chou combination.

The fact that both these leaders were members of the new revolutionary generation, pledged to the destruction of an old order and creation of a new one, does not by any means remove them from the grip of Chinese tradition. The whole Chinese Revolution has been a struggle against the past. Revolutionaries in contention have commonly used the past against each other. This continuity does not deny the innovations of recent times. But for an American public seduced by ideas of the perfectability of man in a new environment and by simplistic doctrines of behaviorism—as though the past did not largely control the present—it seems hard to grasp. Just as the syntax of sentences is less changeable than their content, so the basic patterns of Chinese political life may persist when the substance of ideas and policies has been turned upside down. For example, the Confucian ideal of harmony extolled for so many centuries has given way under Mao to the Social Darwinist idea of struggle, imported from the West. But in both cases the ideas take the shape of an official orthodoxy, which China's widespread government cannot do without.

CONFIGURATION

When we come to the "struggle between two lines" of recent decades, we face first of all a configuration visible in many revolutions and developing countries. On the one hand there is the gradual evolution of technological development under the general heading of industrialization, or, more broadly, the application of science to modern problems. On the other hand, there is the fervor of revolutionary effort that sees the struggle as a moral drama, the good revolution against the evils of the old order. In these terms, the moderates are "pragmatists," as newsmen like to label them, who seem to us somehow more knowable and preferable to the opposition "radicals" and their doctrinaire jargon. On the whole, we are able to understand the technological developers in spite of their socialist abhorrence of free corporate enterprise. Teng Hsiao-p'ing with his disregard of whether a cat is black or white as long as it will catch mice seems like an intelligible figure, whereas the radicals speak a wild language and seem bent only on power seizure or economic disruption.

At this point, however, we are in danger of leaving the Prince of Denmark out of our revolutionary *Hamlet*. For the Chinese Revolution is certainly social as much as economic, and its social target is the destruction of the old ruling-class tradition. One cannot appreciate this fact without reference to Chinese history, particularly China's early success in the creation of a ruling class that could almost monopolize literacy, the higher culture, office holding, and the amassing of wealth, while remaining no more than 5 or 10 percent of the population. The sophistication of this ruling class and its capacity to co-opt talent from the masses and maintain its status and traditions is one of the great stories of social history. Among other things, the Chinese ruling class produced the Chinese historical record. We have thus been obliged to see China's past mainly through ruling-class eyes. From this point of view, the great mass of the farming population remained largely unheard from, working, starving, or rebelling, as the case might be, but always subject to the manipulation and guidance of a small stratum, who worked with their minds and ruled those who worked with their muscles.

Since this ancient ruling-class tradition was outworn by the twentieth century, one primary aim of the great revolution has been to wipe out its system of elitism by spreading the privileges of literacy, learning, mobility, and political participation to the great mass of the people. This is indeed a democratic revolution in the broad sense. Yet, ironically, in the very process of its fulfillment there comes from the new citizenry the old quest for rising in status and privilege to make one's way into an upper stratum. The fact is that the ideals of the old ruling class had penetrated the masses.

The secret of its continuity was that it remained the goal for all talent within the population. Thus, talent today is easily seduced by ideas of hierarchic status and special perquisites. The very thing that the revolution in Mao's eyes must expunge seems to reappear in those who have led the revolution. This accounts for his belief that there must be a continuing revolution, meaning a continuing series of campaigns sporadically trying to wipe out old evils. One can sympathize with an old man who in the 1960s sees privilege reappearing in the new bureaucracy. One can admire his inventive guile and finesse in fielding teen-agers as Red Guards unexpectedly to attack the Party headquarters and rout out his wayward comrades—the inconceivable act that still gives Moscow nightmares.

Having said all this, however, we must remember that the ideals of the Maoist Revolution are hardly democratic in the American sense, since there is still such a high degree of manipulation of the populace. In recent years the Maoist faction has skillfully taken over the media, and now uses them to carry on its righteous attack against capitalist-roaders and other monsters and freaks. But what is the Maoists' complaint?

Here the American observer is again obfuscated by a Chinese tradition that equates undesirable policy with bad morals. This is a feature of Chinese political thinking that has never been satisfactorily explained. It seems to derive from the great doctrine of the unity of theory and practice; that is, that conduct expresses character, that what one says should be manifest in what one does. Once this tradition became established, one could not make the Western distinction beween policy and morality. On the contrary, a policy is part of an official's conduct. If his policy becomes disesteemed, then his moral character is similarly impugned. One result of this concept is that it is impossible to have a "loyal opposition," because a person who is opposed to one's policies is ipso facto opposed to one's character and one's self. One cannot make the pluralistic Anglo-Saxon distinction between loyalty to the chief of state and disagreement with his current policy.

In contemporary China, however, we see an even more startling tradition in action—the denunciation of the evil character of persons in power. This reminds one of the censors of the traditional empire, who had the function from early times of impeaching other officials and even remonstrating with the sovereign over his conduct. Censors were trained by their classical studies to assert the primacy of basic Confucian principles and attack all worldly or self-seeking deviations. As late as the 1870s and '80s, chauvinist officials were memorializing the emperor to denounce all contact with foreigners and, specifically, all compromise with the French, with whom the Chinese were fighting on the frontier of Indochina. This ancient element in Chinese politics has been known as "pure discussion" (*ch'ing-i*). We can best think of it as corresponding to the strident Americanism or anticommunism of our own political scene, combined with the hellfire and brimstone of our older evangelism. The wielder of *ch'ing-i* puts himself in an unassailable theoretical position. Typically he is not in a position of responsibility himself. Against such critics one cannot win. On the other hand, the ruler is ill-advised to follow their advice except as a means of chastising or shaking up the bureaucracy.

The two lines in Chinese policy argumentation and the two camps that espouse them can hardly be compared with alternative national parties like our Democrats and Republicans. The contrast is greater between economic growth and social change, and between administrators getting on with human tasks and ideologists asserting claims of perfect principle. The administrators on the whole seem almost by definition to be in power in the government and in the armed services, while the ideologists have generally controlled the media. For this reason one cannot see a balance of power, since the radicals obviously have the upper hand in words but can seldom follow up with executive action.

BASIC FAULT

All such efforts to understand Chinese politics suffer from the basic fault that they are made by analogy to our own experience. We must remember that the aims of the administrators and the pronouncements of the ideologues are both very different from their equivalents in the United States. For example, we are not a predominantly farming country with a tradition of close-knit, almost collective life in the villages. We have not customarily left it to a small elite to manage the upper levels of our literate national life.

When Chairman Mao and Prime Minister Chou were in their heyday, the chairman could give his blessing to periodic campaigns for social change, while the prime minister would keep the administration functioning. The end of this working alliance, so successful over so many years, left Chairman Mao and those around him without a balance wheel. Where formerly the great leader could preside over the two lines and push one line only periodically, now the Maoist position has become that of an embattled and strident faction. The situation has deteriorated and left China prey to uncertainty. Nevertheless, we may expect the two lines to be represented in future policy divisions, for they have come out of the dual nature of the Chinese Revolution as an effort to strengthen the Chinese state by economic modernization and at the same time to change the character of Chinese life by social revolution in favor of the common citizen. The fact that revolutions wax and wane does not invalidate their aims.

In the Chinese case, the dependence of central authority upon ideological orthodoxy and morale, especially among the ruling bureaucracies, makes China particularly vulnerable to the waxing-and-waning process. For a regime that rules by moral authority rather than by due process of law, the major calamity is demoralization and the corruption that comes with it. Yet the ideals of the revolution will not die, and periodic efforts to combat bureaucratism and special privilege are to be expected, for the People's Republic has behind it the long tradition of Confucian reformism. Chinese history underlies the revolution, and Americans who would understand it must understand Chinese history first (advt.).

Mao Tse-tung as a founder can hardly have a formal successor. Prime Minister Hua Kuo-feng is Chou En-lai's and Teng Hsiao p'ing's successor. New power holders will emerge in due course, but Mao will remain unique in the annals of the People's Republic, as Sun Yat-sen (uniquely called the Tsung-li) and Chiang Kai-shek (the Tsung-ts'ai) have done as leaders of the Kuomintang. We may hope that the search for new power holders will lead to institutional development, to procedures that stress executive function more than moral personality.

The Ch'ing emperor had no successor after 1912 until the Kuomintang party dictatorship provided a platform for the rise of Chiang Kai-shek. The heirs of Mao Tse-tung and Chou En-lai now face the task of following procedures that will legitimize a new leadership. The tripod of party, army, and administration that sustained Chiang Kai-shek in his day has grown beyond recognition under the People's Republic, but it is still a tripod of three echelons that must coalesce at the top in one person.

RIGHT TO PRIVATE RECORDS ACT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the protection of our citizens' privacy has received Federal recognition. Yet the job remains unfinished and it will remain uncompleted until all records bearing on privacy are protected from needless and unacceptable intrusions, be it at Federal, State, or private hands.

Congressman BARRY GOLDWATER, JR. and I today are proposing legislation which will close some loopholes and end some exceptions which would otherwise permit continued needless and unacceptable scrutiny of the private affairs of our citizens by State and municipal government authorities and persons in the private sector.

The House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice has reported legislation, H.R. 214, to the full committee. This bill places controls on access by the Federal Government to bank records, telephone toll records, and credit records. Our legislation is similar to title I of H.R. 214 as reported. It places limits on State and local government's access to these records, as well as limiting access by persons in the private sector. Our proposal, "The Right to Private Records Act," requires where records are to be examined: First, an individual's written consent to allow dissemination of his or her records; or second, an administrative subpena which the individual could challenge; or third, a judicial subpena with notice to the individual, except in cases where a criminal or civil investigation would be jeopardized; or fourth, a court authorized search warrant with notification to the individual. A listing would have to be kept of all record disclosures. Individuals can under the bill sue for actual and punitive damages. Violators are subject to imprisonment for not more than 1 year and a fine of not more than $1,000 or both.

In addition, to deal with the problem of eavesdropping on conversations, the legislation provides for limits on so-called supervisory monitoring of customer conversations with employees of governmental and private organizations incident to the rendering of services. Written notice, valid for only a 30-day period, must be given to an employee that he or she might be monitored for the purpose of training and evaluation of performance.

State and local governments and persons and organizations in the private sector should not be permitted unrestricted access to citizens' credit, bank or utility records on whim or for sufficient reason when the Federal Government will be prohibited from these odious practices.

Citizens should be secure in their belief that no government agents—Federal or local—or representatives in the private sector or simply another private citizen can have access to the files of other citizens except under rigid restrictions and crime-regulated procedures. Our bill expands the concept of citizen privacy. If it is passed, it will be a welcome and helpful addition to the Koch-Goldwater legislation enacted into law on December 31, 1974, known as the Federal Privacy Act.

Much remains to be done in the area of personal privacy, and our partnership on this issue establishes what those who are concerned already know; namely, that the right of privacy transcends political partisanship.

The monitoring by Federal Government agencies of telephone calls had by their employees with citizens calling on business, without the knowledge of the employees and citizens, was brought to my attention by a constituent. I am appending the correspondence that I had on that subject to this statement. Frankly, I do not like the idea of the telephone monitoring at all. I agree with the statement made by Chief Justice Oliver Wendell Holmes characterizing electronic surveillance "as such dirty business." There are those who take the position that it is simply a method by which it can be ascertained whether employees are carrying out their duties in a responsible way when so much of their job is conducted on the telephone. If that is the case then there must be safeguards, and this bill imposes a reasonable restraint by requiring the consent of the employee and by prohibiting the employer from requiring such consent as a condition of employment.

Pertinent letters follow:

STEVEN K. HERLITZ, INC.,
New York, N.Y., April 13, 1976.
Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR ED: While in Salt Lake City, there was quite a furor among the population when they learned, more or less accidentally, that their calls to Internal Revenue were being recorded. Internal Revenue locally defended themselves by stating that it is mentioned in the tax forms that calls may be monitored.

If it is illegal for the citizens at large to record telephone conversations without first notifying the other party, then the same law should apply to our governmental agencies.

I strongly feel that Congress should take a good look at all of our regulatory agencies to see in how many areas they actually violate the law. Your comments will be appreciated.

Sincerely,
STEVEN K. HERLITZ.

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 30, 1976.
Hon. DONALD C. ALEXANDER,
Commissioner, Internal Revenue Service,
Washington, D.C.

DEAR COMMISSIONER ALEXANDER: Enclosed you will find a letter I received from a constituent of mine concerning certain alleged practices of the IRS.

I would greatly appreciate your comments on the matter so that I may advise my constituent.

Sincerely,
EDWARD I. KOCH.

INTERNAL REVENUE SERVICE,
Washington, D.C., June 3, 1976.
Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in reply to your inquiry in behalf of Mr. Steven K. Herlitz who wrote you concerning taxpayer telephone inquiries monitored in Taxpayer Service.

Although we do not record telephone inquiries from taxpayers, as suggested in your constituent's letter, our supervisory personnel do make random samples of calls received in Taxpayer Service. This information appeared on both the 1974 and 1975 tax packages mailed to individuals.

It is the goal of Taxpayer Service to offer prompt, courteous, and accurate assistance so all taxpayers may meet their tax obligations with as little inconvenience as possible. In order to meet this goal effectively, several quality review procedures are employed. One method used to evaluate the quality of responses to taxpayers is periodic monitoring of telephone inquiries. In most of the calls, the taxpayer remains completely anonymous; only the taxpayer's question and the tax assistor's answers are heard. This method of review is beneficial to both the taxpayer and the Service by ensuring the correctness of employee responses and enabling us to readily identify unusual problem areas that may affect a large number of taxpayers.

We hope this information is helpful to you in responding to your constituent and thank you for the opportunity to comment on this important matter.

Sincerely yours,
JACK G. PETRIE,
Chief, Taxpayer Communications Branch.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 14, 1976.
Mr. JACK G. PETRIE,
Chief, Taxpayer Communications Branch,
Internal Revenue Service,
Washington, D.C.

DEAR MR. PETRIE: Thank you for your recent response concerning my inquiry with regard to monitoring of telephone calls in Taxpayer Service.

I appreciate that your agency wants to offer taxpayers prompt and efficient service, but I am still concerned with the monitoring that your agencies engages in.

I understand that the F.C.C. prohibits recording (with few exceptions) of two-way conversations unless both parties knowingly consent (Tariff F.C.C. No. 263 p. 18.1) I also understand that there are no laws that prevent most forms of monitoring.

I find few differences between recording and monitoring, and I question the disparity in the law's treatment of these listening techniques. I believe the guidelines governing monitoring ought to be clearly defined.

I would welcome your views on the above, and any other proposals you might have for legislation in this area.

Sincerely,
EDWARD I. KOCH.

JUNE 15, 1976.
Mr. RICHARD E. WILEY,
Chairman, Federal Communications Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I have received the enclosed letter from the I.R.S. which verifies a complaint by a constituent concerning the monitoring of telephone calls to that office. As a member of the Privacy Study Commission, this issue became one of immediate concern to me.

I would be interested in knowing whether this above procedure of eavesdropping without permission of both parties is permissible or in any way covered by statutes or regulations.

I understand that the F.C.C. prohibits recording (with few exceptions) of two-way conversations unles both parties knowingly consent (Tariff F.C.C. No. 263, p. 18.1) I also understand that there are no laws that prevent most forms of monitoring.

I find few differences between recording and monitoring, and I question the disparity in the law's treatment of these listening techniques. I believe the guidelines governing monitoring ought to be clearly defined.

The argument that the I.R.S. should be allowed to randomly monitor calls to help train employees is not persuasive. At the very least, government should promulgate rules that would ensure that individuals be given adequate notice of monitoring activities. The law's silence in this area leaves too much discretion in the hands of governmental agencies, and does not give the individual citizen enough protection.

I would appreciate your comments on this subject, and any suggestions you might have as to how monitoring of calls can be significantly curtailed

Sincerely,
EDWARD I. KOCH.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., August 19, 1976.
Hon. EDWARD I. KOCH,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR MR. KOCH: I regret the delay in responding to your letter of June 15, 1976, to Chairman Wiley, concerning telephone monitoring by supervisory personnel of the Internal Revenue Service (IRS) of calls to its "Taxpayer Service."

Supervisory and training assistance equipment, such as that used by the IRS, is available through the Bell System to businesses, institutions and government agencies whose employees receive from and, in some instances, place to members of the public, large volumes of calls. Its purpose is to assist such subscribers in evaluating the quality of telephone service being rendered by employees handling business calls. It is provided pursuant to rates and regulations set forth in tariffs filed with state regulatory agencies. Such regulations generally impose restrictions on the use of such equipment, including the condition that the subscriber inform its employees that their business telephone contacts over the subscriber's business lines are subject to observation. Presumably, some non-Bell telephone companies also supply similar monitoring equipment pursuant to their duly established tariffs on file with state regulatory agencies.

To our knowledge, there are no federal statutes prohibiting the use of supervisory and training assistance equipment. The Omnibus Crime Control and Safe Streets Act of 1968 makes unlawful the interception and disclosure of wire and oral communications by use of an "electronic, mechanical, or other device." (See 18 U.S.C. 2511.) However, the use of supervisory and training assistance equipment would not appear to constitute an unlawful interception since the definition of "electronic, mechanical or other device" specifically excludes any telephone instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a communications common carrier in the ordinary course of business and used by the subscriber or user in the ordinary course of business. (See 18 U.S.C. 2510 (5)(a).) As you know, 18 U.S.C. 2510 et seq. is administered by the Department of Justice.

This Commission's jurisdiction over common carrier communications services is generally limited to interstate and foreign communications. With respect to such services, the Commission has sought to ensure privacy of communications. As you are aware, it has required tariff provisions concerning the use of recording devices for two-way conversations in connection with interstate and foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS) to require that a subscriber employ the use of an automatic tone warning device (beep tone). Enclosed is a copy of a recent Commission "Notice of Inquiry," Docket No. 20840, relating to the beep tone requirement.) The Commission has not ordered tariffs for interstate services to require a similar warning when monitoring devices are used, nor has it adopted any rule or regulation which would prohibit a telephone subscriber from monitoring calls made over its telephone stations. However, the Commission recognizes and fully supports the right of privacy in telecommunications and has so indicated in recent Congressional testimony. Our staff is presently in the preliminary stages of an in-depth inquiry into all aspects of privacy in telecommunications, with the goal of establishing comprehensive national regulatory policies.

I trust you wil find the foregoing and enclosed informative and responsive to your inquiry. If I may be of further assistance, please let me know.

Sincerely,
VERONICA M. AHERN,
(For Walter R. Hinchman, Chief, Common Carrier Bureau).

AMERICAN CYANAMID CO. DISTRIBUTES POISON PEN LETTERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday I received a misleading telegram from the American Cyanamid Co. concerning the Export Administration Act Extension, H.R. 15377. This telegram undoubtedly was also received by every other congressional office, but I am appending it along with my reply to them because I want the record to be clear. This telegram is an outrage. Either the American Cyanamid Co. is badly misinformed or it is intentionally misleading Members of Congress by characterizing the antiboycott provisions of H.R. 15377 as "discriminatory." In fact, from their telegram it is clear that the American Cyanamid Co. prefers continued boycotts of other American citizens by American citizens and of countries friendly to the United States, rather than cause upset to some of its clients who would like to be able to direct American trade and foreign policy by requiring Americans to discriminate against other Americans. I repeat—what an outrage.

The Export Administration Act Extension contains language modified from H.R. 11463 and H.R. 13151, the proposals made by Representative James H. Scheuer and myself, and cosponsored by 76 other Members of Congress. In the Senate, this legislation was introduced by Senator Adlai Stevenson, Jr., and recently passed the Senate as S. 3084.

The proposed language of the Export Administration Act would prohibit an American company from refusing to do business with another American company or with a country friendly to the United States in response to a requirement or request made for the purpose of enforcing a boycott against a country friendly to the United States. In addition, the bill would prohibit the furnishing of information about the religion or national origin of a company's employees, officers, or directors, where such information is sought for the purpose of boycotting a friendly country or discriminating against an American citizen. The proposed language would also allow private damage suits against companies who violate the boycott prohibitions in order to achieve a business advantage over another firm. In this instance, an injured company suing for redress would have to show that "but for" the defendant company's compliance with an illegal boycott that the injured company would have received the contract in question. Except for the private right of action, which was added by the International Relations Committee in their markup of this legislation, the boycott provision in the Export Extension Act is almost identical to the proposal made by Congressman Scheuer and myself.

I urge my colleagues to become familiar with this legislation and to support its passage, when the House considers H.R. 15377 tomorrow. When the facts are considered, I am sure that most Members will agree that in order to eliminate discrimination against American citizens and against countries friendly to the United States that we must adopt the Export Extension, as written.

I am appending for the Record a copy of the letter I received from American Cyanamid and my reply. Apparently American Cyanamid distributes not only pesticides but also poison pen letters:

Hon. Edward I. Koch,
House Office Building,
Washington, D.C.

Dear Congressman: Stongly urge you vote against export Administration Act extension—H.R. 15377—or alternatively substitute language of S. 3884 for provisions in House bill concerning foreign boycotts. House bill as presently written will under present practices of many Arab nations result in the discontinuance of this company's business with these nations. Involved are annual sales in the twenty to thirty million dollar range and the adverse impact on domestic jobs related to these sales. In particular the outlawing of the furnishing of information, as compared to the required reporting of information requests, will have have the effect described above. In addition the provision for treble damage suits is punitive.

It is this company's policy to comply with all United States laws and regulations and to abstain from any restrictive or discriminatory practices, of any sort. We have trade with both Israel and the Arab countries. If the House legislation becomes law under present practices our trade with the Arab countries would cease and in effect we would be forced to discriminate against these nations.

Very truly yours,
J. C. Blauvelt,
Senior Vice President,
American Cyanamid Co.

House of Representatives,
Washington, D.C., September 21, 1796.

Mr. J. C. Blauvelt,
Senior Vice-President, Ameriacn Cyanamid Co., Wayne, N.J.

Dear Mr. Blauvelt: I have your telegram of September 20th on H.R. 15377, the Export Administration Act Extension, and your statement is either ill-informed or intentionally misleading. You claim that your company "would be forced to discriminate against these (Arab) nations." In fact, this bill would compel you not to discriminate against any nation friendly to the United States as a result of foreign demand.

I'm placing your telegram and my response to you in the Congressional Record, so that others who may be misled by your statements will be better informed. Apparently your company distributes not only pesticides but also poison pen letters.

All the best,
Sincerely,
Edward I. Koch.

TERRORISTS ARE OPERATING AGAINST CHILEAN REFUGEES IN WASHINGTON, D.C.

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this morning Orlando Letelier, former Foreign Minister, Defense Minister, and Ambassador to the United States of the Allende government in Chile, was murdered when a bomb exploded in his automobile as he drove to work. Mr. Letelier, who had taken refuge in the United States and had become director of the Transnational Institute, recently had his citizenship taken away from him by the Chilean Government and had reportedly expressed fear for his life in recent weeks. His assistant, Roni Karpen of the Institute for Policy Studies, was also killed and Michael Moffett of the IPS was seriously injured.

There is not yet evidence as to who is responsible for these brutal murders. But what is clear is that the United States must condemn these murders, apprehend the terrorists, and bring them to justice. We must see to it that the Chilean refugees who have sought asylum, and other refugees similarly situated, are protected.

I have today joined with Congressman Toby Moffett and many other of our colleagues in sponsoring a resolution condemning the murders and asking for appropriate Federal authorities to fully investigate the murders. We cannot be fearful of what we will find. We must find out the truth. Only then can we decide what if any steps must be taken to insure that no more of the refugees which we have taken in will be subjected to terrorist attack.

I hope that the FBI will press this investigation. There must be no delay.

A NEW HORIZON FOR THE ELDERLY—THE FOSTER GRANDPARENT PROGRAM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, as chairman of the House Subcommittee on Health and Long-Term Care, you may be sure that I am well aware of the unique problems currently facing the elderly during these inflationary times. Because I believe it is time to act to keep our older Americans healthy, independent, and functioning in the family and community they love and deserve to be with, I am pleased to direct my colleagues attention to a program under title IX of the Older Americans Act which is fulfilling this very promise—the Foster Grandparent program.

The Foster Grandparent program was designed to promote meaningful volunteer opportunities for our older Americans, who as foster grandparents provide supportive services to children with special needs and disabilities, for a small stipend, in health, education, and welfare settings.

I have received many favorable letters from foster grandparents reporting their personal experiences and involvements with this worthwhile program. I would like to share with my colleagues several of these letters—the enthusiasm for foster grandparents is evident. I insert the following letters in their entirety at this point in the Record:

Congressman Claude Pepper,
U.S. House of Representatives,
Washington, D.C.

Dear Sir: I am very happy being a Foster Grandparent. If I were not a Foster Grandparent, life wouldn't mean much. I would just be by myself, alone and lonely, striving and hoping for something to come along to change my very lonesome life.

Congressman Pepper, being one of the lucky chosen ones, I now have a mission to help the sick children. They need me as much as I need them. I am at last useful in giving of myself to others. I make them happy. There is no way to explain what it means to hear someone say, "Grandma, I miss you, will you stay with me all the time?"

When I start talking or writing about this program, there is no end to my joy, my gratitude for this program.

I hope you will like my writing enclosed.

Thank you.

Grandma Ida Marrally.

I have no specialty to bring such as crocheting, knitting, beading, painting, sewing or any art—so let me tell you what is in my heart—

As we all know there is a poem written by a child telling what a grandma means to them. Now let me tell you what a grandchild means to me:

I'm walking tall again
I'm feeling young again
My patience extended
My blood pressure descended
And my grandchild loneliness has ended.

I am at last useful in giving and sharing
I've joined the parade of loving and caring
I am now easing a child's pain
Yes, in that there is so much to gain.

With all my love,
Grandma IDA.

Congressman CLAUDE PEPPER,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: I have been with the Foster Grandparent program for four years. In the beginning I was at the Parkway Home for children in Miami. When it was phased out there, I was transferred to Jackson Memorial Hospital where I am now with the Foster Grandparent program. I am very pleased that I am able to be with the program. It is wonderful in these years and I hope I help the children as much as it helps me to feel wanted and needed. I am sure the children like to have us with them, especially if they are alone and the parents are working and not able to be with them all the time.

At this point in my plans I didn't know what to continue doing. So this program turned out just right for me.

Thank you for your interest.

With best wishes to you.

Sincerely,
BELLE SWARTZ.

Congressman CLAUDE PEPPER,
Washington, D.C.

DEAR SIR: As a foster grandmother at Jackson Memorial Hospital, the opportunity of being with young children is interesting and fulfilling. As an elder citizen the contact with the children serves two purposes: it gives them a feeling of being loved and cared for by a grandparent rather than father and mother, and it gives us the feeling of being cognizant of the difference between these children and our own as they anticipated life. We all hope that we make the day happier and less lonely for the children and that gives me a feeling of having contributed to life. If I were not a Foster grandmother I would see friends from time to time, depend on the public library for reading matter, and take part in church activities when bus service made it possible. Being up in years does not mean that people have to retire to a rocking chair. If I get bored I can jog around the block and help my circulation. Thank you for listening and the best of health to you.

Sincerely,
Mrs. CATHERINE IVEY.

DEAR MR. PEPPER: It has been nice to know that you are interested in our Foster Grandparent Program.

As a Grandma at the Jackson Memorial Hospital since 1972, I can just say that I feel absolutely happy. Though I've two grandchildren of my own, and that of course enriches my life, something great has been added to it. To share love with those poor sick children that feel unhappy out of home; to hold in my arms a child that is so close to death will never enjoy life, makes me feel that no matter my age, I'm still useful.

I consider this program a wonderful one. It gives us older people the chance to work, and at the same time, it helps and benefits many human beings in distress.

This program has already completed several years in this great country, and I hope it'll continue.

As a Cuban, I send you my best wishes in all your activities.

Cordially yours,
LOLA S. AVILES.

DEAR CONGRESSMAN PEPPER: I am proud to be a foster grandparent. It makes me happy to be useful in helping to make others happy. If I wasn't doing something I don't think I would be living. Thank God for wonderful people like you. I think this program is the most wonderful thing that could ever happen to people like me.

Thank you.

ANNA SAINT.

Congressman C. PEPPER,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: As I have never written a letter to a Congressman or any Senator in Washington, I am a little nervous. Please forgive me if I make a mistake. But, I do want so much to tell you how happy I am to be a Foster Grandparent. I am working in Jackson Memorial Hospital in Miami. Being 75 years old and working with children has made me 50 years old. I am working in the new wing. W. Wing 5. I have worked with the children for two years. I just love working with these wonderful, sick children. They love us and we love them very much.

They come into the Hospital very frightened, but we comfort them and tell them that we are their Foster Grandmas in the Hospital. So now they call us by our names. My name is Grandma Ann. We just love our darling children, and we are so proud to be called Grandmas. Even nurses call us by that name.

Dear Sir, this is the most rewarding program that ever was thought of. I pray that there will never be an end to it. One might say we are almost as good as private nurses. We have a new beautiful playroom, with two wonderful young play ladies, Kyle and Gail. I start at 1 P.M. and we make the children rest till 2 P.M. If they are well enough, we take all the well children to the playroom, but if they don't feel good, we bring toys to them and play with them in the room or bed. We watch their T.V. and other things that we are allowed to do. Nurses are very busy, because there is a shortage of nurses. They are very happy having us.

Most of these children never knew what love means. Grandmas have lots of love left over to share for many children. Children recover much faster if somebody is with them when they are in the hospital. We make it very pleasant for them.

I am so happy to be part of this Foster Grandparents program. I wanted so much more to do then sitting in the shopping centers and thinking all the time. Now I don't have time for thinking. I just love being with the children. So, again I will say, may this program live forever, as it is very needed.

We have just been blessed with a new Director, she is good to us as is her assistant, and we have four play ladies that are wonderful with children.

Dear Mr. Pepper, we all thank you for this wonderful program and I know the children thank you too.

I do hope that some day the old people will get this same program. I have been many times in the hospital, but the nurses are so busy, that it is hard to get a drink of water. I am sure, you will be happy to receive this report of how good we are doing. Please write to me and let me know you received this letter. My address is on the envelope. Health, happiness, and we all love you.

ANNA MISK.

OSMAN MALICK

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I have been privileged over the past 9 months to have in my congressional office, as an Asia foundation fellow of the American Political Science Association congressional fellowship program, the very able professor and chairman of the Department of Political Science in the Government College in Lahore, Pakistan, Mr. Saeed Osman Malick.

Mr. Malick was especially interested in the workings of the House Rules Committee, on which I am privileged to serve, as well as in the detailed operations of the Congress as a whole, and accompanied me to hearings on numerous occasions.

I hope that his stay with us has been beneficial to him and will be of valuable use to him in his contacts with the students and people of his nation. For my part, I know it has been a rewarding experience and a personal pleasure to have him with us. He has not only been a willing assistant in my office, but also an outstanding ambassador of good will for the people of Pakistan. Almost immediately after his arrival in our office, Mr. Malick produced literature on and tales of life in Pakistan, its history, heritage, customs, and ceremonies.

Knowing very little about Pakistan when Mr. Malick arrived, my staff and I now feel we understand something of this newly independent, yet ancient and historic land.

Mr. Malick was not totally unprepared for his introduction to the American political system. Before coming to the United States, he had the opportunity to attend the London School of Economics, and while in residence there wrote his thesis on the Vice Presidency of the United States of America.

It is my hope that the sum of the experience he gained while on my staff and in England will be of significant value for Mr. Malick in the exercise of his responsibilities in the Department of Political Science in Lahore. I am sure his position will afford him the opportunty to make important contributions to his people for many, many years to come.

I hope it will be a source of great satisfaction for him to know that we were pleased to have the opportunity to make his acquaintance and demonstrate for him, as best we could, the way in which our own democratic government works for the well-being of the people.

INTERNATIONAL AVIATION POLICY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am privileged to have in my district one of the great air gateways of the United States—Miami International Airport. Consequently, I have been deeply concerned about the development of international aviation policy and particularly about the Civil Aeronautics Board's recent failure to recognize the importance of the Miami gateway in making its recommendations to the President in the transatlantic route proceeding.

On September 8, Mr. L. B. Maytag, the chairman and president of National Airlines, made a significant speech to the Wings Club in New York on international aviation policy. I would like to call it to the attention of our colleagues and all who read this RECORD:

REMARKS BY L. B. MAYTAG

Tomorrow is an important day in aviation. And that, all things considered, may well qualify as the aviation understatement of the year.

For tomorrow marks the opening of bilateral talks in London between the United States and the United Kingdom.

It is unquestionably one of the most critical bilateral conferences ever. It will focus on the very foundation—the lifeline—of most international aviation policy.

The outcome will have profound effects. Not for a year or two, or even for the next decade. Rather, a course is being charted that could influence international aviation, for better or worse, well into the next century.

My hope is for a sound, long-term relationship stemming from those meetings, one that proves beneficial to airline interests on both sides of the Atlantic.

I will not attempt to discuss the details of Bermuda. I leave that to the vitally concerned experts who will draw up their chairs to that conference table.

However, I would like to focus on those bilaterals and route recommendations already a matter of record, and the basic goals which I believe the United States should pursue in international air transport matters.

I'm deeply concerned—disturbed is probably a better word—about the artificial restraints being imposed upon development of U.S. international aviation.

For there now exists golden opportunities for the United States to grasp that which is already rightfully ours. The opportunity is there, but we are wasting it through neglect, indifference and oversight.

U.S. leadership in developing international air transportation is unquestioned. Nor has there been any deviation in our government's view that the national interest requires continuing that pacesetting role.

But it must be consistent with this nation's foreign commerce objectives. Perhaps you've heard that same contention before. Certainly the company I represent has tried to present this viewpoint forcefully to various government agencies.

Our case is essentially this: regularly scheduled U.S. flag carriers stimulate foreign commerce. Nurture it. And bring it home. They open new trade relationships. They generate new business. They convenience passengers. Shippers. And—what we all started out carrying in our pioneer days—the mails.

Therefore, in today's transatlantic competitive climate, as I see it, the U.S. should pursue four basic goals:

1. To establish direct, scheduled U.S. flag services to all important transatlantic markets.
2. To develop additional, much-needed tourism to the United States.
3. To assure that any new U.S. flag services will be profitable.
4. To avoid over-concentration of our flag services in any one country or at any one gateway abroad.

Let's examine each of these fundamental goals. Nowhere are they more timely nor better applied than across the Atlantic.

First, in keeping with U.S. goals of increasing global trade and bolstering the U.S. dollar in world markets, more direct U.S. air services are essential in all key transatlantic markets.

That does not necessarily mean more airlines. It does mean, however, more diversified services by established U.S. transatlantic carriers.

The serious deficit in the U.S. transportation account with Western Europe underscores the need for U.S. carriers to improve their position.

For the year ended March 31, 1976, as an example, U.S. citizens' fare payments to Western European carriers were some $1.4 billion greater than U.S. carriers' receipts for the transportation of Western Europeans.

New U.S. competition in markets now served solely by foreign flags not only would tend to reduce this huge deficit; it would also offer the American traveler or shipper more than a simple choice of airlines. It would create service quality benefits from such direct competition.

This type of competitive quality upgrading bolsters U.S. and foreign carriers alike. The customer-with-a-choice is the ultimate winner.

And, while it may seem obvious, we cannot ignore the fact that new U.S. flag services in more of these important foreign markets will increase employment for the U.S. labor force. Not only in the airlines, but in the aerospace and related industries which employ hundreds of thousands of workers. This ripple effect means that many segments of the U.S. economy can benefit greatly.

Secondly, we need to bring more tourists—and their francs, marks, krone, lira—to the U.S. Improved U.S. flag carrier service into more of the transatlantic markets can accomplish that goal.

For U.S. airlines have both incentive and marketing expertise to interest visitors and businessmen from abroad to see not just one city, but an area; not just one area, but a state; not just a state, but the whole country.

We've always been a nation on the move. Travel runs through our veins. And we know how to sell what we know best.

But one of their primary missions is to develop the U.S. originating market. And there are entire segments of the European population which represent a barely-tapped market for U.S. tourism. Direct service by U.S. carriers from more of these countries could swell tourist dollars to the United States.

Thirdly, these new U.S. flag services will have to be profitable.

Only financially healthy U.S. carriers will possess the stability and incentive to capture our rightful share of foreign markets. Their success would guarantee a heathy contribution to the transportation account of our unfavorable balance of payments.

U.S. airlines must fly with assurance that they can be strong financially. Otherwise, it would be impossible to maintain the quality necessary to stimulate this new business and keep employment levels high.

But financial strength will be severely eroded or wiped out entirely if our airlines are hamstrung by overcrowded gateways or failure to exercise route rights which create drastic traffic imbalances.

Happily, in the past few months we have seen an overall economic improvement in U.S. and foreign aviation. There is ample room for healthy competition between American and foreign airlines. But those competitive parameters must be more precisely defined.

All signs point to solid transatlantic traffic growth this year. Scheduled IATA North Atlantic passengers from the United States surged 12 per cent between January and May. Indications are that there will have been a 15 per cent increase in U.S. citizen departures to Europe for the first eight months of 1976.

When I refer to more precisely defined parameters, I am suggesting that it makes sense for our airlines to operate on an area-to-area concept.

Carriers would be assigned to meet regional service needs by a network of routings tying together new U.S. coterminals with several major European gateways. This is in stark contrast to the alternative "piecemeal" approach.

"Piecemeal" aviation selects several carriers to serve a series of individual point-to-point transatlantic markets.

More carriers, however, do not automatically produce more service. It's possible to add airlines "piecemeal," yet still serve fewer markets than with less airlines flying area concept patterns.

The area approach allows a carrier to use effective back-up traffic support from multiple points. It can then provide the highest volume and spread of services.

And it offers flexibility. Service can be contracted or expanded to meet changing economic conditions. This can be done without sacrificing large numbers of flights, by combining traffic flows at the various U.S. and European coterminals.

I believe the area concept provides the best opportunity to design a long-range U.S. air transportation system which effectively serves vital U.S. aviation interests.

But this approach also requires a variety of direct-route foreign gateways. Which brings us to the fourth basic need: Avoiding an over-concentration of U.S. flag services in any one country, or at a single overseas gateway.

I am disturbed, for example, that the current transatlantic recommendations for new air services from one-fourth of the United States—namely, the entire South—concentrate almost entirely on London.

Why, when 80 per cent of the South's traffic will be traveling on elsewhere? When only 20 per cent has London as its origin or final destination in Europe?

By proposing to route new services to Britain, instead of overflying Britain into other European gateways—countries with which we already have bilateral agreements but are not using the authority—we are saturating only one foreign destination with U.S. services.

That over-concentration to a single point is short-sighted. It is potentially dangerous. For it exposes U.S. air services to the whim and discretion of a foreign government which could slam its airport doors at the slightest hint of real or imagined disagreements.

During the first half of this year, two-thirds of all passengers departing the United States were bound for the European continent—not the United Kingdom. Despite this, U.S. flag service patterns required one-half of all European-bound passengers to deplane in Great Britain.

Clearly, the passengers are not concentrating on the United Kingdom to the same extent as the U.S. flag carrier services.

The point is that by spreading our routing into other European gateways already open to us, we could be flying passengers directly to their real choice of destination. Circuitous and time-consuming routings would be eliminated.

We also would be entering new foreign markets needed to stimulate growth for both airlines and U.S. commerce.

In my opinion, the latest transatlantic route proposals create a grand funneling to complicate the Grand Tour.

While U.S. flag services are often interrupted by London stops on their routes to Amsterdam, Brussels and other European cities, the foreign flags are flying nonstop directly from their home countries.

These foreign airlines are filling a gap from some U.S. cities by providing the nonstop service preferred by passengers and shippers. At certain gateways they lack U.S. carrier competition, despite our having available, but unused, bilateral rights to that foreign carrier's country.

Because of our failure to develop a wide range of competing U.S. flag services, some of these airlines have had extremely good results.

Air France in 1975, for example, carried 68 per cent of the U.S.-France traffic. That figure edged up to 70 per cent during the first quarter this year. During the same period, KLM carried some 98 per cent of the U.S.-Netherlands traffic.

This competitive imbalance is unfortunate, at the very least. It is ludicrous considering that U.S. flag services from some cities where Air France or KLM had no competition—or even service—could begin almost immediately with our government's approval.

The United States has air traffic rights to serve Paris and Amsterdam. It already has made concessions for these rights.

We've created an aviation muddle. And it will be further complicated if more carriers are being forced into London.

There is always give-and-take in negotiating a new agreement with the United Kingdom—or with any other nation, for that matter. The existing London recommendations, however, will simply add a new and more complex dimension to what is already looming as an incredibly difficult diplomatic challenge.

If we seek to use another country's gateway, we must be prepared to give something from the U.S. in return. This might involve foreign carriers seeking monopoly routes and blocking U.S. carriers from providing overseas service from new U.S. cities or imposing undue restrictions on U.S. capacity.

Certification of several new airlines into the United Kingdom does not necessarily mean one revised agreement. It creates, in effect, the need for a new pact involving interests for each carrier. It can mean, quite simply, giving away too much.

We must use the most precise analysis to determine new route awards. Logic dictates that they be made in direct ratio to how many complications are injected into our negotiations with another country when an additional carrier, or route, is sought.

We need to enter into those competitive markets where we logically have more to gain, than in markets where additional agreements still must be ironed out in scrupulous detail during extended negotiations.

The United States should not have paid something for nothing. We have already fully paid—in concessions—for rights under agreements which simply need to be activated. We can best serve our own interests by starting to use those rights to mount U.S. services now.

We must develop our own gateways. For there are definite limitations and constraints in developing any U.S. gateway, so long as it remains tied and bound to a solitary European point.

Parceling up the world into traffic patterns may be aviation's most difficult task. It takes the wisdom of Solomon, the patience of Job and the endurance of Ulysses.

As I said earlier, we must be guided by four basic goals:

Establishing direct, scheduled U.S. flag services to all critical transatlantic markets.

Developing tourism to the United States from Europe.

Assuring that any new U.S. flag services will be profitable.

And avoiding over-concentration of our flag services in any one country or at any one foreign gateway.

THE 136 MEMBERS OF CONGRESS OPPOSE SYNFUELS RULE AND WASHINGTON POST OPPOSES PROGRAM

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, although I would have thought the avalanche to bring back the already defeated, blotted synfuels giveaway was more like a tiger than a cat, I do agree with the Washington Post statement that:

> The House needs to remind itself that the animal has a voracious appetite. The farther it goes in these last days of the session, the more Congress is likely to regret it in years to come.

I recommend the editorial published on Monday of this week which is printed below. And then I urge all to look at the following "Dear Colleague" which was circulated today and has the names of those 136 Congressmen from both sides of the aisle who will fight the rule that could bring this bill before us.

With this kind of opposition and controversy, this is certainly not legislation that should be considered in the end-of-session rush.

[From the Washington Post, Sept. 20, 1976]

SYNTHETIC FUELS AND SUBSIDIES

That bill to subsidize synthetic fuels has more lives than a cat. The House of Representatives threw it out the window last December, but now it's back meowing at the door. The House needs to remind itself that the animal has a voracious appetite. The farther it goes in these last days of the session, the more Congress is likely to regret it in years to come.

This bill would provide $3.5 billion in federal loan guarantees, and $500 million in price supports, to get new processes operating on a commercial scale. Most of the money would go into the manufacture of gas from coal and the extraction of oil from shale. The Rules Committee, reflecting the prevailing spirit in the House, voted last week to send this synthetic fuels bill to the floor for passage—but not the bill to set standards for strip-mining. The synthetic fuels bill implies strip mining of western coal in a very big way. It would be wanton to begin these stripping operations under the present inadequate rules. But that is only one reason among many for putting the cat out again.

This $4 billion would build plants capable of turning out the equivalent of about 200,000 barrels of oil a day (present U.S. consumption is running about 17 million barrels a day). These plants would go into production sometime in the 1980s. The oil and gas would be extremely expensive by present standards. The technology already exists, and is at work in a good many places around the world. But the bill's authors say, accurately, that American companies cannot get construction loans to build these plants here.

A coal gasification plant, big enough to run efficiently, would cost perhaps a billion dollars. The bill would ensure a test of the process at that gigantic scale, under the special conditions of American safety and environmental requirements. The pilot projects would provide a depth of experience for investment in further plants that might then come into production in the 1990s in numbers large enough to make a serious contribution to the country's oil and gas supply. If the product is expensive in comparison with current oil and gas prices, it is not greatly out of line with the other esoteric sources of oil and gas now in prospect. There you have the argument for the bill.

Perhaps you will have noticed that this technology, even if successful, will not begin to contribute significantly to American energy requirements until the 1990s. That amounts to fiddling while Rome freezes. Thinking ahead is all very well, but the truly basic choices lie in the next 10 years. The one policy that can pay off most rapidly is, of course, conservation. But it is hard to find any evidence of a sustained effort at conservation in this country.

This bill threatens, in a lighthearted and ill-considered way, to set dangerous precedents. Until now, it has generally been the rule that the government supports the development of new technology, but leaves commercial application to private companies. There have been exceptions, notably in nuclear energy with its special security requirements. But it's a pretty good rule on the whole. The technology of coal gasification is well known. If companies cannot raise money at this stage to build the plants, that makes you think about the whole idea. As for oil shale, the lenders watch experienced oil companies drop the Colorado shale leases for which they have paid millions of dollars, and they have to wonder whether it's such a grand investment after all.

Consider what's happening here. Congress keeps voting to hold oil and gas prices down. Consumers see prices level off and, among other consequences, the swing to small cars slows sharply. The next consequence, already visible, is further increase in oil imports. Congress, understandably, gets anxious. It begins to push production methods that lie many years in the future and that are too expensive and uncertain for the banks to finance without a federal safety net. Isn't there something askew here?

Energy is going to cost more in the future. The country may as well get used to that unwelcome thought. It is a great deal better to meet that cost directly, through the prices that the customer pays, than indirectly through everybody's taxes and a cat's cradle of federal loan guarantees and price supports. It would be nice to think that we could avoid the inconveniences, of conservation merely by pouring money into new plants for the 1990s. But there may not be enough money to do it that way. There certainly isn't enough time.

Congress of the United States,
House of Representatives,
Washington, D.C.

DEFEAT THE UNPRECEDENTED, RESTRICTIVE SYNFUELS RULE—AND GET HOME FOR CHRISTMAS!

Dear Colleague: We are writing to urge defeat of the extraordinary, unprecedented modified closed rule granted for a new substitute to the Synfuels Bill (H.R. 12112), for the following reasons:

1. The rule permits extraordinary reconsideration of legislation already defeated in this Congress.

2. The rule makes unprecedented provision for primary consideration of a substitute substantially different from H.R. 12112—on which there are no hearings, committee report or impact assessment—and which contains, in addition to loan guarantees, $½ billion in price supports specifically rejected by the Science and Technology Committee, breaking the budgetary provision for H.R. 12112 by $750,000,000.

3. There is no justification for a modified closed rule which will impede full and fair consideration of this complex (multi-billion dollar legislation.

4. New evidence against this program—GAO disapproval and discovery that key ERDA studies on plant size are missing—indicate that the legislation should be reconsidered in committee before floor action.

5. The legislation is too controversial for end-of-session consideration; the program is opposed by a broad bipartisan spectrum of the House and public groups.

6. Synfuels and energy independence development will be enhanced by defeat of this program and pursuit of the $416 million ERDA R.D.&D. program, as recommended by GAO.

We urge you to join us in defeating the rule.

Sincerely,

Herbert E. Harris, Joseph L. Fisher, Ken Hechler, Millicent Fenwick, Elizabeth Holtzman, Thomas N. Kindness, Norman Lent, Walter B. Jones, William L. Hungate, Robert A. Roe, Philip H. Hayes, Kenneth L. Holland, Martha Keys, James J. Howard, and Larry McDonald.

Margaret Heckler, Albert H. Quie, Joseph E. Karth, Robert W. Kastenmeier, James Weaver, Robert N. C. Nix, William D. Ford, Phillip Burton, Abner J. Mikva, Lindy Boggs, Berkley Bedell, Joseph P. Addabbo, Stephen J. Solarz, Gladys Noon Spellman, and James V. Stanton.

Fortney H. Stark, Morris K. Udall, Edward W. Pattison, Frederick W. Richmond, Walter E. Fauntroy, Max Baucus, Edward P. Beard, Mario Biaggi, Jonathan Bingham, Michael T. Blouin, Bella S. Abzug, Clifford Allen, Gerry E. Studds, John Brademas, and William M. Brodhead.

James T. Broyhill, Cardiss Collins, Norman E. D'Amours, Samuel L. Devine, Louis Stokes, William (Bill) Clay, Don Edwards, Barber Conable, Paul E. Tsongas, Shirley Chisholm, Lawrence Coughlin, John Burton, Bob Carr, James J. Delaney, and Bob Eckhardt.

Joshua Eilberg, David W. Evans, Robert J. Cornell, Edward Mezvinsky, Paul Findley, W. S. Stuckey, Jr., Anthony Toby Moffett, Tennyson Guyer, Charles E. Grassley, Bill Frenzel, Charles B. Rangel, Ron Paul, Richard L. Ottinger, John E. Moss, and George Miller.

Harold E. Ford, Parren J. Mitchell, James L. Oberstar, Robert W. Kasten, Jr., James M. Collins, Stephen L. Neal, Richard Nolan, Lionel Van Deerlin, Richard F. Vander Veen, Otis G. Pike, David R. Obey, Dante Fascell, Thomas N. Downey, Robert Duncan, and James J. Florio.

Don Bonker, Sam Gibbons, Dominick Daniels, Charles C. Diggs, Jr., Hamilton Fish, Tim L. Hall, Ron Dellums, Tom Harkin, Les Aspin, Floyd Fithian, Christopher J. Dodd, Robert F. Drinan, Donald M. Fraser, Butler Derrick, and James A. Haley.

Lee H. Hamilton, Robert W. Edgar, Michael Harrington, Edward I. Koch, Leonor K. Sullivan, Neal Smith, Charles Rose, Benjamin S. Rosenthal, J. Edward Roush, Clarence Long, Matthew F. McHugh, Frank Thompson, Jr., James D. Santini, Paul S. Sarbanes, and Roy A. Taylor.

John D. Dingell, Patricia Schroeder, John Melcher, John F. Seiberling, Philip R. Sharp, Andrew Maguire, Peter W. Rodino, Jr., Charles W. Whalen, Jr., Andrew Young, Charles A. Vanik, Joseph P. Vigorito, James H. Scheuer, Sidney R. Yates, and Lester L. Wolff.

EXPLANATION OF NEW REVISED FULL EMPLOYMENT BILL

(Mr. HAWKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAWKINS. Mr. Speaker, on Thursday, September 16, 1976, the full Committee on Education and Labor met and voted out an amendment in the nature of a substitute to H.R. 50, the Full Employment and Balanced Growth Act of 1976, previously reported by the committee on May 14, 1976. Last Friday, September 17, 1976, Chairman Carl Perkins inserted the revised substitute amendment in the Congressional Record at pages 31021 to 31028.

Following my introductory remarks, I am inserting in the Record an explanation and text of the differences between the new amendment and the bill originally reported out by the committee on May 14, 1976. Also, I am inserting two memorandums dealing with the questions of costs and planning, as well as a chart on inflation comparisons. It is important that the Members realize the great importance of this legislation.

The new amendment is fully responsive to earlier criticisms of the earlier version of the bill. In addition, the bill in its current form embodies very important provisions not contained in any existing legislation, as follows:

First. Strict standards for restraint of inflation, to the effect that inflation be reduced as rapidly as possible, and in no event to exceed the rate at time of enactment, so that the full employment measures in the bill cannot add to inflation;

Second. Very strict standards and criteria for public service or public employment jobs, accompanied by elimination of prevailing wage and Bacon-Davis provisions as to these jobs, which will serve to limit severely the number and cost of these jobs—and prevent these jobs competing with any job in the private sector;

Third. Detailed standards to maximize private employment, and to prohibit any governmental planning of the private sector;

Fourth. A wide range of standards and requirements to limit public costs and to hold them to very low levels in comparison with the Federal revenue benefits and GNP benefits which the movement toward full employment and full production will yield; and

Fifth. A revised specific definition of the full employment goal, which will be noninflationary and hold down costs.

Explanation of Further Amendments

(Further amendments to May 14, 1976, version of H.R. 50 (as reported by House Committee on Education and Labor), August 30, 1976)

The further amendments following this explanation take into account concerns expressed by many Members since the bill was reported on May 14, 1976.

The provisions on the first page and on the first third of the second page of the amendments strengthen greatly the anti-inflation provisions of the bill.

First, the goal of reducing unemployment to 3 percent within four years is limited to adult Americans 20 years of age or older instead of 16 and older. This reduces the inflationary pressures which might arise if the provisions were extended to all those aged 16 and over. This change is accompanied by a provision that all reasonable efforts shall be made under the bill to reduce unemployment among teenagers aged 16–19 and to reduce the ratio of the rate of unemployment of teenagers to the rate of unemployment among those 20 years of age and older as rapidly as feasible.

Second, the anti-inflation provisions are strengthened by including, in the Full Employment and Balanced Growth Plan, the objective of holding the annual rate of consumer and other price increases to levels consistent with reasonable price stability through the use of the additional microeconomic measures in Title II of the bill.

Third, it is set forth as an objective or goal that the rise in the annual rate of consumer and other price increases in any given year shall not be above such rates on the date of enactment of the Act. This answers the claim that the reduction of unemployment under the bill would add to inflation.

Fourth, the proposed last-resort job amendments, as discussed below, remove any concern that these might add to inflation.

Fifth, the provision is retained to the effect that the President shall review the goals and timetable each year and propose any necessary corrective measures.

The final paragraph of these anti-inflation amendments merely deletes the provision relating to export licensing.

It should be stressed that these new anti-inflation amendments must be viewed in connection with the very strong anti-inflation provisions in Section 107 of the bill. Operating even more strongly against inflation will be the fact that reductions in unemployment and idle plant and increases in production and sales reduce inflation, a fact increasingly recognized and supported by more and more empirical evidence set forth very fully in the hearings on the bill.

And operating very strongly against inflation are the long-range planning provisions in the priority provisions in Section 104 of the bill on pages 38 and 39, relating to such matters as avoiding shortages by the adequate development of energy, food, etc.

The bill also contains numerous other references to anti-inflation objectives.

The provisions contained on the bottom two-thirds of page 2 and on page 3 of the amendments answer all of the criticisms to the effect that the last-resort jobs on reservoir projects might become too numerous, might draw people away from private employment, and might be at wages which are too high or which conflict with private employment. These new amendments provide categorically that no one shall be eligible for a last-resort job who leaves or refuses to to accept a private job, a countercyclical job as provided in Title II. They provide that such last-resort jobs shall be concentrated in the lower ranges of skill and pay and shall in no event include work of the type to which the Bacon-Davis Act applies.

The new amendments include the provision that the last-resort jobs shall not be initiated until two years after enactment, nor without a finding by the President, transmitted to the Congress, that all other means of employment are not yielding enough jobs to meet the unemployment reduction goals of the Act. The eligibility provisions of Section 206 subsection (e)(4) are revised to provide that no one shall be eligible for a last resort job who has been unemployed for less than eight weeks, and also strike out the wage provisions in Section 206 subsection (e)(4) which led some to believe that people might be moved from private jobs to last-resort jobs if the wages on the private jobs did not meet certain criteria, including the prevailing wage. As amended, the wage provisions relating to last-resort jobs are to the effect that these jobs shall pay not less than the minimum wage and not less than the wage paid by the same employer for people doing the same types of work. Less than this would be unworkable, and would degrade previously existing wage standards.

The provisions on the first two-thirds of page 4 of the amendments enlarge the priority enumeration provisions of the bill on pages 38 and 39, and add to the countercyclical provisions, to assure appropriate attention to employment, production, and well-being among the farm population and in rural areas more generally.

The provisions on the last third of page 4 and the top of page 5 of the amendments provide more flexibility, so as to make some of the policies and programs more responsive to differing conditions in different States and localities, instead of being related only to nation-wide averages.

The provisions from near the top of page 5 through the first third of page 6 of the amendments are designed to make it absolutely clear, in response to the concern of a number of the members of the House, that the Act is designed to improve the policies and programs of the Government, and not to "plan the whole economy," and to stress the predominant reliance upon the expansion of jobs in the private sector by stating the order in which additional jobs shall be encouraged.

The provisions on the middle of page 6 of the amendments are designed to meet the concern of large numbers of women's groups and some minority groups that the reduction of unemployment to 3 percent of the labor force as a whole will leave excessively high rates of unemployment among these groups.

The provisions from near the bottom of page 6 through the middle of page 7 of the amendments, defining "fiscal drag", "balanced growth", and "frictional unemployment" are self-explanatory. The definition of balanced growth is especially important.

The provision on page 7 of the amendments relating to interest rates maintains the provision for Government loans under Section 204 (to help deal with regional and structural problems) at the long-term cost of the money to the Government, but takes out the word "low" before "rates of interest", because it is too indefinite, and because the intent is not to provide for loans at less than the cost of the money to the Government.

The provision on page 7 of the amendments in re fiscal policy maintains the objective of a balanced Federal Budget but omits the reference to the criterion of a surplus because that would be meaningless without defining the size of the surplus, which would not be practical.

CHANGES TO STRENGTHEN ANTI-INFLATION PROVISIONS

In Section 104, change Section 3A subsection (d) of the amendment to the Employment Act of 1946 provided for therein, on page 37 lines 12 through 25, to read as follows:

"(d) (1) In carrying out the provisions of paragraph (1) of subsection (c), the full employment goal shall be consistent with a rate of unemployment not in excess of 3 per centum of adult Americans 20 years of age or older in the civilian labor force, to be attained as promptly as possible, but within not more than four years after the enactment of the Full Employment and Balanced Growth Act of 1976. Concurrently with this, the objective shall be to reduce unemployment among those aged 16–19 as rapidly as feasible, including reduction of the ratio of the rate of unemployment among teenagers to the rate of unemployment among those 20 years of age and older as rapidly as feasible. Toward the reduction of unemployment among teenagers, there shall be full utilization of Section 205 of the Full Employment and Balanced Growth Act of 1976, and utilization of other provisions of that Act to the extent relevant. In addition, the President shall from time to time make such other recommendations to the Congress as he or she seems desirable to facilitate the reduction of unemployment among teenagers.

"(2) In achieving the goals set forth in subsection (c), the President shall include the objective of holding the annual rate of consumer and other price increases to levels consistent with reasonable price stability. To accomplish this objective, the President shall take full advantage of the specific structural programs called for in Title II of the Full Employment and Balanced Growth Act of 1976, which promote the achievement of the full employment goal established in paragraph 1 of subsection (c) without excessive price increases. In selecting appropriate policies and programs for achieving full employment, the President shall have the objective of preventing a rise in the annual rate of consumer and other price increases above such rates on the date of enactment of this Act. Achievement of reasonable price stability shall be sought through the methods set forth in Section 107 and elsewhere in the Full Employment and Balanced Growth Act of 1976, and shall not be sought through any weakening of the goals and timetable relating to reduction of unemployment."

"(3) Within one year of the date of enactment of the Full Employment and Balanced Growth Act of 1976, the President shall review the full employment goals and timetable required by this section and report to Congress on any obstacles to their achievement, and, if necessary, propose corrective economic measures to insure that the full employment goals are achieved.

In Section 107(a), amending Section 3 of the Employment Act of 1946 by adding at the end thereof a new paragraph (d), make the following change: On page 44 strike lines 22 through 25, and on page 45 strike line 1, and substitute "(4) establishment of stockpile.

CHANGES TO PREVENT EMPLOYMENT ON RESERVOIR PROJECTS OF PERSONS REFUSING TO ACCEPT OR HOLD ANOTHER JOB, INCLUDING, TOWARD THIS END, SOME CHANGES IN WAGE PROVISIONS

In Section 206 subsection (d), strike the first sentence on lines 3–9 of page 59, and substitute the following:

Only to the extent that adult Americans able, willing, and seeking work are not provided with the private job opportunities which are the first and major purpose of this Act, nor provided with job opportunities under Section 206(c) or through other programs under this Act, such opportunities shall be provided by the President through reservoirs of federally operated public employment projects and private nonprofit employment projects approved by the Secretary of Labor. Such projects shall not be put into operation less than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetable for the reduction of unemployment set forth in this Act. The Congress hereby establishes the policy that such projects shall be so designed as not to draw any workers from private employment to such reservoir projects. The jobs under such reservoir projects shall be useful and productive jobs. Nonetheless, such jobs shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs.

In Section 206 subsection (d), on page 59 line 18, substitute comma for period, and add "and to achieve the objective for the reduction of unemployment among teenagers as set forth in paragraph 1 subsection (d) of Section 3A of the Employment Act of 1946.

In Section 206 subsection (e), strike all of paragraph (4) on lines 15–23 of page 60, and substitute the following:

(4) appropriate eligibility criteria to limit access to the program authorized under subsection (d), including but not limited to such criteria as household income, duration of unemployment (not less than eight weeks), and refusal to accept or hold a job other than a job under subsection (d) except for good cause as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (c) paragraph (2), in order to seek a reservoir project job under subsection (d): and

In Section 402, strike *all* of that part of the section beginning with "In providing employment under this Act" on page 76 line 1 and substitute: The President shall insure that any person employed in a reservoir project under Section 206(d) or in any other job utilizing funds provided in whole or part under this Act shall be paid not less than the pay received by others performing similar work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938 as amended. No person employed under Section 206(d) shall perform work of the type to which the Bacon-Davis Act, as amended (40 U.S.C. 276a-276a-5) applies. Any recommendation by the President for legislation to implement any program under this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

AMENDMENTS TO EXTEND MORE EFFECTIVE ASSISTANCE TO FARM AND OTHER RURAL AREAS

Amend Section 104 of H.R. 50 (amending the Employment Act of 1946 by adding a new Section 3A) as follows:

In said new Section 3A, paragraph (e) subparagraph (1) on page 38 line 19, strike out "food" and the comma following "food"

In the same new Section 3A, paragraph (e), add after subparagraph (1) ending on page 38 line 23 a new subparagraph (2) as follows:

"(2) development of policies and programs related to (a) food and fiber requirements for full employment and balanced growth and to help combat inflation, (b) the needed labor force and capital in agriculture to meet food and fiber requirements, (c) the income needs of farmers to encourage production of food and fiber in accord with the above requirements and to move farm families toward parity of income with others, (d) measures to discourage the excessive migration of farm families to urban areas, including encouragement of supplementary nonfarm work and income for farm families, and (e) improved equalization of necessary public facilities and services for farm families with those provided for other families;

In the same new Section 3A, paragraph (e), renumber subparagraphs (2)–(5) to (3)–(6).

In Section 202 (b) (2) (G) on page 51, line 15, after the word "communities" add "(including rural areas)".

AMENDMENTS TO MAKE POLICIES AND PROGRAMS MORE RESPONSIVE TO VARIOUS STATE AND LOCAL CONDITIONS

In Section 203, change paragraph (b) on page 53 to read as follows:

As a primary effort to meet the requirements of this section, the President shall within ninety days after the date of enactment of this Act transmit to the Congress legislation creating a permanent grant program related to the stabilization and needed growth of State and local budgets. In formulating this proposal, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with accent upon the rates of unemployment in these States and localities.

In Section 204(b) (3) on page 55, line 16, after the word "average" insert "or otherwise suffering severe economic dislocation".

AMENDMENT TO CLARIFY EXTENT OF FEDERAL GOVERNMENT ACTION OR "PLANNING" UNDER THE ACT, AND TO EMPHASIZE PREDOMINANT RELIANCE UPON PRIVATE EMPLOYMENT

In Section 102, amending Section 2 of the Employment Act of 1946, on page 34 after lines 9, add the following:

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to coordinate, integrate, and improve the policies and programs of the Federal Government, toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems. Although it is the purpose under the Act to seek diligently and to encourage the voluntary cooperation of the private sector of the economy in helping to achieve the objectives of the Act, no provisions of the Act are intended nor shall be used, with respect to any portion of the private sector of the economy, to provide for Government control of production or employment or allocations of resources, except to the extent authorized under other legislation.

"(e) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under the Act shall be in accord with this purpose. In moving toward **the goals for reduction of unemployment,** the objective shall be to maintain trends in the ratio of private employment to civilian public employment similar to those from 1947 to the time of enactment of the Full Employment and Balanced Growth Act of 1976, **which would mean a numerical growth in private employment several times as large as** the numerical growth in civilian public employment. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority: (a) expansion of conventional private jobs through improved use of fiscal and monetary policies and other policies made available under the Full Employment and Balanced Growth Act of 1976; (b) expansion of private employment requiring Federal assistance in connection with some of the priority programs specified in such Act; (c) expansion of public employment under other programs specified in such Act, not including the reservoir projects under Section 206 of such Act; and (d) **only as a last resort under Section 206 of** such Act and subject to the limitations therein, the creation of reservoirs of public and private nonprofit employment projects."

AMENDMENT TO REDUCE DIFFERENCES IN RATES OF UNEMPLOYMENT AMONG VARIOUS IMPORTANT GROUPS

In Section 401, on page 75 after line 18, add the following:

(e) In moving to reduce unemployment in accord with the goals and time table set forth in this Act, every effort shall be made to reduce the differences between the rates of unemployment among women, minorities, and other labor force groups and the overall rate of unemployment, with the ultimate objective of removing them entirely. Insofar as these differences are due to discrimination, the non-discrimination provisions of this Section, as well as other provisions of the Act, shall be utilized. Insofar as these differences are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall take such action as he or she can to achieve the objectives of this paragraph; shall make studies, develop information, and make recommendations toward remedying these differences and include these in the annual Manpower Report of the President; and, if deemed necessary, make recommendations to the Congress within 90 days related to the objectives of this paragraph.

AMENDMENTS BY WAY OF DEFINITIONS

At the end of the Table of Contents, add "Sec. 404. Definitions." After Section 403, ending on page 77 line 9, add the following:

DEFINITIONS

SEC. 404. "Fiscal drag" as used in Section 106 means tax and expenditure rates which, in combination, substantially impede attainment (or maintenance) of full employment, production, and purchasing power.

"Balanced growth" in the Full Employment and Balanced Growth Plan means projecting and achieving (1) the relationship between production or supply capability and demand and (2) the relationships among the growth rates of private investment, private consumer expenditures, and public outlays, and also (3) the purchasing power, including important components of each element, required to achieve and then maintain full employment and production and appropriate servicing of national priorities, these to be promoted by the programs and polices set forth in this Act and by encouragement of voluntary cooperation within the private sector (for example, between labor and management) and between the Government and the private sector.

"Frictional unemployment" means the lowest level of unemployment, determined on the basis of evolving experience, consistent with labor mobility, changing job patterns, freedom of job choice, and sufficient job search on a voluntary basis.

AMENDMENT IN RE INTEREST RATES

In section 204, paragraph (b), subparagraph 1, on page 55 line 5 strike the word "low" before "rates of interest".

AMENDMENT IN RE FISCAL POLICY

In section 106, amending the Employment Act of 1946, in Section 3B(a)(2) of page 42, line 23, strike "or create a surplus".

FACT SHEET NO. 1

COST

The Congressional Budget Office, in a study prepared for the Joint Economic Committee, estimated that the last-resort public employment which would be created under the bill would cost 17.5 billion dollars in the first year, and decine to about 8 billion net annually after 24 months because of decreased welfare and unemployment compensation and tax revenues collected from employed people who were previously unemployed. This estimate, set forth on page 21 of Position Paper No. 1 issued by Senator Humphrey and Congressman Hawkins, is based upon the goal of reducing unemployment to 3 percent within 4 years for those aged 20 and over, as provided for in the amended bill. But the estimate takes no account of the factors and offsets detailed below.

(1) This CBO estimate of costs, based upon the unamended bill, is high because it estimates that many of the public service jobs would displace private employment, and this the amended bill specifically prohibits. Also, the CBO estimate of 3 million last-resort jobs is much too high, because it does not allow for the increases in private jobs toward full employment which the bill, especially in its amended form, attaches predominant stress upon in many ways, and because it does not allow for the severe limitations upon last-resort jobs in the amended bill.

(2) But even taking the CBO estimates as stated, they do not allow for the multiplier effects of the additional last-resort jobs. More important, they do not allow for the increased GNP and increased federal revenues which would result from the movement of the economy toward full employment and full production within 4 years, contrasted with even "optimistic" projections of economic developments under current national policies and programs. **These GNP benefits of the bill are set forth on page 20 of Position** Paper No. 1, and are also set forth in the Committee Report on the bill.

It is conservatively estimated that, during the 4 calendar years 1977–1980, the GNP under the legislation would average annually about 181 billion fiscal 1977 dollars higher than under projectioins of current national than under projections of current national the CBO or by the Administration) and that in consequence federal revenues would average annually about 36 billion higher. In the fourth year alone, the GNP under the bill, contrasted with projections of current national policies and programs, would be about 250 billion dollars higher, and federal tax revenues would be about 50 billion dollars higher.

Thus, under the bill, the net gain to federal revenues after the first 24 months would be 28 billion dollars annually (36 minus 8). In terms of GNP the net gain annually would be 173 billion (181 minus 8).

(3) The above benefits do not include the incalculable benefits to the nation and the people of substituting employment for the misery and alienation of unemployment.

FACT SHEET NO. 2

PLANNING

The Democratic Platform and the bill are completely consistent as to planning.

The Platform calls for "consistent and coherent economic policy . . ." The Platform says:

"Of special importance is the need for national economic planning capability. This planning capability should provide roles for Congress and the Executive as equal partners in the process and provide for full participation by the private sector, and state and local government. Government must plan ahead just like any business, and this type of planning can be carried out without the creation of a new bureaucracy but rather through the well-defined use of existing bodies and techniques. If we do not plan, but continue to react to crisis after crisis, our economic performance will be further eroded . . .

"The lack of formal coordination among federal, state and local governments is a major obstacle to full employment."

The Platform thus calls for planning of Federal policies and programs, with cooperation from others, but does not contemplate any Government planning of the private economy. The amended bill makes crystal clear the same intent, as follows:

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to coordinate, integrate, and improve the policies and programs of the Federal Government, toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems. Although it is the purpose under the Act to seek diligently and to encourage the voluntary cooperation of the private sector of the economy in helping to achieve the objectives of the Act, no provisions of the Act are intended nor shall be used, with respect to any portion of the private sector of the economy, to provide for Government control of production or employment or allocations of resources, except to the extent authorized under other legislation.

"(e) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1976 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under the Act shall be in accordance with this purpose. In moving toward the goals for reduction of unemployment, the objective shall be to maintain trends in the ratio of private employment to civilian public employment similar to those from 1947 to the time of enactment of the Full Employment and Balanced Growth Act of 1976, which would mean a numerical growth in private employment several times as large as the numerical growth in civilian public employment."

[Fact sheet No. 3]

U.S. ECONOMIC PERFORMANCE, UNDER VARIOUS NATIONAL ADMINISTRATIONS WITH VARIOUS APPROACHES TO NATIONAL ECONOMIC POLICY [1]

Truman 1947–53 [2]:	
Real average annual economic growth rate	4.9%
Average annual unemployment (full-time)	4.0%
Unemployment:	
First year	3.9%
Lastyear	2.9%
Average annual inflation	3.0%
Inflation rate (C.P.I.):	
First year	7.8%
Last year	0.8%
Average annual surplus or deficit, Federal budget (fiscal years, billions)	+$2.4

Eisenhower 1953–61:	
Real average annual economic growth rate	2.4%
Average annual unemployment (full-time)	5.1%
Unemployment:	
First year	2.9%
Last year	6.7%
Average annual inflation	1.4%
Inflation rate (C.P.I.):	
First year	0.5%
Last year	1.2%
Average annual surplus or deficit, Federal budget (fiscal years, billions)	−$2.3
Kennedy-Johnson 1961–69:	
Real average annual economic growth rate	4.8%
Average annual unemployment (full time)	4.7%
Unemployment:	
First year	6.7%
Last year	3,5%
Average annual inflation	2.6%
Inflation rate (C.P.I.):	
First year	1.1%
Last year	5.4%
Average annual surplus or deficit, Federal budget (fiscal years, billions)	−$6.4
Nixon-Ford 1969–75:	
Real average annual economic growth rate	1.6%
Average annual unemployment (full-time)	5.6%
Unemployment:	
First year	3.5%
Last year	8.5%
Average annual inflation	6.6%
Inflation rate (C.P.I.):	
First year	5.9%
Last year	9.1%
Average annual surplus or deficit, Federal budget (fiscal years, billions)	−$15.3

[1] To allow for momentum effects of policies, the first year of one Administration is also treated as the last year of the preceding Administration. All 1975 figures, except Federal Budget, estimated.

[2] 1946–1947 not included because greatly affected by transition from World War II.

CONFERENCE REPORT ON H.R. 14260

Mr. PASSMAN submitted the following conference report and statement on the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14260) "making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9, 11, 13, 25, 28, 30, 36, 39, and 43.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 10, 12, 14, 15, 16, 18, 22, 29, 41, 42, and 45, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the same proposed by said amendment insert "$505,000,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$214,000,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$67,000,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$187,000,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,734,700,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "109"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "110"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "111"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "112"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "of section 105 of the Foreign Relations Authorization Act, Fiscal Year 1977, $15,000,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$90,477,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$270,000,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "505A"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 5, 7, 17, 20, 21, 23, 24, 26, 27, and 35.

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MARK O. HATFIELD,
CHARLES MCC. MATHIAS, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14260), making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

Funds appropriated to the President

Economic Assistance

Amendment No. 1: Food and nutrition, Development Assistance: Appropriates $505,000,000 instead of $475,000,000 as proposed by the House and $535,000,000 as proposed by the Senate.

The managers agree that $1,500,000 of the reduction is to delete all funds proposed for Mozambique from this appropriations account.

Amendment No. 2: Population planning and health, Development Assistance: Appropriates $214,000,000 instead of $200,000,000 as proposed by the House and $228,300,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $15,000,000 for programs providing training to auxiliary or paramedical personnel engaged in the delivery of health and family planning services to rural areas.

Amendment No. 4: Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: Appropriates $67,000,000 instead of $70,000,000 as proposed by the House and $64,000,000 as proposed by the Senate.

The managers agree that the reduction of $3,000,000 below the House figure is to be distributed as follows: $1,000,000 of the reduction is to be applied against proposed funding of the Asia Foundation and the balance of the reduction, $2,000,000 is to delete all funds proposed for Mozambique from this appropriations account.

The managers are of the opinion that geographic, sociological, and economic considerations merit serious consideration of construction of an airport facility capable of accommodating jet aircraft at Thoto-Ea-Moli in the country of Lesotho. It is the desire of the managers that the Agency for International Development conduct a study on the feasibility of supporting the construction of such a facility.

The managers on the part of the Senate and the managers on the part of the House are in agreement that the common interests of Private and Voluntary Organizations (PVOs) and the United States Government with regard to the activities of PVOs in providing an alternative to official development assistance are best served by actions which strengthen the private and voluntary character of the PVOs.

The conferees are further in agreement that a relationship between the Agency for International Development and the PVOs which creates a heavy dependence on the part of the PVOs for United States Government funding of their overhead and personnel compensation costs is harmful to those interests.

The conferees, therefore, direct the Agency for International Development to establish funding guidelines which will restrict United State Government general support grants to any Private and Voluntary Organization to an amount which does not exceed fifty percent of the annual cash requirement for overhead and personnel compensation costs of such organization.

The conferees further direct the Agency for International Development to prepare within a reasonable time, but no later than March 1, 1977, a registry of Private and Voluntary Organizations eligible for United States Government assistance. It is the opinion of the conferees that any Private and Voluntary Organization which does not certify to the Agency for International Development its most recent financial statement together with its current budget (such information to provide a detailed accounting of sources of income, pay and allowances of principal officers, and such other budgetary indicators as may be required by the Agency for International Development) shall be ineligible for inclusion in the registry and, therefore, ineligible for United States Government funding.

While these requirements have not been incorporated into the language of the bill this year, it should be understood that the failure of the Agency for International Development to implement these directives will result in more direct action during the consideration of the fiscal year 1978 appropriations bill.

Amendment No. 5: Loan allocation, Development Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount made available for loans, not to exceed $210,000,000 shall be available for loans repayable in forty years, not to exceed $60,000,000 shall be available for loans repayable in thirty years, and not to exceed $30,000,000 shall be available for loans repayable in twenty years.

Amendment No. 6: International organizations and programs: Appropriates $187,000,000 instead of $170,000,000 as proposed by the House and $197,000,000 as proposed by the Senate.

The managers agree that a $2,500,000 reduction should be applied against the Organization of American States.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum named in said amendment, insert "$100,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 8: United Nations Environment Fund: Appropriates $10,000,000 as proposed by the Senate instead of $5,000,000 as proposed by the House.

Amendment No. 9: American schools and hospitals abroad: Appropriates $19,800,000 as proposed by the House instead of $17,300,000 as proposed by the Senate.

The managers agree that the entire amount of these funds should be used to carry out the regular programs under section 214 of the Foreign Assistance Act of 1961, as amended. The Agency for International Development should study the feasibility of operating and refitting the U.S.S. Sanctuary for the possible use as a hospital ship.

Amendment No. 10: Indus Basin Development Fund, grants: Appropriates $15,750,000 and includes necessary appropriation language as proposed by the Senate.

Amendment No. 11: Contingency fund: Restores necessary appropriation language proposed by the House and deleted by the Senate and appropriates $5,000,000 as proposed by the House.

Amendment No. 12: Lebanon Relief and Rehabilitation assistance: Appropriates $20,000,000 and includes necessary appropriation language as proposed by the Senate.

Amendment No. 13: Deletes language proposed by the Senate and restores language proposed by the House which will terminate the availability of the unobligated balances of the contingency fund for use in fiscal year 1977.

Amendments Nos. 14, 15 and 16: Delete the word "general" in three instances as proposed by the Senate.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organization and programs," "United Nations Environment Fund," "American schools and hospitals abroad," "Indus Basin Development Fund, grants," "International narcotics control," "Middle East special requirements fund," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Cuban refugee assistance," "Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It will be noted that the conferees have agreed to a modification of this provision as it appeared in Public Law 94–330 and in the Senate passed version of H.R. 14260. The conferees removed a reference to approval of the Appropriations Committees of reprogrammings and inserted in lieu thereof a reference to prior notification of the two Committees. This agreement was achieved only after protracted negotiations between the managers on the part of the House and the managers on the part of the Senate and is based on the firm expectation of the conferees that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the above mentioned specific headings.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1977 in the fiscal year 1977 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1977 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amount to be obligated in fiscal year 1977 in the fiscal year 1977 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1977 shall be deemed to not have been justified and the Committees not informed.

Middle East Special Requirements Fund

Amendment No. 18: Appropriates $23,000,000 as proposed by the Senate instead of $35,000,000 as proposed by the House.

Security Supporting Assistance

Amendment No. 19: Appropriates $1,734,700,000 instead of $1,674,400,000 as proposed by the House and $1,745,500,000 as proposed by the Senate.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"$17,500,000 shall be allocated for Cyprus, $55,000,000 shall be allocated for Portugal,".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allocates $14,000,000 for Botswana and for regional training programs, $20,000,000 for Zaire, and $20,000,000 for Zambia.

Amendment No. 22: Deletes duplicate language proposed by the House which earmarked $10,000,000 for Cyprus relief assistance.

Amendment No. 23: Reported in technical disagreement.

The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making available $7,000,000 upon ratification of the Treaty of Friendship and Cooperation between Spain and the United States.

The managers are aware that the earmarking provisions contained under this heading may be at variance with those contained within certain authorizing legislation. It is the intent of the conferees that when such variances occur, funds shall be obligated on the basis of earmarkings contained herein. Once these earmarkings are satisfied, the remainder of the funds could be made available for other activities and projects that have been justified to the Congress within each program activity.

Operating Expenses of the Agency for International Development

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$192,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have viewed with concern the trend which has characterized AID's United States employee staffing pattern in recent years. That is, the percentage of AID's United States employees in Washington has increased while the percentage of United States employees overseas has declined. With the intent of reversing this trend, the managers expect that the full amount of the reduction in this appropriations account will be applied to AID-Washington Operating Expenses.

Amendment No. 25: Deletes language proposed by the Senate which would have placed a limitation of $84,300,000 on AID-Washington Operating Expenses.

Military Assistance

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making available $15,000,000 upon ratification of the Treaty of Friendship and Cooperation between Spain and the United States.

International Military Education and Training

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making available $2,000,000 upon ratification of the Treaty of Friendship and Cooperation between Spain and the United States.

General provisions

Amendment No. 28: Section 102: Deletes the language proposed by the Senate and restores the House language which exempts the contingency fund from the restriction that not more than 20 percent of the funds made available can be obligated during the last month of availability.

Amendment No. 29: Deletes language proposed by the House which prohibited assistance to Angola and Mozambique.

Amendment No. 30: Deletes language proposed by the Senate which would have limited the amount of compensation an individual, who is employed as an expert or consultant, could receive if the individual was also receiving an annuity or retired pay from the United States.

Under the provisions of the Foreign Assistance Act, certain government retirement annuitants, who are intermittently reemployed as experts or consultants, are permitted to receive both their full annuity or retired pay as officers of the uniformed services and full compensation for the time they are reemployed.

This exceptional practice, which is permitted only for annuitants acting as experts or consultants under the Foreign Assistance Act, is commonly referred to as "double dipping." It had its origins in the early days of the Marshall Plan at a time when the United States had no trained cadre of foreign assistance specialists. In the intervening period, the Agency for International Development, as well as many other organizations in both the public and private sectors, has developed a large pool of personnel resources highly trained in foreign assistance specialties.

The conferees see no justification for the continuation of this outmoded practice which constitutes an unreasonable burden on the American taxpayer and serves to perpetuate excessive compensation for a favored few. Nowhere else in the Federal government is such a practice permitted.

The conferees, therefore, strongly urge the repeal of section 626(b) (75 Stat. 451) of the Foreign Assistance Act of 1961, as amended, which authorizes this exception to the general provisions of law prohibiting such dual payments. The result of such action would be that annuitants and retired officers of the uniformed services employed under section 626(a) of the Foreign Assistance Act of 1961 (75 Stat. 451), as amended, would be subject to the general provisions of law restricting the simultaneous receipt of full annuities or retired pay and full compensation as experts or consultants.

Amendment No. 31: Section 109: Changes section number but retains language proposed by the Senate which places a limitation of $108,000 on official residence expenses of the Agency for International Development for fiscal year 1977.

Amendment No. 32: Section 110: Changes section number but retains language proposed by the Senate which places a limitation of $20,000 on entertainment expenses of the Agency for International Development for fiscal year 1977.

Amendment No. 33: Section 111: Changes section number but retains language proposed by the Senate which places a limitation of $96,000 on representation allowances of the Agency for International Development for fiscal year 1977.

Amendment No. 34: Section 112: Changes section number but retains language proposed by the Senate which places a limitation of $75,000 on entertainment expenses relating to the Military Assistance, the International Military Education and Training and the Foreign Military Credit Sales programs for fiscal year 1977.

TITLE III—FOREIGN ASSISTANCE (OTHER)

Independent agency

ACTION—International Programs

Peace Corps

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$80,000,000: *Provided*, That of this amount $49,563,000 shall be available for the direct support of volunteers: *Provided further*, That no less than $3,600,000 of this amount shall be available only for the overseas technical support of volunteers".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Department of State

Migration and Refugee Assistance

Amendment No. 36: Appropriates $10,000,000 as proposed by the House instead of $15,000,000 as proposed by the Senate.

Assistance to Refugees From the Soviet Union and Other Communist Countries in Eastern Europe

Amendment No. 37: Changes the authorization reference language to conform with the authorization act as finally signed into law.

Funds Appropriated to the President

International Financial Institutions

Investment in Asian Development Bank

Amendment No. 38: Appropriates $90,477,000 instead of $60,318,000 as proposed by the House and $120,635,000 as proposed by the Senate.

The managers agree that these funds should be allocated as follows: Paid-in-capital—$24,127,000 and Callable capital—$66,350,000.

Investment in Inter-American Development Bank

Amendment No. 39: Restores language proposed by the House which defines the funding programs involved and deletes the Senate proposed language.

Amendment No. 40: Appropriates $270,000,000 instead of $220,000,000 as proposed by the House and $440,000,000 as proposed by the Senate. The managers agree that these funds should be allocated as follows: Paid-in-capital—$20,000,000, Callable capital—$200,000,000 and Fund for Special Operations—$50,000,000.

Investment in International Development Association

Amendment No. 41: Appropriates $375,000,000 as proposed by the Senate instead of $320,000,000 as proposed by the House.

INVESTMENT IN AFRICAN DEVELOPMENT FUND

Amendment No. 42: Appropriates $10,000,000 and includes necessary appropriation language as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

Amendment No. 43: Section 505: Restores language proposed by the House and deleted by the Senate which prohibits military assistance, international military education and training and foreign military credit sales to Uruguay.

Amendment No. 44: Section 505A: Changes the section number but retains language proposed by the Senate which places a limitation of $1,626,000 on funds made available in fiscal year 1977 to the Office of the Inspector General of Foreign Assistance.

Amendment No. 45: Retains language proposed by the Senate which provides for the withholding of funds from the international financial institutions if the United States' representative to these institutions cannot obtain information concerning the compensation and related benefits of employees of the institutions.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the fiscal year 1977 budget estimates, and the House and Senate bills for fiscal year 1977 follow:

New budget (obligational) authority, fiscal year 1976	$5,420,353,909
Budget estimates of new (obligational) authority, fiscal year 1977	[1] 5,817,770,000
House bill, fiscal year 1977	4,833,498,000
Senate bill, fiscal year 1977	5,393,765,000
Conference agreement	5,133,707,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1976	−286,646,909
Budget estimates of new (obligational) authority, fiscal year 1977	−684,063,000
House bill, fiscal year 1977	+300,209,000
Senate bill, fiscal year 1977	−260,058,000

[1] Includes $320,550,000 of budget estimates not considered by the House, contained in S. Docs. 94–190, 94–212, 94–219, and 94–220.

OTTO E. PASSMAN,
CLARENCE D. LONG,
DAVID R. OBEY,
BILL CHAPPELL,
EDWARD I. KOCH,
CHARLES WILSON,
GARNER E. SHRIVER,
SILVIO O. CONTE,
LAWRENCE COUGHLIN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

DANIEL K. INOUYE,
GALE W. MCGEE,
LAWTON CHILES,
JOHN L. MCCLELLAN,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Matsunaga (at the request of Mr. O'Neill), for this week, on account of official business.

Mr. Dellums (at the request of Mr. O'Neill), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bonker) to revise and extend their remarks and include extraneous material:)

Mr. Dent, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Kastenmeier, for 5 minutes, today.
Ms. Abzug, for 30 minutes, today.
Mr. Flood, for 5 minutes, today.
Mrs. Boggs, for 30 minutes, today.
Mr. Baucus, for 10 minutes, today.
Mr. Aspin, for 5 minutes, today.
Mr. Morgan, for 5 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Mr. Richmond, for 5 minutes, today.
Mrs. Mink, for 5 minutes, today.
Mr. O'Neill, for 5 minutes, today.
Mr. Danielson, for 5 minutes, today.
Mr. Adams, for 60 minutes, September 22.
Mr. Alexander, for 60 minutes, September 28.
Mr. Burlison of Missouri, for 60 minutes, September 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Wright, to extend his remarks in the body of the Record, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $786.50.

Mr. James V. Stanton and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,144.

Mr. Brademas and to include extraneous matter.

Mr. Hawkins and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $706.50.

(The following Members (at the request of Mr. Walsh), and to include extraneous matter:)

Mr. Conable.
Mr. Rhodes.
Mr. Ashbrook in two instances.
Mr. Michel in two instances.
Mr. Wiggins.
Mr. Guyer.
Mr. Wydler.
Mr. Hansen.
Mrs. Pettis in two instances.
Mr. Shuster.

(The following Members (at the request of Mr. Bonker), and to include extraneous matter:)

Mr. Gaydos.
Mr. Ford of Michigan.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Edwards of California in two instances.
Mr. Santini.
Mr. Jones of Oklahoma.
Mrs. Schroeder in two instances.
Mr. Dent.
Mr. Vanik.
Mr. Rosenthal in 10 instances.
Mr. Evins of Tennessee in two instances.
Mr. McDonald.
Mr. Rangel.
Mr. Young of Georgia.
Mr. Cotter.
Ms. Abzug.
Mr. Carney.
Mr. Eilberg in three instances.
Mr. Drinan.
Mr. Blouin.
Mr. Breckinridge.
Mr. John L. Burton.
Mr. Hawkins.
Mr. Mazzoli.
Mr. Udall.
Mr. Harkin.
Mr. Ottinger.

SENATE BILL AND CONCURRENT RESOLUTIONS REFERRED

A bill and concurrent resolutions of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 784. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes, to the Committee on Merchant Marine and Fisheries.

S.J. Res. 173. Joint resolution authorizing and requesting the President to issue a proclamation designating the seven calendar days beginning September 26, 1976, as "National Port Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 213. Joint resolution to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended; to the Committee on Education and Labor.

S.J. Res. 214. Joint resolution to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices; to the Committee on Agriculture.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 14973. An act to provide for acquisition of lands with the international Tijuana River flood control project, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.;

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953;

S. 2286. An act to amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.; and

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

ADJOURNMENT

Mr. BONKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until Wednesday, September 22, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4053. A letter from the Secretary of the Treasury, transmitting the annual report of the Hoover Institution on War, Revolution, and Peace on the expenditure of funds received by the Institution as grants from the United States, pursuant to section 4 of Public Law 93–585; to the Committee on House Administration.

4054. A letter from the Secretary of Transportation, transmitting the fourth semiannual report on the effectiveness of the civil aviation security program, pursuant to section 315(a) of the Federal Aviation Act of 1958, as amended (88 Stat. 415); to the Committee on Public Works and Transportation.

4055. A letter from the Secretary of Transportation, transmitting a progress report on the implementation of the national transportation policy, pursuant to section 3(b) of Public Law 91–258; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

Received From the Comptroller General

4056. A letter from the Comptroller General of the United States, transmitting his review of the revised deferral of budget authority contained in the message from the President dated September 14, 1976 (H. Doc. No. 94–610), pursuant to section 1014(c) of Public Law 93–344 (H. Doc. No. 94–619); to the Committee on Appropriations and ordered to be printed.

4057. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1976, pursuant to section 234 of Public Law 91–510; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STEED: Committee on Small Business. Report on small business investment company program (Rept. No. 94–1633). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 726. An act to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho (Rept. No. 94–1634). Referred to the Committee of the Whole House on the State of the Union.

Mr. PASSMAN: Committee of conference.

Conference report on H.R. 14260 (Rept. No. 94–1642). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11061. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended; with an amendment (Rept. No. 94–1643). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SARBANES: Committee on the Judiciary. H.R. 1555. A bill for the relief of Walter Laqueur and his wife Barbara; with amendments (Rept. No. 94–1635). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 13417. A bill for the relief of Dae Ho Park and Maria Park (Rept. No. 94–1636). Referred to the Committee of the Whole House.

Mr. COHEN: Committee on the Judiciary. H.R. 14075. A bill for the relief of Tulsedei Zalim; with an amendment (Rept. No. 94–1637). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 14470. A bill for the relief of Rául Eduardo Ringle (Rept. No. 94–1638). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2618. An act for the relief of Chea Hyo Suk (Rept. No. 94–1639). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2942. An act for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton) (Rept. No. 94–1640). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 14693. A bill for the relief of Milos Forman; with an amendment (Rept. No. 94–1641). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself and Mr. Delaney):

H.R. 15647. A bill to amend the Water Resources Development Act of 1974, relating to the New York Harbor collection and removal of drift project; to the Committee on Public Works and Transportation.

By Mr. CONABLE:

H.R. 15648. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to change a requirement for State plans in order to maximize sentencing discretion of judges in certain juvenile cases; to the Committee on Education and Labor.

By Mr. GRASSLEY:

H.R. 15649. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. HANSEN (for himself, Mr. Abdnor, Mr. Broyhill, Mr. Grassley, Mr. Johnson of Pennsylvania, Mr. Mr. Shriver, and Mr. Thone):

H.R. 15650. A bill to establish a commission and task force to review all Federal Government programs, determine what economies and efficiencies can be achieved through program consolidation, review the functions carried out by each level of government, and make recommendations for more clearly defining the respective responsibilities of such levels, and for other purposes to; to the Committee on Government Operations.

By Mr. KETCHUM (for himself, Mr. Dent, Mrs. Holt, Mr. Burgener, Mr. Treen, and Mr. Kindness):

H.R. 15651. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 15652. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committe on Banking, Currency and Housing.

H.R. 15653. A bill to amend the Internal Revenue Code of 1954 to encourage business to purchase surplus school or hospital buildings from governmental and nonprofit entities by providing rapid amortization for such buildings; to the Committee on Ways and Means.

By Mr. ST GERMAIN (for himself, Mr. Hanley, and Mr. LaFalce):

H.R. 15654. A bill to amend Public Law 93–100 to eliminate the prohibition on depository institutions situated in New York and New Jersey from offering negotiable order of withdrawal accounts; to the Committee on Banking, Currency and Housing.

By Mrs. SCHROEDER:

H.R. 15655. A bill to provide that a former spouse of a Federal employee who is married to such employee for 20 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H.R. 15656. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. KOCH (for himself and Mr. Goldwater):

H.R. 15657. A bill to establish restrictions on the disclosure of certain financial, toll, and credit records, and for other purposes; jointly, to the Committees on Banking, Currency and Housing and the Judiciary.

By Mr. LUNDINE (for himself, Mr. Patterson of California and Mr. Nolan):

H.R. 15658. A bill to provide for a program to be carried out through the Secretary of Labor, of demonstration projects and an advisory committee to promote economic stability by increasing employment opportunities and improving productivity; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 15659. A bill to provide for the burial in the Memorial Amphitheater of the National Cemetery at Arlington, Va., of the remains of an unknown American who lost his life while serving overseas in the Armed Forces of the United States during the Vietnam conflict; to the Committee on Veterans' Affairs.

By Mr. RICHMOND (for himself and Mr. Fish):

H.R. 15660. A bill to authorize the Secretary of Agriculture to make grants to States for urban forestry and for other purposes; to the Committee on Agriculture.

By Mr. BRODHEAD (for himself, Mr. Badillo, Mr. Benitez, Mr. Blanchard, Mrs. Boggs, Mr. Broomfield, Mr. Brown of Michigan, Mr. Cederberg, Mr. Conyers, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Diggs, Mr. Grassley, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Lagomarsino, Mr. Lott, Mr. Matsunaga, Mr. Perkins, Mr. Solarz, Mr. Vander Jagt, and Mr. Zeferetti):

H.J. Res. 1104. A resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week"; to the Committee on Post Office and Civil Service.

By Mr. PAUL (for himself, Mr. Kindness, Mr. Hall of Texas, Mr. Symms, Mr. Collins of Texas, Mr. Ashbrook, Mr. Ketchum, Mr. Melcher, Mr. Rousselot, Mr. Kelly, Mr. Hughes, and Mr. Lott):

H. Con. Res. 763. A resolution to disapprove the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. DOWNING of Virginia:

H. Res. 1557. A resolution to provide funds for the expenses of the investigations and studies to be conducted by the Select Committee on Assassinations; to the Committee on House Administration.

By Mr. EILBERG:

H. Res. 1558. A resolution opposing the granting of permanent residence in the United States to certain aliens; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. Miller of California, Mr. Harkin, Mr. Conable, Mr. Gude, Mr. Bonker, Mr. Young of Georgia, Mr. Harrington, Mr. John L. Burton, Mr. Fraser, Mr. Dellums, Mr. Edwards of California, Ms. Abzug, Mr. Metcalfe, Mr. Seiberling, Mr. Mineta, Mr. Rosenthal, Mr. Fauntroy, Mr. Udall, Mr. Bingham, Mr. Riegle, Mr. Koch, Mr. Maguire, Mr. Drinan, and Ms. Meyner):

H. Res. 1559. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. Kindness, Mr. Hall of Texas, Mr. Symms, Mr. Collins of Texas, Mr. Ashbrook, Mr. Ketchum, Mr. Melcher, Mr. Rousselot, Mr. Kelly, Mr. Hughes, and Mr. Lott):

H. Res. 1560. A resolution to disapprove the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. WRIGHT (for himself and Mr. Harsha):

H. Res. 1561. A resolution to provide for the printing of the transcript of the proceedings in the Committee on Public Works and Transportation of September 21, 1976, incident to the presentation of a portrait of the Honorable Robert E. Jones to the Committee on Public Works and Transportation; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CHAPPELL introduced a bill (H.R. 15661) for the relief of Lillian June Demers, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

581. By the SPEAKER: Petition of the Board of Supervisors, Los Angeles County, Calif., relative to Federal assumption of the administration of welfare programs; to the Committee on Ways and Means.

582. Also, petition of the Rockland County Legislature, New City, N.Y., relative to the deduction of Federal excise taxes from winnings on racing events; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted, as follows:

H.R. 15

By Mr. ASHBROOK:

Section 6(b) of the bill be amended by striking paragraph (5) thereof beginning on line 16, page 27, and renumbering the following paragraphs accordingly.

Section 6(b)(8) be amended by inserting after the word "schedule" on line 17, page 28, the following: "for the activities described in section 3(a)(1)".

Section 9(a) of the bill be amended by deleting the words "a reasonable time" on line 14, page 33, substituting therefor the words "two weeks".

By Mr. BAUMAN:

Section 16 of the bill be amended by inserting between the words "sums" and "as" on line 5, page 39, the following: ", not in excess of $1 million for any fiscal year,".

By Mr. BUTLER:

On page 38, strike out all of line 23 down through line 2 on page 39, and redesignate the following sections accordingly.

By Mr. COCHRAN:

On pages 13 and 14, strike out paragraph (5) of section 7(b) and insert in lieu thereof the following new paragraph:

"(5) a description of each specific area of legislative or executive activity concerning which the organization engaged in activities described in section 4(a):".

By Mr. GRASSLEY:

That the bill be amended by inserting the following new section 12 on line 1, page 37 thereof, and renumbering the following sections of the bill accordingly:

"REPORTS BY MEMBERS OF CONGRESS"

"Sec. 12. (a) Each Member of Congress shall submit to the Comptroller General, not later than thirty days after the last day of each quarterly filing period, a report listing all organizations and individuals who have directed to such Member or any of his employees oral or written communications within the scope of Section 3(a)(1) during that filing period.

"(b) Such report shall be in a form to be prescribed by the Comptroller General, and shall include the name of each individual and organization concerned, the date and place of each communication, and the issue sought to be influenced."

By Mr. HECHLER of West Virginia:

On page 38, between lines 17 and 18, insert the following new section:

"SUNSHINE IN GOVERNMENT

"Sec. 14. (a) Each officer or employee of the General Accounting Office who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any organization subject to such Act,

shall, beginning on February 1, 1977, annually file with the Comptroller General a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Comptroller General shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Comptroller General of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Comptroller General may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

By Mr. KETCHUM:

That the bill be amended by inserting the following new section 15 on line 23, page 38 thereof, and renumbering the following sections of the bill accordingly:

"ADJUSTMENT TO DOLLAR AMOUNTS BASED UPON PRICE INDEX"

"Sec. 15 (a) At the beginning of each calendar year (commencing in 1978), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each dollar amount established by section 3 and section 6 shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year. However, for the purposes of this paragraph the Comptroller General shall have the authority to adjust such amounts to the nearest dollar.

"(b) For purposes of this section—

"(1) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(2) The term 'base period' means the calendar year 1976."

By Mr. KINDNESS:

Page 21, line 2, insert immediately before the period the following: ", and, with respect to the activities of its Washington representative, a State or unit of local government".

Page 21, immediately after line 17, insert the following new paragraph:

"(12) The term 'Washington representative' means any agent or employee of a State or of a unit of local government who maintains a business address in the standard metropolitan statistical area which includes the city of Washington, District of Columbia, and whose function includes engaging in the activities described in section 3(a)."

Page 22, line 6, insert "or" immediately before "rule".

Page 22, line 7, strike out "or the award" and all that follows through "submission of bids)" in line 8.

Page 22, line 10, strike out "or".

Page 22, line 14, strike out the comma and insert in lieu thereof "; or".

Page 22, immediately after line 14, insert the following new paragraph:

"(3) makes or causes to be made by its members, officers, directors, agents, or employees twelve or more oral communications to one or more Federal officers or employees in any quarterly filing period,"

Page 27, line 1, insert a comma immediately after "(1)".

Page 27, line 2, strike out "and" and insert immediately after "(2)" the following: ", and of any member, officer, director, agent, or employee of such organization who makes twelve or more communications referred to in section 3(a)(3)".

Page 27, line 3, strike out "such retention" and insert in lieu thereof the following: "the retention of any person under section 3(a)(1)".

Page 27, line 4, strike out "employment" and insert in lieu thereof the following: "the employment of any employee described in section 3(a)(2)".

Page 27, line 20, insert immediately after "efforts," the following: "the individuals principally responsible for conducting or directing such activities with respect to each of such twenty-five issues,".

Page 23, line 15, insert "or" immediately after the semicolon.

Page 23, line 25, strike out "; or" and insert in lieu thereof a period.

Page 24, strike out line 1 and all that follows through line 8.

Page 23, strike out line 16 and all that follows through line 25 and insert in lieu thereof the following new paragraph:

"(5) a communication on any subject to a Member of the Senate or of the House of Representatives, or to an individual on the personal staff of such Member, from any person who is a resident of the State, or of the congressional district within the State, represented by such Member; or"

Page 27, line 20, insert immediately after "efforts," the following: "the individuals principally responsible for conducting or directing such activities with respect to each of such twenty-five issues,".

By Mr. MICHEL:

Section 3(b)(5) of the bill be amended by inserting between the words "more" and "in" on line 12, page 22, the following: "(excluding time spent in travelling to and from the making of oral communications, and in waiting to see a Federal officer or employee to make an oral communication)".

Section 3(b)(5) of the bill be amended by striking the comma following the word "State" at the beginning of line 21, page 23, and by striking everything appearing thereafter on the same line and page.

By Mr. MIKVA:

(Amendment offered to the amendment in the nature of a substitute offered by Mr. FLYNT.)

On page 20, immediately after line 13, insert the following new subsection:

"(e)(1) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided*, That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further*, That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation."

On page 38, immediately after line 17, insert the following new subsection:

"(e)(1) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided*, That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further*, That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation."

By Mr. MOORHEAD of California:

Section 6(b)(2) of the bill be amended by substituting a comma for the semicolon at the end thereof on line 18, page 26, and by adding thereafter the following: ", or any loan made on terms and conditions that are no more favorable than those available to the general public;".

Section 6(b)(3) be amended by adding after "$500" on line 24, page 26, the following: "However, this shall not apply to a reception, dinner or similar event connected with an international exhibit, or events sponsored by trade or industry associations where substantial numbers of member companies participate and share in the cost of such event."

By Mr. ROUSSELOT:

Section 17 of the bill be amended by striking subsection (a) on lines 7 through 9 of page 39; by striking "(b)" on line 10 of the same page; and by striking the words "sections 4, 5, and 6 and the provisions of sections 10, 13 and 14", substituting therefor the words "this Act".

By Mr. SISK:

Section 3(a)(1) of the bill be amended by striking everything beginning with the word "or" on line 8, page 22, up to and including the word "communication" on line 10 of the same page.

Section 5(b) of the bill be amended by deleting the word "five" on line 19, page 25, and substituting therefor the word "two".

By Mr. SYMMS:

Section 6(b)(4) of the bill be amended by striking "(A)" on line 7 of page 27; by striking the word "or" on line 12 of the same page; and by striking everything on lines 13, 14 and 15 of the same page.

By Mr. WAGGONNER:

Section 2(8) of the bill be amended by striking everything beginning with the word "national" on line 21, page 20 up to and including "employees)" on line 25 of the same page.

Section 3(a) of the bill be amended by striking everything after the number "(1)" on line 21 of page 21 up to and including the word "person" on line 23 of page 21, substituting therefor the following: "retains another person who spends 20 percent of his time or more in any quarterly filing period".

Section 3(b) of the bill be amended by adding at the end thereof on line 4, page 24, a new paragraph (7) to read as follows:

"(7) activities of organizations that have been granted Section 501(c)(3) tax treatment under the Internal Revenue Code."

By Mr. WIGGINS:

Page 20, line 25, strike out "and" insert in lieu thereof "or".

Page 21, line 2. insert immediately before the period the following: ", but does not include any government or governmental agency".

H.R. 12112

By Mr. HECHLER of West Virginia:

(Amendment to the amendment recommended by the Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On page 125, strike line 9 and all that follows down through the period on line 5 on page 126 and insert therein the following:

"SUNSHINE IN GOVERNMENT

"(s)(2) Each officer or employee of the Administrator and the Secretary of the Treasury who—

"(A) performs any function or duty under this Act; and

"(B) has any known financial interest (i) in any person subject to such Act, or (ii) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator or said Secretary, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator and said Secretary shall—

"(A) act within ninety days after the date of enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1)(B) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) of this subsection will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator and said Secretary of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator and said Secretary may identify specific positions within such Administration and Department, as appropriate, which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

By Mr. MILLER of California:

(Amendment to the amendment recommended by Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On page 108, line 34, strike all after "except" to the end of line 36 and insert the following: "that paragraphs (2) through (4) of this subsection, and subsections (c)(1), (4), and (8), (d), (g)(2) through (4), (m), and (n) through (y) of this section shall also apply to such guarantees, and the".

On page 109, line 5, after "Section" insert the following: "or under the Geothermal Energy Research, Development and Demonstration Act of 1974, as modified by this section".

On Page 121, strike out lines 13 through 27 and insert in lieu thereof the following: "(2) if the cost of such demonstration or modular facility exceeds $200,000,000, such guarantee or commitment to guarantee shall not be made or entered into unless specifically authorized by legislation enacted by Congress after the date of enactment of this Act."

By Mr. OTTINGER:

(Amendment to the amendment recommended by Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On page 112, line 34, insert after the period the following new sentence: "The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

On page 27908 of the Congressional Record on August 26, 1976, in subsections 19 (a)(1) and (2) and (b)(1)(A) strike "oil shale," and after the words "domestic resources," insert "(other than oil shale)".

On page 27908 of said Record in subsections 19(b)(1)(A) strike the first proviso.

On page 27909 of said Record in subsection 19(b) strike all of paragraphs (5)(A) and (B) and insert therein the following:

"(5) Nothing in this section shall be construed to authorize financial assistance for facilities of any kind for the conversion of oil shale to synthetic fuels."

In section 19(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (as added by the first section of the amendment in the nature of a substitute offered by Mr. Teague): strike out "and" at the end of paragraph (8), and insert after paragraph (8) the following:

"(9) in the case of a demonstration facility which converts any coal (including lignite) from a surface mine to synthetic fuel, the Administrator has determined that regulations have taken effect under Federal legislation (applicable to surface mining operations on federally-owned and nonfederally-owned land) the principal purpose of which is the reduction and control of adverse environmental effects resulting from surface mining operations in the United States;" and

(3) redesignate paragraph (9) as paragraph (10).

Strike the last word.

Strike the requisite number of words.

By Mr. STARK:

(Amendment to the amendment recommended by Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On Page 108, line 13, insert "(i)" after "(B)".

On page 108, strike the sentence beginning on line 19 and ending on line 22 and insert therein the following:

"(ii) The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section."

Page 110, insert after line 8 the following:

"(7) The Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 111 insert after line 28 the following:

"(9) The obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

By Mr. TEAGUE:

On page 27909 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute) at the end of subsection (b)(3) in the first column, after the period, insert the following: "In no case shall the bonds, debentures, notes, and other obligations guaranteed under this section be purchased or financed with Federal funds, under the Federal Financing Bank Act or otherwise, except as provided in subsection (n)."

By Mr. UDALL:

(Amendment offered to the amendment in the nature of a substitute offered by Mr. TEAGUE.)

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, in section 19(c):

(1) Strike out "and" at the end of paragraph (8)

(2) insert after paragraph (8) the following:

(9) in the case of a demonstration facility which converts any coal (including lignite) from any surface mine (on federally-owned or nonfederally-owned land) to synthetic fuel, the Administrator has determined that any such coal is, or will be mined under lawfully binding reclamation standards requiring the surface mine operator as a minimum to—

(A) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(B) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the operator's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(c)(3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this section 19 (c)(8);

(D) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(E) remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(F) restore the topsoil or the best available subsoil which has been segregated and preserved;

(G) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulation outside the permit area;

(H) create, if authorized by applicable law, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(i) the size of the impoundment is adequate for its intended purposes;

(ii) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83–566 (16 U.S.C. 1006);

(iii) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

(iv) the level of water will be reasonably stable;

(v) final grading will provide adequate safety and access for proposed water users; and

(vi) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(I) plug all auger holes to a minimum of six feet in depth with an impervious and noncombustible material (such as clay) to prevent the flow of water in or out of such holes.

(J) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(i) avoiding acid or other toxic mine drainage by such measures as, but not limited to preventing or removing water from contact with toxic producing deposits; treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

(ii) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonable flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(iii) removing temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

(iv) restoring recharge capacity of the mined area to approximate premining conditions;

(v) replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from mining.

(vi) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

(vii) such other actions as the regulatory authority may prescribe;

(k) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials, if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of section (19)(c)(8);

(L) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That an operator shall be permitted to mine closer to an abandoned underground mine: *Provided,* That this does not create hazards to the health and safety of miners and an operator may mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Section (19)(c)(8);

(M) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(N) insure that all debris, acid forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or sustained combustion;

(O) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

(i) provide adequate advance written notice by publication and/or posting of the planned blasting schedule to local governments and to residents who might be affected by the use of such explosives and maintain for a period of at least two years a log of the magnitudes and times of blasts; and

(ii) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

(P) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

(Q) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided*, That the retention after mining of certain access roads may be permitted where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

(R) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to each channel so as to seriously alter the normal flow of water;

(S) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the operators proposed postmining land use;

(T) assume the responsibility for successful revegetation, as required by paragraph (S) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (S) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided*, That when a long-term intensive agricultural postmining land use is proposed, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further*, That when there is proposed such a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, exception to the provisions of paragraph (S) above may be waived; and

(U) assure that the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude would—

(i) not interrupt, discontinue, or prevent farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands that if the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the farm's agricultural production or,

(ii) not adversely affect the quantity or quality of water in surface or underground water systems that supply these valley floors in (i) of section 9(c)(8)(U):

Provided, That this paragraph (U) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the State regulatory authority of jurisdiction to conduct surface mining operations within said alluvial valley floors."

(3) Redesignate paragraph (9) as paragraph (10).

H.R. 14496

By Mr. HUGHES:

On page 141, after line 7, insert the following new paragraph:

"(7) The plan shall provide for the elimination of ocean dumping as any part of such plan after 1981."

On page 156, after line 6, insert the following new title, and renumber subsequent titles and sections accordingly:

TITLE VI—LOAN GUARANTEES

AUTHORITY OF ADMINISTRATOR

SEC. 601. (a) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the bonds, debentures, notes, and other obligations issued by or on behalf of—

(1) any State, municipality, or inter-municipal agency, or

(2) in the case of facilities or equipment for the utilization of recovered resources, any other person, institution, organization, corporation or partnership,

for the purpose of financing the construction and startup and related development costs of commercial demonstration facilities necessary to the creation of resource conservation or resource recovery systems for municipal solid wastes, including the construction or modification of commercial demonstration facilities or acquisition of equipment necessary for the utilization of recovered resources, including fuel, produced by such system: *Provided*, That the outstanding indebtedness guaranteed under this Act at no time exceeds $250,000,000: *Provided further*, That no guarantee or commitment to guarantee shall be undertaken under this Act after September 30, 1979.

(b) An applicant for a loan guarantee under this Title shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interest of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Administrator, with the concurrence of the Secretary of the Treasury deems appropriate.

CONDITIONS OF LOAN GUARANTEES

SEC. 602. The Administrator shall guarantee or make a commitment to guarantee under section 601 of this title, with respect to a facility of a resource conservation or resource recovery system, or component thereof, only if—

(a) the facility for which the guarantee is provided is a critical element of the proposed resource conservation or resource recovery system, which has not been commercially demonstrated in such an application;

(b) such system is certified by the State to be consistent with any applicable State and areawide plans or programs;

(c) the applicant agrees that such system will be consistent with any applicable guidelines and plans established pursuant to title IV of this Act, and will meet the requirements of title III of this Act;

(d) the Administrator is satisfied that the proposed resource conservation or resource recovery system is appropriate for the area to be served, that the proposed system does not duplicate or displace existing resource conservation or resource recovery services in the area, and that a realistic plan for achieving operational and financial self-sufficiency within a reasonable time exists for the proposed system, including adequate new and stable markets, such as a long-term contractual commitment for a significant proportion of the recovered resources;

(e) such system will comply with effluent limitations under the Federal Water Pollution Control Act and with new source emission limitations or requirements of air quality implementation plans under the Clean Air Act;

(f) the Administrator is satisfied that competition among private entities for the construction or operation of the system or facility to be assisted under this title will be in no way limited or precluded;

(g) the amount guaranteed does not exceed 75 per centum of the total project cost of the facility assisted, and the balance of project cost is provided as follows:

(1) in the case of governmental applicants, from general tax revenues or assessments or the proceeds of bond sales; and

(2) in the case of private applicants, from invested or borrowed capital not subject to any public loan, guarantee, or grant program;

(h) the Secretary of the Treasury and the Administrator are satisfied that the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary and the Administrator will permit the creation of the resource conservation or resource recovery system, and such assistance is necessary to encourage financial participation in such facility by private lenders or investors; and

(i) the Administrator has determined that there will be a continued reasonable assurance of full repayment.

NONREVOCABILITY OF GUARANTEES

SEC. 603. Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this title shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud, or material misrepresentation on the part of the holder.

PROCEDURES ON DEFAULT

SEC. 604. (a) If there is a default by the borrower as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this title shall be construed to preclude forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

(b) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a) of this section (including any payment of interest under Section 605 of this title) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

(c) For purposes of this title, patents, and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

EMERGENCY PAYMENTS AUTHORIZED

SEC. 605. With respect to any obligation guaranteed under this title the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation for and on behalf of the borrowers from the fund established by this title the principal and interest payments which become due and payable on the unpaid balance of such loan if the Administrator finds that—

(a)(1) the borrower is unable to meet such payments and is not in default;

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and

(3) the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

(b) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

(c) the borrower agrees to reimburse the Administrator for such payments on terms and conditions, including interest, which are satisfactory to the Administrator.

FEES

SEC. 606. The Administrator shall charge and collect fees for guarantees of obligations authorized by this title in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

AUTHORITIES SUBJECT TO APPROPRIATION

SEC. 607. Notwithstanding any other provision of this title, authorities made available under this title shall be effective only to the extent and in such amounts provided in advance in appropriation Acts enacted after the date of enactment of Resource Conservation and Recovery Act of 1976.

On page 151, after line 21, insert the following new section, and redesignate section 409 as 410:

REMOVAL OF SLUDGE AND OTHER SOLID WASTE FROM WATERS AND SHORELINES

SEC. 409. (a) DEFINITION.—As used in this section the term "remove" or "removal" refers to the removal of sludge or other solid waste from the water or shorelines (including public and private property) or the taking of such other actions as may be necessary to minimize or mitigate any dangers to health or the environment presented by sludge in such areas.

(b) ASSISTANCE TO STATE AND LOCAL AUTHORITIES.—(1) Whenever the Administrator determines that (A) any navigable waters of the United States or any adjacent shoreline has been affected by the deposit of sludge or other solid waste from any source (including sludge or solid waste which has migrated to such area from a disposal site) and (B) such sludge or solid waste in such area presents a danger to the health or the environment, he may make grants and provide technical assistance to the State and local authorities having jurisdiction over the affected areas for the removal of such sludge or waste.

(2) No grant may be made under this subsection for an amount which exceeds 75 per centum of the total amount expended by the recipient State or local government for purposes of the removal for which such grant was made.

(c) ENVIRONMENTAL PROTECTION AGENCY TASK FORCE.—(1) The Administrator shall establish or designate a task force consisting of personnel who shall be trained, prepared, and available to provide the necessary technical assistance (including equipment and material where necessary) for the removal of sludge or other waste pursuant to subsection (b).

(2) The task force established or designated under this section shall—

(A) carry out a system of surveillance and notice designed to alert areas which are or, may be, adversely affected by the deposit or migration of sludge and other solid waste in the navigable waters of the United States and the adjacent shorelines, and

(B) provide such technical assistance (including equipment and material where necessary) as may be necessary to remove such sludge or other solid waste.

(d) OTHER AUTHORITIES NOT AFFECTED.—(1) Nothing in this section shall be construed to affect or impair any authority under section 311 of the Federal Water Pollution Control Act (relating to oil and hazardous substances) or under any other provision of such Act or of the Marine Protection Research and Sanctuaries Act of 1972.

(2) The provisions of this section shall apply whether or not any deposit or migration of any sludge or other solid waste was in violation of any applicable Federal, State, or local law or regulation and shall not affect the determination of the criminal or civil liability of any person respecting such deposit or migration.

(e) There are authorzed to be appropriated $10,000,000 for fiscal year 1978, $12,000,000 for fiscal year 1979, and $15,000,000 for fiscal year 1980 for grants for the removal of such sludge or waste.

H.R. 15377

By Mr. HECHLER of West Virginia:

On page 23, after line 9, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 18. (a) Each officer or employee of the Secretary of Commerce who—

"(1) performs any function or duty under this Act or the Export Administration Act of 1969 which is amended by this Act; and

"(2) has any known financial interest in any person subject to such Acts, or in any person who obtains any license, enters into any agreement, or otherwise receives any benefit under such Acts;

"shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 17, 1976, page 31130:

HOUSE BILLS

H.R. 15326. August 30, 1976. Public Works and Transportation. Stipulates that the first costs of all bridge construction for the Atlantic Intracoastal Waterway Bridges project in North Carolina and Virginia shall be borne by the United States.

H.R. 15327. Augsut 30, 1976. Post Office and Civil Service. Permits postage-free mailing of correspondence to any Member of Congress by residents of the State or district represented by such Member which is sent to the Member's official business address.

H.R. 15328. August 30, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 15329. August 30, 1976. Judiciary; Post Office and Civil Service; House Administration. Expands the prohibition of the employment by any public official of any relative of such public official in an agency in which such official serves or over which such official exercises jurisdiction or control to cover the legislative branch.

States that any amount paid to a relative of a public official in violation of Federal nepotism laws shall be a debt due the United States. Sets criminal penalties for the violation of such laws.

H.R. 15330. August 30, 1976. Ways and Means. Amends the Internal Revenue Code to exempt farmers or farm operators from the highway use tax on heavy trucks if the farmer (1) uses such vehicle primarily for farming purposes, and (2) is not a corporation with gross receipts in excess of $950,000 or with gross receipts more than 50 percent of which are from activities other than farming.

H.R. 15331. August 30, 1976. Agriculture Prohibits the importation of palm oil and palm oil products unless the Secretary of Agriculture certifies that such products are pure and wholesome and meet sanitation standards. Authorizes the Secretary to establish such standards, and to inspect such imports. Requires that such imports meet the packaging and labeling requirements in effect in the United States and specify the country of origin. Makes all palm oil in the United States subject to the Federal Food, Drug, and Cosmetic Act. Sets forth labeling requirements for palm oil in the United States. Prescribes penalties for violation of this Act.

H.R. 15332. August 30, 1976. Education and Labor. Directs the Commissioner on Aging to establish a program to make supplemental food available to older persons determined to be nutritional risks because of inadequate nutrition and inadequate income. Directs the Commissioner to establish a program to make medical services and medical supplies available to older persons determined to be in special need of such services and supplies because of their medical condition and inadequate income.

H.R. 15333. August 30, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 15334. August 30, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

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H.R. 15336. August 30, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15337. August 31, 1976. Ways and Means. Amends the Internal Revenue Code to increase the maximum allowable deduction for charitable contributions by corporations.

H.R. 15338. August 31, 1976. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 15339. August 31, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition of such Act mother-daughter or father-son events held by elementary or secondary schools.

H.R. 15340. August 31, 1976. Small Business, Government Operations, Banking, Currency, and Housing. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 15341. August 31, 1976. Armed Services. Authorizes additional appropriations and amends the Department of Defense Appropriation Authorization Act, 1977, to increase appropriations authorized under such act for specified military uses for fiscal year 1977. Repeals appropriations authorized under such act for research and development of the Trident missile system. Reduces the average personnel strength of the Naval Reserves required under such act. Authorizes additional appropriations for naval vessel procurement by the Navy during the period July 1, 1976, through September 30, 1976.

H.R. 15342. August 31, 1976. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate the age limitation with respect to the requirement that all personal actions affecting employees or applicants for employment in Federal agencies, the U.S. Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 15343. August 31, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to implement a 5-year demonstration program to increase the average annual diversion of water from Lake Michigan.

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H.R. 15346. August 31, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish a National Arthritis Advisory Board to assure the most effective utilization and organization of arthritis resources.

Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes.

Directs the Secretary of Health, Education, and Welfare to establish a National Commission on Digestive Diseases. Requires the Commission to develop a long range plan for the use of national resources to deal with digestive diseases.

H.R. 15347. August 31, 1976. Agriculture. Establishes within the Department of Agriculture an Office of Rural Energy Assessment to identify, develop, and compile data pertaining to fuel and other energy needs of persons residing in rural areas.

H.R. 15348. August 31, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15349. August 31, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 15350. August 31, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs, in providing therapeutic and rehabilitation activities, to provide for the participation of patients and members in Veterans' Administration health facilities in the assemblage of poppies or other similar projects carried out at such facilities, which are sponsored by a national veterans service organization or its auxiliary.

H.R. 15351. August 31, 1976. Education and Labor. Amends the Fair Labor Standards Act to exclude from coverage under the mandatory overtime provisions persons primarily engaged in selling or servicing motorcycles.

H.R. 15352. August 31, 1976. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction to an individual for expenses incurred in commuting to and from work.

H.R. 15353. August 31, 1976. Government Operations; Armed Services. Prohibits the designating of any official information as "Defense Data" unless the disclosure of such informaton would be detrimental to national defense.

Provides for the automatic termination of the classification of such information two years after such designation is made. Requires the Comptroller General to monitor the implementation and adherence to this Act.

H.R. 15354. August 31, 1976. Government Operations. Requires the Secretary of the Treasury to prepare and make public annual consolidated financial statements for all expenditures of the United States utilizing the accrual method of accounting.

H.R. 15355. August 31, 1976. Post Office and Civil Service. Repeals provisions specifying restrictions on, and requirements for, the private carriage of letters. Eliminates criminal penalties for such carriage.

EXTENSIONS OF REMARKS

THROUGH THE EYES OF THE HANDICAPPED

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. SANTINI. Mr. Speaker, handicapped individuals have considerable obstacles to overcome. To a handicapped individual, the ability to perform simple tasks—abilities which we take for granted—may require the will and the strength of a modern-day Hercules to carry out.

As the father of a handicapped child, I have close personal interest in the rights and welfare of our handicapped. The time for recognition of the unique needs and problems of the handicapped is long overdue.

I would like to share with my colleagues a news article which recently appeared in the Nevada State Journal which focuses on the obstacles encountered in day-to-day living by handicapped persons:

WORLD OF HANDICAPPED—NEVADA WILL HOST TWO CONFERENCES

(By Lee Adler)

Most avid moviegoers remember "The Incredible Shrinking Man"—that movie in which Mr. John Q. Citizen suddenly and mysteriously is reduced by a radioactive cloud to the size of an ant.

His whole perspective changes. The family cat takes on the proportions of a mastodon.

A spider became a raging menace. The doorstep is suddenly an insurmountable, looming Everest.

That filmland fantasy has its real-life counterpart. Vigorous men and women, at ease with their bodies and their environments, are suddenly handicapped by crippling injuries or disease to the relative status of infancy.

The house, the streets, become treacherous obstacles.

The simple daily transactions which most of us take for granted—going to the store, to the post office, to city hall, to complain about taxes—become something akin to having to thread through a minefield.

Life becomes something that is not so much lived as navigated through. The handicapped person has to struggle to be defined in terms of his individuality rather than in terms of his affliction—or the devices which encumber him.

Many Nevada towns, such as Fallon and Elko, have precipitously high curbs, which drop like Niagara Falls. Many buildings, such as the older ones at the University of Nevada-Reno, soar forbiddingly like pyramids to someone in a wheelchair.

When Wilson Makabe of Reno, the department commander of the Disabled American Veterans of Nevada, has dealings with the Washoe County Tax Department, they are conducted through the mails.

Makabe, who has one partially artificial leg and another that's stiff, has difficulty with the steps. There is no elevator.

"If you have any questions or problems which require a personal appearance," he said, "you have to send somebody up there to get somebody down to see you."

Makabe is a co-director of the Nevada White House Conference on the Handicapped, which will be held Oct. 22–23 at the Sparks Nuggett Convention Center.

A similar gathering will be held in Las Vegas the month before, with delegates to be selected from each gathering—and from all of the nation's 56 states and territories—to attend the May 1977 White House Conference in Washington, D.C.

There, according to Sherri D. Ash, planning specialist for the White House Conference, the various suggestions from the states will be distilled into such things as recommendations to Congress for new legislation and new federal programs and approaches to the problems of the handicapped.

Measures to be pressed during the next session of the Nevada Legislature, Makabe said, include the creation of an Architectural Barrier Compliance Board which would determine whether the access needs of those in wheelchairs are provided for in new construction.

Also, he said, there will be an attempt to obtain property tax relief for all totally disabled persons, not just those, as is presently the case, with service-connected disabilities.

"We are also trying to get some tax breaks, locally and nationally, to encourage employers to hire the handicapped.

"There are times when they want to do so, but they're not willing to spend thousands of dollars to construct such things as ramps.

"It's only been in the past five to six years that the handicapped have come to realize that—just as blacks and other minorities are having their day—they should come out of the closet and assert themselves," he said.

The philosophical cornerstone of the various upcoming conferences, Ms. Ash said, "is that the handicapped should have the full range of services available to others—services they're not presently receiving.

"The fundamental issue is the civil rights of handicapped people—the source from which solutions to all their other problems flow," Ms. Ash said.

INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS MEETING HELD IN ISRAEL

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. WYDLER. Mr. Speaker, our Nation's 200th birthday has inspired many celebrations throughout our land, but one held beyond our border was especially felicitous because of the combination of sponsorship and locale. The occasion was the recent Bicentennial reception-celebration held by the American section of the International Association of Jewish Lawyers and Jurists during that organization's third congress meeting in Israel.

The association's primary objective is "the achievement of an international order of law and justice"—a purpose which is in full consonance with our own Nation's commitment. The place of the conference was Israel, our sister democracy in the Middle East, and the land of the bible which gave birth to the Judeo-Christian concept of moral and ethical values governing the conduct of mankind which we so dearly cherish.

Guest of honor at the Bicentennial reception was the Honorable Malcolm Toon, our Ambassador in Israel. It was hosted by Bernard Katzen, chairman of the association's American section, and guests included distinguished lawyers and jurists from many lands in addition to hundreds of American visitors.

President Ford sent the following congratulatory message, which was read to those in attendance:

> I welcome the opportunity of your Bicentennial celebration to extend greetings to all who are attending the Third Congress of the International Association of Jewish Lawyers and Jurists. We are honored that so many distinguished members of the legal profession and friends in Israel are joining in a special commemoration of our two hundred years of freedom and independence. On this milestone, the United States takes great pride in the tradition of dedication to the rule of law that has been so basic to our national legacy as a democratic society.
>
> In this spirit, I am happy to greet your organization which has done so much to advance a more peaceful and humanitarian world order.
>
> I send my warmest wishes to each of you for a constructive and rewarding convention.
>
> Sincerely,
>
> GERALD A. FORD,
> *President.*

Dean Albert M. Sacks of the Harvard Law School responded to the President's message, drawing comparisons between the development of Israeli and American legal systems.

Dean Sacks pointed out:

> The United States has been moving toward even more equal justice for its diverse peoples. . . . Revolutionary change has not come easily, but equal justice under law . . . has been accomplished without compromise of democratic processes or loss of critical civil liberties of speech, press and fair trial. On the contrary, these have been strengthened.

Speaking for Israel, Supreme Court Justice Haim Cohn noted:

> There is every reason for Israel to celebrate the Bicentennial of the United States of America—it is in effect a celebration of an anniversary as if for your mother (or grandmother).

And he added that American democratic achievements "are in the nature of challenging obligations" to Israel and other countries.

SYNFUELS BILL

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. BLOUIN. Mr. Speaker, a recent Jack Anderson column discussed the upcoming confrontation over the synthetic fuels bill. This is a bill, as Mr. Anderson indicates, that will establish questionable energy priorities at the taxpayers' risk, and for a very few companies' benefit. The United States must make reasoned and timely decisions on what kind of energy policies we want in the future. However, the synthetic fuels bill is the wrong approach at the wrong time.

The article follows:

[From the Washington Post, Sept. 18, 1976]

OIL BOONDOGGLE

Four powerful House members have appealed privately to the Ford administration to back off an $11.5 billion boondoggle for the oil and gas industry.

The administration supports a bill, which would promote the development of synthetic fuels. Under its terms, the taxpayers would take all the risk, and the oil companies would reap all the profits.

In an urgent letter to Treasury Secretary William E. Simon, the four House members call the scheme a "sweetheart loan," which would enrich the oil and gas tycoons.

The four are Reps. Ken Hechler (D-W. Va.) and John Dingell (D-Mich.), both subcommittee chairmen with jurisdiction over energy matters, and Reps. Richard Ottinger (D-N.Y.) and Philip Hayes (D-Ind.), both science and energy experts.

The beneficiaries of the bill, according to the letter, would include such oil and gas giants as Gulf Oil, Pacific Lighting, Sunoco, Texas Eastern Transmission and Union Oil. Other official documents indicate that Ashland, Exxon and Shell would also derive benefits from the measure.

The bill would provide guaranteed loans and price supports for experimental synthetic fuel plants. Theoretically, the plants would provide research information for the government and the industry. But the four congressmen claim the real result would be a "windfall" for big companies, which would develop commercial rather than experimental plants.

The taxpayers, of course, would pick up virtually all the bills. Thus there would be almost no financial risk for the companies. But if the plants should ever produce a profit, the taxpayers would get none of it.

The House rejected a similar bill last December by a resounding 263-to-140 vote. But the crank-up costs have been reduced from $6 billion to $3.5 billion in loan guarantees, plus $500 million in price supports. This has made the bill more palatable, although the end cost will still be $11.5 billion.

The Ford administration has also joined the oil and gas industry in a mighty lobbying effort. For a time, the backers spread the ingenious claim that the bill would help small farmers to convert cow manure into synthetic fuels. But the claim, according to experts, is of the same texture as the manure.

Under the skillful manipulations of Rep. Olin Teague (D-Tex.), nevertheless, the bill stands a good chance to pass.

GOV. JIMMY CARTER SPEAKS OUT ON MEDICAID MESS AND SCANDALS—CALLS FOR REFORM OF HEW BUREAUCRACY AND CREATION OF COMPETENT AND EFFICIENT MANAGEMENT

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EVINS of Tennessee. Mr. Speaker, we are all concerned about the disclosures at congressional hearings on the medicaid scandals which rob and deny worthy medicaid recipients—the disabled and dependent children—and cost the taxpayers in some 40,000 reported medicaid fraud cases in excess of $4 billion annually.

In this connection, I insert in the RECORD excerpts from Gov. Jimmy Carter's recent address at Phoenix, Ariz., highlighting the facts of the abuses and calling for reform reorganization and improved Government management.

Excerpts from Governor Carter's address follow:

MEDICAID

(By Jimmy Carter)

The recent Medicaid scandals are one more example of how this Republican Administration has failed to provide tough, competent management in Washington.

These Medicaid scandals are a national disgrace. They rob the people that Medicaid is supposed to help—the elderly, the blind, the disabled, and families with dependent children—and they rob our taxpayers.

We don't even know how much we are losing each year to fraud and waste in the Medicaid program. The estimates range from $4 billion to $7 billion a year.

These lost billions of dollars are a hidden tax we pay to an administration that talks about efficiency in government but doesn't do a thing about it . . .

The Ford Administration is, as usual, passing the buck, blaming the state. But the law is clear. The responsibility of the Federal Government is clear—to keep costs down, to have a system that works, and to eliminate fraud.

Senator Moss has estimated that there are up to 40,000 cases of Medicaid fraud each year . . .

The Republicans have had eight years to run Medicaid, and they've only made the problem worse.

We need to establish fiscal and quality controls on the Medicaid program, and an aggressive central fraud and abuse unit in HEW to investigate violations. We need stiffer penalties for Medicaid fraud and to enforce existing regulations relating to fraud. We must reform and reorganize HEW—a massive bureaucracy—and create a competent and efficient department.

We need a President who will accept responsibility—who will lead—and can straighten out the Medicaid mess. If elected, that is what I intend to do.

FOREIGN CONTROL PERILS AMERICAN WAGES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. GAYDOS. Mr. Speaker, on several occasions in the past I have taken the floor to express my concern over potential problems arising from the growing ownership of American businesses by foreign concerns.

One aspect of this situation in which I could forsee future trouble was in the area of relations between the foreign owners and the American workers. I voiced my concern that foreign employers, having no national ties with the United States, could take a hard line in negotiating contracts with our workers. The owners, if they chose, would have little hesitation to prolong a strike to close a plant, regardless of the adverse effect such actions might have on the employees, their families, or even the economic stability of an entire community.

I was most interested, therefore, to learn from the August 23d edition of the UE News of a strike which has taken place in Baltimore, Md. The members of UE Local 120 are protesting what they feel is the desire for "cheap American labor" by the NGK, Corporation of Japan, which owns 60 percent of the General Electric Co.'s Locke Insulator plant in Baltimore. The workers believe a new contract offered by the Japanese owners undercuts wage increases negotiated by the UE with General Electric Co. The strike, involving 380 workers, began July 12.

I am inserting the UE news article into the RECORD, in order that my colleagues may learn the reaction of the American worker to their foreign employer's offer:

LOCKE STRIKERS PROTEST AT EMBASSY AGAINST JAPANESE EMPLOYER'S OFFER

BALTIMORE, Md.—Striking members of UE Local 120 who work at the Locke Insulator plant here held a demonstration outside the Japanese embassy on August 5 to protest what they say is a desire for "cheap American labor," by the Japanese firm NGK Corp., which owns a 60 percent share of the Locke plant.

The plant was owned by GE until 1974 which still has a 40 percent share of the operation.

BELOW GE SETTLEMENT

In a statement distributed at the demonstration in Washington by about 20 strikers, the union compared the 35 cents an hour in wage increases for the next three years plus up to 15 cents maximum in the second and third years in cost-of-living adjustments to the wage increases negotiated by the UE with the General Electric Co.

The Japanese offer, they pointed out, amounts to 7 percent this year and 18 percent over three years compared to the average 12 percent immediate increase and 33 percent over three years plus a cost-of-living formula which includes a capless provision.

WORK HARD AND DIRTY

"Our work is hard and dirty," they informed the public, "transforming Kentucky clay into the gleaming porcelain insulators you see on electric power lines and switching stations. Our wages currently average $5.05 per hour. On an annual basis this is slightly over $10,000—about two-thirds of what is required for a 'moderate' standard of living, according to U.S. Dept. of Labor figures."

Noting that as GE workers they struggled for 25 years, including a 102-day strike in 1969–70, "to build up decent wages and conditions in our plant," the strikers declared that they won't allow the Japanese firm to tear down everything we've built up "and turn our plant into a low-wage, cheap labor industry."

"We have nothing against the Japanese people," the statement said in conclusion. "We are protesting the actions of this multinational Japanese corporation because as American trade unionists we cannot surrender to its attack on our standard of living. It's bad enough that American companies go overseas in search of cheap labor, but when the Japanese come over here to get cheap labor out of us, we have to draw the line."

The strike of the 380 workers began on July 12.

DRUG ABUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. RANGEL. Mr. Speaker, on September 8, I introduced House Concurrent Resolution 743: a resolution expressing the sense of Congress respecting the regulation of Papaver Bracteatum L. under the Controlled Substances Act.

I have noticed of late that President Ford and high administration officials stress at every opportunity their efforts to implement the recommendations of the 1975 Domestic Council task force's white paper on drug abuse. These statements are often pretentious, overstating actual accomplishments. One example of inexplicable inaction relates to the white paper's recommendation that—

> The Opium Policy Task Force accelerate its evaluation of Papaver bracteatum as a substitute for morphine-based Papaver Somniferum in the production of codeine.

Mr. Speaker, this opium policy task force is a creature of the administration itself, consisting of representatives from the State Department, HEW, Justice, and the Executive Office of the President. Despite this fact, the task force has taken no visible action.

During this period of apparent inactivity, U.S. pharmaceutical firms are cultivating Papaver bracteatum as an intended domestic source of thebaine for the further production of codeine and other dangerous narcotic drugs. Because of the failure of the opium policy task force, the Justice Department is unwilling to exercise its statutory authority under the Controlled Substances Act with respect to Papaver bracteatum.

The United States is already experiencing a huge problem of diversion of drugs to the illicit market. To allow the cultivation of Papaver bracteatum without regulatory safeguards for its production and control is the height of folly and irresponsibility. I am sure that my colleagues will join me in urging the Attorney General to take immediate corrective action.

CLEAN AIR ACT AMENDMENTS WOULD CURTAIL ECONOMIC PROGRESS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. ASHBROOK. Mr. Speaker, I strongly opposed the passage of H.R. 10498, the so-called Clean Air Act amendments. Enactment of this legislation would prove a major obstacle to economic growth in the United States. Unfortunately, the liberals won again and the House passed this legislation. We may be able to block passage but hopes are dim.

In drafting a bill such as this it is essential that we strike a reasonable balance between our economic and environmental needs. Protection of the environment must be carefully weighed against our need for future economic growth and energy development. Unfortunately, this bill fails to take a balanced approach to the problem. It comes down on the side of the environment at the expense of other national priorities.

The nondeterioration standards found in section 108 are particularly onerous. These standards are designed to prevent significant deterioration of air quality. To accomplish this goal section 108 divides the United States into three types of areas.

All areas cleaner than the national air quality standards would have to be classified as either class I, class II, or class III. Class I would be pristine areas such as national parks. Almost no deterioration would be allowed in these areas. Class II would permit some deterioration while class III would allow additional deterioration but less than the levels set by the national ambient standards.

The result would be a patchwork quilt of air quality standards for as much as two-thirds of the Nation. The only way to insure nondegradation of air quality in these areas is to restrict the development of new sources. Industrial growth would be limited or prohibited altogether. This means a weakened economy, fewer jobs, and less energy.

In reality, section 108 is little more than a backdoor approach to Federal land use control. It is, moreover, a Federal land use plan based on one consideration only—that of air quality. This makes it even more arbitrary and unworkable.

Traditionally, each State has responsibility over land within its own boundaries. All this would change with the enactment of H.R. 10498. Section 108 lays out the criteria and procedures for classifying areas, stipulates the amount of incremental pollution allowed and establishes the procedure for reviewing applications for construction permits in the areas affected. Having failed to get through Congress a Federal land use bill, the liberals now hope to accomplish the same goal through Federal air quality standards.

Section 108 also translates into a virtual no-growth policy. The question boils down to one of growth versus nongrowth. The way Congress resolves this issue will determine whether a new factory can be built in a community, whether new powerplants can be constructed to meet our energy needs, and whether the United States will have jobs and economic progress or economic stagnation.

This is not idle conjecture. The Columbus & Southern Ohio Electric Co., for example, states the following:

> The effect of the non-deterioration provisions are devastating to Ohio electric utilities and would in effect prevent us from building any coal-fired generating stations in the State.

The Environmental Protection Agency has also noted the far-reaching consequences of the nondeterioration policy found in section 108. According to the EPA:

> A national policy of preventing significant deterioration, however defined and implemented, will have a substantial impact on the nature, extent and location of future industrial, commercial and residential development throughout the United States. It could affect the utilization of the nation's mineral resources, the availability of employment and housing in many areas, and the costs of producing and transporting electricity and manufactured goods.

In light of the disastrous impact section 108 would have on industrial growth, unemployment, and energy development I strongly urge its deletion. Instead, I urge adoption of the Chappell amendment, which would establish a National Commission on Air Quality to conduct an in-depth examination of this issue.

I also objected to the provisions of the bill relating to automobile emission standards. The proposed emission levels are overly stringent and would not serve the public interest. They would result in wasted energy and higher consumer costs while making only negligible improvements in air quality.

A far better approach is that taken by the Dingell amendment. It would continue our progress toward cleaner air without severe economic and energy repercussions. This is evident from a study conducted jointly by the Federal Energy Administration, the Environmental Protection Agency, and the Department of Transportation. We won on this issue; won, that is, if the Senate agrees to the Dingell amendment.

According to this study, the Dingell amendment would prevent a 5-percent loss in fuel economy that otherwise would result in 1980 under the terms of the bill. That comes to a savings of 2.46 billion gallons of gasoline during the 10 year life of the 1980 fleet. For the 1980–85 model years, the overall fuel consumption difference between the Dingell amendment and the committee bill amounts to 9.27 billion gallons.

The additional petroleum needed to make up for this difference would make us even more dependent on unreliable foreign energy sources. The wasted fuel would also add to consumer costs.

And wasted fuel is not the only added cost. The provisions of the committee bill would also result in higher first purchaser costs and higher maintenance costs for new cars. It is estimated that these costs in 1980 alone would be $1.47 billion.

Once again, I think it is essential that we strike a reasonable balance between our economic and environmental needs. The Dingell amendment would result in cleaner air without devastating our economy. We must not let the liberals delete this vital amendment.

WORLD WAR I PENSION ACT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. HARKIN. Mr. Speaker, over the past year and a half I have been contacted by numerous veterans of World War I and their wives or widows concerning their need for an adequate pension. Their letters provide a poignant view of the economic situation in which many of these elderly persons are now struggling to survive.

For instance, one elderly—late 70's—couple wrote:

> Our small farm here about 6 miles from town does not bring in any income as it cost more to put in last year's seeding than we realized from the crop the year before. . . . Of course we understand the tremendous pressures to help foreign countries and unfortunate situations, earthquakes and storms. We do not begrudge help to them but feel that these elderly veterans deserve a just and general pension.

These are proud people, who are trying to keep themselves and their homes neat and tidy, who are gardening and canning produce, and who, so far, are refusing to go on welfare. Yet they are also the "forgotten people" who must constantly do without necessities, let alone luxuries, who are terrified at the possibility of a lengthy hospital stay, and who feel they have nowhere else to turn.

I have supported attempts to provide a long-sought monthly pension to World War I veterans or their widows. After 15 months this legislation is still pending before the Veterans' Subcommittee on Compensation, Pension, and Insurance.

I am pleased to have signed a petition to discharge the Veterans' Affairs Committee from further consideration of H.R. 3616, the World War I Pension Act, so that the entire Congress will be able to consider and take a stand on this important issue.

This bill, H.R. 3616, would provide a $150 a month pension for either the World War I veteran or his widow, without regard to any source of income that he or she may have.

We have provided very little to these veterans. For the most part, $607.50 is the total benefit which these individuals have received. When they were discharged, there was no education aid system, there was no effort to aid these veterans in finding employment, and there were not veterans' hospitals as there are today.

This bill will be a godsend to the 893,000 World War I veterans still alive today, and to the surviving widows of deceased veterans. At the present time, only 340,873 of these veterans are receiving any kind of a veterans pension.

DISABLED AMERICAN VETERANS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EILBERG. Mr. Speaker, our Nation owes a debt to the disabled veterans which we will never be able to fully repay, but it is our duty to do everything possible to overcome the effects of the injuries they suffered while serving their country.

At this time, I enter into the RECORD the testimony given by Frank J. Randazzo, National Commander of the Disabled American Veterans, before the House and Senate Veterans' Affairs Committees today:

STATEMENT OF FRANK J. RANDAZZO, NATIONAL COMMANDER, DISABLED AMERICAN VETERANS

Mr. Chairman and members of the committee: It is a distinct pleasure to appear before you on behalf of the 517,000 members of the Disabled American Veterans to present our legislative program.

As the distinguished members of the Committee are well aware, the Disabled American Veterans was organized in 1920 and chartered by the Congress in 1932, to work for the physical, social and economic rehabilitation of all disabled veterans.

Our objectives, which have remained unchanged throughout the years, are to obtain for those veterans who have been disabled in the wartime service of our Country:

Fair and just compensation for disabilities incurred, or aggravated by military service;

Proper medical care and treatment for such disabilities;

Suitable and gainful employment to offset the effects of such disabilities;

Adequate benefits for the widows, children, and dependent parents of veterans who die as a result of service-connected disabilities.

It therefore follows that our legislative program is designed to advance the interests and promote the welfare of all wounded, injured and disabled veterans, their widows and dependents.

Mr. Chairman, it is appropriate to note that this is our second appearance before this Committee in 1976—a "unique" circumstance necessitated by the newly instituted Congressional Budget Process that requires all Standing Committees to determine their legislative initiatives very early in each new Session of the Congress.

Mr. Chairman, our most recent National Convention held in Miami Beach, Florida, adopted a variety of resolutions calling for improvement in the various benefit programs afforded to our Country's service-connected disabled veterans, their dependents and survivors. I shall discuss these Convention mandates in a moment, but I would be remiss if I did not first express the DAV's sincere appreciation for the veterans' legislation initiated by this Committee and approved by your colleagues in the 94th Congress.

Your endeavors during this period have resulted in meaningful improvements in all of the major VA benefit programs. Additionally, your aid and support have been instrumental in the ability of the DAV to achieve two other important objectives which were not within the jurisdiction of your Committee—retention of the tax-exempt status for all VA benefits and the return of the observance of Veterans Day to November 11.

The record of this Committee during the last two years is indeed a testimonial to its genuine concern for promoting the continued welfare of our Nation's service-connected disabled veterans and their families. It instills in me the confident knowledge that the legislative proposals which I shall now discuss will receive your sympathetic and serious consideration.

SERVICE-CONNECTED DISABILITY AND DEATH COMPENSATION PROGRAMS

Mr. Chairman, perhaps no other Federal program symbolizes the manifest concern held by the American people for their wartime disabled veterans than does the VA's disability and death compensation programs. Compensation for impaired earning capacity due to service related wounds, injuries and diseases is essential if the disabled veteran is to have his proper place in our society.

Our membership is therefore most grateful for your efforts in guiding the Veterans Disability Compensation and Surivor Benefits Act of 1976 through the Congress. The results of this legislation will soon be materially evident by the 8% increase in the benefit checks of some 2.5 million disabled veterans, their widows and orphans.

We are also very pleased that the 1976 Compensation Act contains the DAV proposal for a scientific study to determine if there is a causal relationship between amputations and subsequently developing cardiovascular conditions.

Establishment of such a relationship would prove very beneficial to disabled amputee veterans in the adjudication of their claims for service-connected disability, as well as important to the cause of understanding and treating heart disease itself.

Mr. Chairman, our most recent National Convention has again mandated the DAV to seek an upward adjustment in service-connected disability and death compensation payments.

In justification of this request we would point out three facts: (1) experience has shown that the forces of inflation are constantly at work, (2) current data indicates that the unemployment rate among disabled veterans is in excess of 25 percent, and (3) our proposal concerns a legislative initiative that would not be funded or become effective until Fiscal Year 1978. With these thoughts in mind we request your continued effort to assure that these benefit payments remain adequate. We urge that you remain cognizant of these facts as you deliberate upon veterans legislative priorities for the period October 1977 through September 1978.

Our membership has also reaffirmed a long-standing DAV objective—the presumption of service-connection for the cause of death in those cases where a veteran is permanently and totally disabled from service related conditions. Your serious consideration of this proposal in the past, as evidenced by the fact that you have twice required the VA to provide an accounting of their disposition of such service-connected death claims, is most appreciated.

Results of the second VA study are soon to be submitted to the Congress and we urge the Committee to give all favorable consideration to this beneficial and humanitarian liberalization of present law.

Mr. Chairman, we have two suggested improvements which relate to the VA's Automobile and Adaptive Equipment Award as authorized under Chapter 39, Title 38, U.S. Code.

The first would extend entitlement to this award to service-connected disabled veterans of World War I who meet the current eligibility criteria—loss or loss of use of an extremity or blindness. We think it a matter of simple justice that this benefit, long denied to World War I veterans, be extended to them just as it is to every qualifying veteran since World War II. Such an extension—the cost of which is negligible—would help to allay the criticism of those who claim that the Congress is unresponsive to the needs of veterans who fought in the First World War.

Our second proposal would extend entitlement to automotive adaptive equipment—excluding the $3,300 grant for vehicle purchase—to service-connected disabled veterans whose knees or hips are ankylosed at a "favorable" angle. Presently such veterans are not entitled to any automotive benefits as their disabilities do not meet the established criteria which govern a "loss of use" determination.

However, many of these veterans must purchase adaptive equipment at their own expense in order to meet the vehicle licensing requirements of their states. In our views, this is an unfair financial burden that could be lifted from these service-connected disabled veterans at a very low cost to the government.

Mr. Chairman, our National Convention delegates have also approved a resolution calling for the enactment of legislation which would provide for the preservation of all disability compensation rating evaluations that have been continuously in effect for ten or more years.

In this connection, we would point out that Section 359 of Title 38, United States Code now provides that service-connection for any disability which has been in force for ten or more years shall not be severed, except upon a showing of fraud or that the person concerned did not have the requisite service or character of discharge.

We are convinced that the length of time for the preservation of disability rating evaluations should be the same as that which currently applies to the protection of service-connection and we strongly urge your favorable consideration of this proposal.

Two other objectives of the DAV which relate to the VA compensation program would benefit veterans who were captured in combat and held as prisoners of war. The first would provide a minimum service-connected disability rating of 50 percent for any veteran who was a POW for six months or more. The second would liberalize and extend the presumptive period for service-connection of chronic diseases for this same category of veterans.

It is a well documented fact that lengthy detention by the enemy in all military conflicts since World War I has caused American servicemen to suffer extreme mental and physical privation. It is also true that medical evidence required by law to substantiate a claim for disabilities incurred while a prisoner of war is difficult, if not impossible, to obtain. We therfore urge your sympathetic consideration of liberalizing these benefits for this worthy group of combat veterans.

HOSPITAL AND MEDICAL CARE

Mr. Chairman, I would now like to discuss the VA program of hospital and medical care—the continuation of which is of paramount concern to the DAV and, I know, to this Committee.

In fulfilling its important mission, the VA has over the years developed a nationwide network of health care facilities that defies comparison. Beyond doubt, our VA medical system is a National resource of which we can be proud; a resource which stands ready to serve the needs of America's 29 million living veterans and their families.

Recognizing this we are truly grateful that this Committee has placed itself in the vanguard of those who maintain that the VA medical care system must never be merged with or become subservient to any other Federal agency or program.

The VA medical program is a fundamental component of our Federal benefits system. Impair its integrity and you will see the beginnings of an erosion process that could eventually include all veterans' programs.

Therefore, in the area of veterans medical care, Mr. Chairman, my first and foremost request of this Committee is that you continue to do all that you can to keep America's VA hospitals for America's service-connected disabled veterans.

In addition to this primary concern, our Florida Convention approved a number of resolutions calling for improvement in veterans health care services. Several of these are, I feel, paramount in nature and I am happy to note that some have been incorporated in legislation presently pending in the Congress.

In an effort to provide adequate salaries for VA medical personnel, the DAV strongly supported the Physicians and Dentists Pay Comparability Act of 1975. The special and incentive pay authorized by this legislation has been an invaluable aid to the VA in the recruitment and retention of highly qualified physicians and dentists. However the authority of the VA to offer these monetary incentives will expire on September 30, 1976. We therefore urge that the time limitations of P.L. 93–123 be extended until such time as the crucial problem can be resolved.

Another major legislative objective of the DAV is to achieve a priority in outpatient treatment for service-connected disabled veterans in our VA hospitals. Quite frankly we find that priority treatment for these veterans—the original beneficiaries for whom the system was created—is not uniformly applied in all VA hospitals. We therefore urge your positive action on legislation that would require the Administrator of Veterans Affairs to prescribe regulations to ensure that the highest priority for outpatient treatment shall be accorded to veterans with service-connected disabilities.

In keeping with our desire to see the VA hospital system direct its attention and resources to the service-connected veteran, we also request the enactment of legislation that would provide complete medical services for any veteran with a service-connected disability of 50 percent or more.

Finally, Mr. Chairman, we propose an increase in VA allowances paid to veterans as reimbursement for authorized travel expenses and to private and state nursing homes for veterans care.

In the case of travel allowances to and from VA facilities, the current stipend of 8 cents per mile is totally unrealistic and inadequate. We support a figure of 15 cents per mile which is equal to that now paid government employees traveling on official business.

Similarly, the present VA payments for nursing home care are so low that they discourage the acceptance of severely incapacitated veteran patients by these facilities. If the nursing care program is to fulfill its mission, these VA payments must become competitive and are therefore in need of an upward adjustment.

EDUCATIONAL BENEFITS

We have two National Convention mandates calling for improvement in VA educational benefits.

The first concerns Vocational Rehabilitation benefits for veterans in need of training due to a service incurred disability.

On June 30, 1975, these benefits terminated for all disabled veterans of World War II and the Korean Conflict—many of whom were in training at the time. In our opinion, termination of this training for seriously disabled veterans is counter-productive to the basic philosophy of the program. We therefore urge enactment of legislation which would repeal the June 30, 1975, termination date and give the VA Administrator discretionary authority to extend entitlement for such periods as he deems appropriate.

My second proposal, Mr. Chairman, relates to the War Orphans and Widows Educational Assistance Program. As you know, these benefits are presently extended to the eligible survivors of veterans whose deaths were service related and to dependents of veterans who are permanently and totally disabled from service-connected causes. In line with the VA's classification of "serious disability", we request the extension of these benefits to the dependents of veterans rated 50 percent or more disabled.

EMPLOYMENT

Mr. Chairman, America's disabled veterans owe this Committee a special vote of thanks for its initiatives in the employment area. However, disabled veterans have been particularly hard-hit by the catastrophic rates of unemployment in the United States during recent years, and they critically need our combined efforts in this area.

More than 7 million Vietnam Era veterans—over 400,000 of them disabled—have entered the work force, and their employment needs are vast in scope. It is generally acknowledged that the unemployment rate among disabled veterans is significantly higher than that of the general public, a tragic statistic considering that it applies to those who sacrificed physical and psychological well-being in the military service of their Country.

To help solve this problem, the DAV feels that the Veterans Employment Service should be given a greater degree of authority within the Department of Labor. Specifically we strongly recommend that the position of VES Director be raised to the level of an Assistant Secretary of Labor, so that he will have the power he needs to be truly effective.

Another form of employment assistance for disabled veterans is the Affirmative Action Program which requires Federal contractors to give special consideration to the employment of disabled and Vietnam Era veterans. For these purposes a "disabled veteran" is defined as one whose disability is rated as being 30 percent or more disabling or as one who was discharged from military service because of a disability incurred in the line of duty.

Mr. Chairman, a disability rated at 10 or 20 percent may very well constitute a more pronounced employment handicap than one rated 30 percent or more disabling. To insure the proper employment priority for all disabled veterans, we therefore recommend that the criteria for participation in this program be lowered to include any veteran with a compensable service-connected disability rating.

In discussion of employment problems, Mr. Chairman, I would like to point out that the Comprehensive Employment and Training Act—CETA—does not provide for preference to disabled veterans in its programs. Indeed, participation by disabled veterans in CETA programs has been minimal. We therefore urge that legislation be enacted to provide for enrollment of disabled veterans in CETA programs on a priority basis.

HOUSING, INSURANCE, AND BURIAL BENEFITS

Mr. Chairman, with your kind indulgence I have five other proposals which touch on the VA programs of housing, insurance and burial benefits which I would like to bring to your attention.

The first deals with specially adapted housing benefits for seriously disabled veterans as authorized by Chapter 21 of Title 38, U.S. Code. As you know, veterans who have suffered the loss or loss of use of one upper and one lower extremity are presently excluded from the $25,000 housing grant.

The DAV has long felt that these veterans are so seriously impaired that they have a definite need for specially adapted housing. We therefore urge that the eligibility criteria for the housing grant be amended to include any veteran who has suffered the service-connected loss or loss of use of two or more extremities.

In the area of insurance benefits I have two proposals. First, that the face value of National Service Life Insurance, which has been set at a maximum of $10,000 since its inception in 1946, be increased to $20,000. Certainly the rise in the cost of living that has occurred since World War II more than justifies an increase.

Second, we suggest that the present one year application period pertaining to Service Disabled Veterans Insurance (RH) be extended to two years from date of disability determination. We feel this one year period is unduly restrictive and that disabled veterans should be given this additional time in order to evaluate and act upon their life insurance needs.

Mr. Chairman, the DAV is adamantly opposed to the VA proposal which calls for suspension of the $250 burial allowance in those cases when a veteran's survivor has received a Social Security lump sum death payment. We have appreciated your past support of our position on this matter and urge that it continue in the future.

We also ask that you continue with your efforts to expand the VA's National Cemetery System. We are truly grateful for your recent efforts in this regard as evidenced by the passage of legislation authorizing new National cemeteries in the States of California and Virginia. It is the position of the DAV that all veterans should be entitled to burial in a National Cemetery that is reasonably close to their homes, and we strongly support legislation to provide at least one National Cemetery in each State.

CLOSING REMARKS

In closing, Mr. Chairman, I want to express again our grateful appreciation for giving us this opportunity to appear before you. I hope and trust that the legislative objectives that I have presented here today will receive your early and favorable consideration. I cannot emphasize strongly enough that the DAV holds the members and staff of this Committee in the highest regard. I pledge to you the complete cooperation of our organization in a mutual effort to improve and protect the benefits and services for America's service-connected disabled veterans, their dependents and survivors.

Thank you very much.

ISSUE OUT OF TAXES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. RHODES. Mr. Speaker, I cannot tell you how delighted I am that Jimmy Carter is making an issue out of taxes. Every time he stands up and waves that big tax book around, he is indicting the Democrat Party. They own all the complex and unfair taxes in the United States Code. They wrote the book.

Of course, he has tried somehow to blame the taxes that only Congress can levy on the President. And he says that we Republicans, in the minority by a large degree, somehow are keeping the earnest and sincere Democrat majority from enacting tax reforms. He has not even been elected, and already Mr. Carter is taxing our credulity.

Now I want to put on record the tax performance by the Democrats since they loaded the income tax on the American people in 1913. Since then, Democrat Congresses have inflicted 14 income tax increases on the earnings of America's working men and women.

So, the record is clear. Nothing is certain when Democrats control Government—except debt and taxes. It is time the American people elect themselves a Congress that does not regard everything they earn as Federal property, and anything they are allowed to keep as a gift from Uncle Sam.

TULSA OSHA SEMINAR

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. JONES of Oklahoma. Mr. Speaker, since I came to Congress in 1973, one of the most frequent sources of constituent complaints has been the Occupational Safety and Health Act of 1970. It is clear that the implementation of OSHA has been a major cause of aggravation and resentment toward the Federal Government held by many American businesses, particularly small business firms.

In considering OSHA, we are faced with two conflicting situations. It is a documented fact that we are experiencing approximately 11,000 deaths per year resulting from business and industrial accidents and 100,000 deaths per year due to occupational health problems.

On the other hand, we find businesses and industry, particularly small business operations, having to comply with Federal regulations that in many instances are excessively costly. Great economic burdens are placed on such firms, and furthermore, these firms must comply with regulations which they frequently feel are unjustified or inappropriate to their particular situation.

In the last 3½ years OSHA inspectors have issued almost one million citations to employers for violations. Ninety-eight percent of those have been for non-serious violations, as defined by OSHA, with an average penalty of $25.

In order to develop a better understanding of the problems both from the viewpoint of those who administer the program and those who are subject to its regulations, I scheduled a public seminar in Tulsa on September 7. Business people from the Tulsa metropolitan area were invited to exchange views with the regional administrator of OSHA, the Oklahoma labor commissioner and the State director of the Small Business Administration in Oklahoma.

The results of this seminar were encouraging. I learned much and I think that the others who participated did, also. The majority opinion expressed to me by businessmen attending was that we should continue a policy of occupational safety in order to reduce deaths and serious accidents on the job. However, virtually every businessman expressed the view that OSHA inspectors spent too much time concentrating on little things which had no relation to serious safety hazards.

Therefore, I think that Congress should investigate the administration of OSHA again next year. The objective should be to concentrate on serious health and safety hazards.

In connection with my announcement to businessmen in my District of this seminar, I conducted a survey to determine the experiences and attitudes of these businesses toward OSHA. The responses were large in number and very impressive to me.

Mr. Speaker, at this point in the RECORD, I would like to enter the questions and results from this survey:

OSHA SURVEY RESULTS EXPRESSED AS PERCENTAGES

	Yes	No	No response
I. General questions:			
1. Are OSHA regulations clearly defined and understandable?	14	77	9
2. Does imposition of OSHA standards serve the purpose of protecting the safety of workers?	18	59	23
3. In your view, does compliance with the standards place an undue economic hardship on the individual firms?	81	5	14
4. Should inspectors, after giving a citation to an employer, be compelled to outline procedures for correcting the violation?	86	5	9
5. If offsite or onsite consultations between OSHA experts and employers could be conducted without fear of employers' receiving citations, would this be a constructive change in OSHA procedures?	81	9	9
6. Should OSHA be compelled to develop an economic impact statement for its standards?	72	18	9
7. Should grants or loans be made available to small businessmen and farmers to enable them to comply with OSHA regulations?	41	45	14
II. The inspection process:			
How many times has your establishment been inspected?	Average: 2.05 times for all responding. Average: 3.33 times for those respondents who had been investigated at least once.		

THE FOLLOWING QUESTIONS WERE ASKED OF THOSE WHOSE ESTABLISHMENT HAD BEEN INSPECTED AT LEAST ONCE

[In percent]

	Yes	No	No response
1. Did the inspector give you advance notice of his intention to inspect your establishment before he arrived?	0	85	15
2. Did the inspector display his credentials?	62	8	31
3. Did the inspector ask to meet the appropriate official of your company?	85	0	15
4. Did you ask to see any document authorizing the inspection?	24	69	8
5. Did you protest in any way against the inspection?	8	85	8
6. Did you ask for a delay of the inspection?	15	76	8
7. Before leaving, did the inspector tell you whether or not he found apparent violations?	62	31	8
8. As a result of the inspection, did you receive citations or proposed penalties?	76	15	8
9. Did you receive the citations or proposed penalties within a reasonable time after the inspection?	69	15	15
10. Were you allowed a reasonable period of time in which to abate the violation?	69	15	15
11. Did you appeal?	46	38	15

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. MAZZOLI. Mr. Speaker, due to commitments in my congressional district I was unavoidably absent during part of September 16 and September 17. Had I been present, I would have voted as follows:

On roll No. 743, the previous question on final passage of H.R. 8532, parens patriae, "aye";

On roll No. 744, final passage of H.R. 8532, parens patriae, "aye";

On roll No. 745, final passage of Senate Concurrent Resolution 139, the second concurrent resolution on the budget, "aye";

On roll No. 746, to recede and concur with Senate amendment 68 to the Labor-HEW appropriation, "aye";

On roll No. 748, passage of House Resolution 1540, creating a select committee to conduct an investigation and study the circumstances surrounding the death of John F. Kennedy and the death of Dr. Martin Luther King, Jr., "aye";

On roll No. 749, passage of H.R. 15069, the National Forest Management Act, "aye";

On roll No. 750, passage of H.R. 15194, the conference report on public works employment, "aye"; and

On roll No. 751, passage of H.R. 12987, the conference report on emergency jobs program extension, "aye."

JUVENILE JUSTICE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. CONABLE. Mr. Speaker, today I have introduced an amendment which would eliminate paragraph 12 of section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415. Section 223 deals with the requirements a State must meet in order to receive formula grants under the law. Paragraph 12 requires the placement in shelter facilities of juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult.

In other words, in order for the State to receive Federal funds, it cannot place such offenders in its juvenile detention or correctional facilities. Mr. Speaker, this appears to be an unwarranted intrusion into the affairs of State criminal justice systems. It removes from the discretion of the judiciary the judgment as to the best treatment for an individual offender. In addition, it disrupts procedures that have proven effective in some States for dealing with juveniles and mandates a type of care that is not available in all areas of a State.

Thus, I am proposing the elimination of this mandatory portion of the law so that the best interests of the juvenile and society may be considered by the courts. This position is similar to that originally taken by the House during consideration of Public Law 93-415. A study of the legislative history of the measure indicates that the Senate bill required placement of these offenders in shelter facilities and that delinquents were not to be detained or incarcerated with adults. The House bill, on the other hand, simply encouraged these concepts. As a result of the conference the Senate version was accepted. Mr. Speaker, this absolute requirement in the law will have far-reaching effects on our criminal justice system and should be reexamined. Shelters, as good as they might be, are not effective in dealing with some juveniles.

THE EYES OF TAXES ARE UPON US

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. GUYER. Mr. Speaker, there is no doubt that one of the most critical concerns in our country today is "the family pocketbook." I am told that our colonial Americans rebelled because of taxation without representation. If we are not more judicious, we may find Americans today rebelling because of taxation with representation. I am respectfully submitting a little poem entitled "The Eyes of Taxes Are Upon Us."

THE EYES OF TAXES ARE UPON US

There's a tax when I phone; a tax when I wire
  There's a tax on my heat and my fireplace fire.

There's a tax on my lights and a tax on my books,
  And then, when I fish, there's a tax on my hooks.

There's a tax on my hat and a tax on each shoe
  There's a tax on my shirts and my automobile too.

There's a tax on the oil that I use on my hair,
  And a tax on the toothpaste I use with such care.

I'm taxed if I gargle and when I get ill
  I'm taxed if I swallow a capsule or pill.

I'm taxed when I golf and taxed when I walk,
  And a tax on my socks and the phone when I talk.

Now they have new taxes, brand new and aplenty
  All sizes and ages whether ninety or twenty.

The tax just for welfare is gigantic and clever,
  And once they impose it, you pay it forever.

There's a tax on the poor, and a tax on the rich,
  And even the guy who is digging a ditch.

On business and commerce and industries more,
  And the poor little guy who is running a store.

A tax to be born and a lifetime to rave,
  And in case you don't know it, there's one on your grave.

They tax all the money you can earn, save, or win
  Then ask you to thank them for blowing it in.

FIREFIGHTER MORTALITY REPORT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. DRINAN. Mr. Speaker, I would like to bring to the attention of my colleagues the results of a recent report on firefighter mortality prepared for the International Association of Fire Fighters. This comprehensive study of on-the-job fatalities among firefighters over a 15-month period demonstrates that firefighting is unquestionably the most hazardous occupation in the United States. The danger of death exceeds even that of police officers. Perhaps the most remarkable measure of the courage and sacrifice which this job requires is the report's finding that approximately one-half of all firemen in the United States suffer at least one injury in the line of duty each year.

I was particularly struck by the mortality report's revelation of the extent of the sacrifice of firefighters in my own State of Massachusetts. With 12 fatalities during the 15-month period of the study, Massachusetts ranked second among all the States in the absolute number of fatalities and first in per capita fatalities. The mortality report makes several suggestions as to the nature and possible prevention of some of these deaths.

While almost all occupations have experienced a significant decline in the rate of on-the-job fatalities in the past decade, firefighting remains just as hazardous as ever. Last year, 95 firemen lost their lives and nearly 50,000 were injured in the line of duty. The relatively low pay received by these dedicated public servants and the unique hazards of their profession clearly call for Federal action to assist the families of firefighters who perish while trying to protect the lives and property of others.

On April 30, the House of Representatives passed the Firefighters Benefits Act, extending to the families of firefighters killed in the line of duty the same $50,000 benefit provided to surviving dependents of police officers who give their lives to protect others. After months of delay, the Senate finally enacted similar legislation, and the measure currently awaits President Ford's signature. I trust that the President will sign this much needed law. Those of us from States such as Massachusetts, which have witnessed the sacrifice made by firefighters, believe that the results of the Firefighters Mortality Report serve as conclusive evidence of the urgent need for the Firefighters Benefits Act.

One of the most effective ways to reduce the hazards encountered by firefighters is to increase our knowledge of the means of preventing and controlling fires. With this in mind, the House and Senate passed H.R. 12567, authorizing $51.5 million for the period July 1, 1976, to September 30, 1978, to carry out the research programs of the Federal Fire Prevention and Control Act of 1974, of which I was a cosponsor.

Unfortunately, President Ford objected to certain reporting requirements and vetoed the bill on July 7. Work is currently in progress on a revised version of H.R. 12567 which would retain the funding level but remove the provision objectionable to the President. The findings of the Firefighter Mortality Report indicate clearly the need for the enactment of this legislation to reduce the unparalleled dangers encountered by our Nation's firefighters.

Excerpts from the report follows:

ABSTRACT

This 15-month study involved the investigation of 101 firefighters in-the-line of duty deaths. The breakdown of cause of death was: 45 heart attacks, 13 building collapse, 12 burns, 9 smoke inhalations, 6 apparatus accidents, 5 electrocutions, and 1 equipment failure. There tended to be a higher incidence of fatalities occurring in the Mid-Atlantic, East, and New England areas. The mean age of fire fighter's fatality was 43.5 and the mean years of service was 15.8. Sixty percent of the fatalities occurred to men holding the rank of fire fighter. The vast majority of firefighters who died in the line of duty worked either a split shift (10/14) or a 24-hour shift. There were 14 volunteer fire fighter fatalities.

Summaries of every case are provided in one of three sections: Fire Fighters Killed While Fighting Fires, Fire Fighters Killed in Non-Fire Situations, and Fire Fighters Killed by Heart Attack.

Fire Fighters Killed While Fighting Fires: Protective equipment, improper use, nonuse and/or insufficient equipment were a contributing factor in several of the smoke inhalation and burn cases. In 9 of the 41 cases in this section there was a relationship between the fatality and the individual's fire fighting experience. There was found to be a relationship between officer leadership on the fireground in a number of the fatalities. A shortage of manpower on the ground contributed to six fatalities. Other contributing factors discussed in this section are: communications, late notification, civilian responsibilities, fire prevention, pre-fire planning, and arson.

Fire Fighters Killed on Non-Fire Fighting Situations: Equipment, type of protective clothing, apparatus and tools were a contributing factor in the vast majority of the fifteen cases of this section. In several cases the victim fire fighters did not have the experience or proper training in which to conduct duties required of him.

Fire Fighters Killed By Heart Attack: The mean ag of the fire fighter heart attack victim was 51.3 and the mean years of service was 22. In general, the victims were slightly overweight and 60 percent of them smoked cigarettes regularly. There were three specific aspects of fire fighting that contributed to the development of heart disease: exposure to smoke/toxic fume inhalation, stress, and over-exertion. In over one-third of the cases, fire fighters experienced symptoms of heart trouble before the actual attack. In 7 of the 45 cases fire fighters had suffered heart attacks previous to the fatal one. There were several procedural problems after the heart attack occurred. Most serious of these were late ambulance responses, lack of proper equipment, and trained personnel (EMTs) on the fireground to perform emergency medical treatment.

The 1975 IAFF Death and Injury Survey data was not yet complete at the time of printing this report. Therefore the relation between the number of deaths investigated for this study and the total number of deaths in this period is presently unknown.

INTRODUCTION

Due to the ravaging effects of fire, the fire fighters play one of the most vital roles in our society. They are the people who have consciously chosen to pit their minds and bodies against the unpredictable nature of fire. When all of man's natural instincts signal him to retreat, the fire fighter is the man who must advance and challenge. This situation obviously places him in a most perilous position. With each alarm, the demands of the job engender a constant threat of injury or death. And, unfortunately, this threat is becoming increasingly a reality for many a fire fighter.

Today the fire fighter has only slightly better than an even chance of escaping injury each year,[1] with many fire-related injuries resulting in permanent disabilities. Even more staggering are the statistics regarding the ratio of in-the-line of duty deaths.

In the last ten years, fire fighters have averaged an annual ratio of 86 deaths per every 100,000 employees. While most occupations have experienced a downward spiral in their death rates over the last decade, the fire fighting profession has unfortunately not showed this trend: as their mortality rate has remained relatively constant[2] during this time period. Numerous facts and figures may be cited to underscore these inordinately high ratios, but let it suffice to say that fire fighting claims the dubious distinction for having decidedly the highest injury and mortality rate of any occupation in the country.[3]

While fire fighting is at the top of the death and injury scale, it is not equally balanced on the scales of health and safety protection. The occupational health and safety of the majority of workers in the U.S. are protected by Federal legislation, as their attendant OSHA problems receive increasing attention and research. But the fire fighter, who assumes one of society's greatest responsibilities, does not enjoy such coverage. Protection of fire fighters health and safety at the Federal, State and local level is almost nil with research into these problems to date being limited.

It is precisely the urgency of this situation that had prompted the International Association of Fire Fighters (IAFF) to undertake the Fire Fighter Mortality Study. For many years, the IAFF has annually compiled statistics on fire fighters' duty-connected deaths. However, this has done litte more than provide us with grim mortality figures.

Up until this time, data has not been gathered for the purpose of explaining the causes of the deaths, let alone the circumstances surrounding them.

In undertaking such a study for the first time, we have conducted an in-depth analysis of duty-connected deaths. The study involves scrutiny of the causes and circumstances of 101 fire fighters in-the-line of duty deaths. By extensively investigating each death, specific problem areas have been discerned. While this study lays the foundation for specified research into critical areas, solutions for some problems are immediately evident. It would be a grave mistake to view this study as the panacea for the problem of fire fighters in-the-line of duty deaths. Rather, this report should be perceived as a starting point, a springboard from which further research into the complexities of the problem may be launched. It might be well to view this report as a workbook offering to members of the fire service, legislators and other researchers' direction as to what steps might be taken to reduce dramatically the staggering mortality rate suffered by fire fighters.

BASIC FACTS ON FIRE FIGHTERS DEATHS

Cause of death

Fire fighters deaths were categorized into ten general causes, as charted in Graph A. Perhaps one of the most startling findings of this study was the high incidence of fatal heart attacks. The heart attack victims are more than three times as frequent as the next highest cause—building collapse. Forty-five (44.5%) of all fire fighters killed in the line of duty died from heart attacks. Of these fatalities, twenty-eight (62%) occurred while the man was on the fire ground with another five (11%) occurring shortly after a fire. The remaining fifteen fire fighters died while performing in non-fire fighting situations. These statistics immediately suggest that protecting a fire fighter's health, as well as his safety, is an important factor in preventing fatalities.

The remaining nine cause-of-death categories comprise 56 fatalities. Of these, forty-one (73%) occurred while on the fire ground, with the others occurring in non-fire situations. The victims with burns, building collapse deaths, smoke inhalation, electrocution and two of the three men who were killed from a fall all died in fire situations, constituting 40% of the overall death total. By combining this statistic with the number of men who died at the fire ground from heart attacks, it is evident that the overwhelming majority (70%) of the deaths studied were directly related to fire fighting operations.

While the majority of the deaths occurred at a fire, the 15 fatalities due to non-fire operations should not be considered normal accidents that could affect anyone. These deaths should be given equal study, for they most aptly reflect that fire fighters not only engage in fire suppression but in other services as well. The fact that seven of the 15 non-fire situation deaths occurred while men were performing rescue operations, unrelated to fires, strongly indicates the wide variety of other services fire departments provide for their communities. The hazards of the non-fire fighting services will become evident with the presentation of these cases in a later section.

Geographic location of fatalities

The most convenient method of categorizing the geographic location of the fatalities is by grouping them into IAFF districts. It is noted that the districts encompass areas that are generally equal in climate and geographical terrain; Table A further details the fatalities, grouping them according to state. The numbers included in each district represents the total number of men killed.

District 1	
New York	12
New Jersey	5
District 2	
Iowa	0
Kansas	1
Missouri	0
Nebraska	0
District 3	
Connecticut	4
Maine	1
Massachusetts	12
New Hampshire	1
Rhode Island	0
Vermont	0
District 4	
Delaware	0
Dist. of Columbia	0
Maryland	1
Pennsylvania	14
Virginia	4
West Virginia	2
District 5	
Minnesota	1
North Dakota	0
South Dakota	0
Wisconsin	0
District 7	
Alaska	0
Idaho	0
Montana	0
Washington	0
District 8	
Illinois	2
Indiana	1
Kentucky	3
Michigan	4
Ohio	10
District 9	
Colorado	0
Nevada	0
Oregon	0
Utah	0
Wyoming	0
District 10	
Arizona	0
California	4
Hawaii	0
New Mexico	0
District 11	
Canal Zone	0
Oklahoma	0
Texas	7
District 12	
Florida	3
Georgia	0
N. Carolina	1
S. Carolina	1
Virgin Islands	0
District 14	
Alabama	2
Arkansas	2
Louisiana	2
Mississippi	0
Tennessee	1

A review of this table shows that the vast majority of the fatalities, 75%, occurred in the mid-Atlantic, East and New England area

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[1] In the 1974 IAFF Death and Injury Survey, it showed there were 47.3 fire fighter injuries per 100 workers.

[2] The IAFF *Death & Injury Survey—1974* stated that in the previous decade fire fighters suffered an average annual death ratio of 86 deaths per 100,000 workers. With the exception of 1970, for which the ratio was 115 per 100,000, fire fighter deaths for any given year in this 10-year period remained constant to 86 deaths per 100,000, give or take 10 deaths.

[3] IAFF *Death & Injury Survey—1974* showed that for 1974 fire fighters suffered a higher death ratio than any other occupational grouping—84 deaths per 100,000 workers.

(Districts 1, 3, 4 and 8). Breaking this down further, four states in these articles, Massachusetts, New York, Ohio and Pennsylvania, all suffered fatalities in double figures constituting 47.5% of the total deaths in the country. The high number of fatalities in these four districts are counterpoised by a low number of fatalities in the West and Northwest, Districts 2, 5, 7 and 9 which recorded a total of only two deaths, one each in Districts 2 and 5 and none in Districts 7 and 9.

After close consideration of the above statistics, it is concluded that the findings may suggest an important trend. However, based on the fact that only 15 months of actual investigation was conducted, it is difficult to generalize from the sample. Any one of the Districts with negative percentage differentials could have experienced one incident of multiple deaths which would have considerably altered the apparent trend. It is possible that over a longer period of time, the incidence of fatality in these Districts would possibly average out at a higher rate.

CONCLUSION

The Fire Fighter Mortality Report is an attempt to deal objectively with the problems of fire fighter in-the-line of duty death. The study was conducted for its research value, and we are confident that the findings can result only to the benefit of the fire service.

The case investigations have uncovered numerous problems of fire fighter health and safety which require immediate attention. Solutions to several of the problems are evident and fire departments should institute remedial procedures. Unfortunately, there were many problems for which solutions are not immediate and for which specified research is required for their resolution. The senseless loss of fire fighters' lives, as expressed in the case summaries, reflects the seriousnes of the problem. This report is the beginning; it outlines the course of action that fire service personnel, legislators and researchers must take if we are to provide fire fighters with the maximum safety that is possible in their extremely hazardous occupation. The problem is of the greatest urgency and we must take action now.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 19, 1776, in an effort to improve the effectiveness of the Continental forces, the Continental Congress ordered that those forces be drilled "so that they may be perfected in the manual exercise and maneuvers, and insured to the most exemplary discipline. . . ." Officers were informed that their efforts and success in introducing discipline into the army would be considered "among the best recommendations for promotion."

John Adams was primarily responsible for this congressional interest in improving military discipline. In his autobiography, he wrote:

> This resolution was the effect of my late journey through the Jerseys of Staten Island. I had observed such dissipation and idleness, such confusion and distraction among officers and soldiers, in various parts of the country, as astonished, grieved, and alarmed me. Discipline, discipline, had become my constant topic of discourse, and even declamation in and out of Congress, and especially in the board of war. I saw very clearly that the ruin of our cause and country must be the consequence, if a thorough reformation and strict discipline could not be introduced . . .

WRONG VILLAIN, GOVERNOR CARTER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. MICHEL. Mr. Speaker, evidence is growing daily that the Democratic candidate for President, Mr. Carter, is not only fuzzy on a good many issues, but of even more concern, he appears to simply not be fully informed on a good many matters of concern to all Americans.

After proposing to increase the income taxes of all those earning more than the median income, he began a strategic retreat when he learned, apparently for the first time, that the median income in this country is $12,000. As in so many other instances, I suppose we will soon be hearing a report from him as to what he "really meant."

His income tax blunder compares to his recent charge that President Ford had failed to take responsibility for fraud in the medicaid program. Apparently Mr. Carter does not realize that administration of medicaid is the responsibility of the State governments and interestingly enough, two States where the most notorious fraud has occurred are the States of New York and Illinois, both headed by Democratic Governors and who thus should be easily accessible to Governor Carter if he wishes to zero in on those who are truly responsible.

An editorial in today's Chicago Tribune will be of interest to anyone who wants to keep the record straight in these matters, and I ask that the editorial be placed in the RECORD at this point:

> WRONG VILLAIN, GOVERNOR CARTER
>
> As the battle of words intensifies in the presidential campaign, Gov. Carter's aim seems to be growing less accurate than it was in calmer days. For example, he charged the other day that President Ford had failed to take responsibility for fraud in the Medicaid program, which Mr. Carter calls "a national disgrace."
>
> A disgrace it is, but it so happens that the administration of Medicaid is the responsibility of the state governments; the federal government only draws up the rules. So if Mr. Carter really wants to zero in on those who are responsible for fraud in Medicaid, he should name some of the governors in whose states the most notorious fraud has occurred—Gov. Carey of New York, for example, and Gov. Walker of Illinois. Both of them are Democrats; and so is the majority of Congress, which runs the District of Columbia—another hotbed of Medicaid fraud.
>
> Two states have been particularly successful in reducing Medicaid fraud—Michigan, by instituting a computerized auditing system which has saved $6 for every $1 spent, and North Carolina, which turned its Medicaid program over to a private company last year and calculates that it has thereby saved $4.5 million.
>
> Both of these states, incidentally, are among the 13 with Republican administrations.
>
> As for the rules governing Medicaid, former President Nixon did his utmost to redesign the welfare programs and was unable to arouse the interest of a Democratic Congress.
>
> We offer all this not as evidence that Democrats invariably cause fraud in Medicaid or that Republicans invariably cure it, and certainly not in the expectation that Mr. Carter will aim his brickbats at fellow Democrats, but simply in the hope that he will avoid firing off his volleys without any aim at all.

THE KOREAN FRIENDSHIP BELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. ANDERSON of California. Mr. Speaker, on Sunday, October 3, a very special occasion will take place on a hillside in San Pedro, Calif., overlooking the Pacific Ocean. This date is Korean National Foundation Day, so it is fitting that it will mark the formal dedication of a unique gift to the people of the United States from the Republic of Korea.

One of the great artistic traditions in Korean culture is the forging of huge, imposing bells—as much a visual work of art for their fine craftsmanship and detailed sculpting as for their delicate tonal qualities. As an expression of the friendly ties between South Korea and the United States, and as a congratulatory gift during our Bicentennial, the Cultural Property Preservation Bureau of the Republic of Korea commissioned the production of a great bell to one of the finest companies in their nation, Pomjung-Sa.

Designed by Kim SeJung, dean of the College of Fine Arts, Seoul National University, the bell features a carving of the Statue of Liberty, and a Korean woman in native dress upon its surface. They are holding a dove to signify peace, and a Rose of Sharon, the Korean national flower. The upper and lower parts of the bell are engraved with floral design, also featuring the Rose of Sharon. Over 20 skilled craftsmen, led by the sculptor, worked for 6 months molding the bell, at a cost of $400,000.

Standing 12 feet 4 inches tall and weighing 37,400 pounds, this gift from the people of Korea is the largest bell ever cast in Asia. It is cast of 83 percent copper and 13 percent tin, with gold, nickel, lead, and phosphorus added for tone quality. When struck with its log clapper, the great bell reverberates for 5 minutes.

The bell will be housed in a belfry constructed in Korean traditional style, dating back from the Shilla Dynasty of the eighth century. A single story house, with double eaves and a blue tile roof, it will stand 38 feet 2 inches high and cover 5,596 square feet.

Made of granite, black bricks, and tiles—all included in the gift—the belfry is being constructed by 35 skilled workers at a cost at $1 million. The bell and its unique housing were accepted on behalf of the American people by the U.S. Department of State.

Los Angeles County was chosen as the

location of the bell by the Korean Government because it contains the largest population of Korean-Americans in the United States, approximately 100,000. The site in San Pedro, overlooking Angels Gate, the entrance to Los Angeles Harbor, was personally selected by Korean Ambassador to the United States, Pyongchoon Hahm, with the assistance of the Los Angeles City Council—especially Council Chairman John S. Gibson, who represents San Pedro and the harbor area.

The land is excessed Federal property once belonging to the Army's Fort MacArthur Upper Reservation. A beautiful gift overlooking a panoramic view, the Korean bell belongs to all the people of the United States—and it is hoped that visitors to the Los Angeles area will take the time to see this priceless cultural heritage preserved as a symbol of the special relationship between two nations.

Perhaps the bell's inscription, written in English and Hangul, Korean, best expresses the sentiment behind this outstanding gift. It reads, in part:

> The people of the United States have built upon the foundations of their pioneer spirit and aspiration for independence a free and prosperous nation on a new continent. Their achievements serve as an impetus and inspiration for the development of all mankind.

SENATOR GARY HART ON TAXES, REGULATIONS, AND INCENTIVES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mrs. SCHROEDER. Mr. Speaker, on September 12, 1976, an interview with Senator GARY HART of Colorado on the subject Government regulation and taxes appeared in Denver's Rocky Mountain News. With Congress just having finished up the tax bill, and the House looking forward to such new programs of Government incentives for free enterprise as the synthetic fuels subsidy bill, I found Senator HART's views quite interesting and want to share them with my colleagues. The interview follows:

EQUITABLE TAXES SENATOR HART'S AIM

(By Don Lyle)

Gary Hart has a message for the business people of Denver and the nation. "You won't get the government off your back until you get your hands out of its pockets."

Most business, of course, disagree with the U.S senator from Colorado. The attitude, in most cases, is that the government has its hands in the corporate pockets and the bureaucrats on its back.

A part of Hart's philosophy is that everyone, corporations and individuals alike, should pay taxes to help support government services, and those taxes should be equitable.

Another part of the philosophy is the elimination of welfare, welfare for persons who don't require it and welfare for businesses.

Welfare for business, he explained, takes the form of deductions, exceptions or credits on income taxes.

If they work for you, they're called incentives. If they work for someone else, they're called loopholes.

And, they amount to approximately $90 billion a year. Some $40 million of that potential revenue for the government "is transferred from the public's accounts to corporate coffers," Hart said. "In ordinary times, that amount well exceeds the amount of an unbalanced federal budget."

He continued, "Those subsidies are clearly little different from cash payments from the taxpayers to a handful of special interests—the same interests which often complain loudly about welfare giveaways."

Hart added, "One person's handout is another person's incentive."

The present system of subsidies, loan guarantees and bailouts, he continued, combines the worst of socialism and capitalism. "We are socializing the losses and capitalizing the gains," he explained. "The public assumes the risk and business assumes the profits. It's a great system—if you are on the receiving end."

But, Hart said, when subsidies become an issue, big government often undergoes a Jekyll and Hyde transformation in the eyes of business. "What was earlier Mr. Hyde, the hairy monster of big government, suddenly becomes the esteemed Dr. Jekyll with his federal medicine and federal money to restore health to the ailing industry and profits to the balance sheet."

Subsidies, Hart claimed, distort the free marketplace by making unprofitable enterprises look profitable. But, he said, that's an illusion because the profits that show up on the bottom line of the financial statement are taken from the pockets of taxpayers with the help of the government.

As an example, Hart said that two subsidies approved by Congress could reduce the price of a $40,000 home by $6,000.

According to Hart, a person could say, "There live my new neighbors and $6,000 of my tax money."

Instead of realizing that single-family homes are being priced out of reach of most people and adjusting to that reality, he said, government subsidies continue to prop up the illusion that they are affordable.

He also said that tax incentives, or loopholes, don't get the same scrutiny by Congress as direct budget expenditures. And, he added, "I'm sure that many of you feel that Congress does not take a tough enough look at direct government spending."

Those tax subsidies, he said drain the federal treasury the same way that a $200 million school lunch program drains the treasury.

But, Hart said, if subsidies suddenly were dropped, "Entire industries would disappear because they cannot—or have not been forced to—face the realities of the competitive marketplace."

Hart suggested some policies that could reduce government interference and price regulation.

"But, there is an important qualification," he said. "We cannot return pricing to a free marketplace that does not exist."

And, launching into one of his favorite topics, he said, "Decontrol of oil without divestiture of the major oil companies would amount to switching the power to fix prices from politicians and bureaucrats to the OPEC cartel and handful of corporate executives."

He said price regulation should be eliminated wherever possible, and politicians would have to take a tougher stance on government subsidies and tax incentives.

Neither tax incentives nor subsidies, should be perpetual, he said. "They should expire periodically and be carefully reviewed."

Tax incentives and subsidies should be shown to be cost effective, that the benefits outweigh the cost, he added.

Hart said that the tax system should be returned to its basic purpose, raising money in an equitable way. "The cost of the growing profusion of tax credits, incentives and shelters is that the tax burden is no longer spread fairly and evenly," he said

Hart gave a few examples of the distortions in the tax system that have been created by legal credits, deductions and incentives.

The corporate income tax, he said, is currently 48 per cent of income.

But, he said, the tax rate on eight of the largest food retailers in the country is only 34.5 per cent. The 24 largest oil companies pay taxes of only 12 per cent, and the 10 largest commercial banks in the country pay a tax of only 2.2 per cent, he added.

"Clearly, our tax system has been distorted nearly beyond recognition from its fundamental purpose of spreading the tax burden fairly and evenly," he said, "and in doing so it has distorted the marketplace."

The country must retain some kinds of government regulation, Hart continued. In cases of public health and safety, including air and water pollution control, the government has no alternative but to step into the marketplace.

But, he said, the system can be simplified. Instead of the massive government programs now existing, a tax could be placed on pollution. "A pollution tax would be one method of changing the marketplace to reflect environmental and public health costs," he suggested.

According to Hart, there is a growing appreciation among the people in the fundamental strength of the free marketplace and price competition as well as a sense that big government is approaching its limits.

But, he continued, he didn't think that free enterprise included loan guarantees, corporate bailouts and tax subsidies.

Those are good for business, he said, and sometimes they are essential to the public interest, but they still are a form of government control and government spending.

Free enterprise, he added, occurs when competition is encouraged, government interference is minimized and there is an attempt to limit or lessen the tax burden.

THE AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION—A SUCCESS STORY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. ADDABBO. Mr. Speaker, it is 2 years since the establishment of the American Revolution Bicentennial Administration and the appointment of John W. Warner as its Administrator. The effort to bring back the spirit of 1776 by reminding Americans of our great heritage and accomplishments has been a success.

Many people have worked diligently to make the Bicentennial celebration a success and John W. Warner is a leader among them. I have known John Warner over the years and as a member of the House Appropriations Committee, I worked with him when John served as Secretary of the Army. His ability to lead a campaign of this kind made him an excellent choice for the post of Administrator of the ARBA.

It is not every day that we in Congress can point with pride to a Government-sponsored program which by every standard has been administered well and has achieved its stated goal. The Bicentennial is such a program, the ARBA is the agency which administered its program well, and John W. Warner is the Administrator who deserves our appreciation for a job well done.

INSPECTOR GENERAL LEGISLATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. VANIK. Mr. Speaker, as chairman of the Ways and Means Oversight Subcommittee, I would like to indicate my very strong support for this Inspector General legislation. I am cosponsor of the bill before the House; as a member of the Ways and Means Health Subcommittee, I have long proposed that a provision similar to H.R. 15390 be included in the medicare/medicaid law.

I would like to briefly describe two hearings which the Ways and Means Oversight Subcommittee held in the last month which clearly indicate the need for a much stronger audit force and antifraud unit within HEW.

First, in early August a Subcommittee Task Force chaired by Representative PETE STARK found that a number of Blue Cross medicare intermediaries had been improperly billing medicare for the private use of luxury automobiles, for unnecessary use of private planes, and for "educational conventions" with family members at posh vacation resorts. Several tens of thousands of dollars were recovered as a result of leads provided to the HEW Audit Agency by a single subcommittee researcher who simply wrote to a few State auto registration offices and uncovered unusual patterns of auto ownership. If it had not been for our inquiries or for the interest of Representative STARK, these abuses would have been undetected. How many other unnecessary administrative expenses are going undetected is unknown—but I fear that it is significant. Despite the recovery of substantial sums of money, the HEW Audit Agency's manpower is stretched so thin that they do not feel that they can give this area of potential abuse consistent attention.

On September 13, the Oversight and Health Subcommittees held a joint hearing on problems in home health agencies. We found that social security has no controls over the utilization of services and the cost of services being billed to medicare. The subcommittee staff, in a period of only 3 months found a series of memos in which social security thought that there might be frauds and abuses but which they declined to move against, apparently because of inadequate manpower. We found that only the Atlanta Regional Office has done any work at all in actually examining home health services. That region found overutilization and improper payments running as high as 50 percent. We found one memo indicating that medicare officials believe that Blue Cross of Florida will make as much as $24 million in improper home health agency payments in Florida in 1 year alone. The Atlanta region has only investigated seven home health agencies. Their investigation has led to indictments against the operators of at least one of these agencies and other indictments, prosecutions, and overpayment recoveries are expected in some of the other examinations.

In spite of this incredibly good record of finding abuses, the other HEW regions have not looked into this field. As another example, the subcommittee staff examined some cost reports for an East coast home health agency. On their face, the reports raised the most serious questions. The staff asked the HEW Bureau of Health Insurance to do an urgent and special audit of the home health agency involved. Because only seven program integrity personnel were available for the whole region, HEW was unable to cooperate with the subcommittee request, indicating that they would wait on the intermediary's regular "audit"—which is not really an audit, but rather a perfunctory review that generally does little more than determine whether the numbers in the cost report are added correctly—and then review the case.

In the meantime, a flood of payments are continuing to this agency. Since the agency involved is a so-called nonprofit, 100 percent medicare agency, there will be no way for the public to recover any improper or fraudulent payments to the Agency—yet HEW is proceeding at a snail's pace to investigate this flagrant case.

These examples are just several in the long chain of abuses in the medicare/medicaid program. HEW has not been able to act to correct these abuses. Authority for audit and antifraud actions is fractured within HEW. Social security, for example, has four different bureaus with responsibility for the prevention, detection, and investigation of fraudulant abuse. Often there is a complete lack of communication between medicare and medicaid or between SSI and AFDC and between those programs and the food stamp program. HEW efforts to stop fraud have all the elements of a Keystone Cops routine.

The passage of this legislation will at least provide HEW with a highly visible, centralized office which the Congress and the President can hold responsible for bringing order and efficiency out of the present chaos of nonaudits and noninvestigations.

I urge the immediate passage of this legislation, and I trust that the difficult parliamentary situation which is developing in establishing a conference committee will be resolved, so that this bill can be sent to the President before the October adjournment.

SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS SCHEDULES FBI OVERSIGHT HEARINGS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EDWARDS of California. Mr. Speaker, the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee will hold another in its series of oversight hearings over the Federal Bureau of Investigation.

Some time ago, the committee asked the General Accounting Office to study the statistics and accomplishments figures put out by the Bureau each year. These figures are frequently utilized as a measure or yardstick by which to judge the operations of the FBI. The subcommittee felt it important, therefore, for the GAO to go behind these figures and report to us on the efficacy of the figures and the relevancy of the statistics which are used.

This study is not yet complete. However, the GAO will report on a preliminary basis to the subcommittee on Wednesday, September 29, at 9:30 a.m. in room 2237 of the Rayburn House Office Building.

SOVIET SPYING

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. MURPHY of New York. Mr. Speaker, the modern-day spy is no longer found in the cliché picture of dark alleyways, file burglaries, poison pellets and whispered meetings on park benches. It has become a deadly serious affair involving computer experts, laser and microwave technology, space satellites and an extensive array of electronic gadgetry which makes virtually any secret accessible to another government.

In addition to the obvious effect such spying has on the operation of top secret segments of our Government, recent revelations show the effects such concentrated exposure to microwaves have on the health of American diplomatic personnel located at our embassies abroad.

A recent article which appeared in the July issue of Popular Mechanics, authored by Mr. Edward Hymoff, does an admirable job of detailing just how pervasive such Soviet spying techniques are with respect not only to American facilities in foreign lands, but to the offices of both Government officials and private citizens alike throughout the United States.

To say that every nation spies on all others is to avoid the full impact of that reality—that no nation trusts another enough to cease such spying operations. Until such an international trust can be realized—and I suspect that is not in the immediate foreseeable future—I believe it is essential that we in Congress, as well as the American people, be kept aware of the extent of international spying. To that end, I would like to include as part of my remarks the text of Mr. Hymoff's article, which explains so well the machinations of this arena of international intrigue:

HOW THEY'RE WATCHING US

(By Edward Hymoff)

Spying isn't what it used to be. Gone are the days when is was considered something of a game for dashing cloak-and-dagger operatives ever on the prowl for secret documents. Science and technology have changed all that. For the most part, the daggers are sheathed and the cloaks are in mothballs. Today, intelligence agents spend their time more profitably in analyzing reams of computer printouts, studying aerial and satellite photos and listening to tapes of intercepted conversations.

The recent microwave controversy is a good example of what goes on. Early this year the United States protested against the Soviet practice of radiating the upper floors of our Moscow embassy with microwaves. Though our diplomats didn't say so, it was thought that the Russians were either trying to reduce the effectiveness of antennas on the embassy roof (antennas for monitoring equipment) or were using the microwaves in an attempt to intercept conversations.

Microwaves are short radio waves that travel by line of sight, like an FM transmission. They are employed in long-distance telephone communications, in radar operations and in the latest type of home cooking oven. They also are used in connection with resonators to eavesdrop on conversations in rooms that are in the line of sight of the listening post. Resonators—small metal canisters or metal sheets—may be buried in the walls, ceiling or floor of a room. Metal wastebaskets, airconditioning ducts or other metal devices also function as resonators.

A resonator vibrates in response to pressure changes in the air, changes produced by sounds, including conversation. When microwaves hit a resonator, they "pick up" the vibrations. Reflected, the beam travels back to the receiver operated by the eavesdropper. Electronic processing is then used to reproduce the spoken words.

U.S. EMBASSY BUGGED

Powerful microwave pulses, such as those utilized by military radars, are harmful to human beings. They can burn human cells as readily as they cook a roast in a modern microwave oven. But the official U.S. protest was directed at the relatively weak radiation that Soviet agents were using. Over a period of time, these weak beams can cause a variety of human complaints, ranging from headaches to irritability and insomnia. Long-term effects may be more serious.

It has been known for years that foreign diplomats in Moscow are the targets of KGB (Soviet secret police) surveillance. More than 15 years ago, for example, the Soviets presented a replica of the Great Seal of the United States to our diplomats in Moscow. This insignia is displayed in all United States missions, and so the Soviet gift was hung in an office in our embassy. Some time later it was discovered that the handsome plaque was bugged.

But all this was ancient history when the latest microwave operation surfaced. Stung by unfavorable publicity, the Kremlin finally owned up to the fact that the American embassy was being hit by microwaves, but attributed the radiation to "the functioning of radio and television stations, other means of communication and some industrial enterprises . . . There is nothing unusual about it. It is a physical phenomenon known to every schoolchild." The Soviet newspaper *Izvestia* also expressed the view that the array of antennas atop the American embassy "may be the source of the microwaves."

Diplomats of all countries are averse to discussing spy activities, a situation that has tended to keep a lid on the extent of Soviet spying on Americans in Moscow and elsewhere in the world. Of course, that same lid also serves to hide the tremendous American intelligence effort directed at the Soviets and other Communist nations.

But from time to time, spy capers do become public knowledge. In 1973, a miniature electronic bug dropped from a slit in the lining of a chair in a committee room in the House of Representatives. This was the room used for closed meetings of the House International Relations Committee. Though the bug's battery was dead, the unit—traced by the FBI to the KBG—reportedly had been operational during discussions of disarmament talks, military aid and the Vietnam withdrawal.

THE TRADE FAIR PLOY

Ironically, the listening device was of American manufacture and could have been bought almost anywhere in the United States. The Soviets have never been averse to buying American-made electronic surveillance equipment. In August 1974, the Russians put on an international trade fair for law-enforcement technology—*Krimtekhnika '74*—and invited American manufacturers to display their goods. When the news got around, various Congressmen blasted American companies planning to participate, and the Administration was forced to institute new export restrictions to prevent the Soviets from buying our latest surveillance gear.

The "Cold War" that followed World War II triggered increased intelligence operations between the United States and the Soviet Union. It was inevitable that the emphasis would be on science and technology. During the Cuban missile crisis in 1962, for example, the Soviet navy dispatched "fishing trawlers" laden with electronic gear to monitor U.S. Navy communications. In 1963, a big Soviet naval force sailed into the Mediterranean, which the United States had dominated for so long. The Soviet ships were immediately shadowed by elements of the U.S. Sixth Fleet.

In retaliation, the Kremlin complained that the Russian navy had recovered a piece of American undersea electronic warfare equipment—a U.S. Navy sonobuoy—in Russian coastal waters. On July 15, 1963, Defense Secretary Robert McNamara, at a press conference in the Pentagon, dramatically pointed to an elongated, torpedolike device and announced that it was "a Soviet sonobuoy, of which we have recovered about 200."

FOUND BY CANADIAN DIVERS

This marked the first time that a senior American official had publicly acknowledged information kept secret since 1959 when Canadian divers, helping to map the Atlantic continental shelf, came across electronic homing devices planted by the Russians. It was also in 1959 that a lone freighter appeared in the area of Kwajalein atoll in the Marshall Islands, far from the regular shipping lanes. It so happened that the ship was just in time to observe a hush-hush test of the American Nike Zeus antimissile missile. The ship's presence became known too late—a long-range Atlas ICBM had already been launched from Vandenberg Air Force Base in California as a target to test the effectiveness of the Nike Zeus.

Radars aboard ships and aircraft picked up the first blips of the oncoming Atlas, Suddenly a voice broke from the master control loudspeaker in a blockhouse on Kwajalein.

"Cancel test! We're under observation!"

But it was too late. The Nike Zeus had to be launched—the countdown had progressed beyond the point of no-return. Flame billowed from the rear of the Nike Z and it roared into the sky. High over the Pacific and 100 miles from the tiny atoll, a flash of brilliant light marked where the two warheads met and detonated providing the Pentagon with proof that the Nike Zeus ABM would work.

SPY SHIP IDENTIFIED

The demonstration also impressed the crew of the freighter, later identified as the *Kharkov*. Sophisticated electronic gear aboard the ship had recorded every detail of the antimissile test, including voice communications of American technicians. A U.S. Navy Neptune patrol plane circled the ship and made a series of still and motion pictures. And that was the only action taken. After all, the *Kharkov* was on the high seas, as she had every right to be, and could not be intercepted.

This was electronic spying of the highest order and the Soviets had every reason to be proud of their coup. They had accomplished it in the open, thanks to what was then the Kremlin's new naval policy: the use of a massive fishing and merchant fleet as a tool of Soviet intelligence. At the same time, Russian nuclear and conventionally powered submarines have for years been mapping undersea routes from bases in the Baltic Sea, Caspian Sea and the Pacific—routes that lead to missile targets in the United States.

HIGH-FLYING SPIES

All this technology-based snooping is as productive, if not more so, as spying in the classic manner. Manned spacecraft, as well as unmanned spy-in-the-sky satellites, have become for the Soviets and the United States the ultimate intelligence-collecting agents. From the time of Sputnik I (October 1957) through the end of 1975, the Soviets launched 586 spy-in-the-sky spacecraft representing the major part of the 878 successful launches monitored by the United States. In 1975 alone, of 89 Soviet launches, 62 were for military and intelligence purposes while 9 of 19 American launches were related to intelligence gathering.

Much of the Soviet space effort parallels American programs. The Russians have orbited *Meteors* weather satellites and *Molntya* communications satellites, and they cooperate with America in disseminating weather information. This cooperation is based on an international treaty. Ironically, during both the Korean War and Vietnam conflict, the Russians supplied the United States with daily reports of Asian weather, which was a real help to our armed forces.

On the other hand, the Soviets helped the North Vietnamese by using satellites to photograph U.S. and allied military bases and naval vessels. Soviet trawlers also monitored B–52 missions from Wake Island and bases in Thailand.

PLANES PLAY A PART

American experience in air surveillance goes back many years. In the late 1940s and through the mid-1950s, RB–47 Strategic Air Command bombers, converted to electronic platforms, flew along the USSR coastline and occasionally "wandered into" Soviet air space, but well out of antiaircraft and missile range. Several planes were lost on these missions. But the operation served a good purpose; photos were brought back and Soviet air defenses, committed to meet each challenge, were monitored by huge radars installed by the U.S. Air Force in Turkey.

The slow and high-flying U–2 spy planes forced the Russians to develop higher-altitude antiaircraft missiles, one of which brought down CIA pilot Gary Powers in May 1960. The U–2 was followed by a second-generation spy plane, the SR–71 Blackbird, capable of dashes at Mach 3 some 20 miles above the ground. Then came the spy satellites.

In all phases of technologically based spying, the United States has managed to keep a step ahead of the Russians. Round-the-clock surveillance of Soviet diplomatic and intelligence personnel in this country, for example, is carried out by the FBI, equipped with the latest in wiretaps, bugs and exotic hardware like a laser device that functions in a way similar in the microwave generator and receiver described earlier. Focused on a window in a room where people are in conversation, the radar beam bounces back from the glass pane, which acts like a mirror. Speech within the room causes the window pane to vibrate, and these vibrations are picked up in the radar beam. The radar "image" of the vibrations is then converted into speech by a special receiving set.

OUR SUPERSECRET AGENCY

Overseas, CIA agents often dog the tracks of their Soviet counterparts in operations in Western and third-world countries. As opposed to eyeball surveillance, responsibility for plugging into the vast Soviet communications network belongs to the National Security Agency, which employs some 25,000 people (90 percent of whom are civilians) and has an annual budget of $1.5 billion. In contrast, the CIA has 16,000 employees and an annual operating budget of $750 million. Though NSA is the more costly operation, this agency is exempt from the sharp Congressional scrutiny the CIA has undergone recently.

The supersecret NSA snoops electronically from isolated bases abroad, at sea, in the sky and in space, and utilizes a space surveillance system code-named "Dark Fence." Using high-performance computers, NSA's cryptologists decode and translate intercepted messages that are later provided to the CIA and the Defense Intelligence Agency for analysis. As far back as 1961, NSA monitored—from bases in Pakistan and Turkey—a secret Soviet attempt to launch three cosmonauts, one of them a woman, from Baikonur (now called Star City).

Other tracking stations in Canada, Hawaii, West Germany, England, France, Sweden and Italy locked on the space-craft as it was plotted in a decaying orbit.

"We are studying the program," the spacecraft commander transmitted to ground stations in the Soviet Union and to trawlers at sea as the cosmonauts frantically attempted to correct malfunctioning controls. "The situation becomes critical for us. Something went wrong. We are changing our course . . .

"I want to talk to the director, do you understand? If we do not get out of this, the world will never learn about it anyway. You will know what to do . . . What? . . . What?

"Here! . . . Here, this is something! . . . there is something! . . ."

Those were the last words heard from the spacecraft Contact was lost at 20:00 hours Baikonur time, May 17, 1961. In May 1963, NASA official George L. Simpson Jr. admitted to a Congressional committee that his agency was aware of Soviet space failures but that the Pentagon and NSA had stamped the highest secrecy labels on this information.

A TEARFUL FAREWELL

On Apr. 25, 1967, NSA's powerful antennas in Turkey monitored a live television contact, not broadcast in Russia, between a tearful Premier Aleksei N. Kosygin and Soyuz I cosmonaut Vladimir M. Komarov. The cosmonaut had been informed by Soviet ground control that braking parachutes designed to lower his spacecraft safely to earth were malfunctioning and that there was no hope he could be saved. Soyuz I crashed in Russia.

Another U.S. program, Operation Holystone, a major effort authorized in the early 1960s, was concluded two years ago because it had become extremely dangerous. In this operation, the U.S. Navy's fastest nuclear subs infiltrated deep into what were considered "enemy" waters. One Holystone submarine, for example, slipped into Vladivostok harbor and tapped underwater telephone cables carrying traffic between that Pacific port and Moscow. Other Holystone missions have infiltrated harbors of the Peoples Republic of China, trailed Soviet submarines halfway around the world and monitored the Red navy on maneuvers, just as the Soviets have sent trawlers and submarines to observe NATO and U.S. Navy sea exercises.

The U.S. Navy has developed a vast underwater electronics system off American shores to warn against intruder submarines. This network of detection devices, also emplaced along other routes frequented by Soviet and Warsaw Pact ships and submarines, is linked to land stations by cable and warns of traffic passing through. Virtually all Soviet ships and submarines trail a distinct sonic "signature" in their wake that has been recorded by underwater sentries and filed on computer tapes for instant recall, if necessary.

SHARP-EYED SATELLITES

As operations on land, at sea and in the skies became increasingly risky, American scientists and engineers were forced to develop advanced satellites that could see, hear and "sense" what was happening on terra firma. Once or twice a month, a secret Discoverer or Samos spy-in-the-sky satellite is launched from Vandenberg Air Force Base into a polar orbit to circle the globe every 90 minutes at altitudes of 86 to 114 miles, carrying cameras that can spot, on the Earth's surface, an object as small as a basketball.

Some years ago, U.S. sky satellites, after a number of passes over the Soviet Union and mainland China, would eject a package at a predetermined time and position over the Pacific. Air Force cargo planes equipped with skyhooks would snare the falling package as it slowly parachuted earthward. The package would be rushed to a nearby military base and its valuable film developed for analysis by photo interpreters.

Now all that is old hat. Satellites launched in the 1970s transmit telemetry that ground stations convert to videotape images, which can be projected or printed as high-resolution photos. "Sensing" satellites like the Vela and Midas spy satellites, orbiting at an altitude of 55,000 miles from Earth, pick up various signals: infrared (heat) rays given off by a blast furnace, a launched missile, a fleet of trucks, trains, ships and even crops; also concentrations of gamma rays, X-rays, neutrons and large electromagnetic fields—indications of nuclear-bomb fallout in the atmosphere.

Satellites have replaced the Distant Early Warning (DEW) Line and Ballistic Missile Early Warning System of the 1950s and 1960s—those football-field-sized masses of steel, wire mesh, cables and plastic domes along the Arctic Circle. Today, the United States has surveillance satellites that eavesdrop on transmissions throughout the world and relay voice and code messages back to Earth where high-speed computers take over and distill and file potential intelligence information.

EVEN CROPS ARE IMPORTANT

And then there are the NASA satellites that provide additional information required by military leaders and State Department foreign policy makers. These "peaceful" satellites also provide valuable intelligence. Earth Resources Technology Satellites monitor such things as crops, forests, geological strata, ocean currents and channels.

This type of intelligence makes it impossible, for example, for the Soviets to hide a poor wheat harvest, giving the United States an advantage in bargaining with the Kremlin. New highways and railroad routes are passed on to the Pentagon; in the event of war, this is the type of information that the generals need to map their battle plans.

IMPROVED MAPS

Maps are another important factor in war as well as in peace. The Soviets continuously charge that U.S. geodetic satellites are performing a military intelligence function. As a matter of fact, they are. Intercontinental missiles are worthless if targets thousands of miles away are not pinpointed. Prior to the advent of satellite mapping, the cartographers of the previous 100 years had accurately mapped only a portion of the globe. Once the geodetic satellites were put to work, the locations of some cities in Siberia and the Peoples Republic of China were corrected by as much as 10 miles.

MONITORING ANGOLAN ACTION

Here are some other accomplishments of America's high-flying spies:

Early this year satellites and U.S. destroyers tracked Soviet troopships and freighters that delivered Cuban soldiers and equipment to Angola.

India's recent nuclear weapons experiments were monitored by satellites, and the birds have provided details about the power of the blasts and the degree of dirty fallout.

Military flare-ups along isolated borders between the Soviet Union and China can no longer be kept under wraps and leaked by Peking or Moscow as they see fit. Satellites observe and eavesdrop, and this intelligence is received in Washington within a matter of hours. In the early 1960s, news of Sino-Soviet battles would be received weeks after the fact.

Late last year satellites provided intelligence about new mobile ballistic missile launchers fielded by the Soviets and the keel laying of a fourth Red navy aircraft carrier.

Whether it's a new steel plant, truckbuilding complex, chemical factory or missile launching site, its existence can't be hidden from our orbiting snoopers. Though American surveillance is considered superior to that of the Soviets, it can be assumed Russian satellites also are effective.

SNOOPING IN PUBLICATIONS

Where does all this leave the traditional undercover agent? He still plays a role, but a diminished one. The Soviets, for example, maintain a large force of intelligence agents in the United States, in Washington and at the United Nations. Much of their spying consists of collecting everything published about economic, industrial, political and military developments in the United States. Occasionally, these agents attempt to ferret out more closely held information by subverting government employees.

But it's not like the good old days. "Science and technology have taken all the fun out of spying," says a former spook who worked behind enemy lines for the OSS in World War II and who recently retired from the CIA. "How do you compete with a computer or guard against esoteric equipment you can't see, much less understand? No wonder the CIA is retiring us real spies."

DETROIT TIGER

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. FORD of Michigan. Mr. Speaker, I would like to call the attention of my colleagues to an article published about one of our colleagues this month by the nationally respected Forbes magazine.

The article, entitled "Detroit Tiger," is about my good friend and colleague, Congressman John D. Dingell, who represents Michigan's 16th District, adjacent to my own district.

Comparing Congressman Dingell to the Detroit Tigers popular pitcher, Mark "The Bird" Fidrych, the writer points out that Dingell also "hurls for his team vigorously and vociferously."

Mr. Speaker, I include the article at this point in the Record, and commend it to the attention of my colleagues:

Detroit Tiger

Like "The Bird" (wild-styled pitcher Mark Fidrych of the Detroit Tigers), Representative John Dingell Jr. (Dem., Mich.) hurls for his team vigorously and vociferously. So much so that they send him back to Washington election after election with barely a whisper of opposition. He just turned 50, but already he has held his job 21 years. His father held it 23 years before him.

The district Dingell represents is heavily industrialized southwest Detroit and its suburbs, including Dearborn, Ford Motor Co.'s headquarters.

That goes a long way toward explaining Dingell's various and sometimes conflicting enthusiasms. Right now, despite his reputation as a friend of environmentalists (the League of Conservation Voters gives him consistently high marks), he's pushing a Clean Air Act amendment that would give auto companies a couple of years longer to reduce emissions below current requirements.

Dingell, considered shrewd and stubborn—"There's his way and the wrong way," says a detractor—boasts his amendment provides for "the greatest energy efficiency and lowest cost to consumers with the best health and environmental benefits." It would also, of course, help out Detroit, just in the first recovery.

Dingell's sympathy for the auto companies does not extend to the big oil and gas companies. In his powerful position as chairman of the Commerce Committee's Subcommittee on Energy and Power, he led the battle last year to forestall decontrol of domestic oil prices. Early this year, in an adroit maneuver, he defeated an attempt by colleagues to push a bill through the House to deregulate natural gas. He put together a "compromise" calling for deregulation of small producers but continued regulation of big ones, including those operating intrastate.

Outrageous as these positions seemed in Houston, they made sense in Detroit. A quick decontrol of oil prices could bring back the auto industry recession. Deregulation of natural gas, Dingell believes, would put people in gas-burning industries like those in Michigan out of work.

Protecting the environment is important to Dingell. It's just that protecting the hometown is more important. That's why he's a Tiger, not an Astro.

U.S. CONFERENCE OF MAYORS SUPPORTS H.R. 50

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. HAWKINS. Mr. Speaker, a number of our elected officials across the country have recognized and expressed the need for a comprehensive full employment program. Many have expressed their sentiments through personal endorsement of the Full Employment and Balanced Growth Act of 1976 (H.R. 50). Also, many of our local and State officials have acted jointly through the adoption of resolutions supporting H.R. 50. It has come to my attention that the United Conference of Mayors, at the 44th annual meeting of that conference, held on July 1, 1976, has adopted a resolution endorsing H.R. 50. The text of that resolution follows:

THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

Whereas, unemployment is particularly destructive of family life and young people and is a significant factor in crime, delinquency, demoralization and drug addiction; and

Whereas, unemployment hurts all Americans, but disproportionately hurts minorities who are victims of joblessness, cutbacks and unstable economic times; and

Whereas, although the national unemployment rate currently is decreasing, the rate of unemployment still remains too high and is expected to remain unacceptably high in the cities; and

Whereas, national policies are needed to establish full employment and economic growth and stability and to facilitate harmonious economic priorities for national, state and local governments; and

Whereas, the federal legislation providing full employment opportunities for all Americans who are able and willing to work must be enacted; and

Whereas, this legislation should create a permanent framework for the adoption of policies, goals and programs to promote a consistent, healthy and growing economy, now, therefore, be it

Resolved, That the U.S. Conference of Mayors urges the Congress and the President to pass rapidly into law this critically needed employment legislation and to establish full employment as a national goal.

OIL COMPANY DISTORTS FACTS ABOUT ARAB BOYCOTT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. ROSENTHAL. Mr. Speaker, with the House about to consider H.R. 15377 to extend the Export Administration Act and to outlaw American compliance with the Arab and other foreign boycotts, I would like to rebut certain charges made by a major oil company about this bill. These charges were made by Mobil in an advertisement appearing in the New York Times, the Washington Post and, I expect, elsewhere.

The advertisement is highly inflammatory. It consists of distortions, misrepresentations, and outright untruths.

REFERENCE TO THE NEW YORK TIMES

The lead sentence of the ad is calculated to give the impression that the New York Times has expressed reservations about this bill. Nothing is further from the truth. The editorial referred to appeared in the Times on September 14. The following is the editorial's concluding paragraph:

> Congress nevertheless should strengthen the Export Administration Act by making it illegal for American firms to engage in secondary or tertiary boycotts. The threat of economic reprisal by the Arabs cannot be accepted as a basis for permitting American firms to submit to odious terms that violate the rights and interests of other Americans, or abridge this nation's sovereign powers.

In other words, the Times did not question the need for this bill. Indeed, it endorsed the bill as the only way to end discrimination among American firms.

REPLY TO THE AD'S MAJOR POINTS

First. Contrary to the ad's claims, the legislation would not make it impossible to import oil into the United States, to sell goods to the Arabs, or to finance trade. It would only require that importers, manufacturers, and banks not cooperate with the Arab boycott. Many American and foreign companies have found nothing inconsistent between refusing to comply with the boycott and doing business with the Arabs. These companies include: American Brands, El Paso Natural Gas, General Motors, Greyhound, G. D. Searle, Texaco, Textron, and U.S. Gypsum. Companies such as McDonnell Douglas, United Aircraft, General Electric, Hilton, Volkswagen, and IBM have extensive dealings with both Arabs and Israelis. There is ample evidence that a firm and consistent refusals by American industry as a whole to cooperate with the boycott will not cost business.

Second. The ad is incorrect in alleging that the legislation would make it impossible for American ships to call at Arab ports. The only conduct forbidden by the legislation is action taken with an intent to comply with the Arab boycott of American business. Restrictions on the use of ships stopping in foreign ports are quite common in international trade and are grounded in internal security and the protection of goods from seizure. These restrictions would remain enforceable by Arab and other countries, including Israel, provided they bear a reasonable relationship to these legitimate national concerns.

Third. The ad falsely argues that the legislation could lead to inadvertent violations of criminal law by U.S. companies. The criminal penalties which are already a part of the Export Administration Act punish only willing and knowing violations, not inadvertent violations. In the 20-year history of export controls, there have been only a handful of criminal prosecutions. These have resulted strictly from flagrant, knowing, and repeated violations.

Fourth. The legislation would not drive Arab business into the hands of a docile and compliant Europe. Many European countries, notably West Germany and the Netherlands, have adopted far stronger antiboycott laws than the United States. Incidentally, these have not prevented a flourishing trade between such countries and the Arabs.

ESTES KEFAUVER

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. JONES of Tennessee. Mr. Speaker, I have recently been made aware of a story that appeared in the New York Times relating to Sidney Korshak, a Chicago-based lawyer. In that story, the writer referred to an alleged incident involving the late Senator Estes Kefauver which indicated that Mr. Kefauver may have been involved in some misconduct during the time he was conducting investigations throughout this Nation into organized crime.

I want to take this opportunity to dispute the allegations against Senator Kefauver included in that story. As one who knew and respected the late distinguished Senator from Tennessee, I was very disappointed to see such unsubstantiated inferences be included in that story.

I knew Estes Kefauver to be a man

dedicated to public service and a man of high moral integrity and personal courage. He was a man who took on tasks that he felt must be accomplished for the good of the Nation and for the good of our great State of Tennessee.

Certainly, his comprehensive investigation into organized crime was indicative of his fearless quest for good government and a safe society for our Nation. Estes Kefauver was a man who kept his role as an elected official in perspective, as a dignified position responsible to the people of the Nation as a whole.

He was dedicated to the principles of good government on which this Nation was founded and I can assure you that the people of Tennessee continue to remember him as a dedicated and effective public servant.

A DESPERATE APPEAL FOR HELP

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EILBERG. Mr. Speaker, ever since the Helsinki Declaration was signed in August 1975, we have been waiting for some signal that the leaders of the Soviet Union even intend to live up to the pledges concerning basic human rights which were contained in the third "basket" of that document. To date there has been no such signal. Let alone concrete action. If anything, the Soviets have become even more brutal and oppressive than before.

Last week, two messages—one from Andrei Sakharov, and the other from 88 Soviet Jewish refuseniks in 14 cities—to the nominees for President of the two major political parties were received in this country.

These appeals for help were acts of desperation by people who have no hope for freedom other than the support and real tangible assistance by the people of the United States and their elected leaders, especially the President.

These messages could not be sent directly to the United States. Telephone calls to Dr. Sakharov are repeatedly cutoff and none of the active refuseniks are permitted to have telephones. Additionally, all mail and telephone calls to the United States are strictly monitored by the Soviet authorities. However, strangely enough, the Soviets allow relatively free communication with Israel. For this reason, the messages were telephoned in Russian to Israel and were then transmitted to this country through the auspices of the Union of Councils for Soviet Jews and the Georgetown University Center for Strategic and International Studies.

Two people deserve special credit for this effort, Irene Manekofsky, president of the Washington Committee for Soviet Jewry and vice president of the Union of Councils for Soviet Jews, and Dimitri K. Simes, director of Soviet Policy Studies at the Center for Strategic and International Studies.

At this time I enter into the RECORD the messages from Dr. Sakharov and the Soviet Jews. For the information of my colleagues, I am also including the messages concerning the problems of the Soviet Jews and repression in the Soviet Union which were sent by President Ford and Governor Carter to the Union of Councils for Soviet Jews, which met in Washington this past weekend:

AN APPEAL

To President and Republican Presidential Candidate, the Honorable Gerald Ford.
To the Democratic Presidential Candidate, the Honorable Jimmy Carter.

We welcome, with both satisfaction and hope, references in your statements and election platforms which focus significant attention on the issue of freedom of emigration. Only a truly free and great country can display so much interest in the fate and freedom of people in other countries.

We realize that the future President of the United States will be responsible primarily for the American people; but we also hope that he will continue the American historic tradition which is based on the principle of deep respect for the human rights of all men wherever they may live. This tradition enhances America in the eyes of the world.

Obviously there are matters of greater urgency to both candidates than the emigration of Jews from the USSR; but, as stated at the meeting of chiefs of state in Helsinki, the observance of human rights may become the most important test case for the sincerity of relations between the great powers. Under the pressure of international public opinion, the Soviet authorities were forced to release more than 130,000 Soviet Jews who wished to be reunited with their people; simultaneously, the Soviet authorities implemented an elaborate system of intimidation and reprisal against those who have wanted to leave and those who have attempted to take advantage of their right to leave. The USSR does not fulfill the obligations it assumed in Helsinki with respect to human rights. Only prolonged and insistent pressure by international public opinion, starting with the American people and their leaders, can force the Soviet Union to honor its obligations.

There is no doubt that the life and fate of many people depend on your position of morality in international policy.

Respectfully yours,

The list of signatures follow:

MOSCOW

Vladimir Slepak, Vladimir Prestin, Alexander Lerner, Victor Brailovsky, Dina Beilina, Iosif Beilin, Anatoly Sharanksy, Alexander Druk, Yelena Seidel, Arkady Mai, Yosef Tsitovsky, Arkady Polischuk, Boris Beilin, Alexander Gvinter, Pavel Abramovich, Aron Gurevich, Edward Nizhnikov, Mikhail Schnair, Ernest Axelrod, Vladimir Furman, Mikhail Shepelev, Naum Kogan, Solomon Inditsky, Bella Novikova, Boris Chernobilsky, Victor Yelistratov, Yaacov Rakhlenko, Natalie Rosenshtein, Grigory Rosenshtein, Simon Privem, Vinya Elkina, Lia Vilyenskaya, and Anatoly Schvartsman.

Oscar Mendeleev, Alexander Rappaport, Leonid Shabashov, Boris Fishkin, Mark Novikov, Ida Nudel, Alexandra Tsalkina, Yuri Kostin, Vladimir Lerner, Vladimir Shakhnovsky, Lev Gendin, Lydia Voronina, Lev Ulanovsky Felix Kandel, Zachar Tesker, Yevgenny Baras, Yelena Sirotenko, Yevgenny Liberman, Mikhial Kremen, Pavel Krivinos, Sanya Lipavsky, and Lilia Schastliyaya.

KIEV

Vladimir Kislik, Boris Levitas, and Alexander Mizrukhin.

ODESSA

Yevgenny Lenchik, David Skulyusky, and Lillia Roitburd.

RIGA

Yakov Ariev, Arkady Tsinober, and Valery Kaminsky.

VILNIUS

Naum Salansky, Vladimir Rais, Vladimir Drot, Eitan Finkelshtein, and Piotr Adamsky.

KISHINEV

Yan Shnaider, Yuri Shekhtman, and Leonid Yakubovich.

DUSHANBE

Amnon Zavurov and Avner Zavurov.

DERBENT

Aziz Manishirov.

KRASNOYARSK

Matus Rabinovich.

NOVOSIBIRSK

Yuri Berkovsky.

TBILISI

Grigory Goldshtein, Isai Goldshtein, and Elizabeta Buykova.

TALLIN

Benor Gurfel.

LENINGRAD

Alexander Boguslavsky, Felix Aronovich, Ilya Ginsburg, and Grigory Goman.

MINSK

Lev Ovsischer, Grigory Khess, and Ilya Goldin.

SAKHAROV APPEAL TO U.S. PRESIDENTIAL CANDIDATES

At this moment, in the midst of the American election campaign, as candidates for the U.S. Presidency prepare and present the principles of their future policies to the American people, I consider it yet again important to publicly express some positions which in my view are of fundamental significance.

I am convinced that there are certain guarantees for the political and civil rights of man that cannot be separated from the main tasks before mankind. Freedom of conscience, freedom of the exchange of information, freedom of movement and of choice for one's country of residence are all inseparable from the goals of assuring international security, facilitating economic and social progress, and preserving our environment. I am convinced that within the boundaries of the defense of human rights there is no extra margin for isolationism or national egoism. The growing acceptance of the principles reflected in the Helsinki declaration opens new doors to international cooperation: one passageway illuminates the struggle for total world amnesty for political prisoners.

You know that currently in our country and in other Eastern European states, in China and in many Third World nations, and also in the West, thousands of prisoners of conscience are physically confined in prisons, to hard labor camps, to special psychiatric hospitals. These people, sentenced for participating in the exchange of information, for their convictions, for religious activity, for the effort to leave their country, and suffering from hunger, cold, back-breaking labor, and from repression and humiliation unworthy of the civilized world.

I appeal to you not to reduce your efforts in the struggle for a free choice of the country of one's residence; I stress again the extraordinary importance of the exchange of people and ideas on an international scale, including freedom of international broadcasting; I express the hope that the principles of an active struggle for human rights throughout the world will play an ever-expanding role in United States policy, in the spirit of the freedom-loving and humanistic traditions of the American people.

With deep respect,

ANDREI SAKHAROV.

Washington, D.C.,
September 14, 1976.

Mrs. Irene Manekofsky,
Vice President, Union of Councils for Soviet Jews, Arlington, Va.

Dear Mrs. Manekofsky: I am happy to extend a warm welcome to the members of the Union of Councils for Soviet Jews as you assemble in Washington for your annual conference.

The cause of Soviet Jewry and the effort to assure the right of free emigration for all peoples must remain a national concern. It was a cause I championed long before reaching this office. I assure you that it is also a cause I will never forget. My Administration will continue to emphasize at appropriate international gatherings the unswerving belief that all nations should feel bound by the U.N. Declaration on Human Rights which specifically cites the right of free emigration.

In this spirit, I applaud your worthwhile endeavors and send you my best wishes for a successful meeting.

Sincerely,

Gerald R. Ford.

September 16, 1976.

Mr. Stuart A. Wurtman,
President, Union of Councils for Soviet Jews, Washington, D.C.

Dear Mr. Wurtman: Please extend my warm personal greetings to the delegates of the Union of Councils for Soviet Jewry. I salute you and share your commitment to the preservation of human rights, individual liberties and freedom of conscience on which this organization is based.

What is needed—and has been needed for some time now—to move these commitments off paper and into action is honest, forthright discussions by our government with the Soviets and with every country with whom we're negotiating, which result in a clear-cut understanding that we are fully committed to the fundamental right of people to emigrate. This commitment has been continually stated in various documents signed by our own government with the Soviets and other nations beginning with the Human Rights Declaration of the United Nations over twenty-five years ago and most recently with the Helsinki agreement. But since the elaborate signing ceremony in Finland thirteen months ago, the Russians have all but ignored their pledge—and the Ford Administration has looked the other way.

The Jackson-Vanik Amendment was but another way for the Congress to restate this same deeply held principle, and to reiterate that the American people demand that our treaties be honored.

As President, I would seek to so strongly and honorably represent the interests of Soviet Jewry during direct negotiations with the Soviet Union that there would be no question about the resolve of both the Executive Branch and the Congress on this basic matter of human rights. Indeed, had the Administration made this matter a priority it would not have been necessary for Congress to have acted in the area.

I shall do everything in my power to work with the new Congress, should I be elected President, to see that the Administration strongly represents the views of the Congress and the American people in a realistic and effective way.

Our goals on human rights and emigration are clearly the same. Our power is not unlimited, but neither is it insignificant; and I believe that if we are sensitive, if we are concerned, and if we are alert, there can be many instances when our power can make a crucial difference to thousands of men and women who are the victims of oppression around the world.

Sincerely,

Jimmy Carter.

DES—STILL A THREAT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. OTTINGER. Mr. Speaker, as this session of the 94th Congress draws to a close, I find it absolutely appalling that the Members of the House of Representatives, as well as the Food and Drug Administration, have been unable to deal with the existing dangers and potential tragedies which result from the ingestion of diethylstilbesterol—DES. That the House has kicked this issue around, passing it from committee to committee and doing nothing constructive with it is a fact that is just disgraceful. The record of action by the FDA is equally miserable, for its purported hearings have been postponed indefinitely for over 9 months, with no hearings scheduled "for the immediate future."

Failure to act is particularly deplorable because DES is a known cancer-causing agent that has been shown to cause serious gynecological dysfunction from its use. I think that my colleagues would do well to read the following article which appeared in the June issue of Trial magazine entitled "DES—Still a Threat." Since this article was published, there has been no sign of activity on the part of the FDA to remedy the situation; nor has any legislation resulted.

It is my hope when the 95th Congress convenes in January that DES will be banned from cattle feed until its safety has been proven and that the other provisions of S. 963 will be adopted. Until then, we all owe the American people an apology for ignoring this vital issue. Let us just hope that our neglect will not result in too many new cases of cancer.

The article follows:

DES—Still a Threat

(By Evelyn M. Goldstein)

It has been more than five years since the first published reports linked the synthetic estrogen, diethylstilbesterol (DES), to a special vaginal cancer, clear-cell adenocarcinoma, a type unheard of before association with this drug. In 1971, prompted by mounting evidence, the Food and Drug Administration (FDA) circulated a warning to all physicians declaring, "Diethylstilbesterol Contraindicated in Pregnancy." Some of the girls whose mothers had taken the drug during pregnancy, on the theory that it would prevent threatened abortion, developed cancer of vagina and cervix years later. Many died.

Over the past several years several lawsuits, including two recent class actions, have been initiated against the many manufacturers of this agent.

Yet thousands, perhaps millions of pregnant women in the United States continue to ingest DES, not because of physician prescriptions, but because of residues which may have remained in cattle continuously "fattened" with this synthetic hormone.

TRIAL's Drug File first called for the removal of DES from our meat supply in September 1972. (TRIAL, "DES Spells Danger") At that time, the FDA had declared that the liquid and pre-mix preparations of DES added to cattle feed would be banned as of January 1973, because residues were found in edible samples. But cattle growers continued to use DES in the form of an "implant" (placed in the ear), until that method also produced "residues." This resulted in total revocation of the drug.

But the ban jeopardized a profit of a billion dollars a year for the meat industry, which tried and failed to introduce legislation which would exempt DES from regulation by the Food, Drug and Cosmetic Act entirely. These well-financed opponents of the FDA's ruling then sought to overturn the agency's ban through legal maneuvers.

Charging that the FDA failed to hold a hearing required by statute before banning the drug, manufacturers of DES sought and won a ruling from the US Court of Appeals for the District of Columbia on January 24, 1974 that they could resume marketing the product. The hearing was continuously postponed.

Two years later, after unsuspecting Americans consumed 60,000,000 more DES-fattened cows, the FDA again proposed to ban DES on January 12, 1976. Once again manufacturers requested a hearing. The hearing is scheduled to start sometime in June. But the findings of this hearing may go back to the courts again after which any decision made by the commissioner of the FDA is also appealable.

The FDA's proposal to ban the drug is based on continuous findings of DES residues in animal livers and kidneys. Under the 1968 Delaney Amendment, any agent found to be a carcinogen is prohibited in food. However, in 1962, Congress passed a special amendment *requiring the FDA to approve* drugs such as DES as long as no residue is found, using a testing method "approved by the Secretary of the Department of Health, Education and Welfare (HEW)." The method "approved by the Secretary" for DES is an outdated "mouse uterine test"—no longer considered sufficiently scientifically sensitive. By contrast, the present method employed by the United States Department of Agriculture (USDA) is chromatography, which is capable of determining residues as small as 0.5 parts per billion. At issue is whether the "mouse uterine test," the current improved FDA method "approved by the Secretary," is sufficiently sensitive as a regulatory tool. The FDA thinks not, and proposes to revoke the test and probably substitute chromatography.

The FDA counsel, Robert M. Spiller, told TRIAL, "We found that no matter how well the user of DES followed the manufacturer's directions, residues remain in the meat."

The residues found in the last six months occur in about 1% of the samples tested. According to Dr. John E. Spaulding, the chief staff officer of residue planning and evaluation at the United States Department of Agriculture, they ranged from 0.5 to 11 parts per billion (ppb). Also, the chromatography test is not sophisticated enough to measure levels below 0.5 ppb, he said, and so there may be many more than 1% of the samples which actually have residue. Using this figure, however, at least 600,000 to 1,200,000 head of cattle per year may contain measurable residue.

What microquantity of DES will cause the teratogenic response? On a molecular basis, the quantity found in residues might be more than enough. It has been postulated that a single molecule of a chemical may cause a mutation in a single cell sufficient to initiate a malignant process.

The estrogen naturally present in animals and humans is estradiol. Since it is natural, it is rapidly metabolized and excreted. DES, which has ten times the potency of estradiol, is much more slowly metabolized and excreted.

Dr. Leo Friedman, director of the Division of Toxicology, in a 1971 letter to Dr. Virgil O. Wodicki, director of the Bureau of Foods, stated that "the estradiol level in cattle ranges from 0.5 to 30 parts per trillion."

"Even that highest figure is 1/17 the lowest level of DES that has been detected. And bear in mind that DES is ten times as potent," Dr. Friedman said.

The estradiol level in post-menopausal women is about 15 parts per trillion. Assuming one of these women ate four ounces of liver containing one part per billion DES, this could be the equivalent of almost tripling the physiological level of estradiol on a body weight basis; or, assuming these estrogens exist only in the blood, of raising the level to 22 times normal. So there appears to be far more DES in residues than natural estrogen in some females.

To date, more than 250 cases of vaginal or cervical carcinoma have been reported in girls who ranged in age from seven to 29 at the time of diagnosis. While a smaller percentage of women exposed to DES actually develop clear-cell adenocarcinoma, more than 90% of such patients have abnormal vaginal or cervical "adenosis" regardless of dosage used during pregnancy. Also, the cancers frequently occur in the area of the "adenosis." Whether or not all adenosis will become cancerous in later years is still unknown. But the threat remains a hanging sword of Damocles, suspended above the head of every young woman whose mother ever ingested DES.

Also, according to the latest reports, the sons, as well as the daughters, of women treated with DES during gestation could develop genital tract abnormalities of the ureter and urethra as well as undersized sex organs.

Experimentally, Dr. John A. McLachlan of the National Institute of Environmental Health Sciences, found reproductive tract lesions in 18 of 24 male offspring of mice injected with DES in corn oil, and in none of the 14 males born to control groups of mice injected with plain corn oil. These lesions included intra-abdominal, testes, and epididymal cysts and precancerous growths. Six of the mice tested were also sterile. Another study revealed epididymal cysts in 10% of the boys whose mothers received DES during pregnancy.

Understandably concerned with the effect of DES on pregnant women, the Senate Subcommittee on Health, chaired by Sen. Edward M. Kennedy (D-Mass), held a hearing on DES February 27, 1975. A DES bill, S. 963, was passed and referred to the House.

At the hearing, Dr. Frank Rauscher, director of the National Cancer Institute (NCI) of the National Institutes of Health, testified that "American women who may be pregnant at the time may eat DES-contaminated meat products, leading to possible increased cancer risk to their female offspring." Dr. Rauscher testified unequivocally that both he and the NCI recommended that DES not be used in animal feed. The risk to exposed females is very high—"400 per 100,000 exposed. That could never be tolerated," he concluded.

According to Dr. Peter Greenwalt, director of the Cancer Control Bureau, New York State, and co-author of the first article describing DES and cancer, "It seems very possible that small doses as well as large ones may induce cancer." He also told the Senate Subcommittee on Health, "We may well expect that some patients with longer latency periods will be diagnosed in future years."

In 1972 and again in 1975, at hearings on DES, Senator Kennedy tried to influence two different commissioners of FDA to ban DES under the "Imminent Hazard", regulation. The "Imminent Hazard" regulation (3.75 CFR states:

"(a) Within the meaning of the Federal Food, Drug and Cosmetic Act and the Federal Hazardous Substances Act, an 'Imminent Hazard' to the public health is considered to exist when the evidence is sufficient to show that a product or practice, posing a significant threat of danger to health, creates a public health situation (1) that should be corrected immediately to prevent injury and (2) that should not be permitted to continue while a hearing or other formal proceeding is being held. The 'Imminent Hazard' may be declared at any point in the chain of events which may ultimately result in harm to the public health. The occurrence of the final anticipated injury is not essential to establish that an 'Imminent Hazard' of such occurrence exists.

(b) In exercising his judgment on whether an 'Imminent Hazard' exists, the Commissioner will consider the number of injuries anticipated and the nature, severity, and duration of the anticipated injury."

Senator Kennedy told the FDA that it could ban DES, saying that under the Delaney Amendment, "You've got the complete authority and the power to do it . . .You have the head of the Cancer Institute saying it's a human carcinogen and that pregnant women should certainly not eat meat with estrogen in it. . . . What else do you need?"

At both hearings (1972 and 1975), Peter Hutt, then general counsel for the FDA, declared that the "Imminent Hazard" regulation was not sufficiently worded so the Secretary of HEW could ban DES. "Without a finding of an 'Imminent Hazard,' we must hold a hearing before DES can be taken off the market," he said. Commissioner Alexander Schmidt agreed. He told the subcommittee, "I do not have before me any evidence that would support any recommendation that it, (DES), is an 'Imminent Health Hazard,' in the levels being found in livers of beef cattle at this time."

The current general counsel for the FDA, Richard Merrill, told TRIAL he agreed with his predecessor. "I don't believe we could justify a recommendation to the Secretary that he ban DES as an 'Imminent Hazard.'" He concedes that he has not been involved very much in the DES matter, but has left that function to another FDA lawyer, Robert M. Spiller. Merrill says he does believe that DES is no longer legally approvable and intends to demonstrate that at the upcoming hearings, but it's not enough of an "Imminent Hazard" to justify the emergency procedures of the statute, he said.

Attorney Robert Spiller, who is associate chief counsel for enforcement for the FDA, disagrees. He says that "the wording of that regulation is sufficiently broad enough to include a number of situations and, arguably, including that of DES."

It seems that FDA speaks with forked tongue. On one hand the agency is willing to ban DES under the Delaney Amendment, because officials believe it may cause harm. But they are not willing to call it an "Imminent Hazard" in order to get the job done now. Thirty other countries have already banned DES. In fact, Canada once banned importation of US beef because of its DES content.

Because DES prevents pregnancy if administered at or shortly after intercourse, it is being used, with FDA approval, as a "morning after pill" in case such as rape and other emergencies. The risk of cancer does not arise when the treatment is effective, since no fetus results. Concern has been raised, however, about situations in which the drug may be taken improperly and pregnancy is permitted to continue. In this situation, however, there is both a patient and physician warning leaflet with the drug, recommending voluntary termination of pregnancy by other means if DES fails.

Also, the patient leaflet assures that the essential information for appraising risks, and for using the treatment effectively, is directly available to the user. At the moment, no appraisal has been made of the potential future risk for the patient.

Responding to pressure from several women's groups concerned about its use as the "morning after pill," the House Subcommittee on Health chaired by Rep. Paul D. Rogers (D-Fla.), held a hearing on DES, but a bill specifically related to DES did not result.

Representative Rogers takes a very dim view of the Congress pre-judging an administrative agency as long as the agency is doing its work. He feels it is improper public policy to legislate on an individual drug-by-drug basis and has put in a new drug bill which will give the FDA "vastly increased authority," Steve Lawton, general counsel for the House subcommittee, told TRIAL. If a drug presents a health hazard, the new bill does have a benefit-risk ratio standard. If the risk of a cancer-causing drug outweighs the benefits attributable to its use, then it could be banned, he declared. But this may actually provide a rationalization for permitting DES in animal feed instead of removing it.

"Imminent Hazard," he also believes, is virtually impossible to prove in court. "However," Lawton conceded, "there is a 3rd circuit opinion which for purposes of the Pesticide Act states that the Environmental Protection Agency can use an 'Imminent Hazard' authority with certain pesticides that have carcinogenic potentials." It is also interesting that FDA RED #2 was recently banned without any evidence at all.

There are arguments that the problem is broader than DES and that there are hundreds of drugs on the market that also should not be there but that are protected by arbitrary statutes. The new legislation HR 12391 is envisioned as removing such barriers and would allow the FDA to decide whether DES could be removed from food without the necessity of declaring it an "Imminent Hazard." But there are perhaps more important arguments for the Senate bill. The head of the National Cancer Institute, who wants to protect pregnant women, insists that DES should be banned now, because there is no assurance that it is safe.

As Senator Richard S. Schweiker (R-Pa.) stated during the hearings, "I think the duty of our government is to inform people of their choices." While others in Congress wait, afraid to make a move in an election year, the pregnant woman is caught in the shell game. She may be dining on disaster.

Suppose a woman who dieted on liver as a blood-enriching hematinic during pregnancy has a child who develops genital cancer. There is no consumer package insert for the pregnant woman which relates the benefit-risk ratio of eating liver with possible DES residues. There is no informed consent. Could she sue the government, the manufacturer of the drug, and the cattle raiser?

In a case against a drug company involved in a mass immunization program, the court held that the burden was on the company—not the medical personnel administering the immunization program—to advertise that polio is a possible hazard of taking the injection. The hazards must be conveyed to the public, the court held, by general advertising to newspapers and various other media so a person knows and then has a choice. Will the same responsibility rest with the DES manufacturers who know that their drug is being given to animals and leaving residues which may be carcinogenic? Do they then have a duty to advertise nationally (because meat products go all over the country) that when women eat liver and kidneys and perhaps beef they risk giving cancer to their prospective children.

On the other hand, could the government be sued in a tort action? It has had notice since 1971 that one of its agencies, the NCI, has taken a strong position that the levels of DES in meat may be carcinogenic.

Since the government is continuously declaring it has found residue levels—even if they are not by a procedure approved by the Secretary—the residue levels are evidently there. Will the FDA be liable for negligence?

Would the courts hold that the government had a duty to do something if it knew that there were residues even if a test was not approved by the Secretary? Would the courts hold that the "Imminent Hazard" was a step the FDA could have taken? The federal government has recently had to respond to all allegations of negligence for failing to enforce Occupational Safety and Health Act regulations. There are over $400 million in claims from former employees of one asbestos plant.

How about the cattlemen who have actively lobbied both the House and the Senate about DES—would they be liable under "Strict Liability?" (Incidentally, in the Senate vote on the DES bill S. 963, most of the 29 "nays" were from senators from meat-producing states.) The House will never hear the issue. Will the cattle raisers someday find that the risks of lobbying the bill outweigh the benefits? Could there be an action against all cattlemen because they knew there was a potential carcinogen in the meat and yet they did everything they could to prevent the government from taking action?

For months the rumor on the Hill, and rumbling down the halls of several governmental agencies, was that the Senate bill would die in the House subcommittee. And apparently it has.

According to one Senate aide, the only impetus for a campaign to ban DES is coming from women's groups concerned about DES as a "morning-after pill." There is no consumer group pressure to remove DES from our meat supply. The pressure to keep it comes from the cattlemen and only one major drug company which markets the "morning-after pill." There is just no important movement to ban it.

One FDA official said, "The basic principle of the ball game is to take the ball and spin it any way and pass it to someone else, so you do not have to take any final action. Congress is eager to declare itself as being opposed to cancer and to add some power to any agency's arsenal of weapons and say, "well, agency, this is what we think you are now authorized to do—so do something now about it.' Congress is not anxious to actually do something about it itself."

"Everyone wants to be contributing toward the right end," he added, "but no one wants to be the one to drive the nail through the heart of this particular witch, because it's going to hurt the guy who drives the spike."

The issue here is not whether the meat industry can afford to feed more grain and less drugs as opposed to whether other additives or food supplements that might be used in place of DES are worse, as one critic said.

The issue is plainly whether it is safe to eat DES, and there is convincing evidence that it is not.

Despite that, the Secretary of HEW will not declare an "Imminent Hazard." The Congress of the United States will not put a DES bill through this year. "It's too much of a political hot potato in an election year," said one observer on the Hill. "Nobody wants to be responsible for it." But how much damage, reports of tumors, and deaths must be *proven* before action is taken? This DES time bomb is being dropped daily into the developing genitals of future generations, and those millions of yet unborn children who may grow to become disfigured or doomed will someday look back in justified anger.

SQUATTERS' RIGHTS: THE FIGHT AGAINST PAY TOILETS

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. JOHN L. BURTON. Mr. Speaker, my colleagues will recall that earlier in this Congress I introduced a measure that would have banned pay toilets in buildings which were constructed, maintained, or operated with Federal funds.

Although this is a topic that lends itself to humor and ridicule, it is nonetheless an important issue whose equitable resolution still demands attention.

I am hopeful of the eventual adoption by Congress of pay-toilet ban legislation, and take this opportunity to insert into the RECORD an article which appeared in the August 1976 issue of Oui magazine.

It provides a comprehensive examination of many issues associated with the pay-toilet problem, and puts the entire matter into a prospective to which I hope my colleagues will pay more than passing attention.

The complete text of the article follows:

SQUATTERS' RIGHTS

(By Dan Carlinsky)

The coming of the flush toilet was a comforting chapter in the development of civilization. Later, when some bright person put a lock on a toilet and decreed that the public had to pay a nickel to use it, that was—for better or worse—a further chapter in the progress of civilization. But wait. Today, thanks to a swing of the social pendulum, a battle cry of "Free the toilets!" fills the air and a campaign to do away with pay toilets preoccupies state legislatures. Time marches on; it also marches sideways.

Time for the pay toilet began in 1851, when visitors to the new Crystal Palace in London, built for the International Exposition, found that there was a charge to visit the toilets. Germany had some pay toilets by 1908. And the wave hit the United States in 1910, when the Pennsylvania Railroad installed a coin-operated lock on the restroom door in its station in Terre Haute, Indiana. At about the same time on the East Coast, some depots of the New Haven Railroad were experimenting with the same idea but with a twist: The public could use the toilet for free, but the paper cost a penny. The motivation in both instances was to shoo away the moochers, who were crowding out the rail passengers for whose relief the toilets had been installed.

Today, the vast majority of pay toilets cost a dime, though a few still take nickels and some have hit the quarter mark; they constitute a moderately large business. Precisely how long is hard to say, but the number of pay toilets in North America is estimated to be in the vicinity of 50,000, and the annual income they generate is well into the millions.

Still, the industry—meaning the Nik-O-Lok Company of Indianapolis, the American Coin Lock Company of Pawtucket, Rhode Island, and a few other smaller operations—is worried. So are the managers at airports, shopping centers and other establishments who, thanks to pay toilets, are able to realize an income from facilities that local health codes require. They are worried because there is a campaign in this country to declare that the toilets belong to the people and to remove the locks from the doors by any legal means. Although it is invariably greeted with smiles, the campaign has turned out to be deeply serious; it has also turned out to be one of the more successful grass-roots political movements in American history.

The arguments of the "anti" forces, which have captured public imagination, go as follows:

Pay toilets discriminate against women: Men usually have access to free urinals while women must pay for stalls.

It's unfair to make people pay in order to perform natural, sometimes urgent, bodily functions.

A person without the right coin can become frustrated, angry and, in some instances, wet, dirty, and embarrassed.

Because some adults and children crawl under stall doors, pay toilets foster dishonesty and disrespect for the law.

Meanwhile, the people who make and lease the locks and the people who maintain pay toilets on their premises argue this way;

Pay toilets help pay for rest-room maintenance, and thereby contribute to cleaner facilities.

Pay toilets tend to repel vandals and loiterers, and therefore, they help provide safer facilities.

Public toilets aren't a right but a privilege—a free toilet is no more basic to our system than a free lunch.

In New York State, partisans of the pay toilet argued that a new state total-ban law infringed on their contract rights, and they succeeded in obtaining a court injunction to temporarily block enforcement of the law; in other states, meanwhile, partisans have been able to water down total-ban proposals, usually by acceding to compromise legislation that requires only a certain percentage of toilets to be free.

Not even the most diehard pay-toilet partisan, however, is optimistic about stopping the tide. We are living, after all, in an age of heightened interest in personal freedoms, an age in which people who see an opportunity to do something about a gripe—*any* gripe—will grab and hold onto it.

"It's not a cosmic problem," says Jane Trichter, legislative assistant to New York assemblyman Mark Alan Siegel, sponsor of that state's ban, "but it's annoying and it's a problem you can do something about."

The Nik-O-Lok Company, largest of the pay-toilet businesses, has a companion company, Standard Coin Changer, that manufactures change-making machines for both coin laundries and pay toilets. (The fact that many of these change makers offer only 95 cents in return for a dollar bill is another gripe of the antis.) Nik-O-Lok has recently introduced a coin-operated shower stall for sale mostly to public campgrounds, but beyond that, the company has no plans to diversify. Business last year was down; should pay-toilet bans drive income even lower, company vice-president Martin Miller says that Nik-O-Lok will "cut back."

Meantime, Nik-O-Lok sends lobbyists and satisfied clients around the nation to douse the fires of legislation as they spring up and, generally speaking, is in the front lines of the ban ban. It's a tough fight. Opponents range from angry legislators to organized groups of women and college students who hold sit-ins and stand-ins, badger elected officials and advocate such guerrilla tactics as jamming locks open.

In California, pay toilets were fair game as early as the Fifties, when an assemblyman named Charles Meyers tried unsuccessfully to legislate them out of existence. In 1969, March Fong, a Democratic assemblywoman, introduced a similar bill, but it was laughed out of committee, so with an eye for drama and a nose for the media, she took a toilet to the steps of the California Statehouse in Sacramento, draped it in chains and smashed it with a hammer. In 1974, Fong won a battle in the war when the state finally banned the dime eaters from publicly owned buildings.

The state of California, though, was by no means the first to liberate pay toilets. Sports impresario Bill Veeck was photographed as he ripped the locks off toilets at Suffolk Downs, the Boston race track, after he bought the place in 1969. A few years later, Pennsylvania Governor Milton Shapp ordered pay-toilet locks removed from restaurant rest rooms along the Pennsylvania Turnpike. In 1973, Chicago declared it illegal "to charge any sum of money for the use of any toilet facility" in any place frequented by the public—a description that included bus terminals, airports, restaurants and hotels. Mayor Richard Daley, who earlier had freed the toilets at Chicago's three airports (estimated revenue loss: $140,000 a year), supported the bill on its way through the city council. "I did it," he announced afterward, "for women's lib." Nik-O-Lok, Greyhound Bus Lines and a collection-and-maintenance agency promptly filed suit; they lost and the law was upheld.

One force behind the Chicago ordinance was the ten-member local chapter of the Committee to End Pay Toilets in America (CEPTIA), a nationwide organization that was founded in Dayton, Ohio, in 1970. The group's symbol is a clenched hand, holding a chain and a lock, rising out of a toilet bowl; its credo: "We believe that no American citizen should be required to pay directly for the use of any sanitary facility in a public place."

CEPTIA was the brain child of Ira Gessel and grew out of a frustrating experience he had at a turnpike rest stop in 1969. Several months of talking to teenage friends followed and in May 1970, when other high school students were talking of Cambodia, Kent State and Jackson State, Gessel and his friends formed CEPTIA. Eventually, Ira drifted into the more scholarly role of an MIT graduate student in mathematics and left the group's leadership in the hands of his younger brother, Mike.

Mike Gessel, now a 21-year-old senior at the University of Pennsylvania, recognizes that the pay-toilet issue is amusing on the surface but believes it to be essentially serious. "We went through all the jokes and puns," he says, "and we decided we'd even have to make a little fun ourselves to get our idea across." Thus the group began publishing a newsletter called *The Free Toilet Paper*, and its leaders gave interviews in which they pledged to fight until every last pay toilet in America was gone and they could safely disband. "Our end," one officer punned, "is our elimination."

"The topic was considered a joke at first," says Gessel. "But now, not only is it not a joke—it's deadly serious. Many people are taking up the torch: the National Organization for Women, local groups and individual legislators prompted by irate citizens or their own experience.

"I'm not a zealot. This isn't like the fight against the Vietnam War—there isn't so much bitterness. Are there more important things to do? Sure, but this is one of those fights that has to be fought."

Meantime, it's unlikely that CEPTIA—which now has 1800 members—will live much beyond its recent sixth birthday. "Our idea was to keep abreast of what's going on nationally and to spark action around the country. The good news is that there are too many actions for us to keep track of them all," says Gessel. (In fact, early last June, Gessel did formally announce that CEPTIA was being disbanded.)

If CEPTIA is no longer needed, it's because during 1974 and 1975, the tide began flowing swiftly. In Wyoming, Kansas and Alaska, all pay toilets were banned. In Florida, toilets were ordered unlocked unless they were in excess of minimum health standards; and since few businesses provide more than minimum standards, most pay toilets in the state were freed.

Even in legislatures where bills have passed by healthy majorities, however, smirks and jokes have been common. More than one bill has been informally referred to as the Women's Relief Act. In New York, when state senator Karen S. Burstein took the floor to promote her prohibition bill—inspired by an uncomfortable experience she had had in a Manhattan hotel lobby—a fellow senator gave her a dime and told her to keep it with her always.

Traditionally pun-happy newspaper editors have been worse still. "Pay Toilet Foes Being Flushed Out," headlined The Boston Globe, over a story that told how CEPTIA was "determined to close the lid on the lucrative pay-toilet industry." The Wall Street Journal referred to coin-operated toilets as a "pay-as-you-go" system. A Chicago paper reported that supporters of the city's ban were "flushed with triumph" after their victory. "Iowa Put Pay Toilets Down Drain" was a headline in the Dayton Daily News. From the Miami Herald, after the Florida ban was approved: "What a Relief—Pay Toilets to be Outlawed." From the newspaper at the State University of New York at Buffalo: "Bowel Movement Movement."

"Our toilet habits seem to be one of the last hang-ups we have," says John Whitmore, the 26-year-old state representative who has been leading the battle against pay toilets in Texas. "People talk more freely about sex and a lot of other things nowadays, but when you start talking about toilets, about paying to go to the commode, they smile. I think it's because of our upbringing."

Whitmire explains how he came to the struggle: "A group of us went to Washington and on the way back, a couple of guys got sick at Dulles Airport. They kept making trips back and forth to the bathroom spending dimes, and we got to talking about it. Later I had a total-ban bill drawn up and I kept it in my desk; then, as constituents came by to talk about other issues, I always ended the conversation by asking, 'What would you think if I introduced a bill to do away with pay toilets?' Every one of them said it was an excellent idea."

"I introduced the bill and had 20-odd cosponsors. We got through committee with no difficulty but the bill was knocked off later by five members from the Dallas-Fort Worth area—where the airport received something like $60,000 last year in revenues from pay toilets. I also had trouble convincing our rural representatives because, hell, they don't have a problem: Up in east and west Texas, they've never heard of a pay toilet; they still have outhouses.

"When the legislature meets again in January 1977, this will be the first bill I'll introduce. I think pay toilets are discriminatory against women and that they're a burden for children, the elderly and sick people—everybody who ever has an urgent need. If the Lord had intended for us to use pay toilets, we'd all be born with a dime in our hand."

So numerous are the rumblings nationwide that Nik-O-Lok has begun circulating a "model bill," which would require only that where there are free urinals for men, there should be an equal number of free stalls for women (this proposal was originally made by feminist groups). Nik-O-Lok, which is the leading proponent of status quo on the pay-toilet front, has come a long way from the days when a spokesman could describe CEPTIA organizers as "nothing but a bunch of immature, radical kids." Today, the word is cool moderation.

But Nik-O-Lok is not cooling in its desire to stay in business—or in its belief that its opponents are wrong and that its customers have a right to lease coin locks. "A lot of people don't understand why these things are there," says Nik-O-Lok's Miller. "They're not there as revenue-producing devices at all. Needless to say, we're in the business for a profit—we sell a service. But the people who have our locks on their toilet doors consider the revenue very secondary. They want them for protection and to help offset the high costs of maintenance and repairs as a result of vandalism that is unbelievable."

Frank Rowse, Jr., president of the American Coin Lock Company, agrees: "I think the restraint bills are unconstitutional. Running pay toilets is not a criminal activity."

The stakes for both companies are high. Should the 1975 New York State ban survive its legal test, for example, the New York City Transit Authority would lose the $350,000 yearly income from its 830 well-used toilets; and Nik-O-Lok, which keeps anywhere from two to five cents per dime, stands to lose nearly $250,000 a year from this single account—or roughly one tenth of its total business. Understandably, Nik-O-Lok is making an effort to reach the public, as well as the legislatures, through such means as a free booklet titled "Attitudes and Answers in the Controversy over Pay Toilets." But it may be a classic case of too little, too late.

Maryland, Minnesota, Michigan, New Hampshire, North Dakota, Indiana, Iowa, Utah, Arizona, Connecticut, Tennessee—the list of pay-toilet battle sites goes on. Even Congress has had a pay-toilet confrontation. Last year, an effort was made to tack an amendment onto a Congressional-appropriations bill that would have prohibited pay toilets in Federally financed buildings; it was defeated on the House floor, but proponents are expected to try again.

The American hobo has a singular point of view; he is probably the only interested party who can honestly sympathize with both sides of the pay-toilet issue. "It's a bitch" proclaims "Steamtrain" Maury Graham, a former hobo who's taken on something of the spokesman role for the brotherhood of rail riders. "Many a hobo with a gut ache has had to wait until a man comes out of a pay toilet and then grab the door before it closes. In a real emergency, a fellow has to crawl under the door. On the other hand, many a hobo has considered a dime a cheap price to pay for a warm two-hour nap on a cold, wet day."

AROUND THE WORLD IN 46 HOURS AND 50 SECONDS

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. COTTER. Mr. Speaker, I would like to take this opportunity to share with my colleagues an entertaining article by my good friend Bob Zaiman, about the notable Pan Am Boeing flight around the world.

At this time I would like to insert into the Record the following article:

Around the World in 46 Hours and 50 Seconds

(By Robert H. Zaiman)

They trooped aboard Pan Am's new Boeing 747-SP jetliner at New York's Kennedy International Airport with name tags pinned on their shirts and self-conscious smiles on their faces—98 casually clad Americans looking more like a typical mixed group of vacationers on a packaged tour than a band of hardy history-makers.

Ranging in age from 7 to 80 and including

14 women, they had come together as strangers on this rainy Saturday afternoon last May, from 25 states and the District of Columbia, their hearts filled with Bicentennial spirit and a desire to be part of a global happening. By flying completely around the world—from New York eastward to New York—aboard this remarkable Boeing transport with its Pratt & Whitney Aircraft JT9D-7A engines, they would participate in the establishment of a new world speed record for globe-circling by a commercial airliner. While this achievement might not make the traditional history books, it would certainly find a place in the Guinness Book of World Records, an historical publication of sorts.

Such was the primary inducement for the 98 travelers. It made bearable the prospect of 40 hours, more or less, in an airplane seat, with only brief stops at New Delhi and Tokyo for leg stretching. And it made reasonable, at least in their minds, individual seat prices of $2,914 in first class and $1,841 in the economy section for a joy ride of 23,137 statute miles.

Then, too, there were some interesting Bicentennial aspects of the trip. The 747SP bore the name 'Clipper Liberty Bell' and it had been christened in Indianapolis the day before by Mrs. Betty Ford, the President's wife. Aboard was a Bicentennial flag to be signed by all passengers and later hung in the Smithsonian Institution. The official hostess for the trip was beautiful Miss U.S.A., Summer Bartholomew, and she was prepared to present miniature Liberty Bells to the officials in India and Japan who greeted the plane at its two stops. A balladeer named Bill Schustik was along to sing American folk songs and to lead group singing. Captain Walter H. Mullikin, Pan Am vice president and chief pilot, was overall commander for the entire journey, certainly a comforting thought.

For the passengers, it figured to be a flying ball.

Plenty of extra seats were available in the Pan Am SP, which has a maximum capacity of 266, and that pleased everyone. There would be room in which to stretch out.

Similar in appearance to standard 747s, the SP (for Special Performance) is 47 feet shorter, but because of new design characteristics and advancements in the engines, it has about 25 percent greater range. Pan Am, having already demonstrated the aircraft's long-range capability in marketing tours and two revenue flights, expected easily to surpass the previous around-the-world speed record for airliners of 62 hours, 27 minutes and 35 seconds set in 1965 by a Flying Tigers 707-320C with Pratt & Whitney Aircraft JT3D engines.

As the passengers settled into their seats, they studied the flight map handed them by the crew. It showed an opening leg of 8,081 miles from New York to New Delhi programmed for 14 hours. Following a two-hour refueling stop, the second leg would cover 7,539 miles between New Delhi and Tokyo in an estimated 12 hours and 55 minutes. The distance on this segment was being purposely lengthened by about 2,000 miles to bring the total circuit to over 23,000 miles, the minimum set by the Federation Aeronautique Internationale to qualify as a globe-girdling flight. Another two-hour refueling stop and then the final 7,517-mile dash from Tokyo to New York would take about 12 hours, 30 minutes. If all went well, the travelers would be right back in New York where they started in roughly 43 hours, about 39 and a half hours of that in the air.

The takeoff, right on schedule at 5:40 p.m., brought a spontaneous burst of applause from the passengers. Having been instructed by Pan Am beforehand to wear loose fitting clothing on the flight, some of them presented a rather bizzare picture. Here was Pam Martin of New York, in a jump suit made from an actual orange-colored parachute, complete with rip cords in the strangest places; there was Harold Hutton, a polo player from St. Louis, in a green monogrammed waist-coat with velvet collar, looking like a patron of a British horse show. In the rear was Leonard F. Honea of Decatur, Georgia, wearing a tee shirt emblazoned with the message "Around the World With Leonard." B. Frank DeFord, III, of New York, a sports magazine writer, had on an authentic Harlem Globetrotters basketball jersey, which he felt was appropriate for such a journey. For the most part, sport shirts and sweaters were the vogue. Some women wore dresses, but most of the passengers looked like they were ready for a relaxing summer afternoon in the backyard.

As Clipper Liberty Bell headed out over the Atlantic, the immediate center of attention was Keith Ackerman of New York City; at the tender age of 11, he was making the trip alone. His father, a stockbroker, decided the flight would be a worthwhile project for Keith's social studies course, but considered it too grueling for himself. Keith soon tired of adult attention and sought out the companionship of Joe Rosevitz, Jr., 12 years old, from Youngstown, Ohio, who was traveling with his father.

Joe Rosevitz, Sr., is a 47-year-old structural steel worker and, like everyone else aboard, he didn't mind talking about his reasons for taking such an expensive and torturous journey.

"My wife died four years ago," he said, "and I'm bringing up my son, who is a wonderful boy. He saw a story in the Youngstown paper about this trip and told me he would like to go. So I went right out and got tickets for both of us. I think it's great."

Raymond Friend, who owns an ice cream store in Pittsburgh, said he always wanted to go around the world and this was the quickest and easiest way to do it.

"Some people told me I was crazy," he laughed. "But I told them it was none of their business what I did with my money. I want to enjoy life now, not when I'm too old."

A can of beer in hand and a sheepish grin on his face, John Sammon of Long Island, a convention planner, admitted that winning $3,000 on the daily double at the Aqueduct race track brought him to the Pan Am flight.

"I wanted to spend my winnings on a different kind of vacation and this looked like an interesting one," he said.

John Alexander of Auburn, Washington, was on board because of a chance remark he had made to his wife. A retired Boeing employee, he was reading about the flight in the Boeing house organ one day and commented to her that it sounded interesting. "You know, she went right out and bought me a ticket," he said. "Just for me, not for herself."

Beverage service stimulated the interaction among the passengers and the exchange of stories continued. Walter Arick, 70, of Fort Wayne, Indiana, had brought along his son Thomas, in his mid-20s.

"I'm really afraid to fly," the elder Arick confessed, "but I know Tom likes it. I've always wanted to go around the world, so I made him come with me. Now that I'm up here, I'm not the least bit afraid."

There was one other father-son combination aboard and one grandfather-grandson duo. One of the elders said anonymously that he had decided on joining his son on the trip because "it was the only way I could get to spend some time together with him."

Mrs. Doris Blassic, manager of a general store in Maui, Hawaii, had a special reason for taking the flight. A recent widow, she had always traveled with her husband before and she wasn't sure she could handle the emotional aspects of vacationing alone.

"I figured a trip of short duration like this one would be a good test," she said, "and I already know the answer. I'm having fun and I am able to travel alone."

Marie Williams, a reservations clerk in Pan Am's New York office, had learned of the flight at work and wanted to go so badly that she bought a ticket, paying full fare and sacrificing one day's pay for being absent from work.

Pedestrian traffic in the aisles was heavy. New two dollar bills began to appear all over the plane after someone suggested that, signed by all passengers, they would make good mementos of the trip. That started others passing around books, menus, and brochures for signatures and, for a long time, passengers did little but sign their names.

Rev. Elmer Fowler, a minister from Chicago, had brought along some elaborately bound citations he planned to present to Senator Edward Brooke and five other prominent blacks, and he walked the aisle, proudly showing them to new-found friends.

Dinner brought everyone back to their seats and quieted things down. Then came the movies—The Sunshine Boys, The Blackbird, Lucky Lady, and That's Entertainment, among others. And after that, sleep for some, reading for others, and prolonged beverage service for a few.

Shortly after daylight, an excited cry came from Walter Arick. "The Alps," he shouted. "Look down there. There's the Alps." That got everyone stirring again. Cameras were brought out and pressed against the cabin windows for the first of many picture-taking intervals.

Later, in the narrow confines of the aircraft's lavatories, the passengers washed up and most of them changed clothes, although the attire remained strictly casual in style. After another meal, it was back to seat-hopping and long-winded conversations.

Peter Asci, 70, of Pittsfield, Massachusetts, proudly passed around a front page story from his home town paper about his going on the record flight. He also exhibited a pair of turnbuckles he said came from the original Wright brothers' plane. He was taking these around the world for a friend because of their historical significance.

Robert McMullen, president of the American Society of Travel Agents, tried to do some jogging up and down the aisles but gave up after encountering one traffic jam after another.

Soon Iran became visible from the plane's windows, even though the SP had now moved up to 45,000 feet in altitude. Then there was Pakistan down below, and finally word from the cockpit to prepare for landing at New Delhi. Remarkably, the time had passed almost painlessly for most of the record-seekers.

The temperature was 104 degrees as Clipper Liberty Bell touched down. Flying time from New York was 13 hours, 31 minutes, 20 seconds, almost a half hour ahead of schedule. The aircraft had plenty of fuel left, enough to fly on another 1,815 miles to Bangkok, Captain Lyman G. Watt, one of the pilots, said.

Sari-clad Indian beauties greeted the perspiring passengers as they were herded into the airport's transient lounge, which was all of India they were to see during the two-hour stop. The local ladies hung leis around necks and dotted foreheads with red dye as symbols of welcome. Miss U.S.A. reciprocated by presenting a Liberty Bell to a group of Indian officials and Bill Schustik sang a ballad. A movie about India's wildlife was shown in the bar, of all places, and then it was time to re-board.

The extreme heat had made most of the passengers uncomfortable. So, after takeoff, they took turns using the lavatories to clean up as best they could and to change clothes once more. Pan Am had wisely stocked all the lavatories with cologne for use by the passengers.

The elongated flight to Tokyo, handled by a completely new crew, was to be a dog-leg over the Indian Ocean, overhead Singapore, overhead Jakarta, and into Haneda Airport. Even though fatigue had begun to set in on most of the passengers, they were no longer strangers to each other and the cocktail hour was convivial. But after the next meal, a comparative quiet settled over the passenger cabins and the persistent movies attracted some open eyes, but many of the travelers preferred to nap.

Daylight seemed to revive everyone. Pan Am had brought along Edward Flemming, a New York hairdresser, and he set up shop on a jumpseat between cabins. Oddly enough, his first customers were two men who wanted haircuts. But it wasn't long before the women moved in, especially when thy learned that the service was free of charge.

New maps outlining the flight's progress were passed out, not by crew members this time, but by Margaret Macklis of Del Ray Beach, Florida, a schoolteacher traveling with her husband.

"I volunteered for this task," she commented as she sprinted up and down the aisles. "I need the exercise."

Fearing boredom would set in, the stewardesses offered chess, checkers, monopoly and other games to the passengers but, strangely, there were no takers. Nor was there any appreciable cardplaying. People just moved about and talked to each other, or sat quietly doing nothing or reading. A few catnapped. There wasn't much to see out the windows and, for a spell, time dragged. The tempo picked up, however, when the cockpit crew announced that the aircraft was approaching the Japanese islands.

It was raining hard, with the temperature 53 degrees, when Clipper Liberty Bell landed at Tokyo. The flight time from New Delhi was 14 hours, one minute, 23 seconds—over an hour behind the planned time. Still reasonably alert and animated, the 98 passengers marched into the airport's transient lounge where Japanese girls in traditional kimonos serenaded them with native instrumental music. Waitresses passed out drinks and hors d'oeuvres. Another Liberty Bell was presented to local officials by Miss U.S.A. and a folk song was sung. This room and a window view of the airport would be all the travelers would see of Japan, but that didn't seem to bother any of them. They were genuinely having fun.

Meanwhile, out of earshot, ominous events were shaping up. Union airport maintenance employees were on strike and threatening to halt the departure of Clipper Liberty Bell unless their demands were met. Boarding was delayed as negotiations were conducted. The strikers had parked about 20 vehicles directly in the path of the SP, so there would be no continuation of the flight until they decided to move them.

When the boarding call was finally issued, the passengers assumed that the problem had been solved and they quickly settled into their seats to await takeoff. Nothing happened for about ten minutes, and then came an announcement from Captain Mullikin.

"The strikers are still blocking our way," he said. "We thought we had negotiated a settlement but it looks like we'll have to talk to them some more. Meanwhile, we'll open the bar and put on a movie. But everyone will remain in the plane."

For about two hours, the passengers fidgeted in their seats. As periodic reports of no progress came in, some began to express concern over the effect of the delay on the record they were hoping to break. John Slattery, on board as the National Aeronautic Association's official timer, assured them that only an extremely long delay would imperil the record attempt. But he couldn't say how long the strikers would be out there and the nervous atmosphere persisted.

At last came the announcement that the strike had been settled. Cheers went up throughout the plane and within minutes Clipper Liberty Bell, now with a third crew in charge, was on its way. The route in the home stretch was to be directly to New York on a path slightly north of Seattle. But because of the unexpected Tokyo delay, arrival would be somewhat later than the planned 1 p.m. on Monday.

Ten additional paying passengers had gotten aboard at Tokyo, all Japanese businessmen who had learned of the flight in news broadcasts and had requested tickets for the New York leg.

Katsushi Masuhara, an RCA manager, who makes the Tokyo-New York trip every two months, said the opportunity to accomplish it nonstop aboard the SP was something he had been awaiting for months.

"It saves so much time, I will always choose the SP over the other planes," he said.

There was little sleeping on this final leg. In fact, when the plane passed over Washington's Mount Rainier and the passengers realized that the U.S.A. was below, a festive mood began to prevail. Clothes were changed again and the cologne bottles got a lot of action once more.

Harold Hutton, in green waistcoat and tootling on a kazoo, led a Pied Piper parade of passengers up and down the aisles. One woman in an old-fashioned bonnet wore a hand-painted sign that read "You've come a long way, baby" and she was followed by DeFord with his Harlem Globetrotters jersey. "Around the World With Leonard" was next, and the lady in the orange parachute jump suit brought up the rear.

Everyone realized now that the record would be broken and when it was suggested by a passenger over the public address system that Pan Am arrange another around-the-world record flight over the North and South Poles, there were shouts of "Yes, yes. Count me in."

Pan Am's photographer came down the aisle offering boxes of games to passengers. "Will some of you volunteer to pretend to play one of these games," he begged. "Nobody has played a game on this trip yet and I need a picture of passengers playing chess, or something."

A few obliged and the games disappeared into various passenger handbags to become souvenirs of the journey.

At 3:40 p.m. on Monday, May 3, Clipper Liberty Bell touched down at New York. The flight from Tokyo had taken just 11 hours, 53 minutes, 10 seconds, about 37 minutes less than scheduled for this leg. Wild applause and cheering broke out in the aircraft. It was like being in the home team's locker room after a big victory.

Captain Mullikin announced that the old record had been broken by more than 15 hours. The total elapsed time, including two stops, was 46 hours, 50 seconds. The actual flight time was 39 hours, 25 minutes, 53 seconds, which was 4 minutes, 7 seconds ahead of the planned flight time.

The locker room atmosphere prevailed as the plane taxied to the same gate from which it had departed less than two days earlier. The weary passengers exchanged goodbyes and agreed heartily that it had been an exciting and worthwhile adventure.

Then, like good team players flushed with victory, they headed for the showers.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Ms. KEYS. Mr. Speaker, on Monday, September 20, 1976, I was unavoidably absent from the House.

Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on Rollcall No. 753, Minnesota River Valley National Wildlife Refuge;

"Nay" on Rollcall No. 754, Endangered Species Compensation Pilot Program;

"Yea" on Rollcall No. 755, Commercial Fisheries Research and Development Act Amendments.

JUDGE HARRY TOUSSAINT ALEXANDER

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. YOUNG of Georgia. Mr. Speaker, the attainment of civil liberties and justice for all people is an enormously huge and sometimes seemingly idealistic goal. Nonetheless, there are individuals who dismiss the pessimistic tendencies of idealism and do all within their power to bring about justice, because of their fervent belief and faith in the equality of all human beings. Superior Court Judge Harry Toussaint Alexander is one such individual.

On September 10, 1976, Judge Alexander made public his decision to retire from his judicial position—a decision not easily made but understood in view of his determination to fulfill his goal inspite of politically orientated societal pressures. A needed performance such as Judge Alexander's will be greatly missed, however, we who know him realize that he will continue to seek the attainment of civil liberties and justice for all people in his future endeavors and wish him only the best.

The statement follows:

MEDIA STATEMENT OF JUDGE HARRY TOUSSAINT ALEXANDER

Upon reconsideration of my earlier position and following prolonged deliberation, I have, on this date, advised the President of the United States of my retirement from judicial office effective November 2, 1976. I have also, on this date, instructed the District of Columbia Commission on Judicial Disabilities and Tenure to withdraw my declaration of candidacy for reappointment to the Superior Court of the District of Columbia. My lovely wife and wonderful children concur in what is for our family a difficult decision.

Primarily because of financial reasons, and a desire to speak out on today's issues, unrestricted by the judicial robe, I have chosen not to seek reappointment for a second term on the Bench. The decision, however, is not without mixed emotions.

The past 10 years on the Superior Court bench have been for me a unique and fulfilling experience. My 1949 application for admission to Georgetown Law School stated that I hope to effect changes in the legal system. Of course, momentous legal precedents most often result from appellate action, rather than at the trial judge level. But in hundreds of large and small ways, the daily operations of a trial court determines the quality of justice administered for the people.

I am therefore grateful to have had the opportunity to have made the following contributions toward improving the quality of justice in the District of Columbia:

(1) The appointment of free counsel to

indigents in Small Claims and Landlord and Tenant Branches;

(2) The elimination of unnecessary racial designations in court documents;

(3) The expungement of unjust arrest records;

(4) the curtailment of retaliatory prosecutions against those who complained of police brutality;

(5) The exoneration of numerous police officers wrongly accused of brutality;

(6) Insisting that all persons appearing in my courtroom be treated with dignity, requiring that all citizens be addressed as "Mr." and "Mrs.";

(7) Ending the practice of police officers sitting in the jury box rather than with other witnesses, and

(8) Increasing the facilities for treatment of alcoholics.

I want publicly to express my affection for the many people who encouraged me. Among these gallant people, too numerous to mention, are my wonderful wife and family who sustained me over many years; my Chief Judge, Harold H. Greene, and Chief Judge Gerard D. Reilly, from whom I could seek counsel; the courageous lawyers who volunteered to represent me and my high ideals, the late Civil Rights Advocate Frank Reeves, the late Honorable David G. Bress, James H. Cobb, Esq., and Ralph Temple, Esq., the law firm of McDaniel, Burton, Daniels and Brady, Claude Roxborough, Esq., B. Franklin Kersey, IV, Esq., Jan Peterson, William McLain and my friend and counsel, Benton L. Becker, Esq.

My sincere gratitude must, of course, be extended to Xavier University of New Orleans, Louisiana, and Georgetown University which prepared me for my legal career; but foremost for my philsosphy of life. Nothing could have been more important than the latter.

To the late President John F. Kennedy, and his brother, the late Honorable Robert F. Kennedy; the Honorable Herbert J. Brownell, the late Honorable Leo A. Rover, the Honorable Oliver Gasch, the Honorable David A. Acheson, the Honorable Nicholas J. Katzenbach, I extend my debt of gratitude for their affording me the opportunity of representing the greatest government in the world, in several Circuits, in the District of Columbia, across many cities and in Puerto Rico.

To Chief Judge David L. Bazelon, and Judge J. Skelly Wright of the United States Court of Appeals for the District of Columbia Circuit, to the late Judge Alexander Holtzhoff, Judge Burnita S. Matthews, and Judge John J. Sirica, and other judges who taught me the majesty and dignity of the courtroom, and the necessity for skilled and quality advocacy, on the trial as well as the appellate level, I am eternally grateful. But certainly, no one did more for my legal career than the saintly Honorable Andrew J. Howard, who nurtured me early as an Assistant United States Attorney, and administered to me the Oath of Office on three separate occasions.

To the late Civil Rights President Lyndon B. Johnson, and the Honorable Ramsey Clark, I extend my heartfelt appreciation for affording me the privilege of judicial office; but first that of First Assistant United States Attorney.

My expressions of gratitude would not be complete without mentioning Mr. Justice Douglas who not only expressed his empathy, but sympathized with my personal struggles in his 1973 dissent in *Palmore* v. *United States*. His understanding will forever be appreciated, and I wish him a speedy recovery from his present illness.

Words cannot express the deepest gratitude I have to ministers and hierarchy of many denominations, who have counseled and consoled me through the years; to the many organizations and thousands of people, the church, civic, professional and fraternal organizations who have given their support—the Yango Sawyers, as well as the Lillian Wiggins', the Calvin Rolarks', the Black Caucus, the City Council, and Members of the Board of Education. The courage they gave helped to fortify my concern, commitment, and conviction for improving the quality of justice.

Finally, through all of this, it is fitting and proper to acknowledge God and my nine year old departed Beatrice Ann; for they have been my guiding lights; my refuge in the storm, my comfort in the hours of darkness. She and He have been the rock and the staff.

In looking back, I believe that what I most enjoyed in being a judge was the opportunity to help the steady flow of people who came to my chambers during the past 10 years seeking help in their frustrations with the administration of justice. This multitude of small victories over inequality meant the world to me.

It is my intention to continue to work toward the elimination of discriminatory practices and effecting equal justice under the law. I shall do so through teaching, publications, the private practice of law, and through our political machinery, until equity and equality are indeed realities, and all people are free to enjoy their God-given constitutionalized rights.

President Kennedy once said, "A journey of a thousand miles must begin with the first step." For the past ten years, in some small measure, I have taken that first step. With God's help, I shall continue.

PARENS PATRIAE PROVISION IN ANTITRUST LEGISLATON

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. FLOWERS. Mr. Speaker, on Thursday, September 16, 1976, the House passed H.R. 8532, a bill which I view as landmark antitrust legislation. Of the bill's three titles, the most controversial is title III, the so-called parens patriae provision, giving a new cause of action to State attorneys general seeking to recover for injuries suffered by the consumers of their respective States, arising from antitrust violations.

One of the main concerns expressed during the House debate on the parens patriae provisions concerned the question of so-called good faith violations of the antitrust laws. The fear was expressed, and I believe in many cases rightly so, that businessmen who had relied upon past judicial or administrative precedent or simply lack of enforcement might be subject to antitrust liability, even though they had long believed they were exempt or immune therefrom. One obvious example would be the rapid expansion of the Sherman Act to include the so-called learned professions as a result of the Supreme Court's unanimous decision in the Goldfarb case.

Both the gentleman from Illinois, Mr. McClory, and I introduced amendments speaking to this problem. As was pointed out in Thursday's Floor debate, it is quite clear that the presence of both Mr. McClory's amendment and mine together made the aggregate damages provision unworkable. The alternative is having either a good faith provision, reducing treble damages to single damages, or an aggregation provision limited to willful violations. But this is unnecessary, as present case law adequately provides for such a defense, as the Memorandum of Law following these remarks demonstrates.

I should like to make my particular concerns clear. While the House/Senate negotiations on the "good faith" provision were extensive, and numerous alternatives discussed, the language of the final bill makes it clear that present case law is to be the guide. By way of defining the reaches of that case law, I believe the following proviso to Section 4 (D), which I should like to have seen in the final bill, adequately expresses my own concept of the scope of the "good faith" defense. It is as follows:

> *Provided*, that any damages awarded against a defendant which are proved and assessed in the aggregate shall be reduced to actual damages and the cost of suit, including reasonable attorneys' fees, if the defendant establishes that, on the basis of prior law, judicial or administrative precedent, or lack of enforcement, he reasonably believed, prior to any determination under this section, that his illegal conduct was exempt or immune from the Sherman Act.

I feel this adequately sums up what I conceive to be the legitimate reach of a "good faith" defense, and offer it for possible clarification of that issue, should it ever arise in a parens patriae context. The basis for my reasoning is the following Memorandum.

Recent Antitrust Cases Rejecting Treble Damage Liability for Defendants Who Reasonably Believed They Were Exempt or Immune From the Antitrust Laws

Ever since the Supreme Court's decision in U.S. v. General Electric, 272 U.S. 476 (1926), manufacturers had been entitled to fix the resale prices charged by their retailers—so long as the goods were sold under a consignment agreement. This practice did not constitute vertical price fixing in violation of the Sherman Act, according to the General Electric court, because in a sale by consignment, the retailer is not an independent businessman, whose prices are being dictated by the manufacturer. Instead, the retailer is the agent of his principal, the manufacturer. Thus, the consigned goods are owned by the manufacturer until they are sold, and the manufacturer accordingly has every right to set the price that will be paid for his own goods.

But on April 20, 1964, the law changed. In Simpson v. Union Oil Co., 377 U.S. 13, the Supreme Court reversed its General Electric decision, and held that a consignment agreement of this sort amounted to vertical price fixing in violation of the Sherman Act. But was the defendant, who had justifiably relied on almost forty years of clear precedent, then subjected to treble damages for conduct that was clearly legal when it was taken? The Simpson court did not decide, but instead suggested that "there may be equities that would warrant only prospective application in damage suits of the rule governing price fixing by the 'consignment' device which we announce today." Simpson, at page 25.

Subsequent opinions took up this invitation. Less than six months later, in Lyons v. Westinghouse Elec. Corp., 235 F. Supp. 526 (S.D.N.Y. 1964), the court held that Westinghouse's long-employed consignment contracts constituted illegal vertical price fixing. But would treble damage liability be imposed upon Westinghouse for its "non-willful" and "inadvertent" price fixing? No, the court held:

"It is the element of reliance by defendants upon the former rule that is to me most compelling. Here we have an agency system which was expressly upheld by the Supreme Court in General Electric and later by Judge Forman as well. There can be no doubt whatever that Westinghouse relied on these decisions in continuing that system in effect.

"Similarly, in the baseball case, Toolson v. New York Yankees . . . the antitrust exemption for baseball was left undisturbed because 'the business has been left for 30 years to develop, on the understanding that it was not subject to existing antitrust legislation.' The same is true here. Westinghouse's business has been left for over 30 years to develop on the understanding that its agency system was not subject to existing antitrust legislation. . . . At least the fact of reliance should prevent the retroactive application of the overruling doctrine. To hold Westinghouse liable now for damages for making and carrying out a contract which was perfectly legal at the time that it was made and carried out, would be manifestly unjust. It is hard to conceive of a case in which there could be stronger 'equities' in defendants' favor. For these reasons I hold that the rule announced in Simpson does not govern Westinghouse agency contracts with which we are here concerned, and that for the purposes of this case, those contracts, under the rule of General Electric, do not contravene either the Sherman Act or the Clayton Act." Lyons, at page 537.

Subsequently, the Union Oil Co. itself avoided retrospective treble damage liability in Peter v. Union Oil Co. of California, 328 F. Supp. 998 (C.D.Calif. 1971). Peter, a Union Oil retailer who had been forced to fix prices pursuant to Union Oil's consignment contracts, sought retrospective treble damages. But Peter lost:

"There is yet another aspect of the equities claimed by Union in this litigation. At the inception of its consignment program in 1955, Union had requested and received legal opinions from its legal advisors concerning the legality of its proposed [consignment] method of marketing its gasoline products.

"Relying upon an interpretation of U.S. v. General Electric, and the reported state of the antitrust laws, Union inaugurated its consignment program . . . .

"Plaintiffs attacked the validity of the legal opinions received by Union. Reviewing the authorities as they then existed it was reasonable for the legal advisors of Union to assume that the consignment program contemplated by Union was within the approved consignment in General Electric. . . . Having so relied upon the state of the law in 1955 as related by its legal advisor, and having immediately undertaken to correct the retail price fixing aspects of its marketing program [after the Supreme Court held that program was illegal], the Court finds that prospective application only should be given to the rule of Simpson. . . .

"In summary, the Court finds that there is no violation of the antitrust laws in Union's consignment program, that as to all plaintiffs their theory of damages are not maintainable under the antitrust laws of the United States, and as to all plaintiffs the equities preclude a damage recovery." Peter, at page 1005.

This rule—that retrospective treble damages will not be imposed upon defendants who "reasonably relied" upon previously-recognized exemptions or precedents—applies whenever any kind of precedent—either judicial or statutory—is subsequently overruled. Thus, in Wainwright v. National Dairy Products Corp., 304 F. Supp. 567 (N.D. Ga. 1969), the defendants sold price-fixed milk, in reliance upon a Georgia State statute that apparently authorized sales at fixed prices. But this statute was subsequently struck down, and the plaintiffs thereupon sought treble damages under the Sherman Act. But the plaintiffs got not a single penny of damages:

"Where equity and circumstance warrant, judicial decisions may be given solely prospective treatment. . . . We should be no more willing to give retroactive effect to the judicial overruling of a legislative statute—which plaintiff asked us to do here—than to the judicial overruling of a prior judicial decision. The presence of a statute is as much an operative fact as a prior judicial ruling. In this action, defendants had every reason to rely upon the 1952 amendments, which were designed to avoid the pitfalls of the Milk Control Act as struck down in Harris. The fact that 15 years later in 1967, the Georgia Supreme Court found the amended statute unconstitutional, does not negate the defendants' justifiable reliance on a solemn pronouncement. To hold otherwise would be manifestly unjust. It is hard to conceive of a case in which there could be stronger 'equities' in defendants' favor. *Lyons,* supra. As one court properly put it:

'In civil cases, unlike criminal cases, it is appropriate to recognize that businessmen must rely upon counsel, who in turn are guided by the existing precedents and statutes in making difficult decisions on the effect of the antitrust laws on specific business conduct. In suits for damages in such cases, it is particularly appropriate to be mindful of the injustice of retroactive imposition of the penalty of treble damages.' Hanover Shoe, Inc. v. United Shoe Corp., 377 F.2D 776, 789 (3d Cir. 1967), Rev'd on other grounds, 392 U.S. 481 (1968)."

The rationale of the Hanover decision was that retrospective treble damages could not be awarded in that monopolization case, in light of "the practical realization that conduct had occurred in reliance on the earlier rules of law to the contrary."

On appeal, the Supreme Court accepted this rule, 392 U.S. 481, 498 (1968), but concluded that it did not apply in this particular monopolization case:

"Whatever development in antitrust law was brought about was based to a great extent on existing authorities and was an extension of doctrines which had been growing and developing over the years . . . we cannot say that prior to those cases, potential antitrust defendants would have been justified in thinking that then current antitrust doctrines permitted them to do all acts conducive to the creation or maintenance of a monopoly, so long as they avoided direct exclusion of competitors or other predatory acts."

And the Supreme Court has reiterated the applicability of this rule in more recent cases:

"In our cases, we have generally considered three separate factors. First, the decision to be applied non-retroactively must establish a new principle of law, either by overruling clear past precedent on which litigants may have relied, see Hanover Shoe, Inc. v. United Shoe Machinery Corp., 372 U.S. 481, or by deciding an issue of first impression whose resolution was not clearly foreshadowed. Second, we must weigh the merits in each case by looking to the prior history of the rule in question. . . . Finally, we have weighed the inequity imposed by retroactive application, for where a decision of this court could produce substantial inequitable results if applied retroactively, there is ample basis in our cases for avoiding the injustice or hardship by a holding on non-retroactivity." Chevron Oil Co. v. Huson, 404 U.S. 97, 106–107 (1974).

This equitable rule is now applied in all kinds of cases, not just antitrust cases. See Trala v. Shea, 335 F. Supp. 81 (D. Mass. 1971), where District Judge Wyzanski would "not permit this plaintiff to recover from this defendant upon the basis of facts which would not have warranted a recovery under clear past precedent, on which litigants may have relied, and which was overruled by the promulgation, after the events, of a new principle of law. See Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481, 496; Chevron Oil Co. v. Huson, 404 U.S. 97, (1971)."

Most significantly, recent cases have broadened this equitable rule as the Sherman Act has expanded to reach members of the "learned professions," like lawyers, doctors, architects, and engineers.

Thus, in Feminist Women's Health Center, Inc. v. Mohammad, a Tallahassee, Florida abortion clinic, that advertised low-cost abortions, claimed local doctors were engaged in a group boycott against the clinic, and sought treble damages for this per se violation of the Sherman Act. According to the court:

"Evidence of the intentions of defendants has historically been deemed irrelevant in per se cases. However, this case presents a problem in the area of a profession which is highly regulated by the state, and intimately concerns the public health and welfare. In its recent Goldfarb opinion, the Supreme Court intimated that due deference to the State's interest in controlling and regulating the professions must be given by the Federal courts in applying the antitrust laws. In other words, the professions are a special case under the antitrust regulating scheme, and . . . since the State has authorized members of the medical profession to organize in order to evaluate the standard of medical care and practices of the profession, it is the court's opinion that contrary to the ordinary case, good intentions on the part of the defendants here would be a defense to a per se violation. Thus, if the plaintiffs establish a prima facie case, the defendant doctors are not thereby deprived of the right to assert bona fide concern for the public welfare as a defense; but the defendants must bear the burden of proof on the 'good faith' defense, by proving that their action was motivated by a bona fide concern over the existence of satisfactory medical care, rather than by concern over the economic impact of competition upon their medical practices."

"In sum, as to the good faith defense, the question is whether the defendants were motivated by bona fide concern over medical or ethical standards, rather than by an anticompetitive animus." Feminist Women's Health Center, Inc. v. Mohammad, 1976–2 CCH trade cases, ¶ 60,982, June 9, 1976 (N.D. Fla.).

BENEFITS FOR FORMER SPOUSES OF FEDERAL EMPLOYEES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mrs. SCHROEDER. Mr. Speaker, today I am introducing a bill to amend the civil service retirement plan to provide that a former spouse who has been married to a Federal employee for at least 20 years would be entitled to a portion of that employee's retirement annuity.

In the past year I have become acutely aware of the human dimensions of the problems resulting from the lack of economic protection for divorced spouses of Federal employees. Quite simply, hundreds, if not thousands, of women are left destitute each year, because they become divorced from Federal employees after many years of marriage. Suddenly finding themselves in their late forties or fifties without much, if any, recent job experience, and no retirement protection, these women are in real trouble. This is simply not equitable.

A letter I recently received from a former spouse married for 35 years to a Federal employee with 34 years of Government employment illustrates a typical case:

> At the time we separated our total assets were a little over $15,000 (which were divided equally) so Paul's retirement benefits represented most of our accumulated capital. So that I could retain the same federal benefits as a wife (with minor exceptions) a decree of separate maintenance was granted in 1971.
>
> . . . The divorce was granted in 1973. As a result of this divorce, I am now ineligible for all the benefits that had been accruing to me as his spouse of 35 years: I have no claim on any retirement pay, have no survivor's benefits, am not eligible for any medical program. The final decree of divorce includes no compensation for the loss of these benefits.
>
> Although he has been ordered to pay alimony, he is now more than $4,000 in arrears. The alimony order presents two problems: The first is that enforcement of such orders is minimal; the second is that, even if paid, alimony does not provide financial protection for me in the event of his death.
>
> My own efforts to enforce the provisions of the divorce decree have resulted in a current balance of $2,500 owed to my attorneys. A hearing in June 1976 resulted in an order that he pay $300 toward my attorneys' fees, and "make arrangements" to pay the arrearage. He has done neither and there seems to be no recourse. When the Social Services Act of 1974 (P.L. 93–647, Section 459) made possible garnishment of federal salaries and pensions, I thought these problems of enforcement would be relieved, but this does not seem to be the case. I understand from my attorney that should an order for garnishment be given here I will then have to file in court in the state where Paul now lives and I have retained an attorney there. In short, the procedure is so cumbersome and so expensive as to be virtually ineffectual.

The fact is that although more than 3 million employees rely on the Federal civil service retirement system for retirement benefits, the Federal pension plan fails to provide economic protection to the former spouse of a Federal worker. This failure in the system leaves the dependent spouse with no direct retirement benefits despite many years working for no pay managing a home, raising children, and contributing time and effort to the marriage. Although the number of women in the labor market is increasing, the majority of women are still homemakers, and have no independent retirement benefits.

Recent Census Bureau statistics indicate that women outnumber men by 4.1 million among the Nation's elderly and that the gap will widen to 6.5 million by the end of the century. According to the March 1975 census figures there are over 5 million women over the age of 65 who live alone, and half of that number are living their last years below the official poverty line. Most of these women have not always lived alone and most have not always been poor, but their circumstances have deteriorated with advancing age. What happened to them is not inevitable, but rather the result of discrimination throughout their lives which strikes its cruelest blow at the end. It is my view that our public retirement system contributes to the economic impact of sex discrimination and punishes women for their traditional roles in society.

It is time that Congress look at the Federal retirement system. I do not think it was the intent of Congress to deny old-age protection to these former spouses. The problem today was not envisioned in 1920, when the Federal retirement system was established, 15 years before the creation of the social security system. Today the family unit is no longer as durable as in the past. The divorce rate has doubled in the last 10 years. The trend in divorce law is toward no-fault settlement, with spousal support for limited periods if granted at all. A September 1975 survey conducted by Market Opinion Research revealed that only 14 percent of divorced women were awarded alimony, while only 44 percent of the divorced mothers were awarded child support. Moreover, less than half of the payments arrive regularly, with compliance dwindling to zero as the years pass.

The Congress responded to the growing number of long marriages ending in divorce by amending the Social Security Act in 1965 and 1972 to provide benefits for a divorced wife who was married a minimum of 20 years. It would be incongruous for Congress to recognize the needs of Social Security recipients and ignore the former spouses of civil servants, who are not eligible for social security.

The bill I am introducing today would entitle a former spouse of a civil servant to a prorata share of the retirement annuity based on the number of years of marriage over the number of years of creditable service. For example, if the former spouse was married to the Federal worker for the entire period that the employee worked for the Federal Government, the spouse would be entitled to 50 percent of the retirement annuity. If married to the employee less than the entire period of creditable service, the former spouse would be entitled to an amount equal to the ratio of years of marriage over years of covered service.

Since death benefits for surviving spouses are reduced to 55 percent of the annuity, this same reduction would be applicable to former spouses. Therefore, after the death of the Federal employee, the former spouse's portion would be reduced to 55 percent of the prorata share of the retirement annuity. At the same time, the annuity of the current widow or widower would be reduced by the amount of annuity payable to the former spouse.

Under this bill the former spouse's annuity rights terminate upon remarriage before age 60. In the event that the Federal employee chooses a lump sum payment instead of an annuity, the former spouse would be entitled to a portion of the lump sum payment based on the same ratio of duration of marriage to years of creditable Federal service.

Let me emphasize that this change in the law will not increase the costs of the civil service retirement system. What is proposed here is that the Federal pension be shared by the civil servant and the former spouse of 20 years during the employee's retirement years and by the former and current spouses after the death of the employee.

This bill is based upon the thesis that marriage is an economic partnership. It is my contention that the former spouse made a significant contribution to the employee's ability to earn the wage and consequently receive the pension. There is no dispute that homemakers perform valued services for their families and society. It is frequently argued that pensions are an earned retirement benefit. However, I think it is important that the concept of earned benefits be applied to those homemakers who, after contributing substantially to an economic partnership, find themselves divorced in their middle years, unable to find work, and ineligible for social security.

The 1963 report of the President's Commission on the Status of Women affirmed that—

> Marriage as a partnership in which each spouse makes a different but important contribution is increasingly recognized as a reality in this country. During marriage each spouse should have a legally defined substantial right in the earnings of the other, in the real and personal property acquired through those earnings, and in their management. Such a right should be legally recognized as surviving the marriage in the event of its termination by divorce, annulment, or death. Appropriate legislation should safeguard either spouse and protect the surviving spouse against improper alienation of property by the other.

We are a society which places value on home and family, encouraging women to stay home to take care of children. Yet one of the most severe forms of economic discrimination is that we fail to attach an economic value to this service—to insure that benefits are portable and credited to each individual to insure that the homemaker spouse is protected in the case of divorce. This feature of pension portability and earned right for the homemaker is essential if spouses are to have a choice whether to work inside or outside the home.

Homemakers have provided a variety of services to our society for which they have not been compensated. Community organizations, hospitals, schools, and churches have depended heavily upon the voluntary services of homemakers. They have frequently been the backbone of the "people programs" in our cities, towns, and rural areas, organizing and running programs that serve people in need, ranging from children and youth to the elderly.

In spite of all the cultural and judicial resistance, the concept that a homemaker does make an economic contribution to marriage is making its way into law. In at least 44 court cases in 11 States, homemakers have been assigned the equitable interest in the retirement and disability benefits of her husband. Three of these States, Colorado, Oregon, and Wisconsin were noncommunity property States.

In 1974, the California Supreme Court held in Fithian against Fithian that retirement benefits are community property, whether benefits stem from State, Federal, military, or private employment.

Going even further in 1976, the California Supreme Court in In re Brown overruled the 25-year precedent that a pension had to be vested before a spouse could take his/her community one-half interest in retirement benefits.

Furthermore, the American Bar Association in 1974 approved a Uniform Marriage and Divorce Act drafted by the National Conference of Commisisoners on Uniform State Laws, an organization that promotes model legislation. This act includes detailed economic provisions to protect a wife and children—recognizing the economic contribution of the homemaker, along with her special problems in getting a job and raising young children. Five States—Arizona, Colorado, Kentucky, Montana, and Washington—have adopted most of the economic sections of the Uniform Act.

Hundreds of divorced spouses have contacted me about the inadequacies of our Federal retirement system. They are shocked to realize that when the marital relationship is severed, they had little recourse and no security. They are unable to find a job, because of high unemployment and lack of recent paid work experience, they are dropped from pension health plans and find it difficult to get health insurance, they are ineligible for medicare, because they are not covered by social security.

It is to remedy this failing of the civil service retirement plan that I introduce this bill to entitle former spouses to a portion of the retirement annuity of Federal employees. I would like to take this opportunity to share with my colleagues the text of my bill:

H.R. —

A bill to provide that a former spouse of a Federal employee who is married to such employee for 20 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8331 of title 5, United States Code, relating to definitions for purposes of civil service retirement, is amended by adding at the end thereof the following new paragraph:

"(22) 'former spouse' means an unremarried former wife or husband of an employee or Member who was married to such employee or Member for not less than 20 years."

(b) Such section 8331 of title 5, United States Code, is further amended—

(1) by striking out "and" at the end of paragraph (20), and

(2) by striking out the period at the end of paragraph (21) and inserting "; and" in lieu thereof.

SEC. 2. (a) Subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, is amended by inserting after section 8338 the following new section:

"§ 8338A. Former spouse annuity

"(a) A former spouse of an employee or Member retired under this subchapter is entitled to an annuity—

"(1) if married to the employee or Member throughout his period of creditable service, equal to 50 percent of the annuity (determined without regard to the reduction under section 8339(n) of this title) to which such employee or Member is entitled, or

"(2) if not married to the employee or Member throughout the period of his creditable service, equal to the amount which bears the same ratio to the annuity to which such former spouse would have been entitled if paragraph (1) of this subsection applied as (A) the number of years of creditable service during which such former spouse was married to the employee or Member bears to (B) the total number of years of such service. An annuity under this section is subject to section 8340 of this title.

"(b) The annuity of a former spouse commences on the later of the day after the employee or Member retires under this subchapter or the first day of the month in which the individual becomes a former spouse. Such annuity and the right thereto terminate on the last day of the month before—

"(1) the former spouse dies or remarries before becoming 60 years of age;

"(2) the former spouse becomes entitled to an annuity under section 8341 of this title; or

"(3) such employee or Member dies."

(b) Section 8339 of title 5, United States Code, relating to annuity computation, is amended by adding at the end thereof the following new subsection:

"(n) The annuity of an employee or Member computed under this section is reduced by the amount of an annuity under section 8338A of this title of any former spouse of such employee or Member."

(c)(1) Section 8342(a) of title 5, United States Code, relating to lump-sum benefits, is amended by striking out "is entitled" and inserting in lieu thereof "(and a former spouse of such employee or Member)" before "are entitled".

(2) Section 8342 of title 5, United States Code, is amended—

(A) in subsection (b), by inserting after "employee or Member" the following: "(and any former spouse of the employee or Member)", and

(B) in subsections (c) and (d), by inserting after "employee or Member" each place it appears the following: "(or any former spouse of the employee or Member)",

(C) in subsections (f) and (g), by inserting after "annuitant" the following: "(or any former spouse of the annuitant)",

(D) by adding at the end thereof the following:

"(j) If the employee or Member has a former spouse, the lump-sum credit of the former spouse shall be—

"(1) if the former spouse was married to the employee or Member throughout his period of creditable service, 50 percent of the lump-sum credit such former spouse would be entitled in the absence of this subsection, or

"(2) if such former spouse was not married to the employee or Member throughout the period of his creditable service, an amount which bears the same ratio to the lump-sum credit to which such former employee would have been entitled if paragraph (1) of this subsection applied as (A) the number of years of creditable service during which such former spouse was married to the employee or Member bears to (B) the total number of years of such service.

The lump-sum credit of the employee or Member shall be reduced by the amount of the lump-sum credit payable to the former spouse."

(d) Section 8344 of title 5, United States Code, relating to annuities and pay on reemployment, is amended by adding at the end thereof the following new subsection:

"(d) The Civil Service Commission shall prescribe regulations to provide for the application of this section in any case in which an annuitant has a former spouse entitled to an annuity under section 8338A of this title."

(e) The table of sections for subchapter III of chapter 83 of title 5, United States Code, is amended by inserting after section 8338 the following new item:

"§ 8338A. Former spouse annuity."

SEC. 2. (a) Section 8341(b) of title 5, United States Code, relating to survivor annuities is amended—

(1) in paragraph (1), by inserting "or by a former spouse" after "after retirement", and

(2) by striking out "or widower" the second and each succeeding place it appears and inserting in lieu thereof "widower, or former spouse".

(b) Subsections (d), (e), and (g) of section 8341 of title 5, United States Code, are each amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or former spouse".

(c) Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) In the case in which both a former spouse and a spouse, widow, or widower are entitled to an annuity under this section, the former spouse's annuity shall be—

"(1) if the former spouse was married to the employee or Member throughout his period of creditable service, 50 percent of the annuity to which such former spouse would be entitled in the absence of this subsection, or

"(2) if such former spouse was not married to the employee or Member throughout the period of his creditable service, an amount which bears the same ratio to the annuity to which such former spouse would have been entitled if paragraph (1) of this subsection applied as (A) the number of years of creditable service during which such former spouse was married to the employee or Member bears to (B) the total number of years of such service.

The annuity of the spouse, widow, or widower is reduced by the amount of the annuity payable to the former spouse."

SEC. 3. The amendments made by this Act shall only apply with respect to employees and Members, as defined in section 8331 of title 5, United States Code, who retire on or after—

(1) the date of the enactment of this Act, or

(2) October 1, 1976,

whichever date is later.

THE BALANCE(S) OF POWER: IV (ix)—STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. BRECKINRIDGE. Mr. Speaker, as part of my discussion of the Strategic Defensive Balance in my series on the "Balance(s) of Power," I inserted an article in the September 20, 1976, issue of the CONGRESSIONAL RECORD by Patrick J. Friel who explored the U.S. response to the development—and deployment—of intercontinental ballistic missile—ICBM—delivered thermonuclear weapon by the People's Republic of China or any limited-resource nation, and outlined and assessed those options available to the United States should it need to rely upon the ICBM leg of our strategic nuclear Triad of forces.

Today I wish to insert the conclusions of Mr. Friel, an expert in the field of ballistic missile defense systems, regarding the deployment of an "area type" ballistic missile defense—BMD—system; the possible response of the Soviet Union to the deployment of a Safeguard; the value of a limited BMD as an alternate—other than a massive retaliatory strike by our strategic offensive forces—U.S. response to a small accidental attack by the Soviet Union; the role of the Safeguard system in protecting our strategic ground-based forces; the value of a limited BMD system; some technical approaches to arms control, as expressed in an article, "The Merits of a Limited Ballistic Missile Defense System," that appeared in the October 1970, issue of Astronautics and Aeronautics.

The article follows at this point:

Soviet Response to the Safeguard System: The thin area defense part of Safeguard should not stimulate the Soviet Union to increase the size of its offensive forces. Soviet planners could easily see that this area-defense portion of the Safeguard would be totally ineffective against a large attack by the Soviet Union. An attack on the eastern part of the U.S. with a few hundred missiles would easily break through the Safeguard system even without penetration aids. Consequently, the Safeguard system represents no significant degradation in USSR deterrent forces.

We must face, of course, a serious question as to whether the Soviets will interpret the initial deployment as the start of a large-scale urban-defense system in the U.S. They see the record, however, that four U.S. presidents have rejected this policy. In addition, the proposed deployment specifically attempts to exclude an option to expand this system and removes Spartan and Sprints from urban areas. Nevertheless, we should recognize the possibility of the Soviet leaders misinterpreting our national strategic policy. One of the major objectives of the Strategic Arms Limitation Talks (SALT) should be to convince the Soviets that we do not and will not have a large-scale urban defense.

It should also be realized that the Soviet Union may have already responded technically to the possibility of the deployment of a ballastic-missile defense in our country. Their extensive development program on FOBS has left many U.S. observers puzzled as to its ultimate practicality. This is particularly true when one considers the enormous size of the present Soviet forces (about 300 of the small, Minuteman-like SS–11s and upwards to 275 of the large SS–9s). FOBS does not add a significant deterrent capability to a force of this enormous size when one considers that about 150–200 weapons in the 3- to 5-megaton class would be enough to cause upward of 75-million casualties in this country. A possible explanation for the development of this system could well be that it could be used as an effective penetration aid against a limited BMD.

The re-entry angle for the FOBS system is so low that it would escape detection by the perimeter acquisition radars (PAR) until the last few minutes of its trajectory, thus minimizing the response of the defense system. A few tens of these systems could be used in this manner to either black out or destroy the "eyes" of the system, the PAR (or exhaust the number of improved Spartans). Thus, with the FOBS development completed, the Soviets could deploy about 100 of these systems rapidly and possess an effective penetration capability against the Safeguard system. In addition, of course, the size of their present forces would quickly saturate the area-defense portion of the Safeguard system protecting our population centers. Consequently, FOBS could be an effective complement to the saturation attack on our population centers. If this analysis of the mission of the FOBS is correct, then the Soviets do not have to develop any penetration aids for the Safeguard system, even if we should expand to a size much larger than presently contemplated.

We should also consider the fact that the USSR has been developing a multiple-warhead system for the SS–9. Considering the size of these forces and their payloads, the development of a multiple-warhead system should provide the Soviet Union with enough leverage to deploy sufficient warheads to exhaust and penetrate even a terminal urban-defense system.

Accidental Attack from the USSR: There is also a strong positive aspect of a limited BMD with respect to stabilizing our relationship with the Soviet Union. At present, we confront the USSR with a policy of assured destruction. The basic assumption in that policy is that, should an attack by the Soviet Union occur, it would be of such a size (many hundreds of missiles) that the intent of the attack would be unmistakable; and we would reply with a massive retailiatory strike with our airborne, land-based, and sea-based systems. However, if a single missile or small number of missiles were accidentally launched from within the Soviet Union, either through error or through an irrational act by a local commander, we would then have to decide whether or not the attack meant the initiation of a thermonuclear war. In short, we do not know what constitutes the initiation of a thermonuclear war with the Soviet Union, other than a massive attack.

A limited BMD system of the Safeguard type would permit this country to defend itself against up to a few tens of missiles. An attack beyond this level by the Soviets would surely be construed as an attempt to destroy us. Therefore, we would be able to respond to this low level of attack without necessarily counterattacking the Soviet Union and, at the same time, minimize, if not eliminate, damage to the U.S.

Defense of Strategic Ground-based Forces: Besides giving us a limited BMD system for our population centers, the development of a defense system to protect our strategic forces would, I believe, serve to stabilize the number of strategic defensive and offensive systems in the world. Both the Soviets and ourselves presently have the ability to inflict an unacceptable level of damage to each other (in excess of 100-million casualties) and thus we are mutually deterred. If both nations now agreed to restrict the size of their forces to the present level, we (and they) could then develop a terminal defense system (with superhard silos) which would defend these forces against even the most determined attacker. Thus, each nation would preserve the ability to destroy the urban centers of the other, while maintaining the number of ballistic missiles at a constant value.

The proposed Safeguard system will provide four sites in the Minuteman field aimed at improving the survivability of those forces under a direct attack by the Soviet Union. The major objective of this portion of the deployment will be to reduce the reliability of an attack aimed at destroying ground-based strategic forces. I should emphasize this particular deployment is, in Deputy Defense Secretary Packard's own words "a limited defense of Minuteman." It is fairly clear that no defense would be perfectly effective against a very large, sophisticated attack by the Soviets.

Allow me to amplify this point. The ground-based strategic force can be defended either by hardening the silos or providing a terminal defense. Moreover, it is necessary to consider not only the number of re-entry vehicles attacking the silos, but also their accuracy. The interaction of these four factors—silo hardening, defense, threat size, and accuracy—results in a complicated series of alternative responses. It can be shown that hardening is the least expensive alternative if the attacking force is not very accurate. When the attacker is able to achieve extreme accuracy, then terminal defense becomes the least costly solution. Technology associated with developing extremely hard silos as yet is uncertain. Furthermore, in order to account for the possibility of a very large, sophisticated attack on radars, the number of radars deployed in the Minuteman field would be prohibitive.

Consequently, proceeding with a hard-silo program or a large terminal defense of Minuteman to accommodate a large, sophisticated radar attack would be extremely expensive—$10 to $15 billion—and this assumes the development of radar systems cheaper than the present MSR (Missile Site Radars), or mobile radars which the Soviets could less effectively target and attack.

Thus, it is extremely difficult, both technically and economically, to make a decision to defend a Minuteman force with the most sophisticated defense we can conceive to counter the most sophisticated offense we can conceive.

Nevertheless, the Safeguard system does provide an adequate defense of Minuteman against a large attack force—including a radar attack—since the offense must exhaust the large number of Sprints used to defend not only the Minuteman silos but also the MSRs.

I should emphasize that the alternative to protecting the Minuteman force or introducing hardened silos will be to increase the number of Minuteman missiles. In fact, many of those opposing the defense of Minuteman have suggested a significant increase in the Minuteman force as the least costly alternative. However, I believe that proliferation of our groundbased forces to increase their survivability clearly invites a step-up in the arms race with the Soviet Union.

A course which restricts the size of our ground-based forces while maintaining our deterrent posture is, in my opinion, a more desirable course of action. Therefore, a limited defense of Minuteman seems justified in my judgment. The part of Safeguard directed at defending Minuteman will clearly show to the Soviet Union that the U.S. desires to restrict the size of her offensive forces to the present level. In addition, this course of action is a positive indication of the U.S. desire to enter into arms negotiations with the Soviet Union.

Value of Limited BMD in Arms Control: The value of a limited BMD of the Safeguard type in our negotiations with the Soviet Union to limit the size of the thermonuclear forces in both countries, in my opinion, can be stated simply:

The portion of the system devoted to the protection of Minuteman has the obvious advantage of not requiring expansion of the Minuteman system or introduction of a new ground-based offensive-missile system should the U.S. become concerned about the development of a significant counter-force or first-strike capability by the Soviets. Therefore, we could still maintain a high-confidence assured-destruction policy with respect to the Soviet Union, while maintaining the same number of ground-based offensive missiles.

As I mentioned previously, the area-defense portion of the system, aimed at providing some protection for the population, has the distinct advantage of not forcing the President to implement formally an assured-destruction policy with respect to any limited-resource nation, such as the Chinese People's Republic, that might develop thermonuclear weapons and intercontinental delivery systems.

Concluding Remarks: In closing, I would like to make some further suggestions on arms control—four specific suggestions:

1. Introduction into the United Nations of a photographic-reconnaissance capability enabling it to publish, on a regular basis, photographs of the strategic forces and even the conventional forces deployed around the world.

2. Introduction into the United Nations of an early-warning satellite system for monitoring all launches and permitting the world body to publish their trajectories. This would make public all missile testing on a regular basis.

3. Declassification as rapidly as possible of all intelligence data pertinent to the size and technical complexity of the strategic forces throughout the world. The size and sophistication of the strategic forces in the U.S. and the Soviet Union are of such a magnitude that the disclosure of any information by the U.S. does not in any way compromise the security of either nation. The destructive power of these forces is so great that any disclosure of their technical performance characteristics is academic.

4. Restriction on the development of the technical capability by the Soviet Union or the U.S. of initiating a successful first strike against the ground-base forces. This basically would mean a restriction on the size and particularly the accuracy of any future missile systems. The USSR and the U.S. are mutually deterred, since a major portion of both populations are essentially hostages. But the forces required to accomplish that objective, i.e., the destruction of a major portion of the U.S. or Soviet population, are much smaller than the present U.S. and Soviet forces—by a factor of 70% to 80%. In fact, the size of the forces on either side is primarily determined by its ability to absorb a first strike. Therefore, a treaty to restrict the development of a first-strike capability could, if successfully implemented, mean that both the Soviets and ourselves could reduce the strategic offensive forces by about 75%. Of course, the major problem in implementing such an agreement is *verification*. The two technical problems would be to verify the number of warheads in each missile and, particularly, their accuracy. If such an agreement could be reached, however, a joint technical program between the Soviets and ourselves with the participation of the United Nations could be undertaken to develop verification techniques.

QUESTIONNAIRE RESULTS—ARIZONA'S SECOND DISTRICT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. UDALL. Mr. Speaker, I would like to take this opportunity to place in the RECORD the results of my 1976 legislative questionnaire.

Nearly 15,000 constituents of the Second Congressional District of Arizona took the time and effort to respond to what was probably the most extensive questionnaire I have ever sent.

Mr. Speaker, I am gratified by the response to this questionnaire and by the many people who added their own personal remarks.

There are those who voice concern these days about voter apathy and distrust of government. I am proud of my constituents who have indicated by this response that they are aware of the issues of the day and they care enough to inform their Congressman of their views.

The questionnaire results follow:

1976 LEGISLATIVE QUESTIONNAIRE

SECTION 1

(In this section respondents were asked to state whether they agreed strongly, tended to agree, had no opinion, tended to disagree or disagreed strongly. For purposes of tabulation we have combined "agree strongly" and "tend to agree", and have combined "disagree strongly" and "tend to disagree". The percentage difference between the totals of these two categories and 100% is those voters who registered "no opinion").

Energy, environment, and economy

1. To ensure competition among various types of energy, the large petroleum corporations should be prohibited from owning other energy sources, such as coal and uranium:

		Percent
Total agree	9,887	68.4
Total disagree	3,928	27.2

2. An oil company which produces oil should not be allowed to also own refineries or pipelines or gas stations:

		Percent
Total agree	6,516	45.2
Total disagree	6,921	47.9

3. More should be done to assure the safety of nuclear power plants even if such efforts raise costs and cause delays:

		Percent
Total agree	9,648	66.8
Total disagree	3,751	25.9

4. Federal spending on energy problems should place more emphasis on developing alternatives to nuclear power:

		Percent
Total agree	10,918	75.4
Total disagree	2,613	18.0

5. We can have both strong environmental protection regulations and a strong economy if we practice proper conservation and management of our resources:

		Percent
Total agree	12,666	88.0
Total disagree	1,284	8.9

6. In an effort to reduce inflation, Congress should decrease federal spending, even if this might increase unemployment and reduce projects of local benefit:

		Percent
Total agree	7,833	54.6
Total disagree	5,606	39.1

7. In the event of renewed high inflation, I would favor strict wage, price and profit controls:

		Percent
Total agree	9,161	64.0
Total disagree	4,419	30.8

8. More funds are needed for expanding and maintaining our national parks, forests and other public lands because of increasing recreational use by the public:

		Percent
Total agree	9,296	64.4
Total disagree	3,732	25.8

9. It should be federal policy to reduce unemployment to 3% through programs designed to stimulate the private sector. As a last resort, the Federal government should provide jobs to reach the 3% goal:

		Percent
Total agree	7,670	53.4
Total disagree	5,776	40.2

Foreign affairs

1. Present efforts to pursue better relations with the Soviet Union should continue:

		Percent
Total agree	10,321	71.5
Total disagree	3,250	22.6

2. Considerable savings in defense expenditures could be realized by eliminating cost overruns and by halting expensive and duplicative weapons systems such as the B-1 bomber and the Trident submarine:

		Percent
Total agree	9,042	63.3
Total disagree	3,900	27.3

3. The United States should continue its policy of assisting Israel's security by providing arms, equipment and civilian observers but not military forces:

		Percent
Total agree	8,911	61.7
Total disagree	4,290	29.7

4. The United States should continue its present policy of negotiating a new treaty with Panama concerning the future control and defense of the Panama Canal:

		Percent
Total agree	10,047	69.9
Total disagree	3,199	22.3

5. We should maintain a strong U.S. military force in South Korea:

		Percent
Total agree	5,290	36.9
Total disagree	7,812	48.9

6. The People's Republic of China in Peking should be fully recognized, even if doing so would jeopardize our relations with the Chinese government on Taiwan:

		Percent
Total agree	7,563	52.5
Total disagree	5,011	34.8

7. The United States should not interfere in the internal affairs of other countries through such covert means as secretly funding political parties and trying to arrange for the overthrow of existing governments:

		Percent
Total agree	11,303	78.1
Total disagree	2,513	17.4

8. The United States should take immediate steps to restrict our economic and military relations with the white-minority controlled governments of Rhodesia and South Africa:

		Percent
Total agree	7,229	50.2
Total disagree	5,037	34.9

Domestic affairs

1. Congress should more closely supervise the operations of the FBI, CIA and other intelligence agencies:

		Percent
Total agree	10,095	69.9
Total disagree	3,816	26.4

2. A federally administered comprehensive health insurance program covering a broad range of services should be established by Congress:

		Percent
Total agree	7,549	52.2
Total disagree	5,958	41.1

3. Instead of a comprehensive federal health program, I believe the U.S. government should establish a national health insurance program solely for catastrophic illness:

		Percent
Total agree	5,795	40.5
Total disagree	6.591	46.2

4. Legislation should be enacted to ban the sale of "Saturday-night Specials" and require a short waiting period before the sale of ordinary handguns:

		Percent
Total agree	10,177	70.5
Total disagree	3,710	25.7

5. Possession of small amounts of marijuana for personal use should be decriminalized as is the law in Oregon and California:

		Percent
Total agree	8,915	61.6
Total disagree	4,668	32.3

6. Social security should continue to be financed exclusively by payroll taxes rather than be partially subsidized by general taxes:

		Percent
Total agree	7,876	54.9
Total disagree	4,582	31.9

7. There should be an increase in the amount of money social security recipients may earn before their benefits are reduced, even though it would place greater demands on the Social Security Trust Fund:

		Percent
Total agree	10,114	70.8
Total disagree	2,636	18.4

8. A comprehensive new probe into the assassination of President Kennedy should be conducted:

		Percent
Total agree	4,969	34.5
Total disagree	7,646	53.0

9. The Federal Government should place much stricter regulations on interstate land sales:

		Percent
Total agree	8,368	73.9
Total disagree	1,621	14.3

10. Construction of the Central Arizona Project (CAP) should be continued:

		Percent
Total agree	9,033	63.4
Total disagree	2,449	17.2

11. State and local governments should adopt controls on land use to ensure that growth is coordinated with the expansion of tax supported services and environmental considerations:

		Percent
Total agree	11,052	76.9
Total disagree	2,302	16.1

12. We need a new state law which regulates the use and allocation of groundwater as a public resource rather than as, at present, the property right of the surface owner:

		Percent
Total agree	8,961	62.4
Total disagree	4,027	28.1

A special note

As you know, one of the most troublesome issues at both the national and local levels is the use of busing to remedy segregation in the public schools. Many proposals have been advanced in Congress to deal with this question. I am co-sponsoring a bill that would seek to find voluntary, community initiated alternative ways to assure equal educational opportunities, the denial of which has prompted courts to order busing. Others would ban the use of busing without addressing underlying questions of education equality; still others would leave the whole question in the hands of the courts. Your responses to the following questions will help me to understand better your thinking on this critical issue.

1. As presently operated, our schools give every child a full and equal opportunity for educational development, regardless of economic or social background:

		Percent
Total agree	6,735	48.3
Total disagree	6,324	45.3

2. I would be willing to send my child to a school outside my immediate neighborhood if it offered a special curriculum not available elsewhere:

		Percent
Total agree	8,861	64.3
Total disagree	3,734	27.1

3. Although they may be initially somewhat more expensive than a conventional curriculum, I believe that bilingual, multicultural school programs should be expanded:

		Percent
Total agree	6,497	46.3
Total disagree	6,508	46.4

4. There are schools in my community where children receive an education inferior to the one at my neighborhood school:

		Percent
Total agree	3,264	29.6
Total disagree	4,080	73.1

5. There are schools in my community where children receive an education better than the one in my neighborhood:

		Percent
Total agree	3,305	24.9
Total disagree	5,290	39.7

6. If a court found that schools in my community unconstitutionally denied equal education to minority students, then busing of pupils to reduce concentration in minority schools would be an appropirate remedy:

		Percent
Total agree	3,134	22.7
Total disagree	9,754	70.5

SECTION 2

Please rank, in order of importance, the five issues that you think are the most important for the next Congress to work out: (Number from 1 to 5 the five issues you select.)

Tax reform

1	2,022
2	1,886
3	1,439
4	1,195
5	922
Total	7,464

Reform of the Federal bureaucracy

1	2,369
2	1,727
3	1,265
4	930
5	789
Total	7,080

Energy conservation

1	1,796
2	1,430
3	1,365
4	1,302
5	971
Total	6,864

Congressional ethics

1	1,118
2	783
3	792
4	786
5	881
Total	4,360

National health insurance

1	768
2	998
3	881
4	770
5	692
Total	4,109

Reordering defense priorities

1	503
2	798
3	847
4	819
5	755
Total	3,722

Full employment legislation

1	1,151
2	792
3	613
4	553
5	491
Total	3,600

Revising agricultural subsidies

1	99
2	306
3	573
4	777
5	776
Total	2,531

Arms control

1	342
2	387
3	412
4	451
5	565
Total	2,157

Strengthening antitrust laws

1	140
2	295
3	465
4	527
5	638
Total	2,065

Helping States provide equal and integrated education

1	173
2	308
3	362
4	388
5	383
Total	1,614

Oversight of intelligence-gathering agencies

1	104
2	182
3	310
4	384
5	466
Total	1,446

Deregulation of natural gas

1	125
2	247
3	296
4	322
5	305
Total	1,295

Amnesty

1	173
2	133
3	194
4	240
5	515
Total	1,255

Providing more housing assistance

1	84
2	148
3	228
4	258
5	313
Total	1,031

Federal assistance for State and local land use planning

1	55
2	129
3	158
4	225
5	234
Total	801

Other

1	564
2	191
3	145
4	170
5	329
Total	1,399

In setting budget priorities, Congress should spend:*

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*The difference between the percentages listed and 100% is the percent of those responding "No Opinion".

Aid to the elderly

		Percent
Spend more	9,137	70.5
Spend less	826	6.4

Community development and housing

		Percent
Spend more	3,523	28.4
Spend less	4,734	38.0

Crime and drug control

		Percent
Spend more	8,650	66.2
Spend less	1,414	10.8

Energy research

		Percent
Spend more	10,962	84.0
Spend less	573	4.4

Foreign economic aid

		Percent
Spend more	721	5.7
Spend less	9,772	77.4

Highway and mass transportation construction

		Percent
Spend more	4,199	33.5
Spend less	3,518	28.1

Pollution control and environmental protection

		Percent
Spend more	6,992	54.6
Spend less	2,406	18.8

Aid to the poor and jobless

		Percent
Spend more	5,267	41.6
Spend less	3,451	27.2

Consumer protection

		Percent
Spend more	6,971	54.5
Spend less	2,085	16.3

Education and vocational education

		Percent
Spend more	6,335	50.4
Spend less	1,999	15.9

Foreign military aid

		Percent
Spend more	458	3.6
Spend less	10,580	83.5

Health and medical research

		Percent
Spend more	8,464	66.2
Spend less	954	7.4

Military spending

		Percent
Spend more	2,953	23.1
Spend less	6,307	49.3

Social security and veterans' benefits

		Percent
Spend more	6,347	49.5
Spend less	1,510	11.8

Total budget

		Percent
Spend more	3,245	26.8
Spend less	5,585	46.1

PASSENGER AID VOLUNTEER CONCEPT

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mrs. PETTIS. Mr. Speaker, as a sponsor of similar legislation to grant reduced air fares to the elderly and the handicapped, as well as their attendants, I would like to call to my colleagues' attention an innovative proposal developed by the Association of Flight Attendants—the union representing 18,000 flight attendants who are responsible for the safety of occupants aboard commercial aircraft.

This proposal, which is entitled the "Passenger Aid Volunteer Concept" was developed and submitted by AFA to both the Federal Aviation Administration and the Civil Aeronautics Board in order to help insure the safe evacuation of a handicapped passenger in a potential emergency.

Mr. Speaker, this concept would provide for rapid egress of the physically disabled and at the same time allow the other passengers the capability of evacuating without undue congestion, should the occasion arise.

Briefly, this concept works as follows:

1. Upon making reservations for a flight, the physically or mentally disabled individual (or their guardian, relative, friend, or whomever) would notify the airline concerning their specific limitations in caring for themselves (or the physically disabled). The disabled passenger would notify the airline whether he/she would be traveling with a companion of their choice or whether the airline needed to secure a Passenger Aid Volunteer for them.

2. The physically or mentally disabled individual could have a traveling companion of their own choice and the traveling companion would be required to pay only half of the published fare for that portion of the flight in which he served to provide assistance to the disabled person.

3. Should the disabled passenger have no companion who is physically capable of assisting him, he/she would ask for a Passenger Aid Volunteer. In doing so, the disabled passenger would provide his name, age, physical disability, height, weight, and destination.

4. Physically able passengers (after this service has been advertised and recognized) who specifically planned their trips in advance could place their names (with the specific airline) on a Passenger Aid Volunteer list and would either be assigned to a specific disabled passenger at that time or would be assigned to a disabled passenger shortly before flight. The Passenger Aid Volunteer would be required to provide the airline with his weight, height, age and so on which would assist in pairing the Passenger Aid Volunteer with the Passenger requiring assistance. The Passenger Aid Volunteer would be required to pay only half of the published fare for that portion of the flight in which he served on behalf of the passenger who required his assistance.

5. Should a physically able passenger assist a passenger requiring assistance during a given flight, the Passenger Aid Volunteer shall be refunded one half of the published fare for that portion of the flight in which he served on behalf of the passenger requiring assistance, providing authority at the boarding station had been issued.

6. Should there be no Passenger Aid Volunteer listed (with the airline) for the disabled passenger (for a particular flight), the flight attendant or agent could select an able bodied passenger to serve as a Passenger Aid Volunteer aboard the flight. The flight attendant or agent in their selecting of an abled bodied passenger, would inquire as to his willingness to sit with and assist the disabled individual, and properly inform the passenger (PAV) that he would receive one half of his fare upon reaching his destination by presenting the proper form to the ticket counter upon arrival. The Passenger Aid Volunteer would then be presented with the authorization for refund of one half of the published fare for the duration of the flight that he is to assist the disabled passenger.

7. If (a) no "Passenger Aid Volunteers" were available prior to flight time, (b) the disabled passenger did not have his own traveling companion and (c) no one aboard the aircraft volunteered to be a "Passenger Aid Volunteer", then the airline would have to provide an employee who is physically capable of assisting the disabled passenger.

8. In order to implement this program and to prevent infractions, the airline might want a standard certificate for proof of incapacitation requiring assistance.

Mr. Speaker, in addition to urging my colleagues to support this legislation to provide reduced air fares for the elderly, the handicapped and their attendants, I do hope that the Civil Areonautics Board will carefully take into consideration the passenger aid volunteer concept.

BICENTENNIAL PROJECTS: REGISTER AND VOTE, SIGN A FACSIMILE OF THE DECLARATION OF INDEPENDENCE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. CARNEY. Mr. Speaker, I have recently been advised that the Printing Industries of America, Inc., in cooperation with the Salem, Ohio Historical Society and the American Revolution Bicentennial Administration, is sponsoring a "Bicentennial Signerfest" as the grand finale of our country's Bicentennial celebration.

According to the "Bicentennial Signerfest," Americans everywhere are being asked to sign facsimiles of the Declaration of Independence as a way of reaffirming our commitment to the principles espoused by the Founding Fathers 200 years ago, and as a way of encouraging Americans to vote in this important election year.

Mr. Speaker, I commend the Printing Industries of America for their patriotism and public-spiritedness in undertaking this Bicentennial project. I would like to insert information concerning the "Signerfest" in the RECORD at this time for the consideration of my colleagues in the U.S. Congress and the American people:

PRESS RELEASE OF PRINTING INDUSTRIES OF AMERICA

In cooperation with the Salem Ohio Historical Society and the American Bicentennial Administration, regarding the current project of urging Americans to vote in this great Historic Bicentennial year and in the spirit of the Bicentennial.

Mr. Rodney L. Borum, President of the Printing Industry of America, has released the following letter to Mr. John Warner, Director of the American Revolution Bicentennial Administration.

PRINTING INDUSTRIES OF AMERICA, INC.,
Arlington, Va., September 8, 1976.

Hon. JOHN WARNER,
Administrator, American Revolution Bicentennial Administration, Washington, D.C.

DEAR MR. WARNER: As you know, the Printing Industries of America adopted the Signerfest idea as its Bicentennial project, in cooperation with the Salem Ohio Historical Society which originated the idea four years ago. The project has been widely accepted.

PIA is currently urging its regional and local affiliates to offer Signerfest facsimiles of the Declaration of Independence as an "aid" to local efforts to encourage voting in 1976.

I understand you also are urging the various efforts to gear their voting projects to the "spirit of the Bicentennial." As President of the Printing Industries of America, I want you to know that PIA will do all we can to aid your efforts to get out the largest vote in America's history in this Bicentennial year.

Like our forefather-printers who printed and "preserved" the content of the Declaration, we of 1976 consider it a privilege for "The Art Preservative of All Arts" to preserve our "reaffirmation" for the Third Century.

We have found that the Signerfest idea is particularly useful for aiding voting projects not only because it points out the "source" of our individual rights but urges individuals to show their appreciation to our forefathers by voting in this historic Bicentennial year.

Sincerely,

RODNEY L. BORUM,
President, Printing Industries of America.

The Signerfest idea basically encourages Americans everywhere to reaffirm the principles of the Supremacy of the Individual for America's third century Grandchildren, by signing facsimiles of the Declaration of Independence with a pledge addendum printed below the signatures of the original signers and with space for the members of a Family to add their signatures. Sample below:

[Due to mechanical limitations, the facsimile is not reproduced in the RECORD.]

WE THE PEOPLE OF 1976

On the occasion of the Bicentennial "We the People of 1976" likewise sign our names to this facsimile in the spirit of our forefathers who signed the original, and pledge OUR lives, OUR fortunes and OUR sacred honor for the preservation of the political principles that all human rights are an endowment of the Creator and that government derives its power from the consent of the governed. We will pass this copy on to our grandchildren with the faith that history will encourage them to be Eternally Vigilant—lest they lose their Individual Supremacy by allowing the adoption of political policies of error.

The Family of (spaces for signatures).

Below is a reproduction of the reverse side of the Signerfest facsimile [not reproduced due to mechanical limitations]. Facsimiles are printed on appropriate paper for "keepsakes".

WE THE PEOPLE OF 1976

On the Great occasion of the Bicentennial celebration, what better way could "We the People of 1976" find to celebrate than to individually emulate our Forefathers by joining the 1976 "Bicentennial Signerfest" and sign our names to this Keepsake facsimile of the Declaration of Independence and pass it on to our Grandchildren.

Also what better way could we demonstrate our appreciation to our Forefathers, for their personal sacrifices to establish the political principle of the Supremacy of the Individual and upon which hang all the laws of the United States, than by exercising our political supremacy at this historic Bicentennial election on Nov. 2nd, 1976, and vote.

The above Liberty Bell is a reproduction of the Declaration of Independence set in type and reproduced so small it is difficult to read with the naked eye. It can be read however, with the aid of a strong magnifying glass. The early Craftsman who set this typographical achievement is now unknown. So we take this opportunity to salute him along with modern lithographic Craftsmen who printed this reduced size.

This Bicentennial exercise in patriotism was first originated by the Salem Ohio Historical Society for its local celebration. Because of the national interest that has developed it is now being shared with other communities. The project was approved by the Ohio House of Representatives and the Ohio Senate by joint resolution on July 25, 1975 and reprinted with complimentary remarks in the Congressional Record of the 94th Congress on September 8th, 1975.

To America's Grandchildren of the Third Century—

In this Bicentennial year, the Democratic Party nominated Jimmy Carter; the Republican Party nominated Jerry Ford; the American Party nominated Lester Maddox and the Independent was Eugene McCarthy, for President.

In 1975 the Ohio House of Representatives and the Ohio Senate passed a joint resolution approving the Signerfest idea and urged communities everywhere and their sister states to emulate by making the idea available as a Bicentennial "exercise in patriotism". The resolution on Sept. 8, 1975 was reprinted in the CONGRESSIONAL RECORD and is re-printed below:

[From the CONGRESSIONAL RECORD, Sept. 8, 1975]

Mr. CARNEY. Mr. Speaker, recently I received a letter from a friend and former Ohio Senate colleague of mine, the Honorable John Taylor, who is now retired and living in Fort Lauderdale, Fla.

Senator Taylor advises me that he has been promoting an idea for the Bicentennial celebration in conjunction with the Salem Ohio Historical Society. His idea is an exceptional exercise in patriotism whereby Americans are encouraged to "sign their names like John Hancock did," to facsimile of the Declaration of Independence.

Former Senator Taylor drafted a resolution encouraging the Congress and the legislatures of the 50 States to acquaint local communities with this exercise in patriotism. Mr. Speaker, I commend former Ohio State Senator John Taylor and his ingenuity. The resolution as written by former State Senator Taylor and passed by the Ohio General Assembly is inserted at this time for the information and consideration of my colleagues in the U.S. Congress.

The resolution follows:

RESOLUTION

Memorializing the President of the United States, the Congress and the Fifty State Legislatures to acquaint local communities in the United States with an exceptional exercise in patriotism, first originated by the Salem Ohio Historical Society and currently being shared by them with communities everywhere—a patriotic exercise that appears to be one of the best and most timely ideas so far suggested for the coming Bicentennial Celebration

Whereas, The members of the House of Representatives of the 111th General Assembly of Ohio being aware that faith in the basic principles upon which this Nation was founded is being attacked by forces wishing the total destruction of the American experiment in government, and particularly the principles of the Supremacy of the individual; and

Whereas, The Salem Ohio Historical Society has originated and embarked upon a project to encourage Americans everywhere to sign their name, as did John Hancock, to a facsimile of the Declaration of Independence or in a reaffirmation book to be placed in local libraries at the end of the Bicentennial Celebration; and

Whereas, The Salem Historical Society wishes to share this project with communities everywhere in America; and

Whereas, Field testing in other communities has proved that the idea has special merit and that Americans everywhere would welcome an opportunity to reaffirm their faith in the Declaration of Independence by signing their name, as did John Hancock, when he said, "The King can read that without his spectacles."; and

Whereas, The Salem Historical Society does not have the funds to publicize or acquaint the thousands of local communities, service clubs, patriotic organizations, local governments, churches and Bicentennial groups with their project; therefore be it

Resolved, That we, the members of the House of Representatives of the 111th General Assembly of the State of Ohio in adopting this Resolution, compliment the Salem Historical Society for its timely, creative and unselfish project and fervently urge our federal government, sister states and communities throughout the Nation to emulate this patriotic program; and be it further

Resolved, That copies of this Resolution, properly authenticated, be transmitted by the Legislative Clerk to the President of the United States; to the Vice President; to the Speaker of the United States House of Representatives; to the Chief Justice of the United States Supreme Court; to all Members of Congress from Ohio; to the Speakers, Senate Presidents, Governors and Chief Justices of the Supreme Courts of all fifty states; to the American Revolution Bicentennial Administration; to the Salem News; to the Columbus Citizen-Journal, and to the Columbus Dispatch.

Join the "Signerfest" and sign your name like a patriot. Bicentennial's grand finale.

[From the Bicentennial Times, February 1976]

"SIGNERFEST" REAFFIRMS RIGHTS OF INDIVIDUAL, PEOPLE AS SOURCE OF GOVERNMENT POWER

If the Salem (Ohio) Historical Society has its way, Americans around the country will have an opportunity to reaffirm in a personal way the principles of the Declaration of Independence which hold that all human rights are endowed by the Creator and that all power of government is derived from the consent of the governed.

The society has originated a project—known as "Signerfest"—which encourages American families to sign their own names to a facsimile of the Declaration of Independence containing an addendum below the names of the original signers which reaffirms the beliefs of the new signers. On the reverse side of the facsimile is a brief explanation of the significance of the project together with space in which to give credit to local organizations making the "Signerfest" facsimile available locally.

Families signing the facsimile are encouraged to pass it on to their grandchildren for the purpose of encouraging the perpetuation of the principle of the supremacy of the individual during the third century of the country's existence.

The Salem Historical Society states that the project "provides an opportunity for millions of Americans to show the world that we are still united upon the same political principles proclaimed two hundred years ago, in spite of the forces that challenge the American idea of the supremacy of the individual . . ."

The facsimiles can be printed by local printers from a uniform lithographic negative. The method of reproduction eliminates expensive research and preparation such as art and typesetting. The society says the method gives local printers an opportunity to make a worthwhile contribution to their local Bicentennial celebrations in the manner of the printers of 1776.

Meanwhile the Printing Industry of America, Inc., is assisting in the implementation of the "Signerfest" program

The organization is lending assistance so that local printers may be able to lithograph the facsimiles of the Declaration and its family pledge addendum at minimum cost for distribution in their communities. Information may be obtained by writing to the Salem Historical Society, 208 South Broadway, Salem, Ohio, 44460, or John Taylor, "Signerfest" Chairman, 4848 NE 23rd Avenue, Fort Lauderdale, Florida, 33308. Telephone (305) 771-9066.

In view of the non-profit nature of the project and the society's limited funds include a self-addressed No. 10 return envelope with two first class postage stamps affixed.

[June issue, page 7]

July 19–Aug. 5 Period Urged for "Signerfest"

The Ohio Municipal League is inviting state and local governments around the nation to proclaim the period July 19 through August 5 as "Signerfest Days".

The dates being promoted by the Ohio Municipal League correspond approximately to the period during which the signing of the Declaration took place. July 19, according to the Library of Congress, is the date when the Continental Congress ordered the engrossing of the Declaration. It was signed by the majority of the founding fathers on August 2.

Among other organizations adopting the program is the Rainbow Division Veterans organization of World War I fame. The organization's national auxiliary, headed by Mrs. Velma Parham of Wichita, Kansas, is sponsoring a "Signerfest" to take place in July during the national reunion of the veterans' group in Tulsa, Oklahoma.

The reproduction of a letter from the Salem Ohio Chamber of Commerce, below, attests that Signerfest is being made available by volunteers and that none of the Society's officers or Chairman receives any compensation for their work.

Salem Area Chamber of Commerce,
Salem, Ohio.

To Whom It May Concern:

The Salem Area Chamber of Commerce of Salem, Ohio is happy to verify the official project of the Salem Historical Society, who is making their Bi-Centennial "Signerfest" project available to communities across the length and breadth of this great country.

The Salem Area Chamber of Commerce commends the members and leaders of the Historical Society for initiating this exercise in patriotism and giving Americans everywhere the opportunity to reaffirm their faith in the beliefs and principles of the Declaration of Independence. Clubs, organizations, industry, businesses or individuals may wish to print the facsimilies locally for their own "Signerfest".

The Salem Historical Society, its members, officers or agents receive no remuneration for this project idea, and are only urging communities and groups to adopt the program as a Bi-Centennial project.

Alan H. Cleveland,
Executive Secretary.

COLUMNISTS CLARK MOLLENHOFF AND CARL ROWAN COMMENT ON NEED FOR REFORM OF MEDICAID PROGRAM AND SUGGEST GOVERNMENT RIPOFFS IN MEDICAID PROGRAM NEED PROSECUTION

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EVINS of Tennessee. Mr. Speaker, the distinguished columnist, Clark Mollenhoff, and TV news commentator, Carl Rowan, have spoken recently on the extensive abuses occurring in the administration of the medicaid program as disclosed by congressional investigations.

About 10 percent of the 250,000 physicians who participate in the medicaid program have been accused of fraud and abuses over the past 5 years. One witness testified that—

> When it comes to Medicaid, nearly everybody is cheating and everybody is bragging about it too.

The maladministration of this program must be corrected.

The article and comments by Mr. Mollenhoff and Mr. Rowan follow:

[From the Tennesseean, Sept. 20, 1976]

Government Ripoffs Need Prosecution

(By Clark Mollenhoff)

Washington.—Prison terms for doctors, lawyers and businessmen will be necessary to put an end to the multi-billion-dollar frauds in the Medicaid and Medicare programs.

That is the view of Sen. Frank Moss, tne usually compassionate Utah Democrat whose personal role as an undercover investigator dramatized the depth and pervasiveness of frauds on Medicaid.

Moss, chairman of the Subcommittee on Long-Term Care of the Committee on Aging, declared that failure to control frauds and corruption in the nation's health programs can discredit and destroy programs, and bankrupt cities and states in the same manner that New York City was brought to a financial crisis in 1975.

Although the most recent hearings have dealt with the corruption and mismanagement of the Medicaid program, Moss said that the weaknesses disclosed in the investigations and prosecutions of crimes against Medicaid are a reflection of weaknesses that have contaminated the Medicare program.

The federal responsibility for the laxity must be shared by the four secretaries of Health, Education and Welfare—Robert Finch, Elliot Richardson, Casper Weinberger, and David Mathews, Moss said.

"The lack of continuity in the administration of HEW under the Nixon and Ford administrations was a contributing factor, because they (the secretaries) rarely understood fully what they were dealing with. . . .

Moss said the internal reports of HEW disclosed at least as early as 1969 that there was a massive problem in enforcing criminal laws and administering the health care programs, but that all four secretaries of HEW "poured out assurances that they were on top of the problem, and would soon have it solved."

Lack of proper investigative staff in HEW was one of the major problems from the outset, Moss said. He noted that HEW has not hired more investigators even in the face of criticism from his subcommittee and from a House Government Operations Subcommittee headed by Rep. L. H. Fountain, D–N.C.

"Even in the last few weeks, Secretary Mathews' reaction to criticism was to accuse me of grandstanding in going undercover to find out for myself how bad things were," Moss said.

Moss declared that it is only under "the flood of publicity" that accompanied his most recent hearings on the massive frauds in New York that Secretary Mathews has been moved to announce he will hire 100 more investigators.

Senator Moss declared that he believes the corruption and mismanagement of Medicaid and Medicare are good issues for the Democrats to use against President Ford this year, and that establishment of an effective Office of Inspector General for the Department of Health Education and Welfare is a vital step to prodding federal and state administrators of the programs to push "the prosecutions that will be needed to establish that they mean business."

The subcommittee has issued a massive 287-page report on the investigation of Medicaid mills. It is estimated that at least 10% of the $15 billion annual expenditure is lost through outright frauds and a wide range of misuses that represent distortions of the program and waste health care funds.

In many states the operations are so lax that no more than 50% of the Medicaid expenditures go for actual medical services, with the rest going for "factoring" and various services of doctors, lawyers and businessmen—enterpreneurs who view the lax programs as fair game for big profits.

Moss declared that the business medical and legal types who are preying on Medicaid are "racketeers" who get by with their rackets because of the laxity of city, county and state officials.

"Until some of them go to jail and pay some heavy fines, the Medicaid mills will continue as good business," Moss said. "The aggressive leadership has to come from the top in HEW.

"While a significant amount of fraud continues to haunt the Medicare program," Moss said, "the Medicare program is light years ahead of Medicaid from the point of view of fiscal integrity."

Medicare has a Program Integrity Unit that has too few people to handle a massive caseload, but the Medicaid program is virtually without controls, Moss said.

While Secretary Mathews chides Moss that his estimate of $1.5 billion in fraud in the $15 billion Medicaid program is much too high, Senator Moss said he believes that estimate "is modest" when you look at the details of any of the program operations in New York.

With regard to physician frauds, Moss estimated that $300 million is ripped off annually by Medicare. He said this $300 million "is stolen by comparatively few physicians."

"About 10% of the 250,000 physicians who participate in the Medicare program have been accused of fraud and abuse over the past five years," Moss said.

Of the 13,931 proven fraud and abuse cases involving physicians, only 15 doctors have served some jail time for Medicare fraud in the last 10 years, only two have had their licenses revoked and none has been terminated from participation in Medicare programs, Moss said.

Moss declared that in the great majority of cases the physicians "are simply asked to pay back the money they have stolen" and are permitted to continue in the program.

"The long and short of it is that the message we have given physicians is, 'Go ahead and steal,'" Moss said. Moss said that one doctor had told him "the only thing they are afraid of is the Internal Revenue Service" and "fortunately, for them, the IRS has been singularly inactive when it comes to pursuing the leads referred to it by the Program Integrity Unit."

The Justice Department also comes in for its share of criticism in the prosecution of Medicare and Medicaid frauds.

The cases are permitted to languish for months and even years because of a "rock-bottom priority."

In addition to destroying criminal prosecution when elderly witnesses die or become uncertain on their testimony, Moss said his investigators have found that the government lost more than $1 million on 320 civil fraud cases because Justice Department delays let the statute of limitations run out.

Moss also lashed out at the "permissive judges" who refuse to send convicted physicians to jail.

"There comes a certain point when physicians, like other lawbreakers, must be put in jail," Moss said. "To do otherwise . . . is to make a mockery of the laws we have enacted and to ridicule the great majority of honest physicians who observe them."

WTOP–TV/Radio

In the courts and congressional hearings we are seeing shocking evidence these days of a medical profession gone mad with greed.

Doctors, dentists and other medical practitoners are behaving like vultures as they try to gobble up the $15 billion the States and the Federal Government are spending this year for Medicaid—or medical care for the poor.

Dentists charge for filling cavities that don't exist.

Two New York chiropractors are sentenced to five years each in prison for defrauding Uncle Sam out of $600,000.

Some doctors have charged for patients they've never seen, order tests and prescribe medicines for ailments that don't exist. Some fail to give desperately needed treatment and examinations to wretchedly poor patients if it turns out that Uncle Sam won't pay extra for these tests and treatments.

A District of Columbia doctor admits negligence in the death of a young woman who died after an incomplete abortion. The girl's mother accused the doctor of deliberately doing only a partial abortion so the patient would have to return for a second operation and pay a second fee.

Obviously, not all, or even a preponderance, of our medical people are crooks. Yet, one of those New York chiropractors, Joseph Ingber, told Congress that when it comes to that Medicaid money, "Everybody's cheating and everybody's bragging about it, too."

The result of all this is predictable. These abuses will be used as justification for the Federal Government to move more deeply into the business of delivering, paying for and controlling health care.

Those who cry about "socialized medicine" will have brought it upon themselves.

This is Carl Rowan.

UPHOLD THE INTEGRITY OF THE BILL OF RIGHTS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. HANSEN. Mr. Speaker, I would like to bring the following speech regarding the Bill of Rights to the attention of my colleagues and the Nation. These remarks are by McNeill Stokes, a noted Atlantic, Ga., attorney who is currently involved in key constitutional challenges to the Occupational Safety and Health Act of 1970—OSHA.

Mr. Stokes' efforts are much akin to those giants of the past, John Adams and John Hancock. He expects to argue constitutional test cases regarding the right to trial by jury before the Supreme Court, sometime in late October or early November. His thoughts are of great importance and relevance in this Bicentennial Year.

The article follows:

Where Will We Draw the Line?

(By McNeill Stokes)

It was on the instruction from the Virginia delegates that Richard Henry Lee of Virginia rose in the Continental Congress on June 7, 1776 and introduced the resolution that "These united colonies are, and of a right ought to be, free and independent." As a result of that motion, a line was drawn between an oppressive government and the rights of the governed to "Life, Liberty and the Pursuit of Happiness."

A committee was appointed to draw up a declaration to justify independence whose members were Thomas Jefferson, Benjamin Franklin and John Adams. After a fairly brief time, Jefferson produced what in many ways is the most brilliant and eloquent document of all the documents in American history.

Jefferson's hauntingly beautiful words which proclaimed ideals for the colonists as well as for people throughout the world were written in a remote, undeveloped country with unbelievably rich natural resources. The most obvious changes that have taken place since 1776 are the miracles of technology which have freed us from backbreaking labor and made possible an undreamed of standard of living. The United States has changed from a rural agricultural society of relatively independent family units into a urbanized, industrialized society of highly interdependent individuals in a new world community. Simplicity has given way to complexity. This basic transition has brought great changes in our attitudes toward government and in our aspirations for freedom, equality, and security, the latter encompassed in the phrase "the pursuit of happiness."

The Founding Fathers viewed government as the enemy of freedom. The revolutionary leaders indicted King George III and Parliament as their oppressors. Therefore when they had won their freedom from Britain, they formed a government of limited powers. They drew constitutional lines that instituted checks and balances to prevent the President or Congress or Courts from assuming all power. This separation of federal powers was further strengthened by the powers between the states and federal government. The Constitution granted to the federal government only enumerated powers, and the 10th amendment spelled out explicitly that all powers not granted to the federal government nor denied to the states are reserved to the states or the people.

Prior to the Civil War the federal government's activities were restricted to a minimum of areas: national defense, levying tariffs on imported goods, and foreign relations. During these decades freedom from government interference permitted unparalleled opportunity for people to exploit the natural resources and advance themselves economically. There appeared to be enough opportunity available for any ambitious, hardworking individual without government restriction or assistance. Opportunity was provided largely by Nature.

The Civil War did much to change all this. In the unparalleled economic expansion which came after the War, individuals operating in a relatively free market cornered markets, fixed prices, and organized trusts and monopolies. Such names as Rockefeller, Vanderbilt, Carnegie, Morgan, Huntington and Fisk beçame prominent as industrial, financial and business giants—the Robber Barons. Their freedom from government regulation, state or federal, led to gross inequalities and inspired among the have-nots a change in attitude towards government. In the 1890's party platforming demanded government interference and regulation in the interest of equality such as government regulation of railroads and the breakup of trusts and monopolies.

From that time to the present the trend has continued to increase the power and expand the activity of government at all levels. Theodore Roosevelt and the New Nationalism used the power of government to bust trusts. The Democrats under Woodrow Wilson extended the trend by providing government support for agriculture, and instituting the federal income tax. But it was Franklin Roosevelt's New Deal which out-did Wilson's New Freedom. To fight a crippling economic depression Roosevelt used his great political popularity to move boldly to expand the power of the federal government beyond anything before his day. Since the Roosevelt New Deal, these powers have continued to grow in response to World War II and especially to stabilize the economy and to support the Civil Rights Movement.

These developments are reviewed to remind us that a complete reversal of the attitude toward government has occurred in this country in 200 years. It has come about in response to changing conditions and with the aquiescence of its citizens. The Jeffersonian liberals believed that government was the enemy of freedom. They restricted the scope and power of government. Jefferson said, "That government is best which governs least." This is in dramtic contrast to our present society which may be over-governed. Special interest groups, particularly those formerly disadvantaged in the struggle for opportunity, have demanded action by a benevolent government to guarantee that doors of opportunity be opened. In order to act affirmatively and to carry out the innumerables social action programs, it has become necessary to create a bureaucracy, a fourth branch of the goverment, civil servants not responsible to the electorate and in many cases responsible to no one. This is a new threat to freedom brought on by social action which was designed originally to promote equality. If equality is our greatest desire, there is also a price. Enforced equality is likely to bring nothing but mediocrity.

Another major concern is our desire for security—health insurance, social security, a guaranteed annual wage. This aspiration is also having its impact. If security is what we most desire, we must understand that the slave and the prisoner have the greatest security. Security is purchased at the price of liberty. There may even be equality in security but it is the equality of slaves, not free men. If we keep much of our traditional freedom, it will be at the expense of equality and security which is what some people seem to want today.

It is obvious that our society has achieved a new stage of maturity. It is no longer young. It is middle-aged. We are in an age of transition moving toward greater interdependence, a more industrialized and urbanized pattern of life. There is no need to bemoan our fate. There is no turning the clock back. The question is how our ancient virtues can be inculcated in people on a new stage, under different circumstances, in a new setting. We must understand the issues and continue to draw the line between government interference and personal freedom.

It is the challenge before us to make the transition from freedom from government to freedom under government. We must struggle to preserve every freedom we can, making the tyrant sweat as he puts the manacles on us whether the tyrant be government, bureaucracy or whatever. It may well be that the value of freedom is only truly appreciated after it is lost. I hope we appreciate it before we lose it and that we struggle courageously to protect it at every point.

I am presently engaged in a constitutional struggle to draw a line to set the limits of government. I am the attorney handling United States Supreme Court cases challenging the constitutionality of the government's enforcement procedures under the Occupational Safety and Health Act.

The issues in these cases are very grave and far-reaching, involving a head-on collision with the power of the Executive branch of government to administratively impose unilateral, self-executing fines on citizens without affording the right to be tried by jury in the courts, not by administrative officials of the Executive branch of government.

Under OSHA, the role of the Secretary of Labor and his inspectors are analagous to that of all-powerful federal policemen who are given the authority to make the laws by regulations and enforce them, without search warrants, armed with self-executing citations and self-executing penalties. The burden is on the citizen to take the offense to appeal the citations and penalties in order to prove himself innocent through a series of long and burdensome appeals, not to a court, but another administrative agency, and which is part of the same enforcement structure. If an employer dares to contest the policemen's self-executing citations and fines, this administrative agency, the Occupational Safety and Health Review Commission, has taken the position that it can increase an employer's penalty if he choses to contest. There is no procedural due process of law, no right of a defendant to confront his accusers and no right to be tried by jury in the courts.

If the Executive branch of government can be the legislature, policeman, judge and jury in determining penalties against its citizens, then much of the checks and balances of the Republic will have been lost.

The lead constitutional case of Frank Irey, Jr., Inc. v. the Secretary of Labor was argued in Philadelphia in May, 1975, before the full ten judge court in which the majority opinion written by Judge Weis acknowledged: "There is a line beyond which Congress may not transfer traditional remedies from the courts to administrative agencies so as to evade the protection of the Seventh Amendment." However, the majority opinion continued, ". . . that line has not been crossed in this case."

Taking up this analysis for the four dissenting judges, Judge Gibbons asked, ". . . how do we know the line has not been crossed if we are not told where it is? What neutral principle was brought to bear in deciding that this case fell on the permissible side of the invisible line? There is only one principle discernible to me in the majority's opinion—that urged by the government. The line is wherever Congress says it is . . . I had thought until today that the Court, not Congress, was the final arbiter of the lines drawn in the Constitution."

If this unprecedented use of federal power is finally struck down in this case, it will set the high-water mark beyond which the police powers of the Executive branch of government cannot go without providing the constitutional guarantee of trial by jury. However, if this Act in not struck down, it will act as the breach in the dike, as the pattern of future legislation, setting off a virtual tidal wave of similar 'civil penalty' enforcement procedures without trial by jury which basically forces a citizen to surrender cheaply rather than fight dearly.

We believe the Supreme Court will agree with the four judges of the Court of Appeals, recognizing, as did Thomas Jefferson almost two hundred years ago, that trial by jury is the only anchor, ever imagined by man, by which a government can be held to the principles of its constitution. The common law trial by jury system has been a cherished protection against the possibility of judicial and administrative tyranny for over eight hundred years. The enforcement of fines by English administrative tribunals without jury trial was one of the smoldering fires which ignited the American Revolution. In 1768, John Adams, representing John Hancock, protested the lack of a jury trial in the American Act of 1764, which provided fines for persons unloading goods without payment of duties. Hancock's ship, the "Sloop Liberty," had been seized in violation of the American Act. In a resulting fine on Hancock, Adams argued that:

> The Legislative Authority by which it was made is not only grievous, but the Executive Courts by which it is to be carried into Effect is another . . . (T)hese extraordinary penalties and forfeitures, are to be heard and tryd,—how: not by Jury, not by the Law of the Land, (but) by the civil law and a Single Judge . . . Is it not directly, a Repeal of Magna Charta, as far as America is concerned. . . The Statute 4 G.3, takes from Mr. Hancock this precious Trial Per Legem Terrae, and gives it to a single Judge. However respectable the Judge may be, it is however an Hardship and severity, which distinguishes my Clyent from the rest of Englishmen, and renders this Statute, extremely peonal.

The Declaration of Independence cites the deprivation of Trial by Jury as one of the grievances against England. After I argued the Frank Irey case before the Third Circuit Court of Appeals in Philadelphia, I visited Independence Hall like any tourist. As I stood in the room where the Constitution was drafted, surrounded by the excited voices of fifth and sixth grade children, I viewed thirteen separate tables at which the drafters of the Constitution sat. The living history of this room and the plain language of the Bill of Rights of the United States Constitution very clearly evidence the concern of the original drafters with the unrestricted police powers of the federal government, unchecked by separation of powers, unchecked by due process, unchecked by jury trials, and the other basic individual rights. And here we are, almost two hundred years later, faced with defense of these great issues in the United States Supreme Court. We have drawn the line and told the government to step back and never step across the line again.

There has not been a major federal statute held unconstitutional in over forty years since the New Deal National Recovery Act. We simply must be successful this time to check this big stick enforcement power from proliferating into other federal statutes. No better warning could be made today than that of the drafter of the Bill of Rights, James Madison, who counseled:

> Temporary deviations from fundamental principles are always more or less dangerous. When the first pretext fails, those who become interested in prolonging the evil will rarely be at a loss for other pretexts. The first precedent, too, familiarizes the people to the irregularity, lessens their veneration for those fundamental principles, and makes them a more easy prey to ambition and self interest. Hence it is that abuses of every kind, when once established, have been so often found to perpetuate themselves. Letter from James Madison to John Brown, dated August 23, 1785, 2 Works of Madison 183 (1900).

Similar warnings have been echoed through the ages. I am reminded of the statemen by the now famous Lutheran minister, Margin Neimoller, in times of Nazi Germany, when he said, "In Germany they came for the Communists and I did not speak up for I was not a Communist. Then they came for the Jews and I did not speak up for I was not a Jew. And then them came for the Unionists and I did not speak up for I was not a Unionist. And then they came for the Catholics and I did not speak up because I was not a Catholic. And then they came for me, and by that time there was no one left to speak up."

Well, we're fighting back, and though we are the underdog all the way, we just have to draw the line to uphold the integrity of the Bill of Rights.

UNIFORM STANDARDS FOR UNEMPLOYMENT INSURANCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. EILBERG. Mr. Speaker, the time has come for the Congress to act to insure for our States and localities a system of uniform and acceptable standards for unemployment insurance for the Nation's workers. The Senate will act shortly on H.R. 10210, the House-passed bill requiring such a system of standardized unemployment compensation coverage. I strongly hope and urge that the Senate act expeditiously to join with the House to bring about this needed reform.

For the Members' attention, I am enclosing the text of a letter I have received on this subject from the Honorable Milton J. Shapp, Governor of the Commonwealth of Pennsylvania:

> The time has come for all of us in government, at both national and state levels, to address ourselves to the need for uniform standards in our unemployment insurance system. I am referring to the general rules and guidelines for determining whether an unemployed worker may qualify for unem-

ployment compensation and, if he or she does qualify, the amount and duration of the payments to be made; and to the standards for determining the liability of employment establishments to maintain funds for the payment of this insurance.

EMPLOYES' COMPENSATION RIGHTS

1. The absence of uniform standards with respect to these laws has led to disparities throughout the states that are indefensibly unfair both to the victims of unemployment and their employers, and procedurally cumbersome for employers, claimants and state agencies administering this insurance system.

I am not recommending or even suggesting the "nationalization" of the administration of unemployment insurance, although there obviously would be no constitutional bars if the Congress decided on that course, since the problems of unemployment in all its aspects clearly transcend state lines. I believe, however, that almost everyone knowledgeable in this field now agrees that the choice the President and the Congress made forty years ago when unemployment insurance was established was a wise one—namely, that in the concepts of our "federal" system of government, unemployment demands constructive roles at both the national level and state level, a sharing of responsibility in the public interest in which the administrative apparatus will reside in the states. This has always been my position on this subject, and it was from this stance that I made essentially the same recommendations I am now making to you on H.R. 10210 when, as a businessman, I spoke to the House Ways and Means Committee in 1965. (My remarks, at that time, were directed to H.R. 8282, if you should care to refer to it.)

The trouble through the years has been that the original theory that some 48 or 50 separate state laboratories of experimentation would produce a model set of standards that all would more or less automatically adopt for a fair and reasonably uniform system failed to materialize. This, together with the omission of Congressional action other than requiring that a state have some type of unemployment compensation law, and certain relatively formal "standards" having little to do with the substance of the system, accounts for the disparities we find today, to the detriment of employes, employers, and the public in general.

The "reasonable uniformity" that I am recommending you consider in this income-maintenance program would fully recognize variations that exist from region to region and state to state in wage and salary levels, as well as differences among individuals in work and earnings patterns. No dollar-sign maximum, minimum or intermediate compensation amounts would be imposed. The uniformity that would be standardized in this respect is simply that workers who have substantial "base year" earnings prior to becoming unemployed through no fault of their own should be compensated on a weekly basis for at least 50 percent of the weekly wage amount the individual has lost. Any state legislature that has or desires to provide for a proportionately larger payment would be free to do so, but there is no justification for any state to provide less than this proportion, and this requirement should now be made a minimum standard in all states for all eligible claimants in this insurance system.

2. The maximum weekly compensation amount payable under any state legislation should also be standardized, again not by any "dollar ceiling" but according to the average weekly wage of all workers within the state. At present, many states impose unrealistic dollar limits on how much any unemployed worker may receive. Some employes, for example, who were earning $200 or more a week when they were laid off, are prevented from realizing 50 percent of their weekly wage loss by arbitrary "ceilings" that limit the amount that one can be paid to no more than $75 a week. This is not an uncommon practice, and it has the effect of depressing and defeating the purpose of this public insurance system. It is unfair to the individuals who are thus prevented from receiving what they are entitled to in relation to their earned income and losses; it is detrimental to the communities where they live because of its senseless depression of purchasing power already reduced by layoffs. A reasonable uniform "ceiling" for any state system would be a provision that it shall be set annually at two-thirds of the statewide average weekly wage during the previous fiscal year in that state.

Note carefully that this standard would not require any employe to be compensated at more than 50 percent of his own weekly wage! This caution is prompted by the fact that proposals for adjusting the maximum compensation rate in relation to two-thirds of the statewide average weekly wage have often been misrepresented as calling for each worker to be paid two-thirds of his or her own weekly wage and, consequently, "dulling claimants' incentive to work." That is not the meaning of this proposal, and it certainly would not have that effect. A person who has been earning $200 a week is hardly going to lose his incentive to work by the receipt of $100 a week of insurance when he is laid off.

3. Another feature of unemployment insurance that calls for uniform standards is the duration of weekly compensation payments to those who remain unemployed. Lack of uniformity in this area has resulted in senseless variations among state laws. Some state laws, in complete disregard of basic insurance principles, restrict the duration of wage-loss protection to the number of weeks the individual claimant worked in his "base year". If he had recently entered the labor force, he may find that his total insurance entitlement, even though he had a sufficient insurable "base year" work/wage history to "qualify", is limited to the 16 to 18 weeks he worked before he lost his job. Aside from insurance concepts, such variable restrictions penalize hopeful new entrants into the work force—youths who recently have found what appear to be substantial work opportunities only to be laid off several months later. This is a condition that often occurs under the layoff practice of "last-in, first-out". With respect to this aspect of our unemployment insurance system, I recommend enactment of a nationwide standard that every state law shall provide, for all employes who have met insurable qualifications, that there be a uniform duration of at least 26 weeks of full insurance entitlement in a claimant's "benefit year" under the state law. And again I would remind you that this standard too is only 50 percent of the number of weeks in any year. (Later herein, you will note how adoption of this practical standard for state law entitlement would also simplify and make more equitable the relief of employment establishments for the cost of compensation paid for extended unemployment beyond 26 weeks.)

4. At the other end of the spectrum of our work force are those individuals who lose their jobs because of their age although they remain employable. A study in the last decade by the Social Security Administration revealed that a fourth or more of employes who have reached age 62 and financially "qualified" for Social Security, nonetheless, are active workers and that their earnings amounted to four-fifths of all the private and public retirement "pensions" in the country.

In all fairness, these people cannot be ignored any more than our youth who are just entering the work force. For them I propose a uniform standard that state unemployment laws may *not* require the arbitrary deduction of their Social Security and "retirement pensions"—for which they have worked and contributed—when they remain able and available for work but become involuntarily unemployed through no fault of their own. A permissible exception to this provision would be that part of a claimant's private pension which is in excess of his weekly unemployment compensation amount; this could be made deductible.

State unemployment compensation laws do not require deduction of income from savings accounts or rents a person has managed to lay by over years of work. It is inequitable and indefensible that this insurance system should permit the arbitrary deduction of Social Security and other "pensions" from the insurance that healthy and hearty older citizens qualify for when they continue to be active members of the work force.

FINANCING: EMPLOYER LIABILITY AND GENERAL REVENUES

As to rules affecting employment establishments and their liability, there has been an equally shocking neglect, in my opinion, of the uniformity envisioned when this insurance system was established many years ago. Experimentation at state levels has not automatically produced a set of uniform principles and practical guidelines in this aspect of the system either. Consequently, we find needless complexities and vagaries throughout the system in the formulas for computing employer contribution (payroll tax) rates, in the practice of charging "new employers" special tax rates to attract new industries (many of whom are "new" only in the sense of corporate charter); and in specifying the point at which employer financing should end and general revenue financing commence for long-term unemployment.

In the interest of more coherent, equitable and practical rules on the financing side of this insurance system, therefore, I also recommend Congressional enactment of the following provisions:

1. A standard "experience rating" formula for determining charges and tax rates of all employers on a taxable wage base of $6,000, at tax rates ranging from a minimum of 1% to a maximum of 5%. No establishment should be permitted to contribute less than 1% to the pooled state unemployment compensation fund regardless of its own "experience" with employment and unemployment in its operations, since every employment establishment benefits to at least this extent from the financial support the unemployment insurance system provides for the entire economy.

2. A standard uniform tax rate of 2.7% for the first two years of operations of a bona fide "new employer" while it is establishing an "experience" on which it can be rated for tax purposes under the uniform rate-making formula.

3. A cut-off of charges for all employer tax purposes for any compensation paid to a claimant during a benefit year at that point when he has received the equivalent of 26 weeks of his compensation entitlement for that year.

All payments of compensation beyond the equivalent of 26 weeks of an employe's entitlement in a benefit year should be financed out of national general revenues since the cause of such extended unemployment cannot reasonably be attributed to any employment establishment. Congressional provision for requisite appropriations for this purpose should be enacted as a companion measure to the above uniform standards for all state unemployment insurance laws.

All of these proposals are fully within the power and responsible overseeing role of the Congress with respect to the unemployment insurance system. They are in no sense foreign to the concepts on which this insurance system was established forty years ago with the view to eventual uniformity of its basic provisions, with the administration of the system remaining in the states.

These proposals are not even "new" for, as I remarked at the outset, they have been made many times before, and twelve years ago, I myself recommended to the Congress adoption of essentially the same standards outlined in this letter.